

**Terms of Contract applicable to the inspection and certification activities by Control Union Peru S.A.C., hereinafter called the "Company" and the Applicant, hereinafter called the "Principal"**

**1. General**

- 1.1 For those items not covered in these Terms of Contract (the ToC), the TERMS AND CONDITIONS OF BUSINESS (1999) (in the form and substance as attached hereto) (hereinafter: the "General Terms") apply, with the exception of articles 7.6 and 10 thereof.
- 1.2 The Company's standard services may include all or any of the following: Inspections and Certifications of products, processes, activities or management systems. Inspections are defined to include assessments, audits, inventories and surveillance.

**2. Offer letter**

- 2.1 By signing and returning an offer made by the Company, the Principal enters into a formal agreement with the Company (hereinafter: the "Agreement") on the terms and conditions as specified in such offer letter as well as in all other documents (including these terms of contract) which are and have been explicitly declared applicable to the Agreement (together hereinafter: the "Documents").

**3. Obligations and restrictions of the Principal**

- 3.1 The Principal must report any change or discontinuation of activities within the scope of the contract, which interfere or could potentially interfere with the Principal's compliance with the requirement as mentioned in the "Documents". Or which could potentially change the scope of the contract immediately to the Company.
- 3.2 The Principal may not transfer any of its rights or obligations under the Agreement and the Documents to any third party.
- 3.3 Unless the Principal acts in accordance with the terms of the Agreement and the terms of the Documents, it may not refer to any Document, document or indication such that in the public's perception, the impression could be created that the products of the Principal were obtained or the units of the Principal are kept according to the terms of the Documents.
- 3.4 The Principal must, upon request by the Company, withdraw and/or rectify any misleading or incorrect publications, indications or information with regard to its inspected and/or certified activities and take any other action to the satisfaction of the Company.
- 3.5 The Principal may never (i) use a certification granted by the Company for activities for which such certification was not given and (ii) use a Company indication on products which have not been approved by the Company in accordance with the certification procedures, and (iii) if the Principal provides copies of the certification documents to other (third) parties, the documents shall be reproduced in their entirety or as specified in the certification scheme.
- 3.6 The Principal shall refrain from using a (quality) system certification granted by the Company in such a manner to imply that a product or a service is approved by the Company.
- 3.7 The Principal shall refrain from acting in such a way that could potentially affect a Company indication and/or a Company certificate in a negative way.
- 3.8 The Principal must inform the Company immediately upon becoming aware of every incorrect and/or unauthorised use of a Company indication and/or any misleading or incorrect publications referring to the Company.

**4. Inspection**

- 4.1 The Company will perform the inspections or will have the inspections performed by a third party on her behalf according to the terms of the Documents in order to determine whether the agreed conditions as mentioned in the Documents are being adhered to by the Principal.
- 4.2 If the Company, in its sole discretion, finds it necessary and reasonable to perform additional inspections, the costs for these extra inspections shall be for the account of the Principal. These costs shall be based on the yearly fee as agreed upon by and between the Company and the Principal and shall be charged on the basis of real made costs.
- 4.3 The Principal must make all required arrangements for the performance of the inspection activities, including but not limited to the provisions necessary for the examination of documentation by the Company. Additionally, the Principal must provide the Company and any authorities involved with the certification process (including but not limited to accreditation body, scheme owners, observers) access to all areas, equipment, premises, personnel and units which fall within the scope of the Agreement and records (including but not limited to internal audit reports), and subcontractors of the Principal when pertinent, for the purpose of inspection and it must make personnel available for the purpose of resolution of complaints.
- 4.4 If the Company indicates that sample is required for the purpose of inspection, samples for analysis must be made available by the Principal and must be placed free of charge at the Company's disposal.
- 4.5 The Principal gives consent to the Company to send their samples and use of contract laboratories by the Company, if required laboratory tests.

**5. Certificate**

- 5.1 If the Principal is granted a scope certificate this shall be valid until the expiration date which is mentioned on the certificate, provided that:
- (i) no deviations, alterations and/or other changes have occurred with regard to the production method and units from the date they were inspected, such production method and production units having been granted a certification base on that inspection; and
  - (ii) the Agreement has not been terminated due to any reason whatsoever.
- 5.2 Verbal commitments or agreements regarding the certification by or with the Company's personnel or the party performing the inspections on the Company's behalf, do not bind the Company in any way. Only upon the taking of a formal written certification decision by the Company, a certification shall be granted by the Company to the Principal.

5.3 The Company scope certificate is granted to the Principal on a non-exclusive basis.

## 6. **Confidentiality**

6.1 The Company shall take all necessary measures to ensure that all information which has come to its knowledge in connection with the performed inspections (the "Information") shall be treated as confidential and it shall not disclose the Information to a third party without the prior written consent of the Principal, except to the extent required by law and/or the Documents.

6.2 To gain or maintain confidence in certification, the company will provide appropriate access to, or disclosure of, non-confidential information about the conclusions of specific audits (e.g. audits in response to complaints) to specific interested parties.

6.3 The Principal shall take all necessary measures to ensure that all information which has come to its knowledge regarding the method of inspection used by the Company shall be treated as confidential and it shall not disclose any such information to a third party without the prior written consent of the Company, except to the extent required by law and/or the Documents.

## 7. **Indications**

7.1 If the Principal acts in accordance with the provisions of- and meets the requirements as mentioned in- the relevant Documents (including but not limited to the relevant Document regarding the use of the Company indication), it may use the relevant Company indication(s), on products which have been certified by the Company and for which the Principal possesses a valid product scope certificate.

7.2 The Principal shall upon receiving notice of suspension or withdrawal of its management system certification, discontinue all use of all advertising matter/declarations that contains a reference to certification, as instructed by the Company, and revise all advertising matter accordingly when the scope of certification has been reduced.

7.3 The right to use the Company indication is granted to the Principal on a non-exclusive basis.

7.4 The Principal is allowed to use the Company indication on certified products for which a product scope certificate has been issued by the Company.

7.5 When making reference to the product certification granted by the Company in media such as documents, brochures or advertising, the Principal shall at all times comply with the requirements imposed by the certification body or as specified in the certification scheme.

7.6 The Principal shall comply with any requirements that may be prescribed in the product certification scheme relating to the use of marks of conformity, and on information related to the product.

## 8. **Amendment of the documents**

8.1 The Company is entitled to unilaterally amend (the terms of) the Documents.

8.2 The Company shall inform duly the Principal in writing about any amendment of the Documents which are relevant to the Agreement and it shall notify the Principal of the day these amendments to the Documents come into effect.

8.3 In case of an amendment to the terms of the Documents as contemplated by Article 8.1 hereof, the Principal agrees to be unconditionally bound to the terms of these new documents. The Company and the Principal acknowledge and agree that any such revised terms shall replace the relevant terms of the former Documents as of the day the amendments come into effect.

## 9. **Responsibility, liability and indemnification**

9.1 The following clauses of the General Terms shall be deemed as integral parts of these ToC: clause 1, 3, 5, 8, 9, 11, 12.1, 12.3, 13, 14, 15, 16, 17, 18, 19 and 20.

9.2 The liability of the Company in respect of any claims for loss, damage or expense of whatsoever nature and howsoever arising in respect of any breach of contract and/or any failure to exercise due skill and care by the Company shall in no circumstances exceed a total aggregate sum equal to 10 (ten) times the amount of the fee or commission payable in respect of the specific services required under the particular contract with the Company which gives rise to such claims provided however that the Company shall have no liability in respect of any claims for indirect or consequential loss including loss of profit and/or loss of future business and/or loss of production and/or cancellation of contracts entered into by the Principal. Where the fee or commission payable relates to a number of services and a claim arises in respect of one of those services the fee or commission shall be apportioned for the purposes of this paragraph by reference to the estimated time involved in the performance of each service.

9.3 The Principal shall hold the Company harmless and shall indemnify the Company as a result of damages suffered by the Company due to the Principal not observing the national and international governmental export and import restrictions.

## 10. **Fees**

10.1 Unless expressly indicated or agreed otherwise in writing, the prices quoted by or agreed with the Company shall be net prices, therefore exclusive of VAT.

10.2 The Principal must pay a fee based on the number of inspection days needed (including travel days) and the certification costs (e.g. administration, certificates, etc.). Additional inspection visits which the Company finds reasonable and necessary will be invoiced according to the terms of the relevant Documents.

10.3 Other costs (e.g. travel and boarding costs, subsistence costs, costs for analyses and costs for sending certificates by registered mail) will be invoiced directly based on real made costs.

10.4 The Company reserves the right to alter the agreed fee based on (inter)national index figures or the Company policy. The Company will send a notification of a change in the fee structure to the Principal at least three months before the day it comes into effect.

10.5 In case of cancellation of the inspection visit by the Principal or by the Company (due to non payment of the invoice), all costs already made for the inspection visit such as but not limited to costs for flight tickets, visa, vaccinations, etc will in any event be charged to the Principal.

- 10.6 If the Principal desires amendments or additions to the Agreement with regard to the units and/or products which must be inspected after the Agreement has been executed, the Company shall agree to these amendments or additions to the extent that it may be reasonably expected to do so. To the extent that the amendments and additions desired by the Principal involve extra costs, the Company shall charge these extra costs to the Principal in their entirety.
- 11. Payment**
- 11.1 In case the Company has not received payment of an invoice sent for an inspection visit two weeks prior to such visit, the inspection visit will be cancelled.
- 11.2 The Principal relinquishes any right to setoff amounts charged by and between parties. Settlement of credit amounts and/or claims with outstanding payments to the Company is explicitly not allowed.
- 12. Terms and termination**
- 12.1 The Agreement shall enter into effect on the date the offer letter was signed and returned by the Principal, and shall initially remain in force for a period of thirty-six (36) months following the date of its execution (hereinafter: the "Initial Term"), from the Initial Term onwards, the Agreement shall automatically be extended each calendar year by an additional term of one (1) year, unless terminated in accordance with the provisions of article 12.2.
- 12.2 Unless expressly provided otherwise in these ToC or, alternatively, in writing between the Company and the Principal, during the Initial Term, the Agreement may not be terminated prematurely. After expiry of the Initial Term, the Agreement may be terminated by either party by way of a written termination notification to the other party provided that the terminating party shall take into account a notice period of three (3) months.
- 12.3 The Agreement may be terminated by the Company with immediate effect on grounds of material breach, by giving written notice to the Principal, without having to take any notification period into account, in the following events:
- (i) the Principal has acted contrary to terms of the Agreement and/or the terms of the Documents;
  - (ii) the Principal misuses the certifications obtained from the Company in any way;
  - (iii) the Principal has entered into bankruptcy or if a filing for its bankruptcy has been requested or if it has been granted a suspension of payments;
  - (iv) the Principal fails to pay any amount it owes to the Company within one month after the expiration of the payment deadline; or
  - (v) the Principal damages the Company's name, reputation or business in any way.
- 12.4 In case of termination of the Agreement for whatever reason:
- (i) the Principal shall return the scope certificates by registered mail to the Company within one week after the termination of the Agreement;
  - (ii) all rights of the Principal resulting from the Agreement shall terminate with immediate effect, including any rights to have units and/or products inspected and/or certified;
  - (iii) the Company shall not be obliged to refund the fee which has already been paid by the Principal;
  - (iv) the Company shall be obliged to maintain secrecy regarding the Information to the extent possible, except to the extent it must disclose such Information as required by law or by the terms of the Documents;
  - (v) the Principal may no longer use the Company indications and/or certificates, shall withdraw these indications and/or certificates, and shall inform the Company about this.
- 13. Appeals**
- 13.1 The Principal may appeal against a certification decision of the Company, or request to the company for reconsideration of a decision it has made relating to the item of inspection only.
- 13.2 Appeals must be received by the Company within 6 (six) weeks after the inspection decision, or certification decision.
- 13.3 Only written appeal in the Spanish or English language, addressed to the Company's office in the Peru are handled.
- 13.4 The Company shall handle the appeal and inform the Principal in writing in the Spanish or English language of the decision concerning the appeal together with a motivation within 3 (three) months after receipt of the appeal.
- 14. Disputes, applicable law and (extra) judicial costs**
- 14.1 All disputes existing between parties shall be heard exclusively by a competent Court in Peru, unless the Company prefers another international competent court.
- 14.2 All agreements between the Company and the Principal are subject to peruvian laws.
- 14.3 All judicial and extra judicial costs incurred by the Company because payment of an invoice was not made (in good time), shall be paid by the Principal. The extra judicial costs are deemed to amount to at least 15% of the amount which is claimed.

## TERMS AND CONDITIONS OF BUSINESS (1999)

1. Unless otherwise specifically agreed in writing Control Union Perú SAC (hereinafter called "the Company") undertakes services in accordance with these general conditions (hereinafter called "General Conditions") and accordingly all offers or tenders of service are made subject to these General Conditions. All resulting contracts, agreements or other arrangements will in all respects be governed by these General Conditions, except only to the extent that the law of the place where such arrangements or contracts are made or carried out shall preclude any of the General Conditions and in such case such local law shall prevail wherever, but only to the extent that, it is at variance with these General Conditions.
2. The Company is an enterprise engaged in the trade of inspection and testing. As such, it:
  - 2.1 carries out such standard services as are referred to in General Condition 6.
  - 2.2 renders advisory and special services as may be agreed by the Company and as referred to in General Condition 7.
  - 2.3 issues reports and/or certificates as referred to in General Condition 8.
3. The Company acts for the persons or bodies from whom the instructions to act have originated (hereinafter called "the Principal"). No other party is entitled to give instructions, particularly on the scope of inspection or delivery of report or certificate, unless so authorised by the Principal and agreed by the Company. The Company will however be deemed irrevocably authorised to deliver at its discretion the report or the certificate to a third party if following instructions by the Principal a promise in this sense had been given to this third party or such a promise implicitly from circumstances, trade custom, usage or practice.
4. The Company will provide services in accordance with:
  - 4.1. the Principal's specific instructions as confirmed by the Company;
  - 4.2. the terms of the Company's Standard Order Form and/or Standard Specification Sheet if used;
  - 4.3. any relevant trade custom, usage or practice;
  - 4.4. such methods as the Company shall consider appropriate on technical, operational and/or financial grounds.
5.
  - 5.1 All enquiries and orders for the supply of services must be accompanied by sufficient information specifications and instructions to enable the Company to evaluate and/or perform the services required
  - 5.2 Documents reflecting engagements contracted between the Principal and third parties, or third parties' documents, such as copies of contracts of sale, letters of credit, bills of lading etc., are (if received by the Company) considered to be for information only, without extending or restricting the mission or obligations accepted by the Company.
6. The Company's standard services may include all or any of the following:
  - 6.1 quantitative and/or qualitative inspection;
  - 6.2 inspection of goods, plant, equipment, packing, tanks, containers and means of transport;
  - 6.3 inspection of loading or discharging;
  - 6.4 sampling;
  - 6.5 laboratory analysis and other testing;
  - 6.6 surveys and audits.
7. Special services where the same exceed the scope of standard services as referred to in General Condition 6 will only be undertaken by the Company particular arrangement.  
Such special services are illustratively not exhaustively:
  - 7.1 qualitative and/or quantitative guarantees;
  - 7.2 tank calibration, meter calibration and meter proving;
  - 7.3 supply of technicians and other personnel;
  - 7.4 pre-shipment inspection under government mandated import or customs schemes;
  - 7.5 supervision of complete industrial project schemes, including engineering review, expediting and progress reporting.
  - 7.6 Advisory services.
8.
  - 8.1 Subject to the Principal's instructions as accepted by the Company, the Company will issue reports and certificates of inspection which reflect statements of opinion made with due care within the limitation of instructions received, but the Company is under no obligation to refer to or report upon any facts or circumstances which are outside the specific instructions received.
  - 8.2 Reports or certificates issued following testing or analysis of samples contain the Company's specific opinion on those samples only but do not express any opinion upon the bulk from which the samples were drawn. If an opinion on the bulk is requested special arrangements must be made in advance with the Company for the inspection and sampling of the bulk.
9. The Principal will:
  - 9.1 ensure that instructions to the Company and sufficient information are given in due time to enable the required services to be performed effectively;
  - 9.2 procure all necessary access for the Company's representatives to enable the required services to be performed effectively;

- 9.3 supply, if required, any special equipment and personnel necessary for the performance of the required services.
- 9.4 ensure that all necessary measures are taken for the safety and security of working conditions, sites and installations during the performance of services and will not rely, in this respect, on the Company's advice whether requested or not;
- 9.5 take all necessary steps to eliminate or remedy any obstructions to or interruptions in the performance of the required services.
- 9.6 inform the Company in advance of any known hazards or dangers, actual or potential, associated with any order or samples or testing including, for example, presence or risk of radiation, toxic or noxious or explosive elements or materials, environmental pollution or poisons;
- 9.7 fully exercise all its rights and discharge all its liabilities under any related contract whether or not a report or certificate has been issued by the Company failing which the Company shall be under no obligation to the Principal.
10. The Company shall be entitled at its discretion to delegate the performance of the whole or any part of the services contracted for with the Principal to any agent or subcontractor.
11. If the requirements of the Principal necessitate the analysis of samples by the Principal's or by any third party's laboratory, the Company will pass on the result of the analysis but without responsibility for its accuracy. Likewise where the Company is only able to witness an analysis by the Principal's or by any third party's laboratory, the Company will provide confirmation that the correct sample had been analysed but will not otherwise be responsible for the accuracy of any analysis or results.
12. 12.1 The Company undertakes to exercise due care and skill in the performance of its services and accepts responsibility only where such skill and care is not exercised.  
12.2 The liability of the Company in respect of any claims for loss, damage or expense of whatsoever nature and howsoever arising in respect of any breach of contract and/or any failure to exercise due skill and care by the Company shall in no circumstances exceed a total aggregate sum equal to 10 (ten) times the amount of the fee or commission payable in respect of the specific services required under the particular contract with the Company which gives rise to such claims provided however that the Company shall have no liability in respect of any claims for indirect or consequential loss including loss of profit and/or loss of future business and/or loss of production and/or cancellation of contracts entered into by the Principal.  
Where the fee or commission payable relates to a number of services and a claim arises in respect of one of those services the fee or commission shall be apportioned for the purposes of this paragraph by reference to the estimated time involved in the performance of each service.  
12.3 The limit of liability of the Company under the terms of Condition 12.2 may be increased upon request received by the Company in advance of the performance of the service to such figure as may be agreed upon payment of additional fees equal to an appropriate fraction of the increase in such compensation or as may be agreed upon.
13. The Principal shall guarantee, hold harmless and indemnify the Company and its offers, employees, agents or subcontractors against all claims made by any party for loss, damage or expense of whatsoever nature and howsoever arising relating to the performance, purported performance or non-performance of any services to the extent that the aggregate of any such claims relating to any one service exceed the limit mentioned in Condition 12.
14. Every officer, employee, agent or subcontractor of the Company shall have the benefit of the limitation of compensation and the indemnity contained in these General Condition and so far as relates to such limitations any contract entered into by the Company is entered into not only on its own behalf but also as agent and trustee for every such person as aforesaid.
15. In the event that any unforeseen problems or expenditure arise in the course of carrying out any of the contracted services the Company shall be entitled to make additional charges to cover additional time and cost necessarily incurred to complete the service.
16. 16.1 The Principal will punctually pay not later than 30 days after the relevant invoice date or within such other period as may have been agreed in writing by the Company all proper charges rendered by the Company failing which interest will become due at the rate of 7 per cent per annum from the date of invoice until payment.  
16.2 The Principal shall not be entitled to retain or defer payment of any sums due to the Company on account of any dispute, cross claim or set off which it may allege against the Company.  
16.3 In the event of any suspension of payment arrangement with creditors, bankruptcy, insolvency, Receivership or cessation of business by the Principal, the Company shall be entitled to suspend all further performance of its services forthwith and without liability.
17. In the event of the Company being prevented by reason of any cause whatsoever outside the Company's control from performing or completing any service for which an order has been given or an agreement made, the Principal will pay to the Company:  
17.1 the amount of all abortive expenditure actually made or incurred,  
17.2 a proportion of the agreed fee or commission equal to the proportion (if any) of the service actually carried out; and the Company shall be relieved of all responsibility whatsoever for the partial or total non-performance of the required service.
18. The Company shall be discharged from all liability to the Principal for all claims for loss, damage or expense unless suit is brought within 6 months after the date of performance by the Company of the service which gives rise to the claim or in the event of any alleged non-performance within 6 months of the date when such service should have been completed.

19. The Company is neither an insurer nor a guarantor and disclaims all liability in such capacity. Principal seeking a guarantee against loss or damage should obtain appropriate insurance.
20. No alteration, amendment or waiver of any of these General Conditions shall have any effect unless made in writing and signed by an officer of the Company.