

SMVN COMMERCIAL TERMS & CONDITIONS

1. General

- 1.1 The scope, quantity, quality and technical specifications of any goods, equipment, documentation, work or services to be provided by SM-Cyclo (Vietnam) Company Limited (hereafter called "SMVN"), collectively referred to as "**Supplies**") are exclusively defined as the case may be either in the Order Confirmation or the Contract signed by the Customer and SMVN.
- 1.2 The quotation from SMVN together with these terms and conditions and those other documents expressly identified in the quotation as forming part of the contract shall together constitute the entire agreement between the parties (the "**Contract**"). Any terms and conditions of the Customer shall apply only where expressly accepted in writing by SMVN.

2. Currency, Prices and Terms of payment

- 2.1 The currency manifesting the price shall be the basis currency of payment is VND means Vietnamese Dong.
- 2.2 Prices are on DDP basis according to Incoterms 2010.
- 2.3 All payments shall be made to SMVN's bank account without deduction (e.g. deduction of withholding tax) in accordance with payment terms specified in the Contract.
- 2.4 Without prejudice to any other rights it may have, SMVN may charge interest at (one) 01% per each completed month of delay on any overdue payments.

3. Import and Export License

Customer is responsible for obtaining an import license and other government approval required in Customer's country, and failure in procuring such requirement for whatever reason does not constitute force majeure, unless otherwise stipulated. Should an export license for the contract be refused by the Vietnam Government, the contract shall become null and SMVN shall immediately advise Customer thereof.

4. Inspection

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

5. Shipment

- 5.1 Any agreed dates in respect of the Supplies or any part of them shall be extended by a reasonable period of time if and to the extent that SMVN is delayed or impeded in the performance of its obligations by any third party or by the failure of the Customer to perform its obligations. This includes without limitation the delivery of required documents (such as necessary permits and approvals), timely performance of any work to be undertaken by the Customer or any third party appointed by the Customer, and compliance with the terms of payment.
- 5.2 SMVN may, if it is reasonable to do so, deliver the Supplies in partials / instalments and shall be entitled to invoice for the Supplies on a corresponding basis.
- 5.3 Any other liability of SMVN and any claims, rights, and remedies of the Customer in case of delay except as expressly stipulated in the contract shall be excluded, to the extent permissible by law.
- 5.4 If the Customer, the Customer's contractors, or any other third party appointed by the Customer causes a delay to the provision of the Supplies, the Customer shall reimburse SMVN all reasonable additional costs and expenses incurred due to such delay.

6. Particulars

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

7. Increased Costs

If SMVN's costs of performance of the contract are increased after the date hereof by reason of any changes of the delivery address/location or request lift in/out the Supplies. Customer shall compensate SMVN for such increased costs.

8. Alteration

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

9. Industrial Property Right

SMVN 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 Supplies, and all such rights are expressly reserved to SMVN. In case any dispute or claim arise in connection with the above rights. SMVN may cancel this contract at its discretion and to hold himself free from any liability arise therefrom.

10. Claims

Customer's claim, if any, shall not be entertained before the relative payment is completely made. Customer agrees to notify SMVN of any claim for defects in appearance of the Supplies or any part thereof by written notice within thirty (30) days after the arrival of the Supplies at the destination specified in the quotation/contract. Further full particulars of such claim shall be made in writing and forwarded by registered air-mail to SMVN within fifteen (15) days after the above mentioned notification, accompanied by a leading sworn authorized surveyors report proving such defect. If Customer fails to notify SMVN of such claim or forward full details within the respective period specified above, Customer shall be deemed to have waived its right to assert any claim. The allegedly defective Supplies must be retained intact for inspection by authorized surveyors or, if SMVN so requests, by SMVN'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 SMVN. SMVN is not liable for any delay in shipment or delivery, non-delivery, or destruction or deterioration, of all or any part of the Supplies, or for any other default in performance of the contract arising therefrom, and Customer 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 Customer'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 SMVN. SMVN has an absolute right to cancel the contract without any notice to Customer and without prejudice to any right to SMVN existing under this or any other contract at the time of such cancellation, or SMVN may resell the Supplies or hold the Supplies for Customer's account and risk, or SMVN may postpone the shipment of the Supplies or stop the Supplies in transit, provided, however, that SMVN's election of any of the latter remedies shall not preclude SMVN's later right to cancel this or any other contract with Customer as provided above. In any event of Cancellation or Default of Contract, the Customer shall reimburse SMVN a Cancellation Charge of at least 20% of contract value, for standard stock models, or 100% for customized models, if the purchase contract has no provisions for Cancellations Charges.

13. Responsibility

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

14. Waiver

The failure of SMVN at any time to require full performance by Customer shall not affect the right of SMVN to enforce the same. The waiver by SMVN 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

SMVN's liability is limited to the price of the subject equipment - Supplies. SMVN will not be liable for, and Customer hereby waives all claims to, any consequential, indirect, special, punitive or incidental damages under any circumstances, even if SMVN is advised in advance of the possibility of such damages. The foregoing limitation and waiver applied 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 Vietnam in accordance with the Commercial Arbitration Rules of The Vietnam International Arbitration Centre (SIAC). 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 Vietnam.

18. Export Control Regulation

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