

1. BASIS OF CONTRACT

- 1.1 Your order constitutes an offer by you to purchase goods (**Goods**) and/or services (**Services**) in accordance with these terms and conditions (**Conditions**) and any terms set out in our quotation form or Order Acknowledgement.
- 1.2 Your order shall only be deemed to be accepted when we issue an Order Acknowledgement at which point and on which date a formal Order exists as a contract between you and us (being Gardner Group Limited or any of its subsidiaries from time to time as set out in the Order Acknowledgement) in accordance with these Conditions (**Contract**). For the avoidance of doubt we shall not be required to accept Orders which you place and any acceptance shall be at our sole discretion.
- 1.3 The Contract constitutes the entire agreement between us. You acknowledge that you have not relied on any statement, promise or representation made or given by or on behalf of us which is not set out in the Contract.
- 1.4 Any samples, drawings, descriptive matter or advertising issued by us and any descriptions of the Goods or illustrations or descriptions of the Services contained in any documents forwarded to you are issued or published for the sole purpose of giving an approximate idea of the Services and/or Goods described in them. They shall not form part of the Contract or have any contractual force except where expressly provided in these Conditions or expressly incorporated in our Order Acknowledgement.
- 1.5 These Conditions apply to the Contract to the exclusion of any other terms that you seek to impose or incorporate (including any terms previously issued by you), or which are implied by trade, custom, practice or course of dealing.
- 1.6 Any quotation given by us shall be subject to the Conditions but shall not constitute a legally binding offer capable of acceptance by you. Any quotation is only valid for a period of 30 days from its date of issue.
- 1.7 All of these Conditions shall apply to the supply of both Goods and Services except where application to one or the other is specified.

2. SUPPLY OF GOODS

- 2.1 We shall supply you with the Goods of the type and in the quantities described in the Order or where applicable as more particularly set out in a specification document attached or referred to in the Order (**Goods Specification**). The Goods Specification may include detailed drawings, sketch drawings and/or first article parts.
- 2.2 Subject to payment by you of the price in full, we warrant that on delivery, and for a period of 12 months from the date of delivery to you in accordance with these conditions (**Warranty Period**), the Goods shall:
- (a) conform in all material respects with any relevant Goods Specification; and
 - (b) conform in all material respects with any samples or red banded masters supplied by you agreed between you and us in writing.
- 2.3 Unless otherwise stated in the Order we shall not be obliged to provide any post delivery support in relation to the Goods, nor shall we be responsible for any form of airworthiness certification. Any certificate of conformity provided by us in relation to the Goods shall not operate so as to extend the scope of the warranties set out in these Conditions.
- 2.4 Subject to the warranties provided in clause 2.2, all other warranties, express or implied are to the fullest extent permitted by law excluded from the Contract.
- 2.5 Subject to clause 2.7, if:
- (a) you give notice in writing during the Warranty Period within 7 days of discovery that some or all of the Goods do not comply with the warranty set out in clause 2.2; and
 - (b) we are given a reasonable opportunity of examining such Goods; and
 - (c) you (if asked to do so by us) return such Goods to our place of business at your cost, we shall, at our option, repair or replace the defective Goods, or refund the price of the defective Goods in full.
- 2.6 Except as provided in clause 2.5 above, we shall have no liability to you in respect of the Goods' failure to comply with the warranty set out in clause 2.2.
- 2.7 We shall not be liable for the Goods' failure to comply with the warranty in clause 2.2 if:
- (a) you make any further use of such Goods after giving a notice in accordance with clause 2.5;

- (b) the defect arises because you failed to follow our oral or written instructions as to the storage, installation, commissioning, use or maintenance of the Goods or in the absence of such instruction you fail to store, install, commission, use or maintain the Goods in accordance with best industry practice;
- (c) the defect arises as a result of us following any drawing, design process or Goods Specification supplied or agreed by you;
- (d) you alter or repair such Goods without our written consent;
- (e) the defect arises as a result of fair wear and tear, wilful damage, negligence, or abnormal working conditions.

2.8 These Conditions shall apply to any repaired or replacement Goods supplied by us under clause 2.5.

3. INDEMNITY

3.1 To the extent that the Goods or any part of the Goods are to be manufactured in accordance with:

- (a) any information, specifications or requirements provided to us by you (including, where provided by you, the Goods Specification); or
- (b) samples agreed between you and us in writing,

you shall indemnify us against all liabilities, costs, expenses, damages and losses (including any direct, indirect or consequential losses, loss of profit, loss of reputation and all interest, penalties and legal and other professional costs and expenses) suffered or incurred by us in connection with any claim made against us arising out of or in connection with the use of the Goods, including but not limited to actual or alleged infringement of a third party's intellectual property rights. This clause 3.1 shall survive termination of the Contract.

4. DELIVERY OF GOODS

4.1 Unless otherwise set out in the Order, delivery shall take place EX WORKS INCOTERMS 2010 at the premises of the Gardner company set out in the Order (**Delivery Location**) and at any time we notify you that the Goods are ready.

4.2 Delivery of the Goods shall be completed on the Goods' arrival at the Delivery Location or their being made available to you at the Delivery Location where delivery takes place EX WORKS INCOTERMS 2010.

- 4.3 Any dates quoted for delivery of the Goods are approximate only, and the time of delivery is not of the essence. We shall not be liable for any delay in delivery of the Goods that is caused by a Force Majeure Event or your failure to provide us with adequate delivery instructions or any other instructions that are relevant to the supply of the Goods.
- 4.4 If we fail to deliver the Goods and such failure is not caused by you or an event of Force Majeure as described at clause 15.1 below then we shall have no liability to you unless we are in excess of 30 days late.
- 4.5 If you fail to accept or take delivery of the Goods within 7 days of us notifying you that the Goods are ready, then except where such failure or delay is caused by our failure to comply with our obligations under the Contract in respect of the Goods:-
- (a) delivery of the Goods shall be deemed to have been completed at 9.00 am 2 days following the day on which we notified you that the Goods were ready; and
 - (b) we shall store the Goods until you are able to take physical possession of the Goods, and charge you for all related costs and expenses (including insurance).
- 4.6 If 7 days after we notified you that the Goods were ready for delivery you have not accepted or taken delivery of them, we may resell or otherwise dispose of part or all of the Goods and may charge you for any shortfall below the price of the Goods in addition to any other losses we suffer.
- 4.7 You shall not be entitled to reject the Goods if we deliver up to and including 5 percent more or less than the quantity of Goods ordered, but a pro-rata adjustment shall be made to the Order invoice on receipt of notice from you that the wrong quantity of Goods was delivered. Any notification or shortfall beyond the scope of the parameters referred to above must be notified to us within 7 days of delivery.
- 4.8 We may deliver the Goods by instalments, which shall be invoiced and paid for separately. Each instalment shall constitute a separate contract. Any delay in delivery or defect in an instalment shall not entitle you to cancel any other instalment.

5. TITLE AND RISK

- 5.1 The risk in the Goods shall pass to you on completion of delivery.

- 5.2 Title to the Goods shall not pass to you until we have received payment in full (in cash or cleared funds) for:
- (a) the Goods; and
 - (b) any other goods that we have supplied to you in respect of which payment has become due.
- 5.3 Until title to the Goods has passed to you, you shall:
- (a) hold the Goods on a fiduciary basis as our bailee;
 - (b) store the Goods separately from all other goods held so that they remain readily identifiable as our property;
 - (c) not remove, deface or obscure any identifying mark or packaging on or relating to the Goods;
 - (d) maintain the Goods in satisfactory condition and keep them insured against all risks for their full price on our behalf from the date of delivery;
 - (e) notify us immediately if you become subject to any of the events listed in clause 12.1(b) to clause 12.1(j); and
 - (f) give us such information relating to the Goods as we may require from time to time,

but you may resell or use the Goods in the ordinary course of your business.

- 5.4 If before title to the Goods passes to you, you become subject to any of the events listed in clause 12.1(b) to clause 12.1(j), or we reasonably believe that any such event is about to happen and notify you accordingly, then, provided the Goods have not been resold, or irrevocably incorporated into another product, and without limiting any other right or remedy we may have, we may at any time require you to deliver up the Goods and, if you fail to do so promptly, enter any of your premises or the premises of any third party where the Goods are stored in order to recover them.

6. REWORK & REFURBISHMENT SERVICES & MODIFICATIONS AND REWORKED PARTS

- 6.1 We shall provide the Services to you in all material respects in accordance with the Order and/or where relevant as more particularly set out in a specification document attached or referred to in the Order (**Services Specification**). The Services Specification may include detailed drawings, sketch drawings, process descriptions and any other relevant information relating to the Services.

- 6.2 The Services which we provide to you may relate to the reworking or refurbishment of third party parts or components and we accept no liability whatsoever for any third party parts or components. Our liability shall extend solely to the provision of the Services.
- 6.3 Where we return third party parts or components to you following completion of the Services then for the purposes of the Contract (subject always to clause 6.2) they shall be considered Goods for the purposes of the following clauses of these Conditions: - 4.1, 4.2, 4.3, 4.5, 4.7, 12.3, 13(e).
- 6.4 We shall use our reasonable endeavours to meet any performance dates and/or delivery dates for the Services specified in the Order or the Service Specification, but any such dates shall be estimates only and time shall not be of the essence for the performance of the Services.
- 6.5 We shall have the right to make any changes to the Services which are necessary to comply with any applicable law or safety requirement, or which do not materially affect the nature or quality of the Services, and we shall notify you in any such event.
- 6.6 We warrant to you that the Services will be provided using reasonable care and skill but shall have no liability whatsoever in relation to any breach of warranty in respect of the Services where such breach arises as a result of your actions in whole or in part including but not limited to any defect in the Services Specification or any Customer Default.

7. YOUR OBLIGATIONS

- 7.1 You shall:
- (a) ensure that the terms of the Order (including where relevant the terms of any Goods Specification or Services Specification) are complete and accurate;
 - (b) co-operate with us in all matters relating to the Goods and Services;
 - (c) provide us, our employees, agents, consultants and subcontractors, with such access to your premises as may be required by us to assist with the provision of the Services and the supply of Goods;
 - (d) provide us with such information and materials (including where relevant third party parts or components required in connection with the Services) as we may reasonably require to supply the Services, and ensure that such information is accurate in all material respects;

- (e) obtain and maintain all necessary licences, permissions and consents which may be required for the Services before the date on which the Services are to start and/or for the Goods before the date that the Goods are to be delivered including but not limited to any export licences and/or military or governmental licences necessary for the import of the Goods (including any component parts) from any country of origin and export of the Goods (including any component parts) to any country of destination or intended destination; and
- (f) keep and maintain all materials, equipment, documents and other property belonging to us (including where relevant first articles) (**GAe Materials**) at your premises in safe custody at your own risk, maintain the GAe Materials in good condition until returned to us, and not dispose of or use the GAe Materials other than in accordance with our written instructions or authorisation. All GAe Materials shall remain our exclusive property.

7.2 If our performance of any of our obligations in respect of the Services is prevented or delayed by any act or omission by you or failure by you to perform any relevant obligation (**Customer Default**):

- (a) we shall without limiting our other rights or remedies have the right to suspend performance of the Services until you remedy the Customer Default, and to rely on the Customer Default to relieve us from the performance of any of our obligations to the extent the Customer Default prevents or delays our performance of any of our obligations;
- (b) we shall not be liable for any costs or losses sustained or incurred by you arising directly or indirectly from our failure or delay to perform any of our obligations as set out in this clause 7.2; and
- (c) you shall reimburse us on written demand for any costs or losses sustained or incurred by us arising directly or indirectly from the Customer Default.

8. CHARGES AND PAYMENT

8.1 The price for Goods and/or Services shall be the price set out in the Order. Except as set out in the Specification or Order, the price of the Goods is exclusive of all costs and charges of packaging, insurance, transport of the Goods, which shall be paid by you when you pay for the Goods to the extent that we agree to arrange transport of the goods on your behalf.

8.2 We reserve the right to increase the price of the Goods or Services, by giving notice to you at any time before delivery, to reflect any increase in the cost of the Goods or Services to us that is due to:

- (i) any factor beyond our control (including foreign exchange fluctuations, increases in taxes and duties, and increases in labour, materials and other manufacturing costs);
- (ii) any request by you to change the delivery date(s), quantities or types of Goods or Services ordered, or the Goods Specification or the Services Specifications; or
- (iii) any delay caused by any instructions from you in respect of the Goods or Services or your failure to give us adequate or accurate information or instructions in respect of the Goods.

8.3 We shall be entitled to invoice you on or at any time after completion of delivery in accordance with clause 4.2.

8.4 Where our charges include any element of non recurring costs, we shall be entitled to invoice you at any time following the date of the Order in respect of the same. Where the non recurring costs relate to costs of tooling such tooling shall remain our exclusive property until such time as all non recurring costs are paid in full. Until such time as payment is received in full any tools or tooling shall remain GAE Materials.

8.5 You shall pay each invoice submitted by us:

- (a) within 30 days of the date of the invoice; and
- (b) in full and in cleared funds to a bank account nominated in writing by us, and

time for payment shall be of the essence of the Contract.

8.6 All amounts payable by you under the Contract are exclusive of amounts in respect of value added tax chargeable from time to time (**VAT**). Where any taxable supply for VAT purposes is made under the Contract by us to you, you shall, on receipt of a valid VAT invoice from us, pay to us such additional amounts in respect of VAT as are chargeable on the supply of the Services or Goods at the same time as payment is due for the supply of the Services or Goods.

8.7 Without limiting any other of our rights or remedies, if you fail to make any payment due to us under the Contract by the due date for payment (**Due Date**), we shall have the right to charge interest and where applicable compensation on the overdue amount at the rate of 10% p.a. on a monthly basis.

8.8 You shall pay all amounts due under the Contract in full without any deduction or withholding except as required by law and you shall not be entitled to assert any credit, set-off or counterclaim against us in order to justify withholding payment of any such amount in whole or in part. We may, without limiting our other rights or remedies, set off any amount owing to us by you against any amount payable by us to you.

8.9 We shall be entitled to allocate all payments received from you to the oldest debt owed by you.

9. INTELLECTUAL PROPERTY RIGHTS

9.1 All intellectual property rights of whatever nature and arising anywhere in the world which apply or arise in connection with the manufacture or supply of the Goods or supply of the Services shall to the extent not specifically set out in the Goods Specification or Services Specification with such detail so as to require no further knowledge or manufacturing input be our sole and exclusive property.

10. CONFIDENTIALITY

You shall keep in strict confidence all technical or commercial know-how, specifications, inventions, processes or initiatives which are of a confidential nature and have been disclosed to you by us, our employees, agents or subcontractors, and any other confidential information concerning our business or products or services which you may obtain. You shall restrict disclosure of such confidential information to such of your employees, agents or subcontractors as need to know it for the purpose of discharging your obligations under the Contract, and shall ensure that such employees, agents or subcontractors are subject to obligations of confidentiality corresponding to those which bind you. This clause 10 shall survive termination of the Contract.

11. LIMITATION OF LIABILITY

- 11.1 Nothing in these Conditions shall limit or exclude our liability for:
- (a) death or personal injury caused by our negligence, or the negligence of our employees, agents or subcontractors;
 - (b) fraud or fraudulent misrepresentation;
 - (c) breach of the terms implied by the Indian Contract Act, 1872; or
 - (d) breach of the terms implied by the Sale of Goods Act 1930 (title and quiet possession).

11.2 Subject to clause 11.1:

- (a) we shall under no circumstances whatsoever be liable to you, whether in contract, tort (including negligence), breach of statutory duty, or otherwise, for any loss of profit, or any indirect or consequential loss arising under or in connection with the Contract; and
- (b) our total liability to you in respect of all other losses arising under or in connection with the Contract, whether in contract, tort (including negligence), breach of statutory duty, or otherwise, shall in no circumstances exceed the price paid under the Contract.

11.3 Subject to clause 11.1 we shall have no liability to you where any alleged defect results from any instructions or information provided by you.

11.4 Except as set out in these Conditions, all warranties, conditions and other terms implied by statute or common law are, to the fullest extent permitted by law, excluded from the Contract.

11.5 This clause 11 shall survive termination of the Contract.

12. TERMINATION

12.1 Without limiting our other rights or remedies, we may terminate the Contract with immediate effect by giving written notice to you if:

- (a) you commit a material breach of your obligations under the Contract and (if such breach is remediable) you fail to remedy that breach within 28 days after receipt of notice in writing of the breach;
- (b) you have been declared insolvent;
- (c) you commence negotiations with all or any class of your creditors with a view to rescheduling any of your debts, or you make a proposal for or enter into any compromise or arrangement with your creditors;
- (d) a petition is filed, a notice is given, a resolution is passed, or an order is made, for or in connection with your winding up (being a company);
- (e) any creditor or encumbrancer of yours attaches or takes possession of, or a distress, execution, sequestration or other such process is levied or enforced on or sued against, the whole or any part of your assets and such attachment or process is not discharged within 14 days;
- (f) an application is made to court, or an order is made, for the appointment of an administrator or if a notice of intention to appoint an administrator is given or if an administrator is appointed over you (being a company);

- (g) company has gone for liquidation;
- (h) a person becomes entitled to appoint a receiver over your assets or a receiver is appointed over your assets;
- (i) any event occurs, or proceedings are taken, in respect of you in any jurisdiction to which the subject has an effect equivalent or similar to any of the events mentioned in clause 12.1(b) to clause 12.1(h) (inclusive); or
- (j) you suspend, threaten to suspend, cease or threaten to cease to carry on, all or substantially the whole of your business.

12.2 Without limiting our other rights or remedies, we may terminate the Contract with immediate effect by giving written notice to you if you fail to pay any amount due under the Contract on the due date for payment.

12.3 Without limiting our other rights or remedies, we shall have the right to suspend the supply of Services or all further deliveries of Goods under the Contract or any other contract between you and us if:

- (a) you fail to pay any amount due under the Contract on the due date for payment; or
- (b) you become subject to any of the events listed in clause 12.1(b) to clause 12.1(j), or we reasonably believe that you are about to become subject to any of them.

12.4 You may terminate the Contract by giving written notice to us if we commit a material breach of our obligations under the Contract and (if such breach is remediable) we fail to remedy that breach within 28 days after receipt of your notice in writing of the breach.

13. CONSEQUENCES OF TERMINATION

On termination of the Contract for any reason:

- (a) you shall immediately pay to us all of our outstanding unpaid invoices and interest and, in respect of Services supplied but for which no invoice has yet been submitted, we shall submit an invoice, which shall be payable by you immediately on receipt;
- (b) you shall return all of the GAe Materials and any documents (including designs or drawings which relate to the supply of Goods and/or Services which have not been fully paid for. If you fail to do so, then we may enter your premises and take possession of them. Until they have been returned, you shall be solely responsible for their safe keeping and will not use them for any purpose not connected with the Contract;

- (c) the accrued rights and remedies of the parties as at termination shall not be affected, including the right to claim damages in respect of any breach of the Contract which existed at or before the date of termination or expiry;
- (d) clauses which expressly or by implication have effect after termination shall continue in full force and effect; and
- (e) you shall immediately pay to us our costs associated with part performance of the Contract including but not limited to the immediate payment of any outstanding non-recurring costs, the costs of raw materials purchased in connection with the Goods and/or Services and all costs associated with part finished Goods calculated as a percentage of the Goods price which we consider appropriate in our sole discretion.

14. COMPLIANCE WITH RELEVANT REQUIREMENTS

14.1 You shall:

- (a) comply with all applicable laws, statutes, regulations, and codes relating to anti-bribery and anti-corruption including but not limited to the Prevention of Corruption Act, 1988 (**Relevant Requirements**);
- (b) not engage in any activity, practice or conduct which would constitute an offence under the Prevention of Corruption Act, 1988 if such activity, practice or conduct had been carried out in India;
- (c) have and shall maintain in place throughout the term of the Contract your own policies and procedures, including but not limited to adequate procedures under the various laws, to ensure compliance with the Relevant Requirements and will enforce them where appropriate;
- (d) promptly report to us any request or demand for any undue financial or other advantage of any kind received by you in connection with the performance of the Contract;
- (e) immediately notify us (in writing) if a foreign public official becomes your officer or employee or acquires a direct or indirect interest in your business (and you warrant that you have no foreign public officials as officers, employees or direct or indirect owners at the date of the Contract);
- (f) annually certify to us in writing your compliance with this clause 14 and all persons associated with it under clause 14.2. You shall provide such supporting evidence of compliance as we may reasonably request.

14.2 You shall ensure that any person associated with you who is performing services or providing goods in connection with any relevant Contract does so only on the basis of a written contract which imposes on and secures from such person terms equivalent to those imposed on you in this clause 14 (**Relevant Terms**). You shall be responsible for the observance and performance by such persons of the Relevant Terms, and shall be directly liable to us for any breach by such persons of any of the Relevant Terms.

14.3 Breach of this clause 14 shall be deemed a material breach under clause 12.1(a).

15. GENERAL

15.1 Force majeure:

- (a) For the purposes of these Conditions, **Force Majeure Event** means an event beyond our reasonable control including but not limited to strikes, lock-outs or other industrial disputes (whether involving the workforce of the party or any other party), failure of a utility service or transport network, act of God, war, riot, civil commotion, malicious damage, compliance with any law or governmental order, rule, regulation or direction, accident, breakdown of plant or machinery, fire, flood, storm or default of suppliers or subcontractors.
- (b) We shall not be liable to you as a result of any delay or failure to perform our obligations under the Contract as a result of a Force Majeure Event.
- (c) If the Force Majeure Event prevents us from providing any of the Services and/or Goods for more than 6 months, we shall, without limiting our other rights or remedies, have the right to terminate the Contract immediately by giving written notice to you.

15.2 Assignment and subcontracting:

- (a) We may at any time assign, transfer, charge, subcontract or deal in any other manner with all or any of our rights under the Contract and may subcontract or delegate in any manner any or all of our obligations under the Contract to any third party.
- (b) You shall not, without our prior written consent, assign, transfer, charge, subcontract or deal in any other manner with all or any of your rights or obligations under the Contract.

15.3 Waiver and cumulative remedies:

- (a) A waiver by us of any of our rights under the Contract is only effective if it is in writing and shall not be deemed to be a waiver of any subsequent breach or default. No failure or delay by us in exercising any right or remedy under the Contract or by law shall constitute a waiver of that or any other right or remedy, nor preclude or restrict its further exercise. No single or partial exercise of such right or remedy shall preclude or restrict the further exercise of that or any other right or remedy.
- (b) Unless specifically provided otherwise, rights arising under the Contract are cumulative and to not exclude rights provided by law.

15.4 Severance:

- (a) If a court or any other competent authority finds that any provision of the Contract (or part of any provision) is invalid, illegal or unenforceable, that provision or part-provision shall, to the extent required, be deemed deleted, and the validity and enforceability of the other provisions of the Contract shall not be affected.
- (b) If any invalid, unenforceable or illegal provision of the Contract would be valid, enforceable and legal if some part of it were deleted, the provision shall apply with the minimum modification necessary to make it legal, valid and enforceable.

15.5 No partnership: Nothing in the Contract is intended to, or shall be deemed to, constitute a partnership or joint venture of any kind between any of the parties, nor constitute any party the agent of another party for any purpose. No party shall have authority to act as agent for, or to bind, the other party in any way.

15.6 Third parties:

- (a) Except as provided in clause 15.6(b), a person who is not a party to the Contract shall not have any rights under or in connection with it.
- (b) These Conditions are made for the benefit of us and the Gardner Group from time to time and any party in the Gardner Group may enforce these Conditions as if it were a party to the Contract.

15.7 Variation: Except as set out in these Conditions, any variation, including the introduction of any additional terms and conditions, to the Contract shall only be binding when agreed in writing and signed by us.

- 15.8 Governing law and jurisdiction: The Contract, and any dispute or claim arising out of or in connection with it or its subject matter or formation (including non-contractual disputes or claims), shall be governed by, and construed in accordance with, Indian law, and irrevocably submit to the exclusive jurisdiction of the Courts of Karnataka, Bengaluru.