



## **Terms and Conditions of Sale**

The terms and conditions herein and on all invoices herein and on accompanying papers, if any, signed by seller constitute the entire agreement between purchaser and seller and any offer by seller is expressly limited to such terms and conditions. Additionally, acceptance by seller of any offer made by purchaser is expressly made conditional on assent to these terms and conditions.

**1. Quotations.** Quotations and prices are for the periods of time specifically stated in a written quotation and in all cases are subject to prior sale of the described goods. If no time is stated, then quotations and prices are subject to change without notice. Orders based on a quotation are not binding on Seller until accepted in writing by an authorized officer at Seller's ***Pro One International LLC***.

**2. Taxes.** An amount equal to any tax or other governmental charge upon the production, sale, occupation of selling, shipment, storage or use of material, which is now, or may be hereafter, imposed by governmental authorities upon either Purchaser or Seller and which Seller is obligated to pay or collect, shall be added, to the extent attributable to the goods to be sold hereunder, to the price quoted herein and shall be paid by Purchaser.

**3. Terms.** Method of payment and cancellation, except as otherwise provided herein, the price, terms and time of payment are as shown on all invoices herein. The amount of credit or terms of payment may be changed or credit withdrawn by Seller at any time and all deliveries shall be subject to the approval of Seller's credit department. Seller reserves the right, notwithstanding any other provision hereof, before or after making any delivery to require payment in cash or to require security for payment. All past due amounts shall bear interest from and after due date at the rate of 18% per annum, or the highest legal rate.

If collected through court, probate or bankruptcy proceedings, or if placed in the hands of an attorney for collection. Seller shall be entitled to recover reasonable attorney's fees and court costs. If the financial position of Purchaser becomes, in Seller's judgment, weakened or if Purchaser shall fail to comply with any provisions hereof or fail to make payments in accordance with the terms hereof or of any other agreement between Purchaser and Seller, Seller may at its option, defer further shipments or, without waiving any other rights



it may have, terminate any agreement between Purchaser and Seller. We, **Pro One International LLC**, on the sale or consignment to any buyer of any articles subject to drawback hereby reserve the right to claim drawback in any and every case where drawback is applicable, and this statement shall provide evidence that such reservation was made.

**4. Contingencies.** Contracts and shipments are subject to strikes, acts of God, accidents, machinery breakdown, delays of carriers or suppliers, governmental acts, or any other cause, similar or dissimilar, beyond Seller's reasonable control. Seller may, during period of shortage however caused and without liability, prorate its goods among its customers in such manner as Seller may deem fair and practicable.

**5. Time and Delivery.** Unless otherwise agreed, shipments are F.O.B. Seller's shipping point. Shipments will be made on a freight collect basis and by Seller's choice of transport, unless otherwise specified prior to shipment. Title and risk of loss of goods subject to this agreement shall pass to Purchaser upon delivery to carrier at point of shipment whether or not freight is prepaid by Seller. Any quoted delivery time is approximate and the extension of delivery time shall not be cause for termination of this agreement unless such delay is unreasonable and due to the gross negligence or intentional act of Seller. If Seller tenders the goods for delivery to Purchaser, and so notifies Purchaser, Purchaser will immediately take delivery. Purchaser agrees to furnish adequate facilities for the receipt and unloading of goods. Seller may store goods so tendered, but not accepted for the amount and risk of the Purchaser and invoice Purchaser for the purchase price of the goods.

**6. Storage.** Unless otherwise agreed, the customer has the commitment to pick up the products into the following three working days from the release communication sent by Pro One International to its customers. After that, the customer agreed to cover a storage fee of \$ 0.02 USD per pound per week and loading and unloading fees to handle the material, which must be paid before pick up the material. After 4 weeks the material should be moved to customers facilities or customer's custom agency, otherwise the material will be taken in custody by PRO ONE INTERNATIONAL LLC for auction and cover the fees, products cost and pending payments without any responsibility for PRO ONE INTERNATIOONAL LLC.

**7. Claims and Returns.** Claims by Purchaser must be made promptly upon delivery of shipments (which shall be deemed the invoice date) and Seller given an opportunity to



investigate. All claims are deemed waived and Purchaser accepts such goods if objection is not made in writing within eight days after delivery. Written authorization must be obtained by Purchaser from Seller before Seller can accept returned goods.

**8. Specifications.** Seller may substitute goods on any order accepted by Seller, provided such goods substantially conform to the descriptions herein. The goods to be sold hereunder are subject to standard manufacturing variations and tolerances. New goods are sold only with such warranty from Seller's supplier as may be assigned to Purchaser by Seller and Seller makes no warranty thereon.

**9. Specials/drawings.** If an item is not shown on the price list, it is considered to be a "special" and is subject to quotation. If a "special" requires a drawing, said drawing must be approved, in writing, by Purchaser before fabrication begins. Any changes in drawings must have the prior approval of Seller. In the event of cancellation, Seller shall be compensated for material and labor already expended. When Seller manufactures a product according to customer supplied drawings, that Purchaser, at its expense, shall indemnify, defend and hold harmless against all claims or losses that arise from any suit that alleges that the Seller infringed the rights Purchaser or any third party. Seller's only express warranty is that the product will conform to Purchaser's specifications, subject to reasonable tolerances.

**10. Cancellations and suspensions.** Purchaser may cancel this order or contract, or delay work or delivery, only upon receipt of written notification by Seller and with Seller's prior consent, and upon agreement to pay Seller's adjustment charge. Orders for "special" products (usually "price on application items") may be changed and/or cancelled only upon receipt of written instructions by Seller and with Seller's prior consent and Purchaser shall make payment to Seller for material used or acquired and work already performed.

**11. Product warranty/liability.** Seller warrants products manufactured by the Seller to be free of defects in material and workmanship, under normal use and proper operation, for a period of one (1) year from date of the shipment from Seller's factory. Products and components purchased from other manufacturers are warranted only to the extent of the manufacturer's warranty to the Seller.

SELLER MAKES NO WARRANTY OF ANY KIND WHATSOEVER, EXPRESS OR IMPLIED OTHER THAN AS SPECIFICALLY STATED HEREIN, AND THERE ARE NO WARRANTIES OF MERCHANTABILITY AND/OR FITNESS FOR A PARTICULAR PURPOSE WHICH EXCEED THE OBLIGATIONS AND WARRANTIES SPECIFICALLY STATED HEREIN.



This warranty does not apply if the failure is due to any cause other than a manufacturing defect, or if the product was modified or changed without prior written approval from the Seller. Claims by Purchaser due to product failure are limited exclusively to the right of replacement of such defective product, or repayment of the sale price. In no case shall Seller be liable to the Purchaser or any third party for any direct, indirect, special, incidental, punitive, consequential, or special damages. The foregoing warranty shall not apply: (1) to any use of a Product in aircraft or aerospace applications (Prohibited Application), (2) if a Product was not used as recommended and in accordance with approved installation and operating practices, (3) if the failure of a Product results from any cause other than a manufacturing defect, including by not limited to damage due to corrosive, abrasive, or other wear normally to be expected in the use of the Product, (4) if the Product was modified or changed (unless written approval was given in advance by Seller, and (5) if Purchaser fails to deliver written notice of such defect to Seller during the Warranty Period.

**12. Exclusions.** Do not use Sellers Products in aircraft or aerospace applications. Purchaser assumes all risk of loss that arises from or relate to any use of Product in a Prohibited Application, and Purchaser shall, at its expense, indemnify, defend and hold Seller harmless against all claims or losses (including legal and accounting fees) that arise from or relate to the use of any Product in a Prohibited Application.

**13. Remedies and Damages.** If Seller breaches its warranties as contained in Paragraph 11 hereof, Seller's sole and exclusive liability shall be (at Seller's option) to repair or replace or credit Purchaser's account for any such goods which are returned by Purchaser during the applicable warranty period set forth above, provided that (i) Seller is promptly noticed in writing upon discovery by Purchaser that such goods failed to conform to the terms hereof, with a detailed explanation of any alleged deficiencies, (ii) such goods are returned to Seller, F.O.B. Seller's designated delivery point, upon Seller's written authorization, or stored for Seller free of charge pending such return, and (iii) Seller's examination of the goods shall disclose that such alleged deficiencies actually exist and were not caused by accident, misuse, neglect, alteration, improper installation, unauthorized repair or improper testing. If such goods fail to conform to the warranty, Seller shall have a reasonable time to make such repairs or replace such goods. If Seller breaches any other provisions hereof, Seller's sole and exclusive maximum liability shall not in any event exceed the total contract price specified herein less the purchase price for any items delivered and accepted. In no event shall Seller be liable to anyone for special, collateral or consequential damages for breach of any of the provisions hereof, such damage to include but not be limited to, costs of removal and reinstallation of items, loss of goodwill, loss of



profits, loss of use or any injury to person or property proximately resulting from any breach of warranty.

**14. Indemnity.** Purchaser agrees to indemnify Seller for any and all liability resulting from the transportation, storage or use of the goods, including liability resulting from Seller's actions, whether negligent or intentional, except that Purchaser shall not be required to indemnify Seller against liability caused solely by the actions of Seller if (i) written notice of any claim based thereon is given to Seller within 15 days of such claim, (ii) the goods deemed to be the subject of such claim are returned to Seller, or reasonable opportunity for testing and inspection given, and (iii) Seller is given the opportunity to direct the defense of any action resulting there from hereof without modification if written specific objection is not made prior to shipment. Conflicting printed terms on a purchase order or acknowledgement used by Purchaser shall be deemed not to constitute such specific objection. Failure of either party to enforce any right hereunder shall not waive any rights in respect of other or future occurrences.

**15. Waivers and Modifications.** No representations or statements of any kind made by any representative of Seller, which are not stated herein, shall be binding on Seller. No addition to or modification of any provision upon the face or reverse hereof shall be binding upon Seller unless made in writing and signed by a duly authorized representative of Seller located in Houston, Texas. Purchaser shall be deemed to have accepted the terms hereof without modification if written specific objection is not made prior to shipment. Conflicting printed terms on a purchase order or acknowledgement used by Purchaser shall be deemed not to constitute such specific objection. Failure of either party to exercise any right or remedy to which they are entitled shall not constitute a waiver thereof and shall not cause a diminution of the obligations under these Terms and Conditions or any agreement. No waiver of any of the provisions of this or any agreement shall be effective unless it is expressly stated to be such and signed by both parties.

**16. Other.** This Agreement, together with these Terms and Conditions, constitute the entire understanding between the parties with respect to the subject matter hereof and supersede any and all prior understandings, statements, warranties, representations, and agreements, oral and writer, relating hereto. Neither party shall be liable to the other under this Agreement if delayed or prevented from performance by causes beyond its control including, but not limited to, fires, floods, strikes, acts of God, war, insurrection, governmental restrictions, or other causes of a like or different nature. No change, alteration, modification, or addition to this Agreement shall be effective unless in writing and properly executed by the parties hereto. The contract shall be subject to the terms and conditions contained or referred to in Seller's Price Schedule, quotation or order



**Pro One International**

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acknowledgments and in no others whatsoever. In the event of any discrepancy or inconsistency between the Terms and Conditions and any other purchase order or acceptance form used by Purchaser in connection herewith, the terms of this Agreement shall govern, and such purchase order or acceptance form shall not amend, modify or add to the terms of this Agreement.