

# Terms and Conditions

## Green Coast Synthetic Turf (PTY) Ltd T/A Namgrass South Africa

### 1. Definitions

When the following words with capital letters are used in these Terms, this is what they will mean:

**Business Customer:** shall mean any person/persons and/or organisation who exchange goods and/or services for money.

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

**Contract** means the contract between **Us** and **You** for the sale and purchase of the Goods in accordance with these Terms.

**Consumer:** a person who purchases goods and services for personal use.

**Order Confirmation:** is as defined in clause 2.4.

**Distance Means:** means an Order placed by post, telephone, fax or email.

**Event Outside Our Control:** is defined in clause 11.2.

**Goods:** the goods that We are selling to You as set out in the Order.

**Insolvency Event:** means (i) the taking of any action for or with a view to the making of an administration order or the appointment of an administrator in respect of you/the customer or (ii) the taking of any action for or with a view to the winding-up, dissolution, liquidation, reconstruction or reorganisation of you/the customer or (iii) you/the customer becoming insolvent or unable to pay your debts or entering into a voluntary arrangement or other dealing with any of your creditors with a view to avoiding, or in expectation of, insolvency or stopping or threatening to stop payments to creditors generally or (iv) an encumbrancer taking possession or an administrator, receiver or manager being appointed of the whole or any material part of you/the customer's assets and includes any equivalent or analogous proceedings by whatever name known in whatever jurisdiction.

**Made-to-Measure Goods:** shall mean goods which have been cut by ourselves to a size requested by you and confirmed on your Order Confirmation or a bespoke product which We have sourced or produced especially at Your request on receipt of an order placed. On our quotation and confirmation these goods shall be referred to as cut to size.

**Non-Distance Means:** means an order placed in person with **Us** at Green Coast Synthetic Turf (PTY) Ltd.

**Order: Your** order for the **Goods** placed in person at Green Coast Synthetic Turf (PTY) Ltd or via post, telephone, fax or email which shall include details of the Goods to be supplied and all relevant dimensions.

**Special Delivery:** shall mean where We have to organise special transportation at an additional cost.

**Terms:** the terms and conditions set out in this document.

**We/Our/Us:** means Green Coast Synthetic Turf (PTY) Ltd T/A Namgrass South Africa with company number 2012/161087/07).

**You/Your:** shall mean the Company represented by yourself or your customer.

1.2 When We use the words “writing” or “written” in these Terms, this will include e-mail unless We say otherwise.

1.3 Where We make a reference to a statute or statutory provision such reference is 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.

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

## **2. Our contract with You**

2.1 These are the terms and conditions on which We supply Goods to You. It is assumed that You as a representative of Your Company or yourself have been given rights to do business with ourselves.

2.2 Please ensure that You read these Terms carefully, and check that the details on the Order and in these Terms are complete and accurate, before You place an Order. If You think that there is a mistake or You require any changes, please contact Us to discuss. We will confirm any changes in writing.

2.3 When You sign and/or submit the Order to Us, this does not mean We have accepted Your order for Goods. Our acceptance of the Order will take place as described in clause 2.4. If We are unable to supply You with the Goods, We will inform You of this and We will not process the Order.

2.4 These Terms will become binding on You and Us when We issue You with a written acceptance of an Order or We contact you to confirm that We are able to provide you with the Goods (by Order Confirmation or Email Confirmation), at which point a contract will come into existence between you and Us. By doing so you confirm that you have knowledge of these conditions and declare them as an integral part of the agreement.

2.5 We shall assign an order number to the Order and inform you of it when We confirm the Order. Please quote the order number in all subsequent correspondence with Us relating to the Order.

2.6 Our website, catalogue and brochure are solely for the promotion of Our Goods in South Africa. Unfortunately, We do not accept orders from or deliver to addresses outside of South Africa.

2.7 The images of the Goods on Our website and in Our catalogue or brochure are for illustrative purposes only. Although We have made every effort to display the colours accurately, We cannot guarantee that your computer's display of the colours or the printed pictures accurately reflect the colour of the Goods. Your Goods may vary slightly from those images.

2.8 Artificial Grass is produced in batches, You should ensure that you, your employees and customers are aware of this, Due to the complex nature of Artificial Grass production the variation between Artificial Grass batches and the product specification sheet may be up to 5% in some cases.

2.9 Upon request We may provide You and/or a Consumer with details of third parties who can offer installation services in respect of the Goods. Such third parties are entirely independent of Us and you will be required to enter into a contract direct with the third party should you require their services. Whilst every step is taken to ensure that those companies provide a high quality and reliable service We accept no liability for the acts or omissions of such third parties and give no warranty or other guarantee as to the services offered by such third parties.

2.10 Any advice provided to you or a third party by Us shall be based on the information provided, the information on our website regarding the installation and use of our products is for guidance only. Variable conditions should always be taken into account.

### **3. Changes to order or terms**

3.1 We may revise these Terms from time to time, including as a result of changes in relevant laws and regulatory requirements.

3.2 If We have to revise these Terms under clause 3.1, We will give you at least one month's written notice of any changes to these Terms before they take effect should they impact any Orders. You can choose to cancel the Contract in accordance with clause 13.

3.3 You may make a change to the Order for Goods within 2 days of placing an Order by contacting Us, except in the case of made-to-measure Goods (please see Section 4). Where this means a change in the total price of the Goods, We will notify you of the amended price in writing.

3.4 If you are contacting Us on the day of delivery, We reserve the right to charge You for any delivery costs incurred.

#### 4. **Made to Measure**

4.1 We make the Goods according to the measurements you provide Us or order specific products for Your use.

4.2 Please make sure Your measurements are correct and accurate. Unfortunately, We cannot accept the return or cancellation of Made-to-Measure Goods if the reason for the return is because you provided Us with incorrect measurements, the goods are no longer required or to your taste. However, this will not affect your legal rights as in relation to Made-to-Measure Goods that are faulty or not as described.

4.3 **If you are a Consumer or a business customer** and wish to cancel your order for made-to-Measure Goods you may do so by email, phone, post or by completing a cancellation form, made-to-measure goods will be charged for in full less than 2 full working days prior to delivery.

4.4 Where Made-to-Measure Goods are a bespoke product sold outside of Green Coast Synthetic Turf (PTY) Ltd's advertised Product range We reserve the right to charge You for the Goods in full if the order is cancelled in full or partially cancelled.

4.5 In some cases where bespoke goods are being ordered we may reserve the right to receive full or partial payment at the time of the order being placed. This partial payment shall be non-refundable in the event of cancellation.

4.6 **If you are a Consumer** we will ask for payment of the goods at the time of order. Payment may be made by Debit or Credit, BACS or in person by cash.

4.7 In the case of large bespoke orders a representative of Us may enter into negotiation on our behalf regarding any bespoke commercial terms.

- **Delivery of Goods**

5.1 Please note that timescales for delivery and delivery charges will vary depending on the availability of the Goods and your address. Unfortunately, We do not accept orders from or deliver to addresses outside of South Africa.

5.2 If you have asked to collect the **Goods** from **Our** premises, you can collect the **Goods** from **Us** at any time during **Our** working hours of 8am – 4:00pm on weekdays and by appointment only on Saturdays and on Sundays.

5.3 The delivery of the goods is kerbside only and someone should be available to assist with the delivery and sign for the product.

5.4 Should a Green Coast Synthetic Turf (PTY) Ltd employee or external courier choose to deliver further than kerbside they are doing this of their own accord and Green Coast Synthetic Turf (PTY) Ltd shall not be held responsible for any damages incurred.

5.5 In most cases We shall use a subcontractor to deliver the Goods to you.

5.6 If no one is available at Your address to take delivery, We will leave You a note to explain that We have been unable to deliver the Goods, in which case, please contact Us to rearrange delivery using the contact details provided on the note. Any extra transportation cost relating to the failure of goods being delivered due to You not being available will be borne by You.

5.7 In the event that you instruct us to leave the Goods onsite and are not there to take delivery. The ownership shall transfer to you upon delivery. We shall not be held responsible for any loss, damage or theft of goods.

5.8 If We are not able to deliver the whole of the Order at one time due to operational reasons or shortage of stock, We will deliver the Order in instalments. We will not charge you extra delivery costs for this.

5.9 Delivery of an Order shall be completed when We deliver the Goods to the address you gave Us or You or a carrier organised by You collect them from Us and the Goods will be your responsibility from that time. This includes a Port of your choice where you have organised onward transportation of the Goods.

5.10 Should we deliver to a port of your choice or the Goods are collected by your own courier Our responsibility ends once the goods have been signed over to your elected representative/s at the courier company. It is both yours and their responsibility to ensure that the goods are transported and/or stored in a correct manner and We will not be responsible for any product faults due to the storage of the grass.

5.11 In the case of 7 whereby you have returned the Goods to Us or We have collected them from you the Goods must be in the same condition that they were delivered to you. Where We find that they are not We reserve the right to decline the return of the Goods or deduct the appropriate charges from any Credit Due. Should this be the case We will do our best to discuss this with you to ensure the most favourable outcome for both parties involved.

5.12 Any dates quoted for delivery are approximate only, and the time of delivery is not of the essence. We shall not be liable for any delay in delivery of the Goods that is caused by an Event Outside Our Control or your failure to provide Us with adequate delivery instructions or any other instructions that are relevant to the supply of the Goods.

5.13 If We fail to deliver the Goods, Our liability shall be limited to the costs and expenses incurred by you in obtaining replacement goods of similar description and quality in the cheapest market available, less the price of the Goods.

5.14 If you fail to take delivery of the Goods when We try to deliver them to you, then:

(a) 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 We tried to deliver the Goods to you or on which We made you aware the Goods were available for collection; and

(b) We will store the Goods until delivery takes place, and charge you for all related costs and expenses (including insurance).

(c) Where re-delivery of the goods has been arranged We reserve the right to charge a re-delivery fee or should the goods be required by Special Delivery the full costs incurred by ourselves.

5.15 If 10 Business Days after the day on which We sought to deliver the Goods to you or on which We made you aware the Goods were available for collection, you have not taken delivery of them, We may resell or otherwise dispose of part or all of the Goods and, after deducting reasonable storage and selling costs, account to you for any excess over the price of the Goods or charge you for any shortfall below the price of the Goods.

## **6. Ownership of the Goods**

6.1 Ownership of the Goods shall not pass to you until the earlier of the date on which

1. a) have delivered the goods to an address provided by you.
2. b) You have not taken delivery of the goods and 5.13 shall take effect
3. c) You and/or an elected representative (Courier or Customer) have collected the goods.

## **7. If the goods are faulty.**

7.1 In rare cases it may be possible that your Goods are faulty or Made to Measure Goods inaccurate, if this is the case you should ensure that You and/or any third parties ensure that the grass is checked upon delivery for and We are notified of any concerns you may have immediately. Failure to notify us of faulty or inaccurate goods within 14 days shall be deemed acceptance of the goods.

7.2 Green Coast Synthetic Turf (PTY) Ltd reserves the right to refuse to replace grass which is obviously faulty or incorrect where by it has been installed or the installation process has begun. This is not limited to the product being cut, folded, or laid on the ground and become soiled.

7.3 Whilst an investigation is ongoing into your problem You are responsible for the condition of the products and for their reasonable care whilst they are in Yours or your customers possession.

7.4 We will only be responsible for the organisation and re-delivery of a product of a similar quality and cannot be held liable for any other costs incurred.

## **8. Third-party manufacturer's guarantee of goods**

8.1 The Goods come with a manufacturer's guarantee. For details, please refer to the manufacturer's guarantee provided on our website.

8.2 Warranty information must be registered within 1 month of installation, it may be registered via email at [info@namgrass.co.za](mailto:info@namgrass.co.za) it is your responsibility to ensure that this information is passed on to any party you may re-sell the goods too.

## **9. Price and Payment**

9.1 The price of the Goods will be set out in Our price list in force at the time We confirm your Order. Our prices may change at any time, but price changes will not affect Orders that We have confirmed with you.

9.2 Our prices exclude VAT. However, if the rate of VAT changes between the date of the Order and the date of delivery or performance, We will adjust the rate of VAT that you pay, unless you have already paid for the Goods in full before the change in the rate of VAT takes effect.

9.3 The prices for the Goods exclude delivery costs, which will be added to the total amount due. No delivery charges will be charged should You pick up from our warehouse facility; however, a Pre-Agreed rate for delivery per m2 shall be charged should We be required to deliver.

9.4 When we are supplying You with Goods payment may be added by one of the following;

1. a) Full payment of the goods by credit or debit card.
2. b) A Bank Transfer into Our Bank Account (please ensure that in this case you clearly identify the payment).
3. c) The Good/s are added to your Credit Account on the date of delivery.

9.5 If you do not make any payment due to Us by the due date for payment, We may charge interest to you on the overdue amount at the rate of 2% a year above the base lending rate of South Africa from time to time. You must pay Us interest together with any overdue amount.

9.6 If you dispute an invoice in good faith and contact Us to let Us know within 21 days after you have received an invoice that you dispute it, clause 9.5 will not apply for the period of the dispute.

## **10.1 Our liability**

Nothing in these Terms limits or excludes Our liability for:

- (a) death or personal injury caused by Our negligence or the negligence of Our employees, agents or subcontractors;
- (b) fraud or fraudulent misrepresentation;
- (c) breach of the terms implied by section 12 of the Sale of Goods Act 1979 (title and quiet possession); or
- (d) any matter in respect of which it would be unlawful for Us to exclude or restrict liability.

10.2 Subject to clause 10.1, We will under no circumstances whatever be liable to You, whether in contract, tort (including negligence), breach of statutory duty, or otherwise, arising under or in connection with the Contract for:

- (a) any loss of profits, sales, business, or revenue;
- (b) loss of business opportunity;
- (c) loss of anticipated savings;
- (d) loss of goodwill; or
- (e) any indirect or consequential loss.

10.3 Subject to clause 10.1, Our total liability to you in respect of all 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 75% of the total price of the Goods.

10.4 Except as expressly stated in these Terms, We do not give any representation, warranties or undertakings in relation to the Goods. Any representation, condition or warranty which might be implied or incorporated into these Terms by statute, common law or otherwise is excluded to the fullest extent permitted by law. In particular, We will not be responsible for ensuring that the Goods are suitable for your purposes.

#### **1. Events Outside Our Control**

11.1 We will not be liable or responsible for any failure to perform, or delay in performance of, any of Our obligations under these Terms that is caused by an Event Outside Our Control.

11.2 An Event Outside Our Control means any act or event beyond Our reasonable control, including without limitation strikes, lock-outs or other industrial action by third parties, civil commotion, riot, invasion, terrorist attack or threat of terrorist attack, war (whether declared or not) or threat or preparation for war, fire, explosion, storm, flood, earthquake, subsidence, epidemic or other natural disaster, amendments to Government Trade Deals or failure of public or private telecommunications networks.

11.3 If an Event Outside Our Control takes place that affects the performance of Our obligations under these Terms:

- (a) We will contact you as soon as reasonably possible to notify you; and
- (b) Our obligations under these Terms will be suspended and the time for performance of Our obligations will be extended for the duration of the Event Outside Our Control. Where the Event Outside Our Control affects Our delivery of Goods to you, We will arrange a new delivery date with you after the Event Outside Our Control is over.



11.3 We will only cancel the Contract if the Event Outside Our Control continues for longer than 4 weeks in accordance with Our cancellation rights in clause 12.

## **12. Our rights to cancel and applicable refund**

We may have to cancel an Order before the Goods are delivered, due to an Event Outside Our Control or the unavailability of stock. If this happens:

- (a) We will promptly contact you to let you know;
- (b) if you have made any payment in advance for Goods that have not been delivered to you, We will refund these amounts to you; and
- (c) where We have already started work on your Order for made-to-measure Goods by the time We have to cancel under clause 12(a), We will not charge you anything and you will not have to make any payment to Us.

## **13. Return of Goods**

13.1 **If you are a Consumer** and wish to return goods which are not made-to-measure (for example unopened glue). You may return goods to us within 14 days of delivery. Items must be returned at your own cost and in as new saleable condition we would also recommend that you obtain proof of delivery.

- Should the goods be returned in the correct condition a refund shall be processed to you within 21 days.

13.3 **If you are a Business Customer** and wish to return goods which are not made to measure you should ensure that you contact us within 14 days. The cost of returning the goods is your own.

## **14. Imagery & Product Information**

14.1. We may from time to time grant our Business Customers access to product information which may include but is not limited to images, product specifications and logos.

14.2 We reserve the right to withdraw the above for reasons including but not limited to:

1. a) You have an outstanding balance with Us.
2. b) You have misrepresented our products/brand.
3. c) You no longer purchase our products.
4. d) You have defaced our company property.

14.3 In the case of 13.1 we shall write to you to inform you of this decision and you shall be expected to remove all reference to Us from all forms of Media (on and offline) within 21 days.

14.4 Unless you have received written confirmation from a registered Director of our Company all Media shall remain our property.

## **15. You have purchased through a Third Party**

15.1 Where you have purchased Our product through a third party the Product Warranty shall be transferred to them upon payment to them.

15.2 We shall not be held responsible for any warranties made by any third party in addition to those provided at the time the ownership of the goods transferring to the third party.

15.3 If you have purchased your product through a third party we would suggest that you read their terms and conditions very carefully as you will be bound by their Terms and Conditions as they are to ours.

## **16. Information about us**

16.1 We are a company registered in South Africa. Our company registration number is 2012/161087/07. Our registered VAT number is 4360282398.

## **17. How we may use your personal information**

17.1 We will use the personal information you provide to Us to:

- (a) provide the Goods;
- (b) process your payment for such Goods; and
- (c) inform you about similar products or services that We provide, but you may stop receiving these at any time by contacting Us.

17.2 You agree that We may pass your personal information to credit reference agencies and that they may keep a record of any search that they do.

- We will not give your personal data to any other third party as per POPI Act 4 section 2013

### **18. Additional terms if you are a business customer.**

This clause 18 only applies if you are a **business customer**

18.1 You confirm that you have authority to bind any business on whose behalf you place an Order.

18.2 These Terms and any document expressly referred to in them constitutes the entire agreement between you and Us and supersedes and extinguishes all previous agreements, promises, assurances, warranties, representations and understandings between Us, whether written or oral, relating to its subject matter.

18.3 You acknowledge that in entering into the Contract you do not rely on any statement, representation, assurance or warranty (whether made innocently or negligently) that is not set out in these Terms or any document expressly referred to in them.

18.4 You and We agree that neither of us shall have any claim for innocent or negligent misrepresentation or negligent misstatement based on any statement in the Contract.

### **19. Contacting us if you are a business customer**

19.1 You may contact Us by telephoning Us on +27 (0) 21 206 5840 or by e-mailing Us at [info@namgrass.co.za](mailto:info@namgrass.co.za).

19.2 If you wish to give Us formal notice of any matter in accordance with these Terms, the following provisions apply:

(a) Any notice or other communication given by you to Us, or by Us to you, under or in connection with the Contract shall be in writing and shall be delivered personally, sent by pre-paid first class post or other next working day delivery service or e-mail.

(b) A notice or other communication shall be deemed to have been received: if delivered personally, when left at Our registered office; 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 or if sent by e-mail, one Business Day after transmission.

(c) In proving the service of any notice, it will be sufficient to prove, in the case of a letter, that such letter was properly addressed, stamped and placed in the post and, in the case of an e-mail, that such e-mail was sent to the specified e-mail address of the addressee.

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

### **20. Other important terms**

20.1 We may transfer Our rights and obligations under these Terms to another organisation, but this will not affect your rights under the Contract or the obligations owed to you under the Contract.

20.2 You may only transfer your rights or your obligations under these Terms to another person if We agree in writing.

20.3 The Contract is between You and Us. No other person shall have any rights to enforce any of its terms.

20.4 Each of the paragraphs of these Terms operates separately. If any court or relevant authority decides that any of them are unlawful, the remaining paragraphs will remain in full force and effect.

20.5 If We fail to insist that you perform any of your obligations under these Terms, or if We do not enforce Our rights against you, or if We delay in doing so, that will not mean that We have waived Our rights against you and will not mean that you do not have to comply with those obligations. If We do waive a default by you, We will only do so in writing, and that will not mean that We will automatically waive any later default by you.

20.6 Except as set out in these Terms, no variation of the Contract, including the introduction of any additional terms and conditions, shall be effective unless it is in writing and signed by Us.

20.7 These Terms are governed by the laws of South Africa. This means a Contract for the purchase of Goods and any dispute or claim arising out of or in connection with it will be governed by the laws of South Africa.

20.8 **If You are a consumer**, You and We both agree that the courts of South Africa will have non-exclusive jurisdiction to settle any dispute or claim arising out of or in connection with the Contract or its subject matter or formation (including non-contractual disputes or claims).

20.9 **If You are a business customer**, We both irrevocably agree that the courts of South Africa shall have exclusive jurisdiction to settle any dispute or claim arising out of or in connection with the Contract or its subject matter or formation (including non-contractual disputes or claims).