



GENERAL TERMS AND CONDITIONS OF ANALYSIS OUTSOURCING

Article 1 (Purpose)

These General Terms and Conditions of Analysis Outsourcing (hereinafter referred to as the “General Terms and Conditions”) apply to the individual agreement referred to in Article 2 below concerning analysis and measurement (hereinafter referred to as the “Services”) outsourced by the customer, the outsourcer, (hereinafter referred to as the “Outsourcer”) to PicoTherm Corporation (hereinafter referred to as “PicoTherm”), and the Outsourcer and PicoTherm shall fulfill the agreements under the individual agreement and General Terms and Conditions. However, if there is any difference between the provisions of the individual agreement and those of the General Terms and Conditions, the provisions of the individual agreement shall prevail only to the extent of that difference.

Article 2 (Formation of Individual Agreement)

When the Outsourcer requests the Services, the Outsourcer shall, based on the quote, prepare and deliver to PicoTherm the Analysis Request in the form designated by PicoTherm. When PicoTherm accepts the Analysis Request delivered by the Outsourcer, the individual agreement concerning the Services shall be formed.

Article 3 (Provision and Return of Samples, etc.)

- 3.1 The Outsourcer shall provide PicoTherm free of charge with samples and technical information necessary for the Services.
- 3.2 Unless otherwise provided, promptly upon completion of the Services, PicoTherm shall return to the Outsourcer the samples that can be returned.

Article 4 (Report)

- 4.1 PicoTherm shall submit a report to the Outsourcer by the date specified in the individual agreement.
- 4.2 PicoTherm shall keep a copy of the report for three (3) years after the submittal of the report.

Article 5 (Payment of Outsourcing Fees)

The Outsourcer shall pay the outsourcing fees that are described in the price list or specified in the individual agreement, plus the amount equivalent to the consumption tax by transferring it to the bank account designated by PicoTherm on or prior to the due date specified in the Analysis Request (or, when the due date is not described in the Analysis Request, on or prior to the date described in the invoice issued by PicoTherm). Transfer fees shall be borne by the Outsourcer.



Article 6 (Confidentiality)

- 6.1 PicoTherm shall keep in strict confidence the details of the Services, results obtained from the Services, and technical information disclosed by the Outsourcer (including, without limitation, samples) that have been identified as confidential, and shall not use the same for any purpose other than for the Services without the prior written consent of the Outsourcer, and shall not disclose or divulge the same to third parties. However, this provision shall not apply when:
- (1) It is already in the public domain at the time of disclosure by the Outsourcer;
 - (2) PicoTherm can prove that it is already in the possession of PicoTherm at the time of disclosure by the Outsourcer;
 - (3) It has come into the public domain through no fault of PicoTherm after disclosure by the Outsourcer;
 - (4) It is lawfully obtained by PicoTherm without an obligation of confidentiality from a third party having a legitimate right to provide it; or
 - (5) PicoTherm can prove that it has been independently developed by PicoTherm.
- 6.2 Notwithstanding the provision of the preceding paragraph, when PicoTherm outsources the whole or any part of the Services to a third party, PicoTherm may disclose to the outsourcee technical information necessary for such outsourcing. However, PicoTherm shall cause the outsourcee to assume obligations equivalent to those assumed by PicoTherm under the provision of the preceding paragraph.
- 6.3 The provisions of this Article shall remain in effect until a lapse of five (5) years after the submittal of the report.

Article 7 (Responsibility)

- 7.1 PicoTherm shall take no responsibility for any damages arising out of the use by the Outsourcer of results obtained from the Services.
- 7.2 If any fault is present in the process of the Services for a reason attributable to PicoTherm, PicoTherm and Outsourcer shall consult with each other and decide on one of the following measures.
- (1) To perform the Services again at cost to PicoTherm.
 - (2) To compensate for damages suffered by the Outsourcer up to the amount of the total of the outsourcing fees paid by the Outsourcer.
- However, the Outsourcer may make contact regarding these measures only within six (6) months of the submittal of the report.
- 7.3 PicoTherm does not warrant that results obtained from the Services will not infringe on the intellectual property rights of third parties.

Article 8 (Amendment or Termination of Individual Agreement)

Upon occurrence of an event which makes it difficult to perform the individual agreement, either party may, after consultation with the other party, amend or terminate the individual agreement with the consent of the other party. In this case, the parties shall consult with each other and change outsourcing fees to the amount that they deem reasonable.



Article 9 (Force Majeure)

If it becomes impossible to perform the Services due to Acts of God or other unavoidable reasons, the Outsourcer or PicoTherm may terminate the Services by giving notice to that effect to the other party. The parties shall consult with each other and determine the measures to be taken to handle the costs and expenses involved in the termination of the Services due to such cause.

Article 10 (Governing Law; Competent Court)

The individual agreement and General Terms and Conditions shall be governed by the laws of Japan. The Outsourcer and PicoTherm agree that the Tokyo District Court shall be the court of first instance having agreed to exclusive jurisdiction over any dispute arising in connection with the individual agreement or General Terms and Conditions.

Article 11 (Matters for Consultation)

If a question is raised about matters not provided for in the General Terms and Conditions or the interpretation of the provisions of the General Terms and Conditions, the parties shall consult with each other in good faith and settle the same.