

# TERMS AND CONDITIONS CLARITEST



## 1 Definitions

- 1.1 The "Company" is Anglia DNA Services Limited.
- 1.2 "Claritest" is a brand name under which the Company operates its Drug and Alcohol Test Service. Registered trademark No. 2629402.
- 1.3 The "Client" is the client ordering the Company's Test Service for Drug and Alcohol testing.
- 1.4 The "Donor" is the individual who will consent to give samples to be tested for drug and alcohol substances.
- 1.5 The "Nominated Person" is the person named on the consent form or Customer Set Up form to whom the test results will be given in the first instance. It is their responsibility to pass results to relevant parties.
- 1.6 The "Sampler", otherwise 'Collector', is the person who takes the samples. A Sampler must be at least 18 years of age, be unrelated to those being tested and have no interest (financial or otherwise) in the outcome of the test. A Sampler must be one of the following:
  - (a) a registered medical practitioner, GP
  - (b) a registered nurse
  - (c) an authorised Anglia DNA Sampler
  - (d) a Phlebotomist
  - (e) for a Corporate Client the qualified collecting officer
- 1.7 The "Service" is any one or more of the following Drug and Alcohol services.
  - 1.7.1 The "Corporate Service" is the service offered by the Company for Workplace and Healthcare Clients.
  - 1.7.2 The "chain of custody" is the process by which from the moment the sample is taken (by for example a GP/Phlebotomist, at the same time as ID documents are submitted) to the time the Company receives the sample for testing, the sample remains in the custody of responsible or professional persons who can account for the integrity of the sample received by the Company.
  - 1.7.4 A "Sampler Service" is the service offered by the Company for the collection of samples by authorised personnel.
- 1.8 The "Order for Services" is the placing of an order for the Company's Services, whether the order is made in person, by telephone, letter, electronic mail, order form or any other method.
- 1.9 The "Price" is the price as set out in the current price list for the Company's Services.
- 1.10 The "Kits" are the sampling kits provided by the Company to the Sampler or Corporate Client and remain the property of Anglia DNA at all times.
- 1.11 Where an "Administrative Fee" is payable, this will not exceed £50 + VAT.
- 1.12 All agreements on the part of the Client which comprise more than one person or entity shall be joint and several.
- 1.13 The headings contained in these terms and conditions are for reference purposes only, should not be incorporated into these terms and conditions, and shall not be deemed to be any indication of the meaning of the clauses to which they relate.
- 1.14 The neuter singular gender throughout these terms and conditions shall include all genders and the plural and the successor in title to the parties.

## 2 Application of these terms and conditions

- 2.1 These terms and conditions shall apply to the exclusion of all other terms and conditions including any which the Client may purport to apply under any agreement, purchase order, confirmation of order or similar document. No conduct by the Company shall be deemed to constitute acceptance of any terms put forward by the Client. If any terms are provided by the Client then the Company's terms and conditions shall be deemed to be prior or subsequent to such Client terms to the benefit of the Company.
- 2.2 All Orders for Services shall be deemed to be an offer by the Client to purchase the Services pursuant to these terms and conditions. Acceptance of the Services shall be deemed conclusive evidence of the Client's acceptance of these terms and conditions.

## 3 Extent of these terms and conditions

- 3.1 No conditions other than those contained in these terms and conditions shall be deemed to be incorporated in or form part of these terms and conditions, except:
  - 3.1.1 specific terms agreed in writing between the Client and the Managing Director or those authorised by him to agree such terms; or
  - 3.1.2 specific representations made in writing by the Managing Director or those authorised by him to make such representations.
- 3.2 Nothing in these terms and conditions shall have the effect of excluding or limiting the Company's liability for:
  - 3.2.1 death or personal injury caused by the Company's negligence, or the negligence of the Company's employees acting in the course of their employment;
  - 3.2.2 any fraudulent misrepresentations made by the Company upon which the Client can be shown to have relied when entering into contract with the Company;
  - 3.2.3 or any other liability that the Company cannot exclude by law.
- 3.3 If any part of these terms and conditions are deemed unreasonable, void or otherwise unenforceable in any legal, arbitration or similar proceedings, it is the intention of the parties that the enforceability of the remaining parts of these terms and conditions will not be affected.
- 3.4 Subject to clause 3.1 above, each party acknowledges that these terms and conditions contain the whole agreement between the parties and the Client has not relied upon any oral or written representation made to them by the Company or its employees or agents.

## 4 Company's responsibilities

- 4.1 The Company will carry out tests to the standards of an accredited laboratory (ISO 17025), and will endeavour to make the results of the tests available to the Nominated Person within the times specified.
- 4.2 If the sampling Kits delivered by the Company to the Sampler or Corporate Client are damaged on arrival or the sterile packs have been compromised, new ones will be supplied by the Company free of charge. The defective Kits should be returned in the pre-paid envelope clearly marked as faulty, for disposal by the Company or return to suppliers.
- 4.3 The Client acknowledges that any testing carried out could possibly give an inconclusive result. Whether a result is inconclusive will not become apparent until the test has been completed.
- 4.4 The Client understands that whilst the particular testing that the Company undertakes is highly accurate, as with any testing there is a possibility of error or omission. The Client therefore acknowledges and accepts that in the event of the Client being able to establish a claim for damages resulting from any act of the Company whether negligent or otherwise, the Company's liability shall not exceed the cost paid for the test and agrees to keep the Company and its agents, officers and employees harmless from all further claims or damages. The Client's rights hereunder shall be subject to the Client notifying the Company of any error or omission within thirty days of the test report being posted to the Nominated Person (or within thirty days of the results being issued if the report was not posted).
- 4.5 The Company shall not be liable for any loss or damage suffered by the Client or any other person as a consequence of reporting the test results to the Nominated Person or other authorised persons, unless the Company has been negligent.
  - 4.5.1 Any liability arising under this clause (4.5) will be limited to the cost of the Service contracted for.
- 4.6 The Company shall not be liable for any failure or delay in the performance of its testing Services through causes beyond its control, including but not limited to an act of God, flood, drought, storm, war, industrial action, strike, lockout, breakdown of systems or network access, fire, explosion, terrorism, sabotage or other event beyond the Company's control.
- 4.7 Under the Data Protection Act 1998, the Company will only obtain, use, process and disclose personal information about the Client and those persons being tested in order that it may discharge its responsibilities in providing the Service contracted for, and for other related purposes including updating Client records, analysis for statutory returns, crime

# TERMS AND CONDITIONS

## CLARITEST



prevention and legal and regulatory compliance. In accordance with the Data Protection Act, the Client and the persons tested have a right to a copy of personal data held about them by the Company and such data can be obtained by them on payment of an administrative fee.

4.8 The Company reserves the right to refuse its Services if it has reasonable grounds for believing:

4.8.1 that the samples were or will be obtained illegally; or

4.8.2 that the results will be used for an illegal, immoral, improper or unethical purpose.

The Company also reserves the right to refuse its Services if

4.8.3 there is a conflict of interest with an existing Client; or,

4.8.4 the quality of the Company's Services might otherwise be compromised, for example if the volume of work requires that no new cases could be taken for a specified period except in an emergency; or

4.8.5 it has other reasonable grounds for doing so.

4.9 The test reports provided by the Company are not necessarily for the Client or the Client's use and will be given to the Nominated Person.

4.10 Written reports will be posted by First Class Mail to the Nominated Person or be sent by email or any other means as agreed with the Client.

4.11 The Company reserves the right to issue results to and/or to discuss results with the person tested where the Nominated Person or other authorised person has failed without reasonable excuse to pass on the results to the person tested. For further information, see our Code of Practice.

4.12 The Company aims to provide a high quality service at all times. If the Client is not satisfied with the service they have received they should put their complaint in writing to the Company's Client Services' Department (full contact details for the Company are to be found at the end of these terms and conditions).

4.12.1 The Company will endeavour to look into any complaint carefully and promptly and to explain the position to the Client. If the Client feels that the Company has given a less than satisfactory service, the Company will endeavour to address the Client's concerns.

### 5 Client's/Donor's responsibilities

5.1 The Donor is responsible for attending the Sampling appointment.

5.2 On request, the Company will endeavour to give as much information as possible to the Client about the Services it provides and the fullest picture of what the results do and do not show, but the Client must decide whether or not the Service offered by the Company is suitable for any particular purpose and is advised by the Company to take legal or other advice if necessary.

5.3 Where the Client does not take advantage of the Sampler Service provided by the Company, it is the Client's responsibility to choose a Sampler and, whilst the Company will make every effort to ensure that Samplers have all the information and assistance they need to adequately carry out the collection of samples, the Company cannot be held responsible for the acts or omissions of the chosen Sampler.

5.4 The Client is responsible for any fees charged by the Sampler for collecting and returning the samples.

5.5 The Client is responsible for ensuring that they (or their Sampler) are legally entitled to possess and obtain the biological samples passed to the Company for analysis.

5.5.1 The Client agrees to indemnify the Company against all claims, expenses and any loss or damage suffered by the Company as a result of the Client (or their Sampler) passing to the Company any samples which were not legally obtained.

5.5.2 The Company strongly advises that the Client obtains independent legal advice about their entitlement to take or obtain samples of biological material from persons other than themselves.

5.5.3 The Company makes no representation that the Client is legally entitled to perform any particular act in order to obtain biological samples for analysis.

5.6 The Client undertakes that all information provided to the Company for the purpose of ordering the Service is correct.

5.7 The Client warrants that they are entitled to provide the Company with all information and data and shall indemnify the Company against any claims for infringement of the information or data, breaches of confidentiality or failure to comply with any data protection laws brought by any third parties.

5.8 It is the Client's responsibility to provide or ensure that the persons tested provide all necessary or requested identification, materials or samples to the Company and to complete fully any forms or documents supplied or requested by the Company. Failure to do so may result in a delay in providing, or inaccuracies in, test results which may affect the evidential value of the test results and in such circumstances the Company shall not be liable for any such delay or inaccuracy. The Company shall not be liable for any failure to provide accurate, complete or other form of test results due to insufficient, incomplete or poor quality of specimen. Any further testing may incur additional fees.

5.9 The Client is responsible for ensuring that the Nominated Person is aware of the need for confidentiality and that they should not disclose the contents of the report to anyone other than those authorised by the persons tested. See also clause 4.11 above.

5.10 The Client should only enter into contract with the Company if they are willing to be bound by these terms and conditions.

### 6 Fees for Services

6.1 The Price of the Company's Services are those set by the Company and revised from time to time, and are detailed in the Company's current price list. The Company's price list is available on request.

### 7 Payment and cancellation

7.1 The Company will issue an invoice for the Services which must be paid in accordance with the payment terms therein. Payment terms are 30 days net.

7.2 If a Client wishes to cancel the Order for Services BEFORE the samples have been returned for analysis:

7.2.1 they should contact the Company to cancel the order and arrange for the return of the used or unused Kit(s); and

7.2.2 the Company will not charge for the cancelled Order for Services, except where any Sampler fees have been incurred.

7.3 If a Client wishes to cancel the Order for Services AFTER the samples have been returned for analysis, the Company must be informed of the desired cancellation immediately, and:

7.3.1 if the samples have not yet been received by the Company, only any Sampler fees incurred (see 7.2.2 above) will be payable;

7.3.2 if the samples have been received by the Company but no scientific analysis has begun on them (i.e. only the administrative process has commenced which includes the sample "login" procedure), an administrative charge of £50 + VAT will be invoiced and the remainder will be refunded to the Client (excluding any Sampler fees incurred);

7.3.3 if the scientific analysis of the samples has commenced full charges will apply.

### 8 Time

8.1 Dates given by the Company for the completion of analysis and reporting of results are for guidance only and are not of the essence of the contract, and the Company shall not be liable to the Client for any loss or damage direct or indirect caused by a delay.

### 9 Insufficient or contaminated samples

9.1 At the Company's discretion, a Donor who has provided an insufficient or contaminated sample to the Company for analysis, may be offered a repeat test at a reduced fee or free of charge.

### 10 Risk

10.1 Risk in and to any samples or specimens provided by the Donor (or their chosen Sampler) shall remain with the Client. Any title in and to any test results or similar shall rest with the Company until all payments have been received by the Company from the Client.

### 11 Delivery

11.1 Any delivery times provided to the Client shall be approximate as the Services specified may alter or third parties may delay delivery or products or services. The Company shall not be liable for any delay in the delivery of the Services and time shall not be of the essence.

# TERMS AND CONDITIONS CLARITEST



## 12 Use of samples for method validation

12.1 The Client accepts that any samples submitted for routine analysis may be included in work to validate new test methods. If this occurs the samples and any associated information will continue to be treated with the strictest confidence.

## 13 Storage and disposal of samples

13.1 All information supplied by person to be tested shall be kept in the strictest confidence and only for as long as is necessary to adequately carry out the Test, report the results and comply with the requirements of accreditation. In all cases, once the Test Report has been issued to the Nominated Person:

- a) all samples will be destroyed by incineration after twelve months, with the exception of Healthcare samples which will be destroyed after one month;
- b) paper copies of personal data and test reports will be destroyed by shredding after twelve months;
- c) electronic data will be disposed of securely after twelve months.

13.2 Copies of chain of custody documentation, analytical data and other supportive items can be provided upon request by a lawyer or court for review as appropriate in the event of analytical challenge. Subsequent analytical requests on original samples are subject to sample availability.

## 14 Third Party Rights

14.1 A person who is not a party to this agreement has no rights under the Contracts (Rights of Third Parties) Act 1999 to enforce any terms of this agreement.

## 15 Copyright and Intellectual Property

15.1 Ownership of copyright in all literature, documentation, and reports etc, prepared by the Company, remain the property of the Company.

## 16 Jurisdiction

16.1 The contract between the Company and the Client as evidenced by these terms and conditions is subject to the Laws of England, and the courts of England and Wales shall have exclusive jurisdiction in relation to any claim or dispute arising from the contract.

## 17 Subcontracting

17.1 Sample analysis will be undertaken at the Company's premises and own Laboratories. In the event the Company may have to subcontract samples, it will do so to an approved, competent Laboratory and the Client will be informed.

**CONTACT DETAILS:** The Company may be contacted at the following address and by the following means:

**Anglia DNA Services Ltd, Norwich Research Park, Colney Lane, Norwich, Norfolk NR4 7UH**

**telephone: 01603 358161 fax: 01603 298071**

**email: sales@claritest.co.uk\***

\*The Client acknowledges that internet communications are capable of corruption and the Company cannot therefore accept any responsibility for changes made to such communications after dispatch.