

company of that party, and any subsidiary of a holding company of that party.

3.7 The Customer undertakes that during the provision of the Services and for 6 months following completion thereof, the Customer shall not

3.7.1 solicit or entice away (or assist anyone else in soliciting or the Customer has had dealings in connection with the Contract

5.4 When testing, analysis or other services are carried out, the Company

- 8.8 The Customer agrees to indemnify, keep indemnified and hold harmless the Company from and against all losses which the Company may suffer or incur arising out of or as a result of:
- 8.8.1 breach of any law by the Customer in connection with the performance of the Services;
 - 8.8.2 any claim threatened or made against the Company by any third party arising out of the Services or out of any delay in performing or failure to perform the Services (even if such claim is solely or partly attributable to the fault or negligence of the Company) to the extent such claim is in excess of the Consideration paid for the Services under the Contract that are subject to the claim; or
 - 8.8.3 any claims arising as a result of any misuse or unauthorized use of any Reports issued by the Company or any Intellectual Property Rights belonging to the Company (including trade marks) pursuant to this Contract.

Notwithstanding any other provision of these Terms and Conditions, the

- 8.9 Nothing in these Terms and Conditions limits or excludes the liability of the Company for:
- 8.9.1 death or personal injury to the extent resulting from the negligence; or
 - 8.9.2 liability incurred by the Customer to the extent resulting from fraud or fraudulent misrepresentation by the Company; or
 - 8.9.3 any other matter which may not be limited or excluded by law to the extent arising out of the errors or omissions of Company.

8.10 This condition 8 shall survive termination of the Contract.

9. Intellectual Property Rights

9.1 In this condition 9, the following definitions apply:

Intellectual Property Rights: all patents, rights to inventions, utility models, copyright and related rights, trademarks, service marks, trade, business and domain names, rights in trade dress or get-up, rights in goodwill or to sue for passing off, unfair competition rights, rights in designs, rights in computer software, database rights, topography rights, moral rights, rights in confidential information (including know-how and trade secrets) and any other intellectual property rights (now existing or hereafter created), in each case whether registered or unregistered and including all applications for and renewals or extensions of such rights, and all similar or equivalent rights or forms of protection in any part of the world;

- 9.2 All Intellectual Property Rights (including copyright in records, scientific documentary, primary data or electronic means of handling data) produced during any Service shall belong to and remain the property of the Company unless otherwise expressly agreed as part of the Contract.
- 9.3 Ownership and copyright in the Report shall remain with the Company. Upon the Customer discharging all its obligations under the Contract, including payment of the Consideration, the Customer will obtain an irrevocable, royalty-free, non-exclusive license to use the Report (including the right to sub-license), subject to the terms of sub-condition 9.2 and this sub-condition 9.3.
- 9.4 All Intellectual Property Rights in all service mark(s), trademark(s), certification mark(s) and other names and logos owned by the Company shall remain the property of the Company and cannot be sold or licensed by the Customer.
- 9.5 When certification is granted the Company shall award, upon request, a license to the Customer to use the period, subject to the applicable terms of use (as amended from time to time) which are issued with every certification and are available on request.

22. Confidentiality

For the purposes of this condition 22 **Confidential Information** mean all information which a party may have or acquire before or after

27.3 If any legal proceeding is instituted to enforce or interpret the provisions of the Contract, the prevailing party(s) shall be entitled to recover its, his, her or their costs, including reasonable attorney fees and expert witness fees, from the non-prevailing party(s) in the proceeding. For purposes of this sub-condition 27.3, reasonable legal fees include the reasonable fees, charges, expenses of counsel, whether in house or