stichd

General Terms & Conditions of Sale STICHD Southeast Asia Sdn Bhd.

November 2024

This document outlines the General Terms & Conditions of sale STICHD Southeast Asia Sdn Bhd. November 2024

ARTICLE 1.0 GENERAL PROVISIONS AND DEFINITIONS

A. In these STICHD general terms and conditions of sale (hereinafter referred to as: 'General Conditions'), STICHD Southeast Asia Sdn Bhd (Registration Number 202101017998 (1418298-K), a company incorporated under the laws of Malaysia) is referred to as the ‘Seller’, and buyer is referred to as the ‘Buyer’. The purchase agreement between Seller and Buyer is referred to as the 'Agreement'.

B. These General Conditions shall apply to and form an integral part of all offers from Seller and all Agreements. These General Conditions shall also, after they have become part of any Agreement, form part of agreements concluded afterwards, even if at the conclusion of the Agreements concluded afterwards there has been no reference to the applicability of these General Conditions, unless the parties have expressly agreed otherwise in writing.

C. Applicability of the Buyer's general terms and conditions is expressly rejected, unless accepted by Seller in writing.

ARTICLE 2.0 CONCLUDING AGREEMENTS

A. Any offer is subject to contract and will only become binding to Seller once the order has been confirmed in writing by Seller. The Buyer shall not be entitled to revoke or cancel the order after confirmation by the Seller without the express written consent of the Seller. The Buyer agrees to indemnify the Seller for the full order value as compensation for any losses or damages incurred by the Seller due to the revocation or cancellation of the order. This compensation shall include, but is not limited to, expenses already incurred by the Seller in the preparation or fulfilment of the order, as well as any lost profits or additional costs arising from the cancellation. The Seller shall not be liable for any loss, damage, or expense suffered by the Buyer arising from the Buyer's inability to revoke or cancel an order without the Seller's consent.

B. Seller reserves the right to cancel (wholly or in part) any order at any time for whatever reason upon notice to Buyer. Seller shall not be liable for any damages regarding such cancellation.

C. Any amendment to the Agreement or conditions varying from these General Conditions shall only apply when agreed in writing. These varying conditions shall only apply to transactions for which the variations were drafted.

D. In case of any conflict between a provision of the General Conditions and a provision of the Agreement, the provision of the Agreement prevails.

ARTICLE 3.0 DELIVERY PERIOD

A. The delivery period and/or other terms and dates as set out in the Agreement are intended purely as an indication and are not absolute deadlines unless specifically agreed otherwise in writing.

B. Delay as a result of any unforeseen event that is beyond the control of the Seller and/or late delivery of materials by third parties (which shall also be taken to mean: suppliers of Seller and irrespective of the cause), means that the delivery dates will be extended by the period of the delay.

C. Late delivery due to such unforeseen events or late delivery of material by third parties does not provide the Buyer with any entitlement to damage compensation or refusal to receive or pay for the goods in accordance with the Agreement and these General Conditions. However, if such unforeseen events or late delivery by third parties continues for a period of 90 days, then either party shall have a right to terminate the Agreement, these General Conditions and any orders that are outstanding, provided the Buyer shall pay all fees and payments due and owing to the Seller before the happening of such events. Thereafter, parties shall have no claims against each other save for antecedent breaches.

ARTICLE 4.0 DELIVERY AND RISK TRANSFER

A. Delivery will be made FOB COO, FOB Malaysia port, DAP Singapore and DAP Malaysia, in accordance with the Incoterms 2020, unless otherwise agreed in writing. Buyer shall – at first request of Seller – instruct its carrier to issue an on board waybill/bill of lading. The Buyer is obliged to provide the Seller with proof of import to the country of destination. The Buyer is obliged to fulfil import clearance and to timely instruct its carrier to meet this obligation. In case Buyer fails to fulfil clearance within the time required for such clearance to be made, Buyer shall compensate the Seller, without further notice of default, a penalty immediately due and payable, not subject to mitigation, of the amount of: the total amount of sales and service tax ('SST'), import duties and/or penalties imposed on the Seller (related to non-timely import clearance), without prejudice to Seller's other rights and remedies, including without limitation the right to claim specific compensation for the actual loss suffered.

B. If Buyer fails to take delivery or refuses to accept the goods, Seller shall have the right to charge Buyer for the storage of the goods and Buyer shall bear the risk of the storage. Moreover, in this case, the Seller has the right to terminate the Agreement, without prejudice to its right to claim for specific performance and/or damages.

C. Notwithstanding the provisions of the preceding paragraph, Buyer and Seller may agree that Seller will handle the transport. In this case, Buyer shall bear the risk of storage, loading, transport and unloading. Buyer shall take out insurance against these risks.

D. Seller has the right to deliver an order in one instalment or several successive instalments. In the latter case, Seller shall have the right to invoice Buyer separately for each partial delivery and to demand payment for each partial delivery. If and for so long as an invoice for a partial delivery is not paid by Buyer, Seller shall not be under any obligation to make the next partial delivery. Seller has the right to choose to suspend or terminate the Agreement, to the extent that the Agreement has not been performed and breached by the Buyer, without notice of default to Buyer being required, without prejudice to the Seller's other legal rights, including its right to claim damages.

ARTICLE 5.0 RETENTION OF TITLE AND RIGHT OF PLEDGE

The goods delivered remain the property of Seller until they are paid in full (i.e. credited on the bank account of Seller). Without prior written consent of Seller, Buyer is not entitled to dispose of the goods for which property was reserved, or to use them in any other way, at variance with the retention of title, until all the outstanding payments have been made. In the case of a resale where title is still retained by the Buyer, the Buyer shall hold any payment received from the Buyer's customer up to the amount of open invoices to Seller on trust for the Seller, and the Seller shall have beneficial ownership of such payments. At any time, Seller is entitled to assign its receivables from Buyer or to assign its reserved property right to third parties. In the case of a delay in payment, Seller shall be entitled to demand a return of all the goods subject to the retention of title or a release of all amounts of payment held on trust by the Buyer in its favour. Buyer shall not have the right to reduce or retain any such goods or payments received. All the costs arising in relation to a return of the goods shall be borne by Buyer.

ARTICLE 6.0 CONFORMITY

Samples and/or pictures of the goods are provided to the Buyer by Seller for indicative purposes only. The Buyer cannot derive any rights from samples and / or pictures disclosed in any way by Seller.

ARTICLE 7.0 QUALITY REQUIREMENTS

A. Buyer, by accepting these General Conditions, undertakes to comply, during the marketing and sale of the goods, with the following quality requirements (as well for brick-and-mortar store as for online stores):

1. To ensure a high level of exterior and interior lay-out of each store;
2. To ensure a high level of skills and qualification of the sales personnel/ customer service; and
3. To be aligned with the image, quality, and reputation of the brands of (licensors of) seller.

in addition to any other requirements that are communicated by Seller to Buyer. Furthermore, Seller will provide Buyer with the requirements at its first request.

B. This obligation also applies to the Buyer's customers with whom Buyer does business and, as such, Buyer must also actively impose the quality requirements to its customers, which customers must in turn and where relevant also include this obligation in the relation/agreements that they are (required to) enter(ing) into with their customers.

C. If Buyer does not comply with this obligation to market and sell the goods in accordance with the applicable quality requirements and/or does not pass on and/or include this obligation (via agreements or otherwise) in dealings it concludes with its own customers, Buyer shall be liable to pay to the Seller a penalty of MYR 110,000.00 (in words: Ringgit Malaysia one-hundred and ten-thousand) for each violation and MYR 4,300.00 (in words: Ringgit Malaysia four-thousand and three-hundred) for every day that this violation continues.

ARTICLE 8.0 POINTS OF SALE AND TERRITORY

A. Unless explicitly agreed otherwise between Seller and Buyer in writing, Buyer is not permitted to sell the goods through online marketplaces.

B. Unless explicitly agreed otherwise in writing between Seller and Buyer, Buyer is only entitled to sell the goods within Malaysia.

C. In case the Buyer operates at the wholesale level of trade, the Buyer is not entitled to actively or passively sell the goods to end consumers.

D. The obligations of this article 8 also apply to the Buyer's customers with whom Buyer does business and, as such, Buyer must also actively impose these obligations to its customers in a written agreement, which customers must in turn and where relevant also include these obligations in the relation/agreements that they are (required to) enter(ing) into with their customers.

E. In the event of a violation of one or more provisions of this article 8, an immediately due penalty of MYR 110,000.00 (in words: Ringgit Malaysia one-hundred and ten-thousand) shall be payable by Buyer to Seller, without prejudice to the right of Seller to demand full compensation and without prejudice to its right that follow from these General Conditions or statutory law.

ARTICLE 9.0 PRICE

A. All prices are based on the price level at the time the Agreement was concluded. Prices are excluding SST, any turnover tax due, costs of transport and delivery, packaging, insurance, import duties, levies and other taxes, unless otherwise agreed in writing.

B. Changes in cost factors including, but expressly not limited to, labour costs, cost price of (raw) materials, value added tax (or any other value added tax overseas), the import tax, import duties or any other duties, shipping costs and transport costs relating to the agreed performance that will occur after the Agreement has been concluded, give Seller the right to charge these costs to the Buyer.

ARTICLE 10.0 PAYMENT

A. Payment must take place within the agreed payment period, without any discount or debt offsets.

B. If no specific payment period has been agreed, payment must take place within 30 days after the invoice date.

C. The Buyer will be legally in default after the expiry of the period within which payment should have taken place, without the requirement for a notice of default. The Seller will never be regarded as having relinquished its rights under the Agreement and these General Conditions if the Seller issues such a notice of default to the Buyer.

D. Furthermore, the Buyer is liable to pay late payment interest of 8 % per annum over the main sum or the unpaid part thereof from the first day upon which he is in default in relation to the Seller until complete payment has been received by Seller, whereby a part of a month counts as an entire month for the calculation of the interest. The Seller is authorised to first ascribe payments received as fines and/or penalties due and then the interest pursuant to this stipulation, followed by the remaining outstanding sums.

E. If the Buyer fails to meet its payment obligation on time, the Seller may, in its discretion, engage third party professional to collect the sums owed by the Buyer. The Buyer shall bear all costs of such third party professionals and such costs shall be a debt due from the Buyer to the Seller under the Agreement.

ARTICLE 11.0 DEFAULT

If the Buyer is in default and/or the Seller has grounds to believe that the Buyer will not meet its payment obligations or not (be able to) meet them on time, the Seller will be entitled, without being liable to pay any damage compensation and without prejudice to its other rights, to the following:

1. demand advance payment or guarantees from the Buyer and/or;
2. suspend its obligations under the Agreement partially or completely and/or;
3. reschedule the agreed payment periods, possibly in other Agreements, making all outstanding claims against the buyer payable immediately.

ARTICLE 12.0 COMPLAINTS

A. Without prejudice to the stipulations below relating to the period within which complaints may be submitted, the Buyer is obliged in all cases to check the items prior to using them, selling them and/or supplying them to third parties. In this stipulation, the obligation to conduct these checks includes the checking of the packaging.

B. Complaints relating to the items submitted by the Buyer must be submitted in writing no later than 14 days after delivery. Failure to do so will cause the Buyer's rights to lapse.

C. Complaints submitted by the Buyer must be on the grounds of quality, condition, or quantity and must be substantiated with image reports.

D. Complaints regarding the normal or minor deviations in quality, colour, width, weight, finish, or design that are technically unavoidable in the trade will be rejected. If the complaint is assessed by the Seller as justified, the Seller is entitled to rework the goods or to replace them within forty days of the return shipment with goods that are free of the faults that led to the complaint.

ARTICLE 13.0 GUARANTEE

A. Only the guarantees relating to the quality, treatment in the broadest sense or general properties of the goods given by the Seller in writing or as expressed in these General Conditions and the Agreement are valid guarantees. The Seller does not provide any implied or other guarantees not so expressed.

B. Without prejudice to other provisions of these General Conditions, Seller guarantees that its goods possess the qualities in accordance with their specifications during a period of 1 year after delivery of the goods to the Buyer.

C. If the Buyer on good grounds claims the guarantee provision under paragraph (b), Seller, at its option and without prejudice to the provisions of this article,

shall either proceed to replace or remedy the faulty goods. The original guarantee period then will only be extended by the period in which the Buyer, as a result of the remedy or replacement of the faulty goods, has not had the faulty goods or performance at its disposal.

D. The abovementioned guarantee obligation will lapse if:

- Buyer makes a changes or changes to the delivered goods;
- Buyer has used the delivered goods for another purpose than the designated use;
- Buyer does not fulfil its obligations vis-a-vis Seller;
- Buyer is otherwise to blame for the defect in the delivered goods.

E. Any labour, disassembly, shipment and transport costs will be for the account and risk of the Buyer. Goods or parts of goods, to be repaired or replaced by Seller, shall be sent carriage paid to Seller by the Buyer with prior written permission from Seller. Goods that have been returned and are found not to be faulty, will be returned to the Buyer for the account of the Buyer and Seller's costs for investigating the complaint shall also be charged to the Buyer.

F. The fact that the Buyer claims guarantee does not provide the Buyer with the right to suspend any obligation towards Seller.

ARTICLE 14.0 LIABILITY

A. Seller shall not be liable towards the Buyer for any breaches of guarantees apart from the guarantees that are expressly provided in Article 13. If liability should nevertheless be assumed, the limitations referred to in this article shall apply.

B. Except in case of Seller or its management directors' wilful intent or gross negligence, Seller's total liability for breach of contract or otherwise - expressly including any and all Seller's warranty and indemnification obligations (if any) - shall be limited to compensation for Direct Damages not exceeding 50% of the purchase price or the invoice amount for the goods delivered excluding SST, or an amount of CNY 3,500,000.00, whichever is lower.

C. By 'Direct Damages' shall exclusively be understood:

1. the reasonable expenses which Buyer would have to incur to have Seller's performance fulfil the Agreement. However, such damage shall not be reimbursable if Buyer has terminated the Agreement;
2. reasonable expenses incurred in determining the cause and extent of the damage insofar as such determination relates to any Direct Damages within the meaning of this article; and
3. reasonable expenses incurred in preventing or reducing Direct Damages within the meaning of this article and insofar as Buyer proves that such expenses have resulted in a prevention or reduction respectively.

D. Except in case third party claims and/or consequential damages arise from Seller or its management directors' wilful intent or gross negligence, Seller's liability for other damages than Direct Damages is expressly excluded.

E. Buyer shall indemnify Seller against all claims for damages from third parties for which Seller's liability in relation to the Buyer has been excluded.

ARTICLE 15.0 FORCE MAJEURE

A. Without prejudice to its other rights, the Seller has the right, if he is unable to comply with the Agreement due to force majeure to choose one of the following options:

1. suspend deliveries until the force majeure situation has ended;
2. (partly) terminate the Agreement on the basis of written notification from the Seller to the Buyer and without the Seller or Buyer being able to derive rights to damage compensation. This does not prejudice the Buyer's obligation to pay for what has already been delivered and to pay for any expenses incurred by the Seller. The Seller is obliged, at the written request of the Buyer, to select one of the options referred to in (1) or (2) within 14 days after the date on which the request is received.

B. In the legal relationship between the Seller and the Buyer, the following shall apply as force majeure: events that are beyond the control of either party, including but not limited to strike, war, fire, natural disasters, epidemics, pandemics, government intervention, import/export barriers, industrial disruption of whatever nature at the Seller's premises, or at the suppliers or shipping companies in as far as the industrial disruption is independent of the will of the Seller's administrators and impedes or is detrimental to the implementation of the Agreement by the Seller and other such events. The term industrial disruption includes any statutory regulation that affects the Seller's company or trade as well as delays amongst suppliers, shipping companies or forms of transport used by third parties.

C. If the delay due to the force majeure event continues for 30 consecutive days, either party shall be entitled to terminate the Agreement and these General Conditions, provided the Buyer makes payment for orders that have been fulfilled before the event of force majeure and thereafter, the parties shall have no claims against each other, save for antecedent breaches.

ARTICLE 16.0 INTELLECTUAL PROPERTY

A. All intellectual property rights in the goods including but not limited to related materials and documentation delivered or otherwise provided under the Agreement, these General Conditions and all orders to Buyer shall vest in Seller (or its licensor(s)) and remain the sole and exclusive property of Seller (or its licensor(s) as the case may be).

B. Supply of goods by Seller shall not constitute nor be construed as transferring or granting any rights whatsoever to Buyer with respect to intellectual property rights. The worldwide intellectual property rights in the goods and related materials shall at all times be and remain exclusively vested in Seller or its licensor(s) as the case may be.

C. Buyer shall not:

1. make any modifications to the goods without seller's prior written consent;
2. remove or alter any copyright or other proprietary notice on goods made available to Buyer by Seller;
3. use or attempt to register in any way any intellectual property right of Seller or of its licensor(s) in the goods, or a name which is confusingly similar to any intellectual property rights, such as trademark rights of Seller or it's licensors with respect to the goods;
4. shall not use and/or exploit the goods any way which detracts from the goodwill and reputation represented therein.

D. Buyer will promptly after becoming aware thereof notify Seller of any actual, threatened or suspected infringement by a third party of Seller's intellectual property rights in the goods.

ARTICLE 17.0 CONFIDENTIALITY

A. Buyer shall keep strictly confidential and not disclose to any third party, save with prior explicit written consent of Seller, any and all information of a confidential nature of Seller, including but not limited to prices, product information, marketing campaigns and materials, discounts and other sales information, which is known or will become known to Buyer in the course of the execution of the Agreement, these General Conditions and orders made by the Buyer (hereinafter referred to as "Confidential Information"). All information that is marked as confidential and all information of which Buyer should reasonably assume its confidential nature shall be regarded as confidential information.

B. Buyer undertakes to distribute the Confidential Information only among those authorised staff members in their organisation that are or will be necessarily involved in the execution of the Agreement. Buyer ensures that the aforementioned staff members will (be forced to) uphold all provisions of this article.

C. Buyer shall maintain adequate (protection) measures to prevent unauthorized third parties having access to the Confidential Information.

ARTICLE 18.0 PRIVACY

A. Buyer undertakes to comply with all applicable data protection regulations.

B. If required by law, Buyer and Seller will conclude an agreement that incidentally involves the processing of personal data under the Malaysian Personal Data Protection Act 2010, and the General Data Protection Regulation (Regulation (EU) 2016/679), as the case may be. Buyer and Seller recognize that this processing is conducted within the context of the performance of the Agreement, Buyer and Seller being exclusively and entirely responsible for the processing of personal data that it carries out on its own behalf.

Buyer hereby warrants that it will, at all times, take appropriate and state-of-the-art organizational and technical measures to protect data from any loss, misuse, modification, unauthorized or accidental access or disclosure, alteration or destruction and take reasonable steps to ensure compliance with such measures, as well as ensure the availability, security, confidentiality and integrity of information, information systems, components and processes used in the processing of data provided or otherwise made available by or for the other party. These requirements also apply to all data contained in communication and cooperation between the parties.

ARTICLE 19.0 COMPLIANCE

A. Buyer (in the following always including its affiliated companies, owner/shareholder, board members, directors, officers, representatives and all others for whose actions it may be held accountable) shall comply with all applicable laws and regulations, including laws on the prevention of bribery and corruption and money laundering when performing its duties under the Agreement. This includes, in particular, the prohibition of illegal payments or the inducement of other inappropriate advantages, directly or indirectly, towards public officials and agencies, business partners, their employees, family members or other close relationships. Buyer agrees not to make any facilitation payments to any public official.

B. The parties agree to support each other in the prevention of bribery, corruption, money laundering and will inform each other immediately as soon as they know or suspect a violation of the applicable laws on the prevention of bribery and corruption and money laundering in relation to the Agreement or the fulfilment of obligations under the Agreement.

C. Seller may terminate the Agreement with immediate effect, if and when Seller learns that Buyer is in breach of this article or any anti-corruption or anti-money laundering regulation as this is considered to be a material breach of the Agreement. Buyer shall note the application of the PUMA Code of Ethics on https://about.puma.com/en/sustainability/codes-policies-and-handbooks. Buyer shall ensure compliance with the principles of PUMA's Code of Ethics.

ARTICLE 20.0 MISCELLANEOUS

A. In as far as any article in these General Conditions or in the Agreement with the Buyer is dissolved or amended, this does not affect the remaining part of the General Conditions and/or the Agreement.

B. Seller may at any time assign, transfer, pledge, sub-contract or deal in any other manner with all or any of its rights or obligations under the Agreement.

C. In the event of a conflict between the provisions in the English version of these General Conditions and those in the translation thereof or difficulties in interpreting the translation, the English language version will prevail.

ARTICLE 21.0 APPLICABLE LAW AND FORUM SELECTION

A. These General Conditions and all Agreements shall be governed in accordance with the laws of Malaysia.

B. Without prejudice to the possibility to request interim injunction proceedings from the injunction judge of the competent court according to the regulation of the laws of Malaysia, any dispute in connection with the interpretation or implementation of these General Conditions and all Agreements, shall be settled through arbitration proceedings with the Asian International Arbitration Centre (AIAC) without recourse to the ordinary courts of law. The disputes shall be decided in accordance with the Commission's arbitration rules in effect at the time of arbitration proceedings. The arbitration shall take place at the AIAC in Kuala Lumpur. The arbitral award is final and binding upon the parties. The language of the arbitration proceedings is English. Any written communications regarding the arbitration proceedings may be submitted in English language, including documents, applications and evidence, unless otherwise decided by the arbitration court.

C. The arbitrators shall have the authority to grant any interim award or to order any interim or permanent relief as they may deem necessary or advisable under the circumstances, including, but not limited to, a grant of injunction relief or an order of specific performance.

D. During the period when a dispute is being resolved, the parties shall in all other respects continue their implementation of all Agreements.

November 2024