

ELEMENT MATERIALS TECHNOLOGY

TERMS AND CONDITIONS (MEXICO)

1. Formation of Contract.

1.1 These terms and conditions ("**Terms and Conditions**") together with any quotation, proposal, estimate or fee quote ("**Quotation**") provided by or on behalf of Element Materials Technology Monterrey, S. de R.L. de C.V. ("**Company**") with principal place of business located at Carretera Monterrey-Saltito No. 3279-B, Privada de Santa Catarina, Santa Catarina, Nuevo León C.P. 66367, Mexico, shall be a part of and apply to all contracts for the supply of testing, calibration and/or any other services ("**Services**") carried out by the Company, providing the services contemplated therein to [insert name of customer] ("**Customer**") with principal place of business located at [insert address of customer].

1.1.1 Any rendering of Services is subject and expressly conditioned to the acceptance of these Terms and Conditions by the Customer, in which case the Customer acknowledges that it shall be bound by these Terms and Conditions at the time it receives any Services from the Company, and which together with the Quotation, constitute a binding agreement between the Company and the Customer pursuant to the laws of the United Mexican States ("**Mexico**").

1.1.2 The Customer shall be deemed to have accepted the Quotation and these Terms and Conditions expressly by signing this document, or impliedly based on the receipt by the Company of an instruction in writing by the Customer to provide the Services or receipt of a Sample (as defined in sub-condition 1.6) by the Company.

1.2 Customer agrees that these Terms and Conditions shall supersede and override any terms or or specification and shall prevail over any inconsistent terms or conditions contained or referred to in y law (unless the law in question cannot be excluded), trade custom, practice or course of dealing, all of which are hereby expressly objected by the Company. Any phrase introduced by the terms "**including**", "**include**", "**in particular**" or any similar expression, shall be construed as illustrative and shall not limit the sense of the words preceding those terms.

1.3 Written and oral Quotations shall be valid for sixty (60) days from the date thereof and the Company may withdraw any such Quotation at any time. No Quotation given by the Company shall be an offer to contract with any person and no contract shall come into existence except in accordance with sub-condition 1.4.

1.4 The Customer's purchase order or the Customer's acceptance of a Quotation constitutes an offer by the Customer to purchase the Services specified in the Quotation upon these Terms and Conditions. No offer placed by the Customer shall be accepted by the Company other than by an express written acknowledgement issued and executed by a duly authorized attorney-in-fact of the Company with sufficient power of attorney or (if earlier) by the Company starting to provide the Services, when a contract for the supply and purchase of those Services on these Terms and Conditions will be established (the "**Contract**").

1.5 The Customer agrees that no acceptance or acknowledgement, even if in writing and signed by to the Services shall constitute acceptance other document that conflicts with or adds to these Terms and Conditions, unless the Company specifically agrees to such a variation of these Terms and Conditions pursuant to and in accordance with sub-condition 2.1.

1.6 The delivery to the Company by the Customer of any item for testing or calibration by the Company (a "**Sample**") or the delivery of any request by the Customer to the Company for the provision of any similar services shall, upon acceptance of that Sample or request by the Company, -condition 1.4). If the Company begins such testing, calibration or similar services on that Sample, the offer shall be deemed to have been accepted by the Company and a Contract shall be formed. These Terms and Conditions shall apply to that Contract.

2. Variation including Cancellation, Postponement and Amendment.

2.1 These Terms and Conditions may not be varied or waived by either party unless the variation or waiver is in writing and is signed by a duly authorized attorney-in-fact of the Company with sufficient power of attorney. The variation or waiver must set out the condition(s) or sub-

4. Services.

4.1 Subject to the remaining sub-conditions of this condition 4, the Company warrants that it will complete the Services in a satisfactory and workmanlike manner, consistent with industry standards. The Customer expressly acknowledges and agrees that the Company gives no warranty that any result or objective can be achieved through the Services and that, where results are based on smaller scale tests and theoretical studies, results may require careful validation in order to be extrapolated to a production scale.

4.2 The Company will use its reasonable endeavors to complete Services and provide written information, results, technical reports, certificates, test or inspection records, drawings, recommendations, advice or the like in respect of the Services (the "**Report**") or certificate thereon to the Customer by any date reasonably requested in writing by the Customer, but the Company shall not be liable to the Customer for: (i) any delay in the performance of any obligation under the Contract; or (ii) damages suffered by the Customer by reason of such delay.

obligation it may have to comply with any law or other regulation binding on it which may be in force from time to time.

4.4 No employee, agent or other person is authorized to give any warranty or make any representation on behalf of the Company in relation to the Contract, or to assume for the Company any other liability in connection with the Services, unless such warranty, representation or assumption of liability is given to the Customer in accordance with sub-condition 2.1.

4.7.5 the results of the Services shall address the items and information submitted only and are not to be regarded as representative of any larger population from which the Sample was taken; and

determination of import duties, taxes and fees that must be paid upon importation of the property into Mexico, the Customer shall be responsible for paying such fines or sanctions, as well as for the omitted import duties, taxes and fees, as applicable. Therefore, the Company shall not accept any liability for such omitted import duties, taxes and fees, nor for the assessment of any fines, sanctions or even a seizure of such property. The Customer shall rectify the necessary customs entry documents to cure the mistake in question, recover the property from the competent authorities in case of seizure and to pay for any costs related thereto. The Customer covenants and agrees to indemnify and hold the Company harmless against and from any damages and losses suffered as a result of a breach of Customer under sub-

8.8 Nothing in these Terms and Conditions limits or excludes the liability of the Company for:

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13.2.4 an encumbrancer takes possession, or a receiver or administrator is appointed, over any of the property or assets of the Customer;

13.2.5 the Customer ceases, or threatens to cease, to carry on business;

or labour dispute, any law, or any action taken by a government or public authority, including without limitation imposing an export or import restriction, quota or prohibition, or failing to grant a necessary licence or consent, delay or default by subcontractor or supplier of materials or services, the existence of any circumstance making performance commercially impracticable or any other cause beyond the

any payments due to the Company under the Contract.

15. Waiver of Compliance.

20.3.4 ensure that at all times it has in place appropriate technical and organizational measures as required by Data Protection Laws;

20.3.5 ensure that its employees who may have access to the Personal Data are subject to appropriate confidentiality obligations;

20.3.6 implement appropriate organization and technical measures to assist the Data Controller in meeting its obligations under the Data Protection Laws, taking into account the nature of Processing and the information available to the Data Processor;

20.3.7 not authorize any sub-contractor to Process the Personal Data ("**Sub-Processor**") other than with the prior written consent of the Data Controller, it being acknowledged that the Data Controller consents to the appointment of Sub-Processors who may from time to time be engaged by the Data Processor who in each case are subject to terms between the Data Processor and the Sub-Processor which are no less protective than those set out in this condition 20, provided that the Data Processor notifies the Data Controller of the identity of such Sub-

Services and information concerning a party's relationships with actual or potential clients, customers or suppliers and all other information designated as confidential or which ought reasonably to be considered confidential by law.

22.1 Each party (the "**Recipient**") shall keep all Confidential Information received from the other party (the "**Disclosing Party**") in the strictest confidence. Save for the purposes of fulfilling its obligations under the Contract, the Recipient shall not, without the prior written consent of the Disclosing Party, disclose, divulge or grant access to the Confidential Information which it has received and shall not permit any of its employees, agents or officers to disclose, divulge or grant access to such Confidential Information.

22.2 Notwithstanding condition 22.1, a Recipient may disclose Confidential Information which it has received if:

22.2.1 it is required to do so by any governmental or regulatory authority, any accreditation body or by law (but then only to the extent it is strictly required to do so);

22.2.2 it is strictly necessary for the purpose only of obtaining professional advice in relation to the Contract;

22.2.3 it was already known to the Recipient prior to the time of disclosure by the Disclosing Party (where the Recipient can prove the same with documentary evidence); or

22.2.4 it is information which is or subsequently becomes public knowledge other than by breach of the Contract by the Recipient.

22.3 In the event of an information request being made to a Recipient pursuant to applicable law in respect of any Confidential Information, then the Recipient shall immediately notify the Disclosing Party and shall not disclose any information until a detailed legal analysis has been made as to whether the information requested is capable of benefiting from an exemption from disclosure.

22.4 The Customer hereby acknowledges and understands the legal scope and consequences of failing to comply with its obligations set forth under this condition 22. Consequently, the Customer(3-3(pe)4(c)en-U[(o

23.2 The Customer represents and warrants that it shall inform the Company in writing, prior to the Company carrying out any Service, of any applicable Import and/or Export Control Licenses or

IN WITNESS WHEREOF, the parties have signed this Contract, through their duly authorized legal representatives, on [insert date].

COMPANY

CUSTOMER

**ELEMENT MATERIALS TECHNOLOGY
MONTERREY, S. DE R.L. DE C.V.**

[INSERT NAME OF CUSTOMER]

Name:¹ Jean Gobbi
Title: Legal Representative

Name:² [insert name]
Title: Legal Representative

¹ Legal representative to sign and initialize all pages of the Contract.

² Legal representative to sign and initialize all pages of the Contract.