

GRAFITEC *plc*

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www.grafitecplc.com

Standard Conditions of Trade under which all transactions for the supply of goods or services are conducted by Grafitec Plc ("the Company")

1. Definitions

In these conditions "the end user" shall mean the person, firm or company that uses the goods following the finalisation of the transactions referred to herein, "the Finance Company" shall mean any hire purchase, leasing, hiring or other company providing similar financial services to which the Company supplies goods at the request or direction of the end user and "the Customer" shall mean the end user when the contract of sale is between the Company and the end user and shall mean the Finance Company when the contract of sale is between the Company and the Finance Company.

2. Acceptances and Limits of Contract

- a) No quotation made by the Company shall constitute an offer by the Company.
- b) No order will be accepted except upon the Company's Contract of Sale form, which incorporates these Conditions. Any terms and conditions proffered by the Customer are hereby excluded. Any order placed by the Customer whether in writing, verbally, by fax or e-mail shall be deemed to constitute an offer by the Customer to enter into a contract upon these Conditions of Trade. The offer shall be deemed to have been accepted by the Customer when the Company despatches a Contract of Sale. The Customer shall not transfer his rights to any third party.
- c) The Company reserves the right to vary the price of the goods by any amount attributable to:-
 - i) a suspension of or an alteration to work by reason of a change in instructions or lack of instructions
 - ii) any variation in the cost of materials, labour, transport, duties, taxes, exchange rates or any other costs of whatsoever nature between the date of the contract and the date of delivery or completion of payment.

3. Hire purchase and similar transactions

If the sale of the goods proceeds by way of a sale by the Company to the Finance Company and the Company agrees to deliver the goods to the end user the provisions hereof shall so far as relevant apply to any relationship between the Company and the end user and for the avoidance of doubt the end user hereby agrees that the Company shall not be liable to the end user for negligence, misrepresentation (negligent or otherwise), breach of contract (collateral or otherwise) or breach of warranty (express or implied).

4. Despatch

The Company will use its best endeavours to despatch or complete by the estimated date set out in the Company's Contract of Sale but time is not of the essence of the Contract and the Company shall not incur any liability whatsoever for failure to despatch or complete by such date.

5. Delivery and passing of property

- a) Except as otherwise specifically agreed in writing the price does not include the cost of transportation, erection or installation
- b) Should delivery of the goods by the Company its servants or agents or carrier be affected at the end user's premises the Customer shall be responsible for and indemnify the Company against all damage to property or injury to persons resulting therefrom and occasioned on those premises save and except for death or injury incurred by the negligence of the Company its servants or agents. It shall be the responsibility of the end user:-
 - i) to provide unimpeded access to the position in his premises where he wishes the goods to be installed and adequate labour for the loading and unloading of all goods.
 - ii) to prepare the site for the erection and installation of the goods.
 - iii) to provide all necessary mains services and connection of the same to the goods.
- c) Goods shall remain the property of the Company until the whole of the contract price has been paid but after delivery the Customer shall be responsible for and shall indemnify the Company against the loss of or damage to the goods from whatsoever cause occurring.
- d) In the event of the Customer making any sale of the goods the property in which has not passed to the Customer the following terms shall apply:-
 - i) all monies received by the Customer from such sale shall be held in trust for the Company absolutely and shall be placed to the credit of a separate bank account and until property in the goods has passed to the Customer in accordance with these Conditions such monies shall not be withdrawn or charged.
 - ii) The Customer shall take such action steps or proceedings arising out of any such sale as the Company may consider appropriate for the recovery of any sums due to the Customer in respect of any such sale.
- e) The Company is irrevocably authorised to enter upon any premises where the goods are situated and take possession of and remove the goods at the Customer's expense:-
 - i) at any time after the purchase price (or any part thereof) has become due and has not been received in full.
 - ii) if the purchase price has not been received in full (whether or not the purchase price has become due) upon the appointment of a receiver of the whole or any part of the Customer's undertaking or upon the Customer entering into liquidation or upon the Customer compounding with its creditors or taking or suffering any similar action in consequence of debt.

6. Loss or damage in transit

No liability will be accepted by the Company for any discrepancy in the quantity of goods or damage thereto in transit unless notification is received by the Company in writing in the case of end users within the United Kingdom within fourteen days of delivery and in the case of other end users within twenty-eight days of delivery. Goods damaged during transit must be kept together with the packing for inspection by or on behalf of the Company.

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7. Terms of payment

- a) Unless otherwise specified by the Company in writing the purchase price of goods sold to a Customer within the United Kingdom is payable:

- i) 10% with order
- ii) 90% on delivery.

For goods sold to a Customer outside the United Kingdom the purchase price is payable:

- i) 10% with order
- ii) 90% by means of an irrevocable letter of credit confirmed by a United Kingdom bank payable at sight against presentation of shipping documents.

- b) No discount or allowance will be made unless specifically stated and agreed by the Company in writing. Interest will be charged on all outstanding accounts at the rate of one and a half per cent per month.

- c) In the event of the Customer failing to comply with the Company's terms of payment the Company reserves the right to cancel this and any other contract without prejudice to the Company's rights to recover any monies then owing to the Company by the Customer.

8. Undertakings and Warranties

- a) Save in the cases hereinafter set out the Company undertakes that if within the written specified guarantee period any part of the goods becomes defective (other than through fair wear and tear) and notice in writing thereof is received by the company within fourteen days of such discovery and if between the date of delivery and the receipt by the Company of such notice the goods have at all times been used with reasonable care and by competent persons and nobody has attempted to repair or alter or otherwise interfere with the goods (without the consent of the Company) the Company will send a replacement for the defective part. All labour transport and packing costs incurred in sending and installing such replacement shall be paid by the Customer.

- b) The above warranty and undertaking are not given and are specifically excluded in the following cases:-

- i) where the goods are new and a manufacturer's guarantee is available whether taken up by the Customer or not
- ii) where the goods are second hand and are bought "as is" that is in the condition in which the goods are at the date of contract including any defects and available for inspection either at the premises of a third party or at the premises of the Company whether in fact the end user or the Finance Company so inspects or not.

9. Limitation of liability

Save as set out in Paragraph 8 above:-

- a) The Company shall not be liable in any way whatsoever from any failure to comply with the terms of this Contract which is due to circumstances out of the Company's control.
- b) The Company shall not be liable in any circumstances for loss of profits, interest paid or payable by the Customer, loss of orders, consequential loss, loss of profits or loss or expenses consequent upon disruption of business.
- c) The Company shall not be liable for any damage to anything arising from the goods or any defects in them or use made of them and the Customer shall indemnify the Company against any claim in respect thereof.
- d) The Company shall not be liable for negligence by itself its servants or agents either arising from any matters in the course of pre-contract dealings with either the end user or the Finance Company or in regard to the performance of the Contract.
- e) All conditions representations warranties or undertakings in connection with the goods whether implied by statute, common law, customer or for any reason whatsoever and whether as to quality, condition, fitness for use or otherwise whatsoever are hereby excluded.
- f) The sale or supply of goods is strictly on the terms that the Customer had every opportunity to examine the goods and has satisfied himself as to their condition and suitability and the Customer acknowledges that all specifications and details in catalogues quotation contract of sale or similar documents or by word of mouth and all dates of manufacture, dates on which goods were first used and specific forecasts of performance howsoever given are approximate only and do not form part of the contract between the Customer and the Company.
- g) The Company shall not be liable for any misrepresentation negligent or otherwise.

10. Health and Safety regulations

When it is necessary to alter or add to the goods so that they comply with all applicable health and safety regulations such alterations or additions will be carried out by the Company but all costs and expenses incurred by the Company therein shall be borne by the Customer and paid to the Customer on demand.

11. Legal Construction

Any contractual relationship between the Company and the end user, the Finance Company or the Customer is governed by the laws applicable at the time in England and the contract is deemed to have been made in England. If any dispute arises concerning these contractual terms then the English courts have exclusive jurisdiction to deal with such matters. No other jurisdiction is entitled to deal with any dispute between the Company and the end user, the Finance Company or the Customer.

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