

Glatfelter Lydney Ltd. Conditions of Purchase (Goods and Services)

- 1 Definitions
 - 1.1 'Purchaser' means Glatfelter Lydney Ltd.
 - 1.2 'Seller' means the person, firm or company with whom an Order is placed.
 - 1.3 'Goods' means the articles, materials, plant, equipment or things or any 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 on these Conditions and where those instructions conflict with the terms of these Conditions those instructions 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 'Services' means the work to be executed in accordance with an Order and includes the provision by the Seller of all labour, plant, materials, equipment and the like required to execute such work.
 - 1.7 '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 which must be accepted 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 Conditions shall apply to the Contract to the exclusion of any other terms and conditions on which any quotation has been given to the Purchaser or subject to which the Order is accepted or purported to be accepted by the Seller. No variation to the Order or these 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 in strict accordance with the Order and any description or specification set out in the Order or any quotation referred to therein and shall correspond with any samples or patterns and shall be of the quality, quantity and description specified. 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 Goods supplied shall be of the very best quality of the highest standard in the industry and fit for their purposes. The Goods shall comply with all relevant standards and Codes of Practice and contain no deleterious materials or defective components.
 - 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 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 his responsibility under Clause 4.2 above nor shall it preclude subsequent rejection.
 - 4.5 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

The Seller shall indemnify the Purchaser 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 :

 - a) breach of any warranty given by the Seller in relation to those Goods or the Services whether under the Contract or otherwise;
 - b) claims in respect of breach of any statutory duty;
 - c) 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;
 - d) 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.
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. 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
 - 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 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 of the Contract.
8. Title and Risk

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 or when the Goods become appropriated to the Contract.
9. Price and Payment
 - 9.1 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.
 - 9.2 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.
 - 9.3 The Purchaser reserves the right to deduct from any monies due or becoming due to the seller, any monies due from the Seller to the Purchaser under the Contract or any other contract whether relating to the supply of Goods or Services or otherwise.
 - 9.4 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. Breach
 - 10.1 Any breach of any term of an Order or of any of the Conditions by the Seller shall (whether or not the Purchaser has accepted the Goods 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.
 - 10.2 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.
 - 10.3 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.

11. 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.
12. Warranty
12.1 The Seller warrants to the Purchaser that the Goods:-
12.1.1 will be of merchantable quality and fit for their purpose;
12.1.2 will be free from defects in design, material and workmanship;
12.1.3 will correspond with any relevant specification or sample; and
12.1.4 will comply with the relevant United Kingdom and European Community statutory requirements, regulations and directives.
12.2 The Seller warrants to the Purchaser that the Services will be performed by appropriately qualified and trained personnel with due care and diligence and to such a high standard of quality as it is reasonable for the Purchaser to expect in all the circumstances.
12.3 Without prejudice to any other remedy, if the Goods or Services do not comply with sub-clauses 12.1 Or 12.2 or with any other term or condition of the Contract the Purchaser shall be entitled:-
- a) 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
- b) 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. Assignment
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. Advertisement
The Seller shall not, without the previous written consent of the Purchasing Manager of the Purchaser, advertise or make it known that the Seller supplies or has supplied to the Purchaser.
15. Confidentiality
The Seller shall treat any Order and all designs, drawings, specifications and information supplied therewith as confidential and shall not disclose the same to any third party without the Purchaser's prior written consent or infringe any copyright, patent, trade mark, registered design or other intellectual property right vested in the Purchaser.
16. Reporting to the Site
Prior to commencing the Services the Seller shall contact the Project Manager to obtain permission to commence work.
17. Site Regulations
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.
18. Variations
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 who 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 Government legislation affecting wages and prices in force from time to time.
19. Protective Clothing
It is the Seller's responsibility to provide appropriate protective clothing where necessary for the protection of his 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.
20. Clearance on Completion
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.
21. Employment
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.
22. Equipment on Loan
22.1 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.
22.2 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.
23. Statutory and other Requirements
The Services shall be carried out with proper regard to safety and the Seller shall at its sole expense observe and conform to all statutory enactments and regulations and any regulations of local or other authorities applicable to the provision of the Services or generally to the site or premises where the Services are carried out.
24. Governing Law The Contract shall be governed by and construed in accordance with English law and each party thereto hereby submits to the exclusive jurisdiction of the English Courts.

Dated: 10 March 2006

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