

TERMS & CONDITIONS

1. Definitions

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| 1.1 | Buyer | means the person who buys or agrees to buy the goods from the Seller |
| 1.2 | Conditions | means the terms and conditions of sale set out in this document and any special terms and conditions agreed in writing by the Seller |
| 1.3 | Delivery Date | means the date specified by the Seller when the goods are to be delivered |
| 1.4 | Goods | means the articles which the Buyers agrees to buy from the Seller |
| 1.5 | Price | means the price for the Goods excluding carriage, packing, insurance and tax |
| 1.6 | Seller | means [(name and address of seller) or (where it is intended to indorse these conditions on the back of an order form) the person whose name and address appears in the box marked 'Seller' overleaf] |

2. Conditions Applicable

- 2.1 These Conditions shall apply to all contracts for the sale of Goods by the Seller to the Buyer to the exclusion of all other terms and conditions including any terms or conditions which the Buyer may purport to apply under any purchase order confirmation of order or similar document.
- 2.2 All orders for Goods shall be deemed to be an offer by the Buyer to purchase Goods pursuant to these Conditions.
- 2.3 Acceptance of delivery of the Goods shall be deemed conclusive evidence of the Buyer's acceptance of these Conditions.
- 2.4 Any variation to these Conditions (including any special terms and conditions agreed between the parties) shall be inapplicable unless agreed in writing by the Seller.

3. The Price and Payment

- 3.1 The price of the Goods shall be the Seller's quoted price or, where no price has been quoted (or a quoted price is no longer valid), the price listed in the Seller's published price list current at the date of acceptance of the order. Where the Goods are supplied for export from the Malaysia the Seller's published export price list shall apply. All prices quoted are valid for 30 days only or until earlier acceptance by the Buyer, after which time they may be altered by the Seller without giving notice to the Buyer.
- 3.2 The Seller reserves the right, by giving notice to the Buyer at any time before delivery, to increase the price of the Goods to reflect any increase in the cost to the Seller which is due to any factor beyond the control of the Seller (such as, without limitation, any foreign exchange fluctuation, currency regulation, alteration of duties, significant increase in the costs of labour, materials or other costs of manufacture), any change in delivery dates, quantities or specifications for the Goods which is requested by the Buyer, or any delay caused by any instructions of the Buyer or failure of the Buyer to give the Seller adequate information or instructions.

- 3.3 Except as otherwise stated under the terms of any quotation or any price list of the Seller, and unless otherwise agreed in writing between the Buyer and the Seller, all prices and offer are given by the Seller on an ex works basis and subject to the additional Value Added Tax (if applicable), and where the Seller agrees to deliver the Goods otherwise than at the Seller's premises, the Buyer shall be liable to pay the Seller's charges for transport, packaging and insurance. If the value of the Goods is less than Ringgit Malaysia One Hundred Fifty (RM150-00) a small-quantity surcharge of Ringgit Malaysia Sixty (RM60-00) shall be levied on the Buyer.
- 3.4 Subject to any special terms agreed in Writing between the Buyer and the Seller, the Seller shall be entitled to invoice the Buyer for the price of the Goods on or at any time after delivery of the Goods, unless the Goods are to be collected by the Buyer or the Buyer wrongfully fails to take delivery of the Goods, in which event the Seller shall be entitled to invoice the Buyer for the price at any time after the Seller has notified the Buyer that the Goods are ready for collection or (as the case may be) the Seller has tendered delivery of the Goods.
- 3.5 The Buyer shall pay the price of the Goods (less any discount to which the Buyer is entitled, but without any other deduction) within 30 days of the date of the Seller's invoice, and the Seller shall be entitled to recover the price, notwithstanding that delivery may not have taken place and the property in the Goods has not passed to the Buyer. The time of payment of the price shall be of the essence of the Contract. Receipts for payment will be issued only upon request.
- 3.6 If the Buyer fails to make any payment on the due date then, without prejudice to any other right or remedy available to the Seller, the Seller shall be entitled to:
- 3.6.1 cancel the this Agreement or suspend any further deliveries to the Buyer;
 - 3.6.2 appropriate any payment made by the Buyer to such of the Goods (or the goods supplied under any other contract between the Buyer and the Seller) as the Seller may think fit (notwithstanding any purported appropriation by the Buyer); and
 - 3.6.3 charge the Buyer interest (both before and after any judgment) on the amount unpaid, at the rate of 1.5% per cent per annum from time to time, until payment in full is made (a part of a month being treated as a full month for the purpose of calculating interest).

4. The Goods

The quantity and description of the Goods shall be as set out in the Seller's quotation.

5. Limitation of Liability

- 5.1 The Sellers guarantee obligations are defined with finality in Clause '5.3 below. The Buyer shall under no circumstances have any claim for compensation for damages including but not limited to the claim based on installation, production and manufacturing defects, faulty parts supplied by the suppliers, production breakdowns, loss of use, forgone profit, or any other direct or indirect losses. The claim if any, shall only be limited to the manufacturing warranty provided by the Seller.
- 5.2 The Seller shall not be liable to the Buyer or to be deemed to be in breach of this Agreement by reason of any delay in performing, or any failure to perform, any of the Seller's obligations in relation to the Goods, if the delay or failure was due to any cause beyond the Seller's reasonable control. Without prejudice to the generality of the foregoing, the following shall be regarded as causes beyond the Seller's reasonable control:
- 5.2.1 act of God, explosion, flood, tempest, fire or accident;
 - 5.2.2 war or threat of war, sabotage, insurrection, civil disturbance or requisition;
 - 5.2.3 acts, restrictions, regulations, bye-laws, prohibitions or measures of any kind on the part of any governmental, parliamentary or local authority;
 - 5.2.4 import or export regulations or embargoes;
 - 5.2.5 strikes, lock-outs or other industrial actions or trade disputes (whether involving employees of the Seller or of a third party);
 - 5.2.6 difficulties in obtaining raw materials, labour, fuel, parts or machinery; and/or
 - 5.2.7 power failure or breakdown of machinery.

5.3 Warranty

The Seller hereby warrants that the Goods delivered shall be free of defects. The warranty period shall be 12 months from the date of delivery. The Buyer shall inspect the Goods immediately upon receipt and raise a complaint without delay and in writing if any defects come to light, otherwise the Goods shall be deemed to have been accepted. The above warranty does not extend to parts, materials or equipment not manufactured by the Seller, in respect of which the Buyer shall only be entitled to the benefit of any such warranty or guarantee as is given by the manufacturer to the Seller. The warranty also does not extend to the defects due to the use of Goods in association or combination with other device, material, product and/or equipment. In the event of any defects the Seller shall, at its free discretion, either (a) replace or repair the defective Goods or (b) reimburse the purchase price of the defective Goods. The Buyer shall derive no other claims from the defects in the Goods.

5.4 Economic Loss

Notwithstanding anything contained in these Conditions, in no circumstances shall the Seller be liable, in contract, tort (including negligence or breach of statutory duty) or otherwise howsoever, and whatever the cause thereof (i) for any loss of profit, business, contracts, revenues, or anticipated savings, or (ii) for any special indirect or consequential damage of any nature whatsoever.

6. Delivery of Goods

6.1 Delivery of the Goods shall be made by the Buyer collecting the Goods at the Seller's premises at any time after the Seller has notified the Buyer that the goods are ready for collection or, if some other place for delivery is agreed by the Seller, by the Seller delivering the Goods to that place. The Seller shall select the lowest-cost form of delivery. A surcharge of Ringgit Malaysia Seventy Five (RM75-00) shall be levied for express deliveries. The parties hereto hereby agreed that any packaging of the Goods shall not be returned back to the Seller for the purpose of the price deduction of the Goods.

6.2 Delivery dates confirmed by the Seller shall be binding. If a delivery date is missed by more than 30 days the Buyer and the Seller shall be entitled to set an appropriate extension period to be mutually agreed. In the event the delay is caused by the Seller, the Seller shall be responsible for the storage cost of the Goods. In the event the delay is caused by the Buyer, the Buyer shall be liable to storage cost of the Goods and any other costs and expenses that may be suffered by the Seller. Time for delivery shall not be of the essence of the Contract unless previously agreed by the Seller in writing. The Goods may be delivered by the Seller in advance of the quoted delivery date upon giving reasonable notice to the Buyer.

6.3 Where the Goods are to be delivered in installments, each delivery shall constitute a separate contract and failure by the Seller to deliver any one or more of the installments in accordance with these Conditions or any claim by the Buyer in respect of any one or more installments shall not entitle the Buyer to treat the this Agreement as a whole as repudiated.

6.4 If the Buyer fails to take delivery of the Goods or fails to give the Seller adequate delivery instructions at the time stated for delivery (otherwise than by reason of any cause beyond the Buyer's reasonable control or by reason of the Seller's fault) then, without prejudice to any other right or remedy available to the Seller, the Seller may:

6.4.1 store the Goods until actual delivery and charge the Buyer for the reasonable costs (including insurance) of storage; or

6.4.2 terminate this Agreement and the Buyer shall paid to the Seller any damages suffered by the Seller and to all reliefs flowing therefrom.

7. Acceptance of Goods

7.1 The Buyer shall be deemed to have accepted Goods Seven (7) days after delivered to the Buyer.

7.2 After acceptance the Buyer shall not be entitled to reject Goods which are not in accordance with this Agreement.

8. Title and Risk

- 8.1 Risk of damage to or loss of the Goods shall pass to the Buyer:-
- 8.1.1 in the case of Goods to be delivered at the Seller's premises, at the time when the Seller notifies the Buyer that the Goods are available for collection; or
 - 8.1.2 in the case of Goods to be delivered otherwise than at the Seller's premises, at the time of delivery or, if the Buyer wrongfully fails to take delivery of the Goods, the time when the Seller has tendered delivery of the Goods.
- 8.2 Notwithstanding delivery and the passing of risk in the Goods, or any other provision of these Conditions, the property in the Goods shall not pass to the Buyer until the Seller has received in cash or cleared funds payment in full of the price of the Goods and all other goods agreed to be sold by the Seller to the Buyer for which payment is then due.
- 8.3 Until such time as the property in the Goods passes to the Buyer, the Buyer shall hold the Goods as the Seller's fiduciary agent and bailee, and shall keep the Goods separate from those of the Buyer and third parties and properly stored, protected and insured and identified as the Seller's property, but shall be entitled to resell or use the Goods in the ordinary course of its business.
- 8.4 Until such time as the property in the Goods passes to the Buyer (and provided the Goods are still in existence and have not been resold), the Seller shall be entitled at any time to require the Buyer to deliver up the Goods to the Seller and, if the Buyer fails to do so forthwith, to enter upon any premises of the Buyer or any third party where the Goods are stored and repossess the Goods.
- 8.5 The Buyer shall not be entitled to pledge or in any way charge by way of security for any indebtedness any of the Goods which remain the property of the Seller, but if the Buyer does so all moneys owing by the Buyer to the Seller shall (without prejudice to any other right or remedy of the Seller) forthwith become due and payable.

9. General

- 9.1 Any notice required or permitted to be given by either party to the other under these Conditions shall be in writing including but not limited to electronic and facsimile transmission addressed to that other party at its email address, registered office or principal place of business or such other address as may at the relevant time have been notified pursuant to this provision to the party giving the notice.
- 9.2 No waiver by the Seller of any breach of this Agreement by the Buyer shall be considered as a waiver of any subsequent breach of the same or any other provision.
- 9.3 If any provision of these Conditions is held by any competent authority to be invalid or unenforceable in whole or in part the validity of other provisions of these Conditions and the remainder of the provision in question shall not be affected.

10. Proper Law of Contract

This Agreement shall be governed by the law Malaysia. The Vienna Convention on merchant law (UN merchant law) shall have no application. The place of execution and jurisdiction shall be Malaysia. However, the parties hereto hereby agreed that the Seller shall be entitled to commence legal proceeding against the Buyer for any breach of contract at the Buyer's place of business.

11. Export Terms

- 11.1 Unless the context otherwise requires, any term or expression which is defined in or given a particular meaning by the provisions of the Incoterms shall have the same meaning in these Conditions, but if there is any conflict between the provisions of the Incoterms and these Conditions, the latter shall prevail. In these Conditions 'Incoterms' means the international rules for the interpretation of trade terms of the International Chamber of Commerce as in force at the date when this Agreement is made.

- 11.2 Where the Goods are supplied for export from Malaysia, the provisions of this Clause 11 shall (subject to any special terms agreed in writing between the Buyer and the Seller) apply notwithstanding any other provision of these Conditions.
- 11.3 The Buyer shall be responsible for complying with any legislation or regulations governing the importation of the Goods into the country of destination and for the payment of any duties on them.
- 11.4 The Buyer shall have an option for testing and inspection of the Goods at the Seller's premises before shipment and/or delivery. The Seller have no liability for any claim in respect of any defect in the Goods which would be apparent on inspection and which is made after shipment, or in respect of any damage during transit.

12. Intellectual Property Rights

- 12.1 The Seller shall not be held liable for any infringement caused by the Seller having followed a design or instruction furnished or given by the Purchaser nor to any use of the Goods in a manner or for a purpose which shall have been specifically prohibited in writing by the Seller, nor to any infringement which is due to the use of such Goods in association or combination with any other product. The Seller is not obliged to verify the design, patent , copyright ,trade mark or other industrial or intellectual property rights and the Buyer shall indemnify and keep indemnified the Seller against all loss, damage costs and expenses awarded against or incurred by the Seller in connection with the claim in respect of the aforesaid infringement.
- 12.2 For the purposes of this Condition, the capitalized term 'Intellectual Property Rights' means Patents, Registered Designs, Unregistered Designs, Registered Trademarks and Copyright only, having effect in the world wide.

13. Confidentiality

Both the Seller and the Purchaser shall each keep confidential and shall not without the prior consent in writing of the other disclose to any third party any technical or commercial information which it has acquired from the other as a result of discussions, negotiations and other communications between them relating to the goods and the Order.

14. Successors Bound

This Agreement shall be binding on the respective heirs personal representative, successors and assigns of the parties hereto.
