

CONDITIONS OF CONTRACT FOR THE PURCHASE OF GOODS AND SERVICES BY PENNON GROUP PLC AND/OR SOUTH WEST WATER LIMITED

These standard conditions of purchase together with any special conditions ("the Conditions") specified in writing by Pennon Group Plc and/or South West Water Limited ("the Company") shall apply to the contract ("the Contract") between the Company and any person, firm or company ("the Seller") with whom the Company may place an order ("the Order") for the supply of goods ("the Goods") and/or supply of services ("the Services") detailed either overleaf or in a letter from the Company to the Seller which refers to the Conditions. In the event of any conflict between any special conditions and the Conditions the special conditions shall prevail.

1. Basis of Purchase

The Order constitutes an offer by the Company to purchase the Goods and/or acquire the Services subject to these Conditions (and any relevant Framework Agreement in effect between the parties). These Conditions shall apply to the Contract to the exclusion of any other terms and conditions on which any quotation has been given to the Company subject to which the Order is accepted or purported to be accepted by the Seller.

This is not an exclusive purchasing or supply agreement. The Company does not guarantee to purchase any volume of Goods or Services from the Supplier.

Delivery of the goods or provision of the services by the Seller in whole or in part pursuant to an Order constitutes acceptance of these terms by the Seller. If the Seller intends to supply the Goods and/or Services on any terms other than those to which the Order is subject as described above, the Seller must give the Company express written notice that the Seller rejects the Order (addressed to the Procurement Team). For this purpose "express written notice" does not include any provision contained in the Seller's printed standard terms. Failing such notice any indication by the Seller that it is willing to supply the Goods and/or Services for the price specified will, regardless of any terms the Seller seeks to impose which are incompatible with the Order, constitute the Seller's acceptance of the Order making a contract between the Seller and the Company, the terms of which are the Order together with the Conditions but no other. No variation to the Order or the Conditions shall be binding unless agreed in writing between the authorised representatives of the Company and the Seller.

2. Specifications

The quantity, quality and description of the Goods and the Services shall, subject as provided in these Conditions, be as specified in the Order and/or in any applicable specification ("the Specification") supplied by the Company to the Seller or agreed in writing by the Company.

Any Specification supplied by the Company to the Seller, or specifically produced by the Seller for the Company in connection with the Contract, together with the copyright, design rights or any other intellectual property rights in the Specification shall be the exclusive property of the Company. The Seller shall not disclose to any third party or use any such Specification except to the extent that it is or becomes public knowledge through no fault of the Seller, or as required for the purpose of the Contract.

The Seller shall comply with all applicable regulations or other legal requirements concerning the manufacture, packaging, packing and delivery of the Goods and the performance of the Services.

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The Seller shall not unreasonably refuse any request by the Company to inspect and test the Goods during manufacture, processing or storage at the premises of the Seller or any third party prior to despatch, and the Seller shall provide the Company with all the facilities reasonably required for inspection and testing. If as a result of inspection or testing the Company is not satisfied that the Goods will comply in all respects with the Contract, and the Company so informs the Seller within seven days of inspection or testing, the Seller shall take such steps as are necessary to ensure compliance.

The Goods shall be marked in accordance with the Company's instructions and any applicable regulations or requirements of the carrier, and properly packed and secured so as to reach their destination in an undamaged condition in the ordinary course.

3. Price of Goods & Services

The price of Goods and Services shall be as stated in the Order and, unless otherwise so stated, shall be exclusive of any applicable value added tax, which shall be payable by the Company subject to receipt of a valid VAT invoice, and inclusive of all charges for packaging, packing, shipping, carriage, insurance and delivery of the Goods to the delivery address specified in the Order and any duties, imposts or levies other than value added tax.

No increase in the price may be made (whether on account of increased material, labour or transport costs, fluctuation in rates of exchange or otherwise) without the prior consent of the Company in writing.

The Company shall be entitled to any discount for prompt payment, bulk purchase or volume of purchase customarily granted by the Seller, whether or not shown on its own terms and conditions of sale.

4. Terms of Payment

The Seller shall be entitled to invoice the Company on or at any time after delivery of the Goods or performance of the Services, as the case may be, and each invoice shall quote the number of the Order. Unless otherwise stated in the Order, the Company shall pay the price of the Goods and Services within 30 days after the end of the month of receipt by the Company of a proper and undisputed invoice or, if later, after acceptance of the Goods or Services in question by the Company. The Company shall be entitled to set off against the price any sums owed to the Company by the Seller.

5. Delivery

The Goods shall be delivered to, and the Services shall be performed at, the delivery address. The Goods shall be delivered on, and the Services shall be performed on, the date or within the period stated in the Order, in either case during the Company's usual business hours. Where the date of delivery of the Goods or of performance of the Services is to be specified after the placing of the Order, the Seller shall give the Company reasonable notice of the specified date. The time of delivery of the Goods and of performance of the Services is of the essence of the Contract. A packing note quoting the number of the Order must accompany each delivery or consignment of the Goods and must be displayed prominently. If the Goods are to be delivered, or the Services are to be performed, by instalments, the Contract will be treated as a single Contract and not severable.

The Company shall be entitled to reject any Goods delivered which are not in accordance with the Contract and shall not be deemed to have accepted any Goods until the Company has had a reasonable time to inspect them following delivery or, if later, within a reasonable time after any latent defect in the Goods has become apparent. The Seller shall supply the Company in good time with any instructions or other information required to enable the Company to accept delivery of Goods

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and performance of the Services. The Company shall not be obliged to return to the Seller any packaging or packing materials for the Goods, whether or not any Goods are accepted by the Company.

If the Goods are not delivered or the Services are not performed on the due date then, without prejudice to any other remedy, the Company reserves the right to deduct from the price for the Goods and/or Services or (if the Company has paid the price) to claim from the Seller all reasonable costs and expenses incurred by the Company arising from the delay (which may include the cost of substituted Goods and/or Services and additional costs or expenses incurred by the Company directly arising from Seller's delay or defective delivery) and which may or may not be specified in the Conditions and sent to the Seller by the Company at such time as the Company places the Order with the Seller. The Company's rights under this Contract are in addition to its rights and remedies implied by statute and common law.

6. Risk and Property

The Seller, until such time as the Company signifies acceptance of the Goods in writing, will be liable for all damage, loss (total or partial) to the Goods whether such damage or loss is deliberate, accidental or without any fault on the part of the Seller whatsoever.

Risk of loss of or damage to or destruction to any Goods which form part of the Services passes to the Company on completion of the provision of the Services in accordance with the Contract.

Where the Services consist of Goods only risk passes to the Company on delivery to the Company's premises in accordance with the Contract.

7. Guarantees and Liability

The Seller warrants to the Company that the Goods will conform to the Specification and will be of satisfactory quality (within the meaning of the Sale of Goods Act 1979, as amended) and fit for any purpose held out by the Seller or made known to the Seller in writing at the time the Order is placed, will be free from defects in design, material and workmanship, will correspond with any relevant British/European specification where such exists and will comply with all statutory requirements and regulations relating to the sale of goods.

The Seller warrants to the Company that the Services will be performed by appropriately qualified and trained personnel, with due care and diligence and to such high standard of quality as it is reasonable for the Company to accept in the circumstances. Without prejudice to any other remedy if within a period of twelve months (or such other period as may be specified in the Order) from the date of receipt of the Goods by the Company the Goods are found by the Company to be defective in any way or not in accordance with the requirements of Condition 2 the Seller shall forthwith upon demand (where reasonable) replace or (if acceptable to the Company) repair the Goods. The Goods so replaced or repaired shall be guaranteed for a further period of twelve months on otherwise identical terms to this Guarantee.

The Seller shall indemnify the Company in full against all liability, loss, damage, costs and expenses (including legal expenses) ordered against or incurred or paid by the Company as a result of or in connection with the breach of this agreement, any relevant framework agreement between the parties, any warranty given by the Seller in relation to the Goods or the Services, any claim that the Goods infringe, or the importation, use or re-sale, infringe the patent, copyright, design right, trade mark or other intellectual property rights of any person except to the extent that the claim arises from compliance with any specification supplied by the Company, any liability under the Consumer Protection Act 1987 or any liability for breach of the terms implied by section 12 of the Sale of Goods Act 1979, in respect of the Goods, any act or omission of the Seller or its employees, agents or sub-

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contractors in supplying, delivering and installing the Goods, and any act or omission of any of the Seller's personnel in connection with the Goods or Services.

8. Insurance

For the duration of the Contract, the Seller shall maintain in force, with a reputable insurance company, relevant insurance to cover the liabilities that may arise under or in connection with the Contract and shall, on the Company's request, produce both the insurance certificate(s) giving details of cover and the receipt for the current year's premium in respect of each insurance. The Seller shall extend the period of cover beyond the duration of the Contract, as reasonably requested by the Company.

9. Intellectual Property Rights

The Seller will assign to the Company (without charge) any copyright, design right and all other intellectual property rights which may be created specifically for the Company in the provision of the Goods and/or Services.

The Seller shall obtain waivers of all moral rights associated with the intellectual property rights assigned to the Company in accordance with this clause 9, to which any individual is now (or may be at any future time be) entitled under Chapter IV of Part I of the Copyright Designs and Patents Act 1988 or any similar provisions of law.

The Seller shall, promptly at the Company's request, do (or procure to be done) all such further acts and things and the execution of all such other documents as the Company may from time to time require for the purpose of securing for the Company the full benefit of the Contract, including all right, title and interest in and to the intellectual property rights assigned to the Company in accordance with this clause.

10. Confidentiality

A party (Receiving Party) shall keep in strict confidence all technical or commercial know-how, specifications, inventions, processes or initiatives which are of a confidential nature and have been disclosed to, or otherwise obtained by, the Receiving Party by the other party (Disclosing Party), its employees, agents or subcontractors, and any other confidential information concerning the Disclosing Party's business or its products or its services which the Receiving Party may obtain. The Receiving Party shall restrict disclosure of such confidential information to such of its employees, agents or subcontractors as need to know it for the purpose of discharging the Receiving Party's obligations under the Contract, and shall ensure that such employees, agents or subcontractors are subject to obligations of confidentiality corresponding to those which bind the Receiving Party. This clause shall survive termination of the Contract.

11. Termination

The Company may at any time terminate this agreement by giving the Seller not less than 4 weeks notice in writing.

The Company shall be entitled to cancel the Order in respect of all or part only of the Goods and/or the Services by giving notice to the Seller at any time prior to delivery or performance without liability to the Seller by giving notice to the Seller at any time if:-

- a) the Seller suspends, or threatens to suspend, payment of its debts or is unable to pay its debts as they fall due or admits inability to pay its debts or (being a company) is deemed unable to pay its debts within the meaning of section 123 of the Insolvency Act 1986 or (being an individual) is deemed either unable to pay its debts or as having no reasonable prospect of so doing, in either case, within the meaning of section 268 of the Insolvency Act 1986;

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- b) the Seller commences negotiations with creditors with a view to rescheduling any of its debts, or makes a proposal for or enters into any compromise or arrangement with its creditors other than for the sole purpose of a scheme for solvent amalgamation or reconstruction of the Seller;
- c) a petition is filed, a notice is given, a resolution is passed, or an order is made, for or in connection with the winding up of the Seller other than for the sole purpose of a scheme for a solvent amalgamation or reconstruction of the Seller;
- d) the Seller (being an individual) is the subject of a bankruptcy petition order;
- e) a creditor or encumbrancer of the Seller attaches or takes possession of, or such process is levied or enforced on or sued against, the whole or any part of its assets and such attachment or process is not discharged within 14 days;
- f) an application is made to court, or an order is made, for the appointment of an administrator or if a notice of intention to appoint an administrator is given or if an administrator is appointed over the Seller;
- g) a floating charge holder over the assets of the Seller has become entitled to appoint or has appointed an administrative receiver;
- h) a person becomes entitled to appoint a receiver over the assets of the Seller or a receiver is appointed over the assets of the Seller;
- i) the Seller ceases, or threatens to cease, to carry on business;
- j) any event occurs, or proceeding is taken, with respect to the Seller that has an effect equivalent or similar to any of the events mentioned in this clause;
- k) the Company reasonably apprehends that any of the events mentioned above is about to occur in relation to the Seller and notifies the Seller accordingly;
- l) the Seller commits a breach of the terms of the Contract and, if the breach is capable of rectification, fails to rectify the same within such reasonable period as the Company may specify in writing; or.
- m) the Seller is in breach of any of the provisions of the Bribery Act 2010 (or similar legislation).

The Seller undertakes to immediately notify the Company of any event referred to in the paragraph above.

On termination of the Order and/or Contract for any reason:

- (a) the Seller shall immediately deliver to the Company all deliverables whether or not then complete, and return all materials belonging to the Company. If the Seller fails to do so, then the Company may enter the Seller's premises and take possession of them. Until they have been returned or delivered, the Seller shall be solely responsible for their safe keeping and will not use them for any purpose not connected with this Contract;
- (b) the accrued rights, remedies, obligations and liabilities of the parties as at termination shall not be affected, including the right to claim damages in respect of any breach of the Contract which existed at or before the date of termination; and
- (c) clauses which expressly or by implication have effect after termination shall continue in full force and effect.

12. Force Majeure

Neither the Seller nor the Company shall be liable to the other or be deemed to be in breach of the Contract by reason of any delay in performing, or any failure to perform, any of its obligations in relation to the Goods or the Services, if the delay or failure results from national emergency, war or any other cause beyond the reasonable control of the affected party (with the exception of financial hardship) and which by its nature could not have been foreseen by such a party or if it could have

been foreseen was unavoidable, and provided the affected party takes all reasonable steps to mitigate the impact of such events.

13. Compliance with Laws

To the extent the Seller is “processing” “personal data” (as defined in the Data Protection 1998) through its supply of Goods and/or Services, the Seller shall at all times:

- (a) comply with its obligations under the Data Protection Act 1998 (as amended and modified) together with all other regulations, orders or statutory instruments made under or associated with the Data Protection Act 1998;
- (b) comply with the Company’s instructions on data processing from time to time;
- (c) only use and process personal data to perform its obligations under this Contract;
- (d) operate sufficient methods and systems to protect against unauthorised disclosure of personal data.

The Seller shall:

- (a) comply with all applicable laws, statutes and regulations relating to anti-bribery and anti-corruption including but not limited to the Bribery Act 2010;
- (b) not engage in any activity, practice or conduct which would constitute an offence under sections 1, 2 or 6 of the Bribery Act 2010;
- (c) comply with all policies and procedures as the Company may supply to the Seller from time to time.

14. Assignment or Subcontracting

The Order cannot be assigned, subcontracted or transferred to a third party unless the named Company representative is made aware of the proposed assignment, subcontract or transfer. Email notification is acceptable for this purpose. The Company is not obliged to respond to any such requests. In the event the Company notifies the Seller that it is not in agreement with the proposed assignment/subcontract/transfer, then the Seller undertakes that no such assignment/subcontract/transfer shall take place.

To the extent the Seller subcontracts any Order in accordance with this clause 14, the Seller shall ensure that the subcontractors have the required skill to perform the Services and/or deliver the Goods. The Seller shall further ensure that the subcontractor agrees to perform its/their obligations in accordance with these Terms and Conditions. For the avoidance of doubt, the Seller shall be responsible for the acts, defaults, or neglect of any sub-contractor, its employees or agents, as if they were the acts, defaults or neglect of the Seller. .

15. Waiver

No waiver by the Company of any breach of the Contract by the Seller shall be considered as a waiver of any subsequent breach of the same or any other provision of these Conditions.

16. Variation

No amendment to or variation of the Conditions or the terms of the Contract will be effective unless made in writing and signed by an authorised representative of the Company. The approval of such variation shall not in any way prejudice the Company's right to recover full compensation for any loss or expense arising from such variation.

17. Seller’s Conditions

These Conditions shall apply to the exclusion of any of the Seller's conditions.

18. Compliance with Company Instructions

The Seller (at its own expense) will comply with any reasonable instruction or guidance issued by the Company or its authorised representative or agent such as but not limited to health and safety instructions or Criminal Records Bureau checks.

19. Dispute Resolution

All disputes or differences at any time arising between the Company and the Seller as to the construction of the Contract or in any way connected therewith shall, in the first instance, be referred to senior management of each party who have authority to settle the same. To the extent any dispute or difference is not resolved at senior management level by negotiation within 30 days of receipt of a written invitation to negotiate, the parties shall attempt to resolve the dispute in good faith through an agreed Alternative Dispute Resolution (“ADR”) procedure (including mediation).

If the matter has not been resolved by an ADR procedure within 60 days of the initiation of that procedure, or if any party will not participate in an ADR procedure, the dispute may be referred to arbitration by either party. The seat of the arbitration shall be England and Wales. The arbitration shall be governed by both the Arbitration Act 1996 and Rules as agreed between the parties. Should the parties be unable to agree on an arbitrator, or be unable to agree on the Rules for Arbitration, a party may, upon giving written notice to other parties, apply to the President or the Deputy President, for the time being, of the Chartered Institute of Arbitrators for the appointment of an Arbitrator and for any decision on rules that may be necessary.

Nothing in this clause shall be construed as prohibiting a party from applying to a court for interim injunctive relief.

20. Interpretation

If any provision of these Conditions is held by any competent authority to be invalid or unenforceable in whole or in part the validity of the other provisions of these Conditions and the remainder of the provision in question shall not be affected thereby.

This Contract shall be governed by and construed in all respects in accordance with the laws of England and shall be subject to the exclusive jurisdiction of English Courts.