

## GENERAL TERMS AND CONDITIONS

The following terms and conditions ("Terms and Conditions") are the only terms which apply to the sales of goods ("Goods") from ITOCHU Corporation ("ITOCHU") to a buyer ("Buyer") and shall prevail over any of Buyer's general terms and conditions of purchase regardless of whether or when Buyer has submitted its purchase order or such terms. ITOCHU's fulfillment of Buyer's order does not constitute acceptance of any general terms and conditions proposed by Buyer.

1. **SHIPMENT:** The date of the Bill of Lading shall be accepted as a conclusive date of shipment. Partial shipment is allowed.
2. **PAYMENT:** Unless otherwise agreed in writing by ITOCHU, the payment shall be made by wire transfer immediately after the delivery date under section 5 below. The time of payment of shall be of the essence of this contract. Any delay in payment shall entitle ITOCHU to suspend or cancel the delivery of the ongoing orders, or to suspend the performance of ITOCHU's obligations.
3. **TAXES:** Buyer agrees that all payments to be made hereunder shall be made without setoff or counterclaim and free and clear of, and without deduction for, any taxes, levies, imposts, duties, charges, fees, deductions, withholdings or restrictions or conditions of any nature whatsoever now or hereafter imposed, levied, collected, withheld or assessed by any country or by any political subdivision or taxing authority thereof or therein.
4. **INCREASED COSTS:** If ITOCHU's cost of performance is increased after the date of issuance of the purchase order from Buyer by reason of increase of freight rates, taxes, other governmental charges, packing charges, insurance rates including war risk, or other cause which is beyond ITOCHU's reasonable control, then Buyer shall compensate ITOCHU for such increased costs or damages or losses.
5. **DELIVERY:** The delivery of Goods shall be made according to the trade terms agreed by ITOCHU in writing. The trade terms shall be interpreted according to INCOTERMS (International Rules for Interpretation of Trade Terms), as amended.
6. **TITLE AND RISK:** Risk of loss or damage to Goods shall be transferred from ITOCHU to Buyer at the same time as delivery of Goods under paragraph 5 above. Title to Goods shall pass from ITOCHU to Buyer simultaneously with the transfer of risk of loss unless ITOCHU and Buyer agree to "retention of title" or similar expression, in which event title to Goods shall be retained by ITOCHU until full payment of the contract price is made by Buyer.
7. **INSURANCE & FREIGHT:** If ITOCHU is to effect insurance according to the trade terms, such insurance shall be effected by ITOCHU for 10% over the invoice amount. Any unforeseen increase in freight and/or marine and war risk insurance premium, subsequent to the date of issuance of the purchase order from Buyer, shall be for Buyer's account.
8. **INSPECTION:** If the manufacturer of Goods or other designee of ITOCHU conducts an inspection of Goods prior to shipment, such inspection shall be considered final. When it is agreed that Buyer will conduct an additional inspection, Buyer must inform ITOCHU of the identity of its appointed inspector at the time of issuance of the purchase order from Buyer and such inspection fees shall be borne by Buyer.
9. **WARRANTY:** THE WARRANTY FOR GOODS TO BE GIVEN BY ITOCHU TO BUYER SHALL BE STRICTLY LIMITED TO THOSE EXPRESSLY GIVEN BY THE MANUFACTURER OF GOODS TO ITOCHU IN WRITING AND PROVIDED TO BUYER. EXCEPT TO THE EXTENT PROVIDED THEREIN, ITOCHU HEREBY DISCLAIMS ANY AND ALL WARRANTIES WITH RESPECT TO GOODS, EXPRESSED OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, WARRANTIES OF MERCHANTABILITY, FITNESS FOR A SPECIFIC PURPOSE, INTELLECTUAL PROPERTY RIGHTS AND WARRANTIES AGAINST DEFECTS OF GOODS UNDER APPLICABLE LAWS.
10. **CLAIMS:** Any claim by Buyer regarding Goods shall be notified by Buyer to ITOCHU within thirty (30) days after the arrival thereof at the destination specified in the relative Bill of Lading. If Buyer claims for alleged breach of warranties, Buyer shall, together with such notice, submit an independent surveyor's report and full and final written statement specifying the particulars of all defects which Buyer has discovered. In the event Buyer fails to provide such notice (and the report and the written statement, if applicable) within such thirty (30) days period, Buyer shall be deemed to have waived any claim with respect to Goods and ITOCHU shall not be liable therefor. With respect to a defect in Goods properly notified by Buyer, ITOCHU shall repair, replace or otherwise cure such defect as ITOCHU deems fit, which shall be exclusive of any other remedy provided by law.
11. **INTELLECTUAL PROPERTY:** ITOCHU shall not be responsible for any infringement of patent, utility model, trade mark or name, design, pattern, construction or copyright or other intellectual property rights with respect to Goods. Nothing contained herein shall be construed as transferring any patent, utility model, trade mark or name, design, pattern, construction or copyright or other intellectual property rights in Goods; all such rights are expressly reserved to the true and lawful owners thereof.
12. **FORCE MAJEURE:** If the performance hereof by ITOCHU, including the shipment of Goods, is prevented, delayed or becomes impracticable (at ITOCHU's reasonable judgment) in whole or in part by reason of law, action or inaction by a government or public authority, including but not limited to imposing an export restriction, quota or prohibition, refusal to issue a necessary license or consent, expropriation, compulsory acquisition, seizure of works, requisition, currency restriction, imposition of sanctions, embargo, or breaking off of diplomatic relations; war, threat of or preparation for war, revolution, riot, strike or other labor dispute; fire, flood, typhoon, peril or accident of the sea or any other cause beyond the reasonable control of ITOCHU, whether or not similar to the causes specified above, then ITOCHU shall not be liable for non-shipment or late shipment of Goods, and Buyer must accept any shipment made within a reasonable time after the termination of the aforesaid cause, or, at ITOCHU's option, must accept the termination of all or any part hereof if such event exceeds a sixty (60) day period.
13. **PACKING:** The make-up, packing, packaging and marking shall be at ITOCHU's option.
14. **EVENT OF DEFAULT:** In the event (i) Buyer breaches any of the terms and conditions hereof or any other agreement(s) with ITOCHU, (ii) Buyer becomes or threatens to become insolvent or unable to pay its debts when due, (iii) the whole or any substantial part of the business of Buyer is transferred to a third party by agreement, order of court or otherwise, (iv) a receiver, trustee or similar officer for it or for all or a substantial part of its property or assets is and/or shall be appointed for Buyer and/or any bankruptcy, insolvency, reorganization, arrangement, dissolution, liquidation or similar proceeding relating to it under the laws of any jurisdiction is instituted by or against Buyer and/or (v) any other event occurs which could in the reasonable opinion of ITOCHU have a material adverse affect on the ability of Buyer to perform any of its obligations hereunder or under any other agreement(s) with ITOCHU, then ITOCHU shall have the right to (i) terminate all or any part hereof or any other agreement(s) with ITOCHU and/or (ii) postpone or suspend shipment of or delivery of Goods, and all outstanding sums paid to ITOCHU hereunder or any other agreement(s) with ITOCHU shall, upon the occurrence of such event, be immediately due and payable to ITOCHU. Buyer shall pay to ITOCHU default interest on such sum(s) at fifteen percent (15%) per annum during the period from and including the due date thereof but not including the date of the payment in full of said sum(s) (both before and after judgment). Buyer shall be obligated under this paragraph without any requirement that ITOCHU send any notice of default in the payment and it shall be presumed any such required notice was delivered by way of the occurrence of such event.
15. **LIMITATION OF LIABILITY:** IN NO EVENT SHALL ITOCHU BE LIABLE FOR ANY INCIDENTAL, SPECIAL, INDIRECT OR CONSEQUENTIAL DAMAGES OF BUYER, INCLUDING WITHOUT LIMITATION, LOSS OF PROFITS OR OTHER ECONOMIC LOSS, THAT MAY ARISE UNDER OR IN CONNECTION HEREWITH. TOTAL LIABILITY OF ITOCHU HEREUNDER, WHETHER BASED ON CONTRACT, TORT OR OTHERWISE, SHALL NOT EXCEED 100% OF THE CONTRACT PRICE.
16. **GOVERNING LAW:** These Terms and Conditions shall be governed in all respects by the laws of Japan, without regard to conflict of law principles. United Nations Convention on Contracts for the International Sale of Goods shall not apply to these Terms and Conditions.
17. **ARBITRATION:** In the event any controversies or differences arise between the parties out of these Terms and Conditions, they shall consult with each other and use their best efforts to settle such disputes, controversies or differences. In the event that any dispute or controversy arising out of or relating to these Terms and Conditions, including the breach of any material term(s), condition(s) or provision(s) herein has not been settled within thirty (30) days after such dispute or controversy is first raised by either party, such dispute or controversy shall be finally settled by arbitration, which shall be held in Tokyo, Japan, in accordance with the Rules of Arbitration of the International Chamber of Commerce conducted in English. The decision of the arbitrators shall be final and binding on the parties hereto and will be enforceable in any court of competent jurisdiction. In any arbitration proceeding hereunder, the arbitrator(s) are authorized to award reasonable attorney's fees and other arbitration-related costs to the prevailing party. Notwithstanding the foregoing, either party hereto shall be entitled to seek injunctive relief or any other provisional remedy in a court of competent jurisdiction.
18. **MISCELLANEOUS:** Confidential information of either party disclosed to the other shall remain confidential and shall not be disclosed to any other party without the prior written consent of the disclosing party. These Terms and Conditions shall not be assigned by Buyer without the prior written consent of ITOCHU. Any attempted assignment shall be void. These Terms and Conditions constitutes the entire agreement between the parties with respect to the subject matter hereof and supersedes all previous agreements, negotiations and commitments, oral or written between the parties in respect thereto. No modification of these Terms and Conditions shall be binding except by written agreement signed by both parties.