



Flood Ark Limited  
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## Terms and Conditions

These terms and conditions are the only ones that the supplier deals with the purchaser on and may not be varied by either the supplier or the purchaser or their agents without written confirmation of any such variation from a Director of the supplier company. These terms and conditions will be governed solely by English Law and the Jurisdiction of the English Courts. In the Contract the following expressions shall (unless the context otherwise requires) have the meaning hereby respectively assigned to them 'The Supplier' means 'Flood Ark Ltd', 'The Contract Price' means the total sum payable in accordance with a contract in respect of the supply of goods as are to undertaken by the Supplier', 'The Goods' means the materials or other articles (as the case may be) to be supplied under the contract 'The Purchaser' means the Individual/s, Firm or Limited Company agreeing to purchase the goods under the Contract and shall include the legal personal successors of such Individual/s, Firm or Company, Interpretation.

- 1.1 The purchaser hereby agrees that in the event of the supplier commencing work for the purchaser prior to the signing of a formal agreement by the purchaser. The purchaser will be liable for all goods produced subject to these terms & conditions.
- 1.2 The purchaser agrees to pay a 10% deposit upon written order which will be lost upon cancellation of order.
- 1.3 The purchaser understands that the proposed works are for flood mitigation purposes only, i.e. they are intended to reduce the nuisance caused by flooding and not a guarantee that flooding will not occur.
- 1.4 The purchaser warrants that they are the beneficial owner, the occupier or appointed authorised agents for any premises referred to in this agreement and agrees that the company's employees or agents hereinafter called the suppliers workforce will be treated as visitors to the premises in this regard.
- 1.5 The purchaser acknowledges its statutory and common law duty, and without prejudice to the generality of the sub clause its duties under the Health & Safety Act 1974 and in particular but without prejudice to the generality of the provisions of the said act its duties under section 4 of the said act.
- 1.6 The supplier shall be at liberty at its own discretion to sub contract any services if the supplier feels that it would be in the interest of the purchaser and for the benefit of both parties.
- 1.7 The purchaser agrees to inform the supplier of any changes to the exterior or interior of any premises where any of the supplier's goods are being supplied.
- 1.8 By the supplier with regards to the status of the building ownership, safety issues, fixtures & fittings which may affect the safety of the supplier or purchasers, workforce or the efficiency of the suppliers goods.
- 1.9 The purchaser shall use due care in selecting their operatives for the provision of services for the fitting of the suppliers goods and will be liable for any defects or damage arising after the supply of the goods where any defect has not been notified to the supplier within 7 working days of delivery and will be liable for all claims with regard to the safety and security of the premises and the contents thereon.
- 1.10 The service provided by the supplier shall consist solely of the provision of the goods as stipulated in the contract or quotation. Any additional requirements or amendments will be costed separately and the purchaser will be liable for all such additional costs over and above the original quotation.**
- 1.11 The purchaser unconditionally agrees that they will not under any circumstances amend, alter or remove any part of the supplier's goods either prior to or after installation unless formal written confirmation and permission from the supplier has been given and that in the event of any such amendment, removal or alteration the purchaser unconditionally indemnifies the supplier from any and all actions at law whatsoever that may arise or result from any such amendment, alteration or removal.
- 2.1 Terms of payment are strictly 30 days from date of invoice unless otherwise agreed in writing by the supplier. Title of the goods shall not pass to the purchaser until payment has been made in full in cleared funds.
- 2.2 The purchaser agrees to indemnify the supplier against any tangible loss or damage to goods or property belonging to the supplier held in trust by the purchaser arising out of or by any negligence of will-full default of the purchaser or their agents in the performance of their duties.
- 3 Under no circumstances whatsoever shall the supplier or their agents be held responsible for any injurious act or default by any member of the purchasers workforce unless such act or default could have been avoided by the exercise of due diligence on the part of the supplier or their agents. Furthermore the supplier will not be held (a). Any loss suffered by the purchaser through theft, malicious damage, flooding, fire, animals, riot, assault or any other cause except insofar as such loss attributable to an accepted defect in the suppliers

goods that has been notified to the supplier in accordance with these terms and conditions or the negligence of any member of the suppliers workforce acting in the course of their duty. (b). Any loss or damage suffered by the purchaser by virtue of breach of contract or negligence or any other reason unless written notice is received by the supplier by recorded delivery at the operations address of the company within 7 days of the time when the supplier or its agents or workforce were deemed to be in default of their duties and or contract. (c). If any the express wish of the purchaser the supplier undertakes to perform duties extraneous to this agreement then the supplier shall not be held liable of any loss or damage arising from the performance of theses extraneous duties, irrespective of the fact that such loss or damage may be due to the negligence of the supplier or their agents unless the supplier has agreed in writing to carry out such extraneous duties, signed under the hand of a director of the supplier company.

4 The supplier shall not be held liable for any loss or damage of any nature whatsoever suffered by the purchaser for failure to carry out the services contracted for by reason of (a) Strike, lockout or other labour dispute or industrial action affecting the employees or the purchaser or the supplier where the latter case the effect is to prevent or hinder the supplier's in completing the supply of goods. However the supplier will not in any circumstances perform any service, which could be construed to be of a strike breaking nature. (b). In any event beyond the suppliers control preventing or hindering the supplier or its agents delivering the purchased goods inclusive of, but not exhaustively comprising mechanical breakdown, impedance by any road traffic congestion and adverse weather conditions. (c). War, act of hostile forces, civil disruption or disturbance or extensive disruption of public services, in the event of such occurrence the suppliers service may be suspended until circumstances permit their reinstatement. (d). The presence of any hazards due to defective structure of means of access or any hazards deemed to be hazardous by the company or its operatives. (e). Any loss or damage suffered by the purchaser in circumstances where the purchaser is in breach of any of the suppliers terms & conditions or the insured amounts specified.

5 This contract of the supply of goods may be terminated by either party without notice, if the other party shall commit any breach of its obligations or (being an individual) shall commit any act of bankruptcy or (being a body incorporate) go into liquidation or arrangement of any kind whatsoever or the composition for the benefit of his or its creditors. In such cases the directors of any body corporate unconditionally agree to be held personally liable for any sums due to the supplier.

6.1 Termination of this agreement by methods other than the reasons outlined in 5 above will be effective after 2 weeks if either party to this agreement serves notice on the other party by recorded delivery.

6.2 'Time will not be of the essence' with regard to any contract for the supply of goods unless expressly agreed in writing by the supplier at the time of ordering and signed by the hand of a Director of the company.

6.3 If there shall happen any act or default of any member of the suppliers workforce which may give rise to a liability in such person to the purchaser for negligence, then it is hereby expressly agreed that such person should be entitled to the protection of all the terms and conditions hereof any claim by the client against such person except in the case of loss or damage suffered by the purchaser due to any deliberate wrongful acts on the part of such person in which case nothing herein shall limit the purchasers right against this person.

7 No warranty representation undertaking or commission shall be deemed to have been given or entered into by or on behalf of the supplier for the purpose of any agreement between the supplier and purchaser unless made in writing on the supplier's official letter-headed paper and signed by the hand of a director of the company.

8 The supplier will not be held liable for any damage caused by the misuse of the supplied goods unless the purchases supplies documentary evidence that the supplier or its operatives were responsible for such claimed damage.

#### 9 **DEFAULT IN PAYMENT, THE SUPPLIER MAY**

9.1 For any reason whatsoever Summarily terminate the Contract with respect to all or any of the good/services but without prejudice to any rights which may have accrued or which may accrue thereafter to the Supplier and/or

9.2 Deduct the amount payable under the Contract from any sum then due or which may thereafter become due to the Purchaser under any other Contract with the Supplier.

9.3 Re-impose any sum by way of discount or deduction from the price of the goods shown on the delivery of the initial invoice for the goods and/or

9.4 In the event of any Cheque/Standing Order or Direct Debit Instruction which is returned marked 'refer to drawer' Represent or unpaid in any matter whatsoever charge at the Supplier sole discretion the rate of 5% of the amount for which the payment was drawn or £50.00 whichever is the greater and/or

9.5 Withdraw all future credit facilities that may have been extended to the Purchaser and/or

9.6 Charge to the Purchaser all any cost whosoever incurred by the Supplier for the recovery of such sums as are due and the enforcement of the Contract, including any third party collection agency fees and exercise the right to enforce the Late Payment Commercial Debts (Interest) Act.

9.7 Charge the purchaser 10% per annum over the current base-lending rate at the time governed by the rate charged by The National Westminster Bank Plc.

9.8 Confer the rights of this contract to any third part collection agency who may subsequently enforce any part of this contract.

9.9 We will make a search with a credit reference agency which will keep a record of that search and may/will share that information with other businesses. We may also make enquiries about the principle directors with a credit reference agency.