

Terms and Conditions of Sale  
**Lutronic Industrial Solutions Pte. Ltd.**

hereinafter referred to as Seller

## 1. GENERAL

- 1.1 These Terms and Conditions shall supersede any other terms and conditions appearing in the Seller's catalogues, sales literature or elsewhere, and shall override and exclude any other terms and conditions stipulated or incorporated or referred to by the Seller or its employees or agents, whether in any order or negotiations, and in any course of dealing established between the Seller and the Buyer.
- 1.2 A contract for the purchase of the goods specified in the Seller's quotation ("the Goods") shall only arise when the Buyer's order has been confirmed by the Seller in writing ("the Contract").
- 1.3 The Goods sold shall be subject to these Terms and Conditions to the exclusion of any other Terms and Conditions stipulated by the Buyer.
- 1.4 Without prejudice to any Clause hereof, no modification of the Contract or these Terms and Conditions shall be effective unless agreed in writing between the Buyer and Seller.
- 1.5 Any typographical, clerical or other error or omission in any sales literature, quotation, price list, acceptance of offer, invoice or other document or information issued by the Seller shall be subject to correction without any liability to notice to the Buyer on the part of the Seller.
- 1.6 These Terms and Conditions shall apply equally to any and all future business between the parties.

## 2. REPRESENTATIONS

The Buyer confirms that no representations have been made by the Seller or relied on by the Buyer in relation to the Contract or the Goods other than those contained in the Contract or in any annexure to the Contract signed in confirmation by both the Buyer and Seller.

## 3. SAMPLE

The Buyer acknowledges and agrees that when a sample of the Goods has been shown to or inspected by the Buyer, the sale does not, in consequence of the Buyer's inspection of the sample or otherwise, constitute a sale by sample unless otherwise specified by the Seller.

## 4. DELIVERY

- 4.1 Delivery of the Goods shall be made by the Buyer collecting the Goods at the Seller's premises at any reasonable time after the Seller has notified the Buyer that the Goods are ready for collection or, if some other place for delivery is agreed by the parties in writing ("Place of Delivery"), by the Seller delivering the Goods to the Place of Delivery. The Place of Delivery cannot be changed once the Contract has been concluded.
- 4.2 Any dates quoted for delivery of the Goods are approximate only. The Seller shall not be liable for any delay in delivery of the Goods howsoever and whatsoever caused. Time for delivery shall not be of the essence unless previously agreed by the Seller in writing. The Goods may be delivered by the Seller in advance of the quoted delivery date upon the Seller giving reasonable notice to the Buyer.

- 4.3 Where the Goods are delivered in bulk, the Seller reserves the right to deliver up to 10% more or less than the quantity ordered without any price adjustment, and the quantity delivered shall be deemed to be the quantity ordered.
- 4.4 Where the Goods are delivered by instalments, failure by the Seller to deliver any one or more of the instalments in accordance with these Terms and Conditions or any claim by the Buyer in respect of any one or more instalments shall not entitle the Buyer to treat the Contract as repudiated with regard to the instalments delivered or which are not subject to any claim by the Buyer. Each instalment shall be deemed to be the subject of a separate contract.
- 4.5 The Seller shall not be liable for any failure to deliver the Goods which is due to any cause beyond the Seller's reasonable control or the Buyer's fault.
- 4.6 If the Seller is liable to the Buyer for failure to deliver the Goods, the Seller's liability shall be limited to the excess (if any) of the cost to the Buyer (in the cheapest available market) of similar goods to replace those undelivered over the Contract price.
- 4.7 If the Buyer fails to take delivery of the Goods or fails to give the Seller adequate delivery instructions at the time stated for delivery (otherwise than by reason of any cause beyond the Buyer's reasonable control or by reason of the Seller's fault) then, without prejudice to any available right or remedy of the Seller, the Seller may:-
  - (a) store the Goods until actual delivery and charge the Buyer for all reasonable costs of storage (including insurance); or
  - (b) sell the Goods at a reasonable price and charge the Buyer for any shortfall below Contract price without being liable to account to the Buyer for any excess over the Contract price.

## 5. REASONABLE INSPECTION

- 5.1 The Buyer acknowledges and agrees that the Buyer shall be deemed to have:-
  - (a) had a reasonable opportunity to inspect the Goods before signing the Seller's delivery note;
  - (b) inspected the Goods before signing the Seller's delivery note; and
  - (c) satisfied itself as to the condition of the Goods before signing the Seller's delivery note;
- 5.2 Acceptance of the delivery of the Goods shall occur and be deemed to occur immediately on the entry or inscription of the Buyer's signature on the Seller's delivery note.

## 6. RISK & PROPERTY

- 6.1 Except when the Goods are sold on "CIF" terms, risk of damage to or loss of the Goods shall pass to the Buyer:-
  - (a) where Goods are to be delivered at the Seller's premises: at the time when the Seller notifies the Buyer that the Goods are available for collection;
  - (b) where Goods are to be delivered to the Place of Delivery: at the time of delivery; or
  - (c) if the Buyer wrongfully fails to take delivery of the Goods: the time when the Seller has tendered delivery of the Goods.
- 6.2 Notwithstanding delivery and the passing of risk in the Goods, or any other provision hereof, the property in the Goods shall not pass to the Buyer until the Seller has received in cash or cleared funds payment in full of the Contract price and for all other goods agreed to be sold by the Seller to the Buyer for which payment is due.

6.3 Until such time as the property in the Goods passes to the Buyer, the Buyer shall hold the Goods as the Seller's fiduciary agent and bailee, and shall keep the Goods separate from those of the Buyer and third parties and properly stored, protected, insured and identified as the Seller's property. Until that time the Buyer shall be entitled to resell or use the Goods in the ordinary course of its business, but shall account to the Seller for the tangible and intangible proceeds of sale or otherwise of the Goods including insurance proceeds. All such proceeds shall be kept separate from any moneys or property of the Buyer and third parties. Any tangible proceeds shall be properly stored, protected and insured.

6.4 Until such time as the property in the Goods passes to the Buyer (and provided the Goods are still in existence and have not been resold), the Seller shall be entitled at any time to require the Buyer to deliver up the Goods to the Seller, and if the Buyer fails to do so forthwith, to enter upon any premises of the Buyer or any third party where the Goods are stored and repossess the Goods.

6.5 The Buyer shall not be entitled to pledge or in any way charge by way of security for any indebtedness any of the Goods which remain the property of the Seller. If the Buyer does so, all moneys owing by the Buyer to the Seller shall (without prejudice to any other right or remedy of the Seller) forthwith become due and payable.

## 7. PRICE

7.1 Unless otherwise agreed to in writing between the Buyer and the Seller, the Contract price shall be the Seller's last quoted price or, where no price has been quoted (or a quoted price is no longer valid), the price listed in the Seller's published price list current at the date of the Seller's acceptance of the Buyer's order (if any). All prices quoted are valid for thirty (30) days only or until earlier acceptance by the Buyer, after which time the Seller may alter such prices without giving notice to the Buyer.

7.2 The Seller reserves the right, by giving notice to the Buyer at any time before delivery, to increase the Contract price to reflect any increase in the cost to the Seller (due to factors including any foreign exchange fluctuation; currency regulation; alteration of taxes or duties; significant increase in labour, material or manufacture costs), any change of delivery dates quantities or specifications for the Goods which is requested by the Buyer, any delay caused by the Buyer or any failure of the Buyer to give the Seller any proper instructions.

7.3 Unless otherwise agreed to in writing between the Buyer and the Seller, all prices given by the Seller are on an ex-works basis. Where the Seller agrees to deliver the Goods to the Place of Delivery, the Buyer shall be liable to pay all transport, packaging and insurance charges incurred by the Seller.

7.4 The Contract price is exclusive of the Goods and Services Tax (or any other applicable value added tax), which the Buyer shall be additionally liable to pay to the Seller.

## 8. TERMS OF PAYMENT

8.1 Unless otherwise agreed to in writing between the Buyer and the Seller, the Seller shall invoice the Buyer for the Contract price on, or at any time after delivery of the Goods. In the event where the Goods are to be collected by the Buyer, or the Buyer wrongfully fails to take delivery of the Goods, the Seller shall be entitled to invoice the Buyer for the Contract price at any time after Seller has tendered delivery of the Goods or the Seller has notified the Buyer that the Goods are ready for collection (whichever is earlier).

8.2 The Buyer shall pay the full Contract price ( without any deduction) within thirty (30) days of the date of the Seller's invoice ("Due Date"), and the Seller shall be entitled to recover the price, notwithstanding that the delivery may not have taken place and the property in the Goods has not passed to the Buyer. The time of payment of the price shall be of the essence of the Contract.

8.3 If the Buyer fails to make full payment on the Due Date then, without prejudice to any other right or remedy available to the Seller, the Seller shall be entitled to:-

- (a) rescind the contract or suspend any further deliveries to the Buyer;
- (b) appropriate any payment made by the Buyer to such of Goods (or the goods supplied under any other contract between the Buyer and the Seller) as the Seller may think fit (notwithstanding any purported appropriation of the Goods by the Buyer); and
- (c) charge the Buyer interest (both before and after any judgment) on the amount unpaid at the rate of 1% per month until payment in full is made (a part of a month being treated as a full month for the purpose of calculation of interest).

## 9. SELLER'S EXEMPTION & LIMITATION OF LIABILITY

9.1 Except as expressly provided herein, the Seller shall not be liable:-

- (a) for any defect in the Goods arising from any design, drawing, specification, fair wear and tear, wilful damage, abnormal working conditions, negligence, failure to follow the manufacturer's or supplier's or Seller's instructions (whether oral or written), misuse, misapplication, storage, alteration or repair of the Goods with or without the Seller's approval, or any other fault in the Goods howsoever and whatsoever caused;
- (b) for any consequential loss or damage (whether loss of profit or otherwise) cost, expenses or other claims for consequential compensation whatsoever (whether caused by the negligence of the Seller, its employees or agents or otherwise), which arise out of or in connection with the supply of Goods or their use or resale by the Buyer or by reason of any representation, or implied warranty, condition or other term, or duty in common law, or under the express terms of these Terms and Conditions; or
- (c) for any loss, injury, damage, or expenses of whatever nature which result directly or indirectly out of or in connection with the supply of Goods or their use or resale by the Buyer, except for death or personal injury caused by the Seller's negligence.

9.2 Subject as expressly provided herein, all warranties, conditions, innominate or other terms or other obligations (whether express or implied, whether imposed by statute or common law or otherwise) are excluded to the fullest extent permitted by law.

9.3 Where any valid claim in respect of:-

- (a) any defect in the Goods which is based on any defect in the quality or condition of the Goods or their failure to meet specification or any other defects in the Goods howsoever or whatsoever caused;
- (b) any representation, implied or express terms under the contract, or duty in common law;; or
- (c) any breach of Contract, warranty, statutory duty or negligence (or other tort);

is duly made against the Seller the Seller's liability shall be limited to the replacement of the Goods (or part in question) free of charge or, at the Seller's sole discretion, refund of the Contract price (or a proportionate part thereof) and the Seller shall have no further liability to the Buyer.

## 10. WARRANTIES

- 10.1 The Seller warrants that the specifications and designs of the Goods (including the copyright, design right or other intellectual property in them) shall as between the parties be the property of the Seller.
- 10.2 Subject to the Terms and Conditions hereof, the Seller warrants that the Goods shall correspond to their specification at the time of delivery and shall be of merchantable quality and fit for the specific purpose as required by the Buyer for a period of six (6) months from delivery.
- 10.3 The above warranties are given by the Seller subject to the following conditions:-
- (a) the Seller shall be under no liability under the above warranties or any other express or implied warranties, conditions or guarantees if the Contract price or any part thereof or the price of any other goods agreed to be sold by the Seller to the Buyer for which payment is due or any part thereof remains unpaid by the Due Date for payment;
  - (b) the above warranties do not extend to parts, materials or equipment not manufactured or supplied by the Seller, in respect of which the Buyer shall only be entitled to the benefit of any such warranties, conditions or guarantees as given by the manufacturer or supplier to the Seller.

## 11. DELAY

The Seller shall not be liable to the Buyer or deemed to be in breach of the Contract and/ or these Terms and Conditions by reason of any delay in performing, or any failure to perform, any of the Seller's obligations in relation to the Goods, if the delay or failure was due to any cause beyond the Seller's reasonable control. Without prejudice to the generality of the foregoing, the following shall be regarded as causes beyond the Seller's reasonable control:-

- (a) acts of God, explosion, flood, tempest, fire or accident;
- (b) war, sabotage, insurrection, civil disturbance, requisition or the threat of any of the foregoing;
- (c) any governmental or parliamentary acts, restrictions, regulations, prohibitions or measures;
- (d) import or export regulations or embargoes;
- (e) strikes, lockouts or other industrial action or trade disputes (involving the employees of the Seller or any other relevant party);
- (f) difficulties in obtaining raw materials, labour, fuel, parts or machinery;
- (g) power failure or breakdown in machinery (including any computer hardware or software).

## 12. CLAIMS FOR DEFECTS

- 12.1 Any claim by the Buyer based on any defect in the quality or condition of the Goods, or their failure to correspond with their specifications shall (whether or not delivery is refused by the Buyer) be notified to the Seller within seven (7) days from the date of delivery or where no delivery has taken place, from the date the Seller tendered delivery of the Goods.
- 12.2 Where the defect or failure was not apparent on reasonable inspection, the claim shall be made within seven (7) days from the date of discovery of the defect or failure or when such defect or failure should reasonably have been discovered, whichever is the earlier but in any event shall not be later than six (6) months from the date of delivery

or where no delivery has taken place, from the date the Seller tendered delivery of the Goods.

- 12.3 If the Buyer does not make a claim within the time limited as aforesaid, the Buyer shall not be entitled to reject the Goods and the Seller shall have no liability for such defect or failure, and the Buyer shall be bound to pay the Contract price as if the Goods had been delivered in accordance with the Contract.

## 13. INDEMNITY

If any claim is made against the Buyer that the Goods infringe or that the use or resale of the Goods infringes the patent, copyright, design right, trade mark or other industrial or intellectual property rights of any other person, the Seller shall indemnify the Buyer against all loss, damages, cost and expenses awarded against or incurred by the Buyer in connection with the claim, or paid or agreed (with the consent of the Seller) to be paid by the Buyer in settlement of the claim, provided that:-

- (a) the Buyer upon notice of any such claim shall inform the Seller by writing at the first available opportunity;
- (b) the Seller is given full control of any proceedings or negotiations in connection with any such claim;
- (c) the Buyer shall give the Seller all reasonable assistance for the purposes of any such proceedings or negotiations;
- (d) the Buyer shall not pay or accept any such claim, or compromise any such proceedings without the consent of the Seller (which shall not be unreasonably withheld);
- (e) the Buyer shall not do anything which would or might vitiate any policy of insurance or insurance cover which the Buyer or the Seller may have in relation to such infringement. This indemnity shall not apply to the extent that the Buyer recovers any sums under any policy or cover (which the Buyer shall use its best endeavours to recover);
- (f) the Seller shall be entitled to the benefit of, and the Buyer shall accordingly account to the Seller for, all damages and costs (if any) awarded in favour of the Buyer which are payable by, or agreed with the consent of the Seller (which consent shall not be unreasonably withheld) to be paid by, any other party in respect of any such claim; and
- (g) without prejudice to any duty of the Buyer under any law, the Seller shall be entitled to require the Buyer to take such steps as the Seller may reasonably require to mitigate or reduce any such loss, damages, costs or expenses for which the Seller is liable to indemnify the Buyer under this clause.

## 14. TERMINATION

- 14.1 If the events specified in Clauses 14.2 ("Events of Default") occur, without prejudice to any other right or remedy available to the Seller, the Seller shall be entitled to:-
- (a) terminate the Contract; or
  - (b) suspend any further deliveries under the Contract.
- 14.2 The following are Events of Default:-
- (a) the Buyer makes any voluntary arrangement with creditors or becomes subject to an administration order or (being an individual or firm) becomes bankrupt or (being a company) goes into liquidation (otherwise than for being the purpose of amalgamation or reconstruction);
  - (b) an encumbrancer takes possession, or a receiver is appointed, of any of the property or assets of the Buyer;
  - (c) the Buyer ceases, or threatens to cease, to carry on business;
  - (d) an order or a resolution is passed for the winding up of the Buyer;
  - (e) the Seller reasonably apprehends that any of the events men-

tioned above may occur in relation to the Buyer and notifies the Buyer accordingly; or

- (f) the Buyer is in breach of the Contract and/ or these Terms and Conditions, and in the case of a breach capable of remedy within 14 days, the breach is not remedied within 14 days of receiving notice specifying the breach and requiring it to be remedied.

14.3 Upon the Seller's exercising its rights under Clause 14.1, if the Goods have been delivered but not paid for, the price shall become immediately due and payable notwithstanding any previous agreement or arrangement to the contrary.

**15. SET-OFF AND COUNTER-CLAIM**

The Buyer may not withhold payment of any invoice or other amount due to the Seller by reason of any right of set-off or counterclaim which the Buyer may have or allege to have or for any reason whatsoever.

**16. LIEN**

The Seller shall be entitled to a general lien on all goods of the Buyer in the Seller's possession (including goods of the Buyer which have been paid for) for the unpaid price of all goods sold to the Buyer by the Seller under this or any other contract to the fullest extent permitted under law.

**17. NOTICES**

17.1 Any notice required to be served pursuant to these Terms and Conditions shall be in writing and served:-

- (a) by hand;
- (b) by registered or recorded delivery mail; or
- (c) by e-mail or facsimile transmission (the latter confirmed by the confirmation report); or
- (d) by any other means as may be agreed between the parties.

17.2 All notices shall be deemed to have been duly served:-

- (a) if delivered by hand: on the date of despatch;
- (b) if by registered or recorded delivery mail from an address in Singapore: two (2) days after posting;
- (c) if by registered or recorded delivery mail from an address outside of Singapore: three (3) days after posting; or
- (d) if delivered by e-mail or facsimile transaction: on the date of despatch,

provided that if the date of despatch (for (a) and (d)) or date of receipt (for (b) and (c)) is not a business day in the recipient's country, then the next business day.

17.3 The notice must be served on the Seller:-

- (a) at the Seller's registered office;
- (b) by e-mail to jeffrey.said@lutronic.biz;

or such other address or number as the Seller may from time to time notify the Buyer.

17.4 The notice must be served on the Buyer in accordance with Clause 17.3 above.

**18. PERSONAL DATA**

18.1 Where the Buyer is a natural person, by signing the Contract, he agrees and consents that the Seller may collect, use and disclose his personal data as provided in the Contract for the following purposes in accordance with the Personal Data Protection Act 2012:-

- (a) as reasonably required by the Seller to administer, and in the event of breach, enforce the Contract; and
- (b) is shared as reasonably necessary with third parties to provide extended services, examples include delivery.

**19. CONFIDENTIALITY**

19.1 Subject only to such disclosure as may be compelled by law, the Buyer undertakes that it has observed and maintained, and will continue to observe and maintain, throughout and at all times, a state of absolute confidentiality with regard to:-

- (a) all information of the Seller marked 'confidential', or which may reasonably be supposed to be confidential, that is disclosed by the Seller during negotiations or the performance of the Contract; and
- (b) the agreed price of the Goods and all other terms and arrangements connected with the Contract.

19.2 The foregoing obligations as to confidentiality shall remain in full force and effect notwithstanding any termination of the Contract.

**20. ASSIGNMENT**

The Buyer may not assign, delegate, sub-contract, mortgage, charge or otherwise transfer any or all of its rights and obligations under the Contract or hereunder without the Seller's prior written approval.

**21. NO AGENCY OR PARTNERSHIP**

21.1 The Contract shall not constitute or imply any partnership, joint venture, agency, fiduciary relationship or other relationship between the parties, other than the contractual relationship expressly provided for herein.

21.2 Neither party shall have, nor shall either party represent that it has, any authority to make any commitments on the other party's behalf.

**22. SEVERANCE**

Any provision of the Contract and/or these Terms and Conditions which is or may be void or unenforceable shall to the extent of such invalidity or unenforceability be deemed severable and shall not affect any other provision of the Contract and/or these Terms and Conditions.

**23. WAIVER**

No waiver or forbearance by the Seller whether express or implied in enforcing any of its rights under the Contract and/or these Terms and Conditions shall prejudice its right to do so in the future and no such waiver or forbearance by the Seller shall be effective unless communicated to the Buyer in writing.

**24. CHOICE OF LAW**

24.1 All disputes arising out of the Contract and/or these Terms and Conditions shall be subject to the exclusive jurisdiction of the courts of the Republic of Singapore and the governing law shall be Singapore law.

**25. THIRD PARTIES**

For the purposes of the Contracts (Right of Third Parties) Act (Cap. 53B), and notwithstanding any other provision of these Terms and Conditions, the Contract and/or these Terms and Conditions are not intended to, and do not, confer on any person who is not a party to the Contract:-

- (a) any right to enforce any of its provisions; or
- (b) any right to avail itself of any defence expressed.

