

## Terms & Conditions - Buying from this Website (<http://www.vigold.com>)

### Terms & Conditions of Sale

This page (together with the documents expressly referred to on it, namely our **Privacy Policy**, **Terms of Website Use** and **Cookie Policy**) contains the legal terms and conditions ("Terms and Conditions") on which we sell, via our Site, any of the goods listed on our website.

These Terms and Conditions for the sale of goods apply to and govern all Contracts. Please read them carefully and make sure you understand them before ordering any goods from our Site. An offer to buy goods from our Site is conclusive evidence of your acceptance of these Terms and Conditions.

Please click the box marked "Click to confirm you have read the Terms and Conditions – Buying from this Website to finalise your order". If you accept them by clicking this box you confirm that you are authorised by the Customer, on whose behalf you use our Site, to accept these Terms and Conditions, to place Orders and to purchase Goods.

If you do not accept these Terms and Conditions, you will not be able to order any goods from our Site.

We may update or amend these Terms and Conditions from time to time. Please review them regularly to ensure you are aware of any changes we have made. Your continued use of our Site after changes are posted means you agree to be legally bound by these Terms and Conditions as updated and/or amended. Once any Order has been confirmed and a Contract formed, we will not make any changes to the Terms and Conditions that apply to that Contract. However if you are a returning customer please check our Site regularly to ensure you are aware of any changes we have made to our Terms and Conditions since the last time you visited our Site.

### 1. Definitions

- 1.1. "Contract" means an individual legally binding contract between the Supplier and the Customer created when an Order placed by the Customer is accepted by the Supplier according to the provisions of sub-clause 3.6.
- 1.2. "Customer" means any person, firm, company, unincorporated association or other business entity which orders or buys Goods from the Supplier via our Site.
- 1.3. "Delivery" has the meaning given in sub-clause 6.3.
- 1.4. "Despatch Confirmation" has the meaning given in sub-clause 3.6.
- 1.5. "Goods" means the goods which are the subject of a Contract.
- 1.6. "Order" means any order placed by the Customer via our Site for the supply of goods by the Supplier to the Customer.
- 1.7. "Our Site" means the website that operates at <http://www.vigold.com>
- 1.8. "Price" means the total price to be paid by the Customer to the Supplier for the goods as specified on the Despatch Confirmation, which shall include (where applicable) VAT and/or other taxes, duties and appropriate other charges, such as delivery charges.

1.9. "Supplier" means Vigo Ltd, a company registered in England & Wales under company number 3607580, with a registered office address at Dunkeswell, Honiton, Devon EX14 4LF and whose VAT number is GB 723 3438 50.

### 2. General

2.1. These Terms and Conditions constitute the entire terms and conditions between the Customer and the Supplier in respect of any Contract. The parties acknowledge that they have not relied on any statement, warranty, promise and/or representation made or given by or on behalf of the other party which is not set out in these Terms and Conditions or any other document expressly referred to in them and each party hereby waives any rights and remedies which it may have in respect of them. Nothing in this sub-clause shall exclude or limit the liability of a party for fraud or fraudulent misrepresentation.

2.2 The Terms and Conditions set out herein cannot be altered, added to, or substituted by other terms and conditions of sale unless expressly accepted in writing by a person authorised to sign on the Supplier's behalf.

2.3 All illustrations and images of goods contained on our Site, or otherwise communicated to the Customer, are intended merely to present a general impression of the goods, such as colour and dimensions, and are for illustrative purposes only. Nothing contained in any of them shall form any part of the Contract. Any Goods which are supplied may vary from those illustrations and images.

2.4. Any descriptions and illustrations of goods displayed on our Site are only a declaration of willingness to enter into negotiations and do not constitute an offer and cannot be accepted so as to form a binding contract.

2.5. Any oral advice or recommendation given by the Supplier, or its employees, or its agents, to the Customer as to the storage, application or use of goods is followed or acted upon entirely at the Customer's own risk and accordingly the Supplier shall not be liable for any such advice or recommendation which is not confirmed in writing by the Supplier to the Customer.

2.6. Unless any Goods performance figures, tolerances or characteristics have been specifically and expressly warranted by the Supplier in writing, the Supplier shall be under no liability whatsoever for any failure to attain such figures, whether attributable to the Supplier's negligence or otherwise.

### **3. Formation of the Contract**

3.1. For the steps which the Customer must take to place an Order on our Site, please see the Supplier's "How To Shop Online" page at <http://www.vigold.com/AdditionalDepartments/Useful-Information/How-to-shop>.

3.2 Any quotation relating to goods supplied by the Supplier shall not constitute an offer capable of acceptance by Customer, but as an invitation to the Customer to place an Order. Orders shall be accepted entirely at the discretion of Supplier and, if accepted, are governed by these Terms and Conditions.

3.3 Unless clauses 5.4 and 5.5 apply, as part of the checkout process, the Customer must complete the payment details, and must complete the compulsory fields as indicated. All credit/debit card transactions on our Site shall be processed using the secure online payment gateway "SagePay". Any personal information accessed by the Supplier will only be used in accordance with our **Privacy Policy**.

3.4 The Supplier's order process shall allow the Customer to check and amend any errors before submitting an Order. The Supplier accepts no liability whatsoever where the Customer fails to check the contents and accuracy of the Order.

3.5 After the Supplier has placed the Order, the Supplier will send to the Customer an email acknowledging receipt of the Order. This email does not constitute the Supplier's acceptance of the Order. Acceptance shall take place only in accordance with sub-clause 3.6.

3.6 Unless clauses 5.4 and 5.5 apply, the Supplier shall confirm acceptance of the Order by sending an email to the Customer confirming that the Goods have been despatched. If the Customer places an Order for Goods pursuant to clause 5.4, the Supplier shall confirm acceptance of the Order by despatching the Goods to the Customer. In either scenario, this confirmation of acceptance of the Order will be known as the "Despatch Confirmation".

3.7. The Contract between the Supplier and the Customer shall only be formed when the Despatch Confirmation is sent by the Supplier.

3.8. If the Supplier is unable or unwilling to supply the Customer with any goods included in an Order, the Supplier shall inform the Customer by email and the Order shall not be processed in respect of those goods in question. If the Customer has already paid for those goods in question, the Supplier shall refund the full amount for those goods as soon as practicable.

### **4. Prices**

4.1. The prices of goods will be as quoted on our Site from time to time. All prices for goods are in pounds Sterling and exclude any relevant Value Added Tax ("VAT") at the relevant rate ruling on the date of the Despatch Confirmation. They do not include the cost of carriage, delivery, package, or other charge which becomes payable under a Contract.

4.2. Whilst every endeavour will be made to maintain the prices on our Site, the Supplier reserves the right to alter prices at any time prior to acceptance of an Order.

4.3. Changes in prices on our Site shall not affect any Order for which a Despatch Confirmation has been issued by the Supplier.

4.4 While the Supplier uses its reasonable endeavours to correctly price goods listed on our Site, errors occasionally occur. In the event that an error in the price of goods is discovered, the Supplier shall inform the Customer of the error by email. The Customer may elect whether to continue with the Order for those goods at the correct price, or to cancel the Order for those goods and receive a full refund of any monies paid to date in respect of those goods, If the Supplier is unable to contact the Customer using the details provided in the Order, the Supplier may at its discretion cancel the Order for those goods, but in doing so must inform the Customer in writing.

## 5. Payment

5.1. Unless otherwise agreed with the Supplier in accordance with clause 5.4, the Customer may only pay for Goods using a debit card or a credit card.

5.2. Unless otherwise agreed with the Supplier in accordance with clause 5.4, payment for the Goods and all applicable delivery charges shall be made in advance by the Customer at the time of placing the Order.

5.3. In accordance with clause 7, title in any Goods shall not pass to the Customer until the Supplier has received full payment of the Price for the Goods in cleared funds and of all other sums which may be due by the Customer to the Supplier at the time the Price is so paid in full, and the Supplier has issued a Despatch Confirmation in respect of those Goods.

5.4. Customers with account facilities that have been expressly agreed in advance with the Supplier may access our Site using a unique log in reference to be provided by the Supplier. Customers may use this log in to place Orders to purchase Goods.

5.5. On receipt of an Order placed pursuant to clause 5.4, the Supplier will send the Customer an acknowledgement of receipt in accordance with clause 3.5. When the Goods are despatched to the Customer, The Supplier will issue the Customer with an invoice for payment. The Customer shall pay such invoice:

5.5.1. by the end of 30 days from the date of the said invoice ("**Due Date**"); and

5.5.2. in full and in cleared funds to a bank account nominated in writing by the Supplier; and time for payment shall be of the essence of the Contract.

5.6. Without limiting any other right or remedy of the Supplier, if the Customer fails to make any payment due to the Supplier by the Due Date, the Supplier shall be entitled to cancel any other Orders placed by the Customer and/or to suspend deliveries of any other Goods to the Supplier.

5.7. The Customer shall reimburse the Supplier on a full indemnity basis for all costs and expenses incurred by the Supplier in connection with the recovery of any monies due to the Supplier and not paid by the Customer by the Due Date.

5.8. Except with the express agreement in writing by the Supplier, the Customer shall pay all amounts due in full without any deduction, set-off or withholding except as required by law and the Customer shall not be entitled to assert any credit, set-off or counterclaim against the Supplier in order to justify withholding payment of any such amount in whole or in part. The Supplier may, without limiting its other rights or remedies, set off any amount owing to it by the Customer against any amount payable by the Supplier to the Customer.

## 6. Delivery and Delivery Charges

6.1. The price of goods does not include delivery charges, which the Customer must also pay. Delivery charges are as quoted on our Site from time to time. Delivery charges will be displayed before a Customer submits an Order. Please take the time to read and check all Orders at each page of the Order process.

6.2. Delivery charges and timescales will vary depending on the type of goods ordered and the delivery address. Details of estimated delivery times are given on our Site. Please read clause 11 about what happens if there is an event outside the Supplier's control which results in a delay in delivery or failure to deliver Goods. If there is an event outside the Supplier's control, the Supplier will contact the Customer to discuss what will happen next.

6.3. Delivery will be completed when the Supplier delivers the Goods to the address provided by the Customer in the Order ("Delivery"). The Goods are the Customer's responsibility and risk from the completion of Delivery.

6.4. The Supplier accepts Orders through its Site where the billing or delivery address are inside of **England, Wales, Scotland and Northern Ireland, including their islands.**

## **7. Title in the Goods**

7.1 Notwithstanding Delivery and the passing of risk in the Goods, or any other provision of these Terms and Conditions, title in any Goods shall not pass to the Customer until the Supplier has received full payment of the Price for the Goods in cleared funds and of all other sums which may be due by the Customer to the Supplier at the time the Price is so paid in full, and as applicable, the Supplier has issued a Despatch Confirmation in respect of those Goods.

7.2. Until title in the Goods passes, the Customer shall keep the Goods free from any lien, charge or encumbrance and the Supplier may at any time require the Goods to be returned to it by the Customer, and if such requirement is not met within three days the Supplier may retake possession of the Goods and may enter any premises of the Customer (including locked and steadfast premises) for that purpose. The Customer shall hold the Goods as the Supplier's fiduciary agent and custodian and shall keep them separate from its property and from that of third parties and properly stored, protected and insured and identified as the property of the Supplier.

7.3. If, prior to title passing, the Customer shall sell or otherwise dispose of, or process the Goods (or any part thereof) it shall receive and hold as trustee for the Supplier the proceeds of such sale, disposal or process or other monies derived from or representing the Goods (or any part thereof) (including insurance proceeds) and shall keep such proceeds or other monies separate from any monies or property of the Customer and/or any third parties, and shall as soon as possible after receiving the same pay such monies to the Supplier or into a separate account in trust for the Supplier.

7.4. The Supplier shall be entitled to sue for the Price once payment is due notwithstanding that title in the Goods has not passed to the Customer.

## **8. Warranty and Returns**

8.1. Subject to sub-clauses 8.6 and 8.7, any defects which under proper use appear in new (but not second hand) Goods within a period of twelve months (or as maybe otherwise previously stated and agreed in writing by the Supplier) after Delivery and which in the reasonable opinion of the Supplier are found to be due to faulty materials, workmanship, or design, will be made good by the Supplier provided that within the said twelve month period a claim in writing is made by the Customer to the Supplier which specifies the date of purchase, the Order number, the Goods in question and the defect which is claimed by the Customer.

8.2. Second-hand Goods supplied by the Supplier shall hold a warranty as stipulated at the time of sale, if any.

8.3. The warranty in sub-clause 8.1 (and any given in relation to second-hand Goods) does not apply to any defect in the Goods arising from:

8.2.1 Fair wear and tear;

8.2.2 Wilful damage, abnormal storage or working conditions, accident or negligence by the Customer (including the Customer's employees, agents, consultants and subcontractors);

8.2.3 Failure to use or operate the Goods in accordance with any associated instructions for use;

8.2.4 Any alteration or repair carried out on the Goods or any part thereof by the Customer or a third party who is not an authorised repairer;

8.4. Subject to sub-clause 8.9, the warranty at sub-clause 8.1 for all Goods supplied is intended to cover the replacement or repair free of charge of any Goods/parts deemed faulty, at the premises of the Supplier, and does not cover the costs of labour or technical intervention at the Customer premises, including travelling time, air fares and other ancillary costs.

8.5. The Supplier will not accept returns of Goods unless prior authorisation has been obtained and a Returns Number issued. To obtain authorisation for and a Returns Number for a return please contact the Sales department on: **01404 892 100**. The Returns Number must be clearly identified on both the outer packaging of the Goods returned and on any internal paperwork at the time that the Goods are returned to the Supplier.

8.6. The Customer shall inspect the Goods immediately upon Delivery. Further, within 7 days of Delivery (time being of the essence) the Customer shall give notice in writing to the Supplier of any alleged shortages, damage to or defects in the Goods or of any other matter or thing by reason whereof the Customer alleges that the Goods are not supplied in accordance with the Contract, such notice must be annotated with the despatch note number and where feasible accompanied by a photograph of the damage/defect. If the Customer fails to notify the Supplier within 7 days the Customer shall not thereafter be entitled to reject the Goods or to claim from the Supplier in respect of any shortage, damage, or other defects in Goods at the time of Delivery, if that shortage, damage or defect could have been discovered on reasonable inspection at the time of Delivery.

8.7. In the case of shortage, damage or other defect in the Goods which was not and could not have been discovered on reasonable inspection at the time of Delivery, notice shall be given to the Supplier with 7 days after discovery of the

shortage, damage or other defect, otherwise the Customer shall not thereafter be entitled to reject the Goods or to claim from the Supplier in respect of any shortage, damage, or other defects in Goods.

8.8. If requested by the Supplier following notification of a claim under clause 8.6 or clause 8.7, defective/damaged Goods shall be returned promptly by the Customer to the Supplier at the Customer's expense. If, on inspection, the Goods are found to be damaged or defective, then any reasonable cost of return will be refunded by the Supplier to the Customer.

8.9. Where a claim is made under and in accordance with clause 8.6. or clause 8.7 and it is accepted by the Supplier as valid as per sub-clause 8.1, the Supplier will either (at its choice):

8.9.1. If the Goods are defective/damaged, replace or repair the said Goods (or the part in question) free of charge; and/or

8.9.2. If the Goods are defective/damaged or there is a shortage, refund to the Customer the Price or (where relevant) the part of the Price that relates to the defective/damaged/shortage of Goods in question; and/or

8.9.3. If the Goods are defective/damaged or there is a shortage, reduce (if still outstanding and at the time not paid in full) the Customer's obligation to pay the Price or (where relevant) the part of the Price that relates to the defective/damaged/shortage of Goods in question

and thereafter (and subject to sub-clause 10.2) the Supplier shall have no further liability to Customer whatsoever in relation to a claim made that there is a shortage, damage or other defect in the Goods and this clause shall be the Customer's sole and exclusive remedy.

8.10. The above warranties are in place of all other warranties, terms and conditions, whether oral, written, statutory, express or implied (including warranties, terms and conditions of fitness for purpose and satisfactory quality), which are, to the fullest extent permitted by law, excluded and do not apply.

## **9. Copyrights, Patents, Intellectual Property and Information**

9.1 Goods offered for sale on our Site may be subject to a patent, trade mark, registered design, unregistered design, copyright, topography right or other intellectual property right of any person. The Supplier owns the copyright in respect of any pages of our Site, whether published in paper or electronic form. The reproduction, storage in a retrieval system, or transmission, in any form or by any means electronic, mechanical, photocopying, recording or otherwise, in part or in whole, is prohibited without the Supplier's prior written consent. Notwithstanding any other provision of these Terms and Conditions, any copyright material, patent, registered or unregistered design, trade mark or other intellectual property right that forms part of the Goods purchased is retained and will not pass to the Customer.

## **10. Liability**

10.1 This clause 10 sets out the liability of each party (including any liability for the acts or omissions of its employees, agents, consultants and subcontractors) to the other party in respect of:

10.1.1 Any breach of any Contract howsoever arising;

10.1.2 The Goods, or any part thereof;

10.1.3 Any representation, statement or tortious act or omission (including negligence) arising under on in connection with any Contract; and

10.1.4 Any other liability (including non-contractual) howsoever arising under any legal theory whatsoever arising out of or in connection with any Contract.

10.2 Nothing in these Terms and Conditions shall limit or exclude either party's liability for:

10.2.1 Death or personal injury caused by its negligence, or the negligence of its employees, agents, consultants or subcontractors;

10.2.2 Fraud or fraudulent misrepresentation; or

10.2.3 For any other matter for which it would be unlawful for the Supplier and/or the Customer to limit/exclude and/or attempt to limit/exclude liability.

10.3 Subject to clause 10.2, neither party shall under any circumstances whatsoever be liable to the other party, whether in contract, tort (including negligence), breach of statutory duty, misrepresentation, restitution and/or otherwise howsoever under any legal theory whatsoever, for any of the following losses (whether direct or indirect):

10.3.1 Loss of profits or revenue (other than the Price);

10.3.2 Loss of business;

10.3.3 Depletion of goodwill and/or loss of reputation;

10.3.4 Loss of contracts;

10.3.5 Loss of data or information; or

10.3.6 Loss of anticipated savings

nor any other special, indirect or consequential loss, costs, damages, charges or expenses.

10.4 Subject to clause 10.2, each party's total liability to the other party, whether in contract, tort (including negligence), breach of statutory duty, misrepresentation, restitution and/or otherwise howsoever under any legal theory whatsoever arising out of or in connection with any Contract shall in no circumstances exceed three times the value of the Goods covered by that Contract.

#### **11. Force Majeure**

11.1. The Supplier shall not be responsible for any delay or failure to fulfil any of its obligations under a Contract nor be liable for any loss or damage suffered or incurred by the Customer by reason of any delay in Delivery of the Goods or any part thereof caused directly or indirectly by any act of God, government or parliamentary restriction, import or export regulation, strike whether involving employees of the Supplier or of a third party, lockout, trade dispute, fire, theft, flooding, breakdown of plant or premises, late or non-Delivery of any supplies, difficulties in obtaining raw materials, labour, fuel, parts or machinery, power failure or breakdown in machinery or any other cause whatsoever beyond the reasonable control of the Supplier.

#### **12. Termination**

12.1. In the event of the Customer committing any breach of any term or provision of a Contract, including for the avoidance of doubt these Terms and Conditions, going into liquidation, having a receiver, administrator, administrative receiver or other similar officer appointed over the whole or any part of its assets, becoming bankrupt or apparently insolvent or entering into any composition or similar arrangement with its creditors, or if any circumstances arise which, in the sole and reasonable opinion of the Supplier, render any of the foregoing likely to occur then the Supplier shall be entitled, without notice, to dispose of any of the Goods in which property shall not have passed to the Customer in accordance with these Terms and Conditions. The Supplier shall also be entitled to cancel all Contracts or any part thereof remaining unfulfilled between the Supplier and the Customer.

12.2. Termination of the Contract shall not discharge any pre-existing liability of the Customer to the Supplier and on such termination the Supplier shall be entitled to recover from the Customer such loss or damage as the Supplier has suffered by reason of such termination.

#### **13. Severance and Assignment**

13.1. Any provision of a Contract which is, unlawful, void or unenforceable shall to the extent of such unlawfulness, invalidity or unenforceability be deemed severable and severed and shall not affect any other provision of that Contract.

13.2 A Customer may not transfer, assign, sub-contract, charge or otherwise deal in any manner whatsoever with any of its rights or obligations under a Contract without the Supplier's prior written consent.

#### **14. Waiver**

14.1. No waiver or forbearance by a party (whether expressed or implied) in enforcing any of its rights under a Contract shall prejudice its right to do so in the future.

#### **15. Rights of Third Parties**

15.1. Save as expressly provided none of the provisions of any Contract are intended to or will operate to confer any benefit (pursuant to the Contracts (Rights of Third Parties) Act 1999) on a person who is not named as a party to that Contract.

#### **16. Customer Obligations**

16.1. The Customer should consider their obligation to ensure that all equipment used in the course of their business must be safe and subject to an appropriate risk assessment by a competent person before it is used.

#### **17. Law**

17.1. All Contracts, and any disputes or claims arising out of or in connection with them or their subject matter or formation (including non-contractual disputes or claims), shall be governed by, and construed in accordance with, English law.

17.2 The parties irrevocably agree that the Courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim that arises out of or in connection with any Contract (including, for the avoidance of doubt, these Terms and Conditions and/or any non-contractual disputes or claims) or its subject matter or formation.