



## Conditions of Sale

### 1. INTERPRETATION.

- a. "Seller" means Cheshire Seals and Components Limited ("CS&C"), having its place of business at Birch Court, Grosvenor Grange, Woolston, Warrington, WA1 4GD, United Kingdom. Registered Number 7280790.
- b. "Purchaser" means the person, firm or company who purchases the Goods from the Seller.
- c. "Contract" means the contract between the Seller and the Purchaser for the sale and purchase of the Goods in accordance with these Terms and Conditions
- d. "Goods" means jigs, tools, fixtures, parts, products, items, assemblies and any item or items described in any quotation and/or acceptance of any order or any part thereof.
- e. "Terms and Conditions" means the terms and conditions set out in this document.
- f. "Value Add Machining" means all the value add machining provided by the Seller and does not include any machining value add from its supply chain and excludes all other processes.
- g. "Statutory Interest" means statutory interest as defined in the Late Payment of Commercial Debts (Interest) Act.
- h. In these Conditions the expression "British Isles" means the United Kingdom of Great Britain and Northern Ireland, the Channel Islands and the Isle of Man and the expression "overseas" means all other countries.
- i. All quotations are given and all orders are accepted on these terms, which supersede any other terms appearing in our catalogue or elsewhere and override and exclude any other terms stipulated or incorporated or referred to by the customer, whether in the order or in any negotiations and any course of dealing established between us and the customer. All orders hereafter made by the customer shall be deemed to be made subject to these terms.
- j. The customer acknowledges that there are no representations outside these terms which have induced the customer to enter into the contract (which expression shall include any contract of which these terms form part) and these terms and those on the face hereof shall constitute the entire understanding between the parties for the sale of the goods.
- k. No modifications of these terms shall be effective unless made by an express written agreement between the parties. The signing by us of any of the customer's documentation shall not imply any modification of these terms.

## 2. VALIDITY OF MATERIALS AND INFORMATION.

Acceptance and completion of an order are subject to availability of such materials, components and services (including supplies from sub-contractors) and availability of such specifications, information and other material being available or being made available as will enable us to proceed with and complete the order without interruption.

a. The Purchaser shall provide complete and accurate drawings and specifications recognised as complying with an appropriate standard including but not limited to ISO Standards.

b. Where both 3D CAD models and drawings are provided, the Purchaser shall be responsible for confirming as to which is the governing document.

c. In the absence of the Purchaser providing confirmation as to the governing document, the Seller shall in its discretion either (i) suspend manufacturing until confirmation is given, or (ii) itself decide which is the governing document and in either event, the Seller shall incur no liability to the Purchaser.

d. The Purchaser shall be responsible for ensuring that the information provided is free of conflicting information or data.

e. The Seller maintains the right to cease all progress and manufacturing of the Goods without liability should information provided by the Purchaser be conflicting, in error, incomplete or inadequate in any way to produce the Goods.

f. The Purchaser shall be responsible for providing all of the specifications required in order to manufacture the Goods. The Seller shall not be charged for the provision of said specifications.

g. The Purchaser shall be responsible for providing all of the information required for the manufacture of the Goods including but not limited to technical drawings and 3D CAD models in a complete and accurate state.

h. Seals and Components produced from sample items (without complete written specifications) will be made by the best efforts of CS&C but without guarantee of suitability for purpose. Samples provided to CS&C are generally used for quotation and supply of goods; sample inspection and testing may be destructive and special arrangements may be requested by the purchaser for sample retention and return with packaging and delivery at purchaser expense. In lieu of explicit instructions, samples issued to CS&C will be retained for three months and after that time may be disposed of by CS&C in any way deemed appropriate or returned to purchaser.

i. Free Issue Material

- The Seller accepts no responsibility of any kind for any parts or materials sent to the Seller by or on behalf of the Purchaser and risk in such parts or materials shall remain with the Purchaser.

- The Seller furthermore does not warrant the suitability or fitness for purpose of parts or materials so provided by the Purchaser

### 3. PRICES.

We shall be entitled to take into account fluctuations in the cost of materials, components, labour and services, including services provided to us (such as gas, electricity, water, etc.) as well as services provided by us (such as metal handling and financing) up to the date of dispatch of the goods. Unless otherwise agreed in writing, products will be charged at the prices ruling either upon receipt of the order or on a subsequent date at our discretion. Unless otherwise stated all prices are quoted as net ex-works, packaging, freight and insurance will be charged at rates on the date of dispatch.

### 4. QUOTATIONS.

All quotations, indication of costs and financial commitments given or made by the Seller are based on the assumption of the validity of the information provided being fully accurate and correct in all circumstances. The Seller maintains the right at any stage to re-negotiate any contract, cost agreement or any other relevant commitment should any information provided by the Purchaser fail to be fully valid accurate and correct. In any given contract or non-contract job, the Seller maintains the right to vary the costs if the Purchaser fails to place 90% of the promised orders within the agreed timescales. All Descriptive and Numeric Specifications, Drawings and other particulars submitted with our Tender are approximate only and the descriptions and illustrations contained in our Catalogues, Price Lists and other advertisement matters are intended merely to present a general idea of the goods described therein, and none of these shall form part of a contract.

### 5. INTELLECTUAL PROPERTY.

a. "Intellectual Property" or "IP" includes any and all inventions whether or not patentable, utility models, trademarks, component designs or manufacturing processes and any improvements or enhancements thereto, copyrights and moral rights, database rights, trade secrets and know-how, in each case whether registered or unregistered, and also including identified technical and non-technical or business-related information such as specifications, computer programs, drawings or blueprints.

b. All background IP is and will remain the exclusive property of the party owning it. Neither party will be entitled to any right or license to any of the other party's background IP.

c. For the avoidance of doubt, any machine programmes, tooling, fixturing, routing, method of manufacture and any associated data used to manufacture the goods remains the sole Intellectual Property of the Seller.

### 6. MODIFICATIONS.

a. All modification change requests shall be lodged by the Purchaser in writing and in accordance with applicable ISO or AS standards.

b. The Seller will not agree to incorporate or implement any modification on the basis of a "Change Order Request" provided by the Purchaser or any party acting on behalf of the Purchaser.

c. The Seller will not agree to incorporate or implement any modification, drawing change, revision change or other change until the Purchaser has accepted the Seller's calculation of the costs and time for implementing such change.

d. If any stock, WIP or raw material is affected by such modification or change then the Purchaser shall be liable for accepting the Goods in their current state.

e. In addition, should such change affect the processing or production of this part, the Seller shall have the right to renegotiate the Contract to compensate the Seller for any increase in the cost of delivery of the Contract.

#### 7. TAXES AND CUSTOMS DUTIES.

We shall be entitled to add to the price the amount of any or the increase in any, sales, excise and other taxes payable by us in respect of the sale of goods and services. Any customs duties or other charges, fines or assessments whatsoever levied on overseas customers in respect of the goods on importation shall be done by such customers, unless otherwise agreed in writing. The customer shall be responsible for complying with the legislation or regulations governing the importation of the goods into the country of destination and for the payment of any duties thereon.

#### 8. QUANTITIES.

The customer shall accept the supply of a quantity (whether more or less) within 10 per cent of the stipulated amount of the customer's order. In such circumstances the invoice value of the goods shall be subject to a corresponding adjustment except where in the case of sales overseas such course may be impracticable. Subject as aforesaid, the prices quoted are for the quantities and despatch conditions stipulated in the Quotation and do not necessarily hold good for other quantities or for different conditions of despatch.

#### 9. DESPATCH DATES.

Although we will use all reasonable efforts to meet our despatch forecasts, such forecasts are estimates only. We shall not be liable in any circumstances for loss, whether direct or consequential, arising from delay in despatch. In the case of orders for despatch overseas, despatch shall be conditional upon all necessary governmental consents being obtained.

#### 10. PAYMENT.

a) Unless otherwise agreed the goods are sold subject to payment in cash payable upon notice by us that they or any installment thereof is ready for despatch. We shall not be bound to give up possession of the goods until we have received payment, and we shall be deemed to have made a sufficient tender of the goods once we have notified the customer that the goods are ready for despatch subject to payment.

b) We shall be entitled to withhold delivery of any goods if upon the invoicing of such goods the customer's credit limit (if any) with us would thereby be exceeded. In determining the customer's credit

for such purpose the aggregate invoice value of all invoices issued to the customer by us and which are then outstanding, including unpaid accounts, shall be taken into account.

c) Where we allowed provisional credit in respect of any part of the goods, it shall be without prejudice to our right to refuse to give up possession of any other part of the goods except against payment and the whole of the price of all goods bought or agreed to be bought by the customer shall fall due and payable without demand immediately on the happening of any of the following events:

(i) Failure by the customer to pay any sum due to us within 7 days of the due date of payment; (ii) Commencement of the winding up of the customer (iii) commission by the customer of an act of bankruptcy; (iv) appointment of a receiver of any asset of the customer, or any administrative receiver of the customer, or the levying of any distress or execution on any asset of the customer; (v) application for the appointment of an Administrator of the customer.

d) The failure of customer to pay any part of the price of the goods in due time shall be a breach of condition entitling us to treat that failure as a repudiation of the whole contract by the customer and to recover damages for such breach.

e) Interest on all sums due shall run at the rate of 2.5% per month until payment is received after as well as before any judgment therefore.

#### 11. PASSING OF OWNERSHIP AND RISK.

a) In the case of orders for despatch to destination overseas, the legal property and risk of the goods shall pass according to paragraph (b) of this condition except to the extent that it is inconsistent with the terms of the contract. Trade terms (such as C.I.F. and F.O.B.) shall be interpreted according to incoterms 1990 published by the International Chamber of Commerce, except where inconsistent with these conditions.

b) In the case of orders for despatch to destinations in the British Isles, and in the case of orders for despatch to destinations overseas subject to paragraph (a) of this condition, the following applies:

(i) The risk in the goods shall pass to the customer on delivery to the address specified by the customer, either by us or by our delivery agent or by a common carrier or on delivery to the customer's agent. In the case of collection of goods by the customer or use of delivery method stipulated by the customer (for example unrecorded mail) then risk in the goods passes to the customer on dispatch from CS&C.

(ii) Until we have received full payment for all goods whatsoever that we have supplied at any time to the customer.

a) The goods shall remain our property and the customer shall store the goods separately and/or keep them in such a way that they can be readily identified as being our property.

b) Subject to (d) and (e) below the customer shall have our authority to use the goods or any of them in his manufacturing process on the basis that where the same are converted into a new product, either with or without the admixture of any other goods or things whatsoever, and in whatever proportions, we shall have full legal and beneficial ownership of the new product.

- c) Subject to (d) and (e) below the customer shall be at liberty to sell the goods and the new products referred to in (b) above in the ordinary course of business on the basis that the proceeds of sale shall be our property and the customer shall account to us on demand provided that the customer shall have no authority to enter into any contract of sale on our behalf and any contract of sale should accordingly be concluded in the name of the customer.
- d) We may at any time revoke the customers power of manufacture and sale by notice to the customer of the customer is in default of payment of any sum whatsoever due to us (whether in respect of the goods or any other goods supplied at any time by us to the customer or for any reason whatsoever,) or if any bill of exchange, cheque or negotiable instrument drawn or accepted by the customer in our favor at our request is dishonored on presentation for payment, or if we have bona fide doubts as to the solvency of the customer.
- e) The customers power of manufacture and sale shall automatically cease if a receiving order is made against the customer or if the customer goes into voluntary liquidation (otherwise than for the purpose of reconstruction or amalgamation) or calls a meeting of or makes any arrangement or composition with his creditors or commits any act of bankruptcy.
- f) In the event of either: (1) Any defaults in the punctual payment of any sum owing to us in respect of goods supplied to the customer by us and which have not been processed by the customer or (2) Upon the determination of the customers power of manufacture and sale under (d) or (e) above;

The customer shall immediately place at our disposal the goods in which the property has not passed to the customer, and the customer irrevocably authorizes us or our representative to recover such goods and to enter any premises of the customer, where the goods are stored or are thought by us to be stored for that purpose. Demand for recovery of the goods by us shall not of itself discharge the customer's liability to pay the whole of the price and take delivery of the goods or our right to sue for the whole of the price.

(iii) For the purpose of this condition of "the goods" shall mean all goods which are subject of any contract of sale or supply between us and the customer.

## 12. INSURANCE FOR OVERSEAS CONSIGNMENTS.

We will, on the customer's behalf, arrange insurance to destination on every consignment of goods overseas, except where the customer has specifically informed us in writing that he has arranged insurance. Unless otherwise stated, the premium paid will cover the value of the consignment as shown on our invoice. Details of the insurance cover are available on request. The arrangement of any additional insurance required by the customer is the customer's responsibility.

## 13. DAMAGE IN TRANSIT AND NON-DELIVERY (APPLICABLE IN BRITISH ISLES ONLY).

Where the risk in the goods has not passed to the customer, we will accept responsibility:

a) For damage in transit (by repairing or at our option replacing the goods) provided that we are given written notice of such damage within such time and in such manner as will enable us to comply with the carriers conditions of carriage applicable to damage in transit, and

b) For non-delivery provided that where we have notified the customer of despatch of the goods we are given written notice of non-delivery within such manner as will enable us to comply with the carriers conditions of carriage applicable to non-delivery.

#### 14. GENERAL LIEN.

Without prejudice to any other remedies we may have in respect of unpaid debts due from the customer we shall have a general lien on all such customers goods or property in our possession (whether worked on or not) and we shall be entitled on the expiration of 21 days notice in writing to the customer to dispose of such goods or property as we think fit and to apply any proceeds received towards such debts.

#### 15. INSPECTION OF GOODS AND DEFECTS.

a) The customer shall inspect the goods immediately on receipt thereof and shall within seven days give to us in detail of any ground on which the customer alleges that the goods are not in accordance with the contract or are defective in material or workmanship. If the customer fails to give such notice the goods shall be conclusively presumed to be in all respects in accordance with the contract and free from any defect which would be apparent on reasonable examination of the goods and the customer shall be deemed to have accepted the goods accordingly. In the event that the customer establishes to our reasonable satisfaction that the goods are not in accordance with the contract or are defective the customers sole remedy in respect of such non-accordance or defects shall be limited as we may elect to the replacement of the goods or refund of the purchase price against the return of the goods.

(i) We will use all reasonable endeavors to procure for the customer the benefit of such warranties and other rights as are conferred on us in relation to defects in such part or parts of the goods as are not of our manufacturer by the terms of our agreement with the suppliers of the goods.

(ii) These terms set out our entire liability in respect of the goods, and our liability under these terms shall be in lieu and to the exclusion of all other warranties, conditions, terms and liabilities express or implied statutory or otherwise in respect of the quality or the fitness for any particular purpose of the goods or otherwise, howsoever except any implied by law which by law cannot be excluded. Save as provided in these terms and except as aforesaid we shall not be under any liability, whether in contract, text or otherwise, in respect of defects in the goods or failure to correspond to specification or sample or any injury, damage or loss resulting from such defects or failure or from any work done in connection therewith.

#### 16. USE OF GOODS.

Where goods have been manufactured or constructed according to designs or configurations or by processes specified or supplied by the customer, the customer represents and warrants to us that the customer has or will have satisfied itself that all necessary tests and examinations have been made or will be made prior to the goods being brought into use to ensure that the goods are designed, constructed and operational so as to be safe and without risk to the health and safety of workmen or

others using them and that it will take such steps as are necessary to secure that there will be available in connection with the use of the goods at work adequate information about the use for which they are designed and have been tested and about any conditions necessary to ensure that when put to that use they will be safe and without risk to health and the customer accepts full liability in respect of any damage, loss, injury or death arising from the use of the goods provided that the goods have been supplied in accordance with the condition.

#### 17. LIMITATION OF LIABILITY.

Our liability (if any) whether in contract, text or otherwise in respect of any defect in the goods, or for any breach of this agreement or of any duty owed to the customer in connection herewith, shall be further limited to the price of the goods in question.

#### 18. INDEMNITY.

The customer shall indemnify us in respect of all damage injury or loss occurring to any person or property and against all actions, suits, claims, demands or expenses in connection therewith arising from the condition or use of the goods supplied in accordance with the specification accepted by the customer or in the event and to the extent that the damage, injury or loss shall have been occasioned, partly or wholly, by the carelessness of the customer or its servants or by any breach by the customer of its obligations to us hereunder.

#### 19. CANCELLATION BY CUSTOMERS.

No order may be cancelled by the customer without our written agreement. If the customer purports to cancel its orders without such agreement and at the time of such purported cancellation the market price of any item purchased by us for the execution of the order is lower than the price at which we acquired the same, then without prejudice to any other contractual rights that we may have we shall be entitled to charge the customer with the difference. In addition, we shall be entitled to charge the customer with the full cost of manufacture by us up to the date of the purported cancellation of any goods specially manufactured to the customers order, including the costs incurred by us In respect of all items ordered, supplied or manufactured specifically for execution of the order in question. If work on an order is suspended because of the customer's instructions or lack of instructions, we reserve the right to treat such circumstances as a cancellation by the customer.

#### 20. CANCELLATION BY SELLER.

We shall be entitled to cancel the order by written notice and without prejudice to our right to recover damages if:

a) The customer shall go into liquidation, b) A distress or execution order is levied or enforced upon any of the property of the customer and is not paid out or discharged within 14 days, c) An encumbrancer takes possession or a receiver is appointed the undertaking of the customer or any of its property, or d) The customer stops payment or ceases or threatens to cease to carry on its business or to pay its debts as and when they fall due.

#### 21. FORCE MAJEURE.

In the event of the normal course of manufacture or delivery of the goods being prevented, interrupted, hindered or delayed by any cause whatsoever beyond our control, or by a lockout by us of our own employees, we shall have the option, without incurring liability to the customer, either to defer the date of dispatch, or according to the nature and extent of such supervening event, to cancel the order on the terms referred to in condition 20.

## 22. PATENTS, TRADEMARKS, ETC.

The goods are sold subject to the rights of any person, whether in respect of any patent, trademark, registered design, copyright, confidential disclosure or otherwise howsoever to prevent or restrict the sale or use of the goods in any part of the world, and the customer will in this respect accept such title to the goods as the seller may have.

## 23. SEPARATE DELIVERIES.

Where the contract is for the sale of goods by a number of separate deliveries to be separately paid for, a breach affecting one delivery shall not affect any other, provided that for so long as payment for any delivery has become due and is unpaid, we shall not (without prejudice to our rights under Condition 20) be liable pending payment to make any further deliveries pursuant to the contract.

## 24. NOTICE.

Any notice given under or pursuant to the contract may be sent by hand or by post or by registered post or by the recorded delivery service or transmitted by teletext or other means of telecommunication resulting in the receipt of a written communication. If so sent or transmitted to the address of the party shown on the contract, or to such other address as the party may by notice to the other have substituted therefore, shall be deemed effectively given on the day when in the ordinary course of the means of transmission it would first be received by the addressee in normal business hours.

## 25. ASSIGNMENT.

The customer shall not assign any benefit under the contract without our consent in writing, which may if given, be on such terms as to guarantee or indemnity or otherwise as we in our discretion may determine.

## 26. DISPUTE RESOLUTION.

a. The Seller and the Purchaser will use all reasonable endeavours to resolve any dispute which arises in connection with the performance of the Contract.

b. If a dispute cannot be resolved at the operational level then:

i. Either party may give written notice to the other setting out the nature and particulars of the matter which is the subject of the dispute.

ii. Within 10 days after the notice is received by the addressed party, that party shall formally respond.

iii. The notice and the response shall identify a senior manager of the party appointed by the party as a representative to conduct discussions and provide a thorough statement of that party's positions and full summary of reasons for supporting that position.

iv. Within 10 days of receiving that response, the senior managers from both parties shall meet in person at a mutually acceptable place to seek a resolution.

v. If no resolution is reached by the expiration of 30 days from the date of the notice of dispute either party may take such further steps as it considers appropriate to resolve the dispute, including the initiation of court proceedings or the parties will attempt to settle it by mediation in accordance with the CEDR Model Mediation Procedure.

#### 27. PROPER LAW.

The construction, validity and performance of all our contracts shall be governed by English law.

#### 28. HEADINGS.

The headings to the paragraphs of these Conditions are inserted for convenience or reference and shall not affect their interpretation.

#### 29. SUPERVENING ILLEGALITY AND SEVERANCE.

Any provision of these conditions which is held invalid or unenforceable in any jurisdiction shall be ineffective to the extent of such invalidity or unenforceability without invalidating or rendering unenforceable the remaining provisions hereof, and any such invalidity or unenforceability in any jurisdiction shall not invalidate or render unenforceable such provisions in any other jurisdiction. Without prejudice to the generality and importance of all the above Standard Conditions of Sale, we draw the customers' attention particularly to Conditions 10, 11, 14, 19 and 23 which define certain of our contractual rights in the event of non-payment.

25<sup>th</sup> July 2013.