



## General Terms and Conditions

### 1. Scope

1.1 These General Terms and Conditions shall apply to all transactions between RIEGL CANADA INC. (hereinafter referred to as "RIEGL CANADA") and you, its customer (hereinafter referred to as "Counterparty") for the supply of products, software licenses and for the provision of any services, including to training and integration support, set up and configuration.

1.2 If individual provisions of these General Terms and Conditions directly conflict with provisions set out in written offers or order acknowledgements of RIEGL CANADA that are signed by an authorized representative of RIEGL CANADA, the provisions set out in such written offers and order acknowledgements shall supersede these General Terms and Conditions to the extent of the conflict. In such case only those provisions of these General Terms and Conditions are valid that do not directly conflict with the provisions of such written offers or order acknowledgements of RIEGL CANADA.

1.3 Counterparty expressly accepts that RIEGL CANADA objects to any and all provisions in an order or in other business documents of the Counterparty that deviate from or conflict with terms and conditions referenced herein, unless RIEGL CANADA expressly consents in writing signed by an authorized representative of RIEGL CANADA to Counterparty's terms and conditions that are specifically outlined in the purchase documents.

1.4 These General Terms and Conditions shall also apply as a framework agreement to all further transactions with the Counterparty, unless otherwise agreed between RIEGL CANADA and Counterparty.

### 2. Quotes

2.1 All quotes from RIEGL CANADA are valid and open for acceptance for 30 days from delivery, unless otherwise specifically stated. RIEGL CANADA IS ENTITLED TO CORRECT MERE TYPING AND CALCULATION ERRORS CONTAINED IN QUOTES, ORDER ACKNOWLEDGEMENTS OR INVOICES AT ANY TIME.

2.2 Quotes and related documents, together with the contents therein, are the sole and exclusive property of RIEGL CANADA and Counterparty agrees to keep confidential, and not disclose, the contents of any quotes and related documents to any third parties. In addition, Counterparty agrees not to duplicate any such contents. Furthermore, Counterparty agrees not to use such contents for any purpose other than its business dealings with RIEGL CANADA. RIEGL CANADA can reclaim any documents at any time by making a request to Counterparty to return said documents, in which event Counterparty shall promptly return said



documents to RIEGL CANADA and, at the request of RIEGL CANADA, confirm that the said documents have been removed from Counterparty's computer system.

### 3. Performance

3.1 A purchase order or like document shall be deemed concluded and performed by Counterparty as soon as RIEGL CANADA receives final payments.

3.2 Information contained in catalogues, brochures, the RIEGL CANADA webpage etc. as well as any other written or oral statements shall only be binding if the order acknowledgement is signed by an authorized representative of RIEGL CANADA expressly refers to them therein as being binding.

3.3 Subsequent amendments and supplements to any purchase order or side agreements require a written confirmation of RIEGL CANADA signed by an authorized representative of RIEGL CANADA in order to be valid.

### 4. Prices

4.1 Unless stated otherwise, prices do not include shipping, duties, taxes, insurance, or other charges incurred in connection with delivery, all of which shall be paid by the Counterparty.

4.2 In case of repair orders, RIEGL CANADA shall provide the Counterparty with an estimate of repair before proceeding. Counterparty shall have the option of having the instrument repaired based upon such estimate or returned unrepaired and Counterparty shall pay the cost of shipping and any testing fees incurred by RIEGL CANADA.

### 5. Delivery

5.1 Counterparty acknowledges that each order is normally placed by RIEGL CANADA with the manufacturer and built for each Counterparty at the time the order is placed and, therefore, delivery dates are estimates based upon manufacturer's expected date of delivery to RIEGL CANADA. RIEGL CANADA reserves the right to adjust delivery dates based upon updated manufacturer timetables.

5.2 All delivery of products is made F.O.B. RIEGL CANADA's offices in Toronto, Canada.

5.3 Counterparty shall have 30 days following delivery within which to inspect the shipment of the products and notify RIEGL CANADA in writing of any defects or non-conforming orders or products, otherwise Counterparty will be deemed to have accepted the products.



5.4 RIEGL CANADA is not liable for damage caused as a result of or on account of transportation of products from RIEGL CANADA's offices.

5.5 In the event of the occurrence of unforeseeable circumstances or contingencies beyond the control of the parties, such as all events of force majeure, which prevent meeting the agreed delivery date, said delivery date shall be extended for a period equal to the duration of such events, to the exclusion of any and all legal claims that the Counterparty otherwise may have; such events shall include in particular armed conflicts, interventions and prohibitions of authorities, transport and customs delay, shipping damage, power and raw material shortage, labour disputes and default of a major supplier that is difficult to replace. The above-mentioned events affecting suppliers utilized by RIEGL CANADA shall also apply to an extension of the delivery date.

## 6. Payment

6.1 Unless different payment terms are agreed to in writing in the applicable purchase order, the invoice balance shall be due in full with 10% deposit at the time the purchase order is agreed to and 90% upon notice of delivery pursuant to Section 5. Any discounts or rebates extended to Counterparty are only valid and honored if payment is made in full in accordance with the terms of said discount or rebate. Payments shall be made without deductions, hold back or offset.

6.2 Deposits are non-refundable.

6.3 In the event RIEGL CANADA does not receive full and timely payment, RIEGL CANADA shall have the right to demand immediate payment of all open receivables from Counterparty and charge 1.25% interest per month on any unpaid amounts, plus all costs of collection, including reasonable lawyers' fees actually incurred by RIEGL CANADA in connection therewith.

6.4 Counterparty represents and warrants, each time a purchase order is made, that Counterparty is not bankrupt or insolvent. Counterparty grants, and RIEGL CANADA shall have, a security interest in any and all products delivered hereunder (and all proceeds therefrom) until the invoiced amounts, plus any interest and other charges due with respect thereto, have been paid in full. RIEGL Canada may file a financing statement against Counterparty with respect to delivered goods at any time, including without limitation a purchase money security interest. To the extent permitted by law, the Counterparty waives requirement of being provided with a copy of any financing or verification statement or renewal thereof.

6.5 Title of all delivered goods passes to the Counterparty on shipment from RIEGL CANADA's offices. Furthermore, risk of loss of delivered goods passes to the Counterparty upon shipment from RIEGL CANADA's offices.



## 7. Cancellation

7.1 Counterparty may not cancel orders for custom instruments or systems special ordered from the factory. For all other orders, cancellation requires RIEGL CANADA's written approval, which may be granted or withheld in RIEGL CANADA's sole discretion. Cancellation requests must be submitted in writing. Upon approval, any deposit shall be forfeited, and cancellation may be subject to a cancellation fee determined by RIEGL CANADA. Forfeiture of any deposit is not the exclusive remedy of RIEGL in the event of cancellation or otherwise.

## 8. Warranties

8.1 RIEGL CANADA warrants that at the time of purchase (i) the product is free from defects in material and workmanship and will conform to RIEGL CANADA's specifications applicable to the product purchased; (ii) upon payment in full, the product shall be rendered free and clear of all liens, claims or encumbrances of any kind; and (iii) with respect to repair services, such services shall be performed in a workmanlike manner using qualified service technicians familiar with the products and their operation. Counterparty shall be responsible for ensuring the accuracy of the terms of any order submitted by Counterparty, and for giving the RIEGL Canada any necessary information within a sufficient period of time so as to enable the RIEGL Canada to properly perform the purchase order.

8.2 RIEGL CANADA shall incur no liability (and any warranty hereunder is void) if (i) the Counterparty or a third party changes, repairs, opens and/or dismounts the product; (ii) the alleged defect is caused by accident, negligence, alteration, abuse or misuse by Counterparty or any person or entity acting by or on behalf of the Counterparty; (iii) upon RIEGL CANADA's inspection, verifiable tests disclose that the alleged defect is not due to defects in material or workmanship; or (iv) if any conditions for the assembly, start-up and utilization (such as included e.g. in the operating instructions) or official conditions for admission are not complied with.

## 9. Disclaimer of Warranties; Limits of Liability

9.1 RIEGL CANADA HAS MADE NO WARRANTY THAT THE PRODUCTS, SERVICES, LICENSED SOFTWARE ETC. COVERED BY THESE GENERAL TERMS AND CONDITIONS ARE MERCHANTABILITY OR FIT FOR ANY PARTICULAR PURPOSE AND THERE ARE NO WARRANTIES OR CONDITIONS, EXPRESS OR IMPLIED, WHICH EXTEND BEYOND THE DESCRIPTION CONTAINED IN SECTION 8.1 ABOVE.

Furthermore, to the maximum extent permitted by law, ALL IMPLIED CONDITIONS, REPRESENTATIONS, AND WARRANTIES INCLUDING, WITHOUT LIMITATION, ANY IMPLIED



WARRANTY OR CONDITION OF MERCHANTABILITY AND/OR FITNESS FOR A PARTICULAR PURPOSE, ARE HEREBY EXPRESSLY EXCLUDED AND ARE EXPRESSLY DISCLAIMED BY RIEGL CANADA AND ITS SUPPLIERS.

9.2 Except as expressly provided herein, RIEGL CANADA's sole liability with respect to any defective or non-conforming products shall be (at RIEGL CANADA's option) either (a) to repair or replace (at RIEGL CANADA's option) any defective product or (b) to refund the purchase price to Counterparty upon return of any defective or non-conforming product.

9.3 For direct damages suffered by the Counterparty due to willful misconduct or gross negligence of RIEGL CANADA, and/or willful misconduct or gross negligence of the various agents of RIEGL CANADA, RIEGL CANADA's liability is limited to the maximum to one-half of the value of the relevant transaction between RIEGL CANADA and the Counterparty which gave rise to the liability. The Counterparty shall have the burden of proving the existence of willful misconduct or gross negligence on the part of RIEGL CANADA.

The liability of RIEGL CANADA in the event of negligence other than gross negligence is expressly excluded, except in the case where such negligence results in personal injury and in such event the provisions of paragraph 9.3 above shall apply *mutatis mutandis*. Regarding personal injuries, the Counterparty shall have the burden of proving the existence of negligence on the part of RIEGL CANADA caused the applicable personal injury.

Except as expressly otherwise expressly stated herein, RIEGL shall not be liable for financial losses, loss of profit, interest loss and/or damage (whether direct, indirect, incidental, consequential, or punitive), or any indirect, incidental, consequential or punitive damages, either caused to the Counterparty and/or arising from third-party claims, and any such loss or damage is expressly excluded to the extent permitted by law.

9.4 Counterparty shall have a period of 30 days after delivery of products to notify RIEGL CANADA in writing of any defective or non-conforming products or orders, otherwise Counterparty will be deemed to have accepted products. Unless otherwise agreed in writing, Counterparty may only commence proceedings against RIEGL CANADA in respect of any defective or non-conforming product, or any breach of warranty or any other matter concerning products of RIEGL CANADA or services of RIEGL CANADA provided within two (2) years of the delivery of the subject product or performance of the subject service, as the case may be, and any limitation period under applicable law is accordingly reduced.

9.5 If the Counterparty is liable or responsible in connection with any damages asserted or that may be asserted against RIEGL CANADA on the basis of product liability laws, similar regulations or otherwise, the Counterparty expressly waives every right of recourse against RIEGL CANADA with respect to the damages asserted or proposed to be asserted. If the Counterparty introduces products that RIEGL CANADA has



delivered onto another market, Counterparty shall indemnify RIEGL CANADA for any and all resulting damages, losses, costs, expenses and claims against RIEGL CANADA in connection therewith.

## 10. Intellectual property rights

10.1 If a product is manufactured based on design details, drawings, models and other specifications of the Counterparty, the Counterparty shall defend, indemnify, and hold RIEGL CANADA and/or its suppliers harmless from any claim by or on behalf of a third party pertaining to any violation or breach or purported violation or breach of the intellectual property rights of such third party.

## 11. Severability clause

11.1 Should any provisions of these General Terms and Conditions become void or voidable, the validity of the remaining provisions shall in no way be affected. The void provision shall be replaced by a valid provision coming as close as possible to the sense and spirit and purpose of the achieved target in economic terms.

## 12. Assignment

12.1 These General Terms and Conditions or any part thereof may not be assigned by the Counterparty without the express written consent of RIEGL CANADA. These General Terms and Conditions ensure to the benefit of the parties hereto and respective successors and permitted assigns.

## 13. English Language

13.1 The parties have agreed that these General Terms and Conditions be drafted in the English language. Les parties au presentes ont demande que les present Contrat soit redige dans la langue anglaise.

## 14. Governing Law/Venue

14.1 These General Terms and Conditions, and any contract between RIEGL CANADA and Counterparty which is subject to these General Terms and Conditions, shall be exclusively governed by and construed in accordance with the laws of the Province of Ontario and the federal laws of Canada applicable therein. In the event of any legal or equitable action arising out of or in connection with such contract, the venue and jurisdiction of such action shall lie exclusively within the courts of the Province of Ontario. The parties specifically waive any other venue and consent to such jurisdiction.