

## **TERMS AND CONDITIONS OF PURCHASE**

### **1.GENERAL**

1.1 The contract of which these Terms and Conditions are a part has been concluded in accordance with the principles of equality, mutual benefit and consensus.

1.2 The contract consists of these Terms and Conditions and the purchase order to which they are attached, and any additional specifications, terms and conditions incorporated herein and attached hereto. There are no other documents which are part of the contract.

### **2.SHIPPING MARK**

On each package shall be stenciled conspicuously with unfading pigments details of destination, package number, contract No., gross weight and net weight, dimension, shipper and consignee.

### **3.SHIPPING ADVICE**

The Seller shall, immediately upon the completion of the loading of the goods, send to the Buyer by fax the shipping documents including Billing of Lading or Airway Bill, Packing List, Invoice etc. In case the Buyer fails to arrange insurance in time due to the Seller not having advised in time, all losses shall be borne by the Seller.

### **4.DOCUMENTS**

See Shipping Instructions.

### **5.DELIVERY**

Unless otherwise expressly specified in this contract, the price to be paid for the Equipment includes the cost of delivery of the Equipment on board the carrier's transportation equipment at the designated point of delivery. Seller shall notify Buyer promptly thereof at such time as the Equipment has been loaded on the transportation equipment.

### **6.PACKING**

One copy of the detailed packing list shall be forwarded to Buyer at such time as the Equipment has been loaded on the transportation equipment. All shipments will be packed, bundled and crated in accordance with standard commercial practice for domestic or export shipment as applicable. No charge will be allowed for packing, crating, drayage or storage unless stated herein.

### **7.AMENDMENTS**

All amendments to the contract shall be in writing and shall be signed by both parties. Buyer reserves the right to make changes in the contract at any time, subject to mutually agreeable adjustments of the contract.

### **8.TERMINATION**

Buyer shall have the right to terminate the contract at any time at the convenience of Buyer, upon written notice to Seller. In the event of such termination, at the request of Buyer, Seller shall deliver to Buyer such portions of the Equipment as have been fabricated by Seller, and Buyer shall pay to Seller a portion of the purchase price representing the value of the portions of the Equipment which are so delivered. Where Buyer elects not to take delivery, Buyer shall reimburse Seller its costs of performance to the time of termination which are necessary, fair and reasonable, taking into account the value of the work-in-process which will remain the property of Seller and which is potentially usable by Seller in other projects.

### **9.NONDISCLOSURE**

Seller shall not make use of drawings, specifications, data and other information furnished to it by Buyer, except in performance of the contract. Upon completion, cancellation or termination of the contract, Seller shall promptly return to Buyer all drawings, specifications, data and other information furnished by Buyer in connection with the performance of the contract, and shall not retain or permit others to retain any reproduction or copy thereof. Seller shall not disclose any such drawing, specification, data or other information, including pricing information, to any third party and shall make no further use thereof (or of any information derived therefrom), either directly or indirectly, without Buyer's prior written consent, except in connection with the performance of the contract. Seller shall comply with all export control regulations to which Buyer is subject, to the extent Buyer informs Seller thereof.

### **10.INSPECTION**

All goods and work in process may be subject to source, site and final inspection and tests, or all of them, by Buyer. If inspection and tests, whether preliminary or final, are made on Seller's premises, Seller shall furnish, without additional charge, all reasonable facilities and assistance for safe and convenient inspection and tests required by Buyer and/or Buyer's customer, as the case may be. Inspection and approval by Buyer, or failure to inspect by Buyer, shall not relieve Seller of any responsibility or liability hereunder. In the event that any inspection or test hereunder establishes that the quality of Seller's work is unsatisfactory, Buyer shall have the right to instruct Seller to discontinue work until satisfactory corrective action is taken. Seller shall be responsible for corrective costs and shall perform corrective action to meet the agreed upon delivery schedule.

### **11.WARRANTY; REMEDIES**

11.1 Seller warrants that (i) the Equipment will conform to the specifications, drawings, samples, or other description furnished or specified by Buyer, and all other requirements of the contract, (ii) the Equipment shall be free from any defects in design, material or workmanship for a period of twelve (12) months after being placed in operation, or eighteen (18) months from date of delivery, whichever period expires first, (iii) Seller has good title to the Equipment and that the Equipment will be delivered free of any encumbrance or third party interest, and (iv) the Equipment will not infringe any patent and the ownership and use of the Equipment by Buyer or Buyer's customer will not interfere with the intellectual property rights of Seller or any third party. Seller shall correct, at no cost to Buyer, any such defects in the Equipment in the most expeditious manner possible that is agreeable to Buyer. Seller shall pay any and all freight costs in connection with correcting defects.

11.2 Buyer shall have available to it all rights and remedies as provided by the contract, including without limitation the right to liquidated damages for late delivery, if any, as set forth in the purchase order.

### **12. CLAIMS**

Within 90 days after the arrival of the goods at the destination port, should the quality, specification, or quantity, be found not in conformity with the stipulation of the contract except those claims for which the insurance company or the owner of the vessel are liable, the Buyer shall, on the strength of the Inspection Certificate issued by the China Entry-Exit Inspection and Quarantine Bureau, have the right to claim for replacement with new goods or for compensation, this claim should be accompanied by relevant evidencing documents, and all the expenses (such as inspection charges, freight for returning the goods and for sending the replacement, insurance premium, storage and loading and unloading charges etc.) shall be borne by the Seller. If the Seller fails to answer the Buyer within 1 month after receipt of the aforesaid claim, the claim shall be deemed to have been accepted by the Seller.

### **13. FORCE MAJEURE**

The Seller shall not be held responsible for the delay of shipment or non-delivery of the goods due to Force Majeure, which might occur during the process of manufacturing or in the course of loading or transit. The Seller shall advise the Buyer immediately of the occurrence mentioned above and within 5 days thereafter. The Seller shall send by airmail to the Buyer for acceptance a certificate of the incident issued by the Competent Government Authorities where the incident occurs as evidence thereof. Under such circumstance the Seller remains under the obligation to take all necessary measures to hasten the delivery of the goods. In case the accident last for more than 5 weeks, the Buyer shall have the rights to cancel the contract.

### **14. ARBITRATION**

Any unresolved dispute between the parties in connection with this Agreement shall be submitted for resolution exclusively to the China International Economic and Trade Arbitration Commission ("CIETAC") in Shanghai for final resolution by arbitration in accordance with the rules and procedures of CIETAC. The panel of arbitrators shall consist of three arbitrators, the Chairman of the Tribunal shall be of neither PRC nor USA nationality and shall be selected from the international panel of CIETAC arbitrators.

### **15. ASSIGNMENT; ETC.**

Seller shall not assign, transfer, delegate or subcontract all or any portion of the performance of the contract, without Buyer's prior written consent.

### **16. ENDORSEMENT**

Seller shall not in any manner advertise or publish the fact that Seller has furnished, or contracted to furnish to Buyer, the Equipment, without Buyer's prior written consent.

### **17. BANKING CHARGES**

All banking charges incurred in China will be borne by the Buyer, if incurred outside China they will be borne by the Seller.

### **18. OTHER**

If the goods under this contract are to be dispatched by air transportation, all the terms of this contract in connection with sea transportation shall be interpreted as air terms.