

## **GILL TECHNOLOGY TERMS AND CONDITIONS OF SALE**

These conditions shall be incorporated in and form part of every contract for the sales by Gill Research and Development Ltd, trading as Gill Technology (“Seller”) of any services, materials, machines, or other goods and systems (“Goods”) which shall be the subject of the contract between Seller and the persons, company or other organisation (“Buyer”) purchasing the Goods.

**1. Quotations.** Quotations by Seller are not sales offers but invitations to treat only. All information in and relating to the quotations shall be confidential and shall not be passed without the permission of Seller to any third party. Seller shall be free to accept or refuse an order for any reason whatsoever.

**2. Acceptance of Order.** Save as otherwise agreed in writing all orders are accepted by Seller subject to these Terms and Conditions of Sale which override any other terms or conditions stipulated or incorporated or referred to by Buyer. The contract for the sale of Goods between Seller and Buyer shall be deemed to have been made when Seller sends or otherwise communicates to Buyer its acceptance of Buyer’s order and the Goods relative to such contract shall be those stated in such acceptance. Contracts for delivery by instalments shall be deemed to be indivisible.

**3. Prices.** Delivery of all orders is on an ex-works basis and Buyer will be responsible for all insurance, forwarding and carriage costs, taxes and duties, payable in accordance with clause 4 of these conditions, unless other agreement is made and accepted in writing prior to delivery. Prices exclude VAT, which will be added.

**4. Payments.** Unless otherwise agreed in writing prior to delivery, payment for the Goods shall be made not later than thirty (30) days from the invoice date. Notwithstanding the above Seller may at any time require Buyer to make payment in advance of delivery or to advance adequate security for the payment of all amounts due or to become due under the contract. Where payment is to be made by instalments the failure of Buyer to pay any instalment in due time shall entitle Seller to treat such failure as a repudiation of the whole contract by Buyer and to recover damages for such breach of contract. Seller reserves the right to charge interest calculated daily at the prevailing Bank of England rate plus 2% on overdue accounts.

**5. Fixed Price Contract.** A fixed price contract may be undertaken where an exact specification is agreed in writing between Seller and Buyer (“Specification”). Any changes to the Specification, patent applications, other patent or intellectual property work or unplanned activities at Buyer’s request after the contract has been accepted are subject to separate agreement as regards any additional cost and time involved and may be refused if unreasonable. Time-scales are quoted in good faith, but do not form part of any contract. Seller shall not be liable for failure to adhere to any time-scales quoted nor for any damage or loss arising directly or indirectly out of any delay, nor shall Buyer be entitled to refuse to accept the Goods because of any delay. Payment schedule is by agreement, and invoices shall be presented upon delivery of the Goods at agreed stages. Goods are deemed to have been accepted upon delivery unless written notification of significant and substantiated deviation from Specification is received within 15 days of delivery. Seller will address any minor deviations from Specification within a reasonable time from being notified by Buyer. Any criteria applied during acceptance tests must be contained within the Specification.

**6. Alternative Specification.** Where Buyer is unable to provide an appropriate Specification, Seller may propose an alternative specification and offer a fixed price quotation against this. If the contract is agreed on this basis, the alternative specification will be taken in lieu of any other specification provided by Buyer and Seller’s sole interpretation of this will be binding.

**7. Cost plus.** Where an exact specification is not agreed, work may be undertaken by Seller without commitment to a specific outcome and invoices will be presented monthly in arrears for time spent, at appropriate rates, and for expenses such as travel, materials, etc. Any quotation provided by Seller for cost-plus work is for budgetary purposes and forms no part of any contract. Buyer’s liability to pay invoices for cost-plus work is not conditional on acceptance of the work. Quotations for cost-plus work are based on a 37.5 hour week with provision for holidays etc. Overtime working, if requested and agreed, will be subject to a surcharge.

**8. Verbal Instruction.** A contract may be formed by Seller's verbal acceptance of Buyer's verbal instructions. Any such contract is governed by these Terms and Conditions and Buyer shall be liable for the financial and other consequences of Seller acting upon such instructions.

**9. Property and Risk.** Upon delivery the Goods shall be at Buyer's risk but the property in the Goods shall not pass to Buyer until such time as payment for the Goods shall have been made.

**10. Equipment Warranty.** All equipment provided under a development contract is of prototype status, and is provided without warranty. It may be expected to require specialised supervision and care in operation and transportation, and to require attention to minor defects from time to time. Seller will provide support for the maintenance of prototype equipment on a cost plus basis as defined in clause 11.3 above.

**11. Limitation of liability.** Whilst the utmost care is taken to ensure the accuracy of any information data and advice furnished to Buyer, such information and data shall not (subject as provided in clause 12.1 above) be deemed to form part of the contract for the sale of the Goods and Buyer shall at the time the contract is made be deemed to have carried out its own investigations and tests of the Goods.

Seller's liability for any and all direct loss resulting to Buyer from defective Goods or from any other cause whatsoever shall be limited to the purchase price of the Goods in respect of or in relation to which such loss or damage is claimed unless Seller shall have replaced such defective Goods with Goods conforming in all respects with the contract in which event Seller shall be under no further liability to Buyer.

Seller cannot be responsible for the accuracy or fitness for purpose of Buyer's specifications. Seller shall be under no liability in contract or in tort for any injuries, losses, expenses or damage direct or indirect and in particular but without prejudice to the generality of the foregoing, any consequential loss, in each case arising out of or consequent upon or attributable to the contract for the sale of the Goods or the supply or use of the Goods and/or any containers and/or packages or Buyer or any third party having made use of or adopted in whole or in any part any information or data or advice given by or on behalf of Seller in relation to the Goods or their use.

**12. Cancellation of Orders.** Orders for Goods may not be cancelled or suspended without Seller's written consent. Buyer shall not be entitled, where the Goods are to be delivered by instalments, to cancel any undelivered balance of the order without the prior written consent of Seller.

**13. Force Majeure.** Seller shall be entitled by written notice to Buyer to cancel any contract should Seller be hindered or prevented by Force Majeure, traffic upsets or any other cause reasonably beyond its control. In particular Seller shall be entitled to effect such cancellation if it is unable to obtain the necessary licences, consents or authorities for the exportation or importation of goods, parts or materials originating outside the United Kingdom or for the payment for such parts or materials.

**14. Indemnity.** Buyer shall indemnify Seller in respect of all damage or injury occurring to any person, firm, company or property and against all actions, suits, claims and demands, charges or expenses in connection therewith for which Seller may become liable in respect of the Goods sold under the contract in the event that the damage or injury shall have been occasioned otherwise than by the neglect of Seller.

**15. Default.** If Buyer shall commit any breach of these Conditions or if any distress or execution shall be levied upon any of the property or assets of Buyer or if Buyer shall, in the sole opinion of Seller, be unable to pay Seller for the goods or suspend payment of its debts or make any arrangements with its creditors, or being a company have a Receiver appointed of its assets, or pass any resolution to be wound-up, or being a person shall commit any act of bankruptcy, or have any bankruptcy petition presented against it, then and in any such event Seller shall, without prejudice to any other rights and remedies it might have and without any liability whatsoever be at liberty forthwith by notice in writing to Buyer to cancel all orders and contracts or any part thereof remaining unfulfilled between Seller and Buyer for the delivery of the Goods and either for its agents or itself to have access to Buyer's premises for the protection, removal, realization and disposal of any Goods at any time and from time to time in which the property shall not have passed from Seller to Buyer in accordance with these Conditions of Sale.

**16. Lien.** Without prejudice to any other right which Seller may have, Seller shall be entitled to exercise a general lien or right of retention on all Goods in Seller's possession which are, or are intended to become, Buyer's property in regard to all debts, damages or other sums due to Seller. Pursuant to such lien or right, Seller shall be entitled without notice to Buyer to sell all or any portion of such goods privately, by auction or otherwise, and to keep the proceeds in diminution of such debts, damage or sums and of all costs and expenses incurred in and about effecting such a sale.

**17. Confidentiality and Publicity.** Seller and Buyer will respect normal standards of commercial confidentiality. Any information required to be retained in particular confidence must be identified to Seller as such. Any requirements of confidentiality whether or not the subject of separate agreement shall not inhibit Seller's reasonable use of general information concerning Buyer's project for publicity purposes unless specified in writing by Buyer.

**18. Intellectual Property.** Seller retains all Intellectual property, patent, and other rights unless otherwise agreed in writing. No representation, warranty or indemnity is given by Seller that the Goods do not infringe any letters, patent, trade marks, registered designs, copyright or other industrial rights.

**19. Tooling, jigs and fixtures.** Unless otherwise agreed in writing, Seller retains ownership of all patterns, jigs, fixtures and tooling manufactured or procured by Seller for the fulfilment of this contract.

**20. Assignability.** The contract of which these Conditions form part is personal to Buyer who shall not assign the benefit thereof without Seller's written consent.

**21. Third Parties.** A person who is not party to this contract has no right to enforce any term of this contract under the Contracts (Rights of Third Parties) Act 1999 and the parties to this contract do not intend that any third party rights are created by this contract.

**22. Data Protection.** Seller operates under the Data Protection Act. Data provided by Buyer will be held in multiple file formats by Seller and will be processed within Seller's company for normal business purposes. Data may be passed to third parties for normal business purposes. The Seller will not sell data to any third party.

**23. Separate and severable.** Each clause in this contract is deemed to be separate and severable and is enforceable accordingly.

**24. Arbitration and Applicable Law.** The construction, validity and performance of this contract shall be governed by the Laws of England. Any disputes arising out of the contract shall be referred to arbitration in England in accordance with the provision of the Arbitration Act 1975 or any statutory modifications thereof for the time being in force.