



TERMS AND CONDITIONS OF SALE

1. Price. Quoted prices on the products are exclusive of all sales, excise and other taxes, and exclusive of freight, installation, handling and storage charges, any or all of which, as applicable will be added to the invoice as a separate charges to be paid by the Buyer or otherwise charged as indicated in these Terms and Conditions. Prices are effective for all purchase orders received from Buyer within 60 days of the date of Prior Scientific Inc.'s formal price quotation, and thereafter subject to changes. Unless otherwise agreed to in writing by Seller, all prices quoted are exclusive of transportation and insurance costs, duties, and all taxes including, but not limited to, federal, state, provincial and local taxes, excise, value added, goods and services taxes and any other taxes. Buyer agrees to pay these taxes unless Buyer has provided Seller with an exemption resale certificate in the appropriate form for the jurisdiction of Buyer's place of business and any jurisdiction to which Products are to be directly shipped hereunder, or unless the sale is otherwise exempt from these taxes. Buyer agrees to indemnify and hold Seller harmless for any liability for tax in connection with the sale, as well as the collection or withholding thereof, including penalties and interest thereon. When applicable, transportation and taxes shall appear as separate items on Seller's invoice. Pricing for undeliverable Product may be increased in the event of any increase in Seller's cost, change in market conditions or any other causes beyond Seller's reasonable control. **Prior Scientific Inc.** reserves the right to increase prices in cases where modifications requested by the Buyer give rise to additional costs. Verbal price estimates are not binding.

2. Payment Terms. Buyer agrees to pay the total amount shown as due on each invoice within 30 days after the date of such invoice notwithstanding any repairs, corrections or adjustments that may have to be made. Special orders for products pursuant to Buyer specifications, are subject to payment of 50% of quoted price at time of acceptance of purchase order. Invoices will be dated as of date of shipment except if products are stored at Buyers request for more than 30 days beyond completion of their manufacture, in which case, invoices will be dated as of the date of product completion. **Prior Scientific Inc.** shall reserve the right to charge interest at a rate not in excess of 18% per annum (but in no event more than the amount permitted by applicable law) upon any sum not paid by the due date. **Prior Scientific Inc.** shall be entitled to collect from Buyer for all expenses of collection, including attorneys' fees.

3. Delivery. Terms shall be FOB **Prior Scientific Inc.** premises, Rockland, Massachusetts for delivery by UPS (or similar carrier) with all freight charges, including special handling charges of carrier, paid by Buyer. Buyer shall bear all risk or loss or damage upon delivery of products to carrier at point of shipment, Rockland, Massachusetts.

4. Delays. **Prior Scientific Inc.** is not liable for any delay in the performance of orders or contracts, or in the delivery or shipment of products, or any damages suffered by Buyer by reason of such delay, when such delay is , directly or indirectly, caused by or in any manner arises from, fires, floods, earthquakes, accidents, Acts of God, governmental interference or embargoes, strikes, labor difficulties, shortage of labor, fuel, power, materials or supplies, transportation delays or any other cause or caused beyond its control. All orders or contracts are given and accepted with the understanding that they are subject to **Prior Scientific Inc.'s** ability to obtain materials from manufacturers and suppliers and are subject to manufacturing schedules and government regulations that may be in effect from time to time. Failure to meet a delivery date shall not give cause to either cancellation of the order, or liability on the part of **Prior Scientific Inc..** **Prior Scientific Inc.** may in its sole discretion allocate Product among its Customers.

5. Title. Upon issuance of Buyer's purchase order and **Prior Scientific Inc.'s** acceptance thereof, Buyer thereby shall be considered to have granted to **Prior Scientific Inc..** a security interest in all products delivered to secure the payment of invoiced amounts due. Buyer agrees to execute and deliver to **Prior Scientific Inc.,** upon request, UCC financing statements and other documents reasonably requested by **Prior Scientific Inc.** to perfect its security interest in the products.

6. Cancellations and Change Orders. Accepted purchase orders can be cancelled or changed only with **Prior Scientific Inc.'s** written consent and upon terms that will indemnify **Prior Scientific Inc.** against all losses, costs and damages it sustains directly or indirectly related to the cancellation or change. Typical restocking charges are 20%. All special orders are non-cancellable and non-returnable. Changes to special orders may results in a price increase.

7. Inspection and Rejection. All products shall be examined by Buyer upon receipt of Buyer. If products are damaged upon receipt or do not conform to agreed specifications, products shall not be moved from point of delivery, and a written claim must be filed with **Prior Scientific Inc.** within 5 business days of date of delivery. Upon receipt of a written claim for damaged or nonconforming products, **Prior Scientific Inc.** will notify Buyer in writing if products are to be returned, or if products will be repaired or if a credit will be issued. Whether products are returned or repaired or whether a credit is issued, is within **Prior Scientific Inc.'s** full and complete discretion, subject to the limited warranty set forth below, and shall be Buyer's sole remedy at law or equity.

8. Limited Warranty: Disclaimer. **Prior Scientific Inc.** warrants that for a period of 1 year for electrical/electronic components and 3 years for mechanical components following the date of delivery to Buyer **Prior Scientific Inc.** products shall conform to the specifications, drawings or other written descriptions contained in any purchase order and shall be free from defects in material and workmanship. This limited warranty applies to the initial purchaser only and may be acted upon only by the initial purchaser. Buyer's sole remedy and **Prior Scientific Inc.'s** exclusive liability for a breach of this limited warranty shall be, at **Prior Scientific Inc.'s** option, the repair or replacement of the nonconforming product or part thereof. This limited warranty does not cover normal wear and tear and shall not apply to any product which has been damaged or misused or modified, altered or repaired by any party other than an authorized representative of **Prior Scientific Inc.** This limited warranty does not apply to electro-

mechanical shutters. The shutter manufacturers' warranty applies to these items.

THE FOREGOING LIMITED WARRANTY IS IN LIEU OF ANY OTHER WARRANTY, WHETHER EXPRESS OR IMPLIED, WRITTEN OR ORAL (INCLUDING ANY WARRANTY OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE OR NON-INFRINGEMENT.)

9. IN NO EVENT SHALL PRIOR SCIENTIFIC INC. BE LIABLE TO BUYER FOR SPECIAL, INCIDENTAL, CONSEQUENTIAL, EXEMPLARY, PUNITIVE, OR OTHER INDIRECT DAMAGES, OR FOR LOSS OF PROFITS, LOSS OF DATA OR LOSS OF USE DAMAGES, ARISING OUT OF THE MANUFACTURE, SALE, SUPPLYING OR FAILURE OR DELAY IN SUPPLYING OF THE PRODUCTS OR THE SERVICES RELATED THERETO, WHETHER BASED UPON WARRANTY, CONTRACT, TORT, STRICT LIABILITY OR OTHERWISE, SHALL NOT EXCEED THE PRICE PAID FOR THE PRODUCT.

10. Controlling Provisions. To the extent there is a conflict between these Terms and Conditions of Sale and Buyer's purchase order, these Terms and Conditions of Sale shall be controlling.

11. Termination. Each purchase order issued by Buyer in connection with **Prior Scientific Inc.'s** quotation is subject to acceptance by **Prior Scientific Inc.**. If Buyer defaults in the payment of any sum due **Prior Scientific Inc.** or commits any other breach of any of the terms or conditions herein or if there is a material change in the ownership or financial conditions of the Buyer which is considered unsatisfactory to **Prior Scientific Inc.**, then **Prior Scientific Inc.** may, without prejudice to any other rights which may have accrued or which may accrue to it, whether under contract or at law or equity, refuse to accept any purchase order and may terminate any order immediately.

12. Governing Law. Any contract between the parties shall be construed and governed in accordance with the laws of the Commonwealth of Massachusetts.

13. Prior Scientific Inc.'s Property. All specifications, drawings, tools, jigs, dies, fixtures, materials, equipment and other items furnished by **Prior Scientific Inc.**, or the cost of which is charged against this order shall be confidential and shall be and remain the property of **Prior Scientific Inc.**. The sale of products by **Prior Scientific Inc.** to Buyer shall not be construed as a license of any trade secret right, trademark, patent or copyright.

14. Patents. The Buyer agrees to defend, indemnify and hold **Prior Scientific Inc.** and its distributors and dealers in, and users of the products of **Prior Scientific Inc.** harmless against any and all losses, damages or liabilities arising out of any demand, claim, action, litigation or judgment (each, a "Claim") involving infringement or alleged infringement of the U.S. and/or foreign patent by any product furnished hereunder.

15. Patent Rights. Patent rights to all improvements embodied in products, designs, tools, patterns, drawings, information and equipment supplied by **Prior Scientific Inc.** under this contract and exclusive rights for the use and reproduction thereof are reserved by **Prior Scientific Inc.**

16. Confidential Information. Buyer agrees to treat the products supplied by **Prior Scientific Inc.**, related documentation, specifications and any other papers accompanying purchase orders as the confidential information (“Confidential Information”) of **Prior Scientific Inc.** and shall not disclose such Confidential Information other than to its employees and agents who need to know such information and who are informed of the confidential nature of such information. In addition, Buyer agrees not to incorporate or permit its’ affiliates to incorporate any features of design or construction peculiar to the products supplied by **Prior Scientific Inc.** into any other product.

17. Indemnification. Buyer will indemnify, defend and hold harmless (including paying reasonable attorneys’ fees) **Prior Scientific Inc.** and its employees, agents and permitted assigns against all liability to third parties that: (1) arises from Buyer’s negligence or willfully wrongful, wanton or reckless conduct that results in death or bodily injury or damage to real or tangible personal property; or (2) arises from or in connection with Buyer’s use or resale of any product furnished under this Agreement that violates any third party’s trade secrets, proprietary information, trademark, copyright or patent rights.

18. Errors. Any stenographic or clerical errors contained on the face hereof are subject to correction by Buyer.