

WIKA INSTRUMENTS LIMITED

Terms and Conditions of Purchase (May 2023)

1 Interpretation

1.1 In these terms and conditions ('Conditions') the following definitions apply:

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| Business Day | means a day other than Saturday, Sunday and public holidays when banks generally are open for non-automated business in London; |
| Buyer | means Wika Instruments Limited, a private company incorporated and registered in England and Wales with company number 01032313 whose registered office is at Unit 7, Goya Business Park, The Moor Road, Sevenoaks, Kent TN14 5GY. |
| Confidential Information | means any commercial, financial or technical information, information relating to Goods, plans, know-how or trade secrets which is obviously confidential or has been identified as such, or which is developed by a party in performing its obligations under, or otherwise pursuant to the Contract; |
| Contract | means the agreement between the Seller and the Buyer for the sale and purchase of Goods incorporating these Conditions and the Order; |
| Delivery Location | means the address(es) for delivery of the Goods as set out in the Order; |
| Goods | means the goods and other physical material set out in the Order to be supplied by the Seller to the Buyer; |
| Intellectual Property Rights | means copyright, patents, know-how, trade secrets, trade marks, trade names, design rights, rights in get-up, rights in goodwill, rights in confidential information, rights to sue for passing off, domain names and all similar rights and, in each case: (a) whether registered or not (b) including any applications to protect or register such rights (c) including all renewals and extensions of such rights or applications (d) whether vested, contingent or future (e) to which the Seller is or may be entitled, and in whichever part of the world existing; |
| Order | means the Buyer's order for the Goods from the Seller as set out in the Buyer's order form; |
| Seller | means the person who sells the Goods to the Buyer as set out in the Order; |
| Specification | means the description, any samples, functional requirements or specification of the Goods and their packaging set out or referred to in the Order; |
| Value Added Tax or VAT | means value added tax under the Value Added Taxes Act 1994 or any other similar sale or fiscal tax applying to the sale of the Goods. |

- 1.2 In these Conditions, unless the context requires otherwise:
- 1.2.1 words in the singular include the plural and vice versa;
 - 1.2.2 any words that follow 'include', 'includes', 'including', 'in particular' or any similar words and expressions shall be construed as illustrative only and shall not limit the sense of any word, phrase, term, definition or description preceding those words;
 - 1.2.3 a reference to legislation is a reference to that legislation as amended, extended, re-enacted or consolidated from time to time;
 - 1.2.4 a reference to legislation includes all subordinate legislation made from time to time under that legislation; and
 - 1.2.5 a reference to any English action, remedy, method of judicial proceeding, court, official, legal document, legal status, legal doctrine, legal concept or thing shall, in respect of any jurisdiction other than England, be deemed to include a reference to that which most nearly approximates to the English equivalent in that jurisdiction.

2 Application of these Conditions

- 2.1 These Conditions apply to and form part of the Contract between the Seller and the Buyer for the purchase by the Buyer of Goods from the Seller. They supersede any previously issued terms and conditions of purchase or supply.
- 2.2 No terms or conditions endorsed on, delivered with, or contained in the Seller's quotation, sales conditions, confirmation of order, specification or other document will form part of the Contract except to the extent that the Buyer otherwise agrees in writing.
- 2.3 No variation of these Conditions or to an Order or to the Contract will be binding unless expressly agreed in writing and executed by a duly authorised signatory on behalf of the Buyer.
- 2.4 Each Order by the Buyer to the Seller will be an offer to purchase Goods subject to these Conditions.
- 2.5 An Order may be withdrawn or amended by the Buyer at any time before acceptance by the Seller. An Order will lapse unless accepted by the Seller before the expiry of 14 days after the date of the Order. If the Seller is unable to accept an Order, it shall notify the Buyer promptly.
- 2.6 Acceptance of an Order by the Seller will take place when it is expressly accepted by the Seller or by any other conduct of the Seller which the Buyer reasonably considers is consistent with acceptance of the Order.

3 Price

- 3.1 The price for the Goods will be as set out in the Order or, in default of such provision, will be calculated in accordance with the Seller's scale of charges as advised by the Seller and received and acknowledged by the Buyer before the date the Order is made. No increase in the price may be made after the Order is placed.
- 3.2 The price includes packing, shipment devices, transport and insurance coverage up to the address as stated by the Buyer as well as any customs duties and other taxes. The statutory value-added tax is not to be included in the price.

4 Payment

- 4.1 The Seller will invoice the Buyer for the Goods no sooner than completion of delivery of the Goods or, if later, the Buyer's acceptance of the Goods.
- 4.2 The Seller will invoice the Buyer in triplicate. To be considered valid, invoices and delivery notes must bear the order number, articles number, order dates or supplier numbers. Invoice duplicates and triplicates are to be marked as such.
- 4.3 The Buyer will pay each validly submitted invoice of the Seller within 15 days of the acceptance of the Goods subject to a 3% discount or within 30 days subject to a deduction of a 2% discount.
- 4.4 Time of payment is not of the essence. Where sums due under the Contract are not paid in full by the due date, to compensate the Seller for loss from the Buyer's breach, the Buyer will pay on the

outstanding sum overdue interest on a daily basis until payment in full at the rate of two per cent per annum above the Base Rate from time to time of the Bank of England. The Seller acknowledges that this is a substantial remedy for the purposes of the Late Payment of Commercial Debts (Interest) Act 1998.

- 4.5 VAT will be charged by the Seller and paid by the Buyer at the then applicable rate.
- 4.6 The Buyer may set off any liability which it has to the Seller under the Contract against any other liability which it has to the Seller howsoever and whensoever arising.

5 Cancellation

- 5.1 The Buyer will have the right to cancel the Order for the Goods or for any part of the Goods which have not yet been delivered to the Buyer, and in such a case, in which case, the Buyer will only be liable to pay for that part of the Price which relates to the Goods which at the time of cancellation have been delivered to the Buyer.

6 Delivery

- 6.1 The Goods will be delivered by the Seller to the Delivery Location on the date(s) specified in the Order. The Goods will be deemed delivered by the Seller only on completion of unloading of the Goods at the Delivery Location. Until such delivery, the Seller shall take and have all risk in the Goods.
- 6.2 The Goods will not be delivered by instalments unless otherwise agreed in writing by the Buyer.
- 6.3 Each delivery of the Goods will be accompanied by a delivery note stating:
 - 6.3.1 the date of the Order;
 - 6.3.2 the relevant Buyer and Seller details;
 - 6.3.3 the product numbers and type and quantity of Goods in the consignment;
 - 6.3.4 any special handling and other requests; and
 - 6.3.5 whether any packaging material is to be returned, in which case the Buyer will, after the Goods are unpacked, make them available for collection by the Seller at the Seller's expense.
- 6.4 Time of delivery is of the essence. If the Seller fails to deliver any of the Goods by the date(s) specified in the Order, the Buyer will (without prejudice to its other rights and remedies) be entitled at the Buyer's sole discretion:
 - 6.4.1 to terminate the Contract in whole or in part;
 - 6.4.2 to purchase the same or similar Goods from a supplier other than the Seller;
 - 6.4.3 to recover from the Seller all costs and losses resulting to the Buyer, including the amount by which the price payable by the Buyer to acquire those Goods from another supplier exceeds the price payable under the Contract and any loss of profit; and
 - 6.4.4 all or any of the foregoing.
- 6.5 If the Buyer fails to accept delivery of the Goods on the date or within the period set out in the Order, the Seller will store and insure the Goods pending delivery.

7 Acceptance, rejection and inspection

- 7.1 The Buyer will not have accepted, or be deemed to have accepted, the Goods until the Acceptance Conditions are fulfilled.
- 7.2 The 'Acceptance Conditions' are that:
 - 7.2.1 the Goods have been delivered to or at the Delivery Location; and
 - 7.2.2 as received, the Goods comply with the Specification in all respects; and
 - 7.2.3 the Buyer has notified the Seller in writing that the Goods have been delivered in full compliance with the Conditions of the Contract.

- 7.3 The Buyer will be entitled to reject any Goods which are not in full compliance with the Conditions of the Contract and/or not complying in full with the Specification. Any acceptance of defective, late or incomplete Goods or any payment made in respect thereof by the Buyer, shall not constitute a waiver of any of the Buyer's rights and remedies, including its right to reject.
- 7.4 Any rejected Goods may be returned to the Seller by the Buyer at the Seller's cost and risk. The Seller will pay to the Buyer a reasonable charge for storing and returning any of the Goods over-delivered or rejected.
- 7.5 The Buyer may require acceptance tests to be performed or to be carried out, at the Buyer's option, either by the Buyer or the Seller, and the results of the tests shall be made available to the Buyer.
- 7.6 The Buyer may inspect and test the Goods during manufacture or processing prior to despatch, and the Seller shall provide the Buyer with all facilities reasonably required.
- 7.7 Any inspection or testing of the Goods shall not be deemed to be acceptance of the Goods or a waiver of any of the Buyer's rights and remedies, including its right to reject.

8 Title and risk

- 8.1 Risk in the Goods will pass to the Buyer on completion of delivery and when the Buyer has accepted the Goods as conforming in every respect with the Contract. The Seller accepts the risk of deterioration of the Goods when such risk is necessarily incident to the course of transit.
- 8.2 Title to the Goods will pass to the Buyer on the sooner of: (a) when the Goods are unconditionally appropriated to the Contract by either party by or with the consent of the other party; or (b) delivery of the Goods to the Buyer.
- 8.3 The passing of title will not prejudice any other of the Buyer's rights and remedies, including its right to reject.
- 8.4 The Seller and no other person will have a lien on, right of stoppage in transit or other rights in or to any Goods title to which has vested in the Buyer or any Specifications or materials of the Buyer, and the Seller will ensure that relevant third parties accept the exclusion of such lien and rights.
- 8.5 The Seller undertakes that it:
- 8.5.1 has at the time the Contract is made full, clear and unencumbered title to the Goods, and the full, clear and unencumbered right to sell and deliver them to the Buyer; and
 - 8.5.2 will hold such title and right to enable it to ensure that the Buyer will acquire a valid, unqualified title to the Goods and will enjoy quiet possession of them.

9 Warranties, representations and undertakings

- 9.1 The Seller has represented and warrants and undertakes that, for a period of 24 months from acceptance (the **Warranty Period**), the Goods will:
- 9.1.1 conform in all material respects to any sample, their description and to any applicable Specification;
 - 9.1.2 be free from material defects in design, material and workmanship;
 - 9.1.3 be of satisfactory quality within the meaning of the Sale of Goods Act 1979; and
 - 9.1.4 be fit for their purpose and any purpose held out by the Seller and set out in the Order and as otherwise required to meet the Buyer's needs.
- 9.2 The Seller agrees that the approval by the Buyer of any design or specification provided by the Seller will not relieve the Seller of any of its obligations under this clause.
- 9.3 The Seller will, without prejudice to the Buyer's other rights and remedies, repair, replace, correct, re-perform or refund the price of defective Goods as the Buyer may require, provided that the Buyer informs the Seller of discovery that some or all of the Goods do not comply with the Contract.
- 9.4 The Seller warrants and undertakes that it, and all persons associated with it, will comply with all applicable laws, regulations and codes and, in relation to the provision of the Goods, will not engage

in any activity which is bribery, and will comply with anti-bribery laws, regulations and codes. The Seller shall maintain adequate procedures to ensure compliance.

10 Indemnity and insurance

- 10.1 The Seller shall indemnify and keep indemnified the Buyer against all claims, costs and expenses which the Buyer may suffer or incur directly or indirectly from the Seller's breach of any of the Seller's obligations under the Contract.
- 10.2 The Seller will have in place contracts of insurance with reputable insurers incorporated in the United Kingdom insuring the Goods and any of the Buyer's materials in the Seller's possession against the usual risks, including accident, fire and theft, for their full replacement value until the risk in them passes to the Buyer, and insuring against all other risks that a prudent supplier should consider reasonable. On request, the Seller will supply so far as is reasonable evidence of the maintenance of the insurance and all of its terms from time to time applicable. The Seller shall on request assign to the Buyer the benefit of such insurance.

11 Intellectual property rights

- 11.1 The Seller will defend or, at the Buyer's option, settle any action brought against the Buyer arising from any claim that the purchase or use of the Goods by the Buyer or any of its customers and nominees infringes any third party Intellectual Property Right, and will indemnify and keep indemnified the Buyer against all claims, costs and expenses which the Buyer may suffer or incur directly or indirectly in connection with such claim.
- 11.2 All specifications provided by the Buyer and all Intellectual Property Rights in the Goods made in accordance with such specifications shall vest in and remain at all times the property of the Buyer and such specifications may only be used by the Seller as necessary to perform the Contract. The Seller hereby assigns (or shall procure the assignment) to the Buyer absolutely, with full title guarantee, all right, title and interest in any such Intellectual Property Rights, and the Seller will do all such things and sign all documents necessary in the Buyer's opinion to so vest all such Intellectual Property Rights in the Buyer, and to enable the Buyer to defend and enforces such Intellectual Property Rights, and the Seller shall at the Buyer's request waive or procure a waiver of applicable moral rights.

12 Confidentiality and announcements

- 12.1 The Seller shall keep confidential all Confidential Information of the Buyer and will only use the Buyer's Confidential Information as required to perform the Contract. The provisions of this clause will not apply to:
 - 12.1.1 any information which was in the public domain at the date of the Contract;
 - 12.1.2 any information which comes into the public domain subsequently other than as a consequence of any breach of the Contract or any related agreement;
 - 12.1.3 any information which is independently developed by the Seller without using information supplied by the Buyer; or
 - 12.1.4 any disclosure required by law or a regulatory authority or otherwise by the provisions of the Contract.
- 12.2 This clause will remain in force in perpetuity from the date of the Contract.
- 12.3 The Seller shall not make any public announcement or disclose any information regarding the Contract, except to the extent required by law or regulatory authority.

13 Termination

- 13.1 The Contract may be terminated or its performance suspended immediately at any time if:
 - 13.1.1 the Seller commits a material breach, or series of breaches resulting in a material breach, of the Contract and such breach is not remediable or if capable of remedy is not remedied within 14 days of written notice from the Buyer to the Seller to do so;
 - 13.1.2 the Seller becomes bankrupt;

- 13.1.3 the Seller suspends or threatens to suspend payment of its debts, or is unable to pay its debts as they fall due;
 - 13.1.4 the Seller (a) negotiates with its creditors for rescheduling of its debts, (b) makes a proposal to or compounds with its creditors in respect of its debts or (c) makes an application to court for protection from its creditors generally;
 - 13.1.5 the Seller passes a resolution for winding-up or for the appointment of an administrator, or a step is taken to appoint a liquidator or administrator in relation to the Seller, or a step is taken to obtain a winding-up order in relation to the Seller;
 - 13.1.6 a step is taken to appoint a receiver or administrative receiver in relation to the Seller or any of its assets;
 - 13.1.7 any creditor of the Seller attaches, takes possession of, or any distress, execution or similar process is levied or enforced against, all or any part of the Seller's assets, and such attachment or process is not discharged within 14 days;
 - 13.1.8 the Seller takes or suffers any action similar to any of the above in any jurisdiction;
 - 13.1.9 there is a material change in the management, ownership or control of the Seller;
 - 13.1.10 the Seller suspends trading, ceases to carry on business, or threatens to do either; or
 - 13.1.11 the Seller (being an individual) dies or ceases to be capable of managing his own affairs.
- 13.2 On termination of the Contract for any reason:
- 13.2.1 the Seller will within 5 Business Days return any materials of the Buyer then in its possession or control; if it fails to do so, the Buyer may enter onto any premises owned by or under the control of the Seller and take possession of them;
 - 13.2.2 the accrued rights and liabilities of the parties will not be affected; and
 - 13.2.3 any clause which expressly or by implication is to survive termination will do so.

14 General

14.1 Time

Unless stated otherwise, in relation to the Seller's obligations, time is of the essence of any date or period specified in the Contract.

14.2 Buyer's Group

To the extent determined by the Buyer in its absolute discretion from time to time, any member of the Buyer's Group shall be entitled in its own right to enforce any or all the Buyer's rights and remedies relating to the Contract. The consent of any such member is not required in order to rescind or vary the Contract or any provision of it.

14.3 Assignment

- 14.3.1 The Buyer may at any time assign, transfer, charge, hold on trust for another or deal in any other manner with any or all of its rights and obligations under the Contract, or subcontract any or all of its obligations hereunder. The Buyer in any such event shall remain liable to the Seller for any breach of its obligations.
- 14.3.2 The Seller will not assign, transfer, mortgage, charge, hold on trust for another or deal in any other manner with any of its rights or obligations under the Contract without the Seller's prior written consent except by a mortgage or charge in the ordinary course of business to its bankers or other lenders, or purport to do so, and the Seller will not subcontract any of its obligations under the Contract. Without prejudice to this, if the Seller disposes of its business, the Seller will, at the Buyer's request, procure that the successor to its business will perform the Contract and ensure that the successor undertakes directly to the Buyer to do so.

14.4 Employees

The Seller will indemnify and keep indemnified the Buyer against all claims, costs and expenses suffered or incurred in connection with the transfer by operation of law to the Buyer of the contract of employment of any employee of the Seller or its suppliers arising out of the Buyer's entry into, performance or termination of the Contract in whole or in part.

14.5 Relationship

The parties are independent businesses and, in relation to each other, not principal and agent, partners, or employer and employee. It is a condition of the Contract that the Seller enters into the Contract as principal and not as agent for any person.

14.6 Severability

If any provision in the Contract is found by a court, tribunal or other administrative body of competent jurisdiction to be unenforceable or invalid for any reason, that provision is to be severed from the Contract and the remaining provisions of the Contract will otherwise remain in full force.

14.7 Notices

Notices under a Contract will be in writing and sent to the persons and addresses set out in the Order. They may be given, and will be deemed received:

14.7.1 by first-class post: two Business Days after posting;

14.7.2 by airmail: seven Business Days after posting;

14.7.3 by hand: on delivery; and

14.7.4 by e-mail: on receipt of a delivery or read receipt mail from the correct address.

14.8 Waiver

No delay, act or omission by either party in exercising any right or remedy will be deemed a waiver of that, or any other, right or remedy.

14.9 Cumulative remedies

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

14.10 Rights of third parties

Except as provided in clauses 14.2 and 14.3, the Contract is not enforceable by any third party under the Contracts (Rights of Third Parties) Act 1999 or otherwise.

14.11 Priority

The terms of these Conditions prevail over those of the Order except to the extent that a provision to be overridden is specifically identified and the intention for the Contract to amend the provision is clearly expressed.

14.12 Entire agreement

The parties agree that the Contract constitutes the entire agreement between them in respect of its subject matter. Each party acknowledges that it has not entered into the Contract in reliance on, and shall have no remedies in respect of, any representation or warranty that is not expressly set out in the Contract.

14.13 Governing law and jurisdiction

14.13.1 The Contract will be governed by and interpreted in accordance with the laws of England and Wales.

14.13.2 All disputes or matters arising in connection with the Contract or the Goods will be subject to the exclusive jurisdiction of the courts of England and Wales.