

**GENERAL TERMS AND CONDITIONS**

**1. Meaning of Expression:**

- (a) "Seller" in these Terms and Conditions means **BIRLA FURUKAWA FIBRE OPTICS PRIVATE LIMITED**, having its Registered office at Plot Nos. L-62 to L-64, Verna Industrial Estate, Verna, Salcette, Goa – 403 722 (INDIA).
- (b) "Buyer" includes all persons, firms or Companies placing an order with the Seller and purchasing products from the Seller.
- (c) "Product" means any goods being the subject of the order placed with the Seller and purchased by the Buyer from the Seller.

**2. Application of Terms and Conditions:**

Unless otherwise agreed in writing all offers, orders and contracts are subject to these Terms and Conditions. The Seller shall not recognize any Terms or Conditions of the Buyer which oppose or deviate from Seller's offered Terms and Conditions. The Terms and Conditions of the Buyer shall not become a part of the offers, orders & contracts even if the Seller carries out performance or delivers the ordered Products, without specifically refusing to be governed by such Terms and Conditions of the Buyer. The Buyer shall be bound by Seller's offered Terms and Conditions without any reservation.

No subsequent alteration, amendment or additions hereto or any oral understanding arrived at with the Seller or its authorized representative shall be binding and valid unless the same is confirmed explicitly in writing and signed by the Seller.

**3. Offers:**

A Quotation given in writing to the Buyer amounts to an offer (hereinafter referred to the "Offer"). Unless otherwise stated all offers from the Seller are valid for one week from date of issue. Seller may revoke such offer at any time prior to receiving the Buyer's acceptance in writing by giving a written notice thereof.

**4. Orders:**

The placing of an Order by the Buyer for the Products shall constitute acceptance of these Conditions notwithstanding any other Terms and Conditions subject to which any quotation/offer by the Seller is accepted or purported to be accepted or any such order is made or purported to be made by the Buyer. No order submitted by the Buyer shall be deemed to be accepted by the Seller unless and until confirmed in writing by the Seller.

**5. Prices:**

- (a) The Price shall be Seller's quoted price. Unless otherwise stated, the Price quoted is valid for one week only, after which time they may be altered by the Seller with giving reasonable notice to the Buyer.
- (b) Seller reserves the right, by giving notice to the Buyer at any time before delivery, to increase the Price to reflect any increase in the cost to the Seller which is due to any factor beyond the control of seller, any change in delivery dates, quantities or the Specifications which is requested by the Buyer, or any delay caused by any instructions of the Buyer or failure of the Buyer to give Seller adequate or accurate information or instructions.
- (c) Except as otherwise stated under the terms of the Order and unless otherwise agreed in writing between the Buyer and the Seller, the Price is given by Seller on Ex-works basis (INCOTERMS 2010).

**6. Taxes:**

Unless otherwise agreed in writing between the Buyer and Seller, the Price is exclusive of all applicable statutory taxes, dues and duties as on the date of submission of the quotation / offer. However, any variation(s) in the statutory duties and taxes including but not limited to Customs duty, Excise duty, Sales Tax, VAT, Service Tax, etc. shall be charged extra at actual as applicable at the time of dispatch of ordered products. The levy or imposition of any new tax or duty including but not limited to Goods and Service Tax (GST) in lieu of any of the statutory tax or duty shall also be payable extra as applicable at the time of Dispatch of ordered products from our works.

**7. Terms of Payment:**

Unless otherwise stipulated in writing by the Seller, payment shall be made through At Sight Irrevocable Letter of Credit, opened by a First Class Bank, mutually agreed by the Buyer and Seller. All charges in connection with the opening and handling of the Letter of Credit are to be paid by Buyer. If the Buyer fails to effect payment within the stipulated time, Seller shall be entitled to charge interest from the day on which payment was due.

Payments shall be made to Seller in strict accordance with the agreed upon payment terms. Each shipment shall be considered a separate and independent transaction. If performance by Seller or shipments are delayed by the Buyer, payments shall become due on the date when the Seller is prepared to make shipment and such payments shall be made based on the purchase price and the percentage of completion.

**8. Dispatch and Delivery:**

Seller will endeavor to arrange for the dispatch and delivery of the Products within the time period specified or agreed by it provided always that the Buyer has complied with its obligation to pay for the ordered products in time in such manner and mode that the seller has required the Buyer to arrange and comply.

Any dates quoted for delivery of the Products are approximate only and Seller shall not be liable for any early or late delivery of the Products however caused Seller will not be liable for any damages whether total or partial late delivery or otherwise that the Buyer may suffer or any liability that the Buyer may incur as a result or in consequence of any late deliveries whether partial or total nor may Buyer cancel any order for any late delivery without a specific consent in writing from the Seller.

Any demurrage resulting from delays in unloading vessels or for any delays in taking deliveries of the cargo from the port or warehouse at the port of discharge or at the final destination is for the account of Buyer and payable to Seller on demand where the Seller is required or made to pay the same.

**9. Termination or Change:**

Orders once accepted by the Seller cannot be terminated or cancelled or specification changed, suspend performance or reschedule in whole or part, unless Buyer indemnifies the Seller for loss of work already done and upon prior written consent of the Seller. Buyer's liability shall include, but not be limited to, the price of product delivered or held for disposition and the price of services already performed, plus Seller's loss of profits thereon, incurred costs and a reasonable allocation of general and administrative expenses etc.

**10. Limited Warranty:**

10.1 Seller warrants that ordered products delivered hereunder shall be of Seller's standard quality as more specifically described in the offer and technical specification mutually agreed to in writing.

- a) Warranty shall be considered as having been provided only if Seller has declared such warranty expressly in writing. The information contained in catalogues, quality data sheets and certificates, analysis certificates, etc. shall not be considered as warranty.
- b) The Buyer shall immediately on delivery examine and inspect the goods for any defect, including any deviations in quality or quantity or services provided. In order to maintain claims based on defects any objection to the delivered goods shall be reported to the Seller in writing within ten days of taking delivery of the ordered goods, else the ordered goods shall be considered as having been accepted in accordance with the terms of the Purchase Order / Contract.

10.2 Except for the limited warranty referenced above, Seller grants no other warranties, express or implied, by statute or otherwise, regarding the ordered goods, and specifically disclaims any implied warranty of fitness for any purpose, quality, merchantability, or otherwise.

10.3 Claim(s) based on insignificant deviation from the agreed quality shall be excluded. The Seller shall not be responsible for any damage to the ordered goods or defect in the quality which occur after passing of the risk or resulting from any act or omission of the Buyer or its agent including but not limited to improper handling, improper storage etc.

**11. Dimensions and Drawings-Related Materials:**

Any information and specification concerning weights, dimensions, efficiency and technical data stated in catalogues, leaflets, advertisements, etc. constitute an approximate guide, and are only binding when the same is confirmed explicitly in writing and signed by the Seller.

Any drawings and technical documents which are submitted by the Seller to the Buyer, shall remain the Seller's exclusive property. They are entrusted only in connection with the use and maintenance of Products. It is forbidden to utilize the drawings and the documents for any other purpose, particularly for imitation of the Products, and they may not be copied or reproduced or imparted or made available to a third party.

**12. Indemnity:**

The Buyer will indemnify the Seller against all damages, penalties, costs and expenses to which the Seller may become liable as a result of work done in accordance with the Buyer's specification which involves infringement of any Patent, Registered Designs or any proprietary rights etc.

**13. Limitation of Liability:**

13.1 In no event shall Seller's total liability exceed the amount paid by the Buyer for ordered goods hereunder, and in no event shall Seller be liable for costs of procurement of substitute goods or services by anyone, or for any special consequential, incidental or other damages, however caused, whether for breach of contract, negligence or otherwise, and whether or not the Seller has been advised of the possibility of such damage. This limitation shall apply notwithstanding any failure of essential purpose of any limited remedy provided herein.

13.2 The above exclusions of and limitations on liability shall also apply for the benefit of Seller's staff, executing aides and other third parties to whom Seller has recourse for performance of the agreement/Purchase Order.

**14. Force Majeure:**

Except for the obligation to pay money properly due and owing, either Party shall be excused from any delay or failure in performance hereunder caused by reason of any occurrence or contingency beyond its control, including, but not limited to, an act of God, earthquake, labor disputes, riots war, civil insurrection, expropriation, novelty of ordered goods manufacture or other unanticipated manufacturing problems, governmental requirements, inability to secure materials (including power and fuel) on a timely basis, and transportation difficulties. In order to obtain a suspension under this Clause, the Party delayed shall send written notice of the delay and the reason therefore to the other Party within seven (7) days from the time the Party delayed knew of the cause of such delay.

**15. Relationship between Manufacturer/Seller and Buyer:**

The Buyer is not an agent, employee or legal representative of the Seller, but an independent entity or person. The Buyer does not have any authority to assume or create any obligation or responsibility on behalf of the Seller or bind the Seller in any manner whatsoever. The relationship between the Seller and the Buyer is that of vendor and vendee. The Buyer further agrees to defend, indemnify and hold the Seller harmless from and against any and all claims of third parties that would not have arisen but for an act or omission by the Buyer that is contrary to the above acknowledged relationship or any other term hereof.

**16. General Information:**

16.1 The Seller shall not recognize any terms or conditions of the Buyer which oppose or deviate from Seller's offered Terms and Conditions. The Terms and Conditions of the Buyer shall not become a part of the agreement or Purchase Order even if the Seller carries out performance or delivers the ordered goods, without specifically refusing to be governed by such Terms and Conditions of the Buyer. The Buyer shall be bound by Seller's offered Terms and Conditions without any reservation.

16.2 No subsequent alteration, amendment or additions hereto or any oral understanding arrived at with the Seller or its authorized representative shall be binding and valid unless the same is confirmed explicitly in writing and signed by the Seller.

**17. Arbitration, Governing Law & Jurisdiction:**

17.1 Any dispute or difference whatsoever arising between the parties out of or relating to the construction, meaning, scope, operation or effect of this contract or the validity or the breach thereof shall be settled by arbitration in accordance with the Rules of Arbitration of the Indian Council of Arbitration (ICA) and the award made in pursuance thereof shall be binding on the parties. The venue of Arbitration shall be at New Delhi. The Arbitration shall be held in English language.

17.2 This Contract shall be governed by the laws of India and Courts at New Delhi alone shall have the jurisdiction in this regard.