

**PRONAT INDUSTRIES LTD. ("PRONAT")**

**TERMS AND CONDITIONS OF**

**PRODUCTS SALE AND PROCUREMENT OF SERVICES**

PRONAT'S TERMS AND CONDITIONS OF SALE OF PRODUCTS AND PROCUREMENT OF SERVICES ARE LIMITED TO THOSE CONTAINED HEREIN. ANY ADDITIONAL OR DIFFERENT TERMS IN ANY FORMS DELIVERED BY YOU ("CUSTOMER") ARE HEREBY DEEMED TO BE MATERIAL ALTERATIONS AND NOTICE OF OBJECTION TO THEM AND REJECTION OF THEM IS HEREBY GIVEN.

BY ACCEPTING DELIVERY OF THE PRODUCTS AND/OR RECEIVING THE SERVICES DESCRIBED IN PRONAT'S INVOICE OR OTHER PRONAT DOCUMENTATION ("PRODUCTS"), CUSTOMER AGREES TO BE BOUND BY AND ACCEPTS THESE TERMS AND CONDITIONS OF PRODUCTS SALE AND PROCUREMENT OF SERVICES UNLESS CUSTOMER AND PRONAT HAVE SIGNED A SEPARATE AGREEMENT, IN WHICH CASE THE SEPARATE AGREEMENT WILL GOVERN.

These Terms and Conditions of Product Sales constitute a binding contract between Customer and Pronat and are referred to herein as "Terms and Conditions of Product Sales and Procurement of Services" or this "Agreement". Customer accepts these Terms and Conditions of Product Sales by making a purchase or placing an order with Pronat Industries Limited.

**WARRANTIES**

Customer understands that Pronat is not the manufacturer of the products purchased by Customer hereunder and the only warranties offered are those of the manufacturer, not Pronat. In purchasing the products, the Customer is relying on manufacturer specifications only, and is not relying on any statements, specifications, photographs or other illustrations representing the products that may be provided by Pronat, its agents or its affiliates.

PRONAT HEREBY EXPRESSLY DISCLAIMS ALL WARRANTIES EITHER EXPRESS OR IMPLIED, RELATED TO THE PRODUCTS, INCLUDING, WITHOUT LIMITATION, ANY WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, OR WARRANTY OF NONINFRINGEMENT.

THESE WARRANTIES ARE MADE IN LIEU OF ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, INCLUDING BUT NOT LIMITED TO THE IMPLIED WARRANTY OF FITNESS FOR A PARTICULAR PURPOSE, ANY IMPLIED WARRANTY ARISING OUT OF A COURSE OF DEALING OR OF PERFORMANCE, CUSTOM OR USAGE OF TRADE.

**LIMITATION OF LIABILITY**

UNDER NO CIRCUMSTANCES WILL PRONAT, ITS AFFILIATES, SUPPLIERS, SUBCONTRACTORS OR AGENTS BE LIABLE FOR: (A) ANY INCIDENTAL, INDIRECT, SPECIAL, PUNITIVE OR CONSEQUENTIAL DAMAGES WHICH INCLUDES BUT IS NOT LIMITED TO, LOSS OF PROFITS, REVENUES OR SAVINGS, EVEN IF PRONAT HAS BEEN ADVISED OF THE POSSIBILITIES OF SUCH DAMAGES, WHETHER A CLAIM FOR ANY SUCH LIABILITY IS PREMISED UPON BREACH OF CONTRACT, WARRANTY, NEGLIGENCE, STRICT LIABILITY OR OTHER THEORY OF LIABILITY; (B) CLAIMS, DEMANDS OR ACTIONS AGAINST CUSTOMER BY ANY THIRD PARTY; (C) ANY LOSS OR CLAIM ARISING OUT OF OR IN CONNECTION WITH CUSTOMER'S IMPLEMENTATION OF ANY CONCLUSIONS OR RECOMMENDATIONS BY PRONAT IN CONNECTION WITH THE PRODUCTS; (D) ANY DAMAGES CAUSED TO OR LOSS OF CUSTOMER MATERIALS PROVIDED TO PRONAT, WHICH INCLUDES BUT IS NOT LIMITED TO DAMAGE OR LOSS BY FIRE, EXPLOSION, THEFT, PILFERAGE, VANDALISM, FAULTY MACHINERY, NEGLIGENCE, CASUALTY OR ACTS OF GOD WHILE SUCH MATERIAL IS IN PRONAT'S POSSESSION.

NOTWITHSTANDING THE FOREGOING, IN THE EVENT OF ANY LIABILITY INCURRED BY PRONAT, PRONAT'S ENTIRE LIABILITY FOR DAMAGES FROM ANY CAUSE WHATSOEVER WILL NOT EXCEED THE LESSER OF: (A) THE AMOUNT PAID BY CUSTOMER FOR THE PRODUCTS AND SERVICES GIVING RISE TO THE CLAIM; OR (B) \$10,000.

If any product is proved to be defective in workmanship or material, Pronat's entire liability and Customer's exclusive remedy will be, at Pronat's option, repair the product, replacement of the quantity of the product which is defective or credit the Customer for the net sales price of the defective product(s) paid by Customer. No additional allowance shall be made for the labor or expense of repairing or replacing defective products or workmanship or damage resulting from the same.

Pronat will not be responsible for any delays in delivery which result from any circumstances beyond its control, including without limitation, product unavailability, carrier delays, delays due to fire, severe weather conditions, failure of power, labor problems, acts of war, terrorism, general insurrection, acts of God or acts of any government or agency. Any shipping dates provided by Pronat are estimates only. Customer shall make all arrangements necessary to accept delivery of the products at the shipping date.

Upon request, Pronat shall endeavor to furnish such technical advice or assistance as it has available in reference to the use of the Products by the Customer. It is expressly agreed, however that all such technical advice or assistance is given voluntarily and for no consideration and Pronat assumes no obligation or liability for the advice or assistance given or results obtained, all such advice or assistance being given and accepted at the Customers own risk.

### **PRICES**

All price quotes provided by Pronat are valid for 30 days from the date of issue. Pronat reserves the right to cancel or amend any price quote in the event of changes in foreign exchange rates, material or labor prices.

Where Pronat's prices are quoted in foreign currency, the actual payment must be made in such currency or in New Israeli Shekels (NIS) according to the exchange rate set by Bank Leumi for "Banknotes Sell" on the date the invoice is issued.

Price quotes are based on the agreed quantities as communicated by Pronat to the Customer in the formal quote. Pronat reserves the right to adjust the price per item if the customer subsequently changes the quantity of the specific items. Price quotes are for a given quantity and apply only to a continuous production run of said quantity, unless stated otherwise specifically. If order quantities are reduced or the shipping instructions necessitate runs of lesser quantities, the price applicable to the lesser quantity may apply at Pronat's discretion. If a lesser quantity is not covered by the quotation, adjustment of the price will be made under a formula regularly used by Pronat.

Price quotes relate to the specific packaging instructions as specified in the quote provided by Pronat. If the packaging instructions are changed, an adjustment in price may apply at Pronat's discretion.

Price quotes relate to reasonable quality inspection requirements. Special quality inspection requirements or provision of special reports will involve additional charges.

In the event that manufactured goods are being supplied, Pronat may, at its sole discretion, supply up to 10% in excess or up to 10% short of the amount specified in the Customer's order. In such circumstances, the Customer shall be charged for, and will be obliged to pay, for the quantity actually supplied.

Pronat may deem it necessary to revise product prices from time to time. In such event, Pronat shall inform Customer in writing, by providing an updated price quote. The Customer shall approve the updated price quote in writing and provide Pronat with an approval notice within 72 hours. Failure to provide an approval notice will be deemed a rejection notice, in which case Pronat shall no longer be obliged to supply the Customer.

Orders for small scale production of Products or prototype production, within 72 hours or less ("Express Orders") carry an additional charge of \$150. Acceptance by Pronat of Express Orders is subject to material and personnel availability and at Pronat's discretion.

Unless otherwise stated, all price quotes are ex-works (EXW) at Pronat's premises in Emek Hefer, Israel and exclude transportation costs.

Invoices are to be paid NET by Customer to Pronat. Bank commissions and transfer charges are at Customer's expense and responsibility.

Invoices unpaid on due date shall be considered delinquent and thereafter subject to a finance charge computed by a single monthly periodic rate of 1.5% being an annual percentage rate of 18%.

### **TOOLING & SET-UP CHARGES**

All tooling and set-up charges are regarded Non-Recurring Engineering (NRE). In the event that tools or equipment are purchased by Pronat for the fulfillment of Customer orders, Pronat shall be the sole owner of all such tools and equipment and Customer shall have no right thereof.

Pronat may deem it necessary to repair or replace tools and perform additional set-ups, in the event said tools are worn in the course of normal wear and tear, and customer shall bear reasonable charges.

Pronat reserves the right to make all technical decisions regarding the actual tooling and set-up required for any specific job.

### **ORDERS**

The minimum order at Pronat is \$250 per line item and \$500 per order.

Customer is responsible for providing accurate, up-to-date technical drawings and specifications with each order. In the event that the Customer does not provide Pronat technical drawings, Pronat will produce samples of the Products according to the specifications supplied by the Customer. Within 72 hours of delivery of the samples to the Customer, the Customer shall approve the samples in writing and provide Pronat with an approval notice. Failure to provide an approval notice will be deemed a rejection notice, in which case Pronat shall no longer be obliged to supply the Customer.

Customer may issue a purchase order for administrative purposes only. Additional or different terms and conditions contained in any such purchase order will be null and void. Customer agrees that the Terms and Conditions of Product Sales contained herein and in Pronat's invoice or other Pronat documentation will supersede any other documentation that might be received from the customer. No course of prior dealings between the parties and no usage of trade will be relevant to determine the meaning of these Terms and Conditions of Product Sales or any purchase order or invoice related thereto.

Pronat reserves its right to reject any order issued by customer, with or without cause.

### **CANCELATION AND CHANGES**

All Customer requests for waivers, changes or modifications to orders must be submitted to Pronat in writing, and will be reviewed on an individual basis.

Where orders are not NCNR (no cancel, no return) they may be changed or canceled on receiving prior written approval from Pronat. Such change or cancellation will be subject to a Change of Order Fee or cancellation charge. Pronat reserves the right to impose a minimum cancellation fee of 10% on any order canceled after Pronat has acknowledged receipt. In addition to the cancellation fee, Customer shall pay Pronat for: (a) any material held in stock and/or ordered for the Customer or the productions of the Products by Pronat; (b) any labor performed by Pronat, or on its behalf, in connection with the order(s) until the date of Customer's request; and (c) any reasonable expense incurred by Pronat in connection with the order(s).

Where Customer has requested that Pronat supply certain Products on a regular, ongoing (scheduled) basis, the Customer will be liable for the value of Products held in stock by Pronat for the Customer, for the consecutive three (3) months of the scheduled orders, commencing the date of notification by the Customer to cease supplies. Any reasonable amounts of raw materials held by Pronat on behalf of the Customer for the manufacture of Customer's scheduled orders, shall be payable by the Customer.

### **ACCURACY AND TOLERANCE**

Pronat can only guarantee accuracy within tolerances as indicated in its price quotes. In the case of discrepancies regarding tolerance requirements between a given price quote issued by Pronat and related orders received from customers, the tolerance levels indicated in Pronat's price quote will supersede. Where said price quote and/or order do not indicate tolerance values, Pronat's standard tolerance values will apply. In no event shall Pronat be committed to Customer's order tolerance requirements unless expressly approved in writing by Pronat. Information regarding Pronat's standard tolerance values can be obtained on request from Pronat.

### **SHIPMENT**

All risks, including but not limited to loss or damage, in regards to Products shall transfer to Customer upon tender of Products to Customer, Customer's representative, or common carrier. The cost of any special packing or special handling caused by Customer's requirements or requests shall be added to the amount of the order. If Customer causes or requests a shipment delay, or if Pronat ships or delivers the products erroneously as a result of

inaccurate, incomplete or misleading information supplied by Customer or its agents or employees, storage and all other additional costs and risks shall be borne solely by Customer. Claims for Products damaged or lost in transit should be made by Customer to the carrier, as Pronat's responsibility ceases upon tender of goods to Customer, Customer's representative or common carrier at Pronat's premises.

#### **TITLE AND RISK**

In spite of delivery having been made, property in the Products shall not pass from Pronat until (a) Customer shall have paid the Products' price plus VAT (if required) in full; and (b) No other sums whatsoever shall be due from Customer to Pronat.

Until property in the Goods passes to Customer in accordance with the above clause, the Customer shall hold the products on a fiduciary basis as bailee for Pronat. Customer shall store the products (at no cost to Pronat) separately from all other products in its possession and mark them in such a way that they are clearly identified as Pronat's property.

Notwithstanding that the products remain the property of Pronat the Customer may sell or use them in the ordinary course of the Customer's business at full market value for the account of Pronat and any such sale or dealing shall be a sale or use of Pronat's property by Customer on Customer's own behalf and Customer shall deal as principal when making such sales or dealings. Until property in the products passes from Pronat, the entire proceeds of sale or otherwise of the products shall be held in trust for Pronat and shall not be mixed with other money or paid into any overdrawn bank account and should be at all material times identified as Pronat's money.

Pronat shall be entitled to recover the price (plus VAT) notwithstanding the property in any of the products has not passed from Pronat

Until such time as property in the products passes from Pronat, the Customer shall upon request deliver up such of the products as have not ceased to be in existence or re-sold to Pronat. If the Customer fails to do so, Pronat may enter into any premises owned, occupied or controlled by the Customer where the products are situated and re-possess the products.

The Customer shall not pledge or in any way charge by way of security for any indebtedness any of the products which are the property of Pronat. Without prejudice to the other rights of Pronat if the Customer does so all sums whatever owing by the Customer to Pronat shall forthwith become due and payable without further demand.

The Customer shall insure and keep the products insured to the full price against normal comprehensive risks to the reasonable satisfaction of Pronat until the date that property in the products passes from Pronat and shall whenever requested by Pronat produce a copy of the Policy of Insurance. Without prejudice to the other rights of Pronat if the Customer fails to do so all sums whatever owing by the Customer to Pronat shall forthwith become due and payable.

While Pronat will treat the Customer's materials with the utmost care, Pronat specifically denies liability for damage or while Customer's materials are in the care and possession of Pronat. Customer's materials stored in Pronat's premises are not insured and are stored strictly at the Customer's risk. Customer agrees to carry insurance coverage for its materials while at and in transit to and from Pronat's premises

#### **INSPECTION AND ACCEPTANCE**

Claims for damage, shortage or errors in shipping must be reported within 48 hours following delivery to Customer. Customer shall have seven (7) days from the date Customer receives any products to inspect such products and services for defects and nonconformance which are not due to damage, shortage or errors in shipping and notify Pronat, in writing, of any defects, nonconformance or rejection of such products. After such seven (7) day period, Customer shall be deemed to have irrevocably accepted the products, if not previously accepted. After such acceptance, Customer shall have no right to reject the products for any reason or to revoke acceptance. Customer hereby agrees that such seven (7) day period is a reasonable amount of time for such inspection and revocation.

Claims for quality assurance issues and Product defects must be sent to Pronat (Quality Assurance Department) in writing, including a detailed complaint report and samples of the related Product(s).

Customer shall have no right to order any change or modification to any product or service, previously ordered by Customer or its representatives, or cancel any order without Pronat's written consent and payment to Pronat of all charges due and expenses incurred by Pronat.

#### **STORAGE**

Storage conditions, as indicated on the product's packing label, must be adhered to by Customers as a prerequisite to manufacturers' warranty. This includes temperature and humidity control; storage in suitable sealed packages, for protection against dust, dirt, knocks or mechanical damage. Adhesive rolls must be stored in accordance with specific manufacturer's instructions.

NO WARRANTY WILL APPLY FOR MATERIALS USED BY CUSTOMER AFTER THE INDICATED DATE OF EXPIRY AND/OR STORED BY CUSTOMER IN UNSUITABLE CONDITIONS.

#### **CUSTOMER MATERIALS**

In the event Customer provides Pronat with materials ("Customer Material"), Customer shall notify Pronat in writing of special handling requirements of any nature, especially for dangerous and harmful substances. Failure to notify Pronat of such requirements will render the customer liable for any damages that may be incurred by Pronat, its employees or subcontractors through contact with Customer Material.

Customers must insure any Customer Material sent to Pronat in an adequate all risk insurance. Pronat shall not under any circumstances be considered as an insurer of Customer Material and shall not be liable, regardless of cause, for loss or damage to Customer Material, including but not limited to have occurred by fire, explosion, theft, pilferage, vandalism, casualty, negligence or acts of God while Customer Material is in Pronat's possession.

All Customer Material in Pronat's possession shall be subject to a general lien for all monies owed to Pronat by the Customer, whether or not due or payable, and whether or not such monies are owed to Pronat for work, labor or services rendered, or materials or equipment used in connection with such material.

#### **TAXES**

The amount of any sales, excise or other taxes, if any, applicable to the products shall be added to the purchase price and shall be paid by Customer unless Customer provides Pronat with an exemption certificate acceptable to the taxing authorities. Any taxes which Pronat may be required to pay or collect under any existing or future law, upon or with respect to the sale, purchase, delivery, storage, processing, use or consumption of any of the products, including taxes upon or measured by the receipts from the sale thereof, shall be for the account of the Customer, who shall promptly pay the amount thereof to Pronat upon demand.

#### **SEVERABILITY**

These terms and conditions of sale shall not be construed against the party preparing them, but shall be construed as if all parties jointly prepared these terms and conditions of sale and any uncertainty or ambiguity shall not be interpreted against any one party. If any provision hereof is held to be illegal, invalid or unenforceable under any present or future laws, such provision shall be fully severable and the terms and conditions herein shall be construed and enforced as if such illegal, invalid or unenforceable provision had never been made a part hereof. The remaining provisions herein shall remain in full force and effect and shall not be affected by such illegal, invalid or unenforceable provisions or by their severance herefrom.

#### **SET-OFF**

Customer shall not be entitled to set-off any amounts due Customer against any amount due Pronat in connection with this Agreement.

#### **REMEDIES OF PRONAT**

Upon default by Customer, Customer agrees to reimburse Pronat all attorney fees and court costs incurred by Pronat in connection therewith. Customer agrees that any of the following shall constitute an event of default which shall enable Pronat, at its option, to cancel any unexecuted portion of this order or to exercise any right or remedy which it may have by law: (i) the failure of Customer to perform any term or condition contained herein; (ii)

any failure of Customer to give required notice; (iii) the insolvency of Customer or its failure to pay debts as they mature, an assignment by Customer for benefit of its creditors, the appointment of receiver for Customer or for the materials covered by this order or the filing of any petition to adjudicate Customer bankrupt; (iv) the death, incompetence, dissolution or termination of existence of Customer; (v) a failure by Customer to provide adequate assurance of performance within ten (10) days after a justified demand by Pronat or (vi) if Pronat, in good faith, believes that Customer's prospect of performance under this Agreement is impaired. All rights and remedies of Pronat herein are in addition to, and shall not exclude, any rights or remedies that Pronat may have by law. In the event it becomes necessary to incur any expense for collection of any overdue account, reasonable collection charges, including reasonable attorneys' fees, will be added to the balance due and Customer shall pay all such charges.

**NON-WAIVER**

Pronat's failure to insist upon the strict performance of any term or condition herein shall not be deemed a waiver of any of Pronat's rights or remedies hereunder, nor of its right to insist upon the strict performance of the same or any other term herein in the future. No waiver of any term or condition hereunder shall be valid unless in writing and signed by Pronat's Chief Executive Officer.

**GOVERNING LAW**

These Terms and Conditions of Product Sales and any sale of products hereunder will be governed by the laws of the State of Israel, without regard to conflicts of laws rules. Any arbitration, enforcement of an arbitration or litigation will be brought exclusively in the Tel-Aviv – Jaffa district. Customer consents to the jurisdiction of the courts located therein, submits to the jurisdiction thereof and waives the right to change venue.

This document constitutes the entire, complete, and exclusive agreement between the parties with respect to the subject matter hereof and contains all the agreements and conditions of sale; no course of dealing or usage of the trade shall be applicable unless expressly incorporated herein. The terms and conditions contained herein may not be added to, modified, superseded or otherwise altered except by a written modification signed by the Pronat's Chief Executive Officer. All transactions shall be governed solely by the terms and conditions contained herein.

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Pronat Industries Ltd.

Revised: 5<sup>th</sup> June 2020