

TALASEY LIMITED TERMS AND CONDITION FOR THE SUPPLY OF GOODS

Definitions:

Business Day: a day (other than a Saturday, Sunday or public holiday) when banks in London are open for business.

Conditions: the terms and conditions set out in this document as amended from time to time in accordance with clause 13.5.

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 firm who purchases the Goods from the Supplier.

Force Majeure Event: an event or circumstance beyond a party's reasonable control including but not without limitation, fire, flood, act of god, exceptional weather, lack of supplies, lack of fuel and any failure by third party delivery partners.

Goods: the goods (or any part of them) as set out in the Supplier's brochures, point of sale material or any websites of the Supplier and incorporating the following brands; Natural Paving; Pavetuf; Vitripiazza; Baksteen; Luxigraze; Resiscap.

Goods Guidelines: the guidelines issued by the Supplier in respect of the Goods supplied.

Intellectual Property: Intellectual Property patents, rights to inventions, copyright and related rights, trade marks, business names and domain names, rights in get-up, and the right to sue for passing off, rights in designs, database right, rights to use, and protect the confidentiality of, confidential information including know-how and all other intellectual property rights, in each case whether registered or unregistered and including all applications and rights to apply for and be granted, renewals or extensions of and rights to claim priority from such rights and all similar or equivalent rights or forms of protection which subsist or will subsist now or in the future in any part of the world.

Order: the Customer's verbal or written acceptance of the Supplier's price list as confirmed by the Supplier's order acknowledgement.

Price List: any price list issued to the Customer by the Supplier.

Specification: any specification for the Goods, including any related plans, drawings, test data, brochure, point of sale material and website provided by the Supplier that is agreed in writing by the Customer and the Supplier.

Supplier: TALASEY LTD (registered in England and Wales with company number 05158665).

1. Interpretation:

1.1 a reference to a statute or statutory provision is a reference to such statute or provision as amended or re-enacted. A reference to a statute or statutory provision includes any subordinate legislation made under that statute or statutory provision, as amended or re-enacted.

1.2 any phrase introduced by the terms **including, in particular** or any similar expression shall be construed as illustrative and shall not limit the sense of the words preceding those terms.

1.3 a reference to **writing** or **written** includes taxes and emails.

2. Basic contract:

2.1 The Conditions apply to the Contract to the exclusion of any other terms that the Customer seeks to impose or incorporate, or which are implied by trade, custom, practice or course of dealing.

2.2 The Order constitutes an offer by the Customer to purchase the Goods in accordance with these Conditions and the Goods Guidelines. The Customer is responsible for ensuring that the terms of the Order and any applicable Specification are complete and accurate.

2.3 The Order shall only be deemed to be accepted when the Supplier issues a written acceptance of the Order, at which point the Contract shall come into existence.

2.4 The Customer waives any right it might otherwise have to rely on any term endorsed upon, delivered with or contained in any documents or materials that are inconsistent with these Conditions.

2.5 Any samples, descriptive matter or advertising produced by the Supplier and any descriptions or illustrations contained in the Supplier's brochures, point of sale material and/or websites are produced for the sole purpose of giving an approximate idea of the Goods referred to in them. They shall not form part of the Contract nor have any contractual force. The Goods Guidelines for the avoidance of doubt does have contractual force.

2.6 Any listed price for the Goods given by the Supplier shall not constitute an offer. A Price List shall be issued annually to existing Customers and upon commencement of trade to new Customers.

3. Goods

3.1 The Goods are described in the Supplier's brochure, website or point of sale material as modified by any applicable Specification.

3.2 The Supplier reserves the right to amend the specification of the Goods at its own discretion and without notice and if required by any applicable statutory or regulatory requirements.

3.3 The Customer agrees that it must only use the Goods strictly in accordance with the Goods Guidelines.

3.4 The Customer acknowledges and understands that it needs to cater for wastage when ordering the Goods and should allow an additional 10% in volume of the Goods ordered.

4. Delivery and collections

4.1 The Supplier shall ensure that:

4.1.1 each delivery of the Goods is accompanied by a delivery note that shows the date of the Order, the type and quantity of the Goods (including the product code of the Goods, where applicable), special storage instructions (if any) and, if the Goods are being delivered by instalments, the outstanding balance of Goods remaining to be delivered; and

4.1.2 if the Supplier requires the Customer to return any packaging materials to the Supplier, that fact is clearly stated on the delivery note. The Customer shall make any such packaging materials available for collection at such times as the Supplier shall reasonably request. Returns of packaging materials shall be at the Supplier's expense.

4.2 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 or as may be set out in the Order. The Customer shall collect the Goods from the Supplier's premises at Belton Road Sandtoft Doncaster DN8 5SX or such other location as may be advised by the Supplier prior to delivery (Delivery Location) within three Business Days of the Supplier notifying the Customer that the Goods are ready and the applicable delivery option shall be set out in the Order.

4.3 Delivery is completed on the completion of unloading or loading of the Goods at the Delivery Location as may be applicable.

4.4 Any dates quoted for delivery are approximate only, and the time of delivery is not of the essence. The Supplier shall not be liable for any delay in delivery of the Goods that is caused by a Force Majeure Event or the Customer's failure to provide the Supplier with adequate delivery instructions or any other instructions that are relevant to the supply of the Goods.

4.5 If the Supplier fails to deliver the Goods, its liability shall be limited to the costs and expenses incurred by the Customer in obtaining replacement goods of similar description and quality in the cheapest market available, less the price of the Goods. In particular the Customer understands and agrees that the Supplier cannot assume any liability nor responsibility for any costs, delays or claims that the Customer may have incurred as a result of any late delivery.

4.6 The Supplier shall have no liability for any failure to deliver the Goods to the extent that such failure is caused by a Force Majeure Event or the Customer's failure to provide the Supplier with adequate delivery instructions or any other instructions that are relevant to the supply of the Goods.

4.7 If the Customer fails to take or accept delivery of the Goods as applicable within three Business Days of the Supplier notifying the Customer that the Goods are ready, then, except where such failure or delay is caused by a Force Majeure Event or the Supplier's failure to comply with its obligations under the Contract:

4.7.1 delivery of the Goods shall be deemed to have been completed at 9.00 am on the third Business Day after the day on which the Supplier notified the Customer that the Goods were ready; and

4.7.2 the Supplier shall store the Goods until delivery takes place and charge the Customer for all related costs and expenses (including insurance).

4.8 If ten Business Days after the day on which the Supplier notified the Customer that the Goods were ready for delivery the Customer has not taken or accepted delivery of them, the Supplier may resell or otherwise dispose of part or all of the Goods and, after deducting reasonable storage and selling costs, account to the Customer for any excess over the price of the Goods or charge the Customer for any shortfall below the price of the Goods.

4.9 If the Supplier delivers up to and including 5% more or less than the quantity of Goods ordered the Customer may not reject them, but on receipt of notice from the Customer that the wrong quantity of Goods was delivered, a pro rata adjustment shall be made to the Order invoice.

4.10 The Supplier may deliver the Goods by instalments, which shall be invoiced and paid for separately. Any delay in delivery or defect in an instalment shall not entitle the Customer to cancel any other instalment.

4.11 The Customer shall ensure that at all times it provides all reasonable assistance as the Supplier may require in respect of facilitating delivery and as defined in the Suppliers delivery guidelines. In particular the Customer must ensure that at all times it (or its customers) shall be free access and appropriate delivery facilities and will comply with any reasonable instructions of the Supplier.

5. Returns

5.1 The Customer shall be entitled to return Goods to the Supplier within 10 working days of delivery of the Goods, subject always and strictly to the following conditions that:

5.1.1 the Supplier will apply a 20% restocking fee to any credit note raised as a result of return which the Customer shall pay in full in accordance with the payment terms set out in these Conditions; and

5.1.2 the Customer must return the Goods in the same resalable condition in which they were delivered to the Customer; and

5.1.3 the Customer shall have full responsibility for returning the Goods to the Supplier's place of business at its own cost. The Supplier may, at its sole option and discretion, offer a collection service to the Customer for a charge, such charge to be notified to the Customer in advance of any return.

5.2 The Supplier shall issue a credit note for the value of the Goods at its sole option and discretion, less the 20% restocking fee described at Condition 5.1.1 above following the Supplier's inspection of the returned Goods at the Supplier's place of business.

6. Quality

6.1 The Supplier warrants that on delivery the Goods shall:

6.1.1 conform in all material respects with their description and any applicable Specification; and

6.1.2 be free from material defects in design, material and workmanship (other than in the case of natural Goods when defects or imperfections may be naturally occurring and an integral part of the Goods); and

6.1.3 be of satisfactory quality (within the meaning of the Sale of Goods Act 1979).

6.2 Subject to clause 6.3, if:

6.2.1 the Customer gives notice in writing to the Supplier within a reasonable time of discovery that some or all of the Goods do not comply with the warranty set out in clause 6.1;

6.2.2 the Supplier is given a reasonable opportunity of examining such Goods; and

6.2.3 the Customer (if asked to do so by the Supplier) returns such Goods to the Supplier's place of business at the Supplier's cost, the Supplier shall, at its option, repair or replace the defective Goods, or refund the price of the defective Goods in full.

6.3 The Supplier shall not be liable for the Goods' failure to comply with the warranty set out in clause 6.1 in any of the following events:

6.3.1 the Customer makes any further use of such Goods after giving notice in accordance with clause 6.2;

6.3.2 the defect arises because the Customer failed to follow the Supplier's verbal or written instructions as to the storage, commissioning, installation, use and maintenance of the Goods or (if there are none) good trade practice regarding the same;

6.3.3 the defect arises as a result of the Supplier following any drawing, design or Specification supplied by the Customer;

6.3.4 the Customer alters or repairs such Goods without the written consent of the Supplier;

6.3.5 the defect arises as a result of fair wear and tear, willful damage, negligence, or abnormal storage or working conditions;

6.3.6 the Goods differ from their description or any Specification as a result of changes made to ensure they comply with applicable statutory or regulatory requirements; or

6.3.7 the Customer has not complied with the Goods Guidelines.

6.4 Except as provided in this clause 6, the Supplier shall have no liability to the Customer in respect of the Goods' failure to comply with the warranty set out in clause 6.1.

6.5 The terms implied by sections 13 to 15 of the Sale of Goods Act 1979 are, to the fullest extent permitted by law, excluded from the Contract.

6.6 These Conditions shall apply to any repaired or replacement Goods supplied by the Supplier.

7. Title and risk

7.1 The risk in the Goods shall pass to the Customer on completion of delivery.

7.2 Title to the Goods shall not pass to the Customer until the earlier of:

7.2.1 the Supplier receives payment in full (in cash or cleared funds) for the Goods and any other goods that the Supplier has supplied to the Customer in respect of which payment has become due, in which case title to the Goods shall pass at the time of payment of all such sums; and

7.2.2 the Customer resells the Goods, in which case title to the Goods shall pass to the Customer at the time specified in clause 7.4.

7.3 Until title to the Goods has passed to the Customer, the Customer shall:

7.3.1 store the Goods separately from all other goods held by the Customer so that they remain readily identifiable as the Supplier's property;

7.3.2 not remove, deface or obscure any identifying mark or packaging on or relating to the Goods;

7.3.3 maintain the Goods in satisfactory condition and keep them insured against all risks for their full price from the date of delivery;

7.3.4 notify the Supplier immediately if it becomes subject to any of the events listed in clause 9.1; and

7.3.5 give the Supplier such information relating to the Goods as the Supplier may require from time to time.

7.4 Subject to clause 7.5, the Customer may resell or use the Goods in the ordinary course of its business (but not otherwise) before the Supplier receives payment for the Goods. However, if the Customer resells the Goods before that time:

7.4.1 it does so as principal and not as the Supplier's agent; and

7.4.2 title to the Goods shall pass from the Supplier to the Customer immediately before the time at which resale by the Customer occurs.

7.5 If before title to the Goods passes to the Customer the Customer becomes subject to any of the events listed in clause 9.1, then, without limiting any other right or remedy the Supplier may have:

7.5.1 the Customer's right to resell the Goods or use them in the ordinary course of its business ceases immediately; and

7.5.2 the Supplier may at any time:

(a) require the Customer to deliver up all Goods in its possession that have not been resold, or irrevocably incorporated into another product; and

(b) if the Customer fails to do so promptly, enter any premises of the Customer or of any third party where the Goods are stored in order to recover them.

8. Price and payment

8.1 The price of the Goods shall be the price set out in the Price List.

8.2 The Supplier may, by giving notice to the Customer at any time up to 3 Business Days before delivery, increase the price of the Goods to reflect any increase in the cost of the Goods that is due to:

8.2.1 any factor beyond the Supplier's control (including foreign exchange fluctuations, increases in taxes and duties, and increases in labour, materials and other manufacturing costs);

8.2.2 any request by the Customer to change the delivery date(s), quantities or types of Goods ordered, or the Specification; or

8.2.3 any delay caused by any instructions of the Customer or failure of the Customer to give the Supplier adequate or accurate information or instructions.

8.3 The price of the Goods:

8.3.1 excludes amounts in respect of value added tax (VAT), which the Customer shall additionally be liable to pay to the Supplier at the prevailing rate, subject to the receipt of a valid VAT invoice; and

8.3.2 excludes the costs and charges of packaging, insurance and transport of the Goods, which shall be invoiced to the Customer.

8.4 The Supplier may invoice the Customer for the Goods on or at any time after the completion of delivery.

8.5 The Customer shall pay the invoice in full and in cleared funds by the end of the month following the month the invoice was dated unless varied by the Supplier in writing.

8.6 If the Customer fails to make any payment due to the Supplier under the Contract by the due date for payment, then the Customer shall pay interest on the overdue amount at the rate of 5% per annum above Bank of England's base rate from time to time. Such interest shall accrue on a daily basis from the due date until actual payment of the overdue amount, whether before or after judgment. The Customer shall pay the interest together with the overdue amount.

8.7 The Customer shall pay all amounts due under the Contract in full without any set-off, counterclaim, deduction or withholding (except for any deduction or withholding required by law). The Supplier may at any time, without limiting any other rights or remedies it may have, set off any amount owing to it by the Customer against any amount payable by the Supplier to the Customer.

9. Termination

9.1 Without limiting its other rights or remedies, the Supplier may terminate this Contract with immediate effect by giving written notice to the Customer if:

9.1.1 the Customer commits a material breach of any term of the Contract and (if such a breach is remediable) fails to remedy that breach within 30 days of that party being notified in writing to do so;

9.1.2 the Customer takes any step or action in connection with its entering administration, provisional liquidation or any composition or arrangement with its creditors (other than in relation to a solvent restructuring), being wound up (whether voluntarily or by order of the court, unless for the purpose of a solvent restructuring), having a receiver appointed to any of its assets or ceasing to carry on business or, if the step or action is taken in another jurisdiction, in connection with any analogous procedure in the relevant jurisdiction;

9.1.3 the Customer suspends, threatens to suspend, ceases or threatens to cease to carry on all or a substantial part of its business; or

9.1.4 the Customer's financial position deteriorates to such an extent that in the Supplier's opinion the Customer's capability to adequately fulfil its obligations under the Contract has been placed in jeopardy.

9.2 Without limiting its other rights or remedies, the Supplier may suspend provision of the Goods under the Contract or any other contract between the Customer and the Supplier if the Customer becomes subject to any of the events listed in clause 9.1.1 to clause 9.1.4, or the Supplier reasonably believes that the Customer is about to become subject to any of them, or if the Customer fails to pay any amount due under this Contract on the due date for payment.

9.3 Without limiting its other rights or remedies, the Supplier may terminate the Contract with immediate effect by giving written notice to the Customer if the Customer fails to pay any amount due under the Contract on the due date for payment.

9.4 On termination of the Contract for any reason the Customer shall immediately pay to the Supplier all of the Supplier's outstanding unpaid invoices and interest.

9.5 Termination of the Contract shall not affect any of the parties' rights and remedies that have accrued as at termination, including the right to claim damages in respect of any breach of this Contract that existed at or before the date of termination.

9.6 Any provision of the Contract that expressly or by implication is intended to come into or continue in force on or after termination shall remain in full force and effect.

10. Intellectual Property Rights

The customer acknowledges that all Intellectual Property rights in the Goods or any brand of the Supplier shall vest in the Supplier absolutely and that no rights are granted to the Customer by virtue of this Contract.

11. Limitation of liability

11.1 Nothing in these Conditions shall limit or exclude the Supplier's liability for:

11.1.1 death or personal injury caused by its negligence, or the negligence of its employees, agents or subcontractors (as applicable);

11.1.2 fraud or fraudulent misrepresentation;

11.1.3 breach of the terms implied by section 12 of the Sale of Goods Act 1979; or

11.1.4 defective products under the Consumer Protection Act 1987; or

11.1.5 any matter in respect of which it would be unlawful for the Supplier to exclude or restrict liability.

12. Subject to clause 11.1:

12.1 The Supplier shall under no circumstances whatsoever be liable to the Customer, whether in contract, tort (including negligence), breach of statutory duty, or otherwise, for any loss of profit, or any indirect or consequential loss arising under or in connection with the Contract; and

12.2 the Supplier's total liability to the Customer in respect of all other losses arising under or in connection with the Contract, whether in contract, tort (including negligence), breach of statutory duty, or otherwise, shall in no circumstances exceed the price of the Goods.

12. Force majeure

12.1 Neither party shall be in breach of the contract nor liable for delay in performing, or failure to perform, any of its obligations under it if such delay or failure result from an event, circumstances or cause beyond its reasonable control (Force Majeure Event).

12.2 The Supplier shall use all reasonable endeavours to mitigate the effect of a Force Majeure Event on the performance of its obligations.

12.3 If a Force Majeure Event prevents, hinders or delays the Supplier's performance of its obligations for a continuous period of more than 3 months, the Customer may terminate the Contract immediately by giving written notice to the Supplier.

13. General

13.1 Assignment and other dealings

13.1.1 The Supplier may at any time assign, transfer, mortgage, charge, subcontract or deal in any other manner with all or any of its rights or obligations under the Contract.

13.1.2 The Customer may not assign, transfer, mortgage, charge, subcontract, declare a trust over or deal in any other manner with any or all of its rights or obligations under the Contract without the prior written consent of the Supplier.

13.2 Confidentiality

13.2.1 Each party undertakes that it shall not at any time during this Agreement, and for a period of five years after termination of this Agreement, disclose to any person any confidential information concerning the business, affairs, customers, clients or suppliers of the other party or of any member of the group to which the other party belongs, except as permitted by clause 13.2.2. For the purposes of this clause, group means, in relation to a party, that party, any subsidiary or holding company from time to time of that party, and any subsidiary from time to time of a holding company of that party.

13.2.2 Each party may disclose the other party's confidential information:

(a) to its employees, officers, representatives or advisers who need to know such information for the purposes of exercising the party's rights or carrying out its obligations under or in connection with this Agreement. Each party shall ensure that its employees, officers, representatives or advisers to whom it discloses the other party's confidential information comply with this clause 13.2; and

(b) as may be required by law, a court of competent jurisdiction or any governmental or regulatory authority.

13.2.3 No party shall use any other party's confidential information for any purpose other than to exercise its rights and perform its obligations under or in connection with this Agreement.

13.3 The Customer's customers

13.3.1 The Customer acknowledges that the Supplier will have no responsibility or liability or input or control over or enter any contractual arrangement that the Customer may seek to agree with its customers in respect of the Goods.

13.3.2 The Customer acknowledges its responsibility for ensuring that its customer is made aware of the Supplier's Goods Guidelines.

13.4 Entire agreement

13.4.1 This Contract constitutes the entire agreement between the parties and supersedes and extinguishes all previous agreements, promises, assurances, warranties, representations and understandings between them, whether written or oral, relating to its subject matter.

13.4.2 Each party agrees that it shall have no remedies in respect of any statement, representation, assurance or warranty (whether made innocently or negligently) that is not set out in this Agreement. Each party agrees that it shall have no claim for innocent or negligent misrepresentation or negligent misstatement based on any statement in this Agreement.

13.5 Variation. No variation of this Contract shall be effective unless it is in writing and signed by the parties (or their authorised representatives).

13.6 Waiver. No failure or delay by a party to exercise any right or remedy provided under the Contract or by law shall constitute a waiver of that or any other right or remedy, nor shall it prevent or restrict the further exercise of that or any other right or remedy. No single or partial exercise of such right or remedy shall prevent or restrict the further exercise of that or any other right or remedy.

13.7 Severance. If any provision or part-provision of the Contract is or becomes invalid, illegal or unenforceable, it shall be deemed modified to the minimum extent necessary to make it valid, legal and enforceable. If such modification is not possible, the relevant provision or part-provision shall be deemed deleted. Any modification to or deletion of a provision or part-provision under this clause shall not affect the validity and enforceability of the rest of the Contract.

13.8 Notices

13.8.1 Any notice or other communication given to a party under or in connection with the Contract shall be in writing, addressed to that party at its registered office (if it is a company) or its principal place of business (if in any other case) or such other address as that party may have specified to the other party in writing in accordance with this clause, and shall be delivered personally, sent by pre-paid first class post or other next working day delivery service, commercial courier, or fax or email.

13.8.2 A notice or other communication shall be deemed to have been received: if delivered personally, when left at the address referred to in clause 13.8.1; if sent by pre-paid first class post or other next working day delivery service, at 9.00 am on the second Business Day after posting; if delivered by commercial courier, on the date and at the time that the courier's delivery receipt is signed; or, if sent by fax or email, one Business Day after transmission.

13.8.3 The provisions of this clause shall not apply to the service of any proceedings or other documents in any legal action.

13.9 Third party rights. No one other than a party to this Contract shall have any right to enforce any of its terms.

13.10 Governing law. 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.

13.11 Jurisdiction. Each party irrevocably agrees that the courts of England and Wales shall have non-exclusive jurisdiction to settle any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with this Contract or its subject matter or formation.