



TERMS AND CONDITIONS OF SALES ("Standard T&C")

1 DEFINITION

1.1 In this Standard T&C, the following words and expressions shall have the following meanings:

"Confidential Information" includes, but is not limited to, all information of a confidential or proprietary nature relating to the Supply Contract or the Supplier and/or its Related Corporations which would be apparent to a reasonable person, familiar with the Supplier's business and the industry in which it operates, that such information is or should be of a confidential or proprietary nature, including but not limited to trade secrets, know-how, show-how, patents research, development or technical information, confidential and proprietary product or information, Intellectual Property Rights, business plans, operations or systems, financial and trading positions, details of or relating to customers, suppliers, debtors or creditors, information relating to the officers, directors or employees of the Supplier and/or its Related Corporations, marketing information, brochures, printed matter, rates and rate tables, contracts regardless of form, format or media including, without limitation, written, verbal, or information reduced to tangible form and also includes information communicated or obtained through meetings, documents, correspondences or inspections of tangible items.

"Customer" means any person or entity that issues a Purchase Order, whether verbally or in written form, or delivers or allows to be delivered its goods to the Supplier to be serviced, thereby forming a Supply Contract with the Supplier.

"Damages" means all direct and indirect liabilities, losses, damages, costs and expenses, fines and penalties including loss of profits, business or anticipated savings, or any other consequential loss but not including any loss or damage arising from personal injury, fees on a full indemnity basis and disbursements and costs of investigation, litigation, settlement, judgment and interest regardless of whether they arise in contract, tort (including negligence) or under any statute or otherwise.

"Collection Notice" means the notification, verbal or written, from the Supplier to the Customer that the Goods are ready for collection by the Customer, including any form of telephone, facsimile or other electronic communications.

"Goods" means all goods on which the Supplier is required to perform its Services, pursuant to a Supply Contract.

"GST" means the tax chargeable under the GST Act on the supply of goods and services in Singapore and the importation of goods into Singapore.

"**GST Act**" means the Goods and Services Tax Act (Cap 117A) of Singapore.

"**Insolvency Event**" means in relation to any party:

- 1 (a) the party ceases to carry on business;
- 2
- 3 (b) the party is or becomes unable to pay its debts when they are due;
- 4
- 5 (c) any step is taken by the party to enter into any scheme of
arrangement between the party and its creditors;
- 6
- 7 (d) any step is taken by a mortgagee to enter into possession or
dispose of the whole or any part of the party's assets or business; or
- 8
- 0 (e) any step is taken to appoint a receiver and manager, a judicial
manager, a trustee in bankruptcy, a liquidator, a provisional liquidator, an
administrator or other like person to a party or to the whole or any part of
the party's assets or business.

"**Intellectual Property**" ("**IP**") or "**Intellectual Property Rights**" ("**IPR**") means all intellectual property or all intellectual property rights at any time protected by statute or common law, including, but not limited to:

- 9 (a) patents, copyright, rights in circuit layouts, registered designs,
trade marks and any right to have Confidential Information kept
confidential; and
- 10
- 11 (b) any application or right to apply for registration of any of the rights
referred to in paragraph (a) above.

"**Laws**" means any applicable statute, regulation, by-law, ordinance or subordinate legislation in force from time to time in Singapore, , and includes the common law as applicable from time to time and any applicable industry codes or standards.

"**Payment Currency** " shall have the meaning ascribed to it in Clause 8.9

"**Personnel**" of a party means the party's employees, suppliers, advisers and agents.

"**Price**" for Goods and/or Services means the prices specified in the Quotation exclusive of any GST imposed in Singapore by reference to the supply.

"**Purchase Order**" has the meaning ascribed to it in Clause 5.2.

"**Quotation**" means the quotation for Goods and/or Services validly issued by the Supplier to the Customer in accordance with clause 5.

"**Related Corporation**" has the meaning given to that term in Section 6 of the Singapore Companies Act, Chapter 50 (or as amended from time to time).

"**Services**" means all services if any required to be provided by the Supplier from time to time pursuant to a Supply Contract.

"**Specifications**" means the specifications included or referred to in the

Quotation that specifies the quality, functionality, performance, interoperability, testing or other criteria of the Goods and/or Services required from the Supplier.

"**Supplier**" means ACP Metal Finishing Pte Ltd.

"**Supply Contract**" has the meaning ascribed to it in Clause 3.1.

2. INTERPRETATION

2.1 Headings in this Standard T&C are for convenience only and do not affect interpretation.

2.2 The following rules of interpretation apply unless the context requires otherwise:

1 (a) a reference to a person includes a body corporate and
unincorporated body or other entity and conversely;

2

3 (b) a reference to a clause, is to a clause, to this Standard T&C;

4

5 (c) a reference to a right or obligation of any two or more persons
confers that right or imposes that obligation as the case may be jointly
and severally;

6

7 (d) a reference to a statute, ordinance or by-law includes regulations
and other instructions under it and consolidations, amendments, re-
enactments or replacements of any of them;

8

9 (e) in addition to the definitions in this clause, the definitions contained
in the Quotation shall apply;

10 (f) different grammatical forms of the same word defined herein shall
have the corresponding meaning;

11

12 (g) words importing the singular only shall also include the plural and
vice versa;

13

14 (h) examples or words of inclusion, are illustrative only and do not limit
the generality of the relevant subject;

15

(i) a reference to "\$", "S\$" or "dollar" is a reference to the Singapore Dollar;
and

(j) no provision of this Standard T&C will be construed adversely to a party
solely on the ground that the party was responsible for the preparation of
this Standard T&C or that provision.

Without prejudice to the generality of Clause 2.2(c) above, where two or more parties are included in the expression "the Customer" all covenants, agreements, terms, conditions and restrictions shall be binding on and applicable to them jointly and each of them severally, and shall also be binding on and applicable to their personal representatives or successors in title (as appropriate) and permitted assigns respectively jointly and severally.

3. STRUCTURE

3.1 For the avoidance of doubt, the following documents shall constitute a Supply Contract between the parties:-

- (a) this Standard T&C;
- (b) the Quotation; and
- (c) the Purchase Order.

3.2 In the event of any inconsistency or conflict between or amongst the three documents, the documents shall prevail in the following order (the document with the most prevailing qualities over the others listed first):-

- (i) the Quotation;
- (ii) this Standard T&C;
- (iii) the Purchase Order.

However no term and condition in any Customers' documents including, but not limited to the Purchase Order, that differ from and add to the Quotation and this Standard T&C shall be applicable, unless accepted through a written consent by the Supplier.

4. TERM

4.1. Each Supply Contract is an independent contract that commences on the date a Purchase Order is issued by a Customer, and, subject to Clause 13 (Termination), continues:-

- 4.1.1. in relation to the provision of Goods only, until the delivery of the last quantity of Goods under the said Supply Contract has been completed; or
- 4.1.2. in relation to the provision of Services only, for the duration of the provision of Services as stated in the Supply Contract; or
- 4.1.3. in relation to the provision of both Goods and Services, until the delivery of the last quantity of Goods under the said Supply Contract and for the duration of the provision of Services stated in the Supply Contract, whichever is later;

or as parties may, having regard to these provisions, specifically provide otherwise.

4.2. Where the delivery of the Goods and/or Services in any single Supply Contract are to be fulfilled in installments, the failure of the Supplier to fulfill one/any of the delivery installments shall not entitle the Customer to cancel or vary any part of that Supply Contract. [Please refer to original clause 3.2]

5. ORDERING

- 5.1. A Quotation issued by Supplier shall:
- (a) be sent by the Supplier or its duly authorised representative;
 - (b) specify the specifications of the Goods and/or Services offered;
 - (c) specify the Price of Goods and/or Services offered;
 - (d) specify the GST payable;
 - (e) specify the quantity of Goods and/or Goods on which Services would be performed;
 - (f) include this Standard T&C; and
 - (g) include such other terms and conditions as may be agreed between the Supplier and the Customer.
- 5.2 Acceptance by Customer of terms set out in a Quotation will become effective through the issuance of a Purchase Order, whether verbally, in written form, or by delivery of Goods to the Supplier.

6. SUPPLY OF GOODS AND SERVICES

- 6.1. As agreed under the Supply Contract, the Supplier shall perform its Services on the Goods of the Customer which are deposited with the Supplier to be serviced, at the Supplier's designated premise. For such purpose,
- (a) the Customer may deliver the Goods to the Supplier; or
 - (b) the Supplier may collect the Goods from the Customer.
- 6.2 Where the Customer's Goods are situated outside of Singapore, the Customer shall deliver the Goods to the Supplier under clause 6.1(a), and all shipping costs, including any customs, duties, import taxes, or other fees imposed by the countries involved shall be borne by the Customer, who shall also ensure compliance with all Laws relating to the importation of the Goods.
- 6.3 Where the Supplier collects the Goods from the Customer under clause 6.1(b), the Supplier reserves the right to charge the Customer for the costs of transport for collection of the Goods.
- 6.4 The Supplier shall use commercially reasonable endeavors to supply the Services in accordance with the specifications in the Quotation. However, the Supplier reserves the right, prior to commencing the performance of Services on the Goods, to propose any changes in the specifications in the Quotation to the Customer, as are required under any applicable Laws (including but not limited to any safety or environmental guidelines issued by any governmental authority), or which, in the Supplier's opinion, do not materially affect the quality, functionality or performance of the Goods.

- 6.5 Any additions and/or variations to the Quotation, as proposed by the Supplier in accordance with clause 6.2 shall be subject to extra charges which shall be determined by the Supplier's authorised representative, who shall issue a new and separate Quotation.
- 6.6 The Customer shall in good faith consider the proposed changes to the Quotation under clauses 6.4 and 6.5. If the Customer is agreeable to the new Quotation, it shall issue a new Purchase Order referring to the new Quotation. If the Customer is not agreeable to the new Quotation, the Supplier shall return the Goods to the Customer (in the same manner the Goods were first delivered to the Supplier) and the Supply Contract shall be treated as discharged, and subject to any accrued rights or remedies, no party shall have any claim against the other in respect of the Supply Contract.
- 6.7 No claims in respect of loss, damage, defect in quality, or non-conformance with the specifications in the Supply Contract will be considered by the Supplier unless written notice by the Customer of such claim(s) is received by the Supplier :-
- (a) where the Supplier transports the Goods to the Customer, within fourteen (14) days of the acknowledgement of the Goods by the Customer; or
 - (b) where the Customer collects the Goods from the Supplier, within fourteen (14) days of the receipt of the Collection Notice by the Customer.
- 6.8 Where any valid claim is informed in writing to the Supplier under clause 6.7 above, the Supplier may, at its sole discretion, replace such Goods and/or re-supply such Services, with or without charge, or refund or waive payment of the order value of the Goods or Services complained of.

7. DELIVERY

- 7.1. The Supplier shall effect delivery of the Goods to the Customer by transporting the Goods to the Customer's premise/Customer's third party premise, or the Customer shall collect the Goods from the Supplier's premise/Supplier's authorized third party premise, as may be agreed in the Supply Contract and/or verbally between the Customer and the Supplier.
- 7.2 Time shall not be of the essence in the Supplier's delivery under the Supply Contract, and the Supplier shall be entitled to make delayed deliveries, partial deliveries and/or advance deliveries if deemed appropriate and practical by the Supplier and
- 7.3 Without prejudice to any other provision herein, the Supplier shall not be liable for any damage or loss as a direct/indirect result of any delay in delivery, partial delivery or advance delivery.
- 7.3 Where the Supplier transports the Goods to the Customer, the Supplier reserves the right to charge for all transport costs including any taxes or charges.
- 7.3 Where the Customer collects the Goods,
- (a) The Supplier shall notify the Customer of the collection date, time, and place in the Collection Notice
 - (b) The Customer shall, within three (3) calendar days from the day and time

the Customer received the Collection Notice, take physical possession of the Goods;

- (c) If the Customer fails to take physical possession of the Goods as per clause 7.3(b), without prejudice to any other rights that the Supplier may have, the Supplier shall be also entitled to sell or otherwise dispose of the Goods and/or treat the Supply Contract as discharged and the Customer shall indemnify the Supplier in full against all losses, costs, damages, interests, charges and expenses including any third party claims incurred or suffered by the Supplier as a result of the failure.

8. PRICES AND PAYMENT

- 8.1. Prices for Goods and Services are set out in the Quotation.
- 8.2. The Supplier is entitled to invoice the Customer and to receive payment in accordance with the terms set out in the Supply Contract. The Customer must pay in full any amounts due on any invoices rendered to the Customer by the Supplier, in full, by the due date stated on the invoice.
- 8.3 Where the Supplier delivers the Goods and/or Services by installments, the Customer shall pay for each installment on the delivery of each installment.
- 8.4 The Customer shall not be entitled to set-off and/or retain any sum payable under the Supply Contract and/or this Standard T&C against any other sum due from the Supplier to the Customer.
- 8.5 If the Supplier does not receive payment on the due dates of payment, then without prejudice to any other right or remedy the Supplier may have, the Supplier may suspend the supply of any Goods and/or Services.
- 8.6 A late interest charge of 2% shall be payable on any outstanding amount calculated on a monthly basis from and on the due date of payment until such payment is settled in full.
- 8.7 All bank charges incurred, if any, shall be borne by the payor. The Supplier shall be entitled to the full contract price stated in the Quotation, net of any transaction charges or fees.
- 8.8 All payments to be made to the Supplier shall be free of any set offs and withholdings of whatsoever nature.
- 8.9
 - (a) All sums payable by the Customer under or in connection with the Supply Contract shall be made in Singapore dollars or such other currency specified by the Supplier (collectively "**Payment Currency**").
 - (b) Any amount received or recovered in a currency other than the Payment Currency whether as a result of, or of the enforcement of, a judgement or order of a court of any jurisdiction or arbitral award or otherwise by the Supplier in respect of any sums payable to the Supplier under the Supply Contract shall only constitute a discharge to the Customer to the extent of the Payment Currency amount which the Supplier is able to purchase with the amount so received or recovered in that other currency on the date of that receipt or recovery or, if it is not practicable to make that purchase on that date, on the first date on which it is practicable to do so.

- (c) If that Payment Currency amount is less than the Payment Currency amount expressed to be due to the Supplier under the Supply Contract, the Customer shall indemnify the Supplier against any loss sustained by the Supplier as a result thereof. In any event, the Customer shall indemnify the Supplier against the cost of making any such purchase.

9. RISK

- 9.1 The Customer warrants that the Goods that are deposited with the Supplier for Services to be rendered require no special storage, and only standard storage conditions in the normal course of business. The Supplier shall not be liable for any damage, destruction or loss to the goods caused by such standard storage conditions unless it has been informed prior to the conclusion of the Supply Contract that such special storage conditions are required and the Supplier gives a written acceptance of such special requirements. The Supplier may at its discretion impose additional cost on the Customer.
- 9.2 The Customer warrants that it has full legal and beneficial ownership and title to all Goods deposited with the Supplier by the Customer, that all such Goods are fit for the purpose of the performance of the Services by the Supplier under the Supply Contract and none of the Goods infringe any Intellectual Property Rights or any other rights of any person.
- 9.3 Where Goods deposited with the Supplier by the Customer result in damage to the Supplier, including through a breach of any of the warranties in clause 9.2, the Customer shall indemnify the Supplier for all such damage.
- 9.3 Risk of loss and/or damage to the Goods, which are deposited with the Supplier by the Customer, shall at all times remain with the Customer. The Supplier undertakes no liability for any destruction damage or loss howsoever caused to the Goods.
- 9.4 The Customer is strongly advised to take out its own insurance with respect to the Goods deposited with the Supplier.

10. TAXES

- 10.1 If the Customer must at any time deduct or withhold any tax or other amount from any sum paid or payable by the Customer under the Supply Contract, the Customer shall pay such additional amount as is necessary to ensure that the Supplier receives on the due date and retains (from any liability other than tax on its own overall net income) a net sum equal to what it would have received and so retained had no such deduction or withholding been required or made.
- 10.2. The Customer shall pay any GST and any other value added tax chargeable on any payment to the Supplier.

11. WARRANTIES

- 11.1. Unless expressly warranted by the Supplier in the Supply Contract and to the extent permitted by law, the Supplier makes no representation or warranty whatsoever in respect of any matter in the Supply Contract.

12. LIMITATION OF LIABILITY

- 12.1 The Supplier shall not be liable for any Damages, suffered or incurred by the Customer or any of its Personnel which may arise (whether in contract, tort, including negligence under statute or otherwise) by reason of or in connection with this Standard T&C or a Supply Contract.
- 12.2 Without prejudice to the generality of Clause 12.1 and to the extent permitted by law, to the extent the limitation of liability in Clause 12.1 is not permitted by Law, the aggregate cumulative liability of the Supplier shall not exceed the Price whether in contract or tort (including negligence or breach of statutory duty) or otherwise arising out of or in connection with this Standard T&C or the Supply Contract.

13. TERMINATION

- 13.1. The Supplier may terminate any Supply Contract without compensation to the Customer, by giving written notice to the Customer of immediate termination upon the occurrence of any of the following events:-
- (a) an Insolvency Event occurs in respect of the Customer; or
 - (b) the Customer breaches Clause 15 (Confidentiality); or
 - (c) the Customer is in default of any payment obligation; or
 - (d) the Customer commits any breach of any of the provisions of the Supply Contract and this T&C
- 13.2 Termination of any Supply Contract does not affect any accrued rights or remedies a party may have.

14. APPLICABLE LAW AND RESOLUTION OF DISPUTES

- 14.1. The Supply Contract shall be interpreted, construed and governed by the laws of the Republic of Singapore. It is hereby agreed that the parties irrevocably submit to the exclusive jurisdiction of the courts of the Republic of Singapore.
- 14.2. The parties to the Supply Contract shall continue to fulfil their respective obligations under the Supply Contract during the currency of the Supply Contract pending the final decision of the courts.

15. CONFIDENTIALITY

- 15.1. The Customer shall keep strictly confidential, not disclose to any third party and use only for the purposes of the Supply Contract all information relating to the Goods and/or Services (whether technical or commercial) and to the affairs and business of the Supplier, whether such information is disclosed to the Customer by the Supplier or otherwise obtained by the Customer as a result of its association with the Supplier.

16. FORCE MAJEURE

- 16.1. If the Supplier is prevented from performing wholly or in material aspects its obligations under this Standard T&C or the Supply Contract by reason of any supervening event beyond its reasonable control, the Supplier shall within a reasonable time notify the Customer of the nature and extent thereof. In such event, the Supplier shall not be deemed to be in breach of this Standard T&C or the Supply Contract or otherwise be liable to the Customer, by reason of any delay or non-performance of any of its obligations, hereunder to the extent that such delay or non-performance is due to any force majeure event of which the other party has been notified pursuant to this Clause 16.1.

For the purposes of clause 16.1 above, events beyond the Supplier's reasonable control include but are not limited to:-

- (a) Act of God, explosion, flood, storm, fire or any other natural disasters or disruptions;
- (b) War or threat of war, terrorism, sabotage, insurrection, civil strife or disturbance;
- (c) Acts, restrictions, regulations, byelaws, prohibitions, measures, policies of any kind on the part of the government and its authorized agents or international organisations;
- (d) Import/export regulations and embargo;
- (e) Strikes, lock-outs or other industrial actions or trade disputes;
- (f) Difficulties in obtaining raw material, labour, energy and other operational consumables;
- (g) Power failure, water, gas or any other energy and operational disruption.

17. GENERAL PROVISIONS

- 17.3 Relationship: Nothing in this Standard T&C or any Supply Contract constitutes any relationship of employer and employee nor principal and agent between any Customer Group Company and the Supplier.

- 17.4 Severability: The whole or any part of any clause of this Standard T&C or any Supply Contract that is illegal or unenforceable will be severed and that severance will not affect the continued operation of the remaining provisions.

- 17.6 Variations: Any variations to this Standard T&C or any Supply Contract shall be evidenced in writing and signed by both parties.

- 17.7 Notices:

- 17.7.1 A party notifying or giving notice under this Standard T&C or any Supply Contract shall do so by notice:

- 1 (a) in writing;

2

3 (b) addressed to the address or facsimile number of the
recipient specified in the Quotation or Supply Contract, as
may be altered by notice given in accordance with this
clause; and

4

5 (c) hand delivered at or sent by prepaid registered post
to that address or by facsimile to that facsimile number.

17.7.2 A notice given in accordance with Clause 17.7.1(a) above will be
deemed received:

1 (a) on the date of delivery, if hand delivered at the
recipient's address;

2

3 (b) three (3) days after the date of posting if sent by
prepaid registered post; and

4

5 (c) if sent by facsimile, when the sender's facsimile
system generates a message confirming successful
transmission of the total number of pages of the notice
unless, within twenty-four (24) hours after that
transmission, the recipient informs the sender that it has
not received the entire notice.

17.8 Non-exclusivity: Notwithstanding anything in the Supply Contract, the Supplier shall, in its sole discretion, reserve the right to enter into any negotiations, arrangements or agreements with any person (other than the Customer) for the or supply of the same or similar goods and services contained or referred to in the Supply Contract without being liable to the Customer in any way whatsoever.

17.9 Contracts (Rights of Third Parties) Act Chapter 53B: A person who is not a party to this Standard T&C has no rights under the Contracts (Rights of Third Parties) Act, Chapter 53B of Singapore to enforce any term of this Standard T&C.

17.10 Sale of Goods (United Nations Convention) Act Chapter 283A: The parties hereby agree that the Sale of Goods (United Nations Convention) Act Chapter 283A shall not apply to the transactions contemplated in this Standard T&C.

17.11 Assignment:

17.11.1 The Supplier shall have the right to transfer, assign, or dispose any of its rights and obligations under this Standard T&C or Supply Contract or sub-contract or otherwise delegate any of its obligations hereunder, to any person or entity as it deem fit for the purpose of fulfilling its services under any Supply Contract.

17.11.2 The Customer shall not assign, transfer, mortgage, charge or dispose any of its rights or sub-contract or otherwise delegate any of its obligations under this Standard T&C or the Supply Contract.

17.12 Waiver: No waiver by the Supplier of any breach of any of the terms and conditions in this Standard T&C or the Supply Contract shall be construed as a waiver of any subsequent breach of the same or any other term and conditions.