



VACULUG LIMITED

TERMS AND CONDITIONS FOR THE SUPPLY OF GOODS AND/OR SERVICES

The Customer's attention is particularly drawn to the provisions of clauses 6 and 11.

1. DEFINITIONS

1.1 In these Conditions, the following definitions apply:

Commencement Date: has the meaning set out in clause 2.2.

Conditions: these terms and conditions as amended from time to time in accordance with clause 16.8.

Contract: the contract between the Supplier and the Customer for the supply of Goods and/or Services in accordance with these Conditions.

Customer: the person or firm who purchases the Goods and/or Services from the Supplier.

Delivery Location: has the meaning set out in clause 4.2.

Force Majeure Event: has the meaning given to it in clause 16.1(a).

Goods: the goods (or any part of them) sold or to be sold by the Supplier to the Customer set out in the Order.

Goods Specification: any specification for the Goods published from time to time by the Supplier.

Intellectual Property Rights: all patents, rights to inventions, utility models, copyright and related rights, trade marks, service marks, trade, business and domain names, rights in trade dress or get-up, rights in goodwill or to sue for passing off, unfair competition rights, rights in designs, rights in computer software, database right, topography rights, moral rights, rights in confidential information (including know-how and trade secrets) and any other intellectual property rights, in each case whether registered or unregistered and including all applications for and renewals or extensions of such rights, and all similar or equivalent rights or forms of protection in any part of the world.

Order: the Customer's order (in whatever form) for the supply of Goods and/or Services.

Processing: the repair of Tyres carried out by the Supplier on behalf of the Customer as part of the Services.

Services: the Processing of Tyres carried out by the Supplier on behalf of the Customer as set out in the Service Specification.

Service Specification: the description or specification for the Services published from time to time by the Supplier.

Supplier: Vaculug Limited registered in England and Wales with company number 00488961 and whose registered office is at Gonerby Hill Foot, Grantham, Lincolnshire NG31 8HE.

Tyres: the Customer's tyres submitted by the Customer for Processing by the Supplier.

2. BASIS OF CONTRACT

- 2.1 The Order constitutes an offer by the Customer to purchase Goods and/or Services in accordance with these Conditions.
- 2.2 The Order shall only be deemed to be accepted when the Supplier supplies the Goods or commences providing the Services at which point and on which date the Contract shall come into existence (**Commencement Date**).
- 2.3 The Contract constitutes the entire agreement between the parties. The Customer acknowledges that it has not relied on any statement, promise or representation made or given by or on behalf of the Supplier which is not set out in the Contract.
- 2.4 Any samples, drawings, descriptive matter or advertising issued by the Supplier and any descriptions of the Goods or illustrations or descriptions of the Services contained in the Supplier's catalogues or brochures are issued or published for the sole purpose of giving an approximate idea of the Services and/or Goods described in them. They shall not form part of the Contract or have any contractual force.
- 2.5 These Conditions apply to the Contract to the exclusion of any other terms that the Customer seeks to impose or incorporate, or which are implied by trade, custom, practice or course of dealing.
- 2.6 Any quotation given by the Supplier shall not constitute an offer, and is only valid for a period of 21 days from its date of issue.
- 2.7 All of these Conditions shall apply to the supply of both Goods and Services except where application to one or the other is specified.
- 2.8 These conditions shall apply to all contracts for Sale and Purchase by Vaculug Ltd to the exclusion of all other terms and conditions including any which the Customer or Supplier may purport to apply under any purchase order, confirmation of order or any such similar document.
- 2.9 No variation or addition to these Conditions shall be effective unless agreed in Writing by a named director of Vaculug.

3. GOODS

- 3.1 Vaculug's employees or agents are not authorised to make any representations concerning goods or services unless confirmed in Writing and in entering into the contract the Customer or Supplier acknowledges that it does not rely on any such representations which are not so confirmed.
- 3.2 Acceptance of delivery of Goods or Services shall be deemed conclusive evidence of the Customers or Suppliers acceptance of these conditions.
- 3.3 The Goods are described in the Goods Specification.
- 3.4 The Supplier reserves the right to amend the Goods Specification if required by any applicable statutory or regulatory requirements.

4. DELIVERY OF GOODS

- 4.1 The Supplier shall ensure that each delivery of the Goods is accompanied by a delivery note in the form used by the Supplier from time to time.
- 4.2 The Supplier shall deliver the Goods to the location set out in the Order or such other location as the parties may agree.
- 4.3 Delivery of the Goods shall be completed on the completion of unloading of the Goods at the Delivery Location.
- 4.4 Any dates quoted for delivery of the Goods or any are approximate only, and the time of delivery is not of the essence. The Supplier shall not be liable for any delay in delivery of the Goods or any failure to deliver the Goods that is caused by a Force Majeure Event or the Customer's failure to provide the Supplier with adequate delivery instructions.
- 4.5 The Supplier may deliver the Goods by instalments, which shall be invoiced and paid for separately. Each instalment shall constitute a separate contract. Any delay in delivery or defect in an instalment shall not entitle the Customer to cancel any other instalment.
- 4.6 The Supplier and the carrier must be advised in writing (otherwise than upon any of the carrier's documents) within seven days after the receipt of invoice if the Goods covered by the invoice have not been delivered or within two days of delivery if damage, pilferage or shortage is revealed upon receipt of the Goods. Provided such notice is give the Supplier will use its best endeavours to assist its customers to obtain proof of delivery or admission of damage, pilferage or short delivery from the carrier. Should the claim fail the responsibility for payment for the Goods so lost or damaged will rest with the Customer since responsibility for the Goods passes to the Customer immediately such goods are handed to the carrier.

In respect of goods delivered in the Supplier's own vehicles no claim for Goods lost or

damages in transit will be entertained unless received within fourteen days from receipt of invoice.

5. QUALITY OF GOODS

5.1 Subject to the remainder of this clause 5 and subject to Schedule 1, the Supplier warrants to the Customer that on delivery, and for a period of 36 months from the date of manufacture the Goods shall:

- (a) conform in all material respects with the Goods Specification; and
- (b) be free from material defects in material and workmanship.

5.2 Subject to clause 5.3, if:

- (a) the Customer gives notice in writing during the Warranty Period within a reasonable time of discovery that some or all of the Goods do not comply with the warranty set out in clause 5.1;
- (b) the Supplier is given a reasonable opportunity of examining such Goods; and
- (c) the Customer (if asked to do so by the Supplier) returns such Goods to the Supplier's place of business at the Supplier's cost,

the Supplier shall:

- i) in the case of Vaculug or Duramold Radial Truck and Bus Tyres, replace the defective Goods; and/or
- ii) in the case of Vaculug or Duramold Industrial and Earthmover Radial and Solid Remould Tyres, provide the Customer with a credit towards the purchase of new Goods amounting to the value of the tread remaining (the amount of the credit being based upon the selling price of the tyre at the date on which the Supplier's examination takes place).

5.3 The Supplier shall not be liable for the Goods' failure to comply with the warranty in clause 5.1 if:

- (a) the Customer makes any further use of such Goods after giving a notice in accordance with clause 5.2;
- (b) the defect arises because the Customer failed to follow the Supplier's oral or written instructions as to the storage, installation, commissioning, use or maintenance of the Goods or (if there are none) good trade practice;
- (c) the defect arises as a result of the Supplier following any drawing, design or Goods Specification supplied by the Customer;
- (d) the Customer alters or repairs such Goods without the written consent of the Supplier;
- (e) the defect arises as a result of road hazard injuries or damage caused by

obstacles or debris such as cutting, chipping, punctures, snags, bruises, tears or impact breaks, fair wear and tear, wilful damage, negligence, abnormal working conditions, accident, corrosion, vandalism, fire, nature, improper mounting or dismounting procedures, improper inflation or other maintenance abuses, continued operation while flat or severely under inflated, improper application of tyre size and/or specification or use of sealants and/or fillers which have not been provided by the Supplier;

- (f) the Goods differ from the Goods Specification as a result of changes made to ensure they comply with applicable statutory or regulatory standards;
- (g) the claim is submitted after expiry of the Warranty Period;
- (h) in the case of Vaculug or Duramold Radial Truck and Bus Tyres, the tyre has been regrooved or has less than 3mm of the original tread depth remaining; or
- (i) in the case of Vaculug or Duramold Industrial and Earthmover Radial and Solid Remould Tyres, the tyre has been regrooved or has less than 20% of the original tread depth remaining.

5.4 Except as provided in this clause 5 and subject to clause 11, the Supplier shall have no liability to the Customer in respect of the Goods' failure to comply with the warranty set out in clause 5.1.

5.5 The Supplier shall provide the warranty set out in this clause 5 in accordance with Schedule 1.

6. TITLE AND RISK

6.1 The risk in the Goods shall pass to the Customer on completion of delivery, unless the supply is outside of the UK whereby the risks pass to the Customer upon collection of goods from our site (place of supply) from delivery company.

6.2 Title to the Goods shall not pass to the Customer until the Supplier has received payment in full (in cash or cleared funds) for:

- (a) the Goods; and
- (b) any other goods that the Supplier has supplied to the Customer.

6.3 Until title to the Goods has passed to the Customer, the Customer shall:

- (a) hold the Goods on a fiduciary basis as the Supplier's bailee;
- (b) store the Goods separately from all other goods held by the Customer so that they remain readily identifiable as the Supplier's property;
- (c) not remove, deface or obscure any identifying mark or packaging on or relating to the Goods;
- (d) maintain the Goods in satisfactory condition and keep them insured against all risks for their full price on the Supplier's behalf from the date of delivery;
- (e) notify the Supplier immediately if it becomes subject to any of the events

listed in clause 12.1(b) to clause 12.1(l); and

- (f) give the Supplier such information relating to the Goods as the Supplier may require from time to time,

but the Customer may resell or use the Goods in the ordinary course of its business.

- 6.4 If before title to the Goods passes to the Customer the Customer becomes subject to any of the events listed in clause 12.1(b) to clause 12.1(l), or the Supplier reasonably believes that any such event is about to happen and notifies the Customer accordingly, then, provided the Goods have not been resold, or irrevocably incorporated into another product, and without limiting any other right or remedy the Supplier may have, the Supplier may at any time require the Customer to deliver up the Goods and, if the Customer fails to do so promptly, enter any premises of the Customer or of any third party where the Goods are stored in order to recover them.

7. SUPPLY OF SERVICES

- 7.1 The Supplier shall provide the Services to the Customer in accordance with the Service Specification in all material respects.
- 7.2 The Supplier shall use all reasonable endeavours to meet any performance dates for the Services specified in the Order, but any such dates shall be estimates only and time shall not be of the essence for the performance of the Services.
- 7.3 The Supplier shall have the right to make any changes to the Services which are necessary to comply with any applicable law or safety requirement, or which do not materially affect the nature or quality of the Services.
- 7.4 The Supplier warrants to the Customer that the Services will be provided using reasonable care and skill.
- 7.5 Any Tyres found to be unsuitable for Processing by the Supplier will be returned in the condition in which they then are but only if such return is requested but the Customer at the time of submission of the Tyres.
- 7.6 The Supplier reserves the right not to Process any Tyres which in its opinion are unsuitable for Processing.
- 7.7 Save where the Supplier is negligent in the provision of the Services, the Supplier accepts no liability for damage to the Customer's wheels or other component parts whilst in its charge.
- 7.8 The Supplier reserves the right to make a charge for the storage of Tyres sent to its premises for quotation if the quotation is not accepted or the Tyres removed from the Supplier's premises within 28 days of the date of the quotation.

8. CUSTOMER'S OBLIGATIONS

8.1 The Customer shall:

- (a) ensure that the terms of the Order are complete and accurate;
- (b) co-operate with the Supplier in all matters relating to the Services;
- (c) provide the Supplier, its employees, agents, consultants and subcontractors, with access to the Customer's premises, office accommodation and other facilities as reasonably required by the Supplier to provide the Services;
- (d) provide the Supplier with such information and materials as the Supplier may reasonably require to supply the Services, and ensure that such information is accurate in all material respects;
- (e) ensure the correct choice and fitting of the Goods;
- (f) advise their Customers and users upon all aspects of correct tyre maintenance;
- (g) advise their Customers and users of the terms of the warranty set out in Schedule 1 and clause 5 (and the restriction thereto) and that the Supplier accepts no liability for claims arising in consequence of inadequate maintenance or misuse of the Goods.

8.2 If the Supplier's performance of any of its obligations in respect of the Services is prevented or delayed by any act or omission by the Customer or failure by the Customer to perform any relevant obligation (**Customer Default**):

- (a) the Supplier shall without limiting its other rights or remedies have the right to suspend performance of the Services until the Customer remedies the Customer Default;
- (b) the Supplier shall not be liable for any costs or losses sustained or incurred by the Customer arising directly or indirectly from the Supplier's failure or delay to perform any of its obligations as set out in this clause 8.2; and
- (c) the Customer shall reimburse the Supplier on written demand for any costs or losses sustained or incurred by the Supplier arising directly or indirectly from the Customer Default.

9. PRICE, CHARGES AND PAYMENT

9.1 The price for Goods and/or the Services shall be the price set out in the Order or, if no price is quoted, the price set out in [the Supplier's published price list as at the date of delivery.] The price of the Goods and/or the Services is inclusive of all costs and charges of packaging, insurance and transport.

- 9.2 The Supplier reserves the right at any time to increase the price of the Goods and/or the Services by giving notice to the Customer at any time before delivery, to reflect any increase in the cost of the Goods and/or the Services to the Supplier that is due to:
- (i) any factor beyond the control of the Supplier (including foreign exchange fluctuations, increases in taxes and duties, and increases in labour, materials and other manufacturing costs);
 - (ii) any request by the Customer to change the delivery date(s), quantities or types of Goods or Services ordered, or the Goods Specification or Services Specification; or
 - (iii) any delay caused by any instructions of the Customer in respect of the Goods or failure of the Customer to give the Supplier adequate or accurate information or instructions in respect of the Goods and/or Services.
- 9.3 In respect of Goods and Services, the Supplier shall invoice the Customer on or at any time after completion of delivery.
- 9.4 The Customer shall pay each invoice submitted by the Supplier:
- (a) within 30 days after the end of the month of delivery unless otherwise agreed; and
 - (b) in full and in cleared funds to a bank account nominated in writing by the Supplier, and
- time for payment shall be of the essence of the Contract.
- 9.5 All amounts payable by the Customer under the Contract are exclusive of amounts in respect of value added tax chargeable from time to time (**VAT**). Where any taxable supply for VAT purposes is made under the Contract by the Supplier to the Customer, the Customer shall, on receipt of a valid VAT invoice from the Supplier, pay to the Supplier such additional amounts in respect of VAT as are chargeable on the supply of the Services or Goods at the same time as payment is due for the supply of the Services or Goods.
- 9.6 Without limiting any other right or remedy of the Supplier, if the Customer fails to make any payment due to the Supplier under the Contract by the due date for payment (**Due Date**), the Supplier shall have the right to charge interest on the overdue amount at the rate of 4 per cent per annum above the then current Bank of England's base rate accruing on a daily basis from the Due Date until the date of actual payment of the overdue amount, whether before or after judgment, and compounding quarterly.
- 9.7 The Customer shall pay all amounts due under the Contract in full without any deduction or withholding except as required by law and the Customer shall not be

entitled to assert any credit, or counterclaim against the Supplier in order to justify withholding payment of any such amount in whole or in part. In respect of rights of set-off the Customer shall only be entitled to set off any amount owing to it by the Supplier against any amount payable by the Customer to the Supplier to the extent of ascertained sums which the Supplier agrees are due from time to time arising out of the ongoing trading relationship between the parties. The Supplier may, without limiting its other rights or remedies, set off any amount owing to it by the Customer against any amount payable by the Supplier to the Customer.

10. INTELLECTUAL PROPERTY RIGHTS

10.1 All Intellectual Property Rights in or arising out of or in connection with the Services shall be owned by the Supplier.

11. LIMITATION OF LIABILITY: THE CUSTOMER'S ATTENTION IS PARTICULARLY DRAWN TO THIS CLAUSE

11.1 Nothing in these Conditions shall limit or exclude the Supplier's liability for:

- (a) death or personal injury caused by its negligence, or the negligence of its employees, agents or subcontractors;
- (b) fraud or fraudulent misrepresentation;
- (c) breach of the terms implied by section 2 of the Supply of Goods and Services Act 1982 (title and quiet possession);
- (d) breach of the terms implied by section 12 of the Sale of Goods Act 1979 (title and quiet possession); or
- (e) defective products under the Consumer Protection Act 1987.

11.2 Subject to clause 11.1:

- (a) the Supplier shall under no circumstances whatever be liable to the Customer, whether in contract, tort (including negligence), breach of statutory duty, or otherwise, for any loss of profit, or any indirect or consequential loss arising under or in connection with the Contract; and
- (b) the Supplier's total liability to the Customer in respect of all other losses arising under or in connection with the Contract, whether in contract, tort (including negligence), breach of statutory duty, or otherwise, shall in no circumstances exceed the value of the Goods and/or the Services to which the claim relates.

11.3 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.

11.4 This clause 11 shall survive termination of the Contract.

12. TERMINATION

12.1 Without limiting its other rights or remedies, each party may terminate the Contract with immediate effect by giving written notice to the other party if:

- (a) Vaculug reserves the right to terminate any contract for any reason as we see fit on an immediate basis with no notice required.
- (b) the other party commits a material breach of its obligations under this Contract and (if such breach is remediable) fails to remedy that breach within ten (10) working days after receipt of notice in writing of the breach;
- (c) the other party suspends, or threatens to suspend, payment of its debts or is unable to pay its debts as they fall due or admits inability to pay its debts or (being a company) is deemed unable to pay its debts within the meaning of section 123 of the Insolvency Act 1986 or (being an individual) is deemed either unable to pay its debts or as having no reasonable prospect of so doing, in either case, within the meaning of section 268 of the Insolvency Act 1986 or (being a partnership) has any partner to whom any of the foregoing apply;
- (d) the other party commences negotiations with all or any class of its creditors with a view to rescheduling any of its debts, or makes a proposal for or enters into any compromise or arrangement with its creditors other than (where a company) for the sole purpose of a scheme for a solvent amalgamation of that other party with one or more other companies or the solvent reconstruction of that other party;
- (e) a petition is filed, a notice is given, a resolution is passed, or an order is made, for or in connection with the winding up of the other party (being a company) other than for the sole purpose of a scheme for a solvent amalgamation of the other party with one or more other companies or the solvent reconstruction of that other party;
- (f) the other party (being an individual) is the subject of a bankruptcy petition or order;
- (g) a creditor or encumbrancer of the other party attaches or takes possession of, or a distress, execution, sequestration or other such process is levied or enforced on or sued against, the whole or any part of its assets and such attachment or process is not discharged within 14 days;
- (h) an application is made to court, or an order is made, for the appointment of an administrator or if a notice of intention to appoint an administrator is given or if an administrator is appointed over the other party (being a company);
- (i) a floating charge holder over the assets of the other party (being a company) has become entitled to appoint or has appointed an administrative receiver;
- (j) a person becomes entitled to¹⁰ appoint a receiver over the assets of the other party or a receiver is appointed over the assets of the other party;

- (j) any event occurs, or proceeding is taken, with respect to the other party in any jurisdiction to which it is subject that has an effect equivalent or similar to any of the events mentioned in clause 12.1(b) to clause 12.1(i) (inclusive);
- (k) the other party suspends, threatens to suspend, ceases or threatens to cease to carry on, all or substantially the whole of its business; or
- (l) the other party (being an individual) dies or, by reason of illness or incapacity (whether mental or physical), is incapable of managing his own affairs or becomes a patient under any mental health legislation.

12.2 Without limiting its other rights or remedies, the Supplier may also terminate the Contract with immediate effect by giving written notice to the Customer if the Customer fails to pay any amount due under this Contract on the due date for payment.

12.3 Without limiting its other rights or remedies, the Supplier shall have the right to suspend the supply of Services or all further deliveries of Goods under the Contract or any other contract between the Customer and the Supplier if:

- (a) the Customer fails to make pay any amount due under this Contract on the due date for payment; or
- (b) the Customer becomes subject to any of the events listed in clause 12.1(b) to clause 12.1(l), or the Supplier reasonably believes that the Customer is about to become subject to any of them.

13. CONSEQUENCES OF TERMINATION

On termination of the Contract for any reason:

- (a) the Customer shall immediately pay to the Supplier all of the Supplier's outstanding unpaid invoices and interest and, in respect of Services supplied but for which no invoice has yet been submitted, the Supplier shall submit an invoice, which shall be payable by the Customer immediately on receipt;
- (b) the accrued rights and remedies of the parties as at termination shall not be affected, including the right to claim damages in respect of any breach of the Contract which existed at or before the date of termination or expiry; and
- (c) clauses which expressly or by implication have effect after termination shall continue in full force and effect.

14. BRANDING AND MARKING

14.1 The Customer shall not and shall procure that anyone to whom it sells the Goods shall not without the authority in writing of the Supplier sell, offer for sale, advertise or supply any of the Goods which have been defaced branded re-cut or tampered with

in any way whatsoever or sell offer for sale advertise or supply any Goods which by virtue of having been defaced branded re-cut or tampered with have been made to resemble any of the Goods or in respect of which the Supplier's name or marks on the goods have been so used as to be likely in the opinion of the Supplier to lead a purchaser or user to assume that the goods purchased or used are products of the Supplier.

14.2 In no case will the Supplier entertain any claim in respect of Goods which have been so defaced branded re-cut or tampered with as set out in clause 14.1 above.

15. EXHIBITIONS

15.1 The Customer shall not, and shall procure that any third party to whom it sells the Goods shall not, without the previous consent of the Supplier, exhibit any of the Goods at any exhibition or show held in the European Economic Community except when fitted to or forming a component part of a motorcar machine implement or other vehicle and shall not without such consent display or distribute or use at any such exhibition or show any advertising matter or price list relating to the Goods.

16. GENERAL

16.1 Force majeure:

- (a) For the purposes of this Contract, **Force Majeure Event** means an event beyond the reasonable control of the Supplier including but not limited to strikes, lock-outs or other industrial disputes (whether involving the workforce of the party or any other party), failure of a utility service or transport network, act of God, war, riot, civil commotion, malicious damage, compliance with any law or governmental order, rule, regulation or direction, accident, breakdown of plant or machinery, fire, flood, storm, shortage of raw materials or default of suppliers or subcontractors.
- (b) The Supplier shall not be liable to the Customer as a result of any delay or failure to perform its obligations under this Contract as a result of a Force Majeure Event.
- (c) If the Force Majeure Event prevents the Supplier from providing any of the Services and/or Goods for more than four (4) weeks, the Supplier shall, without limiting its other rights or remedies, have the right to terminate this Contract immediately by giving written notice to the Customer.

16.2 Assignment and subcontracting:

- (a) The Supplier may at any time assign, transfer, charge, subcontract or deal in any other manner with all or any of its rights under the Contract and may subcontract or delegate in any manner any or all of its obligations under the Contract to any third party.

- (b) The Customer shall not, without the prior written consent of the Supplier, assign, transfer, charge, subcontract or deal in any other manner with all or any of its rights or obligations under the Contract.

16.3 Notices:

- (a) Any notice or other communication required to be given to a party under or in connection with this Contract shall be in writing and shall be delivered to the other party personally or sent by prepaid first-class post, recorded delivery or by commercial courier, at its registered office (if a company) or (in any other case) its principal place of business, or sent by fax to the other party's main fax number.
- (b) Any notice or other communication shall be deemed to have been duly received if delivered personally, when left at such addressor, if sent by prepaid first-class post or recorded delivery, at 9.00 am on the second Day after posting, or if delivered by commercial courier, on the date and at the time that the courier's delivery receipt is signed, or if sent by fax, on the next Day after transmission.
- (c) This clause 16.3 shall not apply to the service of any proceedings or other documents in any legal action. For the purposes of this clause, "writing" shall not include e-mails and for the avoidance of doubt notice given under this Contract shall not be validly served if sent by e-mail.

16.4 Waiver and cumulative remedies:

- (a) A waiver of any right under the Contract is only effective if it is in writing and shall not be deemed to be a waiver of any subsequent breach or default. No failure or delay by a party in exercising any right or remedy under the Contract or by law shall constitute a waiver of that or any other right or remedy, nor preclude or restrict its further exercise. No single or partial exercise of such right or remedy shall preclude or restrict the further exercise of that or any other right or remedy.
- (b) Unless specifically provided otherwise, rights arising under the Contract are cumulative and to not exclude rights provided by law.

16.5 Severance:

- (a) If a court or any other competent authority finds that any provision of the Contract (or part of any provision) is invalid, illegal or unenforceable, that provision or part-provision shall, to the extent required, be deemed deleted, and the validity and enforceability of the other provisions of the Contract shall not be affected.
- (b) If any invalid, unenforceable or illegal provision of the Contract would be valid, enforceable and legal if some part of it were deleted, the provision shall apply with the minimum modification necessary to make it legal, valid and enforceable.

- 16.6 No partnership: Nothing in the Contract is intended to, or shall be deemed to, constitute a partnership or joint venture of any kind between any of the parties, nor constitute any party the agent of another party for any purpose. No party shall have authority to act as agent for, or to bind, the other party in any way.
- 16.7 Third parties: A person who is not a party to the Contract shall not have any rights under or in connection with it.
- 16.8 Variation: Except as set out in these Conditions, any variation, including the introduction of any additional terms and conditions, to the Contract shall only be binding when agreed in writing and signed by the Supplier.
- 16.9 Governing law and jurisdiction: This Contract, and any dispute or claim arising out of or in connection with it or its subject matter or formation (including non-contractual disputes or claims), shall be governed by, and construed in accordance with, English law, and the parties irrevocably submit to the exclusive jurisdiction of the courts of England and Wales.
17. **SELLING GOODS TO VACULUG**
- 17.1 All Goods sold to Vaculug can be returned if not sold or used by Vaculug in a six month period. All goods will be returned at the cost of the company supplying Vaculug.
- 17.2 All casings at Vaculug will go through an Enhanced Inspection Process. This will include Shearography and buffing. Should you wish your casings not to go through this process then please collect your casings from us with immediate effect.

Schedule 1 – Warranty

1. The Supplier shall provide the warranty set out in clause 5 to the Customer [and to distributors, dealers and owners of:

- (a) Vaculug/Duramold Radial Truck and Bus Tyres; and
- (b) Vaculug/Duramold Industrial and Earthmover Radial and Sold Remould Tyres;

PROVIDED THAT:

- (i) the conditions set out in clause 5 have been met;
- (ii) the relevant Goods have been used under normal operations; and
- (iii) the party making the claim under the warranty must present the tyre to an authorised Vaculug dealer, to be returned to the Supplier for inspection and claim by the warranty claim inspector.

2. The Customer shall not, and shall procure that any third party to whom it sells the Goods shall not, provide any warranty or guarantee beyond those set out in clause 5 and this Schedule 1 (**Additional Warranty**) and the Customer hereby acknowledges that the Supplier shall not respond to or be bound by any such Additional Warranty.