1. Intertek Lanka (Pvt) Limited (hereinafter “the Company”) agrees to provide its services in accordance with the terms and conditions herein set out. These conditions herein set out shall apply to all services given by the Company, unless otherwise agreed to in writing by the Company, and the Company reserves the right to vary these conditions from time to time. Conditions may only be modified by a variation expressed in writing and signed on behalf of the Company by a director and no other action on the part of the Company or its employees or agents shall constitute an acceptance of any other terms and conditions.

2. The Company acts for the person or body from whom the request to provide the services is originated (hereinafter “the Principal”). No other party is entitled to give instructions to the Company unless agreed by the Company.

3. All rights (including but not limited to copyright) in any test reports, surveys, certificates of inspection or other material produced by the Company in the course of providing its services shall remain vested in the Company. The Company shall not reproduce or make copies, publish or disclose the contents of any such material or extracts thereof to any third party without the Company’s prior written consent, which may be refused at its discretion. The Principal further undertakes that its servants and agents shall keep confidential and not publish or otherwise use any information that may be acquired relating to the Company’s activities.

4. The Company undertakes to exercise due care and skill in the performance of its services and accepts responsibility only where such skill and care is not exercised.

5. The liability of the Company in respect of any claims for loss, damage or expense of whatsoever nature and howsoever arising in respect of any breach of contract and/or any failure to exercise due skill and care by the Company shall in no circumstances exceed a total aggregate sum equal to ten (10) times the amount of the fee or commission payable in respect of the specific service required under the particular contract with the Company which gives rise to such claims provided however that the Company shall have no liability in respect of any claims for indirect or consequential loss including loss of profit and/or loss of future business and/or loss of production and/or cancellation of contracts entered into by the Principal.

6. The Company shall not in any event be liable for any loss or damage caused by delay in performance or non-performance of any of its services where the same is occasioned by any cause which is inherent in the nature of the order, or beyond the Company’s control including, but not limited to, war, civil disturbance, requisitioning, governmental or parliamentary restriction, prohibitions or enactment of any kind, import or export regulations, strike or lockout or trade dispute (whether or not laying its own employment) or breakdown of machinery, fire or explosion or Shipment or goods, or any act or omission or accident. Should any such event occur the Company may cancel or suspend any contract for the provision of services without incurring any liability whatsoever.

7. The Company shall not be liable to the Principal for any loss or damage whatsoever sustained by the Principal as a result of any failure by the Company to comply with any time estimate given by the Company relating to the provision of its services. [see clause 9.1] [See clause 9.2]

8. All contracts for provision of services by the Company and the Conditions shall be construed in accordance with and governed by the laws of Sri Lanka and for the purpose of any arbitral or other proceedings in respect of any breach of contract and/or any failure to exercise due skill and care by the Company in the performance, purported performance or non-performance of any of its services to one or more of its affiliates and/or sub-contractors when necessary. Intertek may in such circumstances use the services of any other organization for the performance of any such material or extracts thereof to any third party without the Company’s prior written consent, which may be refused at its discretion. The Principal further undertakes that its servants and agents shall keep confidential and not publish or otherwise use any information that may be acquired relating to the Company’s activities.

9. The Principal will ensure that instructions to the Company are given in due time and are accompanied by sufficient information to enable the required services to be performed effectively.

10. accept that documents reflecting arrangements or agreements made between the Principal and any third party, or containing statements such as requisitions for sale, letters of sale, letters of credit, bills of lading, etc. are -if received by the Company considered to be information only, without extending or restricting the services to be provided or obligations accepted by the Company.

11. ensure all necessary means are taken for the Company’s representatives to enable the required services to be performed effectively.

12. supply, if required, any special equipment and personnel necessary for the performance of the required services.

9.7 inform the Company in advance of any known hazards or dangers, actual or potential, associated with the performance of any services by the Company, excluding, but not limited to the presence or risk of radiation, toxic or noxious or explosive elements or materials, environmental pollution or poisons.

10. The Principal shall guarantee, hold harmless and indemnify the Company and its officials, employees, agents or subcontractors against:

10.1 all claims made by any third party for any loss, damage or expense of whatsoever nature and howsoever arising relating to the performance, purported performance or non-performance of any of its services to the extent that the aggregate of any such claims relating to any one service exceeds the limit mentioned in Condition 4.2.

10.2 any loss or damage suffered by the Company as a result of the provision of services by the Company to the Principal otherwise than resulting from the Company’s own error, negligence or willful default.

11. The Principal will punctually pay the Company immediately upon presentation of the relevant invoice or within such other period as may have been agreed in writing by the Company all charges rendered by the Company falling which interest will become due at the rate of 1.5 per cent per month from the date of invoice until payment. The Principal further agrees and undertakes to reimburse the Company all disbursements reasonably incurred in connection with the provision of its services.

12. The Principal shall not be entitled to retain or defer payment of any sums due to the Company on account of any dispute, cross claim or set off in respect of which it may allege against the Company.

13. In the event of any suspension of payment arrangement with creditors, bankruptcy, insolvency, receivership or cessation of business or failure of the Principal to pay part or all of any sums owing to the Company, the Company shall be entitled to suspend all further performance of its services and withhold the issue of any test report, survey, certificate of inspection or other material requested forthwith and without liability until payment of all sums owing to the Company together with interest thereon is made.

14. Without prejudice to any rights the Company may have at law or under the Conditions, the Company has the following rights in the event of non-payment of sums owing to the Company as follows:

14.1 the Company has a general and particular lien over all samples delivered to be tested for all claims and sums owing to the Principal under any contract whatsoever and in any way whatsoever.

14.2 During the currency of any such lien the Company is entitled to be paid reasonable storage charges for samples retained in the Company’s possession for the Principal’s account and at the Principal’s cost.

14.3 Without prejudice to the Company’s lien and other rights under Conditions 12.1 to 12.2 above, if test, inspection or survey of the goods takes place on the premises of the Company, the Company may give notice to the Principal that the goods (or any part thereof) are ready for collection and the Principal shall collect the same within three (3) calendar days (Saturdays, Sundays and Public Holidays excepted). Upon the expiry of this period, if the goods are not collected by the Principal, the Principal loses all right to possession of the goods and the Company may dispose of or sell the goods at any price calculated on the basis of the sale as between the Company and any third person purchasing the goods.

14.4 Without prejudice to Conditions 12.3 above, the Company shall have the discretion to store the goods (or any of them) at their own premises or elsewhere at the Principal’s expense if the Principal has deposited the goods at the Company’s premises for the performance of these services and has subsequently failed to collect the said goods.

14.5 The expenses by way of disbursements that the Company may claim from the Principal include all reasonable costs incurred by the Company (whether by way of storage, insurance or otherwise) in respect of the goods and it is expressly declared that it shall be reasonable but not mandatory for the Company to effect comprehensive insurance in respect of the goods.

14.6 Without prejudice to the Company’s lien and other rights under Conditions 12.1 to 12.5 above, the risk and property in the goods shall remain in the Principal at all times.

14.7 In the event of the Company being prevented by reason of any cause whatsoever outside the Company’s control from performing or completing any service for which an order has been given or an agreement made, the Principal will pay the Company:

14.8 the same proportion of the agreed fee or commission equal to the proportion (if any) of the service actually provided to the Principal as a result of any failure by the Company to comply with any time estimate given by the Company.

14.9 the Company shall be discharged from all liability to the Principal for all claims for loss, damage or expense unless suit is brought within twelve (12) months after the date of the performance by the Company of the service which gives rise to the claim or in the event of any alleged non-performance or non-completion of services within such time.

14.10 In the event that any unforeseen additional time or costs are incurred in the course of carrying out any of its services the Company shall be entitled to render additional charges as shall reasonably reflect such additional time and costs incurred.

15. All proprietary and non-public information relating to the Principal that is held by the Company will not be disclosed to the Company by third parties except where the Company is required to disclose such information either (i) to "Sri Lanka Accreditation Board (SLAB)" for the purposes of an accreditation assessment of the Company’s activities or (ii) pursuant to any legal or regulatory requirement to which the Company shall be subject.

16. All contracts for provision of services by the Company and the Conditions shall be construed in accordance with and governed by the laws of Sri Lanka and for the purpose of any arbitral or litigation proceedings such contracts shall be deemed to have been made and performed in Sri Lanka. If any provision contained in the Conditions is and/or becomes invalid, illegal or unenforceable in any respect under the laws of Sri Lanka, the validity, legality and enforceability of the remaining provisions hereof shall not in any way be affected or impaired thereby.

17. Any dispute or claim arising out of or relating to the provision of, or any agreement to provide, services by the Company shall be referred to and determined by arbitration subject to the Rules of the arbitration committee of the Arbitration and Conciliation Act No. 11 of 1979 as amended from time to time. The place of arbitration shall be in Sri Lanka. There shall only be one arbitrator. The language to be used in the arbitral proceedings shall be English.