ELEMENT MATERIALS TECHNOLOGY

TERMS AND CONDITIONS (US)

1. Formation of Contract

1.1 These terms and conditions (“Terms and Conditions ”) together with any quotation, proposal, estimate, or fee quote (“Quotation ”) provided by or on behalf of the Company (as defined in this sub-condition) shall apply to all contracts for the supply of testing, calibration and/or other services (“Services ”) carried out by Element Materials Technology Burton, a division of Trialon Corporation (“Company ”) providing the services contemplated therein to the customer (“Customer ”).

1.2 These Terms and Conditions shall supersede and override any terms or conditions contained in or referred to in the Customer’s purchase order or acceptance of a quotation or specification and shall prevail over any inconsistent terms or conditions contained or referred to in the Company’s confirmation of order, or implied by law (unless the law in question cannot be excluded), trade, custom, practice or course of dealing. Any phrase introduced by the terms “including”, “include ”, “in particular ” or any similar expression, shall be construed as illustrative and shall not limit the sense of the words preceding those terms.

1.3 Written and oral Quotations shall be valid for sixty (60) days from the date thereof and the Company may withdraw any such Quotation at any time. No Quotation given by the Company shall be an offer to contract with any person and no contract shall come into existence except in accordance with sub-condition 1.4.

1.4 The Customer’s purchase order or the Customer’s acceptance of a Quotation constitutes an offe3.5 (s)-3Esu(x)-3.7 (ty)-3.5e wio12.2 (d)-7.9 (aym (v [(and n7.9 (l)-3.6 Tw 0.008 12222)-3.6 (( )Tj 4.586 0 0 Td18o8.8 (i)-3.6)2.2

company of that party, and any subsidiary of a holding company of that party.

3.7 The Customer undertakes that during the provision of the Services and for 6 months following completion thereof, the Customer shall not

3.7.1 solicit or entice away (or assist anyone else in soliciting or enticing away) any member of the Company's staff with whom the Customer has had dealings in connection with the Contract and/or the provision of the Services during the 12 months immediately prior to the earlier of the date of the Customer's purchase order or the date of the Quotation; or

3.7.2 employ (directly or through a third party) any person as referred to in sub-condition 3.7.1 or engage a person in any way to provide services to the Customer.

This undertaking shall not apply in respect of any member of the Company's staff who without having been previously approached directly or indirectly by the Customer responds to an advertisement placed by the Customer or on the Customer's behalf.

In the event of a breach of this undertaking, which leads to the departure of any person as referred to in sub-condition 3.7.1, the Customer will pay to the Company, on demand, as liquidated damages and not as a penalty (the parties acknowledging that actual damages would be impracticable or extremely difficult to calculate with reasonable certainty), a sum equivalent to 50% of the total annual remuneration package paid by the Company to the individual prior to his or her departure. The Customer acknowledges that this provision is a fair and reasonable term intended to be a genuine assessment of the likely loss to the Company.

4. Services

4.1 Subject to the remaining sub-conditions of this condition 4, the Company warrants that it will complete the Services in a satisfactory and workmanlike manner, consistent with industry standards. The Customer expressly acknowledges and agrees that the Company gives no warranty that any result or objective can be achieved through the Services and that, where results are based on smaller scale tests and theoretical studies, results may require careful validation in order to be extrapolated to a production scale.

4.2 The Company will use its commercially reasonable efforts to complete Services and provide written information, results, technical reports, certificates, test or inspection records, drawings, recommendations, advice or the like in respect of the Services (the "Report ") or certificate thereon to the Customer by any date reasonably requested in writing by the Customer, but the Company shall not be liable to the Customer for:
(i) any delay in the performance of any obligation under the Contract; or
(ii) damages suffered by the Customer by reason of such delay.

4.3 The Company's obligation to complete Services under the Contract shall be subject to any obligation it may have to comply with any law or other regulation binding on it which may be in force from time to time.

4.4 No employee, agent or other person is authorised to give any warranty or make any representation on behalf of the Company in relation to the Contract, or to assume for the Company any other liability in connection with the Services, unless such warranty, representation or assumption of liability is given to the Customer in accordance with sub-condition 2.1.

4.5 In relation to radiography reports and film delivered or interpreted as part of the performance of the Services, the Customer shall notify the Company, within fourteen (14) days from date of issue of such radiography reports and film, of any Customer or third party dispute concerning either the radiographic quality or interpretation of results. If the Customer does not so notify the Company within this fourteen (14) day period, the Customer will be deemed to have accepted the radiography reports and film, together with any interpretation of these, provided by the Company.

4.6 The Customer represents and warrants to the Company the completeness and accuracy of all documents and information supplied to the Company for the purposes of the Company fulfi.02 2085*02 2085*072 2085*02 t4co.t s3.35 1.173 0 Td ( )Tj 0.293 0 Td (the)Tj (Com620.286 0 0.5 (S)

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local, international or other applicable laws, rules or regulations governing the use and protection of data..