



Foseco India Limited

Registered Office: Gat Nos. 922 & 923, Sanaswadi, Taluka Shirur,

District Pune – 412208

Tele: +91 (0)2137 668100, Fax: +91 (0)2137 668360,

Website: www.fosecoindia.com

FOSECO INDIA LIMITED

CONDITIONS FOR THE SUPPLY OF GOODS AND SERVICES BY FOSECO INDIA LIMITED

1. (a) In these conditions “**the Company**” means Foseco India Limited or such other Company or entity as may be nominated by the Company to supply the goods and services and “**the Customer**” means the individual, firm, company or other party with whom the Company contracts. “**Supply**” includes (but is not limited to) any supply under a contract of sale as per the applicable laws.

(b) No order in pursuance of any quotation or otherwise shall be binding on the Company unless and until such order is accepted by the Company. Any contract made between the Company and the Customer (herein after called “**the Contract**”) shall be subject to these conditions alone to the exclusion of all others and save as after mentioned, no representative or agent of the Company has authority to agree to any terms or make any representations inconsistent with them or to enter into any contract except on the basis of them; any such term, representation or contract will bind the Company only if it is in writing and signed by an authorised officer of the Company.

(c) Unless otherwise agreed in writing by the Company, these conditions shall override any terms and conditions stipulated or referred to by the Customer in its order or pre-contract negotiations.

(d) Any description contained in the Company's catalogues, samples, price-lists or other advertising material is intended merely to present a general picture of the Company's products and services and shall not form a representation or be part of the Contract.

(e) In the event that the Company has not given a written acknowledgement of the Customer's order on these conditions, provided the Customer shall have had prior notice of them, shall nonetheless apply to the Contract.

(f) The Company reserves the right to correct any clerical or typographical errors made by its employees in the invoice at any time.
2. Where services are performed or goods are made to the Customer's specification, instructions or design, the Customer undertakes full responsibility for the suitability and accuracy of the specification, instructions or design and undertakes to indemnify the Company against any infringement of any patent, registered design, trade mark, tradename or copyright and any loss, damage or expense which it may incur by reason of such infringement in any country and the Customer undertakes further to indemnify the Company for any loss, damage or expense in respect of any liability arising under the applicable laws in relation to the specification or design of such goods or services.
3. (a) Subject to any agreement to the contrary, the Company's quotations are provisional and may be altered to take account of any changes taking place, between the date of quotation and the Company's acceptance of the Customer's order, in the price of raw materials, rates of wages and other costs of production or performance or in the Customer's specification, instructions or design or in the event that the Customer orders part of the quantity of goods or services referred to in any quotation.

(b) The Company shall be entitled to increase its prices at any time to take into account any increase in the cost to the Company for purchasing any goods or materials, manufacturing or working on or supplying any goods or services (including any such increase arising from any error or inadequacy in any specification, instructions or design provided by the Customer or any modification carried out by the Company at the Customer's request) and such increased prices ruling at the date of despatch or performance by the Company shall be substituted for the previous Contract price.

(c) **Discount Offered** - The Company reserves its right to offer discount in the price agreed between the Company and its Customer. Such discount, if any offered, shall be as per the pre-agreed discount scheme as explained to the Customer. It is agreed between the Company and the Customer that any discount that may be offered shall be at a pre-agreed discount rate. Such discount shall be given effect to by issuance of suitable credit / debit notes by the Company, as the case may be along with applicable taxes.

(d) The Company shall be entitled to deliver the quantity of goods required under the Contract plus or minus 5% and the total contract price shall be adjusted accordingly.

(e) All prices quoted shall be exclusive of Excise Duty and Sales Tax/VAT or GST as the case may be, and the Customer shall pay any and all taxes, duties and other government charges and/or levies payable in respect of the goods or services. If the Central Government and/or State Government(s) implements or revises laws in respect of Excise Duty, Sales Tax/VAT or GST *inter se* any Order, the Customer is required to pay the applicable Excise Duty, Sales Tax/VAT or GST with respect to the invoices issued after implementation or revision of Excise Duty, Sales Tax/VAT or GST, as the case may be. Any changes in the tax regime will be applicable for the invoices issued on or after the date of such change as notified by the Central and/or State Government(s) of India.
4. Unless otherwise agreed by the Company:
(a) the Company shall deliver the goods by the means most convenient to the Company to the Customer's designated delivery point or (in the event that the Customer fails to specify a delivery point) to any address at which the Customer resides or carries on its business.

(b) all significant risks (including those of material in transit from the Company or its supplier's works to the Customer's premises) and rewards of ownership in the goods, which the Company agrees to supply, shall transfer to the Customer on the Relevant Date as defined in the paragraph 5(c) hereof.

(c) in case of international supply transactions the standard terms of sales as per 'Inco-Terms 2010 shall be “FREE ON BOARD” at the Indian ports. The title and risk passes to the importer once the goods are loaded into the ship/aircraft as the case may be.
5. The Company's standard terms of sale are ex-works the Company's Premises and applicable Incoterms 2010, and cover the following circumstances:
(a) The Customer, its contractor or agent takes physical possession of the goods from the factory premises of the Company.
(b) The Company despatches the goods from its premises using transport arranged, either by the Customer or, arranged by the Company on the Customer's request, but where the Customer pays the transporter.



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(c) When the terms of sales are:

- ex-works the Company's premises: the Relevant Date is the date on which the goods physically leave the Company's premises.
- door delivery, the Customer takes delivery of the goods at the Customer's premises: the Relevant Date is the date on which the Customer acknowledges receipt of the goods, including but not limited to, by taking possession or signing a delivery note.

6. Time for payment shall be of the essence of the Contract. Without prejudice to any other rights of the Company, interest will be payable on all overdue accounts at the prevailing Prime Lending Rate of the Bank in India plus 1% and for the purpose of clause 6 and 8 hereof the full purchase price of goods and services shall include any interest payable hereunder:

(a) If the Customer fail to make any payment when it becomes due or shall enter into any composition or any arrangement with his or its creditors or if being an incorporated company shall have an administrative receiver or administrator appointed or shall pass a resolution for winding up or a Court shall make an order to that effect or if there shall be any breach by the Customer of any of the terms and conditions hereof, the Company may defer or cancel any further deliveries or performance of its obligations and treat the Contract as determined but without prejudice to its right to the full purchase price for goods delivered and services supplied and damages for any loss suffered in consequence of such determination.

(b) Cancellation of any order by the Customer will only be accepted at the discretion of the Company and in any case on condition that any costs or expenses incurred by the Company up to the date of cancellation of order and all loss or damage resulting to the Company by reason of such cancellation will be paid by the Customer to the Company forthwith. Acceptance of such cancellation will only be binding on the Company if given in writing.

(c) A charge will be made for costs incurred by the Company due to suspension or deferment of any order by the Customer or in the event that the Customer defaults in collecting, or giving instructions for the delivery of, any goods or the performance of any services.

7. (a) No claim for damage or loss of goods occurring after the Relevant Date will be entertained. Any claim arising from damage or loss of goods before the Relevant Date will only be entertained if the Customer shall have given to the Company written notice of such damage, shortage or loss with reasonable particulars thereof within 3 days after the receipt of goods or in case of total loss, within 10 days of receipt of the invoice or other notification of despatch. The Company's liability, if any, shall be limited at its sole discretion to replacing or repairing such goods or refunding the advance money or the full price, if any paid to the Company and it shall be a condition precedent to any such liability that the Customer shall if so requested have returned goods to the Company within 14 days of such request. The Customer shall not be entitled to make any claim against the Company for consequential loss arising out of such damage, shortage or loss as aforesaid.

(b) Likewise, any claim arising from defect or deficiency in the goods or the performance of service by the Company will only be entertained if the Customer shall have given to the Company written notice of any damage inflicted or loss incurred including but not limited to the process where the goods supplied or services rendered by the Company was put into use or to the goods or material or equipment or other property that were used in the process, with reasonable particulars thereof within 3 days after the damage is inflicted or loss is incurred or in case of total loss, within 10 days thereof, if and only if, the damage is inflicted or loss is incurred within the guarantee or warranty period that was mutually agreed between the Company and the Customer. The Company's liability, if any, shall be limited at its sole discretion to replacing or repairing the goods or repeating the services or refunding the advance money or the full price, if any, paid to the Company. It shall be a condition precedent to any such liability that the Customer shall if so requested have returned goods to the Company and allowed the Company to visit its premises to inspect and take samples and to investigate the alleged defect or deficiency in the goods or services within 14 days of such request. The Customer shall not be entitled to make any claim against the Company for consequential loss arising out of such defect or deficiency in the goods or the performance of the services.

(c) The Company's liability, as stated hereinabove Clause 7(b), will arise only when the information, prescription or specification provided by the Customer, related to the nature of process, goods or machinery, for which the goods were supplied and on which the services were performed, were true and correct, before the supply of goods or start of the service. Upon investigation by the Company of the circumstances resulting in the loss or damage, where it is found that the Customer has supplied any wrong information or has resorted to suppression of facts on the nature of process, goods or machinery, which had resulted in the loss or damage, the Company will have no liability whatsoever. If the above facts come to the Company's notice at a later stage, and the Company has already indemnified the customer of the losses or damages incurred, then the Customer will be liable to pay back the amount forthwith.

(d) The Customer warrants that it will pass on to all third parties to whom it may supply the goods, all information as to the use and safe handling of the goods as may have been provided to the Customer by the Company.

8. The following provisions shall apply to all contracts other than International Supply Contracts and to all goods, which the Company agrees to supply to the Customer under the Contract. No failure by the Company to enforce strict compliance by the Customer with such provisions shall constitute a waiver thereof and no termination of the Contract shall prejudice, limit or extinguish the Company's rights under this paragraph.

(a) Notwithstanding the physical delivery of the goods and the passing of all significant risks and rewards of ownership in the goods to the Customer, the Company shall retain the right to take all possible measures (including initiating appropriate legal proceedings against the defaulting Customer) or re-possess / re-claim the goods in the event the Company does not receive the full payment for the goods.

(b) The Customer is hereby granted a license by the Company to use or incorporate the goods in any other products. The Customer is hereby licensed to sell the goods and any products incorporating any of them. The license is limited to bona-fide sale made by the Customer at an arm's length price. Such licenses granted shall be terminable forthwith at any time upon notice by the Company to the Customer.

9. The Customer shall maintain all appropriate insurance in respect of the goods from the date on which all the significant risks and rewards therein passes to him as hereinbefore defined. In case of international supply contracts, the insurance will be arranged by the Customer, or if specifically requested, the Company may arrange the insurance for and on behalf of the Customer, at the cost to the Customer.

10. The Company will use reasonable endeavors to fulfill its obligations contained in this Contract provided always that, save as provided in this Contract, the Company will not be liable for any pecuniary loss suffered by the Customer as a consequence of any breach of contract, breach of statutory duty, negligent act or omission of the Company its servants or agents in or in connection with the supply of any goods or the design or manufacture thereof or in the carrying out of any work, (including but not limited to all work done in or in connection with the supply of any services required under the Contract or the provision of any information or advice).



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11. (a) Subject to 11(b) the Contract sets out (i) the entire agreement and understanding between the Customer and the Company in connection with the sale of the goods and supply of the services and shall supersede and replace all documentation previously issued by the Company purporting to set out its terms and conditions of sale; and (ii) the entire liability of the Company to the Customer and the exclusive remedies of the Customer against the Company under or in relation to the Contract.
(b) Nothing in these conditions shall exclude or restrict any liability that the Company may not exclude or restrict by virtue of the applicable laws.
12. (a) Unless otherwise agreed by the Company in writing the Customer shall have no rights in respect of any works or design prepared by, used by or belonging to the Company and the Customer acknowledges that it shall not acquire any rights in respect thereof and that all intellectual property rights and the goodwill associated therewith are, and shall remain vested in the Company.
13. (b) The Customer shall not use any design provided by the Company without the Company's written permission and where such permission is given, only within the terms and conditions specified therein. Any such use of the design shall bear a credit to the Company displayed in such a position and in such terms as agreed with the Customer.
14. The Company shall not be used as a Credit Reference without prior written approval.
15. The proper law of all contracts with the Company shall be the Indian Law, which shall govern in all respects the construction and effect of such contract and of these conditions. The Customer agrees that in the event of any dispute arising out of the Contract or the performance thereof he will submit to the jurisdiction of the Indian Courts.
16. All disputes are subject to the jurisdiction of Pune Court.

Updated on 1 July, 2017