

TERMS AND CONDITIONS

Concerning Proliner® measuring machine, software and optional accessories.

THE PRIVATE LIMITED LIABILITY COMPANY PRODIM INTERNATIONAL. BV, hereinafter called Prodim Int. BV, established and registered in Helmond.

Article 1: Applicability

- 1.1. All offers and agreements of Prodim Int. BV concerning the sale of the Proliner® measuring machine and optional accessories, the granting of a right to use to the corresponding embedded and non-embedded software and maintenance thereto, as well as the execution thereof, shall be governed by the present terms and conditions.
- 1.2. Unless explicitly otherwise agreed in writing, the applicability of terms and conditions used by other parties is explicitly rejected.
- 1.3. Deviations of these terms and conditions are only effective if and to the extent they are agreed upon in writing with Prodim Int. BV.
- 1.4. If Prodim Int. BV has agreed in writing upon the adaptability of deviating conditions, all remaining provisions of the present terms of conditions of Prodim Int. BV shall remain in force for other provisions, even if this is not explicitly stated.
- 1.5. With regard to future agreements, the other party cannot derive any rights from any agreed derivations of these terms and conditions.

Article 2: Goods

2. The term 'goods' mentioned in the present terms and conditions also refers to the software made available by Prodim Int. BV, as part of the agreement to which the present terms and conditions applies.

Article 3: Conclusion

- 3.1. Offers made by Prodim Int. BV are free of obligations and are not binding. An agreement is first established after Prodim Int. BV has sent an order confirmation, or has received an offer signed by the other party for approval and returned to Prodim Int. BV, or when Prodim Int. BV has started the actual implementation of the agreement.
- 3.2. The applicability of the provisions in art. 3:61 paragraphs 2 and 3 of the Dutch Civil Code is explicitly excluded.
- 3.3. For supplies and works for which, considering the nature and extent, no offer and / or order confirmation shall be sent, the invoice is considered to be the order confirmation, which is supposed to present the agreement correctly and completely.
- 3.4. Prodim Int. BV is authorized to engage third parties for the proper execution of the agreement. The costs thereof shall be invoiced to the other party according to the submitted quotation. If possible, Prodim Int. BV shall consult on this with the other party.

Article 4: Prices

- 4.1. Unless explicitly otherwise agreed in writing, all prices are excluding VAT and transport costs.
- 4.2. Unless otherwise stated, prices are based on current wages, labor costs, social and other government charges, insurance premiums and other costs, as known at the time the quotation – respective order date – was submitted.
- 4.3. If one or more cost components are subject to an increase, Prodim Int. BV shall be entitled to increase the agreed order price accordingly, with due observance of any relevant statutory provisions in respect thereof, on the understanding that any future price increases are stipulated with the order confirmation.

Article 5: Delivery and transport

- 5.1. The agreed delivery time, respectively the time frame, in which the activities have to be carried out, is indicative and shall be deemed not to be fatal, unless otherwise explicitly agreed in writing.
- 5.2. Delivery of goods shall be delivered at the other party's address, unless explicitly otherwise agreed in writing.
- 5.3. Prodim Int. BV shall only be obliged to deliver at the other party's address, if this location can be normally reached with its chosen means of transportation and Prodim Int. BV is entitled to charge transport costs to the other party.
- 5.4. If the parties, notwithstanding the main rule specified in paragraph 2, agreed in writing upon delivery at the warehouse of Prodim Int. BV, transport shall be at the expense and risk of the other party.

Article 6: Retention of title

- 6.1. Prodim Int. BV shall retain title to the delivered goods until the other party has paid all the debts it owes Prodim Int. BV in respect thereof.
- 6.2. In the cases mentioned in article 17 of the present terms and conditions, Prodim Int. BV shall be entitled to cancel the order or parts thereof, yet to be delivered or performed, and to reclaim as its property any goods that may have been delivered, fully or partially paid, settling any amounts already paid, without prejudice to its rights to claim compensation. In those cases, any claim that Prodim Int. BV may have against the other party, shall become immediately due and payable.
- 6.3. The other party shall provide, on first demand of Prodim Int. BV, an authorization and all the therefore necessary data to recall the (yet) unpaid goods at the location where the goods are kept.
- 6.4. The goods supplied by Prodim Int. BV may only be used by the other party within the framework of normal business operations.
- 6.5. The other party is not allowed to apply security rights to these goods or to the sales revenues thereof, nor assign claims on its behalf to third parties.
- 6.6. If the (yet) unpaid goods delivered by Prodim Int. BV are sold on, the other party is obliged to reserve the property thereof, and to assign, on first demand of Prodim Int. BV, the claims on its behalf for amounts due to Prodim Int. BV.
- 6.7. If and as long as Prodim Int. BV is the owner of the goods delivered by it, the other party is obliged to inform Prodim Int. BV immediately if any of the situations mentioned in article 17 of the present terms and conditions tend to appear, appears and / or when third parties assert their rights to these goods, and to point bailiffs, administrators, trustees or third parties at the property rights of Prodim Int. BV.

Article 7: Industrial and intellectual property

7. As far as the industrial and / or intellectual property rights are concerned, Prodim Int. BV and / or third parties in respect of the drawings, designs, calculations, computer programs and technical descriptions made or used by Prodim Int. BV and / or third parties or made available to them, shall not pass these rights to the other party, but reserve these rights, unless explicitly otherwise agreed in writing. The other party is prohibited to affect the intellectual and / or industrial property rights of Prodim Int. BV.

Article 8: Additional costs, contract extras and reductions

- 8.1. Unless explicitly otherwise agreed, and subject to the provisions of this article, the agreed prices are fixed prices, regardless contract extras and reductions.
- 8.2. The other party shall have the right to request changes in the agreement. An amended agreement can be made, according to what is provided in article 3 of the present terms and conditions. Extras and reductions resulting from this amendment shall be invoiced or credited separately.
- 8.3. The other party is deemed to have requested alterations, as specified in the previous paragraph to Prodim Int. BV, if it appears that additional costs and / or contract extras and / or reductions are necessary to comply with safety regulations and connection conditions of the energy supplier.
- 8.4. The other party shall be obliged to pay the costs incurred because of not fulfilling its obligations as described in article 9 of the present terms and conditions.
- 8.5. Without prejudice to any provisions elsewhere in the present terms and conditions, Prodim Int. BV shall have the right to charge the other party additional costs, arising due to:
 - the need to comply with government regulations, including CE marking, which were not known or should have been known when concluding the agreement;
 - without fault of Prodim Int. BV, the inability to implement the agreement in a normal matter and / or without interruptions;
 - without fault of Prodim Int. BV, the need to expand the work which need to be performed within the implementation of the agreement.
- 8.6. In case a situation arises as described in paragraphs 3.4 or 5 of this article, Prodim Int. BV shall, without delay, notify the other party about the costs resulting thereof.

Article 9: Obligations of the other party

- 9.1. The other party must ensure that:
 - the connection of the installation to the grid of the energy supplier is established by or through itself;
 - Prodim Int. BV receives data, permits, exemptions, etc. needed for the implementation of the agreement in time;
 - Prodim Int. BV can use the space in which the work shall be performed in time;
 - sufficient possibilities to connect to an electrical grid and any other necessary connections are provided;
 - interference, E.M.C. and / or interference signals from machines or network connections are completely eliminated;
 - for installing the measuring machine, the system requirements listed in the technical specifications have been met;
 - the connection between work preparation stations (personal computer) and manufacturing machines is present and functions properly;
 - all other conditions to ensure a smooth execution of the work have been met, as far as can reasonably be required.
- 9.2. If, in the framework of the implementation of the agreement, goods need to be placed, when there is insufficient staff available at Prodim Int., the other party shall assist the staff of Prodim Int. BV.
- 9.3. The other party shall in no way violate the EU or US list of sanctions

Article 10: Obligations of Prodim Int. BV

- 10.1. Prodim Int. BV is responsible for a proper implementation of the agreement.
- 10.2. Prodim Int. BV should be aware of the government regulations relevant for the implementation of the agreement.
- 10.3. Prodim Int. BV shall report errors in the data and / or prescribed constructions, methods, instructions or order given by the other party, as soon as Prodim Int. BV notices these errors.
- 10.4. Prodim Int. BV is bound to secrecy of all data received from the other party, within the framework of the agreement.

Article 11: Liability of Prodim Int. BV

- 11.1. Non-delivery, untimely delivery or inferior delivery, as well as non-execution of work, untimely execution of work or inferior execution of work by Prodim Int. BV do not entitle the other party to compensation as far as it is a question of force majeure on the part of Prodim Int. BV.
- 11.2. Prodim Int. BV shall not be liable for damage caused as a result of normal wear, rust, oxidation or long-term abandonment of the goods delivered and / or made available by Prodim Int. BV. Moreover, Prodim Int. BV cannot be held responsible for damage caused as a result of willful misconduct and / or gross culpability of independent assistants appointed by Prodim Int. BV or persons employed by the company who are not in charge with the management of the company of Prodim Int. BV.
- 11.3. Prodim Int. BV shall not be liable for damage by or regarding to software used to control machinery. Nor shall Prodim Int. BV be liable for damage existing or arising from incorrect output data and destruction and / or non-accessibility of data.
- 11.4. Without prejudice to the last paragraphs of this article, Prodim Int. BV shall not be liable for damage caused by manual modifications of the data generating by the measuring machine and / or without the knowledge of Prodim Int. BV by amending or adding the control software of the personal computer, connecting the measuring machine.
- 11.5. Without prejudice to the last paragraphs of this article, Prodim Int. BV shall not be liable for damage caused as a result of malfunctioning of parts or installation not delivered or made available by Prodim Int. BV, for damage caused as a result of required provisions for CE-marking and for damage caused by not following the instructions as given in the description with the manual of the Proliner® measuring machine with accessories.
- 11.6. Without prejudice to the previous paragraphs of this article, Prodim Int. BV shall not be liable for damage to persons due to injuries or damage to health which may or may not result in death.
- 11.7. Without prejudice to the previous paragraphs of this article, Prodim Int. BV only accepts liability for direct damage of the Proliner®. Prodim Int. BV shall not be liable for consequential damages. It is the responsibility of the operator to check the measurements.

Article 12: Force majeure and termination

- 12.1. In this terms and conditions, force majeure on the side of Prodim Int. BV refers to war, threat of war, natural disasters, an excessive temporary increase in demand, disturbances, transportation barriers, government regulations, weather conditions, failure in or a delayed delivery, or not fully delivered to Prodim Int. BV of goods or services ordered by third parties, strikes, company obstacles, punctuality actions, breakdown at Prodim Int. BV, the presence of EMC pollution on the supply network of the other party, nuclear reactions, molestations, as well as any circumstances beyond the control of Prodim Int. BV – irrespective of the fact whether this was foreseeable at the time of the conclusion of the agreement – that prevents the performance of the agreement temporarily or permanently or makes it considerably more difficult or more expensive.
- 12.2. If Prodim Int. BV is, as a result of force majeure, not able to meet its obligations, the company shall be entitled to postpone the supply of goods or the performance of operations, without being in default, until the force majeure situation has ended.
- 12.3. In the event of force majeure, Prodim Int. BV has the right to terminate the agreement, without being liable for damages resulting thereof.
- 12.4. If the force majeure situation takes longer than one month, the other party shall be entitled to terminate the part of the agreement that relates to the supply of those goods or the performance of those operations that cannot be delivered or performed as a result of force majeure.

Article 13: Delivery and complaints

- 13.1. Delivery in the present terms and conditions refers to the implementation of the agreement by Prodim Int. BV. In the following cases, the delivery shall be deemed to have taken place:
 - if Prodim Int. BV has installed the goods delivered to the other party or the goods to which work has been performed;
 - if Prodim Int. BV has notified the other party in writing or orally that the delivery (deliveries) and / or works has / have been completed and the other party has approved the delivery (deliveries) and / or works;
 - If the relevant delivery (deliveries) and / or works are not taken into consideration by the other party and / or the other party has complaints about the relevant delivery (deliveries) and / or works within 8 days after Prodim Int. BV has notified the other party of the completion aforementioned.
- 13.2. Prodim Int. BV shall only take complaints into consideration if these have been lodged with Prodim Int. BV by registered letter within 8 days after delivery. For hidden defects, complaints must be made by registered letter within 6 weeks after the effects have been discovered by the other party or after the other party could reasonably have discovered these.
- 13.3. If the complaints are found to be valid by Prodim Int. BV, Prodim Int. BV shall replace or repair the goods or works relating to the complaint, after which the delivery is still deemed to have taken place.
- 13.4. The delivery shall not be affected if the delivery of goods have not yet been delivered and works have not yet been performed through no fault of Prodim Int. BV, which do not affect the proper functioning of the goods delivered or processed, but may be necessary to obtain any governmental approvals.
- 13.5. The other party shall be deemed to test the goods delivered, processed, adjusted and / or made available and to determine whether they meet the requirements pursuant to this article within 8 days after the delivery referred to in this article, according to the manual delivered herewith. If this test does not take place, the other party shall not complain after this period about any defects when these effects would have been discovered by taking this test.
- 13.6. Complaints about invoices shall be received by Prodim Int. BV within 8 days after the invoice date.
- 13.7. With the expiry of the terms aforementioned, the other party is considered to have approved the goods delivered or works performed as well as the invoice. Prodim Int. BV does not take complaints into consideration after this period.
- 13.8. Filing a complaint will not relieve the other party from its obligations under the agreement with Prodim Int. BV concerning the latter mentioned.
- 13.9. A claim arising from a hidden defect is not admissible if this is filed one year after the delivery.

Article 14: Warranty

- 14.1. Unless otherwise agreed in writing, Prodim Int. BV shall provide, subject to the following paragraphs of this article, a warranty, in respect of the goods delivered by the latter, for a period of 12 months after delivery. The works performed by Prodim Int. BV have a warranty of 12 months after accomplishment thereof. Regarding the services performed by Prodim Int. BV no warranty is provided.
- 14.2. All warranty claims become void, if:
 - Prodim Int. BV has stated beforehand not to agree with the application of goods, constructions, works, directions and / or orders prescribed by the other party;
 - the other party makes changes to and / or repairs the goods delivered, made available or performed by itself or by others;
 - the other party threatens / uses the goods delivered, adjusted or made available in an improper way or uses these goods for other purposes than the intended use, that determination is at the discretion of Prodim Int. BV;
 - the other party fails to meet its obligation according to the agreement.
- 14.3. Prejudice to the provisions defined elsewhere in this article, warranty claims may only be made by the other party regarding those defects, which become apparent under circumstances that were foreseen at the conclusion of the agreement and that were not related with normal wear or insufficient maintenance by the other party.
- 14.4. When stipulated by Prodim Int. BV that certain goods shall be delivered by said manufacturers or suppliers, the warranty provisions set by the manufacturers or supplier shall apply hereto. In addition to the factory warranty, Prodim Int. BV does not give a warranty in its own right. Prodim Int. BV shall not be liable for deficiencies in fulfilling the warranty obligations by said manufacturer or supplier.
- 14.5. In case of defects in goods delivered or performed operations, which have a warranty, Prodim Int. BV shall, at its choice, repair these defects, replace the goods delivered, or refund the invoice amount. In that case, the ownership of the replaced goods are transferred to Prodim

Article 15: Indemnity and settlement

- 15.1. If Prodim Int. BV, in respect of any damage for which Prodim Int. BV is not liable and for which the other party is liable under these conditions, may be approached by third parties, the other party must fully indemnify Prodim Int. BV and must pay to Prodim Int. BV any amounts that the latter on its behalf may have to pay to third parties, based on a settlement agreement concluded with the consent of the other party or an irrevocable judicial or therewith similar statement.
- 15.2. Counterclaims, possibly submitted by the other party, which are disputed by Prodim Int. BV, cannot be settled by deduction from and / or withholding from the invoiced amount, but should be demanded separately.

Article 16: Right to suspend

16. If and as long as the other party does not, not properly or not timely, comply with its obligation, arising from the agreement(s) and / or therewith related agreement(s) with Prodim Int. BV, Prodim Int. BV has the right to suspend the fulfillment of its obligation deriving from this agreement(s).

Article 17: Dissolution by Prodim Int. BV

17. If the other party:
 - A. is declared bankrupt, assigns the assets, requests suspension of payment, or if an attachment is levied on (part of) its property,
 - B. dies or is placed under guardianship,
 - C. fails to meet any obligation resting on it by reason of the law or these conditions,
 - D. proceeds to terminate or transfer its business or important part thereof, including the transfer of its business into an existing company or a company to be established, or changes the objective of its business.The occurrence of any of the abovementioned circumstances shall give Prodim Int. BV the right to terminate the agreement in writing, without prejudice to Prodim Int. BV's right to compensation for the delivered goods or performed works, and the right to compensation for interest, damage and costs.
- E. In case of any violation of the European or US sanction list Prodim Int. BV has the right to immediately suspend its obligations in full.

Article 18: Payment

18. Unless agreed otherwise in writing, payment without any discount or set-off must be made within 30 days of the invoice date by means of transfer to the bank or giro account specified by Prodim Int. BV. Prodim Int. BV shall be entitled to claim a part of or the full invoice amount by way of advanced payment as well as to invoice in parts to be agreed upon, or to demand sufficient security in any other way for the fulfillment of the obligation to pay by the other party. If the other party does not meet this requirement, Prodim Int. BV shall have the right to dissolve the agreement by means of a written statement and the other party shall have to compensate Prodim Int. BV for the damage sustained by the latter as a result thereof.
- Within a month after completion, Prodim Int. BV shall send the other party a final bill or invoice, stating the total amount billed by Prodim Int. BV to the other party, after deducting payments made (in advance).
- In case of overdue payment of any amount owed by the other party, Prodim Int. BV shall be entitled to demand payment in cash prior to delivery with respect to the next deliveries and / or activities, all this without prejudice to its rights notably pursuant to articles 6, 14, 16 and 17 of the present general terms and conditions.
- Each payment made by the other party shall primarily serve to cover the interest owed by it as well as the collection costs and / or administration costs incurred by Prodim Int. BV and shall then be deducted from the longest outstanding claim.

Article 19: Right of usage

- 19.1. In so far Prodim Int. BV grants the other party any rights to use software (embedded as well as non-embedded software – including updates) delivered by Prodim Int. BV, the right of usage is only for the duration of the usage agreement.
- 19.2. Unless otherwise agreed in writing, the other party is only allowed to use the software for its own account, as described in this article.
- 19.3. Unless otherwise agreed in writing, the right of usage, as described in paragraph 1 of this article, may not be transferred or made available to third parties, without the explicitly written approval of Prodim Int. BV.

Article 20: Applicable law and disputes

- 20.1. All agreements to which the applicability of the present terms and conditions has been agreed upon, are exclusively governed by Dutch law. In addition, section 6.5.3 of the Dutch Civil Code – dealing with general conditions – applies to this agreement.
- 20.2. All disputes, arising from the agreement(s) between parties, shall, unless falling under the jurisdiction of the Magistrate's court, exclusively be settled by the District Court of 's-Hertogenbosch, provided that Prodim Int. BV reserves the right to bring proceedings in any other court which has jurisdiction under the EEC Convention on Jurisdiction and Enforcement of 1968 and the amendments made thereupon.

Article 21: Additional repair provisions

- 21.1. Repairs have to be sent in by following the repair procedure as written on www.prodim-systems.com.
- 21.2. Prodim reserves the right to charge a monthly storage fee for non-timely settled repair invoices.
- 21.3. For cases where the customer has not settled his invoice after 6 months Prodim reserves the right to sell repaired equipment for the open invoice amount. Prodim will attempt to notify customer in such case in advance but is in no way responsible should such effort fail to reach the customer.