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Terms and Conditions of Purchase

DEFINITIONS

- (1) "the Company " means Gilberts (Blackpool) Limited;
- (2) "the Supplier" means the supplier to whom the Order is issued;
- (3) "the Order" means the Company's Order (printed overleaf) to the Supplier in respect of the Goods;
- (4) "the Goods" means the Goods specified in the Order and all parts or components of them and all works to be done by the supplier as specified in the Order;
- (5) "the Works" means all works to be done by the Supplier as specified in the Order;
- (6) "the Contract" means any Contract for the purchase of the Goods by the Company from the Supplier;
- (7) "the Conditions" means those terms and conditions of purchase.

APPLICATION OF THE CONDITIONS

2 All Goods supplied to the Company are supplied on the Conditions and no variation of the Conditions shall have effect unless expressly accepted in writing by a director of the Company or Secretary of the Company. The Conditions exclude any other Terms and Conditions which the Supplier may seek to impose whether or not the same are contained in any offer acceptance or counter offer made by the Supplier.

ACCEPTANCE OF ORDER

3 (1) To be recognised and valid all Orders made by the Company must be written on the Company's official order form bearing an order number and signed by an authorised signatory of the Company.
(2) The Order is liable to cancellation unless accepted by the Supplier within 15 working days of the Order. Acceptance shall be by means of any written acknowledgement.

TERMS OF PAYMENT

4 (1) The Supplier shall:

- (A) send an advice note bearing the Company's official order number to the Company on the same date that the Goods are despatched and a copy of such advice note or packing slip bearing the Company's official order number must be enclosed with the Goods;
- (B) Sent by the tenth day of each month a statement of all invoices rendered during the previous month;
- (C) Mark the Company's Order number and any part number on all invoices advice notes, statements, correspondence, packaging and packing.

- (2) Payment will be made by the Company 60 days from the last day of the month of delivery.
- (3) Without prejudice to any other remedy the Company may delay payment without loss of prompt payment discount if the Supplier fails to comply with the provisions of the Conditions 4(1).
- (4) Prices quoted by the Supplier prior to the Contract are accepted as the maximum prices ruling at the date of the Contract and in the event of any general reduction in costs of production of the Supplier the Company shall be entitled to receive an immediate commensurate reduction in prices of the Goods. Unless otherwise agreed the price shall include payment in full for all tools, patterns, gauges, jigs, templates, drawings, data and artwork created to fulfil the Contract.
- (5) payment by the Company in accordance with the stipulated terms shall not constitute any admission by the Company as to the performance by the Supplier of his obligations under the Contract.

DELIVERY

- 5 (1) The Supplier shall adequately preserve and protect the Goods against damage deterioration corrosion or contamination and deliver the same carriage paid clearly and legibly labelled and addressed by any suitable method of transport at the Supplier's option.
- (2) The Supplier shall deliver the Goods in the quantities (or at the rate) and at the time stated in the Company's delivery or work schedules or in accordance with any other instruction given by the Company at the delivery point or points specified in the Order or as the Company directs. Time shall be of the essence in relation to delivery.
- (3) The Company reserves a right to collect the said Goods in its own vehicles in which event the Supplier shall make an allowance to the Company in respect of any carriage charges not incurred. Any carrier appointed by the Supplier or specified by the Company shall not be deemed to be the Company's Agent.
- (4) If delivery or completion of work is delayed or hindered by any circumstances outside the Supplier's

control for example acts of God, War, Riot, Explosion, Fire, Flood, Strikes, Lockout, Government Action or Regulations a reasonable extension of time may at the Company's option be granted provided that written notification of such delay or hindrance is given immediately the same arises.

(5) In respect of Goods purchased outside the United Kingdom the Contract unless otherwise stated shall be C.I.F. English Port with in-transit insurance extended to cover Goods up to delivery at the place of destination and payment shall be cash against document.

(6) The Supplier shall be responsible for any expenses incurred to the Company by the need to deliver any incorrectly delivered Goods to the correct delivery point or return any items delivered in excess of the quantities specified in the Order.

(7) The Company shall have no responsibility for packing materials or cases which must be provided free of charge and be non returnable.

(8) Unless the Goods are "proprietary Goods" of the Supplier's design intended for sale generally the Supplier shall not without the Company's prior written consent mark the Goods with any trade mark name or devise whatsoever. The Supplier shall mark the Goods as supplied by the Company.

(9) Where Goods or services are Ordered for delivery or execution over a period of time whether or not in accordance with a delivery or work schedule the Company reserves the right on reasonable notice to fix or vary such rate.

INSPECTION AND TESTING

6 (1) The Company's representatives and any representatives of the Company's purchaser or sub purchaser shall be entitled on the Company's authority to inspect any production process of the Supplier or any Goods acquired by the Supplier for the purpose of the Order and to inspect and test the Goods prior to despatch from the Suppliers premises or in the case of services the works done prior to completion but such inspection shall not be construed in any way as acceptance of the Goods or the works.

(2) The Supplier shall give adequate notice of all tests and furnish such test certificates, as the Company's requires.

PASSING OF TITLE AND RISKS

7 (1) Title in all components for the Goods, work done and tools to be used exclusively in connection with the Goods shall pass to the Company as soon as they are allocated by the Supplier to the Contract and in documents of any kind including drawings designs test certificates of quality parts lists and manuals as soon as they are prepared or obtained by the Supplier. The Supplier shall clearly mark and store all such items so that they can be identified as the property of the Company, make them available for inspection by the Company at any time and comply with all instructions of the Company with regard to them.

(2) Notwithstanding the passing of title risk in the Goods shall not pass to the Company until delivery.

MATERIALS

8 (1) All materials including without limitation any drawings, patterns, data, artwork, gauges, jigs, tools, templates, samples and specifications made available by the Company or made by the Supplier in connection with the Contract or any purpose including but without limitation, manufacture, assembling of the goods and for compiling spare parts, manuals shall be and remain the property of the Company.

(2) The Supplier shall :-

(a) Keep those materials in good order and condition and be responsible for any loss of damage to them;

- (b) Use those materials only for the purposes of the Contract and keep the same confidential;
- (c) Render to the Company on request a true and complete record of consumption of those materials;
- (d) Upon termination or completion of the Contract return to the Company on demand all such materials and any copies made by the Supplier.

(2) The Supplier shall not:-

- (a) Disclose any materials to any other person except for the purpose of the Contract;
 - (b) Supply those materials to anyone other than the Company.
- (2) Patentable inventions, registerable designs or copyright pertaining to those materials shall be the property of the Company and the Supplier shall if called upon by the Company assign or take such steps as are necessary to have assigned to the Company any such patentable inventions, registerable designs or copyright and on execution of any such assignment the Company shall grant the Supplier a royalty free licence to use any such patentable inventions, registerable designs or copyright.

QUALITY

9 Without prejudice to the Company's right of inspection the Goods and the Works supplied or done under any Contract must be in accordance with all contractual terms and be strictly to the quality required and be in complete accordance with quality control, engineering and specifications, drawings, descriptions, samples or any other data furnished by the Company.

WARRANTY

10. The Supplier shall at its own expense make good any defects which under proper use appear in the Goods during a period beginning on their delivery and ending 12 months after their delivery or during such other defects period as may be stipulated by the Company in the Order. Such warranty will apply to the benefit of the Company's customers or other users of the Goods.

TERMINATION AND REJECTION

11 (1) If the Supplier defaults in any of its obligations under the Contract, fails to deliver the Goods within the time specified or being a Company is wound up or has a Receiver (Administration or otherwise) appointed or being an individual being bankrupt or insolvent or enters into an agreement with his/her Creditors or if the Company bona fide believes that any of such events may occur, the Company may be entitled at its discretion without prejudice to any other remedy to suspend the performance of or to terminate the Contract and in the event of termination to keep or take possession of any Goods or of any items belonging to the Company and to enter any premises of the Supplier for that purpose.

(2) If any Goods do not conform to the Contract either at the time of inspection, delivery or completion on any grounds at all including without limitation a reason of quality or being unfit for the purpose they are required the Company shall be entitled at its discretion without prejudice to any other remedy to exercise any one or more of the following rights:-

- (a) Reject the Goods in whole or in part;
- (b) Permit the Supplier to replace, repair or reinstate the Goods so that they conform to the Contract;
- (c) Carry out or have carried out at the Supplier's expense such work as is necessary to make the Goods conform to the Contract.

(2) If the Company terminates the Contract the Supplier shall return to the Company all payments made

and if the Company rejects any Goods the Supplier shall return all payments already made for the rejected Goods. Whereupon termination the Company elects to keep or take any Goods it shall account to the Supplier for them at a proportion of their price or their value to the Company which ever is less but otherwise no compensation shall be payable to the Supplier on termination or rejection.

(3) No failure or delay on the part of the Company to exercise any of its rights in respect of any default under the Contract by the Supplier shall prejudice its rights in connection with the same or any subsequent default.

FORCE MAJEURE

12 (1) If the Company is prevented by any circumstances outside the Company's control including for example acts of God, War, Riot, Explosion, Abnormal Weather, Fire, Flood, Strike, Lockouts, Government Action or Regulations (UK or otherwise), Accidents or Labour Facilities from either taking delivery or using or employing the Goods or the Works ordered then delivery of such Goods or commencement of the Works may at the Company's option be suspended and if the suspension shall exceed three months and insofar as the same shall not have been completed at the date of suspension the Contract shall determine by notice in writing to the Company and no liability shall attach to the Company therefrom.

(2) If at any time deliveries are suspended for any such cause when the cause of the suspension is removed the Company may give to the Supplier within one month after resumption notice in writing requiring delivery at the Order rate after the expiration of the Order period of any balance then remaining undelivered and any such balance shall be so delivered and so far as possible all the provisions of the Order shall apply to such further deliveries.

PATENTS AND MONOPOLY RIGHTS

13 (1) The Supplier guarantees that the Goods supplied under the Contract may be used and sold anywhere in the world without infringing any patent registered design or any similar monopoly right.

(2) Should the Company at any time be advised or have good cause to believe that the Goods infringe any such patent registered design or similar monopoly right the Company may terminate the Contract.

INDEMNITY

14 (1) The Supplier shall indemnify the Company against loss (including consequential loss) or damage or injury to the Company, any claim in respect of loss (including consequential loss) damage or injury made against the Company by third parties and any costs or expenses arising in connection with such loss damage injury or claims as aforesaid which result from the Supplier's failure to comply with the Contract (whether negligent or otherwise) and in particular resulting from any defect in the Goods or Works or their material construction workmanship or design (to the extent that the Supplier is responsible for design) or any claim which any Goods prepared or supplied under the Contract otherwise than exclusively in accordance with the design or instruction given by the Company infringe or alleged to infringe the rights of any other party claimed under or in connection with any patent registered design, copyright or breach of confidence.

(2) The Supplier shall be at all times adequately insured with a reputable insurer against all insurable liabilities under the Contract and if required by the Company produce the relevant policies.

(3) The Supplier shall provide all facilities assistance and advice required by the Company or its insurers for the purpose of contesting or dealing with any action, claim or matter arising out of the Supplier's performance or purported performance of or failure to perform the Contract.

DESIGNS

- 15 (1) The Goods and copyright designs, drawings and other documents prepared in connection with the Order or the Contract or supply to the Company shall belong to the Company.
- (2) The Supplier shall use those documents only for the purposes of the Contract and shall return them carriage paid to the Company upon the Company's request at any time or if no request is made upon completion of the Contract.
- (3) The Supplier shall be responsible for any errors or omissions in any drawings, calculations or particulars supplied by it whether or not such information has been approved by the Company.
- (4) The Company will have free right to reproduce and use and to authorise others to reproduce and use drawings technical information and document improvements and modifications (whether originating wholly or partly with a Supplier or its sub- contractors) relating to the Goods Or their manufacture or assembly of them as part of the Company's products or used in compiling spare parts manuals of the Company's products.

CONFIDENTIALITY

16 The Contract and its subject matter and other information supplied thereunder or derived therefrom is strictly confidential and shall not, without the Company's written prior consent, be disclosed or used for any unauthorised purpose.

STATUTORY AND OTHER REQUIREMENTS

- 17 (1) Insofar as this Order is placed in connection with or for the purposes of a Contract with a Government Department the Order is to be deemed to be subject to such conditions, rules, regulations and instructions as are appropriate under the terms of such Contract for inclusion in the Order. Particulars thereof will be supplied by the Company upon request and in the absence of such request the Supplier shall be deemed to have full knowledge thereof.
- (2) The Supplier undertakes that the Goods are designed and constructed so that they will be safe without risk to health and at all times when they are being set, used, cleaned or maintained complying all respects with all relevant Statutes, Regulations, bye laws and standards in force at the date of delivery including but without prejudice to the generality of the foregoing the Factories Act 1961, the Health and Safety at Work Act 1974 as amended, and other similar provisions. The Supplier shall supply in respect of the Goods such information about the use of them as complies with the Health and Safety Act 1974 as amended and proper evidence for tests and examinations and research made in compliance with the provisions of said Act.
- (3) Goods must be supplied with correct Certificates as required by the Contract.

ASSIGNMENT AND SUB-LETTING

- 18 (1) The Supplier shall not assign or without the written consent of the Company sub-let the Contract in whole or in part and shall be a condition of any such consent to any sub-letting of the Contract that the Supplier shall: –
- (A) Ensure and be responsible for the compliance by any sub-contractor with the terms of the Contract;
- (B) Included in the sub-contract provisions consistent with these conditions for the benefit of and enforceable by the Company; and
- (C) Furnish the Company with copies of any sub-contract upon the Company's request at any time.

LAW AND CONSTRUCTION

19 (1) The Company shall be governed by English law and the Supplier consents to the exclusive jurisdiction of the English Courts on all matters regarding the Contract except to the extent that the Company invokes the jurisdiction of the Court of any other Country.

(2) The headings of Conditions are for the convenience of reference only and shall not affect the interpretation of this Contract.

NOTICES

20 Any notice to be given under the Contract shall be in writing, sent by facsimile transmission or forwarded by first class pre-paid post (registered or recorded delivery) letter post to the receiving party at its business address as last notified in writing to the other party and shall be deemed to have been given on the date of the facsimile transmission or on the day following that on which the notice was posted.

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