

Terms of Service

1. BSI will perform the services described and in accordance with the Proposal and these terms of service (**Contract**).
2. These terms of service, together with any terms set out in the Proposal, are the only terms that will govern the Contract. Any terms contained in or incorporated by reference in any acknowledgements, confirmations, standard forms, purchase orders or any other documents issued by either party, or implied by trade custom, practice or course of dealing, other than those permitted within these terms of service, will not apply.
3. If there is an inconsistency between any of the provisions of the Contract and any master services agreement, purchase proposal, Client's standard conditions of purchase or any other document stated to be relating to BSI's services or the Contract, the provisions of the Contract will prevail.
4. Notwithstanding clause 2, BSI may amend these terms of service from time to time and will notify Client accordingly when this takes place. On receipt of such notice, Client may reject any amendment and terminate the Contract by notifying BSI of its intention to do so on 30 days' written notice. If Client provides no notice Client is deemed to have accepted the amended terms.
5. Without prejudice to clause 4, no amendment or variation to the Contract will be valid unless agreed in writing between the parties.
6. The Contract will commence on the date Client signifies agreement to the Contract (which may be through electronic confirmation or otherwise).
7. BSI will provide its services in compliance with:
 - a. all applicable legislation and regulations;
 - b. all relevant international standards that govern the provision of accredited certification services;
 - c. any relevant standard, private standard or code of practice expressly governing the services in this Contract,
 - d. BSI Group's Code of Business Ethics which can be found on our website <https://www.bsigroup.com/globalassets/localfiles/en-id/policy/bsi-code-of-business-ethics.pdf>
8. Appropriately qualified personnel will perform the services and determine the outcome of assessments and reviews, and BSI may change such personnel at any time.
9. Client will promptly provide to BSI (throughout the duration of the Contract):
 - a. complete and accurate information (including any and all documents) relevant to the services including any updates;
 - b. immediate notification of any event which may adversely affect the outcome or continued use of any BSI service or which if left unattended may cause BSI to misrepresent compliance with clauses 7.a, 7.b or 7.c above;
 - c. responses to all relevant and reasonable queries of BSI at any time and reasonable assistance including access to premises to permit BSI to investigate third party complaints of Client's use of the services;
- d. access to its sites and availability of appropriate personnel on dates agreed with BSI and at any other time for BSI's unannounced visits if so required to comply with clauses 7.a, 7.b or 7.c above;
- e. access to any third party site reasonably required by BSI to comply with clauses 7.a 7.b or 7.c above (and Client undertakes to BSI that it will obtain the third party's consent for BSI to gain such access);
- f. details of all health and safety rules, security and other requirements for visitors to its sites in advance of any audit by BSI;
- g. notification of third-party complaints received by Client in respect of Client's product or services relevant to this Contract and steps taken to resolve them; and
- h. for hybrid or remote audit services, such technical capabilities on site as are reasonably required to support the requirements of the audit as may be notified to Client in advance. This will include access to a wireless internet connection of sufficient bandwidth and reliability so as to allow video communication between BSI personnel on and off-site and consent for BSI personnel to engage in such communications (including the communication of any ancillary images from Client site).
10. Client will take all necessary steps to eliminate or remedy any obstacles to or interruptions in the performance of the Services.
11. BSI will not investigate or confirm the truth, accuracy or completeness of any information provided by Client and BSI accepts no liability for any losses, costs or damages suffered or incurred by Client arising out of any incomplete or inaccurate information.
12. Audit services may be delivered on location, remotely or in hybrid fashion, as determined by BSI. During hybrid or remote audits BSI may record or store any video communications and any personal data in such communications will be processed in accordance with clause 32.
13. Client warrants, undertakes and represents to BSI that all documentation, information and material made available by Client to BSI under the Contract, and BSI's use of the same, does not infringe the intellectual property rights of any third party.
14. If Client wishes to change the date of an audit, it must provide BSI with at least 30 days' written notice of its intention to do so.
15. Client acknowledges that regulatory third-party observers may accompany BSI from time to time during an audit (including where the audit is conducted remotely) but only if subject to confidentiality obligations to the same level as those BSI owes to Client under this Contract. BSI will provide the identity of such observer prior to any audit. Client will not be charged any additional fees for such observer.

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16. BSI personnel may abort an audit while on Client's site without BSI being in breach of Contract if they experience threatening behaviour or abuse, believe there is a risk to their safety or if Client does not comply with relevant health and safety rules.
 17. BSI may refuse to issue any certificate or other document verifying compliance with any law, standard, rule or scheme, or revoke or suspend such issued certificate or other document, if in its reasonable opinion Client does not comply with the requirements of such law, standard, rule or scheme, or fails to comply with any of its obligations under the Contract, or uses BSI's services in such a manner that may be misleading or that may bring BSI into disrepute.
 18. The report produced by BSI in the course of providing the services will constitute the sole deliverable for the services and BSI will have no obligation to update the report after its issuance, save where Client reasonably requires updates in relation to incomplete or inaccurate information contained in the report.
 19. Unless BSI provides its prior written consent:
 - a. Client will not:
 - i. request from BSI or use any advice or materials, including any report, certificate, notes, e-mails or other documents issued by BSI in providing the services (**Materials**) for the purposes of litigation;
 - ii. save for the Certificate, use or distribute the Materials for any purpose other than internal business improvement;
 - iii. refer to the Materials in any document or make the Materials available to any person other than professional advisors who are assisting Client in relation to the services;
 - b. the Materials (including any interim draft or other advice whether oral or written) will not be relied upon by anyone other than Client; and
 - c. Client will not name BSI or refer to BSI or the Materials or the services in any written materials (other than to Client's professional advisors), or any publicly filed documents unless required by law.
- This clause 19 will survive expiry or termination of the Contract.
20. BSI will at all times remain the owner of the intellectual property rights in the Materials. BSI grants to Client a limited, revocable, non-exclusive licence to display a certificate issued by BSI (**Certificate**) for so long as it remains valid, either under the terms of this Contract or on the face of the Certificate. Client will not use BSI's intellectual property rights in any Materials except solely to the extent permitted under the Contract.
 21. For certification schemes owned or managed by third party organisations, BSI may include third party intellectual property rights which are governed by the requirements of such certification scheme. To the extent any such intellectual property rights are included in the Materials, the Client acknowledges and warrants that it shall only use these strictly in accordance with the relevant certification scheme's rules or governance.
 22. The licence in clause 20 includes a non-exclusive licence for Client to display the BSI-owned logo (**BSI Logo**) or third party-owned logo as specified on the relevant Certificate, on or in conjunction with the products or services to which the Certificate relates, in accordance with the terms of this Contract. Client may not sub-license or transfer the right to display any Certificate issued by BSI, BSI Logo or third party-owned logo to any other party. Client may not amend the content or change the appearance of the Certificate or the BSI logo. The licence in clause 20 ends on expiry or termination for any reason of the Contract or relevant Certificate. On expiry or termination, Client will cease all use of the relevant BSI Logo or third party-owned logo.
 23. All intellectual property rights in any BSI Logo remains vested in BSI. All goodwill through Client's use of any BSI Logo, or any Certificate or report issued by BSI, will vest in BSI and to the extent any such rights accrue to Client, Client hereby assigns them to BSI. Client will only display the BSI Logo in the form approved by BSI, in accordance with any guidelines and instructions provided by BSI from time to time and only in connection with the products and/or services as specified on the relevant Certificate;
 24. Client will not use, or apply for registration of, any trade mark which consists of, or comprises, or is confusingly similar to any BSI Logo or do, or omit to do, or permit to be done, any act that, in BSI's reasonable opinion, may weaken, damage or be detrimental to any BSI Logo or the reputation or goodwill associated with BSI.
 25. To appeal the outcome of a certification service, Client must serve BSI with written notice of appeal within 21 days of receipt of the outcome intended to be appealed. Notice must be addressed to BSI's Compliance and Risk Director.
 26. Appeals relating to a certification decision are heard in accordance with BSI's internal appeals procedure. The decision of BSI will remain in force pending the outcome of the appeal, which Client and BSI each agree will be final.
 27. BSI may recover from Client all reasonable costs it incurs in connection with Client appealing the outcome of a certification decision where the outcome of that appeal finds in favour of BSI.
 28. For all certification services, BSI may disclose or put into the public domain, on a website or by any other means, Client's name, scope of certification, as well as details of the issuance, suspension, revocation or termination of a Certificate or licence.
 29. Each party will keep the other party's information confidential for a period of 6 years from receipt and delete it thereafter and will not use or disclose it except in the following situations (in which case, the receiving party will notify the other party if legally able to and within a commercially reasonable time):

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- a. to the extent required by law, any governmental, regulatory or accreditation authority, or court in any jurisdiction; or
 - b. to the extent required to be disclosed if, in the reasonable opinion of BSI, the health or safety of consumers may be at risk.
30. Notwithstanding clause 29:
- a. BSI may:
 - i. use the confidential information of the Client for the purpose of exercising or performing its obligations under the Contract (including as necessary, providing to accreditation bodies such confidential information as is required in respect publication of Client's certification on a public certification database); and
 - ii. disclose the confidential information to its affiliates, representatives, or subcontractors; and
 - b. either party may use or disclose the other party's confidential information where that information is:
 - i. generally available in the public domain;
 - ii. lawfully acquired from a third party who owes no obligation of confidence in respect of the information; and/or
 - iii. was available to the receiving party on a non-confidential basis prior to being disclosed by the other party.
31. Clause 29 will not require BSI to delete Client information that it is required to retain by applicable law, or to satisfy the requirements of any regulatory authority or body of competent jurisdiction to which BSI may be subject relevant to the services.
32. To the extent Client information includes personal data, BSI will only process such personal data as set in our privacy notice available at <https://www.bsigroup.com/en-GB/about-bsi/legal/privacy-notice/#general-users>.
33. Notwithstanding the provisions of clauses 29 and 32, BSI may convert Client information into an anonymised form. Whether by itself or in aggregate, BSI may analyse such anonymised data or otherwise commercially exploit such data for its business purposes.
34. BSI will, unless otherwise agreed, invoice Client at the end of the month for the services performed in that month.
35. Client will settle all invoices within 30 days of date of issue.
36. Payments may only be made by electronic transfer to the account detailed on the invoice issued by BSI. On making a payment, Client will provide the relevant invoice number and its customer account number (as stated on the invoice).
37. If Client reasonably believes an invoice includes a sum which is not valid and properly due:
- a. Client will notify BSI in writing within 5 days of receipt of the disputed invoice;
 - b. Client will pay all non-disputed sums on the invoice in accordance with clause 35;
 - c. the parties will meet virtually within 10 days of notification under clause 37 to attempt to resolve the dispute;
 - d. where the parties are able to resolve the dispute, which the parties will negotiate in good faith, to the extent that Client is obliged to pay an amount, then the original payment terms of the disputed invoice will continue to run as if no dispute had been raised; and
 - e. where the parties are unable to resolve the dispute, BSI may terminate the Contract immediately on notice and Client will pay BSI all fees, charges and expenses incurred by BSI up until the date of termination with respect to Client.
38. Client will pay BSI all fees, charges and expenses incurred by BSI with respect to enforcing its rights under this Contract in court.
39. Failure to settle an invoice in accordance with the payment terms will permit BSI to charge interest in accordance with clause 43 from the original due date until the date of payment.
40. Client will pay to BSI:
- a. the fees for the services;
 - b. the current rate for the time BSI is required to spend to carry out special visits or audits or investigate any third-party complaint, or any alleged non-compliance with the relevant standard, regulation or scheme;
 - c. the full fee for an audit if changed by Client on less than 30 days' written notice or for an audit aborted by BSI due to the grounds in clause 16 above;
 - d. the Annual Management Fee for every year or part year of the Contract (the Annual Management Fee is non-refundable should the Contract terminate during the course of a year for any reason);
 - e. the Application Fee (the Application Fee is non-refundable should the Contract terminate for any reason); and
 - f. an administration fee should Client request amendments to its details on a Certificate.
41. Notwithstanding anything to the contrary in these terms, BSI may increase its fees no more than twice annually in line with inflation plus 5%. BSI may increase its fees by a greater amount, but only once it has given Client prior written notice. Within 14 days of receipt of such notice, Client may terminate the Contract by notifying BSI of its intention to do so on 30 days' written notice. If Client provides no notice, Client is deemed to accept the higher increase.
42. BSI's fees are exclusive of sales, value added tax or other applicable taxes and/or surcharges, which the Client shall pay in addition to the fees, and such payments shall be paid without any set-off, counterclaim, deduction or withholding (other than any deduction or withholding of tax as required by law). BSI may increase its fees if:

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- a. Client's instructions change or are found to be not in accordance with the initial details supplied to BSI prior to BSI providing the initial quote contained in the Proposal; or
 - b. any unforeseen problems or expenditure arise in the course of carrying out the services, in which case, BSI will be entitled to charge additional fees to cover the additional time and cost incurred to complete the services.
43. BSI may charge interest on overdue amounts at the rate of 4% a year above the central bank base rate in the Registered Jurisdiction (as defined below), accruing on a daily basis compounded quarterly.
44. On termination of the Contract for any reason (except due to breach of Contract by BSI), all fees outstanding are due and payable immediately.
45. Nothing in this Contract will limit or exclude either party's liability to the other for:
- a. death or personal injury caused by its negligence;
 - b. fraud or fraudulent misrepresentation; or
 - c. any other liabilities or losses that cannot be legally limited or excluded by law.
46. Subject to clause 45, BSI will not be liable to Client for:
- a. any loss of profit, loss or damage to goodwill, loss of or corruption of software, data or information, loss of sales or business, loss of agreements or contracts, loss of anticipated savings, or any indirect or consequential loss arising under or in connection with the Contract, whether in contract, tort (including negligence), breach of statutory duty, or otherwise; and
 - b. any loss, damage or expense arising from:
 - i. a failure by Client to comply with any of its obligations under the Contract;
 - ii. any actions taken or not taken on the basis of the Materials;
 - iii. any incorrect results or Materials arising from unclear, erroneous, incomplete, misleading or false information provided to BSI by Client.
47. Subject to clause 45, the total liability of BSI to Client whether in contract, tort (including negligence), breach of statutory duty, or otherwise, arising under or in connection with the Contract will not exceed an amount equal to the annual fees payable by Client under the Contract. This limitation of BSI's liability will survive termination of the Contract.
48. Client will indemnify and hold harmless BSI against all liabilities, costs, expenses, damages and losses (including but not limited to any direct, indirect or consequential losses, loss of reputation and all interest, penalties and legal costs (calculated on a full indemnity basis) and all other reasonable professional costs and expenses) suffered or incurred by BSI arising out of or in connection with any claim made against BSI by a third party arising out of or in connection with:
- a. BSI performing the services;
 - b. Client's system which is the subject of the certification;
 - c. breach by Client of clause 20 or 21;
 - d. Clause 19.
49. Either party may terminate the Contract at any time by giving the other party not less than 3 calendar months' written notice of its intention to do so.
50. Without prejudice to any rights that have accrued under the Contract, BSI may terminate the Contract, and any other Contract Client has with BSI or BSI group companies, with immediate effect by notice:
- a. if Client breaches any material obligation and such breach remains unremedied after 30 days from the date of notification of such breach by BSI; or
 - b. if a material breach is incapable of remedy; or
 - c. if Client challenges the validity or ownership of any BSI intellectual property rights; or
 - d. should BSI have reasonable grounds for believing that Client does not comply with the requirements of any law, standard or scheme applicable to its services; or
 - e. if, in the reasonable opinion of BSI:
 - i. Client acts in such a manner that may bring BSI into disrepute;
 - ii. the provision of the services to the Client may bring BSI into disrepute; or
 - iii. the Client is likely to satisfy the provisions set out in clause 51 (a – e).
 - f. if, in the reasonable opinion of BSI, BSI is unable to comply with clause 7.
51. Without prejudice to any rights that have accrued under the Contract, either party may terminate the Contract immediately if the other party:
- a. is unable to pay its debts as they fall due;
 - b. has appointed a receiver, administrator or manager over its assets;
 - c. goes into liquidation (except for the purpose of solvent reconstruction or amalgamation);
 - d. enters into a voluntary arrangement with its creditors; or
 - e. ceases or threatens to cease its business.
52. Where the Contract is terminated:
- a. by Client pursuant to clause 49, Client will pay BSI any costs or expenses incurred or committed to by BSI in respect of 3-month period following the date notice to terminate is provided;
 - b. by BSI pursuant to clause 50 (a – e), Client will pay BSI all fees for the services.
53. BSI will not be in breach of the Contract if it is not reasonably possible to perform an obligation due to circumstances beyond its reasonable control. Circumstances beyond its reasonable control include but are not limited to flood, fire, earthquake or other acts of God; war, threat of or preparation for war, armed conflict, imposition of sanctions, embargo, breaking off of diplomatic relations or similar actions; terrorist attack, civil war, civil commotion or riots, epidemic or pandemic; strikes, labour stoppages or slowdowns; and any law or government order, rule,

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regulation or direction, or any action taken by a government or public authority, including imposing an embargo, export or import restrictions.

If the period of non-performance continues for 30 days, BSI may terminate the Contract by giving 14 days' advance written notice to the other party.

54. Nothing in this Contract is intended to, or will operate to, create a partnership between the parties, or to authorise either party to act as agent for the other.
55. BSI may subcontract its obligations under this Contract.
56. The Contract is personal to Client. Client may not assign, transfer or deal in any manner with its rights and obligations under the Contract. BSI may assign its rights under the Contract to a BSI group company.
57. The Contract constitutes the entire agreement between the parties and supersedes and extinguishes all previous drafts, agreements, warranties, arrangements and understandings, whether written or oral, relating to its subject matter. Each party acknowledges that the Materials do not represent a warranty of merchantability or of fitness for purpose and, in entering the Contract, it has not relied on, and will have no remedy in respect of, any statement, representation, warranty or understanding that is not set out in the Contract.
58. A person who is not a party to the Contract will not have any rights under or in connection with it.
59. A failure to or delay in enforcing a right or remedy under this Contract does not constitute a waiver of that right or remedy.
60. If this Contract has been translated into a language other than English, the English version will prevail to the extent of any inconsistency with the translation.
61. If any court or competent authority finds that any provision of the Contract (or part of any provision) is invalid, illegal or unenforceable, that provision or part-provision will, to the extent required, be deemed to be deleted, and the validity and enforceability of the remainder of the Contract will not be affected.
62. Any notices to a party in connection with the Contract must be in writing and sent by email or delivered to the party's address set out in the Contract.
63. Client will bring any claim or proceeding of any nature against BSI in writing within 6 months of the earlier of the date that BSI complete providing the services to Client or the date on which the Contract expires or terminates.
64. This Agreement will be governed by the laws of the jurisdiction in which BSI is registered ("**the Registered Jurisdiction**"). The Courts of the Registered Jurisdiction will have non-exclusive jurisdiction to adjudicate any disputes arising under it.