

Metallic Garden
General Terms & Conditions of Business

DEFINITIONS:

SUPPLIER /WE/US - Metallic Garden

CUSTOMER/BUYER – Person or Business named on invoice to which the contract refers

GOODS – Items on invoice ordered by buyer

THIRD PARTY SUPPLIER or MANUFACTURER – Any supplier or manufacturer, from which Metallic Garden obtain goods for resale.

1. NET PAYMENT OF THE INVOICE IS DUE PRIOR TO DISPATCH OF GOODS ORDERED, UNLESS OTHER ARRANGEMENTS HAVE BEEN AGREED IN ADVANCE AND CONFIRMED IN WRITING. Overdue accounts may be subject to a monthly interest charge on outstanding balances. See clause A below.
2. Prices charged shall be those specified at time of order.
3. Discounts applied to an order are subject to minimum order values. Any follow on orders may not be subject to the same discount if the order value is less than the minimum required.
4. Carriage is calculated for delivery address on any normal working day. For deliveries outside these constraints, a delivery surcharge may be applied.
5. We reserve the right to make partial shipments.
6. On receipt of the goods the buyer shall inspect the shipment; any claims for shortages, damaged goods, or non delivery must be reported at once and a written claim made within 2 days. **We reserve the right to refuse claims if these limits are exceeded.**
7. Claims for damage in transit must be supported by the return of the goods for which a claim is made. No goods may be returned for credit without prior authorisation. **Unauthorised returns will be refused.**
8. Notwithstanding delivery to the customer and the passing of risk in the goods, they shall remain the property of Metallic Garden until payment in full has been received for these goods and any others which form part of the order concerned. In applying this term to all sales within the European Union, the following conditions shall apply;
9. Goods ordered from Metallic Garden, which arrive direct from a third party manufacturer, will require the final quality control to be carried out by the buyer. This may entail some assembly of components and checking for small finish defects. Small areas of paint may have been missed during the mass production of some items and this is not considered a fault. Suitable touch-up paint may be provided for the correction of these areas and the buyer shall be responsible for its application.
 - 9.1 Risk of damage to or loss of the goods shall pass to the buyer at the time of delivery or when the goods have been tendered for delivery.
 - 9.2 Title of the goods and all others which form part of the order shall only pass to the buyer when Metallic Garden has received in cash or cleared funds payment in full.
 - 9.3 Until that time, the buyer shall hold the goods as a fiduciary agent and shall keep them in such a way as them can be protected, insured and identified as the property of Metallic Garden.
 - 9.4 The customer shall be entitled to resell or use the goods in the course of business, but must be able to account for the proceeds of sale or otherwise if so required.
 - 9.5 Until title of the goods passes to the buyer (and provide the goods have not been sold) we shall be entitled at any time to require the buyer to deliver up the goods and if the customer fails to do so, to enter upon the premises of the buyer or any third party where the goods are stored and repossess them.
 - 9.6 The buyer shall not be entitled to pledge or in any way charge by way of security for any indebtedness any goods which remain the property of Metallic Garden. But if the buyer does then all monies owing for those goods and any others which form part of that order shall become due forthwith
 - 9.7 The buyer may not assign the invoice pertaining to the goods for payment to any third party, nor may it be repudiated on the grounds that possession of the goods has passed out of control of the buyer.
 - 9.8 The buyer shall be liable for any charges arising from any dispute concerning the order or its invoices.
10. THE PLACING OF AN ORDER EITHER IN WRITING OR VERBALLY IS UNDERSTOOD TO CONSTITUTE A CONTRACT FOR SUPPLY SUBJECT TO THESE TERMS AND CONDITIONS. ANY ALTERATION, CANCELLATION OR VARIATION SHALL BE IN WRITING AND BY MUTUAL AGREEMENT, FOR WHICH WE MAY MAKE A CHARGE.
11. Deposits received by us should be considered forfeit in the event of the buyer cancelling an order.

Clause a - Interest on late paid debts

If *the Buyer* makes payment of the price of the *[goods/services/or whatever is being sold or provided]* after the agreed credit period has expired *Metallic Garden* will rely on the provisions of the Late Payment of Commercial Debts (Interest) Act 1998 or any statutory modification or successor thereto, and upon the Regulations made under it.

If for any reason the agreement should not be governed by the Law of England and Wales or if for any other reason the said Act should be

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found not to apply, *the Buyer* agrees to pay interest on the said debt or the balance thereof outstanding from time to time from due date of payment to actual date of payment at the rate of *BOE minimum lending rate plus 5%*

WARRANTY/GUARANTEE

12. a. GOODS MANUFACTURED BY THE SUPPLIER - If the goods suffer from defective workmanship or have mechanically failed during normal use, the Supplier will, at its option, repair or replace the relevant item of goods (or any defective part) or offer a refund of all or a fair and reasonable part of the price paid for the relevant item within a period of 12 months. Cost of return to be borne by the Customer, unless otherwise agreed.

b. THIRD PARTY SUPPLIERS – If the goods suffer any warranted defect (as set out in the relevant Third Party's guarantee) then the Supplier will, at its option, repair or replace the relevant item of goods (or any defective part) or offer a refund of all or a fair and reasonable part of the price paid for the relevant item within a period of 12 months from the original invoice date. Where a Third Party manufacturer or Supplier offers a warranty beyond the 12 month period, then a claim can still be submitted for consideration. The decision of the original Third Party Supplier or Manufacturer as to whether a claim can be upheld and what remedial action should be taken, will be final. All costs of return and delivery are to be borne by the Customer, unless otherwise agreed.

c. If the Supplier complies with this obligation it shall have no further liability in respect of, or arising from the relevant goods. Guarantee periods begin from the date of the original invoice and this date will be applied to all replacements or repairs.