

General Terms and Conditions of Testing and Inspection Services (“Conditions”)

- In these Conditions, where the context permits:
 - ‘FIRA-CMA’ means the FIRA-CMA Testing Services Limited;
 - ‘Client’ means the person, firm, company or organization who engages FIRA-CMA to provide or cause to provide the Service;
 - ‘Document’ means and includes without limitation any report, certificate, statement of comments, and such incidental document compiled or issued by FIRA-CMA in relation to the Service requested by the Client and shall include any part thereof, or a copy or a replica thereof, whether stored, reproduced or engineered electronically or otherwise;
 - ‘Inspection’ includes the inspection on compliance, quantity, workmanship and functional aspects of a consignment of goods by FIRA-CMA as requested by the Client;
 - ‘Item’ includes the equipment, machine or tool submitted by the Client to FIRA-CMA or collected by FIRA-CMA on Client’s request for the purpose of calibration or for carrying out the other Service;
 - ‘Readers’ means and includes any recipient to whom a Document was sent either by FIRA-CMA as instructed by the Client or by the Client itself and includes any other recipients who received the document through a source originated from the first-mentioned recipient;
 - ‘Sample’ includes the sample of material submitted by the Client to FIRA-CMA or collected by FIRA-CMA on Client’s request for the purpose of carrying out the Service, or the sample of shipment goods for Inspection;
 - ‘Service’ means ‘test’, ‘analysis’, ‘inspection’, ‘consultation’, ‘certification’, ‘calibration’ and/or quality related service rendered by FIRA-CMA;
 - ‘Testing’ and ‘Test’ mean respectively the testing of a Sample conducted by or caused to be conducted by FIRA-CMA for or on the request of the Client and the test so carried out; and
 - ‘Working day’ means a day other than a Saturday, a Sunday, Public Holiday in Hong Kong or a bad-weather day (including a day on which typhoon signal no.8 or above or Black Rainstorm warning signal is hoisted in Hong Kong at any time during that day).All references to time or day in these Conditions or in any Quotation or Confirmation shall refer to Hong Kong time unless otherwise stated.
- FIRA-CMA agrees to provide its services in accordance with and subject to the Conditions.
- These Conditions shall apply to all service contracts for Service between FIRA-CMA and the Client to the exclusion of all other terms and conditions including any terms or conditions which the Client may purport to apply (whether by way of correspondence, purchase order or otherwise) and any variation of these Conditions (including any special terms and conditions agreed between FIRA-CMA and the Client) shall be inapplicable unless the same is agreed in writing by FIRA-CMA.
- This Requisition shall be regarded as an acceptance of these Conditions and shall constitute a valid and binding contract between the Client and FIRA-CMA.
- Except with prior written agreement from FIRA-CMA, in respect of Inspection, the FOB value of the Samples or Items do not exceed HK\$1,000.00 per metric tonne, in respect of Calibration, the value of the Items do not exceed HK\$5,000.00 per unit, and in respect of any other Service, the value of the Samples or Items do not exceed HK\$100.00 per unit or HK\$1.00 per kg whichever is the less. Client shall declare the value of the Samples or Items in case of such Samples or Items being of a higher value for FIRA-CMA to consider a fee adjustment or a cancellation of this contract (as the case may be).
- Client shall pay the deposit amount upon FIRA-CMA’s request. A failure to do so shall be treated as a fundamental breach of the contract.
- Unless with prior written agreement of FIRA-CMA, this contract is made on the basis that the Samples or Items on which Service is to be rendered are not subjects of an existing dispute and will not be involved in any arbitration or court proceedings. If Client does contemplate or ought to have contemplated any Documents produced pursuant to the Service may be used (whether partly or wholly) in any such proceedings or intended proceedings, that must be fully and fairly set out in details in writing to seek FIRA-CMA’s prior written agreement. A failure to do so shall be treated as a fundamental breach of the contract.
- For Service on Samples or Items submitted by Client, if all the corresponding Samples or Items do not reach FIRA-CMA’s office within 14 days from FIRA-CMA’s receipt of this Requisition, FIRA-CMA shall have no obligation to carry out any of the Service and the contract shall be treated as rescinded by Client on expiry of the said 14 days and any deposit paid may be forfeited by FIRA-CMA.
- For Service on Samples or Items collected by FIRA-CMA, especially outside the Hong Kong Special Administrative Region, it is the sole responsibility on the Client’s part to provide a safe system and place for collection. Any known possible hazard that may be encountered in the course of collection or transportation must be sufficiently notified to FIRA-CMA in writing. Without limiting the generality, it must be so stated in case of any known epidemic, radioactive exposure, hazardous pollution events or risks that having taken place within the past three years within a diameter of 10km from the place where Samples or Items are to be collected.
- The Client shall notify FIRA-CMA in writing in case of any of the Samples or Items being or suspected to be fragile, volatile, perishable, hazardous, radioactive, static-sensitive, photo-sensitive, magnetically, temperature or humidity sensitive, or generally of a nature which requires particular attention or procedure for proper and lawful handling, transportation, unpacking and/or storage. The Client shall be responsible for and fully indemnify FIRA-CMA against all personal injury, damages, loss and claim that may arise as a result of or in connection with any of the aforesaid that the Client should have notified FIRA-CMA but fails to ensure the same are so notified pursuant to this clause and clause 10 above.
- Client shall ensure that all Samples or Items, whether to be submitted by it to FIRA-CMA or to be collected by FIRA-CMA may be legally dealt with by FIRA-CMA in such manner as reasonably contemplated without contravening any applicable laws and that they are well packed with such suitable and secured packing (and in any event, with sufficient suitable warnings for Samples or Items which are or are suspected to be fragile, volatile, perishable, hazardous, radioactive, static-sensitive, photo-sensitive, magnetically, temperature or humidity sensitive, or generally which require particular attention for proper delivery, unpacking, handling and/or storage) as may be necessary (having also regard to the time and mode of the transportation involved) in order that they shall be in the contemplated condition for FIRA-CMA to carry out the Service.
- FIRA-CMA shall have the right without specifying any reason to refuse (i) to take delivery and/or (ii) to keep custody and/or (iii) to provide any of the Service in respect of such Samples or Items if in FIRA-CMA’s opinion such Samples or Items (i) do not or seem (as they may appear from the packing or their external appearance) not to correspond with their descriptions (whether in term of the components, form, size or quantity) as may have been insufficiently or inaccurately stated in the Requisition or as may have been understood by FIRA-CMA due to any misrepresentation or mistake or otherwise; or (ii) shall possibly make any Service (including any incidental conducts such as delivery or storage of them) to be carried out on them unsuitable, difficult, impracticable, dangerous, controversial, unlawful or in any other way as FIRA-CMA may in its sole decision consider undesirable.
- FIRA-CMA shall be entitled to claim for additional administrative/collection/transportation charges if for any cause other than FIRA-CMA’s own fault (including without limitation inaccessibility, inaccurate or incorrect descriptions of the location or of the Samples or Items, failure to comply with all the applicable customs rules (both export and import) or other legal or regulatory requirement for lawful inland and cross-border transportation), collection and/or transportation has not been possible or has to be attempted more than once or by means other than what should have reasonably been contemplated, without prejudice to FIRA-CMA’s right to cease provision of any of the Service under any of such circumstances.
- The Client shall provide sufficient assistance, instructions and information, technical and commercial, such as standard, criteria, drawing, inspection plan, access etc., to enable FIRA-CMA to carry out the Service efficiently and professionally.
- In the event that FIRA-CMA is not able to complete the Service at the fee originally agreed or at all due to Client’s default of clause 15 or any problem associated with the characteristics of the Sample or Item or unforeseeable events including but not limited to the shortage or rise in the costs of labour, material or otherwise, then FIRA-CMA shall be entitled to cease provision of the Service or continue provision of the same at an increased fee provided that FIRA-CMA shall as soon as practicable upon knowing such an event inform the Client accordingly.
- It shall be the responsibility of the Client to ascertain and notify FIRA-CMA of the standards with which the Sample or Item must comply in any country or territory in which the same is intended to be sold, used or dealt with. In default of specific instructions from the Client, FIRA-CMA shall proceed on the basis that the Client instructs FIRA-CMA to use whatever testing methods and standards or inspection plan, specifications and/or criteria as FIRA-CMA may choose in its absolute discretion. The Client acknowledges that by not giving any specific instructions as said, it would probably obtain a lower fee quoted in the Quotation or confirmed in the Confirmation but at a risk that the Service may not meet with its unspecified requirement or purpose. It is acknowledged that FIRA-CMA strongly advises the Client to provide specific instructions.
- FIRA-CMA may delegate the performance of its Service or any part thereof to its agents or subcontractors, either in whole or in part.
- Samples or Items which have been submitted to or collected by FIRA-CMA will, unless the Client has made special arrangements in advance with FIRA-CMA regarding the disposal thereof, be destroyed or disposed of in such manner as FIRA-CMA sees fit at the expiration of a period of one month from the date (i) the corresponding Documents are issued pursuant to the relevant Service rendered by FIRA-CMA; or (ii) the contract pursuant to which such Samples or Items are submitted or collected is terminated by either party for any reason; or (iii) the relevant Service has been fully performed by FIRA-CMA or no outstanding Service on such Samples or Items is to be performed by FIRA-CMA, whichever is the earlier. If pursuant to

any prior arrangements a Sample or an Item is to be returned to or re-collected by the Client that will be at Client's own costs, expenses and risk. For re-collection, Client shall give at least 3-working-day notice to FIRA-CMA for arrangement. If the Sample or Item is not collected within the said period of one month, FIRA-CMA shall be entitled to deal with the Sample or Item in the same manner as aforesaid as if no special arrangements had even been made regarding its disposal. The Client expressly acknowledges that any Samples or Items (save those for Calibration or bulk Inspection) so returned or re-collected may have during the Service being rendered been dismantled, dissected, converted, chemically or physically altered in form, shape, structure, nature or in other aspect. Those returned or re-collected Samples or Items, unless specifically stated otherwise in the Requisition, are to be regarded by the Client and FIRA-CMA as industrial waste only and must be discarded by the Client as industrial waste in a proper manner and in no event shall they be used.

19. No action whatsoever regarding the Service shall be brought against FIRA-CMA unless the claim is made within one year from the date of issuance of the Document compiled in furtherance of that Service, or from the date on which the Document ought to be issued in the case of any alleged non-performance on the part of FIRA-CMA or from the date of the quotation issued in respect of the Service in case no relevant Document would be created for that Service.
20. The Client expressly acknowledges that FIRA-CMA shall not be liable to the Client or any third party for any indirect, special and/or consequential loss or damage, including but not limited to loss of profits under any circumstances whether or not such loss or damage is caused by the error, negligence, misdescription, misjudgement or default whatsoever on the part of FIRA-CMA, its associate, subsidiary, agent, sub-contractor or employee and the liability of FIRA-CMA shall be limited to the amount stated in Clause 22.
21. The liability on FIRA-CMA's part for any mis-statement in the Documents regarding Service in furtherance of a Contract causing actual loss or damage to the Client and/or the Readers (if any) shall be limited to three (3) times of the fee payable by the Client to FIRA-CMA for Service which gives rise to the claim for loss or damage. The amount of any claim for loss or damage of a Sample or an Item shall be limited to its maximum value (or FOB value if provided) as set out in Clause 6 or such higher value as may have been declared by the Client pursuant to Clause 6, whichever is the higher.
22. The Client procures that a Reader is fully aware of the limitation of FIRA-CMA's liability regarding the Service and all the other terms as set out herein, in particular Clauses 20 to 23. The Client shall fully indemnify FIRA-CMA against any claim by a Reader for the amount in excess of such limitation and any claim which is contemplated to be barred or limited by virtue of these provisions.
23. Document relates exclusively to the Sample or Item that having been tested shall not apply to the bulk, unless sampling is expressly requested/stated in the Requisition, indeed carried out by FIRA-CMA, and stated to have been so carried out in the Document.
24. The Client shall ensure it and the recipient (as specified by the Client) of the Documents, the employees, agents, sub-contractors, subsidiaries and/or affiliates of its as well as the said recipient's shall treat the Documents as strictly private and confidential and shall not use or permit any other party to use the Documents or any part thereof for any advertising, promotional or adverse-competition purpose, save and except with the prior written permission from FIRA-CMA.
25. Except with prior written approval from FIRA-CMA, no Document shall be reproduced in full or in part. The Client hereby acknowledges that the findings and comments contained in the Document incorporate the professional effort and valuable goodwill of FIRA-CMA and all of them must be read together as a full Document without contamination. No document shall thus be used or produced to any Reader in part only or in combination or conjunction with any test report, certificate or comment issued by other party or with any other Document. Without prejudice to other rights FIRA-CMA may have, the Client acknowledges and procures all Readers to acknowledge that FIRA-CMA shall be entitled to seek an injunctive relief for a breach of Clauses 24, 25 or 26 whether actual damage is caused to FIRA-CMA or whether the consequence of the breach may have misled any reader of the Document to think certain goods materials or articles possess the quality same as the particular Sample or Item referred to in the Document as found by FIRA-CMA, irrespective of whether such goods materials or articles do indeed possess the quality as found for that Sample or Item.
26. The Client hereby acknowledges that if it chooses not to collect the Documents at FIRA-CMA's office, it then agrees to assume the risk of loss or damage or late delivery of the Documents sent by ordinary mail or registered mail or through courier or otherwise and in no event shall FIRA-CMA be responsible for any such loss, damage or late delivery.
27. Unless otherwise specifically requested by the Client and accepted by FIRA-CMA in writing, FIRA-CMA shall have the right to retain and/or reproduce copies or replicas in whatever forms whether digital or otherwise, of any of the Documents and such copies or replicas shall absolutely be the property of FIRA-CMA which, without limiting the generality, may make use of the same or any part thereof in such manner as may be necessary for the normal course of FIRA-CMA's business, and may disclose the same or any part thereof to any third-party accreditation or recognition bodies, their employees, agents, sub-contractors, related associations or affiliates. For avoidance of doubt, nothing herein shall restrict FIRA-CMA's right of disclosure of the Documents or any contents thereof for audit purposes or for meeting with the requirements of the applicable judicial, governmental or regulatory authorities and the right of the Client, if any, whether implied or provided by any applicable laws, as to preservation of confidentiality regarding the Documents and any information of the Client contained therein, is hereby absolutely waived in favour of FIRA-CMA to the fullest extent as shall be allowed by the applicable laws.
28. The Client shall pay the fee punctually on the date specified in the relevant quotation, debit note or invoice or within such period as may be agreed by FIRA-CMA in writing. If an invoice amount or any part thereof has not been paid when due, interest shall accrue on such sum on a daily basis from the due date until payment at a rate of 2% per annum over the prime lending rate for Hong Kong dollars quoted from time to time by The Hongkong and Shanghai Banking Corporation Limited. For avoidance of doubt, in respect of an invoice issued to a third party as per Client's instructions, Client shall still be primarily liable for paying the invoice amount and any interest payable thereof.
29. The Client agrees to indemnify and keep indemnified FIRA-CMA from and against all demands, claims, liabilities (whether criminal or civil), losses, costs and expenses whatsoever (including legal costs and expenses) which FIRA-CMA may suffer or incur arising out of or in connection with the performance of its services to the Client.
30. The Client shall also reimburse or pay to FIRA-CMA all expenses and charges (including legal costs on a solicitor and client basis) incurred by FIRA-CMA in connection with the demand for and collection of payment of any sum owed to FIRA-CMA by the Client and any enforcement process regarding the provisions contained in these Conditions or otherwise.
31. If the Client fails to pay any sum due under these Conditions, ceases or threatens to cease business, makes or offers to make any arrangements or composition with creditors or commits an act of bankruptcy, or if a receiving order is made against it, or if any resolution or petition is passed or made for its winding up (other than for the purpose of amalgamation or reconstruction), or if an administrator, administrative receiver, receiver or manager is appointed of any business, assets or undertakings, or if it takes or suffers the seizure of any assets for non-payment of any debt or if it takes or suffers any similar or analogous action in consequence of debt, then without prejudice to any other rights and remedies which FIRA-CMA may have and without being liable for any loss or damage occasioned thereby, FIRA-CMA may forthwith suspend the performance or, at its option, terminate all or any contracts for Service that have been entered into between FIRA-CMA and the Client.
32. FIRA-CMA reserves its right to amend these Conditions and the amount of fees charged by it for Service from time to time without prior notice.
33. If any provisions or any parts thereof contained in these Conditions shall be prohibited by law or adjudged by a court or other competent authority to be unlawful, void, or unenforceable, such provisions or such parts shall to the extent required be severed from these Conditions and rendered ineffective to that extent without modifying the remaining provisions or any other parts of such provisions of these Conditions and shall not in any way affect any other circumstances of or the validity or enforcement of these Conditions.
34. Unless the context otherwise requires, words denoting the singular shall include the plural and vice versa and words denoting any one gender shall include all genders and words denoting persons shall include bodies corporate, unincorporated associations and partnerships.
35. These Conditions are written in English language. They may be translated into other languages solely for general reference only. In case of any inconsistency or discrepancy in the meaning or interpretation amongst those translated versions with the original English context, the English version shall prevail.
36. These Conditions shall be governed by and construed in accordance with the law of Hong Kong Special Administrative Region and each party agrees to submit to the exclusive jurisdiction of the courts of Hong Kong Special Administrative Region.