

OUR TERMS AND CONDITIONS

1. THESE TERMS

1.1 **What these terms cover.** These are the terms and conditions on which we supply products to you, whether these are goods (plants etc) and services (delivery and installation).

1.2 **Why you should read them .** Please read these terms carefully before you submit your order to us. These terms tell you who we are, how we will provide products to you, how you and we may change or end the contract, what to do if there is a problem and other important information. If you think that there is a mistake in these terms or require any changes, please contact us to discuss.

1.3 **Are you a business customer or a consumer?** In some areas you will have different rights under these terms depending on whether you are a business or consumer. You are a consumer if:

- You are an individual; and
- You are buying products from us wholly or mainly for your personal use (not for use in connection with your trade, business, craft or profession).

Provisions specific to consumers **only** are in **RED**.

1.4 **If you are a business customer this is our entire agreement with you .** If you are a business customer these terms constitute the entire agreement between us in relation to your purchase. You acknowledge that you have not relied on any statement, promise, representation, assurance or warranty made or given by or on behalf of us which is not set out in these terms and that you shall have no claim for innocent or negligent misrepresentation or negligent misstatement based on any statement in this Agreement.

2. INFORMATION ABOUT US AND HOW TO CONTACT US

2.1 **Who we are .** We are Creepers Ltd a company registered in England and Wales. Our company registration number is 02567971 and our registered office is at Spinney Hill. Addlestone, Surrey, KT15 1AD. Our registered VAT number is 118458110.

2.2 **How to contact us .** You can contact us by telephoning our customer service team at 01932 821626 or by writing to us at sales@creepersnursery.co.uk.

2.3 **How we may contact you .** If we have to contact you we will do so by telephone or by writing to you at the email address or postal address you provided to us in your order.

2.4 **"Writing" includes emails .** When we use the words "writing" or "written" in these terms, this includes emails.

3. **OUR CONTRACT WITH YOU**

- 3.1 **How we will accept your order** . Our acceptance of your order will take place when we email you to accept it (confirmation of order), at which point a contract will come into existence between you and us.
- 3.2 **If we cannot accept your order** . If we are unable to accept your order, we will inform you of this and will not charge you for the product. This might be because the product is out of stock, because of unexpected limits on our resources which we could not reasonably plan for, because they do not meet the minimum amount required for an order, because a credit reference we have obtained for you does not meet our minimum requirements, because we have identified an error in the price or description of the product or because we are unable to meet a delivery deadline you have specified.
- 3.3 **Your order number** . We will assign an order number to your order and tell you what it is when we accept your order. It will help us if you can tell us the order number whenever you contact us about your order. Any amendments to your order must be made in accordance with clause 5 or our Installation Service Policy or our Wholesale Sales Policy (as applicable) as on our website.
- 3.4 **We only sell to the UK** . Our website is solely for the promotion of our products in the UK. Unfortunately, we do not accept orders from addresses outside the UK.

4. **OUR PRODUCTS (GOODS AND SERVICES)**

- 4.1 **Products may vary slightly from their pictures** . The images of the products on our website are for illustrative purposes only. Although we have made every effort to display the colours accurately, we cannot guarantee that a device's display of the colours accurately reflects the colour of the products. Your product may vary slightly from those images.
- 4.2 **Standard of products** . All of our products are believed to be healthy and true to name. For safe transportation, it is necessary to tie the crown. Despite all reasonable care, this may result in some breakage of brittle or awkwardly shaped branches. We cannot accept any liability for changes to the products as a result of this action.
- 4.3 **Product packaging may vary** . Any packaging of the product may vary from that shown in images on our website.
- 4.4 **Availability of plants**. The availability of plants varies from day to day. We may quote for the supply of a plant which may then not be available through no fault of ours. In this instance we are happy to recommend a substitute nearest the size and variety ordered.
- 4.5 **Making sure your measurements are accurate** . If we are providing the product to measurements you have given us you are responsible for ensuring that these measurements are correct. Industry standards as to how products should be measured vary depending on the product and you can find information and tips on how to measure on our website or by contacting us. Any amendments to measurements made once you have received confirmation of your order are being provided may be charged at an additional cost. If you have any specific requirements in respect of your order then you must provide these to us in writing prior to your order being confirmed. We do not warrant that we will be able to provide the products to your exact specification and will disclose to you where this is not possible.
- 4.6 **Site access for installation** . You must ensure the site is prepared for us to provide our services, as agreed at the time the order is accepted and in accordance with our Installation Service Policy. We reserve the right to delay providing our services due to site not being in the correct condition.

- 4.7 **Welfare requirements** . At a minimum, you must ensure that the following services are available for our staff at the site when providing our services: toilet, fresh water, external taps for watering and access for delivery and moving plants.
- 4.8 **Our limited guarantee** . We can only guarantee that any living products supplied to you shall be supplied in a healthy and living state in accordance with nursery standards. We cannot guarantee:
- 4.8.1 what impact weather conditions will have on your product(s);
 - 4.8.2 that plants will be in flower or will flower at an expected time; and
 - 4.8.3 that plants will do as you expect them too.

5. YOUR RIGHTS TO MAKE CHANGES

If you wish to make a change to the product you have ordered please contact us as soon as possible. We reserve the right to reject any request for significant changes to your order that are made within 72 hours of expected delivery or installation. In any event, we will let you know if the change is possible. If it is possible we will let you know about any changes to the price of the product, the timing of supply or anything else which would be necessary as a result of your requested change and ask you to confirm whether you wish to go ahead with the change.

6. OUR RIGHTS TO MAKE CHANGES

- 6.1 **Minor changes to the products** . We may change the product to reflect changes in relevant laws and regulatory requirements or if we are out of stock or cannot source the product but can provide an alternative similar product.
- 6.2 **More significant changes to the products and these terms** . In addition, as we informed you in the description of the product on our website, we may make the following changes to these terms or the product, but if we do so we will notify you and you may then contact us to end the contract before the changes take effect and receive a refund for any products paid for but not received:
- 6.2.1 changes in genus of the plant;
 - 6.2.2 changes to variety of the plant; or
 - 6.2.3 changes to the increase or decrease in the size of the plant in excess of 20% of the original ordered size (or more than one size category either way).

If any of the changes above results in a decrease in the value of the ordered plants then we shall provide you with any price difference.

7. PROVIDING THE PRODUCTS

- 7.1 **Delivery costs** . The costs of delivery will be as displayed to you on our quotes.
- 7.2 **When we will provide the products** . During the order process we will let you know when we will provide the products to you.

- 7.3 **Delivery of the products** . We offer a roadside delivery service, unless otherwise agreed in writing. Where deliveries are expected on CC trolley, exchange will be accepted only on the delivery day, no trolleys will be left unless notice has previously been agreed in writing.
- 7.4 **We are not responsible for delays outside our control** . If our supply of the products is delayed by an event outside our control then we will contact you as soon as possible to let you know and we will take steps to minimise the effect of the delay. Provided we do this we will not be liable for delays caused by the event, but if there is a risk of substantial delay of more than 14 days, you may contact us to end the contract and receive a refund for any products you have paid for but not received.
- 7.5 **Collection by you** . If you have asked to collect the products from our premises, you can collect them from us at any time during our working hours of 7:30-16:00 on weekdays (excluding public holidays) and by appointment Saturdays at our Surrey branch and during our working hours of 5:00-11:00 on weekdays (excluding public holidays) and 6:30-10:00 on Saturdays at our London branch.
- 7.6 **If you are not at home when the product is delivered** . If no one is available at your address to take delivery we will leave you a note informing you of how to rearrange delivery or collect the products from a local depot. Additional costs will apply.
- 7.7 **If you do not re-arrange delivery** . If you do not collect the products from us as arranged or if, after a failed delivery to you, you do not re-arrange delivery or collect them from a delivery depot we will contact you for further instructions and may charge you for storage costs, any further delivery costs and a restocking fee. If, despite our reasonable efforts, we are unable to contact you or re-arrange delivery or collection we may end the contract and clause 10.2 will apply.
- 7.8 **If you do not allow us access to provide services** . If you do not allow us access to your property to perform the services as arranged (and you do not have a good reason for this) or the area is considered to be unsafe, we may charge you additional costs incurred by us as a result. If, despite our reasonable efforts, we are unable to contact you or re-arrange access to your property we may end the contract and clause 10.2 will apply.
- 7.9 **Condition of access to provide products** . In order for us to provide the goods and services, there must be a safe area with a reasonably straight, wide (for lorries) and level access for our road vehicles and planting equipment to be able to access. Failure to provide this may incur additional costs. You must inform us in writing of any issues you envisage which may impede our ability to access the property for delivery. Where we damage the surface in gaining access, we shall not be liable for any costs where such damage was a result of you not making available the appropriate access. Services lines, pipes or obstructions encountered whilst planting are your responsibility, unless you have specifically drawn these to our attention (in writing) prior to our services being provided. Additional costs may be incurred as a result of amendments being made to the services to address such obstructions.
- 7.10 **When you become responsible for the goods** . A product which is goods will be your responsibility from the time we deliver the product to the address you gave us or you collect it from us.
- 7.11 **When you own goods** . You own a product which is goods once we have received payment in full.
- 7.12 **What will happen if you do not give required information to us** . We may need certain information from you so that we can supply the products to you, for example, access restrictions, full site agrees and any working time restrictions in place. We will contact you to ask for this information. If you do not give us this information within a reasonable time of us asking for it, or if you give us incomplete or incorrect information, we may either end the contract (and clause 10.2 will apply) or make an additional charge of a reasonable sum to compensate us for any extra work that is required as a result. We will not be responsible for supplying the products late or not supplying any part of them if this is caused by you not giving us the information we need within a reasonable time of us asking for it.

8. YOUR RIGHTS TO END THE CONTRACT

8.1 **You can always end your contract with us** . Your rights when you end the contract will depend on what you have bought, whether there is anything wrong with it, how we are performing, when you decide to end the contract and whether you are a consumer or business customer:

8.1.1 **If what you have bought is faulty or misdescribed you may have a legal right to end the contract** (or to get the product replaced or a service re-performed or to get some or all of your money back), **see clause 0 if you are a consumer** and clause 13 if you are a business;

8.1.2 **If you want to end the contract because of something we have done or have told you we are going to do see** clause 8.2;

8.1.3 **If you are a consumer and have just changed your mind about the product, see** clause 8.3. You may be able to get a refund for some products if you are within the cooling-off period, but this may be subject to deductions;

8.2 **Ending the contract because of something we have done or are going to do** . If you are ending a contract for a reason set out at 8.2.1 to 8.2.3 below the contract will end immediately and we will refund you in full for any products which have not been provided and you may also be entitled to compensation. The reasons are:

8.2.1 we have told you about an upcoming change to the product or these terms which you do not agree to (see clause 6.2);

8.2.2 we have told you about an error in the price or description of the product you have ordered and you do not wish to proceed; or

8.2.3 there is a risk that supply of the products may be significantly delayed for more than 14 days because of events outside our control.

8.3 **Exercising your right to change your mind if you are a consumer (Consumer Contracts Regulations 2013)** . Subject to clause 8.4, if you are a consumer then for most products bought online you have a legal right to change your mind within 14 days and receive a refund. These rights, under the Consumer Contracts Regulations 2013, are explained in more detail in these terms.

8.4 **When consumers do not have a right to change their minds** . Your right as a consumer to change your mind does not apply in respect of:

8.4.1 bespoke items;

8.4.2 special orders;

8.4.3 items not featured on our basic stock lists published on our website (updated from time to time);

8.4.4 any opened packaging (unless clause 9.2 applies);

8.4.5 services (labour), once these have been completed, even if the cancellation period is still running; or

8.4.6 any products which become mixed inseparably with other items after their delivery, including products planted in soil or compost or plants pruned into location.

8.5 How long do consumers have to change their minds? If you are a consumer how long you have to change your mind depends on what you have ordered and how it is delivered.

8.5.1 Have you bought services (for example, installation of the goods)? If so, you have 14 days after the day we email you to confirm we accept your order. However, once we have completed the services you cannot change your mind, even if the period is still running. If you cancel after we have started the services, you must pay us for the services provided up until the time you tell us that you have changed your mind.

8.5.2 Have you bought goods (for example, trees or hedges)? If so you have 14 days after the day you (or someone you nominate) receives the goods, so long as clause 8.4 does not apply.

9. HOW TO END THE CONTRACT WITH US (INCLUDING IF YOU ARE A CONSUMER WHO HAS CHANGED THEIR MIND)

Tell us you want to end the contract . To end the contract with us, please let us know by calling customer services on 01932 821 626 or emailing us at sales@creepersnursery.co.uk. Please provide your name, home address, details of the order and, where available, your phone number, email address and reason for cancelling.

9.1 Returning products after ending the contract . If you end the contract for any reason after products have been dispatched to you or you have received them, you must return them to us or if agreed, allow us to collect them. Please call customer services on 01932 821 626 or email us at sales@creepersnursery.co.uk to arrange collection or drop off. The plant(s) must still be alive when they are delivered or collected. **If you are a consumer exercising your right to change your mind you must send off the goods within 14 days of telling us you wish to end the contract; the plant must still be alive when they are delivered or collected.**

9.2 When we will pay the costs of return . We will pay the costs of return:

9.2.1 if the products are faulty or misdescribed;

9.2.2 if you are ending the contract because we have told you of an upcoming change to the product or these terms, an error in pricing or description or because you have a legal right to do so as a result of something we have done wrong; or

9.2.3 if you are a consumer exercising your right to change your mind.

In all other circumstances (including where you are a consumer exercising your right to change your mind) you must pay the costs of return.

9.3 What we charge for collection . If you are responsible for the costs of return and we are collecting the product from you, we will charge you the direct cost to us of collection. We will inform you in writing of this depending on the location of collection.

9.4 How we will refund you . If you are entitled to a refund under these terms we will refund you the price you paid for the products including delivery costs, by the method you used for payment. However, we may make deductions from the price, as described below.

9.5 When we may make deduction from refunds if you are a consumer exercising your right to change your mind . If you are exercising your right to change your mind:

9.5.1 We may reduce your refund of the price (excluding delivery costs) to reflect any reduction in the value of the goods, if this has been caused by your handling them in a way which would not be permitted in a nursery. If we refund you the price paid before we are able to inspect the goods and later discover you have handled them in an unacceptable way, you must pay us an appropriate amount.

9.5.2 The maximum refund for delivery costs will be the costs of delivery by the least expensive delivery method we offer. For example, if we offer delivery of a product within 3-5 days at one cost but you choose to have the product delivered within 24 hours at a higher cost, then we will only refund what you would have paid for the cheaper delivery option.

9.5.3 Where the product is a service, we may deduct from any refund an amount for the supply of the services already supplied, ending with the time when you told us you had changed your mind. The amount will be in proportion to what has been supplied, in comparison with the full coverage of the contract.

9.6 When your refund will be made . We will make any refunds due to you as soon as possible. If you are a consumer exercising your right to change your mind then:

9.6.1 If the products are goods and we have not offered to collect them, your refund will be made within 14 days from the day on which we receive the product back from you or, if earlier, the day on which you provide us with evidence that you have sent the product back to us. For information about how to return a product to us, see clause 9.1. All returns must be signed for by a Creepers member of staff who shall confirm the products have been accepted in expected condition.

9.6.2 In all other cases, your refund will be made within 14 days of your telling us you have changed your mind.

10. OUR RIGHTS TO END THE CONTRACT

10.1 We may end the contract if you break it . We may end the contract for a product at any time by writing to you if:

10.1.1 you do not make any payment to us when it is due and you still do not make payment within 7 days of us reminding you that payment is due;

10.1.2 you do not, within a reasonable time of us asking for it, provide us with information that is necessary for us to provide the products, for example, site access, delivery address;

10.1.3 you do not, within a reasonable time, allow us to deliver the products to you or collect them from us; or

10.1.4 you do not, within a reasonable time, allow us access to your premises to supply the services.

10.2 You must compensate us if you break the contract . If we end the contract in the situations set out in clause 10.1 we will refund any money you have paid in advance for products we have not provided but we may deduct or charge you reasonable compensation for the net costs we will incur as a result of your breaking the contract.

10.3 We may withdraw the product . We may write to you to let you know that we are going to stop providing the product. We will let you know as soon as reasonably possible in advance of our stopping the supply of the product and will refund any sums you have paid in advance for products which will not be provided.

11. IF THERE IS A PROBLEM WITH THE PRODUCT

How to tell us about problems . We offer a roadside delivery only. Upon delivery of the products you should undertake an immediate inspection. Any damages, errors, shortages or complaints detected at the time of delivery must be noted on the driver's copy of the delivery note. Where you are a business customer, if you do not inform us of any issues with the products within 4 hours of receipt of the products (or by 8am the following day after delivery if delivery is after 2pm), you are deemed to have accepted the goods

12. YOUR RIGHTS IN RESPECT OF DEFECTIVE PRODUCTS IF YOU ARE A CONSUMER

12.1 If you are a consumer we are under a legal duty to supply products that are in conformity with this contract. Nothing in these terms will affect your legal rights.

12.2 **Your obligation to return rejected products** . If you wish to exercise your legal rights to reject products you must either return them in person to where you bought them, or allow us to collect them from you. We will pay the costs of postage or collection. Please call customer services on 01932 821 626 or email us at installations@creepersnursery.co.uk to arrange collection or delivery to us.

13. YOUR RIGHTS IN RESPECT OF DEFECTIVE PRODUCTS IF YOU ARE A BUSINESS

13.1 If you are a business customer we warrant that on delivery any products which are goods shall:

- 13.1.1 conform in all material respects with their description as to size and variety;
- 13.1.2 be free from material defects in design, material and workmanship;
- 13.1.3 be of satisfactory quality (within the meaning of the Sale of Goods Act 1979); and
- 13.1.4 be fit for any purpose held out by us.

13.2 Subject to clause 13.3, if:

- 13.2.1 we are given a reasonable opportunity of examining such product; and
- 13.2.2 you return such product to us at our cost,

we shall, at our option replace the defective product, or refund the price of the defective product in full.

13.3 We will not be liable for a product's failure to comply with the warranty in clause 13.1 if:

- 13.3.1 you fail to arrange for adequate unpolluted watering of the product from the date of installation;
- 13.3.2 you fail to ensure that unpolluted water is always readily available, for watering purposes, via an exterior tap or irrigation etc;
- 13.3.3 you fail to inspect the plants, as required;
- 13.3.4 you fail to provide relevant feeding, mulching, guy adjustment and general routine maintenance (unless prior arrangements have been made);

- 13.3.5 the defect arises because you failed to follow our oral or written instructions as to the storage, installation, commissioning, use or maintenance of the product or (if there are none) good trade practice;
- 13.3.6 the defect arises as a result of us following any drawing, design or specification supplied by you;
- 13.3.7 the defect or damage is caused by an issue which is known or likely to be known by the customer to occur with a product of that type (for instance toxic plants or invasive plants); or
- 13.3.8 based on our expert opinion, the defect arises as a result of fair wear and tear, wilful damage, negligence, abnormal weather conditions or any act of force majeure (including, but not limited to, acts of god, war, strikes, lock-outs, flood, failure of third parties to deliver goods to us).
- 13.4 Where you are a business customer, we undertake to replace products supplied with a solid root-ball, which are shown by photographic records to have a root-ball broken more than 25% of its circumference, providing such products are conscientiously maintained and cared for by you.
- 13.5 These terms shall apply to any replacement products supplied by us under clause 13.2.

14. PRICE AND PAYMENT

- 14.1 **Where to find the price for the product** . The price of the product (which excludes VAT) will be the price indicated in your confirmation of order. We take all reasonable care to ensure that the price of the product advised to you is correct. However please see clause 14.3 for what happens if we discover an error in the price of the product you order.
- 14.2 **We will pass on changes in the rate of VAT** . If the rate of VAT changes between your order date and the date we supply the product, we will adjust the rate of VAT that you pay, unless you have already paid for the product in full before the change in the rate of VAT takes effect.
- 14.3 **What happens if we got the price wrong** . It is always possible that, despite our best efforts, some of the products we sell may be incorrectly priced. We will normally check prices before accepting your order so that, where the product's correct price at your order date is less than our stated price at your order date, we will charge the correct price or cancel the order.
- 14.4 **Changes to the price of a product.** Our pricing is listed on our website. All prices are subject to alteration without notice.
- 14.5 **When you must pay and how you must pay** . We accept payment with most major debit/ credit cards (except American Express). Cheques may be accepted (but products not dispatched until the cheque has been cleared). When you must pay depends on what product you are buying:
- 14.5.1 For **goods**, you must pay for the products before we dispatch them. We will not charge your credit or debit card until we dispatch the products to you.
- 14.5.2 For **services**, you must make an advance payment provided in the confirmation of order, before we start providing them. We will invoice you for the balance of the price of the services when we have completed them. You must pay each invoice within 5 calendar days after the date of the invoice.
- 14.6 **Credit Accounts** . For some clients we offer a credit account for either 30 or 60 days. Access to a credit account shall be subject to satisfactory credit checks. We reserve the right to withdraw the credit account at any time and demand immediate payment of any outstanding monies owed.

- 14.7 **Our right of set-off if you are a business customer** . If you are a business customer you must pay all amounts due to us under these terms in full without any set-off, counterclaim, deduction or withholding (other than any deduction or withholding of tax as required by law).
- 14.8 **We can charge interest if you pay late** . If you do not make any payment to us by the due date we may charge interest to you on the overdue amount at the rate of 4% a year above the base lending rate Royal Bank of Scotland from time to time. This interest shall accrue on a daily basis from the due date until the date of actual payment of the overdue amount, whether before or after judgment. You must pay us interest together with any overdue amount.
- 14.9 **What to do if you think an invoice is wrong** . If you think an invoice is wrong please contact us promptly to let us know. You will not have to pay any interest until the dispute is resolved. Once the dispute is resolved we will charge you interest on correctly invoiced sums from the original due date.

15. **OUR RESPONSIBILITY FOR LOSS OR DAMAGE SUFFERED BY YOU IF YOU ARE A CONSUMER**

- 15.1 **We are responsible to you for foreseeable loss and damage caused by us** . If we fail to comply with these terms, we are responsible for loss or damage you suffer that is a foreseeable result of our breaking this contract or our failing to use reasonable care and skill, but we are not responsible for any loss or damage that is not foreseeable. Loss or damage is foreseeable if either it is obvious that it will happen or if, at the time the contract was made, both we and you knew it might happen, for example, if you discussed it with us during the sales process.
- 15.2 **We do not exclude or limit in any way our liability to you where it would be unlawful to do so** . This includes liability for death or personal injury caused by our negligence or the negligence of our employees, agents or subcontractors; for fraud or fraudulent misrepresentation; for breach of your legal rights in relation to the products as summarised at clause 12.1.
- 15.3 **When we are liable for damage to your property** . If we are providing services in your property, we will make good any damage to your property caused by us while doing so. However, we are not responsible for the cost of repairing any pre-existing faults or damage to your property that we discover while providing the services or any damage as set out in Clause 7.9.
- 15.4 **We are not liable for business losses** . If you are a consumer we only supply the products for to you for domestic and private use. If you use the products for any commercial, business or re-sale purpose our liability to you will be limited as set out in clause 0.

16. **OUR RESPONSIBILITY FOR LOSS OR DAMAGE SUFFERED BY YOU IF YOU ARE A BUSINESS**

- 16.1 Nothing in these terms shall limit or exclude our liability for:
- 16.1.1 death or personal injury caused by our negligence, or the negligence of our employees, agents or subcontractors (as applicable);
- 16.1.2 fraud or fraudulent misrepresentation;
- 16.1.3 breach of the terms implied by section 12 of the Sale of Goods Act 1979 or section 2 of the Supply of Goods and Services Act 1982; or

16.1.4 defective products under the Consumer Protection Act 1987; or

16.1.5 any matter in respect of which it would be unlawful for us to exclude or restrict liability.

16.2 Except to the extent expressly stated in clause 13.1 all terms implied by sections 13 to 15 of the Sale of Goods Act 1979 and sections 3 to 5 of the Supply of Goods and Services Act 1982 are excluded.

16.3 Subject to clause 16.1:

16.3.1 we shall not be liable to you, 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 any contract between us; and

16.3.2 our total liability to you for all other losses arising under or in connection with any contract between us, whether in contract, tort (including negligence), breach of statutory duty, or otherwise, shall be limited to the total sums paid by you for products under such contract.

16.4 Except as provided in clause 13.2, we shall have no liability to you in respect of a product's failure to comply with the warranty set out in clause 13.1 because of clause 13.3 or if the provision of our products results in any neighbour dispute, complaints, fines, enforcement action or breach of any laws or regulations.

17. HOW WE MAY USE YOUR PERSONAL INFORMATION

How we will use your personal information . We will only use your personal information as set out in our Privacy Policy [https://www.creepersnursery.co.uk/files/privacy_policy.pdf].

18. BREXIT TRIGGER, RENEGOTIATION AND TERMINATION

18.1 If a Brexit Trigger Event occurs, we may:

18.1.1 require you to negotiate in good faith an amendment to this agreement (including price and delivery) to alleviate the Brexit Trigger Event; or

18.1.2 suspend delivery of the products, offer to supply substitute products or terminate this agreement by giving you not less than 14 days' notice. Any refunds due shall be provided in accordance with the terms of this agreement.

18.2 **Brexit Trigger Event** means any of the following events occurring at any time after the UK ceases to be a Member State of the European Union:

18.2.1 a substantial adverse impact on our ability to perform the agreement in accordance with its terms and the law, including delivery of the products or the availability of the products from our suppliers;

18.2.2 an increase in the costs incurred us in performing the agreement of at least 5% since the price for the products was last agreed as a result of any delivery charges, import duties or the price of raw products;

18.2.3 the price of the products under this agreement is at least 5% lower than the market value for similar products or services at the time that the contract was made.

18.3 **Overlap with other rights and obligations.** Save as expressly provided in this clause 18.1.2, a Brexit Trigger Event shall not terminate or alter (or give any party a right to terminate or alter) this contract, or invalidate any of its terms or discharge or excuse performance under it. If there is an inconsistency between the provisions of this clause and any other provision of this Agreement, the provisions of this clause shall prevail.

19. OTHER IMPORTANT TERMS

19.1 **We may transfer this Agreement to someone else** . We may transfer our rights and obligations under these terms to another organisation. We will always tell you in writing if this happens and we will ensure that the transfer will not affect your rights under the contract.

19.2 **Previous Terms and Conditions.** In the event of any conflict between these Terms and Conditions and any prior versions thereof, the provisions of these Terms and Conditions shall prevail unless it is expressly stated otherwise.

19.3 **Availability of the Website.** This website is provided ‘as is’ and on an ‘as available’ basis. No warranty is given that the website will be free of defects and/or faults.

19.4 **You need our consent to transfer your rights to someone else (except that you can always transfer our guarantee)** . You may only transfer your rights or your obligations under these terms to another person if we agree to this in writing.

19.5 **Nobody else has any rights under this contract (except someone you pass your guarantee on to**). This contract is between you and us. No other person shall have any rights to enforce any of its terms, except as explained in clause 19.2 in respect of our guarantee. Neither of us will need to get the agreement of any other person in order to end the contract or make any changes to these terms.

19.6 **If a court finds part of this contract illegal, the rest will continue in force** . 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.

19.7 **Even if we delay in enforcing this contract, we can still enforce it later** . If we do not insist immediately that you do anything you are required to do under these terms, or if we delay in taking steps against you in respect of your breaking this contract, that will not mean that you do not have to do those things and it will not prevent us taking steps against you at a later date. For example, if you miss a payment and we do not chase you but we continue to provide the products, we can still require you to make the payment at a later date.

19.8 **Which laws apply to this contract and where you may bring legal proceedings if you are a consumer** . These terms are governed by English law and you can bring legal proceedings in respect of the products in the English courts. If you live in Scotland you can bring legal proceedings in respect of the products in either the Scottish or the English courts. If you live in Northern Ireland you can bring legal proceedings in respect of the products in either the Northern Irish or the English courts.

19.9 **Which laws apply to this contract and where you may bring legal proceedings if you are a business** . If you are a business, any dispute or claim arising out of or in connection with a contract between us or its subject matter or formation (including non-contractual disputes or claims) shall be governed by and construed in accordance with the law of England and Wales and the courts of England and Wales shall have exclusive jurisdiction to settle any such dispute or claim.