

## GENERAL CONDITION OF SALE

**1. THE CONTRACT:** bioMérieux India Private Limited (hereinafter called "BMXI") contracts with the person, firm or company named overleaf i.e., on the invoice (hereinafter called the "**Purchaser**") for selling instrument(s) and/ or reagent(s) (hereinafter referred to as "**Products**"), with regard to the order placed by the Purchaser, in writing, on the terms and conditions set out herein below. Any document emanating from the Purchaser, whether before or after the date hereof, is to have no legal affect whatsoever unless any such change(s) in the Contract is specifically confirmed in writing by the the Managing Director of BMXI or person/s nominated by Managing Director .

**2. TERMS AND CONDITIONS:** Such terms and conditions as are set out on the face and reverse sides of the invoice and in any sample pattern, specification, plan, design, drawing or other document referred to on the Invoice, or otherwise advised or forwarded by BMXI to the Purchaser. The terms and conditions as set out herein below shall be the only terms and conditions which govern the Contract and no other terms and conditions shall have any affect in relation to the Contract. .

**3. ACCEPTANCE OF ORDER:** Orders placed by the Purchaser, for Products to BMXI, are subject to acceptance by BMXI. BMXI may accept orders in whole or in part. The Contract is concluded when BMXI acknowledges receipt and acceptance of the Purchaser's order, in writing or by delivering the Product as noted in order/s. In the case of any order incorporating additions or modifications to these terms and conditions, whether substantial or otherwise, shall constitute a counteroffer, and shall not be binding on BMXI unless agreed in writing. The order accepted by BMXI shall not be cancelled by the Purchaser, except as otherwise agreed by BMXI in writing. All orders placed by the Purchaser with BMXI implies unconditional acceptance by the Purchaser of all the terms of the Contract. To avoid errors the Purchaser shall mention its customer ID, reference number and product name of the required items on the Purchase Order.

**4. TRANSPORTATION AND DELIVERY:** All transportation and shipment cost and expenses shall be paid by Purchaser, unless otherwise prior agreed in writing by BMXI. The sales of the Products shall be made on ex-works basis (i.e. ex-BMXI's premises), in accordance with the Incoterms 2010 of ICC. BMXI may deliver Products to the Purchaser in installments. BMXI will not be liable in any way to the Purchaser for any failure to supply Products or for any delay in the supply of Products. The Products shall be delivered to the Purchaser at the place and in the manner so specified by the Purchaser. The Products may be despatched by road/ rail/ air, according to the availability and suitability of the mode of transport at BMXI's absolute discretion. The risk in the Products shall pass from BMXI to the Purchaser at the time of despatch of the Products from BMXI's premises and shall be borne by the Purchaser for each dispatch; however, the title to the Products shall pass from BMXI to the Purchaser at the time of receipt of the full payment of the Products, by BMXI.

**5. INSPECTION AND CLAIMS:** The Purchaser shall inspect and check the Products for any damage, shortage, etc, at the time of delivery of Products to ensure that the Products are in proper condition and shall inform BMXI in the case of any damage, shortage, etc. within 24 hours at maximum. Any physical damage apparent at the time of delivery must be immediately noted on the proof of delivery/ delivery chelan counter signed by the Customer at the time of delivery. Such report/ information shall be sent in writing within 24 hours of the receipt of Products, either through letter at the address of BMXI or email at customercare.india@biomerieux.com. No claim shall be entertained and accepted after the specified period. BMXI shall have the right to investigate the claim received and sole and absolute discretion regarding the replacement of any such Products. The decision of BMXI shall be final and binding on the Purchaser. No claim regarding the replacement of the Products shall be accepted without BMXI's express and previous agreement.

**6. WARRANTY:**  
BMXI provide the following warranty only:  
a.) Reagents:  
The reagents are intended for in vitro use only. BMXI shall not be responsibility for any damage incurred through misuse or incorrect storage of the reagents and other goods/ consumables.  
b.) Instruments:  
The Instruments are covered under warranty, parts and labor, for a period of 12 months from the date of installation or for a period of 13 months from the date of invoice, whichever is earlier, unless agreed otherwise, in writing, by the Parties.  
Besides above mentioned warranties, BMXI makes no further warranties with respect to the Products and disclaims all implied warranties. All such warranties, obligations and liabilities on the part of BMXI are excluded.

**7. LIABILITY AND INDEMNITY:** The above mentioned warranty with respect to reagents and instruments shall not be extended to any claim, liability, loss, damages, etc. caused by incidents such as accidents, fire, lightning, damage by water, changes or defects in power supply, negligence, lack of maintenance, improper handling or usage, unauthorized modifications, abnormal use of the instruments, use of non-recommended reagents or normal wear and tear, etc. Any other guarantee, or responsibility for consequences resulting from breakdown of an instrument, is excluded. Further BMXI shall not be liable to the Purchaser for any indirect, special, incidental or consequential damages of any kind whatsoever.  
In the event of valid warranty claims, BMXI shall, at its sole choice and discretion, repair or replace the Products. The costs relating to the transport of the Products in respect of which warranty has been claimed shall be borne by the Purchaser.  
The Purchaser agrees to hold BMXI fully indemnified at all times and free from and against any claims, liabilities, cost, damages, losses, demands etc. (i) in respect of the use and operation of the instruments; and/ or (ii) arising out of or due to conducting the diagnostics tests using the Products.

**8. PRICE:** The price of the Products shall be the price specified on the face of the Invoice, as agreed with the Purchaser, in writing. The price mentioned overleaf is exclusive of applicable taxes including GST and other applicable taxes. In the event there is any revision in the Price of the Products, such revision shall be negotiated between the parties and the new Price of the Products shall be confirmed by the Purchaser and BMXI, in writing.

**9. PAYMENT:** The payment shall be made within 30 days of the receipt of the Invoice, by cheque, bank transfer or bank draft. In the event there is a delay in payment, BMXI shall have the right to charge interest on the outstanding amount at the prime lending rate of State Bank of India prevalent at that point of time, till the date the amount is fully realized by BMXI. Further, in the event the payment(s) is/ are not made, BMXI shall have the right to suspend all or part of the deliveries, until full payment of such amounts due is made.

**The payment should preferably be made by bank transfer to:**  
Bank Name: The Hongkong and Shanghai Banking Corporation Limited  
Current Account Number: 166-237578-001  
RTGS Code: HSBC0110002 (Above INR200,000/-)  
MICR Code: 110039002  
SWIFT Code: HSBCINBB  
NEFT Code: HSBC0110002 (INR 200,000 or Less)  
Address: The Hongkong and Shanghai Banking Corporation Limited  
25, Barakhamba Road,  
New Delhi - 110 001

**10. INVOICE:** The invoice raised by BMXI against the order placed by the Purchaser shall be sent to the Purchaser on the date of despatch of Products. All Contents of the Invoice shall be considered as correct and accepted by the Purchaser unless informed to BMXI, in writing, about any discrepancies within 24 hours from date of receipt of the Invoice, failing which any request shall not be accepted by BMXI for any change/ alteration/ modification, etc with regard to this Invoice. Any part or on account payments shall be realized towards the Invoices raised by BMXI in order of priority from the oldest to the most recent Invoices outstanding as on that date.

**11. SOFTWARE:** The price of software installed to the instruments, specified in the Invoice is subject to concession. It is agreed by the Purchaser that the software programs shall not be copied, reproduced, modified, transferred, etc without the prior written permission of BMXI. The magnetic disks are free from any manufacturing defects and are covered under guarantee for a period of 360 days from the date of delivery of the instruments. Any other guarantee, particularly covering performance or results linked with the use of the said magnetic disks are excluded.

**12. OBLIGATION OF PURCHASER:** The obligation of the Purchaser:  
At the time of pre-sales demonstration/ discussion or placing the order or at the time of delivery of any Products, whichever is earlier, the Purchaser must, and shall be deemed to have:  
a) read and understand the correct operating and safety procedures of/ for the Products;  
b) read and understand the relevant safety information of/ for the Products;  
c) read and understood required storage conditions, electrical requirements, temperature control, etc and has made/ will make appropriate arrangements for proper storage and use of the Products  
d) read and understand BMXI warranty that applies to the Products;  
e) use the Products only as per the operating and safety procedures specified by BMXI in its technical and instruction manuals; and  
f) use only genuine parts, reagent and other consumables supplied by BMXI and/ or authorised BMXI dealers.  
g) complied with BMXI's technical and instruction manuals and BMXI's technical recommendations.

**13. CONFIDENTIALITY:** Except with the consent in writing of BMI the Purchaser shall not disclose the Contract or any provision or existence thereof to any person other than a person employed by the Purchaser on need to know basis only. Such disclosure shall be made in confidence and shall extend only as far as may be necessary for the purposes of the Contract.

**14. ASSIGNMENT:** The Purchaser shall not without the written consent of BMXI give, bargain, sell, sublet to or assign any of the Purchaser's rights, obligations, liabilities or benefits under the Contract, provided however that BMXI may freely assign, give, bargain, sell, sublet any of its rights, obligations or benefits by this contract to any affiliate, subsidiary or group company of BMXI without consent of the Purchaser.

**15. COMPLIANCE WITH APPLICABLE LAWS:** The Purchaser shall at all times comply with the provisions of all applicable laws and shall maintain all applicable approvals, permits, certificates, permissions, etc and shall indemnify BMXI against any consequences of the Purchaser's non-compliance therein.

**16. FORCE MAJEURE:** In the event of force majeure or any other event beyond the control of BMXI such as fire, flood, explosion, strike, lock-out or any form of industrial action, war hostilities, civil disturbance, Government demand regulation or prohibition, failure or delay on the part of any supplier or suppliers, BMXI shall not be liable to the Purchaser for any delay in or failure to perform its obligation due to such events of force majeure. BMXI shall make every effort to fulfill the order/s but retains the right to modify and cancel any order in such event.

**17. CONSENT:** The consent to these general conditions of sale shall be implied by virtue of the conduct of the parties unless the same is denied in writing within 24 hours of receipt of this invoice.

**18. ARBITRATION:** Both the parties will endeavour to resolve by mutual negotiation any dispute, differences, controversy or claims arising out of or in relation to, this contract, including the scope, validity, existence and the interpretation hereof, the activities performed hereunder, or for the breach hereof, arising between them in connection with this contract (herein after the "Dispute"). Any and all Dispute(s), which cannot be satisfactorily resolved by mutual negotiation within 30 days of issue of a notice by a party, shall be finally settled by binding arbitration under the Arbitration and Conciliation Act, 1996, including any statutory modifications, amendments, re-enactments thereof from time to time, by reference to the sole arbitrator, who will be appointed by mutual agreement between the parties within a period of 30 days after the expiry of the aforesaid 30 days. If Parties fail to appoint a sole arbitrator within the said 30 days than the sole arbitrator for Dispute (i) up to Rs.20,00,000/- shall be conducted by a retired District Judge, and (ii) of Rs.20,00,000/- and above shall be conducted by a retired High Court Judge, who shall be appointed in accordance with the provisions of the Arbitration and Conciliation Act, 1996. Such arbitration shall be conducted at New Delhi, India, and the language of such arbitration proceedings shall be English. The cost and expenses of the arbitration proceeding shall be born equally by the parties. The arbitration agreement contained herein shall be governed by the laws in effect in India. The arbitration award shall be final and binding on the parties.

**19. GOVERNING LAW:** The Contract shall be considered as an contract made in India and shall be governed by and construed in accordance with the laws of India. Subject to arbitration, the parties hereby agree to submit to the exclusive jurisdiction of the Courts situated at Delhi.