

# Terms and Conditions for Certification, Assessment Services and TradeMark Licence



To be read in conjunction with your application/proposal.

## Contact information

### Website

<https://www.saiglobal.com/contact-us>

# Terms and Conditions for Certification, Assessment Services and TradeMark Licence



## Certification Services Terms and Conditions

### 1. APPLICABILITY

- 1.1 These terms and conditions govern the supply of Certification Services by SAI Global to the Client.
- 1.2 These terms and conditions prevail over any other terms that may be communicated by the Client in writing or orally, whether in an order, letter, other document, in negotiations or otherwise.
- 1.3 No person acting or purporting to act on behalf of SAI Global shall have authority to waive or change these terms orally. Waivers or changes shall have effect only if made in writing and signed by a duly authorised officer of SAI Global.
- 1.4 SAI Global may vary these terms and conditions at any time by notifying the Client, including any variation necessary to satisfy any direction given to SAI Global by JAS-ANZ or any other accreditation authority.

### 2. DEFINITIONS

In these terms and conditions:

**'Cancellation Fee'** means a cancellation fee in respect of cancellation or postponement of audit as specified in the schedule of fees or otherwise by SAI Global;

**'Certificate'** means the document issued by SAI Global to record Certification;

**'Certification'** means confirmation that a product, process or service has been assessed in accordance with Certification Procedures as meeting specified requirements;

**'Certification Mark'** means a symbol, word or other sign that signifies that a product, process or service has been certified by a competent person as meeting specified requirements;

**'Certification Procedures'** means procedures developed by SAI Global and used in assessing a product, process or service for the purpose of grant or maintenance of Certification. These terms and conditions override any inconsistent Certification Procedures;

**'Certification Services'** means assessment of a product, process or service in accordance with Certification Procedures. Certification Services includes one off assessment and verification services, gap analysis and second party audits, whether or not a certificate is issued;

**'Client'** means the company, organisation or individual, or more than one company, organisation or individual acting in partnership, seeking Certification;

**'Contract'** means the contract between SAI Global and the Client resulting from the Client's application for Certification and Licence and incorporates the terms and conditions governing the supply of Certification Services and, where SAI Global grants the Client a licence to use a Licensed Certification Mark, the terms governing the Licensed Certification Mark ;

**'JAS-ANZ'** means the organisation known as Joint Accreditation System of Australia and New Zealand and its successors and assigns;

**'Default Rate'** means 1.5% of overdue amounts per month calculated on a daily basis;

**'Schedule of Fees'** means the fee schedule for the Certification Services as set by SAI Global, at its sole discretion, from time to time (and where applicable for product certification clients) or as otherwise agreed by SAI Global and the Client;

**'Site'** means the location of manufacture of product or of performance of a process or service;

**'SAI Global'** means SAI Global Pty Limited (ABN 67 050 611 642) and/or SAI Global Certification Services Pty Limited (ACN 59 108 716 669).

### 3. CERTIFICATION SERVICES

- 3.1 Under the Contract, SAI Global agrees to provide and the Client agrees to accept the Certification Services requested by the Client.
- 3.2 SAI Global may appoint an agent or contractor to provide Certification Services, including under taking all or part of the Certification Procedures and the Client hereby consents to such appointment.

### 4. FEES

- 4.1 The Client must pay to SAI Global Pty Limited all fees due in respect of Certification Services provided by SAI Global to the Client and any Cancellation Fee.

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- 4.2 The fees payable under clause 4.1 are those set out in a current Schedule of Fees issued by SAI Global from time to time or as otherwise agreed by SAI Global and the Client.
- 4.3 SAI Global shall, from time to time, render invoices for the performance of the Certification Services and the Client must pay the invoiced amount to SAI Global in the currency specified within 30 days of the date of SAI Global's invoice or as otherwise agreed. SAI Global shall be under no liability to refund fees paid by the Client in the event of suspension or termination of Certification by SAI Global or the Client. If the Client does not pay an amount payable under these terms and conditions on time, the Client must pay interest on that amount on demand by SAI Global from when it becomes due for payment until it is paid. Interest is calculated on daily balances at the Default Rate;
- 4.4 SAI Global reserves the right to amend its Schedule of Fees (where applicable for product certification clients) at any time or to otherwise review agreed pricing principles and/or to require payment of fees in advance.

## 5. ASSESSMENT

### *Access and Co-operation*

- 5.1 The Client agrees to comply with the applicable Certification Procedures and to provide SAI Global's employees, agents and contractors with all co-operation and assistance required by the applicable Certification Procedures necessary to enable SAI Global to provide the Certification Services requested by the Client, including reasonable access to the premises, facilities, documents and records of the Client and the Client's contractors and agents.
- 5.2 The Client must promptly comply with any reasonable requirement of SAI Global in relation to the Client's product, process or service to make appropriate the Certification request by the Client, including allowing a representative of a relevant accreditation body to witness a Certification Service being provided by SAI Global at a Site.

### *Safety*

- 5.3 The Client accepts responsibility for the safety of SAI Global's employees, agents and contractors in activities required under the applicable Certification Procedures, including the provision of all relevant safety or protective clothing and/or equipment and advising SAI Global, its employees, agents or contractors appropriately of any safety hazards or special training requirements.

### *Accuracy of Information Provided to SAI Global*

- 5.4 The Client warrants that all information made available to SAI Global is, to the best of its knowledge and belief, complete and accurate.

## 6. CERTIFICATION

- 6.1 If:
  - (a) the Client is not in breach of these terms and conditions; and
  - (b) after assessment of the Client's products, process or service in accordance with the applicable Certification Procedures, SAI Global is satisfied that Certification is appropriate;SAI Global will:
  - (a) grant Certification;
  - (b) issue the Client with a Certificate; and
  - (c) if so requested by the Client, and if relevant, grant or arrange to have granted to the Client a licence to use the applicable Certification Mark.
- 6.2 If SAI Global is not satisfied that Certification is appropriate and does not grant certification, SAI Global must notify the Client.

## 7. AFTER CERTIFICATION

### *Duration of Certification*

- 7.1 Subject to these terms and conditions, Certification continues until any expiry date referenced in the Certificate.

### *Maintenance of Certification*

- 7.2 The Client must maintain the product, process or service as certified and comply with all reasonable requirements including the payment of fees that SAI Global considers necessary to ensure that Certification continues to be appropriate, including any requirements listed or referred to in the Certificate.

### *Changes*

- 7.3 The Client must promptly inform SAI Global of any change in relation to the certified product, process or service that is likely to substantially affect the Certification, including change of address of any relevant sites or other premises.

### *Use of Certificate*

- 7.4 The Client must not, without SAI Global's permission, alter, modify, deface or destroy the Certificate.
- 7.5 Subject to these terms and conditions, the Client may publicise the fact that Certification has been granted and use the Certificate as evidence of Certification. The Client may copy the Certificate provided that each copy is clearly identified as a copy.

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- 7.6 The original and any copies of the Certificate remain the property of SAI Global and must be returned immediately if requested by SAI Global.
- 7.7 The Certificate does not imply that any Certification is approved by any accreditation, regulatory, government or statutory authority. *No Misrepresentation of Certification*
- 7.8 The Client must not:
- (a) engage in any conduct which might mislead, deceive or confuse any person in relation to; or
  - (b) otherwise misrepresent the nature, status, scope or effect of its Certification by SAI Global.
- 7.9 The Client must promptly comply with any directions given by SAI Global to correct any conduct or misrepresentation in breach of clause 7.8.

## *Suspension, Cancellation or Expiry of Certification*

- 7.10 The Client's Certification shall be suspended with immediate effect in the following circumstances:
- (a) SAI Global gives notice to the Client that it considers that Certification is no longer appropriate;
  - (b) the Client is in breach of these Terms and Conditions;
  - (c) a substantial change in the management system of the Client occurs without the Client notifying the change to SAI Global for its review; or
  - (d) if, in the case of any product subject to Certification, there has been a significant change in design or manufacture of such product without the Client notifying the change to SAI Global for its review.
- 7.11 If the Client's Certification is suspended:
- (a) SAI Global must within 30 days of notifying the Client of the suspension, furnish the Client with information outlining the steps that must be taken by the Client to enable the suspension to be lifted;
  - (b) the Client must immediately take all steps necessary to enable the suspension of its Certification to be lifted; and
  - (c) the Client must take all steps reasonably required by SAI Global to prevent the public being misled or otherwise harmed.
- 7.12 If SAI Global is satisfied with the remedial action taken by the Client, SAI Global may lift the suspension of Certification by notifying the Client.
- 7.13 SAI Global may cancel the Client's Certification with immediate effect by giving notice to the Client if the Client's Certification has remained suspended for a period of more than 90 days.
- 7.14 If the Client's Certification expires or is cancelled or the Contract is terminated under clause 14, the Client must immediately:
- (a) pay to SAI Global all amounts due but unpaid by the Client;
  - (b) cease using any Certification Mark licensed in connection with the Client's Certification (if any);
  - (c) withdraw from public display and return to SAI Global, as required by SAI Global, the original and all copies of the Certificate;
  - (d) cease all advertising, promotions or other publication of the fact of Certification;
  - (e) take any steps reasonably required by SAI Global to notify staff, customers and/or suppliers of the expiry or cancellation of Certification;
  - (f) take steps to repaint or redecorate signage or other parts of the Client's premises, property, plant or uniforms to remove reference to Certification;
  - (g) stop using SAI Global's confidential information and, at SAI Global's option:
    - (i) return to SAI Global;
    - (ii) destroy and certify in writing to SAI Global the destruction of; or
    - (iii) destroy and permit SAI Global to witness the destruction of all SAI Global's confidential information in the Client's possession or control; and
  - (h) take all other necessary steps to ensure that third parties are not misled to believe that the Certification has not expired or been cancelled.

## **8. CONFIDENTIALITY**

- 8.1 SAI Global must ensure that its employees, agents and contractors treat as confidential, and do not disclose to any other third person without the prior written consent of the Client, any proprietary or confidential information belonging to the Client with which SAI Global becomes acquainted during the term of the Contract except that, where SAI Global considers it appropriate, SAI Global may disclose the Client's identity and the nature, status, scope or effect of the Client's Certification.
- 8.2 Nothing in 8.1 restricts SAI Global from disclosing information obtained as a result of the services provided, to a relevant regulatory body, wherein SAI Global's opinion, the health or safety of another party may be compromised.
- 8.3 The Client must treat as confidential and not disclose to any third party without the prior written consent of SAI Global any proprietary or confidential information belonging to SAI Global.

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- 8.4 The obligations of confidentiality under these terms and conditions do not extend to information that:
- (a) is rightfully known to or in the possession or control of the receiving party and not subject to an obligation of confidentiality owed by the receiving party;
  - (b) is public knowledge (otherwise than as a result of breach of these terms and conditions);
  - (c) is required by an accreditation authority to be disclosed; or
  - (d) is required by law or the rules of a securities exchange to be disclosed.

## 9. INTELLECTUAL PROPERTY RIGHTS

The Client acknowledges that:

- (a) SAI Global is the owner or licensee of copyright, know-how and other intellectual property rights in the Certification Procedures and any associated documentation;
- (b) no right, title or interest in the Certification Procedures or that documentation is transferred to the Client under the Contract or from the issue of the Certificate; and
- (c) there may be certain Client information that may be incorporated into documents, reports and/or other intellectual property material generated or developed by SAI Global ("Data") in a non-identifiable manner in the course of providing the Certification Services. To the extent that there is Data and that Data is owned by the Client, notwithstanding clause 8, the Client grants to SAI Global a perpetual, non-exclusive, royalty-free licence to use the Data as part of its business processes provided that SAI Global does not identify the Client nor breach any applicable privacy obligations nor compromise, prejudice or otherwise damage the Client's business and/or intellectual property rights from a commercial or financial perspective.

## 10. LIMITATION OF LIABILITY

- 10.1 SAI Global excludes from these terms and conditions all terms, conditions and warranties implied or conferred by statute (including the Competition and Consumer Act 2010 (Cth)), general law or custom except any term, condition or warranty the exclusion of which would contravene any statute or cause any part of this clause to be void ('non-excludable statutory condition').
- 10.2 To the fullest extent permitted by law SAI Global's liability to the Client for breach of any express provision of these terms and conditions or any non-excludable statutory term, condition or warranty (other than an implied warranty of title) is limited at SAI Global's option to:
- (a) providing the Certification Services again; or
  - (b) paying the cost of having the Certification Services supplied again.
- 10.3 Except to the extent prohibited by the Competition and Consumer Act 2010 (Cth) or any other applicable laws, SAI Global excludes liability for any loss or damage suffered by the Client (whether direct, indirect, incidental, special and/or consequential damages or loss of profits whatsoever) arising in any way out of any services (including defective services) rendered by SAI Global or out of the Client's product, process or service the subject of Certification by SAI Global or any negligent act or omission of SAI Global, its officers, employees, agents or contractors, including but not limited to profits lost and damage sustained or incurred as a result of a claim by a third person.

## 11. PERSONAL INFORMATION AND PRIVACY POLICY

In the course of providing the Certification Services, the Client acknowledges that:

- (a) SAI Global may collect personal information (as defined in the Privacy Act 1988 (Cth) and similar legislation of the Commonwealth and the States and Territories of the Commonwealth);
- (b) if SAI Global does collect personal information, the collection of such information shall be in accordance with its Privacy Policy (as set out on its website at Privacy Policy); and
- (c) it has read and agrees to the terms of SAI Global's Privacy Policy.

## 12. INDEMNITY

The Client must indemnify SAI Global from and against all expenses, losses, damages and costs (on a solicitor and own client basis and whether incurred by or awarded against SAI Global) that SAI Global may sustain or incur as a result, whether directly or indirectly, of:

- (a) any breach of these terms and conditions by the Client, including, but not limited to, a breach in respect of which SAI Global exercises an express right to terminate these terms and conditions ; or
- (b) any loss of or damage to any property or injury to or death of any person;
  - (i) caused by any negligent act or omission or wilful misconduct of the Client or its officers and employees;
  - (ii) arising out of or in connection with the Client's product, process or service that is the subject of Certification.

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## 13. NON-SOLICITATION OF PERSONNEL

The Client must not solicit any SAI Global officers, employees, agents or contractors during or for six months after the termination of the Contract.

## 14. TERMINATION OF CONTRACT

- 14.1 The Client may terminate the Contract at any time by giving 30 days prior notice to SAI Global.
- 14.2 SAI Global may terminate the Contract with immediate effect by giving notice to the Client if:
- (a) the Client breaches any of these terms and conditions (other than in a manner permitting suspension under clause 7.10) and fails to remedy the breach within 30 days after receiving notice requiring it to do so;
  - (b) the Client breaches a material provision of these terms and conditions where that breach is not capable of remedy; or
  - (c) any event referred to in clause 14.3 happens to the Client.
- 14.3 The Client must notify SAI Global immediately if:
- (a) there is any change in the direct or indirect beneficial ownership or control of the Client;
  - (b) it disposes of the whole or any part of its assets, operations or business other than in the ordinary course of business;
  - (c) it ceases to carry on business;
  - (d) it ceases to be able to pay its debts as they become due;
  - (e) any step is taken by a mortgagee to take possession or dispose of the whole or any part of its assets, operation or business;
  - (f) any step is taken to enter into any arrangement between the Client and its creditors;
  - (g) any step is taken to appoint a receiver, a receiver and manager, a trustee in bankruptcy, a liquidator, a provisional liquidator, an administrator or other like person of the whole or any part of its assets or business; or
  - (h) where the Client is a partnership, any step is taken to dissolve that partnership or a partner dies.

## 15. AFTER TERMINATION

- 15.1 On termination of the Contract the Client must immediately comply with all its obligations under clause 7.14.
- 15.2 Clauses 8, 9,10,12,13 and 15 survive the termination of the Contract.
- 15.3 Termination of the Contract under clause 14 (Termination) or clause 23 (Force Majeure) does not affect any accrued rights or remedies of either party.

## 16. APPEALS

The Client may have rights of appeal against Certification decisions of SAI Global. Appeals information is published by SAI Global from time to time and available upon request from the Client.

## 17. ASSIGNMENT

- 17.1 SAI Global may assign all or any of its rights under the Contract.
- 17.2 The Client must not assign or otherwise transfer all or any of its rights under the Contract without the prior written consent of SAI Global.

## 18. SEVERABILITY

If all or any part of the Contract is found by a Court of competent jurisdiction to be illegal, void or unenforceable, the illegal, void or unenforceable part(s) may be severed from the Contract and the remaining parts of the Contract shall continue in force.

## 19. WAIVER

The failure of SAI Global at any time to require performance of any obligation under the Contract is not a waiver of its right at any other time to require performance of that or any other obligation under the Contract.

## 20. RELATIONSHIP

The Contract does not create any fiduciary, employment, agency or partnership relationship between SAI Global and the Client.

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## 21. NOTICE

- 21.1 A party giving notice or notifying under the Contract must do so in writing:
- (a) directed to the recipient's address for correspondence as nominated in the Application or varied by any notice; and
  - (b) hand delivered or sent by prepaid post or facsimile to that address.
- 21.2 A notice given in accordance with clause 21.1 is taken to be received:
- (a) if hand delivered, on delivery;
  - (b) if sent by prepaid post, three days after the date of posting; or
  - (c) if sent by facsimile, when the sender's facsimile system generates a message confirming successful transmission of the total number of pages of the notice.

## 22. HEADINGS

Headings are for ease of reference only and do not affect the meaning of these terms and conditions.

## 23. FORCE MAJEURE

No party is liable for any failure to perform or delay in performing its obligations under the Contract if that failure or delay is due to flood, fire, earthquake or other occurrence beyond that party's reasonable control. If that failure or delay exceeds 60 days, the other party may terminate the Contract with immediate effect by giving notice to the other party.

## 24. ANTI-BRIBERY

- 24.1 The Client agrees that:
- (a) It shall not commit, authorise or permit any action which would cause SAI Global and/or SAI Global's affiliates to be in violation of any applicable anti-bribery laws or regulations;
  - (b) this obligation applies in particular to illegal payments to government officials, representatives of public authorities or their associates, families or close friends; and
  - (c) it will never offer or give, or agree to give, to any employee, representative or third party acting on SAI Global's behalf nor accept, or agree to accept from any employee, representative or third party acting on SAI Global's behalf, any gift or benefit, be it monetary or otherwise, that could breach any law or policy applicable to SAI Global.
- 24.2 The Client will notify SAI Global immediately if it:
- (a) becomes aware;
  - (b) has reason to believe; or
  - (c) has any specific suspicion
- that there has been or will be a breach of this clause 24.1 or there was corruption involved with regard to the negotiation, conclusion or performance of this Agreement
- 24.3 Any breach of this clause 24.1 by the Client, its employees, agents or sub-contractors (whether with or without the knowledge of the Client) will be deemed a material breach of this Agreement, and will entitle SAI Global to recover from the Client the amount of any loss resulting from such material breach and to recover from the Client the amount or value of any such gift, consideration or commission.
- 24.4 The Client acknowledges that it has read a copy of SAI Global's Whistleblowing Policy (as set out on its website at [SAI Governance Policies](#)) including reporting hotline procedures and communicated the same to its relevant employees, agents and contractors.

## 25. GOVERNING LAW AND JURISDICTION

- 25.1 The Contract is governed by the law applicable in the State of New South Wales, Australia.
- 25.2 Each party submits to the non-exclusive jurisdiction of the courts of the State of New South Wales, Australia.

## Certification Mark Licence Terms and Conditions

### 1. APPLICABILITY

- 1.1 These terms govern the use of the Licensed Certification Mark by the Client.
- 1.2 These terms are intended to be consistent with any applicable Rules. If and to the extent that there is any inconsistency between any of these terms and any applicable Rules, the Rules will prevail.
- 1.3 These terms prevail over any other terms that may be communicated by the Client in writing or orally, whether in an order, letter, other document, in negotiations or otherwise.
- 1.4 No person acting or purporting to act on behalf of SAI Global shall have authority to waive or change these terms orally. Waivers or changes shall have effect only if made in writing and signed by a duly authorised officer of SAI Global.
- 1.5 SAI Global may vary these terms at any time by notifying the Client in writing, including any variation necessary to satisfy any direction given to SAI Global by JAS-ANZ or any other accreditation authority.

### 2. INTERPRETATION

- 2.1 Unless a contrary intention appears, expressions used in these terms have the meanings given to them in the Certification Terms.

- 2.2 In these terms:

'**Certificate and Licence**' means the document entitled 'Certificate and Licence' issued by SAI Global to the Client;

'**Certification Terms**' means SAI Global's Certification Services Terms and Conditions, as amended from time to time;

'**Client**' means the company, organisation or persons, or a combination of them acting in partnership, specified in the Certificate and Licence;

'**Licence**' means the licence granted under clause 3.1;

'**Licensed Certification Mark**' means the Certification Mark identified in the Certificate and Licence;

'**Materials**' means products, and information and promotional material about a product, process or service;

'**Rules**' means rules governing the use of a registered Certification Mark as lodged with the Australian Industrial Property Organisation;

'**SAI Global**' means SAI Global Certification Services Pty Limited (ABN 59 108 716 667);

'**SAI Global Pty Limited**' means SAI Global Pty Limited (ABN 67 050 611 642).

### 3. LICENCE

- 3.1 The issue of a Certificate and Licence grants to the Client a non-exclusive licence to use the Licensed Certification Mark as a Certification trade mark in relation to the product, process or service for the Site and by reference to the standard or other specified requirement identified in the Certificate and Licence.
- 3.2 The issue of the Licence to the Client does not restrict SAI Global's right to use or license the use of the Licensed Certification Mark to any other person.

### 4. CLIENT'S OBLIGATIONS

#### *General*

- 4.1 The Client must ensure that the Licensed Certification Mark is:
  - (a) not used except in accordance with the Licence;
  - (b) not used in any way which causes confusion or deception or would be likely to deceive or cause confusion; and
  - (c) used in accordance with any guidelines on use published by SAI Global from time to time.

#### *Additional obligations for manufactured goods made under a licence relating to compliance of a product*

- 4.2 Where the Licence relates to a certified product that is a manufactured good, the Client must ensure that:
  - (a) when physically applied to goods, the Licensed Certification Mark is:
    - (i) accompanied by the number of the Certificate and Licence; and
    - (ii) applied to goods prior to their despatch from a site covered by the Certificate and Licence.
  - (b) when the Licensed Certification Mark is physically applied to components manufactured by a contractor or agent of the Client prior to further processing or assembly, the Client has submitted details to SAI Global for prior approval and made arrangements to guarantee access by SAI Global or SAI Global Pty Limited to the premises of the contractor or agent unless otherwise waived in writing by a duly authorised officer of SAI Global.



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## *Use of Licensed Certification Mark*

4.3 The Client agrees with SAI Global:

- (a) to use the Licensed Certification Mark in accordance with the Licence and any reasonable directions issued by SAI Global from time to time including directions in relation to statements acknowledging that the Client does not own the Licensed Certification Mark;
- (b) on request by SAI Global, to submit samples of Materials;
- (c) to promptly correct any failure to comply with paragraph (a), including by complying with any timely and reasonable directions issued by SAI Global in relation to Materials submitted to SAI Global under paragraph (b);
- (d) not to alter, modify or deface in any way representations of the Licensed Certification Mark;
- (e) to report to SAI Global any suspected or actual unauthorised use of the Licensed Certification Mark of which the Client becomes aware;
- (f) to provide all access and co-operation reasonably requested by SAI Global to protect the Licensed Certification Mark and to ensure compliance with these terms;
- (g) not to represent that it owns or has any rights in relation to the Licensed Certification Mark other than the Licence;
- (h) not to question or challenge the validity or ownership of the Licensed Certification Mark; and
- (i) not to apply for registration of any trade mark, business name or company name that incorporates any name or logo the same as, substantially identical with or deceptively similar to the Licensed Certification Mark, without the written consent of SAI Global.

## **5. USE OF CERTIFICATE AND LICENCE**

- 5.1 The Client must not, without SAI Global's permission, alter, modify, deface or destroy the Certificate and Licence.
- 5.2 The Client may publicise the fact that the Licence has been granted and may use the Certificate and Licence as evidence of the Licence. The Client may copy the Certificate and Licence provided that each copy is clearly identified as a copy.
- 5.3 The original and all copies of the Certificate and Licence remain the property of SAI Global and must be returned immediately if requested by SAI Global.

## **6. CLIENT'S WARRANTY AND INDEMNITY**

- 6.1 The Client warrants to SAI Global that the Licensed Certification Mark is used only in accordance with the Licence, unless otherwise approved in writing by SAI Global.
- 6.2 The Client indemnifies SAI Global from and against all losses, damages, expenses and costs (on a solicitor and own client basis and whether incurred by or awarded against SAI Global) that SAI Global may sustain or incur as a result, whether directly or indirectly, of:
  - (a) any breach of these terms by the Client including, but not limited to, a breach in respect of which SAI Global exercises an express right to terminate the Licence;
  - (b) any negligent act or omission or wilful misconduct of the Client or its officers, employees and agents; or
  - (c) any loss of or damage to any property or injury to or death of any person resulting, wholly or partly, from any product, process or service in relation to which the Licensed Certification Mark has been used by the Client.

## **7. ADDITIONAL REMEDIES FOR BREACH OF WARRANTY**

If the Client breaches any warranty in clause 6.1, or any other provision of these terms the Client must at its cost:

- (a) immediately notify SAI Global and provide any information reasonably requested by SAI Global;
- (b) promptly comply with any direction which SAI Global may issue to prevent further breach or minimise the adverse consequences of breach (either to SAI Global or to any member of the public), including a direction to:
  - (i) cease supply of goods or services;
  - (ii) take steps to modify goods or services before supply;
  - (iii) destroy goods;
  - (iv) modify or destroy Materials;
  - (v) provide information (including Materials) to the public;
  - (vi) where the breach relates to goods already released for sale and which will or may cause injury to any person:
- (c) under take a recall of the goods; and
- (d) take such other action as may be reasonably requested by SAI Global;

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- (i) cease representing, either expressly or by implication, that they have any current Certification or Certificate and Licence; and
- (ii) keep SAI Global informed, in writing, of action taken pursuant to any direction issued under paragraph (b).

## 8. ROYALTY

Where applicable, the Client must:

- (a) provide a fully reconciliation of the royalty payable to SAI Global Pty Limited, such royalty to be calculated in accordance with the royalty payment specified in the Schedule of Fees (or elsewhere);
- (b) promptly pay to SAI Global Pty Limited the royalty payable; and
- (b) co-operate with SAI Global and SAI Global Pty Limited and grant to SAI Global Pty Limited reasonable access to all relevant books and records to enable SAI Global Pty Limited to verify the royalties due to it, if required by SAI Global Pty Limited and pay any shortfall amount.

The Client shall not be entitled to any refund of any royalties paid in the event of termination or suspension of the Licence.

The Client acknowledges that SAI Global Pty Limited reserves the right to amend its Schedule of Fees at any time.

## 9. SAI GLOBAL'S WARRANTY

SAI Global warrants that it has all rights required to grant the Licence to the Client.

## 10. TERMINATION

- 10.1 The Licence terminates on the expiry date in the Certificate and Licence or when terminated in accordance with this clause 10.
- 10.2 The Client may terminate the Licence upon giving notice to SAI Global.
- 10.3 If the Client's Certification is suspended, cancelled or expires, the Client must promptly:
  - (a) notify SAI Global; and
  - (b) furnish SAI Global with all information reasonably requested by SAI Global to ascertain the nature and extent of the breach.
- 10.4 If the Client's Certification is:
  - (a) suspended in accordance with the Certification Terms, then the Licence is also suspended and the Client must, during the suspension period, comply with any reasonable written directions issued by SAI Global in relation to use of the Licensed Certification Mark;
  - (b) cancelled or expires in accordance with the Certification Terms, then the Licence automatically and immediately terminates.
- 10.5 SAI Global may terminate the Licence with immediate effect by giving notice to the Client if:
  - (a) the Client breached any of these terms and fails to remedy the breach within 30 days after receiving notice requiring it to do so; or
  - (b) the Client breaches a material provision of these terms where that breach is not capable of remedy.

## 11. APPEALS

The Client may have rights of appeal against licensing decisions of SAI Global including rights given by applicable Rules. Applicable Rules and appeals information are published by SAI Global from time to time, and available to the Client upon request.

## 12. AFTER TERMINATION

- 12.1 On termination of the Licence, the Client:
  - (a) must, subject to clause 12.1 (b), immediately cease using and has no further right to use, including on or in Materials,:
    - (i) the Licensed Certification Mark; or
    - (ii) any trade mark including a Certification mark that is substantially identical with or deceptively similar to the Licensed Certification Mark;
  - (b) may continue to sell goods marked with the Licensed Certification Mark before the termination of the Licence unless SAI Global directs that the Certification Mark be erased or masked from the goods before their sale;
  - (c) subject to clause 12.1 (b), must remove the Licensed Certification Mark from, or destroy all Materials bearing the Licensed Certification Mark in the Client's custody, possession or control; and
  - (d) must promptly return the Certificate and Licence to SAI Global.

# Terms and Conditions for Certification, Assessment Services and TradeMark Licence



- 12.2 Termination of the Licence will not affect any accrued rights of any party, including any rights of appeal available to the Client under any applicable Rules.
- 12.3 Clauses 6, 7 and this clause 12 survive the termination of the Licence.

## **13. GENERAL**

The provisions of the Certification Terms dealing with limitation of liability, assignment, severability, waiver, relationship, notice, headings, force majeure, anti-bribery and governing law and jurisdiction apply, mutatis mutandis, to the Licence.