

## **1. General**

1.1 Unless otherwise specifically and expressly agreed in writing by Western Quality Services Limited (hereinafter called "WQS"), all services provided by Western Quality Services Limited are governed by the following general conditions of service, which prevail any purchase terms and conditions.

1.2 Services carried out by WQS, on behalf of an entity or individual from whom the instructions to act have originated (hereinafter called the "Principal") will be carried out by using techniques and processes that permit an independent, impartial and objective approach. The end result of the Service will consist in a certificate or document (hereinafter called the "Report") communicating the collection of information WQS has been requested to supply and will be delivered as a fax, a written document or an online report.

1.3 No other party than the Principal shall be entitled to give instructions to WQS, particularly on the scope of inspection or delivery of Report, unless so authorised by the Principal.

## **2. Provision of services**

2.1 WQS in the capacity of an independent third party, supplies information in the form of ascertainment or recommendations for the special purpose of contributing to the prevention of the risks to which the beneficiaries of its services are exposed, and of helping them assure the quality of their products. WQS's services (hereinafter called the "Services") consist of work performed by WQS, including but not limited to:

- Pre-Productions Inspections;
- In-Process Inspections;
- Final Inspections;
- Container Loading Supervisions;
- Factory Audits.

## **3. WQS's obligations and undertakings**

3.1 WQS expressly reserves the right to act at its own discretion in accepting or declining a request for service, and cannot be compelled to accept or be held liable for declining a request for services or for products:

- Falling out of its scope of activity or specialisation ;
- Presenting geographical accessibility problems, such as services to be rendered or products to be found in restricted or highly remote areas ;
- Requiring WQS to obtain special permissions to operate such as governmental permissions.

3.2 WQS undertakes to supply the Services it has accepted to carry out in a professional and timely manner, in accordance with proper professional practice and in compliance with:

- The Principal's special instructions when ordering the Service and as confirmed by WQS – the terms of reference should be duly signed by the Principal and WQS -, and in the absence of such instructions:
- Any relevant professional standard, trade custom, usage or practice ;
- Such methods as WQS shall consider appropriate on technical, operational and/or financial grounds.

3.3 WQS shall exercise due care and skill in the selection and assignment of its personnel.

## 4. Principal's obligations and undertakings

4.1 To take all reasonable steps to assure WQS has access to the site and materials on which Service will be based;

4.2 To provide WQS with all information and samples, as well as the documents necessary to complete requested Service, in a timely manner (and in any event not later than 48 hours prior to the desired intervention), except for generally available documents such as codes and standards, either directly or through suppliers or agents of the Principal ;

4.3 To insure that adequate instructions and notice are given to WQS in due time to facilitate proper performance for the Service requested;

4.4 To advise WQS of the date on which the Services are to commence, or to be resumed, and also of essential dates affecting the item(s) for which Services are being rendered;

4.5 Generally to render all reasonable assistance to WQS in providing necessary instructions, information, documents, safety and security information in connection with the working conditions, required equipment and access (as the case may be).

4.6 Documents reflecting engagements between the Principal and third parties or third parties' documents - if received by WQS - are considered to be for information only and do not extend or restrict the scope of the services or obligations accepted by WQS.

## 5. Invoicing, fees and payment

### 5.1 Payment

Payment is expected upon booking prior to the performance of the Service. Should payment occur after the performance of the Service, then an extra 10% charge will be added to the order pricing.

All Inspections are billed together in one monthly invoice, issued at the month-end upon request.

Western Quality Services offers 3 payment solutions

- Online payment: Western Quality Services uses Paypal as online payment solution.
  - Orders settled online are subject to payment of Paypal payment processing fees (see Paypal conditions on [www.paypal.com](http://www.paypal.com)).
- Western Union payments
  - Orders settled online are subject to payment of Western Union payment processing fees (see Western Union conditions on [www.westernunion.com](http://www.westernunion.com)).
- Offline payment: Invoices can be settled offline by transfer (T/T) for an extra +5% handling fee.

Monthly invoices are payable immediately upon receipt, each party bearing their own bank charges (including intermediary bank charges if client's bank doesn't process the transfer themselves).

Any late payment will incur an interest charge at 2.5% per month.

5.2. Cancellation charges: we accept cancellation until 2 pm (China Time) 48 hours before the projected Inspection date. After this limit, the Services booked will be charged in full.

5.2.1 Western Quality Services advises its clients to then re-charge this cost to their factory when the factory is proved to be mistaken.

5.2.2 In the case of an Order paid online and cancelled, Western Quality Services will credit the buyer's Credit Card account with Paypal Refund solution.

5.3 In the event that WQS is being prevented from performing or completing in full requested Services, for any reason beyond its control, such as but not limited to, wrong information given by Client or Factory (e.g. goods not ready for Inspection despite information given by Factory...), the Principal agrees to:

5.3.1 Reimburse any expenditure, and out of pocket expenses made or incurred in relation to this Service;

5.3.2 Pay proportion of fees due for Services actually rendered and to release WQS from all responsibility for partial or non-performance of the Services.

5.4. In the event when the Inspection must be cancelled on the projected Inspection day, because of wrong information given by Client or Factory (e.g. goods not ready for Inspection despite information given by Factory,...), the man-day will be considered spent, and Western Quality Services will charge full fee to Client as a 'missed Inspection' fee. Western Quality Services advises its clients to then re-charge this cost to their factory when the factory is proved to be mistaken.

## **6. Liability and indemnification**

### **6.1 Limitation of liability**

6.1.1 WQS is neither an insurer nor a guarantor and disclaims such capacity. Clients seeking a guarantee against loss or damage should obtain appropriate insurance.

6.1.2 Subject to the Principal's instructions as accepted by WQS (as specified in the terms of reference), WQS will issue the Report relating to the facts as recorded by it within the limits of the instructions received and on the basis of the documents and information provided by the Principal (refer to #4 above), but WQS is under no obligation to report upon any facts or circumstances which are outside the specific scope of its assignment.

6.1.3 WQS advice is given only in relation to documents and information provided by the Principal, and WQS cannot be held liable if it has received incomplete or erroneous information.

6.1.4 In the event of false information being given to WQS by a third party, WQS accepts no liability.

6.1.5 WQS undertakes to use its best efforts and to exercise due care and skill in the performance of its Services, and accepts liability only in case of negligence proven by the Principal.

## 6.2 Indemnification

6.2.1 In the event of WQS being held liable in respect to any claim of loss, damage or expense of whatsoever nature and however arising, its liability to the Principal shall in no circumstances exceed five times the total aggregate sum of fees paid for the specific single service for which a claim is made if no approved reference sample was provided by the Principal, and ten times if an approved reference sample was provided and available for the inspector at the factory on the day of inspection, or an approved Western Quality Services office at least two days prior to the scheduled inspection date.

6.2.2 In addition, in case of the Service of pre-shipment inspections:

- Where less than 100% of the production is complete, our responsibility will only extend to those items completed at the time of inspection ;
- The Report does not evidence shipment.

6.2.3 The Principal shall guarantee and indemnify WQS and its servants, agents or subcontractors against all claims made by third parties for loss, damage or expense of whatsoever nature arising, relating to the performance or non-performance of any service, to the extent that the total sum of such claims exceed the limitation of liability mentioned in Article 6.2.1.

6.3 In the event of any claim, notice must be given to WQS headquarters (Western Quality Services Limited located at 813 Hollywood Plaza 610 Nathan Rd. Kowloon, Hong Kong; Telephone (852) 8199 0235) within seven days following discovery of the facts, or three months from the completion of the WQS Service.

## 7. Termination of services

WQS shall be entitled to automatically either terminate and/or suspend provision of services in the event that:

7.1 The Principal commits any material breach of its obligations under these terms and conditions and/or the terms of reference and (if such breach shall be capable of remedy) fails to make good such breach within ten (10) days of receipt of notice served by the Non-Defaulting Party (WQS) requiring it so to do. Material breaches include, without limitation any wilful and deliberate breach by the Principal of its obligations under clause 4 here above;

7.2 The principal is insolvent or unable to pay its debts, in suspension of payments, or convenes a meeting of or compounds with its creditors or has a receiving order made against it or (other than for the purposes of bona fide amalgamation or reconstruction) has an order made or a resolution passed for its winding up or for the appointment of an administrator to manage its affairs, business and property or has a receiver or administrative receiver appointed over any of its assets or undertaking or if WQS takes or suffers any similar or analogous action in consequence of debt.

## 8. Miscellaneous

8.1 The Report will reflect findings of the Service at the time and place of Service. This Report does not discharge sellers and suppliers from their legal and/or commercial obligations towards the principle.

## **9. Applicable and Governing law, Jurisdiction and settlement of dispute**

9.1 Unless otherwise provided, these terms and conditions shall be governed by and construed in accordance with Hong Kong Law.

9.2 All disputes or differences of any kind whatsoever between the parties in connection with or arising out of the services shall be submitted to the non exclusive jurisdiction of the courts of Hong Kong.

## **10. Language**

These terms and conditions have been drafted in English. In case of discrepancy, the English version shall be controlling for all purposes.