

STANDARD TERMS AND CONDITIONS OF SALES – ANALYTICAL AND TESTING SERVICES

SUEZ Industrial Water Ltd

1. DEFINITIONS

- 1.1 "**Contract**" means the contract made between the Client and SUEZ and is formed by acceptance of the quotation and is governed by these Conditions of Contract which shall prevail over any other terms, conditions, warranties or representations contained in any other written or oral intimation or other which may be expressed or implied by statute, customer or otherwise. SUEZ shall not be bound by any terms and conditions which may be inconsistent with these terms and conditions
- 1.2 "**SUEZ**" means SUEZ Industrial Water Ltd., a company registered in England and Wales, registered number 02528695, and whose registered office is SUEZ House, Grenfell Road, Maidenhead, Berkshire, England SL6 1ES.
- 1.3 "**Client**" means any person, or persons, firm, business, partnership, company or other organisation by or upon whose behalf a contractual agreement or order is placed for SUEZ to carry out Services, notwithstanding that the request for the Services shall have been received from any agent, servant or contractor acting on behalf of the Client. SUEZ shall be entitled to regard any person placing an order with SUEZ as having been authorized by the Client to do so and so as to bind the Client in its entirety.
- 1.4 "**Services**" shall mean the consultancy, analysis, testing, or other Services, which SUEZ undertakes to perform for the Client under the Contract.
- 1.5 "**Data**" shall mean advice, data, test results, reports and other information arising from the Services.

2. CONTRACT AND ACCEPTANCE

- 2.1 SUEZ shall supply the Services to the Client subject to these terms and conditions, which shall apply to the provision of all Services carried out by SUEZ, unless specifically agreed by SUEZ in writing to commencement of the Services.
- 2.2 No variation of these terms and conditions shall be binding unless agreed in writing between the parties.
- 2.3 Where there is variation whatsoever to the Services to be performed by SUEZ and upon which SUEZ based a quotation, SUEZ reserves the right to amend the price and the quotation accordingly.
- 2.4 The contract may not be cancelled by the Client except with agreement in writing of SUEZ and on terms that the Client shall indemnify SUEZ in full against all loss (including loss of profit and direct or indirect consequential loss), costs (including cost of all labour and materials), damages, charges and expenses incurred by SUEZ as a result of cancellation.
- 2.5 The Client shall notify SUEZ prior to the issuing of a quotation if the Services and the analysis of the samples provided are or are likely to be used for the purpose of arbitration or litigation. In the event that the Client should fail to do so, SUEZ may, at SUEZ's sole discretion and without being responsible for loss, refuse to provide expert testimony, then the same shall amount to a variation of the quotation and contract and SUEZ shall be at liberty to amend the price accordingly.
- 2.6 Unless previously withdrawn or stated otherwise, all quotations are open for acceptance for a period of 60 days from the date of quotation. If the Client's acceptance of a quotation is inconsistent with the quotation or these conditions, SUEZ shall not be bound by such inconsistency unless it specifically agrees in writing to the variation or inconsistency concerned.
- 2.7 All quotations will be withdrawn after a period of 60 days, should the Client wish to accept the quotation after this period SUEZ will supply a new quotation also valid for a 60 day period. SUEZ reserves the right to amend this quotation in all respects including but not exclusive to price and/or Services offered.
- 2.8 SUEZ, at SUEZ's sole discretion reserves the right to withdraw a quotation prior to acceptance at any time. SUEZ is not responsible for any loss encountered as result of this action.
- 2.9 Any typographical or clerical error or omission in any quotation, order, acceptance, invoice or any other document issued by SUEZ shall be subject to correction without any liability on the part of SUEZ at whatever time and whenever such correction shall be deemed necessary by SUEZ.
- 2.10 Following acceptance of the quotation in accordance with these terms, the prices quoted will remain valid for a 6 month period from the date of acceptance, unless otherwise specifically stated.

3. SUPPLY OF INFORMATION, SAMPLES, ETC.

- 3.1 The Client shall supply all necessary materials, information, data, drawings and items to be tested to the timescale required by SUEZ and shall arrange, at the Client's expense and risk in accordance with all relevant legislation, for the transportation of all test items to and from SUEZ's chosen location unless the transportation of such test items forms an integral part of the Services.
- 3.2 Unless otherwise agreed in writing any residual portions of samples provided by the Client for the Services shall not be returned to the Client and SUEZ shall dispose of such samples at its discretion on completion of the Services. If a Client requests samples to be stored by SUEZ on completion of the Services then a charge at the sole discretion of SUEZ will be made for storage.
- 3.3 Where samples are known to contain or suspected of containing hazardous or radioactive components then SUEZ reserves the right to make an additional charge, at the sole discretion of SUEZ, for handling, storage or disposal of such samples.

4. ANALYTICAL SERVICE

- 4.1 SUEZ will exercise all reasonable care and due diligence in performing the Services. These services will be carried out whenever feasible using accredited or otherwise approved test methods. Where accredited or otherwise approved methods are unavailable, services will be carried out using methods which SUEZ consider to be the most appropriate. The test methods employed by SUEZ will be those considered by SUEZ to be the most appropriate under all circumstances and the client agrees on entering into the contract to accept whatever test methods SUEZ under all circumstances deem to be appropriate and shall raise no requisition nor objection to the same.
- 4.2 Where stated, time limits and performance specifications quoted are best estimates only and SUEZ reserves the right to extend the turnaround time for the provision of results. Any results given by SUEZ to the client are given on the understanding that they are subject to normal experimental error and are based on the methods and techniques known by SUEZ at the time. SUEZ accepts no liability whatsoever for any loss or damage resulting from any delay or the value of the result of the analysis issued. Time shall not be taken to be of the essence in performing the services, unless specifically agreed at the time of entering into the contract.

- 4.3 The client confirms and acknowledges that it is the sole responsibility of the client to ensure that the services ordered from SUEZ shall be appropriate for client's requirements. SUEZ shall not at any time be liable in any way shape or form for any information or suggestion provided by SUEZ (its employees and agents) in relation to the provision of services, and/or the capabilities of SUEZ providing these services.
- 4.4 Analyses are usually carried out singly, strictly in accordance with SUEZ's quality assurance procedures. If duplicate or repeat work is requested, then this will normally be charged for and SUEZ reserves the right to amend the price and the quotation accordingly.
- 4.5 The client recognises that analytical data refers only to the portion of sample taken for analysis. If a sample is exceptionally heterogeneous, considerable variation in analyte concentration may be manifest within a single sample. In such instances, several replicate analyses may be deemed to be required by SUEZ, at SUEZ's sole discretion, but dependant on the nature and/or size of the sample and the reason for the same being requested by the client. In such instances, the client shall raise no requisition in respect of the same, and in the event that the same shall constitute substantial additional work over and above that anticipated by SUEZ when providing the quotation, then the same shall be deemed to be an amendment to the original contract, and the provision 2.3 shall apply.
- 4.6 All services will be carried out expeditiously but SUEZ reserves the right to levy a surcharge for services required urgently which, in its opinion proves disruptive to the normal efficient running of its organisation.

5. ACCESS, ETC

- 5.1 Where the Services are to be carried out at a location other than SUEZ's laboratories, or where sampling or sample collection is part of the Services the Client shall ensure access to the location for SUEZ, its employees or agents as required. If SUEZ is unable to gain access to the location at the agreed or required time then SUEZ shall be entitled to charge the Client for any aborted time and associated costs.

6. PAYMENT

- 6.1 Payment shall be made in the currency specified in the invoice within 28 days of the date of invoice from SUEZ.
- 6.2 Value Added Tax ("VAT") will be added to all charges at the rate applicable at the tax point at the time of invoice. Where the Client is registered for VAT within the European Union but outside the United Kingdom the Services will be zero-rated provided SUEZ has been notified of the Client's VAT registration number. If the Client is not registered or SUEZ has not been so notified, VAT at the rate applicable at the tax point shall become payable.
- 6.3 Should the Client fail to make payment in full within 28 days of the date of invoice, then without prejudice to any other right or remedy available to SUEZ, SUEZ shall be entitled to charge the Client interest (both before and after any judgement) on the amount unpaid from the day that payment is due until the date of payment in full at the rate of 4% above the base rate from time to time of the Bank of England.
- 6.4 If the Client shall fail to make payment within 28 days of the date of invoice, SUEZ reserves the right to suspend the provision of any services to the Client and withhold results and or certificates of analysis/reports relating to any outstanding services until such time as payment is made in full. The Client will be liable for payment of any costs and expenses whatsoever incurred by SUEZ in the collection of any overdue payment amount.
- 6.5 SUEZ reserves the right to set off any amounts outstanding from the Client against any payment which may be due to the Client from SUEZ for any services the Client delivers to SUEZ under any agreement.

7. CONFIDENTIALITY

- 7.1 Each of the parties undertakes with the other not to disclose to any third party or use for any purpose other than as contemplated by the Services any confidential information supplied by the other party save as may be required by law or to employees who have reasonable need to see and use such confidential information This will not apply to information:- (a) which is already in the public domain at the time of disclosure otherwise than through a breach of the obligations hereunder; (b) which was legally in the possession of the relevant party prior to such acquisition; or (c) where disclosure is required by law or order of Court.
- 7.2 None of the material or information provided by SUEZ to the Client shall be used by the client to convey any connection with SUEZ, or any endorsement or implied approval of, or on behalf of, SUEZ of any aspect of the client's business or products except for disclosures required by regulatory submissions or with the prior consent of SUEZ.
- 7.3 Each party agrees to maintain secret and confidential all information relating to the business affairs methods and know-how of the other that it acquires pursuant to the Contract.
- 7.4 Notwithstanding clause 10.3 and without prejudice to the Client's right to use the Data, the copyright in any report or written statement of the Data produced by SUEZ shall be vested in SUEZ. The Client shall not reproduce, except for its own internal purposes, such report or pass the same under any circumstances to any third party unless agreed in writing with SUEZ.
- 7.5 Data is provided solely to the Client for the purpose for which it was specifically commissioned. SUEZ accepts no liability if the Data is used for any other purpose or by anyone other than the Client.
- 7.6 The Client shall not identify to any third party the name of SUEZ as the originator of the Data or as a party to the Contract unless agreed in writing by SUEZ

8. INDEMNITY

- 8.1 SUEZ will use all reasonable endeavours to ensure that all Data provided to the Client are correct in all respects but will not accept, and shall be indemnified by the Client against any liability for loss of or damage to property and any other costs and expenses associated therewith arising out of discrepancies errors or omissions in the Data or from the execution of the Contract howsoever caused or incurred, except insofar as the same is caused by the negligence of Scientifics, its employees or agents.
- 8.2 The above indemnity shall extend to each and every one of SUEZ's employees or agents and in the event of any claim whatsoever being made against any such employee or agent personally in circumstances where, had the claim been made against SUEZ, SUEZ would be entitled under the provisions hereof to seek an indemnity in respect of such claim from the Client, then SUEZ shall be entitled to indemnify such employee or agent for any liability, which he or she might incur as aforesaid and the Client will repay to SUEZ any sum expended by SUEZ by reason of such indemnity.
- 8.3 Notwithstanding any other provision hereof, under no circumstances shall Scientifics be liable to the Client: (a) indirect or consequential losses (which shall be taken to include but not necessarily be limited to loss of contracts, loss of business, loss of projects, loss of goodwill and loss of reputation); or (b) save in cases of death or personal injury caused by the negligence of SUEZ, for any direct losses whatsoever

9. INTELLECTUAL PROPERTY

- 9.1 The services and any reports containing the results of services or Data supplied are prepared specifically in accordance with the Client's instructions and any recommendations made or opinions expressed may not be appropriate to alternative schemes or applications. The copyright

shall remain vested in SUEZ who disclaim all responsibility or liability (whether at law or under the express or implied terms of the contract whether or not envisaged at the time of entering into the contract) for any loss or damage of whatever nature in the event that this report is relied on by a third party or used in circumstances or for projects for which it was not originally commissioned or where any explanatory records, test results, comments or opinions contained therein are interpreted by anyone other than SUEZ.

- 9.2 The Client warrants and undertakes that in the event that the Client shall submit to SUEZ any specifications, designs or plans that the same shall not breach any third party's intellectual property rights of whatever nature or howsoever occurring.
- 9.3 The Client shall indemnify SUEZ in respect of any claims, costs, actions, demands, expenses, and liabilities whatsoever arising from any actual or alleged infringement brought in connection with 9.1 and 9.2 above.

10. DATA, CONCLUSIONS AND RECOMMENDATIONS

- 10.1 Whilst SUEZ undertakes that it knows of no such infringement SUEZ does not warrant that any Data passed to the Client pursuant to the Contract are not an infringement of any valid or subsisting intellectual property rights held by a third party.
- 10.2 All Data provided, conclusions reached, or recommendations made by SUEZ rely on scientific and engineering concepts, disciplines and procedures used or adopted by SUEZ and SUEZ does not warrant that the same will necessarily be achieved by other parties, or that such conclusions or recommendations will necessarily be valid in circumstances other than those of which SUEZ has direct experience.
- 10.3 Ownership of the Data shall vest in the Client. Ownership of all skills knowledge know-how techniques and methods employed in obtaining the Data insofar as such skills knowledge know-how techniques and methods have their origin in the skill and endeavour of SUEZ shall vest in SUEZ.

11. FORCE MAJEURE

- 11.1 SUEZ shall not be liable in respect of any failure or delay in fulfilling its obligations hereunder so long as such failure or delay results from any cause beyond the reasonable control of SUEZ and in the event of any such failure or delay the time for performance of any such obligations shall be extended correspondingly.

12. PUBLICITY

- 12.1 SUEZ's name shall not be used in connection with the Contract for purposes of publicity promotion or advertising without the prior written approval of SUEZ. SUEZ have the right to use the Client's name in marketing material but simply to state the Client as a customer of SUEZ, with no reference being made to the Services or the nature of the Services delivered.

13. PATENTS

- 13.1 In the event of any invention or improvement being made with the assistance of SUEZ staff arising from the Services, SUEZ shall have the right to be joined in any application for a patent and to be registered as joint proprietors.

14. GOVERNING LAW

- 14.1 These conditions shall be governed by and interpreted in accordance with the Laws of England and shall be subject to the exclusive jurisdiction of the English Courts.