
TERMS AND CONDITIONS

Payment schedule:

Durametrix requires 60% of estimated cost for the proposed project upfront before start of the proposed project, 30% at termination of animals, and remaining 10% upon customer approval of report format before customer may receive the final report of work or any data acquired by Durametrix for clients. If the order does not include animals, then 40% is payable upon customer approval of work performed before receipt of final report or any data acquired by Durametrix. Customer will have 30 days to accept or request modification to the final report. If no notification is received from customer, report will be considered accepted and final invoice will be generated. All final invoices will be generated within 90 days of completion of study. All cost for specially requested agents to be provided by Durametrix will be paid in full upon shipment of material to study site. Protocol/study development will be initiated after a signed Quote Acceptance has been received at Durametrix LLC. Samples that require extraordinary handling (e.g. special sample physiological preparation, extra safety measures, hazardous sample dispose) will incur additional charge. Payment is due 15 days from invoice date. The above prices are valid for 30 days. Should there be any changes to the study design, prices will be adjusted accordingly. Exact scheduling information will be provided once a signed Study Quotation has been received.

Additional Terms:

Should there be a Master Services Agreement (“MSA”) between both parties with an Effective Date earlier than the Effective Date of this quotation sheet, the Services to be provided under this proposal shall be governed by the terms and conditions of that MSA and this proposal shall be considered as a Work Order under the MSA. If no such MSA exists, then this proposal shall be governed by the terms of this quotation sheet.

Communication:

Durametrix will assign a dedicated single point of contact from the project management team throughout the project duration.

Confidentiality:

Both parties agree that, during the term of this Agreement and for [three (3) years] thereafter, the receiving party shall keep confidential and shall not publish or otherwise disclose and shall not use for any purpose other than as expressly provided for in this Agreement any Confidential Information of the other party. Each party may use the other party’s Confidential Information only to the extent required to accomplish the purposes of this Agreement. Each party will use at least the same standard of care as it uses to protect proprietary or confidential information of its own (but in no event less than reasonable care) to ensure that its employees, agents, consultants and other representatives do not disclose or make any unauthorized use of such Confidential Information. Each party will promptly notify the other upon discovery of any unauthorized use or disclosure of such Confidential Information.

Records:

If there is any samples, materials, or data of one party (the “Disclosing Party”) in the possession of another party (the “Receiving Party”), the Disclosing Party should instruct the Receiving Party on how to return or dispose of such samples, materials, or data within two [2] weeks after the completion of the full payment under this Work Order; if no such instruction is received by the Receiving Party, then the Receiving Party may dispose of such samples, materials, or data at its own discretion.

Intellectual Property Ownership:

All right, title and interest in and to the work product shall at all times be and remain the sole and exclusive property of the clients, except any methodology, technology, materials or information, or any modifications to Durametrix’s testing facilities that are in existence prior to the Effective Date or independently developed by Durametrix in the course of performing the services under this quote. Notwithstanding the foregoing, neither any provision of this quote nor any disclosure of confidential or proprietary information by either party shall operate to confer any intellectual property rights upon the other party nor be effective to license or transfer to the other party any right, title, or interest in the confidential or proprietary information of such party.

Assignment:

This quotation sheet shall inure to the benefit of and be binding upon the successors and assigns of the parties hereto; provided, however, that neither party shall transfer or assign this Agreement without the prior written consent of the other party. Notwithstanding the foregoing, a party may assign this quotation sheet and its rights and obligations hereunder without such consent to an Affiliate of such party or in connection with the transfer or sale of all or substantially all of the business of such party to which this quotation sheet relates, whether by merger, sale of stock, sale of assets or otherwise. Neither party may not subcontract or otherwise delegate its obligations without the other party’s prior written consent. “Affiliate” shall mean, with respect to an entity, any other entity that directly or indirectly controls, is controlled by, or is under common control with, the entity. For the purpose of this Section 1.1, “control” means the ownership and voting control of more than fifty percent (50%) of the outstanding voting securities or interest in capital or profits of an entity, or the right to direct or control the management or affairs of such entity by contract or similar arrangement.

Disclaimer:

Except as expressly set forth in this Agreement, NEITHER PARTY MAKES ANY REPRESENTATIONS OR WARRANTIES OF ANY KIND, EITHER EXPRESS OR IMPLIED, AND EXPRESSLY DISCLAIMS ALL IMPLIED WARRANTIES OF TITLE, NON-INFRINGEMENT, MERCHANTABILITY, AND FITNESS FOR A PARTICULAR PURPOSE.

Limitation of Liability and Indemnification:

EXCEPT FOR LOSSES ARISING FROM BREACH OF CONFIDENTIALITY, NEITHER PARTY SHALL BE ENTITLED TO RECOVER FROM THE OTHER PARTY ANY SPECIAL, INCIDENTAL, CONSEQUENTIAL OR PUNITIVE DAMAGES IN CONNECTION WITH THIS AGREEMENT OR ANY LICENSE GRANTED HEREUNDER. Both parties, each as a performing party, hereby agree to save, defend, indemnify and hold harmless the other party, the other party's Affiliates and their respective officers, directors, employees, consultants and agents (each, an "Indemnitee") from and against any and all losses, damages, liabilities, expenses and costs, including reasonable legal expense and attorneys' fees ("Losses"), to which any Indemnitee may become subject as a result of any claim, demand, action or other proceeding by any third party to the extent such Losses arise directly or indirectly out of the development, manufacture, use, handling, storage, sale or other disposition of any product by the performing party, the gross negligence or willful misconduct of any performing party's Indemnitee or the breach by the performing party of any warranty, representation, covenant or agreement made by the performing party in this quotation sheet, except, in each case, to the extent such Losses result from the gross negligence or willful misconduct of any Indemnitee or its breach of any warranty, representation, covenant or agreement in this quotation sheet.

Governing Law:

This Agreement/quotation sheet shall be governed by the laws of the State of Wisconsin, without regard to its conflicts of laws principles.