

## General Terms and Conditions

Emerson Electric (M) Sdn. Bhd. is herein referred to as the "Seller" and the customer or person or entity purchasing goods or services ("Goods") from Seller is referred to as the "Buyer." These Terms and Conditions, any price list or schedule, quotation, acknowledgment or invoice from Seller relevant to the sale of the Goods and all documents incorporated by specific reference herein or therein constitute the complete and exclusive statement of the terms of the agreement governing the sale of Goods by Seller to Buyer. Seller's acceptance of Buyer's purchase order is expressly conditional on Buyer's assent to all of Seller's terms and conditions of sale, including terms and conditions that are different from or additional to the terms and conditions of Buyer's purchase order. These Terms and Conditions govern in case of any inconsistency with any Buyer's terms and conditions. Seller may in its sole discretion to refuse orders.

**1. PRICES:** Unless otherwise specified by Seller, Seller's price for the Goods and/or Services shall remain in effect for thirty (30) days after the date of Seller's quotation or acceptance of the order for the Goods/Services, whichever is delivered first, provided an unconditional, complete authorization for the immediate manufacture and shipment of the Goods and/or provision of Services pursuant to Seller's standard order processing procedures is received and accepted by Seller within such time period. If such authorization is not received by Seller within such thirty (30) day period, Seller shall have the right to change the price for the Goods/Services to Seller's price in effect for the Goods/Services at the time the order is released to final manufacture. Notwithstanding any of the foregoing to the contrary, the price for Goods/Services sold by Seller, but manufactured by others, shall be Seller's price in effect at the time of shipment to Buyer.

**2. DELIVERY, ORDER ACCEPTANCE AND DOCUMENTATION:** All shipping dates are approximate and are based upon Seller's prompt receipt of all necessary information from Buyer to properly process the order. Seller reserves the right to make partial shipments. Notwithstanding any provisions to the contrary in this or other documents related to this transaction, and regardless of how price was quoted, whether EXW, FOB, FCA, CIF or otherwise, legal title to the Goods and risk of loss thereto shall transfer to Buyer upon delivery to Buyer at the agreed delivery point. Seller shall provide Buyer with that data/documentation which is specifically identified in the quotation. If the shipment of the Goods is postponed or delayed by Buyer for any reason, Buyer agrees to reimburse Seller for any and all storage costs and other additional expenses resulting therefrom. If additional copies of data/documentation or non-standard data/documentation are to be provided by Seller, they shall be provided to Buyer at Seller's price then in effect.

**3. EXCUSE OF PERFORMANCE:** Seller shall not be liable for delays in performance or for non-performance due to acts of God, war, riot, fire, terrorism, labor trouble, unavailability of materials or components, explosion, accident, compliance with governmental requests, laws, regulations, orders or actions, or other unforeseen circumstances or causes beyond Seller's reasonable control.

**4. TERMINATION AND SUSPENSION BY BUYER:** Buyer may terminate or suspend its order for any or all of the Goods/Services covered by the Agreement, provided that Buyer gives Seller reasonable advance written notice of such termination or suspension and unless otherwise stated in Seller's quotation, reimburses Seller for all losses, damages, costs and expenses arising from such termination or suspension and a reasonable profit thereon. Seller's determination of the amount of such reimbursement shall be final and conclusive.

**5. LIMITED WARRANTY:** Subject to the limitations contained in Section 6 herein, Seller warrants that the Goods manufactured or Services provided by Seller will be free from defects in materials or workmanship under normal use and care for twelve (12) months from the date of delivery by Seller or any different period as stated in Seller's written quotation which shall prevail in case of inconsistency. Products purchased by Seller from a third party for resale to Buyer ("Resale Products") shall carry only the warranty extended by the original manufacturer. Buyer agrees that Seller has no liability for Resale Products beyond making a reasonable commercial effort to arrange for procurement and shipping of the Resale Products. If Buyer discovers any warranty defects and notifies Seller thereof in writing during the applicable warranty period, Seller shall, at its option, correct any errors that are found by Seller or repair or replace F.O.B. point of manufacture that portion of the Goods found by Seller to be defective, or refund the purchase price of the defective portion of the Goods/Services. All replacements or repairs necessitated by inadequate maintenance, normal wear and usage, unsuitable power sources or environmental conditions, accident, misuse, improper installation, modification, repair, storage or handling, or any other cause not the fault of Seller are not covered by this limited warranty, and shall be at Buyer's expense. Seller shall not be obligated to pay any costs or charges incurred by Buyer or any other party except as may be agreed upon in writing in advance by Seller. All costs of dismantling, reinstallation and freight and the time and expenses of Seller's personnel and representatives for site travel and diagnosis under this warranty clause shall be borne by Buyer unless accepted in writing by Seller. Goods repaired and parts replaced by Seller during the warranty period shall be in warranty for the remainder of the original warranty period or ninety (90) days, whichever is longer. This limited warranty is the only warranty made by Seller and can be amended only in a writing signed by Seller. THE WARRANTIES AND REMEDIES SET FORTH ABOVE ARE EXCLUSIVE. THERE ARE NO REPRESENTATIONS OR WARRANTIES OF ANY KIND, EXPRESS OR IMPLIED, AS TO MERCHANTABILITY, FITNESS FOR PARTICULAR PURPOSE OR ANY OTHER MATTER WITH RESPECT TO ANY OF THE GOODS OR SERVICES.

**6. LIMITATION OF REMEDY AND LIABILITY:** SELLER SHALL NOT BE LIABLE FOR DAMAGES CAUSED BY DELAY IN PERFORMANCE. THE REMEDIES OF BUYER SET FORTH IN THIS AGREEMENT ARE EXCLUSIVE. IN NO EVENT, REGARDLESS OF THE FORM OF THE CLAIM OR CAUSE OF ACTION (WHETHER BASED IN CONTRACT, TORT (INCLUDING NEGLIGENCE AND STRICT LIABILITY) OR ANY OTHER THEORY OF LAW), SHALL SELLER'S LIABILITY TO BUYER EXCEED THE PRICE TO BUYER OF THE SPECIFIC GOODS MANUFACTURED OR SERVICES PROVIDED BY SELLER GIVING RISE TO THE CLAIM OR CAUSE OF ACTION. BUYER AGREES THAT IN NO EVENT SHALL SELLER'S LIABILITY TO BUYER EXTEND TO INCLUDE ANY INDIRECT, CONSEQUENTIAL, SPECIAL, PUNITIVE OR INCIDENTAL LOSSES OR DAMAGES. The term "consequential damages" includes, without limitation, loss of anticipated profits, business interruption, loss of use, revenue, reputation or data, loss sustained by Buyer's customers, cost incurred including without limitation, for capital, fuel, power and loss or damage to property or equipment.

**7. PATENTS:** Subject to the limitations contained in Section 6, Seller shall defend any suits brought against Buyer based on a claim that use of the Goods manufactured by Seller constitutes an infringement of a valid patent of the United States, and shall pay any damages awarded therein against Buyer, provided that Buyer: promptly notifies Seller in writing of the filing of such suit or the threat thereof; permits Seller to control completely the defense or compromise of such claim of infringement; and provides all reasonable assistance and cooperation requested by Seller for the defense of such suit. In the event that only the Goods manufactured by Seller are held to be infringing in such suit and their use is enjoined, Seller shall, at its sole option and expense, provide a commercially reasonable alternative, including, but not limited to, procuring for Buyer the right to continue using the Goods, replacing them with a non-infringing product or modifying them so they become non-infringing. Buyer agrees that Seller shall not be liable for infringement, and that Buyer shall fully indemnify Seller therefore, if infringement is based upon the use of Goods in connection with goods not manufactured by Seller or in a manner for which the Goods were not designed by the Seller or if the Goods were

not designed by the Seller or if the Goods were designed by the Buyer or were modified by or for the Buyer in a manner to cause them to become infringing.

**8. INSTALLATION:** Buyer shall be responsible for receiving, storing, installing, starting up and maintaining all Goods. Seller shall provide a quotation for services to assist Buyer in these functions if requested.

**9. CHANGES:** Buyer may request changes or additions to the Goods consistent with Seller's specifications and criteria. In the event Seller accepts such changes or additions, Seller may revise the price and dates of delivery accordingly. Seller reserves the right to change designs and specifications for the Goods without prior notice to Buyer, except with respect to Goods being made-to-order for Buyer.

**10. TAXES:** Any current or future tax or governmental charge (or increase in same) affecting Seller's costs of manufacture, sale or delivery of the Goods, or provision of Services, or which Seller is otherwise required to pay or collect in connection with the sale, purchase, delivery, storage, processing, use or consumption of the Goods, shall be for Buyer's account and shall be added to the price herein specified. The foregoing shall not apply to taxes based upon Seller's net income.

**11. TERMS OF PAYMENT:** Unless otherwise provided in Seller's written quotation, subject to the approval of Seller's Credit Department, payment terms are net 30 days from date of Seller's invoice in U.S. currency, except for applicable milestone payments covered below or export shipments for which Seller may require other arrangements. Freight charges may include shipping and handling charges, and Buyer shall pay all such charges. If any payment owed to Seller hereunder is not paid when due, it shall bear interest, at a rate to be determined by Seller which shall not exceed the maximum rate permitted by law, from the date on which it is due until it is received. Seller shall have the right, among other remedies, either to terminate the Agreement or to suspend further deliveries under this and/or other agreements with Buyer in the event Buyer fails to make any payment hereunder when due. Buyer shall be liable for all expenses attendant to collection of past due amounts, including attorneys' fees.

Unless otherwise provided in Seller's written quotation, periodic milestone payments shall be made by Buyer when the purchase price of this Agreement exceeds \$100,000. In such cases, invoices shall be issued by Seller and paid by Buyer based on the following milestones: Milestone 1: 40% of price upon acceptance of order by Seller. Milestone 2: 50% of price upon release by Seller of approved bills of material to manufacturing for assembly. Milestone 3: 10% of price upon shipment of the Goods by Seller. Seller reserves the right to designate additional Milestones where the Agreement provides for Services in excess of \$50,000.

**12. FIRMWARE AND TOOLING:** Notwithstanding any other provision herein to the contrary, Seller or applicable third party owner shall retain all rights of ownership and title in its respective firmware, including all copyrights relating to such firmware and all copies thereof. Except as otherwise provided herein, Buyer is hereby granted a nonexclusive, royalty free license to use firmware and copies thereof, incorporated into the Goods only in conjunction with such Goods and only at the Buyer's plant site where the Goods are first used. Unless otherwise provided in Seller's written quotation, all tool and fixture designs shall be and remain Seller's property and non-recurring engineering charges for tools and fixtures do not convey to Buyer title, ownership interest in, or rights to possession or removal, or prevent their use by Seller for other buyers.

**13. BUYER SUPPLIED DATA:** To the extent that Seller has relied upon any specifications, information, representation of operating conditions or other data or information supplied by Buyer to Seller in the selection or design of the Goods and/or provision of the Services and the preparation of Seller's quotation, and in the event that actual operating conditions or other conditions differ from those represented by Buyer and relied upon by Seller, any warranties or other provisions contained herein which are affected by such conditions shall be null and void, unless otherwise mutually agreed upon in writing.

**14. BUYER'S COMPLIANCE WITH LAWS:** Buyer agrees that all applicable import and export control laws, regulations, orders and requirements, including without limitation those of the United States and the European Union, and the jurisdictions in which the Seller and Buyer are established or from which items may be supplied, will apply to its receipt and use of Goods and Services. In no event shall Buyer use, transfer, release, import, export or reexport Goods in violation of such applicable laws, regulations, orders or requirements. Buyer agrees furthermore that it shall not engage in any activity that would expose the Seller or any of its affiliates to a risk of penalties under laws and regulations of any relevant jurisdiction prohibiting improper payments, including but not limited to bribes, to officials of any government or of any agency, instrumentality or political subdivision thereof, to political parties or political party officials or candidates for public office, or to any employee of any customer or supplier. Buyer agrees to comply with all appropriate legal, ethical and compliance requirements.

**15. GENERAL PROVISIONS:** (a) Buyer shall not assign its rights or obligations under the Agreement without Seller's prior written consent. (b) No action, regardless of form, arising out of transactions under the Agreement, may be brought by either party more than two (2) years after the party concerned is aware or ought to have been aware of the infringement of its rights, unless otherwise provided by law. (c) Any modification of these terms and conditions must be set forth in a written instrument signed by a duly authorized representative of Seller. (d) The Agreement is formed and shall be construed, performed and enforced under the laws of Malaysia. The U.N. Convention on Contracts for the International Sales of Goods shall not apply to this Agreement. However, Buyer and Seller agree that the proper venue for all actions arising under the Agreement shall be only in Malaysia. (e) UNLESS OTHERWISE SPECIFICALLY PROVIDED IN SELLER'S QUOTATION, GOODS AND SERVICES HEREUNDER ARE NOT INTENDED FOR USE IN ANY NUCLEAR OR NUCLEAR RELATED APPLICATIONS. Buyer (i) accepts Goods and Services in accordance with the restriction set forth in the immediately preceding sentence, (ii) agrees to communicate such restriction in writing to any and all subsequent purchasers or users and (iii) agrees to defend, indemnify and hold harmless Seller from any and all claims, losses, liabilities, suits, judgments and damages, including incidental and consequential damages, arising from use of Goods and Services in any nuclear or nuclear related applications, whether the cause of action be based in tort, contract or otherwise, including allegations that the Seller's liability is based on negligence or strict liability. (f) If any provision of the Agreement is invalid under any statute or rule of law, such provision, to that extent only, shall be deemed to be omitted without affecting the validity of the remainder of the Agreement. Sections 5, 6, 7, 11, 13, and 14 shall survive termination or expiration of this Agreement. (g) At Seller's sole determination, and Buyer hereby irrevocably consents to any such determination, Seller may choose to submit any claim, dispute or controversy arising out of or relating to this Agreement to arbitration by the Singapore International Arbitration Centre (SIAC) in accordance with its Arbitration Rules then in effect. The Parties agree that: (i) there shall be one (1) arbitrator; (ii) the language to be used in the arbitral proceedings shall be English; (iii) the mandate of the arbitral board shall continue until the award/decision is issued; (iv) the arbitral board shall be bound by strict rules of law and shall not make awards/decisions ex aequo et bono; (v) the arbitral award/decision shall be final binding and not subject to appeal to any court or other body; (vi) the enforcement thereof shall be in accordance with the prevailing law and regulation in relation to the enforcement of an arbitral award/decision of the jurisdiction where the award/decision shall be executed; and (vii) the costs of the arbitration, including legal and attorneys' fees, shall be determined by the arbitrator.