

**VIRAJ PROFILES LIMITED**

**General Conditions of Sale (For Sales outside India)**

**1. Introduction**

These Conditions of Sale (hereinafter referred to as "Conditions") shall govern all contracts for sale or supply of following products (hereinafter referred to as "Goods") by M/s Viraj Profiles Limited and/or its subsidiaries (such as Viraj Europe B.V.), (hereinafter referred to as "VPL") and shall form an integral part of all offers and agreements for the sale of Goods by VPL.

- 1.1 Stainless Steel Bright Bars (Round, Square, Hexagonal)
- 1.2 Stainless Steel Profiles i.e Flats ( HRAP/Cold Drawn/Cold Drawn Polished), Angles (Equal/Unequal), Channels (Taper/Non Taper), I Beams
- 1.3 Stainless Steel Wire Rods
- 1.4 Stainless Steel Wire and Stainless Steel Welding Wire in Coil or Cut to Length form
- 1.5 Any other Product which may be produced in VPL's Bright Bar/Profile/Wire Rod/Wire Division in future

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VPL will confirm the Buyer's order by issuing an order accepting the Buyer's order in the prescribed form called Order Confirmation (hereinafter referred to as "**OC**"), and a contract will be concluded only upon the issue of such OC .

"**Buyer**" means any person/entity at whose request Goods are supplied and/or services are provided by VPL to such person/entity under the contract.

"**Goods**" means any goods or replacements and/or any services provided by VPL to the Buyer under the contract.

These conditions shall apply to every contract entered into by VPL except as varied by express agreement in writing signed by a duly authorized person on behalf of VPL.

The headings are for convenience only and shall not affect construction of these Conditions. References to the provision of any statute or legislation shall be construed as reference to such statute or legislation as amended, consolidated or re-enacted (without substantial amendment) from time to time.

## 2. Offers

- (a) A quotation by VPL given in writing to the Buyer amounts to an offer (hereinafter referred to the “**Offer**”). An Offer from VPL is valid for a period of 2 working days from the date of issue, unless otherwise expressly stated in the Offer.
- (b) VPL may revoke such offer at any time prior to receiving the Buyer’s acceptance in writing by giving a written notice thereof.
- (c) The Buyer's response to VPL (in whatever manner communicated) is an acceptance of the Offer to enter into a contract upon these Conditions. However, the contract is formed only upon VPL issuing the OC and dispatching it to the Buyer.
- (d) The Buyer shall not assign contract or the benefit of the contract without VPL's prior written consent.

## 3. Material selection

In the event, VPL gives any advice on material selection or other similar assistance, it is given free of charge without any undertaking, representation or warranty and VPL shall have no liability – neither compensatory nor consequential – for any such advice or assistance.

## 4. Specifications

The Goods shall meet the agreed specifications in the “OC”. Statements presented in product information, handbooks, web sites, price lists or other information regarding the Goods will only be binding on VPL if expressly referred to in the “OC”. Other than the written specifications as stated hereinabove, no other specifications shall be implied or inferred.

## 5. Price

- (a) Prices quoted in the Offer (hereinafter referred to an “**Offer Price**”) do not include any Taxes/Duties/Levies etc. unless otherwise expressly stated.
- (b) The Buyer undertakes to pay VPL as per payment terms set out in the OC. The Buyer is not entitled to hold any payment even in any event including in the event of any Quality Claims/Shortages/Disputes.
- (c) If the Buyer does not pay on time, the Buyer shall pay overdue interest on the amount outstanding at a rate of 12 percent per annum from the due date to the payment date if the delay in payment is less than or equal to 15 days. For delay in payment exceeding 15 days from the due date, Buyer shall pay overdue interest on the amount outstanding at a rate of 14 percent per annum from the due date to the payment date.

## 6. Delivery

- (a) On time delivery of goods is the essence of any Sales Contract and VPL acknowledges it and shall use its reasonable endeavors to deliver the Goods by any stated or agreed delivery date(s). However delays in delivery due to force majeure or unforeseen circumstances for which we are not responsible, such as industrial unrest, strikes, lockouts, lack of means of transport, difficulties in procuring raw materials, official regulations and untimely delivery by our supplies, do not constitute delay on our part. Agreed delivery terms are extended by the duration of the setback. If the impediment lasts longer than three months, then we and the purchaser have the right, after expiry of a reasonable period of time allotted in which to make performance, to withdraw from that part of the contract as yet unfulfilled. Claims for damages in this case are excluded.
- (b) The agreed delivery date(s) means the date on which the Goods shall be ready for dispatch from VPL. VPL is entitled to divide and deliver the Goods in lots. If no delivery time is agreed, delivery shall be made according to VPL's capacity planning.
- (c) Delivery terms are only binding on written agreement. The delivery term begins with the date of our written order confirmation, however not before receipt of the documents to be supplied by the purchaser and which are required for fulfilling the order. If we are obliged to purchase materials and services and if, after conclusion of the contract, circumstances are known to us according to which considerable deterioration in the purchaser's assets is to be presumed, then at our choice we can either demand security within a reasonable period of time or payment without delay against delivery.

If the purchaser cannot honor this demand, then we are authorized, subject to further legal rights, to withdraw from the yet unfulfilled part of the contract. Cause to assume considerable deterioration of the purchaser's assets is given in particular, if it does not honor bill of exchange or cheques deriving from circumstances for which it is responsible.

- (d) In the event of the Buyer not taking delivery of Goods within a week of their arrival at the destination port, VPL reserves the right to deal with the Goods as it desires including diverting them to other Customers. The Buyer shall, without any demur, issue a No Objection Certificate for the said purpose. The buyer shall be liable to pay VPL the actual costs accrued on account of the buyer's failure/refusal to take delivery of the Goods from the Buyer.

## 7. Defective Goods and shortages

- (a) The Goods delivered shall be free from defects. The Goods shall only be regarded as defective if the Goods do not meet the specifications set out in clause 4 above.
- (b) Goods sold as Stock lots or non-prime or seconds or under similar description are sold "as is", which means that all rights to remedies and compensation for defects are waived.

- (c) The Buyer has to inspect the Goods immediately on receipt and In the event of any defects or shortages in the Goods, the Buyer shall give notice to VPL in writing within Two weeks of the Goods arriving at their named place of destination inter alia giving details of the defects/shortages. For defects that could not reasonably have been detected upon arrival of the Goods at the named place of destination, the Buyer shall notify VPL in writing within maximum One Year of the Goods arriving at their named place of destination. However, if the said notification is made after the expiry of One Year from receipt date, it will not have any legal effect and VPL will not be obliged to perform any remedy or offer any reduction in price.
- (d) If the Buyer has notified VPL of any defects or shortages in the Goods within the stipulated time, in accordance with the terms stated above, VPL shall, either conduct a joint inspection of such Goods by the representatives of VPL and Buyer at Buyer's premises and/or at its sole discretion, ask for photographs, samples and other similar evidence supporting Buyer's claim or any other method deemed suitable to verify the claim.
- (e) In the event and to the extent that the defects and/or shortages reported by the Buyer are found genuine, VPL shall, at its sole discretion and at its own cost and within a reasonable time frame, fulfill the shortages, replace defectives or offer any reduction in price. Defective Goods shall be handed over to VPL immediately on acceptance of the Buyer's claim by VPL.
- (f) Apart from the remedies and compensation expressly set out in these Conditions or the Agreement (as defined in clause 10 below), the Buyer is not entitled to any other compensation or remedies with respect to any defect or shortage in the Goods.

## **8. Force majeure**

Neither party shall be liable for delay in performing or failure to perform its obligations if the delay or failure results from an impediment outside its reasonable control such as war, terrorism, fire, explosion, cyclone, flooding or other extreme weather, major machine break down, strikes, lockouts and other labor disputes, trade disputes, power shortages, refusals to grant licenses. Delay or failure due to such impediment shall not constitute a breach of contract, with the effect that the affected party is relieved from liability and all contractual claims against it in respect thereof. The time for performance shall be extended by a period equivalent to that during which performance is so prevented. If such a delay or failure persists for more than three months, either party shall be entitled to terminate the Agreement in respect of Goods not yet dispatched. In the event of such a termination, neither party will be entitled to any compensation, but any prepayment for Goods not dispatched shall be refunded. Nothing in this clause shall excuse the Buyer from its liability to make payments.

## 9. Retention of title

- (a) VPL holds the title to the Goods delivered until the Buyer has made full payment for the Goods.
- (b) VPL also holds title to the Goods delivered until the Buyer has made full remittance of all other payments due from the Buyer to VPL.
- (c) Until the title passes, VPL has the right to recover any Goods in the Buyer's possession or control to which it holds the title and VPL is hereby given the right to enter any land or building where the Goods are stored to collect such Goods.
- (d) If the Buyer processes the unpaid Goods into/or to form part of a new object, VPL is granted title to the new object proportionate to the value of the unpaid Goods in the new object until such time as it has received full payment for the original Goods.
- (e) If the Buyer sells any unpaid Goods or any part made from the same, the Buyer hereby assigns to VPL a proportion of its claim on any third party equivalent to the debt for the unpaid Goods/new object sold.
- (f) Each sub clause (a) to (e) above shall have effect as a separate clause and accordingly in the event of any of them being unenforceable for any reason the others shall remain in full force and effect.
- (g) If the Goods are sold to Buyer by Viraj Europe B.V. (VEBV) and not by M/s Viraj Profiles Limited (Viraj Ltd) then:
  - 1. Viraj Ltd supplies the Goods directly to the Buyer as per instructions from VEBV and the Buyer shall acquire title to the Goods directly from Viraj Ltd.
  - 2. The Buyer as a result accepts that Viraj Ltd shall have the retention of title described in sub clause (a) to (e) until the Buyer has fully paid VEBV.
  - 3. The Buyer is aware and accepts that Viraj Ltd may directly invoke the retention of title if VEBV would go bankrupt.
  - 4. The Buyer shall give the financier of VEBV the opportunity to provide specific performance before the Buyer is entitled to dissolve the contract for sale.

## 10. Entire agreement

These Conditions, the "OC" with its enclosures and any amendments agreed in writing constitutes the entire agreement between the parties (the "**Agreement**"). The Agreement will supersede all previous and contemporaneous negotiations, commitments and understandings between the parties, whether written or oral, with respect to the Goods covered by the Agreement.

### **11. Governing law**

- (a) The Agreement shall be governed by Indian law with exclusion of its conflicts of law rules and the United Nations Convention on the International Sale of Goods (CISG)
- (b) If the Goods are sold to Buyer by Viraj Europe B.V. (VEBV) then the Agreement shall be governed by Dutch law with exclusion of its conflicts of law rules and the United Nations Convention on the International Sale of Goods (CISG).

### **12. Disputes**

- (a) Unless provided otherwise in the OC, any dispute, controversy or claim arising out of or in connection with the Agreement, or the breach, termination or invalidity thereof, shall be resolved by reference to arbitration by a sole arbitrator to be appointed by VPL and governed by the Indian Arbitration and Conciliation Act 1996. The venue of arbitration shall be Mumbai and the language of the arbitration shall be English.
- (b) The courts at Mumbai, India shall have exclusive jurisdiction to determine any question, issue, dispute or claim between the Parties including any application to be made under the Arbitration and Conciliation Act, 1996 as amended and re-enacted from time to time.
- (c) Notwithstanding the arbitration clause as set out hereinabove, VPL shall at its sole discretion be entitled to choose and have recourse to competent courts and execution authorities under the laws of the Buyer's country, or elsewhere, for purposes of collecting debts of the Buyer.
- (d) If the Goods are sold to Buyer by Viraj Europe B.V. (VEBV) then sub clause (a) and (b) shall not apply and instead the competent court in The Netherlands shall have exclusive jurisdiction to determine any question, issue, dispute or claim between the Parties.

### **13. General limitation of liability**

- (a) Except as expressly provided for in these Conditions or as otherwise agreed in the OC, VPL shall in no circumstances, be held liable for any loss or damage including, but not limited to, product liability, loss of profit, loss of production, discarded production or claims from the Buyer's customer.
- (b) The Goods are supplied strictly on the terms that the Buyer has satisfied itself of the suitability of the Goods for the Buyer's intended purpose.
- (c) In any event, VPL's liability for any loss or damage, due to any proven defect in the Goods or otherwise proved to be due to VPL's failure, shall not exceed the net cost of the Goods supplied and/or valued at the time of the supply.

- (d) The Goods are supplied based on agreed Incoterms as defined under Incoterms 2010. VPL is not liable for any extra charges levied by the shipping line or local authorities at the destination that are not covered explicitly under Incoterms 2010
- (e) In case of FOB shipments VPL has right to highlight any charges levied by nominated forwarder to VPL which are over and above the standard prevailing market rates for the same services and VPL will have the right to pass on these charges to the customer.

**14. Indemnity**

The Buyer shall indemnify and keep indemnified VPL against all actions, claims, costs, damages, demands and expenses or other loss arising out of:-

(a) Defect in the Goods arising from the use, modification, adaptation of the Goods or incorporation of the Goods into other products by the Buyer; or

(b) Any claim by any third part of any intellectual property rights of such third party arising from the use, modification, adaptation of the Goods or incorporation of the Goods into other products by the Buyer.

**15. NOTICES**

Any notices under these conditions shall be properly given in writing and sent by post or recorded delivery and shall be sent via facsimile transmission in addition, to the address of the intended recipient as stated in the contract or to such address as VPL and the Buyer from time to time notify each other as their respective addresses and shall be deemed served in the case of postal notice, on the expiry of 48 hours from the time of posting and in the case of facsimile transmissions on the expiry of 1 hour from completion of transmission by the sender.

**16. Exclusion of Third Party Rights**

For the avoidance of doubt a person who is not party to this contract shall have no rights under the said contract