

Proceq Asia Pte Ltd Standard Terms And Conditions Of Sale

1. Contract

Unless otherwise stated, these terms and conditions (the "T&Cs") shall apply to and govern the sale of all equipment, products and goods ("Products") and/or the provision of services ("Services") relating to such Products, by Proceq Asia Pte Ltd (the "Company") to you, its customer (the "Customer"), and these T&Cs shall be incorporated by reference into the contract for the sale and/or provision of Products and/or Services ("Contract") between the Company and the Customer.

2. Quotations and Published Prices

The price(s) to be paid by the Customer for Products and Services shall be those set out in the quotations ("Quotations") issued in writing by the Company (in its sole and absolute discretion) to the Customer. Quotations automatically expire 60 calendar days from the date issued unless otherwise stated in the Quotation and are subject to amendment or withdrawal by the Company at any time prior to acceptance of the Quotation by the Customer. The Company reserves the right to extend a Quotation up to 6 months from the date of issuance. Prices shown on the published price lists and other published literature issued by the Company are not unconditional offers to sell, are subject to change without notice and the Company reserves the right to issue Quotations based on prices other than as shown on such price lists and literature. The Company's prices for Products, unless otherwise specified, do not include an allowance for installation and or final on site adjustment.

3. Taxes

The Company's prices for Products and Services do not include any applicable sales, goods and services, use, excise or similar taxes and the amount of any such tax which the Company may be required to pay or collect will be added to each invoice and paid by the Buyer promptly.

4. Terms of Payment

Unless otherwise expressly agreed in writing, payment terms for Products and Services are cash on delivery or advance telegraphic transfer (as the Company may in its sole discretion elect).

5. Withholding

All sums payable by the Customer to the Company shall be paid in full, free of any restriction, condition, set-off or counter-claim, and without any deduction or withholding for or on account of any taxes or otherwise unless the deduction or withholding is required by law. In the event that any deduction or withholding is required by law to be made from any sum payable by the Customer to the Company, the Customer shall:

- (i) notify the Company as soon as the Customer becomes aware of such requirement;
- (ii) ensure that such deduction or withholding does not exceed the minimum legal liability therefor and forthwith pay to the Company such additional amount as is necessary to ensure that the Company receives on the due date and retains (free from any liability in respect of such deduction or withholding) a net sum equal to what it would have received and so retained had no such deduction or withholding been required or made; and
- (iii) as soon as practicable, pay the full amount required to be deducted or withheld (including, but without prejudice to the generality of the foregoing, the full amount of any deduction or withholding from any additional amount paid pursuant to this sub-clause) to the relevant

taxation or other authority within the time allowed for such payment under applicable law and deliver to the Company, within thirty (30) days after the Customer has made such payment to the relevant authority, an original receipt (or a certified true copy thereof) issued by such authority evidencing the payment to such authority of all amounts so required to be deducted or withheld in respect of such payment to the Company.

The Customer undertakes to indemnify the Company against any losses, costs, duties, levies, fees, penalties, interest, expenses, damages or claims suffered by or incurred by the Company by reason of any failure of the Customer to make any deduction or withholding or by reason of any increased payment not being made on the due date for such payment.

6. Set-off

Any amount ("Company Payment Amount") payable to the Customer by the Company under the Contract will, at the option of the Company be reduced by its set-off against any amount(s) ("Customer Payment Amount") payable (whether at such time or in the future or upon the happening of a contingency) by the Customer to the Company (irrespective of currency and whether under the Contract or otherwise), and the Company Payment Amount will be discharged promptly and in all respects to the extent it is so set-off. The Company will give notice to the Customer of any set-off effected under this provision. For this purpose, either the Company Payment Amount or the Customer Payment Amount (or the relevant portion of such amounts) may be converted by the Company into the currency in which the other is denominated at the rate of exchange at which The Company would be able, acting in a reasonable manner and in good faith, to purchase the relevant amount of such currency. If an obligation is unascertained, the Company may in good faith estimate that obligation and set-off in respect of the estimate. This provision shall be without prejudice and in addition to any right of set-off, combination of accounts, lien or other right to which the Company is at any time otherwise entitled (whether by operation of law, contract or otherwise).

7. Delivery

Delivery dates indicated in the contract documents are approximate and are based on prompt receipt of all necessary information regarding the Products and Services covered by the contract. The Company will use reasonable efforts to meet the indicated delivery dates, but cannot be held responsible for its failure to do so. The Company has the right to make partial shipments and bill for those shipments, the Customer will make payment in accordance with terms referenced in Clause 4 above.

8. Title and Risk

Notwithstanding that the Products may have been delivered and/or may be in the possession of the Customer, all Products shall remain the sole and absolute property of the Company until the Customer shall have paid in full for such Products, together with any goods and services tax ("GST") payable thereon whereupon the title to and property in such Products shall pass to the Customer. The Customer acknowledges that it shall be in possession of the Products solely as bailee for the Company until the Customer shall have paid in full for the Products, together with any GST payable thereon. Until such time as in accordance with the above provisions that the Customer becomes the owner of the Products, the Customer shall store the Products on its premises separately from its own assets or those of any other person and in a manner which makes them readily identifiable as the Company's property (including taking all reasonable steps and actions to label the Products as the Company's property in a manner which neither damages the Products nor is readily removable). The Customer undertakes that until it shall have paid in full for the Products, together with any GST payable thereon, the Customer will not sell, pledge, charge or otherwise dispose of the Products in any manner whatsoever. In the event that the Customer sells, pledges, charges, or otherwise disposes of the Products in contravention of this Clause, the entire proceeds of such sale, pledge, charge or disposal shall be held on trust for the Company and paid over to the Company on demand and shall not be

mixed with other monies or paid into any overdrawn account and shall at all times be identified as the Company's monies. Notwithstanding that the title to the Products may remain vested with the Company, the Customer agrees to assume all risks in relation to the Products immediately upon delivery of Products to carrier or Customer (whichever is earlier).

9. Shipping and handling charges

Unless otherwise agreed, all shipments of Products shall be ex-works Singapore and all applicable shipping and/or handling charges and/or any other similar fees or charges in relation to the delivery of the Products shall be borne by the Customer.

10. Changes

Buyer may with the express written consent of the Company make changes in the specifications for Products or Services ordered. In such event the contract price and delivery dates shall be adjusted by the Company in its sole and absolute discretion. The Company shall be entitled to payment for reasonable profit plus costs and expenses incurred by it for work and materials rendered unnecessary as a result of such changes and for work and materials required to effect said changes.

11. Cancellation

Delivered or undelivered parts of any order for Products and/or Services may be cancelled by the Customer only with the written approval of the Company. The Company reserves the right to and shall be entitled to, at any time and in its sole and absolute discretion, cancel any order by the Customer for Products and/or Services which have not been paid for. In the event of any cancellation of any order by the Customer, the Customer shall pay to the Company the reasonable costs and expenses (including engineering expenses and all commitments to its suppliers and subcontractors) incurred by the Company prior to receipt of notice of such cancellation, plus the Company's usual rate of profit for similar work. The minimum cancellation charge shall be 15% of the contract price. Upon the cancellation of an order for Products and Services, all Products which have not been paid for shall be returned (at Customer's cost and expense) to the Company.

12. Default

In the event that:

- (i) the Customer breaches any term or condition of the Contract and/or fails to carry out any of its obligations under or pursuant to the Contract and/or fails to pay any sum under the Contract when due; or
- (ii) the Customer:
 - (a) is dissolved (other than pursuant to a consolidation, amalgamation or merger);
 - (b) becomes insolvent or is unable to pay its debts or fails or admits in writing its inability generally to pay its debts as they become due;
 - (c) makes a general assignment, arrangement or composition with or for the benefit of its creditors;
 - (d) institutes or has instituted against it a proceeding seeking a judgment of insolvency or bankruptcy or any other relief under any bankruptcy or insolvency law or other similar law affecting creditors' rights, or a petition is presented for its winding-up or liquidation;
 - (e) (where the Customer is a corporation) has a resolution passed for its winding-up, judicial

- management or liquidation (other than pursuant to a consolidation, amalgamation or merger);
- (f) seeks or becomes subject to the appointment of an administrator, judicial manager, provisional liquidator, conservator, receiver, trustee, custodian or other similar official for it or for all or substantially all its assets;
 - (g) has a secured party take possession of all or substantially all its assets or has a distress, execution, attachment, sequestration or other legal process levied, enforced or sued on or against all or substantially all its assets;
 - (h) (where the Customer is an individual) dies, becomes insane and/or becomes affected by any other incapacity or disability;
 - (i) (where the Customer is a partnership) undergoes a change in its constitution, whether by retirement, expulsion, death, bankruptcy or admission of any partner or partners;
 - (j) causes or is subject to any event with respect to it which, under the applicable laws of any jurisdiction, has an analogous effect to any of the events specified in clauses (a) to (i) (inclusive); or
 - (k) takes any action in furtherance of, or indicating its consent to, approval of, or acquiescence in, any of the foregoing acts, the Company shall be entitled to (without prejudice to any right or remedy it may otherwise have):
 - (A) cancel or suspend any delivery to the Customer under any order for Products and/or Services;
 - (B) sell or dispose of any Products which are the subject of any order by the Customer, whether or not appropriated thereto, and apply the proceeds of sale to the overdue payment;
 - (C) charge the Customer interest on the price of any Products and/or Services which have not been paid for at the rate of [two (2) per cent per month] from the due date of payment until actual payment is made (irrespective of whether the date of payment is before or after any judgment or award in respect of the same);
 - (D) re-possess all or any of the Products which have not be paid for (including GST thereon) and the Customer hereby agrees that the Company may enter any of the Customer's premises for the purpose of re-possessing or removing such Products from the Customer's premises.

13. Warranties and Representations

Unless otherwise expressly stated, the Company makes and gives no representation or warranty whatsoever, express or implied to the Customer in relation to the Products and/or Services or the Contract or any matter arising from or in relation thereto and all such representations or warranties are hereby excluded to the extent permissible by law. In particular, the Company has not made and does not hereby make any representation, warranty, or covenant whatsoever with respect to title, merchantability, condition, quality, durability, suitability, operation or fitness of the Products in any respect or in connection with, or for any purpose or use of the Customer. The Customer hereby acknowledges and agrees that no guarantee, representation or warranty (express or implied) has been made by the Company or relied upon by the Customer in entering into the Contract.

a. Product Guarantee

Subject to extension in accordance with Clause 13B, each Product is guaranteed from the date of purchase [from the Company or from the official partner of the Company] against faulty material or manufacturing defects for the following period (the "**Period**"):

- (i) 24 months, for [electronic indicating] units of the Product;
- (ii) 6 months, for mechanical and electromechanical parts and/or accessories of the Product;
- (iii) 30 days, or parts of the Product which are subject to ordinary wear and tear, including but not limited to impact bodies, indenters, impact plungers, test blocks, connecting cables;
- (iv) 3 months, for the repaired parts of the Product which were repaired by the Company; and/or
- (v) 6 months, for all other parts of the Product not specified above, provided that:
 - (a) the Product is returned to the Company with evidence of purchase date and [the Warranty Certificate and/or the Extended Warranty Certificate (where applicable)];
 - (b) the Product has been purchased by the Customer for its own use and not for hire purposes;
 - (c) the Product has not been misused or handled carelessly; and
 - (d) repairs have not been attempted other than by the service staff [and/or authorised dealers and/or, subject to such additional terms as imposed by the Company, certain specified partners] of the Company.

This Guarantee shall be binding on the Company and the Customer only and shall not be transferable.

This Guarantee does not confer any rights other than those expressly set out above and does not cover any claims for consequential loss or damage. For the avoidance of doubt, calibration or adjustment to the Product, [products purchased from or supplied by third parties], [loss or damage to the Product in transit to or from the Company], (subject to as set out above) ordinary wear and tear to the Products and/or [chemical and/or electrolytic effect to the Products], if any, are excluded from this Guarantee.

During the Period, if the Customer requires the repair works to be performed to the Product in its own factory, the Company will provide the spare parts for such repair of the defect Provided That:

- (A) the Customer shall pay for all transportation costs and expenses at the applicable rates for after-sale service of the Company (to be determined at the sole discretion of and as notified by the Company);
- (B) the Customer has observed and complied with all duties imposed on it by contract or by law; and
- (C) the Customer has not withheld any payments on the grounds of a pending guarantee claim or otherwise for any Products and/or Services.

For the purposes of this Clause, "**Warranty Certificate**" means a certificate issued or to be issued by the Company for the purposes of the Guarantee of the Product for the Period.

b. Extended Product Guarantee

The Period [for [electronic indicating] units of the Product ("**Initial Period**") may be extended for an additional period of 12 months, 24 months or 36 months (the "**Extended Period**") for a consideration (to be determined and/or advised by the Company to the Customer) ("**Payment**") to be paid to the Company upon purchase of the Product or within a period of 90 days from the date of purchase of the Product.

Subject to receipt of the Payment and written confirmation by the Company:

- (i) a certificate will be issued by the Company ("**Extended Warranty Certificate**"); and
- (ii) the Extended Period of 12 months, 24 months or 36 months, as the case may be, will commence on the day immediately following the last day of the [Initial] Period and end on the last day of the Extended Period of 12 months, 24 months or 36 months, as the case may be, unless otherwise specified by the Company.

This extended Guarantee shall be binding on the Company and the Customer only and shall not be transferable.

This extended Guarantee does not confer any rights other than those expressly set out above and save as herein provided the operation of this extended Guarantee shall be subject to Clause 13A.

14. Indemnity

The Customer hereby undertakes to indemnify and hold the Company harmless in respect of any losses, damages, fines, costs (including legal costs on a full indemnity basis), fees or expenses suffered or incurred by the Vendor in relation to:

- (i) any breach of any of the terms and conditions of the Contract by the Customer;
- (ii) any damage, loss, theft or destruction of any Products in the possession of the Customer which remain the property of the Company; and
- (iii) an the purpose of re-possessing or removing Products from the premises of the Customer).

The Customer hereby agrees that a certificate signed by any duly authorised officer of the Company shall, in the absence of manifest error, be conclusive against the Customer as to the amount of any loss, damage, fine, costs (including legal costs on a full indemnity basis), fees or expense suffered or incurred by the Company.

15. Disclaimer of Damages

TO THE FULLEST EXTENT PERMITTED BY LAW, THE COMPANY SHALL NOT BE LIABLE FOR ANY TYPE OF SPECIAL CONSEQUENTIAL, INCIDENTAL OR PENAL DAMAGES, WHETHER SUCH DAMAGES ARISE OUT OF OR ARE A RESULT OF BREACH OF CONTRACT, WARRANTY, TORT (INCLUDING NEGLIGENCE), STRICT LIABILITY OR OTHERWISE. Such damages shall include but not be limited to loss of profits or revenues, loss of use of the equipment or associated equipment, cost of substitute equipment, facilities, down time costs, increased construction costs or claims of the Customer's clients or contractors for such damages.

16. Export Control

The customer hereby agrees and warrants that:

- (a) it will comply, and will ensure that its relevant personnel comply, with all applicable laws and regulations, including without limitations any law, regulation, statute, prohibition, or wider measure applicable to the goods, services and/or to either party relating to the adoption, application, implementation and enforcement of economic sanctions, export controls, trade embargoes or any other restrictive measures (hereinafter collectively "LAWS AND REGULATIONS") to ensure at all times that goods are sold, supplied, imported, exported, re-exported, transferred, used, disclosed and/or transported only in accordance with all applicable Laws and Regulations;
- (b) it will immediately notify Proceq if it becomes aware that it or any of its personnel or to the extent it is a re-seller of the goods, any of its clients may have breached any applicable LAWS AND REGULATIONS;
- (c) it will not supply any goods of Proceq, in any form, directly or indirectly, to any person or entity that is not compliant with applicable LAWS AND REGULATIONS;
- (d) it will indemnify and hold Proceq harmless from and against any claim, loss, liability or direct or indirect damage suffered or incurred by Proceq resulting from or related to customers, its personnel or to the extent it is a re-seller of the goods, any of its clients' breach of this art. 16.

17. Limitation of Liability

The Company shall not be liable for any loss, claim, expense or damage caused by, contributed to or arising out of the acts or omissions of the Customer or third parties, whether negligent or otherwise. To the fullest extent permitted by law, the Company's liability for any cause of action whatsoever shall not exceed the cost of the item giving rise to the claim, whether based in contract, warranty, indemnity, or tort (including negligence). Any suit arising hereunder must be commenced within one (1 year) from the date in which the cause of action accrues.

18. Force Majeure

The Company shall not be liable for any delay in the performance of the Contract, delivery or non-delivery, in whole or in part, caused by the occurrence of any contingency beyond the reasonable control of the Company, including, but not limited to, war (whether an actual declaration thereof is made or not), sabotage, insurrection, riot or other act of civil disobedience, act of a public enemy, failure or delay in transportation, shortage of supply from the manufacturer, act of any government or any agency or subdivision thereof, judicial action, labour dispute, accident, fire, explosion, flood, storm or other act of God.

19. Assignment

The Customer may not assign or transfer all or any of its rights and/or obligations under the Contract without the prior written consent of the Company.

20. Third Parties

A person who is not a party to the Contract shall have no right under the Contracts (Rights of Third Parties) Act, Chapter 53B of Singapore to enforce any of the terms of the Contract.

21. Waiver and Amendments

There shall be no waiver of any term, provision or condition of the Contract unless such waiver is evidenced in writing and signed by the waiving party. No omission or delay on the part of any party hereto in exercising any right, power or privilege hereunder shall operate as a waiver thereof; nor shall any single or partial exercise of any such right, power or privilege preclude any other or further exercise thereof or of any other right, power or privilege. The rights and remedies herein provided are cumulative with and not exclusive of any rights or remedies provided by law. No variation to the Contract shall be effective unless made in writing and signed by both the parties.

22. Invalidity

If at any time any one or more of the provisions hereof is or becomes invalid, illegal or unenforceable in any respect under any law, the validity, legality and enforceability of the remaining provisions hereof shall not be in any way affected or impaired thereby.

23. Governing Law

The Contract (including these T&Cs) shall be governed by and construed in accordance with laws of the Republic of Singapore. The parties hereto hereby irrevocably submit to the non-exclusive jurisdiction of the courts of the Republic of Singapore for the purpose of hearing and determining any dispute arising out of the Contract and for the purpose of enforcement of any judgment against their respective assets.