

## TERMS AND CONDITIONS OF SALE

### 1 DEFINITIONS

In these Conditions:

"Company" means PDS International Pte Ltd, a company incorporated in Singapore.

"Particulars of Contract" means the details of the Contract set out overleaf.

"Buyer" means the party specified in the Particulars of Contract who enters into a Contract with the Company to buy Goods from the Company.

"Goods" means the products specified in the Particulars of Contract.

"Contract" means the contract for the sale of Goods from the Company to the Buyer comprising the Particulars of Contract and these Conditions.

"GST" means Singapore applicable Goods and Services Tax.

### 2 CONDITIONS

These Standard Terms and Conditions shall constitute the entire contract for the sale of Goods from the Company to the Buyer and shall not incorporate or be deemed to incorporate the provisions of any extraneous documents unless accepted in writing by the Buyer.

### 3 PRICE

Unless otherwise stated in the Particulars of Contract, the Contract prices for the Goods shall be:

3.1 exclusive of GST, all other duties, fees, taxes, costs of delivery, packaging and insurance costs which shall be charged separately;

3.2 subject to increase by the Company for any variation in the delivery schedule, design, quantities or specification of the goods made at the request of the Buyer, or any delay caused by the Buyer.

### 4 DELIVERY

4.1 Delivery shall be made to the place(s) and by the method(s) specified in Particulars of Contract (or if none, ex works Company Singapore).

4.2 Any delivery dates quoted are for guidance only and not a term of the Contract. Time for delivery shall not be of the essence unless previously agreed by the Company in writing and the Company shall not be liable for any delay in delivery of Goods.

4.3 Where the Goods are to be delivered in installments, each delivery shall constitute a separate contract and failure by the Company to deliver any one or more of such installments in accordance with these conditions, or any claims by the Buyer in respect of any one or more installments shall not entitle the Buyer to treat the Contract as a whole as repudiated.

4.4 The delivery of a greater or lesser quantity of the Goods than the quantity ordered, or of other goods not ordered, or of Goods of which only some are defective, shall not entitle the Buyer to reject Goods that were ordered and are not defective.

4.5 The Company shall be entitled to withhold delivery of any Goods if at the time delivery is to be made, payment is due by the Buyer to the Company on any account whatsoever.

4.6 If, under the terms of the Contract, Buyer is to secure or arrange for the vessel or vessel's space, Buyer must secure or arrange for the necessary vessel or vessel's space on berth terms basis and give Company shipping instructions within a reasonable time prior to shipment. Company may, at its sole discretion and for Buyer's risk and account, arrange for the vessel or the vessel's space and make shipment of the Goods without prejudice and in addition to any other rights and remedies Company may have under this Contract or at law or in equity or otherwise.

### 5 PAYMENT

5.1 Payment for the Goods shall be made in full as specified in the Particulars of Contract. If the Buyer fails to make payment on the due date then, without prejudice to any other right or remedy available to the Company, the Company shall be entitled to suspend any further deliveries to the Buyer and charge the Buyer interest on the amount unpaid at the rate of 2 percent per month.

5.2 The Buyer shall not be entitled to make any deduction or withhold any sum from the payment from time to time due to the Company whether by way of set off, counter claim or otherwise.

### 6 RISK AND PROPERTY

6.1 Risk of damage to or loss of the Goods are passed to the Buyer when the Goods are delivered to or collected by the Buyer or its agent.

6.2 Notwithstanding risk in the Goods passing in accordance with Clause 6.1 hereof, title in the Goods shall not pass to the Buyer until full payment has been received by the Company for the Goods and any other Goods supplied by the Company to the Buyer.

6.3 Until the title in the Goods passes to the Buyer, the Buyer shall hold the Goods upon trust for the Company and shall keep the Goods separate from those of the Buyer and third parties, and clearly identified as the Company's property unless the Buyer uses or sells the Goods in the ordinary course of business in which case the Buyer shall hold the altered Goods or proceeds of sale upon trust for the Company.

6.4 When payment of any sum due to the Company from the Buyer becomes overdue or when the Buyer becomes insolvent goes into liquidation, has a winding up order made against it or has an administrator or administrative receiver appointed over its assets, income or any part thereof or enters into an arrangement with its creditors, all sums owed to the Company shall become immediately due and payable and the Company shall have the right to recover and resell the Goods and may enter upon the Buyer's premises by its servants or agents for that purpose.

### 7 CLAIMS FOR LOSS OR DEFECT

7.1 The Buyer shall inspect the Goods immediately upon delivery and shall within 7 days from such delivery, give notice in writing to the Company of any shortage, breakage, defect or any other matter or thing by reason whereof it is alleged that the Goods are not in accordance with the Contract.

7.2 The Goods in respect of which the Buyer makes any claim hereunder shall be preserved intact as delivered and the Company or its agents shall have the right to attend the Buyer's premises to investigate the complaint.

7.3 If the Buyer shall fail to give notice or to preserve the Goods as required pursuant to paragraphs 7.1 and 7.2 above, the Goods shall be conclusively presumed to be in all respects in accordance with the Contract and free from any defect and the Buyer shall be deemed to have accepted the Goods accordingly.

### 8 LIABILITY AND WARRANTIES

8.1 The Company warrants that, insofar as the Goods are of its own manufacture, they shall be free of defect in workmanship or materials at the time of delivery. If any Goods do not conform to that warranty, the Company will at its option:

- (a) replace the Goods found not to conform to the warranty and such replacement shall be supplied to these Conditions; or
- (b) take such steps as the Company deems necessary to bring the Goods into a state which they are free from such defects; or
- (c) take back the Goods found not to conform to the warranty and refund the appropriate part of the purchase price.

PROVIDED THAT

- (i) the liability of the Company shall not arise unless the Buyer demonstrates to the Company's reasonable satisfaction that the Goods have, prior to use, been properly stored and handled and subsequently have not been used in any unusual or abnormal way or in a manner contrary to any instructions or recommendations for use provided by the Company;
- (ii) the liability of the Company shall in no event exceed the purchase price of the Goods;
- (iii) performance of any one of the above options [as limited by (ii) above] shall constitute an entire discharge of the Company's liability under this warranty.

8.2 The Company further undertakes that, insofar as the Goods are not of its own manufacture, it will pass on to the Buyer the benefit of any guarantees or indemnities given to it in respect of such Goods by its own suppliers.

8.3 Save as provided in clause 8.1 and 8.2 above,:

- (i) all conditions and warranty, expressed or implied, as to quality or fitness for any purpose of the Goods are hereby expressly excluded;
- (ii) the Company shall not be liable for any loss or damage (whether direct, indirect or consequential) howsoever arising which may be suffered by the Buyer and the Buyer indemnifies Company against any and all losses, liabilities, claims, costs and expenses (including legal expenses) made against or incurred by Company in relation to any third party claims arising out of or in connection with the supply of Company's products; and
- (iii) it is hereby expressly declared that any statements as to quality made by the Company do not form part of the description of the Goods.

8.4 The application, use and processing of the Goods is the absolute responsibility of the Buyer and the Buyer shall be deemed to have carried out its own tests to ensure the suitability of the Goods for their intended purposes and applications. All recommendation and advice given by or on behalf of the Company to the Buyer as to the methods of storing, applying or using the goods, the purposes to which the Goods may be applied, and the suitability of using the Goods in any process or in conjunction with any other materials are given without liability on the part of the Company, its servants or agents.

### 9 BREACH OF CONTRACT BY THE BUYER

The Buyer shall indemnify the Company in respect of any costs, charges, losses or expenses, including legal fees which the Company may sustain or incur as a result of the Buyer's breach of Contract.

### 10 INTELLECTUAL PROPERTY

The supply of Goods by the Company shall not confer or imply any right upon the Buyer to use any of the Company's trade marks or patents which shall at all times remain the property of the Company.

### 11 FORCE MAJEURE

The Company shall not be held responsible or liable for any delay or failure in performance arising as a result of any occurrence or contingency beyond its reasonable control, including but not limited to, accident, act of God, acts of the public enemy, earthquake, fire, flood, labour dispute, riots, civil commotion, war (declared or not), requirements or acts of any government or agency thereof.

### 12 THIRD PARTY RIGHTS

No person who is not a party to the Contract shall have any rights under the Contracts (Rights of Third Parties) Act, Cap. 53B, to enforce any Term or Condition of the Contract.

### 13 THE LAW

The terms of the Contract between Company and the Buyer shall be governed by the Laws of Singapore, and both parties hereby submit to the exclusive jurisdiction of the Singapore Courts. The United Nations Convention on Contracts for the International Sale of Goods (1980) shall not be applicable.