

Version: 6
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Terms and Conditions for Conformity Assessment Services.

1. APPLICABILITY

- 1.1 These T&Cs shall apply to, and form an integral part of the Agreement, including all contractual relations arising therefrom and the Services (to be) provided thereunder. Any general or special terms and conditions of Client are hereby explicitly rejected and shall not apply to the Agreement or the performance of the Services even if enclosed to, referred to, or printed on, any (purchase) order, order confirmation, email or any other document or communication of or from Client. These T&Cs shall prevail over any other terms and conditions which are implied by trade, custom, Industry Practice or course of dealing.

2. DEFINITIONS

The following terms shall have the following meanings:

“Accreditation Body” means the body that has accredited CUC against (as applicable) the requirements of ISO/IEC 17021-1 for certifying management systems of third parties against management system certification requirements and/or ISO/IEC 17065 for certifying conformity of products, processes or services against product certification requirements and/or ISO/IEC 17020 for declaring conformity of products, processes or services against inspection requirements.

“Affiliate” means, in relation to a person, any company or other entity, whether or not a legal person, which directly or indirectly controls, is controlled by or is under joint control with that person, where ‘control’ of a company or entity means: (a) the direct or indirect ownership of fifty percent (50%) or more of the capital of that company or entity, or (b) in the absence of such ownership interest, the substantial power to direct or cause the direction of the management and set the policies of that company or entity.

“Agreement” means the agreement between CUC and Client for the provision of Services, consisting of, and only of: (a) the Offer, signed by both Parties; (b) these T&Cs; and (c) the Normative Documents.

“Application” means the application completed and submitted by or on behalf of Client for the provision of a specified Service using the designated application form for the relevant Certification Scheme.

“Law” means, in relation to a person, any and all laws, common law, statutes, secondary legislation, directives, regulations, resolutions, statutory guidance and codes of practice, civil, criminal or administrative law, notices, judgments, decrees, orders or rulings from any authority, in each case having the force of law, as applicable to such person or the undertaking(s) performed by such person, as amended, extended or re-enacted from time to time and shall include all subordinate legislation made from time to time thereunder.

“Certificate” means the document issued by or on behalf of CUC attesting that the Object has been evaluated and found in compliance with the conditions and/or requirements of the Certification Scheme.

“Certification Body Requirements” means any and all accreditation and/or certification rules, regulations, requirements, standards (including relevant ISO-standards and their associated documents) and terms and conditions that govern the performance of the Services.

“Certification Decision” means the decision made by or on behalf of CUC, following an assessment and review process, to (not) grant, maintain, renew, suspend or withdraw a Certificate, or to (not) expand or reduce the activities or other elements of the scope of Client’s certification.

“Certification Mark” means the mark and/or logo that is used to indicate that the requirements of the Certification Standard have been met in respect of the Object.

“Certification Scheme” means a comprehensive set of rules, (technical and other) requirements, standards procedures and/or policies developed and adopted by the Scheme Owner and that apply to the certification or conformity assessment of the Object.

“Certification Standard” means the relevant document that outlines the requirements that the Object must conform to in order for such Object to become and/or remain certified pursuant to the Certification Scheme.

“Claim” any and all claims, demands, causes of action, suits, proceedings, remedies, fines, penalties, taxes, losses, judgments, liens, liabilities, indemnities, costs, awards, damages (including any punitive and/or exemplary damages) or expenses of any kind and character (including reasonable attorney’s fees and other legal-related expenses).

“Client” means the entity identified in the Agreement as CUC’s counterparty to the Agreement.

“Client Material” means any and all information, documents, feedback, input, data, records, analyses or samples of, from or related to Client and/or its Affiliates which CUC and/or its Representatives considers necessary or relevant for the performance of its obligations under the Agreement and Certification Body Requirements, including without limitation the evaluation of the fulfilment of the requirements of the Certification Standard and other Normative Documents.

“Confidential Information” means all information (including Personal Data) of whatever nature, however conveyed and in whatever form (including in writing, orally by demonstration, electronically and in a tangible, visual or machine-readable medium) which is provided by Discloser to Recipient pursuant to or in initiation of the Agreement (a) relating to financial, tax or accounting, business operations and processes, product compositions, relationships with business affairs, customers, clients, suppliers, employees and prospects, market opportunities, marketing strategies and techniques, business strategies, business plans, IPR, trade secrets, know-how; (b) that is clearly designated as being confidential or equivalent; and (c) derived from the information referenced under (a) and (b) above.

“CUC” means the Control Union entity that is identified in the Agreement as Client’s counterparty to the Agreement.

“CUC Indemnitees” has the meaning set forth in clause 11.4.

“Discloser” means a Party and/or their Representatives disclosing Confidential Information to Recipient under the Agreement.

“Expenses” means any reasonable and documented costs and expenses for visa, travel, accommodation, travel insurance and/or additional in-country insurance incurred by CUC and/or its Representatives in the provision of the Services.

“Fees” means the compensation for the Services as outlined in the Agreement.

"Force Majeure Event" means any circumstance beyond a Party's reasonable control, which renders a Party unable to (timely) perform its obligations under the Agreement, which does not result from the fault or negligence of the affected Party, and which could not have been avoided by the affected Party through the exercise of proper diligence, and includes, without limitation, acts of God, flood, drought, earthquake or other natural disaster; epidemic or pandemic; terrorist attack, civil war, civil commotion or riots, war, threat of or preparation for war, armed conflict; imposition of sanctions, embargo, or breaking off of diplomatic relations; nuclear, chemical or biological contamination or sonic boom; any law or action taken by a government, Accreditation Body or public authority, including without limitation, imposing an export or import restriction, quota or prohibition; collapse of buildings, fire, explosion or accident; any labour or trade dispute, strikes, industrial action or lockouts; interruption or failure of utility, telecom or internet services; and cyber-attacks causing significant disruption to the business operations.

"Industry Practice" means, with respect to an undertaking: (a) the practices, methods and acts applied, and (b) the degree of care and skill which would reasonably and ordinarily be exercised; in each case by reasonable certification bodies engaged in the same type of undertaking and under the same or substantially similar circumstances and conditions or those practices, methods and acts which are prescribed by the Accreditation Body or branch associations of international standing such as the TIC Council and ISO (as and when applicable to the performance of (part of) the Services).

"Insolvency Event" means (a) the filing of a petition or the making of an order or the passing of an effective resolution for the winding-up; (b) insolvency or bankruptcy under the provision of any insolvency or bankruptcy law; (c) institution of any proceedings under the provision of any insolvency or bankruptcy law or any law for the relief of debtors, with such proceedings not being withdrawn or cancelled within a period of thirty (30) days after institution thereof; or (d) the appointment of a receiver of the undertaking or property.

"IPR" means inventions, patents, trademarks, service marks, trade names, domain names, copyrights (including rights in computer software), moral rights, rights in designs in any form, database rights, topography rights, utility models, and any other intellectual property rights and licences to such rights, in each case whether registered or unregistered and including all applications (and rights to apply for, and be granted) renewals or extensions of, and rights to claim priority from, these rights and all similar or equivalent rights or forms of protection which subsist or will subsist, now or in the future, in any part of the world.

"Membership Fees" means the (periodic) license, membership, or administration fee (ultimately) payable to the Scheme Owner in relation to the relevant Certification Scheme.

"Nonconformity" means the non-fulfilment of a requirement of the Certification Standard that must be resolved by Client in order to obtain and/or maintain the Certificate for the Object.

"Normative Documents" means the Scheme Documents and the Procedures collectively.

"Object" means the particular product, process, service or (management) system in respect of which the Services are (to be) provided, as designated in the Agreement.

"Offer" means any offer (letter), estimate, proposal, tender bid and/or quotation issued by or on behalf of CUC, whether in those forms, in the form of a service agreement, or in the form of any other legal instrument acceptable to CUC, specifying, amongst others, the Object, the scope of the Services, and the Fees, and identifying and incorporating the relevant Normative Documents and these T&Cs.

"Party" means individually CUC or Client and **"Parties"** means collectively CUC and Client.

"Privacy Laws" means: (a) Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (i.e. the General Data Protection Regulation); and (b) all other Law regarding the Processing of Personal Data. **"Controller"**, **"Personal Data"**, and **"Process(ing)"** and shall have the meaning given in the Privacy Laws.

"Procedures" means the policies, procedures and practices established by CUC in relation to the execution of the Services as indemnified and incorporated in the Agreement, which may include, the applicable Inspection Regulation and the Complaint and Appeal Procedure Manual.

"Recipient" means a Party and/or its Representatives receiving Confidential Information under the Agreement.

"Report" means a report issued or made available to Client in relation to the performance of the Services.

"Representatives" means, in relation to a Party, such Party's Affiliates and/or the directors, officers, employees, agents and advisors of such Party and/or its Affiliates, and in case of CUC, this shall also include: (a) any subcontractor and/or local Affiliate engaged by CUC to perform the Services (or any part thereof); and (b) the respective directors, officers, employees, agents and advisors of such subcontractor and/or local Affiliate.

"Scheme Documents" means all documents governing the certification (process) of the Object as part of the Certification Scheme, including, without limitation, the Certification Standard, the Terms of Use and those other documents as referred to in the Agreement.

"Scheme Owner" means the person, organization or entity responsible for developing and maintaining the Certification Scheme.

"Services" means the activities (to be) provided to Client by or on behalf of CUC according to the Normative Documents and/or Certification Body Requirements in order to investigate, verify and demonstrate whether the Object (continues to) meet(s) the relevant requirements of the Certification Standard and other Normative Documents, as further specified in the Agreement, including activities such as testing, inspection, examination and conformity assessment. The Services may include making certain software services available to Client for use by Client.

"Suspension" means the temporary revocation of a Certificate for all or part of the specified scope of the Certificate.

"Taxes" has the meaning set forth in clause 10.6.

"T&Cs" means these terms and conditions for certification services.

"Terms of Use" means the terms and conditions regulating the use of the Certification Marks by Client.

"Withdrawal" means the permanent revocation or cancellation of a Certificate.

"Worksite" means the office, facility, premises, location, port, vessel, barge and/or any other place where (part of) the Services will be performed, excluding the offices, premises, locations and/or any other place of business of CUC or its Representatives.

3. OFFER, AGREEMENT AND TERM

- 3.1. Unless explicitly stated otherwise in the Offer, the Offer and any proposal contained therein shall be valid for thirty (30) days from the date of issuance. If CUC does not receive Client's acceptance of the Offer within aforesaid period, it is entitled to change the quoted Fees and the conditions set out therein. CUC shall not be bound by manifest errors or omissions contained in the Offer.
- 3.2. After an extension of an Offer by CUC to Client, the Agreement will come into force upon, and only upon: (a) CUC's receipt of an indication by Client in writing to CUC of Client's agreement to the content of the Offer and the Agreement in general; (b) affixation by Client of its signature(s) to the designated signature block(s) for Client in the Offer and/or elsewhere in the Agreement; and (c) affixation by CUC of CUC's signature(s) to the designated signature block(s) for CUC in the Offer and/or any other components of the Agreement. All items set forth in the above (a) through (c) may be transmitted electronically and may be digitally signed by either Party.
- 3.3. The Normative Documents shall apply to, and form an integral part of, the Agreement.
- 3.4. Unless terminated earlier in accordance with the provisions of the Agreement, the Agreement shall remain in full force and effect: (a) for the period indicated in the Agreement; or (b) in absence of such period, for a period of one (1) year from the date the Agreement entered into force.
- 3.5. The Agreement shall be extended by the period of the initial term upon expiration of the initial term or any renewal term, as applicable, unless either Party provides the other Party with its written notice of termination no less than ninety (90) days prior to the expiration date of the initial term or the renewal term.

4. PERFORMANCE OF THE SERVICES

- 4.1 CUC shall perform its obligations under the Agreement, including in relation to the supply of the Services in accordance with: (a) the provisions of the Agreement; (b) Law; (c) Certification Body Requirements; and (d) to the extent applicable and the same do not conflict with the requirements of clauses 4.1(a) to 4.1 (c), the Procedures and Good Industry Practice.
- 4.2 CUC will, subject to the Certification Body Requirements, determine which of its Representatives will perform the Services. CUC shall: (a) use reasonable endeavours to ensure that such Representatives: (i) are appropriately qualified, trained and competent to provide the Services with all reasonable skill, care and diligence; and (ii) comply with all health and safety requirements at the Worksite of which CUC has been timely notified by Client in accordance with clause 5.9; (b) retain overall control of its Representatives at all times so that the Representatives shall not be deemed to be employees, agents or contractors of Client; and (c) be liable at all times for all acts or omissions of its Representatives.
- 4.3 If and to the extent the Certification Body Requirements permit the same, CUC may, in its reasonable discretion, subcontract or delegate the performance of the Services (or any part thereof) to a third party, without prior approval from Client, provided that (a) it shall inform Client of its outsourcing activities in connection with the Services; and (b) it shall exercise reasonable skill and care in the selection and appointment of such third parties to ensure that CUC is able to manage these third parties in accordance with the Certification Body Requirements and comply with its obligations under the Agreement in the delivery of the Services. Notwithstanding CUC's right to subcontract or delegate the Services to a third-party, CUC shall remain responsible for all acts and omissions of the third parties engaged and/or retained by CUC and the acts and omissions of those employed or engaged by such third parties as if they were its own.
- 4.4 CUC shall make commercially reasonable efforts to meet delivery dates and turnaround times (if any) set out in the Agreement. Delivery dates and turnaround times shall not be regarded as fixed deadlines, unless (a) expressly set out otherwise in the Agreement; or (b) the Certification Body Requirements require that the Services are to be performed and/or completed within a specified timeframe or before a specific deadline. Under no circumstances shall CUC or any of its Representatives be liable for any Claims that are asserted against, or incurred, sustained or suffered by Client or any of its Representatives and that allege or are based on CUC's failure to meet the agreed delivery dates, turnaround times or deadlines, save to the extent such Claim is based on reckless or wilful misconduct of CUC.
- 4.5 Nothing in the Agreement is intended to induce or require CUC or any of its Representatives to act in a manner which is inconsistent with, in violation of, or prohibited by the Normative Documents, Certification Body Requirements or Law.
- 4.6 Under no circumstances shall CUC or any of its Representatives be obliged by Client or its Representatives to sign any indemnity, waiver or other site-specific undertakings or agreements (of any kind) nor shall Client or any of its Representatives request that any such undertaking or agreement be signed, and if any such instruments are nevertheless signed, such instruments shall be considered null and void ab initio. Client shall see to it that the owner or operator of the Worksite shall not require CUC's Representatives to sign an indemnity, waiver or other premises-specific undertakings or agreements (of any kind), and if any such instruments are nevertheless signed, Client shall bear all liability and exposure thereunder and shall fully indemnify, hold harmless and defend the CUC Indemnitees for any liabilities arising out of any such instruments.
- 4.7 CUC's performance of the Services and the Reports and/or Certificates supplied by or on behalf of CUC to Client or any of its Representatives shall be only for Client's use and benefit. The Reports and Certificates may not, and Client agrees that the Reports and Certificates may not, be used or relied on for any other purpose or by any person other than Client without CUC's express prior written agreement and on such additional terms as CUC may reasonably require. Neither CUC nor any of its Representatives shall be liable for any third party's use of or reliance upon the Reports and/or Certificates, unless CUC has expressly agreed to the use of or reliance upon the Reports by such third party and subject always to compliance with the additional terms. Client shall fully indemnify, hold harmless, and defend CUC Indemnitees from and against any Claims that are asserted against, or incurred, sustained or suffered by the CUC Indemnitees and that allege or are based on any use of or reliance upon the Reports by a third-party, save to the extent such Claim is based on reckless or wilful misconduct of CUC.
- 4.8 Client acknowledges that CUC, either by entering into the Agreement or 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.
- 4.9 CUC shall have no obligation to update any Report after its issuance, except where specified otherwise in the Agreement or where the Certification Body Requirements require CUC to do so.
- 4.10 Each Report and the observations and findings contained therein relate exclusively to the Object assessed and/or certified and only reflect CUC's review and/or analysis of Client Material and, as the case may be, such other information, documents and/or materials

in existence or obtained at the time of the performance of the Services only. CUC's findings and/or observations will under no condition or circumstance whatsoever be construed as a guarantee with respect to the future compliance with the requirements of the Certification Standard.

- 4.11 If required by Law, CUC may disclose the Reports to a governmental authority or public enforcement agency. Where the Normative Documents and/or the Certification Body Requirements, require CUC to deliver and/or disclose any Report, Certificate and/or Client Materials to a designated third party (including, without limitation, to the Scheme Owner and/or the Accreditation Body) CUC shall be deemed irrevocably authorised by Client to deliver or disclosure such Report, Certificate and/or Client Material. Client acknowledges and agrees that certain information in respect of Client's certification (which may include, without limitation, name, contact details, the Standard and/or Object for which a Certificate is issued, the scope of the certification, status and/or validity (period) of the Certificate and Certification Decisions, etc) will become public (usually through the website of the Scheme Owner). CUC and its Representatives shall have no liability for any Claim that are asserted against, incurred, sustained or suffered by Client as a result of any delivery, disclosure and/or publication made by it on the basis of this clause 4.11.
- 4.12 CUC and its Representatives are neither an advisor of, nor a consultant to, Client and shall have no liability in any such capacity.
- 4.13 Whilst performing any Services on a Worksite, CUC shall use reasonable endeavours to ensure that its Representatives shall comply with all applicable security requirements and health, safety and environment rules and regulations of which they have been timely notified by Client in accordance with clause 5.9. CUC may suspend or cancel the performance of any Services, without liability and at the risk and cost of Client, if the Worksite and/or the circumstances under which the Services are to be performed at the Worksite are, at CUC's reasonable discretion, a risk to health, safety or environment.
- 4.14 CUC may retain Client Material (including Client's Confidential Information) in its archives in accordance with the relevant retention policy as prescribed by the Certification Body Requirements and/or Law, whichever is the longest. In addition, if any litigation, Claim, negotiation or other action involving Client Material (including, Client's Confidential Information) has been started before the expiration of the retention period, such Client Material may be retained until completion of the action and resolution of all issues which arise from it and until any outstanding litigation, Claim, negotiation or other action has been fully resolved. CUC shall destroy (to the extent technically practicable) all Client Material at the end of the retention period, except for copies of Client Materials automatically created by CUC's archival or back-up systems.
- 4.15 Any oral affirmations, agreements or remarks (including, without limitation, those in respect of the certification process or a Certification Decision) shall not bind CUC or its Representatives in any way.
- 4.16 Unless expressly agreed otherwise in the Agreement, CUC will provide the Reports and Certificates to Client digitally either through its web portal or via email. If Client wishes to obtain paper copies of these Reports and/or Certificates, CUC may charge Client for such paper copies (plus courier costs). It is Client's responsibility to download copies of the Reports and Certificates which are provided to Client through CUC's web portal.

5. CLIENT'S OBLIGATIONS

- 5.1 Client shall be deemed to have investigated and satisfied itself, prior to entering into the Agreement, as to the contents of the Certification Scheme and all Normative Documents. The Scheme Documents can be accessed on the Scheme Owner's website and will be provided electronically upon Client's written request.
- 5.2 It is the responsibility of Client to: (a) determine whether certification according to the Certification Standard under the Certification Scheme and the provisions of the Services satisfies its business needs, objectives and strategies; (b) implement the Certification Scheme; (c) achieve conformity with the requirements of the Certification Standard and comply with the other Normative Documents; (d) demonstrate and/or evidence, from time to time, conformity with these requirements; and (e) continue to conform to such requirements.
- 5.3 Any software is made available on an "as is", "where is" basis without any warranty of any kind. CUC may adjust the content and scope of the software at any time and temporarily put all or part of the software out of service for maintenance and/or other forms of service. In relation to any software made available by or on behalf of CUC to Client in connection with the Services, Client shall adequately secure its systems and infrastructure and keep these adequately secured.
- 5.4 Client acknowledges that: (a) neither CUC nor any of its Representatives fulfils the role of an insurer or guarantor in respect of the adequacy, quality, merchantability, fitness for purpose, compliance or performance of the Object and that they are under no obligation to refer to or report on any facts or matters that are outside of the scope of the Certification Standard; (b) the Services are non-exhaustive and are not necessarily designed or intended to address all matters of quality, safety, performance or condition of the Object and do not reflect all standards or requirements which may apply to such Object; (c) the Services do not constitute a legal or regulatory compliance audit, and CUC and its Representatives have no obligation to review Client's compliance with any legal and/or regulatory requirements, except for those regulatory requirements as maybe adopted in the Certification Standard; (d) any breach or delay in the performance of its obligations under the Agreement may impact the (timely) performance of the Services and may result in additional work and Expenses for which Client shall compensate CUC in accordance with clause 10.
- 5.5 Client is responsible for the correctness and completeness of the Application and all Client Material. Client acknowledges that CUC and its Representatives may rely on the Application and Client Material without any duty to confirm or verify the accuracy, completeness or authenticity thereof. Client shall be liable for any Claims that are asserted against, incurred, sustained or suffered by CUC resulting from or otherwise relating to the incorrectness or incompleteness of the Application or Client Material.
- 5.6 Client is responsible for exercising its own independent judgment with regard to any information, remarks, Reports and/or other results provided by CUC or its Representatives. Client is and remains responsible and liable for, without limitation, the decisions taken by Client on the basis of, and to the extent, Client wishes to rely on and/or use, such information, remarks, Reports or other results.
- 5.7 Client shall, at its cost and expense, fully and timely co-operate in all matters relating to the Services and agrees to: (a) promptly respond to any inquiries made by CUC and any of its Representatives in connection with the certification of the Object; (b) provide all cooperation reasonably required for the proper and timely execution of any conformity assessments, be adequately prepared for any such assessments and make sufficiently competent Representatives available for such assessments and other activities performed by or on behalf of CUC; (c) provide all necessary access to Worksites relevant to Client's certification scope; (d) timely provide CUC and its Representatives with all Client Material; (e) promptly implement any changes to the requirements of Certification

- Standard in accordance with the provisions of the Normative Documents; (f) promptly take all necessary actions to eliminate or remedy any circumstances or events beyond the reasonable control of CUC that could hinder or impede the performance of the Services; and (g) allow and fully collaborate with observers (including but not limited to Accreditation Bodies and/or Scheme Owners or any (audit) agent appointed by Accreditation Bodies or Scheme Owners or a trainee auditor or employee of CUC).
- 5.8 Client bears the sole responsibility for the care, custody and control of the Worksites, regardless of whether these Worksites are owned and/or operated by Client or a third-party. Client acknowledges that it owes a duty of care to CUC's Representatives, at all times when they are present at the Worksite for the purpose of the Agreement. Client shall ensure that the Worksite and all operations, processes and activities taking place at such Worksite are compliant with all Law regarding health and safety and shall take appropriate measures and actions to ensure the safety and welfare of CUC's Representatives, at all times when they are present at the Worksite. Client shall provide CUC's Representatives with: (a) a safe working environment; (b) a safe and suitable workplace to conduct the assessment.
- 5.9 Client shall, prior to CUC's Representatives attending any Worksite, inform them of: (a) all applicable health and safety rules and regulations and other reasonable security requirements that may apply at the Worksite; (b) all relevant health and safety hazards that exist or may arise at the Worksite.
- 5.10 Notwithstanding anything to the contrary, the Object shall at all times remain for Client's risk and such risk shall not pass to CUC, regardless of whether the Object has been certified by CUC.
- 5.11 Where the Normative Documents require the sampling of products, Client shall provide such and/or allow CUC and its Representatives to draw samples from the products. If the requirements necessitate the analysis of samples by a third party's laboratory (a) CUC is deemed to pass on the results of such analysis without any responsibility for its accuracy; (b) such analyses shall be carried out at Client's sole risk and costs and Client, regardless whether the third party laboratory is engaged by Client or CUC ; and (c) Client shall pay and/or reimburse all analyses costs, including all costs in relation to the shipment, import, export, customs clearance, delivery, destruction or return of any samples. CUC shall have no liability regarding the sampling nor the analysis performed by any third parties, including, without limitation the analysis results produced by the laboratory.
- 5.12 Client shall inform CUC, without delay, of any matters or issues that may affect the Object's continued ability to conform to the requirements of the Certification Standard and/or any other Normative Documents, including without limitation, any: (a) major or critical Nonconformity identified by Client, Client's Representative or any public authority or third party; (b) (potential) breach of the Agreement; (c) changes relating to: (i) the Object; (ii) the elements of the scope of the certification; (iii) the legal, commercial or organisational status or ownership of Client; (iv) key management personnel, (operational) processes, products, product lines or skills; or (v) address details and sites; (d) incorrect and/or unauthorized use of a Certificate or Certification Mark; (e) other changes that may influence or impede the performance of the Services, the validity of the Certificate and/or scope of the Certificate. Client acknowledges that any breach of the foregoing obligations may lead to Suspension, Withdrawal and/or the termination of the Agreement. CUC shall not be liable for any such Suspension, Withdrawal and/or termination.
- 5.13 Client shall only use the Certificate and the Certification Marks: (a) following issuance of the Certificate; (b) within the (existing) scope set out in the Certificate; (c) if the Certificate is still valid; and (d) in accordance with all Law, the relevant Normative Documents (including, the Terms of Use) and the reasonable instructions of CUC and/or the Scheme Owner.
- 5.14 Client shall not, and shall not permit any third-party to: (a) distribute, publish or otherwise divulge (any part, excerpt or extract of) any Report without the express prior written consent of CUC and, unless otherwise agreed by the Parties in writing, subsequently only distribute or publish (as applicable) such Report in its entirety; (b) indicate that issuance of a (renewal) Certificate is pending; (c) use any Certificate or Certification Mark for purposes outside the scope set out in the Certificate; (d) in case of management system certification, use or refer to the Certificate or Certification Mark in any way to denote or imply conformity of a product, process or service; (e) use any marks or signs that may be confused with the Certification Mark; (d) alter or misrepresent (the contents of) any Report or otherwise use such Report in a misleading manner; (f) release or otherwise provide any statement, information or impression concerning the certification or the (performance of) the Services that may be deemed false or misleading, in CUC's reasonable discretion; (g) associate its business with CUC or its Representatives, or make any use of the trade names, brands, trademarks or logos of CUC or any of its Affiliates for promotional or advertisement purposes, without their express prior written agreement (stating the conditions for any such association or use); (h) divulge any details or specifics on the Services and on the way in which CUC and its Representatives (have) conduct(ed) their undertakings under the Agreement; (i) indicate or imply that CUC or its Representatives agree or subscribe to any quality surveys, laboratory tests, reports or other certificates, or have provided any representation or warranty; or (j) use software made available for use by CUC to Client in connection with the Services. Without prejudice, and in addition, to CUC's other rights and remedies, Client shall, upon first written request, promptly rectify any breach of any of the foregoing obligations in accordance with the directions as reasonably specified by CUC and its Representatives, at their discretion.
- 5.15 Unless expressly otherwise agreed in writing, Client shall not make any copies of (the contents of) any Report other than for its own internal use. Any such copies shall be clearly identified as a copy and shall only be reproduced in their entirety or as otherwise specified in the relevant Normative Documents.
- 5.16 Upon receipt of a complaint by Client from a third-party relating to Client's compliance with the requirements of the Certification Standard or other Normative Document, Client shall: (a) make all necessary arrangements for the investigation of such complaint (b) take and/or implement appropriate (corrective) actions; and (c) document and maintain an accurate and complete written record of: (i) the investigation process; (ii) relevant findings obtained during such process; and (iii) (corrective) actions taken by or on behalf of Client. Further, Client shall inform CUC of all complaints and make aforesaid records available to CUC and its Representatives during the audit assessments and upon written request.
- 5.17 Client shall report any (alleged) shortcomings in the performance of the Services to CUC in writing without delay and in any case no later than thirty (30) days after the date on which the relevant Services were rendered. Client shall subsequently provide CUC and its Representatives reasonable time and opportunity, to remedy the (alleged) shortcomings within thirty (30) days after the shortcoming has been acknowledged by CUC. Client shall forfeit all rights, powers and remedies in connection with the shortcoming if Client fails to notify such shortcoming to CUC accordingly.

6. NONCONFORMITIES

- 6.1 Nonconformities found will be indicated during the assessment and detailed in the Report or other document.
- 6.2 If any Nonconformities are found, Client shall submit to CUC a root cause and extent analysis and action plan and/or implement effective corrections and corrective actions in accordance with the relevant Normative Documents, as applicable to the activities, to the reasonable satisfaction of CUC.
- 6.3 Client shall resolve any Nonconformities within the period prescribed by the Normative Documents or, in absence thereof, within the period specified by CUC. Client shall subsequently provide CUC with substantiated evidence satisfactory to CUC, in the prescribed form and manner (if any), that the causes and consequences of the Nonconformities have been adequately resolved. For clarity, any complaint shall not suspend Client's aforementioned obligations or prolong the period for resolving the Nonconformities. CUC may, in its discretion, require the performance of an additional surveillance assessment to evaluate whether the Nonconformities have indeed been adequately resolved, at Client's cost and expense. If Client, in the reasonable opinion of CUC, cannot evidence that all Nonconformities have been adequately resolved within the period specified by CUC, CUC may, in its reasonable discretion, take one or more of the following actions, depending on the urgency, severity and importance of the unresolved Nonconformity: (a) issue a written warning; (b) carry out an additional surveillance assessment at Client's cost and expense; (c) increase or impose stricter internal control measures for Client; (d) temporarily increase the frequency of the assessment at Client's cost and expense; (e) decide not to issue a (renewal) Certificate; (f) issue a Suspension; (g) issue a Withdrawal; (h) reduce the scope set out in the Certificate, and/or (i) publicly announce or publish that any of the actions under clause 6.3 sub (f), (g) or (h) have been taken by CUC against Client.

7. CERTIFICATION, SUSPENSION, WITHDRAWAL

- 7.1 Subject to the terms and provisions of the Normative Documents, CUC will issue a Certificate promptly after the completion of the initial conformity assessment and its determination that the Object conforms to all requirements of the Certification Standard.
- 7.2 CUC may make its Certification Decisions and/or the issuance of any Certificate conditional upon Client's full payment of the Fees, Membership Fees, Expenses and any other amounts payable to CUC and its Representatives.
- 7.3 Any issued Certificate only relates to scope as listed on the Certificate. Without prejudice to any subsequent Suspension or Withdrawal, a Certificate shall be valid for the period, or until the expiration date, defined in the Normative Documents, or if not defined there, the Certificate.
- 7.4 Certificates are provided, and accordingly also the right to use the associated Certification Mark is granted, on a non-exclusive basis. Duplicates of Certificates shall be made available to Client for external communication upon written request and shall be clearly indicated as duplicate.
- 7.5 Failure to cooperate with any assessment (including, without limitation, unannounced audits, the parallel or shadow audits as referred to in clause 5.6 (f) and 9.5) and/or any misuse of the Certification Mark, including any use in deviation of the Terms of Use, constitutes a material breach of the Agreement and may result in Suspension or Withdrawal and ultimately in termination of the Agreement. CUC, its Representatives and the Scheme Owner have the right to publish a list of all suspended and withdrawn Certificates.
- 7.6 Upon Suspension or Withdrawal, Client shall immediately: (a) cease from using or referring to the Certificate and the Certification Marks; (b) cease from claiming, representing or suggesting that the Object is certified or that Client maintains certification for such Object; (c) refrain from marketing, selling or distributing any product with an associated Certification Mark attached to such product or its packaging; and (d) comply with all instructions provided by or on behalf of CUC and/or the Scheme Owner. The provisions set forth in this clause 7.6 shall survive the expiration of the validity period of the Certificate and the expiration or termination of the Agreement.
- 7.7 If, following issuance of the Certificate, Client intends to make any changes to the Object that may affect either the Object's continued ability to meet the relevant Certification Standard and/or any other Normative Documents or the scope as listed on the Certificate, Client shall promptly inform CUC and CUC's Representatives in writing of the planned changes, specifying, amongst others, the data listed in the relevant Certificate. CUC will subsequently assess and decide, at its discretion, whether such changes require any additional assessment and/or Services. The Agreement and the relevant Certificate issued shall apply to any changed Object only from the time of the approval by CUC or its Representative, as applicable, in writing of the Agreement and such Certificate. Any failure to timely notify CUC of any planned changes to the Object may result in Suspension or Withdrawal, or the inability of CUC and/or its Representatives to (timely) conduct or complete (all of) the Services at the agreed time and, where applicable, subsequent delay of a Certification Decision.

8. COMPLAINTS AND APPEALS

- 8.1 Any complaint or appeal that Client may have must be submitted and addressed in accordance with the relevant complaint and/or appeal procedure as set out in Agreement, within six (6) weeks (a) in case of a complaint, from the day upon which Client became aware, or should reasonably have been aware, of the event or circumstances giving rise to such the complaint; or (b) in case of an appeal, from the date of the relevant Certification Decision.
- 8.2 Certification Decisions shall remain in force and effect pending the final decision on the appeal. Neither a complaint nor an appeal shall suspend any of Client's obligations under the Agreement, including without limitation Client's payment obligations.
- 8.3 The decision on any appeal shall include the justification for the decision and shall be final and binding on the Parties.
- 8.4 Any rights Client may have under a timely filed complaint or appeal shall lapse if Client fails to provide sufficient opportunity for CUC to: (a) attend any investigation (to be) conducted by Client and/or its Representatives; or (b) conduct a counter-investigation.
- 8.5 Client shall bear its own costs in relation to any complaint or appeal. Regardless of the decision on any complaint or appeal, CUC shall not be obliged to reimburse Client or Client's Representatives for any costs or be liable for any loss or damage incurred by Client or Client's Representatives.

9. CERTIFICATION PROCESS

- 9.1 Unless the Normative Documents provide for a different certification process, the certification process generally consist of: (a) an initial assessment for the initial issuance of a Certificate; (b) a recertification assessment for the repeat issuance of the Certificate; and/or (c) surveillance assessment according to the certification cycles of the relevant certification program.
- 9.2 The assessments will, without limitation, and in addition to any other activities (to be) conducted by CUC pursuant to the Normative Documents and/or Certification Body Requirements, be performed to determine whether the Object (continues to) conform to the Certification Standard and/or any other Normative Documents.
- 9.3 CUC shall be entitled, at its reasonable discretion, to perform additional surveillance assessments and other surveillance activities in addition to assessments set out in clause 9.1 in particular, including, without limitation, if one or more of the following apply: (a) CUC has reasonable grounds to believe, or received any indications that the requirements of the Certification Standard and/or other Normative Documents are no longer fulfilled or Client breached its obligations under the Agreement; (b) CUC becomes aware that Client is subject of an investigation or inquiry or enforcement proceedings are initiated by any governmental, administrative or regulatory body regarding any offence or alleged offence involving criminal or fraudulent involving or in connection with the Object; (c) the Accreditation Body or the Scheme Owner requires or advises CUC to perform an additional surveillance assessment or if the Normative Document or Certification Body Requirements require the performance of such an assessment; (d) CUC received a complaint in respect of the certification of the Object, and CUC, at its discretion, finds it necessary or advisable to perform an additional surveillance assessment to investigate and/or resolve such complaint; (e) a change occurs (including a change to the Certification Documents) that may have a material impact on the certification provided to Client and/or the scope of the Certificate; or (f) CUC finds it necessary or advisable, at its discretion, to perform an additional surveillance assessment to evaluate whether Nonconformities have been adequately resolved.
- 9.4 Furthermore, CUC may be required to perform additional surveillance assessments and/or a recertification assessment: (a) following a Suspension; (b) in order to reinstate a Certificate; or (c) if any other matter occurs that could affect the certification of the Object or could impact the continued fulfilment of the requirements of the Certification Standard and/or any other Normative Documents (including, without limitation, in any of the events referred to in clause 5.12).
- 9.5 Client acknowledges that any of the conformity assessments may be unannounced and may be required at short notice.

10. FEES, INVOICING AND PAYMENT

- 10.1 In consideration of CUC performing the Services, Client shall punctually pay the Fees and reimburse CUC for any Expenses. Unless expressly otherwise set forth in the Agreement, the Fees do not include the Membership Fee and/or Expenses. If Client is required to pay a Membership Fee, Client shall punctually pay such fee to CUC.
- 10.2 Unless otherwise agreed by the Parties in writing, the activities and work resulting from or in connection with items (a) up to and including (i) below shall not be deemed to be within the scope of the Services and shall be considered as additional work that shall, together with any Expenses in connection therewith, be charged to Client in addition to Fees and/or Expenses payable in respect of the Services: (a) any cancellation or rescheduling of Services (including cancelation or rescheduling of a conformity assessments) which are not attributable to CUC or its Representatives; (b) Client's failure to timely comply with its obligations under the Agreement; (c) additional surveillance assessments or recertification assessments which are performed due to the occurrence of any event referred to in clause 9.4 and/or 9.5; (d) changes in the Normative Documents and/or Certification Body Requirements which result in an increase of the Services; (e) changes to the (scope of the) Certificate; (f) the occurrence of one or more of any of the matters or issues as listed in clause 5.9; (g) compliance with any governmental, judicial or regulatory authority's request or demand for information or documentation in relation to the Services or the certification; (h) the Application, Client Materials or Client's instructions being incorrect or incomplete; or (i) notwithstanding anything to the contrary in the Agreement, including without limitation any "no other representation" or "non-reliance" provisions in the Agreement, circumstances which could not have been foreseen by CUC or which Client should have advised CUC on, prior to entering into the Agreement.
- 10.3 Unless otherwise agreed by the Parties in writing, additional work shall: (a) be charged on a time and material basis in accordance with the rates and charges applicable at the time of performance of the additional work, and (b) be invoiced upon completion of the relevant activities and work. CUC or any of its Representatives shall provide Client a copy of the prevailing rates and charges upon Client's request and shall notify Client in writing of any increases thereof.
- 10.4 Unless the Agreement contains an alternative payment term, Client shall pay CUC's invoices within thirty (30) days of the date of the invoice.
- 10.5 Payments shall be denominated in the currency specified in the invoice and shall be made by direct, electronic payment to CUC's bank account e.g. by telegraphic transfer, wire or Instant Payment, in each case drawn in from a bank account in Client's name.
- 10.6 Without limiting any provisions of the Agreement, Client shall bear any and all taxes, charges, levies or duties and other similar charges and any related interests and penalties (collectively, **Taxes**) imposed on, or payable with respect to any Fees or other charges payable by it pursuant to the Agreement, including all sales, use, value-added, and similar Taxes, but excluding any Taxes on CUC's income. Taxes shall be separately included in CUC's invoice and, if applicable, shall be paid by Client in addition to Fees or other charges payable by it pursuant to the Agreement. Client shall fully indemnify, hold harmless and defend CUC and its Representatives from and against all Taxes.
- 10.7 If Client disputes the contents of the invoice, details of the objection denoting substantiated reasons must be raised by Client before the due date of such invoice, otherwise the invoice will be deemed to have been accepted. Any such objections do not exempt Client from its obligation to pay the invoiced amounts by the due date.
- 10.8 The Fee may be adjusted by CUC in accordance with the increase in the relevant consumer price index as published by the competent authority in the jurisdiction of CUC or its Affiliate (local CUC office) undertaking the Services on behalf of CUC. The index to be referred to for the purposes of the Agreement shall be that which is most recently published by such competent authority at that time. Client acknowledges and agrees that the Scheme Owner may, in its sole discretion, adjust the Membership Fees.
- 10.9 Client's obligation to make the payments provided for in the Agreement and otherwise to perform its obligations under the Agreement shall not be affected by any circumstances, including, without limitation, any set-off, counterclaim, recoupment, defence or other right which Client may have against CUC or others. All payments to be made under the Agreement shall be made without

any deduction of any (local or withholding) Taxes, licenses, fees and withholdings of any nature by any governmental authority save as required by law. If Client is compelled to make any such deduction, it will pay to CUC such additional amounts as are necessary to ensure receipt by CUC of the full amount which CUC would have received but for the deduction.

- 10.10 Without limiting, and in addition to, any of CUC's other rights and remedies, Client shall pay interest on all late payments, calculated daily and compounded monthly at the higher of the rate of one percent (1%) per month or the highest rate permissible under applicable law. In addition, Client shall promptly reimburse CUC for all reasonable costs and expenses (including attorney's fees, court costs, and collection agency fees) incurred by CUC and/or CUC's Representative in connection with (a) any effort on the part of CUC and/or CUC's Representatives to collect any late payments by Client and/or (b) the enforcement of, or the preservation of any rights under, the Agreement generally and any proceedings instituted by or against CUC and/or CUC's Representatives as a consequence of such enforcement or preservation efforts.
- 10.11 Unless expressly agreed otherwise in the Agreement, invoices will be sent via e-mail. Such invoices shall be deemed originals, delivered to Client upon successful transmission of such e-mail. Client waives its rights to have the invoices signed by a Representative of CUC and delivered personally, sent by post or left at Client's address.
- 10.12 CUC may agree to submit its invoices bills through an electronic billing platform, however, in such case, CUC may request Client to reimburse CUC for any additional costs that CUC incurs in doing so. If CUC encounters any significant issue in the process of submitting the invoices to Client in that way, CUC reserve the right to issue it invoices to Client electronically in PDF format and via email; and to continue issuing the invoices to Client in PDF format and via email should any such issue persist and remain unresolved.

11 LIABILITY AND INDEMNITY

- 11.1 The total liability of CUC and its Representatives for any and all Claims shall not exceed: (a) an amount equal to ten (10) times the Fees received by CUC (not inclusive of any Expenses and applicable Taxes) in respect of (that part of) the Services that gave rise to such Claim; and (b) a cumulative maximum amount of one hundred thousand euro (EUR 100,000), whichever of (a) or (b) is less.
- 11.2 In no event shall CUC or its Representatives be liable for any consequential, indirect, incidental, special or exemplary, punitive or enhanced damages (including, without limitation: lost profits, revenues or business opportunities, loss of data, diminution in value, damage to reputation and/or goodwill) arising out of, relating to, or in connection with the Agreement, regardless: (a) whether such damages were foreseeable for the Client; (b) whether or not Client was advised of the possibility of such damages; and (c) of the legal or equitable theory (contract, tort (including negligence) or otherwise) upon which the Claim is based. Further, in no event shall CUC or its Representatives be liable for expenses of recall, including without limitation, expenses of notification and destruction or return of the recalled products and the sum paid for the recalled products.
- 11.3 The limitations and exclusions set forth in clause 11 shall also apply to the benefit of CUC's Representatives.
- 11.4 Client shall fully indemnify, hold harmless, and defend CUC and its Representatives (the "**CUC Indemnitees**") from and against: (a) any Claims that are asserted against, or incurred, sustained or suffered by the CUC Indemnitees and that allege or are based on: (i) breach or non-fulfilment of any provision of the Agreement by Client and/or its Representatives; (ii) negligent or more culpable acts or omissions of Client and/or its Representatives (including any reckless or wilful misconduct) in connection with the performance of their obligations under the Agreement; (iii) bodily injury or death of any person, or damage to real or tangible personal property caused by the negligent or more culpable acts or omissions of Client and/or its Representatives (including any reckless or wilful misconduct); or (iv) failure by Client and/or its Representatives to comply with Law and/or the Normative Documents in the performance of their obligations under the Agreement, and (b) any other Claims that are asserted against, or incurred, sustained or suffered by the CUC Indemnitees arising out of, relating to, or in connection with the Agreement in any way but that allege or are based on grounds other than those set forth under clause 11.4 sub (a) above, provided that, unless expressly provided otherwise herein for Client to be fully responsible, this shall only apply if and to the extent that the aggregate of such other Claims exceeds the cumulative overall liability set out in clause 11.1.
- 11.5 Each Party shall be prohibited from bringing legal action against the other Party or any of its Representatives following the expiry of six (6) months from the day upon which such Party became aware, or should reasonably have been aware, of the Claim. In any event, any and all Claims against the other Party or any of its Representatives shall be time-barred by the expiration of twelve (12) months after the event giving rise to such Claim.
- 11.6 Clauses 11.1 up to and including clauses 11.4 and clause 11.8 shall apply irrespective of cause and notwithstanding negligence or breach of duty (whether statutory or otherwise) and irrespective of, whether a Claim is based or claimed to be based on negligence (including sole, joint, concurrent or otherwise), breach of any warranty, condition or term (statutory or otherwise), breach of agreement, statute, strict liability or otherwise and irrespective of any Claim in tort, under contract or otherwise at law.
- 11.7 Clauses 11.1 up to and including clauses 11.5 shall not apply if CUC, its Affiliates or any of the directors or senior managers of CUC or such Affiliates has acted fraudulently or their acts or omissions constitute wilful concealment, wilful intent, gross negligence or wilful recklessness. In addition, nothing in this clause 11, is intended or will limit or exclude any liability to the extent such liability cannot be limited or excluded by mandatory law.
- 11.8 The Fees and the other provisions of the Agreement duly reflect the allocations of risk between the Parties. Client acknowledges that the provisions of this clause 11 form the basis of the Offer and are an essential element of the Agreement.
- 11.9 Without prejudice to CUC's rights under this clause 11, each Party will use all reasonable endeavours to mitigate any Claims arising out, relating to or in connection with the Agreement.

12 FORCE MAJEURE

- 12.1 Neither CUC nor Client will be liable for a failure to perform or a delay in performing obligations under the Agreement which have become practicably impossible due to a Force Majeure Event. Written notice of a Party's failure or delay in performance due to a Force Majeure Event must be given to the other Party no later than five (5) business days following the Force Majeure Event commencing, which notice shall describe the Force Majeure Event and the actions taken to minimize the impact thereof. All delivery dates affected by a Force Majeure Event shall be suspended for the duration of such Force Majeure Event. When feasible, the Services shall not be cancelled but rescheduled and new delivery dates shall be agreed as soon as practicable after the Force Majeure Event ceases to exist.

- 12.2 If circumstances causing the Force Majeure Event cannot be permanently overcome, or they result in a delay in the performance of the Services extending beyond thirty (30) consecutive business days, the Party affected by such Force Majeure Event may terminate the Agreement with immediate effect by providing written notice to the other Party. Upon receipt of such notice by the other Party, the Parties shall be, subject to clauses 13.4-13.8, relieved from their further contractual obligations.

13 SUSPENSION AND TERMINATION

- 13.1 CUC may terminate the Agreement with immediate effect or suspend the performance of its obligations under the Agreement by sending a notice of termination or suspension (as applicable) to Client in the event of any of the following: (a) Client does not pay any amounts due under the Agreement on the due date for payment and remains in default for not less than seven (7) days after being notified in writing to make such payment; (b) Client commits a breach of any other provision of the Agreement (i) which breach is incapable of being remedied; or (ii) that the Normative Documents do not permit to be remedied; (c) Client commits a breach of any other provision of the Agreement which is capable of being remedied and Client subsequently fails to remedy such breach within a period prescribed by the Normative Documents, or in the absence of such period, within thirty (30) days after being notified in writing to so remedy; (d) Client becomes subject to an Insolvency Event; (e) Client breaches any provision of clause 17; or (f) convenience within thirty (30) days upon the formation of the Agreement under clause 3.2. CUC shall not be liable for any Claims arising out of the suspension or termination of the Agreement pursuant to clause 13.1.
- 13.2 Client may terminate the Agreement with immediate effect by sending a notice of termination to CUC, if: (a) CUC commits a material breach of the Agreement which breach is incapable of being remedied; (b) CUC commits a material breach of the Agreement which is capable of being remedied and CUC subsequently fails to remedy that breach within thirty (30) days after being notified in writing to so remedy; (c) CUC becomes subject to an Insolvency Event; or (d) CUC breaches any provisions of clause 17.
- 13.3 In the event that CUC terminates the Agreement in accordance with clause 13.1, and in addition to any other remedies available to CUC hereunder or at law: (a) all amounts payable under the Agreement for Services performed prior to the date of termination shall become immediately due and payable by Client; (b) Client shall reimburse CUC for all documented and proven costs and expenses (to be) incurred by CUC as a result of such termination; (c) if any Fees have been paid by Client in advance of the performance of the Services, CUC shall not be required to refund such amount, with such amount being treated as a cancellation fee; and (d) in the event that no Fees have been paid by Client in advance, Client shall pay a cancellation fee to CUC, in an amount equal to fifty percent (50%) of the value of the part of the Services not rendered, as at the time of termination. Clauses 13.3 (c) and (d) shall not apply in case of termination in accordance with Clause 13.1 (f).
- 13.4 In the event that Client terminates the Agreement in accordance with clause 13.2: (a) all amounts payable under the Agreement for Services performed prior to the date of termination shall be due and payable by Client within fourteen (14) days from of the date of termination; (b) CUC shall refund all Fees pre-paid by Client under the Agreement for Services that have not yet been performed within fourteen (14) days from of the date of termination (to the extent possible, the amounts set forth in clause 13.3 (a) and this clause 13.3 (b) shall be set off and any surplus amount shall be paid by Client or any deficiency (whichever applies) shall be paid by CUC within fourteen (14) days from of the date of termination); (c) subject always to clause 11 and notwithstanding any other provision of the Agreement, CUC shall reimburse Client for documented and proven direct costs and damages incurred by Client in connection with the early termination of the Agreement; and (d) subject always to clause 11, CUC shall provide Client with reasonably requested assistance associated with transferring to a new certification body, at the reasonable cost and expense of CUC. For the avoidance of doubt, the foregoing shall be Client's sole and exclusive remedy and as full and final satisfaction of all Claims incurred, sustained or suffered by Client in connection with the (early) termination of the Agreement in accordance with clause 13.1.
- 13.5 If at any time during the term of the Agreement, CUC fails to maintain or renew a license, approval, recognition or mandatory accreditation required for the performance of the Services, or if the Scheme Owner or the Accreditation Body terminates, cancels, suspends or withdraws the license, approval, recognition or mandatory accreditation of CUC (regardless of the reason for such termination, cancellation, suspension or withdrawal), CUC may terminate the Agreement upon written notice to Client. In such case, CUC shall be obligated to: (a) subject always to clause 11, provide Client with reasonably requested assistance associated with transferring to a new certification body, at the reasonable cost and expense of CUC; and (b) refund all amounts prepaid by Client for Services that have not yet been performed, within thirty (30) days of the date of termination. For the avoidance of doubt, the obligations set forth herein shall be CUC's sole obligation for termination in accordance with this clause 13.5, and CUC shall have no further liabilities for any Claims incurred, sustained or suffered by Client in connection therewith.
- 13.6 Unless otherwise provided in the Normative Documents, the termination (whether by CUC or Client) or expiration of the Agreement shall automatically cause a Withdrawal without further notice being required, and in such case, clause 7.5 shall mutatis mutandis apply.
- 13.7 The termination or expiration of the Agreement shall not affect any rights, remedies, obligations or liabilities of the Parties that have accrued up to the date of termination or expiration, including the right to claim damages in respect of any breach of the Agreement which existed at or before the date of termination or expiration.
- 13.8 Clauses 1, 4.11, 5.5, 5.10, 7.6-7.9, 10, 11, 12, 13.3-13.8, 14, 15, 16, 17, 18, 19, 20 and any right or obligation of the Parties in the Agreement which, by its nature, should survive termination or expiration of the Agreement shall survive termination or expiration of the Agreement.

14 CONFIDENTIALITY

- 14.1 Subject to clauses 14.1 up to and including clauses 14.6, Recipient shall, and shall ensure that its Representatives shall: (a) keep Discloser's Confidential Information confidential, by applying at least the standard of care that it uses to protect its own Confidential Information and, in any case, no less than a reasonable degree of care; and use such Confidential Information only for the purposes of performing its obligations under the Agreement; and (c) except as otherwise specified in the Agreement (including, but not limited to, in clause 4.11 of these T&C), not disclose such Confidential Information to any third party without the prior written consent of Discloser.
- 14.2 Recipient may disclose Confidential Information on a "need to know" basis to its Representatives, statutory auditors and regulators having regulatory or supervisory authority over their businesses, provided that it shall: (a) first inform such Representatives, statutory

- auditors and regulators of the confidential nature of said information; and (b) ensure that these Representatives, statutory auditors and regulators are bound by obligations of confidence in respect of said information no less onerous than those set out in this clause 14.
- 14.3 The provisions of clauses 14.1 and 14.2 shall not apply to any Confidential Information that: (a) was already in the possession of Recipient or its Representatives on a non-confidential basis before disclosure thereof by Discloser or its Representatives; (b) is or becomes public knowledge other than as a result of a breach of this clause 14; (c) was, is or becomes available to Recipient or its Representatives on a non-confidential basis from a person who, to their knowledge, is not under any obligation restricting its disclosure; or (d) is independently developed by Recipient or its Representatives without use of or reference to the information disclosed by Discloser or its Representatives.
- 14.4 Recipient may disclose Confidential Information to the extent such information is required to be disclosed by law, by any governmental or other regulatory authority (including, without limitation, any relevant securities exchanges) or by a court or other authority of competent jurisdiction provided that, to the extent it is legally permitted to do so, it shall promptly notify Discloser of such requirements so that Discloser may seek, at Discloser's sole expense, a protective order or other remedy, and Recipient shall reasonably assist the disclosing Party therewith. If Recipient remains legally compelled to make such disclosure, it shall: (a) only disclose that portion of the Confidential Information that it is required to disclose; and (b) use reasonable efforts to ensure that such Confidential Information is afforded confidential treatment.
- 14.5 The disclosure of any Confidential Information shall not be construed as granting Recipient or its Representatives any rights, by license or otherwise, to the Confidential Information or to any IPR that have been created or that may be created based on such Confidential Information, other than the right to use such Confidential Information for the purpose of performing their obligations under the Agreement, Normative Documents or Certification Body Requirements.
- 14.6 On termination or expiration of the Agreement, Recipient shall upon written request of Discloser: (a) erase all the Confidential Information from computer and communications systems and devices used by it, including such systems and data storage services provided by third parties (to the extent technically practicable); and (b) certify in writing to Discloser that it has complied with the requirements of this clause 14.6. Notwithstanding the foregoing, Recipient may retain, to the extent required by Law, regulation, the Certification Body Requirements or in accordance with Recipient's record keeping policies, a copy of the Confidential Information, including any related materials, and may retain any electronic copies of such Confidential Information automatically created by Recipient's archival or back-up systems (all such material retained referred to herein as "**Retained Materials**"), subject to the continuing obligation of confidentiality, which shall survive termination or expiration of the Agreement as set forth herein. Any such Retained Materials shall not be used or reviewed in connection with any commercial business opportunities and shall be used only for the purposes expressly permitted under the Agreement. All Retained Materials shall be promptly deleted or destroyed in accordance with the Certification Body Requirements or Recipient's internal policies and routine procedures.
- 14.7 The provisions of this clause 14 shall not prevent that CUC has the perpetual right to use aggregated, anonymized, and statistical data derived from the Services, and nothing herein shall limit CUC from utilizing this data for business and/or operational purposes, provided that CUC does not share with any third party any such data which reveals the identity of Client or Client's Confidential Information.
- 14.8 Either Party shall be entitled to injunctive relief for any violation of this clause 14 by the other Party or its Representatives.
- 15 DATA PRIVACY**
- 15.1 Unless otherwise agreed by the Parties, neither Party will process any Personal Data of the other Party and its Representatives, other than the names and business contact details of those individuals that are involved in the performance of the obligations under the Agreement. The Parties acknowledge that their relationship in respect of Personal Data is that of a Controller-to-Controller.
- 15.2 Where a Party provides any Personal Data to the other it will ensure that it is authorised to do so and that it has obtained such permissions as may be required for other Party to process that Personal Data as required for and in connection with the purposes for which the Personal Data was obtained.
- 15.3 Where and to the extent a Party delegates any processing of Personal Data to a third party (regardless of whether or not such delegation is permitted by or notified to other) it shall remain fully liable for all acts, errors and omissions in connection with that processing as though they were the acts, errors or omissions of the first Party.
- 16 REPRESENTATIONS AND WARRANTIES**
- 16.1 CUC represents that, on the date that the Agreement comes into force, it is: (a) recognized and/or approved by the relevant Scheme Owner as a certification body for the Certification Standard and thus has secured the right to perform the Services in connection with that Certification Standard; and (b) where such accreditation is mandatory, accredited or in the process of obtaining such accreditation by the relevant Accreditation Body.
- 16.2 CUC shall use reasonable endeavours to ensure that it will maintain, throughout the term of the Agreement, the recognition and/or approval referenced in clause 16.1 under (a) and any mandatory accreditation referenced in clause 16.1 under (b).
- 16.3 Client represents that: (a) it has the full capacity and authority to enter into and perform the Agreement; and (b) it is procuring the provision of the Services for its own risk and account and is not entering into the Agreement as an agent or broker, or in any other representative capacity, for any third-party, unless as expressly otherwise stated in the Agreement.
- 16.4 Client warrants that: (a) the Application and the Client Material are complete, true, accurate and reliable and are not misleading in any respect; (b) it is entitled to disclose the Client Material and Client's Confidential Information to CUC and its Representatives and that such disclosure will not breach or infringe any laws or obligations to which it is bound; (c) any use by CUC or its Representatives of Client Material and Client's Confidential Information under or in connection with the Agreement does not, and will not, infringe or breach the rights (including any Intellectual Property Rights) of any third party; and (d) if the Services are provided in relation to a product, the product to be marketed and sold by or on behalf of Client corresponds to the product (type(s)) assessed by CUC or its Representatives pursuant to the Agreement.
- 16.5 Each Party acknowledges that in entering into the Agreement it has not relied on any representation, warranty or other assurance made by or on behalf of the other Party or its Representatives other than those explicitly set out in the Agreement. Each Party waives

all rights and remedies would be reasonably likely to otherwise be available to it in respect of any such representation, warranty or other assurance.

- 16.6 Except for the representations and limited warranties stated herein, all representations, warranties and conditions whether express or implied by statute, common law, by course of dealing, performance, use, trade, or otherwise are hereby, to the fullest extent permitted by law, excluded, including any implied warranty of merchantability, fitness for a particular purpose, title, or warranty against infringement of IPR of a third-party.

17 COMPLIANCE

- 17.1 Each Party hereby represents and warrants to the other Party that, in the performance of its obligations under the Agreement, it and its Representatives: (a) have not made, accepted or offered to make, and will not make, accept or offer (to make), any payment, gift or promise, whether directly or indirectly, prohibited by Law regarding anti-bribery or anti-corruption; (b) will, in all other respects, comply with all Laws and the compliance policies that it has established for its own organisation.
- 17.2 Each Party acknowledges that information, documentation, Services and material (including, without limitation, any Client Material, Reports, Certificates and Confidential Information) provided pursuant to or in connection with the Agreement may be subject to economic sanctions, export and import regulations, and any use or transfer of controlled information, documentation, Services and materials, and/or their direct products, must be authorized under those regulations of the government of the country or territory to which these are being imported, exported or re-exported. Each Party and its Affiliates shall comply with all applicable economic sanctions, export and import regulations of the country or territory to which any such information, documentation, Services and materials are being imported, exported, or re-exported.
- 17.3 In the event of a breach of a provision in this clause 17, the breaching Party shall, subject to clause 11, indemnify, hold harmless and, upon first written request, defend the other Party and its Representatives, from and against any Claims, that are asserted against, or incurred, sustained or suffered by the other Party and its Representatives and that allege or are based on any such breach.

18 INTELLECTUAL PROPERTY

- 18.1 Ownership of any IPR owned by a Party or its Representatives prior to the effective date of the Agreement, or otherwise created outside of the scope of the Agreement without use of or reference to Discloser's Confidential Information, shall remain vested in such Party or its Representative, as applicable, at all times.
- 18.2 Client grants to CUC and its Representatives a worldwide, fully paid-up, non-exclusive, royalty-free, and free-of-additional-charge license to use the IPR vested or contained in the Client Material during the term of the Agreement solely insofar as necessary for the performance of the Services. This license does not imply the transfer of moral rights, which are inalienable and non-waivable in accordance with the copyright Law.
- 18.3 Any IPR related to the performance of the Services and all documents -including, without limitation, the Reports, Certificates, Procedures and any derivative works thereof provided by or on behalf of CUC and all IPR vested or contained therein shall be and remain the property of CUC or its Representative (which for the purpose of this clause 18.3 includes CUC's licensors, if any). Client may only use such IPR: (a) during the term of the Agreement; (b) in according with the provisions of the Agreement; and (c) in the manner prescribed by CUC. Client shall not contest the validity of such IPR and shall not knowingly take any action that might impair the value or goodwill associated therewith. This includes that Client shall not be permitted to remove any indication with respect to the confidential nature of software, data files, or with respect to copyrights or any other intellectual property right pertaining to software and/or data files or have any such indication removed or changed.

19 MISCELLANEOUS

- 19.1 If any provision in these T&Cs or the Agreement is or becomes wholly or partly invalid, illegal or unenforceable in any respect, such provision shall be omitted from the Agreement and the remaining provisions shall continue in full force and effect as if the Agreement had been executed without the invalid, illegal or unenforceable provision. If the invalidity, illegality or unenforceability is so fundamental that it prevents the accomplishment of the purpose of the Agreement, the Parties shall make every effort to agree in good faith on a new provision which differs as little as possible from said provision, taking into account the substance and purpose of the Agreement.
- 19.2 The relationship between the Parties is that of independent contractors. The details of the method and manner for performance of the Services by CUC shall be under its own control, Client being interested only in the results thereof. Nothing in the Agreement and no action taken by the Parties under the Agreement shall constitute a partnership, association, joint venture or other co-operative entity between the Parties, nor will any Party become the partner, agent or legal representative of the other Party.
- 19.3 Except as expressly otherwise provided in the Agreement, a failure or delay by a Party to exercise any right or remedy provided under the Agreement or by law shall not constitute a waiver of that or any other right or remedy, nor shall it prevent or restrict any further exercise of that or any other right or remedy. No single or partial exercise of any right or remedy provided under the Agreement or by law shall prevent or restrict the further exercise of that or any other right or remedy. No waiver of any right or remedy shall be effective unless it is expressly stated to be a waiver and communicated to the other Party in writing.
- 19.4 The Agreement contains the entire agreement between the Parties relating to the Services and supersedes all previous agreements, arrangements and understandings, both written and oral, relating thereto, including, for the avoidance of doubt, any further general or special terms and conditions, purchase orders, or any other documents of similar nature, in each case of Client, that are not signed or accepted by the Parties to become a component of the Agreement pursuant to clause 3.2.
- 19.5 Each Party shall, at the cost and upon the written request of the other Party, execute and deliver such instruments and documents and take such other actions as reasonably necessary or desirable from time to time in order to give full effect to the Agreement and its obligations thereunder.
- 19.6 The Agreement may not be amended or changed, except by a written instrument making specific reference to the Agreement, signed by each of the Parties, provided however that: (a) the foregoing does not apply to any changes and amendments to the Scheme Documents, as such amendments or changes shall enter into force and effect in accordance with the 'Entry into force' provision contained in the Scheme Documents; (b) CUC shall be allowed to amend or change the Agreement in the event there is a specific

change in the Law, Normative Documents or Certification Body Requirements which effects the (the nature or scope) Services, Fees or other conditions of the Agreement. Finally, the first sentence above does not apply to any amendments of the Procedures, provided that such amendments do not materially affect the nature or scope of the Services, the Fees or any other amounts specified in the Agreement.

- 19.7 All notices, requests, consents, Claims, demands, waivers, and other communications under the Agreement must be in writing. Email messages are deemed to constitute written notice, unless explicitly agreed otherwise. In case of a notice of Claim, a copy thereof must be issued to either legal@controlunion.com or Boompjes 270, 3011 XZ Rotterdam, The Netherlands, for the attention of legal department. This clause 19.7 does not apply to the service of any proceedings or other documents in any legal action or, where applicable, any arbitration or other method of dispute resolution.
- 19.8 Client shall not assign, novate or otherwise transfer or any or all of its rights, obligations or liabilities under the Agreement without the prior written consent of CUC. Any assignment, novation or transfer shall always be subject to the conditions of the Normative Documents. CUC may, by written notice to Client, assign, novate or transfer the Agreement to any of its Affiliates, provided that the Certification Body Requirements permit such an assignment, novation or transfer and always subject to the conditions as prescribed in the Certification Body Requirements.
- 19.9 Except CUC's Representatives, who are hereby confirmed to be the intended beneficiaries of the Agreement even if not parties to the Agreement, the Agreement is for the sole benefit of the Parties and their respective successors and permitted assigns, and nothing in the Agreement, express or implied, is intended to or shall confer upon any other person or entity any legal or equitable right, benefit, or remedy of any nature whatsoever under or by reason of the Agreement.
- 19.10 For marketing and/or commercial purposes, CUC and its Affiliates may cite their cooperation with Client as a reference, using Client's name and/or logo.
- 19.11 In the event of any inconsistencies between the Offer, these T&Cs, and the Normative Documents, the order of interpretive precedence shall be, from the highest to the lowest, as follows: (a) the Normative Documents; (b) Offer; and (c) these T&Cs. In the event of any inconsistencies between the Agreement and the Certification Body Requirements, the Certification Body Requirements shall prevail.
- 19.12 Where a Normative Document or other document is referred to in the Agreement by reference to a hyperlink, then if the hyperlink is changed or no longer provides access to the relevant Normative Document or such other document: (a) Client shall notify CUC; (b) CUC shall provide Client an updated hyperlink; and (c) the Parties agree that such updated hyperlink will replace the referenced hyperlink.
- 19.13 Any reference to the Agreement or other documents referred to in the Agreement is a reference to the Agreement or such other documents as amended, varied, restated, or supplemented from time to time.
- 19.14 All references to days (without the explicit qualification "business") herein are references to calendar days.
- 19.15 Where a document is drawn up in English and another language, the English version of the document will take priority.

20 APPLICABLE LAW AND JURISDICTION

- 20.1 The Agreement and any issues, disputes or Claims (whether contractual or non-contractual) arising out of or in connection with it or its subject matter or formation shall be exclusively governed by and construed in accordance with Dutch law.
- 20.2 The Parties irrevocably agree that any dispute, controversy or claim (whether contractual or non-contractual) arising out of or in connection with the Agreement shall be submitted to, and finally adjudicated and settled by, the District Court of Rotterdam, The Netherlands, which shall have exclusive jurisdiction.