

# Ecoscreed LTD

## TERMS AND CONDITIONS OF SALE

### **DEFINITIONS**

When used in these terms and conditions the following terms shall have the meaning set out below:-

Contract : the contract between the Supplier and the Purchaser for the supply of the goods;

Goods : the goods or materials which are to be provided under the Contract;

Purchaser: the party to whom the Goods are to be supplied under the Contract;

Supplier: Ecoscreed Ltd.

**GENERAL** (a) Contracts made by the Supplier with the Purchaser for the supply of Goods or materials, are subject to the terms and conditions set out herein. (b) No variation of these terms and conditions shall have any effect unless specifically incorporated into the Contract or accepted by the Supplier in writing. (c) An acceptance by the Purchaser of the Goods shall be deemed to be an acceptance that these terms and conditions are incorporated into the Contract to the exclusion of all others.

**QUOTATIONS** A quotation is not an offer and may be withdrawn at anytime without notice. Any order based on a quotation shall only bind the Supplier on the acceptance thereof by the Supplier in writing.

**PRICE ADJUSTMENT** In the event of a variation in the cost of materials, labour, transport, maintenance of machinery or any other cost to the Supplier of performing the Contract the Supplier may make a corresponding increase in its prices or cancel the Contract.

**DELIVERY** (a) Unless otherwise specified the quotation covers the cost of delivery by lorry on hard roads to a hard and safe draw-in on site in full truck loads on the Supplier's normal working days during the Suppliers normal working hours to the destination specified in the Contract. (b) Unless otherwise agreed all consignments must be unloaded by the Purchaser immediately on arrival. (c) The Supplier reserves the right to make a reasonable charge for the time lost owing to any delay in unloading or failure to unload. For the avoidance of doubt this charge shall include both a charge element for the drivers time and the standing time for the lorry.

**TIMED DELIVERY** (a) The Supplier will use all reasonable endeavours to keep to a stated delivery date but it will not be liable for any damage or loss resulting from delay in delivery howsoever caused. (b) Time of delivery shall NOT be the essence of the Contract. (c) The Supplier shall not be liable for any damage or loss which occurs as a result of non-delivery of the goods or of failure or delay to complete the Contract which is caused either directly or indirectly by any circumstances beyond the Supplier's control including (but without limiting the generality of the foregoing), act of God, war, invasion, riot, flood, civil commotion or usurped power, legislation, government order, regulation or direction, strike, lock out or work slowdown due to labour troubles, fire, accident, explosion, breakdown of machinery, shortages of labour, equipment, raw materials, fuel or power and inclement weather conditions. (d) The Supplier shall be entitled to make partial deliveries, or deliveries by instalments, and these terms and conditions shall apply to each partial delivery.

**AVAILABILITY OF GOODS** All orders are accepted subject to availability of the Goods when required by the Purchaser and, if the Goods are not then available to the Supplier, the Supplier shall not be bound by the Contract.

**RESPONSIBILITY FOR UNLOADING** The Purchaser is responsible for any loss, damage or injury incurred by any person or to any property in the course of unloading the Goods from the Supplier's vehicle or container and will indemnify the Supplier it's servants and agents against all actions, costs, claims or demands which may be made against the Supplier's it's servants or agents arising either directly or indirectly out of such unloading. The Purchaser shall be responsible for both the weight of material left in the hose after the Purchaser has requested that the pumping should cease and also for the provision of 4 x 200 litre watertight or suitable polythene lined skip drums for the disposal of the dirty water from the hose clean down at the end of pumping. No pumping will commence until the Supplier's pump truck personnel are satisfied that suitable drums are available for the clean down and the Purchaser shall be responsible for the down time waiting period until such suitable drums are made available.

**MIS-DELIVERY OR DEFECT IN GOODS** (a) A copy of the Delivery Note relating to the Goods must be signed by the Purchaser or his representative on receipt of the Goods.(b) No claim for mis-delivery or non-delivery or for any defect in the Goods which is apparent on inspection will be brought unless a complaint is made prior to the signing of the Delivery Note and a note of such complaint is written on the Delivery Note by the Purchaser and or his representative. Any such complaint will be confirmed in a letter to the Supplier within 24 hours of receipt of the Goods. Adequate facilities will be afforded to the Supplier for investigation of any complaint.

**TITLE** (a) The title in the Goods shall not pass to the Purchaser until payment under this and all other Contracts between the Supplier and Purchaser has been made. (b) The Purchaser acknowledges that, until full payment has been made, it holds the Goods as bailee for the Supplier and will store the Goods separately to those belonging to any other and shall not be entitled to make any charge for bailment. (c) While any payment for the Goods remains outstanding the Supplier may at any time require the Goods to be returned to it at the cost of the Purchaser or to enter upon the premises of the Purchaser to retake possession thereof. (d) The Purchaser shall be entitled to sell the Goods on the basis that the proceeds of the sale shall belong to the Supplier to whom the Purchaser shall account on demand. (e) the Supplier may maintain an action for the price of the Goods notwithstanding that the title has not passed to the Purchaser. (f) Nothing in these terms and conditions shall confer on the Purchaser any right to return the Goods or to refuse or delay payment for them.

**QUALITY** (a) If it is agreed by the Supplier that any of the Goods are defective or are not of the correct quality or specification ordered, the Supplier's liability shall be limited to, at its option, the replacement of the Goods or such part of them that proved to be defective or unsatisfactory or the granting of a credit in respect of such part of the Goods. (b) EXCEPT AS EXPRESSLY PROVIDED HEREIN ALL EXPRESS OR IMPLIED WARRANTIES, CONDITIONS, GUARANTEES OR LIABILITIES IN CONTRACT, TORT OR OTHERWISE WHETHER STATUTORY OR OTHERWISE AND WHETHER AS TO QUALITY, FITNESS FOR ANY PURPOSE, OR OTHERWISE IN RESPECT OF THE GOODS ARE HEREBY EXPRESSLY EXCLUDED. (c) The Supplier shall not be liable for defects or deterioration in the Goods which are not apparent on inspection at the time of delivery and unless the Purchaser gives written notice thereof within 24 hours from the time the Purchaser receives the Goods (d) The Supplier shall not be liable to the Purchaser for any consequential loss or damage sustained by the Purchaser as a result either directly or indirectly of any fault or defect in the Goods or by reason of any nature whatsoever. (e) Where the Purchaser "deals as consumer" (as that phrase defined in the Unfair Contract terms Act 1977) in relation to the Contract, and where the Goods correspond with any samples which may have been provided to the Purchaser and where the Goods are of merchantable quality and are fit for the purpose for which they were supplied then the Purchaser must satisfy Himself/Herself/Themselves as to the quality / suitability of the Goods to be used for any particular purpose. (f) The Supplier cannot be held liable in any way whatsoever for the use to which the Purchaser puts any Goods supplied or in the application of these Goods for any said purpose.

**PAYMENTS** (a) Where the Goods are supplied on credit terms, payment MUST BE RECEIVED BY THE END OF THE 30TH DAY FROM THE DATE OF DELIVERY (b) If the Purchaser delays or defaults in making the payment due under the contract with the Supplier then all sums outstanding, or which become outstanding thereafter, from the Purchaser to the supplier in respect of which an invoice has been, or is submitted shall become immediately due and payable without prejudice to any other remedies available to the Supplier. (c) if the Purchaser shall delay in making the payment due under any contract with the Supplier then the Supplier shall be entitled to charge interest on all sums then owing from the Purchaser to the Supplier at a rate of 3% per annum above the Natwest bank's base rate.

**CANCELLATION** (a) If the Purchaser breaches any of the terms and conditions of Contract or if the Purchaser's financial condition is such as in the opinion of the Supplier, to make it unlikely that it will perform its obligations under the Contract, the Supplier may retake possession of the Goods and cancel or suspend any further performance of the Contract. (b) If the Contract is so cancelled or suspended, the Purchaser shall indemnify the Supplier, on demand, against all losses, costs, damages, charges and expenses arising out of the Contract or the cancellation or suspension thereof.

**PACKAGING** The Purchaser shall be responsible for the correct disposal of all packaging associated with the Goods

**GOVERNING LAW** This contract shall in all respects be construed and governed by English Law