



TERMS & CONDITIONS OF TRADE

Effective from 1 May 2015

In this document, “we”, “us” and “our” refers to Precision Management (Aust) Pty Ltd ABN 23 079 598 682 and reference to “you” and “your” refers to the customer to whom a quote is addressed, who submits a purchase order or who otherwise seeks goods and/or services from us.

1. Quotes, estimates and acceptance

- 1.1 All quotes are subject to this document and are valid for 30 days unless another time is stated on the quote. A quote does not constitute an offer capable of acceptance. We can withdraw a quote at any time.
- 1.2 If you purport to accept a quote by:
 - (a) signing and returning a quote/this document at clause 23;
 - (b) seeking goods and/or services from us after receiving this document;
 - (c) submitting a purchase order (whether or not it refers to our quote); or
 - (d) paying any money to us, including paying a deposit, it constitutes an offer by you to acquire goods and/or services from us on the basis set out in the quote and this document and we may then accept that offer.
- 1.3 The terms and conditions in this document (or any subsequent version of this document) will apply to all dealings between us to the absolute exclusion of any purported terms or conditions stated on any purchase order.
- 1.4 We may require payment of a deposit to accept an order.
- 1.5 If you are an individual, by accepting a quote or doing any act or thing described in clause 1.2 above, you personally warrant to us that you are authorised to accept the terms and conditions in this document on behalf of the relevant customer named on the quote or purchase order.
- 1.6 If you are an employee or officer of a company, trustee of a trust, partner in a partnership or an agent for a third party, then you warrant to us that you are irrevocably authorised to act as their agent and personally indemnify us from all claims we may have against the party for whom you are acting where you do not hold such authorisation.

2. Your obligations

- You must act reasonably, lawfully and take all steps reasonably available to you to protect your own interests, including managing all safety risks associated with the operation or use of the goods or the provision of the services, having them properly installed, properly reading and following any instruction or training manuals, following any reasonable direction we may give and appropriately directing your own employees, servants and agents in relation to these things.
3. Shortage and returns
 - 3.1 You must inspect the goods immediately upon delivery or upon collection by you or on your behalf.
 - 3.2 Details of any goods as recorded by us upon dispatch will be conclusive evidence of the goods and their quantity received by you on delivery unless you provide evidence reasonably satisfactory to us proving the contrary within 5 business days of delivery.
 - 3.3 You waive any claims regarding shortage of any goods delivered unless notice of claimed short delivery is provided to us within those 5 days. Any requests for the return of goods to us must be made within those 5 days.
 - 3.4 We are not obliged to accept the return of any goods or to provide refunds however, we may do so on terms satisfactory to us.
 - 3.5 Goods may not be returned to us without our prior written consent and in any event, will only be accepted if they are sent to us in the same condition we supplied them and at

your expense. They otherwise remain at your risk as set out in clause 6.

3.6 Goods which are:

- (a) expressly sold on a no-returns basis,
- (b) custom made,
- (c) not in the condition we supplied them,
- (d) damaged by abnormal use, use contrary to our or the manufacturer’s instructions or by lack of or improper maintenance or are damaged during the installation process (except where installed by us), or
- (e) returned by someone other than you as the original buyer

will not be returnable unless we otherwise agree in writing, which we may refuse to do in our absolute discretion or provide on terms such as the provision of a Return Material Advice number.

4. Delivery and storage

- 4.1 Any dates specified by us for provision of goods and/or services are approximate only. If no dates are specified, delivery will be within a reasonable time. We may provide the goods or services in batches or in instalments.
- 4.2 Where goods or services are ordered by you in instalments, each instalment delivery is a separate order and a separate contract performed by us upon delivery of that instalment.
- 4.3 If you fail to take delivery of any of goods or services, without prejudice to any other rights we may have, we may store or arrange for the storage of those goods however, delivery is deemed to have taken place at the time of attempted delivery. Any costs or expenses incurred by us in relation to storage, including any insurance, of goods pending delivery are payable by you.
- 4.4 The actual cost incurred by us in delivery of the goods or special packaging relevant to the goods will be charged to you notwithstanding if such amounts were omitted from our quote.
- 4.5 We endeavour to keep delivery dates however, where a delivery is delayed for any reason whatsoever, you will not be entitled to cancel, rescind or terminate our arrangements.

5. Price, payment and interest

- 5.1 Prices stated on quotes are valid for the period in which the quote is valid. If you require any changes which affect the cost of providing the goods or services, the price may change accordingly.
- 5.2 Where a price is an estimate only, you will agree to pay us the amount claimed by us on provision of goods and/or services for the actual work done and materials supplied by us.
- 5.3 Unless otherwise agreed in writing, all amounts and prices are exclusive of any taxes, duties or levies (such as GST) and the relevant tax, duty or levy will be charged to you and is to be paid by you.
- 5.4 All invoices must be paid in full strictly within 7 calendar days of the end of the month in which the invoice is issued.
- 5.5 If any invoice we issue to you is not paid in full by its due date, we may charge you interest on the unpaid amount at the rate of 10% per annum, calculated daily.

6. Risk, title and insurance

- 6.1 Risk of damage to or loss of the goods passes to you immediately upon the date and time of dispatch from us.
- 6.2 You must, at your cost, arrange appropriate insurances to cover all risks associated with damage to or loss of the goods.
- 6.3 Any goods of yours in our possession, custody or control for whatever purpose remain at your risk as regards loss

- and damage and you agree to effect and maintain appropriate insurances against such loss and damage.
- 6.4 We reserve the following rights in relation to all goods provided by us until all amounts owing by you to us in respect of those goods are paid in full:
- (a) ownership of the goods and any other items held by us on your behalf;
 - (b) to enter into any premises where the goods are or are reasonably suspected by us to be located (whether they are owned or occupied by you or any receiver, receiver and manager, liquidator, administrator or trustee in bankruptcy), without liability for trespass or any resulting damage to retake possession of the goods;
 - (c) to keep or resell any of the goods so repossessed without notice to you (and in respect of any such sale, you irrevocably licence to us the right to sell in any jurisdiction such goods bearing any trademark or name owned by or licensed to you); and
 - (d) until payment for the goods and any costs as referred to in clause 7 are received by us in full and in cleared funds, you hold the goods as bailee for us, keep the goods separate from other goods and label the goods (or not remove labels) so that they are identifiable as our goods.
- 6.5 In respect of any resale pursuant to clause 6.4, we will apply the net proceeds of sale (after payment of all costs and expenses associated with such resale) firstly towards the payment of any interest under clause 5.5, then any costs stated in clause 7, then towards the unpaid invoice, then towards any other of our unpaid invoices and if there is any surplus, the surplus will be paid to you. If there is a deficiency, we may recover the deficiency from you as a liquidated debt.
7. Security for payment and PPSA registration
- 7.1 Any invoice is not paid in full within 30 days of issue without our express written consent (which we may not provide in our absolute discretion), then without limiting any other rights and remedies which we may have, you charge in our favour any real or personal property in which you have an interest with payment of any outstanding invoice and any costs as referred to in this clause 7 and you irrevocably authorise us to lodge caveats or other documents or notices to notify and protect that charge in relation to any real and personal property in which you have an interest.
- 7.2 All costs and disbursements incurred by us in recovering payment or in protecting or enforcing our rights under this document, including without limitation, the costs referred to in clauses 6 and 7 and any legal costs and disbursements are payable by you on the indemnity basis.
- 7.3 All goods supplied will be subject to a 'purchase money security interest' as that term is defined in the Personal Property Securities Act 2009 (Cth.) (PPSA), which is as a continuing and subsisting security with priority over a registered general security and any unsecured creditors. You grant us a security interest in the goods, any proceeds arising from the sale of the goods or in any accessions in the goods or if the goods become an accession, the accession and the goods, to secure your obligations to us including, but not limited to, your obligation to make payments to us as stated in this document.
- 7.4 You must promptly do all acts and things including signing any documents on our request to register any security interest in the goods.
- 7.5 If we, pursuant to the PPSA, take all or any of the goods in partial satisfaction of your obligations to us, you agree that you will remain liable to us for the difference between the market value of the goods at the time they are sold by us free from all rights and interests of you and other persons and the total of the amount of your obligations to us.
- 7.6 You must not create or allow another purchase money or other security interest in the goods or encourage or allow any other entity to register a financing statement in respect of the goods without our express written consent (which we may withhold in our absolute discretion) and you must notify us as soon as you are aware of any other person taking steps to register any interest in the goods.
- 7.7 You agree that, to the maximum extent possible:
- (a) you forever waive your rights under sections 95, 118, 121(4), 129, 130, 132(2), 132(4), 157(1) and 157(3) the PPSA and any rights to receive notices before a secured party or receiver exercises a right, power or remedy;
 - (b) sections 142 and 143 of the PPSA are excluded;
 - (c) we need not comply with sections 132 and 137(3) of the PPSA
 - (d) if the PPSA is amended after the date our agreement commences, to permit either party to agree to not comply with or to exclude other provisions of the PPSA, we may notify you that any of these provisions are excluded or that we need not comply with any of these provisions;
 - (e) you will not exercise any right to make any request of us under section 275 of the PPSA, to authorise the disclosure of any information or to waive any duty of confidence that would otherwise permit non-disclosure under that section.
8. Termination
- 8.1 We may terminate any order at any time without cause in our absolute discretion however, you may only terminate an order with our consent and on terms satisfactory to us such as indemnifying us from all costs and losses in respect of the order sought to be cancelled and paying such amounts to us prior to the cancellation becoming effective.
- 8.2 Subject to this document, on termination, that part of the price paid (if paid in advance or as a deposit) will be refunded to you within 14 days of the cancellation of the relevant order, less the costs and losses associated with that order and any other amounts that may be due and payable by you to us under the terms and conditions in this document or otherwise.
9. Release and indemnity
- 9.1 Any advice, recommendation, information, assistance or service given by us in relation to goods supplied or manufactured by us or their use or application or in relation to the services is given in good faith and is believed to be accurate, appropriate and reliable at the time it is given, but is provided without any warranty as to accuracy, appropriateness or reliability and we do not accept any liability or responsibility for any loss, cost, damage, liability or expense suffered from reliance on such advice, recommendation, information, assistance or service. You agree to rely on your own judgment in making decisions concerning this document, the goods and the services and their fitness for your use.
- 9.2 You have no right of action against us and you release and indemnify us from any loss, cost, damage, liability or expense, including without limitation indirect, consequential and special losses (including but not limited to loss of use, enjoyment, reputation, income or profit) and against all actions, suits, claims and demands against us in relation to the goods and/or services including any failure to deliver or delay in delivery of any goods or services or part thereof.
- 9.3 If the goods are not for personal or domestic use (and not covered by the Australian Consumer Law) then to the maximum extent possible, you hereby release and indemnify us and agree to forever keep us indemnified from any loss, cost, damage, liability, or expense, including indirect, consequential and special losses (including without limitation loss of use, enjoyment, income or profit), that we may incur in relation to you or any third party, where the loss, cost, damage, liability or expense is caused by or contributed to by us, the goods or services, any defect of fault in workmanship or design or their use or for any other reason whatsoever. You acknowledge and agree that no such loss, cost, damage, liability or expense is reasonably foreseeable other than those stated/limited in clause 11.
10. Warranties
- 10.1 We do not provide any warranties in relation to any goods or services. The only warranties in relation to the goods are those of the manufacturer and not us and to that end, the rights in any manufacturer's warranty are required to be assigned to you, to the extent possible, they are

- assigned and title passes with the goods subject to this document.
- 10.2 Any warranty or condition which would otherwise be implied in any agreement between us or in this document (including, but not limited to, merchantability, suitability or fitness for purpose, quality, design, assembly, installation, operation or otherwise of the goods or services) is expressly denied and is excluded to the maximum extent permitted by law.
- 10.3 To the maximum extent permitted by law, we do not warrant or guarantee the quality, workmanship or fitness for purpose of any goods. Our goods come with guarantees that cannot be excluded under the Australian Consumer Law. You are entitled to a replacement or refund for a major failure and for compensation for any other reasonably foreseeable loss or damage. You are also entitled to have the goods repaired or replaced if the goods fail to be of acceptable quality and the failure does not amount to a major failure. Any warranties provided in relation to goods not made by us are those of the manufacturer.
11. Liability Limited
To the maximum extent permitted by law and notwithstanding clauses 9 and 10, our liability to you in respect of any loss, cost, damage, liability or expense is limited (even where caused or contributed to by our negligence or breach of any term, condition or warranty stated in this document) in our absolute discretion to:
- repairing the goods;
 - replacing the goods or supplying equivalent goods;
 - refunding the purchase price paid;
 - payment of the costs of repairing, replacing or acquiring equivalent goods;
 - resupplying the services or equivalent services; or
 - payment of the costs of resupplying the services or equivalent services.
12. Force majeure
Each of us will be released from our respective obligations in respect of any accepted quote or order for goods or services (except your obligations as to payment, release and indemnity) in the event of national emergency, war, prohibitive governmental regulations or where any other cause beyond the reasonable control of either of us, including but not limited to strike, riot, lockout, trade disputes, rebellions, fire, acts of God, shortages of raw materials, Government decrees, proclamations or orders, transport difficulties and failures or malfunctions of computers or other information technology systems for a period of 7 calendar days or more renders provision of the goods or services the subject of an accepted quote or purchase order impossible.
13. Privacy
- 13.1 To the maximum extent permissible by law, you waive all rights under the Privacy Act 1988 (Cth) and consent to the collection, storage and provision of information by us to third parties. Such information may be used for such things as our supplying the goods of services to you, improving our goods and services or for our own statistical or marketing purposes. You consent to us using any personal or other information we hold for the purposes of investigating your creditworthiness, including conducting a credit check.
- 13.2 If an invoice remains outstanding in excess of 45 days, you irrevocably authorise us to provide your particulars and the particulars of the unpaid debt to any credit reporting agency to have the default in payment listed.
14. Notices
All notices required or permitted to be given must be in writing and by personal service, pre-paid postage, facsimile transmission or e-mail transmission at the addresses of the parties as stated in communications between us from time to time. You must immediately notify us of any change in your name, address or other contact details. In the absence of such notification, the address and any contact information we hold in our records is deemed to be your relevant address or way to contact or send notices to you for all purposes.
15. Waiver and exercise of rights
- 15.1 A failure of a party to enforce a right, make an election or exercise a discretion promptly or at all will not operate as a waiver or postponement of any right power or remedy which it may have pursuant to this document.
- 15.2 A single or partial exercise or waiver of a right relating to this document will not prevent any other exercise of that right or the exercise of any other right.
- 15.3 A party will not be liable for any loss, cost or expense of any other party caused or contributed to by the waiver, exercise, attempted exercise, failure to exercise or delay in the exercise of a right
16. Independent advice
You acknowledge that you have obtained or have had adequate opportunity to obtain independent legal advice as to the meaning and effect of the terms and conditions in this document before they were accepted by you.
17. Entire agreement
This document contains the entire agreement as between the parties in relation to its subject matter. Any previous representations or communications between the parties and any negotiations in relation to this document are merged in and superseded by this document and are of no force or effect. This document may only be varied or replaced by a document in writing duly executed by the parties.
18. Delegation/assignment
We may delegate or sub-contract the performance of any obligation or assign the benefit of the agreement constituted by this document in our absolute discretion. You may not however assign such benefits or obligations without our consent, which may be withheld in our absolute discretion.
19. Severance
If a provision in this document is void, illegal or unenforceable, it must be varied to give effect to the intention of this document or severed without affecting the enforceability of the other provisions.
20. Further assurances
Each party shall promptly execute all documents and do all things that another party from time to time reasonably requires of it to effect, perfect or complete the provisions of this document and any transaction contemplated by it
21. Disputes
Any dispute respect to this document are to be referred to a single arbitrator in accordance with the provisions of the Commercial Arbitration Act 2010 (NSW) as may be amended or replaced from time to time.
22. Governing law and jurisdiction
This document and the transactions contemplated by it are governed by the law of New South Wales, Australia and the parties irrevocably submit to the jurisdiction of the courts of New South Wales, Australia and all courts called to hear appeals from them in respect of them.
23. Acceptance
By signing below or in submitting a purchase order as set out in clause 1.2, the person signing below or otherwise to whom this document was sent warrants (both personally and as the duly authorised agent for the entity to whom the quote is addressed) that they have authority to enter into this agreement and to accept the terms and conditions in this document on their behalves.
- Signature: _____
- Name: _____
- Address: _____
- Position: _____
- Date: _____