

GENERAL CONDITIONS FOR CERTIFICATION SERVICES

1. GENERAL

1.1 Unless agreed otherwise in writing, all offers or services and resulting contractual relations between SGS Czech Republic, s.r.o. (hereinafter referred to as „**The Company**“) and any natural person or corporation as subject to either private or public law applying for the provision of certification services (hereinafter referred to as „**The Client**“) shall be subject to the present General Conditions for the Provision of Certification Services (hereinafter referred to as „**General Conditions**“).

1.2 These General Conditions and, as applicable, the Proposal, Application, Codes of Practise and SGS Certification Marks License Terms and Condition constitute the entire agreement (hereinafter referred to as „**Contract**“) between the Client and the Company also with respect to the subject matter hereof. Unless provided otherwise, any amendment to the Contract. Save as otherwise provided no variation to the Contract shall be valid unless it is in writing and signed by the Client and the Company.

1.3 Should the Client be granted a Certificate, the Company shall provide the Services using reasonable care and skills in accordance with the Codes of Practise. The Codes of Practise, their copies or any amendments to it as may be issued from time to time, will be supplied by the Certification Body to the Client upon commencement of the services.

2. DEFINITIONS

„**Accreditation Body**“ is any organisation (subject to either public or private law) having the authorisation to appoint certification bodies;

„**Certification Body**“ is the Company and/or other the Company forming a group with the Company having the authorisation to issue the Certificates;

„**Certificate**“ is a certificate issued by a competent Certification Body;

„**Proposal**“ is a list of services to be rendered by the Company to the Client;

„**SGS Certification Marks License Terms and Condition**“ are terms and conditions of the use of the licenced Company Certification Mark.

„**Codes of Practise**“ are those codes of practise issued by the Certification Body in accordance with the relevant certification programme;

„**Report**“ is a report issued by the Company to the Client stating whether the Certificate issuance is or is not recommended;

„**Application**“ is a request for services by the Client;

3. SERVICES

3.1 These General Conditions refer to the following services (hereinafter referred to as „**Services**“):

- a) System Certification Services: Certificates of Quality, Environment Protection, Safety, Health Protection and Management Systems in accordance with international legal regulations as in effect in the territory of the Czech Republic;
- b) Product conformity certification services in accordance with EC Directives or national legislation and product certification services in accordance with non-mandatory normative documents, specifications or technical regulations;
- c) Service Certification Services in accordance with non – mandatory normative standards, documents, specifications or technical regulations;
- d) Process Certification Services;
- e) Skills Certification Services.

3.2 Having completed the development of the assessment programme, the Company shall prepare and present the Report to the Client. Any recommendation given in the Report shall not be binding on the Certification Body and the decision to issue a

Certificate is at the sole discretion of the Certification Body and shall depend on the compliance with the terms and conditions as specified in the Contract and/or the General Conditions by the Client.

3.3 The Client acknowledges that the Company, either by entering into the Contract or by providing the Services, neither takes the place of the Client or any third party, nor release them from any of their obligations, nor otherwise assumes, abridges, abrogates or undertakes to discharge any obligation of the Client to any third party or any third party's obligation to the Client.

3.4 The Certification, suspension, withdrawal or cancellation of the Certificate shall be in compliance with the applicable Codes of Practise.

3.5 The Company may delegate the performance of all or Part of the Services to an agent or a sub-contractor and the Client hereby authorises the Company to disclose all information necessary for such performance to the agent of the sub – contractor.

4. OBLIGATIONS OF THE CLIENT

4.1 The Client shall ensure that all product samples, access, assistance, information, records, documentation and facilities are made available to the Company when required by the Company, including the assistance of properly qualified, briefed and authorised personnel of the Client. The Client shall in addition provide the Company free of charge suitable space for conducting meetings.

4.2 So far as it is permitted by law, the Client acknowledges that, it has not been induced to enter into the Contract in reliance upon, nor has it been given, any warranty, representation, statement, assurance, covenant, agreement, undertaking, indemnity or commitment of any nature whatsoever other than as are expressly set out in these General Conditions and, to the extent that it has been it unconditionally and irrevocably waives any claims, rights or remedies which it might otherwise have had in relation thereto. Any conditions or stipulations included in the Client standard form documents which are inconsistent with, or which purport to modify or add to, these General Conditions shall have no effect unless expressly accepted in writing by the Company.

4.3 The Client shall take all necessary steps to eliminate or remedy any obstacles to or interruptions in the performance of the Services.

4.4 In order to allow the Company to comply with the applicable health and safety legislation the Client shall provide the Company with all available information regarding known or potential hazards likely to be encountered by the Company personnel during their visits. The Company shall take all measures to ensure that its employees would adhere to all regulations of the Client relating to the safety and protection of health when in premises of the Client provided the Client has made the Company employees familiar with such regulations.

4.5 In the event of the Service of the Certification of the Product Conformity with an EC directive, the Client shall adhere to all provisions of such a directive. In particular, the Client shall identify the product with the mark of the conformity with the EC directive only provided all requirements of such a directive have been fully met.

4.6 The Client may only reproduce or publish extracts of any report of the Company if the name of the Company does not appear in any way or the Client has obtained the prior written authorisation of the Company. The Company may file an action in case of disclosure in breach of this clause or disclosure which SGS considers in its sole discretion is abusive. The Client shall not publicise details of the way in which SGS performs, conducts or executes its operations.

4.7 The Client shall immediately inform the Company of any and all changes in their premises which may affect their management system, their service their products, their process or their skills. Any breach of this obligation to inform may lead to the withdrawal of the

Certificate. Furthermore the Client is bound to inform the Company of any major non conformity identified during internal audits undertaken by the Client, its partners or public authorities.

5. FEES AND PAYMENT

5.1 The fees quoted to the Client cover all stages leading to completion of the assessment programme or operations and the submission of a Report and of the periodic surveillances to be carried out by the Company for the maintenance of the Certificate. As fees are based on the charge rate applicable at the time of submitting a Proposal, the Company reserves the right to increase charges during the registration period. The Company may also increase its fees if the Client's instructions change or are found to be not in accordance with the initial details supplied to the Company prior to it providing the relevant fee quotation. Clients will be notified of any increase in fees.

5.2 Additional fees shall be charged for operations that are not included in the Proposal and for work required due to non-conformances being identified. These will include, without limitation, costs resulting from:

- (a) Repeats of any part, or all, of the assessment programme or operations due to the registration procedures and rules not being met;
- (b) additional work due to suspension, withdrawal and/or reinstatement of a Certificate;
- (c) Reassessment due to changes in the management system or products, process or services; or
- (d) Compliance with any subpoena for documents or testimony relating to work performed by the Company.

5.3 Without prejudice to clause 5.2 of the General Conditions, additional fees will be payable at the Company's charging rates in force from time to time in respect of rush orders, cancellation or rescheduling of Services or any partial or full repeats of the assessment programme or operations which are required as set out in the Codes of Practice.

5.4 A copy of the Company's prevailing charging rates is available on request from the Company .

5.5 Unless otherwise stated all fees quoted are exclusive of travelling and subsistence costs (such costs will be charged to the Client separately). All fees and additional charges are exclusive of any applicable Value Added Tax.

5.6 Following submission of the Report to the Client, the Company shall issue an invoice to the Client. Invoices for additional and further work will be issued on completion of the relevant task. Unless advance payment has been agreed upon, all invoices are payable within fourteen (14) days of the date of each invoice (hereinafter referred to as „Due Date“) regardless of whether the Client's system or products qualify for certification. Should the Client fail to pay the compensation to the Company duly and timely, the Company may invoice delay charges amounting to 0.05 % of the debt per day starting from the Due Date to the date when the Company actually received the outstanding amount.

5.7 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. In addition to the remedies set out in the Codes of Practice, the Company the right to cease or suspend all work and/or cause the suspension or withdrawal of any Certificate for a Client who fails duly to pay an invoice raised by the Company duly and timely.

5.8 Client shall not be entitled to retain or defer payment of any sums due to the Company on account of any dispute, counter claim or set off which may allege against the Company i.e. that have been acknowledged by the Company or by an effective award of court, administration or arbitration body.

5.9 The Client shall pay to the Company all costs as may have arisen in connection with the enforcement of any claims the Company may have with the Client including any costs of legal representation and other related costs.

6. ARCHIVAL STORAGE

6.1 The Company shall file all materials all materials relating to the assessment programme and surveillance programme relating to that Certificate for a period of time as required by the respective Accreditation Body and/or respective current legal regulations.

6.2 After the lapse of the filing period, the Company shall hand out, keep or discard any such materials in its own discretion unless instructed otherwise by the Client. Charges for the execution of such an instruction shall be charged to the Client.

7. REPORT AND CERTIFICATE OWNERSHIP AND INTELLECTUAL PROPERTY

Any document including, but not limited to any Report or any Certificate, provided by the Company and the copyright contained therein shall be and remain the property of the Company 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.

8. COMMUNICATION

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 Company's corporate name or any other registered trademarks for advertising purposes is not permitted without the Company 's prior written consent.

9. CONFIDENTIALITY

9.1 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 (1) is or hereafter becomes generally known to the public; (2) was available to the receiving party on a non-confidential basis prior to the time of its disclosure by the disclosing party; (3) is disclosed to a party by an independent third party with a right to make such disclosure.

9.2 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 for the purpose of 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.

10. CONTRACT TERM AND TERMINATION

10.1 Unless otherwise agreed, the Contract shall continue (subject to the termination rights set out in these General Conditions) for the term set forth in the Proposal (hereinafter referred to as the „Initial Contract Term“). On expiry of the Initial Contract Term, the Contract shall renew automatically unless and until either party notifies the other in writing that the Contract will terminate at least three months prior to the expiry of the Initial Term or on three months' notice any time after the Initial Term.

10.2 The Company is entitled, at any time prior to the issue of a Certificate, to terminate the Contract if the Client is in material breach of its obligations resulting from the Contract and/or herefrom and, following receipt of notice of such breach, the Client fails to remedy to the satisfaction of the Company such breach within 30 days.

10.3 Either party may discontinue the provision of Services with immediate effect provided the other party has started negotiations with its creditors on the avoidance of the insolvency proceeding, in case of the initiation of an insolvency proceeding against the other party, bankruptcy proceeding against the other party, insolvency, imposing receivership or should the other party discontinue its business including the decision on the winding up of the other party and its liquidation.

10.4 Unless otherwise agreed in writing, the rights and obligations of the parties defined in clauses 8, 9, 12, 13 and 14 hereof shall apply notwithstanding the completion of the Services or termination of the Contract.

10.5 In case the Client transfers its activities to a third party, the transfer of the Certificate is subject to the Certification Body's prior

written consent. Where such consent is given, the use of the Certificate by the third Party shall be governed by the Contract.

11. FORCE MAJEUR

If the Company is prevented from performing or completing any Service for which the Contract has been made by reason of any cause whatsoever outside the Company's control, including, but not limited to, acts of god, war, terrorist activity or industrial action; failure to obtain permits licenses or registrations; illness, death or resignation of personnel or failure by Client to comply with any of its obligations under the Contract, the Client will pay to the Company:

- (a) costs the Company had to pay in connection with the provision of services;
- (b) a proportion of the agreed fees equal to the proportion of the Service actually carried out;

and the Company shall be relieved of all responsibility whatsoever for the partial or total non-performance of the required Services.

12. LIMITATION OF LIABILITY AND INDEMNITY

12.1 The Company undertakes to exercise due care and skill in the performance of the Services and accepts responsibility only in cases of proven negligence.

12.2 Nothing in these General Conditions shall exclude or limit the Company's liability to the Client for death or personal injury or for fraud or any other matter resulting from the Company's negligence for which it would be illegal to exclude or limit its liability.

12.3 Subject to clause 12.2 of the General Conditions, the total liability of the Company to the Client in respect of any claim for any claim, loss, damage, satisfaction for impairment of good name or any expenses of any nature and howsoever arising shall be limited, in respect of any one event or series of connected events, to an amount equal to the fees paid to the Company under the Contract (excluding Value Added Tax thereon).

12.4 Subject to clause 12.2 of the General Conditions, the Company shall have no liability to the Client for claim for loss, damage or expense unless court proceedings are commenced within one year after the date of the performance by the Company of the service which gives rise to the claim or in the event of any alleged non-performance within one year of the date when such service should have been completed.

12.5 Subject to clause 12.2 of the General Conditions, the Company shall not be liable to the Client nor to any third party:

- a) for any claim, loss, damage, satisfaction for the impairment of the good name or any expenses of any nature whatsoever provided (i) a failure by the Client to comply with any of its obligations herein Client (ii) any actions taken or not taken on the basis of the Reports or the Certificates; and (iii) any incorrect results, Reports or Certificates arising from unclear, erroneous, incomplete, misleading or false information provided to SGS;
- b) for any lost profit, income or any costs incurred due to the suspension of the business activities, loss of revenues, loss of opportunity, loss and/or impairment of the good name, loss caused by the withdrawal of products from the market. Moreover, the Company shall not be liable for any loss or damage whatsoever the Client could suffer in connection with the enforcement of a claim towards any third party whatsoever (including without limitation product liability claims), and
- c) for any indirect or consequential loss or damage of any kind (whether or not falling within the types of loss or damage identified in (b) above)

12.6 Except for cases of proven negligence or fraud by the Company, the Client further agrees to hold harmless and indemnify the Company and its managers, employees, agents or sub-contractors against all claims (actual or threatened) by any third

party for a damage including lost profit, satisfaction for the impairment of the good name or expenses of any nature whatsoever including all legal expenses and related costs and howsoever arising (i) relating to the performance, purported performance or non-performance, of the Services or (ii) out of or in connection with the Client's product, process or service the subject of the certification (including, without limitation, product liability claims).

12.7 The Clients shall take out adequate insurance to cover its liabilities under the Contract

13. MISCELLANEOUS

13.1 Should any provision hereof or its part be or become invalid, ineffective and/or unenforceable, other provisions hereof shall remain valid and effective.

13.2 Except as expressly provided for herein, the Client may not assign or transfer any of its rights hereunder without the Company's prior written consent.

13.3 Neither party shall assign the Contract without the prior written consent of the other Party such consent shall not be unreasonably withheld. Any assignment shall not relieve the assignor from any liability or obligation under the Contract.

13.4 The party sending a notice hereunder shall do so in writing and such a notice shall be served to the other party in person and/or delivered by registered mail or by fax to the address of the other party as specified in the Application. The notice shall be considered duly served if:

- a) delivered in person – on the day of such delivery;
- b) sent by registered mail – three days after its posting;
- c) sent by fax – at the time specified on the notice of the other party confirming the receipt of the fax message.

13.5 The Parties acknowledge that the Company 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 the Company and the Client.

13.7 Any failure by the Company to require the Client to perform any of its obligations under these General Conditions or the Contract shall not constitute a waiver of its right to require performance of that or any other obligation.

14. GOVERNING LAW, JURISDICTION AND DISPUTE RESOLUTION

Unless agreed otherwise between the Company and the Client in writing or unless provided otherwise in these General Conditions, all and any disputes as may arise from or in connection with the Contract shall be governed to the Substantive and Procedural Law of the Czech Republic excluding the rules of the international Private Law. All any disputes shall be decided by a court having the jurisdiction at the place of the registered address of the Company. However, the Company shall be authorised to initiate any lawsuit against the Client at the general court at the place of the registered address of the Client. The language of the proceeding shall be Czech.