

TESTING TERMS

1. Definitions

'Additional Expenses' means any extra expenses that STS reasonably incurs as a result of the performance of the Testing Services.

'Agreement' means these terms together with the Quotation Cover page and any attachments.

'Centre' means the Centre of Excellence in Engineered Fibre Composites, a part of the University of Southern Queensland.

'Confidential Information' means confidential information (in any form) You disclose to STS. Information is not confidential if it is:

- (i) publicly available;
- (ii) rightfully known by STS before disclosure by You., or
- (iii) independently created by STS without access to Your confidential information..

'Deliverables' means the results of the Testing Services.

'Fee' means the fee payable by you for the Testing Services.

'Quotation' means the STS quotation given to you for performance of the Testing Services. Quotations are valid for sixty (60) days.

'Report' means a report delivered to you as a result of carrying out the Testing Service.

'Samples' means the products delivered by you to STS for the purpose of the Testing Services.

'STS' means Structural Testing Services, a part of the University of Southern Queensland, West Street, Toowoomba.

'Testing Services' means the services to be performed by STS pursuant to acceptance of the Quotation.

'you' or 'your' means the Client.

Other capitalised expressions used in this Agreement have meanings given to them in the cover page.

2. STS Services

- 2.1 No agreement exists between STS and you until such time as you provide us with written evidence of your acceptance of the STS Quotation.
- 2.2 STS will perform the Testing Services to professional standards using the staff and resources of the Centre.
- 2.3 The knowledge and skills that STS staff will use to perform the Testing Services have been developed in the course of providing the same or similar services to other clients. STS may develop further knowledge and skills while performing the Testing Services. STS can use such general knowledge and skills for other clients.
- 2.4 STS will keep copies of any reports or data that form part of the Deliverables and may reproduce and use such reports and data for its own research and record keeping purposes.
- 2.5 STS will make reasonable efforts to deliver the Deliverables to you by the

Delivery Date. If STS is unable to meet the Delivery Date then you will be told of any delay and of the revised delivery date.

3. Your Samples

- 3.1 You must provide the Samples on time, ensure they are safely transported to and from STS laboratories and are suitable for STS to perform the Testing Services.
- 3.2 You must ensure that any Samples you provide to STS are:
- (i) suitably packaged;
 - (ii) labelled with your name and contact details, the contents and the name of the STS Technical Contact; and
 - (iii) labelled with appropriate safety warnings or instructions for their handling, testing, storage, transportation and disposal. (Note:- Cost of disposal of tested samples to be borne by You.)
- 3.3 If you do not comply with Clause 3.2(i) and (iii) and STS has to take measures to safeguard the health and safety of STS staff, STS laboratories or the public, then STS will charge you for the cost of taking these measures.
- 3.4 STS will undertake all sample cutting and preparation.

4. Payment

- 4.1 You must pay STS the Fee (and any Additional Expenses) in accordance with the Quotation and payment method you have nominated on the Quotation.
- 4.2 For GST purposes the Quotation as accepted and any receipts issued by STS are tax invoices. Any additional invoices issued by STS will be in the form of a tax invoice.

5. Intellectual Property and Your Use of Deliverables

- 5.1 The Deliverables are for your use in your business operation and not for general publication, unless otherwise stated in the description of the Testing Services. You use the results of the Testing Services and any Report at your own risk.
- 5.2 Copyright in any Report issued to you only passes upon your payment in full of the Fee and any Additional Expenses.
- 5.3 All intellectual property rights associated with the analysis methods and processes used to carry out the Testing Services rests in and remains with STS.
- 5.4 If the Testing Services are to verify that testing shows the Samples conform to a standard published by a recognised standards body, then you may use any report given to you that verifies the Samples confirm to the standard. Any statement made by you to any person that STS tested the Samples must set out the results of the tests and the relevant standard against

which STS conducted the tests. If you publish excerpts from the reports, then those excerpts must be an accurate representation of the test results. You must note on the excerpts that they are from a large report held by you and where the report can be inspected.

6. Confidential Information

Confidential information is to be kept confidential for a period of five (5) years commencing from the date the STS agrees to perform the Testing Services, unless agreed otherwise in writing.

7. Limitation of Liability

- 7.1 All terms, conditions and warranties (including any warranty as to merchantable quality or fitness for purpose) implied by common law or statute (“implied warranties”) as to the manner, quality and timing of the Testing Services are excluded unless the exclusion of any such implied warranties would contravene the law or cause any part of this Agreement to be void.
- 7.2 STS’s liability to you for breach of any term of the Agreement or of any implied warranties is limited, at STS’s option, to either re-performing the Testing Services or refunding the Fee paid in respect of that part of the Testing Services.
- 7.3 You use the Deliverables at your own risk. STS will not be liable to you for any indirect or consequential damage suffered by you in any way arising from

the Testing Services or your use of the Deliverables.

8. Dispute Resolution

If there is a disagreement between you and STS that cannot be resolved then the matter must be referred to the Australian Commercial Disputes Centre for arbitration in accordance with the Centre’s Guidelines on Arbitration. The decision of the arbitrator (including any award as to costs) will be final and binding.

9. Termination

This Agreement can be terminated at any time by STS giving written notice if there is a breach and that breach is not remedied within thirty (30) days after written notice is received.

10. Use of STS Name

You must not use the STS or USQ name, logo or trademarks in a manner that suggest that STS or USQ endorses, or is associated with, your business, products or services.

11. General

- 11.1 This Agreement records our entire agreement and supersedes all earlier agreements and representations that may have been made by STS to you about the Testing Services.
- 11.2 The terms of this Agreement override any contrary terms contained in any invoice, purchase order or other

documentation issued by you
to STS for the Testing Services.

11.3 This Agreement is governed by
the law of the State of
Queensland.