



General Terms and Conditions

Failure to respond to these General Terms and Conditions shall constitute deemed acceptance.

Quotations

Any quotations for samples submitted by Hearshaw and Kinnes Analytical Laboratory (HKAL) to the Client shall be based on information supplied to HKAL by the Client and will not under any circumstances be binding on HKAL if such information is incorrect or incomplete in any manner. HKAL reserves the right to review quotes should Client instructions and/or market conditions change. Turnaround times for fresh fruit are expected to be two to three days, but all turnaround times may vary according to test requirements and number of samples.

Instructions

The Client will provide HKAL with clear and precise written instructions, documents, information, and samples prior to the performance of the services. HKAL will not be liable for any error, omission or inaccuracy in the reports produced by it to the extent that HKAL has been given erroneous or incomplete information by the Client. Samples submitted to the lab must be accompanied by a sample submission form and all samples must be clearly and uniquely marked.

Sample Material

The Laboratory shall not be held responsible for sampling performed by the Client. The laboratory shall not be held responsible for the transport of samples using external services. The laboratory shall take responsibility for the sample only upon receipt of the sample. The Client will ensure that all samples submitted for test work of any nature are clearly marked and identifiable. Unless the Client otherwise instructs in writing, HKAL may retain, return to the Client, destroy, or dispose of all excess fresh samples provided by the Client as soon as the services are completed and the results have been reported to the Client. Any destruction or disposal shall exclude normal amounts of reserve sample material which HKAL shall retain for a period of not less than one month from date of sample receipt. If the Client requires HKAL to return any sample or materials to it or a third party, all costs associated therewith will be borne and paid for by the Client.

Provision of Services

HKAL shall provide the services with reasonable care, skill and diligence as expected of a competent body experienced in performing services of a similar nature and under similar circumstances. If the Client is aware of any apparent inaccuracy in results reported by HKAL in respect of the services, the Client shall immediately advise HKAL accordingly, and allow HKAL a reasonable opportunity to check such results and amend them if necessary.

HKAL shall not be held liable for any loss or damages suffered by the Client due to delay in delivery of test results, if such delays are caused by matters outside of the laboratory's control including but not limited to delay in supply of chemicals and breakdown of equipment. In the event of such delays the Client will be notified accordingly. Should analysis results not meet the quality criteria as set by the laboratory procedures and methods, those results will not be released to Clients and analysis will be repeated to ensure the accuracy of results delivered to the Client. HKAL shall not be held liable for any loss or damage suffered due to delay in delivery of results caused by repeat analysis due to quality control measures.

Disclaimer and limitation of liability

Reports, certificates and documents issued by HKAL ("Reports of Findings") are prepared and issued on the basis of information, documents and/or samples provided by, or on behalf of, the Client and solely for the benefit of Client who is responsible for acting as it sees fit on the basis of such Reports of Findings. Neither HKAL nor any of its officers, employees, agents or subcontractors shall be liable to Client nor any third party for any actions taken or not taken on the basis of such Reports of Findings. Reports of Findings issued further to the testing of samples contain HKAL's opinion on those samples only and do not express any opinion upon the lot from which the samples were drawn.

The liability of HKAL in respect of any claim for loss, damage or expense of any nature and howsoever arising shall in no circumstances exceed a total aggregate sum equal to 100% the amount of the fee paid in respect of the specific service which gives rise to such claim or US\$20,000 (or its equivalent in local currency), whichever is the lesser.

Notwithstanding anything to the contrary, HKAL shall have no liability for any indirect or consequential loss including without limitation loss of profits, penalties, damages for delays loss of business, loss of opportunity, loss of goodwill and cost of product recall. It shall further have no liability for any loss, damage or expenses arising from the claims of any third party (including, without limitation, product liability claims) that may be incurred by the Client.

Indemnification: The Client shall guarantee, hold harmless and indemnify HKAL and its officers, employees, agents or subcontractors against all claims (actual or threatened) by any third party for loss, damage or expense of whatsoever nature including all legal expenses and related costs and howsoever arising relating to the performance, purported performance or non-performance, of any services.

In the event of any claim, the Client must give written notice to HKAL within 30 days of discovery of the facts alleged to justify such claim and, in any case, HKAL shall be discharged from all liability for all claims for loss, damage or expense unless suit is brought within one year from (i) the date of performance by HKAL of the service which gives rise to the claim; or (ii) the date when the service should have been completed in the event of any alleged non-performance.

Confidentiality

HKAL is an ISO 17025 accredited laboratory and therefore adheres to a strict client confidentiality policy. All information submitted by the Client, as well as all analytical data relating to samples will be treated as strictly confidential. HKAL agrees not to disclose to any persons, any confidential information or documentation obtained from Clients, except with prior written consent from the Client, for the purposes of an ISO 17025 audit, or as required by law. Any information released outside of these circumstances will be communicated promptly to the Client.

Suspension or Termination of Services

HKAL shall be entitled to immediately and without liability either suspend or terminate provision of the services in the event of: (a) failure by the Client to comply with any of its obligations hereunder and such failure is not remedied within 10 days that notice of such failure has been notified to Client; or (b) any suspension of payment, arrangement with creditors, bankruptcy, insolvency, receivership or cessation of business by Client.

Governing Law, Jurisdiction and Dispute Resolution

Unless specifically agreed otherwise, all disputes arising out or in connection with contractual relationship(s) hereunder shall be governed by the substantive laws of the Republic of South Africa exclusive of any rules with respect to conflicts of laws and be finally settled under the Rules of the Arbitration Foundation of South Africa by one or more arbitrators appointed in accordance with the said rules. The arbitration shall take place in Johannesburg (Sandton) and be conducted in the English language.

Miscellaneous

Unless specifically agreed otherwise (a) If any one or more provisions of these General Terms and Conditions are found to be illegal or unenforceable in any respect, the validity, legality and enforceability of the remaining provisions shall not in any way be affected or impaired thereby.

During the course of providing the services and for a period of one year thereafter the Client shall not directly or indirectly entice, encourage or make any offer to Company's employees to leave their employment with HKAL.

Use of HKAL's corporate name or registered marks for advertising purposes is not permitted without HKAL's prior written authorisation.