

MAXICAM LIMITED/POWELL CNC - TERMS & CONDITIONS OF SALE**1. DEFINITIONS**

1.1 The definitions and rules of interpretation in this condition apply in these conditions.

"Customer" shall mean the person, firm or company who purchases Goods or Services from the Company.

"Company" shall mean Maxicam Limited.

"Contract" shall mean any contract between the Company and the Customer for the sale and purchase of the Goods, incorporating these conditions.

"Delivery Point" shall mean the place where delivery of the Goods is to take place under condition.

"Goods" shall mean any goods agreed in the Contract to be supplied to the Customer by the Company (including any part or parts of them and where the context so permits any supply of Services).

"Services" shall mean any services supplied by the Company to the Customer and are as described on the invoices, quotations, variation form or any other forms as provided by the Company to the Customer and includes any advice or recommendations (and where the context so permits any incidental supply of Goods).

1.2 A reference to a particular law is a reference to it as it is in force for the time being taking account of any amendment, extension, application or re-enactment and includes any subordinate legislation for the time being in force made under it.

1.3 Words in the singular include the plural and in the plural include the singular.

1.4 Condition headings do not affect the interpretation of these conditions.

2. APPLICATION OF TERMS

2.1 Subject to any variation under condition 2.3, the Contract shall be on these conditions to the exclusion of all other terms and conditions (including any terms or conditions which the Customer purports to apply under any purchase order, confirmation of order, specification or other document).

2.2 No terms or conditions endorsed on, delivered with or contained in the Customer's purchase order, confirmation of order, specification or other document shall form part of the Contract simply as a result of such document being referred to in the Contract.

2.3 These conditions apply to all the Company's sales and any variation to these conditions and any representations about the Goods or Services shall have no effect unless expressly agreed in writing and signed by a director of the Company. The Customer acknowledges that it has not relied on any statement, promise or representation made or given by or on behalf of the Company which is not set out in the Contract. Nothing in this condition shall exclude or limit the Company's liability for fraudulent misrepresentation.

2.4 Each order or acceptance of a quotation for Goods or Services by the Customer from the Company shall be deemed to be an offer by the Customer to buy Goods or Services subject to these conditions.

2.5 The Customer shall ensure that the terms of its order and any applicable specification are complete and accurate.

2.6 Any quotation is valid for a period of 30 days only from its date, provided that the Company has not previously withdrawn it.

3. DESCRIPTION

3.1 The quantity and description of the Goods or Services shall be as set out in the Company's quotation or acknowledgement of order.

3.2 All samples, drawings, descriptive matter, specifications and advertising issued by the Company and any descriptions or illustrations contained in the Company's catalogues or brochures are issued or published for the sole purpose of giving an approximate idea of the Goods described in them. They shall not form part of the Contract.

4. SITE SURVEYS (FOR APPLICABLE SERVICES)

4.1 At the sole discretion of the Company, a site survey will be conducted, where necessary and appropriate, for reasons of safety, efficiency and to ensure the accuracy of any quotations provided to the Customer. Any site surveys will be conducted prior to quotation and delivery of Goods or Services.

4.2 Minor site surveys or standard site surveys may be provided free of charge where the Customer has accepted the Company's quotation.

4.3 The Company reserves the right to charge for:

(a) more complex surveys; and

(b) standard site surveys repeated due to the Company not being able to collect the required information during the first visit for reasons beyond Company's control.

5. DELIVERY

5.1 Unless otherwise agreed in writing by the Company, delivery of the Goods shall take place at the Customer's place of business.

5.2 The Customer shall take delivery of the Goods within 14 days of the Company giving it notice that the Goods are ready for delivery.

5.3 Any dates specified by the Company for delivery of the Goods are intended to be an estimate and time for delivery shall not be made of the essence by notice. If no dates are so specified, delivery shall be within a reasonable time.

5.4 Subject to the other provisions of these conditions the Company shall not be liable for any direct, indirect or consequential loss (all three of which terms include, without limitation, pure economic loss, loss of profits, loss of business, depletion of goodwill and similar loss), costs, damages, charges or expenses caused directly or indirectly by any delay in the delivery of the Goods (even if caused by the Company's negligence), nor shall any delay entitle the Customer to terminate or rescind the Contract.

5.5 If for any reason the Customer fails to accept delivery of any of the Goods when they are ready for delivery, or the Company is unable to deliver the Goods on time because the Customer has not provided appropriate instructions, documents, licences or authorisations:

(a) risk in the Goods shall pass to the Customer (including for loss or damage caused by the Company's negligence);

(b) the Goods shall be deemed to have been delivered; and

(c) the Company may store the Goods until delivery, whereupon the Customer shall be liable for all related costs and expenses (including, without limitation, storage and insurance).

5.6 The Customer shall provide at the Delivery Point, at its own expense, adequate and appropriate equipment and manual labour for unloading the Goods, unless specialist unloading services have been contracted.

5.6.1 The Customer is liable for any damage that may occur during unloading and agrees to compensate the Company's accordingly, unless specialist unloading services have been contracted.

5.7 If the Company delivers to the Customer a quantity of Goods of up to 10% more or less than the quantity accepted by the Company, the Customer shall not be entitled to object to or reject the Goods or any of them by reason of the surplus or shortfall and shall pay for such goods at the pro rata Contract rate.

5.8 The Company may deliver the Goods by separate instalments.

5.9 Each instalment shall be a separate Contract and no cancellation or termination of any one Contract relating to an instalment shall entitle the Customer to repudiate or cancel any other Contract or instalment.

5.10 Goods are not supplied on approval or on a trial basis and are non-returnable.

6. NON-DELIVERY

6.1 The quantity of any consignment of Goods as recorded by the Company on despatch from the Company's place of business shall be conclusive evidence of the quantity received by the Customer on delivery unless the Customer can provide conclusive evidence proving the contrary.

6.2 The Company shall not be liable for any non-delivery of Goods (even if caused by the Company's negligence) unless the Customer gives written notice to the Company of the non-delivery within 14 days of the date when the Goods would in the ordinary course of events have been received.

6.3 Any liability of the Company for non-delivery of the Goods shall be limited to replacing the Goods within a reasonable time or issuing a credit note at the pro rata Contract rate against any invoice raised for such Goods.

7. RISK/TITLE

7.1 The Goods are at the risk of the Customer from the time of delivery.

7.2 Ownership of the Goods shall not pass to the Customer until the Company has received payment in full (by direct credit, electronic banking, CHAPS, BACS or by any other method as agreed) all sums due to it in respect of:

(a) the Goods; and

(b) all other sums which are or which become due to the Company from the Customer on any account.

7.3 Until ownership of the Goods has passed to the Customer, the Customer shall:

(a) hold the Goods on a fiduciary basis as the Company's bailee;

(b) store the Goods (at no cost to the Company) separately from all other goods belonging to the Customer or any third party in such a way that they remain readily identifiable as the Company's property;

(c) not destroy, deface or obscure any identifying mark or packaging on or relating to the Goods; and

(d) maintain the Goods in satisfactory condition and keep them insured on the Company's behalf for their full price against all risks to the reasonable satisfaction of the Company. On request the Customer shall produce the policy of insurance to the Company.

7.4 The Customer may only resell the Goods before ownership has passed on the following conditions:

(a) any sale shall be effected in the ordinary course of the Customer's business at full market value; and

(b) any such sale shall be a sale of the Company's property on the Customer's own behalf and the Customer shall deal as principal when making such a sale.

7.5 The Customer's right to possession of the Goods shall terminate immediately if:

(a) the Customer has a bankruptcy order made against him or makes an arrangement or composition with his creditors, or otherwise takes the benefit of any statutory provision for the time being in force for the relief of insolvent debtors, or (being a body corporate) convenes a meeting of creditors (whether formal or informal), or enters into liquidation (whether voluntary or compulsory) except a solvent voluntary liquidation for the purpose only of reconstruction or amalgamation, or has a receiver and/or manager, administrator or administrative receiver appointed of its undertaking or any part thereof, or documents are filed with the court for the appointment of an administrator of the Customer or notice of intention to appoint an administrator is given by the Customer or its directors or by a qualifying floating charge holder (as defined in paragraph 14 of Schedule B1 to the Insolvency Act 1986), or a resolution is passed or a petition presented to any court for the winding-up of the Customer or for the granting of an administration order in respect of the Customer, or any proceedings are commenced relating to the insolvency or possible insolvency of the Customer; or

(b) the Customer suffers or allows any execution, whether legal or equitable, to be levied on his/its property or obtained against him/it, or fails to observe or perform any of his/its obligations under the Contract or any other contract between the Company and the Customer, or is unable to pay its debts within the meaning of section 123 of the Insolvency Act 1986 or the Customer ceases to trade; or

(c) the Customer encumbers or in any way charges any of the Goods.

7.6 The Company shall be entitled to recover payment for the Goods notwithstanding that ownership of any of the Goods has not passed from the Company.

7.7 The Customer grants the Company, its agents and employees an irrevocable licence at any time to enter any premises where the Goods are or may be stored in order to inspect them, or, where the Customer's right to possession has terminated, to recover them.

7.8 Where the Company is unable to determine whether any Goods are the goods in respect of which the Customer's right to possession has terminated, the Customer shall be deemed to have sold all goods of the kind sold by the Company to the Customer in the order in which they were invoiced to the Customer.

7.9 On termination of the Contract, howsoever caused, the Company's (but not the Customer's) rights contained in this condition 7 shall remain in effect.

8. PRICE

8.1 Unless otherwise agreed by the Company in writing, the price for the Goods shall be the price set out in the Company's invoice.

8.2 The price for the Goods, unless otherwise stated in writing, shall be exclusive of any value added tax and costs or charges in relation to packaging, loading, unloading, carriage and insurance, all of which amounts the Customer shall pay in addition when payment is due.

8.3 In the event of any variation or suspension of the Contract which is agreed to by the Company upon the Customer's request or if the Customer's instructions are incorrect or insufficient the Company shall be entitled to adjust the price of the Goods and/or any relevant Services to reflect costs involved and to adjust delivery dates as appropriate.

8.4 The Company shall be entitled to bring an action for the price or part thereof whether or not the ownership in the Goods has passed.

8.5 Without prejudice to any other legal rights and remedies the Company may have, any deposit paid by the Customer shall be forfeited

(a) if the order is cancelled by the Customer,
(b) if the Customer is unable to proceed with purchase for any reason or
(c) if the Customer fails to pay the balance of the contract price by the due date.

8.6 Should the Customer cancel an order placed with Maxicam Ltd, any deposit paid will be allocated against costs incurred to Maxicam Ltd. A minimum of 25% of the total contract cost will become due within 14 days of cancellation. Cancellations must be made in writing. The Customer's attention is in particular drawn to the provisions of condition 11.4. "Interpretation"

9. PAYMENT

9.1 Subject to condition 9.5 and unless otherwise agreed, payment of the price for the Goods is due in pounds sterling prior to delivery of the goods.

9.2 Time for payment shall be of the essence.

9.3 In cases where the Goods are to be purchased by a finance company for the purpose of leasing/hiring the Goods to the Customer, the Customer must comply with all the requirements of the finance company to enable the purchase monies to be released to the Company by the finance company upon delivery (prior to unloading) or, where appropriate and agreed in writing, installation of the Goods. The Customer must sign the relevant finance agreement and deliver it to the finance company before delivery of the Goods. Failure to submit documentation to the finance company upon their request which they require in order to process payment shall constitute a breach of contract by the Customer. If the Customer fails to comply within 7 days of receipt of a notice in writing from the Company requiring the Customer to submit the necessary

documentation to the finance company, then the Company shall be entitled to sue the Customer for the price of the Goods.

9.4 No payment shall be deemed to have been received until the Company has received cleared funds.

9.5 All payments payable to the Company under the Contract shall become due immediately on its termination despite any other provision.

9.6 The Customer shall make all payments due under the Contract in full without any deduction whether by way of set-off, counterclaim, discount, abatement or otherwise unless the Customer has a valid court order requiring an amount equal to such deduction to be paid by the Company to the Customer.

9.7 If the Customer fails to pay the Company any sum due pursuant to the Contract, the Customer shall be liable to pay interest to the Company on such sum from the due date for payment in accordance with and at the rate prescribed by the Late Payment of Commercial Debts (Interest) Act.

9.8 If the Customer fails to pay the Company any sum due pursuant to the Contract, the Customer shall indemnify the Company for all legal costs and other costs incurred by the Company in recovering payment, including the use of solicitors, irrespective of whether the value of the debt outstanding is above the threshold for the Small Claims Track in the County Court or not.

10. QUALITY

10.1 Where the Company is not the manufacturer of the Goods, the Company shall endeavour to transfer to the Customer the benefit of any warranty or guarantee given to the Company.

10.2 The Company warrants that (subject to the other provisions of these conditions) on delivery and for a period of 12 months from the date of delivery, the Goods shall correspond with the specification for the Goods set out in the Company's quotation and/or acknowledgement of order.

10.3 The Company shall not be liable for a breach of the warranty in condition 10.2 unless:

(a) the Customer gives written notice of the defect to the Company, and, if the defect is as a result of damage in transit to the carrier, within 14 days of the time when the Customer discovers or ought to have discovered the defect; and

(b) the Company is given a reasonable opportunity after receiving the notice to examine the Goods

10.4 The Company shall not be liable for a breach of the warranty in condition 10.2 if:

(a) the Customer makes any further use of such Goods after giving such notice; or

(b) the defect arises because the Customer failed to follow the Company's oral or written instructions as to the storage, installation, commissioning, use or maintenance of the Goods or (if there are none) good trade practice; or

(c) the Customer alters or repairs such Goods without the written consent of the Company.

10.5 Subject to condition 10.3 and condition 10.4, if any of the Goods do not conform with the warranty in condition 10.2 the Company shall at its option repair or replace such Goods (or the defective part) or refund the price of such Goods at the pro rata Contract rate provided that, if the Company so requests, the Customer shall, at the Company's expense, return the Goods or the part of such Goods which is defective to the Company. In the first instance, the Company's engineer will if deemed necessary undertake a visit to the Customer's premises to inspect the Goods which shall take place within 5 working days of receipt of notice from the Customer of the defect.

10.6 If the Company complies with condition 10.5 it shall have no further liability for a breach of the warranty in condition 10.2 in respect of such Goods.

10.7 Any Goods replaced shall belong to the Company and any repaired or replacement Goods shall be guaranteed on these terms for the unexpired portion of the 12 month period

11. LIMITATION OF LIABILITY

11.1 Subject to condition 5, condition 6 and condition 10, the following provisions set out the entire financial liability of the Company (including any liability for the acts or omissions of its employees, agents and sub-contractors) to the Customer in respect of:

(a) any breach of these conditions;

(b) any use made or resale by the Customer of any of the Goods, or of any product incorporating any of the Goods; and

(c) any representation, statement or tortious act or omission including negligence arising under or in connection with the Contract.

11.2 All warranties, conditions and other terms implied by statute or common law (save for the conditions implied by section 12 of the Sale of Goods Act 1979) are, to the fullest extent permitted by law, excluded from the Contract. Further, the Company does not warrant that the Goods are fit for any particular purpose and it is the Customer's obligation to satisfy itself that the Goods are fit for the particular purpose for which the Customer wishes to use them. Nor does the Company give any warranty as to the production capability of the Goods.

11.3 Nothing in these conditions excludes or limits the liability of the Company:

(a) for death or personal injury caused by the Company's negligence; or

(b) under section 2(3), Consumer Protection Act 1987; or

(c) for any matter which it would be illegal for the Company to exclude or attempt to exclude its liability; or
(d) for fraud or fraudulent misrepresentation.

11.4 Subject to condition 11.2 and condition 11.3:

(a) the Company's total liability in contract, tort (including negligence or breach of statutory duty), misrepresentation, restitution or otherwise, arising in connection with the performance or contemplated performance of the Contract shall be limited to the Contract price; and

(b) the Company shall not be liable to the Customer for loss of profit, loss of business, loss of production and/or associated costs, or depletion of goodwill in each case whether direct, indirect or consequential, or any claims for consequential compensation whatsoever (howsoever caused) which arise out of or in connection with the Contract.

(c) the Company shall not be liable to the Customer for misuse of equipment or operator error. The Customer shall ensure anyone handling its equipment receives adequate training and wears appropriate clothing, including, but not limited to safety glasses and ear defenders. The Customer is advised to perform its own Risk Assessment and take precautionary measures to guarantee the safety of its own staff. CNC machinery can cause fire and injures and the Company cannot be held responsible for anything resulting from misuse of equipment by the Customer's employees.

12. ASSIGNMENT

12.1 The Company may assign the Contract or any part of it to any person, firm or company.

12.2 The Customer shall not be entitled to assign the Contract or any part of it without the prior written consent of the Company.

13. FORCE MAJEURE

The Company reserves the right to defer the date of delivery or to cancel the Contract or reduce the volume of the Goods ordered by the Customer (without liability to the Customer) if it is prevented from or delayed in the carrying on of its business due to circumstances beyond the reasonable control of the Company including, without limitation, acts of God, governmental actions, war or national emergency, acts of terrorism, protests, riot, civil commotion, fire, explosion, flood, epidemic, lock-outs, strikes or other labour disputes (whether or not relating to either party's workforce), or restraints or delays affecting carriers or inability or delay in obtaining supplies of adequate or suitable materials, provided that, if the event in question continues for a continuous period in excess of 180 days, the Customer shall be entitled to give notice in writing to the Company to terminate the Contract.

14. GENERAL

14.1 Each right or remedy of the Company under the Contract is without prejudice to any other right or remedy of the Company whether under the Contract or not.

14.2 If any provision of the Contract is found by any court, tribunal or administrative body of competent jurisdiction to be wholly or partly illegal, invalid, void, voidable, unenforceable or unreasonable it shall to the extent of such illegality, invalidity, voidness, voidability, unenforceability or unreasonableness be deemed severable and the remaining provisions of the Contract and the remainder of such provision shall continue in full force and effect.

14.3 Failure or delay by the Company in enforcing or partially enforcing any provision of the Contract shall not be construed as a waiver of any of its rights under the Contract.

14.4 Any waiver by the Company of any breach of, or any default under, any provision of the Contract by the Customer shall not be deemed a waiver of any subsequent breach or default and shall in no way affect the other terms of the Contract.

14.5 The parties to the Contract do not intend that any term of the Contract shall be enforceable by virtue of the Contracts (Rights of Third Parties) Act 1999 by any person that is not a party to it.

14.6 The formation, existence, construction, performance, validity and all aspects of the Contract shall be governed by English law and the parties submit to the exclusive jurisdiction of the English courts.

14.7 The Company reserves the right to review these terms and conditions at any time. If, following any such review, there is to be any change to these terms and conditions, then that change will take effect from the date on which the Company notifies the Customer of such change. Except where the Company supplies further Goods or Services to the Customer and the Customer accepts such Services, the Customer shall be under no obligation to accept such changes.

15. COMMUNICATIONS

15.1 All communications between the parties about the Contract shall be in writing and delivered by hand, e-mail or sent by recorded post:

(a) (in case of communications to the Company) to its registered office or such changed address as shall be notified to the Customer by the Company; or

(b) (in the case of the communications to the Customer) to the registered office of the addressee (if it is a company) or (in any other case) to any address of the Customer set out in any document which forms part of the Contract or such other address as shall be notified to the Company by the Customer.

15.2 Communications shall be deemed to have been received:

(a) if delivered by hand, on the day of delivery; or

(b) if sent by e-mail on a working day prior to 4.00 pm, at the time of transmission and otherwise on the next working day; or

(c) if sent by recorded post, on the day shown in the delivery receipt.

16. SECOND HAND EQUIPMENT AND CONSUMABLES

16.1 All second user equipment sold by Maxicam is sold without any warranty unless otherwise agreed via email or letter. These machines are sold as is. Any further works required will be chargeable.

16.2 If the customer chooses to collect and install a second user machine they are required to sign a waiver form upon collection relinquishing any rights of recourse. Any damage that may be caused via self install and transport are the sole responsibility of the customer.

16.3 **CO2 Lasers:** we offer no warranty on consumable items such as the laser tube, mirrors and lenses. These are classed as replaceable consumable items that are not covered by any warranty with Maxicam. These parts wear during the use of the machine and will need to be replaced during the life of the machine. Timescales can vary due to the nature of each customers business and how much the parts are used. Glass CO2 tubes also naturally de-gas over time and will lose their efficiency due to the fact.