

**VEECO INSTRUMENTS INC. AND SUBSIDIARIES
TERMS & CONDITIONS OF PURCHASE**

1. GENERAL. The terms and conditions of Buyer stated on this order shall govern in the event of any conflicting or additional terms proposed by Seller, and are not subject to change by reason of any written or oral statements by Buyer or by any terms stated in Seller's acknowledgment of this order, unless such conflicting or additional terms are accepted in a writing making reference to this order and signed by Buyer. Buyer's purchase order, when accepted by Seller, will supersede all prior communications and constitute a complete and binding contract between Buyer and Seller. Shipment of goods or materials pursuant to this order shall be deemed to be an unqualified acceptance of the terms and conditions contained herein.

2. SPECIFICATIONS. Any specification, drawing, note, instruction, engineering notice or technical data referred to in this contract shall be deemed to be incorporated herein by reference as if fully set forth herein. In case of any discrepancies or questions, Seller shall consult Buyer for instructions or interpretations.

3. PAYMENT TERMS. Payment by Buyer shall be made within sixty (60) days after receipt of a correctly presented invoice. Buyer make take a 2% discount if payment is made net 10 days. Seller shall prepare one consolidated monthly invoice for products whose title has transferred from Seller to Buyer during the month.

4. PRICES. All prices are F.O.B. Seller's point of origin. The price for the goods or materials sold hereunder shall not be higher than that appearing on the face of this purchase order, or if no price appears thereon, then no higher than the last price quoted or charged by Seller. Price increases must be submitted to Buyer 90 days in advance of effective date. Such prices shall not be in excess of the maximum prices permitted by any applicable governmental regulations. Seller covenants that if it should at any time prior to the delivery of the last goods covered hereby sell like articles in similar quantities to any third party at lower prices, it will notify Buyer in writing of such lower prices and Buyer will receive the full benefit of such lower prices from the date of such sale to any such third party.

5. TAXES. Unless otherwise indicated in this order, the prices herein include all applicable federal, state and local taxes. Unless otherwise noted, any item covered hereby will become a component part of a product manufactured by Buyer and is bought for resale; as such, no retail sales or use tax is applicable. Seller agrees to accept appropriate tax exemption certificates when supplied by Buyer. If any tax included in the price hereunder is not required to be paid by Seller, Seller agrees to notify Buyer and refund the same to Buyer.

6. INVOICES. Seller shall issue separate invoices for each shipment against this contract which shall show the number of items shipped. Buyer's purchase order number, part number, and the U.S. government contract number, if any, shall appear on all invoices, packages, crates or boxes, packing slips, correspondence and other documents in connection with this contract. In addition each container shall show the quantity contained. All merchandise shipped such that it will be received fewer than six days to the end of a calendar month must have an invoice date no earlier than the 1st of the following calendar month.

7. SHIPMENT, TITLE AND DELIVERY. Time shall be of the essence. Seller shall notify Buyer immediately of any delay or potential delay in the timely performance of this Order. In the event of delay, in addition to any other rights or remedies available to Buyer, Seller shall ship products not delivered on time through expedited channels necessary to recover the maximum possible time lost, with Seller paying any extra cost. Unless otherwise agreed in writing, Seller shall not make any shipment or delivery in advance of the time specified by Buyer therefor. Shipments are required to be 0 days late, and no more than 2 days early, unless requested in writing by Buyer (purchasing agent signature required). Receipt of goods more than 2 days early may be subject to return to Seller, at Seller expense. Such advance shipments shall be at Seller's own risk and Buyer shall not be bound to pay for goods or materials shipped in advance of scheduled deliveries and any storage costs caused thereby. All items shall be suitably packed, marked and shipped to prevent damage in accordance with good commercial practice and the requirements of the respective common carrier. No additional charge for packing or boxing shall be made to Buyer unless so stated herein. Title and risk of loss or damage shall pass from Seller to Buyer upon placement by Seller of the products with a common carrier for delivery to Buyer at the address specified on the reverse side hereof.

8. ACCEPTANCE. Final inspection and acceptance shall be made at Buyer's delivery point. Items furnished in lots are subject to rejection on the basis of sample inspection. If preliminary inspection or tests are to be made at Seller's factory, Seller shall furnish reasonable opportunity, facilities and assistance for the safe and convenient inspection and testing required by Buyer and/or, if applicable, the U.S. Government. The foregoing shall not relieve Seller of the obligation to make full and adequate inspection and testing. Notwithstanding any prior payment or acceptance, goods or materials failing to meet the requirements of this order will be held by Buyer for Seller at Seller's risk and will be returned to Seller at Seller's expense. At Buyer's option, Seller shall either refund to Buyer the invoice price of all items returned hereunder (plus all transportation and handling expenses thereon paid or incurred by Buyer) or replace such returned items, freight prepaid. If this contract covers items made to Buyer's specifications, Seller authorizes Buyer, in Buyer's discretion, to make a first piece inspection of any operation at

Seller's premises. All such items shall, nevertheless, be subject to final inspection and acceptance at Buyer's premises.

9. CHANGE ORDERS. Buyer shall have the right to make modifications within the scope of this order, including, without limitation, changes as to specifications, designs, delivery schedule, destination, testing or packing, without notice to any sureties or assignees of Seller. Seller shall promptly notify Buyer of any changes in cost or delivery schedule, if any, caused by such changes and an equitable adjustment in price or other terms hereof shall be agreed upon in a written amendment to this contract describing all such changes.

10. BUYER FURNISHED PROPERTY.

(a) Any property (including tools, materials and equipment) acquired by Seller at Buyer's expense or furnished by Buyer for the performance of this order shall become and/or remain the property of Buyer. Title to such property shall not be affected by incorporation or attachment to other property. Seller shall bear the risk of loss, destruction and damage to such property. Upon completion or termination of this order, Seller shall deliver such property to Buyer or follow Buyer's disposition instructions. Seller shall keep all such property free and clear of liens.

(b) The price of this contract shall include the cost of tools and materials unless specifically excluded therefrom. Buyer will not be liable for the cost of manufacturing or procuring any tools which Seller deems necessary in its manufacturing process, unless Seller receives a written purchase order from Buyer authorizing the manufacture or purchase of such tools. In such event (or if the price to be paid is stated on the face of this order to include any tools used in the manufacture of items ordered), the tools shall become the property of Buyer and shall be so recorded and identified by Seller.

11. CANCELLATION FOR CAUSE. Buyer's production schedules are based upon timely delivery of items purchased hereunder. Buyer may cancel this Order, in whole or in part, (a) if Seller fails to provide adequate assurance of its ability or willingness to perform its obligations under this Order (as provided in U.C.C. Section 2-609) within 5 business days after Buyer's request therefor, (b) if Seller fails to comply with any of the terms hereof, (c) if Seller fails to make deliveries as provided herein, (d) if the products delivered hereunder do not conform to the specifications therefor, (e) if Seller assigns or subcontracts all or any material part of this contract without Buyer's prior written consent, or (f) if Seller suspends business or becomes insolvent or if bankruptcy, reorganization, arrangement or liquidation proceedings are commenced by or against Seller, or if a trustee or receiver for Seller's property or business is appointed, or if there is an assignment for the benefit of Seller's creditors; and, in the case of clauses (b), (c) and (d), such failure continues for 5 business days after notice thereof to Seller. In the event of a cancellation for one of the foregoing reasons, Buyer's liability shall be limited to the purchase price of Product delivered and accepted prior to such cancellation or termination.

12. CANCELLATION FOR BUYER'S CONVENIENCE. Buyer may cancel this Order, in whole or in part, any time for its convenience. In the event of a cancellation for Buyer's convenience, Buyer's liability shall be limited to (a) the purchase price of Product delivered and accepted prior to such cancellation or termination plus (b) reimbursement of Seller's actual costs of materials and direct labor expended by it in reasonable anticipation of its fulfillment of this order which are not recoverable by Seller, provided that no allowance shall be made to Seller for any overhead or anticipated profit for undelivered goods and materials.

13. ASSIGNMENT. This contract may not be assigned or subcontracted in whole or in material part by Seller without Buyer's prior written consent. If Buyer shall consent to such assignment or subcontracting, all claims for monies due from Buyer shall nevertheless be subject to deduction by Buyer for any set-off or counter-claim arising out of this or any other of Buyer's contracts with Seller, whether such set-off or counter-claim arose before or after any such assignment or subcontracting by Seller.

14. WARRANTY. All goods and materials sold and delivered by Seller to Buyer shall be in full conformity with Buyer's specifications set forth or referred to on the face hereof (including any related blueprints, drawings, samples or other descriptions furnished by Buyer) or if none are set forth or referred to, shall be in conformity with Seller's published specifications and samples provided to Buyer and will be new, merchantable, fit and sufficient for the use intended by Buyer (if known to Seller) and will be of good quality and workmanship and free from defects. These warranties shall survive acceptance and payment and shall run to Buyer, its successors, assigns and affiliates and the customers, users and purchasers of the items ordered herein, and shall not be deemed to be exclusive. These warranties shall continue for the length of Seller's standard warranties, but in no event will the warranty be less than one year from acceptance of the products by Buyer. Seller will, at Buyer's option, repair, replace or provide a refund with respect to any nonconforming goods. This warranty includes parts, labor and, where applicable, travel time and expenses to repair/replace goods at Buyer's facility. Seller will pay freight charges on any goods returned to Seller due to nonconformity.

15. INTELLECTUAL PROPERTY INFRINGEMENT. If a third party claims that the purchased goods infringe that party's patent, copyright or other intellectual property rights, Seller will defend Buyer, its successors, assigns and affiliates and the customers, users and purchasers of the product of Buyer into which the goods purchased hereunder are incorporated, against that claim and will pay all costs, damages, attorney's fees and other liabilities which may be incurred as a result of any claim involving infringement of any U. S. or foreign intellectual

property right in the design, manufacture, use or sale of any item or material supplied hereunder, provided that Buyer: (a) promptly notifies Seller in writing of the claim and (b) allows Seller to control, and cooperates with Seller in, the defense and any related settlement negotiations. If such a claim is made or appears likely, Seller will (i) attempt to obtain a license to enable Buyer to continue to use the product, (ii) modify the product so it becomes non-infringing in a manner acceptable to Buyer or (iii) replace it with a non-infringing product that is functionally equivalent and acceptable to Buyer. If none of these alternatives is available, Buyer may return the product to Seller at Seller's expense, in which case Seller will credit Buyer with an amount equal to the price paid for such product. Seller shall not be liable with respect to custom products manufactured to Buyer's detailed design where such design is the cause of the claim.

16. INDEMNITY; INSURANCE. Seller shall indemnify Buyer against any and all losses and expenses for personal injury, including death, or property damage resulting from any act or omission, or from any defective product, of Seller, its agents, employees, subcontractors or vendors. Seller shall maintain liability insurance in reasonable amounts to protect Buyer from such risks.

17. CONFIDENTIALITY. Seller agrees to treat as confidential all specifications, drawings, blueprints, nomenclature, samples and models and other information supplied by Buyer or learned about Buyer or its business (collectively, "Buyer Confidential Information") in the course of negotiation and performance of this contract. Seller shall not advertise, publish or disclose any statement mentioning Buyer or the fact that Seller furnished or contracted to furnish Buyer items required by this contract, without Buyer's prior written consent. Seller shall not disclose any Buyer Confidential Information relating to this contract to any person other than Seller's employees who have a need to know and who shall agree to be bound by the terms of this paragraph and for whom Seller shall be responsible. Buyer Confidential Information shall be used exclusively in the production of items required by this contract for Buyer, and shall not be used for the manufacture or design of any item, nor disclosed or reproduced, for any other person, firm or entity without Buyer's prior written consent. Seller shall return to Buyer any documents containing and any physical embodiments of Buyer Confidential Information promptly following completion of this agreement or any request by Buyer therefor. These confidentiality provisions shall apply during the performance of this agreement and for ten years thereafter.

18. FORCE MAJEURE. Neither party shall be held responsible for the failure or delay in delivery or acceptance of materials or goods sold hereunder where such failure or delay is due to any act of God or of the public enemy, war, compliance with laws, governmental acts or regulations, fire, flood, quarantine, embargo, epidemic, unusually severe weather or other causes similar to the foregoing beyond their reasonable control, but the party seeking to avail itself of any of the foregoing excuses shall promptly notify the other party of the reasons for any failure or delay in delivery or acceptance and shall exert its best efforts in avoiding further delay; provided, that Buyer may cancel this contract if such conditions prevent performance by Seller for a period greater than 30 days.

19. COMPLIANCE WITH LAWS; FAIR LABOR STANDARDS. Seller agrees to comply with all applicable provisions of federal, state and local laws and to promptly notify Buyer if any of the goods to be purchased hereunder are subject to U.S. export restrictions. Seller agrees to hold Buyer harmless from any and all liability resulting from failure of such compliance. Seller warrants that the items furnished will be produced in compliance with the applicable requirements of the Fair Labor Standards Act of 1938, as amended, and regulations and orders of the U.S. Department of Labor issued under section 14 thereof.

20. APPLICABLE LAW. The contract created hereby shall be interpreted and construed under the laws of the State of New York, without regard to the choice of law provisions thereof and not including the U.N. Convention on Contracts for the International Sale of Goods, if otherwise applicable.

21. MISCELLANEOUS. The failure in a particular instance of either party to insist upon the performance of any of the provisions of this contract shall not be construed as a waiver or relinquishment of the future performance of such provision and shall not prejudice the right of such party to enforce such provision at a later time. The invalidity in whole or in part of any provision of this contract shall not affect the validity of any other parts hereof. The remedies herein reserved shall be cumulative and additional to any other remedies in law or equity. No agency relationship or partnership exists between the parties, and no party has the right to enter into a contract on behalf of or as an agent or representative of any other party. Neither party shall be liable for consequential damages, for lost profits, incidental, indirect, special or punitive damages, even if advised of the possibility of such damages.

22. GOVERNMENT CONTRACTS. Buyer is a prime or subcontractor on various United States Government contracts and is required to flow down to its subcontractors certain government requirements. Accordingly, if this is a subcontract for the United States Government, the following clauses found in the Federal Acquisition Regulation ("FAR") and the Department of Defense FAR Supplement ("DFARS") are incorporated herein by reference with the same force and effect as if set forth below in full text. Where necessary to flow-down Buyer's requirements to Seller in the following FAR and DFARS clauses, the term "Contractor" or "Prime Contractor" shall mean "Seller"; the term "Government" shall mean "Buyer"; the term "Contracting Officer" shall mean "Buyer's Purchasing Representative"; and the term "Contract" or "Schedule" shall mean this order.

To the extent required by the FAR and DFARS clauses set forth below, Seller agrees to flow down to its lower-tier subcontractors the requirements set forth in such clauses. Seller further agrees that all notifications and other communications required by these clauses shall be made through the Buyer's Purchasing Representative, unless this Order specifically provides otherwise. In the event of a conflict or inconsistency between the provisions set forth in the other sections of these terms and conditions and the incorporated clauses listed below, the latter shall take precedence.

Federal Acquisition Regulations (FAR)

- 52.202-1
- 52.203-3, 5
- 52.203-6 (this clause applies if this Order exceeds \$100,000)
- 52.203-7 (this clause applies if this Order exceeds \$100,000)
- 52.204-2 (this clause applies to all subcontracts that involve access to classified information)
- 52.209-3, 4 (each, if stated on the face of this order)
- 52.214-26 (this clause applies if the prime contract was awarded by sealed bidding)
- 52.214-27 (this clause applies if the prime contract was awarded by sealed bidding)
- 52.214-28 (this clause applies if the prime contract was awarded by sealed bidding)
- 52.215-2 (this clause applies if the prime contract was awarded through negotiations)
- 52.215-10 (this clause applies if the prime contract was awarded through negotiations)
- 52.215-11 (this clause applies if the prime contract was awarded through negotiations)
- 52.215-12, 13 (these clauses apply if the prime contract was awarded through negotiations)
- 52.215-14
- 52.215-18
- 52.219-8
- 52.219-9 (this clause does not apply to small businesses)
- 52.222-1, 4, 20, 26, 29, 35, 36, 37, 43, 44
- 52.223-3, 5
- 52.224-2
- 52.225-1, 3, 7, 9, 10, 11, 12, 13, 14, 15, 16
- 52.227-1, 2, 9, 10
- 52.227-14
- 52.229-3
- 52.230-3 (not applicable to small businesses and contracts under \$500,000)
- 52.230-4
- 52.232-1, 11
- 52.233-3
- 52.242-14, 15
- 52.243-1, 2, 3, 4, 5, 7 (insert "15" in par. (b) and "20" in par. (d))
- 52.244-5
- 52.245-2, 5, 17, 18
- 52.246-2, 3, 6, 16, 23
- 52.247-63, 64
- 52.248-1
- 52.249-1, 2, 4, 6, 7, 8, 11, 12

Department of Defense FAR Supplement (DFARS)

- 252.204-7005
- 252.215-7000
- 252.227-7013
- 252.235-7002
- 252.242-7003

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EXHIBIT A

Terms Specific to This Agreement

Section 1: Initial Products, Price and Lead Times

Section 2: Special Terms and Conditions (if any)