DocuSign Envelope ID: BCFF708B-BB38-4A63-86D1-30B7FAD47B5F

| UKAS Customer Number(s) | **5197** |
|---|---|

# UKAS Customer Agreement

Uncontrolled If Printed

**Dated: 02-02-2023**

**Between:**

(1) **United Kingdom Accreditation Service** a company limited by guarantee incorporated in England and Wales under no. 3076190, having its registered office at 2 Pine Trees, Chertsey Lane, Staines-upon-Thames, Surrey, TW18 3HR and an email address of info@ukas.com ("**UKAS**"); and

(2) **Element Materials Technology Aberdeen Ltd**

Company/Charity No. (where relevant) **03399370**

having its registered office or having its principal place of business

at **Hareness Circle Altens Industrial Estate, Aberdeen, AB12 3LY, United Kingdom**

and an email address of **Grzegorz.Wryk@element.com**

("**the Customer**").

DocuSign Envelope ID: BCFF708B-BB38-4A63-86D1-30B7FAD47B5F


**Contents**


| | | |
|---|---|---|
| 1 | Definitions and Interpretation | 3 |
| 2 | Obligations and Responsibilities of UKAS | 7 |
| 3 | Obligations and Responsibilities of the Customer | 8 |
| 4 | Customer restrictions | 12 |
| 5 | Customer breaches | 13 |
| 6 | Confidentiality | 14 |
| 7 | UKAS Terms of Business | 15 |
| 8 | Health & Safety | 15 |
| 9 | UKAS Liability | 15 |
| 10 | Customer Liability and Indemnity | 16 |
| 11 | Complaints | 16 |
| 12 | Appeals | 16 |
| 13 | Termination | 17 |
| 14 | Force Majeure | 18 |
| 15 | Subcontracting | 18 |
| 16 | Assignment | 18 |
| 17 | Third Parties | 18 |
| 18 | General | 18 |
| 19 | Law and Jurisdiction | 19 |
| 20 | Warranty of Authority and Agreement | 19 |


**Schedules**


| | |
|---|---|
| A | CertCheck Database Agreement (only relevant for Customers holding or seeking accreditation to ISO/IEC 17021-1 for management system certification) |


Uncontrolled If Printed

DocuSign Envelope ID: BCFF708B-BB38-4A63-86D1-30B7FAD47B5F


**Introduction**

(A) UKAS is appointed as the UK national accreditation body under the UK Accreditation Regulations 2009 for the purposes of Article 4(1) of RAMS (Regulation (EC) 765/2008, as amended and has effect in Great Britain), setting out the requirements for accreditation. It operates under a Memorandum of Understanding with His Majesty's Government through the Secretary of State and in accordance with ISO/IEC 17011.

(B) This Agreement sets out the obligations and responsibilities of UKAS and the Customer in relation to assessment and accreditation of the Customer.

**Now it is hereby agreed** as follows:

**1 Definitions and Interpretation**

1.1 In this Agreement (including the Introduction), unless inconsistent with the context or otherwise specified the following expressions have the following meanings:

"**Accreditation**": attestation by UKAS of the competence of a UKAS customer conveying formal demonstration of its competence to carry out specific conformity assessment tasks;

**"Advertising Media"**: marketing or advertising of any kind on any electronic, digital or physical media, including, but without limitation, labels, tags or terms used for search engine optimisation of a website used or operated by or on behalf of the Customer;

"**Agreement**": this agreement, as varied from time to time pursuant to its terms;

"**Approved (or otherwise designated) Body**": a body appointed by the Secretary of State or other Competent Authority to carry out conformity assessment under UK regulations;

"**Assessment**": an assessment by UKAS to determine the Customer's competence and compliance in accordance with the relevant Standard(s), the assessment being undertaken using such method as UKAS considers appropriate, including, but without limitation, by remote computer connection or in person, according to such Competent Authority Guidelines, EA Requirements, IAF Requirements, ILAC Requirements and UKAS Requirements as are relevant and/or necessary for UKAS to comply with its obligations of this Agreement;

**"Associate"**: any officer, employee, agent or representative of the Customer, or any of its clients or any other person with which it is associated, including any affiliated, group and/or subsidiary companies

"**Business Day**": a day other than a Saturday or Sunday or a public holiday in England and Wales;

"**Certificate**": a certificate of Accreditation, including any annexes, provided by UKAS to a UKAS customer;

"**Competent Authority"**: a body (for example, a government department) responsible for the appointment of an Approved (or otherwise designated) Body in relation to UK regulations, or a UK Notified (or otherwise designated) Body for regulations relevant to the Northern Ireland market;

"**Competent Authority Guidelines**": guidelines issued by a Competent Authority;

"**Conformity Assessment Body**": a body which is accredited by UKAS to carry out conformity assessment in accordance with the Standard(s);

Uncontrolled If Printed

DocuSign Envelope ID: BCFF708B-BB38-4A63-86D1-30B7FAD47B5F


**"Customer Site"**: the physical location(s) of the Customer or a client of the Customer at which a UKAS representative is required to attend for the purposes of an Assessment or other activity required pursuant to this Agreement;

"**EA**": the European co-operation for Accreditation (or any successor body);

"**EA Requirements**": the requirements issued by EA for the conduct of conformity assessment and used by UKAS for assessment and Accreditation;

"**IAF**": The International Accreditation Forum, Inc. (or any successor body);

"**IAF Requirements**": the requirements issued by IAF for the conduct of conformity assessment and used by UKAS for assessment and Accreditation;

"**ILAC**": The International Laboratory Accreditation Cooperation (or any successor body);

"**ILAC Requirements**": the requirements issued by ILAC for the conduct of conformity assessment and used by UKAS for assessment and Accreditation;

"**Improvement Action":** a finding raised by UKAS recording a nonconformity against the assessment criteria (e.g. relevant international standard / conformity assessment body standard), including the Conformity Assessment Body's own management system requirements, or identifying an opportunity for improvement. These can be recorded as either mandatory or recommended;

**"Insolvency Event":** an Insolvency Event will be deemed to have occurred if either UKAS or the Customer: (a) is unable to pay its debts (as per section 123 of the Insolvency Act 1986), (b) appoints an administrator, a receiver or administrative receiver, (c) gives notice of its intention to appoint a receiver, (d) is subject to a winding up order, (e) enters into or proposes to enter into a Compulsory Voluntary Arrangement with creditors, or (f) enters into compulsory or voluntary liquidation (excluding liquidation for the purposes of reconstruction);

"**MOU**": the memorandum of understanding made between the Secretary of State or his predecessors and UKAS, as revised from time to time;

"**Notice**": a written notice in English given by one Party to the other, in connection with this Agreement, in accordance with clause 13;

"**Parties**": the parties to this Agreement and "**Party**" means either of them;

**"EU Exit Regulations"** Product Safety and Metrology etc. (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/696) (as amended) (Schedule 33 containing amendments of Regulation (EC) No 765/2008 of the European Parliament and of the Council);

"**Recognised Accreditation Body**": an organisation which operates as an accreditation body and which is a signatory to the multi-lateral agreement or mutual recognition arrangements of IAF or ILAC or other regional cooperation bodies recognised by IAF or ILAC;

"**Secretary of State**": the Secretary of State for Business, Energy & Industrial Strategy (or any successor department of Government);

**"Significant Nonconformity"**: any nonconformity on the part of the Customer against the Standard(s), UK Accreditation Regulations, this Agreement, EA Requirements, ILAC Requirements or IAF Requirements which meets one or more of the criteria set out in clause 3.9;

Uncontrolled if Printed

DocuSign Envelope ID: BCFF708B-BB38-4A63-86D1-30B7FAD47B5F


"**Standard(s)**": the applicable national, European and international standard(s), regulations and guides for which UKAS is appointed or recognised by the Secretary of State as the national accreditation body under the terms of the MOU;

**"Symbol"**: an accreditation symbol or mutual recognition mark owned or licensed by UKAS available for use by a UKAS customer on the terms set out in the Department for Business, Energy & Industrial Strategy's (or any successor department of Government) publication "*The National Accreditation Logo and Symbols: Conditions for use by UKAS and UKAS accredited organisations*" or under other sublicensing agreements;

"**UK Accreditation Regulations**": the Accreditation Regulations 2009 (SI 2009 No. 3155);

"**UK Notified (or otherwise designated) Body**": a body appointed by the Secretary of State or other Competent Authority to carry out conformity assessment under EU directives and regulations relevant to the Northern Ireland Market;

"**UKAS Annual Charges**": the amount charged by UKAS to the Customer during a UKAS Business Year in accordance with UKAS Terms of Business;

"**UKAS Business Year**": the period starting on 1 April in any year and ending on 31 March the following year;

"**UKAS customer"**: a customer of UKAS that has been accredited; and any person applying to UKAS to be accredited;

"**UKAS Requirements**": the requirements for assessment and Accreditation, including, but without limitation, publicly available criteria, adopted and used by UKAS from time to time;

"**UKAS Terms of Business**": the terms and conditions of business applicable to UKAS Customers seeking or holding Accreditation as published by UKAS from time to time;

**"UKAS Website":** the website at URL address https://www.ukas.com or such other address as UKAS may specify from time to time;

**"Witness Assessment":** an Assessment that involves UKAS observing, whether in person or remotely, the activities of the Customer for the purposes of the accreditation process.

1.2 References to:

1.2.1 "person" includes a reference to a body corporate, unincorporated association or partnership;

1.2.2 words importing the singular include the plural and vice versa and words referring to the masculine include the feminine and vice versa;

1.2.3 clauses are to clauses of this Agreement;

1.2.4 sections are to sections of this Agreement; and

1.2.5 a statute, regulation or statutory provision shall include reference to any amendment thereto and to any subordinate legislation or modification thereto.

1.3 Clause headings are included for the convenience of the Parties only and do not affect the Agreement's interpretation.

Uncontrolled If Printed

DocuSign Envelope ID: BCFF708B-BB38-4A63-86D1-30B7FAD47B5F


1.4 Notices:

1.4.1 Each Notice referred to in clause 13 of this Agreement shall either be delivered by hand or sent by pre-paid recorded delivery first class post (or by air mail if overseas) or by a generally recognised international courier service (with relevant fees prepaid) or by email (subject to the terms of clause 1.4.4) to the relevant address set out on the first page of this Agreement.

1.4.2 A Party may change its postal or email addresses by notifying the other Party of the amended addresses, and the amended addresses shall then apply in place of those set out on the first page as appropriate.

1.4.3 In the absence of evidence of earlier receipt, all Notices shall be deemed to have been served:

(a) if delivered by hand, at the time of delivery;

(b) posted by pre-paid recorded delivery first-class post two Business Days after the envelope containing it was posted; and

(c) if sent (with relevant fees prepaid) by a generally recognised international courier service, two Business Days after the envelope containing it was delivered by the relevant international courier

provided that where such delivery or transmission occurs after 5 p.m. on a Business Day or on a day which is not a Business Day, service shall be deemed to occur at 9 a.m. on the following Business Day.

1.4.4 Email may only be used if (i) both Parties have agreed in writing or (ii) all other options are impracticable.

1.5 References in this Agreement to "notify" shall be to a requirement for information to be provided and shall:

1.5.1 in the case of UKAS, be satisfied by the following:

(a) by written communication direct to the Customer;

(b) the publication of the relevant matter on the UKAS Website in an area reserved for notifications; and

(c) by email to the Customer informing the Customer of a notification or update published on the UKAS Website;

1.5.2 in the case of the Customer, be satisfied by the following:

(a) by written communication or email direct to the Customer's Assessment Manager ("**AM**") or its Customer Liaison Officer ("**CLO**").

and 'notification' and conjugations of the verb 'to notify' shall have commensurate meaning.

1.6 The UKAS Privacy Statement may be viewed on the UKAS Website at URL: www.ukas.com/privacy-statement/ or such other address as UKAS may specify from time to time.

Uncontrolled If Printed

DocuSign Envelope ID: BCFF708B-BB38-4A63-86D1-30B7FAD47B5F


## 2 Obligations and Responsibilities of UKAS

2.1 UKAS will carry out one or more Assessments of the Customer in accordance with its procedures as UKAS considers appropriate in order to establish conformity to, including competence in accordance with, the relevant Standard(s). The undertaking of Assessments may comprise a programme of regular or periodic activities, including such initial and follow up reviews and or surveillance and reassessment of the Customer as UKAS will in its sole discretion determine from time to time in accordance with UKAS Requirements.

2.2 UKAS agrees to act in good faith towards the Customer and to treat the Customer's representatives with respect.

2.3 UKAS will notify the Customer of its requirements for Accreditation, and of any changes to those requirements. It will take account of views expressed by interested parties before deciding on the precise form and effective date of any changes. When UKAS notifies the Customer of any changes to those requirements it will specify the date by which they must be implemented, giving the Customer reasonable time to implement such changes.

2.4 UKAS will apply the criteria for Accreditation consistently and will provide suitably competent personnel for Assessment of the Customer either by deployment of its own staff or through other contractors. UKAS will notify the Customer of the Assessment team in advance. The Customer may raise an objection to any member of that team on the ground of conflict of interest, lack of impartiality or any other reasonable grounds for objecting by notifying UKAS as soon as is practicable, being not more than 10 Business Days after the Customer is notified of the team by UKAS. UKAS will consider any such objection and will use its reasonable endeavours to accommodate them but will retain ultimate discretion as to the choice of an appropriate team to carry out any Assessment. UKAS may, if it considers it appropriate to do so in light of an objection, and at its sole discretion, delay an appointment by notifying the Customer to that effect.

2.5 UKAS will notify the Customer of the likely time to be taken for processing an application for Accreditation or performing an Assessment, which UKAS will endeavour to arrange without undue delay, and to use its reasonable endeavours to undertake such processing and Assessment in line with the notification so provided. In the event of delay, for example if an amendment to the application for Accreditation is required, UKAS will notify the Customer of the likely revised time to be taken and provide any associated amended or additional information as soon as is practicable.

2.6 For the avoidance of doubt, provided that UKAS has complied with clause 2.5, UKAS will not be liable for delay in undertaking an Assessment or issuing a Certificate.

2.7 When UKAS is satisfied that the Customer meets the requirements for Accreditation, UKAS will issue a Certificate to the Customer and may on request licence or otherwise permit the use of one or more relevant Symbols subject to its terms of use. The scope of the Accreditation awarded to the Customer will be set out in an annex to the Certificate, known as the Schedule of Accreditation.

2.8 The Customer is solely responsible at all times for meeting the requirements of clause 3, acting with impartiality, integrity, and in accordance with the requirements of competence necessary to achieve the relevant Certificate. For the avoidance of doubt, holding a Certificate does not in any way change the contractual responsibilities that the Customer

Uncontrolled if Printed

DocuSign Envelope ID: BCFF708B-BB38-4A63-86D1-30B7FAD47B5F


owes to its clients and does not release the Customer from its obligations towards its clients. Accordingly:

(a) whilst the holding of a Certificate indicates the impartiality, integrity, and competence of the Customer to the relevant Standard(s), UKAS does not accept any responsibility for a breach by the Customer of clause 3 or any act or omission of the Customer at any time, and the awarding of a Certificate does not constitute a representation by UKAS that the Customer will maintain a particular level of competence and performance at any time;

(b) the Customer is solely liable to its clients for any failure to meet the obligations provided for in this Agreement; and

(c) the Customer will fully indemnify UKAS and keep it so indemnified against any loss, damage (including, but without limitation, damage to the reputation of UKAS) claim, demand, cost (including, but without limitation, legal cost) or expense arising from any such failure.

2.9 UKAS will notify the Customer how continuing conformity with the requirements for Accreditation will be monitored in order to maintain Accreditation. The frequency of monitoring will be determined by UKAS in accordance with UKAS published procedures and will depend on the scope and scale of the Accreditation. In addition to planned surveillance visits UKAS may, at its sole discretion, carry out additional or unscheduled visits, in particular in order to verify that any notified changes to its requirements for Accreditation have been implemented.

## 3 Obligations and Responsibilities of the Customer

3.1 The Customer will comply with the terms of this section 3 and will, without prejudice to any specific provision of this Agreement, fulfil the requirements for Accreditation set by UKAS for the areas where Accreditation is sought or granted and will adapt to changes in the requirements for Accreditation notified to the Customer under clause 2.3 and notify UKAS – via the Customer's AM or its CLO - when they have been fully implemented.

3.2 The Customer warrants that it is not aware of any circumstances that may result in it being subject to an Insolvency Event.

3.3 Within 28 days (or such other reasonable period as UKAS will specify), time being of the essence, of a written request from UKAS to the Customer, whether as part of an Assessment or otherwise, the Customer will:

3.3.1 supply UKAS with all information, grant it access to personnel, documents and facilities and/or afford it such co-operation as in the opinion of UKAS is necessary to enable UKAS to establish/monitor the suitability of the Customer for Accreditation pursuant to this Agreement; or

3.3.2 provide such evidence as UKAS may reasonably require about the Customer's impartiality, integrity, competence and level of independence.

3.4 The Customer will at all times act in good faith towards UKAS and in particular will:

3.4.1 cooperate with arrangements for each Assessment, whether on site or otherwise;

Uncontrolled When Printed

DocuSign Envelope ID: BCFF708B-BB38-4A63-86D1-30B7FAD47B5F


3.4.2 promptly provide information required as part of the requirements for Accreditation;

3.4.3 keep UKAS informed of any delay to any agreed timescale for attendance at a scheduled contact with UKAS or for the provision of information, together with the reason for delay;

3.4.4 treat, and use its reasonable endeavours to ensure that its client will treat, all UKAS representatives with respect;

3.4.5 ensure that any information it provides to UKAS whether as part of an application for Accreditation, an Assessment or otherwise, is true and accurate in all respects;

3.4.6 if the Customer becomes aware that information provided to UKAS is false or inaccurate, notify UKAS as soon as is practicable, and no later than 2 Business Days after it becomes so aware; and

3.4.7 action each mandatory Improvement Action raised in a UKAS assessment report within the period specified by UKAS upon the issuing of the improvement action; if any Improvement Action cannot be actioned in this time period, the Customer is required to notify UKAS of this and provide the reason.

3.5 If UKAS requires one or more UKAS representative(s) to attend the Customer Site for the purpose of a Witness Assessment and provides the Customer with notification to that effect, the Customer will, as soon as possible and in sufficient time to ensure the attendance is facilitated, ensure that all suitable and enforceable arrangements are in place for the UKAS representative(s) to attend, taking into account all relevant requirements, including, but without limitation, the health and safety requirements referred to in clause 8.

3.6 The Customer will:

3.6.1 at all times maintain high standards and act with integrity in the conduct of its business and activities, both with UKAS and its clients, with regard to its accredited services and accredited status, and not do anything which could be regarded as bringing Accreditation into disrepute;

3.6.2 take all reasonable and appropriate steps to correct or procure the correction of any statement used by itself, any of its officers, employees, agents or representatives, or any of its clients or any other person with which it is associated, including any affiliated and/or group companies, (Associate) which is likely to bring Accreditation into disrepute or is likely to be misleading, regardless of whether it has been notified of the statement in question by UKAS or from any other reliable source;

3.6.3 make it clear in formal documentation provided to its clients, such that each client clearly understands it to be the case, that the Customer is not an agent of UKAS, and that nothing stated or done by the Customer implies approval by UKAS; and

3.6.4 take all appropriate steps to ensure that it is aware of any material published by UKAS (whether on the UKAS Website or otherwise) which is relevant to the Accreditation of the Customer.

Uncontrolled if printed

DocuSign Envelope ID: BCFF708B-BB38-4A63-86D1-30B7FAD47B5F


3.7 The Customer will notify UKAS, as soon as practicable, of any circumstances which may affect the Customer's ability to comply with this Agreement or may otherwise affect, or potentially affect, the Customer's ability to fulfil the requirements for Accreditation as set out in its Certificate, including:

3.7.1 any change in its legal, commercial, ownership or organisational status;

3.7.2 if the Customer is subject to an Insolvency Event;

3.7.3 any action being taken to enforce security granted by the Customer following default by the Customer in respect of the secured obligation;

3.7.4 any significant changes to its top management or key personnel;

3.7.5 any significant change in its premises, equipment, facilities, resources or working environment;

3.7.6 any significant change in its conformity assessment processes, practices or procedures; and

3.7.7 any significant change in its principal business policies.

3.8 The Customer will, to the best of its ability, ensure its work does not result in any nonconformity against the Standard(s), UK Accreditation Regulations, this Agreement, EA Requirements, ILAC Requirements or IAF Requirements. To the extent that any nonconformity occurs, the Customer will take timely and appropriate action to correct and prevent recurrence of any such nonconformity. Records of all nonconformities and any corrective or preventative actions taken will be maintained by the Customer and made available to UKAS on request.

3.9 The Customer will notify UKAS as soon as practicable following identification of any Significant Nonconformity. A Significant Nonconformity is one which meets one or more of the following criteria:

3.9.1 it raises concern as to the integrity, impartiality or independence of the Customer or any of their senior management;

3.9.2 it impacts the validity of the output of any of the Customer's accredited activities or activities for which the Customer is seeking Accreditation, which has caused or may reasonably be considered to cause incorrect actions or decisions to be taken by that client, by any regulator or any other party reliant on the information provided;

3.9.3 it results in or could reasonably be considered to result in a significant risk to the safety of persons and/or property and/or health;

3.9.4 it identifies one or more instances of reports or certificates being provided to any client of the Customer in relation to any of the Customer's accredited activities or activities for which the Customer is seeking Accreditation, which is subsequently identified to contain invalid, misleading or incorrect information which has caused or may reasonably be considered to cause incorrect actions or decisions to be taken by that client, by any regulator or by any other party reliant on the information provided;

Uncontrolled If Printed

DocuSign Envelope ID: BCFF708B-BB38-4A63-86D1-30B7FAD47B5F


3.9.5 it raises concerns as to practices that could reasonably be considered as illegal, fraudulent, immoral or otherwise as bringing Accreditation into disrepute;

3.9.6 it identifies that the Customer no longer possesses the technical competence required to cover any activity detailed in its Certificate or will not possess such technical competence for which the Customer is seeking Accreditation.

For the avoidance of doubt, UKAS considers any Significant Nonconformity to be a potential failure by the Customer of the requirements to maintain Accreditation.

3.10 In addition to notifying UKAS the Customer will notify any Significant Nonconformity to all interested third parties, including but not limited to its clients, product manufacturers, regulators or impacted members of the general public.

3.11 The Customer will notify UKAS promptly of any incident associated with the Customer's accredited scope of activities that may lead to enforcement action being taken by any Competent Authority or regulator against the Customer and provide information relating to the incident to allow UKAS to assess the implications on the Accreditation status of the Customer.

3.12 If operating as a Conformity Assessment Body which certifies or otherwise recognises the activities of its clients, the Customer will decline to certify any client to any standard used by UKAS for accrediting a Conformity Assessment Body save in so far as it may be necessary to assess a subcontractor to confirm that it meets the Conformity Assessment Body's requirements. Where a subcontractor is so evaluated, the Customer will ensure that any documentation issued as a result clearly states that it is only for the purposes of the subcontract and is not certification or Accreditation.

3.13 The Customer will assist UKAS in the investigation and resolution of any complaints made by third parties about the Customer's accredited activities.

3.14 Upon withdrawal or during suspension or partial suspension of Accreditation, the Customer will withdraw and cease to use all material, including that in electronic form on its website or elsewhere, referring to its Accreditation in so far as it relates to the conformity assessment tasks, for which it has had its Accreditation withdrawn, suspended or partially suspended.

3.15 The Customer will promptly pay such charges and expenses as are due to UKAS in accordance with the UKAS Terms of Business, including, but without limitation, UKAS Annual Charges if applicable.

3.16 Without prejudice to the generality of any other provision of this Agreement, in respect of any activity relevant to its Accreditation the Customer will ensure that:

3.16.1 the Customer’s full identity is clearly disclosed so that there is no confusion with any other business or enterprise; and

3.16.2 it complies with all laws, regulations, and codes, referred to in UKAS' Standard Terms of Business (as published and updated from time to time).

3.17 The Customer will take such reasonable steps as are necessary to ensure that its clients are compliant with the same requirements relevant to the Customer's service to the client as those set out in clause 3.16.

Uncontrolled If Printed

DocuSign Envelope ID: BCFF708B-BB38-4A63-86D1-30B7FAD47B5F


## 4 Customer restrictions

4.1 The Customer acknowledges that UKAS owes responsibilities to other persons and regulatory bodies including to maintain and uphold the integrity of its accreditation service for the benefit of all UKAS customers. Further, an Accreditation is awarded to the Customer only and not to any Associate nor to any other person. Accordingly, the Customer will not:

4.1.1 use the Symbol other than in accordance with:

(a) the licence or permission from UKAS and its terms of use as provided for in clause 2.7; and

(b) any other general authorisation which may be published on the UKAS Website;

4.1.2 subject to clause 4.2 not in any manner, whether in its formal documentation or otherwise:

(a) use the words 'UKAS Accreditation' or 'UKAS Accredited' to refer to the Customer's accreditation by UKAS save where it has a current Certificate or for the purpose of clarifying that it has no current Certificate;

(b) expressly or impliedly claim that its UKAS Accreditation extends to a service of the Customer that has not been accredited by UKAS within the scope of its Certificate;

(c) use the term "accreditation" or any similar word, description or term in its corporate or trading name, nor to describe its services that are not included in a current Certificate; and

(d) hold itself out as providing Accreditation services which are, or could reasonably be, provided by UKAS.

4.1.3 permit an Associate to use, and will procure that no Associate will use, the fact of the Customer's Accreditation for its own benefit, whether by claiming to be the person holding the Accreditation or otherwise; and

4.1.4 hold itself out to be accredited for conformity assessment by any assessment body save only to the extent that the Customer has been awarded a relevant Accreditation by UKAS or an accreditation by a Recognised Accreditation Body or an assessment body in respect of which the Customer has first obtained written confirmation from UKAS that it is an authorised assessment body for the purposes of this clause.

4.2 The prohibitions in clauses 4.1.2 (c) and (d) will not apply:

4.2.1 where the term 'accreditation' is used in Advertising Media in connection with a service of the Customer if in the same Advertising Media the term is qualified by express adjacent words in not less than same size font clarifying as follows: "The service offered is not one approved, provided, certified or accredited by UKAS"; and

4.2.2 to the limited extent for which UKAS has given prior written consent following a formal application by the Customer in accordance with clause 4.3.

Uncontrolled If Printed

DocuSign Envelope ID: BCFF708B-BB38-4A63-86D1-30B7FAD47B5F


4.3 A formal application as referred to in clause 4.2.2 must be made in such form as UKAS may require and in any event must contain the Customer's reasons why use of the term 'accreditation' or the provision of an accreditation service will not conflict with the service offered by UKAS or cause confusion in the marketplace; for the avoidance of doubt, UKAS may in its sole discretion reject any such application and withhold the requested consent and is not required to give reason(s).

4.4 The Customer agrees that the award of Accreditation to the Customer, although comprising independent confirmation of the satisfactory Assessment of the Customer, does not affect the obligations of the Customer towards its clients or any third party nor act as validation of any practice, whether in relation to competence or performance, of the Customer. Accordingly, the Customer will not rely on or refer, either expressly or impliedly, to Accreditation to validate any practice that may have resulted in the withholding by UKAS of Accreditation, had UKAS been aware of it at the relevant time.

4.5 The Customer acknowledges that each UKAS customer is accredited following such Assessment as UKAS considers suitable such that the value of each Accreditation for a UKAS customer is the same. Accordingly, the Customer will not state or imply, whether by referring to the number or type of Assessments undertaken by UKAS for another UKAS customer or otherwise, to any third party that the Accreditation of the Customer is better in any way than the Accreditation of any other UKAS customer.

## 5 Customer breaches

5.1 Without prejudice to any other right or action to which UKAS is entitled, if UKAS reasonably believes: (a) there has been, or may have been, a breach by the Customer of any obligation in section 3 and/or section 4 or (b) the Customer has failed to comply with any requirements to maintain Accreditation or has acted in a way that is incompatible with Accreditation (a "**Customer Failure**"), UKAS may notify the Customer of:

5.1.1 any action required to remedy the Customer Failure and/or to maintain Accreditation ("**Remedial Action**");

5.1.2 any timescale(s) for compliance with the Remedial Action, time being of the essence; and

5.1.3 the consequences which may follow should the Customer fail to take the Remedial Action within the timescale(s) notified, which may include withdrawal of Accreditation.

5.2 If (a) the Customer fails to take the Remedial Action (either at all, or in the timescale(s) notified) or (b) UKAS deems a Customer Failure to be serious, such that Remedial Action is inappropriate, UKAS may, on notification to the Customer and without liability:

5.2.1 terminate an application for Accreditation which is in progress or refuse an application for Accreditation;

5.2.2 withdraw, suspend or partially suspend an Accreditation awarded to the Customer;

5.2.3 reduce the scope of an Accreditation awarded to the Customer;

5.2.4 require a further Assessment of the Customer;

DocuSign Envelope ID: BCFF708B-BB38-4A63-86D1-30B7FAD47B5F


5.2.5 impose such other sanction or sanctions as, in the opinion of UKAS, is or are appropriate;

5.2.6 in the case of an Accreditation already awarded to the Customer, publish the fact, but not the specifics, of the Customer Failure and, the suspension or withdrawal of the Accreditation, in any media it considers fit and the Customer agrees that UKAS will not be liable for any loss or damage sustained by the Customer or any client of the Customer;

5.2.7 notify Competent Authorities, regulators or scheme owners, where the Customer Failure relates to accredited activities which are undertaken for a scheme or regulation.

5.3 If, in UKAS's view, circumstances affecting the Customer which are beyond the Customer's control impede UKAS's ability to assess the Customer for Accreditation, UKAS may withdraw, suspend or partially suspend Accreditation, or refuse an application for Accreditation, without prejudice to its other rights contained in this Agreement.

## 6 Confidentiality

6.1 Each Party will keep confidential any information about the business affairs of the other which may come within its knowledge during the term of this Agreement, and will not disclose to any third party without the consent of the other, provided that the above restriction will not apply to:

6.1.1 confidential communications between the Parties and their respective professional advisers and insurers;

6.1.2 communications between a Party and any of EA, IAF, ILAC or signatories to the mutual recognition agreements between the members of such bodies under the terms of any cross border policies published by any of EA, IAF or ILAC;

6.1.3 disclosures required to be made by either Party including, in the case of UKAS, any of its assessors or experts, as required by law or by any court or fiscal or other regulatory authority;

6.1.4 any information which, after the date of this Agreement, comes into the public domain, other than as a result (directly or indirectly) of the act or omission of the Party concerned or which is obtained by the Party from a source independent of the other; and

6.1.5 any disclosure made by UKAS, to any interested party, including Competent Authorities, regulators or scheme owners under clause 5.2.7 (above) or in circumstances following its apprehension or notification of any Significant Nonconformity or Customer Failure, where the Customer has not, in the sole opinion of UKAS, already made an appropriate disclosure to any interested party and UKAS, in its sole discretion, considers that the absence of such a disclosure by the Customer presents a threat to public safety.

6.2 The obligation of confidentiality in this section 6 will continue for 10 years after termination of this Agreement.

Uncontrolled If Printed

DocuSign Envelope ID: BCFF708B-BB38-4A63-86D1-30B7FAD47B5F


## 7 UKAS Terms of Business

7.1 UKAS Terms of Business will form part of this Agreement.

7.2 The Customer agrees to comply with the UKAS Terms of Business which are available from the UKAS website.

7.3 UKAS may, without prejudice to any other entitlement under this Agreement or under the UKAS Terms of Business, withhold or suspend Accreditation or the performance of any obligation provided for in this Agreement until such time as the Customer has settled all outstanding charges and expenses.

## 8 Health & Safety

8.1 Where attendance of a UKAS representative is required at the Customer Site, the Customer will ensure that:

8.1.1 the premises and conditions at the Customer Site are suitable and safe, taking into account all health and safety requirements;

8.1.2 it advises UKAS, in sufficient time for UKAS to arrange provision, of any personal protective equipment as may be necessary to reduce risks to an acceptable level and meet any applicable legal requirements, or, where specific personal protective equipment is required by the Customer or their client, that such equipment is provided to each UKAS representative; and

8.1.3 it holds a valid and current third party liability insurance policy relevant to the Customer Site at the time of any attendance and provides to UKAS a copy of such insurance policy if requested by UKAS to do so.

8.2 In the event of failure by the Customer to comply with clauses 3.5 or 8.1 UKAS may, without incurring any liability for any resulting loss or damage, cancel the proposed attendance at the Customer Site and, without prejudice to any other provision in this Agreement, the Customer will be liable for any cost and expense incurred by UKAS relevant to the cancelled attendance.

8.3 The Customer will cooperate fully with UKAS in the event that a claim is made against any UKAS representative by a third party and the Customer will fully indemnify UKAS and keep it so indemnified against any loss, damage, claim, demand and cost (including legal cost) arising from a breach by the Customer of clauses 3.5 or 8.1 and/or from a cancelled attendance under clause 8.2.

## 9 UKAS Liability

9.1 UKAS will have no liability to the Customer, whether in contract, tort or otherwise, for any loss or damage, cost or expense, however caused, arising out of or in connection with this Agreement save to the extent that such loss or damage, cost or expense, arise out of the wilful default, fraudulent conduct or negligence of UKAS, its officers, employees or authorised agents.

9.2 UKAS will in any event have no liability for any indirect or consequential loss or damage, cost or expense nor for any loss or damage, cost or expense, that arises out of or is consequential upon the provision of false, misleading or incomplete documentation or information by the Customer.

Uncontrolled if Printed

DocuSign Envelope ID: BCFF708B-BB38-4A63-86D1-30B7FAD47B5F


9.3 Without prejudice to clauses 9.1 and 9.2, the maximum aggregate liability of UKAS to the Customer in any event shall be the higher of:

9.3.1 three times the average of the UKAS Annual Charges in respect of the previous four completed UKAS Business Years (or if less than four UKAS Business Years have been completed since Accreditation was granted, such lesser number of years as have been completed) payable by the Customer subject to a maximum of £500,000 and

9.3.2 £50,000.

9.4 Nothing in this section 9 excludes liability of UKAS for any matter in respect of which it is prohibited by statute to limit or exclude liability.

## 10 Customer Liability and Indemnity

10.1 Provided that UKAS has complied with its obligation to notify the Customer of a planned Assessment, the Customer will be liable, and agrees to pay UKAS, for all cost and expense in accordance with the UKAS Terms of Business incurred by UKAS in attending the Customer Site at which the Customer fails to attend.

10.2 Without prejudice to any other obligation to indemnify UKAS provided for in this Agreement the Customer undertakes to fully indemnify UKAS and keep it so indemnified against any loss, damage, claim, demand, cost (including legal cost) and expense suffered or incurred by, or made against, UKAS as a result of:

10.2.1 misuse by the Customer of any Certificate or licence to use any accreditation Symbol granted by UKAS; and

10.2.2 any breach by the Customer of the terms of this Agreement.

10.3 The Customer acknowledges that no officer, employee or agent of UKAS owes any personal duty of care to it and that it shall not be entitled to bring any claim against any person other than UKAS arising out of or in connection with this Agreement; accordingly, the Customer agrees to fully indemnify UKAS and any officer, employee or agent of UKAS and keep them so indemnified against any loss, damage, claim, demand, cost (including legal cost) and expense suffered or incurred by, or made against, UKAS or any officer, employee or agent of UKAS as a result of a claim brought by the Customer in breach of this clause.

## 11 Complaints

11.1 Any complaint by the Customer against UKAS must be made in writing and should follow the complaints process published on the UKAS Website.

11.2 Any complaint against the Customer received by UKAS will be handled in accordance with UKAS' complaints process from time to time. Where such a complaint is fully or partially upheld, this may result in additional UKAS fees payable by the Customer at UKAS's standard day rate.

## 12 Appeals

12.1 Appeals against a decision of UKAS in the exercise of its functions under EU Exit Regulations may only be made in accordance with the procedure set out in the UK Accreditation Regulations.

Uncontrolled if Printed

DocuSign Envelope ID: BCFF708B-BB38-4A63-86D1-30B7FAD47B5F


## 13 Termination

13.1 Save as otherwise provided for, this Agreement shall continue in full force and effect until terminated by either Party giving not less than 90 days' Notice to the other.

13.2 Withdrawal of Accreditation in the circumstances set out in section 5 shall have the effect of terminating this Agreement.

13.3 UKAS may terminate this Agreement with immediate effect by Notice to the Customer:

13.3.1 in the circumstances set out in section 5;

13.3.2 if the Customer, being a company, is subject to an Insolvency Event;

13.3.3 if the Customer fails to pay, within 10 Business Days of receipt of a Notice expressed to be a final demand, any charges and/or expenses properly due to and invoiced by UKAS;

13.3.4 if the Customer's actions or other circumstances beyond its control, in the opinion of UKAS, impede its ability to continue to assess the Customer for Accreditation; or

13.3.5 where the Customer has notified UKAS of, or where UKAS has identified, any Significant Nonconformity, for which timely and appropriate corrective action is not possible or has not been actioned by the Customer.

13.4 Upon termination of this Agreement any Accreditation and any Certificate will immediately cease to be valid; the Customer's rights to the benefits hereunder will cease with immediate effect. In such event, the Customer agrees to do the following immediately:

13.4.1 to cease to use any reference to Accreditation;

13.4.2 to withdraw all advertising or other matter, including, but without limitation, that in electronic form on its website or elsewhere which contains any reference to Accreditation;

13.4.3 to cease the issue to its clients of any matter previously authorised under the Accreditation (for example certificates and reports), but, for the avoidance of doubt, not so that any matter already issued shall cease to have effect unless UKAS has notified the Customer otherwise; and

13.4.4 to inform in writing in such form as UKAS may reasonably require any person with whom the Customer is dealing (whether a client or otherwise) in relation to services covered by the Accreditation, that the Customer is no longer accredited by UKAS, the Accreditation having been terminated; for the avoidance of doubt there is no requirement on the Customer to provide the reason for the termination.

13.5 Any termination of this Agreement however caused shall be without prejudice to any rights or liabilities of the Parties which have accrued on or before the date of termination.

13.6 Upon termination of this Agreement for any reason:

13.6.1 notwithstanding any other provisions of this Agreement, this section 13 and clauses 1 (Definitions and Interpretation), 3 (Obligations and Responsibilities of

Uncontrolled If Printed

DocuSign Envelope ID: BCFF708B-BB38-4A63-86D1-30B7FAD47B5F


the Customer), 4 (Customer Restrictions) 6 (Confidentiality), 7 (UKAS Terms of Business), 9 (UKAS Liability) and 10 (Customer Liability and Indemnity) shall continue in full force and effect; and

13.6.2 all fees and expenses accrued but unpaid pursuant to this Agreement shall forthwith become due and payable.

provided that where such delivery or transmission occurs after 5 p.m. on a Business Day or on a day which is not a Business Day, service shall be deemed to occur at 9 a.m. on the following Business Day.

## 14 Force Majeure

14.1 Subject to clause 14.2, neither Party shall be liable to the other for delay caused by any event, act, or occurrence which is not within the reasonable control of the Party affected and which renders a Party unable to perform its obligations in time.

14.2 There is no obligation on UKAS to extend any time limit for the satisfaction of a requirement by the Customer or period of validity of Accreditation or to give credit for any fees paid by the Customer in the event of delay by the Customer for any reason.

## 15 Subcontracting

15.1 In accordance with UKAS Requirements, EA Requirements, IAF Requirements and ILAC Requirements for cross-border accreditation, UKAS may subcontract the assessment of any location of the Customer that is situated, or any of its activities that take place, outside of the United Kingdom to another competent accreditation body ("**Subcontract Body**") without the need for prior approval by the Customer where the Subcontract Body is a signatory to the mutual recognition agreements between the members of any of the EA, IAF and ILAC and provides accreditation for the relevant conformity assessment activity. Under the terms of any such subcontract UKAS and the Subcontract Body shall be entitled to share information with each other concerning the Customer and the requirements for the assessment. In all cases UKAS will remain responsible for the making of any decision relating to accreditation which UKAS will not subcontract.

## 16 Assignment

16.1 Except as otherwise agreed in writing between the Parties or provided for in this Agreement neither Party shall be entitled to assign or subcontract this Agreement in whole or in part, save, in the case of UKAS, to the extent that an invoice and/or right to collect fees may be assigned.

## 17 Third Parties

17.1 The Parties to this Agreement do not intend any of its terms to be enforceable pursuant to the Contracts (Rights of Third Parties) Act 1999 by any person who is not a party to this Agreement, save for the officers, employees or agents of UKAS who may rely on the provisions of this Agreement relevant to any matter that relates to their activity, liability or entitlement arising under this Agreement.

## 18 General

18.1 If any part of this Agreement is found by any court or other competent authority to be invalid, unlawful or unenforceable then such part shall be severed from the remainder of

DocuSign Envelope ID: BCFF708B-BB38-4A63-86D1-30B7FAD47B5F


this Agreement which shall continue to be valid and enforceable to the fullest extent permitted by law.

18.2 No failure or delay by a Party to exercise any right or remedy provided under this Agreement or by law shall constitute a waiver, nor shall it prevent or restrict the further exercise of that or any other right or remedy. No single or partial exercise of such right or remedy shall prevent or restrict the further exercise of that or any other right or remedy.

18.3 Nothing in this Agreement creates a relationship of legal agency to the extent that either Party is able to enter into any arrangement with any other person on behalf of the other Party.

18.4 The Customer acknowledges that in entering this Agreement it has not relied on any representation made by UKAS or its representatives that are not set out in this Agreement.

18.5 In the event of any inconsistency between any of the provisions of this Agreement and any other UKAS publication, including the UKAS Terms of Business, the provisions of this Agreement shall prevail.

18.6 This Agreement supersedes any previous terms agreed between the Parties and, save as otherwise provided for in this Agreement, may not be varied except:

18.6.1 by UKAS notifying the Customer of an amendment which will be deemed to apply unless the Customer notifies UKAS within 10 Business Days of receipt of the notification from UKAS that it does not accept the amendment. If agreement between the Parties cannot be reached within 1 month of the notification by the Customer, the Customer will give up its Accreditation; and

18.6.2 by agreement in writing between the Parties.

## 19 Law and Jurisdiction

19.1 This Agreement shall be governed and construed in accordance with English law and the Parties irrevocably agree that the English courts are to have sole jurisdiction to settle any disputes and to entertain any suit, action or proceedings (a) arising out of or in connection with this Agreement or (b) relating to any non-contractual obligations arising from or in connection with this Agreement.

## 20 Warranty of Authority and Agreement

20.1 The Customer warrants and undertakes to UKAS that:

20.1.1 it has the right, power and authority to enter into and perform its obligations under this Agreement;

20.1.2 the signatory to this Agreement on behalf of the Customer has been duly authorised by the Customer to sign this Agreement; and

20.1.3 it will comply with the terms of this Agreement.

Uncontrolled If Printed

DocuSign Envelope ID: BCFF708B-BB38-4A63-86D1-30B7FAD47B5F


**In witness** of which the Parties have signed this Agreement on the date set out above.

**Signed** by

Printed name: Matthew Gantley

Position: *Chief Executive Officer*

Dated: **17/11/2022**

for and on behalf of
**United Kingdom Accreditation Service**

**Signed** by

Printed name: **Gavin Dashwood**

Position: **Director**

Dated: **02-02-2023**

for and on behalf of
**Element Materials Technology Aberdeen Ltd**

Uncontrolled If Printed

DocuSign Envelope ID: BCFF708B-BB38-4A63-86D1-30B7FAD47B5F


## SCHEDULE A – CERTCHECK DATABASE AGREEMENT

### 1. Introduction

1.1 UKAS has created CertCheck a database for storing information about Customers and related Customer Clients and for publishing selected information on its publicly accessible website.

1.2 In consideration of the agreement by UKAS to publish information useful for the public, and, amongst other things, the Customer and its clients and potential clients, and to comply with its obligations herein, the Customer agrees to provide UKAS with data in accordance with, and subject to, the provisions in this Schedule.

### 2. Definitions

2.1 The following definitions apply in this Schedule in addition to definitions in the Agreement:

**"Annexe":** The Annexe hereto;

**"Anonymised Collated Data":** Data collated from the CERTCHECK Database that is to be used for the purpose of Market Trade Information reports, from which Identity Data is excluded;

**"CertCheck Website":** The part or parts of the UKAS publicly viewable website at address www.certcheck.ukas.com that is made available for viewing information from the CertCheck Database in accordance with the provisions in this Schedule;

**"Certification Information":** Information regarding the certification of a Customer Client by the Customer including technical sector, dates of certification and certification number;

**"Customer Client":** An organisation or Sole Trader that the Customer certifies under the Accreditation awarded by UKAS

**"Customer Client Data":** Such information about a Customer Client as UKAS reasonably requires from time to time for the Purpose, including in all cases the following:

(a) the name, trading name (if any), locations of operations, and any other definitive validation where available (for example company registration number);

(b) the Certification Information;

(c) the certification standard or scheme and associated scope of certification awarded to the Customer Client by the Customer.

**"Customer Profile":** Details of the Customer authorised accreditation;

**"Identity Data"** Information that expressly or impliedly, whether on its own or together with other information, identifies or is capable of identifying a specific Customer Client;

**"Market Trade Information":** Data banks and lists of Anonymised Collated Data updated on a regular rolling basis made available on the CertCheck Website for customer access and from which the Customer can collate reports on a self-serve basis;

**"Personal Data":** Has the meaning contained in the Data Protection Act 2018 and UK-GDPR;

**"Purpose":** To record accurate, reliable up to date information about businesses that are certificated to enable Users to validate information about customer and Customer Client certification, for customers to access up to date market information and trends, and for data provision to Trusted Parties;

**"Safeguards"** Those contemporaneous technological measures and safeguards as UKAS reasonably considers appropriate from time to time to ensure so far as is reasonably practicable that the Customer and Customer Client's Data is not used for the commercial benefit of another

Uncontrolled When Printed

DocuSign Envelope ID: BCFF708B-BB38-4A63-86D1-30B7FAD47B5F


person and competitors of the Customer, being as a minimum those matters set out in the Annexe or such alternative aspects as apply to no lesser a standard from time to time;

**"Sole Trader":** An individual in business on his/her own account who is certified by the Customer;

**"System":** The system described in this Schedule comprising the Upload Facility, the CertCheck Database and the CertCheck Website and any backups thereof;

**"These Terms":** The terms in this Schedule;

**"Trusted Parties":** Persons that have been reviewed and approved for the purpose of entitlement to request additional information or functionality on the CertCheck Database by the UKAS governing policy group, such additional information or functionality being relevant to the person concerned; persons in this category may only be organisations that have legitimate non-commercial reasons for needing access to the data and are not capable of competing with conformity assessment services provided by customers, for example UKAS stakeholder Groups, regulatory and governmental bodies, and not for profit organisations;

**"Uploaded Data":** Data that has been uploaded by the Customer to the CertCheck Database via the upload Facility;

**"Upload Facility":** The Customer login protected portal created to enable Customers to electronically upload via manual or automated means Customer Client Data to the CertCheck Database, details of which are provided by UKAS to the Customer;

**"User":** A user of the CertCheck Website.

## 3. Database and its use

3.1 UKAS has established the CertCheck Database and CertCheck Website for use in accordance with the provisions herein.

3.2 Information uploaded to the CertCheck Database may only be used by UKAS for the Purpose, and subject to the Safeguards. For the avoidance of doubt, UKAS may not use the CertCheck Database for any other purpose or for its own commercial gain.

3.3 UKAS may publish on the CertCheck Website such information about the Customer and a Customer Client as is necessary to enable a User to validate the certification record of, and information about, a Customer Client.

3.4 It is the intention of UKAS to make Market Trade Information available to the Customer through the Customer access to the CertCheck Database. UKAS will ensure that any part of the CertCheck Website established for the purpose of Market Trade Information is limited to the viewing and downloading of reports and does not contain any search function save for the purpose of selection of specifically collated reports, and not further or otherwise. If Market Trade Information is to be made available for the Customer via any alternative process, UKAS will advise the Customer of that process and make the Market Trade Information available to the Customer in that way.

3.5 Market Trade Information may be created and made available on the CertCheck Website in such areas, at such times and in such format as UKAS considers appropriate. This information will be available for the Customer to use and collate on a self-serve basis. UKAS may remove data from the Market Trade Information when it is considered to no longer provide useful information.

3.6 UKAS may make available information provided in the CertCheck Database for public access to Trusted Parties in such a way as to assist the Trusted Party to perform its activities in providing general benefits for organisations and/or the public. The decision to assign an organisation as a trusted party will be taken in consultation with relevant UKAS committees that involve representation of customers whose data would be accessed in

Uncontrolled If Printed

DocuSign Envelope ID: BCFF708B-BB38-4A63-86D1-30B7FAD47B5F


this way. UKAS will maintain a list of organisations who are Trusted Parties and make the list available to the Customer on written request.

3.7 UKAS may use the CertCheck Database for its own information, training, analysis and marketing purposes but not so that any resultant publication would, if published on the CertCheck website, breach any of the provisions herein. For the avoidance of doubt, UKAS will not use the Customer Client information in the CertCheck Database to directly market its services to Customer Clients.

3.8 Save as provided for in this Schedule UKAS may not make the CertCheck Database available to any other person, use it for any other purpose, or allow the CertCheck Website to be used for any other purpose.

**4. Customer obligations**

4.1 The Customer will upload Customer Client Data in respect of all current Customer Clients to the CertCheck Database within 90 days of the CertCheck database being made accessible to the Customer (or such longer period or periods as UKAS may notify to the Customer from time to time)

4.2 Uploading will be via the Upload Facility using the processes, form and/or format required from time to time by UKAS and UKAS will not accept data via any other methodology. Customer Client Data must not contain Personal Data unless the form required for upload requires its inclusion in any respect, for example if the Customer Client is a Sole trader or the identity of a particular officer of the Customer Client is required.

4.3 The Customer will take all reasonable contemporaneous measures to ensure that data uploaded is free of virus, malicious software, malware, or any digital or other function that is designed to penetrate any UKAS electronic or digital system

4.4 Following the upload referred to in clause 4.1, the obligation to upload Customer Client Data is continuous both in terms of change (for example renewal, adjustment or cancellation of certification) and when a new Customer Client is certified. The Customer agrees to upload Customer Client Data at a frequency of at least once every 28 days.

4.5 The Customer acknowledges that it has a duty to ensure that certification of a Customer Client remains justified throughout the period of certification in each case. Accordingly, should it become aware that the certified Standard is not being met by the Customer Client, the Customer must take the necessary sanctions and update the CertCheck Database in accordance with the Agreement. Further, the Customer acknowledges that UKAS will rely on information uploaded to the CertCheck Database and Users may rely on the information disclosed on the CertCheck website; accordingly, the Customer will:

(a) use reasonable endeavours to ensure that all data uploaded is true and accurate to the best of its knowledge in all material respects, so validating the status of and information relating to each Customer Client with each upload;

(b) procure in its contract with each Customer Client that all information provided by the Client is true and accurate;

(c) immediately inform UKAS and upload amended and corrected data within 7 days whenever it identifies a material error in the data so uploaded.

4.6 The Customer will at all times act in good faith in supporting the Purpose; accordingly, it must not:

(a) use information provided by UKAS, whether from the CertCheck Website or otherwise, for any purpose other than analysis and in particular it must not publish or misuse such information to gain an unfair competitive advantage;

DocuSign Envelope ID: BCFF708B-BB38-4A63-86D1-30B7FAD47B5F


(b) itself or via a third party seek to gain access to the CertCheck Database other than to the extent permitted by UKAS;

(c) itself or via a third party seek to gain access to the CertCheck Website for any purpose other than otherwise permitted to Users or strictly permitted under this agreement;

(d) provide any third party with access to, or login details for, the Upload Facility without the prior written authority of UKAS; for authority to be valid it must specify the third party concerned and the extent of the authority;

(e) directly or indirectly whether by itself or via a third party:

(i) seek to extract any software or other function provided by UKAS as part of the System;

(ii) disassemble, decompile, reverse engineer, observe, study or test the functioning of or decompile the System or any part thereof, nor attempt to do any such things;

(iii) without limitation, permit or procure anything to be done that may interfere with the proper operation of the System or which may damage the reputation of the CertCheck Website or bring UKAS or the project described in this Schedule into disrepute.

4.7 Promptly and no later than 24 hours following the event, the Customer must notify UKAS of any issue that may affect the secure operation of the System of which it becomes aware including, but not limited to, misuse by any person, including use for an unfair competitive advantage or for malicious or dishonest activity, and any data breach whether of ordinary or Personal Data.

4.8 Subject to clause 6.1 the Customer will procure in its agreement with each Customer Client that the Customer Client agrees, or otherwise ensures that the Customer Client acknowledges, that the Customer has authority to the provision of the Customer Client Data to UKAS, and to the extent that the obligation to upload data includes an obligation to include certain Personal Data that the Customer Client has the necessary authority or permission from the related individual to provide the Personal Data. The Customer will produce to UKAS evidence of such agreement or other acknowledgment within 7 days of a written request for production.

4.9 Use of the Upload Facility to provide data relating to a Customer Client will in each case comprise the warranty of the Customer that it has the permission of the Customer Client to provide the data to UKAS.

4.10 Provision of the CertCheck Website is for the benefit of all Users including the Customer and provides the Customer with a platform to support the Customer business profile. Accordingly, the Customer will use its reasonable endeavours to cooperate with UKAS in the following ways:

(a) to assist with and promptly resolve (where possible) any question that UKAS may have arising from use of the System or the Uploaded Data;

(b) to report and use its endeavours to assist with resolving any technological or practical issue that arises in the use of the Upload Facility;

(c) to provide feedback on Customer use or its Customer Client use of the CertCheck Website if requested by UKAS to do so, for example in response to a survey conducted by or on behalf of UKAS;

Uncontrolled When Printed

DocuSign Envelope ID: BCFF708B-BB38-4A63-86D1-30B7FAD47B5F


(d) to promptly notify UKAS of any operational issue relevant to the System or otherwise of which it becomes aware including, for this purpose, any data breach of any kind.

**5. UKAS obligations**

5.1 UKAS will use its reasonable endeavours to:

(a) ensure that the CertCheck Database is up to date at all times for the benefit of customers, Customer Clients and Users, but the Customer acknowledges that this is dependent upon agreement by each UKAS customer and compliance with their respective obligations;

(b) obtain the agreement of other relevant UKAS customers to the same terms as those set out herein.

5.2 In considering the Safeguards UKAS will use its reasonable endeavours to:

(a) include measures required pursuant to UKAS current published privacy policy (normally published on the UKAS Website) from time to time;

(b) include measures to restrict data mining and data harvesting, for example by blocking multiple or repeat searches from a distinct IP address, and limitation on viewable search results;

(c) ensure that data is protected against loss, damage, corruption, misuse and unauthorised access by following good industry practice and taking into account available contemporary measures at the relevant time, including, but not limited to those matters listed in the Annexe.

5.3 UKAS will provide or make available all reasonable assistance to the Customer to resolve any issues or errors with the Customer's use of the Upload Facility or any other matter relevant to Customer obligations under this Schedule.

5.4 UKAS will use its reasonable endeavours to ensure that the System and its constituent parts operates consistently to the standard set by UKAS, are secure and are protected against hacking or interference by virus, malware or other digital invasive actions in accordance with contemporary standards. However, the objective and Purpose is to provide information to the public and, as the System does not interfere with the ability of the Customer to provide its services, UKAS does not accept liability in the event of down time or matters beyond its control. Accordingly, the Customer agrees that in the event of failure of the System or any part of it for any period, it has no entitlement to claim for any loss, whether direct or indirect.

5.5 Nothing in this Section 5:

(a) imposes an obligation upon UKAS to introduce or undertake any specific measure if to do so may interfere with the proper operation of the System, any part of it, or the Purpose;

(b) shall absolve UKAS from liability arising from loss of Customer data due to UKAS's negligence for which UKAS will be liable in accordance with the Agreement;

(c) imposes liability on the Customer for a breach for which UKAS is responsible.

**6. Additional Matters**

6.1 Subject to UKAS's rights as contained in clause 6 of the Agreement, the Customer may notify UKAS that data relating to a particular Customer Client should be treated as confidential. Accordingly, without affecting the Customer's obligation to upload the data to the CertCheck Database, UKAS may with the agreement of the Customer as to the part

Uncontrolled If Printed

DocuSign Envelope ID: BCFF708B-BB38-4A63-86D1-30B7FAD47B5F


or parts of the data that are requested to remain confidential, and for such period as is agreed:

(a) withhold publication of that data on the CertCheck Website;

(b) withhold data from one or more Trusted Parties;

(c) set a search function on the CertCheck Website to refer a request concerning the Customer Client to the Customer, which request the Customer may respond to, or decline to respond to, taking into account the level of confidentiality reasonably required by the Customer Client.

6.2 UKAS may provide to and allow Trusted Parties (appointed pursuant to the provisions herein) to have access to Customer and Customer Client data subject to the following:

(a) UKAS will first inform the Customer of its proposal including any terms of the third party that apply;

(b) The Customer first confirms its consent to access to its data by the third party and the terms of the third party that may apply;

(c) consent will continue to apply until withdrawn by the Customer on giving not less than one month's written notice to that effect to UKAS;

(d) The Customer will promptly inform UKAS of any breach by the third party of the third party terms of which it becomes aware to enable UKAS to take such action as is appropriate in good faith in relation to the provision of data to the third party;

(e) UKAS will not be liable for any matter arising from the third party use of data accessed by it, its agents or otherwise.

6.3 Nothing in clause 6.2 shall absolve UKAS from liability if in the course of providing the third party with the data the data is mislaid or lost due to the negligence of UKAS.

6.4 In the event that Accreditation of the Customer is suspended or withdrawn UKAS may include notification to that effect on the CertCheck Website for the period of suspension and the later of 6 months after the date of cessation of the Accreditation due to any cause or the expiry date of certification of a Customer Client.

6.5 Whilst UKAS will at all times act in good faith, it cannot guarantee compliance by all its customers with their respective obligations; accordingly, information disclosed on the CertCheck Website or contained within any reports made available to the Customer should only be used for information purposes and may not be relied upon.

6.6 UKAS may retain Uploaded Data and any other information provided by the Customer for so long as is reasonably necessary for the Purpose and UKAS's legitimate interests. This may be for the period of 10 years unless, at the relevant time, UKAS reasonably considers a longer period to be necessary as a safeguard taking into account the circumstances at the relevant time. Circumstances may include the risk of litigation, case law relevant to data retention, or any statutory or regulatory obligation. Such longer period may be further extended on the same criteria.

6.7 For the avoidance of doubt:

(a) nothing in clause 6.4 shall require UKAS to delete Market Trade Information that includes data from the Customer or destroy anything other than its record on the CertCheck Website;

(b) UKAS accepts no liability if information that is published is inaccurate due to the provision of incorrect or incomplete information by a customer, or failure by a Customer to upload Customer Client Data, or if confidential data is withheld in accordance with clause 6.1.

Uncontrolled If Printed

DocuSign Envelope ID: BCFF708B-BB38-4A63-86D1-30B7FAD47B5F


6.8 UKAS is a 'controller' for the purpose of processing Personal Data that may be included within Uploaded Data.

## 7. Liability

7.1 The Customer will indemnify and keep fully indemnified UKAS against any costs (including UKAS's own costs, reasonable legal costs, and those of UKAS authorised agents), claims, demands, consequent upon or arising from the Customer's breach of the terms herein including, without prejudice to the generality of the foregoing:

(a) incorrect or incomplete information provided by the Customer due to negligence or dishonesty of the Customer;

(b) Customer actions and those of its agents that deliberately, or due to Customer negligence or that of its agents, interfere with the proper operation of the Upload Facility, the CertCheck Database or the CertCheck Website;

(c) failure to provide Customer Client Data as required.

7.2 The Customer accepts that the provisions herein are reasonable and are necessary for the protection of UKAS, the Customer, Customer Client and use by members of the public and the specific parties permitted herein. Accordingly, the Customer acknowledges that damages may not be a sufficient remedy for breach of the provisions and agrees that, without prejudice to any other relief that may be available, UKAS is entitled to equitable relief if a breach consists of any action or matter that may compromise the accuracy of data or security of the System (for example as provided for in Section 4).

7.3 Liability of the Customer shall be limited to £1m (one million pounds sterling) and the Customer will maintain professional indemnity insurance to that value and will provide a copy of the insurance certificate upon written request.

(a) Where professional indemnity insurance is not available to or appropriate for the Customer, then self-certification insurance can be considered.

7.4 Liability of UKAS shall be for its own negligence only and limited in accordance with terms of the Agreement.

## 8. General

8.1 In the event of conflict between the terms of the Agreement and this Schedule, the terms of the Agreement will apply.

8.2 Nothing in this Schedule shall prevent the disclosure by UKAS of data on the System where lawfully required to do so whether by statute, regulation or pursuant to an order of a court.

Uncontrolled if Printed

DocuSign Envelope ID: BCFF708B-BB38-4A63-86D1-30B7FAD47B5F


**ANNEXE - Safeguarding Measures**

**Technical steps required for UKAS to reduce risk of cyber attack on the System**

1. 3rd party penetration testing once a year to perform unauthenticated web application, timeboxed penetration testing focusing on testing critical vulnerability and to ensure the system and its data is secure, as follows:

(a) testing of security controls as appropriate, including:

- authentication
- authorisation
- encryption
- session management
- denial of service
- data leakage
- data validation

(b) testing vulnerabilities as appropriate including:

- SQL injection
- access control bypass
- cross site scripting
- insecure administrative interfaces
- vulnerable software
- command injection
- SMTP injection
- insecure file upload controls
- information leakage

2. The System platform is hosted on cloud based secure servers meeting with ISO 27001 and ISO 27701 with certification from an accredited certification body recognised by IAF and includes:

- Web Application Firewall or similar tool to protect the web applications and APIs against web exploits.
- regular back up, all data being hosted in the UK
- inline attack mitigation
- advanced security functions including:
  - tailored detection based on application traffic patterns
  - health-based detection
  - advanced attack mitigation
  - proactive event response
  - visibility and attack notification
  - centralized protection management
  - real-time AI bot detection

3. All applications and services required for the operation of the System are protected by up to date anti malware/virus protection.

Uncontrolled If Printed