



**TERMS AND CONDITIONS OF SALE (rev. 07/24/06)**

**1. ACCEPTANCE**

These Terms and Conditions of Sale ("Agreement") apply to all offers made and orders accepted by Teledyne Hastings Instruments ("Teledyne"). Acceptance of your ("Buyer's") order is expressly conditioned upon Buyer's assent to these terms and conditions excluding all other terms and conditions.

Some of these terms may differ from those in Buyer's order or offer, and some may be new. Teledyne's failure to object to provisions contained in any communication from you ("Buyer") does not waive the provisions of this Agreement.

Buyer's failure to reject this Agreement within 10 days after receipt, or upon Buyer's receipt of the goods or acceptance of the service, whichever occurs first, is Buyer's unconditional acceptance of these terms and conditions.

**2. CREDIT APPROVAL AND PAYMENT**

Credit terms, shipments, deliveries, and performance of work are at all times subject to the approval of Teledyne's credit department. Teledyne may at any time decline to make any shipment or delivery or perform any work except upon receipt of payment or satisfactory credit terms and security. In the event of Buyer's bankruptcy or insolvency, Teledyne will be entitled to terminate any order then outstanding and to receive reimbursement for Termination under this Agreement.

Payment terms for domestic orders are net 30 days from date of invoices and are prepayment for international orders unless otherwise agreed to in writing.

Each shipment is a separate and independent transaction and Buyer must pay accordingly.

If Buyer delays shipment, payments will be due on the date when Teledyne is prepared to make the shipment. If Buyer delays Teledyne's work, Buyer must pay based on the purchase price and the percentage of completion. Goods held for Buyer by Teledyne are at the risk, expense, and in the title of Buyer.

**3. TAXES**

Teledyne will add to the purchase price the amount of any present or future sales, use, excise, import duty, or other tax applicable to the manufacture and sale or lease of the goods under this Agreement and the Buyer must pay these amounts unless the Buyer provides Teledyne with a tax exemption certificate acceptable to the taxing authority.

**4. SHIPPING TERMS AND RISK OF LOSS**

All domestic sales by Teledyne are F.O.B. Teledyne shipping place, as defined by the Uniform Commercial Code.

All international sales by Teledyne are Ex Works (EXW) Teledyne, as defined by INCOTERMS 2000.

**5. TOOLING**

Unless specifically agreed in writing by Teledyne and Buyer, all equipment, tools, designs, technical data, and computer software produced, acquired, or used by Teledyne for this Agreement is the property of Teledyne.

**6. PACKING, PACKAGING, INSPECTION, TESTS, AND RETURN AUTHORIZATIONS**

Teledyne provides commercial packing, packaging, and testing at the quoted prices. Any additional requirements, including without limitation Buyer's source inspection, are at Buyer's expense. Wood Packing Materials shall comply with International guidelines (NIMF 15) and be properly marked.

The goods under this Agreement are furnished with commercial inspection standards at the place of manufacture. If Teledyne and Buyer agree that Buyer is to inspect at the place of manufacture, that inspection may not interfere unreasonably with Teledyne's operations, and the Buyer must accept or reject the goods before shipment.

Buyer will promptly notify Teledyne of nonconformance in the goods and give Teledyne a reasonable opportunity to inspect the goods. No goods may be returned without Teledyne's written authorization.

Failure to follow Teledyne's return procedures could result in lost goods, delays, additional service charges, warranty denial, or refusal of a shipment. All goods returned to Teledyne must be clearly identified with a return authorization (RMA) number, which Teledyne will assign in writing once it determines that the goods should be and are safe to be returned for evaluation or repair. The RMA number must appear on the shipping label and all paperwork associated with the return. Teledyne will reject goods returned without the correct RMA number clearly marked on the outside of the shipping container.

Granting a return authorization does not necessarily mean that a credit will be approved or that the evaluation or repair will take place without fee.

Credit requests are subject to re-stocking charges. Typical charges are a minimum 25% for inventory (standard) products and minimum 35% for configured (custom) products. All credit returns must be made within 60 days of original invoice.

If Teledyne determines that the goods are not covered by warranty (see Section 10, Limited Warranty), a purchase order for Teledyne's usual charges must be received before repair or replacement. Teledyne reserves the right to dispose of the goods if the Buyer does not promptly pay the evaluation fee and related charges.

**7. EXPORT COMPLIANCE; FOREIGN CORRUPT PRACTICES ACT (FCPA)**

For resale, export, or re-export of the goods, Buyer must comply with all applicable export regulations, export licensing requirements, and the U. S. Foreign Corrupt Practices Act, 15 U.S.C. §§ 78dd1 through 78dd3 as amended.

**8. DELIVERY AND FORCE MAJEURE**

Shipping dates are approximate and require prompt receipt of all necessary information from Buyer. If delays arise, Teledyne will notify Buyer and Teledyne will not be liable for any damages (liquidated or otherwise), re-procurement costs, cover, or penalties. Teledyne is not liable for delays due to weather conditions, acts of God, acts of civil or military authorities, fires, strikes, job actions, floods, earthquakes, epidemics, quarantine restriction, war, terrorism, riot, supplier or vendor delays, or any other causes beyond the reasonable control of Teledyne. In the event of delay,

Teledyne may defer delivery for a period that accounts for the time lost because of the delay. If an excusable delay under force majeure continues for more than 6 months, Teledyne and Buyer each may cancel the affected purchase orders under Section 9, Termination and Change Orders.

If Teledyne's production is curtailed for any of the above reasons so that Teledyne does not deliver the full amount ordered, Teledyne may allocate production deliveries among its various customers then under contract for similar goods. The allocation will be commercially fair and reasonable and Teledyne will notify Buyer of the estimated quota made available.

#### **9. TERMINATION, CHANGE ORDERS, SUSPENSION**

Buyer may request to terminate the order for convenience in whole or in part and Teledyne agrees to cooperate with Buyer to try to arrange a termination subject to Buyer paying Teledyne for deliveries made, full direct and indirect costs, settlements with suppliers, related administrative, accounting, and legal costs and fees, plus a normal profit.

Buyer must make termination and change order requests in writing and they will not be effective unless Teledyne consents in writing to the termination or change. If any change causes an increase or decrease in the cost of, or in the time required for, performance of an order, an equitable adjustment will be made in the order's price, terms, and delivery schedule.

Teledyne will recognize Buyer's written one-time request to suspend production for a maximum of forty-five (45) days. The delivery schedule must be modified in writing to account for the production stoppage, and an equitable adjustment will be made in the price if Teledyne's costs increase because of the suspension.

#### **10. LIMITED WARRANTY - HARDWARE**

Teledyne warrants that its goods will be free from defects in material and workmanship for a period of 12 months from the date of original shipment F.O.B. or EXW. If Buyer finds any defects in material or workmanship, Buyer will promptly notify Teledyne in writing of the defective goods and the specific nature of the defect.

Teledyne at its sole discretion will repair or replace any such goods found by Teledyne to be defective after authorized return by Buyer. Buyer will return defective goods, transportation and insurance prepaid, in accordance with instructions issued by Teledyne under Section 6, Return Authorizations. Teledyne's warranty does not apply to any goods that have been subjected to improper installation, misuse, alteration, repair, neglect, accident, inundation, fire, or the like.

THESE EXPRESS WARRANTIES, INCLUDING REMEDIES, ARE EXCLUSIVE AND ARE IN LIEU OF ANY AND ALL OTHER WARRANTIES, EXPRESS OR IMPLIED. TELEDYNE DISCLAIMS ALL WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE.

FOR GOODS MADE BY OTHERS, TELEDYNE MAKES NO WARRANTIES, EXPRESS, STATUTORY, OR IMPLIED, INCLUDING THE IMPLIED WARRANTIES OF MERCHANTABILITY, FREEDOM FROM PATENT INFRINGEMENT AND FITNESS FOR A PARTICULAR PURPOSE. THEIR ORIGINAL MANUFACTURER MAY WARRANT THESE GOODS.

#### **11. INDEMNIFICATION**

Each party will hold harmless and indemnify the other party against all claims, judgments, costs and fees, including attorney fees, relating to infringement of U.S. patents, designs, copyrights, or trademarks to the extent that the infringing goods are manufactured, sold, and used in whole or in part to the indemnifying party's specifications.

To the extent that one party's employees or agents enter on the property owned or controlled by the other party, the first party will hold harmless the other party, its officers, directors, and employees for any property damage or personal injury or death caused by the first party's employees or agents. In all cases, Buyer will hold harmless and indemnify Teledyne against all claims, judgments, costs and fees, including attorney fees relating to actions initiated

and claims made by third parties for property damage and personal injuries, including death, when any product made pursuant to this Agreement is manufactured in whole or in part to Buyer's designs. Provided, however, indemnification and hold harmless does not apply where the product defect is caused solely by a manufacturing process, assembly operation, or the negligence of Teledyne.

#### **12. LIMITATION OF LIABILITY**

NOTWITHSTANDING ANY OTHER PROVISIONS OF THIS ORDER, UNDER NO CIRCUMSTANCES IS EITHER PARTY LIABLE FOR ANY CONSEQUENTIAL, SPECIAL, INCIDENTAL, INDIRECT, MULTIPLE, ADMINISTRATIVE, OR PUNITIVE DAMAGES, OR ANY DAMAGE OF AN INDIRECT OR CONSEQUENTIAL NATURE ARISING OUT OF OR RELATED TO ITS PERFORMANCE UNDER THIS CONTRACT, WHETHER BASED UPON BREACH OF CONTRACT, WARRANTY, OR NEGLIGENCE AND WHETHER GROUNDED IN TORT, CONTRACT, CIVIL LAW, OR OTHER THEORIES OF LIABILITY, INCLUDING STRICT LIABILITY, EVEN IF ADVISED IN ADVANCE OF THE POSSIBILITY OF SUCH DAMAGES. TELEDYNE'S TOTAL LIABILITY INCLUDING BUT NOT LIMITED TO LIABILITY FOR INDEMNITY, DEFENSE, AND HOLD HARMLESS OBLIGATIONS DOES NOT EXCEED THE AMOUNT PAID TO TELEDYNE UNDER THIS ORDER AND BUYER AGREES TO INDEMNIFY TELEDYNE FOR ANY AMOUNTS IN EXCESS. TO THE EXTENT THAT THIS LIMITATION OF LIABILITY CONFLICTS WITH ANY OTHER PROVISIONS OF THIS CONTRACT, THOSE PROVISIONS ARE AMENDED AS REQUIRED TO MAKE THEM CONSISTENT WITH THIS LIMITATION OF LIABILITY.

#### **13. ARBITRATION AND LAW**

Disputes which arise under this order which Teledyne and the Buyer cannot settle amicably will be settled by arbitration in Los Angeles, California in the United States of America under the prevailing rules of commercial conciliation and arbitration of the American Arbitration Association. Judgment upon the arbitration award or decision may be entered in any court having competent jurisdiction. Arbitration awards and decisions are subject to the Limitation of Liability set forth in this Agreement.

The laws of the State of California excluding its conflicts of laws provisions and excluding the United Nations Convention on the International Sale of Goods (CISG) and the UNIDROIT Principles of International Commercial Contracts.

#### **14. UNENFORCEABLE PROVISIONS**

In the event that one or more provisions of this Agreement is held to be unenforceable, the remaining provisions apply in full and the invalid or unenforceable provision will be replaced by a provision which lawfully enforces the parties' intention underlying the invalid or unenforceable provision.

#### **15. FEDERAL ACQUISITION REGULATIONS (FAR)**

Teledyne will comply with the FAR clauses required for subcontracts by FAR Part 12, Acquisition of Commercial Items.

#### **16. ETHICS AND VALUES**

Teledyne is committed to uncompromising ethical standards, strict adherence to law and to customer satisfaction. We encourage you to communicate concerns, as well as ask questions, about ethics and values to the Teledyne Ethics/Help Line, "Take The Right Action," at 1-877-666-6968.

#### **17. WHOLE AGREEMENT; AMENDMENT**

This Agreement is the final, complete, and exclusive statement of the agreement between Teledyne and the Buyer and it supersedes all previous and contemporaneous understandings or agreements. This Agreement may be amended or modified only in writing by authorized representatives of the parties.