

# ELEMENT MATERIALS TECHNOLOGY

## TERMS AND CONDITIONS (US)

### 1. Formation of Contract

- 1.1 These terms and Conditions shall supersede and override any terms or conditions contained in any quotation, proposal, estimate, or other communication by or on behalf of the Company (as defined in this sub-condition) shall apply to all contracts for the supply of testing, calibration and/or other services provided by Element Materials Technology Gary, a division of Exova, Inc. Company contemplated therein to the Customer.
- 1.2 These Terms and Conditions shall supersede and override any terms or conditions contained or referred to in the law in question cannot be excluded), trade, custom, practice or course of particular and shall not limit the sense of the words preceding those terms.
- 1.3 Written and oral Quotations shall be valid for sixty (60) days from the date thereof and the Company may withdraw any such Quotation at any time. No Quotation given by the Company shall be an offer to contract with any person and no contract shall come into existence except in accordance with sub-condition 1.4.
- 1.4 Quotation constitutes an offer by the Customer to purchase the Services specified in the Quotation upon these Terms and Conditions. No offer placed by the Customer shall be accepted by the Company other than by a written acknowledgement issued and executed by the Company or (if earlier) by the Company starting to provide the Services, when a contract for the supply and purchase of those Services on these Terms and Conditions will be established (such contract, together with these Terms and Conditions, will constitute the Contract).
- 1.5 No acceptance or acknowledgement, even if in writing and signed by the Customer, shall constitute acceptance of any provision of these Terms and Conditions unless the Company specifically agrees to such a variation of these Terms and Conditions pursuant to and in accordance with sub



5.4 When testing, analysis or other services are carried out, the Company shall not be liable in respect of any costs or losses resulting from damage to or destruction of any property belonging to the Customer unless the Customer notifies the Company in writing before delivery to the Company and the property itself delivered to the Company is clearly marked with the name of the Customer and the Company. The Company shall not be liable for damage to or destruction of any property belonging to the Customer unless the Customer notifies the Company in writing before delivery to the Company and the property itself delivered to the Company is clearly marked with the name of the Customer and the Company.

5.4.1 The cost of the Services performed on the damaged or destroyed property pursuant to the Contract.

5.4.2 Re-Delivery

6. Re-Delivery

6.1 The Company shall deliver the Services to the Customer in accordance with the Contract. The Company may use any method of delivery that it reasonably decides and will do so as the agent of the Customer and will not have any liability in respect of any such item so delivered. The Company may at its discretion instruct any person delivering such property to the Customer to invoice that Customer directly in respect of that delivery and the Customer shall make any and all claims for property damaged in transit directly and solely against such delivery company or other person.

6.2 Unless specifically instructed to the contrary in writing by the Customer, the Company reserves the right to destroy or dispose of any property after completion of the Services provided that the length of time such property is kept before being destroyed will be at the absolute discretion of the Company. The Company reserves the right to invoice the Customer for any costs of disposal. Where property of the Customer is, in the sole opinion of the Company, too bulky or too unstable to allow storage time of more than one month, it will be at the absolute discretion of the Company as to the length of time such property is kept before being destroyed.

7. Title & Security

The Company shall retain all risk of loss or damage to such property (except for loss or damage caused by the Company and for which and to the extent that the Company accepts liability under these Terms and Conditions) shall remain with the Customer at all times, who shall be responsible for effecting and maintaining its own insurance coverage thereof, it being hereby acknowledged by the Customer that the charges of the Company do not include insurance. The Company may retain all property delivered to it until all sums due and owing to the Company by the Customer have been paid.

8.8.1 death or personal injury to the extent resulting from





22.2.4 it is information which subsequently becomes public knowledge other than by breach of the Contract by the Recipient.

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