

## 1. GENERAL

- 1.1 These Conditions are applicable to the legal relationship between CACS Compliance Australia Certification Services Pty Ltd ("the Company") and each person who signs an Application for Registration ("the Client").
- 1.2 These Conditions, the Proposal, the Application and, where applicable, the Codes of Practice referred to below and Regulations governing the use of a mark together contain the entire agreement ("the Contract") between the Client and the Company with respect to the subject matter hereof. No variation to the Contract shall be valid unless it is in writing and signed by or on behalf of the Client and the Company.
- 1.3 Where a Certificate is issued to the Client, the Company shall carry out its services in accordance with the Code of Practice in force from time to time ("the Code of Practice") of the accredited affiliate of the Company which is designated to issue such Certificate ("the Certification Body"). The Code of Practice shall be deemed to be incorporated in these Conditions, and so that (except as set out below) references in the Code of Practice to a particular Certification Body shall include references to the Company. The Company shall supply to the Client a copy of the Code of Practice in force as at the date of commencement of the Contract.
- 1.4 The Client acknowledges that, in entering into the Contract, it does not rely on any representation, warranty or other provision except as expressly provided in the Contract. Any conditions or stipulations included in the Client's standard form documents which are inconsistent with, or which purport to modify or add to, the Conditions shall have no effect unless expressly accepted in writing by the Company.

## 2. SERVICES

- 2.1 These Conditions cover as applicable the following:
  - (a) Quality, environmental, safety, health & other management system certification in accordance with international / national sds;
  - (b) Product / service certification in accordance with non-mandatory normative documents, specifications or technical regulations;
  - (c) Second party audits, pre-assessments, social accountability, training courses in quality management and other related activities.
- 2.2 For the services described under Clause 2.1 (a), the Company shall first assess the relevant management systems. In order to do so it shall inform the Client of the expected date of commencement of the assessment visits together with an indication of a provisional timetable for completion of the assessment program. However, time for commencement and duration of the assessment visits are not of the essence and the Company shall not be bound to complete the assessment program within the provisional timetable, but will use all reasonable endeavors to keep the Client informed from time to time about progress on the assessment program.
- 2.3 The services described in Clauses 2.1(b) & (c) may require the Company also provides some of the services described under Clause 2.1 (a).
- 2.4 A product / service certification scheme under Clause 2.1(b) and (c) may involve a combination of the following operations:
  - (a) Initial type sample testing;
  - (b) Initial manufacturing process assessment;
  - (c) Periodic testing of production and / or retail samples;
  - (d) Periodic surveillance of manufacturing process;
  - (e) Random product inspection; and
  - (f) Other operations considered adequate for the scheme involved.
- 2.5 On completion of an assessment program under Clause 2.2 or the operations under Clause 2.3 or 2.4, the Company will prepare and submit to the Client a Report indicating whether or not a recommendation to issue a Certificate is to be made. Such recommendation is not binding on the Certification Body and the decision to issue a Certificate is at the sole discretion of the Certification Body. Copyright in the Report shall be and remain the property of the Company, but the Client shall be entitled to make copies for its internal purposes only.
- 2.6 Nothing contained in the Reports of the Company or Certificates of the Certification Body shall be deemed to imply or mean that the Company or Certification Body conducts any quality assurance and quality control programme for the Client to whom the Report or Certificate is issued.
- 2.7 Certification, suspension, withdrawal or cancellation of a Certificate shall be in accordance with the applicable Codes of Practice.

## 3. OBLIGATIONS OF THE CLIENT

- 3.1 The Client shall ensure that all necessary product samples, access, assistance, information and facilities are made available to the Company when required, including the assistance of properly briefed and authorised personnel of the Client. The Client shall in addition provide the Company free of charge suitable space for conducting meetings.
- 3.2 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 ensure that whilst on the Client's premises, its personnel comply with all health and safety regulations of the Client.
- 3.3 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 Client shall not publicise details of the way in which the Company performs, conducts or executes its operations.

## 4. FEES AND PAYMENT

- 4.1 The fees quoted to the Client cover all stages leading to completion of the assessment program or operations and the submission of the Report referred to in Clause 2.5 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 charges if the Client's instructions are found subsequently to be not in accordance with the initial details supplied or used for the purpose of obtaining a fee quotation. Clients will be notified of any increase in fees.
- 4.2 Additional fees shall be charged for operations that are not included in the agreed proposal and for surveillance and verification audits required due to non-conformances being identified. These will include costs resulting from:
- Repeats of any part, or all, of the assessment program or operations due to the registration procedures and rules not being met;
  - Additional work due to suspension, withdrawal and / or reinstatement of a Certificate;
  - Reassessment due to changes in the management system or products; or
  - Compliance with any subpoena for documents or testimony relating to work performed by the Company.
- 4.3 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 program or operations which are required as set out in the Codes of Practice.
- 4.4 A copy of the Company's prevailing charging rates is available on request from the Company.
- 4.5 In the event that the Client cancels an audit / activity and the time cannot be alternatively rescheduled, the Company may raise fees to recompense as follows:
- |   |                        |
|---|------------------------|
| (a) Less than 30 days but more than 14 day notice | 50 % of Proposal cost  |
| (b) Less than 14 days notice                      | 75 % of Proposal cost  |
| (c) Less than 7 days notice                       | 100 % of Proposal cost |
- 4.6 Unless otherwise stated all fees quoted are exclusive of traveling and subsistence costs (which will be charged to the Client at cost). All fees and additional charges are exclusive of any applicable Value Added Tax, Sales Tax or similar tax in the country concerned.
- 4.7 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 30 days of the date of each invoice.
- 4.8 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 reserves the right to cease or suspend all work and / or cause the withdrawal of any Certificate for a Client who fails duly to pay an invoice.
- 4.9 All invoices not timely paid shall bear late payment charges at ruling 90 days bank bill rates + 3%. The Client shall pay all costs of collection, including legal fees.

## 5. ARCHIVAL STORAGE

- 5.1 The Company shall retain in its archive for the period required by an accreditation body or by law in the country of the Certification Body all materials relating to the assessment program and surveillance program relating to that Certificate.
- 5.2 At the end of the archive period, the Company shall transfer, retain or dispose of the materials at its discretion, unless instructed otherwise by the Client. Fees for carrying out such instructions will be invoiced to the Client.

## 6. TERMINATION

- 6.1 Unless otherwise agreed in writing, the Client shall be entitled to terminate the Contract at any time by giving not less than thirty days' notice in writing to the Company. If the Client terminates the Contract (other than by reason of default by the Company in its obligations), the Company shall be entitled to charge the Client reasonable fees at its prevailing rates and expenses in respect of work carried out by it for the Client prior to termination and, in the case of certification, for any fees or expenses incurred in terminating the certification.
- 6.2 The Company shall be entitled, at any time prior to the issue of A Certificate, to terminate the Contract by giving not less than Thirty days' notice in writing to the Client. If the Company Terminates the Contract (other than by reason of default by the Client in its obligations), the Company shall reimburse to the Client any sums paid by the Client to the Company less any Administration fees and any expenses incurred by the Company under the Contract, but the Company shall not be Liable to make any other reimbursement or pay any other Compensation to the Client.

## 7. FORCE MAJEURE

If the Company is prevented by reason of any cause whatsoever outside the Company's control from performing or completing any service for which a Contract has been made, the Client will pay to the Company

- The amount of all abortive expenditures actually made or incurred;
- a proportion of the agreed fees equal to the proportion (if any) 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.

## 8. LIMITATION OF LIABILITY AND INDEMNITY

- 8.1 The Company undertakes to exercise due care and skill in the performance of its services and accepts responsibility only in cases of proven negligence.
- 8.2 The Company shall have no liability to the Client arising out of or in connection with the Contract and its performance by reason of any representation or the breach of any express or implied condition, warranty or other term of any duty at common law or under any statute for any indirect, special or consequential loss of the Client (including loss of profits), and the total liability of the Company to the Client in respect of any other loss 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 any applicable tax thereon).
- 8.3 The Company shall be discharged from all liability to the Client for all claims for loss, damage or expense unless suit is brought 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.
- 8.4 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.
- 8.5 The Client acknowledges that the Company does not, either by entering into the Contract or by performing the services rendered, assume, abridge or undertake to discharge any duty of the Client to any other person.
- 8.6 The Client shall guarantee, hold harmless and indemnify the Company and its officers, employees, agents or subcontractors against all claims made by any third party for loss, damage or expense of whatsoever nature including reasonable legal expenses and howsoever arising relating to the performance, purported performance or non-performance of any services to the extent that the aggregate of any such claims relating to any one service exceed the limit mentioned in Clause 8.2