

# Terms and Conditions of Sale

1. WARRANTY- (a) Seller warrants that on the date of shipment the goods are of the kind and qualities described herein and are free of non-conformities in workmanship and material. (b) Buyer's exclusive remedy for nonconformity in any item of the goods shall be the repair or the replacement (at Seller's option) of the item and any affected part of the goods. Seller's obligation to repair or replace shall be in effect for a period of two (2) year from initial delivery to customer's facility for Trackers and accessories and one (1) year for metrology products, provided Buyer has sent written notice within that period of time to Seller that the goods do not conform to the above warranty. Repaired and replacement parts shall be warranted for the remainder of the original period of notification set forth above, but in no event less than 9 months from repair or replacement. At its expense, Buyer shall remove and ship to Seller any such nonconforming items and shall reinstall the repaired or replaced parts. Buyer shall grant Seller access to the goods at all reasonable times in order for Seller to determine any nonconformity in the goods. Seller shall have the right of disposal of items replaced by it.

(c) Seller's obligation to repair or replace non-conforming components beyond the standard warranty period is dependent upon the availability of replacement parts. Seller is not obligated to repair or replace non-conforming components beyond 7 years from date of manufacture.

(d) SELLER HEREBY DISCLAIMS ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, EXCEPT THAT OF TITLE. SPECIFICALLY, IT DISCLAIMS THE IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, COURSE OF DEALING AND USAGE OF TRADE.

(e) Buyer is limited to the remedies specified in this article and shall have no others for a nonconformity in the goods. Buyer agrees that these remedies provide Buyer with a minimum adequate remedy and are their exclusive remedies, whether Buyer's remedies are based on contract, warranty, tort (including negligence), strict liability, indemnity, or any other legal theory, and whether arising out of warranties, representations, instructions, installations, or non-conformities from any cause. (e) Note: This article 1 does not apply to any software which may be furnished by Seller. In such cases, the attached Software License Addendum applies.

2. PERFORMANCE; DELAYS -Timely performance by Seller is contingent upon Buyer's supplying to Seller, when needed, all required technical information and data, including drawing approvals, and all required commercial documentation. If Seller suffers delay in performance due to any cause beyond its reasonable control, the time of performance shall be extended a period of time equal to the period of the delay and its consequences. Seller will give to Buyer notice within a reasonable time after Seller becomes aware of any such delay.

3. SHIPMENT, TITLE AND RISK OF LOSS -Unless the delivery terms of this contract expressly provide for F.O.B. destination, shipping/delivery will be F.O.B. Seller's point of shipment with title to the goods and risk of loss or damage passing to Buyer at that point. Buyer will be responsible for shipment during transit and for filing any damage or loss claims directly with the carrier. Seller may make partial shipments.

4. TAXES -Any applicable duties or sales, use, excise, value-added or similar taxes will be added to the price when invoiced. (Unless an acceptable exemption certificate is furnished).

5. TERMS OF PAYMENT - (a) unless otherwise stated, all payments shall be in United States dollars, and a pro rata payment shall become due as each shipment is made. If shipment is delayed by Buyer, date of notice of readiness for shipment shall be deemed to be date of shipment for payment purposes. (b) On late payments, the contract price shall, without prejudice to Seller's right to immediate payment, be increased by 1 1/2% per month on the unpaid balance, but not to exceed the maximum permitted by law. (c) If any time in Seller's judgment Buyer is unable or unwilling to meet the terms specified, Seller may require satisfactory assurance or full or partial payment as a condition to commencing or continuing manufacture or making shipment, and may, if shipment has been made, recover the goods from the carrier, pending receipt of such assurances. Terms of Payment: Unless other arrangements have been made, payment on export orders shall be made by irrevocable confirmed letter of credit, payable in U.S. dollars against API's invoice and standard shipping documents. Such letter of credit shall be in an amount equal to the full purchase price of the products and shall be established in a U.S. bank acceptable to API. If any action is instituted for collection of invoice(s), the Buyer agrees to pay recovery costs and attorney's fees incurred by the Seller.

6. NONCANCELLATION -Buyer may not cancel or terminate for convenience, or direct suspension of

manufacture, except with Seller's written consent and then only upon terms that will compensate Seller for its engineering, fabrication and purchasing charges and any other costs relating to such cancellation, termination or suspension, plus a reasonable amount for profit.

7. LIMITATION OF LIABILITY -NEITHER SELLER, NOR ITS SUPPLIERS SHALL BE LIABLE, WHETHER IN CONTRACT, WARRANTY, FAILURE OF A REMEDY TO ACHIEVE ITS INTENDED OR ESSENTIAL PURPOSES, TORT (INCLUDING NEGLIGENCE), STRICT LIABILITY, INDEMNITY OR ANY OTHER LEGAL THEORY, FOR LOSS OF USE, REVENUE OR PROFIT, OR FOR COSTS OF CAPITAL OR OF SUBSTITUTE USE OR PERFORMANCE, OR FOR INDIRECT, SPECIAL, LIQUIDATED, INCIDENTAL OR CONSEQUENTIAL DAMAGES, OR FOR ANY OTHER LOSS OR COST OF A SIMILAR TYPE, OR FOR CLAIMS BY BUYER FOR DAMAGES OF BUYER'S CUSTOMERS. SELLER'S MAXIMUM LIABILITY UNDER THIS CONTRACT SHALL BE THE CONTRACT PRICE. BUYER AND SELLER AGREE THAT THE EXCLUSIONS AND LIMITATIONS SET FORTH IN THIS ARTICLE ARE SEPARATE AND INDEPENDENT FROM ANY REMEDIES WHICH BUYER MAY HAVE HEREUNDER AND SHALL BE GIVEN FULL FORCE AND EFFECT WHETHER OR NOT ANY OR ALL SUCH REMEDIES SHALL BE DEEMED TO HAVE FAILED OF THEIR ESSENTIAL PURPOSE.

8. GOVERNING LAW AND ASSIGNMENT -The laws of the State of Maryland shall govern the validity, interpretation and enforcement of this contract, without regard to its conflicts of law principles. The application of the United Nations Convention on Contracts for the International Sale of Goods shall be excluded. Assignment may be made only with written consent of both parties; provided, however, Seller may assign to its affiliate without Buyer's consent.

9. ATTORNEY FEES -Buyer shall be liable to Seller for any attorney fees and costs incurred by Seller in enforcing any of its rights hereunder.

10. DISPUTES -Either party may give the other party written notice of any dispute arising out of or relating to this contract and not resolved in the normal course of business. The parties shall attempt in good faith to resolve such dispute promptly by negotiations between executives who have authority to settle the dispute. If the matter has not been resolved within 60 days of the notice, either party may initiate non-binding mediation of the dispute.

11. STATUTE OF LIMITATIONS -To the extent permitted by applicable law, any lawsuit for breach of contract, including breach of warranty, arising out of the transactions covered by this contract, must be commenced not later than twelve (12) months from the date the cause of action accrued.

12.. CHANGES IN LAWS AND REGULATIONS -Seller's prices and timely performance are based on all applicable laws, rules, regulations, orders, codes, standards or requirements of governmental authorities effective on the date of Seller's proposal. Any change to any law, rule, regulation, order, code, standard or requirement which requires any change hereunder shall entitle Seller to an equitable adjustment in the prices and any time of performance.

13. ORDER MODIFICATIONS: Must be made in writing subject to API's acceptance. Any expense and/or delay resulting from such order modifications shall be the responsibility of the Purchaser and may affect delivery.

14. UNEARNED DISCOUNTS: If the Purchaser does not accept delivery of the blanket ordered quantity during the period specified, the price involved for the products will be recalculated and invoiced to reflect the discount for the actual quantity delivered.

15. Installation: If API specifies it will install the products, prices shown include the cost thereof, provided that the installation can be performed during normal business hours. Any overtime charges or other special expenses shall be additional charges to the prices shown. If trade unions, or unions, prevent API from performing the above work, the Purchaser shall make all required arrangements with the union, or unions to permit API's completion of said work. Any additional cost related to such labor disputes shall be paid by the Purchaser. Purchaser shall, at its expense, provide all proper and necessary labor and materials for uncrating and transporting the products from Purchaser's receiving dock to Purchaser's installation site and for all preparations required for installations. All such preparations shall be completed by the time of installation and if necessary, safe space thereon for storage of products and equipment prior to installation. It shall remain Purchaser's responsibility to comply with applicable local regulations. Installation shall be complete upon the conclusion of final checkout under API's standard procedures, or upon Purchaser's

signature on API's customer acknowledgment form, whichever first occurs. Notwithstanding the foregoing, first use of the products by Purchaser for any purpose after delivery, without the express written approval of API shall indicate completion of installation.

#### Supplement to Standard Terms and Conditions of Sale

COMPLIANCE WITH EXPORT LAWS AND REGULATIONS (03/29/2005) Buyer agrees to comply with all applicable export laws and regulations relating to the resale, exportation, transfer, assignment, disposal or use of the goods, including any export license requirements.

Purchaser acknowledges that [SOC/Seller/Contractor/Consortium] is required to comply with applicable export laws and regulations relating to the sale, exportation, transfer, assignment, disposal, and usage of the [Work/Equipment/Services] provided under the Contract, including any export license requirements. Purchaser agrees that such [Work/Equipment/Services] shall not at any time directly or indirectly be used, exported, sold, transferred, assigned or otherwise disposed of in a manner which will result in non-compliance with such applicable export laws and regulations. It shall be a condition of the continuing performance by [SOC/Seller/Contractor/Consortium] of its obligations hereunder that compliance with such export laws and regulations be maintained at all times. PURCHASER AGREES TO DEFEND AND INDEMNIFY THE SELLER AGAINST ANY AND ALL CLAIMS, INCLUDING ATTORNEY FEES, BY ANY PARTY, INCLUDING BUT NOT LIMITED TO ALL CLAIMS ARISING OUT OF THE USE OF THIS PRODUCT AND HOLD [SOC/SELLER/CONTRACTOR/CONSORTIUM] HARMLESS FROM ANY AND ALL COSTS, LIABILITIES, PENALTIES, SANCTIONS AND FINES RELATED TO NON-COMPLIANCE WITH APPLICABLE EXPORT LAWS AND REGULATIONS.