

## 1. GENERAL

- a) Our terms & conditions of sale apply exclusively; we acknowledge no terms of the customer that conflict with or deviate from our terms & conditions of sale, unless we have expressly agreed in writing to their application. Our terms & conditions apply if we undertake delivery to the customer without making any reservations in the knowledge that the terms of the customer conflict with or deviate from our terms & conditions of sale.
- b) All agreements made between us and the customer for the purpose of performing this contract are recorded in writing in this contract and therefore, must be made in writing.
- c) Any additions or alterations to contract terms shall bind parties only if agreed to in writing by Schaltbau India Pvt. Ltd. (SBI)
- d) The customer undertakes not to pass on any data relating to our business relations to third parties, without prior written consent from SBI.
- e) These terms & conditions of sale apply not only to the present order but also to all future transactions with the customer.
- f) The specifications offered in the catalogues are for reference only and in an effort for constant improvement the specifications are likely to change, might change / have a difference in the actual product when supplied. No replacement will be given due to any such reasons.
- g) Product when supplied may have some rust (due to non-use /shipping / transportation / loading / unloading / acceptable scratches marks in the product and this should not be treated as damages in the product.
- h) The customer is obliged to submit an end use certificate for the goods delivered. In the event that the customer submits no end use certificate or breaches the export-control regulations, this gives us the right to refuse performance. The same applies in the event that the customer deliberately remains silent on an intended military end use for the goods ordered. The customer remains obliged to comply with the valid end use obligations.
- i) High seas sale transactions can or will be offered only if the buyer has valid Import export code (IE CODE). In case, the buyer fails to provide the documentation required for High seas sale on time as per the rules and regulations, the transaction will be converted into a normal taxable transaction and the taxes will be to the buyer's account.

## 2. QUOTATIONS AND QUOTATION DOCUMENTS

We reserve all title and copyright to illustrations, drawings, calculations and other documents. This also applies to written documents that are described as "confidential". The customer must obtain our express written consent before passing the same on to third parties.

## 3. DELIVERY:

SBI's observance of delivery commitments is conditional upon the strict fulfilment of the contractual obligations by the Buyers, particularly the conditions of payment terms and only when all the details of order have been technically and commercially cleared fully to the satisfaction of SBI.

- a. SBI shall have the option of delivering the goods contracted in one lot or several lots, and when despatches are affected in several lots, bills will be raised accordingly by SBI.
- b. Inspection by buyers, if necessary, shall be done at SBI's works/ warehouse only. In case of inspection by buyer or it's nominated representative at SBI's works/ warehouse, the acceptance thereof shall be given with 1-2 days. In case, the buyer fails to provide acceptance within 2 days, the material would be deemed to have been accepted and the material shall be despatched as per the agreed price basis and risk of the buyer.
- c. If the customer is at default with acceptance, the customer is obliged to pay us storage charges at the rate of 12% per annum for each month or part thereof, of the price of the goods purchased, however subject to maximum of 5% beginning one month after notification of readiness of shipment. This is in addition to all additional charges such as bank interest, warehouse charges, loading, unloading charges, foreign currency fluctuations, additional changes in duties, taxes or any other levies etc which will be to the buyer's account.
- d. If we are prevented from delivering by force majeure or similar events lie for example, labour disputes in our company or at our subcontractors or other unforeseeable obstructions beyond our control, the period for delivery is extended accordingly.
- e. In the event of delay on account of SBI, we are liable to pay liquidated damages at the rate of 0.5% per week or part thereof, for the undelivered portion ONLY subject to maximum of 5% of contract value. SBI shall not be held responsible for any other consequential damages due to such delay.

## 4. RISKS AND LIABILITY

Risks/ liabilities will pass to the buyers immediately upon dispatch/ delivery of goods from SBI works/ warehouse.

## 5. PRICE, TERMS OF PAYMENT

- a) Unless expressly agreed otherwise in the confirmation of order, our prices apply ex-works/ ex-warehouse. The price does not include transit freight & insurance, octroi, Excise duty, Sale taxes, VAT, and any additional expenses occasioned by causes beyond Seller's control including statutory impositions or by force majeure. All such amounts, as applicable shall be paid extra by the buyers.
- b) If any amount collected by Sellers from Buyers as or towards tax or other levies on sale is paid by Sellers to Government, any subsequent claim of refund of such taxes or levies can be re-paid to buyers, only on actual receipt of refund of the amount by the seller from the Government or such of its delegated agencies.
- c) The standard price validity is to a maximum of 1 month unless specified in the quotation or given by SBI in writing.
- d) The price of SBI's products indicated in the quotations accompanying these Terms and Conditions of sale, is payable at Thane, Maharashtra, India.
- e) The invoice will be raised on date of dispatch or date of readiness as informed by SBI. Unless it is specifically agreed to otherwise in writing by SBI, standard terms of Payment will be "Invoice amount is payable by way of NEFT/ RTGS within 30 days from date of invoice".
- f) Delivery to customers whose financial standing is not known to us is made only in return for advance payment or cash on delivery.
- g) Any payment received as advance earnest money or security deposit along with the order from Buyers, is accepted by SBI without any liability to pay interest and is liable to be forfeited without prejudice to Seller's other rights in case Buyer cancels the order or portion thereof or do not abide by the terms of contract.
- h) Buyers registered under the Central Sale Tax Act are advised to send Sales Tax declaration form "C" or "D" in Duplicate, complete in all respects and duly signed by the Buyer along with their Purchase Order, in order to charge the concessional rates applicable in SBI's Invoices at the time of supply. In the absence of the declaration forms as above mentioned, SBI will charge Tax at full rates only. In case of non-supply of "C" form or any other form to be supplied by the buyer to SBI and due to which if SBI has to pay any penalty, tax difference or additional taxes to the department, the same will be collected from the buyer by SBI on demand notice with interest.
- i) If buyers do not pay dues for the contracted goods within expiry of time stipulated for such payment, or if Buyers cancel the contract or any portion thereof, or do not arrange to remove the goods when they are ready or do not abide by contract terms, SBI will be entitled, without prejudice to all other rights including right for damages as follows:
  - i. To rescind the contract / order either in its entirety or in respect of any lot of the goods that may be undelivered and to treat advance, if any paid by the Buyers as forfeited or;
  - ii. To resell the goods or any lot thereof in India or abroad at SBI's option, either by private contractor by Public Auction and to recover from Buyers the contract price and all other dues less the net proceeds of such resale remaining after deducting there of the Storage Insurance and other charges incurred and a reselling commission of 5% on such resale value.
  - iii. Without reselling the goods, to recover from Buyer's contract price and other dues and damages.

## 6. SHORTAGE

Wherever packing cases are received in damaged condition and damages to the product are suspected, the Buyers shall insist upon the Carriers to give open delivery and obtain necessary certificates of damage and lodge complaint with Carriers/Insurance companies and claim the damages direct, under advice to Sellers. SBI's responsibility ceases after the products leave their works or when handed over to Transport Carriers at the dispatching station against RR/GC Note and SBI will not therefore be responsible for any loss, damage, breakages, etc., in transit. Shortages, if any noticed in consignments received without any external damage to any containers or cases where leakages or pilferages are not possible, shall be notified by Buyers to SBI in writing within 7 (Seven) days from the day of arrival of goods at destination ; in default there of SBI shall not be liable for any shortages.

## **7. INSURANCE**

Unless otherwise mutually agreed to in advance in writing by SBI, SBI will dispatch its products uninsured to Buyers at Carriers risk. If Carriers do not accept transit risk, the risk will be that of Buyers. SBI's responsibility ceases as the consignment is handed over in good condition to the Railways or the Transport Carriers and a receipt is obtained for it. SBI will not be responsible after entrusting the consignment to the Carriers for any loss, damage, breakage, etc., during transit. SBI will advise the buyers by mail, telex, or letter about the dispatch particulars of the goods for necessary insurance coverage by the Buyers or the consignees at their end and the entire process of claim will have to be handled by the Buyers. Even if the Insurance is arranged by SBI at the request of Buyers, the entire process of claim with the underwriter will have to be initiated and processed by the Buyers. SBI will accept no responsibility in these matters.

## **8. Warranty**

All products sold by SBI, shall be warranted against manufacturing defect for a period of 12 months from date the equipment is put to use or 18 months from date of delivery whichever is earlier. This warranty is subject to proper use in line with manufacturer's recommendation.

## **9. CANCELLATION**

In case of any unilateral cancellation of order by the buyer, the buyer shall reimburse all unpaid costs incurred by SBI in the execution of the order. In the event of cancellation of an order after payment of advance by the Buyers, SBI reserves the right to forfeit the advance.

## **10. FORCE MAJEURE**

SBI shall not be liable for damages or for any delay in performance, due to circumstances beyond its control, including, without limiting or affecting the generality of the foregoing, any priority system established by the Government of India, fire, floods, storms, earthquake, explosions and other acts of God, strikes, lockouts at works in India or abroad, labour disturbances, go-slow tactics, work-to-rule, lay-off, civil strike, insurrection, restriction on power supply, shortage of materials, war hostilities, acts of public enemy, riots, sabotage, lack of transportation, stoppage of railways or other carriers or accidents during transit in and or on high seas, or by capture, seizure, detention or blockade or other consequences of war and failure of performance of sub-contractors and /or suppliers. Failure of SBI to perform, for reasons aforesaid, shall not be grounds for cancellation of orders, but the delivery date shall be extended suitably. SBI shall not be liable for loss of use or any damage direct, indirect or consequential, resulting from delivery delays, arising from causes explained herein above.

## **11. OWNERSHIP**

The property in the goods shall vest in the Buyers on the appropriation of the goods to the Buyer's purchase order duly accepted by sellers, and the Buyers are informed of the same. Until the goods are fully paid for, the Buyers agree that the goods shall be subject to a charge, or hypothecation in favour of SBI by way of security for their outstanding contract dues if any, and no creditor of the buyer will be entitled to take them in execution nor will the assignee, receiver or liquidator of the Buyers have any claim over them except subject to the said paramount charge in favour of SBI for their outstanding contract dues. In case of default in payment of the sellers dues or any part or instalment thereof, SBI will have the right to enter upon the premises where the contract goods, are lying or installed and take physical possession of the contracted goods from the Buyers without prejudice, to SBI's other right and remedies under the contract and Buyers hereby agree to give Sellers the necessary lease and license for the same in addition to the reimbursement of expenditure incurred by SBI in this regard. SBI will have right of resale at the risk of Buyers in the event of undue delay in payment schedule or issue of dispatch/delivery instructions for the goods by the Buyers or his assigned nominees.

## **12. ALTERATION**

Telegraphic and telephone alterations in relation to quantities or specifications shall not be valid or binding on SBI, unless and until a written confirmation thereof is received by SBI within one week of the date of telephonic or telegraphic alteration made by the Buyer and SBI acceptance thereof is obtained.

## **13. LIABILITY OF DEFECTS**

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## **14. LIMITATION OF LIABILITY**

Total liability for SBI under the contract shall not exceed 10% of contract value including liquidated damages. SBI's does not accept any consequential damages.

## **15. PLACE OF JURISDICTION**

All terms and conditions of sale are governed by the laws of India. Unless otherwise stated in the confirmation of order, our registered office (seat) is place of performance.