4.1 The Client represents and warrants:

(a) that it has the power and authority to enter into this Agreement and that it will comply with relevant
tax, trade, custom, usage or practice. The Client further agrees and acknowledges that

(b) 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,
calculations, measurements, estimates, notes, certificates and other material prepared by Intertek in
relation to the Services;

(c) that the Services are done so within the limits of the scope of work agreed with the Client in relation to the Proposal
and not to include any specific instructions or, in the absence of such instructions, in accordance with any relevant trade custom, usage or practice. The Client understands that

(d) that it is responsible for providing to Intertek its cooperation and assistance in a timely manner,
including any additional information, samples and related documents to enable Intertek’s compliance with any relevant trade custom, usage or practice. The Client further agrees and acknowledges that

3. INTERTEK’S WARRANTIES

3.1 In this Agreement, Intertek’s warranty as to the Services shall be as follows:

(a) that it has the power and authority to enter into this Agreement and that it will comply with relevant
law and regulations in force 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 similar services under similar circumstances;

(c) that it will take reasonable steps to ensure that whilst Intertek’s premises are in use for

(d) that the Reports produced in relation to the Services will not infringe any legal rights (including
the Intellectual Property Rights) of any third party. This warranty shall not apply where the infringement
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 the 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
merchandability and fitness for particular 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) is, true, accurate
representative, 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
provisions for the Services;

(d) that any samples provided by the Client to Intertek will be shipped pre-paid and will be collected or
delivered by the Client in a form to be determined by Intertek and/or made available to Intertek
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 circumstance, 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
condition precedent to such third party receiving any Reports or the benefit of any Services.

4.3 The Client further agrees to:

(a) to cooperate with Intertek in all matters relating to the Services and appoint a manager in relation to the Services 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 and employees), at its own expense, any and
all information, samples, 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.

(c) that it is responsible for providing to Intertek its cooperation and assistance in a timely manner,
including any additional information, but not limited to including pieces, fuse-links, etc;

(d) that it will not use any Reports issued by Intertek pursuant to this Agreement in a misleading manner
or for any other purpose than for the Client’s use and benefit.

(e) that it will not use any Reports or any extracts, parts or any Reports be distributed or published without the prior written consent of Intertek (such consent not to be unreasonably withheld);

(f) that any and all advertising and promotional materials or any statements made by the Client will not
be false or misleading or impair 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
any of the terms of this Agreement.

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 Intertek shall take precedence over any terms and
conditions which the Client has provided or may in the future provide to Intertek, whether in a
Proposal or in any other document.

5.2 Unless acceptance of this Agreement by the Client occurs at an early time, submission of samples or
any other testing material from the Client to Intertek shall be deemed to be conclusive evidence of
such 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 sales taxes or other charges 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 all 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 the provision of the Services.

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 will 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
calendar 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 additional payment. If Intertek 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 Intertek at least once that payment is
due and payable. The Client is liable to Intertek for all costs and expenses incurred, including, but
not limited to costs and expenses incurred by Intertek in connection with any proceedings
for enforcement of the Services.

5.13 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 Intertek at least once that payment is
due and payable. The Client is liable to Intertek for all costs and expenses incurred, including, but
not limited to costs and expenses incurred by Intertek in connection with any proceedings
for enforcement of the Services. The extrajudicial costs are set at an amount equal to 10% of the principal plus interest, without prejudice to Intertek’s right to additional compensation. The extrajudicial costs shall be assessed according to the calculation in force for the purpose of the Intertek’s legal activities, but no longer than twice the amount of the claim, including any applicable VAT. The Client is liable to Intertek for all costs and expenses incurred by Intertek, even if they exceed the Bank of England rate of interest.

5.14 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 added 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 for the consideration of any of its obligations 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, for preparing multiple drafts of any agreement that agreed in principle to the Invoice. InterTek maintains the right to require such an invoicing amendment request and such a rejection by InterTek of the Client’s request will not exempt the Client from payment to the InterTek for the invoicing amendment of 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 to InterTek within thirty (30) days of date of invoice.

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. Any such Intellectual Property Rights are 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 In the event of provision of certification services, Client agrees and acknowledges that the use of certification marks may be subject to national and international laws and regulations.

6.4 All 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, graphical, 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 provision or provision of any Report (including any deliverables provided by InterTek to the Client) and the provision of the Services to the Client.

6.6 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 in connection with this Agreement, it shall take all necessary technical and organisational measures to ensure the security of such data (and in particular against unauthorised or unlawful processing, accidental loss, destruction or damage to such data).

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 Receiving 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 legal adviser and statutory auditor that it has engaged for itself; and
(d) 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 lesser onerous than those set out in this Clause 7; and
(e) where the Receiving Party is required, 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 subject to any written disclosure or licence;
(b) is or becomes public knowledge other than by breach of this Clause 6.6; 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 the rules of any stock exchange on which the Receiving Party is or may be 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 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 as a result of: (a) war (whether declared or not), civil war, riots, revolution, acts of terrorism, military action, sabotage or similar event; (b) natural disasters such as violent storms, earthquakes, tidal waves and/or flooding, explosions and fires; (c) strikes, lock-outs, work stoppages, or labour disputes, either by 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 supply.

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’s delay or failure is caused by one of the events described in 9.1 above.

9.3 A party whose performance is affected is an event described in Clause 9.1 (a Force Majeure Event) if:
(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 reasonable efforts 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 for:
(a) death or personal injury caused by negligence or breach of statutory duty;
(b) other loss or damage to the extent that such loss or damage is due to the negligence or breach of statutory duty or other default of the affected party;
(c) any claims or suits arising as a result of any misuse or unauthorised use of any Reports issued by InterTek or any of InterTek’s trademarks or brand names for any reason must be prior approved in writing by InterTek; employees, agents or sub-contractors; or
(d) claims or suits arising out of or relating to any party’s use of or reliance on any Reports or any reports, analyses, conclusions of this party or any third party to whom the Client has provided the Reports based in whole or in part on the Reports, if applicable.

11.1 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 insurance which includes, without limitation, professional indemnity, employers’ liability, motor insurance and public 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 Client requires 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 commits 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; or
(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 encumborance takes possession, or a receiver is appointed, of any of the property or assets of the other or the other cases, 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 of this Agreement.

13.4 Any termination or expiration of this 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 affiliated companies or subsidiaries. Such delegation may also assign this Agreement to any company within the InterTek group on notice to the Client.

15. GOVERNING LAW AND DISPUTES RESOLUTION

15.1 This Agreement and the Proposal are 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 to the exclusion of any non-commercial claim relating to the provision of the Services in accordance with this Agreement.

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 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.
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.

Waivers

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 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.

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. 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.

Third Party Rights

16.8 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.

Further Assurance

16.9 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.