1. INTERPRETATION
In these terms and conditions ("Terms") the terms and expressions set out in Schedule 1 shall have the meanings assigned to them and the rules of interpretation in Schedule 1 shall apply.

2. APPLICATION OF TERMS
2.1. Each order for Products and request for Services from the Customer to the Company shall be subject to these Terms. The Customer shall not be entitled to vary these Terms unless so agreed in writing by the Company.

3. CUSTOMER INFORMATION
3.1. The Customer will supply to the Company the Customer Information and any other information specified in the Quotation.

4. ORDER AND DELIVERY
4.1. The Quotation will only be open to the Customer for the period stated in the Quotation or if no period is stated, the Quotation will only be open for the period of 30 days from the date of the Quotation.

5. PAYMENT
5.1. The price for the Products and Services and any Operating Manuals shall be the price quoted in the Quotation.

6. DELIVERY OF THE PRODUCTS
6.1. Unless otherwise agreed in writing by the Company, delivery of the Products shall take place at the Customer's premises or such other location as is specified in the Quotation.

7. ACCEPTANCE OF PRODUCTS
7.1. The Company will use reasonable endeavours to give the Customer prior notice of any change in legislation, increase in the Company's supplier’s costs, increase in the costs of labour, materials or other costs of manufacture, any change in delivery dates, quantities or specifications which are agreed with the Customer in the Quotation.

8. POST-DELIVERY ACCEPTANCE TESTS
8.1. The Company reserves the right to cancel at any time before delivery, to increase the price of such of the Products as have not been delivered to reflect any increase in the cost to the Company which is due to any factor beyond the Company's control (including any increase in any indirect expenses and costs, any change in legislation, increase in the Company's supplier's costs, increase in the costs of labour, materials or other costs of manufacture, any change in delivery dates, quantities or specifications which are agreed with the Customer in the Quotation).

9. PAYMENT
9.1. The Company may at any time after delivery of any Product or service charge interest on any amounts due from the Customer to the Company by the amount necessary to leave the Company with an amount equal to the sum it would have received if no such withholdings or deductions had been made.

10. QUALITY AND PERFORMANCE
10.1. The Customer acknowledges that the Company shall not be liable to the Customer in respect of any instructions of the Customer or failure of the Customer to give the Company adequate information or instructions.

11. LIMITATION OF LIABILITY
11.1. The Company shall not be liable for any loss or damage which is not caused by the Company's negligence.

12. CHOICE OF LAW AND FORUM
12.1. The Customer agrees and consents to the jurisdiction of the English courts in connection with the present contract.
Tests for the Products and/or Prototypes. These criteria and data shall be as such are reasonably required to show that the Products and/or Prototypes comply with their applicable speciﬁcations and that the Services shall be reasonably performed to a standard that materially adheres to the Quotation. The Customer shall reasonably require the Company to prepare such user acceptance criteria and test data at the Customer’s request. The parties shall use best endeavours to agree the Acceptance Tests for the Products and/or Prototypes within ten (10) working days of delivery of the Products and/or Prototypes, and shall not remove, adapt or otherwise tamper with any copyright notice, legend or logo which appears in or on the Software or the medium on which it resides; the Customer shall not use the Software on any equipment other than the Products unless the licence has been supplied on a “shrink-wrap” or “click-wrap” basis. The Customer shall provide a written notice to this effect, giving details of such failure(s). The Company shall use reasonable endeavours to remedy the defects and deﬁciencies and the relevant test(s) shall be repeated. If the Software or Prototypes fail such further tests then the Customer may terminate the Contract in respect of such Products immediately by giving written notice to the Company.

9. EXPORT AND COMPLIANCE WITH POLICIES

9.1. Where the Products are supplied for export from the United Kingdom, the provisions of this condition 9.1 shall (subject to any contrary terms agreed in writing between the Customer and the Company) be given effect by the Customer to the extent that such claim arises out of the breach, negligent performance or nonperformance of the Services services by the Company infringes the developer's or a third party's rights, or the Company is notified by the Customer that it is required to obtain any necessary import licences or permits necessary for the importation of the Software. The Customer shall use reasonable endeavours to inform the Company of the existence of such claim. The Customer shall at its own risk and expense procure all necessary permits, licences and consents required for the use or consumption of the Software in any relevant jurisdiction for the purpose of compliance with any Export Control Laws. The Customer shall at its own risk and expense obtain any necessary import licences or permits necessary for the importation of the Software. The Customer shall at its own risk and expense procure all necessary permits, licences and consents required for the use or consumption of the Software in any relevant jurisdiction for the purpose of compliance with any Export Control Laws.

10.1. If the Company refers to a software licence in the Quotation, the Customer shall be responsible for obtaining any necessary import licences or permits necessary for the importation of the Software. The Customer shall use reasonable endeavours to inform the Company of the existence of such claim. The Customer shall at its own risk and expense procure all necessary permits, licences and consents required for the use or consumption of the Software in any relevant jurisdiction for the purpose of compliance with any Export Control Laws. The Customer shall at its own risk and expense obtain any necessary import licences or permits necessary for the importation of the Software. The Customer shall at its own risk and expense procure all necessary permits, licences and consents required for the use or consumption of the Software in any relevant jurisdiction for the purpose of compliance with any Export Control Laws.

11. CUSTOMER’S OBLIGATIONS

11.1. The Customer shall have the right (but not the obligation) to make any changes to the Services which are necessary to comply with any applicable law or safety requirement, and the Customer shall update the Quotation to show any such changes and, the Company shall use reasonable endeavours notify the Customer in such an event.

11.2. The Company warrants to the Customer that the Services will be provided using reasonable skill and care.

11.3. All Prototypes supplied to the Customer which conform in all material respects with the Quotation shall be deemed accepted by the Customer.

11.4. Notwithstanding anything contained herein, the Company does not warrant that the provision of the Services, any Prototypes and/or any Software supplied as part of the Deliverables will be uninterrupted or error-free.

11.5. If the Customer and/or the Customer’s Representative undertake to give notice in writing to the Company and any of the Customer’s agents or contractors of any laws and regulations which affect or may affect the Products and/or Services (the “Local Regulations”) any special conditions or restrictions attached to the Customer’s premises and/or any other relevant Local Regulations, the Company will make reasonable endeavours to perform the Acceptance Tests or to obtain any necessary import licences or permits necessary for the importation of the Software and/or Prototypes, and the Company will pass to the Customer all such licences or permits, and the Customer will pass to the Company all such licences or permits in respect of the Products and/or Services.

11.6. If the Customer infringes or otherwise breaches any of the conditions of this licence, the Customer shall immediately return all copies of the Software in its possession.
14.2. On termination, however it arises, the Customer shall pay to the Company all costs and expenses, including legal and other fees incurred and all arrears of charges or other sums payable to the Company under the Contract.

14.3. If at any time the Products or any part of the same become contrary to any statutory or regulatory requirement or any mandatory or non-mandatory embargo or the Company reasonably believes that the Products cannot be sold to become so, the Company may, without liability to the Customer, immediately suspend performance of the Contract and/or terminate the Contract by giving written notice to the Customer.

14.4. The following conditions shall survive termination of the Contract conditions 5, 10, 13, 16-22 inclusive and any other relevant condition.

15. WARRANTY

15.1. The Company shall use all reasonable care and skill to provide the Products and perform the Services in a professional and efficient manner.

15.2. The Company shall use all reasonable care during the Warranty Period, the Products shall conform to their description and any applicable specification in all material respects.

15.3. Subject to condition 15.4 and 15.5, if:
(a) the Company commits a breach of any term of the Contract; or
(b) the Company's liability to the Customer in respect of each Event of Default shall be limited to the entire purchase price of the Products covered by any claim; and
(c) any failure of any third parties to provide equipment, software, materials or information required to produce the Products and/or perform the Services; and/or
(d) the cost of the Works; and/or
(e) the Customer reasonably believes that any such event is about to happen and notifies the Company.

15.4. The Company shall not be liable for a breach of the warranty contained in Condition 15.2 if in the Company's sole opinion, the defect arose as a result of:
(a) the Customer's negligent act or omission; or
(b) any other cause beyond the Company's reasonable control including, without limitation, quality and performance of Products and/or Services provided that (and to the extent that) the same is due to no act, negligent default of the Product, its employees, agents or sub-contractors.

15.5. Notwithstanding anything to the contrary, the warranty in condition 15.2 does not apply to defects in Products caused by:
(a) fair wear and tear, normal usage, misuse or neglect; and
(b) any failure of any third parties to provide equipment, software, materials or information required to produce the Products and/or perform the Services; and/or
(c) any failure of any third parties to provide equipment, software, materials or information required to produce the Products and/or perform the Services; and/or
(d) the use of the Products for purposes different to those for which the Products were designed.

15.6. Any Products repaired or replaced by the Company pursuant to this Condition 15 shall be owned by the Company.

16. LIMITATION OF LIABILITY

16.1. In this Condition 16 the following shall mean an “Event of Default”:

(a) any breach by the Company of its contractual obligations arising under the Contract; or
(b) any misrepresentation by the Company in connection with: (i) the Customer; or (ii) the Contract; (iii) all or any part of the Company; (iv) the Company's performance under the Contract; or (v) the Company's reputation.

16.2. The Company shall not be liable for any Event of Default caused by:
(a) any act or omission of the Company which is relative to its obligations under the Contract; or
(b) any failure of any third parties to provide equipment, software, materials or information required to produce the Products and/or perform the Services; and/or
(c) any failure of any third parties to provide equipment, software, materials or information required to produce the Products and/or perform the Services; and/or
(d) the Customer reasonably believes that any such event is about to happen and notifies the Company.

16.3. Subject to condition 16.8, the Company shall have no liability to the Customer in respect of any Event of Default for:
(a) the loss (whether direct or indirect) of profits or anticipated savings; (b) the loss of (whether direct or indirect) of goodwill or similar losses; or (c) any special, indirect, consequential or pure economic loss, costs, charges or expenses even if such loss was reasonably foreseeable by the Company as owner of registrable rights).

16.4. The Company's entire aggregate liability to the Customer in respect of any and all Events of Default shall be limited to the entire purchase price of the Products and/or Services payable by the Customer in accordance with the Contract during the preceding twelve months.

16.5. If any advice provided to the Company by the Customer was provided free of charge by the Company then such advice will have no liability for any Event of Default hereunder.

16.6. Nothing in this condition 16 shall confer any right or remedy upon the Customer less than six (6) months from the date of the Company's notice under condition 16.4.

16.7. The Company shall not be liable for defects in Products caused by fair wear and tear, abnormal conditions of storage, of use or any act, neglect or decision of the Customer or any contractor.

16.8. Notwithstanding any other provision under these Terms or otherwise each party's liability for the other for:
(a) death or personal injury resulting from its own or its employees', agents' or sub-contractors' negligence; and/or
(b) any breach of the terms implied by Section 12 of the Sale of Goods Act 1979 or Section 2 of the Supply of Goods and Services Act 1982; or
(c) defective products under the Consumer Protection Act 1987; and/or
(d) in relation to any fraudulent misrepresentation or fraudulent acts of its employees.

16.9. Subject to condition 16.8, all warranties, conditions and terms implied by statute or common law are, to the fullest extent permitted by law, excluded from the Contract (including Section 2 of the Supply of Goods and Services Act 1982).

16.10. The Customer hereby agrees to afford the Company not less than 60 days (following notification thereof by the Customer) in which to remedy any Event of Default hereunder.

16.11. Nothing in this condition 16 shall confer any right or remedy upon the Customer less than six (6) months from the date of the Company's notice under condition 16.4.

16.12. All Background Intellectual Property shall remain the exclusive property of the party owning or licensing it to the other party.

16.13. All Background Intellectual Property shall remain the exclusive property of the party owning or licensing it to the other party.

16.14. All Background Intellectual Property shall remain the exclusive property of the party owning or licensing it to the other party.

16.15. All Background Intellectual Property shall remain the exclusive property of the party owning or licensing it to the other party.

16.16. All Background Intellectual Property shall remain the exclusive property of the party owning or licensing it to the other party.

16.17. All Background Intellectual Property shall remain the exclusive property of the party owning or licensing it to the other party.

16.18. All Background Intellectual Property shall remain the exclusive property of the party owning or licensing it to the other party.

16.19. All Background Intellectual Property shall remain the exclusive property of the party owning or licensing it to the other party.

16.20. All Background Intellectual Property shall remain the exclusive property of the party owning or licensing it to the other party.

16.21. All Background Intellectual Property shall remain the exclusive property of the party owning or licensing it to the other party.

16.22. All Background Intellectual Property shall remain the exclusive property of the party owning or licensing it to the other party.

16.23. All Background Intellectual Property shall remain the exclusive property of the party owning or licensing it to the other party.
17.15. The Service involves the performance of any Customer background Intellectual Property, the Customer hereby grants to the Company a non-transferable, non-exclusive right and license for the duration of the Contract to use, copy, modify and prepare derivative works of any Customer background Intellectual Property, in connection with the performance of the Services and to perform the Services and provide the Deliverables and Prototypes in accordance with the Contract.

17.16. Subject to condition 17.7, the Company hereby grants to the Customer a non-exclusive, non-transferable licence to use the Deliverables and Prototypes as follows:
   (a) use of the Deliverables and Prototypes shall be solely for the Customer's own internal business purposes and only to the extent necessary to enable an internal business use of the Deliverables and Prototypes as is expressly notified by the Customer to the Company and shall not include allowing the use of the Deliverables and Prototypes by, or for the benefit of, any other person or persons on behalf of or for the account of the Customer;
   (b) the Customer may not use the Deliverables and Prototypes other than as specified in this condition 17.16 or the Quotation without the prior written consent of the Company and the Customer shall, on request, provide a written undertaking to the Company as to the nature of any further arrangements understandings and agreements between the parties relating to the subject matter of the Contract shall remain in full force and effect.

20. DATA PROTECTION

20.1. Each party shall comply with all applicable laws, statutes and regulations relating to anti-bribery and anti-corruption including but not limited to the Bribery Act 2010 (Relevant Requirements).

20.2. Each party shall comply with all applicable anti-stalking and human trafficking laws, statutes and regulations (Anti-stalking and Human Trafficking Laws) and shall implement and follow policies and procedures to ensure compliance with the Relevant Requirements.

20.3. The Customer and the Company shall comply with all applicable laws, including but not limited to the Data Protection Act 2018 (GDPR) and any other applicable data protection regulations and secondary legislation, as applicable, as amended from time to time, in the UK (including in the GDPR or the Data Protection Act 2018).

20.4. Each party will comply with all applicable requirements of the Data Protection Legislation. This condition 20 is in addition to, and does not relieve, remove or replace, both parties' obligations under the Data Protection Legislation.

20.5. The Customer and the Company shall comply with all applicable laws and regulations relating to anti-bribery and anti-corruption including but not limited to the Bribery Act 2010 (Relevant Requirements).

24.1. Any notice given pursuant to this Contract shall be in writing and may be sent by first class pre-paid or registered or recorded delivery post or facsimile transmission to the party to whom it is addressed at its address as herein specified or subsequently notified and if sent by first class pre-paid or registered or recorded delivery post or facsimile transmission shall be deemed to have been received at the time transmission was duly completed. A notice given under the Contract is not valid if sent by e-mail. This clause does not apply to the service of any proceedings or other documents in any legal action.

24.3. The parties irrevocably and unconditionally waive any right they may have to claim damages for any misrepresentation arrangement understanding or agreement not contained in this Contract or any Quotation or terms and conditions or any document to which a party has been relied upon other than those expressly set out or referred to in the Contract or such terms and conditions or such document.

24.4. Failure or delay by the Company in enforcing or partially enforcing any provision of the Contract will not be construed as a waiver of any of its rights under the Contract.

24.5. No purported variation, change or modification of these Terms shall be valid unless confirmed in writing and signed by duly authorised representatives of both parties on or after the date of this Contract which expressly states that it amends this Contract.

24.6. Should any condition or provision of these Terms be held to be invalid or unenforceable such finding shall not affect the validity of any other terms or conditions of these Terms.

24.7. Any amendments to these Terms are to be drafted in the English language. If the Contract is translated into another language, the English language version shall prevail. Any notice given under or in connection with the Contract shall be in the English language. All other documents provided in connection with the Contract shall be in the English language. The parties agree that if such document is translated into another language, the English language version shall prevail unless the document is a constitutional, statutory or regulatory document.

24.9. Nothing in these Terms is intended to, or shall be deemed to, establish any partnership or joint venture between any of the parties, constitute any party the agent of any other party or authorise any party to make or enter into any commitments for or on behalf of any other party.

24.10. Each party confirms it is acting on its own behalf and not for the benefit of any other party or parties having an interest in it.

24.11. A third party shall have no right to enforce these Terms under the Contracts (Rights of Third Parties) Act 1999.
24.12. The Contract and any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with it or its subject matter or formation shall be governed by and construed in accordance with the law of England and Wales.

24.13. Each party irrevocably agrees that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with the Contract or its subject matter or formation.

Schedule 1

INTERPRETATION

1. In these Terms the following words have the following meanings:

“Acceptance Tests”: the tests of the Products and/or Prototypes after delivery to be agreed in accordance with Condition 7.1.

“Background Intellectual Property”: any Intellectual Property Rights that are used in the course of or in connection with the provision of the Services that were: (a) created and/or developed independently of the Contract; and/or (b) created and/or developed before the effective date of the Contract.

“Company”: the Gill group company named in the Quotation as the supplier of the Products and/or Services.

“Confidential Information”: all confidential information (however recorded or preserved) disclosed by a party or its employees, officers, representatives or advisers (together its Representatives) to the other party and that party’s Representatives in connection with the Contract; concerning: (a) the existence and terms of the Contract; (b) any information that would be regarded as confidential by a reasonable business person relating to: (i) the business, affairs, customers, clients, suppliers, plans, intentions, or market opportunities of the disclosing party (or of any member of the group of companies to which the disclosing party belongs); and (ii) the operations, processes, product information, know-how, designs, trade secrets or software of the disclosing party (or of any member of the group of companies to which the disclosing party belongs); (c) any information developed by the parties in the course of carrying out the Contract;

“Contract”: any Contract between the Company and the Customer for the sale and purchase of the Products and the Services, incorporating these Terms and formed in accordance with condition 2.5.

“Customer”: the person(s), firm or company who purchases the Products and Services from the Company.

“Customer Background Intellectual Property”: all Background Intellectual Property owned by the Customer.

“Customer Information”: the information that the Customer provides to the Company in relation to the Products and/or the Services including all relevant details which relate to the Customer’s requirements for the provision of the Products and/or Services;

“Customer’s Representative”: any representative of the Customer;

“Deliverables”: any deliverables produced by the Company for the Customer in the performance of the Services in any form including reports, feasibility studies and including those deliverables set out in the Quotation;

“Foreground Intellectual Property”: any Intellectual Property Rights that arise or are obtained or developed by either party in the course of or in connection with the Services;

“Intellectual Property Rights”: patents, rights to inventions, copyright and related rights, trade marks, trade names, domain names, rights in get-up, rights in goodwill or to sue for passing off, unfair competition rights, rights in designs, rights in computer software, database rights, topography rights, moral rights, rights in confidential information (including without limitation know-how and trade secrets) and any other intellectual property rights, in each case whether registered or unregistered and including without limitation all applications for and renewals or extensions of such rights, and all similar or equivalent rights or forms of protection in any part of the world;

“Operating Manuals”: all operating manuals, specifications, risk assessment method statements and other manufacturer documentation relating to the Products;

“Price”: has the meaning specified in Condition 5.1;

“Products”: collectively or individually the products agreed in the Contract to be supplied to the Customer by the Company (including any part or parts of them) as more particularly described in the Quotation but excluding any Prototypes;

“Prototypes”: any prototype products produced by the Company for the Customer in the performance of the Services including those prototype products set out in the Quotation;

“Quotation”: the proposal attached to these Terms containing details of the Products and the Services, delivery and Price;

“Services”: the development, engineering, consultancy and other services to be provided by the Company under the Contract as set out in the Quotation together with any other services which the Company provides or agrees to provide to the Customer;

“Software”: any software (including any firmware or graphical user interface) supplied to the Customer with or as part of the Products and Prototypes;

“Tests”: the pre-delivery tests referred to in condition 7.1(a);

“Warranty Period”: the period from the date of delivery of the Products and ending 12 months after the date of delivery of the Products, or such other period as may be specified in the Quotation;

2. In these Terms, the following rules apply: (a) Words in the singular include the plural and in the plural include the singular; (b) A reference to a person includes a natural person, corporate or unincorporated body (whether or not having separate legal personality); (c) A reference to a statute or statutory provision is a reference to it as it is in force for the time being taking account of any amendment, extension, or re-enactment and includes any subordinate legislation for the time being in force made under it; (d) Unless the context otherwise requires, the words including, include and in particular and words of similar effect shall not be deemed to limit the general effect of the words which precede them (e) The headings in this Contract are for ease of reference only and shall not affect its construction or interpretation (f) A reference to writing or written includes faxes and e-mail.

3. In the case of any inconsistency between the Quotation and these Terms, these Terms will prevail.