

Terms & Conditions of Sale

BEGREEN (WALES) LIMITED - STANDARD CONDITIONS OF SALE IN THE UNITED KINGDOM

1 Interpretation

In these Conditions, the following definitions apply:

"Business Day" means a day (other than a Saturday, Sunday or public holiday) when banks in London are open for business;

"Conditions" means the terms and conditions set out in this document;

"Contract" means the contract between the Seller and the Buyer for the sale and purchase of the Goods created in accordance with Condition 2.2 and subject to these Conditions;

"Buyer" means the person who purchases the Goods from the Seller;

"Force Majeure Event" has the meaning given in Condition 10;

"Goods" means the goods (or any part of them) set out in the Order;

"Order" means an order placed by the Buyer with the Seller for Goods;

"Seller" means BeGreen (Wales) Limited registered in England and Wales with company number 7086546;

"VAT" means value added tax;

"Warranty Period" means a period of 12 months from the date of delivery of the Goods

2 Basis of contract

2.1 These Conditions apply to the Contract to the exclusion of any other terms that the Buyer seeks to impose or incorporate, or which are implied by trade, custom, practice or course of dealing.

2.2 An Order shall only be deemed to be accepted when the Seller issues a written acceptance of the Order, at which point the Contract shall come into existence. The Seller, in its sole discretion, may elect not to accept an Order (or any part of an Order). It is the Buyer's obligation to ensure that the terms of an Order and any resulting Contract, are complete and accurate.

2.3 Without prejudice to Condition 3.10, each Order accepted in accordance with Condition 2.2 shall be a separate Contract.

2.4 The Contract constitutes the entire agreement between the parties and supersedes any previous arrangement, understanding or agreement between the Seller and the Buyer relating to the subject matter of the Contract. The Buyer acknowledges that it has not relied on any statement, promise or representation made or given by or on behalf of the Seller which is not set out in the Contract. If any recommendations or advice is given by the Seller to the Buyer in connection with the Goods, the Buyer acknowledges that this is based on the information disclosed by the Buyer and/or the data sheets provided by the manufacturer of the Goods and the Seller shall not be liable for the reliance by the Buyer on any such recommendations/advice.

2.5 A quotation for the Goods given by the Seller shall not constitute an offer. A quotation shall only be valid if it is in writing and accompanied by a letter approved by an employee of the Seller. A quotation shall only be valid for a period of 30 days from its date of issue (or such other period the Seller may specify)("Validity Period"). Prices quoted are exclusive of VAT and any other taxes, duties, levies, delivery or similar charges. After the Validity Period, any quoted prices are subject to variation to take into account any increase in costs including but not limited to a change in exchange rates, manufacturer's prices and internal costs.

3 Delivery

3.1 If delivery is required, the Seller shall deliver the Goods to the location set out in the Order or such other location as the parties may agree in writing (the "Delivery Location") at any time after the Seller notifies the Buyer that the Goods are ready. It is the Buyer's obligation to accept delivery of the Goods at the Delivery Location at any time after the Seller notifies the Buyer that the Goods are ready.

3.2 If delivery is not required then the Buyer must arrange a suitable time for collection of the Goods from the Seller.

3.3 Unless otherwise agreed in writing all prices for overseas delivery are quoted FCA (Sellers premises).

3.4 Delivery of the Goods shall be completed on the Goods' arrival at the Delivery Location or on the Goods being collected.

3.5 Any dates quoted for delivery are approximate only, and the time of delivery is of the essence. The Seller shall not be liable for any delay in delivery of the Goods that is caused by a Force Majeure Event or the Buyer's failure to provide the Seller with adequate delivery instructions or any other instructions that are relevant to the supply of the Goods.

3.6 If the Seller fails to deliver the Goods within 20 Business Days of the date quoted for such delivery (or the date agreed between the parties in writing) and the Seller fails to notify the Buyer of such delay at least 5 Business Days before the date quoted for such delivery (or the date agreed between the parties in writing), the Buyer shall be entitled to cancel the Contract without incurring any liability to the Seller providing:

3.6.1 any sums due to the Seller in respect of Goods delivered are immediately paid; and

3.6.2 such failure isn't caused by a Force Majeure Event or the Buyer's failure to provide the Seller with adequate delivery instructions or any other instructions that are relevant to the supply of the Goods.

Any such cancellation shall be the sole remedy of the Buyer in such circumstances.

3.7 If the Buyer fails to accept delivery of the Goods within 3 Business Days of the Seller notifying the Buyer that the Goods are ready, then, except where such failure or delay is caused by a Force Majeure Event or the Seller's failure to comply with its obligations under the Contract:

3.7.1 delivery of the Goods shall be deemed to have been completed at 9.00am on the third Business Day following the day on which the Seller notified the Buyer that the Goods were ready;

3.7.2 the Seller shall store the Goods until delivery takes place, and charge the Buyer for all related costs and expenses (including insurance); and

3.7.3 without prejudice to conditions 3.7.1 and 3.7.2, the Seller may at its absolute sole discretion, cancel or suspend all further deliveries under the Contract or under any other contract between the Buyer and the Seller without incurring any liability to the Buyer, and all outstanding sums in respect of Goods delivered to the Buyer shall become immediately due.

3.8 Instances of shortages, non-delivery or damaged Goods should be notified to the Seller within 24 hours of receipt of the Goods or the scheduled delivery time. Goods should be returned in accordance with Condition 4 below.

3.9 The Seller may deliver the Goods by instalments, which shall be invoiced and paid for separately. Each instalment shall constitute a separate Contract. Any delay in delivery or defect in an instalment shall not entitle the Buyer to cancel any other instalment.

4 Cancellation and Returns

4.1 Returns are only permitted with the prior written consent of the Seller. The Buyer must issue a returns authorisation number before any Goods are returned. This unique authorisation notice must be stated clearly on any returned Goods. To be eligible for a credit or refund, all returned goods must be returned to the Seller in an unused condition in their original packaging within 7 days of delivery stating the returns authorisation number. The Buyer shall bear the cost of returning the goods. If the returned Goods have been damaged, used or are not returned in their original packaging, the Seller reserves the right to withhold a percentage of the refund value if the returned Goods need to be reduced in price for resale.

4.2 There is a re-stocking charge payable for all Goods returned which will be the higher of 5% of the price of the returned Goods or £30.

4.3 Certain goods and large quantities of Goods ordered by the Buyer will be different from those normally ordered and stocked by the Seller and will need to be specifically ordered from the manufacturer. In these circumstances, the Seller will notify the Buyer that the Goods being ordered are non-returnable and non-refundable and that the Contract is not capable of being cancelled.

5 Quality

5.1 The Seller warrants that on delivery, the Goods shall:-

5.1.2 be free from material defects in design, material and workmanship;

5.1.3 be of satisfactory quality (within the meaning of the Sale of Goods Act 1979); and

5.1.4 be fit for any purpose held out by the Seller.

5.2 Subject to Condition 5.3, if: the Buyer gives notice in writing to the Seller during the Warranty Period within a [3] Business Days of discovery that some or all of the Goods do not comply with the warranty set out in Condition 5.1; and the Seller is given a reasonable opportunity of examining such Goods; and the Buyer (if asked to do so by the Seller) returns such Goods to the Seller's place of business at the Buyer's cost, the Seller shall, at its option, repair or replace the defective Goods, or refund the price of the defective Goods in full.

5.3 The Seller shall not be liable for Goods' failure to comply with the warranty set out in Condition 5.1 if:

5.3.1 the Buyer makes any further use of such Goods after giving notice in accordance with Condition 5.2; or

5.3.2 the defect arises because the Buyer failed to follow the Seller's oral or written instructions as to the storage, commissioning, installation, use and maintenance of the Goods or (if there are none) good trade practice; or

5.3.3 the Buyer alters or repairs such Goods without the written consent of the Seller; or

5.3.4 the defect arises as a result of fair wear and tear, wilful damage, negligence, or abnormal storage or working conditions.

5.4 Except as provided in this Condition 5, the Seller shall have no liability to the Buyer in respect of the Goods' failure to comply with the warranty set out in Condition 5.1.

5.5 Except as set out in these Conditions, all warranties, conditions and other terms implied by statute or common law are, to the fullest extent permitted by law, excluded from the Contract.

5.6 These Conditions shall apply to any repaired or replacement Goods supplied by the Seller.

6 Title and risk

6.1 The risk in the Goods shall pass to the Buyer on completion of delivery.

6.2 Title to the Goods shall not pass to the Buyer until the Seller has received payment in full (in cash or cleared funds) for the Goods and any other goods or services that the Supplier has supplied to the Buyer in respect of which payment has become due.

6.3 Until title to the Goods has passed to the Buyer, the Buyer shall:

6.3.1 hold the Goods on a fiduciary basis as the Seller's bailee;

6.3.2 store the Goods separately from all other goods held by the Buyer so that they remain readily identifiable as the Seller's property;

6.3.3 not remove, deface or obscure any identifying mark or packaging on or relating to the Goods;

6.3.4 maintain the Goods in satisfactory Condition and keep them insured against all risks for their full price from the date of delivery;

6.3.5 notify the Seller immediately if it becomes subject to any of the events listed in Condition 8.2; and

6.3.6 give the Seller such information relating to the Goods as the Seller may require from time to time, but the Buyer may resell or use the Goods in the ordinary course of its business.

6.4 If before title to the Goods passes to the Buyer the Buyer becomes subject to any of the events listed in Condition 8.2, or the Seller reasonably believes that any such event is about to happen and notifies the Buyer accordingly, then, provided that the Goods have not been resold, or irrevocably incorporated into another product, and without limiting any other right or remedy the Seller may have, the Seller may at any time require the Buyer to deliver up the Goods and, if the Buyer fails to do so promptly, enter any premises of the Buyer or of any third party where the Goods are stored in order to recover them.

7 Price and payment

7.1 The price of the Goods shall be the price set out in the Order, or, if no price is quoted, the price set out in the Seller's published price list in force as at the date of delivery.

7.2 The Seller may, by giving notice to the Buyer at any time before delivery, increase the price of the Goods to reflect any increase in the cost of the Goods that is due to:

7.2.1 any factor beyond the Seller's control (including foreign exchange fluctuations, increases in taxes and duties, and increases in labour, materials and other manufacturing costs);

7.2.2 any request by the Buyer to change the delivery date(s), quantities or types of Goods ordered; or

7.2.3 any delay caused by any instructions of the Buyer or failure of the Buyer to give the Seller adequate or accurate information or instructions.

7.3 The price of the Goods is inclusive of the costs and charges of packaging and insurance of the Goods, unless otherwise agreed between the parties

7.4 The price of the Goods is exclusive of amounts in respect of value added tax (VAT). The Buyer shall, on receipt of a valid VAT invoice from the Seller, pay to the Seller such additional amounts in respect of VAT as are chargeable on the supply of the Goods.

7.5 The Seller may invoice the Buyer for the Goods on or at any time after the completion of delivery.

7.6 The Buyer shall pay the invoice in full, in pounds sterling, and in cleared funds within 30 days of the date of the invoice (subject to satisfactory trade and credit references). No early settlement discount is given unless otherwise agreed by the Seller in writing. Payment shall be made to the bank account nominated in writing by the Seller. Time of payment is of the essence.

7.7 If the Buyer fails to make any payment due to the Seller under the Contract by the due date for payment (the "Due Date"), then the Buyer reserves the right to charge interest on the overdue amount at the rate of 3% per annum above the prevailing Bank of England base rate. Such interest shall accrue on a daily basis from the Due Date until the date of actual payment of the overdue amount, whether before or after judgement. The Buyer shall pay any interest charged with the overdue amount.

7.8 For the avoidance of doubt, without prejudice to Condition 7.7, if the Buyer fails to make any payment due to the Seller under the Contract by the Due Date, the Seller shall be entitled to cancel or suspend all further deliveries under the Contract or under any other contract between the Buyer and the Seller without incurring any liability to the Buyer, and all outstanding sums in respect of Goods delivered to the Buyer shall become immediately due.

7.9 The Buyer shall pay all amounts due under the Contract in full without any deduction or withholding except as required by law and the Buyer shall not be entitled to assert any credit, set-off or counter-claim against the Seller in order to justify withholding payment of any such amount in whole or in part. The Seller may at any time, without limiting any other rights or remedies it may have, set off any amount owing to it by the Buyer against any amount payable by the Seller to the Buyer.

8 Customer's Insolvency or Incapacity

8.1 If the Buyer becomes subject to any of the events listed in Condition 8.2, or the Seller reasonably believes that the Buyer is about to become subject to any of them and notifies the Buyer accordingly, then, without limiting any other right or remedy available to the Seller, the Seller may cancel or suspend all further deliveries under the Contract or under any other contract between the Buyer and the Seller without incurring any liability to the Buyer, and all outstanding sums in respect of Goods delivered to the Buyer shall become immediately due.

8.2 For the purposes of Condition 8.1, the relevant events are:

8.2.1 the Buyer suspends, or threatens to suspend, payment of its debts or is unable to pay its debts as they fall due or admits inability to pay its debts or (being a company) is deemed unable to pay its debts within the meaning of section 123 of the Insolvency Act 1986, or (being an individual) is deemed either unable to pay its debts or as having no reasonable prospect of so doing, in either case, within the meaning of section 268 of the Insolvency Act 1986, or (being a partnership) has any partner to whom any of the foregoing apply; or

8.2.2 the Buyer commences negotiations with all or any class of its creditors with a view to rescheduling any of its debts, or makes a proposal for or enters into any compromise or arrangement with its creditors other than (where the Buyer is a company) these events take place for the sole purpose of a scheme for a solvent amalgamation of the Buyer with one or more other companies or the solvent reconstruction of the Buyer; or

8.2.3 being an individual, the Buyer is the subject of a bankruptcy petition or order; or

8.2.4 being a company, an application is made to court, or an order is made, for the appointment of an administrator or if a notice of intention to appoint an administrator is given or if an administrator is appointed over the Buyer; or

8.2.5 being a company, a floating charge holder over the assets of the Buyer has become entitled to appoint or has appointed an administrative receiver;

8.2.6 a creditor or encumbrancer of the Buyer attaches or takes possession of, or a distress, execution, sequestration or other such process is levied or enforced on or sued against, the whole or any part of its assets and such attachment or process is not discharged within 14 days; or

8.2.7 a person becomes entitled to appoint a receiver over the assets of the Buyer or a receiver is appointed over the assets of the Buyer; or

8.2.8 any event occurs, or proceeding is taken, with respect to the Buyer in any jurisdiction to which it is subject that has an effect equivalent or similar to any of the events mentioned in Condition 8.2.1 to 8.2.7 (inclusive); or

8.2.9 the Buyer suspends, threatens to suspend, ceases or threatens to cease to carry on all or substantially the whole of its business;

8.2.10 the financial position of the Seller deteriorates to such an extent that in the opinion of the Buyer the capability of the Seller adequately to fulfil its obligations under the Contract has been placed in jeopardy; or

8.2.11 being an individual, the Buyer dies or, by reason of illness or incapacity (whether mental or physical), is incapable of managing his or her own affairs or becomes a patient under any mental health legislation.

9 Limitation of liability - THE BUYER'S ATTENTION IS DRAWN IN PARTICULAR TO THE PROVISIONS OF THIS CONDITION.

9.1 Nothing in these Conditions shall limit or exclude the Seller's liability for: death or personal injury caused by its negligence, or the negligence of its employees, agents or subcontractors (as applicable); or fraud or fraudulent misrepresentation; or breach of the terms implied by section 12 of the Sale of Goods Act 1979; or defective products under the Consumer Protection Act 1987; or any matter in respect of which it would be unlawful for the Seller to exclude or restrict liability.

9.2 Subject to Condition 9.1:

9.2.1 the Seller shall not be liable to the Buyer, whether in contract, tort (including negligence), breach of statutory duty, or otherwise, for any loss of profit or indirect or consequential loss arising under or in connection with the Contract; and

9.2.2 the Seller's total liability to the Buyer in respect of all other losses arising under or in connection with the Contract, whether in contract, tort (including negligence), breach of statutory duty, or otherwise, including losses caused by a deliberate breach of the Contract by the Seller, its employees, agents or subcontractors shall not exceed the price of the Goods.

9.3 In the case of Goods supplied by the Seller for installation by the Buyer (or its agent), the Buyer shall be responsible for ensuring that the installation is carried out in accordance with the relevant current best engineering practice together with any instructions supplied with the Goods.

10 Force majeure

10.1 The Seller shall not be liable for any failure or delay in performing its obligations under the Contract to the extent that such failure or delay is caused by a Force Majeure Event. A Force Majeure Event means any event beyond a party's reasonable control, which by its nature could not have been foreseen, or, if it could have been foreseen, was unavoidable, including strikes, lock-outs or other industrial disputes (whether involving its own workforce or a third party's), failure of energy sources or transport network, acts of God, war, terrorism, riot, civil commotion, interference by civil or military authorities, national or international calamity, armed conflict, malicious damage, breakdown of plant or machinery, nuclear, chemical or biological contamination, sonic boom, explosions, collapse of building structures, fires, floods, storms, earthquakes, loss at sea, epidemics or similar events, natural disasters or extreme adverse weather conditions, or default of Sellers or subcontractors.

10.2 If a Force Majeure Event prevents the Seller or Buyer from carrying out its obligations under the Contract for a continuous period of more than 30 Business Days, either party may cancel the Contract immediately by giving written notice to the other party. All outstanding sums in respect of Goods delivered to the Buyer shall become immediately due.

11 Data Protection

11.1 The Buyer agrees that its details, including, without limitation, its name, address and payment record may be submitted to a credit reference agency, and that any personal data it provides to the Seller will be processed by the Seller or on behalf of the Seller in connection with the Contract.

11.2 The Seller (and anybody it appoints on its behalf) may use the Buyer's personal data for internal purposes, for example, market research and record keeping. The Seller may also share this data with other companies within its group for the same purposes.

11.3 The Seller may use the Buyer's personal data to send the Buyer details of other products or services the Seller, or any member of its group, offer.

12 General

12.1 The Seller may at any time assign, transfer, charge, subcontract or deal in any other manner with all or any of its rights or obligations under the Contract. The Buyer may not assign, transfer, charge, subcontract or deal in any other manner with all or any of its rights or obligations under the Contract without the prior written consent of the Seller.

12.2 Subject to Condition 12.4, any notice or other communication given to a party under or in connection with the Contract shall be in writing, addressed to that party at its registered office (if it is a company) or its principal place of business (in any other case) or such other address as that party may have specified to the other party in writing in accordance with this Condition, and shall be delivered personally, sent by pre-paid first-class post, recorded delivery, commercial courier, fax.

12.3 Subject to Condition 12.4, any notice or other communication shall be deemed to have been received: if delivered personally, when left at the address referred to in Condition 12.2; if sent by pre-paid first-class post or recorded delivery, at 9.00 am on the second Business Day after posting; if delivered by commercial courier, on the date and at the time that the courier's delivery receipt is signed; or, if sent by fax one Business Day after transmission.

12.4 Conditions 12.2 and 12.3, shall not apply to the service of any proceedings or other documents in any legal action.

12.5 Cancellation of the Contract, however arising, shall not affect any of the parties' rights and remedies that have accrued as at termination. Conditions which expressly or by implication survive termination of the Contract shall continue in full force and effect.

12.6 If any court or competent authority finds that any provision of the Contract (or part of any provision) is invalid, illegal or unenforceable, that provision or part-provision shall, to the extent required, be deemed to be deleted, and the validity and enforceability of the other provisions of the Contract shall not be affected.

12.7 If any invalid, unenforceable or illegal provision of the Contract would be valid, enforceable and legal if some part of it were deleted, the provision shall apply with the minimum modification necessary to make it legal, valid and enforceable.

12.8 A waiver of any right or remedy under the Contract is only effective if given in writing and shall not be deemed a waiver of any subsequent breach or default. No failure or delay by a party to exercise any right or remedy provided under the Contract or by law shall constitute a waiver of that or any other right or remedy, nor shall it preclude or restrict the further exercise of that or any other right or remedy. No single or partial exercise of such right or remedy shall preclude or restrict the further exercise of that or any other right or remedy.

12.9 A person who is not a party to the Contract shall not have any rights under or in connection with it.

12.10 The Contract, and any dispute or claim arising out of or in connection with it or its subject matter or formation (including non-contractual disputes or claims), shall be governed by, and construed in accordance with, English law, and the parties irrevocably submit to the exclusive jurisdiction of the courts of England and Wales.

12.11 In these Conditions, the following rules apply:

12.11.1 a person includes a natural person, corporate or unincorporated body (whether or not having separate legal personality); and

12.11.2 a reference to a party includes its personal representatives, successors or permitted assigns; and

12.11.3 a reference to a statute or statutory provision is a reference to such statute or provision as amended or re-enacted;

12.11.4 a reference to a statute or statutory provision includes any subordinate legislation made under that statute or statutory provision, as amended or re-enacted; and any phrase introduced by the terms including, include, in particular or any similar expression shall be construed as illustrative and shall not limit the sense of the words preceding those terms; and

12.11.5 a reference to writing or written includes faxes.