

## H.B. FULLER PHILIPPINES TERMS AND CONDITIONS OF SALE

**1. Conditional Acceptance; Objection to Purchaser's Terms; Entire Agreement.** Acceptance of Purchaser's order by H.B. Fuller Philippines, Inc. or any applicable H.B. Fuller Company affiliate (collectively "Fuller"), is expressly conditional upon Purchaser's assent to the terms and conditions specified herein. Any term or condition of Purchaser's order or other documentation supplied by Purchaser which is different from, in addition to, or inconsistent with any term or condition specified herein is hereby objected to and rejected and, unless hereafter specifically accepted in writing by an authorized representative of Fuller, such term or condition will not be binding on or effective against Fuller. In the event a separate agreement (purchase agreement, override agreement, etc.) covering terms and conditions of purchase has been negotiated and agreed upon between the Purchaser and Fuller, and said agreement is applicable, it should take precedence (to the extent of conflicts) and the terms and conditions set forth herein will be supplemental to those of such agreement. Subject to the foregoing, these Terms and Conditions of Sale embody the entire agreement of the parties in relation to the subject matter hereof and supersede all prior understandings, communications, and representations between the parties, whether oral or written. No amendment to these terms and conditions will be effective unless in writing and signed by an authorized representative of Fuller.

**2. Limited Warranty; Disclaimers; Limitation of Warranties and Remedies.** Fuller warrants that for a period of one year (or the period specified on the applicable Technical Data Sheet, whichever is less) from the date of shipment from Fuller to the Purchaser (the "Warranty"), the applicable Fuller product was manufactured in accordance with Fuller's specifications for such product on the date of shipment. These specifications are available upon request. This Warranty does not cover test data, or any defects, damages or other harms caused to any extent or, in any way, by failure to follow applicable Fuller instructions, if any, or abuse or misuse of the product. THE FOREGOING WARRANTY IS IN PLACE OF ALL OTHER CONDITIONS AND WARRANTIES, EXPRESS OR IMPLIED, WHETHER ARISING FROM STATUTE, COURSE OF DEALING, USAGE OF TRADE OR OTHERWISE AND FULLER HEREBY EXPRESSLY DISCLAIMS ALL SUCH OTHER CONDITIONS AND WARRANTIES, INCLUDING WARRANTIES OF MERCHANTABILITY, MERCHANTABILITY, TITLE, QUALITY AND FITNESS FOR A PARTICULAR PURPOSE. ALTHOUGH FULLER MAY HAVE SUGGESTED THE PRODUCT OR DEVELOPED THE PRODUCT AT THE PURCHASER'S REQUEST, IT IS THE PURCHASER'S RESPONSIBILITY TO TEST AND DETERMINE THE SUITABILITY OF THE PRODUCT FOR THE PURCHASER'S INTENDED USE AND PURPOSE, AND PURCHASER ASSUMES ALL RISK AND LIABILITY WHATSOEVER REGARDING SUCH SUITABILITY. FOR ANY VALID CLAIM PRESENTED UNDER THIS AGREEMENT, FULLER WILL REPLACE THE PRODUCT, OR AT ITS OPTION, REFUND THE PURCHASE PRICE. THIS REPLACEMENT/REFUND REMEDY IS THE PURCHASER'S SOLE AND EXCLUSIVE REMEDY AGAINST FULLER. THE PURCHASER AGREES THAT NO OTHER REMEDY (INCLUDING BUT NOT LIMITED TO LOST PROFITS, LOST SALES, INJURY TO PERSON OR PROPERTY OR ANY OTHER SPECIAL, INCIDENTAL, OR CONSEQUENTIAL LOSS OR DAMAGE) SHALL BE AVAILABLE TO PURCHASER FOR CLAIMS ARISING OUT OF ANY USE OF THE PRODUCT REGARDLESS OF THE LEGAL THEORY (CONTRACT, CIVIL LIABILITY TORT [INCLUDING NEGLIGENCE] OR OTHER). IN NO EVENT WILL FULLER BE OBLIGATED TO PAY DAMAGES TO PURCHASER FOR ANY AMOUNT EXCEEDING THE PRICE THAT PURCHASER PAID FOR THE PRODUCT.

**3. Liquidated Damage.** Without prejudice to any other rights and remedies available to Fuller under these Terms and Conditions and any applicable laws, if Purchaser commits any of the following acts, it shall constitute a material breach of these Terms and Conditions, in which event Fuller shall have the right to immediately terminate any purchase orders affected by such breach, and Purchaser shall pay Fuller the liquidated damages in the amount of 20% of the total price accrued as of such termination under any purchase orders, and shall further indemnify any and all costs, losses or damages (including without limitation the reasonable attorney fee) suffered by Fuller therefrom (the portion not covered by the liquidated damages): (i) Purchaser's delay in making the payment of the total invoice price exceeds five (5) days; (ii) Purchaser becomes bankrupt or makes any voluntary arrangement with its creditors or becomes subject to an administrative order or goes into liquidation whether voluntary or compulsory or a receiver is appointed or sells all or substantially all of its assets; (iii) Unless otherwise set forth hereto, Purchaser commits any breaching activities and fails to remedy such breach within ten (10) days after the receipt of Fuller's notification to request the remedy. The termination of any purchase order for any reason shall not release either party from any obligations and liabilities set forth in these Terms and Conditions accruing prior to the termination date.

**4. Governing Law; Language.** The laws of the Philippine shall govern the validity, interpretation, and enforcement of these Terms and Conditions of Sale. The parties hereby expressly agree to exclude the application of the *United Nations Convention on Contracts for the International Sale of Goods* as amended, replaced or re-enacted from time to time. The Parties agree that these Terms and Conditions are drafted in the English language.

**5. Limitation of Actions.** Any claim made or action commenced by Purchaser under Fuller's limited warranty as set forth herein must be brought within one year from the date of shipment from Fuller to the Purchaser.

**6. Delivery and Force Majeure.** All quoted delivery dates are approximate. Deliveries shall be EXW Fuller's manufacturing or warehouse facility (INCOTERMS 2000), unless otherwise designated by Fuller. Fuller shall not be liable for any delay in production or delivery due to any cause whatsoever beyond the reasonable control of Fuller including, but not limited to act of God, war or other hostilities, civil commotion, riots, act or failure to act of government, act or omission of Purchaser, fire, flood, strike or labor trouble, sabotage or delay in obtaining from others suitable services, materials, components, equipment or transportation, or other similar contingencies or circumstances and the time of performance shall be extended for a period of time equal to the period of delay and its consequence. Fuller will give to Purchaser, written notice at the onset and expected duration of such circumstances (if known). Fuller shall not be liable for any damage to or loss of product following delivery to the EXW point, including any damage or loss in transit. It shall be the responsibility of Purchaser to comply with all import and export license requirements and other similar customs rules and regulations related thereto, including any applicable export control laws of the countries through, to, or from which the materials are shipped (collectively "Custom's Laws"). Purchaser agrees to fully indemnify Fuller for any liability incurred (whether direct, indirect and including reasonable and necessary costs related thereto, including reasonable attorney fees), as a result of Purchaser's failure to comply with such Customs Laws.

**7. Terms of Payment and Price.** Subject to approval and continuation of credit by Fuller, the terms of payment are thirty (30) days net from date of invoice unless stated otherwise on the invoice. In the event Fuller does not approve the credit of the Purchaser, or if at any time after approval of credit and before delivery, Fuller, in its sole judgment, decides that the extension of further credit is unjustified, advance cash payment or satisfactory security shall be given by Purchaser upon written notification by Fuller, and product shipments may be withheld until such payment or security is received. Such action by Fuller shall not constitute a change of payment terms. All prices are subject to exception or change without notice. All payments shall be made in RMB. Pricing errors may be corrected at any time. Fuller shall not be obligated to ship any products unless Purchaser has paid in full all prior invoices in accordance with the terms of payment. For purposes of payment, each order and shipment shall be considered a separate contract and Purchaser shall not be entitled to set off against payments owing any amounts owing or alleged to be owing from Fuller to Purchaser for adjustments, set-offs or claims hereunder. Purchaser agrees to pay (a) interest on the unpaid portion of any past due invoice at the rate of one (1) percent per month, or the legal maximum allowed, if less; and (b) all reasonable and necessary costs and expenses incurred by Fuller in collecting any amounts due and owing, including but not limited to reasonable attorney's fees and all litigation expenses).

**8. Legal Fees; Assignment; Taxes.** Purchaser will be liable and reimburse Fuller for any and all actual legal fees and costs incurred by Fuller to enforce these Terms and Conditions of Sale. These Terms and Conditions may not be assigned by the Purchaser without the consent of Fuller, which consent shall not be unreasonably withheld. The price of the product does not include any applicable taxes or other governmental charges imposed by any federal, provincial, or local government on or with respect to the production, sale, or shipment of the product. Purchaser shall pay, where applicable, any and all taxes, assessments, levies or other governmental charge of any nature imposed by or under the authority of any law, rule or regulation with respect to the products.

**9. Waiver; Invalidity.** No failure by Fuller to exercise any rights, powers or remedies hereunder or its delay to do so shall constitute a waiver of these rights, powers or remedies. The single or partial exercise of a right, power or remedy shall not prevent its subsequent exercise or the exercise of any other right, power or remedy. If any provision of these Terms and Conditions of Sale or part thereof is or becomes illegal, invalid or unenforceable in any jurisdiction, the illegality, invalidity or unenforceability of that provision will not affect the legality, validity or enforceability of the remainder of the provision or the remaining provisions of these Terms and Conditions of Sale, as the case may be, or the legality, validity or enforceability of that provision or part thereof in any other jurisdiction.