

# GIẤY CHỨNG NHẬN

SỐ CHỨNG NHẬN: VNMT20009541

Chứng nhận lô hàng hóa:

## SẢN PHẨM DỆT MAY

Mẫu dấu hợp quy



xuat đời

Chi tiết thông tin lô hàng tại phụ lục giấy chứng nhận

Số lượng: 16208 Cái

Xuất xứ: Trung Quốc

Theo tờ khai Hải Quan nhập khẩu số: 103161622761

Ngày: 25/02/2020

### CÔNG TY TNHH TRIUMPH INTERNATIONAL VIỆT NAM

SỐ 2 ĐƯỜNG SỐ 3, KHU CÔNG NGHIỆP SÓNG THẦN 1,  
PHƯỜNG DĨ AN, THỊ XÃ DĨ AN, TỈNH BÌNH DƯƠNG

**PHÙ HỢP VỚI QUY CHUẨN KỸ THUẬT QUỐC GIA:  
QCVN 01/2017/BCT**

**VÀ ĐƯỢC PHÉP SỬ DỤNG DẤU HỢP QUY (CR)**

PHƯƠNG THỨC CHỨNG NHẬN: PHƯƠNG THỨC 7

(Theo Thông tư số 28/2012/TT-BKHCN ngày 12/12/2012 và Thông tư số  
02/2017/TT-BKHCN ngày 31 tháng 3 năm 2017 của Bộ Khoa Học Công Nghệ; Thông  
tư số 21/2017/TT-BCT ngày 23 tháng 10 năm 2017 và Thông tư số 20/2018/TT-  
BCT ngày 15 tháng 8 năm 2018 của Bộ Công Thương)

Ngày cấp chứng nhận: 11/03/2020



**LÊ THỊ HỒ PHƯƠNG**  
GIÁM ĐỐC CHỨNG NHẬN





# Intertek General Terms and Conditions of Services

These terms and conditions, together with any proposal, estimate or fee quote, form the agreement between you (the Client) and the Intertek entity (Intertek) providing the services contemplated therein.

## 1. INTERPRETATION

- 1.1 In this Agreement, the following words and phrases shall have the following meanings unless the context otherwise requires:
  - (a) **Agreement** means this agreement entered into between Intertek and the Client;
  - (b) **Charges** shall have the meanings given in Clause 5.3;
  - (c) **Confidential Information** means all information in whatever form or manner presented which: (a) is disclosed pursuant to, or in the course of the provision of Services pursuant to, this Agreement; and (b) is disclosed in writing, electronically, visually, orally or otherwise howsoever and is marked, stamped or identified by any means as confidential by the disclosing party at the time of disclosure; and (c) is information, howsoever disclosed, which would reasonably be considered to be confidential by the receiving party;
  - (d) **Intellectual Property Rights** means copyrights, trademarks (registered or unregistered), patents, patent applications (including the right to apply for a patent), service marks, design rights (registered or unregistered), trade secrets and other like rights howsoever existing;
  - (e) **Report(s)** shall have the meanings given in Clause 5.3;
  - (f) **Services** means the services set out in any relevant Intertek Proposal, any relevant Client purchase order, or any relevant Intertek invoice, as applicable, and may comprise or include the provision by Intertek of a Report;
  - (g) **Proposal** means the proposal, estimate or fee quote, if applicable, provided to the Client by Intertek relating to the Services;
- 1.2 The heading in this Agreement do not affect its interpretation.

## 2. THE SERVICES

- 2.1 Intertek shall provide the Services to the Client in accordance with the terms of this Agreement which is expressly incorporated into any Proposal Intertek has made and submitted to the Client.
- 2.2 In the event of any inconsistency between the terms of this Agreement and the Proposal, the terms of the Proposal shall take precedence.
- 2.3 The Services provided by Intertek under this Agreement and any memoranda, laboratory data, calculations, measurements, estimates, notes, certificates and other material prepared by Intertek in the course of providing the Services to the Client, together with summaries or any other communication in any form describing the results of any work or services performed (Report(s)) shall be only for the Client's use and benefit.
- 2.4 The Client warrants and agrees that if in providing the Services Intertek is obliged to deliver a Report to a third party, Intertek shall be deemed irrevocably authorised to deliver such Report to the applicable third party. For the purposes of this clause an obligation shall arise on the instructions of the Client, or where, in the reasonable opinion of Intertek, it is implicit from the circumstances, trade, custom, usage or practice.

- 2.5 The Client acknowledges and agrees that any Services provided and/or Reports produced by Intertek are done so within the limits of the scope of work agreed with the Client in relation to the Proposal and pursuant to the Client's specific instructions or, in the absence of such instructions, in accordance with any relevant trade custom, usage or practice. The Client further agrees and acknowledges that the Services are not necessarily designed or intended to address all matters of quality, safety, performance or condition of any product, material, services, systems or processes tested, inspected or certified and the scope of work does not necessarily reflect all standards which may apply to product, material, services, systems or process tested, inspected or certified. The Client understands that reliance on any Reports issued by Intertek is limited to the facts and representations set out in the Reports which represent Intertek's review and/or analysis of facts, information, documents, samples and/or other materials in existence at the time of the performance of the Services only. Client is responsible for the accuracy of the information and data provided to Intertek by its officers, employees, agents or subcontractors shall be liable to Client nor any third party for any actions taken or not taken on the basis of such Report.
- 2.6 In agreeing to provide the Services pursuant to this Agreement, Intertek does not abridge, abrogate or undertake to discharge any duty or obligation of the Client to any other person or any duty or obligation of any person to the Client.

## 3. INTERTEK'S WARRANTIES

- 3.1 Intertek warrants exclusively to the Client:
  - (a) that it has the power and authority to enter into this Agreement and that it will comply with relevant legislations and regulations in force as at the date of this Agreement in relation to the provision of the Services;
  - (b) that the Services will be performed in a manner consistent with that level of care and skill ordinarily exercised by other companies providing like services and circumstances;
  - (c) that it will take reasonable steps to ensure that whilst on the Client's premises its personnel comply with any health and safety rules and regulations and other reasonable security requirements made known to Intertek by the Client in accordance with Clause 4.3(f);
  - (d) that the Reports produced in relation to the Services will not infringe any legal rights (including Intellectual Property Rights) of any third party. This warranty shall apply to what the infringement is directly or indirectly caused by Intertek's reliance on any information, samples or other related documents provided to Intertek by the Client (or any of its agents or representatives).
- 3.2 In the event of a breach of the warranty set out in Clause 3.1 (b), Intertek shall, at its own expense, perform services of the type originally performed as may be reasonably required to correct any defect in Intertek's performance.
- 3.3 Intertek makes no express or implied warranties or conditions and other terms implied by statute or common law (including but not limited to any implied warranties of merchantability and fitness for purpose) are, to the fullest extent permitted by law, excluded from this Agreement. No performance, deliverable, oral or other information or advice provided by Intertek (including its agents, sub-contractors, employees or other representatives) will create a warranty or otherwise increase the scope of any warranty provided.

## 4. CLIENT WARRANTIES AND OBLIGATIONS

- 4.1 The Client warrants and warrants to the Client:
  - (a) that it has the power and authority to enter into this Agreement and procure the provision of the Services for itself;
  - (b) that it is securing the provision of the Services hereunder for its own account and not as an agent or broker, or in any other representative capacity, for any other person or entity;
  - (c) that any information, samples and related documents (if any or any of its agents or representatives) supplies to Intertek (including its agents, sub-contractors and employees) is true, accurate and complete and that it warrants and warrants to Intertek that the Client further acknowledges that Intertek will rely on such information, samples or other related documents and materials provided by the Client (without any duty to confirm or verify the accuracy or completeness thereof) in order to provide the Services;
  - (d) that any samples provided by the Client to Intertek will be shipped pre-paid and will be collected or disposed of by the Client (at the Client's cost) within thirty (30) days after the date that the Samples are made by the Client (or any of its agents or representatives). If the Client does not collect or dispose of the Client within the required thirty (30) days period, Intertek reserves the right to destroy the samples, at the Client's cost; and
  - (e) that any information, samples or other related documents (including without limitation certificates and reports) provided by the Client to Intertek will not, in any circumstances, infringe any legal rights (including Intellectual Property Rights) of any third party.
- 4.2 In the event that the Services provided relate to a third party, the Client shall cause any such third party to acknowledge and agree to the provisions in this Agreement and the Proposal prior to and as a condition precedent to such third party receiving any Reports or the benefit of any Services;
- 4.3 The Client further warrants:
  - (a) to co-operate with Intertek in all matters relating to the Services and appoint a manager in relation to the Services who shall be duly authorised to provide instructions to Intertek on behalf of the Client and to bind the Client contractually as required;
  - (b) to provide Intertek (including its agents, sub-contractors and employees), at its own expense, any and all samples, information, material or other documents necessary for the performance of the Services in a timely manner sufficient to enable Intertek to provide the Services in accordance with this Agreement. The Client acknowledges that any samples provided may become damaged or destroyed in the course of testing as part of the necessary testing process and undertakes to hold Intertek harmless from any and all responsibility for such alteration, damage or destruction;
  - (c) that it is responsible for providing the samples/equipment to be tested together, where appropriate, with any specified additional items, including but not limited to connecting pieces, fuse-links, etc;
  - (d) to provide instructions and feedback to Intertek in a timely manner;
  - (e) to provide Intertek (including its agents, sub-contractors and employees) with access to its premises as may be reasonably required for the provision of the Services and for testing purposes; and
  - (f) prior to Intertek attending any premises for the performance of the Services, to inform Intertek of all applicable health and safety rules and regulations and other reasonable security requirements that may apply at any relevant premises at which the Services are to be provided;
  - (g) to notify Intertek promptly of any risk, safety issues or incidents in respect of any item delivered by the Client, or any process or systems used at its premises, which may be necessary for the provision of the Services;
  - (h) to inform Intertek in advance of any applicable import/export restrictions that may apply to the Services to be provided, including any instances where any products, information or technology may be exported/imported to or from a country that is restricted or banned from such transaction;
  - (i) in the event of the issuance of a certificate, to inform and advise Intertek immediately of any changes during the term of the certificate which may have a material impact on the accuracy of the certification;
  - (j) to obtain and maintain all necessary licenses and consents in order to comply with relevant legislation and regulation in relation to the Services;
  - (k) that it will not use any Reports issued by Intertek pursuant to this Agreement in a misleading manner and that it will only distribute such Reports in their entirety;
  - (l) in no event, will the contents of any Reports or any extracts, excerpts or parts of any Reports be distributed or published without the prior written consent of Intertek (such consent not to be unreasonably withheld) in each instance; and
  - (m) that any and all advertising and promotional materials or any statements made by the Client will not give a false or misleading impression to any third party concerning the Services provided by Intertek.
- 4.4 Intertek shall be neither in breach of this Agreement nor liable to the Client for any breach of this Agreement if and to the extent that the breach is a direct result of a failure by the Client to comply with its obligations as set out in this Clause 4. The Client also acknowledges that the impact of any failure by the Client to perform its obligations set out herein on the provision of the Services by Intertek will not affect the Client's obligations under this Agreement for payment of the Charges pursuant to Clause 5 below.

## 5. CHARGES, INVOICING AND PAYMENT

- 5.1 The parties agree that the Services are provided on the terms and subject to the conditions set out or referred to in this Agreement, and that this Agreement shall take precedence over any terms and conditions which the Client has provided or may in the future provide to Intertek, whether in a purchase order or any other document.
- 5.2 Unless acceptance of this Agreement by the Client occurs at an earlier time, submission of samples or any other testing material from the Client to Intertek shall be deemed to be conclusive evidence of the Client's acceptance of this Agreement.
- 5.3 The Client shall pay Intertek the charges set out in the Proposal, if applicable, or as otherwise contemplated for provision of the Services (the Charges).
- 5.4 If pricing factors such as salaries and/or rates are subject to change between the conclusion date of the Contract and the completion date of the Contract, Intertek has the right to adjust the Charges accordingly.
- 5.5 The Charges are expressed exclusive of any applicable taxes. The Client shall pay any applicable taxes on the Charges at the rate and in the manner prescribed by law, on the issue by Intertek of a valid invoice.
- 5.6 The Client agrees that it will reimburse Intertek for any expenses incurred by Intertek relating to the provision of the Services and is wholly responsible for any freight or customs clearance fees relating to any testing samples.
- 5.7 The Charges represent the total fees to be paid by the Client for the Services pursuant to this Agreement. Any additional work performed by Intertek will be charged on a time and material basis.
- 5.8 Intertek shall invoice the Client for the Charges and expenses, if any. For Services provided over the course of a period of greater than thirty (30) days the Client agrees that at the end of each calendar month Intertek will issue an invoice for the cost of the Services provided in the month. A final invoice will be issued on the date of the completion of the Services.
- 5.9 The Client is required to pay all invoiced amounts without any deduction, discount or set-off no later than thirty (30) days after the invoice date. No deductions for balances incurred can be made. Payments, which must be denominated in the currency indicated in the invoice, must be made by means of a bank transfer to a bank account designated by Intertek.
- 5.10 Intertek will issue an electronic invoice to the Client. An electronic invoice may be sent by email and will be deemed to have been delivered to the Client upon receipt of such email. Intertek is under no obligation to fulfil any request by the Client for a paper copy to be sent by post. Any invoice sent by post will include a £25 administration fee and the paper invoice must be paid by the Client within the credit terms referred to in 5.9 above.
- 5.11 If Intertek believes that the Client's financial position and/or payment performance justifies such action, Intertek has the right to demand that the Client immediately furnish security or additional security in a form to be determined by Intertek and/or make an advance payment. If the Client fails to furnish the desired security, Intertek reserves the right to charge a £25 administration fee, to immediately suspend the further execution of all or any part of the Services, and any Charges for any part of the Services which has already been performed shall become immediately due and payable.
- 5.12 If the Client fails to pay within the period referred to in 5.9 above, it is in default of its payment obligations and this Agreement after having been reminded by Intertek at least once that payment is due within a reasonable period. In that case, the Client is liable to pay interest on the credit balance with effect from the date on which the payment became due (the date of payment). The interest rate applied is deemed to be the Joint Stock Commercial Bank for Foreign Trade of Vietnam (Vietcombank) base rate plus 5%. In addition, all collection costs incurred after the Client's default, both judicial and extrajudicial, are for the Client's account. The extrajudicial costs are set at an amount equal to at least 10% of the principal plus interest, without prejudice to Intertek's right to collect the actual extrajudicial costs in excess of this amount. The judicial costs comprise all costs incurred by Intertek, even if they exceed the Joint Stock Commercial Bank for Foreign Trade of Vietnam (Vietcombank) base rate.
- 5.13 If the Client objects to the contents of the invoice, details of the objection must be raised with Intertek within seven (7) days of receipt of the electronic invoice, otherwise the invoice will be deemed to have been accepted. Any such objections do not exempt the Client from its obligation to pay within the period referred to in 5.9 above.
- 5.14 Any request by the Client for certain information to be included in or appended to the invoice must be made at the time of setting out the Proposal. A later request by the Client for charges to be agreed in the invoice or supplementary information will not discharge the Client from its obligation to pay within the period referred to in 5.9 above. Intertek reserves the right to charge a £25 administration fee per invoice for issuing additional copies of invoices or amending invoice detail, format or structure from that agreed in the Proposal. Intertek maintains the right to reject such an invoicing amendment request and such a rejection by Intertek of the Client's request will not exempt the Client from its obligation to pay within the period referred to in 5.9 above.
- 5.15 If actions by the Client delay completion of the Services, Intertek has the right to invoice the Client for the cost of all Services provided to date. In such a scenario the Client agrees to pay this invoice within thirty (30) days of the invoice date.

## 6. INTELLECTUAL PROPERTY RIGHTS AND DATA PROTECTION

- 6.1 All Intellectual Property Rights belonging to a party prior to entry into this Agreement shall remain vested in that party. Nothing in this Agreement is intended to transfer any Intellectual Property Rights to either party.
- 6.2 Any use by the Client (or the Client's affiliated companies or subsidiaries) of the name "Intertek" or any of Intertek's trademarks or brand names

- for any reason must be prior approved in writing by Intertek. Any other use of Intertek's trademarks or brand names is strictly prohibited and Intertek reserves the right to terminate this Agreement immediately as a result of any such unauthorised use.
- 6.3 All Intellectual Property Rights in any Reports, documents, graphs, charts, photographs or any other material (in whatever medium) produced by Intertek pursuant to this Agreement shall belong to Intertek. The Client shall have the right to use any such Reports, documents, graphs, charts, photographs or other material for the purposes of this Agreement.
- 6.4 The Client agrees and acknowledges that Intertek retains any and all proprietary rights in concepts, ideas and inventions that may arise during the preparation or provision of any Report (including any deliverables provided by Intertek to the Client) and the provision of the Services to the Client. Both parties shall observe all statutory provisions with regard to data protection including but not limited to the provisions of the General Data Protection Regulation 2016/679 ("GDPR") and shall comply with all applicable requirements of the GDPR. To the extent that Intertek processes personal data in connection with the Services or otherwise in connection with this Agreement, it shall take all necessary and appropriate measures to ensure the security of such data (and to guard against unauthorised or unlawful processing, accidental loss, destruction or damage to such data) in line with the GDPR.

## 7. CONFIDENTIALITY

- 7.1 Where a party (the Receiving Party) obtains Confidential Information of the other party (the Disclosing Party) in connection with this Agreement (whether before or after the date of this Agreement) it shall, subject to Clauses 7.2 to 7.4:
  - (a) keep that Confidential Information confidential, by applying the standard of care that it uses for its own Confidential Information;
  - (b) use that Confidential Information only for the purposes of performing obligations under this Agreement; and
  - (c) not disclose that Confidential Information to any third party without the prior written consent of the Disclosing Party.
- 7.2 The Receiving Party may disclose the Disclosing Party's Confidential Information on a "need to know" basis:
  - (a) to any legal advisers and statutory auditors that it has engaged for itself;
  - (b) to any regulator having regulatory or supervisory authority over its business;
  - (c) to any director, officer or employee of the Receiving Party provided that, in each case, the Receiving Party has first advised that person of the obligations under Clause 7.1 and ensured that the person is bound by obligations of confidence in respect of the Confidential Information no less onerous than those set out in this Clause 7; and
  - (d) to any subcontractors of the Receiving Party.
- 7.3 The provisions of Clauses 7.1 and 7.2 shall not apply to any Confidential Information which:
  - (a) was already in the possession of the Receiving Party prior to its receipt from the Disclosing Party without restriction on its use or disclosure;
  - (b) is or becomes public knowledge other than by breach of this Clause 6.6;
  - (c) is received by the Receiving Party from a third party who lawfully acquired it and who is under no obligation restricting its disclosure; or
  - (d) is independently developed by the Receiving Party without access to the relevant Confidential Information.
- 7.4 The Receiving Party may disclose Confidential Information of the Disclosing Party to the extent required by law, any regulatory authority or the rules of any stock exchange on which the Receiving Party is listed, provided that the Receiving Party has given the Disclosing Party prompt written notice of the intended disclosure and where possible given the Disclosing Party a reasonable opportunity to prevent the disclosure through appropriate legal means.
- 7.5 Each party shall ensure the compliance by its employees, agents and representatives (which, in the case of Intertek, includes procuring the same from any sub-contractors) with its obligations under this Clause 7.
- 7.6 In the absence of any Intellectual Property Rights in connection with the disclosure of such Confidential Information by the Disclosing Party.
- 7.7 With respect to archival storage, the Client acknowledges that Intertek may retain in its archive for the period required by its quality and assurance processes, or by the testing and certification rules of the relevant accreditation body, all materials necessary to document the Services provided.

## 8. AMENDMENT

- 8.1 No amendment to this Agreement shall be effective unless it is in writing, expressly stated to amend this Agreement and signed by an authorised signatory of each party.

## 9. FORCE MAJEURE

- 9.1 Neither party shall be liable to the other for any delay in performing or failure to perform any obligation under this Agreement to the extent that such delay or failure is due to any of the following events:
  - (a) acts of God or natural disasters, including but not limited to: acts of terrorism, military action, sabotage and/or piracy;
  - (b) natural disasters such as violent storms, earthquakes, tidal waves, floods and/or lightning; explosions and fire;
  - (c) strikes and labour disputes, other than by any one or more employees of the affected party or of any supplier or agent of the affected party; or
  - (d) failure of utilities companies such as providers of telecommunication, internet, gas or electricity services.
- 9.2 For the avoidance of doubt, where the affected party is Intertek any failure or delay caused by failure or delay on the part of a subcontractor shall only be a Force Majeure Event (as defined below) where the subcontractor is affected by one of the events described above.
- 9.3 A party whose performance is affected by an event described in Clause 9.1 (a Force Majeure Event) shall:
  - (a) promptly notify the other party in writing of the Force Majeure Event and the cause and the likely duration of any consequential delay or non-performance of its obligations;
  - (b) use all reasonable endeavours to avoid or mitigate the effect of the Force Majeure Event and continue to perform or resume performance of its affected obligations as soon as reasonably possible; and
  - (c) continue to provide Services that remain unaffected by the Force Majeure Event.
- 9.4 If the Force Majeure Event continues for more than sixty (60) days after the day on which it started, each party may terminate this Agreement by giving at least ten (10) days' written notice to the other party.

## 10. LIMITATIONS AND EXCLUSIONS OF LIABILITY

- 10.1 Neither party excludes or limits liability to the other party:
  - (a) for death or personal injury resulting from the negligence of that party or its directors, officers, employees, agents or sub-contractors; or
  - (b) for its own fraud (or that of its directors, officers, employees, agents or sub-contractors);
- 10.2 Subject to clause 10.1, the maximum aggregate liability of Intertek in contract, tort (including negligence and breach of statutory duty) or otherwise for any breach of this agreement or any matter arising out of or in connection with the services to be provided in accordance with this agreement shall be the amount of charges due by the client to Intertek under this agreement.
- 10.3 Subject to clause 10.1, neither party shall be liable to the other in contract, tort (including negligence and breach of statutory duty) or otherwise for any:
  - (a) loss of profits;
  - (b) loss of sales or business;
  - (c) loss of opportunity (including without limitation in relation to third party agreements or contracts);
  - (d) loss of or damage to goodwill or reputation;
  - (e) loss of anticipated savings;
  - (f) cost or expenses incurred in relation to making a product recall;
  - (g) loss of use or corruption of software, data or information; or
  - (h) any indirect, consequential loss, punitive or special loss (even when advised of their possibility).
- 10.4 Any claim by the Client against Intertek (always subject to the provisions of this clause 10) must be made within ninety (90) days after the Client becomes aware of any circumstances giving rise to any such claim. Failure to give such notice of claim within ninety (90) days shall constitute a bar or irrevocable waiver by the Client to any claim, either directly or indirectly, in contract, tort or otherwise in connection with the provision of services under this agreement.

## 11. INDEMNITY

- 11.1 The Client shall indemnify and hold harmless Intertek, its officers, employees, agents, representatives, contractors and sub-contractors from and against any and all claims, suits, liabilities (including costs of litigation and attorney's fees) arising, directly or indirectly, out of or in connection with:
  - (a) any claims or suits by any governmental authority or others for any actual or asserted failure of the Client to comply with any law, ordinance, regulation, rule or order of any governmental or judicial authority;
  - (b) claims or suits for personal injuries, loss of or damage to property, economic loss, and loss of or damage to Intellectual Property Rights incurred by or on behalf of any person or entity in connection with the Services provided hereunder by Intertek;
  - (c) claims or suits for personal injuries, representatives, contractors and sub-contractors;
  - (d) the breach or alleged breach by the Client of any of its obligations set out in Clause 4 above;
  - (e) any claims made by any third party for loss, damage or expense of whatsoever nature and howsoever arising relating to the performance, unperfected performance or non-performance of any Services to the extent that the aggregate of any such claims relating to any one Service exceeds the limit of liability set out in Clause 10 above;
  - (f) any claims or suits arising as a result of any misuse or unauthorised use of any Reports issued by Intertek or any Intellectual Property Rights belonging to Intertek (including trade marks) pursuant to this Agreement; and
  - (g) any claims arising out of or relating to any third party's use of or reliance on any Reports or any reports, analyses, conclusions of the Client (or any third party to whom the Client has provided the Reports) based in whole or in part on the Reports, if applicable.

## 12. INSURANCE POLICIES

- 12.1 Each party shall be responsible for the arrangement and costs of its own company insurance which includes, without limitation, professional liability, motor, employer's liability, marine, fire and theft, general liability, and property insurance.
- 12.2 Intertek expressly disclaims any liability to the Client as an insurer or guarantor.
- 12.3 The Client acknowledges that although Intertek maintains employer's liability insurance, such insurance does not cover any employees of the Client or any third parties who may be involved in the provision of the Services. If the Services are to be performed at premises belonging to the Client or third parties, Intertek's employer's liability insurance does not provide cover for non-Intertek employees.

## 13. TERMINATION

- 13.1 This Agreement shall commence upon the first day on which the Services are commenced and shall continue, unless terminated earlier in accordance with this Clause 13, until the Services have been provided.
- 13.2 This Agreement may be terminated by:
  - (a) either party if the other causes in material breach of any obligation imposed upon it hereunder for more than thirty (30) days after written notice has been dispatched by that Party or recorded delivery or courier to the other or remains such breach;
  - (b) Intertek on written notice to the Client in the event that the Client fails to pay any invoice by its due date and/or fails to make payment after a further request for payment; or
  - (c) either party written notice to the other in the event that the other makes any voluntary arrangement with its creditors or becomes subject to an administration or (being an individual or firm) becomes bankrupt or (being a company) goes into liquidation (other than for the purposes of a solvent amalgamation or reconstruction) or an embarrasment takes possession, or a receiver is appointed, of any of the property or assets of the other or the other ceases, or threatens to cease, to carry on business.
- 13.3 In the event of termination of the Agreement for any reason and without prejudice to any other rights or remedies the parties may have, the Client shall pay Intertek for all Services performed up to the date of termination. This obligation shall survive termination or expiration of this Agreement.
- 13.4 Any termination or expiration of the Agreement shall not affect the accrued rights and obligations of the parties nor shall it affect any provision which is expressly or by implication intended to come into force or continue in force on or after such termination or expiration.

## 14. ASSIGNMENT AND SUB-CONTRACTING

- 14.1 Intertek reserves the right to delegate the performance of its obligations hereunder and the provision of the Services to one or more of its affiliates and/or sub-contractors without prejudice. Intertek may also assign this Agreement to any company within the Intertek group on notice to the Client.

## 15. GOVERNING LAW AND DISPUTE RESOLUTION

- 15.1 This Agreement and the Proposal shall be governed by Vietnam law. The parties agree to submit to the exclusive jurisdiction of the Vietnam courts in respect of any dispute arising out of or in connection with this Agreement (including any non-contractual claim relating to the provision of the Services in accordance with this Agreement).

## 16. MISCELLANEOUS

- 16.1 Wherever applicable, if any provision of this Agreement is or becomes invalid, illegal or unenforceable, such provision shall be severed and the remainder of the provisions shall continue in full force and effect as if this Agreement had been executed without the invalid illegal or unenforceable provision. If the invalidity, illegality or unenforceability is so fundamental that it prevents the accomplishment of the purpose of this Agreement, Intertek and the Client shall immediately commence good faith negotiations to agree an alternative arrangement.
- 16.2 No partnership or agency. Nothing in this Agreement and no action taken by the parties under this Agreement shall constitute a partnership, association, joint venture or other co-operative entity between the parties or constitute any party the partner, agent or legal representative of the other party.
- 16.3 Waivers. Subject to Clause 10.4 above, the failure of any party to insist upon strict performance of any provision of this Agreement, or to exercise any right or remedy to which it is entitled, shall not constitute a waiver and shall not cause a diminution of the obligations established by this Agreement. A waiver of any breach shall not constitute a waiver of any subsequent breach.
- 16.4 No waiver of any right or remedy under this Agreement shall be effective unless it is expressly stated to be a waiver and communicated to the other party in writing.
- 16.5 Whole Agreement. This Agreement and the Proposal contain the whole agreement between the parties relating to the transactions contemplated by this agreement and supersedes all previous agreements, arrangements and understandings between the parties relating to those transactions or that subject matter. No purchase order, statement or other similar document will add to or vary the terms of this Agreement.
- 16.6 Each party acknowledges that in entering into this Agreement it has not relied on any representation, warranty, collateral contract or other assurance (except those set out or referred to in this Agreement) made by or on behalf of any other party before the acceptance or signature of this Agreement. Each party waives all rights and remedies that, but for this Clause, might otherwise be available to it in respect of any such representation, warranty, collateral contract or other assurance.
- 16.7 Nothing in this Agreement limits or excludes any liability for fraudulent misrepresentation.
- 16.8 Third Party Right. A person who is not party to this Agreement has no right under the Contract (Rights of Third Parties) Act 1999 to enforce any of its terms.
- 16.9 Further Assurance. Each party shall, at the cost and request of any other party, execute and deliver such instruments and documents and take such other actions in each case as may be reasonably requested from time to time in order to give full effect to its obligations under this Agreement.

## PHỤ LỤC PHẠM VI CHỨNG NHẬN

BAN HÀNH KÈM THEO GIẤY CHỨNG NHẬN SỐ: VNMT20009541

Chứng từ	Số	Ngày ban hành
Tờ khai nhập khẩu	103161622761	25/02/2020
Vận đơn	4351-0653-001.028	19/02/2020
Hóa đơn (Invoice)	9020023496	19/02/2020
Hợp đồng	TIV-TIT/VIE15	01/01/2015
Lô hàng	T202003178	-

### THÔNG TIN CHI TIẾT LÔ HÀNG:

Số TT	Tên Sản Phẩm Dệt May	Mã Sản Phẩm (Ký Hiệu, Kiểu Loại)	Nhãn Hiệu	Xuất Xứ	Màu Sắc	Chất Liệu (Thành Phần Sợi)	Số Lượng (Cái)	Kích Thước	Nhóm Sản Phẩm
1	Áo lót nữ D 179 WHP	16-5666	Triumph	Trung Quốc	GT, LZ	90% polyamide, 10% elastane	4,450	A75, A80, B75, B80	2
2	Áo lót nữ T-Shirt Bra 140 WHP 01	16A6487	Triumph	Trung Quốc	5G, 04	70% polyamide, 30% elastane	1,538	A80, A85, B75, B80, B85	2
3	Áo lót nữ Fashion 468 WP	19V979	Triumph	Trung Quốc	GT, WM	70% polyester, 20% polyamide, 5% cotton, 5% elastane	5,290	B80, B85, C75, C80, C85, C90	2
4	Quần lót nữ Aqua Exotic Mini	74-6646	Triumph	Trung Quốc	04	14% elastane, 86% polyamide	200	M, L	2
5	Quần lót nữ sloggi Comfort Maxi	76-474	Sloggi	Trung Quốc	GT, WM, CS	88% cotton, 12% elastane	3,480	M, L, EL	2
6	Quần lót nữ sloggi Comfort Tanga	76-512	Sloggi	Trung Quốc	EP, 03	88% cotton, 12% elastane	1,010	M, L	2
7	Quần lót nữ Aqua Exotic Hipster	87-2145	Triumph	Trung Quốc	GT, 37, 04	14% elastane, 86% polyamide	240	M, L	2



# Intertek General Terms and Conditions of Services

These terms and conditions, together with any proposal, estimate or fee quote, form the agreement between you (the Client) and the Intertek entity (Intertek) providing the services contemplated therein.

## 1. INTERPRETATION

- 1.1 In this Agreement, the following words and phrases shall have the following meanings unless the context otherwise requires:
  - (a) Agreement means this agreement entered into between Intertek and the Client;
  - (b) Charges shall have the meaning given in Clause 5.3;
  - (c) Confidential Information means all information in whatever form or manner presented which: (a) is disclosed pursuant to, or in the course of the provision of Services pursuant to, this Agreement; and (b) is disclosed in writing, orally, visually, electronically or otherwise howsoever and is marked, stamped or identified by any means as confidential by the disclosing party at the time of such disclosure; and/or
  - (d) is information, howsoever disclosed, which would reasonably be expected to be confidential by the receiving party.
- 1.2 Intellectual Property Right(s) means copyrights, trademarks (registered or unregistered), patents, patent applications (including the right to apply for a patent) and other intellectual property rights, trade secrets and other like rights howsoever existing.
- 1.3 Report(s) shall have the meaning as set out in Clause 5.3 below.
- 1.4 Services means the services set out in any relevant Intertek Proposal, any relevant Client purchase order, or any relevant Intertek Invoice, as applicable, and may comprise or include the provision by Intertek of a Report;
- 1.5 Proposal means the proposal, estimate or fee quote, if applicable, provided to the Client by Intertek relating to the Services;
- 1.6 The headings in this Agreement do not affect its interpretation.

## 2. THE SERVICES

- 2.1 Intertek shall provide the Services to the Client in accordance with the terms of this Agreement which is expressly incorporated into any Proposal Intertek has made and submitted to the Client.
- 2.2 In the event of any inconsistency between the terms of this Agreement and the Proposal, the terms of the Proposal shall take precedence.
- 2.3 The Services provided by Intertek under this Agreement and any memoranda, laboratory data, calculations, measurements, estimates, notes, certificates and other material prepared by Intertek in the course of providing the Services to the Client, together with status summaries or any other communication in any form describing the results of any work or services performed (Report(s)) shall be only for the Client's use and benefit.
- 2.4 The Client acknowledges and agrees that if in providing the Services Intertek is obliged to deliver a Report to a third party, Intertek shall be deemed irrevocably authorised to deliver such Report to the applicable third party. For the purposes of this clause an obligation shall arise on the instructions of the Client, or where, in the reasonable opinion of Intertek, it is implicit from the circumstances, trade, custom, usage or practice.

- 2.5 The Client acknowledges and agrees that any Services provided and/or Reports produced by Intertek are done so within the limits of the scope of work agreed with the Client in relation to the Proposal and pursuant to the Client's specific instructions or, in the absence of such instructions, in accordance with any relevant trade custom, usage or practice. The Client further agrees and acknowledges that the Services are not necessarily designed or intended to address all matters of quality, safety, performance or condition of any product, material, services, systems or processes tested, inspected or certified and the scope of work does not necessarily reflect all standards which may apply to product, material, services, systems or processes tested, inspected or certified. The Client understands that reliance on any Reports issued by Intertek is limited to the facts and representations set out in the Reports which represent Intertek's review and/or analysis of facts, information, documents, samples and/or other materials in existence at the time of the performance of the Services only.
- 2.6 Client is responsible for acting as it sees fit on the basis of the Reports. Neither Intertek nor its agents or employees, agents or subcontractors shall be liable to Client nor any third party for any actions taken or not taken on the basis of such Report.
- 2.7 In agreeing to provide the Services pursuant to this Agreement, Intertek does not abridge, abrogate or undertake to discharge any duty or obligation of the Client to any other person or any duty or obligation of any person to the Client.

## 3. INTERTEK'S WARRANTIES

- 3.1 Intertek warrants exclusively to the Client:
  - (a) that it has the power and authority to enter into this Agreement and that it will comply with relevant legislations and regulations in force as at the date of this Agreement in relation to the provision of the Services;
  - (b) that the Services will be performed in a manner consistent with that level of care and skill ordinarily exercised by other companies providing like services in the same or similar circumstances;
  - (c) that it will take reasonable steps to ensure that whilst on the Client's premises its personnel comply with any health and safety rules and regulations and other reasonable security requirements made known to Intertek by the Client in accordance with Clause 4.3(f);
  - (d) that the Reports produced in relation to the Services will not infringe any legal rights (including Intellectual Property Rights) of any third party. This warranty shall not apply where infringement is directly or indirectly caused by Intertek's reliance on any information, samples or other related documents provided to Intertek by the Client (or any of its agents or representatives).
- 3.2 In the event of a breach of the warranty set out in Clause 3.1 (b), Intertek shall, at its own expense, perform services of the type originally performed as may be reasonably required to correct any defect in Intertek's performance.
- 3.3 Intertek makes no other warranties, express or implied. All other warranties, conditions and other terms implied by statute or common law (including but not limited to any implied warranties of merchantability and fitness for purpose) are, to the fullest extent permitted by law, excluded from this Agreement. No performance, deliverable, oral or other information or advice provided by Intertek (including its agents, sub-contractors, employees or other representatives) will create a warranty or otherwise increase the scope of any warranty provided.

## 4. CLIENT WARRANTIES AND OBLIGATIONS

- 4.1 The Client represents and warrants to Intertek:
  - (a) that it has the power and authority to enter into this Agreement and procure the provision of the Services for itself;
  - (b) that it is securing the provision of the Services hereunder for its own account and not as an agent or broker, or in any other representative capacity, for any other person or entity;
  - (c) that any information and documents it (or any of its agents or representatives) supplies to Intertek (including its agents, sub-contractors and employees) is, true, accurate, complete and is not to be provided to any other person or entity without the Client's acknowledgement that Intertek will rely on such information, samples or other related documents and materials provided by the Client (without any duty to confirm or verify the accuracy or completeness thereof) in order to provide the Services;
  - (d) that any samples provided by the Client for testing or inspection will be shipped pre-paid and will be collected or disposed of by the Client (at the Client's cost) within thirty (30) days after testing or inspection. Intertek reserves the right to destroy the samples if they are not collected or disposed of by the Client within the required thirty (30) day period; Intertek reserves the right to destroy the samples at the Client's cost; and
  - (e) that any information, samples or other related documents (including without limitation certificates and reports) provided by the Client to Intertek will not, in any circumstances, infringe any legal rights (including Intellectual Property Rights) of any third party.
- 4.2 In the event that the Services provided relate to any third party, the Client shall cause any such third party to acknowledge and agree to the provisions in this Agreement and the Proposal prior to and as a condition precedent to such third party receiving any Reports or the benefit of any Services.
- 4.3 The Client further agrees:
  - (a) to co-operate with Intertek in all matters relating to the Services and appoint a manager in relation to the Services who shall be duly authorised to provide instructions to Intertek on behalf of the Client and to bind the Client contractually as required;
  - (b) to provide Intertek, sub-contractors and employees, at its own expense, any and all samples, information, material or other documentation necessary for the provision of the Services; and
  - (c) to inform Intertek in advance of any applicable import/export restrictions that may apply to the Services to be provided, including any instances where any products, information or technology may be exported/imported to or from a country that is restricted or banned from such transactions.
- 4.4 In the event of the issuance of a certificate, to inform and advise Intertek immediately of any changes during the term of the certificate which may have a material impact on the accuracy of the certification;
- 4.5 to obtain and maintain all necessary licenses and consents in order to comply with relevant legislation and regulation in relation to the Services;
- 4.6 that it will not use Reports issued by Intertek pursuant to this Agreement in a misleading manner and that it will only distribute such Reports in their entirety;
- 4.7 in no event, will the contents of any Reports or any extracts, excerpts or parts of any Reports be distributed or published without the prior written consent of Intertek (such consent not to be unreasonably withheld) in each instance; and
- 4.8 that any and all advertising and promotional materials or any statements made by the Client will not give a false or misleading impression to any third party concerning the Services provided by Intertek.
- 4.9 Intertek shall be neither in breach of this Agreement nor liable to the Client for any breach of this Agreement if and to the extent that its breach is a direct result of a failure by the Client to comply with its obligations as set out in this Clause 4. The Client also acknowledges that the impact of any failure by the Client to perform its obligations set out herein on the provision of the Services by Intertek will not affect the Client's obligations under this Agreement for payment of the Charges pursuant to Clause 5 below.

## 5. CHARGES, INVOICING AND PAYMENT

- 5.1 The parties agree that the Services are provided on the terms and subject to the conditions set out or referred to in this Agreement, and that this Agreement shall take precedence over any terms and conditions which the Client has provided or may in the future provide to Intertek, whether in a purchase order or any other document.
- 5.2 Unless acceptance of this Agreement is expressly stated in writing, earlier time, submission of samples or any other testing material from the Client to Intertek shall be deemed to be conclusive evidence of the Client's acceptance of this Agreement.
- 5.3 The Client shall pay Intertek the charges set out in the Proposal, if applicable, or as otherwise contemplated for provision of the Services (the Charges).
- 5.4 If pricing factors, such as salaries and/or rates are subject to change between the conclusion date of the Contract and the completion date of the Contract, Intertek has the right to adjust the Charges accordingly.
- 5.5 The Charges are expressed exclusive of any applicable taxes. The Client shall pay any applicable taxes on the Charges at the rate and in the manner prescribed by law, on the issue by Intertek of a valid invoice.
- 5.6 The Client agrees that it will reimburse Intertek for any expenses incurred by Intertek relating to the provision of the Services and is wholly responsible for any freight or customs clearance fees relating to any testing samples.
- 5.7 The Charges represent the total fees to be paid by the Client for the Services pursuant to this Agreement. Any additional work performed by Intertek will be charged on a time and material basis.
- 5.8 Intertek shall invoice the Client for the Charges and expenses, if any. For Services provided over the course of a period of greater than thirty (30) days the Client agrees that at the end of each calendar month Intertek will issue an invoice for the cost of the Services provided in the month. A final invoice will be issued on the date of the completion of the Services.
- 5.9 The Client is required to pay all invoiced amounts without any deduction, discount or set-off no later than thirty (30) days after the invoice date. No deduction or discount shall be allowed. Payments, which must be denominated in the currency indicated in the invoice, must be made by means of money transfer to a bank account designated by Intertek.
- 5.10 Intertek will issue an electronic invoice to the Client. An electronic invoice may be sent by email and will be deemed to have been delivered to the Client upon receipt of such email. Intertek is under no obligation to fulfil any request by the Client for a paper copy to be sent by post. Any invoice sent by post will include a £25 administration fee and the paper invoice must be paid by the Client within the credit terms referred to in 5.9 above.
- 5.11 If Intertek believes that the Client's financial position and/or payment performance justifies such action, Intertek has the right to demand that the Client immediately furnish security or additional security in a form to be determined by Intertek and/or make an advance payment. If the Client fails to furnish the desired security, Intertek has the right, without prejudice to its other rights, to immediately suspend the further execution of all or any part of the Services, and any Charges for any part of the Services which has already been performed shall become immediately due and payable.
- 5.12 If the Client fails to pay within the period referred to in 5.9 above, it is in default of its payment obligations and this Agreement after having been reminded by Intertek at least once that payment is due within a reasonable period. In that case, the Client is liable to pay interest on the credit balance with effect from the date on which the payment became due until the date of payment. The interest rate applied is deemed to be the Joint Stock Commercial Bank for Foreign Trade of Vietnam (Vietcombank) base rate plus 5%. In addition, all collection costs incurred after the due date, both in and out of court, and extrajudicial, are for the Client's account. The extrajudicial costs are set at an amount equal to less than 10% of the principal plus interest, without prejudice to Intertek's right to collect the actual extrajudicial costs in excess of this amount. The judicial costs comprise all costs incurred by Intertek, even if they exceed the Joint Stock Commercial Bank for Foreign Trade of Vietnam (Vietcombank) base rate.
- 5.13 If the Client objects to the costs of the invoice, details of the objection must be raised with Intertek within seven (7) days of receipt of electronic invoice, otherwise the invoice will be deemed to have been accepted. Any such objections do not exempt the Client from its obligation to pay within the period referred to in 5.9 above.
- 5.14 Any request by the Client for certain information to be included in or appended to the invoice must be made at the time of setting out the Proposal. A later request by the Client for such information in the agreed format of the invoice or supplementary information will not discharge the Client from its obligation to pay within the period referred to in 5.9 above. Intertek reserves the right to charge a £25 administration fee per invoice for issuing additional copies of invoices or amending invoice detail, format or structure from that agreed in the Proposal. Intertek maintains the right to reject such an invoicing amendment request and such a rejection by Intertek of the Client's request will not exempt the Client from its obligation to pay within the period referred to in 5.9 above.
- 5.15 If actions by the Client to delay completion of the Services, Intertek has the right to invoice the Client for the cost of all Services provided to date. In such a scenario the Client agrees to pay this invoice within thirty (30) days of the invoice date.

## 6. INTELLECTUAL PROPERTY RIGHTS AND DATA PROTECTION

- 6.1 All Intellectual Property Rights belonging to any party or entity into this Agreement shall remain vested in that party. Nothing in this Agreement is intended to transfer any Intellectual Property Rights from either party to the other.
- 6.2 Any use by the Client (or the Client's affiliated companies or subsidiaries) of the name "Intertek" or any of Intertek's trademarks or brand names

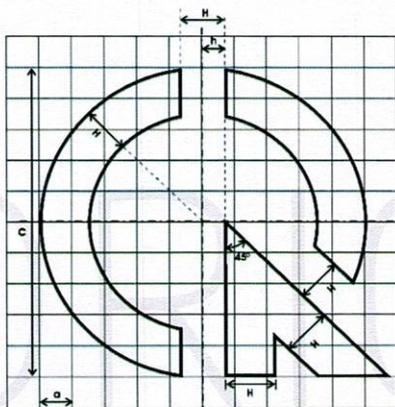
for any reason must be prior approved in writing by Intertek. Any other use of Intertek's trademarks or brand names is strictly prohibited and Intertek reserves the right to terminate this Agreement immediately as a result of any such unauthorised use.

- 6.3 All intellectual property rights in any Reports, documents, graphs, charts, photographs or any other material (in whatever medium) produced by Intertek pursuant to this Agreement shall belong to Intertek. The Client shall have the right to use any such Reports, documents, graphs, charts, photographs or other material for the purposes of this Agreement.
- 6.4 The Client agrees and acknowledges that Intertek retains any and all proprietary rights in concepts, ideas and inventions that may arise during the preparation or provision of any Report (including any deliverables provided by Intertek to the Client) and the provision of the Services to the Client. Both parties shall observe all statutory provisions with regard to data protection including but not limited to the provisions of the General Data Protection Regulation 2016/679 ("GDPR") and shall comply with all applicable requirements of the GDPR. To the extent that Intertek processes personal data in connection with the Services or otherwise in connection with this Agreement, it shall take all necessary measures to ensure the security of such data (and to guard against unauthorised or unlawful processing, accidental loss, destruction or damage to such data) in line with the GDPR.
7. CONFIDENTIALITY
- 7.1 Where a Party (the Receiving Party) obtains Confidential Information of the other party (the Disclosing Party) in connection with this Agreement (whether before or after the date of this Agreement) it shall, subject to Clauses 7.2 to 7.4:
  - (a) keep that Confidential Information confidential, by applying the standard of care that it uses for its own Confidential Information;
  - (b) use that Confidential Information only for the purposes of performing obligations under this Agreement; and
  - (c) not disclose that Confidential Information to any third party without the prior written consent of the Disclosing Party.
- 7.2 The Receiving Party may disclose the Disclosing Party's Confidential Information on a "need to know" basis:
  - (a) to any legal advisers and statutory auditors that it has engaged for itself;
  - (b) to any regulator having regulatory or supervisory authority over its business;
  - (c) to any director, officer or employee of the Receiving Party provided that, in each case, the Receiving Party has first advised that person of the obligations under Clause 7.1 and ensured that the person is bound by obligations of confidence in respect of the Confidential Information no less onerous than those set out in this Clause 7; and
  - (d) where the Receiving Party is Intertek, to any of its subsidiaries, affiliates or subcontractors.
- 7.3 The provisions of Clauses 7.1 and 7.2 shall not apply to any Confidential Information which:
  - (a) was already in the possession of the Receiving Party prior to its receipt from the Disclosing Party without restriction on its use or disclosure; or
  - (b) is or becomes known to the Receiving Party by or through any third party who is or was under no obligation restricting its disclosure; or
  - (c) is received by the Receiving Party from a third party who lawfully acquired it and who is under no obligation restricting its disclosure; or
  - (d) is independently developed by the Receiving Party without access to the relevant Confidential Information.
- 7.4 The Receiving Party may disclose Confidential Information of the Disclosing Party to the extent required by law, any regulatory authority or any stock exchange on which the Receiving Party is listed, provided that the Receiving Party has given the Disclosing Party prompt written notice of the requirement to disclose and where possible given the Disclosing Party a reasonable opportunity to prevent the disclosure through appropriate legal means.
- 7.5 Each party shall ensure the compliance by its employees, agents and representatives (which, in the case of Intertek, includes procuring a party of its own sub-contractors) with its obligations under this Clause 7.
- 7.6 No licence of any Intellectual Property Rights is given in respect of any Confidential Information solely by the disclosure of such Confidential Information by the Disclosing Party.
- 7.7 With respect to archival storage, the Client acknowledges that Intertek may retain in its archive body for the period required by its quality and assurance processes, or by the testing and certification rules of the relevant accreditation body, all materials necessary to document the Services provided.
8. AMENDMENT
- 8.1 No amendment to this Agreement shall be effective unless it is in writing, expressly stated to amend this Agreement and signed by an authorised signatory of each party.
9. FORCE MAJEURE
- 9.1 Neither party shall be liable to the other for any delay in performing or failure to perform any obligation under this Agreement to the extent that such delay or failure is due to an event of force majeure, including but not limited to:
  - (a) natural disasters such as violent storms, earthquakes, tidal waves, floods and/or lightning; explosions and fires;
  - (b) strikes and labour disputes, other than by any or more employees of the affected party or of any supplier or agent of the affected party;
  - (c) failures of utilities companies such as providers of telecommunication, internet, gas or electricity services.
- 9.2 For the avoidance of doubt, where the affected party is Intertek any failure or delay caused by failure or delay on the part of a subcontractor shall only be a Force Majeure Event (as defined below) where the subcontractor is affected by one of the events described above.
- 9.3 A party whose performance is affected by an event described in Clause 9.1 (a Force Majeure Event) shall:
  - (a) promptly notify the other party in writing of the Force Majeure Event and the cause and the likely duration of any consequential delay or non-performance of its obligations;
  - (b) use all reasonable endeavours to avoid or mitigate the effect of the Force Majeure Event and continue to perform or resume performance of its obligations as soon as reasonably possible; and
  - (c) continue to provide Services that remain unaffected by the Force Majeure Event.
- 9.4 If the Force Majeure Event continues for more than sixty (60) days after the day on which it started, each party may terminate this Agreement by giving at least ten (10) days' written notice to the other party.
10. LIMITATIONS AND EXCLUSIONS OF LIABILITY
- 10.1 Neither party excludes or limits liability to the other party:
  - (a) for death or personal injury resulting from the negligence of that party or its directors, officers, employees, agents or sub-contractors; or
  - (b) for its own fraud (or that of its directors, officers, employees, agents or sub-contractors).
- 10.2 Subject to clause 10.1, the maximum aggregate liability of Intertek in contract, tort (including negligence and breach of statutory duty) or otherwise for any breach of this agreement or any matter arising out of or in connection with the services to be provided in accordance with this agreement shall be the amount of any charges due by the client to Intertek under this agreement.
- 10.3 Subject to clause 10.1, neither party shall be liable to the other in contract, tort (including negligence and breach of statutory duty) or otherwise for any:
  - (a) loss of profits;
  - (b) loss of sales or business;
  - (c) loss of opportunity (including without limitation in relation to third party agreements or contracts);
  - (d) loss of or damage to goodwill or reputation;
  - (e) loss of anticipated savings;
  - (f) cost or expense incurred in relation to making a product recall;
  - (g) loss of or corruption of software, data or information; or
  - (h) any indirect, consequential loss, punitive or special loss (even when advised of their possibility).
- 10.4 Any claim by the client against Intertek (always subject to the provisions of this clause 10) must be made within ninety (90) days after the claim becomes provable or the event giving rise to any such claim, failure to give such notice of claim within ninety (90) days shall constitute a bar or irrevocable waiver to any claim, either directly or indirectly, in contract, tort or otherwise in connection with the provision of services under this agreement.
11. INDEMNITY
- 11.1 The Client shall indemnify and hold harmless Intertek, its officers, employees, agents, representatives, contractors and sub-contractors from and against any and all claims, suits, liabilities (including costs of litigation and attorney's fees) arising, directly or indirectly, out of or in connection with:
  - (a) any claims or suits by any governmental authority or others for any actual or asserted failure of the Client to comply with any law, ordinance, regulation, rule or order of any governmental or judicial authority;
  - (b) any claims or suits for personal injuries, loss of or damage to property, economic loss, or loss of or damage to Intellectual Property Rights incurred by or on behalf of any third party, whether directly or indirectly, in connection with or related to the Services provided hereunder by Intertek, its officers, employees, agents, representatives, contractors or sub-contractors;
  - (c) the breach or alleged breach by the Client of any of its obligations set out in Clause 4 above;
  - (d) any claims made by any third party for loss, damage or expense of whatsoever nature and howsoever arising relating to the performance, purported performance or non-performance of any Services to the extent that the aggregate of any such claims relating to any one Service exceeds the limit of liability set out in Clause 10 above;
  - (e) any claims or suits arising as a result of any misuse or unauthorised use of any Reports issued by Intertek or any Intellectual Property rights belonging to Intertek (including trade marks) pursuant to this Agreement; and
  - (f) any claims arising out of or relating to any third party's use of, or reliance on any Reports or any reports, analyses, conclusions of the Client (or any third party to whom the Client has provided the Reports) based in whole or in part on the Reports, if applicable.
- 11.2 The obligations set out in this Clause 11 shall survive termination of this Agreement.
12. INSURANCE POLICIES
- 12.1 Each party shall be responsible for the arrangement and costs of its own company insurance which includes, without limitation, professional indemnity, employer's liability, motor insurance and property insurance.
- 12.2 Intertek expressly disclaims any liability to the Client as an insurer or guarantor.
- 12.3 The Client acknowledges that although Intertek maintains employer's liability insurance, such insurance does not cover any employees of the Client or any third parties who may be involved in the provision of the Services. If the Services are to be performed at premises belonging to the Client or third parties, Intertek's employer's liability insurance does not provide cover for non-Intertek employees.
13. TERMINATION
- 13.1 This Agreement shall commence upon the first day on which the Services are commenced and shall continue, unless terminated earlier in accordance with this Clause 13, until the Services have been provided.
- 13.2 This Agreement may be terminated by:
  - (a) either party if the other party is in material breach of any obligation imposed upon it hereunder for more than thirty (30) days after written notice has been dispatched to that Party and the party in breach does not remedy the breach within the period specified in the written notice or has not written notice to the Client in the event that the Client fails to pay any invoice by its due date and/or fails to make payment after a further request for payment; or
  - (b) either party (written notice to be given in the event that the other makes any voluntary arrangement with its creditors or becomes either subject to an administration order (being an individual or firm) becomes bankrupt or (being a company) goes into liquidation (otherwise than for the purposes of a solvent amalgamation or reconstruction) or an encumbrancer takes possession, or a receiver is appointed, of any of the property or assets of the other or the other ceases, or threatens to cease, to carry on business.
- 13.3 In the event of termination of this Agreement for any reason and without prejudice to any other rights or remedies the parties may have, the Client shall pay Intertek for all Services performed up to the date of termination. This obligation shall survive termination or expiration of this Agreement.
- 13.4 Any termination or expiration of the Agreement shall not affect the accrued rights and obligations of the parties nor shall it affect any provision which is expressly or by implication intended to come into force or continue in force or after such termination or expiration.
14. ASSIGNMENT AND SUB-CONTRACTING
- 14.1 Intertek reserves the right to delegate the performance of its obligations hereunder and the provision of the Services to one or more of its affiliates and/or sub-contractors when necessary. Intertek may also assign this Agreement to any company within the Intertek group on notice to the Client.
15. GOVERNING LAW AND DISPUTE RESOLUTION
- 15.1 This Agreement and the Proposal shall be governed by Vietnam law. The parties agree to submit to the exclusive jurisdiction of the Vietnam Courts in Hanoi in the event of any dispute or claim arising out of or in connection with this Agreement (including any non-contractual claim relating to the provision of the Services in accordance with this Agreement).
16. MISCELLANEOUS
- 16.1 Severability. If any provision of this Agreement is or becomes invalid, illegal or unenforceable, such provision shall be severed and the remainder of the provisions shall continue in full force and effect as if this Agreement had been executed without the invalid illegal or unenforceable provision. If the invalidity, illegality or unenforceability is so fundamental that it prevents the accomplishment of the purpose of this Agreement, Intertek and the Client shall immediately commence good faith negotiations to agree an alternative arrangement.
- 16.2 No partnership or agency. Nothing in this Agreement and no action taken by the parties under this Agreement shall constitute a partnership, association, joint venture or other co-operative entity between the parties or constitute any party the partner, agent or legal representative of the other.
- 16.3 Waivers. Subject to Clause 10.4 above, the failure of any party to insist upon strict performance of any provision of this Agreement, or to exercise any right or remedy to which it is entitled, shall not constitute a waiver and shall not cause a diminution of the obligations established by this Agreement. A waiver of any breach shall not constitute a waiver of any subsequent breach.
- 16.4 No waiver of any right or remedy under this Agreement shall be effective unless it is expressly stated to be a waiver and communicated to the other party in writing.
- 16.5 Whole Agreement. This Agreement and the Proposal contain the whole agreement between the parties relating to the transactions contemplated by this agreement and supersedes all previous agreements, arrangements and understandings between the parties relating to those transactions or that subject matter. No purchase order, statement or other similar document will add to or vary the terms of the Agreement.
- 16.6 Each party acknowledges that in entering into this Agreement it has not relied on any representation, warranty, collateral contract or other assurance (except those set out or referred to in this Agreement) made by or on behalf of any other party before the acceptance or signature of this Agreement. Each party waives all rights and remedies that, but for this Clause, might otherwise be available to it in respect of any such representation, warranty, collateral contract or other assurance.
- 16.7 Nothing in this Agreement limits or excludes any liability for fraudulent misrepresentation.
- 16.8 Third Party Rights. A person who is not party to this Agreement has no right under the Contract (Rights of Third Parties) Act 1999 to enforce any of its terms.
- 16.9 Further Assurance. Each party shall, at the cost and request of any other party, execute and deliver such instruments and documents and take such other actions in each case as may be reasonably requested from time to time in order to give full effect to its obligations under this Agreement.

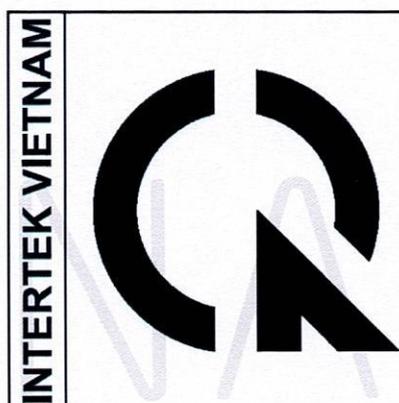
## THOẢ THUẬN SỬ DỤNG HỢP QUY

### 1. Trách nhiệm và quyền hạn của Intertek Việt Nam:

- Cung cấp mã số chứng nhận lô hàng hóa sản phẩm dệt may: VNMT20009541
- Intertek Việt Nam sẽ cấp 02 bản chính, “Quyết định cấp chứng nhận hợp quy”, “ Giấy chứng nhận hợp quy” và phụ lục phạm vi chứng nhận đối với các sản phẩm phù hợp QCVN 01/2017/BCT .
- Intertek Việt Nam sẽ cung cấp bản thiết kế mẫu “ Dấu hợp quy “ của Intertek Việt Nam cho quý Doanh nghiệp tự in và dán trên sản phẩm của Doanh nghiệp được Intertek Việt Nam chứng nhận phù hợp QCVN 01:2017-BCT (Phụ lục phạm vi chứng nhận ).



Chú thích:  $H = 1,5 a$



$h = 0,5 H$

$C = 7,5 H$

### Hình dạng, kích thước cơ bản của dấu hợp quy “CR”

- Khi Intertek Việt Nam phát hiện Doanh nghiệp vi phạm về sử dụng Giấy chứng nhận và dấu hợp quy trái với qui định. Intertek Việt Nam có quyền thu hồi Giấy chứng nhận và dấu hợp quy của Doanh nghiệp và Doanh nghiệp phải dừng ngay việc sử dụng giấy chứng nhận và dấu hợp quy dưới mọi hình thức (quảng cáo, in/dán trên sản phẩm,...).

### 2. Trách nhiệm và quyền hạn của Doanh nghiệp

- Tự in và dán dấu hợp quy trực tiếp trên sản phẩm/ hàng hóa hoặc trên bao bì, nhãn gắn trên sản phẩm/ hàng hóa được chứng nhận.
- Dấu hợp quy có thể phóng to, thu nhỏ theo mục đích sử dụng nhưng không được phép tự ý chỉnh sửa bản thiết kế dấu hợp quy của Intertek Việt Nam
- Dấu chứng nhận phải đảm bảo không dễ tẩy xóa, không thể bóc ra gắn lại và phải ở vị trí dễ đọc, dễ thấy.

These terms and conditions, together with any proposal, estimate or fee quote, form the agreement between you (the Client) and the Intertek entity (Intertek) providing the services contemplated therein.

**1. INTERPRETATION**

- 1.1 In this Agreement, the following words and phrases shall have the following meanings unless the context otherwise requires:
  - (a) Agreement entered into between Intertek and the Client;
  - (b) Charges shall have the meaning given in Clause 5.3;
  - (c) Confidential Information means all information in whatever form or manner presented which: (a) is disclosed pursuant to, or in the course of the provision of Services pursuant to, this Agreement; and (b) is disclosed in writing, electronically, visually, or otherwise, howsoever and is marked, stamped or identified by any means as confidential by the disclosing party at the time of such disclosure; and/or
  - (d) information, howsoever disclosed, which would reasonably be expected to be confidential by the receiving party;
  - (e) Intellectual Property Rights(s) means copyrights, trademarks (registered or unregistered), patents, patents applications (including the right to apply for a patent), registered or unregistered, trade secrets and other like rights howsoever existing
  - (f) Report(s) shall have the meaning as set out in Clause 5.2 below;
  - (g) Services means the services set out in any relevant Intertek Proposal, any relevant Client purchase order, or any relevant Intertek invoice, as applicable, and may comprise or include the provision by Intertek of a Report;
  - (h) Proposal means the proposal, estimate or fee quote, if applicable, provided to the Client by Intertek relating to the Services;
- 1.2 The headings in this Agreement do not affect its interpretation.

**2. THE SERVICES**

- 2.1 Intertek shall provide the Services to the Client in accordance with the terms of this Agreement which is expressly incorporated into any Proposal Intertek has made and submitted to the Client.
- 2.2 In the event of any inconsistency between the terms of this Agreement and the Proposal, the terms of the Proposal shall take precedence.
- 2.3 The Services provided by Intertek under this Agreement and any memoranda, laboratory data, calculations, measurements, estimates, notes, certificates and other material prepared by Intertek in the course of providing the Services to the Client, together with status summaries or any other communication in any form describing the results of any work or services performed (Report(s)) shall be only for the Client's use and benefit.
- 2.4 The Client acknowledges and agrees that in providing the Services Intertek is obliged to deliver a Report to a third party, Intertek shall be deemed irrevocably authorised to deliver such Report to the applicable third party. For the purposes of this clause an obligation shall arise on the instructions of the Client, or where, in the reasonable opinion of Intertek, it is implicit from the circumstances, trade, custom, usage or practice.
- 2.5 The Client acknowledges and agrees that any Services provided and/or Reports produced by Intertek are done so within the limits of the scope of work agreed with the Client in relation to the Proposal and pursuant to the Client's specific instructions or, in the absence of such instructions, in accordance with any relevant trade custom, usage or practice. The Client further agrees and acknowledges that the Services are not necessarily designed or intended to address all matters of quality, safety, performance or condition of any product, material, services, systems or processes tested, inspected or certified and the scope of work does not necessarily reflect all standards which may apply to product, material, services, systems or processes tested, inspected or certified. The Client understands that reliance on any Reports issued by Intertek is limited to the facts and representations set out in the Reports which represent Intertek's review and/or analysis of facts, information, documents, samples and/or other materials in existence at the time of the performance of the Services only.
- 2.6 Client is responsible for acting in a manner that does not infringe the Intellectual Property Rights of the Client. In the event the Client or subcontractors shall be liable to Client or any third party for any actions taken or not taken on the basis of such Report.
- 2.7 In agreeing to provide the Services pursuant to this Agreement, Intertek does not abridge, abrogate or undertake to discharge any duty or obligation of the Client to any other person or any duty or obligation of any person to the Client.

**3. INTERTEK WARRANTIES**

- 3.1 Intertek warrants exclusively to the Client:
  - (a) that it has the power and authority to enter into this Agreement and that it will comply with relevant legislations and regulations in force as at the date of this Agreement in relation to the provision of the Services;
  - (b) that the Services will be performed in a manner consistent with that level of care and skill ordinarily exercised by other companies providing like services in the circumstances; and
  - (c) that it will take reasonable steps to ensure that whilst on the Client's premises its personnel comply with any health and safety rules and regulations and other reasonable security requirements made known to Intertek by the Client in accordance with Clause 4.3(f);
  - (d) that the Reports produced in relation to the Services will not infringe any legal rights (including Intellectual Property Rights) of any third party. This warranty shall not apply where the infringement is directly or indirectly caused by Intertek's reliance on any information, samples or other related documents provided to Intertek by the Client (or any of its agents or representatives).
- 3.2 In the event of a breach of the warranty set out in Clause 3.1 (b), Intertek shall, at its own expense, perform services of the type originally performed as may be reasonably required to correct any defect in Intertek's performance.
- 3.3 Intertek makes no other warranties, express or implied. All other warranties, conditions and terms implied by statute or common law (including but not limited to any implied warranties of merchantability and fitness for purpose) are, to the fullest extent permitted by law, excluded from this Agreement. No performance, deliverable, oral or other information or advice provided by Intertek (including its agents, sub-contractors, employees or other representatives) will create a warranty or otherwise increase the scope of any warranty provided.

**4. CLIENT WARRANTIES AND OBLIGATIONS**

- 4.1 The Client represents and warrants to Intertek:
  - (a) that it has the power and authority to enter into this Agreement and procure the provision of the Services for itself;
  - (b) that it is securing the provision of the Services hereunder for its own account and not as an agent or broker, or in any other representative capacity, for any other person or entity;
  - (c) that any information and documents it (or any of its agents or representatives) supplies to Intertek (including its agents, sub-contractors and employees) is, true, accurate representative of the facts and not misleading in any material respect; and Intertek acknowledges that Intertek will rely on such information, samples or other related documents and materials provided by the Client (without any duty to confirm or verify the accuracy or completeness thereof) in order to provide the Services;
  - (d) that any samples provided by the Client to Intertek will be shipped pre-paid and will be collected or disposed of by the Client (at the Client's cost) within thirty (30) days after testing unless alternative arrangements are made by the Client. In the event the Client's samples are not collected or disposed of by the Client within the required thirty (30) days period, Intertek reserves the right to destroy the samples, at the Client's cost; and
  - (e) that any information, samples or other related documents (including without limitation certificates and reports) provided by the Client to Intertek will not, in any circumstances, infringe any legal rights (including Intellectual Property Rights) of any third party.
- 4.2 In the event that the Services provided relate to any third party, the Client shall cause any such third party to acknowledge and agree to the provisions in this Agreement and the Proposal prior to and as a condition precedent to such third party receiving any Reports or the benefit of any Services provided by Intertek.
- 4.3 The Client further agrees:
  - (a) to co-operate with Intertek in all matters relating to the Services and appoint a manager in relation to the Services who shall be duly authorised to provide instructions to Intertek on behalf of the Client and to bind the Client contractually as required; and
  - (b) to provide Intertek (including its agents, sub-contractors and employees), at its own expense, any and all samples, information, material to notify Intertek promptly of any risk, safety issues or incidents in respect of any item delivered by the Client, or any process or systems used at its premises or otherwise necessary for the provision of the Services;
  - (c) to inform Intertek in advance of any applicable import/export restrictions that may apply to the Services to be provided, including any instances where any products, information or technology may be exported/imported to or from a country that is restricted or banned from such transaction;
  - (d) in the event of the issuance of a certificate, to inform and advise Intertek immediately of any changes during the term of the certificate which may have a material impact on the accuracy of the certification;
  - (e) to obtain and maintain all necessary licenses and consents in order to comply with relevant legislation and regulation in relation to the Services;
  - (f) that it will not use any Reports issued by Intertek pursuant to this Agreement in a misleading manner and that it will only distribute such Reports to their intended recipients;
  - (g) in no event, will the contents of any Reports or any extracts, excerpts or parts of any Reports be distributed or published without the prior written consent of Intertek (such consent not to be unreasonably withheld) in each instance; and
  - (h) that any and all advertising and promotional materials or any statements made by the Client will not give a false or misleading impression to any third party concerning the Services provided by Intertek.
- 4.4 Intertek shall be neither in breach of this Agreement nor liable to the Client for any breach of this Agreement if and to the extent that its breach is a direct result of a failure by the Client to comply with its obligations as set out in this Clause 4. The Client also acknowledges that the impact of any failure by the Client to perform its obligations set out herein on the provision of the Services by Intertek will not affect the Client's obligations under this Agreement for payment of the Charges pursuant to Clause 5 below.

**5. CHARGES, INVOICING AND PAYMENT**

- 5.1 The parties agree that the Services are provided on the terms and subject to the conditions set out or referred to in this Agreement, and that this Agreement shall take precedence over any terms and conditions which the Client has provided or may in the future provide to Intertek, whether in a purchase order or any other document.
- 5.2 Unless acceptance by the Client of the Services occurs at an earlier time, submission of samples or any other testing material from the Client to Intertek shall be deemed to be conclusive evidence of the Client's acceptance of this Agreement.
- 5.3 The Client shall pay Intertek the charges set out in the Proposal, if applicable, or as otherwise contemplated for provision of the Services (the Charges).
- 5.4 If pricing factors, such as salaries and/or rates are subject to change between the conclusion date of the Contract and the completion date of the Contract, Intertek has the right to adjust the Charges accordingly.
- 5.5 The Charges are expressed exclusive of any applicable taxes. The Client shall pay any applicable taxes on the Charges at the rate and in the manner prescribed by law, on the invoice issued by Intertek of a valid invoice.
- 5.6 The Client agrees that it will reimburse Intertek for any expenses incurred by Intertek relating to the provision of the Services and is wholly responsible for any freight or customs clearance fees relating to any testing samples.
- 5.7 The Charges represent the total fees to be paid by the Client for the Services pursuant to this Agreement. Any additional work performed by Intertek will be charged on a time and material basis.
- 5.8 Intertek shall invoice the Client for the Charges and expenses, if any. For Services provided over the course of a period of greater than thirty (30) days the Client agrees that at the end of each calendar month Intertek will issue an invoice for the cost of the Services provided in the month. A final invoice will be issued on the date of the completion of the Services.
- 5.9 The Client is required to pay all invoiced amounts without any deductions, discount or set-off no later than thirty (30) days after the invoice date. No deduction or set-off shall be made by the Client unless such deduction or set-off is specifically identified in the invoice, must be made by means of money transfer to a bank account designated by Intertek.
- 5.10 Intertek will issue an electronic invoice to the Client. An electronic invoice may be sent by email and will be deemed to have been delivered to the Client upon receipt of such email. Intertek is under no obligation to fulfill any request by the Client for a paper copy to be sent by post. Any invoice sent by post will include a £25 administration fee and the paper invoice must be paid by the Client within the credit terms referred to in 5.9 above.
- 5.11 If Intertek believes that the Client's financial position and/or payment performance justifies such action, Intertek has the right to demand that the Client immediately furnish security or additional security in a form to be determined by Intertek and/or make an advance payment. If the Client fails to furnish the desired security, Intertek has the right, without prejudice to its other rights, to immediately suspend the further execution of all or any part of the Services, and any Charges for any part of the Services which has already been performed shall become immediately due and payable.
- 5.12 If the Client fails to pay within the period referred to in 5.9 above, it is in default of its payment obligations and this Agreement after having been reminded by Intertek at least once that payment is due within a reasonable period. In that case, the Client is liable to pay interest on the credit balance with effect from the date on which the payment became due until the date of payment. The interest rate applied is deemed to be the Joint Stock Commercial Bank for Foreign Trade of Vietnam (Vietcombank) base rate plus 5%. In addition, all collection costs incurred after the Client's default, both judicial and extrajudicial, are for the Client's account. The extrajudicial costs are set at an amount equal to least 10% of the principal plus interest, with the Client's right to charge a £25 administration fee on the amount of this amount. The judicial costs comprise all costs incurred by Intertek, even if they exceed the Joint Stock Commercial Bank for Foreign Trade of Vietnam (Vietcombank) base rate.
- 5.13 If the Client objects to the contents of the invoice, details of the objection must be raised with Intertek within seven (7) days of receipt of electronic invoice, otherwise the invoice will be deemed to have been accepted. Any such objections do not exempt the Client from its obligation to pay within the period referred to in 5.9 above.
- 5.14 Any request by the Client for certain information to be included in or appended to the invoice must be made at the time of setting out the Proposal. A later request by the Client for changes to the agreed format of the invoice or supplementary information will not discharge the Client from its obligation to pay within the period referred to in 5.9 above. Intertek reserves the right to charge a £25 administration fee per invoice for issuing additional copies of invoices or amending invoice detail, format or structure from that agreed in the Proposal. Intertek maintains the right to reject such an invoicing amendment request and such a rejection by Intertek of the Client's request will not exempt the Client from its obligation to pay within the period referred to in 5.9 above.
- 5.15 If actions by the Client delay completion of the Services, Intertek has the right to invoice the Client for the cost of all Services provided to date. In such a scenario the Client agrees to pay this invoice within thirty (30) days of the invoice date.

**6. INTELLECTUAL PROPERTY RIGHTS AND DATA PROTECTION**

- 6.1 All Intellectual Property Rights belonging to a party prior to entry into this Agreement shall remain vested in that party. Nothing in this Agreement is intended to transfer Intellectual Property Rights from one party to the other.
- 6.2 Any use by the Client (or the Client's affiliated companies or subsidiaries) of the name "Intertek" or any of Intertek's trademarks or brand names

for any reason must be prior approved in writing by Intertek. Any other use of Intertek's trademarks or brand names is strictly prohibited and Intertek reserves the right to terminate this Agreement immediately as a result of any such unauthorised use.

- 6.3 Intellectual Property Rights in any Reports, document, graphs, charts, photographs or any other material (in whatever medium) produced by Intertek pursuant to this Agreement shall belong to Intertek. The Client shall have the right to use any such Reports, document, graphs, charts, photographs or other material for the purposes of this Agreement.
- 6.4 The Client agrees and acknowledges that Intertek retains any and all proprietary rights in concepts, ideas and inventions that may arise during the preparation or provision of any Reports (including any deliverables provided by Intertek to the Client) and the provision of the Services to the Client. Both parties shall observe all statutory provisions with regard to data protection including but not limited to the provisions of the General Data Protection Regulation 2016/679 ("GDPR") and shall comply with all applicable requirements of the GDPR. To the extent that Intertek processes personal data in connection with the Services or otherwise in connection with this Agreement, it shall take all necessary technical and organisational measures to ensure the security of such data (and to guard against unauthorised or unlawful processing, accidental loss, destruction or damage to such data) in line with the GDPR.

**7. CONFIDENTIALITY**

- 7.1 Where a party (the Receiving Party) obtains Confidential Information of the other party (the Disclosing Party) in connection with this Agreement (whether before or after the date of this Agreement) it shall, subject to Clauses 7.2 to 7.4:
  - (a) keep that Confidential Information confidential, by applying the standard of care that it uses for its own Confidential Information;
  - (b) use that Confidential Information only for the purposes of performing obligations under this Agreement; and
  - (c) not disclose that Confidential Information to any third party without the prior written consent of the Disclosing Party.
- 7.2 The Receiving Party may disclose the Disclosing Party's Confidential Information on a "need to know" basis:
  - (a) to any legal adviser and statutory auditors that it has engaged for itself;
  - (b) to any regulator having regulatory or supervisory authority over its business;
  - (c) to any director, officer or employee of the Receiving Party provided that, in each case, the Receiving Party has first advised that person of the obligations under Clause 7.1 and ensured that the person is bound by obligations of confidence in respect of the Confidential Information; and
  - (d) where the Receiving Party is Intertek, to any of its subsidiaries, affiliates or sub-contractors.
- 7.3 The provisions of Clauses 7.1 and 7.2 shall not apply to any Confidential Information which:
  - (a) was already in the possession of the Receiving Party prior to its receipt from the Disclosing Party without restriction on its use or disclosure; or
  - (b) becomes known to the Receiving Party or its employees or agents or sub-contractors by breach of this Clause 6.6;
  - (c) is received by the Receiving Party from a third party who lawfully acquired it and who is under no obligation restricting its disclosure; or
  - (d) is independently developed by the Receiving Party without access to the relevant Confidential Information.
- 7.4 The Receiving Party may disclose Confidential Information of the Disclosing Party to the extent required by law, any regulatory authority or any stock exchange on which the Receiving Party is listed, provided that the Receiving Party has given the Disclosing Party prompt written notice of the requirement to disclose and where possible given the Disclosing Party a reasonable opportunity to prevent the disclosure through appropriate legal means.
- 7.5 Each party shall ensure the compliance by its employees, agents and representatives (which, in the case of Intertek, includes procuring the same from any sub-contractors) with its obligations under this Clause 7.
- 7.6 No licence of any Intellectual Property Rights is given in respect of any Confidential Information solely by the disclosure of such Confidential Information by the Disclosing Party.
- 7.7 With respect to archival storage, the Client acknowledges that Intertek may retain in its archive for the period required by its quality and assurance processes, or by the testing and certification rules of the relevant accreditation body, all materials necessary to document the Services provided.

**8. AMENDMENT**

- 8.1 No amendment to this Agreement shall be effective unless it is in writing, expressly stated to amend this Agreement and signed by an authorised signatory of each party.
- 8.2 No amendment to this Agreement shall be effective unless it is in writing, expressly stated to amend this Agreement and signed by an authorised signatory of each party.

**9. FORCE MAJEURE**

- 9.1 Neither party shall be liable to the other for any delay in performance or failure to perform an obligation under this Agreement to the extent that such delay or failure to perform is a result of:
  - (a) war (whether declared or not), civil war, riots, revolution, acts of terrorism, military action, sabotage and/or piracy;
  - (b) natural disasters such as violent storms, earthquakes, tidal waves, floods and/or lightning; explosions and fires;
  - (c) strikes and labour disputes, other than by any or more employees of the affected party or of any supplier or agent of the affected party; or
  - (d) failures of utilities companies such as providers of telecommunication, internet, gas or electricity services.
- 9.2 For the avoidance of doubt, where the affected party is Intertek any failure or delay caused by failure or delay on the part of a subcontractor shall only be a Force Majeure Event (as defined below) where the subcontractor is affected by one of the events described above.
- 9.3 A party whose performance is affected by an event described in Clause 9.1 (a Force Majeure Event) shall:
  - (a) promptly notify the other party in writing of the Force Majeure Event and the cause and the likely duration of any consequential delay or non-performance of its obligations;
  - (b) use all reasonable endeavours to avoid or mitigate the effect of the Force Majeure Event and continue to perform or resume performance of its affected obligations as soon as reasonably possible; and
  - (c) continue to provide Services that remain unaffected by the Force Majeure Event.
- 9.4 If the Force Majeure Event continues for more than sixty (60) days after the day on which it started, each party may terminate this Agreement by giving at least ten (10) days' written notice to the other party.

**10. LIMITATIONS AND EXCLUSIONS OF LIABILITY**

- 10.1 Neither party excludes or limits liability to the other party:
  - (a) for death or personal injury resulting from the negligence of that party or its directors, officers, employees, agents or sub-contractors; or
  - (b) for its own fraud (or that of its directors, officers, employees, agents or sub-contractors).
- 10.2 Subject to clause 10.1, the maximum aggregate liability of Intertek in contract, tort (including negligence and breach of statutory duty) or otherwise for any breach of this agreement or any matter arising out of or in connection with the services to be provided in accordance with this agreement shall be the amount of charges due by the client to Intertek under this agreement.
- 10.3 Subject to clause 10.1, neither party shall be liable to the other in contract, tort (including negligence and breach of statutory duty) or otherwise for any:
  - (a) loss of profits;
  - (b) loss of sales or business;
  - (c) loss of opportunity (including without limitation in relation to third party agreements or contracts);
  - (d) loss of or damage to goodwill or reputation;
  - (e) loss of anticipated savings;
  - (f) costs or expenses incurred in relation to making a product recall;
  - (g) loss of use or corruption of software, data or information; or
  - (h) any indirect, consequential loss, punitive or special loss (even when advised of their possibility).
- 10.4 Any claim by the client against Intertek (always subject to the provisions of this clause 10) must be made within ninety (90) days after the claim becomes known to the client. Any circumstances giving rise to any such claim, failure to give such notice of claim within ninety (90) days shall constitute a bar or irrevocable waiver to any claim, either directly or indirectly, in contract, tort or otherwise in connection with the provision of services under this agreement.

**11. INDEMNITY**

- 11.1 The Client shall indemnify and hold harmless Intertek, its officers, employees, agents, representatives, contractors and sub-contractors from and against any and all claims, suits, liabilities (including costs of litigation and attorney's fees) arising, directly or indirectly, out of or in connection with:
  - (a) any claims or suits by any governmental authority or others for any actual or asserted failure of the Client to comply with any law, ordinance, regulation, rule or order of any governmental or judicial authority;
  - (b) claims or suits for personal injuries, loss of or damage to property, economic loss, and loss of or damage to Intellectual Property Rights incurred by any person or entity, and any claims or suits in connection with or related to the Services provided hereunder by Intertek, its officers, employees, agents, representatives, contractors or sub-contractors;
  - (c) the breach or alleged breach by the Client of any of its obligations set out in Clause 4 above;
  - (d) any claims made by any third party for loss, damage or expense of whatsoever nature and howsoever arising relating to the performance, provided performance or non-performance of any Services to the extent that the aggregate of any such claims relating to any one Service exceeds the limit of liability set out in Clause 10 above;
  - (e) any claims or suits arising as a result of any misuse or unauthorised use of any Reports issued by Intertek or any Intellectual Property Rights belonging to Intertek (including trademarks) pursuant to this Agreement; and
  - (f) any claims arising out of or relating to any third party's use of or reliance on any Reports or any reports, analyses, conclusions of the Client (or any third party to whom the Client has provided the Reports) based in whole or in part on the Reports, if applicable.
- 11.2 The obligations set out in this Clause 11 shall survive termination of this Agreement.

**12. INSURANCE POLICIES**

- 12.1 Each party shall be responsible for the arrangement and costs of its own company insurance which includes, without limitation, professional indemnity, employer liability, product liability, public liability, motor insurance and property insurance.
- 12.2 Intertek expressly disclaims any liability to the Client as an insurer or guarantor.
- 12.3 The Client acknowledges that although Intertek maintains employer's liability insurance, such insurance does not cover any employees of the Client or any third parties who may be involved in the provision of the Services. If the Services are to be performed at premises belonging to the Client or third parties, Intertek's employer's liability insurance does not provide cover for non-Intertek employees.

**13. TERMINATION**

- 13.1 This Agreement shall commence upon the first day on which the Services are commenced and shall continue, unless terminated earlier in accordance with this Clause 13, until the Services have been provided.
- 13.2 This Agreement may be terminated by:
  - (a) either party if the other continues in material breach of any obligation imposed upon it hereunder for more than thirty (30) days after written notice has been dispatched to the other party by recorded delivery or by email, or the other party fails to remedy such breach;
  - (b) Intertek on written notice to the Client in the event that the Client fails to pay any invoice by its due date and/or fails to make payment after a further request for payment; or
  - (c) either party on written notice to the other in the event that the other makes any voluntary arrangement with its creditors or becomes subject to an administration order or (being an individual or firm) becomes bankrupt or (being a company) goes into liquidation (otherwise than for the purposes of a solvent amalgamation or reconstruction) or an encumbrancer takes possession, or a receiver is appointed, of any of the property or assets of the other or the other ceases, or threatens to cease, to carry on business.
- 13.3 The Client shall pay Intertek all Services performed up to the date of termination. This obligation shall survive termination or expiration of this Agreement.
- 13.4 Any termination or expiration of the Agreement shall not affect the accrued rights and obligations of the parties nor shall it affect any provision which is expressly or by implication intended to come into force or continue in force on or after such termination or expiration.

**14. ASSIGNMENT AND SUB-CONTRACTING**

- 14.1 Intertek reserves the right to delegate the performance of its obligations hereunder and the provision of the Services to one or more of its affiliates and/or sub-contractors when necessary. Intertek may also assign this Agreement to any company within the Intertek group on notice to the Client.

**15. GOVERNING LAW AND DISPUTE RESOLUTION**

- 15.1 This Agreement and the Proposal shall be governed by Vietnam law. The parties agree to submit to the exclusive jurisdiction of the Vietnam Courts in the event of any dispute or claim arising out of or in connection with this Agreement (including any non-contractual claim relating to the provision of the Services in accordance with this Agreement).

**16. MISCELLANEOUS**

- 16.1 Severability. If any provision of this Agreement is or becomes invalid, illegal or unenforceable, such provision shall be severed and the remainder of the provisions shall continue in full force and effect as if this Agreement had been executed without the invalid illegal or unenforceable provision. The invalidity, illegality or unenforceability is so fundamental that it prevents the accomplishment of the purpose of this agreement, Intertek and the Client shall immediately commence good faith negotiations to agree an alternative arrangement.
- 16.2 No partnership or agency. Nothing in this Agreement and no action taken by the parties under this Agreement shall constitute a partnership, association, joint venture or other co-operative enterprise between the parties or constitute any party the partner, agent or legal representative of the other.
- 16.3 Waivers. Subject to Clause 10.4 above, the failure of any party to insist upon strict performance of any provision of this Agreement, or to exercise any right or remedy to which it is entitled, shall not constitute a waiver and shall not cause a diminution of the obligations established by this Agreement. A waiver of any breach shall not constitute a waiver of any subsequent breach.
- 16.4 No waiver of any right or remedy under this Agreement shall be effective unless it is expressly stated to be a waiver and communicated to the other party in writing.
- 16.5 Whole Agreement. This Agreement and the Proposal contain the whole agreement between the parties relating to the transactions contemplated by this agreement and supersedes all previous agreements, arrangements and understandings between the parties relating to those transactions or that subject matter. No purchase order, statement or other similar document will add to or vary the terms of this Agreement.
- 16.6 Each party acknowledges that in entering into this Agreement it has not relied on any representation, warranty, collateral contract or other assurance (except those set out or referred to in this Agreement) made by or on behalf of any other party before the acceptance or signature of this Agreement. Each party waives all rights and remedies that, but for this Clause, might otherwise be available to it in respect of any such representation, warranty, collateral contract or other assurance.
- 16.7 Nothing in this Agreement limits or excludes any liability for fraudulent misrepresentation.
- 16.8 Third Party Rights. A person who is not party to this Agreement has no right under the Contract (Rights of Third Parties) Act 1999 to enforce any of its terms.
- 16.9 Further Assurance. Each party shall, at the cost and request of any other party, execute and deliver such instruments and documents and take such other actions in each case as may be reasonably requested from time to time in order to give full effect to its obligations under this Agreement.

- Được phép sử dụng trong các công văn giao dịch, tài liệu kỹ thuật, tài liệu quảng cáo, tài liệu đào tạo, name-card, hồ sơ đấu thầu, chứng từ và các tài liệu tiếp thị liên quan đến sản phẩm được chứng nhận
- Được phép sử dụng trong các chương trình quảng cáo, quảng bá trên phương tiện thông tin đại chúng như phát thanh, truyền hình, báo chí cho các sản phẩm được chứng nhận.
- Được phép sử dụng trên các phương tiện giao thông, vận tải, các bảng quảng cáo công cộng cho các sản phẩm được chứng nhận.

**Ghi chú: Không được sử dụng giấy chứng nhận hợp quy và dấu hợp quy trong các điều kiện sau:**

- Doanh nghiệp sử dụng theo cách có thể gây nhầm lẫn, có thể dẫn đến gây hiểu nhầm, sai lệch gây ảnh hưởng tới uy tín cho Intertek Việt Nam.
- Doanh nghiệp sử dụng khi đã hết hiệu lực chứng nhận hoặc không tuân thủ các yêu cầu về chứng nhận;
- Chuyển nhượng Giấy chứng nhận hợp quy và dấu hợp quy cho một cơ sở hay một pháp nhân khác.
- Doanh nghiệp sử dụng trên các sản phẩm hoặc trong các tài liệu quảng cáo, giới thiệu cho các sản phẩm mà không trong phạm vi được chứng nhận.

**3. Điều khoản chung:**

- Thỏa thuận này đính kèm với “Giấy chứng nhận hợp quy”
- Thỏa thuận này là cơ sở để xử lý vi phạm.

# Intertek General Terms and Conditions of Services

These terms and conditions, together with any proposal, estimate or fee quote, form the agreement between you (the Client) and the Intertek entity (Intertek) providing the services contemplated therein.

## 1. INTERPRETATION

- 1.1 In this Agreement, the following words and phrases shall have the following meanings unless the context otherwise requires:
  - (a) **Agreement** means this agreement entered into between Intertek and the Client;
  - (b) **Charges** shall have the meaning set out in Clause 5.4;
  - (c) **Confidential Information** means all information in whatever form or manner presented which: (a) is disclosed pursuant to, or in the course of the provision of Services pursuant to, this Agreement; and (b) is disclosed in writing, electronically, visually, orally or otherwise howsoever and is marked, stamped or identified by any means as confidential by the disclosing party at the time of disclosure; and (c) is information, howsoever disclosed, which would reasonably be considered to be confidential by the receiving party;
  - (d) **Intellectual Property Rights** means copyrights, trademarks (registered or unregistered), patents, patents applications (including the right to apply for a patent), service marks, design rights (registered or unregistered), trade secrets and other like rights howsoever existing;
  - (e) **Reports** shall have the meaning set out in Clause 2.4;
  - (f) **Services** means the services set out in any relevant Intertek Proposal, any relevant Client purchase order, or any relevant Intertek invoice, as applicable, and may comprise or include the provision by Intertek of a Report;
  - (g) **Proposal** means the proposal, estimate or fee quote, if applicable, provided to the Client by Intertek relating to the Services;
  - (h) The headings in this Agreement do not affect its interpretation.

## 2. THE SERVICES

- 2.1 Intertek shall provide the Services to the Client in accordance with the terms of this Agreement which is expressly incorporated into any Proposal Intertek has made and submitted to the Client.
- 2.2 In the event of any inconsistency between the terms of this Agreement and the Proposal, the terms of the Proposal shall take precedence.
- 2.3 The Services provided by Intertek pursuant to this Agreement and any memoranda, laboratory data, calculations, measurements, estimates, notes, certificates and other material prepared by Intertek in the course of providing the Services to the Client, together with status summaries or any other communication in any form describing the results of any work or services performed (Report(s)) shall be only for the Client's use and benefit.
- 2.4 The Client agrees that if in providing the Services Intertek is obliged to deliver a Report to a third party, Intertek shall be deemed irrevocably authorised to deliver such Report to the applicable third party. For the purposes of this clause an obligation shall arise on the instructions of the Client, or where, in the reasonable opinion of Intertek, it is implicit from the circumstances, trade, custom, usage or practice.
- 2.5 The Client acknowledges and agrees that any Services provided and/or Reports produced by Intertek are done so within the limits of the scope of work agreed with the Client in relation to the Proposal and pursuant to the Client's specific instructions or, in the absence of such instructions, in accordance with any relevant trade custom, usage or practice. The Client further agrees and acknowledges that the Services are not necessarily designed or intended to address all matters of quality, safety, performance or condition of any product, material, services, systems or processes tested, inspected or certified and the scope of work does not necessarily reflect all standards which may apply to product, material, services, systems or processes tested, inspected or certified. The Client understands that reliance on any Reports issued by Intertek is limited to the facts and representations set out in the Reports which represent Intertek's review and/or analysis of facts, information, documents, samples and/or other materials in existence at the time of the performance of the Services only. Client is responsible for any warranties, express or implied. Neither Intertek nor its agents or representatives are to be held liable for any subcontractors shall be liable to Client nor any third party for any actions taken or not taken on the basis of such Reports.
- 2.7 In agreeing to provide the Services pursuant to this Agreement, Intertek does not abridge, abrogate or undertake to discharge any duty or obligation of the Client to any other person or any duty or obligation of any person to the Client.

## 3. INTERTEK'S WARRANTIES

- 3.1 Intertek warrants exclusively to the Client:
  - (a) that it has the power and authority to enter into this Agreement and that it will comply with relevant legislations and regulations in force as at the date of this Agreement in relation to the provision of the Services;
  - (b) that the Services will be performed in a manner consistent with that level of care and skill ordinarily exercised by other companies providing like services under similar circumstances;
  - (c) that it will take reasonable steps to ensure that whilst on the Client's premises its personnel comply with any health and safety rules and regulations and other reasonable security requirements made known to Intertek by the Client in accordance with Clause 4.3(f);
  - (d) that the Reports produced in relation to the Services will not infringe any legal rights (including Intellectual Property Rights) of any third party. This warranty shall not apply to the infringement is directly or indirectly caused by Intertek's reliance on any information, samples or other related documents provided to Intertek by the Client (or any of its agents or representatives).
- 3.2 In the event of a breach of the warranty set out in Clause 3.1 (b), Intertek shall, at its own expense, perform services of the type originally performed as may be reasonably required to correct any defect in Intertek's performance.
- 3.3 Intertek makes no warranties, express or implied. Whether warranties, conditions and other terms implied by statute or common law, including but not limited to any implied warranties of merchantability and fitness for purpose are, to the fullest extent permitted by law, excluded from this Agreement. No performance, deliverable, oral or other information or advice provided by Intertek (including its agents, sub-contractors, employees or other representatives) will create a warranty or otherwise increase the scope of any warranty provided.

## 4. CLIENT WARRANTIES AND OBLIGATIONS

- 4.1 The Client warrants and obligates:
  - (a) that it has the power and authority to enter into this Agreement and procure the provision of the Services for itself;
  - (b) that it is securing the provision of the Services hereunder for its own account and not as an agent or broker, or in any other representative capacity, for any other person or entity;
  - (c) that any information, samples and related documents it (or any of its agents or representatives) supplies to Intertek (including its agents, sub-contractors and employees) is, and not representing or purporting to be, the Client's, in the event that such samples or documents acknowledge that Intertek will rely on such information, samples or other related documents and materials provided by the Client (without any duty to confirm or verify the accuracy or completeness thereof) in order to provide the Services;
  - (d) that any samples provided by the Client to Intertek will be shipped pre-paid and will be collected or disposed of by the Client (at the Client's cost) within thirty (30) days of the date of collection or disposal. In the event that such samples are not collected or disposed of by the Client within the required thirty (30) days period, Intertek reserves the right to destroy the samples, at the Client's cost; and
  - (e) that any information, samples or other related documents (including without limitation certificates and reports) provided by the Client to Intertek will not, in any circumstances, infringe any legal rights (including Intellectual Property Rights) of any third party.
- 4.2 In the event that the Services provided relate to any third party, the Client shall cause any such third party to acknowledge and agree to the provisions in this Agreement and the Proposal prior to and as a condition precedent to such third party receiving any Reports or the benefit of any Services.
- 4.3 The Client further agrees:
  - (a) to co-operate with Intertek in all matters relating to the Services and appoint a manager in relation to the Services who shall be duly authorised to provide instructions to Intertek on behalf of the Client and to bind the Client contractually as required;
  - (b) to provide Intertek (including its agents, sub-contractors and employees), at its own expense, any and all samples, information, material or other documents necessary for the provision of the Services;
  - (c) in accordance with this Agreement, the Client acknowledges that any samples provided may become damaged or be destroyed in the course of testing as part of the necessary testing process and undertakes to hold Intertek harmless from any and all responsibility for such alteration, damage or destruction;
  - (d) that it is responsible for ensuring the samples/equipment to be tested together, where appropriate, with any specified additional items, including but not limited to connecting pieces, fuse-links, etc;
  - (e) to provide instructions and feedback to Intertek in a timely manner;
  - (f) to provide Intertek (including its agents, sub-contractors and employees) with access to its premises as may be reasonably required for the provision of the Services;
  - (g) prior to Intertek attending any premises for the performance of the Services, to inform Intertek of all applicable health and safety rules and regulations and other reasonable security requirements that may apply at any relevant premises at which the Services are to be provided;
  - (h) to notify Intertek promptly of any risk, safety issue or incidents in respect of any item delivered by the Client, or any process or systems used at its premises necessary for the provision of the Services;
  - (i) to inform Intertek in advance of any applicable import/export restrictions that may apply to the Services to be provided, including any instances where any products, information or technology may be exported/imported to or from a country that is restricted or banned from such transaction;
  - (j) in the event of the issuance of a certificate, to inform and advise Intertek immediately of any changes during the term of the certificate which may have a material impact on the accuracy of the certification;
  - (k) to obtain and maintain all necessary licenses and consents in order to comply with relevant legislation and regulation in relation to the Services;
  - (l) that it will not use any Reports issued by Intertek pursuant to this Agreement in a misleading manner and that it will only distribute such Reports in their original form;
  - (m) in no event, will the contents of any Reports or any extracts, excerpts or parts of any Reports be distributed or published without the prior written consent of Intertek (such consent not to be unreasonably withheld) in each instance; and
  - (n) that any and all advertising and promotional materials or any statements made by the Client will not give a false or misleading impression to any third party.
- 4.4 Intertek shall be neither in breach of this Agreement nor liable to the Client for any breach of this Agreement if and to the extent that its breach is a direct result of a failure by the Client to comply with its obligations as set out in this Clause 4. The Client also acknowledges that the impact of any failure by the Client to perform its obligations set out herein on the provision of the Services by Intertek will not affect the Client's obligations under this Agreement for payment of the Charges pursuant to Clause 5 below.

## 5. CHARGES, INVOICING AND PAYMENT

- 5.1 The parties agree that the Services are provided on the terms and subject to the conditions set out or referred to in this Agreement, and that this Agreement shall take precedence over any terms and conditions which the Client has provided or may in the future provide to Intertek, whether in a purchase order or any other document.
- 5.2 Unless acceptance of this Agreement by the Client occurs at an earlier time, submission of samples or any other testing material from the Client to Intertek shall be deemed to be conclusive evidence of the Client's acceptance of this Agreement.
- 5.3 The Client shall pay Intertek the charges set out in the Proposal, if applicable, or as otherwise contemplated for provision of the Services (the Charges).
- 5.4 If pricing factors, such as salaries and/or rates are subject to change between the conclusion date of the Contract and the completion date of the Contract, Intertek has the right to adjust the Charges accordingly.
- 5.5 The Charges are expressed exclusive of any applicable taxes. The Client shall pay any applicable taxes on the Charges at the rate and in the manner prescribed by law, on the issue by Intertek of a valid invoice.
- 5.6 The Client agrees that it will reimburse Intertek for any expenses incurred by Intertek relating to the provision of the Services and is wholly responsible for any freight or customs clearance fees relating to any testing samples.
- 5.7 The Charges represent the total fees to be paid by the Client for the Services pursuant to this Agreement. Any additional work performed by Intertek will be charged on a time and material basis.
- 5.8 Intertek shall invoice the Client for the Charges and expenses, if any. For Services provided over the course of a period of greater than thirty (30) days the Client agrees that at the end of each calendar month Intertek will issue an invoice for the cost of the Services provided in the month. A final invoice will be issued on the date of the completion of the Services.
- 5.9 The Client is required to pay all invoiced amounts without any deduction, discount or set-off no later than thirty (30) days after the invoice date. No deduction for bank charges incurred can be made. Payments, which must be denominated in the currency indicated in the invoice, must be made by means of money transfer to a bank account designated by Intertek.
- 5.10 Intertek will issue an electronic invoice to the Client. An electronic invoice may be sent by email and will be deemed to have been delivered to the Client upon receipt of such email. Intertek is under no obligation to fulfil any request by the Client for a paper copy to be sent by post. Any invoice sent by post will include a £25 administration fee and the paper invoice must be paid by the Client within the credit terms referred to in 5.9 above.
- 5.11 If Intertek believes that the Client's financial position and/or payment performance justifies such action, Intertek has the right to demand that the Client immediately furnish security or additional security in a form to be determined by Intertek and/or make an advance payment. If the Client fails to furnish the desired security, Intertek has the right, without prejudice to its other rights, to immediately suspend the further execution of all or any part of the Services, and any Charges for any part of the Services which has already been performed shall become immediately due and payable.
- 5.12 If the Client fails to pay within the period referred to in 5.9 above, it is in default of its payment obligations and this Agreement after having been reminded by Intertek at least once that payment is due within a reasonable period. In that case, the Client is liable to pay interest on the credit balance with effect from the date on which the payment became due until the date of payment. The interest rate applied is deemed to be the Joint Stock Commercial Bank for Foreign Trade of Vietnam (Vietcombank) base rate plus 5%. In addition, all collection costs incurred after the Client's default, both judicial and extrajudicial, are for the Client's account. The extrajudicial costs are set at an amount equal to the least sum of the Client's payment plus interest, without prejudice to Intertek's right to charge a £25 administration fee per invoice for issuing additional copies of invoices or amending invoice detail, format or structure from that agreed in the Proposal. Intertek maintains the right to reject such an invoicing amendment request and such a rejection by Intertek of the Client's request will not exempt the Client from its obligation to pay the invoice plus interest. Intertek reserves the right to charge a £25 administration fee per invoice for issuing additional copies of invoices or amending invoice detail, format or structure from that agreed in the Proposal. Intertek maintains the right to reject such an invoicing amendment request and such a rejection by Intertek of the Client's request will not exempt the Client from its obligation to pay the invoice plus interest. Intertek reserves the right to charge a £25 administration fee per invoice for issuing additional copies of invoices or amending invoice detail, format or structure from that agreed in the Proposal.
- 5.15 If actions by the Client delay completion of the Services, Intertek has the right to invoice the Client for the cost of all Services provided to date. In such a scenario the Client agrees to pay this invoice within thirty (30) days of the invoice date.

## 6. INTELLECTUAL PROPERTY RIGHTS AND DATA PROTECTION

- 6.1 All Intellectual Property Rights belonging to a party prior to entry into this Agreement shall remain vested in that party. Nothing in this Agreement is intended to transfer Intellectual Property Rights or other rights to Intertek.
- 6.2 Any use by the Client (or the Client's affiliated companies or subsidiaries) of the name "Intertek" or any of Intertek's trademarks or brand names

for any reason must be prior approved in writing by Intertek. Any other use of Intertek's trademarks or brand names is strictly prohibited and Intertek reserves the right to terminate this Agreement immediately as a result of any such unauthorised use.

- 6.3 Intellectual Property Rights, including any Reports, documents, graphs, charts, photographs or any other material (in whatever medium) produced by Intertek pursuant to this Agreement shall belong to Intertek. The Client shall have the right to use such Reports, documents, graphs, charts, photographs or other material for the purposes of this Agreement.
- 6.4 The Client agrees and acknowledges that Intertek retains any and all proprietary rights in concepts, ideas and inventions that may arise during the preparation or provision of any Reports (including any deliverables provided by Intertek to the Client) and the provision of the Services to the Client. Both parties shall observe all statutory provisions with regard to data protection including but not limited to the provisions of the General Data Protection Regulation 2016/679 ("GDPR") and shall comply with all applicable requirements of the GDPR. To the extent that Intertek processes personal data in connection with the Services or otherwise in connection with this Agreement, it will take necessary steps to ensure the security of such data (and to guard against unauthorised or unlawful processing, accidental loss, destruction or damage to such data) in line with the GDPR.

## 7. CONFIDENTIALITY

- 7.1 Where a party (the Receiving Party) obtains Confidential Information of the other party (the Disclosing Party) in connection with this Agreement (whether before or after the date of this Agreement) it shall, subject to Clauses 7.2 to 7.4:
  - (a) keep that Confidential Information confidential; by applying the standard of care that it uses for its own Confidential Information;
  - (b) use that Confidential Information only for the purposes of performing obligations under this Agreement; and
  - (c) not disclose that Confidential Information to any third party without the prior written consent of the Disclosing Party.
- 7.2 The Receiving Party may disclose the Disclosing Party's Confidential Information on a "need to know" basis:
  - (a) to any legal adviser and statutory auditors that it has engaged for business;
  - (b) to any regulator having regulatory or supervisory authority over its business;
  - (c) to any director, officer or employee of the Receiving Party provided that, in each case, the Receiving Party has first advised that person of the obligations under Clause 7.1 and ensured that the person is bound by obligations of confidence in respect of the Confidential Information no less onerous than those set out in this Clause 7.2; and
  - (d) where the Receiving Party is Intertek, to any of its subsidiaries, affiliates or subcontractors.
- 7.3 The provisions of Clauses 7.1 and 7.2 shall not apply to any Confidential Information which:
  - (a) was already in the possession of the Receiving Party prior to its receipt from the Disclosing Party without restriction on its use or disclosure; or
  - (b) is or becomes public knowledge other than by breach of this Clause 6.6;
  - (c) is received by the Receiving Party from a third party who lawfully acquired it and who is under no obligation restricting its disclosure; or
  - (d) is independently developed by the Receiving Party without access to the relevant Confidential Information.
- 7.4 The Receiving Party may disclose Confidential Information of the Disclosing Party to the extent required by law, any regulatory authority or the rules of any stock exchange on which the Receiving Party is listed, provided that the Receiving Party has given the Disclosing Party a reasonable opportunity to be heard and where possible given the Disclosing Party a reasonable opportunity to prevent the disclosure through appropriate legal means.
- 7.5 Each party shall ensure the compliance by its employees, agents and representatives (which, in the case of Intertek, includes procuring the same from any sub-contractors) with its obligations under this Clause 7.
- 7.6 No Confidential Information by the Disclosing Party is given in respect of any Confidential Information solely by the disclosure of such Confidential Information by the Disclosing Party.
- 7.7 With respect to archival storage, the Client acknowledges that Intertek may retain in its archive for the period required by its quality and assurance processes, or by the testing and certification rules of the relevant accreditation body, all materials necessary to document the Services provided.

## 8. AMENDMENT

No amendment to this Agreement shall be effective unless it is in writing, expressly stated to amend this Agreement and signed by an authorised signatory of each party.

## 9. FORCE MAJEURE

- 9.1 Neither party shall be liable to the other for any delay in performing or failure to perform an obligation under this Agreement to the extent that such delay or failure is a result of:
  - (a) war (whether declared or not), civil war, revolution, acts of terrorism, military action, sabotage and/or piracy;
  - (b) natural disasters such as violent storms, earthquakes, tidal waves, floods and/or lightning; explosions and fires;
  - (c) strikes and labour disputes, other than by any one or more employees of the affected party or of any supplier or agent of the affected party; or
  - (d) failures of utilities companies such as providers of telecommunication, internet, gas or electricity services.
- 9.2 For the avoidance of doubt, where the affected party is Intertek any failure or delay caused by failure or delay on the part of a subcontractor shall only be a Force Majeure Event (as defined below) where the subcontractor is affected by one of the events described above.
- 9.3 A party whose performance is affected by an event described in Clause 9.1 (a Force Majeure Event) shall:
  - (a) promptly notify the other party in writing of the Force Majeure Event and the cause and the likely duration of any consequential delay or non-performance of its obligations;
  - (b) use all reasonable endeavours to avoid or mitigate the effect of the Force Majeure Event and continue to perform or resume performance of its obligations as soon as reasonably possible; and
  - (c) continue to provide Services that remain unaffected by the Force Majeure Event.
- 9.4 If the Force Majeure Event continues for more than sixty (60) days after the day on which it started, each party may terminate this Agreement by giving at least ten (10) days' written notice to the other party.

## 10. LIMITATIONS AND EXCLUSIONS OF LIABILITY

- 10.1 Neither party excludes or limits liability to the other party:
  - (a) for death or personal injury resulting from the negligence of any party or its directors, officers, employees, agents or sub-contractors; or
  - (b) for its own fraud (or that of its directors, officers, employees, agents or sub-contractors).
- 10.2 Subject to clause 10.1, the maximum aggregate liability of Intertek in contract, tort (including negligence and breach of statutory duty) or otherwise for any breach of this agreement or any matter arising out of or in connection with the services to be provided in accordance with this agreement shall be the amount of the contract price or the value of the services provided under this agreement.
- 10.3 Subject to clause 10.1, neither party shall be liable to the other in contract, tort (including negligence and breach of statutory duty) or otherwise for any:
  - (a) loss of profits;
  - (b) loss of sales or business;
  - (c) loss of opportunity (including without limitation in relation to third party agreements or contracts);
  - (d) loss of or damage to goodwill or reputation;
  - (e) loss of anticipated savings;
  - (f) cost of expenses incurred in relation to making a product recall;
  - (g) loss of use or corruption of software, data or information; or
  - (h) any indirect, consequential loss, punitive or special loss (even when advised of their possibility).
- 10.4 Any claim by the client against Intertek (always subject to the provisions of this clause 10) must be made within ninety (90) days after the client becomes aware of the amount of the claim, giving rise to any such claim. Failure to give such notice of claim within ninety (90) days shall constitute a bar or preclude Intertek from the claim, either directly or indirectly, in contract, tort or otherwise in connection with the provision of services under this agreement.

## 11. INDEMNITY

- 11.1 The Client shall indemnify and hold harmless Intertek, its officers, employees, agents, representatives, contractors and sub-contractors for all claims and all claims, suits, liabilities (including costs of litigation and attorney's fees) arising, directly or indirectly, out of or in connection with:
  - (a) any claims or suits by any governmental authority or others for any actual or asserted failure of the Client to comply with any law, ordinance, regulation, rule or order of any governmental or judicial authority;
  - (b) any claims or suits for personal injury, death or damage to property, economic loss, or loss of or damage to Intellectual Property Rights incurred by or occurring to any person or entity and arising out of or in connection with the Services provided hereunder by Intertek, its officers, employees, agents, representatives, contractors or sub-contractors;
  - (c) the breach or alleged breach by the Client of any of its obligations set out in Clause 4 above;
  - (d) any claims made by any third party for loss, damage or expense of whatsoever nature and howsoever arising relating to the performance, purported performance or non-performance of any Services to the extent that the aggregate of any such claims relating to any one Service exceeds the limit of liability set out in Clause 10 above;
  - (e) any claims or suits arising as a result of any misuse or unauthorised use of any Reports issued by Intertek or any Intellectual Property Rights belonging to Intertek (including trade marks) pursuant to this Agreement; and
  - (f) any claims arising out of or relating to any third party's use of or reliance on any Reports or any reports, analyses, conclusions of the Client (or any third party to whom the Client has provided the Reports) based in whole or in part on the Reports, if applicable.
- 11.2 The obligations set out in this Clause 11 shall survive termination of this Agreement.

## 12. INSURANCE POLICIES

- 12.1 Each party shall be responsible for the arrangement and costs of its own company insurance which includes, without limitation, professional indemnity, employer's liability, motor insurance and property insurance.
  - 12.2 Intertek expressly disclaims any liability to the Client as an insurer or guarantor.
  - 12.3 The Client acknowledges that although Intertek maintains employer's liability insurance, such insurance does not cover any employees of the Client or any third parties who may be involved in the provision of the Services. If the Services are to be performed at premises based on the Client or third parties, Intertek's employer's liability insurance does not provide cover for non-Intertek employees.
- ## 13. TERMINATION
- 13.1 This Agreement shall commence upon the first day on which the Services are commenced and shall continue, unless terminated earlier in accordance with this Clause 13, until the Services have been provided.
  - 13.2 This Agreement may be terminated by:
    - (a) either party if the other party, in breach of an obligation imposed upon it hereunder for more than thirty (30) days after written notice has been dispatched by that party by recorded delivery or courier requesting the other to remedy such breach;
    - (b) Intertek on written notice to the Client in the event that the Client fails to pay any invoice by its due date and/or fails to make payment after a further request for payment; or
    - (c) either party on written notice to the other in the event that the other makes any voluntary arrangement with its creditors or becomes subject to an administration order (or being an individual or firm) becomes bankrupt or (being a company) goes into liquidation (otherwise than for the purposes of a solvent amalgamation or reconstruction) or an encumbrancer takes possession, or a receiver is appointed, of any of the property or assets of the other or the other ceases, or threatens to cease, to carry on business.
  - 13.3 In the event of termination of this Agreement for any reason and without prejudice to any other rights or remedies the parties may have, the Client shall pay Intertek for all Services performed up to the date of termination. This obligation shall survive termination or expiration of this Agreement.
  - 13.4 Any termination or expiration of the Agreement shall not affect the accrued rights and obligations of the parties nor shall it affect any provision which is expressly or by implication intended to come into force or continue in force on or after such termination or expiration.

## 14. ASSIGNMENT AND SUB-CONTRACTING

- 14.1 Intertek reserves the right to delegate the performance of its obligations hereunder and the provision of the Services to one or more of its affiliates and/or sub-contractors when necessary. Intertek may also assign this Agreement to any company within the Intertek group on notice to the Client.

## 15. GOVERNING LAW AND DISPUTE RESOLUTION

- 15.1 This Agreement and the Proposal shall be governed by Vietnam Law. The parties agree to submit to the exclusive jurisdiction of the Vietnam Courts in respect of any dispute or claim arising out of or in connection with this Agreement (including any non-contractual claim relating to the provision of the Services in accordance with this Agreement).

## 16. MISCELLANEOUS

- 16.1 **Severability.** If any provision of this Agreement is or becomes invalid, illegal or unenforceable, such provision shall be severed and the remainder of the provisions shall continue in full force and effect as if this Agreement had been executed without the invalid illegal or unenforceable provision. The validity, enforceability or effect of any provision of this Agreement shall not be affected by the severance of any provision of this Agreement. Intertek and the Client shall immediately commence good faith negotiations to agree an alternative arrangement.
- 16.2 **No partnership or agency.** Nothing in this Agreement and no action taken by the parties under this Agreement shall constitute a partnership, association, joint venture or other co-operative entity between the parties or constitute any party the partner, agent or legal representative of the other.
- 16.3 **Waivers.** Subject to Clause 10.4 above, the failure of any party to insist upon strict performance of any provision of this Agreement, or to exercise any right or remedy to which it is entitled, shall not constitute a waiver and shall not cause a diminution of the obligations established by this Agreement. A waiver of any breach shall not constitute a waiver of any subsequent breach.
- 16.4 No waiver of any right or remedy under this Agreement shall be effective unless it is expressly stated to be a waiver and communicated to the other party in writing.
- 16.5 **Whole Agreement.** This Agreement and the Proposal contain the whole agreement between the parties relating to the transactions contemplated by this agreement and supersedes all previous agreements, arrangements and understandings between the parties relating to those transactions or that subject matter. No purchase order, statement or other similar document will add to or vary the terms of this Agreement.
- 16.6 Each party acknowledges that in entering into this Agreement it has not relied on any representation, warranty, collateral contract or other assurance (except those set out or referred to in this Agreement) made by or on behalf of any other party before the acceptance or signature of this Agreement. Each party waives all rights and remedies that, but for this Clause, might otherwise be available to it in respect of any such representation, warranty, collateral contract or other assurance.
- 16.7 Nothing in this Agreement limits or excludes any liability or excludes any remedy for fraudulent misrepresentation.
- 16.8 **Third Party Rights.** A person who is not party to this Agreement has no right under the Contract (Rights of Third Parties) Act 1999 to enforce any of its terms.
- 16.9 **Further Assurance.** Each party shall, at the cost and request of any other party, execute and deliver such instruments and documents and take such other actions in each case as may be reasonably requested from time to time in order to give full effect to its obligations under this Agreement.

**QUYẾT ĐỊNH CẤP CHỨNG NHẬN HỢP QUY**  
**CHO SẢN PHẨM DỆT MAY THEO QUY CHUẨN KỸ THUẬT QUỐC GIA**  
**QCVN 01/2017/BCT**

Ngày: 11/03/2020

**CÔNG TY ĐĂNG KÝ CHỨNG NHẬN:**

**CÔNG TY TNHH TRIUMPH INTERNATIONAL VIỆT NAM**

Căn cứ theo hồ sơ chứng nhận:

Tên tài liệu \ hồ sơ	Ngày ban hành	Ghi chú
<input checked="" type="checkbox"/> Báo cáo thử nghiệm	11/03/2020	VNMT20009541
<input checked="" type="checkbox"/> Phiếu xem xét đánh giá hồ sơ chứng nhận sản phẩm Thẩm định cấp chứng nhận	11/03/2020	VNMT20009541
<input checked="" type="checkbox"/> Đơn đăng ký chứng nhận	105	05/03/2020
<input checked="" type="checkbox"/> Hồ sơ lô hàng: theo số vận đơn	19/02/2020	4351-0653-001.028
<input checked="" type="checkbox"/> Dấu chứng nhận CR (định dạng .pdf)	08/02/2018	Tài liệu
<input checked="" type="checkbox"/> Hướng dẫn sử dụng dấu CR (TEX-CER-WI-001)	08/02/2018	Intertek Vietnam
<input checked="" type="checkbox"/> Bảng chứng nhận	11/03/2020	VNMT20009541
<input checked="" type="checkbox"/> Danh mục sản phẩm phù hợp QCVN 01/2017/BCT (Phụ lục giấy chứng nhận)	11/03/2020	VNMT20009541

**KẾT QUẢ: CĂN CỨ HỒ SƠ ĐĂNG KÝ CHỨNG NHẬN, KẾT QUẢ HỒ SƠ CHỨNG NHẬN ĐÍNH KÈM, THAY MẶT INTERTEK VIỆT NAM, QUYẾT ĐỊNH SẢN PHẨM DỆT MAY:**

**HỢP QUY**

THEO QUY CHUẨN KỸ THUẬT QUỐC GIA QCVN01/2017/BCT

Ghi chú: Xem chi tiết trong danh mục sản phẩm phù hợp với QCVN để thấy thông tin chi tiết sản phẩm nào được chứng nhận hợp quy.



**LÊ THỊ HỒ PHƯƠNG**  
**GIÁM ĐỐC CHỨNG NHẬN**





NGÀY: 11/03/2020

**BÁO CÁO THỬ NGHIỆM**

SỐ: VNMT20009541

Khách hàng : **CÔNG TY TNHH TRIUMPH INTERNATIONAL VIỆT NAM**  
SỐ 2 ĐƯỜNG SỐ 3, KHU CÔNG NGHIỆP SÓNG THẦN 1, PHƯỜNG  
DĨ AN, THỊ XÃ DĨ AN, TỈNH BÌNH DƯƠNG

Căn cứ vào (các) mẫu đại diện/ điển hình được cung cấp và xác định trên cơ sở của lô/ loại Sản Phẩm Dệt May như sau:

Mô tả mẫu thử nghiệm : (A) Áo lót nữ D 179 WHP/ LZ  
(B) Áo lót nữ T-Shirt Bra 140 WHP 01/ 04  
(C) Áo lót nữ Fashion 468 WP/ WM  
(D) Quần lót nữ sloggi Comfort Maxi/ CS  
(E) Quần lót nữ Aqua Exotic Hipster/ 37

Kiểu/Loại : (A) 16-5666  
(B) 16A6487  
(C) 19V979  
(D) 76-474  
(E) 87-2145

Độ tuổi sử dụng : Nhóm 2  
Nhà sản xuất/ Xuất xứ : Trung Quốc  
Ngày nhận mẫu : 09/03/2020  
Ngày bắt đầu thử nghiệm : 09/03/2020

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**Thử nghiệm thực hiện:** Theo Quy Chuẩn Kỹ Thuật Quốc Gia về mức giới hạn hàm lượng formaldehyt và các amin thơm chuyển hóa từ thuốc nhuộm azo trong sản phẩm dệt may (QCVN01/2017/BCT) vui lòng xem kết quả thử nghiệm sau đây.

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**KẾT LUẬN:**

Kết quả thử nghiệm (các) mẫu đại diện/ điển hình được cung cấp và xác định trên cơ sở của lô/ loại Sản Phẩm Dệt May **PHÙ HỢP** Theo Quy Chuẩn Kỹ Thuật Quốc Gia về mức giới hạn hàm lượng formaldehyt và các amin thơm chuyển hóa từ thuốc nhuộm azo trong sản phẩm dệt may (QCVN 01/ 2017/BCT)

Thẩm định & Phê duyệt:  
Thay mặt INTERTEK VIETNAM LTD.



**LÊ THỊ HỒ PHƯƠNG**  
**GIÁM ĐỐC CHỨNG NHẬN**





# Intertek General Terms and Conditions of Services

These terms and conditions, together with any proposal, estimate or fee quote, form the agreement between you (the Client) and the Intertek entity (Intertek) providing the services contemplated therein.

## 1. INTERPRETATION

1.1 In this Agreement, the following words and phrases shall have the following meanings unless the context otherwise requires:

- (a) **Agreement** means this agreement entered into between Intertek and the Client;
- (b) **Charges** shall have the meaning given in Clause 5.3;
- (c) **Confidential Information** means all information in whatever form or manner presented which: (a) is disclosed pursuant to, or in the course of the provision of Services pursuant to, this Agreement; and (b) is disclosed in writing, electronically, visually, orally or otherwise however and is marked, stamped or identified by any means as confidential by the disclosing party at the time of disclosure; (c) is information, however disclosed, which would reasonably be considered to be confidential by the receiving party;
- (d) **Intellectual Property Rights** means copyrights, trademarks (registered or unregistered), patents, patents applications (including the right to apply for a patent), service marks, design rights (registered or unregistered), trade secrets and other like rights however existing
- (e) **Report(s)** shall have the meaning as set out in Clause 2.2 below;
- (f) **Services** means the services set out in any relevant Intertek proposal, any relevant Client purchase order, or any relevant Intertek invoice, as applicable, and may comprise or include the provision by Intertek of a Report;
- (g) **Proposal** means the proposal, estimate or fee quote, if applicable, provided to the Client by Intertek relating to the Services;

## 2. THE SERVICES

Intertek shall provide the Services to the Client in accordance with the terms of this Agreement which is expressly incorporated into any Proposal Intertek has made and submitted to the Client.

2.2 In the event of any inconsistency between the terms of this Agreement and the Proposal, the terms of the Proposal shall take precedence.

2.3 The Services provided by Intertek under this Agreement and any memoranda, laboratory data, calculations, measurements, estimates, notes, certificates and other material prepared by Intertek in the course of providing the Services to the Client, together with such summaries or any other communication in any form describing the results of any work or services performed (Report(s)) shall be only for the Client's use and benefit.

2.4 The Client acknowledges and agrees that in providing the Services Intertek is obliged to deliver a Report to a third party, Intertek shall be deemed irrevocably authorised to deliver such Report to the applicable third party, for the purposes of this clause an obligation shall arise on the instructions of the Client, or where, in the reasonable opinion of Intertek, it is implicit from the circumstances, trade, custom, usage or practice.

2.5 The Client acknowledges and agrees that any Services provided and/or Reports produced by Intertek are done so within the limits of the scope of work defined in the Client's request to the Proposal and pursuant to the Client's specific instructions or, in the absence of such instructions, in accordance with any relevant trade custom, usage or practice. The Client further agrees and acknowledges that the Services are not necessarily designed or intended to address all matters of quality, safety, performance or condition of any product, material, services, systems or processes tested, inspected or certified and the scope of work does not necessarily reflect all standards which may apply to products, material, services, systems or processes tested, inspected or certified. The Client understands that reliance on any Reports issued by Intertek is limited to the facts and representations set out in the Reports which represent Intertek's review and/or analysis of facts, information, documents, samples and/or other materials in existence at the time of the performance of the Services only.

2.6 Client is responsible for acting as it sees fit on the basis of such Report. Neither Intertek nor any of its officers, employees, agents or subcontractors shall be liable for any third party claim or loss or damage of any kind arising from or in connection with the Client's reliance on or agreement to provide the Services pursuant to this Agreement. Intertek does not abridge, abrogate or undertake to discharge any duty or obligation of the Client to any other person or any duty or obligation of any person to the Client.

## 3. INTERTEK'S WARRANTIES

3.1 Intertek warrants exclusively to the Client that it has the power to enter into this Agreement and that it will comply with relevant legislations and regulations in force as at the date of this Agreement in relation to the provision of the Services;

(a) that the Services will be performed in a manner consistent with that level of care and skill ordinarily exercised by other companies providing like services under similar circumstances;

(b) that it will take reasonable steps to ensure that whilst on the Client's premises its personnel comply with any health and safety rules and regulations and other reasonable safety requirements made known to Intertek by the Client in accordance with Clause 4.3(f);

(c) that the Reports produced in relation to the Services will not infringe any legal rights (including Intellectual Property Rights) of any third party. This warranty shall not apply where the infringement is directly or indirectly caused by Intertek's reliance on any information, samples or other related documents provided to Intertek by the Client (or any of its agents or representatives);

3.2 In the event of a breach of the warranty set out in Clause 3.1 (b), Intertek shall, at its own expense, perform services of the type originally performed as may be reasonably required to correct any defect in Intertek's performance.

3.3 Intertek makes no other warranties, express or implied. All other warranties, conditions and other terms implied by statute or common law (including but not limited to any implied warranties of merchantability and fitness for purpose) are, to the fullest extent permitted by law, excluded from this Agreement. Intertek will, however, deliver, or cause to be delivered, to the Client, any and all documents and materials provided by sub-contractors, employees or other representatives) will create a warranty or otherwise increase the scope of any warranty provided.

## 4. CLIENT WARRANTIES AND OBLIGATIONS

4.1 The Client represents and warrants:

(a) that it has the power and authority to enter into this Agreement and procure the provision of the Services for itself;

(b) that it is securing the provision of the Services hereunder for its own account and not as an agent or broker, or in any other representative capacity, for any other person or entity;

(c) that any information, samples and related documents it (or any of its agents or representatives) supplies to Intertek (including its agents, sub-contractors and employees) is, true, accurate representative, complete and is not misleading in any respect. The Client further acknowledges that the Client will rely on such information, samples or other related documents and materials provided by the Client (without any duty to confirm or verify the accuracy or completeness thereof) in order to provide the Services;

(d) that any samples provided by the Client to Intertek will be shipped pre-paid and will be collected or disposed of by the Client (at the Client's cost) within thirty (30) days after testing unless alternative arrangements are made by the Client. In the event that such samples are not collected or disposed of by the Client within the required thirty (30) days period, Intertek reserves the right to destroy the samples, at the Client's cost; and

(e) that any information, samples or other related documents (including without limitation certificates and reports) provided by the Client to Intertek will not, in any circumstances, infringe any legal rights (including Intellectual Property Rights) of any third party.

4.2 In the event that the Client infringes any legal rights (including Intellectual Property Rights) of any third party, the Client shall cause any such third party to acknowledge and agree to the provisions in this Agreement and the Proposal prior to and as a condition precedent to such third party receiving any Reports or the benefit of any Services.

4.3 The Client further agrees:

(a) to cooperate with Intertek in all matters relating to the Services and appoint a manager in relation to the Services who shall be duly authorised to provide instructions to Intertek on behalf of the Client and to bind the Client contractually as required;

(b) to provide Intertek (including its agents, sub-contractors and employees), at its own expense, any and all samples, information, material or other documentation necessary for the execution of the Services in a timely manner sufficient to enable Intertek to provide the Services in accordance with this Agreement; and

(c) to provide Intertek with any and all samples, information, material or other documentation which may become damaged or be destroyed in the course of testing as part of the necessary testing process and undertakes to hold Intertek harmless from any and all responsibility for such alteration, damage or destruction;

(d) that it is responsible for providing the samples/equipment to be tested together, where appropriate, with any specified additional items, including but not limited to, the following:

(i) to provide instructions and feedback to Intertek in a timely manner;

(ii) to provide Intertek (including its agents, sub-contractors and employees) with access to its premises as may be reasonably required for the provision of the Services and to any other relevant premises at which the Services are to be provided;

(iii) to inform Intertek of any health and safety rules and regulations and other reasonable safety requirements that may apply at any relevant premises at which the Services are to be provided; to notify Intertek promptly of any risk, safety issues or incidents in respect of any item delivered by the Client, or any process or systems used at its premises or otherwise necessary for the provision of the Services;

(iv) to inform Intertek of any applicable import/export restrictions that may apply to the Services to be provided, including any instances where any products, information or technology may be exported/imported to or from a country that is restricted or banned from such transaction;

(v) in the event of the issuance of a certificate, to inform and advise Intertek immediately of any changes during the term of the certificate which may have a material impact on the accuracy of the certification;

(vi) to obtain and maintain all necessary licences and consents in order to comply with relevant legislation and regulation in relation to the Services; that it will not use any Reports issued by Intertek pursuant to this Agreement in a misleading manner and that it will only distribute such Reports in their entirety;

(vii) in no event, will the Client or any Reports or any extracts, excerpts or parts of any Reports be distributed or published without the prior written consent of Intertek (such consent not to be unreasonably withheld) in each instance; and

(viii) that any and all advertising and promotional materials or any statements made by the Client will not give a false or misleading impression to any third party concerning the services provided by Intertek.

4.4 Intertek shall be liable for this Agreement and the Client's obligations as set out in this Clause 4. The Client also acknowledges that the impact of any failure by the Client to perform its obligations set out herein on the provision of the Services by Intertek will not affect the Client's obligations under this Agreement for payment of the Charges pursuant to Clause 5 below.

## 5. CHARGES, INVOICING AND PAYMENT

5.1 The parties agree that the Services are provided on the terms and subject to the conditions set out or referred to in this Agreement, and that this Agreement shall take precedence over any terms and conditions which the Client has provided or may in the future provide to Intertek, whether in a purchase order or any other document.

5.2 Unless acceptance of this Agreement by the Client occurs at an earlier time, submission of samples or any other testing material from the Client to Intertek shall be deemed to be conclusive evidence of the Client's acceptance of this Agreement.

5.3 The Client shall pay Intertek the charges set out in the Proposal, if applicable, or as otherwise contemplated for provision of the Services (the Charges).

5.4 If pricing factors, such as salaries and/or rates are subject to change between the conclusion date of the Contract and the completion date of the Contract, Intertek shall have the right to adjust the Charges accordingly.

5.5 The Charges are expressed exclusive of any applicable taxes. The Client shall pay any applicable taxes on the Charges at the rate and in the manner prescribed by law, on the issue by Intertek of a valid invoice.

5.6 The Client agrees that it will reimburse Intertek for any expenses incurred by Intertek relating to the provision of the Services and is wholly responsible for any freight or other clearance fees relating to any testing samples.

5.7 The Charges represent the total fees to be paid by the Client for the Services pursuant to this Agreement. Any additional work performed by Intertek will be charged on a time and material basis.

5.8 Intertek shall invoice the Client for the Charges and expenses, if any. For Services provided over the course of a period of greater than thirty (30) days the Client agrees that at the end of each calendar month Intertek will issue an invoice for the cost of the Services provided in the month. A final invoice will be issued on the date of the completion of the Services.

5.9 The Client is required to pay all invoiced amounts without any deduction, discount or set-off no later than thirty (30) days after the invoice date. No deduction for bank charges incurred can be made. Payments, which must be denominated in the currency indicated in the invoice, must be made by means of money transfer to a bank account designated by Intertek.

5.10 Intertek will issue an electronic invoice to the Client. An electronic invoice may be sent by email and will be deemed to have been delivered to the Client upon receipt of such email. Intertek is under no obligation to fulfil any request by the Client for a paper copy to be sent by post. Any invoice sent by post will include a £25 administration fee and the paper invoice must be paid by the Client within the credit terms referred to in 5.9 above.

5.11 If Intertek believes that the Client's financial position and/or payment performance justifies such action, Intertek has the right to demand that the Client immediately furnish security or additional security in a form to be determined by Intertek and/or make an advance payment. If the Client fails to furnish the desired security, Intertek has the right, without prejudice to its other rights, to immediately suspend the further provision of the Services, and any Charges for any part of the Services which has already been performed shall become immediately due and payable.

5.12 If the Client fails to pay within the period referred to in 5.9 above, it is in default of its payment obligations and this Agreement after having been reminded by Intertek at least once that payment is due within a reasonable period. In that case, the Client is liable to pay interest on the credit balance with effect from the date on which the payment became due until the date of payment. The interest rate applied is deemed to be the Joint Stock Commercial Bank for Foreign Trade of Vietnam (Vietcombank) base rate plus 5%. In addition, all collection costs incurred after the Client's default, both judicial and extrajudicial, are for the Client's account. The extrajudicial costs are set at an amount equal to least 10% of the principal plus interest, without prejudice to Intertek's right to collect the actual extrajudicial costs in excess of this amount. Intertek's administrative costs comprise all the costs incurred by Intertek, even if they exceed the Joint Stock Commercial Bank for Foreign Trade of Vietnam (Vietcombank) base rate.

5.13 If the Client objects to the contents of the invoice, details of the objection must be raised with Intertek within seven (7) days of receipt of electronic invoice, otherwise the invoice will be deemed to have been accepted. Any such objections do not exempt the Client from its obligation to pay within the period referred to in 5.9 above.

5.14 Any request by the Client for certain information to be included in or appended to the invoice must be made at the time of setting out the Proposal. A later request by the Client for changes to the agreed format of the invoice or supplementary information will not discharge the Client from its obligation to pay within the period referred to in 5.9 above. Intertek reserves the right to charge a £25 administration fee per invoice for issuing additional copies of invoices or amending invoice detail, format or structure from that agreed in the Proposal. Intertek maintains the right to reject such an invoicing amendment request and such a rejection by Intertek of the Client's request will not exempt the Client from its obligation to pay within the period referred to in 5.9 above.

5.15 If actions by the Client or any of its agents or representatives result in Intertek being required to invest the Client for the cost of all Services provided to date. In such a scenario the Client agrees to pay this invoice within thirty (30) days of the invoice date.

## 6. INTELLECTUAL PROPERTY RIGHTS AND DATA PROTECTION

6.1 All Intellectual Property Rights belonging to a party prior to entry into this Agreement shall remain vested in that party. Nothing in this Agreement is intended to transfer any Intellectual Property Rights from either party to the other.

6.2 Any use by the Client (or the Client's affiliated companies or subsidiaries) of the name "Intertek" or any of Intertek's trademarks or brand names

for any reason must be prior approved in writing by Intertek. Any other use of Intertek's trademarks or brand names is strictly prohibited and Intertek reserves the right to terminate this Agreement immediately as a result of any such unauthorised use.

6.3 All Intellectual Property Rights in any Reports, documents, graphs, charts, photographs or any other material (in whatever medium) produced by Intertek pursuant to this Agreement shall belong to Intertek. The Client shall have the right to use any such Reports, documents, graphs, charts, photographs or other material for the purposes of this Agreement.

6.4 The Client agrees and acknowledges that Intertek retains any and all proprietary rights in concepts, ideas and inventions that may arise during the preparation or provision of any Report (including any deliverables provided by Intertek to the Client) and the provision of the Services to the Client. Both parties shall observe all statutory provisions with regard to data protection including but not limited to the provisions of the General Data Protection Regulation (2016/679 ("GDPR")) and shall comply with all applicable requirements of the GDPR. To the extent that Intertek processes personal data in connection with the Services or otherwise in connection with this Agreement, it shall take all necessary technical and organisational measures to ensure the security of such data (and to guard against unauthorised or unlawful processing, accidental loss, destruction or damage to such data) in line with the GDPR.

## 7. CONFIDENTIALITY

7.1 Where a party (the Receiving Party) obtains Confidential Information of the other party (the Disclosing Party) in connection with this Agreement (whether before or after the date of this Agreement) it shall, subject to Clauses 7.2 to 7.4:

(a) keep that Confidential Information confidential, by applying the standard of care that it uses for its own Confidential Information; use that Confidential Information only for the purposes of performing obligations under this Agreement; and

(b) not disclose that Confidential Information to any third party without the prior written consent of the Disclosing Party.

7.2 The Receiving Party may disclose the Disclosing Party's Confidential Information on a "need to know" basis:

(a) to any legal advisors and statutory auditors that it has engaged for itself;

(b) to any regulator having regulatory or supervisory authority over its business;

(c) to any director, officer or employee of the Receiving Party provided that, in each case, the Receiving Party has first advised that person of the obligations under Clause 7.1 and ensured that the person is bound by obligations of confidence in respect of the Confidential Information no less onerous than those set out in this Clause 7.1; and

(d) where the Receiving Party is Intertek, to any of its subsidiaries, affiliates or subcontractors.

7.3 The provisions of Clauses 7.1 and 7.2 shall not apply to any Confidential Information which:

(a) was already in the possession of the Receiving Party prior to its receipt from the Disclosing Party without restriction on its use or disclosure; or

(b) is or becomes public knowledge other than by breach of this Clause 6.6;

(c) is required by the Receiving Party to disclose to a third party who is under no obligation restricting its disclosure; or

(d) is independently developed by the Receiving Party without access to it and who is under no obligation restricting its disclosure.

7.4 The Receiving Party may disclose Confidential Information of the Disclosing Party to the extent required by law, any regulatory authority or the rules of any stock exchange on which the Receiving Party is listed, provided that the Receiving Party has given the Disclosing Party prior written notice of the disclosure and where possible given the Disclosing Party a reasonable opportunity to prevent the disclosure through appropriate legal means.

7.5 Each party shall ensure the compliance by its employees, agents and representatives (which, in the case of Intertek, includes procuring the same from any sub-contractors) with its obligations under this Clause 7.

7.6 Confidential Information by Intertek is given in respect of any Confidential Information solely by the disclosure of such Confidential Information by the Disclosing Party.

7.7 With respect to archival storage, the Client acknowledges that Intertek may retain in its archive for the period required by its quality and assurance processes, or by the testing and certification rules of the relevant accreditation body, all materials necessary to document the Services provided.

## 8. AMENDMENT

8.1 No amendment to this Agreement shall be effective unless it is in writing, expressly stated to amend this Agreement and signed by an authorised signatory of each party.

## 9. FORCE MAJEURE

9.1 Neither party shall be liable to the other for any delay in performing or failure to perform any obligation under this Agreement to the extent that such delay or failure to perform is a result of:

(a) whether or not caused by or not civil war, riots, revolution, acts of terrorism, military action, sabotage and/or piracy;

(b) natural disasters such as violent storms, earthquakes, tidal waves, floods and/or lightning; explosions and fires;

(c) strikes and labour disputes, other than by any one or more employees of the affected party or of any supplier or agent of the affected party; or

(d) failure of utilities companies such as providers of telecommunication, internet, gas or electricity services.

9.2 For the avoidance of doubt, where the affected party is Intertek any failure or delay caused by failure or delay on the part of a subcontractor shall only be a Force Majeure Event (as defined below) where the subcontractor is affected by one of the events described above.

9.3 A party whose performance is affected by an event described in Clause 9.1 (a Force Majeure Event) shall:

(a) promptly notify the other party in writing of the Force Majeure Event and the cause and the likely duration of any consequential delay or non-performance of its obligations;

(b) use all reasonable endeavours to avoid or mitigate the effect of the Force Majeure Event and continue to perform or resume performance of its affected obligations as soon as reasonably possible; and

(c) continue to provide Services that remain unaffected by the Force Majeure Event.

9.4 If the Force Majeure Event continues for more than sixty (60) days after the day on which it started, each party may terminate this Agreement by giving at least ten (10) days' written notice to the other party.

## 10. LIMITATIONS AND EXCLUSIONS OF LIABILITY

10.1 Neither party excludes or limits liability to the other party:

(a) in respect of death or personal injury resulting from the negligence of that party or its directors, officers, employees, agents or sub-contractors; or

(b) for its own fraud (or that of its directors, officers, employees, agents or sub-contractors).

10.2 Subject to clause 10.1, the maximum aggregate liability of Intertek in contract, tort (including negligence and breach of statutory duty) or otherwise for any breach of this agreement or any matter arising out of or in connection with the services to be provided in accordance with this agreement shall be the amount of any Services to be provided by Intertek under this agreement.

10.3 Subject to clause 10.1, neither party shall be liable to the other in contract, tort (including negligence and breach of statutory duty) or otherwise for any:

(a) loss of profits;

(b) loss of sales or business;

(c) loss of opportunity (including without limitation in relation to third party agreements or contracts);

(d) loss of or damage to goodwill or reputation;

(e) loss of anticipated savings;

(f) cost or expenses incurred in relation to making a product recall;

(g) loss of use or corruption of software, data or information; or

(h) any indirect, consequential loss, punitive or special loss (even when advised of their possibility).

10.4 Any claim by the Client against Intertek (always subject to the provisions of this clause 10) must be made within ninety (90) days after the client becomes aware of any circumstances giving rise to any such claim. Failure to give such notice of claim within ninety (90) days shall constitute a bar or irrevocable waiver to any claim, either directly or indirectly, in contract, tort or otherwise in connection with the provision of services under this agreement.

## 11. INDEMNITY

11.1 The Client shall indemnify and hold harmless Intertek, its officers, employees, agents, representatives, contractors and sub-contractors from and against any and all claims, suits, liabilities (including costs of litigation and attorney's fees) arising, directly or indirectly, out of or in connection with:

(a) any claims or suits by any governmental authority or others for any actual or asserted failure of the Client to comply with any law, ordinance, regulation, rule or order of any governmental or judicial authority;

(b) claims or suits for personal injuries, loss of or damage to property, economic loss, and loss of or damage to Intellectual Property Rights (including but not limited to patent, trademark or copyright) or occurring in or in connection with or related to the Services provided hereunder by Intertek, its officers, employees, agents, representatives, contractors or sub-contractors;

(c) the breach or alleged breach by the Client of any of its obligations set out in Clause 4 above;

(d) any claims made by any third party for loss, damage or expense of whatsoever nature and however arising relating to the performance, purported performance or non-performance of any Services to the extent that the aggregate of any such claims relating to any one Service exceeds the limit of liability set out in Clause 10 above;

(e) any claims or suits arising as a result of any misuse or unauthorised use of any Reports issued by Intertek or any Intellectual Property Rights belonging to Intertek (including trade marks) pursuant to this Agreement; and

(f) any claims arising out of or relating to any third party's use of or reliance on any Reports or any Reports, analyses, conclusions of the Client (or any third party to whom the Client has provided the Reports) based in whole or in part on the Reports, if applicable.

## 12. INSURANCE POLICIES

12.1 Each party shall be responsible for the arrangement and costs of its own company insurance which includes, without limitation, professional indemnity, employer's liability, motor insurance and property insurance.

12.2 Intertek expressly disclaims any liability to the Client as an insurer or guarantor.

12.3 The Client acknowledges that although Intertek maintains employer's liability insurance, such insurance does not cover any employees of the Client or any third parties who may be involved in the provision of the Services. If the Services are to be performed at premises belonging to the Client or third parties, Intertek's employer's liability insurance does not provide cover for non-Intertek employees.

## 13. TERMINATION

13.1 This Agreement shall commence upon the first day on which the Services are commenced and shall continue, unless terminated earlier in accordance with this Clause 13, until the Services have been provided.

13.2 This Agreement may be terminated by:

(a) either party if the other continues in material breach of any obligation imposed upon it hereunder for more than thirty (30) days after written notice of such breach has been received by that Party by recorded delivery or cost or by requesting the other to remedy such breach;

(b) Intertek on written notice to the Client in the event that the Client fails to pay any invoice by its due date and/or fails to make payment after a further request for payment; or

(c) either party if written notice of such breach has been received by that Party by recorded delivery or cost or by requesting the other to remedy such breach; (otherwise than for the purposes of a solvent amalgamation or reconstruction) or an encumbrance takes possession, or a receiver is appointed, of any of the property or assets of the other or the other ceases, or threatens to cease, to carry on business.

13.3 Any termination or expiration of the Agreement for any reason and without prejudice to any other rights or remedies the parties may have, the Client shall pay Intertek for all Services performed up to the date of termination. This obligation shall survive termination or expiration of this Agreement.

13.4 Any termination or expiration of the Agreement shall not affect the accrued rights and obligations of the parties nor shall it affect any provision which is expressly or by implication intended to come into force or continue in force on or after such termination or expiration.

## 14. ASSIGNMENT AND SUB-CONTRACTING

14.1 Intertek reserves the right to delegate the performance of its obligations hereunder and the provision of the Services to one or more of its affiliates and/or sub-contractors when necessary. Intertek may also assign this Agreement to any company within the Intertek group on notice to the Client.

## 15. GOVERNING LAW AND DISPUTE RESOLUTION

15.1 This Agreement and the Proposal shall be governed by Vietnam law. The parties agree to submit to the exclusive jurisdiction of the Vietnam Courts in the event of any dispute or claim arising out of or in connection with this Agreement (including any non-contractual claim relating to the provision of the Services in accordance with this Agreement).

## 16. MISCELLANEOUS

16.1 Severability. If any provision of this Agreement is or becomes invalid, illegal or unenforceable, such provision shall be severed and the remainder of the provisions shall continue in full force and effect as if this Agreement had been executed without the invalid illegal or unenforceable provision. If the invalidity, illegality or unenforceability is so fundamental that it prevents the accomplishment of the purpose of this Agreement, Intertek and the Client shall immediately commence good faith negotiations to agree an alternative arrangement.

16.2 No partnership or agency. Nothing in this Agreement and no action taken by the parties under this Agreement shall constitute a partnership, association, joint venture or other co-operative entity between the parties or constitute any party the partner, agent or legal representative of the other.

16.3 Waivers. Subject to Clause 10.4 above, the failure of any party to insist upon strict performance of any provision of this Agreement, or to exercise any right or remedy to which it is entitled, shall not constitute a waiver and shall not cause a diminution of the obligations established by this Agreement. A waiver of any breach shall not constitute a waiver of any subsequent breach.

16.4 No waiver of any right or remedy under this Agreement shall be effective unless it is expressly stated to be a waiver and communicated to the other party in writing.

16.5 Whole Agreement. This Agreement and the Proposal contain the whole agreement between the parties relating to the transactions contemplated by this agreement and supersedes all previous agreements, arrangements and understandings between the parties relating to those transactions or that subject matter. No purchase order, statement or other similar document will add to or vary the terms of this Agreement.

16.6 Nothing in this Agreement that is entering into this Agreement it has not relied on any representation, warranty, collateral contract or other assurance (except those set out or referred to in this Agreement) made by or on behalf of any other party before the acceptance or signature of this Agreement. Each party waives all rights and remedies that, but for this Clause, might otherwise be available to it in respect of any such representation, warranty, collateral contract or other assurance.

16.7 Nothing in this Agreement limits or excludes any liability for fraudulent misrepresentation.

16.8 Third Party Rights. A person who is not party to this Agreement has no right under the Contract (Rights of Third Parties) Act 1999 to enforce any of its terms.

16.9 Further Assurance. Each party shall, at the cost and request of any other party, execute and deliver such instruments and documents and take such other actions in each case as may be reasonably requested from time to time in order to give full effect to its obligations under this Agreement.

**BÁO CÁO THỬ NGHIỆM**

SỐ: VNMT20009541

**Kết quả thử nghiệm**

<b>Mẫu thử nghiệm</b>	<b>Tiêu chuẩn</b>	<b>Kết quả</b>
(A), (B), (C), (D), (E)	ISO 14184-1: 2011: Textiles – Determination of formaldehyde – Part 1: Free and hydrolyzed formaldehyde (water extraction method)	ĐẠT
(A), (B), (C), (D), (E)	EN 14362-1:2012: Vật liệu dệt – Phương pháp xác định các amin thơm chuyển hóa từ các chất màu azo – Phần 1: Phát hiện việc sử dụng các chất màu azo bằng cách chiết và không cần chiết xơ	ĐẠT
(A), (B), (C), (D), (E)	EN 14362-3:2012: Vật liệu dệt – Phương pháp xác định các amin thơm chuyển hóa từ các chất màu azo – Phần 3: Phát hiện việc sử dụng một số chất màu azo có thể giải phóng ra 4-aminoazobenzen	ĐẠT

**Thử nghiệm thực hiện****1. Thử nghiệm hàm lượng Formaldehyt trong sản phẩm dệt may**  
Theo ISO 14184-1:2011– Vật Liệu Dệt – Xác định Formaldehyt – Phần 1

<b>TT</b>	<b>Mẫu thử nghiệm</b>	<b>Kết quả (mg/kg)</b>	<b>Giới hạn max (mg/kg)</b>
1	(A) Áo lót nữ D 179 WHP/ LZ (16-5666)	<5	75
2	(B) Áo lót nữ T-Shirt Bra 140 WHP 01/ 04 (16A6487)	<5	75
3	(C) Áo lót nữ Fashion 468 WP/ WM (19V979)	<5	75
4	(D) Quần lót nữ sloggi Comfort Maxi/ CS (76-474)	<5	75
5	(E) Quần lót nữ Aqua Exotic Hipster/ 37 (87-2145)	<5	75



These terms and conditions, together with any proposal, estimate or fee quote, form the agreement between you (the Client) and the Intertek entity (Intertek) providing the Services contemplated therein.

**1. INTERPRETATION**

- 1.1 In this Agreement, the following words and phrases shall have the following meanings unless the context otherwise requires:
  - (a) **Agreement** means this agreement entered into between Intertek and the Client;
  - (b) **Charges** shall have the meaning as set out in Clause 5.3;
  - (c) **Confidential Information** means all information in whatever form or manner presented which: (a) is disclosed pursuant to, or in the course of the provision of Services pursuant to, this Agreement; and (b) is disclosed in writing, electronically, visually, orally or otherwise howsoever and is marked, stamped or identified by any means as confidential by the Client; and (c) is information, howsoever disclosed, which would reasonably be considered to be confidential by the receiving party;
  - (d) **Intellectual Property Rights** means copyrights, trademarks (registered or unregistered), patents, patents applications (including the right to apply for a patent), service marks, design rights (registered or unregistered), trade secrets and other like rights howsoever existing;
  - (e) **Reports** shall have the meaning as set out in Clause 2.2;
  - (f) **Services** means the services set out in any relevant Intertek Proposal, any relevant Client purchase order, or any relevant Intertek invoice, as applicable, and may comprise or include the provision by Intertek of a Report;
  - (g) **Proposal** means the proposal, estimate or fee quote, if applicable, provided to the Client by Intertek relating to the Services;
  - (h) The headings in this Agreement do not affect its interpretation.

**2. THE SERVICES**

- 2.1 Intertek shall provide the Services to the Client in accordance with the terms of this Agreement which is expressly incorporated into any Proposal Intertek has made and submitted to the Client.
- 2.2 In the event of any inconsistency between the terms of this Agreement and the Proposal, the terms of the Proposal shall take precedence.
- 2.3 The Services provided by Intertek under this Agreement and any memoranda, laboratory data, calculations, measurements, estimates, notes, certificates and other material prepared by Intertek in the course of providing the Services to the Client, together with such summaries or any other communication in any form describing the results of any work or services performed (Reports) shall be only for the Client's use and benefit.
- 2.4 The Client acknowledges and agrees that in providing the Services Intertek is obliged to deliver a Report to a third party. Intertek shall be deemed irrevocably authorised to deliver such Report to the applicable third party. For the purposes of this clause an obligation shall arise on the instructions of the Client, or where, in the reasonable opinion of Intertek, it is implicit from the circumstances, trade, custom, usage or practice.
- 2.5 The Client acknowledges and agrees that any Services provided and/or Reports produced by Intertek are done so within the limits of the scope of work agreed with the Client in relation to the Proposal and pursuant to the Client's specific instructions in the absence of such instructions, in accordance with any relevant trade custom, usage or practice. The Client further agrees and acknowledges that the Services are not necessarily designed or intended to address all matters of quality, safety, performance or condition of any product, material, services, systems, equipment, inspected or certified and the scope of work does not necessarily reflect all standards which may apply to product, material, services, systems or process tested, inspected or certified. The Client understands that reliance on any Reports issued by Intertek is limited to the facts and representations set out in the Reports which represent Intertek's review and/or analysis of facts, information, documents, samples and/or other material in existence at the time of the performance of the Services only. Client is responsible for ensuring the accuracy of the data submitted for testing. Neither Intertek nor any of its officers, employees, agents or subcontractors shall be liable to Client nor any third party for any act taken or not taken on the basis of such Report.
- 2.6 Intertek shall not be liable to Client nor any third party for any act taken or not taken on the basis of such Report.
- 2.7 In agreeing to provide the Services pursuant to this Agreement, Intertek does not abridge, abrogate or undertake to discharge any duty or obligation of the Client to any other person or any duty or obligation of any person to the Client.

**3. INTERTEK'S WARRANTIES**

- 3.1 Intertek warrants exclusively to the Client:
  - (a) that it has the power and authority to enter into this Agreement and that it will comply with relevant legislations and regulations in force as at the date of this Agreement in relation to the provision of the Services;
  - (b) that the Services will be performed in a manner consistent with that level of care and skill ordinarily exercised by other companies providing like services under similar circumstances;
  - (c) that it will take reasonable steps to ensure that whilst on the Client's premises its personnel comply with any health and safety rules and regulations and other reasonable security requirements made known to Intertek by the Client in accordance with Clause 4.3(f);
  - (d) that the Reports produced in relation to the Services will not infringe any legal rights (including Intellectual Property Rights) of any third party. This warranty shall not apply where the infringement is directly or indirectly caused by Intertek's reliance on any information, samples or other related documents provided to Intertek by the Client or any of its agents or representatives.
- 3.2 In the event of a breach of the warranty set out in Clause 3.1(b), Intertek shall, at its own expense, perform services of the type originally performed as may be reasonably required to correct any defect in Intertek's performance.
- 3.3 Intertek makes no other warranties, express or implied. All other warranties, conditions and other terms implied by statute or common law (including but not limited to any implied warranties of fitness for purpose) are, to the fullest extent permitted by law, excluded from this Agreement. No performance, deliverable, oral or other information or advice provided by Intertek (including its agents, sub-contractors, employees or other representatives) will create a warranty or otherwise increase the scope of any warranty provided.

**4. CLIENT WARRANTIES AND OBLIGATIONS**

- 4.1 The Client represents and warrants:
  - (a) that it has the power and authority to enter into this Agreement and procure the provision of the Services for itself;
  - (b) that it is securing the provision of the Services hereunder for its own account and not as an agent or broker, or in any other representative capacity, for any other person or entity;
  - (c) that any information, samples and related documents it (or any of its agents or representatives) supplies to Intertek (including its agents, sub-contractors, employees or other representatives) are, for the purposes of this Agreement, true, complete and not misleading in any respect. The Client further acknowledges that Intertek will rely on such information, samples or other related documents and materials provided by the Client (without any duty to confirm or verify the accuracy or completeness thereof) in order to provide the Services;
  - (d) that any samples provided by the Client to Intertek will be shipped pre-paid and will be collected or disposed of by the Client (at the Client's cost) within the time period specified in the Reports; and that any samples provided to Intertek which are damaged or destroyed in any way are not collected or disposed of by the Client within the required thirty (30) days period, Intertek reserves the right to destroy the samples, at the Client's cost; and
  - (e) that any information, samples or other related documents (including without limitation certificates and reports) provided by the Client to Intertek will not, in any way, infringe any rights (including Intellectual Property Rights) of any third party.
- 4.2 In the event that the Services provided relate to any third party, the Client shall cause any such third party to acknowledge and agree to the provisions in this Agreement and the Proposal prior to and as a condition precedent to such third party receiving any Reports or the benefit of any Services.
- 4.3 The Client further agrees:
  - (a) to co-operate with Intertek in all matters relating to the Services and appoint a manager in relation to the Services who shall be duly authorised to provide instructions to Intertek on behalf of the Client and to bind the Client contractually as required;
  - (b) to provide Intertek (including its agents, sub-contractors and employees), at its own expense, any and all samples, information, material or other documents necessary for Intertek to provide the Services in a timely manner sufficient to enable Intertek to provide the Services in accordance with this Agreement. The Client acknowledges that any samples provided may be damaged or destroyed in the course of testing as part of the necessary testing process and undertakes to hold Intertek harmless from any and all responsibility for such alteration, damage or destruction;
  - (c) that it is responsible for providing the samples/equipment to be tested together, where appropriate, with any specified additional items, including but not limited to connecting pieces, fuse-links, etc;
  - (d) to provide instructions and feedback to Intertek in a timely manner;
  - (e) to provide Intertek (including its agents, sub-contractors and employees) with access to its premises as may be reasonably required for the provision of the Services and to ensure that Intertek's acceptance of the Client's premises at the applicable health and safety rules and regulations and other reasonable security requirements that may apply at any relevant premises at which the Services are to be provided;
  - (f) to notify Intertek promptly of any risk, safety issues or incidents in respect of any item delivered by the Client, or any process or systems used at its premises, which may be necessary for the provision of the Services;
  - (g) to inform Intertek in advance of any applicable import or export restrictions that may apply to the Services to be provided, including any instances where any products, information or technology may be exported/imported to or from a country that is restricted or banned from such transaction;
  - (h) in the event of the issuance of a certificate, to inform and advise Intertek immediately of any changes during the term of the certificate which may have a material impact on the accuracy of the certification;
  - (i) to obtain and maintain all necessary licenses and consents in order to comply with relevant legislation and regulation in relation to the Services; that it will not use any Reports issued by Intertek pursuant to this Agreement in a misleading manner and that it will only distribute such Reports in their entirety;
  - (j) in no event, will the contents of any Reports or any extracts, excerpts or parts of any Reports be distributed or published without the prior written consent of Intertek (such consent not to be unreasonably withheld) in each instance; and
  - (k) that any and all advertising and promotional materials or any statements made by the Client will not give a false or misleading impression to any third party.
- 4.4 Intertek shall be neither in breach of this Agreement nor liable to the Client for any breach of this Agreement if and to the extent that its breach is a direct result of a failure by the Client to comply with its obligations as set out in this Clause 4. The Client also acknowledges that the impact of any failure by the Client to perform its obligations set out herein on the provision of the Services by Intertek will not affect the Client's obligations under this Agreement for payment of the Charges pursuant to Clause 5 below.

**5. CHARGES, INVOICES AND PAYMENT**

- 5.1 The parties agree that the Services are provided on the terms and subject to the conditions set out or referred to in this Agreement, and that this Agreement shall take precedence over any terms and conditions which the Client has provided or may in the future provide to Intertek, whether in a purchase order or any other document.
- 5.2 Unless acceptance of this Agreement by the Client occurs at an earlier time, submission of samples or any other testing material from the Client to Intertek shall constitute the Client's acceptance of this Agreement.
- 5.3 The Client shall pay Intertek the charges set out in the Proposal, if applicable, or as otherwise contemplated for provision of the Services (the Charges).
- 5.4 If pricing factors, such as salaries and/or rates are subject to change between the conclusion date of the Contract and the completion date of the Contract, Intertek has the right to adjust the Charges accordingly.
- 5.5 The Charges are expressed exclusive of any applicable taxes. The Client shall pay any applicable taxes on the Charges at the rate and in the manner prescribed by law, on the issue by Intertek of a valid invoice.
- 5.6 The Client agrees that it will reimburse Intertek for any expenses incurred by Intertek relating to the provision of the Services and is wholly responsible for any freight or other clearance fees relating to any testing samples.
- 5.7 The Charges represent the total fees to be paid by the Client for the Services pursuant to this Agreement. Any additional work performed by Intertek will be charged on a time and material basis.
- 5.8 Intertek shall invoice the Client for the Charges and expenses, if any. For Services provided over the course of a period of greater than thirty (30) days the Client agrees that at the end of each calendar month Intertek will issue an invoice for the cost of the Services provided in the month. A final invoice will be issued on the date of the completion of the Services.
- 5.9 The Client is required to pay all invoiced amounts without any deduction, discount or set-off no later than thirty (30) days after the invoice date. No deduction for bank charges incurred can be made. Payments, which must be denominated in the currency indicated in the invoice, must be made by means of money transfer to a bank account designated by Intertek.
- 5.10 Intertek will issue an electronic invoice to the Client. An electronic invoice may be sent by email and will be deemed to have been delivered to the Client upon receipt of such email. Intertek is under no obligation to fulfil any request by the Client for a paper copy to be sent by post. Any invoice sent by post will include a €25 administration fee and the paper invoice must be paid by the Client within the credit terms referred to in 5.9 above.
- 5.11 If Intertek believes that the Client's financial position and/or payment performance justifies such action, Intertek has the right to demand that the Client immediately furnish security or additional security in a form to be determined by Intertek and/or make an advance payment. If the Client fails to furnish the desired security, Intertek has the right, without prejudice to its other rights, to immediately suspend the further execution of all or any part of the Services, and any Charges for any part of the Services which has already been performed shall become immediately due and payable.
- 5.12 If the Client fails to pay within the period referred to in 5.9 above, it is in default of its payment obligations and this Agreement after having been reminded by Intertek at least once that payment is due within a reasonable period. In that case, the Client is liable to pay interest on the credit balance with effect from the date on which the payment became due until the date of payment. The interest rate applied is deemed to be the Joint Stock Commercial Bank for Foreign Trade of Vietnam (Vietcombank) base rate plus 5%. In addition, all collection costs incurred after the Client's default, both judicial and extrajudicial, are for the Client's account. The extrajudicial costs are set at an amount equal to least 10% of the amount due, without prejudice to Intertek's right to collect the actual extrajudicial costs in excess of this amount. The judicial costs comprise all costs incurred by Intertek, even if they exceed the Joint Stock Commercial Bank for Foreign Trade of Vietnam (Vietcombank) base rate.
- 5.13 If the Client objects to the contents of the invoice, details of the objection must be raised with Intertek within seven (7) days of receipt of electronic invoice, and the Client must give notice of the objection in writing to Intertek. Any objections do not exempt the Client from its obligation to pay within the period referred to in 5.9 above.
- 5.14 Any request by the Client for certain information to be included in or appended to the invoice must be made at the time of setting out the Proposal. A later request by the Client for changes to the agreed format of the invoice or supplementary information will not discharge the Client from its obligation to pay within the period referred to in 5.9 above. Intertek reserves the right to charge a €25 administration fee per invoice for issuing additional copies of invoices or amending invoice detail, format or structure from that agreed in the Proposal. Intertek maintains the right to reject such an invoicing amendment request and such a rejection by Intertek of the Client's request will not exempt the Client from its obligation to pay within the period referred to in 5.9 above.
- 5.15 If actions by the Client delay completion of the Services, Intertek has the right to invoice the Client for the cost of all Services provided to date. In such a scenario the Client agrees to pay this invoice within thirty (30) days of the invoice date.

**6. INTELLECTUAL PROPERTY RIGHTS AND DATA PROTECTION**

- 6.1 All Intellectual Property Rights belonging to a party prior to entry into this Agreement shall remain vested in that party. Nothing in this Agreement is intended to transfer any Intellectual Property Rights from either party to the other.
- 6.2 Any use by the Client (or the Client's affiliated companies or subsidiaries) of the name "Intertek" or any of Intertek's trademarks or brand names

- for any reason must be prior approved in writing by Intertek. Any other use of Intertek's trademarks or brand names is strictly prohibited and Intertek reserves the right to terminate this Agreement immediately as a result of any such unauthorised use.
- 6.3 All Intellectual Property Rights in any Reports, documents, graphs, charts, photographs or any other material (in whatever medium) produced by the Client shall belong to Intertek. The Client shall have the right to use any such Reports, documents, graphs, charts, photographs or other material for the purposes of this Agreement.
- 6.4 The Client agrees and acknowledges that Intertek retains any and all proprietary rights in concepts, ideas and inventions that may arise during the preparation of the Client's Reports. Intertek shall have the right to use any such Reports, documents, graphs, charts, photographs or other material for the purposes of this Agreement and for the purposes of the Services to the Client. Both parties shall be bound by Intertek's provisions with regard to data protection including but not limited to the provisions of the General Data Protection Regulation 2016/679 ("GDPR") and shall comply with all applicable requirements of the GDPR. To the extent that Intertek processes personal data in connection with the Services or otherwise in connection with this Agreement, it shall take all necessary technical and organisational measures to ensure the security of such data (and to guard against unauthorised or unlawful processing, accidental loss, destruction or damage of such data) in line with the GDPR.

**7. CONFIDENTIALITY**

- 7.1 Where a party (the Receiving Party) obtains Confidential Information of the other party (the Disclosing Party) in connection with this Agreement (whether before or after the date of this Agreement) it shall, subject to Clauses 7.2 to 7.4:
  - (a) keep that Confidential Information confidential, by applying the standard of care that it uses for its own Confidential Information;
  - (b) use that Confidential Information only for the purposes of performing obligations under this Agreement; and
  - (c) not disclose that Confidential Information to any third party without the prior written consent of the Disclosing Party.
- 7.2 The Receiving Party may disclose the Disclosing Party's Confidential Information on a "need to know" basis:
  - (a) to any legal advisors and statutory auditors that it has engaged for itself;
  - (b) to any regulator having regulatory authority over its business;
  - (c) to any director, officer or employee of the Receiving Party provided that, in each case, the Receiving Party has first advised that person of the obligations under Clause 7.1 and ensured that the person is bound by obligations of confidence in respect of the Confidential Information no less onerous than those set out in this Clause 7; and
  - (d) to any legal advisor, officer or employee of the Receiving Party or its subsidiaries, affiliates or subcontractors.
- 7.3 The provisions of Clauses 7.1 and 7.2 shall not apply to any Confidential Information which:
  - (a) was already in the possession of the Receiving Party prior to its receipt from the Disclosing Party without restriction on its use or disclosure;
  - (b) is or becomes public knowledge other than by breach of this Clause 6.6;
  - (c) is lawfully acquired by a third party who is not under an obligation restricting its disclosure; or
  - (d) is independently developed by the Receiving Party without access to the relevant Confidential Information.
- 7.4 The Receiving Party may disclose Confidential Information of the Disclosing Party to the extent required by law, any regulatory authority or the rules of any stock exchange on which the Receiving Party is listed, provided that the Receiving Party has given the Disclosing Party a prompt written notice of any such disclosure and where possible given the Disclosing Party a reasonable opportunity to prevent the disclosure through appropriate legal means.
- 7.5 Each party shall ensure the compliance by its employees, agents and representatives (which, in the case of Intertek, includes procuring the same from any sub-contractors) with its obligations under this Clause 7.
- 7.6 Confidential Information by the Disclosing Party is given in respect of any Confidential Information solely by the disclosure of such Confidential Information by the Disclosing Party.
- 7.7 With respect to archival storage, the Client acknowledges that Intertek may retain in its archive for the period required by its quality and assurance processes, or by the testing and certification rules of the relevant accreditation body, all materials necessary to document the Services provided.

**8. AMENDMENT**

- 8.1 No amendment to this Agreement shall be effective unless it is in writing, expressly stated to amend this Agreement and signed by an authorised signatory of each party.

**9. FORCE MAJEURE**

- 9.1 Neither party shall be liable to the other for any delay in performing or failure to perform any obligation under this Agreement to the extent that such delay or failure to perform is a result of:
  - (a) any act of God, including but not limited to, acts of terrorism, military action, sabotage and/or piracy;
  - (b) natural disasters such as violent storms, earthquakes, tidal waves, floods and/or lightning, explosions and fires;
  - (c) strikes and labour disputes, other than by any one or more employees of the affected party or of any supplier or agent of the affected party; or
  - (d) any act of any utilities companies such as providers of telecommunication, internet, gas or electricity services.
- 9.2 In the event of a doubt, where the affected party is Intertek any failure or delay caused by failure or delay on the part of a subcontractor shall only be a Force Majeure Event (as defined below) where the subcontractor is affected by one of the events described above.
- 9.3 A party whose performance is affected by an event described in Clause 9.1 (a Force Majeure Event) shall:
  - (a) promptly notify the other party in writing of the Force Majeure Event and the cause and the likely duration of any consequential delay or non-performance of its obligations;
  - (b) use all reasonable endeavours to avoid or mitigate the effect of the Force Majeure Event and continue to perform or resume performance of its affected obligations as soon as reasonably possible; and
  - (c) continue to provide Services that remain unaffected by the Force Majeure Event.
- 9.4 If the Force Majeure Event continues for more than sixty (60) days after the day on which it started, each party may terminate this Agreement by giving at least ten (10) days' written notice to the other party.

**10. LIMITATIONS AND EXCLUSIONS OF LIABILITY**

- 10.1 Neither party excludes or limits liability to the other party:
  - (a) for death or personal injury resulting from the negligence of that party or its directors, officers, employees, agents or sub-contractors; or
  - (b) for its own fraud or personal injury resulting from the negligence of that party or its directors, officers, employees, agents or sub-contractors;
- 10.2 Subject to clause 10.1, the maximum aggregate liability of Intertek in contract, tort (including negligence and breach of statutory duty) or otherwise for any breach of this agreement or any matter arising out of or in connection with the services to be provided in accordance with this agreement shall be the amount of charges due by the client to Intertek under this agreement.
- 10.3 Subject to clause 10.1, neither party shall be liable to the other in contract, tort (including negligence and breach of statutory duty) or otherwise for any:
  - (a) loss of profits;
  - (b) loss of sales or business;
  - (c) loss of opportunity (including without limitation in relation to third party agreements or contracts);
  - (d) loss of or damage to goodwill or reputation;
  - (e) loss of anticipated savings;
  - (f) cost or expenses incurred in relation to making a product recall;
  - (g) loss or corruption of software, data or information;
  - (h) any indirect, consequential loss, punitive or special loss (even when advised of their possibility).
- 10.4 Any claim by the client against Intertek (always subject to the provisions of this clause 10) must be made within ninety (90) days after the client becomes aware of any circumstances giving rise to any such claim. Failure to give such notice of claim within ninety (90) days shall constitute a bar to any claim, either directly or indirectly, in contract, tort or otherwise in connection with the provision of services under this agreement.

**11. INDEMNITY**

- 11.1 The Client shall indemnify and hold harmless Intertek, its officers, employees, agents, representatives, contractors and sub-contractors from and against any and all claims, suits, liabilities (including costs of litigation and attorney's fees) arising, directly or indirectly, out of or in connection with the Services provided hereunder by Intertek, including but not limited to:
  - (a) any claims or suits by any governmental authority or others in any actual or asserted failure of the Client to comply with any law, ordinance, regulation, rule or order of any governmental or judicial authority;
  - (b) claims or suits for personal injuries, loss of or damage to property, economic loss, and loss of or damage to Intellectual Property Rights, in each case arising out of or in connection with the Services provided hereunder by Intertek;
  - (c) any claims or suits for personal injuries, loss of or damage to property, economic loss, and loss of or damage to Intellectual Property Rights, in each case arising out of or in connection with the Services provided hereunder by Intertek;
  - (d) the breach or alleged breach by the Client of any of its obligations set out in Clause 4 above;
  - (e) any claims arising out of or relating to any third party's use of or reliance on any Reports or any reports, analyses, conclusions of the Client which are based on or derived from the Reports provided by Intertek;
  - (f) any claims or suits arising as a result of any misuse or unauthorised use of any Reports issued by Intertek or any Intellectual Property Rights belonging to Intertek (including trade marks) pursuant to this Agreement; and
  - (g) (or any third party to whom the Client has provided the Reports) based in whole or in part on the Reports, if applicable.
- 11.2 The obligations set out in this Clause 11 shall survive termination of this Agreement.

**12. INSURANCE POLICIES**

- 12.1 Each party shall be responsible for the arrangement and costs of its own company insurance which includes, without limitation, professional indemnity, employer's liability, motor insurance and property insurance.
- 12.2 Intertek expressly disclaims any liability to the Client as an insurer or guarantor.
- 12.3 The Client acknowledges that although Intertek maintains employer's liability insurance, such insurance does not cover any employees of the Client or any third parties who may be involved in the provision of the Services. If the Services are to be performed at premises belonging to the Client or third parties, Intertek's employer's liability insurance does not provide cover for non-Intertek employees.

**13. TERMINATION**

- 13.1 This Agreement shall commence upon the first day on which the Services are commenced and shall continue, unless terminated earlier in accordance with this Clause 13, until the Services have been provided.
- 13.2 This Agreement may be terminated by:
  - (a) either party if the other continues in material breach of any obligation imposed upon it hereunder for more than thirty (30) days after written notice has been given by the party in breach to the other party by recorded delivery or courier requesting the other to remedy such breach;
  - (b) Intertek on written notice to the Client in the event that the Client fails to pay an invoice by its due date and/or fails to make payment after a further request for payment; or
  - (c) either party on written notice to the other in the event that the other makes any voluntary arrangement with its creditors or becomes subject to any insolvency proceedings (including but not limited to being an insolvent or being an insolvent or (being a company) goes into liquidation or is wound up or is subject to a moratorium, amalgamation or reconstruction) or an entrepreneur takes possession, or a receiver is appointed, of any of the property or assets of the other or the other ceases, or threatens to cease, to carry on business.
- 13.3 In the event of termination of the Agreement for any reason and without prejudice to any other rights or remedies the parties may have, the Client shall pay Intertek for all Services performed up to the date of termination. This obligation shall survive termination or expiration of this Agreement.
- 13.4 Any termination or expiration of the Agreement shall not affect the accrued rights and obligations of the parties nor shall it affect any provision which is expressly or by implication intended to come into force or continue in force on or after such termination or expiration.

**14. ASSIGNMENT AND SUB-CONTRACTING**

- 14.1 Intertek reserves the right to delegate the performance of its obligations hereunder and the provision of the Services to one or more of its affiliates and/or sub-contractors when necessary. Intertek may also assign this Agreement to any company within the Intertek group on notice to the Client.

**15. GOVERNING LAW AND DISPUTE RESOLUTION**

- 15.1 This Agreement and the Proposal shall be governed by Vietnam law. The parties agree to submit to the exclusive jurisdiction of the Vietnam Courts in respect of any dispute or claim arising out of or in connection with this Agreement (including any non-contractual claim relating to the provision of the Services in accordance with this Agreement).

**16. MISCELLANEOUS**

- 16.1 **Severability.** If any provision of this Agreement is or becomes invalid, illegal or unenforceable, such provision shall be severed and the remainder of the provisions shall continue in full force and effect as if this Agreement had been executed without the invalid illegal or unenforceable provision. If the invalidity, illegality or unenforceability is so fundamental that it prevents the accomplishment of the purpose of this Agreement, Intertek and the Client shall immediately commence good faith negotiations to agree an alternative arrangement.
- 16.2 **No partnership or agency.** Nothing in this Agreement and no action taken by the parties under this Agreement shall constitute a partnership, association, joint venture or other co-operative entity between the parties or constitute any party the partner, agent or legal representative of any other party.
- 16.3 **Waiver.** Subject to Clause 10.4 above, the failure of any party to insist upon strict performance of any provision of this Agreement, or to exercise any right or remedy to which it is entitled, shall not constitute a waiver and shall not cause a diminution of the obligations established by this Agreement. A waiver of any breach shall not constitute a waiver of any subsequent breach.
- 16.4 **No waiver of any right or remedy under this Agreement shall be effective unless it is expressly stated to be a waiver and communicated to the other party in writing.**
- 16.5 **Whole Agreement.** This Agreement and the Proposal contain the whole agreement between the parties relating to the transactions contemplated by this agreement and supersedes all previous agreements, arrangements and understandings between the parties relating to those transactions or that subject matter. No purchase order, statement or other similar document will add to or vary the terms of this Agreement.
- 16.6 Each party acknowledges that in entering into this Agreement it has not relied on any representation, warranty, collateral contract or other assurance given by the other party in writing or otherwise in connection with this Agreement and shall not cause a diminution of its rights or remedies under this Agreement. Each party waives all rights and remedies that, but for this Clause, might otherwise be available to it in respect of any such representation, warranty, collateral contract or other assurance.
- 16.7 Nothing in this Agreement limits or excludes any liability for fraudulent misrepresentation.
- 16.8 **Third Party Rights.** A person who is not party to this Agreement has no right under the Contract (Rights of Third Parties) Act 1999 to enforce any of its terms.
- 16.9 **Further Assurance.** Each party shall, at the cost and request of any other party, execute and deliver such instruments and documents and take such other actions in each case as may be reasonably requested from time to time in order to give full effect to its obligations under this Agreement.

## BÁO CÁO THỬ NGHIỆM

SỐ: VNMT20009541

2. Thử nghiệm hàm lượng amin thơm chuyển hóa từ thuốc nhuộm azo trong sản phẩm dệt may  
 Theo EN 14362-1: 2012  
 Theo EN 14362-3: 2012

Mẫu thử nghiệm: (A) Áo lót nữ D 179 WHP/ LZ (16-5666)

TT	Danh mục hóa chất	Số CAS	Giới hạn	Kết quả (mg/kg)
1.	Biphenyl-4-ylamin/ 4-aminobiphenyl xenylamin	92-67-1	30	<5
2.	Benzidin	92-87-5	30	<5
3.	4-clo-o-toluidin	95-69-2	30	<5
4.	2-naphtylamin	91-59-8	30	<5
5.	o-aminoazotoluen/ 4-amino-2',3'-dimetylazobenzen/ 4-o-tolylazo-o-toluidin	97-56-3	30	<5
6.	5-Nitro-o-toluidin	99-55-8	30	<5
7.	4-cloanilin	106-47-8	30	<5
8.	4-metoxi-m-phenylendiamin	615-05-4	30	<5
9.	4,4'-diaminobiphenylmetan/ 4,4'-metylendianilin	101-77-9	30	<5
10.	3,3-diclobenzidin/ 3,3'-diclobiphenyl-4,4'-ylendiamin	91-94-1	30	<5
11.	3,3'-dimetoxybenzidin/ o-dianisidin	119-90-4	30	<5
12.	3,3'-dimetylbenzidin/4,4'-bi-o-toluidin	119-93-7	30	<5
13.	4,4'-metylendi-o-toluidin	838-88-0	30	<5
14.	6-metoxi-m-toluidin/ p-cresidin	120-71-8	30	<5
15.	4,4'-metylen-bis-(2-clo-anilin)	101-14-4	30	<5
16.	4,4'-oxydianilin	101-80-4	30	<5
17.	4,4'-thiodianilin	139-65-1	30	<5
18.	o-toluidin/ 2-aminotoluen	95-53-4	30	<5
19.	4-metyl-m-phenylendiamin	95-80-7	30	<5
20.	2,4,5-trimetylanilin	137-17-7	30	<5
21.	o-anisidin/ 2-metoxyanilin	90-04-0	30	<5
22.	4-aminoazobenzen	60-09-3	30	<5



These terms and conditions, together with any proposal, estimate or fee quote, form the agreement between you (the Client) and the Intertek entity (Intertek) providing the services contemplated therein.

**1. INTERPRETATION**

- 1.1 In this Agreement, the following words and phrases shall have the following meanings unless the context otherwise requires:
- (a) **Agreement** means this agreement entered into between Intertek and the Client;
- (b) **Charges** shall have the meaning given in Clause 5.3;
- (c) **Confidential Information** means all information in whatever form or manner presented which: (a) is disclosed pursuant to, or in the course of the provision of Services pursuant to, this Agreement; and (b) is disclosed in writing, electronically, visually, orally or otherwise howsoever and is marked, stamped or identified by any means as confidential by the disclosing party at the time of disclosure; and (c) is information, howsoever disclosed, which would reasonably be considered to be confidential by the receiving party;
- (d) **Intellectual Property Rights** means copyrights, trademarks (registered or unregistered), patents, patents applications (including the right to apply for a patent), service marks, design rights (registered or unregistered), trade secrets and other like rights howsoever existing
- (e) **Reports** shall have the meaning given in Clause 2.3;
- (f) **Services** means the services set out in any relevant Intertek Proposal, any relevant Client purchase order, or any relevant Intertek invoice, as applicable, and may comprise or include the provision by Intertek of a Report;
- (g) **Proposal** means the proposal, estimate or fee quote, if applicable, provided to the Client by Intertek relating to the Services;
- 1.2 The headings in this Agreement do not affect its interpretation.

**2. THE SERVICES**

- 2.1 Intertek shall provide the Services to the Client in accordance with the terms of this Agreement which is expressly incorporated into any Proposal Intertek has made and submitted to the Client.
- 2.2 In the event of any inconsistency between the terms of this Agreement and the Proposal, the terms of the Proposal shall take precedence.
- 2.3 The Services provided by Intertek under this Agreement and any memoranda, laboratory data, calculations, measurements, estimates, notes, certificates and other material prepared by Intertek in the course of providing the Services to the Client, together with status summaries or any other communication in any form describing the results of any work or services performed (Report(s)) shall be only for the Client's use and benefit.
- 2.4 The Client acknowledges and agrees that if in providing the Services Intertek is obliged to deliver a Report to a third party, Intertek shall be deemed irrevocably authorised to deliver such Report to the applicable third party. For the purposes of this clause an obligation shall arise on the instructions of the Client, or where, in the reasonable opinion of Intertek, it is implicit from the circumstances, trade, custom, usage or practice.
- 2.5 The Client acknowledges and agrees that any Services provided and/or Reports produced by Intertek are done so within the limits of the scope of work agreed with the Client in relation to the Proposal and pursuant to the Client's specific instructions or, in the absence of such instructions, in accordance with any relevant trade custom, usage or practice. The Client further agrees and acknowledges that the Services are not necessarily designed or intended to address all matters of quality, safety, performance or condition of any product, material, services, systems or processes, inspected or certified, and the scope of work does not necessarily reflect all standards which may apply to product, material, services, systems or processes tested, inspected or certified. The Client understands that reliance on any Reports issued by Intertek is limited to the facts and representations set out in the Reports which represent Intertek's review and/or analysis of facts, information, documents, samples and/or other materials in existence at the time of the performance of the Services only. Client is responsible for ensuring that the Reports are used for their intended purpose. Neither Intertek nor any of its officers, employees, agents or subcontractors shall be liable to Client nor any third party for any actions taken or not taken on the basis of such Reports.
- 2.6 In agreeing to provide the Services pursuant to this Agreement, Intertek does not abridge, abrogate or undertake to discharge any duty or obligation of the Client to any other person or any duty or obligation of any person to the Client.

**3. INTERTEK'S WARRANTIES**

- 3.1 Intertek warrants exclusively to the Client:
- (a) that it has the power and authority to enter into this Agreement and that it will comply with relevant legislations and regulations in force as at the date of this Agreement in relation to the provision of the Services;
- (b) that the Services will be performed in a manner consistent with that level of care and skill ordinarily exercised by other companies providing like services under similar circumstances;
- (c) that it will take reasonable steps to ensure that the Client's premises its personnel comply with any health and safety rules and regulations and other reasonable security requirements made known to Intertek by the Client in accordance with Clause 4.3(i);
- (d) that the Reports produced in relation to the Services will not infringe any legal rights (including Intellectual Property Rights) of any third party. This warranty shall not apply where the infringement is directly or indirectly caused by Intertek's reliance on any information, samples or other related documents provided to Intertek by the Client (or any of its agents or representatives).
- 3.2 In the event of a breach of the warranty set out in Clause 3.1 (b), Intertek shall, at its own expense, perform services of the type originally performed as may be reasonably required to correct any defect in Intertek's performance.
- 3.3 Intertek makes no other warranties, express or implied. All other warranties, conditions and other terms implied by statute or common law (including but not limited to any implied warranties of fitness for purpose) are, to the fullest extent permitted by law, excluded from this Agreement. No performance, deliverable, oral or other information or advice provided by Intertek (including its agents, sub-contractors, employees or other representatives) will create a warranty or otherwise increase the scope of any warranty provided.

**4. CLIENT WARRANTIES AND OBLIGATIONS**

- 4.1 The Client represents and warrants:
- (a) that it has the power and authority to enter into this Agreement and procure the provision of the Services for itself;
- (b) that it is securing the provision of the Services hereunder for its own account and not as an agent or broker, or in any other representative capacity, for any other person or entity;
- (c) that any information, samples and related documents it (or any of its agents or representatives) supplies to Intertek (including its agents, sub-contractors and employees) are true, correct and complete in all material respects in every respect. The Client further acknowledges that Intertek will rely on such information, samples or other related documents and materials provided by the Client (without any duty to confirm or verify the accuracy or completeness thereof) in order to provide the Services;
- (d) that any samples provided by the Client to Intertek will be shipped pre-paid and will be collected or disposed of by the Client (at the Client's cost) within the time period necessary for the Services to be performed. Any samples or other related documents which are not collected or disposed of by the Client within the required thirty (30) days period, Intertek reserves the right to destroy the samples, at the Client's cost; and
- (e) that any information, samples or other related documents (including without limitation certificates and reports) provided by the Client to Intertek will not, in any way, infringe any legal rights (including Intellectual Property Rights) of any third party.
- 4.2 In the event that the Services provided relate to any third party, the Client shall cause any such third party to acknowledge and agree to the provisions in this Agreement and the Proposal prior to and as a condition precedent to such third party receiving any Reports or the benefit of any Services.
- 4.3 The Client further warrants and agrees:
- (a) to co-operate with Intertek in all matters relating to the Services and appoint a manager in relation to the Services who shall be duly authorised to provide instructions to Intertek on behalf of the Client and to bind the Client contractually as required;
- (b) to provide Intertek (including its agents, sub-contractors and employees), at its own expense, any and all samples, information, material or other documents necessary for the Services in a timely manner sufficient to enable Intertek to provide the Services in accordance with this Agreement. The Client acknowledges that any samples provided may become damaged or be destroyed in the course of testing as part of the necessary testing process and undertakes to hold Intertek harmless from any and all responsibility for such alteration, damage or destruction;
- (c) that it is responsible for providing the samples/equipment to be tested together, where appropriate, with any specified additional items, including but not limited to connecting pieces, fuse-links, etc;
- (d) to provide instructions and feedback to Intertek in a timely manner;
- (e) to provide Intertek (including its agents, sub-contractors and employees) with access to its premises as may be reasonably required for the provision of the Services and to ensure that the Client's premises at which the Services are to be provided;
- (f) prior to Intertek attending any premises for the performance of the Services to inform Intertek of all applicable health and safety rules and regulations and other reasonable security requirements that may apply at any relevant premises at which the Services are to be provided;
- (g) to notify Intertek promptly of any risk, safety issues or incidents in respect of any item delivered by the Client, or any process or systems used at its premises, which may affect the provision of the Services;
- (h) to inform Intertek in advance of any applicable import/export restrictions that may apply to the Services to be provided, including any instances where any products, information or technology may be exported/imported to or from a country that is restricted or banned from such transaction;
- (i) in the event of the issuance of a certificate, to inform and advise Intertek immediately of any changes during the term of the certificate which may have a material impact on the accuracy of the certification;
- (j) to obtain and maintain all necessary licenses and consents in order to comply with relevant legislation and regulation in relation to the Services;
- (k) that it will not use any Reports issued by Intertek pursuant to this Agreement in a misleading manner and that it will only distribute such Reports in their original form;
- (l) in no event, will the contents of any Reports or any extracts, excerpts or parts of any Reports be distributed or published without the prior written consent of Intertek (such consent not to be unreasonably withheld) in each instance; and
- (m) that any and all advertising and promotional materials or any statements made by the Client will not give a false or misleading impression to any third party that furnishes the services provided by Intertek.
- 4.4 Intertek shall be neither in breach of this Agreement nor liable to the Client for any breach of this Agreement if and to the extent that its breach is a direct result of a failure by the Client to comply with its obligations as set out in this Clause 4. The Client also acknowledges that the impact of any failure by the Client to perform its obligations set out herein on the provision of the Services by Intertek will not affect the Client's obligations under this Agreement for payment of the Charges pursuant to Clause 5 below.

**5. CHARGES, INVOICING AND PAYMENT**

- 5.1 The parties agree that the Services are provided on the terms and subject to the conditions set out or referred to in this Agreement, and that this Agreement shall take precedence over any terms and conditions which the Client has provided or may in the future provide to Intertek, whether in a purchase order or any other document.
- 5.2 Unless acceptance of this Agreement by the Client occurs at an earlier time, submission of samples or any other testing material from the Client to Intertek shall constitute the Client's acceptance of this Agreement.
- 5.3 The Client shall pay Intertek the charges set out in the Proposal, if applicable, or as otherwise contemplated for provision of the Services (the Charges).
- 5.4 If pricing factors, such as salaries and/or rates are subject to change between the conclusion date of the Contract and the completion date of the Contract, Intertek has the right to adjust the Charges.
- 5.5 The Charges are expressed exclusive of any applicable taxes. The Client shall pay any applicable taxes on the Charges at the rate and in the manner prescribed by law, on the issue by Intertek of a valid invoice.
- 5.6 The Client agrees that it will reimburse Intertek for any expenses incurred by Intertek relating to the provision of the Services and is wholly responsible for any freight or other charges relating to any testing samples.
- 5.7 The Charges represent the total fees to be paid by the Client for the Services pursuant to this Agreement. Any additional work performed by Intertek will be charged on a time and material basis.
- 5.8 Intertek shall invoice the Client for the Charges and expenses, if any. For Services provided over the course of a period of greater than thirty (30) days the Client agrees that at the end of each calendar month Intertek will issue an invoice for the cost of the Services provided in the month. A final invoice will be issued on the date of the completion of the Services.
- 5.9 The Client is required to pay all invoiced amounts without any deduction, discount or set-off no later than thirty (30) days after the invoice date. No deduction for bank charges incurred can be made. Payments, which must be denominated in the currency indicated in the invoice, must be made by means of money transfer to a bank account designated by Intertek.
- 5.10 Intertek will issue an electronic invoice to the Client. An electronic invoice may be sent by email and will be deemed to have been delivered to the Client upon receipt of such email. Intertek is under no obligation to fulfil any request by the Client for a paper copy to be sent by post. Any invoice sent by post will include a £25 administration fee and the paper invoice must be paid by the Client within the credit terms referred to in 5.9 above.
- 5.11 If Intertek believes that the Client's financial position and/or payment performance justifies such action, Intertek has the right to demand that the Client immediately furnish security or additional security in a form to be determined by Intertek and/or make an advance payment. If the Client fails to furnish the desired security, Intertek has the right, without prejudice to its other rights, to immediately suspend the further execution of all or any part of the Services, and any Charges for any part of the Services which has already been performed shall become immediately due and payable.
- 5.12 If the Client fails to pay within the period referred to in 5.9 above, it is in default of its payment obligations and this Agreement after having been reminded by Intertek at least once that payment is due within a reasonable period. In that case, the Client is liable to pay interest on the credit balance with effect from the date on which the payment became due until the date of payment. The interest rate applied is deemed to be the Joint Stock Commercial Bank for Foreign Trade of Vietnam (Vietcombank) base rate plus 5%. In addition, all collection costs incurred after the Client's default, both judicial and extrajudicial, are for the Client's account. The extrajudicial costs are set at an amount equal to at least 10% of the total amount of the invoice, without prejudice to Intertek's right to collect the actual extrajudicial costs in excess of this amount. The judicial costs comprise all costs incurred by Intertek, even if they exceed the Joint Stock Commercial Bank for Foreign Trade of Vietnam (Vietcombank) base rate.
- 5.13 If the Client objects to the contents of the invoice, details of the objection must be raised with Intertek within seven (7) days of receipt of electronic invoice with supporting evidence. If the Client's objections have been accepted, any such objections do not exempt the Client from its obligation to pay within the period referred to in 5.9 above.
- 5.14 Any request by the Client for certain information to be included in or appended to the invoice must be made at the time of setting out the Proposal. A later request by the Client for changes to the agreed format of the invoice or supplementary information will not discharge the Client from its obligation to pay within the period referred to in 5.9 above. Intertek reserves the right to charge a £25 administration fee per invoice for issuing additional copies of invoices or amending invoice detail, format or structure from that agreed in the Proposal. Intertek maintains the right to reject such an invoicing amendment request and such a rejection by Intertek of the Client's request will not exempt the Client from its obligation to pay within the period referred to in 5.9 above.
- 5.15 If actions by the Client delay completion of the Services, Intertek has the right to invoice the Client for the cost of all Services provided to date. In such a scenario the Client agrees to pay this invoice within thirty (30) days of the invoice date.

**6. INTELLECTUAL PROPERTY RIGHTS AND DATA PROTECTION**

- 6.1 All Intellectual Property Rights belonging to a party prior to entry into this Agreement shall remain vested in that party. Nothing in this Agreement is intended to transfer any Intellectual Property Rights from either party to the other.
- 6.2 Any use by the Client (or the Client's affiliated companies or subsidiaries) of the name "Intertek" or any of Intertek's trademarks or brand names

- for any reason must be prior approved in writing by Intertek. Any other use of Intertek's trademarks or brand names is strictly prohibited and Intertek reserves the right to terminate this Agreement immediately as a result of any such unauthorised use.
- 6.3 All Intellectual Property Rights in any Reports, documents, graphs, charts, photographs or any other material (in whatever medium) produced by Intertek pursuant to this Agreement shall belong to Intertek. The Client shall have the right to use any such Reports, documents, graphs, charts, photographs or other material for the purposes of this Agreement.
- 6.4 The Client agrees and acknowledges that Intertek retains any and all proprietary rights in concepts, ideas and inventions that may arise during the preparation or provision of any Report (including any deliverables provided by Intertek to the Client) and the provision of the Services to the Client. Both parties shall observe all statutory provisions with regard to data protection including but not limited to the provisions of the General Data Protection Regulation 2016/679 ("GDPR") and shall comply with all applicable requirements of the GDPR. To the extent that Intertek processes personal data in connection with the Services or otherwise in connection with this Agreement, it shall take all necessary measures to ensure the security of such data (and to guard against unauthorised or unlawful processing, accidental loss, destruction or damage to such data) in line with the GDPR.

**7. CONFIDENTIALITY**

- 7.1 Where a party (the Receiving Party) obtains Confidential Information of the other party (the Disclosing Party) in connection with this Agreement (whether before or after the date of this Agreement) it shall, subject to Clauses 7.2 to 7.4:
- (a) keep that Confidential Information confidential, by applying the standard of care that it uses for its own Confidential Information;
- (b) use that Confidential Information only for the purposes of performing obligations under this Agreement; and
- (c) not disclose that Confidential Information to any third party without the prior written consent of the Disclosing Party.
- 7.2 The Receiving Party may disclose the Disclosing Party's Confidential Information on a "need to know" basis:
- (a) to any legal advisers and statutory auditors that it has engaged for itself;
- (b) to any regulator having regulatory or supervisory authority over its business;
- (c) to any director, officer or employee of the Receiving Party provided that, in each case, the Receiving Party has first advised that person of the obligations under Clause 7.1 and ensured that the person is bound by obligations of confidence in respect of the Confidential Information no less onerous than those set out in this Clause 7; and
- (d) to any subcontractors of the Receiving Party.
- 7.3 The provisions of Clauses 7.1 and 7.2 shall not apply to any Confidential Information which:
- (a) was already in the possession of the Receiving Party prior to its receipt from the Disclosing Party without restriction on its use or disclosure; or
- (b) is or becomes public knowledge other than by breach of this Clause 6.6;
- (c) was lawfully acquired by the Receiving Party from a third party who lawfully acquired it and who is under no obligation restricting its disclosure; or
- (d) is independently developed by the Receiving Party without access to the relevant Confidential Information.
- 7.4 The Receiving Party may disclose Confidential Information of the Disclosing Party to the extent required by law, any regulatory authority or the rules of any stock exchange on which the Receiving Party is listed, provided that the Receiving Party has given the Disclosing Party a reasonable opportunity to prevent the disclosure through appropriate legal means.
- 7.5 Each party shall ensure the compliance by its employees, agents and representatives (which, in the case of Intertek, includes procuring the same from any sub-contractors) with its obligations under this Clause 7.
- 7.6 Confidential Information by the Disclosing Party is given in respect of any Confidential Information solely by the disclosure of such Confidential Information by the Disclosing Party.
- 7.7 With respect to archival storage, the Client acknowledges that Intertek may retain in its archive for the period required by its quality and assurance processes, or by the testing and certification rules of the relevant accreditation body, all materials necessary to document the Services provided.

**8. AMENDMENT**

- 8.1 No amendment to this Agreement shall be effective unless it is in writing, expressly stated to amend this Agreement and signed by an authorised signatory of each party.

**9. FORCE MAJEURE**

- 9.1 Neither party shall be liable to the other for any delay in performing or failure to perform an obligation under this Agreement to the extent that such delay or failure to perform is a result of:
- (a) either or both of war, civil war, riots, revolution, acts of terrorism, military action, sabotage and/or piracy;
- (b) natural disasters such as violent storms, earthquakes, tidal waves, floods and/or lightning; explosions and fires;
- (c) strikes and labour disputes, other than by any one or more employees of the affected party or of any supplier or agent of the affected party; or
- (d) forces of utilities companies such as providers of telecommunication, internet, gas or electricity services.
- 9.2 For avoidance of doubt, where the affected party is Intertek any failure or delay caused by failure or delay on the part of a subcontractor shall only be a Force Majeure Event (as defined below) where the subcontractor is affected by one of the events described above.
- 9.3 A party whose performance is affected by an event described in Clause 9.1 (a Force Majeure Event) shall:
- (a) promptly notify the other party in writing of the Force Majeure Event and the cause and the likely duration of any consequential delay or non-performance of its obligations;
- (b) use all reasonable endeavours to avoid or mitigate the effect of the Force Majeure Event and continue to perform or resume performance of its affected obligations as soon as reasonably possible; and
- (c) continue to provide Services that remain unaffected by the Force Majeure Event.
- 9.4 If the Force Majeure Event continues for more than sixty (60) days after the day on which it started, each party may terminate this Agreement by giving at least ten (10) days' written notice to the other party.

**10. LIMITATIONS AND EXCLUSIONS OF LIABILITY**

- 10.1 Neither party excludes or limits liability to the other party:
- (a) for death or personal injury resulting from negligence of that party or its directors, officers, employees, agents or sub-contractors; or
- (b) for its own fraud (or that of its directors, officers, employees, agents or sub-contractors);
- 10.2 Subject to clause 10.1, the maximum aggregate liability of Intertek in contract, tort (including negligence and breach of statutory duty) or otherwise for any breach of this agreement or any matter arising out of or in connection with the services to be provided in accordance with this agreement shall not exceed the amount of charges due by the client to Intertek under this agreement.
- 10.3 Subject to clause 10.1, neither party shall be liable to the other in contract, tort (including negligence and breach of statutory duty) or otherwise for any:
- (a) loss of profits;
- (b) loss of sales or business;
- (c) loss of opportunity (including without limitation in relation to third party agreements or contracts);
- (d) loss of or damage to goodwill or reputation;
- (e) loss of anticipated savings;
- (f) cost or expenses incurred in relation to making a product recall;
- (g) loss of or corruption of software, data or information; or
- (h) any indirect, consequential loss, punitive or special loss (even when advised of their possibility).
- 10.4 Any claim by the client against Intertek (always subject to the provisions of this clause 10) must be made within ninety (90) days after the claim becomes aware of any circumstances giving rise to any such claim. Failure to give such notice of claim within ninety (90) days shall constitute a bar to any claim, either directly or indirectly, in contract, tort or otherwise in connection with the provision of services under this agreement.

**11. INDEMNITY**

- 11.1 The Client shall indemnify and hold harmless Intertek, its officers, employees, agents, representatives, contractors and sub-contractors from and against any and all claims, suits, liabilities (including costs of litigation and attorney's fees) arising, directly or indirectly, out of or in connection with:
- (a) any claims or suits by any governmental authority or others for any actual or asserted failure of the Client to comply with any law, ordinance, regulation, rule or order of any governmental or judicial authority;
- (b) claims or suits for personal injuries, loss of or damage to property, economic loss, and loss of or damage to Intellectual Property Rights incurred by or occurring to or relating to any third party's use of or reliance on any Reports or other materials provided by Intertek, its officers, employees, agents, representatives, contractors or sub-contractors;
- (c) the breach of any alleged breach by the Client of any of its obligations set out in Clause 4 above;
- (d) any claims made by any third party for loss, damage or expense of whatsoever nature and howsoever arising relating to the performance, non-performance or termination of any Services to the extent that the aggregate of any such claims relating to any one Service exceeds the limit of liability set out in Clause 10 above;
- (e) any claims or suits arising as a result of any misuse or unauthorised use of any Reports issued by Intertek or any Intellectual Property Rights belonging to Intertek (including trade marks) pursuant to this Agreement; and
- (f) any claims arising out of or relating to any third party's use of or reliance on any Reports or any reports, analyses, conclusions of the Client (or any third party to whom the Client has provided the Reports) based in whole or in part on the Reports, if applicable.

**12. INSURANCE POLICIES**

- 12.1 Each party shall be responsible for the arrangement and costs of its own company insurance which includes, without limitation, professional liability, motor, fire, marine, liability, motor, insurance and property insurance.
- 12.2 Intertek expressly disclaims any liability to the Client as an insurer or guarantor.
- 12.3 The Client acknowledges that although Intertek maintains employer's liability insurance, such insurance does not cover any employees of the Client or any third parties who may be involved in the provision of the Services. If the Services are to be performed at premises belonging to the Client or third parties, Intertek's employer's liability insurance does not provide cover for non-Intertek employees.

**13. TERMINATION**

- 13.1 This Agreement shall commence upon the first day on which the Services are commenced and shall continue, unless terminated earlier in accordance with this Clause 13, until the Services have been provided.
- 13.2 This Agreement may be terminated by:
- (a) either party if the other continues in material breach of any obligation imposed upon it hereunder for more than thirty (30) days after written notice has been dispatched by that Party by recorded delivery or courier requesting the other to remedy such breach;
- (b) Intertek on written notice to the Client in the event that the Client fails to pay any invoice by its due date and/or fails to make payment after a further request for payment; or
- (c) either party on written notice to the other in the event that the other makes any voluntary arrangement with its creditors or becomes subject to a receivership order or (being an individual or firm) becomes bankrupt or (being a company) goes into liquidation (otherwise than for the purposes of a solvent amalgamation or reconstruction) or an encumbrancer takes possession, or a receiver is appointed, of any of the property or assets of the other or the other ceases, or threatens to cease, to carry on business.
- 13.3 In the event of termination of the Agreement for any reason and without prejudice to any other rights or remedies the parties may have, the Client shall pay Intertek for all Services performed up to the date of termination. This obligation shall survive termination or expiration of this Agreement.
- 13.4 Any termination or expiration of the Agreement shall not affect the accrued rights and obligations of the parties nor shall it affect any provision which is expressly or by implication intended to come into force or continue in force on or after such termination or expiration.

**14. ASSIGNMENT AND SUB-CONTRACTING**

- 14.1 Intertek reserves the right to delegate the performance of its obligations hereunder and the provision of the Services to one or more of its affiliates and/or sub-contractors when necessary. Intertek may also assign this Agreement to any company within the Intertek group on notice to the Client.

**15. GOVERNING LAW AND DISPUTE RESOLUTION**

- 15.1 This Agreement and the Proposal shall be governed by Vietnam law. The parties agree to submit to the exclusive jurisdiction of the Vietnam Courts and to any arbitration or claim proceedings or in connection with this Agreement (including any non-contractual claim relating to the provision of the Services in accordance with this Agreement).

**16. MISCELLANEOUS**

- 16.1 **Severability.** If any provision of this Agreement is or becomes invalid, illegal or unenforceable, such provision shall be severed and the remainder of the provisions shall continue in full force and effect as if this Agreement had been executed without the invalid illegal or unenforceable provision. If the invalidity, illegality or unenforceability is so fundamental that it prevents the accomplishment of the purpose of this Agreement, Intertek and the Client shall immediately commence good faith negotiations to agree an alternative arrangement.
- 16.2 **No partnership or agency.** Nothing in this Agreement and no action taken by the parties under this Agreement shall constitute a partnership, association, joint venture or other co-operative entity between the parties or constitute any party the partner, agent or legal representative of the other party.
- 16.3 **Waivers.** Subject to Clause 10.4 above, the failure of any party to insist upon strict performance of any provision of this Agreement, or to exercise any right or remedy to which it is entitled, shall not constitute a waiver and shall not cause a diminution of the obligations established by this Agreement. A waiver of any breach shall not constitute a waiver of any subsequent breach.
- 16.4 **No waiver of any right or remedy** under this Agreement shall be effective unless it is expressly stated to be a waiver and communicated to the other party in writing.
- 16.5 **Whole Agreement.** This Agreement and the Proposal contain the whole agreement between the parties relating to the transactions contemplated by this agreement and supersedes all previous agreements, arrangements and understandings between the parties relating to those transactions or that subject matter. No purchase order, statement or other similar document will add to or vary the terms of this Agreement.
- 16.6 **Entire Agreement.** Except those set out in entering into this Agreement it has not relied on any representation, warranty, collateral contract or other assurance (except those set out or referred to in this Agreement) made by or on behalf of any of the parties before the acceptance, signature of this Agreement. Each party waives all rights and remedies that, but for this Clause, might otherwise be available to it in respect of any such representation, warranty, collateral contract or other assurance.
- 16.7 **Nothing in this Agreement** limits or excludes any liability for fraudulent misrepresentation.
- 16.8 **Third Party Rights.** A person who is not party to this Agreement has no right under the Contract (Rights of Third Parties) Act 1999 to enforce any of its terms.
- 16.9 **Further Assurance.** Each party shall, at the cost and request of any other party, execute and deliver such instruments and documents and take such other actions in each case as may be reasonably requested from time to time in order to give full effect to its obligations under this Agreement.

NGÀY: 11/03/2020

## BÁO CÁO THỬ NGHIỆM

SỐ: VNMT20009541

Mẫu thử nghiệm: (B) Áo lót nữ T-Shirt Bra 140 WHP 01/ 04 (16A6487)

TT	Danh mục hóa chất	Số CAS	Giới hạn	Kết quả (mg/kg)
1.	Biphenyl-4-ylamin/ 4-aminobiphenyl xenylamin	92-67-1	30	<5
2.	Benzidin	92-87-5	30	<5
3.	4-clo-o-toluidin	95-69-2	30	<5
4.	2-naphtylamin	91-59-8	30	<5
5.	o-aminoazotoluen/ 4-amino-2',3-dimetylazobenzen/ 4-o-tolyazo-o-toluidin	97-56-3	30	<5
6.	5-Nitro-o-toluidin	99-55-8	30	<5
7.	4-cloanilin	106-47-8	30	<5
8.	4-metoxy-m-phenylendiamin	615-05-4	30	<5
9.	4,4'-diaminobiphenylmetan/ 4,4'-metylendianilin	101-77-9	30	<5
10.	3,3-diclobenzidin/ 3,3'-diclobiphenyl-4,4'-ylendiamin	91-94-1	30	<5
11.	3,3'-dimetoxybenzidin/ o-dianisidin	119-90-4	30	<5
12.	3,3'-dimetylbenzidin/4,4'-bi-o-toluidin	119-93-7	30	<5
13.	4,4'-metylendi-o-toluidin	838-88-0	30	<5
14.	6-metoxy-m-toluidin/ p-cresidin	120-71-8	30	<5
15.	4,4'-metylen-bis-(2-clo-anilin)	101-14-4	30	<5
16.	4,4'-oxydianilin	101-80-4	30	<5
17.	4,4'-thiodianilin	139-65-1	30	<5
18.	o-toluidin/ 2-aminotoluen	95-53-4	30	<5
19.	4-metyl-m-phenylendiamin	95-80-7	30	<5
20.	2,4,5-trimetylanilin	137-17-7	30	<5
21.	o-anisidin/ 2-metoxyanilin	90-04-0	30	<5
22.	4-aminoazobenzen	60-09-3	30	<5



These terms and conditions, together with any proposal, estimate or fee quote, form the agreement between you (the Client) and the Intertek entity (Intertek) providing the services contemplated therein.

**1. INTERPRETATION**

- 1.1 In this Agreement, the following words and phrases shall have the following meanings unless the context otherwise requires:
  - (a) **Agreement** means this agreement entered into between Intertek and the Client;
  - (b) **Charges** shall have the meaning as in Clause 5.3;
  - (c) **Confidential Information** means all information in whatever form or manner presented which: (a) is disclosed pursuant to, or in the course of the provision of Services pursuant to, this Agreement; and (b) is disclosed in writing, electronically, visually, orally or otherwise howsoever and is marked, stamped or identified by any means as confidential by the Client at the time of such disclosure; and (c) is information, howsoever disclosed, which would reasonably be considered to be confidential by the receiving party.
  - (d) **Intellectual Property Rights** means copyrights, trademarks (registered or unregistered), patents, patents applications (including the right to apply for a patent), service marks, design rights (registered or unregistered), trade secrets and other like rights howsoever existing
  - (e) **Reports** shall have the meaning as in Clause 2.7.
  - (f) **Services** means the services set out in any relevant Intertek Proposal, any relevant Client purchase order, or any relevant Intertek invoice, as applicable, and may comprise or include the provision by Intertek of a Report;
  - (g) **Proposal** means the proposal, estimate or fee quote, if applicable, provided to the Client by Intertek relating to the Services;
- 1.2 The headings in this Agreement do not affect its interpretation.

**2. THE SERVICES**

- 2.1 Intertek shall provide the Services to the Client in accordance with the terms of this Agreement which is expressly incorporated into any Proposal Intertek has made and submitted to the Client.
- 2.2 In the event of any inconsistency between the terms of this Agreement and the Proposal, the terms of the Proposal shall take precedence.
- 2.3 The Services provided by Intertek under this Agreement and any memoranda, laboratory data, calculations, measurements, estimates, notes, certificates and other material prepared by Intertek in the course of providing the Services to the Client, together with status summaries or any other communication in any form describing the results of any work or services performed (Reports) shall be only for the Client's use and benefit.
- 2.4 The Client acknowledges and agrees that in providing the Services Intertek is obliged to deliver a Report to a third party. Intertek shall be deemed irrevocably authorised to deliver such Report to the applicable third party. For the purposes of this clause an obligation shall arise on the instructions of the Client, or where, in the reasonable opinion of Intertek, it is implicit from the circumstances, trade, custom, usage or practice.
- 2.5 The Client acknowledges and agrees that any Services provided and/or Reports produced by Intertek are done so within the limits of the scope of work agreed with the Client in relation to the Proposal and pursuant to the Client's specific instructions or, in the absence of such instructions, in accordance with any relevant trade custom, usage or practice. The Client further agrees and acknowledges that the Services are not necessarily designed or intended to address all matters of quality, safety, performance or condition of any product, material, services, systems or processes tested, inspected or certified and the scope of work does not necessarily reflect all standards which may apply to product, material, services, systems or processes tested, inspected or certified. The Client understands that reliance on any Reports issued by Intertek is limited to the facts and representations set out in the Reports which represent Intertek's review and/or analysis of facts, information, documents, samples and/or other materials in existence at the time of the performance of the Services only. Client is responsible for ensuring that the Reports and other Intertek nor any of its officers, employees, agents or subcontractors shall be liable to Client nor any third party for any actions taken or not taken on the basis of the Reports.
- 2.7 In agreeing to provide the Services pursuant to this Agreement, Intertek does not abridge, abrogate or undertake to discharge any duty or obligation of the Client to any other person or any duty or obligation of any person to the Client.

**3. INTERTEK'S WARRANTIES**

- 3.1 Intertek warrants exclusively to the Client:
  - (a) that it has the power and authority to enter into this Agreement and that it will comply with relevant legislations and regulations in force as at the date of this Agreement in relation to the provision of the Services;
  - (b) that the Services will be performed in a manner consistent with that level of care and skill ordinarily exercised by other companies providing like services under similar circumstances;
  - (c) that it will take reasonable steps to ensure that whilst on the Client's premises its personnel comply with any health and safety rules and regulations and other reasonable security requirements made known to Intertek by the Client in accordance with Clause 4.3(f);
  - (d) that the Reports produced in relation to the Services will not infringe any legal rights (including Intellectual Property Rights) of any third party. This warranty shall not apply where the infringement is directly or indirectly caused by Intertek's reliance on any information, samples or other related documents provided to Intertek by the Client (or any of its agents or representatives).
- 3.2 In the event of a breach of the warranty set out in Clause 3.1 (b), Intertek shall, at its own expense, perform services of the type originally performed as may be reasonably required to correct any defect in Intertek's performance.
- 3.3 Intertek makes no other warranties, express or implied. All other warranties, conditions and other terms implied by statute or common law (including but not limited to any implied warranties of merchantability and fitness for purpose) are, to the fullest extent permitted by law, excluded from this Agreement. No performance, deliverable, oral or other information or advice provided by Intertek (including its agents, sub-contractors, employees or other representatives) will create a warranty or otherwise increase the scope of any warranty provided.

**4. CLIENT WARRANTIES AND OBLIGATIONS**

- 4.1 The Client represents and warrants:
  - (a) that it has the power and authority to enter into this Agreement and procure the provision of the Services for itself;
  - (b) that it is securing the provision of the Services hereunder for its own account and not as an agent or broker, or in any other representative capacity, for any other person or entity;
  - (c) that any information, samples and related documents it (or any of its agents or representatives) supplies to Intertek (including its agents, sub-contractors and employees) are true, accurate and complete and is not misleading in any respect. The Client further acknowledges that Intertek will rely on such information, samples or other related documents and materials provided by the Client (without any duty to confirm or verify the accuracy or completeness thereof) in order to provide the Services;
  - (d) that any samples provided by the Client to Intertek will be shipped pre-paid and will be collected or disposed of by the Client (at the Client's cost) within the time period specified in the Report by the Client (or any of its agents or representatives) or destroyed if not collected or disposed of by the Client within the required thirty (30) day period. Intertek reserves the right to destroy the samples, at the Client's cost; and
  - (e) that any information, samples or other related documents (including without limitation certificates and reports) provided by the Client to Intertek will not, in providing the Services, infringe any Intellectual Property Rights of any third party.
- 4.2 In the event that the Services provided relate to any third party, the Client shall cause any such third party to acknowledge and agree to the provisions in this Agreement and the Proposal prior to and as a condition precedent to such third party receiving any Reports or the benefit of any Services.
- 4.3 The Client further agrees that:
  - (a) to co-operate with Intertek in all matters relating to the Services and appoint a manager in relation to the Services who shall be duly authorised to provide instructions to Intertek on behalf of the Client and to bind the Client contractually as required;
  - (b) to provide Intertek (including its agents, sub-contractors and employees), at its own expense, any and all samples, information, material or other documents necessary for Intertek to perform the Services in a timely manner sufficient to enable Intertek to provide the Services in accordance with this Agreement. The Client acknowledges that any samples provided may become damaged or destroyed in the course of testing as part of the necessary testing process and undertakes to hold Intertek harmless from any and all responsibility for such alteration, damage or destruction;
  - (c) that it is responsible for providing the samples/equipment to be tested together, where appropriate, with any specified additional items, including but not limited to connecting pieces, fuse-links, etc;
  - (d) to provide instructions and feedback to Intertek in a timely manner;
  - (e) to provide Intertek (including its agents, sub-contractors and employees) with access to its premises as may be reasonably required for the provision of the Services and to provide Intertek with the necessary health and safety information and documents in relation to the Services;
  - (f) prior to Intertek attending any premises for the performance of the Services to ensure that all applicable health and safety rules and regulations and other reasonable security requirements that may apply at any relevant premises at which the Services are to be provided; to notify Intertek promptly of any risk, safety issues or incidents in respect of any item delivered by the Client, or any process or systems used at its premises, which may be necessary for the provision of the Services;
  - (g) to inform Intertek in advance of any applicable import/export restrictions that may apply to the Services to be provided, including any instances where any products, information or technology may be exported/imported to or from a country that is restricted or banned from such transaction;
  - (h) in the event of the issuance of a certificate, to inform and advise Intertek immediately of any changes during the term of the certificate which may have a material impact on the accuracy of the certification;
  - (i) to obtain and maintain all necessary licenses and consents in order to comply with relevant legislation and regulation in relation to the Services;
  - (j) that it will not use any Reports issued by Intertek pursuant to this Agreement in a misleading manner and that it will only distribute such Reports in their intended form;
  - (k) in no event, will the contents of any Reports or any extracts, excerpts or parts of any Reports be distributed or published without the prior written consent of Intertek (such consent not to be unreasonably withheld) in each instance; and
  - (m) that any and all advertising and promotional materials or any statements made by the Client will not give a false or misleading impression to any third party, including Intertek's customers.
- 4.4 Intertek shall be neither in breach of this Agreement nor liable to the Client for any breach of this Agreement if and to the extent that its breach is a direct result of a failure by the Client to comply with its obligations as set out in this Clause 4. The Client also acknowledges that the impact of any failure by the Client to perform its obligations set out herein on the provision of the Services by Intertek will not affect the Client's obligations under this Agreement for payment of the Charges pursuant to Clause 5 below.

**5. CHARGES, INVOICING AND PAYMENT**

- 5.1 The parties agree that the Services are provided on the terms and subject to the conditions set out or referred to in this Agreement, and that this Agreement shall take precedence over any terms and conditions which the Client has provided or may in the future provide to Intertek, whether in a purchase order or any other document.
  - 5.2 Unless acceptance of this Agreement by the Client occurs at an earlier time, submission of samples or any other testing material from the Client to Intertek shall constitute acceptance of this Agreement by the Client on the date of payment. The interest rate applied in the invoice shall be the Joint Stock Commercial Bank for Foreign Trade of Vietnam (Vietcombank) base rate plus 5%. In addition, all collection costs incurred after the Client's default, both judicial and extrajudicial, are for the Client's account. The extrajudicial costs are set at an amount equal to at least 10% of the amount of the invoice, without prejudice to Intertek's right to collect the above extrajudicial costs in excess of this amount. The judicial costs comprise all costs incurred by Intertek, even if they exceed the Joint Stock Commercial Bank for Foreign Trade of Vietnam (Vietcombank) base rate.
  - 5.3 If the Client objects to the contents of the invoice, details of the objection must be raised with Intertek within seven (7) days of receipt of electronic invoice with the invoice will be deemed to have been accepted. Any such objections do not exempt the Client from its obligation to pay within the period referred to in 5.9 above.
  - 5.4 Any request by the Client for certain information to be included in or appended to the invoice must be made at the time of setting out the Proposal. A later request by the Client for changes to the agreed format of the invoice or supplementary information will not discharge the Client from its obligation to pay within the period referred to in 5.9 above. Intertek reserves the right to charge a \$25 administration fee per invoice for issuing additional copies of invoices or amending invoice detail, format or structure from that agreed in the Proposal. Intertek maintains the right to reject such an invoicing amendment request and such a rejection by Intertek of the Client's request will not exempt the Client from its obligation to pay within the period referred to in 5.9 above.
  - 5.5 If actions by the Client delay completion of the Services, Intertek reserves the right to invoice the Client for the cost of all Services provided to date. In such a scenario the Client agrees to pay this invoice within thirty (30) days of the invoice date.
- 6. INTELLECTUAL PROPERTY RIGHTS AND DATA PROTECTION**
- 6.1 All Intellectual Property Rights belonging to a party prior to entry into this Agreement shall remain vested in that party. Nothing in this Agreement is intended to transfer any Intellectual Property Rights from either party to the other.
  - 6.2 Any use by the Client (or the Client's affiliated companies or subsidiaries) of the name "Intertek" or any of Intertek's trademarks or brand names

for any reason must be prior approved in writing by Intertek. Any other use of Intertek's trademarks or brand names is strictly prohibited and Intertek reserves the right to terminate this Agreement immediately as a result of any such unauthorised use.

**6.3**

All Intellectual Property Rights in any Reports, documents, graphs, charts, photographs or any other material (in whatever medium) produced by Intertek pursuant to this Agreement shall belong to Intertek. The Client shall have the right to use any such Reports, documents, graphs, charts, photographs or other material for the purposes of this Agreement.

**6.4**

The Client agrees and acknowledges that Intertek retains any and all proprietary rights in concepts, ideas and inventions that may arise during the preparation or provision of any Report (including any deliverables provided by Intertek to the Client) and the provision of the Services to the Client. Both parties shall observe all statutory provisions with regard to data protection including but not limited to the provisions of the General Data Protection Regulation 2016/679 ("GDPR") and shall comply with all applicable requirements of the GDPR. To the extent that Intertek processes personal data in connection with the Services or otherwise in connection with this Agreement, it shall take all necessary technical and organisational measures to ensure the security of such data (and to guard against unauthorised or unlawful processing, accidental loss, destruction or damage to such data) in line with the GDPR.

**7. CONFIDENTIALITY**

- 7.1 Where a party (the Receiving Party) obtains Confidential Information of the other party (the Disclosing Party) in connection with this Agreement (whether before or after the date of this Agreement) it shall, subject to Clauses 7.2 to 7.4:
  - (a) keep that Confidential Information confidential, by applying the standard of care that it uses for its own Confidential Information; and
  - (b) use that Confidential Information only for the purposes of performing obligations under this Agreement; and
  - (c) not disclose that Confidential Information to any third party without the prior written consent of the Disclosing Party.
- 7.2 The Receiving Party may disclose the Disclosing Party's Confidential Information on a "need to know" basis:
  - (a) to any legal advisors and statutory auditors that it has engaged for itself;
  - (b) to any regulator having regulatory or supervisory authority over its business;
  - (c) to any director, officer or employee of the Receiving Party provided that, in each case, the Receiving Party has first advised that person of the obligations under Clause 7.1 and ensured that the person is bound by obligations of confidence in respect of the Confidential Information no less onerous than those set out in this Clause 7; and
  - (d) to any subcontractors.
- 7.3 The provisions of Clauses 7.1 and 7.2 shall not apply to any Confidential Information which:
  - (a) was already in the possession of the Receiving Party prior to its receipt from the Disclosing Party without restriction on its use or disclosure; or
  - (b) is or becomes public knowledge other than by breach of this Clause 6.6;
  - (c) is received by the Receiving Party from a third party who lawfully acquired it and who is under no obligation restricting its disclosure; or
  - (d) is independently developed by the Receiving Party without access to the relevant Confidential Information.
- 7.4 The Receiving Party may disclose Confidential Information of the Disclosing Party to the extent required by law, any regulatory authority or the rules of any stock exchange on which the Receiving Party is listed, provided that the Receiving Party has given the Disclosing Party the opportunity to review the Confidential Information and where possible given the Disclosing Party a reasonable opportunity to prevent the disclosure through appropriate legal means.
- 7.5 Each party shall ensure the compliance by its employees, agents and representatives (which, in the case of Intertek, includes procuring the same from any sub-contractors) with its obligations under this Clause 7.
- 7.6 No licence or Intellectual Property Rights are given in respect of any Confidential Information solely by the disclosure of such Confidential Information by the Disclosing Party.
- 7.7 With respect to archival storage, the Client acknowledges that Intertek may retain in its archive for the period required by its quality and assurance processes, or by the testing and certification rules of the relevant accreditation body, all materials necessary to document the Services provided.

**8. AMENDMENT**

8.1 No amendment to this Agreement shall be effective unless it is in writing, expressly stated to amend this Agreement and signed by an authorised signatory of each party.

**9. FORCE MAJEURE**

- 9.1 Neither party shall be liable to the other for any delay in performing or failure to perform an obligation under this Agreement to the extent that such delay or failure to perform is a result of:
  - (a) either or both of natural, civil war, riots, revolution, acts of terrorism, military action, sabotage and/or piracy;
  - (b) natural disasters such as violent storms, earthquakes, tidal waves, floods and/or lightning; explosions and fires; strikes and labour disputes, other than by any one or more employees of the affected party or of any supplier or agent of the affected party; or
  - (c) forces of utilities companies such as providers of telecommunication, internet, gas or electricity services.
- 9.2 For the avoidance of doubt, where the affected party is Intertek any failure or delay caused by failure or delay on the part of a subcontractor shall only be a Force Majeure Event (as defined below) where the subcontractor is affected by one of the events described above.
- 9.3 A party whose performance is affected by an event described in Clause 9.1 (a Force Majeure Event) shall:
  - (a) promptly notify the other party in writing of the Force Majeure Event and the cause and the likely duration of any consequential delay or non-performance of its obligations;
  - (b) use all reasonable endeavours to avoid or mitigate the effect of the Force Majeure Event and continue to perform or resume performance of its affected obligations as soon as reasonably possible; and
  - (c) continue to provide Services that remain unaffected by the Force Majeure Event.
- 9.4 If the Force Majeure Event continues for more than sixty (60) days after the day on which it started, each party may terminate this Agreement by giving at least ten (10) days' written notice to the other party.

**10. LIMITATIONS AND EXCLUSIONS OF LIABILITY**

- 10.1 Neither party excludes or limits liability to the other party:
    - (a) for death or personal injury resulting from the negligence of that party or its directors, officers, employees, agents or sub-contractors; or
    - (b) for its own fraud (or that of its directors, officers, employees, agents or sub-contractors).
  - 10.2 Subject to clause 10.1, the maximum aggregate liability of Intertek in contract, tort (including negligence and breach of statutory duty) or otherwise for any breach of this agreement or any matter arising out of or in connection with the services to be provided in accordance with this agreement shall be the amount of charges due by the client to Intertek under this agreement.
  - 10.3 Subject to clause 10.1, neither party shall be liable to the other in contract, tort (including negligence and breach of statutory duty) or otherwise for any:
    - (a) loss of profits;
    - (b) loss of sales or business;
    - (c) loss of opportunity (including without limitation in relation to third party agreements or contracts);
    - (d) loss of or damage to goodwill or reputation;
    - (e) loss of anticipated savings;
    - (f) cost or expenses incurred in relation to making a product recall;
    - (g) loss of or corruption of software, data or information; or
    - (h) any indirect, consequential loss, punitive or special loss (even when advised of their possibility).
  - 10.4 Any claim by the client against Intertek (always subject to the provisions of this clause 10) must be made within ninety (90) days after the claim becomes aware of any circumstances giving rise to any such claim. Failure to give such notice of claim within ninety (90) days shall constitute a bar to any claim, either directly or indirectly, in contract, tort or otherwise in connection with the provision of services under this agreement.
- 11. INDEMNITY**
- 11.1 The Client shall indemnify and hold harmless Intertek, its officers, employees, agents, representatives, contractors and sub-contractors from and against any and all claims, suits, liabilities (including costs of litigation and attorney's fees) arising, directly or indirectly, out of or in connection with:
    - (a) any claims or suits by any governmental authority or others for any actual or asserted failure of the Client to comply with any law, ordinance, regulation, rule or order of any governmental or judicial authority;
    - (b) claims or suits for personal injuries, loss of or damage to property, economic loss, and loss of or damage to Intellectual Property Rights arising out of or in connection with the Services provided hereunder by Intertek, its officers, employees, agents, representatives, contractors or sub-contractors;
    - (c) the breach or alleged breach by the Client of any of its obligations set out in Clause 4 above;
    - (d) any claims or alleged by any third party for loss, damage or expense of whatsoever nature and howsoever arising relating to the performance, non-performance or non-compliance of any Services to the extent that the aggregate of any such claims relating to any one Service exceeds the limit of liability set out in Clause 10 above;
    - (e) any claims or suits arising as a result of any misuse or unauthorised use of any Reports issued by Intertek or any Intellectual Property Rights belonging to Intertek (including trade marks) pursuant to this Agreement; and
    - (f) any claims arising out of or relating to any third party's use of or reliance on any Reports or any reports, analyses, conclusions of the Client (or any third party to whom the Client has provided the Reports) based in whole or in part on the Reports, if applicable.
  - 11.2 The obligations set out in this Clause 11 shall survive termination of this Agreement.

**12. INSURANCE POLICIES**

- 12.1 Each party shall be responsible for the arrangement and costs of its own company insurance which includes, without limitation, professional indemnity liability, motor insurance and property insurance.
- 12.2 Intertek expressly disclaims any liability to the Client as an insurer or guarantor.
- 12.3 The Client acknowledges that although Intertek maintains employer's liability insurance, such insurance does not cover any employees of the Client or any third parties who may be involved in the provision of the Services. If the Services are to be performed at premises belonging to the Client or third parties, Intertek's employer's liability insurance does not provide cover for non-Intertek employees.

**13. TERMINATION**

- 13.1 This Agreement shall commence upon the first day on which the Services are commenced and shall continue, unless terminated earlier in accordance with this Clause 13, until the Services have been provided.
- 13.2 This Agreement may be terminated by:
  - (a) either party if the other continues in material breach of any obligation imposed upon it hereunder for more than thirty (30) days after written notice has been dispatched by that Party by recorded delivery or courier requesting the other to remedy such breach;
  - (b) Intertek on written notice to the Client in the event that the Client fails to pay any invoice by its due date and/or fails to make payment after a further request for payment; or
  - (c) either party on written notice to the other in the event that the other makes any voluntary arrangement with its creditors or becomes subject to an administration order or (being an individual or firm) becomes bankrupt or (being a company) goes into liquidation (otherwise than for the purposes of a solvent amalgamation or reconstruction) or an encumbrancer takes possession, or a receiver is appointed, of any of the property or assets of the other or the other ceases, or threatens to cease, to carry on business.
- 13.3 In the event of termination of the Agreement for any reason and without prejudice to any other rights or remedies the parties may have, the Client shall pay to Intertek for all Services performed up to the date of termination. This obligation shall survive termination or expiration of this Agreement.
- 13.4 Any termination or expiration of the Agreement shall not affect the accrued rights and obligations of the parties nor shall it affect any provision which is expressly or by implication intended to come into force or continue in force on or after such termination or expiration.

**14. ASSIGNMENT AND SUB-CONTRACTING**

14.1 Intertek reserves the right to delegate the performance of its obligations hereunder and the provision of the Services to one or more of its affiliates and/or sub-contractors without however, Intertek may also assign this Agreement to any company within the Intertek group on notice to the Client.

**15. GOVERNING LAW AND DISPUTE RESOLUTION**

15.1 This Agreement and the Proposal shall be governed by Vietnam law. The parties agree to submit to the exclusive jurisdiction of the Vietnam Courts in the event of any dispute or claim arising out of or in connection with this Agreement (including any non-contractual claim relating to the provision of the Services in accordance with this Agreement).

**16. MISCELLANEOUS**

- 16.1 **Severability.** If any provision of this Agreement is or becomes invalid, illegal or unenforceable, such provision shall be severed and the remainder of the provisions shall continue in full force and effect as if this Agreement had been executed without the invalid illegal or unenforceable provision. If the invalidity, illegality or unenforceability is so fundamental that it prevents the accomplishment of the purpose of this Agreement, Intertek and the Client shall immediately commence good faith negotiations to agree an alternative arrangement.
- 16.2 **No partnership or agency.** Nothing in this Agreement and no action taken by the parties under this Agreement shall constitute a partnership, association, joint venture or other co-operative entity between the parties or constitute any party the partner, agent or legal representative of the other.
- 16.3 **Waivers.** Subject to Clause 10.4 above, the failure of any party to insist upon strict performance of any provision of this Agreement, or to exercise any right or remedy to which it is entitled, shall not constitute a waiver and shall not cause a diminution of the obligations established by this Agreement. A waiver of any breach shall not constitute a waiver of any subsequent breach.
- 16.4 **No waiver of any right or remedy** under this Agreement shall be effective unless it is expressly stated to be a waiver and communicated to the other party in writing.
- 16.5 **Whole Agreement.** This Agreement and the Proposal contain the whole agreement between the parties relating to the transactions contemplated by this agreement and supersedes all previous agreements, arrangements and understandings between the parties relating to those transactions or that subject matter. No purchase order, statement or other similar document will add to or vary the terms of this Agreement.
- 16.6 Each party acknowledges that in entering into this Agreement it has not relied on any representation, warranty, collateral contract or other assurance (except those set out or referred to in this Agreement) made by or on behalf of any other party before the acceptance or signature of this Agreement. Each party waives all rights and remedies that, but for this Clause, might otherwise be available to it in respect of any such representation, warranty, collateral contract or other assurance.
- 16.7 **Nothing in this Agreement** limits or excludes any liability for fraudulent misrepresentation.
- 16.8 **Third Party Right.** A person who is not party to this Agreement has no right under the Contract (Rights of Third Parties) Act 1999 to enforce any of its terms.
- 16.9 **Further Assurance.** Each party shall, at the cost and request of any other party, execute and deliver such instruments and documents and take such other actions in each case as may be reasonably requested from time to time in order to give full effect to its obligations under this Agreement.

NGÀY: 11/03/2020

**BÁO CÁO THỬ NGHIỆM**

SỐ: VNMT20009541

Mẫu thử nghiệm: (C) Áo lót nữ Fashion 468 WP/ WM (19V979)

TT	Danh mục hóa chất	Số CAS	Giới hạn	Kết quả (mg/kg)
1.	Biphenyl-4-ylamin/ 4-aminobiphenyl xenylamin	92-67-1	30	<5
2.	Benzidin	92-87-5	30	<5
3.	4-clo-o-toluidin	95-69-2	30	<5
4.	2-naphtylamin	91-59-8	30	<5
5.	o-aminoazotoluen/ 4-amino-2',3'-dimetylazobenzen/ 4-o-tolylazo-o-toluidin	97-56-3	30	<5
6.	5-Nitro-o-toluidin	99-55-8	30	<5
7.	4-cloanilin	106-47-8	30	<5
8.	4-metoxy-m-phenylendiamin	615-05-4	30	<5
9.	4,4'-diaminobiphenylmetan/ 4,4'-metylendianilin	101-77-9	30	<5
10.	3,3'-diclobenzidin/ 3,3'-diclobiphenyl-4,4'-ylendiamin	91-94-1	30	<5
11.	3,3'-dimetoxybenzidin/ o-dianisidin	119-90-4	30	<5
12.	3,3'-dimetylbenzidin/4,4'-bi-o-toluidin	119-93-7	30	<5
13.	4,4'-metylendi-o-toluidin	838-88-0	30	<5
14.	6-metoxy-m-toluidin/ p-cresidin	120-71-8	30	<5
15.	4,4'-metylen-bis-(2-clo-anilin)	101-14-4	30	<5
16.	4,4'-oxydianilin	101-80-4	30	<5
17.	4,4'-thiodianilin	139-65-1	30	<5
18.	o-toluidin/ 2-aminotoluen	95-53-4	30	<5
19.	4-metyl-m-phenylendiamin	95-80-7	30	<5
20.	2,4,5-trimetylanilin	137-17-7	30	<5
21.	o-anisidin/ 2-metoxyanilin	90-04-0	30	<5
22.	4-aminoazobenzen	60-09-3	30	<5





# Intertek General Terms and Conditions of Services

These terms and conditions, together with any proposal, estimate or fee quote, form the agreement between you (the Client) and the Intertek entity (Intertek) providing the services contemplated therein.

## 1. INTERPRETATION

- 1.1 In this Agreement, the following words and phrases shall have the following meanings unless the context otherwise requires:
  - (a) Agreement means this agreement entered into between Intertek and the Client;
  - (b) Proposal means any proposal, estimate or fee quote submitted by Intertek to the Client;
  - (c) Confidential Information means all information in whatever form or manner presented which: (a) is disclosed pursuant to, or in the course of the provision of Services pursuant to, this Agreement; and (b) is disclosed in writing, electronically, visually, orally or otherwise howsoever and is marked, stamped or identified by any means as confidential or otherwise designated as such; and
  - (d) Information, howsoever disclosed, which would reasonably be considered to be confidential by the receiving party;
  - (e) Intellectual Property Rights means copyrights, trademarks (registered or unregistered), patents, patent applications (including the right to apply for a patent), service marks, design rights (registered or unregistered), trade secrets and other like rights howsoever existing;
  - (f) Reports shall have the meaning as set out in Clause 5.1 above;
  - (g) Services means the services set out in any relevant Intertek Proposal, any relevant Client purchase order, or any relevant Intertek invoice, as applicable, and may comprise or include the provision by Intertek of a Report;
  - (h) Proposal means the proposal, estimate or fee quote, if applicable, provided to the Client by Intertek relating to the Services;
- 1.2 The headings in this Agreement do not affect its interpretation.

## 2. THE SERVICES

- 2.1 Intertek shall provide the Services to the Client in accordance with the terms of this Agreement which is expressly incorporated into any Proposal Intertek has made and submitted to the Client.
- 2.2 In the event of any inconsistency between the terms of this Agreement and the Proposal, the terms of the Proposal shall take precedence.
- 2.3 The Services provided by Intertek under this Agreement and any memoranda, laboratory data, calculations, measurements, estimates, notes, certificates and other material prepared by Intertek in the course of providing the Services to the Client, together with summary summaries or any other communication in any form describing the results of any work or services performed (Report(s)) shall be only for the Client's use and benefit.
- 2.4 The Client acknowledges and agrees that if in providing the Services Intertek is obliged to deliver a Report to a third party, Intertek shall be deemed irrevocably to have agreed to deliver such Report to the applicable third party. For the purposes of this clause an obligation shall arise on the instructions of the Client, or where, in the reasonable opinion of Intertek, it is implicit from the circumstances, trade, custom, usage or practice.
- 2.5 The Client acknowledges and agrees that any Services provided and/or Reports produced by Intertek are done so within the limits of the scope of work agreed with the Client in the Proposal and pursuant to the Client's specific instructions. In the absence of such instructions, in accordance with any relevant trade custom, usage or practice. The Client further agrees and acknowledges that the Services are not necessarily designed or intended to address all matters of quality, safety, performance or condition of any product, material, services, systems or processes tested, inspected or certified and the scope of work does not necessarily reflect all standards which may apply to product, material, services, systems or process tested, inspected or certified. The Client understands that reliance on any Reports issued by Intertek is limited to the facts and representations set out in the Reports which represent Intertek's review and/or analysis of facts, information, documents, samples and/or other materials in existence at the time of the performance of the Services only.
- 2.6 Client is responsible for acting as it sees fit on the basis of such Report. Neither Intertek nor any of its officers, employees, agents or subcontractors shall be responsible for any loss or damage suffered by the Client as a result of its reliance on any Reports issued by Intertek.
- 2.7 In agreeing to provide the Services pursuant to this Agreement, Intertek does not abridge, abrogate or undertake to discharge any duty or obligation of the Client to any other person or any duty or obligation of any person to the Client.

## 3. INTERTEK'S WARRANTIES

- 3.1 Intertek warrants exclusively to the Client:
  - (a) that it has the power to enter into this Agreement and that it will comply with relevant legislations and regulations in force as at the date of this Agreement in relation to the provision of the Services;
  - (b) that the Services will be performed in a manner consistent with that level of care and skill ordinarily exercised by other companies providing like services under similar circumstances;
  - (c) that it will take reasonable steps to ensure that the Client's premises its personnel comply with any health and safety rules and regulations and other reasonable security requirements made known to Intertek by the Client in accordance with Clause 4.3(f);
  - (d) that the Reports produced in relation to the Services will not infringe any legal rights (including Intellectual Property Rights) of any third party. This warranty shall not apply where the infringement is directly or indirectly caused by Intertek's reliance on any information, samples or other related documents supplied to Intertek by the Client (or any of its agents or representatives).
- 3.2 In the event of a breach of the warranty set out in Clause 3.1 (b), Intertek shall, at its own expense, perform services of the type originally performed as may be reasonably required to correct any defect in Intertek's performance.
- 3.3 Intertek makes no other warranties, express or implied. All other warranties, conditions and terms implied by statute or common law (including but not limited to any implied warranties of merchantability and fitness for purpose) are, to the fullest extent permitted by law, excluded from this Agreement. No performance, deliverable, oral or other information or advice provided by Intertek (including its agents, sub-contractors, employees or other representatives) will create a warranty or otherwise increase the scope of any warranty provided.

## 4. CLIENT WARRANTIES AND OBLIGATIONS

- 4.1 The Client represents and warrants:
  - (a) that it has the power and authority to enter into this Agreement and procure the provision of the Services for itself;
  - (b) that it is secure in the Services hereunder for its own account and not as an agent or broker, or in any other representative capacity, for any other person or entity;
  - (c) that any information, samples and related documents it (or any of its agents or representatives) supplies to Intertek (including its agents, sub-contractors and employees) is, true, accurate representative, complete and is not misleading in any respect. The Client further acknowledges that Intertek will rely on such information, samples or other related documents and materials provided by the Client (without any duty to confirm or verify the accuracy or completeness thereof) in order to provide the Services;
  - (d) that any samples provided by the Client to Intertek will be shipped pre-paid and will be collected or disposed of by the Client (at the Client's cost) within thirty (30) days after testing unless alternative arrangements are made by the Client. In the event that such samples are not collected or disposed of by the Client within the required thirty (30) days period, Intertek reserves the right to destroy the samples, at the Client's cost; and
  - (e) that any information, samples or other related documents (including without limitation certificates and reports) provided by the Client to Intertek will not, in any circumstances, infringe any legal rights (including Intellectual Property Rights) of any third party.
- 4.2 In the event that the Client is required to provide information, samples or other related documents to Intertek to acknowledge and agree to the provisions in this Agreement and the Proposal prior to and as a condition precedent to such third party receiving any Reports or the benefit of any Services.
- 4.3 The Client further agrees:
  - (a) to co-operate with Intertek in all matters relating to the Services and appoint a manager in relation to the Services who shall be duly authorised to provide instructions to Intertek on behalf of the Client and to bind the Client contractually as required;
  - (b) to provide Intertek (including its agents, sub-contractors and employees), at its own expense, any and all samples, information, material or other documentation necessary for the execution of the Services in a timely manner sufficient to enable Intertek to provide the Services in accordance with this Agreement. The Client acknowledges that any samples provided may become damaged or be destroyed in the course of testing as part of the necessary testing process and undertakes to hold Intertek harmless from any and all responsibility for such alteration, damage or destruction;
  - (c) that it is responsible for providing the samples/equipment to be tested together, where appropriate, with any specified additional items, including but not limited to the material provided for the accuracy of the certification;
  - (d) to provide instructions and feedback to Intertek in a timely manner;
  - (e) to provide Intertek (including its agents, sub-contractors and employees) with access to its premises as may be reasonably required for the provision of the Services and to any other relevant premises at which the Services are to be provided;
  - (f) prior to Intertek entering the Client's premises, to ensure that the Client has all applicable health and safety rules and regulations and other reasonable security requirements that may apply at any relevant premises at which the Services are to be provided; to notify Intertek promptly of any risk, safety issues or incidents in respect of any item delivered by the Client, or any process or systems used at its premises or otherwise necessary for the provision of the Services;
  - (g) to inform Intertek of any applicable import/export restrictions that may apply to the Services to be provided, including any instances where any products, information or technology may be exported/imported to or from a country that is restricted or banned from such transaction;
  - (h) in the event of the issuance of a certificate, to inform and advise Intertek immediately of any changes during the term of the certificate which may have a material impact on the accuracy of the certification;
  - (i) to obtain and maintain all necessary licenses and consents in order to comply with relevant legislation and regulation in relation to the Services; that it will not use any Reports issued by Intertek pursuant to this Agreement in a misleading manner and that it will only distribute such Reports in their entirety;
  - (j) in no event, will the contents of any Reports or any extracts, excerpts or parts of any Reports be distributed or published without the prior written consent of Intertek (such consent not to be unreasonably withheld) in each instance; and
  - (m) that any and all advertising and promotional materials or any statements made by the Client will not give a false or misleading impression to any third party concerning the services provided by Intertek.
- 4.4 Intertek shall not be liable to the Client for any breach of this Agreement if and to the extent that its breach is a direct result of a failure by the Client to comply with its obligations as set out in this Clause 4. The Client also acknowledges that the impact of any failure by the Client to perform its obligations set out herein on the provision of the Services by Intertek will not affect the Client's obligations under this Agreement for payment of the Charges pursuant to Clause 5 below.

## 5. CHARGES, INVOICING AND PAYMENT

- 5.1 The parties agree that the Services are provided on the terms and subject to the conditions set out or referred to in this Agreement, and that this Agreement shall take precedence over any terms and conditions which the Client has provided or may in the future provide to Intertek, whether in a purchase order or any other document.
- 5.2 Unless acceptance of this Agreement by the Client occurs at an earlier time, submission of samples or any other testing material from the Client to Intertek shall be deemed to be conclusive evidence of the Client's acceptance of this Agreement.
- 5.3 The Client shall pay Intertek the charges set out in the Proposal, if applicable, or as otherwise contemplated for provision of the Services (the Charges).
- 5.4 If pricing factors, such as salaries and/or rates are subject to change between the conclusion date of the Contract and the completion date of the Contract, Intertek has the right to adjust the Charges accordingly.
- 5.5 The Charges are payable exclusive of any applicable taxes. The Client shall pay any applicable taxes on the Charges at the rate and in the manner prescribed by law, on the issue by Intertek of a valid invoice.
- 5.6 The Client agrees that it will reimburse Intertek for any expenses incurred by Intertek relating to the provision of the Services and is wholly responsible for any freight or customs clearance fees relating to any testing samples.
- 5.7 The Charges referred to shall be paid by the Client for the Services pursuant to this Agreement. Any additional work performed by Intertek will be charged on a time and material basis.
- 5.8 Intertek shall invoice the Client for the Charges and expenses, if any. For Services provided over the course of a period of greater than thirty (30) days the Client agrees that at the end of each calendar month Intertek will issue an invoice for the cost of the Services provided in the month. A final invoice will be issued on the date of the completion of the Services.
- 5.9 The Client is required to pay all invoiced amounts without any deduction, discount or set-off no later than thirty (30) days after the invoice date. No deduction for bank charges incurred can be made. Payments, which must be denominated in the currency indicated in the invoice, must be made by means of money transfer to a bank account designated by Intertek.
- 5.10 Intertek will issue an electronic invoice to the Client. An electronic invoice may be sent by email and will be deemed to have been delivered to the Client upon receipt of such email. Intertek is under no obligation to fulfil any request by the Client for a paper copy to be sent by post. Any invoice sent by post will include a E25 administration fee and the paper invoice must be paid by the Client within the credit terms referred to in 5.9 above.
- 5.11 If Intertek believes that the Client's financial position and/or payment performance justifies such action, Intertek has the right to demand that the Client immediately furnish security or additional security in a form to be determined by Intertek and/or make an advance payment. If the Client fails to furnish the desired security, Intertek has the right, without prejudice to its other rights, to immediately suspend the further provision of the Services, and any Charges for any part of the Services which has already been performed shall become immediately due and payable.
- 5.12 If the Client fails to pay within the period referred to in 5.9 above, it is in default of its payment obligations and this Agreement after having been reminded by Intertek at least once that payment is due within a reasonable period. In that case, the Client is liable to pay interest on the credit balance from the date of the reminder until the date of payment. Intertek reserves the right to charge a E25 administration fee deemed to be the Joint Stock Commercial Bank for Foreign Trade of Vietnam (Vietcombank) base rate plus 5%. In addition, all collection costs incurred after the Client's default, both judicial and extrajudicial, are for the Client's account. The extrajudicial costs are set at an amount equal to least 10% of the principal plus interest, without prejudice to Intertek's right to collect the actual extrajudicial costs in excess of this amount. The judicial costs incurred by Intertek, even if they exceed the Joint Stock Commercial Bank for Foreign Trade of Vietnam (Vietcombank) base rate.
- 5.13 If the Client objects to the contents of the invoice, details of the objection must be raised with Intertek within seven (7) days of receipt of electronic invoice, otherwise the invoice will be deemed to have been accepted. Any such objections do not exempt the Client from its obligation to pay within the period referred to in 5.9 above.
- 5.14 Any request by the Client for certain information to be included in or appended to the invoice must be made at the time of setting out the Proposal. A later request by the Client for changes to the agreed format of the invoice or supplementary information will not discharge the Client from its obligation to pay within the period referred to in 5.9 above. Intertek reserves the right to charge a E25 administration fee per invoice for including additional copies of invoices or amending invoice detail, format or structure from that agreed in the Proposal. Intertek maintains the right to reject such an invoicing amendment request and such a rejection by Intertek of the Client's request will not exempt the Client from its obligation to pay within the period referred to in 5.9 above.
- 5.15 If actions by the Client in relation to the Services result in the Client incurring the Client for the cost of all Services provided to date. In such a scenario the Client agrees to pay this invoice within thirty (30) days of the invoice date.

## 6. INTELLECTUAL PROPERTY RIGHTS AND DATA PROTECTION

- 6.1 All Intellectual Property Rights belonging to a party prior to entry into this Agreement shall remain vested in that party. Nothing in this Agreement is intended to transfer any Intellectual Property Rights from either party to the other.
- 6.2 Any use by the Client (or the Client's affiliated companies or subsidiaries) of the name "Intertek" or any of Intertek's trademarks or brand names

- 6.3 All for any reason must be prior approved in writing by Intertek. Any other use of Intertek's trademarks or brand names is strictly prohibited and Intertek reserves the right to terminate this Agreement immediately as a result of any such unauthorised use.
- 6.4 Intellectual property rights, including but not limited to patents, trademarks, copyrights, designs, trade secrets and other like rights (in whatever medium) produced by Intertek pursuant to this Agreement shall belong to Intertek. The Client shall have the right to use any such Reports, documents, graphs, charts, photographs or other material for the purposes of this Agreement.
- 6.5 The Client agrees and acknowledges that Intertek retains any and all proprietary rights in concepts, ideas and inventions that may arise during the preparation or provision of any Report (including any deliverables provided by Intertek to the Client) and the provision of the Services to the Client. Both parties shall observe all statutory provisions with regard to data protection including but not limited to the provisions of the General Data Protection Regulation 2016/679 ("GDPR") and shall comply with all applicable requirements of the GDPR. To the extent that Intertek processes personal data in connection with the Services or otherwise in connection with this Agreement, it shall take all necessary technical and organisational measures to ensure the security of such data (and to guard against unauthorised or unlawful processing, accidental loss, destruction or damage to such data) in line with the GDPR.

## 7. CONFIDENTIALITY

- 7.1 Where a party (the Receiving Party) obtains Confidential Information of the other party (the Disclosing Party) in connection with this Agreement (whether before or after the date of this Agreement) it shall, subject to Clauses 7.2 to 7.4:
  - (a) keep that Confidential Information confidential, by applying the standard of care that it uses for its own Confidential Information;
  - (b) use that Confidential Information only for the purposes of performing obligations under this Agreement; and
  - (c) not disclose that Confidential Information to any third party without the prior written consent of the Disclosing Party.
- 7.2 The Receiving Party may disclose the Disclosing Party's Confidential Information on a "need to know" basis:
  - (a) to any legal advisers and statutory auditors that it has engaged for itself;
  - (b) to any regulator having regulatory or supervisory authority over its business;
  - (c) to any director, officer or employee of the Receiving Party provided that, in each case, the Receiving Party has first advised that person of the obligations under Clause 7.1 and ensured that the person is bound by obligations of confidence in respect of the Confidential Information no less onerous than those set out in this Clause 7; and
  - (d) where the Receiving Party is Intertek, to any of its subsidiaries, affiliates or subcontractors.
- 7.3 The provisions of Clauses 7.1 and 7.2 shall not apply to any Confidential Information which:
  - (a) was already in the possession of the Receiving Party prior to its receipt from the Disclosing Party without restriction on its use or disclosure;
  - (b) is or becomes public knowledge other than by breach of this Clause 6.6;
  - (c) is or becomes known to the Receiving Party or any of its subsidiaries, affiliates or subcontractors and who is under no obligation restricting its disclosure; or
  - (d) is independently developed by the Receiving Party without access to the relevant Confidential Information.
- 7.4 The Receiving Party may disclose Confidential Information of the Disclosing Party to the extent required by law, any regulatory authority or the rules of any stock exchange on which the Receiving Party is listed, provided that the Receiving Party has given the Disclosing Party prior written notice of its intention to disclose and where possible given the Disclosing Party a reasonable opportunity to prevent the disclosure through appropriate legal means.
- 7.5 Each party shall ensure the compliance by its employees, agents and representatives (which, in the case of Intertek, includes procuring the same from any sub-contractors) with its obligations under this Clause 7.
- 7.6 No use of Confidential Information by the Receiving Party is given in respect of any Confidential Information solely by the disclosure of such Confidential Information by the Disclosing Party.
- 7.7 With respect to archival storage, the Client acknowledges that Intertek may retain in its archive for the period required by its quality and assurance processes, or by the testing and certification rules of the relevant accreditation body, all materials necessary to document the Services provided.

## 8. AMENDMENT

- 8.1 No amendment to this Agreement shall be effective unless it is in writing, expressly stated to amend this Agreement and signed by an authorised signatory of each party.

## 9. FORCE MAJEURE

- 9.1 Neither party shall be liable to the other for any delay in performing or failure to perform any obligation under this Agreement to the extent that such delay or failure is caused by a Force Majeure Event.
  - (a) Force Majeure Event means an event which is beyond the control of either party, including but not limited to: acts of terrorism, military action, sabotage and/or piracy;
  - (b) natural disasters such as violent storms, earthquakes, tidal waves, floods and/or lightning; explosions and fires;
  - (c) strikes and labour disputes, other than by any one or more employees of the affected party or of any supplier or agent of the affected party; or
  - (d) failures of utilities companies such as providers of telecommunication, internet, gas or electricity services.
- 9.2 For the avoidance of doubt, where the affected party is Intertek any failure or delay caused by failure or delay on the part of a subcontractor shall only be a Force Majeure Event (as defined below) where the subcontractor is affected by one of the events described above.
- 9.3 A party whose performance is affected by a Force Majeure Event shall:
  - (a) promptly notify the other party in writing of the Force Majeure Event and the cause and the likely duration of any consequential delay or non-performance of its obligations;
  - (b) use all reasonable endeavours to avoid or mitigate the effect of the Force Majeure Event and continue to perform or resume performance to the extent that it is able to do so;
  - (c) continue to provide Services that remain unimpacted by the Force Majeure Event.
- 9.4 If the Force Majeure Event continues for more than sixty (60) days after the day on which it started, each party may terminate this Agreement by giving at least ten (10) days' written notice to the other party.

## 10. LIMITATIONS AND EXCLUSIONS OF LIABILITY

- 10.1 Neither party excludes or limits liability to the other party:
  - (a) for death or personal injury resulting from the negligence of that party or its directors, officers, employees, agents or sub-contractors; or
  - (b) for its own fraud (or that of its directors, officers, employees, agents or sub-contractors).
- 10.2 Subject to clause 10.1, the maximum aggregate liability of Intertek in contract, tort (including negligence and breach of statutory duty) or otherwise for any breach of this agreement or any matter arising out of or in connection with the services to be provided in accordance with this agreement shall be limited to the amount of the fee payable for the Services under this agreement.
- 10.3 Subject to clause 10.1, neither party shall be liable to the other in contract, tort (including negligence and breach of statutory duty) or otherwise for any:
  - (a) loss of profits;
  - (b) loss of sales or business;
  - (c) loss of opportunity (including without limitation in relation to third party agreements or contracts);
  - (d) loss of or damage to goodwill or reputation;
  - (e) loss of anticipated savings;
  - (f) cost or expenses incurred in relation to making a product recall;
  - (g) loss of use or corruption of software, data or information; or
  - (h) any indirect, consequential loss, punitive or special loss (even when advised of their possibility).
- 10.4 Any claim by the client against Intertek (always subject to the provisions of this clause 10) must be made within ninety (90) days after the claim becomes known to the client. Any claim made after such period shall be deemed to be waived. Failure to give such notice of claim within ninety (90) days shall constitute a bar or irrevocable waiver to any claim, either directly or indirectly, in contract, tort or otherwise in connection with the provision of services under this agreement.

## 11. INDEMNITY

- 11.1 The Client shall indemnify and hold harmless Intertek, its officers, employees, agents, representatives, contractors and sub-contractors from and against any and all claims, suits, liabilities (including costs of litigation and attorney's fees) arising, directly or indirectly, out of or in connection with:
  - (a) any claims or suits by any governmental authority or others for any actual or asserted failure of the Client to comply with any law, ordinance, regulation, rule or order of any governmental or judicial authority;
  - (b) the death or substantial personal injury resulting from the negligence of that party or its directors, officers, employees, agents or sub-contractors; or
  - (c) the breach or alleged breach by the Client of any of its obligations set out in Clause 4 above;
- 11.2 Intertek shall indemnify and hold harmless the Client, its officers, employees, agents, representatives, contractors and sub-contractors from and against any and all claims, suits, liabilities (including costs of litigation and attorney's fees) arising, directly or indirectly, out of or in connection with:
  - (a) any claims or suits by any governmental authority or others for any actual or asserted failure of the Client to comply with any law, ordinance, regulation, rule or order of any governmental or judicial authority;
  - (b) the death or substantial personal injury resulting from the negligence of that party or its directors, officers, employees, agents or sub-contractors; or
  - (c) the breach or alleged breach by the Client of any of its obligations set out in Clause 4 above;
- 11.3 The Client shall indemnify and hold harmless Intertek, its officers, employees, agents, representatives, contractors and sub-contractors from and against any and all claims, suits, liabilities (including costs of litigation and attorney's fees) arising, directly or indirectly, out of or in connection with:
  - (a) any claims or suits by any governmental authority or others for any actual or asserted failure of the Client to comply with any law, ordinance, regulation, rule or order of any governmental or judicial authority;
  - (b) the death or substantial personal injury resulting from the negligence of that party or its directors, officers, employees, agents or sub-contractors; or
  - (c) the breach or alleged breach by the Client of any of its obligations set out in Clause 4 above;
- 11.4 The Client shall indemnify and hold harmless Intertek, its officers, employees, agents, representatives, contractors and sub-contractors from and against any and all claims, suits, liabilities (including costs of litigation and attorney's fees) arising, directly or indirectly, out of or in connection with:
  - (a) any claims or suits by any governmental authority or others for any actual or asserted failure of the Client to comply with any law, ordinance, regulation, rule or order of any governmental or judicial authority;
  - (b) the death or substantial personal injury resulting from the negligence of that party or its directors, officers, employees, agents or sub-contractors; or
  - (c) the breach or alleged breach by the Client of any of its obligations set out in Clause 4 above;

## 12. INSURANCE POLICIES

- 12.1 Each party shall be responsible for the arrangement and costs of its own company insurance which includes, without limitation, professional indemnity, employer's liability, motor insurance and property insurance.
- 12.2 Intertek expressly disclaims any liability to the Client as an insurer or guarantor.
- 12.3 The Client acknowledges that although Intertek maintains employer's liability insurance, such insurance does not cover any employees of the Client or any third parties who may be involved in the provision of the Services. If the Services are to be performed at premises belonging to the Client or third parties, Intertek's employer's liability insurance does not provide cover for non-Intertek employees.

## 13. TERMINATION

- 13.1 This Agreement shall commence upon the first day on which the Services are commenced and shall continue, unless terminated earlier in accordance with this Clause 13, until the Services have been provided.
- 13.2 This Agreement may be terminated by:
  - (a) either party if the other party is in material breach of any obligation imposed upon it hereunder for more than thirty (30) days after written notice has been dispatched by that Party by recorded delivery or courier requesting the other to remedy such breach;
  - (b) Intertek on written notice to the Client in the event that the Client fails to pay any invoice by its due date and/or fails to make payment after a further request for payment; or
  - (c) either party if the other party, in the event that the other makes any voluntary arrangement with its creditors or becomes subject to an administration order or (being an individual or firm) becomes bankrupt or (being a company) goes into liquidation (otherwise than for the purposes of a solvent amalgamation or reconstruction) or an encumbrance takes possession, or a receiver is appointed, of any of the property or assets of the other or the other ceases, or threatens to cease, to carry on business.
- 13.3 In the event of termination of this Agreement, Intertek shall be entitled to any amount payable to any other party which remedies the parties may have, the Client shall pay Intertek for all Services performed up to the date of termination. This obligation shall survive termination or expiration of this Agreement.
- 13.4 Any termination or expiration of the Agreement shall not affect the accrued rights and obligations of the parties nor shall it affect any provision which is expressly or by implication intended to come into force or continue in force on or after such termination or expiration.

## 14. ASSIGNMENT AND SUB-CONTRACTING

- 14.1 Intertek reserves the right to delegate the performance of its obligations hereunder and the provision of the Services to one or more of its affiliates and/or sub-contractors when necessary. Intertek may also assign this Agreement to any company within the Intertek group on notice to the Client.

## 15. GOVERNING LAW AND DISPUTE RESOLUTION

- 15.1 This Agreement and the Proposal shall be governed by Vietnam law. The parties agree to submit to the exclusive jurisdiction of the Vietnam Courts in respect of any dispute arising out of or in connection with this Agreement (including any non-contractual claim relating to the provision of the Services in accordance with this Agreement).

## 16. MISCELLANEOUS

- 16.1 **Severability.** If any provision of this Agreement is or becomes invalid, illegal or unenforceable, such provision shall be severed and the remainder of the provisions shall continue in full force and effect as if this Agreement had been executed without the invalid illegal or unenforceable provision. The severability of any provision shall not be fundamental to the performance of the purpose of this Agreement, Intertek and the Client shall immediately commence good faith negotiations to agree an alternative arrangement.
- 16.2 **No partnership or agency.** Nothing in this Agreement and no action taken by the parties under this Agreement shall constitute a partnership, association, joint venture or other co-operative entity between the parties or constitute any party the partner, agent or legal representative of the other.
- 16.3 **Waivers.** Subject to Clause 10.4 above, the failure of any party to insist upon strict performance of any provision of this Agreement, or to exercise any right or remedy to which it is entitled, shall not constitute a waiver and shall not cause a diminution of the obligations established by this Agreement. A waiver of any breach shall not constitute a waiver of any subsequent breach.
- 16.4 **No waiver of any right or remedy** under this Agreement shall be effective unless it is expressly stated to be a waiver and communicated to the other party in writing.
- 16.5 **Whole Agreement.** This Agreement and the Proposal contain the whole agreement between the parties relating to the transactions contemplated by this agreement and supersedes all previous agreements, arrangements and understandings between the parties relating to these transactions or that subject matter. No purchase order, statement or other similar document will add to or vary the terms of this Agreement.
- 16.6 Each party acknowledges that in entering into this Agreement it has not relied on any representation, warranty, collateral contract or other assurance (except those set out or referred to in this Agreement) made by or on behalf of any other party before the acceptance or signature of this Agreement. Each party waives all rights and remedies that, but for this Clause, might otherwise be available to it in reliance on any such representation, warranty, collateral contract or other assurance.
- 16.7 Nothing in this Agreement limits or excludes any liability for fraudulent misrepresentation.
- 16.8 **Third Party Rights.** A person who is not party to this Agreement has no right under the Contract (Rights of Third Parties) Act 1999 to enforce any of its terms.
- 16.9 **Further Assurance.** Each party shall, at the cost and request of any other party, execute and deliver such instruments and documents and take such other actions in each case as may be reasonably requested from time to time in order to give full effect to its obligations under this Agreement.

**BÁO CÁO THỬ NGHIỆM**

SỐ: VNMT20009541

Mẫu thử nghiệm: (D) Quần lót nữ sloggi Comfort Maxi/ CS (76-474)

TT	Danh mục hóa chất	Số CAS	Giới hạn	Kết quả (mg/kg)
1.	Biphenyl-4-ylamin/ 4-aminobiphenyl xenylamin	92-67-1	30	<5
2.	Benzidin	92-87-5	30	<5
3.	4-clo-o-toluidin	95-69-2	30	<5
4.	2-naphtylamin	91-59-8	30	<5
5.	o-aminoazotoluen/ 4-amino-2',3'-dimetylazobenzen/ 4-o-tolylazo-o-toluidin	97-56-3	30	<5
6.	5-Nitro-o-toluidin	99-55-8	30	<5
7.	4-cloanilin	106-47-8	30	<5
8.	4-metoxi-m-phenylendiamin	615-05-4	30	<5
9.	4,4'-diaminobiphenylmetan/ 4,4'-metylendianilin	101-77-9	30	<5
10.	3,3'-diclobenzidin/ 3,3'-diclobiphenyl-4,4'-ylendiamin	91-94-1	30	<5
11.	3,3'-dimetoxibenzidin/ o-dianisidin	119-90-4	30	<5
12.	3,3'-dimetylbenzidin/4,4'-bi-o-toluidin	119-93-7	30	<5
13.	4,4'-metylendi-o-toluidin	838-88-0	30	<5
14.	6-metoxi-m-toluidin/ p-cresidin	120-71-8	30	<5
15.	4,4'-metylen-bis-(2-clo-anilin)	101-14-4	30	<5
16.	4,4'-oxydianilin	101-80-4	30	<5
17.	4,4'-thiodianilin	139-65-1	30	<5
18.	o-toluidin/ 2-aminotoluen	95-53-4	30	<5
19.	4-metyl-m-phenylendiamin	95-80-7	30	<5
20.	2,4,5-trimetylanilin	137-17-7	30	<5
21.	o-anisidin/ 2-metoxyanilin	90-04-0	30	<5
22.	4-aminoazobenzen	60-09-3	30	<5





# Intertek General Terms and Conditions of Services

These terms and conditions, together with any proposal, estimate or fee quote, form the agreement between you (the Client) and the Intertek entity (Intertek) providing the services contemplated therein.

## 1. INTERPRETATION

- 1.1 In this Agreement, the following words and phrases shall have the following meanings unless the context otherwise requires:
  - (a) **Agreement** means this agreement entered into between Intertek and the Client;
  - (b) **Charges** shall have the meaning given in Clause 5.3;
  - (c) **Confidential Information** means all information, whatever form or manner presented which: (a) is disclosed pursuant to, or in the course of the provision of Services pursuant to, this Agreement; and (b) is disclosed in writing, electronically, visually, orally or otherwise howsoever and is marked, stamped or identified by any means as confidential by the Intertek entity; and (c) in the absence of such marking, stamping or identification, which would reasonably be considered to be confidential by the receiving party;
  - (d) **Intellectual Property Rights** means copyrights, trademarks (registered or unregistered), patents, patents applications (including the right to apply for a patent), service marks, design rights (registered or unregistered), trade secrets and other like rights howsoever existing
  - (e) **Report(s)** shall have the meaning as set out in Clause 2.2;
  - (f) **Services** means the services set out in any relevant Intertek Proposal, a relevant Client purchase order, or any relevant Intertek invoice, as applicable, and may comprise or include the provision by Intertek of a Report;
  - (g) **Proposal** means the proposal, estimate or fee quote, if applicable, provided to the Client by Intertek relating to the Services;
- 1.2 The headings in this Agreement do not affect its interpretation.

## 2. THE SERVICES

- 2.1 Intertek shall provide the Services to the Client in accordance with the terms of this Agreement which is expressly incorporated into any Proposal Intertek has made and submitted to the Client.
- 2.2 In the event of any inconsistency between the terms of this Agreement and the Proposal, the terms of the Proposal shall take precedence.
- 2.3 The Services provided by Intertek under this Agreement and any memoranda, laboratory data, calculations, measurements, estimates, notes, certificates and any other material prepared by Intertek in the course of providing the Services to the Client, together with summary summaries or any other communication in any form describing the results of any work or services performed (Report(s)) shall be only for the Client's use and benefit.
- 2.4 The Client acknowledges and agrees that in providing the Services Intertek is obliged to deliver a Report to a third party, Intertek shall be deemed irrevocably authorised to deliver such Report to the applicable third party. For the purposes of this clause obligation shall arise on the instructions of the Client, or where, in the reasonable opinion of Intertek, it is implicit from the circumstances, trade, custom, usage or practice.
- 2.5 The Client acknowledges and agrees that any Services provided and/or Reports produced by Intertek are done so within the limits of the scope of work agreed with the Client in relation to the Proposal and pursuant to the Client's specific instructions or, in the absence of such instructions, in accordance with any relevant trade custom, usage or practice. The Client further agrees and acknowledges that the Services are not necessarily designed or intended to address all matters of quality, safety, performance or condition of any product, material, services, systems or processes tested, inspected or certified and the scope of work does not necessarily reflect all standards which may apply to product, material, services, systems or process tested, inspected or certified. The Client understands that reliance on any Reports issued by Intertek is limited to the facts and representations set out in the Reports which represent Intertek's review and/or analysis of facts, information, documents, samples and/or other materials in existence at the time of the performance of the Services only.
- 2.6 Client is responsible for acting as it sees fit on the basis of such Report. Neither Intertek nor any of its officers, employees, agents or subcontractors shall be liable for any third party claim or loss arising from such Report.
- 2.7 In agreeing to provide the Services pursuant to this Agreement, Intertek does not abridge, abrogate or undertake to discharge any duty or obligation of the Client to any other person or any duty or obligation of any person to the Client.

## 3. INTERTEK'S WARRANTIES

- 3.1 Intertek warrants exclusively to the Client:
  - (a) that it has the power and authority to enter into this Agreement and that it will comply with relevant legislations and regulations in force as at the date of this Agreement in relation to the provision of the Services;
  - (b) that the Services will be performed in a manner consistent with that level of care and skill ordinarily exercised by other companies providing like services under similar circumstances;
  - (c) that it will take all reasonable steps to ensure that all personnel on the Client's premises comply with any health and safety rules and regulations and other reasonable security requirements made known to Intertek by the Client in accordance with Clause 4.3(f);
  - (d) that the Reports produced in relation to the Services will not infringe any legal rights (including Intellectual Property Rights) of any third party. This warranty shall not apply where the infringement is directly or indirectly caused by Intertek's reliance on any information, samples or other related documents provided to Intertek by the Client (or any of its agents or representatives).
- 3.2 In the event of a breach of the warranty set out in Clause 3.1 (b), Intertek shall, at its own expense, perform services of the type originally performed as may be reasonably required to correct any defect in Intertek's performance.
- 3.3 Intertek makes no other warranties, express or implied. All other warranties, conditions and other terms implied by statute or common law (including but not limited to any implied warranties of merchantability and fitness for purpose) are, to the fullest extent permitted by law, excluded from this Agreement. No performance, deliverable, oral or written information or advice provided by Intertek (including its agents, sub-contractors, employees or other representatives) will create a warranty or otherwise increase the scope of any warranty provided.

## 4. CLIENT WARRANTIES AND OBLIGATIONS

- 4.1 The Client represents and warrants:
  - (a) that it has the power and authority to enter into this Agreement and procure the provision of the Services for itself;
  - (b) that it is securing the provision of the Services hereunder for its own account and not as an agent or broker, or in any other representative capacity, for any other person or entity;
  - (c) that any information, samples and related documents (or any of its agents or representatives) supplied to Intertek (including its agents, sub-contractors and employees), is true, accurate representative, complete and is not misleading in any respect. The Client further acknowledges that any information, samples or other related documents and materials provided by the Client (without any duty to confirm or verify) is for the accuracy or completeness thereof in order to provide the Services;
  - (d) that any samples provided by the Client to Intertek will be shipped pre-paid and will be collected or disposed of by the Client (at the Client's cost) within thirty (30) days after testing unless alternative arrangements are made by the Client. In the event that such samples are not collected or disposed of by the Client within the required thirty (30) days period, Intertek reserves the right to destroy the samples, at the Client's cost; and
  - (e) that any information, samples or other related documents (including without limitation certificates and reports) provided by the Client to Intertek will not, in any circumstances, infringe any legal rights (including Intellectual Property Rights) of any third party.
- 4.2 In the event that the Client causes any third party to acknowledge and agree to the provisions in this Agreement and the Proposal prior to and as a condition precedent to such third party receiving any Reports or the benefit of any Services.
- 4.3 The Client further agrees:
  - (a) to co-operate with Intertek in all matters relating to the Services and appoint a manager in relation to the Services who shall be duly authorised to provide instructions to Intertek on behalf of the Client and to bind the Client contractually as required;
  - (b) to provide Intertek (including its agents, sub-contractors and employees), at its own expense, any and all samples, information, material or other documentation necessary for the execution of the Services in a timely manner sufficient to enable Intertek to provide the Services in accordance with this Agreement. The Client acknowledges that any samples provided may become damaged or be destroyed in the course of testing as part of the necessary testing process and undertakes to hold Intertek harmless from any and all responsibility for such alteration, damage or destruction;
  - (c) that it is responsible for providing the samples/equipment to be tested together, where appropriate, with any specified additional items, including but not limited to the following:
    - (i) to provide instructions and feedback to Intertek in a timely manner;
    - (ii) to provide Intertek (including its agents, sub-contractors and employees) with access to its premises as may be reasonably required for the provision of the Services and to any other relevant premises at which the Services are to be provided;
    - (iii) prior to Intertek's arrival at the premises, to inform Intertek of any applicable health and safety rules and regulations and other reasonable security requirements that may apply at any relevant premises at which the Services are to be provided; to notify Intertek promptly of any risk, safety issues or incidents in respect of any item delivered by the Client, or any process or systems used at its premises or otherwise necessary for the provision of the Services;
    - (iv) to inform Intertek of any applicable import/export restrictions that may apply to the Services to be provided, including any instances where any products, information or technology may be exported/imported to or from a country that is restricted or banned from such transaction;
    - (v) in the event of the issuance of a certificate, to inform and advise Intertek immediately of any changes during the term of the certificate which may have a material impact on the accuracy of the certification;
    - (vi) to obtain and maintain all necessary licences and consents in order to comply with relevant legislation and regulation in relation to the Services;
    - (vii) that it will not use any Reports issued by Intertek pursuant to this Agreement in a misleading manner and that it will only distribute such Reports in their entirety;
    - (viii) in no event, will the contents of any Reports or any extracts, excerpts or parts of any Reports be distributed or published without the prior written consent of Intertek (such consent not to be unreasonably withheld) in each instance; and
    - (ix) that any and all advertising and promotional materials or any statements made by the Client will not give a false or misleading impression to any third party concerning the services provided by Intertek.
  - (d) Intertek shall be liable to the Client for any breach of this Agreement if and to the extent that its breach is a direct result of a failure by the Client to comply with its obligations as set out in this Clause 4. The Client also acknowledges that the impact of any failure by the Client to perform its obligations set out herein on the provision of the Services by Intertek will not affect the Client's obligations under this Agreement for payment of the Charges pursuant to Clause 5 below.

## 5. CHARGES, INVOICING AND PAYMENT

- 5.1 The parties agree that the Services are provided on the terms and subject to the conditions set out or referred to in this Agreement, and that this Agreement shall take precedence over any terms and conditions which the Client has provided or may in the future provide to Intertek, whether in a purchase order or any other document.
- 5.2 Unless acceptance of this Agreement by the Client occurs at an earlier time, submission of samples or any other testing material from the Client to Intertek shall be deemed to be conclusive evidence of the Client's acceptance of this Agreement. The interest rate applied is the Client shall pay Intertek the charges set out in the Proposal, if applicable, or as otherwise contemplated for provision of the Services (the Charges).
- 5.3 If pricing factors, such as salaries and/or rates are subject to change between the conclusion date of the Contract and the completion date of the Contract, Intertek has the right to adjust the Charges accordingly.
- 5.4 The Charges are exclusive of any applicable taxes. The Client shall pay any applicable taxes on the Charges at the rate and in the manner prescribed by law, on the issue by Intertek of a valid invoice.
- 5.5 The Client agrees that it will reimburse Intertek for any expenses incurred by Intertek relating to the provision of the Services and is wholly responsible for any freight or customs clearance fees relating to any testing samples.
- 5.6 The Charges represent the total fees to be paid by the Client for the Services pursuant to this Agreement. Any additional work performed by Intertek will be charged on a time and material basis.
- 5.7 Intertek shall invoice the Client for the Charges and expenses, if any, for Services provided over the course of a period of greater than thirty (30) days. The Client agrees that at the end of each calendar month Intertek will issue an invoice for the cost of the Services provided in the month. A final invoice will be issued on the date of the completion of the Services.
- 5.8 The Client is required to pay all invoiced amounts without any deduction, discount or set-off no later than thirty (30) days after the invoice date. No deduction for bank charges incurred can be made. Payments, which will not be denominated in the currency indicated in the invoice, must be made by means of money transfer to a bank account designated by Intertek.
- 5.9 Intertek reserves the right to charge a £25 administration fee per invoice. An electronic invoice may be sent by email and will be deemed to have been delivered to the Client upon receipt of such email. Intertek is under no obligation to fulfil any request by the Client for a paper copy to be sent by post. Any invoice sent by post will include a £25 administration fee and the paper invoice must be paid by the Client within the credit terms referred to in 5.9 above.
- 5.10 If Intertek believes that the Client's financial position and/or payment performance justifies such action, Intertek has the right to demand that the Client immediately furnish security or additional security in a form to be determined by Intertek and/or make an advance payment. If the Client fails to furnish the desired security, Intertek has the right, without prejudice to its other rights, to immediately suspend the further provision of the Services, and any Charges for any part of the Services which has already been performed shall become immediately due and payable.
- 5.11 If the Client fails to pay within the period referred to in 5.9 above, it is in default of its payment obligations and this Agreement after having been reminded by Intertek at least once that payment is due within a reasonable period. In that case, the Client is liable to pay interest on the credit balance from the date when the payment became due until the date of payment. The interest rate applicable in addition to all collection costs incurred after the Client's default, both judicial and extrajudicial, are for the Client's account. The extrajudicial costs are set at an amount equal to least 10% of the principal plus interest, without prejudice to Intertek's right to collect the actual extrajudicial costs in excess of this amount. The judicial costs comprise all costs incurred by Intertek, even if they exceed the Joint Stock Commercial Bank for Foreign Trade of Vietnam (Vietcombank) base rate.
- 5.12 If the Client objects to the contents of the invoice, details of the objection must be raised with Intertek within seven (7) days of receipt of electronic invoice, otherwise the invoice will be deemed to have been accepted. Any such objections do not exempt the Client from its obligation to pay within the period referred to in 5.9 above.
- 5.13 Any request by the Client for certain information to be included in or appended to the invoice must be made at the time of setting out the Proposal. A later request by the Client for changes to the agreed format of the invoice or supplementary information will not discharge the Client from its obligation to pay within the period referred to in 5.9 above. Intertek reserves the right to charge a £25 administration fee per invoice for issuing additional copies of invoices or amending invoice detail, format or structure from that agreed in the Proposal. Intertek maintains the right to reject such an invoicing amendment request and such a rejection by Intertek of the Client's request will not exempt the Client from its obligation to pay within the period referred to in 5.9 above.
- 5.14 If actions by the Client in relation to the Services under this Agreement have the right to invoice the Client for the cost of all Services provided to date. In such a scenario the Client agrees to pay this invoice within thirty (30) days of the invoice date.

## 6. INTELLECTUAL PROPERTY RIGHTS AND DATA PROTECTION

- 6.1 All Intellectual Property Rights belonging to a party prior to entry into this Agreement shall remain vested in that party. Nothing in this Agreement is intended to transfer any Intellectual Property Rights from either party to the other.
- 6.2 Any use by the Client (or the Client's affiliated companies or subsidiaries) of the name "Intertek" or any of Intertek's trademarks or brand names

- 6.3 For any reason must be prior approved in writing by Intertek. Any other use of Intertek's trademarks or brand names is strictly prohibited and Intertek reserves the right to terminate this Agreement immediately as a result of any such unauthorised use.
- 6.4 All Intellectual Property Rights, including any Reports, documents, graphs, charts, photographs or any other material (in whatever medium) produced by Intertek pursuant to this Agreement shall belong to Intertek. The Client shall have the right to use any such Reports, documents, graphs, charts, photographs or other material for the purposes of this Agreement.
- 6.5 The Client agrees and acknowledges that Intertek retains any and all proprietary rights in concepts, ideas and inventions that may arise during the preparation or provision of any Report (including any deliverables provided by Intertek to the Client) and the provision of the Services to the Client. Both parties shall have the right to statutory protection with regard to data protection including but not limited to the provisions of the General Data Protection Regulation 2016/679 ("GDPR") and shall comply with all applicable requirements of the GDPR. To the extent that Intertek processes personal data in connection with the Services or otherwise in connection with this Agreement, it shall take all necessary technical and organisational measures to ensure the security of such data (and to guard against unauthorised or unlawful processing, accidental loss, destruction or damage to such data) in line with the GDPR.

## 7. CONFIDENTIALITY

- 7.1 Where a party (the Receiving Party) obtains Confidential Information of the other party (the Disclosing Party) in connection with this Agreement (whether before or after the date of this Agreement) it shall, subject to Clauses 7.2 to 7.4:
  - (a) keep that Confidential Information confidential, by applying the standard of care that it uses for its own Confidential Information;
  - (b) use that Confidential Information only for the purposes of performing obligations under this Agreement; and
  - (c) not disclose that Confidential Information to any third party without the prior written consent of the Disclosing Party.
- 7.2 The Receiving Party may disclose the Disclosing Party's Confidential Information on a "need to know" basis:
  - (a) to any legal advisors and statutory auditors that it has engaged for itself;
  - (b) to any regulator having regulatory or supervisory authority over its business;
  - (c) to any director, officer or employee of the Receiving Party provided that, in each case, the Receiving Party has first advised that person of the obligations under Clause 7.1 and ensured that the person is bound by obligations of confidence in respect of the Confidential Information no less onerous than those set out in this Clause 7; and
  - (d) where the Receiving Party is required to do so by its subsidiaries, affiliates or subcontractors.
- 7.3 The provisions of Clauses 7.1 and 7.2 shall not apply to any Confidential Information which:
  - (a) was already in the possession of the Receiving Party prior to its receipt from the Disclosing Party without restriction on its use or disclosure; or
  - (b) is or becomes public knowledge other than by breach of this Clause 6.6;
  - (c) is independently developed by the Receiving Party without access to the relevant Confidential Information.
- 7.4 The Receiving Party may disclose Confidential Information of the Disclosing Party to the extent required by law, any regulatory authority or the rules of any stock exchange on which the Receiving Party is listed, provided that the Receiving Party has given the Disclosing Party prompt notice of the disclosure and where possible given the Disclosing Party a reasonable opportunity to prevent the disclosure through appropriate legal means.
- 7.5 Each party shall ensure the compliance by its employees, agents and representatives (which, in the case of Intertek, includes procuring the same from any sub-contractors) with its obligations under this Clause 7.
- 7.6 No limitation of Confidential Information by this Agreement is given in respect of any Confidential Information solely by the disclosure of such Confidential Information by the Disclosing Party.
- 7.7 With respect to archival storage, the Client acknowledges that Intertek may retain in its archive for the period required by its quality and assurance processes, or by the testing and certification rules of the relevant accreditation body, all materials necessary to document the Services provided.

## 8. AMENDMENT

- 8.1 No amendment to this Agreement shall be effective unless it is in writing, expressly stated to amend this Agreement and signed by an authorised signatory of each party.

## 9. FORCE MAJEURE

- 9.1 Neither party shall be liable to the other for any failure in performing or failing to perform any obligation under this Agreement to the extent that such failure or failure to perform is as a result of:
  - (a) war (whether declared or not), civil war, riots, revolutions, acts of terrorism, military action, sabotage and/or piracy;
  - (b) natural disasters such as violent storms, earthquakes, tidal waves, floods and/or lightning; explosions and fires;
  - (c) strikes and labour disputes, other than by any one or more employees of the affected party or of any supplier or agent of the affected party; or
  - (d) failures of utilities companies such as providers of telecommunication, internet, gas or electricity services.
- 9.2 For the avoidance of doubt, where the affected party is Intertek any failure or delay caused by failure or delay on the part of a subcontractor shall only be a Force Majeure Event (as defined below) where the subcontractor is affected by one of the events described above.
- 9.3 A party whose performance is affected by an event described in Clause 9.1 (a Force Majeure Event) shall:
  - (a) promptly notify the other party in writing of the Force Majeure Event and the cause and the likely duration of any consequential delay or non-performance of its obligations;
  - (b) use all reasonable endeavours to avoid or mitigate the effect of the Force Majeure Event and continue to perform or resume performance of its affected obligations as soon as reasonably possible; and
  - (c) continue to provide the Services that remain unaffected by the Force Majeure Event.
- 9.4 If the Force Majeure Event continues for more than sixty (60) days from the day on which it started, each party may terminate this Agreement by giving at least ten (10) days' written notice to the other party.

## 10. LIMITATIONS AND EXCLUSIONS OF LIABILITY

- 10.1 Neither party excludes or limits liability to the other party:
  - (a) in respect of death or personal injury resulting from the negligence of any party or its directors, officers, employees, agents or sub-contractors; or
  - (b) for its own fraud (or that of its directors, officers, employees, agents or sub-contractors).
- 10.2 Subject to clause 10.1, the maximum aggregate liability of Intertek in contract, tort (including negligence and breach of statutory duty) or otherwise for any breach of this agreement or any matter arising out of or in connection with the services to be provided in accordance with this Agreement shall be the amount of any sum payable by Intertek under this agreement.
- 10.3 Subject to clause 10.1, neither party shall be liable to the other in contract, tort (including negligence and breach of statutory duty) or otherwise for any:
  - (a) loss of profits;
  - (b) loss of sales or business;
  - (c) loss of opportunity (including without limitation in relation to third party agreements or contracts);
  - (d) loss of or damage to goodwill or reputation;
  - (e) loss of anticipated savings;
  - (f) cost or expenses incurred in relation to making a product recall;
  - (g) loss of use or corruption of software, data or information; or
  - (h) any indirect, consequential loss, punitive or special loss (even when advised of their possibility).
- 10.4 Any claim by the client against Intertek (always subject to the provisions of this clause 10) must be made within ninety (90) days after the claim becomes known to the client. In the event of a claim, failure to give such notice of claim within ninety (90) days shall constitute a bar or irrevocable waiver to any claim, either directly or indirectly, in contract, tort or otherwise in connection with the provision of services under this agreement.

## 11. INDEMNITY

- 11.1 The Client shall indemnify and hold harmless Intertek, its officers, employees, agents, representatives, contractors and sub-contractors (from and against) any and all claims, suits, liabilities (including costs of litigation and attorney's fees) arising, directly or indirectly, out of or in connection with:
  - (a) any claims or suits by any governmental authority or others for any actual or asserted failure of the Client to comply with any law, ordinance, regulation, rule or order of any governmental or judicial authority;
  - (b) any claims or suits, or loss of or damage to property, economic loss, and loss of or damage to Intellectual Property Rights incurred by or occurring to any person or entity and any person or entity in connection with or related to the Services provided hereunder by Intertek, its officers, employees, agents, representatives, contractors or sub-contractors;
  - (c) the breach or alleged breach by the Client of any of its obligations set out in Clause 4 above;
  - (d) any claims made by any third party for loss, damage or expense of whatsoever nature and howsoever arising relating to the performance, purported performance or non-performance of any Services to the extent that the aggregate of any such claims relating to any one Service exceeds the limit of liability set out in Clause 10 above;
  - (e) any claims or suits arising as a result of any misuse or unauthorised use of any Reports issued by Intertek or any Intellectual Property Rights belonging to Intertek (including trademarks) pursuant to this Agreement; and
  - (f) any claims arising out of or relating to any third party's use of or reliance on any Reports or any reports, analyses, conclusions of the Client (or any third party to whom the Client has provided the Reports) based in whole or in part on the Reports, if applicable.
- 11.2 The obligations set out in this Clause 11 shall survive termination of this Agreement.

## 12. INSURANCE POLICIES

- 12.1 Each party shall be responsible for the arrangement and costs of its own company insurance which includes, without limitation, professional indemnity, employer's liability, motor insurance and property insurance.
- 12.2 Intertek expressly disclaims any liability to the Client as an insurer or guarantor.
- 12.3 The Client acknowledges that although Intertek maintains employer's liability insurance, such insurance does not cover any employees of the Client or any third parties who may be involved in the provision of the Services. If the Services are to be performed at premises belonging to the Client or third parties, Intertek's employer's liability insurance does not provide cover for non-Intertek employees.

## 13. TERMINATION

- 13.1 This Agreement shall commence upon the first day on which the Services are commenced and shall continue, unless terminated earlier in accordance with this Clause 13, until the Services have been provided.
- 13.2 This Agreement may be terminated by:
  - (a) either party if there is a material breach of any obligation imposed upon it hereunder for more than thirty (30) days after written notice has been dispatched by that Party by recorded delivery or courier requesting the other to remedy such breach;
  - (b) Intertek on written notice to the Client in the event that the Client fails to pay any invoice by its due date and/or fails to make payment after a further request for payment; or
  - (c) either party if the other party in the event that the other makes any voluntary arrangement with its creditors or becomes subject to an administration order (or being an individual or firm) becomes bankrupt or (being a company) goes into liquidation (otherwise than for the purposes of a solvent amalgamation or reconstruction) or an encumbrance takes possession, or a receiver is appointed, of any of the property or assets of the other or the other ceases, or threatens to cease, to carry on business.
- 13.3 In the event of termination of this Agreement, Intertek shall be entitled to any other rights or remedies the parties may have, the Client shall pay Intertek for all Services performed up to the date of termination. This obligation shall survive termination or expiration of this Agreement.
- 13.4 Any termination or expiration of the Agreement shall not affect the accrued rights and obligations of the parties nor shall it affect any provision which is expressly or by implication intended to come into force or continue in force on or after such termination or expiration.

## 14. ASSIGNMENT AND SUB-CONTRACTING

- 14.1 Intertek reserves the right to delegate the performance of its obligations hereunder and the provision of the Services to one or more of its affiliates and/or sub-contractors when necessary. Intertek may also assign this Agreement to any company within the Intertek group on notice to the Client.

## 15. GOVERNING LAW AND DISPUTE RESOLUTION

- 15.1 This Agreement and the Proposal shall be governed by Vietnam law. The parties agree to submit to the exclusive jurisdiction of the Northern Court of Appeal in Hanoi, Vietnam or in connection with this Agreement (including any non-contractual claim relating to the provision of the Services in accordance with this Agreement).

## 16. MISCELLANEOUS

- 16.1 **Severability.** If any provision of this Agreement is or becomes invalid, illegal or unenforceable, such provision shall be severed and the remainder of the provisions shall continue in full force and effect as if this Agreement had been executed without the invalid (illegal or unenforceable) provision. The invalidity or unenforceability of any provision shall not be deemed to be fundamental if the accomplishment of the purpose of this Agreement, Intertek and the Client shall immediately commence good faith negotiations to agree an alternative arrangement.
- 16.2 **No partnership or agency.** Nothing in this Agreement and no action taken by the parties under this Agreement shall constitute a partnership, association, joint venture or other co-operative entity between the parties or constitute any party the partner, agent or legal representative of the other party in writing.
- 16.3 **Waivers.** Subject to Clause 10.4 above, the failure of any party to insist upon strict performance of any provision of this Agreement, or to exercise any right or remedy to which it is entitled, shall not constitute a waiver and shall not cause a diminution of the obligations established by this Agreement. A waiver of any breach shall not constitute a waiver of any subsequent breach.
- 16.4 **No waiver of any right or remedy under this Agreement shall be effective unless it is expressly stated to be a waiver and communicated to the other party in writing.**
- 16.5 **Whole Agreement.** This Agreement and the Proposal contain the whole agreement between the parties relating to the transactions contemplated by this agreement and supersedes all previous agreements, arrangements and understandings between the parties relating to those transactions or that subject matter. No purchase order, statement or other similar document will add to or vary the terms of this Agreement.
- 16.6 Each party acknowledges that in entering into this Agreement it has not relied on any representation, warranty, collateral contract or other assurance (except those set out or referred to in this Agreement) made by or on behalf of any other party before the acceptance or signature of this Agreement. Each party waives all rights and remedies that, but for this Clause, might otherwise be available to it in respect of any such representation, warranty, collateral contract or other assurance.
- 16.7 **Non-reliance on oral statements.** The parties agree to exclude any liability for fraudulent misrepresentation.
- 16.8 **Third Party Rights.** A person who is not party to this Agreement has no right under the Contract (Rights of Third Parties) Act 1999 to enforce any of its terms.
- 16.9 **Further Assurance.** Each party shall, at the cost and request of any other party, execute and deliver such instruments and documents and take such other actions in each case as may be reasonably requested from time to time in order to give full effect to its obligations under this Agreement.

NGÀY: 11/03/2020

## BÁO CÁO THỬ NGHIỆM

SỐ: VNMT20009541

Mẫu thử nghiệm: (E) Quần lót nữ Aqua Exotic Hipster/ 37 (87-2145)

TT	Danh mục hóa chất	Số CAS	Giới hạn	Kết quả (mg/kg)
1.	Biphenyl-4-ylamin/ 4-aminobiphenyl xenylamin	92-67-1	30	<5
2.	Benzidin	92-87-5	30	<5
3.	4-clo-o-toluidin	95-69-2	30	<5
4.	2-naphtylamin	91-59-8	30	<5
5.	o-aminoazotoluen/ 4-amino-2',3'-dimetylazobenzen/ 4-o-tolyazo-o-toluidin	97-56-3	30	<5
6.	5-Nitro-o-toluidin	99-55-8	30	<5
7.	4-cloanilin	106-47-8	30	<5
8.	4-metoxy-m-phenylendiamin	615-05-4	30	<5
9.	4,4'-diaminobiphenylmetan/ 4,4'-metylendianilin	101-77-9	30	<5
10.	3,3-diclobenzidin/ 3,3'-diclobiphenyl-4,4'-ylendiamin	91-94-1	30	<5
11.	3,3'-dimetoxybenzidin/ o-dianisidin	119-90-4	30	<5
12.	3,3'-dimetylbenzidin/4,4'-bi-o-toluidin	119-93-7	30	<5
13.	4,4'-metylendi-o-toluidin	838-88-0	30	<5
14.	6-metoxy-m-toluidin/ p-cresidin	120-71-8	30	<5
15.	4,4'-metylen-bis-(2-clo-anilin)	101-14-4	30	<5
16.	4,4'-oxydianilin	101-80-4	30	<5
17.	4,4'-thiodianilin	139-65-1	30	<5
18.	o-toluidin/ 2-aminotoluen	95-53-4	30	<5
19.	4-metyl-m-phenylendiamin	95-80-7	30	<5
20.	2,4,5-trimetylanilin	137-17-7	30	<5
21.	o-anisidin/ 2-metoxyanilin	90-04-0	30	<5
22.	4-aminoazobenzen	60-09-3	30	<5



These terms and conditions, together with any proposal, estimate or fee quote, form the agreement between you (the Client) and the Intertek Intertek) providing the services contemplated therein.

**1. INTERPRETATION**

- 1.1 In this Agreement, the following words and phrases shall have the following meanings unless the context otherwise requires:
  - (a) **Agreement** means this agreement entered into between Intertek and the Client;
  - (b) **Charges** shall have the meaning given in Clause 5.9 above;
  - (c) **Confidential Information** means all information in whatever form or manner presented which: (a) is disclosed pursuant to, or in the course of the provision of Services pursuant to, this Agreement; and (b) is disclosed in writing, electronically, visually, orally or otherwise howsoever and is marked, stamped or identified by any means as confidential by the disclosing party at the time of such disclosure; and
  - (d) **Confidential Information** means all information in whatever form or manner presented which: (a) is disclosed pursuant to, or in the course of the provision of Services pursuant to, this Agreement; and (b) is disclosed in writing, electronically, visually, orally or otherwise howsoever and is marked, stamped or identified by any means as confidential by the disclosing party at the time of such disclosure; and
  - (e) **Confidential Information** means all information in whatever form or manner presented which: (a) is disclosed pursuant to, or in the course of the provision of Services pursuant to, this Agreement; and (b) is disclosed in writing, electronically, visually, orally or otherwise howsoever and is marked, stamped or identified by any means as confidential by the disclosing party at the time of such disclosure; and
  - (f) **Confidential Information** means all information in whatever form or manner presented which: (a) is disclosed pursuant to, or in the course of the provision of Services pursuant to, this Agreement; and (b) is disclosed in writing, electronically, visually, orally or otherwise howsoever and is marked, stamped or identified by any means as confidential by the disclosing party at the time of such disclosure; and
  - (g) **Confidential Information** means all information in whatever form or manner presented which: (a) is disclosed pursuant to, or in the course of the provision of Services pursuant to, this Agreement; and (b) is disclosed in writing, electronically, visually, orally or otherwise howsoever and is marked, stamped or identified by any means as confidential by the disclosing party at the time of such disclosure; and
  - (h) **Confidential Information** means all information in whatever form or manner presented which: (a) is disclosed pursuant to, or in the course of the provision of Services pursuant to, this Agreement; and (b) is disclosed in writing, electronically, visually, orally or otherwise howsoever and is marked, stamped or identified by any means as confidential by the disclosing party at the time of such disclosure; and
  - (i) **Confidential Information** means all information in whatever form or manner presented which: (a) is disclosed pursuant to, or in the course of the provision of Services pursuant to, this Agreement; and (b) is disclosed in writing, electronically, visually, orally or otherwise howsoever and is marked, stamped or identified by any means as confidential by the disclosing party at the time of such disclosure; and
  - (j) **Confidential Information** means all information in whatever form or manner presented which: (a) is disclosed pursuant to, or in the course of the provision of Services pursuant to, this Agreement; and (b) is disclosed in writing, electronically, visually, orally or otherwise howsoever and is marked, stamped or identified by any means as confidential by the disclosing party at the time of such disclosure; and
  - (k) **Confidential Information** means all information in whatever form or manner presented which: (a) is disclosed pursuant to, or in the course of the provision of Services pursuant to, this Agreement; and (b) is disclosed in writing, electronically, visually, orally or otherwise howsoever and is marked, stamped or identified by any means as confidential by the disclosing party at the time of such disclosure; and
  - (l) **Confidential Information** means all information in whatever form or manner presented which: (a) is disclosed pursuant to, or in the course of the provision of Services pursuant to, this Agreement; and (b) is disclosed in writing, electronically, visually, orally or otherwise howsoever and is marked, stamped or identified by any means as confidential by the disclosing party at the time of such disclosure; and
  - (m) **Confidential Information** means all information in whatever form or manner presented which: (a) is disclosed pursuant to, or in the course of the provision of Services pursuant to, this Agreement; and (b) is disclosed in writing, electronically, visually, orally or otherwise howsoever and is marked, stamped or identified by any means as confidential by the disclosing party at the time of such disclosure; and
  - (n) **Confidential Information** means all information in whatever form or manner presented which: (a) is disclosed pursuant to, or in the course of the provision of Services pursuant to, this Agreement; and (b) is disclosed in writing, electronically, visually, orally or otherwise howsoever and is marked, stamped or identified by any means as confidential by the disclosing party at the time of such disclosure; and
  - (o) **Confidential Information** means all information in whatever form or manner presented which: (a) is disclosed pursuant to, or in the course of the provision of Services pursuant to, this Agreement; and (b) is disclosed in writing, electronically, visually, orally or otherwise howsoever and is marked, stamped or identified by any means as confidential by the disclosing party at the time of such disclosure; and
  - (p) **Confidential Information** means all information in whatever form or manner presented which: (a) is disclosed pursuant to, or in the course of the provision of Services pursuant to, this Agreement; and (b) is disclosed in writing, electronically, visually, orally or otherwise howsoever and is marked, stamped or identified by any means as confidential by the disclosing party at the time of such disclosure; and
  - (q) **Confidential Information** means all information in whatever form or manner presented which: (a) is disclosed pursuant to, or in the course of the provision of Services pursuant to, this Agreement; and (b) is disclosed in writing, electronically, visually, orally or otherwise howsoever and is marked, stamped or identified by any means as confidential by the disclosing party at the time of such disclosure; and
  - (r) **Confidential Information** means all information in whatever form or manner presented which: (a) is disclosed pursuant to, or in the course of the provision of Services pursuant to, this Agreement; and (b) is disclosed in writing, electronically, visually, orally or otherwise howsoever and is marked, stamped or identified by any means as confidential by the disclosing party at the time of such disclosure; and
  - (s) **Confidential Information** means all information in whatever form or manner presented which: (a) is disclosed pursuant to, or in the course of the provision of Services pursuant to, this Agreement; and (b) is disclosed in writing, electronically, visually, orally or otherwise howsoever and is marked, stamped or identified by any means as confidential by the disclosing party at the time of such disclosure; and
  - (t) **Confidential Information** means all information in whatever form or manner presented which: (a) is disclosed pursuant to, or in the course of the provision of Services pursuant to, this Agreement; and (b) is disclosed in writing, electronically, visually, orally or otherwise howsoever and is marked, stamped or identified by any means as confidential by the disclosing party at the time of such disclosure; and
  - (u) **Confidential Information** means all information in whatever form or manner presented which: (a) is disclosed pursuant to, or in the course of the provision of Services pursuant to, this Agreement; and (b) is disclosed in writing, electronically, visually, orally or otherwise howsoever and is marked, stamped or identified by any means as confidential by the disclosing party at the time of such disclosure; and
  - (v) **Confidential Information** means all information in whatever form or manner presented which: (a) is disclosed pursuant to, or in the course of the provision of Services pursuant to, this Agreement; and (b) is disclosed in writing, electronically, visually, orally or otherwise howsoever and is marked, stamped or identified by any means as confidential by the disclosing party at the time of such disclosure; and
  - (w) **Confidential Information** means all information in whatever form or manner presented which: (a) is disclosed pursuant to, or in the course of the provision of Services pursuant to, this Agreement; and (b) is disclosed in writing, electronically, visually, orally or otherwise howsoever and is marked, stamped or identified by any means as confidential by the disclosing party at the time of such disclosure; and
  - (x) **Confidential Information** means all information in whatever form or manner presented which: (a) is disclosed pursuant to, or in the course of the provision of Services pursuant to, this Agreement; and (b) is disclosed in writing, electronically, visually, orally or otherwise howsoever and is marked, stamped or identified by any means as confidential by the disclosing party at the time of such disclosure; and
  - (y) **Confidential Information** means all information in whatever form or manner presented which: (a) is disclosed pursuant to, or in the course of the provision of Services pursuant to, this Agreement; and (b) is disclosed in writing, electronically, visually, orally or otherwise howsoever and is marked, stamped or identified by any means as confidential by the disclosing party at the time of such disclosure; and
  - (z) **Confidential Information** means all information in whatever form or manner presented which: (a) is disclosed pursuant to, or in the course of the provision of Services pursuant to, this Agreement; and (b) is disclosed in writing, electronically, visually, orally or otherwise howsoever and is marked, stamped or identified by any means as confidential by the disclosing party at the time of such disclosure; and
- 1.2 The heading in this Agreement do not affect its interpretation.

**2. THE SERVICES**

- 2.1 Intertek shall provide the Services to the Client in accordance with the terms of this Agreement which is expressly incorporated into any Proposal Intertek has made and submitted to the Client.
- 2.2 In the event of any inconsistency between the terms of this Agreement and the Proposal, the terms of the Proposal shall take precedence.
- 2.3 The Services provided by Intertek under this Agreement and any memoranda, laboratory data, calculations, measurements, estimates, notes, certificates and other material prepared by Intertek in the course of providing the Services to the Client, together with status summaries or any other communication in any form describing the results of any work or services performed (Report(s)) shall be Intertek for the Client's use and benefit.
- 2.4 The Client acknowledges and agrees that if in providing the Services Intertek is obliged to deliver a Report to a third party, Intertek shall be deemed irrevocably authorised to deliver such Report to the applicable third party. For the purposes of this clause an obligation shall arise on the instructions of the Client, or where, in the reasonable opinion of Intertek, it is implicit from the circumstances, trade, custom, usage or practice.
- 2.5 The Client acknowledges and agrees that any Services provided and/or Reports produced by Intertek are done so within the limits of the scope of work agreed with the Client in relation to the Proposal and pursuant to the Client's specific instructions or, in the absence of such instructions, in accordance with any relevant trade custom, usage or practice. The Client further agrees and acknowledges that the Services are not necessarily designed or intended to address all matters of quality, safety, performance or condition of any product, material, services, systems, or processes, tested, inspected or certified and the scope of work does not necessarily reflect all standards which may apply to product, material, services, systems or process tested, inspected or certified. The Client understands that reliance on any Reports issued by Intertek is limited to the data and representations set out in the Reports which represent Intertek's review and/or analysis of facts, information, documents, samples and/or other materials in existence at the time of the performance of the Services only. Client is responsible for ensuring that the information, documents, samples and/or other materials submitted to Intertek are complete, accurate and sufficient for Intertek to perform the Services. Client shall be liable to Client nor any third party for any action taken or not taken on the basis of such Report.
- 2.6 In agreeing to provide the Services pursuant to this Agreement, Intertek does not abridge, abrogate or undertake to discharge any duty or obligation of the Client to any other person or any duty or obligation of any person to the Client.

**3. INTERTEK'S WARRANTIES**

- 3.1 Intertek warrants exclusively to the Client:
  - (a) that it has the power and authority to enter into this Agreement and that it will comply with relevant legislations and regulations in force as at the date of this Agreement in relation to the provision of the Services;
  - (b) that the Services will be performed in a manner consistent with that level of care and skill ordinarily exercised by other companies providing like services under similar circumstances;
  - (c) that it will take reasonable steps to ensure that whilst on the Client's premises its personnel comply with any health and safety rules and regulations and other reasonable safety requirements made known to Intertek by the Client in accordance with Clause 4.3(i);
  - (d) that the Reports produced in relation to the Services will not infringe any legal rights (including Intellectual Property Rights) of any third party. This warranty shall not apply where the infringement is directly or indirectly caused by Intertek's reliance on any information, samples or other related documents provided to Intertek by the Client (or any of its agents or representatives).
- 3.2 In the event of a breach of the warranty set out in Clause 3.1 (b), Intertek shall, at its own expense, perform services of the type originally performed as may be reasonably required to correct any defect in Intertek's performance.
- 3.3 Intertek makes no other warranties, express or implied. All other warranties, conditions and other terms implied by statute or common law (including but not limited to any implied warranties of fitness for purpose) are, to the fullest extent permitted by law, excluded from this Agreement. No performance, deliverable, oral or other information or advice provided by Intertek (including its agents, sub-contractors, employees or other representatives) will create a warranty or otherwise increase the scope of any warranty provided.

**4. CLIENT WARRANTIES AND OBLIGATIONS**

- 4.1 The Client represents and warrants:
  - (a) that it has the power and authority to enter into this Agreement and procure the provision of the Services for itself;
  - (b) that it is securing the provision of the Services hereunder for its own account and not as an agent or broker, or in any other representative capacity, for any other person or entity;
  - (c) that any information, samples and related documents it (or any of its agents or representatives) supplies to Intertek (including its agents, sub-contractors and employees) are true and correct and that Intertek shall be entitled to rely on such information, samples and related documents and materials provided by the Client (without any duty to confirm or verify the accuracy or completeness thereof) in order to provide the Services;
  - (d) that any samples provided by the Client to Intertek will be shipped pre-paid and will be collected or disposed of by the Client (at the Client's cost) after the Client's payment of the relevant payments made by the Client. In the event that such samples are not collected or disposed of by the Client within the required thirty (30) days period, Intertek reserves the right to destroy the samples, at the Client's cost; and
  - (e) that any information, samples or other related documents (including without limitation certificates and reports) provided by the Client to Intertek will not infringe any legal rights (including Intellectual Property Rights) of any third party.
- 4.2 In the event that the Services provided relate to any third party, the Client shall cause any such third party to acknowledge and agree to the provisions in this Agreement and the Proposal prior to and as a condition precedent to such third party receiving any Reports or the benefit of any Services.
- 4.3 The Client further agrees:
  - (a) to co-operate with Intertek in all matters relating to the Services and appoint a manager in relation to the Services who shall be duly authorised to provide instructions to Intertek on behalf of the Client and to bind the Client contractually as required;
  - (b) to provide Intertek (including its agents, sub-contractors and employees), at its own expense, any and all samples, information, material or other documents necessary for the performance of the Services in a timely manner sufficient to enable Intertek to provide the Services in accordance with this Agreement. The Client acknowledges that any samples provided may become damaged or be destroyed in the course of testing as part of the necessary testing process and undertakes to hold Intertek harmless from any and all responsibility for such alteration, damage or destruction;
  - (c) that it is responsible for ensuring the samples/equipment to be tested together, where appropriate, with any specified additional items, including but not limited to connecting pieces, fuse-links, etc.;
  - (d) to provide instructions and feedback to Intertek in a timely manner;
  - (e) to provide Intertek (including its agents, sub-contractors and employees) with access to its premises as may be reasonably required for the provision of the Services and any other relevant pre-arranged testing or inspection of the Client's premises; and
  - (f) prior to Intertek attending to the premises of the Services, to inform Intertek of all applicable health and safety rules and regulations and other reasonable safety requirements that may apply at any relevant premises at which the Services are to be provided;
  - (g) to notify Intertek promptly of any risk, safety issues or incidents in respect of any item delivered by the Client, or any process or systems used at its premises or otherwise necessary for the provision of the Services;
  - (h) to inform Intertek in advance of any applicable import/export restrictions that may apply to the Services to be provided, including any instances where any products, information or technology may be exported/imported to or from a country that is restricted or banned from such transaction;
  - (i) in the event of the issue of a certificate, to inform and advise Intertek immediately of any changes during the term of the certificate which may have a material impact on the accuracy of the certification;
  - (j) to obtain and maintain all necessary licenses and consents in order to comply with relevant legislation and regulation in relation to the Services;
  - (k) that it will not use any Reports issued by Intertek pursuant to this Agreement in a misleading manner and that it will only distribute such Reports in their entirety;
  - (l) in no event, will the contents of any Reports or any extracts, excerpts or parts of any Reports be distributed or published without the prior written consent of Intertek (such consent not to be unreasonably withheld) in each instance; and
  - (m) that any and all advertising and promotional materials or any statements made by the Client will not give a false or misleading impression to any third party concerning the services provided by Intertek.
- 4.4 Intertek shall be neither liable for this Agreement nor liable to the Client for any breach of this Agreement if and to the extent that its breach is a direct result of a failure by the Client to comply with its obligations as set out in this Clause 4. The Client also acknowledges that the impact of any failure by the Client to perform its obligations set out herein on the provision of the Services by Intertek will not affect the Client's obligations under this Agreement for payment of the Charges pursuant to Clause 5 below.

**5. CHARGES, INVOICING AND PAYMENT**

- 5.1 The parties agree that the Services are provided on the terms and subject to the conditions set out or referred to in this Agreement, and that this Agreement shall take precedence over any terms and conditions which the Client has provided or may in the future provide to Intertek, whether in a purchase order or any other document.
- 5.2 Unless acceptance of this Agreement by the Client occurs at an earlier time, submission of samples or any other testing material from the Client to Intertek shall constitute acceptance of the Client's acceptance of this Agreement.
- 5.3 The Client shall pay Intertek the charges set out in the Proposal, if applicable, or as otherwise contemplated for provision of the Services (the Charges).
- 5.4 If pricing factors, such as salaries and/or rates are subject to change between the conclusion date of the Contract and the completion date of the Contract, Intertek has the right to adjust the Charges accordingly.
- 5.5 The Charges are expressed exclusive of any applicable taxes. The Client shall pay any applicable taxes on the Charges at the rate and in the manner prescribed by law, on the issue by Intertek of a valid invoice.
- 5.6 The Client agrees that it will reimburse Intertek for any expenses incurred by Intertek relating to the provision of the Services and is wholly responsible for any freight or customs clearance fees relating to any testing samples.
- 5.7 The Charges represent the total fees to be paid by the Client for the Services pursuant to this Agreement. Any additional work performed by Intertek will be charged on a time and material basis.
- 5.8 Intertek shall invoice the Client for the Charges and expenses, if any. For Services provided over the course of a period of greater than thirty (30) days the Client agrees that at the end of each calendar month Intertek will issue an invoice for the cost of the Services provided in the month. A final invoice will be issued on the date of the completion of the Services.
- 5.9 The Client is required to pay all invoiced amounts without any deduction, discount or set-off no later than thirty (30) days after the invoice date. No deduction for bank charges incurred can be made. Payments, which must be denominated in the currency indicated in the invoice, must be made by means of money transfer to a bank account designated by Intertek.
- 5.10 Intertek will issue an electronic invoice to the Client. An electronic invoice may be sent by email and will be deemed to have been delivered to the Client upon receipt of such email. Intertek is under no obligation to fulfil any request by the Client for a paper copy to be sent by post. Any invoice sent by post will include a £25 administration fee and the paper invoice must be paid by the Client within the credit terms referred to in 5.9 above.
- 5.11 If Intertek believes that the Client's financial position and/or payment performance justifies such action, Intertek has the right to demand that the Client immediately furnish security or additional security in a form to be determined by Intertek and/or make an advance payment. If the Client fails to furnish the desired security, Intertek has the right, without prejudice to its other rights, to immediately suspend the further execution of all or any part of the Services, and any Charges for any part of the Services which has already been performed shall become immediately due and payable.
- 5.12 If the Client fails to pay within the period referred to in 5.9 above, it is in default of its payment obligations and this Agreement after having been reminded by Intertek at least once that payment is due within a reasonable period. In that case, the Client is liable to pay interest on the credit balance with effect from the date on which the payment became due until the date of payment. The interest rate applied is deemed to be the Joint Stock Commercial Bank for Foreign Trade Vietnam (Vietcombank) base rate plus 5%. In addition, all collection costs incurred after the Client's default, both judicial and extrajudicial, are for the Client's account. The extrajudicial costs are set at an amount equal to that 10% of the amount of the interest referred to in 5.9 above. Intertek's right to collect the actual extrajudicial costs in excess of this amount. The judicial costs comprise all costs incurred by Intertek, even if they exceed the Joint Stock Commercial Bank for Foreign Trade Vietnam (Vietcombank) base rate.
- 5.13 If the Client objects to the contents of the invoice, details of the objection must be raised with Intertek within seven (7) days of receipt of electronic invoice. Intertek will pay the invoice if the objection has been accepted. Any such objections do not exempt the Client from its obligation to pay within the period referred to in 5.9 above.
- 5.14 Any request by the Client for certain information to be included in or appended to the invoice must be made at the time of setting out the Proposal. A later request by the Client for changes to the agreed format of the invoice or supplementary information will not discharge the Client from its obligation to pay within the period referred to in 5.9 above. Intertek reserves the right to charge a £25 administration fee per invoice for issuing additional copies of invoices or amending invoice detail, format or structure from that agreed in the Proposal. Intertek maintains the right to reject such an invoicing amendment request and such a rejection by Intertek of the Client's request will not exempt the Client from its obligation to pay within the period referred to in 5.9 above.
- 5.15 If actions by the Client delay completion of the Services, Intertek has the right to invoice the Client for the cost of all Services provided to date. In such a scenario the Client agrees to pay this invoice within thirty (30) days of the invoice date.

**6. INTELLECTUAL PROPERTY RIGHTS AND DATA PROTECTION**

- 6.1 All Intellectual Property Rights belonging to a party prior to entry into this Agreement shall remain vested in that party. Nothing in this Agreement is intended to transfer any Intellectual Property Rights from either party to the other.
- 6.2 Any use by the Client (or the Client's affiliated companies or subsidiaries) of the name "Intertek" or any of Intertek's trademarks or brand names

- for any reason must be prior approved in writing by Intertek. Any other use of Intertek's trademarks or brand names is strictly prohibited and Intertek reserves the right to terminate this Agreement immediately as a result of any such unauthorised use.
- 6.3 All Intellectual Property Rights in any Reports, documents, graphs, charts, photographs or any other material (in whatever medium) produced by Intertek pursuant to this Agreement shall belong to Intertek. The Client shall have the right to use any such Reports, documents, graphs, charts, photographs or other material for the purposes of this Agreement.
- 6.4 The Client agrees and acknowledges that Intertek retains any and all proprietary rights in concepts, ideas and inventions that may arise during the preparation or provision of any Report (including any deliverables provided by Intertek to the Client) and the provision of the Services to the Client. Both parties shall observe all statutory provisions with regard to data protection including but not limited to the provisions of the General Data Protection Regulation 2016/679 ("GDPR") and shall comply with all applicable requirements of the GDPR. To the extent that Intertek processes personal data in connection with the Services or otherwise in connection with this Agreement, it shall take all necessary and appropriate organisational measures to ensure the security of such data (and to guard against unauthorised or unlawful processing, accidental loss, destruction or damage to such data) in line with the GDPR.

**7. CONFIDENTIALITY**

- 7.1 Where a party (the Receiving Party) obtains Confidential Information of the other party (the Disclosing Party) in connection with this Agreement (whether before or after the date of this Agreement) it shall, subject to Clauses 7.2 to 7.4:
  - (a) keep that Confidential Information confidential; by applying the standard of care that it uses for its own Confidential Information;
  - (b) use that Confidential Information only for the purposes of performing obligations under this Agreement; and
  - (c) not disclose that Confidential Information to any third party without the prior written consent of the Disclosing Party.
- 7.2 The Receiving Party may disclose the Disclosing Party's Confidential Information on a "need to know" basis:
  - (a) to any legal advisers and statutory auditors that it has engaged for itself;
  - (b) to any regulator having regulatory or supervisory authority over its business;
  - (c) to any director, officer or employee of the Receiving Party provided that, in each case, the Receiving Party has first advised that person of the obligations under Clause 7.1 and ensured that the person is bound by obligations of confidence in respect of the Confidential Information; and
  - (d) where the Receiving Party is Intertek, to any of its subsidiaries, affiliates or subcontractors.
- 7.3 The provisions of Clauses 7.1 and 7.2 shall not apply to any Confidential Information which:
  - (a) was already in the possession of the Receiving Party prior to its receipt from the Disclosing Party without restriction on its use or disclosure; or
  - (b) becomes public knowledge other than by breach of this Clause 6.6;
  - (c) is received by the Receiving Party from a third party who lawfully acquired it and who is under no obligation restricting its disclosure; or
  - (d) is independently developed by the Receiving Party without access to the relevant Confidential Information.
- 7.4 The Receiving Party may disclose Confidential Information of the Disclosing Party to the extent required by law, any regulatory authority or the rules of any stock exchange on which the Receiving Party is listed, provided that the Receiving Party has given the Disclosing Party prior written notice of the requirement to disclose and where possible given the Disclosing Party a reasonable opportunity to prevent the disclosure through appropriate legal means.
- 7.5 Each party shall ensure the compliance by its employees, agents and representatives (which, in the case of Intertek, includes procuring the use of any subcontractors) with its obligations under this Clause 7.
- 7.6 No licence of any Intellectual Property Rights is given in respect of any Confidential Information solely by the disclosure of such Confidential Information by the Disclosing Party.
- 7.7 With respect to archival storage, the Client acknowledges that Intertek may retain in its archive for the period required by its quality and control processes, or by the testing and certification rules of the relevant accreditation body, all materials necessary to document the Services provided.

**8. AMENDMENT**

- 8.1 No amendment to this Agreement shall be effective unless it is in writing, expressly stated to amend this Agreement and signed by an authorised signatory of each party.

**9. FORCE MAJEURE**

- 9.1 Neither party shall be liable to the other for any delay in performing or failure to perform any obligation under this Agreement to the extent that such delay or failure to perform is a result of:
  - (a) war (whether declared or not), civil war, riots, revolution, acts of terrorism, military action, sabotage and/or piracy;
  - (b) natural disasters such as violent storms, earthquakes, tidal waves, floods and/or lightning; explosions and fires;
  - (c) strikes and labour disputes, other than by any one or more employees of the affected party or of any supplier or agent of the affected party; or
  - (d) failures of utilities companies such as providers of telecommunication, internet, gas or electricity services.
- 9.2 For the avoidance of doubt, where the affected party is Intertek any failure or delay caused by failure or delay on the part of a subcontractor shall only be a Force Majeure Event (as defined below) where the subcontractor is affected by one of the events described above.
- 9.3 A party whose performance is affected by an event described in Clause 9.1 (a Force Majeure Event) shall:
  - (a) promptly notify the other party in writing of the Force Majeure Event and the cause and the likely duration of any consequential delay or non-performance of its obligations;
  - (b) use all reasonable endeavours to avoid or mitigate the effect of the Force Majeure Event and continue to perform or resume performance of its affected obligations as soon as possible;
  - (c) continue to provide Services that remain unaffected by the Force Majeure Event;
  - (d) if the Force Majeure Event continues for more than sixty (60) days after the day on which it started, each party may terminate this Agreement by giving at least ten (10) days' written notice to the other party.

**10. LIMITATIONS AND EXCLUSIONS OF LIABILITY**

- 10.1 Neither party excludes or limits liability to the other party:
  - (a) for death or personal injury resulting from the negligence of that party or its directors, officers, employees, agents or sub-contractors; or
  - (b) for its own fraud (or that of its directors, officers, employees, agents or sub-contractors).
- 10.2 Subject to clause 10.1, the maximum aggregate liability of Intertek in contract, tort (including negligence and breach of statutory duty) or otherwise for any breach of this agreement or any matter arising out of or in connection with the services to be provided in accordance with this agreement shall be limited to the amount payable by the client under this agreement.
- 10.3 Subject to clause 10.1, neither party shall be liable to the other in contract, tort (including negligence and breach of statutory duty) or otherwise for any:
  - (a) loss of profits;
  - (b) loss of sales or business;
  - (c) loss of opportunity (including without limitation in relation to third party agreements or contracts);
  - (d) loss of or damage to goodwill or reputation;
  - (e) loss of anticipated savings;
  - (f) cost or expenses incurred in relation to making a product recall;
  - (g) loss of use or corruption of software, data or information; or
  - (h) any indirect, consequential loss, punitive or special loss (even when advised of their possibility).
- 10.4 Any claim by the client against Intertek (always subject to the provisions of this clause 10) must be made within ninety (90) days after the claim becomes due. Any claim made by the client against Intertek after that time shall be deemed to be a claim for which the client shall constitute a bar or irrevocable waiver to any claim, either directly or indirectly, in contract, tort or otherwise in connection with the provision of services under this agreement.

**11. INDEMNITY**

- 11.1 The Client shall indemnify and hold harmless Intertek, its officers, employees, agents, representatives, contractors and sub-contractors from and against all claims, suits, liabilities (including costs of litigation and attorney's fees) arising, directly or indirectly, out of or in connection with:
  - (a) any claims or suits by any governmental authority or others for any actual or asserted failure of the Client to comply with any law, ordinance, regulation, rule or order of any governmental or judicial authority;
  - (b) any claims or suits by any third party for loss, damage or expense of whatsoever nature and loss of or damage to Intellectual Property Rights incurred by or occurring to any person or entity arising in connection with or related to the Services provided hereunder by Intertek, its officers, employees, agents, representatives, contractors and sub-contractors;
  - (c) the breach or alleged breach by the Client of any of its obligations set out in Clause 4 above;
  - (d) any claims made by any third party for loss, damage or expense of whatsoever nature and loss of or damage to Intellectual Property Rights purported performance or non-performance of any Services to the extent that the aggregate of any such claims relating to any one Service exceeds the limit of liability set out in Clause 10 above;
  - (e) any claims or suits arising as a result of any misuse or unauthorised use of any Reports issued by Intertek or any Intellectual Property Rights belonging to or used by Intertek in connection with the Services;
  - (f) any claims arising out of or relating to any third party's use of or reliance on any Reports or any reports, analyses, conclusions of the Client (or any third party to whom the Client has provided the Reports) based in whole or in part on the Reports, if applicable.
- 11.2 The obligations set out in this Clause 11 shall survive termination of this Agreement.

**12. INSURANCE POLICIES**

- 12.1 Each party shall be responsible for the arrangement and costs of its own company insurance which includes, without limitation, professional indemnity, employer's liability, motor insurance and property insurance.
- 12.2 Intertek expressly disclaims any liability to the Client as an insurer or guarantor.
- 12.3 The Client acknowledges that although Intertek maintains employer's liability insurance, such insurance does not cover any employees of the Client or third parties who may be involved in the provision of the Services. If the Services are to be performed at premises belonging to the Client or third parties, Intertek's employer's liability insurance does not provide cover for non-Intertek employees.

**13. TERMINATION**

- 13.1 This Agreement shall commence upon the first day on which the Services are commenced and shall continue, unless terminated earlier in accordance with this Clause 13, until the Services have been provided.
- 13.2 This Agreement may be terminated by:
  - (a) either party if there is a material breach of any obligation imposed upon it hereunder for more than thirty (30) days after written notice has been dispatched by that Party by recorded delivery or courier requesting the other to remedy such breach;
  - (b) Intertek on written notice to the Client in the event that the Client fails to pay any invoice by its due date and/or fails to make payment after a further request for payment; or
  - (c) either party on written notice to the other in the event that the other makes any voluntary arrangement with its creditors or becomes subject to an administration order or (being an individual or firm) becomes bankrupt or (being a company) goes into liquidation (otherwise than for the purposes of a solvent amalgamation or reconstruction) or an encumbrance takes possession, or a receiver is appointed, of any of the property or assets of the other or the other ceases, or threatens to cease, to carry on business.
- 13.3 In the event of termination of the Agreement, Intertek shall be entitled to any reasonable fee for any work performed by the parties may be, the Client shall pay Intertek for all Services performed up to the date of termination. This obligation shall survive termination or expiration of this Agreement.
- 13.4 Any termination or expiration of the Agreement shall not affect the accrued rights and obligations of the parties nor shall it affect any provision which expressly or by application intended to come into force or continue in force on or after such termination or expiration.

**14. ASSIGNMENT AND SUB-CONTRACTING**

- 14.1 Intertek reserves the right to delegate the performance of its obligations hereunder and the provision of the Services to one or more of its affiliates and/or sub-contractors when necessary. Intertek may also assign this Agreement to any company within the Intertek group on notice to the Client.

**15. GOVERNING LAW AND DISPUTE RESOLUTION**

- 15.1 This Agreement shall be governed by Vietnamese law. The parties agree to submit to the exclusive jurisdiction of the Vietnam Courts in respect of any dispute or claim arising out of or in connection with this Agreement (including any non-contractual claim relating to the provision of the Services in accordance with this Agreement).

**16. MISCELLANEOUS**

- 16.1 **Severability.** If any provision of this Agreement is or becomes invalid, illegal or unenforceable, such provision shall be severed and the remainder of the provisions shall continue in full force and effect as if this Agreement had been executed without the invalid illegal or unenforceable provision. If the invalidity, illegality or unenforceability is so fundamental that it prevents the accomplishment of the purpose of this Agreement, Intertek and the Client shall immediately commence good faith negotiations to agree an alternative arrangement.
- 16.2 **No partnership or agency.** Nothing in this Agreement and no action taken by the parties under this Agreement shall constitute a partnership, joint venture or other co-operative entity between the parties or constitute any party the partner, agent or legal representative of the other.
- 16.3 **Waivers.** Subject to Clause 10.4 above, the failure of any party to insist upon strict performance of any provision of this Agreement, or to exercise any right or remedy to which it is entitled, shall not constitute a waiver and shall not cause a diminution of the obligations established by this Agreement. A waiver of any breach shall not constitute a waiver of any subsequent breach.
- 16.4 **Assignment.** Any assignment or transfer under this Agreement shall be effective unless it is expressly stated to be a waiver and communicated to the other party in writing.
- 16.5 **Whole Agreement.** This Agreement and the Proposal contain the whole agreement between the parties relating to the transactions contemplated by this agreement and supersedes all previous agreements, arrangements and understandings between the parties relating to those transactions or that subject matter. No purchase order, statement or other similar document will add to or vary the terms of this Agreement.
- 16.6 Each party acknowledges that in entering into this Agreement it has not relied on any representation, warranty, collateral contract or other assurance (except those set out or referred to in this Agreement) made by or on behalf of any other party before the acceptance or signature of this Agreement. Each party waives all rights and remedies that, but for this Clause, might otherwise be available to it in respect of any such representation, warranty, collateral contract or other assurance.
- 16.7 **Nothing in this Agreement limits or excludes any liability for fraudulent misrepresentation.**
- 16.8 **Third Party Rights.** A person who is not party to this Agreement has no right under the Contract (Rights of Third Parties) Act 1999 to enforce any of its terms.
- 16.9 **Further Assurance.** Each party shall, at the cost and request of any other party, execute and deliver such instruments and documents and take such other actions in each case as may be reasonably requested from time to time in order to give full effect to its obligations under this Agreement.

NGÀY: 11/03/2020

## BÁO CÁO THỬ NGHIỆM

SỐ: VNMT20009541

### HÌNH ẢNH



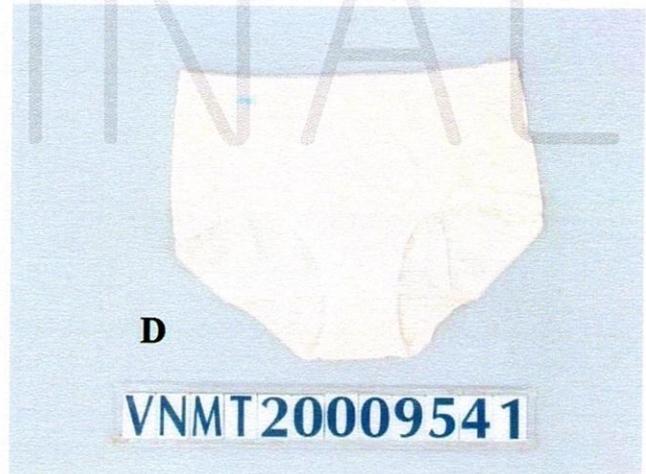
Mẫu 1



Mẫu 2



Mẫu 3



Mẫu 4



These terms and conditions, together with any proposal, estimate or fee quote, form the agreement between you (the Client) and the Intertek (Intertek) providing the services contemplated therein.

**1. INTERPRETATION**

- 1.1 In this Agreement, the following words and phrases shall have the following meanings unless the context otherwise requires:
  - (a) **Agreement** means this agreement entered into between Intertek and the Client;
  - (b) **Charges** shall have the meaning given in Clause 5.9 above;
  - (c) **Confidential Information** means all information in whatever form or manner presented which: (a) is disclosed pursuant to, or in the course of the provision of Services pursuant to, this Agreement; and (b) is disclosed in writing, electronically, visually, orally or otherwise however and is marked, stamped or identified by any means as confidential by the disclosing party at the time of such disclosure; and (c) is information, however disclosed, which would reasonably be considered to be confidential by the receiving party;
  - (d) **Intellectual Property Rights** means copyrights, trademarks (registered or unregistered), patents, patents applications (including the right to apply for a patent), service marks, design rights (registered or unregistered), trade secrets and other like rights however existing
  - (e) **Reports** shall have the meaning given in Clause 2.6 above;
  - (f) **Services** means the services set out in any relevant Intertek Proposal, any relevant Client purchase order, or any relevant Intertek invoice, as applicable, and may comprise or include the provision by Intertek of a Report;
  - (g) **Proposal** means the proposal, estimate or fee quote, if applicable, provided to the Client by Intertek relating to the Services;
- 1.2 The headings in this Agreement do not affect its interpretation.

**2. THE SERVICES**

- 2.1 Intertek shall provide the Services to the Client in accordance with the terms of this Agreement which is expressly incorporated into any Proposal Intertek has made and submitted to the Client.
- 2.2 In the event of any inconsistency between the terms of this Agreement and the Proposal, the terms of the Proposal shall take precedence.
- 2.3 The Services provided by Intertek under this Agreement and any memoranda, laboratory data, calculations, measurements, estimates, notes, certificates and other material prepared by Intertek in the course of providing the Services to the Client, together with status summaries or any other communication in any form describing the results of any work or services performed (Report(s)) shall be only for the Client's use and benefit.
- 2.4 The Client acknowledges and agrees that in providing the Services Intertek is obliged to deliver a Report to a third party. Intertek shall be deemed irrevocably authorised to deliver such Report to the applicable third party. For the purposes of this clause an obligation shall arise on the instructions of the Client, or where, in the reasonable opinion of Intertek, it is implicit from the circumstances, trade, custom, usage or practice.
- 2.5 The Client acknowledges and agrees that any Services provided and/or Reports produced by Intertek are done so within the limits of the scope of work agreed with the Client in relation to the Proposal and pursuant to the Client's specific instructions or, in the absence of such instructions, in accordance with any relevant trade custom, usage or practice. The Client further agrees and acknowledges that the Services are not necessarily designed or intended to address all matters of quality, safety, performance or condition of any product, material, services, systems or processes tested, inspected or certified and the scope of work does not necessarily reflect all standards which may apply to product, material, services, systems or process tested, inspected or certified. The Client understands that reliance on any Reports issued by Intertek is limited to the facts and representations set out in the Reports which represent Intertek's review and/or analysis of facts, information, documents, samples and/or other materials in existence at the time of the performance of the Services. Client is responsible for acting as it sees fit for any third party for any test not taken on the basis of such Report.
- 2.6 Intertek shall not be liable for any third party for any test not taken on the basis of such Report.
- 2.7 In agreeing to provide the Services pursuant to this Agreement, Intertek does not abridge, abrogate or undertake to discharge any duty or obligation of the Client to any other person or any duty or obligation of any person to the Client.

**3. INTERTEK'S WARRANTIES**

- 3.1 Intertek warrants exclusively to the Client:
  - (a) that it has the power and authority to enter into this Agreement and that it will comply with relevant legislations and regulations in force as at the date of this Agreement in relation to the provision of the Services;
  - (b) that the Services will be performed in a manner consistent with that level of care and skill ordinarily exercised by other companies providing like services under similar circumstances;
  - (c) that it will take reasonable steps to ensure that its staff and personnel comply with any health and safety rules and regulations and other reasonable security requirements made known to Intertek by the Client in accordance with Clause 4.3(i);
  - (d) that the Reports produced in relation to the Services will not infringe any legal rights (including Intellectual Property Rights) of any third party. This warranty shall not apply where the infringement is directly or indirectly caused by Intertek's reliance on any information, samples or other related documents provided to Intertek by the Client (or any of its agents or representatives).
- 3.2 In the event of a breach of the warranty set out in Clause 3.1 (b), Intertek shall, at its own expense, perform services of the type originally performed as may be reasonably required to correct any defect in Intertek's performance.
- 3.3 Intertek makes no other warranties, express or implied. All other warranties, conditions and other terms implied by statute or common law (including but not limited to implied warranties of fitness for purpose) are, to the fullest extent permitted by law, excluded from this Agreement. No performance, deliverable, oral or other information or advice provided by Intertek (including its agents, sub-contractors, employees or other representatives) will create a warranty or otherwise increase the scope of any warranty provided.

**4. CLIENT WARRANTIES AND OBLIGATIONS**

- 4.1 The Client represents and warrants:
  - (a) that it has the power and authority to enter into this Agreement and procure the provision of the Services for itself;
  - (b) that it is securing the provision of the Services hereunder for its own account and not as an agent or broker, or in any other representative capacity, for any other person or entity;
  - (c) that any information, samples and related documents it (or any of its agents or representatives) supplies to Intertek (including its agents, sub-contractors, employees or other representatives) are true, correct and complete in all material respects. The Client further acknowledges that Intertek will rely on such information, samples or other related documents and materials provided by the Client (without any duty to confirm or verify the accuracy or completeness thereof) in order to provide the Services;
  - (d) that any samples provided by the Client to Intertek will be shipped pre-paid and will be collected or disposed of by the Client (at the Client's cost) within 10 days after the date of the Services (or any of its agents or representatives). Any samples not collected or disposed of by the Client within the required thirty (30) days period, Intertek reserves the right to destroy the samples, at the Client's cost; and
  - (e) that any information, samples or other related documents (including without limitation certificates and reports) provided by the Client to Intertek will not include any information that is subject to Intellectual Property Rights of any third party.
- 4.2 In the event that the Services provided relate to any third party, the Client shall cause any such third party to acknowledge and agree to the provisions in this Agreement and the Proposal prior to and as a condition precedent to such third party receiving any Reports or the benefit of any Services.
- 4.3 The Client further agrees:
  - (a) to co-operate with Intertek in all matters relating to the Services and appoint a manager in relation to the Services who shall be duly authorised to provide instructions to Intertek on behalf of the Client and to bind the Client contractually as required;
  - (b) to provide Intertek (including its agents, sub-contractors and employees), at its own expense, any and all samples, information, material or other documents necessary for the provision of the Services in a timely manner sufficient to enable Intertek to provide the Services in accordance with this Agreement. The Client acknowledges that any samples provided may become damaged or be destroyed in the course of testing as part of the necessary testing process and undertakes to hold Intertek harmless from any and all responsibility for such alteration, damage or destruction;
  - (c) that it is responsible for ensuring the samples/equipment to be tested together, where appropriate, with any specified additional items, including but not limited to connecting pieces, fuse-links, etc.;
  - (d) to provide instructions and feedback to Intertek in a timely manner;
  - (e) to provide Intertek (including its agents, sub-contractors and employees) with access to its premises as may be reasonably required for the provision of the Services or for the collection and disposal of samples; and
  - (f) prior to Intertek attending any premises for the performance of the Services, to inform Intertek of all applicable health and safety rules and regulations and other reasonable security requirements that may apply at any relevant premises at which the Services are to be provided;
  - (g) to notify Intertek promptly of any risk, safety issues or incidents in respect of any item delivered by the Client, or any process or systems used at its premises or otherwise necessary for the provision of the Services; and
  - (h) to inform Intertek in writing of any applicable import/export restrictions that may apply to the Services to be provided, including any instances where any products, information or technology may be exported/imported to or from a country that is restricted or banned from such transaction;
  - (i) in the event of the issuance of a certificate, to inform and advise Intertek immediately of any changes during the term of the certificate which may have a material impact on the accuracy of the certification;
  - (j) to obtain and maintain all necessary licenses and consents in order to comply with relevant legislation and regulation in relation to the Services;
  - (k) that it will not use any Reports issued by Intertek pursuant to this Agreement in a misleading manner and that it will only distribute such Reports in their entirety;
  - (l) in no event, will the contents of any Reports or any extracts, excerpts or parts of any Reports be distributed or published without the prior written consent of Intertek (such consent not to be unreasonably withheld) in each instance; and
  - (m) that any and all advertising and promotional materials or any statements made by the Client will not give a false or misleading impression to any third party concerning the services provided by Intertek.
- 4.4 Intertek shall not be liable for any breach of this Agreement if and to the extent that its breach is a direct result of a failure by the Client to comply with its obligations as set out in this Clause 4. The Client also acknowledges that the impact of any failure by the Client to perform its obligations set out herein on the provision of the Services by Intertek will not affect the Client's obligations under this Agreement for payment of the Charges pursuant to Clause 5 below.

**5. CHARGES, INVOICING AND PAYMENT**

- 5.1 The parties agree that the Services are provided on the terms and subject to the conditions set out or referred to in this Agreement, and that this Agreement shall take precedence over any terms and conditions which the Client has provided or may in the future provide to Intertek, whether in a purchase order or any other document.
- 5.2 Unless acceptance of this Agreement by the Client occurs at an earlier time, submission of samples or any other testing material from the Client to Intertek shall constitute acceptance of the Client's obligations under this Agreement.
- 5.3 The Client shall pay Intertek the charges set out in the Proposal, if applicable, or as otherwise contemplated for provision of the Services (the Charges).
- 5.4 If pricing factors, such as salaries and/or rates are subject to change between the conclusion date of the Contract and the completion date of the Contract, Intertek shall have the right to adjust the Charges accordingly.
- 5.5 The Charges are expressed exclusive of any applicable taxes. The Client shall pay any applicable taxes on the Charges at the rate and in the manner prescribed by law, on the issue by Intertek of a valid invoice.
- 5.6 The Client agrees that it will reimburse Intertek for any expenses incurred by Intertek relating to the provision of the Services and is wholly responsible for the freight or air cargo clearance fees relating to any testing samples.
- 5.7 The Charges represent the total fees to be paid by the Client for the Services pursuant to this Agreement. Any additional work performed by Intertek will be charged on a time and material basis.
- 5.8 Intertek shall invoice the Client for the Charges and expenses, if any, for Services provided over the course of a period of greater than thirty (30) days the Client agreed to at the end of each calendar month Intertek will issue an invoice for the cost of the Services provided in the month. A final invoice will be issued on the date of the completion of the Services.
- 5.9 The Client is required to pay all invoiced amounts without any deduction, discount or set-off no later than thirty (30) days after the invoice date. No deduction for bank charges incurred can be made. Payments, which must be denominated in the currency indicated in the invoice, must be made by means of money transfer to a bank account designated by Intertek.
- 5.10 Intertek will issue an electronic invoice to the Client. An electronic invoice may be sent by email and will be deemed to have been delivered to the Client upon receipt of such email. Intertek is under no obligation to fulfil any request by the Client for a paper copy to be sent by post. Any invoice sent by post will include a £25 administration fee and the paper invoice must be paid by the Client within the credit terms referred to in 5.9 above.
- 5.11 If Intertek believes that the Client's financial position and/or payment performance justifies such action, Intertek has the right to demand that the Client immediately furnish security or additional security in a form to be determined by Intertek and/or make an advance payment. If the Client fails to furnish the desired security, Intertek has the right, without prejudice to its other rights, to immediately suspend the further execution of all or any part of the Services, and any Charges for any part of the Services which has already been performed shall become immediately due and payable.
- 5.12 If the Client fails to pay within the period referred to in 5.9 above, it is in default of its payment obligations and this Agreement after having been reminded by Intertek at least once that payment is due within a reasonable period. In that case, the Client is liable to pay interest on the credit balance with effect from the date on which the payment became due until the date of payment. The interest rate applied is deemed to be the Joint Stock Commercial Bank for Foreign Trade of Vietnam (Vietcombank) base rate plus 5%. In addition, all collection costs incurred after the Client's default, both judicial and extrajudicial, are for the Client's account. The extrajudicial costs are set at an amount equal to least 10% of the principal amount of the invoice, without prejudice to Intertek's right to collect the actual extrajudicial costs in excess of this amount. The judicial costs comprise all costs incurred by Intertek, even if they exceed the Joint Stock Commercial Bank for Foreign Trade of Vietnam (Vietcombank) base rate.
- 5.13 If the Client objects to the contents of the invoice, details of the objection must be raised with Intertek within seven (7) days of receipt of electronic invoice, otherwise the invoice shall be deemed to have been accepted. Any such objections do not exempt the Client from its obligation to pay within the period referred to in 5.9 above.
- 5.14 Any request by the Client for certain information to be included in or appended to the invoice must be made at the time of setting out the Proposal. A later request by the Client for changes to the agreed format of the invoice or supplementary information will not discharge the Client from its obligation to pay within the period referred to in 5.9 above. Intertek reserves the right to charge a £25 administration fee per invoice for issuing additional copies of invoices or amending invoice detail, format or structure from that agreed in the Proposal. Intertek maintains the right to reject such an invoicing amendment request and such a rejection by Intertek of the Client's request will not exempt the Client from its obligation to pay within the period referred to in 5.9 above.
- 5.15 If actions by the Client delay or prevent the completion of the Services, Intertek has the right to invoice the Client for the cost of all Services provided to date. In such a scenario the Client agrees to pay this invoice within thirty (30) days of the invoice date.

**6. INTELLECTUAL PROPERTY RIGHTS AND DATA PROTECTION**

- 6.1 All Intellectual Property Rights belonging to a party prior to entry into this Agreement shall remain vested in that party. Nothing in this Agreement is intended to transfer any Intellectual Property Rights from either party to the other.
- 6.2 Any use by the Client (or the Client's affiliated companies or subsidiaries) of the name "Intertek" or any of Intertek's trademarks or brand names

for any reason must be prior approved in writing by Intertek. Any other use of Intertek's trademarks or brand names is strictly prohibited and Intertek reserves the right to terminate this Agreement immediately as a result of any such unauthorised use.

- 6.3 All Intellectual Property Rights in any Reports, documents, graphs, charts, photographs or any other material (in whatever medium) produced by Intertek pursuant to this Agreement shall belong to Intertek. The Client shall have the right to use any such Reports, documents, graphs, charts, photographs or other material for the purposes of this Agreement.
- 6.4 The Client agrees and acknowledges that Intertek retains any and all proprietary rights in concepts, ideas and inventions that may arise during the preparation or provision of any Report (including but not limited to the provision of the Services to the Client) and the provision of the Services to the Client. Both parties shall observe all statutory provisions with regard to data protection including but not limited to the provisions of the General Data Protection Regulation 2016/679 ("GDPR") and shall comply with all applicable requirements of the GDPR. To the extent that Intertek processes personal data in connection with the Services or otherwise in connection with this Agreement, it shall take all necessary technical and organisational measures to ensure the security of such data (and to guard against unauthorised or unlawful processing, accidental loss, destruction or damage to such data) in line with the GDPR.

**7. CONFIDENTIALITY**

- 7.1 Where a party (the Receiving Party) obtains Confidential Information of the other party (the Disclosing Party) in connection with this Agreement (whether before or after the date of this Agreement) it shall, subject to Clauses 7.2 to 7.4:
  - (a) keep that Confidential Information confidential; by applying the standard of care that it uses for its own Confidential Information;
  - (b) use that Confidential Information only for the purposes of performing obligations under this Agreement; and
  - (c) not disclose that Confidential Information to any third party without the prior written consent of the Disclosing Party.
- 7.2 The Receiving Party may disclose the Disclosing Party's Confidential Information on a "need to know" basis:
  - (a) to any legal advisers and statutory auditors that it has engaged for itself;
  - (b) to any regulator having regulatory or supervisory authority over its business;
  - (c) to any director, officer or employee of the Receiving Party provided that, in each case, the Receiving Party has first advised that person of the obligations under Clause 7.1 and ensured that the person is bound by obligations of confidence in respect of the Confidential Information no less onerous than those set out in Clause 7.1; and
  - (d) where the Receiving Party is Intertek, to any of its subsidiaries, affiliates or subcontractors.
- 7.3 The provisions of Clauses 7.1 and 7.2 shall not apply to any Confidential Information which:
  - (a) was already in the possession of the Receiving Party prior to its receipt from the Disclosing Party without restriction on its use or disclosure; or
  - (b) becomes publicly available through no fault of the Receiving Party;
  - (c) is received by the Receiving Party from a third party who lawfully acquired it and who is under no obligation restricting its disclosure; or
  - (d) is independently developed by the Receiving Party without access to the relevant Confidential Information.
- 7.4 The Receiving Party may disclose Confidential Information of the Disclosing Party to the extent required by law, any regulatory authority or other rules or any other exchange on which the Receiving Party is listed, provided that the Receiving Party has given the Disclosing Party prompt written notice of the requirement to disclose and where possible given the Disclosing Party a reasonable opportunity to prevent the disclosure through appropriate legal means.
- 7.5 Each party shall ensure the compliance by its employees, agents and representatives (which, in the case of Intertek, includes procuring of the Services) with the confidentiality obligations set out in this Clause 7.
- 7.6 No licence of any Intellectual Property Rights is given in respect of any Confidential Information solely by the disclosure of such Confidential Information by the Disclosing Party.
- 7.7 With respect to archival storage, the Client acknowledges that Intertek may retain in its archive for the period required by its quality and certification rules, or by the testing and certification rules of the relevant accreditation body, all materials necessary to document the Services provided.

**8. AMENDMENT**

- 8.1 No amendment to this Agreement shall be effective unless it is in writing, expressly stated to amend this Agreement and signed by an authorised signatory of each party.

**9. FORCE MAJEURE**

- 9.1 Neither party shall be liable to the other for any delay in performing or failure to perform any obligation under this Agreement to the extent that such delay or failure to perform is a result of:
  - (a) war (whether declared or not), civil war, riots, revolution, acts of terrorism, military action, sabotage and/or piracy;
  - (b) natural disasters such as violent storms, earthquakes, tidal waves, floods and/or lightning; explosions and fires;
  - (c) strikes and labour disputes, other than by any one or more employees of the affected party or of any supplier or agent of the affected party; or
  - (d) failures of utilities companies such as providers of telecommunication, internet, gas or electricity services.
- 9.2 For the avoidance of doubt, where the affected party is Intertek any failure or delay caused by failure or delay on the part of a subcontractor shall only be a Force Majeure Event (as defined below) where the subcontractor is affected by one of the events described above.
- 9.3 A party whose performance is affected by an event described in Clause 9.1 (a Force Majeure Event) shall:
  - (a) promptly notify the other party in writing of the Force Majeure Event and the cause and the likely duration of any consequential delay or non-performance of its obligations;
  - (b) use all reasonable endeavours to avoid or mitigate the effect of the Force Majeure Event and continue to perform or resume performance of its affected obligations as soon as possible;
  - (c) continue to provide Services that remain unaffected by the Force Majeure Event;
  - (d) if the Force Majeure Event continues for more than sixty (60) days after the day on which it started, each party may terminate this Agreement by giving at least ten (10) days' written notice to the other party.

**10. LIMITATIONS AND EXCLUSIONS OF LIABILITY**

- 10.1 Neither party excludes or limits its liability to the other party:
  - (a) for death or personal injury resulting from the negligence of that party or its directors, officers, employees, agents or sub-contractors; or for its own fraud (or that of its directors, officers, employees, agents or sub-contractors);
  - (b) Subject to clause 10.1, the maximum aggregate liability of Intertek in contract, tort (including negligence and breach of statutory duty) or otherwise for any breach of this agreement or any matter arising out of or in connection with the services to be provided in accordance with this agreement shall be the amount of charges due by the client to Intertek under this agreement.
  - (c) Subject to clause 10.1, neither party shall be liable to the other in contract, tort (including negligence and breach of statutory duty) or otherwise for any:
    - (a) loss of sales or business;
    - (b) loss of opportunity (including without limitation in relation to third party agreements or contracts);
    - (c) loss of or damage to goodwill or reputation;
    - (d) loss of anticipated savings;
    - (e) cost or expenses incurred in relation to making a product recall;
    - (f) loss of use or corruption of software, data or information; or
    - (g) any indirect, consequential loss, punitive or special loss (even when advised of their possibility).
- 10.4 A party who is liable to Intertek shall continue to be liable to the provisions of this clause 10.1 must be made within ninety (90) days after the Client becomes aware of any circumstances giving rise to any such claim. Failure to give such notice of claim within ninety (90) days shall constitute a bar or irrevocable waiver to any claim, either directly or indirectly, in contract, tort or otherwise in connection with the provision of services under this agreement.

**11. INDEMNITY**

- 11.1 The Client shall indemnify and hold harmless Intertek, its officers, employees, agents, representatives, contractors and sub-contractors from and against any and all claims, suits, liabilities (including costs of litigation and attorney's fees) arising, directly or indirectly, out of or in connection with:
  - (a) any claims or suits by any governmental authority or others for any actual or asserted failure of the Client to comply with any law, ordinance, regulation, rule or order of any governmental or judicial authority;
  - (b) claims or suits for personal injuries, loss of or damage to property, economic loss, and loss of or damage to Intellectual Property Rights incurred by or occurring to any person or entity and arising in connection with or related to the Services provided hereunder by Intertek, its officers, employees, agents, representatives, contractors or sub-contractors;
  - (c) the breach or alleged breach by the Client of any of its obligations set out in Clause 4 above;
  - (d) any claims made by any third party for loss, damage or expense of whatsoever nature and however arising relating to the performance, purported performance or non-performance of any Services to the extent that the aggregate of any such claims relating to any one Service exceeds the limit of liability set out in Clause 10 above;
  - (e) any claims or suits arising as a result of any misuse or unauthorised use of any Reports issued by Intertek or any Intellectual Property Rights belonging to Intertek (including trade marks) pursuant to this Agreement; and
  - (f) any claims arising out of or relating to any third party's use of or reliance on any Reports or any reports, analyses, conclusions of the Client (or any third party to whom the Client has provided the Reports) based in whole or in part on the Reports, if applicable.
- 11.2 The obligations set out in this Clause 11 shall survive termination of this Agreement.

**12. INSURANCE POLICIES**

- 12.1 Each party shall be responsible for the arrangement and costs of its own company insurance which includes, without limitation, professional indemnity, employer's liability, motor insurance and property insurance.
- 12.2 Intertek expressly disclaims any liability to the Client as an insurer or guarantor.
- 12.3 The Client acknowledges that although Intertek maintains employer's liability insurance, such insurance does not cover any employees of the Client or third parties who may be involved in the provision of the Services. If the Services are to be performed at premises belonging to the Client or third parties, Intertek's employer's liability insurance does not provide cover for non-Intertek employees.

**13. TERMINATION**

- 13.1 This Agreement shall commence upon the first day on which the Services are commenced and shall continue, unless terminated earlier in accordance with this Clause 13, until the Services have been provided.
- 13.2 This Agreement may be terminated by:
  - (a) either party if the other continues in material breach of any obligation imposed upon it hereunder for more than thirty (30) days after written notice has been dispatched by that party by recorded delivery or courier requesting the other to remedy such breach;
  - (b) Intertek on written notice to the Client in the event that the Client fails to pay any invoice by its due date and/or fails to make payment after further requests for payment;
  - (c) either party on an attention order or (being an individual or firm) becomes bankrupt or (being a company) goes into liquidation (otherwise than for the purposes of a solvent amalgamation or reconstruction) or an encumbrance takes possession, or a receiver is appointed, of any of the assets of either party, or either party ceases to carry on business.
- 13.3 In the event of termination of the Agreement for any reason and without prejudice to any other rights or remedies the parties may have, the Client shall pay Intertek for all Services performed up to the date of termination. This obligation shall survive termination or expiration of this Agreement.
- 13.4 Any termination or expiration of the Agreement shall not affect the accrued rights and obligations of the parties nor shall it affect any provision which is expressly or by implication intended to come into force or continue in force on or after such termination or expiration.

**14. ASSIGNMENT AND SUB-CONTRACTING**

- 14.1 Intertek reserves the right to delegate the performance of its obligations hereunder and the provision of the Services to one or more of its affiliates and/or sub-contractors when necessary. Intertek may also assign this Agreement to any company within the Intertek group on notice to the Client.

**15. GOVERNING LAW AND DISPUTE RESOLUTION**

- 15.1 This Agreement and the Services are governed by Vietnam law. The parties agree to submit to the exclusive jurisdiction of the Vietnam Courts in respect of any dispute or claim arising out of or in connection with this Agreement (including any non-contractual claim relating to the provision of the Services in accordance with this Agreement).

**16. MISCELLANEOUS**

- 16.1 **Severability.** If any provision of this Agreement is or becomes invalid, illegal or unenforceable, such provision shall be severed and the remainder of the provisions shall continue to be in force and effect as if this Agreement had been executed without the invalid illegal or unenforceable provision. If the invalidity, illegality or unenforceability is so fundamental that it prevents the accomplishment of the purpose of this Agreement, Intertek and the Client shall immediately commence good faith negotiations to agree an alternative arrangement.
- 16.2 **No partnership or agency.** Nothing in this Agreement and no action taken by the parties under this Agreement shall constitute a partnership, joint venture or other co-operative entity between the parties or constitute any party the partner, agent or legal representative of the other.
- 16.3 **Waivers.** Subject to Clause 10.4 above, the failure of any party to insist upon strict performance of any provision of this Agreement, or to exercise any right or remedy to which it is entitled, shall not constitute a waiver and shall not cause a diminution of the obligations set out in this Agreement. A waiver of any breach shall not constitute a waiver of any subsequent breach.
- 16.4 **No waiver of any right or remedy.** Under this Agreement shall be effective unless it is expressly stated to be a waiver and communicated to the other party in writing.
- 16.5 **Whole Agreement.** This Agreement and the Proposal contain the whole agreement between the parties relating to the transactions contemplated by this agreement and supersedes all previous agreements, arrangements and understandings between the parties relating to these transactions or that subject matter. No purchase order, statement or other similar document will add to or vary the terms of this Agreement.
- 16.6 Each party acknowledges that in entering into this Agreement it has not relied on any representation, warranty, collateral contract or other assurance (except those set out or referred to in this Agreement) made by or on behalf of any other party before the acceptance or signature of this Agreement. Each party waives all rights and remedies that, but for this Clause, might otherwise be available to it in respect of any such contract or other assurance.
- 16.7 Nothing in this Agreement limits or excludes any liability for fraudulent misrepresentation.
- 16.8 **Third Party Rights.** A person who is not party to this Agreement has no right under the Contract (Rights of Third Parties) Act 1999 to enforce any of its terms.
- 16.9 **Further Assurance.** Each party shall, at the cost and request of any other party, execute and deliver such instruments and documents and take such other actions in each case as may be reasonably requested from time to time in order to give full effect to its obligations under this Agreement.

NGÀY: 11/03/2020

**BÁO CÁO THỬ NGHIỆM**

SỐ: VNMT20009541



Mẫu 5

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KẾT THÚC BÁO CÁO

Báo cáo này (bao gồm cả tài liệu và hình ảnh đính kèm) được phát hành dành riêng cho việc sử dụng và phục vụ cho lợi ích của đơn vị yêu cầu theo đúng mục đích đã yêu cầu. Bất kỳ phần nào trong nội dung của báo cáo cũng không được sửa đổi, sao chép hay phân phối cho bất kỳ đơn vị thứ ba nào nếu không có sự đồng ý bằng văn bản từ phía chúng tôi. Chúng tôi hoàn toàn không chịu trách nhiệm nếu báo cáo này được sử dụng cho một mục đích khác với mục đích ban đầu, và chúng tôi cũng không chịu trách nhiệm với bất kỳ bên nào khác về bản báo cáo này.





# Intertek General Terms and Conditions of Services

These terms and conditions, together with any proposal, estimate or fee quote, form the agreement between you (the Client) and the Intertek (Intertek) providing the services contemplated therein.

## 1. INTERPRETATION

- 1.1 In this Agreement, the following words and phrases shall have the following meanings unless the context otherwise requires:
  - (a) Agreement means this agreement entered into between Intertek and the Client;
  - (b) Charges shall have the meaning given in Clause 5.1;
  - (c) Confidential Information means all information in whatever form or manner presented which: (a) is disclosed pursuant to, or in the course of the provision of Services pursuant to, this Agreement; and (b) is disclosed in writing, visually, or otherwise, and is marked, stamped or identified by any means as confidential by the disclosing party at the time of such disclosure; and/or
  - (d) information, however disclosed, which would reasonably be considered to be confidential by the receiving party;
  - (e) Intellectual Property Rights means copyrights, trademarks (registered or unregistered), patents, patents applications (including the right to apply for a patent), service marks, design rights (registered or unregistered), trade secrets and other like rights however existing
  - (f) Reports shall have the meaning as set out in Clause 2.1;
  - (g) Services means the services set out in any relevant Intertek Proposal, any relevant Client purchase order, or any relevant Intertek invoice, as applicable, and may comprise or include the provision by Intertek of a Report;
  - (h) Proposal means the proposal, estimate or fee quote, if applicable, provided to the Client by Intertek relating to the Services;
  - (i) The headings in this Agreement do not affect its interpretation.

## 2. THE SERVICES

- 2.1 Intertek shall provide the Services to the Client in accordance with the terms of this Agreement which is expressly incorporated into any Proposal Intertek has made and submitted to the Client.
- 2.2 In the event of any inconsistency between the terms of this Agreement and the Proposal, the terms of the Proposal shall take precedence.
- 2.3 The Services provided by Intertek under this Agreement and any memoranda, laboratory data, calculations, measurements, estimates, notes, certificates and other material prepared by Intertek in the course of providing the Services to the Client, together with status summaries or any other communication in any form describing the results of any work or services performed (Report(s)) shall be only for the Client's use and benefit.
- 2.4 The Client warrants and agrees that in providing the Services Intertek is obliged to deliver a Report to a third party, Intertek shall be deemed irrevocably authorised to deliver such Report to the applicable third party. For the purposes of this clause an obligation shall arise on the instructions of the Client, or where, in the reasonable opinion of Intertek, it is implicit from the circumstances, trade, custom, usage or practice.
- 2.5 The Client acknowledges and agrees that any Services provided and/or Reports produced by Intertek are done so within the limits of the scope of work agreed with the Client in relation to the Proposal and pursuant to the Client's specific instructions or, in the absence of such instructions, in accordance with any relevant trade custom, usage or practice. The Client further agrees and acknowledges that the Services are not necessarily designed or intended to address all matters of quality, safety, performance or condition of any product, material, services, systems or processes tested, inspected or certified and the scope of work does not necessarily reflect all standards which may apply to product, material, services, systems or processes tested, inspected or certified. The Client understands that reliance on any Reports issued by Intertek is limited to the facts and representations set out in the Reports which represent Intertek's review and/or analysis of facts, information, documents, samples and/or other materials in existence at the time of the performance of the Services only. Client is responsible for the accuracy of the data and information provided to Intertek and not of any officers, employees, agents or subcontractors shall be liable to Client nor any third party for any action taken or not taken on the basis of such Report.
- 2.7 In agreeing to provide the Services pursuant to this Agreement, Intertek does not abridge, abrogate or undertake to discharge any duty or obligation of the Client to any other person or any duty or obligation of any person to the Client.

## 3. INTERTEK'S WARRANTIES

- 3.1 Intertek warrants exclusively to the Client:
  - (a) that it has the power and authority to enter into this Agreement and that it will comply with relevant legislations and regulations in force as at the date of this Agreement in relation to the provision of the Services;
  - (b) that the Services will be performed in a manner consistent with that level of care and skill ordinarily exercised by other companies providing like services under similar circumstances;
  - (c) that it will take reasonable steps to ensure that whilst on the Client's premises its personnel comply with any health and safety rules and regulations and other reasonable security requirements made known to Intertek by the Client in accordance with Clause 4.3(f);
  - (d) that the Reports produced in relation to the Services will not infringe any legal rights (including Intellectual Property Rights) of any third party. This warranty shall not apply where the infringement is directly or indirectly caused by Intertek's reliance on any information, samples or other related documents provided to Intertek by the Client (or any of its agents or representatives).
- 3.2 In the event of a breach of the warranty set out in Clause 3.1 (b), Intertek shall, at its own expense, perform services of the type originally performed as may be reasonably required to correct any defect in Intertek's performance.
- 3.3 Intertek makes no warranty, express or implied. All other warranties, conditions and other terms implied by statute or common law (including but not limited to any implied warranties of merchantability and fitness for purpose) are, to the fullest extent permitted by law, excluded from this Agreement. No performance, deliverable, oral or other information or advice provided by Intertek (including its agents, sub-contractors, employees or other representatives) will create a warranty or otherwise increase the scope of any warranty provided.

## 4. CLIENT WARRANTIES AND OBLIGATIONS

- 4.1 The Client represents and warrants:
  - (a) that it has the power and authority to enter into this Agreement and procure the provision of the Services for itself;
  - (b) that it is securing the provision of the Services hereunder for its own account and not as an agent or broker, or in any other representative capacity, for any other person or entity;
  - (c) that any information, samples and related documents (or any of its agents or representatives) supplies to Intertek (including its agents, sub-contractors, employees or other representatives) is true, accurate and not misleading in any respect. The Client further acknowledges that Intertek will rely on such information, samples or other related documents and materials provided by the Client (without any duty to confirm or verify the accuracy or completeness thereof) in order to provide the Services;
  - (d) that any samples provided by the Client to Intertek will be shipped pre-paid and will be collected or disposed of by the Client (at the Client's cost) within the time period specified in the arrangements made by the Client. In the event that such samples are not collected or disposed of by the Client within the required thirty (30) days period, Intertek reserves the right to destroy the samples, at the Client's cost; and
  - (e) that any information, samples or other related documents (including without limitation certificates and reports) provided by the Client to Intertek will not infringe any legal rights (including Intellectual Property Rights) of any third party.
- 4.2 In the event that the Services provided relate to any third party, the Client shall cause any such third party to acknowledge and agree to the provisions in this Agreement and the Proposal prior to and as a condition precedent to such third party receiving any Reports or the benefit of any Services.
- 4.3 The Client further agrees:
  - (a) to co-operate with Intertek in all matters relating to the Services and appoint a manager in relation to the Services who shall be duly authorised to provide instructions to Intertek on behalf of the Client and to bind the Client contractually as required;
  - (b) to provide Intertek (including its agents, sub-contractors and employees), at its own expense, any and all samples, information, material or other documents necessary for the provision of the Services in a timely manner sufficient to enable Intertek to provide the Services in accordance with this Agreement. The Client acknowledges that any samples provided may become damaged or be destroyed in the course of testing as part of the necessary testing process and undertakes to hold Intertek harmless from any and all responsibility for such alteration, damage or destruction;
  - (c) that it is responsible for ensuring the samples/equipment to be tested together, where appropriate, with any specified additional items, including but not limited to connecting pieces, fuse-links, etc;
  - (d) to provide instructions and feedback to Intertek in a timely manner;
  - (e) to provide Intertek (including its agents, sub-contractors and employees) with access to its premises as may be reasonably required for the provision of the Services and for the testing of the samples to be provided;
  - (f) prior to Intertek attending any premises for the performance of the Services, to inform Intertek of all applicable health and safety rules and regulations and other reasonable security requirements that may apply at any relevant premises at which the Services are to be provided;
  - (g) to notify Intertek promptly of any risk, safety issues or incidents in respect of any item delivered by the Client, or any process or systems used at its premises for the testing of the samples;
  - (h) to inform Intertek in advance of any applicable import/export restrictions that may apply to the Services to be provided, including any instances where any products, information or technology may be exported/imported to or from a country that is restricted or banned from such transaction;
  - (i) in the event of the issuance of a certificate, to inform and advise Intertek immediately of any changes during the term of the certificate which may have a material impact on the accuracy of the certification;
  - (j) to obtain and maintain all necessary licenses and consents in order to comply with relevant legislation and regulation in relation to the Services;
  - (k) that it will not use any Reports issued by Intertek pursuant to this Agreement in a misleading manner and that it will only distribute such Reports in their entirety;
  - (l) in no event, will the contents of any Reports or any extracts, excerpts or parts of any Reports be distributed or published without the prior written consent of Intertek (such consent not to be unreasonably withheld) in each instance; and
  - (m) that any and all advertising and promotional material or any statements made by the Client will not give a false or misleading impression to any third parties.
- 4.4 Intertek shall be neither in breach of this Agreement nor liable to the Client for any breach of this Agreement if and to the extent that its breach is a direct result of a failure by the Client to comply with its obligations as set out in this Clause 4. The Client also acknowledges that the impact of any failure by the Client to perform its obligations set out herein on the provision of the Services by Intertek will not affect the Client's obligations under this Agreement for payment of the Charges pursuant to Clause 5 below.

## 5. CHARGES, INVOICING AND PAYMENT

- 5.1 The parties agree that the Services are provided on the terms and subject to the conditions set out or referred to in this Agreement, and that this Agreement shall take precedence over any terms and conditions which the Client has provided or may in the future provide to Intertek, whether in a purchase order or any other document.
- 5.2 Unless acceptance of this Agreement by the Client occurs at an earlier time, submission of samples or any other testing material from the Client to Intertek shall constitute acceptance of the Client's acceptance of this Agreement.
- 5.3 The Client shall pay Intertek the charges set out in the Proposal, if applicable, or as otherwise contemplated for provision of the Services (the Charges).
- 5.4 If pricing factors, such as salaries and/or rates are subject to change between the conclusion date of the Contract and the completion date of the Contract, Intertek has the right to adjust the Charges accordingly.
- 5.5 The Charges are expressed exclusive of any applicable taxes. The Client shall pay any applicable taxes on the Charges at the rate and in the manner prescribed by law, on the issue by Intertek of a valid invoice.
- 5.6 The Client agrees that it will reimburse Intertek for any expenses incurred by Intertek relating to the provision of the Services and is wholly responsible for any freight or customs clearance fees relating to any testing samples.
- 5.7 The Charges represent the total fees to be paid by the Client for the Services pursuant to this Agreement. Any additional work performed by Intertek will be charged on a time and material basis.
- 5.8 Intertek shall invoice the Client for the Charges and expenses, if any. For Services provided over the course of a period of greater than thirty (30) days the Client agrees that at the end of each calendar month Intertek will issue an invoice for the cost of the Services provided in the month. A final invoice will be issued on the date of the completion of the Services.
- 5.9 The Client is required to pay all invoiced amounts without any deduction, discount or set-off no later than thirty (30) days after the invoice date. No deduction for bank charges incurred can be made in payments which must be denominated in the currency indicated in the invoice, must be made by means of money transfer to a bank account designated by Intertek.
- 5.10 Intertek will issue an electronic invoice to the Client. An electronic invoice may be sent by email and will be deemed to have been delivered to the Client upon receipt of such email. Intertek is under no obligation to fulfill any request by the Client for a paper copy to be sent by post. Any invoice sent by post will include a £25 administration fee and the paper invoice must be paid by the Client within the credit terms referred to in 5.9 above.
- 5.11 If Intertek believes that the Client's financial position and/or payment performance justifies such action, Intertek has the right to demand that the Client immediately furnish security or additional security in a form to be determined by Intertek and/or make an advance payment. If the Client fails to furnish the desired security, Intertek has the right, without prejudice to its other rights, to immediately suspend the further execution of all or any part of the Services, and any Charges for any part of the Services which has already been performed shall become immediately due and payable.
- 5.12 If the Client fails to pay within the period referred to in 5.9 above, it is in default of its payment obligations and this Agreement after having been remedied by the Client, at least once that payment is due within a reasonable period. In that case, the Client is liable to pay interest on the credit balance with effect from the date on which the payment became due until the date of payment. The interest rate applied is deemed to be the Joint Stock Commercial Bank for Foreign Trade of Vietnam (Vietcombank) base rate plus 5%. In addition, all collection costs incurred after the Client's default, both judicial and extrajudicial, are for the Client's account. The extrajudicial costs are set at an amount equal to the principal plus interest, without prejudice to Intertek's right to collect the actual extrajudicial costs in excess of this amount. The judicial costs comprise all costs incurred by Intertek, even if they exceed the Joint Stock Commercial Bank for Foreign Trade of Vietnam (Vietcombank) base rate.
- 5.13 If the Client objects to the contents of the invoice, details of the objection must be raised with Intertek within seven (7) days of receipt of electronic invoice. Otherwise, the invoice will be deemed to have been accepted. Any such objections do not exempt the Client from its obligation to pay within the period referred to in 5.9 above.
- 5.14 Any request by the Client for certain information to be included in or appended to the invoice must be made at the time of setting out the Proposal. A later request by the Client for changes to the agreed format of the invoice or supplementary information will not discharge the Client from its obligation to pay within the period referred to in 5.9 above. Intertek reserves the right to charge a £25 administration fee per invoice for issuing additional copies of invoices or amending invoice detail, format or structure from that agreed in the Proposal.
- 5.15 Intertek maintains the right to reject such an invoicing amendment request and such a rejection by Intertek of the Client's request will not exempt the Client from its obligation to pay within the period referred to in 5.9 above.
- 5.16 If actions by the Client delay completion of the Services, Intertek has the right to invoice the Client for the cost of all Services provided to date. In such a scenario the Client agrees to pay this invoice within thirty (30) days of the invoice date.

## 6. INTELLECTUAL PROPERTY RIGHTS AND DATA PROTECTION

- 6.1 All Intellectual Property Rights belonging to a party prior to entry into this Agreement shall remain vested in that party. Nothing in this Agreement is intended to transfer any Intellectual Property Rights to Intertek or any other party.
- 6.2 Any use by the Client (or the Client's affiliated companies or subsidiaries) of the name "Intertek" or any of Intertek's trademarks or brand names

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- for any reason must be prior approved in writing by Intertek. Any other use of Intertek's trademarks or brand names is strictly prohibited and Intertek reserves the right to terminate this Agreement immediately as a result of any such unauthorised use.
  - 6.3 All Intellectual Property Rights in any Reports, documents, graphs, charts, photographs or any other material (in whatever medium) produced by Intertek pursuant to this Agreement shall belong to Intertek. The Client shall have the right to use any such Reports, documents, graphs, charts, photographs or other material for the purposes of this Agreement.
  - 6.4 The Client agrees and acknowledges that Intertek retains any and all proprietary rights in concepts, ideas and inventions that may arise during the preparation or provision of any Report (including those provided by Intertek to the Client) and the provision of the Services to the Client. Both parties shall observe all statutory provisions with regard to data protection including but not limited to the provisions of the General Data Protection Regulation 2016/679 ("GDPR") and shall comply with all applicable requirements of the GDPR. To the extent that Intertek processes personal data in connection with the Services or otherwise in connection with this Agreement, it shall take all necessary technical and organisational measures to ensure the security of such data (and to guard against unauthorised or unlawful processing, accidental loss, destruction or damage to such data) in line with the GDPR.
- ## 7. CONFIDENTIALITY
- 7.1 Where a party (the Receiving Party) obtains Confidential Information of the other party (the Disclosing Party) in connection with this Agreement (whether before or after the date of this Agreement) it shall, subject to Clauses 7.2 to 7.4:
    - (a) use that Confidential Information confidentially, by applying the standard of care that it uses for its own Confidential Information;
    - (b) use that Confidential Information only for the purposes of performing obligations under this Agreement; and
    - (c) not disclose that Confidential Information to any third party without the prior written consent of the Disclosing Party.
  - 7.2 The Receiving Party may disclose the Disclosing Party's Confidential Information on a "need to know" basis:
    - (a) to any legal advisers and statutory auditors that it has engaged for itself;
    - (b) to any regulator having regulatory or supervisory authority over its business;
    - (c) to any director, officer or employee of the Receiving Party provided that, in each case, the Receiving Party has first advised that person of the obligations under Clause 7.1 and ensured that the person is bound by obligations of confidence in respect of the Confidential Information no less onerous than those set out in this Clause 7; and
    - (d) where the Receiving Party is Intertek, to any of its subsidiaries, affiliates or subcontractors.
  - 7.3 The provisions of Clauses 7.1 and 7.2 shall not apply to any Confidential Information which:
    - (a) was already in the possession of the Receiving Party prior to its receipt from the Disclosing Party without restriction on its use or disclosure; or
    - (b) is or becomes public knowledge other than as a result of this Clause 7;
    - (c) is received by the Receiving Party from a third party who lawfully acquired it and who is under no obligation restricting its disclosure; or
    - (d) is independently developed by the Receiving Party without access to the relevant Confidential Information.
  - 7.4 The Receiving Party may disclose Confidential Information of the Disclosing Party to the extent required by law, any regulatory authority or the rules of any stock exchange on which the Receiving Party is listed, provided that the Receiving Party has given the Disclosing Party prompt written notice of the requirement to disclose and where possible given the Disclosing Party a reasonable opportunity to prevent the disclosure through appropriate legal means.
  - 7.5 Each party shall ensure the compliance by its employees and representatives (which, in the case of Intertek, includes procuring of its staff) with the obligations set out in this Clause 7.
  - 7.6 No licence of any Intellectual Property Rights is given in respect of any Confidential Information solely by the disclosure of such Confidential Information by the Disclosing Party.
  - 7.7 With respect to archival storage, the Client acknowledges that Intertek may retain in its archive for the period required by its quality and assurance policies and/or, by the testing and certification rules of the relevant accreditation body, all materials necessary to document the Services provided.
- ## 8. AMENDMENT
- 8.1 No amendment to this Agreement shall be effective unless it is in writing, expressly stated to amend this Agreement and signed by an authorised signatory of each party.
- ## 9. FORCE MAJEURE
- 9.1 Neither party shall be liable to the other for any delay in performing or failure to perform any obligation under this Agreement to the extent that such delay or failure to perform is a result of:
    - (a) war (whether declared or not), civil war, riots, revolution, acts of terrorism, military action, sabotage and/or piracy;
    - (b) natural disasters such as violent storms, earthquakes, tidal waves, floods and/or lightning; explosions and fires;
    - (c) strikes and labour disputes, other than by any one or more employees of the affected party or of any supplier or agent of the affected party;
    - (d) failures of utilities companies such as providers of telecommunication, internet, gas or electricity services.
  - 9.2 For the avoidance of doubt, where the affected party is Intertek any failure or delay caused by failure or delay on the part of a subcontractor shall only be a Force Majeure Event (as defined below) where the subcontractor is affected by one of the events described above.
  - 9.3 A party whose performance is affected by an event described in Clause 9.1 (a Force Majeure Event) shall:
    - (a) promptly notify the other party in writing of the Force Majeure Event and the cause and the likely duration of any consequential delay or non-performance of its obligations;
    - (b) use all reasonable endeavours to avoid or mitigate the effect of the Force Majeure Event and continue to perform or resume performance of its affected obligations as soon as reasonably possible; and
    - (c) continue to provide Services that remain unaffected by the Force Majeure Event.
  - 9.4 If the Force Majeure Event continues for more than sixty (60) days after the day on which it started, each party may terminate this Agreement by giving at least ten (10) days' written notice to the other party.
- ## 10. LIMITATIONS AND EXCLUSIONS OF LIABILITY
- 10.1 Neither party excludes or limits its liability to the other party:
    - (a) for death or personal injury resulting from the negligence of that party or its directors, officers, employees, agents or sub-contractors; or
    - (b) for its own fraud (or that of its directors, officers, employees, agents or sub-contractors).
  - 10.2 Subject to clause 10.1, the maximum aggregate liability of Intertek in contract, tort (including negligence and breach of statutory duty) or otherwise for any breach of this agreement or any matter arising out of or in connection with the services to be provided in accordance with this agreement shall be the amount of charges due by the client to Intertek under this agreement.
  - 10.3 Subject to clause 10.1, neither party shall be liable to the other in contract, tort (including negligence and breach of statutory duty) or otherwise for any:
    - (a) loss of profits;
    - (b) loss of sales or business;
    - (c) loss of opportunity (including without limitation in relation to third party agreements or contracts);
    - (d) loss of or damage to goodwill or reputation;
    - (e) loss of anticipated savings;
    - (f) cost or expenses incurred in relation to making a product recall;
    - (g) loss of use or corruption of software, data or information; or
    - (h) any indirect, consequential loss, punitive or special loss (even when advised of their possibility).
  - 10.4 A party whose performance is affected by an event described in Clause 9.1 (a Force Majeure Event) shall be deemed to have made written notice of such event to the other party within ninety (90) days after the Client becomes aware of any circumstances giving rise to any such claim, failure to give such notice of claim within ninety (90) days shall constitute a bar or irrevocable waiver to any claim, either directly or indirectly, in contract, tort or otherwise in connection with the provision of services under this agreement.
- ## 11. INDEMNITY
- 11.1 The Client shall indemnify and hold harmless Intertek, its officers, employees, agents, representatives, contractors and sub-contractors from and against any and all claims, suits, liabilities (including costs of litigation and attorney's fees) arising, directly or indirectly, out of or in connection with:
    - (a) any claims or suits by any governmental authority or others for any actual or asserted failure of the Client to comply with any law, ordinance, regulation, rule or order of any governmental or judicial authority;
    - (b) claims or suits for breach of contract, tort, negligence, loss, and loss of or damage to Intellectual Property Rights incurred by or occurring to any person or entity and arising in connection with or related to the Services provided hereunder by Intertek, its officers, employees, agents, representatives, contractors or sub-contractors;
    - (c) the breach or alleged breach by the Client of any of its obligations set out in Clause 4 above;
    - (d) any claims made by any third party for loss, damage or expense of whatsoever nature and whatsoever arising relating to the performance, purported performance or non-performance of any Services to the extent that the aggregate of any such claims relating to any one Service exceeds the limit of liability set out in Clause 10 above;
    - (e) any claims or suits arising as a result of any misuse or unauthorised use of any Reports issued by Intertek or any Intellectual Property Rights belonging to Intertek (including trade marks) pursuant to this Agreement; and
    - (f) any claims arising out of or relating to any third party's use of or reliance on any Reports or any reports, analyses, conclusions of the Client (or any third party to whom the Client has provided the Reports) based in whole or in part on the Reports, if applicable.
  - 11.2 The obligations set out in this Clause 11 shall survive termination of this Agreement.
- ## 12. INSURANCE POLICIES
- 12.1 Each party shall be responsible for the arrangement and costs of its own company insurance which includes, without limitation, professional indemnity, employer's liability, motor insurance and property insurance.
  - 12.2 Intertek expressly disclaims any liability to the Client as an insurer or guarantor.
  - 12.3 The Client acknowledges that although Intertek maintains employer's liability insurance, such insurance does not cover any employees of the Client or any subcontractors who may be involved in the provision of the Services. If the Services are to be performed at premises belonging to the Client or third parties, Intertek's employer's liability insurance does not provide cover for non-Intertek employees.
- ## 13. TERMINATION
- 13.1 This Agreement shall commence upon the first day on which the Services are commenced and shall continue, unless terminated earlier in accordance with this Clause 13, until the Services have been provided.
  - 13.2 Either party may terminate this Agreement:
    - (a) either party if the other continues in material breach of any obligation imposed upon it hereunder for more than thirty (30) days after written notice has been dispatched by that Party by recorded delivery or courier requesting the other to remedy such breach;
    - (b) Intertek on written notice to the Client in the event that the Client fails to pay any invoice by its due date and/or fails to make payment after the further request for payment;
    - (c) either party on written notice to the other in the event that the other makes any voluntary arrangement with its creditors or becomes subject to an administration order or (being an individual or firm) becomes bankrupt or (being a company) goes into liquidation (otherwise than for the purposes of a solvent amalgamation or reconstruction) or an encumbrancer takes possession, or a receiver is appointed, of any assets of either party, or either party ceases to carry on business, or either party ceases to carry on business in the event of termination of the Agreement for any reason and without prejudice to any other rights or remedies the parties may have, the Client shall pay Intertek for all Services performed up to the date of termination. This obligation shall survive termination or expiration of this Agreement.
  - 13.4 Any termination or expiration of the Agreement shall not affect the accrued rights and obligations of the parties nor shall it affect any provision which is expressly or by implication intended to come into force or continue in force or after such termination or expiration.
- ## 14. ASSIGNMENT AND SUB-CONTRACTING
- 14.1 Intertek reserves the right to delegate the performance of its obligations hereunder and the provision of the Services to one or more of its affiliates and/or sub-contractors when necessary. Intertek may also assign this Agreement to any company within the Intertek group on notice to the Client.
- ## 15. GOVERNING LAW AND DISPUTE RESOLUTION
- 15.1 This Agreement shall be governed by Vietnam law. The parties agree to submit to the exclusive jurisdiction of the Vietnam Courts in respect of any dispute or claim arising out of or in connection with this Agreement (including any non-contractual claim relating to the provision of the Services in accordance with this Agreement).
- ## 16. MISCELLANEOUS
- 16.1 Severability. If any provision of this Agreement is or becomes invalid, illegal or unenforceable, such provision shall be severed and the remainder of this Agreement shall remain in full force and effect as if this Agreement had been executed without the invalid illegal or unenforceable provision. If the invalidity, illegality or unenforceability is fundamental that it prevents the accomplishment of the purpose of this Agreement, Intertek and the Client shall immediately commence good faith negotiations to agree an alternative arrangement.
  - 16.2 No partnership or agency. Nothing in this Agreement and no action taken by the parties under this Agreement shall constitute a partnership, association, joint venture or other co-operative entity between the parties or constitute any party the partner, agent or legal representative of the other.
  - 16.3 Waivers. Subject to Clause 10.4 above, the failure of any party to insist upon strict performance of any provision of this Agreement, or to exercise any right or remedy to which it is entitled, shall not constitute a waiver and shall not cause a diminution of the obligations under this Agreement, or constitute a binding precedent for the future. Any subsequent waiver of any subsequent breach of any obligation under this Agreement shall not constitute a binding precedent for the future.
  - 16.4 No waiver of any right or remedy under this Agreement shall be effective unless it is expressly stated to be a waiver and communicated to the other party in writing.
  - 16.5 Whole Agreement. This Agreement and the Proposal contain the whole agreement between the parties relating to the transactions contemplated by this agreement and supersedes all previous agreements, arrangements and understandings between the parties relating to those transactions or that subject matter. No purchase order, statement or other similar document will add to or vary the terms of this Agreement.
  - 16.6 Each party acknowledges that in entering into this Agreement it has not relied on any representation, warranty, collateral contract or other assurance (except those set out or referred to in this Agreement) made by or on behalf of any other party before the acceptance or signature of this Agreement. Each party waives all rights and remedies that, but for this Clause, might otherwise be available to it in respect of any such representation, warranty, collateral contract or other assurance.
  - 16.7 Nothing in this Agreement limits or excludes any liability for fraudulent misrepresentation.
  - 16.8 Third Party Rights. A person who is not party to this Agreement has no right under the Contract (Rights of Third Parties) Act 1999 to enforce any of its terms.
  - 16.9 Further Assurance. Each party shall, at the cost and request of any other party, execute and deliver such instruments and documents and take such other actions in each case as may be reasonably requested from time to time in order to give full effect to its obligations under this Agreement.