

## VACQPACK USA GENERAL TERMS AND CONDITIONS

These general terms and conditions ("**Terms and Conditions**") shall apply to any contract ("**Agreement**") for the sale of goods ("**Goods**") or services ("**Services**") by VacQPack USA, LLC ("**VQP**"). VQP's Terms and Conditions shall be incorporated in and deemed a material part of the following documents: (a) any bid, quote, response to a request for quote, letter, proposal, or any other form of offer for the sale of Goods or Services ("**Proposal**") by VQP to a buyer ("**Buyer**"); (b) any form of order acknowledgment by VQP to Buyer ("**Order Acknowledgment**"); and (c) any invoice or similar document submitted by VQP for the sale of Goods or Services ("**Invoice**"). These Terms and Conditions shall supersede and replace any terms and conditions offered by VQP and shall be the only terms and conditions applicable to Buyer's purchase of Goods pursuant to the terms appearing on the Proposal, Order Acknowledgment, or Invoice. These Terms and Conditions shall not be modified or changed without VQP's written consent. VQP specifically and expressly objects to and rejects any terms and conditions or other provisions in Buyer's purchase orders, printed forms, correspondence or any other writings or oral representations which are different from, inconsistent with or in addition to these Terms and Conditions.

### 1. Purchase of Goods.

- 1.1. The Goods and other items covered by this Agreement shall be sold and invoiced at the price or prices on the Proposal, Order Acknowledgment, or other sales document. Unless otherwise specified in writing, the prices set forth in VQP's Proposal shall expire 7 days from the date on the Proposal. Freight costs are estimates and are subject to adjustment at time of shipment if third-party logistics providers adjust prices or apply surcharges. Prices are also subject to adjustment for changes in import duties or taxes between the time of quote and import. Unless otherwise specified in writing, prices do not include federal, state or local sales, excise, use or other taxes now in effect or hereafter levied by reason of this Agreement. All such taxes shall be paid by Buyer. If VQP pays any such taxes or assessments, Buyer shall, upon demand, reimburse VQP for such amounts.
- 1.2. Goods shall either be delivered by VQP, picked-up by Buyer, or at Buyer's request and cost, by common carrier. VQP shall bear the risk of loss, damage or other incidents of ownership until delivery is made to Buyer's destination, unless Buyer is picking up. If Buyer fails or refuses for any reason whatsoever to take delivery of Goods at the designated time of delivery, then Buyer shall be responsible for all reasonable storage fees resulting from such failure or refusal to accept timely delivery.

### 2. Prices and Payment.

- 2.1. All prices quoted by VQP or agreed with the Buyer are in US dollars, exclusive of taxes; and are exclusive of travel and accommodation expenses and other costs and expenses, including costs charged on by third parties to VQP in the context of the performance of Services, unless agreed otherwise in the Agreement.
- 2.2. All costs in connection with payment, including costs of providing payment security, will be at the Buyer's expense. VQP will invoice the Buyer for the Goods or Services in accordance with the Agreement. The Buyer must pay the invoices from VQP within the payment term shown on the relevant Invoice. Payment not received promptly will accrue interest at an 18% annual rate and VQP will also be entitled to terminate the Agreement with immediate effect. All court and out-of-court costs incurred by VQP because the Buyer fails to perform its payment obligations and/or other obligations under the Agreement and/or these Terms and Conditions will be at the Buyer's expense.
- 2.3. Subject to other arrangements made between the parties as laid down in the Agreement, VQP will be entitled to increase the agreed prices if an increase in the cost price of the Goods or Services gives cause to do so. VQP will inform the Buyer of this in writing in good time. Any price increase will take effect no earlier than 30 days.

### 3. Buyer's Responsibilities.

- 3.1. Prior to the conclusion of the Agreement, the Buyer will provide in writing all useful and necessary

information, documents and data that VQP requires for sale of the Goods or provision of the Services, and VQP may fully rely on all information provided by Buyer.

- 3.2. The Buyer guarantees that VQP will at all times be able to provide the Services safely and without interruption. The Buyer will immediately inform VQP in writing of any facts and circumstances (such as potentially dangerous situations and health risks) that are or may be relevant in connection with the performance of the Agreement.
- 3.3. If VQP performs Services at a location designated by the Buyer, the following provisions will apply:
  - 3.3.1. When requested to do so, the Buyer will immediately release the relevant location in good time for VQP's personnel and/or the third parties engaged by VQP;
  - 3.3.2. The Buyer will grant VQP's personnel and/or the third parties engaged by VQP access to the relevant location and to any other spaces where, in the opinion of VQP, such access is necessary or useful for the performance of its work;
  - 3.3.3. The Buyer will ensure that the locations where, in the opinion of VQP, instruments or equipment must be assembled and/or installed, are easily accessible and available;
  - 3.3.4. The Buyer has the required approvals, authorizations, permits, licenses and admissions so that VQP can perform or arrange the performance of the Services at the designated location;
  - 3.3.5. The Buyer will ensure that VQP has all necessary and useful items at its disposal free of charge, unless VQP itself is to arrange those items pursuant to the Agreement;
  - 3.3.6. The Buyer will ensure that, in accordance with the instructions of VQP, all necessary utilities and/or water supply and discharge facilities are available;
  - 3.3.7. The Buyer is responsible for the safety of the location and of the employees of VQP present at the location and/or third parties engaged by VQP;
  - 3.3.8. Materials used by VQP in the context of the Agreement are and will remain the property of VQP. The Buyer will never leave such items unattended and will safeguard this as befits a good custodian.
  - 3.3.9. VQP is authorized at all times to inspect the location.
- 3.4. If the Buyer fails to comply in full with its obligations pursuant to the provisions of Article 2.3, VQP will be entitled to recover the costs it incurred as a result.
- 3.5. If the Buyer fails to comply with its obligations under the Agreement and/or the Terms and Conditions, VQP will be entitled to suspend the performance of the Agreement until the Buyer has fully complied with its obligations again. Any such suspension by VQP will not affect the Buyer's payment or other obligations to VQP.

#### **4. VQP's Responsibilities.**

- 4.1. VQP will provide Services with the due care of a reasonably acting and competent professional service provider. VQP will determine the manner in which it provides the Services, taking into account the interests communicated by the Buyer as much as possible. VQP has the right to engage third parties in the performance of the Agreement without having to obtain the Buyer's permission.
- 4.2. All timelines mentioned by VQP for the performance of the Services are merely indicative and VQP cannot guarantee performance in any specific timeframe given the effect of circumstances outside of its control. If the delivery of the Services is delayed through no fault of VQP, the delivery term will be extended in so far as necessary. The delivery term will also be extended if the delay arose on the part of VQP due to the Buyer's non-compliance with any of its obligations, or failure in its duty of cooperation.
- 4.3. If during the performance of the Agreement, it emerges that in order to perform the Agreement

properly, changes or additions need to be made to the Services yet to be performed, the Parties will amend the Agreement through mutual consultation.

## **5. Inspection and Complaints.**

- 5.1. The Buyer will immediately investigate upon (each) delivery of Goods or Services whether that which the Parties have agreed has actually been delivered and in any event, must notify VQP within 30 days of delivery if it believes the delivered Goods or Services are nonconforming.
- 5.2. If the Agreement is performed in phases, VQP is entitled to postpone the work that is part of the next phase until the Buyer has approved the results of the preceding phase in writing and/or has paid the invoices underlying that phase.
- 5.3. In the event of nonconforming delivery of Goods or Services, VQP may either adjust the fee charged, improve or re-deliver the rejected Goods or Services free of charge, or cease performing the Agreement in full or in part in return for a refund of all or part of the fee paid.
- 5.4. Any complaint does not entitle the Buyer to suspend its obligations in full or in part.

## **6. Safety.**

- 6.1. As soon as a party becomes aware of a defect or suspected defect in the delivered Goods or Services which cause the Goods or Services to fail to comply with the applicable statutory safety regulations, that party must inform the other party of this in writing immediately and of its own accord. The party in question will in any event specify the following (where applicable):
  - 6.1.1. the type of defect and – in so far as reasonably known – its potential consequences for humans, animals and/or the environment;
  - 6.1.2. a precise description of the (suspected) safety risks; and
  - 6.1.3. any other information that may be relevant to compliance with the aforementioned statutory provisions.
- 6.2. If in the opinion of VQP more information is needed for the investigation into potentially unsafe situations or the measures to be taken, the Buyer will upon VQP's request immediately provide all relevant information that it has or reasonably ought to have available.
- 6.3. If one of the parties considers it necessary to issue a statement to the market and/or regulatory authorities in the context of safety, it will inform the other party of this immediately in writing. The parties will lend each other all necessary cooperation to this end. The Buyer will not issue any such warning without prior consultation with VQP.
- 6.4. The Buyer must report any alleged defects to VQP in writing, including a detailed description thereof, within 24 hours after discovery, but never later than 30 days after delivery of the relevant Goods or Services. VQP will not consider complaints reported after the terms referred to in this article. If such complaints are not reported in good time, the Goods or Services will be deemed to have been correctly performed and accepted.

## **7. Termination of the Agreement.**

- 7.1. If the parties have entered into a defined purchase of Goods or a fixed-term Services Agreement, the Buyer is not entitled to terminate the Agreement early. In other cases, the Parties are entitled to terminate the Agreement in writing, by registered letter, with due observance of a notice period of at least 90 days. The Buyer will in that case continue to owe the full agreed price, less the costs saved by VQP as a result of the early termination of the Agreement.
- 7.2. If the Buyer fails to comply with any of its obligations under the Agreement or under any other agreement related to the Agreement, or if the Buyer fails to do so properly and/or in good time, or if there is a good reason to fear that the Buyer is or will be unable to comply with its obligations to VQP, then VQP will be entitled to either suspend the performance of the Agreement, or to terminate the Agreement in full or in part by registered letter, without having to give notice of default to the Buyer.
- 7.3. Either party may immediately terminate the Agreement by delivering written notice if:

- 7.3.1. the other party is subject to a moratorium or bankrupt or a petition has been filed to this end; or
    - 7.3.2. the other party is dissolved, ceases to exist due to a merger, or otherwise in effect ceases its activities;
  - 7.4. In the event that VQP terminates the Agreement for a failure in performance, or either party terminates the Agreement by giving notice as described above, any amounts already invoiced and still owed, including reasonable compensation for the work performed for the Buyer until the end of the Agreement, plus any unavoidable costs VQP will incur after the end of the Agreement, will be immediately due and payable.
  - 7.5. Upon VQP's request, the Buyer must immediately return to VQP all goods, items and documents belonging to VQP which the Buyer has in its possession or, when requested by VQP, destroy, remove and/or erase them.
- 8. WARRANTIES.** VQP warrants that all Goods and Services will, at the time of delivery and for a period of 60 days thereafter, conform to the quoted specifications. VQP MAKES NO WARRANTY THAT THE GOODS SHALL BE MERCHANTABLE OR FIT FOR ANY PARTICULAR PURPOSE, NOR DOES VQP MAKE ANY OTHER WARRANTIES, EXPRESS OR IMPLIED, BY OPERATION OF LAW OR OTHERWISE, EXCEPT SUCH AS ARE EXPRESSLY SET FORTH HEREIN. VQP MAKES NO WARRANTY WITH RESPECT TO GOODS OR THEIR COMPONENTS WHICH ARE NOT MANUFACTURED BY VQP. Final determination of the suitability of the Goods for Buyer's use and purposes is the sole responsibility of Buyer, and VQP shall bear no responsibility for such suitability. Notwithstanding the foregoing, the parties further understand and agree that the warranty set forth in this section shall not apply to the extent that Buyer or its agents (including freight carriers) have: (i) abused or damaged the Goods; (ii) or failed to follow the written care and handling instructions printed on the Goods or supplied to Buyer by VQP.
- 9. REMEDIES AND DISCLAIMERS.** In as much as the value of the Goods or Services sold hereunder may be substantially disproportionate to the value of the products to be used in conjunction therewith, and, for the express purpose of limiting the liability of and remedies against VQP to an extent which is reasonably proportionate to the commercial value of this transaction, Buyer and VQP hereby specifically and expressly agree to the terms and provisions set forth in this section with regard to disclaimers and limitations on VQP's liabilities. All claims for shortages or alleged defects in quality shall be deemed waived unless made within 30 days of Buyer's receipt of Goods. BUYER HEREBY AGREES THAT SUCH 30 DAYS IS A REASONABLE PERIOD OF TIME IN WHICH TO INFORM VQP OF SUCH CLAIMS. In no event shall any such Claim entitle Buyer to relief if made after Goods have been used, processed or transferred by Buyer. Defective or non-conforming Goods or Services shall be held by Buyer for VQP's prompt inspection. UNDER NO CIRCUMSTANCES WHATSOEVER SHALL VQP BE RESPONSIBLE OR LIABLE TO BUYER OR TO ANY THIRD PARTY (EXCEPT AS PROHIBITED BY LAW) FOR ANY LOST PROFITS, LOSS OF USE, OR INCIDENTAL, CONSEQUENTIAL, INDIRECT, SPECIAL, RELIANCE, PUNITIVE OR CONTINGENT DAMAGES FOR ANY BREACH OF WARRANTY OR OTHER BREACH OF VQP'S OBLIGATIONS HEREUNDER OR VQP'S NEGLIGENT CONDUCT IN PERFORMING ITS OBLIGATIONS HEREUNDER EVEN IF VQP IS NOTIFIED OF THE POSSIBILITY OF SUCH DAMAGES. VQP'S LIABILITY AND BUYER'S EXCLUSIVE REMEDIES ARE, UNDER VQP'S TERMS AND CONDITIONS AND UNDER THE UNIFORM COMMERCIAL CODE, HEREBY LIMITED TO VQP'S CHOICE OF ONE OF THE FOLLOWING REMEDIES, AS APPLICABLE: (a) THE REPAIR OF ANY DEFECTIVE OR NON-CONFORMING GOODS; OR (b) THE REPLACEMENT THEREOF WITH CONFORMING GOODS AT THE FOB POINT PROVIDED HEREIN. BUYER SHALL BE ENTITLED TO NO OTHER REMEDIES, WHETHER IN CONTRACT, WARRANTY, PRODUCTS LIABILITY, TORT, NEGLIGENCE OR OTHERWISE, EXCEPT AS PROVIDED HEREIN. UNDER NO CIRCUMSTANCES SHALL VQP'S LIABILITY EXCEED THE PURCHASE PRICE OF THAT PORTION OF THE GOODS WHICH ARE DEEMED TO BE DEFECTIVE OR NOT IN COMPLIANCE WITH VQP'S WARRANTY OBLIGATIONS HEREUNDER. Replacement of defective or non-

conforming Goods or repayment of the purchase price for the Goods will be made only upon return of defective or non-conforming Goods, which Goods shall not be returned until VQP has consented thereto and has delivered to Buyer written shipping instructions. Any claim or cause of action by Buyer for breach of VQP's obligations hereunder must be brought within one year from the date of VQP's tender of the subject Goods to Buyer.

- 10. Confidentiality.** The Buyer is obliged to observe absolute confidentiality with regard to all data, information and documents it receives from VQP. This provision will not apply if the Buyer is obliged to disclose such information pursuant to a statutory obligation or a court order. In that case, the Buyer will immediately notify VQP of this. The Buyer will also impose the obligation referred to in this article on its employees or other third parties concerned who are involved in the performance of the Agreement on its behalf. Due to the nature of the provisions, this article will remain in full force and effect even after termination of the Agreement.
- 11. Force Majeure.** Force majeure on the part of VQP shall be deemed to exist where VQP is prevented from complying with its obligations under the Agreement as a result of circumstances that have arisen through no fault of VQP and which are beyond its control. In the event of force majeure, VQP will be released from its obligation to perform the Agreement for as long as the period of force majeure continues. Force majeure is understood to include: any attributable or non-attributable failure on the part of third parties engaged by VQP in the performance of the Agreement, strikes, illness, (technical) disruptions (including in telecommunications), power failures, lack of raw materials, transport restrictions, amended regulations, government measures, a pandemic, national or local emergencies, terrorism or the threat of terrorism, (extreme) weather conditions, natural disasters, war and/or the threat of war and/or any situation that poses a risk to the health of VQP personnel.
- 12. Intellectual Property.** Any intellectual and industrial property rights or any claim thereto with regard to the Services to be performed by VQP and the methods and products that VQP uses within this context and which have been developed by or on behalf of VQP are vested in VQP, its licensors or its suppliers. The Buyer will under no circumstances dispute or contest the intellectual and/or industrial property rights of VQP, nor undertake attempts to register any of those rights or otherwise obtain protection of those rights in its own favour.
- 13. Other Provisions.** Proposals by VQP are not binding and may be revoked by VQP as long as no Agreement has been concluded. Proposals do not automatically apply to future orders. Any binding Agreement replaces and supersedes all previous written or verbal proposals, correspondence, arrangements or other communications between the parties. The relationship between VQP and Buyer is solely that of vendor and vendee and they are independent contracting parties. This Agreement constitutes the sole and entire agreement of the parties with respect to the subject matter contained herein. No waiver under this Agreement is effective unless it is in writing and signed by the party waiving its right. This Agreement is binding on and inures to the benefit of the parties and their respective permitted successors and permitted assigns. Neither party may assign any of its rights or delegate any of its obligations under this Agreement without the prior written consent of the other party. Any dispute, controversy or claim arising out of or relating to this Agreement, or the breach, termination or invalidity hereof, shall be discussed by the parties in good faith in order to reach an amicable resolution. If the parties are unable to resolve any dispute within 30 days after delivery of written notice thereof, the dispute shall be submitted to binding arbitration in the state of California, unless otherwise mutually agreed. Each party agrees that a final judgment in any such proceeding is conclusive and may be enforced in other jurisdictions by suit on the judgment or in any other manner provided by law. This Agreement, including all exhibits, schedules, attachments and appendices attached hereto and thereto are governed by, and construed in accordance with, the laws of the State of California, United States of America, without regard to the conflict of laws provisions thereof. The Parties agree that the United Nations Convention on Contracts for the International Sale of Goods does not apply to this Agreement.