

## GENERAL CONDITIONS OF SALE - IGUS UK LTD

### 1 Definitions

1.1 "Agreement" means the agreement between the Company and the Purchaser for the supply of Goods and/or Services in accordance with these terms and conditions.

1.2 "Company" means igus (UK) Ltd registered in England and Wales with company number 02600806 and whose registered office is at 51a Caswell Road, Brackmills Industrial Estate, Northampton, England, NN4 7PW.

1.3 "Deliverables" means all documents, products and materials developed by the Company, or its agents, contractors and employees as part of, or in relation to the Services in any form.

1.4 "Goods" means the goods (including any instalments of the goods or any parts for them if applicable) supplied by the Company to the Purchaser.

1.5 "Goods Specification" means any specification for the Goods, including any relevant plans or drawings that are agreed in writing by the Purchaser and the Company.

1.6 "Order" means the Purchaser's order for the supply of Goods and/or Services, as set out in the Purchaser's purchase order form, or the Purchaser's written acceptance of the Company's quotation, as the case may be.

1.7 "Purchaser" means the party to an agreement purchasing Goods and/or Services from the Company.

1.8 "Services" means the services, including the Deliverables, supplied by the Company to the Purchaser as set out in the Services Specification.

1.9 "Services Specification" means the description or specification for the Services provided in writing by the Company to the Purchaser.

### 2 General

2.1 These conditions shall apply to any Agreement between the Company and the Purchaser for the sale of Goods and/or Services. All other terms conditions and warranties whether express or implied, statutory or otherwise, and all representations whether made orally or in writing before or after the date of any Order for Goods and/or Services are (save as may be provided by law) excluded save to the extent that the same appear in these Conditions or are specially agreed after the date of any Order in writing by the duly authorised representatives of both parties. These conditions apply to the provision of both Goods and Services, except where application to one or the other is specified.

2.2 The Company's quotation is merely an invitation for an Order subject to these Conditions. The Purchaser's Order constitutes an offer by the Purchaser to purchase Goods and/or Services in accordance with these Conditions. No Agreement will result until the Company's authorised representative has confirmed such Order in writing, or where the Company has begun to start fulfilling or delivering an Order, at which point

and on which date the Agreement shall come into existence.

2.3 By making an Order subsequent to receipt of these Conditions the Purchaser acknowledges that these Conditions shall prevail over any qualification or condition purported to be imposed by the Purchaser or any previous course of dealing between the Company and the Purchaser.

2.4 In the event that the Purchaser first receives these Conditions after the date of the Purchaser's Order but prior to delivery of the Goods and/or Services, the Purchaser shall be deemed to have accepted the Conditions if it raises no objection within five days of notification thereof, or accepts Goods and/or Services delivered pursuant to an Order which has been confirmed by the Company subject to these Conditions.

2.5 The Company shall have complete discretion on whether to accept any Orders, conclude any agreements with the Purchaser or agree any changes to the terms on which an Order is fulfilled.

### 3 Specifications

3.1 The Company shall provide the Services to the Purchaser in accordance with the Services Specification in all material respects and the Company shall provide the Goods to the Purchaser in accordance with the Goods Specification in all material respects.

3.2 To the extent that the Goods are to be manufactured in accordance with a Goods Specification or the Services are to be supplied in accordance with a Services Specification supplied by the Purchaser, the Purchaser shall indemnify the Company against all liabilities, costs, expenses, damages and losses (including any direct, indirect or consequential losses, loss of profit, loss of reputation and all interest, penalties and legal and other professional costs and expenses) suffered or incurred by the Company in connection with any claim made against the Company for actual or alleged infringement of a third party's intellectual property rights arising out of or in connection with the Company's use of the Goods Specification or the Services Specification. This Clause 3.2 shall survive termination of the Agreement. The Company reserves the right to amend the Goods Specification and/or Services Specification (including any spare parts supplied) without prior notice to the Purchaser if required by quality control, engineering improvement and/or any applicable statutory or regulatory requirements, and the Company will notify the Purchaser in any event.

3.3 All descriptions and illustrations contained in the Company's price lists, advertising materials and other publications are to present merely a general idea of the Goods and/or Services described in them and shall not form part of an Agreement unless specifically incorporated therein as provided in Clause 2.1 (and this shall include but not limited to any Goods Specifications and/or the Services Specifications which are incorporated with these Conditions).

## **4 Prices**

- 4.1 Save as otherwise agreed:
- 4.1.1 all Goods will be charged at the Company's list prices current at the time of despatch;
- 4.1.2 all charges for Services shall be on a time and material basis, and the charges shall be calculated in accordance with the Company's standard daily fee rates from time to time in force; and
- 4.1.3 the Company shall be entitled to charge the Purchaser for any expenses reasonably incurred by the individuals whom the Company engages in connection with the Services.
- 4.2 Unless a binding written quotation is given by the Company, quoted prices may be amended to reflect fluctuations of costs (including increase of wages and material and components costs) between the date of quotation and the date of delivery. Binding quotes will be fixed for the period stated in the quotation or if no period is quoted for 30 days except that, in the case of suspension of work due to failure of the Purchaser to provide any information reasonably required and requested by the Company, the quoted prices may be increased to cover any increase in cost due to such delay or suspension.
- 4.3 Unless otherwise stated, all prices quoted are exclusive of VAT.
- 4.4 The Purchaser shall, on receipt of a valid VAT invoice from the Company, pay to the Company such additional amounts in respect of VAT as are chargeable on the supply of the Services and/or Goods at the same time as payment is due for the supply of the Services and/or the Goods.
- 4.5 Unless otherwise agreed between the Company and the Purchaser, prices quoted for delivery of Goods and/or Services within the United Kingdom are carriage paid. Such delivery charges are not included within the costs of the Goods and/or Services.
- 4.6 In case of price discrepancies between Purchaser's Order and Company's sales order confirmation and/or invoice, the Company's prices are applicable (save in respect of manifest error by the Company).

## **5 Terms of Payment**

- 5.1 Payment on credit accounts shall be strictly due by the end of the month following the month in which the Goods were delivered and/or the Services were completed. The Company reserves the right to vary these terms or to make acceptance of any Order subject to payment in full on or before delivery of the Goods and/or the Services having been completed.
- 5.2 If it has been agreed to invoice on a proforma basis, in respect of Goods, the Company shall invoice the Purchaser on or at any time after completion of delivery. In respect of Services, the Company shall invoice the Purchaser on completion of the Services. All invoices shall be paid within 30 days of the date of invoice in full and cleared funds.

5.3 In all other circumstances, payment shall be strictly made at the time of delivery of Goods by any of the following methods: cash, credit card or cheques by agreement unless alternative arrangements are made.

5.4 Overdue accounts shall bear interest in accordance with the UK statutory interest applicable at the moment when the account becomes overdue.

5.5 The Purchaser shall not make any deduction from the invoice price of Goods and/or Services on account of any set-off or claim unless both the validity and the amount thereof have been admitted by an authorised representative of the Company in writing.

5.6 The Company shall be entitled to make a deduction or set-off from any monies owed by it to the Purchaser in respect of the price of Goods and/or Services supplied to the Purchaser but not paid for.

## **6 Delivery of Goods**

6.1 The Company shall deliver the Goods to the location set out in the Order or such other location as the parties may agree (the "Delivery Location") at any time after the Company notifies the Purchaser that the Goods are ready for delivery.

6.2 Delivery of the Goods shall be completed on the Goods' arrival at the Delivery Location, signature of any delivery note by any agent, employee or representative of the Purchaser or any other proof considered acceptable by the Company (in its complete discretion) shall be conclusive proof of delivery.

6.3 The Company will make every effort to maintain quoted dates for delivery but unless any quoted delivery date is stated in writing by the Company's representative to be binding, such delivery dates shall not form part of any Agreement between the Company and the Purchaser and the Company shall not be liable for failure to deliver the Goods by such dates. The Company will not be liable to the Purchaser for any loss or damage sustained by the Purchaser as a result of any failure by the Company to deliver any Goods by the quoted delivery date(s) and time shall not be of the essence for delivery.

6.4 Any delivery expressed to be binding shall in any event be extended by such period as the Company confirms to be necessary to reflect unavoidable delay in delivery due to the Purchaser failing to supply information, materials or prompt payment required by the Company or any change of specification required by the Purchaser or any cause beyond the Company's control.

6.5 The Purchaser shall indemnify the Company for all storage and other costs incurred by the Company if the Company is required to store the Goods during normal business hours or at a time previously agreed by the Purchaser because delivery could not be completed. The Company may dispose of any Goods after 30 days from the date of delivery should the Purchaser fail or refuse to take delivery of the Goods without any liability for any loss or damage sustained by the Purchaser.

6.6 Unless otherwise stated in writing, the Company shall be entitled to make partial deliveries or

deliveries by instalments and each instalment shall be construed as constituting a separate contract to which these Conditions apply and payment will be due in respect of each instalment as if it were a separate contract. Any delay in delivery or defect in an instalment shall not entitle the Purchaser to cancel any other instalment.

6.7 The Purchaser shall not be entitled to reject Goods if the Company delivers 10% more or less than the quantity of Goods ordered. Subject to Clause 7.1 below, if the Purchaser or the Company gives notice to the other that the wrong quantity of goods were delivered within 7 days of the delivery of the Goods actually delivered, a pro-rata adjustment shall be made to the Order invoice or (in terms of delivery) the Purchaser may return the excess Goods delivered (at its sole cost).

## **7 Non-Delivery and Returns of Goods**

7.1 Liability for non-delivery of Goods will not be accepted by the Company, unless it is notified in writing within 5 working days of the date of invoice.

7.2 The Purchaser shall inspect the Goods immediately on delivery. Any shortages, breakages or defective Goods must be reported in writing to the Company within 5 working days of delivery. If the Purchaser shall not give notice within such period the Goods shall be conclusively presumed to have been accepted by the Purchaser.

7.3 If the Company accepts the Purchaser's claim under Clause 7.2 above it shall be bound to repair or replace the Goods or at its option to allow the Purchaser credit in respect of the Goods which are the subject of the claim. The Company shall not be liable for any further claims for direct, indirect or consequential damage or loss and its sole obligation shall be making of such repair or replacement or giving of credit as aforesaid. The Company will arrange a collection of Goods subjects to claim under 7.2 and will notify the Purchaser when such collection will take place. The Purchaser shall ensure that the Goods in question are available for collection at the relevant time and shall provide all reasonable assistance to enable the Company to collect the Goods. If the Goods cannot be collected at the specified time, the Purchaser will be liable to return the Goods to the Company at its own expense.

## **8 Property and Risk of Goods**

8.1 Until all monies due to the Company for any Goods and/or Services, together with any other goods and/or services supplied, have been paid by the Purchaser, the Goods and/or any Deliverables supplied as part of the Services shall remain the sole and absolute property of the Company as legal and equitable owner.

8.2 In the event that delivery of the Goods and/or Deliverables shall be made to the Purchaser prior to the passing of title, the Purchaser shall be in possession of the Goods and/or Deliverables solely as bailee for the

Company until such time as the title has passed pursuant to Clause 8.1.

8.3 Notwithstanding that title to the Goods and/or Deliverables shall remain with the Company, the Goods and/or Deliverables shall be at the risk of the Purchaser as soon as they are unloaded by the Company at the Purchaser's premises or as otherwise stated in the Order. The Purchaser will insure to their full value with a reputable insurer any Goods and/or Deliverables wherein the risk but not the title has passed to it and indemnify the Company for loss, damage to, or destruction of any such Goods and/or Deliverables. Any insurance monies payable in respect of such Goods and/or Deliverables shall be held in trust for the Company.

8.4 Until title to the Goods and/or Deliverables shall pass as aforesaid:

8.4.1 the Purchaser shall store and label the Goods and/or Deliverables in such manner that they shall at all times remain separate from the other goods in the Purchaser's possession and be readily identifiable as the Company's Goods and/or Deliverables;

8.4.2 the Purchaser shall be bound at the request of the Company to deliver up the Goods and/or Deliverables to the Company and for such purpose the Company may at any time recover from the Purchaser those Goods and/or Deliverables being in the Purchaser's possession and for the purpose of such recovery the Company's servants and agents may enter upon land or buildings upon or in which the Goods and/or Deliverables are situated;

8.4.3 the Company agrees to permit the Purchaser to dispose of the Goods and/or Deliverables in the course of its business as agent of the Company and pass good title to the Goods and/or Deliverables to its customer being a bona fide purchaser of value without notice of the Company's rights provided that such permission may be revoked at any time by notice by the Company and shall automatically and without notice be revoked upon the Purchaser committing an act of bankruptcy or upon the commencement of liquidation proceedings (compulsory or voluntary) of the Purchaser or the appointment or a receiver, administrator, administrative receiver or judicial administrator over any part of the Purchaser's assets. In the event of such disposal the Purchaser shall account to the Company for the proceeds as fiduciary owner thereof and pending its so doing shall be bound to retain such proceeds on trust for the Company notwithstanding that the period or credit allowed to the Purchaser hereunder may not then have expired and the Company shall have the right to trace proceeds thereof but the Purchaser may retain therefrom any excess of such proceeds

over the amount outstanding under this contract;

8.4.4 without prejudice to the provisions of Clause 8.1 above the Company consents to the use of Goods and/or Deliverables by the Purchaser in the assembly of some other goods incorporating the Goods and/or Deliverables ("the Assembled Goods"), notwithstanding that title in the Goods and/or Deliverables shall not have passed to the Purchaser, provided that such assembly does not result in the Goods and/or Deliverables being changed by any manufacturing process and the Goods and/or Deliverables may be recovered by disassembly of the Assembled Goods; and

8.4.5 in the event of the Goods and/or Deliverables becoming incorporated in Assembled Goods, the provisions contained in Clause 8.4.1 to 8.4.3 of this Clause shall apply to the storage, the retaking and the sale and proceeds of sale of the Assembled Goods but so that the Company's rights shall not in any event be extended beyond the ownership of the Goods and/or Deliverables forming a part of the Assembled Goods and the right to retake the Goods and/or Deliverables (without liability for any loss to the Purchaser resulting from the disassembly of the Assembled Goods) and to so much of the proceeds of sale thereof as is attributable to the Goods and/or Deliverables.

8.5 If the Purchaser has not received payment for a disposal under Clause 8.4.3 above; the Purchaser shall, upon notice in writing by the Company, assign to the Company all its rights against its customer in respect of that disposal.

8.6 In the event that the Company exercises its rights of ownership so as to recover possession of the Goods and/or Deliverables or any of them the risk in the Goods and/or Deliverables retaken shall revert to the Company on possession being taken by the Company its servants or agents and the Company shall have full and unencumbered right to dispose of the Goods and/or Deliverables free of any rights whatsoever on the part of the Purchaser to the Goods and/or Deliverables or the proceeds of sale thereof.

## 9 Lien

The Company shall have a general lien against the Purchaser of any Goods of the Purchaser for the time being in the possession of the Company for amounts overdue under this Contract. If any lien is not satisfied within 3 months of any payment aforesaid becoming overdue the Company may sell such Goods as agent for the Purchaser and apply the proceeds towards the monies due and the expenses of the sale and shall upon accounting to the Purchaser for the balance remaining (if any) be discharged from all liability whatsoever in respect of such Goods.

## 10 Guarantee

10.1 The Company warrants that on delivery, and for a period of 12 months from the date of delivery (the "Warranty Period"), the Goods shall conform in all material respects with the Goods Specification (if applicable) and shall be free from material defects in design, material and workmanship.

10.2 Subject to Clause 10.4 if the Purchaser alleges that some or all of the Goods do not comply with the warranty set out in Clause 10.1, then they must notify the Purchaser immediately in writing (within the Warranty Period). The Company shall be given a reasonable opportunity of examining and testing such Goods and the Purchaser (if asked to do so by the Company) (i) returns such Goods, or (ii) returns any part or parts of the Goods in which the defect has appeared to the Company's place of business.

10.3 If the relevant Goods are found not to comply with the warranty set out in Clause 10.1, proved to the Company's satisfaction to be the result of defective material or workmanship and not caused by fair wear and tear damage in transit or accident, the Company subject to Clause 10.4 below, shall, at its option, supply replacement Goods or where appropriate a new part free of charge and carriage paid and forward it to the Purchaser, provided always that the Purchaser has provided notice of the issue within the Warranty Period.

10.4 The aforesaid warranty shall not apply in respect of:

10.4.1 defects or failure reported to the Company in writing within 30 days of the occurrence of failure with the Goods returned to the Company's supplying location or as otherwise advised by the Company within the same period;

10.4.2 any failure or damage due to Goods being misused or neglected or operated in excess of their rated capacity or with dirty or unsuitable fuels or lubricating oils or under conditions detrimental to their successful running likely to cause excessive wear or tear;

10.4.3 Goods which have been modified, re-worked or repaired by the Purchaser or any third party;

10.4.4 any further use of the Goods after notification to the Company;

10.4.5 wilful damage, negligence or abnormal working conditions of the Goods;

10.4.6 any change to the Goods as a result of a change to the Goods Specification in relation to Clause 3.2; and

10.4.7 defects arising as a result of the Company following any drawing design or specification supplied by the Purchaser or using any material supplied by the Purchaser.

10.5 This warranty (if applicable) shall not be assignable without the written consent of the Company.

## 11 Services

11.1 The Company shall use reasonable endeavours to meet any performance dates for the Services specified in the Services Specification but any

such dates shall be estimates only and time shall not be of the essence for the performance of the Services.

11.2 The Company warrants that the Services shall be provided using reasonable care and skill only.

11.3 The Purchaser shall:

11.3.1 co-operate with the Company in all matters relating to the Services;

11.3.2 provide the Company and its employees, consultants and contractors with access to the Purchaser's premises and other facilities as reasonably required by the Company to provide the Services; and

11.3.3 obtain all necessary licences, permissions and consents which may be required for Services before the date on which the Services are to start.

11.4 Unless otherwise agreed in writing, all intellectual property rights in or arising from the Services (including in any Deliverables) (other than any intellectual property rights in any materials provided by the Purchaser) shall be owned by the Company. The Company hereby grants to the Purchaser a non-exclusive licence to any such intellectual property rights arising from the Services or in the Deliverables to copy the Deliverables (solely for the purpose of receiving and using the Services and the Deliverables).

## 12 Liability

12.1 The obligations of the Company under Clause 7 and 10 are undertaken by the Company and shall be accepted by the Purchaser in lieu of and to the exclusion of all conditions and warranties express or implied statutory (save for the implied conditions as to the Company's title to the Goods and for warranties implied by statute in the case of a sale of goods to a consumer) or otherwise. Save as provided in Clause 12.2 the liability of the Company for loss or damage to the Purchaser in accordance with the Agreement shall not in any event exceed the sum of £50,000 whether such liability arises in contract or in tort or otherwise howsoever.

12.2 The limitation of liability referred to in Clause 12.1 shall not apply so as to exclude or restrict the Company's liability for (i) death or personal injury resulting from the negligence of the Company its servants or agents, (ii) fraud or fraudulent misrepresentation; or (iii) the breach of the Company's implied undertaking as to title.

12.3 Notwithstanding Clause 12.2, the Company shall not be liable for any indirect or consequential losses, together with any loss of profit and/or losses of sales/business, when carrying out its obligations under this Agreement.

## 13 Force Majeure

13.1 The Company shall not be under any liability to the Purchaser in respect of any failure to perform or delay in forming any of its contractual obligations to the Purchaser attributable to any cause of whatsoever

nature beyond the Company's reasonable control, including (but not limited to):

13.1.1 natural catastrophes such as fires, floods, earthquakes, hurricanes or other extreme natural events;

13.1.2 civil unrest, wars, sabotage, terror attacks, epidemics, pandemics or widespread, international disseminations of infectious diseases and other similar unforeseeable and unavoidable events

13.1.3 strikes, lock-outs and other measures within the parameters of labour struggles;

13.1.4 electrical power outages or the failure of telecommunications lines;

13.1.5 measures issued by the lawmakers, the government or by courts or government agencies regardless of their legality;

13.1.6 raw materials shortages or delays or bottlenecks during the delivery of raw materials or replacement parts if and insofar as they have been caused by a Force Majeure Event:

13.1.6.1 suffered by a supplier of the Company;

or

13.1.6.2 resulting in grave market disruptions;

or

13.1.6.3 based upon the fact that a supplier of the Company has discontinued the production or delivery of a raw material or of replacement parts owing to reasons for which the Company is not responsible.

(each a "Force Majeure Event").

13.2 The Company shall not be in breach of the Agreement nor liable for delay in performing or failure to perform, any of its obligations under the Agreement if such delay or failure result from events, circumstances or causes beyond its reasonable control, including any Force Majeure Event.

13.3 If a Force Majeure Event prevents the Company from providing any of the Goods and/or Services for more than four weeks, the Company shall, without limiting its other rights and remedies, have the right to terminate this Agreement immediately by giving written notice to the Purchaser.

## 14 Export Sales

14.1 In these Conditions "Incoterms" means the international rules for the interpretation of trade terms of the international Chamber of Commerce as in force at the date when the Agreement is entered into.

14.2 It is hereby agreed between the parties that the uniform law on international sales shall not apply to any contract pursuant to these conditions.

14.3 Where Goods are to be supplied for export from the United Kingdom these Conditions shall apply subject to the following:

14.3.1 the terms concerning payment, delivery, risk, insurance and carriage of the Goods shall be specified in the Company's written quotation; and

14.3.2 the terminology of the Company's written quotation shall be defined by reference to Incoterms.

## **15 Termination**

15.1 The following shall be treated as a breach of the terms of Agreement and the Company shall be entitled, without prejudice to its other rights and remedies, to treat any such breach as a repudiation of this Agreement and to determine the same accordingly:

15.1.1 any failure of the Purchaser to take delivery of the Goods when required to do so or any failure of the Purchaser to remedy any material breach of its obligations under any contract with the Company within 30 days of written notice from the Company specifying the breach and the remedial action required;

15.1.2 any action of the Purchaser to suspend, or threaten to suspend, payment of its debts or if it is unable to pay its debts as they fall due or it admits inability to pay its debts;

15.1.3 the levying of any distress, execution or other legal process upon any of the Purchaser's assets;

15.1.4 any arrangement or composition between the Purchaser and its creditors (whether generally or pursuant to proposals made under Section 1 of the Insolvency Act 1986) or any act of bankruptcy of the Purchaser or (if the Purchaser is a corporation) the passing of a resolution or the making of an order for the winding up of the Purchaser or the making of any administration order in respect of the Purchaser or the appointment of any liquidator, judicial administrator or receiver or manager in respect of any parts of the undertaking or assets of the Purchaser or any subsidiary or holding company of the Purchaser; or

15.1.5 any failure by the Purchaser to pay any sums due to the Company as and when due.

15.2 Any failure on the part of the Company to terminate this Agreement or take any action for enforcement of the Agreement in consequence of any breach by the Purchaser shall not operate as a continuing waiver of the breach in question or prevent the Company from enforcing its rights in respect of any continuing or like breach.

15.3 On termination of the Agreement for any reason:

15.3.1 the Purchaser shall immediately pay to the Company all of the Company's outstanding unpaid invoices and interest and, in respect of Services supplied for but for which no invoice has yet been submitted, the Company shall submit an invoice, which shall be payable by the Purchaser immediately on receipt; and

15.3.2 the Purchaser shall return all materials, equipment, documents and other property of the Company (the "Company Materials") and any Deliverables which have not been fully paid

for. If the Purchaser fails to do so, then the Company may enter the Purchaser's premises and take possession of them. Until they have been returned, the Purchaser shall be solely responsible for their safe keeping and will not use them for any purpose not connected with this Agreement.

## **16 General**

16.1 Any notice required or permitted to be given by either party to the other under these Conditions shall be in writing addressed to the Company at its registered office marked for the attention of the Company Secretary and to the Purchaser at its registered office or principal place of business or such other address as may at the relevant time have been notified to the Company pursuant to this provisions.

16.2 If any provisions of these Conditions are held by any competent authority to be invalid or unenforceable in whole or in part the validity of these Conditions and the remainder of the provisions in question shall not be affected thereby.

16.3 These Conditions and the documents referred to in them constitute the entire agreement between the parties and supersedes and extinguishes all previous agreements, promises, assurances, warranties, representations and understandings between them, whether written or oral, relating to its subject matter.

16.4 Every Agreement to which these Conditions apply shall be construed and take effect in accordance with the laws of England and Wales and the parties shall accept the non-exclusive jurisdiction of the English Courts.