

Standard Terms and Conditions of Sale

These Standard Terms and Conditions of Sale (“**Conditions**”) shall apply to the sale of all WIKA Instruments Limited’s (“**WIKA**”) goods, products and services to Purchasers named in the Order (as defined).

1. Definitions

The following words shall have the following meanings:

“**Contract**” means the Order, these Conditions and any other terms expressly to be agreed in the binding contract between WIKA and the Purchaser, the date thereof being the date when the Order is expressly agreed as referred to in these Conditions;

“**Goods**” means the goods (including any instalment of the goods or any part of them) described in the Order to be supplied by WIKA to the Purchaser;

“**Intellectual Property Rights**” means all patents, rights to inventions, utility models, copyright and related rights, trade marks, service marks, trade, business and domain names, rights in trade dress or get-up, rights in goodwill or to sue for passing off, unfair competition rights, rights in designs, rights in computer software, database rights, semi-conductor topography rights, moral rights, rights in confidential information (including know-how and trade secrets) and any other intellectual property rights, in each case whether registered or unregistered and including all applications for and renewals or extensions of such rights, and all similar or equivalent rights or forms of protection in any part of the world;

“**Order**” means the WIKA sales order (whether written or verbal) for Goods and/or Services expressly agreed by WIKA in writing;

“**Purchaser**” means the person so described in the Order.

“**Services**” means the services described in the Order to be provided by WIKA to the Purchaser;

“**Specification**” means, if any, WIKA’s stated specification of particular Goods or description of the Services (as referred to in the Order);

2. General

- 2.1 WIKA sells and the Purchaser buys the Goods and/or Services as specified in the Order and subject to these Conditions.
- 2.2 Unless expressly agreed in writing all the Goods are sold and the Services provided subject to the following Conditions to the exclusion of any terms and conditions of the Purchaser whatsoever or any other terms purported to apply unless agreed in writing by WIKA; and no agent or representative of WIKA has any authority to vary or omit these Conditions or any part of them.
- 2.3 All estimates/quotations given by WIKA are non-binding, open to change and open for acceptance for a period of 14 (fourteen) days from the date noted on the estimate/quotation or until the order is agreed by WIKA in writing.

- 2.4 Once estimates/quotations have been agreed in writing by WIKA then a contract is formed and WIKA shall deliver the agreed Order or provide express approval to the Purchaser's order (and the absence of such things shall mean no contract has been agreed or put in place between WIKA and the Purchaser).
- 2.5 Orders once agreed and placed can be cancelled only with WIKA's written consent and then only upon payment by WIKA of recoverable compensation for all its Goods supplied or completed Services work, Services work in progress, Services work-related special materials, engineering, general and administrative burden, subcontract or cancellation charges, and normal profits. No Goods may be returned for credit or adjustment without WIKA's prior written agreement.

3. Prices

- 3.1 Unless otherwise stated, prices stated in the Order are based on compliance with and these Conditions and exclusive of VAT and all other tariffs and taxes.
- 3.2 Prices to be invoiced will be those ruling at date of dispatch of the Goods or delivery of Services, if different from those in the Order.
- 3.3 Prices shall exclude the cost of the Goods' packaging and carriage unless otherwise agreed in writing between WIKA and the Purchaser.

4. Delivery

- 4.1 WIKA will use its reasonable commercial endeavours to deliver Goods at the time stated in the Order (if any) but delivery dates shall be regarded as approximate only and time shall not be of the essence in relation to delivery.
- 4.2 All force majeure events such as (without limitation) war, civil strife, lack of energy or raw materials, utility and power cuts, sabotage, intervention of civil authorities strikes, legitimate lockouts, pandemic, epidemic, and all other interruptions beyond WIKA's reasonable control shall relieve WIKA's obligations to deliver the Goods or Services for the period of their existence, even if they occur during an existing delay and WIKA shall notify the Purchaser of when the force majeure events started. Should such an occurrence last for more than 6 (six) weeks from the date of such notice then WIKA shall be entitled to cancel the Contract without further notice or liability.
- 4.3 If Goods or Services delivery is delayed for more than 3 (three) months from the date the Order is agreed in accordance with these Conditions then WIKA has the sole option (without incurring any liability for loss or arising therefrom) to cancel the Contract and refund any payments made by the Purchaser.
- 4.4 Failure to deliver Goods or Services at the time stated will not be sufficient cause for Purchaser's cancellation (as time is not of the essence in relation to delivery) and WIKA will not be liable for any losses, costs, damages or expenses consequential or otherwise suffered by the Purchaser pursuant to or

relating to late or delayed delivery.

- 4.5 Where delivery of Goods is made in instalments or Services provided at various different times, delay in delivering one or more instalments of Goods or part of the Services shall not entitle the Purchaser to refuse to accept any remaining instalments delivery of the Services or to cancel the Contract.
- 4.6 The Purchaser shall not be entitled to refuse to accept delivery of any consignment or instalment of Goods or Services on account of any shortage of less than 5% of the total value of such Order or defect in any other delivery thereof.
- 4.7 Delivery of Goods is agreed to take place at the agreed time of their collection by the Purchaser from WIKA premises after WIKA has notified the Purchaser that the Goods are ready for collection by the Purchaser or its agents unless the parties have agreed specific other instructions as to carriage or delivery terms in which case delivery shall take place when the Goods are delivered in accordance with such agreed terms.
- 4.8 Delivery of Services or parts thereof takes place as and when they are performed.

5. Terms of Payment

- 5.1 Unless otherwise agreed in writing, all payments shall be due, payable and paid in full no later than net 30 (thirty) days after the date of the WIKA invoice and in accordance with this clause.
- 5.2 In the event of any default in payment of any monies owing and due by the Purchaser in accordance with these Conditions (or as otherwise agreed) to WIKA then WIKA may (at its sole option and without prejudice to any of its rights under these Conditions) withdraw any discounts referred to in the Order and charge interest on the then outstanding overdue amount at the rate of 9% (nine per cent) per annum above the Bank of England base rate from time to time, such interest to be calculated and to accrue on a daily basis until the date of actual payment (after as well as before any judgement).
- 5.3 All payments are to be made on or before the invoice due date as a condition precedent to future deliveries and where Goods or Services are delivered in instalments or at different times, payment for each instalment or Services delivery shall be a condition of delivery of subsequent instalments or Services performance.
- 5.4 All payments shall be made without deduction or set-off of any kind and the Purchaser shall be liable to pay for all bank and other costs of making any payment.
- 5.5 The Purchaser will pay all costs and expenses, including without limitation, legal and other debt collection expenses incurred by WIKA in recovering and attempting to recover all or any overdue amounts and interest due to WIKA from the Purchaser.
- 5.6 All invoices shall be subject to Value Added Tax, if applicable.

5.7 If circumstances become known to WIKA which, in its reasonable judgement, render the creditworthiness of the Purchaser doubtful in WIKA's opinion, WIKA shall be entitled:

5.7.1 to suspend its performance of the Contract until WIKA has been provided with adequate security for all amounts owed. Should the Purchaser fail to meet WIKA's demand for security within a reasonable period, WIKA shall be entitled to terminate the Contract (without liability or loss or being held in breach of the Contract), reserving all its rights to be paid for Goods and/or Services provided, outstanding invoices, interest accrued and all WIKA's costs and expenses incurred in relation thereto. In such circumstances, the Purchaser shall have no entitlement to claim damages; and

5.7.2 to make deliveries only for cash in advance or on delivery. If delivery has been made (and not withstanding clause 5.1) WIKA shall be entitled to immediate payment of all outstanding invoices at that time.

6. Title and Risk in Goods

6.1 Risk in the Goods shall pass to the Purchaser on the moment of delivery as described in clause 4.7 (i.e. Purchaser's collection of the Goods) and the Purchaser assumes risk of Goods and so shall insure the Goods for their full replacement value from that point of delivery.

6.2 Notwithstanding clause 6.1, ownership of the Goods shall nevertheless remain with WIKA until payment in full has been received by WIKA for the following:

6.2.1 the Goods in the Order (or as otherwise agreed);

6.2.2 any other goods or equipment supplied by WIKA to the Purchaser; and

6.2.3 any monies due from the Purchaser to WIKA on any account.

6.3 Each sub-clause of clause 6.2 is separate, severable and distinct from the others.

6.4 Until ownership of the Goods passes to the Purchaser under sub-clause 6.2 the Purchaser shall:

6.4.1 be a bailee of the Goods; and

6.4.2 keep the Goods separately and safely and readily identifiable as the property of WIKA and shall not allow the Goods to be damaged in any way.

6.5 Any resale by the Purchaser of the Goods in which the ownership has not passed to the Purchaser in accordance with these Conditions shall, unless and until title has passed in accordance with these Conditions, be treated as if made by the Purchaser as agent for WIKA and the Purchaser shall hold all

proceeds of such sale by the Purchaser on trust for WIKA and shall pay all such proceeds to WIKA on demand.

6.6

6.6.1 If Goods in which title has not passed to the Purchaser are mixed with or incorporated into other goods then the ownership in those other goods shall be held on trust by the Purchaser for WIKA to the full extent of the sums recoverable by WIKA under sub-clause 6.5.

6.6.2 The Purchaser shall keep any proceeds of sale as referred to in clause 6.5 in a separate account but in any event WIKA shall have the right to trace such proceeds.

6.7 The Purchaser assigns to WIKA all rights and claims WIKA may have against its own customers and others in respect of the Goods specified in clause 6.6.

6.8 At any time prior to ownership in Goods passing to the Purchaser (whether or not any payment is then overdue or the Purchaser is otherwise in breach of any obligation to WIKA), then WIKA may at its sole option (without prejudice to any other of its rights):

6.8.1 retake possession of all or any part of the Goods and enter any Purchaser premises for that purpose (or authorise others to do so), which the Purchaser hereby irrevocably authorises; and/or

6.8.2 require prompt delivery up to it of all or any part of the Goods; and/or

6.8.3 terminate the Purchaser's authority to resell or use the Goods forthwith by written notice to the Purchaser and such authority shall automatically terminate immediately (without notice) upon any insolvency of the Purchaser or it going in to liquidation (as defined in the Insolvency Act of 1986) or it having a receiver appointed or any execution or distress being levied on Goods in its possession.

6.9 If the Purchaser fails to collect available Goods from WIKA premises within the period for collection stated in the Order or as notified by WIKA to the Purchaser, then WIKA shall store such non-collected Goods safely and securely and the Purchaser agrees it is liable to pay such WIKA storage charges from the last day of any agreed collection period at the rate of 0.5% per complete week (ending at 5pm Fridays) of storage of the total outstanding invoice value of such non-collected Goods. Payment of any such storage charges shall be a pre-requisite for the collection by the Purchaser and release by WIKA of such Goods.

6.10 WIKA may at any time appropriate to such indebtedness as it thinks fit any sums received from the Purchaser notwithstanding any purported appropriation by the Purchaser.

6.11 Each clause and sub-clause of this clause 6 is separate, severable and distinct.

7. Damage to Goods

7.1 Except where the Purchaser has given special instructions as to the carriage or delivery and delivery has been made to the order of the Purchaser as mentioned in clause 3.6, WIKA will, at its sole option, either i) repair or ii) replace free of charge those particular Goods damaged in transit only (and not the whole Order unless all Goods in the Order are damaged) provided the Purchaser shall give WIKA notice in writing of the extent and nature of the damage:

7.1.1 where Goods are delivered by WIKA within 14 (fourteen) days of the date on which the Goods were delivered, or

7.1.2 where the Goods are delivered by outside carriers, within such time as will enable WIKA to comply with such carriers' conditions of carriage for the notification of such claims,

whichever is the sooner.

7.2 The Purchaser shall be obliged to accept deliveries of Goods if there is minor or immaterial damage. Warranty rights of the Purchaser shall remain unaffected thereby, providing that appropriate notice of such specific damage is given by the Purchaser to WIKA as mentioned in clause 7.1.

8. Shortages and Incomplete Orders

8.1 No claims for shortages and incomplete orders shall be made unless WIKA is notified within 7 (seven) days of receipt of the Goods and in the absence of such notification the Purchaser shall be deemed to have accepted the Goods.

8.2 No claims for non-delivery shall be made unless WIKA is notified in writing within 14 (fourteen) days of the Order's delivery date (subject to clause 4.1).

9. Return of Goods

The Purchaser shall not be entitled to return Goods supplied for credit except by special arrangement first agreed by WIKA in writing. Any request for the return of Goods must be accompanied by a copy of the packing note that accompanied the Goods on delivery.

10. Warranties - Goods

10.1 WIKA agrees at its sole option (subject to clause 12) to either i) refund to the Purchaser the price paid for defective Goods (but not relating to any defect caused by fair wear and tear or Goods which have been altered or modified by a person other than WIKA after delivery) upon their return to WIKA, or ii) correct/repair such defective Goods free of charge, or iii) provide a replacement, but not install, any such Goods which within 1 (one) year from the date of delivery are demonstrably proven to be faulty through

no fault of the Purchaser or any third party and not in accordance with the Goods' Specification (if any).

10.2 WIKA shall only be liable for errors and defects reasonably demonstrated to be true by evidence provided to WIKA.

10.3 The warranty in this clause 10 shall only apply to Goods correctly installed and properly used in accordance with WIKA Specifications. WIKA shall be exempt from any claim if the defects, damage, loss or expense arise from chemical, physical or thermal influences which are not usual which the Purchaser had failed to disclose to WIKA when the Contract was agreed.

10.4 In the event of the Purchaser or a third party attempting to carry out remedial work on the delivered Goods, WIKA shall immediately be released from the defect guarantee obligations and warranties in this clause 10 and the warranties shall be agreed to be void and of no effect.

11. Warranties - Services

11.1 The Services shall be provided with reasonable care and skill. All other terms implied by law (and in particular the Supply of Goods and Services Act 1982) shall be excluded to the lawful maximum possible effect.

11.2 The Purchaser warrants that its premises where Services are provided are and will be safe for work and comply with all statutory requirements for the health and safety at work of the WIKA staff when delivering the Services. WIKA may refuse to permit its staff to work and deliver Services in such premises or any part of them if WIKA reasonably considers that they may be exposed to undue risk or danger and in such circumstances of refusal to deliver Services WIKA shall not be liable in any way to the Purchaser for the delay or curtailed nature of the performance of such Services.

12. Limitation of Liability

12.1 Subject to clauses 10.1, 10.2 and 10.8, the aggregate limit of liability of WIKA arising out of or in connection with the/any Order (howsoever caused or arising) shall not exceed the lesser of either i) the charges actually paid by the Purchaser for the Goods in question, ii) the amount of loss or damage actually incurred or sustained by the Purchaser, and iii) the cost of replacement or repair of the Goods in question.

12.2 Save as provided in clauses 10.1 and 10.2 and so far as is permitted by statute, all warranties, conditions, guarantees or representations, express or implied, statutory or otherwise are hereby excluded..

12.3 Notwithstanding the sub-clauses in clause 10 or this clause 12, WIKA does not exclude its liability for death or personal injury to the extent arising from or caused by WIKA's negligence.

12.4 Notwithstanding any other provision of this Agreement, but subject to clause 12.3 above, WIKA shall not be liable to the Purchaser arising out of or in connection with any Order for (a) any loss of or damage to i) profit; ii) revenue; iii) savings; iv) data; v) use; vi) contract; vii) goodwill; or viii) business, or (b) any indirect or consequential loss or damage, in each case howsoever caused or arising.

- 12.5 The term “howsoever caused or arising” when used in clause 12.4 shall be construed widely to cover all causes and actions i) arising by reason of any misrepresentation, negligence, other tort, breach of statutory duty, breach of contract, restitution or otherwise and ii) arising under any indemnity and iii) caused by any total or partial failure or delay in supply of the Goods or Services.
- 12.6 The Purchaser expressly agrees that all limitations of liability and remedies available to it as described in these Conditions are fair and reasonable in all the circumstances.

13. Termination

WIKA shall be entitled to terminate the Contract forthwith without prejudice to its own rights accrued at the date of such termination and to recover damages in the event of any material breach by the Purchaser of its obligations hereunder or if the Purchaser shall be adjudged bankrupt or has a receiving order against it, or being a company, if any administrator, administrative receiver or receiver is appointed of the whole or any part of its assets or undertaking or a winding-up order is made against the Purchaser or the Purchaser goes into voluntary liquidation (other than for the purpose of reconstruction or amalgamation) or, (in either case) if the Purchaser calls a meeting or makes arrangement or composition with creditors or allows execution of distress to be levied against its goods.

14 Intellectual Property Rights

- 14.1 WIKA shall retain ownership of all Intellectual Property Rights, copyrights and all other industrial property rights embodied in the Goods, Services deliverables, drawings, samples or any other technical documentation relating to the Goods or Services produced or supplied by WIKA. The Purchaser shall not (and shall not permit) any Goods or any WIKA documents to be reproduced or made available to any third parties by the Purchaser without WIKA’s prior written authority.
- 14.2 Unless expressly agreed in writing, any specific jigs or tooling which WIKA has manufactured or purchased for the execution of an Order shall remain the property of WIKA, even if WIKA has passed the costs for them on to the Purchaser.

15 Hazardous Substances

- 15.1 When returning any Goods for repair or return, the Purchaser shall strictly observe the requirements of the Control of Substances Hazardous to Health (COSHH) Regulations 2002 or other guidelines (“**Regulations**”).
- 15.2 The Purchaser shall, in particular, package and mark any equipment that has been or has the potential of having been in contact with a hazardous substance when used or utilised by any persons after delivery and will include a Safety Data Sheet for the substance together with a suitable certificate of decontamination.
- 15.3 WIKA is entitled to accept and/or repair any equipment referred to in clause 15.2 at any time without restriction, making reference to the hazardous substance.

15.4 WIKA expressly reserves the right to enforce compensation claims in respect of any failure by the Purchaser to observe the Regulations.

16 Miscellaneous

16.1 The Contract may only be amended in writing signed by duly authorised representatives of the parties.

16.2 No failure or delay by either party in exercising any right, power or privilege under the Contract shall impair the same or operate as a waiver of the same nor shall any single or partial exercise of any right, power or privilege preclude any further exercise of the same or the exercise of any other right, power or privilege.

16.3 The rights and remedies provided in the Contract are cumulative and not exclusive of any rights and remedies provided by law.

16.4 The Purchaser shall not assign, transfer or dispose of any of the rights and obligations in the Contract.

16.5 For the purposes of the Contracts (Rights of Third Parties) Act 1999 the Contract is not intended to, and does not, give any person who is not a party to it any right to enforce any of its provisions.

16.6 Any notice to be given under the Contract shall be in writing and shall be sent by first class mail or air mail or by email (confirmed by first class mail or air mail), to the address or email address of the relevant party or such other address or email number as that party may from time to time notify to the other party.

16.7 Notices sent as above shall be deemed to have been received two working days after the day of posting (in the case of inland first class mail), or seven working days after the date of posting (in the case of air mail), or on the next working day after transmission or on the next working day after sending (in the case of email).

17 Governing Law

The Contract and all disputes or matters relating to or in connection with it shall be governed by and construed in accordance with English Law and the parties hereby irrevocably submit to the exclusive jurisdiction of the English High Court.