

## General Terms and Conditions

### 1. General

1.1. These General Terms and Conditions shall apply to every sale of Product made and or supplied by Zwez Surface Products Private Limited (hereinafter referred as "Zwez India") pursuant to any order and/or Purchase Orders received by Zwez India by the Purchaser to the exclusion of any other contrary, different or additional terms contained or referred to, in any order or in such Purchase Order or other document or correspondence or by the Purchaser, except as otherwise any contrary, different or additional terms or arrangement contained and only written in a specific agreement or form expressly executed and signed between Zwez India and the Purchaser.

1.2. In these General Terms and Conditions the following terms shall have the meanings assigned herein under:

- (i) "Contract" means the written agreement on the supply/purchase of the Products concluded by Zwez India's alongwith any confirmation/ acknowledgement in writing of the Purchaser's Purchase Order, which shall be deemed to have incorporated these General Terms and Conditions.
- (ii) "Order Confirmation" is acceptance of Purchaser's Order in writing by Zwez India.
- (iii) "Price" means the price for the Products excluding carriage, freight, insurance and taxes.
- (iv) "Products" are the devices, chemical products and chemicals as objects and liquids to be supplied by Zwez India to the Purchaser as per the Contract.
- (v) "Purchaser" is the customer ordering Products from Zwez India.
- (vi) "Purchase Order" is the document setting out the Purchaser's requirements for purchase of the the Product/s .
- (vii) "Quotation" means Zwez India's written quotation for the purchase of the Products by the Purchaser.

### 2. Contract Formation: Quotation, Purchase Order and Order Confirmations

2.1. Quotations issued by the Zwez India will usually comprise the description, technical features and Prices of the Products. A Quotation shall not be construed as an obligation to sell but merely an proposal/invitation and no contractual relationship shall arise from it until the Purchase Order has been accepted by Zwez India in writing.

2.2. Any errors or omissions in the Quotation documents or other related documentation may be amended without incurring any liability upon Zwez India for damages in relation to such errors or omissions. The conditions specified in the Quotation shall remain valid for 30 days or such other period as explicitly stated in it.

2.3. Based on the Quotation issued by Zwez India, the Purchaser will issue a Purchase Order. Provided that a reply to a Quotation which claims to be an acceptance but contains additions, limitations or other modifications relating, among other things to the Price, payment terms, quality and quantity of the Products, place and time of dispatch constitutes a rejection of the Quotation and shall be considered as a counter-request for Quotation.

2.4. The Purchaser's Purchase Order shall only become binding upon Zwez India's explicit acceptance of the Purchase Order in writing by way of issuing Order Confirmation to the Purchaser. Thus the Contract comes into existence only upon receiving Order Confirmation from Zwez India or latest with the delivery of the Products and with the delivery acceptance of the Products by the Purchaser. All

Order Confirmation are given exclusively on the basis of these General Terms and Conditions.

2.5. Whilst every effort has been made to draw up all information contained in general product documentation in order to ensure accuracy of information, however Zwez India cannot be considered responsible for any errors or omission contained in the said general product documentation as Zwez India shall only be bound by the contents of Order Confirmation read alongwith these General Terms and Conditions unless explicitly agreed in writing otherwise.

### 3. Variation and Cancellation

3.1. Any variation in the Purchase Order as requested by the Purchaser, including those affecting the identity, scope and delivery of the Products as detailed in the Purchase Order, may be allowed, provided it must be documented in writing may be subject to adjustments in Price or delivery date arising by reason of such modification as shall be agreed by Zwez India and the Purchaser and such agreement evidence in writing. Zwez India reserve the right to reject any requested change of the Purchaser, especially where such change is deemed unsafe or inconsistent with established quality and safety guidelines and standards.

3.2. At the outset no cancellation shall be accepted once a Purchase Order is duly accepted by Zwez India and the Purchaser shall be obligated to make full payment towards the order placed and/or cost incurred by Zwez India at their discretion. Further in case the Purchaser cancels a Purchase Order by written notice prior despatch of the Products and such cancellation is accepted by Zwez India, Zwez India may charge the Purchaser reasonable cancellation fees, including reimbursement of Zwez India's direct costs incurred in connection with the cancellation. All cancellation will be subject to a cancellation charge which will be calculated at the rate of 5% of the price of each item.

### 4. Prices and Payment Terms

4.1. The Price specified in the order confirmation shall be binding and payable as agreed as and when due.

4.2. Unless stated in writing by Zwez India to the contrary, Prices stated do not include insurance, delivery, Goods and Services Tax (GST), customs duties and any other additional charges, applicable taxes or fees, which will be charged extra by Zwez India. Unless otherwise stated, prices are for a single consignment to a single address, where the Purchaser requests items to be supplied.

4.3. Payment of the Price shall be due within 30 days of the date of Zwez India's invoice unless agreed otherwise. The payment shall be made in Indian Rupee (INR).

4.4. Where any sum owed by the Purchaser to Zwez India under this or any other Contract is overdue, or if at any time the credit standing of the Purchaser has in the opinion of Zwez India been impaired for any other reason, Zwez India may withhold any deliveries of Products due to be made under the Contract until arrangements as to payment or credit have been established which are satisfactory to Zwez India.

4.5. If the Purchaser fails to pay by the due date, interest shall be levied on the unpaid amount from the date on which the payment was due until the date of actual receipt of payment as well as recovery costs (including legal fees as well as taxes, if applicable). The rate of interest charges shall be 12 % per annum on the unpaid amount without having sent any further notices or intimation.

### 5. Delivery

5.1. Unless otherwise agreed in the order confirmation, delivery of the Products is affected EX-Works (Incoterms 2010 as amended).

5.2. Unless stated otherwise in the Quotation, the price quoted includes packing in accordance with Zwez India's standard practice. Any other specific packing and marking requirements not otherwise included in the price of the Products and requested by the Purchaser and/or deemed necessary for Zwez India will be charged for in addition the price quoted.

5.3. In the event that Zwez India arranges transport, for delivery of Products on behalf of Purchaser, Zwez India shall not assume any liabilities in respect of the selection of transport undertaking.

5.4. Should delivery be delayed due to reasons not within Zwez India's control, the risk shall pass to the Purchaser from the time of notification of the readiness to dispatch. Unless otherwise regulated, partial deliveries shall be allowed and considered accepted.

5.5. Unless otherwise stipulated in the order, the delivery will be covered by a transport insurance on the Purchaser's request; the costs incurring insofar shall be borne by the Purchaser.

5.6. Any delivery times specified by Zwez India are intended to be an estimate only and time for delivery shall not be made of the essence of the Contract and Zwez India will not be liable to the Purchaser for any loss or damage sustained by the Purchaser as a result of Zwez India's failure to comply with such delivery times. The Purchaser shall not invoke delayed delivery as a ground to cancel the Order, reject the Product or claim any compensation.

5.7. Zwez India shall be entitled to store the Products at its own premises or elsewhere at the Purchaser's expense if the Purchaser fails to take delivery within a period of fourteen (14) days from the date of notification that the Products are ready for delivery.

5.8. In case the Purchaser defaults in acceptance of the Products or in case he infringes upon other duties to comply with, Zwez India shall be entitled to demand compensation for the damages incurred through this, including any possible additional expenses. Further claims remain reserved with Zwez India. The risk of coincidental destruction or coincidental deterioration of the Product shall pass to the Purchaser at the time when he defaulted in acceptance of the delivered product or defaulted in complying with other duties.

5.9. The expenses that Zwez India may reclaim from the Purchaser include all reasonable costs incurred by Zwez India (whether by way of storage, insurance or otherwise including applicable taxes) in respect of the Products notwithstanding that the risk in them has passed to the Purchaser.

## 6. Passing of Risk and Title

6.1. The Products shall be at the Purchaser's risk on delivery of Products or from such time as delivery would have been so affected had the Purchaser duly taken delivery or collected the Products.

6.2. Notwithstanding that the Products are in whole or in part are at the risk of the Purchaser, the property and legal title to the Products remain with Zwez India until and unless they have been paid for in full by the Purchaser. Hence until the Products have been fully paid for, Zwez India is and remains the legal and equitable owner of the Products.

6.3. The Purchaser shall not pledge or in any way charge by way of security for any indebtedness any of the Products which are the property of Zwez India. Without prejudice to the other rights of Zwez India, if the Purchaser does so all sums whatever owing by the Purchaser to Zwez India (without prejudice to any other right or remedy of the Seller) shall forthwith become due and payable.

6.4. The Purchaser shall insure and keep insured the Products to the full Price against all risks to the reasonable satisfaction of Zwez India until the date that property in the Products passes from Zwez India, and shall whenever requested by Zwez India produce a copy of the policy of insurance. Without prejudice to the other rights of Zwez India, if the Purchaser fails to do so all sums whatever owing by the Purchaser to Zwez India shall forthwith become due and payable.

## 7. Examination and conformity of the Products

7.1. The Purchaser shall examine the Products and satisfy itself that the Products delivered meet the agreed specifications for the Products as stated in the Order Confirmation.

7.2. Complaints about the Products shall be made in writing and must reach Zwez India not later than eight (8) days from the delivery date or not later than thirty days (30) from the shipping date in respect of any faulty design, materials or workmanship in material and defective in nature ("Defects") which would be apparent from a reasonable inspection on delivery. Within eight (8) days from the date in which any other claim for hidden Defects was or ought to have been apparent, but in no event later than (i) three (3) months from the date of delivery of the Products or (ii) the expiry of the Products whichever is higher. Any use of the Products shall be deemed to be an unconditional acceptance of the Products as of the date of delivery and a waiver of all claims in respect of the Products.

7.3. Defects in parts of the Products do not entitle the Purchaser to reject the entire delivery of the Products, unless the Purchaser cannot reasonably be expected to accept delivery of the remaining non-defective parts of the Products.

7.4. Complaints, if any, do not affect the Purchaser's obligation to pay as defined in Clause 4.

## 8. Limited Warranty

8.1. Zwez India solely warrants that by delivery all Products shall be free from Defects.

8.2. If and to the extent Products have Defects, Zwez India may at its own option and within a reasonable time either repair or replace the same Products at no charge to the Purchaser or issue a credit for any such Products in the amount of the original Price. Accordingly, Zwez India's obligation shall be limited solely to repair or replace the same Products or for credit of the same Products. 8.7. Should the retention of title not be effective in the form described above pursuant to the law applicable in the country of destination, the purchaser must co-operate in the establishment of a right of security for the supplier corresponding to the regulations in his country.

## 9. Protected Rights

9.1. Where the Products are customized according to the ideas, models, drawings or samples of the Purchaser, the Purchaser gives a guarantee that no protected rights of third parties are infringed thereby and any intellectual property right will remain with Zwez India. In any legal proceedings in connection with claims for compensation of infringement of patent rights, trademark rights, protection of designs, trade secrets or proceedings protected by copyright pertaining to the Product, the Purchaser will release Zwez India from all claims of third parties and resulting costs and will participate in legal proceedings if Zwez India asks him to do so. Irrespective of the existence of legal protection rights all ideas, inventions, formulas, designs and samples, works protected by copyright, patents, design right, trademarks, copy rights and trade secrets and all knowhow or other intellectual property made by Zwez India, and all techniques applied to the Product, preliminary to or upon processing of an order shall always remain sole intellectual property of the sole owner/manufacture [Zwez GmbH] and/or Zwez India and its affiliates.

## 10. Guarantee

10.1. During a period of three (3) months after delivery, Zwez India gives a guarantee on all products, which were produced by Zwez India or its parent company itself.

10.2. Zwez India does not give any guarantees on products not produced by Zwez India or its parent company itself, nor for raw materials delivered by third parties designated by the Purchaser.

10.3. Zwez India is not required to comply with any guarantee obligation if, at the time the Purchaser invokes the guarantee, the Purchaser has not fully, properly or timely fulfilled any obligation vis-à-vis Zwez India.

10.4. Any guarantee shall expire if the Purchaser itself performs changes or repairs with respect to the Products, or has these performed, if the Products are used for purposes which are not common for the intended businesses, or has acted or performed maintenance in a careless or injudicious manner. In this respect, written

instructions of the Zwez India shall be carried out. These instructions may be found on Products labels or manuals.

10.5. Zwez India cannot be held liable for defects pertaining to natural wear and tear or damages caused after the time of passing of the risk due to incorrect or negligent use/handling, excessive strain, chemical influences, contamination with other substances or improper storage.

10.6. In the event a new part produced by Zwez India itself is installed in a delivered product produced by Zwez India itself, there is no new guarantee period with regard to that part or the product concerned, but, with regard to that part, there is a guarantee period that ends at the time that the guarantee period ends for the product in which that part has been installed.

## 11. Termination

11.1. Without prejudice to any other rights or remedies which the Parties may have, Zwez India may terminate the Contract created in pursuant to these General Terms and Conditions without incurring any liability to the Purchaser immediately upon giving notice to the Purchaser in the event if:

- a) The Purchaser fails to pay any amount due for payment and remains in default not less than seven (7) days being notified in writing to make such payment; or
- b) The Purchaser commits material breach of any of the Terms and Conditions (if such breach is remediable) fails to remedy the breach within 30 days of the Party being notified in writing of the breach;
- c) The Purchaser goes into liquidation, has a winding up petition presented against it, makes an arrangement with its creditors, is declared bankrupt (or other equivalent situations);
- d) Or engaged in any criminal act or offence.

11.2. Upon termination of the Contract by Zwez India for any reason including the reasons as stated above, such termination shall not affect the liability of the Purchaser to make payment towards all its pending payments and the Purchaser shall immediately pay to Zwez India all outstanding invoices and interest in respect of the Products supplied by Zwez India.

## 12. Force Majeure

12.1. Zwez India shall be entitled to suspend the performance of its obligations under these General Terms and Conditions to the extent that such performance is impeded or made unreasonably onerous by Force Majeure, meaning any of the following circumstances: industrial strike/lock-out, disputes and any circumstance beyond the control of Zwez India including but without limitation, act of God, earthquake, floods, fire, war, extensive military mobilization, insurrection, requisition, seizure, embargo, restrictions in the use of power, currency and export restrictions, epidemics, natural disasters, extreme natural events, terrorist acts and defects or delays in deliveries by sub-contractors caused by any such circumstance referred to in this Clause.

12.2. Zwez India when claiming to be affected by Force Majeure shall notify the Purchaser in writing without delay on the intervention and on the cessation of such circumstance. Failure to give such notice, the Purchaser shall be entitled to compensation for any additional costs which it incurs and which it could have avoided had it received such notice.

12.3. If such events of Force Majeure and circumstances continue for a period of three (3) months or more, Zwez India is entitled to terminate the Contract immediately upon notice. However, existence of Force Majeure event shall not entitle the Purchaser to not make any payment for any Product supplied by Zwez India to Purchaser.

## 13. Limitation of Liability

13.1. Notwithstanding any other provision in these General Terms and Conditions whether by way of indemnity or by breach of Contract, statutory duty, tort, negligence, or otherwise, and whatever the cause of thereof;

- (a) Zwez India shall not be liable for business interruption, loss of production, loss of profit, loss of contracts, loss of use, loss of data, loss of goodwill other like (whether direct or indirect), or any other form of incidental or consequent damage of whatsoever nature, and
- (b) the total overall liability of Zwez India including but not limited to liquidated damages, shall not exceed 100% of the contract price/prices.

13.2. The limitations or exclusions of liability provided in clause 13.1. shall however only apply to the extent permitted by applicable mandatory laws and shall not apply in case of gross negligence or willful misconduct.

## 14. Miscellaneous Clauses

14.1. Zwez India reserves all rights to improve or modify any of the products without prior notice, provided such improvement or modification does not affect the form and function of the Product.

14.2. These General Terms and Conditions supersede and invalidate all other terms of the Purchaser under their correspondence or purchase order etc, commitments and warranties, whether oral or written, relating to the subject matter hereof.

14.3. Zwez India reserves the right to review and amend these General Terms and Conditions from time to time. Written notification to the Purchaser shall be sufficient notification to bind the Purchaser to any revised or amended General Terms and Conditions for all Purchase Orders placed by the Purchaser and accepted by Zwez India after the date of such notification.

14.4. Should individual provisions of these conditions of sale and delivery be or become ineffective, this does not affect the effectiveness of the remaining provisions. The provision that is ineffective either completely or partially, shall be replaced by a provision whose economic consequences are as close as possible to the ineffective provision.

14.5. In case of any discrepancy between the different translations of these General Terms and Conditions, the English version shall prevail.

## 15. Choice of Law, Place of Jurisdiction, Disputes

15.1. The law of the Republic of India shall be applicable, in case of any disputes arising out of the subject matter of these General Terms and Conditions.

15.2. In the event, if any dispute, controversy, claim or breach arises out of or in connection with these Terms and Conditions including any dispute as to the existence or validity thereof (the "Dispute"), unless amicably settled, be referred to final and binding arbitration under the provisions of the Swiss Rules of International Arbitration, 2012 as amended from time to time (the "Arbitration Rules"), by a sole arbitrator mutually appointed by Zwez India and the Purchaser. The decision of the arbitrator tribunal as appointed herein under this section, will be final and binding upon the Parties and enforceable. Venue for arbitration proceedings shall take place in Zürich, Switzerland and shall be conducted in English language only.

15.3. The Courts of Chennai shall have jurisdiction towards any dispute.

## 16. Contact

Zwez Surface Products Private Limited

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