



**QUALITY CONTROL SERVICES
(ENVIRONMENTAL) PTY LTD**

“Assisting you to make the process work”

Terms and Conditions For Use of TradeMark



JAS-ANZ Accredited Company
TradeMark Licensed
Quality Control Services (Environmental) Pty Ltd

Rev. 29 April 2014

To be read in conjunction with your application

Terms and Conditions for Use Of TradeMark

2. APPLICABILITY

These terms govern the use of the Licensed Certification Mark by the Client.

These terms are intended to be consistent with any applicable Rules. If and to the extent that there is any inconsistency between any of these terms and any applicable Rules, the Rule will prevail.

These terms prevail over any other terms that may be communicated by the Client in writing or orally, whether in an order, letter, other document, in negotiations or otherwise.

No person acting or purporting to act on behalf of QCS(E) shall have authority to waive or change these terms orally. Waivers or changes shall have effect only if made in writing and signed by a duly authorised officer of QCS(E).

QCS(E) may vary these terms at any time by notifying the Client in writing.

3. INTERPRETATION

Unless a contrary intention appears, expressions used in these terms have the meanings given to them in the Certification Terms.

In these terms:

'Certificate and Licence' means the document entitled 'Certificate of Registration and Terms and Conditions for use of Trademark (Licence)' issued by QCS(E) to the Client;

'Certification Terms' means QCS(E)'s Terms and Conditions for Certification and Assessment Services as amended from time to time;

'Client' means the company, organisation or person specified in the Certificate and Licence;

'Licence' means the licence granted by QCS(E) allowing use of the QCS(E) registered Trademark;

'Licensed Certification Mark' means the Certification Mark identified in the Certificate and Licence;

'Materials' means products, and information and promotional material about a product, process or service;

'Rules' means rules governing the use of a registered Certification Mark as lodged with the Australian Industrial Property Organisation (Trade Marks Office).

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4. LICENCE

The issue of a Certificate and Licence grants to the Client a non-exclusive licence to use the Licensed Certification Mark as a certification trade mark in relation to the product, process or service for the sites and by reference to the Standard or other specified requirement identified in the Certificate and Licence.

The issue of the Licence does not restrict QCS(E)'s right to use or license the use of the Licensed Certification Mark to any other person.

5. CLIENT'S OBLIGATIONS

The Client must ensure that the Licensed Certification Mark is:

- a) not used except in accordance with the Licence;
- b) not used in any way which causes confusion or deception or would be likely to deceive or cause confusion; and
- c) used in accordance with any guidelines on use published by QCS(E) from time to time.

ADDITIONAL OBLIGIONS FOR MANUFACTURED GOODS MADE UNDER A LICENCE RELATING TO COMPLIANCE OF A PRODUCT

Where the Licence relates to a product that is a manufactured good, the Client must ensure that:

- a) when physically applied to goods, the Licensed Certification Mark is:
 - i) accompanied by the number of the Certificate and Licence; and
 - ii) applied to goods prior to their dispatch from a site covered by the Certificate and Licence.
- b) when the Licensed Certification Mark is physically applied to components manufactured by a contractor or agent of the Client prior to further processing or assembly, the Client has submitted details to QCS(E) for prior approval and made arrangements to guarantee access of QCS(E) to the premises of the contractor or agent;
- c) the logo may not be applied to product or product packaging

unless otherwise approved in writing by a duly authorised officer of QCS(E).

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Use of Licensed Certification Mark

The Client agrees with QCS(E):

- a) to use the Licensed Certification Mark in accordance with the Licence and any reasonable directions issued by QCS(E) from time to time including directions in relation to statements acknowledging that the Client does not own the Licensed Certification Mark;
- b) on request by QCS(E) to submit samples of materials;
- c) to promptly correct any failure to comply with paragraph (a), including by complying with any timely and reasonable directions issued by QCS(E) in relation to materials submitted to QCS(E) under paragraph (b);
- d) not to alter, modify or deface in any way representations of the Licensed Certification Mark;
- e) to report to QCS(E) any suspected or actual unauthorised use of the Licensed Certification Mark of which the Client becomes aware;
- f) to provide all access and co-operation reasonably requested by QCS(E) to protect the Licensed Certification Mark other than the Licence;
- g) not to represent that it owns or has any rights in relation to the Licensed Certification Mark other than the Licence;
- h) not to question or challenge the validity or ownership of the Licensed Certification Mark;
- i) not to apply for registration of any trade mark, business name or company name that incorporates any name or logo the same as, substantially identical with or deceptively similar to the Licensed Certification Mark, without the consent of QCS(E).

6. USE OF CERTIFICATE AND LICENCE

The Client must not, without QCS(E)'s permission, alter, modify, deface or destroy the Certificate and Licence.

The Client may publicise the fact that the Licence has been granted and may use the Certificate and Licence as evidence of the Licence. The Client may copy the Certificate and Licence provided that each copy is clearly identified as a copy.

The original and all copies of the Certificate and Licence remain the property of QCS(E) and must be returned immediately if requested by QCS(E).

7. CLIENT'S WARRANTY AND INDEMNITY

The Client warrants to QCS(E) that the Licensed Certification Mark is used only in accordance with the Licence, unless otherwise approved in writing by QCS(E).

The Client indemnifies QCS(E) from and against all losses, damages, expenses and costs (on a solicitor and own client basis and whether incurred by or awarded against QCS(E)) that QCS(E) may sustain or incur as a result, whether directly or indirectly, of:

- a) any breach of these terms by the Client including, but not limited to, a breach in respect of which QCS(E) exercises an express right to terminate the Licence; or
- b) any negligent act or omission or willful misconduct of the Client or its officers, employees and agents;
- c) any loss of or damage to any property or injury to or death of any person resulting, wholly or partly, from any product, process or service in relation to which the Licensed Certification Mark has been used by the Client.

8. ADDITIONAL REMEDIES FOR BREACH OF WARRANTY

If the Client breaches any warranty in Clause 6, or any other provision of these terms, the Client must at its cost:

- a) immediately notify QCS(E) and provide any information reasonably requested by QCS(E);
- b) promptly comply with any direction which QCS(E) may issue to prevent further breach or minimise the adverse consequences of breach (either to QCS(E) or to any member of the public), including a direction to:
 - i) cease supply of goods or services;
 - ii) take steps to modify goods or services before supply;
 - iii) destroy goods;
 - iv) modify or destroy materials;
 - v) provide information (including materials) to the public;
 - vi) where the breach relates to goods already released for sale and which will or may cause injury to any person:
 - a. undertake a recall of the goods; and
 - b. take such other action as may be reasonably requested by QCS(E);
 - vii) cease representing, either expressly or by implication, that they have any current Certification or Certificate and Licence;
 - viii) keep QCS(E) informed, in writing, of action taken pursuant to any direction issued under paragraph (b).

8 ROYALTY

Where applicable, the Client must:

- a) pay to QCS(E) the royalty specified in the contract created between QCS(E) and the Client as amended from time to time; and
- b) co-operate with QCS(E) and grant to QCS(E) reasonable access to all relevant books and records to enable QCS(E) to calculate royalties due to it, if required by QCS(E).

9 QCS(E)'s WARRANTY

QCS(E) warrants that it has all rights required to grant the Licence to the Client.

10 TERMINATION

- 10.1 The Licence terminates on the expiry date in the Certificate and Licence or when terminated in accordance with this Clause 10.
- 10.2 The Client may terminate the Licence upon giving notice to QCS(E).
- 10.3 If the Client's certification is suspended, cancelled or expires, the Client must promptly:
 - a) notify QCS(E); and
 - b) furnish QCS(E) with all information reasonably requested by QCS(E) to ascertain the nature and extent of the breach.
- 10.4 If the Client's Certification is:
 - a) suspended in accordance with the Certification Terms, then the Licence is also suspended and the Client must, during the suspension period, comply with any reasonable written directions issued by QCS(E) in relation to use of the Licensed Certification Mark;
 - b) cancelled or expires in accordance with the Certification Terms, then the Licence automatically and immediately terminates.
- 10.5 QCS(E) may terminate the Licence with immediate effect by giving notice to the Client if:
 - a) the Client breached any of these terms and fails to remedy the breach within 30 days after receiving notice requiring it to do so; or
 - b) the Client breaches a material provision of these terms where that breach is not capable of remedy.