

## GENERAL TERMS & CONDITIONS OF SALES & SUPPLIES

Unless otherwise specifically provided herein, this Contract/Quotation/Tender is submitted under the following conditions. Hereinafter “**Company**” means Bosch Rexroth Sdn Bhd and “**Customer**” means the party to whom the quotation is addressed. “**Goods**” shall refer to the subject matter in the quotation.

### 1. GENERAL

The terms and conditions contained herein on acceptance of the Customer’s order in writing comprise the whole Agreement between the Company and the Customer and these terms and conditions shall supersede and exclude all negotiations and representations relating to the order. No other terms and conditions, including any attached or written on any purchase order whether received before or after acceptance of the Customer’s order shall be included or implied into the contract. The terms and conditions herein shall only be varied, if the variation is made in writing by either one party hereto and accepted by the other. Nothing herein contained shall be deemed to be an attempt to exclude conditions implied by law, which cannot be excluded by Agreement.

### 2. QUOTATION

- (a) The prices quoted herein shall only be valid for the duration as specified in the quote and where no such period is specified, this quote shall be valid for a maximum period of thirty (30) days from the date the quote, whereinafter the quote shall automatically lapse. Any acceptance of quotation after expiry shall be at the sole and absolute discretion of the Company and the Company hereby expressly reserves its rights to withdraw or vary the quotation in any way that the Company shall at its sole and absolute discretion deem fit.
- (b) It is hereby agreed by the Customer that this quotation is a mere offer valid for the duration as per paragraph 2 (a) above and any acceptance shall only be valid if the quote is accepted unequivocally. Any variations made by the Customer via their notice of acceptance or Purchase Order shall not bind the Company and its quotation automatically revoked.

### 3. PRODUCT INFORMATION

All information and data contained in product brochures and price lists are binding only to the extent that they are by reference expressly included in the contract. The Customer hereby agrees that nothing contained in the quotation shall be implied and where there are any doubts, it is the obligation of the Customer to seek further clarifications from the Company.

### 4. DRAWINGS, DESCRIPTIONS & INTELLECTUAL PROPERTIES

- (a) All drawings, technical documents, specifications, designs and industrial designs, trademarks and any other intellectual property rights relating to the Goods or its manufacture submitted by one party to the other, prior or subsequent to the formation of the quotation, shall remain the property of the submitting party and shall not, without the consent of the other party, be used or copied, reproduced, transmitted or communicated to a third party or be used for any other purpose, other than erection, commissioning, operation or maintenance of the Goods.
- (b) In all cases where the Company’s quotation is based on the specification, design or description provided by the Customer, the Customer shall be deemed to have obtained all necessary consents and comply with all necessary laws protecting any trademarks, patent and industrial design rights. The Customer hereby confirms such compliance have been satisfied and hereby indemnifies the Company against all claims at any time for patent rights, royalties, damage, costs, expenses and other losses due to the infringement of patents or other rights by reasons of the manufacture, and the Company shall not be liable to defend any action or suit arising out of such infringement or alleged infringement.
- (c) Texts, images, graphics, sound documents, animations and video sequences as well as their arrangements are protected by copyrights and other protective legislation. The Company and its parent company Bosch Rexroth AG reserves all rights for objects created. The complete or partial reproduction, distribution, transfer, modification or other use of these objects (electronically or by other means) for public or commercial purposes without prior consent from the Company or its parent company Bosch Rexroth AG is prohibited. This applies, in particular, to trade and service marks, type signatures, including each of the Bosch Rexroth AG’s brands, its model names, company logos and emblems of Bosch Rexroth AG and its subsidiaries.
- (d) At the request of the Customer, the Company may at its own cost provide information and drawings, which are necessary to permit the Customer to erect, commission, operate and maintain the Goods. Such information and drawings if supplied, shall only be in the number of copies expressly agreed upon by the Company. This does not entitle the Customer to demand for such information and drawings and the Company shall not be obliged to provide manufacturing drawings of the Goods or spare parts.

### 5. DELIVERY

- (a) Unless trade terms are specifically agreed upon, the delivery shall be “Ex Works” (EXW). If, in the case of delivery Ex Works, the Company, at the request of the Customer undertakes to send the Goods to its destination, the risk will pass not later than when the Goods is handed over to the first carrier.

- (b) Any time given for delivery, dispatch or completion of the Goods are mere estimates and shall be calculated from the date from written acceptance by the Company of a written order from the Customer, or from sending of written notification by the Company of settlement of preliminary engineering technical details, whichever is the later.
- (c) The Company shall not be liable for failure to deliver or for delay in delivery occasioned by any cause whatsoever beyond the Company’s control. The Company reserves the right to vary delivery, dispatch or completion on such dates as necessary, where delays beyond the Company’s control occur in the completion of orders, and the Customer agrees to accept delivery, dispatch or completion on such dates as varied.
- (d) Subject to the satisfaction of paragraph (b) above, where the Company anticipates a delay in the delivery time, the Company shall take all steps to notify the Customer of the delay in writing, stating the reason, and, if possible, the time when delivery can be expected.
- (e) If the delay in delivery is caused by any of the circumstances mentioned in **Clause 14(a)** or by an act or omission on the part of the Customer, including suspension under **Clause 8(g)** or **Clause 16**, the time for delivery shall be extended by a period of which is reasonable having regard to all the circumstances of the case. This provision applies regardless of whether the reason for the delay occurs before or after the agreed time for delivery.
- (f) The Company shall not be held liable for any costs, damage and interest that may be incurred as a direct or indirect consequence of delay in the delivery time.
- (g) Where the delivery is delayed at the Customer’s request, the Company shall be entitled to charge the Customer for storage costs incurred or 1% of the invoice amount for each month of storage starting one month after notification that the goods are ready for delivery.
- (h) Where the delay at the request of the Customer exceeds six (6) months, the Company is entitled to but not obligated to sell the Goods at the best market value in a private treaty and thereafter claim against the Customer for difference in the amount invoiced and the sale of Goods together with all costs, fees and charges including but not limited to storage costs incurred by the Company.
- (i) In the event that the Company exercise its rights in paragraph (h) above, the Company shall first give the Customer a Notice in writing of its intention to dispose-off the Goods. In the said Notice, the Company shall give the Customer twenty one (21) days to collect the Goods failing which, the Company shall not be liable to the Customer for any loss or damage that the Customer may suffer from the Company’s disposal of the Goods.
- (j) If the Customer anticipates that the Customer may be unable to accept the delivery of the Goods at the delivery time, the Customer shall forthwith immediately notify the Company the same and state the reason(s), and, if possible, the time when the Customer expects to accept delivery. For avoidance of any doubts, the Customer’s inability to accept delivery of Goods at the time of delivery shall not absolve the Customer for the obligations to pay for the Goods in full nor shall it absolve the Customer from paying the Company storage charges. However, once the Customer pays the full purchase price of the Goods, the Company may at its absolute discretion and at the Customer’s request arrange for storage of the Goods in which event, all the risk shall pass to the Customer and expenses towards the storage shall be borne by the Customer solely.
- (k) Part deliveries and corresponding invoices shall be permitted unless otherwise agreed.
- (l) If at the Customer’s request the Goods are sent to another location, the means of transportation shall be at the Company’s sole and absolute discretion, except where otherwise stipulated by the Customer. Transport insurance shall only be taken out if so instructed by the Customer and at the Customer’s expense.

### 6. ACCESS FOR DELIVERY

It is the Customer’s responsibility to provide adequate access for delivery and installation of Goods covered by this quotation.

### 7. PRICE

Subject to **Clause 2** above;

- (a) Invoices shall be based on the prices effective at the time of delivery.
- (b) Prices for supply of Goods and services are understood as being ex-works, excluding packaging, transport, insurance, assembly and commissioning, except as otherwise indicated in the quotation.
- (c) The quotation has been calculated on the basis of the cost and material effective as at the date appearing in the attached Schedule and where no schedule is attached, it shall be based on the date of the quotation and expire within fourteen (14) days from the date of the quote. For avoidance of any doubts, where there is a change in prices quoted, the Company shall take all reasonable steps to inform the Customer of the change of prices.
- (d) The Customer acknowledges that the Customer is fully aware that all or part of the Goods or materials may be imported by the Company. The price as stated in the quote shall be inclusive of the import duty (if any), as at the date of the quotation, unless it is stated otherwise or where the Customer is exempted from paying duty. The Customer hereby acknowledges and irrevocably agrees that it shall be the duty of the Customer to inform the Company of any duty benefits that the Customer may be entitled to.

- (e) The price quoted are excluding any additional fee, disbursements and duties, if any, that the Company may be required to pay on behalf of the Customer in order to collect the imported Goods or materials on or prior to the payment for the Goods or materials by the Customer.
- (f) Where any payments made are in foreign currency, the exchange rate applicable shall be that of the prevailing exchange rate as determined by the rates issued or used by our principal banker Deutsche Bank (M) Berhad for a spot transaction between Malaysia and that other country from which the Company imports the Goods or materials. Where the exchange rate fluctuates in excess of 1% from the time of the base date appearing in the attached Schedule to the date of the invoice, the Company reserves the right, at its sole and absolute discretion, to adjust the prices of the Goods or materials and the Customer agrees to promptly remit to the Company the amount of any such adjustments.
- (g) The price does not include Sales Tax, which, if applicable shall be charged to the Customer's account.

## 8. PAYMENT

- (a) Unless otherwise specified, payment date shall be within thirty 30 days from the date of invoice. However, the Company may at any time, depending on the amount invoiced and the conduct of the Customer of its account, if any, maintained with the Company, may at its sole and absolute discretion without being obligated to assign reasons thereto, make delivery conditional upon concurrent payment such as Cash on Delivery (C.O.D.), bank direct debit procedure or credit card procedure) or on advance payment. If partial delivery is made, proportionate payment, as determined by the Company, may be invoiced.
- (b) Progress payment shall be made in accordance to the terms of the quotation.
- (c) Whatever the means of payment used, payment shall not be deemed to have been effected until the Customer provides proof of payment AND the Company's bank account has been fully and irrevocably credited.
- (d) The Customer hereby irrevocably agrees and authorises the Company to offset payments against the oldest claim due at the sole and absolute discretion of the Company.
- (e) Where there is a default by the Customer in meeting its payment terms, the Customer hereby acknowledges that the Company shall have the sole and absolute discretion, but not under an obligation to suspend all purchase order made by the Customer and immediately demand from the Customer the payment of all outstanding invoices. Any delay in delivery of Goods or commissioning of works due to the Customer's aforesaid default, the Customer irrevocably acknowledges and agrees that the Company shall be absolved from all liabilities. This right shall not be deemed to have been waived by a respite for payment or by the acceptance of cheques.
- (f) Where the Company is of the opinion and such opinion shall be at the sole and absolute discretion of the Company, that the Customer has lost its financial credibility and / or for whatsoever reason fails to abide by the payment terms herein, the Customer acknowledges that the Company shall be entitled at this sole and absolute discretion to revoke any credit terms granted to the Customer or in the alternative demand that the Customer make contemporaneous payment or provide security despite being requested to do so.
- (g) Where the Customer fails to comply with its obligations under the payment terms, immediately upon expiry of the payment term, the Customer acknowledges that the Company shall be entitled to charge interest at the rate of 1.5% per month calculated on daily rests chargeable immediately after the date the payment becomes due until full settlement of all outstanding sums and interest payable.
- (h) The Customer further acknowledges that upon full settlement, the Company is not obligated to continue supplying the Customer with any Goods.

## 9. CANCELLATION / TERMINATION

In the event that the Customer cancels its purchase order with the Company or where the Company terminates the Customer's account due any breach of any one or more terms contained herein and that contained in the invoice,

- (a) where the works have been started or there is part performance,
  - i. the Company may demand in full for all materials purchased or imported by the Company in relation to the works under the Customer's Purchase Order and an amount of compensation equivalent to the labour, skill and works already completed;
- (b) where the Goods purchased has already been commissioned by the Company or its associates or its sister or any third party;
  - i. the Customer shall be liable and under an obligation to pay the amount determined by the Company as fair price for the Goods already partly manufactured;
  - ii. the Customer shall be liable and under an obligation to accept the Goods where the same has been completed;
  - iii. the Customer shall be liable and under an obligation to compensate and indemnify the Company against any claim that the Company may face whether directly or indirectly as a result of the Termination or Cancellation.

## 10. SERVICE OF NOTICE & COURT PROCESS

- (a) The Customer hereby agrees that any notice to be served by the Company to the Customer including but not limited to revisions of quotes, statement of account, invoices and termination notices shall be served in writing only and by way of ordinary prepaid post. The Customer further agrees and acknowledges that any

notices so sent by the Company shall be deemed delivered in the ordinary course of post.

- (b) The Customer further agree that any notice to be sent by the Customer to the Company shall be sent in writing by prepaid post and delivery shall be deemed effected in the ordinary course of post.
- (c) The Customer further agrees that in the event that there is a change of address of the Customer for service of notice, it shall be the duty and obligation to communicate such change to the Company and without such communication, the Company's delivery of notice to the last known address of the Customer shall be deemed as proper and duly effected delivery.

## 11. COMMISSIONING

The Customer hereby acknowledges that it is the responsibility of the Customer that the Goods are installed and/or all auxiliary services are operative prior to requesting its commissioning. Where upon the Company's commissioning representative arrival on site discovers that the Goods are not ready for commissioning, all costs and expenses incurred shall be borne and charged against the Customer account.

## 12. RETENTION OF TITLE

- (a) Title to the Goods delivered or to be delivered shall only pass to the Customer upon full payment being effected. The retention of title shall not affect the passing of risk under **Clause 5(a)**.
- (b) Cheques tendered for payment shall not constitute payment until the relevant financial institution has unconditionally honoured the same.
- (c) The Customer shall not be entitled to resell the Goods prior to making full payment to the Company for the said Goods.

## 13. WARRANTY AND LIABILITY FOR DEFECTS

- (a) Unless to the contrary is agreed in writing by the Company, the Goods forming the subject matter of this quote are warranted to the original purchaser only, to be free of defect in design, material and workmanship for **six (6) months** from delivery. Where the Customer's claim for warranty is accepted by the Company, the Company in satisfying its warranty shall only be obligated to replace such parts as the Company shall at its sole and absolute discretion deem fit. The Customer is not entitled to demand for a replacement. Repairs or replacement carried out under the warranty shall be free ex works. Any claims by the Customer for warranty and where accepted, shall be carried out as soon as possible.
- (b) The Customer shall be under the obligation to notify of the Company in writing of any defects appearing on the Goods. Any damages aggravated by the Customer's failure to inform the Company shall not entitle the Customer to claim under the warranty. The notice shall contain a description of the defect.
- (c) The Company when attempting to remedy any defect accepted under the warranty shall where reasonably possible carry out repairs or replacement at the place where the Goods are located unless the Company deems at its sole and absolute discretion that it is appropriate that the defective part or the Goods are returned to the Company for repair or replacement. The Company is obliged to carry out dismantling and reinstallation of the part or the Goods where special knowledge is required.
- (d) The Customer hereby acknowledges that any repairs or replacement under a warranty claim cannot be done immediately and sufficient time is required by the Company or any third party engaged by the Company to perform the warranty obligation. In the event that the Customer attempts to carry out such work itself, the warranty to the Goods shall be void unless prior written consent and an approved quote is obtained from the Company whereby the Company shall bear the costs for works carried out with its consent and approval. The Customer acknowledges that the Company shall not be liable for any variation of repair quotes unless prior written consent and approval is obtained from the Company.
- (e) If the Customer has given such notice as mentioned in **Clause 13(b)**, and no defect is found for which the Company is liable, the Company shall be entitled to compensation for the costs it has incurred as a result of the notice.
- (f) The Customer shall at its own expense arrange for any dismantling and reassembly of equipment other than the Goods, to the extent that this is necessary to remedy the defect.
- (g) Unless otherwise expressly agreed in writing, the Customer shall bear any additional costs which the Company incurs for repair, dismantling, installation and transport as a result of the Goods being located in a place other than the destination stated in the contract or, if no destination is stated, the place of delivery.
- (h) The Company shall only be liable for defects, which appear under the conditions of operation provided for in the contract and under proper use of the Goods.
- (i) Warranty on Goods shall be revoked or automatically lapse where there are defects arising out of materials provided by, or design stipulated or specified by the Customer.
- (j) The Company's or manufacturer's warranty shall automatically lapse in the event that there is cogent grounds to believe that the Goods have been modified or warranty seals have been tampered with by third parties or where there are non-genuine or third party parts installed. The Company shall also revoke its warranty where the Company's specifications for shipment, packaging, installation, handling, use or maintenance of the Goods have not been adhered to or complied with, or in cases where the assembly or commissioning of the Goods had been done by the Customer or by a third party not authorised by the Company.
- (k) The Company is also under no warranty obligation in the following cases: Improper or inappropriate use, faulty erection and/or operation by the Customer or third

parties, improper equipment, normal wear and tear, faulty or negligent handling, inappropriate maintenance, improper operational means such as improper oils, cooling water etc., improper replacement materials, deficient building works, inappropriate foundations, vibrations (especially torsion vibrations), climatical, chemical, electro-chemical, electrical or other influences. The Company is not liable for defects which are due to faulty design or unsuitable material, in so far as the Customer prescribed such design or material despite a prior warning by the Company. The Company assumes no liability for parts provided the Customer.

- (l) The warranty period shall only be interrupted for the period of time necessary for remedying the defective Goods or to deliver new Goods, which are covered by the warranty. Under no circumstances shall the warranty period recommence anew after the completion of the remedial works carried out to remedy a warranted defect.
- (m) If the complaint due to a defect should prove to be unjustified, the Company shall be entitled to charge the Customer for all expenses incurred in this connection.
- (n) Where the defects have not been successfully remedied to which success is at the fair definition of the Company:
  - i. the Customer may be entitled to a reduction of the purchase price where still remaining unpaid BUT WITHIN THE PAYMENT TERM PERIOD in the sum of a maximum aggregate of five per centum (5%) only of the value of the Goods. The Customer hereby acknowledges that the Customer shall not be entitled to a reduction of more than five per centum (5%) even if the Customer may be able to proof actual loss exceeding the said sum, or
  - ii. where the defect is so substantial as to significantly deprive the Customer of the benefit of the contract, the Customer may terminate the contract by written notice to the Company. The Customer is then entitled to compensation for the loss suffered up to a maximum of 5% of the purchase price.
- (o) Notwithstanding the provisions of **Clauses 13(a) – 13(n)**, the Company shall not be liable for defects in any part of the Goods for an aggregate total of more than one year from the beginning of the period given in **Clause 13(a)**.
- (p) Save as stipulated in **Clauses 13(a) – 13(q)**, the Company shall not be liable for any other defects not covered therein.
- (q) The Company when remedying defects covered under the warranty shall not be obligated to provide temporary replacement parts or Goods and shall not be liable for any loss including but not limited to the loss of production, loss of profit indemnity against any third party claims or liability incurred with regards to any third party contractual obligations and other indirect loss.

#### 14. REPAIRS

Where the Company carries out repair works or replacement works on parts that are defective for any reason whatsoever other than works covered under the warranty at the time the warranty remains valid;

- (a) Unless otherwise expressly agreed, necessary transport of the Goods and/or parts thereof to and from the Company in connection with remedying of defects for which the Company is liable shall be at the risk and expense of the Customer. The Customer shall follow the Company's instructions regarding such transport.
- (b) Unless otherwise expressly agreed in writing, the Customer shall bear all additional costs which the Company incurs for repair, dismantling, installation and transport as a result of the Goods being located in a place other than the destination stated in the contract or, if no destination is stated, the place of delivery.
- (c) The Company shall only be liable to repair defects, which appear on the Goods operated or commissioned under the conditions of operation provided for in the contract and under proper use of the Goods.

#### 15. LIABILITY FOR DAMAGES

- (a) The Company shall not be responsible for the performance of the Goods operated or commissioned under conditions that are different from those under which the Goods or parts are normally tested. The Company shall also not be liable for damage of Goods caused by abnormal improper use, usage unfit for the Goods intended usage communicated and assured by the Company, temperatures, or storage. The Company shall be entitled to make any changes it sees fit in design or construction of or material used in the Goods. Any literature, drawings or documentation produced by the Company in connection with the Goods are for product description purposes only and must not be interpreted as characteristics

warranted in a legal sense and any variation therefrom shall give the Customer no cause for compliant or claim.

- (b) The Company shall not be liable for any damage to property caused by the Goods after it has been delivered and whilst in the possession of the Customer. The Company shall also not be liable for any damage to the Goods caused by improper or negligent unloading of the Goods at the Customers place of delivery.
- (c) The Company shall also not be liable for any damage caused by the Company's Goods to the products manufactured by the Customer, or to products of which the Customer's products form a part.
- (d) Save for instances where the Company is guilty of gross negligence, the Customer agrees and acknowledges that it is a strict term of sale by the Company that the Customer shall indemnify the Company to the fullest against any third party claims for any damage to property of the Customer or any third party caused the Company's Goods.

#### 16. FORCE MAJEURE

- (a) Either party shall be entitled to suspend performance of his obligations under the contract to the extent that such performance is impeded or made unreasonably onerous by any one or more of the following circumstances such as industrial disputes and any other circumstance beyond the control of the Company such as fire, war (whether declared or not), terrorist attacks, extensive military mobilization, insurrection, requisition, seizure, import and export restrictions, labour disputes, embargo, restrictions in the use of power and defects or delays in deliveries by sub-contractors caused by any such circumstances referred to in this Clause. A circumstance referred to in this Clause which had occurred prior to the formation of the contract shall give a right to suspension only if its effect on the performance of the contract could be foreseen at the time of the formation of the contract.
- (b) The party claiming to be affected by Force Majeure shall notify the other party in writing without delay on the intervention and on the cessation of such circumstance. If Force Majeure prevents the Customer from fulfilling his obligations, he shall compensate the Company for expenses incurred in securing and protecting the Goods.

#### 17. CONSEQUENTIAL LOSS

Save as elsewhere stated in these conditions the Customer agrees that the Company shall be under no obligation nor liable for loss of production, loss of profit, loss of use, loss of contracts or for any consequential, economic or indirect loss whatsoever by the Customer or its intended end user of the Goods.

#### 18. SPECIAL TOOLING

Special tooling created by the Company as a result of this quotation remains the property of the Company.

#### 19. TESTS

If tests are requested by the Customer to determine the performance of Goods covered in the Company's quotation form, the Customer shall prior to the acceptance of this quotation expressly notify the Company of the requirement for tests and the procedure to be complied with. Where the Customer requests for tests to be carried out on the Company's Goods, the Customer shall be liable to reimburse the Company for the cost of any tests unless expressly waived in writing by the Company.

#### 20. CUSTOMER'S PATTERNS/GOODS

No responsibility is accepted by the Company for loss or damage to Customer's patterns and/or other Goods left in the Company's possession or in transit to or from its premises, such patterns and/or other Goods being the absolute property of the Customer.

#### 21. LAWS APPLICABLE

This quotation shall be deemed to have been issued in Malaysia and be governed and interpreted by the laws of Malaysia. Notwithstanding anything stated herein above, unless expressed in a written document by the Company, the Customer by accepting the Company's quotation shall be deemed to have expressly and unconditionally submitted to the laws and jurisdiction of the Courts of Malaysia.