

TERMS AND CONDITIONS FOR VERIFICATION SERVICES

1. Introduction

- 1.1 Verification services provided by HKQAA are bounded by the Terms and Conditions specified in this document.

2. Interpretation

- 2.1 For the purpose of this Terms and Conditions;

"Business" means the legal entity (both public and private entity) that has appointed HKQAA to provide verification services.

"HKQAA" means the Hong Kong Quality Assurance Agency, a non-profit distributing organization, established in 1989 by the Hong Kong Government.

"Verification" means systematic, independent and documented process for the evaluation of information, claims or data against specified criteria.

3. Application

- 3.1 A Business who desires to be verified shall provide company particulars, its legal entity documentation and other information regarding verification services required by HKQAA. A Business shall clearly specify the scope of verification.

4. Verification

- 4.1 Following the confirmation of a contract for verification services, a Business being properly prepared and ready to be assessed, HKQAA shall form a verification team to conduct the verification.

- 4.2 All verification activities carried out by HKQAA are in accordance with practices and policies determined and notified by HKQAA. Businesses hereby acknowledge and agree to such practices and policies.

- 4.3 Without limitation to Clause 4.2;

4.3.1 All verification services will be carried out by qualified personnel employed by HKQAA. HKQAA shall provide Businesses with the names of all personnel who will form part of the verification team, and will make available background information on each member of the team on a request basis. Businesses shall keep the personal information of the team members confidential. Where possible, this will be done in sufficient time to permit Businesses to object to any particular personnel, and for HKQAA to reconstitute a verification team in response to any valid objection.

4.3.2 Businesses acknowledge that they have the responsibility to ensure that the information and documents within the scope of verification were prepared and that HKQAA will merely carry out an objective assessment and evaluation.

4.3.3 HKQAA shall inform Businesses of all the required arrangements for the verification, including provision for examining documentation, on-site assessment arrangement, the required access to all processes and areas, records and personnel.

4.3.4 The dates for the verification shall as far as possible be agreed in advance.

5. Obligations of a Business

5.1 A Business warrants that it shall:

5.1.1 at all times comply with the terms and conditions specified in this document;

5.1.2 prepare all relevant documentation for verification and make available copies of all or any part of the documents on the request of HKQAA;

5.1.3 notify HKQAA promptly of any intended changes related to scope to be verified;

5.1.4 give the representatives of HKQAA access (without prior notice if required by HKQAA) during normal working hours (including shift operating hours) to the premises or sites within the verification scope;

5.1.5 nominate an authorized representative and one or more deputies authorised to act in the nominee's absence and replacement nominees as may be necessary who shall be responsible for all matters in connection with the verification;

5.1.6 make available to HKQAA, when requested, the records of all complaints and stakeholder's comments as well as the actions taken in response to the feedbacks;

5.2 A Business warrants that all documents and records for verification are entirely accurate and genuine. A Business warrants making clarification in case there is a reasonable doubt regarding the accuracy and authenticity of documentations during or after the verification services.

5.3 A Business warrants that any English or Chinese translation provided of its official name in the application for verification is true and accurate and solely indicates and represents the Business and not any other entity.

6. Charges

6.1 HKQAA shall charge and a Business shall pay;

6.1.1 service fees for off-site and on-site verification activities including but not limited to documentation review, verification planning and arrangement, site visits, reporting, independent review;

6.1.2 travelling expenses outside Hong Kong including meals, transportation and accommodation costs as may be incurred by HKQAA which shall be subject to mutual agreement between HKQAA and a Business;

6.1.3 any additional costs incurred by HKQAA due to a Business's non-compliance with these Terms and Conditions.

6.2 All fees to be charged to and payable by a Business in accordance with Clause 6.1 shall be those fees that HKQAA believe in its discretion to be fair and reasonable. HKQAA shall provide a Business full details and information concerning all relevant fees relating to the verification on request.

6.3 Service fees shall be payable in advance before the required work is undertaken by HKQAA, unless otherwise agreed in service contract. All payments shall not be affected by the final outcome of verification activities.

6.4 If a Business fails to pay any fees on their respective due dates HKQAA shall be entitled to charge a Business interest on the outstanding fee at the rate of 4% per annum above the Hong Kong and Shanghai Banking Corporation Limited's Prime Rate in force from time to time from the date the payment became due until actual payment is made.

7. Confidentiality

7.1 All information of a technical or business nature disclosed by a Business to HKQAA in the verification process shall be regarded as confidential and shall only be disclosed by HKQAA to its employees as is necessary and HKQAA shall ensure that such personnel treat such information as confidential. Such information shall only be used by HKQAA for the purposes of verification and shall not without the prior written consent of the Business be disclosed by HKQAA to any third party, provided always the foregoing obligations of confidence shall not apply to information which is;

7.1.1 in the public domain;

7.1.2 already in the possession of HKQAA or later comes into the possession of HKQAA without any obligations of confidence from an independent third party who has not derived it from the Business in question;

7.1.3 disclosed to a third party pursuant to the written consent of the Business in question;

7.1.4 disclosed to a third party pursuant to statutory, regulatory or other legal requirements including any Order of Court; or

7.2 HKQAA shall prior to disclosure of information under Clause 7.1.4 above inform the Business of the intended disclosure (unless prohibited by law).

8. Exclusion of liability

8.1 HKQAA shall not under any circumstances whatsoever, be liable to the Business for any direct, indirect or consequential damages resulting from or arising out of the performance of the services hereunder including, without limitation, loss of profit, loss of revenue, loss of contract, loss of goodwill, loss of use, loss of production or business interruptions, however same may be caused.

8.2 Subject to Clause 8.1 above all conditions and warranties on the part of HKQAA implied by statute, common law or otherwise are expressly excluded.

8.3 Without prejudice to Clauses 8.1 and 8.2, and in the event that the courts of Hong Kong consider a complete exclusion of liability hereunder to be unreasonable, HKQAA's liability in contract, tort or otherwise to a Business with respect to any claim arising in connection with its acts or omissions in verifying activities shall be limited to no more than the fees received by HKQAA from a Business for the verification services in which the alleged liability arose or HK\$200,000 whichever is less.

9. Indemnity

9.1 A Business shall be liable for and will indemnify HKQAA against any and all liability, loss, damages, costs, legal costs, professional and other expenses of any nature whatsoever incurred or suffered by HKQAA whether direct or consequential (including but without limitation any economic loss or other loss of profits, business or goodwill) arising out of any dispute or contractual, tortious or other claims or proceedings brought against HKQAA by a third party claiming relief against HKQAA by the breach of the Terms and Conditions by a Business.

10. Termination of Contract

- 10.1 Either party may terminate the contractual relationship:
- 10.1.1 By giving to the other one month written notice, without any reason;
 - 10.1.2 By giving immediate notice in case the other party committed a material breach of terms and conditions of the contractual relationship;
 - 10.1.3 By giving immediate written notice if either party goes into bankruptcy, liquidation, insolvency; receivership or an administrator is appointed for any or part of the undertaking thereof.
- 10.2 In the event of termination, each party shall settle outstanding accounts prior to the termination.

11 Complaints

- 11.1 HKQAA agrees to investigate in its reasonable discretion all complaints received in respect of the verification services provided. Complaints shall be addressed and investigated in accordance with HKQAA documented complaint handling procedure (available in HKQAA website).

12 Disputes and Appeals

- 12.1 HKQAA reserves the rights to make final decision in case of any disputes and appeals. All kinds of disputes and appeals will be handled by the Technical Review Panel of HKQAA.

13 Notice

- 13.1 Any notice given under these Terms and Conditions shall be in writing and signed by or on behalf of the party giving it and may be served by leaving it or sending it by post, in the case of HKQAA or a Business, at or to its address for the time being (registered office where applicable). Any notice so served by post shall (unless the contrary is proved) be deemed to have been served forty eight hours from the time of posting; and in proving such service it shall be sufficient to prove that the notice was properly addressed and posted in accordance with this clause.

14. Waiver

- 14.1 No failure or delay on the part of HKQAA to exercise any right or remedy under these Terms and Conditions shall be construed or operate as a waiver thereof nor shall any single or partial exercise of any right or remedy preclude the further exercise of such right or remedy as the case may be. The rights and remedies provided under these Terms and Conditions are cumulative and are not exclusive of any rights or remedies provided by law.

15. Governing Law

- 15.1 The Terms and Conditions shall be construed in accordance with the laws of Hong Kong and shall be subject to the exclusive jurisdiction of the courts of Hong Kong.

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