

## 1. GENERAL PROVISIONS

- 1.1. Legal relations (“**Contract**”) between Euro-Tech Asia International Sdn Bhd (865401-U) (“**Euro-Tech**”) and the party for whom the products and services is supplied to (“**Customer**”) in connection with the supply of products and/or goods (“**Products**” or “**Goods**”) and/or services (“**Services**”) of Euro-Tech (“**Products**”, “**Goods**” and “**Services**” collectively as “**Supplies**”) shall be solely governed by these General Conditions (“**GC**”) and such other written agreements as entered into between Euro-Tech and the Customer. The Customer’s general terms and conditions shall apply only if expressly accepted by Euro-Tech in writing. The scope, specifications, quality, and terms & conditions related to the Supplies shall be solely determined by the Contract. This GC shall form an integral part of the Contract. The Customer’s purchase order/award of contract is subject to Euro-Tech’s order confirmation/written acceptance (“**Order Confirmation**”). Such Order Confirmation is subject to the successful completion of credit assessment (or any applicable assessment deemed necessary by Euro-Tech) by Euro-Tech on the Customer. Euro-Tech and the Customer shall be referred to as “**Parties**” collectively and “**Party**” individually in this GC.
- 1.2. In the event of any inconsistency or variance between the provisions of the documents forming part of the Contract, the terms and conditions shall take precedence in the following order of priority:
- Any written agreement accepted by both Parties to expressly override any provisions contained in the documents listed below;
  - Quotation/Offers issued by Euro-Tech (“**Quotation**”) including its attachments, annexes or appendices;
  - Special or Specific Conditions, if any;
  - This GC.
- 1.3. A Contract may be cancelled, varied or suspended only by notice in writing and only if such notice is accepted in writing by Euro-Tech. In the event of such cancellation, variation or suspension, the Customer shall compensate Euro-Tech for any costs or loss incurred including but not limited to loss of profit.

## 2. COMPLIANCE WITH LAWS & EXPORT CONTROL REGULATIONS

- 2.1. Each Party, including any person working for or with the Party shall strictly comply with all applicable laws including but not limited to anti-bribery and anti-corruption laws.
- 2.2. In the absence of agreement to the contrary, it shall be the Customer’s responsibility to obtain and provide any approvals, licenses or permit necessary for the performance of the Contract. Upon request, the Customer shall within a reasonable time but in any event shall not exceed five (5) working days, furnish to Euro-Tech information or documentation of the Customer’s compliance, as well as to any other information or documentation required to enable Euro-Tech to comply with any laws, rules, regulations and requirements applicable to the performance of the Contract.
- 2.3. Euro-Tech shall not be obligated to fulfill the Contract if such fulfillment is prevented by any impediments arising out of national or international foreign trade or customs requirements or any embargoes or other sanctions.

- 2.4. The Parties undertake to comply with all applicable export control regulations of the national authorities and the authorities in Malaysia, in the Federal Republic of Germany, in the European Union and in the United States of America. Upon request by Euro-Tech, the Customer shall provide Euro-Tech with all information pertaining to the end customer, destination and intended use of the Supplies, as well as any existing export control restriction regarding the Supplies to enable Euro-Tech conducting export control checks.
- 2.5. If the Customer transfer goods (hardware and/or software and/or technology as well as corresponding documentation, regardless of the mode of provision) delivered by Euro-Tech or works and services (including all kinds of technical support) performed by Euro-Tech to a third party, the Customer shall comply with all applicable national and international (re-) export control regulations. In any event of such transfer of goods, works and services the Customer shall comply with all applicable export control regulations of Malaysia, the Federal republic of Germany, of the Euro-Tech Asia International Sdn Bhd (865401-U), European Union and of the United States of America.
- 2.6. Prior to any transfer of goods, works and services provided by Euro-Tech to a third party the Customer shall check and guarantee by appropriate measures that:
- 2.6.1. There will be no infringement of an embargo imposed by Malaysia, the European Union, by the United State of America and/or by the United Nations by such transfer, by brokering of contracts concerning those goods, works and services or by provision of other economic resources in Connection with those goods, works and services, also considering the limitations of domestic business and prohibitions of bypassing those embargos;
- 2.6.2. Such goods, works and services are not intended for use in connection with armaments, nuclear technology or weapons, if and to the extent such use is subject to prohibition or authorization, unless required authorization is provided;
- 2.6.3. The regulations of all applicable Sanctioned Party List of Malaysia (if any), the European Union and the United State of America concerning the trading with entities, persons and organizations listed therein are considered.
- 2.7. If required to enable authorities or Euro-Tech to conduct export control checks, the Customer, upon request by Euro-Tech, shall promptly provide Euro-Tech with all information pertaining to the particular end customer, the particular destination and the particular intended use of goods, works and services provided by Euro-Tech, as well as any export control restrictions existing.
- 2.8. The Customer shall indemnify and hold harmless Euro-Tech from and against any claim, proceeding, action, fine, loss, cost and damages arising out of or relating to any non-compliance with export control regulations by the Customer, and the Customer shall compensate Euro-Tech for all losses and expenses resulting thereof.
- 2.9. Goods labelled with “AL” not equal to “N” are subject to European and German export authorization when being exported out of the EU. Goods labelled with “ECCN” not equal to “N” are subject to US re-export authorization. Even without a label, or with label “AL:N” or “ECCN:N”, authorization may be required due to the final end-use and destination for which the goods are to be used.

### 3. PRICES

Unless agreed in writing, the following shall apply:

- 3.1 Euro-Tech Quotation shall remain valid for the period stated in the Quotation (and any extended period subsequently agreed to by Euro-Tech in writing); or when no such period is stated, for thirty (30) days from the date of the Quotation.
- 3.2 Total Prices agreed to as a consideration of the Contract ("Contract Price"), shall be in Ringgit Malaysia, on the basis of "ex works" (Incoterms 2020) or such other currency or Incoterms 2020 as stated in Euro-Tech's Quotation, and shall exclude packaging and any indirect taxes including but not limited to: property, licenses, sales, value added or similar taxes and duties applicable to the Supplies. The Customer agrees to pay or reimburse Euro-Tech for any such taxes, which Euro-Tech or its subcontractors are required to pay.
- 3.3 The Contract Price is based on the scope referred to in the Quotation. Should there be a variation in the scope ordered from that offered; Euro-Tech reserves the right to amend the Contract Price accordingly.
- 3.4 The Contract Price offered is based on the costs of material, labour, freight, insurance, exchange rates, custom duties and taxes and other costs and charges as are applicable as of the date of Quotation ("Reference Date"). Euro-Tech reserves the right to amend the Contract Price in the event of any changes in such costs after the Reference Date.
- 3.5 If after the Reference Date the costs to Euro-Tech of performing its obligations under the Contract is varied by reason of the making or amendment of any laws, orders, regulations, by-laws or other government instruments having the force of law, the amount of such variation shall be added to or deducted from the Contract Price, whichever the case may be.
- 3.6 In particular, Contract Price is exclusive of any applicable Goods & Service Tax, sales tax or other similar taxes (hereinafter "GST or Similar Taxes"). If the consideration (including reimbursement of expenses, if any) is subject to GST or Similar Taxes in Malaysia, the Customer shall additionally pay these amounts.
- 3.7 In the event stamping of agreements becomes necessary (as required by the relevant authority), both Euro-Tech and the Customer will share the stamp duty equally, each bearing 50% of the total stamping fees. When a party settles the entire stamping fees upfront the other party agrees to reimburse their half of the stamping fees accordingly. For the avoidance of doubt, the party that pays the stamping fees shall do so in full. The party seeking reimbursement must, within a reasonable timeframe, send a written request to the other party, including the official receipt as notification. The other party undertakes to make the reimbursement within 7 days of receiving this notification.
- 3.8 The Contract Price shall be net of any withholding tax payable by the customer to the applicable tax authorities, and in no

event shall the Customer be entitled to withhold or deduct any such taxes from the Contract Price.

- 3.9 If Euro-Tech is required to undertake assembly or erection works and unless otherwise agreed, the Customer shall pay, in addition to the Contract Price, all the incidental costs including but not limited to travel expenses, accommodation expenses and daily allowances.
- 3.10 Products to be delivered will be packed in accordance with Euro-Tech's customary standard of packing and the cost thereof will be included in the Contract Price. Any special packing, either required by the Customer or necessary due to delivery being delayed or interrupted for reasons beyond Euro-Tech's reasonable control, will be charged to the Customer separately. Upon the Customer's request, Euro-Tech shall insure the Supplies against the usual risks of transport at the Customer's expense to be reimbursed separately to Euro-Tech.

### 4 TERMS OF PAYMENT

- 4.1 Unless otherwise agreed or stated in Euro-Tech's Quotation, all invoices from Euro-Tech are due and payable immediately from the date of each invoice, default term is CBD (Cash Before Delivery) unless stated otherwise. Payment is considered as made when the money has been credited to designated Euro-Tech's bank account and such payment is to be made free of/without any deduction including but not limited to withholding taxes.
- 4.2 If the Customer does not pay within the agreed time, a default interest charge shall be applicable without specific reminder, calculated from the due date of the invoice at the rate of 1% per month on the outstanding sum.
- 4.3 The Customer shall comply with the dates of payment even if transportation, delivery, erection, commissioning or acceptance or otherwise of the Supplies are delayed or prevented for reasons beyond the control of Euro-Tech. The Customer is not entitled to withhold, set off or reduce payments unless it is specifically agreed to by Euro-Tech in writing.

### 5 TITLE

- 5.1 Title to ordered Products ("Retained Goods" in this Section) shall remain Euro-Tech's property and only pass to the Customer upon full payment of each and every claim Euro-Tech has against the Customer under the Contract.
- 5.2 Prior to the transfer of title, the Customer may not pledge the Retained Goods or use them as security, and resale shall be possible only for resellers in the ordinary course of their business and only on condition that the reseller receives payment from its customer or makes the transfer of property to the customer dependent upon the customer fulfilling its obligation to effect payment.
- 5.3 After delivery but prior to the transfer of title, the Customer shall, at its expense, take out necessary insurance to protect the Retained Goods against theft, total loss, fire, water and other risks and take all further measures in order to ensure that Euro-Tech's title is not prejudiced.
- 5.4 The Customer shall inform Euro-Tech immediately in writing of any seizure or other act of intervention by third parties which may, in any form, capacity or circumstances, result in Euro-Tech losing title to or security interest in the Supplies.
- 5.5 Where the Customer fails to fulfill its duties, or fails to effect payment upon Payment due date in accordance with the terms

of payment stated in Section 4 above, or otherwise violates its obligations under this GC and/or the Contract, and after the lapse of a reasonable cure period which has been given to the Customer to rectify the breach in writing, Euro-Tech shall be entitled to terminate the Contract for the supply of the Retained Goods and take back the retained Goods. The Customer shall be obliged to return the Retained Goods and render all necessary assistance including allowing the entry of the employees and/or agents of Euro-Tech into any and all premises where the Retained Goods are kept so as to facilitate the retaking of possession by Euro-Tech of the Retained Goods.

## 6 PASSING OF RISK

- 6.1 Risk of loss and damage to the Products shall pass to the Customer at the contractual point of delivery in accordance with the applicable Incoterms 2020 as per Section 3.2.
- 6.2 If the Supplies include installation, erection and/or commissioning, risk shall pass on the day of Acceptance (Section 10).
- 6.3 If dispatch, delivery, the start or the completion of assembly, installation or erection, the commissioning, the trial run or the taking over by the Customer is delayed for reason for which the Customer is responsible or if the Customer has otherwise failed to accept the Supplies, the risk shall pass to the Customer on the date when it would have passed but for such events or failure of the Customer.

## 7 DELIVERY

- 7.1 Times set for delivery or performance related to the Supplies shall only be binding if all required documentation to be furnished by the Customer, such as necessary permits and approvals, plans, drawings and schedules to be provided by the Customer are received in time and subject to fulfillment of the agreed terms of payment and other obligations by the Customers. To the extent that these conditions are not fulfilled on time, the time for delivery shall be extended accordingly.
- 7.2 If non-observance of any obligation of Euro-Tech is due to **"Force Majeure"**, defined as impediments or other circumstances beyond Euro-Tech's reasonable control, the time for delivery, installation, completion and other performance shall be extended accordingly. Euro-Tech is entitled to claim from the Customer for all its reasonable costs incurred in connection with the Force Majeure events include but not limited to: natural disasters or catastrophic events such as acts of Gods, any nature of pandemics, epidemics, fire, flood, damage or destruction by lightning, typhoons, tsunami or earthquakes; nuclear accidents; acts or omissions by civil or military government authorities, such as foreign currency restrictions, non-issuance, revocation or suspension of export or import licenses, governmental priority orders, governmentally declared emergencies, allocations or restrictions upon the use of materials or manpower, war (whether governmentally declared or otherwise), riots, sabotage or revolutions; terrorist acts; strikes or lockouts, or any lockdowns. A Party seeking relief shall notify the other Party as soon as practicable after the Force Majeure event and its effects on its ability to perform become known to him. Each Party shall make its reasonable efforts to minimize the consequences of the Force Majeure event.
- 7.3 In addition to Section 7.2, Euro-Tech shall be entitled to extension of time for delivery/performance if the delivery/performance is delayed due to acts/omissions of the

Customer, its agents and contractors; or the carrying out of variation works as requested by the Customer. Euro-Tech shall notify the Customer of any additional costs resulted from such delay or variation, and actual costs incurred by Euro-Tech shall be reimbursed by the Customer.

- 7.4 Subject to Sections 7.2 and 7.3, if Euro-Tech is solely responsible for the delay and the Customer can prove that it has demonstrably suffered a loss there from, the Customer may claim a compensation as liquidated damages of 0.3% of the price of that part of the Supplies which due to the delay could not be put to the intended use, for every completed week of delay ("Liquidated Damages").
- 7.5 Payment of the Liquidated Damages shall be the exclusive remedy of the Customer for delay and under no circumstances shall the total aggregate liquidated damages payable by Euro-Tech under this Contract, whether for delay or performance (if specifically agreed to in writing), exceeds 8% of the Contract Price. All others claim exceeding the rights stated in this Section 7 shall be excluded.
- 7.6 At Euro-Tech's written request, the Customer shall declare within a reasonable period of time, but in any event shall not exceed seven (7) working days, whether it, due to the delayed Supplies by Euro-Tech, intends to terminate the Contract or insists on the delivery of the Supplies.
- 7.7 If after a period of fourteen (14) days from the date of notification the readiness for dispatch was given, the dispatch or delivery is delayed for any reason beyond Euro-Tech's reasonable control, Euro-Tech shall be entitled, at Euro-Tech's option, to arrange suitable storage at Euro-Tech's premises or elsewhere, and shall take reasonable measures to protect the Customer's interest in the Products. The Customer shall accept all costs of storage, insurance, demurrage, handling and other charges claimed by Euro-Tech.
- 7.8 Unless otherwise agreed in writing, Euro-Tech is allowed to make partial deliveries against an order and to separately invoice the same. Payment thereof will fall due in accordance with Section 4.1.

## 8 WORK ON SITE

- 8.1 Unless otherwise agreed in writing, any works associated with the Supplies which are performed outside Euro-Tech office, factory or workshop ("Site") such as assembly, installation, erection, commissioning and testing of the Supplies ("Site Works") shall be subject to the following provisions:

The Customer shall provide at its own expense and in a timely manner:

- a. Unrestricted access to the Site, including but not limited to entry permits and security passes and any legally required health test, such as swab test, or any necessary pre-requisitions that would otherwise hinder Euro-Tech's performance;
- b. Comprehensive assistance in relation to obtaining import, export and customs clearance for personal belongings and goods of Euro-Tech and its subcontractor's personnel and of the equipment, tools and goods required for the Site Works;

- c. Comprehensive assistance to Euro-Tech and its subcontractor's personnel for the obtaining of visas, work and residential permits to the extent required for the carrying out of the Site Works as well as with regard to any permits required for leaving the country;
  - d. Repatriation of Euro-Tech's and its subcontractor's personnel in case of emergencies including but not limited to war, civil disturbance and epidemics;
  - e. All earth and construction work and other ancillary work outside Euro-Tech's scope, including the necessary skilled and unskilled labor, construction materials and tools;
  - f. The equipment and materials necessary for assembly and commissioning such as scaffolds, lifting equipment and other devices as well as fuels and lubricants;
  - g. Energy and water at the point of use including connections, heating and lighting;
  - h. Suitable dry and lockable rooms of sufficient size adjacent to the site for the storage of machine parts, apparatus, materials, tools, etc. and adequate working and recreation rooms for Euro-Tech's and its subcontractor's personnel, including sanitary facilities as are appropriate in the specific circumstances. Furthermore, the Customer shall take all reasonable measures to protect the property of Euro-Tech and its personnel at the Site; and
  - i. Protective clothing and protective devices needed due to particular conditions prevailing on the specific Site.
- 8.2 Before the Site Work commences, the Customer shall, at its own expense:
- a) Make available any information required concerning the location of concealed electric power, gas and water lines or of similar installations as well as the necessary structural data; and
  - b) Provide all necessary materials and equipment and carry all preparatory works as necessary to enable the Site Work to commence without interruption. Access roads and the Site must be level and clear.
- 8.3 The Customer shall warrant that the Site or any equipment at the Site is free from asbestos and any other materials/substances dangerous to health. Should the Site or any equipment affected by the Site Works contain such substances or materials, the Site or the relevant equipment shall be decontaminated at the account of the Customer prior to Euro-Tech starting the Site Works. The Customer shall also be responsible for the timely and lawful disposal of its equipment or parts thereof which are or become hazardous waste.
- 8.4 If the Site Works (or any part of it) is delayed due to circumstances for which Euro-Tech is not responsible, the Customer shall bear the reasonable costs incurred. For idle times, remobilization costs and any additional travel expenditure incurred by Euro-Tech's personnel, additional administrative charges incurred by Euro-Tech and such other costs as may be incurred by Euro-Tech and/or its subcontractors. Euro-Tech shall be entitled to an adjustment to the schedule/time for completion and the Contract Price.
- 8.5 If the remuneration for Site Works performed is on cost reimbursement or time and material basis, the Customer shall promptly certify the hours worked by Euro-Tech's personnel at an agreed intervals upon receipt of the relevant documents such

as timesheets and service reports. If the Customer does not certify within the agreed time frame, the Site Works (or relevant part of it) are deemed to be completed and accepted by the Customer, including acceptance as to the accuracy and completeness of the documents submitted such as timesheet and content of service report.

## 9. PERFORMANCE AND TEST

- 9.1 Any performance figures given by Euro-Tech are based on Euro-Tech's experience and expectation to be obtained upon testing. Euro-Tech shall be under no liability for damages for failure to attain such figures unless Euro-Tech specifically guaranteed them in writing. Where Euro-Tech has agreed specifically to performance figures but fails to achieve such figures, Euro-Tech shall make good such failure as provided for in Section 11 and Euro-Tech liability shall be (a) subject to Section 14, in the event of no expressed agreement on liquidated damages for failure to achieve guaranteed performance figures, or (b) subject to Section 7.4, if such liquidated damage have been specifically agreed to.

- 9.2 Where the inspection and test are to be performed, they will be in accordance with Euro-Tech's standard practice and will be carried out at the place of manufacture or installation or at some other places at Euro-Tech's option. The cost of these test and any other test specified in the Contract are to be borne by Euro-Tech. Any further test or witnessed test required by the Customer will be carried out at his expense subject to Euro-Tech's written consent to perform such further test. After seven (7) days from the date of notification that Euro-Tech is ready to carry out any witnessed test required and in the absence of confirmation from the Customer such test may be carried out in the absence of the Customer or his representative and shall be deemed to have been made in their presence.

## 10. ACCEPTANCE

- 10.1 If the Supplies are for pure delivery/supply of products and do not require any assembly, installation, erection and commissioning at the Site, acceptance by the Customer takes place once the delivery of the Supplies has been effected, and the Customer does not raise any written notification of defect/objection under Section 10.2, provided that the Customer shall not refuse to receive and accept Supplies due to minor defects.
- 10.2 Upon receipt of Supplies or shipping documents and not later than seven (7) days after receipt, the Customer shall check the quantity and conditions of the Supplies and notify the last carrier with a copy to Euro-Tech of (i) any damage caused to the Supplies by the transport and/or (ii) objections regarding forwarding or transport; as well as secure evidence including but not limited to making photographs of any damage.
- 10.3 In the event that the Supplies include complete assembly, installation, erection and commissioning at the Site, acceptance of the Supplies shall only occur when the commissioning of the Supplies has been completed by Euro-Tech and accepted by the Customer. If after completion of Supplies, Euro-Tech demands acceptance of the Supplies, the Customer shall comply therewith within a period of seven days (7) days. In default thereof, acceptance is deemed to have taken place.



- 10.4 Acceptance is also deemed to have been effected if the Supplies are put to use by the Customer, or the Customer refuses to accept the Supplies without providing written reasons and specific details of such refusal within seven days (7) days period.
- 10.5 The Customer shall not be entitled to refuse acceptance in the case of (a) defects which only insignificantly impair the use of the respective Supplies; (b) minor deviations; (c) defective installation or erection not carried out by Euro-Tech; or (d) reasons for which are not within reasonable control of Euro-Tech.
- 11. WARRANTY AND DEFECTS LIABILITY**
- 11.1 Euro-Tech warrants that the Products shall correspond with their specification at the time of delivery and will be free from defects in material and workmanship under normal use and service during the Defects Liability Period stated in Section 11.4, and that it will perform the Services with reasonable care and skills in a workmanlike manner ("Warranty").
- 11.2 A defect shall mean a significant deviation of the Supplies from the Warranty stated above, which materially affects the commercial use of the Supplies ("Defect").
- 11.3 A Defect shall be, at Euro-Tech's discretion, repaired, replaced, re-performed free of charge, provided that the Defect is due to reasons/circumstances already existed before acceptance (Section 10) has occurred. For defective Services, Euro-Tech shall, at its sole option, choose to rectify or re-perform the Services.
- 11.4 Unless otherwise agreed in writing, the liability period for the Defects under Warranty ("Defects Liability Period") shall be
- 11.4.1. For Goods (parts supplied by Euro-Tech), the Warranty period will be earlier of eighteen (18) months from the date of Delivery of the complete Goods or twelve (12) months from commissioning.
- 11.4.2. For Services(workmanship), the Warranty period will be six (6) months form the Completion of the Services
- 11.4.3. The Seller shall rectify any Defects which occur during the Warranty Period, at its option, by repair, replacement or supply of equivalent Supplies (or by payment of the cost of doing so)
- 11.5 The Defects Liability Period for repaired/replaced/re-performed Supplies shall be six (6) months commencing from the date when the repair/replacement/re-performance has been completed, provided that the Defects Liability Period for the Supplies as a whole has not expired at an earlier date. The Defects Liability Period shall in no event restart or be prolonged by a repair or replacement of any part of the Supplies.
- 11.6 The Customer shall, within the Warranty Period, notify any claims for defects to Euro-Tech in writing within seven (7) days of the alleged defect occurring in accordance with agreed terms and claim procedures under the Contract. Euro-Tech is strictly not obliged to fulfill any claims for repair or replacement which does not comply with the aforementioned requirements. All written defects claims are to be received by Euro-Tech within the Defects Liability Period.
- 11.7 Euro-Tech shall be given the opportunity to repair or to replace the Defective Supplies within a reasonable period of time.
- 11.8 There shall be no claims for Defects in cases where the Defect arises from any drawing, design, or specification supplied by the Customer, or where there are only insignificant deviations from the agreed quality or minor impairments to usability. Claims are also excluded in instances of natural wear and tear, or where damage occurs after the passing of risk due to faulty or negligent handling, unauthorized repairs or alterations using non-Seller parts, improper storage, excessive heating, mechanical vibration, overloading, or non-compliance with prevailing standards and regulations applicable to electrical work. Furthermore, no claims shall be accepted for Defects resulting from excessive strain, the use of unsuitable equipment, defective civil works, inappropriate foundations, or improper or unintended use of the Supplies or equipment. Euro-Tech shall not be responsible for additional expenses incurred (including costs of travel, transport, labour and material), to the extent that such expenses are increased because the subject matter of the Supplies has subsequently been brought to another location on the Customer's own accord, other than the stated location for delivery/performance in the Contract.
- 11.9 The rights of the Customer for any Defects shall be limited to and be in accordance with what is expressly provided in this Section 11.
- 11.10 The liability of the Euro-Tech shall cease if (a) the Customer or a third party carries out repair or modifications to the Supplies or modifications without prior written approval by Euro-Tech; (b) the Customer fails to appropriately mitigate damages resulting from a Defect; (c) the Customer fails to notify Euro-Tech of a Defect in writing in accordance with Section 11.7; and/or (d) the Customer does not grant Euro-Tech the opportunity to remedy a Defect within a reasonable period of time.
- 11.11 The above Warranty is exclusive, and all other warranties, conditions or other terms implied by statute or common law are fully excluded permitted by law. Euro-Tech specifically disclaims the implied warranties of merchantability and fitness for a particular purpose.
- 11.12 The expiration of Defects Liability Period shall mark the end of all contractual obligations of Euro-Tech save as otherwise expressly provided in the Contract.
- 11.13 The Purchaser must dismantle any defects in the Goods or parts thereof and shall install the repaired or replacement Goods at its own cost.

**12. INTELLECTUAL PROPERTY RIGHTS**

- 12.1 Euro-Tech herewith reserves all rights, title and interest in all intellectual property rights including but not limited to patents, trademark and/or copyrights ("Intellectual Property Rights" or "IPR") pertaining to its cost estimates, drawings, and other documents (hereinafter referred to as "Documents"). The Documents shall not be made accessible to third parties without Euro-Tech's prior consent and shall, upon request, be returned without undue delay to Euro-tech if the Contract is not awarded to Euro-Tech. Sentences 1 and 2 shall apply *mutatis mutandis* to the Customer's Documents; these may, however, be made accessible to those third parties to whom Euro-Tech has rightfully subcontracted the Supplies.
- 12.2 Unless otherwise agreed, Euro-Tech shall provide the Supplies free from third parties IPR with respect to the country of the place of delivery only.
- 12.3 If a third party asserts a justified claim against the Customer based on an infringement of an IPR by the Supplies made by Euro-Tech and used in conformity with the Contract, Euro-Tech shall only be liable to the Customer as follows:-
- a. Euro-Tech shall choose, at its own election and expense, whether to acquire the right to (i) use the IPR with respect to the Supplies concerned; or (ii) modify the Supplies such that they no longer infringe the IPR; or (iii) replace them. Euro-Tech shall be given the opportunity to rectify the defective title within a reasonable period of time.
  - b. The obligations of Euro-Tech under this Section 12.3 shall apply only if the Customer (i) immediately notifies Euro-Tech of any such claim asserted by the third party in written form, and (ii) does not concede or acknowledge the existence of an infringement and (iii) leaves any protective measures/defence and settlement negotiations to Euro-Tech's sole discretion. If the Customer stops using the Supplies in order to reduce the damage or for other reasons, it shall be obliged to make clear in writing to the third party that no acknowledgement of the alleged infringement may be inferred from the fact that the use has been discontinued.
- 12.4 Claims of the Customer shall be excluded if:
- a. Customer (including its agents, employees or contractors) is responsible for the infringement of an IPR; or
  - b. the infringement of the IPR is caused by specifications made by the Customer; or
  - c. The infringement of the IPR is caused by a type of use not foreseeable by Euro-Tech or by the Supplies (or any part thereof) being modified by the Customer or being used together with products not provided by Euro-Tech.
- 12.5 This Section sets forth Euro-Tech's entire liability for infringement of third party IPR. Any further rights and remedies of the Customer (including right to claim damages) for whatever reason (whether in contract, tort including negligence, willful default or otherwise) resulting in whatsoever losses or claims of the Customer against Euro-Tech or its agents shall be excluded.

**13. SOFTWARE**

Unless otherwise agreed, the following applies if the Supplies include software ("Software"):

- 13.1 The Customer has the non-exclusive and non-transferable license to use Standard Software delivered with the products, provided that it remains unchanged, is used within the agreed performance parameters for the purpose stated in the manual of the Goods, and on the agreed equipment.
- 13.2 The Customer acknowledges that the Software contains valuable confidential and proprietary information and trade secrets of Euro-Tech or its licensors, and undertakes that it (including its agents, employees and/or servants) shall not without prior written consent from Euro-Tech, disclose the details of the Software to third parties.
- 13.3 All rights, title and interest in the Software, including revisions and updated versions, shall remain the property of Euro-Tech or its licensors.
- 13.4 In the event that the Software contains third party components of which Euro-Tech has licensed under generally used "open source" license terms, the Terms of the Contract shall apply to those components to the extent that they do not conflict with the "open source" license terms. If necessary, the customer agrees to sign a license agreement with the licensor of the Software.
- 13.5 The Customer shall not make any backup copies of the Software without Euro-Tech's prior consent in writing. Unless otherwise agreed, the use of the Software on hardware other than the agreed equipment requires Euro-Tech's consent in writing, and the Software shall be provided in machine-readable form (object code) only. In the event of a breach of this Section, Euro-Tech rights shall survive even at the expiry or termination of this Contract.
- 13.6 Euro-Tech may terminate the Customer's license upon notice of breach of these license terms. The Customer shall destroy all copies of the Software immediately upon notice of termination. The Customer will not disassemble or otherwise modify the Software without express agreement in writing from Euro-Tech. In the event the Customer is found to be in possession, power or custody of the Software without an expressly written consent of Euro-Tech; Euro-Tech reserves the rights to claim against any such unauthorized use, possession, or negligence or reluctance in complying to 13.6 and/or 13.7.
- 13.7 Without prejudice to the intended purpose of this Section as a whole, "Destroy" means complete deletion and removal of the Software (or its copies) from the Customer's possession be it on possession of physical copies or as the case may be (for example, *softcopies* etc). "Immediately" means without any delay and the act shall be instant.
- 13.8 Notwithstanding to anything contrary in the Contract, the provisions contained in this Section 13 shall survive the expiry and termination of the Contract.

#### 14. LIABILITY

14.1 The Customer has no claim except as otherwise expressly stated in the Contract, irrespective of the legal grounds they may be based on.

14.2 Euro-Tech's entire liability and the Customer's exclusive remedy for damages from any cause whatsoever (including negligence or for willful default or otherwise of Euro-Tech and resulting in whatsoever damage and/or loss or injury to the Customer and/or its employees and/or agents including damage to property and other assets of the Customer) shall not exceed:

- (a) 8% of the Contract price; or
- (b) Ringgit Malaysia – RM1 (one) million-ringgit Malaysia; whichever is lower,

on a per occurrence basis as well as in aggregate. All liabilities of Euro-Tech in connection with the Contract shall end latest upon the expiry of the Defects Liability Period unless expressly provided otherwise.

14.3 Without prejudice to the generality of the foregoing, all claims against Euro-Tech for indirect or consequential damages, loss of profit, loss of revenue or anticipated saving, loss of production, loss of use, cost of capital, interruption of operations, loss of power, cost of purchased or replacement power, loss of information and data, loss of interest, loss of any contract, loss of business, financial or economic loss, financing expenses, wasted overheads, increase in operating costs, loss of opportunity, incidental or punitive damages, or indirect and consequential damage resulting from contracts concluded by the Customer with third parties, are hereby expressly excluded.

14.4 This Section 14 shall (i) apply whether the liability claim is based on breach of contract, breach of warranty, tort (including negligence), strict liability, guarantee, indemnity and any other legal theory and (ii) apply for the benefit of Euro-Tech's affiliates, subcontractors, suppliers or agents of any tier and their respective agents, directors, officers and employees.

14.5 The limitations and exclusions of liability contained in this GC shall apply to the fullest extent permitted by law.

14.6 In all cases the Party establishing or alleging a breach of contract shall be under a duty to take all necessary measures to mitigate the loss which has occurred provided that he can do so without unreasonable inconvenience or cost.

#### 15. TERMINATION/SUSPENSION

15.1 A Party shall be entitled to terminate the Contract by written notice to the other Party; if:

- a. there exists a Force Majeure event as defined in Section 7.2 which subsists for a period of more than six (6) months; or

- b. The other Party voluntarily files a petition in bankruptcy or voluntarily resolves to wind up, or a petition in bankruptcy or winding up is involuntarily filed against the other Party (which petition is not discharged within thirty (30) days after filing).

15.2. Euro-Tech shall be entitled to terminate the Contract forthwith by written notice to the Customer, if:

- a) an encumbrancer takes possession of, or relevant authority (i.e. Director General of Insolvency) is appointed over, any of the property of the Customer;
- b) the Customer ceases, or threatens to cease, to carry on business; or
- c) there is a change in control (the ability to direct the affairs of another whether by virtue of contract, ownership of shares, or otherwise howsoever) of the Customer which in the reasonable opinion of Euro-Tech adversely affects the position, rights or interests of Euro-Tech.

15.3. In the event that: -

- a) the Customer fails to perform its obligations in accordance with the Contract; or
- b) In the reasonable opinion of Euro-Tech, there occurs a material change in the financial position of the Customer which is likely to affect the Customer's ability to perform its obligations under the Contract; Euro-Tech shall, at its own option, suspend the provision of its obligations under this Contract. If the Customer fails to remedy its default after the lapse of a reasonable cure period has been given by Euro-Tech, Euro-Tech shall be entitled to terminate the Contract, in its entirety or partially, with immediate effect.

15.4. Any accrued rights to which either Party is already entitled at the date of such termination shall remain unaffected.

15.5. The Customer shall only be entitled to terminate the Contract if an adequate extension of time granted to Euro-Tech has not resulted in completion of delivery/performance.

15.6. The Customer shall not be entitled to terminate the Contract solely on the ground that the aggregate limit of Liquidated Damages specified in Section 7.5 has been reached.

15.7. In the event of suspension or termination of the Contract due to the breach of the Contract by the Customer: -

- a) the Customer shall reimburse in full to Euro-Tech for all additional costs and expenses reasonably incurred by Euro-Tech including any costs (including legal costs), expenses (including but not limited to storage fees; regular maintenance so to upkeep the stored supplies for quality maintenance and usability), all liabilities incurred as a result of Customer's breach in expectation of the completion of the Supplies; and

- b) The Customer shall pay to Euro-Tech the balance of the Contract Price minus any payments already made prior to suspension or termination.

15.8. The rights and remedies granted to the Euro-Tech pursuant to the Contract are in addition to, and shall not limit or affect, any other rights or remedies available at law or in equity.

## 16. DISPUTE SETTLEMENT; APPLICABLE LAW

16.1. If any dispute arises in connection with this Contract, the responsible representatives of the Parties shall first attempt, in fair dealing and in good faith, to settle such dispute. Each Party can request from the other Party that on both sides a senior representative becomes involved in the negotiations. Each Party is at any time entitled to terminate the settlement negotiations and to have recourse to an Alternative Dispute Resolution (“ADR”) proceeding set forth in Section 16.2 below through written notification to the other Party.

16.2. If the Parties are not able to reach an amicable settlement pursuant to Section 16.1, they shall try to agree on an appropriate ADR proceeding (for example mediation, civil litigation, adjudication, arbitration etc). If they do not reach an agreement on the appropriate ADR proceeding within twenty one (21) days after failure of the settlement negotiations or if the dispute is not settled through an ADR proceeding within a period six (6) months after initiation of the ADR proceeding, each Party may initiate a dispute resolution proceeding in accordance with Section 16.3 below. Any such extension from the period specified under this section shall be agreed in writing.

16.3. Subject to Sections 16.1 and 16.2, any dispute arising out of or in relation to this Contract, including the validity, invalidity, breach or termination thereof, shall be determined in legal proceedings in Courts of Malaysia;

16.4. The Contract shall be governed by the laws in force in Malaysia and in the event of any dispute arising out or in connection to this Contract shall be referred to the exclusive jurisdiction of the Courts of Malaysia.

16.5. If not specified otherwise by the Parties, any trade terms used in the implementation of this Agreement shall be interpreted according to the International Terms defined by the ICC (International Chamber of Commerce, Paris) Incoterms in the version applicable at the time of the transaction.

## 17. ASSIGNMENT; SUBCONTRACT

17.1. The Customer shall not assign its rights or obligations under the Contract without prior written consents of the other Party.

17.2. Euro-Tech may subcontract for the performance of any part of its obligations under the Contract to others and may assign any of its rights (including receivables) under the Contract without the prior consent from the Customer.

## 18. CONFIDENTIALITY

18.1. Unless Euro-Tech has given its prior written consent, the Customer shall not reproduce or disclose to any third party any Confidential Information (as defined in Section 18.2 below) and shall undertake all necessary measures to prevent the Confidential Information from being disclosed to or used by unauthorized persons or parties. In the event that Euro-Tech has consented to the disclosure of the Confidential Information to a third party by the Customer, the Customer shall procure that such third party undertakes to be bound by similar confidential obligations and shall forward a copy of the non-disclosure agreement to Euro-Tech immediately thereof. The Customer shall indemnify and hold harmless Euro-Tech from any damage incurred through the breach of said confidentiality obligation by the third party.

18.2. “Confidential Information” means any information which is disclosed by Euro-Tech to the Customer in oral form or in writing or contained in any form or medium and may or may not be expressly stated to be confidential or marked as such. Without limiting the generality of the foregoing, Confidential Information may include or relate to information concerning the Supplies and/or Euro-Tech and/or the business of Euro-Tech such as pricing information, manufacturing processes, business methods, technology, software (including the Software provided in Section 13 and if applicable, in relation to Section 12), drawings, know-how, products specifications, inventions, employees, suppliers, customers, business and market forecasts, research, development, accounting, finances, marketing, and other purchasing and sales information.

18.3. This Confidentiality obligation shall not apply to information which:

- a) is or becomes part of the public domain through no fault of the Customer; or
- b) is disclosed to the Customer in good faith by a third party who has a right to make such disclosure; or
- c) as evidenced by Customer’s written records, is/becomes developed independently by the Customer without reliance on the Confidential information or is/has been known to the Customer prior to its disclosure by Euro-Tech; or
- d) is required to be disclosed by law, except to the extent eligible for special treatment under an appropriate protective order and subject to the Customer’s obligation to notify Euro-Tech of the requirement in a timely manner.

18.4. Notwithstanding anything to the contrary in the Contract, the provisions contained in this Section 18 shall survive the expiry or termination of the Contract for perpetuity.

## 19. OTHERS

19.1. The Contract constitutes the entire agreement between the Parties and supersedes all prior negotiations, representations or agreements related to the Contract, whether written or oral.

19.2. The legal invalidity of one or more provisions of this Contract in no way affects the validity of the remaining



provisions of the Contract in concerned a provision considered substantially equivalent in economic terms. This shall not apply if it would be unreasonable for one of the parties to be obligated to continue the Contract.

19.3. No terms or provisions shall survive the expiry or termination of the Contract unless expressly provided in the Contract.

19.4. No waiver by Euro-Tech or any breach of the Contract by the Customer shall be considered as a waiver of any subsequent breach of the same or any other provisions. If Euro-Tech delays, targets or chooses not to enforce its rights under the Contract, it shall not affect its rights to do so at a later date.

19.5. Any notice required or permitted to be given by either Party ("Sending Party") to the other ("Receiving Party") shall be in writing and signed by the Authorized representatives of the Sending Party addressed to the Receiving Party at its registered office or principal place of business or such other address as may have been notified earlier. Notices shall be delivered by hand, prepaid registered post or facsimile and shall be deemed to have been served:

- a) if by hand, at time of delivery;
- b) if by prepaid registered post, three (3) working days after posting;
- c) if by facsimile, on the date printed on the facsimile transmission report produced by the Sending Party's machine.

19.6. The Contract shall be binding on each Party's estates, heirs, executors, and successors-in-title and permitted assigns.

## 20. ANTI-CORRUPTION UNDERTAKINGS

20.1 The Customer agrees and undertakes that in connection with this GC and the transactions contemplated hereunder, it shall comply with all applicable laws, rules, regulations, decrees and/or official governmental orders relating to anti-bribery and anti-corruption, anti-money laundering, anti-financing terrorism laws of Malaysia, and any country in which the Goods or Services are delivered or performed.

20.2 As a matter of law and corporate policy, Euro-Tech expressly prohibits payment of bribes and payment of any so-called "facilitation", "grease", or "gratification" payments in connection with Euro-Tech's business operations by any contractor or agent engaged to provide goods and/or services and/or supplies to Euro-Tech. The Customer agrees, undertakes and confirms that it, and each of its affiliates, and its Subcontractors, and its and their respective owners, directors, officers, employees, agents and representatives, has not made, offered, promised to make or authorized the making of, and shall not make, offer, or promise to make, or authorize the making of, any payment or other transfer of anything of value, including without limitation the provision of any funds, services, gifts or lavish entertainment, directly or indirectly to:

- a) any government official including officer of all levels; and/or

b) any director, officer or employee of any company; and/or

c) any political party, official of a political party, or candidate for public office; and/or

d) any agent or intermediary for payment to any of the foregoing; and/or

e) any other *associated person* as defined in the Malaysian Anti-Corruption Commission Act (MACC) 2009 for the purpose of obtaining, retaining, or influencing the award of the Purchase Order or for any improper advantage or improper purpose in connection with the performance of the Purchase Order and the transactions contemplated hereunder or in connection with any other business transactions involving Euro-Tech.

20.3 In the event the other party to this Contract is found to be liable, or has contravened, or becomes susceptible or vulnerable to any prosecutorial risk, including any form of the Malaysian government's (including but not limited to Malaysian Anti-Corruption Commission (MACC), Polis Diraja Malaysia (PDRM), Securities Commission (SC) etc.) official investigation into any such wrongdoings pursuant to the abovementioned undertakings, the innocent party shall, without prejudice to other rights or remedies hereinabove mentioned, be entitled to the rights according to Section 15 of this Contract, as the case may be.

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