

CONDITIONS OF PURCHASE
GILBERT GILKES & GORDON LTD
Jan 2012

1. Definitions

In these Conditions (unless the contract otherwise requires) the following expressions shall have the following meanings : -

WORD

MEANING

The purchaser:

Gilbert Gilkes & Gordon Ltd

The seller:

The person, firm or company selling goods to the purchaser.

The goods:

All components, items, or equipment covered by the purchase order, (as defined hereunder).

The purchase order:

The purchaser's formal written order for goods, which incorporates these Conditions.

The contract:

Shall mean the agreement of the parties hereto comprising the purchase order, these Conditions or any other documents, (or parts thereof) specified in the purchase order.

2. Construction of Contract

Any terms enclosed on, or contained in, any Conditions of Sale submitted by the seller which are inconsistent with these Conditions, shall be deemed to be superseded and nullified by these Conditions, unless otherwise agreed by the purchaser in writing.

3. Purchase Order Form

The purchaser will not accept liability under any orders except such as are made on the purchasers printed purchase order form signed by the purchasers authorised buyer on behalf of the purchaser and where the suppliers acknowledgement copy of the purchase order has been returned to the purchaser duly signed.

4. Acceptance

The purchaser will incur no obligation in respect of any order placed by it until the purchaser receives the sellers written confirmation that the seller accepts the Terms and Conditions laid down in the purchase order which incorporates these Conditions.

5. Taxes and Other Charges

All taxes, charges and duties of any kind relative to this contract, except value added tax payable to the Government or any other relevant authority of the United Kingdom, are chargeable to the seller. Value Added Tax will be paid by each party in accordance with the relevant legislation.

6. Prices

The price for the goods shall not exceed that specified in the purchase order unless otherwise agreed in writing by the parties hereto.

Payments shall be made direct to the seller and any payments will be made without prejudice to any rights of the purchaser in connection with the contract.

The purchaser may offset any claims it may have against the seller or any monies due from the seller to the purchaser under the contract or in any other connection against any monies due from the purchaser to the seller under the contract.

7. Delivery

Time shall be of essence in the Contract. It is however, agreed that should the seller be delayed in the work by the act, neglect, delay, or default of the Purchaser, of any other contractor employed by the purchaser upon the work or by causes beyond the control of the seller including but not restricted to decrees or Government, acts of God, acts of civil or military authority, fire, explosions, riots, wars, sabotage, work stoppages due to labour disputes or strikes, adverse weather conditions, floods, epidemics and quarantine restrictions, or by addition or alteration in the work ordered in writing by the purchaser, then the time fixed for completion of the work shall be extended for a period equivalent by the time lost, but no extension shall be made unless written claim is made within five (5) days of such event. The duration of such delay shall be determined by the purchaser. The extension of time granted shall be the sellers exclusive remedy in the event of such delay, no matter how or by whom caused.

8. Warranty

The seller, undertakes at his own cost and with all possible speed to repair or replace any or all of the goods which are or become defective or damaged during the period of twelve months from putting into service where such defects occur under proper usage, and arise from:

i) defective materials, workmanship or design.

- ii) seller's inadequate or erroneous instructions.
- iii) seller's erroneous use of data.

Repairs and replacements shall themselves be subject to the forgoing obligations for a period of twelve months from putting to work.

It is expressly declared that the seller's responsibility under this clause shall include, not only the cost of repair or replacement of the part but, also all other costs incidental to the repair and replacement including, but not limited to, labour costs and expenses incurred in diagnosing the defect.

If any such defect shall appear or damage occur the purchaser shall inform the seller thereof, in writing stating the nature of defect or damage. If any such defect or damage be not remedied in a reasonable time, the purchaser may proceed to carry out the work at the seller's expense, without prejudice to any other rights the purchaser may have.

9. Sub-contracting

No part of the contract is to be sub-contracted by the seller without first obtaining written permission from the purchaser. In the event of the purchaser agreeing to any such sub-contracting, the seller shall be responsible for all work carried out and goods supplied by all sub-contractors.

10. Quantity and Quality

Goods delivered in excess of the quantity specified in the contract or due to be delivered at the time of such delivery may at the purchaser's opinion be accepted or rejected and returns at the seller's expense. In the absence of a specification or sample all goods supplied shall be within the normal limits of industrial quality. The seller shall protect any item or part that might deteriorate through corrosion during transportation.

11. Variations

The seller should not alter any of the goods but the purchaser shall have the right, from time to time, during the execution of the contract, by notice in writing to the seller, to add or to omit from or otherwise vary the goods the seller shall carry out such variations and be bound by the same Conditions, so far as applicable, as through the said variations were stated in the contract.

Where the seller receives any such direction from the purchaser which would occasion an amendment to the contract price, the seller shall, with all possible speed, advise the purchaser in writing to that effect stating the amount of any such amendment ascertained and determined at the same level or pricing as that contained in the contract. If, in the opinion of the seller any such direction is likely to prevent the seller from fulfilling any of his obligations under the contract varied, he shall so notify the purchaser and the purchaser shall decide as quickly as possible whether or not the same shall be carried out and shall confirm its instructions in writing and modify the said obligations to such an extent as may be justified. Until the company so confirms its instructions they shall not be deemed to have been given.

12. Inspection and/or test

The purchaser reserves the right to inspect and/or test all goods at the seller's works before despatch or after receipt at the purchaser's works and to reject any goods which do not comply with the terms of the contract but such inspection/test does not relieve the seller from any obligation under the contract. Access will be granted at all reasonable times in normal working hours to the purchaser's and/or their principal's personnel for the purpose.

13. Indemnity

a) The seller shall keep the purchaser indemnified against any demand, claim, costs, charges and expenses arising from or incurred by reason of any infringement of any letters, patent, registered design, copyright, trade mark or trade name in respect of the goods and against all costs and damages which the purchaser may incur in any action for such infringement or for which the purchaser may become liable in any such action.

b) The seller shall keep the purchaser indemnified in respect of any claim, demand, costs, charges, expenses arising from personal injury to any person whatsoever and any loss or damage to any property incurred in the execution of this contract (including any period of maintenance whether at the purchaser's works or elsewhere) or attributable to any defects in the goods, except claims arising from the negligence of the purchaser or its servants insofar only as such negligence is not contributed to by the seller or any person in his employ.

c) The seller shall keep the purchaser indemnified against any loss the purchaser may suffer as a result of the seller being in breach of any statutory duty in relation to the goods or any part thereof.

14. Responsibility for Information

The seller shall be responsible for any errors or omissions in all drawings, calculations, packing details, or other particulars supplied by it whether such information has been approved by the purchaser or not, provided that such errors or omissions are not due to inaccurate information published in writing by the purchaser.

15. Free Issue Material

Where the purchaser, for the purpose of the contract issues materials free of charge to the seller, such materials shall be and remain the property of the purchaser. The seller shall maintain all such material in good order and condition subject, in the case of tooling, patterns and the like to fair wear and tear. The seller shall use all such materials solely in connection with the contract. Waste of such materials to be processed by the seller arising from bad workmanship or negligence of the seller shall be made good by or charged to the seller at full cost value.

16. Purchaser's Equipment and Drawings

All specifications, plans, designs, patterns, drawings, tools and other information and equipment owned by the purchaser and used by or on behalf of the seller with the agreement of the purchaser shall remain the property of the purchaser and shall not be used for any other requirement unless authorised by the purchaser in writing and are to be returned to the Company in good condition on its request and any information derived therefrom or otherwise communicated to the seller in connection with the contract shall be regarded by the seller as secret and confidential and shall not be disclosed to any third party or made use of by the seller except for the purpose of implementing the contract.

17. Insurance of Material

Any material or goods of any description sent by the purchaser to the seller to be processed or for any other purpose is to be insured by the seller against loss or damage by fire or any other insurable risk whilst in his possession.

18. Supply to Third Parties

The seller shall not supply to any other buyer any goods manufactured to the purchaser's design written specification and shall refer to the purchaser in writing any enquiries or orders for such goods which it may receive.

19. Force Majeure

If before delivery of the goods is completed the purchaser's business is stopped, interrupted or restricted due to war, strike, lock out, riot, civil commotion, epidemic, unusual inclemency of the weather, fire, accident, governmental acts, shortage of materials or labour or any other cause whatsoever and wheresoever beyond the control of the purchaser, then delivery may at the opinion of the purchaser be partly or wholly suspended (as the case may require) during the continuance of such stoppages, interruption or restriction and the time for delivery shall be correspondingly extended or delivery may be cancelled by the purchaser and upon such cancellation the purchaser shall pay the seller such sum as may be applicable in respect of work performed prior to cancellation.

20. Insolvency

If the seller becomes insolvent or (being a company) makes an arrangement with its creditors or has a Receiver appointed or commences to be wound-up (other than for purposes of amalgamation or reconstruction) the purchaser may, without prejudice to any other of its rights, terminate the contract forthwith by notice to the seller or any person in whom the contract may have become vested.

21. Assignment

Neither the contract nor the rights thereunder may be assigned by the seller.

22. Interpretation of Contract

The Uniform Law on the International Sale of Goods shall not apply in any way to these Conditions of Sale except where expressly implied by statute. The proper law of the contract shall be the English Law in force at the date hereof and this contract and all matters arising therefrom shall be subject to and governed by the Laws of England and shall, except where otherwise herein provided, be dealt with by the Courts of England.

23. Patent Rights

There is no licence implied or granted to manufacture, produce or sell or otherwise use the goods which may infringe any patent rights owned by the seller or others.

24. Sub-contract Machining and/or Fabrication Work

24.1 Definitions

- a) 'Material' means Free Issue Material supplied to the sub-contractor by the purchaser for the work agreed.
- b) 'Work' means the operation, or operations, carried out by the sub-contractor in fulfilling the written order from the purchaser which confirms price and delivery.
- c) 'Goods' means the completed item, or items, specified in the purchaser's order with all operations correctly completed.

- d) 'Principal' means the company to whom Gilbert Gilkes and Gordon Ltd. is supplying the goods as part of their overall Contract of Sale.

24.2 **General**

- a) All goods are subject to inspection by the purchaser's personnel either in the sub-contractor's works or the purchaser's works. On any goods which are rejected by the purchaser's inspector by reason of being out of tolerance and/or limits shown on our drawings, or for any other reason, the following will apply:-
 - i) Any reworking or replacement will be free of charge to the purchaser.
 - ii) Any reworking or replacement will be subject to the purchaser's approval. Such approval must be obtained in writing prior to commencement of the work involved.
- b) All work will be carried out to the purchaser's drawings provided with the purchase order. No variation from those drawings is allowed unless by written permission from the purchaser.
- c) Where transport is the sub contractor's responsibility, the sub-contractor shall be responsible for any damage in transit to out works, and will be responsible for correcting and putting right such damage.
- d) No other material may be used or substituted without agreement from the purchaser in writing.
- e) The purchaser's inspectors and/or the principal's inspectors will have the right to access at any time during normal working hours, with reasonable notice, to the seller's premises for the purpose of inspecting the goods and/or materials in process.