

## 1. General terms

1.1 In these Conditions:

"Company" means Koch Singapore Packaging Systems Pte Ltd;

"Conditions" means the general terms and conditions set out in the General Terms and Conditions for Goods and Services, and the General Terms and Conditions for Services;

"Contract" means the contract for the purchase and sale of Goods and/or supply of Services, howsoever formed or concluded;

"Customer" means the person who accepts a quotation of the Company for the supply of Goods and/or Services, whose order for Goods and/or Services is accepted by the Company or who otherwise enters into a Contract for the supply of Goods and/or Services with the Company;

"Factory" means KOCH Singapore Packaging Systems Pte Ltd, 107 Eunos Avenue 3, #01-01, Singapore 409837

"Goods" means the goods (including any instalment of the goods or any parts for them) which the Supplier is to supply in accordance with a Contract;

"Incoterms" means the international rules for the interpretation of trade terms of the International Chamber of Commerce as in force at the date when the Contract is made;

"Intellectual Property Rights" means all intellectual and industrial property rights, including, but not limited to, patents, trade secrets, trademarks, services marks, trade names, copyrights and other rights in works of authorship (including rights in computer software), moral and artists' rights, design rights, trade or business names, and whether any of the foregoing are registered or unregistered and all rights or forms of protection of a similar nature in any country.

"Services" means the services (including any part thereof) which the Company is to supply in accordance with a Contract, or that the Customer requests the Company to provide;

"Writing" includes electrical mail facsimile transmission and any comparable means of communication.

1.2 The following terms and conditions shall apply to all offers placed by the Company and all Contracts concluded with the Customer, to the exclusion of:

any other terms and conditions of the Customer, whether contained in or referred to in any documentation correspondence or elsewhere; or

any other terms and conditions implied by trade custom practice or course of dealing.

For the avoidance of doubt, the general terms and conditions of the Customer shall only apply if expressly confirmed by the Company in Writing.

1.3 Singapore shall be the place of performance for both the Customer and the Company and all contractual claims.

## 2. Contract

2.1 The Contract shall comprise of these Conditions, the order confirmation issued by the Company to the Customer in relation to the Goods (the "Order Confirmation"), the order confirmation issued by the Company to the Customer in relation to the Service (the "Service Order Confirmation") and any master agreement concluded between the Company and the Customer.

2.2 In the event there are any inconsistencies between the contents of the Conditions, the Order Confirmation and any master agreement concluded between the Company and the Customer, the following documents shall take precedence in the following order:

- (a) The Order Confirmation;
- (b) The Service Order Confirmation
- (c) These Conditions; and
- (d) The master agreement between the Company and the Customer.

2.3 In accepting Goods and/or Services or any part thereof, the Customer acknowledges and agrees to be bound by the Contract.

2.4 No variation to the Contract (or any component thereof) shall be binding unless agreed in Writing between the authorised representatives of the Company and the Customer.

2.5 Illustrations, rough drafts and other descriptions (including but not limited to descriptions of design and technical quality) of any Goods supplied by the Company are approximates and shall not form part of the Contract. Design and technical quality of any Goods supplied by the Company shall be determined by the Company. The Customer should not rely on the accuracy of the same. For illustration purposes, with the relevant Order Confirmation, the Company may provide dimensioned drawings of the Goods containing projected details of the dimensions and the weight of the Goods. The Company reserves the copyright on any drawings, documentation and other written materials provided to the Customer (including any illustration of the Goods). No drawing, documentation or written material provided by the Company to the Customer may be disclosed to third parties without the prior written consent of the Company.

2.6 The Company's employees or agents are not authorised to make any representations concerning any Goods or Services unless confirmed by the Company in Writing. Any information made available in connection with any offer for the supply of Goods or Services, including photographs, drawings, data about the extent of the delivery, appearance, performance, consumption of operating materials, operating costs, is not binding unless expressly designated as binding by the Company in Writing. In entering into the Contract the Customer acknowledges that it does not rely on and waives any claim based on any such representations or information not so confirmed. Any advice or recommendation given by the Company or its employees or agents to the Customer or its employees or agents which is not confirmed in Writing by the Company is followed or acted upon entirely at the Customer's own risk and accordingly the Company shall not be liable for any such advice or recommendation which is not so confirmed.

2.7 The Company enters into Contracts with the Customer, subject to the Company receiving from its suppliers delivery of the necessary raw materials and primary products which are necessary to produce the Goods. In the event that the Company does not receive delivery of any such raw materials or primary products which are necessary for the production of the Goods ordered by the Customer, the Company shall inform the Customer and the Company and the Customer shall agree on a new delivery date for the affected Goods. In the event that the Company and the Customer are not agreeable on a new delivery date, or if the Company determines that supplying the affected Goods is no longer economically viable, the Company shall be entitled to

terminate the Contract in relation to that specific item of Goods. In such an event, the Company will refund to the Customer any sums paid by the Customer for that specific items of Goods.

## 3. Orders

3.1 No order submitted by the Customer shall be deemed to be accepted by the Company unless and until confirmed in Writing by the Company's authorised representative via an Order Confirmation.

3.2 The Customer shall ensure the accuracy of the terms of any order (including any applicable required specification(s)) submitted by the Customer and shall give the Company any necessary information relating to the Goods and/or Services within a sufficient time to enable the Company to perform the Contract in accordance with its terms. In the event that the Company requires instructions from the Customer, the Company shall be entitled to impose a deadline for the Customer to provide such instructions, and the Customer shall comply with such deadline(s).

3.3 The quantity, quality and description of and any specification for the Goods and/or the description of the Services shall be those set out in the Order Confirmation.

3.4 If the Customer requires any customisation to the Goods or any customisation in the performance of the Services by the Company, the Customer shall indemnify the Company against all loss, damages, costs and expenses awarded against or incurred by the Company in connection with or paid or agreed to be paid by the Company in settlement of any claim for infringement of any patent, copyright, design, trade mark or other industrial or intellectual property rights of any other person which results from the Company's use of the Customer's specification. If any allegation of infringement is made by a third party, the Company is not obliged to enquire into the merits of the allegation but is entitled to terminate the Contract and claim compensation for all loss (including loss of profit), costs (including the cost of all labour and materials used), damages, charges and expenses incurred by the Company up to the time of termination.

3.5 The Company reserves the right to make any changes in the specification of the Goods or Services which are required to conform with any applicable statutory or regulatory requirements or where the Goods or Services are to be supplied to the Company's specification which do not materially affect their quality or performance.

3.6 No concluded Contract may be modified or cancelled by the Customer except with the agreement in Writing of the Company and on terms that the Customer shall indemnify the Company 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 Company as a result of the modification or cancellation, as the case may be.

## 4. Prices and terms of payment

4.1 Unless otherwise stated in the Order Confirmation, the prices in the Order Confirmation are intended in respect of ex works Factory delivery (i.e. based on the Incoterms). The prices in the relevant Order Confirmation exclude packing, freight and insurance.

4.2 The price stated in the Order Confirmation may be subject to GST under the GST Act, and is exclusive of any applicable value added tax or any other tax which the Customer shall be liable to bear. The Customer shall be entitled to receive the price net of all bank charges, taxes and similar expenses, and without any deduction or set-off whatsoever.

4.3 If no other specific terms have been agreed in Writing between the Customer and the Company, the following terms shall apply:

4.3.1. The Company shall be entitled to invoice the Customer at any time after the Company has notified the Customer that the Goods are ready for collection; (b) at any time after performance of the Services.

4.3.2. The Customer shall pay the price: (a) for Goods, within 7 days of the invoice date; (b) for Services, within 14 days of the invoice date.

4.4 The time of payment of the price shall be of the essence of the Contract.

4.5 Should any orders for customised Goods require the use of new technologies and procedures, resulting in additional costs, the Company shall be entitled to amend the agreed prices, delivery dates and terms of payment in the relevant Order Confirmation to reflect the additional costs and/or time spent in supplying the customised Goods ("Variation for Customised Goods"). Variation for Customised Goods shall only apply if, and to the extent that such possibility is expressly provided for in the relevant Order Confirmation, or if this is otherwise agreed in Writing between the Customer and the Company. If the Order Confirmation provides for a Variation for Customised Goods, the state of technology that the initial prices are based on shall be specified in the relevant Order Confirmation.

4.6 The agreed term of payment shall be as set out in the relevant Order Confirmation. After expiration of the agreed term of payment, the Company shall be entitled to charge interest on any outstanding sum payable by the Customer to the Company at the Company's bank's lending rate. The Company only accepts payment orders, cheques, bills of exchange and other means of payment as provisional means of payment and only accepts that payment has been received following receipt of the credit entry on the Company's bank account. Discounting and prolongation of bills of exchange shall not be regarded as performance.

4.7 Should the Customer fail to act according to its obligations, or should the Customer fail to make payment by the agreed date or otherwise be in default, the Company shall be entitled to fix an appropriate time limit for performance ("Extended Deadline") and to terminate the Contract in the event that the Customer does not comply with the Extended Deadline. In case of such termination, the Company shall be entitled to charge the full purchase price for all Goods in the relevant Order Confirmation.

4.8 If the Customer fails to make any payment by the Extended Deadline, then without prejudice to any other right or remedy available to the Company (i.e. including the right to charge interest pursuant to Clause 4.6 above), the Company shall be entitled to:

4.8.1. cancel the Contract or suspend any further deliveries of the Goods or suspend further performance of the Services; and/or

4.8.2. appropriate any payment made by the Customer to such of the Goods (or the goods supplied under any other contract between the Customer and the Company) as the Company may think fit (notwithstanding any purported appropriation by the Customer).

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Tobias Uhlmann  
Managing director:  
Harald Jung (CEO)  
Karl Kappler (CTO)

4.9 The Company reserves the right by giving notice to the Customer at any time after the conclusion of the Contract but before delivery/performance of the Goods or Services to increase the price of the Goods and/or Services or to extend the time for delivery in case of:

- 4.9.1. any increase in the cost to the Company (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 manufacture);
- 4.9.2. any change in delivery/performance dates quantities or specifications for the Goods and/or Services which is requested by the Customer; or
- 4.9.3. any delay caused by any instructions of the Customer or failure of the Customer to give the Company adequate information or instructions.

4.10 The Company is entitled in its absolute discretion from time to time to require full or partial payment of the price of the Goods prior to delivery. Without prejudice to the foregoing, if in the Company's opinion the Customer's creditworthiness deteriorates before delivery of the Goods the Company may require full or partial payment of the price prior to delivery or the provision of security by the Customer in a form acceptable to the Company.

**5. Retention of title**

5.1 Title to the Goods shall remain with the Company until the Customer has made full payment for the Goods, such Goods being referred to as "Encumbered Goods". Notwithstanding that the title to the Encumbered Goods shall remain with the Company, the Customer shall be required to obtain and maintain full insurance over the Encumbered Goods (and name the Company as the insured party), and coverage under the said insurance shall be effective from the date of delivery up until the title to the Encumbered Goods is transferred to the Customer, and the insurance proceeds shall cover at least the price of the Encumbered Goods.

5.2 Until such time as the title in the Encumbered Goods passes to the Customer, the Company shall be entitled at any time to require the Customer to deliver up the Encumbered Goods to the Company and if the Customer fails to do so forthwith to enter upon any premises of the Customer or any third party where the Encumbered Goods are stored and repossess the Encumbered Goods.

5.3 The Customer hereby irrevocably appoints the Company and its servants as its duly authorised agent for the purpose of entering upon any premises where the Encumbered Goods are stored for the purpose of examination and/or recovery of the same at any time without notice.

5.4 The Customer shall not be entitled to pledge or in any way charge by way of security for any indebtedness any of the Encumbered Goods but if the Customer does so all moneys owing by the Customer to the Company shall (without prejudice to any other right or remedy of the Company) forthwith become due and payable.

5.5 The Customer agrees with the Company that the Customer shall immediately notify the Company of any matter from time to time affecting the Company's title to the Encumbered Goods and the Customer shall provide the Company with any information or documents as the Company may require from time to time.

5.6 Where the Encumbered Goods have been incorporated by the Customer into any product or article in such a way that the substance and identity of the Encumbered Goods have been irrevocably altered or destroyed, then property in such new product(s) or article(s) shall immediately upon its or their creation vest wholly in the Company, and the provisions of the preceding sub-conditions shall apply mutatis mutandis to such products or articles as if they were Encumbered Goods; provided that this sub-condition shall not apply if the Company has received in cash or cleared funds payment in full of the price of the Encumbered Goods and all other goods agreed to be sold by the Company to the Customer for which payment is then due. For the avoidance of doubt, it is hereby declared that the provisions of the preceding sub-conditions shall continue to apply to Encumbered Goods which have been incorporated by the Customer into any product or article in such a way that the substance and identity of the Encumbered Goods have not been irrevocably altered or destroyed.

5.7 If the provisions in this Clause are not effective according to the law of the country in which the Encumbered Goods are located, the legal concept closest in nature to retention of title in that country shall be deemed to apply mutatis mutandis to give effect to the underlying intent expressed in this condition, and the Customer shall take all steps necessary to give effect to the same.

5.8 The Customer shall indemnify the Company against all loss damages costs expenses and legal fees incurred by the Customer in connection with the assertion and enforcement of the Company's rights under this Clause.

**6. Term of delivery and default in delivery**

6.1 Unless otherwise agreed, delivery of the Goods shall be made by the Customer collecting the Goods at the Company's premises at any time after the Company has notified the Customer that the Goods are ready for collection. If the parties agree on some other mode of delivery per Incoterms, the Company's delivery obligations shall be determined according to the applicable Incoterm. Save for obligations according to the applicable Incoterm or obligations expressly undertaken by the Company in Writing, the Company shall have no other obligations, in particular obligations which it might otherwise have according to the provisions of the Sale of Goods Act (Cap. 393). The Company may, if the Customer so requests, and at Customer's cost, assist Customer to arrange for transportation or insurance of the Goods, but if the Company does so, it shall accept no liability whatsoever, nor shall such action in any way affect the Company's Contractual delivery obligations as aforesaid.

6.2 Any dates quoted for delivery of the Goods or performance of the Services are approximate only. The Goods may be delivered by the Company in advance of the quoted delivery date upon giving reasonable notice to the Customer. Unless previously agreed by the Company in Writing, the time for delivery/performance shall not be of the essence, and the Company shall not be liable for any delay in delivery or performance howsoever caused.

6.3 If no term or date of delivery has been indicated, and if there should be any doubt, the term of delivery shall be six weeks after the order confirmation was made out.

6.4 The Customer shall not be entitled to reject partial deliveries of Goods that can be used independently.

6.5 The Customer is required to actively co-operation to enable the Company to make delivery by the quoted delivery date. The Customer shall provide to the Company clarification of all technical and commercial details required in respect of the Goods.

The Company requires the following:

- 6.5.1. The Customer date issuance of the Order Confirmation shall be decisive;
- 6.5.2. The Customer shall not request any technical or commercial modifications unless such modifications have already been set out in the Order Confirmation;
- 6.5.3. The Customer shall have provided sufficient amounts of testing materials according to the Company's specifications in good time (see also Clause 7.1 below);
- 6.5.4. The Customer shall have complied with and obtained information about all formalities required for smooth handling of transport, import and payments in good time and shall have procured import permits and letters of credit;
- 6.5.5. The Customer shall effect the agreed payments on schedule, whereby the credit entry on the Company's account shall be decisive;
- 6.5.6. The Customer shall conduct the acceptance tests on schedule (i.e. in the manner set out in Clause 7 below).

Should the Customer fail to actively co-operate in the manner set out in this Clause 6.5, the Company reserves the right to extend the term of delivery in a reasonable manner to a new date (the "Extended Delivery Date").

6.6 In the event that the Company does not deliver the Goods and/or Services by the later of the quoted delivery date or the Extended Delivery Date (if any), the Customer allows the Company to delay the delivery date by:

- 6.6.1. In respect of non-customised Goods: At least half of the original term (i.e. the original term being the period from the date of the Order Confirmation to the quoted delivery date) but no less than 5 months; or
- 6.6.2. In respect of Goods that are customised for the Customer: 3/4 of the original term and shall be no less than nine months, (the delayed date of delivery being the "Delayed Delivery Date").

6.7 If the Company fails to deliver the Goods by the Delayed Delivery Date, the Customer shall be entitled to terminate the Contract in respect of Goods which are not delivered by the Delayed Delivery Date, provided that the Customer's sole remedy upon such termination shall be the reimbursement of any payments made to the Company in respect of Goods which are not delivered by the Delayed Delivery Date.

**7. Scope of function and functional tests**

7.1 The Company tests each item of Goods before any Goods are delivered to the Customer. Unless agreed otherwise with the Customer, the Company shall only provide Goods which are suitable for the processing of packing materials that are usual in the market and have the dimensions and qualities set forth in the specification set out in the Order Confirmation.

7.2 If an acceptance test for the delivery item at the Factory has been agreed and set out in the Order Confirmation, the Customer shall attend the acceptance test at the Factory. If the Customer fails to appear at the agreed time on the agreed date for testing, the acceptance test be deemed to have been conducted, and the Goods shall be deemed to have passed the acceptance test.

7.3 If the Goods do not pass the acceptance test, the Goods will not be delivered to the Customer, and the Company will repair the Goods.

7.4 Upon delivery, the Customer shall immediately check to make sure that the Goods are intact and complete. Any defects shall be reported to the Company within seven (7) days from the date of delivery of the Goods. Should the Customer fail to promptly and correctly comply with these formalities, the Customer shall forfeit any claims against the Company in respect of any defects to the Goods. Any defects notified to the Company shall be evidenced by photographs. The Company shall, in its sole discretion, be entitled to appoint a claims agent in respect of any alleged defect to any Goods.

7.5 Subject to availability, the Company will make the services of its technically qualified staff available upon request and for payment – subject to the terms and conditions printed on the reverse side which shall apply in addition hereto.

**8. Defects**

8.1 Subject as expressly provided in these Conditions all other warranties conditions or terms, including those implied by statute or common law, are excluded to the fullest extent permitted by law.

8.2 Subject to this Clause 8, the Company warrants that the Goods will correspond with their specification at the time of delivery, and agrees to remedy any non-conformity therein for period of 12 months commencing from the date on which the Goods are delivered or deemed to be delivered ("Warranty Period").

- 8.2.1. The Company's above warranty concerning the Goods is given subject to the following conditions:
  - (a) No condition is made or to be implied nor is any warranty given or to be implied as to the life or wear of the Goods supplied or that they will be suitable for any particular purpose or use under any specific conditions, notwithstanding that such purpose or conditions may be known or made known to the Company.
  - (b) Any description given of the Goods is given by way of identification only and the use of such description shall not constitute a sale by description.
  - (c) Notwithstanding that a sample of the Goods may have been exhibited to and inspected by the Customer, it is hereby declared that such sample was not so exhibited and inspected as to constitute a sale by sample under the Contract.
  - (d) The Company binds itself only to deliver Goods in accordance with the general description under which they were sold, whether or not any special or particular description shall have been given or shall be implied by law. Any such special or particular description shall be taken only as the expression of the Company's opinion in that behalf. The Company does not give any warranty as to the quality state condition or fitness of the Goods.

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Managing director:  
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- (e) The above warranty does not extend to parts materials or equipment not manufactured by the Company in respect of which the Customer shall only be entitled to the benefit of any such warranty or guarantee as is given by the manufacturer to the Company
- (f) The Customer shall be required to notify the Company if the Goods are subjected to uncommon circumstances (due to climate, location or operation, etc.) or is used in multiple shift operation. Should the Customer fail to notify the Company of such uncommon circumstances, the Company shall be under no liability in respect of any defect in the Goods arising from the Goods being subjected to such uncommon circumstances.
- (g) The Company shall be under no liability for the following measures and actions taken by the Customer or third parties and the consequences thereof: improper remedy of defects, alteration of the Goods without the prior agreement of the Company, addition and insertion of parts, in particular of spare parts which do not come from the Company.
- (h) The above warranty does not extend to used machines, devices or parts.
- (i) The Company shall be under no liability in respect of any defect in the Goods or any other claim arising from any drawing design or specification supplied by the Customer.
- (j) The Company shall be under no liability in respect of any defect arising from unsuitable or improper use, defective installation or commissioning by the Customer or third parties, fair wear and tear, wilful damage, negligence, abnormal working conditions, defective or negligent handling, improper maintenance, excessive load, unsuitable operating materials and replacement materials, poor work, unsuitable foundation, chemical, electro-technical/electronic or electric influences, failure to follow the Company's instructions (whether oral or in Writing) or misuse or alteration or repair of the Goods without the Company's approval.
- (k) The Company is not liable for any loss damage or liability of any kind suffered by any third party directly or indirectly caused by repairs or remedial work carried out without the Company's prior written approval and the Customer shall indemnify the Company against each loss liability and cost arising out of such claims.
- (l) The Company shall be under no liability under the above warranty (or any other warranty condition or guarantee) if the total price for the Goods and/or Services has not been paid in cleared funds by the due date for payment.
- (m) The Company shall be under no liability whatsoever in respect of any defect in the Goods arising after the expiry of the Warranty Period

8.2.2. Any claim by the Customer which is based on any defect in the quality or condition of the Goods or their failure to correspond with specification shall be notified to the Company within seven days from the date of delivery of the Goods or (where the defect or failure was not apparent on reasonable inspection) within a reasonable time after discovery of the defect or failure. The Customer shall also examine the Goods for defects before every commissioning, in particular regarding safety and suitability for use. During use, the Goods shall be monitored constantly with regard to safety and defects. If there are even slight reservations concerning the suitability for use or the slightest reservations concerning safety, the Goods must not be used or the operation must be shut down immediately. The Company shall be given written notification immediately, specifying the reservations or the defect. However, in no event shall the Customer be entitled to reject the Goods on the basis of any defect or failure, except where the failure is such that the Goods delivered are of a fundamentally different nature than those which the Company had contracted to deliver.

8.2.3. If the Customer does not give due notification to the Company in accordance with the Clause 8.2.2, the Company shall have no liability for any defect or failure or for any consequences resulting therefrom.

8.3 Where any valid claim in respect of any of the Goods which is based on any defect in the quality or condition of the Goods or their failure to meet a specification is notified to the Company in accordance with Clause 8.2.2, the following shall apply:

- 8.3.1. The non-conforming Goods (or part thereof) may be repaired or replaced free of charge as originally ordered.
- 8.3.2. If the Company is unable to repair or replace the Goods, the Company shall discuss available options with the Customer. If the Company and the Customer are unable to agree on a suitable remedy, the Company shall be entitled to pay the Customer the purchase price of the affected item(s) of Goods, and the Customer shall have no further claims against the Company in respect of the affected item(s) of Goods.
- 8.3.3. Upon such repair, replacement or refund (as the case may be) being made as aforesaid, the Customer shall have no further claim against the Company.

**9. Special terms and conditions of electronic business**

9.1 The Customer shall ensure that only authorized employees place electronic orders with the Company, and that only authorised employees may access the Customer's user account.

9.2 The Customer shall ensure and procure that its employees agree to refrain from disclosing passwords and user codes for the use of the Customer's user account to third parties and to take care that such information is kept strictly confidential and protected against access or discovery by unauthorized persons.

**10. Liability**

10.1 The Company shall accept liability to the Customer for death or injury resulting from its own or that of its employees' negligence. Save as aforesaid, the Company's liability under or in connection with the Contract shall be subject to the limitations set out in this Clause 10.

10.2 The Company shall be under no liability whatsoever in the event of a Force Majeure event, as described in Clause 11 or where any liability arises from an act or default of the Customer.

10.3 In no event shall the Company be liable for loss of profit or goodwill, loss of production or revenue or any type of special indirect or consequential loss whatsoever (including loss or damage suffered by the Customer as a result of an action brought by a third party) even if such loss were reasonably foreseeable or the Company had been advised of the possibility of the Customer incurring the same.

10.4 The remedy as specified in:

- 10.4.1. Clause 2.7 is the Customer's sole and exclusive remedy if the Company delays the delivery date or terminates the Contract in relation to specific Goods due to the Company failing to receive delivery of the raw materials or primary products from its suppliers;
- 10.4.2. Clause 6.7 is the Customer's sole and exclusive remedy for non-delivery of Goods; and
- 10.4.3. Clause 8.3 is the Customer's sole and exclusive remedy for defective items of Goods.

10.5 Subject only to Clause 2.7, 6.7, 8.3 and 10.1, the Company's maximum and cumulative total liability (including any liability for acts and omissions of its employees agents and sub-contractors) in respect of any and all claims for defective performance, breach of contract, compensation, indemnity, tort, misrepresentation, negligence at law or equity and any other damages or losses which may arise in connection with its performance or non-performance under the Contract, shall not exceed 15% of the total Contract price.

10.6 If a number of events give rise substantially to the same loss they shall be regarded as giving rise to only one claim under these Conditions.

10.7 In the case of any claim under Clause 8 above, no action shall be brought by the Customer later than the end of the Warranty Period. In the case of any other claims, no action shall be brought by the Customer later than 12 months after the date the Customer became aware of the circumstances giving rise to a claim or the date when it ought reasonably to have become aware of the circumstances giving rise to the claim, and in any event, no later than 12 months after the end of the Warranty Period.

**11. Force Majeure**

11.1 Notwithstanding any other term in the Contract, the Company shall not be liable to the Customer or be deemed to be in breach of the Contract by reason of any delay in performing or any failure to perform any of the Company's obligations if the delay or failure was due to any cause beyond the Company's reasonable control ("Force Majeure events"). Without prejudice to the generality of the foregoing the following shall be regarded as causes beyond the Company's reasonable control:

- 11.1.1. Act of God, explosion, flood, tempest, fire or accident;
- 11.1.2. war or threat of war, sabotage, insurrection, civil disturbance or requisition;
- 11.1.3. acts, restrictions, regulations, bye-laws, prohibitions or measures of any kind on the part of any governmental, parliamentary or local authority;
- 11.1.4. import or export regulations or embargoes;
- 11.1.5. interruption of traffic, strikes, lock-outs or other industrial actions or trade disputes (whether involving employees of the Company or of a third party);
- 11.1.6. interruption of production or operation, difficulties in obtaining raw materials labour, fuel, parts or machinery;
- 11.1.7. power failure or breakdown in machinery.

11.2 Upon the happening of any Force Majeure event, the Company may at its option:-

- 11.2.1. fully or partially suspend delivery/performance while such event or circumstances continues;
- 11.2.2. terminate any Contract so affected with immediate effect by written notice to the Customer and the Company shall not be liable for any loss or damage suffered by the Customer as a result thereof. The Company shall be entitled to retain any payment already made by or on behalf of the Customer in respect of such terminated Contract(s).

**12. Intellectual Property Rights**

12.1 If any claim is made against the Customer that the Goods infringe or that their use or resale infringes any Intellectual Property Rights unless the claim arises from the use of any drawing or specification supplied by the Customer, the Company shall indemnify the Customer against all loss damages costs and expenses awarded against or incurred by the Customer in connection with the claim or paid or agreed to be paid by the Customer in settlement of the claim, up to a maximum cumulative amount of 15 % of the value of the infringing Goods provided that:

- 12.1.1. the Company is given full control of any proceedings or negotiations in connection with any such claim;
- 12.1.2. the Customer shall give the Company all reasonable assistance for the purposes of any such proceedings or negotiations;
- 12.1.3. except pursuant to a final award the Customer shall not pay or accept any such claim, or compromise any such proceedings without the consent of the Company;
- 12.1.4. the Customer shall do nothing which would or might vitiate any policy of insurance or insurance cover which the Customer may have in relation to such infringement, and this indemnity shall not apply to the extent that the Customer recovers any sums under any such policy or cover (which the Customer shall use its best endeavours to do);
- 12.1.5. the Company shall be entitled to the benefit of and the Customer shall accordingly account to the Company for all damages and costs (if any) awarded in favour of the Customer which are payable by or agreed with the consent of the Customer (which consent shall not be unreasonably withheld) to be paid by any other party in respect of any such claim; and
- 12.1.6. without prejudice to any duty of the Customer at common law, the Company shall be entitled to require the Customer to take such steps as the Company may reasonably require to mitigate or reduce any such loss, damages, costs or expenses for which the Company is liable to indemnify the Customer under this condition.

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Tobias Uhlmann  
Managing director:  
Harald Jung (CEO)  
Karl Kappler (CTO)

12.2 The Company makes no warranties in relation to the Intellectual Property Rights in any specifications and/or any documentation provided by the Company. All Intellectual Property Rights in such specifications and documentation shall remain vested in the Company.

12.3 The Company grants to the Customer a limited, non-exclusive right to use the Intellectual Property Rights in the specification and the documentation solely in connection with the use of the Goods. The Customer shall not copy, reproduce, transmit or communicate such specifications and documentation to any third party without the Company's prior written consent.

### 13. Confidentiality

13.1 Each Party undertakes that it and its directors, officers, employees, representatives, agents, contractors or affiliates will fully respect the confidentiality of internal business affairs of the other Party. Each of the Parties hereby undertakes to treat as confidential all information obtained from the other Party or communicated to the receiving party pursuant to the Contract or through discussions or negotiations prior to the Contract being entered into or acquired in the performance of the Contract, and will not divulge such information to any person except to persons mentioned above who have a need to know the certain information, and will use such information solely in connection with performing its obligations under these Conditions and/or the Contract and not for its own benefit or for the benefit of any third party.

13.2 The confidentiality of information shall not extend to information:

- 13.2.1. which is rightfully in the possession prior to the commencement of the negotiations resulting into the contract; or
- 13.2.2. which is already in the public domain or becomes so at a further date other than as a result of breach of this Clause; or
- 13.2.3. which is communicated or disclosed to the receiving party by a third party lawfully in possession thereof and entitled so to disclose it; or
- 13.2.4. which a party is required to disclose by any applicable law or by any order of a tribunal of competent jurisdiction.

### 14. Termination

14.1 On or at any time after the occurrence of any of the events in Clause 14.2 the Company may stop any Goods in transit, suspend further deliveries to the Customer, suspend performance of the Services, exercise its rights under Clause 5 and/or terminate the Contract with the Customer with immediate effect by written notice to the Customer

14.2 The events are:-

- 14.2.1. the Customer being in breach of an obligation under the Contract;
- 14.2.2. the Customer passing a resolution for its winding up or a court of competent jurisdiction making an order for the Customer's winding up or dissolution;
- 14.2.3. the making of an administration order in relation to the Customer or the appointment of a receiver over or an encumbrancer taking possession of or selling any of the Customer's assets;
- 14.2.4. the Customer making an arrangement or composition with its creditors generally or applying to a Court of competent jurisdiction for protection from its creditors.

### 15. Notices

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.

### 16. General

16.1 No waiver by the Company of any breach of the Contract by the Customer shall be considered as a waiver of any subsequent breach of the same or any other provision.

16.2 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 thereby.

16.3 No person who is not a party to this Contract (including any employee officer agent representative or sub-contractor of either party) shall have any right under the Contracts (Rights of Third Parties) Act (Cap. 53B) to enforce any terms of this Contract which expressly or by implication confers a benefit on that person without the express prior agreement in Writing of the Company and the Customer.

16.4 The Contract shall be governed by the laws of Singapore excluding its conflict of laws provisions and the exclusive place of jurisdiction for all disputes arising from contracts covered by the Contract shall be the Singapore courts. However, the Company and the Customer agree that the Company shall also be entitled to sue the Customer at the national courts of the country in which the Customer is incorporated.

16.5 The United Nations Convention on Contracts for the International Sale of Goods shall not apply to the Contract.

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This document forms part of the Conditions, forming part of the Contract between the Company and the Customer. The terms defined in the General Terms and Conditions for Goods and Services shall apply in this document.

The Company shall make the services of its engineers available for the installation, overhauling and repair of the Goods supplied by the Company ("Services") upon contractual agreement or special request.

Work going beyond the services specified in the above can be performed if the Company is agreeable to provide such services upon the Customer's request, in which case, such services shall also be regarded as "Services" for the purpose of these Conditions.

While the terms of the Contract apply to both the supply of Goods and the supply of Services to the Customer, the following terms specifically apply to the supply of Services by the Company to the Customer:

1. The Customer shall send the Company a request the Services in Writing at least four weeks prior to the commencement of work in order. In the request for Services, the Customer shall specify the following details (the "Required Service Request Details"):

- (a) The Customer's Order Confirmation number;
- (b) The type of Service to be rendered;
- (c) The site at which the services are to be rendered ("Site");
- (d) The Customer's estimate of how many service engineers are required;
- (e) Which spare parts or additional parts (if any) are required; and
- (f) The name and contact details of the Customer's authorised representative who will be in charge of communicating with the Company and the Company's representatives in relation to the Services.

The Company shall not be obliged to provide Services if the Required Service Request Details are received by the Company less than four weeks prior to the intended date of commencement of Services.

2. If the Company is agreeable to providing the Service, the Company shall issue a service order confirmation ("Service Order Confirmation") which shall form part of the Contract between the Company and the Customer. The Service Order Confirmation will indicate the estimated cost of Services, number of service engineers (who may be agents of the Company or employees of the Company) ("Service Engineers"), the dates on which Services will be rendered, the information that the Customer must provide to the Company and the items that the Company requires the Customer to prepare.

3. Any estimates as to the duration and costs of Services to be provided by the Company are estimates only and are not binding.

4. If a longer duration is required for the Services to be provided than is set out in the Service Order Confirmation, the Company will inform the Customer within reasonable time, and the Company will inform the Customer the applicable daily rate for the Service Engineers involved in providing the Services. The Customer shall pay the daily rate per Service Engineer for each day of Services provided in excess of the projected duration of Services.

5. Upon the Company's request (which may be before or after the Service Order Confirmation is issued), the Customer shall within reasonable time:

- (a) Provide to the Company relevant information on all laws, regulations and rules as may be applicable in connection with the Services in the jurisdiction where the Services are to be performed; and
- (b) Provide to the Company all necessary details requested by the Company as to the type of assistance the Customer will render to the Company.

6. In the Customer requests further Services to be provided, an appropriate prolongation of the term for completion of the Services shall be agreed upon separately.

7. The Customer undertakes to effect the following at the Customer's full expense and responsibility:

- (a) The Customer shall transport of the Goods (i.e. including the machines, any spare parts and/or additional components ordered) to the Site. Any damage to the Goods in the course of such transportation shall be reported to the Company without delay.
- (b) The Customer shall prepare the machine purchased from the Company (the "Machine") as stated in the user manual.
- (c) The Customer shall unpack the Machine and degrease the Machine without using caustic solvents which could cause damage to machine parts or paint.
- (d) (Prior to the performing of overhauling and repair Services, the Customer shall clean the Machine and made the Machine easily accessible.
- (e) The Customer shall prepare power supplies to the machines in advance.
- (f) The Customer shall make preparation for the work materials necessary for the Services to be provided. In particular, the accessory crates must be opened and the spare parts cleaned and placed near the machine. Care should be taken not to lose any small parts during unpacking.
- (g) The Customer shall make preparation for the workflow necessary for the Services to be provided in an efficient manner. In particular, all auxiliary units connected to the Machine(s) for material feed, filling, proportioning and product conveyance must be positioned in a way to make them easily accessible and to allow smooth completion of adjusting and maintenance work.
- (h) The Customer shall make available to the Company such labour and operators as may be reasonably required. For the avoidance of doubt, the persons made available by the Customer ("Customer's Staff") under this clause shall provide their own tools and the Company shall not be liable for such labour provided by the Customer or for any acts or omissions of the Customer's Staff. The Customer's Staff shall follow the instructions of the Service Engineer(s). It is recommended to assign two technically skilled and experienced persons which will later operate the machine, to assist the Service Engineer.
- (i) The Customer shall give all necessary assistance required for the import and re-export of the Company's equipment and tools, including assistance with customs formalities.
- (j) The Customer shall give all necessary assistance to ensure that the Company's personnel obtain, in good time, visas and any official entry, exit or work permits and tax certificates required in the Customer's country, as well as access to the Site.

- (k) The Customer shall provide any assistance as may be required by the Company and/or the Service Engineers. Without limitation to the generality of the aforesaid, the Customer shall make the following available:
  - (1) any auxiliary equipment necessary for the Services, such as lifting equipment, timber, ropes, etc., as well as adequate tools including a workbench with vice close to the Machine;
  - (2) the raw materials to be processed, such as filling materials and packing materials (including glue), for an industrial continuous operation for the length of time the Customer desires for the training of its service staff (quality and dimensional accuracy of the packing materials and supplies must comply with the specifications agreed previously or, as applicable, those recommended by the Company);
  - (3) the necessary power for the performance of the Services (e.g. electricity, water, compressed air, steam) and lighting, space that can be locked for the storage of valuable system components, tools, etc.

Any preparations specified in this Paragraph 7 shall be carried out far enough in advance, so that the Service Engineer(s) can begin rendering the Services immediately upon arrival at the Site.

8. The Customer undertakes to notify the Company promptly, and in writing, of the statutory and administrative safety regulations applicable at the Site and the jurisdiction of the Site, to the extent that these regulations must be observed and complied with by the Company's staff and/or the Service Engineers. All safety equipment, such as protective clothing, safety shoes, etc. must be made available by the Customer free of charge.

9. The Company's Service Engineers are not authorised to make any representations concerning any Goods or Services unless confirmed by the Company in Writing.

10. If the Customer requires the Company to provide Services in a manner that is not in conformity with the operating instructions of the Goods, the Company reserves the right to conduct a safety inspection at the Customer's expense.

11. The Customer shall not be entitled to derive any rights or claims against us from the non-execution of any renewed safety inspection that may be required – irrespective of the legal grounds such requirement is based on – if the non-execution is not due to intent or gross negligence and has not resulted in damages to life, body or health.

12. The Customer acknowledges and agrees that all tasks carried out by the Service Engineers in accordance with the Customer's instructions as may go beyond the agreed scope of work, shall be performed for the Customer's account and at its sole responsibility. In this case, the Customer expressly indemnifies the Company, its employees and the Service Engineers against any and all respective contractual obligations.

13. The Service Engineer shall observe the working hours at the Site and comply with the Site's regulations. The Service Engineer will only work overtime in urgent cases. In all other cases, the Service Engineers' working time generally shall be limited to a maximum of 10 working hours a day.

14. The Customer shall provide:

- (a) Suitable hotel accommodation for each Service Engineer(s). A single room with shower and heating available and toilet shall be deemed as suitable;
- (b) Transport to and from the Site and the accommodation provided to the Service Engineer unless the hotel accommodation is located near the Site and the Service Engineer can reached the Site by public transportation within half an hour.

15. The Service Engineer must provide the Customer with a list of the hours worked for each day of Services provided. On the last date of each week of Services provided, the Customer shall confirm the correctness of the hours worked by the Service Engineer as set forth in the list.

16. If the provision of Services is disturbed or interrupted due to a Force Majeure event, all costs resulting from such circumstances (including costs for periods of delay) shall be for the customer's account. This shall apply for instance if disturbances occur in third-party units that are connected in series, even if our service engineer was charged with connection and installation.

17. Our liability for defects as well as our liability based on any other reasons shall be subject to the terms of the General Terms and Conditions as printed on the reverse side.

18. With regard to all Services rendered, the Company reserves the title to all Goods provided in the provision of Services (i.e. including built-in units, spare parts and accessories), until such Goods have been paid for in full.

19. Taxes incurred by the Service Engineers and/or the Company in connection with Services provided in the jurisdiction of the Site shall be indemnified by the Customer.

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