



## TERMS & CONDITIONS OF BUSINESS

### 1 Interpretation

1.1 In these conditions:

**"Company"** means the Procurri entity which issued the quotation for the sale or hire of the goods and/or services to the Customer.

**"Conditions"** means the standard terms and conditions of business set out in this document and (unless the context otherwise requires) includes any special terms and conditions agreed in writing between the Company and the Customer.

**"Contract"** means the contract for the purchase and/or sale and/or hire of the Goods and/or the supply of Services.

**"Customer"** means the person who accepts a quotation of the Company for the sale or hire of the Goods and/or Services or whose order for the Goods and/or Services is accepted by the Company.

**"Customer's Agent"** means the person(s) acting on behalf of the Customer from time to time (including the Customer's client, sub-contractors or representatives).

**"Goods"** means the goods (including any instalment of the goods or any parts for them) which the Company is to supply in accordance with these Conditions being any goods which the Company may supply to the Customer from time to time in accordance with these Conditions including Hire Goods.

**"Hire Goods"** means any machine, article, and/or device together with any accessories specified in a Contract which are hired to the Customer.

**"Sale Confirmation"** means the document issued by the Company which stipulates and confirms the order for the Goods and the price payable.

**"Services"** means the installation services carried out by the Company in respect of the Goods in accordance with these Conditions.

**"Writing"** includes e-mail, facsimile transmission and comparable means of communication.

1.2 Any reference in these Conditions to any provision of a statute shall be construed as a reference to that provision as amended, re-enacted or extended at the relevant time.

1.3 The headings in these Conditions are for convenience sake and shall not affect their interpretation.

### 2 Basis of the Sale

2.1 The Company shall sell or hire to the Customer and the Customer shall purchase or hire the Goods and/or Services in accordance with any written quotation of the Company which is accepted by the Customer, or any written order of the Customer which is accepted by the Company, subject in either case to these Conditions, which shall govern the Contract to the exclusion of any other terms and conditions subject to which any such quotation is accepted or purported to be accepted, or any such order is made or purported to be made, by the Customer.



2.2 No variation to these Conditions shall be binding unless agreed in Writing between the authorized representatives of the Customer and the Company.

### **3 Orders and Specification**

3.1 The Customer shall be responsible to the Company for ensuring the accuracy of the terms of any order (including any applicable specification) submitted by the Customer, and for giving 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.

3.2 The quantity, quality and description of and any specification for the Goods and/or Services shall be those set out in the Company's quotation (if accepted by the Customer) or the Customer's order (if accepted by the Company).

3.3 The Company reserves the right to make any changes in the specification of the Goods and/or Services which are required to conform to any applicable statutory or legal requirements.

### **4 Price of the Goods**

4.1 The price of the Goods and/or Services shall be the Company's quoted price or, where no price has been quoted (or a quoted price is no longer valid), the price listed in the Company's Sale Confirmation on the date of acceptance of the order.

4.2 The Company reserves the right, by giving notice to the Customer at any time before delivery, to increase the price of the Goods and/or Services to reflect any increase in the cost to the Company which is due to any factor beyond the control of the Company (such as, without limitation, any foreign exchange fluctuation, currency regulation, alteration of duties, significant increase in the costs of labor, materials or other costs of manufacture), any change in delivery dates, quantities or specifications for the Goods and/or Services which is requested by the Customer, or any delay caused by any instructions of the Customer or failure of the Customer to give the Company adequate information or instructions.

4.3 Except as otherwise stated under the terms of any quotation or Sale Confirmation of the Company, and unless otherwise agreed in Writing between the Customer and the Company, all prices are given by the Company on an ex works basis, and where the Company agrees to deliver the Goods and/or Services otherwise than at the Company's premises, the Customer shall be liable to pay the Company's charges for transport, packaging and insurance.

4.4 The price is exclusive of any applicable value added tax, which the Customer shall be additionally liable to pay to the Company.

### **5 Terms of Payment**

5.1 The Customer shall pay the price of the Goods and/or Services in full prior to collection of the Goods or receipt of the Services unless credit terms have been agreed in writing in advance with the Company.

- 5.2 The Company shall be entitled to render an invoice to the Customer in respect of the price or hire of the Goods on or at any time after the commencement of the delivery of the Goods and in the case of the price of the Services, at any time on or after the commencement of the provision of the Services.
- 5.3 The Customer shall pay the price of the Goods and/or Services within 30 days of the date of the Company's invoice, and the Company shall be entitled to recover the price, notwithstanding that delivery may not have taken place and the property in the Goods has not passed to the Customer. The time of payment of the price shall be of the essence of the Contract.
- 5.4 If the Customer fails to make any payment on the due date then without prejudice to any other right or remedy available to the Company the Company shall be entitled to:-
- 5.4.1 cancel the Contract or suspend any further deliveries of Goods to the Customer or cease performing any Services for the Customer;
  - 5.4.2 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); and
  - 5.4.3 charge the Customer interest (both before and after any judgment) on the amount unpaid, at the rate of 4% per annum above HSBC Bank Singapore's base rate from time to time, until payment in full is made (a part of a month being treated as a full month for the purpose of calculating interest).

## 6 Set-Off

The Company may at any time (without notice to the Customer) set off any liability of the Customer to the Company against any liability of the Company to the Customer, whether any such liability is present or future, liquidated or unliquidated, under this agreement or not and irrespective of the currency of its denomination. Any exercise by the Company of its rights under this Condition shall be without prejudice to any other rights or remedies available to it under the Contract or otherwise.

## 7 Delivery of Goods

- 7.1 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 or, if the Company has agreed to deliver the Goods, by the Customer receiving the Goods at the Customer's designated delivery address.
- 7.2 Any dates quoted for delivery of the Goods are approximate only and the Company shall not be liable for any delay in delivery of the Goods however caused. Time for delivery shall not be of the essence of the Contract unless previously agreed by the Company in writing. The Goods may be delivered by the Company in advance of the quoted delivery date.



## **8 Performance of Services**

The Company shall endeavor to perform the Services in accordance with any timescales agreed between the Company and the Customer but time of performance of the Services shall not be of the essence of the Contract unless previously agreed by the Company in writing.

## **9 Risk**

9.1 Goods sold are on an ex works basis and risk of damage to or loss of the Goods shall pass to the Customer:-

9.1.1 in the case of Goods to be delivered at the Company's premises, at the time when the Goods enter the Company's premises and are available for delivery; or

9.1.2 in the case of Goods to be delivered otherwise than at the Company's premises, at the time when the Goods are available for delivery at the Company or the Company's supplier's premises, as the case may be.

## **10 Title of Goods (Sale)**

10.1 Until title to the Goods has passed to the Customer, the Customer shall:

10.1.1 hold the Goods on a fiduciary basis as the Company's Bailee;

10.1.2 store the Goods (at no cost to the Company) separately from all other goods of the Customer or any third party in such a way that they remain readily identifiable as the Company's property;

10.1.3 not destroy, deface or obscure any identifying mark or packaging on or relating to the Goods;

10.1.4 maintain the Goods in satisfactory condition and keep them insured on the Company's behalf for their full replacement value against all risks to the reasonable satisfaction of the Company. On request the Customer shall produce the policy of insurance to the Company; and

10.1.5 not sell, offer to sell, assign, underlet, pledge, mortgage, charge, encumber or part with possession of the Goods or any interest in the Goods nor create or allow to be created over the Goods any lien.

10.2 The Customer may resell the Goods before title has passed to it solely on the following conditions:

10.2.1 any sale shall be effected in the ordinary course of the Customer's business at full market value;

10.2.2 any such sale shall be a sale of the Company's property on the Customer's own behalf and the Customer shall deal as principal when making such a sale; and

10.2.3 the Customer shall ensure (and provide evidence to the Company) that such sale is subject to this Condition 10 and the sub-purchaser is aware of the Company's ownership of the Goods, and that the signed contract between the Customer and the sub-purchaser contains a valid retention of title clause on the same terms as this Condition 10 (proof of such to be provided to the Company).



- 10.3 The Customer's right to possession of the Goods shall terminate immediately if any of the events as set out in Condition 13.1 occurs.
- 10.4 The Company shall be entitled to recover payment for the Goods notwithstanding that ownership of any of the Goods has not passed from the Company.
- 10.5 The Customer grants the Company, its agents and employees an irrevocable license at any time to enter any premises where the Goods are or may be stored in order to inspect them, or, where the Customer's right to possession has terminated, to recover them.
- 10.6 Where the Company is unable to determine whether any Goods are the Goods in respect of which the Customer's right to possession has terminated, the Customer shall be deemed to have sold all Goods of the kind sold by the Company to the Customer in the order in which they were invoiced to the Customer.

## **11 Title of Goods (Hire)**

- 11.1 Title to Goods that are hired to the Customer shall remain at all times with the Company. The Customer has no right, title or interest in such Goods except that they are hired to the Customer and the Customer acquires only an insurable interest in such Goods.
- 11.2 The Customer shall insure the Goods against loss or damage for the entire duration of the period of hire.
- 11.3 The provisions of Conditions 10.2, 10.4, 10.6 and 10.7 shall apply to Goods that are hired to the Customer however the Customer may re-hire the Goods to a third party with the Company's consent and provided that the provisions of Condition 10.3.3 are met.

## **12 Warranties and Liability**

- 12.1 Subject to the Conditions set out below the Company warrants that the Goods will correspond with their specification at the time of delivery and will be free from defects in material and workmanship for a period of 30 days from the date of delivery and the Company further warrants that any Services shall be performed with reasonable skill and care.
- 12.2 The above warranties are given by the Company subject to the following Conditions:
  - 12.2.1 The Company shall be under no liability in respect of any defect arising from any drawing, design or specification supplied by the Customer or any infringement of any patent, trademark, or copyright by reason of the sale or use of the Goods;
  - 12.2.2 the Company shall be under no liability in respect of any defect arising from fair wear and tear, willful damage, negligence, abnormal working conditions, failure to follow the Company's instructions (whether oral or in writing), misuse or alteration or repair of the Goods without the Company's approval;
  - 12.2.3 the Company shall be under no liability under the above warranties (or any other warranty, condition or guarantee) if the total price for the Goods and/or any related Services has not been paid by the due date for payment;

- 12.2.4 the Company shall be under no liability in respect of any defects or faults of the Customer's systems in conjunction with which the Goods are used or in respect of any problems which are due to the individual workings of the Customer's systems in conjunction with which Goods are used.
- 12.3 Subject as expressly provided in these Conditions, all warranties, conditions or other terms implied by statute or common law are excluded to the fullest extent permitted by law.
- 12.4 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 (whether or not delivery is refused by the Customer) be notified to the Company within 7 days from the date of delivery or (where the defect or failure was not apparent on reasonable inspection) within 30 days from the date of delivery. If delivery is not refused, and the Customer does not notify the Company accordingly, the Customer shall not be entitled to reject the Goods and the Company shall have no liability for such defect or failure, and the Customer shall be bound to pay the price as if the Goods had been delivered in accordance with the Contract.
- 12.5 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 specification is notified to the Company in accordance with these Conditions, the Company shall be entitled to replace the Goods (or the part in question) free of charge or, at the Company's sole discretion, refund to the Customer the price of the Goods (or a proportionate part of the price), but the Company shall have no further liability to the Customer.
- 12.6 Where any valid claim is notified by the Customer to the Company based upon any failure by the Company to perform the Services with reasonable skill and care (such claim to be notified to the Company within 7 days from the discovery by the Customer of circumstances giving rise to a valid claim in respect thereof) then the Company shall at its expense take such action as it considers necessary to remedy any such failure but the Company shall have no further liability to the Customer in respect thereof.
- 12.7 Except in respect of death or personal injury caused by the Company's negligence, the Company shall not be liable to the Customer by reason of any representation (unless fraudulent), or any implied warranty, condition or other term, or any duty at common law, or under the express terms of the Contract, for any indirect, special or consequential loss or damage (whether for loss of profit or otherwise), costs, expenses or other claims for compensation whatsoever (whether caused by the negligence of the Company, its employees or agents or otherwise) which arise out of or in connection with the supply of the Goods and/or Services or their use or resale by the Customer, and the entire liability of the Company under or in connection with the Contract shall not exceed the price of the Goods and/or 1.5 times the value of the maintenance contract (as the case may be).
- 12.8 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 in relation to the Goods and/or Services, if the delay or failure was due to any cause beyond the Company's reasonable control. Without prejudice to the generality of the foregoing, the following shall be regarded as causes beyond the Company's reasonable control:-
- 12.8.1 act of God, explosion, flood, tempest, fire or accident;
- 12.8.2 war or threat of war, sabotage, insurrection, civil disturbance or requisition;
- 12.8.3 acts, restrictions, regulations, bye-laws, prohibitions or measures of any kind on the part of any governmental, parliamentary or local authority;

- 12.8.4 import or export regulations or embargoes;
  - 12.8.5 strikes, lock-outs or other industrial actions or trade disputes (whether involving employees of the Company or of a third party);
  - 12.8.6 difficulties in obtaining raw materials, labor fuel, parts or machinery;
  - 12.8.7 Power failure or breakdown in machinery.
- 12.9 Unless otherwise agreed in writing, with acceptance of these goods, the buyer accepts the transfer of the end of life obligations.

### **13 Insolvency of Customer and Termination**

- 13.1 This Condition applies if: -
- 13.1.1 the Customer makes any voluntary arrangement with its creditors or (being an individual or firm) becomes bankrupt or (being a company) becomes subject to an administration order or goes into liquidation (otherwise than for the purposes of amalgamation or reconstruction); or
  - 13.1.2 an encumbrancer takes possession, or a receiver is appointed, of any of the property or assets of the Customer; or
  - 13.1.3 the Customer ceases, or threatens to cease, to carry on business; or
  - 13.1.4 the Customer is unable to pay its debts within the meaning of section 123 of the Insolvency Act 1986; or
  - 13.1.5 the Company reasonably suspects that any of the events mentioned above is about to occur in relation to the Customer and notifies the Customer accordingly; or
  - 13.1.6 the Customer fails to observe or perform any of its obligations under the Contract or any other contract between the Company and the Customer.
- 13.2 If Condition 13.1 applies then, without prejudice to any other right or remedy available to the Company, the Company shall be entitled to cancel the Contract or suspend any further deliveries under the Contract without any liability to the Customer, and if the Goods have been delivered but not paid for and Services have been provided but not paid for the price shall become immediately due and payable notwithstanding any previous agreement or arrangement to the contrary.



## 14 Conditions specific to Hire Goods

### 14.1 Care of Hire Goods

The Customer shall:-

- 14.1.1 not remove any labels from and/or interfere with the Hire Goods, their working mechanisms or any other parts of them and shall take reasonable care of the Hire Goods and only use them for their proper purpose in a safe and correct manner in accordance with any operating and/or safety instructions provided or supplied to the Customer;
- 14.1.2 notify the Company immediately after any breakdown, loss and/or damage to the Hire Goods;
- 14.1.3 take adequate and proper measures and insurance to protect the Hire Goods from theft, damage and/or other risks;
- 14.1.4 notify the Company of any change of its address and upon the Company's request provide details of the location of the Hire Goods;
- 14.1.5 permit the Company at all reasonable times to inspect the Hire Goods including procuring access to any property where the Hire Goods are situated;
- 14.1.6 keep the Hire Goods at all times in its possession and control and not to remove the Hire Goods from the country where the Customer is located and/or the country where the Company is located without the prior written consent of the Company;
- 14.1.7 be responsible for the conduct and cost of any testing, examinations and/or checks in relation to the Hire Goods required by any legislation, best practice and/or operating instructions except to the extent that the Company has agreed to provide them as part of any Services;
- 14.1.8 not continue to use Hire Goods where they have been damaged and will notify the Company immediately if the Hire Goods are involved in an accident resulting in damage to the Hire Goods, other property and/or injury to any person;
- 14.1.9 return the Hire Goods in good working order and condition (fair wear and tear excepted) and in a clean condition together with all insurance policies, licenses, registration and other documents relating to the Hire Goods; and
- 14.1.10 agree the functionality of the Hire Goods and associated features at the time of the collection/delivery.

### 14.2 Breakdown

- 14.2.1 The Customer shall be responsible for all expenses, loss and/or damage suffered by the Company arising from any breakdown of the Hire Goods due to the Customer's negligence, misdirection and/or misuse of the Hire Goods.
- 14.2.2 The Customer should ensure that goods are placed on a suitable maintenance contract throughout the duration of the rental. The Company is able to provide a quote for maintenance if required.
- 14.2.3 The Customer must not repair or attempt to repair the Hire Goods unless authorized to do so in writing by the Company.





### 14.3 Loss or Damage to the Hire Goods

- 14.3.1 If the Hire Goods are returned in damaged, unclean and/or defective state except where due to fair wear and tear and/or an inherent fault in the Hire Goods the Customer shall be liable to pay the Company for the cost of any repair and/or cleaning required to return the Hire Goods to a condition fit for re-hire and to pay the rental costs until such repairs and/or cleaning have been completed.
- 14.3.2 The Customer will pay to the Company the replacement cost on a new for old basis of any Hire Goods which are lost, stolen and/or damaged beyond economic repair during the Hire Period less the amount paid to the Company under any policy of insurance taken out in accordance with Condition 14.3.3.
- 14.3.3 The Customer shall pay the rental for the Hire Goods up to and including the date it notifies the Company that the Hire Goods have been lost, stolen and/or damaged beyond economic repair. From that date until the Company has replaced such Hire Goods the Customer shall pay, as a genuine pre-estimate of lost rental profit, a sum as liquidated damages being equal to two thirds of the Rental that would have applied for such Hire Goods for that period. The Company shall use its reasonable commercial endeavors to purchase replacements for such Hire Goods as quickly as possible using the monies paid under clause 14.3.2 above.

### 14.4 Termination by notice

- 14.4.1 If the period of hire has a fixed duration, subject to the provisions of Condition 13 neither the Customer nor the Company shall be entitled to terminate the Contract before the expiry of that fixed period unless agreed with the other party.
- 14.4.2 If the Hire Period does not have a fixed duration either of the Customer or the Company is entitled to terminate the Contract upon giving to the other party the period of notice as agreed by the Parties in the Sale Confirmation.
- 14.4.3 If no period of notice has been agreed or specified, the Customer may terminate the period of hire by the physical return of the Hire Goods into the Company's designated delivery place. For the avoidance of doubt, the Customer shall pay rent for the Hire Goods up to the day the Hire Goods are physically received by the Company.
- 14.4.4 The Company shall be entitled to terminate the hire of the Hire Goods by giving not less than 14 days' notice to the Customer.

### 14.5 Return of Hire Goods

- 14.5.1 Upon expiration of any lease term of the Hire Goods, the Customer shall, at its own expense, pack the Hire Goods and arrange return shipment of the Hire Goods to the Company.
- 14.5.2 The Customer shall ensure that the Hire Goods are returned to the Company within seven (7) days of the expiration of the lease term; if the Hire Goods are not returned in time, the lease term shall be renewed for a term of another month, until the Hire Goods are returned to the Company.

## 15 General

- 15.1 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



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giving the notice.

- 15.2 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.
- 15.3 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.
- 15.4 The Customer agrees that it shall at all times comply with all applicable laws.



- 15.5 Nothing in these Conditions confers on anyone other than the parties to it any right pursuant to the Contracts (Rights of Third Parties) Act (Chapter 53B).
- 15.6 In the event of any controversy or claim arising out of or relating to these Conditions, the Parties agree to consult and negotiate with each other and, recognizing their mutual interests, attempt to reach a satisfactory solution. If they do not reach settlement within a period of sixty (60) days, then, upon notice by any Party to the other, unresolved controversies or claims will be finally settled by arbitration (a) if in the United States of America ("U.S."), in the State of Georgia under the Commercial Arbitration Rules of the American Arbitration Association and applying the laws of the State of Georgia, (b) if in Europe, Middle East or Africa ("EMEA"), in the nearest principal business location of the Company, under the Rules of Arbitration of the International Chamber of Commerce and applying English law, (c) if in the rest of the world outside of U.S. and EMEA, in the nearest principal business location of the Company, under the Rules of Arbitration of the International Chamber of Commerce and applying Singapore law, in each case by one arbitrator appointed in accordance with the applicable rules. The language of the arbitration will be English. The judgment on the award rendered by the arbitrator shall be binding and may be entered in any court having jurisdiction thereof.

## **16 Conditions specific to Purchasing by the Company**

- 16.1 These should be read in addition to the above clauses and apply specifically to purchases by the Company. Any variations to these terms must be agreed in writing.
- 16.2 Payment Terms: All goods will be paid for at the end of the month following the month of delivery, provided an invoice has been rendered in good time clearly stating our Purchase Order number.
- 16.3 Equipment to be audited, cleaned and wrapped at the seller's expense.
- 16.4 Equipment to be complete, in good cosmetic condition with all relevant cables and manuals, in good working order and guaranteed to be accepted onto maintenance with a 90 day warranty period.
- 16.5 All equipment must be of original manufacture (unless agreed in writing), with valid serial numbers. Any equipment found to be counterfeit will be returned at seller's expense for full credit.
- 16.6 All Goods to be prepared and packed by the Sender, for safe transportation by air and road assuming ordinary care in handling in an express-transportation environment and in compliance with all applicable laws, regulations and rules, including those governing packing, marking and labeling.
- 16.7 Where product is purchased in box, original manufacturer's packaging should be received in good cosmetic condition.
- 16.8 We reserve the right to cancel this order if the availability worsens from agreed date.
- 16.9 Goods to be shipped with Commercial Invoice (3 Copies), Packing list, Airway Bill and Certificate of Conformity.



- 16.10 Equipment found to be faulty in either form or function, within the warranty period, will be returned at the seller's expense for full credit or replacement.
- 16.11 Seller of goods to the Company shall indemnify and hold harmless the Company and its customers against all legal expenses that may be incurred, as well as all damages, losses and costs which may be assessed against or borne by the Company, by reason of any and all actions or proceedings charging infringement of any patent, trademark, or copyright by reason of the sale or use of the goods.