

ORIGIN SUREGREEN LIMITED

TERMS AND CONDITIONS OF SALE

If you are purchasing goods or services as a consumer, please refer to clause 17 in particular which sets out the extent to which these terms and conditions apply to your purchase and your additional rights

1. DEFINITIONS AND INTERPRETATION

1.1 In these Conditions the following definitions apply:

"Affiliate" means any entity that directly or indirectly controls, is controlled by or is under common control with, another entity, where control refers to majority ownership of voting rights or power to direct the board;

"Applicable Law" means all applicable laws, legislation, statutory instruments, regulations and governmental guidance having binding force whether local or national or international in any relevant jurisdiction;

"Bribery Laws" means the Bribery Act 2010 and all Applicable Laws in connection with bribery or anti-corruption;

"Conditions" means Suregreen's terms and conditions of sale set out in this document;

"Confidential Information" means any commercial, financial or technical information, information relating to the Deliverables, plans, know-how or trade secrets which is obviously confidential in nature or has been identified as confidential, or which is developed by Suregreen in performing its obligations under, or otherwise pursuant to the Contract;

"Contract" means the agreement between Suregreen and the Customer for the sale and purchase of the Deliverables incorporating these Conditions and the Order, and including all its schedules, attachments, annexures and statements of work (if applicable);

"Controller" shall have the meaning given in applicable Data Protection Laws from time to time;

"Customer" means the named party in the Contract which has agreed to purchase the Deliverables from Suregreen and whose details are set out in the Order;

"Data Protection Laws" means, as binding on either party or the Deliverables:

- (a) the UK GDPR;
- (b) the Data Protection Act 2018;
- (c) any laws which implement any such laws; and
- (d) any laws that replace, extend, re-enact, consolidate or amend any of the foregoing.

"Deliverables" means the Goods or Services or both as the case may be;

"Force Majeure" means an event or sequence of events beyond a party's reasonable control preventing or delaying it from performing its obligations under the Contract;

"Goods" means the goods and other physical material set out in the Order and to be supplied by Suregreen to the Customer in accordance with the Contract

"Intellectual Property Rights" means copyright, patents, know-how, trade secrets, trade marks, trade names, design rights, rights in get-up, rights in goodwill, rights in software, rights in Confidential Information, rights to invention, rights to sue for passing off, domain names and all other intellectual property rights and similar rights and, in each case:

- (a) whether registered or not
- (b) including any applications to protect or register such rights
- (c) whether vested, contingent or future
- (d) to which the relevant party is or may be entitled, and
- (e) in whichever part of the world existing.

"Location" means the address or addresses for delivery of the Goods and/or performance of the Services as set out in the Order;

"Order" means the Customer's order for the Deliverables;

"Order Confirmation" means Suregreen's written confirmation of the Customer's Order;

"Personal Data" has the meaning given in the applicable Data Protection Laws from time to time;

"Price" has the meaning given in clause 3.1;

"Processing" has the meaning given to it in applicable Data Protection Laws from time to time (and related expressions, including "process", "processed", and "processes" shall be construed accordingly);

"Protected Data" means Personal Data received from or on behalf of the Customer in connection with the performance of Suregreen's obligations under the Contract;

"Services" means the services set out in the Order and to be supplied by Suregreen to the Customer in accordance with the Contract;

"Suregreen" means Origin Suregreen Limited a company incorporated in England and Wales under number 15081114 whose registered office is at 1-3 Freeman Court Jarman Way, Orchard Road, Royston, Hertfordshire, SG8 5HW, trading under any of its sub-brands from time to time;

"UK GDPR" means EU Regulation 2016/679 as it forms part of the law of England and Wales by virtue of section 3 of the European Union (Withdrawal) Act 2018;

"VAT" means value added tax under the Value Added Tax Act 1994 or any other similar sale or fiscal tax applying to the sale of the Deliverables.

1.2 In these Conditions, unless the context otherwise requires:

1.2.1 a reference to a 'party' means either Suregreen or the Customer and includes that party's personal representatives, successors and permitted assigns;

1.2.2 a reference to a 'company' includes any company, corporation or other body corporate, wherever and however incorporated or established;

1.2.3 words in the singular include the plural and vice versa;

1.2.4 any words that follow 'include', 'includes', 'including', 'in particular' or any similar words and expressions shall be construed as illustrative only and shall not limit the sense of any word, phrase, term, definition or description preceding those words;

1.2.5 a reference to legislation or to a provision of legislation includes a modification or re-enactment of it, a consolidation of it, a legislative provision substituted for it and a regulation or statutory instrument issued under it; and

1.2.6 a reference to any English action, remedy, method of judicial proceeding, court, official, legal document, legal status, legal doctrine, legal concept or thing shall, in respect of any jurisdiction other than England, be deemed to include a reference to that which most nearly approximates to the English equivalent in that jurisdiction.

2. APPLICATION OF THESE CONDITIONS

2.1 These Conditions apply to and form part of the Contract between Suregreen and the Customer. They supersede any previously issued terms and conditions of purchase or supply.

2.2 These Conditions shall apply to all Contracts to the exclusion of all other terms and conditions including any terms or conditions endorsed on, delivered with, or contained in any document supplied by the Customer or which the Customer may purport to apply under any purchase order, confirmation of order or similar document.

2.3 Each Order made by the Customer to Suregreen shall be an offer to purchase the Deliverables subject to the Contract including these Conditions. If Suregreen is unable to accept an Order, it shall notify the Customer as soon as reasonably practicable using such methods of communication which it deems most appropriate.

2.4 Suregreen may accept or reject an Order at its discretion. An Order shall not be accepted, and no binding obligation to supply any Deliverables shall arise, until the Contract is concluded by:

2.4.1 if over the counter, upon purchasing or collecting the Goods (and these Conditions shall be incorporated by reference);

2.4.2 if online or by email or via the telephone, upon Suregreen's written acceptance of the Order;

2.4.3 if in person via Suregreen's sales representative, or in any other circumstance than those described in clause 2.4.1 or 2.4.2, upon Suregreen delivering or performing the Deliverables or notifying the Customer that they are ready to be delivered or performed (as the case may be), provided that if any Goods in an Order are out of stock at the time of dispatch and Suregreen is unable to source them from its supplier in a reasonable time, Suregreen may cancel the Order in full or in respect of the Goods it is not able to supply without further liability to the Customer.

2.5 Suregreen may issue quotations to the Customer from time to time. Quotations are not an offer to supply Deliverables and are incapable of being accepted by the Customer.

2.6 Marketing and other promotional material relating to the Goods are illustrative only and do not form part of the Contract. The images of the Goods on any Suregreen website are for illustrative purposes only (including colour and packaging) and the Goods may vary slightly from those images.

2.7 Suregreen may from time to time provide samples to the Customer for inspection and approval, and reserves the right to make a reasonable charge the Customer for such samples. In such circumstances, Suregreen shall not supply the Customer with the Goods pertaining to the sample until such time as the Customer has approved the samples. Suregreen shall be under no obligation to alter the Deliverables following the Customer's rejection of a sample but the Customer shall be under no obligation to place an Order.

3. PRICE

3.1 The price for the Deliverables shall be as set out in the Order Confirmation or, where no such provision is set out, shall be as advised by Suregreen from time to time before the point the Contract is concluded (the Price). While Suregreen endeavours to ensure that the pricing communicated through its sales channels and in its marketing material is correct and up to date, it shall not be bound to supply at any price unless confirmed in writing in its Order Confirmation.

3.2 Suregreen may increase the Price applicable to an Order on notice to the Customer before the delivery date to reflect any increase in the direct cost to Suregreen which is due to factors beyond Suregreen's reasonable control, provided that the Customer may cancel the Order on written notice to Suregreen within seven days of receipt of Suregreen's notice of increase.

3.3 Unless otherwise stated on Order Confirmation, the Prices are exclusive of:

3.3.1 packaging, delivery, insurance, shipping carriage, and all other related charges or taxes; and

3.3.2 VAT.

3.4 Where the Customer is based outside the United Kingdom, the Customer shall be responsible for any applicable taxes, duties, levies, customs charges or import costs.

3.5 The Customer shall pay any applicable VAT to Suregreen on receipt of a valid VAT invoice.

4. PAYMENT

4.1 Suregreen shall invoice the Customer for the Deliverables, partially or in full, at any time following conclusion of the Contract.

4.2 The Customer shall pay all invoices:

4.2.1 in full without deduction or set-off, in cleared funds and by the due date calculated in accordance with clause 4.3;

4.2.2 to the bank account nominated by Suregreen; and

4.2.3 in British pounds sterling (GBP £) unless the invoice specifies that payment is to be made in euros (EUR €) or any other currency specified on the invoice.

4.3 Invoices shall fall due for payment:

4.3.1 in the case of Orders made online or in person over the counter, immediately on conclusion of the Order;

4.3.2 in the case of Orders placed via any other sales channel by the date specified on the invoice or where no date is specified within 30 days of the date of the relevant invoice.

4.4 Time of payment is of the essence. Where sums due under these Conditions are not paid in full by the due date:

4.4.1 Suregreen may, without limiting its other rights, charge interest on such sums at 2% a year above the base rate of the Bank of England from time to time in force, and

4.4.2 interest shall accrue on a daily basis, and apply from the due date for payment until actual payment in full, whether before or after judgment.

5. CREDIT LIMIT

5.1 Suregreen may set and vary credit limits and/or extended payment terms from time to time at its discretion and withhold all further supplies if the Customer exceeds such credit limit.

6. DELIVERY AND PERFORMANCE

6.1 The Goods shall be delivered by Suregreen, or its nominated carrier, on a DAP basis to the Location specified in the Order. Where the Customer is based outside the United Kingdom, such delivery shall be on a DAP basis and the Customer shall be responsible for all costs and requirements of import into the Customer's country and onward transit of the Goods to the Customer's Location. Time of delivery shall not be of the essence for the Contract.

6.2 The Goods shall be deemed delivered on completion of unloading only of the Goods at the Location by Suregreen or its nominated carrier (as the case may be), or on collection of the Goods if over the counter.

6.3 The Services shall be performed by Suregreen at the Location on the date specified in the Order. Time of performance of the Services shall not be of the essence for the Contract.

6.4 The Services shall be deemed delivered when Suregreen notifies the Customer that the performance of the Services is complete.

6.5 Suregreen may deliver the Goods or perform the Services in instalments. Any delay or defect in an instalment shall not entitle the Customer to cancel any other instalment.

6.6 In respect of Goods purchased by volume, if Suregreen supplies less than the volume of Goods ordered and such supply is outside the tolerances set out in the Order or, if no tolerance is stated in the Order, where the volume of Goods supplied is more than 10% less than the volume ordered the Customer shall be entitled to:

6.6.1 require Suregreen to supply the outstanding volume within 30 days of the Customer's written notice to Suregreen of the shortfall; or

6.6.2 request a pro rata refund in respect of the volumes not supplied, provided that where the Contract provides for delivery in instalments the Customer shall not be entitled to reply on this clause unless there remains a shortfall after the final instalment has been delivered.

6.7 Each delivery or performance of Goods shall be accompanied by a delivery note stating:

6.7.1 the date of the Order;

6.7.2 the relevant Customer and Suregreen details; and

6.7.3 if Goods, the product numbers and type and quantity of Goods.

6.8 Suregreen shall not be liable for any delay in or failure of performance caused by:

6.8.1 the Customer's failure to make the Location available;

6.8.2 the Customer's failure to prepare the Location for performance or delivery;

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<p>6.8.3 the Customer's failure to provide Suregreen with adequate instructions for performance or delivery</p> <p>6.8.4 Suregreen following any specification, instruction or requirement of or given by the Customer in relation to delivery or performance; or</p> <p>6.8.5 Force Majeure.</p> <p>6.9 Without prejudice to clause 12, if Suregreen's performance is delayed or prevented as a result of an act or omission of the Customer, including as described in clauses 6.8.1 to 6.8.3, Suregreen shall reattempt performance on notice to the Customer at its convenience and reserves the right to charge and the Customer agrees to pay Suregreen's additional costs incurred as a result.</p> <p>6.10 If the Customer wishes to return the whole or part of any Goods ordered for any reason other than the circumstances described in clause 6.11 or a contract cancellation as described in clause 17:</p> <p>6.10.1 the Customer shall notify Suregreen of the Goods it wishes to return, including details of the order reference, products and quantities to be returned by contacting Suregreen's sales office on sales@suregreen.com or Suregreen's sales representative responsible for the affected Order within 90 days of the date of the Order;</p> <p>6.10.2 Suregreen may in its discretion choose to arrange return carriage for the Goods back to Suregreen's warehouse;</p> <p>6.10.3 the Goods shall be returned to Suregreen in new and unused condition and, to the extent possible, in their Suregreen packaging at Customer's cost and expense (whether or not Suregreen has elected to arrange carriage) and the Customer acknowledges that such costs will be deducted from the credit note issued or invoiced to the Customer for immediate payment, in Suregreen's discretion;</p> <p>6.10.4 Suregreen will issue the Customer with a credit note for the Goods returned (net to any costs described in clause 6.10.3) and no refunds will be issued;</p> <p>6.10.5 Suregreen reserves the right to charge and the Customer agrees to pay:</p> <p>(a) the costs of returning the Goods to Suregreen;</p> <p>(b) a 25% re-stocking fee in respect of the Goods returned;</p> <p>(c) any reasonable deduction made by Suregreen in respect of the Customers use and handling of the Goods returned;</p> <p>and the Customer acknowledges that such costs will be deducted from the credit note issued or invoiced to the Customer for immediate payment, in Suregreen's discretion.</p> <p>6.11 Suregreen will not accept and the Customer shall not in any circumstance be entitled to return any Goods that have been made to the Customer's specifications or are clearly personalised or Goods that are liable to deteriorate or expire rapidly, unless the Customer can show that such Goods were faulty on delivery.</p>	<p>9.3 The Customer warrants that it has provided Suregreen with all relevant, full and accurate information as to the Customer's business and needs in relation to the Deliverables and shall provide Suregreen with such materials and access to its premises and personnel as Suregreen may require from time to time to supply the Deliverables.</p> <p>9.4 As the Customer's sole and exclusive remedy, Suregreen shall, at its option, correct, repair, remedy, re-perform, or refund the Price of, any Deliverables that do not comply with clause 9.1.1-9.1.4 inclusive.</p> <p>9.5 Suregreen shall not be liable for any failure of the Goods to comply with clause 9.1:</p> <p>9.5.1 where such failure arises by reason of wear and tear, wilful damage, negligence, or could be expected to arise in the normal course of use of the Goods;</p> <p>9.5.2 to the extent caused by the Customer's failure to comply with Suregreen's instructions in relation to the Goods, including any instructions on installation, operation, storage or maintenance;</p> <p>9.5.3 to the extent caused by Suregreen following any specification, instruction or requirement of or given by the Customer in relation to the Goods;</p> <p>9.5.4 where the Customer modifies any Goods without Suregreen's prior written consent or, having received such consent, not in accordance with Suregreen's instructions; or</p> <p>9.5.5 where the Customer uses any of the Goods after notifying Suregreen that they do not comply with clause 9.1.</p> <p>9.6 Suregreen shall not be liable for any failure of the Services to comply with clause 9.1 to the extent caused by:</p> <p>9.6.1 the Customer's failure to comply with clause 9.3; or</p> <p>9.6.2 the Customer's failure to comply with Suregreen's instructions in relation to the Services, including any instructions on installation, operation, storage or maintenance;</p> <p>9.6.3 Suregreen following any specification, instruction or requirement of or given by the Customer in relation to the Services;</p> <p>9.6.4 where the Customer modifies any Services without Suregreen's prior written consent or, having received such consent, not in accordance with Suregreen's instructions;</p> <p>9.6.5 the Customer's failure to comply with clause 6.8.1 to 6.8.3.</p> <p>9.7 Except as set out in this clause 9:</p> <p>9.7.1 Suregreen gives no warranty and makes no representations in relation to the Deliverables (including, without limitation, that the Deliverables are fit for any particular purpose or will deliver any particular result, whether or not such purpose or result are made known to Suregreen by the Customer); and</p> <p>9.7.2 shall have no liability for their failure to comply with the warranty in clause 9.1, and all warranties and conditions (including the conditions implied by ss 12-16 of the Supply of Goods and Services Act 1982 and ss 13-15 of the Sale of Goods Act 1979), whether express or implied by statute, common law or otherwise are excluded to the extent permitted.</p>	<p>13. LIMITATION OF LIABILITY</p> <p>13.1 The extent of the parties' liability under or in connection with the Contract (regardless of whether such liability arises in tort, contract or in any other way and whether or not caused by negligence or misrepresentation) shall be as set out in this clause 13.</p> <p>13.2 Subject to clauses 13.5 and 13.6, Suregreen's total liability shall not exceed the value of the relevant Contract to which the event giving rise to the liability related.</p> <p>13.3 Subject to clauses 13.5 and 13.6, Suregreen shall not be liable for consequential, indirect or special losses.</p> <p>13.4 Subject to clauses 13.5 and 13.6, Suregreen shall not be liable for any of the following (whether direct or indirect):</p> <p>13.4.1 loss of profit;</p> <p>13.4.2 loss or corruption of data;</p> <p>13.4.3 loss of use;</p> <p>13.4.4 loss of production;</p> <p>13.4.5 loss of contract;</p> <p>13.4.6 loss of opportunity;</p> <p>13.4.7 loss of savings, discount or rebate (whether actual or anticipated);</p> <p>13.4.8 harm to reputation or loss of goodwill.</p> <p>13.5 The limitations of liability set out in clauses 13.2 to 13.4 shall not apply in respect of any indemnities given by either party under the Contract.</p> <p>13.6 Notwithstanding any other provision of the Contract, the liability of the parties shall not be limited in any way in respect of the following:</p> <p>13.6.1 death or personal injury caused by negligence;</p> <p>13.6.2 fraud or fraudulent misrepresentation;</p> <p>13.6.3 any other losses which cannot be excluded or limited by Applicable Law;</p> <p>13.6.4 any losses caused by wilful misconduct.</p> <p>14. INTELLECTUAL PROPERTY</p> <p>Unless otherwise specified in writing in the Contract, nothing in these Conditions shall have effect to transfer, assign or licence any interest in Suregreen's Intellectual Property Rights.</p> <p>15. CONFIDENTIALITY</p> <p>15.1 The Customer shall keep confidential all Confidential Information of Suregreen and shall only use the same as required to perform the Contract. The provisions of this clause shall not apply to:</p> <p>15.1.1 any information which was in the public domain at the date of the Contract;</p> <p>15.1.2 any information which comes into the public domain subsequently other than as a consequence of any breach of the Contract or any related agreement;</p> <p>15.1.3 any information which is independently developed by the Customer without using information supplied by Suregreen; or</p> <p>15.1.4 any disclosure required by law or a regulatory authority or otherwise by the provisions of the Contract.</p> <p>15.2 This clause shall remain in force for a period of three years from the date of the Contract.</p> <p>16. PERSONAL DATA</p> <p>16.1 The parties agree that in relation to Personal Data shared under or in connection with this Agreement it is their understanding that each of them is an independent Controller and Suregreen's use of such Personal Data shall be as set out in its privacy policy published at https://www.sure-green.com/privacy-policy and as updated from time to time.</p> <p>16.2 Each party shall only process Protected Data in accordance with all Data Protection Laws and implement and maintain, at its cost and expense, appropriate technical and organisational measures to ensure that the processing of the Protected Data meets the requirements of Data Protection Laws.</p> <p>16.3 Suregreen may share Personal Data with selected third parties for the purposes of having Deliverables delivered to the Customer in performance of the Contract.</p> <p>17. SPECIAL TERMS WHICH APPLY TO CONSUMERS</p> <p>17.1 This clause 17 applies if the Customer is a Consumer. Consumer means an individual acting for purposes which are wholly or mainly outside that individual's trade, business, craft or profession.</p> <p>17.2 Subject to clause 17.3, the Consumer has the right to cancel the Contract under the Consumer Contracts (Information, Cancellation and Additional Charges) Regulations 2013 and receive a full refund of the Price of the Goods for any reason within 14 days of receiving the Goods. This clause 17 provides the Consumer with information about how to exercise this right.</p> <p>17.3 The Consumer does not have the right to cancel the Contract if:</p> <p>17.3.1 the Contract is concluded in person at Suregreen's premises; or</p>
<p>7. RISK</p> <p>Risk in the Goods shall pass to the Customer on delivery.</p> <p>8. TITLE IN GOODS</p> <p>8.1 Title to the Goods shall pass to the Customer once Suregreen has received payment in full and cleared funds for the Goods.</p> <p>8.2 Until title to the Goods has passed to the Customer, the Customer shall:</p> <p>8.2.1 hold the Goods as bailee for Suregreen;</p> <p>8.2.2 store the Goods separately from all other material in the Customer's possession; and</p> <p>8.2.3 take all reasonable care of the Goods and keep them in the condition in which they were delivered.</p> <p>8.3 If, at any time before title to the Goods has passed to the Customer, the Customer informs Suregreen, or Suregreen reasonably believes, that the Customer has or is likely to become subject to any of the events specified in clauses 19.1.1 to 19.1.4 Suregreen may:</p> <p>8.3.1 require the Customer at the Customer's expense to return the Goods to Suregreen; and</p> <p>8.3.2 if the Customer fails to do so promptly, enter any premises (either itself or by an authorised representative) where the Goods are stored and repossess them, and the Customer hereby grants Suregreen a licence on business days and during business hours for these purposes.</p> <p>9. WARRANTY</p> <p>9.1 Suregreen warrants that at the time of delivery or performance the Deliverables shall:</p> <p>9.1.1 conform in all material respects to their description;</p> <p>9.1.2 be free from material defects in design, material and workmanship;</p> <p>9.1.3 if Goods, be of satisfactory quality within the meaning of the Sale of Goods Act 1979; and</p> <p>9.1.4 if Services, be supplied with reasonable care and skill within the meaning of the Supply of Goods and Services Act 1982, Part II, s 13.</p> <p>9.2 Save as provided in clause 9.1 Suregreen does not give any warranty in respect of the Deliverables.</p>	<p>10. ANTI-BRIBERY</p> <p>10.1 For the purposes of this clause 10 the expressions "adequate procedures" and "associated with" shall be construed in accordance with the Bribery Act 2010 and legislation or guidance published under it.</p> <p>10.2 Subject to clause 17.11, each party shall comply with applicable Bribery Laws including ensuring that it has in place adequate procedures to prevent bribery and ensure that:</p> <p>10.2.1 all of that party's personnel;</p> <p>10.2.2 all others associated with that party; and</p> <p>10.2.3 all of that party's subcontractors; involved in performing the Contract so comply.</p> <p>11. ANTI-SLAVERY</p> <p>11.1 Subject to clause 17.11 17.9, each party warrants that:</p> <p>11.1.1 it shall comply with the Modern Slavery Act 2015; and</p> <p>11.1.2 it has implemented due diligence procedures to ensure compliance with the Modern Slavery Act 2015 in its business and supply chain, and those of its officers, employees, agents or subcontractors, which shall be made available to Suregreen on request at any time throughout the Contract; and</p> <p>11.2 The Customer shall notify Suregreen immediately in writing if it becomes aware or has reason to believe that it, or any of its officers, employees, agents or subcontractors have breached or potentially breached any of the Customer's obligations under clause 11.1.</p> <p>12. INDEMNITY</p> <p>12.1 Subject to clause 17.11, the Customer shall indemnify, and keep indemnified, Suregreen from and against any losses, damages, liability, costs (including legal fees) and expenses incurred by Suregreen as a result of or in connection with the Customer's breach of any of its obligations under clauses 6.8, 9.5 and 15.</p>	<p>13. LIMITATION OF LIABILITY</p> <p>13.1 The extent of the parties' liability under or in connection with the Contract (regardless of whether such liability arises in tort, contract or in any other way and whether or not caused by negligence or misrepresentation) shall be as set out in this clause 13.</p> <p>13.2 Subject to clauses 13.5 and 13.6, Suregreen's total liability shall not exceed the value of the relevant Contract to which the event giving rise to the liability related.</p> <p>13.3 Subject to clauses 13.5 and 13.6, Suregreen shall not be liable for consequential, indirect or special losses.</p> <p>13.4 Subject to clauses 13.5 and 13.6, Suregreen shall not be liable for any of the following (whether direct or indirect):</p> <p>13.4.1 loss of profit;</p> <p>13.4.2 loss or corruption of data;</p> <p>13.4.3 loss of use;</p> <p>13.4.4 loss of production;</p> <p>13.4.5 loss of contract;</p> <p>13.4.6 loss of opportunity;</p> <p>13.4.7 loss of savings, discount or rebate (whether actual or anticipated);</p> <p>13.4.8 harm to reputation or loss of goodwill.</p> <p>13.5 The limitations of liability set out in clauses 13.2 to 13.4 shall not apply in respect of any indemnities given by either party under the Contract.</p> <p>13.6 Notwithstanding any other provision of the Contract, the liability of the parties shall not be limited in any way in respect of the following:</p> <p>13.6.1 death or personal injury caused by negligence;</p> <p>13.6.2 fraud or fraudulent misrepresentation;</p> <p>13.6.3 any other losses which cannot be excluded or limited by Applicable Law;</p> <p>13.6.4 any losses caused by wilful misconduct.</p> <p>14. 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The provisions of this clause shall not apply to:</p> <p>15.1.1 any information which was in the public domain at the date of the Contract;</p> <p>15.1.2 any information which comes into the public domain subsequently other than as a consequence of any breach of the Contract or any related agreement;</p> <p>15.1.3 any information which is independently developed by the Customer without using information supplied by Suregreen; or</p> <p>15.1.4 any disclosure required by law or a regulatory authority or otherwise by the provisions of the Contract.</p> <p>15.2 This clause shall remain in force for a period of three years from the date of the Contract.</p> <p>16. PERSONAL DATA</p> <p>16.1 The parties agree that in relation to Personal Data shared under or in connection with this Agreement it is their understanding that each of them is an independent Controller and Suregreen's use of such Personal Data shall be as set out in its privacy policy published at https://www.sure-green.com/privacy-policy and as updated from time to time.</p> <p>16.2 Each party shall only process Protected Data in accordance with all Data Protection Laws and implement and maintain, at its cost and expense, appropriate technical and organisational measures to ensure that the processing of the Protected Data meets the requirements of Data Protection Laws.</p> <p>16.3 Suregreen may share Personal Data with selected third parties for the purposes of having Deliverables delivered to the Customer in performance of the Contract.</p> <p>17. SPECIAL TERMS WHICH APPLY TO CONSUMERS</p> <p>17.1 This clause 17 applies if the Customer is a Consumer. 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- 17.3.2 the Contract is for the supply of certain Goods, including Goods that are made to the Consumer's specifications or are clearly personalised or Goods that are liable to deteriorate or expire rapidly.
- 17.4 Where the Consumer has the right to cancel the Contract, they must do so within 14 days of the date the Order. The Consumer shall not have the right to cancel if the Consumer requests that the Services commence within 14 days from the date of the Contract.
- 17.5 Notice of cancellation should be given to Suregreen by email, at the email address shown on the Order Confirmation or by phone to Suregreen's telephone number shown on Suregreen's website available at <https://www.sure-green.com/>
- 17.6 If the Consumer has received the Goods:
- 17.6.1 the Consumer shall contact Suregreen to confirm the relevant return address and send back the Goods or hand them over to Suregreen, without undue delay and in any event no later than 14 days from the day on which the Consumer gives notice of cancellation under clause 17.5. The Goods shall be returned in new and unused condition and, to the extent possible, in their original packaging;
- 17.6.2 the Consumer shall bear the cost of returning the Goods. Suregreen may arrange for collection or other return process for the Goods at the Customer's expense which shall be deducted from any refund due to the Customer; and
- 17.6.3 the Consumer is responsible for the Goods while they are in its possession and Suregreen may make a reasonable deduction for any diminished value of the Goods resulting from the handling or use of the Goods, other than what is necessary to establish the nature, characteristics and functioning of the Goods.
- 17.7 On receipt of the returned Goods within 14 days of the Consumer's notice of cancellation, Suregreen will refund the Consumer the Price of the Goods and standard delivery. If the Consumer chooses a delivery option that is more expensive than the cost of standard delivery, Suregreen will only refund the cost of standard delivery and the Consumer will bear the cost of any difference between the standard delivery charge and the delivery method chosen by the Consumer, in addition to the costs of return and any reasonable deduction for handling and use.
- 17.8 The Consumer Rights Act 2015 also gives the Consumer certain legal rights (collectively referred to as 'Statutory Rights'). In particular, Suregreen warrants to the Consumer that the Goods it provides will be as described, fit for purpose and of satisfactory quality. Except where expressly agreed in writing in the Contract, Suregreen does not warrant, however, that the Deliverables are fit for any particular purpose or intended use proposed by the Customer or that they will deliver any particular result, whether or not such purpose or result are made known to Suregreen by the Customer.
- 17.9 If the Goods Suregreen provides to the Consumer become faulty:
- 17.9.1 within 30 days' of the Consumer receiving the Goods then the Consumer is entitled to a full refund of the Price of the Goods;
- 17.9.2 within six months of the Consumer receiving the Goods (and the Goods cannot be repaired or replaced) then the Consumer is entitled to a full refund of the Price of the Goods.
- 17.10 Any Personal Data of the Consumer shall be processed in accordance with Suregreen's privacy policy available at <https://www.sure-green.com/privacy-policy> (the provisions of which shall be substituted for clause 16 with respect to Consumers).
- 17.11 The provisions of clauses 8.3.2, 10, 11, 12, 16 and 31 of these Conditions shall not apply where the Customer is a Consumer.
- 17.12 Further information relating to the Consumers statutory rights can be found by visiting the Citizens Advice website www.citizensadvice.org.uk or calling 0808 223 1133.
- 17.13 If the Consumer is unhappy with the Goods or Services provided to it by Suregreen then it is entitled to contact Suregreen's dedicated consumer support team at: sales@sure-green.com
- 17.14 Relevant United Kingdom law applies to this Contract. If you want to take court proceedings, the courts of the region of the United Kingdom in which the Consumer lives shall have non-exclusive jurisdiction in relation to this Contract.
- 18. FORCE MAJEURE**
- Neither party shall have any liability under or be deemed to be in breach of the Contract for any delays or failures in performance of the Contract which result from Force Majeure. The party subject to the Force Majeure event shall promptly notify the other party in writing when such event causes a delay or failure in performance and when it ceases to do so. Inability to pay for any reason shall in no circumstances constitute a Force Majeure.
- 19. TERMINATION**
- 19.1 Suregreen may terminate the Contract at any time by giving notice in writing to the Customer if:
- 19.1.1 the Customer commits a material breach of the Contract and such breach is not remediable;
- 19.1.2 the Customer commits a material breach of the Contract which is not remedied within 14 days of receiving written notice of such breach;
- 19.1.3 the Customer has failed to pay any amount due under the Contract on the due date and such amount remains unpaid within 30 days after Suregreen has given notification that the payment is overdue; or
- 19.1.4 any consent, licence or authorisation held by the Customer is revoked or modified such that the Customer is no longer able to comply with its obligations or receive any benefit to which it is entitled under or in connection with the Contract.
- 19.2 Either party may terminate the Contract at any time by giving notice in writing to the other party if the other party:
- 19.2.1 stops carrying on all or a significant part of its business, or indicates in any way that it intends to do so;
- 19.2.2 is unable to pay its debts either within the meaning of section 123 of the Insolvency Act 1986 or if Suregreen reasonably believes that to be the case;
- 19.2.3 becomes the subject of a company voluntary arrangement under the Insolvency Act 1986;
- 19.2.4 becomes subject to a moratorium under Part A1 of the Insolvency Act 1986;
- 19.2.5 becomes subject to a restructuring plan under Part 26A of the Companies Act 2006;
- 19.2.6 becomes subject to a scheme of arrangement under Part 26 of the Companies Act 2006;
- 19.2.7 has a receiver, manager, administrator or administrative receiver appointed over all or any part of its undertaking, assets or income;
- 19.2.8 has a resolution passed for its winding up;
- 19.2.9 has a petition presented to any court for its winding up or an application is made for an administration order, or any winding-up or administration order is made against it;
- 19.2.10 is subject to any procedure for the taking control of its goods that is not withdrawn or discharged within seven days of that procedure being commenced;
- 19.2.11 has a freezing order made against it;
- 19.2.12 is subject to any recovery or attempted recovery of items supplied to it by a Suregreen retaining title in those items; and
- 19.2.13 is subject to any events or circumstances analogous to those in clauses 19.2.1 to 19.2.12 in any jurisdiction.
- 19.3 If the Customer becomes aware that any event has occurred, or circumstances exist, which may entitle Suregreen to terminate the Contract under this clause 19, it shall immediately notify Suregreen in writing.
- 19.4 Termination or expiry of the Contract shall not affect any accrued rights and liabilities of Suregreen at any time up to the date of termination.
- 20. NOTICES**
- 20.1 Any notice given by a party under these Conditions shall:
- 20.1.1 be in writing and in English;
- 20.1.2 be signed by, or on behalf of, the party giving it (except for notices sent by email); and
- 20.1.3 be sent to the relevant party at the address set out in the Order.
- 20.2 This clause does not apply to notices given in legal proceedings or arbitration.
- 21. ENTIRE AGREEMENT**
- 21.1 The parties agree that the Contract constitutes the entire agreement between them and supersedes all previous agreements, understandings and arrangements between them, whether in writing or oral in respect of its subject matter.
- 21.2 Each party acknowledges that it has not entered into the Contract in reliance on, and shall have no remedies in respect of, any representation or warranty including any oral statement made by an operative or sales representative of Suregreen, that is not expressly set out in writing in the Contract. No party shall have any claim for innocent or negligent misrepresentation on the basis of any statement in the Contract.
- 21.3 Nothing in these Conditions purports to limit or exclude any liability for fraud.
- 22. VARIATION**
- No variation of the Contract shall be valid or effective unless it is in writing, refers to the Contract and these Conditions and is duly signed or executed by, or on behalf of, each party.
- 23. ASSIGNMENT**
- 23.1 The Customer may not assign, subcontract or encumber any right or obligation under the Contract, in whole or in part, without Suregreen's prior written consent.
- 23.2 Suregreen may at any time assign, sub-contract, or encumber any right or obligation under the Contract without notice, provided that Suregreen shall remain liable to the acts of such subcontractors.
- 24. SET OFF**
- 24.1 Suregreen shall be entitled to set-off under the Contract any liability which it has or any sums which it owes to the Customer under the Contract or under any other contract which Suregreen has with the Customer.
- 24.2 The Customer shall pay all sums that it owes to Suregreen under the Contract without any set-off, counterclaim, deduction or withholding of any kind, save as may be required by law.
- 25. NO PARTNERSHIP OR AGENCY**
- The parties are independent persons and are not partners, principal and agent or employer and employee and the Contract does not establish any joint venture, trust, fiduciary or other relationship between them, other than the contractual relationship expressly provided for in it. None of the parties shall have, nor shall represent that they have, any authority to make any commitments on the other party's behalf.
- 26. SEVERANCE**
- If any provision of the Contract (or part of any provision) is or becomes illegal, invalid or unenforceable but would be legal, valid and enforceable if some part of it was deleted or modified, the provision or part-provision in question shall apply with the minimum such deletions or modifications as may be necessary to make the provision legal, valid and enforceable. In the event of such deletion or modification, the parties shall negotiate in good faith in order to agree the terms of a mutually acceptable alternative provision and the legality, validity and enforceability of any other provision of the Contract shall not be affected.
- 27. WAIVER**
- No failure, delay or omission by Suregreen in exercising any right, power or remedy provided by law or under the Contract shall operate as a waiver of that right, power or remedy, nor shall it preclude or restrict any future exercise of that or any other right, power or remedy.
- 28. COMPLIANCE WITH LAW**
- The Customer shall comply with Applicable Law and shall maintain such licences, authorisations and all other approvals, permits and authorities as are required from time to time to perform its obligations and receive the benefit of the Deliverables under or in connection with the Contract.
- 29. COSTS AND EXPENSES**
- The Customer shall pay its own costs and expenses incurred in connection with the negotiation, preparation, signature and performance of the Contract (and any documents referred to in it).
- 30. THIRD PARTY RIGHTS**
- Except for an Affiliate of Suregreen, no person who is not a party to the Contract shall have any rights under the Contracts (Rights of Third Parties) Act 1999 to enforce any of the provisions of the Contract.
- 31. GOVERNING LAW AND JURISDICTION**
- 31.1 Subject to clause 17.11, the Contract and any dispute or claim arising out of, or in connection with, it, its subject matter or formation (including non-contractual disputes or claims) shall be governed by, and construed in accordance with, the laws of England and Wales.
- 31.2 Subject to clause 17.11, the parties irrevocably agree that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim arising out of, or in connection with, the Contract, its subject matter or formation (including non-contractual disputes or claims).