

GENERAL TERMS & CONDITIONS

The sale specified on the face hereof shall be subject to the following terms and conditions:

1. Privity

The contract for sale shall be concluded on a principal to principal basis between Buyer also known as CUSTOMER and Seller (Sumitomo (SHI) Cyclo Drive Asia Pacific Pte. Ltd. Philippines Branch Office). Buyer is responsible for performing this contract subject to the below terms and conditions,

2. Currency

The currency manifesting the price shall be the basis currency of payment. Unless otherwise specified, PHP means Philippines Peso.

3. Inspection

Seller shall, before shipment, make inspection of the merchandise especially with respect to specification, quality and condition of the merchandise. Unless otherwise arranged, the inspection by Seller shall be final in all respects regarding the merchandise.

4. Shipment

Unless otherwise expressly agreed, Seller may effect shipment in a lot or in installment, by truck or any vessel of any flag at any port on the condition that transshipment is allowed.

The Date of the Bill of Lading or Delivery Order shall be deemed to be the conclusive evidence of the date of shipment. In case the merchandise for one order is shipped in more than one lot, each lot shall be deemed to be a separate sale contract.

5. Particulars

Particulars regarding the merchandise ordered, such as specifications, assortments, and instructions for make-up, packing, ticketing, marking and/or other arrangements should be given to Seller along with the order. If Buyer wishes to give such particulars later than the time of placing the order, Buyer should request Seller to that effect at the time of conclusion of the contract in order to obtain Seller's consent. In case such particulars fail to arrive in time for preparation or shipment of the merchandise or Seller disagrees to such particulars, Seller's discretion is allowed.

6. Payment

Unless otherwise specified, Cash on Delivery (COD) shall be the payment term. Only dated company cheque, manager's cheque or cash is acceptable. If Buyer fails to provide the cheque or cash, Seller may cancel the contract and resell or hold the merchandise for Buyer's account and risk. Buyer is responsible for any loss and damage to Seller caused by such cancellation.

7. Increased Costs

- a) Exchange Risk: In case, prior to the receipt by Seller of any amount, including an amount due to increased cost as elsewhere defined, payable in a currency other than Philippine Peso (hereinafter called the "Original Amount"), the value of the Philippine Peso relative to such currency increases for any reason whatsoever, so that the amount of Philippine Peso receivable upon conversion of the Original Amount on the date of receipt at the T.T. Buying rate quoted by Mizuho Bank, Ltd - Manila Branch, at the closing of such date, falls short of the amount of that would have been received upon conversion of the Original Amount at the T.T. Buying rate quoted by Mizuho Bank, Ltd - Manila Branch, at the closing of the date indicated on the face of this contract at the "Contract Date" (hereinafter called the "Contract Date"), Buyer shall pay to Seller, in addition to the Original Amount, an amount of such currency equivalent to such shortfall. Such additional payment shall be made, at Seller's option, by increase of Letter of Credit or telegraphic transfer upon Seller's invoice.
- b) If Seller's costs of performance of the contract are increased after the date hereof by reason of any change of freight rates, taxes or other governmental charge or insurance rates including war risk and other special risk, Buyer shall compensate Seller for such increased costs or losses of Income.

8. Alteration

Any alteration or modification in part or whole of the merchandise requested by Buyer is effected only if agreed by Seller in writing, provided that Seller may change the price and/or other conditions of the contract. Seller reserves the right to make any change in specification of the merchandise which does not seriously effect installation, performance or price.

9. Industrial Property Right

Seller is not responsible for any alleged infringement with regard to patent, utility model, trademark, design, or copyright in any country. Nothing herein contained shall be construed to be a transfer of any patent. Utility model, trademark, design, copyright or any other industrial property right covering the merchandise, and all such rights are expressly reserved to Seller. In case any dispute or claim arise in connection with the above rights. Seller may cancel this contract at its discretion and to hold himself free from any liability arise therefrom.

10. Claim

Buyer's claim, if any, shall not be entertained before the relative payment is completely made. Buyer agrees to notify Seller of any claim for defects in appearance of the merchandise or any part thereof by written notice within thirty (30) days after the arrival of the merchandise at the destination specified in the Delivery Order. Further full particulars of such claim shall be made in writing or email, accompanied by a leading sworn authorized surveyors report proving such defect. If Buyer fails to notify Seller of such claim or forward full details within the respective period specified above, Buyer shall be deemed to have waived its right to assert any claim. The allegedly defective merchandise must be retained intact for inspection by authorized surveyors or, if Seller so requests, by Seller's own representative, and must not be used or resold until such inspection has been completed.

11. Force Majeure

In the event of prohibition of exportation, refusal to issue export license, Acts of God, war, blockade embargoes, insurrection, mobilization, governmental direction, riots, civil commotion, warlike condition, strikes, lockout, slowdowns, sabotage, prolonged failure or shortage of electric current, plague or other epidemics, quarantine, fires, winds, floods, typhoons, hurricanes, tidal waves, landslides, lightning explosion, or any other causes beyond the control of Seller. Seller is not liable for any delay in shipment or delivery, non-delivery, or destruction or deterioration, of all or any part of the merchandise, or for any other default in performance of the contract arising therefrom, and Buyer is bound to accept the delayed shipment or delivery, or to accept the cancellation of all or any part of the contract as the case may be.

12. Cancellation

In the event of Buyer's bankruptcy, insolvency, dissolution, consolidation, receivership proceedings affecting the operation of its business or discontinuation of business for any reason and/or reorganization by the third party and non-fulfillment and/or any other default of this or other contract with Seller. Seller has an absolute right to cancel the contract without any notice to Buyer and without prejudice to any right to Seller existing under this or any other contract at the time of such cancellation, or Seller may resell the merchandise or hold the merchandise for Buyer's account and risk, or Seller may postpone the shipment of the merchandise or stop the merchandise in transit, provided, however, that Seller's election of any of the latter remedies shall not preclude Seller's later right to cancel this or any other contract with Buyer as provided above. In any event of Cancellation or Default of Contract, the Buyer shall reimburse Seller a Cancellation Charge of at least 50% of contract value, for standard stock models, or 100% for customized models, if the purchase contract has no provisions for Cancellations Charges.

13. Responsibility

Seller shall not be responsible for loss or damage sustained by Buyer arising or resulting from any cause without the act, fault, or neglect of Seller, his agents or his servants. Seller shall not be liable for loss or damage arising or resulting from the non-performance or mal-performance of the Seller's obligation stipulated in this contract, unless caused by want of ordinary care and diligence on the part of Seller to perform such obligations.

14. Waiver

The failure of Seller at any time to require full performance by Buyer shall not affect the right of Seller to enforce the same. The waiver by Seller of any breach of any provision hereof shall not be construed as a waiver of any succeeding breach of any provision or waiver of the provision itself.

15. Limitation of Liability

Seller's liability is limited to the price of the subject Equipment. Seller will not be liable for, and Buyer hereby waives all claims to, any consequential, indirect, special, punitive or incidental damages under any circumstances, even if Seller is advised in advance of the possibility of such damages. The foregoing limitation and waiver applies regardless of whether such damages are sought based upon breach of contract, breach of warranty, negligence, strict liability, misrepresentation or other legal or equitable theory.

16. Arbitration

All disputes, controversies, or differences which may arise between the parties hereto, out of or in relation to or in connection with the contract, shall be finally settled by arbitration in Philippines in accordance with "Alternative Dispute Resolution Act of 2004" or the Arbitration Law under Republic Act No. 9285. The award rendered by the arbitrator shall be final and binding upon both parties.

17. Trade Terms & Governing Law

The trade terms shall be governed and interpreted under and by the provisions of the latest International Commercial Terms (Incoterms). This contract shall be governed as to all matters, including validity, construction and performance, by the laws of Philippines.

18. Shipping Control Regulation

The trade shall be in compliance with the international security shipping control agreements and related laws and regulations of Philippines. The trade shall be in compliance with the multilateral security shipping control agreements against any related activities with weapons of mass destruction (hereinafter called "WMD"). In case of any violation with the above, Seller will cancel this contract at its discretion and to hold himself free from any liability arise therefrom.

19. Taxation Laws Compliance

The Buyer, if a qualified Withholding Tax Agent as defined under the pertinent taxation laws, rules and regulations ("Taxation Laws"), shall furnish the Seller, the original Certificate of Creditable Tax Withheld at Source or other forms prescribed under Taxation Laws (the "Tax Forms") within the period prescribed under the said laws, and ensure that all details required are properly filled up and signed by the authorized representative of the company. Should the Buyer fail to comply with the provisions above, the Buyer shall be considered in default in the payment for the sum of money. Moreover, the amount of the taxes withheld, but for which the Buyer has not furnished the Seller the corresponding Tax Forms, shall be considered as unpaid outstanding purchases and payment will be demanded in cash. In addition, the company may at its sole discretion, suspend or hold the account/s of the Buyer until compliance with the requirements of this Clause.