

# Terms and Conditions

## 1.1 Definitions

**Conditions:** the Terms and Conditions set out in this document as amended from time to time in accordance with Clause 8.

**Contract:** the contract between the Supplier and the Customer for the sale and purchase of the Goods in accordance with these Conditions.

**Customer:** the person or organisation who purchases the Goods from the Supplier.

**Goods:** the goods (or any part of them) set out in the Order.

**Order:** the Customer's Order for the Goods, as set out in the online order form.

**Supplier:** North Yorkshire Council, Civic Centre, St Luke's Avenue, Harrogate, HG1 2AE.

- 2.0** The Order constitutes an offer by the Customer to purchase the Goods in accordance with these Conditions. The Customer is responsible for ensuring that the terms of the Order are complete and accurate.
- 3.1** The Supplier shall deliver the Goods to the location set out in the Order or such other location as the parties may agree (Delivery Location) at any time after the Supplier notifies the Customer that the Goods are ready.
- 3.2** Delivery is completed on the completion of unloading of the Goods at the Delivery Location.
- 3.3** The hanging baskets will be hung in late May/early June and will be removed at the end of the flowering season in late September/early October. These dates are subject to change depending on climatic conditions. The Supplier retains ownership of the hanging baskets during the duration of the Contract. The Supplier will remove the hanging baskets at the end of the flowering season.
- 3.4** The Supplier will install, supply and inspect hanging basket brackets for safety reasons using a contractor.
- 3.5** The Customer will ensure that it has a bracket for the hanging basket. If the Customer does not have a bracket, the Customer is required to purchase one at the time the Customer places the Order for the Goods.
- 3.6** Prior to the installation of the hanging basket, the Supplier's contractor will test the Customer's bracket(s) for safety purposes. If the Customer's bracket fails the contractor's safety inspection, the contractor will liaise directly with the Customer to organise its repair. The Customer will be charged by the contractor for the repair of the bracket or for a new replacement bracket. A refund for any Goods ordered will only be provided to the Customer if a bracket is not replaced.

- 3.7** The Customer will ensure at all times that the Supplier's employees are not obstructed and have safe access to the Customer's premises in order to water and maintain the hanging baskets.
- 3.8** The Supplier will water the hanging baskets during the duration of the Contract unless there exceptional circumstances which prevent the Supplier from doing so, such as a hose pipe ban, or any other circumstances beyond the Supplier's control. The Customer will not be entitled to a refund if the Supplier is unable to water the hanging basket for the reasons set out in this Clause 3.8.
- 4.1** The hanging basket containers remain the property of the Supplier at all times.
- 4.2** The Supplier will not be responsible for the replacement of any stolen, vandalised or damaged Goods within the hanging basket container.
- 4.3** The cost of any replacement Goods will be borne by the Customer.
- 5.1** The price of the Goods shall be the price set out in the Order.
- 5.2** The price of the Goods may increase due to the request by the Customer to change the quantities or types of Goods ordered.
- 5.3** The Price of the Goods is exempt from VAT. However, if a new hanging basket bracket is also required, VAT will be charged for the bracket only.
- 5.4** Payment of the Goods is required in advance when the Customer places the Order via the online booking form.
- 5.5** The Supplier reserves the right to refuse an Order from the Customer for whatever reason and whenever it is deemed necessary.
- 6.1** The Supplier has obtained insurance cover in respect of its own legal liability for individual claims not exceeding the value of the goods supplied per claim. The limits and exclusions in this clause reflect the insurance cover the Supplier has been able to arrange and the Customer is responsible for making its own arrangements for its own insurance and for the insurance of any excess loss.
- 6.2** The restrictions on liability in this Clause 6 apply to every liability arising under or in connection with the Contract including liability in contract, tort (including negligence), misrepresentation, restitution or otherwise.
- 6.3** Nothing in the Contract 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 12 of the Sale of Goods Act 1979
  - (d) defective products under the Consumer Protection Act 1987
- 6.4** Subject to Clause 6.3, the Supplier's total liability to the Customer shall not exceed the amount paid for the Goods.

- 6.5** This Clause 6 shall survive termination of the Contract.
- 7.0** The Contract does not give rise to any rights under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of the Contract.
- 8.0** The Supplier reserves the right to amend these terms and conditions at any time with the current version available to the Customer at the time of purchase.
- 9.0** The Supplier shall comply with any notification requirements under the Data Protection Act 2018 (“DPA”) and both parties shall duly observe all their obligations under the DPA, which may arise in connection with this Contract.
- 10.0** The Contract, and any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with it or its subject matter or formation, shall be governed by and construed in accordance with the law of England and Wales. Each party irrevocably agrees that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with the Contract or its subject matter or formation.