

# **Chemicals Evaluation and Research Institute, Japan**

## **General Terms and Conditions**

These General Terms and Conditions (hereinafter referred to as “Contract”) set forth the basic terms and conditions between the Customer and Chemicals Evaluation and Research Institute, Japan (hereinafter referred to as “CERI”) under which CERI shall perform certain test, inspection, assay, measurement, analysis, assessment, survey and consulting services contracted from the Customer (hereinafter referred to as the “Services”).

### **Article 1. Application**

1. The Customer and CERI shall perform any agreement under the individual contract which becomes effective pursuant to Article 2, as well as under this Contract.
2. In the foregoing case, in the event of any conflict or inconsistency between the provisions of the individual contract and the provisions of this Contract, the provisions of such individual contract shall prevail to the extent of the conflict or inconsistency.

### **Article 2. Effectiveness of Individual Contracts**

Each individual contract to contract the Services shall become effective either when (1) the relevant agreement has been made and executed between the Customer and CERI, or when (2) CERI has accepted in writing the relevant offer from the Customer using a test request form designated by CERI).

### **Article 3. Payment**

Unless otherwise agreed on by the parties, the contract fee for the Services shall be paid as follows:

- (1) Payment Terms: The contract fee shall be paid in advance (the commencement of the Services by CERI shall be subject to the payment of the contract fee), and immediately after each individual contract becomes effective, except where the Services are requested on a continual basis, in which case such payment shall be promptly made after the completion of the Services.
- (2) Payment Method: Payments shall be made by transfer to the bank account designated by CERI as a rule. All transfer fees shall be borne by the Customer.

### **Article 4. Confidentiality**

1. CERI shall maintain in strict confidence any of the contents and results of the Services, and technical information (including samples) disclosed by the Customer that is identified as confidential, and may not use the same for any

purpose other than the purpose of the Services or disclose or divulge the same to a third party without the prior written consent of the Customer, except for information that:

- (1) is already publicly known or available at the time of disclosure by the Customer;
  - (2) CERI can show is already in its possession at the time of disclosure by the Customer;
  - (3) becomes publicly known or available through no fault of CERI after disclosure by the Customer;
  - (4) is rightfully obtained by CERI from a duly authorized third party without obligation of confidentiality; or
  - (5) CERI can show is independently developed by CERI.
2. Notwithstanding the provisions of Article 4.1, in case CERI subcontracts the whole or any part of the Services to a third party with the prior consent of the Customer, CERI may disclose to such subcontractor any technical information necessary for subcontracting. In such case, CERI shall impose the same obligations on such subcontractor as those assumed by CERI under the provisions of Article 4.1.

#### **Article 5. Provision of Samples and Information**

1. The Customer shall provide CERI free of charge with samples, technical information and materials necessary for the performance of the Services on or before the specified date.
2. The Customer shall be fully liable for any accident resulting from the lack of instructions by the Customer of special handling and conditions (including those for storage) of the samples and other items provided by the Customer.

#### **Article 6. Actions after Completion of Services**

After the completion of the Services, CERI shall promptly return to the Customer the samples and technical information provided by the Customer on the condition of its return. Provided, however, that if any other disposal method is agreed on by the parties in advance, CERI shall dispose of the same by such method.

#### **Article 7. Reports**

1. CERI shall submit to the Customer a report prepared by CERI containing the results of the Services on or before the specified date.
2. CERI shall make a copy of such report for file, and retain the same for three (3) years after the submission thereof, and retain all other records relating to the Services for one (1) year after the submission of such report.
3. Notwithstanding the provisions of Article 7.2, CERI shall submit to the Customer a copy of the report for the Services performed by Chemical Biotesting Department, and unless otherwise set forth herein, CERI shall retain such

report for three (3) years after the completion of the such Services.

4. In case the Customer includes such report in its brochures or posts such report on its Internet site, the Customer shall obtain the prior written consent of CERI.

#### **Article 8. Liability**

1. CERI shall compensate the Customer for any damage incurred by the Customer arising from events attributable to CERI with respect to the Services, using either of the following methods through consultation with the Customer:
  - (1) CERI shall re-perform the Services at its own expense; or
  - (2) CERI shall compensate the Customer for such damage up to the amount of the contract fee paid by the Customer.
2. The time limit for the Customer to exercise its right to claim for the above compensation shall be one (1) year after the expiration or termination of this Contract.

#### **Article 9. Use of Results**

1. CERI shall not be liable for any damage arising from the use by the Customer of the results of the Services.
2. CERI does not warrant that the results of the Services will not infringe any intellectual property right of a third party.

#### **Article 10. Amendment to Individual Contracts; Termination**

1. In the event the performance of any individual contract becomes impracticable due to inevitable circumstances, either the Customer or CERI may amend or terminate such individual contract with the consent of the other party through consultation with the other party.
2. Upon the discontinuance of the Services or termination of any individual contract, the parties shall determine how to handle the expenses incurred up to the time of such discontinuance or termination through consultation between the parties.

#### **Article 11. Force Majeure**

In the event the performance of the Services is rendered impracticable by any act of God or any other event not attributable to CERI, the parties shall determine actions needed to be taken through consultation between the parties.

#### **Article 12. Consultation**

Any matter not set forth herein, or any ambiguity with respect to the interpretation of any of the provisions hereof shall be resolved or decided on through good faith consultation between the parties.

#### **Article 13. Effective Term**

1. This Contract shall become effective on the effective date of the relevant individual contract and expire on the date of submission of the report set forth in Article 7.
2. Notwithstanding the foregoing, the provisions of Article 4 shall remain effective for a period of three (3) years after the expiration or termination of this Contract, and the provisions of Article 9 shall survive the expiration or termination of this Contract.

**Article 14. Governing Law and Jurisdiction**

1. The provisions of this Contract shall be governed by and construed in accordance with the laws of Japan.
2. The district court with jurisdiction over the location where CERI is headquartered shall have exclusive jurisdiction in the first instance on any dispute arising out of or relating to this Contract.