

## CONDITIONS OF SALE

### 1. Interpretation

- 1.1 "Buyer" means the person who accepts a quotation of the Seller for the sale of the Goods or whose order for the Goods is accepted by the Seller.
- 1.2 "Goods" means the goods (including any instalment of the goods or any parts of them) which the Buyer agrees to buy from the Seller.
- 1.3 "Seller" means YHI CORPORATION (B) SDN BHD a company incorporated in Brunei and having its registered office at Block 6, Section 2A, Muara Export Zone, Negara Brunei Darussalam.
- 1.4 "Authorised Representatives of the Seller" means the Chief Executive Officer, the Financial Controller, any Director, any General Manager and any other officials as authorised by the Seller.
- 1.5 "Conditions" means the terms and conditions of sale set out in this document and any special terms and conditions agreed in writing by the Authorised Representatives of the Seller.
- 1.6 "Contract" means the contract for the purchase and sale of the Goods.

### 2. Basis of Sale

- 2.1 The Seller shall sell and the Buyer shall purchase the Goods in accordance with any written quotation of the Seller which is accepted by the Buyer, or any written order of the Buyer which is accepted by the Seller, subject in either case to these conditions, which shall govern the Contract to the exclusion of all other terms and conditions including any terms and conditions which the Buyer may purport to apply under any purchase order, confirmation of order or similar document.
- 2.2 All orders for Goods shall be deemed to be an offer by the Buyer to purchase Goods pursuant to these Conditions. No order submitted by the Buyer shall be deemed to be accepted by the Seller unless and until confirmed in writing by the Authorised Representatives of the Seller.
- 2.3 No order which has been accepted by the Seller may be cancelled by the Buyer except with the agreement in writing of the Authorised Representatives of the Seller on terms that the Buyer shall indemnify the Seller in full against all loss (including loss of profit), costs (including the cost of all labour and materials used), damages, charges and expenses incurred by the Seller as a result of cancellation.
- 2.4 Acceptance of delivery of the Goods shall be deemed conclusive evidence of the Buyer's acceptance of these conditions.
- 2.5 Any variations to these Conditions (including any special terms and conditions agreed between both parties) shall be inapplicable unless agreed in writing by the Authorised Representatives of the Seller.
- 2.6 Any typographical, clerical or other error or omission in any sales literature, quotation, price list, acceptance of offer, invoice or other document or information issued by the Seller shall be subject to correction without any liability on the part of the Seller.

### 3. The Price and Payment

- 3.1 The price shall be the Seller's quoted price. Unless otherwise agreed in writing by the Authorised Representatives of the Seller, all prices are given by the Seller on an ex-works basis excluding carriage, packing, insurance and any applicable tax or duty. Where the Seller agrees to deliver the Goods otherwise than at the Seller's premises, the Buyer shall be liable to pay the Seller's charges for transport, packaging and insurance.
- 3.2 The Seller reserves the right, by giving notice to the Buyer at any time before delivery, to increase the price of the Goods to reflect any increase in the cost to the Seller which is due to any factor beyond the control of the Seller (such as, without limitation, any foreign exchange fluctuation, currency regulation, alteration of duties, significant increase in the costs of labour, materials or other costs of manufacturer), any change in delivery dates, quantities or specifications for the Goods which is requested by the Buyer, or any delay caused by any instructions of the Buyer or failure of the Buyer to give the Seller adequate information or instructions.
- 3.3 The Seller further reserves the right to increase the price of the Goods to reflect any increase in the cost to the Seller where the Buyer has requested and the Seller has agreed to make delivery of the Goods after the close of the Seller's usual working hours.
- 3.4 Payment of the price shall be due (without any deduction) within thirty (30) days of the date of the invoice unless otherwise agreed in writing by the Authorised Representatives of the Seller. Time for payment shall be of the essence.
- 3.5 Payment of the price shall be deemed to be duly made by the Buyer only upon the Seller is receipt of cash or cleared funds amounting to the price of the Goods.
- 3.6 Where payment for the price is made by way of a Letter of Credit or a Bill of Exchange with a bank, any costs, administrative or otherwise, incurred thereby shall be borne by the Buyer.
- 3.7 If the Buyer fails to make full payment on the due date or is otherwise in breach of its obligations under the Contract, then without prejudice to any right or remedy available to the Seller, the Seller shall be entitled to:
  - 3.7.1 cancel the contract or suspend any further deliveries to the Buyer;
  - 3.7.2 appropriate any payment made by the Buyer to such of the Goods (or the goods supplied under any other contract between the Buyer and the Seller) as the Seller may think fit; and
  - 3.7.3 charge the Buyer interest (both before and after any judgment) from day to day on the amount unpaid, at the rate of one per cent (1%) per month until payment in full is made.

### 4. The Goods

- 4.1 The quantity, quality and description of and any specification for the Goods shall be those set out in the Seller's quotation (if accepted by the Buyer) or the Buyer's order (if accepted by the Seller).
- 4.2 The Seller may from time to time make changes in the quantity, quality and description of and any specification for the Goods which are required to comply with any applicable safety or statutory requirements or which do not materially affect the quality or fitness for purpose of the Goods.

### 5. Warranties and Liability

- 5.1 The Seller warrants that the Goods will, at the time of delivery, correspond to the description given in accordance with Condition 4.1 herein.
- 5.2 Subject to the Conditions set out hereunder, the Authorised Representatives of the Seller may give any other warranties contained in writing in a separate document.
- 5.3 The Seller's employees or agents are not authorised to make any representations or warranties concerning the Goods unless confirmed in writing pursuant to Condition 5.2 herein by the Authorised Representatives of the Seller. In entering into the Contract, the Buyer acknowledge that it does not rely on any such representations or warranties which are not so confirmed.
- 5.4 All warranties and conditions whether implied by statute or otherwise are excluded from this Contract provided that nothing in this Contract shall restrict or exclude liability for death or personal injury caused by the negligence of the Seller or affect the Statutory rights of a buyer dealing as a consumer.
- 5.5 The Seller shall not be liable to the Buyer or be deemed to be in breach of the contract for the sale and purchase of the Goods by reason of any delay in performing, or any failure to perform, any of the Seller's obligations in relation to the Goods, if the delay or failure was due to any cause beyond the Seller's reasonable control.

### 6. Delivery of the Goods

- 6.1 Delivery of the Goods shall be made by the Buyer collecting the Goods at the Seller's premises at any time after the Seller has notified the Buyer that the Goods are ready for collection or, if some other place for delivery is agreed in writing by the Authorised Representatives of the Seller, by the Seller delivering the Goods to that place.
- 6.2 Any dates quoted for delivery of the Goods are approximate only and the Seller shall not be liable for any delay in delivery of the Goods however caused. Time for delivery shall not be of the essence of the Contract unless previously agreed by the Authorised Representatives of the Seller in writing.
- 6.3 Where the Goods are to be delivered in instalments, each delivery shall constitute a separate contract and failure by the Seller to deliver any one or more of the instalments in accordance with these Conditions or any claim by the Buyer in respect of any one or more instalments shall not entitle the Buyer to treat the contract as a whole as repudiated.

- 6.4 If the Buyer fails to take delivery of the Goods or fails to give the Seller adequate delivery instructions at the time stated for delivery (otherwise than by reason of any cause beyond the Buyer's reasonable control or by reason of the Seller's fault) then, without prejudice to any other right or remedy available to the Seller, the Seller shall be entitled to do any or all of the following at its sole discretion :-

- 6.4.1 store the Goods until actual delivery and charge the Buyer for the reasonable costs (including insurance) of storage;
- 6.4.2 take all steps it deems necessary to prevent the deterioration of the Goods and charge the Buyer for the reasonable costs incurred thereby; and/or
- 6.4.3 without any reference to the Buyer,
  - (a) where the Buyer fails to make full payment of the price on the due date or is otherwise in breach of its obligations under the Contract, treat the Contract as repudiated by the Buyer and to sell at the best price readily obtainable or otherwise dispose of the Goods; or
  - (b) where the Buyer has made full payment of the price on the due date and is otherwise not in breach of its obligations under the Contract, sell at the best price readily obtainable or otherwise dispose of the Goods.  
If the said Goods are sold or disposed of at a higher price, the Seller shall only account to the Buyer the price under the Contract and is entitled to keep any profits. If such Goods are sold or disposed of at a price same as or lower than the price under the Contract, the Seller shall only account to the Buyer the balance due from such sale after deducting all reasonable storage and selling expenses.

### 7. Acceptance of the Goods

- 7.1 (a) The Buyer shall inspect the Goods on delivery and shall within three (3) days of delivery, notify the seller of any alleged defect or failure to comply with description. The Buyer shall then afford the Seller an opportunity to inspect the Goods within a reasonable time following delivery and before any use is made of them. If the Buyer shall fail to comply with these provisions, the Goods shall be conclusively presumed to be accordance with the contract and free from any defect or damage and the Buyer shall be deemed to have accepted the Goods.
- (b) The Buyer shall inspect the Goods on delivery and shall notify the Seller of any shortage in quantity at the time of delivery PROVIDED ALWAYS that notwithstanding the receipt by the Seller of any notice of shortage in quantity, a clear signature of the recipient on the Seller's delivery advice sheet shall be deemed to signify receipt of the quantity indicated on the advice sheet.
- 7.2 If the Buyer shall fail to comply with Condition 7.1 herein, the Goods shall be conclusively presumed to be accordance with the contract and free from any defect or damage and the Buyer shall be deemed to have accepted the Goods.
- 7.3 If the Goods are not in accordance with the Contract for any reason and the Buyer has duly given the Seller notice thereof pursuant to Condition 7.1 herein, the Buyer's sole remedy shall be limited to the Seller making good any alleged defect, shortage in quantity or failure to comply with description by replacing or effecting rectification of such Goods at the Seller's discretion or, if the Seller shall elect, by refunding a proportionate part of the price under the Contract.

### 8. Remedies of the Buyer

- 8.1 Where the Buyer rejects any Goods, then the Buyer shall have no further rights whatever in respect of the supply to the Buyer of such Goods or the failure by the Seller to supply Goods which conform to the contract.
- 8.2 Where the Buyer accepts or has been deemed to have accepted any Goods, then the Seller shall have no liability whatever to the Buyer in respect of those Goods.
- 8.3 The Seller shall not be liable to the Buyer for late delivery or short delivery of the goods.

### 9. Title and Risk

- 9.1 Risk of damage to or loss of the Goods shall pass to the Buyer:
  - 9.1.1 in the case of Goods to be delivered at the Seller's premises, at the time when the Seller notifies the Buyer that the Goods are available for collection; or
  - 9.1.2 in the case of Goods to be delivered otherwise than at the Seller's premises, at the time of delivery to that place.
- 9.2 Notwithstanding delivery and the passing of risk in the goods, or any other provision of these Conditions, the property in the Goods shall not pass to the Buyer until the Seller has received in cash or cleared funds, payment in full of the price of the Goods and all other goods agreed to be sold by the Seller to the Buyer for which then payment is due.
- 9.3 Until such time as the property in the Goods passes to the Buyer, the Buyer shall hold the Goods as the Seller's fiduciary agent and bailee, and shall keep the Goods separate from those of the Buyer and third parties and properly stored, protected and insured and identified as the Seller's property.
- 9.4 The Seller shall be entitled to recover the price notwithstanding that property in any of the Goods has not passed from the Seller.

### 10. Insolvency of the Buyer

- 10.1 This clause applies if :-
  - 10.1.1 the Buyer makes any voluntary arrangement with its creditors or (being an individual or firm) becomes bankrupt or (being a company) becomes subject to an administration order or goes into liquidation (otherwise than for the purpose of amalgamation or reconstruction); or
  - 10.1.2 an encumbrancer takes possession, or a receiver is appointed, of any of the property or assets of the Buyer; or
  - 10.1.3 the Buyer ceases, or threatens to cease, to carry on business; or
  - 10.1.4 the Seller reasonably apprehends that any of the events mentioned above is about to occur in relation to the Buyer and notifies the Buyer accordingly.
- 10.2 If this clause applies, then without prejudice to any other right or remedy available to the Seller, the Seller shall be entitled to cancel the contract or suspend any further deliveries under the contract without any liability to the Buyer, and if the Goods have been delivered but not paid for, the price shall be immediately payable notwithstanding any previous agreement or arrangement to the contrary.

### 11. Set-off and Counterclaim

The Buyer may not withhold payment of any invoice or other amount due to the Seller by reason of any right of set-off or counterclaim which the Buyer may have or allege to have for any reason whatever.

### 12. General

- 12.1 The Seller shall be entitled to perform any of its obligations or exercise any of its rights hereunder by itself or through any other company which at the relevant time is its holding company or subsidiary or the subsidiary of such holding company, and any act or omission of any such other company shall be deemed to be the act or omission of the Seller.
- 12.2 Any notice required or permitted to be given by either party to the other under these Conditions shall be in writing addressed to that other party at its registered office or principal place of business or such other address as may at the relevant time have been notified pursuant to this provision to the party giving the notice.
- 12.3 No waiver by the Seller of any breach of the Contract by the Buyer shall be considered as a waiver of any subsequent breach of the same or any other provision.
- 12.4 If any provision of these Conditions is held by any competent authority to be invalid or unenforceable in whole or in part the validity of the other provisions of these Conditions and the remainder of the provision in question shall not be affected.
- 12.5 These Conditions shall be governed by and construed in all respects in accordance with the laws of Brunei and for this purpose the parties hereto submit themselves to the jurisdiction of the Brunei courts.

