



Department
for Business
Innovation & Skills

BY EMAIL TO: Keith.Wright@element.com

Mr Keith Wright
Element Materials
Technology Warwick Ltd
Rothwell Road
Warwick
CV34 5JX

18 May 2016

Dear Mr Wright,

**APPOINTMENT OF ELEMENT MATERIALS TECHNOLOGY WARWICK LTD AS A
NOTIFIED BODY IN THE UNITED KINGDOM UNDER ARTICLE 22 OF THE RADIO
EQUIPMENT DIRECTIVE**

BIS has received a copy of the letter from UKAS dated 7 March regarding the successful assessment for accreditation of Element Materials Technology Warwick Ltd (the Company) as a notified body under Directive 2014/53/EU relating to radio equipment and recommending the Company's appointment to the Secretary of State. This is to confirm that the Secretary of State has accepted the recommendation from UKAS and intends to appoint the Company as a Notified Body under the Directive, subject to the Company accepting the terms and conditions of appointment set out below.

This appointment does not take effect until formal confirmation from the Secretary of State and is subject to the right of the European Commission and other Member States to seek clarifications or raise objections to this appointment.

Terms and conditions of appointment

The Company will be appointed in respect of the conformity assessment procedures set out in the Directive for the following product categories:

Annex III EU Type Examination

Kevin.Lane@bis.gsi.gov.uk ER Bay 4 Spur 1
1 Victoria Street, London, SW1H 0ET
www.gov.uk/bis

Enquiries 020 7215 5000
Enquiries enquiries@bis.gov.uk



Air Traffic Management Equipment
Base Station for mobile network
Broadcast
Citizens Band
Cordless Telephone
Distress/Position Indicating Beacon
Fixed Link
Fixed Wireless Access
Industrial, Scientific and Medical
Maritime (for non-SOLAS vessels only)
Paging
Private/Professional Mobile
Radio
Radar
Radio Frequency Identification (RFID)
Radio Local Area Network
Short Range Devices
Telemetry/Telecommand
TTE for fixed (wired) network (all types)
Ultra Wideband Applications (including ground probing radar)
Wireless Telephone

- 1) The appointment will be made public.
- 2) This appointment will remain in force until such time as it is withdrawn by the Secretary of State under paragraph 5 or after the elapse of a period of 90 days after the Company has notified the Secretary of State in writing that it wishes the appointment to be terminated under paragraph 6.
- 3) This appointment is subject to the following conditions:
 - a) The Company must at all times carry out the duties and functions of a Notified Body as described in Article 26 the Directive to the satisfaction of the Secretary of State;
 - b) The Company must at all times hold the necessary accreditation for the functions and products for which it is appointed;
 - c) The Secretary of State continues to be satisfied as to the Company's suitability, including its status and competence, to be a Notified Body; in connection with this the Company must, at the reasonable request of the Secretary of State, submit to immediate reassessment of its suitability for appointment;
 - d) The Company must submit itself to annual surveillance for the purpose of making sure that the Company is performing its duties and functions in accordance with its appointment and accreditation; provided always that the Secretary of State may require more frequent surveillance.



- e) The Company must submit itself every 4 years for a full reassessment and re-accreditation in order for the Secretary of State to be satisfied that the Company remains suitable for appointment;
- f) For the purposes of reassessment, reaccreditation or maintenance of accreditation and surveillance an assessment will normally be carried out on behalf of the Secretary of State by the United Kingdom Accreditation Service (UKAS), which will submit a report to the Secretary of State. Alternatively, such assessment may be carried out by or on behalf of the Secretary of State;
- g) The Secretary of State may request confirmation concerning adequate insurance cover;
- h) The Company must follow the relevant conformity assessment procedures as stated in the Directive, and in addition;
- i) The Company must have documented procedures covering all aspects of its work relating to the conformity assessment procedures which it carries out, adequate internal organisation and adequate procedures in place to give confidence in the quality of its services.
- ii) Under the appropriate conformity assessment procedures, the Company must examine or inspect against the essential requirements (ERs) and other relevant provisions directly. Where the Company assesses a product with the assistance of harmonised standards, the assessment must relate these to the ERs.
- i) The Company must ensure that it undertakes the necessary activities to maintain sufficient technical knowledge to be able to interpret and apply the ERs to the state of the art current at the time of the assessment.
- j) In cases where the Company, in accordance with the Directive, is minded to refuse to issue an EU type-examination certificate it must:
 - i) give notice in writing to the applicant of the reasons why it is minded to do so; and
 - ii) give the applicant the opportunity of making representations within a reasonable period of the notice being given as to why the issue of the EU type certificate should not be refused;
- k) In cases where judgements or interpretation of a standard or requirement are implicit or explicit in a decision to grant or withhold certification, the Company must have procedures for achieving consistency.
- l) Sub-contracting of work by the Company will be subject to certain conditions guaranteeing:



- i) the competence of the establishment operating as sub-contractor by the sub-contractor meeting the relevant requirements of the EN 17000 series of standards; and
- ii) its ability to exercise effective responsibility for the work carried out under sub-contract; and
- iii) any other matter required in guidelines for the appointment of conformity assessment bodies issued by the Secretary of State in respect of the sub-contracting of work.

In any case the Company remains entirely responsible for the work carried out under the sub-contract;

m) The Company must authorise, at any reasonable time, access by or on behalf of the Secretary of State to:

- i) all documentation arising out of its duties and functions under this appointment and the Company shall comply with any reasonable request made by or on behalf of the Secretary of State for information regarding the exercise of those duties and functions;

- ii) its premises for the purpose of verifying its compliance with the conditions and with the minimum criteria;

n) The Company must take part in Notified Body co-ordination activities at national and European levels. If, exceptionally, the Company is unable to send a representative or a suitable substitute to a national co-ordination activity, it shall without delay explain the reasons for its non-attendance to the Secretary of State. Participation in European co-ordination activities shall be to the satisfaction of the Secretary of State.

o) The Company must maintain its impartiality and independence from all applicants for its services and in no circumstances should it take on the role of authorised representative for any applicant;

p) The Company must inform the Secretary of State of any changes which have a bearing upon its status as a Notified Body or its ability to perform the duties and functions of a Notified Body under the Directive;

q) The Company must inform the Secretary of State of the following events as soon as they occur:

- i) the Company is unable to pay its debts as they fall due, or is deemed unable to pay its debts or becomes insolvent within the meaning of the Insolvency Act 1986 section 123 or any other enactment;

- ii) a winding up or an administration order is made in relation to the Company, or the Company petitions or applies to the court for such an order, passes a resolution to present such a petition or application, or convenes a meeting for the purpose of considering such a



resolution;

- iii) any steps are taken with a view to proposing any kind of composition, scheme of arrangement, compromise or arrangement involving the Company and its creditors generally, or any class of them;
- iv) any administrative receiver, receiver, manager or other person with functions similar to those of an administrative receiver, receiver or manager is appointed to the Company or any significant part of its assets, or the Company requests the appointment of such a person;
- v) the directors of the Company take any steps to obtain a moratorium for the Company within the meaning of the Insolvency Act 1986; or
- vi) the Company becomes a subsidiary of any company of which it is not a subsidiary at the date of this letter, or ceases to be a subsidiary of any company of which it is a subsidiary at the date of this letter. The word "subsidiary" shall be interpreted in accordance with the definitions in Section 1159 of the Companies Act 2006.

4) the Secretary of State may, by notice in writing, add conditions or vary or delete any conditions, to this appointment; such additions, variations or deletions shall have effect thirty days after the date of that notice unless a different period is agreed in writing between the Secretary of State and the Company.

5) Without prejudice to the right of the Secretary of State to terminate this appointment under the Directive, this appointment will be restricted, withdrawn or suspended immediately in accordance with the Directive if it appears to the Secretary of State that the Company no longer meets the requirements relating to Notified Bodies and/or the terms of this letter.

In the case of suspension, the appointment of the Company as a Notified Body may be reinstated subject to the Company satisfying the Secretary of State that steps have been taken to address the non-conformity with the requirements relating to Notified Bodies and/or the terms of this letter.

6) This appointment will be terminated in accordance with the Directive at the request of the Company upon the expiry of 90 days' notice in writing to the Secretary of State.

7) This appointment is subject to the following additional conditions in the event of it being withdrawn or terminated under paragraphs 5 or 6:

- a) the Company must prepare and submit to the Secretary of State within three calendar months of the date on which the termination of the appointment takes effect or, if appropriate, of the date of withdrawal, a report in writing on the exercise of its duties and functions under the Directive; this report must contain such information as may have been agreed in writing between the Secretary of State and the Company;



- b) the Company must transfer to the Secretary of State or to such person or company as the Secretary of State directs, without charge, all records, information and other things, whether stored manually by computer or by any other means whatsoever, arising out of the performance of its duties and functions under the Directive as the Secretary of State may specify.
- 8) The Company's attention is drawn to the modules for the various phases of conformity assessment procedures and the rules for the affixing and use of the CE conformity marking in the technical harmonisation Directives. The Company must comply with the rules for affixing and use of the CE conformity marking set out in the Directive.
- 9) The Company should note that Notified Bodies must apply the conformity assessment procedures as necessary but without imposing an unnecessary burden on the applicants for its services.
- 10) If the above terms and conditions of appointment are acceptable, the Company should signify its consent by email to: Notifiedbodies@bis.gsi.gov.uk

The Company will receive formal confirmation of the appointment by the Department once the notification has confirmed by the European Commission.

For and on behalf of the Secretary of State

Yours sincerely

Kevin Lane

Directive Policy Advisor, Product Safety, Single Market Team



