

Terms and Conditions of Sale of Goods

1. Application of Terms and Conditions

1.1 The Seller shall sell and the Buyer shall purchase the Goods in accordance with any quotation or offer of the Seller which is accepted by the Buyer, or any order of the Buyer which is accepted by the Seller; and

1.2 These Terms and Conditions shall govern the Contract to the exclusion of any other terms and conditions subject to which any such quotation is accepted or purported to be accepted by the Seller, or any such order is made or purported to be made, by the Buyer.

2. Interpretation

2.1 The headings used in these Terms and Conditions are for convenience only and shall have no effect upon the interpretation of these Terms and Conditions.

2.2 Words imparting the singular number shall include the plural and vice versa.

2.3 References to any gender shall include the other gender.

3. Basis of Sale

3.1 The Seller's employees or agents are not authorised to make any representations concerning the Goods unless confirmed by the Seller in writing. In entering into the Contract the Buyer acknowledges that it does not rely on, and waives any claim for breach of, any such representations which are not so confirmed.

3.2 No variation to these Terms and Conditions shall be binding unless agreed in writing between the authorised representatives of the Buyer and the Seller, prior to the completion of the sale.

3.3 Sales literature, price lists and other documents issued by the Seller in relation to the Goods are subject to alteration without notice and do not constitute offers to sell the Goods which are capable of acceptance. No contract for the sale of the Goods shall be binding on the Seller unless the Seller has issued a quotation which is expressed to be an offer to sell the goods or has accepted an order placed by the Buyer by issue of the Seller's Pro-forma invoice.

3.4 Any typographical, clerical or other accidental errors or omissions in any sales literature, quotation, price list, acceptance of offer, invoice or other document or information issued by the Seller shall be subject to correction without any liability on the part of the Seller.

4. Orders and Specifications

4.1 No order submitted by the Buyer shall be deemed to be accepted by the Seller unless and until confirmed in writing by the Seller's authorised representative by way of an invoice.

4.2 The specification for the Goods shall be that set out in the Seller's sales documentation unless varied expressly in the Buyer's order (if such variation(s) is/are accepted by the Seller). The Goods will only be supplied in the quantities stipulated on the Pro-forma invoice.

4.3 Illustrations, photographs or descriptions whether in catalogues, brochures, price lists, websites or other documents issued by the Seller are intended as a guide only and shall not be binding on the Seller.

4.4 The Seller reserves the right to make any changes in the specification of the Goods which are required to conform with any applicable safety or other statutory or regulatory requirements or, where the Goods are to be supplied to the Buyer's specification, which do not materially affect their quality or performance.

4.5 No order which has been accepted by the Seller may be cancelled by the Buyer except with the agreement in writing of the Seller on the terms that the Buyer shall indemnify the Seller in full against all loss (including loss of profit), costs (including the cost of all labour and materials used as well as transportation costs), damages, charges and expenses incurred by the Seller as a result of such cancellation.

4.6 All block sizes are nominal and a tolerance of 3.5mm either way is allowed on all products. Images may not be the actual size of the product and are for illustration purposes only. Images shown may differ from the actual product and colours on screen may not be an accurate representation of the actual colour.

4.7 As with all natural products, colour variations may occur from batch to batch. Terraforce UK accept no responsibility for product colour variations if products are ordered in separate orders. Slight colour variations should be expected within an order.

4.8 The Seller accepts no responsibility for the integrity of any constructions using the products. The buyer is advised to seek professional advice if unsure at any stage. Information provided by the Seller is not exhaustive and is provided as a guideline only. The buyer is responsible for ensuring the integrity and safety of the structure during and after construction. Any advice provided by the Seller is done as 'site unseen' and is a mere indication and not conclusive in design.

4.9 The Buyer acknowledges and agrees that:

4.9.1 all drawings, installation guides, building instructions, technical specifications and any other documentation (whether described as "typical drawings", "preliminary drawings", "guide drawings" or otherwise) provided by the Seller are for informational, educational and guidance purposes only;

4.9.2 drawings and guidance materials are not intended to be, and shall not be construed as, definitive construction drawings or specifications suitable for any particular project or site;

4.9.3 the drawings and guidance materials are provided on an "as is" basis without any warranty, representation or guarantee as to their accuracy, completeness, suitability or fitness for any particular purpose;

4.9.4 the Buyer must not rely solely on any drawings, guides or instructions provided by the Seller for the design, planning or construction of any structure;

4.10 It is the Buyer's sole responsibility to:

4.10.1 engage suitably qualified and experienced structural engineers, geotechnical engineers and other relevant professionals to assess site-specific conditions;

4.10.2 obtain independent professional advice regarding the design, structural integrity and safety of any proposed construction;

4.10.3 ensure that all designs are reviewed and approved by appropriately qualified professionals before commencing any construction work;

4.10.4 verify that all construction work complies with applicable building regulations, planning permissions and safety standards;

4.10.5 ensure that installation is carried out by competent and experienced contractors under appropriate professional supervision;

4.11 The Seller provides no warranty that any structure built using the Goods and/or following any guidance provided by the Seller will be fit for purpose, structurally sound, or suitable for the Buyer's intended use;

4.12 The Buyer accepts that during transportation, loading and offloading some damage may occur. The buyer therefore accepts the possibility of some damaged blocks. The integrity of the blocks is not affected.

4.13 The Buyer accepts that as concrete is a natural and porous product, some cracks and chips may appear during curing and settling. This is deemed to be acceptable by the buyer. It is the responsibility of the buyer to check their delivery. Acceptance of the delivery is deemed to be a completed sale.

4.14 The Seller accepts no responsibility for damage which occurs during or after construction. The Seller shall not be liable for any failure, collapse, movement, cracking or any other defect in any wall, structure or installation constructed using the Goods, whether such failure arises during construction, immediately after construction or at any time thereafter.

4.15 The Seller accepts no responsibility for normal wear and tear as would be accepted on any products including cracking or chipping that may occur over time. The Seller will provide the Buyer with as much information as the Buyer reasonably requests in order to complete a project.

4.16 The Buyer accepts responsibility for the cost of transportation on any returns on unwanted goods.

4.17 The Buyer accepts that the goods are sent to them having been checked and approved. The Buyer agrees to give the Seller a reasonable* amount of time to rectify any issues regarding the product, should they arise, before requesting a refund.

4.18 The Buyer acknowledges that the unique nature of the Seller's building system requires proper understanding, professional assessment and correct installation. The Buyer agrees that failure to obtain appropriate professional advice and supervision may result in structural failure for which the Seller shall have no liability.

5. Price

5.1 The price of the Goods shall be the price listed in the Seller's quotation current at the date of acceptance of the Buyer's order or such other price as may be agreed in writing by the Seller and the Buyer.

5.2 The Seller reserves the right, by giving written notice to the Buyer at any time before delivery, to increase the price of the Goods to reflect any increase in the cost to the Seller which is due to any factor beyond the control of the Seller (including, without limitation, any foreign exchange fluctuation, currency regulation, alteration of duties, significant increase in the costs of labour, materials or other costs of manufacture), any change in delivery dates, quantities or specifications for the Goods which are requested by the Buyer, or any delay caused by any instructions of the Buyer or failure of the Buyer to give the Seller adequate information or instructions.

5.3 Except as otherwise stated under the terms of any quotation or in any price list of the Seller, and unless otherwise agreed in writing between the Buyer and the Seller, all prices are inclusive of the Seller's charges for packaging and transport.

5.4 VAT is applicable at the current rate.

6. Payment

6.1 Subject to any special terms agreed in writing between the Buyer and the Seller, the Seller shall invoice the Buyer for the price of the Goods when the goods are ordered.

6.2 The Buyer shall pay the price of the Goods (less any discount or credit allowed by the Seller, but without any other deduction credit or set off) 7 business days before an

agreed delivery date. (or sooner if delivery required within those 7 days).* Payment shall be made on the due date. Receipts for payment will be issued only upon request. *The seller agrees to aim to arrange delivery for agreed delivery date however the buyer accepts changes may need to be made to these dates for circumstances which are beyond the Seller's control

6.3 All payments shall be made to the Seller in Pounds Sterling at its office as indicated on the form of acceptance or invoice issued by the Seller. Payments made by PAYPAL/Debit or credit cards will incur an extra charge as specified by the seller.

6.4 Payments not received 7 days prior to delivery will mean that delivery is postponed until such payment is received. Any costs incurred by the Seller due to late payment by the buyer and subsequent delayed delivery times, will be borne by the Buyer. This includes storage and delivery costs.

7. Delivery

7.1 Delivery of the Goods shall be made by the Seller delivering the Goods to the place in the United Kingdom specified in the Buyer's order and/or the Seller's acceptance as the location to which the Goods are to be delivered by the Seller or, if no place of delivery is so specified, by the Buyer collecting the Goods at the Seller's premises at any time after the Seller has notified the Buyer that the Goods are ready for collection. Delivery is made via a third party. The seller is not responsible for any damage caused to the Buyer's property by the 3rd party delivery provider.

7.2 The Delivery Date is approximate only and time for delivery shall not be of the essence unless previously agreed by the Seller in writing. The Goods may be delivered by the Seller in advance of the Delivery Date upon giving reasonable notice to the Buyer.

7.3 Where the Goods are to be delivered in instalments, each delivery shall constitute a separate contract and failure by the Seller to deliver any one or more of the instalments in accordance with these Terms and Conditions or any claim by the Buyer in respect of any one or more instalments shall not entitle the Buyer to treat the Contract as a whole as repudiated.

7.4 If the Buyer fails to take delivery of the Goods or any part of them on the Delivery Date and/or fails to provide any instructions, documents, licences, consents or authorisations required to enable the Goods to be delivered on that date, the Seller shall be entitled upon giving written notice to the Buyer to store or arrange for the storage of the Goods and risk in the Goods shall pass to the Buyer, delivery shall be deemed to have taken place and the Buyer shall pay to the Seller all costs and expenses including storage and insurance charges arising from such failure.

8. Risk and Retention of Title

8.1 Risk of damage to or loss of the Goods shall pass to the Buyer at:

8.1.1 in the case of Goods to be delivered at the Seller's premises, the time when the Seller notifies the Buyer that the Goods are available for collection; or

8.1.2 in the case of Goods to be delivered otherwise than at the Seller's premises, the time of delivery or, if the Buyer wrongfully fails to take delivery of the Goods, the time when the Seller has tendered delivery of the Goods.

8.2 Notwithstanding delivery and the passing of risk in the Goods, or any other provision of these Terms and Conditions, legal and beneficial title of the Goods shall not pass to the Buyer until the Seller has received in cash or cleared funds payment in full of the price of the Goods.

8.3 Sub-Clause 8.2 notwithstanding, legal and beneficial title of the Goods shall not pass to the Buyer until the Seller has received in cash or cleared funds payment in full of the price of the Goods and any other goods supplied by the Seller and the Buyer has repaid all moneys owed to the Seller, regardless of how such indebtedness arose.

8.4 Until payment has been made to the Seller in accordance with these Conditions and title in the Goods has passed to the Buyer, the Buyer shall be in possession of the Goods as bailee for the Seller and the Buyer shall store the Goods separately and in an appropriate environment, shall ensure that they are identifiable as being supplied by the Seller and shall insure the Goods against all reasonable risks.

8.5 The Buyer shall not be entitled to pledge or in any way charge by way of security for any indebtedness any of the Goods which remain the property of the Seller, but if the Buyer does so all money owing by the Buyer to the Seller shall (without prejudice to any other right or remedy of the Seller) forthwith become due and payable.

8.6 The Seller reserves the right to repossess any Goods in which the Seller retains title without notice. In the event of repossession the Buyer shall deliver up to the Seller all Goods in which title has not passed, the cost of which shall be born by the Buyer.

8.7 Should the Buyer refuse delivery on the day of delivery or after payment has been made in full, the buyer will be liable for the delivery costs and return costs of the goods.

8.8 The Buyer's right to possession of the Goods in which the Seller maintains legal and beneficial title shall terminate if:

8.8.1 the Buyer commits or permits any material breach of his obligations under these Conditions;

8.8.2 the Buyer is or becomes the subject of a bankruptcy order or takes advantage of any other statutory provision for the relief of insolvent debtors.

9. Assignment

9.1 The Seller may assign the Contract or any part of it to any person, firm or company without the prior written consent of the Buyer.

9.2 The Buyer shall not be entitled to assign the Contract or any part of it without the prior written consent of the Seller.

10. Right to Return the Goods and to Receive a Refund

10.1 If the Buyer is not satisfied with any Goods purchased from the Seller, the Buyer may cancel the Contract and return the Goods to the Seller and obtain a refund of the price of the returned Goods, provided (excluding the delivery costs relating to the order):

10.1.1 the Buyer informs the Seller of the decision to cancel the Contract within 2 Calendar Days of delivery of the Goods; and

10.1.2 The Goods are returned in their original condition; and

10.1.3 The Goods are returned on the pallets already provided.

10.1.4 The full cost for the return of the goods is to be born by the buyer.

10.2 While the Goods remain in the Buyer's possession the Buyer is under a duty to ensure that the Goods are kept safe and secure.

10.3 Where the Goods are custom made to the order of the Buyer, the Buyer shall not be entitled to return the Goods and receive a refund unless the Goods are faulty. The statutory rights of the Buyer are unaffected.

11 Limitation of Liability

11.1 Nothing in these Terms and Conditions limits any liability which cannot legally be limited, including liability for:

(a) death or personal injury caused by negligence;

(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); and

(d) defective products under the Consumer Protection Act 1987.

11.2 Subject to Clause 11.1, but despite anything to the contrary, to the maximum extent permitted by law:

(a) neither the Seller nor the Buyer shall be liable for Consequential Loss;

(b) a Party's liability for any Liability under the Contract shall be reduced proportionately to the extent the relevant Liability was caused or contributed to by the acts or omissions

of the other Party (or any of its personnel), including any failure by that other Party to mitigate its loss; and

(c) the Seller's aggregate liability for any Liability arising from or in connection with the Contract shall be limited to the price paid by the Buyer to the Seller in respect of the supply of the relevant Goods to which the Liability relates.

11.3 The Seller has given commitments as to the compliance of the Goods with the Contract and applicable laws in Clause 11.1. In view of these commitments, the terms implied by sections 3, 4 and 5 of the Supply of Goods and Services Act 1982 are, to the maximum extent permitted by law, excluded from the Contract.

11.4 For the purposes of these Terms and Conditions:

"Consequential Loss" includes any consequential loss, special or indirect loss, real or anticipated loss of profit, loss of benefit, loss of revenue, loss of business, loss of goodwill, loss of opportunity, loss of savings, loss of reputation, loss of use and/or loss or corruption of data, whether under statute, contract, equity, tort (including negligence), indemnity or otherwise. However, the Buyer's obligation to pay the Seller the price of the Goods shall not constitute "Consequential Loss".

"Liability" means any expense, cost, liability, loss, damage, claim, notice, entitlement, investigation, demand, proceeding or judgment (whether under statute, contract, equity, tort (including negligence), indemnity or otherwise), howsoever arising, whether direct or indirect and/or whether present, unascertained, future or contingent and whether involving a third party or a Party to the Contract or otherwise.

12. Guarantees

The Seller provides no additional guarantees.

13. Confidentiality, Publications and Endorsements

13.1 The Buyer will regard as confidential the contract and all information obtained by the Buyer relating to the business and/or products of the Seller and will not use or disclose to any third party such information without the Seller's prior written consent provided that this undertaking shall not apply to information which is in the public domain other than by reason of the Buyer's default.

13.2 The Buyer will not use or authorise or permit any other person to use any name, trademark, house mark, emblem or symbol which the Seller is licensed to use or which is owned by the Seller upon any premises note paper visiting cards advertisement or other printed matter or in any other manner whatsoever unless such use shall have been previously authorised in writing by the Seller and (where appropriate) its licensor.

14. Communications

14.1 All notices under these Terms and Conditions and under the Contract shall be in writing and be deemed duly given if signed by, or on behalf of, a duly authorised officer of the Party giving the notice.

14.2 Notices shall be deemed to have been duly given:

14.2.1 when delivered, if delivered by courier or other messenger (including registered mail) during the normal business hours of the recipient; or

14.2.2 when sent, if transmitted by facsimile or e-mail and a successful transmission report or return receipt is generated; or

14.2.3 on the fifth business day following mailing, if mailed by national ordinary mail, postage prepaid; or

14.2.4 on the tenth business day following mailing, if mailed by airmail, postage prepaid.

14.3 All notices under this Agreement shall be addressed to the most recent address, e-mail address, or facsimile number notified to the other Party.

15. Force Majeure

Neither Party shall be liable for any failure or delay in performing their obligations where such failure or delay results from any cause that is beyond the reasonable control of that Party. Such causes include, but are not limited to: power failure, Internet Service Provider failure, industrial action, civil unrest, fire, flood, storms, earthquakes, acts of terrorism, acts of war, governmental action or any other event that is beyond the control of the Party in question.

16. Waiver

The Parties agree that no failure by either Party to enforce the performance of any provision in these Terms and Conditions or under the Contract shall constitute a waiver of the right to subsequently enforce that provision or any other provision. Such failure shall not be deemed to be a waiver of any preceding or subsequent breach and shall not constitute a continuing waiver.

17. Severance

The Parties agree that, in the event that one or more of the provisions of these Terms and Conditions or the Contract are found to be unlawful, invalid or otherwise unenforceable, that those provisions shall be deemed severed from the remainder of these Terms and Conditions (and, by extension, the Contract). The remainder of these and the Contract shall be valid and enforceable.

18. Third Party Rights

A person who is not a party to the Contract shall have no rights under the Contract pursuant to the Contracts (Rights of Third Parties) Act 1999.

19. Consumer Rights

The provisions of these Terms and Conditions are in addition to and do not affect the Buyer's statutory rights as a consumer.

20. Law and Jurisdiction

20.1 These Terms and Conditions and the Contract (including any non-contractual matters and obligations arising therefrom or associated therewith) shall be governed by, and construed in accordance with, the laws of England and Wales.

20.2 Any dispute, controversy, proceedings or claim between the Parties relating to these Terms and Conditions or to the Contract (including any non-contractual matters and obligations arising therefrom or associated therewith) shall fall within the jurisdiction of the courts of England and Wales.

21. Although every reasonable effort has been made to ensure that the technical information and the design / installation procedures presented herein are correct, Terraforce U.K. will not be liable for any loss or damage, either direct or consequential, arising for any design inaccuracy, failure or collapse of a block, wall or installation of any description constructed with Terraforce concrete blocks. As with any structure, the design of a Terraforce installation should be undertaken by suitably qualified and experienced engineers, with due cognisance being taken of the specific geotechnical conditions and vital soil parameters pertaining to the site. Likewise, the installation should be undertaken by a suitably qualified and experienced contractor under professional supervision.

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