

GENERAL TERMS AND CONDITIONS [SEPTEMBER 2018]

In addition to the terms set forth above, the following terms and conditions shall also apply to the product sold:

1. **TERMS.** The Sales Contract and the General Terms and Conditions set forth herein shall constitute the sole terms and conditions of sale (hereinafter referred to as the "Contract"). No terms or conditions, other than those stated herein, whether contained in Buyer's purchase order or elsewhere shall be binding on Seller unless agreed to in writing by Seller. Buyer's receipt of this Contract shall constitute an acceptance by Buyer of all terms and conditions set forth herein. There shall be no modification of any term, condition, obligation or right granted herein except with the written consent of both parties.
2. **SPECIFICATIONS.** Seller warrants that the product sold hereunder conforms to the specifications above. Seller has a right to change specifications upon advance written notice to Buyer. Buyer will have the right to terminate this Contract in the event the new specifications for the Product are not reasonably acceptable to the Customer.
3. **SHIPPING/DELIVERY INSTRUCTIONS.** Buyer shall furnish complete shipping or delivery (as the case may be) instructions in sufficient time to enable Seller to perform its obligations hereunder. Seller shall not be obligated to make shipment or delivery (as the case may be) in absence thereof. If more than one shipment or delivery is called for, each shipment or delivery is to be considered a separate contract for the purposes of furnishing complete shipping or delivery instructions by buyer. Seller may also cancel orders if Buyer fails to pick up the goods in a timely manner.
4. **DELIVERY TERM FOR LOCAL DELIVERY.** Where Buyer purchases from Seller on delivery terms where Buyer uses their own delivery trucks, the following clauses shall apply:
Buyer hereby covenants and warrants that it shall comply with and be solely responsible for compliance with all Malaysia applicable laws (the "Applicable Law"), including the Land Public Transport Act 2010 ("LPTA") and the Commercial Vehicles Licensing Board Act 1987 ("CVLBA") (Applicable Law, LPTA and CVLBA collectively referred to as the "Laws") in the performance of its obligations under this Agreement, including compliance with the laden weight limits provided under the LPTA and CVLBA. Buyer covenants and warrants that it shall not cause Seller to be in breach of the Laws in the course of Buyer's performance of its obligations under this Agreement. Buyer hereby represents, covenants and warrants that all vehicles provided by the Buyer in the performance of its obligations under this Agreement

shall be duly licensed and compliant with the Laws, and that such vehicles are duly licensed and approved to carry the designated load as required for the purposes of or pursuant to the provisions of this Agreement. Buyer shall at all times indemnify and keep indemnified, compensate and hold the Seller and its respective officers, directors, agents, employees or contractors and subcontractors harmless against any and all losses, costs, liabilities, claims, demands, penalties, causes of action and damages of any nature whatsoever which the Seller may suffer or incur directly or indirectly arising from any breach of the Laws by the Buyer and for any personal injury, death or property damage to third parties arising out of or in connection with the performance of the Buyer's obligations under this Agreement.

5. **DEFAULT AND CROSS DEFAULT.** The following shall each be construed as an event of default by the Buyer: If Buyer (1) fails to furnish shipping instructions within the time specified, (2) refuses to accept any shipment properly tendered hereunder, (3) fails to tender any payment hereunder when due, or (4) fails to perform in any other respects according to its obligations set out in the terms herein (each of which shall be a material breach of contract). In the event of default by the Buyer, Seller may treat such default as (a) a total breach of the entire Contract, and/or (b) partial breach of Contract, e.g. a breach only as to the individual shipment or installment.

Subject to the foregoing, in the event either party has defaulted, the other party shall have the right to cancel the contract and/or the right to sell or purchase, as the case may be, against the defaulter who shall on demand make good the loss, if any, on such sale or purchase.

For the avoidance of doubt, the damages awarded against the defaulter shall be limited to the differences between the market price and contract price, save that the Seller shall have the right to claim, in addition to the foregoing, against the Buyer for stock carrying costs and interest for late payment as specified in the Sales Contract. For the foregoing purpose, the reference to market price shall (in the event of a default by the Buyer) be the market price on the date of the Seller's written notice of default to Buyer.

If, aside from the present Contract, Seller has entered, or in the future will enter, into other contracts with Buyer and/or Buyer's subsidiaries and affiliates, Buyer hereby warrants and undertakes that it will comply with all of its obligations under the said contracts. Failure on the part of Buyer and/or Buyer's subsidiaries and affiliates to comply with its or their obligations under such contracts shall constitute a default under this Contract. Conversely, any default by Buyer under this Contract shall constitute default of said other contracts with Seller. In both instances, Seller shall have the absolute right at its discretion to terminate and/or suspend its performance of all said contracts, including this Contract, on the ground of default as herein provided.

6. **TAXES.** Any charges provided by Seller under this Contract are exclusive of Malaysian sales tax, service tax, goods and services tax and/or any other taxes that may be introduced by the government of Malaysia from time to time, including the **Sales Tax** and **Service Tax (SST)**, which is proposed by the government of Malaysia to be implemented effective from or around 1 September 2018. Upon the implementation of

SST, to the extent any sale or supply under this contract is subject to SST, Buyer shall bear such SST and indemnify Seller and keep Seller fully indemnified at all times for such SST, which shall be recoverable from Buyer in addition to the charges for such supply under this Contract. In addition to the foregoing, Buyer shall be liable for any taxes or other exactions levied upon the sale, delivery, storage, consumption or transportation of the goods or services, and if any such items are paid or required to be paid by Seller, the amount shall be added to and become part of the price payable to the Seller for the Products.

7. **TERMINATION FOR BREACH.** In the event either party files a petition in bankruptcy, has filed against it an involuntary petition in bankruptcy, makes an assignment for the benefit of creditors, has a trustee or receiver appointed for any or all of its assets, is insolvent or fails or is unable to pay its debts when due, then the other party may immediately terminate this Agreement by the giving of notice of termination. The right of either party to terminate this Agreement as set forth in Section 6 hereinabove is in addition to and not in lieu of such other rights and remedies as may be available under this Agreement.

8. **FORCE MAJEURE.** Each party will be excused from a failure to perform or a delay in performance (except for payment for Product) caused by events beyond its reasonable control including but not limited to: acts of God; terrorism; war; riots; insurrections; laws; proclamations; regulations; strikes; floods; fires; explosions; equipment failure; shortage of energy, transportation or supplies; labor strike or other work stoppage; acts of any government body; and acts or failures to act of toll processors or subcontractors, prohibition of export or any other executive or legislative act by or on behalf of the government of the country of origin or of the territory where the ports of shipment named herein are situated, or of blockade or hostilities restricting export whether partially or otherwise, any such restriction shall be deemed by both parties to apply to this Contract and to the extent of such total or partial restriction to prevent the fulfillment whether by shipment or by any other means whatsoever.

The party claiming force majeure must take reasonable efforts to remove the cause of its inability to perform or its delay in performance; provided, however, the affected party will not be required to settle a labor dispute against its better judgment. The party claiming force majeure must give prompt written notice to the other party of such event, specifying its nature and anticipated duration. Neither party may claim from the other any penalties, interest or any other compensation or damages for delays or non-fulfillment of obligations to the extent due to force majeure. If Seller is unable to supply the total requirements of its customers, Seller may allocate its available supply among its customers in a manner determined by Seller to be fair and equitable.

9. **WARRANTIES.** Notwithstanding the fact that the seller has made recommendations to Buyer regarding the appropriate use of or subsequent sale of the products, the Seller is not making any representations the Seller and Seller hereby expressly disclaims any and all other warranties – express or implied – with respect to the product, including but not limited to the warranties of merchantability, fitness for a particular purpose, and noninfringement. Seller has not made any recommendations to Buyer regarding the use

or subsequent sale of the products. Buyer assumes all risks and liabilities for any loss, damage or injury to persons or property, resulting from the use or subsequent sales of the products, either alone or in combination with other products. Buyer has satisfied itself that the product and the purpose for which it will be used and/or sold is in compliance with the laws of the relevant countries.

10. **COMPLIANCE WITH LAWS**. Buyer represents and warrants to Seller that the product, its sale and intended use are in compliance with the laws of the countries into which the product and such product will be imported and sold. Buyer will comply with all applicable laws, rules, regulations and or guidelines applicable to its use., storage, handling, transportation, marketing, sale or resale, transfer and disposal of the products or any product containing the product. Seller shall not be liable to accept any requests which to its knowledge contravene any laws/regulations. Nor those which may be misrepresentative of the contents. Buyer shall be solely liable for any contravention of any laws/regulations in the Buyer's country and the Buyer shall keep the Seller indemnified against any actions, claims, proceedings, costs, and expenses in connection with such contravention.

11. **QUALITY**. Seller's weights and analysis shall govern and control. Quality shall be final at load, and Seller's survey report shall be final and conclusive evidence of quality.

12. **REMEDIES**. Buyer's exclusive remedy and Seller's exclusive liability for disputes on quality and/or food safety shall be limited to, at Seller's sole option, either replacement of the non-conforming product or a refund of the portion of the purchase price paid for such non-conforming product. All such claims shall be deemed waived by Buyer. Unless made in writing and received by Seller within 6 months of the manufacturing date of the relevant product as stated in the Certificate of Analysis of the product. Buyer irrevocably waives and releases all claims that are not properly made within said period.

13. **CONSEQUENTIAL DAMAGES**. In no event shall Seller be liable to Buyer, for indirect, special, incidental, consequential, punitive or exemplary damages of Buyer, Buyer's officers, employees, representatives, or insurers or of any third party, of any kind, and/or for any lost business or business interruption, lost opportunity, lost production, lost profits or anticipated profits, loss of contract, damage to goodwill or reputation and/or degradation in value of brands, trademarks or trade names or injury to person, whether the claim is based on breach of warranty or breach of contract, tort or otherwise. In no event shall Seller be liable to Buyer, or to Buyer's officers, employees, representatives or insurers, or to any third party, for damages cause by the acts or omissions of Buyer or Buyer's officers, employees or representatives, or any third party.

14. **RISK**. Risk of loss shall pass to Buyer as provided in Incoterms 2010.

15. **ASSIGNMENT**. The rights and obligations of the Buyer under this Contract are not assignable without the prior written consent of Seller. If any part of this Contract is found to be void or unenforceable, those provisions shall be severable, and those provisions that are lawful shall remain in full force and effect.

16. **TRADEMARK USAGE.** Without the express written consent of Seller, Buyer shall not use Seller' trade names, trademarks, logos, service marks, or other proprietary marks for any purpose (including use on any of Buyer's packaging and labeling, regardless of whether such packaging or labelling is for reselling the product sold hereunder either alone or in combination with other products).

17. **INDEMNITY.** (a) Buyer agrees to indemnify and hold harmless Seller from any and all claims, losses and damages (including reasonable attorney's fees) (collectively, "Damages") arising out of (i) any breach of this Agreement by Buyer, (ii) loss of, damage to or other contamination of Product after delivery or (iii) the storage, use, handling, transportation, marketing, sale or resale, use or disposal of the Product by Buyer or any other party, whether alone or in combination with other substances except to the extent of Seller's liability under Section 10 above. Notwithstanding anything to the contrary herein, if Seller notifies Buyer that any of the Products need to be recalled or otherwise withdrawn from the market and Buyer refuses or otherwise fails to do so in a timely fashion, Buyer agree to indemnify Seller, its affiliates, their respective officers, directors, employees, agents and shareholders from and against any and all Damages incurred by Buyer and Seller as a result of such failure or refusal. (c) Buyer and Seller each agree to use reasonable commercial efforts to mitigate any Damages incurred by it.

18. **CONFIDENTIALITY:** Buyer understands and agrees that in the course of purchasing the Products hereunder, it may receive or otherwise learn certain items of business, technical, financial or other information owned by or otherwise in the possession of Seller ("Confidential Information"). Confidential Information includes the terms of this Agreement and may also include, by way of example but without limitation, products, specifications, formulae, equipment, business strategies, customer lists, know-how, drawings, pricing information, inventions, ideas, and their potential uses. Buyer agrees to take and maintain proper and appropriate steps to protect Confidential Information. Buyer agrees not to disclose Confidential Information to any unauthorized party without prior express written consent of Seller. Buyer agrees to use Confidential Information only in connection with the Products contemplated by this Agreement. Buyer agrees to make no other use of Confidential Information, it being recognized that Seller has reserved all rights to Confidential Information not expressly granted herein. All documents containing Confidential Information shall remain the property of Seller. Upon the request of Seller, Buyer agrees to destroy any documents prepared by it using Confidential Information or derived therefrom and agrees to provide confirmation of such destruction in writing. The obligations imposed by this Section, including but not limited to non-disclosure and non-use, however, shall endure so long as the Confidential Information does not become part of the public domain.

19. **INSURANCE.** War risk insurance premiums and/or surcharges on freight, if any, are not included in the contract price. Any war risk premium and/or surcharges are for Buyer's account.

20. **SANCTIONS, ANTIBOYCOTT.** Seller is subject to US laws and cannot cooperate with, agree to, or comply with any terms or requests, including documentary requests, which contravene or are prohibited or penalized under US laws or regulations, including US antiboycott laws, and accordingly any clause, provision or request that is prohibited, reportable or penalized by US antiboycott laws is rejected.

Buyer represents and warrants that neither it nor any person or entity that owns or controls it is a designated target of economic trade sanctions promulgated by the US, EU, UN, Malaysia or the country of origin of the goods ("Sanction Laws"). Buyer undertakes that (i) Buyer and its agents and representatives will fully comply with all applicable Sanction Laws in their performance hereunder; and (ii) the goods will not be resold to, disposed of by or transported on a vessel, or with any carrier, owned, controlled, flagged or chartered by any country, person or entity that would cause Seller, or any US parent company of Seller, to be in contravention of applicable Sanction Laws. Buyer agrees to cooperate with Seller's reasonable requests for information or documentation to verify compliance with this clause.

21. **GOVERNING LAW.** This Contract shall be deemed to have been made in Malaysia and the construction, validity and performance thereof shall be governed in all respects by Malaysian law. Any dispute arising out of this Contract, including any question of law arising in connection therewith shall be referred to arbitration in Malaysia (at any PORAM Secretariat or elsewhere if so agreed), in accordance with PORAM Rules of Arbitration and Appeal in force at the date of the initiation of the arbitration with the parties hereby agreeing that the arbitration shall be deemed an International Arbitration.