

TWIFLEX Ltd (including the trading names Wichita Clutch and Stieber Clutch)

STANDARD CONDITIONS OF PURCHASE

1. DEFINITIONS

- 1.1 "the Company" means Twiflex Limited of Altra Industrial Motion, 317 – 319 Ampthill Road, Bedford, MK42 9RD registered in England under number 404531 (or any trading name, including "Wichita", any subsidiary or associate thereof).
- 1.2 "Conditions" means the terms and conditions of purchase set out in this document and any special terms and conditions agreed in writing by the Company.
- 1.3 "Contract" the contract between the Company and the Seller arising on submission of the Order by the Company subject to these Conditions of Purchase.
- 1.4 "Delivery Date" means the date specified by the Company on the Order when the goods are to be delivered.
- 1.5 "Goods" means the goods which the Seller agrees to sell to the Company and also applies to the supply of services if appropriate in the circumstances under the Company's Order.
- 1.6 "Order" means the Company's Purchase Order to which these conditions are annexed.
- 1.7. "Price" means the price for the Goods excluding carriage, packing, insurance and VAT.
- 1.8 "Seller" means the person, firm or company who agrees to accept the Company's Order and sells or agrees to sell the Goods to the Company.
- 1.9 A reference to a law is a reference to it as it is in force for the time being taking account of any amendment, extension, application or re-enactment and includes any subordinate legislation for the time being in force made under it.
- 1.10 A reference to one gender includes a reference to the other gender.
- 1.11 Condition headings do not affect the interpretation of these Conditions

2. CONDITIONS APPLICABLE

- 2.1 These Conditions shall apply to all Contracts for the purchase of Goods by the Company from the Seller to the exclusion of all other terms and conditions, including any terms or conditions which the Seller may purport to apply under any sales offer or similar document and any terms and conditions subject to which the Order is accepted or purported to be accepted by the Seller.

- 2.2 The commencement of any work or performance of services or delivery of Goods by the Supplier pursuant to an Order from the Company shall constitute acceptance of these terms and conditions where acceptance has not previously been communicated to the Company.
- 2.3 The Conditions are an integral part of the Order and any business will be conducted solely on the basis of these terms, to the exclusion of and notwithstanding any contrary terms, whether on quotations, acknowledgements, catalogues or any other correspondence from the Seller, including correspondence both pre- and post-dated from placement of this Purchase Order.
- 2.4 Despatch or delivery of the Goods by the Seller to the Company shall be deemed conclusive evidence of the Seller's acceptance of these Conditions.
- 2.5 Any variation of these Conditions (including any special terms and conditions agreed between the parties) shall be inapplicable unless agreed in writing by the Company.

3. PRICE AND PAYMENT

- 3.1 The Price shall be the price set out in the Order. The Price shall be exclusive of VAT which shall be due at the rate ruling on the date of the Seller's invoice.
- 3.2 All Sellers who are registered for Value Added Tax are required to issue a proper tax invoice in accordance with the relevant legislation before the Company shall be required to make payment for Goods and/or services supplied in accordance with the Order.
- 3.3 No variation in the price specified in the Order will be accepted by the Company unless reasonable notice thereof has been given and the Company has expressly accepted such variation in writing.
- 3.3 The Company shall not be responsible for the payment of any charges for work done or Goods supplied in excess of work or Goods stated in the Order or any variation thereof unless authorised in writing by a further priced Order. Where an Order is placed on a price by weight basis the quantity delivered shall be within 2.5% of the specified quantity.
- 3.4 All invoices for Goods supplied or work performed must be rendered after delivery in accordance with Condition 6 and must bear the Company's Order number. Payment of each of the Seller's invoices shall be due within 60 days from the date of the invoice.
- 3.5 Time for payment shall not be of the essence of the Contract.
- 3.6 Where Goods are subject to Value Added Tax or any similar impost the amount legally demanded shall be shown as a separate item on the invoice and the Seller shall, if required by the Company, produce evidence of the amount paid or to be paid by the Seller in respect thereof.
- 3.7 The Company may set off against the Price (including any applicable VAT payable) amounts due from the Seller whether under the applicable Contract of sale or otherwise.
- 3.8 No payment of or on account of the Contract price shall constitute any admission by the Company as to the proper performance by the Supplier of his obligations.
- 3.9 No payment will be made for containers, crates or packing materials of any description except by special arrangement and agreed by the Company in writing.

- 3.10 The Seller is not entitled to delay or suspend delivery of the Goods under the Order or any other order or Contract between the parties as a result of sums being outstanding.

4. THE GOODS

- 4.1 The Goods shall be of the best available design, of the best quality, material and workmanship, be without fault and conform in all respects with the Contract and specification and/or patterns supplied or advised by the Company to the Seller and the quantity shall be as specified on the face of the Order.
- 4.2 The Seller shall ensure that all the Goods shall be designed, manufactured, processed, stored, tested and packed in accordance with all British Standards applicable to them and that all the Goods are of merchantable quality and fit for the purposes for which the Company intends to use such Goods.
- 4.3 The Goods shall conform strictly with the agreed specifications and drawings (if any), samples or other description furnished, specified or approved by the Company and/or by reference to which the Company has agreed to purchase the same.
- 4.4 The Company's rights under these Conditions are in addition to the statutory conditions implied in favour of the Company by the Sale of Goods Act 1979.

5. INSPECTION AND TESTING

- 5.1 Before despatching the Goods the Seller shall carefully inspect and test them for compliance with specification. The Seller shall, if requested by the Company, give the Company reasonable notice of such tests and the Company shall be entitled to be represented thereat. The Seller shall also, at the request of the Company, supply to the Company a copy of the Seller's test sheets certified by the Seller to be a true copy.
- 5.2 The Company shall be entitled to inspect and test the Goods during their manufacture, processing and/or storage and the Seller shall provide or procure the provision of all such facilities as may reasonably be necessary therefor.
- 5.3 Should the Company so desire, the Goods shall within 14 days prior to despatch be tried by the Seller in the presence of a representative of the Company working the Goods in the usual manner. If the Goods shall fail to work in accordance with their specification the Seller shall remedy the defects within 7 days after the trial and the Goods shall then be tried again in the manner set out above.
- 5.4 If, as a result of any inspection or test under this Condition 5, the Company's representative is not reasonably satisfied that the Goods or their manufacture or processing comply in all material respects with the Order specification or that the Goods are unlikely on completion of manufacture or processing so to comply, the Company shall inform the Seller accordingly in writing and the Seller shall, without extra cost to the Company, take all such steps as may be necessary to ensure such compliance and in addition the Company shall have the right to require and witness further testing and inspection thereafter.
- 5.5 Notwithstanding any such inspection or testing, the Seller shall remain fully responsible for the Goods and any such inspection or testing shall not diminish or otherwise affect the Seller's obligations under the Contract.

- 5.6 If any of the Goods fail to comply with the provisions set out in this Condition 5 the Company shall be entitled to avail itself of any one or more remedies listed in Condition 13.

6. DELIVERY OF THE GOODS

- 6.1 The Goods shall be delivered, carriage paid, to the Company's place of business or to such other place of delivery as is stated on the Order or as agreed by the Company in writing prior to delivery of the Goods. The Seller shall off-load the Goods at its own risk as directed by the Company.
- 6.2 If Goods are incorrectly delivered the Seller shall be held responsible for any additional expense incurred in delivering them to their correct destination.
- 6.3 The Seller shall send a detailed "Advice Note" to the Company at the same time as the goods are despatched, quoting the Company's Order number, the weight, number of pieces etc and shall enclose a duplicate "Delivery Note" with the Goods.
- 6.4 The Delivery Date on the Order is of the essence of the Contract.
- 6.5 Unless otherwise stipulated by the Company in the Order, deliveries shall only be accepted by the Company in normal business hours
- 6.6 The Seller shall furnish such programmes of manufacture and delivery as the Company may reasonably require and the Seller shall give notice to the Company as soon as practicable if such programmes are, or are likely to be, delayed.
- 6.7 The Seller shall invoice the Company upon, but separately from, despatch of the Goods to the Company.
- 6.8 If the Seller fails to deliver all of the Goods in accordance with the Order or Contract on the Delivery Date then without prejudice to the Company's rights for the breach of contract the Company:
- 6.8.1 may terminate the Contract in whole or in part. In this event without prejudice to the Company's other remedies the Seller shall promptly collect any Goods which have been delivered;
 - 6.8.2 refuse to accept any subsequent delivery of the Goods which the Seller attempts to make;
 - 6.8.3 recover from the Seller any expenditure reasonably incurred by the Company in obtaining the Goods and/or services in substitution from another supplier, including any extra costs and loss of profits incurred by the Company; and
 - 6.8.4 claim damages for any additional costs, loss or expenses incurred by the Company which are in any way attributable to the Seller's failure to deliver the Goods on the due date.
- The Company may exercise these rights by written notice to the Seller.
- 6.9 Where delivery of a quantity of the Goods which correspond to the Contract which is less than the agreed quantity has been tendered and the Company has not exercised its

rights of termination under Conditions 6.8.1 the Company may accept the Goods which correspond to the Contract and recover monies pro rata from the Seller in respect of the failure to deliver the remainder of the Goods.

- 6.10 The Company shall be entitled to reject any Goods delivered which are not in accordance with the Contract and shall not be deemed to have accepted any Goods until the Company has had a reasonable time to inspect them following delivery or, if later, within a reasonable time after any latent defect of the Goods has become apparent.
- 6.11 Where the Company has rejected Goods under Condition 6.10 the Seller upon receiving the notice from the Company shall repair or replace free of charge Goods damaged or lost in transit and due delivery of the Goods shall not be deemed to have taken place until replacement or repaired Goods have been delivered by the Seller to the Company. The Company reserves the right to hold such damaged Goods at the Seller's risk or to return them at the risk and expense of the Seller.
- 6.12 The Company shall only be responsible for returning cases or other durable packaging to the Seller if such responsibility is accepted by the Company in the Order and is at the Seller's cost and expense.
- 6.13 Where the Company agrees in writing to accept delivery by instalments the Contract shall be construed as a single contract in respect of each instalment. Nevertheless failure by the Seller to deliver any one instalment shall entitle the Company at its option to treat the whole Contract as repudiated.
- 6.14 If the Goods are delivered to the Company in excess of the quantities ordered the Company shall not be bound to pay for the excess and any excess shall be and shall remain at the Seller's risk and shall be returnable at the Seller's expense.

7. ACCEPTANCE OF THE GOODS

- 7.1 The Company shall not be deemed to have accepted any part of the Goods until after the Company has (or the Company's sub-buyers have) had at least 7 days after deemed delivery and actually inspected the Goods and ascertained that they are in accordance with the Contract. The Company may reject Goods which are not in accordance with the Contract until a reasonable time after such inspection.
- 7.2 The Company may by notice in writing to the Seller prior to acceptance reject the whole or any part of the Goods if the Seller fails to comply with his obligations under Condition 5 hereof and may also by notice in writing to the Seller given within a reasonable time of delivery, reject any Goods which are found not to be in accordance with the Contract specifications or otherwise not to conform with the requirements set out in Condition 4 hereof.
- 7.3 The Company may set off against any payment due to the Seller (whether under the Contract or otherwise) the Price of such Goods. Unless within a reasonable time of receipt of notice of rejection the Seller collects such Goods the Company may dispose of them as the Company shall think fit (provided that if the Company sells such Goods the Company shall account to the Seller for the net proceeds of sale).
- 7.4 The Company shall when giving notice of rejection, specify the reasons therefor and shall thereafter return the rejected Goods to the Seller at the Seller's risk and expense. In such cases the Company may require the Seller, within a reasonable time, to replace such rejected Goods with Goods which are in all respects in accordance with Condition 4

hereof, but shall have the right to obtain other Goods in lieu thereof from other sellers and/or suppliers.

- 7.5 The Seller agrees to permit the Company to return any of the Goods which are not in accordance with the Contract at any time up to 6 months after delivery notwithstanding that the goods may have already been accepted by the Company.
- 7.6 The Company may set off against any payment due to the Seller (whether under this Contract or otherwise) the Price of such Goods. Unless within a reasonable time of receipt of notice of rejection the Seller collects such Goods the Company may dispose of them as the Company shall think fit (provided that if the Company sells such Goods the Company shall account to the Seller for the net proceeds of such sale).
- 7.7 The making of payment shall in no way prejudice the Company's right to reject Goods not conforming with the Contract.
- 7.8 Any money paid by the Company to the Seller in respect of any rejected Goods not replaced by the Seller, together with any additional expenditure over and above the price of the rejected Goods reasonably incurred by the Company in obtaining other Goods in replacement shall be paid by the Seller to the Company.

8. STORAGE

- 8.1 If for any Reason the Company is unable to accept delivery of the Goods at the time when the Goods are due and ready for delivery the Supplier shall at its expense store the Goods for a reasonable time having regard to the circumstances and shall safeguard them and take all reasonable steps to prevent their deterioration until their actual delivery.

9. TITLE AND RISK

- 9.1 The Goods shall remain at the risk of the Seller until delivery to the Company is complete (including off-loading and stacking) when ownership and title of the Goods shall pass to the Company.

10. INDEMNITY

- 10.1 The Seller shall indemnify the Company in respect of all damage or injury to any person or to any property and against all actions, suits, claims, demands, costs, charges and expenses arising in connection therewith caused by:
- 10.1.1 The negligence of the Seller, his sub-contractors or servants in relation to their performance for any purposes connected with the Contract; and/or
- 10.1.2 all claims by the customers of the Company and their sub-buyers arising out of any breach whatever by the Seller of the Contract of sale due to want of merchantable quality or lack of fitness for purpose of the Goods or any of the Goods; and/or
- 10.1.3 Defective design (other than design made, furnished or specified by the Company and for which the Seller has disclaimed responsibility in writing within a reasonable time after receipt of the Company's instructions), defective materials or defective workmanship; and/or
- 10.1.4 the failure by the seller to supply the Goods within the time and of the quality required in accordance with the Contract; and/or

- 10.1.5 any claims for infringement of any letters, patent, copyright, registered design, or trade mark and all other intellectual property rights by reason of the use or sale of the Goods supplied (save where the same shall have been manufactured in accordance with specifications or designs supplied by the Company) and against all losses costs damages judgements expenses interest and claims which the Company may incur have to bear or for which the Company may become liable as a result of such claims for infringement; and/or
- 10.1.6 all claims in respect of royalties payable by the Supplier in respect of the Goods; and/or
- 10.1.7 all claims made against the Company arising out of the acts and omissions of the Supplier or its sub-contractors.

11. WARRANTIES

- 11.1 The Seller warrants to the Company that upon delivery and for a period of 24 months from delivery the Goods:
 - 11.1.1 will be of satisfactory quality (within the meaning of the Sale of Goods Act 1979 as amended) and fit for any purpose held out by the Seller or made known to the Seller in writing at the time the Order is placed;
 - 11.1.2 will be free from defect in design, material and workmanship;
 - 11.1.3 will correspond with any relevant specification or sample; and
 - 11.1.4 will comply with all statutory requirements and regulations relating to the sale of the Goods.
- 11.2 The Seller further warrants that:
 - 11.2.1 in designing, manufacturing, supplying and installation of the Goods (including all work on site) and the provision of information relating thereto that it will comply with the duties imposed on it by the Health and Safety at Work Etc. Act 1974 or any amendment thereto or re-enactment thereof and of all other statutory provisions bye-laws rules and regulations so far as they are applicable to the site or the Goods and that it will perform the Contract such that no liability is incurred by the Company under such statutory provisions bye-laws rules and regulations;
 - 11.2.2 that all Goods supplied will be supplied with all necessary safety guards and devices sufficient to comply with the current statutory requirements. Where Goods are to be supplied without guards or safety devices then the Supplier shall:
 - 11.2.2.1 state such to be the case in writing in its quotation or acknowledgement of order; and
 - 11.2.2.2 specify in writing such guards and devices as will be required to be purchased by the Company.

13. REMEDIES OF THE COMPANY

- 13.1 Without prejudice to any other right or remedy which the Company may have, if any Goods are not supplied in accordance with, or the Seller fails to comply with, any of the terms of the Contract the Company shall be entitled to avail itself of 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:

- 13.1.1 to rescind the Order and terminate the Contract where it shall thereupon be entitled to recover from the Seller any deposits, advances or pre-payments made, together with damages for any losses, whether direct or consequential which may be or may have been sustained by the Company by reason of the breach;
- 13.1.2 to reject the Goods (in whole or in part) and return them to the Seller at the risk and cost of the Seller on the basis that a full refund for the Goods so returned shall be paid forthwith by the Seller;
- 13.1.3 at the Company's option to give the Seller the opportunity at the Seller's expense either to remedy any defect in the Goods or to supply replacement Goods and carry out any other necessary work to ensure that the terms of the Contract are fulfilled. In the event that it is necessary to open up or dismantle any other works or assemblies to permit such repair or replacement then the Seller shall bear the cost of such opening up or dismantling and of re-assembly and making good after repairs, replacement and testing of such goods have been completed to the Company's reasonable satisfaction;
- 13.1.4 to refuse to accept any further deliveries of the Goods but without any liability to the Seller;
- 13.1.5 to carry out at the Seller's expense any work necessary to make the Goods comply with the Contract; and
- 13.1.6 to claim such damages as may have been sustained in consequence of the Seller's breach or breaches of the Contract.

14. ASSIGNMENT AND SUB-CONTRACTING

- 14.1 The Seller shall not without the written consent of the Company assign or transfer the Contract or any part of it to any other person.
- 14.2 The Seller shall not be entitled to perform any of its obligations under the Contract by sub-contractors without the prior written consent of the Company.
- 14.3 For the avoidance of doubt, the grant of such approval or consent shall not relieve the Seller of any of its obligations under the Contract.
- 14.4 The Company may assign the Contract or any part of it to any person, firm or company.

15. BANKRUPTCY, LIQUIDATION OR BREACH

- 15.1 If the Seller becomes bankrupt or insolvent, or has a receiving order made against him or compounds with his creditors, or being a corporation commences to be wound up not being a member's voluntary winding up for the purposes of reconstruction, or carries on its business under a receiver for the benefit of its creditors or any of them the Company shall be at liberty:

- 15.1.1 to terminate the Contract forthwith by notice in writing to the Seller or to the receiver or liquidator or to any person in whom the Contract may become vested; or
- 15.1.2 to give such receiver, liquidator or other person the option of carrying out the Contract subject to his providing a guarantee for the due and faithful performance of the Contract up to an amount to be agreed under these Conditions.

16. CANCELLATION

- 16.1 Any Order or any part thereof may be cancelled by the Company at any time by written notice to the Seller.
- 16.2 Immediately upon receipt of any such notice of cancellation the Seller shall:
 - 16.2.1 cease work on the Goods in question;
 - 16.2.2 deliver to the Company all completed Goods which conform to the requirements of the Contract and the quantity of which does not exceed that authorised by the Company for manufacture;
 - 16.2.3 at the Company's request deliver such quantity of work-in-progress (not exceeding the quantity authorised by the Company for manufacture);
 - 16.2.4 return to the Company all items and Goods belonging to it and in the possession of the Seller for purposes of the Contract.
- 16.3 The Company shall pay for all Goods delivered pursuant to Condition 16.2 above at the price pro rata set out in the Contract, less the Seller's net saving of cost arising from cancellation, and shall pay such sum as may be reasonable for all work-in-progress delivered pursuant to Condition 16.2 above but the Company shall have no further liability to the Seller and in particular shall not be liable for any anticipated profits or consequential losses, including penalties, damages, interest or costs incurred as a result of the cancellation.

17. USE OF PATTERNS, DRAWINGS ETC.

- 17.1 The specifications, patterns, drawings, samples and information (together with any changes thereto) issued by the Company in connection with the Contract are confidential and their use must be confined to the Seller, his authorised sub-contractors or servants solely for the purpose of carrying out the Contract and the Seller shall ensure that all authorised sub-contractors or servants are bound by similar confidentiality provisions as the Seller. On completion of the Contract the said specifications, patterns, drawings and samples shall be returned to the Company.
- 17.2 Materials, equipment, tools, dies, fixtures, moulds, copyright, design rights or any other forms of intellectual property rights in all drawings, specifications and data supplied or paid for by the Company to the Seller or not so supplied but used by the Seller specifically in the manufacture of the Goods shall at all times be and remain the exclusive property of the Company but shall be held by the Seller in safe custody at its own risk and maintained and kept in good condition by the Seller until returned to the Company and shall not be disposed of other than in accordance with the Company's written instructions, nor shall such items be used otherwise than as authorised by the Company in writing. The Company will be free to use or cause to be used on its behalf for the benefit of the Company all changes to the original specifications made by the Seller and the Seller will not obtain any rights in relation thereto.

17.3 All tooling and equipment referred to in Condition 17.2 above shall at the Seller's expense be maintained and kept in good repair and replaced when necessary by the Seller.

17.4 Under no circumstances whatsoever shall the Supplier use the dies tools and patterns referred to in this Condition otherwise than in the fulfilment of the Company's Order or any other Order placed by the Company upon the Supplier for goods of the same specification.

18. LICENCES AND PERMITS

18.1 If the performance of the order requires the Company to obtain any licence or other permit from any government or other authority the order shall be conditional upon such licence or other permit being obtained.

19. PUBLICITY

19.1 Neither the Order nor the name of the Company shall be used by the Supplier for advertisement or publicity purposes without the Company's prior written consent.

19.2 The Supplier shall not either during the period of the Order or at any time thereafter disclose to any person or firm or company any manufacturing process or trade secret of the Company in connection therewith or any information relating thereto.

20. WORK ON THE COMPANY'S PREMISES

20.1 Where the Order provides for work to be done on the Company's premises the following conditions shall apply.

20.2 The Seller (together with any authorised sub-contractor) or any person employed by or carrying out work on its behalf shall:

20.2.1 not commit any act on the Company's premises which will render the Company liable to third parties at common law or by virtue of any statute; and

20.2.2 comply with the instructions on Health and Safety as defined in the Rules and Conditions for Contractors working on Company premises, form HS08.

20.3 The Seller shall during the continuance of the Contract insure against the liabilities mentioned in Condition 10 above for the sum of not less than £5,000,000 or such other sum as may be specified by the Company for any one accident.

20.4 The Seller shall maintain an employer's liability insurance for a minimum limit of indemnity of £10,000,000 for any one occurrence.

20.5 The Seller shall provide a certificate completed by their insurance broker or insurance company confirming details of Public Liability and employer's liability insurance held prior to the commencement of any Contract work.

20.6 The Seller shall be responsible for any new works they install or erect at the Company's premises and will maintain insurance to cover loss or damage to such works until completion of the Contract.

21. FORCE MAJEURE

- 21.1 The Company reserves the right to defer the date of delivery or payment or to cancel the Contract or reduce the volume of the Goods ordered if it is prevented from or delayed in the carrying on of its business due to circumstances beyond the reasonable control of the Company including, without limitation, acts of God, governmental actions, war or national emergency, acts of terrorism, protests, riot, civil commotion, fire, explosion, flood, epidemic, lock-outs, strikes or other labour disputes (whether or not relating to either party's workforce), or restraints or delays affecting carriers or inability or delay in obtaining supplies of adequate or suitable materials.

22. SEVERANCE

- 22.1 If any provision of the Contract is found by any court, tribunal or administrative body of competent jurisdiction to be wholly or partly illegal, invalid, void, voidable, unenforceable or unreasonable it shall, to the extent of such illegality, invalidity, voidness, voidability, unenforceability or unreasonableness, be deemed severable and the remaining provisions of the Contract and the remainder of such provision shall continue in full force and effect.

23. WAIVER

- 23.1 Any waiver by the Company 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.

24. THIRD PARTY RIGHTS

24.1 The parties to the Contract do not intend that any term of the Contract shall be enforceable by virtue of the Contracts (Rights of Third Parties) Act 1999 by any person that is not a party to it.

25. JURISDICTION

- 25.1 This Contract shall be governed by the law of England and the Seller agrees to submit to the exclusive jurisdiction of the English courts.