



**HN - ROCHESTER FACILITY**  
**Nationwide Precision Products**  
**200 Tech Park Drive**  
**Rochester, New York 14623**  
**Phone: 585-272-7100**  
**Fax: 585-272-8982**  
**("Seller")**

**HN - LAKE BLUFF FACILITY**  
**Helio Precision Products, Inc.**  
**601 North Skokie Highway**  
**Lake Bluff, Illinois 60044**  
**Phone: 847-473-1300**  
**Fax: 847-473-1306**  
**("Seller")**

#### **TERMS AND CONDITIONS OF SALE**

These terms and conditions of sale ("Sale Terms") are the exclusive terms and conditions related to any order placed with or accepted from Seller. THE PLACEMENT OR ACCEPTANCE OF ANY ORDER INDICATES BUYER'S COMPLETE AND UNCONDITIONAL CONSENT TO AND ACCEPTANCE OF THESE TERMS AND CONDITIONS. The formation of any contract and Buyer's acceptance of any order is expressly conditioned on acceptance of all the terms and conditions of this Agreement. Seller hereby rejects any additional, inconsistent, or differing terms or conditions proposed by Buyer.

1. **PRICES AND ACCEPTANCE**

Unless otherwise agreed in writing, all prices are based on U.S. dollars and effective for: (a) the time period set forth in Seller's written quotation; or (b) thirty (30) days from the date of the quotation. Should Buyer postpone the delivery date, Seller shall have the right to adjust the price of the undelivered goods to Seller's price at time of shipment. Stenographic and/or clerical errors are subject to correction by Seller without liability. The order shall not be binding until confirmed in writing by Seller.

2. **PAYMENT**

Unless otherwise provided in writing, full payment is due 30 days after date of invoicing. Accounts more than 30 days past due will be subject to a late charge at the rate of 1½% per month or the highest rate permitted by applicable law, whichever is lower. As security for the full and prompt payment, in cash, of any amounts due under this Agreement, Buyer hereby grants to Seller a security interest in any goods furnished by Seller to Buyer. Buyer hereby irrevocably designates and appoints the Seller as its agent and attorney-in-fact to act for and on Buyer's behalf to execute and file any document and to do all other lawfully permitted acts to perfect this security interest or protect Seller's interest in the goods with the same legal force and effect as if executed by Buyer.

3. **TAXES**

Seller shall pay all taxes levied or based on any amounts payable under this Agreement, including without limitation, customs duties, state and local sales and use taxes, and privilege, gross receipts, or excise taxes based on gross revenues. Any such amounts paid by Seller shall be for the account of Buyer and will be added to the price of such goods or services. Buyer shall promptly reimburse Seller for such amounts.

4. **TIME OF SHIPMENT**

Delivery dates are based on Seller's estimated manufacturing times, which commence upon receipt of all engineering and manufacturing information required by Seller. Seller shall not be liable for any damage, loss, or injury as a result of any delay or failure to ship due to any cause beyond Seller's reasonable control including, but not limited to strikes, slowdowns, embargoes, riots, storms, fire, accidents, war, delay in transportation, or inability to obtain necessary labor, materials or manufacturing facilities. Any such failure or delay by Seller due to one of the foregoing or other causes beyond Seller's reasonable control shall not be considered as a breach of contract in the event of any such delay and the date of shipment shall be extended for a period equal to the time lost because of the delay.

5. **DELIVERY TERMS AND RISK OF LOSS**

Delivery terms, unless otherwise expressly stated, shall be EXWORKS (Incoterms 2000) Seller's place of business. Delivery to carrier at point of origin shall constitute delivery to Buyer and thereafter the shipment shall be at Buyer's risk. Claims for loss or damage to products in transit shall be made to the carrier and not to Seller. Seller's delivery obligation shall be contingent upon Seller's approval of Buyer's credit at time of shipment.

6. **QUANTITIES**

Buyer agrees to accept over/under quantities not to exceed 5% of ordered quantity of each line item.

7. **ENGINEERING CHARGES**

Tools, dies, gauges and fixtures ("Tooling") are an integral part of the manufacturing process. Charges related to design or manufacturing of Tooling may be included in Buyer's payment obligations. Ownership of tooling will not convey to Buyer until Buyer pays for tooling.

8. **CLAIMS**

Buyer must make rejection of non-conforming products in writing within 15 days of receipt, and all defects ascertainable at time of giving notice shall be stated with particularity or be deemed waived. Under no circumstances shall products be returned to Seller without Seller's written permission. A claim that products are non-conforming shall not entitle Buyer to deduct any sum from any invoice unless Seller has agreed to such claim in writing.

9. **PATENTS**

Buyer shall indemnify and save harmless Seller against any claim, demand, loss, expense or liability, including attorneys' fees, for actual or alleged infringement of any letters patent, trademarks or corresponding rights in any way related to the manufacture and sale of products manufactured in accordance with designs or design information supplied by Buyer.

10. **LIMITATIONS ON WARRANTIES**

Seller warrants its products will be free from defects in workmanship for a period of one year from the date of shipment. THIS WARRANTY IS EXCLUSIVE AND IN LIEU OF ALL OTHER REPRESENTATIONS AND WARRANTIES, EXPRESS OR IMPLIED, AND SELLER EXPRESSLY DISCLAIMS AND EXCLUDES ANY IMPLIED WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE.

Any description of the products, whether made orally or in writing by Seller or Seller's agents, specifications, samples, models, bulletins, drawings, diagrams or similar materials used in connection with Buyer's order are for the sole purpose of identifying the products and shall not be construed as an express warranty. Any suggestions by Seller or Seller's agents regarding use, application or suitability of the products shall not be construed as an express warranty.

11. **LIABILITIES AND CONSEQUENTIAL DAMAGES**

Buyer agrees that if products are non-conforming, Buyer's exclusive remedy shall be one of the following, at Seller's option: a) repair or replacement of the non-conforming products or b) repayment to Buyer of the purchase price.

IN NO EVENT SHALL BUYER BE ENTITLED TO ANY INDIRECT, CONSEQUENTIAL, INCIDENTAL OR CONTINGENT DAMAGES OF ANY KIND, WHETHER ARISING OUT OF BREACH OF CONTRACT, WARRANTY (INCLUDING NEGLIGENCE AND STRICT LIABILITY) OR OTHER THEORIES OF LAW, WITH RESPECT TO PRODUCTS SOLD OR SERVICES RENDERED BY SELLER, OR ANY UNDERTAKINGS, ACTS OR OMISSIONS RELATING THERETO.

12. **LIMITATIONS ON SUITS AND ACTIONS**

No action or suit to enforce Buyer's rights or remedies arising from this sale shall be commenced later than one year from the date of shipment.

13. **DISPUTE RESOLUTION**

The parties will attempt to resolve any dispute involving the interpretation, performance or non-performance, or enforceability of the Purchase Order by prompt good faith negotiations and, if such negotiations fail, will consider alternate dispute resolution procedures before resorting to litigation.

14. **SEVERABILITY**

The Sale Terms shall be subject to and interpreted so as to comply with all applicable law. If any provision of the Sale Terms, or portion of any provision, is declared or found to be unenforceable under applicable law, such provision shall, if possible, be interpreted in a manner so as to be enforceable to the greatest extent possible under applicable law. The balance of the Sale Terms shall be interpreted as if the unenforceable provision or portion was interpreted according to the preceding sentence or, if such interpretation is not possible under applicable law, as if the unenforceable provision or portion had never been a part hereof. In no event shall the Sale Terms be invalid due to an unenforceable provision or portion of a provision of the Sale Terms.

15. **FINAL AGREEMENT**

Except as otherwise agreed in writing, these terms and conditions constitute the entire agreement between Seller and Buyer with respect to the subject matter hereof, and there are no understandings, agreements or representations, express or implied, which are not contained herein. These terms and conditions shall not be modified by any prior course of dealing or trade customs and usage.