
FILTEC Limited
Terms & Conditions of Purchase

1	Parties FILTEC Limited (company number 559414) ('FILTEC') Supplier as described in the Schedule ('Supplier') Guarantor as described in the Schedule ('Guarantor')		d References to currency are to New Zealand currency. e References to a party are to a party to these Terms of Purchase and include that party's successors in title and permitted substitutes and assigns (and, where applicable, the party's legal personal representatives). f All periods of time include the day on which the period commences and also the day on which the period ends. g Any date which is not a Business Day, upon or by which anything is due to be done, will be deemed to be a reference to the next Business Day. h Words importing the plural include the singular and vice versa and words importing gender import all genders. i Any obligation not to do something includes an obligation not to suffer, permit, or cause that thing to be done. j All warranties, representations, indemnities, covenants, agreements, and obligations given or entered into by, or rights of, more than one person are deemed to have been given or entered into, or conferred on them, jointly and severally.
2	Interpretation	3	Basis of Purchase
2.1	In these Terms of Purchase, unless the context otherwise requires: 'Business Day' means a day on which trading banks are open for normal business in Auckland, New Zealand, excluding Saturdays, Sundays and public holidays; 'Commencement Date' means the date set out in the Schedule, or if no date is specified the date these Terms of Purchase are signed by the Supplier; 'Contract' means the agreement for the sale and purchase of Goods between the Supplier and FILTEC, pursuant to these Terms of Purchase, which shall come into effect upon acceptance of any Purchase Order by the Supplier in accordance with these Terms of Purchase; 'Delivery Date' means the date specified in a Purchase Order by which delivery of the Goods is to be made to the Destination; 'Destination' means the address specified in the Purchase Order where the Goods are to be delivered; 'Goods' means the goods and/or other items specified in a Purchase Order, and includes any services forming part of the supply of those Goods; 'Purchase Order' means either an official signed FILTEC Limited offer or an official computer generated FILTEC Limited offer, to purchase Goods from the Supplier. Where a Purchase Order has been amended with the Company's consent, the amended, Purchase Order supersedes all previous Purchase Orders; 'Purchase Order Number' means the number (if any) stated as such on the Purchase Order; 'Schedule' means Schedule 1 to these Terms of Purchase; and 'Terms of Purchase' means these terms and conditions, including any annexures or schedules, as amended from time to time by FILTEC by notice in writing, together with any additional terms or conditions specified in any Purchase Order.	3.1 3.2 3.3	Term These Terms of Purchase shall commence on the Commencement Date and shall continue (unless terminated earlier in accordance with its terms) until the Supplier has performed all its obligations under these Terms of Purchase. Offer A Purchase Order constitutes an offer by FILTEC to purchase the Goods on these Terms of Purchase as modified by any express terms contained in the Purchase Order. No responsibility will be accepted by FILTEC for Goods unless supplied pursuant to a Purchase Order which has been faxed, emailed or otherwise delivered to the Supplier by FILTEC. Acceptance Acceptance of a Purchase Order must be clearly notified by the Supplier in writing (including by email or facsimile) to FILTEC. If the Supplier fails to notify acceptance of the Purchase Order within 2 Business Days of receipt of the Purchase Order, delivery of the Goods to the Destination shall be deemed acceptance of the Purchase Order.
2.2	In interpreting these Terms of Purchase, the following rules must be applied unless the context otherwise requires: a Headings to clauses are for reference only and are not an aid to interpretation. b References to statutory provisions will be construed as references to those provisions as they may be amended or re-enacted or as their application is modified by other provisions from time to time. c References to clauses or schedules are to clauses or schedules to these Terms of Purchase, and any schedules referred to as forming part of these Terms of Purchase.	3.4 3.5	Variation in Purchase Orders No change in any Purchase Order or any of these Terms of Purchase will bind FILTEC unless FILTEC confirms such variation to the Supplier in writing. Terms These Terms of Purchase shall govern any Contract, notwithstanding any provision to the contrary contained in any document, correspondence or communication of the Supplier (including any quotation or tender), unless expressly agreed in

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	writing between the parties. Furthermore, these Terms of Purchase shall prevail in the event of any inconsistency between these Terms of Purchase and any terms of the Supplier. These Terms of Purchase are in addition to any other rights FILTEC may have at law.		Purchase Order, in accordance with such Purchase Order and these Terms of Purchase.
3.6	Purchase Order If there is any inconsistency between these Terms of Purchase and any Purchase Order, the Purchase Order will prevail unless otherwise agreed in writing by the parties.	5.2	Prime Contractor The Supplier shall supply the Goods as a prime contractor. As prime contractor, the Supplier shall be responsible for the quality and timely delivery of all Goods supplied by the Supplier, the Supplier's permitted contractors and suppliers.
3.7	Cancellation Subject to any other cancellation rights it may have under these Terms of Purchase, FILTEC may cancel any Purchase Order at any time prior to acceptance by the Supplier in accordance with clause 3.3.	5.3	Primary Responsibility The Supplier must supply Goods: a that meet the requirements and specifications of FILTEC as set out in any Purchase Order, these Terms of Purchase or as otherwise agreed between the parties; b for a price that does not exceed the price for the Goods as set out in the relevant Purchase Order; and c in accordance with the Delivery Date and Destination or as otherwise agreed between the parties.
3.8	Minimum Orders Nothing in these Terms of Purchase requires FILTEC to purchase any minimum or other quantity of Goods from the Supplier (and FILTEC gives no undertaking or representation in this regard) or prevents FILTEC from purchasing Goods from any other person.	5.4	Packaging Goods must be packaged in accordance with instructions set out in the Purchase Order or otherwise notified by FILTEC in writing from time to time. The Supplier must adequately pack and protect the Goods against damage and deterioration and to withstand sea, air and land transport (as appropriate) and multiple handling in domestic distribution. All costs of packing, cartage and other delivery costs are to be paid by the Supplier. FILTEC shall not be responsible for returning any pallets or packaging material unless agreed in writing.
4	Price		
4.1	No variation The price specified in a Purchase Order will apply to the Contract without variation unless agreed to by FILTEC in writing.		
4.2	No price stated If the price of a Good is not stated in any Purchase Order, then the price of that Good is the lower of the price specified in any quotation given by the Supplier and accepted by FILTEC, or if there is no such quotation, the price will be the lowest prevailing market price for similar goods as determined by FILTEC.	5.5	Resources and facilities The Supplier shall, at its own cost and expense, procure and maintain sufficient equipment, personnel and other resources and facilities to enable it to supply the Goods and to perform its other obligations in accordance with these Terms of Purchase.
4.3	Price Exclusive All prices are exclusive of freight costs, insurance charges, import duties and installation and maintenance costs, which shall be paid by the Supplier, unless otherwise agreed by the parties in writing. All prices shall be exclusive of goods and services tax ('GST') or any other taxes payable, which shall be paid by FILTEC, provided such taxes have been notified to FILTEC prior to acceptance by the Supplier of a Purchase Order.	5.6	Contractors The Supplier must not engage contractors to perform any of its obligations under a Contract, except with FILTEC's prior written approval in each case. Any contract or agreement between the Supplier and a contractor that relates to the performance of obligations under a Contract must be on terms substantially the same as this or on other terms approved by FILTEC in writing.
4.4	Rebates and Discounts FILTEC will be entitled to any discount for prompt payment, bulk purchase or volume of purchase usually granted by the Supplier or to the Supplier by its suppliers, whether or not shown in the Contract or these Terms of Purchase.	5.7	Reliance upon skill and expertise Without prejudice to the generality of the preceding clauses, the Supplier agrees that FILTEC is relying upon the Supplier's skill, expertise and judgment in relation to all advice and information supplied by the Supplier or its employees or suppliers in the performance of a Contract and these Terms of Purchase.
4.5	Samples All samples of Goods and display stock shall be supplied by the Supplier to FILTEC free of charge.	5.8	Quality and standards The Supplier shall carry out all of its obligations with care, skill and diligence and shall employ techniques, methods, procedures and
5	Supplier's Obligations		
5.1	Provision of Goods The Supplier agrees to provide the Goods described in any		

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	materials of a high quality and standard in accordance with best professional practice.	7	Delivery
5.9	Understanding requirements The Supplier shall be deemed to have carefully examined and understood all relevant requirements and specifications of FILTEC as provided in the Purchase Order or as otherwise agreed between the parties. The Supplier shall not be entitled to any additional payment or other remedy, on the grounds of misinterpretation of any matter relating to these Terms of Purchase on which it could reasonably have satisfied itself by reference to FILTEC, except where such misinterpretation has been caused by incorrect written information supplied by FILTEC.	7.1	Destination The Goods shall be delivered to the Destination in the manner specified in the Purchase Order and by the Delivery Date. FILTEC shall not be obliged to accept any Goods prior to the Delivery Date. If no Destination is specified in the Purchase Order, the Supplier must confirm the Destination with FILTEC prior to delivery.
5.10	Compliance with law The Supplier agrees at all times to comply with all statutes, bylaws, regulations, relevant codes of practice, and other lawful requirements relating to the performance of its obligations under any Contract or these Terms of Purchase.	7.2	Delay in delivery To the extent that the Goods have not been delivered to FILTEC by the Delivery Date, FILTEC reserves the right to cancel the Purchase Order (or part thereof) by notice in writing to the Supplier and FILTEC shall be liable to only pay for those Goods delivered to and or accepted by FILTEC by the Delivery Date. In addition: a FILTEC may choose whether to accept or return (at the Supplier's cost) any part delivery of Goods under the Purchase Order, or otherwise require the Supplier to promptly remove the Goods in accordance with clause 7.4; and b within 10 Business Days of FILTEC making written demand, the Supplier shall pay to FILTEC any loss (including, without limitation, by way of liquidated damages) suffered by FILTEC as a result of such late delivery by the Supplier.
5.11	Further assurances The Supplier shall sign all documents and do all things necessary or desirable to give effect to these Terms of Purchase and will procure its employees, contractors and agents to declare, make or sign all documents and do all things that may be necessary or desirable to give full effect to these Terms of Purchase.		
6	Conformance and Quality	7.3	Damaged Goods If required by FILTEC, the Supplier shall at its own expense repair or replace any Goods damaged or lost in the course of delivery to the Destination. If the damaged or lost Goods means that the Supplier has failed to deliver Goods that fulfil the Purchase Order, clause 7.2 shall also apply as if there had been a delay in delivery to the Destination.
6.1	No substitutions The Supplier shall not make any substitutions or changes to the Goods as described and specified in a Purchase Order, without prior written approval from FILTEC.		
6.2	Variation by FILTEC FILTEC reserves the right to vary any of the following by notice in writing to the Supplier at any time: a specifications of Goods ordered; b method of packing or shipping; c the Destination; or d the Delivery Date. Where any such variation results in a variation of the cost or the time required to supply the Goods, the parties shall agree a variation to the Contract accordingly, provided that the Supplier shall notify FILTEC of such cost or time variation within 3 Business Days of FILTEC requiring such variation, and before the Goods are to leave the Supplier.	7.4	Right to reject Without limiting any of FILTEC's rights under any law, FILTEC may at its sole discretion inspect any Goods ordered prior to or on delivery. If the Goods fail to meet the specified quality, quantity, description or standards, are unfit for the purpose required by FILTEC, or otherwise do not comply with these Terms of Purchase, then FILTEC may reject the Goods, refuse to accept delivery of the Goods and cancel the Purchase Order and any corresponding Purchase Orders. If a Purchase Order is cancelled then FILTEC shall not be liable to the Supplier for any amount in respect of the cancelled Purchase Order, clause 7.2 shall apply as if the Goods had not been delivered by the Delivery Date to the Destination, and FILTEC may require the Supplier to promptly remove the Goods at the Supplier's cost. No inspection or testing shall constitute an acceptance or approval of the Goods by FILTEC (or its authorised agents and employees) or their compliance with the Contract.
6.3	Delays Subject to clause 7.2, if the Supplier becomes aware that it may not be able to meet any Delivery Date, it must immediately notify FILTEC of the delay, and the anticipated date that the Goods will be delivered to FILTEC.		

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- 7.5 **Acceptance Subject to Rectification**
Notwithstanding the preceding clauses, FILTEC may at its discretion elect to:
- a accept some or all of the Goods; or
 - b accept some or all of the Goods, subject to the Supplier rectifying any omission, error or variance to the Purchase Order at the Supplier's expense.
- In the event of FILTEC accepting Goods under this clause, the Supplier agrees that FILTEC shall be entitled to a credit claim equal to the loss (including, without limitation by way of liquidated damages) to FILTEC as a result of the failure by the Supplier to supply in accordance with the Purchase Order, (such loss to be determined in FILTEC's reasonable discretion).
- At all times, FILTEC reserves the right to reject any portion of a Purchase Order remaining undelivered after the Delivery Date.
- 7.6 **Acceptance Subject to Verification**
The Supplier acknowledges that acceptance of the Goods by FILTEC does not occur until FILTEC or a party duly nominated by FILTEC has inspected and verified the Goods, including verification of quantities, damages, quality or any other condition as stated in these Terms of Purchase. FILTEC's right to reject or return any Goods to the Supplier in accordance with these Terms of Purchase shall remain enforceable to the fullest extent notwithstanding that FILTEC may have taken delivery of, paid for, used, sold or otherwise accepted the Goods.
- 8 **Payment**
- 8.1 **Waiver of Charges**
FILTEC shall not be obliged to pay any amounts in respect of any Goods supplied by the Supplier other than in accordance with the Purchase Order or these Terms of Purchase.
- 8.2 **Invoices**
The Supplier will invoice FILTEC the price for the Goods within 5 Business Days of the end of the month following delivery of the Goods, stating all relevant particulars including the date of supply, the Purchase Order number(s) and a full description of the Goods.
- 8.3 **Payment terms**
Each invoice shall be payable on the [30th of the month] following the month in which FILTEC receives that invoice. Payment shall not be due until FILTEC receives a correctly rendered invoice.
- 8.4 **Disputed invoice**
If FILTEC disputes any amount in any invoice or requires further information from the Supplier, FILTEC will notify the Supplier accordingly giving reasons for the dispute. If the dispute cannot be resolved between the parties within 30 Business Days from notification of the dispute, the dispute will be resolved in accordance with clause 13 (Disputes). FILTEC will not be liable to pay any amounts that are the subject of a dispute or a request for further information that FILTEC has notified to the Supplier until resolution of the dispute or information request. The Supplier will continue to supply the Goods notwithstanding any such dispute or request.
- 8.5 **Disbursements**
The Supplier shall be responsible for all disbursements incurred in the performance of its obligations under a Contract or these Terms of Purchase.
- 8.6 **Set off Entitlement**
If there are any amounts owing by the Supplier to FILTEC on any account whatsoever, then FILTEC shall be entitled to set off the amount or amounts owing by the Supplier against the payment due for Goods, and a certificate signed by FILTEC shall be prima facie evidence of any amounts so owing by the Supplier except in the case of manifest error.
- 9 **Risk, title and insurance**
- 9.1 **Risk**
Subject to clause 7.6, except where otherwise agreed between the parties, risk of loss, damage or deterioration of the Goods from any cause whatsoever shall remain with the Supplier and shall not pass to FILTEC until delivery of the Goods to the Destination.
- 9.2 **Title**
Title in the Goods (including in all samples and display stock supplied by the Supplier) shall pass from the Supplier to FILTEC upon delivery of the Goods to the Destination. In the event that any part of the price for Goods is paid by FILTEC to the Supplier before delivery to the Destination, then title in those Goods (including any of the Goods in the course of manufacture and component parts) shall pass to FILTEC to the value of the part payment made before delivery.
- 9.3 **Insurance**
The Supplier shall effect and maintain (at its own cost) adequate insurance in respect of potential liability, loss or damage arising at common law or under any statute in respect of claims for property damage, personal injury, public liability and professional indemnity relevant to the performance of its obligations under these Terms of Purchase for such values as should be insured against in accordance with prudent commercial practice, but provided that in respect of public liability insurance in particular, the Supplier maintains the specified minimum amount detailed in the Schedule (if any). Prior to the Supplier supplying any Goods under these Terms of Purchase, the Supplier shall provide FILTEC with evidence of the insurance effected and maintained in accordance with this clause to FILTEC's reasonable satisfaction. The Supplier shall provide FILTEC with updated evidence from time to time as may be required if the Supplier's insurance is renewed or varied.

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10 Warranties

10.1 Warranty as to title

The Supplier warrants that the Goods are the sole and exclusive property of the Supplier and are not subject to any charge, security interest or lien to any third party or to any retention of title in the Goods by the Supplier or to any third party. Notwithstanding anything to the contrary, FILTEC will not be bound by any Supplier's terms or conditions or any like document creating a security interest in favour of the Supplier or to any third party.

10.2 Warranty of authority

The Supplier warrants that it has full power to enter into and perform its obligations under these Terms of Purchase and that the performance of the Supplier's obligations will neither conflict with any obligation or duty owed to any third party nor infringe the rights of any third party.

10.3 Goods

The Supplier warrants that all Goods supplied under Contracts or these Terms of Purchase will be supplied with due care and skill in a competent and professional manner and in accordance with best professional practice accepted in the applicable industry or profession at the time when the Goods are supplied. The Supplier further warrants that all Goods will be delivered by suitable personnel who possess suitable skills, training, experience and supervision and who will perform all tasks assigned to them in an efficient, timely and effective manner.

10.4 Benefit of third party warranties

The Supplier warrants that it will disclose and pass to FILTEC (or if it is unable to do so, will hold for FILTEC's benefit) all warranties provided by third parties in respect of any Goods, or any component of any Goods.

10.5 Supplier's warranties

In addition to all other warranties, conditions or other terms, express, implied by law, or otherwise, the Supplier warrants to FILTEC and to any subsequent purchaser of the Goods:

- a that all Goods supplied will comply with all specifications stated in a Purchase Order or otherwise forming part of a Contract, and all these Terms of Purchase, and that the Goods will be free from any defect in materials or workmanship, and will be fit for the use intended by FILTEC and will be of acceptable quality and capable of any standard of performance specified in the Purchase Order;
- b where samples have been provided (whether by the Supplier or FILTEC), then in addition to the warranties in this clause, the Supplier warrants that the Goods shall conform to the samples in all respects;
- c that the design, construction and quality of the Goods and the proposed use of the Goods shall in all respects comply with all statutes, regulations, by-laws, codes and standards

which apply to the Goods that are in force in New Zealand at the time the Goods are supplied;

- d that the Goods (or the sale or other dealing of the Goods) do not infringe the copyright or other intellectual property rights of any other person; and
- e that the Goods comply with all warranties under the Consumer Guarantees Act 1993, where a breach of those warranties would give a consumer a right of redress against FILTEC.

10.6 Warranties Apply Notwithstanding Acceptance

The warranties contained in this clause shall remain in full force and effect notwithstanding that FILTEC may have accepted any of the Goods, and such warranties shall be in addition to and shall not limit any other warranties given by the Supplier to FILTEC (including any warranties under the Sale of Goods Act 1908 and the Consumer Guarantees Act 1993 which shall be deemed to apply to the sale of goods pursuant to any Contract).

10.7 Right to Goods

FILTEC's right to reject any Goods or to return Goods to the Supplier, arising out of any breach of any of the warranties contained in a Contract or any other warranty given by the Supplier shall remain enforceable to the fullest extent, notwithstanding that FILTEC may have taken delivery, paid for, used, sold or otherwise accepted the Goods.

11 Liability and Indemnity

11.1 Supplier's Indemnity

The Supplier indemnifies and shall keep indemnified FILTEC against any charge, demand, claim, suit, action, loss, liability or expense, damage or injury of any kind ('Loss') incurred by FILTEC or any other person arising from any breach by the Supplier of any provision of these Terms of Purchase including (without limitation) any breach of the warranties given by the Supplier in relation to the Goods, or from any negligence on the part of the Supplier, its servants, agents or subcontractors, except to the extent caused by FILTEC's unlawful or wilful act or omission.

11.2 No consequential loss

FILTEC will not be liable to the Supplier for any indirect or consequential Loss suffered by the Supplier as a result of FILTEC's breach of its obligations under, or otherwise arising in any way in relation to, these Terms of Purchase or any Contract;

11.3 FILTEC's liability

Notwithstanding any other provision in these Terms of Purchase or otherwise to the contrary, but subject to each limitation of liability set out within these Terms of Purchase, FILTEC's liability to the Supplier arising under, or in any way relating to, these Terms of Purchase and/or any Contract shall never exceed the price payable by FILTEC for the Goods.

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12 Termination			
12.1 Termination for convenience			12.1, its only obligation shall be to pay the Supplier for Goods properly supplied by the Supplier prior to the date of termination.
FILTEC may terminate any Contract at any time by giving the Supplier at least 20 Business Days' written notice.	13 Disputes		
12.2 Breach	13.1	Disputes	Subject to clause 12, where any question, dispute or difference arises between the parties concerning or in any way arising out of these Terms of Purchase or the performance by either party of these Terms of Purchase, or the circumstances, representations, and conduct giving rise thereto (' Dispute '), no party may commence any court or arbitration proceedings relating to the Dispute unless that party has complied with the procedures set out in this clause.
Without prejudice to any other rights or remedies that may be available, either party may terminate any Contract in part or in full and/or may terminate these Terms of Purchase by written notice if the other party:			
a commits a material breach of these Terms of Purchase and that breach is not capable of remedy;			
b fails to remedy to the first party's reasonable satisfaction any breach of these Terms of Purchase, which breach can be remedied, within 14 days after the day on which written notice requiring the breach to be remedied is given;	13.2	Representatives for negotiations	The party initiating the Dispute (' the first party ') must provide written notice of the same to the other party (' the other party ') and nominate in that notice the first party's representative for the negotiation. The other party must within seven days give written notice to the first party naming the other party's representative for the negotiations. Each representative nominated will have authority to settle or resolve the Dispute.
c enters or threatens to enter into liquidation or bankruptcy or any other form of insolvency, administration, management or receivership or enters into any scheme or arrangement with a creditor;			
d has a receiver, statutory manager, administrator or liquidator appointed in respect of itself or its assets; or	13.3	Referral to mediation	If the parties are unable to resolve the Dispute by discussion and negotiation within seven days of receipt of the written notice from the first party, then the parties must immediately refer the Dispute to mediation.
e ceases or threatens to cease to conduct business.			
12.3 Consequences of termination			
If FILTEC terminates a Contract or these Terms of Purchase for any reason whatsoever, then FILTEC is not obliged to accept any further Goods or performance under this or any other Contract or Purchase Order and will not incur any liability to the Supplier for termination under this clause. If a Contract or these Terms of Purchase is terminated for any reason, then at FILTEC's sole discretion:	13.4	Conduct of mediation	The mediation must be conducted in terms of the LEADR New Zealand Inc. standard mediation agreement. The mediation must be conducted by a mediator and at a fee agreed by the parties. Failing agreement between the parties, the mediator will be selected and his/her fee determined by the Chair for the time being of LEADR New Zealand Inc.
a FILTEC may continue to sell Goods supplied by the Supplier under a terminated Contract, provided that FILTEC's only obligation shall be to pay the Supplier for Goods properly supplied by the Supplier; or	13.5	Referral to arbitration	If the Dispute remains unresolved after the mediation, then the Dispute must be submitted to the arbitration of a single arbitrator agreed on between the parties, or in default of agreement to be nominated by the president of the New Zealand Law Society. The arbitration will be conducted in accordance with the Arbitration Act 1996 and the provisions of the Second Schedule to that Act will apply. The parties reserve the right to appeal to the High Court on any question of law arising out of an award.
b Where the Contract is terminated by FILTEC giving notice in writing to the Supplier, then FILTEC may require the Supplier to remove all Goods supplied by the Supplier from FILTEC's premises or those of its agents or subcontracts, at the Supplier's cost, including reimbursement to FILTEC of any costs incurred by FILTEC up to such removal. In this situation, FILTEC shall be entitled to a refund from the Supplier in respect of such Goods, the value of which is equal to the invoiced value of Goods under the relevant Purchase Order(s) with payment being due within 10 Business Days of the date the Supplier was advised to remove the Goods.	13.6	Urgent interlocutory relief	Nothing in this clause will prevent any party from taking immediate steps to seek urgent interlocutory relief before an appropriate court.
12.4 Payment for work properly performed	14 Force Majeure		
Where FILTEC exercises its right to terminate pursuant to clause	14.1	Force Majeure	Neither party shall be liable for any delay in meeting, or failure to

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meet, its obligations under any Contract to the extent that such delay or failure is caused by any event outside its reasonable control (including, without limitation, any delay or failure caused by any act or omission of the other party, but excluding any strike or lockout) (each a ' Force Majeure Event ').	15.3	Exclusivity If the Schedule provides that the Supplier's relationship with FILTEC is exclusive, the Supplier will not supply the Goods or goods similar or identical to the Goods to any other person within the country they are being sold into while FILTEC is a customer of the Supplier.
14.2 Steps to Take Should either party know or anticipate that, due to a Force Majeure Event, it will be unable to fulfil its obligations under any Contract, it shall forthwith:	15.4	Relationship The parties to these Terms of Purchase shall act as independent contractors in the performance of their obligations under the Contract and these Terms of Purchase. The relationship between the parties shall not be deemed to be an employment relationship, partnership or joint venture, and neither party shall act as agent for, or be able to take any action to legally bind, the other party for purpose whatsoever.
a notify the other party, giving as much detail as possible of the causes, expected duration and extent of its inability to perform its obligations; and	15.5	Governing law and jurisdiction These Terms of Purchase and any Contract shall be governed by New Zealand law and the parties submit to the non-exclusive jurisdiction of the New Zealand Courts.
b consult with the other party as to the means, and use its best endeavours, to minimise the effects of its inability to perform its obligations under the Contract.	15.6	Severance To the greatest extent possible by law, if any provision in the Terms of Purchase is found by a court of competent jurisdiction to be void or unenforceable, that provision shall be modified as necessary to conform to the laws or, if the modification would destroy the intent of the parties, then that provision shall be severed and the Terms of Purchase shall be interpreted without reference to that provision.
14.3 Consequences FILTEC shall not in any event be liable to pay for any Goods not supplied as the result of a Force Majeure Event. FILTEC may, at its discretion, terminate these Terms of Purchase and/or any Contract without liability to the Supplier if a Force Majeure Event prevents the Supplier from performing any of the Supplier's obligations under these Terms of Purchase and/or any Contract for a period of more than 45 days	15.7	Confidentiality a No party may reveal any information concerning these Terms of Purchase, any Purchase Order or any Contract, or its subject matter to any third party other than: i as required by law; or ii in good faith and in proper furtherance of the objects of these Terms of Purchase; or iii to its professional advisors, bankers, financial advisers, and financiers, if those persons undertake to keep the information disclosed confidential; iv to any of its employees to whom it is necessary to disclose the information if those employees undertake to keep the information confidential; or v information already in the public domain. b No party may issue any press release of information concerning any Contract or these Terms of Purchase or its subject matter to the news media without the prior approval of all parties. c The Supplier may not use its association with FILTEC for the purposes of publicity or to promote the Supplier's business in any manner, without FILTEC's prior written consent.
15 General		
15.1 Non waiver All rights, powers and remedies of either party whether under any Contract or at law or in equity shall remain in full force notwithstanding any neglect, forbearance or delay in the enforcement thereof. No party shall be deemed to have waived such term or condition or any right, power or remedy unless such waiver shall be in writing, and any such waiver shall, unless the contrary shall be expressly stated, apply to and operate only in a particular transaction, dealing or matter.		
15.2 Notices Any notice given pursuant to any Contract will be deemed to be validly given if personally delivered, posted or forwarded by facsimile or email to the address of the party to be notified from time to time. Any notice will be deemed to be validly given:		
a in the case of delivery, when received;		
b in the case of posting, on the second Business Day following the date of posting (if within New Zealand) or on the fifth Business Day following the date of posting (if between countries);		
c in the case of facsimile transmission, on receipt of a successful transmission report; and		
d in the case of email, on receipt by the sender of an email message indicating that the email has been opened at the recipient's terminal.		

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15.8 **Assignment**
The Supplier shall not transfer, assign or subcontract any of its rights or obligations under any Contract or these Terms of Purchase (including the benefit of any monies payable by FILTEC) without the prior written consent of FILTEC.

FILTEC from and against any Loss suffered or incurred by FILTEC as a result of the Supplier's failure to comply with its obligations under these Terms of Purchase.

15.9 **Entire Agreement**
The Purchase Order, the Contract and these Terms of Purchase contain the entire agreement between the parties with respect to their subject matter. They set out the only conduct relied on by the parties and supersede all earlier conduct and prior agreements and understandings between the parties in connection with their subject matter. The parties agree it is fair and reasonable for them to rely on this clause.

The Supplier acknowledges that it has read, understood and agrees to abide by these Terms of Purchase:

Signature
Date: _____
Name of signatory: _____
Position: _____
Name of Supplier: _____

15.10 **Amendments**
Subject to clause 6.2, no amendment to a Purchase Order, Contract or these Terms of Purchase will be effective unless they are in writing and signed by all the parties.

The Guarantor acknowledges that it has read, understood and agrees to abide by these Terms of Purchase:

15.11 **Benefit**
These Terms of Purchase are entered into on behalf of and are intended to bind and be for the benefit of FILTEC and FILTEC's employees, successors and assigns.

Signature
Date: _____
Name of signatory: _____
Position: _____
Name of Guarantor: _____

15.12 **Survival of clauses**
The termination of a Contract or these Terms of Purchase for any reason shall not affect the validity and enforceability of a party's rights against another party which have accrued up to and including termination, without limitation the provisions of these Terms of Purchase which by their nature survive termination, namely clause 5 (Supplier's obligations), clause 10 (warranties), clause 11 (Supplier's indemnity) and this clause 15.

15.13 **Records**
The Supplier shall:
a keep full, true, clear, and separate books and records in English of all transactions to which these Terms of Purchase apply. Such records shall be in a form which allows quick and accurate checks to be made and shall be supported by all necessary records, including, in respect of computer transactions, disks (including backup disks) and related hard copies; and
b permit FILTEC, or its duly authorised representatives, at any reasonable time (and from time to time) during business hours, access to inspect and verify all books and records of any transaction to which these Terms of Purchase apply.

15.14 **Guarantee**
The Guarantee irrevocably and unconditionally guarantees to FILTEC the due and punctual performance, observance and compliance by the Supplier, of all of its obligations under these Terms of Purchase. The Guarantor irrevocably indemnifies

FILTEC Limited
Terms & Conditions of Purchase

Schedule 1 Supplier Details

- 1 **Supplier:** *[Insert details]*
[Insert name of key contact at Supplier]
[Insert contact details]

- 2 **Guarantor:** *[Insert details]*
[Insert name of key contact at Guarantor]
[Insert contact details]

- 3 **Commencement Date:** *[Insert date]*

- 4 **Minimum insurance required by Supplier (clause 8.3):** *[Insert specified minimum amount (if any)]*

- 5 **Exclusivity provision (if any):** *[Insert details as to whether supply is exclusive and if so, include all relevant details]*