

1. **General.** All quotations furnished by Precision MicroDynamics Inc., (“PMDi”) or its authorized agents are solely for information of the party to whom the Quotation is addressed (“Buyer”). Any order resulting from a Quotation shall not constitute a contract until such order had been accepted in writing by a duly authorized agent of PMDi. Such acceptance is conditioned upon Buyer’s acceptance of the express terms and condition set forth herein together with those of any PMDi quotation, invoice or contract attached hereto, constitutes the entire agreement between PMDi and the Buyer (the “Agreement”) and supersede all other agreements and undertakings, whether written or oral, between the Parties with respect to the subject matter of this Agreement except for specific Distributor or OEM Agreements executed by the Parties. The order of precedence of all the terms and conditions in the Agreement are those designated: (1) in body of a contract, (2) in body of quotation, and (3) those herein. PMDi hereby rejects the inclusions of any different or additional terms proposed by Buyer in any order resulting from the Quotation and if such different or additional terms are so included in such order, Buyer agrees that a binding contract of sale will result including only the terms stated herein, unless PMDi agrees in writing to accept such different or additional terms. By accepting PMDi quotes, proposals or any other PMDi document, Recipient (Buyer) agrees to the terms in Article 15 below. By placing a Purchase Order with PMDi, Buyer agrees to all terms herein.
2. **Errors/Changes.** Any stenographic or clerical errors appearing in the typed portion of a PMDi Quote or Contract may be corrected at any time by PMDi. PMDi reserves the right to make changes in design and manufacture of any item included in any PMDi Quotation and Contract without incurring any obligation to install such change upon units manufactured for, or delivered to, the Buyer prior to such design change.
3. **Terms of Payment** are net 30 days from the date of invoice, unless specifically stated otherwise. A service charge of 2.0% per month (but not exceeding the maximum permitted by law) will be payable on any past due accounts. No discounts are allowed on invoices paid prior to 30 days of invoice date.
4. **Delivery Terms.** Unless specifically stated otherwise, all deliveries hereunder shall be shipped, F.O.B. PMDi (the “Shipping Point”), and Buyer shall assume all risk of loss or damage for products upon delivery by PMDi of the products to the Shipping Point. Buyer will pay all loading, freight, shipping, insurance, forwarding charges, taxes, storage, customs, export or import tariffs and all other duties or charges applicable to Products after they are delivered by PMDi to the Shipping Point. A handling charge of USD \$20.00 will be charged for each shipment.

5. **Listed Prices** shown in all PMDi publications are subject to change without notice and shall not be construed as part of this Quotation or any other Quotation or offer to sell by PMDi. Such lists are maintained only as a source of general information and any prices shown therein are subject to confirmation through specific Quotations. Prices are exclusive of all shipping costs, duties, sales, taxes, use taxes and all like taxes, unless specifically stated otherwise.
6. **Order Cancellation.** Orders placed by Buyer and accepted by PMDi for Products may only be cancelled by Buyer upon payment of reasonable cancellation charges which shall include non-recoverable costs and commitments incurred by PMDi from time of order placement until a written notice of cancellation is received.
7. **Credit Return.** Returns requested by Buyer and accepted by PMDi for Products that have never been used and are in their original packaging shall be charged a restocking fee. The restocking fee is 30% for all products returned within 30 days of shipment from PMDi. An additional 20% restocking charge will be applied for each additional 30 days from time of shipment. No credit will be given for product after 90 days from time of shipment from PMDi. No credit will be given for engineering, labor charges, service, training and freight charges.
8. **Verbal Orders** are accepted under the terms herein only. Any discrepancies between PMDi's misunderstanding of the verbal order (which is expressed in an order acknowledgement document) and the Buyer issued order confirmation hardcopy are the responsibility of the Buyer and may subject Buyer to appropriate order revision charges.
9. **Shipping Dates** quoted are approximate and represent a reasonable estimate of time required for manufacturing at the time of order acceptance or Quotation. These dates shall not be construed as promises or contractual agreements to ship or deliver goods unless specifically agreed in writing.
10. **Definitions** are used herein: (a) **Product** shall mean any hardware, software, services and documentation purchased from PMDi with any software or documentation included in Product supplied only under license (For purposes of this Agreement, the term "sale" or "purchase" will be understood to mean "license" whenever used in connection with such software or documentation.); (b) **Computer Software** shall mean computer or processor programs and computer data bases, including software or firmware embedded in semiconductor chips; (c) **Source Code Program** shall mean any computer program that is in a form that reveals the functional operation or composition of the computer program to one skilled in the art; (d) **Integrated Software** shall mean Computer Software that is generally integral to Product and generally essential to the functional operation of Product; (e) **Independent Software** shall mean Computer

Software that is licensed independent of Product hardware, services and other Computer Software; (f) **Distributed Software** (often known as “Third Party” software) shall mean Computer Software that is not owned by PMDi, is sub-licensed by PMDi under separate license agreement between PMDi and the owner of the said Software; (g) **Development Software** shall mean Computer Software that is licensed to develop and produce application programming for use on equipment other than the equipment the Development Software runs on and is specifically defined as Development Software; (h) **End User** shall mean the actual person or entity using Product.

11. **Product Usage.** Buyer warrants that Product, including any resale or Buyer modified Product, will only be used for the specific purpose intended in the design of that said Product and said Product will not be used in any patient connected devices, hazardous application or environment without qualifying certification (UL, FM or equivalent) of said Product from any uncertified application.
12. **Damages.** PMDi shall not be liable for any incidental or consequential damages or losses incurred by Buyer arising from delays, delivery, installation and/or use of the Product of Buyer. By purchase of Product, Buyer assumes all liability for any damages of any kind which may result from its use or misuse by Buyer’s employees, agents, End Users or any other person(s) including third parties unknown to PMDi or Buyer, including damages due to failure of the Product and Buyer agrees to indemnify, defend and hold PMDi harmless from any and all such damages or losses, including, without limitation, reasonable attorney’s fees incurred by PMDi in defending against the same.
13. **Export.** Buyer will not disclose, export, re-export, or divert any product supplied by PMDi, any system incorporating such product, or any technical information, document or material, or direct products thereof, to any country or person to whom such disclosure, export, re-export or diversion is restricted by Canadian law unless all necessary and appropriate authorization has been obtained from the Canadian government. PMDi will provide Buyer with reasonable assistance in determining if Canadian government authorization is necessary for such disclosure, export, re-export or diversion. This provision shall survive the termination of this Agreement.
14. **Force Majeure.** Neither party shall be liable for any delay or failure to perform any of its obligations under this Agreement if and the extent such delay or failure is due to circumstances beyond the reasonable control of such party, including but not limited to, fire, floods, explosions, accidents, acts of God, declared and undeclared wars or riots, strikes, lockouts or other concerted acts of workmen, acts of government, shortage of materials, inability to obtain export or import licenses, or any provision or requirement of the Canadian Export Regulations or any government act, omission, regulation, license, order or rule.

15. **Governing Law.** This Agreement shall be governed by the laws of the Province of British Columbia, Canada, except that its conflict of law rule shall not apply.
16. **Proprietary Data Rights.** Buyer and PMDi agree that Proprietary Information of one Party (“Owner”) transmitted to the other Party (“Recipient”) in writing in any quotation, specification, bid, proposal, technical manual, software listing or any written communication thereafter and marked as Confidential or Proprietary except all Computer Software is to be considered proprietary irrespective of the medium it is on and markings to this effect, is subject to the proprietary rights of the Owner and the restrictions set forth herein. Proprietary Information shall not include information which was in possession of the Recipient prior to receiving it from the Owner, is and becomes in the public domain through no wrongful act of the Recipient, or becomes legitimately available to the Recipient from other than the Owner. The Parties agree Proprietary Information shall remain the sole property of the Owner and agree to keep it confidential using a reasonable degree of care commensurate with maintenance of trade secret information. The Buyer agrees not to use Proprietary Information to assist in creating or attempting to create by reverse engineering or otherwise, the Source Code Programs, hardware designs or manufacturing processes from products provided or to make a new product or system, or repair any product or system except as necessary to support the use of any system or products supplied by PMDi. In the event that PMDi Proprietary Information is first conceived or developed by PMDi in the performance of a contract for Buyer, PMDi shall be free to use any such proprietary information for any purpose and for any other person or entity, including PMDi.
17. **PMDi Software License Agreement.** All Computer Software or documentation offered for sale or lease is an offer to grant a license to Buyer to use a copy of same under the terms stated herein. PMDi hereby grants, on receipt of payment or Buyer’s Purchase Order, and License (“Buyer”), by issuing a Purchase Order, hereby accepts a non-exclusive, non-transferable (except for certain sub-license rights specifically granted by separate written agreement with PMDi) License to use the PMDi Computer Software and any subsequent updates thereof, delivered under contract with PMDi, solely under the condition set forth herein. This grant of license specifically excludes Source Code Programs.
 - a. **Term.** This License shall be effective from the date of delivery of Computer Software by PMDi, and shall remain in effect until Buyer discontinues the use of such Computer Software, or this License is otherwise terminated as provided herein.

- b. **Title.** Buyer hereby acknowledges that title to and ownership of the Computer Software shall at all times remain with PMDi or the owner of Distributed Software.
- c. **Buyer Use Limitations.**
 - i. Buyer agrees to use the Computer Software and any part thereof only on the delivered Product incorporating said Computer Software or designated hardware and to copy the Computer Software in whole or in part (with the proper inclusion of PMDi's copyright notice and any of PMDi's proprietary notices) only for use on said Product or hardware, and not for publication. Transfer of licensed Computer Software is specifically forbidden on any computer network other than to said designated Product or hardware. Computer Software contains Trade Secrets and to protect them, Buyer agrees not to decompile, reverse engineer or otherwise reduce object code to Source Code Program form.
 - ii. Buyer may merge the Computer Software, whether modified or unmodified, with other material to create another work, agreeing that any portion of the Computer Software, modified or unmodified or merged, remains subject to the terms of this license.
 - iii. Buyer may copy the Computer Software for backup and archival purposes.
 - iv. Buyer agrees not to modify, adapt, translate or create derivative work based on Computer Software and accompanying documentation and not to distribute copies of Computer Software or accompanying documentation to others.
 - v. Buyer must not distribute a Development Software which permits a third party to access or use the Computer Software. If a third party requires access to the functionality of the Computer Software through the Development Software, the third party must obtain from Precision MicroDynamics Inc a Computer Software license for which payment of the full Computer Software license fee is required.
- d. **Termination.** In the event Buyer fails to perform or observe any of its obligations under this License Agreement, or if a receiver or trustee in bankruptcy is appointed, this License shall immediately terminate. Upon any termination, Buyer shall immediately return to PMDi or destroy the Computer Software, its documentation and all other materials supplied to Buyer by PMDi under this Agreement.

18. PMDi Limited Warranties:

- a. **PMDi Product Limited Warranty.** PMDi warrants all product hardware of its manufacture to be free from defects in material and workmanship for a period of twelve (12) months from the original date of shipment by PMDi. Remedy under warranty is provided only after defective goods are returned to the factory. Unless otherwise specifically agreed to in writing by PMDi, PMDi limits its warranty on Product not published in a then current Ordering Guide (hereinafter "Special Product") to meet PMDi specifications for Special Products as these products are delivered to the Buyer and as used under conditions that are equivalent to those as tested by PMDi. PMDi does not warrant said Special Product to not be affected by any special environment or conditions induced by End User of said PMDi Special Product. PMDi shall, at its option, repair or replace free of charge within the warranty period and Product supplied by PMDi which proves to be defective in workmanship or materials. Items subject to normal wear and/or replacement will not be covered under warranty if their failure is the result of normal wear. PMDi reserves the right to reject those claims for warranty where it is determined that failure is caused by Buyer made modifications, improper maintenance, misuse, misapplication, improper or incomplete qualification, or abuse of the Product.
- b. **PMDi Integrated Software Limited Warranty.** For a period of twelve (12) months following shipment, PMDi will design, code, check out, document or deliver promptly any amendments or alterations to the Integrated Software that may be required to correct errors present at the time of its shipment and which materially affect performance in accordance with the specifications. This warranty is contingent upon (a) Buyer advising PMDi in writing of such errors, and (b) the Integrated Software being used only in conjunction with the Product in which it was supplied, and (c) there having been no alterations, modifications or enhancements to the Integrated Software which were not approved in writing by PMDi. PMDi specifically excludes from any warranty, the uninterrupted or error-free use of Computer Software.
- c. **PMDi Independent and Distributed Computer Software: No Warranty.** In lieu of any warranties for PMDi Independent or Distributed Software, Buyer shall accept the Licensed Independent or Distributed Software (a) when the said Software performs in accordance with its applicable specifications or (b) within thirty (30) days of delivery of the said Software, whichever occurs earlier. In the event Buyer determines within such thirty (30) day period that the said Software is unacceptable, Buyer may return the said Software and manuals to PMDi or PMDi suppliers without liability to PMDi; provided however, that PMDi shall have thirty

(30) additional days to make the said Software acceptable to the Buyer and in the event that the said Software is made acceptable to Buyer and in the event the said Software is made acceptable to Buyer, the said Software shall be deemed acceptable as of the date that Buyer notified PMDi of its acceptance.

- d. **Product Return.** Prior to return of any product to PMDi, whether under warranty or otherwise, Buyer must obtain a return authorization from PMDi. Unless a return authorization has been obtained, shipment may be refused. All returned product(s) shall include reference to all pertinent order information, including order number, part, model or serial. Information shall also be provided on use/performance history and requested action. Shipping charges for returning any product(s) to PMDi are the responsibility of the Buyer. If not covered by warranty, subsequent costs for inspection, shipping, expediting and placing returned product(s) into working condition will be charged to the Buyer. Buyer shall issue a purchase order to cover such non-warranty work. Products returned under warranty and found to be in good working order, shall be subject to charges for inspection, testing, and returned shipping costs. Where buyer requests that PMDi perform warranty work at Buyer's plant, Buyer shall reimburse PMDi for reasonable travel cost, living expenses, travel time and on-site labor. PMDi will cover in-warranty repairs including outbound shipping charges via ground transportation of its choosing.
- e. **Termination of Warranties.** All applicable warranties, express or implied, including any warranties created or established by statutory law of operation law, if any, are deemed null and void in the event Product has been modified in any manner by Buyer. End User, any person or party other than PMDi, unless such modification has been authorized in writing by PMDi prior to the modification work being undertaken.
- f. **Nature of Breach.** PMDi's liability for breach of warranty under the terms set forth herein shall arise only after Buyer's notice to PMDi of the claims breach, and such notice must be given within thirty (30) days after discovery thereof.

THIS WARRANTY IS EXPRESSLY IN LIEU OF ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, AND WHETHER STATUTORY OR OTHERWISE, INCLUDING ANY IMPLIED WARRANTY OR MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, AND NO WARRANTIES ARE EXPRESSED OR IMPLIED WHICH EXTEND BEYOND THE DESCRIPTION OF THE FACE HEREOF, IN NO EVENT SHALL PMDi BE LIABLE TO BUYER FOR COLLATERAL, INDIRECT, INCIDENTAL OR CONSEQUENTIAL DAMAGES OF ANY KIND. THIS EXCLUSIVE REMEDY WILL NOT BE DEEMED TO



PRECISION MICRODYNAMICS QUOTE / CONTRACT TERMS & CONDITIONS

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