

ICG General Terms and Conditions

These terms and conditions, together with the Purchase Order, any proposal, estimate or fee quote, form the agreement between you (the **Client**) and International Compliance Group, Inc. (**ICG** or **Supplier**) providing the services contemplated therein.

Schedule 1

1. DEFINITIONS AND INTERPRETATION

1.1 In this Agreement, unless otherwise provided or the context otherwise requires, capitalised expressions shall have the following meanings:

“Accreditation Body” If applicable, means the authoritative body that grants accreditation under which the Supplier performs the Services.

“Agreement” means these terms and conditions together with the Purchase Order any Schedules, as each may be amended from time to time, in accordance with the provisions stated herein.

“Annual Management Fee” means a mandatory, annual fee payable by the Client to support the processing, maintenance and costs associated with the certification, excluding any Supplier (or any Supplier Party) visit to a client’s site.

“Business Day” means a day other than a Saturday, Sunday or public holiday.

“Certificate of Approval” means the certificate/ statement issued by the Supplier confirming that a verification/audit has been passed for a product, service or process.

“Client Data” means any data, documents, text, drawings, diagrams, images (together with any database made up of any of those), embodied in any medium supplied to the Supplier (or any Supplier Party) by or on behalf of the Client, or which the Supplier (or any Supplier Party) is required to collect, generate, process, store or transmit pursuant to this Agreement (or otherwise receives in connection with providing the Deliverables), including all modifications, additions and developments made to any of those items written instructions, document samples and information provided to the Supplier (or any Supplier Party) by the Client, during the performance of the Services.

“Confidential Information” means all and any non-public information disclosed, by one Party to the other Party including, but not necessarily limited to, data, know-how, concepts, manuals, reports, specifications, trade secrets, trademarks, company logos, and any other business, commercial, legal, financial marketing or technical information.

“Deliverables” means without limitation, all documents, Assurance Statement/Certificates of Approval assurance, reports, and outputs from the Services, created or provided by the Supplier (or any Supplier Party) in relation to the performance of the Services that the Supplier has agreed to deliver to the Client pursuant to this Agreement.

“Day Rate” means the day rate charged by the Supplier for the Services and Deliverables.

“Effective Date” means the date the relevant Purchase Order is signed by the Client.

“Expenses” means travel costs, subsistence and accommodation at cost, plus 10% administration fee.

“Force Majeure Event” means an event beyond the reasonable control of the Supplier (or any Supplier Party), including, failure of a utility service or transport network, general failure of underlying internet infrastructure, act of God, fire, flood, storm war, riot, civil commotion, malicious damage, volcanic ash, earthquake, explosion, terrorist act, compliance with any law or governmental order, rule, regulation or direction.

“Hourly Rate” means the hourly rate charged by the Supplier for the Services and Deliverables.

“Intellectual Property” means all patents, copyright and related rights, trademarks, logos, service marks, trade dress, business and domain names, rights in trade or get-up, rights in goodwill or to sue for passing off, database rights, , moral rights, rights in confidential information (including know-how and trade secrets), methods and protocols for Services, and any other intellectual property rights.

“Price” means the price payable by the Client to the Supplier for the Services and Deliverables, the Product Scheme Fee, travel time and overtime in accordance the relevant Purchase Order.

“Product/Program Scheme” If applicable, means the product or program specific set of requirements that the Client's certification/assurance programs/verification is assessed against.

“Prohibited Act” means; (a) the offering, promising, giving, accepting or soliciting of an advantage. Reward or gratuity as an inducement for an action in connection with the Deliverables which is illegal, unethical or a breach of trust (b) the establishment of accounting practices and corporate entity structures that implicitly or explicitly result in tax evasion or facilitate tax evasion (c) engaging in any activity, practice or conduct that would constitute modern slavery, or (d) a failure to comply with all Relevant Laws.

“Product Scheme Fee” If applicable, means the mandatory, scheme fee, charged to the Supplier annually for each applicable product and contract by the Scheme Owners and passed through to the Client.

“Relevant Laws” means any laws, regulations, and codes which relate to (a) anti-bribery and/or anti-corruption, (b) anti-slavery or servitude, anti-forced or compulsory labour and/or anti human trafficking, or (c) anti-tax evasion.

“Supplier Party” means Supplier, any contractor or sub-contractor of the Supplier and Supplier Personnel.

“Supplier Personnel” means any employee employed or engaged by the Supplier (or any Supplier Party), including as engaged via an employment business or employment agency who is providing the Services and Deliverables.

“Taxes” means any and all taxes imposed by any taxing authority including, without limitation, withholding taxes, income tax, all corporate taxes, imports, duties, levies, stamp duties, charges and other assessments and payments in the nature of taxes, wherever payable, including VAT.

“Services” means the assurance/certification service, covering audit and verification/certification services against an appropriate recognised specification or part thereof, to be performed by the Supplier for the Client under this Agreement and in accordance with the relevant Purchase Order.

1.2 Interpretation. In this Agreement:

- 1.2.1 words and expressions that are defined in a Schedule will have the same meaning when used in the rest of this Agreement.
- 1.2.2 references to clauses are to the clauses of this Agreement and references to paragraphs are to paragraphs of the relevant Schedule to this Agreement.
- 1.2.3 headings are for information only and shall not affect the interpretation of this Agreement.
- 1.2.4 references to any statute or statutory provision will include any subordinate legislation made under it and include such statute, statutory provision and/or subordinate legislation as modified, amended, extended, consolidated, re-enacted and/or replaced and in force from time to time.
- 1.2.5 any words following the words include, includes, including, in particular or any similar words or expressions will be construed without limitation and will not limit the meaning of the words preceding them.
- 1.2.6 references to in writing or written are to communication effected by post and email, to an agreed email or postal address.

2 DURATION AND APPOINTMENT

- 2.1 This Agreement shall commence (or deem to have commenced) on the Effective Date and continue until terminated under clause 10 (Termination).
- 2.2 The Client appoints the Supplier to provide the Services on the terms of this Agreement.

3 SERVICES/DELIVERABLES

The Supplier (or any Supplier Party) will deliver the Services and Deliverables in accordance with the Purchase Order.

4 PAYMENT

Payment for the Services and any other charges will be in accordance with the Purchase Order.

5 INTELLECTUAL PROPERTY RIGHTS

- 5.1 Each Party exclusively owns all rights to Intellectual property it has created whether before or after the Effective Date of the Agreement.
- 5.2 The names, service marks, trademarks and copyrights of the Supplier and its affiliates shall not be used or reproduced by the Client, without the prior written approval of the Supplier, and then only in the manner prescribed by the Supplier.

6 PROHIBITED ACTS

- 6.1 The Parties will comply (and have policies and procedures in place to ensure compliance) with all Relevant Laws.
- 6.2 The Supplier shall be entitled to terminate this Agreement if a Prohibited Act is committed, and the Client will not be entitled to claim compensation or any other remuneration from the Supplier.
- 6.3 The Client shall indemnify the Supplier against any liability arising out of or in connection with a breach of this clause 6.

7 INDEMNITIES AND LIABILITIES

- 7.1 The Supplier's total aggregate liability towards the Client, for any and all loss or damage arising under or in connection with this Agreement and any Services delivered, whether based in contract, tort (including negligence), strict liability, indemnity or otherwise shall not exceed the Price paid by the Client to the Supplier.
- 7.2 The Client shall indemnify the Supplier (or any Supplier Party) and its affiliates in respect of any and all losses or claims made against the Supplier as a result of misuse by the Client of any statement, endorsement, approval, Certificate or license to use an accreditation mark that may be granted by the Supplier under this Agreement.
- 7.3 Neither Party shall be liable in contract, tort (including negligence), strict liability for any indirect, special or consequential loss, or any loss of profits or anticipated profit, loss of use, loss of contract, loss of production, loss of savings, loss of revenue, business interruption or increased cost of working, loss of capital or any indirect, special, consequential or exemplary damages, howsoever caused, regardless of whether any such losses were foreseeable by the parties at the time of entering into this Agreement
- 7.4 Nothing in this Agreement will exclude or limit the liability of the Parties for death or personal injury caused by negligence and fraud or fraudulent misrepresentation, by it or its employees.
- 7.5 This clause 7 shall survive termination of this Agreement.

8 DATA PROTECTION

- 8.1 Subject to clause 8.4 neither Party shall disclose or use for any purpose whatsoever any Confidential Information or any financial or trading information which it may acquire or receive within the scope of the performance of the Services, without the prior written consent of the disclosing Party. This confidentiality undertaking shall not apply to any information which:
 - 8.1.1 is publicly available or becomes publicly available through no act of the receiving Party.
 - 8.1.2 was in the possession of the receiving Party prior to its disclosure.
 - 8.1.3 is disclosed to the receiving Party by a third party which did not acquire the information under an obligation of confidentiality.
 - 8.1.4 is required to be disclosed to an accreditation body or under the rules of an accreditation scheme, in each case where applicable to the Services.
- 8.2 Both Parties undertake that they, their employees or any person acting on their behalf shall comply with all applicable data privacy laws and regulations and shall complete a data privacy schedule, detailing any personal data, to be processed where necessary.
- 8.3 The Client agrees that the Supplier (or any Supplier Party) may retain on record, contact details provided by the Client for the purpose of managing the relationship, this Agreement. and the certification, and in order to comply with the applicable law and obligations owed to the accreditation body.
- 8.4 The Supplier reserves the right to collect, collate and use aggregated, anonymised data deriving from the Services, including data/reports which constitutes Confidential Information, for the purposes of conducting its own business, statistical analysis, benchmarking, trending, training, research, establishing the best practices for audits and testing in the industry and education, so long as no use of the Confidential Information or reports, in the aggregate, shall allow the identification of the Client, or a third party subject to the Services, or disclosure of particular Client-identifiable Confidential Information.

9 TERMINATION

- 9.1 Without limiting or affecting any other right or remedy available to it, either Party may terminate the Agreement with immediate effect by giving written notice to the other if it:
 - 9.1.1 commits a material breach of any term of the Agreement, which breach is irremediable or (if such breach is remediable) fails to remedy that breach within 30 days.
 - 9.1.2 takes any step or action in connection with its entering administration, provisional liquidation or any composition or arrangement with its creditors; or
 - 9.1.3 suspends, or threatens to suspend, or ceases or threatens to cease to carry on all or a substantial part of its business.
 - 9.1.4 fails to pay an invoice by the due date.
- 9.2 Following termination of this Agreement, the Certificate of Approval may no longer be used or publicly displayed by the Client from the date of termination. The Client will (unless it makes alternative arrangements) not be entitled to claim that its management systems are certified.
- 9.3 Termination of this Agreement shall not affect any of the rights, remedies, obligations or liabilities of the Parties that have accrued up to the date of termination. Any provision of this Agreement that expressly or by implication is intended to continue in force on or after termination of the Agreement shall remain in full force and effect.

10 FORCE MAJEURE

- 10.1 If, as a result of Force Majeure, a Party is rendered unable, wholly or in part, to carry out its obligations under this Agreement (other than the obligation to make payments of sums due to the other Party):
- 10.1.1 the Force Majeure shall be immediately notified in writing by the Party prevented from carrying out its obligations to the other Party explaining the causes and demonstrating diligence used to remove or mitigate the effects of such Force Majeure.
- 10.1.2 the obligations under the Agreement shall be suspended under the cessation of the Force Majeure, which shall be notified in writing.
- 10.2 Neither Party shall be liable for any loss or damage resulting from any delay or failure in performance of its obligations hereunder, resulting directly or indirectly from an act or event of Force Majeure. If the disability continues for more than fifteen (15) days, then the effected Party will have the right to terminate this Agreement without incurring any liability whatsoever.

11 GENERAL

- 11.1 **Assignment and subcontracting:** The Supplier at its sole discretion may assign, transfer its rights and obligations or delegate performance of all or a portion of the Services under this Agreement, subject to compliance with the requirements of any applicable accreditation scheme where relevant, to an affiliate or subcontractor of the Supplier without notice to the Client and the Client hereby consents to such delegation.
- 11.2 **Severance:** If a court or any other competent authority finds that any provision (or part of a provision) of this Agreement is or becomes invalid, illegal or unenforceable, it shall be deemed deleted. The validity and enforceability of the remainder of the Agreement shall be unaffected.
- 11.3 **Variation and waiver:** Except as set out in this Agreement and the Schedules, any variation, including the introduction of any additional terms and conditions, to this Agreement shall only be binding when agreed in writing and signed by the Supplier.
- 11.3.1 A waiver of any right is only effective if it is in writing and shall not be deemed to be a waiver of any subsequent breach or default.
- 11.3.2 A delay or failure to exercise, or the single or partial exercise of, any right or remedy shall not waive that or any other rights or remedy, nor shall it prevent or restrict the further exercise of that or any other right or remedy.
- 11.4 **Third party rights:** A person not a party to this Agreement shall not have any rights under/in connection with it.
- 11.5 **Governing law and Jurisdiction:** This Agreement, and any dispute or claim arising out of or in connection with it or its subject matter or formation (including non-contractual disputes or claims) shall be governed by and construed according to the law of the State of New York, and the Parties irrevocably submit to the exclusive jurisdiction of the courts of the State of New York.
- 11.6 **No partnership:** Nothing in this Agreement is intended to, or shall be deemed to, constitute a partnership/joint venture of any kind between any of the Parties, nor constitute any Party the agent of another Party for any purpose. No party shall have authority to act as an agent for, or to bind, the other Party in any way.
- 11.7 **Notices:** Any notice or other communication given to a Party under or in connection with this Agreement shall:
- 11.7.1 be in writing and shall be delivered by hand or by pre-paid first-class post or other next working day delivery service at its registered office or its principal place of business or sent by email to the address specified in the Purchase Order.
- 11.7.2 shall be deemed to have been received (i) if delivered by hand, at the time the notice is left at the proper address, (ii) if sent by pre-paid first class post or other next working day delivery service, at 9.00 am on the second Business Day after posting; or (iii) if sent by email, at the time of transmission, or, if this time falls outside business hours in the place of receipt, when business hours resume. In this clause 11.8(b)(iii), business hours means 9.00am to 5.00pm Monday to Friday on a day that is not a public holiday in the place of receipt.
- This clause does not apply to the service of any proceedings or other documents in any legal action or, where applicable, any other method of dispute resolution.
- 11.8 **Entire Agreement:** The Parties agree that this Agreement constitutes the entire agreement between them. Any samples, drawings, descriptive matter, illustrations, and advertising by the Supplier or contained in the Supplier's websites, catalogues or brochures are issued and/or published for the sole purpose of giving an approximate idea of the Services. They shall not form part of this Agreement or have any contractual force.
- 11.9 **Disputes and Complaints :** In the event that any claim or dispute arises out of or in connection with the Agreement, the Parties shall, following service of written notice by one Party on the other, attempt to resolve amicably by way of good faith negotiations and discussions any such dispute or claim as soon as reasonably practicable (and in any event within 14 calendar days after such notice or by such later date as the Parties may otherwise agree in writing).

Schedule 2

1. Purchase Order

- 1.1. The Supplier will not be obliged to commence the planning process for the provision of the Services unless and until the Purchase Order provided by Supplier is signed by Client.
- 1.2. Under no circumstances shall terms and conditions printed on the back of any purchase order provided by the Client, contained in any order acknowledgement or appearing on any automated system owned by the Client be deemed part of this Agreement and for the avoidance of doubt this Agreement shall prevail.

2. Payment

- 2.1. The Client will pay each valid invoice submitted to it by the Supplier in full and in cleared prior to commencement of the Services by Supplier.

3. Charges

- 3.1. The Client has agreed to pay the Supplier for the Services in accordance with the Price defined in the Purchase Order and Invoice.
- 3.2. The Price for the Services will increase automatically on 1 January of each year in relation to Services not yet delivered in line with the Consumer Prices Indices published in the November of the preceding year. In the event that the prevailing rate of the Consumer Prices Indices exceeds 5% in the April of any year then a mid year increase will also be applied in relation to Services delivered from and inclusive of 1 July of that year.
- 3.3. In the event that the cost of delivery of the Services to ICG increases beyond what could reasonably be expected as at the date of this Agreement ICG reserves the right to increase the Price for the Services to allow for such costs.
- 3.4. The Accreditation Body is entitled to change its Product Scheme Fee at will and the Client accepts that this Product Scheme Fee will be paid by the Client
- 3.5. The Price and all fees and charges will be exclusive of any Taxes.

4. Cancellation Suspension and Postponement

- 4.1. If the Client cancels this Agreement or part of it with less than 8 weeks prior written notice to the Supplier then the Supplier reserves the right to charge the Client for the full cost of the audit including the Annual Price, the Annual Management Fee and any Expenses paid for by the Client which cannot reasonably be recovered.
- 4.2. The planning of the audits is agreed between the Supplier and the Client (or the client's suppliers, if applicable) in advance of delivery. Any subsequent postponement of, or rescheduling of audits will be subject to the following additional charges:
 - 4.2.1. more than 6 weeks but less than 8 weeks from the audit date- 25% of the Day Rate attributable to the audit(s) postponed or rescheduled and any unrecoverable Expenses booked in advance by the Supplier;
 - 4.2.2. more than 4 weeks but less than 6 weeks of a site visit or the assessment- 50% of the Day Rate attributable to the audit(s) postponed or rescheduled;
 - 4.2.3. less than 4 weeks of a site visit or the assessment- 100% of the Day Rate attributable to the audit(s) postponed or rescheduled.

