



Validation & Monitoring
Solutions

Ellab UK LIMITED **BUSINESS TERMS AND** **CONDITIONS (Version 10)**

1.0 INTERPRETATION

1.1 In these Standard Terms and Conditions "Ellab" means Ellab UK Limited; "Services" means the services to be provided by Ellab to the Customer, "Customer's Goods" includes goods, samples, equipment, and materials or information of the Customer upon which or in connection with which the Services are carried out; "Report" means the Report to be supplied by Ellab.

1.2 Ellab provides Services only on these terms unless it otherwise agrees in writing.

2.0 QUOTATIONS

2.1 Any quotation or estimate is not an offer. Both are given in reliance on the Customer giving all relevant information correctly and the scope of the task being as understood by Ellab. An estimate is not binding.

3.0 DELIVERY

3.1 Ellab will endeavour to carry out the Services within the time agreed, and if no time is agreed, within a reasonable time. Ellab will not be liable for loss liability or damage of any kind arising from any delay in the performance of Services. Ellab may make delivery of the Services by instalments.

4.0 LIABILITY AND INDEMNITY

4.1 Ellab shall not be liable for any breach of contract or duty or otherwise unless it is at fault. Ellab accepts no responsibility for the use made by the Customer or any third party of any information or advice arising from the Services. Where Ellab is liable, the aggregate liability shall be limited to

the price of the Services, or £5,000,000, whichever is the lower. In no event shall Ellab be liable for loss of profits, loss of business or any indirect or consequential loss. Nothing in this agreement shall exclude or limit Ellab UK Ltd's liability for death or personal injury.

4.2 Ellab hereby excludes all conditions, warranties and stipulations except as expressly provided for in this Agreement or where the Customer is by law deemed to be a consumer.

4.3 Save to the extent that Ellab can be shown to have been at fault, the Customer shall indemnify Ellab against all liability and expense suffered or incurred by Ellab as a result of, or in connection with any third party claim against Ellab arising from the use, operation, methods or other results of the Services.

5.0 REPORTS

5.1 The Customer will on placing its order provide Ellab with full and accurate details of the purpose and intended use of the Report to be prepared hereunder. A Report will be provided to the Customer on completion of the Services,. A Report is only a statement of the matters of fact found by Ellab on examination and/or (if applicable) Ellab UK Ltd's consequent conclusion or opinion.

5.2 Except for the purposes and intended use in clause 5.1 the Customer shall not without the prior written consent of Ellab use, exploit, divulge or disclose to third parties the Report of Ellab results or conclusions therein or any Ellab proprietary material including, but not limited to, business or other systems, methodologies, testing techniques and

applications, programmes, marketing or technical information, intellectual property rights, which may be

communicated to or gained by the Customer in connection with or as a result of Ellab providing the Services.

5.3 The Customer shall not use Ellab's name in any way to imply endorsement or otherwise by Ellab of any process or product.

5.4 The Customer shall fully indemnify Ellab against all liability to third parties and expense arising out of or in connection with any use of information claimed to be confidential, or of intellectual property rights at the behest of, or supplied by, the customer.

5.5 Any statements or Reports as to the results of the Services are made in good faith and on the basis of the samples, materials, equipment and information provided to Ellab by the Customer. The Customer warrants, in respect of each of the samples, materials, information, and equipment provided to Ellab by the Customer, that it is correct, as described and in good order and has not to the best of the Customer's knowledge been tampered with, altered, added to or substituted in any way.

6.0 METHOD FOR DETERMINING CUSTOMER REQUIREMENTS

6.1 On receipt of the purchase order the Customer must stipulate required calibration points. If no stipulation is made, Ellab will follow their own work instructions with specified calibration points.

6.2 In relation to 17025 Non-automatic weighing instrument calibrations, the following standard calibration method will be followed unless otherwise negotiated -

- a) The balance will be calibrated where

used after warm up & levelled and zeroed

- b) Any auto zero facility will be left as it is set
- c) Any internal calibration facility will be activated prior to calibrating the balance
- d) Any external calibration facility will not be performed unless requested
- e) The NAWI will be checked throughout its range and all loadings preceded by a zero
- f) Repeatability will be performed at or close to max with 6 loadings
- g) Eccentricity will be performed with a load near or above one-third Max
- h) Linearity test will consist of 5 or more loadings covering the scale
- i) No conformity statement will be provided

7.0 ACTUAL OR CONTEMPLATED PROCEEDINGS

7.1 The Customer must obtain Ellab UK Ltd's prior written consent in writing if the Services relate to, or any Report is to be referred to in, any actual or contemplated legal proceedings.

8.0 HEALTH AND SAFETY

8.1 The Customer will ensure that all appropriate safety measures and legislation are observed when sending any material to Ellab and will ensure that any hazardous material is clearly marked. Where the Customer knows or suspects that any substance or procedure it is providing, making available or requesting may give rise to a hazard the Customer will make Ellab aware in writing of the nature of that hazard before the materials are in Ellab UK Ltd's possession or the procedure is commenced. In both cases the Customer will provide full instructions and a suitable risk assessment.

9.0 CUSTOMER'S GOODS

9.1 It is the Customer's responsibility to ensure that the Customer's Goods are tested or inspected and are suitable for use by Ellab in the performance of the Services. The Customer shall arrange at his expense and risk the delivery of the Customer's Goods to Ellab shall not be liable for any damage or deterioration to equipment or samples caused by the inherent nature of the testing done.

10.0 PRICE

10.1 Ellab may change the price if the extent of the Service changes due to additional information, matters not provided for by Ellab or a request from the Customer. Unless expressly stated otherwise all prices are exclusive of VAT.

11.0 PAYMENT

11.1 Ellab may invoice at any stage for work done or goods supplied. Payment will be made by the Customer in pounds sterling within 30 days of the date of the Ellab invoice. The Customer will have no right of set off, statutory or otherwise.

11.2 Ellab may charge interest on overdue invoices at a rate of 2% for each calendar month or part during they are overdue until payment.,

11.3 Where payment is overdue or the Customer is otherwise in breach of its obligations , Ellab without liability may postpone any delivery or may cancel the Agreement and/or any other Agreement with the Customer but without prejudice to Ellab UK Ltd's other rights and remedies.

11.4 Ellab shall have a general lien on all goods and other property belonging to or supplied by the Customer to secure all obligations of the Customer.

12.0 INTELLECTUAL PROPERTY

12.1 Unless otherwise agreed in writing, Ellab shall own all intellectual property rights arising from the provision of Services or the preparation of Reports and the Customer shall be granted a non-exclusive non-transferable licence to use the right solely in accordance with these terms and conditions.

13.0 CONFIDENTIALITY

13.1 Both parties will take reasonable measures to keep confidential for a period of five years from the date of supply any information provided or disclosed by or on behalf of the other. This does not apply to any information which at the time of disclosure is (or subsequently becomes) published or generally available to the public (other than as a breach of the receiving party's obligation under this clause), or which at the time of disclosure was already in the possession of the receiving party (other than under an obligation to the disclosing party), or subsequently legally comes into their possession from another source.

Ellab manage all information under the General Data Protection Regulation (GDPR). If information is to be released into the public domain, Ellab will inform the customer or individual, unless prohibited by law. Ellab UK Ltd's personal shall keep all information obtained or created during its operational activities confidential, except as required by law.

14.0 CANCELLATION

14.1 The customer may not cancel any order after Ellab has accepted it or started work. If the Customer extends or delays (or purports to cancel) the Agreement or part thereof, or fails to accept supply of the Services at the time agreed (or if no time is agreed within a reasonable time), then the Customer shall (without prejudice to

any other rights of Ellab) indemnify Ellab against any resulting loss, damage or expense in connection with the supply or non-supply of the Services including the cost of any services, material, plant or tools used or intended to be used and the cost of labour and other overheads plus a percentage in respect of profit.

15.0 TERMINATION

15.1 Ellab may terminate this Agreement forthwith by notice in writing if the Customer is in breach of this Agreement and shall have failed to remedy the breach within 7 days of the receipt of a request in writing to remedy the breach such request indicating that failure to remedy the breach may result in termination of this Agreement.

15.2 If the Customer goes into liquidation, administration or has a receiver appointed, then Ellab may terminate the agreement on notice in writing, or suspend work and/or require payment in advance for work to be done and payment of all current invoices.

15.3 The termination of this Agreement will be without prejudice to the rights and duties of either party accrued prior to termination and the clauses in this Agreement which expressly or impliedly have effect after termination. The price in respect of any Services (or part thereof) supplied prior to termination shall remain payable regardless of the reason for termination.

16.0 FORCE MAJEURE

16.1 If Ellab is unable (whether temporarily or permanently) to procure equipment services or goods necessary to enable it to supply the Services or if this is prevented or hindered by reason of any cause beyond Ellab UK Ltd's reasonable control Ellab UK Ltd's may without liability suspend performance of its obligations for so long as the

circumstances apply. If this lasts for 3 months or more then either party may cancel the Agreement by notice in writing provided that the Customer shall remain liable to pay for the Services delivered prior to the date of such cancellation.

17.0 DATA PROTECTION

17.1 Where Ellab acts as a data controller in the processing of personal data in performing the Services. it will comply with the provisions of the Data Protection Act 2018 ("DPA").

17.2 Ellab and any successor to its business may use the information provided by the Customer for the purpose of performing its obligations and for marketing its goods and services.

18.0 ELLAB UK LTD'S EMPLOYEES

18.1 While the Services are being provided and until 12 months after the later of the issue of the Report or the last invoice for the Services, the Customer will not attempt to solicit or entice away, or use the services of any person who was at any time in that period employed by Ellab and did any work for the Customer.

18.2 If the Customer breaches this obligation then it will pay a recruitment fee to Ellab. To reflect the cost to Ellab of recruiting and training a replacement, and the benefit to the Customer, the fee shall be equal to twice the annualised salary paid by the Customer to the person (+ vat) or twice the annual salary last paid by Ellab (+ vat), whichever is the greatest. If the person is engaged part time the fee shall be based on the full time equivalent rate.

19.0 GENERAL

19.1 Ellab may sub-contract any part of the Services.

19.2 On completion of the Services or termination of this Agreement Ellab may at its option either return, store or

dispose of samples, material, information and equipment provided by the Customer. Ellab may charge for storage or disposal at its standard rates.

19.3 Ellab may announce publicly that it is providing services to the Customer with the prior written agreement of the Customer.

19.4 Failure by Ellab to enforce any of the Agreement terms will not be construed as a waiver of any of its rights hereunder.

19.5 The Agreement will be subject to English Law and the parties submit themselves to the exclusive jurisdiction of the English courts.

