

## **TERMS AND CONDITIONS OF SALE AND SUPPLY**

### **1. TERMS OF CONTRACT**

These terms and conditions of sale and supply shall be incorporated into all contracts for sales and supply made by PTS Services (Group) Ltd. ("the Company") for the sale of any products and/or spare parts and/or technical data ("the Goods"). The Company contracts as aforesaid upon the terms of its quotation and other offer document(s) if any, and upon the terms of these conditions alone. Any printed or other terms or conditions emanating from a purchaser ("the customer") are excluded.

### **2. QUOTATIONS**

- (a) Quotations are open for acceptance for a period of thirty days from the date of quotation (including that date) and are thereafter void unless otherwise stated.
- (b) All Quotations are made and all orders are accepted subject to the terms and conditions herein contained and no additions thereto or variation thereof shall be made or binding unless agreed in writing by the Company.
- (c) The Company reserves the right to withdraw a Quotation at any time before the receipt of an order from the customer.
- (d) The acceptance by the Customer of the Company's quotation must be accompanied by sufficient information to enable the company to proceed with the order forthwith and failure to supply such information shall leave the Company at liberty to amend the quoted prices to recover any increase in costs which may arise subsequent to the acceptance.

### **3. TERMS OF SUPPLY AND DELIVERY**

- (a) Any times quoted for delivery are estimates only and while the Company will endeavour to comply with such times the company shall not in any circumstances be liable for failure to do so.
- (b) If any reason of force majeure, or any labour dispute, the completion of the contract or the delivery of the goods is in the company's opinion rendered impracticable, the Company shall be at liberty to terminate the contract by notifying the customer in writing to that effect. On such termination the Customer shall pay to the Company, such sum as will, together with any other sums paid previously, bear the same proportion to the contract prices (including any variation thereof) as the goods or services actually bear to the goods or services contracted for, or such other sum as the company deems appropriate so as to adequately reflect the element of the contract performed in relation to complexity and degree of specialisation deployed by the Company up to the date of such termination (in calculating the same the Company will include in the basis of its calculation its published current daily work rates and time spent on the contract as evidenced in the time sheets) whichever is the larger.
- (c) Time shall not be of the essence of the contract
- (d) For the avoidance of doubt in no circumstances shall the Company be liable to compensate the Customer in damages or otherwise for non-delivery or late delivery of the goods, or performances of the services, or any of them, for whatever reason or for any consequential loss arising there from.
- (e) The goods shall be signed for on receipt. Any alleged damage, shortages or discrepancies at the time of delivery must be notified to the Company within 14 days of receipt of the goods by notice in writing addressed to:-

**PTS SERVICES (GROUP) LTD  
UNIT 1, PREMIER INDUSTRIAL UNITS  
CASTLE STREET  
ELLON  
AB41 9RF**

The Company shall be discharged from all liability in respect of any claim received outside the fourteen day period referred to above.

- (f) Where the Customer makes a claim within this provision and within the requisite period the defective goods, or part thereof, shall be returned by the Customer, at his own expense, to the Company unless otherwise arranged. When attendance of the Company personnel has been agreed to furnish on site repairs all travel and accommodation expenses shall be met by the Customer. Repaired or replaced equipment will be provided ex works packed for normal transport.
- (g) In respect of goods manufactured by another person, firm or corporation, the customer shall be entitled only to such benefits as the Company may itself receive under any guarantee or warranty given in respect thereof by the manufacturers except as expressly stated in these conditions all other warranties, guarantees, conditions and representations express or implied, statutory or otherwise are hereby excluded and the Company shall not be liable in contract or otherwise for any loss, damage expense or injury of any kind arising out of or in connection with the installation use or failure of the component supplied by the Company or any defects therein or from any other cause and whether or not due to acts or omissions of the Company, its servants, agents or contractors.

### **4. THE PRICE**

- (a) The Company reserves the right to increase prices to compensate for any rise in the costs incurred to the Company of manufacturing, acquiring, delivering or providing the goods and/or the services which may have come into force between the date of the quotation and the delivery date.
- (b) Prices are quoted for the delivery ex the Company's works based on current rates for materials and wages and will be adhered to while such rates are in operation and further exclude all costs arising from the delivery of the goods (either those of the Company and/or a third party).
- (c) Travelling and waiting time is charged for any labour force supplied by the Company and is calculated from the time of departure of the labour force from the Company's premises to arrival at the place of delivery of the goods or supply of the services (as appropriate).
- (d) The Company reserves the right to submit interim invoices for work in progress in accordance with work done and/or goods and services supplied and the Customer agrees to make such payments in accordance with the normal payment terms below.
- (e) Value added tax will be charged on the goods and services supplied at the rate subsisting at the time of delivery.

### **5. TERMS OF PAYMENT**

- (a) The Company may at its absolute discretion require the Customer to make an advance payment or supply an irrevocable letter of credit for acceptance by the Company.
- (b) Unless agreed to the contrary all goods and services are provided subject to payment in full within thirty days from the date of the invoice rendered in respect of the same.
- (c) The Company shall be entitled to charge interest at a rate of 8% on any payment or payments, which are overdue and shall be entitled to withhold further deliveries if at any time payment to the Company is in arrears.
- (d) Payment shall be made without any deduction by reason of any alleged counterclaim or otherwise.

**6. PASSING OF TITLE**

- (a) Property in the goods and services shall remain with the Company until such time as payment in full has been received by the Company for:
- i) The goods and
  - ii) All other services owned by the Customer to the Company under the contract and
  - iii) All other sums owed by the Customer to the Company in respect of any other goods or services rendered
- (b) Until such time as all payments due to the Company have been received the goods shall remain the sole and absolute property of the Company as legal and equitable owner and the Customer shall hold the goods as bailee for the Company.
- (c) Without prejudice to the Customer's continued fiduciary obligations to the Company as bailee of the goods, the Customer shall be entitled to sell the goods and to pass the property and the same to third parties in the normal course of its business subject to the proceeds of sale being held on trust for the Company until such time as any outstanding sums due to the Company from this contract or others have been settled.
- (d) As bailee of the goods the Company by its employees or agents shall (without prejudice to the Customer's continued fiduciary obligations) be entitled to enter upon or enter into any land building or vehicles where the goods and/or part of them and/or any other goods in which the title is retained by the Company are situated or are reasonably thought to be situated to retake possession of the same and the Customer shall, for such purposes notify the Company of the whereabouts of all such goods.
- i. if the Customer shall be in breach of any terms of the contracts or
  - ii. if the Company shall reasonably consider for any reason that the goods or any part of them are in jeopardy or
  - iii. on the happening of any of the events set out in sub paragraph (f) below (e) Upon the happening of any of the events set out in sub paragraph (f) below, the Buyers authority to sell the goods and all other goods in which the Company retains title shall end and all the goods and all such goods shall be delivered to the Company and all proceeds of all such goods received by the Customer prior to the withdrawal of the authority shall be paid to the Company.
- (f) The events referred to in sub-paragraphs (d) and (e) above are
- i. the Customer is unable to pay its debts within the meaning of the Insolvency Act 1986 or any Statutory modifications thereof or if at any time there occurs a material adverse change in the financial condition of the Customer such that in the reasonable opinion of the Company it appears that the Customer will be unable to meet its obligations to the Company.
  - ii. Any notice to the customer that the receiver or manager will be or has been appointed over all or any parts of its assets
  - iii. Any notice to the Customer that a petition to wind up the Customer will be or has been presented or the issue of any notice convening a meeting of the Customer at which a resolution is to be proposed to wind up the customer.
  - iv. A decision by the Customer that the Customer intends to make an arrangement with its creditors
  - v. The Customer being an individual is unable to pay its debts within the meaning of s.268 of the Insolvency Act 1986 or any statutory modification thereof.
  - vi. Any event or default which would cause the Company reasonably to consider that its title to the goods and/or all of the goods or services in which it retains title or the proceeds of the sale thereof may be adversely affected.
- (g) The Customer or any Director thereof shall notify the Company forthwith of the happening of any events referred to in sub-paragraph (f) above and shall give the Company fourteen days notice of any intention to appoint an administrator or give fourteen days notice to the Company as soon as it is apparent to any officers of the Customer that a petition for an Administration Order is to be presented to the Court.
- (h) The Customer shall not pledge the goods or allow any lien to arise thereon or process or deal with the goods other than in the ordinary course of the customer's business and shall not hold itself out as the Company's agents in respect of them.
- (i) The Customer shall store the goods in such manner that they are clearly identifiable at all times as the property of the company.

**7. RISK IN THE GOODS**

- (a) Risk in the goods shall pass to the Customer upon delivery.
- (b) The Customer shall be solely responsible for insuring the goods following delivery against such risks as it thinks appropriate.

**8. WARRANTY**

- (a) Without prejudice to the generality of the foregoing there are excluded from this warranty:
- i. Use, installation, or servicing not in conformity with company specifications, manuals or instructions.
  - ii. Incorrect use, installation or neglect by the Customer, his servants or agents.
  - iii. Parts supplied by the Customer or by others at the Customer's request and/or to the Customer's specification.
  - iv. Thermionic valves, clamps, bulbs, transistor or batteries whether furnished as one article or part of an article.
  - v. Where special warranty conditions exist on proprietary items offered by the Company, the manufacturers warranty will apply.
- (b) The Company is hereby expressly excluded from any liability whatsoever for any loss, injury or death which may ensue as a result of any defect, malfunction or bad workmanship arising out of the supply, installation and use of the goods supplied by the Company and the Company is further excluded from any damage, loss, injury or death caused by the actions of the employees, servants, agents or contractors of the Company in the execution of the Company's instructions.

**9. INDEMNITY**

The customer shall at all times keep the company, its employees, servants and agents effectively indemnified against all actions, proceedings, costs, charges, claims, expenses and demands whatsoever which may be made or brought against the Company, its directors, employees or agents by any third party in respect of any injury, loss, damage or expense howsoever or whensoever arising which is a result of or arising out of the supply of any goods and/or services under this contract unless such injury, loss, damage or expense is caused wholly or in part by the negligence of the Company. The Company shall nevertheless be entitled to be indemnified by the Customer in the event of the Company being proved to have been negligent, save only that the Company shall make a contribution and hence waive its right of indemnity in respect of such actions, proceedings, costs, charges, claims, expenses and demands in proportion as the same shall be found to have been due to their negligence, but such contributions and/or waiver of the right of indemnity shall in no circumstances (save in the respect of a claim for death or personal injury) exceed the contract price.

**10. PROPER LAW**

This Contract, and any dispute or claim arising out of or in connection with it or its subject matter or formation (including non-contractual disputes or claims), shall be governed by, and construed in accordance with, Scottish law, and the parties irrevocably submit to the exclusive jurisdiction of the courts of Scotland.

11. **ASSIGNMENT**  
The Customer shall not assign any benefit under the contract without the consent in writing of the Company, which may be on such terms as to guarantee or indemnity or otherwise as the Company at its absolute discretion may think fit.
12. **NOTICES**  
Any notices given under or pursuant to the contract shall be in writing and may be given by hand or by post and shall be deemed duly served if left at or sent by first class post to the address of the relative party shown on the face hereof. Any such notice shall be deemed duly served when the same is handed or left at the address of the party to be served and if served by post on the day (not being a Sunday or Public Holiday) next following the day of posting.
13. **HEADINGS**  
The headings in these terms are for convenience only and shall not be of any effect in the interpretation of these terms.
14. **VOID TERMS**  
Should any part of these terms be found to be void for being excessive or in breach of any legislation existing on the date of the Order but would be valid if such terms or some part hereof was reduced or deleted then such term shall thereafter apply with such reduction or deletion as is necessary to make it valid or effective.
- END-----

