CONDITIONS OF SALE

The following standard conditions apply to every order accepted by or contract entered into by Shirley Technologies (the "Company") for the provision of testing, investigation, evaluation, consultancy and research services, certification, accreditation and training services.

1. DEFINITIONS
   1.1 In these Conditions:-
      "Condition" means a condition or clause of these Conditions;
      "Company" means the Company's standard conditions of sale set out in this document (which supersedes any earlier set of conditions appearing in the Company's brochure or elsewhere) together with any other special conditions specified on the Quotation or otherwise;
      "Contract" means the Quotation, the Order and any acceptance thereof, together with the Conditions;
      "Delivery" means, where the Services comprise the production of test or test results, the dispatch by the Company of those results or reports by post or other carrier to the Customer and the expiration of the "date of completion" shall be the date of the Company's acceptance thereof, together with the Conditions;
      "Order" means any written or verbal Quotation or tender submitted by the Company or any verbal quotation or tender which is subsequently confirmed in writing;
      "the Customer" means the person specified on the Quotation whose Order is accepted by the Company;
      "the Goods" means the goods, materials and/or other items which may be part of the Contract and upon which the Services are to be conducted and shall include any part of them;
      "the Order" means the written or verbal order placed by the Customer on the Company for the provision of the Services; and
      "the Quotation" means any written or verbal quotation or tender submitted by the Company or any verbal quotation or tender which is subsequently confirmed in writing.

   1.2 The headings in these Conditions are for convenience only and shall not affect their interpretation.

2. OFFER AND ACCEPTANCE
   2.1 The Company shall supply any of the Services to the Customer in accordance with any Quotation which is accepted by, or Order which is accepted by the Company in writing.
   2.2 Any order or acceptance by the Customer to subject to any variation, set out in such acceptance, subject either to these Conditions or to any other terms or conditions or warranties which the Customer may subsequently seek to impose.
   2.3 No variation or addition to the Quotation shall become binding on the Company unless expressly accepted by the Company in writing.
   2.4 Any Contract shall cease to exist until the Customer's Order, has been accepted in writing by the Company.
   2.5 Unless otherwise specifically agreed in writing, the Company shall be entitled to deliver the Services and to perform the Goods in such place as the Company shall determine to be convenient of delivery.

3. PERFORMANCE
   3.1 Unless otherwise specifically agreed in writing, all Services are confidential to the Customer and any report or certificate issued by the Company shall not be reproduced or otherwise disclosed without the written consent of the Company.
   3.2 Any typographical, clerical or other error or omission in any sales literature, quotation, price list, acknowledgement of Order, invoice or other document issued by the Company shall be subject to correction without any liability on the part of the Company.
   3.3 The Company shall have the right to destroy the Services save where the Services are for certification or legal cases whereby the Company shall have the right to destroy the Services save where the Services are for certification or legal cases whereby the Company shall have the right to destroy the Services.

4. COMPLETION
   4.1 Unless otherwise specifically agreed in writing, and to the extent that, any rules and regulations applicable to the Services, or any works of craftsmanship, or services other than in the documents enclosed with the Quotation or the Order, the Company shall be under no liability to the Customer in respect of the time for delivery of the Goods (being of the Customer's design and manufacture) will be of satisfactory or merchantable quality and/or reasonably fit for their purpose.
   4.2 Note that all listed tests on the UKAS Schedule for Geosynthetic materials will be reported in the Company's standard shortened version unless otherwise requested.

5. TERMS OF PAYMENT
   5.1 Unless otherwise agreed in writing, the Company shall be entitled to invoice the Customer on completion of the Services or, where the Services are of a long term nature, on an interim basis from time to time.
   5.2 The Company reserves the right, at its option, to require payment in part or in full for the Services prior to being done and reserves the right to withhold any test result or certificate until such payment is received.
   5.3 Unless otherwise agreed by the Company in the Contract the terms of payment shall be 30 days from the date of invoice. Receipts for payment will only be issued on request.
   5.4 The time of payment of the price shall be of the essence of the Contract.
   5.5 No right of set-off shall exist in respect of any claim by the Customer against the Company until and unless such claims are accepted in full by the Company in writing and the Customer shall not withhold all or any part of any sum which has become due for payment under the Contract.
   5.6 If the Customer fails to make any payment due to the Company (whether under the Contract or otherwise) on the due date then, without prejudice to any other right or remedy available to the Company, the Company will cease to perform the Services and may suspend performance until the full amount has been paid.

6. COMPLETION
   6.1 Services shall be performed at such place to be determined within the Company's accreditation rules.
   6.2 The Services will be completed at the time of delivery of the Company's final report.
   6.3 Unless otherwise specifically agreed in writing, the Company shall be entitled to complete the work within a reasonable time having regard to its work load at the time of acceptance of the Order and the Contract shall not be able to cancel the Contract without giving the Customer the opportunity to agree an alternative time for completion.
   6.4 Where the Company is unable to carry out the Services due to circumstances beyond its reasonable control and it gives notice to the Customer informing it of the relevant circumstances, its obligation to complete the work within a reasonable time shall be suspended while those circumstances subsist, subject to Condition 6.6.
   6.5 On expiry of 2nd day after the date given in condition 6.5 the Customer shall have the right to destroy the Goods (or part of the Goods).
   7. The risk of damage to or loss of the Goods shall only pass to the Customer, in the case of Goods to be delivered to the Company’s premises, at the time when the Goods are unloaded safely and are in the Company's possession and control.
   8. The Goods shall pass back to the Customer ten business days following the date of the Company's final invoice and the Company shall no longer be responsible for the insurance or storage thereof, save where, and to the extent that, any rules and regulations applicable to the Services, or any works of craftsmanship, or services other than in the documents enclosed with the Quotation or the Order, the Company shall be under no liability to the Customer in respect of the time for delivery of the Goods (being of the Customer's design and manufacture) will be of satisfactory or merchantable quality and/or reasonably fit for their purpose. Shirley Technologies Limited. Company No. 4669651 Reg.Office: Wira House, West Park Ring Road, Leeds LS16 6QL, United Kingdom March 2017
11. ACCEPTANCE OF LIMITATION OF LIABILITY BY THE CUSTOMER

11.1 The CUSTOMER AGREES AND ACKNOWLEDGETHAT, WITH REGARD TO THE LIMITATION OF LIABILITY CONTAINED IN THE PRECEDING CONDITION, SUCH LIMITATION OF LIABILITY IS FAIR AND REASONABLE HAVING REGARD, INTER ALIA, TO THE FOLLOWING CIRCUMSTANCES:-

11.1.1 THAT THE POTENTIAL LOSSES WHICH COULD BE CAUSED AS A RESULT OF ANY BREACH OR NEGLIGENCE AS REFERRED TO IN CONDITION 10 ARE GREATLY IN EXCESS AND WHOLLY DISPROPORTIONATE TO THE AMOUNT WHICH IS BEING CHARGED BY THE COMPANY TO THE CUSTOMER IN RESPECT OF THE SERVICES PROVIDED BY THE COMPANY TO THE CUSTOMER IN RESPECT OF THE GOODS REFERRED TO IN THE CONTRACT.

11.1.2 THAT THE COMPANY IS ANXIETY TO KEEP ITS CHARGES IN RESPECT OF THE SERVICES PROVIDED BY IT TO AS LOW AS A REASONABLE LEVEL, FOR INTEGRITY REASONS, TO ALL THE CUSTOMER'S OTHER CUSTOMERS.


11.2 THE CUSTOMER CONFIRMS THAT IT HAS READ AND FULLY UNDERSTANDS THE TERMS OF BOTH CONDITION 10 AND CONDITION 11.

11.2.1 IT HAS BEEN OFFERED THE OPPORTUNITY TO PAY A HIGHER CHARGE FOR THE SERVICES IN RETURN FOR THE CUSTOMER ACCEPTING A HIGHER LEVEL OF LIABILITY BUT HAS DECLINED TO DO SO.

11.2.2 ACCEPTS THE LIMITATION OF LIABILITY IN CONDITION 10 ON THIS BASIS.

12. INDEMNITY

12.1 The CUSTOMER undertakes to indemnify the Company against all claims relating to or arising from the Services supplied to the Customer by the Company in respect of any loss, damage or expense sustained by any third party however caused save for death or personal injury caused in whole or in part by the Company's negligence.

13. DEFAULT OR INSolvency OF CUSTOMER

13.1 Section 13 applies if:-

13.1.1 the Customer defaults in any of his commitments with the Company; or

13.1.2 the Customer makes any arrangement with his creditors or becomes subject to an administration order or becomes bankrupt; or (being a company) goes into liquidation (other than for the purposes of amalgamation or reconstruction); or

13.1.3 an encumbrancer takes possession of, or a receiver is appointed, of any of the property and assets of the Customer; or

13.1.4 the Customer is wound up, or the Company is wound up, or the Customer enters into composition or arrangement with creditors, to carry on business; or

13.1.5 the Company reasonably apprehends that any of the matters mentioned above is about to occur in relation to the Customer and notifies the Customer accordingly.

13.2 If the Company is not paid for the Goods or the Services in accordance with the Contract, the Company shall be entitled to cancel any uncompleted Contract forthwith and to withdraw any certificates that have been awarded or offered. The Company shall immediately be obliged to destroy all copies of any report or certificates it holds.

13.3 In the event of an occurrence as referred to in Condition 13.1, then the Customer shall indemnify the Company against all including loss of profit, costs (including the costs of labour and materials used in the preparation of the Services) and all other expenses and damages connected with the Contract and its cancellation.

13.4 If the Customer shall become aware that any of the circumstances mentioned in Condition 13.1 has or is likely to occur, then the Customer shall inform the Company of the occurrence or likely occurrence of such an event immediately.

13.5 The Customer shall indemnify the Company in respect of all legal administration and other costs and expenses resulting from any breach by the Customer of these Conditions, or the Contract or its lawful termination by the Company.

14. FORCE MAJEURE

14.1 The Company will not be liable to the Customer or be deemed to be in breach of the Contract by reason of any delay in performing, or failure to perform, any of the Company's obligations in relation to the Contract if the delay or failure was due to any cause beyond the Company's reasonable control. Without prejudice to the generality of the foregoing, the following shall be regarded as causes beyond the Company's reasonable control:-

14.1.1 Act of God, explosion, flood, tempest, fire or accident;

14.1.2 war or threat of war, sabotage, civil disturbance or requisition;

14.1.3 acts, regulations, restrictions, bye-laws, prohibitions or measures of any kind on the part of any governmental, parliamentary or local authority;

14.1.4 import or export regulations or embargoes;

14.1.5 strikes, lock-outs or other industrial acions or trade disputes (whether involving employees of the Company or a third party);

14.1.6 difficulties in obtaining raw materials, labour, fuel, parts or machinery;

14.1.7 power failure or breakdown in machinery.

14.1.8 lack of co-operation by the Customer.

15. INTELLECTUAL PROPERTY

All intellectual property in reports but limited to copyright in any report or other written material produced by the Company shall belong to the Company and shall not, save as specifically agreed otherwise in writing, be reprinted or copied in whole or in part. Any report delivered to the Customer by the Company shall remain the property of the Company.

16. SUBCONTRACTING

16.1 The Company reserves the right to subcontract the fulfilment of the Order or any part of it and to use the services of suitable subcontractors or suppliers at its absolute discretion and to use the services of such subcontractors or suppliers as are necessary to perform the services required in accordance with the Contract and to collect and utilise all sums due to the Company under this provision in the same way.

16.2 The Company shall respect the confidentiality of the Order or any part of it and may, at its discretion, subcontract the Services to any laboratory that fulfils the regulations in the current UKAS quality system. For Testing Activities covered by BTG’s accreditation to BS EN ISO/IEC 17025:2000, the client will be notified of the requirement for sub-contracting as part of the standard contract document.

16.3 The Company shall subject to these Conditions be responsible to the Client for the actions and omissions of subcontractor, save where the Client or a regulatory authority has specified which subcontractor shall be used.

16.4 The Company shall maintain a register of all subcontractors that it uses for tests and a record of the evidence of compliance with regulatory bodies.

16.5 Where any part of the Services are performed by any person as subcontractor or agent for the Company, these Conditions shall, mutatis mutandis apply in respect of the work or services performed by that person.

17. GENERAL

17.1 Any notice or report required or permitted to be given by either party to the other under these Conditions or Services shall be in writing addressed to that other party at its registered office or such other address as may at the relevant time have been notified pursuant to this provision to the party giving the notice or report.

17.2 No waiver by the Company of any breach of the Contract by the Customer shall be considered a waiver of any subsequent breach of the same or any other provision.

17.3 Failure by the Company to insist on or enforce compliance by the Customer with any of the provisions of this Agreement or with these Conditions or Services shall not be construed as a waiver of such or any other provision.

17.4 This Agreement is not to be assigned, transferred or sub-let by the Customer without the prior written consent of the Company.

17.5 The breach of any holding, Subsidiary, or Associated Company (as defined in Section 76 of the Companies Act 1985 as amended) of the Customer of any of the terms and conditions of any contract agreed for the provision of the Services shall be deemed to be a breach of the terms of the Contract and shall entitle the Company to take or refrain from taking all acts and remedies to which it is entitled under these Conditions as if such default had been a breach or default under the Contract.
17.6 Save in the case of subcontractors, or other agents of the Company no person who is not a party to the Contract shall be entitled to enforce any provision of the Contract and to that extent the Contract (Rights of Third Parties) Act 1999 shall not apply to any provision of the Contract.

18 JURISDICTION

18.1 The Contract shall be governed by the laws of England and for the purposes of settlement of any disputes arising out of or in conjunction with these Conditions or the Contract the parties hereby irrevocably submit themselves to the exclusive jurisdiction of the English Courts.