



## TERMS AND CONDITIONS OF SALES AND SERVICES

### 1. ENTIRE AGREEMENT

The terms and conditions set forth herein below constitute the entire agreement between Quantum Analytics Group Inc., hereinafter "Quantum Analytics", and "Client" ( meaning the individual, partnership, corporation, firm, association, or other person or entity listed or designated as the "Client" on Quantum Analytics' Sales and/or Price Quotation forms(s), Request For Analysis document, Work Authorization document, Credit Application or any other form or document submitted to Quantum Analytics), each individually referred to as "Party or collectively as "Parties". Any and all transactions and business conducted by and between Quantum Analytics and the Client shall be governed by and subject to these Terms and Conditions, and there are no promises, representations, understandings, or warranties of any kind except as expressly set forth herein.

### 2. CONFLICT OF TERMS

Notwithstanding any provisions herein to the contrary, no terms or conditions in Client's purchase order, acknowledgment form, confirmation, or any other documents issued by Client or on behalf of Client which conflict with or in any way differ from the condition and terms set forth herein, or which increase Quantum Analytics' obligations hereunder, shall be binding on Quantum Analytics. Any conflicting terms contained in any order or acceptance submitted by Client shall be null and void.

### 3. ACCEPTANCE

Submitting to Quantum Analytics by the Client of Client's purchase order, Client's sample(s), Quantum Analytics' Analysis Request Form document completed and/or executed by the Client, Quantum Analytics' Work Authorization form document completed and/or executed by the Client, Quantum Analytics' Credit Application, completed and/or executed by the Client, for Client to obtain open account with Quantum Analytics , or receipt by Client of Quantum Analytics' analytical report, services, or invoiced items, whichever first occurs, shall constitute Client's agreement and assent to the terms and conditions set forth herein, whether additional to or different from those contained in Client's purchase order or any other form or document heretofore or hereafter supplied by the Client to Quantum Analytics . By executing acceptance of Quantum Analytics' Proposal, Client agrees that in all instances Quantum Analytics' Terms and Conditions shall prevail irrespective of any terms and conditions contained in any order, acceptance or other writings submitted by client.

### 4. QUOTATIONS

Quotations are only valid in writing and for 30 days from the date of the quotation unless otherwise notified. All quotations by Quantum Analytics are subject to change or withdrawal without prior notice to Client unless otherwise specifically stated in the quotation. Quotations are made subject to approval by Quantum Analytics of Client's credit. Quantum Analytics shall have no obligation to sell or deliver Products or Services covered by Quantum Analytics' quotation unless and until Quantum Analytics issues an Order Acknowledgement form (sale and delivery will be subject to the terms of such form and this quotation) or begins providing Services (sale and delivery will be subject to this quotation).

### 5. PRICES

Prices are in U.S. Dollars and are subject to change without notice. If a raw material, component or service provider raises its prices, or imposes a surcharge on Quantum Analytics, Quantum Analytics reserves the right to increase prices and/or surcharge Client and Client agrees to accept such price increase or surcharge until the term of such price increase or surcharge or until termination of the contract to which these terms and conditions apply is reached. Time of payment is of the essence. All orders are accepted subject to Quantum Analytics' price in effect at time of shipment or delivery of services.

### 6. SERVICES

- a. Client acknowledges that Quantum Analytics performs analysis and testing services only as specified in writing by Client. Quantum Analytics does not design, warrant, supervise or monitor compliance of products or services except as specifically agreed to in writing prior to testing and analysis. Client acknowledges that, by their very nature, analysis, testing and other Quantum Analytics services are limited in scope and subject to expected measurement variability.



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- b. Samples and portions thereof not destroyed in testing remain the property of the Client, and are retained a maximum of thirty days, and thereafter may be disposed of or returned to Client, at Client's expense.
- c. Unless otherwise specified in writing, nothing contained in Quantum Analytics' Reports shall be deemed to imply or mean that Quantum Analytics conducts any quality control program for the Client to whom the report is issued.
- d. Quantum Analytics Reports are for the exclusive use of the client to whom they are addressed. Reports and the name of Quantum Analytics, or its seals or insignia, are not to be used by or on behalf of Clients under any circumstances for any purpose whatsoever, including but not limited to use in advertising, marketing and/or sales materials, publicity materials or in any other manner without the prior written approval of Quantum Analytics .
- e. Quantum Analytics Reports apply only to the standards and procedures identified therein and to the sample(s) tested.
- f. Unless specified in a Report in writing, the analysis and testing results are not indicative or representative of the qualities of the lot from which the sample was taken or of apparently identical or similar material or product.
- g. Quantum Analytics shall retain copies of Reports for a period of five years after which such reports will be destroyed.
- h. Quantum Analytics reserves the right to subcontract samples to other laboratories. If subcontracting is necessary, samples will be sent only to laboratories meeting Quantum Analytics' qualification requirements.
- i. Deformulation analysis of commercial products is provided for informational purposes only. Quantum Analytics strongly recommends that Client review state and federal laws, trademarks, copyrights and patent situations prior to the use of such information.
- j. Fees for services performed by the Company include the following: preparation of the Company's standard written reports, in one of the Company's standard report formats of the results and or data produced or generated from the tests, analyses or other procedures or services performed by the Company on samples provided by the Client.
- k. If requested by the Client, the Company may provide, for an additional charge or charges to be determined by the Company, additional services such as extended laboratory inspections or audits, arbitration or litigation support, preparation of affidavits or preparation of documentation beyond that initially ordered. Charges for such additional services shall ordinarily be based upon or include time charges for the Company personnel involved and travel expenses for such personnel.
- l. All costs associated with compliance to any subpoena or other official request for documents, for testimony in a court of law, or for any other purpose relating to work performed by Quantum Analytics, in connection with work performed for that client, and shall be paid by the client. Such costs shall include, but are not limited to, hourly charge for persons involved in responding to subpoenas, travel, accommodations, mileage, attorney's preparation of testifier and advice of counsel in connection with response to subpoenas, and all other expenses deemed reasonable and associated with said litigation.

### 7. PAYMENT

- a. Client agrees to pay all invoices within 15 days of the date of issue.
- b. In the event that payment is not received within 15 days of the invoice date, client agrees to pay a late payment charge on the unpaid balance equal to 1.5% per month
- c. Prior to the physical receipt of sample(s) by Quantum Analytics at its premises the Client may cancel, by notice to Quantum Analytics, any or all of the services ordered by the Client. Client shall be responsible, in the event of cancellation, only for the costs, expenses or charges incurred by Quantum Analytics, on Client's behalf, prior to the date of cancellation.
- d. In the event that Client requests or causes a cancellation, suspension or delay in any services ordered from Quantum Analytics after the physical receipt of Client's samples by Quantum Analytics , the Client shall be responsible to pay Quantum Analytics for all costs incurred by Quantum Analytics for work and services started and in progress on the Client's sample(s), including but not limited to, any costs, expenses and commitments incurred by Quantum Analytics in the performance of services on Client's sample(s), up to the date of receipt of notice of such cancellation, suspension or delay, including a reasonable allowance for overhead and profit. In the event that Quantum Analytics finds it necessary to refer payment collection to



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an attorney or an agent for collection of delinquent accounts, Client shall pay all costs of collection including all attorney's fees reasonably incurred.

- e. Should Client become delinquent in the payment of any sum due hereunder, Quantum Analytics will not be obligated to continue performance.
- f. Non-Domestic U.S./Foreign: Payment in advance with funds drawn off of a U.S. bank or bank acceptable to the company, prior to release of reports and/or test result

### 8. LIABILITY

- a. Quantum Analytics is not an insurer or guarantor. Quantum Analytics represents that the Services shall be performed within the limits mutually agreed to in, in writing as stated in Quantum Analytics' Proposal, and in a manner consistent with the level of care and skill ordinarily exercised by other providers of similar services under similar circumstances. No other representations or warranties, express or implied, are included in this agreement, or in any Report, opinion or document related to the Services provided hereunder. QUANTUM ANALYTICS EXPRESSLY DISCLAIMS THE IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS OF SAID REPORTS, DOCUMENTS AND/OR DATA FOR A PARTICULAR PURPOSE.
- b. Client understands and agrees that Quantum Analytics in entering into this Contract and by performing services hereunder does not assume, abridge, abrogate or undertake to discharge any duty or responsibility of Client to any other party or parties. No one other than Client shall have any right to rely on any Report. Client agrees, in consideration of Quantum Analytics undertaking to perform the test(s) or program hereunder to protect, defend, indemnify, save harmless, and exonerate Quantum Analytics from any and all claims, damages, including lost profits, expenses, including attorney's fees, either direct indirect or consequential, for any and all injuries to persons, including the personnel of Quantum Analytics, or property arising out of or in consequence of the performance of the testing hereunder and/or the performance of the materials and/or products tested hereunder.
- c. It is agreed that if Quantum Analytics should be found liable for any losses or damages attributable to the services hereunder in any respect, its liability shall in no event exceed the amount of the fee paid by Client for such services and the Client's sole remedy at law or in equity shall be the right to recover up to such amount. Client acknowledges and agrees that in no event will Quantum Analytics be liable for consequential or incidental damages or expenses, including but not limited to lost profits.
- d. In the event that Quantum Analytics prevails in any dispute or claim, Client agrees that Client will pay any and all expenses, including attorney's fees, reasonable incurred by Quantum Analytics in the prosecution or defense of such claim or dispute.
- e. For the safety of Quantum Analytics' personnel, Client must advise Quantum Analytics if sample(s) is/are known or suspected of containing hazardous substances. Material Safety Data Sheets must be provided if available.
- f. Whenever performance by either party is delayed or prevented by war, insurrection, fire or other casualty, strikes or embargoes, shortages, or any other similar or dissimilar causes, beyond the control of such party, such delay or prevention shall be excused and the time of performance hereunder extended for the duration of the causative factor.
- g. If this quotation is part of an Agreement or Contract, or made part of or subject to, annexed to or referenced therein, between Quantum Analytics and Client, neither party shall be liable in damages or have the right to terminate such Agreement or Contract for any delay or default in performing herein or thereunder if such delay or default is caused by conditions beyond its control including but not limited to acts of God, government restrictions (including the denial or cancellation of any export of other necessary license), wars, insurrections and/or any other cause beyond the reasonable control of the party whose performance is affected (including mechanical, electronic, or communications failure).

### 9. FORCE MAJEURE

Quantum Analytics shall not be liable for failure to perform or delay in performance or delivery of any Products or Services due to (a) fires, floods, strikes, or other labor disputes, accidents, sabotage, terrorism, war, riots, acts of precedence or priorities granted at the request or for the benefit, directly or indirectly, of any federal, state or local government or any subdivision or agency thereof, delays in transportation or lack of transportation facilities, restrictions imposed by federal, state or local laws, rules or regulations; or (b) any other cause beyond the control



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of Quantum Analytics . In the event of the occurrence of any of the foregoing, the time for performance shall be extended for such time as may be reasonably necessary to enable Quantum Analytics to perform. Quantum Analytics may, during any period of shortage due to any of the above circumstances, allocate its available supply of Products or Services among itself and its clients in such manner as Quantum Analytics, in its judgment, deems fair and equitable.

If this quotation is part of an Agreement or Contract, or made part of or subject to , annexed to or referenced therein, between Quantum Analytics and Client, neither party shall be liable in damages or have the right to terminate such Agreement or Contract for any delay or default in performing herein or thereunder if such delay or default is caused by conditions beyond its control including but not limited to acts of God, government restrictions (including the denial or cancellation of any export of other necessary license), wars, insurrections and/or any other cause beyond the reasonable control of the party whose performance is affected (including mechanical, electronic, or communications failure).

### 10. EXCLUSIVE REMEDIES

The remedies provided for herein are the client's sole and exclusive remedies. Quantum Analytics shall not be liable for any direct, indirect, special, incidental, or consequential damages, whether based on contract, tort or other legal theory arising out of the use, interpretation or in connection with the test results, reports, data or other services provided by Quantum Analytics.

### 11. INDEMNITY

The Client expressly assumes all liability for the use of all data, results and reports provided by Quantum Analytics. The Client shall indemnify, hold harmless and defend Quantum Analytics from and against any and all claims, actions, damages, demands, suits, judgments, liabilities, expenses, payments, taxes, duties, fines and/or all other costs arising from the use, interpretation or in connection with Quantum Analytics' test results, reports, data and or other services provided by Quantum Analytics .

### 12. SEPARABILITY

The invalidity or unenforceability, in whole or in part, of any provision, term or condition hereof shall not affect in any way the validity and enforceability of the remainder of such provision, term or condition or of any other provision, term or condition. If any court finds that a provision, term or condition is unenforceable, but that by limiting such provision, term or condition, it would become enforceable, then such provision term or condition shall be deemed to be written, and enforceable as so limited.

### 13. CAPTIONS

The Captions of the sections of these Terms and Conditions are intended solely for convenience of reference and shall not define, limit or affect in any way the provisions, terms and conditions hereof or in their interpretation.

### 14. APPLICABLE LAW

This agreement and any and all claims and disputes hereunder or related thereto shall be construed and governed in accordance with the laws of the State of New Jersey. Quantum Analytics and Client agree that the exclusive jurisdiction and venue for any and all such claims and disputes shall be in Middlesex County, New Jersey.

### 15. ASSIGNMENT

Any attempt by the Client to assign, transfer or delegate any of the rights, duties or obligations herein shall render such attempted assignment or transfer null and void.

### 16. NON WAIVER

Quantum Analytics failure to exercise any of its rights shall not constitute or be deemed a waiver or forfeiture of such rights.