

Distribution Agreement between Chi Lick Schurter Limited and _____ Appendix A Standard Terms of Sale

1. Interpretation

1.1 In these terms and conditions the following expressions shall have the following meanings and cognate expressions shall be construed accordingly:

"the Seller" Chi Lick Schurter Ltd.

"the Buyer" the person(s) or entity who place an Order

"the Goods" the items or articles the subject of the Order

"the Conditions" the terms and conditions set out here which shall govern the sale and purchase of the Goods

"the Order" the order placed by the Buyer with the Seller for the supply of the Goods and additionally all quotations and offers made by the Seller

"the Contract" the contract of sale concluded by the placing of an Order which is accepted by the Seller

"the price" means the price of the Goods

2. Scope of Contract

2.1 Neither the Buyer nor the Seller shall be bound by any variation, waiver of or addition to the Conditions except as agreed by both parties in writing.

2.2 Any terms and conditions used by the Buyer in the course of its business shall not apply to the Contract.

2.3 No statement or representation made at any time prior to the Contract shall be a term of the Contract or deemed to be an inducement or collateral contract pursuant to which the Buyer entered into the Contract.

2.4 Any quotations made by the Seller are without obligation and subject to alteration at any time prior to the Contract.

3. Delivery

3.1 Delivery of the Goods shall be made at the Seller's earliest convenience. Any time or date for delivery is an estimate only and may be cancelled or revised at the Seller's option. Time for delivery by the Seller shall not be of the essence of the Contract.

3.2 Each delivery shall operate as a separate contract and shall each be governed by the Conditions.

3.3 The Buyer will accept delivery of the Goods provided such delivery is made at the Buyer's place of business within usual business hours or at any place agreed between the Seller and Buyer.

3.4 The Seller shall not be liable to the Buyer for any loss or damage suffered directly or indirectly by the Buyer from any delays in delivery however arising.

3.5 The Seller shall have no liability to the Buyer in the event of non-delivery of the whole or any portion of the Goods caused directly or indirectly by act of God, elements, war, mobilisation, act of Government, import or export bans, blockades, strikes or lockouts, fire, flood, breakdown of machinery, non-delivery or delay in delivery by the Seller's suppliers of the Goods or materials required for the Goods, failure of the Seller's contractors to execute or their delay in executing any work on the Goods or any other cause (whether or not the same as the foregoing) beyond the Seller's control.

3.6 If delivery is delayed due to any of the causes referred to in clause 3.5 by a period in excess of six months, the Seller may cancel the undelivered portion of the Contract by written notice without any liability to the Buyer.

3.7 When Goods are made to the Buyer's order for call-off and no delivery dates are specified then any Goods not called-off within three months after the date of the Seller's confirmation of Order may be deemed by the Seller in its absolute discretion to have been called-off.

3.8 Delivery of the Goods shall be Hong Kong local delivery, unless otherwise arranged.

4. Payment and Price

4.1 The price stated in the Seller's quotation excludes any tax, licence fee, customs, import or export duty or charge.

4.2 The Seller may alter its prices and quotations for the Goods without notice whenever it in its absolute discretion considers necessary as Orders are accepted on the condition that the Contract price is that in force at delivery unless otherwise agreed between the parties in writing.

4.3 Payment of the price of the Goods shall be made _____ to the Seller at _____. Time for payment is of the essence of the Contract.

4.4 The Seller is entitled to interest on any unpaid invoices from the invoice due date until payment at the rate of (3) percentage points per annum above HSBC Bank prime rate prevailing from time to time.

4.5 Where payment is made by means of a bill of exchange, cheque or other negotiable instrument the Seller shall not be deemed to have received payment until the bill of exchange, cheque or instrument has been honoured on presentation for payment, notwithstanding that the Seller may have negotiated it and received it for value.

4.6 The Seller may treat the oldest invoices as paid first, unless the Seller indicates otherwise.

5. Inspection

5.1 The Buyer shall inspect the Goods immediately they are delivered and the signature of the Buyer or of any person acting on its behalf on the delivery note shall be deemed to be an acknowledgement by the Buyer that the Goods are of satisfactory quality, undamaged and in accordance with the Contract and the Seller shall not replace the Goods nor be under any liability to deliver any missing part, unless the Buyer:

5.1.1 states on the delivery note that the Goods or part of them are either damaged or missing; and

5.1.2 notifies the Seller in writing within three days of the delivery of the Goods of the extent to which the Goods are damaged and/or missing or in the case of latent or hidden defects which could not reasonably be revealed on the delivery inspection such notification must be made within six months of the date of delivery.

6. Risk

6.1 The risk in the Goods shall pass to the Buyer upon the handing over of the Goods by the Seller to the Buyer's carrier for delivery to the Buyer in accordance with these Conditions. It is the sole responsibility of the Buyer to insure the Goods against any and all risks. The Buyer shall be liable for all and any damage to the Goods whatsoever and howsoever arising from the time of delivery.

7. Title

7.1 The Seller will retain title to and ownership of the Goods until the Buyer has paid in full the price of the Goods.

7.2 Furthermore the property in the Goods shall not pass to the Buyer unless and until the full price of any other delivered goods the subject of any

other business transaction between the Buyer and Seller has been paid. Such price and the price of the Goods shall in clause 7 together be called "the Value".

- 7.3 Until the value has been received by the Seller, the Buyer will hold the Goods as bailee on behalf of the Seller and the Buyer acknowledges that there shall be a fiduciary relationship in respect of the Goods between the Buyer and the Seller. Accordingly:
- 7.3.1 the Buyer will store the Goods on its premises separately from its own goods or those of any other person in such a way that they can be readily identified as the Goods of the Seller; and
- 7.3.2 until full payment is made the Buyer will take all necessary measures for the protection of the Goods including their insurance against all usual risks with an insurance company approved by the Seller for the full replacement value of the Goods. The Buyer will procure that the interest of the Seller is noted upon any such insurance policy and that a copy of the policy is supplied to the Seller on its creation.
- 7.4 If the Buyer either fails to make any payment to the Seller when due, or proposes to compound with its creditors or has a bankruptcy petition presented against it or being a company, enters into voluntary or compulsory liquidation, has a receiver, an administrator or administrative receiver appointed over all or any of its assets or takes or suffers similar action, or if the Seller has reasonable cause to believe that any of these events is likely to occur, then the Seller will have the right, without prejudice to any other remedies:
- 7.4.1 to enter, without prior notice, any premises of the Buyer where Goods owned by the Seller may be and to repossess and dispose of any Goods owned by it so as to discharge any sums owed to it by the Buyer under this or any other contract between the Seller and the Buyer;
- 7.4.2 to require the Buyer not to resell or part with possession of any Goods owned by the Seller until the Buyer has paid in full all sums due to the Seller under this or any other contract between the Seller and the Buyer;
- 7.4.3 to terminate the Contract and withhold delivery of any undelivered Goods and stop any Goods in transit;
- 7.4.4 to vary by notice in writing with immediate effect the terms, if any, as to credit specified in the Contract between the Seller and the Buyer in such manner as the Seller may, in its absolute discretion, determine.
- 7.5 In the event of late payment, the Seller may treat the Contract as wrongfully repudiated by the Buyer without prejudice to the Seller's right to payment for any Goods delivered and to damages for the Buyer's breach of contract.
- 7.6 Each of the preceding clauses shall be construed and shall take effect separately and in the event of one or more such clauses being held ineffective this shall not affect the validity of the remaining clauses.

8. Warranties and Representations

- 8.1 The Seller warrants that it has title to the Goods or will have such title at the time when property in the Goods is to pass to the Buyer under the Contract.
- 8.2 Except as expressly stated in these Conditions all warranties and conditions whether expressed or implied by statute usage trade custom or otherwise relating to the quality or nature of the Goods or their life or wear or fitness for any particular purpose or use under any specific conditions are expressly excluded, provided that nothing in these terms and conditions shall exclude or limit liability for any breach of a term or condition implied by law, the exclusion or limitation of which is not permitted by law.
- 8.3 Measurements, dimensions, weights, colours and other details contained in the Seller's catalogues, sale manuals, photographs, drawings, illustrations, price lists, samples and in any correspondence from the Seller constitute only an approximate guide and do not form part of the Contract. No warranty is given that the Goods will correspond exactly with those specified.

9. Liability

- 9.1 Any Goods alleged by the Buyer to be damaged or not of satisfactory quality shall not form the subject of any claim for work done by the Buyer or for any loss damage or expense whatsoever arising directly or indirectly from such alleged defects. If the Goods are returned to the Seller in accordance with the Conditions and within one month of the date of delivery and are accepted by the Seller as damaged or not of satisfactory quality they will at the sole discretion of the Seller be repaired or replaced as originally ordered or an appropriate credit note will be issued to the Buyer provided that the Buyer has otherwise complied with the Conditions.
- 9.2
- 9.2.1 No claim under clause 9.1 will be considered by the Seller unless, in addition to the Buyer's compliance with clause 5 (Inspection), the Buyer makes the Goods available for collection by the Seller.
- 9.2.2 No Goods will be accepted for return without the prior agreement of the Seller and returned Goods must be properly and securely packed by the Buyer and accompanied by a detailed list giving the reasons for their return and the date and number of the Seller's invoice for the Goods.
- 9.2.3 No claim under clause 9.1 will be considered by the Seller in respect of Goods purchased for onward sale unless the allegedly defective Goods are in their original packaging.
- 9.3 The limit of the Seller's liability under the Conditions shall not exceed the price of undelivered Goods or Goods accepted back by the Seller under the terms of the Conditions and the Seller shall under no circumstances be liable in contract or tort or otherwise for any indirect or consequential damage, loss or expense however caused whether to the Buyer or any other person or thing, whether arising directly or indirectly from the negligence of the Seller or anyone for whom the Seller is vicariously liable (other than claims in respect of personal injury or death).

10. General

- 10.1 The Seller will not be affected by any delay or failure in exercising or any partial exercising of its rights under the Contract unless it has signed an express written waiver or release.
- 10.2 The Buyer shall not assign its rights under the contract witho