



TEST REPORT


DATE IN: July 25, 2011
 DATE OUT: August 10, 2011

REPORT NUMBER: DF-11-03368 Revised
 PAGE: 1 of 14
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Applicant:	PAUL K. GUILLOW, INC.		
Contact:	THOMAS G. BARKER		
Address:	40 NEW SALEM STRET, WAKEFIELD MA 01880, U.S.A.		
TEL :	--	FAX:	--
E-mail:	--		
Copy To:	--		

OVERALL RATING	
PASS	X
FAIL	--

Sample Information

 <p>DF-11-03368</p>	Product Description:	POCKET LAUNCHER
	Item Number:	2801
	Purchase Order Number:	5713
	No. of Sample Submitted:	6 pcs
	Country of Origin:	CHINA
	Country of Destination:	USA
	Buyer:	--
	Manufacturer:	--

Testing Status

Pre- Production	<input type="checkbox"/>	Production	<input type="checkbox"/>	Pre- Test	<input type="checkbox"/>
Retest	<input type="checkbox"/>	Reason for Revision: Per client's request, the company email address was removed in this report.			

For and on behalf of
 Modern Testing Services (Dongguan) Limited

HO Kuen Chun, James
 Manager, Art and Craft Division



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Test Result Summary

Test Requested	Result
Physical and Mechanical Requirements (ASTM F963-08 – Standard Consumer Safety Specification for Toy Safety)	PASS
Federal Hazardous Substances Act Regulations, 16 CFR 1500.3 (c)(6)(vi) Flammable Solid	PASS
EN71 Part 1: 2011, “Safety of toys – Part 1: Mechanical and physical properties”	PASS
EN71: Part 2: 2011, “Safety of toys – Part 2: Flammability”	PASS
Total Lead Content – U.S. Consumer Product Safety Improvement Act of 2008 (CPSIA), Title I, Section 101	PASS
Soluble Heavy Metals Content in Surface Coating Materials – ASTM F963-08 Section 4.3.5.2	PASS
Total Lead Content – Client’s Requirement with reference to Illinois Lead Poisoning Prevention Act	PASS
Migration of Certain Elements – BS EN 71-3:1995 with Amendment A1:2001 and Corrigendum No.1:2006	PASS
Phthalates Content – U.S. Consumer Product Safety Improvement Act of 2008 (CPSIA), Title I, Section 108	PASS
Phthalates Content – California Assembly Bill Law No. 1108	PASS
Phthalates Content in Toys and Childcare Articles – Client’s Requirement according to the Consent Decrees of California Proposition 65	PASS

1. Physical and Mechanical Requirements (ASTM F963-08 – Standard Consumer Safety Specification for Toy Safety)

AGE GRADE EVALUATION:

Client requested age grade: Ages 5 and up
Labeled age grade: Ages 5 and up
Appropriate age grade: Not applicable
Age grade for testing: Ages 5 and up

RESULTS:

SUBCLAUSE	REQUIREMENT	RESULT
4.1	Material Quality	P
4.3.7	Stuffing materials – visual	NA
4.4	Electrical/Thermal Energy – 120V	NA
4.5	Sound Producing Toys	NA
4.6	Small Objects	NA
4.7	Accessible Edges	P
4.8	Projections	NA
4.9	Accessible Points	P
4.10	Wires or rods	NA
4.11	Nails and Fasteners	NA
4.12	Packaging Film	NA
4.13	Folding Mechanisms and Hinges	NA
4.14	Cords and Elastics in Toys	NA



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4.15	Stability and Over-Load Requirements	NA
4.16	Confined Spaces	NA
4.17	Wheels, Tires, and Axles	NA
4.18	Holes, Clearance, and Accessibility of Mechanisms	P
4.19	Simulated Protective Devices	NA
4.20	Pacifiers	NA
4.21	Projectile Toys	NA
4.22	Teethers and Teething Toys	NA
4.23	Rattles	NA
4.24	Squeeze Toys	NA
4.25	Battery-Operated Toys	NA
4.26	Toys Intended to be Attached to a Crib or Playpen	NA
4.27	Stuffed and Beanbag Type Toys	NA
4.28	Stroller and Carriage Toys	NA
4.30	Toy Gun Marking	NA
4.31	Balloons	NA
4.32	Certain Toys with Spherical Ends	NA
4.33	Marbles	NA
4.34	Balls	NA
4.35	Pompoms	NA
4.36	Hemispheric – Shaped Objects	NA
4.37	Yo Yo Elastic Tether Toys	NA
4.38	Magnets	P
4.39	Jaw Entrapment in Handles and Steering Wheels	NA
5.3	Safety labeling Requirements	NA
5.4	Aquatic Toys	NA
5.5	Crib and Playpen Toys	NA
5.6	Mobiles	NA
5.7	Stroller and Carriage Toys	NA
5.8	Toys Intended to be Assembled by an Adult	NA
5.9	Simulated Protective Devices	NA
5.10	Toys with Functional Sharp Edges or Points	NA
5.11	Small Objects, Small Balls, Marbles, and Balloons	NA
5.12	Toys Caps	NA
5.13	Art Materials	NA



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5.15	Battery Operated Toys	NA
5.16	Promotional Materials	P
5.17	Magnets	NA
6.1	Instructional Literature - Definition and Description	P
6.2	Crib and Playpen Toys	NA
6.3	Mobiles	NA
6.4	Toy intended to be Assembled by an Adult	NA
6.5.1 to 6.5.2	Battery Operated Toys	NA
6.6	Toys in Contact with Food	NA
7.1	Producer's Markings	P
7.2	Battery-Powered Ride-On Toys	NA

2. Federal Hazardous Substances Act Regulations, 16 CFR 1500.3 (c)(6)(vi) Flammable Solid

RESULTS:

TEST METHOD	REQUIREMENT	RESULT
16 CFR 1500.44 Flammable solid ASTM F963-08 Annex A4	Burnt rate shall be ≤ 0.1 inch / sec	P

3. EN71 Part 1: 2011, "Safety of toys – Part 1: Mechanical and physical properties"

AGE GRADE EVALUATION:

Client requested age grade: Ages 5 and up
Labeled age grade: Ages 5 and up
Appropriate age grade: Not applicable
Age grade for testing: Ages 3 and up

RESULTS:

SUBCLAUSE	REQUIREMENT	RESULT
4	GENERAL REQUIREMENTS	P
4.1	Material cleanliness	P
4.2	Assembly	NA
4.3	Flexible plastic sheeting	NA
4.4	Toy Bags	NA
4.5	Glass	NA
4.6	Expanding materials	NA
4.7	Edges	NA
4.8	Points and metallic wires	P



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4.9	Protruding parts	P
4.10	Parts moving against each other	NA
4.11	Mouth actuated toys and other toys intended to be put in the mouth	NA
4.12	Balloons	NA
4.13	Cords of toy kites and other flying toys	NA
4.14	Enclosures	NA
4.15	Toys intended to bear the mass of a child	NA
4.16	Heavy immobile toys	NA
4.17	Projectiles	P
4.18	Aquatic toys and inflatable toys	NA
4.19	Percussion caps specifically designed for use in toys and toys using percussion caps	NA
4.20	Acoustics	NA
4.21	Toys containing a non-electrical heat source	NA
4.22	Small balls	NA
4.23	Magnets	P
4.24	Yo-yo balls	NA
4.25	Toys attached to food	NA
5	<u>TOYS INTENDED FOR CHILDREN UNDER 36 MONTHS</u>	<u>NA</u>
5.1	General requirements	NA
5.2	Soft-filled toys and soft-filled parts of a toy	NA
5.3	Plastic sheeting	NA
5.4	Cords, chains and electrical cables in toys	NA
5.5	Liquid-filled toys	NA
5.6	Speed limitation of electrically-driven ride-on toys	NA
5.7	Glass and porcelain	NA
5.8	Shape and size of certain toys	NA
5.9	Toys comprising monofilament fibres	NA
5.10	Small balls	NA
5.11	Play figures	NA
5.12	Hemispheric-shaped toys	NA
5.13	Suction cups	NA
5.14	Straps intended to be worn fully or partially around the neck	NA
6	<u>PACKAGING</u>	<u>NA</u>

<u>SUBCLAUSE</u>	<u>REQUIREMENT</u>	<u>RESULT</u>
7	<u>WARNING AND INSTRUCTION FOR USE</u>	<u>See note</u>
7.1	General.	P
7.2	Toys not intended for children under 36 months	P



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7.3	Latex balloons	NA
7.4	Aquatic toys	NA
7.5	Functional toys	NA
7.6	Hazardous sharp functional edges and points	NA
7.7	Projectiles	NA
7.8	Imitation protective masks and helmets	NA
7.9	Toy kites	NA
7.10	Roller skates, inline skates, skateboards and certain other ride-on toys	NA
7.11	Toys intended to be attached to or strung across a cradle, cot, or perambulator	NA
7.12	Liquid-filled teethers	NA
7.13	Percussion caps specifically designed for use in toys	NA
7.14	Acoustics	NA
7.15	Toy bicycles	NA
7.16	Toys intended to bear the mass of a child	NA
7.17	Toys comprising monofilament fibres	NA
7.18	Toy Scooters	NA
7.19	Rocking horse and similar toys	NA
7.20	Magnetic/electrical experimental sets	NA
7.21	Toys with electrical cables exceeding 300mm in length	NA
7.22	Toys with cords or chains intended for children of 18 months and over but under 36 months	NA

Note to clause 7:

The manufacturers obligations set out in the text of the note in EN71-1:2011 Clause 7 is for information only and the indents do not constitute requirements of this European Standard. The information is not exhaustive and Directive 2009/48/EC and the associated guidance documents should be consulted for further details.

- Toys made available on the market must bear the CE marking.
- The CE marking must be affixed visibly, legibly and indelibly to the toy, to an affixed label or to the packaging.
- The CE marking shall be at least 5mm high and shall consist of initials "CE" taking the form set out in Article 30 of Regulation (EC) No 765/2008.
- The manufacturer's and importer's name, registered trade name or registered trade mark and the address at which the manufacturer can be contacted must be indicated on the toy or, where that is not possible, on its packaging or in a document accompanying the toy.
- Manufacturers must ensure that their toys bear a type, batch, serial or model number or other element allowing their identification, or where the size or nature of the toy does not allow it, that the required information is provided on the packaging or in a document accompanying the toy.
- Manufacturers and importers must ensure that the toy is accompanied by instructions and safety information in a language or languages easily understood by consumers, as determined by the Member State concerned.



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4. EN71: Part 2: 2011, "Safety of toys – Part 2: Flammability"

RESULTS:

<u>SUBCLAUSE</u>	<u>REQUIREMENT</u>	<u>RESULT</u>
<u>4</u>	<u>REQUIREMENTS</u>	<u>P</u>
4.1	General	P
4.2	Toys to be worn on the head	NA
4.3	Toy disguise costumes and toys intended to be worn by child in play	NA
4.4	Toys intended to be entered by a child	NA
4.5	Soft-filled toys	NA

Notes:

P = Pass F = Fail NA = Not applicable NR = Not requested

COMPONENT BREAKDOWN LIST:

Test Item	Component Description
1	Multicolor coating (Deep grey plane)
2	Multicolor coating (Green plane)
3	Multicolor coating (White plane)
4	Transparent plastic (Excluding coating) (On plane)
5	Black plastic (Sponge) (Front of plane)
6	Blue plastic (Main body of green plane / blue jato / blue box)
7	Black plastic (Main body of deep grey plane/ black jato / black box)
8	Light grey plastic (Main body of white plane / light grey jato/ light grey box)
9	Transparent plastic (Double face adhesive on planes)
10	Transparent plastic with adhesive backing (Sticker on planes)
11	Slivery metal (Jato)
12	Slivery metal (Magnet on main body of plane)



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5. Total Lead Content – U.S. Consumer Product Safety Improvement Act of 2008 (CPSIA), Title I, Section 101

Test Item	Accessibility (Remark 1)	Classification	Total Lead (Pb) (ppm)		Conclusion
			Result	Limit (Remark 2)	
1	Accessible as received	Paint or similar surface coating	<10	90	PASS
2	Accessible as received	Paint or similar surface coating	<10	90	PASS
3	Accessible as received	Paint or similar surface coating	<10	90	PASS
4+5+6	Accessible as received	Accessible substrate	<10	100	PASS
7+8+9	Accessible as received	Accessible substrate	<10	100	PASS
10	Accessible as received	Accessible substrate	<10	100	PASS
11	Accessible as received	Accessible substrate	<10	100	PASS

Method:

- Lead in paint and other similar surface coatings:
The test is conducted according to the US CPSC Standard Operating Procedure for Determining Lead (Pb) in Paint and Other Similar Surface Coatings, April 26, 2009 (CPSC-CH-E1003-09)
- Lead in metals:
The test is conducted according to the US CPSC Standard Operating Procedure for Determining Total Lead (Pb) in Children's Metal Products (Including Children's Metal Jewelry), December 4, 2008 (CPSC-CH-E1001-08)
- Lead in other non-metal materials including plastics, glass and leather material:
The test is conducted according to the US CPSC Standard Operating Procedure for Determining Total Lead (Pb) in Non-Metal Children's Products, February 1, 2009 (CPSC-CH-E1002-08)

Remark:

- The accessibility of the submitted sample after use and abuse is verified according to 16 CFR 1500.87 (e) to (h).
- The requirement of total Lead content is summarized as below:

Timeline for Implementation	Lead in Paint and Surface Coating (mg/kg)	Lead in Accessible Substrate (mg/kg)
	16 CFR 1303 / CPSIA	CPSIA
On or before August 14, 2009	600	-
After February 10, 2009	-	600
After August 14, 2009	90	300
After August 14, 2011	-	100

- Test is performed on the specified item(s) that is / are excluded from the material listed under 16 CFR 1500.91 (d) as per client's declaration.

Note: ppm = part per million = mg/kg (milligram per kilogram)
“<” = less than



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6. Soluble Heavy Metals Content in Surface Coating Materials – ASTM F963-08 Section 4.3.5.2

Test Item	Mass of Trace Amount (mg)	Result – Soluble Heavy Metals (mg/kg)								Conclusion
		Sb	As	Ba	Cd	Cr	Pb	Hg	Se	
1	20.1	<10	<10	24	<10	<10	<10	<10	<10	PASS
2	47.2	<10	<10	14	<10	<10	<10	<10	<10	PASS
3	26.4	<10	<10	14	<10	<10	<10	<10	<10	PASS
Limit		60	25	1000	75	60	90	60	500	-

Sb = Antimony, As = Arsenic, Ba = Barium, Cd = Cadmium, Cr = Chromium, Pb = Lead, Hg = Mercury, Se = Selenium

Method: ASTM F963-08 Section 8.3. The heavy metals content was determined by Inductively Coupled Argon Plasma Spectrometer / Inductively Coupled Plasma Mass Spectrometer.

Remark: All the reported results are adjusted analytical results with the analytical correction shown in the following table.

Element	Sb	As	Ba	Cd	Cr	Pb	Hg	Se
Analytical correction (%)	60	60	30	30	30	30	50	60

Note: mg/kg = milligram per kilogram
mg = milligram
“<” = less than

7. Total Lead Content – Client’s Requirement with reference to Illinois Lead Poisoning Prevention Act

Test Item	Total Lead (Pb) (ppm)		Conclusion
	Result	Client’s Limit	
1	<10	40	PASS
2	<10	40	PASS
3	<10	40	PASS

Method:

4) Lead in paint and other similar surface coatings:

The test is conducted according to the US CPSC Standard Operating Procedure for Determining Lead (Pb) in Paint and Other Similar Surface Coatings, April 26, 2009 (CPSC-CH-E1003-09)

5) Lead in metals:

The test is conducted according to the US CPSC Standard Operating Procedure for Determining Total Lead (Pb) in Children’s Metal Products (Including Children’s Metal Jewelry), December 4, 2008 (CPSC-CH-E1001-08)

6) Lead in other non-metal materials including plastics, glass and leather material:

The test is conducted according to the US CPSC Standard Operating Procedure for Determining Total Lead (Pb) in Non-Metal Children’s Products, February 1, 2009 (CPSC-CH-E1002-08)

Note: ppm = part per million = mg/kg (milligram per kilogram)
“<” = less than



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8. Migration of Certain Elements – BS EN 71-3:1995 with Amendment A1:2001 and Corrigendum No.1:2006

Test Item	Mass of Trace Amount (mg)	Result – Soluble Heavy Metals (mg/kg)								Conclusion
		Sb	As	Ba	Cd	Cr	Pb	Hg	Se	
1	20.1	<10	<10	<10	<10	<10	<10	<10	<10	PASS
2	47.2	<10	<10	<10	<10	<10	<10	<10	<10	PASS
3	26.4	<10	<10	<10	<10	<10	<10	<10	<10	PASS
4	NA	<10	<10	<10	<10	<10	<10	<10	<10	PASS
5	NA	<10	<10	<10	<10	<10	<10	<10	<10	PASS
6	NA	<10	<10	<10	<10	<10	<10	<10	<10	PASS
7	NA	<10	<10	<10	<10	<10	<10	<10	<10	PASS
8	NA	<10	<10	<10	<10	<10	<10	<10	<10	PASS
9	51.6	<10	<10	<10	<10	<10	<10	<10	<10	PASS
10	NA	<10	<10	<10	<10	<10	<10	<10	<10	PASS
12	NA	<10	<10	<10	<10	<10	<10	<10	<10	PASS
Limit	All materials except modelling clay	60	25	1000	75	60	90	60	500	-
	Modelling clay	60	25	250	50	25	90	25	500	

Sb = Antimony, As = Arsenic, Ba = Barium, Cd = Cadmium, Cr = Chromium, Pb = Lead, Hg = Mercury, Se = Selenium

Method: BS EN 71-3:1995 with Amendment A1:2001 and Corrigendum No.1:2006. The heavy metals content was determined by Inductively Coupled Argon Plasma Spectrometer / Inductively Coupled Plasma Mass Spectrometer.

Remark: 1. All the reported results are adjusted analytical results with the analytical correction shown in the following table.

Element	Sb	As	Ba	Cd	Cr	Pb	Hg	Se
Analytical correction (%)	60	60	30	30	30	30	50	60

- The accessibility of the submitted sample is verified according to BS EN71-1 before abuse.
- The material type of tested component(s) is / are classified as below per clause 8 of this standard.

Material Type Classification	Test Item
Coatings of paints, varnishes, lacquers, printing inks, polymers and similar coatings	1-3
Polymeric and similar materials	4-10
Glass/ceramic/metallic materials	12

Note: mg/kg = milligram per kilogram
mg = milligram
“<” = less than
NA = Not applicable



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9. Phthalates Content – U.S. Consumer Product Safety Improvement Act of 2008 (CPSIA), Title I, Section 108

Test Item	Result (%) (Remark)						Conclusion
	Part A			Part B			
	DBP	BBP	DEHP	DNOP	DIDP	DINP	
1	<0.005	0.016	0.032	<0.005	<0.005	<0.005	PASS
2	<0.005	0.018	0.041	<0.005	<0.005	<0.005	PASS
3	<0.005	0.017	0.034	<0.005	<0.005	<0.005	PASS
4+5+6	<0.005	<0.005	<0.005	<0.005	<0.005	<0.005	PASS
7+8+9	<0.005	<0.005	<0.005	<0.005	<0.005	<0.005	PASS
10	<0.005	<0.005	0.014	<0.005	<0.005	<0.005	PASS
Limit	0.1	0.1	0.1	0.1	0.1	0.1	-

List of Phthalates:

Chemical Name	CAS No.	Chemical Name	CAS No.
Dibutyl phthalate (DBP)	84-74-2	Di-n-octyl phthalate (DNOP)	117-84-0
Butyl benzyl phthalate (BBP)	85-68-7	Di-iso-decyl phthalate (DIDP)	26761-40-0
Di-2-ethylhexyl phthalate (DEHP)	117-81-7	Di-iso-nonyl phthalate (DINP)	28553-12-0

Method: The test is conducted according to the US CPSC Standard Operation Procedure for Determination of Phthalates, April 1, 2010 (CPSC-CH-C1001-09.3)

Remark: Children toys and childcare articles shall meeting the requirement of Part A. Children toys that can be placed in a child's mouth or childcare articles shall meet the requirements of both Part A and B.

Note: % = percentage
“<” = less than

10. Phthalates Content – California Assembly Bill Law No. 1108

Test Item	Result (%) (Remark)						Conclusion
	Part A			Part B			
	DBP	BBP	DEHP	DNOP	DIDP	DINP	
1	<0.005	0.016	0.032	<0.005	<0.005	<0.005	PASS
2	<0.005	0.018	0.041	<0.005	<0.005	<0.005	PASS
3	<0.005	0.017	0.034	<0.005	<0.005	<0.005	PASS
4+5+6	<0.005	<0.005	<0.005	<0.005	<0.005	<0.005	PASS
7+8+9	<0.005	<0.005	<0.005	<0.005	<0.005	<0.005	PASS
10	<0.005	<0.005	0.014	<0.005	<0.005	<0.005	PASS
Limit	0.1	0.1	0.1	0.1	0.1	0.1	-



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List of Phthalates:

Chemical Name	CAS No.	Chemical Name	CAS No.
Dibutyl phthalate (DBP)	84-74-2	Di-n-octyl phthalate (DNOP)	117-84-0
Butyl benzyl phthalate (BBP)	85-68-7	Di-iso-decyl phthalate (DIDP)	26761-40-0
Di-2-ethylhexyl phthalate (DEHP)	117-81-7	Di-iso-nonyl phthalate (DINP)	28553-12-0

Method: The test is conducted according to the US CPSC Standard Operation Procedure for Determination of Phthalates, April 1, 2010 (CPSC-CH-C1001-09.3)

Remark: Toys and childcare articles shall meet the requirement of Part A. Toys or childcare articles intended for use by a child under three years of age if that product can be placed in the child's mouth shall meet the requirements of both Part A and B.

Note: % = percentage
“<” = less than

11. Phthalates Content in Toys and Childcare Articles – Client’s Requirement according to the Consent Decrees of California Proposition 65

Test Item	Result (%)					Conclusion
	DBP	BBP	DEHP	DIDP	DnHP	
1	<0.005	0.016	0.032	<0.005	<0.005	Meet
2	<0.005	0.018	0.041	<0.005	<0.005	Meet
3	<0.005	0.017	0.034	<0.005	<0.005	Meet
4+5+6	<0.005	<0.005	<0.005	<0.005	<0.005	Meet
7+8+9	<0.005	<0.005	<0.005	<0.005	<0.005	Meet
10	<0.005	<0.005	0.014	<0.005	<0.005	Meet
Maximum Permissible Limit	0.1	0.1	0.1	0.1	0.1	-

List of Phthalates:

Chemical Name	CAS No.	Chemical Name	CAS No.
Dibutyl phthalate (DBP)	84-74-2	Di-iso-decyl phthalate (DIDP)	26761-40-0
Butyl benzyl phthalate (BBP)	85-68-7	Di-n-hexyl phthalate (DnHP)	84-75-3
Di-2-ethylhexyl phthalate (DEHP)	117-81-7	-	-

Method: The test is conducted according to the US CPSC Standard Operation Procedure for Determination of Phthalates, April 1, 2010 (CPSC-CH-C1001-09.3)

Remark: The maximum permissible limit(s) was / were quoted from the client’s protocol constructed according to various Consent Decrees. Compliance with the above stated limit(s) does not show compliance with Proposition 65 or a guarantee against possible legal action but provides a relative level of assurance against potential lawsuits.

Note: % = percentage
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NOTE:

If there is question or concern regarding this report, please contact the appropriate laboratory person below:

General question & concern: Lee Qiu Hui, Marianne
Customer Service Coordinator
(86)769 8112 0818 Ext. 880
mlee@mts-china.com

Technical question & concern: HO Kuen Chun, James
Manager
(86)769 8112 0818 Ext. 819
jamesho@mts-china.com

The testing lab overall rating is provided to client as an aid in reviewing report data. The rating is based on lab results. Final product acceptance or rejection is per client only. Testing of vendor's merchandise by client is not a substitute for vendor's own testing and other quality assurance related obligations in connection with its sale of merchandise to client. Client testing shall not limit client's rights, or diminish or remove any of vendor's responsibilities.

Terms and Conditions

1. Modern Testing Services (Dongguan) Limited ("MTS") will provide its services and written tests in accordance with and subject to the terms and conditions herein contained (hereinafter referred to as "the Terms and Conditions").
2.
 - a) The Terms and Conditions are the only conditions upon which MTS is prepared to deal with the Client and they shall govern this contract to the entire exclusion of any other expressed or implied conditions.
 - b) The Terms and Conditions may only be modified by a variation expressed in writing and signed on behalf of MTS by a Director and no other action on the part of MTS or its employees or agents shall be construed as an acceptance of any other conditions.
 - c) The Terms and Conditions (as modified in accordance with provision 2(b) together with the matters referred to on the face hereof) embody the entire understanding of the parties and supersede any prior promises, representations, undertakings or implications.
3. All orders for any services are subject to acceptance by MTS, and a binding commitment shall not be made unless MTS accepts the order by writing or the issuance of a written Test Report. The risk and property of the goods shall remain with the Client at all times.
4. It shall be the responsibility of the Client to ascertain and notify MTS of the standards with which any sample submitted must comply in any country or territory in which such sample is intended to be sold. In absence of specific instructions, MTS will adopt the test methods and standards, which in its sole and absolute discretion, are considered appropriate.
5. MTS will, subject to the Client's requirements, test any sample submitted to it or sampled by MTS from bulk (the quantity of the bulk from which the sample shall be taken and the sample shall be agreed between the Client and MTS) to ascertain its conformity or otherwise with contract description or sample (such contract description or sample are to be provided by the client). In no circumstances will MTS render any opinion as to the description, quantity, or the fitness of any sample for the purpose of which it is said to be intended unless in any specific case MTS is required to do so and agrees to do so in writing.
6. A Test Report issued by MTS shall refer only to the sample actually tested and shall not refer or be deemed to refer to the bulk from which such sample may be said to have been obtained. In the event that MTS shall be requested to survey and test any bulk quantity of samples against contract description or sample, MTS shall, in the absence of contrary written instructions, cause a random sampling of bulk for testing purposes. The Client shall notify MTS by advance notice in writing if they require a specific percentage of the bulk to be tested. In no circumstances shall MTS's responsibility extend beyond testing and reporting upon the samples actually drawn from bulk and tested by MTS and any inference to be drawn from the result of such testing shall be entirely in the discretion and the responsibility of the Client. MTS shall have no obligation to update the Test Reports after its issuance.
7. Test Reports prepared by MTS are issued subject to the condition that they are not to be made public or used in connection with or for the purpose of any advertising, promotional, or publicity undertaking or material whatsoever without the prior expressed consent in writing of MTS thereto. MTS acknowledges that the Client may request to access the ordered Test Reports by means of e-mail communication. If the Client requests to access its ordered Test Reports by e-mail transmission, the Client acknowledges that such transmissions will be not be encrypted and will no longer be confidential. The Client further acknowledges that such transmissions may be intercepted by third parties and modified inadvertently. MTS disclaims any and all liability arising out of or in connection with e-mail transmissions of Test Reports.
8. Unless otherwise agreed in writing with the Client, any time periods specified by MTS on the face hereof for performing the services are business estimates only and MTS will not be liable to the Client for any loss or damage whatsoever sustained by the Client, including but not limited to additional air freight charges incurred by the Client as a result of MTS' failure to comply with such times.
9. In the event that any Test Report issued by MTS is required for use in connection with or for evidence in any Court or Arbitration proceeding by the Client, MTS will render all assistance and explanations reasonably required in connection therewith but all costs and expenses incurred by MTS in giving such assistance, including court appearance, expert testimony, or explanations shall be charged to the account of the Client.
10. In no circumstances will the issuing of any Test Report by MTS operate or be deemed or purport to involve MTS as a party, an agent, or in any other way, in any relationship contractual or otherwise between the Client for whom the Test Report has been prepared and any other party whomsoever.
11. MTS warrants solely to the Client that the Test Report will be free of any material error or omission caused by the negligence of MTS or its servants or agents. Any claim for breach of such warranty shall be made in writing to MTS within sixty (60) days after the date of issuance of the Test Report, and the Client waives any and all claims for breach of such warranty unless a timely written claim to MTS is made within the sixty (60) day period. In the event that a timely written claim has been made by the Client, MTS, at its sole discretion, may either redo the testing to fix the deficiency without charge to the Client or refund the Client in the amount of the fee paid, free of interest.
12. In the event that MTS shall suffer any loss or damage as a result of MTS and/or its servants and/or its agents carrying out or providing the testing services to the Client or on goods supplied by or at the direction of the Client other than as a result of its error, negligence or willful default, then the Client shall indemnify MTS and compensate MTS for such amount of loss or damage suffered.
13.
 - a) In the event that MTS is found liable for any loss, damage, or destruction of the goods that are subject to be tested by MTS caused by the error, negligence, or willful default or act of MTS or its servants or agents, then, in any such case, the liability of MTS shall be limited to the lesser of: (i) the invoice price of the goods or (ii) ten (10) times the fee paid in relation to the testing services provided by MTS, free of any interest.
 - b) IN NO CIRCUMSTANCES WHATSOEVER SHALL MTS BE LIABLE FOR ANY CONSEQUENTIAL, SPECIAL OR INCIDENTAL DAMAGES IN CONNECTION WITH OR ARISING OUT OF THE SERVICES PROVIDED BY MTS, INCLUDING BUT NOT LIMITED TO LOSS OF OR DAMAGE TO PROPERTY, LOSS OF INCOME OR PROFIT, OR CLAIMS OR DEMANDS MADE AGAINST THE CLIENT OR ANY THIRD PARTY IN CONNECTION WITH THE SERVICES PROVIDED BY MTS.
 - c) Nothing in clause 13(a) or (b) above shall limit or exclude any liability of MTS for any death or personal injury suffered as a result of its negligence or willful default to the extent that the same cannot be excluded or limited by law.
14. Without prejudice to MTS's lien and other rights under Clause 21 hereof, samples not destroyed in course of testing may at the sole discretion of MTS deemed abandoned and/or destroyed at the expiration of a period of thirty (30) days from the date of the Test Report unless special arrangements have been made in advance with the Client in writing in regards to the disposal thereof.
15. In the event that the payment terms are not established or negotiated between MTS and the Client, MTS' standard rates (which are subject to change) and all applicable taxes shall govern as the payment terms for MTS' services.
16. The Client agrees to make prompt payment within thirty (30) days from the invoice date or within such other period as may be established by MTS as the "Due Date." In the event that the Client owes payment under any overdue invoices, MTS reserves the right to suspend all further performance of its services and withhold the issuance of any Test Reports until payment of all sums owing to MTS under the aforesaid invoice(s) together with interest at the rate of 1.5% per month thereon. The Client agrees to reimburse MTS for any costs it incurs in collecting overdue payment, including but not limited to courts costs and fees and expenses of attorneys and collection agencies. The Client shall not be entitled to retain or defer payment of any sums due to MTS on account of dispute, counter claim or set off which it may allege against MTS.
17. The Test Report shall only be reproduced in full unless prior authorization from MTS has been attained.
18. Any testing is carried out to the best of the knowledge and capability of MTS. The Test Report reflects the findings of MTS at the time of testing and do not relieve sellers or manufacturers from their contractual liabilities or prejudice buyers' right for compensation for any apparent and/or hidden defecting during the testing carried out by MTS or occurring thereafter.
19. Any dispute, difference or claim arising out of or in connection with the Terms and Conditions, or the breach, terminations or invalidity thereof if not settled between the parties shall be settled by arbitration. The parties hereto may agree to the appointment of an arbitrator or, failing agreement within fourteen (14) days after either party has given to the other a written request to concur in the appointment of an arbitrator, either party may request the Hong Kong International Arbitration Centre ("HKIAC") to appoint an arbitrator. The place of arbitration shall be in Hong Kong SAR at HKIAC. There shall be only one arbitrator. The language to be used in the arbitral proceedings shall be English.
20. The arbitration award shall be given in writing and shall be final and binding on the parties, not subject to any appeal, and shall deal with the question of costs of arbitration and all matters thereto. Judgment upon the award rendered may be entered into any court having jurisdiction or application may be made to such court for a judicial recognition of the award or an order of enforcement thereof, as the case may be.
21. The agreements and contracts to which these Terms and Conditions apply shall be construed in accordance with and governed by the laws of Hong Kong Special Administrative Region, and for the purpose of legal proceedings, this agreement shall be deemed to have been executed in Hong Kong and to be performed there.
22. Without prejudice to all or any right MTS may have at Common Law, MTS has the following rights in the event of non-repayment or otherwise as set forth below:
 - (a) MTS has a general and particular lien over all samples delivered to be tested for all claims and money owing by the client to MTS under any contract whatsoever and in any other way whatsoever.
 - (b) Until the contract sums together with interest has been received, during the currency of the said lien, MTS is entitled to be paid reasonable storage charges for samples retained in MTS's custody.
23. In case any lien not satisfied within a reasonable time from the date upon which MTS first gave notice of the exercise of their lien to the client, the samples in its custody may be sold and the proceeds of sale may be applied to the satisfaction of every such lien and all interest, other charges and expenses in relation thereto.
24. MTS shall not be liable for any loss or damage caused by delay in the performance or non-performance of any of its obligations hereunder where the same is occasioned by any cause whatsoever that is beyond MTS' control including but not limited to an Act of God, war, civil disturbance, requisitioning, governmental or parliamentary restrictions of any kind, import or export regulations, strike lockout or trade dispute (whether involving its own employees or those of any other persons), difficulties in obtaining workmen, breakdown of machinery, and fire or accident. Should any such events occur, MTS may cancel or suspend the contract in question without incurring any liability whatsoever for any loss or damage thereby occasioned.
25. In the event that MTS is prevented by any reason whatsoever outside MTS' control from performing and completing its services for an order made by the Client, the Client agrees to pay MTS the amount of all abortive expenditures incurred and a percentage of the agreed fee equal to the percentage of the service actually performed. In such event MTS shall be discharged from all responsibility for any and all non-performance of the ordered services.
26. In the event that any unforeseeable time or costs are incurred in the course of performing its services, MTS shall be entitled to render the additional charges to the Client to reasonably reflect the extra time and costs incurred.
27. MTS, at its discretion, shall be entitled to delegate the performance of the whole or any part of the services contracted for with the Client to any agent or subcontractor.
28. All officers, employees, agents or subcontractors of MTS shall have the benefit of the limitations of liability and the indemnities contained in the Terms and Conditions.
29. If any provision contained in the Terms and Conditions is deemed invalid, illegal or unenforceable in any respect under the laws of Hong Kong, the validity, legality and enforceability of the remaining provisions hereof shall not be affected in anyway.