

Glatfelter [Glatfelter Caerphilly, Ltd. (United Kingdom)] Conditions of Purchase (Goods and Services)

1. Definitions

- 1.1 'Purchaser' means Glatfelter [Glatfelter Caerphilly, Ltd. (United Kingdom)].
- 1.2 'Seller' means the person, firm or company with whom an Order is placed.
- 1.3 'Goods' means the articles, materials, plant, equipment (including any part or parts of them) described in an Order to be supplied by the Seller.
- 1.4 'Order' means the Purchaser's official instructions to the Seller in writing to supply the Goods or supply Services (including any Goods to be delivered in the performance of such Services) subject to these Conditions. Where the Purchaser's Order conflicts with the terms of these Conditions, the Order shall prevail.
- 1.5 'Contract' means the contract for the sale and purchase of the Goods and the supply and acquisition of the Services as set out in the Order and accepted by the Seller.
- 1.6 'Law' means any legislation, order, directive or other legal or regulatory requirement in any relevant jurisdiction, which applies to the Goods or Services, each as may be amended from time to time.
- 1.7 'Services' means the work to be executed in accordance with an Order and includes the provision by the Seller of all labour and the like required to execute such work.
- 1.8 'Project Manager' means the person appointed by the Purchaser to act as the Purchaser's representative for the purpose of the Contract.

2. Offer and Acceptance

- 2.1 An Order made by the Purchaser shall constitute an offer on the part of the Purchaser to buy Goods or Services subject to these terms and conditions. An Order will be accepted by the Seller by return of the acknowledgment of an Order form or other similar acceptance in writing or by the actual execution of an Order.
- 2.2 Such acceptance by the Seller will be deemed to be acknowledgment by the Seller that these Conditions shall apply to the Contract.
- 2.3 The Order will lapse unless unconditionally accepted by the Seller within 7 days of its date.

3. **Conditions**

3.1 These terms and conditions shall apply to the Contract to the exclusion of any other terms and conditions endorsed upon, delivered with or contained in the Seller's quotation, acknowledgement or acceptance of an Order, specification or other document, and the Seller waives any right which it otherwise might have to rely on such terms and conditions. No variation to the Order or these terms and conditions shall be binding unless agreed in writing between authorised representatives of the Purchaser and the Seller.

4. **Descriptions and Quality**

4.1 The Goods or Services shall be supplied strictly in accordance with the Order. The Purchaser shall not be liable for any excess costs or charges arising from deviations from the specification or quantity set out or referred to in the Order.

4.2 The Seller undertakes that the Goods supplied shall be of the best available design, of the very best quality and workmanship. The Goods shall comply with all relevant Laws and shall be delivered without fault or defect (including latent defects).

4.3 The Purchaser reserves the right to reject any of the Goods which are faulty or do not conform to the quality, quantity, standard or description specified in an Order. The Purchaser may, but shall not be obliged to, return any rejected Goods at the Seller's risk and expense. The Purchaser shall not be deemed to have accepted any Goods until the Purchaser has had a reasonable time to inspect them following delivery or, if later, within a reasonable time after any latent defect in the Goods has become apparent. Acceptance of the Goods by the Purchaser may be subject to a weight check in the receiving store of the Purchaser or on a public weighbridge and to any tests specified in the Order which tests shall be to the Seller's sole expense unless otherwise agreed.

4.4 The Purchaser shall be offered the right to verify at source that the Goods conform to specified requirements. Verification by the Purchaser shall not absolve the Seller of its responsibility under this clause 4 nor shall it preclude subsequent rejection.

4.5 In the case of Services, the Seller undertakes that such Services shall be performed with all care and skill, in accordance with generally recognised commercial practices and standards for similar services.

4.6 The Services shall be carried out in a thoroughly workmanlike manner in accordance with the specification thereof set out in the Contract and to the reasonable satisfaction of the Project Manager.

5. **Indemnity/ Intellectual Property Rights**

- 5.1 The Seller shall indemnify the Purchaser and any of its agents, contractors, customers or associated companies in full against all liability, loss, damages, costs and expenses (including legal expenses) awarded against or incurred or paid by the Purchaser, or which the Purchaser may be held liable to third parties, as a result of or in connection with:
- 5.1.1 breach of any warranty or undertaking given by the Seller in relation to those Goods or the Services whether under a Contract or otherwise;
 - 5.1.2 claims in respect of breach of any statutory duty;
 - 5.1.3 defective workmanship, quality or materials;
 - 5.1.4 the negligent performance or failure or delay in performance of the terms of the Contract by the Seller or its agents or representatives;
 - 5.1.5 any act or omission of any of the Seller's personnel in connection with the supply, delivery or installation of the Goods or the performance of the Services; and
 - 5.1.6 any claim that the Goods infringe, or that their use or resale infringes any patent, trade or service mark (whether or not registered), trade name, registered design, copyright, unregistered design right, or other intellectual property right belonging to any third party.
- 5.2 Nothing in this agreement shall restrict or limit the liability of either party in respect of losses accruing as a result of personal injury or death arising from the negligence of that party or the fraud or fraudulent misrepresentation of that party.

6. **Force Majeure**

Neither the Seller nor the Purchaser shall be liable to the other or be deemed to be in breach of the Contract by reason of any delay in performing or failure to perform any of their respective obligations in relation to the provision of the Goods or the performance of the Services if the delay or failure was beyond that party's reasonable control provided however, that if a cause beyond the reasonable control of the Seller causes a delay in fulfilling an Order of more than thirty (30) days, the Purchaser shall be entitled to cancel the Order with the Seller and obtain the Goods or Services from a third party without incurring any liability whatsoever to the Seller under the Order or associated Contract. Without prejudice to the generality of the foregoing, the following shall be regarded as causes beyond either party's reasonable control, accident, civil commotion, riot, war, fire, lock-outs, strikes, industrial disputes (whether involving employees of

the Purchaser, the Seller or a third party), acts of God, explosions, floods, or restrictions, prohibitions or measures of any kind on the part of any governmental, parliamentary or local authority.

7. **Delivery** *[Note: Glatfelter to consider whether progress reporting/inspection rights should be included to address any delays by a Seller]*

7.1 A separate invoice in respect of each Order shall be sent by the Seller to the Purchaser upon dispatch of the Goods showing inter alia the number and date of the order. All deliveries shall be made to the place or places and at the time or times specified in the Order and shall be accompanied by a delivery note showing the Order number and in the case of part delivery the outstanding balance remaining to be delivered. The Goods shall be properly marked and shall be packed and protected against damage and deterioration in transit and shall be delivered, insured and carriage paid in accordance with the Purchaser's instructions, if any.

7.2 Unless otherwise agreed in writing between the Purchaser and the Seller, time of delivery of the Goods or performance of the Services shall be of the essence under the Contract.

8. **Insurance** *[Note: If required, amounts to be confirmed by Glatfelter]*

8.1 During the term of a Contract, the Seller shall maintain in force with a reputable insurance company insurance which is adequate, in the Purchaser's reasonable opinion, to cover the Seller's full liability under the Contract and in any event:

8.1.1 public liability insurance for not less than £ 10,000,000 for any one incident;

8.1.2 products liability insurance for not less than £ 10,000,000 for any one incident; and

8.1.3 employer's liability insurance for a minimum limit of £ 10,000,000.

8.2 The Seller shall, on the Purchaser's request, produce both the insurance certificate giving details of coverage and the receipt for the current year's premium. Such right of inspection shall not discharge the Seller in any way from its duty to comply with its obligations hereunder. Such insurances should be extended to provide an indemnity to the Purchaser as principal.

8.3 The Seller shall at his own cost insure:

8.3.1 all Goods up to the point when delivery is complete in accordance with clause 9; and

8.3.2 all Goods delivered to him by the Purchaser for repair or servicing from the time of collection or receiving them until re-delivery in accordance with the instructions of the Purchaser,

in each case for their replacement value against loss, damage or destruction resulting from any insurable risk which can be reasonably contemplated as affecting the Goods.

9. **Title and Risk**

9.1 The Goods shall remain at the Seller's risk until accepted by the Purchaser. The property in the Goods shall pass to the Purchaser on delivery.

9.2 Where the Purchaser rejects any Goods in accordance with these terms and conditions, such Goods shall be deemed to have remained the property of the Seller.

10. **Price and Payment**

10.1 The price stated in the Order is inclusive of all costs and expenses including packaging, packing, transportation and insurance costs. No variation in the price of the Goods or Services will be accepted for any reason whatsoever except with the prior written consent of an authorized officer of the Purchaser.

10.2 Where the Goods are subject to value added tax or any other taxes or duties the amount legally demandable is to be rendered as a separate item of account and, if required by the Purchaser, the Seller shall produce bona fide evidence of the amount paid or to be paid by it in respect thereof.

10.3 Unless otherwise agreed, all payments shall be made within 60 days.

The payment period shall begin on the agreed date, but not before receipt of the goods and the invoice. If the goods and the invoice are received on different dates, the payment period shall not begin until receipt of both the goods and the invoice.

10.4 When invoices subject to discount are not posted on the date thereof, the discount period will be calculated from the date an acceptable invoice is received by the Purchaser.

10.5 [If the Seller offers or provides goods or services, whether or not comparable to the Goods or Services, to any third party entity and such services or goods are offered or provided at a lower price than those charged to the Purchaser, then the Purchaser will be entitled to receive the same price as such other entity, retroactive to the date the Seller first provided such goods or services to the other entity at such lower price.]

11. **Breach**

- 11.1 Any breach of any term of an Order or of any of these terms and conditions by the Seller shall (whether or not the Purchaser has accepted the Goods or Services or any part thereof and whether or not the property in those Goods has passed to the Purchaser) entitle the Purchaser at its option either to treat the Contract as repudiated or treat any such breach as a breach of warranty giving rise to a claim for damages.
- 11.2 If at any time after acceptance by the Seller of an Order the Seller (being an individual) commits any act of bankruptcy or compounds or makes any arrangement with his creditors, or the Seller (being a company) goes into liquidation either voluntary or compulsory (except a voluntary liquidation for the purpose of amalgamation or reconstruction) or has a receiver appointed over any of its assets or has a petition for an administration order presented in relation to it, the Purchaser may cancel the Order by written notice without compensation to the Seller.
- 11.3 No time given or concession made on the part of the Purchaser shall be construed as a waiver of any of its rights and remedies hereunder or at common law.

12. **Cancellation**

The Purchaser shall have the right to cancel an Order in whole or in part at any time for any reason whatsoever by giving the Seller notice thereof in writing. In such event, the Purchaser shall (except where the Order has been cancelled due to breach by the Seller) pay the Seller a fair and reasonable sum for all materials used and work done up to the time of the cancellation whereupon the property in such materials shall pass to the Purchaser. The Purchaser shall not be liable for any other loss including consequential or indirect loss suffered by the Seller or any third party as a result of such cancellation.

13. **Warranty**

- 13.1 The Seller warrants and undertakes to the Purchaser that the Goods:-
- 13.1.1 will be of merchantable quality and fit for their purpose;
 - 13.1.2 will be free from defects in design, material and workmanship;
 - 13.1.3 will correspond with any relevant specification or sample; and
 - 13.1.4 will comply with the relevant Laws.
- 13.2 The Seller warrants to the Purchaser that the Services:

- 13.2.1 will be performed by appropriately qualified and trained personnel with all due care and diligence and to such a high standard of quality as it is reasonable for the Purchaser to expect in all circumstances; and
- 13.2.2 will comply with all relevant Laws, including in relation to health, safety and environmental standards.
- 13.3 Without prejudice to any other remedy, if the Goods or Services do not comply with clauses 13.1 or 13.2 or with any other term or condition of the Contract the Purchaser shall be entitled:-
 - 13.3.1 to require the Seller to repair or replace within 7 days such defective Goods or make good such defective Services to the satisfaction of the Purchaser (in which case this clause shall apply to the repaired or replacement Goods or Services) or
 - 13.3.2 at the Purchaser's sole option, and whether or not the Purchaser has required the Seller to repair or replace or make good the Goods or Services, to treat the Contract as discharged by the Seller's breach and require the repayment of any part of the price for the Goods or services which has been paid.
- 13.4 The warranties and undertakings given under this clause 13 shall survive any performance, acceptance or payment pursuant to the Contract and shall be extended to any repaired or replacement Goods or substituted or remedial services provided by the Seller.

14. Assignment

- 14.1 The Seller shall not without the prior written consent of the Purchaser assign or sub-contract any part of the contract (except for materials and minor details the makers or suppliers of which are specified in the Order). Any such consent shall be conditional upon the assignee or sub-contractor accepting these conditions and shall not, in the case of sub-contracting, relieve the Seller of his obligations under the Contract.
- 14.2 The Purchaser may assign or transfer a Contract (or any part thereof) and/or any rights or obligations arising under a Contract to any third party and the Seller shall, if required by the Purchaser enter into a novation agreement (or such other documentation as is necessary to give effect to such assignment or transfer) with such third party.

15. **Advertisement**

The Seller shall not, without the previous written consent of the Purchaser, advertise or make it known that the Seller supplies or has supplied to the Purchaser.

16. **Confidentiality**

16.1 The Seller shall procure that its agents, employees and sub-contractors shall treat any Order and all designs, drawings, specifications and information supplied therewith by the Purchaser or its agents or sub-contractors as confidential and shall not disclose the same to any third party without the Purchaser's prior written consent or otherwise infringe any copyright, patent, trade mark, registered design or other intellectual property right vested in the Purchaser.

16.2 The Seller shall restrict the disclosure of any such information to its employees, agents or sub-contractors who have a need to know the same for the purposes of discharging the Seller's obligations to the Purchaser.

17. **Conditions applicable to the provision of Services**

17.1 Prior to commencing the Services the Seller shall contact the Project Manager to obtain permission to commence work.

17.2 When the Services are being carried out on any site of the Purchaser the Seller shall ensure that any site rules, site regulations, permit to work systems and the like are strictly complied with.

17.3 The Purchaser reserves the right to vary the Services required and any additions thereto or deductions therefrom shall be made in writing. All such work shall be valued at the rates set out in the Contract if the same shall be applicable. If the contract shall not contain rates applicable to such additions or deductions then reasonable values shall be agreed between the Purchaser and the Seller, which shall provide the Purchaser with whatever supporting evidence the Purchaser may reasonably require to enable such reasonable values to be determined and which must have regard to any restrictive Laws affecting wages and prices in force from time to time.

17.4 It is the Seller's responsibility to provide appropriate protective clothing where necessary for the protection of its personnel while carrying out the Services and the cost to the Seller of providing such clothing shall be deemed to have been included in the price.

17.5 On completion of the Services the Seller shall clear away and remove from the site/premises all equipment, surplus materials and rubbish and

leave site/premises in a clean and tidy condition to the satisfaction of the Project Manager.

- 17.6 If the Project Manager shall at any time be dissatisfied with the performance or conduct of any employee of the Seller engaged in the Contract the Seller shall if the Project Manager so requires cease to employ such employee to carrying out the Services.
- 17.7 The Seller shall be responsible for the safe keeping of any equipment issued by the Purchaser to the Sellers personnel on free loan and also for its maintenance in good working order.
- 17.8 The Seller shall make good any loss of or damage to such free loan equipment at his own expense and shall ensure its return at the end of the period of free loan in good condition fair wear and tear excepted.
- 17.9 The Services shall be carried out with proper regard to safety and the Seller shall at its sole expense observe and conform to all Laws applicable to the provision of the Services or generally to the site or premises where the Services are carried out.

18. **General**

- 18.1 Each right or remedy of the Purchaser under the Contract is without prejudice to any other right or remedy of the Purchaser whether under the Contract or not and is in addition to any conditions implied in favour of the Purchaser by Law.
- 18.2 Failure or delay by the Purchaser in enforcing or partially enforcing any provision of the Contract shall not be construed as a waiver of any of its rights under the Contract.
- 18.3 Any waiver by the Purchaser of any breach of, or any default under, any provision of the Contract by the Seller shall not be deemed a waiver of any subsequent breach or default and shall in no way affect the other terms of the Contract.
- 18.4 The parties to the Contract do not intend that any term of the Contract (other than clause 5.1) shall be enforceable by virtue of the Contracts (Rights of Third Parties) Act 1999 by any person that is not a party to it.
- 18.5 If a dispute arises under the Contract, representatives of the parties shall meet to attempt in good faith to resolve such dispute. If they cannot resolve such dispute within 10 days (or such other period as they agree), the dispute shall be referred to the senior management of the Seller and the Purchaser, who shall meet to attempt in good faith to attempt to resolve such dispute within a further 10 days.

- 18.6 The formation, existence, construction, performance, validity and all aspects of the Contract shall be governed by English law. The parties submit to the exclusive jurisdiction of the English courts, provided that the submission by the Purchaser to the jurisdiction of the English courts shall not (and shall not be construed so as to) limit the right of the Purchaser to bring legal proceedings in any other court of competent jurisdiction including without limitation the courts having jurisdiction by reason of the Seller's domicile. Legal proceedings by the Purchaser in any one or more jurisdictions shall not preclude legal proceedings by it in any other jurisdiction whether by way of substantive action, ancillary relief, enforcement or otherwise. Prior to commencing legal proceedings, the Purchaser and the Seller shall seek to resolve any dispute in accordance with clause 18.5 above.
- 18.7 The Seller shall not without the previous written consent of the Purchaser advertise or, except for the performance of the Contract, make known to third parties the fact that the Seller supplies Goods or Services to the Purchaser. The Seller shall not erect any advertisement or notice board (except for notices required to be displayed by statute or by the Contract) on any part of the Purchaser's premises without first applying for and obtaining the Purchaser's consent.
- 18.8 Nothing in the Contract is intended to, or shall operate to, create a partnership between the parties, or to authorise either party to act as agent for the other, and neither party shall have authority to act in the name or on behalf of or otherwise to bind the other in any way (including the making of any representation or warranty, the assumption of any obligation or liability and the exercise of any right or power).
- 18.9 The Contract constitutes the entire agreement between the Seller and the Purchaser relating to the sale and purchase of the Goods and/or Services.
- 18.10 No amendment or variation of the Contract shall be effective unless it is expressly agreed by the Purchaser in writing.
- 18.11 The Purchaser reserves the right to refuse access to any Seller Party to the Purchaser's premises. Access will only be granted to the extent necessary for the proper performance of the Seller's obligations.
- 18.12 If any clause of these terms and conditions is, becomes, or is deemed invalid, illegal or unenforceable in any jurisdiction, such clause will be deemed amended to conform to applicable Laws so as to be valid and enforceable, or if it cannot be so amended without materially altering the intention of the parties, it will be struck out and the remainder of these terms and conditions will remain in full force and effect.