

Article I. General

- 1) In these Terms and Conditions the following words have the meanings:
 "Contract" means any contract between the Ferro FPF and the Purchaser for the sale of Goods, which contract shall be deemed to incorporate these Terms and Conditions;
 "Ferro FPF" means Ferro Pipe and Fittings Middle East DMCC and any affiliates, subsidiaries, successors or assigns thereof.
 "Goods" shall mean the products, articles, materials, items, equipment and/or services agreed in the Contract to be supplied to the Purchaser by Ferro FPF.
 "Order" means any order issued by the Purchaser for Goods to be delivered by Ferro FPF, or its authorised representative, to the Purchaser.
 "Purchaser" means the person(s), firm or company who purchases the Goods from Ferro FPF.
 "We", "Us" and "Our" means Ferro FPF
- 2) The words hereof, herein, hereunder and hereby refer to this Agreement as a whole and not to any particular provision of this Agreement.
- 3) The clause headings shall not limit, alter or affect the meaning of the Contract.
- 4) Ferro FPF and the Purchaser are collectively referred to as the Parties and also individually as a Party.
- 5) All trade terms used by us and the Purchaser shall be interpreted in accordance with the International Chamber of Commerce (ICC) Incoterms as adopted at the time the contract in question is concluded.

Article II. Basis of Contract

- 1) All Ferro FPF offers and estimates are free of obligation, unless otherwise specified in writing.
- 2) The Contract shall become effective only upon the day on which Ferro FPF send our written order confirmation or the first day of actual fulfilment of the order by us.
- 3) Ferro FPF shall not be under any obligation to accept an order; any Order shall be accepted entirely at our discretion and we reserve the right to accept part only of any Order.
- 4) No amendment to, or modification or waiver of, any provision of these Terms and Conditions shall be binding upon the parties unless set forth in a written document signed by both parties.
- 5) Any reference to the purchaser's own general terms and conditions during any phase of the conclusion of a contract whatsoever are explicitly rejected.
- 6) The Contract constitutes the entire agreement between the parties. The Purchaser acknowledges that it has not relied on any statement, promise or representation made or given by or on behalf of Ferro FPF which is not set out in the Contract.
- 7) Any samples, drawings and/or other product information issued by Ferro FPF and any descriptions of the Goods in our catalogues or brochures are issued or published for the sole purpose of giving an approximate idea of the Goods described in them. They shall not form part of the Contract or have any contractual force.

Article III. Prices and Payment

- 1) Price quotations shall automatically expire in thirty (30) days from the date issued, or as otherwise stated in the quotation.
- 2) The prices for the Goods shall be as stated on the Order (the "Prices"). The price is exclusive of VAT and all other taxes, duties and expenses in respect of the Goods which shall be added to the price and payable by the Purchaser.
- 3) Unless otherwise previously and expressly agreed, Ferro FPF's invoices are payable when due and under the conditions agreed upon by the parties. The purchaser shall, on receipt of a valid VAT invoice from us, pay us such additional amounts in respect of VAT as are chargeable on the supply of the Goods. Payment shall be made in the currency provided in the Order, unless otherwise agreed by the parties.
- 4) Time of payment is of the essence.
- 5) The Purchaser shall pay all sales, use, value-added, excise, or similar taxes and duties, and any shipping, delivery, and related insurance costs applicable to the Goods except as otherwise agreed in writing.
- 6) Deduction, set off, discounts or suspension of the payment obligation for whatever reason is not allowed, unless agreed in writing otherwise.
- 7) If Ferro FPF should have reason to doubt the Purchaser's financial position at any time, we shall be entitled to require full or partial payment in advance or otherwise restructure payments or request additional forms of Payment Security.
- 8) Upon a lapse of any credit term, the purchaser shall be in default by operation of law. In that case, all claims we have against the purchaser shall become immediately and fully demanded, without prejudice to any other rights we may have.
- 9) For each calendar month, or part thereof, that payment is late, the Purchaser shall pay a late payment charge calculated at the rate of 2.5% per month on the overdue balance.

- 10) As and if requested by Ferro FPF, Purchaser shall at its expense establish and keep in force payment security in the form of an irrevocable, unconditional, sight letter of credit or bank guarantee allowing for:
 - a) pro-rata payments as Goods are shipped;
 - b) payment of cancellation and termination charges; and
 - c) all other amounts due from the Purchaser under the Contract ("Payment Security").

The Payment Security shall be

- a) established with a first-class bank acceptable to Ferro FPF;
- b) in a format acceptable to Ferro FPF;
- c) payable at the counters of such acceptable bank or negotiating bank;
- d) opened at least forty five (45) days prior to both the earliest scheduled delivery or shipment of Goods; and
- e) remain in effect until the latest of ninety (90) days after the last scheduled delivery or shipment of Goods and our receipt of the final payment required under the Contract.

Purchaser shall, at its expense, increase the amount(s), extend the validity period(s) and make other appropriate modifications to any Payment Security within ten (10) days of Ferro FPF's notification that such adjustment is required. If the letter of credit or bank guarantee is dishonoured, the Purchaser shall pay us directly and unconditionally.

Article IV. Delivery time/Delivery

- 1) Delivery times shall commence with the date of our order confirmation and are subject to the timely clarification of any details of the order as well as of the fulfilment of any of the Purchaser's obligations.
- 2) If certain documentations, data, drawings, etc., are necessary for the fulfilment of the order, the delivery time will not start until Ferro FPF have all documentations, data, drawings, etc., in our possession including all necessary approvals.
- 3) If Ferro FPF require an advanced payment at the time of the order, the delivery time will start at a time after we receive the said payment.
- 4) Ferro FPF is not required to commence or continue its performance unless and until any required Payment Security is received, operative and in effect and all applicable Progress Payments have been received. For each day of delay in receiving Progress Payments or acceptable Payment Security, Ferro FPF shall be entitled to a matching extension of the schedule.
- 5) Any dates and/or times specified for delivery of the Goods are intended to be an estimate only and time for delivery shall not be of the essence. Ferro FPF shall inform the Purchaser in the event that we exceed or expect to exceed any delivery date.
- 6) Ferro FPF shall be entitled to make partial deliveries, which shall be invoiced and paid for separately.
- 7) The delivery obligations of Ferro FPF are according to the trade term specified on the Order.
- 8) Ferro FPF will arrange for shipments to the Purchaser as nearly in accordance with the shipping instructions as specified in the Order as is allowable by our ability to schedule manufacturing and shipping. Ferro FPF shall not be liable to the Purchaser in the event we are unable to comply with the Purchaser's shipping instructions.
- 9) In the event that we are unable to deliver goods as a result of any action or omission of the Purchaser or if the Purchaser does not take delivery of the goods it is considered a breach of contract, for the account and at the risk of the Purchaser, Ferro FPF shall have the right, at its discretion to:
 - a) contract for the carriage of the Goods and make delivery;
 - b) take the Goods back;
 - c) arrange for the storage of the Goods;
 - d) charge the Purchaser the purchase price plus interest and all expenses;
 - e) dispose of the Goods; and/or
 - f) terminate or suspend its performance of the Contract or any Order for which the Goods have not been shipped or any future Order.
 without prejudice to any other rights and remedies we may have.
- 10) Ferro FPF shall have no liability for any failure to deliver the Goods to the extent that such failure is caused through the Purchaser's failure to provide us with adequate approvals, delivery instructions or any other instructions, information or data that are relevant to the fulfilment of the order.
- 11) Any reasonable excesses or shortages in quantities are permitted in accordance with international standards and established industry/trade practices. +/- percent according to standard tolerance level however generally supplied in positive tolerance to a maximum of one additional length/quantity.

Article V. Force Majeure

- 1) Ferro FPF shall not be liable for any delay or non-delivery of any of the Goods or other non-performance caused in whole or part by any circumstance or event beyond our reasonable control, including, without limitation, acts of God, war, armed conflict or terrorist attack, riot, fire, explosion, accident, flood, sabotage, governmental decisions or actions, strikes or other labor

disturbances, breakdown of plant or machinery, shortage or unavailability of materials, damage or destruction of goods (each a "Force Majeure Event").

- 2) Upon the occurrence of a Force Majeure Event,
 - a) the time for Ferro FPF's performance shall be extended reasonably and the Parties shall adjust all affected dates accordingly without subjecting Ferro FPF to any liability or penalty; and
 - b) the purchase price shall be adjusted for any increased costs to Ferro FPF resulting from such Force Majeure Event.
- 3) In the event of force majeure, claims for compensation on account of a breach or partial breach of contract shall be excluded.
- 4) In the event of force majeure, we may at our option, cancel the remaining performance, without any liability or penalty, by giving notice of such cancellation to the Purchaser.

Article VI. Risk/Retention of Title

- 1) The Goods shall be at the risk of the Purchaser (including for damage to or loss of the Goods) from the time of delivery in accordance with Article IV. 7
- 2) Title to the Goods shall remain vested in Ferro FPF and shall not pass to the Purchaser until the purchase price for the Goods has been paid in full and received by us. Until title to the Goods passes:
 - a) Ferro FPF shall have authority to retake, sell or otherwise deal with and/or dispose of all or any part of the Goods;
 - b) Ferro FPF, its agents and employees shall be entitled to enter, without notice, any premises where the Goods are or may be stored;
 - c) the Purchaser shall store or mark the Goods in a manner reasonably satisfactory to Ferro FPF indicating that title to the Goods remains vested in Ferro FPF;
 - d) the Purchaser shall insure the Goods, with a reputable insurance company, sufficiently against loss, in particular loss as a result of fire, flooding, water damage or theft; and
 - e) give Ferro FPF such information relating to the Goods as we may require from time to time.
- 3) The costs and expenses incurred by Ferro FPF in undertaking any such action to re-secure the Goods or to secure the sums owed for the Goods delivered shall be the responsibility of the Purchaser.
- 4) Where the Purchaser's right to possession has terminated the Purchaser grants Ferro FPF, our agents and employees an irrevocable licence at any time to enter any premises where the Goods are or may be stored in order to recover them.
- 5) Purchaser's right to possession of the Goods shall terminate immediately upon the occurrence of any of the Events of Default specified in Article VIII. 1.

Article VII. Modifications or Cancellations of order

- 1) The Purchaser cannot cancel an Order or modify the delivery dates, quantities, specifications, or other terms of an Order, without Ferro FPF's written consent. In such event, Purchaser will be liable for:
 - a) cancellation or modification charges;
 - b) all costs incurred and committed for the order;
 - c) all costs resulting from the cancellation or modification; and/or
 - d) a reasonable allowance for prorated expenses and anticipated profits.

Article VIII. Default

- 1) The Purchaser agrees that any of the following shall constitute an event of default which shall enable Ferro FPF, at its option, to cancel any outstanding deliveries, stop any goods in transit, suspend performance of the Contract or terminate the Contract (or any affected portion thereof) immediately for cause or to exercise any right or remedy which it may have by law:
 - a) the Purchaser materially breaches the Contract, including, but not limited to, failure or delay in providing Payment Security or fulfilling any payment conditions;
 - b) any failure of Purchaser to give required notice;
 - c) the Purchaser becomes insolvent or bankrupt;
 - d) the Purchaser is unable to pay its debts when due;
 - e) the Purchaser has a receiver, administrator or liquidator appointed or has its assets assigned;
 - f) the death, incompetence, dissolution or cessation of existence of Purchaser; or
 - g) if Ferro FPF, in good faith, believes that Purchaser's prospect of performance under this Agreement is impaired.
- 2) If the Contract, or any portion thereof, is terminated in accordance with Article VIII. 1 the Purchaser shall pay Ferro FPF for all Goods completed plus expenses reasonably incurred by Ferro FPF in connection with the termination.
- 3) If the Contract, or any portion thereof, is suspended in accordance with Article VIII. 1 the Purchaser shall pay all reasonable expenses incurred by Ferro FPF in connection with a suspension, including, but not limited to, expenses for repossession, fee collection and costs of storage during suspension. The schedule for Ferro FPF's obligations shall be extended for a period of time reasonably necessary to overcome the effects of any suspension.

- 4) Notwithstanding any such termination or suspension in accordance with Article VIII. 1 the Purchaser shall pay Ferro FPF for all Goods delivered up to and including the date of suspension or termination and invoiced by Ferro FPF.
- 5) The Purchaser shall reimburse us for all losses or damages arising directly or indirectly from such Events of Default.
- 6) Clauses which expressly or by implication have effect after termination shall continue in full force and effect.
- 7) All rights and remedies of Ferro FPF herein are in addition to, and shall not exclude, any rights or remedies we may have by law.

Article IX. INDEMNIFICATION.

- 1) Purchaser shall indemnify, defend, and hold harmless Ferro FPF and its affiliates and their respective officers, directors, employees, and agents from and against any and all liabilities, damages, awards, settlement payments, costs, and expenses (including reasonable attorney fees) in connection with any third-party claim arising from or relating to Purchaser's handling, possession, use or resale of any Goods, whether used alone or in combination with other goods.

Article X. Inspection and Acceptance

- 1) Purchaser shall be conclusively deemed to have inspected and accepted the Goods within seven (7) days of receipt.
- 2) Any deficiency in the quality or quantity of such goods must be reported in writing and received by Ferro FPF within seven (7) days after our delivery of the Goods.
- 3) Failure of Purchaser to give notice of any claims regarding any such deficiency not discovered or discoverable within the applicable time period specified above shall be deemed an absolute and unconditional waiver of such claim, except and to the extent that such claims are valid under Ferro FPF's warranty as set forth in Article XI.
- 4) Purchaser may not return any goods, under warranty claim or otherwise, without first notifying Ferro FPF of the reasons for such return and obtaining our prior approval therefore. If Ferro FPF authorizes any return of Goods the Purchaser must comply with such reasonable instructions as we may give regarding the return.

Article XI. Warranty

- 1) Ferro FPF offers a warranty on material and workmanship defects for a period of six (6) months after the date of delivery (Warranty Period).
- 2) The Warranty Period set out in Article XI. 1 may be extended or reduced expressly in writing by Ferro FPF and in such cases the Warranty Period shall be the period stated in the Order. The scope of our warranty is confined to the extent to which Ferro FPF can hold our supplier liable for the alleged defect.
- 3) Subject to Article XI.4 if Ferro FPF breaches this warranty, Purchaser's sole and exclusive remedy and Ferro FPF's sole and exclusive obligation, at our option, are
 - a) repayment of, or credit for, the purchase price of the defective Goods,
 - b) repair of the defective Goods, or
 - c) replacement of the defective Goods,
 provided that:
 - i) the Purchaser gives notice in writing during the Warranty Period and within a reasonable time of discovery that part or all of the Goods do not comply with the warranty set out in Article XI. 1;
 - ii) Ferro FPF is given a reasonable opportunity of examining such Goods; and
 - iii) at Ferro FPF's written request, Purchaser shall, at its expense, return any alleged defective Goods to our nominated warehouse.
- 4) Ferro FPF shall not be liable for the Goods failure to comply with the warranty in Article XI. 1 if:
 - a) the Purchaser makes any further use of such Goods after giving notice in accordance with Article XI.3;
 - b) the defect arises as a result of accident, misuse, abuse, neglect or the improper or careless handling of the Goods;
 - c) the defect arises as a result of abnormal or improper application, use, installation or storage of the Goods;
 - d) the defect arises as a result of Ferro FPF following any drawing, design or any other specification supplied or approved by the Purchaser;
 - e) the Purchaser alters or repairs such Goods without the written consent of Ferro FPF;
 - f) the defect arises as a result of fair wear and tear, wilful damage, excessive operational demands, negligence or abnormal working conditions;
 - g) the Goods differ from the Specifications as a result of changes made to ensure they comply with applicable international or statutory or regulatory standards.
- 5) Except as provided in this Article XI, Ferro FPF shall have no liability to the Purchaser in respect of the Goods failure to comply with the warranty set out in Article XI. 1.

- 6) The terms of these Conditions shall apply to any repaired or replacement Goods supplied by Ferro FPF under Article XI.3.
- 7) All costs exceeding the obligations stipulated above shall be borne by the Purchaser, including transport costs, travelling expenses and the costs of disassembly and assembly.
- 8) **THE FOREGOING WARRANTY IS THE SOLE AND EXCLUSIVE WARRANTY BY FERRO FPF IN LIEU OF ALL OTHER WARRANTIES WHETHER WRITTEN, ORAL OR IMPLIED. FERRO FPF MAKES NO OTHER REPRESENTATIONS OR WARRANTY, EXPRESS OR IMPLIED, AND SPECIFICALLY DISCLAIMS AND EXCLUDES ANY WARRANTY OF MERCHANTABILITY AND/OR FITNESS FOR A PARTICULAR PURPOSE OR USE.**
- 9) NO AGENT, EMPLOYEE OR REPRESENTATIVE OF FERRO FPF HAS ANY AUTHORITY TO BIND US TO ANY AFFIRMATION, REPRESENTATION OR WARRANTY EXCEPT AS STATED IN THIS AGREEMENT.

Article XII. Liability

- 1) Nothing in this Contract shall limit or exclude Ferro FPF's liability for:
 - a) death or personal injury caused by our negligence; or
 - b) any matter which it would be illegal for us to exclude or attempt to exclude its liability; or
 - c) fraud or fraudulent misrepresentation.
- 2) Subject to Article XII. 1:
 - a) Ferro FPF shall not be liable for any economic loss, loss of profit or revenues (direct or indirect), loss of use of equipment or systems, interruption of business, downtime costs, increased operating costs, or any special, consequential, incidental, indirect, or punitive damages, or claims of Purchaser's customers for any of the foregoing types of damages howsoever caused;
 - b) The total aggregate liability of Ferro FPF for all claims of any kind arising from or related to the formation, performance or breach of this Contract, or any Goods, shall not exceed the price paid or payable by the Purchaser for the Goods in respect of which the claim relates.
- 3) Except as set out in these Conditions, all warranties, conditions and other terms implied by statute or common law are, to the fullest extent permitted by law, excluded from the Contract.
- 4) This Article XII shall survive termination of the Contract.

Article XIII. Intellectual Property

- 1) Each party shall retain ownership of all patents, trademarks, service marks, trade names, copyrights, trade secrets, licenses, information and other proprietary rights (collectively, Intellectual Property) created, developed or conceived prior to the Contract.
- 2) Any Intellectual Property Rights created, developed or conceived by Ferro FPF in the course of the performance of the Contract or otherwise in the manufacture of and/or in the Goods shall be owned exclusively by Ferro FPF.
- 3) Where the Purchaser provides design, drawings, specifications, documents and other information it is the Purchaser's responsibility that the contractual use of these drawings, documents and information does not breach any Intellectual Property Rights of any third parties.

Article XIV. Confidential information

- 1) The Purchaser and Ferro FPF both acknowledge that, as a result of the Sale of Goods, each Party may be provided with and obtain access to confidential information belonging to the other Party.
- 2) The parties will:
 - a) keep confidential the Confidential Information;
 - b) use the Confidential Information for the sole purpose of performing its obligations under this Agreement; and
 - c) not disclose the Confidential Information to any person other than those who need to know the Confidential Information.
- 3) For purposes of the Sale of the Goods, the term "Confidential Information" shall mean and refer to all reports, drawings, documents, technical, scientific and commercial data plus any other information marked "confidential" related to negotiations, to the Sale and to the Goods supplied by one party to the other.

Article XV. Trade Compliance

- 1) Each party shall comply with all applicable export control laws and regulations with respect to all Goods sold hereunder.
- 2) Upon request, the Purchaser must provide declarations of end-use for the ordered Goods in accordance with applicable export control provisions.

Article XVI. Dispute Resolution/ Governing Law

- 1) Any disputes between the Parties arising out of or in connection with the Contract or the performance thereof shall be amicably settled in good faith. If the matter is not resolved, either Party may, by written notice, cause the matter to be referred to a meeting of appropriate senior management of the Parties; such meetings to be held within thirty (30) days following the receipt of the written notice.
- 2) If the matter is not resolved within thirty (30) days of the initial meeting of senior management of the Parties, either Party may by written notice to the

other Party, refer the dispute to arbitration. Arbitration shall be referred to and resolved in Dubai under the Rules of Arbitration of the International Chamber of Commerce by one or more arbitrators appointed in accordance with the said Rules. The language of the proceedings shall be English.

- 3) These Terms and Conditions shall be governed by and construed in accordance with the Federal laws of the United Arab Emirates as applied by the Courts of the Emirate of Dubai.

Article XVII. Miscellaneous

- 1) Language: The language of the Contract and of all communications between the Parties shall be English.
- 2) Waivers: No waiver of any provision of these conditions shall be effective unless set forth in a written document signed by both parties. The failure of any party to require the performance of any term or obligation of this Agreement, or the waiver by any party of any breach of this Agreement, shall not prevent any subsequent enforcement of such term or obligation or be deemed a waiver of any subsequent breach.
- 3) Assignment: The Purchaser may only assign or transfer its contractual rights to third parties upon Ferro FPF's prior written consent.
- 4) Severability: If any Contract provision is found to be void or unenforceable, the remainder of the Contract shall not be affected. Furthermore, the invalid or unenforceable provision will be deemed superseded by a valid, enforceable provision that most closely matches the intent of the original provision and the remainder of the agreement shall continue in effect.
- 5) Survival: Any provisions in this Agreement which, by their nature, extend beyond the termination or expiration of any sale of Goods, will remain in effect until fulfilled.
- 6) Relationship of the Parties: Nothing in the Agreement or the course of dealing of the parties may be construed to constitute the parties hereto as partners, a joint venture or as agents for one another or as authorizing either party to obligate the other in any manner.