

# WITTUR Elevator Components India Pvt. Ltd.

Nos 45/1B , 45/3 and 45/4  
Pondur Village  
Sriperumbudur - 602015  
Kancheepuram District  
Tamilnadu



**Tel : 044-47124455**  
**Fax :044-47124466**

## Terms and condition

1. Price Term: Ex-Work Chennai, Wittur India or as agreed upon.
2. **Payment Term: 30% Advance payment with order confirmation and balance before delivery.**
  - 2.1. The buyer shall not, unless otherwise agreed in writing by the seller, be entitled to set off any claims allegedly owed by the seller to the buyer against the payment of the purchase price stipulated in the contract.
  - 2.2. Where the buyer fails to Pay the purchase price in accordance with the contract, the seller may, without prejudice to the rights that it has under the law for breach of contract by the buyer, suspend or cancel any further deliveries of the products until and unless such payment has been made; and claim interest at the prevailing bank rates on the delayed payment from due date until the date of receipt of the seller's payment.
  - 2.3. Any other payment terms other than specified above, will be as mutually agreed in writing.
3. **Quality Standard, Quality acceptance standard and packing:-** On the condition that the products quality meets the buyer's requirements, the seller is entitled to modify the products configuration and adjust the approximation of the products volume and weight.
4. **Delivery**
  - 4.1. Customer should pick up products at site of seller factory or as per agreed delivery terms.
  - 4.2. In case that the seller is to arrange for freight ( if initially not included in the contract) , all expenses occurred should be borne at buyer side. The buyer has full responsibility for the exact notification of name of consignee and delivery address etc. to the seller. The seller has duty to inform the buyer of the delivery time, delivery cost and related expenses etc. The buyer should inform the seller before delivery if the goods need to be insured or not during transportation in written form, in case there is no any advice from buyer before delivery, the seller will deliver the goods with insurance at buyer's cost as default, no matter the goods are insured or not, the risk occurred during the transportation, loading and unloading are borne at the buyers side. The seller can assist in claiming compensation with the buyer
  - 4.3. In case the delivery of this contract is delayed, the seller have obligation to send updated delivery notice to the buyer at the earliest stage.
  - 4.4. In case the buyer delays in collecting products for more than one week, the seller is entitled to charge demurrage charges for each day of delay.
5. **Obligations of the Buyer.**
  - 5.1. The buyer shall not be allowed to re-sell transfer assign or pledge any of the products covered in this invoice for the purpose of providing security as long as full and final payment of the purchase price has not been made.
  - 5.2. The buyer shall maintain appropriate records to enable the immediate recall of any products which may become necessary due to product liability. Such records shall consist of information on the deliveries to its customers including the delivery date, names and addresses of the customer and telephone and fax numbers if available, the buyer shall, at the seller's cost, provide such assistance as the seller requires for the purpose of recalling any of the products as a matter of urgency.
  - 5.3. In case the buyer request to cancel the contract or related purchase orders,the buyer shall be charged cancelation fee as below:

Stage of cancellation	Standard Product	Non standard product
Within one day of sales order creation	0	0
After releasing manufacturing order	25 % of order value	50% of order value
After converting to finished good	50% order value	100% order value

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## **6. Passing of Ownership and Risk**

- 6.1. The right of the ownership in the products shall, despite their delivery to the buyer, continue to vest with the seller unit and unless full and final payment of the purchase price under the contract has been made by the buyer to the seller.
- 6.2. Despite the fact that the right of ownership in the products does not pass to the buyer upon the delivery, the risk of any damage, loss, destruction or deterioration of the products shall pass to the buyer at the time of deliver

## **7. Duty to Inspect**

- 7.1. on receiving the products, the buyer shall inspect the packaging and the quantity. If there is any non-conformity, the buyer shall remark it clearly on the delivery notes and raise the claim to the seller immediately. Regarding the quality and specifications, **within 10 calendar** days from the date of delivery, the buyer shall inspect the products and shall notify the seller in writing of any non-conformity, defects discrepancies or irregularities. The aforesaid written notice must include the following content: Contract Number, delivery time and place, name and quantity of the products which are considered not to be consistent with the contract. The reason why the buyer consider the products to be not in accordance with the contract, The buyer inspection method, result and documentation and information required by the seller on a case by case basis . Save for the defects covered by the product warranty as provided for in the contract, if the buyer fails to conduct such inspection and fails to raise any claims regarding the quantity, quality or specifications of the products within the stipulated 10 days , the products shall be deemed to be in conformity with the contract and the buyer shall be deemed to have accepted and the seller shall not be liable for any claims raised thereafter. The seller shall at his choice either replace the defective products with the new products, free of defects or make up the products in short, repair the defective products or reduce the purchase price. Any transportation costs arising in connection with a replacement of defective products or make up of products in short shall be borne by the seller.

## **8. Product Warranty**

- 8.1. The seller agrees to provide the buyer with a products **warranty period of 12 months unless agreed in writing for different period**, commencing from the date of delivery, if the products are proven to have defects caused by the seller. The warranty shall only effect, if the respective defective products are returned to the seller with carriage paid by the buyer and the warranty claim is made immediately after discovery of the defect.
- 8.2. In the case of goods supplied to the seller and bought-out Components of the seller etc., the buyer shall only be entitled to the benefit of such warranty as may be given by the supplier to the seller and any other right in law which the seller may have against the supplier or the manufacturer of such goods and components
- 8.3. The buyer remedies in respect of any claims under the foregoing express warranty or against any manufacturer or supplier as aforesaid or any claim under any condition or warranty implied by law or any other claim in respect of the products shall in relation to goods of the seller's manufacturer be limited to repair, replacement, or refund of the purchase price of the defective goods at the choice of the seller and any condition and warranty implied by law shall cease to apply after the expiry of the warranty period stated above and in all others cases be limited for the enforcement of the above-mentioned liabilities of the respective supplier against the seller

## **9. Exclusion of Liability**

- 9.1. The seller shall not be liable for;
  - a. The normal wear and tear of the products
  - b. Any defect which is due to cause arising after the risk has passed to the buyer
  - c. Any defect resulting from the negligence and/or fault on the part of the buyer in maintaining, repairing or from the alteration or modification of the products without consent of the seller.
  - d. Consumable parts listed in [Wittur Product Overview]
- 9.2. The seller shall not be liable for any defects caused as result of the buyer's refusal and/or unwillingness to provide the necessary and relevant information and, materials as required for products which have been manufactured according to the individual specification of the buyer.
- 9.3. The buyer shall indemnify and hold the seller harmless from and against any liabilities, claims demands and expenses, including lawyers' fees, for any damages or injuries resulting from any products re-sold by the buyer without giving appropriate instructions or warnings or from its failure to make any recall of the products if required.

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## **10. Force majeure**

- 10.1. If either party cannot perform its obligation stipulated in the contract due to reason which are directly and exclusively attribute to an event of force majeure, it shall notify the other party by facsimile transmission or e-mail without undue delay of the occurrence of such an event and within 14 days thereafter, it shall not provide the other party a certificate confirming the occurrence of the event issued by a notarial authority in the place where the event of force majeure occurred by registered mail.
- 10.2. Force majeure shall mean any of the following events; earthquake storm. Flood, fire or other acts of nature, epidemic, Pandemic ,war riot public disturbance, strike or lock-out, government and legislative actions or any other events beyond the control of the parties, where its occurrence is not preventable and unavoidable.
- 10.3. If an event of force majeure occurs, neither party shall be responsible for any damages, increased costs or losses which the other party may sustain by reason of such failure or delay of performance. The party claiming force majeure shall adopt measures to minimise or remove the effects of force majeure and within the shortest time possible attempt to resume the performance of obligation affected by the event of force majeure. If the consequences of such an event cannot be remedied within 3 months from the occurrence the parties shall through consultations decide whether to modify or terminate the contract according to the effect of the event of force majeure on the performance of the contract.

## **11. Applicable Law and Dispute Resolution:**

- 11.1. These Standard Contract Terms as well as the sales Order shall be governed by the laws of the land ( India)
- 11.2. Any dispute arising out of or in connection with these standard saes Terms and as well as any sales order, which cannot be resolved amicably by the parties within 30 days after the dispute arisen, shall be finally submitted for courts in Chennai , Tamilnadu , India.
- 11.3. All controversy (ies)/ dispute (s), difference (s) / claims (s) arising out of or in connection with or in relation to this contract, including its existence, validity or termination, during its subsistence or thereafter, the parties shall resort to negotiation involving responsible senior representatives of each party.

In the event of the parties failing to arrive at an negotiated settlement the dispute/ difference / claims , shall first be referred to mediation at the Nani Palki Wala Mediation & Arbitration centre,(NPAMC) Chennai and in accordance with its then current Mediation Rules.

In the event of the parties failing to arrive at a mediated settlement, the said dispute shall, finally be referred to arbitration by appointing a sole arbitrator nominated by mutual consent of the parties. The award rendered shall be final and binding on the parties. The language shall be English, and the juridical seat of arbitration shall be at Chennai.

## **12. Miscellaneous**

- 12.1. These standard contract terms shall to the greatest extent possible be interpreted in such a manner as to comply with applicable laws, but if any provision hereof is, notwithstanding such interpretation, determined to be or to become invalid or enforceable or if there is an omission, the remaining provisions of these standard contract terms shall remain to be binding upon the parties. The parties hereto agree to replace any such invalid or unenforceable provision by a valid one which comes as close as possible to the original purpose of what would have been agreed between the parties if the matter has been considered at the outset shall be deemed to have been agreed.
- 12.2. Any modifications and/or amendments to these standards contract terms shall be made in writing and signed by both parties. Any waiver of any term condition hereof shall be in writing and signed by the party waiving its right and shall be deemed to refer only to the specific waiver therein.