

## **WRc-NSF CONTRACT CONDITIONS FOR EVALUATION ANALYSIS AND TEST WORK**

All proposals submitted by WRc-NSF Limited (hereinafter also referred to as "WRc-NSF") will remain valid for acceptance for a period of sixty (60) days from the date of the accompanying letter. A formal written acceptance or order must be received by WRc-NSF before any work is undertaken on a client's behalf.

WRc-NSF will undertake evaluation analysis or test work (hereinafter "the Work") of processes or equipment instruments samples or other items (hereinafter "Sample") subject to the following conditions:

### **1. OBLIGATIONS AND LIABILITY OF WRc-NSF**

- 1.1 WRc-NSF shall exercise all due skill and care in carrying out the Work.
- 1.2 The methods used by WRc-NSF will be at the sole discretion of WRc-NSF unless otherwise agreed.
- 1.3 WRc-NSF shall endeavour so far as is reasonable to ensure that the Work is carried out under specified conditions but does not accept any liability for the client's use of results in conditions which were not represented during the Work or in circumstances where the conditions of usage render results liable to misinterpretation.
- 1.4 WRc-NSF accepts no liability for incomplete or incorrect data provided by the Client or for any consequences arising therefrom. In the event that a Sample fails a test it shall be the Client's responsibility to arrange any necessary re-testing and to resolve any related problems. WRc-NSF accepts no liability for any resulting delay in the Sample achieving a positive test result or approval.
- 1.5 In the event that a Sample does not match the description or drawing supplied to WRc-NSF by the Client, then the Sample will be rejected and may be returned to the Client at WRc-NSF's discretion and at the Client's cost. No further work will be carried out by WRc-NSF until a Sample that matches the description is provided by the Client, or the Client revises the description to match the Sample.
- 1.6 WRc-NSF accepts no liability for damage to any Sample in WRc-NSF's possession for evaluation analysis or testing purposes howsoever such damage is caused.
- 1.7 WRc-NSF shall carry out the Work on the Sample in the state in which the Sample is received. WRc-NSF reserves the right to charge for any work required to be carried out to the Sample prior to the performance of the Work.
- 1.8 WRc-NSF makes no representation or warranty either express or implied as to the fitness of the Sample for a particular purpose except as stated otherwise on any certificate of approval provided by WRc-NSF.
- 1.9 WRc-NSF shall not be liable for any claims arising out of the client's use of the results nor for any decision made by the client based on the results except in respect of any use made in strict accordance with WRc-NSF's certificate of approval.
- 1.10 WRc-NSF reserves the right to subcontract the Work or part of it, but will remain liable to the client for the performance of any Work so subcontracted. If any Work is to be undertaken by a DWI approved laboratory, then WRc-NSF will ensure that any such Work is subcontracted to a DWI approved laboratory.
- 1.11 WRc-NSF's total liability under the Contract is limited to the value of the Contract. In no circumstances shall WRc-NSF be liable for any consequential loss or damage or loss of profits.

### **2. OBLIGATIONS OF THE CLIENT**

- 2.1 The client undertakes not to publish the Results except in a complete and unaltered form covering the entire period of the Work to ensure that the Results are not open to misinterpretation.
- 2.2 The client shall not use WRc-NSF's name or logo in any publication or suggest or imply any endorsement of a particular Sample, product or range of products by WRc-NSF either verbally, in writing or by any other means without WRc-NSF's prior written consent. Notwithstanding the client may make reference to any certificate of approval issued by WRc-NSF in respect of a particular product or

range of products provided that the certificate is and remains valid.

- 2.3 The client undertakes to provide WRc-NSF with full written details of any Sample which is of a dangerous or unstable nature before the Sample is made available to WRc-NSF.

### **3. LEGAL PROCEEDINGS**

If the Sample to be tested is or could become the subject of legal proceedings the client must inform WRc-NSF in writing before the Work is to be carried out.

### **4. ADDITIONAL WORK**

Written authorisation must be provided by the client for any changes to the original Work specification or for any additional work. WRc-NSF shall be under no obligation to comply with any amendment or to undertake any additional work until such written authorisation has been received.

### **5. ATTENDANCE ON SITE**

The client shall ensure that WRc-NSF has the authority to enter and leave any site designated in the Contract in order to carry out the Work without impediment.

### **6. FINANCIAL**

- 6.1 Invoices will be submitted for the sums and at the intervals stipulated in WRc-NSF's proposal. For Work undertaken on a day rate basis, WRc-NSF's standard working day is 7.4 hours. All prices quoted by WRc-NSF are exclusive of VAT, which shall be added to invoices at the prevailing rate.

The Client will be asked to provide an order number and to complete a WRc-NSF testing authorisation form before testing starts, which will clearly state the name and address of the Client and the name and address for invoicing purposes. In the event that information provided by the Client for invoicing purposes is incomplete or incorrect and a new invoice needs to be raised an administration charge of £50 will be charged to the Client. An administration charge will not be made where this is due to an error on the part of WRc-NSF.

For a WRAS approval an application fee of £350 will be invoiced and a sample number issued once a completed form ("Fittings (F2) Application Form") is received from the Client.

This application fee will be deducted from the invoice which covers the costs of testing of samples.

All invoices must be paid in accordance with clause 6.2.

Where a Client terminates a contract prior to testing, but after WRc-NSF has received the Client's complete Fittings (F2) Application Form and issued a sample number, the application fee will not be refunded. If a Client terminates a contract when testing has already started then the Client will also be charged for all testing work undertaken prior to termination.

- 6.2 Invoices are due for payment within 30 days from date of invoice. Payment of WRc-NSF's invoices shall be made by the Client within 30 days, or 45 days for overseas clients, from date of invoice. Any sums remaining unpaid after that time shall bear interest thereafter, such interest being payable immediately and to accrue from day to day at the rate of 2% above the base rate of WRc-NSF's principal bank which is HSBC plc

- 6.3 WRc-NSF reserves the right to withhold test results and reports in the event of non-payment by the Client in accordance with clause 6.2 until such time as payment of all sums owed to WRc-NSF is made in full.

### **7. OWNERSHIP OF DOCUMENTS AND COPYRIGHT**

- 7.1 The copyright in all drawings reports calculations and other documents computer software and all other material in electronic optical and photographic formats (hereinafter "the Results") provided by WRc-NSF

in connection with the Contract shall belong to the client.

- 7.2 All intellectual property owned by either party or any third party independently of the Contract but used in connection therewith shall remain the exclusive property of the owner.
- 7.3 WRc-NSF may with the consent of the client which shall not be unreasonably withheld publish alone or in conjunction with any other person articles photographs or other items of information relating to the Contract.

## **8. CONFIDENTIALITY**

The parties undertake not to divulge or disclose to any third party any information which is designated as confidential by the owner without prior written consent.

## **9. INDEMNITY**

WRc-NSF shall indemnify the client against all claims for loss or damage arising out of or in connection with this Contract and which are due to the negligence of WRc-NSF or its agents. The client shall similarly indemnify WRc-NSF in respect of any claims attributable to the negligence of the client or its agents.

## **10. DELAYS**

In the event of any unforeseen circumstances which delay the Work but which are outside WRc-NSF's control then WRc-NSF undertakes to complete the Work as promptly and as efficiently as is reasonably practicable but accepts no liability for the consequences or effects of any such delay. Any additional fees due to WRc-NSF as a result shall be reimbursed by the client.

## **11. TERMINATION**

- 11.1 Either party may terminate this Contract at any time upon giving the other party 30 days written notice.
- 11.2 In the event of termination of the Contract the Client shall in the absence of breach of these conditions by WRc-NSF pay to WRc-NSF all sums due or committed up to the date of termination in accordance with clause 6.
- 11.3 On termination WRc-NSF shall hand over to the client all drawings or documents relating to the Work and prepared by, or on behalf of WRc-NSF.
- 11.4 Termination of the Work howsoever arising shall not prejudice or affect the accrued rights and remedies of the parties.

## **12. WRc-NSF STAFF**

If the Client, or any subsidiary or associated company of the Client, engages an employee of WRc-NSF (who has participated in the work) during or within six months of the termination of the Contract, then the Client shall be liable to pay to WRc-NSF a placement fee of 20% of the employee's first year's gross equivalent annualised basic salary plus bonuses plus VAT. Where the amount of the employee's first year's gross equivalent annualised basic salary is not ascertainable, the placement fee will be two hundred times the hourly charge at which the employee was last supplied to the Client. No refund of the placement fee shall be made to the Client in the event of the subsequent termination of such engagement.

## **13. LAW**

This Contract is governed by English law.

## **14. THIRD PARTY RIGHTS**

Nothing in this Contract confers or purports to confer on any third party any benefit or right to enforce any term of this Contract and the application of the Contracts (Right of Third Parties) Act 1999 is hereby excluded.