

1. **GENERAL.** These terms and conditions (the "Terms") shall exclusively govern the sale and purchase of all products and/or services ("Goods") sold or provided by companies which are part of the A. Schulman group of companies ("Seller") and supersede and replace any other terms or conditions stipulated or referred to by a buyer of Goods ("Buyer") in any document. Buyer agrees that the issuance of orders by Buyer shall act as full acceptance of the Terms. Buyer and Seller may also be referred to individually as a "party" and collectively as the "parties."
2. **OFFERS AND ORDERING.** All offers and quotes from Seller are non-binding until Seller's final order confirmation.
3. **DELIVERIES, RISK.**
 - 3.1 Unless otherwise agreed in writing all Goods shall be delivered Ex Works Seller's production facility or warehouse and the risk with regard to the Goods shall pass to the Buyer as defined in the INCOTERMS or any other agreed delivery terms applicable on the date of the order confirmation.
 - 3.2 Buyer hereby agrees that the quantity and quality of Goods as recorded on the shipping/delivery documents is conclusive evidence of the quantity received by Buyer on delivery unless Buyer can provide conclusive evidence proving the contrary. Seller is entitled to make partial deliveries, unless the parties expressly agree otherwise.
 - 3.3 Any dates specified by Seller for delivery of the Goods are an estimate and time for delivery shall not be of the essence unless otherwise agreed in writing and Seller shall, to the extent permitted by law, not be liable for any delay in delivery. If Seller and Buyer have agreed in writing that time is of the essence, Buyer shall be entitled to cancel the order or claim as sole remedy a compensation for damages in the amount of a maximum of 0.5 % of the invoice value for every full week of default. In all events, Seller's liability with respect to untimely delivery shall not exceed 5 % of the invoice value of the deliveries concerned.
 - 3.4 Parties agree that Seller may deliver to Buyer a quantity of Goods of up to 10% more or less than the quantity ordered. In such event, Buyer shall not be entitled to make a claim or reject the Goods or any portion of the Goods by reason of the surplus or shortfall and Buyer shall, subject to providing timely notice required under section 8, pay or be credited (as the case may be) for such Goods at the agreed price based on the actually delivered quantity.
4. **NON-ANALYSIS.** Buyer agrees that it shall not, without Seller's prior written consent, take any steps to analyze, or have a third party analyze, reverse engineer, translate or decompile any Goods, samples or material provided by Seller, including, and without limitation, the formulation of any compound, additive, masterbatch or concentrate.
5. **TITLE TO THE GOODS.**
 - 5.1 All Goods sold by Seller shall remain the property of Seller until Seller has received in full from Buyer all payments it is entitled to, including any damages, costs, interest and duties.
 - 5.2 Until such time as ownership in the Goods has passed to Buyer, Buyer shall ensure that the Goods (i) are kept and maintained in good condition at no cost of Seller, (ii) are stored separately or marked so that they may be readily identified as the property of Seller, (iii) are not subject of any charge, pledge or lien, and (iv) are insured for their full replacement value against all risks.
 - 5.3 If the Goods have been processed, combined or mixed by the Buyer with finished goods of the Buyer or any third party, and the Goods are clearly identifiable, then the Seller acquires joint title pro rata to that part of the Goods that represents the unpaid invoiced value of Seller's Goods in relation to the total value of the other goods that have been processed, combined or mixed.
 - 5.4 The Buyer is entitled to sell processed Goods in the ordinary course of business before the Seller receives payment for such Goods. However if the Buyer resells Goods before that time: (i) it does so as principal and not as the Seller's agent; and (ii) title to the Goods shall pass from the Seller to the Buyer immediately at the time at which resale by the Buyer occurs; and (iii) the Buyer hereby assigns to the Seller all claims against third parties that arise from or in connection with such sale.
6. **PRICE AND TAXES.** All prices include standard packaging and are Ex Works unless otherwise agreed and exclusive of VAT, sales, use and excise taxes, and any other similar charges, duties, costs and taxes, Buyer shall be responsible for all such charges, duties, costs and taxes.
7. **PAYMENTS.**
 - 7.1 Unless otherwise agreed, all invoices are payable in the currency stated on the invoice within thirty (30) days after the date of invoice to the account indicated on the invoice.
 - 7.2 Buyer shall not withhold payment of any amounts due and payable by reason of any set-off of any claim or dispute with Seller, whether relating to Seller's breach or otherwise.
 - 7.3 If Seller, acting reasonably, determines that the financial position of Buyer has become impaired or otherwise unsatisfactory to Seller, Seller may require advance payment or the posting of security by Buyer, and Seller may withhold shipments until Buyer makes such payments or posts such security.
 - 7.4 Seller shall be entitled to first credit payments against Buyer's old debts. Buyer shall pay interest without prior written notice or demand on all late payments at the lesser of the rate of 1 % per month or the highest rate permissible under applicable law, calculated daily and compounded monthly until full and final settlement of the same.
 - 7.5. In the event Buyer is in default of any payments whatsoever due to Seller, Seller shall be entitled to: (i) hold the shipment of any Goods ordered by Buyer until Buyer makes such payments; and/or (ii) require from Buyer immediate payment of any additional Goods ordered by Buyer prior to their shipment and /or (iii) rescind the sale agreement.
 - 7.6. In addition to all other remedies available Buyer shall reimburse Seller for all reasonable costs incurred in collecting any overdue debt, including, without limitation, reasonable attorneys' fees, legal and non-legal costs.
8. **INSPECTION AND REJECTION OF NONCONFORMING GOODS.** Buyer shall inspect the Goods immediately upon delivery and shall, latest within ten (10) days from the date of delivery in respect of any defect, default or shortage which would be apparent from a reasonable inspection on delivery, or ten (10) days from the date on which any hidden defect was or ought to have been apparent, give written notice to Seller of any claim with respect to the Goods. Failure of Buyer to give such written notice within such ten (10) day period shall constitute an irrevocable acceptance of the Goods by Buyer. Upon making any such claim Buyer shall not further use the Goods and shall retain the Goods for inspection by Seller or its representative.
9. **LIMITED WARRANTY.**
 - 9.1 Seller warrants to Buyer good and free title to the Goods and that the Goods supplied will conform to the agreed written or published specifications at the time Goods are shipped.
 - 9.2 Seller has based any recommendations to Buyer for the use or application of the Goods as well as any services provided by Seller upon information supplied by Buyer, but Seller gives no warranty with respect to results Buyer might obtain based on such recommendations or services and any use or application for the Goods. Except to the extent attributable to the Goods sold hereunder failing to meet the express warranties set forth in section 9.1, Buyer will indemnify, defend and hold Seller harmless from all costs, expenses, damages, judgments or other loss, including costs of investigation, litigation and reasonable attorney's fees, arising out of Buyer's selection, use, sale, applications or further processing of the Goods.
10. **LIMITATION OF LIABILITY.**
 - 10.1 Except for the warranty set forth in section 9.1, Seller disclaims any warranty whatsoever express or implied with respect to the Goods, including any warranty of merchantability, fitness for a particular purpose by reason of any use Buyer makes of the Goods whether used alone or in combination with any other substance or in any process. All representations and warranties provided by non-mandatory applicable laws are expressly excluded and contractually waived by Buyer.
 - 10.2 Seller's aggregate liability to Buyer for claims and damages, whether under breach of warranty, tort or any other cause whatsoever, shall in no event exceed the total of the purchase price for the Goods which gave rise to Buyer's claim.
 - 10.3 Any justified claim with respect to the Goods is limited to replacing, reworking or repairing defective or non-compliant Goods or, at the option of Seller, crediting Buyer, in full or in part, for the amount of the invoice for the Goods concerned.
 - 10.4 In no event will Seller have liability to Buyer arising out of or relating to any breach of these Terms or the Goods, for any incidental, consequential, exemplary or special damages, either direct or indirect, including but not limited to, loss of profits or revenue, diminution in value, machine stoppage, recall or rework.
 - 10.5 Buyer acknowledges and agrees that the remedies set forth in section 10 are Buyer's exclusive remedies.
 - 10.6 Nothing in these Terms will limit either party's liability for acting grossly negligent or to the extent such liability cannot be limited by applicable law.

Buyer assumes all risks of any intellectual property infringement claims resulting from the use, (re)sale or processing of the Goods, whether singly or in combination with any other materials.

11. TERMINATION/CANCELLATION.

11.1 In addition to any remedies that may be provided under these Terms, Seller may terminate any sale agreement with immediate effect upon written notice to Buyer, if Buyer: (i) fails to pay any amount when due and such failure continues for fifteen (15) days after Buyer's receipt of written notice of non-payment; (ii) has not otherwise performed or complied with any of these Terms, in whole or in part; or (iii) becomes insolvent, files a petition for bankruptcy or commences or has commenced against it proceedings relating to bankruptcy, or receivership, reorganization, assignment for the benefit of creditors or similar event.

11.2 Buyer may only cancel or terminate an accepted sale agreement to which these Terms apply upon Seller's prior written consent and shall be liable to Seller for any losses suffered therefrom by Seller, including but not limited to (i) all costs associated with work-in process; (ii) all costs associated with the purchase of unique raw materials; and (iii) charges for packing and storing. In such event, Seller shall have the option, in its sole discretion, to use, sell or dispose of any and all Goods manufactured for the benefit of Buyer without further notice to Buyer unless expressly agreed otherwise in writing.

11.3 If Buyer commits a non-remediable material breach or fails to cure any remediable material breach within fifteen (15) days of being notified in writing of such breach, Seller shall have the option, in its sole discretion, and in addition to any other remedies available to Seller under law, to use, sell or dispose of any and all Goods manufactured for the benefit of Buyer without further notice to Buyer unless expressly agreed otherwise in writing.

12. FORCE MAJEURE. Either party may suspend performance hereunder (except with respect to payment obligations for any of the Goods) in the event of fire, explosion, flood, hurricanes, strikes, lockouts or other industrial disturbances or riots, war, compliance with any acts or omissions of any local or governmental authority, inability or delay in obtaining supplies, labour, power, machine or equipment breakdown, fuel or raw materials, or any other cause or causes of any kind or character reasonably outside the control of the party failing to perform, whether similar or dissimilar from any of the above mentioned causes. If the event in question continues for a continuous period in excess of twenty (20) days, the affected party shall be entitled to give notice in writing to the non-performing party to terminate the sale agreement with respect to Goods undelivered at the time of termination.

13. HEALTH & SAFETY. Buyer shall handle the Goods in accordance with the recommendations given by Seller in Material Safety Data Sheets or Seller's safety literature. If Buyer is not already in the possession of such literature or requires any information or advice in connection with the safe use of the Goods Buyer shall immediately contact Seller. Buyer will disseminate such information so as to give warning of possible hazards to persons whom Buyer can reasonably foresee may receive exposure to such hazards.

14. TRANSLATION. In the event these Terms are for convenience translated from English into another language, the parties agree that, to the extent permitted by law, the English version shall prevail.

15. GOVERNING LAW AND JURISDICTION. All sales of the Goods and these Terms shall be governed by the laws of Malaysia, without reference to its principles of conflict of laws. Any dispute arising from the execution, implementation or interpretation of a sale agreement between Buyer and Seller shall be subject to the exclusive jurisdiction of the courts of Malaysia. Without prejudice to the above Seller may choose to bring a dispute before the court of the country of establishment of Buyer.

16. MISCELLANEOUS.

16.1 The invalidity or unenforceability for any reason of any part of these Terms shall not prejudice or affect the validity or enforceability of the remainder.

16.2 Buyer shall not assign any contract for the purchase/sale of Goods or any rights hereunder in whole or in part to any third party without the prior written consent of Seller.

16.3 Seller shall be entitled to assign to or carry out this contract in whole or in part through one or more of the business enterprises of the Seller's group of companies, who shall be authorized to act on Seller's behalf, even though Seller continues to be Buyer's sole contracting party.

16.4 Buyer shall comply with all applicable laws, regulations, and other legal requirements regarding the export, import, sale, distribution, marketing, and servicing of the Goods and related technology, including without limitation, tax, anti-corruption and foreign exchange legislation or regulations and export, and anti-boycott restrictions in force at the time of the sale of the Goods.

16.5 All trade mark, copyright, design right and other intellectual property in any design, specification, process, method of working or other information relating to the Goods shall remain vested for all time in Seller. Any sale of Goods, or suggestions Seller makes about possible applications, designs or uses of Seller's Goods shall not, by implication or otherwise, convey any license to or transfer of any intellectual property rights related to Goods.