

## 1 Definitions and interpretation

- 1.1 In these Conditions:
- “Acknowledgement of Order” means the Seller’s written acknowledgement of the Buyer’s Order.
- “Buyer” means the person whose Order for the purchase of Goods is accepted by the Seller.
- “Conditions” means the standard terms and conditions of sale set out in this document and (unless the context otherwise requires) includes any special terms and conditions agreed in an Acknowledgement of Order.
- “Contract” means the contract for the purchase and sale of the Goods.
- “Goods” means the goods (including any instalment of the goods or any parts for them) which the Seller is to supply in accordance with these Conditions.
- “Order” means a purchase order issued by the Buyer detailing the Goods it wishes to purchase.
- “Quotation” means a quotation issued by the Seller to the Buyer.
- “Seller” means Melrob Singapore Pte. Ltd (UEN No. 200817095H).
- “Writing” includes facsimile transmission, electronic mail and comparable means of communication.
- 1.2 Unless the context otherwise requires, in this Agreement:
- the singular includes the plural and the converse;
  - references to any gender include all genders;
  - headings are for convenience only and do not affect interpretation of this Agreement;
  - the terms “hereof”, “herein”, “hereby”, “hereto” and similar words refer to this entire Agreement and not any particular Clause or any other subdivision of this Agreement;
  - references to “include” or “including” will not be construed as being by way of limitation and references to “other” and “otherwise” will not be construed as limited by words with which they are associated;
  - references to any legislation or to any provision of any legislation include any amendment, modification or re-enactment of, or any provisions substituted for, and all statutory instruments issued under, that legislation or provision;
  - unless specified otherwise, references to “Clauses” and “Schedules” are references to clauses and schedules of this Agreement;
  - references to any document or agreement (including this Agreement) include references to that document or agreement as novated, supplemented, varied, modified or replaced from time to time;
  - references to any party in or to this Agreement or any other document or agreement include its lawful successors and permitted assigns; and
  - references to any “person” include any individual, corporation, judicial entity, association, statutory body, partnership, limited liability Founder, joint venture, trust, estate, unincorporated organisation or government, state or any political subdivision, instrumentality, agency or authority.

## 2 Basis of the sale

- 2.1 Any Quotation (whether written or oral) is given on the basis that it is an invitation to treat only. On receipt of a Quotation from the Seller, the Buyer may issue an Order for the Goods. No Contract will come into place until the Seller has sent an Acknowledgment of Order which shall be deemed an acceptance of the Order.
- 2.2 Unless otherwise stated on the Quotation, any Quotation is valid only for a period of 30 days from its date of issue provided that the Seller has not previously withdrawn it by written or oral notice to the Buyer.
- 2.3 The Seller shall sell and the Buyer shall purchase the Goods in accordance with any Order of the Buyer which is accepted in an Acknowledgement of Order by the Seller subject in either case to these Conditions. These Conditions are complete and exhaustive and shall govern the Contract to the exclusion of any other terms and conditions subject to any specific terms mutually agreed in an Acknowledgement of Order.
- 2.4 These Conditions shall prevail over any inconsistent terms or conditions contained in or referred to in any Seller’s delivery note, or correspondence or elsewhere agreed by trade, custom or practice or course of dealing. The Buyer acknowledges and agrees that the terms and conditions of the Buyer shall not under any circumstances apply.
- 2.5 No variation to these Conditions shall be binding unless agreed in Writing between the authorised representatives of the Buyer and the Seller.
- 2.6 The Seller’s employees or agents are not authorised to make any representations concerning the Goods unless confirmed by the Seller in Writing. In entering into the Contract, the Buyer acknowledges that it does not rely on, and waives any claim for breach of, any such representations, which are not so confirmed.
- 2.7 Where any advice or recommendation is given by the Seller or its employees or agents to the Buyer or its employees or agents as to the storage, application or use of the Goods, no obligation or liability is assumed by the Seller for any advice or recommendation so given. The Buyer accepts such advice or recommendation entirely at its own risk based on its own judgment and not in reliance upon any warranty or representation by the

Seller.

- 2.8 Any typographical, clerical or other error or omission in any sales literature, quotation, price list, acceptance of offer, invoice or other document or information issued by the Seller shall be subject to correction without any liability on the part of the Seller.

## 3 Orders and specification

- 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 Acknowledgement of Order.
- 3.2 The Buyer shall be responsible to the Seller for ensuring the accuracy of the terms of any Order (including any applicable specifications) 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 any specification for the Goods shall be those set out in the Buyer’s Order (if accepted by the Seller).
- 3.4 If the Goods are to be manufactured or any process is to be applied by the Seller in accordance with a specification submitted by the Buyer, the Buyer shall indemnify the Seller against all damages, losses, liabilities, claims, actions, proceedings, costs (including legal costs on a full indemnity basis as well after as before judgment) and expenses awarded against or incurred by the Seller in connection with or paid or agreed to be paid by the Seller in respect of any third party claim for infringement of any patent, copyright, design, trade mark or other industrial or intellectual property rights of any other person which results from the Seller’s use of the Buyer’s specification.
- 3.5 The Seller reserves the right to make any changes in the specifications of the Goods which are required to conform with any applicable safety or other statutory requirements or, where the Goods are to be supplied to the Seller’s specifications, which do not materially affect their quality or performance.
- 3.6 No Order which has been accepted by the Seller may be cancelled by the Buyer except with the consent 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 costs of all labour and materials used), damages, charges and expenses incurred by the Seller as a result of cancellation.

## 4 Price of the goods

- 4.1 The price of the Goods shall be the Seller’s quoted price in the relevant quotation. In the event such quoted price is no longer valid, a new quotation will be issued to replace and supersede the prior quote.
- 4.2 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.
- 4.3 The prices are exclusive of any GST, which the Buyer shall be additionally liable to pay to the Seller, provided that such sale occurs in Singapore.
- 4.4 All payments made by the Buyer will be made free from any restriction or condition and be made without deduction whatsoever by way of setoff, withholding (including taxes), discount or otherwise for or on account of any present or future taxes, duties, assessments or governmental charges of whatever nature imposed or levied by or on behalf of any authority thereof or therein having power to tax, unless deduction or withholding of such taxes, duties, assessments or governmental charges is compelled by law. In such event, the Buyer will pay such additional amounts as will result in the receipt by the Seller of the net amounts after such deduction or withholding equal to the amounts which would otherwise have been receivable by the Seller had no such deduction or withholding been required.

## 5 Terms of payment

- 5.1 Unless otherwise stated in an Acknowledgement of Order, the Seller shall be entitled to invoice the Buyer for the price of the Goods before delivery of the Goods.
- 5.2 Unless otherwise stated in an Acknowledgement of Order, the Buyer shall pay the price of the Goods without any deduction whatsoever by way of setoff, or withholding (including taxes), discount or otherwise within 30 days of the end of the month within which the Seller renders an invoice for the price of the Goods, notwithstanding that delivery may not have taken place. Receipts for payments will be issued only upon request.
- 5.3 The time of payment of the price shall be of the essence of the Contract, and the Buyer shall indemnify the Seller against all expenses and legal costs incurred by the Seller in recovering overdue sums.
- 5.4 If the Buyer fails to make any payment by the due date then, without prejudice to any other right or remedy available to the Seller, the Seller shall be entitled to:

- (a) cancel the Contract or suspend any further deliveries under that or any other contract with the Buyer;
  - (b) 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
  - (c) charge the Buyer interest (both before and after any judgment) on the amount unpaid at the rate of 10% per cent per annum until payment in full is made (a part of a month being treated as a full month for the purpose of calculating interest).
- 5.5 All sums payable by the Buyer under the Contract shall be paid in full in Singapore Dollars unless otherwise mutually agreed between the Parties in writing.

## 6 Delivery

- 6.1 The Buyer shall issue delivery instructions sufficiently in advance to allow the Seller to ship and/or deliver the Goods and/or to procure delivery and shipment.
- 6.2 Delivery of the Goods shall be made by the Seller delivering the Goods to the Buyer's premises or, if some other place for delivery is agreed by the Seller, by the Seller delivering the Goods to that place.
- 6.3 Any dates quoted for delivery of the Goods are approximate only and the Seller shall not be liable for any delay in delivery of the Goods howsoever caused and such delay shall not entitle the Buyer to repudiate or cancel the Contract.
- 6.4 Time for delivery shall not be of the essence 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.
- 6.5 If the Seller fails to deliver the Goods for any reason other than any cause beyond the Seller's reasonable control or the Buyer's fault, and the Seller is accordingly liable to the Buyer, the Seller's liability shall be limited to the excess (if any) of the cost to the Buyer (in the cheapest available market) of similar goods to replace those not delivered over the price of the Goods.
- 6.6 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:
  - (a) store the Goods until actual delivery and charge the Buyer for the reasonable costs (including insurance) of storage; or
  - (b) sell the Goods at the best price readily obtainable and (after deducting all reasonable storage and selling expenses) account to the Buyer for the excess over the price under the Contract or charge the Buyer for any shortfall below the price under the Contract.
- 6.7 The Seller may deliver the Goods by instalments, which shall be invoiced and paid for separately. Each instalment shall constitute a separate Contract. Any delay in delivery or defect in an instalment shall not entitle the Buyer to cancel any other instalment.

## 7 Risk and property

- 7.1 Risk of damage to or loss of the Goods shall pass to the Buyer:
  - (a) in the case of Goods to be delivered 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; or
  - (b) 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.
- 7.2 Notwithstanding delivery and the passing of risk in the Goods to the Buyer, or any other provision of these Conditions, the title and property in the Goods shall not pass to the Buyer until the Seller has received cleared funds in full of the contract price for the Goods and all other goods agreed to be sold by the Seller to the Buyer for which payment is then due under any other contract.
- 7.3 Until property in the Goods passes to the Buyer, it shall:
  - (a) hold the Goods on a fiduciary basis as the Seller's bailee; and
  - (b) keep the Goods free from any charge, lien or other encumbrance
- 7.4 Notwithstanding property in the Goods remaining with the Seller until payment as provided in Clause 7.2 the Buyer shall keep the Goods in a satisfactory condition and separate from all other goods, properly stored, protected, labelled or identified as the Seller's property, and fully insured against all usual risks (to the reasonable satisfaction of the Seller) with a reputable insurance company.
- 7.5 Until title and property in the Goods passes to the Buyer, 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 immediately, the Seller may recover the Goods and the Buyer grants the Seller (and its employees and agents) an irrevocable licence at any time to enter on to any premises of the Buyer or any third party where the Goods are stored and repossess the Goods and if necessary to unpack or remove the Goods from anything to which they are packaged or attached.

- 7.6 The Seller shall have the right to maintain an action against the Buyer for the contract price notwithstanding that the property in the Goods has not passed from the Seller to the Buyer.

## 8 Warranties and liability

- 8.1 Subject to the conditions set out below the Seller warrants that the Goods will correspond with the Seller's specification prevailing at the time of Order (available by written request) and will be free from defects on delivery.
- 8.2 The above warranty is given by the Seller subject to the following conditions:
  - (a) the Seller shall be under no liability in respect of any defect in the Goods arising from any failure by the Buyer (or any third party acting on the Buyer's behalf) to follow the Seller's instructions (whether oral or in writing) or misuse of the Goods or the Goods have exceeded their shelf life without the Seller's approval;
  - (b) the Seller shall be under no liability if the Goods have been specifically manufactured or modified for the Buyer's requirements; and
  - (c) the Seller shall be under no liability under the above warranty (or any other warranty, conditions or guarantee) if the total price for the Goods has not been paid by the due date for payment.
- 8.3 Subject as expressly provided in these Conditions, all warranties, conditions or other terms implied by statute or common law are excluded to the fullest extent permitted by law.
- 8.4 Any claim by the Buyer which is based on any defect in the quality or condition of the Goods or their failure to correspond with specification shall (whether or not delivery is refused by the Buyer) be notified to the Seller within (7) days from the date of delivery or (where the defect or failure was not apparent on reasonable inspection) within a reasonable time after discovery of the defect or failure. If delivery is not refused, and the Buyer does not notify the Seller accordingly, the Buyer shall not be entitled to reject the Goods and the Seller shall have no liability for such defect or failure, and the Buyer shall be bound to pay the price as if the Goods have been delivered in accordance with the Contract.
- 8.5 Where any valid claim in respect of any of the Goods which is based on any defect in the quality or condition of the Goods or their failure to meet specification is notified to the Seller in accordance with these Conditions, the Seller shall be entitled to replace the Goods (or the part in question) free of charge or, at the Seller's sole discretion, refund to the Buyer the price of the Goods (or a proportionate part of the price), but the Seller shall have no further liability to the Buyer.

## 9 Limitation of liability

- 9.1 The Seller does not give any warranty as to the Goods supplied by it pursuant to this Agreement except that the Goods conform to the specifications as agreed with the Buyer.
- 9.2 Without limiting the generality of the provisions of Clause 9.1, nothing in these terms shall be construed as a warranty or representation that the Goods will be free from infringement of any patent, other intellectual property right or other similar right of any third person. The Seller shall not be required to protect, indemnify or hold harmless the Buyer, its employees or agents against, and shall not be liable to the Buyer, its employees or agents for, any liabilities, losses, expenses or damages which may be suffered or incurred by the Buyer, its employees or agents as a result of infringement or any allegation thereof by any third person.
- 9.3 The Seller shall not be liable to the Buyer or any third party by reason of any implied warranty, condition or other terms or any duty at common law unless expressly stated herein for any loss or damage howsoever arising out of or in connection with the supply of the Goods.
- 9.4 The Seller will not be liable to the Buyer in contract, tort, negligence or otherwise for any economic loss of any kind (including but without limitation of loss of use, loss of profit, loss of anticipated profit, loss of data, loss of business, overhead recovery, machining costs, revenue, or anticipated savings), any damage to the Buyer's reputation or goodwill, any product recall or business interruption costs or any other special, indirect or consequential loss or damage (even if the Seller has been advised of such loss or damage) arising out of or in connection with the Contract.
- 9.5 The Seller shall not be liable to the Buyer or be deemed to be in breach of the Contract 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: act of God, explosion, flood, tempest, fire or accident, war or threat of war, acts of terrorism or threats of terrorism, sabotage, insurrection, civil disturbance or requisition, acts, restrictions, regulations, bye-laws, prohibitions or measures of any kind on the part of any governmental, parliamentary or local authority, import or export regulations or embargoes, strikes, lockouts or other industrial actions or trade disputes (whether involving employees of the Seller or of a third party), difficulties in obtaining raw materials, labour, fuel, parts of machinery, power failure or breakdown in machinery.
- 9.6 In no event shall the Seller be liable for any special, consequential, incidental, punitive, exemplary or indirect losses or damages whether in

contract or tort arising from the supply of the Goods or the performance or non-performance of its obligations hereunder.

- 9.7 The provisions of this clause 9 shall survive the termination or expiry (for whatever reason) of the Contract.
- 9.8 Without prejudice to the generality of the foregoing, the Seller's total liability to the Buyer for any claim arising out of the Goods supplied shall be limited to the invoiced value of the Goods.

## 10 Indemnity

- 10.1 The Buyer shall indemnify the Seller and keep the Seller indemnified from and against any and all damages, losses, liabilities, claims, actions, proceedings, costs (including legal costs on a full indemnity basis as well after as before judgment) and expenses which the Seller may suffer or incur relating to, in connection with, arising from any act or omissions of the Buyer, its employees, agents or sub-contractors or any breach by the Buyer of these terms and conditions.

## 11 Default of buyer

- 11.1 This Clause applies if:
- (a) the Buyer makes any voluntary arrangement with its creditors or becomes subject to an administration order or (being an individual or firm) becomes bankrupt or (being a company) goes into liquidation (otherwise than for the purpose of amalgamation or reconstruction); or
  - (b) an encumbrancer takes possession, or a receiver is appointed, or any of the property or assets of the Buyer; or
  - (c) the Buyer ceases, or threatens to cease, to carry on business; or
  - (d) the Seller reasonably apprehends that any of the events mentioned above is about to occur in relation to the Buyer and notifies the Buyer accordingly; or
  - (e) the Buyer commits a material breach of any of its obligations under the Contract.
- 11.2 If this clause applies then, without prejudice to any other right or remedy available to the Seller, the Seller shall be entitled to cancel the Contract or suspend any further deliveries under the Contract without any liability to the Buyer, and if the Goods have been delivered but not paid for the price shall become immediately due and payable notwithstanding any previous agreement or arrangement to the contrary or invoke its rights pursuant to clause 7.

## 12 General

- 12.1 Any notice required or permitted to be given by either party to the other under these Conditions shall be in writing addressed to that other party at its 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.
- 12.2 No waiver by the Seller of any breach of the Contract by the Buyer shall be considered as a waiver of any subsequent breach of the same or any other provision.
- 12.3 This Agreement contains the entire agreement between the Parties with respect to its subject-matter and all previous written or oral understanding discussions representations correspondence and communications between the Parties relating to the matters covered by this Agreement including the terms and conditions contained in any quotation or purchase order are superseded.
- 12.4 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 the other provisions of these Conditions and the remainder of the provision in question shall not be affected thereby.
- 12.5 A person who is not a party to this Agreement (other than a permitted assignee to whom rights have been assigned in accordance with the above) shall have no right under the Contracts (Rights of Third Parties) Act, Chapter 53B of Singapore, to enforce any of the terms of this Agreement.
- 12.6 This Agreement shall be governed by, and construed in accordance with, the laws of Singapore and the parties hereto hereby irrevocably submit to the exclusive jurisdiction of the Singapore courts.