

## Master Builders Solutions Malaysia Sdn. Bhd. (“Seller”)

### General Conditions of Sale

#### 1. Scope of Application

All supplies made by the Seller to the customer (“Buyer”) are on the basis of these General Conditions of Sale (“Conditions”). Unless otherwise expressly stated in a contract between the Seller and the Buyer, the terms and conditions set forth herein shall supersede all previous agreements between the Seller and the Buyer, to the extent that the same is contrary to the terms and conditions contained herein. Any reference(s) made by the Buyer to its general terms and conditions are hereby deemed to be rejected. The Seller reserves the right to amend these Conditions from time to time at its sole discretion without notice to the Buyer. Deviation from these Conditions requires the explicit written approval of the Seller.

#### 2. Offer and Acceptance

The Seller's quotations are not binding offers but must be seen as invitations to the Buyer to submit a binding offer. The contract is concluded by the Seller's acceptance of Buyer's order (offer). In case the acceptance differs from the Buyer's offer, such acceptance constitutes a new non-binding offer of the Seller awaiting the Buyer's acceptance.

#### 3. Product Information

- 3.1 Any models or samples are merely non-binding examples. They do not guarantee any specific properties unless the Seller expressly agrees otherwise in writing.
- 3.2 Deviation from product information or specific properties shall be permissible provided they are insignificant or unavoidable despite reasonable care.
- 3.3 No warranty or guarantee is given by the Seller in respect of supplies under these Conditions and all implied terms, whether implied by law or otherwise are expressly excluded to the extent permitted by law.

#### 4. Advice

Technical advice with regard to products and their application is given to the best of the Seller's knowledge. Any advice and information with respect to suitability and application of the products shall not, however, create any liability of the Seller and shall not relieve the Buyer from undertaking its own investigations and tests.

#### 5. Compliance

- 5.1 The Buyer represents, warrants and undertakes to comply with all applicable laws, orders, ordinances, notifications, policies, rules and regulations relating to or in any way relevant to the purchase, import, delivery, transport, storage and use of the products delivered by the Seller. The Buyer shall not sell, supply or deliver, directly or indirectly, the products to any party or destination that, at the material time, is declared an embargoed or a restricted party by the United Nations or relevant export control law.
- 5.2 The Buyer represents and warrants that it is aware of the hazards of the products and shall use its best efforts to instruct any party dealing with the products in the proper and safe

methods of storage, handling and use of the products, including their use in combination with other products as may be appropriate to their requirements and consistent with the Material Safety Data Sheet for the products.

**5.3** The Buyer shall hold harmless and fully indemnify the Seller, its officers, employees, contractors, servants and agents from and against any and all claims, causes of action, damages, fines, penalties or losses any of the aforesaid may incur or suffer directly or indirectly from any failure of the Buyer to comply with this Article.

## **6. Delivery**

The Seller shall endeavor to effect delivery on terms as may be agreed in the contract. The time or date for delivery identified by the Seller is only an estimate and shall not be of the essence of the contract. Risk of loss of the products shall pass to the Buyer upon delivery as per the agreed incoterms.

## **7. Damage in Transit**

Notice of claims arising out of damage in transit (in case of incoterms DAP) must be lodged by the Buyer directly with the carrier within the period specified in the contract of carriage and the Seller shall be provided with a copy thereof.

## **8. Prices**

If the Seller's prices or the Seller's terms of payment are altered between the date of contract and dispatch, the Seller may apply the price or the terms of payment in effect on the date of dispatch. In the event of a price increase, Buyer is entitled to withdraw from the contract by giving notice to Seller within 14 days after notification of the price increase.

## **9. Taxes**

The Buyer shall assume responsibility for and shall hold the Seller harmless from the payment of all taxes (except for taxes on the income of the Seller) which may be required at any time under applicable law and/or which may become due by reason of the performance of any obligation hereunder, and the Buyer shall sign and deliver any instruments as may be necessary, including the making of payment of any interest or penalty related to or arising from such taxes or contributions.

## **10. Payment**

**10.1** The Buyer shall pay all invoices in full and in cleared funds when the purchase price is due, but in any event not later than 30 days after receipt of an invoice.

**10.2** In the event of a delay in payment, the Seller may charge the Buyer a late payment interest on the amount outstanding from the due date of payment at the rate of 5 percentage points above the discount rate of the major banking institution of the country of the invoiced currency; however, in no case less than 6% of the amount outstanding.

**10.3** In the event of late payment by the Buyer, the Seller is entitled, without rescinding the sales agreement and without granting a grace period, to demand the temporary surrender of the products owned by the Seller at the Buyer's expense.

## **11. Product Warranties**

- 11.1** The Seller warrants that at the time of delivery (i) the products supplied comply with the Seller's specifications; (ii) the products supplied are free and clear of all defects in title.
- 11.2** These warranties are made provided that (i) the Buyer has not mishandled, misused, damaged or modified the products; and (ii) the Buyer inspects the products and notifies the Seller of non-conformity in accordance with Article 11.3 below. The Seller makes no other warranty or guarantee of any kind, express or implied, including without limitation, implied warranties of fitness for a particular purpose or merchantability.
- 11.3** The Buyer must inspect the products supplied hereunder immediately after delivery and notify the Seller in writing if the products do not conform to the specifications (e.g. defects, wrong shipment or quantity differences) within 7 days of receipt of the products, precisely describing the nature and extent of the lack of conformity. If the lack of conformity cannot be determined without reasonable investigations, such notice may be given within 3 months after receipt of the products. The Buyer's failure to give notice to the Seller within the notification period stated above or any use of the products shall be deemed to be an unqualified acceptance of the products delivered by the Seller and a waiver by the Buyer of all claims with respect to such supply by the Seller.
- 11.4** The Seller's liability for any breach of warranty is (i) in case of products not conforming to the Seller's specifications, to replace such products at its cost; (ii) in the case of incomplete delivery, to (a) deliver the missing quantity at its cost; or (b) issue a credit note in favor of the Buyer for the missing quantity.

## **12. Liability**

- 12.1** Article 11.4 sets out the Seller's entire liability with respect to non-conforming products. The Seller shall have no other liability to Buyer for any losses or damages suffered by the Buyer other than that those caused directly and solely by the Seller's gross negligence or willful misconduct. The Seller's maximum liability shall in no event exceed the price of the products sold to the Buyer.
- 12.2** In no event shall the Seller be liable for any consequential, special, indirect or exemplary damages.
- 12.3** The Buyer expressly assumes the risk of and agrees, to the fullest extent permitted by applicable laws, to indemnify, defend and hold the Seller harmless from and against all claims for infringement of any type of intellectual property rights held by the Seller or any third party by reason of the Buyer's processing, use, admixture, reaction, sale or disposition of the products, whether used singly or in combination with other products or materials.

## **13. Set off, Retention of Payment**

A set off or retention of payment is only permitted if counterclaims exist which are either undisputed or adjudicated by final judgement.

## **14. Security**

If there are reasonable doubts about the Buyer's ability to pay, especially if it defaults, the Seller may, revoke the credit period(s) and demand payment in advance or other security for further supplies and services.

## **15. Retention of Title**

### **15.1 Simple Retention of Title**

Title to the products delivered shall not pass to the Buyer before the purchase price has been paid in full.

### **15.2 Expanded Retention of Title**

In case the Buyer has paid the purchase price for the products delivered but not yet completely fulfilled other debts arising out of its business relationship with the Seller, the Seller retains, in addition, title to the products delivered until all such outstanding debts have been completely paid.

### **15.3 Retention of Title with processing clause**

In the event where the Buyer processes the products delivered by the Seller, the Seller shall be considered as the manufacturer only for the sole purpose of acquiring title to the newly produced products. If the processing involves other materials, the Seller shall directly acquire joint title to the newly produced products in the proportion of the invoice value of the products delivered by the Seller to the invoice value of the other materials.

### **15.4 Retention of Title with combination and blending clause**

If the products delivered by the Seller are combined or blended with material owned by the Buyer, which has to be considered the main material, it is deemed to be agreed that the Buyer transfers to the Seller the joint title to such main material in the proportion of the invoice value of the products delivered by the Seller to the invoice value (or, if the invoice value cannot be determined to the market value) of the main material. The Buyer holds in custody for the Seller any sole or joint ownership originating therefrom at no expense for the Seller.

### **15.5 Extended Retention of Title with blanket assignment**

The Buyer shall have in the ordinary course of business free disposal of the products owned by the Seller, provided that the Buyer meets its obligations under the business relationship with the Seller in due time.

## **16. Force Majeure**

Any incident or circumstances beyond the Seller's control, including but not limited to natural occurrences, war, strikes, lock-outs, shortages of raw materials and energy, obstruction of transportation, breakdown of manufacturing equipment, fire, explosion, pandemics/epidemics or acts of government, shall relieve the Seller from its obligations under the Conditions to the extent the Seller is prevented from performing such obligations. The Seller shall not be liable to the Buyer in such circumstances. The same applies to the extent such incident or circumstance renders the contractual performance commercially impractical for the Seller over a long period or occurs with suppliers of the Seller. If the aforementioned incidents or circumstances last for a period of more than 3 months, the Seller is entitled to withdraw from the Conditions without any liability for compensation to the Buyer.

## **17. Place of payment**

Regardless of the place of delivery of products or documents, the place of payment shall be the Seller's place of business.

## **18. Notice**

Any notice or other communication required to be received by a party is only effective at the moment it reaches this party. If a time limit has to be observed, the notice or other communication has to reach the recipient party within such time limit.

## **19. Termination**

- 19.1** In the event where the Buyer (i) commits a breach of any obligation hereunder; and / or (ii) becomes insolvent, is adjudged bankrupt or goes into receivership or liquidation or any petition is presented against the Buyer for bankruptcy or liquidation, the Seller is entitled, without prejudice to its other rights, to immediately suspend or terminate the Conditions.
- 19.2** If the Buyer is an Indonesian entity, the Buyer waives the provisions of Article 1266 of the Indonesian Civil Code to the extent they require any judicial intervention or approval to give effect to the termination of the contract.
- 19.3** Termination of the Conditions shall not affect or prejudice the accrued rights of action or remedies of the Seller against the Buyer.
- 19.4** Upon early termination, all amounts accrued or owing by the Buyer (irrespective of whether fallen due for payment) shall become due and payable immediately.

## **20. Governing Law & Dispute Resolution**

- 20.1** The contractual relationship and these Conditions shall be governed by the laws of Malaysia.
- 20.2** All disputes hereunder shall be heard, at the Seller's option, at the court having jurisdiction over the Seller's principal place of business.
- 20.3** If the Buyer is an Indonesian entity, the Buyer expressly agrees that Article 60 of Law No. 30 of 1999 of Indonesia regarding arbitration shall apply to it so that any decision and award of the arbitration panel shall be final and binding and accordingly there shall be no appeal or cassation or review by the Supreme Court of Indonesia (Peninjauan Kembali) whatsoever or at any other court.

## **21. Contract Language**

If these Conditions are made available to the Buyer in another language, in addition to the language in which the sales contract has been concluded ("Contract Language"), this is merely done for the Buyer's convenience. In case of differences of interpretation, the version in the Contract Language shall be binding.

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