

**PRODUCT ASSESSMENT & RELIABILITY CENTRE LTD
TERMS AND CONDITIONS OF BUSINESS**

1. DEFINITIONS

In these Conditions, the following expressions have the following meanings:

- “Charge”** The charges payable by the Customer for use of the Facility and/or provision of the Services;
- “Customer”** The person who books the Facility;
- “Facility”** The testing facility (including all equipment and apparatus) owned and/or operated by the Supplier at Unit 4 Alverdiscott Road Industrial Estate, Bideford, Devon, EX39 4LQ, United Kingdom, (or such other location owned or occupied by the Supplier from time to time);
- “Supplier”** Product Assessment and Reliability Centre Limited (CRO No 3844095) whose registered office is at Unit 4 Alverdiscott Road Industrial Estate aforesaid;
- “Services”** Services, advice or assistance supplied to the Customer by the Supplier (including any goods or other supplies ancillary thereto).
- “Complaint”** Expression of dissatisfaction by any person or organization to a laboratory, relating to the activities or results of that laboratory, where a response is expected;

2. THESE CONDITIONS TO PREVAIL

- 2.1 These Conditions shall apply to all offers, tenders, quotations, acceptances, estimates or contracts for use of the Facility and/or the supply of Services by the Supplier to the Customer to the exclusion of all other terms and conditions (including without limitation any terms or conditions which may be included or incorporated in any Customer’s purchase order, confirmation of booking or other document or acknowledgement).
- 2.2 All Facility bookings and/or orders for Services received by the Supplier from the Customer shall be deemed to constitute an offer to use the Facility and/or obtain the Services by the Customer subject to these Conditions.
- 2.3 The Customer’s use of the Facility and/or receipt of delivery of the Services will be conclusive evidence of the Customer’s unqualified and unconditional acceptance of these Conditions.
- 2.4 No variation, amendment or waiver of these Conditions, nor any special terms or conditions, will be effective unless agreed in writing by the Supplier.

3. CHARGES

- 3.1 Subject to Condition 3.2, the Charges shall be the Supplier’s quoted charges and (unless otherwise agreed in writing by the Supplier) shall exclude VAT. Quoted Charges shall be inclusive only of the Facility usage and Services specified in the booking offer and/or quotation.
- 3.2 Booking offers and/or quotations shall be open for acceptance for 30 days and shall be subject to confirmation by the Supplier at the time of acceptance. The Supplier may increase the Charges by written notice at any time before it receives the Customer’s acceptance.

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- 3.3 If the Supplier agrees to vary or extend the scope of any Service and/or use of the Facility beyond that contained in any booking offer or quotation, the Supplier shall be entitled to increase its Charges to take account of any such variation or extension.

4. PAYMENT

- 4.1 Unless otherwise specified or agreed, payment of the Charges (together with any applicable VAT) shall be due, without any withholding, set-off or counterclaim, within 30 days of invoice date. Time for payment shall be of the essence.
- 4.2 At the end of the calendar month, the Supplier reserves the right to submit invoices for any part of the work that is completed, and the Charges (together with any applicable VAT) shall be due for payment without any withholding, set-off or counterclaim, within 30 days of invoice date.
- 4.3 If use of the Facility and/or provision of the Services is required and agreed to be extended or increased for any reason beyond that contemplated in any booking offer or quotation, the Supplier will charge and the Customer will pay such additional amounts as are required by the Supplier and notified to the Customer in that regard.
- 4.4 Interest on overdue sums shall accrue and be payable (before and after judgement) and shall be compounded on a daily basis at a rate of 3.5% per annum above the base rate of National Westminster Bank Plc from time to time.
- 4.5 If the Customer fails to pay any sum due to the Supplier on or before the due date for payment or otherwise fails to act in accordance with these Conditions, then (without prejudice to the Supplier's other rights and remedies) the Supplier may in its entire discretion:
- 4.5.1 Suspend or cancel any Facility booking and/or the provision of further Services to the Customer, and/or
- 4.5.2 Appropriate any payment made by the Customer to such Facility bookings or Services (whether supplied under that or any other contract) as the Supplier may decide.

5. INTELLECTUAL PROPERTY

- 5.1 The specifications and design of any products, equipment and/or machinery belonging to a Customer (including all copyrights, design rights and other intellectual property rights) shall be and remain the Customer's property and the Supplier shall use all reasonable endeavours to keep confidential any information relating to the Customer's products, equipment and/or machinery coming into its possession as a result of use of the Facility. The Customer warrants that the use of those products, equipment and/or machinery at the Facility or the provision of Services by the Supplier does not infringe or conflict with the rights of any other person and the Customer shall indemnify the Supplier against any action, claim or demand by any such person in that regard. The Customer shall not acquire any right, title or interest in any confidential or proprietary information of any other person (including the Supplier) by virtue of its use of the Facility.

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6. PERFORMANCE AND TESTING

- 6.1 If it is agreed that employees or servants of the Customer will undertake any tests or procedures, the Customer acknowledges that the Supplier's sole responsibility and liability shall be to provide access to the Facility and the machinery and equipment at the Facility so as to enable the Customer to undertake such tests and procedures as the Customer may decide, using its own skill, judgement and expertise. In such circumstances, the Customer acknowledges that the Supplier cannot check or verify the truth, accuracy or reliability of any test or performance results, or the fitness or compatibility of the Customer's products, machinery or equipment for any purpose in any environment, and accepts that the Supplier shall have no liability of any nature to the Customer in that regard.
- 6.2 If it is agreed that employees or servants of the Supplier will undertake any tests or procedures, the Supplier will undertake such tests and procedures as shall have been agreed by the parties.
- 6.3 Any offer or quotation is made by the Supplier on the assumption that any testing procedure and/or use of the Facility is reasonably capable of being carried out. If on inspection it subsequently transpires that this assumption is incorrect, the Supplier will so notify the Customer and will be released from any obligation or liability of any nature to the Customer in that regard. Any inspection costs shall be for the Customer's account and shall be settled promptly on demand.
- 6.4 At all times whilst any product, machinery or equipment belonging to the Customer is at the Facility and is being subjected to any test or procedure by the Customer or the Customer's servants or employees, the Customer shall ensure that duly qualified and experienced servants or agents retained by the Customer are in attendance.

7. DELAYS

- 7.1 The Supplier shall not be liable for any loss or damage whatsoever caused by any failure to provide access to the Facility or to provide the Services (or any of them) promptly or at all.
- 7.2 Any time quoted for availability of the Facility shall be treated as an estimate only and availability may be postponed or delayed by the Supplier for any reason.
- 7.3 If the Supplier fails to provide the Services and/or access to the Facility at the time agreed, the Customer will have the right to cancel any outstanding booking/order not already started upon payment of such amounts necessary to compensate the Supplier for any and all costs incurred.

8. CANCELLATIONS

- 8.1 In the event the Customer cancels a previously confirmed and acknowledged booking, the Customer shall pay the following cancellation charges (together with VAT):
- 8.1.1 2 working weeks or more from booking date – Fixed charge of £150
- 8.1.2 Less than 14 working days and more than 7 working days from booking date – 25% of contract value
- 8.1.3 Less than 7 working days and more than 3 working days from booking date – 50% of contract value
- 8.1.4 Between 3 and 2 working days from booking date – 70% of contract value
- 8.1.5 Less than 2 working days from booking date – 85% of contract value

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- 8.2 The Supplier may (in its entire discretion and without any obligation or liability to do so) decide to reduce or waive any cancellation charge
- 8.3 Any notice of cancellation from the Customer will only be valid and effective if it is made in writing and will only take effect on (and from) actual receipt by the Supplier.

9. FACILITY USE

- 9.1 It shall be the Customer's responsibility to ensure that the products, machinery and equipment to be tested at the Facility are capable of being operated and tested by the machinery and equipment at the Facility safely and without causing any loss, damage or destruction of or to the Supplier's machinery and equipment and within its normal operational parameters. In the event of any loss, damage or destruction of or to the Supplier's machinery and equipment or creating a health and safety risk to the Supplier's employees, which is caused by any default on the Customer's part, the Customer will pay the full cost of any repair or replacement and indemnify the Supplier against all losses, outgoings and demands, including loss of profit, suffered or incurred by the Supplier as a result.
- 9.2 Where any product, machinery or equipment of the Customer requires to be installed or connected at the Facility, installation shall consist only of the connection of the product, machinery or equipment into existing electrical or other connecting media and shall under no circumstances include the provision, extension or alteration of such existing media.
- 9.3 If the products, machinery or equipment tested by a Customer are intended to work with other products, machinery or equipment not tested by the Customer, it will be the Customer's responsibility to ensure that the products, machinery and/or equipment provide the Customer with the performance specification that it requires.
- 9.4 The Supplier accepts no responsibility for defects in products, machinery or equipment, which have been tested in accordance with the quoted requirements and have satisfied such tests.

10. LIABILITY

10.1 General Limitations

- 10.1.1 If any product, machinery or equipment belonging to the Customer is damaged or destroyed whilst at the Facility as a direct result of the negligence of the Supplier or its servants or employees, the Customer's sole remedy (which shall be subject in all respects to these Conditions) shall be limited to the Supplier repairing or replacing the product, machinery or equipment concerned or (at the Supplier's option) refunding a proportionate part of the Charges.
- 10.1.2 The Supplier's liability to the Customer (whether for breach of contract or otherwise howsoever) shall not under any circumstances exceed the Charges paid to the Supplier and the Supplier shall have no liability for any direct, consequential or indirect loss or expense (including but not limited to loss of profit and/or expectation) suffered or incurred by the Customer or any other person having any dealings with the Customer.
- 10.1.3 Except as expressly provided by the Conditions (and subject to Condition 10.4) all warranties, undertakings and conditions, whether implied by statute or otherwise howsoever arising, are hereby excluded by the Supplier.

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10.1.4 The Customer accepts and acknowledges that the Supplier cannot reasonably estimate or quantify the value or cost of the Customer's products, machinery or equipment, or the amount of any direct, consequential or indirect loss of expense which the Customer may suffer or incur by reason of any default in the part of the Supplier. The Customer further acknowledges and accepts that the Customer is in a position to undertake such estimates or quantifications and to take out insurance, at its own expense, and that it is reasonable for the Supplier to limit or exclude its liability as provided in these Conditions accordingly.

10.2 Risk of Damage to the Customer's Property

10.2.1 The Customer acknowledges that it has been advised that every testing process carries an inherent and unavoidable risk that the product, machinery or equipment to be tested may be damaged or destroyed and that it is the Customer's responsibility to insure and otherwise protect its property prior to it being subjected to any such process. The Customer accordingly accepts that the Supplier shall have no liability for loss of or damage to such product, machinery or equipment which is not caused as a direct result of the negligence of the Supplier or its servants or employees, and shall not under any circumstances have any liability for any indirect or consequential losses or damages, including but not limited to loss of profits, loss or opportunity, loss of marketability or the costs of the recreation, reinstatement or replacement of any such product, machinery or equipment.

10.3 Important Health Warning

10.3.1 The environment of the Facility is such that its operation may interfere with or inhibit the operation of heart pace-making or other regulating machinery or equipment. It is the sole and absolute responsibility of the Customer to draw this to the attention of all of its employees, servants or agents who may visit the Facility for any reason, and the Supplier shall have no liability or responsibility of any nature to, and the Customer shall indemnify the Supplier against, any liability to any such person for any reason whatsoever.

10.3.2 The Customer must ensure that each of its employees, servants, agents and invitees shall familiarise themselves with and observe all safety, operating and compliance procedures established by the Supplier in connection with the Facility and its operations.

10.4 General

10.4.1 Nothing in these Conditions shall exclude or restrict any liability for death or personal injury (if caused by the negligence of the Supplier).

10.4.2 Each term or provision of these Conditions shall be distinct and severable from every other term and provision and the invalidity or unenforceability of any term or provision shall not affect the validity or enforceability of any other term or provision.

11. CUSTODY OF PRODUCTS, MACHINERY AND EQUIPMENT

11.1 If for any reason at any time the Customer fails to collect and/or remove its products, machinery or equipment from the Facility on or before the expiry of any Facility booking or on demand (whichever is the earlier), the Supplier may (at its entire discretion and without liability on its part):

11.1.1 Sever any connection between the Customer's products, machinery and equipment and the Supplier' products, machinery and equipment; and/or

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11.1.2 Store the Customer's products, machinery and equipment at the Customer's expense; and/or

11.1.3 Dispose of the Customer's products, machinery and equipment at the Customer's expense and in such manner (and whether with or without the payment of any consideration) as the Supplier may decide, provided that the Supplier shall in this case notify the Customer of its intentions in this regard 24 hours before disposal.

11.2 If any sum is due or payable to the Supplier by the Customer on any account then (without prejudice to any other right or remedy) the Supplier may exercise a lien over and retain possession of any of the Customers' products, machinery and equipment in its possession until such time as any such sum is paid and discharged in full, without any set off, withholding or counterclaim and the Supplier may apply the proceeds of any sale or disposal in or against the satisfaction of such sum.

12. FORCE MAJEURE

12.1 The Supplier shall not be liable for any delay or default caused by any act of God, war, riot or civil commotion, strike, lock-out, industrial action, combination of workmen, fire, flood, drought, tempest, breakdown, cyber-attack or other system interference or other event generally comprehended in the term "Force Majeure" or beyond its reasonable control (each an "Event of Force Majeure").

12.2 The Supplier shall notify the Customer of any actual or anticipated occurrence of any Event of Force Majeure as soon as possible (and in any event within 48 hours of its occurrence). Such notice shall contain a description of the Event of Force Majeure and (if possible) an estimate of any consequential delay in performance.

13. THIRD PARTY RIGHTS

13.1 The benefit of these Conditions and any contract for use of the Facility and/or supply of Services is personal to the Customer and no such benefit may be assigned or transferred to any person without the Supplier's prior written consent.

13.2 Under no circumstances shall the Customer enter into any contract, agreement or understanding which has or might have the effect of imposing any duties, liabilities or obligations on the Supplier which are more onerous or far-reaching than those contained in these Conditions. The Customer shall indemnify the Supplier against any debt, liability or obligation suffered or incurred by the Supplier as a result of any breach of this Condition.

14. COMPLAINTS AND APPEALS

14.1 In accordance with the Consumer Rights Act 2015, Customers have the right to make a Complaint if they are not satisfied with the service provided and received. In accordance with its Quality Management System, and its accreditation in accordance with BS EN ISO/IEC 17025:2017 and ISO/IEC 17065:2012 for certification activities, The Supplier [PARC] has a formal complaints and appeals procedure, a copy of which is available on request.

14.2 Under the Provision of Services Regulations 2009, PARC has a legal duty to respond to complaints and appeals as quickly as possible and to make their best efforts to resolve those complaints.

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14.3 In the first instance please contact the Quality Manager by telephone, email or letter addressed to The Company at the address given for “The Facility” on page 1, or by email to quality@parctest.co.uk for the attention of The Quality Manager.

15. GOVERNING LAW

15.1 These Conditions and any contract between the Customer and the Supplier shall be governed by and construed in accordance with English Law and (for the benefit of the Supplier) subject to the exclusive jurisdiction of the English courts.