

## GELSYSTEMS LIMITED - TERMS AND CONDITIONS OF SALE

These terms and conditions ("Conditions") set out the entire agreement between Gelsystems Limited and Buyer and no other conditions or subsequent purported imposition of conditions shall apply unless expressly agreed in writing between the parties.

### 1. Definitions

In these Conditions, the following expressions shall have the following meanings:

"GS" means Gelsystems Limited of 14 Alphabet Square, London, E3 3RT.

"Buyer" means any person, firm or company to whom GS shall sell Product.

"Contract" means the contract for any consignment of Product between GS and Buyer which shall incorporate these Conditions and any other conditions expressly agreed between them, including the Order and the Specification.

"Incoterms" means the terms published in 2010 by the International Chamber of Commerce.

"Order" means GS's Sales Order acknowledgement provided to Buyer.

"Package" means any bags, drums, pallets, tanks or any other containers in or on which Product is delivered.

"Product" means those goods or products sold to Buyer by GL under the Contract.

"Specification" means GL's specification relating to the Product that has, prior to the Contract been agreed in writing between GL and Buyer and which the Buyer declares is suitable for Buyers' use thereof and which is referred to as the "Code" in the Order; or if there is none, the normal standards of industrial quality.

### 2. Delivery

- 2.1. Delivery shall be made to the place and by the method agreed between the parties in the Order; or if not agreed therein, the delivery point shall be chosen from those defined in Incoterms and the terms applicable to such method of delivery shall be as set out in the applicable Incoterm.
- 2.2. The Buyer shall be liable and responsible for the discharge of Product on delivery from any mode of transportation that is used.
- 2.3. Each delivery shall be treated as a separate contract. Failure to make a delivery, or any breach of contract by GS relating thereto shall not affect any remaining deliveries.
- 2.4. Time shall not be of the essence in relation to delivery dates and times.

### 3. Price

- 3.1. The price to be charged shall be that set out in the Order for the Product concerned and will be exclusive of Value Added Tax and all other governmental duties or taxes relating to the sale, possessions or use of the Product which shall be paid by Buyer. When any Product is supplied by GS to Buyer free of any duty and/or tax in accordance with legislation applicable thereto from time to time and such duty and/or taxes shall subsequently be or become payable, then Buyer shall forthwith pay to the relevant authority the full amount due in respect of such Product and shall indemnify and hold GS harmless from and against all liability in respect thereof.
- 3.2. GS reserves the right to vary prices after the expiry of the date of price application described in the Order by giving notice in writing to Buyer in which event Buyer will elect and notify GS in writing within 15 days of receipt thereof whether Buyer wishes to continue to receive deliveries of Product at the new price or not.

### 4. Payment

- 4.1. Unless otherwise agreed, payment shall be made to GS in sterling in the United Kingdom free of all charges within 28 days after the date of delivery invoice. In the event of non-receipt of payment, GS reserves the

right (without prejudice to any other right or remedy) to suspend deliveries until such time as payment shall have been received.

- 4.2. Where delivery is outside the United Kingdom the method of payment shall be (unless otherwise agreed) that the Bill of Lading shall be sent to GS whereupon it shall raise its further appropriate documentation to enable the release of Product. GS shall send all such appropriate documentation within its control to GS' nominated bank at Product or other agreed destinations. The Buyer shall be notified thereof and shall make full payment to such Bank, whereupon GS shall then instruct the Bank to release such documentation to Buyer, enabling Buyer to obtain release of Products into its custody.
- 4.3. Time is of the essence in relation to payment. GS may charge Buyer interest at 5% above Barclays Bank plc.'s base lending rate for the time being to accrue on a daily basis (with interest being added to the principal on a monthly basis) on any sum owed by Buyer to GS which is not paid on the due date. Buyer may not withhold payment or make any set-off on any account, but GS may set-off any sums received from Buyer against any debt Buyer owes GS under any other arrangement or agreement.

### 5. Quality and Purpose

- 5.1. GS warrants that Product will comply with the Specification. All other warranties or representations as to quality and/or description (statutory or otherwise) are hereby expressly excluded, except in so far as such exclusions are prevented by law.
- 5.2. Any suggestion or representation concerning any possible use of Product made by GS in literature or in response to specific enquiry is given in good faith, but it is entirely for Buyer (and Buyer's customers) to satisfy themselves fully as to the suitability of Product for any particular purpose. GS gives no warranty as to the fitness or suitability of Product for any particular purpose and any such implied warranty or condition (statutory or otherwise) is expressly excluded, except in so far as such exclusions are prevented by law.
- 5.3. Buyer shall examine Product as soon as reasonably practicable after delivery. Buyer shall notify GS within five (5) days of delivery of any incomplete or failed delivery, loss or damage during carriage failing which Buyer shall be treated as having waived all claims connected with such incomplete or failed delivery, loss or damage.
- 5.4. If any consignment of Product fails to comply with the warranty given by GS in Clause 5.1 above, unless Buyer so notifies GS within forty five (45) days after delivery thereof, Buyer shall be treated as having waived all claims connected with such failures.
- 5.5. If it is shown to GS's satisfaction within the period referred to Clause 5.4 above that any consignment of Product fails in a significant way to comply with the warranty given by GS in Clause 5.1 above, GS shall be given a reasonable opportunity to correct such failure. If GS does not or is unable to do so, GS will either refund the price of the particular consignment (or, if Product has depreciated for reasons other than GS's default or has been used or put into process, a reasonable part of that price), or replace the consignment of Product in question (if reasonably practicable) within a reasonable time, free of charge. The supply of replacement Product shall be subject to these Conditions. Any consignment of Product which is alleged not to comply with the Specification shall as far as possible be preserved for inspection by GS.
- 5.6. Buyer shall use reasonable efforts to minimise GS's liability and avoid any further loss, damage or expense.

### 6. Force Majeure

- 6.1. GS shall not be liable for any failure to comply with Contract due to any circumstances whatever which are beyond GS's reasonable control and which prevent or restrict GS from complying with the Contract.
- 6.2. GS may, where reasonable in all circumstances, (whether or not involving GS negligence) without liability suspend or terminate (in whole or in part) its obligations under the Contract, if GS' ability to manufacture, supply, deliver or acquire materials for the production of Product by GS's normal means is materially impaired.

### 7. Termination and Suspension

7.1. GS may, (without prejudice to its other remedies) terminate or suspend forthwith GS's performance of any part of the Contract in the circumstances described in Clause 7.2 and may suspend all deliveries to Buyer whilst investigating any claim relating to prior delivery under any Contract between GS and Buyer.

7.2. The relevant circumstances referred to in Clause 7.1 are:-

- a) If Buyer (being an incorporated company) shall have a Receiver or Administrator appointed, or shall pass a resolution for winding-up or a court shall make an order to that effect or shall be subject to any similar proceedings in any jurisdiction outside England and Wales; or
- b) If Buyer (not being an incorporated company) shall have a bankruptcy order made against him or enter into any composition or arrangement with his creditors or shall apply to the Court for an interim order under Section 253 of the Insolvency Act 1986 in connection with a voluntary arrangement under that Act or shall be subject to any similar proceedings in any jurisdiction outside England and Wales; or
- c) If Buyer becomes unable to pay its debts as they fall due (as defined in Section 123(b) or (e) of the Insolvency Act 1986) or if an encumbrancer or creditor takes any steps to enforce a security given by Buyer; or
- d) Buyer fails to take delivery or pay for Product on the due date or breaches any other term under the Contract; or
- e) GS has any reasonable ground for suspecting that any of the circumstances set out in sub-Clauses 7.2(a) and 7.2(d) have occurred or may occur, and so notifies Buyer.

#### **8. Risk and Title**

8.1. Risk in and title to Product shall pass to Buyer upon delivery in accordance with the Order.

#### **9. Limitation of Liability**

9.1. GS shall use reasonable endeavours to supply Product but shall not be liable to Buyer in any way for any shortfall or delay in delivery due to Product being unavailable for whatever reason.

9.2. Without prejudice to any other limitation of GS liability which may be prevented by law (such as GS' liability for death or personal injury caused by GS' negligence, or fraud):

- a) In no circumstance whatever shall GS be liable (in contract, tort or otherwise, and irrespective of any negligence or other act, default or omission of GS or its employees agents) for any indirect, economic or consequential losses, loss of profits, loss of data, increased cost of working or use, process disruption (including cost of other goods Buyer may have combined with the Product) or any third party claims, in connection with the Product or the Contract.
- b) GS' aggregate liability in respect of any claims arising in connection with the Product or the Contract (whether or not related to any negligent act, or omission of GS, its employees or agents) shall be limited to the price of Product in question supplied under the Contract (that is, the price of the consignment of Product in question and not the price of any total volume described in the Order if it relates to and requires more than one consignment delivery).

9.3. Buyer shall indemnify and keep GS indemnified in respect of all damage, injury or loss occurring to any person, firm, company or property and against all actions, suits, claims and demands, charges and expenses, including legal expenses, in connection therewith or for which GS may become liable in respect of any consignment of Product sold under the Contract in the event that the damage, injury or loss shall have been occasioned after delivery of such consignment to Buyer as provided in Clause 2, irrespective of the cause or reason thereof. In addition, Buyer shall indemnify GS for any damage, injury or loss arising directly or indirectly from Buyer's breach of any of the terms hereof.

9.4. The only rights and remedies of Buyer in respect of any Product delivered or any consignment are set out in Clause 5.5 above and Buyer shall indemnify and hold GS harmless from and against any and all liabilities arising out of or in connection with any Product or any consignment delivered hereunder howsoever arising irrespective of the cause or reason thereof.

#### **10. Health and Safety at Work**

10.1. GS shall provide Buyer with a technical data sheet concerning Product and its description and constituent data which forms the Specification.

10.2. Buyer shall ensure that all appropriate health and safety literature is distributed to and observed by all those who require it for safe handling or use of Product.

#### **11. General**

11.1. These Conditions supersede all prior representations or arrangements and with the Order and the Specification, contain the entire agreement between the parties in connection with Product. They take precedence over any other standard condition contained on delivery notes, invoices or acknowledgments. No modifications thereto shall take effect unless agreed in writing between the parties.

11.2. The Contract may not be assignment by Buyer without GS's prior written consent.

11.3. Buyer shall be responsible for all storage, demurrage and other costs arising from Buyer's failure to comply with the Contract, or refusal to accept Product complying with Specification.

11.4. No failure by GS to enforce any provision of any Contract shall be construed as a release of its rights relating thereto or to sanction any further breach.

11.5. Notice by either party shall be in writing and delivered or sent by letter or by facsimile message or other effective means of communication addressed to the other party at his address and any such notice given by letter shall be deemed to have been given at the time at which the letter would have been delivered in the ordinary course of post, if sent by post and on the date of delivery if delivered personally (or at the provable date of receipt if transmitted by facsimile message or other comparable means of communications).

#### **12. Law**

The Contract and any matters arising from it shall be governed by the laws of England and the parties submit to the exclusive jurisdiction of the English courts which shall have sole jurisdiction in any dispute relating thereto.