

CONDITIONS OF SALE

1. DEFINITIONS

- In these conditions unless the context requires otherwise the singular shall include the plural and the masculine gender the female and neuter genders and vice versa and the following words shall have the meanings set out opposite them.
- 1.1 "Acceptance Test" shall mean the acceptance test to be implemented in accordance with sub-conditions 10.4 and 10.5 using the test data and expected results approved by Precia-Molen in accordance with subcondition 10.3;
- 1.2 "the Company" shall mean Precia-Molen UK Limited;
- 1.3 "the Customer" shall mean any person firm company or organization to whom Precia-Molen agrees to sell "the Goods" and/or for whom Precia-Molen agrees to perform "the Works";
- 1.4 "the Goods" shall mean the weighing equipment and other goods supplied in connection therewith including the Hardware (and any parts thereof) being the subject matter of the contract as described in these conditions (if appropriate) on the face of Precia-Molen's acknowledgement of order form;
- 1.5 "the Hardware" shall mean the computer equipment supplied by Precia-Molen in accordance with these terms and conditions;
- 1.6 "Licence Fee" shall mean the fee quoted by Precia-Molen and payable by the Customer in respect of the licence pursuant to subcondition 10.10;
- 1.7 "Proposal" shall mean Precia-Molen's outline in general terms of the Software;
- 1.8 "the Site" shall mean the premises or location specified in the Customer's order for installation of the Goods;
- 1.9 The Software shall mean computer programs and other computer software and all modifications enhancements and replacements thereof and additions thereto supplied by Precia-Molen for use with the Hardware and whether or not developed by Precia-Molen;
- 1.10 "Software Documentation" shall mean the manuals instructions and literature prepared by Precia-Molen in connection with and in support of the Software;
- 1.11 "the Works" shall mean all works of installation of the Goods;
- 1.12 "Working Day" shall mean any day from Monday to Friday inclusive except public bank holidays.
- ## 2. GENERAL
- 2.1 All contracts for the sale of the Goods or performance of the Works (or partly for the sale of the Goods and partly for the performance of the Works) by Precia-Molen are made subject to these conditions of sale which supersede any earlier sets of conditions issued by Precia-Molen. Any stipulations or conditions in the Customers order form or other document delivered by the Customer which would if applicable conflict with these conditions or in any way qualify or negative the same shall be deemed to be inapplicable to Precia-Molen unless the same shall have been expressly agreed in writing in a document signed by a director of Precia-Molen. No other servant or agent of Precia-Molen has any authority to alter or qualify these conditions in any way.
- 2.2 The Company reserves the right by notice in writing to the Customer signed by a director of Precia-Molen to add or amend or vary these conditions at any time before acceptance of delivery or payment for the Goods or commencement of or payment for the Works whichever is the earlier.
- 2.3 Acceptance of delivery of the Goods or payment for the Goods by the Customer to Precia-Molen or allowing Precia-Molen to commence the Works shall of itself constitute an acceptance of these conditions where acceptance has not previously been communicated to Precia-Molen.
- 2.4 Quotations shall be available for acceptance (unless expressly stated otherwise) for a maximum period of 60 days from the date thereof and may be withdrawn by Precia-Molen within such period at any time by written or oral notice.
- 2.5 If any statement or representation has been made by the Customer by Precia-Molen's servants or agents upon which the Customer wishes to rely on other than the documents enclosed with Precia-Molen's quotation or acknowledgement of order then the Customer must set out that statement or representation in a document to be attached to or endorsed on the order and in any such case Precia-Molen may confirm reject or clarify the point and submit a new quotation.
- 2.6 If subsequent to a contract in which these conditions are incorporated any further contract is concluded with the Customer by letter or telegram or orally or by a combination of these factors without express reference to these general conditions it shall be a term of such contract that these general conditions of sale apply thereto.
- ## 3. DELIVERY AND INSTALLATION
- 3.1 Time for delivery and performance of the Works is given as accurately as possible but is not guaranteed.
- 3.2 In the event that the Goods are not delivered or the Works are not performed on the date stipulated then the Customer shall accept delivery of the Goods or accept performance of the Works within such further period which is reasonable in all the circumstances provided that if the Customer is of the reasonable opinion that such reasonable period has expired he shall give written notice to that effect to Precia-Molen stating his reasons for such opinion whereupon such reasonable period shall be deemed to expire 15 working days after the service of such notice. The Customer shall have no right to claim damages or cancel the order for any delay in delivery or performance not exceeding 15 days beyond such reasonable period.
- 3.3 The Company will endeavour to comply with reasonable requests by the Customer for postponement of delivery of the Goods or performance of the Works or both but shall be under no obligation to do so and where delivery or performance or both are postponed by agreement otherwise than due to default by Precia-Molen the Customer shall pay all costs and expenses including a reasonable charge for storage and transport occasioned thereby and payment for the Goods or Works or both as the case may be shall be made on the date payment would have been due had delivery or performance or both not been postponed.
- 3.4 In the event Precia-Molen incurs extra cost owing to suspension of the Works due to the customers instructions or lack of instructions, interruptions, delays or mistakes for which Precia-Molen is not responsible, a reasonable sum in respect of such extra cost shall be charged by Precia-Molen.
- ## 4. TITLE AND RISK
- 4.1 Risk shall pass to the Customer so that the Customer is responsible for all loss damage or deterioration to the Goods:
- 4.1.1 If Precia-Molen delivers the Goods by its own transport or in accordance with a specific contractual obligation arranges transport for the Goods at the time when the Goods depart the place of delivery of the Goods in all other circumstances at the time when the Goods leave Precia-Molen's premises.
- 4.2 Title to the Goods or any part thereof shall not pass to the Customer until the Customer has paid to Precia-Molen all sums due and payable by it to Precia-Molen under this contract and all other prior contracts between Precia-Molen and the Customer;
- 4.2.2 Precia-Molen serves notice in writing on the Customer specifying that title in the Goods or any specified part thereof has passed to the Customer;
- 4.3 Until title to the Goods has passed to the Customer the Customer shall possess the Goods and any part thereof as a bailee of Precia-Molen and in particular shall:
- 4.3.1 store the Goods and any part thereof separately from all other goods so as to ensure that they are clearly identifiable as the property of Precia-Molen; and keep the Goods and any part thereof insured in the amount of the price at which the Goods are sold to the Customer against all insurable risks and shall account to Precia-Molen for any monies relating to the Goods and any part thereof received under such policy of insurance forthwith upon receipt of the same and pending such account shall hold such monies on trust for Precia-Molen and shall permit its agents to enter upon any premises of the Customer for the purpose either of satisfying itself that sub condition 4.3.1 is being complied with by the Customer or recovering any Goods in respect of which title has not passed to the Customer.
- 4.4 The Company shall be entitled to recover and resell Goods in respect of which title has not passed to the Customer at any time and the Customer hereby licenses Precia-Molen to do so and to permit its agents to enter upon any premises of the Customer for the purpose either of satisfying itself that sub condition 4.3.1 is being complied with by the Customer or recovering any Goods in respect of which title has not passed to the Customer.
- 4.5 The Customer shall only be at liberty to sell the Goods hereunder prior to the passing of title to the Customer on the understanding that should the Customer does so as agent for and on behalf of Precia-Molen and may only do so for full market value having first obtained Precia-Molen's written consent; and
- 4.5.2 the proceeds of the sale of the Goods below to Precia-Molen and are held by the Customer on trust for Precia-Molen and are paid into a separate bank account designated as a trust account for Precia-Molen.
- ## 5. PRICE
- 5.1 All prices are unless otherwise stated quoted net ex works exclusive of V.A.T. or other tax or duty relating to the sale or delivery of the Goods or

the performance of the Works chargeable to Precia-Molen and the cost of carriage and packaging if required shall be charged extra.

- 5.2 If after the date of Precia-Molen's quotation the cost to Precia-Molen of the materials used by Precia-Molen in the performance of the Works or the manufacture or supply of the Goods or both is increased then Precia-Molen may give notice of any such increase which Precia-Molen is proposing to pass on to the Customer and such notice if given shall have the effect of increasing Precia-Molen a quoted price for the Goods or Work or both. The Customer may by notice in writing to Precia-Molen within 7 days of the notice of such increase cancel the order and in this event the contract for the sale of the Goods or the performance of the Works or both shall be determined without any liability whatsoever being incurred by Precia-Molen or the Customer to the other. If the Customer shall give written notice rejecting the increase within 7 days then the increase shall be added to the quoted price and form part of the contract between Precia-Molen and the Customer.

6. TERMS OF PAYMENT

- 6.1 Unless otherwise agreed by Precia-Molen in writing payment of each invoice submitted by Precia-Molen for the Goods or Works or both as the case may be shall be paid in full and received by Precia-Molen on the date of such invoice. Precia-Molen shall be entitled to submit its invoice for 30% of the price forthwith against 30% of the price with order and a further 60% of the price on delivery and the remaining 10% of the price on commissioning of the Goods but in any event no later than 8 weeks after delivery or performance has been postponed at the request of or by the default of the Customer. Precia-Molen may submit its invoice for 60% of the price at any time after the Goods are ready for delivery or the Works have been performed or both or would have been ready for delivery performed or both or in the ordinary course but for the request or default as aforesaid.
- 6.2 In the event of default in payment by the Customer Precia-Molen shall be entitled without prejudice to any other right or remedy Precia-Molen has under these conditions or by virtue of the general law and without prior notice to suspend all further deliveries or performance on any contract or contracts between Precia-Molen and the Customer and to charge interest on the amount outstanding at the rate of 4% above the base rate of National Westminster Bank Plc from time to time in force throughout the period the amount is outstanding. A cheque tendered by the Customer in payment shall not be treated as payment until the same has been cleared.
- 6.3 The Customer shall be entitled to withhold payment of any amount payable under the contract to Precia-Molen because of any disputed claim of the Customer in respect of faulty goods or defective workmanship or any other alleged breach of the contract, nor shall the Customer be entitled to set on against any amount payable, under the contract to Precia-Molen any monies which are not then presently payable to Precia-Molen or for which Precia-Molen disputes liability.

7. CANCELLATION

Cancellation of this contract will only be agreed to by Precia-Molen on condition that all costs and expenses incurred by Precia-Molen up to the time of cancellation and all loss of profits and other loss or damage resulting to Precia-Molen by reason of such cancellation will be paid forthwith by the Customer to Precia-Molen.

8. SHORTAGES AND DEFECTS

- Precia-Molen shall not be liable for:
- 8.1 any shortages or defects in the quality or state of the Goods and/or the performance of the Works which would be apparent on visual inspection unless the Customer shall have inspected the Goods within 3 working days of delivery of the Goods or notification of completion of the Works or acceptance of the Software by the Customer whichever is the later and shall have given within 10 working days of such delivery notification of acceptance as the case may be written notice to Precia-Molen specifying the matters complained of and shall have afforded Precia-Molen a reasonable opportunity of inspecting the Goods and/or Works;
- 8.2 any shortages or defects in the quality or state of the Goods and/or the performance of the Works not apparent on visual inspection unless the Customer shall have given written notice to Precia-Molen specifying the matters complained of as soon as a reasonably practicable after discovery of such matters and in any event no later than twelve months after the date of delivery of the Goods or notification of completion of the Works or acceptance of the Software by the Customer whichever is the later and shall have immediately after discovery of such matter ceased to make any use of the Goods and/or Works and shall have afforded Precia-Molen a reasonable opportunity to inspect the Goods and/or Works;
- 8.3 loss or damage suffered by reason of use of the Goods and/or Works after the Customer becomes aware of a defect or after the Customer becomes aware of circumstances which should reasonably have indicated the existence of a defect.

9. GUARANTEE

- In the event that the Works and/or Goods or any part thereof are defective in quality or state and/or performance or are otherwise not in accordance with the contract then the Customer shall request (in lieu of any legal remedy which may otherwise have been due to the Customer) Precia-Molen to repair and/or re-perform the Works and/or to repair or supply/satisfactory substitute Goods and provided the Customer has complied with the requirements as to notice contained in these conditions Precia-Molen shall be obliged at its option to repair or re-perform the Works and/or to repair or take back the defective Goods and supply satisfactory substitute Goods to the Customer free of cost and within a reasonable time. Upon Precia-Molen repairing or re-performing the Works and/or repairing the defective Goods then the Customer shall be bound to accept such repaired or re-performed Works and/or repaired or substitute Goods and Precia-Molen shall be under no liability to the Customer in respect of any loss or damage whatsoever arising from the initial performance of defective Works and/or delivery of defective Goods or from the delay before the defective Works are repaired or re-performed and/or the defective Goods are delivered.

10. SOFTWARE

- 10.1 Precia-Molen shall assess the Customer's requirements and based upon such assessment produce a Proposal and shall design and write the Software and Software Documentation.
- 10.1.1 Upon Completion of the Proposal Precia-Molen shall submit the same to the Customer for acceptance and the Customer shall within 3 working days of receipt of the Proposal accept the same or respond to Precia-Molen with such documents and amendments as it reasonably considers appropriate and in the event that the Customer does neither it shall be deemed to have accepted the Proposal.
- 10.1.2 Precia-Molen shall consider all reasonable comments and requests for amendments to the Proposal and may in its sole and absolute discretion revise and re-submit the Proposal as soon as it is reasonably practicable or explain in writing on or annexed to the Proposal why such comments and requests are inappropriate and re-submit the Proposal unamended. Upon re-submission of the Proposal (whether amended or not) the Customer shall within three working days accept the same or respond to Precia-Molen with such further documents and amendments as it considers appropriate and in the event the Customer does neither it shall be deemed to have accepted the Proposal.
- 10.1.3 The process set out in sub conditions 10.1.1 and 10.1.2 shall be repeated until such time as the Customer accepts or is deemed to accept the Proposal.
- 10.2 Upon acceptance of the Proposal Precia-Molen shall develop the Software Documentation upon the basis of the Proposal and shall install or load the Software on the Hardware and deliver the Software Documentation to the Customer.
- 10.3 Within 3 working days after delivery of the Software the Customer shall submit to Precia-Molen test data and the results it reasonably expects to obtain suitable to assess whether the Software operates in accordance with the Proposal. Upon receipt Precia-Molen shall approve or reject such data and results and shall only be entitled to reject on the basis that the data and results would require the Software to operate in a manner not specified in the Proposal. In the event of a rejection Precia-Molen shall be entitled to make such alterations to the test data and expected results as it shall in the circumstances reasonably consider to be necessary and the Customer shall at its own cost provide Precia-Molen with all the information and assistance as Precia-Molen shall consider expedient for doing so forthwith upon request.
- 10.4 Within 3 working days of Precia-Molen notifying the Customer of its approval of the test data and expected results the Customer shall hold the Acceptance Test and notify Precia-Molen at least twenty four hours in advance and permit Precia-Molen's representative to be present:
- 10.4.1 If the Customer shall fail to do so then upon expiry of the said 3 working days the Software shall be deemed to have passed the Acceptance Test and the Customer shall accept the Software upon the date that it passes or is deemed to pass the Acceptance Test;
- 10.4.2 If the Software fails the Acceptance Test Precia-Molen shall carry out such alterations to the Software and Software Documentation as it shall consider appropriate to enable the Software to pass the Acceptance Test and shall reload the Software on the Hardware and re-deliver the Software Documentation.
- 10.5 The Customer shall carry out a repeat of the Acceptance Test within 3 working days of the Software being reloaded onto the Hardware and give Precia-Molen at least twenty four hours notice of the time of the repeat. Acceptance Test and permit Precia-Molen's representative to be present. If the Customer shall fail to do so the Software shall be deemed to have passed the Acceptance Test and the Customer shall be deemed to accept the Software on the date the Software passes or is deemed to pass the Acceptance Test.

- 10.6 The Software shall pass the Acceptance Test upon it producing the expected results on the basis of the test data and the procedures set out in sub-conditions 10.4 and 10.5 shall be repeated until such time as the Software passes or is deemed to have passed the Acceptance Test.

- 10.7 The terms of payment in respect of the Software shall be the same as those specified in condition 6 above save that Precia-Molen shall be entitled to render invoices in respect of the performance of the Software and the Software Documentation monthly in arrears calculated upon a time and materials basis together with travel accommodation and subsistence expenses incurred by Precia-Molen's employees in attending at the Site.
- 10.8 The Customer shall make available to Precia-Molen's employees free of charge such use of the Hardware and its existing computer facilities at the Site as shall be reasonably necessary for the performance of the Software and the Software Documentation.
- 10.9 Precia-Molen shall incur no liability to the Customer in respect of any failure to complete and install the Software within any time agreed or within a reasonable time thereafter being such further period which is reasonable in all circumstances provided that if the Customer is of the reasonable opinion that such reasonable time has expired the Customer shall give written notice to that effect to Precia-Molen stating the reasons of such opinion whereupon such reasonable time shall be deemed to expire 15 working days after the service of such notice and the Customer shall have no right to claim damages or any other remedy for any delay not exceeding 15 working days beyond such reasonable time.
- 10.10 Precia-Molen shall at all times remain the sole and absolute owner of the Software and upon acceptance of the software by the Customer in consideration for payment of the Licence Fee the Customer shall be licensed by Precia-Molen on a non-assignable basis to use the Software in accordance with the Software Documentation on the Hardware and other equipment belonging to the Customer at the Site in connection with the Goods for a period of twenty-five years whereby the Customer may have possession of one copy of the Software together with one copy of the Software Documentation as bailee of Precia-Molen.
- 10.11 The Customer shall supervise and control the use of the Software in accordance with the terms of its licence and shall not make any copies or adaptations thereof and shall not connect any other location, installation or network of computers The Company, its officers, employees and agents shall be irrevocably authorised and licensed to enter in or upon any premises of the Customer for the purpose of satisfying itself that the provisions of the Customer's licence are being complied with by the Customer.
- 10.12 Precia-Molen shall be entitled to render its invoice for the Licence Fee upon acceptance of the Software by the Customer and the provisions of condition 6 shall apply to such invoice. The Licence Fee and any other prices or rates are unless otherwise stated quoted exclusive of V.A.T or other tax or duty relating to the development or supply of the Software and the Software Documentation.
- 10.13 In the event that the development of the Software involves the use or adaptation of existing Software in which any third party has copyright then to such extent as is possible the licence granted to the Customer by Precia-Molen shall amount to a sub licence and where the Customer or its agents wish to use such Software does not permit the grant of any sub licence Precia-Molen shall acquire such Software and the benefit of any licence in respect thereof for and on behalf of the Customer as the Customer's agent and the Customer shall indemnify Precia-Molen against all infringements breaches and liability in respect thereof and all costs claims and proceedings in connection therewith provided that all copyright in all original work carried out by Precia-Molen shall be fully reserved to Precia-Molen.
- 10.14 On termination of the licence of the Software to the Customer whether by effluxion of time or otherwise the Customer shall if required by Precia-Molen:
- 10.14.1 forthwith return the Software and Software Documentation and any copies thereof and other material relating thereto to Precia-Molen; or
- 10.14.2 forthwith destroy the Software and Software Documentation and any copies thereof and other material relating thereto; and
- 10.14.3 the Customer hereby irrevocably licenses Precia-Molen, its officers, employees and agents immediate access in or upon any premises of the Customer at all reasonable times for the purpose of recovering the Software and Software Documentation or ensuring compliance with conditions 10.14.1 and 10.14.2 and the other conditions herein contained.

11. LIABILITY

SAVE where Precia-Molen can be shown to have failed to exercise reasonable care in the manufacture and/or supply of the Goods and/or the performance of the Works and/or the development and supply of the Software and such failure results in death or personal injury PRECIA-MOLEN SHALL NOT BE LIABLE (without prejudice to condition 9) to the Customer for loss injury or damage of any kind whatsoever consequential or otherwise (including without limitation removal or rectification work required in connection with the death or personal injury or loss of life or health or Software) which results directly or indirectly from any delay or failure on the part of Precia-Molen to supply the Goods and/or develop and supply the Software or any combination of these.

12. CONFIDENTIAL INFORMATION

The Software (subject to sub-condition 10.13 above), Software Documentation and all drawings documents confidential records computer software and other information supplied by Precia-Molen are supplied on the express understanding that copyright is reserved to Precia-Molen and that the Customer will not without the prior written consent of Precia-Molen either give away loan exhibit sell exchange or deal with the Software, Software Documentation or any such drawings documents records or other information or extracts thereof or copies thereof or use them in any way except in connection with the Goods in respect of which they are supplied and in respect of the Software and Software Documentation in accordance with the terms of licence contained in condition 10 above.

13. INSPECTION AND TESTS

When specified in Precia-Molen's quotation a Weights and Measures Officer will be invited to attend the Site for the purpose of stamping and his costs and fees shall be the Customer's responsibility unless otherwise stated. Where specified such stamping shall take place prior to Precia-Molen being entitled to notify the Customer of completion of the performance of the Works.

14. DATA AND TECHNICAL INFORMATION

The information contained in the advertising sales and technical literature issued by Precia-Molen may be relied upon to be accurate in the exact circumstances in which it is expressed otherwise any illustrations performance details examples of installations and methods of assembly and all other technical data in such literature are based on experience and upon trials under test conditions and are provided for general guidance only. Such information shall form part of the contract unless the Customer shall have complied with condition 2.5 hereof relating to statements and representations

15. QUANTUM MERUIT

Where from any cause whether arising under the contract or otherwise and whether due to Precia-Molen's breach of contract or otherwise the Works are only partly performed and/or the Software only partly developed then Precia-Molen shall be entitled to payment on a quantum meruit basis in respect of all work and/or development done without prejudice to Precia-Molen's other rights and remedies should non-performance be occasioned by default of the Customer.

16. NOTICES

If the Customer shall become bankrupt or unable to pay its debts as prescribed by Section 123 Insolvency Act 1986 or compound with its creditors or in the event of a resolution being passed or proceedings commenced for the administrative liquidation of the Customer (other than for a voluntary winding up for the purpose of reconstruction or amalgamation) or if the Receiver Manager Administrator or Administrative Receiver is appointed of all or any part of its assets or undertaking Precia-Molen shall be entitled to cancel the contract in whole or in part and/or forthwith terminate the licence contained in condition 10 above by serving notice in writing on the Customer without prejudice to any right or remedy accrued or accruing to Precia-Molen.

17. FORCE MAJEURE

In the event that the manufacture or delivery of any of the Goods and/or performance of the Works and/or development of the Software and preparation of the Software Documentation is prevented or hindered directly or indirectly by fire, the elements, war, civil commotion, strikes or lock outs, industrial dispute, shortage of raw materials or fuel notwithstanding that Precia-Molen has taken all reasonable steps to procure the same, shortage of labour, break down or partial failure of plant and machinery, late receipt of the Customer's specification or other necessary information acts, orders or regulations, of Government, delay on the part of any independent sub contractor or supplier, or any other cause whatsoever beyond the reasonable control of Precia-Molen then the time for delivery of the Goods and/or performance of the Works and/or development of the Software and preparation of the Software Documentation shall be extended for a reasonable period having regard to the effect of the delaying cause on the manufacture delivery and/or performance and/or development.

18. NOTICES

Any notice required to be given by either Precia-Molen or the Customer to the other side shall be deemed to be properly served if sent by prepaid registered letter posted to its registered office or such other address as may from time to time be notified to the other for this purpose and any such notice served shall be deemed to have been served 24 hours after the time of posting and in proving such service it shall be sufficient to prove that the notice was properly addressed and posted.

19. ENGLISH LAW

The contract made hereunder shall be governed and interpreted according to English Law and Precia-Molen and the Customer hereby submit themselves to the jurisdiction of the English Courts.