

Green as Grass – General Terms & Conditions
Updated 27th April 2021

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.

3. Conditions applicable:

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. Subject to terms and condition 3.10 no provision other than a provision that is expressly set out in these terms and conditions shall:
 1. become a term of these terms and conditions; and
 2. in any manner govern or affect these terms and conditions or any obligation arising under or in connection with these terms and conditions.
3. Terms and condition 3.2 shall apply regardless of:
 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. whether the Customer invokes, proffers or seeks to bring into effect such other provision(s) by way of contract term or notice.
4. For the avoidance of doubt, and in accordance with this terms and condition 3 generally:
 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. the Customer acknowledges and agrees that the Company shall not be bound by any of the Customer's Provisions.

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.
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.
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.
8. The Customer's signature to an Acceptance shall constitute the acceptance of a Quotation for the purposes of this terms and condition 3.
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.
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.
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.
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.

4. Description:

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

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
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.

5. Product Sample:

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

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

6. 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.

7. Payment:

1. Payment for the Goods shall be made on the Payment Date.
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.
3. If payment is not received by the due date, the Company at its exclusive discretion shall be entitled:
 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
 2. to require that the Customer make a payment in advance of any delivery not yet made; and/or
 3. not to make any delivery.

4. Goods will not be released for delivery until cleared funds have been received by the Company.

8. Delivery:

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
2. The cost of delivery shall be detailed in the Invoice.
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.
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
5. The Company can provide express delivery upon request and agreement of costs.
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.

9. Collections:

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

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.
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.
3. All collections are monitored via CCTV.

Terms and Conditions Relating to the supply of Artificial Grass

10. 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

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.

2. Conditions of Claims under Guarantee:

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

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:

1. burns
 2. cuts or tears
 3. vandalism or recklessness
 4. accidental damage or negligence
 5. non domestic animals including but not limited to badgers, rats, moles and foxes
 6. domestic animals and pets including but not limited to dogs, cats and rabbits.
 7. reflections from glass, mirrors or magnifiers
 8. use of unsuitable and improper footwear and sports equipment
 9. application of unsuitable or improper cleaning materials, herbicides, chemicals or other liquids.
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.
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.
6. Colour Variation:
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
8. Maintenance of Artificial Grass:
To ensure that the Artificial Grass is maintained in good condition the Customer should:
1. Avoid excessive or prolonged use in particular areas as that is likely to cause the Artificial Grass to flatten and curl
 2. Carefully brush the Artificial Grass with a soft/medium density broom
 3. Keep the grass free of debris and leaves to prevent moss.
 4. Remove weeds immediately to prevent seed dispersal.
 5. Use diluted water-based detergent to rinse off any coloured spills.
 6. Remove pet excrement immediately and rinse with water-based detergent and water.
 7. Avoid contact with hot materials such as barbecue coals and cigarettes.
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.

11. Risk:

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

12. Property:

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.
2. Terms and condition 12.1 shall apply irrespective of whether delivery has been made.

13. Acknowledgments:

The Customer acknowledges and agrees:

1. that the Customer has had a reasonable opportunity to inspect the Goods before signing the Company's delivery note or acknowledging delivery;
2. that the Customer has inspected the Goods before signing the Company's delivery note or acknowledging delivery;
3. that the Customer has satisfied itself as to the condition of the Goods before signing the Company's delivery note or acknowledging delivery;
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;
5. that except and in so far as is provided (if at all) in the Quotation:
 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;
 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
 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;
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.

14. Defects:

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:
 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:
 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.
2. Repaired or replacement Goods shall:
 1. be delivered to the Customer at the original place of delivery; and
 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.
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:
 1. refund the Price of the Goods to the Customer; and thereafter
 2. recover possession of the Goods from the Customer.

4. The redress afforded by this terms and condition 14 is without prejudice to the other provisions of these terms and conditions.

15. Returns:

1. The Company may, at the Company's exclusive and unqualified discretion accept a return of any Goods delivered provided that the Customer
 1. notifies the Company within 7 days of the Delivery Date that he wishes to return the Goods and obtains a completed Returns Agreement Form from the Company.
 2. The Goods are returned to and received by the Company in the same condition in which they were delivered by the Company
 3. The Goods are returned at the Customers cost and risk subject to 15.3 below.
2. The Company is not obliged to and will not accept returns of made to measure Goods or bespoke Goods.
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

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.
2. The events specified in terms and condition 17.1 occur when:
 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
 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

1. Force majeure:

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.
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.
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.

2. Amendments:

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

3. Waiver:

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.
2. The rights and remedies provided in these terms and conditions are cumulative and not exclusive of any rights and remedies provided by law.

4. No agency or partnership:

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.
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.

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:

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.
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.
3. Subject to terms and conditions 19.8 and 19.10, the liability of the Company shall not exceed
The value of the invoice in respect of any one claim or series of related claims; and
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.
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):
 1. loss of profit;
 2. loss of use;
 3. loss of production;
 4. loss of contract;
 5. loss of commercial opportunity;
 6. loss of savings, discount or rebate (whether actual or anticipated);
 7. harm to reputation or loss of goodwill.
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:
 1. the cost of selecting, procuring, installing and testing replacement goods;
 2. wasted expenditure or unnecessary charges incurred by the Customer;
 3. liability to third parties (including customers); and
 4. the cost of rectifying lost or damaged data;
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.

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.

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:

1. death or personal injury caused by negligence;
2. fraud or fraudulent misrepresentation;
3. breach of any obligation as to title implied by:
 1. section 12 of the Sale of Goods Act 1979; or
 2. section 2 of the Supply of Goods and Services Act 1982;
 3. breach of section 2 of the Consumer Protection Act 1987;
 4. any other losses which cannot be excluded or limited by applicable law;

20. Miscellaneous:

Cancelled Artificial Grass orders that are cut and ready for delivery are subject to a 30% handling charge.

1. Entire agreement

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.
2. Nothing in these terms and conditions excludes or restricts the liability of any party for fraud or bad faith.

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:

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
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.

3. Interpretation:

In these terms and conditions unless the context otherwise requires:

1. words importing any gender include every gender;
2. words importing the singular number include the plural number and vice versa;
3. words importing persons include firms, companies and corporations and vice versa;
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;
5. references in any schedule to these terms and conditions to numbered paragraphs relate to the numbered paragraphs of that schedule;
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;
7. the headings to the terms and conditions, schedules and paragraphs of these terms and conditions are not to affect the interpretation;
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;
9. where the word **including** is used in these terms and conditions, it shall be understood as meaning **including without limitation**;
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.

4. Notices

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 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 email address set out below, or to such other address as that party may from time to time notify to the other party in accordance with this terms and condition 20.4.1. The email addresses of the parties are as follows:
 - a. The Company: sales@greenasgrass.co.uk
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, seven working days after the day of posting, in the case of air mail, fourteen working days after the date of posting, 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.
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.

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.

22. Description of Goods

All specifications, drawings, illustrations, particulars of weight and dimensions issued by the Company are approximate only and do not form part of any terms, conditions or warranties of any contract entered into by the Company. The Company may nominally vary such specifications, drawings, illustrations, particulars of weight and dimensions at any time without prior notice. Colour may slightly vary.

23. Price

All prices therein are intended to be correct at the date of publication but are subject to change or withdrawal without notice.

24. Orders

- a. Verbal orders must be confirmed in writing within 48 hours.
- b. If the Customer cancels any order before its completion they shall immediately become liable to pay to the Company a sum equal to the costs expended in the execution of the said order up to and including the date of the receipt of such cancellation.

25. Delivery and Passing of Risk

- a) Any dates and times quoted for delivery are to be treated as an estimate and whilst every effort will be made to adhere to them, the Company shall not be liable whatsoever for failure to deliver by such date or time.
- b) The risk in the goods shall pass to the Customer on delivery to the Customer's premises or to any person or party authorized by the Customer to receive goods.
- c) The Company shall not be liable for any loss arising from delay or failure to deliver, arising from any causes beyond our control.

26. Retention of Title

Goods shall remain the property of, and title shall remain with the Company until payment has been received in full. Until such time the Customer shall hold and store the goods for

the Company in such a manner as to be readily identifiable as the property of the Company.

27. Intellectual Property

Ownership of all intellectual property rights in relation to design work and supply of the Products rests with the Company unless otherwise provided for by a separate agreement.

28. Carriage

Goods will be dispatched by the most convenient means in accordance with our Delivery & Returns Policy unless otherwise agreed in writing with the Customer. The Customer should use its best endeavours to notify, in writing, the Company and the Carrier within 24 hours of delivery, of any damage or loss of goods in transit. Non-delivery must be notified in writing to the Company within 14 days of the date of invoice. Damages must be reported within 3 days of delivery.

29. Returns

The Customer is responsible for both the cost of returning the items and ensuring the arrival in a saleable condition of all unwanted items. An RTM number must be obtained from the Company within 7 days of receipt of the unwanted Products, before any item is returned for any reason.

Bespoke items such as artificial hedging and any other made to measure items are not returnable.

30. Refunds

You will receive a full refund on any authorised returned items within 14 days of receipt. All goods will be inspected for use and / or damages before refunds are processed. We will also refund the basic cost of carriage. Orders cancelled before despatch will be refunded, subject to the provision of clause 'Orders – b.' above.

31. Bespoke items

Bespoke items are made to measure and are therefore non-refundable. It is the Customers responsibility to ensure that all details including measurements on the quote are accurate before payment is sent and work commences. Amendments made after this date may be chargeable.

32. Payment

- a. All goods must be paid for at the time the order is placed.
- b. Any Out Of Stock items ordered must be accompanied by a 50% deposit with the balance being paid before despatch.
- c. Bespoke items must be paid in full with the order
- d. Where a delivery is delayed by the Customer's inability or unwillingness to accept such delivery at the time the goods are ready for despatch, the Customer must pay any outstanding sums due immediately, and the Company reserves the right to charge the Customer any additional storage costs incurred.

33. Defects

The Company shall not be liable to the Customer or to any third party in respect of defects in goods delivered whether patent or latent or for any injury, damage or loss resulting directly or indirectly from such defects howsoever caused.

Without prejudice to the foregoing, if The Customer receives goods from the Company that they consider to be defective then the Customer must contact The Company within 14 days of delivery in writing to advise of the defect, attaching photographs where possible.

If the Company accepts the goods are defective or below standard then The Company shall at its sole discretion issue a refund including any cost of delivery, or alternatively the Company will arrange for a replacement to be sent at no additional cost.

34. Colour Fastness

The Company warrants that its Products designed for Outdoor use (with a sun symbol), have been inherently treated with UV resistant chemicals that will in normal circumstance resist the excessive fading and / or discolouration effects of UV light from the sun for a period of One year from the date of delivery to the Customer. It should be noted that all

Products may show some sign of fading, this is quite normal and is not a sign of a defective Product.

1. Information on UV Resistance in Artificial Plants

What is UV Resistance and Why Does It Matter?

Ultraviolet (UV) resistance is the ability to resist UV rays or sunlight. Artificial plants are normally made from a variety of plastics. These key materials are not automatically resistant to UV light and can fade or discolour.

What Gives an Artificial Plant UV Resistance?

To make our Products UV resistant we add a premium grade chemical stabiliser, absorber and/ or blocker during the manufacturing stage. This additive absorbs much of the harmful UV light, protecting the plastic's colour.

When the stabiliser, absorber or blocker is added during the manufacturing stage, plants are referred to as inherently UV protected.

How Long Will Outdoor Artificial Plants Last?

The premium grade stabiliser added to the plastic will dramatically increase the lifespan of our outdoor products. However there are still many variables which make it very difficult to specify an exact lifespan. Variables include:

- Amount of direct sunlight the product receives
- Geographical location
- Weather
- Humidity
- Altitude
- Reflection
- Stratospheric ozone

Testing

We place samples of our Products in a test chamber in the UK for the equivalent of one year, eighteen months and two years. After the testing is complete, we compare the foliage samples against an untested control sample to check for signs of significant material fading or discolouration.

Our testing process subjects the foliage to UV light, heat and condensation to produce the most realistic results possible. Accelerated ageing takes place under controlled laboratory conditions to ensure consistent results across multiple tests.

Conclusion

Our Products are Inherently UV protected during the manufacturing process, and whilst we advise that a small nominal colour fade may occur, this is quite normal and acceptable. We do offer a One year guarantee from the date of delivery of our Products against excess colour fade or discolouration.

35. Inherently flame retardant

Products designed for indoor use (showing a flame symbol). The products have been chosen for commercial projects all over the world by leading architects and interior designers. Certified copies are available on request.

Terms and Conditions Relating to the supply of pots and planters

36. Application and entire agreement

1. These Terms and Conditions will apply to the purchase of the goods detailed in our quotation (**Goods**) by the buyer (**you**).

2. These Terms and Conditions will be deemed to have been accepted by you when you

accept them or the quotation or from the date of any delivery of the Goods (whichever happens earlier) and will constitute the entire agreement between us and you.

3. These Terms and Conditions and the quotation (together, the Contract) apply to the purchase and sale of any Goods between us and you, to the exclusion of any other terms that you try to impose or incorporate, or which are implied by trade, custom, practice or course of dealing.

4. A "business day" means any day other than a Saturday, Sunday or bank holiday in England and Wales.

5. The headings in these Terms and Conditions are for convenience only and will not affect their interpretation.

6. Words imparting the singular number include the plural and vice-versa.

37. Goods

1. The description of the Goods is set out in our sales documentation, unless expressly changed in our quotation. In accepting the quotation you acknowledge that you have not relied upon any statement, promise or other representations about the Goods by us. Descriptions of the Goods set out in our sales documentation are intended as a guide only.

2. We can make any changes to the specification of the Goods which are required to conform to any applicable safety or other statutory or regulatory requirements.

38. Price

1. The price (Price) of the Goods is set out in our quotation current at the date of your order or such other price as we may agree in writing.

2.If the cost of the Goods to us increases due to any factor beyond our control including, but not limited to, material costs, labour costs, alteration of exchange rates or duties, or changes to delivery rates, we can increase the Price prior to delivery.

3.Any increase in the Price under the clause above will only take place after we have told you about it.

4.You may be entitled to discounts. Any and all discounts will be at our discretion. 5.The

5.Price is exclusive of fees for packaging and transportation / delivery.

6.The Price is inclusive of any applicable VAT and other taxes or levies which are imposed or charged by any competent authority.

39.Cancellation and alteration

1.Details of the Goods as described in the clause above (Goods) and set out in our sales documentation are subject to alteration without notice and are not a contractual offer to sell the Goods which is capable of acceptance.

2.The quotation (including any non-standard price negotiated in accordance with the clause on Price (above) is valid for a period of 15 days only from the date shown in it unless expressly withdrawn by us at an earlier time.

3.Either of us can cancel the order for any reason prior to your acceptance (or rejection) of the quotation.

40.Payment

1.Unless otherwise agreed in writing payment is against pro forma invoice.

2.You must pay the **Price (FULL VALUE OF GOODS AND CARRIAGE)** within 2 days of the date of our invoice or otherwise according to any credit terms agreed between us.

3.You must make payment even if delivery has not have taken place and / or that the title in the Goods has not passed to you.

4.If you do not pay within the period set out above, we will suspend any further deliveries to you and without limiting any of our other rights or remedies for statutory interest, charge you interest at the rate of 4.5% per annum above the base rate of the Bank of England from time to time on the amount outstanding until you pay in full.

5.Time for payment will be of the essence of the Contract between us and you.

6.All payments must be made in British Pounds unless otherwise agreed in writing between us.

7.Both parties must pay all amounts due under these Terms and Conditions in full without any deduction or withholding except as required by law and neither party is entitled to assert any credit, set-off or counterclaim against the other in order to justify withholding payment of any such amount in whole or in part.

41.Delivery

1.We will arrange for the delivery of the Goods to the address specified in the quotation, or your order or to another location we agree in writing.

2.If you do not specify a delivery address or if we both agree, you must collect the Goods from our premises.

3.Subject to the specific terms of any special delivery service, delivery can take place at any time of the day and must be accepted at any time between 8 am to 6 pm.

4.If you do not take delivery of the Goods we may, at our discretion and without prejudice to any other rights:

a.store or arrange for the storage of the Goods and will charge you for all associated costs and expenses including, but not limited to, transportation, storage and insurance; and / or

b.make arrangements for the redelivery of the Goods and will charge you for the costs of such redelivery; and/or

c.after 10 business days, resell or otherwise dispose of part or all of the Goods and charge you for any shortfall below the price of the Goods.

5.If redelivery is not possible as set out above, you must collect the Goods from our premises and will be notified of this. We can charge you for all associated costs including, but not limited to, storage and insurance.

6.Any dates quoted for delivery are approximate only, and the time of delivery is not of the essence. We will not be liable for any delay in delivery of the Goods that is caused by a circumstance beyond our control or your failure to provide us with adequate delivery instructions or any other instructions that are relevant to the supply of the Goods.

7.We can deliver the Goods by instalments, which will be invoiced and paid for separately. Each instalment is a separate contract. Any delay in delivery or defect in an instalment will not entitle you to cancel any other instalment.

42.Inspection and acceptance of Goods

1.You must inspect the Goods on **delivery or collection**.

2. If you identify any damages or shortages at the point of delivery or collection, you must inform us in writing within 1 day of delivery, providing all details.

3. Other than by agreement, we will only accept returned Goods if we are satisfied that those Goods are defective and if required, have carried out an inspection.

3. Subject to your compliance with this clause and/or our agreement, you may return the Goods and we will, as appropriate, repair, or replace, or refund the Goods or part of them.

4. We will be under no liability or further obligation in relation to the Goods if: a. if

you fail to provide notice as set above; and/or

b. you make any further use of such Goods after giving notice under the clause above relating to damages and shortages; and/or

c. the defect arises because you did not follow our oral or written instructions about the storage, commissioning, installation, use and maintenance of the Goods; and/or

d. the defect arises from normal wear and tear of the Goods; and/or

e. the defect arises from misuse or alteration of the Goods, negligence, wilful damage or any other act by you, your employees or agents or any third parties.

5. You bear the risk and cost of returning the Goods.

6. Acceptance of the Goods will be deemed to be upon inspection of them by you and in any event within 1 day after delivery.

Return of Goods

7. Returns will not be accepted if not otherwise agreed in writing.

8. Special order items which are directly ordered in from our overseas suppliers are non-refundable if non-defective.

9. All authorized returned products must be unused and re-saleable, in factory- original shipping cartons and must be complete with all packing materials.

10. All authorized pallet delivery returns must be packaged accordingly which includes shrink-wrap, straps and bubble-wrap, they must be effectively transported with any movement or damage.

11. All authorized returns are a subject to a 20% handling and restocking charge.

12. Damaged items received from transit will not be refunded. We will provide adequate images so the customer can make a claim on the insured item via their chosen courier. Please complete the insurance paperwork and provide your courier the images we supply. We will keep all packaging and items as they are received for 5 working days and then after they will be disposed.

13. Damaged items received can be collected from our warehouse with an appointment within the 5 working day criteria. We are happy to supply goods back to the courier for further inspection, please book this in with us in advance. We will not hand over any damaged goods to any courier without permissions in writing or verbal from the customer.

14. We can provide a courier to collect damaged goods from your project location at the customers expense. If we are at fault for damage in transit we will provide a suitable replacement (like for like) or a partial/full refund on the damaged unit.

15. We will aim to collect most of the damaged units if it is cost effective for the business to do so, we can not be held liable for any damages in transit.

16. We may ask you to dispose of the unit without costs to us on our behalf if we are unable to collect for any reason.

Risk and title

17. The risk in the Goods will pass to you on completion of delivery.

18. Title to the Goods will not pass to you until we have received payment in full (in cash or cleared funds) for: (a) the Goods and/or (b) any other goods or services that we have supplied to you in respect of which payment has become due.

19. Until title to the Goods has passed to you, you must (a) hold the Goods on a fiduciary basis as our bailee; and/or (b) store the goods separately and not remove, deface or obscure any identifying mark or packaging on or relating to the Goods; and/or (c) keep the Goods in satisfactory condition and keep them insured against all risks for their full price from the date of delivery.

20. As long as the Goods have not been resold, or irreversibly incorporated into another product, and without limiting any other right or remedy we may have, we can at any time ask you to deliver up the Goods and, if you fail to do so promptly, enter any of your premises or of any third party where the Goods are stored in order to recover them.

43. Termination

1. We can terminate the sale of Goods under the Contract where:

- a. you commit a material breach of your obligations under these Terms and Conditions;
- b. you are or become or, in our reasonable opinion, are about to become the subject of a bankruptcy order or take advantage of any other statutory provision for the relief of insolvent debtors;
- c. you enter into a voluntary arrangement under Part 1 of the Insolvency Act 1986, or any other scheme or arrangement is made with your creditors; or d. you convene any meeting of your creditors, enter into voluntary or compulsory liquidation, have a receiver, manager, administrator or administrative receiver appointed in respect of your assets or undertakings or any part thereof, any documents are filed with the court for the appointment of an administrator, notice of intention to appoint an administrator is given by you or any of your directors or by a qualifying floating charge holder (as defined in para. 14 of Schedule B1 of the Insolvency Act 1986), a resolution is passed or petition presented to any court for the winding up of your affairs or for the

granting of an administration order, or any proceedings are commenced relating to your insolvency or possible insolvency.

44.Limitation of liability

1.Our liability under the Contract, and in breach of statutory duty, and in tort, misrepresentation or otherwise will be limited to this clause.

2.Subject to the clauses above on **Inspection and Acceptance** and **Risk and Title**, all warranties, conditions or other terms implied by statute or common law (save for those implied by Section 12 of the Sale of Goods Act 1979) are excluded to the fullest extent permitted by law.

3.If we do not deliver the Goods, our liability is limited, subject to the clause below, to the costs and expenses incurred by you in obtaining replacement goods of similar description and quality in the cheapest market available, less the price of the Goods.

4.Our total liability will not, in any circumstances, exceed the total amount of the Price payable by you.

5.We will not be liable (whether caused by our employees, agents or otherwise) in connection with the Goods, for:

- a.any indirect, special or consequential loss, damage, costs, or expenses; and/or
- b.any loss of profits; loss of anticipated profits; loss of business; loss of data; loss of reputation or goodwill; business interruption; or, other third party claims; and/or
- c.any failure to perform any of our obligations if such delay or failure is due to any cause beyond our reasonable control; and/or
- d.any losses caused directly or indirectly by any failure or breach by you in relation to your obligations; and/or
- e.any loss relating to the choice of the Goods and how they will meet your purpose or the use by you of the Goods supplied.

6.The exclusions of liability contained within this clause will not exclude or limit our liability for death or personal injury caused by our negligence; or for any matter for which it would be illegal for us to exclude or limit our liability; and for fraud or fraudulent misrepresentation.

45.Communications

1.All notices under these Terms and Conditions must be in writing and signed by, or on behalf of, the party giving notice (or a duly authorised officer of that party).

2.Notices will be deemed to have been duly given:

- a.when delivered, if delivered by courier or other messenger (including registered mail) during the normal business hours of the recipient; b.when sent, if transmitted by fax or email and a successful transmission report or return receipt is generated;

- c. on the fifth business day following mailing, if mailed by national ordinary mail; or
- d. on the tenth business day following mailing, if mailed by airmail.

3. All notices under these Terms and Conditions must be addressed to the most recent address, email address or fax number notified to the other party.

46. Circumstances beyond the control of either party

1. Neither party shall be liable for any failure or delay in performing their obligations where such failure or delay results from any cause that is beyond the reasonable control of that party. Such causes include, but are not limited to: power failure, internet service provider failure, industrial action, civil unrest, fire, flood, storms, earthquakes, acts of terrorism, acts of war, governmental action or any other event that is beyond the control of the party in question.

47. No Waiver

1. No waiver by us of any breach of these Terms and Conditions by you shall be considered as a waiver of any subsequent breach of the same or any other provision.

48. Severance

1. If one or more of these Terms and Conditions is found to be unlawful, invalid or otherwise unenforceable, that / those provisions shall be deemed severed from the remainder of these Terms and Conditions (which will remain valid and enforceable).

49. Law and jurisdiction

1. This Agreement shall be governed by and interpreted according to the law of England and Wales and all disputes arising under the Agreement (including non-contractual disputes or claims) shall be subject to the exclusive jurisdiction of the English and Welsh courts.

50. Risk:

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

51. Property:

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.
2. Terms and condition 12.1 shall apply irrespective of whether delivery has been made.

52. Acknowledgments:

The Customer acknowledges and agrees:

1. that the Customer has had a reasonable opportunity to inspect the Goods before signing the Company's delivery note or acknowledging delivery;
2. that the Customer has inspected the Goods before signing the Company's delivery note or acknowledging delivery;
3. that the Customer has satisfied itself as to the condition of the Goods before signing the Company's delivery note or acknowledging delivery;
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;
5. that except and in so far as is provided (if at all) in the Quotation:

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;
 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
 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;
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.

53. Defects:

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:
 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:
 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.
2. Repaired or replacement Goods shall:
 1. be delivered to the Customer at the original place of delivery; and
 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.
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:
 1. refund the Price of the Goods to the Customer; and thereafter
 2. recover possession of the Goods from the Customer.
4. The redress afforded by this terms and condition 24 is without prejudice to the other provisions of these terms and conditions.

54. Returns:

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

1. notifies the Company within 7 days of the Delivery Date that he wishes to return the Goods and obtains a completed Returns Agreement Form from the Company.
2. The Goods are returned to and received by the Company in the same condition in which they were delivered by the Company
3. The Goods are returned at the Customers cost and risk subject to 25.3 below.
2. The Company is not obliged to and will not accept returns of made to measure Goods or bespoke Goods.
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

55.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

56.Termination

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.
2. The events specified in terms and condition 27.1 occur when:
 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
 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.

57.Defences and variations

1. Force majeure:

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.
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.
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.

2. Amendments:

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

3. Waiver:

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.
2. The rights and remedies provided in these terms and conditions are cumulative and not exclusive of any rights and remedies provided by law.

4. No agency or partnership:

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.
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.

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.

58.Exclusion of Liability:

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.
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.
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
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.
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):
 1. loss of profit;
 2. loss of use;
 3. loss of production;
 4. loss of contract;
 5. loss of commercial opportunity;
 6. loss of savings, discount or rebate (whether actual or anticipated);
 7. harm to reputation or loss of goodwill.

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:
 1. the cost of selecting, procuring, installing and testing replacement goods;
 2. wasted expenditure or unnecessary charges incurred by the Customer;
 3. liability to third parties (including customers); and
 4. the cost of rectifying lost or damaged data;
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.
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.
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:
 1. death or personal injury caused by negligence;
 2. fraud or fraudulent misrepresentation;
 3. breach of any obligation as to title implied by:
 1. section 12 of the Sale of Goods Act 1979; or
 2. section 2 of the Supply of Goods and Services Act 1982;
 3. breach of section 2 of the Consumer Protection Act 1987;
 4. any other losses which cannot be excluded or limited by applicable law;

59. Miscellaneous:

1. Entire agreement

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.
2. Nothing in these terms and conditions excludes or restricts the liability of any party for fraud or bad faith.

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:
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
 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.

3. Interpretation:

In these terms and conditions unless the context otherwise requires:

1. words importing any gender include every gender;
2. words importing the singular number include the plural number and vice versa;
3. words importing persons include firms, companies and corporations and vice versa;
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;
5. references in any schedule to these terms and conditions to numbered paragraphs relate to the numbered paragraphs of that schedule;
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;

7. the headings to the terms and conditions, schedules and paragraphs of these terms and conditions are not to affect the interpretation;
 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;
 9. where the word **including** is used in these terms and conditions, it shall be understood as meaning **including without limitation**;
 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.

4. Notices

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].
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.
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.

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.