

QUOTATION & ORDER / AGREEMENT TERMS & CONDITIONS

1. The Quotation may be accepted in writing within 30 days (excluding wire, cable and conduit) from its date or within the period of time specified in the Quotation, whichever is less. Verbal quotations are only valid on the day they are given unless confirmed with a formal quotation. The Quotation and any ensuing Order/Agreement arising is subject to credit approval of the Purchaser by ProVantage and proper security being in place if required. The Quotation is an offer for the Purchaser to buy. Acceptance of the Quotation is subject to the Terms & Conditions listed herein. In the event the Purchaser's purchase order, acceptance or other written communication states terms additional to or different from those set out in the Quotation, the terms and conditions of this document shall prevail, and the terms and conditions of the Purchaser's purchase order shall be of no force or effect.
2. Quotation prices are based on quantities shown and are subject to change if quantities change. The prices quoted are F.O.B. point of shipment with transportation charges extra, unless otherwise stipulated. Shipping or delivery dates given prior to shipment or delivery are estimates only and are based upon prompt receipt by ProVantage of all necessary information. Material shown in stock, prior to a purchase order being awarded, is subject to prior sale. ProVantage cannot guarantee delivery dates nor will it accept penalties for delivery delays. Shortage or damage claims must be made with the delivering carrier in writing within 7 days of receipt of goods, with a copy of the claim to be given to ProVantage. Error or omission claims must be made in writing within 24 hours of receipt of goods. No goods are to be returned without written authorization from ProVantage and then only in accordance with the terms and conditions specified by ProVantage. Goods returned are subject to inspection, approval and a minimum of a 25% restocking charge and must be in original packaging and in resalable condition. If the Purchaser delays in releasing the goods for shipment, then (a) payment shall become due as if the shipment had been made on the date actually agreed to; and (b) all handling and storage charges incurred before the goods are released for shipment by the purchaser, shall be for the Purchaser's account. Errors and omissions of stenographic or clerical nature are expected and are subject to correction. It is the responsibility of the Customer to confirm this bill of material.
3. Any agreed upon Returnable Materials are to be returned prepaid to ProVantage. Credit in full will be given for material received by ProVantage in good and re-saleable condition.
4. The Quotation, once accepted by the purchaser, may only be cancelled or altered with ProVantage's written consent and subject to cancellation charges and upon terms which will indemnify ProVantage against all loss. No alteration, variation, modification or waiver of any of these terms and conditions shall be binding on ProVantage unless made in writing and signed by an authorized officer of ProVantage. The Quotation may not be assigned or transferred by purchaser in whole or in part without ProVantage's consent. Time shall be of the essence of this Quotation.
5. Manufacturers' OEM) warranties apply to the goods. ProVantage does not make or give any representation or warranty of any kind beyond that provided by the OEM.
6. In no event shall ProVantage be liable to the Purchaser or to any other person, firm, corporation or other entity (a "Person") for any special, exemplary, indirect, incidental, consequential or punitive damages of any kind or nature whatsoever (including, without limitation, lost revenues, profits, savings or business; contribution or indemnity in respect of any claim against the purchaser; loss of use of equipment or system; increased expense of operation, overhead or production; increased costs of power supply; loss of use of capital; loss of other contracts; third party claims against the purchaser by subcontractors, suppliers or others; cost of purchased or leased replacement equipment, systems or power), whether in an action based on contract, warranty, strict liability, tort (including, without limitation, negligence) or otherwise, even if ProVantage has been informed in advance of the possibility of such damages or such damages could have been reasonably foreseen by ProVantage. In no event shall ProVantage's liability to purchaser or any other Person arising out of or in connection with the provision by ProVantage of any goods (on a per all occurrences basis) exceed, in the aggregate, the lesser of (i) the total amount paid by purchaser to ProVantage for the particular goods with respect to which such liability relates; and (ii) \$1,000,000, whether such liability is based on an action in contract, warranty, strict liability or tort (including, without limitation, negligence) or otherwise. ProVantage will not be liable for any damages claimed by purchaser based upon any thirdparty claim. No action arising out of or in connection with this Quotation or ensuing Order/Agreement or any of the goods provided hereunder may be brought by purchaser more than 1 year after the cause of action has accrued, except that an action for nonpayment of any monies due ProVantage hereunder may be brought within 2 years of the date of the invoice.
7. Invoiced amounts shall be paid within 30 days of the date of the invoice (the "Due Date"). Interest on any unpaid invoiced amounts shall be charged from the Due Date to the date of payment at 1.5% per month (18% per year) (the "Overdue Rate"). Any sales, revenue, excise or other taxes imposed or increased by any present or future law on the sale of the goods shall be for the account of the Purchaser, unless the Purchaser furnishes ProVantage with tax exemption certificates in a form acceptable to the relevant taxing authorities in lieu of payment of such taxes. If, after being advised by the Purchaser that the purchase is tax exempt, the relevant taxing authority denies the tax exemption status, the Purchaser agrees to pay to ProVantage immediately all applicable taxes, penalties and any consequential damages suffered by ProVantage.
8. Title to the goods is reserved to ProVantage and does not pass to the Purchaser until payment of all invoiced amounts (and any interest thereon) is made in full. The parties acknowledge that ProVantage's interest in the goods is a purchase money security interest within the meaning of the *Personal Property Security Act* (Ontario), as amended or replaced from time to time (the "Act"),

and that this Quotation and ensuing Order/Agreement is a security agreement within the meaning of the said Act. The parties acknowledge that they have not agreed to postpone the time for attachment of such security interest.

9. The occurrence of any one of the following events shall constitute a default (a "Default") under this Quotation and ensuing Order/Agreement: (a) the Purchaser fails to pay any invoiced amount on its Due Date; (b) the Purchaser fails to perform or observe any other covenant, condition or agreement to be performed or observed by the Purchaser hereunder; (c) any bankruptcy, reorganization, arrangement, insolvency or liquidation proceedings or any other proceedings for the relief of debtors are instituted by or against the Purchaser; (d) a trustee, receiver or receiver and manager is appointed for the Purchaser or for part or all of the property of the Purchaser; (e) the goods become subject to any lien, levy or attachment (except for any lien, levy or attachment relating to ProVantage); or (f) any of the goods, in the opinion of ProVantage, are stolen or are in danger of being confiscated or attached. Upon the occurrence of a Default described above, ProVantage may, at its option, terminate this Quotation and ensuing Order/Agreement, with or without notice to the Purchaser. Without limiting the foregoing, any collection or attempted collection of the goods by or on behalf of ProVantage shall be deemed to be notice to the Purchaser of termination.
10. Upon termination of this Quotation and ensuing Order/Agreement due to the occurrence of a Default, ProVantage shall be entitled to all of the rights and remedies of a secured party under the Act, and in addition shall be entitled to: (a) enter upon the premises where the goods are located and take possession of and remove the goods, whether affixed to real or immoveable property, or to other equipment, or not, without liability to the Purchaser for any damage to such premises caused by the taking of possession and removal of the goods. The Purchaser hereby authorizes ProVantage to enter the Purchaser's premises to seize, repossess, and remove the goods at any time without prior notice and without legal process and, for such purpose, the purchaser hereby covenants and agrees to protect, indemnify and save harmless ProVantage from all claims, demands, actions, causes of action, injury, abuse and costs of every kind arising out of ProVantage's enforcement of its remedies. The Purchaser acknowledges and agrees that ProVantage shall not be liable or responsible for any damages or losses suffered by the Purchaser as a result of ProVantage's exercising its rights to take possession of and remove the goods, whether such damages are direct or indirect, special or consequential, and whether or not caused by the negligence of ProVantage, including, without limitation, any damages or losses suffered by the purchaser due to ProVantage removing the goods from within other equipment; (b) recover from the Purchaser such portion of the invoiced amount as is in arrears, together with interest, and all solicitor and client legal fees and disbursements and other expenses incurred by ProVantage in attempting to enforce the provisions of this Quotation and ensuing Order/Agreement or to recover damages for the breach hereof; and (c) sell the goods. Interest shall be payable by the Purchaser to ProVantage at the Overdue Rate on all arrears of the invoiced amounts, and is secured hereby.