



ORION
INSTRUMENTS

AMETEK
SENSORS, TEST & CALIBRATION

ACCEPTANCE BY AMETEK ORION INSTRUMENTS (“Seller”) OF ANY OFFER OR PURPORTED OFFER TO PURCHASE PRODUCTS (“Product(s)”) IS EXPRESSLY MADE CONDITIONAL ON BUYER’S ASSENT TO THESE TERMS AND CONDITIONS OF SALE WITHOUT VARIATION OR ADDITION (these “Terms”) WHICH SHALL APPLY TO ALL ORDERS (“Order(s)”). BUYER is defined as the party specified as “SOLD TO” on Seller’s Customer Acknowledgment form. Seller hereby rejects any additional or different terms in Buyer’s offer or purported offer to purchase Products.

1. **Prices:** Unless otherwise specified in writing, quotations are valid for thirty (30) days. Pricing is based upon the quantity and type of Product specified and subject to revision when interruptions, engineering changes, or changes, including but not limited to, shipments made sixty (60) days from the date of Order receipt are caused by the Buyer. Prices quoted do not include any sales, use, excise, occupational or other tax or freight unless otherwise specified. There is a minimum charge of \$100 for all shipments within the US and Canada and \$150 for anywhere else on all Orders to cover packing, Order processing, billing and other handling expenses.
2. **Acceptance/Returns:** All Orders are subject to approval and written acceptance by Seller. No Product may be returned without Seller’s or its representative’s prior written approval and a Return Material Authorization number must be obtained from Seller prior to any return. Buyer is responsible for all freight and shipping charges associated with returns. A restocking charge (see below), at Seller’s discretion, may be applied against material returned for credit. Products made to Buyer’s specifications are not returnable and Orders for such Products cannot be canceled after manufacturing of such Products has commenced. Labor for all repairs/modifications will be charged to Buyer at Seller’s then current prevailing rates.
3. **Cancellation and Restocking Policy:**
 - For Order Types STO, ATO (ESP) - 25% of invoice based on restockability
 - For Order Types CTO and ETO (excluding “flanged chambers”) - 35% of invoice based on restockability
 - For Order Types ETOS, ETOE (Engineered Orders) and “flanged chambers” - 65% to 100% of invoice based on restockability
 - For Order Types NSR and EOR/Special Designs No Credit
 - **NOTE:** (1) Transducers and probes are built to Buyer-specified lengths and are not restockable; (2) Credit will not be issued for material that has been used in hazardous media; (3) Credit will not be issued for material that is no longer required unless replacement material is ordered.
4. **Delivery/Risk of Loss/Title:** Delivery lead times are approximate estimations and based on receipt of timely and accurate information from Buyer. Seller reserves the right to make partial shipments and invoice therefor. Domestic and International deliveries are FCA Factory (Incoterms 2020). If, because of Buyer’s inability to take delivery, the Products are not shipped or returned, Seller may have them stored for Buyer at Buyer’s expense, risk, and account, and for all other purposes they shall be considered “shipped”. A storage charge of 2%/month will be applied for the period of time between the date of notice of completed fabrication or original requested shipping date, whichever occurs later, and the date of shipment for Orders Buyer is unable to receive delivery. Upon delivery, title to Products and all risk of loss or damage thereto shall pass to Buyer.
5. **Packaging/Shipments:** All items sold hereunder shall be packed or crated and shipped in accordance with Seller’s specifications. Any special packing, crating, shipping or unloading requirements of Buyer will be at Buyer’s expense and must be agreed upon by Seller in advance. Weights listed, if any, are approximate.
6. **Inspection:** Buyer shall inspect Products upon arrival and shall give written notice of any damage or shortage to Seller and carrier within five (5) business days. Failure to give such written notice of any damage or shortage will constitute satisfactory shipment by Seller and irrevocable acceptance by Buyer of all items listed as contained. Claims for shipping damage should be made directly to the carrier by the Buyer.
7. **Force Majeure:** Seller shall not be liable for delays in delivery or failure to perform due directly or indirectly to causes beyond Seller’s reasonable control including but not limited to: acts of God; war; terrorism; civil commotion; riots; embargoes; government regulations, orders, instructions or priorities; port congestion; acts of or failure to act on the part of Buyer or its agents/employees; fires; floods; sabotage; nuclear incidents; earthquakes; storms; epidemics; strikes; lockouts or other labor difficulties; shortages of or inability to timely obtain proper labor, materials, components, shipping space or transportation, fuel, supplies or power at current prices; or due to limitations imposed by the extent of availability of Seller’s normal manufacturing facilities. If a delay excused pursuant to the preceding sentence extends for more than 90 days and the parties have not agreed upon a revised basis for continuing providing Products at the end of the delay, including adjustment of the price, then either party (except where delay is caused by Buyer, in which event only Seller) upon thirty (30) days’ notice may terminate the Order with respect to the unexecuted portion of the Products, whereupon Buyer shall promptly pay Seller its reasonable termination charges upon submission of Seller’s invoices thereof.
8. **Repairs and Alterations:** Any repairs or alterations made to Products other than by Seller as set forth in Paragraph 9 shall void all warranties and be at the expense of Buyer unless specifically authorized in writing by Seller. In no event shall Seller accept back charges for unauthorized repairs or alterations.
9. **Limited Warranty:** Subject to the limitations contained herein, Seller warrants against defects in workmanship and material for the following Products and during the following warranty periods: (i) mechanical level and flow Products, including pneumatic Modulevel[®], chambers and floats are warranted for three (3) years from the date of shipment; and (ii) electronic level and flow Products, including electromechanical Modulevel[®], visual indicators and chamber insulation are warranted for a period of eighteen(18) months from the date of shipment by Seller. Consumables are not covered under this limited warranty. If within thirty (30) days after Buyer’s discovery of any warranty defects within the warranty period, Buyer notifies Seller thereof in writing, Seller’s shall, at its option, and as Buyer’s exclusive remedy, replace or repair any defective Product determined by Seller to be defective. Failure by Buyer to give such written notice within the applicable time period shall be deemed an absolute and unconditional waiver of Buyer’s claim for such defects. Replacement and repaired parts are warranted for the greater of ninety (90) days from the date of shipment of the replaced or repaired part or the unexpired portion of the original Product warranty period, whichever is longer. The warranty does not apply to any defect, malfunction, damage, or failure of Seller’s Product caused by (i) repairs, modifications or alterations not made by or without the consent of Seller, (ii) improper handling, operation, or maintenance by someone other than Seller, or (iii) abuse, misuse, neglect, tampering, accident or damage by circumstances beyond Seller’s control, including without limitation, acts of God, war, acts of government, corrosion, power fluctuations, differences with workmen, riots, explosions, vandalism, or malicious mischief. The warranty on component parts not manufactured by Seller is limited to that of the manufacturer thereof, if any. Seller does not cover reimbursement for transportation, removal, installation, or other expenses which may be incurred in connection with replacement or repair other than labor and parts. **THE FOREGOING WARRANTIES ARE SELLER’S SOLE AND EXCLUSIVE WARRANTIES AND ARE IN LIEU OF ALL OTHER EXPRESS AND IMPLIED WARRANTIES, INCLUDING BUT NOT LIMITED TO, THE IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR**



PURPOSE, COURSE OF DEALING AND USAGE OF TRADE. THE SOLE AND EXCLUSIVE REMEDY FOR BREACH OF ANY WARRANTY HEREUNDER SHALL BE LIMITED TO REPAIR OR REPLACEMENT.

10. **LIMITATION OF LIABILITY: THE TOTAL LIABILITY OF SELLER ON ANY CLAIM, WHETHER IN CONTRACT, TORT (INCLUDING NEGLIGENCE OF ANY DEGREE AND STRICT LIABILITY) OR OTHERWISE ARISING OUT OF, CONNECTED WITH, OR RESULTING FROM THE MANUFACTURE, SALE, DELIVERY, RESALE, REPAIR, REPLACEMENT OR USE OF ANY PRODUCTS/SERVICES, SHALL NOT EXCEED THE PRICE ALLOCABLE TO THE PRODUCTS/SERVICES OR PART THEREOF WHICH GIVES RISE TO THE CLAIM. IN NO EVENT, WHETHER AS A RESULT OF BREACH OF CONTRACT, WARRANTY, TORT, (INCLUDING NEGLIGENCE OF ANY DEGREE, STRICT LIABILITY OR PATENT INFRINGEMENT) OR OTHERWISE, SHALL SELLER, ITS AFFILIATES, SUBCONTRACTORS, OR SUPPLIERS BE LIABLE FOR ANY LOSS OF PROFIT OR REVENUES, LOSS OF USE OF THE PRODUCTS OR SERVICES, OR ANY ASSOCIATED EQUIPMENT, COST OF CAPITAL, COST OF SUBSTITUTE GOODS, FACILITIES, SERVICES OR REPLACEMENT POWER, DOWNTIME COSTS OR CLAIMS OF BUYER'S CUSTOMERS FOR DAMAGES OR FOR ANY SPECIAL, PROXIMATE, CONSEQUENTIAL, INCIDENTAL, INDIRECT OR EXEMPLARY DAMAGES.**
11. **Changes:** Buyer may request changes or additions to the Products consistent with Seller's specifications and criteria. In the event such changes or additions are accepted by Seller, Seller may revise the price(s) and date(s) of delivery. Seller reserves the right to change designs and specifications of the Product without prior notice to Buyer, except with respect to Products being made-to-Order for Buyer. Seller shall have no obligation to install or make such change in any Products manufactured prior to the date of such change.
12. **Disposal:** Buyer shall be responsible and fully liable for the disposal of any Product, including, without limitation, spent Product or material, and shall perform such disposal in compliance with all federal, state and local laws and regulations relating thereto.
13. **Service:** Seller may, at its sole discretion, make available to Buyer the services of a trained representative at Seller's then current prevailing rates, plus travel, living and out of pocket expenses. In no event shall charges for technical direction of field installation and/or start-up be considered as included in the quoted price unless otherwise expressly stated in writing by Seller.
14. **Indemnity:** Buyer shall fully indemnify and hold harmless (collectively "indemnify" and "indemnification") Seller and its directors, officers, employees, agents, stockholders and Affiliates (collectively, "Indemnified Parties") from and against all claims, demands, actions, suits, damages, liabilities, losses, settlements, judgments, costs and expenses, whether or not involving a third party claim, which arise out of or relate to (1) any breach of any representation or warranty of Buyer contained in this Agreement, (2) any breach or violation of any covenant or other obligation or duty of Buyer under this Agreement or under applicable law, or (3) third party claims for specific matters such as property damage, personal injury, intellectual property infringement or misappropriation. Such indemnification obligations shall exclude Claims to the extent resulting from the sole negligence of the Seller, as determined. Seller retains the exclusive right and power to defend itself against any third party demands, actions, suits, damages, liabilities, losses, settlements, judgments, costs and expenses, including third party infringement claims against Seller's intellectual property or other disputes affecting the scope or ownership or validity or enforceability of its intellectual property or property rights. All costs associated with such defense (including reasonable attorney's fees) shall be the responsibility of the Buyer.
15. **Payment Terms:** Seller's standard payment terms are net thirty (30) days, without offset or deduction, from date of invoice in U.S. currency unless otherwise expressly stated in writing by Seller. Payment terms are subject to credit approval. Invoices not paid when due are subject to a late payment service charge of the lesser of one and one half percent (1½%) per month or the maximum legal service charge permitted under the law. If Buyer fails to make any payment when due, Buyer shall be liable for all expenses related to collection of past due amounts, including, without limitation, attorneys' fees, third party collection agency fees and costs.
16. **Letter of Credit:** A charge of \$300.00 will be made for all export Orders requiring a letter of credit, including Performance and Warranty Bonds in the form of a Standby Letter of Credit. In addition to the Letter of Credit charge, handling charges from the forwarder and bank will be added as required by each Order. All charges are to be borne by the Buyer.
17. **Suspension/Cancellation/Termination:** Buyer may not suspend, cancel or terminate Orders in whole or part without Seller's prior express written consent, which consent shall be in Seller's sole discretion, and, in the event of cancellation, conditioned upon payment to Seller of Seller's cancellation charges which include, among other things, the Cancellation and Restocking Policy charges, all costs and expenses incurred, and to cover commitments made, by Seller and a reasonable profit thereon. Seller's determination of such termination charges shall be conclusive. Should Buyer suspend the Order for any reason, all costs associated with such suspension, including but not limited to storage costs, transportation costs and packaging costs, shall be the sole responsibility of the Buyer. Seller reserves the right to cancel the Order if it is suspended for more than ninety (90) days. In addition to Seller's other rights and remedies, Seller may by written notice to Buyer terminate this Order (in whole or in part) if Buyer fails to perform or breaches Buyer's duties and obligations hereunder; and Seller shall not be liable to Buyer for any losses, damages or expenses incurred by Buyer as a result of such termination. Upon any termination or cancellation, any amounts due and owing to Seller by Buyer, including costs incurred pursuant to Seller's Cancellation and Restocking Policy (as set forth herein), shall become immediately due and payable.
18. **Compliance:** The Products furnished herein may not comply with all international, federal, state, and local laws, regulations or ordinances unless expressly agreed to in writing. Buyer shall not make any disposition of the Products, by way of transshipment, re-export, diversion or otherwise, except as permitted under applicable U.S., or the export laws and regulations of any foreign jurisdictions for which Products may be supplied, and other than in and to the ultimate country of destination specified on Order(s) or declared as the country of ultimate destination on Seller's invoices or in the End Use Statement that Buyer supplies to Seller. Seller shall not be named as shipper or exporter of record or U.S. principal party-in-interest (USPPI) unless specifically agreed to in writing by Seller in which case, Buyer shall provide Seller with a copy of the documents filed by Buyer for Export clearance purposes. At Seller's request, Buyer shall supply end-use and end-user information to determine export license applicability. Failure of Buyer to comply with this section shall constitute a material default allowing Seller to cancel related Order(s) without liability. Buyer warrants that it shall not violate or cause the Seller to violate the U.S. Foreign Corrupt Practices Act of 1977 (FCPA), as amended, the United Kingdom Bribery Act (UKBA) of 2010, as amended, or their respective implementing regulations in connection with Buyer's sale or distribution of the Products, and that Buyer does not know or have reason to believe that any consultant, agent, representative or other person retained by Buyer in connection with the sale and/or distribution of Products/Services has violated, nor caused Seller to violate the FCPA and/or the UKBA. Where Buyer learns of or has reason to know of any violation of FCPA and/or or UKBA in connection with the sale or distribution of Products, Buyer shall immediately advise Seller. Buyer further warrants that Buyer shall not violate or cause Seller to violate the U.S. Antiboycott Provisions of the U.S. Export Administration Regulations issued pursuant to the U.S. Export Administration Act of 1979, as



amended, in connection with Buyer's purchase of Products and that Buyer shall not request or require Seller to make statements or certifications against countries that are not subject to boycott by the U.S.

- 19. Nuclear Related Applications:** Products sold hereunder are not intended for application in, and shall not be used by Buyer in construction or application of a nuclear installation or in connection with use or handling of nuclear material or for any hazardous activity or critical application, where failure of a single component could cause substantial harm to persons or property, unless Products have been specifically approved for such activity or application. Seller disclaims all liability for loss or damage resulting from such unauthorized use and Buyer shall defend, hold harmless and indemnify Seller against any such liability, whether arising under breach of contract, warranty, tort (regardless of the degree of fault or negligence), strict liability or otherwise.

Where Seller approves the application of the Products in a nuclear facility, the Buyer shall, before such use or provision, arrange for (and provide evidence of) insurance or governmental indemnity protecting the Seller against liability and hereby releases and agrees to indemnify the Seller and its suppliers for any and all claims, losses, liabilities, suits, judgments and damages, including but not limited to incidental and consequential damages arising in any manner from use of the Products in any nuclear or nuclear related application or arising out of a nuclear incident, whether alleged to be due, in whole or in part to the negligence or otherwise of the Seller or its suppliers.

- 20. Government Contracts:** Unless otherwise specified in a Buyer's request for bid or Order, Seller is relying on Buyer's representation that the sale of Products is not made pursuant to a U.S. Government prime contract and that no Federal Acquisition Regulation (FAR) or Defense Federal Acquisition Regulation Supplement (DFARS) provisions or clauses thereto will be applicable to these Terms, unless specifically stated in the Order. Buyer shall have no recourse against Seller in the event that it is subsequently determined that applicable U.S. Government requirements have not been included in these Terms. Further, Buyer agrees to indemnify and hold Seller harmless for any damages whatsoever pursued by the U.S. Government relating to Seller's performance under these Terms to the extent that such damages result directly or indirectly from Buyer's determination that U.S. Government procurement statutes and regulations are inapplicable and not incorporated in these Terms.
- 21. Tooling/Drawings:** Tool, die and pattern changes are in addition to the price of Products and payable upon completion of tooling. All such tools, dies and patterns remain the property of Seller unless otherwise agreed in writing by Seller. Seller's prints and drawings furnished to Buyer in connection with these Terms are the property of Seller and Seller retains all rights, including, without limitation, exclusive rights to use, license and sell the prints and drawings. Upon termination of these Terms or at anytime upon Seller's request, all such prints and drawings and any copies thereof shall be immediately returned to Seller.
- 22. Intellectual Property:** All Intellectual Property Rights associated with, produced from or arising as a result of the performance of this Agreement, including but not limited to patents, trademarks and copyrights, shall remain and, so far as not already vested, become the absolute property of the Seller, and the Buyer shall do all that is reasonably necessary to ensure that such rights vest in the Seller by the execution of appropriate documents or the making of agreements with third parties. Title to and ownership of the copyrights in software and/or firmware incorporated into or provided for use with the Products ("Software") and documentation supplied with the Products ("Documentation") shall remain with Seller and is not transferred hereby to Buyer. Except as otherwise provided herein, Seller hereby grants to Buyer a non-exclusive, royalty-free license to the Software and

Documentation in conjunction with the use of the Products. Seller shall retain all of its rights of invention and copyrights from the works derived from its execution of this Order. All rights of inventions, discoveries and improvements belong to Seller.

- 23. Documentation:** Seller shall provide Buyer with documentation identified in the quotation. Additional costs may apply for non-standard documentation or if additional copies are requested.
- 24. Typographical Errors:** Seller is not responsible for typographical errors made in any of its publications or for clerical errors made in preparation of quotations, sales Orders or acknowledgments. All such errors are subject to correction.
- 25. Applicable Law:** The laws of the State of Illinois shall govern these Terms and the courts of Illinois shall be the exclusive venue and jurisdiction. The United Nations Convention on the International Sale of Goods shall not apply to these Terms.
- 26. Governance:** Buyer and Seller each agree that these Terms shall govern and control with respect to all Orders by Buyer from Seller, and no term, condition, warranty or representation appearing in any Order of Buyer or Order acknowledgment, invoice or other sales documentation of Buyer, will govern unless agreed to in writing by Seller.
- 27. Nondisclosure:** Buyer shall not disclose any information regarding any subject matter hereof or proprietary technical information received from Seller, if any, except to the extent that disclosure is required by law or is otherwise agreed to in writing by the parties.
- 28. Third Party Inspections:** Buyer shall provide at least ten (10) business days' notice to Seller for all third party inspections. Buyer must provide proof of liability insurance for said inspector and a signed non-disclosure agreement. The inspector must be able to communicate in English. Plant safety guidelines including (but not limited to) the use of safety glasses and safety shoes are to be followed while on-site. Final Inspections (Dimensional review and documentation review) are charged at \$250 USD. The charge for all other inspections will be quoted by the factory.
- 29. Invoice Fraud Prevention:** Given the increased risk of invoice fraud, Buyer should treat any notification to change details of Seller's bank account with suspicion. Seller will not inform or instruct Buyer to make remittance or money transfers to any other beneficiary, address or bank account via email. Always verify a request to update records or change bank account information BEFORE implementing a change or completing the payment. Verify any requested changes by speaking to a known Seller representative.
- 30. Miscellaneous:** Buyer shall not assign its rights or obligations under these Terms without Seller's prior written consent. Nothing contained in these Terms and Conditions shall be construed as establishing or implying any partnership or joint venture between the parties and nothing in these Terms and Conditions shall be deemed to construe either of the parties as the agent of the other. In the event that any provision herein shall be found to be void or unenforceable, this shall not be construed to render any other provisions void or unenforceable, and all other provisions shall remain in full force and effect unless the provisions which are invalid or unenforceable shall substantially affect the rights or obligations granted to or undertaken by the Parties. Any changes or revisions to these Terms must be authorized in writing by a representative of Seller. No waiver by Seller with respect to any breach of default of any right or remedy and no course of dealing, shall be deemed to constitute a continuing waiver of any other breach or default of any other right or remedy, unless such waiver be expressed in writing signed by Seller. These Terms together with the exhibits referenced and attached hereto embodies the entire understanding between Buyer and Seller and there are no agreements, understandings, conditions, warranties, or representations, oral or written, express or implied, with reference to the subject matter hereof which are not merged herein.