

**Essentra Filter Products Group:
Terms and Conditions for the Supply of Scientific Services**

1. Interpretation

1.1 In these Conditions:

"**Buyer**" means the person who purchases Services from Seller;

"**Conditions**" means these terms and Conditions as may be amended from time to time; pursuant to Condition 2.6 or 2.7 which constitute an integral and inseparable part of the Contract;

"**Contract**" means any contract between Seller and Buyer for the purchase of Services which contract shall be formed after an Order is sent by Buyer to Seller and the Order Acceptance thereof is issued by Seller or if no Order Acceptance is issued by Seller, upon Seller commencing the Services to Buyer as requested under the Order;

"**Customs**" means the relevant tax and duty regulatory authority.

"**Essentra Filter Products Group**" means the group of companies which conduct the business of Essentra Filter Products from time to time;

"**Intellectual Property Rights**" means all patents, know-how, copyrights, trade or services marks, design rights, and all other intellectual property rights of any kind in any part of the world;

"**Losses**" means all losses, claims, liabilities, costs, charges, expenses and damages of any kind, irrespective of whether they were reasonably foreseeable or avoidable;

"**Order**" means an offer to purchase the Services submitted by Buyer to Seller based on the Quotes from time to time provided by Seller to Buyer;

"**Order Acceptance**" means a written acceptance of an Order issued by an authorised signatory of Seller;

"**Price**" means Seller's Price from time to time for the Services in question at the time the Order is quoted;

"**Quotes**" means Seller's written quote for Services requested by the Buyer;

"**Report**" means the document produced by Seller containing the test results.

"**Samples**" means Buyer's goods in respect of which the Seller will perform the Services;

"**Services**" means the development, testing and compliance services specified in a Contract;

"**Seller**" means the company listed in the Schedule of Sellers which has entered into a Contract with Buyer for the supply of Services.

"**Test Methods**" means Seller's laboratory testing procedures used to perform the Services on Buyer's samples.

"**Working Day**" means any day excluding Saturday, Sunday or a public holiday.

1.2 In these Conditions: references to a "person" include any individual, company, corporation, or other entity whether or not having a separate legal personality; words in the singular shall include the plural and vice versa; any reference to any statute or statutory provision shall be construed as a reference to that statute or statutory provision as time to time amended, consolidated, modified, extended, re-enacted or replaced; and the word "including" shall, unless the context otherwise requires, mean "including without limitation".

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2. Quotes, Orders and Contracts

- 2.1 Quotes are valid for thirty elapsed days unless otherwise specified by Seller, but are not binding and may be withdrawn by Seller at any time.
- 2.2 A Buyer may place an Order for Services in writing, by e-mail, by phone or by sending to Seller the number of Samples specified in the Quote. If Buyer sends a different number of Samples to that specified in the Quote, Seller may contact Buyer for instructions and issue a new Quote for Services in respect of the number of Samples provided.
- 2.3 An Order is not binding on Seller until is accepted by Seller issuing an Order Acceptance or, if earlier, commencing performance of any of the Services, at which time a Contract shall be formed.
- 2.4 Once accepted, in the form of Seller issuing an Order Acceptance, an Order may only be cancelled, varied or suspended by Buyer with the express prior written agreement of Seller and on payment of any Price payable for Services performed, to be calculated on a pro rata basis to the date the Order cancellation, variation, or suspension was received by Seller.
- 2.5 The Services to be performed shall be as set out in the Quote or, if different, the Order Acceptance.
- 2.6 The Conditions shall form part of any Contract to the express exclusion of any other terms and Conditions. A Contract shall comprise these Conditions, an Order Acceptance, if any, the relevant Quote and any additional terms agreed in writing and signed by an authorised representative of each party.
- 2.7 No variation of these Conditions or any Contract, nor any representation, advice or recommendation relating to the Services given by any representative of Seller, shall be binding upon the parties unless made in writing and signed by an authorised representative of each of the parties.

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3. Commencement and Performance of the Test Services

- 3.1 The Services shall be performed by Seller from the later of:
- 3.1.1 subject to Condition 2.2, receipt by Seller of the number of Samples specified in the Order Acceptance; and
 - 3.1.2 if the Order Acceptance specifies that payment is required in advance, receipt by Seller of the number of Samples specified in the Order Acceptance and payment of the Price in full.
- 3.2 On completion of the Services, Seller shall send to Buyer the Report, by email. Subject to Condition 3.3, the Report shall be sent by email by Seller within sixty Working Days from commencement of the Hoffman Services, fifteen Working Days for non Hoffman Services, as determined in accordance with Condition 3.1. Seller shall send a hard copy of the Report. All copies of the Report shall be sent to the buyer, at the address, specified in the Quote unless Seller is otherwise notified by Buyer in writing.
- 3.3 Buyer may request a shorter period for delivery of the Report on payment of the relevant surcharge in relation to the Price specified in the Contract, as set out below:
- 3.3.1 Forty five Working Days for Hoffman Analyses – 50% surcharge on the quoted Price;
 - 3.3.2 Thirty Working Days for Hoffman Analyses – 100% surcharge on the quoted Price;
 - 3.3.3 Seven Working Days for all other analyses – 100% surcharge on the quoted Price.
- Such request must be made in writing to Seller before Seller commences performance of the Services and, where required by Seller, the full Price is paid prior to commencement of the Services.
- 3.4 Seller shall perform the Services with reasonable care and skill, in accordance with its Test Methods and in accordance with applicable laws and regulations.
- 3.5 Seller shall use reasonable endeavours to meet any delivery dates specified in the Contract but such dates are estimates only and time shall not be of the essence.
- 3.6 Buyer may, within ten Working Days of the date on which Seller issued the Report pursuant to Condition 3.2, notify Seller, in writing, that the Report contains any material errors, omissions or inaccuracies. If Seller accepts that any such errors, omissions or inaccuracies exist, Seller shall as Buyer's exclusive remedy, and subject to Condition 7, correct the Report or, where necessary, reperform the relevant Services, free of charge to Buyer and provide an updated Report within a reasonable period.
- 3.7 Any Contract shall terminate on the later of the date on which Seller issues the Report or when payment in full for the Services has been cleared by Seller.

4. Price

- 4.1 Subject to Condition 4.2, the Price for Services shall be as specified in the Seller's Quote.
- 4.2 Seller reserves the right, by giving written notice to Buyer at any time before commencement of the Services, to increase the Price to reflect any increase in the cost to Seller of performing the Services which is due to:

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- 4.2.1 Any factor beyond its reasonable control;
 - 4.2.2 Any increase in the cost of labour or materials;
 - 4.2.3 Any variation to the Contract requested by Buyer;
 - 4.2.4 Any delay or additional work caused by any instructions, neglect or default of Buyer; or;
 - 4.2.5 Any failure of Buyer to supply Seller with adequate and timely information, instructions or specifications;
 - 4.2.6 The Buyer increases the number of Samples or Test Methods beyond that stated on the Seller's Order Acceptance.
- 4.3 The Price excludes any applicable value added tax or other taxes or duties, and non-standard packaging, loading, unloading, carriage and insurance or similar costs, all of which shall be payable by Buyer, unless otherwise stated on the Order Acceptance.

5. Payment

- 5.1 Payment terms shall be specified in the Order Acceptance and payment shall either be due before commencement of the Services or on delivery of the Report. Unless otherwise specified in the Order Acceptance, any amounts payable by Buyer shall be payable in full prior to commencement of the Services and Seller shall be entitled to issue an invoice for the Price accordingly.
- 5.2 Payment of any invoice is due without deduction, discount, and abatement or set-off within thirty elapsed days of the date of the invoice, in the currency agreed. The time of payment shall be of the essence of these Conditions.
- 5.3 If Buyer fails to make any payment when due then, without prejudice to any other right or remedy available to Seller, Seller shall be entitled to:
- 5.3.1 Terminate the Contract;
 - 5.3.2 Deduct outstanding sums from any sums owed by Seller to Buyer under the Contract or otherwise;
 - 5.3.3 Suspend any further performance by the Seller under the Contract;
 - 5.3.4 Treat the Contract as repudiated and terminated; and/or
 - 5.3.6 Retain any sums paid in advance or as deposit for the Services.

6. Delivery

- 6.1 Buyer shall:
- 6.1.1 Deliver the number of Samples specified in any Quote to Seller's laboratory at the site address shown on the quote and comply with all applicable laws and regulations regarding the export and import of such Samples, including Customs requirements and the payment of duties, taxes, imports or levies; and
 - 6.1.2 Provide such information and Samples as Seller may reasonably request from time to time to assist Seller to perform the Services.
- 6.2 Seller shall store and use the Samples in accordance with applicable laws and regulations, including any requirements of Customs regarding bonded tobacco products.
- 6.3 Seller shall notify Buyer if the number of Samples received does not correspond with the number specified in the Order Acceptance and Seller shall not be obliged

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- to commence the Services until further instructions have been received from Buyer and an updated Quote has been issued, and an Order for updated Services placed by Buyer and accepted by Seller, in accordance with Condition 2.
- 6.4 Unless otherwise agreed, any Samples not used by Seller in performing the Services shall be held by Seller for ninety Working Days after the Report is issued in accordance with Condition 3.2, after which Seller shall destroy any remaining Samples in accordance with applicable law.

7. Limitation of Liability

- 7.1 Without prejudice to Condition 7.3, Seller's aggregate liability to Buyer, including any liability for the acts or omissions of its employees, agents, sub-contractors or other members of the Essentra Filter Products Group, for any and all claims arising out of or in connection with the Services and use of the Report, or for any breach of these Conditions, any Contract or any duty implied by law and whether arising in contract, tort, including negligence or breach of a statutory duty, misrepresentation, restitution or otherwise shall not exceed the Price paid for the Services.
- 7.2 Subject to Condition 7.3, Seller shall not be liable to Buyer or any other party for any (a) indirect Losses, (b) economic Losses, (c) Losses of profits or anticipated profits, (d) Losses of expected future business, or (e) damage to reputation or goodwill.
- 7.3 Nothing in these Conditions shall exclude or limit Seller's liability in respect of any claim, other than by Buyer for re-imbusement of sums paid to a third party, for death or personal injury caused by its negligence, for fraud or fraudulent misrepresentation or for any other liability to the extent that it may not be excluded or limited by law in the relevant jurisdiction, subject to condition 11.6.
- 7.4 If Buyer becomes aware that any third party has made or appears likely to make any claim in respect of the Services or the Report it shall:
- 7.4.1 Promptly notify Seller of such claim or circumstance;
- 7.4.2 Promptly provide such assistance to Seller and take such action as Seller may request in respect of such claim or circumstance including but not limited to allowing Seller to take full control of any proceedings or negotiations in connection with the claim; and
- 7.4.3 Not settle or compromise, make any admissions, nor agree any matter in the conduct of any dispute, without the prior written approval of Seller.
- 7.5 Without prejudice to any other provision of these Conditions, Seller will not be in breach of the terms of the Contract for any delay in performing, or failure to perform, its obligations under the Contract if that failure or delay was due to any cause or circumstance beyond Seller's reasonable control, which shall include without limitation; war or other action of military forces, terrorism, riot, civil commotion, sabotage, vandalism, accident, break down or damage to machinery or equipment, fire, flood, acts of God, severe adverse weather, strike, lock-out or other industrial disputes, whether or not involving employees of Seller, or shortage of materials at the market rates existing when the Contract is made, legislative or administrative interference or was due to any failure, neglect or delay on the part of Buyer or its agents or representatives. Seller shall use

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- reasonable endeavours to mitigate the effects of such event. If such event continues for a continuous period in excess of thirty elapsed days, either party shall be entitled to terminate the Contract on written notice to the other party.
- 7.6 Buyer acknowledges that the limitations of liability set out in these Conditions are reasonable and reflect the commercial intentions of the parties in the context of the anticipated earnings of Seller under the Contract and any other contracts and the ability of Buyer to protect itself through insurance. Seller may be willing to vary the limitations on liability in relation to specific Services if requested by Buyer subject to Buyer bearing the additional costs as notified to it by Seller.
- 7.7 All Seller's Reports on testing, relate only to the samples received and tested by the Seller, at the time of testing. Seller warrants that all samples submitted were tested in accordance with its standard test procedures. Except as stated herein, there is no warranty expressed or implied, statutory or otherwise, as to the results in the Report. Seller does not warrant or guarantee the fitness of the materials from which the samples have been drawn for any particular purpose including, without limitation, for consumption as cigarettes, cigars, smokeless tobacco or any other form of tobacco or tobacco-related product.

8. Termination

- 8.1 Seller may terminate the Contract forthwith:
- 8.1.1 by giving thirty elapsed days written notice if Buyer breaches pursuant to Condition 5.3 or breaches any material terms of any Contract; or
- 8.1.2 Immediately, if Buyer makes any composition or voluntary arrangement with its creditors or any step, application, Order, proceeding or appointment is made or taken by or in respect of Buyer, including the making of an application or the giving of any notice, by Buyer or any other person for a distress, execution, winding up, dissolution, or to appoint an administrator of Buyer or being an individual or firm, becomes bankrupt or being a company, goes into liquidation, otherwise than for the purposes of a solvent amalgamation or reconstruction;
- 8.1.3 Immediately, if an encumbrance takes possession or a receiver, administrative or otherwise, is appointed, of any of the property or assets of Buyer; or Buyer ceases, or threatens to cease, to carry on business;
- 8.1.4 Any event analogous to the foregoing occurs in any jurisdiction in which Buyer is incorporated, resident or carries on business;
- 8.1.5 Immediately, if Buyer breaches the Intellectual Property Rights of Seller or any other person or member of the Essentra Filter Products Group;
- 8.1.6 Seller reasonably apprehends that any of the events mentioned in Conditions 8.1.1 to 8.1.5 above is about to occur in relation to Buyer and notifies Buyer accordingly.
- 8.2 Where Seller terminates the Contract in accordance with Condition 8.1 then, without prejudice to any other right or remedy available to Seller:
- 8.2.1 Seller shall be entitled to suspend any further Services under the Contract, and;

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- 8.2.2 The Price shall become immediately due and payable notwithstanding the Contract, any previous agreement or arrangement to the contrary.
- 8.3 Termination of the Contract, for whatever reason, shall not affect any of its provisions which are intended to continue to have effect after it has come to an end, including Conditions 5,7,8,9,10 and 11.

9. Intellectual Property and Use of the Report

- 9.1 Buyer acknowledges and agrees that any and all Intellectual Property Rights in the Report, the Services and any other information materials or documents arising or created in the course of or as a result of the Services shall belong exclusively to Seller and that Buyer shall acquire no rights, title or interest in same except as expressly set out in these Conditions.
- 9.2 Seller hereby grants Buyer a worldwide, royalty-free, perpetual right to use the Report for its own internal purposes only. Buyer acknowledges and agrees that it shall not disclose the Report, or permit the Report to be disclosed, to any third party or to be made public or use the Report or any data contained in the Report for the purpose of marketing any of Buyer's products without the prior written consent of Seller, except where disclosure to any regulatory authority is required by law.

10. Confidentiality and Data Retention

- 10.1 Neither party shall without the prior written consent of the other party, during and after termination of the Contract, use, other than in performance of the Contract, or disclose to any other person save, in relation to Seller, any member of the Essentra Filter Products Group any confidential information of the other party, except that any obligations contained in this Condition shall not prevent any disclosure of confidential information which is required by law, court Order or any legal or regulatory authority, which is required to comply with the rules of any relevant stock exchange, or disclosure to a party's professional advisors, acting in their capacity as such.
- 10.2 Buyer shall not publicise or disclose the existence of any Contract, nor its relationship with Seller, without the prior written consent of Seller.
- 10.3 Seller shall maintain a copy of the Report and any test results or other information created during performance of the Services for a period of two elapsed years from the date on which the Report was first issued to Buyer.
- 10.4 Should Buyer request additional copies of the Report, a fee will be Quoted for this upon request.

11. Miscellaneous

- 11.1 Seller may perform any of its obligations or exercise any of its rights hereunder by itself, through its subcontractors or agents or any member of the Essentra Filter Products Group provided that any act or omission of any such subcontractor, agent or member of the Essentra Filter Products Group shall be deemed to be the act or omission of Seller and shall be subject to the exclusions or limitations on liability set out in these Conditions. Buyer shall not transfer, assign or sub-contract any of its rights or obligations under the Contract without Seller's prior

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- written consent and in any event shall remain responsible for the performance of the Contract by any transferee, assign or sub-contractor.
- 11.2 Any notice shall be in writing including by fax, addressed to the other party at its registered office or principal place of business or such other address as may at the relevant time have been notified to the party giving the notice. Hand delivered notices shall take effect immediately, postal notices, two Working Days after posting by first class post and, if sent by fax, at the date and time on the sender's transmission acknowledgement slip or, if lost, on receipt.
- 11.3 No waiver by Seller of any breach of the Contract by Buyer shall be binding unless and until given in writing and duly signed by an authorised signatory of Seller. No waiver shall be considered as a waiver of any subsequent breach of the same or any other provision and any failure by Seller to enforce any term of the Contract shall not be waiver of Seller's rights.
- 11.4 If any provision of the Contract is held by any competent authority to be invalid or unenforceable in whole or in part, the validity of the other provisions of the Contract and the remainder of the provision in question shall not be affected thereby.
- 11.5 The Contract contains the entire agreement and understanding of the parties and supersedes all prior agreements, understandings or arrangements, both oral and written in respect of the Services, save that neither party seeks to exclude liability for fraudulent pre-contractual misrepresentation upon which the other party can be shown to have relied.
- 11.6 The Contract and any dispute arising out of in connection with it, whether in contract or otherwise, shall be governed by and construed in accordance with the laws legal jurisdiction in which the Seller is incorporated. Any dispute shall be referred to the exclusive jurisdiction of the local Courts of the Seller, save that Seller shall retain the right to bring proceedings against Buyer in any other court.
- 11.7 Save in respect of the rights, indemnities or warranties expressly stated to be given in favour of the Essentra Filters Product Group, or Seller's agents or subcontractors, all of which shall accrue directly for their benefit, the parties to the Contract do not intend that any term of the Contract will be enforceable by any person that is not a party to it. No such person shall have any rights relating to any extension, waiver and/or amendment to the Contract including but not limited to, any rights to approve any extension, waiver and/or amendment to the Contract

12. Jurisdiction

These standard terms and conditions are governed by the laws of England and Wales and any disputes arising out of or in connection with these terms shall be subject to the non-exclusive jurisdiction of the Courts of England and Wales.

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Schedule of Sellers

Essentra Filter Products Limited, with registered office at Avebury House, 201-249 Avebury Boulevard, Milton Keynes, Buckinghamshire, MK9 1AU and its successors and assigns;

Essentra Filter Products, Inc., a Delaware Corporation, located at 303 Gallimore Dairy Road, Greensboro, North Carolina, 27409 and its successors and assigns;

PT Essentra, with registered office at Jalan Berbek Industri I no 16-20, Surabaya Industrial Estate Rungkut, Sidoarjo 61256, Indonesia and its successors and assigns;