

## Terms & Conditions of Sale

### 1. Definitions

In these conditions the following terms shall have the following meanings:

"Company" means Instarmac Group plc.

"Customer" means the Customer of the Company.

"Contract" means any contract for the sale of Goods or service by the Company to the Customer.

"Goods" means any goods forming the subject of this contract including materials incorporated in them.

### 2. Quotations

Quotations by the Company unless otherwise stated in them shall be open for acceptance within thirty days of the date of the quotation.

### 3. Contract

3.1 No contract shall come into existence until the Customer's order (however given) is accepted by the earliest of:

3.1.1 the Company's written acceptance;

3.1.2 delivery of the Goods;

3.1.3 the Company's invoice.

3.2 These conditions shall be incorporated in the contract to the exclusion of any terms and conditions stipulated or referred to by the Customer.

3.3 No variation or amendment of these conditions or oral promise or commitment related to it shall be valid unless committed to writing and signed by a Director of the Company.

### 4. Prices

4.1 The price includes all packaging, delivery (England and Wales) and insurance unless in cases where an ex-works price has been quoted, or otherwise stated within the quote or when net order value is £350 or less, these orders will incur a nominal delivery charge which is variable and charged at cost.

4.2 The price excludes V.A.T

4.3 The Company will endeavour to notify the Customer of any price increases there may be from time to time but it is the Customer's responsibility to check the price of Goods at the time of ordering. Prices are those charged by the Company at the date of dispatch.

### 5. Payments

5.1 All invoices are payable 30 days after the end of the month of invoicing (unless otherwise stated and agreed in writing) if the Customer has an approved credit account.

5.2 If the Customer does not have an approved credit account, payment must be made before the Goods are delivered or collected.

5.3 The Company reserves the right to charge interest at 2% per month above the Bank of England base rate (or part) on any late payments and any legal charges incurred by the Company in collecting any overdue amounts which will be added to the Customer's account.

5.4 The Customer must not withhold payment because of any dispute or claim.

### 6. Delivery

6.1 Deliveries will be made to the delivery address nominated on the delivery document.

6.2 Where possible delivery will be made to Customer's requirements but this cannot be guaranteed and no liability will be accepted by the Company for late or wrong delivery of the Goods.

6.3 Pallets remain the property of Instarmac Group plc and should be made available for collection in good condition.

6.4 Any customer who communicates to Instarmac that there is suitable access for our heavy goods vehicles, will be charged the ensuing costs if the access proves to be unsuitable.

### 7. Inspection, Shortages and Defects

7.1 The Customer must inspect the Goods on delivery.

7.2 Any damages or shortages must be marked / recorded on the delivery note and / or the EPod device and the sales office must be telephoned and informed, immediately on receipt of goods and no later than 24 hours after delivery.

7.3 No refund/credit relating to damaged Goods or packaging will be awarded by the company once the delivery note has been signed by the customer or the customer's representative.

7.4 Instarmac do not accept any consequential loss claims pertaining to labour or accommodation costs, as a result of late arrival / delivery.

7.5 Instarmac cannot accept liability in form of financial damages / claim due to lost working time in the event of silo downtime. Damage caused by misuse, operator error or lack of maintenance will be chargeable. There will be a charge for any relocation of silos on site.

### 8. Return of Goods

8.1 Goods, in terms of Product, Condition and Quantity must be agreed in advance with sales. Instarmac cannot be held responsible for the return of goods which are not to the initial agreement.

8.2 Goods must be within shelf life.

8.3 All requested returns must be fit for purpose / resale, evidence may be asked to be submitted before acceptance of a return can be authorized.

8.4 Goods must be a full pallet in saleable conditions.

8.5 We will not accept a return on 'made to order' goods.

8.6 Customers will be charged as follows:

a) Goods returned by Customer 10% of invoice value, or £25 minimum charge per pallet or part pallet (whichever is greater value)

b) Goods collected by Company 20% invoice value, or £50 minimum charge per pallet or part pallet (whichever is greater value)

c) No replacement goods or credit will be issued until Goods have passed as 'fit for resale'

d) Our 'Lifetime Guarantee' (is for the lesser of 10 years or the life of the project) where applicable is for the product only and is limited to those applications where the Company has provided a written specification, in addition to technical datasheets, after having had access to site to carry out a full site inspection. No cost will be accepted for labour elements, delays to schedule or other associated contractor and site costs and claims. In the event of the product being proved to have failed, the Company will replace materials or reimburse to the value of the same.

Subject to the following conditions:

i. The Company has prepared a written specification and has inspected the proposed application area.

ii. Materials have been applied strictly in accordance with the written specification and additional technical datasheets.

iii. The application area has not been adversely affected by structural movement, environmental damage, significant change of use, exposure to adverse external elements (e.g. rain), corrosive cleaning materials, substrate failure, DPM failure, ground disturbance due to other groundworks or natural wear and tear (this list is not exhaustive).

iv. Aesthetic appearance of the product has not been affected due to corrosive cleaning, surface contamination or lack of maintenance.

v. The Company's personnel are allowed access to site during preparation and application of the materials and on following any claim to allow full access to investigate the issue.

vi. The Company's materials must be used as a system to include primers and bonding aids when recommended. In the case of a claim, The Company reserves the right to use discretion during the assessment.

vii. The guarantee for underlayment materials will last until the surface covering is changed or failed.

In case of a claim the Company reserves the right to use discretion during the assessment.

8.7 We will not accept Goods back after 28 days unless it is a product performance issue.

8.8 We will not accept goods back if out of shelf life.

### 9. Warranties, Scope of Contract and Extent of Liability

9.1 Any descriptions, illustrations, specifications figures as to performance drawings and particulars of weights and dimensions.

9.1.1 submitted by the Company, or contained in the Company's catalogue's price lists or elsewhere, since they are merely intended to represent a general idea of the Goods and not to form part of the contract to be treated as representations.

9.1.2 Submitted by the Customers to the Company.

9.2 Any technical information, recommendation, statement or advice furnished by the Customer to the Company

9.3 The application or use of the Goods since the Company has no direct or continuous control over where and how they are applied.

9.4 The Company shall have no liability to the Customer for any loss or damage arising from any trial, display or demonstration or from any breach of any express or implied warranty or condition of the contract or any negligence breach of statutory duty or other duty on the part of the Company or in any other way out of or in connection with the performance or purported performance of or failure to perform the contract except:

9.4.1 for death or personal injury resulting from the Company's negligence and

9.4.2 as expressly stated in these conditions.

9.5 Subject to Clause 7, if the customer establishes that any of the Goods have not been delivered, have been delivered damaged, are not of the correct quantity, or do not comply with their description, the Company shall at its option replace with similar Goods any of the Goods which are missing, lost or damaged or do not comply with their description or allow the Customer credit for their invoice value.

9.6 If the Customer establishes that any of the Goods are defective the Company shall at its option replace with similar Goods or repair any defective Goods or allow the Customer credit for their value.

9.7 In no circumstances shall the liability of the Company to the Customer under this condition exceed the invoice value for the Goods.

9.8 These conditions do not restrict the Customer's statutory rights under the consumer legislation.

### 10. Title and Risk

10.1 Risk in the Goods passes to the Customer when they are delivered to or collected by the Customer.

10.2 Notwithstanding Clause 10.1, all Goods supplied will remain the property of the Company until the amount due under the invoice for them together with all other sums owed by the Customer to the Company have been paid in full.

#### Head Office

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10.3 The Company may maintain an action for the price of any Goods notwithstanding that title in them has not passed to the Customer.

10.4 Until the title passes the customer shall hold the Goods as bailee for the Company and shall store or mark them so that they can at all times be identified as the property of the Company.

10.5 If, before title passes to the Customer, the Customer has a petition for winding-up or administration presented against it, passes a resolution for voluntary winding-up, has a receiver or administrative receiver appointed, or convenes a meeting of or comes to any arrangement with creditors, then the Company may, without any liability to the Customer, terminate the Contract and: (etc as 9.5)

10.5.1 Repossess and use or sell any of the Goods and by doing so terminate the customer's right to use, sell or otherwise deal in them: and

10.5.2 for that purpose or determining what if any Goods are held by the Customer and inspecting them, enter any premises of or occupied by the Customer

10.6 Until title passes the entire proceeds of the sale of the Goods shall be held in trust for the Company and shall be held in a separate designated account and not mingled with other monies or paid into any overdrawn bank account and shall be at all times identifiable as the Company's money.

#### **11. Law and Jurisdiction**

11.1 The Contract shall be governed by English Law and the Customer consents to the exclusive jurisdiction of the English Courts in all matters regarding it except to the extent that the Company invokes the jurisdiction of the courts of any other country.

#### **12. Third Party Rights**

12.1 Save as expressly provided; none of these conditions 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 the contract.

#### **13. Data Protection**

13.1 We may register details of the contract and the conduct of your account with any licensed credit reference agency. This and the information you have given about yourself may be used to help make credit decisions, to prevent fraud, for tracing debtors and for recovering our property. We may also disclose this information to any company or business associated with us and to any person acting on your behalf for any purpose connected with our business.

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