

GENERAL CONTRACT TERMS AND CONDITIONS OF SALE

1. General

All sales and/or deliveries are subject to the following conditions which shall be deemed accepted by the Buyer as and when an order is placed. Verbal agreements and other subsidiary arrangements or conditions whether or not agreed to by the Seller which are not confirmed in writing by the Seller and/or incorporated herein shall not bind the Seller.

Unless otherwise expressly provided herein, the latest edition of the international Rules for the Interpretation of Trade Terms ("INCOTERMS") of the International Chamber of Commerce, Paris, shall apply hereto.

The failure of the Buyer to acknowledge receipt of the confirmation of the sale shall not affect the validity of the contract.

Failure of Seller to demand fulfillment from Buyer of any provision of these General Contract Terms and Conditions shall not constitute waiver of the same. If express written waiver is made by Seller of a breach by Buyer of any provision of these General Contract Terms and Conditions, such waiver shall never be construed as a waiver of any succeeding breach of any provision or a waiver of the provision itself.

The legal invalidity of any of the following conditions shall not affect the validity of any other provision of the same.

2. Prices

On delivery, the invoice shall indicate the price which shall include where applicable, freight charges, insurance charges, and any tax (other than on income), duty or other governmental charge now or hereafter imposed on the product or on any raw material used in manufacturing the product (or on the Seller, or required to be paid or collected or withheld by the Seller, by reason of the manufacture, transportation, sale or use of such product or raw material). Should charges which are included in the purchase price be increased, the Seller reserves the right to increase the price by an appropriate amount and Buyer agrees to compensate Seller for such increased cost or loss of income suffered by Seller. The Seller shall inform Buyer of any such changes within five (5) days from the effectivity thereof.

3. Payment

Unless otherwise mutually agreed upon and indicated in the sales contract of invoice, payment terms shall be by irrevocable letter of credit at sight (LC AT SIGHT) from a reputable bank acceptable to the Seller.

The Seller has the right to invoice part deliveries as separate transactions. Should the Buyer delay payment, the Seller at its option, may:

- 3.1 charge interest at the highest rate allowed by the law of the Seller; or
- 3.2 change the terms of payment for future deliveries; or
- 3.3 refuse future deliveries

Set off in respect of a claim by the Buyer are precluded.

Non-payment of the price due to Seller shall entitle Seller to declare Buyer in Default; to resell or hold the Goods for Buyer's risk and account; to withhold shipment; to stop the Goods in transit and such other right of an unpaid seller that Seller shall be entitled to under law, and buyer is bound to reimburse Seller for any loss owing from or relating therefrom.

In case of extra-ordinary inflation or deflation of the currency stipulated, the value of the currency at the time of the establishment of the obligation shall be the basis of payment.

4. Warranties

The Seller warrants that the product will meet agreed specifications designated as such in this contract. The Seller makes no other warranties, whether of merchantability, fitness or otherwise, and none will be implied.

Variations in quality or appearance of the goods which are normally permissible in the industry or are technically unavoidable shall not be considered a breach of the Seller's warranties.

In case of deviation from specifications for shipments without independent inspection at point of loading, written notice shall be given by the Buyer to the Seller within seven (7) days from arrival date at the destination port (whether such delivery was made to the Buyer or to a third party), before the product has been used and provided a sufficient quantity of at least one (1) kilogram sample of the product has been obtained by an independent surveyor within twelve (12) hours from delivery and analyzed by a reputable independent laboratory appointed by the Seller and acceptable to the Buyer. The sample should be obtained from an unopened container or packaging taken by the independent surveyor. Test results will be binding to both parties. The cost of this independent testing in case of quality claim will be covered by the Seller if the quality is bad, and by the Buyer if the quality is good.

In case of deviation from specifications for shipments with independent inspection at point of loading, the retained sealed samples of the independent surveyor will be retested for verification of the quality. Results of which will be binding to both parties.

In case of a valid claim, the Buyer shall only be entitled either to a reduction of the price to be agreed upon by the parties or to replacement, at the Seller's option. The Seller reserves the right to change the specifications subject to at least thirty (30) days written notice. If the change is not acceptable to the Buyer the latter may cancel the contract by giving written notice to the Seller within five (5) days from receipt of the notice of change.

5. Delivery

Delivery shall be made only at the point of delivery specified in the Seller's written confirmation of the Buyer's order. The risk of loss or damage to the goods is transferred from the Seller to the Buyer when the goods are pumped into or laden on board the vessel or other means of transport at the point of loading or delivery.

The quantity of deliveries shall be determined by the Seller by outage tables with corrections for temperature or by weigh master's certificate as appropriate and the Seller's quantity determination at the Seller's plant at the port of origin or at port of destination will govern and shall be binding on both parties.

The Seller is not responsible for ensuring full utilization of the load capacity of the means of transport or for securing the cheapest freight.

Risk of loss of or damage to goods and costs of transport from point of delivery including any or all costs of transshipment, road or rail transport direct to the Buyer's works or any other destination shall be borne by the Buyer.

Where the Buyer provides vessels, containers, railway tank trucks or road tankers for transport of goods, these shall be placed at the Seller's disposal carriage and freight paid to the point of destination in a clean condition, free from any danger of contamination and ready for filling. The Seller is not responsible for deterioration in quality due to unsuitable transport or containers.

Delay or failure on the part of the Buyer to place such vessels, containers, railway tank trucks or road tankers at the Seller's disposal shall entitle the Seller, at its option, to cancel the order or to deposit the goods in a warehouse of the Seller's choice at the Buyer's expense. In either case, the Seller has the right to the payment of damages in an amount equivalent to the value of the goods and/or expenses incurred in the storage and/or resale of the goods.

In the event of loss destruction or damage of the containers, railway tank trucks or road tankers, the Seller at its option may demand replacement price or repair costs.

Delivery shall take place not later than the delivery date specified in the Seller's written confirmation of the Buyer's order with an option on the part of the Seller to delivery at anytime within the period fixed.

6. Force Majeure

Either the Seller or the Buyer will be excused from the obligation of this contract to the extent that performance of their obligations is delayed or prevented by any circumstance (except financial) reasonably beyond its control such as fire, flood, drought, natural unavailability or raw materials, explosion, mechanical breakdown, strikes or other labor trouble, plant shutdown, unavailability of or interference with the usual means of transporting the product or compliance with any law, regulation, order, recommendations, or request of any governmental authority.

In the event of a force majeure, the affected party shall immediately give notice and provide evidence to the other party.

The fulfillment of the contract shall thereupon be considered suspended during the continuance and within the scope of such hindrance. Upon the termination of the event of force majeure, the parties shall promptly resume the discharge of their obligations under the terms of this contract.

If the impediment continues for a period exceeding three (3) months, either party will be entitled to cancel the balance of this contract.

7. Liabilities, Claims, Indemnification

The Seller will have no liability for, and the Buyer will indemnify the Seller against all claims, loss, liability and expense on account of any injury or death of persons (including the Buyer's employees) arising out of the buyer's unloading, storage, handling or use of the product except to the extent caused by the Seller's gross negligence.

Neither the Seller nor the Buyer will have any liability to the other for any claim under this clause unless the claimant gives written notice within seven (7) days of the occurrence giving rise to the claim on pain of a loss of the right.

8. Patents

Seller shall not be responsible or liable for any infringement or unauthorized use of any patent, trademark, tradename, service mark or any industrial proprietary right, whether now in force or will be in force in Buyer's country or any other place that may arise by virtue of the sale of Seller's Products.

The sale of Seller's Products shall not be construed to be transfer of any patent, trademark, tradename, servicemark or any industrial proprietary right relating to the Products, and all such rights are expressly reserved to true and lawful owners thereof.

9. Default

In the event either Buyer or Seller fails, refuses or neglects to perform any of its obligations herein stated, the affected party shall give written notice of such fact within seven (7) days from receipt of such written notice of default, the defaulting party shall have the right to cure or remedy its act of default. In the event the defaulting party is unable to cure or remedy its default within the grace period, then the affected party may terminate the contract and recover damages which are the natural and probable consequences of the default and which the parties have foreseen or could have reasonably foreseen. Seller has the right to claim for penalty amounting to 30% of the amount of the goods in case of default of Buyer.

If the Buyer is declared insolvent, makes application to a Court of law for suspension of payments of its debts or in any other way loses the free use of its assets, offers a composition to its creditors, is in default to comply with any obligation to the Seller, or if buyer ceases to carry on its business or – in the case of a legal entity – if it is liquidated, all amounts that the Buyer has to pay or will have to pay to Seller shall be due and payable forthwith.

10. Retention of Title

Title to all goods delivered is retained by the Seller until the goods are fully paid and any claim of the Seller arising from other business transactions with the Buyer are fully settled.

The Buyer shall insure all goods delivered to which the Seller retains title against the risk of damage and/or loss. The Buyer may dispose of, combine, mix, process or convert them in the normal course of its business. The Buyer is not authorized to dispose of the goods in any other way and in particular title to the goods may not be transferred to a third party as security for a debt.

The Seller's title to the goods remains upheld even if the goods are combined or mixed with other goods not belonging to the Seller. In this case the Seller is a co-owner.

Retention of title to the property is under the condition subsequent that title to the goods is transferred to the Buyer automatically upon payment in full of all claims arising from business transactions.

If goods to which title is retained by the Seller are distrained, attached or seized by a third party, the Buyer is obliged to inform the Seller of the distress, attachment or seizure without delay.

11. Place of Fulfillment/Arbitration/Venue

Place for fulfillment of delivery is the point of delivery specified in the Seller's written confirmation of the Buyer's order.

Place for fulfillment of payment shall be the place where the bank account of the Seller is located.

All disputes, controversies or differences arising out of or relating to this Contract or the breach thereof, which cannot be settled by mutual accords, shall be settled by the Hong Kong International Arbitration Center (www.hkiac.org) in accordance with the Hong Kong Law on Arbitration.

The award of Arbitration shall be final and binding upon both parties.

Should it be necessary after arbitration for the Seller or the Buyer to institute legal proceedings on this contract, then such suit shall be brought at the proper court in Pasig City, Philippines, alone, to the exclusion of all others. Attorney's fees shall be paid by the party at fault.

12. Notice

Notice by either the Seller or the Buyer shall be made by email or fax to be immediately confirmed by registered letter addressed to the other party at its address indicated in this contract and will be considered given as of the time the email or fax is sent.

13. Electronic Document Transmissions

EDT (Electronic document transmissions) shall be deemed valid and enforceable in respect of any provisions of this contract. As applicable, this contract shall be:

- Incorporate U.S. Public Law 106-229, "Electronic Signatures in Global and National Commerce Act" or such other applicable law conforming to the UNCITRAL Model Law on Electronic Signatures (2001) and
- ELECTRONIC COMMERCE AGREEMENT (ECE/TRADE/257, Geneva, May 2000) adopted by the United Nations Centre for Trade Facilitation and Electronic Business (UN/CEFACT).
- EDT documents shall be subject to European Community Directive No. 95/46/EEC, as applicable. Either Party may request hard copy of any document that has been previously transmitted by electronic means provided however, that any such request shall in no manner delay the parties from performing their respective obligations and duties under EDT instruments.

14. Final Statements

The failure to return the contract signed in now way implies a non-acceptance of any of the terms and conditions therein.

All amendments and changes in the present contract must be signed by both parties.

The contract parties shall not transfer or assign the contract.

Signatures on this Contract received by way of Fax, Mail and Email shall be an executed contract. Agreement enforceable and admissible for all purposes as may be necessary under the terms of the Contract.