



These terms and conditions of services apply to all services rendered by LMS Certifications Services. The current terms and conditions of services shall apply to all contracts concluded with System Certification Services (hereafter called the "LMS Certifications"). No other terms and conditions may form part of the contract, even if LMS Certifications does not expressly exclude such other terms and conditions.

## 1) DEFINITIONS

In these General Terms and Conditions of Services, the following definitions are applicable:

- i. **"Client"** means the organisation or company with whom the Contract is entered into;
- ii. **"Confidential Information"** means any information related to the Services disclosed by the Client to the LMS Certifications and its Subcontractors and by the LMS Certifications and its Subcontractors to the Client, respectively, either directly or indirectly. Confidential Information may include, by way of example but without limitation, products, specifications, formulae, equipment, formulas, models, employee interviews, records, quality monitoring schemes/programs, training materials, business strategies, customer lists, know-how, drawings, pricing information, inventions, ideas, and other information, or its potential use, that is owned by or in possession of the Client, LMS Certifications and its Subcontractor, respectively.
- iii. **"Contract"** means the contract between the Client and the LMS Certifications which defines the scope of the Services to be rendered by the LMS Certifications, as well as the fee schedule for said services. More specifically, the Contract shall consist of the Commercial Quotation / Commercial Proposal, these Terms and Conditions and any other documents (or parts thereof) as specified in the Quotation / Commercial Proposal.
- iv. **"The Services"** means any services related to Management System Certification Services / CE marking / Inspection and Audit services / Training Services as agreed in agreement, in whatever form, reached between the LMS Certifications and the Client pursuant to which the LMS Certifications agrees to render services to the Client in exchange for a fee plus costs.
- v. **"Force Majeure"** means any cause beyond the reasonable control of the affected party, including, but not limited to, any act of God, war, riots, acts of the public enemy, fires, strikes, labour disputes, accidents, or any act in consequence of compliance with any order of any government or governmental authority.
- vi. **"Subcontractor"** means either a service affiliate like Certification Partner of the LMS Certifications, or an independent contractor, respectively, which is qualified to perform the applicable services as contemplated by the Services (Management System Certification Services / CE marking /



Inspection and Audit services / Training Services) and the Contract, and has been contracted by the LMS Certifications accordingly, as evidenced by an agreement in writing.

- vii. **“Service Coordination”** means identification of expertise for the execution of Services specifying in each case their specific expertise, i.e., Certification Partner for example, and shall include the following:
- (a) Identification of local certification partner to avail the service for the client
  - (b) To support the client for the completion of application for the services for which certification is envisioned by the client
  - (c) To support the client in communication with the Certification Partner regarding the documents and client's preparedness for availing services.
  - (d) To get the audit scheduled and to invite the Certification Partner for the conduct of services, for example, Audits.
  - (e) To get the reports and other documents pertaining to Services agreed from the Certification Partner and communicate the same with the client.

## 2) GENERAL

- i. These General Terms and Conditions govern the provision of all services from or on behalf of the LMS Certifications to the Client and apply to all legal relationships between the LMS Certifications and the Client.
- ii. The offer to perform the Services described (The Services) is subject to these Terms and Conditions, and the LMS Certifications offer and its acceptance by the Client shall form the Contract for the supply of Services by LMS Certifications to the Client.
- iii. These terms and conditions of service or “Contract for the supply of Services” (after acceptance of the offer) govern the provision to you (if you are accepting these Terms of Service in your individual capacity) or the company of which you are a duly authorized employee or agent (“Client”) of the accepted Services, and Client's usage of the same.
- iv. By accepting and using the LMS Certifications Services, Client hereby unconditionally agrees to be bound by these terms and conditions of services to the exclusion of all other terms.

## 3) PERFORMANCE OF THE PROJECT

- i. LMS Certifications shall determine the way and the person by whom the services agreed will be carried out, taking into account, as far as it is feasible, the reasonable requests expressed by the Client if any.
- ii. LMS Certifications shall complete the Services with reasonable skill, care and diligence in accordance with the Contract.



- iii. The Client hereby accepts that the time schedule allocated for the performance of Services may be subject to change in case of amendment to the Services and/or the Services to be provided there under after conclusion of the Services.
- iv. In case of any change of circumstances under which the Services is to be performed which cannot be attributed to LMS Certifications, It may make any such amendments to the Services as it deems necessary to adhere to the agreed quality standards and specifications. Any costs arising from or related to this change of circumstances will be fully borne by the client.
- v. LMS Certifications may, at its discretion and, where possible replace the person or persons charged with performing the Services, if and in so far as the LMS Certifications believes that such replacement would benefit the performance of the Services.
- vi. LMS Certifications shall provide the Client with such reports of his work on the Services at such intervals and in such form as the Client may from time to time require. The Client has the right to notify LMS Certifications that it wishes to modify its requirements in relation to the Services. Such modifications shall not enter into effect until the parties have agreed on the consequences thereof such as to the Contract fee and the completion date of the Services.

#### **4) SUBCONTRACTORS**

- i. LMS Certifications shall be free to involve Subcontractors, availing of specific expertise, in the performance of the Services, provided that the LMS Certifications shall have these third parties enter confidentiality obligations like the confidentiality obligations applicable to the LMS Certifications.

#### **5) CLIENT'S OBLIGATION**

- i. The Client shall always duly make available to the LMS Certifications and its subcontractors all information and documents that LMS Certifications deems necessary to be able to carry out the Services correctly, in the specified form and manner. Also, the Client shall provide all cooperation required for the proper and timely performance of the Services.
- ii. The Client guarantees that LMS Certifications and its subcontractor's employees can at all times work under safe conditions, in accordance with the relevant health and safety regulations and environmental rules and shall indemnify and hold harmless the LMS Certifications and its subcontractor against all loss, expense or damage arising from or relating to this guaranty by the Client.
- iii. The Client shall duly inform the LMS Certifications of any facts and circumstances such as conflict of interest and impartiality threats with LMS Certifications and or its Certification Partner that may be relevant in connection with the execution of the Services.
- iv. Furthermore, the Client shall guarantee the correctness, completeness and reliability of any information provided to the LMS Certifications and its Subcontractors.



- v. Client understands that this agreement is for the services of LMS Certifications and client undertakes the responsibility to be aware of the terms and conditions of the LMS Certifications Subcontractors in addition for the services delivered by the Subcontractors.

#### **6) ACCEPTANCE OF OFFER**

- i. To signify acceptance of the LMS Certifications quotation / commercial proposal with the offer to perform the Services, the Client shall sign where indicated and return a copy of the quotation / commercial proposal to LMS Certifications.
- ii. The offer and its acceptance by the Client shall form the Contract for the supply of Services by LMS Certifications Services (LMS Certifications) to the Client. Until the acceptance of the offer has been returned, LMS Certifications shall not be obliged to carry out any work for the Client.
- iii. LMS Certifications reserves the right at any time before the completion of the Services to increase the quotation to reflect the cost of any work additional to that which the Client had indicated at the time of request for Services. This is subject to revision of quotation/ commercial proposal with list of additional work requested by the client in writing between The Client and LMS Certifications.
- iv. By accepting the offer, Client undertakes the liability and gives no objection for availing services from LMS Certifications or its Sub Contractor for the agreed Services.
- v. When the agreed services are delivered by LMS Certifications Subcontractor, Client shall hold LMS Certifications and its employees harmless for the discrepancies raised in delivering the Service by LMS Certifications Subcontractor. In such cases, it shall be understood by the Client that the liability of LMS Certifications is limited to the Service Coordination between the Client and its Subcontractor and is only a delivery management of those service deliverables which is subcontracted by LMS Certifications.

#### **7) WARRANTIES, LIABILITY AND INDEMNIFICATION**

- I. The client shall indemnify LMS Certifications and its subcontractor and hold harmless against all disputes, legal or contractual pertaining to non-compliance of any statutory or regulatory or any other form of compliance in respect of its scope of services or products and for the industrial sector in which it is operating.
- II. The client shall indemnify LMS Certifications and hold harmless for any disputes - legal, contractual or financial, arising out of damages pertaining to Services delivered by LMS Certifications Subcontractors. The client undertakes the liability to settle the same with the LMS Certifications Subcontractors directly.
- III. Client undertakes the liability that the client organization is fully aware of the requirements of the international standards, statutory, regulatory and local requirements related to the product



and processes associated with its operations in country of its operation and hereby affirm that client organization are complying with the said requirements.

- IV. Client hereby confirms the awareness that the onus of conformity to the certification requirements of international standard rests solely with the client and not with LMS Certification or its Subcontractors.
- V. Accordingly, in the event of any non-compliance to the said requirements during operations of its organization, Client shall be held solely responsible for any suspension, scope reduction or cancellation or rejection certificates and for any legal, financial or consequential damages and agrees to indemnify LMS Certifications and its Subcontractors and hold harmless of the aforesaid damages or consequences.
- VI. The client hereby understands that this agreement is uncontrolled when printed and LMS Certifications reserves the right to change this terms and conditions any time at its sole discretion and client undertakes its sole responsibility to obtain the latest version which shall be made available in LMS Certifications website. Client's continued use of agreed Services following revision of the Terms of Service shall constitute Client's consent thereto.

#### 8) WAIVER

- i. A waiver of any right under the Contract is only effective if it is in writing and it applies only to the circumstances for which it is given. No failure or delay by a Party in exercising any right or remedy under the Contract or by law shall constitute a waiver of that (or any other) right or remedy, nor preclude or restrict its further exercise. No single or partial exercise of such right or remedy shall preclude or restrict the further exercise of that (or any other) right or remedy

#### 9) LIMITATION OF REMEDIES AND LIABILITY

- i. The remedies provided herein shall be the client's sole and exclusive remedies.
- ii. Unless expressly agreed LMS Certifications or its Certification Partner will not be liable for performance delays or for non-performance due to causes beyond its reasonable control.
- iii. Nothing in this Agreement may be taken as any warranty to issue a Management system certificate, CE marking, Product certificate or Training certificate etc
- iv. The provision of a Management system certificate, CE marking, Product certificate or Training certificate in no way infers an approval of the product by LMS Certifications
- v. Except as provided in this Agreement LMS Certifications shall not be liable to the Client for any direct losses: or indirect, special or consequential losses including but not limited to loss of anticipated profits, data, business, revenue, goodwill, or anticipated savings howsoever based.
- vi. LMS Certifications accepts no liability for any work done or expenditure incurred by the Client in anticipation of the issue of a report or Management system certificate, CE marking, Product certificate or Training certificate.



- vii. No government procurement regulations or Agreement clauses are binding on either party unless required by law or mutually agreed.
- viii. Notwithstanding the above LMS Certifications total liability under this Agreement (arising from Agreement, negligence or howsoever) for any one event or series of events shall not exceed the fee earned by LMS Certifications under the Agreement.
- ix. The Client hereby agrees to hold harmless and indemnify LMS Certifications, its employees, certification partners against all damages, losses, liabilities, actions, claims, expenses and costs whatsoever in respect of any claim that may be made against LMS Certifications, its employees, or certification partners by any third party that may arise out of the provision of the Service or the clients failure to perform its obligations hereunder. This indemnity will survive the termination of this Agreement.
- x. Any delivery date or period referred to in the Quotation, or in subsequent agreements, is an estimate and provisional only and such dates or periods shall in no circumstances be construed as being of the essence of the agreement.

#### 10) PAYMENTS & CANCELLATION

- i. If the client fails to make a payment on the due date then without prejudice to any other right or remedy available to LMS Certifications, LMS Certifications shall be entitled to cancel the contract or suspend any further service to the client.
- ii. This contract may be terminated at any time with the given restrictions detailed below:
- iii. Any request for cancellation of any services (services including certification, training etc.) offered by LMS Certifications will be allowed only if the cancellation requests are made within 05 working days from the date of signing the proposal / contract. Any request for cancellation must be made only through email by the authorized representative of the applicant organization to the LMS Certifications management. Cancellation request through any other medium of communication shall not be entertained. Refund for any services (services including certification, training etc.) offered by LMS Certifications can be processed only if the cancellation request is made within the above specified time.
- iv. Refund shall not be entertained in the following cases:
  - a) For the services completed either partly and or fully by LMS Certifications
  - b) A cancellation request made after the above specified time.
  - c) A cancellation request made through phone or fax or in verbal.
  - d) A cancellation request that is made through an employee of LMS Certifications on behalf of applicant organization (i.e., Client)
  - e) Refund against the LMS Certifications invoice that is raised either in part or in full prior to cancellation request



- f) Refund request stating any stationery issue or mishandled or damaged documentation or certification kit and or training documents.
- v. A Refund shall be processed only if appropriate bank details are furnished by the organization to the LMS Certifications Head office.
- vi. Any refund shall take a minimum of 21 working days from the date of approval of the cancellation or refund request. For refund, the organization is required to provide accurate bank and contact details. The refund shall be made through telegraphic or bank transfer only. Cash refund shall not be made. All refunds shall be processed only after deducting the administration, accreditation and other expenses incurred by LMS Certifications.

#### 11) FORCE MAJEURE

LMS Certifications shall have no liability to the Client under the Contract if it is prevented from, or delayed in performing, its obligations under the Contract or from carrying on its business by acts, events, omissions or accidents beyond its reasonable control, including (without limitation) strikes, lock-outs or other industrial disputes (whether involving the workforce of the Supplier or any other party), failure of a utility service or transport network, act of God, war, riot, civil commotion, malicious damage, compliance with any law or governmental order, rule, regulation or direction, accident, breakdown of plant or machinery, fire, flood, storm or default of certification partner.

#### 12) LAW

- i. This agreement for the services by LMS Certifications is subject to the laws of India and governed accordingly by the judicial system of the India Courts and any dispute arising under or in connection with these conditions or the supply of the services by LMS Certifications shall be referred to arbitration through Courts of Lucknow, Uttar Pradesh, India only.
- ii. Any agreement signed by the client for the certification services between the LMS Certifications / Certification Partner shall be governed by the laws stated in Certification Partner's agreement.

End of LMS Certifications Terms and Conditions of Services.