

The Customer's attention is drawn in particular to the provisions of clause 9.

1. Interpretation

1.1 Definitions. In these Conditions, the following definitions apply:

Business Day: a day (other than a Saturday, Sunday or bank holiday within the Malaysia).

Conditions: the terms and conditions set out in this document.

Contract: the contract between the Supplier and the Customer for the sale and purchase of the Goods in accordance with these Conditions, including any documents referred to in these Conditions.

Customer: the person or firm who purchases the Goods from the Supplier.

Delivery: either the delivery of the Goods by the Supplier or when the Supplier notifies the Customer that the Goods are ready for collection by the Customer, whichever is set out in the Order, and unless the context otherwise requires all references to "deliver" and "delivered" shall refer to the delivery method set out in the Order.

Force Majeure Event: has the meaning given in clause 10.

Goods: the goods set out in the Order.

Intellectual Property Rights: all copyright, database rights, topography rights, design rights, trade marks, trade names, utility models, patents, domain names and any other intellectual property rights of a similar nature (whether or not registered) subsisting anywhere in the world in or associated with the Goods.

Order: the Customer's order for the Goods, as set out in the Customer's purchase order form.

Specification: any specification for the Goods as referred to in the Order.

Supplier: Lucy Asia Pacific Sdn Bhd whose registered office is at L17-05-06, PJX-HM Shah Tower, No 16A Jalan Persiaran Barat, 46050 Petaling Jaya, Selangor, Malaysia

1.2 Construction: In these Conditions, the following rules apply:

a. A reference to a party includes its successors or permitted assigns.

b. A reference to a statute or statutory provision is a reference to such statute or provision as amended or re-enacted. A reference to a statute or statutory provision includes any subordinate legislation made under that statute or statutory provision, as amended or re-enacted.

c. Any phrase introduced by the terms including, include, in particular or any similar expression shall be construed as illustrative and shall not limit the sense of the words preceding those terms. Words in the singular shall include the plural, and vice versa.

2. Basis of contract

2.1 These Conditions apply to the Contract to the exclusion of any other terms that the Customer seeks to impose or incorporate including any on the Customer's purchase order, or which are implied by trade, custom, practice or course of dealing.

2.2 The Order constitutes an offer by the Customer to purchase the Goods in accordance with these Conditions. The Customer is responsible for ensuring that the terms of the Order and the Specification are complete and accurate.

2.3 The Order shall only be deemed to be accepted when the Supplier issues a written acceptance of the Order, at which point the Contract shall come into existence.

2.4 The Contract constitutes the entire agreement between the parties. The Customer acknowledges that it has not relied on any statement, promise, representation, assurance or warranty made or given by or on behalf of the Supplier which is not set out in the Contract.

2.5 Any samples, drawings, descriptive matter, or advertising produced by the Supplier and any descriptions or illustrations contained in the Supplier's catalogues or brochures are produced for the sole purpose of giving an approximate idea of the Goods described in them. They shall not form part of the Contract or have any contractual force.

2.6 A quotation for the Goods given by the Supplier shall not constitute an offer. Unless otherwise specified in the Supplier's quotation, a quotation shall only be valid for a period of 30 days from its date of issue.

3 Goods

3.1 The Goods are described in the Specification.

3.2 The Supplier reserves the right to amend the Specification of the Goods if required by any applicable statutory or regulatory requirements.

4 Delivery

4.1 The Supplier will provide the Customer an estimate of the expected date of Delivery.

4.2 If the Customer is collecting the Goods it shall do so at the location specified in the Order and on the date the Goods are notified as ready for collection.

4.3 Where the Order specifies that the Supplier shall deliver the Goods, the Supplier shall deliver the Goods by its chosen method of transport. Unless otherwise agreed in the Order, the Customer shall be responsible for offloading the Goods.

4.4 The Supplier shall have no liability for any failure to deliver the Goods to the extent that such failure is caused by a Force Majeure Event or the Customer's failure to provide the Supplier with adequate delivery instructions or any other instructions that are relevant to the supply of the Goods.

4.5 If the Customer fails to accept or arrange Delivery of the Goods within ten Business Days of the date of Delivery, except where such failure or delay is caused by a Force Majeure Event or the Supplier's failure to comply with its obligations under the Contract, the Supplier shall invoice for the Goods as if delivered and shall store the Goods until actual Delivery, and charge the Customer for all related costs and expenses (including insurance). The cost of storage shall be fixed at 0.25% per week of the value of the Goods that the Customer fails to arrange delivery of or accept.

4.6 If the Customer has not accepted or arranged delivery of the Goods within 60 Business Days of the date of Delivery, or the Customer has not paid the Supplier's invoice for such Goods, the Supplier may resell or dispose of all or part of the Goods. The Supplier shall notify the Customer if it exercises its option to resell or dispose of the Goods and if an advance payment has been made the Supplier shall refund the portion of the advance payment relating to the Goods after deducting reasonable storage, restocking and selling costs. The Contract shall then be deemed terminated with no further liability by either party to the other party.

4.7 The Supplier may deliver the Goods by instalments, which shall be invoiced and paid for separately. Any delay in Delivery or defect in an instalment shall not entitle the Customer to cancel any other instalment.

5 Quality

5.1 The Supplier warrants that on Delivery, and for a period of 12 months from the date of Delivery (the "Warranty Period"),

a. the Goods shall conform in all material respects with the Specification;

b. be free from material defects in design, material and workmanship;

5.2 Subject to clause 5.3, if:

a. the Customer gives notice in writing to the Supplier during the Warranty Period within a reasonable time of discovery that some or all of the Goods do not comply with the warranty set out in clause 5.1;

b. the Supplier is given a reasonable opportunity of examining such Goods; and

c. the Customer (if asked to do so by the Supplier) returns such Goods to the Supplier's place of business at the Supplier's cost,

The Supplier shall, at its option, repair or replace the defective Goods, or refund the price of the defective Goods in full.

5.3 The Supplier shall not be liable for the Goods failure to comply with the warranty set out in clause 5.1 if:

a. the Customer makes any further use of such Goods after giving notice in accordance with clause 5.2;

b. the defect arises because the Customer failed to follow the Supplier's oral or written instructions as to the storage, commissioning, installation, use and maintenance of the Goods or (if there are none) good trade practice regarding the same;

c. the defect arises as a result of the Supplier following any drawing, design or specification supplied by the Customer;

d. the Customer alters or repairs such Goods without the written consent of the Supplier;

e. the defect arises as a result of fair wear and tear, wilful damage, negligence, or abnormal storage or working conditions; or

f. the Goods differ from the Specification as a result of changes made to ensure they comply with applicable statutory or regulatory requirements.

5.4 Except as provided in this clause 5, the Supplier shall have no liability to the Customer in respect of the Goods' failure to comply with the warranty set out in clause 5.1.

5.5 The terms implied by law are, to the fullest extent permitted by law, excluded from the Contract.

5.6 These Conditions shall apply to any repaired or replacement Goods supplied by the Supplier except that the Warranty Period for the repaired or replacement Goods shall expire on the same date as the Warranty Period expires for the original Goods which have been repaired or replaced.

6 Title and risk

6.1 The risk in the Goods shall pass to the Customer on Delivery of each instalment and title shall pass to the Customer upon payment in full for all the Goods even if they are delivered and paid for in instalments.

7 Price and payment

7.1 The price of the Goods shall be the price set out in the Order.

7.2 The Supplier may, by giving notice to the Customer at any time up to 30 Business Days before Delivery, increase the price of the Goods to reflect any increase in the cost of the Goods that is due to:

- a. any factor beyond the Supplier's control (including foreign exchange fluctuations, increases in taxes and duties, and increases in labour, materials and other manufacturing costs);
- b. any request by the Customer to change the Delivery date, quantities or types of Goods ordered, or the Specification; or
- c. any delay caused by any instructions of the Customer or failure of the Customer to give the Supplier adequate or accurate information or instructions.

7.3 Unless otherwise set out in the Order, the price of the Goods is exclusive of amounts in respect of any tax, levy or duty (including but not limited to value added tax (VAT) and or or GST). If the Goods attract any tax, levy or duty the Supplier shall invoice the Customer at the rate prevailing at the time of invoice which the Customer shall pay.

7.4 The Supplier shall invoice the Customer for any payment milestone agreed for Delivery when the Goods have been delivered or as provided in clause 4.5.

7.5 The payment terms are as set out in the Supplier's quotation.

7.6 The Customer shall pay all amounts due under the Contract in full without any set-off, counterclaim, deduction or withholding.

7.7 If the Customer fails to make any payment due to the other under the Contract by the due date for payment, then the Customer shall pay interest on the overdue amount at the rate of 8% per annum. Such interest shall accrue on a daily basis from the due date until actual payment of the overdue amount, whether before or after judgment. The Customer shall pay the interest together with the overdue amount.

7.8 Unless otherwise specified in the Order, payment by the Customer shall be in the currency of the Supplier's invoice.

8 Termination and suspension

8.1 If the Customer becomes subject to any of the events listed in clause 8.2 it shall notify the Supplier and the Supplier may terminate the Contract with immediate effect by giving written notice to the Customer.

8.2 For the purposes of clause 8.1, the relevant events are:

- a. becomes insolvent or goes into liquidation, administration, or receivership or be declared bankrupt or otherwise becomes incapacitated;
- b. any event occurs, or proceeding is taken, with respect to the Customer in any jurisdiction to which it is subject that has an effect equivalent or similar to any of the events mentioned in clause 8.2a.
- c. the Customer suspends, threatens to suspend, ceases or threatens to cease to carry on all or a substantial part of its business;
- d. the Customer's financial position deteriorates to such an extent that in the Supplier's opinion the Customer's capability to adequately fulfil its obligations under the Contract has been placed in jeopardy.

8.3 Without limiting its other rights or remedies, the Supplier may suspend provision of the Goods if the Customer becomes subject to any of the events listed in clause 8.2a to clause 8.2d, or the Supplier reasonably believes that the Customer is about to become subject to any of them, or if the Customer fails to pay any amount due under this Contract on the due date for payment.

8.4 On termination of the Contract for any reason the Customer shall immediately pay to the Supplier all of the Supplier's outstanding unpaid invoices and any other money owed to the Supplier.

8.5 Termination of the Contract, however arising, shall not affect any of the parties' rights, remedies, obligations and liabilities that have accrued as at termination.

8.6 Clauses which expressly or by implication survive termination of the Contract shall continue in full force and effect.

9 Limitation of liability

9.1 Nothing in these Conditions shall limit or exclude the Supplier's liability for:

- a. death or personal injury caused by its negligence, or the negligence of its employees, agents or subcontractors (as applicable); and
- b. any matter in respect of which it would be unlawful for the Supplier to exclude or restrict liability.

9.2 Subject to clause 9.1:

- a. the Supplier shall under no circumstances whatsoever be liable to the Customer, whether in contract, tort (including negligence), breach of statutory duty, or otherwise, for any loss of profit, loss of revenue, loss of production, loss or denial of opportunity or use, loss of market, loss of goodwill, loss of reputation or any indirect or consequential loss arising under or in connection with the Contract; and
- b. the Supplier's total liability to the Customer in respect of all other losses arising under or in connection with the Contract, whether in contract, tort (including negligence), breach of statutory duty, or otherwise, shall in no circumstances exceed the value of the Contract.

10 Force majeure

10.1 The Supplier shall not be liable for any failure or delay in performing its obligations under the Contract to the extent that such failure or delay is caused by a Force Majeure Event. A Force Majeure Event means any event beyond a party's reasonable control, which by its nature could not have been foreseen, or, if it could have been foreseen, was unavoidable.

11 General

11.1 Neither party may assign the Contract unless agreed in writing by the other party's authorised representative except that the Supplier shall be entitled to assign the Contract to any company ultimately owned by the Supplier's parent company W Lucy & Co Ltd.

11.2 Any notice or other communication given to a party under or in connection with the Contract shall be in writing, addressed to that party at its registered office (if it is a company) or its principal place of business (in any other case) or such other address as that party may have specified to the other party in writing in accordance with this clause, and shall be delivered personally, sent by post or other next working day delivery service, commercial courier or fax.

11.3 If any provision of the Contract is or becomes invalid, illegal or unenforceable, it shall be deemed modified to the minimum extent necessary to make it valid, legal and enforceable. If such modification is not possible, the relevant provision shall be deemed deleted. Any modification to or deletion of a provision under this clause shall not affect the validity and enforceability of the rest of the Contract.

11.4 A waiver of any right or remedy under the Contract or law is only effective if given in writing and shall not be deemed a waiver of any subsequent breach or default. No failure or delay by a party to exercise any right or remedy provided under the Contract or by law shall constitute a waiver of that or any other right or remedy, nor shall it prevent or restrict the further exercise of that or any other right or remedy.

11.5 A person who is not a party to the Contract shall not have any rights to enforce its terms.

11.6 The Supplier and Customer agree that their respective rights, obligations and liabilities as provided for in the Contract shall be exhaustive of the rights, obligations and liabilities of each of them to the other arising out of, under or in connection with the Contract.

11.7 Except as set out in these Conditions, no variation of the Contract, including the introduction of any additional terms and conditions, shall be effective unless it is in writing and signed by both parties.

11.8 The Intellectual Property Rights are the Supplier's property and nothing in this Contract shall be construed as conferring any licence or granting any rights in favour of the Customer in relation to the Intellectual Property Rights.

11.9 The Customer shall comply, and shall ensure that it and all of its staff, agents, contractors and any other party performing its obligations or exercising its rights under or in connection with the Contract, complies at all times with all applicable anti-bribery and/or corruption laws, regulations and codes of conduct in all relevant jurisdictions.

11.10 Any dispute arising out of or in connection with this contract, including any question regarding its existence, validity or termination, shall be referred to and finally resolved by arbitration under the LCIA Rules, which Rules are deemed to be incorporated by reference into this clause. The language to be used in the mediation and in the arbitration shall be English. The governing law of the contract shall be the law of England and Wales. In any arbitration commenced pursuant to this clause, (i) the number of arbitrators shall be one; (ii) the seat, or legal place, of arbitration shall be Kuala Lumpur.