

## Terms and Conditions of Purchase

Last Revised on May 25, 2020

### Definitions

"The Buyer" means Hartex Rubber Pvt. Ltd.

"The Seller" means person, firm, company and any party as may sell or agree to sell any goods to the buyer.

"Goods" as used in this order means the materials, supplies articles, equipment, structures, work or services covered by the order.

"Portal" means web portal of the buyer

"Order" means purchase order

### Goods & services tax (GST)

The seller shall deposit the taxes under the GST Act with the Government as reflected on the corresponding invoice before due date and shall upload the sales related data on the GST Portal for enabling the buyer to avail GST credit. If the seller fails to deposit the GST or does not upload the details on GST portal in as mentioned above as a result of which the buyer is unable to avail the credit, the buyer shall have every right to withhold the GST amount and any other balance amount of the said invoice until such time GST is deposited and details are uploaded on the GST portal.

### Quality

- a) The specifications mentioned in the portal shall become an integral part of purchase order
- b) The supplier expressly admits that the goods to be supplied by him against this order shall conform to the specifications, drawings, samples and other descriptions furnished on the web portal of the buyer and that the goods will be made of good materials and workmanship and free from defects.
- c) Without prejudice to any other rights of the buyer, the seller should oblige with warranties and guarantees regardless of the material rejected.
- d) If any goods are rejected:
  - i. The buyer shall intimate the seller in writing about the rejection via system or email.
  - ii. Immediately on intimation of rejection of goods the seller shall replace such rejected goods within the time frame mutually agreed but not later than expiration date of purchase order. If the seller fails to do so, the buyer is at liberty to procure the same from the market at the risk and cost of seller. Further, the seller shall return the advance payment received from buyer towards rejected goods and he shall also give credit note of adjustment of invoices. On failure of the above by seller, the buyer is at liberty to recover the same with an interest of 12% p.a.
  - iii. Unless otherwise agreed in writing, the goods covered by this order shall be guaranteed and warranted against any latent defects in materials or faulty workmanship for a period of one year from the date of delivery or installation as the case may be.

- e) The material shall be rejected if the packing material is not good/ satisfactory.
- f) All measurements will be in grams or kilograms. In case material is ordered in any other units, buyer specifications shall stipulate an acceptable minimum and maximum conversion into those units. All units shall be defined in standard international or metric units.
- g) Unit of measure on invoice must match unit of measure of purchase order. All disputes, documents, agreements, discussions shall use the unit of measure specified in the purchase order.

## **Deliveries**

In the following, whatsoever is mentioned with respect to the deliveries shall also apply to dispatches for the cases where the contract is made for specific period of dispatch.

- a) If it is expressly agreed that it is not necessary for the buyer to apply for delivery/dispatch against this order. The seller is responsible to deliver/dispatch the goods even though the buyer has not asked in writing for the same.
- b) It is expressly agreed and understood that time is the essence of contract.
- c) The seller is required to intimate the buyer about all deliveries and dispatches by entering a lorry receipt / shipping advice/ airway bill into the online portal.
- d) Without prejudice to any other rights of the buyer, the buyer reserves the right to refuse the delivery of goods which are in contrary to the instructions and specifications mentioned in order or received after the delivery date of the order.
- e) In the event of the order remaining unfulfilled in whole or part the buyer reserves the right to cancel the unfulfilled portion or grant an extension in the delivery date or claim damages for the unfulfilled portion to the extent of difference between the price mentioned in the contract and price of the said material in the market. Further, if the material is not readily available, the seller can arrange for the closest substitute acceptable to the buyer. On failure, the buyer is at liberty to buy the same from the open market immediately treating it as breach of contract. If order remains unfulfilled in any manner the buyer reserves the additional right to claim non productive damages on either the due date of the order or on any of the extended due dates solely at the buyer's option.
- f) Seller is required to raise invoice before delivery of goods on portal/system.
- g) Invoice must be referred in the lorry receipt (L/R)
- h) All the lorry receipts (L/R) shall contain barcode print out from portal. Non-compliance of this shall result in refusal of delivery of goods. Further, all delay's in deliveries including transportation shall be to the account of seller.
- i) The digital weighment at the place of unloading shall be of buyer's done by stores department. No other weighment is acceptable/considered.
- j) The test results done by the quality assurance lab of the buyer shall be final.
- k) The buyer shall make all attempts to receive the goods as soon as possible. The exceptions to this shall be act of god such as, force majeure, fire, floods, accident etc. and other acts like backlog, lockout, strike, slow down, labour shortage of any kind or an act of government and any other acts which are beyond the control of buyer.
- l) If the goods supplied are found to be defective or if there is a faulty workmanship the seller is liable to repair or replace them at his cost.
- m) Seller has a right to view copy of stores weighments (stock records) and inspection reports of buyer.

- n) Truck unloading may take up to 72 hours. Any damages caused during this period due to weather conditions shall be to the account of seller, as the seller is bound to take a note of the seasonal changes in weather conditions before dispatch.
- o) Any cost pertaining exclusively to freight must be entered separately into the portal assigned to the L/S/ Shipping advice etc.

## **Packing and Forwarding**

No charges for packing, forwarding or cartage shall be paid by the buyer for the orders unless and otherwise expressly agreed in writing at the time of placing orders. Further, any damage to goods being not packed in complete protection, will accrue to seller's account.

## **Payment**

- a) Payment to the seller's bills against this order shall be subject to deductions for those claims which are arising out of this order or any other earlier orders.
- b) If there is a difference or discrepancy between seller's invoice and terms of this order the seller agrees that the buyer may change the invoice to conform to the terms of this order and make payment accordingly.
- c) In case of reduced quantity, seller has to give credit note. Entire payment will be withheld, without any right of interest until credit note is provided.
- d) All invoices for the purchase order must be raised and entered into the online portal by the seller before expiry of purchase order. On failure, the buyer is not responsible for any delay in payments and seller is not entitled for any interest on said payments.
- e) In case if old purchase orders are open for a given item, the invoices must be assigned on first –in- first- out (FIFO) basis. No payments will be made for new purchase orders until old purchase orders are cleared and closed.
- f) The date of invoice shall be, either date mentioned on invoice or entry date in system whichever is later.
- g) In case an invoice is not entered before expiration of the purchase order, seller has to give a letter explaining the reasons for non-entry and no new payment terms shall be considered on that invoice.

## **Amendments**

- a) This order becomes a binding contract on the terms set here-in, when it is accepted by seller by acknowledgment or commencement of performance here off. Acknowledgement is accepted when made thru registered email ID of seller via online system. No revisions are amendments to the orders are allowed.

## **Applicable Provisions for Entities registered under the Micro, Small and Medium Enterprises Development Act, 2006 (MSMED Act)**

- a) The Seller must declare its status as MSME at the time of placing the quote. If the Seller is registered under the MSMED Act but has not declared its status before the date of

- awarding the Purchase Order, then the payment terms shall be 120 days from date of acceptance of the goods or the terms specified in the purchase order whichever is more
- b) In case the Seller's MSME status changes at any point, Seller is required to declare its new status within 7 working days. The following conditions shall apply:
    - i. In case any invoices are outstanding, they shall immediately be understood to be payable 120 days from date of acceptance of goods.
    - ii. For any open Purchase Orders, the updated payment terms shall be 120 days from date of acceptance of the goods or the terms specified in the purchase order whichever is more.
  - c) The Buyer holds the right not to award purchase orders to entities which are registered under MSME Act 2006 in order to protect its interests and lower its risk.
  - d) In case the status of the seller changes after awarding the Purchase Order, the Buyer may cancel such purchase orders at its sole discretion with no recourse to the Seller for any specific performance terms mentioned in any mutually agreed contracts signed at the time of the purchase order.

### **Miscellaneous**

- a) Whenever the seller by virtue of this order has in his possession any property/goods/materials of the buyer, the seller is solely and completely responsible for the safe return of the same. In the event of any loss or damage to such property/goods/materials of buyer the seller is liable to compensate in full value thereof.
- b) It is expressly agreed that the seller shall comply with the requirements of workman's compensation laws, rules and regulations and furnish a proof of such compliances, if so required. The seller shall hold the buyer harmless from all claims of judgments for any damage made or obtained against the buyer by any third person including the seller's employees based on injuries to person or property resulting or arising from the delivery of the items covered by purchase order or the presence of the seller's employees, workman or agents on the buyer's premises.
- c) It is expressly agreed that during the terms of and until the completion of all work under this order, the seller
  - i) Shall assume entire responsibility for any damage or injury of any kind of nature whatsoever to any person, whether employee or otherwise and to all property caused by or resulting from the execution of the work provided for in this contract or coming in connection therewith and
  - ii) Shall indemnify and save harmless and defend the buyer or his representatives, servants/employees from and against any and all loss expensed, damage or injury caused or occasioned directly or indirectly by the sellers or commission of negligence or the act of commission of negligence by any sub seller and his agent or employees in performing any of the work called for in this order.

### **Arbitration clause**

The buyer and seller expressly agree that any dispute controversy or claim arising out of or relating to this order or the breach, termination or invalidity thereof shall be settled by arbitration in accordance with the arbitration and conciliation act, 1996 of India and in accordance with its provisional rules and procedure. The buyer shall appoint a sole arbitrator and his decision shall be

final and binding. The charges for the same, if any, will be equally borne by both parties. The place of Arbitration shall be Hyderabad and language shall be English.

**Jurisdiction**

In the absence of amicable settlement any dispute arising out of this order shall be referred to and finally resolved by the Jurisdiction of the courts of Hyderabad, India.