

## **Standard Terms and Conditions of Sale**

### **1. General:**

**A.** These terms and conditions of sales ("Conditions") govern the offering, sale and delivery of all Goods/Products ("Product or Products") and provisions of services ("Services") (Goods and Services jointly and separately referred to as "Goods/Products") by or on behalf of Vacmet India Limited ("Seller").

**B.** These conditions shall supersede all prior oral/written communications/discussions/quotations/agreements/understanding between the seller and Buyer for sale/delivery of goods. These conditions shall supersede in preference to any and all the terms and conditions in respect of any order already placed by the Buyer and any other terms and conditions submitted by Buyer.

**C.** Failure of Seller to adhere with the terms and conditions submitted by the Buyer, if any, shall in no situation be construed as an acceptance by or on behalf of the Seller. If these conditions differs from any terms and conditions submitted by Buyer, than these conditions and any subsequent communication, including, without limitation, confirmation of order and delivery of goods shall constitute a counter offer and not the acceptance of such terms as submitted by the Buyer. Terms and conditions submitted by Buyers hereby expressly rejected.

**D.** By entering in to the commercial orders by the Buyer on the basis of these conditions, Buyer fully agrees to the applicability thereof in connection of all future transactions/dealings with the Seller, even if the same are not expressly stated. It shall be liberty of the Seller to update and/or amend these conditions on regular intervals and shall update the same on its website and upon which these revised/modified/updated conditions shall apply to all further dealings/transactions between Seller and Buyer.

**E.** Seller and Buyer agree that valid, enforceable and binding obligation may result from electronic means of communication. Any electronic communication between the Seller and Buyer shall be deemed to be a writing and/or in writing.

**F.** These conditions may only be varied or waived only by writing by signing a written agreement between Seller and Buyer.

**G.** These terms and conditions ("Agreement") shall be binding on all parties and any additional terms and condition shall not be binding unless expressly agreed by the SELLER in writing. Buyer's acceptance of the Products and/or Services from Seller shall be deemed to constitute acceptance of the terms and conditions contained herein.

### **2. Quotations, Orders and Confirmation:**

**A.** Quotations made by Seller in whatever/whichever form are not binding on Seller, rather, it merely an invitation to Buyer to place an order. All the quotations provided by Seller are fully revocable and subject to change at the sole discretion of Seller without giving any notice to Buyer. Price quotations shall automatically expire in seven (7) days from the date issued, or as otherwise stated in the quotation.

**B.** Price quotations based on estimated quantities are subject to increase in the event that actual quantities purchased during the specified period are less than the estimated quantities.

**C.** Oral statements/communications/agreements made by Sellers employees, officials, representatives and/or agents are not binding on Seller unless and only to the extent such oral statements are duly confirmed or made in writing by duly authorized representative of Seller.

**D.** Samples supplied to Buyer are solely supplied for information purpose only and neither expressly nor impliedly imply any condition or warranty of any kind or nature including as to quality, description, suitability, fitness etc. for any purpose. Buyer shall be deemed to have satisfied on its own as to such matters before placing an order for goods.

**E.** Orders shall not be binding until accepted by Seller in writing ("Sellers Confirmation"). It shall always be the liberty of Seller to refuse any order without assigning any reason to it.

**F.** Each delivery shall stand as a separate transaction and any failure to deliver shall have no consequences for other deliveries.

**G.** All orders placed by Buyer are subject to acceptance by Seller in writing. Confirmed orders may not be cancelled or rescheduled without Seller's written consent. All orders must identify the products, unit quantities, product numbers, applicable prices and requested delivery dates of the Products being purchased. Seller may at its sole discretion allocate Product among its Buyers.

**H.** Buyer shall assume all risks and shall pay all charges applicable to any purchase order cancellation or modification.

**I.** Buyer acknowledges that he is familiar with and has separate independent knowledge of the goods/products and is also adequately warned by Seller of the risk associated with handling, transporting, using, storing etc. Buyer further acknowledges that it will maintain compliance with all appropriate safe handling and use procedures and all health and safety related government requirements in relation to the Goods and also will take all reasonable steps to inform its employees, agents, contractors about the use and handling requirements and of the risk associated with the goods/products. Buyer will not deliver the goods to any party whom buyer has reason to believe that he will handle/transport/use/dispose the goods in dangerous manner or to contrary of law. Failure to comply with the same shall enable Seller to immediately cease delivery of goods, if Buyer fails to take appropriate action within reasonable time in order to prevent/mitigate endangerment to human health, safety or the environment with respect to Buyers, its representatives or agents storing, handling and usage of the Goods/Products.

### **3. Prices and Taxes:**

**A.** Prices of the goods are those as set out in Invoice. Unless agreed otherwise, Sellers price includes standard packaging but do not include Goods and Service Tax (GST), Insurance Cost, Transportation Cost or any other similar taxes, duties, levies or charges, as applicable for the time being, in any jurisdiction levied in connection with the sale of Goods to Buyer shall be for Buyers account and same shall be added to each invoice or separately invoiced by Seller to Buyer.

**B.** Further, Buyer agrees to indemnify and hold Seller harmless for any liability for tax in connection with the sale, as well as the collection or withholding thereof, including penalties and interest thereon. When applicable, transportation cost, insurance cost and taxes shall appear as separate items on Seller's invoice.

**C.** If Seller grants any discount, than this discount shall only relates to the delivery specifically mentioned in Invoice.

**D.** Unless the prices have been indicated as firm by Seller in Sellers Confirmation, Seller shall always be entitled to increase the prices of the goods to be delivered, if the cost price determination factor have been subject of an increase. These factors may be Seller's cost, change in market conditions or any other causes beyond the Seller's reasonable control.

**E.** Seller has the right to set and vary at any time the prices at which it offers the goods/products for sale.

**F.** Subject to other conditions herein contained and unless otherwise agreed in writing by the Seller, the goods/products or any part thereof shall be invoiced at the price applied by Seller on the day of dispatch by Seller or collected by Buyer, as the case may be at its sole discretion irrespective of the date of order and the date of actual delivery.

**G.** Seller may at its sole discretion add to the price of goods/products sold hereunder the amount of any increase in transportation charges for shipments to Buyer, provided, that such additional transportation charges are payable by Seller.

**H.** Credit terms shall always be subject to change at any time at the sole discretion of Seller.

### **4. Payment:**

Payment to be made in advance against Orders or as settled between Seller and Buyer. However, where Seller has extended credit to Buyer, terms of payment shall be as mutually agreed, without offset or deduction. On any past due invoice, Seller may impose interest at the rate of one percent [1.0%] per month from due date till the date of actual payment. If Buyer fails to make each payment when it is due, Seller reserves the right to change or suspend or cancel performance under any or all purchase orders or agreements. In the event of default by Buyer, Seller shall be entitled to costs, fees, and expenses, including but not limited to recovery of attorney fees, court costs and fees, and collections costs etc.

If Buyer fails to pay Seller as per agreed terms, or if, in the opinion of Seller, the financial position of Buyer is impaired, Seller may at its sole discretion and without prejudice to its other rights and remedies (a) terminate the agreement with immediate effect without any further action or formality being required (b) suspend or cancel deliveries until all outstanding amount is paid in full and/or (c) deliver to the Buyer on a cash in advance basis only.

Any order by and delivery to Buyer is subject to general credit approval and specific credit limits as set by Seller for Buyer at its sole discretion.

In the situation that Buyer places an order which as such or cumulated with the value of previous orders to which payment has not been received in full by Seller, exceeds the credit limit set by Seller on Buyer, Seller may at its absolute discretion, at any time and without notice to Buyer, suspend/cancel such order or all or part of delivery under such order, including the orders for which confirmation has already been sent to Buyer.

Sellers partial payment acceptance of an invoice shall not prejudice Sellers right to pursue the full payment of such invoice. Seller always reserves the right to off set any debt due from Buyer.

#### **5. Delivery:**

All deliveries will be made "EXWORKS" place of shipment or as agreed between Seller & Buyer. Seller's delivery dates are estimates only, Seller may amend/modify the estimate dates of delivery at its sole discretion. Seller shall not be liable for delays in delivery or for failure to perform due to causes beyond the reasonable control of the Seller. The carrier carrying the goods shall not be deemed an agent of the Seller. A delayed delivery of any part of an Order does not entitle Buyer to cancel other deliveries of the placed orders.

Seller may deliver a reasonable excess or in deficit of weight/volume of the ordered goods/products. Buyer shall pay amount for the goods actually delivered.

Seller reserves the right to charge storage and other additional costs incurred by Seller from due date of delivery or if the custom clearance of goods delayed by buyer for any reason whatsoever.

#### **6. Title & Risk:**

**A.** Notwithstanding delivery and the passing of risk in the goods, or any other provision of these conditions, the ownership, legal and beneficial title of the goods shall not pass to the Buyer until the Seller has received full payment of the price of the goods mentioned in Invoice, including all secondary costs such as interest, other charges, expenses etc.

**B.** Risk in Goods shall pass on to the Buyer on Delivery.

**C.** The goods for which delivery is suspended pending payment by Buyer as well as the goods of which delivery is wrongfully rejected or not accepted by Buyer, shall be held and stored by Seller at the sole risk and expenses of Buyer.

**D.** As long as the title of the goods remains with the Seller, it shall be duty of Buyer to keep the goods/products separate and in clearly identifiable manner with adequate insurance of those goods.

#### **7. Limited Warranty:**

Save as expressly provided in these terms and conditions, all implied warranties, terms and conditions (whether statutory or otherwise) are excluded to the fullest extent permitted by law. In particular, seller makes no warranty respecting the merchantability of the products or their suitability or fitness for any particular purpose, non-infringement of third party rights and warranties against latent defects. Sellers obligation to repair, replace the goods/products shall be contingent upon receipt by Seller of timely notice of any alleged non conformance of goods and, if applicable, the return of the goods in accordance with these terms and conditions. This warranty is exclusive and in lieu of all other warranties, representations, conditions or other terms express, implied

#### **8. Limitation of liabilities:**

Buyer shall not be entitled to, and under no circumstance shall Seller be liable/responsible to Buyer or any other person for any kind of loss of profits or revenue, promotional or manufacturing expenses, overheads, business interruption cost, loss of data, removal or reinstallation costs, cost or expense including without limitation damage based upon lost of goodwill, loss of sales, work stoppage, production failure, impairment of other goods or otherwise, injury to reputation or loss of buyers, punitive damages or loss, Intellectual Property Rights (IPR) infringement, loss of contracts or orders (all whether direct, indirect or consequential) or any

indirect, special, incidental or consequential damages of any nature, whether arising out of or in connection with breach of warranty, breach of contract, misrepresentation, negligence or otherwise. Notwithstanding anything herein contained to the contrary, under no circumstances, the liability of Seller or Sellers affiliates for any claim or all claims for direct damages in connection with the goods shall not exceed the total sum of amount paid by Buyer for the goods/products, which are subject to claim, irrespective of the nature of the claim whether in contract, tort, warranty, or otherwise. Buyer will indemnify, defend and hold seller harmless from any claims based on (a) seller's compliance with buyer's designs, specifications, or instructions, (b) modification of any products by anyone other than Seller, or (c) use in combination with other products.

#### **9. Use of Products:**

Products sold by Seller are not designed, intended or authorized for use in life support, life sustaining, nuclear, or other applications in which the failure of such Products could reasonably be expected to result in personal injury, loss of life or catastrophic property damage. If Buyer uses or sells the Products for use in any such applications: (1) Buyer acknowledges that such use or sale is at Buyer's sole risk; (2) Buyer agrees that Seller/manufacturer of the Products are not liable, in whole or in part, for any claim or damage arising from such use; and (3) Buyer agrees to indemnify, defend and hold Seller/manufacturer of the Products harmless from and against any and all claims, damages, losses, costs, expenses and liabilities arising out of or in connection with such use or sale.

#### **10. Force Majeure:**

Seller is not liable for failure to fulfill its obligations for any accepted Order or for delays in delivery due to causes beyond Seller's reasonable control including, but not limited to, acts of God, natural or artificial disaster, riot, war, strike, delay by carrier, shortage of Product, acts or omissions of other parties, acts or omissions of civil or military authority, Government priorities, changes in law, material shortages, fire, strikes, floods, epidemics, pandemic, quarantine restrictions, acts of terrorism, delays in transportation or inability to obtain labor, materials or Products through its regular sources etc., which shall be considered as an event of force majeure excusing Seller from performance and barring remedies for non-performance. In an event of force majeure condition, the Seller's time for performance shall be extended for a period equal to the time lost as a consequence of the force majeure conditions without subjecting Seller to any liability or penalty. Seller may, at its option, cancel the remaining performance, without any liability or penalty, by giving notice of such cancellation to the Buyer.

Further, payment obligations shall not be affected in the event of force majeure for the goods/products supplied by Seller to Buyer.

#### **11. Technical Assistance or Advice:**

If any technical assistance or advice are offered or given to Buyer, such assistance or advice is given free of charge or as agreed otherwise by Seller at its sole discretion and only as an accommodation to Buyer. Seller shall not be liable for the content accuracy or way of Buyer's use of such technical assistance or advice nor shall any statement made by any of Seller's representatives in connection with the Products or Services constitute a representation or warranty, express or implied.

#### **12. Intellectual Property:**

**A.** All designs and intellectual property rights in product are and will remain the sole property of the Seller. Under no circumstances will the Buyer copy or make use of any of the Seller's design and intellectual property rights.

**B.** The sale of goods shall not by implication or otherwise, convey any license under any intellectual property rights relating to the compositions/applications of the goods/products and Buyer expressly assumes all risks of any intellectual property infringement by reason of its importation, use of goods/products, whether singly or in combination with other materials or in any processing operation.

#### **13. Governing Law and Jurisdiction:**

Agreement of Sale of Goods/Products shall be governed by and interpreted in accordance with the Laws of India. Courts of Agra shall have exclusive jurisdiction on all the matters.

#### **14. Arbitration:**

In case of any difference or disputes arises between the parties in connection with this agreement of Sale of Goods, then the parties shall make all possible efforts to settle the same amicably. However, in case a dispute can not be settled amicably within a period of

30 days, than the same shall be settled by way of arbitration by a panel of three arbitrators, in which each of the party shall appoint/nominate one arbitrator and both the arbitrators shall appoint/nominate third arbitrator in accordance with the arbitration rules of Indian Arbitration and Conciliation Act, 1996 including any amendments thereof and/or International Chamber of Commerce (ICC), as the case may be. Place of arbitration shall be New Delhi, India. All the proceedings of arbitration shall be conducted in English language. The cost of the arbitration shall be borne by both the parties.

#### **15. Non Assignment:**

Buyer shall not assign any of its rights and obligations/liabilities under Sellers Confirmation/contract/agreement or otherwise without the prior written consent of Seller, provided however, that Seller may assign, sale, transfers etc. any of its rights and obligations under contract/agreement/sellers confirmation etc. including but not limited to transfer of debt recovery rights to Debt Recovery Agents, wholly or in part, at its sole discretion, to any of its group company, subsidiaries or affiliates or to any third party acquiring all or a substantial part of Sellers assets or business relating to the goods/products. Products, designs including software or other intellectual property, are subject to applicable rights of Seller therein such as patents, copyrights and/or user licenses etc.

#### **16. Compliance with Laws and Standards:**

Seller makes no promise or representation of any kind that the goods/products shall conform to any law, statute, regulation, code, standard etc., unless expressly stated in Sellers Confirmation or in any Specification. Buyer acknowledges that the use of goods may be subject to requirements or limitations under laws and standards. Buyer shall be exclusively responsible for ensuring the compliances with all applicable laws and standard associated with intended use of the goods and further to ensure to obtain the necessary approvals, permits or clearances for such use.

#### **17. Survival of Rights:**

Sellers and Buyers rights and obligations shall be binding upon their respective directors, officers, employees, successors, permitted assigns, legal representatives, agents etc. Termination of one or more of right and obligations, for whatsoever reason, shall not affect the provisions of these conditions which are intended to continue to have effect after such termination.

#### **18. Suspension and Termination**

If (a) Buyer is in default of performance of any its obligations towards Seller, or (b) Seller has reasonable doubt with respect to Buyers performance of its obligations to Seller and fails to provide the Seller adequate assurance (such as ongoing credit approval) of Buyers performance before the date of scheduled delivery and in any case within 30 days of sellers demand for such assurance, or (c) if Buyer becomes insolvent or unable to pay its debts as they mature or goes into liquidation (other than reconstruction/amalgamation) or any bankruptcy proceeding instituted by or against Buyer, or (d) if a trustee, receiver, administrator is appointed for all or a substantial part of assets of Buyer, or (e) if Buyer enters in to a deed of arrangement or makes any assignment for the benefit of its creditors, then, without prejudice to any other rights of Seller, Seller may be notice in writing forthwith:

**A.** At the sole cost of Buyer, demand re-delivery and take repossession of any delivered goods which have not been paid for, for which purpose Buyer hereby grants an irrevocable right and license to Seller to enter upon all or any of the premises where the goods are or may be located; and/or

**B.** Suspend its performance or terminate Sellers Confirmation for outstanding delivery of goods unless the payment for such has been made by Buyer on a cash in advance basis, without any intervention of courts and without any liability for Seller of whatsoever kind arising out or in connection with such suspension or termination.

**C.** In both the above events, all outstanding claims of Seller shall become due and payable instantly in proportion to the quantity of goods/products delivered to Buyer.

#### **19. Information and Modification, Indemnity:**

**A.** Unless the specifications have been agreed to be firm for a certain period or quantity of goods, Seller reserves the right to change or modify the specifications, construction and/or manufacture of goods and to substitute materials used in production/manufacture of goods from time to time. Buyer acknowledges that data provided in Sellers catalogues, specification sheets and other descriptive publications distributed or published on its website by Seller may accordingly be varied from time to time without any notice.

B. Any statement, representation, advice, sample or other information of Seller in relation to specifications, goods and use thereof shall be furnished for the accommodation of Buyer only.

C. Buyer must utilize and solely rely on its own expertise, know how and judgement in relation to the goods and Buyers use thereof and in Buyers application of any information obtained from the part of Seller for the purposes intended by Buyer. Consultation provided by Seller shall not give rise to any additional obligations.

D. Details and information provided with regard to the suitability and use of the goods/products shall not be binding and Seller does not assume any liability based on such consultations. Buyer shall indemnify and hold Seller harmless from and against any and all damages, losses, costs, expenses, claims, demand, and liabilities arising out in relation to the goods, Buyers use thereof and/or application of any information disclosed or provided by or on behalf of Seller.

#### **20. Examination, Acceptance/Return and Conformity:**

A. On delivery, Buyer shall examine/inspect the goods/products and satisfy itself that the goods delivered meets all contractual requirements.

B. Complaints, if any, about the goods and its quality shall be made in writing so that the same reaches the Seller not later than seven (7) days from the date of delivery and the same should be apparent from the reasonable inspection. Use or processing of the goods shall be deemed to be an un conditional acceptance and a waiver of all claims in respect of the goods. Goods shall be deemed to have been irrevocably accepted by Buyer upon delivery after expiry of seven (7) days.

C. A determination of whether or not delivered goods/products conform to the agreed specifications as stated in Sellers Confirmation or, in the absence of agreed specifications, to the most recent specifications held by Seller at the time of delivery of goods, shall be done solely by analysing the samples or records retained by Seller and taken from the batches or production runs in which the goods were produced in accordance with the methods of analysis used by Seller. Goods that Seller consents or directs in writing to be returned shall be returned to Seller at the risk of Buyer, to the destination directed by Seller.

D. Defects in parts of the goods stated in Sellers Confirmation do not entitle Buyer to reject the entire delivery of goods/products. Complaints, if any, shall not affect Buyers obligation to pay for the goods. Upon receipt of a notice of defect, Seller shall be entitled to suspend all further delivery until the complaint are unfound and/or refuted or until the defect has been totally cured.

E. Buyer may not return goods without a return material authorization ("RMA") number. RMA will be valid for 30 days from issued date. Any goods returned by Buyer due to its own error, shall be subject to a restocking charge equivalent to 100% of the value of such goods as specified in Sellers invoice issued to Buyer.

#### **21. Miscellaneous:**

A. It shall always be the duty of Buyer to treat the agreement/contract and other related information provided by Seller as strictly Confidential. Further, Buyer shall not use the trade marks/designs of the Seller without prior written approval of Seller.

B. If any provisions of the contract/agreement or these terms and conditions of sale becomes invalid or un enforceable, the remaining provisions shall continue to be full force and effect.

C. Any waiver of any term of the contract/agreement or these terms and conditions shall not be treated as a waiver of any future breach of such term.

D. No addition, deletion, variation etc. from these terms and conditions of sale and/or in any contract/agreement shall be effective unless expressly agreed in writing.

E. Unless stated otherwise, these Standard Terms and Conditions of Sale constitutes the entire agreement between the parties concerning the subject matter and there are no understanding, representations or warranties of any kind, express or implied, not expressly setforth herein. No modification to this agreement shall be effective unless the same is in writing signed by the Seller and Buyer and no modification shall be effective by the acknowledgement or acceptance of purchase order forms containing terms and conditions at variance with those set forth herein.