

## **GENERAL TERMS AND CONDITIONS OF SALE**

### **1. General**

- 1.1 These GENERAL TERMS AND CODITIONS OF SALE shall apply to all sales of products and services (“Products”) provided by ASADA MESH Co.Ltd (“ASADA”) to its customer (“Purchaser”).
- 1.2 Any other condition proposed by Purchaser shall not be valid until ASADA explicitly accepts it in writing.

### **2. Purchase Orders**

- 2.1 All purchase orders by Purchaser shall be in writing and set forth names, quantity and specifications of the Products which Purchaser wishes to purchase, the delivery date, the price of each Product, and all other information necessary for sale and delivery of the Products.
- 2.2 The agreement between Purchaser and ASADA shall take effect upon Purchaser’s receipt of ASADA’s written order confirmation.
- 2.3 No additional condition to these terms and conditions shall become part of or supersede the agreement unless specifically accepted in writing by ASADA.
- 2.4 Purchaser shall, at the time of order, notify ASADA of rules and regulations applicable in the country of destination in relation to the legality of the Products and their use if any.

### **3. Cancellation of Orders**

- 3.1 Purchaser shall not cancel any order except with a written consent of ASADA and with full compensation to ASADA for any loss caused by cancellation.

### **4. Multiple-Delivery Contracts**

- 4.1 ASADA and Purchaser may enter into a written arrangement which is directed to the delivery of ordered Products in successive instalments during a certain predefined period of time.
- 4.2 Purchaser shall commit to order and pay all instalments by the end of predefined period.
- 4.3 In case that Purchaser does not order all instalments or refuse delivery,
  - a) Products which are produced based on Purchaser’s specific requirements and therefore non-reusable must be paid in full by Purchaser. Purchaser shall also pay a disposal fee for such Products.
  - b) Products which are semi-finished products or otherwise reusable by ASADA, the price to be paid by Purchaser shall be reduced in accordance with the degree of reusability.
  - c) Upon Purchasers request, ASADA may extend the predefined period of time. Storage costs during the extended period shall be borne by Purchaser. Based on the complexity of the storage requirements such costs shall be 6% (per year) of the Products’ price.

## **5. Prices**

- 5.1 Prices shall be those on the price list designated by ASADA at the time of purchase order, unless otherwise specifically accepted in writing by ASADA.
- 5.2 ASADA shall not be responsible for freight, transportation, insurance, shipping, storage, handling, demurrage or other expenses. If such expenses are included in a price of the Products, Purchaser shall be accountable for any increase of such expenses.

## **6. Taxes**

- 6.1 All prices are exclusive of any type of taxes in relation to the transaction of the Products.
- 6.2 Purchaser shall bear all taxes, import duties and any other charges in connection with the transaction of the Products hereunder.

## **7. Payment Terms**

- 7.1 All purchase orders by Purchaser shall be invoiced in advance and such orders shall be processed only after full payment, unless ASADA agreed in writing on the terms of payment of thirty (30) days after the date of bill of landing.
- 7.2 ASADA reserves the right to charge interest at the rate of 18% per year on all balances not paid by Purchaser.
- 7.3 If Purchaser fails to make payment, ASADA may refuse to deliver Products or cancel any pending order without prior notice.
- 7.4 Payments shall be applied to the oldest invoice first, regardless of any other indication by Purchaser.
- 7.5 Purchaser agrees to reimburse ASADA for all costs and expenses incurred in the collection of overdue invoices including but not limited to attorneys' fees.
- 7.6 ASADA may retain title to, and a security interest in, the Products until payment by Purchaser therefor has been made as specified in these terms and conditions.

## **8. Excess or Short Deliveries**

- 8.1 ASADA reserves the right to provide excess or short deliveries of up to 10% of the ordered length of reel or quantity due to technical reasons.

## **9. Delivery**

- 9.1 Products shall be sold and delivered FOB at ASADA's designated shipping point.
- 9.2 All Risk of loss to the Products shall pass to Purchaser upon ASADA's delivery to carrier.
- 9.3 Purchaser shall determine the type of transportation subject to ASADA's available facilities at the shipping point and shall notify ASADA at the time Purchaser places each order.
- 9.4 ASADA shall not be liable to Purchaser for delays in delivery or damage to Products while in

transit.

- 9.5 ASADA shall have no liability for loss or damage (including but not limited to incidental or consequential damages) resulting from ASADA's delayed performance or delivery, for any reason whatsoever.

#### **10. Inspection of Products**

- 10.1 Purchaser shall inspect the Products promptly upon receipt.
- 10.2 Notice of defect shall be given in writing within thirty (30) days of the delivery date. Otherwise Products shall be deemed approved by Purchaser.

#### **11. Intellectual Property Rights**

- 11.1 All intellectual property rights, including but not limited to patent rights, copyrights and trademarks, on or in connection with the Products delivered remain vested in ASADA.
- 11.2 Purchaser shall defend, at its expense, any suit against ASADA for the infringement of any patent, trademark or other intellectual properties, for or on account of the manufacture or sale of any Products furnished hereunder, and shall pay all damages and costs awarded therein against ASADA, in any case where compliance by ASADA with specifications prescribed by Purchaser constitutes sole basis for the infringement or the alleged infringement.

#### **12. Claims, Warranties and Limitations of Liability**

- 12.1 Purchaser waives all claims relating to Products with six (6) months after the date of delivery.
- 12.2 Purchaser shall send all claims for review initially by fax followed by certified mail, return receipt requested, to ASADA's Osaka office.
- 12.3 ASADA hereby warrants that the Products are merchantable solely to the extent that they are free of defects beyond normal tolerances and conform to the quality standard which the parties agreed in writing if any. **THIS WARRANTY IS EXPRESSLY MADE IN LIEU OF ANY AND ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, INCLUDING WARRANTIES AS TO MERCHANTABILITY OR AS TO THE FITNESS OF THE PRODUCTS FOR ANY PARTICULAR USE OR PURPOSE AND ASADA SHALL NOT BE LIABLE FOR ANY LOSS OR DAMAGE, DIRECTLY OR INDIRECTLY, ARISING FROM THE USE OF THE PRODUCTS OR FOR CONSEQUENTIAL DAMAGES.**
- 12.4 The parties agree that Purchaser's exclusive remedy and ASADA's sole liability on any claim, whether tort, contract or warranty, shall be limited, at ASADA's option, to replacement of the defective Products or to reimbursement for the defective Products by the net price paid by Purchaser.

#### **13. Confidentiality**

- 13.1 The parties shall treat all facts and information confidentially that are neither obvious nor generally

accessible. Such include but are not limited to plans, blue prints and technical data provided by ASADA.

- 13.2 This provision shall also apply to information disclosed before the conclusion of the agreement.
- 13.3 This obligation shall continue to remain in effect after the fulfillment or termination of the contractual relationship.
- 13.4 The disclosure of the existence or any details of the business relationship between the parties shall be subject to the prior written approval of the respective party.

#### **14. Force Majeure**

- 14.1 Neither party shall be liable for failure to perform under these terms and conditions in the event that performance is rendered impossible due to force majeure, including but not limited to, acts of God, war, threat of war, warlike conditions, hostilities, mobilization for war blockade, embargo, detention, revolution, riot, port congestion, looting, strike, lockout, plague or other epidemic, destruction or damage of Products or premises, fire, typhoon, earthquake, flood or accident, or due to acts of governmental or quasi-governmental authorities of any political subdivision or department or agency thereof, or due to any labor, material, transportation or utility shortage or curtailment, or due to any labor trouble at the place of business of either party or their suppliers, or due to any other cause beyond the control of either party.

#### **15. Entire Agreement**

- 15.1 Except as specifically provided in or contemplated by the agreement to the contrary, these terms and conditions constitute the entire agreement between the parties hereto and no modification hereof shall be effective unless made by a supplemental agreement in writing, executed by both of the parties hereto, and these terms and conditions completely supersedes any previous agreement by and between the parties hereto with respect to the matters dealt with herein.

#### **16. Governing Law**

- 16.1 The agreement between the parties shall be governed by the laws of Japan.
- 16.2 The United Nations Convention on Contracts for the International Sales of Goods shall not apply.

#### **17. Dispute Resolution**

- 17.1 All disputes, controversies or differences which may arise between the parties hereto, out of or in relation to or in connection with the agreement between parties shall be finally settled by arbitration in Osaka, Japan, in accordance with the Commercial Arbitration Rules of The Japan Commercial Arbitration Association.