

PRECISION STAINLESS SYSTEMS PTY LTD – TERMS AND CONDITIONS OF SALE

THESE TERMS AND CONDITIONS OF SALE AND WARRANTY MUST BE COMPLETED AND SIGNED BY THE DIRECTOR OR AN AUTHORISED OFFICER ACTING ON BEHALF OF AND WHO CAN BIND THE CUSTOMER TO THIS AGREEMENT.

1. General

- a) In consideration of **Precision Stainless Systems Pty Ltd**, ACN 648 213 003 (the Supplier) agreeing to supply goods, equipment and/or services (hereafter “Goods”) to the Customer, the Customer agrees and accepts that these terms and conditions of sale and general warranty apply to all sale of goods by the Supplier to the Customer, to the exclusion of any conditions of sale appearing on any document of the Customer. The Customer further acknowledges that these Terms and Conditions of Sale constitute the entire agreements of the parties as to the supply of Goods by the Supplier, and may not be varied without the prior written agreement of the Supplier.
- b) Except for any additional terms required by law, our final quoted scope of works and these terms and conditions of sale represent the whole of the agreement reached between the Parties and exclude all previous quotations, documents, drawings, correspondence and actual or implied verbal representations made by the Parties in relation to the Goods.
- c) All prices are quoted in Australian Dollars and are firm and fixed for the validity period specified in our quotation. Prices do not include taxes or duties. Revalidation in writing is required post the 28-day validity period.
- d) The Supplier will have no liability to the Customer in relation to any loss, damage or expense caused by the Supplier’ failure to complete an order or contract as a result of a force majeure event, including but not limited to fire, flood, storm, overland flow, stormwater, tempest, cyclone, earthquake, tsunami, pandemic, riot, civil disturbance, theft, crime, strike, lock-out, war or the inability of the Supplier’s suppliers to make available the necessary materials or any other matter beyond the Supplier’s control.
- e) The Customer indemnifies the Supplier in full for any direction given to the Supplier, its employees, agents or subcontractors and that directly results in the Supplier breaching any workplace health and safety or environmental law.
- f) The failure or indulgences by the Supplier to exercise or delay in exercising any right, power or privilege available to it under an agreement the subject of the terms and conditions of sale will not operate as a waiver thereof or preclude any other or further exercises thereof of the exercise of any right or power, and the Supplier shall be entitled to require strict compliance to the terms and conditions of sale at all times.
- g) If any term, provision or agreement subject of the terms and conditions of sale shall be invalid, void, illegal or unenforceable, they shall be severed from the agreement and the remaining provisions shall not be affected, prejudiced or impaired by such severance.
- h) For the purposes of this agreement, an insolvency event means where the Customer is a Corporation, it passes a resolution for the winding up or liquidation, or administration of the Corporation, or it enters into an arrangement with creditors, or appoints a liquidator, administrator controller, or a provisional liquidator, administrator or controller, for any assets or property of the Customer, or the Customer becomes subject to winding up because of insolvency or if any petition is presented for its winding up. Where the Customer is a natural person, the Customer commits an act of bankruptcy or similar, or any equivalent act in another jurisdiction.
- i) The Supplier may serve any Notice or Court document on the Customer by hand, post, email, or fax. Such Notices will be deemed to be given, where delivered by hand, on the day; by post, 2 business days after the date of posting; by email or fax on the day of dispatch unless a failure to transmit report is received.
- j) The terms and conditions of sale are governed by, and will be construed under the laws of the State of Queensland, Australia and the parties agree to submit to the non-exclusive jurisdiction of the Courts of that state. It shall be competent for the Supplier to issue proceedings in Brisbane, Queensland in a Court of competent jurisdiction.

2. Intellectual Property, Copyright and Confidentiality

- a) All drawings, designs, specifications and any other information provided in connection with a job, project, quotation or enquiry supplied by The Supplier to a Customer are strictly confidential and remain the intellectual property of the Supplier; and
- b) Information supplied by the Supplier to the Customer is confidential. No information provided to the Customer during the quoting process may be reproduced in whole or in part, nor is information, including but not limited to engineering designs, layouts, photos, video, scopes of work or prices are to be disclosed to any third party, including but not limited to competitor suppliers without our express written permission. The Customer, to whom information is being provided, accepts that any such disclosure of confidential information is likely to cause material damage to our business which we will be entitled to recover damages from the Customer; and
- c) Both The Supplier and the Customer shall:
 - (i) keep confidential, and not use, access, copy or disclose any confidential information except as permitted by this or otherwise consented to by either party in writing; and
 - (ii) immediately notify the other Party, if one the disclosing Party becomes aware of any loss or unauthorised use, access, copying, disclosure or publication of any confidential information;
- d) The Supplier and the Customer may, to the extent necessary, use confidential information for the purposes of performing its obligations or exercising its rights arising under these terms and conditions.
- e) The Supplier and the Customer may disclose confidential information to their own Personnel who have a specific need to access that confidential information for the purposes of enabling the relevant Party to perform its obligations or exercise its rights arising under the Agreement provided that:
 - (i) the relevant Party’s Personnel have first been made aware of the terms upon which the confidential information has been disclosed to them and a duty to handle such confidential information in confidence is imposed upon the relevant Party’s Personnel;
 - (ii) the relevant Party’s Personnel ensures that their Personnel comply with the terms of this clause as if they were parties to the Agreement; and
 - (iii) any breaches of this clause by the that Party’s Personnel shall be deemed to be breaches by that Party.
- f) The confidentiality obligations in this clause do not apply to Confidential Information which:
 - i. is or becomes public knowledge other than as a result of a breach of confidence;
 - ii. is lawfully obtained by the Supplier or the Customer from a third party without any confidentiality obligation (other than as a result of a breach of confidence);
 - iii. is independently developed by the Supplier or the Customer without reference to any obtained confidential information; or
 - iv. the Supplier is required to disclose to comply with any applicable Law, legally binding court order, request by a governmental agency or under the rules of a stock exchange; and
 - v. the burden of proving that confidential information falls within an excluded category in this clause rests with the accusatory Party.
- g) Except to the extent otherwise agreed between the Supplier and the Customer in writing, nothing in these terms and conditions operates to transfer ownership of any Background IP Rights from either Party or any third party to the other Party. All such Background IP Rights are and remain owned by the relevant Party or third party. The Supplier grants the Customer an irrevocable, non-exclusive, transferable, royalty-free licence to use Background IP Rights in connection with the Work and for the use, repair, maintenance, upgrade or modification of its products and equipment; and
- h) For all work provided by the Supplier, we reserve the right to capture, record and utilise media of the project, services, goods or equipment for marketing

and promotional purposes and this may be excluded from the definition of confidential information where the media is solely of the Supplier's goods (including being in-situ at the Customer's site).

3. Title and Risk

- a)
 - (i) Title/property in any goods delivered to the Customer will not pass to the Customer until the later of (a) payment in full for the Goods; (b) payment in full of all monies owing or unpaid by the Customer to the supplier including monies in respect of goods previously or subsequently supplied to the Customer by the Supplier or interest payments for overdue invoices or accounts.
 - (ii) The Customer shall store the Goods in such a manner as to show clearly that they are the property of the Supplier and the Customer shall keep records of all use and sales of such goods.
 - (iii) The Customer shall keep the Goods free from and will indemnify the Supplier against any charge, lien or other claim thereon. The Customer has no title to or right to charge or encumber the Goods before full payment to the Supplier under this clause.
 - (iv) If the Customer fails to pay the purchase price or any other debts to the Supplier when due, or commits any act of bankruptcy or insolvency, the Supplier may without notice and without prejudice to any of its rights and remedies recover and/or resell the Goods or any of them and may by its servants or agents enter upon the Customers premises or any premises the Goods are stored, held or have been in store or are occupied by the Customer, contractor or any person for that purpose and the Supplier has the right to enter the premises of the Customer or the premises of any associated company or agent or any other contractor or premises upon which the Goods are located to retake possession of the Goods without liability for trespass and damage and you indemnify and keep us indemnified in respect of our entering upon the premises to recover the Goods pursuant to this clause.
- b) Goods delivered to the Customer or its associated entities or agents shall be at the Customers risk on delivery to the Customer.
- c) The Customer shall not on-sell the Goods prior to the purchase price for the Goods or other debts to the Supplier having been paid to the Supplier in full, or as is set out in clause 2 (a) herein. Should the customer receive any proceeds from the sale of the Goods (which is expressly prohibited) then the customer shall and does hereby hold the proceeds of such sale on trust for the supplier and shall account to the supplier for such proceeds upon demand.
- d) The Supplier will be given full ownership of any new goods or objects formed if you transform our goods into other products or affix those goods to other objects.
- e) The Customer is not entitled to return the Goods and refuse or delay payment on the grounds that the property in the Goods has not yet passed.

4. Personal Properties Securities Act ("PPSA")

- a) In this clause:
 - (i) Financing statement has the meaning given to it by the PPSA
 - (ii) Financing change statement has the meaning given to it by the PPSA
 - (iii) Security Agreement means the security agreement under the PPSA created between the customer and the supplier by these terms and conditions; and
 - (iv) Security interest has the meaning given to it by the PPSA.
- b) Upon agreeing to these terms and conditions, the customer acknowledges and agrees that these terms and conditions:
 - (i) Constitute a security agreement of and for the purposes of the PPSA; and
 - (ii) Create a security interest in:
 - 1. All goods or materials previously supplied by the Supplier to the Customer
 - 2. All goods or materials that will be supplied in the future by the Supplier to the Customer.
- c) The Customer undertakes to:
 - (i) Promptly sign any further documents and/or provide any further information (such information to be complete, accurate and up to date in all respects) which the Supplier may reasonably require to;
 - 1. Register a financing statement or financing change statement in relationship to a security interest on the Personal Properties Securities Register
 - 2. Register any other documentation required to be registered by the PPSA; or
 - 3. Correct a defect in the statement referred to in the preceding subclauses.
 - (ii) Indemnify and upon demand reimburse the Supplier for all expenses incurred in registering a financing statement or financing change statement on the Personal Properties Securities Register established by the PPSA or releasing any materials charged thereby
 - (iii) Not register a financing change statement in respect of a security interest without the prior written consent of the Supplier;
 - (iv) Not register or permit to be registered a financing statement or a financing change statement in relation to the materials in favour of any third party without the prior written consent of the Supplier; and
 - (v) Immediately advise the Supplier of any material change in its business practices of selling the Goods or materials which would result in a change in the nature of proceeds derived from such sales.
- d) The Supplier and the Customer agree that sections 96, 115 and 125 of the PPSA do not apply to the security agreement created by these terms and conditions.
- e) The Customer waives its rights to receive notices under the sections 95, 118, 121(4), 130, 132(3)(d) and 132(4) of the PPSA.
- f) The Customer waives its rights as grantor and/or debtor under sections 142 and 143 of PPSA.
- g) Unless otherwise agreed in writing by the Supplier, the customer waives its right to receive a verification statement in accordance with section 157 of the PPSA.
- h) The Customer shall unconditionally ratify any actions taken by the Supplier under the preceding clauses of this agreement.

5. Delivery, Claims and Cancellations

- a) The Customer is solely responsible for acceptance of deliveries and shall raise no claims for loss or damage to deliveries where same are, by arrangement, delivered to and left at unattended sites.
- b) Cancellations are accepted only if payment to the Supplier of the cost of goods, labour and materials expended to date of cancellation plus an administration charge of 10% are paid on that date by the Customer. These payments are due 7-days from date of our invoice.

6. Scope of work and technical specifications

- a) The scope of work and technical specifications are outlined in our quotation and are based on the information provided by the Customer to the Supplier at the time of quotation. Except for any additional terms required by law, our final quoted scope of works and these terms and conditions represent the whole of the agreement reached between the parties and exclude all previous documents, correspondence or representations and Changes by the Customer to the requirements or specifications of the Goods after acceptance of our quoted scope of work and that lead to additional costs incurred by the Supplier will be charged to the Customer as a "Variation to Contract" (Variation).

- b) Any such changes to the scope of work or technical specifications may also affect the delivery schedule, in which case the Supplier shall be granted fair and reasonable additional time to deliver, install, test, commission or provide training on the Goods and will accept no consequential loss to the Customer due to late delivery in these circumstances.

7. Price

- a) The price quoted by the Supplier is based on the manufacture and/or installation of the Goods according to the specifications and drawings provided by or agreed with the Customer. The Customer acknowledges that variations to the specifications or drawings after the quotation has been accepted, or any variations to the Goods or installation thereof arising out of practical necessity, may result in additional charges being made by the Supplier and such charges shall be included as variations to and added to the quotation price.
- b) Within the attached quotation no after-hours/ overtime work has been allowed for, unless explicitly written into our quotation or has been accepted in writing by the Supplier prior to receipt of the Customer's purchase order.
- c) Within the quotation we have allowed for workshop drawings only, service drawings have not been allowed unless noted otherwise within our quotation.

8. Payment Terms

- a) Our quoted prices and terms of payment are as per our quotation, are in Australian Dollars (AUD) and exclude the Goods and Services Tax (GST). GST will be added to your invoice and is payable at the same time as each payment falls due.
- b) Payment can be made via electronic banking or credit card (Mastercard or Visa only). All credit card transactions are subject to a surcharge of 2.4%.
- c) Any failure to meet stated payment terms will result in the Customer:
- (i) Immediately being placed on stop-supply for new work and the stoppage of all existing work. Except as provided for in Queensland State Law, the Supplier shall under no circumstances be liable for any consequential loss to any party arising from the Customer's late payments that cause delays to delivery of the Goods. A potential Warranty claim does not constitute a valid reason to withhold any payment and all potential Warranty claims will be dealt with in accordance with the Warranty section of the terms and conditions of sale; or
 - (ii) if invoices become more than 21 days overdue, the Supplier will charge compounding, daily interest on outstanding amounts payable at the rate of 3% plus the cash rate notified by the Reserve Bank until payment is made.
- d) At the Supplier's sole discretion, any account or invoice that is overdue by more than 45 days may be escalated for debt collection, including but not limited to, debt collection agencies, law firms, writs or other legal enforcement. In the event of the Customer being in default of their obligation to pay and the overdue account is then referred to a debt collection agency, and/or law firm for collection the Customer shall be liable for all of the recovery costs incurred and if the agency charges commission on a contingency basis the Customer shall be liable to pay as a liquidated debt, the commission payable by the Supplier to the debt collection agency.
- e) In the event where the Supplier or its agent refers the overdue account to a lawyer, the Customer shall also pay as a liquidated debt the charges reasonably made or claimed by the lawyer on the indemnity basis.

9. Retentions, Liquidated Damages, Bank Guarantees, Performance Guarantees, Contract Works Insurance

Retentions, liquidated damages, bank guarantees, performance guarantees or contract works insurance are excluded from our standard costings and will only be included during the preparation of our quotation or tender costing if explicitly requested in writing by the Customer, prior to tender submission. If retentions, liquidated damages, bank guarantees, performance guarantees and contracts works insurance are not explicitly included in our written quotation, these are strictly excluded from any supply agreement and will not be accepted by the Supplier unless by subsequent written agreement inclusive of the Customer's acceptance that additional costs will be payable by the Customer.

10. Changes in the Customer's Ownership, Administration or Insolvency

- a) In the event of the Customer's business being subject to an insolvency event, the Supplier relies upon exercising its rights for payment and title of the Goods under,
- (i) The clauses relating to Title and Risk that are outlined in these terms and conditions of sale; and
 - (ii) The clauses relating to the *Personal Properties Securities Act* ("PPSA") that are outlined in these terms and conditions of sale; and
 - (iii) The Supplier may cease all further deliveries and/or require accounts to be settled prior to delivery of further goods; and
 - (iv) terminate any agreements, quotes or credit accounts in place; and
 - (v) charge compound interest on all overdue accounts at a rate of 3% higher than the Reserve Bank's cash rate and calculated on a daily basis and which shall be calculated from the date upon which moneys become due and payable up to the date of payment in full.
 - (vi) claim from and the Customer is liable for any fees or charges levied on the Supplier by any banker, credit provider, legal practitioner or debt collection agent for any charges associated with the cost of financing or the recovery of monies to settle an overdue account.
 - (vii) retake possession of all Goods supplied to the Customer and the Customer authorises the Supplier, its agents, employees or representatives to enter the Customers' premises to retake possession of the Goods. The Customer indemnifies the Supplier against any cost, losses, damages or prosecution resulting from the retaking of possession of the Goods.

11. General Warranty

The Customer agrees to accept the following warranty conditions that form part of our terms and conditions of sale.

- a) Precision Stainless Systems Pty Ltd, (the Supplier), offers a 12-month double-shift, or 24-month single shift warranty for all goods manufactured by us and supplied under this Agreement.
- b) The warranty period commences from the date that the goods are delivered to the Customer. Where the Customer requests warranty to commence from some other date, post-delivery of the goods, then an extension in warranty will only be considered provided that the Customer has:
- (i) an insurance policy in place, noting Precision Stainless Systems Pty Ltd as an interested party with respect to the goods, and
 - (ii) that covers the full commercial replacement costs of the goods should they be damaged while in possession of the Customer, and
 - (iii) The Customer provides an insurance Certificate of Currency with the notations as shown hereabouts, to the Supplier prior to delivery of the goods being affected to the Customers location.
- c) For any, third party, Proprietary Equipment included with our supply, the warranty on these Goods is based solely on the warranty supplied by the individual equipment suppliers and the terms and conditions they offer.
- d) There is no warranty coverage on any of the Customer's existing equipment that is to be re-used or integrated as part of this agreement.
- e) All warranty work is to be carried out between 0800-1630 hours, Monday to Friday and additional charges will apply after hours, on weekends and public holidays unless agreed in writing with the Supplier prior to the commencement of work.
- f) The Customer acknowledges that no warranty; condition, description or representation in relation to Goods supplied is given by the Supplier, expressly or implied. All warranties, terms and conditions in relation to the state, quality of fitness of the Goods and of every other kind whether implied by use, statute or otherwise are hereby excluded. The Supplier shall not be liable for physical or financial injury, loss or damage or for consequential loss or damage of any kind arising out of the supply of the Goods arising out of the Supplier's negligence or in any way whatsoever. The Supplier's liability for a

breach of a condition or warranty is hereby limited to:

In the case of goods, any one or more of the following:

1. the replacement, repair or the supply of equivalent goods;
2. the payment of the cost of repairing, replacing or of acquiring equivalent goods;

Unless the following has occurred:

- (i) Manufactured goods have been altered, modified or repaired by parties other than the Supplier or its authorised agent.
- (ii) Manufactured goods have not been properly installed by the Customer or its agents.
- (iii) Manufactured goods have not been properly serviced or maintained by the Customer or its agents.
- (iv) Manufactured goods have not been used in an appropriate manner including by Customer staff who have not be trained to use the Goods.
- (v) Manufactured goods have been subject to misuse, neglect, abuse, accident, fire, flood, riot or act of God, damage during transit or delivery.

In the case of services again:

1. the supplying of the services again; or
2. the payment of the cost of having the services supplied again

g) The Supplier's liability is expressly limited to a liability to pay the Customer an amount equal to:

1. the cost of replacing the Goods; or the cost of obtaining equivalent goods; or
2. the cost of having the Goods repaired, whichever is the lowest amount.

h) Should any part become defective as a result of normal use within the period and limits defined in the terms and conditions of sale, then it is a condition of Warranty that the Customer must contact the Supplier during business hours, at the earliest reasonable opportunity to advise of the issue and to determine the necessary actions with the Supplier. Unauthorised repairs by the Customer or its agents will void our warranty and liability and external contractor's invoices will not be paid unless they have an approved Supplier purchase order number included.

Acknowledgement

I have read and understood all of the pages and the conditions of the Supplier's *Terms and Conditions of Sale and General Warranty*.

I acknowledge I am authorised to sign on behalf of the Customer and that I have the authority to legally bind the Customer to these *Terms and Conditions of Sale and General Warranty*.

Name _____

Signature _____

Role/ Job Title _____

Date _____

Authorised officer of the Company