

1. GENERAL

- 1.1 These General Terms and Conditions of Purchase (“Terms & Conditions”) shall apply to any and all purchase orders together with the incorporated attachments or annexes issued by ESCATEC Sdn Bhd and any of its subsidiaries (“ESCATEC”) to supplier (“Supplier”) relating to any products provided to ESCATEC (the “Product” or “Products”). A subsidiary shall mean any entity controlled or owned, directly or indirectly, from time to time by ESCATEC Sdn Bhd.
- 1.2 “Applicable Laws” means applicable federal, national, provincial, state, municipal or local laws, rules, regulations, guidelines and standards (whether of Malaysia or other applicable jurisdictions).
- 1.3 “Customer” means any customer of ESCATEC.
- 1.4 “Specifications” means the functions, capabilities, features, drawings, samples and specifications of the Products required by ESCATEC and/or Customer.

2. SCOPE AND RELATIONSHIP OF THE PARTIES

- 2.1 General business terms and conditions of the Supplier shall not apply in any event. Any variation to these Terms and Conditions shall have no effect unless expressly agreed in writing and signed by an authorised signatory of both parties. If there is a conflict between these Terms and Conditions and any other terms, the other terms shall only prevail where expressly agreed in writing and signed by an authorised signatory of both parties.
- 2.2 These Terms and Conditions do not render Supplier an employee or partner of ESCATEC and will not be construed in any manner to do so. These Terms and Conditions shall not be construed as creating an association, joint venture, or partnership between the parties or as imposing any partnership obligation or liability upon either party. Except as otherwise set forth herein, neither party shall have the right, power or authority to enter into agreements or undertakings for, or act on behalf of, or as an agent or representative of, or to otherwise bind, the other party.

3. PRICE

- 3.1 The purchase price of the Products shall be as negotiated as set forth in the Supplier’s Quotation and accepted in writing by ESCATEC and shall remain valid unless ESCATEC expressly agrees otherwise in writing.
- 3.2 ESCATEC expects Supplier to work diligently on reducing the product cost with the target of a minimum of five percent (5%) reduction of the prices per half-year. The Supplier further agrees to extend to ESCATEC any Product Price decrease that is a result of changes in market conditions, Supplier’s cost reduction programs, Product materials price reductions, or cost reductions negotiated and agreed between Supplier and ESCATEC’s Customer on whose behalf ESCATEC is purchasing Products.
- 3.3 The Product price stated in the purchase order released to Supplier shall be as stated in Supplier’s quotation or as agreed in writing by ESCATEC. In the event of any unavoidable product price increase Supplier will notify ESCATEC at least sixty (60) days in advance. For any price increase to be effective it must be agreed in writing by ESCATEC.
- 3.4 Supplier warrants that the prices offered to ESCATEC do not exceed the prices charged for like quantities of the same or substantially similar articles to any other purchaser of Supplier. If at any time Supplier sells the same or comparable products, in comparable quantities, to another purchaser of Supplier at any lower price than that charged ESCATEC, Supplier will promptly offer that lower price to ESCATEC.
- 3.5 The price shall include all applicable taxes (including VAT as applicable and sales taxes) and other charges relating to any Products such as handling, loading, freight, transport, finance, insurance, packaging, shipping, duties, customs, tariffs, and other government imposed surcharges.

4. PAYMENT

- 4.1 Payment will be made net sixty (60) days from the date of receipt by ESCATEC of correct invoice or as otherwise agreed in writing between the parties. Payment of invoices will not constitute acceptance of Products and will be subject to adjustment for errors, shortages, defects in the Products or other failure of Supplier to meet the requirements of the purchase order and/or these Terms and Conditions.
- 4.2 ESCATEC may offset against payments due to Supplier amounts due to ESCATEC as refunds for rejected Products, past overpayments, or other charges under these Terms and Conditions.

5. ORDERING, PLANNING PROCEDURE AND DELIVERY

- 5.1 Except where Supplier supplies Products under Replenishment Programs, ESCATEC shall initiate purchases by written or electronically dispatched purchase orders setting forth the purchase order number, ordered goods description, quantities, required delivery dates, prices, destination and shipping instructions.
- 5.2 The delivery date(s) stated on the purchase order is the delivery date at ESCATEC’s premises. The Supplier must take the shipping instructions into consideration when shipping the Products to ensure on time delivery of the Products at ESCATEC’s premises.
- 5.3 Only written orders issued by ESCATEC shall be valid. Verbal or telephone orders, as well as any additions, changes or different conditions, shall only be valid if they have been confirmed by fax, e-mail or other writing by ESCATEC and accepted by the Supplier. The Supplier shall confirm released orders within two (2) working days by fax or e-mail.

- 5.4 (a) Supplier acknowledges that time is of the essence with respect to all delivery dates. Meeting the scheduled delivery date is a material term of these Terms and Conditions. Supplier agrees to one hundred percent (100%) on time delivery. On time delivery window is defined as three (3) days early, zero (0) days late from the committed delivery date. If Supplier is unable to supply Products on the delivery date Supplier shall immediately notify ESCATEC verbally and through e-mail notification of the situation. Both Parties will jointly develop alternatives to resolve any late delivery of Product in order to minimize adverse consequences resulting from such late delivery.
- (b) If Products are not delivered in accordance with the delivery schedule stipulated in the purchase order and/or agreed upon by both ESCATEC and Supplier and if the delay in delivery is not due to Force Majeure events, the Supplier shall pay to ESCATEC liquidated damages in the amount of five percent (5%) per week of the order value of undelivered quantities as late delivery charges until actual delivery of the Products subject to a maximum of thirty percent (30%).
- (c) In case of a delay in excess of four (4) weeks, ESCATEC is entitled to declare the purchase order null and void without any cost and liability to ESCATEC. If the Supplier repeatedly remains in default due to late deliveries after ESCATEC have given notice of default to Supplier, ESCATEC is entitled to claim compensation for part or all of the verifiable damages caused by any late delivery of the Products. ESCATEC's resort to liquidated damages for the delay period does not preclude ESCATEC's right to other remedies, damages, and choices under the transaction including ESCATEC's right to reject shipments or deliveries not then made and terminate the purchase order. Such damages may include, but shall not be limited to, the amount of any compensation or penalty which ESCATEC is required to pay its Customer by reason of late delivery of the products.
- 5.5 Unless ESCATEC otherwise agrees in writing Supplier shall deliver the Products based on Delivered At Place (D.A.P.) (Incoterms 2010) ESCATEC's premises as stated on the purchase order, at which point delivery shall be made and title and risk of loss and damage shall pass from the Supplier to the ESCATEC.
- 5.6 ESCATEC may cancel standard product at no charge with written notice prior to Supplier's shipment date. ESCATEC may cancel non-standard or unique product ("Custom Product") with written notice prior to Supplier's shipment date. Upon cancellation of Custom Product, ESCATEC shall remain liable for raw materials and work in process at a price equal to the completed percentage of the Product multiplied by the price of the finished Product as of the date that Supplier received the notice. The Supplier is responsible to update ESCATEC at the earliest opportunity on any changes to the order lead time.
- 5.7 Upon ESCATEC's issuance of any Engineering Change Requests (ECRs) Supplier shall inform ESCATEC of the impact thereof on delivery schedule, price and any obsolete material within five (5) working days of receiving the ECRs.
- 5.8 Supplier shall not change the components (including raw materials used to produce the Products), specifications, manufacturing process, or implement any changes which alter any of the Product even if the Product is still within the Specification, without providing advance notice to and obtaining the prior written consent of ESCATEC and/or ESCATEC's Customer. Such notice should be given six (6) months in advance so that ESCATEC and its Customer have an opportunity to consider the proposed changes and evaluate potential effects prior to implementation.
- 5.9 Unless otherwise agreed, each delivery of Products will be accompanied by the Supplier's certificate of conformity ("COC") confirming the compliance of the Products with the Specifications as further detailed in the COC.
- 6. QUALITY ASSURANCE**
- 6.1 Supplier is expected to continuously work toward zero defects.
- 6.2 Supplier must ensure proper and safe packing corresponding to the means of transportation. The cost of any shipment damage due to improper packing will be borne by Supplier.
- 6.3 Supplier shall ensure that ESCATEC's purchase order number appears on all packing lists and bills of lading or other shipping documents and shall appear on each package, container or each shipment.
- 6.4 Each new product shall be subject to a First Article qualification. Supplier shall submit a First Article report to ESCATEC together with samples of the products produced. ESCATEC shall evaluate the samples and give the Supplier a written feedback. If the samples are accepted, and upon receiving written authorisation from ESCATEC, Supplier can start volume production.
- 6.5 Where the Supplier is not an authorised distributor, agent or the original manufacturer then upon request Supplier will provide evidence of origin of the Products. A Letter of appointment shall be furnished to ESCATEC if the Supplier is the authorised distributor or agent. Supplier must ensure that all Products provided to ESCATEC under this Agreement are new Products and do not contain anything used or reconditioned unless otherwise agreed in writing by ESCATEC.
- 6.6 The requirements of any Quality Assurance Agreement where included as an addendum to this Agreement shall also apply.
- 7. WARRANTIES, REPRESENTATIONS AND UNDERTAKINGS**
- 7.1 Supplier represents and warrants to ESCATEC that the Products delivered are free from all defects in materials and workmanship for a period of eighty four (84) months after ESCATEC's acceptance of Products. All Products shall conform strictly to any Specifications which may have been provided to or

- furnished by ESCATEC. Supplier further warrants that it has good title to the Products free and clear of all liens and encumbrances and will transfer such title to ESCATEC.
- 7.2 In the event of any breach of the Supplier's warranty under Section 7.1, ESCATEC shall have the right to reject such Products and shall notify Supplier of such rejection provided however that the absence of any such notice by ESCATEC following a review, inspection or test shall not relieve the Supplier of its obligations hereunder.
- 7.3 Upon ESCATEC's written notice of such rejection, ESCATEC shall inform Supplier which of the following options for rectification of the non-conformity or deficiency ESCATEC wishes, in its sole discretion, to pursue with such determination being binding on Supplier. ESCATEC may require Supplier to promptly perform at Supplier's own cost (i) to re-work or make good the Products; (ii) to replace such defective Products as may be necessary to correct any such deficiencies, or (iii) to refund to ESCATEC the purchase price of the non-conforming Products plus actual transportation costs, insurance premiums, duties and taxes, if any, paid thereon by ESCATEC in each of case (i) and (ii), to bring the provision of the Products up to the standard and Specification agreed by the parties, and in each case until the applicable Products are determined satisfactory by ESCATEC. In the event of such replacement, re-working or making good all additional expenses shall be borne by Supplier.
- 7.4 Supplier must approve the return of rejected Products within two (2) working days upon receiving ESCATEC's reject note. A replacement is expected within five (5) working days. If Supplier does not perform any necessary action within seven (7) working days ESCATEC reserves the right to order the goods from other sources and any additional costs and expenses shall be borne by Supplier. In any such instance Supplier will be advised in writing by ESCATEC.
- 7.5 ESCATEC will issue a Corrective Action Request (CAR) to Supplier where defects are identified, Supplier shall provide a root cause analysis and corrective action response within five (5) working days or a mutually agreed time.
- 7.6 Unless otherwise specified all Products delivered shall conform to the shelf life in Appendix A.
- 7.7 Where the Supplier is not the manufacturer of the Products the Supplier shall, without limiting its other obligations, extend to ESCATEC the benefit of any warranty or other terms given by the manufacturer.
- 7.8 In the event of any product liability claims on ESCATEC relating to the Products where such claims arise as a result of non-conforming Products, the Supplier shall be liable for and shall indemnify, defend and hold harmless ESCATEC and its Customer from and against all losses incurred or suffered by them as a result, including the recall of a product incorporating the Product to the extent such recall arises as a result of the non-conformance of the Products.
- 7.9 Any acceptance by ESCATEC of the Products, or any payment by ESCATEC shall not constitute a waiver by ESCATEC of its rights to inspect such Products, or to reject such Products.
- 8. CONFIDENTIALITY**
- 8.1 The parties undertake not to disclose any confidential information, whether written or oral, acquired in connection with the purchase and sales of the Products, including without limitation, any and all financial, technical, marketing, commercial, legal or other information of whatever nature, irrespective of whether such information has been or will be disclosed in writing, verbally or in any other form, disclosed to the other party under these Terms and Conditions ("Confidential Information").
- 8.2 The term Confidential Information shall not include any information which (i) is or becomes generally known or available through no act or failure to act by the receiving party; (ii) is already known by the receiving party prior to disclosure by the disclosing party; (iii) is rightfully furnished to the receiving party by a third party without restriction on disclosure; (iv) is independently developed by the receiving party without use of or reference to the Confidential Information; (v) is required to be disclosed pursuant to law or judicial action provided that the receiving party shall give the disclosing party reasonable advance notice of such requirement; or (vi) is disclosed by the receiving party with the disclosing party's prior written approval.
- 8.3 The parties undertake to ensure that any person given access to Confidential Information will comply with the confidentiality undertakings set out in these Terms and Conditions.
- 8.4 The parties shall, upon termination of purchase order, or upon written request from the other party, immediately cease to use and return to the other party, or destroy, all documents and data disclosing Confidential Information.
- 8.5 The obligations in this Section 8 shall apply for the duration of the purchase order and for a period of five (5) years thereafter.
- 9. END-OF-LIFE AND SPARE PARTS**
- 9.1 Supplier shall provide a minimum of six (6) months notification to ESCATEC prior to end-of-life production of any Product. A last time buy schedule shall be provided by Supplier to ESCATEC at least six (6) months in advance for the necessary order planning.
- 9.2 Subject to Section 9.1 and unless otherwise agreed by the parties, for a period of seven (7) years after the date upon which Supplier makes delivery of the Products under ESCATEC's last issued purchase order, Supplier shall make available to ESCATEC the Products necessary to satisfy ESCATEC's requirement to fulfil Customer demand at the prices mutually agreed to and justified by and between the parties.

10. TERM AND TERMINATION

- 10.1 Unless otherwise set forth in the purchase order, the purchase order may be terminated (in whole or in part) by ESCATEC at any time by giving three (3) months' notice to the Supplier and by the Supplier by giving six (6) months' notice to ESCATEC. Any accepted and outstanding orders shall remain unaffected by the termination.
- 10.2 ESCATEC may terminate the purchase orders with immediate effect if (i) the Supplier commits a breach of a material obligation or performance under the purchase order, which is not remedied within thirty (30) days of ESCATEC notifying the Supplier of said breach; (ii) the Supplier repeatedly fails to deliver the Products in compliance with the terms and conditions of the purchase orders; (iii) the Supplier repeatedly fails to meet a confirmed delivery date; (iv) the Supplier or its owner(s), directors or officers becomes listed in any sanctions or export control laws imposed by the Applicable Laws or (v) if there is a change of control of the Supplier.
- 10.3 Either party may terminate the purchase order with immediate effect if (i) the other party shall cease to carry on its business or substantially the whole of its business; (ii) the other party becomes or is declared insolvent under any Applicable Law or makes or proposes to make any arrangement or composition with its creditors; (iii) the other party shall pass a resolution for winding up or a court shall make an order to that effect; or (iv) a liquidator, trustee or administrator is appointed over the assets of the other party.
- 10.4 The following sections of these Terms and Conditions will survive the termination of the purchase order between ESCATEC and Supplier: Sections 1, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13 and 15.

11. INFRINGEMENT

Supplier warrants that it has the right and license to make and sell the Products to ESCATEC and that there are no actions, claims or other proceedings pending or otherwise made against Supplier or manufacturer of the Products in any way relating to the Products. Supplier further warrants that ESCATEC's use of the Products in the manufacture, sale or incorporation of the Products into other product, anywhere in the world, does not infringe or otherwise violate the intellectual property rights of any third party. Supplier will defend, indemnify and hold ESCATEC and its Customer harmless at Supplier's own expense from and against any claim, loss, damage, expense or liability, including attorney's fees, arising out of any action by a third party that is based upon a claim that the Products supplied/delivered under the purchase order infringe or otherwise violate the intellectual property rights of any person or entity. Supplier will at its own expense procure the right to continue using the Products or replace or modify the same so that they become non-infringing. If Supplier does not promptly undertake its obligations under this section and pursue them diligently and in good faith, then after thirty (30) days notice and opportunity to cure, ESCATEC may take any and all actions it reasonably deems necessary to protect its interest, including the defence or settlement of any infringement claim, at Supplier's sole cost and expense.

12. COMPLIANCE WITH LAWS; COMPLIANCE WITH THE PRINCIPLE OF THE UN GLOBAL COMPACT; ETHICAL CONDUCT

- 12.1 (a) Supplier warrants that Supplier's performance hereunder and the performance of any subcontractor, employee, representative or agent of Supplier hereunder shall not breach any Applicable Laws. Supplier shall defend, indemnify and hold harmless ESCATEC and/or its Customer from any and all costs, expenses, damages, liabilities, penalties and/or any other effects of such breaches, including without limitation all direct, indirect, and consequential damages by reason of any alleged breach by Supplier, any subcontractor, employee, representative or agent of Supplier hereunder.
- (b) In respect of Section 12.1(a), upon request by ESCATEC, Supplier agrees to declare, in a timely manner, that Products supplied or to be supplied to ESCATEC comply with European Union RoHS Directive 2002/95/EC, REACH Regulations, NANO Regulations, U.S. Legislation on Conflict Minerals and other applicable Product compliance regulations. With respect to Conduct of Business, upon request by ESCATEC, Supplier agrees to confirm compliance to the Electronics Industry Citizenship Coalition ("EICC") Code of Conduct or an equivalent.
- 12.2 The Parties shall respect and comply with the principles of the United Nations (UN) Global Compact ("Global Compact"), and shall not subcontract to an outsourcing company which violates the Global Compact.

13. RECORD KEEPING AND AUDIT RIGHTS

- 13.1 Supplier will maintain (and provide to ESCATEC upon request) all relevant business and accounting records to support invoices, its financial report for each fiscal year, all quality-related documents, and proof of the required permits and professional licenses ("Records"), for a period of time as required by local law, rules, regulations, or ESCATEC, but not for less than seven (7) years following last purchase of the Products by ESCATEC unless otherwise specified in writing. All accounting records will be maintained in accordance with generally accepted accounting principles.

13.2 Upon ESCATEC's reasonable advance notice to Supplier, ESCATEC may audit the Records and the status of compliance with the obligations under the purchase order, during ordinary working hours at Supplier's business place or facility, for the period of time set forth in the foregoing Section 13.1.

14. FORCE MAJEURE

14.1 Neither party shall be liable for delays in or failures of performance due to causes beyond such party's reasonable control, including without limitation, occurrence of natural disasters, epidemics, shortages of energy or raw materials, times of war or civil unrest, terrorist attacks, fire, extensive damage to or long-term suspension of the operations of the parties, acts or omissions of any nature by any relevant government bodies, embargoes, disruption of the means of transport, industrial action and so forth.

14.2 In the event of any such delay or failure, the affected party shall send written notice of the same and the reason thereof to the other party within seven (7) days from the time the affected party knew, or should have known, of the force majeure in question. The performance of the affected party shall be deemed suspended so long as and to the extent that any such force majeure continues; provided however, that after thirty (30) consecutive or cumulative days of such suspension on the part of either party, the other party may terminate without liability its obligations hereunder to the extent that the affected party's performance has been prevented or delayed.

15. MISCELLANEOUS PROVISIONS

15.1 Neither party may delegate its obligations or assign or transfer its rights under purchase order, in whole or in part, without the prior written consent of the other party. These Terms and Conditions shall inure to the benefit of the parties' successors and assigns.

15.2 No waiver by either party of any default or defaults by the other party in the performance of any of the provisions of these Terms and Conditions shall operate or be construed as a waiver of any other or further default or defaults whether of a like or different character.

15.3 Supplier shall obtain ESCATEC's approval before making publicity announcements regarding the Products or Supplier's activities relating hereto. Supplier shall also cause its subcontractors to comply with this requirement.

15.4 If any clause or provision of this Agreement shall be found to be invalid, illegal or unenforceable then, notwithstanding such finding, these Terms and Conditions shall remain in full force and effect and any invalid, illegal or unenforceable clause or provision or portion thereof shall be replaced with a legal and enforceable one approximating the original intent of the parties subject to the same being permitted by the Applicable Laws.

15.5 These Terms and Conditions shall be governed and construed in accordance with the laws of Malaysia.

15.6 (a) Any dispute which is not settled by agreement between the parties shall be finally settled in accordance with the Arbitration Rules of Kuala Lumpur Regional Centre for Arbitration ("KLRCA") for the time being in force, which rules are deemed to be incorporated herein by reference. The tribunal shall consist of three arbitrators to be jointly appointed by the parties, and if no agreement can be reached within thirty (30) days after submission to the arbitration, then the arbitrators will be chosen by the KLRCA. Arbitration proceedings shall be conducted in English and the venue of arbitration shall be in Penang, Malaysia. Each party will bear its own attorney's fees, costs and disbursement arising out of the arbitration proceeding and shall pay an equal share of the fees and costs of the arbitration proceeding; however the arbitrator will be authorised to determine whether a party is the prevailing party, and if so, to award to that prevailing party reimbursement for its reasonable attorneys' fees, costs, and disbursements, and/or the fees and costs of the arbitration. The arbitral award shall be final and binding on the parties hereto and may be fully enforced by any court of competent jurisdiction.

(b) Notwithstanding anything in this Agreement to the contrary, the existence of any dispute, including without limitation, the pendency of any arbitration proceeding, shall not excuse nor suspend the obligation of the Parties to continue performance of their obligations under this Agreement.

**Appendix A
Products Shelf Life**

(A) PCB Shelf Life

No	Surface Finishing	Shelf Life (from the date of manufacture)	Remaining Shelf Life At Incoming Inspection of ESCATEC
1	HAL (Tin-Lead)	12 months	≥ 3 months
2	LF-HAL (Tin)		
3	Immersion Gold		
4	Gold Flash		
5	Immersion Silver	6 months	≥ 3 months
6	OSP		

(B) Component Shelf Life

No	Components	Shelf Life (from the date of manufacture)	Remaining Shelf Life At Incoming Inspection of ESCATEC
1	Semiconductor	24 months	≥ 3 months
2	Passive Components		
3	Batteries		
4	Transformer	12 months	≥ 3 months
5	Switch	24 months	≥ 3 months
6	Connector		
7	Wire and Cable		
8	Relays		

(C) Chemical Shelf Life

No	Chemical	Shelf Life	Remaining Shelf Life At Incoming Inspection of ESCATEC
1	All Chemicals	Follow individual label on the container	≥ 3 months