



## ADVANCED MARINE PTE. LTD.

*~The Total Service Company~*

### STANDARD TERMS AND CONDITIONS OF SALES

#### 1. DEFINITIONS AND INTERPRETATION

##### 1.1. DEFINITIONS

**“Buyer”** means the person or entity who purchases the Goods from the Seller.

**“Business Day”** means a day (other than a Saturday, Sunday or public holiday) when banks in Singapore are open for business.

**“Contract”** means the contract comprising the Order and these Conditions.

**“Conditions”** means the terms and conditions set out in this document as may be amended from time to time in accordance with Clause 13.2.

**“Force Majeure Event”** is limited to the circumstances set out below that are not within a party’s control:

- (a) acts of God, flood, drought, earthquake or other natural disaster;
- (b) epidemic or pandemic;
- (c) terrorist attack, civil war, civil commotion or riots, war, threat of or preparation for war, armed conflict, imposition of sanctions, embargo, or breaking off of diplomatic relations;
- (d) nuclear, chemical or biological contamination or sonic boom;
- (e) any law or any action taken by a government or public authority, including without limitation imposing an export or import restriction, quota or prohibition, or failing to grant a necessary license or consent;
- (f) collapse of buildings, fire, explosion or accident;
- (g) interruption or failure utility service; and
- (h) non-performance by suppliers or subcontractors.

**“Goods”** means each and every equipment or thing or any part thereof described in the Contract to be purchased by the Buyer.

**“Intellectual Property”** means any invention, patent or application for a patent, design (registered or unregistered) trademark (registered or unregistered), name, copyright, circuit layout, trade secret, know-how, proprietary information or other right in respect of any information, process, work, material or method.

**“Order”** means the Buyer’s order for the Goods, as set out in the Buyer’s purchase order form OR in the Buyer’s written acceptance of the Seller’s quotation.

**“Seller”** means Advanced Marine Pte Ltd (Registration No. 197900041G) having a registered office at 1 Gul Street 4, Singapore 629233.

**“Specification”** means any specification for the Goods, including any related plans and drawings, which have been agreed in writing by the Buyer and the Seller.

## **1.2. INTERPRETATION**

- 1.2.1 The Seller shall sell the Equipment to the Buyer subject to this Contract.
- 1.2.2 Clauses and paragraph headings herein shall not affect the interpretation of this Contract.
- 1.2.3 A person includes a natural person, corporate or unincorporated body (whether or not having separate legal personality).
- 1.2.4 A reference to a company shall include any company, corporation or other body corporate, wherever and however incorporated or established.
- 1.2.5 Unless the context otherwise requires, words in the singular shall include the plural and in the plural shall include the singular.
- 1.2.6 Unless the context otherwise requires, a reference to one gender shall include a reference to the other genders.
- 1.2.7 A reference to a statute or statutory provision is a reference to it as amended, extended or re-enacted from time to time, and shall include all subordinate legislation made from time to time under that statute or statutory provision.
- 1.2.8 A reference to writing or written includes fax and e-mail.
- 1.2.9 Any words following the terms including, include, in particular, for example or any similar expression shall be construed as illustrative and shall not limit the sense of the words, description, definition, phrase or term preceding those terms.

## **2. BASIS OF CONTRACT**

- 2.1. These Conditions apply to the Contract to the exclusion of any other terms that the Buyer seeks to impose or incorporate, or which are implied by trade, custom, practice or course of dealing.
- 2.2. The Order constitutes an offer by the Buyer to purchase the Goods in accordance with these Conditions.
- 2.3. The Order shall only be deemed to be accepted when the Seller issues a written acceptance of the Order, at which point the Contract shall come into existence.
- 2.4. The Buyer waives any right it might otherwise have to rely on any term endorsed upon, delivered with or contained in any documents of the Buyer that is inconsistent with these Conditions.
- 2.5. A quotation for the Goods given by the Seller shall not constitute an offer. Unless otherwise stated in the footer of the quotation, a quotation shall only be valid for a period of thirty (30) days from its date of issue.

### 3. GOODS

- 3.1. The Goods are described in the Specification.
- 3.2. The Buyer shall indemnify the Seller against all liabilities, costs, expenses, damages and losses (including any direct, indirect or consequential losses, loss of profit, loss of reputation and all interest, penalties and legal and other reasonable professional costs and expenses) suffered or incurred by the Seller in connection with any claim made against the Seller for actual or alleged infringement of a third party's Intellectual Property rights arising out of or in connection with the Seller's use of the Specification. This Clause 3.2 shall survive termination of the Contract.
- 3.3. The Seller reserves the right to amend the Specification if required by any applicable statutory or regulatory requirements.

### 4. DELIVERY

- 4.1. If the Seller agrees in writing to deliver the Goods to the Buyer, the Seller shall deliver the Goods to the location to be agreed between the parties (the "**Delivery Location**"), at any time after the Seller notifies the Buyer that the Goods are ready. Delivery shall be deemed completed on the completion of unloading of the Goods at the Delivery Location.
- 4.2. Otherwise and/or in the absence of the Seller's written agreement to deliver the Goods to the Buyer, the Buyer shall collect the Goods from the Seller's premises at 1 Gul Street 4, Singapore 629233, or such other location as may be advised by the Seller prior to the delivery (the "**Collection Location**") within three (3) Business Days of the Seller notifying the Buyer that the Goods are ready. Delivery shall be deemed completed on the completion of loading of the Goods at the Collection Location.
- 4.3. Subject to Clause 4.4:
  - (a) Any dates quoted for delivery under Clauses 4.1 or 4.2 are approximate only, and the time of delivery is not of the essence.
  - (b) If the Seller fails to deliver the Goods under Clauses 4.1 or 4.2, its liability shall be limited to the reasonable costs and expenses incurred by the Buyer in obtaining replacement goods of similar description and quality in the cheapest market available, less the price of the Goods.
- 4.4. The Seller shall not be liable for any delay in delivery or failure to deliver the Goods to the extent that such delay or failure is caused by any of the following events:
  - (a) a Force Majeure Event;
  - (b) where the Seller discovers that the Goods are faulty on examination or re-examination;
  - (c) the Buyer's failure to provide the Seller with proper, complete and/or adequate delivery instructions, documents (including customs paperwork) or any other instructions that are relevant to the supply of the Goods; or
  - (d) any instance where such failure or delay in delivery is beyond the Seller's control and/or where the same is not attributable to any fault on the Seller's part.
- 4.5. If the Buyer fails to accept delivery of the Goods within fourteen (14) days of the Seller notifying the Buyer that the Goods are ready, then, except where such failure or delay is caused by a Force Majeure Event or the Seller's failure to comply with its obligations under the Contract:

- (a) delivery of the Goods shall be deemed to have been completed at 9.00 am on the fourteenth Business Day after the day on which the Seller notified the Buyer that the Goods were ready; and
  - (b) the Buyer shall indemnify the Seller for all related costs and expenses (including storage and insurance).
- 4.6. If eighteen (18) days have passed after the day on which the Seller notified the Buyer that the Goods were ready for delivery and the Buyer has not accepted delivery of them, the Seller may resell or otherwise dispose of part or all of the Goods and, after deducting reasonable storage and selling costs, the Buyer shall indemnify the Seller for any shortfall below the price of the Goods.
- 4.7. If the Seller delivers up to and including 5% more or less than the quantity of Goods ordered, the Buyer may not reject them but on receipt of notice from the Buyer that the wrong quantity of Goods was delivered, a pro rata adjustment shall be made to the Seller's invoice in relation to the Order.
- 4.8. The Seller may deliver the Goods by instalments, which shall be invoiced and paid for separately. Any delay in delivery or defect in an instalment shall not entitle the Buyer to cancel any other instalment.

## **5. QUALITY**

- 5.1. Where the Seller is not the manufacturer of the Goods, such Goods are sold with the benefit of and subject to the warranty which may be supplied with them by the manufacturer. The Seller will either (a) pass through to the Buyer the manufacturer's warranty, if any, with respect to such product, or (b) permit the Buyer to, at the Buyer's expense, exercise the Seller's rights under such manufacturer warranty, if any. No further warranty is granted by the Seller in relation to such Goods.
- 5.2. In any event, the Seller shall not be liable in respect of any defect in the Goods arising out of the acts, omissions, negligence or default of the Buyer, its servants and agents including without limitation:
- (a) the defect arises because the Buyer failed to follow the Seller's oral or written instructions or recommendations as to the storage, handling, commissioning, installation, use, servicing and/or maintenance of the Goods;
  - (b) the defect arises as a result of the Seller following any drawing, design or Specification supplied by the Buyer;
  - (c) the Buyer alters or repairs such Goods without the written consent of the Seller;
  - (d) the defect arises as a result of fair wear and tear, willful damage, negligence, or abnormal storage or working conditions;
  - (e) the Goods differ from their description or the Specification as a result of changes made to ensure they comply with applicable statutory or regulatory requirements;
  - (f) the Buyer uses the Goods with other goods or misuses the Goods; or
  - (g) accidental or fair wear and tear of the Goods.

- 5.3. The terms and conditions implied by the Sale of Goods Act (Cap 393, Rev Ed 1999), including sections 13 to 15 thereof, are, to the fullest extent permitted by law, excluded from the Contract.
- 5.4. These Conditions shall apply to any repaired or replacement Goods supplied by the Seller.

## **6. TITLE AND RISK**

- 6.1. The risk in the Goods shall pass to the Buyer on completion of delivery.
- 6.2. Title to the Goods shall not pass to the Buyer until the earlier of:
- (a) the Seller receives payment in full (in cash or cleared funds) for the Goods in respect of which payment has become due, in which case title to the Goods shall pass at the time of payment; and
  - (b) the Buyer resells the Goods, in which case title to the Goods shall pass to the Buyer at the time specified in Clause 6.4.
- 6.3. Until title to the Goods has passed to the Buyer, the Buyer shall:
- (a) store the Goods separately from all other goods held by the Buyer so that they remain readily identifiable as the Seller's property;
  - (b) not remove, deface or obscure any identifying mark or packaging on or relating to the Goods;
  - (c) not use the Goods to manufacture new products;
  - (d) maintain the Goods in satisfactory condition and keep them insured against all risks for their full price from the date of delivery;
  - (e) notify the Seller immediately if it becomes subject to any of the events listed in Clause 8.1; and
  - (f) give the Seller such information relating to the Goods as the Seller may require from time to time.
- 6.4. Subject to Clause 6.5, the Buyer may resell or use the Goods in the ordinary course of its business (but not otherwise) before the Seller receives payment for the Goods. However, if the Buyer resells the Goods before that time:
- (a) it does so as principal and not as the Seller's agent; and
  - (b) title to the Goods shall pass from the Seller to the Buyer immediately before the time at which resale by the Buyer occurs.

- 6.5. If before title to the Goods passes to the Buyer the Buyer becomes subject to any of the events listed in Clause 8.1, then, without limiting any other right or remedy the Seller may have:
- (a) the Buyer's right to resell the Goods or use them in the ordinary course of its business ceases immediately; and
  - (b) the Seller may at any time:
    - (i) require the Buyer to deliver up all Goods in its possession that have not been resold, or irrevocably incorporated into another product; and
    - (ii) if the Buyer fails to do so promptly, enter any premises of the Buyer or of any third party where the Goods are stored in order to recover them.

## **7. PRICE AND PAYMENT**

- 7.1. The price of the Goods shall be the price set out in the Order, or, if no price is quoted, the price set out in the Seller's published price list in force as at the date of delivery.
- 7.2. In long-term contracts (one (1) calendar year or more) where the price of the Goods are not adjusted from time to time, the Seller may, after a period of one year from the time of such contract, by giving notice to the Buyer at any time before delivery, increase the price of the Goods to reflect any increase in the cost of the Goods that is due to:
- (a) any factor beyond the Seller's control (including foreign exchange fluctuations, increases in taxes and duties, and increases in labour, materials and other manufacturing costs);
  - (b) any request by the Buyer to change the delivery date(s), quantities or types of Goods ordered, or the Specification; or
  - (c) any delay caused by any instructions of the Buyer or failure of the Buyer to give the Seller adequate or accurate information or instructions.
- 7.3. The price of the Goods:
- (a) excludes amounts in respect of Goods and Services Tax ("GST"), which the Buyer shall additionally be liable to pay to the Seller at the prevailing rate;
  - (b) excludes the costs and charges of packaging, insurance and transport of the Goods, which shall be invoiced to the Buyer; and
  - (c) for the avoidance of doubt, be on ex-factory terms.
- 7.4. The Seller may invoice the Buyer for the Goods on or at any time after the completion of delivery.
- 7.5. The Buyer shall pay the invoice in full and in cleared funds within the time stated therein. In the absence of a stipulated time frame, the Buyer shall pay the invoice in full and in cleared funds within fourteen (14) days of the date of the invoice. Payment shall be made to the bank account nominated in writing by the Seller. Time for payment is of the essence.
- 7.6. If the Buyer fails to make any payment due to the Seller under the Contract by the due date for payment, then the Buyer shall pay interest on the overdue amount at the rate of 1.5% per month. The Buyer shall pay the interest together with the overdue amount.

7.7. The Buyer shall pay all amounts due under the Contract in full without any set-off, counterclaim, deduction or withholding (except for any deduction or withholding required by law). The Seller may at any time, without limiting any other rights or remedies it may have, set off any amount owing to it by the Buyer against any amount payable by the Seller to the Buyer.

## **8. TERMINATION**

8.1. Without limiting its other rights or remedies, the Seller may terminate this Contract with immediate effect by giving written notice to the Buyer if:

- (a) the Buyer commits a material breach of any term of the Contract and (if such a breach is remediable) fails to remedy that breach within thirty (30) days of that party being notified in writing to do so;
- (b) the Buyer takes any step or action in connection with its entering judicial management, provisional liquidation or any composition or arrangement with its creditors (other than in relation to a solvent restructuring), being wound up (whether voluntarily or by order of court), having a receiver appointed to any of its assets or ceasing to carry on business;
- (c) the Buyer suspends, threatens to suspend, ceases or threatens to cease to carry on all or a substantial part of its business; or
- (d) the Buyer's financial position deteriorates to such an extent that in the Seller's opinion the Buyer's capability to adequately fulfil its obligations under the Contract has been placed in jeopardy.

8.2. Without limiting its other rights or remedies, the Seller may suspend provision of the Goods under the Contract or any other contract between the Buyer and the Seller if the Buyer becomes subject to any of the events listed in Clause 8.1(a) to Clause 8.1(d), or the Seller reasonably believes that the Buyer is about to become subject to any of them, or if the Buyer fails to pay any amount due under this Contract on the due date for payment.

8.3. Without limiting its other rights or remedies, the Seller may terminate the Contract with immediate effect by giving written notice to the Buyer if the Buyer fails to pay any amount due under the Contract on the due date for payment.

8.4. On termination of the Contract for any reason the Buyer shall immediately pay to the Seller all of the Seller's outstanding unpaid invoices and interest.

8.5. Termination of the Contract shall not affect any of the parties' rights and remedies that have accrued as at termination, including the right to claim damages in respect of any breach of this Contract that existed at or before the date of termination.

8.6. Any provision of the Contract that expressly or by implication is intended to come into or continue in force on or after termination shall remain in full force and effect.

## **9. LIMITATION OF LIABILITY**

9.1. The Seller shall under no circumstances whatsoever be liable to the Buyer, whether in contract, tort (including negligence), breach of statutory duty, or otherwise, for any loss of profit, or any indirect or consequential loss arising under or in connection with the Contract.

## **10. FORCE MAJEURE**

- 10.1. Neither party shall be in breach of this Contract nor liable for delay in performing, or failure to perform, any of its obligations under this Contract if such delay or failure result from a Force Majeure Event. If the period of delay or non-performance continues for thirty (30) days, the party not affected may terminate this Contract by giving fourteen (14) days' written notice to the affected party.

## **11. ASSIGNMENT**

- 11.1. The Buyer shall not assign any of its rights and obligations under this Contract without the prior written consent of the Seller.
- 11.2. The Seller reserves the right to assign its rights and obligations under this Contract to any other party without the Buyer's consent by written notice to the Buyer.

## **12. SEVERABILITY AND WAIVER**

- 12.1. If any clause of this Contract is held by any competent authority to be invalid or unenforceable in whole or in part, the validity of the remaining clauses in the Contract shall not be affected thereby.
- 12.2. No waiver by the Seller of any breach of the Contract by the Buyer shall be considered as a waiver of any subsequent breach of the same or any other clause.

## **13. ENTIRE AGREEMENT AND VARIATION**

- 13.1. This Contract sets out the entire agreement and understanding of the parties hereto in connection with the sale and purchase of the Goods.
- 13.2. The Contract may only be varied by a written agreement between the Seller and Buyer.

## **14. NOTICES**

- 14.1. Any notice or other communication given to a party under or in connection with the Contract shall be in writing, addressed to that party at its registered office (if it is a company) or its principal place of business (in any other case) or such other address as that party may have specified to the other party in writing in accordance with this clause, and shall be delivered personally, or sent by post or other next working day delivery service, commercial courier, or email.
- 14.2. A notice or other communication shall be deemed to have been received: if delivered personally, when left at the address referred to in Clause 14.1; if sent by post or other next working day delivery service, at 9.00 am on the second (2<sup>nd</sup>) Business Day after posting; if delivered by commercial courier, on the date and at the time that the courier's delivery receipt is signed; or, if sent by email, one (1) Business Day after transmission.
- 14.3. The provisions of this clause shall not apply to the service of any proceedings or other documents in any legal action.

**15. CONTRACT RIGHTS OF THIRD PARTIES ACT**

15.1. Nothing in this Contract is intended to grant to any third party any right to enforce any term of this Contract or to confer on any third party any benefits under this Contract for the purposes of the Contract (Rights of Third Parties) Act (Cap 53B, Rev Ed 2002) and any re-enactment thereof, the application of which legislation is expressly excluded.

**16. LAW AND JURISDICTION**

16.1. This entire agreement shall only be governed and interpreted in accordance with the Laws of the Republic of Singapore. In the event of any disagreement whatsoever, the Seller and the Buyer shall submit to the exclusive jurisdiction of the Courts of the Republic of Singapore.

**I / We have read and understood the terms and conditions above and acknowledge and agree that this shall form part of the Contract.**

**Company Name** : \_\_\_\_\_

**Signed on behalf of the Company** : \_\_\_\_\_

**Name & Position** : \_\_\_\_\_

**Company Stamp** : \_\_\_\_\_

*Please sign the above and return a copy of the duly endorsed terms and conditions by email or fax to:*

Advanced Marine Pte. Ltd.  
Attn : Mr. J Bradford  
Fax No. : +65-62657591  
Email : [admin2@advancedmarine.com.sg](mailto:admin2@advancedmarine.com.sg)