

TERMS AND CONDITIONS OF ANALYSIS

1 Definitions

'Agreement' means these Terms and Conditions of Analysis together with the cover page and any attachments.

'Analysis' means the services to be performed by Microanalysis Australia as described on the cover page.

'Confidential Information' means confidential information (in any form) that Microanalysis Australia discloses to you, or you disclose to Microanalysis Australia. Information is not confidential if it is:

- (i) publicly available,
- (ii) rightfully known by Microanalysis Australia before disclosure by you or rightfully known by you before disclosure by Microanalysis Australia, or
- (iii) independently created by Microanalysis Australia or by you without access to each other's confidential information.

'Deliverables' means the results of the requested Analysis/Analyses which will be made available on Microanalysis Australia's client web portal on the date communicated upon receipt of your sample. Refer to clauses 4.1 and 4.2 for report release conditions.

'Account Holder' denotes a client who has been granted approval by Microanalysis for 30-day credit payment terms.

'Prepaid Customer' encompasses any client who either opts out of completing the Microanalysis Australia credit application process or is not approved by Microanalysis Australia for 30-day payment terms.

'Microanalysis Australia' means Microanalysis Australia Pty Ltd ABN 65 133 060 787, having its principal office at 5 Alvan Street, Mount Lawley WA 6050.

'you' or **'your'** means the Client.

'us', 'we' or **'our'** means Microanalysis Australia.

Other capitalised expressions used in this Agreement have the meanings given to them in the Microanalysis Australia credit application documentation.

2 Microanalysis Australia Analysis

- 2.1 Microanalysis Australia will perform the Analysis/Analyses to professional standards following any quoted methodologies.
- 2.2 The knowledge and skills that our staff will use to perform the Analysis have been developed in the course of providing the same or similar analyses to other clients. Microanalysis Australia may develop further knowledge and skills while performing the Analysis. Microanalysis Australia can use such general knowledge and skills for other clients.
- 2.3 Microanalysis Australia will retain ownership of any intellectual property rights in any new analytical techniques or procedures that we develop in the course of carrying out the Analysis.
- 2.4 Microanalysis Australia will keep copies of any reports or data that form part of the Deliverables and may reproduce and use such reports or data for its own research or record keeping purposes.
- 2.5 Microanalysis Australia will make all reasonable efforts to deliver the Deliverables to you by the Delivery Date. If we are unable to meet the Delivery Date, then you will be told of any delay and of the revised delivery date.

3 Your Samples

- 3.1 You must provide the Samples on time; ensure they are safely transported to and from the Microanalysis Australia laboratory with the relevant SDS and are suitable for us to perform the Analysis.
- 3.2 You must ensure that any Samples you provide to Microanalysis Australia are:
 - (i) suitably and safely packaged;
 - (ii) labelled with your name and contact details, the contents, and the name of the Microanalysis Australia Technical Contact; and
 - (iii) labelled with appropriate safety warnings or instructions for their handling, testing, storage, transportation and disposal.
- 3.3 If you do not comply with clauses 3.2 (i) and (iii) and Microanalysis Australia must take measures to safeguard the health and safety of our staff, our laboratories, or the public, then Microanalysis Australia will charge you for the cost of taking these measures.

4 Payment

- 4.1 You must pay Microanalysis Australia the Fee in accordance with our Payment Terms. All new clients (non-account) are required (non-negotiable) to prepay invoices prior to commencement of testing. Application may be made for a credit account via our credit application process.

- 4.2 For Account Holders that require a valid purchase order referenced on tax invoices and prepaid clients, results will not be released until a purchase order OR payment has been received.
- 4.3 All tax invoices issued by us must be paid within 30 days after the invoice date. If an invoice is not paid on time, then you must pay interest on the outstanding amount. Interest is calculated at 10% of the invoice amount per month compounded from the due date until the date the outstanding amount is paid.
- 4.4 For GST purposes all Australian Companies will be issued a tax invoice that includes GST.

5 Your Use of Deliverables

- 5.1 The Deliverables are for your use in your business operations unless otherwise stated in the description of the Analysis. Microanalysis Australia accepts no responsibility if you use the Deliverables for any other purpose.
- 5.2 If the Analysis is to verify that the Samples conform to a standard published by a recognised standards body and the Analysis verifies such conformity, then you may use the Deliverables to demonstrate such conformity to other parties. Any statement made, under this clause 5.2, by you to any person that Microanalysis Australia has analysed the Samples must set out the results of the Analysis and the relevant standard against which we conducted the Analysis. If you publish excerpts from the Analysis reports, then those excerpts must be an accurate representation of the Analysis results. You must note on the excerpts that they are from a larger report held by you and where the report can be inspected.

6 Confidential Information

Confidential Information is to be kept confidential for a period agreed to by both Microanalysis Australia and you commencing on the date you sign this Agreement, otherwise 5 years.

7 Limitation of Liability

- 7.1 All terms, conditions and warranties (including any warranty as to merchantable quality or fitness for purpose) implied by common law or by statute ('implied warranties') as to the manner, quality and timing of the Analysis are excluded unless the exclusion of any such implied warranties would contravene the law or cause any part of this Agreement to be void.
- 7.2 Microanalysis Australia's liability to you for breach of any term of the Agreement or of any implied warranties is limited, at our option, to either re-performing the Analysis or refunding the Fee paid in respect of that part of the Analysis.
- 7.3 Microanalysis Australia will not be liable to you for any indirect or consequential damage suffered by you in any way arising from the Analysis or your use of the Deliverables.

8 Dispute Resolution

If there is a dispute between you and Microanalysis Australia that cannot be resolved, then the matter must be referred to the Australian Commercial Disputes Centre for arbitration in accordance with the Centre's Guidelines on Arbitration. The decision of the arbitrator (including any award as to costs) will be final and binding.

9 Termination

This Agreement can be terminated at any time by either Microanalysis Australia or you by giving written notice if there is a breach and that breach is not remedied within 30 days after written notice is received.

10 Use of Microanalysis Name and Logo

You must not use Microanalysis Australia's name or trademarks in a manner that suggests that we endorse, or are associated with, your business, products or services.

11 General

- 11.1 This Agreement records our entire agreement and supersedes all earlier agreements and representations that may have been made by Microanalysis Australia to you about the Analysis.
- 11.2 The terms in this Agreement override any contrary terms contained in any invoice, purchase order or other documentation issued by you to Microanalysis Australia for the Analysis.
- 11.3 This Agreement is governed by the law applicable to the State or Territory given for the address of the Microanalysis Australia branch conducting the analysis.
- 11.4 The submission of samples for analysis using our Analysis Request form is taken (without exclusion) as acceptance of our Terms and Conditions.