

# GENERAL TERMS AND CONDITIONS OF SALE BY ELMO MOTION CONTROL LTD

## 1. GENERAL

1.1 These General Terms and Conditions of Sale (the "GTAC") shall govern all quotations, purchase orders, confirmations and sales/provisions of products/services by Elmo Motion Control Ltd. (the "Products" and, the "Company", respectively) to a purchaser of Products (the "Purchaser").

1.2 By placing a purchase order (a "PO") with the Company, the Purchaser agrees, warrants and undertakes to be bound by these GTAC.

1.3 If any of the provisions of these GTAC should be inconsistent with or deviate from any special condition set forth in any written agreement executed between the Company and the Purchaser, then such special condition shall prevail, without, however, affecting any of the remaining non-conflicting provisions of these GTAC.

## 2. NON-BINDING NATURE OF PRICE QUOTATIONS

2.1 Quotations given by the Company shall not be deemed to constitute an offer by the Company to supply any Products or to provide any services referred to in such quotations.

2.2 No quotation shall be binding unless and until a PO has been formally accepted by the Company in writing (the "Order Confirmation" and "Confirmed", as applicable).

## 3. DELIVERY, PRICES AND ADJUSTMENTS

3.1 Unless specifically set forth otherwise, all prices shall be quoting delivery of Products under delivery terms EXW (Petah Tikva, Israel) (Incoterms 2010) (the "Delivery").

3.2 Whilst the Company will do its reasonable efforts to implement any Delivery times, punctual Delivery shall not be deemed to be the essence of the agreement between the Company and the Purchaser, nor shall any delay constitute grounds for a claim to damages or (except as set forth hereinafter) for cancellation. Without derogating from the aforesaid, the Purchaser shall have the right to cancel the relevant PO if any Delivery is delayed by more than 3 months from the estimated Delivery time set forth in any applicable Order Confirmation, except where such delay in Delivery is attributable to (i) any event beyond the reasonable control of the Company, including any Acts of God (including fire, flood, earthquake, storm, hurricane or other natural disaster), force majeure event, war, invasion, act of foreign enemies, hostilities (regardless of whether war is declared), civil war, rebellion, revolution, insurrection, military or usurped power or confiscation, terrorist activities, nationalization, government sanction, blockage, embargo, labor dispute, strike, labor lockout or interruption or failure of electricity or communication services, general shortage of materials and/or (ii) the Company's decision, at its sole discretion, to amend and/or delay development and/or product release plans based on commercial and/or other considerations.

3.3 All prices at which POs are Confirmed, are based on the costs of manufacturing, workmanship and delivering the Products at the date of any applicable Order Confirmation. If prior to any Delivery, any such costs shall be increased (including, without limitation, by reason of an increase in the cost of materials or by reason of any change in the method or technique of manufacturing the Products or any other reason whatsoever) the Company shall be at liberty, upon giving 30 days' prior notice thereof to the Purchaser, to adjust the prices accordingly.

## 4. MODIFICATIONS

The Company, while accepting no liability or responsibility to do so, reserves the right in its sole discretion, to incorporate into any Products the PO for which has been Confirmed, any design, software or any other modification introduced by the Company subsequent to the date of the applicable Order Confirmation.

## 5. PAYMENT

Any amounts due to the Company shall be due and payable in accordance with the terms and conditions set forth in the quotations.

## 6. LIMITED WARRANTY

6.1 The warranty provided by the Company (the "Warranty") shall be subject to and in accordance with the Customer Support Service Policy of the Company, Version C of August 2015, which constitutes an integral part of these GTAC. The Warranty is made to and shall be enforceable only by the Purchaser, and shall apply only if the Products are properly maintained and used in service which is normal for the particular Products. If the Purchaser discovers a defect or nonconformity within the warranty period specified in the RMA (the "Warranty Period"), it must notify the Company in writing within fourteen (14) days after the date of discovery (the "Notice").

6.2 The Warranty shall only apply if the Products have been proved, at the Company's discretion, to have been defective during the Warranty Period.

6.3 The Company makes no warranty whatsoever as to (i) integral parts, components, attachments or trade accessories not manufactured by the Company, but instead, the applicable warranties, if any, of the respective manufacturers thereof shall apply; (ii) any product or component, part, attachment or accessory damaged by misuse, neglect, accident or transportation or which has been installed and/or used not in accordance with the Company's relevant Products' Installation Guide, as such appears on the Company's website; (iii) any product or component, part, attachment or accessory which shall have been repaired, altered or assembled (including, but not be limited to, any deviation from circuit or network designs or structural Products recommended by the Company, installation or removal of Product features, and all other modifications), whenever any of the foregoing is performed by any person other than those authorized by the Company which, in its sole judgment, affects the performance, stability or purpose for

which it was manufactured; (iv) any Products requiring adjustments, correction, repair, or replacement, or increase in service time, caused by electrical work external to the Products, or the attachment or use of accessories or other devices, including networking devices, not furnished by the Company, or failure to properly maintain the same; (v) products or parts which are not defective, but which may wear out and have to be replaced during the Warranty Period (including consumable supplies or parts which have reached the end of their useful life); (vi) integration with third party products not recommended in writing by the Company; and (vii) the use of a Product for other than the purposes for which designed and/or not in accordance with its specification. Labour costs, travelling and hotel expenses incurred for the replacement of defective parts are not included in this Warranty.

6.4 THE WARRANTIES SET FORTH IN THIS SECTION 6 ARE THE EXCLUSIVE WARRANTIES GIVEN BY THE COMPANY. THE COMPANY HEREBY DISCLAIMS AND EXCLUDES ALL OTHER WARRANTIES, WHETHER EXPRESS, IMPLIED OR STATUTORY, INCLUDING ANY WARRANTY OF MERCHANTABILITY, ANY WARRANTY OF FITNESS FOR A PARTICULAR PURPOSE, AND ANY IMPLIED WARRANTIES OTHERWISE ARISING FROM COURSE OF DEALING OR USAGE OF TRADE.

## 7. NO REPRESENTATION

No term, condition, representation or warranty, whether expressed or implied by statute, custom, case law or otherwise shall apply in respect of any Products subject of any PO and/or Order Confirmation as to their fitness for any particular purpose, or as to their compliance with any description standard, specification or quantity unless such term, condition, representation or warranty expressly appears in the applicable Order Confirmation. No further information, statistics or specification relating to dimensions, outputs, capacities, strengths, weights, performance and/or similar data and no photograph, illustration, drawing or plan, whether issued by the Company or not, shall be deemed to relate to the subject of a PO or Order Confirmation, unless they appear in the Company's official drawing and/or design data sheets and/or service manuals or any of them (if any) issued by or on behalf of the Company in connection with any Products.

## 8. LIMITATION OF LIABILITY

8.1 In no event shall the Company be liable for any incidental, special, indirect or consequential damages (including, but not limited to, loss and/or damages related to lost sales and profits, excessive or increased costs and expenses, downtime costs and claims of the Purchaser for such damage), whether resulting from non-delivery or from the use, misuse or inability to use any Products or from the negligence of the Company or from other tort. This exclusion applies regardless of whether such damages are sought for breach of warranty, breach of contract, negligence or strict liability in tort or under any other legal theory.

8.2 To the fullest extent permitted by applicable law, and notwithstanding any other provision of these GTAC or any other agreement between the Company and Purchaser, the total liability, in the aggregate, of the Company and the Company's officers, directors, partners, employees and subcontractors, and any of them, to the Purchaser and anyone claiming by or through the Purchaser, for any and all claims, losses, costs or damages, including attorneys' fees and costs of any nature whatsoever or claims expenses resulting from or in any way related to the PO from any cause or causes shall not exceed the total consideration actually received by the Purchaser under any specific PO at the time the event of liability occurred. It is intended that this limitation apply to any and all liability or cause of action however alleged or arising, unless otherwise prohibited by applicable law.

## 9. INTELLECTUAL PROPERTY RIGHTS AND DOCUMENTATION

9.1 Purchaser acknowledges that all intellectual property rights related to the Products, including patents, source codes, copyrights, models and drawings, trademarks and know-how are owned by the Company and/or its supplier(s) and shall remain with the Company and/or its supplier(s). The Purchaser shall not have any right, title or interest in the Products, except as expressly set forth in any applicable Order Confirmation or other agreement between the Company and the Purchaser.

9.2 Without derogating from the aforesaid, the Company remains the rights owner of all drawings, calculations, illustrations and any other printed matter (collectively, "Documentation"). No Documentation shall be copied or otherwise made available to any third party without the Company's prior written permission.

## 10. GOVERNING LAW AND JURISDICTION

10.1 These GTAC, the RMA, any PO and any Order Confirmation and any other agreement in force between the Company and the Purchaser shall be governed by and construed in accordance with the laws of the State of Israel, without giving effect to its conflict of laws principles.

10.2 Any disputes related to or following from these GTAC, the RMA, any PO and any Order Confirmation and any other agreement in force between the Company and the Purchaser shall be submitted to the exclusive jurisdiction of the competent courts of Tel Aviv-Jaffa.

*Version B of August 2015*