

TERMS AND CONDITIONS OF SALE

1. **General Provisions**
- 1.1. These terms and conditions of sale (the "Conditions") apply to all orders made by the purchaser of goods or services (the "Purchaser") from Arpadis Asia Limited, a limited liability company incorporated under the laws of Hong Kong with its company number: 2680896 (the "Seller") and to all and any sales agreement(s) ("Agreement(s)") of the Seller, including any and all ancillary service provisions.
- 1.2. The Conditions exclude, except if accepted in writing by the Seller, any and all general or particular conditions of the Purchaser.
- 1.3. By signing the order or the Agreement or by accepting the written confirmation of the order, the Purchaser expressly acknowledges having read and accepted these Conditions.
- 1.4. The English version of these Conditions shall prevail.
2. **Orders**
- 2.1. Any orders shall bind the Seller only after its written confirmation.
- 2.2. Any modifications made by the Purchaser to its order or to the Seller's offer shall only be valid if accepted and confirmed in writing by the Seller.
3. **Delivery dates**
- 3.1. Except if otherwise specified, the delivery dates or the dates for the ancillary service provision is purely indicative. Delays shall not entitle the Purchaser to terminate the order or the Agreement or to claim for damages.
- 3.2. In case a delivery date is binding, it must be clearly indicated and accepted in writing by both parties. Even in such cases, the Seller shall not be liable for any failure to fulfil an obligation under the Agreement if such a fulfillment is delayed, prevented, restricted or interfered with for any of the following circumstances:
- force majeure events;
 - failure of the Purchaser to meet the payment terms;
 - any changes to the order by the Purchaser;
 - failure of the Purchaser to provide the Seller with the requested relevant information within the deadline determined by the Seller; and
 - other cause or causes beyond the Seller's reasonable control.
4. **Deliveries**
- 4.1. Except if otherwise specified, the goods are considered delivered and accepted when they are put at the disposal of the Purchaser or made available to the appointed carrier at the place indicated by the Seller. The Purchaser thereafter bears the risks related to the transport and custody of the goods either as soon as (i) it takes possession thereof; (ii) as soon as they are put at its disposal; or (iii) at the disposal of its appointed carrier. Where the Purchaser designates another delivery location, the collection and, if applicable, the storage of the goods will be the responsibility of the Purchaser, at its risk and expense from the date of delivery. Unless otherwise agreed in writing, the Seller will not be responsible for the loading and unloading of the goods or for the transport of the goods to that location.
- 4.2. The Seller may at any time, in its sole discretion, refuse to sell its goods based on the availability and sufficiency of its stocks, or for any other reasons whatsoever. The Seller, with prior notice to the Purchaser, has the right to deliver the goods in partial deliveries without being responsible or liable to the Purchaser for any damage resulting therefrom.
- 4.3. When the goods are delivered in partial deliveries, each delivery shall be deemed as a separate sale. Default of the Seller in respect of one (or several) partial deliveries does not authorize the Purchaser to terminate the order or the Agreement related to any other partial delivery.
- 4.4. The difference of 10% above or under the volumes of goods specified in the order or the Agreement may not be considered as a non-performance by the Seller. In such cases the total purchase price due by the Purchaser shall be adjusted pro rata to the ratio price/volume mentioned in the order or the Agreement.
- 4.5. The Purchaser must keep all documents allowing the identification of the goods, such as the freight documents accompanying the goods and shall present them at the request of the Seller.
5. **Retention of title**
- 5.1. Without prejudice to the fact that the Purchaser bears all the risks as soon as the goods are put at the disposal of the Purchaser or of the appointed carrier, the delivered goods shall remain the property of the Seller until full payment of the price, including value added tax, interest on arrears and indemnities, if applicable. Where the price has not been paid on the due date, the Seller has the right to recover the goods, at the Purchaser's expense, without prior notice and the Purchaser must return forthwith to the Seller all goods unpaid for.
- 5.2. Until full payment of the price including VAT, interest and any other charges (the "Price"), the Purchaser may not mix, transform, sell, transfer, pledge or create a right in rem over the goods or in general alienate the goods.
- 5.3. In the event that any or all of the goods are converted or commingled into a new product, whether or not such conversion involves the mixture of any other goods or process whatsoever and in whatever proportions, the conversion shall be deemed to have been effected on behalf of the Seller and the Seller shall have the full legal and beneficial ownership of the new products, but without accepting any liability whatsoever in respect of such converted goods in relation to any third party and the Purchaser hereby indemnifies the Seller in respect of any costs incurred by the Seller in recovering the goods.
- 5.4. Until full payment of the Price, the Purchaser shall at all times grant the Seller or its representatives full access to the location where the Purchaser has stored the goods (the "Premises").
- 5.5. Until full payment of the Price, the Purchaser undertakes to (i) properly store, protect and insure the goods at its own expense in a separate emplacement of the Premises which, on demand, will be disclosed to the Seller; (ii) keep the goods identifiable as the property of the Seller by maintaining the goods in its original packaging or taking such steps as necessary; (iii) inform third parties and in particular the owner of the Premises that the goods remain the property of the Seller; and (iv) inform the Seller immediately of any attachment or other means of execution performed on the goods by a third party. Once the goods are delivered, the Purchaser shall be responsible for all losses of the sold goods, even if the losses are directly or indirectly caused by a force majeure event.
6. **Price and payment**
- 6.1. The purchase price and the payment conditions are those mentioned in the order or the Agreement. The Seller reserves the right to require security from the Purchaser, such as the payment by bill of exchange, certified check or a bank guarantee.
- 6.2. Except if otherwise specified, all prices are in Euros and are exclusive of VAT, duties, taxes, levies, charges, supplements related to the import, demurrage or delay expenses or other supplements, which shall be paid by the Purchaser.
- 6.3. Except if otherwise specified, invoices are payable at the Seller's office on the date shown in the order or the Agreement.
- 6.4. Any complaint in connection with an invoice must be notified to the Seller within 7 business days following receipt of the invoice, otherwise it will not be taken into consideration and the invoice will be deemed accepted.
- 6.5. The Purchaser may not, for any reason whatsoever, withhold a payment due on the basis of an order or Agreement or set-off its debts or any existing or future claims towards the Seller. Except in case of prior written authorization from the Seller, the Purchaser may not claim any right to set-off its debts towards the Seller against sums owed by the Seller to the Purchaser for whatever the reason. The Seller, on the other hand, shall always have the right to set-off its debts or any existing or future claims towards the Purchaser with the sums owed by the Purchaser or its affiliated, associated or subsidiary company to the Seller for whatever the reason.
- 6.6. In case of non-payment of an invoice on its due date, the Purchaser shall pay to the Seller, automatically and without prior notice, interest on amount outstanding at a rate to be determined from time to time above the then prime rate quote by the Hong Kong Association of Banks from the date payment is due until payment is received by the Seller.
7. **Warranties**
- 7.1. The Seller warrants that at delivery, the goods will be in conformity with the contractual specifications and with the provisions stipulated on the packaging, the label or the freight documents accompanying the goods.
- 7.2. Until full payment of the Price, the Seller shall be under no liability under the warranties made in this section.
- 7.3. Before the delivery of the goods is accepted by the Purchaser, the Purchaser shall perform any necessary tests in order to verify that the goods are in conformity with the contractual specifications and the provisions stipulated on the packaging, the label or the freight documents accompanying the goods. In the event that the Purchaser shall in any way co-mingle the product, then that action shall be deemed to be acceptance of the conformity of those goods with the agreed specification. In the case of non-acceptance of the goods, the Purchaser must within twenty-four hours of delivery inform the Seller by registered mail (plus copy by email or fax) with precision of the alleged defect. The unloading of the goods or the failure to inform the Seller of the non-acceptance of the goods within the time limit will be considered as irrefutable acceptance of the goods by the Purchaser.
- 7.4. In the event that there is a hidden defect in the goods of which the Purchaser proves that it could not have been evidenced at the time of testing performed by the Purchaser under section 7.3., the Purchaser must within 7 days following the date of the delivery inform the Seller by registered mail (plus copy by email or fax) with details of the alleged defect. The Purchaser is deemed to accept the goods if the Purchaser fails to inform the Seller within the time limit.
- 7.5. The Seller shall in no event be liable for defects to goods which have been fully or partially used, processed, mixed or commingled by the Purchaser or its agents and accordingly no longer have their original form.
- 7.6. The Seller's warranty is at the option of the Seller limited to i) provide an appropriate credit for the invoice price; or ii) replace the defective goods.
- 7.7. In the event of replacement of the defective goods, the Purchaser shall authorize the Seller to repossess the defective goods and the Seller shall have the option to i) provide the replacement goods; or ii) give written authorisation to the Purchaser to purchase replacement goods from another supplier and in such event, the Seller shall pay the Purchaser the reasonable price difference between the invoice price and the price of replacement goods from the other supplier. This is an exclusive choice of the Seller and the Purchaser shall not be allowed to purchase replacement goods before having obtained the prior written authorisation from the Seller. In case of replacement of the goods, the Purchaser cannot claim for any additional indemnification.
- 7.8. Any waiver by the Seller of any of the Conditions shall be limited to the particular instance and shall not operate or be deemed to operate as a future waiver of that or any other term.
8. **Breach and Termination**
- 8.1. Without prejudice to other existing rights and remedies, the Seller may terminate the order or the Agreement without prior notice or to suspend immediately all other deliveries, if:
- the Purchaser remains in default to pay any amount due and payable;
 - the Purchaser breaches any obligation stipulated in the order or the Agreement and fails to remedy it within the 5 days following a formal notice from the Seller;
 - other than for valid reasons the Purchaser fails or refuses to take delivery of the goods;
 - proceedings in insolvency, bankruptcy (including reorganization) liquidation or winding up are instituted against the Purchaser, whether filed or instituted by Purchaser, voluntary or involuntary;
 - a trustee or receiver is appointed over the Purchaser or any assignment is made for the benefit of creditors of the Purchaser; and
 - the credit insurer of the Seller withdraws or decreases the credit line granted to the Purchaser.
- 8.2. In the event of a suspension of the order or the Agreement for a reason stipulated in section 8.1., the Seller may (i) request immediate payment of the amounts due by the Purchaser and claim against any security it deems necessary before completing the delivery of the goods concerning any order or Agreement made with the Purchaser; or (ii) without prior notice request immediate payment of all of the amounts, whether or not they are due and decline to deliver any part of the order outstanding.
- 8.3. The Seller is not bound to any compensation and/or warranty in case of termination or suspension of the order or the Agreement save in respect of goods delivered and accepted.
9. **Force majeure**
- 9.1. The Seller shall not be liable for any delay or failure in the performance of its obligations, when such delay or failure results in whole or in part from:
- shortages or disruption in the supply of materials, natural sources or raw materials;
 - shortage of means of transportation (not known about at time of the acceptance of the order);
 - failure, by the Seller's supplier of its obligations towards the Seller if the latter proves that it does not hold the goods to be delivered in stock;
 - acts of God, natural disasters, floods, fire, explosions, earthquakes, war, riots, civil insurrection, strikes, lock-outs, industrial unrest, inclement weather, acts of civil or military authorities;
 - any other circumstances or occurrences beyond the reasonable power and control of the Seller, whether or not foreseeable at the time of the Agreement; and
 - law or any power lawfully exercised by a government agency, any change in applicable law, inability or delay in granting governmental or other approvals, consents, permits, licenses or authorities which the Seller cannot reasonably control.
- 9.2. In case of a Force Majeure event, the performance of the relevant part(s) to the Agreement will be suspended for the period such Force Majeure event continues, without the Seller being responsible or liable to the Purchaser for any damages resulting therefrom.
10. **Assignment**
- Without the prior written consent of the Seller, the Purchaser may not transfer or assign all or part of the order or the Agreement nor any rights or obligations resulting therefrom to any third party. The Seller, on the other hand, may transfer or assign all or part of the execution of the sale to a third party or transfer all or part of the sale to a third party without the prior consent of the Purchaser.
11. **Applicable law and jurisdiction**
- These Conditions and all orders, confirmations, Agreements and any dispute or claim arising out of or in connection with it or its subject matter (including non-contractual disputes and claims) is governed by and shall be construed in accordance with the laws of the Hong Kong Special Administrative Region of the People's Republic of China ("Hong Kong").
- The courts of Hong Kong have exclusive jurisdiction to settle any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with these Conditions, all orders, confirmations and Agreements or its subject matter, existence, negotiation, validity, termination or enforceability.
12. **Entire Agreement**
- These Conditions, together with the order and/or the Agreement, contain the entire agreement between the parties with respect to the subject matter hereof.
13. **Amendment or Waiver**
- 13.1. These Conditions, together with the order and/or the Agreements may be amended, supplemented, modified or waived only by written agreement signed by the Seller and the Purchaser.
- 13.2. The failure on the part of either party to exercise, or any delay in exercising, any right or remedy arising from these Conditions, the order and/or the Agreements shall not operate as a waiver thereof; nor shall any single or partial exercise of such right or remedy prevent or restrict the further exercise of that or any other right or remedy.
14. **Severability**
- The nullity or inapplicability of any one or more of the provisions of these Conditions shall not affect the validity or applicability of the other provisions. If necessary, the parties undertake to immediately replace the null or inapplicable provision.
15. **Notice**
- Except if agreed otherwise, all notifications between the parties shall be in writing and shall be deemed to be received: i) 5 business days after the sending of a registered letter; or ii) 2 business days after the sending of a fax or email to the address of the Seller/Purchaser set out in the order or the Agreements.
16. **Provision of Information**
- 16.1. If the Seller requests personal data from the Purchaser that constitutes personal data (meaning the personal data as defined in the Personal Data (Privacy) Ordinance (Chapter 486 of the Laws of Hong Kong), account information including data set out in the Sales Agreement and any other customer information obtained from the Purchaser or from another source), the Purchaser may decline to provide the personal data but in that event the Seller may decline to provide any of the goods and services to the Purchaser.
- 16.2. The Seller may use the personal data for any and all of the following purposes, or any purpose directly related to them:
- the provision of goods and services to the Purchaser;
 - matching (as defined in the Personal Data (Privacy) Ordinance) the personal data with other data collected for other purposes and from other sources including third parties in relation to the provision of goods and services;
 - marketing of goods and/or services by the Seller;
 - business planning and improving of goods and/or services in relation to the provision of goods and services of the Seller;
 - processing of any benefits arising out of or in connection with any of the goods and services of the Seller;
 - analysing, verifying and/or checking the Purchaser's credit, payment and/or status in relation to the provision of any of the goods and services of the Seller;
 - processing of any payment instructions, direct debit facilities and/or credit facilities in relation to the provision of goods and services of the Seller or requested by the Purchaser;
 - enabling the daily operation of the Purchaser's accounts with the Seller in relation to any of the goods and services provided by the Seller
 - enabling the Seller to comply with its obligations to interconnect or other industry practices;
 - keeping the Purchaser informed of goods and services of the Seller;
 - prevention or detection of crime;
 - disclosure as required or permitted by law; and
 - any other purposes as may be agreed to by the parties. The Purchaser agrees that the personal data may be disclosed and transferred in Hong Kong or to/in places outside Hong Kong to the Seller's affiliates, agents, contractors or any other third parties for such person to use, disclose, hold, process, retain or transfer such personal data for the purposes listed in this Clause 16.1, or any other purposes incidental thereto.
- 16.3. The Purchaser shall, as soon as practicable, notify the Seller of any changes of address or any other particulars provided to the Seller which may affect the provision of any of the goods and services to the Purchaser. On the Purchaser's use of the goods and services reasonably required by the Seller:
- to assist the Seller in complying with the Seller's obligations under any applicable law;
 - to report to any government agency regarding compliance with those obligations; and
 - to assess whether or not the Purchaser has complied, is complying and will be able to continue to comply with all of his obligations under the Agreement.
17. **Third Party Rights**
- Except as otherwise expressly stated, the Agreement does not confer any rights on any person or party (other than the party to the Agreement) pursuant to the Contracts (Rights of Third Parties) Ordinance (Chapter 623 of the Laws of Hong Kong).