

## **GENERAL TERMS & CONDITIONS OF SALE (V.2018.11)**

Please carefully read the General Terms and Conditions (“GTS”) set out below. These GTS apply to any contract entered into between **Eurofins Technologies Singapore Pte. Ltd.** (hereinafter, “ES”) and any customer (“Customer”) for the sale of products, and provision of any ancillary services.

### **1. Scope of application; non-applicability of contrary contractual terms and conditions; derogations from the GTS**

1.1 The sale of products and/or services by ES is subject to and conditional upon the Customer’s agreement to these GTS. These GTS apply to the exclusion of any other terms that the Customer seeks to impose or incorporate, unless expressly agreed by ES in writing. For avoidance of doubt, ES shall not be bound by any standard terms of business which the Customer seeks to impose or incorporate even if such Customer refers or has referred at some point in time to its standard terms of business.

1.2 Apart from directors or authorized representatives of ES, no employee, representative or sub-contractor of ES is authorized or has any capacity to agree to any derogation from the provisions of these GTS or to waive their application or to bind ES in any manner which would lead to the applicability of any contrary provisions which in terms of their content might conflict with the GTS or take precedence over them. Any modification or waiver of the applicability of the GTS shall only be binding upon ES to the extent that it is given in writing and is signed by a director or an authorized representative.

1.3 Furthermore, any earlier acceptance of special or contrary terms and conditions in the context of a previous contract (including special provisions in relation to price) shall not mean that such special or contrary conditions shall be accepted in the future in the context of any subsequent contracts. Each contract which is accepted by ES shall to such an extent be viewed as a separate contract between ES and the Customer unless otherwise agreed in writing in a binding form.

1.4 These GTS, as may be amended by ES from time to time, shall also apply to future deliveries, services or offers to the Customer, even if they are not agreed again separately.

### **2. Conclusion of contracts; changes; non-acceptance of logistical services**

2.1 A binding contract between ES and the Customer for the sale of products or services requires either: (i) a quote marked as binding from ES which is accepted by the Customer in writing, (ii) an order (oral or otherwise) from the Customer which is confirmed by ES in writing, (iii) an order (oral or otherwise) which is performed by ES (in such a case the written confirmation of ES shall not be required), or (iv) a written contract between ES and the Customer for the sale of products and/or services which is executed by both parties. For avoidance of doubt, contracts may be concluded by telephone or via the internet. Where contracts are concluded via the internet, ES’ technical system stores the order and the electronic acceptance. The language of any contract will be English. These GTS shall, together with any other document which it incorporates or which incorporates it, constitute the entire agreement between the parties and supersedes all prior and contemporaneous understandings or agreements of the parties.

2.2 ES will issue a Proforma Invoice to the Customer for each order placed. The Customer shall have twenty-four (24) hours from the time it receives the Proforma Invoice to respond in writing to either (i) request a change to the order under the relevant contract, or (ii) request the cancellation of the order. Where the twenty-four (24) hour period has lapsed without any such request from the Customer or where the Customer has indicated its agreement or approval of the Proforma Invoice, the Customer may not change or cancel the order without ES’ written consent. Such written consent shall be conditional upon the payment of a management and administration fee in the amount of up to SGD 40.00 in addition to costs incurred by ES including without limitation for, storage or shipment costs, costs of purchasing non-returnable materials, cancellation costs imposed on ES by its suppliers, and any other costs resulting from cancellation. If any requested changes result in the increase of any products or services or affect the projected date for delivery or completion of such products or services, the price and/or projected date shall be adjusted by ES to a degree commensurate with such changes. Situations where delivery dates may be postponed shall include, without limitation, where samples previously ordered have already arrived at ES’ laboratory.

2.3 Any logistical service which is to be provided outside of the ES laboratory (in particular collections and sampling) and of which the Customer does not avail itself in spite of the agreement reached by the parties, must be paid for in full. Notwithstanding Clause 2.2, the Customer may request for the cancellation or modification of a commissioned

logistical service at the latest, if the service consists of a collection, forty-eight (48) hours prior to the provision of the service, or if the service consists of sampling, ninety-six (96) hours prior to the provision of the service.

### **3. Prices and payment terms**

3.1 Prices shall be stipulated "ex works" (Incoterms 2000). All additional costs or expenditure (e.g. such costs and expenditure as may be incurred by ES in connection with the contract; in particular costs of shipping) shall be borne by the Customer unless otherwise agreed.

3.2 Prices shall be stipulated net of any taxes payable (including Goods and Services Tax) and shall be calculated on the basis of the rates applicable on the date of the issue of the invoice.

3.3 To the extent that no express agreement to the contrary is reached, payments must be made at the latest within a period of thirty (30) days from the date of the invoice. Any complaint in relation to an invoice must be submitted within the payment period unless the complaint concerns defects or other circumstances which were not apparent in the ordinary course of business within this period. Should the Customer default on any payment, all sums owed by the Customer – including any sums owed pursuant to other contracts – shall become immediately due and payable. ES shall be entitled in the event of default to apply default interest of eight (8) percentage points above the base rate. The right of ES to assert its claims in respect of any demonstrable losses suffered as a result of such default which may exceed such rate shall not be affected hereby.

3.4 If at the request of the Customer a new invoice must be issued, ES may invoice an administration fee in an amount of up to SGD 25.00. This shall not apply to corrections due to errors of invoicing.

3.5 Payments shall be made by way of a bank transfer or by direct debit. Other means of payment shall require the prior consent of ES. The Customer shall be obliged to provide the required bank account details to ES.

3.6 Payment sums due in relation to any product or service will have to be paid in full, without any set off, unless the Customer has cancelled or modified the order or contract, in accordance with these GTS, prior to the shipping of the goods.

### **4. Delivery dates; product specifications**

4.1 Delivery dates, completion periods and delivery costs shall be estimates and shall not be binding upon ES. Time shall not be made of the essence by notice. ES shall nonetheless use its commercially reasonable endeavours to comply with the estimated delivery dates and completion periods.

4.2 ES shall be entitled to deliver in instalments. Each instalment may be separately invoiced.

4.3 Where products are required to be shipped, the choice of transport company and means of transport shall be at the discretion of ES. The risk shall be transferred to the Customer upon loading of the products to the carrier. Where shipment or delivery is delayed for reasons which are the Customer's responsibility, risk shall be transferred by notice of shipment or readiness for transfer respectively. The costs arising from the same (in particular storage costs) shall be for the account of the Customer. ES shall not be obliged to insure or have anyone else insure the shipment against damage during transport unless it has undertaken such obligation towards the Customer in writing.

4.4 Where ES's goods are subject to export control provisions (in particular licenses, permits and approvals), ES shall ensure these are complied with. The Customer shall observe the provisions regarding the import of the goods into the Customer's country or a third country. ES cannot guarantee that any licenses, permits and approvals required in relation to export controls will be granted.

4.5 ES reserves the right to make slight deviations from information provided regarding measurements, weight, condition and quality.

### **5. Limited warranties and liability; liability and indemnity obligations of the Customer; safety warnings**

5.1 Contracts shall be performed under the supervision of ES in the best possible conditions in accordance with the generally prevailing industry standards applicable to such products and services. Results cannot be 100% accurate and/or relevant in all cases. Analyses, interpretations, estimates, consultancy services and inferences shall be completed, arrived at, compiled, provided and drawn with a commercially reasonable degree of care. However, ES cannot warrant that such analyses, interpretations, estimates, consultancy services and inferences shall in all cases be accurate or wholly relevant. ES shall not be liable for ensuring that its products or services are suitable and applicable for the Customer's desired purpose. The warranty period for such limited warranty shall be twelve (12)

months from the date of the receipt of the products and/or services by the Customer. The Customer must notify ES in writing, within one (1) week, if there is any significant, substantial or material non-conformity with the specifications of products and services which ES was contracted to provide. Upon the lapse of this period, the Customer shall be deemed to have been accepted the products and services. In each case the Customer shall be obliged to verify the cogency of the results, interpretations, estimates and inferences provided by ES with a reasonable degree of care and at its own risk, in the event that the Customer wishes to rely on such results, interpretations, estimates and inferences in any material connection. Should it be apparent that the results are inaccurate, the Customer shall be obliged to contact ES immediately and to inform it of such fact.

5.2 Where the Customer challenges the accuracy of the result of an analysis or the quality of a product, this shall not entitle it to withhold payment unless the defectiveness of the analysis result or the deficient quality of the product and the Customer's counterclaims resulting from the same are undisputed, have been accepted by ES or are the subject of a final, non-appealable court judgment. In the case of failure of supplementary performance the Customer retains the right to reduce the purchase price or to elect to rescind the contract.

5.3 Unless otherwise agreed by the parties in writing, the contractual relationship shall exist only as between the Customer and ES. No contract shall be concluded on behalf of third parties or with a protective effect for third parties pursuant to which ES may be bound by any obligations owed to such third parties, if and to the extent that such an arrangement does not arise pursuant to the contract and/or these GTS. Unless otherwise agreed by the parties in writing, a person or entity that is not a party to the contract shall have no right to enforce any of its terms under the Contracts (Rights of Third Parties) Act (Cap. 53B) of Singapore. The Customer shall be obliged to indemnify ES in respect of all third party claims which may be brought against ES in connection with the Customer or the contract with the Customer, if and to the extent any wrongful conduct has been engaged in by the Customer.

5.4 In the event that ES delivers any software to the Customer, the Customer must use such software in accordance with any applicable license conditions, instructions and manuals.

5.5 It shall be expressly made clear that all products are intended exclusively for laboratory and research purposes. ES shall therefore only deliver such products to persons or entities involved in the conduct of public research, analytical and teaching institutions, technical commercial operations or any other relevant industry. ES refutes all liability for damage which could arise from improper handling or in case of domestic use or use on people or animals. ES expressly prohibits the passing on of poisonous (hazardous) materials to private individuals. Furthermore, reference is expressly made to the fact that the absence of a hazard warning shall not mean that the relevant product is harmless. Similarly, any liability on the part of ES for damage and injury to persons or things arising as a result of improper handling or storage of the products at the Customer's premises shall be excluded. To the extent that relevant national or international statutes or regulations apply to dealings, including delivery, storage, processing or trade in certain products, these shall also be observed by the Customer.

## **6. Limitation on liability**

6.1 Nothing in these terms shall exclude or limit the liability of either party for (i) death or personal injury caused by that party's negligence, (ii) for fraud or fraudulent misrepresentation, or (iii) in respect of any other matter which cannot by law be excluded or limited.

6.2 Subject to Clause 6.1, the total liability of ES in contract, tort (including negligence and breach of statutory duty), or otherwise, arising out of or in connection with the provision of products and services under the contract shall be limited to the price payable for the products or services under the relevant order.

6.3 Subject to Clause 6.1, ES shall under no circumstances whatsoever be liable to the Customer, whether in contract, tort (including negligence and breach of statutory duty), or otherwise, for any loss of profit, loss of goodwill or any indirect or consequential loss arising under or in connection with the contract.

6.4 The above provisions shall also apply in favour of the legal representatives or employees of ES in regard to claims directly directed against them.

## **7. Trade Sanctions and Export Control**

7.1 The Customer warrants that for the Term of this Contract, in relation to any economic and trade Sanctions imposed by the United Nations, the European Union, the United States of America or any other country, that

- it is not the target of any Economic Sanctions;
- to the best of its knowledge, it is not controlled or beneficially owned by any person subject to Economic Sanctions;

- it shall comply with all Economic Sanctions Laws. Without limiting the generality of the foregoing, Customer shall not (i) directly or indirectly export, re-export, transship or otherwise deliver the services or any portion of the services in violation of any Economic Sanctions Law, or (ii) broker, finance or otherwise facilitate any transaction in violation of any Economic Sanctions Law; and
- it is not engaged in any proceedings or subject to any investigations from authorities for the alleged breach of any Economic Sanctions Law.

7.2 The Customer shall indemnify ES against any losses, liabilities, damages, fines, costs (including but not limited to legal fees) and expenses incurred by, or awarded against Customer or its affiliates or representatives as a result of any breach of Clause 7.1 by the Customer.

7.3 Without affecting any other right or remedy available to it, ES may terminate this contract with immediate effect by giving written notice to the Customer if the Customer commits a breach of Clause 7.1, and the Customer shall not be entitled to claim compensation or any further remuneration.

For the purpose of this Clause:

- Economic Sanctions means any economic Sanctions, restrictive measures or trade embargoes adopted by the UN Security Council, the European Union, the United States of America or any other sovereign government; and
- Economic Sanctions Law means any law, regulation or decision enacting Economic Sanctions.

## **8. Force majeure / contractual impediments**

8.1 ES shall not be responsible and held liable for any delay or default in the performance of its obligations (other than payment obligations) under the contract to the extent and as long as this default is caused by an event beyond its control. An event of force majeure shall include without limitation: (a) an act of war or terrorism, (b) fire, (c) natural disasters such as floods and storms, (d) general shortage of raw materials or inability to obtain equipment or materials, (e) restrictions on energy or water consumption, (f) law-making or governmental decisions, embargos, export and import restrictions on shipping or delivery, (g) epidemics, strikes, lockouts or labour disputes of any kind (whether relating to its own employees or others), (h) accidents, (i) sequestration, or (j) any production failure or unavailability of material beyond ES' reasonable control.

8.2 ES shall be entitled wholly or partially to cancel any products or services not yet provided or performed. Where the an event of force majeure lasts longer than six (6) weeks the Customer shall be entitled, following the expiry of a reasonable additional time limit, to cancel any part of the contract not yet performed. ES undertakes to inform the Customer without delay of any interruption in performance or delay caused by a force majeure event. The cancellation of any products or services shall not affect any payment obligations for products and services already provided.

## **9. Confidentiality and processing of customer data**

9.1 ES will collect, use, disclose and process personal data in accordance with the provisions of the Personal Data Protection Act 2012 (No. 26 of 2012) and any other applicable data protection law. ES shall make reasonable security arrangements to protect personal data and prevent unauthorised access, collection, use, disclosure, copying, modification, disposal or other similar risks. Personal data which is collected, used, disclosed and/or processed will include, without limitation, the names and contact information of individual persons. To the extent that these are not classified as business contact information under section 4(5) of the Personal Data Protection Act 2012, are not covered by an exception or exemption under that statute, or where consent is required under any other data protection law, the Customer shall be responsible for procuring any necessary consents from the relevant individuals. The personal data collected by ES shall be used for purposes, including but not limited to, the provision of products and services, managing the Customer's requests, processing any orders and for the continuing relationship management with the Customer. Some data processing activities may be carried out on behalf of ES by other entities within the Eurofins Group or its partners. The member companies of the Eurofins Group and its partners shall be bound by a corresponding confidentiality agreement which shall be made available upon request. The Customer may object to this with ES in writing. Furthermore, ES shall process and use the data for the purpose of obtaining a further commission. The Customer may object to this with ES in writing or by email to [technologies.apac@eurofins.com](mailto:technologies.apac@eurofins.com).

9.2 Where ES, any member of the Eurofins Group or any sub-contractor or other partner processes personal data on behalf of the Customer, these entities shall be considered data intermediaries under the Personal Data Protection Act 2012 and have similar status under any other applicable data protection law. Where a Customer requires ES to process personal data on its behalf, ES will only process such data on its behalf and in accordance with its instructions.

9.3 The Customer accepts that ES may provide personal data stored in its user database to related entities of ES as well as OTP Mobile Ltd. (Address: 1093 Budapest, Közraktár utca 30-32, Hungary) Data provided may include family name, given name, country, phone number, e-mail address. The purpose of data transmission: customer support for users, confirming transactions and fraud-monitoring for users' defence.

## **10. Miscellaneous provisions**

10.1 ES may engage subcontractors for delivering its services. Its services may be inclusive of mediated services. Mediated services are shown on the final invoice.

10.2 These GTS shall be amended in writing from time to time by ES. In each case the version of these GTS in force on the date of the acceptance of the offer shall be the version applicable to the resulting contract.

10.3 In the event that a court strikes down any provisions of these GTS, limits them in their application or finds them to be invalid, unlawful or unenforceable, the remaining provisions shall remain valid to the fullest extent possible.

10.4 In the event that either ES or the Customer refrains from asserting any rights which arise pursuant to these GTS, this shall neither constitute a waiver of such rights nor shall it result in the forfeiture of such rights.

## **11. Governing law / Place of jurisdiction**

11.1 Matters not regulated in individual contracts between parties shall be governed by the present General Terms and Conditions. ES does not subject itself to any code of conduct.

11.2 Unless otherwise agreed in writing between the parties, these GTS and any contract between the parties shall be governed by, and construed in accordance with, Singapore law. The provisions of the United Nations Convention on Contracts for the International Sale of Goods (CISG) is hereby expressly excluded. The Customer agrees that, unless otherwise provided in the Agreement, the courts of Singapore shall have exclusive jurisdiction to settle any dispute, which may arise out of, or in connection with, the GTS and/or the Agreement and that accordingly any proceeding, suit or legal action arising out of, or in connection with, the GTS and/or the Agreement may be brought in such courts.

11.3 If the parties agree to arbitration, the dispute shall be referred to and finally resolved by arbitration in Singapore in accordance with the Arbitration Rules of the Singapore International Arbitration Centre ("SIAC") for the time being in force, which rules are deemed to be incorporated by reference in this Clause. The Tribunal shall consist of one arbitrator to be appointed by the President of the Court of Arbitration of SIAC. The language of the arbitration shall be English.

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