



# VALLIS GROUP LIMITED

## GENERAL TERMS AND CONDITIONS

### 1. GENERAL

- 1.1 This document comprises the general Terms and Conditions for the provision of services by Vallis Group Limited (Vallis) and its subsidiaries.
- 1.2 Unless otherwise agreed in writing, all offers or services and all resulting Contractual relationships between Vallis, any affiliated companies of Vallis or any of their agents to any Client applying for Vallis's services shall be governed by these Terms and Conditions.
- 1.3 This document replaces and supersedes all previous versions.

### 2. DEFINITIONS

- 2.1 "Party" – an individual or business that has entered into the Contract.
- 2.2 "Client" or "Clients" – the Party for which Vallis will carry out the Services.
- 2.3 "Goods" – any merchandise that may be the subject of the Services under the Nomination Confirmation.
- 2.4 "Interim Report" – means a working document that allows clients access to immediate information relating to the Services rendered. Vallis accepts no liability for the accuracy of Interim Reports and these are intended merely to be a guide.
- 2.5 "Service" or "Services" – those services identified in the Nomination Confirmation and to be rendered by Vallis in accordance with these Terms and Conditions.
- 2.6 "Nomination Confirmation" – document confirming the Services to be rendered, agreed and duly signed by both Parties. Can be designated for a specific operation or an agreed period of time including Long-Term Agreements.
- 2.7 "Facility" – may refer to any location where the Services are to be rendered as per the Nomination Confirmation.
- 2.8 "Terms and Conditions" – this document, agreed by the Client, detailing the conditions under which the Nomination Confirmation is provided.
- 2.9 "Contract" – the combined agreement of the Nomination Confirmation subject to these Terms and Conditions.
- 2.10 "Day" means a calendar day.

### 3. SERVICES

- 3.1 These Terms and Conditions cover the services ("the Services") detailed in the Nomination Confirmation.
- 3.2 The Client acknowledges that Vallis, either by entering into the Contract, or by providing the Services, neither takes the place of the Client or any third-party, nor releases them from any of their obligations, nor otherwise assumes, abridges, abrogates, or undertakes to discharge any duty of the Client to any third-party or that of any third-party to the Client.
- 3.3 Vallis may delegate the performance of all or part of the services to an agent or a subcontractor and the Client authorizes Vallis to disclose all information necessary for such performance to the agent or subcontractor.
- 3.4 If the Services include collecting or receiving samples, all samples shall be retained for a maximum of three (3) months or such other shorter period as the nature of the sample permits and then returned to the Client or otherwise disposed of at Vallis's discretion. After which time Vallis shall cease to have any responsibility for such samples.

### 4. OBLIGATIONS OF THE CLIENT

- 4.1 The Client shall ensure that Vallis is advised as to the locations where the Services are expected to be rendered. Any change in such locations must be advised to Vallis by written notice not less than five (5) business days prior to the commencement of the service, in which event Vallis shall be entitled to modify its fees.
- 4.2 The Client shall provide Vallis with all necessary access to the Goods, including access passes, at the locations in which the Services shall be performed. If required by Vallis, the Client shall make available to Vallis all registers, inventory records and any other documents which are used to record the Goods.
- 4.3 The Client shall procure a safe working environment for Vallis and its representatives to perform the Services at the Facility and shall make known to Vallis any hazards or dangers, actual or potential, of which the Client is aware and that are or may be associated with the provision of the Services, including but without limitation: (i) the presence or risk of radiation, (ii) toxic, noxious, or explosive elements of materials and (iii) environmental pollution or poisons. Further, the Client shall ensure the Facility benefits from all public health, environmental licences and all public liability insurances as may be required by applicable local laws and which may be desirable and considered market practice for a Facility of this nature.

### 5. CERTIFICATE OF OWNERSHIP AND INTELLECTUAL PROPERTY OF REPORT

- 5.1 Any document provided by Vallis and the copyright contained therein shall be and remain the property of Vallis and the Client shall not alter or misrepresent the contents of such documents in any way. The Client shall be entitled to make copies for its internal purposes only. Duplicates of certificates are available upon request for external communication purposes.

### 6. COMMUNICATION

- 6.1 The Client may promote its certification in accordance with the terms set out in the Regulations governing the use of the certification marks. Use of the corporate name of Vallis or any other registered trademarks for advertising purposes is not permitted without prior written consent of Vallis.

### 7. CONFIDENTIALITY

- 7.1 As used herein, "confidential information" shall mean any oral or written proprietary information that a Party may acquire from the other Party pursuant to the Contract or information as to the business of the other Party provided, however, that confidential information shall not include any information which:
  - 7.1.1 Is or hereafter becomes generally known to the public.
  - 7.1.2 Was available to the receiving Party on a non-confidential basis prior to the time of its disclosure by the disclosing Party.
  - 7.1.3 Is disclosed to a Party by an independent third-party with a right to make such disclosure.
- 7.2 Unless required by law or by a judicial, governmental or other regulatory body, neither Party nor their agents or subcontractors shall use the confidential information other than in direct relation to the Contract nor disclose the other's confidential information to any person or entity without the prior written approval of the other Party except as expressly provided for herein.

### 8. NOMINATION AND TERMINATION

- 8.1 Vallis is to be nominated under these Terms and Conditions in writing as the provider of Services identified in the Nomination Confirmation.
- 8.2 These Terms and Conditions apply for all Nomination Confirmations.
- 8.3 Any notice required or permitted to be given by one Party to the other under these Terms and Conditions shall be sent by registered mail or by special courier or by email to the other. Any such notice shall be deemed to have been received on the effective reception date, or at the latest on the 10th day (ten days after having been handed over to the post office or to the special courier service if sent by registered mail or by special courier), or immediately on the successful transmission to the correct email address.
- 8.4 The Parties acknowledge that Vallis provides the Services to the Client as an independent contractor and that the Contract does not create any partnership, agency, employment or fiduciary relationship between Vallis and the Client.
- 8.5 The Contract may be terminated by either Party at any time without liability by giving thirty (30) days' prior written notice to the other Party.
- 8.6 Without prejudice to any other rights or remedies which the Parties may have, Vallis may terminate the Contract without liability on giving at least seven (7) days written notice to the other if:
  - 8.6.1 The other Party fails to pay any amount due under the Contract on the due date for payment and remains in default for more than seven (7) days after being notified in writing to make such payment.
  - 8.6.2 The other Party commits a breach of any of the terms of the Contract and (if such a breach is remediable) fails to remedy that

breach within seven (7) days of that Party being notified in writing of the breach.

- 8.7 Without prejudice to any other rights or remedies which the Parties may have, Vallis may terminate the Contract immediately without liability on giving written notice to the Client if:
  - 8.7.1 The Client repeatedly breaches any of the terms of the Contract in such a manner as to reasonably justify the opinion that its conduct is inconsistent with the intention or ability to give effect to the terms of the Agreement.
  - 8.7.2 The Client becomes unable to pay its debts as and when they become due.
  - 8.7.3 The Client becomes insolvent or enters receivership (for financial or other reasons), or insolvency or bankruptcy proceedings are commenced by or against such Party.
- 8.7.4 The Client assigns or transfers any right or interest in the Contract other than as authorized in these General Terms and Conditions.
- 8.7.5 The Client suspends or ceases or threatens to suspend or cease to carry on all or a substantial part of its business.
- 8.8 On termination of the Contract for any reason:
  - 8.8.1 The Client shall immediately pay to Vallis all of the Vallis's outstanding unpaid invoices and interest and, in respect of Services supplied but for which no invoice has been submitted, Vallis may submit an invoice, which shall be payable immediately on receipt.
  - 8.8.2 The Client shall return all of the Vallis's Equipment. If the Client fails to do so, then Vallis may enter the Client's premises and take possession of them. Until they have been returned or repossessed, the Client shall be solely responsible for their safe keeping.
  - 8.8.3 Upon termination of the Contract all rights and obligations of the Parties hereunder shall cease save for the obligation of the Client to make payment of the fees and charges due and outstanding for any Services performed up to and including the date of termination. The provisions set forth in Clause 7 (Confidentiality), Clause 10 (General Limitations of Liability and Indemnity) and Clause 11 (Operational Limitations of Liability) shall survive the termination of this Agreement.

### 9. FORCE MAJEURE

- 9.1 If Vallis is prevented from performing or completing any service for which the Contract has been made by reason of any cause whatsoever outside the control of Vallis, including, but not limited to, acts of god, war, terrorist activity or industrial action, failure to obtain permits, licences or registrations, illness, death or resignation of personnel or failure by the Client to comply with any of its obligations under Contract, the Client will pay to Vallis:
  - 9.1.1 The amount of all expenditure actually made or incurred.
  - 9.1.2 A proportion of the agreed fees equal to the proportion (if any) of the Services actually carried out.
- 9.2 And in the event of force majeure, Vallis shall be relieved of all responsibility whatsoever for the partial or total non-performance of the required Services.

### 10. GENERAL LIMITATIONS OF LIABILITY AND INDEMNITY

- 10.1 Vallis accepts no liability for the accuracy of Interim Reports.
- 10.2 Vallis undertakes to exercise due care and skill in the performance of the Services and accepts responsibility only in cases of willful default or willful misconduct. The burden of proof in respect of any claims against Vallis shall rest with the claimant.
- 10.3 Nothing in these Terms and Conditions shall have the effect of limiting any liability which cannot legally be limited including liability for death or personal injury caused by negligence.
- 10.4 Subject to clause 10.3, the total liability of Vallis to the client in respect of any claim whatsoever, including but not limited to loss, damage, or expense of any nature and whatsoever arising shall in no circumstances exceed a total aggregate sum equal to the amount of fees paid to Vallis in respect of the specific service which gives rise to such a claim (excluding any and all taxes), or USD 20,000, whichever is the lesser.
- 10.5 Subject to clause 10.3, Vallis shall not be liable to the Client nor to any third-party:
  - 10.5.1 For any loss, damage or expense arising from (i) a failure by the Client to comply with any of its obligations herein, (ii) any actions taken or not taken on the basis of the reports, and (iii) any incorrect reports arising from unclear, erroneous, incomplete, misleading or false information provided to Vallis.
  - 10.5.2 For loss of profits, loss of production, loss of business or costs incurred from business interruption, loss of revenue, loss of opportunity, loss of contracts, loss of expectation, loss of use, loss of goodwill or damage to reputation, loss of anticipated savings, cost or expenses incurred in relation to making product recall, cost or expenses incurred in mitigating loss, and loss, or damages arising from claims of any third-party, including without limitation product liability claims, that shall not be suffered by the Client.
  - 10.5.3 For any action taken or not taken by Vallis pursuant to the specific instructions of the Client in respect of the Services.
  - 10.5.4 For any action taken or not taken by the Client in accordance with their obligations under these Terms and Conditions.
  - 10.5.5 For any indirect or consequential loss or damage of any kind.
- 10.6 Any liability for any claims whatsoever and whatsoever caused, ceases unless a formal notice of claim is served to Vallis within 30 days of the event that gives rise to the liability, or, in case of any alleged non-performance within 7 days of the date that such service were agreed to have been completed.
- 10.7 Except for cases of proven willful default or willful misconduct by Vallis, the Client further agrees to hold harmless and indemnify Vallis and its officers, employees, agents or subcontractors against all claims (actual or threatened) by any third-party for loss, damage or expense of any nature including all legal expenses and related costs and whatsoever arising: (i) relating to the performance, purported performance or non-performance, of the Services and (ii) out of or in connection with the Client's product, process or service the subject of the report, including without limitation, product liability claims.
- 10.8 The Client shall guarantee, defend and indemnify Vallis its subcontractors and their officers, employees, agents and other representatives against all claims made by any third party caused by or relating to the performance, purported performance or non-performance of any services, to the extent that the aggregate of any such claims exceeds the (monetary or time) limited in clause 10.
- 10.9 Every officer, employee, agent or subcontractor of Vallis shall have the benefit of the limitation of liability, damage and the indemnity in these Terms and Conditions, whether Vallis is acting for itself or as agent or subcontractor.
- 10.10 Each Party shall take out adequate insurance to cover its liabilities under the Contract. The Client shall ensure that all such policies contain a waiver of subrogation rights in favour of Vallis. In any case, Vallis is neither an insurer nor a guarantor and excludes all liability in such a capacity.

### 11. OPERATIONAL LIMITATIONS OF LIABILITY

- 11.1 The Facility will remain under the sole and exclusive responsibility and control of the Client or any third-party with which the Client may have a contractual relationship. Vallis shall in no way be held responsible for any problems arising out of the safekeeping of the Goods therein, nor shall Vallis be responsible for the security, condition and maintenance of the Facility, for the preservation of the Goods and their packaging, for the existence or lack of the Goods, nor for any insurance for the Facility and the Goods.
- 11.2 Should Vallis be denied access to the Facility or the Goods by any third-party, then the sole responsibility of Vallis will be to immediately inform the Client of such event, and the Client shall, thereafter, at its sole discretion, take such actions as it may desire to procure access to the Facility in order that Vallis may continue to provide the Services.
- 11.3 It is understood and accepted that Vallis will not be in a position to make, will not be required to make, and, in any event, will not be deemed having made any determination regarding the ownership or the validity of the security granted over Goods stored in the facility or the accuracy or authenticity of any other documents presented to Vallis.
- 11.4 Each report that results from the performance of the Services shall reflect the findings of Vallis at the time and place of activity only and shall not

- serve to evidence the existence of a portion or the entirety of Goods immediately preceding, and following, each activity.
- 11.5 Each report will reflect the facts as recorded by Vallis within the limits of the instructions received and Vallis is under no obligation to refer to, or report upon, any facts or circumstances that are outside the scope of the specific instructions received from the Client in respect of the Services. Should any third-party information be supplied with respect to the Goods, Vallis shall, where legally and contractually permissible, attach such third-party information to the report but the Client acknowledges and agrees that Vallis shall not be liable for the reliability of such third-party information.
- 11.6 The Client acknowledges and agrees that the reports constitute neither documents of title nor warehouse receipts or any equivalent documents. Further, such daily reports are neither negotiable nor transferable and may not, under any circumstance be pledged or otherwise serve as collateral.
- 11.7 Where Vallis is required to verify the weight of bagged product being produced, the sole responsibility of Vallis will be to inform the plant manager and the Client that the bags are outside the allowed tolerance.
- 11.8 Should the Client request that Vallis witness any third-party activity at the Facility, the Client agrees that the sole responsibility of Vallis is to be present at the time of such third-party activity and to forward the results or confirm the occurrence of the activity. The Client agrees that Vallis is not responsible for the condition or calibration of apparatus, instruments and measuring devices used, the analysis methods applied, the qualifications, actions or omissions of third-party personnel, or the results of the activity performed by the third-party.
- 11.9 If the services to the Client necessitate the analysis of samples, either by Vallis or a third-party laboratory, Vallis is deemed to pass on the results of such analysis without any responsibility for its accuracy. In the event of analysis by third-party laboratories Vallis's services shall be limited to confirmation that the correct sample was delivered to the laboratory and shall not extend to the accuracy of any analysis or results.
- 11.10 The Client is not entitled to request a change of any test results or of any other part of the inspection report except for any obvious or genuine mistakes.
- 11.11 Reports or certificates issued in relation to testing, analysis of samples or certification will reflect the facts as recorded by it at the time of its intervention only and within the limits of the instructions received by the Client. Further they shall contain results relating to the sample only and do not express any opinion on the overall quantity of the good or lot from which the samples were taken.
- 11.12 Any report or certificate issued is not intended to relieve the parties of any relevant sales contract from their contractual obligations.

### 12. FEES AND CHARGES

- 12.1 Unless otherwise stated, all fees quoted are exclusive of any and all taxes in the countries concerned.
- 12.2 Following agreement on the fees of Vallis in the Nomination Confirmation and Terms and Conditions, Vallis may issue an invoice for advance payment up to and including the full sum due of those fees for the Services to be rendered.
- 12.3 Following submission of the report to the Client, Vallis shall issue an invoice to the client. Invoices for additional and further work will be issued on completion of the relevant task. Unless advanced payment has been agreed upon, all invoices are payable within thirty (30) days of the date of each invoice (the "due date") regardless of whether the Client's system or products qualify for certification. Interest will become due at a rate of 1.5% per month (or such other rate as may be established in the invoice) from the due date up to and including the date payment is received.
- 12.4 Vallis shall issue an invoice to the client to the Client for the Services provided. If a Service has an applicable tonnage fee, the fee shall be calculated using the following tonnage quantity, unless otherwise stipulated in the Nomination Confirmation:
  - 12.4.1 Bulk, Bagged or Bulk Terminal Tally-off Vessel: the net Bill of Lading quantity.
  - 12.4.2 Marine Surveying (including production of stoppage records and statement of facts): the net Bill of Lading quantity.
  - 12.4.3 Live Reporting: the net Bill of Lading quantity.
  - 12.4.4 Bulk Tally-onto Vessel: the net weighbridge quantity tallied, if no weighbridge is used, the cargo loaded as per Final Draft Survey.
  - 12.4.5 Bagged Tally-onto Vessel: the Said to Be Bag weight quantity tallied onto the vessel.
  - 12.4.6 Bulk Terminal Tally-onto Vessel: the silo intake reading or conveyor intake reading or if no shore scale is available, the cargo loaded as per Final Draft Survey.
  - 12.4.7 Bagging Supervision: the Said to Be Weight of the bags supervised during bagging.
  - 12.4.8 Bulk Tally into Warehouse: the warehouse net weighbridge quantity tallied. If no weighbridge is used, either an average weight or the Bill of Lading quantity will be applied.
  - 12.4.9 Bagged Tally into Warehouse: the Said to Be Bag weight quantity tallied into warehouse.
  - 12.4.10 Bulk Tally out of Warehouse: the warehouse net weighbridge quantity tallied. If no weighbridge is used, either an average weight or the expected quantity will be applied.
  - 12.4.11 Bagged Tally out of Warehouse: the said to be bag weight quantity tallied out of warehouse.
- 12.5 Any use by the Client of any report or certificate or the information contained therein is conditional upon the timely payment of all fees and charges. Vallis reserves the right to cease or suspend all work and cause the suspension or withdrawal of any certificate or report(s) for a Client who fails duly to pay an invoice by its due date.
- 12.6 Clients shall not be entitled to retain, defer payment or set off any sums due to Vallis on account of any dispute and counterclaim which may be alleged against Vallis.
- 12.7 Vallis may elect to bring action for the collection of unpaid fees in any court having competent jurisdiction.
- 12.8 The Client shall pay all Vallis fees incurred in the collection of moneys owing.
- 12.9 In the event payment for any services is not made by its due date, Vallis is entitled to suspend all further performance of its services immediately, without liability, upon notification to the Client.

### 13. MISCELLANEOUS

- 13.1 If any one or more provisions of these Terms and Conditions are found to be illegal or unenforceable in any respect, the validity, legality and enforceability of the remaining provisions shall not in any way be affected or impaired in any way.
- 13.2 Except as expressly provided for herein, the Client may not assign or transfer any of its rights stipulated in these Terms and Conditions without prior written consent from Vallis.
- 13.3 Any failure by Vallis to require the Client to perform any of its obligations under these Terms and Conditions or the Contract shall not constitute a waiver of its right to require performance of that or any other obligation.

### 14. DISPUTES

- 14.1 Unless specifically agreed otherwise, all disputes arising out of or in connection with these Terms and Conditions or the Contract shall be governed by the laws of England and Wales.
- 14.2 Any disputes arising in connection with the Terms and Conditions or the Services provided by Vallis shall be resolved by arbitration in accordance with the Rules of International Arbitration of England and Wales in force on the date on which the Notice of Arbitration is submitted in accordance with these Terms and Conditions.
- 14.3 The number of arbitrators will be one (1) and the seat of arbitration will be London. The arbitral proceedings shall be conducted in English.
- 14.4 Pending final settlement or determination of a dispute the Parties shall continue to perform their remaining obligations under the Contract.