



THIS DOCUMENT sets forth the terms and conditions between **PRO1 IAQ, INC.** (“Seller”) and the customer, including individuals or other legal entities (“Buyer”) for the purchase of goods or services (“Goods”) from Seller by Buyer.

1. **INCORPORATION OF TERMS.** These Terms and Conditions along with any price list or schedule, quotation, invoice or other document relevant to the sale of Goods to Buyer along with any and all other documents specifically incorporated by reference in writing herein shall constitute the complete and exclusive statement of the Terms and Conditions governing the sale of Goods by Seller to Buyer.

2. **ACCEPTANCE OF TERMS AND CONDITIONS.** By accepting the Goods, Buyer hereby agrees to and accepts these Terms and Conditions without variation or addition. Buyer further agrees that any terms or conditions that vary in any way from these Terms and Conditions which are contained in any purchase order or other Buyer generated documents shall form no part of the Terms and Conditions with respect to the sale of Goods by Seller to Buyer unless expressly accepted by Seller in writing. Seller reserves at all times the right in its sole discretion to refuse orders from Buyer.

3. **PRICES.** Seller may adjust the price of the Goods from the price at which any order for goods is accepted to the Seller’s price in effect at the time of shipment.

4. **TAXES.** Any and all taxes or other governmental charges (whether current or future) which Seller is required to pay or collect as a result of the sale of Goods by Seller to Buyer shall be for Buyer’s account and shall be added to the price.

5. **TERMS OF PAYMENT.** Terms are net thirty days from the date of Seller’s invoice in US currency, unless otherwise specifically stated in writing by Seller. In the event that payment is not made by Buyer when due, Seller reserves the right either to terminate this Agreement or to suspend further performance under this and/or other agreements between Seller and Buyer. Such right of termination or suspension is in addition to, and not in substitution for, any of Seller’s other rights in equity or at law. In the event that Seller shall engage in any actions for the collection of past due amounts, Buyer agrees to be liable for all expenses, including attorney’s fees, related to the collection of such past due amounts. Any amounts not paid to Seller when due shall bear interest at the maximum amount permitted by law from the due date until such amount is paid.

6. **SECURITY INTEREST.** Buyer hereby grants Seller a security interest in all Goods sold to Buyer by Seller. Such security interest shall continue in such Goods until all amounts due and owing for such Goods are paid for to the satisfaction of Seller. At Seller's request, Buyer agrees that it will execute and deliver to Seller such instruments as Seller requests to protect and perfect such security interests.

7. **SHIPMENT AND DELIVERY.** All Shipments shall be F.O.B. Seller's shipping point unless specifically stated otherwise in writing. Responsibility and risk of loss or damage shall pass from Seller to Buyer upon delivery to and receipt by common carrier. All claims for shipping errors, lost shipments or other discrepancies must be made in writing from Buyer to Seller within sixty (60) days. Buyer will be deemed to have waived any such claims that are not made within the required sixty-day reporting period.

8. **LIMITED WARRANTY.** The following sets forth the full and complete warranty of Seller for the Goods:

(1) Seller warrants that any Goods purchased for resale hereunder will be free from defects in material and workmanship under normal use and regular service and maintenance for the period specified in the Seller's warranty applicable to such goods in effect on the date of shipment. A copy of such warranty policy will be furnished to Buyer upon request and is hereby incorporated by reference.

(2) No warranty will apply to any Goods that have been altered in any manner by anyone other than Seller at Seller's facilities or have otherwise been subjected to improper handling, operation, maintenance, repair or alteration, misuse, negligence, improper installation or accident.

(3) Buyer's exclusive remedy under this limited warranty shall be, at Seller's option, the replacement of any confirmed defective Goods or the issuance of a credit for not more than the purchase price of the Goods. In no event shall any warranty payment include the cost of labor or other expenses incurred in servicing any units on which the goods are installed. In the event that Buyer shall claim a breach of this warranty, Seller reserves the right to inspect any such goods and determine the validity of any such claim.

(4) THE LIMITED WARRANTY SET FORTH HEREIN CONSTITUTES THE SOLE WARRANTY PROVIDED BY SELLER, AND FURTHER SETS FORTH BUYER'S EXCLUSIVE REMEDY WITH RESPECT TO SUCH WARRANTY, REGARDLESS OF WHETHER SUCH REMEDY MIGHT BE CLAIMED IN TORT, CONTRACT, STRICT LIABILITY OR OTHERWISE. EXCEPT AS IS EXPRESSLY SET FORTH IN THESE TERMS AND CONDITIONS, SELLER MAKES NO OTHER WARRANTIES, EITHER EXPRESS OR IMPLIED, WHETHER OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE OR OTHERWISE. IN NO INSTANCE SHALL SELLER BE LIABLE FOR ANY SPECIAL, INDIRECT, INCIDENTAL OR CONSEQUENTIAL DAMAGES OF ANY CHARACTER IN CONNECTION WITH THE SALE, RESALE OR USE OF THE GOODS.

(5) Any products purchased by Seller from a third party for resale to Buyer ("Resale Products") shall carry only the warranty extended by the Resale Products'

original manufacturer. Seller agrees to provide reasonable cooperation with Buyer in the event that Buyer shall have any claim against such original manufacturer pursuant to the warranty of a Resale Product.

(6) **Limitation of Liability.** Seller's sole and exclusive responsibility, and Buyer's exclusive remedy, or breach of any warranty hereunder, is limited to Seller's responsibility to repair, correct, replace or provide credit under this section. In no event will Seller's liability to Buyer and/or any of its customers, exceed the price paid by Buyer for the specific goods provided by Seller giving rise to the claim or cause of action, and Buyer shall indemnify Seller for any damages in excess thereof. At no time shall Seller be liable for any incidental, consequential or punitive damages, including, but not limited to, loss of any anticipated profits, interruption of business, loss of use of revenue, cost of capital or loss or damage to property or equipment, or loss of reputation.

(7) Buyer agrees to indemnify and hold Seller harmless from any liability to Buyer, Buyer's employees, workers, contractors or other persons arising out of Buyer's or any other person's use of the goods. Buyer agrees that any and all instructions and warnings supplied to Buyer by Seller will be forwarded to any person or entity who uses the goods. Buyer further agrees that the Goods will be used in their recommended applications and that all warning labels supplied by Seller with respect to the Goods will be left intact and forwarded with the Goods to any further users.

(8) Buyer expressly agrees that in the event that Seller shall furnish any technical advice with respect to the use of the Goods, is given without charge, and Buyer further agrees that Seller shall assume no obligation or liability for such advice given, or the results obtained. Buyer agrees that it will accept such technical advice at Buyer's risk.

9. PATENTS AND COPYRIGHTS. In the event Goods from the Seller are found to infringe a US patent, Seller shall have the right, at its option and expense, to procure for Buyer the right for Buyer to continue using such Goods, or replace them with non-infringing Goods or modify same to become non-infringing, or grant Buyer a credit for the depreciated value of such Goods upon their return. In the event of the foregoing, Seller may also, at its option, cancel the agreement as to future deliveries of such Goods, without liability.

10. EXCUSE OF PERFORMANCE (FORCE MAJEURE). Seller shall not be liable for delays in performance or for non-performance due to acts of God, acts of Buyer, war, fire, flood, weather, sabotage, strikes, labor disputes, civil disturbances or riots, governmental requests, restrictions, allocations, laws, regulations, orders or action, unavailability of or delays in transportation, default of suppliers, or unforeseen circumstances or events beyond Seller's reasonable control. Deliveries or other performance may be suspended for an appropriate period of time or cancelled by Seller upon notice to Buyer in the event of any of the foregoing, but the balance of the agreement shall otherwise remain unaffected.

If Seller determines that its ability to supply the total demand for the Goods or to obtain material used directly or indirectly in the manufacture of the Goods, is hindered, limited or made impracticable due to causes set forth herein, Seller may allocate its available supply of the Goods or such material (without obligation to acquire other supplies of any such Goods or material)

among itself and its purchasers on such basis as Seller determines to be equitable without liability for any failure of performance which may result therefrom.

11. CHANGES. Buyer may request changes or additions to the Goods consistent with Seller's specifications and criteria. In the event such changes or additions are accepted by Seller, Seller may revise the price(s), license fee(s) and date(s) of delivery.

Seller reserves the right to change designs and specifications for Goods without prior notice to Buyer. Seller shall have no obligation to install or make such change in any Goods manufactured prior to the date of such change.

12. ASSIGNMENT. Buyer shall not assign its rights or delegate its duties hereunder or any interest herein without the prior written consent of the Seller, and any such assignment, without such consent, shall be void.

13. INSTALLATION. Buyer shall be responsible for receiving, inspecting, testing, storing, installing, starting up and maintaining all Goods.

14. DRAWINGS. Seller's prints and drawings (including without limitation, the underlying technology) furnished by Seller to Buyer in connection with this agreement are the property of Seller and Seller retains all rights, including without limitation exclusive rights of use, licensing and sale of same, possession of such prints or drawings does not convey to Buyer any rights therein or license thereto and Buyer agrees to keep the same confidential. Upon termination of this agreement, or at any time upon Seller's request, all such prints and drawings, and any copies or duplication of same, shall be immediately returned to Seller.

15. QUANTITY. Buyer agrees to accept quantities of plus or minus ten percent (10%) of the order on Goods, including parts. Any such additional items shall be priced at the price per item charged for the specific quantity ordered.

16. CONFIDENTIALITY. Unless specifically agreed to in writing, Seller (including without limitation its successors, assigns, agents or any person or entity acting at Seller's direction) shall not be responsible for keeping confidential any specifications, drawings, designs, manufacturing data or other information of any nature, provided by Buyer hereunder; and further, Seller shall not be liable for any damages, costs or expense, of any nature arising out of any dissemination of such documents or information of any nature, provided by Buyer hereunder; and further, Seller shall not be liable for any damages, costs or expenses of any nature arising out of any dissemination of such documents or information.

17. U.S. EXPORT CONTROL REGULATIONS. All Goods sold to Buyer by Seller hereunder are subject to U.S. Export Control Laws. Buyer hereby agrees not to re-sell or divert any Goods contrary to such laws. For sales ultimately destined outside the United States, notwithstanding any provisions to the contrary in this or other documents related to this transaction, and regardless of how price was quoted, whether FOB, FAS, CIF or otherwise, legal title to the goods and risk of loss shall remain with Seller until the goods have passed beyond the territorial limits of the United States.

18. MISCELLANEOUS. These terms and conditions supersede all other communications, negotiations and prior oral or written statements regarding the subject matter of these terms and conditions.

The validity, performance, and all other matters relating to the interpretation and effect of this agreement shall be governed by the laws of the state of Missouri without regard to its conflict of law principles. No action, regardless of form, arising out of transactions relating to this contract, may be brought by either Party more than two (2) years after the cause of the action has accrued.

Buyer and Seller agree that the proper venue and jurisdiction for the resolution of any disputes hereunder shall be solely in the State Courts of Missouri and each party hereby agrees to such jurisdiction. The parties further agree that any service of process may be served by certified mail upon the party to be served.