

## General Terms and Conditions for supply of Repair and Maintenance Services

### 1 Scope

- 1.1 These general terms and conditions ("**General Terms and Conditions**") shall – unless otherwise agreed in writing – apply to and be considered an integrated part of any offer or contract ("**Offer**" and "**Contract**") for supply of equipment repair and maintenance services ("**Services**") submitted or entered into by Origio.
- 1.2 The General Terms and Conditions shall prevail over any terms and conditions used by a contracting party ("**Customer**") receiving an Offer from or entering into a Contract with Origio. Any reference in these General Terms and Conditions to "Contract" shall be understood to also include the General Terms and Conditions.
- 1.3 Any Offer submitted by Origio is only valid for a period of 30 (thirty) calendar days from its date of issue. If the Customer does not accept the Offer within this time limit, the Offer will automatically lapse. If the Customer accepts the Offer in its entirety within the time limit, the Offer constitutes a Contract.
- 1.4 Any order ("**Order**") from the Customer constitutes an offer by the Customer to purchase Services in accordance with the Contract, and shall, where made available, be based on Origio's standard order format. An Order shall only be deemed accepted when Origio issues a written order confirmation with a unique sales order number confirming the Order.
- 1.5 Services can be delivered as either subscription based repair and maintenance services ("**Subscription Services**") or as ad hoc repair and maintenance services ("**Ad hoc Services**"). Unless otherwise stated, these General Terms and Conditions shall apply to both Subscription Services and Ad hoc Services.
- 1.6 Any spare parts delivered by Origio as part of the Services shall be subject to and governed by Origio's General Terms and Conditions for supply of Equipment.

### 2 Covered Equipment

- 2.1 The Services shall apply to the equipment set out in the Contract from time to time ("**Equipment**"). A Contract for Services shall not modify any warranty conditions for the Equipment.
- 2.2 The Customer warrants that it has fully and fairly disclosed to Origio any known problems with the Equipment prior to entering into the Contract.

### 3 Delivery

- 3.1 The Services shall be delivered at the address set out in the Contract ("**Service Address**"). While reasonable effort will be made to deliver the Services at the Service Address, Origio may on occasion require that the Equipment is relocated to Origio's facilities for performance of the Services. Any shipping costs for relocation of Equipment shall be borne by the Customer, unless the Services in question (i) are included in and already paid for as part of the Subscription Services, and (ii) are not required due to misuse of the Equipment or breach of the Contract by the Customer.
- 3.2 The Services will be performed by Origio or by an authorized representative of Origio.
- 3.3 The parties shall agree on a delivery date on which Origio shall perform the Services. Origio shall use reasonable endeavours to meet any agreed delivery date for the Services. If Origio realizes that it is unable to perform the Services on the agreed delivery date, Origio shall to the best of its ability inform the Customer of a new date of delivery. In the event that the performance of the Services takes longer time than notified by Origio to the Customer, Origio will use reasonable endeavours to complete the Services within reasonable time.
- 3.4 If the Customer cancels any Services later than seven (7) calendar days before the agreed delivery date, Origio shall be entitled to invoice an amount corresponding to any travel costs incurred plus fifty per cent (50%) of the estimated labour costs pertaining to such cancelled Services to the Customer.

#### **4 Prices and payment terms**

- 4.1 The prices indicated in the Contract are always exclusive of (i) import/export duties and fees, and exclusive of sales taxes, excise duties, value-added tax, goods and services tax, and other applicable taxes, as well as (ii) freight, handling, insurance, and custom packaging costs.
- 4.2 Origio is entitled, at any time, to adjust its prices to account for any increase in the cost of raw materials and components of its products, labor costs, as well as procurement and shipping fees, subject to providing one (1) month's notice. The Customer may not claim financial compensation or indemnity related to any price increase.
- 4.3 The Customer shall pay any invoice within 30 (thirty) calendar days of the date of the invoice. Payment shall be made to the bank account nominated in writing by Origio from time to time. The Customer acknowledges that time for payment is of the essence.
- 4.4 If the Customer fails to make any payment to Origio by the due date for payment, then, without limiting any other rights or remedies available to Origio, the Customer shall pay interest on the overdue amount at the rate of eight per cent (8%) per annum above Danmarks Nationalbank's (the Danish Central Bank) official lending rate from time to time. Such interest shall accrue on a daily basis from the due date until actual payment of the overdue amount, whether before or after judgment. The Customer shall pay the interest together with the overdue amount.
- 4.5 The Customer shall pay all due amounts in full without any set-off, counterclaim, deduction or withholding (except for any deduction or withholding required by law). Origio may at any time, without limiting any other rights or remedies available to Origio, set off any amount owing to it by the Customer against any amount payable by Origio to the Customer.

#### **5 Quality**

- 5.1 Origio warrants that following performance of the Services and for a period of 30 (thirty) calendar days ("**Warranty Period**"), the serviced Equipment is free from material defects. However, where the Services do not include maintenance of the entire Equipment, but only involve specific repair(s) of part(s) of the Equipment, the warranty shall be limited to such repaired part(s) of the Equipment only, and shall not apply to the entire Equipment.
- 5.2 Any descriptive matter or advertising issued by Origio and any illustrations or descriptions of the Services contained in Origio's catalogues or brochures are issued or published for the sole purpose of giving an approximate idea of the Services and shall not form part of the Contract or have any contractual force.
- 5.3 The Customer is responsible for controlling the Equipment after Origio's delivery of the Services. If the Customer gives written notice to Origio within the Warranty Period that some or all of the Equipment do not comply with the warranty set out in clause 5.1, and the Equipment is in fact defective, Origio shall perform the Services again in relation to such Equipment, and any costs for travel and labour related thereto will not be invoiced to the Customer. Any spare parts will be invoiced in accordance with the Contract. If Origio's examination of the Equipment shows that the Equipment is in fact not defective, the Customer shall pay all Origio's costs related to such examination, including costs for travel and labour.
- 5.4 Notwithstanding clause 5.3, Origio shall not be liable for the Equipment's failure to comply with the warranty set out in clause 5.1 in any of the following events:
- 5.4.1 the Customer makes any further use of the Equipment after giving notice in accordance with clause 5.3;
- 5.4.2 the defect arises because the Customer has failed to follow Origio's oral or written instructions as to the storage, commissioning, installation, use and maintenance of the Equipment or (if there are none) good trade practice regarding the same;
- 5.4.3 the Customer or a third party alters or repairs the Equipment without the written consent of Origio;
- 5.4.4 the Customer does not comply with its obligations under clause 7.1.6; or

5.4.5 the defect arises as a result of fair wear and tear, wilful damage, negligence, or abnormal storage or working conditions.

5.5 All other warranties, conditions or other terms which may be implied into the Contract by statute or otherwise are hereby excluded to the fullest extent permitted by law, and, except as provided in this clause 5, Origio shall have no liability to the Customer in respect of the Services' failure to comply with the warranty set out in clause 5.1. WITHOUT LIMITING THE GENERALITY OF THE IMMEDIATELY PRECEDING SENTENCE, ORIGIO HEREBY DISCLAIMS ANY WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE.

## **6 Limitation of liability**

6.1 Origio shall not be liable to the Customer, whether in contract, tort (including negligence), breach of statutory duty, or otherwise, arising under or in connection with the Contract for (i) any damage to gametes, (ii) loss of profits, sales or business, (iii) loss of agreements or contracts, (iv) loss of anticipated savings, (v) loss of use or corruption of software, data or information, (vi) loss of or damage to goodwill, (vii) punitive damages, and (viii) any indirect or consequential losses.

6.2 Origio's total liability to the Customer, whether in contract, tort (including negligence), breach of statutory duty, or otherwise, arising under or in connection with the Contract, shall be limited to the greater of EUR 10,000 and fifty per cent (50%) of the total charges paid by the Customer under such Contract during the last 12 (twelve) months. Any other agreements or dealings between the parties shall not be included in the calculation of the total charges paid by the Customer during the last 12 (twelve) months.

6.3 Notwithstanding clauses 6.1 and 6.2 above, nothing in the Contract shall limit or exclude Origio's liability for any matter in respect of which it would be unlawful for Origio to restrict or exclude liability.

## **7 Customer's obligations**

7.1 The Customer shall:

7.1.1 ensure that the terms and contents of the Contract and any applicable information submitted by the Customer are complete and accurate;

7.1.2 co-operate with Origio in all matters relating to the Services;

7.1.3 ensure that the Services can be performed by Origio at the Service Address in compliance with applicable law and working environment regulation and perform any required preparatory work at its own expense and in a professional manner in order to prepare the Service Address and the Equipment for Origio. Unless otherwise agreed, any required preparatory work must be completed before Origio arrive at the Service Address;

7.1.4 ensure that no other person, including the Customer, than Origio alters or repairs the Equipment without the written consent of Origio;

7.1.5 comply with all applicable laws and regulations, including health, safety, anti-corruption, anti-bribery and money-laundering laws and regulations;

7.1.6 immediately install any software updates for the Equipment received from Origio; and

7.1.7 comply with any additional obligations set out in the Contract.

7.2 If Origio's performance of any of its obligations under the Contract is prevented or delayed by any act or omission by the Customer or failure by the Customer to perform any relevant obligation ("**Customer Default**"), then:

7.2.1 without limiting any other rights or remedies available to Origio, Origio shall have the right to suspend performance of its obligations under the Contract until the Customer remedies the Customer Default, and to rely on the Customer Default to relieve Origio from the performance of any of its obligations;

- 7.2.2 Origio shall not be liable for any costs or losses sustained or incurred by the Customer arising directly or indirectly from Origio's failure or delay to perform any of its obligations as set out in this clause 7.2; and
- 7.2.3 the Customer shall reimburse Origio on written demand for any costs or losses sustained or incurred by Origio arising directly or indirectly from the Customer Default.
- 7.2.4 The Customer shall immediately give notice in writing to Origio, if it becomes aware of any third party claim or suspected claim that in any way relates to Origio. Origio shall be entitled to provide support and/or intervene in any proceedings regarding such claim.

## **8 Data protection and data processing**

- 8.1 Each party shall (i) comply with any obligations that it may have under applicable data protection legislation in connection with its performance of its obligations under the Contract and (ii) take all reasonable precautions to ensure that personal data is processed in a secure and proper manner.

## **9 Confidentiality**

- 9.1 Each party undertakes that it shall not at any time disclose to any person any confidential information concerning the business, affairs, customers, clients or suppliers of the other party, including any part or content of the Contract.
- 9.2 Neither party shall use the other party's confidential information for any purpose other than to perform its obligations under the Contract. The Customer shall not use Origio as a reference or use the name, trademark or logo of Origio for any purpose without Origio's prior written consent to such use in each case.
- 9.3 Notwithstanding clauses 9.1 and 9.2 above, each party may disclose the other party's confidential information or the existence or terms of the Contract to the extent required by applicable law, regulation or securities exchange rules. If and when a party becomes subject to such a disclosure requirement it shall, to the extent practicable, give prior notice of that disclosure requirement to the other party and cooperate reasonably, at the other party's expense, with the other party's efforts to resist that disclosure requirement or obtain confidential treatment for the disclosed information

## **10 Termination**

- 10.1 Each party may terminate the Contract with a written notice of three (3) months. If the Contract concerns Subscription Services, the termination notice shall be three (3) months to the end of the current subscription period as set out in the Contract.
- 10.2 Notwithstanding clause 10.1, and without limiting any other rights or remedies available to Origio, Origio may terminate the Contract with immediate effect by giving written notice to the Customer if:
  - 10.2.1 the Customer commits a material breach of its obligations under the Contract and (if such breach is remediable) fails to remedy the breach within 14 (fourteen) calendar days after receipt of notice in writing to do so;
  - 10.2.2 the Customer takes any step or action in connection with its entering into administration, liquidation or any composition or arrangement with its creditors (other than in relation to a solvent restructuring), being wound up (whether voluntarily or by order of the court, unless for the purpose of a solvent restructuring), having a receiver appointed to any of its assets or ceasing to carry on business;
  - 10.2.3 the Customer suspends, threatens to suspend, ceases or threatens to cease to carry on all or a substantial part of its business;
  - 10.2.4 the Customer's financial position deteriorates to such an extent that in Origio's opinion the Customer's capability to adequately fulfil its obligations under the Contract has been placed in jeopardy;
  - 10.2.5 the Customer fails to pay any amount under the Contract on the due date for payment; or

10.2.6 there is a change of control of the Customer.

10.3 Without limiting any other rights or remedies available to Origio, Origio may suspend all further deliveries under the Contract or any other contract between the Customer and Origio in any of the events listed in clause 10.2.

## **11 Consequences of termination**

11.1 Termination of the Contract, cf. clause 10, shall not affect any rights, remedies, obligations and liabilities of the parties that have accrued up to the date of termination, including the right to claim damages in respect of any breach of the Contract, which existed at or before the date of termination.

11.2 If Origio terminates the Contract pursuant to clause 10.2 above, (i) the Customer shall immediately pay to Origio all of Origio's outstanding unpaid invoices and interest and, in respect of delivered Services for which no invoice has been submitted, Origio shall submit an invoice, which shall be payable by the Customer immediately on receipt, and (ii) the Customer shall not be entitled to repayment of any already paid subscription fee for Subscription Services.

11.3 Any provision of the Contract that expressly or by implication is intended to have effect after termination shall continue in full force and effect, including clauses 6, 9 and 14.

## **12 Force majeure**

12.1 Neither party shall be in breach of the Contract nor liable for delay in performing, or failure to perform, any of its obligations under the Contract if such delay or failure results from events, circumstances or causes beyond its reasonable control, including acts of God, governmental actions, war or national emergency, acts of terrorism, protests, riot, civil commotion, fire, explosion, flood, epidemic, lock-outs, strikes or other labour disputes, freight embargoes, breakdown of plant or machinery, or restraints or delays affecting carriers or inability or delay in obtaining supplies of adequate or suitable materials.

## **13 Miscellaneous**

13.1 Origio reserves the right to change the range of Services, including discontinuing Services, and amend the specifications for Services from time to time. Origio is under no obligation to offer substitute services for any discontinued or amended Services, and the Customer is not entitled to claim any damages or compensations in connection with any such changes.

13.2 Origio may at any time assign, transfer, mortgage, charge, subcontract or deal in any other manner with all or any of its rights or obligations under the Contract. The Customer may not assign, transfer, mortgage, charge, subcontract, declare a trust over or deal in any other manner with any or all of its rights or obligations under the Contract without the prior written consent of Origio.

13.3 The Customer agrees that it shall have no remedies in respect of any statement, representation, assurance or warranty (whether made innocently or negligently) that is not set out in the Contract.

13.4 Nothing in the Contract is intended to, or shall be deemed to, establish any partnership or joint venture between the parties, constitute either party the agent of the other, or authorise either party to make or enter into any commitments for or on behalf of the other party.

13.5 No variation of the Contract shall be effective unless it is in writing and signed by the parties.

13.6 Any notice or other communication given to a party under or in connection with the Contract shall be in writing in English and shall be (i) delivered by hand or by pre-paid first-class post or other next working day delivery service at its registered office (if a company) or its principal place of business (in any other case), or (ii) sent by email to the most recent email address notified by the other party.

13.7 If any provision or part-provision of the Contract is or becomes invalid, illegal or unenforceable, it shall be deemed modified to the minimum extent necessary to make it valid, legal and enforceable. If such modification is not possible, the relevant provision or part-provision shall be deemed deleted. Any

modification to or deletion of a provision or part-provision under this clause shall not affect the validity and enforceability of the rest of the Contract.

**14** **Governing law and jurisdiction**

14.1 The Contract and any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with it or its subject matter or formation, shall be governed by and construed in accordance with the laws of the Kingdom of Denmark, excluding its conflict of laws rules. Any application of the UN Convention on Contracts for the International Sale of Goods of 11 April 1980 (CISG) is hereby excluded.

14.2 Any dispute arising out of or in connection with the Contract, including any disputes regarding the existence, validity or termination thereof, shall be finally settled by mandatory arbitration administered by The Danish Institute of Arbitration in accordance with the rules of arbitration procedure adopted by The Danish Institute of Arbitration and in force at the time when such proceedings are commenced. The place of arbitration shall be Copenhagen, Denmark. The language to be used in the arbitral proceedings shall be English.

14.3 Nothing in the Contract or this clause 14 shall limit the right of a party to seek interim, protective or provisional relief in the courts of Denmark or elsewhere or to bring enforcement proceedings in Denmark or elsewhere or to bring debt collection proceedings in the courts of Denmark or elsewhere.

\*\*\*\*\*