

General Conditions of Sale

In these conditions unless the context requires otherwise:

'Company' means Wholegreen Limited

'Customer' means the company, firm, body or person purchasing the Goods.

'Goods' means the subject matter of the contract and one or a number of terms whether or not identical or similar.

1. CONTRACT, QUOTATIONS, TENDERS AND PRICELISTS

- 1.1. All quotations, tenders and price lists are subject to withdrawal at any time by the Company without prior notice.
- 1.2. The Company reserves the right to amend these General Conditions of Sale without prior notice. In any future dealings with the Company, the Customer will be bound by any amended terms upon receipt of a copy of the same.
- 1.3. Any acceptance of any quotation, tender or price list will not affect a binding contract unless and until confirmed by the Company in writing or by delivery of the goods whichever is the earlier and the following conditions shall be deemed to be incorporated in the contract.
- 1.4. The contract will be subject to these conditions. Any terms and conditions appearing in or referred to in any order of the Customer or otherwise stipulated by the Customer shall not be binding on the Company unless expressly agreed by the Company in writing.
- 1.5. Any variation by us or the Customer of the contract must be confirmed in writing by the Company prior to the dispatch of the Goods from the Company's works.
- 1.6. Notwithstanding any offer, quotation, tender or price list, orders are accepted only subject to the condition that the Goods will be invoiced at the prices ruling at the time of their dispatch from the Company's works.
- 1.7. The price stated in the contract is based on the cost to the Company at the date of acceptance of the order or quotation and may be increased at the request of the Company if there has been an increase in the cost to the Company at the date of dispatch. Such increase will be limited to the increase in cost to the Company and will be payable by the Customer
- 1.8. Unless otherwise stated:
 - (a) The contract price and all prices shown in quotations, tenders and price lists are "delivered at place" prices and exclude value added tax, and any other tax or duty which will be paid by the Customer to the Company at the rate ruling on the date that the Goods are dispatched from the Company's works.
 - (b) The contract price and the price stated in any quotation, price list or tender is exclusive of any tax or cost relating to the export, import or delivery of the Goods beyond the point of delivery specified in the contract. Any such tax or cost relating to the export, import or delivery of the Goods beyond the point of delivery will be payable by the Customer to the Company.
- 1.9. Unless otherwise stated, sizes and weights on contracts, price lists quotations, tenders or literature are approximate only as variations in manufacture and materials cannot be avoided.
- 1.10. The Customer agrees that the Company shall be entitled to assume that all drawings, descriptions, specifications and other information supplied by the Customer to the Company whether verbal or written are in all respects complete, accurate and entirely suitable for the Customer's requirements.
- 1.11. The Customer shall indemnify the Company in respect of all costs which the Company incurs through no fault of the Company as a result of any change in the requirements after the contract.
- 1.12. Unless otherwise expressly agreed, the Company shall have no responsibility for the performance, suitability or durability of any Goods or any materials or workmanship comprised therein to the extent the same is manufactured in accordance with the Customer's designs, drawings, standards or specifications.

2. TERMS OF PAYMENT

- 2.1. Unless the Company has agreed otherwise, all invoices must be paid by the end of the month following the month in which delivery of the Goods was made. In the event of late payment, any cash discount previously agreed shall be withdrawn.
- 2.2. Notwithstanding these standard terms, the Company reserves the right in any case (without any reason being given) to require a Customer to make payment in full for any order prior to delivery where these or other terms have been agreed between the Company and the Customer.
- 2.3. Except in the case of the manifest error, all invoices raised by the Company shall be deemed to be correct unless the Customer notifies the Company in writing of any of any objection within 7 days of receipt by the Customer of the Company's invoice.
- 2.4. If any payment is not made strictly in accordance with any credit account or other terms agreed by the Company any other invoices which may be unpaid (irrespective as to whether or not they have fallen due in accordance with the said terms) shall become immediately payable in full.

- 2.5. Should any payment note be made strictly in accordance with any credit account or other terms agreed by the Company, the Company reserves the right to cancel their order or contract (or any part or parts thereof). Any claims of the Company against the Customer in respect of any cancelled orders or contracts or otherwise shall not be prejudiced in anyway.
- 2.6. The Company may refuse to accept any order from or deliver any Goods to the Customer where the invoice for those Goods would result in the Customer owing the Company a sum greater than any limit of credit agreed by the Company.
- 2.7. The level of credit provided by the Company to any Customer is entirely within the discretion of the Company which may without prior notice to the Customer reduce or withdraw the level of credit at any time.
- 2.8. The Company's invoices are calculated by computer and net invoice prices are calculated to two decimal places.
- 2.9. Interest shall be payable on any account which is not paid in accordance with the terms agreed between the Company and the Customer. Interest shall be calculated from the date of the invoice and be at 4% above the base rate for the time being the Bank of Scotland Bank PLC.

3. RETENTION OF TITLE

- 3.1. Risk in the Goods passes to the Customer as from delivery.
- 3.2. Title in the Goods shall remain with the Company and shall not pass to the Customer until:
 - 3.2.1. the amount due under the invoice for them including any interest has been paid in full
 - 3.2.2. no other sums whatever shall be due from the Customer to the Company.
- 3.3. Until title of the Goods passes to the Customer, the Customer shall hold the Goods on a fiduciary basis as bailee for the Company. The Customer shall store the Goods (at no cost to the Company) separately from all other Goods and mark the Goods, so that they are clearly identified as the property of the Company.
- 3.4. The Customer shall insure the Goods for the full price against all risks to the reasonable satisfaction of the Company and the Customer will produce a copy of the policy of insurance whenever requested by the Company until title in the Goods passes to the Customer.
- 3.5. The Company may at any time before the title passes:
 - 3.5.1. repossesses and dismantle and use or sell all or any of the Goods and by doing so terminate the Customer's right to use, sell or otherwise deal in them; and
 - 3.5.2. for that purpose or determining what if any Goods are held by the Customer and inspecting them, enter any premises owned occupied or controlled by the Customer.
- 3.6. Notwithstanding that the Goods remain the property of the Company, the Customer may sell the Goods in the ordinary course of business at full market value for the account of the Company;
 - 3.6.1. any such sale will be a sale of the Company's property by the Customer on the Customer's own behalf and the Customer will deal as principal when making such sales; and
 - 3.6.2. until property of the Goods passes from the Company to the Customer the proceeds of sale relating to the Goods shall be held in trust for the Company and shall not be mixed with other money or paid into any overdrawn bank account and shall be at all material times identified as the money of the Company. The Company shall remain legally and beneficially entitled to the proceeds of sale.
- 3.7. To enable the Company to exercise its right to Goods which have not been paid for the Customer hereby grants a right of entry to and rights of way and/or access to all parts of any property owned or occupied by the Customer upon which the Goods are situated.
- 3.8. The Company may maintain an action for the price of the Goods, plus VAT notwithstanding that title in them has not passed to the Customer.
- 3.9. If any provision of this Agreement is found by any court or administrative body of competent jurisdiction to be invalid or unenforceable then such invalidity or unenforceability shall not affect the other provisions of this Agreement which shall remain in full force and effect.

4. AVAILABILITY AND TIME

- 4.1. Offers to supply Goods from stock on or within a given time or period are made subject to the availability of the Goods at a given time.
- 4.2. Unless expressly agreed by the Company, time shall not be of the essence in any contract. The Company will not be liable in any circumstances (whether the fault be that of the Company or not) for the consequences of any delay in delivery or performance or failure to deliver or perform for whatever reason.
- 4.3. Tenders shall remain open for acceptance for a period of 30 days from the date of the tender unless in the tender some other period is specified or accepted.

5. DELIVERY

- 5.1. Unless the contract otherwise stipulates, the risk in the Goods passes to the Customer when the Goods are collected from the Company's works or delivered to the Customer's premises or site and the Company accepts no responsibility for any damage thereafter.

- 5.2. Whilst every effort is made to meet collections, delivery arrangements, or performance dates these are approximations only and unless otherwise expressly stated, time is not of the essence for delivery or performance and the Company will not be liable in any circumstances for the consequences of any delay in delivery or performance or failure to deliver or perform.
- 5.3. No delay shall entitle the Customer to either refuse to take delivery of or make payment for any order or part of any order or repudiate any contract with the Company.
- 5.4. Where delivery is made by the Company to the Customer, the Company will only consider a claim by the Customer in respect of loss or damage in transit if the Customer;
 - 5.4.1. gives written notice to the Company within 21 days of non-delivery or within seven days of delivery of the Goods in any other case, and
 - 5.4.2. complies in all respects with the freight carrier's conditions of carriage for notifying claims for loss or damage in transit.
- 5.5. Offers to deliver Goods are for delivery by motor lorry to a good hard road with reasonable access nearest to the site where the Goods are to be used or stored on the mainland of Britain.
- 5.6. Without prejudice to any other rights of the Company, if for any reason the Customer is unable to accept delivery of the Goods when the Goods are due and ready for delivery, the Company may arrange storage of the Goods at the Customer's risk and the Customer shall be liable to the Company for the reasonable costs (including insurance) of such storage.
- 5.7. On the arrival of the Company's nominated delivery vehicle at the delivery address, the Customer shall be responsible for the unloading of the Goods which he will do promptly. The Customer shall be responsible for any damage during unloading and for all costs occasioned by his undue delay in commencing or carrying out this work or by his failure to unload
 - 5.7.1. The Customer will be responsible for all loss or damage to the Goods or the vehicle or equipment of the Company resulting from the nature of the ground where that ground is or proves to be unsafe or suspect, whether the Customer was aware of the condition of the ground or not.
 - 5.7.2. Should any injury be caused to any employee of the Company or employee of any nominated independent courier as defined by the company whilst unloading the Goods, the Customer agrees to indemnify the Company in respect of all such claims that may be made against the Company.

6. LIMIT OF RESPONSIBILITY

- 6.1. It shall be the responsibility of the Customer to:
 - 6.1.1. carefully inspect and check the Goods which the Company supplies as soon as practicable after receipt thereof to ensure that they are in accordance with the order placed by the Customer. They should preferably be done before signature of any delivery note or failing that within 10 working days of receipt of the Goods after which period the Customer shall be deemed to have accepted the Goods. The Customer agrees that such a period is reasonable (the "Requisite Time"). The Customer's rights of acceptance and/or rejection of the Goods shall be construed in all respects in accordance with this clause and any other rights of the Customer in respect of acceptance and/or rejection whether statutory or otherwise hereby excluded;
 - 6.1.2. take all steps which are reasonably practicable to mitigate any loss in respect of any Goods which are defective and the Company shall not be responsible for any loss which would have been avoided if such steps had been taken.
- 6.2. The Company's liability in respect of any loss whether direct or consequential for any reason shall in all cases be limited in value to the total of the Company's invoice in respect of the said Goods.
- 6.3. Except as provided for in clauses in these conditions, the Company shall not in any circumstances (whether caused by the negligence of the Company or not) be liable for any damages, compensation, costs, expenses, losses or other liabilities whether direct or consequential and any other remedy which would otherwise be available in law is hereby excluded except to the extent that such exclusion is prohibited by any rule of law.

7. RETURNS

- 7.1. Without prejudice to Clause 5 the Company will not be responsible to accept the return of Goods duly supplied in pursuance of the Customer's order. In any case, where the Company agrees to accept the return of Goods so supplied, this will in the absence of agreement to the contrary be subjected to the Company's normal haulage and restocking charges at the time.

8. RIGHT OF REJECTION

Notwithstanding Clause 5 if, for any reason the Customer purports to accept only a proportion of the Goods supplied, he shall be deemed to have accepted the whole of the Goods. The Customer will thereafter not be entitled to reject the remainder of the Goods.

9. SUBCONTRACTING

The Company reserves the right to subcontract the whole or any part of the contract.

10. OVERSEAS SALES

All contracts are governed by English law unless expressly agreed to the contrary and the parties hereby submit to the exclusive jurisdiction of the English Courts.