



RADIATION TEST
S O L U T I O N S

**Radiation Test Solutions, Inc.
Terms and Conditions**

**GENERAL CONDITIONS OF SERVICE CONTRACT
APPLIED TECHNICAL SERVICES, LLC and its Subsidiaries**

1. DEFINITIONS:

- a. "Contract" shall mean this General Conditions of Service Contract;
- b. "Company" means Applied Technical Services, LLC or any one of its subsidiaries or affiliates performing any Service or Calibration Service hereunder as specifically identified in the Contract Documents;
- c. "Client" means the entity engaging Company hereunder;
- d. "Services" mean all services that are not Calibration Services, including the resulting test reports, test results, test data, materials, and other testing and labor of any kind to be supplied by Company, pursuant to this Contract;
- e. "Calibration Services" shall mean the calibration performed by Company on behalf of Client including the resulting test reports, test results, test data, and labor of any kind to be supplied by Company; the term "Services" shall include Calibration Services.
- f. "Goods" shall mean any item sold by Company to Client that is not included in the definition of Services or Calibration Services.

2. **ACCEPTANCE:** Client's agreement to the terms and conditions hereof may be express or implied, either by written acceptance or by Client's failure to object to the terms and conditions prior to the start of the Services. This Contract, along with Company's quote, contains the complete, exclusive and binding statement of the terms and conditions governing the Services provided by Company regardless of whether this Contract was previously agreed to orally or in writing. No addition to or any modification of any of these terms and conditions will be effective unless agreed to in writing and signed by Company.

3. **PRICE:** The price for the Services shall be as set forth in a written quotation provided by Company, or if no written quote is provided, then the price shall be based upon Company's then-current pricing schedule.

4. **PAYMENT:** If credit is extended to Client (which may be withheld in the sole discretion of Company), Payment will be made in U.S. funds within net thirty (30) days of the date of Company's invoice. Otherwise, payment must be pre-paid. Punctual payment is of the essence. Payments received by credit card shall include a surcharge in an amount not to exceed that which is permitted by law.

5. **INDEPENDENT CONTRACTOR:** The Company will perform Services as an Independent Contractor and will have complete control of and be responsible for all Services conducted or performed by Company. Neither Company nor any of its employees will be deemed to be Client's servants, employees, agents, partners, affiliates or joint venturers.

6. **MODIFICATIONS:** Any alteration(s) by the Client in design, quantity, testing requirement(s) or specification(s) or any delays in the Services due to Client's instruction or lack of instruction may involve an adjustment to the price and/or to the delivery time if Company's costs or schedule in carrying out the Services is thereby affected.

7. **VALIDATION:** If the method used to perform the Services is a Client-provided non-standard test method, Company does not assume any responsibility for validation of the method or for the results of the Services and disclaims any and all warranties and liabilities in connection with such non-standard test method.

8. **DEFAULT:** If Client defaults on any payment(s), files for bankruptcy, enters into liquidation, or suffers a court receiver to be appointed, Company may, at any time thereafter, without prejudice to any other remedy, suspend or cancel the Contract without prior notice and without any liability to Client for such suspension or cancellation by Company. Notwithstanding any suspension or cancellation, Client remains obligated to pay Company for the Services rendered prior to such suspension or cancellation. If payment is not made as provided in paragraph 4, Client shall be in default, and, as a consequence of such default, shall thereby waive the right to assert against Company any warranties or remedies provided herein. Company shall also be entitled to recover all collection fees, legal fees, expenses, administrative costs, and court costs associated with its efforts to collect payment of invoice(s) that are not paid within thirty (30) days, as well as interest on the outstanding balance at a rate of 1.5% per month or the maximum legal rate allowed by applicable state law, whichever is greater. In the event of non-payment, Client agrees to immediately cease and desist any and all use of the unpaid Services and return to Company all



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intangible and tangible forms thereof, including all originals and copies. Company shall be entitled to specific performance of the foregoing sentence, as well as to a cease-and-desist order in the event of continued use by Client until receipt of payment in full from Client to Company.

9. **INSPECTION AND ACCEPTANCE OF SERVICES:** If Client requires any inspection or testing of the Services prior to completion thereof (other than Company's standard plant inspection and testing), Company shall carry out such tests and inspections or provide the facilities for the same, but such inspections or tests shall be paid for by Client as an extra charge. To the extent that Company is to provide such other inspection or testing services at a test site other than a Company office, Client shall inspect the test results and notify Company of any defects in the performance of such tests prior to the time Company demobilizes from the test site. To the extent Company provides such other inspection or testing services at a Company office, Client shall inspect the inspection or test results and notify Company of any defects in the performance of such tests prior to the time Company ships the tested material back to Client. Client-mandated non-standard tests or inspections shall be governed by Paragraph 7 hereof.
10. **TIME:** When time for delivery or completion is specified, Company will make every effort to adhere thereto, but Company shall have no liability (and assumes no liability) whatsoever for Client caused delays in delivery or completion of Services, whether delays are foreseeable or unforeseeable.
11. **WARRANTY:**
 - a. **Services Warranty:** Company warrants that its Services will be provided in accordance with the mutually agreed-upon testing standard(s), or if none are specified and agreed upon, then Company's Services will be provided in accordance with industry generally accepted testing standard(s). If, within a twelve (12) month period after completion of Services, Client notifies Company in writing that Services are non-conforming, Company will re-perform the Services at no cost to Client. Such re-performance shall be Company's sole liability for the non-conforming Services, with no other liability as to Company for damages arising therefrom, including but not limited to special, indirect, consequential, incidental, punitive, statutory or other damages. Company's warranty does not include the effects of improper operation, improper handling, accidents, improper storage, improper use and improper maintenance or repair not attributable to Company, it being further expressly agreed and understood that any such improper operation, improper handling, accidents, improper storage, improper use and improper maintenance or repair shall irrevocably void any warranty by Company and shall also terminate Company's liability to Client. In no event shall Company be responsible for costs or losses arising from accessing, retrieving or removing non-conforming Services, or reinstalling repaired or replacement Services. **THE FOREGOING WARRANTY IS IN LIEU OF ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, SPECIFICALLY INCLUDING ANY WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE OR USE EVEN IF SUCH PURPOSE OR USE IS DISCLOSED, ALL SUCH WARRANTIES BEING HEREBY FULLY AND EXPRESSLY DISCLAIMED.**
 - b. **Goods Warranty:** Company is not a manufacturer and thus the warranty of any Goods sold to Client shall be limited to the factory warranty, if any, extended by the manufacturer of the Goods. Company does not make, and hereby disclaims, any warranty as to such Goods and is providing such Goods, and Client is accepting such Goods, in their AS IS condition. Use of the Goods is at Client's sole risk. **THE FOREGOING WARRANTY IS IN LIEU OF ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, SPECIFICALLY INCLUDING WARRANTIES OF TITLE, OF NONINFRINGEMENT OF THIRD PARTY RIGHTS, AND ANY WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE OR USE EVEN IF SUCH PURPOSE OR USE IS DISCLOSED.**
 - c. **Disclaimer:** In the event any property is lost or stolen while in the sole custody of Company, Company shall only be liable for the price of the Service. Company shall not be liable for any alteration performed by Client on any repairs, motors, or new sale items, or any malfunctions, product loss or time/or profit loss incurred by Client which is due in whole or in part to such alteration.
 - i. **NOTWITHSTANDING ANYTHING TO THE CONTRARY SET FORTH HEREIN, COMPANY MAKES NO WARRANTY OF ANY KIND OR NATURE WITH RESPECT TO TOUCH SCREENS AND/OR TOUCH PADS.** Except as specifically set forth herein, Client agrees that Company shall in no event be responsible for any damages, including, but not limited to, any special, direct, indirect, incidental, exemplary, or consequential damages, expenses, business interruption, lost profits, savings, business information, or any other damages arising out of any repair Services, on-site services, or remanufactured goods.



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12. **FORCE MAJEURE:** Neither Company nor Client, except to the extent that Client must continue to make payments when due, shall be liable to the other for any delay in delivery or failure to deliver the Services, where such delay is a result of any unforeseeable cause beyond either party's control including but not limited to; fires, floods, pandemics, labor strikes, other labor disputes or unrests, accidents to machinery, acts of sabotage, riots, precedence or priorities granted at the request of or for the benefit, directly, or indirectly, of federal or any state government or any subdivision or agency thereof, war, terrorist act(s) or threats (regardless of whether or not such acts or threats are designated as terrorist acts or threats or events by any cognizant government regulator), delay in transportation or the lack of transportation facilities, restrictions imposed by federal, state or other governmental registration or rules or regulations thereof, or Act of God.
13. **INDEMNIFICATION:** To the fullest extent permitted by law, Client agrees to defend, indemnify, and hold harmless Company, its subsidiaries and affiliates, and its and their employees, officers, directors and agents from and against any and all actions, actual or threatened third party claims, demands, liens or claims of lien, lawsuits, and liabilities of any and all kind in nature ("Claims") including court costs, expenses, and reasonable attorneys' fees arising out of or related in any way to the Services provided by Company hereunder, except that Client shall not be required to indemnify Company to the extent the Claim was caused by the negligence of Company. It is understood and agreed, Company is in no way liable for any claims filed by Client to any of its insurers that is not paid, whether in whole or in part by such insurers. Should Company provide Client with inspection reports or test documents, Client shall not reproduce the report or test document except in full without express permission from Company, and shall not use the report in any way, that will or could be detrimental to Company. It is expressly agreed by the Parties that all such test reports or test documents shall be subject in every respect to the "Documents" provisions set out herein.
14. **GOVERNING LAW AND JURISDICTION:** This Contract and the Services performed by Company thereunder will be governed by and construed in accordance with the laws of the State of Georgia. Company and Client consent to personal jurisdiction in the State of Georgia, County of Cobb, and voluntarily submit to the jurisdiction of the courts of such state in any action or proceeding with respect to this Contract, including the federal district courts serving such County.
15. **LIMITATION OF LIABILITY:** (i) Company is neither an insurer nor guarantor and disclaims any and all liability of any kind, it being expressly understood that Company is not acting in such capacity. If the Client is seeking a guarantee against any loss or damage, the Client should obtain appropriate insurance. (ii) Company shall not be liable for any delayed, partial or total non-performance of the Services arising directly or indirectly from failure by Client to comply with any of its obligations hereunder (iii) The liability of Company in respect to any claim for any loss, damage or expense of any nature and howsoever arising shall in no circumstances exceed a total aggregate sum equal to 2 times the amount of the fees paid in respect of the specific Service which gives rise to such claim or \$50,000, whichever is greater. If Client wishes Company to be subject to a higher limit of liability, Company will agree to replace "\$50,000 with a number negotiated and agreed upon by the Parties up to a total maximum aggregate amount of \$1,000,000 **provided** that Client first pays an-up-front fee to Company of 10% of the Company's Quote Fee to Client prior to the beginning of Company's Services. Such fee is not for the purchase of additional insurance but is (instead) a fee to the Company paid as consideration to Company for Company's agreement to increase the amount of its potential total maximum aggregate liability to the agreed-upon number. Any increase shall be ineffective until agreed upon in writing by the Parties; (iv) Company shall have no liability to the Client for any special, indirect, incidental, punitive, statutory or consequential loss or damage including without limitation loss of profits, loss of business, loss of opportunity, and loss of goodwill and cost of product recall. Company shall further have no liability to Client for any loss, damage or expenses arising from any and all actual or threatened claims of any third party (including, without limitation, product liability claims) that may be incurred by the Client (v) In the event of any Claim, Client must give written notice to Company within thirty (30) days of discovery of the facts alleged to justify such Claim, and in any case, Company shall be discharged from any and all actual or threatened liability claims for loss, damage or expense unless suit is brought within one (1) year from either (1) the date of performance by Company of the Service which gives rise to the claim; or (2) the date when the Service should have been completed in the event of any alleged non-performance by Company, or in the event of delay by Client.
16. **TERMINATION:**
 - a. Either party may terminate this Contract at any time, with or without cause, by providing not less than ten (10) days advance written notice to the other party.



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- b. Company may terminate this contract immediately in writing if Client fails to pay any undisputed invoice, becomes insolvent, enters bankruptcy, receivership, or other like proceeding (voluntary or involuntary) or makes an assignment for the benefit of creditors. Company reserves the right to invoice Client for the quoted cost of Services and Calibration Services for Client's no-show or cancellation within 24 hours of the scheduled start time, and payment shall be due Net 30 days.
 - c. In the event of termination for any reason, Client shall compensate Company for all Services performed through the date of termination and all reasonable costs and expenses incurred by Company in effecting the termination, including non-cancelable commitments and demobilization costs.
 - d. Special Testing:
 - i. Special Testing is defined as: (1) all Services offered by Radiation Test Solutions, Inc; and/or (2) any Service offered by Company that requires the exclusive use of specialized test equipment.
 - ii. If Client cancels an order for Special Testing at least 24 hours in advance, a cancellation fee of the greater of 25% of the total invoice amount or the total price of line items for which work has started or completed prior to the date of cancellation shall be due.
 - iii. If Client cancels an order for Special Testing after the start of any Special Testing, the full amount of the order will become due.
17. **CONFIDENTIAL INFORMATION:** Any non-public drawings, designs, specifications, samples, know-how, processes, plans or other similar items or other technical, commercial, or financial information relating to either party's business and which is clearly marked as "Proprietary" or "Confidential" (collectively "Confidential Information") which the other party may obtain or which a party may in any way disclose to the other party in connection with or related to the performance of the Services, shall be deemed to be confidential and the receiving party shall not use the Confidential Information for its own purposes (other than for the performance of the Services), and shall not disclose the Confidential Information to any person or firm, other than those that may be specifically authorized by the disclosing party in writing. Upon completion or termination of this contract, the receiving party shall return all Confidential Information to the disclosing party, except that the receiving party may retain one (1) copy of all Confidential Information for legal and quality archival purposes, which shall be treated as confidential until its destruction after a period of seven (7) years (or ten (10) years for nuclear related Confidential Information). Client is strictly prohibited from using Company name or image in any advertising or publicity, including social media without Company's written consent.

17.1 DOCUMENTS. Notwithstanding any other term or provision herein or in any other document related to this Agreement, Client and Company agree that the following provisions govern over and control any provision herein or in any other document as to all of Company's Work Product (including the Instruments of Service). Client and Company expressly agree that all of Company's Work Product and Instruments of Service is/are intended for the sole and exclusive use and reliance of CLIENT. Any third party in receipt of Company's Work Product (including the Instruments of Service) receives the work product *for informational purposes only* and **not for reliance**, notwithstanding any ownership interest in such work product held by such third party or Client. Any third party wishing to rely upon Company's Work Product or Instruments of Service must first execute Company's standard reliance letter and Client must also first consent to the disclosure to such third party in order to also address any potential conflict of interest issues. Company's Work Product and the Instruments of Service may not be re-used or modified in any fashion or for any purpose without the express prior written consent of Company and full involvement of Company in a consultative capacity relative to same. Any re-use or modification or distribution (in violation of the foregoing) of Company's Work Product or Instruments of Service by Client or any person or entity not party to this Contract, regardless of any ownership interest of such person or entity as to such Work Product or Instrument of Service, which re-use or modification or distribution occurs without the prior express written consent of Company, shall be a material breach of this Contract by Client and Client shall fully defend, indemnify and hold harmless Company and its officers, directors, members, employees and Subconsultants from any liabilities arising out of or relating to any such material breach.

17.2 INTELLECTUAL PROPERTY. Company will maintain all of its current or future Intellectual Property ownership, rights, title and interests it uses or provides in the Services at all times. If the Services sold hereunder are prepared according to Client's specifications, Client shall indemnify Company against any and all actual or threatened claims or liability for any legal complaint, intellectual property infringement on account of such Services performed by Company.



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- a. **Testing Services:** When the Services consist of testing and inspection, the term “Work Product” means the Test Reports created for Client by Company as part of the Testing Services. Unless otherwise set forth in the purchase order, subject to payment in full of all fees, expenses and other amounts due to Company, Company will assign (subject to (c) below relative to Company Materials) to Client, without further consideration, all right, title and interest in the Work Product created or developed pursuant to the applicable purchase order, excluding the Company Materials, but with the provision that all such assigned materials remain subject in every respect to the terms and conditions of 17.1 hereof (“Documents”).
 - b. **Training Services:** When the Services consist of Company’s provision of training classes or instruction, Client acknowledges and agrees that all training materials provided under this Agreement shall consist of:
 - (i) data, information, powerpoint slides, manuals, and handouts and other material owned or developed by Company prior to and independent from its engagement hereunder (“Company Materials”);
 - (ii) materials that are owned by third parties (“Third Party Licensed Materials”); and
 - (iii) works that are in the public domain.
 - c. Notwithstanding anything to the contrary herein, Company retains all right, title and interest in and to all Company Materials, including any Company Materials which may be incorporated into Work Product. To the extent the Services include the provision of Company Materials, Company grants to Client a limited, nonexclusive, nontransferable, perpetual, worldwide, fully paid-up right and license to use the Company Materials solely for its internal use. No right is granted hereunder to, and Client shall not directly or indirectly, (i) copy, print, record, display, distribute, assign, pledge, publish or transmit all or any portion of the Company Materials; (ii) sell, rent, lease, distribute, license or sublicense, or otherwise transfer all or any part of the Company Materials or provide timeshare, service bureau or similar services to any other person using the same; (iii) modify or translate the Company Materials, create any derivative works or otherwise merge or utilize all of any part of the Company Materials with or into other computer programs or other materials; (iv) in any manner decompile, reverse engineer, decode, disassemble, or otherwise attempt to derive source code from all or any part of the Company Materials; or (v) otherwise use Company Materials outside of the license granted hereunder. Further, Client shall not remove or alter, or permit any person to remove or alter, any notices on, contained within or affixed to any Company Materials regarding copyright, patent, trademark and other proprietary rights, restrictions on use and confidentiality. Subject to the foregoing license, Company reserves all right, title and interest in and to the Company Materials, and Client shall have no right, title or interest in or to the Company Materials, by implication or otherwise.
 - d. If Client has requested the inclusion of the Third-Party Licensed Materials, Client shall be responsible for obtaining the appropriate license for such Third-Party Licensed Materials.
18. **ASSIGNMENT AND SUBCONTRACTING:** Client may not assign the Contract without the written consent of the Company. If assigned without prior consent, Section 16 will apply. Company may assign or subcontract any or all of the Services to be provided hereunder to any of its subsidiaries or affiliates.
 19. **NON SOLICITATION:** Throughout the provision of Services and for a period of one-year after completion thereof, Client shall not solicit for employment any employee of Company who had material contact and provided Services hereunder without the written consent of the Company.
 20. **WAIVER OF REMEDIES:** No failure or delay by Company in exercising its rights or privileges hereunder shall operate as a waiver thereof, nor will it be deemed a waiver of any other covenant or condition.
 21. **MISCELLANEOUS:** 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 thereby.
 22. **EXPORT CONTROL:** Client certifies its compliance with U.S. export laws and regulations, including but not limited to the Arms Export Control Act of 1976, the International Traffic in Arms Regulation (ITAR) and the Export Administration Regulations (EAR). Client agrees that any export-controlled information provided to Company shall be marked in accordance with the appropriate distribution statements, and will contain the appropriate destruction notices and export control warnings as required.
 23. **OFAC CERTIFICATION:** Client represents that (i) neither Client nor any person or entity that directly owns 10% or greater equity interest in it nor any of its officers, directors, or managing members is a person or entity (each, a “Prohibited Person”) with whom U.S. Person or entities are restricted from doing business under regulations of the office of Foreign Asset Control (“OFAC”) of the Department of the U.S. Treasury (including those named on OFAC’s Specifically Designated and Blocked Person



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List) or under Executive Order 13224 (the “Executive Order”) signed on September 23, 2001, and entitled “Blocking Property and Prohibiting Transactions with Persons Who Commit Threaten to Commit, or Support Terrorism”, or other governmental action, and (ii) that throughout the term of this Contract, Client shall comply with the Executive Order.

24. **ANTI-BRIBERY:** Client agrees it is in compliance with all applicable Anti-Corruption Laws. No action, suit or proceeding by or before any court, or government agency, authority or body, or any arbitrator or nongovernmental authority involving any Representative with respect to applicable anti-corruption laws is pending or threatened. Client shall promptly notify Company in writing if it becomes aware of facts or information which suggest a breach of the foregoing Anti-Corruption covenants or the Anti-Corruption Laws.
25. **FEDERAL GOVERNMENT CLAUSES:** For orders issued under federal government contracts, Company accepts the FAR/DFAR clauses applicable to the furnishing of Commercial Item services.

Applied Technical Services, LLC (ATS) appreciates the opportunity to provide our testing, calibration, inspection or other services requested by Client pursuant to this Contract. Services performed outside the scope of ATS accreditation are in compliance with ISO 9001 requirements only.

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