

## **ELEMENT MATERIALS TECHNOLOGY**

### **TERMS AND CONDITIONS (UK)**

#### **1. Formation of Contract**

- 1.1 These terms and conditions ("Terms and Conditions





- 13.2 In the event that the Company is required by a party other than the Customer to present the results or findings of Services carried out by the Company for the Customer in any legal proceedings relating to the Customer, the Customer shall pay all costs and fees arising from any services which the Company is required to do as a result, including the preparation of any witness statement and the preparation for and appearance at any court hearing. The Customer shall pay all such costs, whether or not the Customer has paid all outstanding Consideration under the Contract and whether or not the Company has closed the Customer's file in respect of the matter.
- 13.3 If any aspect or element of the Services (including any S

- 21.3.3 upon receiving any request, complaint or communication relating to the Data Controller's obligations under the Data Protection Laws:
- (a) notify the Data Controller as soon as reasonably practicable;
  - (b) assist the Data Controller by implementing appropriate technical and organisational measures to enable the Data

**26. Notices**

All notices to be served by one party on the other must be in writing and shall be deemed duly delivered or served at the time of service if delivered personally and forty eight hours after posting if posted by first class or airmail pre-paid post in each case to the registered address, if applicable, or if not applicable the last known address of the other party.

**27. No Waiver**

No failure or delay by the Company to exercise any right, power or remedy will operate as a waiver of it nor will any partial exercise preclude any further exercise of the same or of some other right, power or remedy.

**28. Governing Law**

28.1 The Contract and any dispute or claim arising out of or in connection with it or its subject matter or formation (including non-contractual disputes or claims)

## CERTIFICATION SERVICES ANNEX

Where the Company is providing certification Services the terms of this Annex shall apply. In the event of a conflict between the Terms and Conditions and this Annex, the terms of this Annex shall apply. Capitalised terms used in this Annex shall have the meaning ascribed to them in the Terms and Conditions, unless otherwise provided in this Annex.

The following terms shall have the following meanings in this Annex:

"Standard" means a document which contains details of specified requirements and methodologies for testing and/or inspection and/or certification against which the System, product, installation or person is assessed;

"System" means the organisational structure, responsibilities, activities, resources and events that together provide organised procedures and methods of implementation to ensure the capability of the Customer to meet a particular Standard.

### 1. EXECUTION OF SERVICES

1.1 The Company shall not be obliged to enter into or maintain any commercial or other relationship with any entity or issue or maintain a certificate previously issued to any entity whose activities conflict with the obligations of the Company as specified in its accreditation contract with any accreditation body, or which, in the sole opinion of the Company, reflect badly on the good name of the Company.

1.2 The Services shall be carried out in accordance with procedures designed to ensure that any initial assessment, surveillance or re-certification audit is in compliance with the requirements of the Standard. The Company reserves the right at its sole discretion to modify, amend or in any way alter the conduct and procedure of any activity, including any audit visit, if the Company deems this necessary in order to satisfy the requirements of the Standard, which may change from time to time.

### 2. PRICE AND PAYMENT

2.1 The Consideration is quoted (and amended from time to time) for the Services agreed to be supplied pursuant to the Contract on the assumption that the information supplied by the Customer is accurate and complete.

2.2 Expenses and disbursements may be charged separately in accordance with the quoted terms.

2.3 Any service required or supplied additional to the Services will be charged at the Company's rates current at the time of supply of such services.

2.4 The Consideration may be reviewed and amended from time to time, normally but not exclusively on an annual basis.

2.5 Payment is due as per the stated terms on the invoice. Payment shall be made in full, without set off or deduction.

2.6 In the event that any payment is not made when due, the Company reserves the right to charge interest (at the statutory rate on commercial debts then applicable) from the due date until payment in full, and/or suspend the provision of all Services and/or terminate the Contract (including suspension or withdrawal of the Certificate), without prejudice to the Company's other rights and remedies.

2.7 All fees and expenses quoted are exclusive of all taxes including but not limited to value added or sales tax, which will be charged at the current rate of the country in which the services are supplied.

2.8 If the Customer postpones all or part of the Services with less than thirty (30) working days' notice from the start date that was mutually agreed following acceptance by the Customer of the Quotation, the Company reserves the right to either:

2.8.1 charge a fee amounting to the greater of: (i) 25% of the Consideration; or (ii) the applicable day rate for a relevant employee; or

2.8.2 where the costs and resources cannot be defrayed, charge all or part of the Consideration as appropriate.

2.9 Should the Customer wish to cancel the Services, and without prejudice to the Company's other rights and remedies hereby reserved, the Company shall charge and be entitled to recover either:

2.9.1 a fee amounting to 50% of the Consideration in question; or

2.9.2 where the costs and resources cannot be defrayed, all or part of the Consideration as appropriate

plus the cost of any work performed up to the receipt by the Company of the notice of the cancellation, calculated in accordance with the applicable day rate for a relevant employee.

### 3. OBLIGATIONS OF CUSTOMER

3.1 Where the Company is to provide certification Services to the Customer, the Customer shall:

3.1.1 always comply and conform with and fulfil the provisions and requirements of the applicable Standard, including implementing appropriate changes when they are communicated by the Company and within the minimum period specified by the Company;

3.1.2 ensure that if a certification applies to ongoing hat17(fi)17(c)(b)4(y)-16( )-169(th)6(e)4Tm0 g0 G[y]-16(m)5(e)4(n)4(t )-6(n)4( c)-14716(a)4((a)4(08873 0 8(th)6(e)4( )JTJ2

withdrawal takes effect. In the event of suspension or withdrawal of all or part of a certificate, the Company reserves the right to make public the fact that such action has been taken.

- 4.3 In the event the Company is unable to supply certification or is no longer able to continue to supply certification accredited by the relevant accreditation body or otherwise withdraws from supplying certification, the Company will notify the Customer within thirty (30) days and the certificates will be suspended ipso facto within six (6) months after the date of withdrawal.
- 4.4 In the event that the Company suspends or withdraws a certificate, the Customer (including the Customer's group companies) shall:
  - 4.4.1 immediately refrain from any claims or representations (oral or written, express or implied) that products comply with the requirements of the certificate, the Company or the Standard setting body;
  - 4.4.2 immediately refrain from further promotion of the certificate or use of any references to the certificate, including discontinuing use of all advertising matter that contains a reference to certification;
  - 4.4.3 immediately at its own expense remove all service mark(s), trade mark(s), certification mark(s) and other names and logos belonging to the Company, the accreditation body and the Standard setting body from its products, information, website, documents, advertising or marketing or any other materials;
  - 4.4.4 immediately cease to sell any products bearing any service mark(s), trade mark(s), certification mark(s) and other names and logos belonging to the Company, the accreditation body and the Standard setting body;
  - 4.4.5 immediately cease and desist from using all service mark(s), trade mark(s), certification mark(s) and other names and logos belonging to the Company, the accreditation body and the Standard setting body;
  - 4.4.6 amend all advertising matter if part of a certificate has been suspended or withdrawn;
  - 4.4.7 make the suspended status of the certification publicly accessible;
  - 4.4.8 notify the Standard setting body; and
  - 4.4.9 take any other measure required by the Company or prescribed by a Standard.
- 4.5 Where a Customer's certification been suspended or withdrawn, and where a product has been supplied with a claim that it complies with a Standard(s) by the Customer to a customer/purchaser, the Customer shall:
  - 4.5.1 immediately identify all relevant customers/purchasers who are in receipt of, or have ordered, such product, and notify each of such customers/purchasers of the suspension or withdrawal (as the case may be) in writing within three (3) working days (or within such timescales as a Standard may specify) of the suspension or withdrawal, and maintain records of such notification; and
  - 4.5.2 provide such co-operation and information as may be required by the Company or the accreditation body to enable the Company or the accreditation body to verify and confirm that the Customer is in compliance with all its obligations to the Company and the accreditation body.
- 4.6 In the event that the Company withdraws a certificate, the Customer (including the Customer) shall:
  - (p)4(e)4(r)-11(8)3.4 and
  - the certificate to the Company or destroy the original certificate, and commit to destroy any electronic copies and hardcopies in its possession or control.

## 5. CONFIDENTIALITY

### 5.1