

# GENERAL DELIVERY CONDITIONS FOR SUPPLIES AND SERVICES

# VULKAN

VULKAN INDUSTRIES FAR EAST PTE LTD

37C Benoi Road | Pioneer Lot | 627.796 | Singapur

## I. DEFINITIONS

1. „Buyer“ means any person, firm or company who or which places an order with Vulkan Industries Far East Pte Ltd (herem after called „Vulkan“).
2. „Goods“ means the articles or things or any of them described in the order.
3. „Order means the order placed by the buyer for the supply of the goods or services.

## II. QUOTATIONS AND ORDERS

1. Unless otherwise agreed in writing, all quotations by Vulkan are valid only for the period stated in the quotations. A quotation shall not constitute an offer for the supply of goods and services, but only an invitation to treat.
2. Vulkan shall not be bound by any variation, waiver of, or addition to these conditions except as agreed by Vulkan in writing and signed on its behalf.
3. In the event of any conflict between the buyer's standard terms and conditions and the terms and conditions herein, these terms and conditions shall prevail.
4. Unless otherwise agreed in writing, all illustrations, drawings and other documents and all description or data relating to weight, dimensions, performance and consumption and other description or data provided by Vulkan are approximate only.

## III. COPYRIGHT

1. Vulkan retains legal and beneficial title and copyright to all drawings, illustrations and other documents prepared by Vulkan, if any. Such documents shall not be made available by the buyer to third parties and must be returned to Vulkan immediately upon request.

## IV. Prices

1. Unless otherwise agreed in writing, prices are ex-works i.e. Vulkan is responsible for making the goods available at its factory but the buyer shall bear the cost of loading the goods and the cost of delivering them to their destination. Vulkan shall not be liable for turnover tax value added tax goods and services tax custom duties, levies, surcharges, impositions or any other charges of any nature whatsoever.
2. Unless fixed prices have been agreed upon, prices stated in quotation and order confirmation by Vulkan are based on costs prevailing at the time of the quotations or order confirmation.
3. For repeat orders, prices stated in previous or current quotations or order confirmations are not binding on Vulkan.

## V. PAYMENT

1. The payment conditions stated in the quotations and order confirmations are applicable.
2. Unless otherwise agreed, payment to Vulkan shall be effected without deduction 30 days from the date of the invoice. The time of payment by the buyer shall be of the essence of this contract.
3. In the event that any payment is not effected on the due date, Vulkan shall be entitled without prejudice to any other rights and remedies it may have to charge an interest on the outstanding amount at the rate of one per cent (1%) per month until full payment is received by Vulkan. Alternatively, Vulkan shall be entitled to rescind the contract and/or to repossess the goods, if any.
4. Without prejudice to Clause V3 of these conditions or to any other rights and remedies Vulkan may have, in the event that any instalment payment is not effected on the due date, all future instalment payments by the buyer shall become immediately due and payable.
5. The buyer shall not be entitled to offset payments to Vulkan against counterclaims by the buyer.
6. Where Vulkan has agreed in writing to suspend the performance of an order, the price shall be immediately due and payable..

## VI. RETENTION OF TITLE

1. Vulkan retains the legal and beneficial title in the goods until all debts owed to Vulkan present or future, due to Vulkan on any legal grounds, are settled.
2. The buyer shall not assign or create any charge in respect of the goods.
3. In case of seizure, distraint or other disposition of the goods by third parties, the buyers must notify Vulkan in writing immediately.

4. The buyer shall insure in the joint names of the buyer and Vulkan all goods against all risks of loss or damage whilst Vulkan retains legal and beneficial title to them. A copy of the insurance policy shall be forwarded to Vulkan within ten (10) days of its being effected failing which Vulkan shall be at liberty (but shall not be obliged) to effect the said insurance at the buyer's expense without any further notice to the buyer.
5. In the event that the buyer is in breach of any term of the contract in particular any term relating to payment of the price. Vulkan shall be entitled to repossess the goods, after notice in writing is given to the buyer and the buyer fails to remedy the breach within seven (7) days thereof. The exercise of Vulkan's rights shall be without prejudice to Vulkan's rights to payment of the purchase price.

## VII. TRANSFER OF RISK

1. The goods are at the buyer's risk from the moment they leave Vulkan's factory. even if transportation is undertaken by Vulkan whether gratuitously or for consideration, or Vulkan has agreed to pay freight or carry out installation. Insurance against loss of or damage to the goods in the course of transit will be effected by Vulkan only if requested in writing by the buyer and shall be for the buyer's account. Vulkan shall not be liable for any loss of or damage to the goods in the course of transit. Whether due to Vulkan's negligence or otherwise.
2. If despatch is delayed due to circumstances beyond Vulkan's control, the risks are transferred to the buyer from the time the is notified (whether in writing or orally or otherwise) of the readiness at the goods for despatch Vulkan shall however effect such insurance shall be for the buyer's account.

## VIII. DELIVERY

1. The delivery period shall begin on the date when all details pertaining to the order has been clarified.
2. The delivery period shall be deemed to be complied with when Vulkan notifies the buyer that the goods are ready for despatch.
3. In the event of late delivery and where the buyer has suffered actual damage, the buyer may recover from Vulkan as liquidated damages and not by way of penalty, 0.3% of the price of the goods for each full week of delay. Provided that the sum so recoverable shall not exceed 3% of the price of the goods and shall be in full and final satisfaction of Vulkan's liability for such delay. All other claims and remedies are hereby excluded.
4. If owing to industrial disputes, operational breakdowns, delayed supply of raw materials or operating materials, strikes, lock-outs or any other cause beyond Vulkan's control (whether of alike nature or not) Vulkan is unable to deliver the goods or complete the services within the delivery period then Vulkan shall be entitled to a reasonable extension of time. This applies even where the delivery period has already been exceeded at the time of occurrence of any of the above.
5. If alterations are requested by the buyer after Vulkan has accepted the order, the delivery period shall begin on the day when all further details pertaining to the order has been clarified.
6. If for any reason the buyer is unable to take delivery of the goods after Vulkan has notified the buyer of the readiness of the goods for despatch, Vulkan may store the goods until their actual despatch. Where the goods are stored at Vulkan's premises, the buyer shall pay to Vulkan at least 0.3% of the Invoice value of the goods stored (including Insurance if effected) Vulkan has the option to store the goods outside its own premises, in which case the buyer shall be liable for the storage charges payable. Alternatively, Vulkan may rescind the contract and claim damages from the buyer.
7. Vulkan shall be entitled to make partial deliveries.
8. Compliance with the delivery period by Vulkan is subject to the fulfilment of the buyer's contractual obligations.

## IX. INSPECTION, TESTING AND ACCEPTANCE

1. The goods shall be tested immediately by the buyer under the proper and usual manner. If the goods shall fail to work efficiently by reason of the existence of defects there in arising from faulty or improper materials or workmanship the buyer shall notify Vulkan in writing of such defects within two (2) weeks after taking delivery of the goods or completion of the services. If no notice is received by Vulkan at the expiration of the said period, then the goods shall be deemed to be in good order and condition or the services shall be deemed to have been satisfactorily completed by Vulkan and the buyer shall be bound to accept it.

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2. Where the buyer has stipulated for survey by any classification society or any other surveying authority, the costs of such survey shall be for the buyer's account.

## X. LIABILITY FOR DEFECTS

**Vulkan's liability for defects in the goods shall be limited to the following:**

1. If within 6 months from the date of commission of the good (or 3 months in the case of shift operation) the buyer gives notice in writing to Vulkan that the goods or any part thereof is unusable or is significantly unfit for its purpose because of any defect in the goods or any part thereof which shall arise under proper use as a result of circumstances occurring before risk is transferred to the buyer, in particular from faulty design (other than a design made, furnished, or specified by the buyer), materials or workmanship, then Vulkan shall at its sole discretion replace or repair the goods so as to remedy the defects without any charges from the buyer. In the event that despatch, erection, assembly or commissioning is delayed for reasons beyond Vulkan's control, Vulkan's liability shall cease 12 months after the risk has been transferred to the buyer. The warranty period for spareparts is 2 months after the risk has been transferred to the buyer. Notwithstanding anything in this Clause, for parts purchased Vulkan from its suppliers, Vulkan's liability shall in all cases howsoever arising be limited to the assignment of Vulkan's rights of suit, if any, against such suppliers to the buyer.
2. Any claim by the buyer shall be time-barred 6 months after a notice of defect in accordance with Clause X.1 is given, provided that the warranty period has not expired.
3. Notwithstanding anything in this Clause, Vulkan shall not be liable for damage due to improper or inappropriate use, faulty erection and/or commissioning by the buyer or third parties, normal wear and tear, faulty or negligent handling, improper consumables, unsuitable replacements, deficient building work, inappropriate building ground, chemical, electro-chemical or electric influences, unless attributable to Vulkan,
4. Notwithstanding anything in this Clause, Vulkan shall not be liable under this Clause if the buyer does not give Vulkan or its authorised representative reasonable time and opportunity to effect the repair or replacement. Notwithstanding anything in this Clause, Vulkan shall not be liable under this Clause if Vulkan is not notified immediately in urgent cases where operational safety is jeopardized and it is necessary to prevent excessively severe damage. Should Vulkan be in default of rectify the defect himself or cause the defect to be rectified by a third party and to charge Vulkan the reasonable costs incurred, subject to Clause X.5.
5. Where notice of defect has been justifiably given, Vulkan shall bear the cost of the replacement part and the reasonable cost of installation and dismantling. If necessary, Vulkan will also bear the cost for the delegation of Vulkan's fitters and auxiliary labour. All other costs shall be borne by the buyer. If the defective goods are located outside the country in which Vulkan has its registered office, Vulkan shall not bear more than that proportion of costs which would have been incurred if the defects had been rectified in the country in which Vulkan has its registered office.
6. The warranty period for replacements or repaired parts is 3 months but shall not affect the warranty period of the original goods supplied. Further, the warranty period of the original goods supplied shall be extended by the period of time during which any interruption in the buyer's operation is caused by the repair or replacement.
7. Notwithstanding anything in this Clause, Vulkan shall not be liable under this clause if repairs or modifications are effected without Vulkan's consent or by any person not authorised by Vulkan
8. Notwithstanding anything in this Clause, Vulkan shall not be liable under this Clause if the buyer does not notify Vulkan in writing of the defect immediately upon its discovery.
9. Notwithstanding anything in this clause Vulkan may refuse to rectify defects, whether by way of repair or replacement or otherwise, if the buyer has not complied with this contractual obligations.
10. Vulkan does not warrant that the goods comply with any foreign law or regulations
11. Save as afore said, all other claims against Vulkan are hereby excluded

## XI. BUYER'S RIGHT TO RESCIND

1. The buyer shall be entitled to terminate the contract if (a) Vulkan is in default of delivery within the meaning of Clause VIII, and (b) The buyer has granted Vulkan a reasonable extension of time with the express statement in writing that upon expiration of the extension period he would not accept the goods under the contract: and (c) The extension period has expired
2. The buyer shall be entitled to terminate the contract if through any fault of Vulkan a reasonable period of time has been granted to Vulkan to rectify a defect for which Vulkan is responsible under the terms and conditions of the contract but the said period of time has elapsed without any rectification being effected. The buyer shall also be entitled to terminate the contract if it is impossible or Vulkan is unable to rectify the said defect.
3. All other rights of the buyer are hereby excluded.

## XII. VULKAN'S RIGHT TO RESCIND

1. In the event of unforeseen circumstances within the meaning of Clause VIII hereof, Vulkan shall be entitled to rescind the contract and the buyer shall not be entitled to claim any damages.

## XIII. ASSIGNMENT

1. The buyer shall not assign or transfer the contract or any part of it to any other party without consent in writing from Vulkan.

## XIV. BANKRUPTCY OR LIQUIDATION

1. If the buyer being an individual (or, when the buyer is a firm) shall at anytime become bankrupt, or shall have a receiving order or administration order made against him or shall make any composition or arrangement with, or for the benefit of his creditors, or shall make any conveyance or assignment for the benefit of his creditors or shall purport to do so, or any application shall be made under the Bankruptcy Act for the time being in force for sequestration of his estate, or a trust deed shall be granted by him on behalf of his behalf creditors, or if the buyer, being a company, shall pass a resolution, or the court shall make an order that the company shall be wound up (not being a member's winding up for the purpose of reconstruction or amalgamation) or if a receiver, or manager on behalf of a creditor, shall be appointed, or if circumstances shall arise which entitle the court to creditor to appoint a receiver or manager, of which entitle the court to make a winding-up order, then Vulkan shall be at liberty
  - (a) To reject the order summary by notice in writing without compensation to the buyer, or
  - (b) To give any such receiver or liquidator or other person the person the option of carrying out the contract.

## XV. SEVERABILITY

1. In the event that any provision of this contract is void or legally unenforceable, it shall be severed from the remaining provisions of this contract which remain valid and binding between the parties.

## XVI. JURISDICTION

1. 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 in Singapore in accordance with the Arbitration Rules of the Singapore International Arbitration Centre („SIAC Rules“) for the time being in force which rules are deemed to be incorporated by reference into this clause.

## XVII. PROPER LAW OF CONTRACT

1. The governing law of this contract shall be the law of Singapore by arbitration in Singapore in accordance.