

General Terms and Conditions of Supply



1. Definitions

In these terms and conditions (these "**Terms**"), the defined terms set out in clause 19 apply throughout.

2. Applicable Terms and Conditions

2.1. The Quotation is made on and subject to these Terms and constitutes an offer by the Supplier to supply the Equipment and/or the Services to the Purchaser.

2.2. The Purchaser's acceptance of the Quotation ("**Quotation Acceptance**") occurs upon the Purchaser sending a written confirmation to the Supplier that it wishes to proceed with the purchase of the Equipment and/or the Services (whether that is by the issue of a purchase order, by letter or by email).

2.3. If Quotation Acceptance has not occurred within 30 days of the date of the Quotation (or such longer period as may be stated on the Quotation), the Quotation shall lapse and no longer be capable of acceptance.

2.4. Upon Quotation Acceptance, a binding contract shall be formed between the Supplier and the Purchaser upon the terms of, and subject to, the following (which are hereby ranked in order of supremacy in case of conflict between them and which together comprise the "**Contract**", and each a "**Contractual Document**"):

2.4.1. the Quotation;

2.4.2. these Terms; then

2.4.3. any other documents explicitly referenced in the Quotation as forming part of the contemplated sale and purchase contract.

2.5. No other document, correspondence, or statement shall be incorporated into the Contract unless set out in a Contractual Document or expressly agreed by the Supplier in writing.

2.6. Any terms and conditions set out or referred to in any purchase order issued by the Purchaser in respect of the Quotation shall not be incorporated into the Contract and the Purchaser acknowledges and agrees that the issue of any such purchase order shall solely be for the purpose of effecting Quotation Acceptance to form the Contract (and that, irrespective of anything said therein, any purchase order terms and conditions shall be of no contractual effect whatsoever).

2.7. Each Quotation, upon Quotation Acceptance, shall form a separate Contract.

2.8. The Supplier may, after Quotation Acceptance, cancel the Contract (with no further liability) by written notice to the Purchaser, provided that any such notice is sent within 10 days of Quotation Acceptance.

3. Price

3.1. The price for the Equipment and/or the Services (the "**Price**") shall be as stated in the Quotation subject to this clause 3.

3.2. The Supplier may, on written notice to the Purchaser, increase the Price to reasonably reflect the cost to the Purchaser (as regards performance of the Contract) of increases in materials or labour arising after the date of the Quotation.

3.3. Prices quoted are exclusive of:

3.3.1. Value Added Tax (“VAT”);

3.3.2. any other form of purchase tax and/or import duties;

3.3.3. packaging;

3.3.4. insurance,

unless the contrary is expressly stated or is clear from the face of the Quotation.

4. Delivery

4.1. The delivery term in respect of any Equipment shall, unless otherwise stated on the Quotation or agreed in writing by the Supplier, be Ex Works (Incoterms 2010).

4.2. Where the Contract concerns more than one item of Equipment, each item of Equipment may be delivered separately (unless the Quotation expressly states otherwise).

4.3. Unless stated in the Quotation or otherwise agreed in writing by the Purchaser, the Purchaser is responsible for arranging for (and bearing the costs of) collection of the Equipment. If the Purchaser does not arrange for such collection within 14 days of delivery, the Supplier may arrange for, and charge to the Purchaser the costs of, the storage of the Equipment (which shall be entirely at the Purchaser’s risk).

4.4. The Supplier may, on the Purchaser’s request, provide a further quotation for packaging, delivery etc (if the same was not included on the Quotation).

4.5. Unless otherwise stated in the Quotation or agreed in writing with the Supplier, the Purchaser shall be responsible for safely installing and commissioning the Equipment. The Purchaser shall be responsible for ensuring that, once installed and commissioned, the Equipment is used safely in accordance with the purpose for which it was designed.

5. Acceptance

5.1. Acceptance of the Equipment shall occur as soon as the Purchaser has had a reasonable opportunity to inspect the Equipment and has not rejected the same.

5.2. If no inspection has taken place within 5 days of delivery, the Equipment shall be deemed accepted by the Purchaser and the right of rejection shall be lost.

5.3. If the Purchaser does not accept the Equipment upon inspection, the Supplier shall be afforded a reasonable opportunity to repair, replace or remedy any alleged default.

6. Title and Risk

6.1. Title to the Equipment shall pass to the Purchaser once the Price has been irrevocably paid in full (and until such time shall remain vested in the Supplier).

6.2. Risk in the Equipment shall pass to the Purchaser on delivery.

7. Payment

7.1. The Price shall be payable in the amounts and at the times set out in the Quotation, subject to clause 3.2, or as otherwise agreed in writing between the Purchaser and the Supplier.

7.2. The Purchaser shall pay each of the Supplier’s invoices within 30 days of the invoice date.

7.3. Each invoice must be paid in the full amount and the Purchaser may not setoff, deduct or withhold any amounts due under the invoice.

8. Supplier Property and Personnel

8.1. The Purchaser shall ensure that Supplier Property is at all times:

8.1.1. clearly identified and marked as being the property of the Supplier;

8.1.2. treated in accordance with any security classification identified; and

8.1.3. stored safely, securely and separately from any other property belonging to the Purchaser or any third party.

8.2. The Supplier reserves the right to repossess Supplier Property at any time and the Purchaser hereby grants an irrevocable right and licence to the Supplier, its servants or agents to enter its premises to recover Supplier Property.

8.3. The Purchaser shall ensure the safety of any employees or contractors of the Supplier who visit premises owned or controlled by the Purchaser.

9. Warranties

9.1. The Supplier warrants that:

9.1.1. upon delivery, the Equipment shall be:

9.1.1.1. as described in the Quotation;

9.1.1.2. fit for the purpose for which it was designed; and

9.1.1.3. free from material defects; and

9.1.2. any Services will be provided with reasonable care and skill and in accordance with the Quotation.

9.2. The warranties in clause 9.1.1 (the "**Equipment Warranties**") shall continue for 12 months from the date of delivery of the Equipment (the "**Warranty Period**").

9.3. If a defect is discovered in the Equipment during the Warranty Period, the Supplier shall, at its discretion:

9.3.1. refund to the Purchaser the price of the defective Equipment; or

9.3.2. repair, replace or remedy the defective Equipment (at its own cost).

9.4. The Equipment Warranties only cover defects in the Equipment inherent at the time of delivery and do not cover subsequent damage or wear and tear.

9.5. Illustrations, technical drawings and descriptions contained in product literature and other marketing materials provided to the Purchaser with or prior to the Quotation do not form part of the Contract and the Supplier makes no warranties in relation thereto.

9.6. To the fullest extent permitted by law, all warranties implied by statute are excluded from the Contract.

9.7. The Equipment Warranties do not apply to any second-hand or refurbished Equipment, which is sold as seen with no warranty or guarantee attached.

9.8. The Equipment Warranties are not assignable.

10. Termination

10.1. Either party may terminate the Contract by written notice with immediate effect if:

- 10.1.1. the other party is unable to pay its debts generally as they fall due; or
- 10.1.2. an application is made, or a resolution is passed at a meeting of the other party, for (or to petition for) other party's winding up, dissolution or administration; or
- 10.1.3. the other party proposes or makes an arrangement with its creditors generally; or
- 10.1.4. a chargee or any administrative or other receiver or manager takes possession of, or exercises powers of receivership or sale over any assets of the other party; or
- 10.1.5. there occurs, in relation to other party, in any jurisdiction, any event analogous to those listed above.

10.2. The Supplier may terminate the Contract by written notice with immediate effect if the Purchaser fails to pay any invoice when due.

10.3. Termination of the Contract shall be without prejudice to either party's accrued rights.

11. Confidentiality

11.1. In these Terms, "**Confidential Information**" means all confidential or proprietary information, including Intellectual Property Rights of whatever nature, (however recorded or preserved) that is disclosed or made available whether before or after the date of the Quotation (in any form or medium), directly or indirectly, by the Supplier (or any member of the Group) to the Purchaser or its Permitted Persons (as defined in clause 11.4) and any information produced by the Purchaser which in any way derives from the Confidential Information. Confidential Information does not include information which was already in the Purchaser's lawful possession before disclosure by the Supplier.

11.2. The Purchaser acknowledges that the Supplier may disclose Confidential Information to it for the purpose of performing the Contract (the "**Purpose**").

11.3. The Purchaser shall:

- 11.3.1. keep the Confidential Information secret and confidential;
- 11.3.2. hold all Confidential Information on secure IT systems which have appropriate and effective restrictions against unauthorised internal and external access;
- 11.3.3. take reasonable security precautions in respect of the transfer and storage of the Confidential Information and not remove from any Confidential Information any security classification or other markings (including without limitation, copyright and confidentiality notices);
- 11.3.4. not use or exploit the Confidential Information in any way, except for or in connection with, the Purpose;
- 11.3.5. only disclose the Confidential Information as per clause 11.4 or 11.5 or with the Supplier's prior written consent; and
- 11.3.6. on the Supplier's request and/or upon termination of the Contract, immediately destroy, erase or return to the Supplier all documents and other records of the Confidential Information held by the Purchaser or its Permitted Persons.

- 11.4. The Purchaser may disclose the Confidential Information to any of its officers, employees and advisers to the extent that the same need to know the relevant Confidential Information for the Purpose (“**Permitted Persons**”), but the Purchaser shall ensure that each such Permitted Person to whom the Confidential Information is disclosed complies with the obligations in this clause as if they were the Purchaser.
- 11.5. The Purchaser may disclose Confidential Information if compelled to do so by a Court order or lawful authority but shall inform the Supplier immediately and keep it informed if this happens.
- 11.6. These confidentiality obligations shall survive termination of the Contract and endure indefinitely, or so long as is lawful.

12. Data Protection

- 12.1. The Purchaser shall ensure that any personal data provided to it by the Supplier is:
 - 12.1.1. only processed for the purposes for which it is provided;
 - 12.1.2. processed and held strictly in accordance with Data Protection Legislation (in particular, per the six data protection principles) and any instructions of the Purchaser from time to time; and
 - 12.1.3. (without prejudice to the generality of the foregoing) treated as if it was Confidential Information in accordance with clause 11.
- 12.2. The Purchaser shall:
 - 12.2.1. not transfer any personal data provided to it by the Supplier outside of the EEA unless it has the Supplier’s express written consent to such transfer (which shall be conditional on, without limitation, the execution by the Purchaser of a ‘model clauses’ agreement);
 - 12.2.2. notify the Supplier immediately if it becomes aware of, or suspects, any loss or unauthorised access of personal data and take all reasonable steps to mitigate the effects of such event and to assist the Supplier with any internal or external investigation, claim or procedure which may arise as a result;
 - 12.2.3. enable any inspections or audits which the Supplier may wish to conduct regarding data protection or confidentiality;
 - 12.2.4. promptly implement any reasonable requests of the Supplier as to the protection of personal data and/or confidential information;
 - 12.2.5. co-operate generally with the Supplier in good faith to ensure compliance with Data Protection Legislation (including any relevant subject access requests).
- 12.3. The Purchaser warrants to the Supplier that it has the appropriate consent of the data subject in respect of any personal data which it provides to the Supplier.

13. Intellectual Property Rights

- 13.1. Nothing in the Contract shall operate to transfer any Intellectual Property Rights of the Supplier to the Purchaser.
- 13.2. Any Intellectual Property Rights created by or on behalf of the Supplier in connection with the Contract shall belong to and vest in the Supplier and, in the event that any Intellectual Property Rights in connection with the Contract vest in the Purchaser for any reason, the Purchaser shall

assign or shall procure the assignment to the Supplier, with full title guarantee and free from all third party rights, of all such Intellectual Property Rights.

14. Force Majeure

The Supplier shall not be liable to the Purchaser for any delay or default in performance of the Contract which results from any cause beyond the Supplier's reasonable control including but not limited to fire, flood, explosion, accident, strike or lock out (such causes being "**FM Events**") and any dates for delivery under the Contract shall be deemed extended by the duration of any such FM Events.

15. Assignment, Sub-Contracting and Amendments

- 15.1. The Supplier may sub-contract all or part of the manufacture of the Equipment to such parties as it considers are capable of the same.
- 15.2. Neither party may assign the benefit of the Contract save that the Supplier may assign to another member of the Group.
- 15.3. The Purchaser shall, if called upon to do so by the Supplier, enter into a novation transferring the Supplier's obligations under the Contract to any other member of the Group.
- 15.4. Any variations or waivers to the Contract (including, without limitation, changes to the scope of supply described in the Quotation) shall only be binding upon the Supplier if made in writing and agreed or accepted by a duly authorised signatory of the Supplier.

16. Authority

The only officers or employees of the Supplier authorised to agree any variation or waiver of these Terms are as follows: Commercial Officer; Commercial Manager; any statutory director; the company secretary. The Purchaser acknowledges and agrees that any variation or waiver purportedly agreed by any other officer or employee of the Company shall be of no legal effect and not binding on the Supplier.

17. Limitation of Liability

- 17.1. The Supplier's maximum aggregate liability under the Contract shall not exceed the Price. The Supplier shall be liable for the Purchaser's direct losses only and shall not be liable in respect of any consequential, indirect or special losses or losses of any third party.
- 17.2. Clause 17.1 shall not operate to limit or exclude any liability of the Supplier to the extent that it arises from, or is increased by, the fraud of the Supplier, nor shall it apply to limit or exclude the liability of the Supplier for death or personal injury caused by its negligence or breach of contract.

18. Law and Jurisdiction

The Contract shall be governed and construed and interpreted in accordance with English law and the Courts of England and Wales shall have exclusive jurisdiction.

19. Defined Terms

"Confidential Information"	has the meaning given in clause 11.
"Data Protection Legislation"	the Data Protection Act 1998, the Data Protection Act 2018 (once enacted), EC Regulation 2016/679 (the General Data Protection Legislation) and all legislation enacted in the UK in respect of the protection of personal data.

“Equipment”	the goods which are the subject of the Quotation, or any of them.
“Intellectual Property Rights”	intellectual property rights of any and every type, including without limitation, copyright, design rights, patents, and any designs, inventions or similar capable of protection by registration.
“personal data”	has meaning ascribed to it by the Data Protection Legislation.
“Purchaser”	the person, firm, company or organisation to whom the Quotation is addressed.
“Quotation”	the written quotation or proposal issued by the Supplier in respect of the proposed supply to the Purchaser of the Equipment and/or Services.
“Services”	any services to be provided by the Supplier as described in the Quotation.
“Supplier”	Pennant International Group plc and/or any of its subsidiary undertakings from time to time (together the “Group”) issuing the Quotation.
“Supplier Property”	drawings, data, goods, tools, materials, or any other property provided to the Purchaser by the Supplier including, until such time as irrevocably paid for in full, the Equipment.