



## General Terms and Conditions of Purchase

Any transactions between Tokyo Measuring Instruments Laboratory Co., Ltd. (“TML”) and entity or individual issuing the order and purchasing products supplied by TML (“Buyer”) shall be subject to the General Terms and Conditions of Purchase (“Terms”) set forth below, unless agreed separately by parties hereto in writing. This Terms shall be applied to Products which are intended for use in countries or regions outside Japan.

### 1. DEFINITIONS

1.1 “Products” shall mean products supplied by TML to Buyer.

1.2 “Services” shall mean services provided by TML to Buyer in relation to Products.

1.3 “Specifications” shall mean specifications of the Products expressly provided in TML’s catalogues.

1.4 “Territory” shall mean region where Buyer has its place of business or approved by TML to sell Products, excluding nuclear power plants and other nuclear power related facilities.

1.5 “Intellectual Property Rights” shall mean trademarks, designs of Products, copyrights, patents, know-how and any other intellectual property rights contained or embodied in Products, including but not limited to software and/or programs.

### 2. PURCHASE ORDER AND INDIVIDUAL CONTRACT

2.1 Buyer shall submit to TML a written firm order (“Order”) for products or services. Every Order shall specify a) items and descriptions of Products or Services, b) quantities, c) prices, d) destination, e) consignees, f) means of transportation, g) delivery date (if any), h) part numbers or type name, if appropriate and i) other necessary matters.

2.2 TML will confirm the Order by submitting a written order acceptance (“Sales Note”) indicating a) items and descriptions of Products, b) quantities, c) prices, d) destination, e) consignees, f) means of transportation, g) desired delivery period to Buyer within a reasonable time, which then constitutes individual contract. An individual contract shall become effective and binding when TML sends such sales note to Buyer (hereinafter such effective and binding individual contract shall be referred to as “Individual Contract”).

2.3 In the case Buyer submits orders by electronic document (such as PDF files) attached to e-mail, such electronic document shall bear Buyer’s letterhead, or information equivalent thereto, including at least a) company name, b) company address, c) phone number, d) facsimile number, e) name of person in charge of Buyer.

### 3. PRICE



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3.1 The prices of Products and Services shall be set forth in price list to be issued from time to time by TML at its discretion unless otherwise separately agreed to by both parties in writing or e-mail communications.

3.2 TML shall have the right to change the prices of Products and Services from time to time. Any price change shall be applied to Order placed on and after the effective date of the applicable price list issued by TML to Buyer.

#### 4. PAYMENT

4.1 Any payment from Buyer to TML shall be made by telegraphic transfer in Japanese Yen unless otherwise designated by the TML in the invoice or agreed upon the parties in writing or e-mail communication. Expenses for currency exchange and fund transfer shall be borne by Buyer.

4.2 Buyer shall make advance payment unless otherwise agreed upon the parties in writing or e-mail communication. Buyer acknowledges and agree that TML is entitled to withhold the shipment of the Products or render of Services until the receipt of the payment from Buyer is confirmed.

#### 5. PROHIBITION OF USE AND SALES OUTSIDE TERRITORY

Buyer shall not use, sell, re-export, re-ship or otherwise engage in distributing or servicing Products in (or to) areas outside Territory directly or indirectly in any manner. Further, Buyer shall not have its affiliates or subsidiaries or any other third party to sell, re-export, re-ship or otherwise engage in distributing or servicing Products in (or to) areas outside Territory.

#### 6. DELIVERY AND PASSAGE OF RISK OF LOSS

6.1 Delivery of Products shall be FCA for regular shipments, CPT for shipments of Dangerous Goods in Excepted Quantities, unless otherwise agreed upon the parties in writing or e-mail communication. Risk of loss shall pass to Buyer upon delivery of Products.

6.2 Buyer shall be required to pay all customs fees and tariffs in destination of the Products or in territory, and shall be required to obtain any customs clearances necessary to import Products. TML shall provide reasonable support to Buyer in relation to such customs clearances.

6.3 The parties hereto shall be governed by the provisions of INCOTERMS 2010, as amended from time to time, with regard to the trade terms such as FCA and CPT, unless otherwise specifically provided herein.

6.4 Buyer shall examine Products without delay upon receipt. Should any deficiency in the



shipment be found, Buyer shall give written notice thereof to TML immediately but in any event not later than four (4) weeks after receipt of Products by Buyer.

## 7. WARRANTY

7.1 TML represents and warrants to Buyer that at the time of shipment, Products supplied hereunder shall (a) conform to applicable Specifications and (b) be free of defects in material, design, and workmanship. The warranty period for Products shall be one year from the date of delivery to Buyer as set forth in Article 6, unless otherwise agreed by the parties hereto in writing. Notwithstanding the foregoing, the parties hereto understands and agrees that the provisions of this Article 7 shall not be applied to strain gauges or strain gauge related products (hereinafter referred to as "Strain Gauge Related Products"), and Strain Gauge Related Products shall be provided to Buyer without any warranty. For the purpose of this Article 7, any Strain Gauge Related Products shall be excluded from Products.

7.2 In the event Buyer determines that if any of the Products fail to fulfill the requirements (a) and (b) of the above paragraph, Buyer shall promptly notify TML thereof in writing or e-mail communication setting forth the details of the non-conformity or defects, accompanied by reasonable grounds, satisfactory to TML, underlying the determination that such defects are attributable to TML. TML confirms that if any Products fail to fulfill the warranty set forth in this Article 7, TML shall, in its discretion and at its expense, a) repair such Products, b) send to Buyer such repair parts as are necessary for Buyer to repair such Products, or c) send replacements for such Products. Shipping costs for replacement parts shall be borne by TML.

7.3 TML's warranty above shall not apply for any defect caused by;

- (i) Unauthorized modification or alteration of Products made by any party other than TML;
- (ii) Combination with any hardware and/or software which are not supplied by TML for use with TML Products;
- (iii) Use of parts, options or supplies which are not supplied by TML for use with Products;
- (iv) Misuse or mishandling of Products by any party other than TML;
- (v) Maintenance by any party other than TML, which is performed in a manner not complying with the manuals or instructions provided by TML;
- (vi) Ordinary wear and tear;
- (vii) Events or circumstances beyond control of TML, including but not limited to fires, flooding, epidemics, earthquakes and other natural disasters, lightning, rain or other



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weather related events, strikes, riots, wars, and other war-like conditions;

(viii) Other causes not attributable to TML.

7.4 In addition to the above, the warranty by TML provided herein shall not apply to:

- (i) Products whose serial number originally affixed by TML has been altered, defaced or removed by any party other than TML;
- (ii) Products used in nuclear power plants or any other nuclear related facilities and power plants;
- (iii) Products used in conditions or environment requiring high reliability, including but not limited to railway, aerospace, aviation, automobile, combustion, medical, and entertainment devices and equipment;
- (iv) Products used or sold under any act which constitutes breach of this Terms.

7.5 THE WARRANTY PROVIDED FOR ABOVE SHALL BE AND IS IN LIEU OF ALL OTHER WARRANTIES OF TML, EXPRESS OR IMPLIED, AND EXCEPT TO THE EXTENT PROVIDED FOR HEREIN, TML DOES NOT AND SHALL NOT MAKE ANY WARRANTIES WHATSOEVER TO BUYER OR ITS CUSTOMERS, ANY END USERS OF PRODUCTS, INCLUDING WITHOUT LIMITATION ANY WARRANTY OF MERCHANTABILITY OR FITNESS FOR ANY PARTICULAR USE OR PURPOSE. IN NO EVENT SHALL TML HAVE ANY LIABILITY FOR INDIRECT, SPECIAL, CONSEQUENTIAL OR INCIDENTAL DAMAGES.

## 8. INTELLECTUAL PROPERTY RIGHTS

It is hereby agreed that Intellectual Property Rights shall be considered as belonging to TML or to its suppliers or licensors. Buyer shall not acquire any rights or privileges to Intellectual Property Rights by virtue of this Terms or the performance of the covenants contained herein. Further, Buyer agrees not to contest or claim the ownership of Intellectual Property Rights at any time.

## 9. TRADEMARKS

9.1 Buyer acknowledges that trademarks owned and/or used by TML ("Trademarks") and any goodwill created in connection with Trademarks and/or Products shall be and remain the sole property of TML.

9.2 Nothing herein contained shall be construed as the transfer or grant of license from TML to Buyer of any trade names and/or trademarks, whether registered or not, used in connection with Products.

9.3 Buyer agrees not to sell, advertise or service Products under any trademarks in any



manner other than Trademarks, unless specifically permitted by TML in writing in advance.

9.4 Buyer shall not use nor register, as Buyer's trade names, trademarks, domain names or the like, any trade names, trademarks or domain names of TML, including without limitation Trademarks, or any words, characters, marks, designs or devices which, in TML's opinion, are likely to be confused with the trade names or trademarks of TML, including without limitation Trademarks.

9.5 In the event Buyer shall have noticed any third party infringing or likely infringing upon or disputing Trademarks or any trade name and/or trademark of TML used in connection with Products, Buyer shall promptly inform TML thereof in writing, and as TML requests, cooperate with and assist TML in taking necessary steps to protect such rights of TML.

#### 10. LIMITATION OF LIABILITY

10.1 TML SHALL NOT BE LIABLE TO BUYER FOR ANY INDIRECT, SPECIAL, INCIDENTAL OR CONSEQUENTIAL DAMAGES OR LOSS OF PROFIT, EVEN IF INFORMED OF THE POSSIBILITY THEREOF IN ADVANCE. THESE LIMITATIONS APPLY TO ALL CAUSES OF ACTION IN THE AGGREGATE, INCLUDING WITHOUT LIMITATION, BREACH OF CONTRACT, BREACH OF WARRANTY, NEGLIGENCE, STRICT LIABILITY, FRAUD, MISREPRESENTATION AND OTHER TORTS.

10.2 THE MAXIMUM LIABILITY OF TML TO BUYER UNDER THIS TERMS SHALL IN NO EVENT EXCEED THE TOTAL AMOUNT OF MONEY ACTUALLY PAID BY BUYER FOR PRODUCTS WHICH WERE THE OBJECT OF THE LIABILITY.

#### 11. FORCE MAJEURE

11.1 Neither party shall be liable in any manner for failure or delay upon fulfilment of all or part of this Terms and/or Individual Contract (excluding payment obligations), directly or indirectly owing to acts of God, governmental orders or restrictions, war, threat of war, war-like conditions, hostilities, sanctions, mobilization, blockade, embargo, detention, revolution, riot, terror, looting, strike, lockout, plague or other epidemics, fire, flood, or any other causes or circumstances beyond the control of such party (hereinafter referred to as "Force Majeure"); provided, however, that the party so affected shall give to the other party prompt notice of such Force Majeure and use its best efforts to minimize the effect of such Force Majeure.

11.2 In the event of the continuance of any Force Majeure cause, without interruption, for a period of two months or more, either party shall have the right to cancel Individual Contract upon notice to the other party in writing.



## 12. CONFIDENTIAL INFORMATION

12.1 Buyer shall, during the term of this Terms and thereafter, keep confidential any information and knowledge as to methods of manufacture, plans, drawings, price lists, marketing strategy and information, documents, or other data relating to TML and/or Products, which is disclosed hereunder by TML to Buyer (“Confidential Information”). Buyer shall not use Confidential Information except for the purpose of this Terms.

12.2 In the event this Terms is expired or terminated for any reason whatsoever, Buyer shall return to TML all Confidential Information in tangible form obtained by Buyer under this Terms, together with any copies of the same that have been made by Buyer. Furthermore, in such event, Buyer shall discontinue all use of Confidential Information for any purpose whatsoever.

## 13. WAIVER

The failure of either party at any time to properly enforce any of the provisions of this Terms or to exercise any rights herein granted shall not be considered a waiver thereof or of any of the provisions hereof.

## 14. SEVERABILITY

Should any provision of this Terms be deemed invalid or unenforceable, such invalidity or unenforceability shall not affect the validity or enforceability of the remaining provisions. The parties hereto shall replace the invalid or unenforceable provision by a valid and enforceable provision which is closest to the contents of the invalid or unenforceable provision. However, if such result is contrary to the intent of TML, TML may provide its proposal for the solution or request a conference between the parties hereto to amend this Terms. If such amendment cannot be agreed, TML may terminate this Terms by notifying Buyer in writing.

## 15. EXPORT CONTROL

Buyer shall use Products to be sold under this Terms for civil purpose only and shall never use Products for military purposes including but not limited to the development, design, production, stockpiling or use of weapons of mass destruction such as nuclear, chemical or biological weapons or missiles (“Military Purposes”). Buyer shall never resell, re-transfer or re-export Products to any party who, Buyer knows or has a reason to know, will use such Products or components of such Products for Military Purposes. Whenever Buyer has become aware that any party, to whom Buyer resold, re-transferred or re-exported Products, uses any Products or components of Products for Military Purposes, Buyer shall



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immediately notify TML of such fact and shall discontinue sale of Products to such party. Buyer agrees to indemnify, defend and hold TML harmless against any claims, damages, costs, expenses or losses suffered or incurred by TML resulting from Buyer's violation of this article.

#### 16. GOVERNING LAW

This Terms shall be governed by and under the laws of Japan as to all matters including validity, construction and performance. It is hereby explicitly agreed that the United Nations Convention on Contracts for the International Sale of Products (CISG/Vienna Convention) shall not apply to this Terms and Individual Contracts.

#### 17. ARBITRATION

Any and all disputes arising from this Term shall be amicably and promptly settled upon consultation between the parties hereto, but in case of failure, the matter shall be settled by arbitration in Tokyo, Japan in accordance with the rules of the Japan Commercial Arbitration Association and the award shall be final and binding upon the parties hereto.

#### 18. MODIFICATION

Any of the terms and conditions contained herein are subject to modification or change without prior notice to Buyer. Such modification or change shall come to effect on and after the effective date designated and announced by TML.