

**1. DEFINITIONS**

In these Conditions 'the Seller' shall mean VICAIMA Limited. 'the Buyer' shall mean the person, firm or company to whom the Seller agrees to sell or supply the Goods and/or Services; 'the Goods' shall mean all goods which are the subject of an order placed by the Buyer with the Seller; and 'the Services' shall mean any work or labour or any task performed or to be performed by the Seller for the Buyer.

**2. CONTRACTUAL TERMS**

(a) All contracts made between the Seller and the Buyer shall incorporate these Conditions which shall prevail over any other terms that the Buyer seeks to impose or incorporate, or which are implied by trade, custom, practice or course of dealing. The Seller shall not be bound by any condition, representation, warranty or statement at variance with these Conditions unless the same is agreed in writing and signed by a Director of the Seller and the Buyer's attention is drawn to the fact that only Directors of the Seller have authority to make any condition, representation or warranty on the Seller's behalf.

(b) The Buyer shall notify the Seller within three working days of the date of the Seller's acceptance or acknowledgement of order if such acceptance or acknowledgement does not accurately confirm the Buyer's order failing which the Buyer shall be bound by the terms of the acknowledgement.

**3. CREATION OF CONTRACTUAL RELATIONS**

Unless previously withdrawn the Seller's quotations and tenders shall remain valid for the period stated therein or if no period is stated for 30 days from their date. The Seller's offers estimates quotations tenders and price lists are invitations to treat only. All orders must be in writing and must be accompanied by sufficient information to enable the Seller to proceed without delay with the execution of the order. All orders shall only be deemed to be accepted when the Seller issues a written acceptance of order or provides the Goods and/or Services (whichever is the earlier), at which point the contract shall come into existence. The contract incorporating these Conditions constitutes the entire agreement between the parties.

**4. LITERATURE**

In the interests of product improvement the Seller reserves the right to alter the design, specifications and materials of the goods at any time without prior notice. Illustrations and statements made in the Seller's literature are only intended as a guide and the Seller does not accept any responsibility for them.

**5. DELIVERY**

(a) Delivery of the Goods shall be made by the Buyer collecting the Goods at the Seller's premises at any time after the Seller has notified the Buyer that the Goods are ready for collection or, if some other place for delivery is agreed by the Seller delivering the Goods to that place.

(b) Any dates quoted for delivery of the Goods are approximate only and the Seller shall not be liable for any delay in delivery of the Goods however caused. Time for delivery shall not be of the essence of the contract unless previously agreed by the Seller in writing. The Goods may be delivered by the Seller in advance of the quoted delivery date upon giving reasonable notice to the Buyer.

(c) Where the Goods are to be delivered in instalments, each delivery shall constitute a separate contract and failure by the Seller to deliver any one or more of the instalments in accordance with these Conditions or any claim by the Buyer in respect of any one or more instalments shall not entitle the Buyer to treat the contract as a whole as repudiated.

(d) If the Seller fails to deliver the Goods (or any instalment) for any reason other than any cause beyond the Seller's reasonable control or the Buyer's fault, and the Seller is accordingly liable to the Buyer. The Seller's liability shall be limited to the excess (if any) of the cost to the Buyer of similar goods to replace those not delivered over the price of the Goods.

(e) If the Buyer fails to take delivery of the Goods or fails to give the Seller adequate delivery instructions at the time stated for delivery then, without prejudice to any other right or remedy available to the Seller, the Seller may:

(i) store the Goods for up to 7 days until actual delivery and charge the Buyer for the reasonable costs (including insurance) of storage; or

(ii) after 14 days sell the Goods at the best price readily obtainable and (after deducting all reasonable storage and selling expenses) account to the Buyer for the excess over the price under the Contract or charge the Buyer for any shortfall below the price under the Contract.

**6. DAMAGE OR SHORTAGE OR LOSS IN TRANSIT**

Except where the Buyer collects the goods from the Seller, the Seller will repair or replace or make good (entirely at its option) free of charge any goods damaged or lost in transit provided the following conditions are complied with:

(i) In the case of damage or shortage the Seller and the carriers are notified in writing within three days of advice of delivery being sent. In the case of short delivery the delivery shall be accepted by the Buyer as part performance and shall not be deemed to be in breach of contract.

(ii) Where the Goods are not delivered the Seller and the carriers are notified in writing within three days of advice of delivery being given.

No claim may be made under this Clause if an acceptance note relating to the Goods has been signed by the Buyer or his agent or employee. Apart from the provisions of this Clause the Seller accepts no liability for damage shortage or loss in transit.

**7. NON ACCEPTANCE BY BUYER**

(a) If by reason of the Buyer's default the Goods or any of them have not been taken up or delivered by any date specified for such taking up or delivery, then:

(i) The Buyer shall nevertheless pay the Seller in accordance with Clause 10 of these conditions as if such taking up or delivery had occurred; and (ii) the Buyer shall pay the Seller reasonable rent for the period (if any) of storage by the Seller of any of the goods which have not been taken up or delivered together with the cost of any additional handling and transport incurred.

(b) During the period of any storage of the Goods or any of them by the Seller as contemplated by sub clause (a) (ii) of this Clause 7 such Goods shall be at the risk of the Buyer.

**8. PRICES**

(a) All prices include only such Goods and accessories as are specified in the quotation and are for the quantities therein expressed. If the Buyer shall request any variation in quantity the price may be varied accordingly.

(b) Unless otherwise specified prices quoted do not include Value Added Tax which will be added at the rate prevailing at the appropriate tax point.

(c) Unless otherwise specified prices quoted include carriage. Where the quoted prices do include carriage the Seller shall determine the route and method of carriage and any special requirements of the Buyer shall be subject to an additional charge.

(d) Unless otherwise specified prices quoted include the Seller's and/or its supplier's standard non-returnable packaging. It is the Buyer's responsibility to dispose of all packaging after delivery.

(e) At any time before delivery has been completed the Seller shall be entitled to vary the price of the Goods to take into account all or any of the following factors:

(i) Where Goods are imported any variation of currency exchange rates or special taxes or charges imposed by any government

(ii) Increased costs resulting from the prohibition or other actions of any government;

(iii) Increased labour costs;

(iv) Increased material costs;

(v) Increased transport costs (if carriage is included in the quoted price);

(vi) Implementing any request by the Buyer for expedited despatch or changes in delivery, schedules, completion dates, quantities, designs or specifications;

(vii) Delays caused by instructions of the Buyer or by failure of the Buyer to give adequate instructions or information.

**9. PAYMENT**

Unless otherwise agreed in writing by the Seller, payment is strictly net and must be made on the last working day of the month following delivery provided that the Seller may in its discretion demand earlier payment. Time of payment shall be of the essence of the contract. In default of payment on the due date the Seller shall be entitled to charge interest on any sums not paid by the due date for payment from the date when such payment became due to the actual date of payment at the rate of two percent above the minimum lending rate for the time being of Lloyds Bank. The Seller shall at its discretion (without prejudice to its rights to treat the contract as repudiated and claim damages) be entitled to withhold despatch of the Goods or any of them until all monies owing to the Seller or the Buyer have been paid in full.

**10. DELIVERY BY INSTALMENTS**

In the case of a contract providing for call offs or delivery by instalments then each call off or instalment shall be treated as a separate and distinct contract. Default in payment for each delivery by instalment or call off shall at the Seller's option be deemed to be a breach of contract entitling the Seller to rescind the whole unfulfilled contract and to claim direct and consequential losses and damages.

**11. DISPUTES AND SET OFF**

Any liability upon the Seller is subject to the terms of payment and all other obligations upon the Buyer being strictly observed. The Buyer shall not be entitled to withhold payment of any amount payable to the Seller under the contract or any other contract because of any claim of the Buyer in respect of any alleged breach of the contract or any other contract.

**12. PROPERTY AND RISK**

Risk of damage to or loss of the Goods shall pass to the Buyer;

(a)(i) in the case of Goods to be delivered at the Seller's premises, at the time when the Seller notifies the Buyer that the Goods are available for collection; or

(ii) in the case of Goods to be delivered otherwise than at the Seller's premises, at the time of delivery or, if the Buyer wrongfully fails to take delivery of the Goods, the time when the Seller has tendered delivery of the Goods.

(b) Notwithstanding delivery and the passing of risk in the Goods, or any other provision of these Conditions, the property in the Goods shall not pass to the Buyer until the Seller has received in cash or cleared funds payment in full of the price of the Goods and all other goods agreed to be sold by the Seller to the Buyer for which payment is then due.

(c) Until such time as the property in the Goods passes to the Buyer, the Buyer shall hold the Goods as the Seller's fiduciary agent and bailee, and shall keep the Goods separate from those of the Buyer and third parties and properly stored, protected and insured and identified as the Seller's property, but shall be entitled to re-sell or use the Goods in the ordinary course of its business.

(d) Until such time as the property in the Goods passes to the Buyer (and provided the Goods are still in existence and have not been sold), the Seller shall be entitled at any time to require the Buyer to deliver up the Goods to the Seller and, if the Buyer fails to do so forthwith, to enter upon any premises of the Buyer or any third party where the Goods are stored and repossess the Goods.

(e) The Buyer shall not be entitled to pledge or in any way charge by way of security for any indebtedness any of the Goods which remain the property of the Seller, but if the Buyer does so all monies owing to the Buyer to the Seller shall (without prejudice to any other right or remedy of the Seller) forthwith become due and payable.

**13. TERMINATION AND SUSPENSION**

The Seller shall be entitled without prejudice to its other rights and remedies to (a) terminate wholly or in part any or every contract between the Seller and the Buyer, (b) to suspend any further deliveries under any or every such contract and (c) to demand repayment for undelivered Goods, in any of the following events:

- (i) If any sum owing to the Seller under the contract or any other contract is unpaid after the due date;
- (ii) If the Buyer refuses to take delivery of any Goods in breach of contract;
- (iii) If the Buyer fails to provide security for credit required by the contract;
- (iv) If the Seller has bona fide doubts as to the Buyer's solvency or credit worthiness;
- (v) If the Buyer is in breach of any other term of the contract or has committed a breach of any other contract between the Buyer and the Seller.
- (vi) The Buyer makes any voluntary arrangement with its creditors or (being an individual or firm) becomes bankrupt or (being a company) becomes subject to an administration order or goes into liquidation (otherwise than for the purposes of amalgamation or reconstruction); or (vii) an encumbrancer takes possession, or a receiver is appointed, of any of the property or assets of the Buyer; or
- (viii) the Buyer ceases, or threatens to cease, to carry on business; or (ix) the Seller reasonably apprehends that any of the events mentioned above is about to occur in relation to the Buyer and notifies the Buyer accordingly.

**14. CANCELLATION AND VARIATION**

No cancellation or variation of an order by the Buyer shall be effective unless made in writing and until accepted in writing by an authorised representative of the Seller. The Seller reserves the right to refuse to accept such cancellation or variation or to accept cancellation or variation only subject to such conditions as the Seller may determine. Acceptance by the Seller shall be subject to payment by the Buyer of such cancellation or variation charges as the Seller shall deem reasonable. Such charges shall take into account expenses incurred and commitments made by the Seller and all other losses due to such cancellation or variation.

**15. FITNESS FOR PURPOSE**

The Seller does not accept any responsibility that the Goods will be suitable for a specific purpose unless a warranty for that purpose is given by the Seller in writing and signed by a Director and the Buyer will accept the Goods provided they are commercially acceptable whether they require finishing works to be carried out upon them or not.

**16. GUARANTEE**

- (a) If within 6 months of invoicing the Seller is notified in writing of any defects which the Seller agrees to be of faulty quality or workmanship, the Seller will at its option replace or credit the sale price of the Goods. If such defect is due to material provided by suppliers nominated by the Buyer being unsuitable then no responsibility shall attach to the Seller whose charges for work executed and/or Goods sold and delivered shall remain payable.
- (b) The Seller's liability is limited to replacement of the Goods or reimbursement of their price under this clause and the Seller will not under any circumstances be responsible for any consequential loss of any description whatsoever and howsoever arising.
- (c) This guarantee is given in lieu of any right of rejection of the Goods or of any item thereof and of any condition warranty or representation as to the state or suitability of the Goods or otherwise which would otherwise be implied by statute, common law or commercial usage and subject to the aforesaid the Seller shall have no obligation to the Buyer either in tort or under any contract in respect of the condition of any item of Goods delivered or invoiced other than the express obligation contained in these Terms and Conditions of Sale or in any other document incorporated within the contract or in any written condition representation or warranty signed by a Director of the Seller.

**17. LIABILITY**

(a) Nothing in these Conditions shall limit or exclude the Seller's liability for:

- (i) death or personal injury caused by negligence, or the negligence of its employees, agents or sub-contractors; (ii) fraud or fraudulent misrepresentation; (iii) breach of the terms implied by Section 2 of the Supply of Goods and Services Act 1982 (Title and Quiet Possession); (iv) breach of the terms implied by Section 12 of the Sales of Goods Act 1979 (Title and Quiet Possession); or (v) defective products under the Consumer Protection Act 1987.
- (b) Subject to clause 17(a):
- (i) the Seller shall under no circumstances whatsoever be liable to the Buyer; whether in contract, tort (including negligence), breach of statutory duty, or otherwise, for any loss of profit, or any indirect or consequential loss arising under or in connection with the supply of Goods and/or Services; and
- (ii) the Seller's total liability to the Buyer in respect of all other losses arising under or in connection with any contract, whether in contract, tort, (including negligence), breach of statutory duty, or otherwise, shall in no circumstances exceed the aggregate price of the Goods and/or Services.
- (c) Except as set out in these Conditions, all warranties, conditions and other terms implied by statute or common law are, to the fullest extent, permitted by law, excluded from any contract incorporating these Conditions.
- (d) Nothing in these Conditions shall affect the legal rights of any Buyer who is a consumer. If the Buyer is a consumer, the Buyer has legal rights in relation to Goods that are faulty or not as described. Advice about those legal rights should be available from a Citizens' Advice Bureau or Trading Standards office.

**18. INTELLECTUAL PROPERTY**

If Goods are manufactured or partly manufactured by the Seller in accordance with a specification or design or instruction provided by the Buyer then the Buyer will indemnify the Seller against all actions, claims, costs, damages and demands of whatsoever description and howsoever arising in relation to any claim or alleged claim in respect of infringement of any letters, patent, registered design, trade mark, copyright (including design copyright) or any other intellectual property right.

**19. FORCE MAJEURE**

Should any event occur whether at the Seller's plant or otherwise which is beyond the control of the Seller such as by way of example industrial action or dispute (including strike or lock out) shortage of materials, act of God, terrorism, war, fire, flood, drought, breakdown and the performance of this contract is prevented or delayed:

- (a) Without prejudice to its rights in the event of breach of contract by the Buyer, the Seller reserves the right to cancel delivery or other performance of the Seller's obligations under any contract in whole or in part and in the event of the Seller exercising such right the Seller's liability shall be limited to the repayment of the Buyer (without interest) of any part of the purchase or the contract price or charge already received by the Seller and attributed to any unfulfilled and cancelled part of the contract less any expenses incurred by the Seller down to the date of cancellation in part performance of the contract.
- (b) If such prevention or delay continues for 3 months the Buyer may elect to cancel the contract. and if such election is made the Buyer shall be liable to pay to the Seller cancellation charges in accordance with Clause 14 of these conditions.

**20. WAIVER**

No waiver by either party in respect of any breach by the other shall operate as a waiver in respect of any subsequent breach.

**21. SEVERABILITY**

Any provisions of these conditions which in any way now or subsequently contravene the law shall be deemed severable and shall not affect any other provisions herein.

**22. LAW AND JURISDICTION**

The contract shall in all respects be construed and operate in accordance with English law and shall be subject to the exclusive jurisdiction of the English Courts.

**23. NOTICES**

Any notices required to be served hereunder shall be deemed to be properly served if sent by prepaid registered or recorded delivery post to the last known address of the party to be served and shall be deemed to be duly served the day following the date of posting.

**24. CLAUSE HEADINGS**

The clause headings shall not affect the interpretation of these conditions.

**25. THIRD PARTY RIGHTS**

Except as expressly provided elsewhere in these Conditions, nothing in these Conditions shall confer on any third party any benefit or the right to enforce any term of this Agreement.

**26. ASSIGNMENT**

The Seller may at any time assign, transfer, charge, sub-contract or deal in any other manner with all or any of its rights or obligations under a contract incorporating these Conditions.

**27. DATA PROTECTION**

(a) The Seller will use the personal information the Buyer provides to:

- (i) provide the Goods and/or Services;
- (ii) process payment for such Goods and/or Services; and
- (iii) inform the Buyer about similar products or services that the Seller provides, but the Buyer may stop receiving these at any time by contacting the Seller.
- (b) The Buyer agrees that the Seller may pass the Buyer's personal information to credit reference and fraud prevention agencies and that they may keep a record of any search that they do.
- (c) The Seller will not give the Buyer's personal data to any other third party.

April 2014

**PLEASE NOTE:**

Veneer, laminate, foil colours and photography are shown as a guide only. As we are constantly improving our product range, we reserve the right to make changes without prior notice. These details do not form any contract and whilst every effort has been made to ensure accuracy, this cannot be guaranteed.