



Pegler Yorkshire

# *General Conditions of Purchase*



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# Pegler Yorkshire

## GENERAL

- 1.1 In these conditions 'the Company' shall mean PEGLER YORKSHIRE GROUP LIMITED, 'the Supplier' shall mean the person, firm or company to whom the Company's order is issued and 'the Products' shall mean all products and services and associated documentation covered by the Company's order.
- 1.2 All the provisions of the contract between the Company and the Supplier are contained in or referred to in the order and in these conditions. The Supplier's execution or commencement of work or any delivery pursuant to the order or acceptance of any progress payment constitutes acceptance of the order on the terms hereof by the Supplier. Acceptance of the order may only be made by acceptance by the Supplier of these conditions.
- 1.3 Specific terms contained in the Company's order shall stand in addition to these conditions and in the event of a conflict the specific terms of the Company which come latest in time shall prevail.

## DELIVERY

- 2.1 The date or period for delivery of the Products shall be that specified in the Company's order and shall be of the essence of the contract.
- 2.2 The Company's order number shall be printed or written legibly by the Supplier on all the Products delivered by package or parcel and on all related despatch notes and invoices. Invoices are to be sent to Pegler Yorkshire Group Limited, Haigh Park Road, Stourton, Leeds, West Yorkshire, LS10 1RT, England. The Company will not be liable for material supplied other than against an official purchase order.
- 2.3 If deliveries are made to an incorrect delivery point, the Supplier will be held responsible for additional expenses incurred in delivering them to the correct destination.
- 2.4 In the event of any strike, lock-out, fire, explosion or accident or other matter or occurrence which for any reason prevents or hinders the use of any of the Products, delivery of such Products and/or payment therefor may be suspended or postponed at the Company's option until the circumstances preventing or hindering the use of the Products have ceased.

## ACCEPTANCE

- 3.1 Acceptance of the Products will only be effective if communicated in writing and the Company's acknowledgement of delivery on a delivery note or similar document shall not constitute acceptance and the Company retains the right to reject any of the Products until fully inspected by it.
- 3.2 Should the Products delivered by the Supplier fail to conform to the contract for whatever reason the Company may without prejudice to its other rights:-
  - 3.2.1 Reject all or any of the Products within a reasonable time of their inspection by the Company notwithstanding that the Company may have effected payment therefor; and
  - 3.2.2 Purchase elsewhere as nearly as practicable to the same specifications and conditions as circumstances shall admit and recover from the Supplier any additional expenses thereby incurred together with the purchase price if previously paid.

## TITLE AND RISK

4. Without prejudice to any right of rejection which may accrue to the Company and unless otherwise stated in the Company's order title to the Products shall pass to the Company upon the earlier of delivery or any payment being made therefor and risk shall pass upon delivery and acceptance of the Products. The Supplier shall be responsible for transport and unloading costs and for insurance of the Products to their full value against all risks of damage or loss prior to completion of delivery and acceptance. If the Contract terms relate to terms such as FOB and C&F which bear defined meanings in the current edition of Incoterms, then those meanings will apply unless expressly stated otherwise.

## PRICE AND PAYMENT

- 5.1 Unless otherwise stated in the Company's order all prices are fixed fully inclusive of all duties and delivery charges and are not subject to escalation or additions. Payment shall be made at the end of the second month after the month of invoice.
- 5.2 No payment of or an account of the price shall constitute any admission by the Company as to proper performance by the Supplier of its obligations.
- 5.3 Packages and containers will be non-returnable and no charge therefor shall be made unless otherwise agreed.

## VARIATIONS

- 6.1 If the total value of this order falls below the Supplier's minimum order charge, the Supplier should contact the Company in order to agree a mutually acceptable order value. Other than the above, the Company will not be liable for material supplied in excess of quantities mutually agreed.
- 6.2 The Company has the right to amend quantities, specifications and scheduled times or deliveries by issuing a written amendment to the Supplier with which the Supplier shall comply. Any other amendments to the contract must be made by agreement in writing. The Supplier shall advise the Company forthwith if any proposed amendments either prevent the specified time for delivery being met or have any other material implication in regard to the Supplier's obligations to the Company and if appropriate the Company shall allow a reasonable adjustment to the price and/or time for delivery.

## PATENT ETC INDEMNITY

7. The Supplier will indemnify the Company against any claims for infringement of any patent registered, design, design right, trade mark, copyright, confidentiality and any other intellectual or industrial property rights arising by reason of the use or sale of the Products, against all claims for royalties payable on respect of the Products and against any losses, costs, damages, expenses and claims which the Company may suffer or incur or for which the Company may become liable as a result of such claims for infringement or royalties including without limitation the cost of obtaining non-infringing replacements for the Products.

## SAFETY AND ENVIRONMENTAL

- 8.1 The Supplier warrants that in the design, manufacture, supply and installation of the Products and the provision of information relating thereto it will comply and will facilitate the Company's compliance with the duties imposed by any applicable environmental and health and safety laws and with all other relevant statutory provision rules and regulations so far as they are applicable to the Products and that the Products will be supplied with all safety guards devices and markings sufficient to comply with all applicable legal requirements.



- 8.2 Where the Company expressly agrees in the contract that the Products are to be supplied without the usual or compulsory guards or safety devices then the Supplier must specify in writing at or before delivery what guards and safety devices (if any) will be required to be purchased by the Company to comply with all relevant laws.
- 8.3 The Supplier warrants that all the Products supplied to the Company together with all necessary instructions information and warnings supplied therewith will be designed manufactured and produced in such a manner as to ensure that the Products are not defective and comply with all applicable regulations and other legal and regulatory requirements. The Supplier shall indemnify the Company against all losses costs expenses and damages that the Company may suffer or incur in connection with the Products being defective or failing to comply with such applicable and other legal and regulatory requirements being in force at the time.
- 8.4 In the event that the Supplier becomes aware at any time of any incidents, events or discoveries which are in any way relevant to the safe operation of the Products supplied or to be supplied then the Supplier shall forthwith issue written notice thereof to the Company.
- 8.5 In the event that in connection with the contract the Supplier or its sub-contractors enter upon any land or premises occupied by the Company, the Supplier shall indemnify the Company against all losses costs expenses and damages suffered or incurred by the Company as a result of any loss damage or injury to persons or property of any kind arising out of any act or omission negligent or otherwise of the Supplier or its sub-contractors.

#### **ASSIGNMENT AND SUB-CONTRACTORS**

- 9.1 The Supplier shall not without the written consent of the Company sub-contract or assign all or any part of the benefit or burden of the contract.
- 9.2 Any authority given by the Company for the Supplier to sub-contract shall not impose any duty on the Company to enquire as to the competency of any authorised subcontractor and the Supplier shall not be excused full and proper performance of the contract.
- 9.3 The Company shall be entitled to assign any and all of its rights and benefits under the contract without notice to the Supplier.

#### **INSPECTION AND TESTING**

10. The Products shall be subject to all specified and usual tests and checks by the Supplier and to any other tests which the Company may reasonably require.

#### **RIGHTS AND DESIGNS ETC**

- 11.1 Full title including design, right, copyright and all other intellectual property rights in all specifications, plans, drawings, patterns or designs supplied by the Company to the Supplier in connection with the contract or prepared or made by the Supplier its employees, agents or sub-contractors for the purpose of fulfilling the contract shall rest in and belong to the Company absolutely and any information derived there from or otherwise communicated to the Supplier in connection with the contract shall be regarded by the Supplier as confidential and shall not without the written consent of the Company be published or disclosed to any third party or made use of by the Supplier except for the purpose of performing the contract.
- 11.2 The Supplier hereby agrees to execute and to procure execution of any assignment deed or other document reasonably required by the Company to transfer and vest in the Company ownership of anything which is to belong to the Company in terms of clause 11.1.
- 11.3 Any drawings, circuit diagrams, cable layout, operating and maintenance instructions or like documentation supplied by the Supplier and not covered by clause 11.1 may be freely used by the Company for any reasonable purpose including the production by the Company or procurement from any third party for its use of any parts for the Products.

#### **INFORMATION**

- 12.1 The Supplier shall neither publish information about the contract or any correspondence concerned with it to any third party nor use the name of the Company for advertisement or publicity without the Company's prior written consent.
- 12.2 The Supplier shall be responsible for all errors and omissions in drawings, calculations, packing details or other particulars supplied by it and approval or acceptance thereof by the Company shall not relieve the Supplier of any obligation under the contract.

#### **FREE-ISSUE MATERIALS AND TOOLS**

- 13.1 Where the Company issues materials to the Supplier for use in connection with the contract such materials shall be and remain the property of the Company.

- 13.2 The Supplier shall maintain such materials in good order and condition and at its risk subject in the case of tooling patterns and the like to fair wear and tear and shall use the same only in connection with the contract.
- 13.3 Any surplus materials including scrap and swarf shall be fully segregated and disposed of in accordance with the Company's directions and any materials wasted as a result of the Supplier's bad workmanship or negligence shall be replaced at the Supplier's expense.
- 13.4 The Supplier shall at any time forthwith upon the Company's request deliver up to the Company all materials issued by the Company.
- 13.5 Any tools (such as jigs, dies, etc) which supplier may construct or acquire specifically in connection with the Products and for which the Supplier makes any charges shall be and remain the Company's sole and unencumbered property and the Company may at any time call for possession without the need to pay any unpaid invoices which are not yet due for payment.

#### **SUPPLIER'S GUARANTEE**

- 14.1 It is a condition of the contract that the Products; will conform with the specifications, drawings and other details supplied or adopted by the Company; be new and fit and sufficient for the purposes for which they are intended; be of good quality design and workmanship and entirely free from defects; will satisfactorily fulfil the performance requirements supplied or adopted by the Company; and will conform with all appropriate British, EC and other international standards and specifications applicable to the Products.
- 14.2 The Supplier warrants its expertise and the accuracy of all statements and representations made in respect of the Products prior to the contract.
- 14.3 Nothing contained in these conditions shall in any way detract from the Supplier's obligations and Company's rights under common law or statute or any express or implied term, condition or warranty.
- 14.4 Notwithstanding that the Company has accepted the Products or part thereof and/or title in the Products has passed to the Company, the breach by the Supplier of any express or implied term, condition or warranty to be fulfilled by it may be treated as a ground for rejecting the Products and treating the contract as repudiated.



- 14.5.1 Without prejudice to the Company's rights to treat the contract as repudiated or its other rights the Supplier shall forthwith at the Company's request repair or (if the Company so requires) replace at the Supplier's expense all the Products which fail or are or become defective within either the period of 24 months from putting into service or the period of 30 months from delivery (whichever shall be the first to expire) where such failure or defect occurs due to inadequate operational life, faulty design, the Supplier's erroneous instructions, faulty materials or workmanship or any other breach of supplier's obligations express or implied. The Supplier shall on demand reimburse to the Company any costs and expenses incurred by it in removal, re-installation, shutdown and other actions connected with the repair or replacement.
- 14.5.2 Repaired and replacement Products shall themselves be warranted in accordance with this clause 14 (in the case of clause 14.5.1 for a period of 12 months from the later of the date of delivery, re-installation or passing of tests) and the Company's request for or acceptance of a repair or replacement shall not preclude rejection of the repair or replacement and/or termination of the contract if it is not entirely to the Company's satisfaction.
- 14.6 The Supplier agrees to assign to the Company upon request the benefit of any warranty guarantee or like rights which it has against any third party manufacturer or the Supplier of the Products or any parts thereof.
- 14.7 The Supplier will provide all facilities assistance and advice required by the Company or the Company's insurers for the purpose of contesting or dealing with any action claim or matter arising out of the order or the Supplier's performance of the order.

## **CANCELLATION**

15. Without prejudice to any other lawful right available the Company shall have the right to cancel the contract (in whole or in part) without cause at any time by giving written notice to the Supplier whereupon all work pursuant to the contract which is thereby cancelled shall be discontinued forthwith and the Company shall pay to the Supplier such proportion of the price as may be fair and reasonable having regard to the value of the Products which are then acceptable to the Company for delivery under the contract and on such payment no further sum or sums shall be due by way of damage loss of profits or otherwise from the Company to the Supplier by reason of such cancellation.

## **TERMINATION**

- 16.1 Without prejudice to any other rights or remedies of the Company it shall be entitled in any of the following circumstances to terminate (in whole or in part) this and any other contracts whenever made between the Company and the Supplier:
- 16.1.1 The Supplier makes or proposes any voluntary arrangement with its creditors or becomes subject to an administration order or becomes bankrupt or goes into liquidation;
- 16.1.2 An encumbrancer takes possession or a receiver is appointed of any of the property or assets of the Supplier;
- 16.1.3 The Supplier becomes unable to satisfy its debts as they fall due or ceases or threatens to cease to carry on business;
- 16.1.4 The Company reasonably believes or apprehends that any of the events mentioned above or any equivalent under any relevant laws has or may occur;
- 16.1.5 The Supplier commits any breach of this or any other contract whenever made between the Supplier and the Company.

## **LAW AND JURISDICTION ETC**

- 17.1 The contract shall be governed and interpreted exclusively according to the Laws of England. The parties hereby agree to submit to the exclusive jurisdiction of the English courts provided that the Company may at its option take proceedings in the courts of the state in which the Supplier is domiciled.
- 17.2 No waiver of or delay or failure by the Company to exercise any rights or remedies shall prejudice or preclude any future or further exercise thereof.
- 17.3 The Company may set off against the price or any claim by the Supplier under the contract any other liability or claim howsoever arising of the Company against the Supplier whether actual contingent primary collateral joint or several.
- 17.4 If any provision of these conditions shall be held invalid or unenforceable in whole or in part then the unaffected provisions shall remain in full force and effect. Headings appear for convenience only and shall not affect the construction of these conditions.

Issue 1 – effective 1st January 2009



# Pegler Yorkshire

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## **Pegler Yorkshire Group Limited**

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Registered in England Company No. 00401507

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