

SHIRE GREEN ROOF SUBSTRATES LIMITED STANDARD TERMS OF SALE

1 DEFINITIONS

- 1.1 In these conditions:
"Seller" means Shire Green Roof Substrates Limited or its subsidiary companies in the UK.
"Purchaser" means the company, firm or individual with whom the Seller contracts.
"Contract" means the contract between the Seller and the Purchaser for the sale and purchase of the Goods incorporating these conditions.
"Goods" means the goods or services to be supplied by Shire Green Roof Substrates Limited under the terms of this agreement.
"Conditions" means the standard terms and conditions of sale set out in this document and any special terms and conditions agreed in writing between the Seller and the Purchaser.

2 BASIS OF SALE

- 2.1 The Seller shall sell and the Purchaser shall buy the Goods in accordance with these conditions which shall govern the Contract to the exclusion of any other terms and conditions (including any terms and conditions which the Purchaser purports to apply under any purchase order, confirmation of order or similar document).
- 2.2 Each order for Goods by the Purchaser to the Seller shall be deemed to be an offer by the Purchaser to purchase the Goods subject to these Conditions.
- 2.3 Any quotation by the Seller is valid for a period of 30 days from its date provided that the Seller has not previously withdrawn it.
- 2.4 The Seller's technical data, specifications, quotations and price lists do not constitute offers by the Seller and the Seller reserves the right to withdraw the same at any time prior to acceptance of an order.
- 2.5 No terms or conditions, contained in the Purchaser's purchase order, specification or similar document will form part of the Contract simply as a result of a reference to such document in the Contract.
- 2.6 No variations to these conditions shall be binding unless agreed in writing by the Commercial or Managing Director of the Seller.
- 2.7 The Seller's employees or agents are not authorised to make any representations concerning the Goods unless confirmed in writing by a Director of the Seller. In entering into the Contract, the Purchaser acknowledges that it does not rely on and waives any claim for breach of any representations which are not so confirmed provided always that this Condition 2.7 does not seek to exclude liability for fraudulent misrepresentation by the Seller or its employees or agents.
- 2.8 Save where otherwise agreed in writing between the parties any recommendations or suggestions relating to the use, storage or handling of the Goods made by the Seller either in sales and technical literature or in response to a specific enquiry or otherwise is given in good faith but it is for the Purchaser to satisfy itself of the suitability of the Goods for its own particular purpose.
- 2.9 Cancellation of the contract by the Purchaser will only be accepted at the discretion of the Seller and in any case on condition that any costs or expenses incurred by the Seller up to the moment of cancellation and all loss or damage resulting to the Seller by reason of such cancellation will be paid by the Purchaser to the Seller forthwith.
- 2.10 A charge will be made for any costs incurred by the Seller due to suspension or deferment of the Contract by the Purchaser in the event that the Purchaser defaults in collecting, or giving instructions for delivery of any Goods.
- 2.11 Health and Safety information relating to the Goods is available on request. The Purchaser warrants that it will pass on to all third parties to whom it may supply the Goods all information as to the use and safe handling of the Goods as may have been passed on to the Purchaser by the Seller.
- 2.12 The Seller reserves the right to record all orders and enquiries received by telephone.

3 PRICE

- 3.1 The price of the goods shall be the price quoted by the Seller and is based on costs prevailing at the time when it is given or agreed. The seller shall be entitled to adjust the price of the Goods at the time of delivery or collection (as appropriate) of the Goods or each instalment of Goods as the case may be:-
- 3.1.1 to take account of any direct or indirect price increases sustained by the company; and/or
- 3.1.2 if there is any change in the delivery date, quantities or specifications of the Goods, requested by the Purchaser or any delay caused by any instructions of the Purchaser or failure of the Purchaser to give the Seller adequate information or instructions.
- 3.2 The price of the Goods shall be subject to the addition of VAT and to the addition of any other government duty, tax or levy applicable to the Goods, any ingredient of the Goods or applicable to the sale of the goods.
- 3.3 Except where the delivery takes place at the Seller's premises all prices quoted by the Seller are based on:-
- 3.3.1 the Purchaser requiring delivery during the Seller's normal working hours or days (such hours or days are available on request). If

the Purchaser requires delivery at any other time then the Purchaser shall give at least seven working days notice in writing to the Seller and, if the Seller agrees to such delivery, the Purchaser shall pay all additional expenses as determined by the Seller occasioned by such delivery; and 3.3.2 delivery being made in loads of twenty five tonnes or more. Delivery in loads of lesser quantity shall be subject to a premium on haulage. Details of such premium are available on request.

- 3.4 The Seller reserves the right without incurring liability whatsoever to refuse to execute the Contract or part thereof if the Purchaser refuses to accept a price variation under clause 3.1 of these conditions.

4 PAYMENT

- 4.1 Unless payment is due before delivery of the Goods, payment shall be made by the Purchaser to the Seller in full not later than the twentieth (20th) day of the month following month of issue of the Seller's invoice notwithstanding that the property of the Goods has not passed to the Purchaser. Time for payment shall be of the essence of the Contract.
- 4.2 If the Purchaser fails to make payment by the due date then without prejudice to any other rights or remedy available to the Seller the Seller shall be entitled to:-
- 4.2.1 cancel the contract or suspend any further deliveries to the Purchaser; and
- 4.2.2 charge the Purchaser interest (both before and after any judgement) on all overdue accounts at HSBC plc Base Rate plus four (4) per cent per annum from time to time until payment in full is made.
- 4.3 The Seller reserves the right without incurring liability whatsoever to refuse to execute the Contract or part thereof if the arrangements for payment are, or the Purchaser's credit status is, in the Seller's opinion insufficient or not satisfactory.
- 4.4 The Purchaser shall not be entitled to withhold payment of any amount payable under the Contract by reason of any dispute or claim by the Purchaser in connection with the Contract or any other ground whatsoever nor shall the Purchaser be entitled to set-off against any amounts payable to the Seller under the Contract any amount which is not then due and payable by the Supplier to the Purchaser.
- 4.5 The Seller shall be entitled at all times to set-off any debt or claim of whatsoever nature which the Seller may have against the Purchaser against sums due by the Seller to the Purchaser.
- 4.6 Where the Seller has not required payment before delivery in accordance with clause 4.1 and the Purchaser fails to collect or accept delivery of the Goods in accordance with these conditions the Seller shall be entitled to invoice the Purchaser for the price of the goods at any time after such failure to collect or accept delivery (as appropriate).

5 DELIVERY

- 5.1 Any period or date for delivery stated in the Contract is given in good faith but is an estimate only and the Seller shall not be liable for any damages or losses (including as a result of negligence) arising out of failure to meet such period or date.
- 5.2 Time for delivery shall not be of the essence of the contract.
- 5.3 The parties shall agree the location for the delivery of the Goods. Failing agreement delivery of the Goods shall be at the Seller's premises.
- 5.4 Where delivery of the Goods is to take place at the Seller's premises:-
- 5.4.1 delivery of the Goods shall take place within 7 days (other than Saturday, Sunday or a bank holiday) after the Seller notifies the Purchaser that the Goods are ready for collection;
- 5.4.2 the Goods will be delivered into the vehicle in which the Purchaser, its employees, agents or sub-contractors collect the Goods, at a suitable delivery point at the Seller's premises as directed by the Seller's duly authorized representative;
- 5.4.3 whilst at the Seller's premises the Purchaser, its employees, agents and sub-contractors must obey the Seller's site rules and the instructions of the Seller's duly authorized representative; and
- 5.4.4 the Purchaser will be responsible for the condition of the vehicles in which it, its employees, agents or sub-contractors collect the Goods (whether owned or hired) and the Seller shall not be liable in any way (including, without limitation, for negligence) for the loss or contamination of the Goods resulting from the condition of such vehicle. The Purchaser shall indemnify the Seller for any loss, damage or injury to the Seller, its employees or agents or sub-contractors, its plant and equipment caused by the Purchaser, its employees or agents or sub-contractors, the Purchaser's vehicle or that of its agent or sub-contractor, or the condition thereof.
- 5.5 Where the Goods are to be delivered at the Purchaser's premises or to such other place as may be agreed between the Seller and the Purchaser pursuant to condition 5.3 the Purchaser shall provide and clearly indicate to the Seller or haulier a route between the metalled highway and the point at which the Purchaser wishes the Goods to be discharged which, in the reasonable opinion of the Seller or such haulier, is safe and proper and reasonable for access, manoeuvring and egress of the delivery vehicle. If, in the Seller's or haulier's reasonable opinion, such access is not available or is unsuitable, the Seller reserves the right to refuse to

deliver. The Purchaser indemnifies the Seller (both for itself and as agent and trustee for any haulier) against all losses, costs, proceedings, claims, demands and expenses incurred by it or any such haulier (other than in respect of death or personal injury caused by negligence of the Seller or haulier) as a result of failure to provide such convenient and safe access or discharge point and/or properly supervised delivery as aforesaid. . If the delivery vehicle is required to deliver at any point off a public road, the Purchaser will be responsible for any damage to vehicles, pipes, manholes or any other property of any sort resulting there-from and indemnifies the Seller (both for itself and as agent and trustee for any haulier) against any loss, damage, claims, costs, including legal costs on an indemnity basis or demands which the Seller may incur as a result of such delivery.

- 5.6 The Purchaser shall reimburse the Seller (both for itself and as agent and trustee for any haulier) all costs and expenses incurred by the Seller as a result of the Seller or haulier being prevented from or delayed in making any delivery resulting from the acts or omissions of the Purchaser or any of its employees, agents or sub-contractors.
- 5.7 The Purchaser shall be responsible for supervising completion of the delivery and give proper assistance to the driver of the delivery vehicle in unloading the Goods. It is a condition of the Contract that the Seller's delivery vehicles or those of its agents will not be delayed for more than half an hour after arrival at the Purchaser's premises in readiness to unload . Any period in excess of that time will be charged as waiting time to the Purchaser at the rate determined by the Seller and such rate is available from the Seller upon request.
- 5.8 In the event that the Purchaser requests that any Goods be deposited on a street, public highway and/or public footpath the Purchaser shall be responsible for compliance with all statutes and regulations relating to all public highways and bye-ways including, without limitation, obtaining all necessary licences and/or orders, and for all steps which need to be taken for the protection at all times of persons or property and shall indemnify the Seller in respect of all costs, claims, losses or expenses (including legal costs) on an indemnity basis (other than in respect of death and personal injury caused by the negligence of the Seller or its carrier) which the Seller may incur as a result of such delivery.
- 5.9 Where the Goods are to be delivered by instalments a failure by the Seller to deliver any one or more (but not all) of the instalments in accordance with these Conditions or any claim by the Purchaser in respect of one or more (but not all) instalments shall not entitle the Purchaser to treat the contract as a whole as repudiated.
- 5.10 Save where otherwise agreed in writing by the Seller, the Purchaser may not redirect delivery of the Goods or any instalment of the Goods.
- 5.11 The Purchaser must satisfy itself as to the condition of the Goods at the time of delivery and the Goods must be inspected and accepted in writing by the Purchaser or the Purchaser's representative at the time of delivery.
- 5.12 The Purchaser must inform the Seller by telephone, facsimile or e-mail as soon as reasonably practical and in any event must give the Seller written notice within three working days of unloading of any claim for short delivery, unless the Purchaser proves that it was not reasonably possible for it to give such notice to the Seller within that period and that notice was given within a reasonable period. If the Purchaser does not give the Seller that written notice within that time the Goods will be deemed to have been delivered in the quantities shown in the delivery documents. The Seller's liability in respect of short weight or measures of Goods supplied shall be limited to the delivery of an additional supply of the Goods in accordance with these conditions to make up the short weight or measure. The Purchaser shall not be entitled and irrevocably and unconditionally waives any right to reject the Goods or claim any damages whatsoever for short delivery however caused.
- 5.13 Unless otherwise stated in writing the Seller shall be entitled to make partial deliveries, and to determine the route and manner of delivery, of the Goods, and shall for the purposes of Section 32 (2) of the Sale of Goods Act 1979 be deemed to have the Purchaser's authority to make such contract with any haulier as to the Seller shall seem reasonable.

6 RISK and PROPERTY

- 6.1 Title in the Goods shall not pass to the Purchaser until the price of the Goods and every other sum due from the Purchaser to the Seller (whether under the contract or otherwise) has been paid in full and until such payment, the Seller, its servants or agents shall be entitled to enter upon, with transport as is necessary, the premises occupied by the Purchaser or to which the Purchaser has access and where the Goods may be or are believed to be situated.
- 6.2 Risk of damage to or loss of the Goods shall pass to the Purchaser:-
 - 6.2.1 in the case of Goods to be delivered at the Seller's premises, at the moment of discharge at the delivery point on the Seller's premises into or onto the vehicle in which the Purchaser, its agent or sub-contractor collects the Goods; or
 - 6.2.2 in the case of Goods to be delivered otherwise than at the Seller's premises, at the moment of their discharge from the Seller's or haulier's vehicle at the delivery point identified by the Purchaser in accordance with these Conditions.

- 6.3 Until such time as the property in the Goods passes to the Purchaser the Purchaser shall hold the Goods as the Seller's fiduciary agent and bailee and shall keep the Goods separately stored, protected, insured and identified as the Seller's property. Until that time the Purchaser shall be entitled to re-sell or use the Goods in the ordinary course of its business but at the direction of the Seller shall account to the Seller for the proceeds of sale or insurance proceeds related to the Goods.

7 GUARANTEE

- 7.1 If the Purchaser can establish to the reasonable satisfaction of the Seller that:-
 - 7.1.1 the Goods are not in accordance with the quality or specification contained in the Contract; or
 - 7.1.2 there is some other failure by the Seller in relation to the Goods to comply with the contract,then, subject to the remaining provisions of this Condition 7 and Condition 8, the Seller shall at its sole discretion supply to the Purchaser replacement Goods in the same quantity as the defective or non-compliant Goods and which are in accordance with the Contract or refund all or part (as appropriate) of the price of the relevant Goods (the "Guarantee").
- 7.2 The Guarantee is subject to the following limitations:-
 - 7.2.1 the Guarantee shall not apply unless the Purchaser notifies the Seller in writing of the alleged defect or failure by telephone, facsimile or e-mail as soon as reasonably practical upon its first becoming aware thereof and in any event must give the Seller written notice within three days of the date of delivery of the Goods or where the defect or failure was not apparent on reasonable inspection, within three days after the earlier of the discovery of the defect or failure by the Purchaser, its employees, agents or sub-contractors or the time when the defect ought reasonably to have been discovered by the Purchaser, its employees, agents or sub-contractors;
 - 7.2.2 the Seller will accept no responsibility if the defect or failure in respect of the Goods results from the incorrect specification or other data supplied by the Purchaser to the Seller;
 - 7.2.3 the Seller will accept no responsibility for faults in or failure of the Goods due to storage adopted by the Purchaser.
- 7.3 The Purchaser shall provide to the Seller, its employees and agents safe and unrestricted access together with such other facilities and information as the Seller may reasonably require to enable it to ascertain or verify the nature and cause of the alleged defect or failure and to carry out its obligations under the Guarantee provided always that the Seller shall be under no obligation whatsoever to refund the price of, or supply any additional goods in respect of, any Goods which are removed by the Purchaser without the Seller's prior written consent or where the Seller has not been given proper opportunity to ascertain or verify the nature and cause of the alleged defect in accordance with this condition 7.3.
- 7.4 The Seller shall be entitled to require the Purchaser by notice in writing to cease forthwith the use of any of the Goods in respect of which any alleged defect or failure has been notified to the Seller and if the Purchaser fails to comply with such requirement the Seller shall be under no liability to the Purchaser either under this condition or otherwise in relation to such Goods. Notwithstanding this, the Seller shall not be liable for any damages or losses whatsoever suffered by the Purchaser to the extent that they are caused by the continued use of the Goods after a defect or failure became apparent, or ought to have become apparent, to the purchaser, its employees, agents or sub-contractors.
- 7.5 The Seller shall be under no obligation whatsoever to refund the price of the Goods, supply any replacement goods or additional goods to the Purchaser pursuant to the Guarantee where the alleged defect or failure results from alteration without consent, wear and tear, accident, abnormal or improper conditions of storage or use of any act, neglect or default (including negligence) of the Purchaser or any third party.
- 7.6 Subject to Conditions 7.1 to 7.5, replacement goods or additional goods supplied pursuant to the Guarantee shall be delivered to the Purchaser at the address at which the defective Goods were located.

8 THE SELLER'S LIABILITY

- 8.1 Subject to Condition 8.2:-
 - 8.1.1 the liability accepted by the Seller under the Guarantee shall be in substitution of any other legal remedy of the Purchaser in respect of any alleged defect in relation to the Goods or failure of the Goods to comply with the specification or quality contained in the contract and any other condition, warranty, representation or undertaking on the part of the Seller as to the quality of the Goods or their fitness or suitability for any purpose howsoever and whenever expressed which may be implied by statute custom to the trade or otherwise is hereby excluded and the provisions of Section 13 to 15 inclusive of the Sale of Goods Act 1979 (as amended) shall not apply to the contract;
 - 8.1.2 the liability of the Seller whether in contract or tort or delict arising out of or in connection with any act, omission, neglect or default of the Seller, its employees, agents or sub-contractors in connection with the Contract (including, without limiting the generality of the foregoing for negligence, breach of any condition or warranty whether expressed or

implied by statute, common law or otherwise howsoever) shall be limited to the refund of the price of the Goods or the supply of additional goods pursuant to the Guarantee.

8.1.3 the Seller shall not be liable to the Purchaser in contract, tort or delict (including negligence) or for breach of statutory duty for any loss of profit, loss of income, loss of revenue, loss of goodwill, loss of anticipated savings, loss of data, loss of opportunity or losses calculated by reference to profits, income, business, goodwill, anticipated savings, data or opportunity (in all cases whether direct or indirect) or any indirect, consequential or economic loss of any kind whatsoever which the Purchaser may suffer or incur by reason of any act, omission, neglect or default (including negligence) in connection with the Contract by the Seller, its employees or agents.

8.2 Nothing in these Conditions shall:-

8.2.1 limit or exclude the liability of the Seller for death or personal injury resulting from the negligence of the Seller, its employees or agents;

8.2.2 limit or exclude the liability of the Seller for fraudulent misrepresentation; or

8.2.3 exclude the conditions and warranties implied by section 12 of the sale of Goods Act 1979 (as amended).

9 FORCE MAJEURE

9.1 The Seller shall not be liable to the Purchaser in any manner or be deemed to be in breach of the Contract (subject to condition 8.2) because of any delay in performing or any failure to perform any of the Seller's obligations under the Contract if the delay or failure was due to any cause beyond the Seller's reasonable control (force majeure conditions).

9.2 Without prejudice to the generality of Condition 9.1 force majeure conditions shall include: governmental actions, war or threat of war, national emergency, riot, civil disturbance, malicious damage, sabotage, insurrection or requisition; act of God, fire, explosion, flood, tempest, epidemic or accident; import or export regulations or embargoes or compliance with any governmental, parliamentary or local authority order, rule, regulation, direction or bye-law; strikes, lock outs or other industrial actions or trade or labour disputes (including actions or disputes involving the Seller's workforce); inability to obtain or delay in obtaining supplies of adequate or suitable material, fuel, parts, machinery or labour, or power failure or breakdown in machinery.

9.3 The Seller undertakes to make every reasonable endeavour to overcome difficulties arising from a force majeure condition provided that the Seller shall not be obliged to purchase the Goods from third parties.

10 INSOLVENCY AND DEFAULT OF PURCHASER

10.1 If the Purchaser shall make default in or commit a breach of the Contract, or the Purchaser is unable to pay its debts within the meaning of Section 123 of the Insolvency Act 1986, or shall make or offer to make any arrangement or composition with creditors, or any resolution or petition to wind up the Purchaser (other than for the purpose of amalgamation or reconstruction) shall be passed or presented, or if a receiver of the Purchaser's undertaking, property or assets or any part thereof shall be appointed, or if there shall occur any corresponding or similar event under any other legal system to which the Purchaser may be subject, then, without prejudice to any claim or right which may accrue to the Seller or which it may otherwise make or exercise or to any obligation or liability to which the Purchaser may otherwise be subject, the Seller shall have the right forthwith to suspend and/or determine the Contract by notice in writing to the Purchaser, and upon written notice of such suspension or determination being posted to the Purchaser the Contract shall be deemed to have been suspended or determined (as the case may be).

10.2 If the Purchaser fails to pay the Seller for any Goods on the due date or the Purchaser becomes insolvent or if the Purchaser is in breach of any Condition of the Contract or any other contract between the Purchaser and the Seller or between the Purchaser and any company within the same group of companies of which the Seller is a member and fails to remedy such breach after being so requested to do the full balance outstanding on any account between the Seller and the Purchaser shall become immediately payable and the Seller shall be entitled to do one or more of the following (without prejudice to any other rights or remedy it may have):-

10.2.1 require payment in cash or cleared funds in advance of delivery of undelivered Goods;

10.2.2 cancel or suspend any further delivery to the Purchaser under any contract;

10.2.3 sell or otherwise dispose of any Goods which are the subject of any contract with the Purchaser;

10.2.4 charge the Purchaser interest on the balance of monies due at the rate of four (4) per cent per annum above the Lloyds TSB Bank plc Base Rate in force from time to time from the date the payment became due until actual payment is paid whether before or after Judgement;

10.2.5 without prejudice to the generality of Clause 6 of these Conditions exercise the powers there set out.

11 GENERAL

11.1 The headings of these Conditions are for convenience only and shall have no effect on interpretation.

11.2 All written notices between the parties in respect of the contract must be delivered by hand, sent by first class post pre-paid, sent by facsimile transmission or sent by e-mail (in the case of notices to the Seller) to the Seller's address, facsimile number or e-mail address shown on letterheads or as notified in writing by the Seller from time to time or (in the case of notices to the Purchaser) to its registered office (if it is a company) or (in any other case) to the last know address of the Purchaser or such address, facsimile number or e-mail address as shall be notified in writing to the Seller by the Purchaser for this purpose.

11.3 Notices shall be deemed to have been received forty eight (48) hours after posting if sent by first class post; on the day of delivery if delivered by hand; or at the time of transmission, if sent by facsimile or e-mail, provided that a confirming copy is sent by first class pre-paid post to the other party within twenty four (24) hours after transmission.

11.4 If any Clause or sub-Clause of these Conditions is held by any court or other competent authority to be void or unenforceable the validity of the other Clauses or sub-Clauses of these Conditions shall not be affected and they shall remain in full force and effect.

11.5 No waiver by the Seller of any breach of any provision of the Contract by the Purchaser shall be considered as a waiver of any subsequent breach of the same or any other provision.

11.6 The Contract shall be construed and governed in all respects by English Law and, unless expressly agreed in writing, the Goods shall not be required to comply with any provisions or any other law. All disputes arising under or relating to the Contract shall be subject to the exclusive jurisdiction of the Courts of England, to which the parties hereby irrevocably submit.

January 2007