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Conditions of Purchase – Gurit (UK) Limited

1 General

- 1.1 Unless otherwise agreed in writing, these terms and conditions of purchase (“**Conditions**”) apply exclusively to each transaction (“**Contract**”) for the purchase of goods (“**Goods**”) by Gurit (UK) Limited and/or by such (if any) of the other subsidiaries or associated or affiliated companies (“**Group Companies**”) of Gurit Holding AG as are named in an Order (defined in Condition 2.1) (together or separately “**Company**”) from the supplier of Goods (“**Supplier**”) pursuant to Condition 2. Whenever Gurit (UK) Limited acts on behalf of any of the other Group Companies in connection with the Contract, it does so as agent on behalf of such Group Company.
- 1.2 These Conditions shall govern the Contract to the exclusion of all other terms and/or conditions, which may be contained in a quotation, catalogue, price list, order, acknowledgement or any other document, and the Supplier waives any right which it might otherwise have to rely on terms and conditions contained in any document supplied by the Supplier to the Company.
- 1.3 The headings used are for convenience only and shall not affect the interpretation of these Conditions. A reference to any Condition number shall be to such Condition in these Conditions.
- 1.4 In these Conditions any reference to the singular number shall include the plural and vice versa and any reference to any gender shall include all other genders.

2 Orders

- 2.1 Any written instruction for the purchase of Goods howsoever transmitted by the Company to the Supplier, including (without limitation) any purchase order, vendor schedule, consignment stock call off or vendor managed inventory process, (“**Order**”) constitutes an offer by the Company to purchase such Goods on the terms and conditions contained in these Conditions.
- 2.2 Save in the case of Condition 2.3, the Supplier is deemed to accept such an offer comprised in an Order when it gives express notice of acceptance or otherwise fulfils the Order (in whole or part).
- 2.3 Where the Supplier and the Company have expressly agreed that written communications from the Company to a specified email address of the Supplier shall be answered within one working day (as defined below), any failure on the part of the Supplier to respond to any such communication within the agreed time period shall be taken to be deemed acceptance of the contents of such communication (including, without limitation, an offer comprised in an Order submitted by the Company). The Company shall only send such a communication on a working day (being a day other than a Saturday, Sunday or bank or other public holiday in England) and the Supplier shall not be required to send any response on a non-working day, but, if applicable, shall send any response that may be due on the next following working day.
- 2.4 No variation to the Order, the Contract or these Conditions shall be binding unless agreed by the Company and the Supplier in writing.
- 2.5 An advice note (“**Advice Note**”) containing the following information must be forwarded to the Company by e-mail or fax within 24 hours of despatch: Order number (as supplied by the Company at the date of Order), quantity, description of packages, gross weight, route of dispatch and the Company’s appropriate codes.

3 Delivery

- 3.1 The Supplier will deliver the Goods to at the delivery address stated on the Order on the date or within the delivery period stated in the Order. Delivery of Goods takes place when the Supplier, its carrier or agent hands over Goods to the Company or its carrier or agent (“**Delivery**”). Unless stated otherwise in the Order, the Delivery will take place at the Company’s premises with all charges in respect of duty, packaging, shipping, carriage, insurance and Delivery included in the Goods unit Price.
- 3.2 The time of Delivery is of the essence of each Contract and if Delivery does not occur on the date or within the delivery period stated in the Order, the Company may, in writing, (without affecting its rights under Condition 10.2 in respect of any Goods comprised in the Order which have already been delivered) cancel the Order in respect of any un-delivered Goods under Condition 8 and/or reject the Goods upon Delivery.
- 3.3 The Supplier will at all times up to the time of Delivery store Goods safely and securely following normal and accepted practice. The Supplier will at its own cost take all reasonable steps to prevent any deterioration of Goods until their actual Delivery.
- 3.4 The Supplier will not at any time exercise or seek to enforce any lien over any Goods.

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3.5 Goods must be packed safely and securely following usual and accepted practice and the Company's reasonable instructions. Goods and/or each package must be marked in accordance with the Company's instructions and must bear the Company's appropriate codes and Order numbers. On Delivery a further copy of the Advice Note must accompany the Goods.

3.6 The Supplier must before and on Delivery advise the Company of any special requirements or hazards relating to the transportation and/or storage of Goods and must attach any related warnings and instructions in a clearly visible manner on the outside of their packaging.

4 Liability of Supplier

4.1 The Supplier's total liability whether in contract, tort (including negligence or breach of statutory duty), misrepresentation or otherwise, arising out of or in connection with the Contract shall not exceed Euro 5 million or such other sum as may be agreed in writing between the parties from time to time .

4.2 Nothing in this Condition 4 shall exclude or limit any liability for death or personal injury caused by negligence or for any matter in respect of which it would be unlawful to exclude or attempt to exclude liability.

5 Rejection of Goods

5.1 The Company has the right to reject any Goods that do not comply with the Contract. It is the Supplier's responsibility to collect any Goods delivered to the Company that do not comply with the Contract within five (5) working days from receipt of non-conformance report from the Company. Failure to respond within five (5) working days will result in the Company returning the Goods at the Supplier's expense. The Company is not to be taken as having accepted any Goods until it has had a reasonable time to inspect them following Delivery, or if later, within a reasonable time after any latent defects in Goods have become apparent.

6 Price and Payment

6.1 The price of Goods is that stated in the Order ("**Price**"). All Prices are exclusive of Value Added Tax and, unless stated otherwise in the Order, are inclusive of any other charges in respect of tax, duty, packaging, shipping, carriage, insurance and Delivery.

6.2 Unless the Order states otherwise, the Company will pay the Price for the Goods within 60 days following Delivery or receipt of a valid invoice from the Supplier (showing Value Added Tax, if applicable, as a separate charge), whichever is later. To the fullest extent permitted by law, the Company may deduct from any money that it owes to the Supplier any amount that the Supplier owes to the Company.

6.3 In all of the Supplier's invoices, the relevant Order number must be quoted along with the information required on the Advice Note. The Company is entitled to reject invoices that do not conform to these requirements.

6.4 The Company shall not be liable to the Supplier if due to an event beyond its reasonable control it defers any payment to the Supplier.

7 Risk and Property

7.1 Without affecting its rights to reject the Goods, the property (legal and beneficial) and risk in the Goods passes to the Company on Delivery.

8 Cancellation

8.1 Without affecting any of its other rights, the Company may for any reason terminate any Contract, entirely or partially, at any time before Delivery, by giving written notice to the Supplier. .

9 Insolvency of Supplier

9.1 If the Supplier makes any voluntary arrangement with its creditors or (being an individual or firm) becomes bankrupt, or (being a company) becomes insolvent or subject to an administration order or goes into liquidation (otherwise than for the purposes of amalgamation or reconstruction), or an encumbrancer takes possession, or a receiver, manager, administrator, administrative receiver or other equivalent is appointed over all or any part of any of the undertaking, property or assets of the Supplier, or the Supplier ceases or threatens to cease to carry on business or the Company reasonably apprehends that any of the events mentioned in this Condition is about to occur (and notifies the Supplier accordingly) then, without prejudice to any other right or remedy available to the Company, the Company shall be entitled to terminate the Contract forthwith by giving written notice to the Supplier without any liability on the part of the Company.

10 Warranty

10.1 Without affecting any of the Company's other rights and remedies (including, without limitation, the benefit of all warranties and conditions implied in favour of the Company by the Sale of Goods Act 1979 or otherwise), the Supplier warrants that:

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- 10.1.1 the quantity of Goods will be as stated in the Order;
 - 10.1.2 the Goods are of satisfactory quality and fit for any purpose held out by the Supplier or made known to it;
 - 10.1.3 the Goods will correspond to the specifications as agreed in writing by the Company and will be free from defects in design, materials and workmanship;
 - 10.1.4 the design, manufacture, construction, supply, use and quality of Goods will comply in all respects with any relevant statute, statutory rule, order, directive or statutory licence, consent or permit which may be in force at the time;
 - 10.1.5 the Goods (and/or their importation) do not infringe the intellectual property rights of any other person;
 - 10.1.6 the Goods and all supporting literature and documentation comply with all applicable statutory requirements and regulations; and
 - 10.1.7 the Goods have all necessary export and/or import licences and comply with all relevant government export and/or import regulations.
- 10.2 Without affecting any other remedy (whether offered by the Supplier or a third party or otherwise), if within twelve months of Delivery or, if longer, within the stated shelf life of the Goods, it is discovered that the Goods supplied do not comply with the Contract, then the Company has the right to require the Supplier, within thirty (30) days, to remedy any defect in the Goods or to supply replacement Goods in accordance with the Contract. This right includes replacement of all Goods which because of this breach of Contract are not reasonably capable of being used by the Company. Alternatively, and if the defects are not remedied, the Company may treat the Contract as repudiated and may require the repayment of the Price, or any part of it, that the Company has paid.
- 10.3 The Supplier may not make any changes to the Goods prior to Delivery unless it has given to the Company not less than 90 days' prior written notice and the Company has given its prior written consent to such changes.

11 Indemnity

- 11.1 Without affecting any of the Company's other rights, subject to Condition 4 the Supplier will indemnify the Company in full for and against all liability, loss, including direct, consequential and special loss or damage (whether for loss of income, profit, business, contracts, goodwill, bargain, saving or otherwise), costs and expenses (including legal expenses) awarded against or incurred or paid by the Company, or any other claims for compensation which arise out of or in connection with, the supply of Goods or their use or resale by the Company to the extent that such liability, loss, costs or expenses are as a consequence of a breach of the Contract, or negligent or failure or delay in performance of the Contract, by the Supplier.

12 Intellectual Property Rights

- 12.1 The Supplier shall not, by virtue of the Contract, obtain or claim any right, title or interest in or to any property, including without limitation any intellectual property rights (such expression to include without limitation patents, trade marks, copyright, registered designs, unregistered design rights), of the Company supplied or made available to the Supplier, except any non-exclusive licence to use the same as is specifically required to enable the Supplier to perform its obligations under the Contract.
- 12.2 All materials (which term shall include without limitation all drawings, studies, diagrams, plans, photographs, models, prototypes, patterns, samples, specifications and technical information of every description whether reproduced or capable of being reproduced in writing, on computer disc, in three dimensional form or otherwise) prepared by the Supplier in connection with the Contract and all intellectual property and other rights in the same shall be and remain the property of the Company. The Supplier shall be licensed to use such materials for the purpose of fulfilling the Contract. The Supplier agrees that all right, title and interest in any such materials as may vest in the Supplier is hereby assigned and transferred to the Company with full title guarantee absolutely and free from all encumbrances.

13 Company Property

- 13.1 Where the Company, for the purposes of the Contract, issues, or arranges for the issue of, goods, tools, materials, equipment or other property ("**Company Property**") to the Supplier, whether free of charge or otherwise, all such Company Property shall be and remain the absolute property of the Company, and the Supplier shall:-
- 13.1.1 hold the same as bailee on behalf of the Company;
 - 13.1.2 clearly mark the Company Property as the property of the Company and not include the same in any asset register maintained by the Supplier;
 - 13.1.3 maintain the Company Property in good order and condition subject only to fair wear and tear;
 - 13.1.4 keep the same fully insured under Condition 14 with a reputable insurer;
 - 13.1.5 not make, or permit any third party to make, any copies of the Company Property;

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- 13.1.6 use the Company Property solely for the purpose of the manufacture of Goods for sale to the Company in accordance with the Contract, and not for any other purpose, and not remove the Company Property from the Supplier's premises without the Company's prior written authority;
- 13.1.7 allow the Company unrestricted access to the Supplier's premises on 24 hours notice in order to inspect and/or recover the Company Property at any time; and
- 13.1.8 comply with all directions of the Company from time to time concerning the Company Property, including without limitation any instruction to return the Company Property forthwith for any reason and at any time, including upon termination of the Contract for any reason or for the purpose of redesign or modification of the Company Property.

14 Insurance

- 14.1 The Supplier must insure and keep insured to the full replacement value the Goods and any Company Property, while these are in the Supplier's possession or while the risk lies with it. The Supplier must also maintain adequate insurance with a reputable insurer against the liabilities in Conditions 4, 8 and 11 and against any loss, damages, accident or injury suffered or incurred by the Supplier, or any person other than the Company, making use of the Company Property for the manufacture of Goods in accordance with the Contract. The Supplier must provide to the Company evidence of all such insurance at any time on request.

15 Confidentiality

- 15.1 The Supplier shall keep confidential and shall not use (except in the proper performance of the Contract) or disclose, without the prior written consent of the Company, any technical, business, financial or commercial information or other information of a confidential nature acquired as a result of any communications between them relating to the Contract and/or the Goods. All such confidential information (including any copies) shall remain the property of the Company and shall if in tangible form be promptly returned or destroyed by the Supplier on request by the Company.
- 15.2 The duty of confidentiality under this Condition shall not apply to information that at the time of disclosure was already in the public domain (other than due to a breach of this Condition) or is required to be disclosed by statute, any order of a court of competent jurisdiction or an appropriate regulatory authority.
- 15.3 For the avoidance of doubt, the provisions of this Condition 15 shall co-exist with (and shall not prejudice or be prejudiced by) any other written obligations of confidentiality as may be expressly agreed between the Supplier and the Company in relation to any subject matter other than the Contract or the Goods.

16 Termination

- 16.1 Without prejudice to any other rights available to it (including, without limitation, the Company's rights and remedies under Conditions 8, 9 and 17) and without liability on its part, the Company may give written notice to the Supplier to terminate the Contract (in whole or part) forthwith on the happening of any one of the following events:-
 - 16.1.1 if the Supplier having been given 28 days' notice in writing of any breach of the Contract fails to remedy the same (if capable of remedy) within such 28 day period; or
 - 16.1.2 if the Supplier repudiates or commits any serious or repeated breach of the Contract.
- 16.2 Termination of the Contract, howsoever arising, shall be without prejudice to the rights and obligations of the parties accrued prior to termination.

17 Remedies

- 17.1 Without prejudice to any other right or remedy which the Company may have under the Contract or at law, if the Supplier fails to comply with any of the terms of the Contract the Company shall be entitled to any one or more of the following remedies at its discretion, whether or not any part of the Goods have been accepted by the Company or the Company has paid any part of the Price:-
 - 17.1.1 to reject the Goods in whole or part and return them to the Supplier at the Supplier's risk and cost on the basis that a full refund for the Goods so returned shall be paid forthwith by the Supplier;
 - 17.1.2 to refuse to accept any further deliveries of the Goods without any liability to the Supplier;
 - 17.1.3 to carry out at the Supplier's expense any work necessary to make the Goods comply with the Contract;
 - 17.1.4 to claim an administration fee of up to Euro 300 in any case where Goods are rejected under Condition 5; and/or
 - 17.1.5 to claim such damages as may have been sustained in consequence of the Supplier's breach(es) of the Contract.

18 Force Majeure

- 18.1 Neither party shall be liable to the other for any breach of the Contract due to circumstances beyond its reasonable control. Such "**force majeure**" shall include (without limitation) strikes, lock-outs, riots, war or threat of war, actual or

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threatened terrorist activity, industrial action, natural forces such as fires or explosions and any need to comply with unusual governmental or local authority restrictions. Any party affected by force majeure shall give prompt notice of the circumstances to the other party and shall remedy any breach of the Contract as soon as practicable. In the event of such force majeure persisting for more than 45 days, either party shall be entitled to terminate the Contract without any liability save for any rights and/or claims which may have existed prior to the force majeure arising.

19 Assignment and Sub-Contracting

19.1 The Supplier cannot, without the Company's prior written consent, assign, transfer or sub-contract any of its rights or obligations under any Contract. The Company may assign or subcontract all of its rights or obligations.

20 Entire Agreement

20.1 Each Contract and the documents referred to in it together constitute the whole agreement and understanding of the parties and supersede all previous representations, arrangements, understandings and agreements between the parties relating to the subject matter. Nothing in this Condition shall operate to exclude or limit liability for fraud or fraudulent misrepresentation.

21 Notices

21.1 Any notice given under these Conditions must be in writing, addressed to the registered office or principal place of business of the addressee or any other address as may, at the relevant time, have been notified as the correct address for service. Any notice must be delivered by hand or sent by first class (airmail if overseas), registered delivery post. E-mail shall not be effective notice. Notices may be faxed provided they are also sent in accordance with this Condition. Notice shall be deemed received if delivered by hand, at the time of delivery, and if posted nationally, two, or internationally, four, business days (excluding Saturdays, Sundays and UK bank holidays) after the date of posting.

22 Waiver

22.1 Any waiver by either party of any right or remedy will only be effective if made in writing and signed by a duly authorised representative of the entitled party. No waiver will be treated as waiving any subsequent breach and no single or partial exercise of a right or remedy shall prevent further exercise of the right or remedy or the exercise of another right or remedy.

23 Severance

23.1 If any provision of the Contract is held by any court or other competent authority to be void or unenforceable either in whole or part then such whole or part provision shall be deemed deleted from the Contract and the enforceability of the remainder of the Contract shall not be affected.

24 Third Party Rights

24.1 A person who is not a party to the Contract shall have no rights under or in connection with it by virtue of the Contracts (Rights of Third Parties) Act 1999 provided that, for the avoidance of doubt, any Group Companies named in an Order shall constitute parties to the Contract for the purposes, inter alia, of this Condition 24.

25 Relationship of the Parties

25.1 Nothing in the Contract shall be deemed to create between the Company and the Supplier or any of the Supplier's personnel any of the relationships of partnership, agency, employment or joint venture.

26 Law and Jurisdiction

26.1 English law governs these Conditions and each Contract and the Company and the Supplier agree to the non-exclusive jurisdiction of the English courts in relation to legal proceedings brought against the Supplier by the Company and the exclusive jurisdiction of the English courts in relation to legal proceedings brought by the Supplier against the Company, in each such case in connection with these Conditions and their subject matter.