

# General Terms And Conditions

Unless any provision to the contrary is stipulated in the Sales Contract / Proforma Invoice, the following terms and conditions shall be applied.

## 1. Definitions:

'Buyer' means the person who buys or agrees to buy the goods from the Seller. '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. 'Goods' means the articles, merchandise or commodities which the Buyer agrees to buy from the Seller.

'Seller' means X. a company incorporated in X contry

## 2. Quantity:

The quantity stipulated in the Sales Contract / Proforma Invoice shall be subject to a variation of plus or minus Five percent (5%) at Seller's option. (If not stipulated otherwise).

## 3. Shipment:

The delivery of the goods to a carrier in accordance with this contract and issuance of Bill of Lading by the carrier to Seller shall be deemed to be completion of shipment to Buyer, and therefore Seller's responsibility in delivery of the goods to Buyer shall be deemed to terminate upon the said shipment. The date of the bill of lading shall be deemed as conclusive proof of the date of shipment.

In the event of the goods being shipping in more than one lot for this contract, each lot shall be deemed to be a separate sale or contract, and therefore any quality issue, non-delivery and/or any dispute arising on any part(s) of this contract shall not affect the other part(s) of this contract. Unless otherwise stated, the terms shall carry the meanings, duties and obligations set out in the INCOTERMS 2000.

## 4. Title and Risk:

The goods supplied or to be supplied but already specified, shall remain the property of the Seller until the full payment of price and the additional costs. Title of goods pass from Seller to Buyer upon Seller's receipt of the full payment as per this contract. Risk of loss shall pass from Seller to Buyer upon delivery of material over ships rail at load port.

## 5. Payment:

Buyer shall establish in favour of Seller an Irrevocable, confirmed, unrestricted and without recourse letter of credit covering full amount of this contract, negotiable on sight draft through a first class International Bank, which shall be received by Seller

immediately after conclusion of this contract. The letter of credit shall be valid and effective for at least twenty-one (21) days unless otherwise specified after the last date of shipment for negotiation of the relative draft. If Buyer for any reason fails to furnish the letter of credit in the manner and form aforesaid or to fulfil the payment term under this contract, Seller may reserve the right to postpone the shipment or to cancel all or any part of this contract and/or may be entitled to dispose of the goods on Buyer's account and risk and/or claiming compensation to be made by Buyer to Seller to cover any Seller's loss resulting from the Buyer's failure. The letter of credit shall refer to this contract by its number, and shall authorise reimbursement to Seller for such sums, if any, as may be advanced by Seller for consular invoices, inspection fees and other expenditures made by Seller for account of Buyer.

#### **6. Packing, Etc:**

The make-up, packing and marking shall be at Seller's option. In case special instructions are necessary, Buyer shall furnish Seller with such instructions in time for preparation or shipment of the goods. Should Buyer designate any special instructions, all additional charges incurred thereby shall be at the Buyer's account and shall be added to the invoice amount, for which the Letter of Credit shall be amended accordingly.

#### **7. Inspection:**

The inspection of the goods shall be performed according to the export regulations of country of shipment or by the Manufacturer or Seller and such inspection shall be considered as final. Should Buyer designate any specific inspection, all additional charges incurred thereby shall be at Buyer's account and shall be added to the invoice amount, for which the letter of credit shall be amended accordingly.

#### **8. Increased Cost:**

If Seller's cost of performance are increased after the date of this agreement by reason of increased freight rates (including any freight surcharges), taxes, duties or other governmental charges, and insurance rate including war risk, or if any variation in rate of exchange increase Seller's cost or reduces Seller's return, Buyer agrees to compensate Seller for such increased cost or loss of income. However, all import duties shall be paid by Buyer, regardless of any change in the amount of any such duties.

#### **9. Force Majeure:**

If any performance of this contract is prevented or delayed in whole or in part, by reason of any acts of God, prohibition of exportation, fire, war, acts and/or regulations of government, armed conflict, civil commotion, strike or other labour disputes, severe economic dislocation, lockouts, peril or accident of the sea, delay in transportation, the bankruptcy or insolvency of manufacturers or suppliers directly or indirectly, or any other causes beyond the reasonable control of Seller or of the manufacturers or suppliers of the goods, Seller shall not be liable for the non-performance of this contract including non-shipment or late shipment of the goods, and Buyer shall accept any shipment made within a reasonable time, or shall accept the cancellation of all or any part of this contract at Seller's option.

## **10. Claim:**

The Buyer shall be deemed to have accepted the goods fifteen (15) days after the arrival of the goods at the destination stipulated in the Sales Contract/Proforma Invoice. Unless written notice accompanied by proof certified by an authorized surveyor is sent by the Buyer during the above-mentioned period, the Buyer is deemed to have accepted the goods. After the acceptance of goods the Buyer shall not be entitled to reject goods which are not in accordance to the contract. Where the Buyer accepts or has been deemed to have accepted any goods then the Seller shall have no liability whatever to the Buyer in respect of those goods.

In no event may Buyer assert a claim for any reason whatsoever after the goods are used, sold, cut, processed or otherwise altered.

## **11. Governing Law & Arbitration:**

This Contract shall be governed by and construed (interpreted in accordance with the Laws of Singapore. Any dispute and/or claim arising out of and/or in connection with this said Contract which cannot be settled by negotiations between the parties, shall be submitted to arbitrators in Singapore pursuant to the laws and regulations of Singapore and the parties hereby agree that any declaration reached in arbitration shall be final and binding on both the parties and the arbitrators are to determine which party is to bear the costs of the arbitration. Should the arbitrators not make a declaration as to which party is to bear the said costs, costs incurred in the said arbitration are to be borne by the unsuccessful party.

## **12. Liability:**

The Seller warrants that the goods will at the time of delivery correspond to the description given by the Seller. All other conditions, warranties, terms, undertakings and obligations implied statute, common law, custom, trade usage or otherwise (including, without prejudice to the generality of the foregoing, any implied condition, warranty or undertaking as to the condition of the goods, merchantable quality or fitness for any particular purpose) are hereby wholly and expressly excluded, provided that nothing in this contract shall restrict or exclude liability for death or personal injury caused by the negligence of the Seller. In the event of any breach of this contract by the Seller, the remedies of the Buyer shall be limited to damages. Under no circumstances shall the liability of the Seller exceed the price of the goods. In no event shall the Seller be liable to the Buyer for any indirect or consequential loss or damage, nor shall the Seller be liable for any loss of profit, loss of use or production or of contracts which the other may suffer arising out of any breach by the Seller of its obligations under the contract and whether the same be due to the negligence of the Seller or not.

## **13. Infringements, Etc:**

The Seller shall not be liable for any infringement with regard to patent, utility, design, trademark and the likes originated and/or chosen by the Buyer. Nothing contained herein shall be construed as, transferring any patent, utility model, trademark, design or copyright in merchandise; all such rights are to be expressly reserved in view of the true and lawful owners thereof. The Buyer agrees to indemnify the Seller's liability and/or

liabilities for all loss and/or damage arising from any dispute and/or claim in relation with the above right and/or rights. Further, the Seller hereby expressly reserves all rights to cancel and make null and void this contract at his sole discretion in the event of such dispute and/or claim.

#### **14. Non-Performance:**

The Seller may by written notice, terminate with immediate effect this Contract or suspend his performance of all or any of his obligations under it immediately and without liability for compensation or damages and be able to claim reimbursement from the Buyer for any loss sustained therefrom if:

- (a) any payment of any money payable by the Buyer under this Contract and/or any agreement supplemental to it and/or any other contract with the Seller is not paid to the Seller on the due date whether demanded or not; or
- (b) the Buyer fails to comply with any of his/its express and/or implied obligations under this Contract and/or any agreement supplemental to it and/or any other contract with the Seller; or
- (c) the Buyer fails to comply with any of his/its express or implied obligations under this Contract and/or any agreement supplemental to it and the failure (if capable of being remedied) remains unremedied for 7 days after being called to the Buyer's attention by written notice from the Seller; or
- (d) the Buyer dies, becomes bankrupt, becomes insolvent, has a receiving order made against him/it, makes arrangement with his/its creditors generally or takes or suffers any similar action as a result of debt; or
- (e) the Buyer convenes a meeting of its creditors or suffers a petition to be presented or a meeting to be convened or other action to be taken with a view to its liquidation or amalgamation or reconstruction (except with the written approval of the Seller); or
- (f) an administration order is made in relation to the Buyer; or
- (g) a receiver or administrative receiver is appointed of any of the Buyer's property.

#### **15. Liquidated Damages:**

Except in a situation of force majeure (referred to in clause 9), if the Buyer fails to arrange the payment or establish the letter of credit strictly in compliance with this Contract within the stipulated date specified in the Contract, liquidated damages of 2% of the total contract value is to be paid by the Buyer to the Seller. This amount is to be paid to the Seller within 15 days after the Buyer receives the claim from the Seller stipulating amount to be paid and payment instructions.

Except in a situation of force majeure, if the Seller fails to ship the goods as stipulated in this Contract after receiving the payment arrangement or letter of credit in order with the terms of this Contract, the Seller is liable to pay the maximum of 2% of the total contract value as non-performance liquidated damages to the Buyer within 15 days after the Seller receives such a claim from the Buyer.

## **16. General Conditions:**

This Contract comes into effect from the signing date and any amendment and/or additional clauses to these Clauses shall be valid only if it is made in writing and duly confirmed by both the parties.

This Contract is to be made entirely in the English language and is deemed effective if duly accepted via fax.

The Contract is to be issued by the Seller in duplicate and the Buyer has to return the duplicate copy duly signed and stamped on or before 5 working days as a token of acceptance to the Seller, failing which this Contract will be subject to reconfirmation by the Seller.

Nothing in this Contract confers or purports to confer any right under the Contracts (Rights of Third Parties) Act to enforce any of its terms on any person who is not a party to it.

All notices under this Agreement shall be given in writing and shall be deemed to have been given if sent by registered post addressed to the party at its registered business address.

## **17. Severability:**

The parties hereby agree that if any part of this Sales Contract is found to be unreasonable, invalid or unlawful under any enactment or rule of law pertaining thereto, the Court or other competent tribunal shall have the power to strike out or override that part, whether it be an entire Clause or Clauses, or some part thereof, and enforce the Sales Contract as if the unreasonable, invalid or unlawful part or parts aforesaid had not been included.