

Greenbest Ltd
Trading Terms and Conditions
Updated 28th April 2017



1. Interpretation

The following definitions and rules of interpretation apply in this agreement.

“Business Day”	a day other than a Saturday, Sunday or public holiday in England, when banks in London are open for business.
“Commencement Date”	has the meaning given in clause 2.2.
“Conditions”	these terms and conditions as amended from time to time in accordance with clause 15.7.
“Contract”	the contract between the Supplier and the Customer for the supply of Goods and/or Services in accordance with these Conditions.
“Customer”	the person who purchases the Goods and/or Services from the Supplier.
“Delivery Location”	has the meaning given in clause 4.2.
“Force Majeure Event”	an event falling within clause 14.
“Goods”	the goods (or any part of them) set out in the Order.
“Goods Specification”	any specification for the Goods that is published by the Supplier or that is agreed in writing between the Customer and the Supplier.
“Insolvency Event”	in relation to a party to the Contract, any step or action in connection with entering bankruptcy, administration, provisional liquidation or any composition or arrangement with creditors (other than in relation to a solvent restructuring), being wound up (whether voluntarily or by order of the court, unless for the purpose of a solvent restructuring), having a receiver appointed to any

assets or ceasing to carry on business or any analogous step or action taken in any relevant jurisdiction.

“Order” the Customer's written acceptance of the Supplier's quotation.

“Services” any service that the Supplier provides to the Customer.

“Supplier” Greenbest Limited registered in England and Wales with company number 3626337.

2 Interpretation:

- (a) A reference to a person includes firms, partnerships, limited liability partnerships, companies, corporations, associations, organisations, governments, governmental agencies and departments, states, foundations and trusts (in each case whether or not having separate legal personality) and corresponding or similar entities in any relevant jurisdiction.
- (b) A reference to a party includes its successors and permitted assigns.
- (c) A reference to a statute or statutory provision is a reference to it as amended or re-enacted. A reference to a statute or statutory provision includes all subordinate legislation made under that statute or statutory provision.
- (d) Any words following the terms **including, include, in particular, for example** or any similar expression shall be construed as illustrative and shall not limit the sense of the words, description, definition, phrase or term preceding those terms.

2. Basis of contract

- 2.1 The Order constitutes an offer by the Customer to purchase Goods and/or Services in accordance with these Conditions.
- 2.2 The Order shall only be deemed to be accepted when the Supplier issues written acceptance of the Order at which point and on which date the Contract shall come into existence (“**Commencement Date**”).
- 2.3 Any samples, drawings, descriptive matter or advertising issued by the Supplier and any descriptions of the Goods or illustrations or descriptions of the Services contained in the Supplier's catalogues or brochures are issued or published for the sole purpose of giving an approximate idea of the Goods and/or Services and/or Goods described in them. They shall not form part of the Contract or have any contractual force.

- 2.4 These Conditions apply to the Contract to the exclusion of any other terms that the Customer seeks to impose or incorporate, or which are implied by trade, custom, practice or course of dealing.
- 2.5 Any quotation given by the Supplier shall not constitute an offer, and (unless a different validity period is specified in writing by the Supplier) is only valid for a period of 20 Business Days from its date of issue.
- 2.6 All of these Conditions shall apply to the supply of both Goods and Services except where application to one or the other is specified.

3. Goods

- 3.1 The Goods are described in the Goods Specification.
- 3.2 The Supplier reserves the right to amend the Goods Specification if required by any applicable statutory or regulatory requirement, and the Supplier shall notify the Customer in any such event.

4. Delivery of Goods

- 4.1 The Supplier shall ensure that each delivery of the Goods is accompanied by a delivery note which shows the date of the Order, the type and quantity of the Goods, any special storage instructions and, if the Order is being delivered by instalments, the outstanding balance of Goods remaining to be delivered.
- 4.2 The Supplier shall deliver the Goods to the location set out in the Order (which may be the Supplier's own premises if the Customer is to collect the Goods) ("**Delivery Location**") at any time after the Supplier notifies the Customer that the Goods are ready.
- 4.3 Delivery of the Goods shall be completed on the completion of unloading (or, in the case of collection by the Customer, loading) of the Goods at the Delivery Location.
- 4.4 Any dates quoted for delivery of the Goods are approximate only, and the time of delivery is not of the essence and shall not be made of the essence by notice from the Customer. The Supplier shall not be liable for any delay in delivery of the Goods that is caused by a Force Majeure Event or the Customer's failure to provide the Supplier with adequate delivery instructions or any other instructions that are relevant to the supply of the Goods.
- 4.5 If the Supplier fails to deliver the Goods, its liability shall be limited to the costs and expenses incurred by the Customer in obtaining replacement goods of similar description and quality in the cheapest market available, less the price of the Goods. The Supplier shall have no liability for any failure to deliver the Goods to the extent that such failure is caused by a Force Majeure Event or the Customer's failure to provide the Supplier with adequate delivery instructions for the Goods or any relevant instruction related to the supply of the Goods.

- 4.6 If the Customer fails to take or accept delivery of the Goods, then except where such failure or delay is caused by a Force Majeure Event or by the Supplier's failure to comply with its obligations under the Contract in respect of the Goods:
- (a) delivery of the Goods shall be deemed to have been completed at 9.00 am on the third Business Day following the day on which the Supplier notified the Customer that the Goods were ready; and
 - (b) the Supplier shall store the Goods until delivery takes place, and charge the Customer for all related costs and expenses (including insurance).
- 4.7 If the Supplier delivers up to and including 5% more or less than the quantity of Goods ordered the Customer may not reject them, but on receipt of notice from the Customer that the wrong quantity of Goods was delivered, the Supplier shall in its discretion make a pro rata adjustment to the invoice for the Goods or make up any shortfall.
- 4.8 The Supplier may deliver the Goods by instalments, and each such instalment shall constitute a separate contract. Any delay in delivery or defect in an instalment shall not entitle the Customer to cancel any other instalment.

5. **Quality of Goods**

- 5.1 The Supplier warrants that on delivery the Goods shall:
- (a) conform in all material respects with the Goods Specification; and
 - (b) be free from material defects in design, material and workmanship.
- 5.2 Subject to clause 5.3, the Supplier shall, at its option, repair or replace the defective Goods, or refund the price of the defective Goods in full if:
- (a) the Customer gives notice in writing within a reasonable time of discovery that some or all of the Goods do not comply with the warranty set out in clause 5.1;
 - (b) the Supplier is given a reasonable opportunity of examining such Goods; and
 - (c) the Customer (if asked to do so by the Supplier) returns such Goods to the Supplier's place of business at the Supplier's cost.
- 5.3 The Supplier shall not be liable for the Goods' failure to comply with the warranty in clause 5.1 if:
- (a) the Customer makes any further use of such Goods after giving a notice in accordance with clause 5.2;
 - (b) the defect arises because the Customer failed to follow the Supplier's oral or written instructions as to the storage or use of the Goods or (if there are none) good trade practice;

- (c) the defect arises as a result of the Supplier following any element of any Goods Specification supplied by the Customer;
- (d) the Customer alters such Goods without the written consent of the Supplier;
- (e) the defect arises as a result of wilful damage, negligence, or abnormal working conditions; or
- (f) the Goods differ from the Goods Specification as a result of changes made to ensure they comply with applicable statutory or regulatory standards.

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

6. Title and risk

6.1 The risk in the Goods shall pass to the Customer on delivery.

6.2 Title to the Goods shall not pass to the Customer until the earlier of:

- (a) the Supplier receiving payment in full (in cash or cleared funds) for the Goods; and
- (b) the Customer reselling the Goods in the ordinary and proper course of its business.

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

- (a) store the Goods separately from all other goods held by the Customer so that they remain readily identifiable as the Supplier's property;
- (b) not remove, deface or obscure any identifying mark or packaging on or relating to the Goods;
- (c) maintain the Goods in satisfactory condition and keep them insured against all risks for their full price on the Supplier's behalf from the date of delivery;
- (d) notify the Supplier immediately if it becomes subject to any Insolvency Event; and
- (e) give the Supplier such information relating to the Goods as the Supplier may require from time to time.

6.4 Subject to clause 6.5, the Customer may resell or use the Goods in the ordinary and proper course of its business (but not otherwise) before the Supplier receives payment for the Goods. However, if the Customer resells the Goods before that time:

- (a) it does so as principal and not as the Supplier's agent; and

- (b) title to the Goods shall pass from the Supplier to the Customer immediately before the time at which resale by the Customer occurs.

6.5 If before title to the Goods passes to the Customer the Customer becomes subject to any Insolvency Event, then, without limiting any other right or remedy the Supplier may have:

- (a) the Customer's right to resell the Goods or use them in the ordinary and proper course of its business ceases immediately; and
- (b) the Supplier may at any time:
 - (i) require the Customer to deliver up all Goods in its possession which have not been resold, or irrevocably incorporated into another product; and
 - (ii) if the Customer fails to do so promptly, enter any premises of the Customer or of any third party where the Goods are stored in order to recover them.

7. Supply of Services

7.1 The Supplier shall supply the Services to the Customer in all material respects in accordance with any agreed specification.

7.2 The Supplier shall use all reasonable endeavours to meet any agreed performance dates for the Services, but any such dates shall be estimates only and time shall not be of the essence (and shall not be made of the essence by notice from the Customer) for the performance of the Services.

7.3 The Supplier warrants to the Customer that the Services will be provided using reasonable care and skill.

8. Customer's obligations

The Customer shall:

- (a) co-operate with the Supplier in all matters relating to the Services;
- (b) provide the Supplier with such information and materials as the Supplier may reasonably require in order to supply the Services, and ensure that such information is complete and accurate in all material respects; and
- (c) comply with all applicable laws, including health and safety laws.

9. Charges and payment

9.1 The price for the Goods and for any Services :

- (a) shall be the price set out in the Order; and
- (b) shall be exclusive of all costs and charges of transport of the Goods, which shall be invoiced to the Customer.

9.2 Unless agreed otherwise by the Supplier, all charges are payable at the time of the Supplier's acceptance of the Customer's Order, and the Supplier shall have no obligation to take any step to perform its obligations under the Contract until its applicable invoice has been paid in full.

9.3 The Customer shall pay each invoice submitted by the Supplier:

- (a) immediately or, if applicable, in accordance with any credit terms agreed by the Supplier and confirmed in writing to the Customer; and
- (b) in full and in cleared funds to a bank account nominated in writing by the Supplier, and

time for payment shall be of the essence of the Contract.

9.4 All amounts payable by the Customer under the Contract are exclusive of amounts in respect of value added tax chargeable from time to time, which shall be payable by the Customer against a valid VAT invoice. If the Customer is required by any applicable law to withhold or deduct any sum from any payment to the Supplier, the Customer shall when paying the Supplier's invoice pay an additional amount equivalent to such sum to the Supplier. Subject to the Customer reimbursing any reasonable costs, the Supplier agrees to cooperate with the Customer to assist the Customer in recovering from any relevant authority the amount that the Customer was required to withhold.

9.5 If the Customer fails to make a payment due to the Supplier under the Contract by the due date, then, without limiting the Supplier's remedies under clause 12 (Termination), the Customer shall pay interest on the overdue sum from the due date until payment of the overdue sum, whether before or after judgment. Interest under this clause will accrue each day at the statutory rate for the time being in force under the Late Payment of Commercial Debts (Interest) Act 1998. Where interest on any sum due accrues to the Supplier in accordance with this clause, any payment later received will be applied first in payment of the interest due, and secondly in reduction of the indebtedness.

9.6 Subject to clause 9.4, all amounts due under the Contract shall be paid in full without any set-off, counterclaim, deduction or withholding.

10. Confidentiality

10.1 Each party shall keep secret and treat as confidential all information obtained from the other which is either stated to be confidential or could reasonably be regarded as confidential (including the terms of the Contract) and shall not disclose such information to any person other than its employees, agents or sub-contractors where such disclosure is required for the performance of the receiving party's obligations

under the Contract. No such information shall be used for any purpose other than the performance of the receiving party's obligations under the Contract. This clause shall not extend to information which was already in the lawful possession of a party prior to the Contract or which is already public knowledge or becomes so subsequently (other than as a result of a breach of this clause) or which is trivial or obvious. The obligations of confidentiality under this clause shall survive any termination of the Contract.

11. Limitation of liability:

11.1 Nothing in the Contract shall limit or exclude the Supplier's liability for:

- (a) death or personal injury caused by its negligence, or the negligence of its employees, agents or subcontractors;
- (b) fraud or fraudulent misrepresentation;
- (c) breach of the terms implied by section 2 of the Supply of Goods and Services Act 1982 (title and quiet possession);
- (d) breach of the terms implied by section 12 of the Sale of Goods Act 1979 (title and quiet possession); or
- (e) defective products under the Consumer Protection Act 1987.

11.2 Subject to clause 11.1, the Supplier shall not be liable to the Customer, whether in contract, tort (including negligence), for breach of statutory duty, or otherwise, arising under or in connection with the Contract for:

- (a) loss of profits;
- (b) loss of sales or business;
- (c) loss of agreements or contracts;
- (d) loss of anticipated savings;
- (e) loss of or damage to goodwill; and
- (f) any indirect or consequential loss.

11.3 Subject to clause 11.1, the Supplier's total liability to the Customer, whether in contract, tort (including negligence), breach of statutory duty or otherwise, arising under or in connection with the Contract, shall be limited to the greater of the total charges paid under the Contract and £1000.

11.4 The terms implied by sections 13 to 15 of the Sale of Goods Act 1979 and the terms implied by sections 3 to 5 of the Supply of Goods and Services Act 1982 are, to the fullest extent permitted by law, excluded from the Contract.

11.5 This clause 11 shall survive termination of the Contract.

12. Termination

12.1 Without affecting any other right or remedy available to it, either party may terminate the Contract with immediate effect by giving written notice to the other party if:

- (a) the other party commits a material breach of its obligations under the Contract and (if such breach is remediable) fails to remedy that breach within 28 days after receipt of notice in writing to do so;
- (b) the other party takes;
- (c) the other party suspends, or threatens to suspend, or ceases or threatens to cease to carry on all or a substantial part of its business; or

12.2 Without affecting any other right or remedy available to it, the Supplier may terminate the Contract with immediate effect by giving written notice to the Customer if the Customer fails to pay any amount due under the Contract on the due date for payment.

12.3 Without affecting any other right or remedy available to it, the Supplier may suspend the supply of Services or all further deliveries of Goods under the Contract or any other contract between the Customer and the Supplier if the Customer fails to pay any amount due under the Contract on the due date for payment, the Customer becomes subject to any Insolvency Event, or the Supplier reasonably believes that the Customer is about to become subject to any Insolvency Event.

13. Consequences of termination

13.1 On termination of the Contract, the Customer shall immediately pay to the Supplier all of the Supplier's outstanding unpaid invoices and interest and, in respect of Services and Goods supplied but for which no invoice has been submitted, the Supplier shall submit an invoice, which shall be payable by the Customer immediately on receipt.

13.2 Termination of the Contract shall not affect any rights, remedies, obligations and liabilities of the parties that have accrued up to the date of termination, including the right to claim damages in respect of any breach of the Contract which existed at or before the date of termination.

13.3 Any provision of the Contract that expressly or by implication is intended to have effect after termination shall continue.

14. Force majeure

Neither party shall be in breach of the Contract nor liable for delay in performing or failure to perform, any of its obligations under the Contract if such delay or failure result from events, circumstances or causes beyond its reasonable control including interruption or failure of utility services, labour shortages, failure of or disruption to any transportation service, fuel shortage,

any industrial dispute, act of God, fire, flood, earthquake, severe weather conditions, war or other hostilities, acts of terrorism, actions of governments or governmental agencies, riots or other civil commotions.

15. General

15.1 **Assignment.** The Contract is personal to the parties, neither of whom may assign any of its rights and/or obligations under the Contract without the prior written consent of the other.

15.2 **Notices.** Any notice given under the Contract shall be in writing and shall be delivered by hand (in which case delivery is effective immediately), or by commercial courier or by Royal Mail special delivery (if posted in the United Kingdom) or by airmail (if posted outside the United Kingdom). In the case of commercial courier or Royal Mail special delivery, delivery shall be deemed to take place on delivery or on receipt by the sender of a notice that the addressee has "gone away" or refused to take delivery or any notice having similar effect. In the case of airmail, delivery shall be deemed to take place seven days after posting. Notices shall be delivered or posted to the addresses of the parties given above or to any other address notified in substitution on or after the date of the Contract.

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

15.4 **No partnership or agency.** Nothing in the Contract is intended to, or shall be deemed to, establish any partnership or joint venture between the parties, constitute either party the agent of the other, or authorise either party to make or enter into any commitments for or on behalf of the other party.

15.5 **Entire agreement.**

(a) The Contract constitutes the entire agreement between the parties and supersedes and extinguishes all previous agreements, promises, assurances, warranties, representations and understandings between them, whether written or oral, relating to its subject matter.

(b) Each party acknowledges that in entering into the Contract it does not rely on, and shall have no remedies in respect of any statement, representation, assurance or warranty (whether made innocently or negligently) that is not set out in the Contract. Each party agrees that it shall have no claim for innocent or negligent misrepresentation or negligent misrepresentation based on any statement in the Contract.

(c) Nothing in this clause shall limit or exclude any liability for fraud.

- 15.6 **Third parties' rights.** The Contract does not give rise to any rights under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of the Contract.
- 15.7 **Variation.** Except as set out in these Conditions, no variation of the Contract shall be effective unless it is agreed in writing and signed by the parties (or their authorised representatives).
- 15.8 **Governing law.** The Contract and any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with it or its subject matter or formation shall be governed by and construed in accordance with the law of England and Wales.
- 15.9 **Jurisdiction.** Each party irrevocably agrees that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with the Contract or its subject matter or formation, provided that the Supplier may issue proceedings against the Customer in any jurisdiction in which the Customer has any assets.