



Graf Metallic of America Inc. - Terms and Conditions of Sale of Goods & Service

1. Prices

The Purchase Price shall include the costs of crating and packing. Buyer shall also pay all additional expenses related to the Goods, including customs duties, taxes, and levies imposed by any federal, state, local, or foreign government, and/or freight, insurance, and any other such charges. Such additional expenses may also include bank charges arising in connection with letters of credit, bank guarantees, collections, cashing of documents, stamps, and other costs incurred by Seller in financing or securing payment of the Goods. Unless otherwise specified in writing by Seller, the Purchase Price does not include installation, maintenance, training, setup or other similar services. If Seller agrees to provide any such related services, such related services shall also be subject to these Terms and Conditions as applicable. Any oral or written estimate of fees or expenses that Graf provides is only an estimate based on preliminary information available at the time of the estimate; actual fees and expenses may vary from the estimate due to actual services/parts needed.

2. Payment

Unless otherwise specified in writing by Seller, the total Purchase Price of the Goods and any related services sold herein and/or all additional expenses incurred shall be due and payable within thirty (30) days after the date of the invoices therefor. No partial payment by Buyer shall constitute an accord and satisfaction or otherwise satisfy the entire outstanding balance of any invoice of Seller, notwithstanding any notation or statement accompanying that payment. Buyer waives all rights of setoff and recoupment.

3. Customer's Obligations

Customer shall provide reasonable assistance to Graf in connection with the Services, including providing access to records, information, building and personnel reasonably required by Graf to perform the Services.

4. Risk of Loss; Delivery

Delivery shall occur and title and all risk of loss shall pass to Buyer upon the earliest to occur of the following: (a) Buyer takes possession of the Goods; (b) the Goods leave Seller's premises to be delivered to Buyer; or (c) the Goods are placed in the possession of a common, contract, or other carrier to be delivered to Buyer. Seller may deliver any Goods in one or more installments, and no nonconformity of any installment shall entitle Buyer to cancel that or any remaining installments or contract. Seller may suspend or delay performance or delivery at any time pending its receipt of assurance upon demand of Buyer's ability to pay (including full or partial prepayment) satisfactory to Seller. No delivery of Goods or related services by Seller shall

waive any rights or remedies that Seller may have with respect to that or prior deliveries. All delivery schedules and dates given by Seller are estimates only. Seller shall not be liable for: (a) any delay in the performance or in the delivery or shipment of any Goods or related services; or (b) any damages suffered by Buyer by reason of any such delay.

5. Notice of Nonconformity

Unless otherwise stated by Seller, Buyer must give Seller written notice of any claim that it has regarding the condition, quantity or quality of the Goods or the nonconformity of the Goods within ten (10) business days after delivery of the Goods. The notice must specify the basis of Buyer's claim in detail and identify the Goods at issue. Seller shall have reasonable opportunity to inspect the Goods at issue and reasonable time to cure any nonconformity. Buyer's failure to comply with this paragraph shall constitute Buyer's acceptance of the Goods and shall bind it to pay Seller for the full Purchase Price and related expenses of the Goods and/or related services.

6. Services Limited Warranty

Graf, at its sole discretion, may provide a warranty on the services and materials it provides. In any case, warranties shall be limited to the warranty terms stated in its sales literature, quotes for service, or other written communication of Services Warranty. Graf reserves the right to change its warranty policy without notice. Graf warrants the workmanship and materials used in the performance of the services it performs at Buyer's site, such warranty shall not extend beyond ten (10) days from the date Buyer accepts the services performed. The date the service is performed is considered the date of acceptance and Buyer's signature on the work order, service reports, or other similar documents shall be deemed acceptance of the work performed. Warranty of materials used by Graf in the performance of on-site services shall be limited to the manufacturer's warranty. Graf warrants the workmanship and materials used in reclothing or repair of rolls at its own facility. Such warranty shall be valid for ten (10) days from delivery of the goods serviced. Warranty on the materials used by Graf at its own facility as part of the reclothing shall be limited to the manufacturer's warranty. Should any material used by Graf as part of the services it provides be determined to be non-conforming, Graf at its sole discretion shall have the right to repair or replace the non-conforming material(s). In cases where Graf's workmanship is not the cause of the non-conformity, labor, travel time, or other charges necessary to repair or replace the non-conforming material shall be paid by Buyer. Furthermore, changes in raw materials used by Buyer, or any other changes made by Buyer and which are not within the control of Graf, shall void any warranty made by seller.



7. DISCLAIMER OF WARRANTIES

EXCEPT AS EXPRESSLY PROVIDED IN THESE TERMS AND CONDITIONS, ALL GOODS ARE SOLD "AS IS" AND SELLER MAKES NO WARRANTY OR REPRESENTATION OF ANY KIND, EITHER EXPRESS OR IMPLIED, AS TO THE GOODS, AND IN PARTICULAR DISCLAIMS ALL WARRANTIES AND REPRESENTATIONS: (A) AS TO THE DESIGN, QUALITY OR CONDITION OF THE GOODS; (B) AS TO THE MATERIAL, EQUIPMENT, OR WORKMANSHIP IN THE GOODS; (C) AS TO THE MERCHANTABILITY OR FITNESS OF THE GOODS FOR ANY PARTICULAR PURPOSE; (D) AS TO THE IMPACT OR PERFORMANCE OF THE GOODS IN BUYER'S OPERATIONS; OR (E) WITH RESPECT TO ANY PATENT, COPYRIGHT, TRADEMARK, TRADENAME, SERVICE MARK, OR PROPRIETARY LAW OR RIGHT.

8. Exclusive Remedies

Seller's sole obligation to Buyer for any nonconforming Goods shall be, at Seller's option (a) to repair or replace such Goods upon Buyer's returning the Goods to Seller at Buyer's expense at a location in the United States chosen by Seller; or (b) to refund any portion of the Purchase Price Buyer has paid upon Buyer's returning the Goods to Seller at Buyer's expense at a location in the United States chosen by Seller. The foregoing shall be Buyer's sole and exclusive remedies.

9. LIMITATION OF LIABILITY

SELLER SHALL NOT BE LIABLE UNDER ANY CIRCUMSTANCES FOR, AND BUYER HEREBY WAIVES AND SHALL NOT SEEK TO RECOVER BY WAY OF INDEMNIFICATION, CONTRIBUTION, OR OTHERWISE, ANY AND ALL SPECIAL, INDIRECT, INCIDENTAL, OR CONSEQUENTIAL DAMAGES ARISING OUT OF OR RELATING TO THE GOODS, SERVICES, OR THESE TERMS AND CONDITIONS, INCLUDING BUT NOT LIMITED TO LOST REVENUES AND PROFITS, DAMAGES ARISING FROM DOWNTIME, AND DAMAGES FOR BREACH OF CONTRACT, BREACH OF WARRANTY, OR SELLER'S NEGLIGENCE. SELLER'S TOTAL LIABILITY FOR ACTUAL DAMAGES ARISING OUT OF OR RELATING TO THE GOODS, SERVICES, OR THESE TERMS AND CONDITIONS SHALL NOT EXCEED THE PURCHASE PRICE OF THE GOODS AND/OR RELATED SERVICES.

10. Time Limitation

Any action or proceeding by Buyer arising out of or relating to these Terms and Conditions or the Goods or related services will be forever barred unless it is commenced within the earlier of: (a) one (1) year after the claim or cause of action has accrued, or (b) the period prescribed by the applicable statute of limitation or repose.

11. Purchase Money Security Interest

Buyer hereby grants to Seller a continuing purchase money security interest in the Goods and to any proceeds thereof to secure Buyer's obligations to pay the Purchase Price and all amounts and expenses otherwise due herein in full. Buyer shall execute and deliver, and authorizes Seller to execute and deliver on Buyer's behalf, all financing statements or other instruments required or allowed by applicable law to perfect or enforce Seller's purchase money security interest in the Goods to the satisfaction of Seller. Buyer shall take all action necessary to protect the Goods and Seller's purchase money security interest therein.

12. Default

The occurrence of any of the following shall constitute an event of default by Buyer: (a) Buyer's failure to pay any sum due hereunder to Seller as and when due; or (b) Buyer's default under any other term of these Terms and Conditions which is not cured within fifteen (15) days after Seller gives Buyer written notice of default.

13. Remedies on Default

Upon the occurrence of an event of default and in addition to any other rights and remedies that Seller may have, Seller shall have the right, at its option, to take one or more of the following actions: (a) declare all or part of Buyer's obligations to Seller immediately due and payable; and (b) suspend its performance under or terminate any contract with Buyer. All amounts Buyer does not pay as and when due shall accrue interest at the rate of fourteen percent (14%) per annum until paid in full. If Buyer defaults under its obligations to Seller, Buyer shall pay Seller all costs of collection, including reasonable attorneys' fees and costs.

14. Force Majeure

Seller shall not be liable for delays or failure to perform directly or indirectly resulting from events and causes beyond Seller's reasonable control, accidents, acts of God, acts and omissions of any governmental authority, declared or undeclared wars, strikes or other labor disputes, fires and natural calamities (including but not limited to floods, earthquakes, storms and epidemics), or delay in obtaining or inability to obtain labor, materials or services through Seller's usual and regular sources. In any such event, Seller may, in its sole discretion, extend the delivery dates for any Goods or related services for the period of delay plus a reasonable time thereafter, make partial delivery, or cancel all or any portion of any affected contract with Buyer, all without any liability to Buyer.



15. Independent Contractor

Graf is an independent contractor, and nothing in these Terms of Goods and Services shall be construed as creating a partnership, joint venture, agency or fiduciary relationship.

16. Seller's Remedies Cumulative; Nonwaiver

No remedy under these Terms and Conditions or otherwise conferred on or reserved to Seller shall be considered exclusive of any other remedy, and the same shall be distinct, separate, and cumulative and shall be in addition to every other remedy or right now or hereafter existing at law or in equity. Seller may exercise every power and remedy under these Terms and Conditions and applicable law severally, concurrently or in any combination from time to time as often as Seller may choose. No delay or omission of Seller to exercise any right or power arising from any default by Buyer shall impair any such right or power nor shall it be construed as a waiver of any such default.

17. Entire Agreement; Modification; Differing Terms

These Terms and Conditions contain the entire agreement of the parties relating to the subject matter and supersede all prior and contemporaneous agreements, understandings, usages of trade and courses of dealing, whether written or oral. These Terms and Conditions may only be modified by a written agreement signed by both parties expressly modifying these Terms and Conditions. SELLER HEREBY GIVES NOTICE THAT IT OBJECTS TO THE INCLUSION OF ANY DIFFERENT OR ADDITIONAL TERMS PROPOSED BY BUYER. Any and all additional or different terms and conditions contained in any of Buyer's acceptance, invoices, bills or other commercial documents are hereby rejected and shall not become part of the Agreement between the parties.

18. No Assignment

Buyer may not assign to any person or entity all or a portion of its rights or obligations under these Terms and Conditions or related to this transaction without Seller's prior written consent. Any attempted assignment without such consent shall be null and void.

19. Applicable Law; Choice of Forum

These Terms and Conditions and any controversy relating thereto shall be governed by and construed in accordance with the laws of the State of South Carolina, excluding its conflict of law principles. At Seller's option, any action or proceeding relating to the Goods, services, or these Terms and Conditions or its enforcement shall be commenced and heard only in the state or federal courts sitting with jurisdiction over Spartanburg County, South Carolina. Buyer hereby consents and submits to the jurisdiction and venue of those courts for purposes of such actions or proceedings.

20. Severability

The provisions of these Terms and Conditions are severable, and the invalidity or unenforceability of any one or more of the provisions of these Terms and Conditions, or any part thereof, shall not affect the validity or enforceability of any other provisions.

21. Binding Effect

These Terms and Conditions shall be binding on, and shall inure to the benefit of, the parties and their respective successors, heirs, and permitted assigns.

22. Data Protection

Unless agreed otherwise, personal data obtained in connection with the services as set out herein, shall be exclusively used for the performance of such services. For more information on our processing of personal data please see the Graf Privacy Statement on the Graf Website.

Spartanburg, August 2018