

Certification of Product Conformity REGULATIONS

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1. These Regulations define the terms and conditions for product conformity certification operated by BuildCert Ltd, Unit 30 Fern Close, Pen-y-Fan Industrial Estate, Oakdale, Gwent NP11 3EH.
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2. For the purpose of these Regulations the following definitions apply:

Appeals panel:

means a panel of the BuildCert Advisory Committee established for the purpose of hearing appeals against any decision of the BuildCert Advisory Committee or the Scheme Manager under these Regulations. The panel appointed in respect of each appeal shall consist of a Chairman and at least two members of the BuildCert Advisory Committee, none of whom shall have any direct commercial interest in or have been party to decisions relating to the subject of the appeal.

Applicant:

means a person or persons who has applied for a product conformity certificate.

Auditor:

means any independent third party appointed by BuildCert for the purpose of effecting FPC audits and surveillance under these Regulations.

Board:

means the Board of Directors of BuildCert.

Certificate:

means a certificate granted by the BuildCert Advisory Committee conferring the right to use the BuildCert product conformity mark in accordance with these Regulations.

Certificate holder:

means an applicant who has been granted a BuildCert certificate.

Factory Production Control (FPC):

Means the permanent internal control of production exercised by the manufacturer.

Product conformity:

means the mark for BuildCert product conformity as provided by the BuildCert certification scheme.

Quality management system:

means the organisational structure, responsibilities, procedures, processes and resources of an applicant that together direct and control the quality operations of the organisation.

Quality plan:

means a document serving to implement the quality management system including FPC which sets out the specific quality practices, resources and activities established for the purpose of achieving compliance with the relevant standard.

Scheme manager:

means any person who is appointed by the BuildCert Board who is responsible for the day-to-day operation of all or any part of the system for product certification.

Standard:

means British, National, European, International Standard or equivalent.

BuildCert Ltd:

means the legal entity responsible for managing the BuildCert product certification scheme.

BuildCert Advisory Committee:

means the committee which has the responsibility for overseeing the certification of product conformity.

3. The BuildCert Advisory Committee has the authority to grant, renew, amend and revoke certificates. The Committee shall act through the Scheme Manager and in addition, it may from time to time appoint (and subsequently remove from such appointment) such auditor or auditors as it considers appropriate.

4. An applicant that satisfies the BuildCert Advisory Committee that it is capable of producing a product to comply consistently with the relevant standard and that it carries on a bona fide business in certifiable products shall, subject to the terms and conditions of these Regulations, be entitled to a certificate. A separate certificate will be granted for each standard and each place of manufacture in respect of which a successful application is made. Certificates are valid for five years from the date of issue, subject to successful annual FPC audits. If a certificate holder does not intend to continue with certification, it must give the Scheme Manager three months notice in writing of its intention to withdraw from the scheme. A certificate holder's right to use the BuildCert product conformity mark is not transferable without the prior permission of the BuildCert Advisory Committee and notified in writing by the Scheme Manager.

5. A certificate holder shall:
 - (a) use the BuildCert product conformity mark in accordance with the conditions set out in Form BC5 (Product Conformity Mark), only in respect of the products which are the subject of the certificate and which comply with the relevant product standard and are manufactured at the address stated on the certificate;
 - (b) not claim expressly or by implication that the certificate holder is entitled to use the BuildCert product conformity mark in respect of any product for which the certificate holder does not hold a certificate;

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- (c) maintain a documented quality management system, including a quality plan appropriate to that Standard, and complying with the relevant FPC requirements of ISO 9000 and product standard. These shall be made available upon request from the auditor or the Scheme Manager.
 - (d) not vary the structure of the quality management system in such a way that it would no longer comply with the relevant requirements of ISO 9000 and FPC under which any certificate is granted during the period of validity of that certificate, unless it has given the Scheme Manager prior notice in writing of its intention to do so, and has received confirmation in writing from the Scheme Manager that variations do not render the certificate invalid;
 - (e) discontinue forthwith any use of the BuildCert product conformity mark which is unacceptable to the Scheme Manager and any form of statement or reference to the right of the certificate holder to use the BuildCert product conformity mark which in the opinion of the Scheme Manager maybe misleading;
 - (f) give the Scheme Manager and any auditor access during normal working hours to the premises in which a product which is the subject of the certificate is manufactured or where associated activities are performed for the purpose of examining materials, processes, finished articles, methods of testing, records, systems and procedures, taking samples for testing or establishing that any procedures required for the termination of the certificate described in Regulation 5(h) have been carried out;
 - (g) nominate for the approval of the Scheme Manager a site management representative, and one or more deputies authorised to act in his absence, who shall be responsible for all matters in connection with the requirements of the certificate and who shall, upon each visit by the Scheme Manager or any Auditor, sign a declaration to the effect that any changes in procedures or other information relevant to the terms and conditions under which the certificate is held have been notified to the Scheme Manager;
 - (h) upon the termination of the certificate, for whatever reason, immediately discontinue the use of the BuildCert product conformity mark and all advertising matter which contains it or refers to it. Any products manufactured by the certificate holder which bare the BuildCert product conformity mark shall, if the Scheme Manager requires, be so treated as to erase the BuildCert product conformity mark;
 - (i) notify the Scheme Manager in writing of any intended change in the ultimate ownership of the certificate holder as a result of which any third person, firm or corporation gains effective control of the certificate;
 - (j) in all other respects and at all times comply with the terms and conditions of these Regulations.
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6. BuildCert shall be entitled from time to time at its sole discretion to review the level of its fees charged under these Regulations. BuildCert shall give applicants and certificate holders notice in writing of any change in fees.

An applicant shall pay:

- (a) an administration fee,
- (b) an audit fee, and
- (c) a testing fee, if appropriate.

Such fees shall not be returnable unless the work for which the fees are paid is not commenced.

A certificate holder shall pay:

- (a) a annual listing fee,
- (b) such additional fees and charges for auditing, surveillance, testing, renewal or endorsements for the terms of certification as may from time to time be determined by BuildCert,
- (c) any costs incurred by BuildCert due to the certificate holder's non-compliance with these Regulations.

Fees not payable in advance shall be paid within 30 days of the date of invoice.

7. The Scheme Manager or any auditor:

- (a) may periodically visit the certificate holder's premises and in any case not less than once in any year during the period of validity of the certificate, for the purpose of verifying that the obligations imposed by the certificate are being carried out;
 - (b) shall select samples of the product which are the subject of the certificate from the certificate holder's stocks or purchase samples on the open market, and test them for compliance with the requirements of the relevant standard, not less than once every 5 years;
 - (c) shall not disclose other than as required by law any information concerning the certificate holder which is of a confidential nature, other than information which is in the public domain;
 - (d) may at his sole discretion notify the certificate holder of customer complaints relating to the compliance of the certificate holder's product with the relevant standard.
 - (e) shall notify the certificate holder of any changes in the relevant standard to which the certificate relates;
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8. If a certificate holder is temporarily unable to comply with the requirements of these Regulations, the Scheme Manager may instruct the certificate holder to discontinue the use of the BuildCert product conformity mark with immediate effect. The Scheme Manager may also require the BuildCert product conformity mark be erased from all existing literature advertisements and non-conforming products until, either the Scheme Manager is satisfied that compliance is again achieved or a successful appeal against his decision is made by the certificate holder under Regulation 11.
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9. If a certificate holder fails to comply with these Regulations the BuildCert Advisory Committee may take such action as at its sole discretion it deems appropriate or expedient. Without in any manner limiting the scope of any such action the BuildCert Advisory Committee may:

- (a) revoke the certificate;
- (b) reduce the scope of products which are the subject of the certificate;
- (c) limit the use of the product conformity mark
- (d) refuse to confirm continued certification.
- (e) refuse to extend the scope of products which are the subject of the certificate;
- (f) a certificate holder shall not sell or otherwise dispose of non-complying products under the BuildCert product conformity mark.

Such decisions, and the grounds for them, shall be communicated by the BuildCert Advisory Committee through the Scheme Manager to the certificate holder in writing.

10. The BuildCert Advisory Committee may at its sole discretion amend, revoke or refuse to grant or renew any certificate if;

- (a) the applicant or certificate holder is the subject of a petition for a bankruptcy order or enters into liquidation whether compulsorily or voluntarily, or undergoes any analogous act or proceedings under foreign law;
 - (b) the applicant or certificate holder is convicted of an offence which in the opinion of the BuildCert Advisory Committee tends to discredit the applicant's or certificate holders reputation and good faith as a trader;
 - (c) any change takes place in the ultimate ownership of the applicant or certificate holder as a result of which any third person, firm or corporation gains effective control of the applicant or certificate holder and such third person, firm or corporation fails within a reasonable time to affirm full acceptance of the terms and conditions relating to the certificate.
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- 11.** In the event of an applicant or certificate holder wishing to appeal against any decision of the BuildCert Advisory Committee or the Scheme Manager under these Regulations, it shall, within thirty (30) days after having been notified in writing of such decision, give notice in writing to the Scheme Manager of its wish to appeal against that decision. A meeting of an Appeals Panel shall be held within sixty (60) days of receipt of such notice and the applicant shall be given at least seven (7) working days notice of the time and place of such a meeting.

The decision of the BuildCert Advisory Committee or the Scheme Manager (as the case may be) shall remain in force pending any decision of an Appeals Panel. The decision of the Appeals Panel as declared by its Chairman shall be final.

- 12.** A certificate holder shall indemnify and keep BuildCert promptly and fully indemnified against all claims, demands, proceedings, costs and expenses (including court costs and legal fees) and any other liabilities whatsoever arising out of or incidental to the certificate holder's failure to comply with these Regulations or the relevant standard.
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- 13.** BuildCert shall not be liable for any loss or damage of whatever nature suffered by the certificate holder arising out of any act or omission of any independent third party appointed by BuildCert or the BuildCert Advisory Committee pursuant to these Regulations.
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- 14.** The liability of BuildCert for any loss or damage of whatever nature suffered by the certificate holder arising out of any breach by BuildCert of these Regulations (including negligence) shall be limited in any period of one year to the value of the fees paid in that year. BuildCert shall not be liable for loss or damage of whatever nature suffered by any third party.
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- 15.** Each certificate is personal to the certificate holder to which it is granted. The certificate holder undertakes not to assign, transfer, charge or in any manner make over all or any part of the certificate or of its rights under the certificate without the prior consent in writing of the Scheme Manager.
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- 16.** Any notice under these Regulations shall be in writing and served at the registered address of the party to which it is addressed.
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- 17.** BuildCert shall, wherever possible, use WRc-NSF testing laboratories or laboratories approved by BuildCert.
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- 18.** These Regulations may from time to time be altered by the BuildCert Advisory Committee. No such alterations shall affect the right of any certificate holder to use the product conformity mark or to claim that products have been certified under these Regulations unless or until it shall have been given notice in writing of such alterations by the Scheme Manager who will notify the certificate holder of the date by which it must comply with the altered Regulations.

19. A register of certificates issued for product conformity shall be available to the public and can be obtained upon request from the offices of BuildCert Ltd.

20. These Regulations shall be governed by and constructed in accordance with UK laws. BuildCert and the certificate holder hereby submit to the jurisdiction of the courts. A certificate holder who does not have a place of business within the United Kingdom shall appoint, and notify BuildCert in writing of the details of an agent for service of process in the UK.
