

XYLEM ANALYTICS TERMS AND CONDITIONS OF SALE

*OI Analytical
CMS Field Products
Royce Technologies
Global Water Instrumentation, Inc.*

1. Agreement, Integration and Conflict of Terms. These terms and conditions, together with any special conditions expressly incorporated thereto in the quotation or sales form, are to govern any sale by the Xylem Analytics companies named above (“Seller”). This writing is an offer or counteroffer by Seller to sell the goods and/or services set forth on the quotation or sales form subject to these terms and conditions and is expressly made conditional on Buyer’s assent to these terms and conditions. Acceptance by Buyer is expressly limited to these terms and conditions. Any additional or different terms and conditions contained in Buyer’s purchase order or other communication shall not be effective or binding upon Seller unless specifically agreed to in writing by Seller; Seller hereby objects to any such conditions, and the failure of Seller to object to specific provisions contained in any purchase order or other communication from Buyer shall not be construed as a waiver of these terms and conditions nor an acceptance of any such provisions. Neither Seller’s commencement of performance nor delivery shall be deemed or construed as acceptance of Buyer’s additional or different terms and conditions.

Buyer agrees that these terms and conditions, together with any accompanying quotation and any special conditions or limited process guarantees or documents referred to or included within the quotation and expressly made a part of this agreement, (e.g., drawings, illustrations, specifications, or diagrams), is the complete and final agreement between the parties (“Agreement”). This Agreement supersedes all prior negotiations, representations, or agreements, either written or oral, between the parties and, further, can only be altered, modified or amended with the express written consent of Seller.

2. Quotation, Withdrawal, Expiration. Quotes are valid for thirty (30) calendar days from the date of issuance unless otherwise specified by Seller. Seller reserves the right to cancel or withdraw the quotation at any time with or without notice or cause prior to acceptance by Buyer. There is no Agreement if any conditions specified within the quotation *or* sales form are not completed by Buyer to Seller’s satisfaction within thirty (30) calendar days of Seller’s acknowledgement in writing of an order. Seller nevertheless reserves its right to accept any contractual documents received from Buyer after this 30-day period. Unless otherwise approved in advance by the Seller, Buyer must request a delivery date within ninety (90) days of the date on which the original order is placed; any changes or delays in the order caused by Buyer which extend delivery beyond ninety (90) days render the original price quoted inapplicable and Seller’s list prices in effect on the actual date of shipment shall be used in determining the price to be paid.

3. Prices. Prices apply to the specific quantities stated on the quotation or sales form. Unless otherwise agreed to in writing by Seller, all prices are EXW (INCOTERMS 2010) Seller's plant, and do not include transportation costs or charges relating to transportation, which costs and charges shall be solely the responsibility of Buyer. Prices include standard packing according to Seller's specifications. All costs and taxes for special packing requested by Buyer, including packing for exports, shall be paid by Buyer as an additional charge. Prices are subject to change without notice.

4. Taxes. The price for the goods does not include any applicable sales, use, excise, GST, VAT, or similar tax. Buyer shall have the responsibility for the payment of such taxes if applicable.

5. Payment Terms. Seller reserves the right to require payment in advance or C.O.D. and otherwise modify credit terms should Buyer's credit standing not meet Seller's acceptance. Unless different payment terms are expressly set forth in the quotation or sales form or order acknowledgment, goods will be invoiced upon shipment. Payment in full is due within thirty (30) days from the invoice date unless otherwise specified sixty (60) or ninety (90) days for a representative. No prompt payment discounts are authorized. In the event payment is not made when due, Buyer agrees to pay Seller a service or finance charge of the lesser of (i) one and one-half percent (1.5%) per month (18% per annum), or (ii) the highest rate permitted by applicable law, on the unpaid balance of the invoice from and after the invoice due date. Buyer is responsible for all costs and expenses associated with any checks returned due to insufficient funds. All credit sales are subject to prior approval of Seller's credit department. Export shipments may require payment prior to shipment or an appropriate Letter of Credit. If, during the performance of the contract with Buyer, the financial responsibility or condition of Buyer is such that Seller in good faith deems itself insecure, or if Buyer becomes insolvent, or if a material change in the ownership of Buyer occurs, or if Buyer fails to make any payments in accordance with the terms of its contract with Seller, then, in any such event, Seller is not obligated to continue performance under the contract and may stop goods in transit and defer or decline to make delivery of goods, except upon receipt of satisfactory security or cash payments in advance, or Seller may terminate the order upon written notice to Buyer without further obligation to Buyer whatsoever. If Buyer fails to make payments or fails to furnish security satisfactory to Seller, then Seller shall also have the right to enforce payment to the full contract price of the work completed and in process. Upon default by Buyer in payment when due, Buyer shall immediately pay to Seller the entire unpaid amounts for any and all shipments made to Buyer irrespective of the terms of said shipment and whether said shipments are made pursuant to this Agreement or any other contract of sale between Seller and Buyer, and Seller may withhold all subsequent shipments until the full amount is settled. Acceptance by Seller of less than full payment shall not be a waiver of any of its rights hereunder.

Buyer shall not assign or transfer this Agreement or any interest in it, or monies payable under it, without the written consent of Seller and any assignment made without such consent shall be null and void.

6. Delivery, Risk of Loss. Delivery dates are estimates, and time is not of the essence. All shipments will be made EXW (INCOTERMS 2010) Seller's plant unless otherwise specified. Seller shall not be responsible to Buyer for any loss, whether direct, indirect, incidental or consequential in nature, including without limitation loss of profits, arising out of or relating to any failure of the goods to be delivered by the specified delivery date. Seller will select an approved carrier. Upon delivery to the common carrier, title and the risk of loss for the material shall pass to Buyer. Buyer shall reimburse Seller for the additional cost of its performance resulting from inaccurate or lack of delivery instructions, or by any act or omission on Buyer's part. Any such additional cost may include, but is not limited to, storage, insurance, protection, re-inspection and delivery expenses. Buyer further agrees that any payment due on delivery shall be made on delivery into storage as though goods had been delivered in accordance with the order.

7. SOFTWARE. Software is one or more programs capable of operating on a processor or controller which is either listed separately as a product on the price list, included with another product on the price list, or fixed in hardware and not removable in normal operation. Seller grants Buyer a non-exclusive license to use one copy of the software listed in Buyer's order in conformance with the applicable software license. Seller grants to Buyer a license to use software fixed in hardware and not removable in normal operation only when operating the associated product in the configuration in which that product is sold by Seller or subsequently upgraded by Seller. Buyer may transfer Software fixed in hardware and not removable in normal operation only upon

transfer of the associated hardware product. To the extent software is not fixed in hardware and is sold on a stand-alone basis, Buyer may not re-sell such software or license any third party to use such Software.

Buyer's license does not include the right to upgrades, updates, or other enhancements. Seller reserves the right to require an additional license and fee for use of the Software on upgraded computers, processors, or controllers. Software bundled with a hardware product may be used only with that hardware product in the configuration in which that product is sold by Seller or subsequently upgraded by Seller.

Buyer's license confers no title or ownership in the software, no rights in any associated source code, and will not be construed as a sale of any rights in software. Buyer may not disassemble or de-compile the software unless Seller's prior written consent is either obtained or not required by law. Seller may terminate Buyer's or any transferee's or any sublicensee's license in software upon notice for failure to comply with any applicable license terms.

Buyer is required to abide by the End User License Agreement for any third-party software included in Buyer's order.

8. Warranty. Seller warrants that the goods sold to Buyer hereunder (with the exception of membranes, seals, gaskets, elastomer materials, coatings and other "wear parts" or consumables all of which are not warranted except as otherwise provided in the quotation or sales form) will be (i) be built in accordance with the specifications referred to in the quotation or sales form, if such specifications are expressly made a part of this Agreement, and (ii) free from defects in material and workmanship for such period of time as is specified in the Operator's Manual (the "Warranty") or other specific product documentation. **This warranty extends only to the original Buyer.**

Consumable parts, including but not limited to columns, lamps, high-temperature furnaces, and other parts, as defined by Seller, are warranted for thirty (30) days from the date of shipment and are not available for coverage under an extended warranty.

Seller shall, at its option and at no cost to Buyer, either repair or replace any product which fails to conform with the Warranty; provided, however, that under either option, Seller shall not be obligated to remove the defective product or install the replaced or repaired product and Buyer shall be responsible for all other costs, including, but not limited to, service costs, shipping fees and expenses. Seller shall have complete discretion as to the method or means of repair or replacement. If Seller is unable to repair or replace the product within a reasonable time, Seller will refund the depreciated purchase price. Buyer's failure to comply with Seller's repair or replacement directions shall constitute a waiver of its rights and render all warranties void. Any parts repaired or replaced under the Warranty are warranted only for the balance of the warranty period on the parts that were repaired or replaced. The Warranty is conditioned on Buyer giving written notice to Seller of any defects in material or workmanship of warranted goods within ten (10) days of the date when any defects are first manifest.

Seller shall have no warranty obligations to Buyer with respect to any product or parts of a product that: (a) have been repaired by third parties other than Seller or without Seller's written approval; (b) have been subject to misuse, misapplication, neglect, alteration, accident, or physical damage; (c) have been used in a manner contrary to Seller's instructions for installation, operation and maintenance; (d) have been damaged from

ordinary wear and tear, corrosion, or chemical attack; (e) have been damaged due to abnormal conditions, vibration, failure to properly prime, or operation without flow; (f) have been damaged due to a defective power supply or improper electrical protection; or (g) have been damaged resulting from the use of accessory equipment not sold by Seller or not approved by Seller in connection with products supplied by Seller hereunder. In any case of products not manufactured by Seller, there is no warranty from Seller; however, Seller will extend to Buyer any warranty received from Seller's supplier of such products.

No warranty, expressed or implied, is provided covering the application of any products under this Agreement.

THE FOREGOING WARRANTY IS EXCLUSIVE AND IN LIEU OF ANY AND ALL OTHER EXPRESS OR IMPLIED WARRANTIES, GUARANTEES, CONDITIONS OR TERMS OF WHATEVER NATURE RELATING TO THE GOODS PROVIDED HEREUNDER, INCLUDING WITHOUT LIMITATION ANY IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE, WHICH ARE HEREBY EXPRESSLY DISCLAIMED AND EXCLUDED. BUYER'S EXCLUSIVE REMEDY AND SELLER'S AGGREGATE LIABILITY FOR BREACH OF ANY OF THE FOREGOING WARRANTIES ARE LIMITED TO REPAIRING OR REPLACING THE PRODUCT AND SHALL IN ALL CASES BE LIMITED TO THE AMOUNT PAID BY THE BUYER HEREUNDER. IN NO EVENT IS SELLER LIABLE FOR ANY OTHER FORM OF DAMAGES, WHETHER DIRECT, INDIRECT, LIQUIDATED, INCIDENTAL, CONSEQUENTIAL, PUNITIVE, EXEMPLARY OR SPECIAL DAMAGES, INCLUDING BUT NOT LIMITED TO LOSS OF PROFIT, LOSS OF ANTICIPATED SAVINGS OR REVENUE, LOSS OF INCOME, LOSS OF BUSINESS, LOSS OF PRODUCTION, LOSS OF OPPORTUNITY OR LOSS OF REPUTATION.

9. Inspection. Buyer shall have the right to inspect the goods upon their receipt. Buyer shall notify Seller in writing of any nonconformity of the goods with this Agreement within ten (10) days from receipt by Buyer. Failure to give such applicable notice shall constitute a waiver of Buyer's right to inspect and/or reject the goods for nonconformity and shall be equivalent to an irrevocable acceptance of the goods by Buyer. No return for credit will be allowed unless approved in advance by Seller and the returned products are clearly marked as a return shipment. Buyer will be responsible for all transportation costs incurred in returning products for credit. All products must be returned in their original state, including their original packaging, and shall not be damaged in any manner due to shipping and handling. In the event Buyer does not inspect shipment within the specified time and Seller authorizes Buyer to return any product for credit after delivery, Buyer shall be subject to a restocking charge of twenty-five percent (25%) of the purchase price of the products returned. Claims for loss of or damage to goods in transit must be made to the carrier, and not to Seller.

10. Seller's Limitation of Liability. IN NO EVENT SHALL SELLER'S LIABILITY UNDER THIS AGREEMENT EXCEED THE AMOUNT PAID BY BUYER UNDER THIS AGREEMENT. SELLER SHALL HAVE NO LIABILITY FOR LOSS OF PROFIT, LOSS OF ANTICIPATED SAVINGS OR REVENUE, LOSS OF INCOME, LOSS OF BUSINESS, LOSS OF PRODUCTION, LOSS OF OPPORTUNITY, LOSS OF REPUTATION, INDIRECT, CONSEQUENTIAL, INCIDENTAL, PUNITIVE OR EXEMPLARY DAMAGES.

NO ACTION, REGARDLESS OF FORM, ARISING OUT OF OR IN ANY WAY CONNECTED WITH THE PRODUCTS OR SERVICES PROVIDED BY SELLER MAY BE BROUGHT MORE THAN ONE (1) YEAR AFTER THE CAUSE OF ACTION HAS ACCRUED.

IN ALL CASES, BUYER WILL HOLD HARMLESS AND INDEMNIFY SELLER AGAINST ALL CLAIMS, JUDGMENTS, COSTS, AND 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.

PRODUCTS AND SERVICES SOLD HEREUNDER ARE NOT SOLD OR INTENDED FOR USE IN ANY NUCLEAR OR NUCLEAR-RELATED APPLICATION. BUYER ACCEPTS PRODUCTS AND SERVICES IN ACCORDANCE WITH THIS RESTRICTION AND AGREES TO DEFEND, INDEMNIFY, AND HOLD HARMLESS SELLER FROM ANY AND ALL CLAIMS, LOSSES, LIABILITIES, SUITS, JUDGMENTS AND DAMAGES, ARISING FROM THE USE OF PRODUCTS AND SERVICES IN ANY NUCLEAR OR NUCLEAR-RELATED APPLICATION.

11. Force Majeure. Seller may cancel or suspend this Agreement and Seller shall have no liability for any failure to deliver or perform, or for any delay in delivering or performing any obligations, due to acts or omissions of Buyer and/or its contractors, or due to circumstances beyond its reasonable control, including but not limited to acts of God, fire, flood or other natural disasters, war and civil disturbance, riot, acts of governments, terrorism, disease, currency restrictions, labor shortages or disputes, unavailability of materials, fuel, power, energy or transportation facilities, failures of suppliers or subcontractors to effect deliveries, in which case the time for performance shall be extended in an amount equal to the excused period, provided that Seller shall have, as soon as reasonably practicable after it has actual knowledge of the beginning of any excusable delay, notified Buyer of such delay, of the reason therefor and of the probable duration and consequence thereof. Seller shall use its best efforts to eliminate the cause of the delay, interruption or cessation and to resume performance of its obligations hereunder with the least possible delay.

12. Cancellation. Except as otherwise provided in this Agreement, no order may be cancelled unless requested in writing by either party and accepted in writing by the other. In the event of a cancellation by Buyer, Buyer shall, within thirty (30) days of such cancellation, pay Seller a cancellation fee, which shall include all costs and expenses incurred by Seller prior to the receipt of the request for cancellation including, but not limited to, all commitments to its suppliers, subcontractors and others, all labor and overhead expended by Seller, plus a reasonable charge for profit.

Notwithstanding anything to the contrary herein, in the event of the commencement by or against Buyer of any voluntary or involuntary proceedings in bankruptcy or insolvency, or in the event Buyer shall be adjusted bankrupt, make a general assignment for the benefit of its creditors, or if a receiver shall be appointed on account of Buyer's insolvency, or if Buyer fails to make payment when due under this Agreement, or in the event Buyer does not correct or, if immediate correction is not possible, commence and diligently continue action to correct any default of Buyer to comply with any of the provisions or requirements of this Agreement within ten (10) calendar days after being notified in writing of such default by Seller, Seller may, by written notice to Buyer, without prejudice to any other rights or remedies which Seller may have, terminate its further performance of this Agreement. In the event of such termination, Seller shall be entitled to receive payment as if Buyer has cancelled the Agreement as per the preceding paragraph. Seller may nevertheless elect to complete its performance of this Agreement by any means it chooses. Buyer agrees to be responsible for any additional costs incurred by Seller in so doing.

Upon termination of this Agreement, the rights, obligations and liabilities of the parties which shall have arisen or been incurred under this Agreement prior to its termination shall survive such termination.

13. Drawings. All drawings are the property of Seller. Seller does not supply detailed or shop working drawings of the goods; however, Seller will supply necessary installation drawings in accordance with applicable export regulations. The drawings and bulletin illustrations submitted with Seller's quotation show general type, arrangement and approximate dimensions of the goods to be furnished for Buyer's information only and Seller makes no representation or warranty regarding their accuracy. Unless expressly stated to the contrary within the quotation or sales form, all drawings, illustrations, specifications or diagrams form no part of this Agreement. Seller reserves the right to alter such details in design or arrangement of its goods which, in its judgment, constitute an improvement in construction, application or operation. All engineering information necessary for installation of the goods shall be forwarded by Seller to upon Buyer's acceptance of this Agreement. After Buyer's acceptance of this Agreement, any changes in the type of goods, the arrangement of the goods, or application of the goods requested by Buyer will be made at Buyer's expense. Instructions necessary for installation, operating and maintenance will be supplied when the goods are shipped.

14. Proprietary Information, Injunction. Seller's designs, illustrations, drawings, specifications, technical data, catalogues, "know-how", economic or other business or manufacturing information (collectively "Proprietary Information") disclosed to Buyer shall be deemed proprietary and confidential to Seller and are subject to applicable export regulations. Buyer agrees not to disclose, use, or reproduce any Proprietary Information without first having obtained Seller's express written consent. Buyer's agreement to refrain from disclosing, using or reproducing Proprietary Information shall survive completion of the work under this Agreement. Buyer acknowledges that its improper disclosure of Proprietary Information to any third party will result in Seller's suffering irreparable harm. Seller may seek injunctive or equitable relief to prevent Buyer's unauthorized disclosure.

15. Installation and Start-up. Unless otherwise agreed to in writing by Seller, installation shall be the sole responsibility of Buyer. Where start-up service is required with respect to the goods purchased hereunder, it must be performed by Seller's authorized personnel or agents; otherwise, the Warranty is void. Start-up assistance may require prior authorization in accordance with export regulations. In the event Buyer has engaged Seller to provide an engineer for start-up supervision, such engineer will function in a supervisory capacity only and Seller shall have no responsibility for the quality of workmanship of the installation. In any event, Buyer understands and agrees that it shall furnish, at Buyer's expense, all necessary foundations, supplies, labor and facilities that might be required to install and operate the goods including: electricity, water, appropriate drainage, bottled gases, permits, licenses, and approvals, as well as the resources required to uncrate and move the equipment to its location. Any delay in start-up due to Buyer's failure to comply with the foregoing will result in Buyer incurring charges for setup at Seller's normal hourly service rate.

16. Specifications. Changes in specifications requested by Buyer are subject to approval in writing by Seller. In the event such changes are approved, the price for the goods and the delivery schedule shall be changed to reflect such changes.

17. Buyer Warranty. Buyer warrants the accuracy of any and all information relating to the details of its operating conditions, including temperatures, pressures, and where applicable, the nature of all hazardous

materials. Seller can justifiably rely upon the accuracy of Buyer's information in its performance. Should Buyer's information prove inaccurate, Buyer agrees to reimburse Seller for any losses, liabilities, damages and expenses that Seller may have incurred as a result of any inaccurate information provided by Buyer to Seller.

18. Minimum Order. Seller reserves the right to refuse to process any order that does not meet quantity requirements that Seller may establish for any given product or group of products.

19. Quality Levels. Prices are based on quality levels commensurate with normal processing. If a different quality level is required, Buyer must specify its requirements, as approved in writing by Seller, and pay any additional costs that may be applicable.

20. Export. Buyer acknowledges that the products, technical data, and software covered hereunder are subject to the export control laws and regulations of the United States of America and any amendments thereto and, accordingly, that there are some countries to which Seller may not export products, technical data, and software by virtue of regulations imposed by the United States Government. Buyer agrees to comply with all applicable national and international laws that may apply including the U.S. Export Administration Regulations (EAR) maintained by the U.S. Department of Commerce, the International Traffic in Arms Regulations (ITAR) maintained by the Department of State, U.S. trade and economic sanctions including those administered by the Treasury Department's Office of Foreign Assets Control, and U.S. anti-boycott laws including the Restrictive Trade and Boycott regulations set forth in the EAR and agrees that it will not, directly or indirectly, sell, export, re-export, transfer, divert, or otherwise dispose of any products, technical data, or software directly or indirectly, to any destination, entity, country, or persons that are subject to United States export restrictions without obtaining prior authorization from the competent government authorities as required by those laws and regulations or take any other action that may violate the above laws. Buyer further agrees to comply with all provisions of the Foreign Corrupt Practices Act.

The acceptance by Seller of any order for products to be exported from the United States is expressly conditioned upon: (1) Buyer establishing an irrevocable Letter of Credit with a United States bank in an amount equal to the full purchase price of the products to be exported or receiving pre-payment or net payment terms from Seller, (2) the United States granting a license to export as may be required, and (3) Buyer obtaining and providing any necessary documentation for shipment to the destination country.

21. GOVERNING LAW. THE TERMS OF THIS AGREEMENT AND ALL RIGHTS AND OBLIGATIONS HEREUNDER SHALL BE GOVERNED BY THE LAWS OF THE STATE OF SELLER'S OFFICE TO WHICH THIS ORDER HAS BEEN SUBMITTED (WITHOUT REFERENCE TO PRINCIPLES OF CONFLICTS OF LAWS). THE RIGHTS AND OBLIGATIONS OF THE PARTIES HEREUNDER SHALL NOT BE GOVERNED BY THE 1980 U.N. CONVENTION ON CONTRACTS FOR THE INTERNATIONAL SALE OF GOODS.

22. Titles. The section titles are for reference only, and shall not limit or restrict the interpretation or construction of this Agreement.

23. Waiver. Seller's failure to insist, in any one or more instances, upon Buyer's performance of this Agreement, or to exercise any rights conferred, shall not constitute a waiver or relinquishment of any such right or right to insist upon Buyer's performance in any other regard.

24. Severability. The partial or complete invalidity of any one or more provisions of this Agreement shall not affect the validity or continuing force and effect of any other provision.