

Green As Grass – General Terms & Conditions

1. Definitions:

In these terms and conditions, the following words shall have the following meanings:

Acceptance	means the Customers written acceptance of a Quotation;
Company	means Green As Grass whose registered office is at Unit 7, Greaves End Industrial Estate, Stanbridge Road, Leighton Buzzard, LU7 4UB;
Customer	means the person, firm, company or corporation who orders, purchases and/or contracts to order or purchase Goods whose details are set out in the Quotation or Acceptance of Quotation for Goods;
Customer's Provisions	has the meaning given in terms and condition 3;
Delivery Date	means the date specified in the Acceptance and/or Quotation;
Goods	means the items to be supplied by the Company as specified in the Acceptance and/or Quotation;
Payment Date	means the date of Acceptance or such other date as may be notified by the company to the Customer in writing
Price	means the amount in £ sterling specified in the Quotation;

Quotation

means the Company's quoted price for the supply and delivery of the Goods to the Customer

2. Order:

1. The Customer orders, and the Company agrees to sell to the Customer, the Goods at the Price for delivery by the Delivery Date specified in the Quotation.
2. The quantity and description of the Goods are as set out in the Quotation.

2. Conditions applicable:

- 2.1. The sale of the Goods by the Company to the Customer that is constituted by and recorded in the Quotation and Acceptance (the Order) shall be governed solely, throughout the performance of the Order and for as long as obligations subsist under or in connection with the Order, by the express provisions of these terms and conditions.
- 2.2. Subject to terms and condition 3.10 no provision other than a provision that is expressly set out in these terms and conditions shall:
 - 2.2.1. become a term of these terms and conditions; and
 - 2.2.2. in any manner govern or affect these terms and conditions or any obligation arising under or in connection with these terms and conditions.
- 2.3. Terms and condition 3.2 shall apply regardless of:
 - 2.3.1. the manner in which or the time at which the Customer purports to proffer or incorporate such other provision(s) into these terms and conditions; and
 - 2.3.2. whether the Customer invokes, proffers or seeks to bring into effect such other provision(s) by way of contract term or notice.
- 2.4. For the avoidance of doubt, and in accordance with this terms and condition 3 generally:
 - 2.4.1. the reference to a provision that is not set out in these terms and conditions includes (without limitation or other prejudice to the general meaning of such reference) any provision emanating from standard terms or conditions routinely proffered or employed by the Customer in the course of the Customer's business

- or profession (Customer's Provisions) that the Customer invokes, proffers, or purports to bring into effect as governing these terms and conditions; and
- 2.4.2. the Customer acknowledges and agrees that the Company shall not be bound by any of the Customer's Provisions.
- 2.5. An Acceptance shall be deemed to be an offer by the Customer to purchase the Goods pursuant to the provisions of these terms and conditions.
- 2.6. The Company shall have accepted that offer only when it has delivered to the Customer a pro forma, an invoice or otherwise in writing.
- 2.7. Such acceptance shall be a condition precedent to these terms and conditions and shall be and take effect only on the terms of these terms and conditions.
- 2.8. The Customer's signature to an Acceptance shall constitute the acceptance of a Quotation for the purposes of this terms and condition 3.
- 2.9. Acceptance of the delivery of the Goods shall occur and be deemed to occur immediately on the Customer acknowledging delivery or entry or inscription of the Customer's signature on the Company's delivery note, which acknowledgment, entry or inscription shall immediately constitute, and be deemed to constitute, conclusive evidence of the Customer's satisfaction with and acceptance of the Goods.
- 2.10. If the Customer is not available to sign the Company's delivery note on delivery of the Goods or fails to sign the same the Company reserves the right to retain the Goods and charge the Customer for re-delivery.
- 2.11. No purported variation of any of the provisions of these terms and conditions, whether such purported variation purports to have been made or to be made before or after the conclusion of these terms and conditions, shall apply to or affect these terms and conditions or any obligation arising under or in connection with these terms and conditions nor become binding on the Company, unless and until the Company has agreed to it in writing and in terms that conform to terms and condition 15.2.
- 2.12. The rule of exclusion expressed in terms and condition 3.11 applies (without limitation to its general scope) to any special terms and conditions that are agreed between the parties but not yet reduced to writing.

3. Description:

The Customer acknowledges and agrees that any description which is given or applied to the Goods:

- 3.1. is solely for purposes of reference and does not constitute or afford the basis for any express or implied undertaking that the Goods correspond with or conform to such reference; and
- 3.2. shall not make these terms and conditions a sale by description; and

is not and has not been relied on by the Customer when entering into these terms and conditions.

4. Product Sample:

The Customer acknowledges and agrees that when a sample of the Goods has been shown to or inspected by the Customer:

- 4.1. the sole purpose of so doing was to enable the Customer to judge the quality of the bulk; and
- 4.2. the sale does not, in consequence of the Customer's inspection of the sample or otherwise, constitute a sale by sample.

5. Price:

The Customer shall pay the Price for the Goods as stated on the Company's invoice and not (where different) as expressed in any quotation, estimate or documentation, or given orally.

6. Payment:

- 6.1. Payment for the Goods shall be made on the Payment Date.
- 6.2. All amounts stated are exclusive of VAT and any other applicable taxes or levies, which shall be charged in addition at the rate in force at the date any payment is required from the Customer.
- 6.3. If payment is not received by the due date, the Company at its exclusive discretion shall be entitled:
 - 6.3.1. to charge interest on the outstanding amount at the rate of 10% per annum above the base lending rate of National Westminster Bank PLC, accruing daily; and/or
 - 6.3.2. to require that the Customer make a payment in advance of any delivery not yet made; and/or
 - 6.3.3. not to make any delivery.
 - 6.3.4. Goods will not be released for delivery until cleared funds have been received by the Company.

7. Delivery:

- 7.1. The Company shall deliver the Goods to the address of the Customer as detailed on the Quotation. It is the Customer's sole responsibility to check that the address on the Quotation is the correct address for delivery and that all details on the Quotation are correct and accurate, and written confirmation is provided by the Customer to confirm.

The company accepts no liability for any errors that are not notified to it in writing at least 48 hours prior to dispatch

- 7.2. The cost of delivery shall be detailed in the Invoice.
- 7.3. The Company makes every effort to ensure that items advertised or displayed are in stock but no warranty is given that Goods ordered by the customer are in stock and available for immediate delivery. In so far as is possible, Goods are delivered between 8.00am and 5.00pm on Mondays to Fridays within 5 -10 working days of the Company accepting the Customers offer pursuant to terms and condition 3.6 above.
- 7.4. Unless by prior arrangement in writing, the Company will only make deliveries of Goods kerbside. It is the Customers responsibility to ensure that arrangements are made to accept delivery along with sufficient manpower available to off-load the Goods
- 7.5. The Company can provide express delivery upon request and agreement of costs.
- 7.6. For the avoidance of doubt, both the Delivery Date and any other date given under or pursuant to these terms and conditions is no more than an estimate, and the Company's conformity with such date is not, and shall not in any event or circumstance be or become, of the essence of these terms and conditions.

8. Collections:

Collections are available from our holding warehouse subject to the following conditions:

- 8.1. All good must be paid in full in advance via a BACS transfer or Cleared Funds received via a Credit Card transaction as stated in item **6** and **7**. Please note that Credit Card transactions require 4 to 5 days to verify funds.
- 8.2. Upon collection from our holding warehouse, under no circumstances will goods be released without a copy of our collection note, and proof of identification of the individual collecting.
- 8.3. All collections are monitored via CCTV.

Terms and Conditions Relating to the supply of Artificial Grass

9. Terms and Conditions Relating to the supply of Artificial Grass:

These terms and condition shall apply in addition to and without limiting in any way the other terms and conditions set out herein

9.1. Guarantee:

The Company may, at the Company's exclusive and unqualified discretion and subject to any agreement with the suppliers, make good either by repair or by the provision of a replacement, any fading in the colour of Artificial grass arising from or caused by UV sunlight which, following proper use of the Artificial Grass, appears within 8 year of the date of delivery. This guarantee is subject to proper use of the Artificial Grass, fair wear and tear, the Customer maintaining the Artificial Grass in accordance with the provisions of this terms and condition, the exemptions set out in Terms and condition 10.3 and these terms and conditions generally.

9.2. Conditions of Claims under Guarantee:

- 9.2.1. The Customer must notify the Company in writing of the claimed colour defect(s) immediately on their appearance;
- 9.2.2. The Company is satisfied acting fairly and reasonably that the sole cause of the defect(s) is fade caused by UV sunlight and
- 9.2.3. The Company is satisfied acting fairly and reasonably that none of the exemptions set out in terms and condition 9.3 apply.

9.3. Exemptions:

The Guarantee contained in terms and condition 10.1 does not apply to or provide cover for any variation or loss of colour or any other damage or defect caused by any of the following:

- 9.3.1. burns
- 9.3.2. cuts or tears
- 9.3.3. vandalism or recklessness
- 9.3.4. accidental damage or negligence
- 9.3.5. non domestic animals including but not limited to badgers, rats, moles and foxes
- 9.3.6. domestic animals and pets including but not limited to dogs, cats and rabbits.
- 9.3.7. reflections from glass, mirrors or magnifiers
- 9.3.8. use of unsuitable and improper footwear and sports equipment
- 9.3.9. application of unsuitable or improper cleaning materials, herbicides, chemicals or other liquids.

9.4. Other Defects:

Within 24 hours of delivery Artificial Grass must be rolled out by the Customer and inspected. The Customer must notify the Company in writing of any claimed defect(s) within the said period of 24 hours or as soon as reasonably possible thereafter. The Artificial Grass will be at the customers risk once installed and lain. The Company does not

accept liability for any defects that might appear thereafter (subject to terms and condition 9.1) or are caused by cutting and laying.

9.5. Creases in Artificial Grass:

Artificial Grass will often be flattened or creased when unrolled. This is part of the character of the product and arises because it has been tightly rolled. Flattened or creases in the Artificial Grass are not and will not be accepted by the Company as a defect or fault. Should the Artificial Grass be flat or creased when unrolled they will self-correct over time and with use. To reduce and minimise flattening and creasing the ground on which the Artificial Grass is to be lain should be well prepared and settled. The Artificial Grass should be carefully lain on the prepared ground and then silicone sand placed on top to weigh it down and flatten it. The Artificial Grass will mould itself to the contours of the ground upon which it is lain.

9.6. Colour Variation:

9.7. The colour of Artificial Grass is likely to vary from batch to batch. The Company is not liable or responsible for any variations in colour if the Customer does not order all Artificial Grass from the same batch

9.8. Maintenance of Artificial Grass:

To ensure that the Artificial Grass is maintained in good condition the Customer should:

9.8.1. Avoid excessive or prolonged use in particular areas as that is likely to cause the Artificial Grass to flatten and curl

9.8.2. Carefully brush the Artificial Grass with a soft/medium density broom

9.8.3. Keep the grass free of debris and leaves to prevent moss.

9.8.4. Remove weeds immediately to prevent seed dispersal.

9.8.5. Use diluted water-based detergent to rinse off any coloured spills.

9.8.6. Remove pet excrement immediately and rinse with water-based detergent and water.

9.8.7. Avoid contact with hot materials such as barbecue coals and cigarettes.

9.9. Cancellation Charges:

The company reserves the right to charge a fee equal to 30% of the Price if an Order for Artificial Grass is cancelled by the Customer for any reason and for any variations to the Order or to charge such proportion of the Price that the Company in its total and absolute discretion but acting fairly and reasonably determines amounts to the costs and losses incurred by the Company up to the point of Cancellation.

10. Risk:

The risk in the Goods shall pass to the Customer on the Delivery Date.

11. Property:

- 11.1. The property in the Goods shall not pass to the Customer until the Company has received the full amount of the Price and any other sums that are owed to the Company by the Customer.
- 11.2. Terms and condition 12.1 shall apply irrespective of whether delivery has been made.

12. Acknowledgments:

The Customer acknowledges and agrees:

- 12.1. that the Customer has had a reasonable opportunity to inspect the Goods before signing the Company's delivery note or acknowledging delivery;
- 12.2. that the Customer has inspected the Goods before signing the Company's delivery note or acknowledging delivery;
- 12.3. that the Customer has satisfied itself as to the condition of the Goods before signing the Company's delivery note or acknowledging delivery;
- 12.4. that the sole and exclusive undertaking given by the Company as to the quality or fitness for any purpose of the Goods shall be that (if any) set out in Schedule 1;
- 12.5. that except and in so far as is provided (if at all) in the Quotation:
 - 12.5.1. the Company gives no representation or undertaking, and shall be bound by no condition, warranty, innominate term or other obligation (whether express or implied, and whether imposed or implied by statute, at common law or otherwise) concerning the condition, quality, physical state or attributes, location, origin, fitness or suitability for any purpose, or conformity with description or sample, of the Goods;
 - 12.5.2. all liability on the part of the Company in respect of the matters referred to in terms and condition 13.5.1 is excluded; and
 - 12.5.3. the Customer undertakes not to bring any claim or resort to any proceeding in respect of the matters referred to in terms and condition 13.5.1;
- 12.6. that the Customer's written acknowledgment of delivery and/or the entry or inscription of the Customer's signature on the Company's delivery note on delivery of the Goods to the Customer shall be conclusive evidence that the Customer has examined the Goods and that the Goods correspond in every respect with the Goods that the Customer is entitled to receive under these terms and conditions.

13. Defects:

- 13.1. The Company may, at the Company's exclusive and unqualified discretion, make good either by repair or by the provision of a replacement, any defect which, following proper use of the Goods, appears in the Goods as follows:

- 13.1.1. Any excess colour fade or discolouration as stated in our UV Protection Policy, within a period of 12 months after the Goods have been delivered, provided that (subject to the provisions of terms and condition **10** relating to Artificial Grass:
- 13.1.2. Any other defect within a period of 14 days after the Goods have been delivered PROVIDED THAT
- the Customer notifies the Company in writing of the claimed defect(s) immediately on their appearance; and
 - the Company is satisfied that the sole cause of the defect(s) is:
 - (a) faulty design (other than a design made, furnished or specified by the Customer for which the Company has disclaimed responsibility in writing), or
 - (b) faulty materials, or
 - (c) faulty workmanship, and
 - all Goods claimed to be defective are returned to the Company at the expense of the Customer within the period stipulated by the Company, following the Company's receipt of notice in accordance with terms and condition 14.1.
- 13.2. Repaired or replacement Goods shall:
- 13.2.1. be delivered to the Customer at the original place of delivery; and
- 13.2.2. be subject in all other respects (mutatis mutandis) to the provisions of these terms and conditions, and in particular, without limitation and in accordance with terms and condition 13.4 and terms and condition 13.5, the Company undertakes no responsibility for the condition, quality, physical state or attributes, location, origin, fitness or suitability for any purpose, or conformity with description or sample, of such repaired or replacement Goods or any portion, part or component of them.
- 13.3. As an alternative to the discretion expressed in terms and condition 14.1, and in the event that the Customer has already paid the Price when the Customer notifies the claimed defect to the Company, the Company may, at its exclusive and unqualified discretion:
- 13.3.1. refund the Price of the Goods to the Customer; and thereafter
- 13.3.2. recover possession of the Goods from the Customer.
- 13.4. The redress afforded by this terms and condition 14 is without prejudice to the other provisions of these terms and conditions.

15. Returns:

- 15.1. The Company may, at the Company's exclusive and unqualified discretion accept a return of any Goods delivered provided that the Customer

- 15.1.1. notifies the Company within 7 days of the Delivery Date that he wishes to return the Goods and obtains an completed Returns Agreement Form from the Company.
- 15.1.2. The Goods are returned to and received by the Company in the same condition in which they were delivered by the Company
- 15.1.3. The Goods are returned at the Customers cost and risk subject to 15.3 below.
- 15.2. The Company is not obliged to and will not accept returns of made to measure Goods or bespoke Goods.
- 15.3. Within 14 days of receipt of any returned Goods in accordance with the provisions of term and conditions 15.1 and 15.2 above the Company will refund the Price paid or such proportion thereof as is fair and reasonable plus the reasonable delivery costs incurred by the Customer

16. Cancellation:

If a Customer cancels an Order in writing for any Goods ordered other than Artificial Grass at any time before the Delivery Date the Customer must pay such proportion of the Price that the Company in its total and absolute discretion but acting fairly and reasonably determines amounts to the costs and losses incurred by the Company up to the point of Cancellation

17. Termination

- 17.1. Without prejudice to any other right or remedy to which either the Company or the Customer might be entitled, either of those parties may in the events specified in terms and condition 17.2 terminate the Order at any time by notice in writing to the other party (the **Other Party**), such notice to take effect as specified in the notice.
- 17.2. The events specified in terms and condition 17.1 occur when:
 - 17.2.1. the Other Party is in substantial breach of these terms and conditions and, in the case of a breach capable of remedy within 14 days, the breach is not remedied within 28 days of the Other Party receiving notice specifying the breach and requiring it to be remedied; or
 - 17.2.2. the Other Party becomes insolvent, or an order is made or a resolution is passed for the winding up of the Other Party (other than voluntarily for the purpose of solvent amalgamation or reconstruction), or an administrator or administrative receiver is appointed in respect of the whole or any part of the Other Party's assets or business, or the Other Party makes any composition with its creditors,

or the Other Party takes or suffers any similar or analogous action in consequence of debt.

- 16.3 Upon termination by the Company for any of the reasons set out in terms and condition 16.2 above the Price shall be immediately due and payable by the Customer to the Company.

18. Defences and variations

18.1. Force majeure:

- 18.1.1. Neither party shall owe or incur any liability under or in connection with, or be deemed to be in breach of, these terms and conditions by reason of any delays in, revisions to, or failures in performance of these terms and conditions that result from circumstances beyond the reasonable control of that party.
- 18.1.2. The party affected by the circumstances referred to in terms and condition 18.1.1 shall promptly notify the other party in writing:
- (a) when the occurrence of any circumstance referred to in terms and condition 18.1.1 causes, or can reasonably be expected to cause or to threaten to cause, a delay, revision or failure in performance; and
 - (b) when any such circumstance ceases to do so.
- 18.1.3. If such circumstances continue for a continuous period of more than 30 days either party may terminate these terms and conditions by written notice to the other party.

18.2. Amendments:

These terms and conditions may be amended only by formal amendment in writing signed by duly authorised representatives of the parties.

18.3. Waiver:

- 18.3.1. No inaction, omission, failure or delay by the Company in exercising or securing the enforcement or validity of any right, power, privilege or demand arising under or in connection with these terms and conditions, and no single or partial exercise of any such right, power, privilege or demand shall impair the existence, operation, content, effect and enforcement of the said right, power, privilege or demand, or operate as a waiver of it.
- 18.3.2. The rights and remedies provided in these terms and conditions are cumulative and not exclusive of any rights and remedies provided by law.

18.4. No agency or partnership:

- 18.4.1. These terms and conditions shall not constitute or imply any partnership, joint venture, agency, fiduciary relationship or other relationship between the parties, other than, and except as provided for in, the contractual relationship expressly provided for in Order.
- 18.4.2. Neither party shall have, nor shall either party represent that it has, any authority to make any commitments on the other party's behalf.

18.5. Co-operation:

Each party to these terms and conditions shall, at the reasonable request of the other party and at that other party's expense, perform or abstain from any act the performance of or abstention from which can reasonably be regarded as necessary to effect or facilitate the observance, implementation, clarification or enforcement of the provisions of these terms and conditions.

19. Exclusion of Liability:

- 19.1. The extent of the parties' liability under or in connection with these terms and conditions (regardless of whether such liability arises in tort, contract or in any other way and whether or not caused by negligence or misrepresentation) shall be as set out in these terms and conditions.
- 19.2. The parties agree that the limitations in this terms and condition 18 are reasonable given each party's respective commercial positions and their ability to obtain insurance in respect of the risks arising under or in connection with these terms and conditions.
- 19.3. Subject to terms and conditions 19.8 and 19.10, the liability of the Company shall not exceed
£[insert] in respect of any one claim or series of related claims; and
- 19.4. Subject to terms and conditions 19.6, 19.7 and 19.9, neither party shall be liable for any consequential, indirect or special loss.
- 19.5. Subject to terms and conditions 19.6 and 19.9, neither party shall be liable for any of the following (whether direct or indirect):
 - 19.5.1. loss of profit;
 - 19.5.2. loss of use;
 - 19.5.3. loss of production;
 - 19.5.4. loss of contract;
 - 19.5.5. loss of commercial opportunity;
 - 19.5.6. loss of savings, discount or rebate (whether actual or anticipated);
 - 19.5.7. harm to reputation or loss of goodwill.

- 19.6. Notwithstanding terms and conditions 19.4 and 19.5, and without limiting its entitlement to recover other types of losses, the parties agree that the Customer may recover the following from the Company as direct losses:
 - 19.6.1. the cost of selecting, procuring, installing and testing replacement goods;
 - 19.6.2. wasted expenditure or unnecessary charges incurred by the Customer;
 - 19.6.3. liability to third parties (including customers); and
 - 19.6.4. the cost of rectifying lost or damaged data;
- 19.7. The limitations of liability set out in terms and conditions 19.3 to 19.5, and the provisions of terms and condition 18.6, shall not apply in respect of any indemnities given by either party under these terms and conditions.
- 19.8. Except as expressly stated in these terms and conditions, and subject to terms and condition 3.10, all warranties and conditions whether express or implied by statute, common law or otherwise are excluded to the extent permitted by law.
- 19.9. Notwithstanding any other provision of these terms and conditions, the liability of the parties shall not be limited in any way in respect of the following:
 - 19.9.1. death or personal injury caused by negligence;
 - 19.9.2. fraud or fraudulent misrepresentation;
 - 19.9.3. breach of any obligation as to title implied by:
 - 19.9.3.1. section 12 of the Sale of Goods Act 1979; or
 - 19.9.3.2. section 2 of the Supply of Goods and Services Act 1982;
 - 19.9.3.3. breach of section 2 of the Consumer Protection Act 1987;
 - 19.9.3.4. any other losses which cannot be excluded or limited by applicable law;

20. Miscellaneous:

20.1. Entire agreement

- 20.1.1. These terms and conditions the Quotation, Acceptance and Order contain the whole agreement between the parties and supersedes and replaces any prior written or oral agreements, representations or understandings between them. The parties confirm that they have not entered into these terms and conditions on the basis of any representation that is not expressly incorporated into these terms and conditions.
- 20.1.2. Nothing in these terms and conditions excludes or restricts the liability of any party for fraud or bad faith.

20.2. Severance:

If any provision of these terms and conditions is prohibited by law, or is determined by any court of law or other binding adjudicatory authority or conceded by the parties to be unlawful, void or unenforceable, the provision:

- 20.2.1. shall, to the extent required and as far as possible, be severed from these terms and conditions and rendered ineffective without modifying the remaining provisions of these terms and conditions; and
- 20.2.2. shall not in any way affect any other particular provisions of these terms and conditions or the validity or enforcement of these terms and conditions generally.

20.3. Interpretation:

In these terms and conditions unless the context otherwise requires:

- 20.3.1. words importing any gender include every gender;
- 20.3.2. words importing the singular number include the plural number and vice versa;
- 20.3.3. words importing persons include firms, companies and corporations and vice versa;
- 20.3.4. references to numbered terms and conditions and schedules are references to the relevant terms and condition in or schedule to these terms and conditions;
- 20.3.5. references in any schedule to these terms and conditions to numbered paragraphs relate to the numbered paragraphs of that schedule;
- 20.3.6. any obligation on any party not to do or omit to do anything is to include an obligation not to allow that thing to be done or omitted to be done;
- 20.3.7. the headings to the terms and conditions, schedules and paragraphs of these terms and conditions are not to affect the interpretation;
- 20.3.8. any reference to an enactment includes reference to that enactment as amended or replaced from time to time and to any subordinate legislation or byelaw made under that enactment;
- 20.3.9. where the word **including** is used in these terms and conditions, it shall be understood as meaning **including without limitation**;
- 20.3.10. the words **working day** shall mean any day other than:
 - (a) Saturday and Sunday; and
 - (b) any day on which there occurs any public, national, or statutory holiday that is recognised as such within the country the legal system of which governs these terms and conditions.

20.4. Notices

- 20.4.1. Any notice to be given under these terms and conditions shall be in writing and shall be sent by first-class mail or air mail, or by facsimile or email (confirmed by first-class mail or air mail), to the address of the relevant party set out at the head of these terms and conditions, or to the relevant fax number or email address set out below, or to such other address or fax number as that party may from time to time notify to the other party in accordance with this terms and condition 20.4.1. The fax numbers and email addresses of the parties are as follows:

(a) The Company: [specify fax number and email address];

(b) The Customer: [specify fax number and email address].

20.4.2. Notices sent as in terms and condition 18.4.1 shall be deemed to have been received, in the case of inland first-class mail, [number] working days after the day of posting, in the case of air mail, [number] working days after the date of posting, in the case of fax messages, on the next working day after transmission but only if a transmission report is generated by the sender's fax machine recording a message from the recipient's fax machine confirming that the facsimile was sent to the number indicated above and that all pages were successfully transmitted, or in the case of email, when the email first appears in the inbox of any email system that can reasonably be assumed to be used by the recipient.

20.4.3. In proving the giving of a notice, it shall be sufficient to prove that the notice was left, that the envelope containing the notice was properly addressed and posted, or that the applicable means of telecommunication was addressed and despatched and despatch of the transmission was confirmed or acknowledged.

20.5. Law and jurisdiction:

The validity, construction and performance of these terms and conditions and of all other rights and liabilities arising in connection with these terms and conditions shall be governed by English law and shall be subject to the exclusive jurisdiction of the English courts, to which the parties submit.

Terms and Conditions Relating to the supply of Artificial Plants

21. Terms and Conditions Relating to the supply of Artificial Plants:

These terms and condition shall apply in addition to and without limiting in any way the other terms and conditions set out herein

21.1. Guarantee:

The Company may, at the Company's exclusive and unqualified discretion and subject to any agreement with the suppliers, make good either by repair or by the provision of a replacement, any fading in the colour of Artificial plants arising from or caused by UV sunlight which, following proper use of the Artificial Plants, appears within 8 year of the date of delivery. This guarantee is subject to proper use of the Artificial Plants, fair wear and tear, the Customer maintaining the Artificial Plants in accordance with the provisions of this terms and condition, the exemptions set out in Terms and condition 10.3 and these terms and conditions generally.

21.2. Conditions of Claims under Guarantee:

- 21.2.1. The Customer must notify the Company in writing of the claimed colour defect(s) immediately on their appearance;
- 21.2.2. The Company is satisfied acting fairly and reasonably that the sole cause of the defect(s) is fade caused by UV sunlight and
- 21.2.3. The Company is satisfied acting fairly and reasonably that none of the exemptions set out in terms and condition 9.3 apply.

21.3. Exemptions:

The Guarantee contained in terms and condition 10.1 does not apply to or provide cover for any variation or loss of colour or any other damage or defect caused by any of the following:

- 21.3.1. burns
- 21.3.2. cuts or tears
- 21.3.3. vandalism or recklessness
- 21.3.4. accidental damage or negligence
- 21.3.5. non domestic animals including but not limited to badgers, rats, moles and foxes
- 21.3.6. domestic animals and pets including but not limited to dogs, cats and rabbits.
- 21.3.7. reflections from glass, mirrors or magnifiers
- 21.3.8. use of unsuitable and improper footwear and sports equipment

- 21.3.9. application of unsuitable or improper cleaning materials, herbicides, chemicals or other liquids.
- 21.4. Other Defects:
Within 24 hours of delivery Artificial Plants must be rolled out by the Customer and inspected. The Customer must notify the Company in writing of any claimed defect(s) within the said period of 24 hours or as soon as reasonably possible thereafter. The Artificial Plants will be at the customers risk once installed and lain. The Company does not accept liability for any defects that might appear thereafter (subject to terms and condition 9.1) or are caused by cutting and laying.
- 21.5. Creases in Artificial Plants:
Artificial Plants will often be flattened or creased when unrolled. This is part of the character of the product and arises because it has been tightly rolled. Flattened or creases in the Artificial Plants are not and will not be accepted by the Company as a defect or fault. Should the Artificial Plants be flat or creased, they will self-correct over time and with use. To reduce and minimise flattening and creasing the ground on which the Artificial Plants is to be lain should be well prepared and settled. The Artificial Plants should be carefully lain on the prepared ground and then silicone sand placed on top to weigh it down and flatten it. The Artificial Plants will mould itself to the contours of the ground upon which it is lain.
- 21.6. Colour Variation:
- 21.7. The colour of Artificial Plants is likely to vary from batch to batch. The Company is not liable or responsible for any variations in colour if the Customer does not order all Artificial Plants from the same batch
- 21.8. Maintenance of Artificial Plants:
To ensure that the Artificial Plants is maintained in good condition the Customer should:
- 21.8.1. Avoid excessive or prolonged use in particular areas as that is likely to cause the Artificial Plants to flatten and curl
 - 21.8.2. Carefully brush the Artificial Plants with a soft/medium density broom
 - 21.8.3. Keep the plants free of debris and leaves to prevent moss.
 - 21.8.4. Remove weeds immediately to prevent seed dispersal.
 - 21.8.5. Use diluted water-based detergent to rinse off any coloured spills.
 - 21.8.6. Remove pet excrement immediately and rinse with water-based detergent and water.
 - 21.8.7. Avoid contact with hot materials such as barbecue coals and cigarettes.
- 21.9. Cancellation Charges:
The company reserves the right to charge a fee equal to 30% of the Price if an Order for Artificial Plants is cancelled by the Customer for any reason and for any variations to the

Order or to charge such proportion of the Price that the Company in its total and absolute discretion but acting fairly and reasonably determines amounts to the costs and losses incurred by the Company up to the point of Cancellation.

22. Risk:

The risk in the Goods shall pass to the Customer on the Delivery Date.

23. Property:

- 23.1. The property in the Goods shall not pass to the Customer until the Company has received the full amount of the Price and any other sums that are owed to the Company by the Customer.
- 23.2. Terms and condition 12.1 shall apply irrespective of whether delivery has been made.

24. Acknowledgments:

The Customer acknowledges and agrees:

- 24.1. that the Customer has had a reasonable opportunity to inspect the Goods before signing the Company's delivery note or acknowledging delivery;
- 24.2. that the Customer has inspected the Goods before signing the Company's delivery note or acknowledging delivery;
- 24.3. that the Customer has satisfied itself as to the condition of the Goods before signing the Company's delivery note or acknowledging delivery;
- 24.4. that the sole and exclusive undertaking given by the Company as to the quality or fitness for any purpose of the Goods shall be that (if any) set out in Schedule 1;
- 24.5. that except and in so far as is provided (if at all) in the Quotation:
 - 24.5.1. the Company gives no representation or undertaking, and shall be bound by no condition, warranty, innominate term or other obligation (whether express or implied, and whether imposed or implied by statute, at common law or otherwise) concerning the condition, quality, physical state or attributes, location, origin, fitness or suitability for any purpose, or conformity with description or sample, of the Goods;
 - 24.5.2. all liability on the part of the Company in respect of the matters referred to in terms and condition 13.5.1 is excluded; and
 - 24.5.3. the Customer undertakes not to bring any claim or resort to any proceeding in respect of the matters referred to in terms and condition 13.5.1;
- 24.6. that the Customer's written acknowledgment of delivery and/or the entry or inscription of the Customer's signature on the Company's delivery note on delivery of the Goods to the Customer shall be conclusive evidence that the Customer has examined the Goods and that the Goods correspond in every respect with the Goods that the Customer is entitled to receive under these terms and conditions.

25. Defects:

- 25.1. The Company may, at the Company's exclusive and unqualified discretion, make good either by repair or by the provision of a replacement, any defect which, following proper use of the Goods, appears in the Goods as follows:
- 25.1.1. Any excess colour fade or discolouration as stated in our UV Protection Policy, within a period of 12 months after the Goods have been delivered, provided that (subject to the provisions of terms and condition **20** relating to Artificial Plants:
- 25.1.2. Any other defect within a period of 14 days after the Goods have been delivered PROVIDED THAT
- the Customer notifies the Company in writing of the claimed defect(s) immediately on their appearance; and
 - the Company is satisfied that the sole cause of the defect(s) is:
 - (d) faulty design (other than a design made, furnished or specified by the Customer for which the Company has disclaimed responsibility in writing), or
 - (e) faulty materials, or
 - (f) faulty workmanship, and
 - all Goods claimed to be defective are returned to the Company at the expense of the Customer within the period stipulated by the Company, following the Company's receipt of notice in accordance with terms and condition 14.1.
- 25.2. Repaired or replacement Goods shall:
- 25.2.1. be delivered to the Customer at the original place of delivery; and
- 25.2.2. be subject in all other respects (*mutatis mutandis*) to the provisions of these terms and conditions, and in particular, without limitation and in accordance with terms and condition 13.4 and terms and condition 13.5, the Company undertakes no responsibility for the condition, quality, physical state or attributes, location, origin, fitness or suitability for any purpose, or conformity with description or sample, of such repaired or replacement Goods or any portion, part or component of them.
- 25.3. As an alternative to the discretion expressed in terms and condition 24.1, and in the event that the Customer has already paid the Price when the Customer notifies the claimed defect to the Company, the Company may, at its exclusive and unqualified discretion:
- 25.3.1. refund the Price of the Goods to the Customer; and thereafter
- 25.3.2. recover possession of the Goods from the Customer.
- 25.4. The redress afforded by this terms and condition 24 is without prejudice to the other provisions of these terms and conditions.

26. Returns:

- 26.1. The Company may, at the Company's exclusive and unqualified discretion accept a return of any Goods delivered provided that the Customer
 - 26.1.1. notifies the Company within 7 days of the Delivery Date that he wishes to return the Goods and obtains an completed Returns Agreement Form from the Company.
 - 26.1.2. The Goods are returned to and received by the Company in the same condition in which they were delivered by the Company
 - 26.1.3. The Goods are returned at the Customers cost and risk subject to 25.3 below.
- 26.2. The Company is not obliged to and will not accept returns of made to measure Goods or bespoke Goods.
- 26.3. Within 14 days of receipt of any returned Goods in accordance with the provisions of term and conditions 25.1 and 25.2 above the Company will refund the Price paid or such proportion thereof as is fair and reasonable plus the reasonable delivery costs incurred by the Customer

27. Cancellation:

If a Customer cancels an Order in writing for any Goods ordered other than Artificial Plants at any time before the Delivery Date the Customer must pay such proportion of the Price that the Company in its total and absolute discretion but acting fairly and reasonably determines amounts to the costs and losses incurred by the Company up to the point of Cancellation

28. Termination

- 28.1. Without prejudice to any other right or remedy to which either the Company or the Customer might be entitled, either of those parties may in the events specified in terms and condition 27.2 terminate the Order at any time by notice in writing to the other party (the **Other Party**), such notice to take effect as specified in the notice.
- 28.2. The events specified in terms and condition 27.1 occur when:
 - 28.2.1. the Other Party is in substantial breach of these terms and conditions and, in the case of a breach capable of remedy within 14 days, the breach is not remedied within 28 days of the Other Party receiving notice specifying the breach and requiring it to be remedied; or
 - 28.2.2. the Other Party becomes insolvent, or an order is made or a resolution is passed for the winding up of the Other Party (other than voluntarily for the purpose of solvent amalgamation or reconstruction), or an administrator or administrative

receiver is appointed in respect of the whole or any part of the Other Party's assets or business, or the Other Party makes any composition with its creditors, or the Other Party takes or suffers any similar or analogous action in consequence of debt.

- 16.3 Upon termination by the Company for any of the reasons set out in terms and condition 16.2 above the Price shall be immediately due and payable by the Customer to the Company.

29. Defences and variations

29.1. Force majeure:

- 29.1.1. Neither party shall owe or incur any liability under or in connection with, or be deemed to be in breach of, these terms and conditions by reason of any delays in, revisions to, or failures in performance of these terms and conditions that result from circumstances beyond the reasonable control of that party.
- 29.1.2. The party affected by the circumstances referred to in terms and condition 28.1.1 shall promptly notify the other party in writing:
- (c) when the occurrence of any circumstance referred to in terms and condition 28.1.1 causes, or can reasonably be expected to cause or to threaten to cause, a delay, revision or failure in performance; and
 - (d) when any such circumstance ceases to do so.
- 29.1.3. If such circumstances continue for a continuous period of more than 30 days either party may terminate these terms and conditions by written notice to the other party.

29.2. Amendments:

These terms and conditions may be amended only by formal amendment in writing signed by duly authorised representatives of the parties.

29.3. Waiver:

- 29.3.1. No inaction, omission, failure or delay by the Company in exercising or securing the enforcement or validity of any right, power, privilege or demand arising under or in connection with these terms and conditions, and no single or partial exercise of any such right, power, privilege or demand shall impair the existence, operation, content, effect and enforcement of the said right, power, privilege or demand, or operate as a waiver of it.
- 29.3.2. The rights and remedies provided in these terms and conditions are cumulative and not exclusive of any rights and remedies provided by law.

29.4. No agency or partnership:

- 29.4.1. These terms and conditions shall not constitute or imply any partnership, joint venture, agency, fiduciary relationship or other relationship between the parties, other than, and except as provided for in, the contractual relationship expressly provided for in Order.
- 29.4.2. Neither party shall have, nor shall either party represent that it has, any authority to make any commitments on the other party's behalf.

29.5. Co-operation:

Each party to these terms and conditions shall, at the reasonable request of the other party and at that other party's expense, perform or abstain from any act the performance of or abstention from which can reasonably be regarded as necessary to effect or facilitate the observance, implementation, clarification or enforcement of the provisions of these terms and conditions.

30. Exclusion of Liability:

- 30.1. The extent of the parties' liability under or in connection with these terms and conditions (regardless of whether such liability arises in tort, contract or in any other way and whether or not caused by negligence or misrepresentation) shall be as set out in these terms and conditions.
- 30.2. The parties agree that the limitations in this terms and condition 28 are reasonable given each party's respective commercial positions and their ability to obtain insurance in respect of the risks arising under or in connection with these terms and conditions.
- 30.3. Subject to terms and conditions 29.8 and 29.10, the liability of the Company shall not exceed £[insert] in respect of any one claim or series of related claims; and
- 30.4. Subject to terms and conditions 29.6, 29.7 and 29.9, neither party shall be liable for any consequential, indirect or special loss.
- 30.5. Subject to terms and conditions 29.6 and 29.9, neither party shall be liable for any of the following (whether direct or indirect):
 - 30.5.1. loss of profit;
 - 30.5.2. loss of use;
 - 30.5.3. loss of production;
 - 30.5.4. loss of contract;
 - 30.5.5. loss of commercial opportunity;
 - 30.5.6. loss of savings, discount or rebate (whether actual or anticipated);

- 30.5.7. harm to reputation or loss of goodwill.
- 30.6. Notwithstanding terms and conditions 29.4 and 29.5, and without limiting its entitlement to recover other types of losses, the parties agree that the Customer may recover the following from the Company as direct losses:
 - 30.6.1. the cost of selecting, procuring, installing and testing replacement goods;
 - 30.6.2. wasted expenditure or unnecessary charges incurred by the Customer;
 - 30.6.3. liability to third parties (including customers); and
 - 30.6.4. the cost of rectifying lost or damaged data;
- 30.7. The limitations of liability set out in terms and conditions 29.3 to 29.5, and the provisions of terms and condition 28.6, shall not apply in respect of any indemnities given by either party under these terms and conditions.
- 30.8. Except as expressly stated in these terms and conditions, and subject to terms and condition 3.10, all warranties and conditions whether express or implied by statute, common law or otherwise are excluded to the extent permitted by law.
- 30.9. Notwithstanding any other provision of these terms and conditions, the liability of the parties shall not be limited in any way in respect of the following:
 - 30.9.1. death or personal injury caused by negligence;
 - 30.9.2. fraud or fraudulent misrepresentation;
 - 30.9.3. breach of any obligation as to title implied by:
 - 30.9.3.1. section 12 of the Sale of Goods Act 1979; or
 - 30.9.3.2. section 2 of the Supply of Goods and Services Act 1982;
 - 30.9.3.3. breach of section 2 of the Consumer Protection Act 1987;
 - 30.9.3.4. any other losses which cannot be excluded or limited by applicable law;

31. Miscellaneous:

31.1. Entire agreement

- 31.1.1. These terms and conditions the Quotation, Acceptance and Order contain the whole agreement between the parties and supersedes and replaces any prior written or oral agreements, representations or understandings between them. The parties confirm that they have not entered into these terms and conditions on the basis of any representation that is not expressly incorporated into these terms and conditions.
- 31.1.2. Nothing in these terms and conditions excludes or restricts the liability of any party for fraud or bad faith.

31.2. Severance:

If any provision of these terms and conditions is prohibited by law, or is determined by any court of law or other binding adjudicatory authority or conceded by the parties to be unlawful, void or unenforceable, the provision:

- 31.2.1. shall, to the extent required and as far as possible, be severed from these terms and conditions and rendered ineffective without modifying the remaining provisions of these terms and conditions; and
- 31.2.2. shall not in any way affect any other particular provisions of these terms and conditions or the validity or enforcement of these terms and conditions generally.

31.3. Interpretation:

In these terms and conditions unless the context otherwise requires:

- 31.3.1. words importing any gender include every gender;
- 31.3.2. words importing the singular number include the plural number and vice versa;
- 31.3.3. words importing persons include firms, companies and corporations and vice versa;
- 31.3.4. references to numbered terms and conditions and schedules are references to the relevant terms and condition in or schedule to these terms and conditions;
- 31.3.5. references in any schedule to these terms and conditions to numbered paragraphs relate to the numbered paragraphs of that schedule;
- 31.3.6. any obligation on any party not to do or omit to do anything is to include an obligation not to allow that thing to be done or omitted to be done;
- 31.3.7. the headings to the terms and conditions, schedules and paragraphs of these terms and conditions are not to affect the interpretation;
- 31.3.8. any reference to an enactment includes reference to that enactment as amended or replaced from time to time and to any subordinate legislation or byelaw made under that enactment;
- 31.3.9. where the word **including** is used in these terms and conditions, it shall be understood as meaning **including without limitation**;
- 31.3.10. the words **working day** shall mean any day other than:
 - (c) Saturday and Sunday; and
 - (d) any day on which there occurs any public, national, or statutory holiday that is recognised as such within the country the legal system of which governs these terms and conditions.

31.4. Notices

- 31.4.1. Any notice to be given under these terms and conditions shall be in writing and shall be sent by first-class mail or air mail, or by facsimile or email (confirmed by first-class mail or air mail), to the address of the relevant party set out at the head of these terms and conditions, or to the relevant fax number or email address set out below, or to such other address or fax number as that party may

from time to time notify to the other party in accordance with this terms and condition 30.4.1. The fax numbers and email addresses of the parties are as follows:

(c) The Company: [specify fax number and email address];

(d) The Customer: [specify fax number and email address].

31.4.2. Notices sent as in terms and condition 28.4.1 shall be deemed to have been received, in the case of inland first-class mail, [number] working days after the day of posting, in the case of air mail, [number] working days after the date of posting, in the case of fax messages, on the next working day after transmission but only if a transmission report is generated by the sender's fax machine recording a message from the recipient's fax machine confirming that the facsimile was sent to the number indicated above and that all pages were successfully transmitted, or in the case of email, when the email first appears in the inbox of any email system that can reasonably be assumed to be used by the recipient.

31.4.3. In proving the giving of a notice, it shall be sufficient to prove that the notice was left, that the envelope containing the notice was properly addressed and posted, or that the applicable means of telecommunication was addressed and despatched and despatch of the transmission was confirmed or acknowledged.

31.5. Law and jurisdiction:

The validity, construction and performance of these terms and conditions and of all other rights and liabilities arising in connection with these terms and conditions shall be governed by English law and shall be subject to the exclusive jurisdiction of the English courts, to which the parties submit.