1. GENERAL
(a) Unless otherwise agreed in writing or except where they are at variance with
(i) the regulations governing services performed on behalf of governments,
government bodies or any other public entity or (ii) the mandatory provisions
of local law, all offers or services and all resulting contractual relationship(s)
between any of the affiliated companies of SGS SA or any of their agents (each a
“Company”) and Client (the “Contractual Relationship(s)” in relation to product
conformity assessment services shall be governed by these general conditions for
product conformity assessment services (hereinafter the “General Conditions”).
(b) The Company may perform services for persons or entities (private, public
or governmental) issuing instructions (hereinafter, the “Client”).
(c) Unless the Company receives prior written instructions to the contrary
from Client, no other party is entitled to give instructions, particularly on the
scope of the services or the delivery of reports or certificates resulting therefrom
(the “Certificates of Conformity”).

2. PROVISION OF SERVICES
(a) The Company will provide services using reasonable care and skill and
in accordance with Client’s specific instructions as confirmed by the
Company or, in the absence of such instructions:
(1) the terms of any standard order
form or standard specification sheet of
the Company; and/or
(2) any relevant trade custom, usage
or practice; and/or
(3) such methods as the Company
shall consider appropriate on technical,
operational and/or financial grounds.
(b) Information stated in Certificates of
Conformity is derived from the results of
inspection or testing procedures carried
out in accordance with the instructions
of Client, and/or our assessment of such
results on the basis of any technical
standards, trade custom or practice, or
other circumstances which should in
our professional opinion be taken into
account.
(c) Should Client request that the
Company witness any third party
intervention, Client agrees that the
Company’s sole responsibility is to
be present at the time of the third
party’s intervention and to forward
the results, or confirm the occurrence,
of the intervention. Client agrees that
the Company is not responsible for the
condition or calibration of apparatus,
instruments and measuring devices
used, the analysis methods applied,
the qualifications, actions or omissions
of third party personnel or the analysis
results.
(d) Certificates of Conformity issued
by the Company will reflect the facts
as recorded by it at the time of its
intervention. Client agrees that the
Company is not responsible for the
results, or confirm the occurrence,
of third party personnel’s or the analysis
results.
(e) The Company may delegate
the performance of all or part of the
services to an agent or subcontractor
and Client authorises Company to
disclose all information necessary
for such performance to the agent or
subcontractor.
(f) Should Company receive documents
reflecting engagements contracted
between Client and third parties or third
party documents, such as copies of
sale contracts, letters of credit, bills
of lading, etc., they are considered to be for
information only, and do not extend or
restrict the scope of the services or the
obligations accepted by the Company.
(g) Client acknowledges that the
Company, by providing the services,
neither takes the place of Client or any
third party, nor releases them from any of
their obligations, nor otherwise assumes,
abridges, abrogates or undertakes to
discharge any duty of Client to any third
party or that of any third party to Client.
(h) All samples shall be retained for a
maximum of 3 months or such other
shorter time period as the nature of
the sample permits and then returned
to Client or otherwise disposed of at
the Company’s discretion after which
time Company shall cease to have any
responsibility for such samples. Storage
of samples for more than 3 months shall
incur a storage charge payable by Client.
Client will be billed a handling and freight
fee if samples are returned. Special
disposal charges will be billed to Client if
incurred.

3. OBLIGATIONS OF CLIENT
The Client will:
(a) ensure that sufficient information,
instructions and documents are given in
due time (and, in any event not later than
48 hours prior to the desired intervention)
to enable the required services to be
performed;
(b) procure all necessary access for
the Company’s representatives to the
premises where the services are to be
performed and take all necessary steps
to eliminate or remedy any obstacles to,
or interruptions in, the performance of
the services;
(c) supply, if required, any special
equipment and personnel necessary for
the performance of the services;
(d) ensure that all necessary measures
are taken for safety and security of
working conditions, sites and installations
during the performance of services
and will not rely, in this respect, on the
Company’s advice whether required or
not;
(e) inform Company in advance of any
known hazards or dangers, actual or
potential, associated with any order
or samples or testing including, for
example, presence or risk of radiation,
toxic or noxious or explosive elements
or materials, environmental pollution or
nuisance or releases any claim or
liability for injury, death, loss, damage,
or expense which arises or results in
connection with the performance of
services by Company.
poisons;

(f) fully exercise all its rights and discharge all its liabilities under any relevant sales or other contract with a third party and at law;

(g) fulfill the certification requirements including implementing appropriate changes when they are communicated by the Company. The Client must inform the Company should there be changes that may affect its ability to comply with the certification requirements. Any breach of this obligation to inform may lead to the withdrawal of the Certificate of Conformity. 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;

(h) only makes claims regarding the certification of goods covered under the scope of the certification;

(i) make all necessary arrangements for the investigation of complaints. The Client shall keep a record of all customer complaints made known to it, take appropriate action with respect to such complaints and any deficiencies found in products that affect compliance with the requirements for certification; document the actions taken; and makes these records available to the Company when requested;

(j) only reproduce certification documents in their entirety or as specified by the certification scheme, if provided by the Client to third parties;

(k) not use its certification in such a manner as to bring the Company into disrepute and not make any statement regarding its certification that the Company may consider misleading or unauthorized,

(l) authorize the participation of third party observers if required by the Company.

4. FEES AND PAYMENT

(a) Fees not established between the Company and Client at the time the order is placed or a contract is negotiated shall be at the Company’s standard rates (which are subject to change) and all applicable taxes shall be payable by Client.

(b) Client will promptly pay not later than 30 days from the relevant invoice date (the “Due Date”) all fees due to the Company failing which interest will become due at the rate of 3 (three) times the rate of legal interest from the due date until payment is made and a fixed penalty for collection costs of 40 euros.

(c) 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 it may allege against the Company.

(d) Company may elect to bring action for the collection of unpaid fees in any court having competent jurisdiction.

(e) Client shall pay all of the Company’s collection costs, including attorney’s fees and related costs.

(f) In the event any unforeseen problems or expenses arise in the course of carrying out the services the Company shall endeavour to inform Client and shall be entitled to charge additional fees to cover extra time and cost necessarily incurred to complete the services.

(g) If the Company is unable to perform all or part of the services for any cause whatsoever outside the Company’s control including failure by Client to comply with any of its obligations provided for in clause 3 above the Company shall nevertheless be entitled to payment of:

1. the amount of all non-refundable expenses incurred by the Company; and

2. a proportion of the agreed fee equal to the proportion of the services actually carried out.

5. SUSPENSION OR TERMINATION OF SERVICES

The Company shall be entitled to immediately and without liability either suspend or terminate provision of the services in the event of:

(a) failure by the Client to comply with any of its obligations hereunder and such failure is not remedied within 10 days that notice of such failure has been notified to Client; or

(b) any suspension of payment, arrangement with creditors, bankruptcy, insolvency, receivership or cessation of business by Client.

The conditions for the suspension and/or withdrawal of Certificate of Conformity (CoC), Statement of Product Registration (SoR) or Statement of Product License (Sol.), are set out on www.sgs.com and shall be provided by the Company upon request.

6. LIABILITY AND INDEMNIFICATION

(a) Limitation of Liability:

1. The Company is neither an insurer nor a guarantor and disclaims all liability in such capacity. Clients seeking a guarantee against loss or damage should obtain appropriate insurance.

2. Certificates of Conformity are issued on the basis of information, documents and/or samples provided by, or on behalf of, Client and solely for the benefit of Client who is responsible for acting as it sees fit on the basis of such Certificates of Conformity. Neither the Company nor any of its officers, employees, agents or subcontractors shall be liable to Client nor any third party for any actions taken or not taken on the basis of such Certificates of Conformity nor for any incorrect results arising from unclear, erroneous, incomplete, misleading or false information provided to the Company.

3. The Company shall not be liable for any delayed, partial or total non-performance of the services arising directly or indirectly from any event outside the Company’s control including failure by Client to comply with any of its obligations hereunder.

4. The liability of the Company in respect of any claim for loss, damage or expense of any nature and howsoever arising shall in no circumstances exceed a total aggregate sum equal to 10 times the amount of the fee paid in respect of the specific service which gives rise to such claim or US$20,000 (or its equivalent in local currency), whichever is the lesser.

5. The Company shall have no liability for any indirect or consequential loss including without limitation loss of profits, loss of business, loss of opportunity, loss of goodwill and cost of product recall. It shall further have no liability for any loss, damage or expenses arising from the claims of any third party (including, without limitation, product liability claims) that may be incurred by the Client.

6. In the event of any claim, Client must give written notice to the Company within 30 days of discovery of the facts alleged to justify such claim (the complaints and claims procedure is available upon written request) and, in any case, the Company shall be discharged from all liability for all claims for loss, damage or expense unless suit is brought within one year from:

(i) the date of performance by the Company of the service which gives rise to the claim; or

(ii) the date when the service should have been completed in the event of any alleged non-
(b) Indemnification: Client shall guarantee, hold harmless and indemnify the Company and its officers, employees, agents or subcontractors against all claims (actual or threatened) by any third party for loss, damage or expense of whatsoever nature including all legal expenses and related costs and howsoever arising relating to the performance, purported performance or non-performance, of any services.

7. CONVENTION ON PROOF
The Company and the Client undertake to consider the documents they exchange (in electronic form) as original documents, binding them in a full and complete manner. Consequently, the Company and the Client intend to give them a probative value, subject to compliance with contractual provisions.

The Company and the Client irrevocably agree to give to these documents the probative value accorded by the law to written documents in paper form.

The Company and the Client undertake to ensure that the content of their documents complies with obligations, in particular formal obligations, arising from Laws, Regulations and Commercial Practices. In any event, except in the case of a failure or corruption of their computer systems, the Company and the Client expressly waive their right to invoke the nullity or unenforceability of their transactions, on the grounds that they have been carried out through electronic systems.

8. BUSINESS SECRECY – CONFIDENTIALITY
The company is bound to business secrecy.

The Company undertakes to treat as confidential all commercial, financial, technical, analytical report(s) or other information obtained or generated in the course of the services provided to the Client and shall not use it or communicate it to any person, for any reason whatsoever or in any form whatsoever, without the Client’s prior written consent, except to (i) prove the performance of the said Services and in particular to obtain payment for them, or (ii) in execution of a court decision that has become final and binding or (iii) at the request of a competent authority, in particular in the exercise of the powers of investigation, control, authorisation or sanction of the judicial or administrative authorities.

All information obtained about the Client from sources other than the Client will be treated as confidential. The Company must preserve the confidentiality of the source and its identity will not be disclosed to the Client, unless the source agrees to such disclosure.

In the event that the Company to which information has been regularly communicated in the context of the services provided is legally obliged to disclose it (e.g. administrative or a judicial requisition, etc.), the Company undertakes to inform the Client as soon as possible (unless prohibited by the Requesting Authority) so that the latter can take any action necessary to safeguard its rights and/or waive them. In the event that such action has not been successful or if the Client waives its right to use it, the Company undertakes to disseminate only the information required by law.

As part of its certification or accreditation evaluations, the Company may give evaluators access to the Client’s information (examination of inspection reports, analysis reports, etc.).

9. MISCELLANEOUS
(a) If any one or more provisions of these General 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.

(b) During the course of providing the services and for a period of one year thereafter Client shall not directly or indirectly entice, encourage or make any offer to Company’s employees to leave their employment with the Company.

(c) Use of the Company’s corporate name or registered marks for advertising purposes is not permitted without the Company’s prior written authorisation.

10. GOVERNING LAW, JURISDICTION AND DISPUTE RESOLUTION
All disputes arising out of or in connection with the Contractual Relationship(s) hereunder shall be governed by and construed in accordance with the laws of France exclusive of any rules with respect to conflicts of laws. All those disputes shall be submitted to the exclusive jurisdiction of the competent courts of the location of the registered offices of the Company.

SGS IS THE WORLD’S LEADING INSPECTION, VERIFICATION, TESTING AND CERTIFICATION COMPANY.