



Pro-Cise, Inc.  
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## Pro-Cise, Inc. Terms and Conditions

### 1. EXCLUSIVITY OF TERMS:

These terms and conditions, together with any terms and conditions contained on the front side, constitute the entire agreement of Pro-Cise, Inc. ("Seller") and the Buyer named on the front side ("Buyer"), and supersede all previous correspondence between Buyer and Seller, both written and oral, including any purchase orders that may have been submitted by the Buyer. Any term specified on the front supersedes any term on this side of the Agreement. Requests for change orders telephoned, mailed, emailed or faxed to Seller shall be considered written and approved by Buyer if Seller agrees to such change and commences engineering or production changes. These changes shall be binding even if Seller has not yet quoted an amount for the change. If quoted, the quoted amount shall be deemed accepted by Buyer. If not yet quoted, Seller shall be entitled to an equitable adjustment to price and delivery terms, not less than its standard shop rates and burden rates applicable to the Buyer in the base agreement.

### 2. PURCHASE PRICE:

The purchase price is exclusive of any (i) sales, use, or other taxes, (ii) customs, charges or tariffs, (iii) insurance costs, (iv) shipping, (v) expedited manufacturing charges, (vi) surcharges for raw materials, (vii) engineering and design charges, (viii) change orders, and (ix) finance charges. Taxes will be added to the purchase price unless a valid exemption certificate is provided by the Buyer.

### 3. TERMS OF PAYMENT:

Unless otherwise specified by the Seller, all prices are 30 days, net cash, subject to Seller's approval of Buyer's credit. If any payment is not made when due, Seller may impose interest on the unpaid balance of the purchase price at the rate of 18% PER ANNUM, unless such rate is prohibited by law, in which case, the highest rate permitted by law shall apply. Additionally, Buyer shall pay all costs of collection incurred by Seller, including reasonable attorneys' fees. If Buyer fails to pay any sum when due under this Agreement, Seller may declare all payments owing under this Agreement and any other agreement with Buyer, to be immediately due and payable and may refuse to perform any obligations then remaining unperformed under this Agreement or any agreement with Buyer.

### 4. DELIVERY:

Any term of delivery specified is tied to the date Seller receives Buyer's signed copy of this Agreement, and is only an estimate. Seller does not guarantee the delivery date, but will make a good faith effort to do so. Seller may make partial shipments and submit a separate invoice for each shipment. All shipments will be F.O.B. Seller's plant, Eau Claire, Wisconsin, unless otherwise specified. Unless otherwise specified, delivery for shipment to Buyer of designs, shop drawings, equipment or materials to a carrier at Seller's plant in Eau Claire, Wisconsin, shall constitute delivery by Seller to Buyer. All orders are shipped at Buyer's risk and Seller shall incur no liability for any order damaged, broken or lost in transit. Seller shall not be liable for any failure to design, manufacture or deliver, or for any delay in the design, manufacture or delivery of, any order sold or to be sold by it if such a failure or delay or inability to obtain transportation, inability to obtain materials, shortage of fuel, failure of sources of suppliers, labor disputes, accident, riot, war, terrorist act, embargo, restraint or demand of the United States or of any other government, non-fulfillment by Buyer of conditions of payment, natural disaster, or any other cause beyond the control of Seller. If at any time Seller shall be prevented by any of the above causes from the supplying all or any part of Buyer's order and to its other customers under contract, Seller shall have the right to prorate the quantity then deliverable to Buyer and to its other customers.

### 5. ACCEPTANCE:

Buyer shall be deemed to have accepted an order within 30 days following receipt unless it has previously notified Seller of any claim. All claims for damage in transit shall be submitted directly to the carrier.

### 6. SECURITY INTEREST:

Seller retains a purchase money security interest in all unpaid goods and these goods shall remain personal property until the unpaid purchase price, and any costs, are paid in full. By signing any quote, purchase order, request for purchase (RFP), order confirmation or contract, Buyer shall be deemed to have provided an authenticated signature under the Uniform Commercial Code (UCC) and these terms shall be deemed incorporated by reference into all such writings. Buyer shall allow Seller to file any financing statement evidencing this security interest and these terms shall be deemed by the parties to constitute a security agreement under the UCC. Until paid in full, Buyer shall not encumber, allow any lien to attach or convey the goods. Buyer shall be responsible for maintaining insurance on all unpaid goods for the invoice amount.

### 7. INSTALLATION:

This Agreement is limited solely to the sale of the order described on the front side, and Seller has no obligation to install the order. Buyer assumes all liability for installation of the order and shall be responsible for ensuring that the installation complies with federal, state and local health and safety laws and regulations. Buyer indemnifies, holds harmless, and agrees to defend Seller from any and all claims, damages, liabilities and expenses resulting from negligent installation of the order, installation that does not comply with such laws and regulations, or violation of any such law or regulation.

**8. LIMITED WARRANTY:**

The Seller warrants to the Buyer that any order designed, manufactured and sold by the Seller, if properly installed, in an unmodified condition, in accordance with the Seller's Service Manual, operated, and maintained, and used under normal conditions, shall be free from defects in workmanship and materials for a period of one (1) year from the date the order is shipped from the facilities of the Seller. This warranty does not apply to orders manufactured by third parties or for any work or modifications performed by third parties. The obligations of the Seller, and the Buyer's SOLE AND EXCLUSIVE REMEDY, shall be limited to one of the following, at the Seller's option: (a) the repair or replacement of defective parts, provided, however, the Buyer shall be responsible for the payment of all labor costs associated with any such repair or replacement; or (b) in the event the Seller is unable to repair or replace the defective parts, the Buyer shall be entitled to a refund of the costs of the parts. The Seller shall have no obligation under this Limited Warranty for ordinary wear and tear, damage, improper installation or modification, improper or inadequate maintenance or inspection or if the order as used or installed does not comply with local, state, and federal laws or regulations. The Seller makes no warranty of any kind whatsoever with respect to parts which are manufactured or supplied by other persons or organizations (an OEM); provided, however, the Seller shall reasonably assist the Buyer in connection with warranties, if any, provided by an OEM.

**9. WARRANTY PERFORMANCE PROCEDURE:**

In the event the Buyer believes the Seller may be responsible for the performance of any warranty obligation, the Buyer must immediately send written notice of the claimed defect, and must immediately refrain from any further use of the order. No attempted repair of the claimed defect may be made without the prior written consent of the Seller. Before any parts may be returned to the Seller, the Buyer must contact the Seller and request a Return Authorization. Upon the Buyer's receipt of the Return Authorization form, the parts may be shipped, freight prepaid, to the facility designated on the Return Authorization. All parts returned for repair, replacement, or refund (which refund may be made in the form of a credit to the Buyer's account), must be accompanied by the Return Authorization. All other returned parts are subject to a twenty percent (20%) handling charge. Parts manufactured or supplied by an OEM are subject to the warranties, if any, provided by such OEM; and repair or replacement of such parts are subject to the approval of the OEM. The Buyer shall be responsible for the payment of any handling or restocking charges associated with OEM parts.

**10. DISCLAIMERS OF WARRANTIES:**

THE WARRANTIES CONTAINED HEREIN ARE EXPRESSLY IN LIEU OF ANY OTHER EXPRESSED OR IMPLIED WARRANTIES, OR ANY OTHER OBLIGATION ON THE PART OF THE SELLER, INCLUDING WITHOUT LIMITATION, ANY IMPLIED WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE. Any models, drawings, plans, specifications, affirmations of fact, promises or other communication by the Seller with reference to the order or the performance of the order are solely for the convenience of the Buyer and shall not in any way modify the expressed warranties and disclaimers set forth. No agents or other parties are authorized to make any warranties on behalf of the Company or to assume for the Company any other liability or obligation in connection with the order.

**11. CONSEQUENTIAL DAMAGES:**

The Seller shall not be liable for any incidental or consequential damages arising from the order, the breach of any warranties, the failure to deliver, delay in delivery, delay on nonconforming condition, or for any other breach of contract or duty between Seller and Buyer. In no event shall the Seller's total liability for any or all breaches of any warranty, exceed the actual purchase price paid by the Buyer for the equipment.

**12. LIMITATIONS OF ACTIONS:**

Any action against the Seller must be commenced within one (1) year after the cause of action accrues.

**13. CANCELLATION, SUSPENSION OR DELAY:**

This Agreement cannot be cancelled, suspended or delayed by Buyer without Seller's prior written consent. If Seller agrees to a cancellation, suspension or delay of Seller's work, Buyer shall pay Seller all costs incurred by Seller up to the date of such cancellation, suspension or delay, plus Seller's overhead and reasonable profit. Additionally, all costs related to and risks incidental to storage, disposition and resumption of work shall be borne solely by Buyer.

**14. BACKCHARGES:**

Seller will not approve or accept returns or backcharges for labor, materials, or other costs incurred in modification, adjustment, service or repair of an order unless previously approved by Seller in writing.

**15. CHANGES IN DESIGN:**

Seller reserves the right to modify the design and construction of the order to incorporate improvements or to substitute material equal or superior to that originally specified.

**16. MISCELLANEOUS:**

All terms used herein, which are defined or given meaning in the Uniform Commercial Code, as adopted in the State of Wisconsin, and this Agreement, shall be governed by the laws of Wisconsin.