

TERMS AND CONDITIONS OF SALE

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1 INTERPRETATION

1.1 In these Conditions:

"**Buyer**" means the person who purchases Goods on the Platform;

"**Conditions**" mean these Terms and Conditions of Sale;

"**Contract**" means the contract formed when Seller accepted the order placed by Buyer on the Platform for the purchase of Goods sold by Seller;

"**Goods**" means the goods made available for sale on the Platform, including any instalment of the goods or any parts for them;

"**CARTEC-MALAYSIA**" means **CARTEC MALAYSIA SDN. BHD.** (Company No.: 600100-M), a company incorporated in Malaysia and having its registered address at 17 & 19, Jalan PJS 7/12, Bandar Sunway, 47500 Subang Jaya, Selangor;

"**CARTEC-MALAYSIA Terms and Conditions**" means these Terms and Conditions of Sale and all other terms and conditions and policies pertaining to the use of the Platform and/or the Services;

"**Platform**" means the cartecmalaysia.com website and/or the **CARTEC-MALAYSIA** mobile app;

"**Seller**" means a seller which uses the Platform and/or Services to sell Goods to the Buyers and includes a Third-Party Vendor. **CARTEC-MALAYSIA** may also be a "Seller" for selected Goods;

"**Services**" means the use of any services, information and functions made available by **CARTEC-MALAYSIA** at the Platform;

"**Third-Party Vendor**" means a seller which uses the Platform and/or Services to sell Goods to the Buyers, and excludes **CARTEC-MALAYSIA**; and

"**Writing**" includes electronic mail facsimile transmission and any comparable means of communication.



- 1.2 Any reference in these Conditions to any provision of a statute shall be construed as a reference to that provision as amended, re-enacted or extended at the relevant time.
- 1.3 Any references to “**CARTEC-MALAYSIA**” in these Conditions refer to both **CARTEC-MALAYSIA**’s actions on its own behalf as Seller and/or as the operator of the Platform and/or as the agent of Third-Party Vendors as Sellers in respect of each and every Contract.
- 1.4 The headings in these Conditions are for convenience only and shall not affect the interpretation of any parties.

2 BASIS OF THE CONTRACT

- 2.1 The Platform provides a place and opportunity for the sale of Goods between the Buyer and the Seller (collectively “Parties”). The identity of the Seller for a particular Goods listed for sale on the Platform, be it **CARTEC-MALAYSIA** or a Third-Party Vendor, may be stated on the webpage listing such Goods.
- 2.2 Where the Buyer has placed an order on the Platform for the purchase of Goods sold by **CARTEC-MALAYSIA** has accepted the same, this shall constitute a Contract entered into directly between the Buyer and **CARTEC-MALAYSIA**. On the other hand, where the Buyer has placed an order on the Platform for the purchase of Goods sold by a Third-Party Vendor and the said Third-Party Vendor has accepted the same, this shall constitute a Contract entered into directly between the Buyer and the Third-Party Vendor. Where the Contract is entered into directly between the Buyer and a Third-Party Vendor, **CARTEC-MALAYSIA** is not a party to the Contract or any other Contract between the Buyer and Third-Party Vendor and accepts no obligations in connection with any such Contract. Parties to such contracts shall be entirely responsible for the Contract between them, the listing of Goods, warranty of purchase and the like.



- 2.3 Any information made available on the Platform in connection with the supply of Goods, including photographs, drawings, data about the extent of the delivery, appearance, performance, dimensions, weight, consumption of operating materials, operating costs or any information disclosed by Third-Party Vendors through the chat system are not binding and for information purposes only. In entering into the Contract, the Buyer acknowledges that it does not rely on and waives any claim based on any such representations or information so provided.
- 2.4 While the Seller endeavors to provide an accurate description of the Goods, neither **CARTEC-MALAYSIA** nor Seller warrants that such description is accurate, current or free from error. In the event that the Goods the Buyer receives is fundamentally different from the Goods as described on the Platform and which the Buyer has ordered, Clause 7 of these Conditions shall apply.
- 2.5 Any typographical clerical or other error or omission in any quotation, invoice or other document or information issued by **CARTEC-MALAYSIA** in its website shall be subject to correction without any liability on the part of **CARTEC-MALAYSIA**.

3 ORDERS AND SPECIFICATIONS

- 3.1 The Buyer may purchase Goods by placing and completing the order form on the Platform and shall be responsible for ensuring the accuracy of the order. All orders shall be subject to Seller's acceptance in their sole discretion and each order accepted by the Seller shall constitute a separate Contract and shall be deemed to be irrevocable and unconditional upon transmission through the Platform. **CARTEC-MALAYSIA** shall be entitled (but not obliged) to process such orders without further consent from the Buyer. Nevertheless, you may request to cancel or amend the order which **CARTEC-MALAYSIA** shall endeavor (but not obliged) to give effect to on a commercially reasonable effort basis.



- 3.2 Order acceptance and completion of the Contract between the Buyer and Seller will only be completed upon **CARTEC-MALAYSIA** issuing a confirmation of dispatch of the Goods to the Buyer. For the avoidance of doubt, **CARTEC-MALAYSIA** shall be entitled to refuse or cancel any order without giving any reasons for the same to the Buyer prior to issue of the confirmation of dispatch. **CARTEC-MALAYSIA** shall furthermore be entitled to require the Buyer to furnish **CARTEC-MALAYSIA** with contact and other verification information, including but not limited to address, contact numbers prior to issuing a confirmation of dispatch.
- 3.3 No concluded Contract may be modified or cancelled by the Buyer except with prior written consent from **CARTEC-MALAYSIA** and on terms that the Buyer shall indemnify **CARTEC-MALAYSIA** in full against all loss (including loss of profit), costs (including the cost of all labor and materials used), damages, charges and expenses incurred by **CARTEC-MALAYSIA** as a result of the modification or cancellation, as the case may be.

4 PRICE

- 4.1 The price of the Goods shall be the price stated on the Platform at the time which the Buyer places and completes the order form on the Platform. The price includes any applicable sales and services tax, value added tax or similar tax which the Buyer shall be liable to pay to **CARTEC-MALAYSIA** in addition to the price, but it excludes the delivery charges.
- 4.2 In the event that a Goods has been mispriced on the Platform, the Seller reserves the right to terminate the Contract, in which **CARTEC-MALAYSIA** shall, on behalf of Seller (where Seller is a Third-Party Vendor), notify the Buyer of such cancellation by giving three days' notice. The Seller shall have such right to terminate the Contract notwithstanding that the Goods have been dispatched or are in transit or that payment has been charged to Buyer.

5 TERMS OF PAYMENT



5.1 The Buyer shall be entitled to make payment for the Goods using the various payment methods made available on the Platform. When Buyer places an order on the Platform, actual payment shall be only charged upon Seller's acceptance of Buyer's order and the formation of a Contract. All payments shall be made to **CARTEC-MALAYSIA**, either accepting payment in its own right or as Seller's agent (where Seller is a Third-Party Vendor). Buyer acknowledge that **CARTEC-MALAYSIA** is entitled to collect payments from Buyer on behalf of Third-Party Vendors.

5.2 The terms and conditions applicable to each type of payment, as prescribed by **CARTEC-MALAYSIA** on the Platform, shall be applicable to the Contract. The payment methods may also be subject to the following terms:

5.2.1 Credit Card

Credit card payment option is available for all Buyers. **CARTEC-MALAYSIA** accepts all Visa and MasterCard credit cards and is 3D Secure enabled (verified by Visa and secured by MasterCard). All credit card information of Buyers are protected by industry leading encryption standards.

Please take note that additional charges may be incurred if Buyer is using a non-Malaysian issued card due to foreign exchange rates.

5.2.2 Debit Cards

CARTEC-MALAYSIA accepts all Malaysian Visa and MasterCard debit cards, subject to bank availability. All debit card numbers shall be protected by industry leading encryption standards.



5.2.3 Online Banking

By choosing this payment method, the Buyer shall transfer the amount of the total purchase price for the Goods purchased by Buyer to a **CARTEC-MALAYSIA** account (including any applicable taxes, fees and shipping costs). The transaction must be payable in Ringgit Malaysia. **CARTEC-MALAYSIA**, in its sole discretion, may refuse this payment option service to anyone or any user without notice for any reason at any time.

5.2.4 Instalment Payments via Credit Card

- i. Only Buyers making payment for Goods by means of a credit card issued by Maybank or any other instalment payment partner banks which we may inform from time to time shall be entitled to participate in the six (6) months and twelve (12) months instalment payment plan, as provided below (“Entitled Buyer(s)”).
- ii. Entitled Buyers making minimum purchases of RM500 shall be entitled to apply to make payment for the Goods by means of the six (6) months Easy Pay Instalment Scheme whereas Entitled Buyers making minimum purchases of RM1,000 shall be entitled to apply to make payment for the Goods by means of the twelve (12) months Easy Pay Instalment Scheme, subject to a maximum purchase value of RM50,000.
- iii. For purposes of this sub-Clause, the instalment payment plan set out in sub-Clauses 5.2.4 (i) and (ii) above shall collectively be referred to as “Credit Card Instalments”.
- iv. When the Entitled Buyer purchases Goods and makes payment for the same via Credit Card Instalments, the transaction shall be handled by **CARTEC-MALAYSIA**. Each Entitled Buyer would receive a call from **CARTEC-MALAYSIA** for verification and approval. An Entitled Buyer shall only be entitled to purchase Goods via Credit Card Instalments upon verification and approval by **CARTEC-MALAYSIA**.
- v. While an approval for a Credit Card Instalments transaction is subject to the Entitled Buyer’s available balance and credit availability on his/her credit card account, **CARTEC-MALAYSIA** also shall retain absolute discretion in granting its approval to any credit card transaction.



- vi. When entering into a credit card transaction for the purchase of Goods via Credit Card Instalments, **CARTEC-MALAYSIA** 's name shall be shown as the selling merchant in the Entitled Buyer's credit card statement.
- vii. When an Entitled Buyer makes an application to **CARTEC-MALAYSIA** for the payment of Goods via Credit Card Instalments and upon approval of the application by **CARTEC-MALAYSIA** , as provided above, the Buyer's bank will debit the Entitled Buyer's credit card account with the instalment payable monthly, for the duration stipulated. The Entitled Buyer's available credit limit will be provisionally reduced by earmarking an amount, equivalent to the amount of the total purchase price for the relevant Goods, which will not be available to Entitled Buyer for the duration of the instalment payments. However, the credit limit will progressively restore on a monthly basis as repayment of each instalment amount is made monthly.
- viii. Each Credit Card Instalments may be charged a processing fee prescribed by the relevant instalment payment partner banks. This fee shall not be refundable, even if the purchase transaction is terminated, regardless of the reason of termination.
- ix. If the Entitled Buyer decides to cancel his/her orders twenty-four (24) hours after the relevant order has been confirmed and prior to shipment, **CARTEC-MALAYSIA** shall be entitled to impose a minimum of 15% of the total amount of the purchase price of the relevant Goods and the processing fee as administrative fees, in addition to the transaction fees charged by the relevant instalment payment partner banks. The balance after deduction of the administrative fees and the transaction fees will be refunded to the Entitled Buyer.
- x. In the event of cancellation of the Entitled Buyer's credit card account, any unpaid portion of the purchase price of the relevant purchased Goods shall become immediately due and payable. Insofar as is possible, this outstanding sum shall be debited to the Entitled Buyer's credit card without further reference payable by the Entitled Buyer.



- xi. When the Entitled Buyer chooses to make payment for purchase of Goods via Credit Card Instalments, **CARTEC-MALAYSIA's** 14-days Return Policy will no longer be applicable and the Entitled Buyer will no longer be allowed to return any items unless it is damaged to which the item shall be replaced or refunded for the amount paid. Such replacement or refund will not affect or interrupt the Credit Card Instalments. No returns for "change of mind" reason will be valid for Entitled Buyers that choose to make payment for the Goods via Credit Card Instalments.

5.2.5 Cash on Delivery

Cash on Delivery (pay cash upon delivery) is available within the region of Klang Valley, Penang and Johor Bahru with a fee as may be prescribed by **CARTEC-MALAYSIA** for each order. **CARTEC-MALAYSIA** reserves the right to schedule the delivery time. The Goods will only be handed over to the Buyer upon full payment in cash by the Buyer.

- 5.3 Buyer may not claim against Seller or any of its agents (which may include **CARTEC-MALAYSIA**), for any failure, disruption or error in connection with the Buyer's chosen payment method. **CARTEC-MALAYSIA** reserves the right at any time to modify or discontinue, temporarily or permanently, any payment method without notice to the Buyer or giving any reason.

- 5.4 If the Buyer fails to make any payment pursuant to the terms and conditions of the payment method elected or payment is cancelled for any reason whatsoever, then without prejudice to any other right or remedy available to Seller, Seller shall be entitled to:

- 5.4.1 cancel the Contract or suspend deliveries of the Goods until payment is made in full; and/or

- 5.4.2 charge the Buyer interest on the amount unpaid at the rate of one per cent (1.0%) per month until payment in full is made (a part of a month being treated as a full month for the purposes of calculating interest).



- 5.5 All refunds shall be made via the **CARTEC-MALAYSIA** virtual payment account ("**CARTEC-MALAYSIA** Payment Account"). **CARTEC-MALAYSIA** offers no guarantee of any nature for the timeliness of the refunds reaching the **CARTEC-MALAYSIA** Payment Account. The processing of payment may take time and it is subject to the payment provider internal processing timeline. All costs associated with the refund process imposed by the processing bank and/or payment provider shall be borne by **CARTEC-MALAYSIA**. All refunds are conditional upon **CARTEC-MALAYSIA**'s acceptance of a valid return of the Goods. **CARTEC-MALAYSIA** reserve the right to modify the mechanism of processing refunds at any time without notice.
- 5.6 All payments for the purchased Goods must be made to **CARTEC-MALAYSIA** using the payment methods made available on the Platform only. **CARTEC-MALAYSIA** shall not be held responsible for any losses which may arise from payments made directly to Third-Party Vendors or through payment methods apart from the available payment methods on the Platform.



6 DELIVERY OF GOODS

- 6.1 Delivery of the Goods shall be made to the address specified by the Buyer in its order.
- 6.2 **CARTEC-MALAYSIA** has the right at any time to sub-contract all or any of its obligations for the sale/delivery of the Goods to any other party as it may from time to time decide without giving notice of the same to the Buyer.
- 6.3 Any dates quoted for delivery of the Goods are approximate only and delays may occur. The time for delivery/performance shall not be of the essence, and **CARTEC-MALAYSIA** shall not be liable for any delay in delivery or performance howsoever caused.
- 6.4 If Seller has failed to deliver the Goods in accordance with the Contract or within a reasonable time, the Buyer shall, by serving a written notice to **CARTEC-MALAYSIA**, be entitled to demand performance within a specified time thereafter and such specified time shall be no less than 14 days. If **CARTEC-MALAYSIA** fails to do so within the specified time, the Buyer shall be entitled to terminate the Contract and claim a refund in respect of the undelivered Goods.
- 6.4.1 Where the Goods have been delivered to the Buyer even after such refunds have been claimed by the Buyer pursuant to Clause 6.4 above, Buyer shall immediately notify **CARTEC-MALAYSIA** of the delivery. The property in the Goods shall not pass to the Buyer and Buyer shall hold the Goods as **CARTEC-MALAYSIA**'s fiduciary agent and bailee and shall keep the Goods separate from those of the Buyer. **CARTEC-MALAYSIA** shall be entitled at any time to demand the Buyer to deliver up the Goods to **CARTEC-MALAYSIA** and in the event of non-compliance **CARTEC-MALAYSIA** reserves its right to take legal action against the Buyer for the delivery of the Goods and also reserves its right to seek damages and all other costs including but not limited to legal fees against the Buyer.
- 6.5 If the Buyer fails to take delivery of the Goods (otherwise than by reason of any cause beyond the Buyer's reasonable control or by reason of Seller's fault) then without prejudice to any other right or remedy available to **CARTEC-MALAYSIA**, **CARTEC-MALAYSIA** may:



- 6.5.1 sell the Goods at the best price readily obtainable and (after deducting all reasonable storage and selling expenses) account to the Buyer for the excess over the price under the Contract provided the price has been paid in cleared funds in full or charge the Buyer for any shortfall below the price under the Contract; or
- 6.5.2 terminate the Contract and claim damages.

7 RETURN, REFUND AND REPLACEMENT OF GOODS

- 7.1 All Goods sold on the Platform is covered under the **CARTEC-MALAYSIA** 7 Days Easy Returns or 14 Days Easy Returns depending on the Goods sold ("Return Policy"). Buyer may initiate the returns process by communicating with **CARTEC-MALAYSIA** or Seller through the Platform. The logo(s) of the Return Policy for each Goods can be found on the Goods' product page.
- 7.2 Buyer may, by completing the Online Return Form, apply to return the purchased Goods to **CARTEC-MALAYSIA** or Seller in exchange for a replacement or a refund. Buyer shall ensure that the purchased Goods is returned to **CARTEC-MALAYSIA** or Seller within 7 or 14 calendar days from the delivery date, depending on the applicable Return Policy. For avoidance of doubt, the countdown starts from the date the Buyer received the purchased Goods to the post stamp date on the return parcel. In case of damaged Goods, please contact **CARTEC-MALAYSIA** or Seller within 48 hours of receiving the delivery to expedite the claim process.
- 7.3 Buyer may only apply for return of the purchased Goods in the following circumstances:
 - 7.3.1 the Goods delivered to Buyer is defective and/or damaged on delivery;
 - 7.3.2 the Goods, in particular fashion items, which does not fit (not applicable for fashion items from overseas Sellers);
 - 7.3.3 the Goods delivered to Buyer is materially different from the description provided by Seller in the listing of the Goods;
 - 7.3.4 the Goods delivered to Buyer does not match the agreed specification (e.g. wrong size, color, etc.) stipulated in the order;



- 7.3.5 Buyer has a change of mind with regard to the Goods; and
- 7.3.6 such other circumstances which may be prescribed by **CARTEC-MALAYSIA** on the Platform.
- 7.4 Notwithstanding Clause 7.3 above, milk formula products are returnable except for "change of mind" request. Buyer is to ensure that product is not opened, as otherwise it will not be accepted for return.
- 7.5 Notwithstanding Clause 7.3 above, return or cancellations of any perishable goods are not allowed. To ensure that Buyer is satisfied with the product Buyer received, Buyer should inspect the contents as soon as the order arrives.
- 7.6 The application for return of Purchased Goods may also be subject to additional terms and conditions prescribed by **CARTEC-MALAYSIA** on the Platform. Please see Help Center for further details.
- 7.7 Questions and complaints with regards to returns
- 7.7.1 If you have any questions or complaints,
- i. you may either contact the Seller directly via the Platform or
 - ii. contact **CARTEC-MALAYSIA** using the "Contact Us" page on the Platform, as applicable.
- 7.7.2 In the event that Buyer is unable to resolve any dispute with Seller directly through amicable negotiations, **CARTEC-MALAYSIA** reserves the right to suggest and implement an appropriate resolution at its sole discretion.
- 8 RISK AND PROPERTY OF THE GOODS**
- 8.1 Risk of damage to or loss of the Goods shall pass to the Buyer at the time of delivery or if the Buyer wrongfully fails to take delivery of the Goods, the time when **CARTEC-MALAYSIA** has tendered delivery of the Goods.



- 8.2 Notwithstanding delivery and the passing of risk in the Goods or any other provision of these Conditions, the property in the Goods shall not pass to the Buyer until **CARTEC-MALAYSIA** has received in cash or cleared funds payment in full of the price of the Goods and all other goods agreed to be sold by Seller to the Buyer for which payment is then due.
- 8.3 Until such time as the property in the Goods passes to the Buyer, the Buyer shall hold the Goods as **CARTEC-MALAYSIA**'s fiduciary agent and bailee and shall keep the Goods separate from those of the Buyer.
- 8.4 The Buyer agrees with **CARTEC-MALAYSIA** that the Buyer shall immediately notify **CARTEC-MALAYSIA** of any matter from time to time affecting **CARTEC-MALAYSIA**'s title to the Goods and the Buyer shall provide **CARTEC-MALAYSIA** with any information relating to the Goods as **CARTEC-MALAYSIA** may require from time to time.
- 8.5 Until such time as the property in the Goods passes to the Buyer (and provided the Goods are still in existence and have not been resold), **CARTEC-MALAYSIA** shall be entitled at any time to demand the Buyer to deliver up the Goods to **CARTEC-MALAYSIA** and in the event of non-compliance **CARTEC-MALAYSIA** reserves its right to take legal action against the Buyer for the delivery of the Goods and also reserves its right to seek damages and all other costs including but not limited to legal fees against the Buyer.
- 8.6 The Buyer shall not be entitled to pledge or in any way charge by way of security for any indebtedness any of the Goods which remain the property of **CARTEC-MALAYSIA** but if the Buyer does so all moneys owing by the Buyer to **CARTEC-MALAYSIA** shall (without prejudice to any other right or remedy of **CARTEC-MALAYSIA**) forthwith become due and payable.
- 8.7 If the provisions in this Clause 8 of these Conditions are not effective according to the law of the country in which the Goods are located, the legal concept closest in nature to retention of title in that country shall be deemed to apply mutatis mutandis to give effect to the underlying intent expressed in this condition, and the Buyer shall take all steps necessary to give effect to the same.



- 8.8 The Buyer shall indemnify **CARTEC-MALAYSIA** against all loss damages costs expenses and legal fees incurred by the Buyer in connection with the assertion and enforcement of **CARTEC-MALAYSIA's** rights under this condition.



9 TERMINATION

- 9.1 Buyer may terminate the Contract before Seller dispatches the Goods, by written notice to **CARTEC-MALAYSIA** through our Contact Us page at <https://www.CARTEC-MALAYSIA.com.my/contact/>. If the Goods have already been dispatched, Buyer may not terminate the Contract but may only return the Goods in accordance with Clause 7 of these Conditions.
- 9.2 Without prejudice to any other right of termination elsewhere in these Conditions, Seller, or **CARTEC-MALAYSIA** acting on Seller's behalf, may stop any Goods in transit, suspend further deliveries to the Buyer and/or terminate the Contract with immediate effect by written notice to the Buyer on or at any time after the occurrence of any of the following events:
- 9.2.1 the Goods under the Contract being unavailable for any reason; and/or
- 9.2.2 the Goods under the Contract has been mispriced on the Platform.

10 WARRANTIES AND REMEDIES

- 10.1 Subject as expressly provided in these Conditions, all other warranties conditions or terms, including those implied by statute or common law, are excluded to the fullest extent permitted by law.
- 10.2 Subject to this Clause 10 of these Conditions, **CARTEC-MALAYSIA** warrants that the Goods will correspond with their specification at the time of delivery, and agrees to remedy any non-conformity therein for a period of 12 months commencing from the date on which the Goods are delivered or deemed to be delivered ("Warranty Period"). Where the Buyer is dealing as a consumer (within the meaning of the Sale of Goods Act and the Consumer Protection Act), **CARTEC-MALAYSIA** further gives to the Buyer such implied warranties as cannot be excluded by law.
- 10.3 **CARTEC-MALAYSIA's** above warranty concerning the Goods is given subject to the following conditions:



- 10.3.1 No condition is made or to be implied nor is any warranty given or to be implied as to the life or wear of the Goods supplied or that they will be suitable for any particular purpose or use under any specific conditions, notwithstanding that such purpose or conditions may be known or made known to **CARTEC-MALAYSIA**.
- 10.3.2 Any description given of the Goods is given by way of identification only and the use of such description shall not constitute a sale by description.
- 10.3.3 **CARTEC-MALAYSIA** binds itself only to deliver Goods in accordance with the general description under which they were sold, whether or not any special or particular description shall have been given or shall be implied by law. Any such special or particular description shall be taken only as the expression of **CARTEC-MALAYSIA**'s opinion in that behalf. **CARTEC-MALAYSIA** is not liable for any such special or particular description which may have been provided by Third-Party Vendors through the chat system. **CARTEC-MALAYSIA** does not give any warranty as to the quality state condition or fitness of the Goods.
- 10.3.4 **CARTEC-MALAYSIA** shall be under no liability for the following measures and actions taken by the Buyer or third parties and the consequences thereof: improper remedy of defects, alteration of the Goods without the prior agreement of **CARTEC-MALAYSIA**, addition and insertion of parts, in particular of spare parts which do not come from **CARTEC-MALAYSIA**.
- 10.3.5 **CARTEC-MALAYSIA** shall be under no liability in respect of any defect arising from unsuitable or improper use, defective installation or commissioning by the Buyer or third parties, fair wear and tear, willful damage, negligence, abnormal working conditions, defective or negligent handling, improper maintenance, excessive load, unsuitable operating materials and replacement materials, poor work, unsuitable foundation, chemical, electro-technical/electronic or electric influences, failure to follow **CARTEC-MALAYSIA**'s instructions (whether oral or in writing) misuse or alteration or repair of the Goods without **CARTEC-MALAYSIA**'s approval.
- 10.3.6 **CARTEC-MALAYSIA** is not liable for any loss damage or liability of any kind suffered by any third party directly or indirectly caused by repairs or remedial work carried out without **CARTEC-MALAYSIA**'s prior written approval and the Buyer shall indemnify **CARTEC-MALAYSIA** against each loss liability and cost arising out of such claims.



- 10.3.7 **CARTEC-MALAYSIA** shall be under no liability under the above warranty (or any other warranty condition or guarantee) if the total price for the Goods has not been paid in cleared funds by the due date for payment.
- 10.3.8 **CARTEC-MALAYSIA** shall be under no liability whatsoever in respect of any defect in the Goods arising after the expiry of the Warranty Period.
- 10.4 Where there is any defect in the quality or condition of the Goods or where the Goods fail to correspond with specification, Buyer may apply to return the defective and/or damaged Goods to **CARTEC-MALAYSIA** or Seller in exchange for a replacement or a refund in accordance with **CARTEC-MALAYSIA's** Return Policy and Clause 7 of these Conditions above.
- 10.5 As an alternative to returning faulty or damaged Goods in exchange for refund or replacement under Clause 7 of these Conditions above, a Buyer may request for a repair of such Goods. **CARTEC-MALAYSIA** and Seller however is entitled to accept or reject such request, at its own discretion. Such request shall be irrevocable upon **CARTEC-MALAYSIA's** or Seller's acceptance of the same and the non-conforming Goods (or part thereof) will be repaired as originally ordered. The Buyer may not later elect for a return under Clause 7 of these Conditions above once **CARTEC-MALAYSIA** or Seller has accepted such request.
- 10.6 Where the Goods have not been repaired within a reasonable time, despite a written warning from the Buyer, the Buyer shall be entitled to a reduction of the price in proportion to the reduced value of the Goods, provided that under no circumstance shall such reduction exceed 15% of the price of the affected Goods. In lieu of repair, **CARTEC-MALAYSIA** may, at its sole discretion, grant such a reduction to the Buyer. Upon a repair or price reduction being made as aforesaid, the Buyer shall have no further claim against the Seller.
- 10.7 When **CARTEC-MALAYSIA** or Seller has provided replacement Goods or given the Buyer a refund, the non-conforming Goods or parts thereof shall become property of **CARTEC-MALAYSIA** or Seller.

11 LIABILITY



- 11.1 In no event shall **CARTEC-MALAYSIA** be liable for loss of profit or goodwill, loss of production or revenue or any type of special indirect or consequential loss whatsoever (including loss or damage suffered by the Buyer as a result of an action brought by a third party) even if such loss were reasonably foreseeable or if **CARTEC-MALAYSIA** had been advised by the Buyer of the possibility of incurring the same.
- 11.2 The remedies set out in Clause 10 of these Conditions are the Buyer's sole and exclusive remedies for non-conformity of or defects in the Goods and **CARTEC-MALAYSIA**'s liability for the same shall be limited in the manner specified in Clause 10 of these Conditions.
- 11.3 Notwithstanding any other provision of these Conditions, Seller's maximum cumulative liability to you or to any other party for all losses under, arising out of or relating to the sale of products under each Contract, shall not exceed the sums that you have paid to Seller under such Contract.
- 11.4 If a number of events give rise substantially to the same loss they shall be regarded as giving rise to only one claim under these Conditions.
- 11.5 No action shall be brought against **CARTEC-MALAYSIA** later than 12 months after the date it became aware of the circumstances giving rise to a claim or the date when it ought reasonably to have become aware, and in any event, no later than 12 months after the end of the Warranty Period.

12 GENERAL

- 12.1 Neither **CARTEC-MALAYSIA** nor Seller shall be liable for non-performance, error, interruption or delay in the performance of its obligations under these Conditions (or any part thereof) or for any inaccuracy, unreliability or unsuitability of the Platform's and/or Services' contents if this is due, in whole or in part, directly or indirectly to an event or failure which is beyond **CARTEC-MALAYSIA**'s or Seller's reasonable control.
- 12.2 Any notice required or permitted to be given by either party to the other under these Conditions shall be in writing addressed, if to **CARTEC-MALAYSIA**, to its registered office or principal place of business and if to the Buyer, to the address stipulated in the relevant order.



- 12.3 Unless the context otherwise requires, any term or expression which is defined in or given a particular meaning by the provisions of International Commercial Terms published by the International Chamber of Commerce shall have the same meaning in these Conditions but if there is any conflict between the provisions of Incoterms and these Conditions, the latter shall prevail.
- 12.4 No waiver by **CARTEC-MALAYSIA** of any breach of the Contract by the Buyer shall be considered as a waiver of any subsequent breach of the same or any other provision. Further, **CARTEC-MALAYSIA's** failure to enforce these Conditions shall not constitute a waiver of these terms, and such failure shall not affect the right later to enforce these Conditions.
- 12.5 If any provision of these Conditions is held by any competent authority to be illegal, invalid or unenforceable in whole or in part the validity of the other provisions of these Conditions and the remainder of the provision in question shall not be affected thereby.
- 12.6 No person who is not a party to the Contract (including any employee officer agent representative or sub-contractor of either party) shall have any right to enforce any terms of the Contract which expressly or by implication confers a benefit on that person without the express prior agreement in writing of the parties, which the agreement must refer to Clause 3.3 of these Conditions.
- 12.7 The Contract shall be governed by the laws of Malaysia and the Buyer agrees to submit to the non-exclusive jurisdiction of the Courts in Malaysia, as provided for in Clause 12.9 below.
- 12.8 Buyer must exhaust all legal avenues against Third-Party Vendors should any dispute, controversy or claim arises out of or relates to the Contract, or the breach, termination or invalidity thereof, prior to bringing a claim against **CARTEC-MALAYSIA**. Any such actions brought against **CARTEC-MALAYSIA** for any dispute, controversy or claim arising out of or relating to the Contract, or the breach, termination or invalidity thereof shall be settled by arbitration in accordance with the Rules for Arbitration of the Asian International Arbitration Centre (AIAC). The arbitral tribunal shall consist of a sole arbitrator, to be appointed by the Chairman of the AIAC. The place of arbitration shall be Kuala Lumpur. Any award by the arbitration tribunal shall be final and binding upon the parties.



- 12.9 Notwithstanding Clause 12.8 above, **CARTEC-MALAYSIA** shall be entitled to commence court legal proceedings for the purposes of protecting its intellectual property rights and confidential information or for a breach or non-performance by means of injunctive or other equitable relief.
- 12.10 **CARTEC-MALAYSIA** may, through the Platform or by such other method of notification as **CARTEC-MALAYSIA** may designate, vary the terms and conditions of these Terms & Conditions of Sale, such variation to take effect on the date **CARTEC-MALAYSIA** specifies through the above means. If Buyer uses the Platform after such date, Buyer is deemed to have accepted such variation. If Buyer do not accept the variation, Buyer must stop access or using the Platform and terminate these Terms & Conditions of Sale.
- 12.11 Any typographical, clerical or other error or omission in any acceptance, invoice or other document on Seller's part shall be subject to correction without any liability on Seller's part.
- 12.12 In the event that these Conditions are executed or translated in any language other than English ("Foreign Language Version"), the English language version of these Conditions shall govern and shall take precedence over the Foreign Language Version.
- 12.13 These Conditions shall constitute the entire agreement between Buyer and Seller relating to the subject matter hereof and supersedes and replaces in full all prior understandings, communications and agreements with respect to the subject matter hereof.
- 12.14 **CARTEC-MALAYSIA** reserves the right to delegate or subcontract the performance of any of its functions in connection with the performance of its obligations under these Conditions and reserves the right to use any service providers, subcontractors and/or agents on such terms as **CARTEC-MALAYSIA** deems appropriate.