

## **Terms & Conditions General**

### **1. GENERAL**

1.1 The definitions and rules of interpretation in this condition apply in these conditions.

"Buyer", means the person, firm or company who purchases Goods from the Company;

"Company", means Precision Safety Services.

"Contract", means any contract between the Company and the Buyer for the sale and purchase of the Goods incorporating these conditions;

"Goods", means any goods agreed in the Contract to be supplied to the Buyer by the Company

(including any part or parts of them).

1.2 A reference to any law is a reference to it as it is force for the time being taking account of any amendment, extension, application or re-enactment and includes any subordinate legislation from the time being in force made under it.

1.3 Condition headings do not affect the interpretation of these conditions.

1.4 Subject to any variation under condition 1.5 the Contract shall be on these conditions to the exclusion of all other terms and conditions (including any terms and conditions which the Buyer purports to apply under and purchase order, confirmation of order, specification or other document)..

1.5 These conditions apply to all the Company's sales and any variation to these conditions and any representations about the Goods shall have no effect unless expressly agreed in writing and signed by a director of the Company. The Buyer acknowledges that it has not relied on any statement, promise or representation made or given by or on behalf of the Company which is not set out in the Contract. Nothing in this condition shall exclude or limit the Company's liability for fraudulent misrepresentation.

1.6 Each order or acceptance of a quotation for Goods by the Buyer from the Company shall be deemed to be an offer by the Buyer to buy Goods subject to these conditions.

1.7 No order placed by the Buyer shall be deemed to be accepted by the Company until a written acknowledgement of order is issued by the Company or (if earlier) the Company delivers the Goods to the Buyer.

### **2. PRICES**

2.1 All prices quoted are exclusive of:

2.1.1 VAT which will be added to the invoice at the standard rate; and

2.1.2 delivery costs.

2.2 The Company reserves the right to vary the price payable by the Buyer at any time and without prior notice provided always that the Buyer shall be entitled to cancel the Contract in writing within 7 days of notification of any such variation. Without prejudice to the generality of the foregoing the Company may vary the price to take account of currency fluctuations which increase the cost of imported product any extra costs incurred due to cancellation, alteration, postponement or re-scheduling, or any increase in the cost of materials, labour or other costs (whether direct or indirect).

### **3. PAYMENT**

3.1 No payment shall be deemed to have been received until the Company has received cleared funds.

3.2 All payments payable to the Company under the Contract shall become due immediately on its termination despite any other provision.

3.3 The Buyer shall make all payments due under the Contract in full without any deduction whether by way of set-off, counterclaim, discount, abatement.

#### **4. DELIVERY**

4.1 All goods are available ex-stock subject to goods being unsold at the time of the Buyer's order. Unless otherwise agreed in writing by the Company, delivery of the Goods shall take place at the Company's place of business.

4.2 Any dates specified by the Company for delivery of the Goods are intended to be an estimate and time for delivery shall not be made of the essence by notice. If no dates are so specified, delivery shall be within a reasonable time.

4.3 Subject to the other provisions of these conditions the Company shall not be liable for any direct, indirect or consequential loss (all three of which terms include, without limitation, pure economic loss, loss of profits, loss of business, depletion of goodwill and similar loss), costs, damages, charges and expenses caused directly or indirectly by any delay in the delivery of the Goods (even if caused by the Company's negligence), nor shall any delay entitle the Buyer to terminate or rescind the Contract unless such delay exceeds 30 days.

4.4 The Buyer shall take delivery of the Goods within 14 days of the Company giving notice that the Goods are ready for delivery.

4.5 If for any reason the Buyer fails to accept delivery of any Goods when they are ready for delivery, or the Company is unable to deliver the Goods on time because the Buyer has not provided appropriate instructions, documents, licences or authorisations:

4.5.1 risk in the Goods shall pass to the Buyer (including for loss or damage caused by the Company's negligence);

4.5.1 the Goods shall be deemed to have been delivered; and

4.5.1 the Company may store the Goods until delivery, whereupon the Buyer shall be liable for all related costs and expenses (including , without limitation, storage and insurance).

#### **5. RISK/TITLE**

5.1 The Goods are at the risk of the Buyer from the time of delivery.

5.2 Ownership of the Goods shall not pass to the Buyer until the Company has received in full (in cleared funds) all sums due to it in respect of:

5.2.1 the Goods; and

5.2.2 all other sums which are or which become due to the Company from the Buyer on any account.

5.3 Until ownership of the Goods has passed to the Buyer, the Buyer shall:

5.3.1 hold the Goods on a fiduciary basis as the Company's bailee;

5.3.2 store the Goods (at no cost to the Company) separately from all other goods of the Buyer or any third party such a way that they will remain readily identifiable as the Company's property;

5.3.3 not destroy, deface or obscure any identifying mark or packaging on or relating to the Goods; and

5.3.4 maintain the Goods in satisfactory condition and keep them insured on the Company's behalf for their full price against all risks to the reasonable satisfaction of the Company. On request the Buyer shall produce the policy of insurance to the Company.

5.4 The Buyer may resell the Goods before ownership has passed to it solely on the following conditions:

5.4.1 any sale shall be effected in the ordinary course of the Buyer's business at full market value;

5.4.2 any such sale shall be a sale of the Company's property on the Buyer's own behalf and the Buyer shall deal as principal when making such a sale.

5.5 The Company shall be entitled to recover payment for the Goods notwithstanding that ownership of any of the Goods has not passed from the Company.

5.6 The Buyer grants the Company, its agents and employees an irrevocable licence at any time to enter any premises where the Goods are or may be stored in order to inspect them, or, where the Buyer's right to possession has terminated, to recover them.

5.7 The Buyer's right to possession of the Goods shall terminate immediately if:

5.7.1 the Buyer has a bankruptcy order made against him or makes an arrangement with his creditors, or otherwise takes the benefit of any statutory provision for the time being in force for the relief of insolvent debtors or (being a body corporate) convenes a meeting of creditors, or enters into liquidation (whether voluntary or compulsory) except a solvent voluntary liquidation for the purpose of reconstruction or amalgamation, or has a receiver and/or manager, administrator or administrative receiver appointed of its undertaking or any part thereof, or documents are filed with the court for the appointment of an administrator of the Buyer or notice of intention to appoint an administrator of the Buyer or its directors or by a qualifying floating charge holder (as defined with paragraph 14 of Schedule B1 to the Insolvency Act 1986), or a resolution is passed or a petition presented to any court for the winding-up of the Buyer or for the granting of an administration order in respect of the Buyer, or any proceedings are commenced relating to the insolvency or possible insolvency of the Buyer; or

5.7.2 the Buyer suffers or allows any execution, whether legal or equitable, to be levied on his/its property or obtained against him/it, or fails to observe or perform any of his/its obligations under the Contract or any other contract between the Company and the Buyer, or is unable to pay its debts within the meaning section 123 of the Insolvency Act 1986 or the Buyer ceases to trade; or

5.7.3 the Buyer encumbers or in any way charges any of the Goods.

5.8 On termination of the Contract, howsoever caused, the Company's (but not the Buyer's) rights contained in this condition 5 shall remain in effect.

## **8. CANCELLATION**

8.1 A cancellation fee will be levied for the cost of materials and a reasonable profit margin to be paid by the Buyer.

8.2 No cancellation of specially purchased items can be accepted.

## **9 DELIVERY**

9.1 Subject to the conditions set out below the Seller warrants that the Goods will correspond with their specification at the time of delivery and will be free from defects in material and workmanship for a period of 12 months from the date of their initial use or 12 months from delivery, whichever is the first to expire.

9.2 The above warranty is given by the Seller subject to the following conditions:

9.2.1 The Seller shall be under no liability in respect of any defect in the Goods arising from any drawing, design or specification supplied by the Buyer;

9.3 The Seller shall be under no liability in respect of any errors, omissions, misdescriptions or illustrations contained in or referred to in the Seller's current catalogue and the Seller reserves the right to make any deletions, alternations, amendments or additions to such catalogue without notice to the buyer.

9.4 The Seller shall be under no liability in respect of any defect arising from fair wear and tear, wilful damage, negligence, abnormal working conditions, failure to follow the Seller's instructions (whether oral or in writing), misuse or alteration or repair of the goods without the Sellers' approval.

9.5 The Seller shall be under no liability under the above warranty (or any other warranty, condition or guarantee) if the total price for the goods has not been paid by the due date for payment.

9.6 The above warranty does not extend to parts, materials or equipment not manufactured by the Seller, in respect of which the Buyer shall only be entitled to the benefit of any such warranty or guarantee as is given by the manufacturer to the Seller.

9.7 Subject as expressly provided in these Conditions, and except where the Goods are sold to a person dealing as a consumer (within the meaning of the Unfair Contract Terms Act 1977), all warranties, conditions or other terms implied by statute or common law are excluded to the fullest extent permitted by law.

9.8 The Seller upon receiving notice to that effect from the Buyer shall prepare or replace free of charge goods damaged or lost in transit and due delivery of the goods shall not be deemed to have taken place until replaced or repaired goods have been delivered by the Seller to the Buyer. The Buyer shall hold such damaged goods or return them to the Seller at his own risk.

9.9 Where the Goods are sold under a consumer transaction (as defined by the Consumer Transactions (Restrictions on Statements) Order 1976) the statutory rights of the Buyer are not affected by these Conditions.

9.10 The Buyer shall have a duty to inspect for shortages or apparent defects at the time of delivery. Any claim by the Buyer, which is based on any defect in the quality or condition of the Goods or their failure to correspond with specification shall (whether or not delivery is refused by the Buyer) be notified in writing to the Seller within 3 working days from the date of delivery or (where the defect or failure was not apparent on reasonable inspection) within a reasonable time after discovery of the defect or failure.

9.11 Any claims of missing items shall be notified in writing to the seller within 3 working days.

9.12 If delivery is not refused, and the Buyer does not notify the Seller accordingly, the Buyer shall not be entitled to reject the Goods and the Seller shall have no liability for such defect or failure, and the Buyer shall be bound to pay the prices as if the Goods had been delivered in accordance with the Contract.

9.13 Where any valid claim in respect of any of the Goods which is based on any defect in the quality or condition of the Goods or their failure to meet specification is notified to the Seller in accordance with these Conditions, the Seller shall be entitled to replace the Goods (or the part in question) free of charge or, at the Seller's sole discretion, refund to the Buyer the price of the Goods (or a proportionate part of the price), but the Seller shall have no further liability to the Buyer.

9.14 No goods delivered to the Buyer, which are in accordance with the contract, will be accepted for return without the prior written approval of the Seller on terms to be determined at the absolute discretion of the Seller.

9.15 If the Seller agrees to accept any such goods for return the Buyer shall be liable to pay a restocking charge of up to 30% of the invoice price. Such goods must be returned by the Buyer, carriage paid to the Seller in their original and unmarked boxes and cases.

9.16 Goods which have been charged will only be deducted from the sum due from the Buyer upon issue of a return merchant authorisation number. Goods will be returned to the Seller in good condition, carriage paid within fourteen days from the date of the Seller's invoice, but subject to any restocking charge.

9.17 Goods returned without the prior written approval of the Seller may at the Seller's absolute discretion be returned to the Buyer or stored at the Buyer's cost without prejudice to any rights or remedies the Seller may have.

9.18 The Seller reserves the right to refuse the return of Goods supplied to specific order not held in stock. All cancellations of such orders must be confirmed in writing prior to the despatch of the Goods from the suppliers. The Buyer will be liable for the invoice price of the Goods where they have been specially made and cannot be cancelled.

9.19 Except in respect of death or personal injury caused by the Seller's negligence, the Seller shall not be liable to the Buyer by reason of any representation (unless fraudulent) or any implied warranty, condition or other term, or any duty at common law, or under the express terms of the Contract, for any indirect, special or consequential loss or damage (whether for loss of profit or otherwise), costs, expenses or other claims for compensation whatsoever (whether caused by the negligence of the Seller, its employees or agents or otherwise) which arise out of or in connection with the supply of the Goods or their use or resale by the Buyer, and the entire liability of the Seller under or in connection with the Contract shall not exceed the price of the Goods, except as expressly provided by the Conditions.

9.20 The Seller shall not be liable to the Buyer or be deemed to be in breach of the Contract by reason of any delay in performing, or any failure to perform, any of the Seller's obligations in relation to the Goods, if the delay or failure was due to any cause beyond the Seller's reasonable control. Without prejudice to the generality of the foregoing, the following shall be regarded as causes beyond the Seller's reasonable control.

Act of God, explosion, flood, tempest, fire or accident.

War or threat of war, sabotage, insurrection, civil disturbance or requisition;

Acts, restrictions, bye-laws, prohibitions or measures of any kind on the part of any government, parliamentary or local authority;

Import or export regulations or embargoes;

Strikes, lock-outs or other industrial actions or trade disputes (whether involving employees of the Seller or of a third party);

Difficulties in obtaining raw materials, labour, fuel, parts or machinery;

Power failure or breakdown in machinery.

## **10. LIMITATION OF LIABILITY**

10.1 Subject to conditions 4, 6 and 9, the following provisions set out the entire financial liability of the Company

(including any liability for the acts or omissions of its employees, agents and sub-contractors)

to the Buyer in respect of:

10.1.1 any breach of these conditions;

10.1.2 any use made or resale by the Buyer of any of the goods, or of any product incorporating the Goods; and

10.1.3 any representation, statement or tortious act or omission including negligence arising under or in connection with the Contract.

10.2 All warranties, conditions and other terms implied by statute or common law (save for the conditions implied by

section 12 of the Sale of Goods Act 1979) are, to the fullest extent permitted by law, excluded from the Contract.

10.3 Nothing in these conditions excludes or limits the liability of the Company:  
10.3.1 for the death or personal injury caused by the Company's negligence; or  
10.3.2 under section 2(3), Consumer Protection Act 1987; or  
10.3.3 for any matter which it would be illegal for the Company to exclude or attempt to exclude its liability; or  
10.3.4 for fraud or fraudulent misrepresentation.

#### **11. TRADE MARKS**

11.1 The name Precision Safety Services Ltd are protected by registration as trade marks. The Buyer covenants with the Company that it shall notify the Company immediately of any possible infringement of such marks.

11.2 Precision Safety Services Ltd is the trading name of the company detailed below. Registered in England and Wales No. 07885535. Registered Office: Dorset house, Regent Park, 297 Kingston Road, Leatherehad, KT22 7PL

#### **12. FORCE MAJEURE**

12.1 The Company shall be relieved of all liability whatever in respect of any delay or non-performance in the fulfilment of its obligations if prevented or impeded as a consequence of (directly or indirectly) war civil commotion insurrection government restrictions or regulations transport difficulties strikes lock-outs accidents shortage of labour materials equipment fuel power machinery breakdown or any other cause whatsoever beyond the reasonable control of the Company regardless of whether such cause existed at the date of the order. At any time after any such event shall occur the Company shall be entitled to suspend or terminate the performance of the Contract.

#### **13. PROPER LAW**

13.1 These terms and conditions and any Contract to which they are applicable shall in all respects be construed in accordance with English law.

#### **14. SPECIFICATION CHANGES**

14.1 The Company's policy is one of continuous improvement and it reserves the right to make reasonable changes to product specification from time to time at its discretion.

#### **15. HEALTH & SAFETY**

15.1 To the best of the Company's knowledge and belief all its Goods comply in all respects with the requirements of the Health & Safety at Work Act 1974. However if the competent authority under the Act declares that any of the Goods are unsafe or a risk to health in any respect the Buyer shall notify the Company immediately and the Company shall at its own expense make such modifications to the Goods or supply such additional replacement parts for the Goods as such authority shall consider necessary to ensure that the Goods comply with the requirements of the Act.

The Buyer shall ensure that the Goods will be safe and without risk to health when properly used and in particular shall ensure that the Goods are used in accordance with any instruction manual or installation instructions which the Company may supply. The Buyer shall indemnify the Company against all claims and all penalties incurred by the Company pursuant to the Act.