

STANDARD TERMS AND CONDITIONS OF SALE

DEFINITIONS

“The Company”: Guthrie Douglas Group Limited

“The Customer”: The Customer of the Company

“The Contract”: Any contract for the sale of goods by the Company to the Customer.

“The Goods”: Any Goods forming the subject of the Contract including parts and component of or materials incorporated in them.

THE CONTRACT

No contract shall come into existence until the Customer’s order is accepted by the earliest of the company’s written acceptance, delivery of the Goods or the Company’s invoice, and shall (subject to the provisions for earlier termination) continue in force thereafter unless and until terminated by either party upon three (3) months’ notice in writing. These terms and conditions shall be incorporated in the Contract to the exclusion of any terms or conditions stipulated or referred to by the Customer. No variations or amendments of this Contract shall be binding on the Company unless confirmed by the Company in writing.

QUOTATION

Quotations by the Company unless otherwise stated therein shall be valid for thirty days from the date of the quotation.

REPRESENTATIONS

The Customer agrees that in relation to the Contract no reliance has been placed on any representation made by or on behalf of the Company other than any which may have been given in writing by the Company in its quotation or in its acceptance of the Customer’s order.

VERBAL ORDERS

All orders must be confirmed in writing and the Company retains the right to refuse a verbal order.

PRICES

The Company reserves the right to increase the price of the Goods, by giving notice to the Customer at any time before delivery. Further, the Company shall have the right to adjust its prices for any increase in costs of any kind arising for any reason after the date of the Contract. All prices quoted exclude V.A.T. carriage, package and insurance. The Company may make additional charges for any additions, alterations or tests ordered by the Customer. The minimum charge for any order shall be £75.00 unless agreed by the Company in writing.

DELIVERY

Goods are delivered to the Customer when the Company makes them available to the Customer at the Company’s premises or other delivery point agreed by the Company, and risk in the Goods passes when they are delivered to the Customer. The Company may at its discretion deliver the Goods by instalments, and in such a case each instalment shall be deemed to be the subject of a separate contract and no default or failure by the Company in respect of any one or more instalments shall vitiate the Contract in respect of the Goods previously delivered or undelivered Goods. Any dates quoted by the Company for delivery of the Goods are given in good faith, but do not form part of the Contract. The Company shall not be liable for any loss, damage or expense arising from any delay or failure from any cause at all nor shall any such delay or failure entitle the Customer to refuse to accept any delivery or repudiate the Contract.

PAYMENT

All invoices are payable without discount of any kind within 30 days of the date of the invoice. Time for payment shall be of the essence of the Contract. Without prejudice to any other rights of the Company if the Customer fails to pay the invoice price by the due date the Customer shall pay interest of any overdue amount from the date on which payment was due to that on which it is made at a rate of 2.5% per calendar month or part thereof and shall reimburse to the Company all costs and expenses including legal costs incurred in the collection of any overdue amount.

DAMAGE OR LOSS IN TRANSIT

The Company will not accept responsibility for damage or loss in transit. The Goods are to be examined on receipt by the Customer or his agent. Any claim that the Goods are damaged, defective or not of the right quantity shall be notified by the Customer to the Company within three days of delivery. Any claim under this condition must be in writing and must contain full details of the claim, and the packing and contents should be retained for inspection by the Company.

TITLE

Notwithstanding the earlier passing of risk title in the Goods shall remain with the Company and shall not pass to the Customer until the amount due under the invoice for them has been paid in full. The Company shall be entitled to maintain an action for the price of any Goods notwithstanding that title in them has not passed to the Customer. The Company shall have a lien on all the Customer's property in the Company's possession for all sums due at any time from the Customer and shall be entitled to use sell or dispose of that property as agent for and at the expense of the Customer and apply the proceeds in and towards the payment of such sums on 28 days' notice in writing to the Customer.

CANCELLATION OF ORDER BY THE CUSTOMER

Orders accepted by the Company may not be cancelled by the Customer unless the Company consents in writing to such cancellation. As a condition of giving such consent the Company may require payment of such sum as will indemnify it against all loss of profit which the Company may suffer as a result of such cancellation.

MODIFICATION TO DRAWINGS

All drawings and other design work are subject to improvement and modification.

SPECIFICATION

Unless otherwise specifically ordered all goods shall conform in all material respects with their description in the appropriate specification as shown on the relevant price list of the Company. Where no specification is given products will be made in accordance with the recognised trade requirements.

CANCELLATION OF ORDER BY THE COMPANY

The Company may at its discretion suspend or terminate the supply of any Goods if the Customer fails to make any payment when and as due or otherwise defaults in any of its obligations under the Contract or becomes insolvent, has a receiver appointed of its business or is compulsory or voluntarily wound up, and in case of termination shall be entitled to forfeit any deposit paid. Such cancellation shall be without prejudice to any claim which the Company may have against the Customer.

CUSTOMER MATERIAL

Where a Customer's materials or parts are supplied for machining or processing the Company's liability shall be limited to the cost of repeating such machining or processing on further materials or parts supplied by the Customer.

CUSTOMERS UNDERTAKING

- i) The Customer undertakes with the Company:-
 - a) that he will familiarise himself with and will at all times comply with all statutory or other requirements relating to the Goods or the use thereof
 - b) that he will indemnify the Company against any liability resulting from a breach of any such requirements
 - c) that he will comply with the Company's instructions relating to the Goods.
- ii) If the Company's performance of any of its obligations in respect of the Goods is prevented or delayed by any act or omission of the Customer or any failure by the Customer to perform any relevant obligation (Customer Default):
 - a) the Company shall without limiting its other rights or remedies have the right to suspend the delivery of the Goods until the Customer remedies the Customer default, and to rely on the Customer default to relieve it from the performance of any of its obligations to the extent the Customer default prevents or delays the supplier's performance of any of its obligations;
 - b) the Company shall not be liable for any costs or losses sustained or incurred by the Customer arising directly or indirectly from the Company's failure or delay to perform any of its obligations as set out in this clause 10; and
 - c) the Customer shall reimburse the Company on written demand for any costs or losses sustained or incurred by the supplier arising directly or indirectly from the Customer default.

INTELLECTUAL PROPERTY & IMAGERY RIGHTS

No right or licence is granted to the Customer under any patent copyright, registered design or other industrial property right except the right to use or to re-sell the Goods. All intellectual property rights in or arising out of or in connection with the Goods shall be owned by the Company and/or the applicable third party. The Customer grants an irrevocable license to Guthrie Douglas to use all imagery of the project at all stages for marketing and other general purposes.

INFRINGEMENT OF PATENTS AND COPYRIGHTS

The Company does not accept responsibility if Goods supplied upon the instructions of the Customer are subject to any patent, registered design, trade mark or copyright and the placing of an order shall be considered as an undertaking by the Customer to indemnify the Company against any loss or claim in respect of infringement of any such patent, registered design, trade mark or copyright.

WARRANTY

The Company shall have no liability to the Customer for any loss or damage of any nature arising from any breach of any express or implied warranty or condition of the Contract or any negligence, breach of statutory or other duty on the part of the Company or in any other way out of or in connection with the performance or reported performance of or failure to perform the Contract except in accordance with this condition. The Company warrants:

- i) that the Goods shall conform in all material respects with their description in the appropriate specification as shown on the relevant price list of the Company; and
- ii) the Goods against defective materials and faulty workmanship for a period of twenty four (24) months from the date of delivery. Such materials or workmanship which subject to proper use and maintenance shall upon examination be proved to the Company's satisfaction to be defective will be rectified at the Company's works free of charge, but the cost of such rectification shall be limited to the cost of materials only and shall not include extraction or dismantling costs on site nor delivery charges to or from the Customer.

This warranty shall be deemed void should any Goods have been subject to any misuse or have been incorrectly installed or used, have been installed or maintained without supervision by an installer with appropriate training as registered on the Guthrie Douglas installer register, or have not been installed or maintained in line with the manufacturer's instructions. In order to register this warranty, notification of the named supervising installer for the project should be sent to sales@guthriedouglas.com prior to commencement of installation.

For the avoidance of doubt all other warranties in relation to the Goods, whether express or implied, are specifically excluded.

LIMITATION OF LIABILITY:

THE CUSTOMER'S ATTENTION IS PARTICULARLY DRAWN TO THIS CLAUSE

- i) Nothing in these Terms and Conditions shall limit or exclude the Company's liability for: death or personal injury caused by its negligence, or the negligence of its employees, agents or subcontractors; fraud or fraudulent misrepresentation; breach of the terms implied by section 2 of the Supply of Goods and Services Act 1982 (title and quiet possession); breach of the terms implied by section 12 of the Sale of Goods Act 1979 (title and quiet possession); or defective products under the Consumer Protection Act 1987.
- ii) Subject to clause 14.i), the Company shall under no circumstances whatever be liable to the Customer, 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 Contract; and
- iii) the Company's total liability to the Customer in respect of all other losses arising under or in connection with any order, whether in contract, tort (including negligence), breach of statutory duty, or otherwise, shall in no circumstances exceed 100% of the charges paid and/or payable for the Goods pursuant to such order; and
- iv) the Company's total liability to the Customer in respect of all other losses arising under or in connection with the Contract, whether in contract, tort (including negligence), breach of statutory duty, or otherwise, shall in no circumstances exceed 100% of the charges paid and/or payable for the Goods in the 12 month period immediately prior to that date upon which the relevant cause of action arose.
- v) The terms implied by sections 13 to 15 of the Sale of Goods Act 1979 and the terms implied by sections 3 to 5 of the Supply of Goods and Services Act 1982 are, to the fullest extent permitted by law, excluded from the Contract.
- vi) This clause 14 shall survive termination of the Contract.

DISPUTE RESOLUTION

- i) For the purposes of this clause 15, “Authorised person” shall mean the individual nominated by each party to resolve any dispute with regard to the Contract. If a dispute arises between the Company and the Customer during the term of the Contract, either party may refer the matter for determination in accordance with the following procedure:
 - a) by referral in the first instance to the decision of their respective authorised persons; and
 - b) if a dispute is not resolved within 14 days of its referral pursuant to clause 15 i) a), such dispute shall be referred to a director of the Company and a director of the Customer. Such directors shall use their best endeavours to resolve such dispute within 14 days of its referral to the directors.

- ii) Both parties reserve the right to seek redress from the courts, or if the parties agree expert determination, mediation or any other form of dispute resolution, for disputes which in the reasonable opinion of either party are not suitable or capable of resolution, or which have not been resolved, via the procedure in clause 15 i). For the avoidance of doubt nothing in this clause 15 shall prevent or in any way hinder either party’s right to seek injunctive relief in any court.

THIRD PARTIES

A person who is not a party to the Contract shall not have any rights under or in connection with it.

LAW AND JURISDICTION

The Contract shall be governed in all respects by English Law and the parties submit to the exclusive jurisdiction of the English Courts.