

GENERAL TERMS AND CONDITIONS OF SALE

1. General Provisions
 - 1.1 The Seller shall not be bound by any agreements and any variations of these General Terms and Conditions of Sale unless confirmed by the Seller in writing.
 - 1.2 All orders to be placed with the Seller as well as proposals quotation and advices from the Seller, and all services to be provided by Seller shall be governed exclusively by these General terms and Conditions. The Buyer's terms and conditions of purchase shall not be binding on Seller and shall not form part of the contract between the parties even if Seller does not object against them after having received such conditions.
 - 1.3 The Seller's employees or agents are not authorised to make any representations concerning any goods unless confirmed by the Seller in writing. Any information made available in connection with any offer for the supply of goods, including photographs, drawings, data about the extent of the delivery, appearance, performance, dimensions, weight, consumption of operating materials, operating costs of the goods, is not binding on the Seller unless expressly designated as binding by the Seller in writing. In entering into the contract, the Buyer acknowledges that it does not rely on and waives any claim based on any such representations or information not so confirmed as binding upon the Seller.
2. Contract Price, Terms of Payment and Security
 - 2.1 The Contract price shall be as stated in the order confirmation. If any duties, consular fees, freight charges, insurance premiums and other charges included in the contract price are increased after the contract is entered into, any such increase shall be charged additionally to Buyer; the same applies to any similar charges which may be introduced after the date the contract is entered into.
 - 2.2 If no other specific terms have been agreed in writing between the Buyer and the Seller, the following terms shall apply:
 - 2.2.1 The Seller shall be entitled to invoice the Buyer on or at any time after the 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 such delivery or the Seller has notified the Buyer that the goods are ready for collection (whichever case is applicable).
 - 2.2.2 The Buyer shall pay the price for the goods within 14 days of the invoice date.
 - 2.3 The Seller reserves the right by giving notice to the Buyer at any time before delivery to increase the contract price of the goods in case of:
 - (a) any increase in the cost to the Seller (such as without limitation any foreign exchange fluctuation currency regulation, increase in duties, consular fees, freight charges, insurance premiums or any other charges that are included in the contract price, and increase in the costs of labour, materials or other costs of manufacturing the Seller's goods);
 - (b) any change in delivery/performance dates, quantities or specifications for the goods which is requested by the Buyer; or
 - (c) any delay caused by any instructions of the Buyer or failure of the Buyer to give the Seller adequate information or instructions.
 - 2.4 Unless otherwise agreed in writing between the Buyer and the Seller, all prices for goods are given by the Seller on an *ex works* basis.
 - 2.5 The price is exclusive of any applicable goods and services tax, value added tax or similar tax which the Buyer shall be additionally liable to pay to the Seller. The Seller shall be entitled to receive the payment for the full contract price net of all bank charges, taxes and similar expenses.
 - 2.6 The Buyer shall bear the cost of any special packaging of the goods which it may request or which may be necessitated by delivery by any means other than the Seller's normal means of delivery. The Buyer shall, unless otherwise agreed, be solely responsible for the disposal of all packaging in accordance with all laws, whether statutory or otherwise, relating to the protection of the environment.
 - 2.7 All payments to be made by the Buyer to the Seller shall be made without set-off, counter claim or condition.
 - 2.8 If the Buyer has agreed to and provided a deposit on an order placed for the purchase of the goods, and the Buyer wishes not to carry out, or wishes to rescind, terminate or annul the transaction, the Seller shall be entitled to forfeit any such deposit paid by the Buyer. The Seller shall have no liability to refund the deposit in this instance. For the avoidance of doubt, any forfeiture of such deposit by the Seller shall be without prejudice to any other rights or remedies that the Seller may be entitled to.
 - 2.9 If expressly agreed by the Seller, the Buyer may make payment by duly stamped bills of exchange or cheques. If the bills of exchange or cheques are accepted, the Buyer's obligations shall only be discharged upon the bills of exchange or the cheques being honored in full. Any costs incurred in connection with the payment of bills of exchange and/or cheques shall be borne by the Buyer.
 - 2.10 If payment of any sum is not made when due for any reason, then, without prejudice to any of Seller's other rights or remedies, late payment interest will be charged on the outstanding sum at a rate of four (4) per cent points above the three (3) month USD LIBOR rate on the day which the payment became due and payable (and if no three (3) month USD LIBOR rate is published for that date, the three (3) month USD LIBOR rate published on the next day on which such rate is available) from the due date of payment until the actual date of payment (whether before or after judgement).
 - 2.11 In case of any delay in payment or if in the Seller's reasonable opinion the Buyer's ability or willingness to make payment is or is likely to be impaired for whatever reason, Seller shall be entitled to claim immediate settlement of all debts irrespective of the maturity dates of any bills of exchange or cheques. The Seller shall in that event also be entitled to require pre-payment or security for all outstanding deliveries or cancel the contract or suspend any further deliveries of the goods until such payment is made.
 - 2.12 The Seller shall be entitled to offset all claims, which the Seller has against the Buyer, against those, which the Buyer has against the Seller.
3. Orders and Specifications
 - 3.1 No order submitted by the Buyer shall be deemed to be accepted by the Seller unless and until confirmed in writing by the Seller's authorised representative.
 - 3.2 The Buyer shall be responsible to the Seller for ensuring the accuracy of the terms of any order (including any specification) submitted by the Buyer and for giving the Seller any necessary information relating to the goods within a sufficient time to enable the Seller to perform the contract in accordance with its terms.
 - 3.3 The quantity, quality and description of, and any specification for the goods shall be those as set out in the Seller's quotation (if accepted by the Buyer) or in the case of the Buyer's order, if accepted by the Seller or as otherwise set out in any contractual documentation.
 - 3.4 The Seller reserves the right to make any changes in the specification of the goods which are required to conform with any applicable statutory or regulatory requirements or where the goods are to be supplied to the Seller's specification which do not materially affect their quality or performance.
- 3.5 No concluded contract or order may be modified or cancelled by the Buyer except with the agreement in writing of the Seller and on terms that the Buyer shall indemnify the Seller in full against all loss (including loss of profit) costs (including the cost of all labour and materials used), damages, charges and expenses incurred by the Seller as a result of the modification or cancellation, as the case may be.
4. Documents, Grades, Dimensions and Weights
 - 4.1 Any documents relating to the goods delivered by the Seller, in particular any drawings shall remain the Seller's property and shall be used only for the purpose of the contract. Such documents shall be returned upon the Seller's request.
 - 4.2 Grade and size shall be determined pursuant to the DIN Standards or, as the case may be, the material data sheet. Insofar as no DIN Standards or data sheet exist, the respective Euro Standards shall apply and in their absence any relevant commercial practice for the determination of grade and size shall apply.
 - 4.3 The weight recorded by the Seller or the Seller's supplier shall be conclusive as shown by the weight certificate. Weights may be determined without weighing according to the DIN Standards or according to the scales customary in the trade. Any indications relating to numbers of pieces and/or bundles etc. shall be of no relevance in the case where the goods have been invoiced according to their weight. Unless weighing per piece is customary, the total weight of the consignment shall be sufficient. Bundles are weighed out gross for net.
5. Packing

Except as otherwise agreed upon, the goods shall be delivered unpacked and without protection against corrosion. Any special packing as agreed upon by the parties shall be invoiced to and paid by the Buyer. Alternatively, the Seller may, at its option, request that the packing material be returned to the Seller at the Buyer's cost and that payment for its disposal be made by the Buyer to the Seller.
6. Inspection
 - 6.1 If an inspection has been agreed upon, it shall be carried out at the supplying works or at the Seller's warehouse, at the latest upon the Seller's notification that the goods are ready for inspection. All costs arising in connection with the inspection (whether the Seller's own costs or those charged to Seller by third parties) shall be borne by the Buyer.
 - 6.2 If, through no fault of the Seller, the inspection of the goods is not carried out in time or is incomplete, the Seller shall at the completion of the inspection or at the latest date when the goods shall be dispatched to meet the agreed delivery date (whichever is applicable) be entitled to dispatch the goods without having the goods go through a further inspection or to store them at the Buyer's expense and risk.
7. Passing of Risk and Shipment
 - 7.1 Risk shall pass to the Buyer on the earlier of the goods being delivered to the forwarding agent or the carrier, or upon leaving the supplying works or the Seller's warehouse.
 - 7.2 Trade terms used in the contract shall be interpreted in accordance with the Incoterms2020.
 - 7.3 The means and routes of transport shall be at the Seller's discretion; the Seller shall be entitled to nominate the forwarding agent and the carrier at its discretion.
 - 7.4 Goods notified as being ready for dispatch must be called for immediately, failing which, the Seller shall be entitled to store them at its discretion and at the Buyer's expense and risk and to invoice them as if the goods have been delivered on an *ex works* basis.
 - 7.5 The Seller shall be entitled to effect part deliveries. Deliveries of larger or smaller quantities shall be permitted to the extent they are common in the trade. Where the goods are to be delivered in batches, each delivery shall constitute a separate contract and the failure by the Seller to deliver any one or more of the batches in accordance with these General Terms and Conditions or any claim by the Buyer in respect of any one or more batches shall not entitle the Buyer to treat the contract as a whole as repudiated.
8. Performance, Time Delivery and Delays
 - 8.1 Unless otherwise agreed by the parties that the goods shall be delivered by the Seller to the Buyer, the goods shall be collected by the Buyer at the Seller's premises at any time after the Seller has notified the Buyer that the goods are ready for collection. If the parties agree on some other mode of delivery in accordance with certain Incoterms, the Seller's delivery obligations shall be determined according to the applicable Incoterm. Save for the obligations as necessitated by the applicable Incoterms and/or obligations expressly undertaken by the Seller in writing, the Seller shall have no other obligations, in particular obligations which it might otherwise have according to the provisions of the Sale of Goods Act 1979 of Singapore. The Seller may, if the Buyer so requests, and at the Buyer's cost, assist the Buyer to arrange for transportation or insurance of the goods, but if the Seller does so, it shall accept no liability whatsoever, nor shall such action in any way affect the Seller's contractual delivery obligations as aforesaid.
 - 8.2 The Seller has the right at any time to sub-contract all or any of its obligations for the sale of the goods to any other party as it may from time to time decide without giving notice of the same to the Buyer.
 - 8.3 Any dates indicated for the delivery of the goods are an estimate only. The goods may be delivered by the Seller in advance of the estimated delivery date upon the giving of reasonable notice by the Seller to the Buyer. Unless previously agreed by the Seller in writing, the time for delivery/performance or the goods/service shall not be of the essence, and the Seller shall not be liable for any delay in delivery or performance howsoever caused. Where time of performance has been agreed by the Seller to be of the essence of the contract, and the Seller fails to comply with its obligations in due time, the Buyer shall be entitled to compensation for actual loss and expense sustained as a result of the Seller's delay in delivery/performance, which was foreseeable at the time of conclusion of the contract and resulting from the usual course of events, subject always to the limitations of liability set out in clause 11.
 - 8.4 Without prejudice to Clause 8.1, the Seller's obligation to deliver shall be subject to the timely and correct delivery of the goods by the Seller's suppliers unless the delay or incorrect delivery by Seller's suppliers is due to Seller's fault.
 - 8.5 The time of delivery which the Seller has confirmed shall only be binding on the parties on the condition that all the relevant requirements/pre-conditions of the contract have been clarified in time and Buyer has fulfilled in a timely manner all of the relevant requirements/pre-conditions, e.g. to submission of all the necessary permits, licences or other official documents or to open a Letter of Credit or to pay a non-refundable deposit. The time of delivery relates to the date of dispatch from the supplying works or the Seller's warehouse. The time of delivery shall be deemed complied with upon Seller notifying Buyer that the goods are ready for dispatch if Seller for reasons beyond its control is unable to dispatch the goods in due time.
 - 8.6 The Seller shall be under no liability to the Buyer should the Seller be prevented from fulfilling its obligations under the contract by unforeseen events affecting the Seller or its suppliers and which, notwithstanding all care that may be reasonably taken by the Seller in the circumstances of the case, the Seller was not able to avert which include without limitation, war, acts of State, riots, acts of God, epidemics and pandemics, accidents, operational disturbances, strikes, lock-outs and delays in the delivery of essential utilities or materials ("Force Majeure Event"). In particular, the time of delivery shall be extended by the duration of the Force Majeure Event (with the addition of a reasonable starting period). If, by reason of any of the Force Majeure Event, the delivery becomes impossible, illegal, indefinitely postponed or delayed by a period of sixty (60) days or more, either party shall be entitled to terminate the contract by giving the other party at least two (2) weeks' notice for the termination. The Seller shall, after the occurrence of the Force Majeure Event, exercise reasonable efforts to mitigate its effect. For the avoidance of doubt, the termination of the contract pursuant to this Clause 8.6 shall not affect either party's rights and claims arising prior to the termination of the contract.
 - 8.7 If the Seller is in default of its obligations to deliver the goods on or before the agreed delivery date, the Buyer shall have the right to terminate the contract provided it has given written notice to Seller to rectify the default within a reasonable period of time that is not less than 14 days and thereafter, at the expiration of such extended period, the Seller is still in default of its obligations.
 - 8.8 All further rights in respect of delays in delivery of the goods by the Seller, in particular any claims for damages, shall be excluded subject to Clause 11.
9. Defect in the Goods of the Seller and Delivery of Products other than those ordered
 - 9.1 The Buyer shall inspect the goods upon delivery or collection and notify the Seller of any apparent defects in the goods which may be reasonably discovered on inspection within three (3) days of such delivery or collection, failing which the goods shall be deemed to be in good order and accepted by the Buyer except if there are latent defects which cannot be reasonably discovered by the Buyer during the inspection process. Any claim in respect of defects which were detectable on inspection and have not been notified to the Seller in accordance with the preceding sentence shall be excluded. In case of any latent defects, the Seller shall, if notice is given by the Buyer of any latent defects within 30 days from delivery or collection, remedy such latent defects at no cost to the Buyer.
 - 9.2 The Seller shall, at its discretion, either repair or replace the defective goods. If the Seller fails to effect such repair or replacement of the defective goods within a reasonable period of time, the Buyer shall be entitled

- to cancel the respective part of the contract or to allow a reduction in purchase price that is to be paid by the Buyer.
- 9.3 With regard to the goods which are sold as lower grade material – for example the IIA material – no warranties shall be given by the Seller to the Buyer with reference to the declared faults and those normally to be expected for such lower grade material.
- 9.4 All claims for defects shall be made within 8 months after the notification of readiness to dispatch has been given by the Seller ("warranty period").
- 9.5 The Seller's remaining warranty period applicable to the original goods shall also apply to the repaired goods or replacement; provided that in no event shall the Seller be liable for any claims for defects after a period of 6 months after the completion of repair or replacement.
- 9.6 Notwithstanding that the goods supplied under the contract do not conform to the description thereunder or that goods of a different type altogether have been supplied, the above provisions shall apply to the supply of such goods.
10. Retention of Title
- 10.1 The goods shall remain Seller's property until all Seller's claims against Buyer under the contract have been satisfied. Until such time as the title 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 and shall be entitled to resell or use the goods in the ordinary course of its business but shall account to the Seller for the proceeds of such sale or otherwise of the goods whether tangible or intangible including insurance proceeds and shall keep all such proceeds separate from any moneys or property of the Buyer and third parties and in the case of tangible proceeds properly stored protected and insured. If the Buyer has not received the proceeds of any such sale it will, if called upon to do so by the Seller, assign to the Seller within seven (7) days all rights against the person or persons by whom the proceeds are owed.
- 10.2 Until such time as the title 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. 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.
- 10.3 Where the goods have been incorporated by the Buyer into any product or article in such a way that the substance and identity of the goods have been irrevocably altered or destroyed, then title in such new product(s) or article(s) shall immediately upon its or their creation vest wholly in the Seller, and the provisions of Clause 10 shall apply *mutatis mutandis* to such products or articles as if they were goods with the title remaining with the Seller; provided that this Clause 10.4 shall not apply if 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. For the avoidance of doubt, it is hereby declared that the provisions of the preceding sub-clauses shall continue to apply to the goods which have been incorporated by the Buyer into any product or article in such a way that the substance and identity of the goods have not been irrevocably altered or destroyed.
- 10.4 The Buyer shall indemnify the Seller against all loss, damages, costs, expenses and legal fees incurred by the Seller in connection with the assertion and enforcement of the Seller's rights under this Clause 10.
- 10.5 Should the retention of title clause in this Clause 10 be invalid under the law of the country in which the goods are situated, such protection for the Seller as in that country corresponds to the above retention of title clause shall be deemed to have been agreed upon. The Buyer shall take all measures necessary for such protection for Seller to come into effect and/or to be maintained.
- 10.6 Should a more extensive retention of title clause be permitted by the law of the country in which the goods are situated (such as – without prejudice to the generality of the foregoing – the assignment of the Buyer's future claims resulting from the re-sale of the goods delivered by the Seller), the Buyer shall upon Seller's request implement such a clause.
11. Limitation of Liability
- 11.1 The Seller shall accept liability to the Buyer for death or injury resulting from its own or that of its employees' negligence. Save as aforesaid, the Seller's liability under or in connection with the contract shall be subject to the limitations set out in this Clause 11. The Seller's liability shall be limited exclusively to the express conditions contained in these General Terms and Conditions of Sale. Any other rights not expressly acknowledged herein such as but not limited to rights of cancellation, termination, restitution or price reduction and any claims for damages however arising, particularly due to tort, breach of contract, impossibility of performance shall be excluded.
- 11.2 The Seller shall be under no liability whatsoever if there is any delay or breach by the Seller due to a Force Majeure Event affecting the Seller.
- 11.3 In no event shall the Seller be liable for loss of profit, goodwill, loss of production or revenue or any type of special, indirect or consequential loss whatsoever (including loss or damage suffered by the Buyer as a result of an action brought by a third party) even if such loss were reasonably foreseeable or the Seller had been advised of the possibility of the Buyer incurring the same.
- 11.4 Where time of performance has been agreed by the Seller to be of the essence of the contract, and the Seller fails to comply with its obligations in due time, so that the Buyer becomes entitled to compensation in accordance with clause 8.3, the Seller's liability shall be limited to an amount of 0.5% for each full week of delay, in total to a maximum cumulative amount of 5%, of the value of the relevant goods.
- 11.5 If the Buyer becomes entitled to compensation arising out of the Seller's non-delivery of goods, the Seller's liability shall be limited to the total value of the undelivered goods.
- 11.6 The remedies set out in these General Terms and Conditions of Sale are the Buyer's sole and exclusive remedies for non-conformity of or defects in the goods and the Seller's liability for the same shall be limited in the manner specified in these General Terms and Conditions of Sale.
- 11.7 Without prejudice to the limits of liability applicable imposed under this Clause 11 or elsewhere in these General Terms and Conditions of Sale, the Seller's maximum and cumulative total liability (including any liability for acts and omissions of its employees, agents and sub-contractors) in respect of any and all claims for defective performance, breach of contract, compensation, indemnity, tort, misrepresentation, negligence at law or equity and any other damages or losses which may arise in connection with its performance or non-performance under the contract, shall not exceed the total contract price of the goods to be delivered under the contract.
- 11.8 If a number of events give rise substantially to the same loss they shall be regarded as giving rise to only one claim under these conditions.
- 11.9 No action shall be brought by the Seller later than the earlier of: (a) twelve (12) months after the date it became aware of the circumstances giving rise to a claim or the date when it ought reasonably to have become aware, or (b) twelve (12) months after the end of the warranty period.
This exclusion of liability shall not apply in case of:
- willful misconduct;
 - gross negligence on the part of statutory representatives or senior executives.
12. Termination
- 12.1 On or at any time after the occurrence of any of the events set out in Clause 12.2, the Seller may stop any goods in transit, suspend further deliveries to the Buyer and/or terminate the contract with the Buyer with immediate effect by written notice to the Buyer
- 12.2 The events entitling the Seller to immediate termination of the contract shall include:-
- (i) the Buyer being in breach of an obligation under the contract;
 - (ii) the Buyer passing a resolution for its winding up or a court of competent jurisdiction making an order for the Buyer's winding up or dissolution.
13. General
- Each of the provisions of the contract is severable and distinct from the others so that if any provisions of the contract are held to be invalid, void, illegal or unenforceable under any applicable law or by any order of any court of competent jurisdiction, the remaining provisions shall not be impaired or affected by such illegality, invalidity or unenforceability and shall continue to bind the Buyer and the Seller. No person who is not a party to the contract (including any employee, officer, agent, representative or sub-contractor of either party) shall have any right under the Contracts (Rights of Third Parties) Act 2001 of Singapore to enforce any terms of the contract which expressly or by implication confers a benefit on that person without the express prior agreement in writing of the parties, which agreement must refer to this condition.
14. Place of Jurisdiction, Applicable Law
- 14.1 The place of jurisdiction and the forum for all disputes including those with regard to bills of exchange and/or cheques shall be Singapore. The parties hereby agree to submit to the exclusive jurisdiction of the Singapore courts. Seller may however also sue Buyer in Buyer's own jurisdiction as Seller elects.
- 14.2 The contract and the legal relations between Seller and Buyer shall be governed exclusively by the laws of Singapore. The United Nations Convention on Contracts for the International Sale of Goods shall not apply to any contract for the sale of goods by the Seller.