



## General Terms and Conditions of Purchase

### 1. Definitions

In these terms and conditions (these “**Terms**”), the defined terms set out in clause 27 apply throughout.

### 2. Applicable Terms and Conditions

2.1. The Order is made on and subject to these Terms and constitutes an offer by the Purchaser to purchase the Supplies.

2.2. The Supplier’s acceptance of the Order (“**Order Acceptance**”) occurs upon the first of the following to occur: (a) the Supplier confirming acceptance of the Order orally or in writing, or otherwise indicating that it will supply the Supplies; or (b) the Supplier commencing work on the Supplies in response to the Order.

2.3. At any time before Order Acceptance has occurred, the Purchaser may withdraw the Order.

2.4. Upon Order 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 Order;

2.4.2. the Specification;

2.4.3. the Special Conditions (if any);

2.4.4. these Terms; then

2.4.5. any other relevant documents referenced in the Order.

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 Purchaser in writing. Without prejudice to the generality of the foregoing, standard terms set out on a Supplier’s order acknowledgement or invoice shall not be incorporated into, nor displace, the Contractual Documents and, in issuing any such documents in response to an Order, the Supplier agrees that such documents do not constitute a counter-offer and that any standard terms set out in such documents are of no legal effect whatsoever and shall be disregarded entirely.

2.6. Each Order, upon Order Acceptance, shall form a separate Contract and with each Contract, time shall be of the essence.

2.7. The re-issue of an Order (after Order Acceptance has occurred) shall constitute an amendment to the original Contract, not the creation of a new Contract.

### 3. Quantity

3.1. The quantities of any Goods shall be as stated in the Order.

3.2. No quantity in excess of that stated in the Order shall be accepted or paid for unless the Purchaser has agreed to the same in writing before delivery (and the signature by the Purchaser of a delivery note or similar for the Goods shall not constitute such agreement, irrespective of anything stated on the note).

3.3. The Purchaser reserves the right to reject incomplete deliveries and to refuse delivery, reject or refuse to pay for and/or (at the Supplier’s expense and risk) return any unauthorised and/or unaccepted shortfall or excess.



#### 4. **Controlled Items**

- 4.1. The Supplier shall notify the Purchaser in writing as soon as reasonably practicable following receipt of the Order if any of the Supplies are Controlled Items and shall, at minimum, in doing so confirm the following:
- 4.1.1. a description of the Controlled Items;
  - 4.1.2. the name and address of the exporter and/or manufacturer of the Controlled Items;
  - 4.1.3. the part reference for the Controlled Items;
  - 4.1.4. for Controlled Items under ITAR or EAR: the ITAR US Munitions List Category and paragraph number (and any special designation as Significant Military Equipment or Major Defense Equipment) or, as the case may be, EAR Commerce Control List Export Control Classification Number (or other EAR designation).
- 4.2. The Supplier shall promptly and fully provide such further information about the Controlled Items as the Purchaser may reasonably request.
- 4.3. If so requested by the Purchaser, the Supplier shall use all reasonable endeavours to identify potential alternative supplies which are not Controlled Items and shall submit a costed proposal to the Purchaser in respect of the same ("**Alternative Proposal**").
- 4.4. In the event that the Purchaser is notified, or otherwise becomes aware, that any Supplies constitute Controlled Items:
- 4.4.1. the Purchaser may, within 14 days of notification or becoming aware, cancel the Order and terminate the Contract (without liability) and either submit an Order on the basis of an Alternative Proposal or seek another supplier;
  - 4.4.2. the Supplier shall (at its own cost) follow all the Purchaser's reasonable instructions regarding the Controlled Items for the purpose of ensuring that both it and the Purchaser are compliant with all applicable Export Controls.

#### 5. **Supplier's Undertakings**

The Supplier shall:

- 5.1. supply the Supplies to the Purchaser in accordance with the Contract;
- 5.2. ensure that any Goods:
  - 5.2.1. conform to the Contract and to any samples submitted and/or any pre-contractual representations regarding the Goods made by the Supplier;
  - 5.2.2. are of satisfactory design, materials, workmanship and performance (having regard to the Contract and the purpose(s) for which the Purchaser intends to use the Goods);
- 5.3. provide any Services with all reasonable care and skill (and ensure that its officers and employees (and any permitted agents or subcontractors) involved in providing the Services are appropriately skilled and qualified);
- 5.4. ensure all Supplies are provided without infringing any third party's Intellectual Property Rights;



- 5.5. maintain appropriate information security measures (both technological and procedural) to protect all Confidential Information and as otherwise required under the Contract;
- 5.6. obtain and maintain all necessary licences, consents and permits as may be relevant to its provision of the Supplies or otherwise to its performance of the Contract;
- 5.7. in providing the Supplies and performing the Contract, comply with all applicable laws and regulations (including, without limitation, Export Controls and environmental and health and safety legislation and regulations);
- 5.8. comply with any policies of the Purchaser which the Purchaser reasonably considers are relevant to the Contract subject to a copy (or extract) of the same being provided to the Supplier;
- 5.9. duly perform all other contracts formed between the Purchaser and the Supplier on these Terms pursuant to the issue of a purchase order by the Purchaser;
- 5.10. use all reasonable endeavours to ensure that the events specified in clauses 17.3.2 to 17.3.8 (inclusive) do not occur during performance of the Contract.

## 6. **Contract Flow Down**

- 6.1. The Supplier acknowledges that the Purchaser may have placed the Order in connection with a contract with one of its own customers, and that such customer may in turn be under contractual obligations to a national government, armed service, agency or other end-user (in each case, "**Upstream Contracts**").
- 6.2. Where the Purchaser specifies in the Order contractual requirements to which it is subject under an Upstream Contract, the Supplier shall comply with such requirements (to the extent that they are applicable to the Supplies under the Contract).
- 6.3. Where the Purchaser, after the Order has been placed, brings to the Supplier's attention contractual requirements to which it is subject under an Upstream Contract, the Supplier shall use all its reasonable endeavours to comply with such requirements (to the extent that they are applicable to the Supplies under the Order).
- 6.4. The Supplier agrees to allow (on reasonable notice) the parties under Upstream Contracts to carry out quality assurance checks at its premises for the purpose of establishing that the Supplies (and the Supplier's ability to carry out, and methods of performing, the Contract) comply with relevant requirements of such Upstream Contracts.

## 7. **Price**

- 7.1. The price for the Supplies shall be as stated in the Order and shall, subject to clause 7.5, not be subject to variation unless agreed in writing by the Purchaser.
- 7.2. The price stated in the Order shall be exclusive of Value Added Tax ("**VAT**") but shall be deemed to be inclusive of any other form of purchase tax and/or import duties unless the contrary is expressly stated.
- 7.3. VAT at the appropriate rate shall only be paid by the Purchaser on receipt of a valid VAT invoice.
- 7.4. No charges may be made for packaging, delivery, insurance or otherwise unless specifically stated in the Order or agreed in writing by the Purchaser.
- 7.5. The Supplier acknowledges and agrees that the Purchaser has agreed to the price on the basis that the Supplier will provide the Supplies in accordance with the delivery date(s) specified by the Purchaser in the Order or elsewhere (the "**Delivery Date**"), and that if the Supplies are not so provided, the contract price shall be reduced in accordance with clause 7.6 in respect of any Supplies which are delivered after the Delivery Date (and, for the



purposes of assessing any price reduction, “delivered” means delivered in a state whereby the Supplies are capable of, and meet the requirements for, Acceptance).

- 7.6. The price shall be reduced by 2% for each week the Supplies are late (up to a maximum of 20 weeks). Each reduction shall be calculated by reference to the original contract price (not by reference to the price as it may have already been reduced hereunder).
- 7.7. This clause provides a price adjustment mechanism, it does not set out a remedy for breach of the Contract. Any price adjustment made via this clause shall be without prejudice, and additional, to any damages claimable by the Purchaser for breach of the Contract. If the Purchaser has already paid all or part of the price at such time as the Purchaser becomes entitled to a reduction pursuant to this clause 7, the Supplier shall forthwith refund to the Purchaser the amount of the reduction to which the Purchaser is entitled.

## **8. Pre-Delivery Testing and Inspection**

- 8.1. Prior to delivery of any Goods, the Supplier shall inspect and test the Goods for compliance with the Contract and all laws and regulations applicable to the supply of the Goods.
- 8.2. The Purchaser shall be entitled to request the Supplier to supply certified copies of such inspections and tests free of charge and the Supplier shall promptly and fully comply with such request.
- 8.3. The Purchaser shall be entitled to inspect and/or test the Goods at any reasonable time(s) during manufacture, processing and/or storage of the Goods. If the Purchaser exercises this right, the Supplier shall allow access to the Purchaser or its nominated representative during normal business hours and shall afford all such facilities as may be reasonably required for such purposes.
- 8.4. In the event that the Goods or any part thereof fail inspection and/or testing the Purchaser may charge the Supplier any cost in respect of travel and accommodation incurred by the Purchaser for subsequent re-inspection and/or re-testing (if any).
- 8.5. Any inspections or tests carried out under clauses 8.1 to and 8.3 above shall not in any way relieve the Supplier of any of its obligations under the Contract or from those existing either at common law or by statute or any part thereof, nor shall the completion of any such tests constitute Acceptance.

## **9. Packaging and Delivery**

- 9.1. The delivery term in respect of any Supplies shall be DAP (Incoterms 2010), unless otherwise agreed in writing by the Purchaser.
- 9.2. All Goods must be properly and securely packed (at the Supplier’s expense) and in particular each package must:
- 9.2.1. bear the Order number;
  - 9.2.2. be accompanied by a readily accessible packing note detailing the contents; and
  - 9.2.3. conform with any applicable export and/or import regulations
- 9.3. On delivery of each consignment of the Goods, the Supplier shall deliver to the Purchaser such documents as are required by the Order, including without limitation, customs export documents, advice notes, certificates of conformity and civil approved certificates and, if the Supplier is not the original manufacturer of the Supplies, copies of the original manufacturer’s certificate of conformity or civil approved certificate together with test figures, heat treatment particulars etc, where applicable.



- 9.4. Unless otherwise specified by the Purchaser, supply of the Goods shall be effected by the Supplier at the Supplier's own risk and expense (including the risk of deterioration in the Goods necessarily incident to the course of transit) to the place and on the date(s) specified in the Order.
- 9.5. The Purchaser shall be under no obligation to accept delivery of the Goods before the date(s) for delivery specified in the Order.
- 9.6. The Purchaser shall not be liable to the Supplier for failure to accept any delivery of Supplies resulting from any cause beyond the Purchaser's reasonable control.

## 10. Documentation and Information

- 10.1. The Supplier shall supply to the Purchaser no later than upon delivery of the Goods (or as otherwise agreed by the Purchaser):
- 10.1.1. any operator's manuals, instruction manuals, list of recommended spares and other supporting literature in relation to the Goods; and
  - 10.1.2. sufficient information about the use for which the Goods have been designed and have been tested, and to enable the operation of the Goods (as applicable); and
  - 10.1.3. detailed information about any conditions or procedures required to ensure that, when put to use the Goods will be safe and without risk to health.
- 10.2. If the Goods are perishable or have a life expectancy of a fixed duration or if there are any circumstances known to the Supplier which could adversely affect the lifespan of the Goods, the Supplier shall forthwith advise the Purchaser in writing of all such necessary and appropriate information relating thereto.

## 11. Acceptance

- 11.1. Where the Contract specifies particular acceptance tests for any Supplies ("**Prescribed Tests**"), acceptance of any Supplies delivered shall be subject to completion of the Prescribed Tests to the satisfaction of the Purchaser.
- 11.2. Where there are no Prescribed Tests, the Purchaser shall have the right to inspect the Supplies after delivery, and acceptance shall take place if the Supplies are satisfactory to the Purchaser upon inspection.
- 11.3. If no inspection is made, the Supplies shall be deemed accepted 28 days after delivery in accordance with clause 9.
- 11.4. If the Purchaser is not satisfied that the Supplies comply with the Contract, the Purchaser may in its absolute discretion:
- 11.4.1. reject them in whole or in part; and/or
  - 11.4.2. give notice to the Supplier to repair, replace or remedy them without delay at the Supplier's expense and risk, upon which the Supplier shall forthwith repair, replace or remedy the Supplies as required by the Purchaser.
- 11.5. Signature by the Purchaser of a delivery note or similar shall not constitute Acceptance (irrespective of anything stated on such note).
- 11.6. The provisions of clauses 11.1 and 11.5 above shall apply equally to any repaired or replacement Goods or to any remedied Services (whether under this clause 11, clause 15 or otherwise).



## 12. Title and Risk

- 12.1. Title and risk in Goods shall pass to the Purchaser upon Acceptance of such Goods (and until then shall remain with the Supplier).
- 12.2. The Supplier warrants and represents to the Purchaser that upon Acceptance: the Goods shall be free from any and all third-party interests and that legal and beneficial title to the Goods shall pass to the Purchaser.

## 13. Payment

- 13.1. The Supplier may only invoice the Purchaser for the Supplies in accordance with the schedule and terms stated on the Order (if any), subject always to the Supplier having delivered the Supplies in accordance with the Contract.
- 13.2. In the absence of any specific terms stated on the Order, the Supplier may invoice the Purchaser once all Supplies have been delivered in accordance with the Contract.
- 13.3. The aggregate amounts invoiced in respect of a Contract shall not exceed the price stated in the Order unless the Purchaser has expressly agreed otherwise in writing prior to the issue of the invoice.
- 13.4. The Purchaser shall settle any properly issued invoice within 60 days of such invoice or 60 days of Acceptance, whichever is the later.
- 13.5. The Purchaser reserves the right to setoff against any amounts due to the Supplier any liabilities owed by the Supplier to any member of the Group (whether under the Contract or otherwise).

## 14. Purchaser's Property

- 14.1. The Supplier shall ensure that any drawings, data, goods, tools, materials, equipment or any other property provided by, through or on behalf of the Purchaser for use by the Supplier ("**Purchaser Property**") are always:
  - 14.1.1. clearly identified and marked as being the property of the Purchaser;
  - 14.1.2. treated in accordance with any security classification identified; and
  - 14.1.3. stored safely, securely and separately from any other property belonging to the Supplier or any third party.
- 14.2. The Purchaser reserves the right to repossess Purchaser Property at any time and the Supplier hereby grants an irrevocable right and licence to the Purchaser, its servants or agents to enter its premises to recover Purchaser Property.

## 15. Warranty

- 15.1. The Supplier warrants and represents to the Purchaser that the Supplies shall be:
  - 15.1.1. provided in accordance with and meet the requirements of the Contract;
  - 15.1.2. fit for the purpose for which they are intended;
  - 15.1.3. (in the case of Goods) free from defects (whether actual or latent) in design, materials and workmanship;
  - 15.1.4. (in the case of Goods) new and free from any damage or wear and tear;



- 15.1.5. (in the case of Services) provided with reasonable care and skill;
- 15.1.6. provided in accordance with all applicable laws and regulations, and generally recognised commercial good practice (having regard to the relevant commercial sector within which the Purchaser operates).
- 15.2. The warranties in clause 15.1 (the “**Warranties**”) shall, in respect of each of the Supplies, continue for 12 calendar months from the date of Acceptance of such Supplies (the “**Warranty Period**”).
- 15.3. If there is a defect in the Supplies during the Warranty Period, the Supplier shall without delay, upon receipt of notice from the Purchaser but at the absolute discretion of the Purchaser:
  - 15.3.1. refund to the Purchaser the price of the defective Supplies; or
  - 15.3.2. forthwith repair, replace or remedy the defective Supplies at the Supplier’s own expense and risk provided that, if the Supplier fails to do so, the Purchaser may arrange for them to be repaired, replaced or remedied (at the Supplier’s expense).
- 15.4. The Warranty Period shall automatically extend to 12 months from the date of Acceptance of any repaired, replaced or remedied Supplies.
- 15.5. The Supplier agrees that the Warranties shall be capable of being assigned to a customer of the Purchaser, or other user, by the Purchaser without prior written notice to the Supplier.
- 15.6. The provisions of this clause 15 shall survive termination of the Contract, howsoever arising.

## 16. Insurance

The Supplier shall maintain valid insurances, with reputable insurers, in respect of the following (to the levels specified, at minimum) and provide evidence to the Purchaser, upon request:

- 16.1. any Goods (for their full value), until Acceptance has occurred;
- 16.2. any Purchaser Property (for its full value), until the same is returned to the custody of the Purchaser;
- 16.3. Public Liability insurance for an amount not less than £5 million per event or series of events in respect of loss of or damage to property, or death, disease, illness or injury to persons resulting from provision of the Supplies;
- 16.4. a policy of Product Liability Insurance for an amount not less than £5 million per event or series of events in respect of loss of or damage to property, or death, disease, illness or injury to persons resulting from provision of the Supplies;
- 16.5. where applicable, a policy of Professional Indemnity Insurance for an amount not less than £5 million per event or series of events;
- 16.6. any other insurances specified in any Contractual Document;
- 16.7. any other insurance which the Supplier may be statutorily required to maintain.

## 17. Termination

- 17.1. The Purchaser may at any time terminate the Contract for convenience upon giving the Supplier written notice (“**Termination Notice**”) provided that in such case the Purchaser agrees that it will reimburse the Supplier for any





material costs which the Supplier has reasonably and properly incurred before the Termination Notice in direct reliance on the Order (the “**Termination Sum**”).

- 17.2. Termination of the Contract shall occur immediately upon delivery of the Termination Notice, after which the Supplier shall invoice the Purchaser for the Termination Sum, which the Purchaser shall settle in accordance with clause 13.
- 17.3. Upon the occurrence of any of the following, the Supplier may immediately exercise its rights under clause 17.4:
- 17.3.1. the Supplier breaches the Contract and, if such breach is capable of remedy, does not remedy the breach within 15 days of the Purchaser giving notice requiring the same;
  - 17.3.2. the Supplier is unable to pay its debts generally as they fall due; or
  - 17.3.3. an application is made, or a resolution is passed at a meeting of the Supplier, for (or to petition for) the Supplier’s winding up, dissolution or administration; or
  - 17.3.4. the Supplier proposes or makes an arrangement with its creditors generally; or
  - 17.3.5. 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 Supplier; or
  - 17.3.6. there occurs, in relation to the Supplier, in any jurisdiction, any event analogous to those listed above;
  - 17.3.7. the Supplier is acquired by or merged with any third party or any change of control occurs; or
  - 17.3.8. the Supplier is or may be unable, in the Purchaser’s reasonable opinion, to perform its obligations under the Contract.
- 17.4. Subject to clause 17.3, the Purchaser may on giving written notice to the Supplier exercise any one or more of the following rights or remedies:
- 17.4.1. to reduce, reschedule or cancel any of the Supplies or to refuse to accept the provision of any further Supplies and in each case without having any liability to the Supplier; and/or
  - 17.4.2. to terminate the Contract in whole or in part or treat the Contract as rescinded (in either case, with immediate effect).
- 17.5. Upon termination or rescission, howsoever arising, the Supplier shall return all Purchaser Property forthwith to the Purchaser and shall, if requested, provide the Purchaser with all such documentation and information as may be necessary to enable either the Purchaser or a third party to complete the Supplies ordered.
- 17.6. Upon rescission, the Purchaser may either return to the Supplier (at the Supplier’s risk and expense) any Goods already delivered, or require the Supplier to collect the same within 5 business days, and the Supplier shall repay to the Purchaser any monies paid by the Purchaser in respect of any such Supplies.
- 17.7. Termination of the Contract shall be without prejudice to the Purchaser’s accrued rights and is not a pre-condition to the Purchaser’s common law right to claim for breach of contract.
- 18. Remedies**
- 18.1. Each right or remedy provided under the Contract (including rescission) is separate, and additional to, every other such right or remedy (as well as being additional to all rights and remedies at common law or provided by statute)





such that (subject to no double-recovery of any Losses occurring) the exercise of one particular right or remedy shall not preclude the exercise of another.

- 18.2. Failure by the Purchaser to exercise or enforce any right conferred under the Contract shall not be deemed to be a waiver of any such right nor operate so as to bar the exercise or enforcement of any other right on any later occasion.

## 19. Indemnity

- 19.1. The Supplier shall indemnify the Purchaser (in cash, on demand) against any Losses suffered or incurred by the Purchaser arising out of or in connection with any of the following:

19.1.1. the imposition, under an Upstream Contract, of liquidated damages against the Purchaser to the extent that the same is attributable to delays or default in the performance of the Contract by the Supplier;

19.1.2. any breach by the Supplier of any of the following clauses of these Terms: 4, 5, 9, 15, 20 and 21;

19.1.3. any claim against the Purchaser by a third party which arises out of or in connection with the provision of the Supplies, to the extent that such claim relates to the breach, negligent performance or failure or delay in performance of the Contract by the Supplier, its employees, agents or sub-contractors;

19.1.4. death, personal injury or damage to property arising out of or in connection with the negligence or breach of contract by the Supplier (or any of its employees, agents or sub-contractors).

- 19.2. The Supplier shall reimburse the Purchaser (in cash, on demand) in respect of any expense incurred by the Purchaser which is stated elsewhere herein shall be borne by the Supplier.

- 19.3. Nothing in this clause shall permit the Purchaser to recover twice in respect of the same Loss.

- 19.4. Nothing in this clause shall limit the Purchaser's duty at law (if any) to mitigate its losses in respect of any breach of contract.

- 19.5. The maximum amount recoverable under clause 19.1.1 shall be limited to the amount payable by the Purchaser under the Contract (before any adjustment pursuant to clause 7.5). The other clauses are not so limited.

- 19.6. Each of the five indemnities contained in this clause is a separate and severable obligation.

- 19.7. For the purposes of this clause 19, "**Purchaser**" shall include each member of the Group and their respective officers and employees.

## 20. Confidentiality

- 20.1. 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 Order (in any form or medium), directly or indirectly, by the Purchaser (or any member of the Group) to the Supplier or its Permitted Persons (as defined in clause 20.4) and any information produced by the Supplier which in any way derives from the Confidential Information. Confidential Information does not include information which was already in the Supplier's lawful possession before disclosure by the Purchaser.

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



- 20.3. The Supplier shall:
- 20.3.1. keep the Confidential Information secret and confidential;
  - 20.3.2. hold all Confidential Information on secure IT systems which have appropriate and effective restrictions against unauthorised internal and external access;
  - 20.3.3. take all 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);
  - 20.3.4. not use or exploit the Confidential Information in any way, except for or in connection with, the Purpose;
  - 20.3.5. only disclose the Confidential Information as per clause 20.4 or 20.5 or with the Purchaser's prior written consent; and
  - 20.3.6. on the Purchaser's request and/or upon termination of the Contract, immediately destroy, erase or return to the Purchaser all documents and other records of the Confidential Information held by the Supplier or its Permitted Persons.
- 20.4. The Supplier 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 Supplier 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 Supplier.
- 20.5. The Supplier may disclose Confidential Information if compelled to do so by a Court order or lawful authority but shall inform the Purchaser immediately and keep it informed if this happens.
- 20.6. These confidentiality obligations shall survive termination of the Contract and endure indefinitely, or so long as is lawful.

## 21. Data Protection

- 21.1. The Supplier shall ensure that any personal data provided to it by the Purchaser is:
- 21.1.1. only processed for the purposes for which it is provided;
  - 21.1.2. 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
  - 21.1.3. (without prejudice to the generality of the foregoing) treated as if it was Confidential Information in accordance with clause 20.
- 21.2. The Supplier shall:
- 21.3. not transfer any personal data provided to it by the Purchaser outside of the EEA unless it has the Purchaser's express written consent to such transfer (which shall be conditional on, without limitation, the execution by the Supplier of a 'model clauses' agreement);
  - 21.4. notify the Purchaser 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 Purchaser with any internal or external investigation, claim or procedure which may arise as a result;



- 21.5. enable any inspections or audits which the Purchaser may wish to conduct regarding data protection or confidentiality;
  - 21.6. promptly implement any reasonable requests of the Purchaser as to the protection of personal data and/or confidential information;
  - 21.7. co-operate generally with the Purchaser in good faith to ensure compliance with Data Protection Legislation (including any relevant subject access requests).
- 21.8. The Supplier warrants to the Purchaser that it has the appropriate consent of the data subject in respect of any personal data which it provides to the Purchaser.

## **22. Intellectual Property Rights**

- 22.1. The Supplier shall assign or shall procure the assignment to the Purchaser, with full title guarantee and free from all third party rights, all Intellectual Property Rights and all other rights created in performance of the Contract and the Supplier shall (at its own cost) do all necessary acts to vest such Intellectual Property Rights in the name of the Purchaser or its nominee, such acts to include (without limitation) the execution of documents.
- 22.2. Any Intellectual Property Rights relevant to the Supplies which are owned or licenced by the Supplier prior to the commencement of the Contract shall remain vested in and be the absolute property of the Supplier provided that if they are included in, or relevant to the ongoing use of, any Supplies they must be identified to the Purchaser, and the Supplier shall grant (or procure the grant) to the Purchaser for use as necessary an irrevocable, perpetual, non-exclusive, worldwide, royalty-free licence (with the ability to sub-licence) of such Intellectual Property Rights.
- 22.3. Without prejudice to clause 20, any drawings, designs or other data provided to the Supplier by the Purchaser in connection with the Order shall only be used by the Purchaser to fulfil the Order and any Intellectual Property Rights subsisting in such drawings, designs or other data shall remain vested in the Purchaser (or other member of the Group, as the case may be) and shall not transfer to the Supplier.

## **23. Force Majeure**

If the Supplier is unable to perform the Contract because of an FM Event:

- 23.1.1. the Supplier shall immediately notify the Purchaser in writing, providing full details of the FM Event with an explanation as to how it prevents performance of the Contract;
- 23.1.2. for so long as the inability to perform the Contract does not cause or materially risk the Purchaser breaching an Upstream Contract (but in any event for no longer than 30 days), the Supplier's obligation to perform the Contract shall be suspended and such non-performance shall not be regarded as a breach of the Contract;
- 23.1.3. if the Supplier's inability to perform the Contract causes or materially risks the Purchaser breaching an Upstream Contract (or has persisted for longer than 30 days), the operation of clause 23.1.2 shall cease and the Purchaser may terminate the Contract with immediate effect, with no liability to the Supplier.

## **24. Assignment and Sub-Contracting**

- 24.1. Unless it has the prior written consent of the Purchaser, the Supplier may not:
  - 24.1.1. assign the benefit of the Contract; nor



24.1.2. sub-contract any of its obligations under the Contract.

24.2. The Purchaser may freely assign the benefit of the Contract and the Supplier shall, if called upon to do so, enter into a novation transferring the Purchaser's obligations under the Contract to any other member of the Group.

## 25. Further Assurance

The Supplier shall, if called upon to do so, execute any document and/or do any act or thing necessary to vest in the Purchaser any right, title or interest to be transferred to the Purchaser under the Contract and/or as may be necessary to secure to the Purchaser the full benefit of the Contract.

## 26. 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.

## 27. Defined Terms

<b>"Acceptance"</b>	acceptance of Goods in accordance with clause 11.
<b>"Controlled Items"</b>	any item which may be subject (upon sale, export or import or otherwise) to regulation under the US International Traffic in Arms Regulations ("ITAR"), the US Export Administration Regulations ("EAR"), the UK Export Control Order 2008, the EU Dual-Use Regulation or the Australian Customs Act 1901 or any other laws or regulations of any jurisdiction relating to import or export control (together, " <b>Export Controls</b> ").
<b>"Confidential Information"</b>	has the meaning given in clause 20.
<b>"Data Protection Legislation"</b>	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.
<b>"FM Event"</b>	an event extrinsic to the Supplier's business such as fire, flood or war which: <ul style="list-style-type: none"> <li>• is outside of the Supplier's control; and</li> <li>• prevents the Supplier's performance of the Contract; and</li> <li>• cannot be mitigated using the Supplier's best endeavours.</li> </ul>
<b>"Goods"</b>	the goods which are the subject of the Order, or any of them.



<b>“Intellectual Property Rights”</b>	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.
<b>“Losses”</b>	losses, damages, costs, expenses, professional and other fees (as applicable).
<b>“Order”</b>	the purchase order issued by the Purchaser for the supply of the Goods and/or the Services (as may be amended or updated by the Purchaser from time to time).
<b>“personal data”</b>	has meaning ascribed to it by the Data Protection Legislation.
<b>“Purchaser”</b>	Pennant International Group plc and/or any of its subsidiary undertakings from time to time (together the <b>“Group”</b> ), as identified in the Order.
<b>“Services”</b>	the services which are the subject of the Order, or any of them.
<b>“Special Conditions”</b>	any document appended to or referred to in the Order and described as such.
<b>“Specification”</b>	the technical description and or requirements (if any) of the Goods or Services contained or referred to in the Order.
<b>“Supplier”</b>	the person, firm, company or organisation to whom the Order is addressed.
<b>“Supplies”</b>	the Goods and/or the Services, as the case may be.