

TERMS AND CONDITIONS

1 General

- a. Unless expressly agreed in writing by the manager of the CSBP laboratory, these Terms and Conditions will prevail over any other terms and conditions specified in a quotation, sales invoice or sample receipt confirmation. The printed terms of CSBP's Request Form and the details filled in on that Request Form form part of the Contract but, unless otherwise specifically agreed by the manager of the CSBP laboratory in writing no terms and conditions:
 - i. included by the Customer (or any third party) on the Request Form;
 - ii. set out by the Customer (or any third party) on any Purchase Order or Customer's acceptance documentsshall form part of the Contract or be incorporated into the Contract.
- b. Without limiting the way in which a Customer may accept these Terms and Conditions, any order (written, digital or verbal) by or for the Customer for Services, acceptance of results for Services by or for the Customer, or payments for Services by or for the Customer will be deemed as acceptance of these Terms and Conditions by the Customer.
- c. CSBP reserves the right to vary these Terms and Conditions at any time without prior written notice to the Customer. Such variations shall apply only to orders for Services received after the date of the variation.
- d. CSBP agrees to carry out and complete the Services in accordance with this Contract and in consideration of the Customer paying CSBP in respect of the Services on the terms and conditions set out in this Contract.

2 Force Majeure

- a. If CSBP is interrupted in or prevented from carrying out all or any part of its obligations under this Contract by reason of a Force Majeure event then CSBP will be excused from performance of, and shall not be liable for any failure in, carrying out any of its obligations to the extent and for the time that is prevented in whole or in part from doing so by the Force Majeure event. Any delay in performance as a result of the Force Majeure event will not constitute default or give rise to any claim for damages.
- b. For the purpose of these Terms and Conditions, Force Majeure means any event or circumstance, to the extent that it is beyond the reasonable control of CSBP and prevents CSBP from meeting its obligations under this Contract, including, but not limited to:
 - i. fire, explosion, flood, earthquake, cyclone, natural disaster, epidemic;
 - ii. riots, civil commotion, malicious damage, sabotage, act of public enemy, act of God, war (declared or undeclared), blockade or picketing, revolution;
 - iii. strikes, lockouts, industrial and/or labour disputes and/or difficulties, embargoes, work bans, blockades or picketing, not reasonably within the control of CSBP;
 - iv. failure of any of CSBP suppliers to supply any relevant product;
 - v. the refusal of, revocation of, or delay in obtaining any necessary consents or approvals from any governmental or regulatory agency;
 - vi. the failure or breakdown of or accident to plant, equipment or machinery.

3 Prices

- a. Prices applicable are listed in CSBP Lab price lists and are applicable from the date stated on the price list, but are subject to change without notice. All prices listed are subject to withdrawal or variation by CSBP prior to confirmation. CSBP is not responsible for notifying you of the variations made to price lists.
- b. All prices are listed per sample, exclusive of Goods and Services Tax (GST), unless otherwise stated.
- c. Prices quoted are subject to the addition of GST and to any tax or levy imposed by any government authority upon the Goods/Services quotes or upon production, sale, distribution, delivery or any other applicable feature.
- d. All orders are subject to acceptance by CSBP in writing as evidenced by a sample receipt confirmation. All prices are subject to withdrawal or variation by CSBP prior to confirmation. CSBP is not responsible for notifying you of the variations made to price lists.
- e. All quotations are confidential and exist for the information of the Customer only. The Customer agrees to ensure quotations received by the Customer will not be disclosed to third parties without prior written consent by the Company and will remain Commercial in Confidence.

4 Minimum Order Value

- a. Analysis of samples is charged at a minimum dollar value of \$16.00 per sample excluding GST.

TERMS AND CONDITIONS

5 Cancellation

- a. Performance of the Services, and analysis by CSBP of samples submitted by or for the Customer, may only be cancelled by the Customer prior to CSBP issuing an arrival notification report.
- b. If the Customer:
 - i. makes or enters into an agreement or arrangement with creditors or becomes insolvent;
 - ii. is placed in liquidation or provisional liquidation or any trustee, administrator, receiver or receiver/manager is appointed in respect of it; or
 - iii. is wound up or commenced to be wound up (not being a voluntary winding up for the purposes of amalgamation or reconstruction)

CSBP may terminate the Contract immediately by notice in writing.

- c. If CSBP requires pre-payment for Services and the Customer fails to pay for the Services then CSBP may cancel the order for Services if payment is not received within one month of written request by CSBP for payment.

6 Terms of Payment/Dispatch

- a. The Customer must pay for the Services at the time of submission of the samples. Unless otherwise approved in writing by CSBP samples will not be analysed, and Services will not be performed, without prepayment.
- b. CSBP will only send results to the email address as specified on the Request Form and/or report electronically to the application that submitted the request for Services.
- c. If CSBP requires pre-payment for the Services, then CSBP is not obliged to send analysis results unless the invoice has been paid in full by the Customer. For accounts payable on credit terms, CSBP will not send results if accounts are overdue.

7 Availability of Goods and Result delivery times

- a. To the extent permitted by law, CSBP shall have no direct or indirect liability for delay in result delivery.
- b. Any result delivery times quoted by CSBP on an indent basis are an estimate only and are based on CSBP's understanding of conditions prevailing at the time the quotation was made and are conditional upon the Customer's timely payment for the Services.
- c. To the extent permitted by law, CSBP does not accept samples for analysis under penalty for late delivery and the Customer agrees to waive any and all penalties for late delivery to the extent that they may apply and to the extent permitted by law.
- d. CSBP does not accept samples for analysis when submitted without a completed analysis Request Form.

8 Limitations of Liability – No consequential loss – Services

- a. To the extent permitted by the law, CSBP will not be liable for any indirect, incidental, special, punitive and/or consequential loss or damage whatsoever, or any loss of business, opportunity or profits arising out of, or in connection with this Contract or the supply or non-supply of Services or results (including any claim in relation to, or in connection with, any negligence by CSBP or any of its employees, agents or contractors, and including in relation to, or in connection with, to the supply or non-supply of results), even if CSBP had been advised of the possibility of such damages or losses.
- b. The Customer acknowledges that this sale relates to the acquisition of services other than Services ordinarily acquired for personal domestic or household use or consumption and the Customer acknowledges and agrees that liability under the Australian Consumer Law with respect to any breach of the guarantees by CSBP is limited to liability to one or more of the following:
 - i. The supplying of the Services again, or, at the election of CSBP,
 - ii. To the reasonable cost of having the Services supplied again,
 - iii. In all other cases and except where inconsistent with the above, excluded to the fullest extent permitted by law.
- c. For avoidance of doubt, the limitation of liability in this section does not limit any rights or remedies the Customer is entitled to under the Competition and Consumer Act (Cth) and which cannot lawfully be excluded or modified.

TERMS AND CONDITIONS

9 Representations or warranties

To the extent permitted by law (and subject to paragraph 8b) CSBP does not make any representations or warranties in relation to the Services other than the representation and warranties expressly set out in this Contract.

- a. Save for those representations, warranties and guarantees (including those under the Competition and Consumer Act (Cth)) which cannot be lawfully excluded or modified, all representations and warranties not expressly set out in this Contract are excluded.
- b. Save for those rights and remedies (including those under the Competition and Consumer Act (Cth)) which cannot lawfully be excluded or modified, to the extent permitted by law, CSBP's liability to you, in relation to, or in connection with any claim relating to the supply of goods or services pursuant to this Contract (including any claim in relation to, or in connection with, any negligence by CSBP or any of its employees, agents or contractors, and including in relation to, or in connection with, to the supply or non-supply of the Services) is:
 - i. limited, where CSBP supplies any goods or services under or in relation to this Contract (except where such goods or services are of a kind ordinarily acquired for personal domestic or household use, or where you establish that reliance upon this clause would not be fair and reasonable);
 - ii. in the case of goods, to the replacement of the goods or, at the election of CSBP, to the supply of equivalent goods or the repair of the goods or the payment of the cost of replacing the goods or of acquiring equivalent goods or of having the goods repaired; or
 - iii. in the case of services, to the supplying of the services again or, at the election of CSBP, to the cost of having the services supplied again; and
 - iv. in all other cases and except where inconsistent with the above, excluded to the fullest extent permitted by law.

For the avoidance of doubt, the limitation of liability in this section does not limit any rights or remedies you are entitled to under the Competition and Consumer Act (Cth) and which cannot lawfully be excluded or modified.
- c. To the extent permitted by law CSBP will not be liable for any indirect, incidental, special, punitive and/or consequential loss or damage whatsoever, or any loss of business, opportunity, or profits, arising out of or in connection with this Contract or the supply or non-supply of the Services (including any claim in relation to, or in connection with, any negligence by CSBP or any of its employees, agents or contractors, and including in relation to, or in connection with, the supply or non-supply of Services), even if CSBP have been advised of the possibility of such damages or losses.

10 Indemnity

- a. The Customer will indemnify and release CSBP and keep CSBP fully indemnified against any loss of or damage to any property or injury to or death of any persons caused by any negligent act or omission or wilful misconduct of the Customer, its employees, agents or subcontractors or by any breach of its contractual obligations arising out of these Terms and Conditions

11 Errors and Omissions

- a. To the extent permitted by law, any typographical, clerical or other error or omission in sales literature, quotation, price list, arrival notification report, sales invoice or other documents or information issued by CSBP will be subject to correction without any liability on the part of CSBP.

12 General

- a. This Contract and the transactions contemplated by it are governed by the law in force in Western Australia and the Parties irrevocably and unconditionally submit to the non-exclusive jurisdiction of the courts of Western Australia for determining any dispute concerning this Contract.
- b. Any waiver, consent or approval by a party under or in respect of this Contract must be given in writing.
- c. If the whole or any part of a provision of this Contract is invalid, illegal or unenforceable, then that provision will be severed from this Contract and neither that part or provision or its severance will affect the validity or enforceability of the remainder of this Contract.

TERMS AND CONDITIONS

13 Definitions

- a. In these Terms and Conditions, unless otherwise stated:
- "**Contract**" means the contract for the supply of Services incorporating these Terms and Conditions and the details included on Request Form.
 - "**CSBP**" means CSBP Limited
 - "**Customer**" means the customer specified on the Request Form
 - "**Request Form**" means a CSBP Soil Analysis Request Form or CSBP Plant Analysis Request Form or CSBP Water Analysis Request Form or other CSBP Analysis Request Form (as the case may be) or an electronic request from a CSBP authorised application or provider, completed by the Customer (or the Customer's agent or adviser) and submitted to CSBP requesting Services.
 - "**Services**" means the performance by CSBP of tests for the Customer.

14 General interpretation

- a. In this Contract, unless otherwise stated:
1. headings, sub-headings and captions do not affect the construction or interpretation of this Contract;
 2. words importing the singular include the plural and vice versa;
 3. words importing a gender include other genders;
 4. the words "include", "includes" and "including" are not to be construed as words of limitation;
 5. where any word or phrase is given a defined meaning in this Contract, any part of speech or other grammatical form of that word or phrase has a corresponding meaning;
 6. a reference to any document, instrument or agreement, including this Contract, includes a reference to it as amended, novated, supplemented, varied or replaced from time to time;
 7. a reference to any act, statute, code, regulation, order, ordinance, bye-law or other legislation or subordinated or delegated legislation or provision thereof includes any modification, substitution or re-enactment thereof;
 8. a reference to a person will be construed as including an individual, the estate of an individual, firm, body corporate, association (whether incorporated or not), government and governmental, semi-governmental and local authority, or agency;
 9. a reference to a person includes that person's successors and permitted assigns and, in the case of a natural person, that person's legal personal representatives;
 10. an agreement, representation or warranty by or in favour of two or more persons binds or is for the benefit of (as the case may be) them jointly and severally;
 11. a reference to a monetary amount is a reference to the amount in Australian currency; and
 12. a reference to time is a reference to the local time in Perth, Western Australia (unless otherwise stated).