



**VEGA Instruments Canada, Ltd.
General Terms and Conditions of Sale**

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VEGA Instruments Canada, Ltd. General Terms and Conditions of Sale

These terms and conditions of sale are the only terms which govern the sale of goods or provision of services by VEGA Instruments Canada, Ltd. (Seller) to the Buyer. These terms, along with any Specific Terms and Conditions attached, comprise the entire agreement between the parties with respect to the subject matter, and supersede all prior or contemporaneous understandings, agreements, negotiations, representations, warranties and communications, both written and oral, with respect to the subject matter. Fulfillment of Buyer's order does not constitute acceptance of any of Buyer's terms and conditions and does not serve to modify or amend these terms. Notwithstanding anything herein to the contrary, if a written contract signed by both parties is in existence covering the sale of goods or provision of service, the terms and conditions of said contract shall prevail to the extent they are inconsistent with these terms.

LANGUAGE

The parties hereto confirm that it is their wish that this Agreement as well as other documents relating hereto, including notices, have been and shall be drawn up in the English language only. Les parties aux présentes confirment leur volonté que cette convention de même que tous les documents, y compris tous avis, s'y rattachant, soient rédigés en langue anglaise seulement.

MODIFICATION OF TERMS

No modification of, addition to, or waiver of any of the terms and conditions stated herein shall be binding on Seller except by written consent of Seller. If Seller accepts Buyer's terms and conditions for a particular transaction, Seller reserves the right to re-negotiate terms on future orders.

DESIGN

Seller reserves the right to make design improvements without notice.

CHANGES

If Buyer directs changes which affect the drawings or specifications; quantities ordered; delivery schedule; method of shipment or packing; or place of delivery, such changes must be in writing and signed by both parties. Seller reserves the right to an equitable adjustment in the pricing or delivery of the order, which will be agreed to by both parties before further work is performed on the order. Change order requests will be priced according to the scope of changes and the status of the order.

Order Change Fee Schedule:

Order entered but not released for manufacturing: 10% of equipment order value

Order in any stage of production: 50% of equipment order value

Order complete and ready for shipment: 100% of equipment order value

DOCUMENTATION/ENGINEERING TIME

The documentation supplied to meet an order's requirements will consist of Seller's standardized drawings and documentation. Drawings may be general in nature and used to support a variety of applications. Notes and dimensions in the drawings may or may not be applicable to the user's specific requirements. Seller reserves the



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right to charge for additional engineering time required for client-specific modifications or additions to standard drawings and documentation. Multiple revisions of drawings and documentation due to changing client circumstances are subject to additional charges and lead times.

EXPORT

Seller reserves the right to withdraw a quotation or cancel an order at any time without the incurrance of penalties or damages if, at Seller's sole discretion, the export or re-export of any item on such quotation or order would violate any US export or re-export laws or regulations.

Buyer acknowledges that the goods, including any software, documentation, and any related technical data included with or contained in the goods and any products utilizing such goods, software, documentation or technical data (collectively, "regulated goods") may be subject to US export control laws and regulations, including the Export Administration Regulations promulgated under the Export Administration Act of 1979, and the International Traffic in Arms Regulations administered by the US Department of State. Buyer shall not, and shall not permit any third parties to, directly or indirectly, export, re-export or release any regulated goods to any jurisdiction or country to which, or any party to whom, the export, re-export or release of any regulated goods is prohibited by applicable federal or foreign law. Buyer shall provide prior written notice of the need to comply with such laws to any person, firm or entity which it has reason to believe is obtaining any such regulated goods from the Buyer with the intent to export.

Buyer shall maintain in effect all the licenses, permissions, authorizations, consents and permits that it needs to carry out its obligations under this agreement. Buyer shall comply with all export and import laws of all countries involved in the sale of the goods under this agreement or any resale of the goods by Buyer. Buyer assumes all responsibility for shipments of goods requiring any government import clearance. Seller may terminate this agreement if any governmental authority imposes any penalties on goods.

INSPECTION OF WORK IN PROGRESS

Seller requires two weeks' notice for all inspections to be conducted at a site specified by the Seller. Unless previously quoted otherwise, all expenses for the initial inspection shall be borne by Buyer.

EXPEDITING/REPORTING

Monthly progress reports will be provided only with prior agreement by Seller.

PRODUCTION/SHIPPING/DELIVERY/TITLE

On those orders where approval drawings are required, once a contract has become effective, manufacturing of the equipment will not begin until Seller has received the approved equipment outline drawings. The shipment schedule is subject to change based on the timely receipt of the approved drawings. Any previous agreements regarding shipping dates will be considered invalid should the delay in shipment be a result of the Buyer not providing the approved drawings in a timely manner. If required, a detailed production schedule can be provided specifying the dates by which the approved drawings must be received by Seller in order to comply with a requested shipment date.

Unless otherwise stated, for shipments within the country of Canada, all goods are sold **DDP** destination. Transportation to destination is Buyer's responsibility and Buyer alone shall bear the cost of freight, special elections/options, and insurance. Seller's responsibility for the goods shall terminate when Seller delivers such



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Goods to the shipper/carrier, and all risk of loss or damage shall immediately pass to Buyer. Seller shall not be liable for any delays, loss or damage in transit. Title to goods passes when the goods are accepted by the freight carrier. Receiving, unloading, and storing goods will be the responsibility of the Buyer. Buyer must make any and all claims for corrections or deductions within ten days of the delivery of the goods.

Seller has no control over the length of time shipments may be held at terminals and/or customs. For this reason, Seller commits only to a "shipment date", not a "delivery" date.

The Seller shall not be liable for any non-delivery of goods (even if caused by Seller's negligence) unless Buyer gives written notice to Seller of the non-delivery within two business days of the date when the goods would in the ordinary course of events have been received.

If for any reason, Buyer fails to accept delivery of any of the goods on the agreed-upon delivery date, or if Seller is unable to deliver the goods on such date because Buyer has not provided appropriate instructions, documents, licenses or authorizations:

(1) Risk of loss to the goods shall pass to Buyer; (2) The goods shall be deemed to have been delivered; (3) Seller, at its option, may store the goods until Buyer picks them up, whereupon Buyer shall be liable for all related costs and expenses, including without limitation storage and insurance. If storage is required, Seller is hereby granted a warehouseman's lien.

Any liability of Seller for non-delivery of the goods shall be limited to replacing the goods within a reasonable time or adjusting the invoice respecting such goods to reflect the actual quantity delivered.

STORAGE

Seller permits storage of goods at a location in the US following completion of a contract if requested to do so. Storage will be 5% of the equipment order value per month, with a minimum of \$100/month. The transfer of product to storage will be communicated by seller prior to storage fees being applied. Acceptance of the storage fees by buyer is not required for storage fees to accumulate. No charge will be made for the first 30 days of storage.

Storage fees will continue to be assessed and billed monthly and due upon receipt of storage fee invoice until 18 months from storage commencement. Unless otherwise negotiated, if shipment cannot be made after 18 months of storage, the entire order will be cancelled, and cancellation charges will be assessed at that time.

INSPECTION/REJECTION OF NON-CONFORMING GOODS

Buyer shall promptly inspect the goods upon receipt. Buyer will be deemed to have accepted the goods unless it notifies Seller in writing of any non-conforming goods promptly upon receipt and furnishes such written evidence or other documentation as required by Seller. Nonconforming goods means only product shipped that is different than identified in Buyer's purchase order or the product's label or packaging incorrectly identifies its contents.

If Buyer timely notifies Seller of any non-conforming goods, Seller shall, in its sole discretion:

1. Replace such nonconforming goods with conforming goods, or
2. Credit or refund the price for each nonconforming item together with any reasonable shipping and handling expenses incurred by Buyer in connection therewith.



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With prior authorization, Buyer shall ship the nonconforming goods to Seller's facility at Seller's expense and risk of loss. If Seller exercises its option to replace nonconforming goods, Seller shall, after receiving Buyer's shipment of nonconforming goods, ship to Buyer, at Seller's expense and risk of loss, the replaced goods.

INSTALLATION/SERVICE

Goods are installed by Buyer's personnel, and under some circumstances may be calibrated and put into service by Buyer. If Seller is required to be on-site during installation, a separate charge is included in the quotation. Buyer's terms and conditions for on-site service must be negotiated prior to acceptance of any equipment order.

RETURNS

No goods may be returned without Seller's permission and an MRA number. Seller assumes no responsibility for return shipments made without permission. In issuing credit for such shipments, Seller reserves the right to deduct a scrap fee dependent upon Seller's ability to recondition and resell the returned equipment.

PAYMENT TERMS

Payment shall be due Net 45 days from invoice date unless otherwise approved in writing by Seller. If at any time the financial condition of the Buyer does not warrant shipment of product on the above terms (in the sole judgment of Seller) Seller may require full or partial payment prior to shipment. **TIME IS OF THE ESSENCE FOR SUCH PAYMENT OBLIGATIONS.** Seller may charge interest on overdue payments at the rate of 1.5% per month, and Buyer will be liable for all of Seller's costs and expenses to collect such overdue payments. Seller agrees to pay all fees including legal and collection services costs related to the collection of past due invoice.

The following items are critical and Seller may elect to tie payments to any or all of these milestones:

Buyer receipt of approval drawings

Completion of manufacturing

Delivery of major component

Buyer receipt of all required documentation

Unless otherwise stated, all stipulated amounts shall be in US dollars.

Seller shall be entitled to suspend the delivery of any goods if Buyer fails to pay any amounts when due. Buyer shall not withhold payment of any amounts due and payable by reason of any set-off of any claim or dispute with Seller.

TAXES

Prices do not include any applicable taxes, customs, or duties; or any other surcharges unless specifically indicated. Seller is responsible for all taxes related to employment, and for sales/use tax remitted to Seller by Buyer. All other taxes are the responsibility of Buyer.

CONFIDENTIAL INFORMATION

All non-public, confidential or proprietary information of Seller, including but not limited to specifications, samples, patterns, designs, plans, drawings, documents, data, business operations, customer lists, pricing, discounts or



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rebates disclosed by Seller, whether orally or in writing, and whether or not marked, designated or otherwise identified as “confidential” in connection with this agreement is confidential, solely for the use of performing this agreement and may not be disclosed or copied unless authorized in advance in writing by Seller. Upon Seller’s request, Buyer shall promptly return all documents and other materials received from Seller. Seller shall be entitled to injunctive relief for any violation of this section. This section does not apply to information that is in the public domain; known to Buyer at the time of disclosure; or rightfully obtained by Buyer on a non-confidential basis from a third party.

PATENTS/TITLE

Seller warrants clear title to all goods it furnishes. Seller warrants that Buyer’s use or sale of the goods will not infringe upon any valid patents, copyrights, trademarks or other proprietary information.

INTELLECTUAL PROPERTY RIGHTS

Buyer and Seller shall each retain title and all rights to its Background Intellectual Property and any improvements to its Background Intellectual Property, including any and all copyrights, patents and other intellectual property rights. In no event shall either party acquire any right, title or interest in the other party’s pre-existing intellectual property.

Buyer and Seller are not entering into an agreement which includes Joint Inventions and/or Developed Technology.

Any and all modifications or improvements to the Seller’s Intellectual Property during the course of this agreement shall be the sole and exclusive property of Seller. Seller does not convey nor does Buyer obtain any right to methodologies, programs, systems, data or materials utilized or provided by Seller in the ordinary course of business in the performance of the agreement.

Buyer is hereby granted a paid-up and irrevocable right and license to use, in the conduct of Buyer’s business for which they are provided, all goods that Seller delivers to Buyer hereunder.

LIMITED WARRANTY

Seller warrants its product against defects in material and workmanship, when used on those services/applications approved by Seller, for a period 24 months after shipment. Any Warranty claim must be filed during the warranty period.

Goods manufactured by a third party may constitute, be contained in, incorporated into, attached to or packaged together with the products. Third party products are not covered by the warranty.

Seller is not responsible for damages caused by improper installation or misapplication of the goods by Buyer. Installation or startup of Seller’s equipment must be performed under adherence to Seller’s instruction manuals, wiring diagrams, etc., or performed under the direct supervision of Seller’s field service personnel or Seller’s authorized agent in order to be covered by Seller’s warranty. Any work performed on Seller’s equipment by anyone other than an authorized factory representative voids the warranty.

Seller’s liability under this warranty (at its option) shall be limited to repair or replacement of such defective products DDP destination, upon proof of defect satisfactory to Seller. After receiving a notice of a potential warranty claim, Seller reserves the right to examine such goods. If requested to do so by Seller, Buyer will return such goods to a site specified by the Seller at Seller’s cost for the examination to take place.



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Seller shall not be liable for repair or replacement of goods if Buyer makes further use of such goods after giving notice of a potential warranty claim; if the defect arises because of errors in Buyer's drawings or specifications on which Seller has relied in modifying its equipment or goods; if the defect arises because Buyer failed to follow Seller's oral or written instructions as to the storage, installation, commissioning, use or maintenance of the goods; arising from reasonable wear and tear and deterioration; arising from Buyer's negligence or willful damage; or if Buyer alters or repairs such goods without the prior written consent of Seller.

THIS LIMITED WARRANTY IS THE ONLY WARRANTY APPLICABLE TO THE GOODS AND SERVICES. SELLER DISCLAIMS ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, INCLUDING WITHOUT LIMITATION IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, OTHER THAN THOSE WARRANTIES IMPLIED BY AND INCAPABLE OF EXCLUSION, RESTRICTION OR MODIFICATION UNDER APPLICABLE LAW. ANY SUCH IMPLIED WARRANTIES WHICH MAY BE REQUIRED BY LAW AND ARE NOT DISCLAIMED HEREBY ARE LIMITED, TO THE EXTENT ALLOWED BY LAW, TO THE APPLICABLE PERIOD OF THIS LIMITED WARRANTY, OR TO THE APPLICABLE TIME PERIOD PROVIDED BY APPLICABLE STATE LAW, WHICHEVER PERIOD IS SHORTER.

PERFORMANCE GUARANTEE

Seller warrants that the equipment proposed will perform as specified. This guarantee is limited to the terms of Seller's standard warranty. This guarantee is not valid under any of the following conditions:

1. Equipment is not used for the application(s) specified on the Application Data Sheet;
2. Actual service conditions (vessel dimensions, product densities, etc.) differ from the information on the Application Data Sheet;
3. Vessels or piping contain undisclosed obstructions;
4. Installation recommendations presented here or in the standard instruction manual are not followed.

In the event any of these conditions occur, Seller will recommend gauge configuration changes, installation changes, and/or alternate equipment. Buyer is responsible for all costs of implementation.

INDEMNIFICATION

Buyer and Seller shall indemnify, defend and hold each other harmless from claims, demands, and causes of action asserted by any person (including without limitation, Buyer's and Seller's employees) for personal injury, death or loss of or damage to property resulting from the negligence, gross negligence or willful misconduct of the other party. The duty of indemnification of each party shall be in proportion to its allocable share of negligence, gross negligence or willful misconduct, as the case may be.

FORCE MAJEURE

Neither party shall be liable to the other for failure to perform or for delay in performance (except for payment obligations) due to any cause or event which, in an objective view, is reasonably beyond such party's control (i.e., an event of Force Majeure). Force Majeure events shall include but not be limited to natural disasters, acts of government authority, war, hostilities, riots, acts of terrorism and civil commotions; embargoes or other import/export



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restrictions, or shortage of or inability to obtain energy, equipment, transportation, products or services not resulting from actions or omissions of the party claiming Force Majeure. In the event of a delay in performance due to any such cause, the date of delivery or time for completion shall be extended by a period of time reasonably necessary to overcome the effects of such delay. The party claiming a Force Majeure event shall give written notice to the other party within 48 hours after becoming aware of a cause entitling it to an extension of time.

CANCELLATION

Buyer may cancel upon written consent of Seller, but Seller is entitled to reasonable cancellation charges, including but not limited to labor, material and overhead expense.

Termination Fee Schedule:

Order entered but not released for manufacturing: 10% of equipment order value

Order in any stage of production: 50% of equipment order value

Order complete and ready for shipment: 100% of equipment order value

Title to materials or partially completed goods whose full costs are included in any cancellation charges shall pass to

Buyer, who shall advise Seller in writing of the disposition of the goods.

In the event Buyer is declared bankrupt, makes a general assignment for the benefits of its creditors, or is in default of any material provision or requirement of the order, Seller may, by written notice to Buyer, cancel further performance by Seller under the purchase order. Any amounts due Seller for goods and services completed by Seller in compliance with the terms of the order shall be immediately due and payable to Seller.

LIMITATION OF LIABILITY

To the fullest extent permitted by law, Seller shall not be liable in contract, tort (including negligence or breach of statutory duty) or otherwise, regardless of the cause thereof, (1) for any economic loss of any kind whatsoever, including without limitation diminution in value or loss of profit, business contracts, revenues or anticipated savings; (2) for damage to reputation or goodwill, or (3) for any liquidated, consequential, indirect, incidental, special, exemplary or punitive damages.

CONFLICT OF INTEREST/ETHICS

Seller will not, directly or indirectly, provide payment of any kind to employees or officers of Buyer, or perform any other actions which may be perceived to be a conflict of interest.

WAIVER

No waiver by Seller of any of the provisions of this agreement is effective unless explicitly set forth in writing and signed by Seller. No failure to exercise, or delay in exercising, any rights, remedy, power or privilege arising from this agreement operates or may be construed as a waiver thereof. No single or partial exercise of any right, remedy, power or privilege hereunder precludes any other or further exercise thereof or the exercise of any other right, remedy, power or privilege.



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SEVERABILITY

If any term or provision of this agreement is invalid, illegal or unenforceable in any jurisdiction, such invalidity, illegality or unenforceability shall not affect any other terms or provision of this agreement or invalidate or render unenforceable such term or provision in any other jurisdiction.

GOVERNING LAW

This Agreement and all related documents including all exhibits attached hereto, and all matters arising out of or relating to this Agreement, whether sounding in contract, tort, or statute are governed by, and construed in accordance with, the laws of the Province of Ontario and the laws of Canada applicable therein, without giving effect to the conflict of laws provisions thereof to the extent such principles or rules would require or permit the application of the laws of any jurisdiction other than those of the Province of Ontario and the laws of Canada applicable therein. The Parties agree that the United Nations Convention on Contracts for the International Sale of Goods does not apply to this Agreement.

DISPUTE RESOLUTION

Any dispute which is not settled by agreement between the parties may be settled by appropriate legal or equitable proceedings. It is understood and agreed that if any such dispute is litigated, it shall be for the purpose of obtaining a judicial determination of the question of law and/or fact which is fair and reasonable. Pending such judicial determination, both parties shall proceed with the transaction as agreed.

NOTICES

Any notices, consents, requests or other communications required or permitted by this agreement shall be in writing and shall be personally delivered or sent by certified mail (postage prepaid, return receipt requested) or recognized overnight delivery service with a system for tracking deliveries (fees prepaid), to the addresses set forth below (or to such other address as a party may from time to time designate in writing to the other party). Notices shall be deemed to have been given when personally delivered, three (3) full business days after being sent by certified mail, or when delivered according to the tracking system of a recognized overnight delivery carrier.

MISCELLANEOUS

This agreement shall be binding upon and inure to the benefits of the parties hereto and their respective successors and permitted assigns. Buyer may not assign this agreement or any of its rights or obligations hereunder without the prior written approval of Seller. Nothing in this agreement shall be deemed to create a joint venture, agency, employment, franchise, partnership, distributorship or other similar relationship between the parties. This agreement may be signed and delivered in one or more counterparts.



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Agreed:

(BUYER)

(SELLER)

VEGA INSTRUMENTS CANADA, LTD.

Company Name

Address

Address

Address

Address

Authorized Signatory

Authorized Signatory

Signatory Name, Printed

Signatory Name, Printed

Signatory Title

Signatory Title

Date

Date



**VEGA Instruments Canada, Ltd.
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Revision Notes

Revision 0

- New Release (8/21/19)

Approvals

Contract & Compliance Manager

Tim Molony

Managing Director

Mark McDowell