

## 1. BASIS OF CONTRACT

1.1 Our Purchase Order constitutes an offer by us to purchase goods (**Goods**) and/or services (including all documents, designs and drawings relating to the services to be performed by you or any product and/or materials produced by you in the provision of the services (**Deliverables**)) (**Services**) from you in accordance with these terms and conditions as set out in our Purchase Order.

1.2 Our Purchase Order shall include and incorporate any documents, specifications, terms or conditions applying to the purchase order as indicated by way of the internet based supply chain portal operated by us to which we may give you password access and through which (at our discretion) our Purchase Orders may be submitted and accepted. (**Portal**). In case of submitting Purchase Orders via Portal, the parties exclude application of provisions of article 66<sup>1</sup> of Polish Civil Code. The elements included and incorporated shall be expressly mentioned in our Purchase Order. The Purchase Order may be accepted only unconditionally.

1.3 Our Purchase Order shall be deemed to be accepted on the earlier of:

- (a) us receiving your acceptance of the Purchase Order (whether in writing or via the Portal as directed by us); or
- (b) any act by you consistent with fulfilling the Purchase Order,

at which point and on which date a contract between you and us in accordance with these terms and conditions and the Purchase Order (**Contract**) shall come into existence.

1.4 These terms and conditions apply to the Contract to the exclusion of any other terms that you seek to impose or incorporate or any quote provided by you or any other terms, or which are implied by trade, custom, practice or course of dealing.

1.5 All of these terms and conditions shall apply to the supply of both Goods and Services except where the application to one or the other is specified.

1.6 Where any terms set out in our Purchase Order conflict with these terms and conditions the terms of the Purchase Order shall prevail.

## 2. SUPPLY OF GOODS

2.1 You shall ensure that the Goods shall:

- (a) correspond with their description and any specification attached to the Purchase Order or otherwise provided to you (**Specification**);
  - (b) correspond with any samples agreed between us or as provided by us to you (**Property On Loan**);
  - (c) be of satisfactory quality and fit for any purpose held out by you or made known to you by us, expressly or by implication, and in this respect we rely on your skill and judgment;
  - (d) where applicable, be free from defects in design, materials and workmanship and remain so for 48 months after our acceptance of your delivery or such other longer period as may be set out in the Purchase Order or the Specification;
  - (e) comply with all applicable statutory and regulatory requirements and, if you have been informed thereof, requirements of any aircraft manufacturer or relevant upper tier supplier (**Aircraft Manufacturer**) relating to the manufacture, labelling, packaging, storage, handling and delivery of the Goods;
  - (f) comply with any relevant quality requirements notified to you on a Purchase Order whether such quality requirements are specified by us, our customers or any regulatory authority. Gardner Aerospace is an Environmentally proactive organisation and expects suppliers to be of a likeminded culture complying with all statutory and regulatory Health and Safety requirements;
  - (g) not become obsolete within 6 months of the date of our Purchase Order; and
  - (h) where the Goods are to be used by us in any aircraft programme that the Goods have been manufactured using state of the art manufacturing principles and processes appropriate to the aircraft industry.
- 2.2 We shall not be deemed to have accepted any Goods delivered to us until we have had a reasonable opportunity to inspect them.
- 2.3 You shall ensure that at all times you have and shall maintain all the licences, permissions, authorisations, consents and permits that you need to carry out your obligations under the Contract in respect of the Goods including in relation to any Aircraft Manufacturer.
- 2.4 You shall retain all documents and records relating to the manufacture and/or supply of the Goods (including but not limited to any relevant Certificates of Conformity, test results, test certificates, operator records, raw material certificates and the documents referred to at clause 2.3 above) for the lifetime of the aircraft into which the Goods are incorporated.

- 2.5 We shall have the right to enter your premises to inspect and test the Goods at any time before delivery as shall our customers or any regulatory authority.
- 2.6 If following such inspection or testing we consider in our sole discretion that the Goods do not conform or are unlikely to comply with your warranties and undertakings at clause 2.1, we shall inform you and you shall immediately take such remedial action as is necessary to ensure compliance including the repair or the replacement of the Goods at your cost or the provision of a full refund to us. Our rights under this clause are in addition to any other of our rights under the Contract or at law.
- 2.7 Notwithstanding any such inspection or testing, you shall remain fully responsible for the Goods and any such inspection or testing shall not reduce or otherwise affect your obligations under the Contract, and we shall have the right to conduct further inspections and tests after you have carried out your remedial actions.

### **3. DELIVERY OF GOODS**

- 3.1 You shall ensure that:
- (a) the Goods are properly packed and secured in such manner as to enable them to reach their destination in good condition or where applicable in accordance with the Specification;
  - (b) each delivery of the Goods is accompanied by a Certificate of Conformity and a delivery note which shows the date of the Purchase Order, the Purchase Order number (if any), the type and quantity of the Goods (including the code number of the Goods (where applicable)), special storage instructions (if any) and, if the Goods are being delivered by instalments in accordance with the Contract, the outstanding balance of Goods remaining to be delivered;
  - (c) each delivery of the Goods is accompanied by any relevant health and safety or other required documents including without limitation health and safety datasheets in the event that the Goods include chemical products of whatsoever nature;
  - (d) any release documents issued are signed by your authorised quality control signatory (quoting the relevant approval information) prior to delivery of the Goods to us; and
  - (e) if you require us to return any packaging material for the Goods to you, that fact is clearly stated on the delivery note. Any such packaging material shall only be returned to you at your cost.
- 3.2 You shall deliver the Goods:

- (a) on the date specified in the Purchase Order or, if no such date is specified, then within 30 days of the date of receipt the Purchase Order (**Delivery Date**);
  - (b) to the location set out in the Purchase Order or such other location as we instruct before delivery (**Delivery Location**);
  - (c) during our normal hours of business and on a business day, or as otherwise instructed by us.
- 3.3 Delivery of the Goods shall be completed on the completion of unloading of the Goods at the Delivery Location and time of delivery shall be of the essence.
- 3.4 If you:
- (a) deliver less than the quantity of Goods ordered, we may reject the Goods; or
  - (b) deliver more than the quantity of Goods ordered, we shall at our sole discretion reject the Goods or the excess Goods,

and any rejected Goods shall be returnable at your risk and expense. If you deliver more or less than the quantity of Goods ordered, and we accept the delivery, a pro rata adjustment shall be made to the invoice for the Goods.

- 3.5 You shall not deliver the Goods in instalments without our prior written consent. Where it is agreed that the Goods are delivered by instalments, they may be invoiced and paid for separately. However, failure by you to deliver any one instalment on time or at all or any defect in an instalment shall entitle us to the remedies set out in clause 5.1.
- 3.6 Title to the Goods shall pass to us on delivery.
- 3.7 Risk in the Goods shall pass to us on completion of delivery.

#### **4. SUPPLY OF SERVICES**

- 4.1 You shall from the date set out in the Purchase Order and for the duration of the Contract provide the Services to us in accordance with the terms of the Contract.
- 4.2 You shall meet any performance dates for the Services specified in the Purchase Order or any Specification or as notified to you by us and shall at all times provide the Services during our normal business hours. Time for delivery of the Services shall be of the essence.

- 4.3 In providing the Services, you shall:
- (a) co-operate with us in all matters relating to the Services, and comply with all our instructions and any Specification;
  - (b) perform the Services with the best care, skill and diligence in accordance with best practice in your industry, profession or trade;
  - (c) use personnel who are suitably skilled and experienced to perform tasks assigned to them, and in sufficient number to ensure that your obligations are fulfilled in accordance with this Contract;
  - (d) ensure that the Services and Deliverables will conform with all descriptions and requirements set out in the Specification, and that the Deliverables shall be fit for any purpose expressly or impliedly made known to you by us;
  - (e) provide all equipment, tools and vehicles and such other items as are required to provide the Services;
  - (f) use the best quality goods, materials, standards and techniques, and ensure that the Deliverables, and all goods and materials supplied and used in the Services or transferred to us, will be free from defects in workmanship, installation and design;
  - (g) obtain and at all times maintain all necessary licences and consents, and comply with all applicable laws and regulations including in relation to any Aircraft Manufacturer;
  - (h) retain all documents and records relating to the supply of the Services (including but not limited to any relevant licences, consents, Certificates of Conformity, test results, test certificates, operator records, raw material certificates) for the lifetime of the aircraft into which any parts or materials which are the subject of the Services are incorporated;
  - (i) observe all health and safety rules and regulations and any other security requirements that apply at any of our premises;
  - (j) hold all materials, equipment and tools, drawings, specifications and data supplied by us to you (**GAe Materials**) in safe custody at your own risk, maintain the GAe Materials in good condition until returned to us, and not dispose or use the GAe Materials other than in accordance with our written instructions or authorisation; and
  - (k) not do or omit to do anything which may cause us to lose any licence, authority, consent or permission upon which we rely for the purpose of conducting our business, and you acknowledge that we may rely or act on the Services.

## 5. OUR REMEDIES

5.1 If you fail to deliver the Goods and/or perform the Services by the applicable date, we shall, without limiting our other rights or remedies, have one or more of the following rights:

- (a) to terminate the Contract with immediate effect and without incurring any liability to you whatsoever by giving written notice to you;
- (b) to claim or deduct 2% of the price of the Goods for each day's delay in delivery by way of liquidated damages, up to a maximum of 10% of the total price of the Goods;
- (c) to refuse to accept any subsequent performance of the Services and/or delivery of the Goods which you attempt to make;
- (d) where we have paid in advance for Services that have not been provided by you and/or Goods which have not been delivered by you, to have such sums refunded in full by you; and
- (e) to claim damages on an indemnity basis for any additional costs, loss or expenses incurred by us in excess of those claimed by way of liquidated damages at clause (b) above which are in any way attributable to your failure to meet such dates including for the avoidance of doubt any costs, losses and expenses that we incur under any agreement with our customers to which the Goods and/or Services relate.

5.2 If you have delivered Goods that do not comply with the undertakings set out in clause 2.1 or Services under which either you or the Services do not comply with the provisions of clause 4, then, without limiting our other rights or remedies, we shall have one or more of the following rights, whether or not we have accepted the Goods:

- (a) to reject the Goods (in whole or in part) whether or not title has passed and to return them to you at your own risk and expense;
- (b) to terminate the Contract with immediate effect by giving written notice to you;
- (c) to require you to repair or replace the rejected Goods, or to provide a full refund of the price of the rejected Goods (if paid);
- (d) to refuse to accept any subsequent delivery of the Goods which you attempt to make; and
- (e) to claim damages on an indemnity basis for any additional costs, loss or expenses incurred by us arising from your failure to supply Goods in accordance with clause 2.1 or Services in accordance with clause 4 including for the avoidance of doubt any costs, losses and expenses that

we incur under any agreement with our customers to which the Goods and/or Services relate.

- 5.3 These terms and conditions shall extend to any substituted or remedial services and/or repaired or replacement goods supplied by you.
- 5.4 Our rights under this Contract are in addition to our rights and remedies implied by statute.

## 6. OUR OBLIGATIONS

We shall:

- (a) provide you with reasonable access at reasonable times to our premises for the purpose of providing the Services; and
- (b) provide such information as you may reasonably request for the provision of the Services and that we consider reasonably necessary for the purpose of providing the Services.

## 7. CHARGES AND PAYMENT

- 7.1 The price for the Goods and/or Services:
  - (a) shall be the price set out in the Purchase Order (**Price**);
  - (b) shall be inclusive of the costs of packaging, insurance, carriage, freight or shipping of the Goods and inclusive of any applicable taxes duties and levies, unless otherwise agreed in writing by us. No extra charges shall be effective unless agreed in writing and signed by us; and
  - (c) shall be subject to any discount offered by you for prompt payment or bulk purchase which may be customarily granted by you whether or not set out in our Purchase Order.
- 7.2 The Price shall be your full and exclusive remuneration (flat rate remuneration) in respect of the performance of the Services. Therefore, unless otherwise agreed in writing by us, the Price shall include every cost and expense you incur directly or indirectly in connection with the performance of the Services.
- 7.3 In respect of Goods, you shall invoice us on or at any time after completion of delivery. In respect of Services, you shall invoice us on completion of the Services. Each invoice shall include such supporting information required by us to verify the accuracy of the invoice, including but not limited to the relevant Purchase Order number and the delivery note number.

- 7.4 Subject to you providing a valid invoice in accordance with the Contract and in consideration of the supply of Goods and/or Services by you, we shall pay the Price within 60 days of the end of the month of the date of the invoice.
- 7.5 Unless otherwise stated in our Purchase Order all amounts payable by us under the Contract are inclusive of amounts in respect of valued added tax chargeable from time to time (**VAT**). Where any taxable supply for VAT purposes is made under the Contract by you to us, we shall, on receipt of a valid VAT invoice from you, pay to you such additional amounts in respect of VAT as are chargeable on the supply of the Goods and/or Services at the same time as payment is due for the supply of the Goods and/or Services.
- 7.6 If we fail to pay any amount properly due and payable by us under the Contract, you shall have the right to demand statutory interest in accordance with respective provisions of Polish Civil Code. This clause shall not apply to payments that we dispute in good faith.
- 7.7 You shall maintain complete and accurate records of the time spent and materials you use in providing the Services, and you shall allow us to inspect such records at all reasonable times on request.
- 7.8 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.
- 7.9 The Price shall be paid in the currency set out in our Purchase Order.

## **8. INTELLECTUAL PROPERTY RIGHTS**

- 8.1 In respect of the Goods and any materials that are transferred to us as part of the Services under this Contract (including without limitation the Deliverables or any part of them) you warrant that you have full clear and unencumbered title to all such items, and that at the date of delivery of such items to us, you will have full and unrestricted rights to sell and transfer all such items to us.
- 8.2 You assign to us, with full title guarantee and free from all third party rights, all patents, rights to inventions, utility models, copyright and related rights, trade marks, service marks, trade, business and domain names, rights in trade dress or get-up, rights in goodwill or to sue for passing off, unfair competition rights, rights in designs, rights in computer software, database right, topography rights, rights in confidential information (including know-how and trade secrets) and any other



intellectual property rights, in each case whether registered or unregistered and including all applications for and renewals or extensions of such rights, and all similar or equivalent rights or forms of protection in any part of the world (**Intellectual Property Rights**) in any material supplied to us in the provision of the Services (including for the avoidance of doubt the Deliverables) or the Goods manufactured and supplied in accordance with Specifications provided by us. No additional remuneration shall be due for the assignment mentioned hereinabove; it shall be included in the Price.

- 8.3 You shall, promptly at our request, do (or procure to be done) all such further acts and things and the execution of all such other documents as we may from time to time require for the purpose of securing for us the full benefit of the Contract, including all right, title and interest in and to the Intellectual Property Rights assigned to us in accordance with clause 8.2.

## 9. EXPORT CONTROL

- 9.1 You shall not in any circumstances export, directly or indirectly, any Goods, Deliverables or technical data in breach of any applicable laws or regulations (**Export Control Laws**), including United States export laws and regulations, to any country for which the United States or any other government or any agency thereof at the time of export requires an export licence or other governmental approval without first obtaining such licence or approval. You shall not perform any Service(s) in breach of Export Control Laws.

- 9.2 You undertake:

- (a) contractually to oblige any third party to whom you export or transfer any such Goods, Deliverables, technical data or for whom you perform any Service(s) to make an undertaking to you in similar terms to the one set out above; and
- (b) if requested, to provide us with any reasonable assistance to enable us to perform any activity required by any competent government or agency in any relevant jurisdiction for the purpose of compliance with any Export Control Laws.

## 10. INDEMNITY

- 10.1 You shall keep us indemnified in full against all costs, expenses, damages and losses (whether direct or indirect), including any interest, fines, legal and other professional fees and expenses awarded against or incurred or paid by us as a result of or in connection with:

- (a) any claim made against us by a third party for death, personal injury or damage to property arising out of, or in connection with, defects in Goods;
- (b) any claim made against us by a third party arising out of, or in connection with, the supply of the Services, to the extent that such claim arises out of the breach, negligent performance or failure or delay in performance of the Contract by you, your employees, agents or subcontractors;
- (c) any claim made against us for actual or alleged infringement of a third party's Intellectual Property Rights arising out of, or in connection with, the manufacture, supply or use of the Goods, or receipt, use or supply of the Services; and
- (d) any claim of whatsoever nature made against us by one of our customers arising out of, or in connection with your failure to comply with the terms of the Contract.

10.2 For the duration of the Contract and for a period of 3 years thereafter, you shall maintain in force, with a reputable insurance company, the following insurance policies:

- (a) professional indemnity insurance;
- (b) product liability insurance;
- (c) public liability insurance; and
- (d) any other applicable policies (which shall without limitation cover the theft of or damage to any GAe Materials or Property On Loan provided to you)

in all cases to such amounts fully to cover the liabilities that may arise under or in connection with the Contract. You shall, on our request, produce both the insurance certificate giving details of cover and the receipt for the current year's premium in respect of each insurance.

10.3 This clause 10 shall survive termination of the Contract.

## **11. 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 our products or our services which you may obtain (including for the avoidance of doubt the GAe Materials and any Property on Loan). 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 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 without liability to you by giving written notice to you if:

- (a) you commit a material or persistent breach of the Contract and (if such a breach is remediable) fail to remedy that breach within 14 days of receipt of notice in writing of the breach;
- (b) you suspend, or threaten to suspend, payment of your debts or are unable to pay your debts as they fall due or admit inability to pay your debts or are deemed unable to pay your debts;
- (c) you commence negotiations with all or any class of your creditors with a view to rescheduling any of your debts, or 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;
- (e) you (being an individual) are the subject of a bankruptcy petition order;
- (f) a creditor or encumbrancer 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;
- (g) 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);
- (h) an administrative receiver is appointed with regard to you;
- (i) a person becomes entitled to appoint a receiver over your assets or a receiver is appointed over your assets;
- (j) any event occurs, or proceeding is taken, with respect to you in any jurisdiction to which you are subject that has an effect equivalent or similar to any of the events mentioned in clause 12.1(b) to clause 12.1(i) (inclusive);
- (k) you suspend or threaten to suspend, or cease or threaten to cease to carry on, all or a substantial part of your business;
- (l) you (being an individual) die or, by reason of illness or incapacity (whether mental or physical), are considered incapable of managing your own affairs by virtue of court ruling ; or

- (m) a change of control occurs in relation to you.

12.2 Without limiting our other rights or remedies, we may terminate the Contract without liability:

- (a) in respect of the supply of Services, by giving you one month's written notice; and
- (b) in respect of the supply of Goods, with immediate effect by giving you written notice.

12.3 In any of the circumstances in these terms and conditions in which we may terminate the Contract, where both Goods and Services are supplied, we may instead terminate part of the Contract in respect of the Goods, or in respect of the Services, and the Contract shall continue in respect of the remaining supply.

### **13. CONSEQUENCES OF TERMINATION**

On termination of the Contract or any part of it for any reason:

- (a) where the Services are terminated, you shall immediately deliver to us all Deliverables, whether or not then complete, and return all GAe Materials. If you fail to do so, then we may without limiting our other rights or remedies enter your premises and take possession of them. Until they have been returned or delivered, you shall be solely responsible for their safe keeping and will not use them for any purpose not connected with this Contract;
- (b) you shall immediately return to us all Property on Loan. If you fail to do so, then we may without limiting our other rights or remedies enter your premises and take possession of them. Until they have been returned or delivered, you shall be solely responsible for their safe keeping and will not use them for any purpose not connected with this 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; and
- (d) clauses which expressly or by implication have effect after termination shall continue in full force and effect.

### **14. PROPERTY ON LOAN AND GAe MATERIALS**

14.1 In the event that the Goods are manufactured or Services supplied using Property on Loan or GAe Materials, replacements for any spoiled or lost material shall be ordered by us at your expense.

14.2 All Property on Loan and GAe Materials shall remain our property and be returned to us at your cost on demand. Nothing in these Terms of Conditions shall operate so as to transfer to you any rights of whatsoever nature in the Property on Loan or the GAe Materials.

14.3 You shall indemnify us and hold us harmless against any costs losses and expenses arising out of any damage to the Property on Loan or GAe Materials during the term of the Contract or any failure to return them or part of them in accordance with clause 14.2 above.

## **15. SUPPLIER NOTIFICATION**

15.1 You shall notify us immediately in writing if you become aware that:

(a) any Goods supplied or to be supplied by you to us do not (or may not) comply with the provisions of clause 2.1; or

(b) any Services provided or to be provided by you to us do not (or may not) comply with the provisions of clause 4.3.

15.2 You shall notify us immediately in writing of any changes in the Specification of Goods or Services that you propose to make and shall not make any such changes without our prior written consent.

15.3 You shall notify us immediately in writing of any changes to the following to the extent they relate to the Goods and/or Services:

(a) your manufacturing, treatment or other processes;

(b) your suppliers and other sub-contractors; and

(c) the location of your principal manufacturing facility.

## **16. GENERAL**

16.1 Force majeure: we shall not be liable to you as a result of any delay or failure to perform our obligations under the Contract if and to the extent such delay or failure is caused by an event or circumstance which is beyond our reasonable control which by its nature could not have been foreseen by us or if it could have been foreseen was unavoidable.

16.2 Assignment and subcontracting:

(a) You shall not assign, transfer, charge, subcontract or deal in any other manner with all or any of your rights or obligations under the Contract without our prior written consent.

- (b) 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 or agent.

16.3 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 do not exclude rights provided by law.

16.4 Severance:

- (a) If a court or any other competent authority finds that any provision (or part of any provision) of the Contract 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.

16.5 No partnership: Nothing in the Contract is intended to, or shall be deemed to, constitute a partnership or joint venture of any kind between us, 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.

16.6 Third parties:

16.6.1 Except as provided for in this clause 16.6 a person who is not a party to the Contract shall not have any rights under or in connection with it.

16.6.2 This agreement is made for the benefit of us and the Gardner Group from time to time and any party in the Gardner Group may enforce this agreement as if it were a party to the Contract.

- 16.7 Variation: Any variation, including any additional terms and conditions, to the Contract shall only be binding when agreed in writing and signed by us.
- 16.8 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, Polish law, and the parties irrevocably submit to the exclusive jurisdiction of Polish court competent for the place of residence of our Company.