

WIKA Instruments Ltd. Terms & Conditions

1. Charges not appearing on the face hereof will not be allowed.
2. Cash discount items, if any, must be shown on the invoice covering this Purchase Order (herein after referred to as "PO"). The discount period, on invoices subject thereto, will begin on date the invoice is received at this office if such invoice is not mailed on date of shipment of the goods.
3. A separate invoice must be rendered for each shipment. No invoice shall cover material included on more than one PO.
4. Original bill of lading must accompany each invoice where shipping charges are prepaid and charged, the amount thereof must be shown on invoice and be supported by original receipted bill of lading from the carrier.
5. Goods not received by date specified herein may be cancelled at WIKA Instruments Ltd. (herein after referred to as "WIKI") option and at no cost to WIKI.
6. WIKI assumes no responsibility for verbal purchases.
7. **GENERAL**
 - A. Prompt acceptance of this PO by signing and returning the acknowledgment copy hereof is requested within two (2) working days but, in any event, any delivery hereunder shall constitute an acceptance of this PO and all the terms contained herein.
 - B. This PO is a final, complete and exclusive statement of the agreement between the parties and may not be modified, supplemented, explained or waived by vendor's acknowledgments, a course of dealing, or in any other way, except in writing signed by an authorized representative of WIKI. Any reference in this PO to the Vendor's proposal or quotation are only to describe the materials or work covered hereby and do not constitute an acceptance of any terms set forth therein.
 - C. This PO and all questions of its interpretation, performance, enforcement and the rights and remedies of the parties hereunder shall be determined in accordance with the laws of Alberta (excluding any conflicts of laws principles that would otherwise lead to the application of another jurisdiction's laws).
8. **PERFORMANCE OF VENDOR**
 - A. Time is of the essence for this PO and it is essential it be performed and filled on the specified date(s) and that the work shall progress in a timely fashion.
 - B. Vendor warrants that the Goods and Services furnished hereunder shall be of the highest grade and quality unless otherwise specified and shall meet all applicable federal and provincial occupational safety and health standards and requirements. WIKI may require that the Vendor perform certain inspection and testing prior to shipment. Verification requirements will be specified on this PO. WIKI may require that the vendor meet certain product or system quality requirements. Quality requirements will be specified on this PO. At WIKI's option, any part of the Goods or Services not complying with the requirements hereof, expressed or implied, may be repaired or returned, at Vendor's risk and expense including transportation both ways, for prompt correction of defects. Payment by WIKI shall not constitute acceptance or waive any rights of WIKI hereunder. All electrical components must be Canadian Standards Association (CSA) approved and bear the CSA monogram.
 - C. This PO is issued to Vendor in reliance on Vendor's personal performance and Vendor may not assign this PO or the partial payment of any sums due hereunder or subcontract any substantial part of the performance or work other than for standard commercial supplies.
 - D. Vendor agrees to defend, indemnify and hold harmless WIKI, its officers, agents, employees, and customers from and against all claims, losses, damages, causes of action, suits or liability of every kind (including attorney's fees and other defense costs) and penalties, including those based on WIKI's or its customer's negligence, which arise, directly or indirectly, out of any of the following: (i) personal injury or death or property damage or destruction arising out of the alleged defects in material, workmanship or design of the Goods or Services furnished hereunder; (ii) Vendor's violation of any Occupational Safety and Health rules; (iii) Vendor's violation of any environment protection rules or requirements and Vendor hereby agrees to assume all responsibility for including control and removal thereof; (iv) personal injuries or death of Vendor or Vendor's agents, employees or subcontractor's personnel and damage to or destruction of Vendor's or its subcontractor's property; (v) the infringement by Goods or Services furnished hereunder of any Canadian or foreign intellectual property rights; (vi) personal injury, including death to any person or property damage, personal or otherwise to any property, arising out of Vendor's negligence or its performance of the Services hereunder, arising out of defects in the Goods or any other items located at WIKI's premises; and (vii) pollution of any kind. It is the expressed intention of the parties hereto, both Vendor and WIKI, that the indemnity provided for in this paragraph D is to protect WIKI from the consequences of WIKI's concurrent negligence and of the Vendor's negligence, whether Vendor's negligence is active or passive, sole or concurrent. However, the indemnity provided for in this paragraph D shall have no application to any claim, loss, damage, cause of action, suit, or liability where the injury, death or damage results from the sole gross negligence of WIKI unaccompanied by the fault of any person or entity.
 - E. Vendor shall perform work under this PO as an independent contractor. Neither Vendor nor its agents or employees shall be agents or employees of WIKI. Vendors shall be fully responsible for and shall have exclusive direction and control of its agents, employees and subcontractors and shall control the manner and method of carrying out operations hereunder.
9. **SAFETY**

Vendor understands that safety is of the utmost importance and Vendor guarantees that it will conduct itself in a safe and workmanlike manner and that it will adhere to all safety rules and regulations including WIKI's safety rules of which Vendor hereby states that it has received a copy of.
10. **INSURANCE**
 - A. Vendor shall maintain at its sole risk and expense the insurance coverages set forth below with the insurers satisfactory to WIKI as stated: (i) Worker's Compensation insurance as required by laws and regulations applicable to and covering employees of Vendor; (ii) Employer's liability insurance with a limit of not less than C \$1,000,000; (iii) Comprehensive General Liability insurance with limits of not less than C \$1,000,000. This policy shall cover, among other risks, the contractual liability assumed under Section 8 Paragraph D as set forth in these Terms and Conditions; and (iv) when applicable, Auto Liability insurance with limits of not less than C \$1,000,000.
 - B. Vendor shall deliver to WIKI a certificate of insurance which shall: (i) show evidence of the coverages set forth in Paragraph A herein; (ii) name WIKI as Additional insured; and (iii) contain waiver of Subrogation rights in favor of WIKI and all other parties owning an interest in the property where said work is being performed or said materials are being processed. Note, WIKI may accept a generic term such as "Client", "Customer", or "Principle" in lieu of "WIKI" as "additional insured" provided WIKI is satisfied that the definition of the term in the Insurance Policy adequately covers Vendor's obligations under this agreement.
11. **CERTAIN CHARGES OR EXPENSES NEGATED**

Unless otherwise specifically provided herein, (i) no charges for transportation, packing/crating, cartage, storage or containers shall be allowed; (ii) Vendor shall pay and the price includes all applicable sales and similar type taxes which are not imposed by law on WIKI, and (iii) any information or data disclosed or furnished to WIKI by Vendor hereunder shall be deemed sold as part of the price hereof, non-proprietary and free of all restrictions whatsoever.
12. **AUDIT**

Vendor shall maintain a correct and complete set of books and records pertaining to all aspects of Vendor's performance responsibilities under this PO. WIKI shall have the right, at WIKI's sole expense, to inspect and audit, at any reasonable time, any and all such books and records within a period of two (2) years after the termination or completion of the Goods and Services required of Vendor under this PO, provided, however, that the Vendor shall have the right to exclude its trade secrets, patented formulae.
13. **WIKI'S PROPERTY**
 - A. WIKI retains title to all drawings, designs, specifications and technical data furnished to Vendor for use with this PO and the same shall be treated as WIKI's confidential information, shall be used by Vendor only to complete this PO and shall be returned upon completion of this PO, along with copies or reproductions thereof. Copies or reproductions shall be made only with WIKI's prior written consent.
 - B. All materials, including tools, special dies and patterns furnished or specifically paid for by WIKI, shall be the property of WIKI, shall be returned to WIKI when no longer required hereunder, shall be used only to complete this PO and shall be segregated and clearly identified as property of WIKI. Vendor assumes all risk and liability for loss or damage thereto, except for normal wear, and agrees to permit inspection and supply detailed statements of inventory upon request of WIKI.
14. **TERMINATION**
 - A. WIKI may at any time terminate this PO, in whole or in part, by written notice, whereupon Vendor shall terminate work pursuant to the terms of such notice. Vendor shall promptly advise WIKI of the quantities of applicable work and material on hand or purchased prior to termination and the most favorable disposition that the Vendor can make thereof. Vendor shall comply with WIKI's instructions regarding disposition of such goods and services. All claims by Vendor based on such termination must be asserted, in writing and in full, within ninety (90) days from the date of notification of termination, or shall be deemed as waived. WIKI shall pay the Vendor the PO price for finished Goods and Services and the cost to Vendor (excluding profit or losses) of work in progress and raw materials less however, (i) the agreed value of any items used or sold by Vendor with WIKI's consent, and (ii) the reasonable value or cost (whichever is higher) of any defective, damaged or destroyed Goods or Services and any items sold or used by Vendor without WIKI's consent. WIKI will make no payment for finished Goods, Goods in process or raw material fabricated or procured by Vendor unnecessarily in advance or in excess of WIKI's delivery requirements. The payment provided under this clause shall constitute WIKI's only liability in the event this PO is terminated as provided herein. The foregoing provisions of this clause shall not apply to any termination by WIKI for default of Vendor or under the following provisions of this clause unless a court shall find such termination by WIKI to be improper.
 - B. To the extent this PO covers items normally carried in inventory by Vendor (as distinguished from items specifically made to WIKI's specifications), WIKI shall have no liability for any termination of this PO, in whole or in part, prior to actual shipment and where any termination is made within ten (10) days after WIKI's receipt of the order, WIKI's liability shall be limited to returning said items and reimbursing Vendor for direct costs of handling and transportation.
 - C. WIKI shall not be liable to take delivery of Goods or Services or render any other performance in the event fire, accidents, labor difficulties, government actions, third parties failures or any other conditions beyond WIKI's reasonable control render it commercially impractical for WIKI to do so.
15. **PATENTS**

The Vendor warrants that the use or sale of material purchased hereunder will not infringe any patent, copyright, other infringement liabilities, and agrees to defend any suit or legal action brought against WIKI for any such infringement and to reimburse WIKI for any loss incurred because of such action.
16. **DOCUMENTATION AND IDENTIFICATION**
 - A. If import documents are to be prepared on behalf the Vendor (e.g. NAFTA, U.S.A. Customs Invoice) By WIKI there will be a charged levied to the Vendor in the form of an additional discount.
 - B. Where Mill Certificates are requested, a legible Mill Certificate from the original manufacturer must accompany applicable items and/or be forwarded to WIKI, electronically, prior to dispatch by Vendor.
 - C. All raw steel and alloy material must be clearly identified with the original manufacturers identification number (e.g. Heat Number). All such material received without such identification will be either returned to the Vendor or be subject the Positive Material Identification (PM) at the expense of the Vendor.
17. **QUALITY PROGRAM**

The Vendor must notify WIKI, in writing, of any change in quality program status.