

TrACEES Services Agreement



TrACEES Ref:

To Client: _____ (ABN _____)

Address:

Attention:

("the Client")

The University of Melbourne
Trace Analysis for Chemical,
Earth and Environmental
Sciences (TrACEES) Platform
chemicalanalysis.unimelb.edu.au

TEL: 61 3 8344 6485

ABN 84 002 705 224

Details

Services to be provided: The University of Melbourne ("the University") through its Trace Analysis for Chemical, Earth and Environmental Sciences ("TrACEES") Platform will provide the services specified in Schedule 1 ("the Services") to the Client in accordance with the attached standard terms and conditions.

Commencement Date for Services:

Completion Date for Services:

The University Representative is:

("the University's Representative").

The Client is to provide necessary documentation and materials directly to the University's Representative to enable TrACEES to perform the Services. Notices are also to be provided to the University's Representative. The availability University employees for travel to site(s) and attendance at meetings is subject to academic commitments.

Services to be provided for the following Fees: plus GST
Fees are payable upon provision of final report.

Signed by:

Signed

Date

For and on behalf of: <client name>

Print Name

Position

Signed by:

Signed

Date

For and on behalf of: The University of Melbourne –
Trace Analysis for Chemical, Earth and
Environmental Sciences Platform

Print Name

Position

Monday, 8 January 2018

STANDARD TERMS AND CONDITIONS

Clause 1: SERVICES AND PAYMENT

The terms and conditions set out hereunder supersede any terms and conditions contained in any previous offer made to the Client or by the Client. The University agrees to provide the Services substantially in accordance with this Agreement with due skill and care.

The Client agrees to make the payments specified on the front of this Agreement. The fees for the supply of Services included in this Agreement are exclusive of Goods and Services Tax ("GST"). On rendering a tax invoice in accordance with the requirements of the relevant GST legislation, GST will be added to these fees at the applicable rate. The Client will pay the University's invoice within 30 days from the date of the invoice.

In consideration for the delivery of the Services, the Client undertakes and agrees that within five (5) business days following the date of delivery of the Services the Client shall either:

- (a) accept the Services as fully conforming to all the requirements of this Agreement (such acceptance shall be implied and evidenced by the absence of any written notification under subclause (b) herein); or
- (b) serve the University with written notification that accurately and fully describes the exact nature and extent (including all particulars thereof) to which the Services do not meet the requirements of the Agreement.

Clause 2: DEFAULT

Either Party may terminate this Agreement by notice in writing to the other Party if the other Party is in breach of a term or condition of this Agreement and the breach is not remedied within thirty (30) days of service on the other Party of a written notice specifying the breach and requiring it to be remedied.

Clause 3: INSURANCE COVER

Both parties shall ensure that public liability insurance is maintained for the full amounts of the liabilities (if any) which may be incurred in discharge of their obligations. The University will also ensure that adequate professional indemnity insurance is maintained to cover the acts and omissions of its employee whilst engaged in work covered by this Agreement.

Clause 4: CONFIDENTIALITY AND INTELLECTUAL PROPERTY

- (a) All reports prepared in fulfilment of this Agreement are the property of the Client. The University is permitted to retain copies of all reports for their records.
- (b) The University shall not, and shall not permit its employees or sub-contractors, to release or to make available or known to any person any confidential information of the Client that is or was in the University's possession as a result of this Agreement, except with the prior written approval of the Client and then only in accordance with such terms and in such manner as the Client stipulates. The confidentiality obligations in this clause do not apply to any material already available to the public or information acquired independently of the provision of the Services or which is required by law to be disclosed.
- (c) The Client shall own copyright in any reports prepared as part of the provision of the Services. However, the University shall have the right free of charge to publish in learned and academic journals and to use for its research and teaching purposes such of those reports, data evaluations, statistics and other materials or information obtained as a result of the provision by the University of the Services. The University's right to publish shall be subject to the confidentiality obligations contained herein and the prior written approval of the Client, which shall not be unreasonably withheld. The Client shall indicate whether or not it gives its approval to publication within 30 days of a request from the University or the University, failing which the Client will be deemed to have given its approval.

Clause 5: LIABILITY

- (a) The Client acknowledges that the University makes no warranties under this Agreement. Where a guarantee or warranty applies as a result of the application of the Australian Consumer Law and liability for breach of a guarantee or warranty under the Australian Consumer Law can be limited, the University's liability (if any) arising from any breach of those guarantees or warranties is limited with respect to the supply of Services to the supply of Services again or cost of re-supplying the Services again.
- (b) To the extent permitted by law:

- (i) the University excludes liability (including liability in negligence) for any consequential or indirect loss or damage, including for example loss of revenue, wasted overheads, loss of opportunity, loss of profit and any costs or damages sustained as a result of a claim by a third person, which may arise in respect of the Services or otherwise in connection with this Agreement; and
 - (ii) the University's total liability to the Client under or in relation to this Agreement (including liability for negligence and for breach of this Agreement) arising in relation to acts, omissions and events occurring in a particular year of this Agreement is limited in aggregate to the price paid by the Client under this Agreement in the year of this Agreement during which the liability was incurred.
- (c) The University shall not be liable and the Client shall ensure that the University shall not be liable to any third party for any loss, injury, damage or costs that any third party may suffer as a result of the Client providing any material relating to the Services to a third party. The Client shall indemnify and hold harmless the University from and against any loss, damage or costs that the University may sustain or incur as a result of the Client providing any material relating to the Services to a third party. In this clause the term "material" includes reports, results, data evaluations, documents, equipment, software, goods, information and data stored by any means.

Clause 6: DISPUTE RESOLUTION

A Party claiming that a dispute has arisen under this Agreement ("Dispute") must notify the other Party giving written details of the Dispute. The Parties agree to negotiate in good faith on a commercially realistic basis to resolve the Dispute and will refer resolution of the Dispute to officers within each Party who are authorised to hear the Dispute before commencing any legal proceedings in relation to the Dispute. Any Dispute which cannot be settled under this clause within a reasonable time must be referred for determination by a person appointed for that purpose by the Parties and failing Agreement, appointed by the President of the Resolution Institute. Any determination made under this clause is binding on the Parties and the *Commercial Arbitration Act 2011 (Vic)* applies to the determination except to the extent otherwise agreed by the Parties. Nothing in this clause will prevent a Party from seeking interlocutory relief.

Clause 7: GENERAL

- (a) The Client shall not refer to the University or any personnel of the University in any labels, packaging, advertising or promotional materials for the Client's products or services unless specifically agreed to in writing by the University.
- (b) Neither Party will be liable to the other for the consequences of any delays or failures of its performance which are caused by any event beyond the first Party's reasonable control, including without limitation acts of God, fire, flood, accident, terrorism, strike and riots and either Party may terminate the Agreement if such an event occurs and continues for a period of 30 days or more.
- (c) A term or part of a term of this Agreement that is illegal or unenforceable may be severed from this agreement and the remaining terms or parts of the term of this Agreement continue in force.
- (d) Clauses 4, 5 and 7 survive the termination of this Agreement (for whatever cause)
- (e) The Client shall not transfer or assign its rights under this Agreement to any other person or body.
- (f) The laws of the State of Victoria, Australia, shall apply to and govern this Agreement

Title

Scope:

Method(s):

Deliverables: