

Terms and Conditions of Sale

Procerus Technologies

1. **GENERAL.** The Terms and Conditions of Sale contained herein apply to all quotations made and all purchase orders received by Seller, and acceptance by Seller of any order by confirmation or commencement of performance shall be on the basis of these Terms and Conditions of Sale, even though no reference is made thereto at the time of acceptance. Seller's failure to object to provisions contained in any communication from the undersigned Buyer shall not be deemed a waiver of these Terms and Conditions of Sale. Buyer's assent to these Terms and Conditions of Sale shall be deemed to be given by implication unless Buyer gives written notice of objection to Seller promptly, upon receipt of this document. Any changes in the Terms and Conditions of Sale contained herein must specifically be agreed to in writing by an officer of Seller before becoming binding on Seller. These Terms and Conditions shall include additional terms, if any, contained in Appendix A, which is attached hereto and incorporated herein by this reference.

2. **ACCEPTANCE OF ORDERS.** All orders for Products from Buyer are subject to acceptance by Seller, and Seller reserves the right to accept or reject any orders in whole or in part.

3. **PRICES.** Prices quoted or acknowledged by Seller are firm to the quantities and the shipping schedules set forth in the quotation or order acknowledgment, but are subject to revision if quantities and/or shipping schedules are changed by Buyer.

4. **TAXES.** Unless otherwise specifically provided for in quotation or order acknowledgment, the amount of any present or future sales, revenue, excise or other tax applicable to the Products covered by Seller quotations, orders, or the manufacture or sale thereof, shall be added to the purchase price and shall be paid by, and are the responsibility of, the Buyer, or in lieu thereof Buyer shall provide Seller with a tax exemption certificate acceptable to the taxing authorities.

5. **TRANSPORTATION.** All sales are made F.O.B. shipping point. All claims for loss or damage must be filed by Buyer with the carrier. Unless specific instructions are given by Buyer, Seller will use the most economical carrier and mode feasible unless Buyer specifies otherwise.

6. **DELIVERY.** Shipping dates are approximate and are based on prompt receipt from Buyer of all necessary information. Seller reserves the right to make partial shipments.

7. **PAYMENT AND TERMS.** All invoices on credit terms are due and payable 30 days from the date of invoice unless otherwise specified. No discounts are allowed unless agreed to in writing by Seller. Invoices remaining unpaid after their due date will be subject to an interest charge of 1.5% per month (or the maximum rate allowed in Buyer's State, if lower) from their due date until paid. Buyer will pay all costs and expenses of collection of overdue accounts, including reasonable attorney's fees.

Each Purchase Order shall be considered a separate and independent transaction, and payment therefore shall be made accordingly. If shipment is delayed by Buyer, Seller has the right to issue invoice on the date it is prepared to make shipment. If the work covered by the purchase order is delayed by Buyer, the invoiced amount shall be based on the purchase price and the percentage of completion. Products held for Buyer shall be at the risk and expense of Buyer. Seller reserves the right to ship to its order and make collection by sight draft with a bill of lading attached.

If, in the judgment of Seller, the financial condition of Buyer at any time does not justify continuation of production or shipment on the terms of payment originally specified, Seller may require full or partial payment in advance. In the event of bankruptcy or insolvency by Buyer or in the event any proceeding is brought by or against Buyer under the bankruptcy or insolvency laws, Seller shall be entitled to cancel any order then outstanding and shall receive reimbursement for its cancellation charges.

8. LIMITED WARRANTY. Due to the often experimental application involving the Procerus® Kestrel™ Autopilot, Virtual Cockpit™ ground station control, gimbals, OnPoint™ Targeting, OnPoint™ Vision Technologies including the OnPoint VPU™ (vision processing unit and associated product(s)), with experimental vehicles and applications and that the Seller has no control over the integration, installation, packaging, testing and / or use of the Product(s) within a given application, vehicle, etc., or otherwise, the Seller does not provide and does not accept liability but is willing to provide a manufacturers “Limited Warranty”, as described below.

The Buyer will inspect and reasonably test each Product upon receipt and prior to use in order for any warranty claim, as described below, to be valid.

As limited by the provisions of this Paragraph 8, Seller warrants the Kestrel Autopilot, Commbox, OnPoint Vision Processing Unit (VPU) and other hardware products developed and provided by Seller to be free from defects in and arising from the assembly, manufacture, material, or workmanship of said Products; provided, however, that such warranty does not apply to problems that arise from such things as, but not limited to (i) accident, negligence or misuse; (ii) problems relating to or residing in other components, items or services with which the Product(s) are used; (iii) use not in accordance with Seller’s instructions, maximum ratings and operational guidelines, or specifications; (iv) use in an environment, in a manner or for a purpose for which the Product was not designed nor legally allowed; or (v) any modification, disassembly (partial or full), alteration or repair by other than Seller or an authorized representative of Seller’s choosing.

Seller’s entire liability and obligation to Buyer under this warranty shall be expressly limited to the repair or replacement, as Seller may determine at its sole discretion, of any defective or nonconforming hardware Product for which Buyer has first given written notice to Seller of such defect or nonconformity in the manner as provided below. No warranty is offered, expressed or implied, on any 3rd party products sold by Seller to Buyer.

No claim under this warranty shall be valid unless within thirty (30) days of its receipt of any merchandise hereunder, Buyer shall furnish Seller, in writing, notice of any defect in materials or workmanship or nonconformity specifying in detail any such defect or nonconformity. Absent such timely notice, Buyer shall be deemed to have waived any such defect or nonconformity that could have been determined by a reasonable inspection and testing of such goods. With respect to orders contemplating a series of shipments of merchandise by Seller to Buyer, unless Buyer notifies Seller in writing within thirty (30) days of the initial shipment of any nonconformity with any applicable specifications, then Buyer shall be deemed to have waived such nonconformity with respect to subsequent shipments involving the same specifications. Other than with respect to the repair or replacement of defective merchandise by Seller under the limited warranty as provided above, Seller shall have no obligation to Buyer with respect to any monetary damages by reason of any such nonconformity or defect, and in no event shall Seller be liable to Buyer for any lost profits or consequential damages.

Seller shall have the option, exercisable in its sole discretion, of requiring the return to it or an authorized representative of the defective merchandise, transportation prepaid, for inspection. In the event that some, but not all items of merchandise are defective within the terms of the limited warranty set forth above, the repair or replacement of merchandise at Seller’s option shall apply only to such defective items falling within the terms of such limited warranty and Buyer shall have no right to return or seek credit for any items not so defective.

EXCEPT FOR THE EXPRESS WARRANTY SET FORTH ABOVE, SELLER GRANTS NO OTHER WARRANTIES, EXPRESSED OR IMPLIED, BY STATUTE OR OTHERWISE, REGARDING THE PRODUCTS, THEIR FITNESS FOR ANY PURPOSE, THEIR QUALITY, THEIR MERCHANTABILITY, OR OTHERWISE.

Buyer acknowledges that it bears the sole risk and responsibility for determining if the Product(s) are suitable for its intended purposes.

9. USER LICENSE. Subject to all the terms of this Agreement and compliance therewith, Seller grants Buyer a non-sub-licensable (except as may be expressly provided), non-transferable, non-exclusive, Commercial Use License to end users for use only on specified Products (to include but not limited to Kestrel™ autopilot, Virtual Cockpit™ ground station, OnPoint™ vision processing products, gimbals, etc.) in accordance with the applicable documentation (each an “End User License”) provided that such Products are used together as part of the Seller’s set of products for which they are intended and provided and not used separately; provided further that such license shall terminate at such time as the Product purchased by Buyer is no longer used by Buyer or is no longer functional. Products and technologies, hardware and software, developed by Seller are the intellectual property of Seller.

The Buyer's licensing rights are limited to itself alone and do not extend to, and may not be licensed, sold, leased, loaned, assigned, distributed or otherwise transferred to, subsidiary or parent corporations, or to any other related, unrelated, or affiliated organizations, except upon the prior written consent of Seller which may be withheld in its discretion for any reason or for no reason. Buyer shall not copy, distribute or otherwise commercially exploit or make available to any third party all or any portion of the Products or any proprietary Technology of the Seller or the content thereof in any way.

Buyer may not, and hereby agrees not to de-compile, recompile, disassemble, reverse engineer, modify, translate, or distribute the Products or any proprietary Technology of the Seller associated therewith, adapt or create derivative works of the Products, proprietary Technology of Seller or any files or elements thereof in order to (a) build a competitive product or service, (b) build a product using the same or similar ideas, features, functions or graphics of the Products, or other proprietary technology of Seller, or (c) copy any ideas, features, functions or graphics of the Products or proprietary technology, or for any other purpose and Buyer may not, and hereby agrees not to change, delete, merge or rename any files or any element of the Products or proprietary Technology in any manner except as provided herein. The Products and software associated therewith may not be used in any way except for the purpose and manner for which it has been developed and delivered as a whole.

Buyer shall not remove or alter any copyright or trademark information on the Technology and Buyer will take all commercially reasonable steps to protect the copyrights, trademarks and other intellectual property rights of the Technology and in all events not less than the steps Buyer takes to protect its own intellectual property rights. Buyer shall reference and acknowledge Seller’s products by name, together with all appropriate legal marks therewith, in all End Use, End User manuals, technical documentation, and consumer related and available information vehicles, and shall acknowledge Seller as the owner of such Products and shall not claim ownership to such Products or any rights therein.

Seller’s protected trademarks, trade names and service marks include, but are not limited to, the following marks: Procerus®, Virtual Cockpit™, OnPoint™ Targeting, OnPoint Onboard™, OnPoint VPU™, Procerus Commbox™, Procerus Kestrel™ Autopilot, Procerus logo, Perceptor DG™ gimbal logo, OnPoint logo, Kestrel logo and designs.

Kestrel™ Autopilot SDK, OnPoint™ SDK are provided under license and may not be used or distributed outside of the licensing terms that govern their use and dissemination.

Nothing contained in this Agreement shall, by express grant, implication, estoppel or otherwise, create any right, title, interest, ownership or license in or to the inventions, patents, technical data, computer software, or software documentation of Seller. Any rights not expressly granted in this license are reserved by Seller.

Nothing contained in this Agreement shall grant to Buyer the right to make commitments of any kind for or on behalf of Seller without the prior written consent of the Seller.

10. OWNERSHIP OF SOFTWARE AND HARDWARE. Seller and its licensors shall have sole and exclusive ownership of all right, title, and interest to the proprietary information and intellectual property rights contained in and associated with the Products delivered to Buyer, including all software delivered or associated with such Products, in whole or in part, and End-User Materials, all copies thereof, and all modifications and enhancements

thereto provided to Buyer under this Agreement (including ownership of all copyrights and other intellectual property rights pertaining thereto), subject only to the right and license expressly granted to Buyer herein. This Agreement does not provide Buyer with title or ownership of the software or any portion thereof but only a right of limited use.

11. **LIMITATION OF LIABILITY.** Seller's sole liability and Buyer's exclusive remedy for damages from any cause whatsoever (and regardless of the form of action) shall be limited to the repair or replacement, at Seller's sole option, pursuant to the limited warranty set forth above. **IN NO EVENT SHALL SELLER BE LIABLE FOR DAMAGES CAUSED BY BUYER'S NEGLIGENCE, OR FOR ANY LOST PROFITS, OR OTHER INCIDENTAL, INDIRECT, SPECIAL, PUNITIVE OR CONSEQUENTIAL DAMAGES, INCLUDING LOSS TO OTHER MACHINERY OR EQUIPMENT OF WHICH A PRODUCT OF SELLER IS A PART, REGARDLESS OF THE FORM OF ACTION, WHETHER IN CONTRACT, TORT (INCLUDING NEGLIGENCE), STRICT PRODUCT LIABILITY OR OTHERWISE, EVEN IF SELLER HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.**

Buyer shall hold harmless and does hereby indemnify Seller of any liability associated with the use, or misuse, of the Product(s) whatsoever. The Buyer is hereby advised that the FAA and/or other US Government entities may have rules that limit or prohibit the use of Product(s) above certain altitudes or within certain ranges of the operator or airports for which the operator is responsible and may have other restrictions and regulations. The BUYER is liable and responsible to ascertain appropriate use and to obtain permissions, licenses, etc. as may be required.

The FCC may have rules that prohibit or limit the use of video and/or radio communications equipment supplied with or discussed herein.

Buyer may pass on to its End User(s) the Seller's standard limited warranty, as set forth above, including the limitations set forth below. Any warranty granted by Buyer that exceeds Seller's standard limited warranty shall be at Buyer's own risk and expense, and Buyer shall indemnify Seller from any liability therefore. This warranty is contingent upon the following: (i) Product is maintained in an environment consistent with Product specifications; (ii) Product Warranty does not include efforts to remedy, repair or replace Products as a result of (a) accident, neglect; (b) problems relating to or residing in other items or services with which the Product(s) are used; (c) installation not in accordance with Seller's instructions, the applicable specifications or allowances; (d) use in an environment, in a manner, or for a purpose for which the Product was not designed or legally allowed; or (e) installation, modification, disassembly (partial or full), alteration or repair by anyone other than Buyer or its authorized representatives, unless specifically pre-authorized in writing by Seller.

12. **EXPORT.** Buyer shall not transfer licensed software, technical data (including Communications Protocol) or Confidential Information or any direct product(s) thereof received under this Agreement to any foreign person, country, foreign subsidiary or parent corporation, without specific written authorization from the Seller or in violation of any laws or regulations. Products and / or technical data disclosed hereunder are or may be subject to the U.S. Department of Commerce Export Administration Regulations (EAR) or the International Traffic in Arms Regulations (ITAR). Accordingly, the receiving party shall not transfer these product(s) or technical data received under this Agreement to any foreign person, country, foreign subsidiary or parent corporation, without specific written authorization from the disclosing party and pursuant to obtaining an appropriate U.S. Government agency export license. Further, the receiving party does assure the disclosing party it will not disclose technical data received hereunder to any employee, consultant or subcontractor employee not holding United States citizenship or granted admission or permanent residence in the United States under the Immigration and Nationality Act, as amended (8 USC 1101 et seq.).

13. **CONFIDENTIAL INFORMATION.** Buyer agrees that all code, inventions, algorithms, know-how, ideas, and all business, technical and financial information it obtains from Seller are the confidential property of Seller and its suppliers ("Confidential Information"). Except as expressly and unambiguously allowed herein, Buyer will hold in confidence and not use or disclose any Confidential Information except as expressly permitted by or required to achieve the purposes of this agreement. Buyer's nondisclosure obligation will not apply to information it can

document is generally available to the public (other than through breach of this Agreement). Because of the unique and proprietary nature of the Confidential Information, it is understood and agreed that Seller's remedies at law for a breach by Buyer of its obligations under this Section 13 will be inadequate and that Buyer will be entitled to equitable relief (including without limitation provisional and permanent injunctive relief and specific performance) in addition to any other remedies.

14. **FORCE MAJEURE.** Seller shall not be liable for any failure or delay in manufacture or delivery resulting from any cause beyond the reasonable control of Seller, including by way of illustration and not by way of limitation, compliance by Seller with any government, FAA, or military regulation, or from acts of God, fires, or other casualty or accident, strikes, lockouts, factory shutdowns or alterations, embargos, riots or other disorders, delays or shortages in transportation, or inability to obtain sufficient quantity of fuel, power, labor, manufacturing facilities of materials or other supplies from the usual sources of Seller. In addition, Seller shall not be held to the price of the Product in its quotation and/or order acknowledgment if the cost of materials needed for Seller's manufacturing process of the Product, as the result of events listed in this paragraph, and being beyond the reasonable control of Seller, would increase beyond what can normally be expected during the life of the contract. Should such cost increases occur, Seller and Buyer agree to renegotiate the price for the Product based on the actual cost increases to Seller for Buyer's Product as a result of said price increases of materials used in the manufacturing of the Product(s) in question.

15. **CANCELLATION.** Cancellation of orders will be subject to a cancellation charge equal to 10% of the order value, or the value of material and work performed on the cancelled Product at the time of cancellation, whichever is larger. Cancellation policy not applicable to Product under way on behalf of Buyer or that is already shipped and / or delivered to Buyer.

16. **RETURN FOR REPAIR POLICY.** Buyer must obtain a Return Material Authorization (RMA) number from Seller prior to shipping any Product back to Seller for review and/or repair (See Appendix A). All returns for repair are to be sent prepaid by Buyer and are subject to paragraph 11 above.

17. **SUPPORT SERVICES.** This Agreement does not obligate Seller to provide Buyer any support, upgrades, patches, enhancements, or fixes for the Products or licensed software (collectively, "Support"); however, any such Support that Seller may make available in its sole discretion shall become part of the Products and software and subject to this Agreement. Buyer may request support services and Seller may provide support services, at it may choose, at Seller's then current services and support rates.

Defective Product covered by warranty as described in Section 8 will either be repaired or replaced, as Seller may determine at its sole discretion, and returned at no cost to Buyer.

18. **MISCELLANEOUS.**

(a) This Agreement is not assignable or transferable by Buyer without the prior written consent of Seller; any attempt to do so will be null and void. This Agreement is assignable by Seller to any successor to all or substantially all of its assets or business. Parties agree that they are each independent entities and nothing in this Agreement will be deemed to establish a joint venture, partnership, agency or employment relationship between the parties. Neither party has the right or authority to assume or create any obligation or responsibility on behalf of the other.

(b) If any provision of this Agreement is unenforceable or invalid, that provision will be limited or eliminated to the minimum extent necessary so that this Agreement will otherwise remain in full force and effect and enforceable. This Agreement will be construed under the laws of the State of Utah, without regard to conflicts of laws provisions thereof. This Agreement is the complete and exclusive statement of the mutual understanding of the parties and supersedes all previous written and oral agreements and communications relating to the subject matter of this Agreement. In any action relating to the subject matter of this Agreement, the prevailing party will be entitled to recover reasonable legal fees and related costs.

(c) As defined in FAR section 2.101, the software and accompanying documentation licensed in this agreement are “commercial items” and according to DFAR section 252.227-7014(a)(1) and (5) these items are deemed to be “commercial computer software” and “commercial computer software documentation.” Consistent with DFAR section 227.7202 and FAR section 12.212, any use modification, reproduction, release, performance, display, or disclosure of such commercial software or commercial software documentation by the US. Government will be governed solely by the terms of Seller’s end user license and will be prohibited except to the extent expressly permitted by the terms of that license.

19. NON-WARRANTED REPAIRS

For damaged Product NOT covered by warranty such as, but not limited to, components that are dislocated, dislodged, or cracked and/or where printed circuit board traces or solder joints are broken or cracked, and where product MAY be repairable, charges may apply as noted in Appendix A. Minimum charge and per hour service fees for repairs as then in effect, cost of components, parts, and other items as may be necessary to make repairs. Return shipping and handling costs paid by Buyer.

20. DISPUTES. This Agreement shall in all respects be governed by the laws of the State of Utah.

By receipt of and/or by executing these Terms and Conditions of Sale in the space provided below, BUYER ACKNOWLEDGES AND AGREES THAT IT HAS READ AND UNDERSTANDS THESE TERMS AND CONDITIONS OF SALE AND THAT IT WILL BE BOUND BY AND SUBJECT TO THESE TERMS AND CONDITIONS OF SALE.

The person(s) signing below hereby acknowledges that he/she is an officer of the party for which he or she signs and is permitted, and is legally authorized, to bind such party.

BUYER:

Company Name

Address

City _____, State _____, Zip _____

Signed: _____

Name: _____

Title: _____

Date: _____

SELLER:

Procerus Technologies, L.C.

Address: 500 South Geneva Road
Vineyard, Utah 84058

Signed: _____

Name: _____

Title: _____

Date: _____

Appendix A

Non-Warranted Repairs:

In the event of product damage (including but not limited to; a hard landing, crash, static discharge, battery overload, accident, mishandling, or similar event, etc.) where the Product may be repairable, Seller may repair the unit at its discretion and return it to Buyer for the cost of repairs, parts, and shipping.

Charges:

- Minimum charge for returning an item not under warranty for possible repairs: \$250
- Per hour cost breakout for repairs: Technician \$135 hour
- Per hour cost breakout for repairs: Engineer \$175 hour
- Components, parts, and other items as may be necessary to make repairs
- Shipping charges are the responsibility of customer: packaging, handling, freight TBD

Pricing may change at the discretion of Seller.

Non-Warranted Items:

Seller does not provide warranty of any kind for testing UAV airframes or any 3rd party components or parts (i.e.; GPS or modems, antennas, batteries, motors, etc.) that may be purchased from Seller. Components can and do fail and often for unknown and indefinite reasons. (hard landing, static discharge, accident, neglect, etc.) Should a problem arise with 3rd party components, Buyer may choose to purchase replacement components at the then current pricing from Seller.