

# GENERAL TERMS AND CONDITIONS OF SALE – PROFESSIONALS CONTRACT MANUFACTURING DEPARTMENT

**GILBERT PRODUCTION PLOUEDERN**  
ADMINISTRATIVE AND COMMERCIAL SERVICES  
Avenue du Général de Gaulle, 14200 Hérouville Saint-Clair, France

TEL: +33 (0)2 31 47 15 15  
FAX: +33 (0)2 31 47 16 16

## Article 1 – Purpose and scope of the general terms and conditions of sale

The purpose of the present general terms and conditions of sale (hereinafter referred as to the '**General Term and Conditions of Sale**') is to define the conditions under which the company **GILBERT PRODUCTION PLOUEDERN** manufactures products under the brand name of the professional purchaser on behalf of the professional purchaser who request it (the company **GILBERT PRODUCTION PLOUEDERN** and the professional purchaser being hereinafter referred to together as the '**Parties**' and individually as the '**Party**').

Any order of products (hereinafter referred to as the '**Order**') irrevocably implies the acceptance without reserve by the professional purchaser and its full and complete adhesion to the General Terms and Conditions of Sale which prevail on any other document of the professional purchaser (whatever the clauses which can appear there) and in particular on any general conditions of purchase, except express, written and preliminary agreement of the company **GILBERT PRODUCTION PLOUEDERN** and this, whatever the moment when the aforementioned document will have been able to be brought to the knowledge of the latter.

The General Terms and Conditions of Sale apply to all sales of products by the company **GILBERT PRODUCTION PLOUEDERN** except specific agreement prior to the Order agreed in writing between the Parties. Consequently, the placing of an Order by a professional purchaser implies the latter's unreserved acceptance of the General Terms and Conditions of Sale, unless special conditions are agreed in writing by the company **GILBERT PRODUCTION PLOUEDERN** to the professional purchaser (manufacturing contract, purchase order or other).

Any other document than the General Terms and Conditions of Sale, in particular catalogues, prospectuses, advertisements, notices, shall be given for information only and may be revised at any time. The company **GILBERT PRODUCTION PLOUEDERN** shall have the right to make modifications it deems necessary.

## Article 2 – Responsibilities

The company **GILBERT PRODUCTION PLOUEDERN** shall not be liable, for any reason whatsoever, when it is for it to ensure the formulation of products, manufacturing, packaging or any other task, other than within the limits of Article 8.6 below.

The professional purchaser is solely responsible for the exploitation of the products it orders from the company **GILBERT PRODUCTION PLOUEDERN**, their marketing and distribution (marketing, promotion, advertising, etc.), their use and any damage that may result. The professional purchaser guarantees the company **GILBERT PRODUCTION PLOUEDERN** of any action relating to the destination, the destiny, the harmlessness and the adequacy of the products with the envisaged use.

## Article 3 – Tolerances, wastages and losses

As a normal tolerance, the company **GILBERT PRODUCTION PLOUEDERN** has the possibility of delivering ten percent (10 %) more or less of the ordered quantities, without this difference being able to justify a complaint on behalf of the professional purchaser. This variation of quantity does not modify the agreed unit or fixed price.

The professional purchaser who supplies all or part of the components necessary for the execution of the Order accepts a shrinkage based, on the one hand, on the type of component and, on the other hand, on the series, according to the values shown below. These values are given in percentages or in liters. The quantities of the defective components agreed upon by the suppliers of these components must be added.

	Quantity per production launch	
	≤ 12 500	> 12 500
Bottles	3 %	2 %
Pumps and caps	4 %	3 %
Stoppers	4 %	3 %
Boxes and sleeves	8 %	3 %
Labels	10 %	5 %
Jars	3 %	2 %
Plastic tubes	4 %	3 %
Metal tubes	4 %	3 %
Brochures, leaflets and other printed material	5 %	3 %

For a delivery in barrels, liquid or powder, unit loss: three (3) liters;

For perfumes: four percent (4 %) regardless of the series;

For other raw materials and packaging items: three percent (3 %) regardless of series.

#### **Article 4 – Tools**

For the production of printing plates and/or cylinders for printing, the construction and/or purchase of special tools necessary for the execution of a given Order, the professional purchaser will be asked for a financial contribution. This will be invoiced separately, payable at the time of Order. These tools can be used for other professional purchasers, unless otherwise agreed. These tools will be and remain the exclusive property of the company **GILBERT PRODUCTION PLOUEDERN**.

#### **Article 5 – Intellectual property and confidentiality**

The studies, analyses, quotations, formulas, the know-how used for the manufacture and packaging of the products of the Order and other documents or information given or sent by the company **GILBERT PRODUCTION PLOUEDERN** to the professional purchaser (hereinafter referred to as the 'Elements') remain the exclusive property, as the case may be, of the company **GILBERT PRODUCTION PLOUEDERN**, of the Affiliated Companies of the company **GILBERT PRODUCTION PLOUEDERN** (as this term is defined below) or of the suppliers of the company **GILBERT PRODUCTION PLOUEDERN**, which are the only holders of the intellectual property rights on the Elements (hereinafter referred to as the 'Intellectual Property Rights'), and must be returned to the company **GILBERT PRODUCTION PLOUEDERN** at its request and at the expense of the professional purchaser. The term 'Affiliated Companies' of a Party means any company that is controlled directly or indirectly by such Party, or any company that directly or indirectly controls such Party, or any company that is directly or indirectly controlled by a company which also directly or indirectly controls such Party, so that Affiliated Companies of a Party shall include any direct or indirect parent or subsidiary of such Party, or any directly or indirectly held subsidiary of any direct or indirect parent of such Party.

The professional purchaser undertakes not to make any use of the Elements likely to infringe the Intellectual Property Rights.

The professional purchaser grants to the company **GILBERT PRODUCTION PLOUEDERN**, free of charge, for the sole purpose of executing the Order, a non-exclusive and non-transferable license to use the trademarks to be affixed to the products, of which it declares to be the owner or authorized user, with the right to (sub)license any subcontractor.

The professional purchaser guarantees the company **GILBERT PRODUCTION PLOUEDERN** that the execution of its Orders is not in violation of any right (and in particular of any intellectual property right) of third parties, nor does it constitute an act of unfair competition and/or parasitism and, in particular, that its brand does not infringe any brand of third parties. In the event of a claim from a third party on the basis of an infringement of a right (including an intellectual property right) and/or an act of unfair competition and/or parasitism committed by the professional purchaser, the professional purchaser undertakes to assist the company **GILBERT PRODUCTION PLOUEDERN** and subcontractors of the company **GILBERT PRODUCTION PLOUEDERN** in the defence of their interests. In the event that legal action is taken against the company **GILBERT PRODUCTION PLOUEDERN** and/or subcontractors of the company **GILBERT PRODUCTION PLOUEDERN**, alone or jointly with the professional purchaser and/or any other person, the professional purchaser would ultimately assume and would be required to reimburse the company **GILBERT PRODUCTION PLOUEDERN** and/or subcontractors of the company **GILBERT PRODUCTION PLOUEDERN** costs of proceedings, of lawyers, councils as well as the condemnations pronounced against the company **GILBERT PRODUCTION PLOUEDERN** and/or the subcontractors of the company **GILBERT PRODUCTION PLOUEDERN** (principal, accessories, Articles 700 of the French code de procédure civil, costs, etc.). ) that these condemnations are pronounced on a final basis or that they are still susceptible of appeal with the condition, in this last case, that they are accompanied by the provisional execution. The professional purchaser will be able, if it wishes it, to join the company **GILBERT PRODUCTION PLOUEDERN** and/or the subcontractors of the company **GILBERT PRODUCTION PLOUEDERN** at ends of organization of the defence of its own interests as well as those of the company **GILBERT PRODUCTION PLOUEDERN** and/or the subcontractors of the company **GILBERT PRODUCTION PLOUEDERN**.

In the course of their business relationship, the Parties will be required to communicate to each other a great deal of confidential information and documents of a technical, commercial, financial, administrative or other nature, including the Elements, regardless of the medium (in particular written or printed documents) and the method of transmission (in particular written, computerised, including electronic networks and/or messaging), whether directly or indirectly (hereinafter referred to as "**Confidential Information**").

Each Party acknowledges that the Confidential Information that has been or will be transmitted to it by the other Party has been or will be transmitted for the sole purpose of executing the Orders.

Each Party agrees, as of the date of receipt of the Confidential Information, unless specifically agreed otherwise on the Confidential Information, that it:

- (i) will be disclosed only to its personnel and the personnel of its subcontractors having knowledge thereof, duly informed of the strictly confidential nature of such Confidential Information, and is used by such personnel only in the manner set forth in the General Terms and Conditions of Sale; and
- (ii) is not disclosed, nor likely to be disclosed, either directly or indirectly, to any third party other than those mentioned in point (i) above; and
- (iii) are not copied, reproduced or duplicated in whole or in part without the prior written consent of the disclosing Party.

Each Party declares that it has taken and/or undertakes to take the necessary measures with its personnel and subcontractors to enable it to comply with the commitments made under the General Terms and Conditions of Sale and/or the Orders.

In the event that the applicable law or regulation or any authorized administrative authority or a judicial authority should require the Party having received certain Confidential Information to disclose its content, the latter shall immediately inform the other Party of such a request in order to put the latter in a position to exercise, if need be, any recourse in the context of the disclosure of said Confidential Information. In any event, each Party undertakes, in such a case, to communicate strictly only the Confidential Information that it would be legally required to disclose.

In the event of loss by a Party of documents, objects or media containing Confidential Information transmitted by the other Party, the former shall immediately inform the latter in writing.

Confidential Information shall not include any information that the receiving Party can prove in writing:

- (i) it was in the public domain prior to its disclosure or afterwards but in the absence of any fault attributable to it; or
- (ii) that it was already known to it prior to its disclosure; or
- (iii) it was lawfully received on a non-confidential basis from a third party not subject to a legal or contractual prohibition on disclosure and not in the possession, directly or indirectly, of the other Party; or
- (iv) it has been independently developed by it without use of or reference to Confidential Information received from the other Party; or
- (v) the use or disclosure was authorized in writing by the other Party.

The provision of Confidential Information under the General Terms and Conditions of Sale shall not, under any circumstances, be construed as conferring, expressly or by implication, any intellectual property rights whatsoever on the receiving Party.

Each Party undertakes, at the end of the commercial relationship as well as, at any time and for any reason whatsoever, at the first request of the other Party in any form whatsoever, subject to what it is legally obliged to retain, to:

- (i) return to the other Party all documents containing Confidential Information transmitted by the other Party without retaining a copy; and
- (ii) delete all data containing Confidential Information submitted by the other Party that it has stored in any computer system.

This confidentiality agreement shall be maintained for the duration of the business relationship between the Parties plus twenty (20) years from the termination thereof.

## **Article 6 – Protection of personal data**

The personal data collected from the professional purchaser shall be processed by the company **GILBERT PRODUCTION PLOUEDERN**. For more information on the processing of this data, the professional purchaser may consult the company **GILBERT PRODUCTION PLOUEDERN** confidentiality policy, available on the website <https://www.groupe-gilbert.fr/conditions-generales-de-vente/> or on request.

## **Article 7 – Orders**

### **7.1 Definition**

By Order, it is understood any order relating to the products appearing on the tariff in force addressed from the company **GILBERT PRODUCTION PLOUEDERN** to the professional purchaser and accepted by the latter, accompanied by the payment of the advance payment possibly envisaged on the purchase order. The Orders can be transmitted to the company **GILBERT PRODUCTION PLOUEDERN** by mail, fax, electronic mail, by telephone to the customer service representatives of the company **GILBERT PRODUCTION PLOUEDERN** or directly to the representatives of the company **GILBERT PRODUCTION PLOUEDERN**.

Any Order must respect the standard quantities (packages) indicated on the price list in force at the date of placing or relate to a multiple of the said standard quantities. If not, the company **GILBERT PRODUCTION PLOUEDERN** will round up the quantity ordered to the higher standard quantity or to the multiple of the higher standard quantity and will deliver and invoice the quantity thus rounded up, without the professional purchaser being able to claim any compensation or the cancellation of the Order.

The taking into account of the Order and the acceptance of this one are confirmed by the sending of an electronic mail. The data recorded in the computer system of the company **GILBERT PRODUCTION PLOUEDERN** constitute the proof of all transactions concluded with the professional purchaser.

The benefit of the Order is personal to the professional purchaser and cannot be transferred without the express, written and prior agreement of the company **GILBERT PRODUCTION PLOUEDERN**.

## **7.2 Modification**

The Orders transmitted to the company **GILBERT PRODUCTION PLOUEDERN** are irrevocable for the professional purchaser, except written acceptance on behalf of the company **GILBERT PRODUCTION PLOUEDERN**.

Any request to change the composition or volume of an Order placed by a professional purchaser, as well as any request for cancellation, can only be considered by the company **GILBERT PRODUCTION PLOUEDERN** if they are made in writing (including fax) and are received by the company **GILBERT PRODUCTION PLOUEDERN** prior to any commencement of execution of the said Order (and in particular prior to any ordering of the components necessary to execute the Order).

If the company **GILBERT PRODUCTION PLOUEDERN** does not agree to modify or cancel an Order, which it is in any case always entitled to do, the advance payments possibly paid will not be returned to the professional purchaser and will be considered as a deposit.

In case of acceptance by the company **GILBERT PRODUCTION PLOUEDERN** of a request for modification formulated by a professional purchaser, the company **GILBERT PRODUCTION PLOUEDERN** will be released from the possible deadlines agreed for its execution.

## **Article 8 – Deliveries**

### **8.1 Terms and conditions**

All deliveries are made "FCA Hérouville Saint-Clair (14200 – France)" according to the terms of the FCA clause of the Incoterms® 2020 of the International Chamber of Commerce.

If necessary, the professional purchaser shall send without delay to the company **GILBERT PRODUCTION PLOUEDERN** any document attesting the exit of the French metropolitan territory of each delivery of products, so that the said document can be presented to the competent French authorities if necessary. Otherwise, the professional purchaser shall bear alone any financial and fiscal consequences (penalties, fines, etc.) that the competent French authorities could impose due to the non-presentation of said document.

### **8.2 Delivery times**

The delivery times are given by the company **GILBERT PRODUCTION PLOUEDERN** only as an indication and indicative; they depend in particular on the order of arrival of the Orders, the logistic time of reference in the profession, the manufacturing time of the ordered products and the availability of the ordered products. The company **GILBERT PRODUCTION PLOUEDERN** is authorized to carry out deliveries in a total or partial way.

The company **GILBERT PRODUCTION PLOUEDERN** endeavours to respect the delivery periods which it indicates according to its possibilities of supply in components, energies or others near its suppliers, of the availability of the carriers, the respect by the professional purchaser of the conditions of payment and payment of the instalments, the absence of case of force majeure.

Delays in delivery shall not give rise to any penalty or compensation, nor shall they motivate the cancellation of the Order. However, if eight (8) weeks after the indicative date of delivery initially envisaged, the product was not delivered for any other cause than a case of force majeure or in the event of delay or suspension of the delivery ascribable to the professional purchaser, the sale could then be cancelled as of right with the request of one or the other of the Parties, without letter of preliminary setting in residence and without restitution. The early termination will take effect on the date of receipt or, in the absence of receipt, on the date of first presentation of the registered letter with acknowledgement of receipt notifying the decision to terminate, without either Party being able to claim any compensation for this fact alone, the penalty clauses appearing on the commercial documents of

the professional purchaser being unenforceable against the company **GILBERT PRODUCTION PLOUEDERN**.

### **8.3 Storage**

The company **GILBERT PRODUCTION PLOUEDERN** will store the finished products free of charge fifteen (15) days after the date of provision and invoicing. Beyond this period, the company **GILBERT PRODUCTION PLOUEDERN** will be able to invoice storage charges according to the bases defined quarterly.

### **8.4 Risks**

The transfer to the professional purchaser of the risks of loss or deterioration of the products, as well as the risks of damage that the products could cause, is carried out once the products are loaded on the truck of the carrier at the exit of the warehouses of the company **GILBERT PRODUCTION PLOUEDERN**, independently of the transfer of ownership, and this whatever the date of the Order or the payment of this one.

### **8.5 Transport**

The professional purchaser recognizes that it is the carrier who is responsible for making the delivery, the company **GILBERT PRODUCTION PLOUEDERN** being deemed to have fulfilled its obligation of delivery when it has given the ordered products to the carrier who has accepted them without reservation. The professional purchaser has no recourse in warranty against the company **GILBERT PRODUCTION PLOUEDERN** in case of failure to deliver the ordered products or damage occurred during transport or unloading.

The products travel at the risks and dangers of the professional purchaser to whom it belongs to check the state of it as of reception and, in the event of damage of the delivered goods or of missing, to carry out all the reserves necessary near the carrier, by extrajudicial act or by registered letter with acknowledgement of delivery, within a three (3) days maximum. A copy of the reserves will have to be addressed simultaneously to the company **GILBERT PRODUCTION PLOUEDERN**.

Any delivery and/or any product that has not been the subject of reservations by extrajudicial act or by registered letter with acknowledgement of receipt within three (3) days of its receipt from the carrier, in accordance with Article L. 133-3 of the French code de commerce, will be considered accepted by the professional purchaser.

### **8.6 Receipt**

Without prejudice to the measures to be taken by the professional purchaser vis-à-vis the carrier as described in article 8.5 above, in the event of apparent defects or shortages, any complaint, reserve or dispute, whatever the nature, relating to the delivery and/or missing products, will be accepted by the company **GILBERT PRODUCTION PLOUEDERN** only if it is carried out in writing, by registered letter with acknowledgement of receipt, within the time limit of three (3) days provided for in article 8.5 above. No complaint, reserve or dispute will be validly accepted in case of non-compliance with these formalities by the professional purchaser.

It is up to the professional purchaser to provide all the justifications as for the reality of the apparent defects or missing noticed, the company **GILBERT PRODUCTION PLOUEDERN** reserving the right to proceed, directly or indirectly, with any observation and checking on the spot.

No return of goods may be made by the professional purchaser without the prior express written agreement of the company **GILBERT PRODUCTION PLOUEDERN** notably obtained by fax or electronic mail. Any product returned without this agreement would be held at the disposal of the professional purchaser and storage costs would then be charged to it until complete recovery by its care. The expenses and risks of the return will be the responsibility of the company **GILBERT PRODUCTION PLOUEDERN** only in the case where an apparent defect is effectively noted by the latter or its agent and where this apparent defect is ascribable to it.

Only the carrier chosen by the company **GILBERT PRODUCTION PLOUEDERN** is entitled to make the return of the products concerned. The professional purchaser will have to hold the products concerned

at the disposal of this one. The returned products will have to be accompanied by a good of return to be fixed on the parcel and will have to be in the state in which they were delivered.

When, after control, an apparent defect or a missing is actually found by the company **GILBERT PRODUCTION PLOUEDERN** or its agent and that this apparent defect or missing is attributable to it, the professional purchaser can only ask the company **GILBERT PRODUCTION PLOUEDERN** the establishment of a credit to its benefit or the replacement or reprocessing of products with an apparent defect and/or the complement to fill the gaps, at the expense and choice of the company **GILBERT PRODUCTION PLOUEDERN**, without the professional purchaser can claim any compensation or the resolution of the Order. In any case the responsibility of the company **GILBERT PRODUCTION PLOUEDERN** could not be extended to indirect damages.

The acceptance without reservation made under the conditions of paragraph 1 above of the products ordered by the professional purchaser covers any apparent defect and/or missing; the professional purchaser cannot then oppose such a defect and/or such a missing in counterclaim to defend itself in an action for recovery of debts incurred by the company **GILBERT PRODUCTION PLOUEDERN**.

The complaint made by the professional purchaser under the conditions and according to the methods described in this article does not suspend the payment by the professional purchaser of the products concerned.

The responsibility of the company **GILBERT PRODUCTION PLOUEDERN** can in no case be called into question for facts, during transport, destruction, damage, loss or theft, even if it has chosen the carrier.

#### **8.7 Refusal of delivery**

In case of non-payment in whole or in part of an invoice due, the company **GILBERT PRODUCTION PLOUEDERN** reserves the right to refuse to honour any Order in progress and/or to come and to deliver the products concerned, without the professional purchaser can claim any compensation and without prejudice to any other right that the company **GILBERT PRODUCTION PLOUEDERN** could claim.

#### **8.8 Financial guarantees**

All the Orders which the company **GILBERT PRODUCTION PLOUEDERN** agrees to carry out are it taking into account the fact that the professional purchaser presents the sufficient financial guarantees and that it will effectively regulate the sums due to their expiry, in accordance with the legislation. Also, if the company **GILBERT PRODUCTION PLOUEDERN** has serious or particular reasons to fear difficulties of payment on behalf of the professional purchaser at the date of the Order or after this one, or if the professional purchaser does not present the same guarantees as at the date of acceptance of the Order, the company **GILBERT PRODUCTION PLOUEDERN** can subordinate the acceptance of the Order or the continuation of its execution to the provision, by the professional purchaser, of guarantees in the profit of the company **GILBERT PRODUCTION PLOUEDERN** or to a payment before forwarding.

The company **GILBERT PRODUCTION PLOUEDERN** will also have the faculty, before the acceptance of any Order, as during the execution, to require from the professional purchaser communication of its accounting documents, and in particular of the profit and loss accounts, even provisional, allowing the company **GILBERT PRODUCTION PLOUEDERN** to appreciate its solvency.

In case of refusal by the professional purchaser of the payment before expedition, or without any sufficient guarantee being proposed by this last one, the company **GILBERT PRODUCTION PLOUEDERN** can refuse to honour the Order(s) placed and to deliver the concerned products, without the professional purchaser being able to argue of an unjustified refusal of sale or to claim any compensation.

### **Article 9 – Tariff – Prices**

The prices to be paid by the professional purchaser are those appearing on the tariff in force at the day of the delivery of the Order, or, if necessary, in the specific commercial proposal addressed to the

professional purchaser. The prices are always exclusive of taxes, products delivered "FCA Hérouville Saint-Clair (14200 – France)" according to the terms of the FCA clause of the Incoterms® 2020 of the International Chamber of Commerce.

## **Article 10 – Terms of payment**

### **10.1 Invoicing**

An invoice is established for each delivery and delivered at the time of this one unless a delivery order was delivered in which case, if the company **GILBERT PRODUCTION PLOUEDERN** wishes, a summary invoice, referring to all the delivery orders issued during the same month, will be established at the latest at the end of this same month and addressed, except contrary request of the professional purchaser, at the place of delivery of the products.

### **10.2 Payment**

Invoices are payable in cash, in full on the day of delivery of the products under the conditions defined in the article 8 above, and as indicated on the invoice given to the professional purchaser, at the address: Avenue du Général de Gaulle, 14200 Hérouville Saint-Clair, France.

The company **GILBERT PRODUCTION PLOUEDERN** does not practice discount.

Only the effective cashing of the drafts or raised bill of exchange will be considered as being worth complete payment in the sense of the General Terms and Conditions of Sale.

### **10.3 Non-payment on due date**

Any sum not paid on the due date will give rise to:

- the payment by the professional purchaser of late penalties whose annual interest rate is set at the higher of the following two (2) rates: five percent (5 %) or three (3) times the legal interest rate, which rate applies to the total amount unpaid, all taxes included; pursuant to Article L. 441-10 II of the French code de commerce, these penalties are automatically payable without the need for a reminder; and
- the payment of the fixed compensation for recovery costs set by Article D. 441-5 of the French code de commerce at forty (40) euros; and
- the payment of an additional indemnity if the collection costs incurred are higher than the amount of the above-mentioned fixed indemnity; and
- the increase of the amount due of all other costs caused by the delay without prejudice to any damages that the company **GILBERT PRODUCTION PLOUEDERN** reserves the right to claim; and
- if necessary and if the company **GILBERT PRODUCTION PLOUEDERN** wishes it, to the immediate payment by the professional purchaser of the whole of its due invoices.

In addition, the company **GILBERT PRODUCTION PLOUEDERN** reserves the faculty to seize the competent court so that this one makes cease this non-fulfilment, under daily penalty per day of delay.

## **Article 11 – Reservation of title**

The transfer of ownership of the delivered products is suspended until full payment of the price of these by the professional purchaser, in principal and accessories, even in case of granting of payment deadlines. Any clause to the contrary, in particular inserted in the general conditions of purchase, is deemed unwritten.

By express agreement, the company **GILBERT PRODUCTION PLOUEDERN** will be able to enforce its rights under this retention of title clause in its own name and on its own behalf and/or in the name and on behalf of its suppliers, for any of its outstanding debts that remain partially or totally unpaid, on all of its products and/or the products of its suppliers still in the possession of the professional purchaser, these are conventionally presumed to be those unpaid, and the company **GILBERT PRODUCTION PLOUEDERN** may, by right and without formality, take them back or claim them as compensation for



all its unpaid invoices, at the expense, risk and peril of the professional purchaser and without prejudice to its right to terminate the sales in progress.

Any deposit paid by the professional purchaser will remain acquired to the company **GILBERT PRODUCTION PLOUEDERN** as a lump sum compensation, without prejudice to all other actions that it would be entitled to take against the professional purchaser.

The professional purchaser may only resell the unpaid products in the normal course of business. It may in no case pledge, grant a security interest, pledge or transfer the ownership of its unpaid stocks as a guarantee.

The professional purchaser must immediately notify the company **GILBERT PRODUCTION PLOUEDERN** in case of seizure or any other intervention of a third party or of transfer or pledge of its business.

If the professional purchaser resells the products before full payment, it will be deemed to have resold on behalf of the company **GILBERT PRODUCTION PLOUEDERN**; the deposits already paid by it will then be automatically offset against the sums owed to the company **GILBERT PRODUCTION PLOUEDERN** for the sale made on its behalf.

The company **GILBERT PRODUCTION PLOUEDERN** may also require, in case of total or partial non-payment of an invoice on the due date, the resolution of the sale and the reclamation of the products delivered after sending a simple formal notice, the return costs being borne by the professional purchaser and the payments made remaining acquired to the company **GILBERT PRODUCTION PLOUEDERN** as a penalty clause. Similarly, the company **GILBERT PRODUCTION PLOUEDERN** may unilaterally, after sending a notice of default, draw up or have drawn up an inventory of products it has invoiced still in possession of the professional purchaser, which undertakes to leave free access to its warehouses, stores or other for this purpose, ensuring that the identification of such products is always possible.

In the event of the opening of insolvency proceedings, to the extent permitted by law and subject to any applicable public policy provisions, outstanding Orders will be automatically cancelled and the company **GILBERT PRODUCTION PLOUEDERN** reserves the right to reclaim the goods in stock.

The above provisions do not prevent the transfer to the professional purchaser of the risks of loss or deterioration of the products subject to retention of title, as well as the damage they may cause, as soon as the goods are dispatched (i.e. loading of the ordered products onto the carrier's lorry on leaving the company **GILBERT PRODUCTION PLOUEDERN**'s warehouses). During the period of retention of title, the professional purchaser must insure the unpaid goods against any damage suffered or caused by them, until full transfer of ownership, the insurance policies must mention the ownership of the company **GILBERT PRODUCTION PLOUEDERN** or suppliers of the latter. The professional purchaser is obliged to justify it to the company **GILBERT PRODUCTION PLOUEDERN** at the time of the delivery. Failing this, the company **GILBERT PRODUCTION PLOUEDERN** would be entitled to delay the delivery until presentation of this proof.

The benefit of the present retention of title clause will be automatically transmitted to any third party subrogated in the rights, actions and privileges of the company **GILBERT PRODUCTION PLOUEDERN** under its claim.

## **Article 12 – Warranty against hidden defects**

The defects and deteriorations of the delivered products attributable to the professional purchaser or its agents, in particular consecutive to abnormal conditions of storage and/or conservation at the professional purchaser or its agents, in particular in the event of accident of some nature that it is, will not be able to open right to the guarantee of the latent defects which could be due by the company **GILBERT PRODUCTION PLOUEDERN**.

Under the warranty of latent defects, the company **GILBERT PRODUCTION PLOUEDERN** will only be required to replace or reprocess without charge the defective or damaged goods or to establish a credit note, at the option of the company **GILBERT PRODUCTION PLOUEDERN**, without the professional purchaser being able to claim any compensation or the resolution of the Order.

The company **GILBERT PRODUCTION PLOUEDERN** guarantees only the products delivered against hidden defects, in accordance with the law, the uses, the jurisprudence and under the following conditions: the guarantee applies only to the products which became regularly the property of the professional purchaser and of which, if necessary, the deadline of consumption or the date of minimal durability indicated on the packing is not exceeded. It applies only to products entirely manufactured by the company **GILBERT PRODUCTION PLOUEDERN**. It is excluded as soon as it was made use of the products under conditions of use or abnormal performances or not envisaged.

### **Article 13 – Force majeure**

Events beyond the control of the Parties, which they could not reasonably be expected to foresee and which they could not reasonably avoid or overcome, shall be considered as force majeure or fortuitous events, insofar as their occurrence renders the performance of the obligations totally impossible.

Are in particular assimilated to cases of force majeure or fortuitous discharging the company **GILBERT PRODUCTION PLOUEDERN** of its obligations: strikes of all or part of its personnel or its usual carriers, lock-outs, fires, floods, storms, wars, riots, production stoppages due to fortuitous breakdowns, epidemics, administrative decisions, thawing barriers, roadblocks, strikes or supply disruptions on the part of any of its suppliers for a cause not attributable to it.

In such circumstances, the company **GILBERT PRODUCTION PLOUEDERN** will notify the professional purchaser in writing, including by fax or electronic mail, the manufacturing contract between the company **GILBERT PRODUCTION PLOUEDERN** and the professional purchaser being then suspended automatically without compensation, from the date of occurrence of the event.

If the event were to last more than thirty (30) days as from the date of occurrence of this one, the contract concluded by the company **GILBERT PRODUCTION PLOUEDERN** and its professional purchaser will be able to be cancelled of right by the most diligent Party, without letter of preliminary setting in residence and without restitution.

Such termination shall take effect on the date of receipt or, in the absence of receipt, on the date of first presentation of the registered letter with acknowledgement of receipt denouncing said contract, without either Party being entitled to claim damages.

### **Article 14 – Hardship clause**

In the event of a change in circumstances of an economic nature, unforeseeable at the time of the conclusion of the manufacturing contract, and foreign to the company **GILBERT PRODUCTION PLOUEDERN** and/or the professional purchaser, which would have the effect of upsetting the economic bases of the commercial relationship existing between the Parties to the point of making it seriously prejudicial and/or difficult for one and/or the other of the Parties to perform their obligations, the Parties undertake to renegotiate the financial conditions in a spirit of cooperation and fairness with a view to returning to a position of equilibrium comparable to that which existed before the occurrence of this change in circumstances.

The Parties agree to meet no later than eight (8) days after the date of receipt or, in the absence of receipt, the date of first presentation of the registered letter with acknowledgement of receipt sent by one of them to the other and formulating a request for renegotiation.

The renegotiation shall not exceed thirty (30) days and the Parties agree that the renegotiation shall be carried out in good faith and in particular without any wrongful conduct impeding the renegotiation.

During this period, the commercial relationship will continue under the conditions applicable before the change of circumstances.

If no agreement is reached at the end of the renegotiation period, the commercial relationship will be terminated by operation of law at the request of either Party, without prior formal notice, without any right to restitution and without either Party being entitled to claim any compensation. Such early termination shall take effect upon expiration of a thirty (30) day notice period.

Obligations owed by either Party prior to the occurrence of the change in circumstances shall be performed under the terms and conditions applicable prior to such occurrence.

#### **Article 15 – Ethics and fight against bribery**

The Parties shall, in the context of the performance of their commercial relationship, comply with all the applicable French regulations or legislation relating to anti-bribery, including but not limited to all French regulations or legislation prohibiting bribery of public officials and private individuals, influence peddling, money laundering that may lead to exclusion from a public procurement contract, in particular Articles 433-1 and following of the French code penal (hereinafter referred to as the '**Applicable Legislation**').

In particular, the Parties shall refrain from offering, promising or giving, directly or indirectly, any pecuniary or in-kind benefit to any public official or any third party in order to influence their actions or decision.

The professional purchaser agrees to cooperate with the company **GILBERT PRODUCTION PLOUEDERN** during the due diligence process and to respond to any questionnaire issued by the company **GILBERT PRODUCTION PLOUEDERN** in this regard.

This anti-bribery clause applies to the business relationship between the company **GILBERT PRODUCTION PLOUEDERN** and the professional purchaser and their Affiliated Companies.

Each Party and its Affiliated Companies are responsible for compliance with the Applicable Legislation by their officers, agents, directors, employees, representatives, consultants or any person acting on their behalf or with their authorization, including but not limited to their advisors, agents, sub-agents, sub-distributors, if any, subcontractors, brokers and consultants.

Each Party declares that it has not been convicted of any criminal offense related to fraud or violation of the Applicable Legislation and declares that, to the best of its knowledge, it is not currently under investigation for any criminal offense, and that it has not been ineligible for, excluded from, or partially, temporarily, or permanently suspended from any program established by a State or a public authority.

Any breach of this clause by the professional purchaser and/or its Affiliated Companies shall entitle the company **GILBERT PRODUCTION PLOUEDERN** to refuse any Order without compensation or notice.

#### **Article 16 – Election of domicile**

The election of domicile is made by the company **GILBERT PRODUCTION PLOUEDERN** at its registered office.

#### **Article 17 – Attribution de jurisdiction**

Any dispute concerning the application of the General Terms and Conditions of Sale, their validity, their interpretation, their execution, the contracts concluded by the company **GILBERT PRODUCTION PLOUEDERN** or the payment of the price, will be brought before the commercial court of Caen (14000 – France), whatever the place of the Order, the delivery and the payment, the method of payment, and

even in the event of call in guarantee, of plurality of defendants, of procedure of urgency or procedure conservatory, in summary procedure or by request.

Bills of exchange do not novate or derogate from this jurisdiction clause.

In addition, in the event of legal action or any other action for the collection of debts by the company **GILBERT PRODUCTION PLOUEDERN**, the costs of the legal summons as well as the lawyer's and bailiff's fees and all related costs will be charged to the defaulting professional purchaser, as well as the costs related to or resulting from the non-observance by the professional purchaser of the terms of payment or of any other obligation resulting from the commercial relationship existing between the Parties

#### **Article 18 – Non-waiver**

The fact that the company **GILBERT PRODUCTION PLOUEDERN** does not take advantage at a given time of any of the clauses of the General Terms and Conditions of Sale cannot be interpreted as being worth renunciation to take advantage later of the aforesaid clause.

#### **Article 19 – Applicable law**

Any question relating to the General Terms and Conditions of Sale as well as to the sales they govern, which would not be dealt with by the present contractual stipulations, will be governed by French law to the exclusion of the rules of conflict of laws of the latter which could lead to the designation of another applicable law and of the material rules resulting from the international conventions.