

## Pitchmark Terms and Conditions of Sale

THESE TERMS SET OUT THE BASIS ON WHICH WE MAY SELL PRODUCTS TO YOU. PLEASE READ THESE TERMS CAREFULLY.

WE DRAW YOUR ATTENTION TO YOUR CANCELLATION RIGHTS IN CLAUSE 8 AND THE LIMITS OF OUR LIABILITY IN CLAUSE 10.

### 1 Words used in these Terms

1.1 In these Terms, when we say:

1.1.1 you or your, we mean you, the customer ordering and purchasing Products;

1.1.2 we, us or our, we mean the Pitchmark entity from whom you purchase Product(s), being (depending on the circumstances):

- Pitchmark Ltd, a limited company registered in England (company number 7178557), whose registered office is 7 Soundwell Road, Staple Hill, Bristol, BS16 4QG, United Kingdom and whose VAT registration number is GB 996 8809 30;

1.1.3 Delivery Terms, we mean the terms that apply to our Product delivery services, full details of which can be found in store and on our Website;

1.1.4 order, we mean an order placed by you for Product(s) through our Website, by telephone, by email, or using such other means as we may permit from time to time;

1.1.5 our agreement, we mean our agreement as defined in clause 2.1;

1.1.6 Privacy Policy, we mean our privacy policy, full details of which can be found on our Website;

1.1.7 Product or Products, we mean the goods and products that we sell;

1.1.8 Terms, we mean these terms and conditions of sale; and

1.1.9 Website, we mean the websites (www.pitchmark.com and www.pitchmark.co.uk (or such other URL as we may specify from time to time)) that are operated by us or on our behalf.

1.2 If you order Product(s) on behalf of a company, organisation or other entity, then (i) you (as defined in clause 1.1.1) includes you and that company, organisation or other entity, and (ii) you represent and warrant that you are authorised to bind the company, organisation or other entity to our agreement (including these Terms), and that you agree to our agreement (including these Terms) on behalf of yourself and the company, organisation or other entity.

1.3 These Terms set out the basis on which we may sell Products to you. Please read these Terms carefully. Subject to clause 3.5, by submitting an order for and/or purchasing any Product, you are indicating your acceptance of these Terms and you agree to be bound by these Terms. If you do not accept these Terms, you will not be able to order or purchase any Products from us.

1.4 These Terms are only in the English language. Our agreement will not be filed by us.

1.5 If you view these Terms via our Website, you should print a copy of these Terms or save them to your computing device for future reference.

## 2 Our agreement

2.1 Each order you place and purchase of Product(s) you make is subject to these Terms, our Delivery Terms (where relevant), and any additional terms that apply to any quote we may give or any promotional or special offers (together our agreement).

## 3 The order process and formation of the contract between us

3.1 You will have an opportunity to check and correct any input errors in your orders via the Website up until the point at which you submit your order by clicking the confirm order and pay (or similar) button on the checkout page of our Website. Please carefully check your order at each stage of the order process. Once you have clicked the confirm order and pay (or similar) button, you will need to pay for the Products you have ordered via the Website.

3.2 Your order is an offer to purchase from us. When you place an order with us (or otherwise offer to make a purchase from us), you do so in accordance with the terms of our agreement, subject to our acceptance of your order (or offer to make a purchase). If you place an order via our Website (or

where we have otherwise stated that we will), we will send you an email acknowledging receipt of your order, together with your order number and details of the Product(s) you have ordered. Please note this email is an acknowledgement and is not an acceptance of your order.

3.3 Unless we have notified you that we do not accept your order (or offer to make a purchase) or you have cancelled it in accordance with our returns policy, we accept your order (or offer to make a purchase) as follows:

3.3.1 Where you place an order via the Website, we accept your order when the Products are despatched to you or at the point the Products are collected by you in person (as the case may be);

3.3.4 where you place an order in person, we accept your order when we provide you with a sales advice confirming that the order has been placed and processed; and

3.3.5 when you place an order by telephone, we accept your order when we confirm that the order has been placed and processed.

3.4 We may choose not to accept your order (or offer to make a purchase) for any reason and we will not be liable to you or to anyone else in those circumstances. If we do not accept your order (whether in whole or in part) we will refund any monies paid in connection with that order (or that part of the order that we do not accept).

3.5 Our agreement is formed when we accept your order (or offer to make a purchase). The processing of your payment and acknowledgment of receipt of your order (whether by email, telephone or otherwise) does not constitute legal acceptance of your order.

3.6 If we accept your order, we have a legal duty to supply our Products in conformity with our agreement.

#### 4 Buying from us

4.1 You must be 18 or over to purchase Products from us via our Website.

4.2 We will take reasonable steps to display as accurately as possible the colours, appearance and other detailing of our Products (and their packaging) in the images that appear on the Website and in our catalogues and other media. However, we do not guarantee that the images, appearance and other detailing that appear on the Website and in our catalogues and other media will exactly reflect

the colour, appearance or detailing of the physical Product (or its packaging). Your Products (and their packaging) may vary slightly from those images.

4.3 Any information on the Website and in our catalogues and other media regarding sizing, weights, capacities, specifications, dimensions and measurements of Products is included as a guide only. If you are concerned about the precise size, weight, capacity, specifications, dimensions or measurements of any Product you require, we recommend that you contact us prior to placing an order and/or purchasing a Product.

## 5 Price, delivery charges and availability

5.1 Unless otherwise stated, prices for Products are exclusive of applicable sales tax (i.e VAT). Sales tax will be applied and will be shown on your invoice at the current applicable rate. Sales tax amounts stated may be subject to rounding variances. The exact amount of sales tax will be shown on the sales tax invoice (where provided).

5.2 Prices for Products exclude delivery charges unless expressly stated otherwise. Delivery charges vary depending on the Product(s) you order, the delivery address and the delivery method you select; please see our Delivery Terms for further details. When you place an order via our Website, delivery charges are calculated automatically in your shopping basket depending on your choices and added to your order.

5.3 We may update prices at any time. Despite our best efforts, a small number of the products we sell may occasionally be mispriced. If this happens then we will not be obliged to supply the Products at the incorrect price or at all. We will (at our discretion) either cancel your order and refund the price you have paid or endeavour to contact you and ask you whether you wish to continue with the order at the correct price. If we are unable to contact you or you do not wish to continue with the order at the correct price, we will cancel your order and refund the price you have paid.

5.4 From time to time we may apply promotional prices to Products, including Website only prices. These promotional prices will only apply in the context in which the promotion is given and are subject to the terms of that promotion. For example, Website only prices will not be applicable to in-store orders or purchases, and in-store only prices will not be applicable to Website orders or purchases. To take advantage of promotional prices, you must quote the relevant promotion code when you order (where applicable). We may update promotions at any time.

5.5 Where we provide a quote to you it will be subject to the terms and conditions applicable to that quote.

5.6 All Products are subject to availability. If you order Products which are not available from stock, we will take reasonable steps to contact you to discuss how you wish to proceed. You will have the option to wait until the Products are available from stock, or cancel your order. If the Products are unlikely to be restocked (or we are unable to contact you), we will cancel your order for those Products and refund the price you have paid for those Products.

## 6 Payment

6.1 The total cost of your order and/or purchases is the price of the Products and applicable delivery charges.

6.2 We must receive payment in advance before your order and/or purchase can be processed, unless we have agreed otherwise in advance in writing.

6.3 Payment can be made by most major credit or debit cards in accordance with the payment methods section of our Website.

6.4 If you use a credit/debit card to pay for your order, you must use your credit/debit card or a credit/debit card that you are otherwise authorised to use. All credit/debit card holders are subject to validation checks by third parties and authorisation by the card issuer. If the issuer of the card refuses to authorise payment or any other validation checks return adverse results, we will not accept your order and we will not be liable for any delay or non-delivery and we are not obliged to inform you of the reason for the refusal.

6.5 We are not responsible for the card issuer or bank charging the cardholder as a result of our processing of the credit/debit card payment in accordance with your order.

6.6 You are responsible for all orders placed by your authorised employees.

## 7 Getting your Products

7.1 If you order Products for delivery then the terms that apply to that delivery will depend upon the Product(s) that you order, the delivery address and the delivery method you select. Unless we specifically agree otherwise, we only deliver to the areas indicated in our Delivery Terms. Depending on your location, some Products may only be available in store and some Products may not be available to purchase on our Website.

7.2 You can see a full set of our Delivery Terms on the Website.

7.3 Subject to availability and our Delivery Terms, where we have agreed to deliver the Products, we will use reasonable endeavours to do so on any specified date we agree, or if no date is specified, as soon as reasonably possible. In the case of circumstances beyond our reasonable control (for example, adverse weather conditions, unpredictable delays caused by traffic congestion, road works, diversions or mechanical breakdowns, in each case to the extent beyond our reasonable control) we may not be able to deliver the Products within these timescales and we will not be liable for any delay or failure to deliver the Products if the delay or failure is wholly or partly caused by such circumstances. In the event that a delivery does not take place, we and you will agree an alternative delivery date.

7.4 You must also do all that you reasonably can to enable the delivery to take place on the given date. If we are unable to deliver the Products as a result of your action or inaction (for example, you are not present at your property), we will need to arrange an alternative delivery date and we reserve the right to charge you a further fee for this.

7.5 For reasons of health and safety and to avoid any property damage, certain Products can only be delivered to the exterior of a ground floor location at the delivery address. You must therefore make your own arrangements at your own risk if the relevant Products need to be transported from the delivery location. We will not provide any unpacking, installation, fitting or waste removal services, unless otherwise agreed by us.

7.6 Unless we have agreed otherwise, Products must be signed for on delivery by a person aged 18 or over. Delivery will be completed when we deliver the Products to the address you specified in your order.

7.7 If you do not receive your Products on the stated delivery date, you must notify us immediately. We recommend that you do not schedule or commence any installation work until after you have received your ordered Products and checked all of them for any defects or missing parts.

7.8 Each Product remains our property until you have paid for it in full or we have provided the Product to you (whichever occurs later), whereupon you will own the Product. On delivery of the Products to you or collection of the Products by you (as the case may be), the Products shall be at your risk and responsibility and you will be responsible for their safekeeping and we will not be responsible for any damage or fault arising from incorrect storage.

7.9 Until ownership of the Products passes from us to you, you shall hold the Products on our behalf and shall store the Products at your own cost separately from all other products in your possession and marked in such a way that they are clearly identified as our property. We may, before

ownership of the Products passes to you, require you to deliver up the Products to us and, if you fail to do so, may repossess the Products. You grant us an irrevocable licence to enter, with or without vehicles, any of your premises for the purpose of inspecting or repossessing the Products.

## 8 Cancellation and returns

8.1 Please keep your proof of purchase for anything you buy from us. Although you are not obliged to, doing so will ensure we can help you if you need to return something.

8.2 You may cancel your order (or any part of it) and return your Products for any reason before dispatch (where applicable) or within 14 days after the date of delivery or collection (as the case may be) by:

8.2.1 calling us on 01454 776666 (lines are open 8.30am to 4.30pm weekdays), e-mailing us at [sales@pitchmark.com](mailto:sales@pitchmark.com), or writing to us at Unit 8, Ram Hill Business Park, Coalpit Heath, Bristol, BS36 2TX, United Kingdom to cancel the order (or part of it) and arrange return; or

8.2.2 returning the Product to Pitchmark headquarters at the abovementioned address (please bring your proof of purchase and, where applicable, the credit/debit card used for payment).

Where your order comprises multiple delivery shipments, the 14-day cancellation period for the Products in your order runs from the date of the delivery of the last shipment to you.

8.3 You will lose your right to cancel after the expiry of the 14-day period referred to in clause 8.2 (this does not affect your rights if there is any problem with the Products).

8.4 You may use the cancellation form at the end of these Terms, but you do not have to.

8.5 To meet the cancellation deadline, it is sufficient for you to send your communication concerning your exercise of the right to cancel before the cancellation period has expired.

8.6 The right to cancel your order set out above is subject to the following exclusions:

8.6.1 your right of cancellation does not apply to Products which are not suitable for return due to health or hygiene reasons, if you have opened the Product packaging after delivery or collection; and

8.6.2 your right of cancellation does not apply to Products which become mixed inseparably with other items after delivery or collection (which may be the case where the Products are installed).

8.7 In relation to Products delivered to you, you may need to take delivery of the Products before you can cancel your order if the Products are placed into our delivery process before we receive your notice of cancellation. This does not affect your rights under this clause and clause 9.

8.8 Following cancellation, we will refund you the price paid for the cancelled order (or part of the order cancelled), less any collection or return costs or charges (if any). Where you cancel the entire order, we will also refund the standard delivery charges paid (if any), or an amount equal to those charges if you elect to use a more expensive delivery method. Where you cancel part of an order, we may recalculate any applicable delivery charge and deduct this from the refund. We will pay the refund within 14 days after the day:

8.8.1 you notified us to cancel your order, where you have not received the Products (and the Products have not been despatched to you); or

8.8.2 we receive the Products you returned to us, where you are in receipt of the Products; or

8.8.3 you provide us with a proof of return for the Products, where you have returned the Products but we have not yet received them.

8.9 If you paid for your order using a credit/debit card, we will refund you on the credit/debit card used to pay for the order; if you paid for your order by cheque, we will provide you with a cheque for the amount of the refund; if you paid for the order in cash, we will refund you in cash or, at our discretion, by cheque.

8.10 You must arrange for the return of the Product(s) as soon as possible and in any event not later than 14 days after the day on which you cancel your order, unless we agree that you may dispose of the Products (in which case you must comply with any disposal instructions). Unless the Product(s) is(are) faulty or not as described or purchased and delivered simultaneously while we are in your property, you will be responsible for the cost of returning the Product(s). For certain Products we offer a collection service. Please contact us for further details. We may charge a fee for this service (the fee will depend on the Products returned).

8.11 You must keep the Product(s) you wish to return in your possession and take reasonable care of the Product(s) at all times while they are in your possession. This means that you must not use the Products (except to the extent reasonably necessary to inspect and examine them).

8.12 We reserve the right to make a deduction from the amount of any refund for loss in value of the Products returned where the Products show signs of unreasonable use; for these purposes, unreasonable use includes handling the Products beyond what is necessary to establish the nature, characteristics and functioning of the Products, in particular, if it goes beyond the sort of handling that might reasonably be allowed in a store. Where you are in possession of the Products (or they have been dispatched to you), we may withhold any refund until we have received the Products or you have supplied proof of return for the Products.

8.13 We reserve the right to require proof of identity.

YOUR CONSUMER RIGHTS ARE NOT AFFECTED

## 9 Faulty Products

9.1 On receipt of the Products you must check they match your order. If there is any problem, or if they are defective or damaged you must notify us as soon as is reasonably possible. Claims may be reduced or rejected if we have not been given an opportunity to put matters right.

9.2 In addition to the right to cancel an order as described in clause 8, if there is a problem with your order or the Product(s) you purchase is(are) faulty, we may make good any shortage or non-delivery, or offer a repair, exchange or refund as appropriate in accordance with your consumer rights. Please call us on 01454 776666 (lines are open 8.30am to 4.30pm weekdays) or e-mail us at [sales@pitchmark.com](mailto:sales@pitchmark.com) to arrange. Alternatively, you can return faulty Products to our headquarters.

## 10 Liability

If you are acting as a consumer

10.1 If you are acting as a consumer (which for these purposes means anyone who acts outside the course of a business, trade or profession) in your ordering and/or purchasing of Products, to the extent not prohibited by law, we accept no liability for any:

10.1.1 loss which is not foreseeable (loss is foreseeable if it was an obvious consequence of our breach or if it was contemplated by you and us at the time you and we entered into our agreement);

10.1.2 loss which arises when we are not at fault or in breach of our agreement; and

10.1.3 business loss (which includes loss of profits, loss of business, contracts, goodwill, business opportunity and other similar losses).

10.2 If you are acting as a consumer, you may have certain legal rights regarding claims in respect of losses caused by our negligence or failure to carry out our obligations. Nothing in our agreement is intended to limit your legal rights as a consumer. For further information about your legal rights you can contact your local authority Trading Standards Department or Citizens Advice Bureau.

If you are acting as a business customer

10.3 If you are acting in the course of a business, trade or profession in your ordering and/or purchasing of Products (a business customer), we shall have no liability to compensate you (whether in contract, tort (including negligence), breach of statutory duty or otherwise), other than any refund we make under our agreement or otherwise at our discretion.

10.4 Without prejudice to clause 10.3, if you are acting as a business customer in your ordering and/or purchasing of Products, we accept no liability (whether arising in contract, tort (including negligence), for breach of statutory duty or otherwise) for any of the following losses:

10.4.1 loss of profits, revenue, sales, income, or business;

10.4.2 loss of savings;

10.4.3 loss of use or production;

10.4.4 loss of goodwill;

10.4.5 business interruption;

10.4.6 subject to clause 9, remedial costs if the Products are damaged or defective;

10.4.7 damage to property or possessions through use or misuse of the Products;

10.4.8 loss caused by delay or other late performance; and

10.4.9 indirect or consequential losses.

10.5 If you are acting as a business customer in your ordering and/or purchasing of Products, you acknowledge and agree that all our obligations to you are set out in our agreement.

10.6 If you are acting as a business customer in your ordering and/or purchasing of Products, except as set out in our agreement, all other terms, warranties, representations and conditions implied by statute, common law or otherwise (including fitness for purpose) are excluded to the fullest extent permitted by law.

10.7 Subject to clause 10.8, we will not be responsible to you or, if you are undertaking work for another person, to any other person, for the use or installation of any Products by you (or on your behalf). Accordingly, as a business customer, you hereby agree to hold us harmless, and indemnify us, against any liability associated with any claim or allegation that we are responsible for any failings in the installation or use of Products that we supply.

Liability provisions that apply whether you act as a consumer or business customer

10.8 Nothing in our agreement limits or excludes our liability for fraud or fraudulent misrepresentation, death or personal injury caused by our negligence or for any other liability which cannot be limited or excluded by law.

10.9 Our Website, catalogues and other media may contain information and materials created and submitted by third parties, and, subject to clause 10.8, we exclude liability for all losses arising from any error, omission or inaccuracy in any such information and material.

11 Our rights to cancel

11.1 We may cancel our agreement by notice in writing to you if you are in breach of our agreement, you become unable to pay your debts when they fall due or proceedings are or are reasonably likely

to be commenced by or against you alleging bankruptcy or insolvency or an administrator, receiver or administrative receiver is appointed or is reasonably likely to be appointed over all or part of your undertaking and assets. Upon cancellation, any money due to us in respect of our agreement which has been cancelled shall become immediately due and payable and we shall be under no further obligation to supply Products to you, provided that where you have paid for Products in advance of our cancellation of our agreement, we shall, at our discretion, supply those Products to you or cancel the supply of those Products and refund you the price paid for those Products.

## 12 Events beyond our control

12.1 We shall have no liability to you for any failure or delay in supply or delivery, nor if performance of any of our obligations is prevented or restricted, nor for any damage or defect to Products supplied or delivered under our agreement, in each case that is caused by any event or circumstance beyond our reasonable control (including, without limitation, the following to the extent these are outside our reasonable control: accidents, extreme weather conditions, fire, explosion, flood, storm, earthquake, natural disaster, failure of telecommunications networks, inability to use transport networks, acts of God, terrorist attack, war, civil commotion, riots, strikes, lockouts and other industrial disputes, acts or restraints of Government, and imposition of restrictions on imports or exports).

## 13 Your information

13.1 In the course of our dealings with you we will collect and process personal information about you, including to administer and process your order, and to provide the Products. Further information on the manner in which we process personal information is set out in our Privacy Policy, a copy of which is available on our Website.

13.2 Calls to us may be monitored and/or recorded for quality control and training purposes.

## 14 Complaints

14.1 If you make a complaint, we will endeavour to keep you informed either by telephone or email at each stage of the complaints handling process and will endeavour to fully resolve your complaint as soon as possible.

## 15 Contacting us and you

15.1 If you have any questions, complaints or concerns with respect to your order or these Terms, please contact us as follows:

15.1.1 by telephone: on 01454 776666 (lines are open 8.30am to 4.30pm weekdays);

15.1.2 by email at: [sales@pitchmark.com](mailto:sales@pitchmark.com); or

15.1.3 by post at: Unit 8, Ram Hill Business Park, Coalpit Heath, Bristol, BS36 2TX, United Kingdom

15.2 Any formal legal notices should be sent to Unit 8, Ram Hill Business Park, Coalpit Heath, Bristol, BS36 2TX, United Kingdom, marked for the attention of the Company Secretary of Pitchmark Ltd.

15.3 If we have to contact you or give you notice in writing, we will do so by email or by hand or by pre-paid post to the address you provide to us in your order or we otherwise hold for you.

## 16 Governing law and venue for disputes

16.1 Subject to clause 16.2, you and we agree that our agreement is governed by the law of England and Wales and that any dispute between you and us arising out of or in connection with our agreement (including non-contractual disputes or claims) will only be dealt with by the courts of England and Wales.

16.2 Regardless of clause 16.1, you and we agree that if:

16.2.1 you are a consumer (as defined in clause 10.1) resident in a part of the United Kingdom other than England and Wales, the law of that part of the United Kingdom will apply to our agreement and any dispute between you and us arising out of or in connection with our agreement (including non-contractual disputes or claims) will be dealt with by the courts located there;

16.2.2 you are a consumer (as defined in clause 10.1) resident in Jersey, Jersey law applies to our agreement and any dispute between you and us arising out of or in connection with our agreement (including non-contractual disputes or claims) will be dealt with by the Jersey courts; and

16.2.3 you are a consumer (as defined in clause 10.1) resident in Guernsey, Guernsey law applies to our agreement and any dispute between you and us arising out of or in connection with our agreement (including non-contractual disputes or claims) will be dealt with by the Guernsey courts,

provided that, where we are allowed to do so by law, we may bring a claim against you in the courts of England and Wales.

## 17 Other important terms

17.1 If any provision of our agreement (including any provision in which we exclude or limit our liability to you) is found to be invalid or unenforceable in whole or in part, the validity of the other provisions of our agreement and the remainder of the provision in question shall not be affected.

17.2 No person other than you and us shall have any rights to enforce our agreement, whether under the Contracts (Rights of Third Parties Act) 1999 or otherwise.

17.3 If we fail to insist that you perform any of your obligations under our agreement, 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.

17.4 You may not assign or transfer your rights or obligations under our agreement, unless we agree in writing.

17.5 We may update, vary and amend these Terms from time to time without prior notice. Each time you order or otherwise purchase a Product from us, the Terms in force at that time will apply (as set out on our Website or available in store). Please check in store or on our Website to ensure that you understand which Terms apply. These Terms were last updated on 14 December 2017.

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Cancellation Form

To: Pitchmark Ltd

Address: Unit 8, Ram Hill Business Park, Coalpit Heath, Bristol, BS36 2TX, United Kingdom

Email address: sales@pitchmark.com

I/we hereby give notice that I/we cancel my/our contract of sale of the following goods/for the supply of the following service:

Ordered on/received on:.....

Name of consumer(s):.....

Address of consumer(s):.....

Signature of consumer(s) (only if this form is notified on paper):

.....

Date:.....