Intertek Terms & Conditions

These terms and conditions, together with any proposal, estimate, price 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 5.1;

(c) Confidential Information means all information in whatever form or manner presented which:

(i) is disclosed pursuant to, or in the course of the provision of Services pursuant to, this Agreement; and

(ii) is confidential, by applying the standard of care that it uses for its own Confidential Information;

(d) Intellectual Property Rights means copyrights, trademarks, trade secrets, trade names, patents, patent applications (including the right to apply for a patent), service marks, design rights (registered or unregistered), mask works rights,驰名商品牌子, Lorem ipsum dolor sit amet, consectetur adipiscing elit. Curabitur eu enim in magna vehicula pharetra.

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 this Agreement shall prevail.

3. THE SERVICES PROVIDED

3.1 The Services provided by InterTek under this Agreement and any memorandum, laboratory data, calculations, measurements, estimates, notes, certificates and other material prepared by InterTek in connection with the Services shall be provided to the Client together with such summary reports or any other communication in any form describing the results of any work or services performed (Report(s)) shall be for the sole use of the Client.

3.2 InterTek acknowledges that any and all information, samples and related documents provided to InterTek by the Client are at the Client’s own risk and will be treated as the Client’s own Confidential Information.

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 a particular purpose) 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 services 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 to 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 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, complete and not misleading in any respect. The Client further acknowledges that InterTek will rely on such information, samples and other 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 its own cost (within the scope of the Client’s or other specified period as per product nature after testing unless alternative arrangements are made by the Client. In the event that such samples are not collected or disposed by the Client within the required 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 information to InterTek on behalf of the Client and to bind the Client contractually with respect to the Services;

(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 permit 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 relevant, 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 any other relevant 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 or otherwise necessary for the provision of the Services.

5. PAYMENT

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

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

5.3 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 the Services in accordance with this Agreement.

5.4 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 materials basis.

5.5 InterTek shall invoice the Client for the Charges and expenses, if any. The Client shall pay each invoice within thirty (30) days of receiving it.

5.6 If any invoice is not paid on the due date of the invoice, the Client shall pay interest on the unpaid amount, calculated from the due date of the invoice to the date of receipt of the amount in full at a rate equivalent to 3% per cent per annum above the base rate from time to time of HSBC Bank in the relevant currency.

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 unauthorized use.

6.3 In the event of provision of certification services, Client agrees and acknowledges that the use of certification marks may be subject to the Client’s rights and may be restricted in accordance with any relevant legislation and regulations.

6.4 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 or as otherwise approved in writing by InterTek.

6.5 InterTek shall observe all statutory provisions with regard to data protection. To the extent that the Client is securing the provision of the Services hereunder for the Client’s own purposes, it shall ensure that any alteration, damage or destruction of any and all information, samples or other related documents provided to InterTek by the Client (including any of its agents, sub-contractors, employees or other representatives) will not, in any circumstances, infringe any legal rights of any third party.

6.6 The Client agrees and acknowledges that InterTek retains any and all proprietary rights in concepts, materials or any statements made by the Client that are not necessarily designed or intended to address all matters of interest to the Client.

6.7 The Client undertakes that any 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.

6.8 The Client agrees 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.

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) the Receiving Party shall: (a) keep that Confidential Information confidential, by applying the standard of care that it uses for its own Confidential Information, (b) notify the Disclosing Party 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) 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) shall be liable not to breach of this Agreement nor fail to give the Client the protection of the Services and is wholly responsible for any freight or customs clearance fees relating to the Services in accordance with this Agreement, (e) 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, (f) 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 capacity, for any other person or entity;
(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 independent auditors and statutory auditors that it has engaged for itself;
(b) to any regulator having supervisory or 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 obtained the prior written consent of the Disclosing Party and 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 known to 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 7;
(c) is received by the Receiving Party from a third party who lawfully acquired it in its possession
without any 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, agents and representatives
(in which, in the case of Intertek, includes procuring the same from any sub-contractors) with
any 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 Client acknowledged Confidential Information, Intertek may retain it 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 testing performed.

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 as a result of:
(a) war (whether declared or not), civil war, riots, revolution, acts of terrorism, military action, sabotage and/or pandemics;
(b) natural disasters such as violent storms, earthquakes, tidal waves, floods and/or lighting, 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
to perform its obligations to the extent 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;
(b) for loss of or damage to property resulting from the negligence of that party or its directors,
officers, employees, agents or sub-contractors;
or
(c) for its own fraud (or that of its directors, officers, employees, agents or sub-contractors).

10.2 Subject to Clause 10.1, Customer’s exclusive remedy for Intertek’s breach of its obligations and
the total liability of Intertek for any loss or damage claimed, either directly
or indirectly, in contract, tort, or otherwise, including, but not limited to, breach of contract,
breach of warranty, negligence, gross negligence, strict liability, and negligent misrepresentation, in connection with the provision of the Services shall be two (2) times the fee payable
in respect of the specific service giving rise to such claim.

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 of:
(a) loss of profits;
(b) loss of business or sales;
(c) loss of opportunity (including without limitation in relation to third party agreements or contracts);
(d) loss of or damage to Intertek’s Property Rights belonging to Intertek (including trade marks) pursuant to this Agreement; and
(e) 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; or
(f) the breach or alleged breach by the Client of any of its obligations set out in Clause 4 above.

10.4 Claims or suits arising out of or relating to any party’s use 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) notice if any other breach of 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 other that the Client fails to pay any invoice by its due and/or failure 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
assignment to creditors or becomes subject to an administration order, or a company (or 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 causes, or threatens to cause,
to carry on business.

13.3 In the event of termination of the Agreement for any reason and without prejudice to other 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 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 affiliated companies and/or sub-contractors when necessary.

14.2 Intertek may 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 the laws of the Bangladesh. Any dispute, controversy or claim arising or in connection with this Agreement and/or the Proposal (including any non-contractual claim relating to the provision of the Services in accordance with this Agreement) shall firstly be resolved through negotiation between Intertek and the Client. If resolution cannot be
reached within thirty (30) days, either party may submit the dispute, controversy or claim to the
 Arbitration Tribunal of Bangladesh or such tribunal which shall be
c conducted in Bangladesh in accordance with Arbitration Act 2001. The arbitral award is final and binding upon both parties. For the avoidance of doubt, this clause shall not prohibit a party to this Agreement to seek redress from the Courts of Bangladesh.

16. MISCELLANEOUS

16.1 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 or unenforceable provision. If the invalid, illegal 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.

No partnership or agency

16.2 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 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 preclude the exercise of the obligations established by this Agreement.

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

Whole Agreement

16.5 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.

16.6 Each party acknowledges that 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) on the part of the 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.

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

Third Party Rights

18.4 A person who is not party to this Agreement has no right to enforce any of its terms.

Further Assurance

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