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General Terms and Conditions of Sales and Supply

1. General

- 1.1 These general conditions of sales and supply ("Conditions") are applicable to all deliveries, services and offers of HUBER+SUHNER (Malaysia) Sdn. Bhd. (Company No. 468900-X) ("H+S"), to the exclusion of all other terms and conditions (if any) which the customer of H+S ("Customer") may purport to apply under any purchase order, confirmation of order or similar document. Any such terms and conditions of sales and supply given by a Customer which is inconsistent with the Conditions shall not be binding upon H+S unless H+S specifically agrees to the same in writing.
- 1.2 All agreements and relevant declarations of the parties to the contract must be in writing to be valid.
- 1.3 The Customer's quotation, if any, is only an invitation to treat and shall not, at any time what so ever, constitute an offer to sell the goods or provision of services.
- 1.4 All orders for goods or services from the Customer shall be deemed to be an offer by the Customer to purchase goods or services in accordance with the terms of these Conditions. Orders which do not stipulate a validity period are not binding upon H+S.
- 1.5 There shall be no contract ("Contract") of sale of goods or for provision of services unless and until H+S accepts the Customer's order. The Contract between H+S and the Customer is deemed concluded only when H+S confirms its acceptance of the Customer's order in writing.
- 1.6 The use of electronic signature corresponding to the current level of technology and in accordance with applicable laws is permissible for the conclusion of a Contract or an alteration to the Contract to be effective and replaces the requirement of such in writing.
- 1.7 Should a provision of these Conditions prove to be wholly or partly invalid or unworkable, the parties shall jointly seek an arrangement having a legal and economic effect which will be as similar as possible to the invalid provision. If any provision or term of these Conditions or any part thereof shall become or be declared illegal, invalid or unenforceable for any reason whatsoever, such provision or term shall be divisible from these Conditions and be deemed to be deleted from these Conditions in the jurisdiction in question but if such deletion substantially affects or alters the commercial basis of this Agreement, the parties to the Contract shall negotiate in good faith to amend and modify the provisions and terms of these Conditions in such manner as may be necessary and equitable so as to restore the parties to their rights and obligations as contemplated as at the date of the Contract.

2. Scope of supplies and services

- 2.1 The supplies and services of H+S are exhaustively specified in the order acknowledgement and in the appendices thereto. H+S shall be entitled to make any changes which lead to improvements provided such changes do not result in a price increase.

- 2.2 With regard to deliveries concerning cable, H+S reserves the right to over or under supply up to 10% of the volume ordered by the Customer. If a specific (minimum) order quantity is required against surcharge, a special comment is to be made by the Customer when the order is placed.

3. Drawings, technical documents, tools and intellectual property

- 3.1 H+S shall not be liable for the accuracy or completeness of any content or representation contained in any brochures, catalogues or the Internet in respect of any goods and/or services provided by H+S whether such brochures or catalogues are issued by H+S or otherwise. H+S shall be liable for the accuracy of any factual information contained in any technical documents relating to goods provided by H+S only if such factual information is expressly stated.
- 3.2 Each party to the Contract retains all rights to technical documents provided by one party to the other. The party receiving such documents recognises these rights and shall not without the prior previous written consent of the other party make these documents available to any third party, either in whole or in part, nor use them for purposes other than those for which they were handed over.
- 3.3 The specification(s) and design(s) of the goods (including the copyright, design right, trademark or other intellectual property in them) shall as between the parties remain the property of H+S and the Customer undertakes not to adopt or use the same for any reason whatsoever.
- 3.4 Where any designs or specifications have been supplied by the Customer to H+S for manufacture by or to the order of H+S, the Customer warrants to H+S that the use of those designs or specifications for the manufacture, processing, assembly and/or supply of the goods shall not infringe the rights of any third party in any manner whatsoever and the Customer undertakes to fully indemnify H+S against all claims and actions whatsoever and howsoever arising out of the use by H+S of those designs or specifications supplied or made available by the Customer to H+S.
- 3.5 Save for the right to use or resell the goods, H+S and the Customer agree that no right, title, interest and/or license whatsoever in any patent, trademark, copyright, registered design or such other intellectual property rights or goodwill pertaining thereto is granted by H+S under the Contract to the Customer.
- 3.6 The Customer shall both during the term of the Contract for the sale of the goods or the provision of services (as the case may be) by H+S and after its termination keep secret all technical documents and confidential information received or obtained from H+S and shall not use or disclose the same to third parties except with the prior written consent of H+S (where such consent may be given or refused at H+S' sole discretion) or where such disclosure is required by law or for the enforcement of any Contract for the sale of goods or for the provision of services (as the case may be). The termination of any such Contract shall not operate to discharge or relieve the Customer of its obligation under this paragraph or of its liability for any breach of any such obligation prior to the date of termination of any such contract.
- 3.7 Unless the same is provided by the Customer, tools, moulding tools and equipments of all kinds ("Tools") shall at all times and in all cases remain the property of H+S.
- 3.8 Special conditions are to be agreed for Tools provided by the Customer to H+S. The Customer shall be responsible and pay for all costs of servicing, maintaining and upkeep of all Tools belonging to the Customer. The cost for storing these Tools is the responsibility of H+S, however, up to a maximum of five years only after the last delivery was executed.
- 3.9 The Customer shall forthwith collect from H+S, all Tools belonging to the Customer upon the termination of the Contract or upon a written request made by H+S for such collection. All Tools provided by the Customer and kept by H+S for the time being shall be kept by H+S at the sole risk of

the Customer. Under no circumstances would H+S be responsible for any loss or damage to the Tools provided by the Customer.

4. Regulations in force in the country of destination and safety devices

- 4.1 The Customer shall, prior or at the latest when placing the order, notify H+S in writing as to the safety standards and regulations applicable to the execution of the supplies and services, to their operation as well as to the health and safety of personnel.
- 4.2 Unless otherwise agreed upon in writing between the parties to the Contract ("parties") and subject to H+S' receipt of the Customer's notification referred to in paragraph 4.1 above, the supplies and services to be provided by H+S shall comply with the safety standards and regulations at the place of business of the Customer. Additional or other safety devices shall be supplied to the extent that having been expressly agreed upon.

5. Prices

- 5.1 Unless otherwise agreed upon in writing between the parties, all prices shall be net exworks (upon the terms stated in the latest issue of the Incoterms), excluding packing, in Ringgit without any deductions whatsoever.

Any and all additional charges, such as, but not limited to, freight charges, insurance premiums, fees for export, transit, import and other permits, as well as for certifications, shall be borne by the Customer.

The Customer shall also bear any and all taxes, fees, levies, customs duties and the like which are levied out of or in connection with the Contract, and if levied to and paid by H+S, the Customer shall refund the same to H+S upon delivery by H+S of evidence for such payment.

- 5.2 H+S reserves the right to adjust the prices to goods or services ("Prices") at any time between the date of submission of the tender or quotation and the contractually agreed date of performance by giving notice to the Customer not less than seven (7) days before the date of delivery of goods or services to the Buyer to reflect any increase in the cost to H+S due to an increase in wages rates or price of raw materials. In such case, the adjustment shall be made in accordance with the inflation rate applicable.

In addition, an appropriate price adjustment as determined by H+S shall also apply (without limitation) in the following events :-

- a) the delivery time has been subsequently extended due to any reason stated in paragraph 6.2, 8.1 or 8.3 of these Conditions; or
- b) the nature or the scope of the agreed sales or supplies of the goods or the services have changed; or
- c) the documents (or any part thereof) furnished by the Customer were not in conformity with the actual circumstances, inaccurate or incomplete resulting in the need to change the design, material or the execution thereof and/or the Customer did not notify H+S in a timely manner as to the safety standards and regulations pursuant to paragraph 4.1 of these Conditions; or
- d) factors beyond the reasonable control of H+S including, without limitation, foreign exchange fluctuations, increase in taxes, and duties and the costs of labour, materials and other manufacturing costs.

6. Terms of payment

- 6.1 Unless otherwise agreed upon between the parties in writing, payments shall be made by the Customer within 30 days after the date of invoice, net, without any deduction for cash discount, expenses, taxes, levies, fees, duties, and the like.
- 6.2 The Customer shall comply with the due date of payment of the relevant invoices issued by H+S notwithstanding that the transport, delivery, erection, commissioning or taking over of the supplies or services is delayed or prevented due to reasons beyond H+S' control, or if unimportant parts are missing, or if post-delivery work is required to be carried out without the supplies or services being prevented from use.
- 6.3 If advance payments, if agreed upon, are not provided in accordance with the terms of the Contract, H+S shall, at its absolute discretion, be entitled to adhere to or to terminate the Contract, and shall in both cases be entitled to claim damages.
- 6.4 If the Customer fails, refuses or neglect to make payment of the invoices within the agreed time frame or terms of payment, the Customer shall be liable, without further notice from H+S, interest at the rate of 8% per annum calculated from the due date of payment until the date of actual payment thereof. Payment of the interest does not release the Customer from its obligation to make payments on the agreed dates or from the obligation to pay damages which might exceed the interest rate mentioned.
- 6.5 In addition to the payment of interest in the event the Customer fails, refuses or neglect to make payment of the relevant invoices on the relevant due date for payment, then without prejudice to any of H+S' other rights, H+S may suspend or cancel deliveries of any goods or provide of any services (as the case may be) to the Customer.
- 6.6 An offset of claims from either party out of this, or in conjunction with this Contract is only allowed with an accepted or legally confirmed counterclaim.

7. Reservation of title

- 7.1 H+S shall remain the owner of all supplies until having received the full payment in accordance with the Contract. The Customer shall co-operate at first notice in any measures necessary or desirable for the protection of H+S' title to the goods.

8. Delivery time

- 8.1 The delivery time shall start as soon as the Contract is entered into, all official formalities such as, but not limited, to import or payment permits have been completed, payments due with the order have been made, any agreed securities given and the main technical points settled. The delivery time shall deemed to be observed if by that time H+S has sent a notice to the Customer informing that the supplies are ready for dispatch and in case of services that H+S is ready to fulfill its obligations. H+S may deliver the goods in whole or in part by separate installments in accordance with the agreed delivery schedule if any.
- 8.2 Compliance with the delivery time is conditional upon customer's fulfilling of its contractual obligations, especially its payments and co-operation responsibilities.

8.3 The delivery time shall be reasonably extended :

- a) if the relevant information required by H+S for performance of the Contract is not received in time, or if the Customer subsequently changes it thereby causing a delay in the delivery of the supplies or services;
- b) if hindrances occur which H+S cannot prevent despite using reasonable and practical care, regardless of whether they affect the customer or a third party. Such hindrances include, but shall not be limited to, epidemics, mobilisation, war, revolution, serious breakdown in the works, accidents, labour conflicts, late or deficient delivery by subcontractors of raw materials, semi-finished or finished products, the need to scrap important work pieces, lock-out, industrial action, fire, flood, drought, tempest, official actions or omissions by any state authorities or public bodies, natural catastrophes, acts of God or other event beyond the reasonable control of H+S;
- c) if the Customer or a third party is behind schedule with the performance of its contractual obligations, in particular if the Customer fails to observe the terms of payment for the current or for previous orders.

8.4 In the event a specific date instead of a delivery period is fixed, such date shall correspond to the last day of a delivery period and paragraphs 8.1 to 8.3 above shall apply by analogy.

8.5 Any delay of the supplies or services in whole or in part does not entitle the Customer to any rights to terminate the Contract or any entitlements for damages or claims. This limitation does, however, not apply to unlawful intent or gross negligence on the part of H+S, but does apply to unlawful intent or gross negligence of persons employed or appointed by H+S to perform any of its obligations.

9. Passing of benefit and risk

9.1 The benefit and the risk of the goods or supplies shall pass to the Customer at the time of their leaving the works. Respectively for on-site contracts by the beginning of use of supplies or services the latest.

9.2 If dispatch is delayed at the request of the Customer or due to reasons beyond H+S's control, the risk of the goods or supplies shall pass to the Customer at the time originally foreseen for their leaving the works. From this moment on, the supplies shall be stored and insured on the account and at the risk of the Customer and payment for the supplies shall become due and payable in accordance with clause 6.1.

10. Forwarding, transport and insurance

10.1 H+S shall, the latest with the order, be notified of special requirements regarding forwarding, transport and insurance. The transport shall be ex works (Incoterms, latest issue) at Customer's expense and risk.

Objections regarding forwarding or transport shall upon receipt of the supplies or of the shipping documents be immediately submitted by the customer to the last carrier.

10.2 The Customer shall be responsible for taking insurance against risks of any kind in the name of H+S for such period from the time of delivery until full payment (including tax) against all losses and damages (including loss or damage caused directly or indirectly by fire, explosion, storm, tempest flooding, theft, malicious damage, war, riot, other perils whether natural or man made and acts of God) or for such other relevant risks as H+S may notify in writing to the customer, prior to the delivery.

11. Inspection and taking-over of the supplies and services

- 11.1 According to its own practices, H+S shall inspect the supplies and services before dispatch, respectively after fulfilling its services. If the Customer requests further testing, this has to be specially agreed upon and paid for by the Customer.
- 11.2 The Customer shall inspect the supplies and services including partial supplies and partial services within a reasonable period upon arrival and shall immediately notify H+S in writing of any deficiencies. If the Customer fails in doing so, the supplies and services including partial supplies and partial services shall be deemed to have been taken over.
- 11.3 Having been notified of deficiencies pursuant to paragraph 11.2, H+S shall as soon as possible remedy them, and the Customer shall give H+S the possibility of doing so. After remedy of such deficiencies, a taking-over test may be carried out at the request of the Customer or of H+S.
- 11.4 Taking-over of the supplies or services shall also be deemed completed as soon as the Customer uses or can use the supplies or services of H+S including partial supplies or partial services.
- 11.5 Deficiencies of any kind in supplies or services including partial supplies and partial services shall not entitle the Customer to any rights or claims other than those expressly stipulated in these Conditions.

12. Warranty, liability for defects

12.1 Warranty period

The warranty period is 12 months commencing from the day the supplies leave H+S' works. If dispatch is delayed due to reasons beyond H+S' control, the warranty period shall end not later than 18 months after H+S' notification that the supplies are ready for dispatch. In case of services, the warranty commences after completion of the execution of the said service and lasts 12 months.

For replaced or repaired parts the warranty period finishes after the expiry of the original guarantee period according to above paragraph.

The warranty expires prematurely if the Customer or a third party performs inappropriate modifications or repairs or if the Customer, in case of a defect, does not immediately take all appropriate steps to mitigate the damage and give H+S in writing the possibility of remedying such defect.

12.2 Liability for defects in material, design and workmanship

Upon written request of the Customer, subject to the warranty period in paragraph 12.1, H+S undertakes – excluding the acceptance of any claims and at its choice – to repair or replace as quickly as possible any parts of the supplies which, before the expiry of the guarantee period, are proved to be defective due to bad material, faulty design or poor workmanship. Replaced parts shall become H+S' property. H+S shall bear the costs of remedying the defective parts in its works. The repair and the replacement costs outside the scope of the works of H+S are to be borne by the customer.

Upon written request of the Customer, H+S undertakes – excluding the acceptance of any claims and at its choice – to repair or redo as quickly as possible any services which, before the expiry of the guarantee period, are proved to be defective.

12.3 Liability for express warranties

Express warranties are only those which have been expressly specified in the order acknowledgement. An express warranty is only valid until the expiry of the guarantee period at the latest, unless an extended period has been agreed upon. If the express warranties are not or only partially achieved, H+S has the right to carry out the improvements. The Customer shall give H+S reasonable time to carry out the improvements. If such improvements fail completely or in part, the customer may claim a reasonable reduction of price.

12.4 Exclusions from the liability for defects

Excluded from H+S warranty and liability for defects are all deficiencies which cannot be proved to have their origin in bad material, faulty design or poor workmanship, e.g. including but not limited to those resulting from normal wear and tear (like tear and general wear as well as causes, but not limited to, electric overload, environmental pollution, electromagnetic disturbances), improper maintenance or repair, failure to observe the operating instructions, excessive loading, use of any unsuitable material, influence of chemical or electrolytic action, interference with other products, systems or services or resulting from other reasons beyond H+S' control.

12.5 Supplies and services of sub-suppliers

For supplies and services of sub-suppliers prescribed by the Customer, H+S assumes liability only to the extent of such sub-suppliers' liability and obligations towards H+S.

12.6 Exclusivity of liability claims

In respect to any defective material, bad design or poor workmanship as well as to any failure in fulfilling the express warranties, the Customer shall not be entitled to any rights or claims other than those expressly stipulated in paragraphs 12.1 to 12.5, especially no claims of cancellation or damages.

12.7 Liability for additional obligations

H+S is only liable to the extent of unlawful intent or gross negligence as far as claims arising out of faulty advice and the like or out of breach of any additional obligations are concerned.

12.8 The warranty rights and remedies cannot be assigned to any third party without the prior written approval of H+S.

12.9 The customer shall comply with H+S procedures concerning the return of goods under warranty or for repair (Repair and Replacement Procedure).

13. Software

13.1 Any software delivered by H+S in connection with the supplies and services shall remain the property of H+S or its licensors. The Customer is granted a personal, non-exclusive, non-transferable license to use the software in direct connection with the goods delivered with it. The Customer acknowledges the confidential nature of the software and the provisions of paragraph 3.2D shall apply in respect of the software.

13.2 The software warranty is limited to software errors or defects which result in unacceptable errors in the functioning of the goods delivered with the software. H+S shall do its best efforts to replace software with such errors or defects.

13.3 Article 12 shall be applicable accordingly.

14. Erection/Installation and commissioning

If H+S undertakes the erection/installation, the supervision of the erection/installation or the commissioning, the General Conditions of Erection/Installation of H+S shall apply.

15. Non-performance, bad performance and their consequences

- 15.1 In all cases of bad performance or non-performance not expressly covered by these Conditions - in particular if H+S, without any valid reasons, starts execution of the supplies and services so late that punctual completion is unlikely to be foreseen, or if an execution contrary to the terms of the Contract can be clearly foreseen due to H+S' fault, or if the supplies and services have been executed contrary to the terms of the Contract due to H+S' fault -, then the Customer shall be entitled to grant a reasonable period to H+S for the supplies or services affected thereby by simultaneously warning in writing to terminate the Contract in case of non-compliance. If such additional period lapses due to H+S' fault, the Customer shall be entitled to terminate the Contract with respect to the supplies or services executed, or certain to be executed, contrary to the terms of the Contract, and to claim a refund of the payments already made.
- 15.2 Subject to Clause 16, any claims for damages on the part of the Customer and with exclusion of any further liability, and any claim for damages shall be limited to 10 % of the Contract price for the supplies and services affected by the termination.

16. Exclusion of further liabilities

All rights and claims on the part of the Customer save as those mentioned in these Conditions, irrespective on what ground they are based, are exhaustively covered in these Conditions and especially those not expressly mentioned for damages, reduction of price, termination or withdrawal from the Contract are excluded. In no case whatsoever shall the Customer be entitled to claim damages other than compensation for costs of remedying defects in supplies or services. This in particular refers, but shall not be limited, to loss of production, loss of use, loss of orders, loss of profit and other direct or indirect or consequential damages. This exclusion of liability, however, does not apply to unlawful intent or gross negligence on the part of H+S, but does apply to unlawful intent or gross negligence of persons employed or appointed by H+S.

17. Partial supplies and partial services

- 17.1 The conditions concerning acceptance and warranty are to be enforced individually if partial supplies are to be executed. The same is valid, if services are performed which are, or can be of use to the customer partially.

18. Return of packaging material and recycling

- 18.1 The Customer shall not be entitled to any rights regarding the return of packaging material or the recycling of product delivered by H+S.
- 18.2 H+S shall credit reels and drums charged for, if such are returned to H+S freight paid and in proper condition.

19. Right of recourse of H+S

- 19.1 If, through actions or omissions of the Customer or of persons employed or appointed by it to perform any of its obligations, personal injury, damage to the property of third parties or other damages occur and if a claim is made against H+S, then the latter shall be entitled to take recourse against the Customer. The latter shall hold harmless H+S.

20. Jurisdiction and applicable law

- 20.1 The place of jurisdiction and fulfillment for both the Customer and H+S shall be Malaysia. H+S shall, however, be entitled to appeal to the competent court at the Customer's registered address.
- 20.2 These Conditions shall be governed by and construed in accordance with the laws of Malaysia. The Customer shall submit to the nonexclusive jurisdiction of the courts in Malaysia.