

CONDITIONS OF SALE

CORNISH CONCRETE PRODUCTS LTD
STANDARD CONSTIONS OF SALE

1 INTERPRETATION

“Company” means Cornish Concrete Products Ltd.
“Buyer” means any person, firm or company in the Order Acknowledgement or any person who has requested the supply of goods
“Goods” shall mean the goods and services provided by the Company

2 QUOTATIONS

- 2.1 All quotations are given, contracts made and orders accepted subject to these conditions of sale.
- 2.2 No other conditions or stipulations, in particular those in or attached to the buyer’s form of order of which are inconsistent with these conditions or which purport to add or modify these conditions in any way shall have an effect.
- 2.3 Variations or additions to these conditions shall only have effect if expressly accepted in writing by the Company.
- 2.4 Prices quoted are those ruling at the date of quotation and are based on the cost of labour, materials, plant, etc at the quotation date and right is reserved to alter the contract price without notice to take account of any fluctuations in the cots borne by the Company or statutory charges which may occur prior to delivery.
- 2.5 A firm price may be offered by the Company in writing and will only be available for acceptance by the buyer within a period of 60 days from the date of quotation and 90 days from date of Order.
- 2.6 If the buyer only orders part of the goods described in the quotation or after placing its order cancels part or all of its order, the Company reserves the right (in addition to any other remedy or remedies or courses of action open to it) to make reasonable adjustments to the contract price to take account of the reduced quantity and to claim from the buyer any loss thereby sustained by the Company.

3 DELIVERY

- 3.1 The prices within the Company's quotation are based on a minimum load of 28 Tonnes, unless otherwise agreed in writing. If the Buyer makes a specific request for a load or loads less than 28 Tonnes, an extra charge for haulage shall be made on the basis of the tonnage by which the Company's minimum load exceeds the weight of the consignment or alternatively the Company reserves the right to deliver at the Company's discretion.
- 3.2 No liability of any kind will attach to the Company for any diversion or deviation from such route caused by circumstances outside the reasonable control of the Company and any resulting costs incurred by the Company shall be payable to the Company by the Customer. The Conditions of Carriage of the Road Haulage Association current at the time of delivery shall apply to all deliveries.
- 3.3 Every effort will be made by the Company to provide an accurate estimated time of arrival howver a precise time of arrival cannot be guaranteed and the Company shallnot be liable for waiting time for cranes or other equipment arising from circumstances beyond the Company's control.
- 3.4 Unless otherwise agreed in writing all units may be delivered on 45' articulated lorries
- 3.5 The Customer shall be charged additional costs if deliveries are required outside normal working hours unless otherwise agreed in writing
- 3.6 Where delivery is to be undertaken by the Company as part of the contract, the Company will only deliver over sound hard roads to the nearest point to that which the goods are required by the buyer. The buyer will arrange suitable access and will indemnity the Company against damage and injury to the Company's property and its agent, employees and sub-contractors and their property respectively and to the property, agents employees and sub-contractors of the buyer and the property of such agents, employees and sub-contractors whilst the delivery vehicle is effecting delivery.
- 3.7 Where the Buyer is responsible for offloading the goods, the Buyer will supply skilled labour and appropriate plant free of charge for the safe offloading of all vehicles and in manner to satisfy the requirements of the Health and Safety at Work Act, 1974 and all regulations made thereunder and any modification of such Act or regulations which may from time to time be in force. The Company will accept no claims for damage to items caused by incorrect handling.
- 3.8 If the buyer does not complete offloading of the delivery vehicle within 1 Hour of the arrival of such vehicle at the point of delivery then the buyer will be liable to the Company for all extra costs thereby incurred by the Company.
- 3.9 If the delivery of any Goods shall be postponed or deferred by the Customer beyond the contracted delivery date, such goods will be held by the Company at the risk of the Customer who shall pay the full price of the goods within 28 days. The Customer shall also be responsible for all handling and storage charges at the rate of £1.60 per Tonne per week or part thereof (or such other rate that may appear in the quotation on which the order is placed) to the date when the Goods are delivered.

- 3.10 No claims for damage to goods will be accepted unless notified in writing to the Company within 24 Hours after the date of delivery. The buyer is totally responsible for checking the goods at the time of delivery for shortage, damage, identify with samples and any matter adversely effecting comparison with the goods as ordered. The Company's liability shall, in event be limited to replacement of any items agreed to be sub-standard as a result of defective workmanship or materials or damage in transit or any failure to comply with samples or the description of goods ordered or, in the case of any shortages investigate alleged defects or other alleged breach of contract and to make representations as to remedial action.
- 3.11 Unless stated otherwise agreed, goods shall be packed in the Company's standard packaging. Any special packaging required by the buyer shall be paid for by the buyer in addition to the purchase price of the goods.
- 3.12 A charge will be made by the Company for all pallets or bearers or similar packing materials properly used in connection with the delivery of the Goods at the Company's list price of such pallets or bearers or similar packaging materials prevailing at the time of delivery, and the invoice incorporating such charge will be paid by the Customer in accordance with the terms of payment set out herein. The return of such pallets to the Company is the responsibility of the Customer, who will be credited by the Company with the value of all undamaged pallets so returned within 1 month of delivery, subject to the Customer producing a delivery advice note relating to such return signed by a representative of the Company
- 3.13 Time shall be of the essence in any contract insofar as the delivery of goods is concerned. Every endeavour will be made to adhere to dates quoted, but in no circumstances, shall the Company be liable for loss or damage whatsoever owing to the failure to deliver by any date quoted or agreed by or on behalf of the Company.

4 DESIGN, WORKING DETAILS & MANUFACTURE

- 4.1 All necessary drawings, details, dimensions and specifications necessary for the manufacture of any pre-cast and/or pre-stressed concrete or other specially fabricated Goods by or on behalf of the Company shall without delay be supplied to the Company by the Customer at the expense of the Customer to enable the Company to undertake the timely performance of the Contract. Such drawings, details, dimensions and specifications shall be supplied in any format requested by the Company
- 4.2 No responsibility is accepted by the Company for verifying or checking the accuracy or correctness of information supplied by the Customer, who shall be responsible for checking any drawings prepared by the Company to ensure that they fully satisfy the requirements of the Customer. The preparation of working drawings shall not impose any liability of any kind on the Company
- 4.3 Approval of working drawings and any quantities shall be the responsibility of the Customer and, unless otherwise agreed in writing by the Company, shall be given within 5 working days of submission.
- 4.4 The Company will design and manufacture goods in accordance with relevant British Standards and European Code of Practice. In the absence of any specification the Company will conform to BS EN 13670 : 2009, National Concrete Specification for Building Construction.
- 4.5 Where the Company's designs are subject to approval by Government Departments, Local Authorities, consulting engineers or other bodies or individuals, any quotation issued by the Company is subject to variations should any modification of the design to which such quotation relates be required by any such body or individual
- 4.6 Any plans, drawings, technical documents or other data prepared by the Company and submitted to the Customer before or after formation of the Contract shall remain the property of the Company and shall be returned to the Company on request and the Customer shall not without the written consent of the Company copy the said plans, drawings, technical documents or other data or any part thereof or allow others to use or copy the same except in connection with the installation of the Goods.
- 4.7 All designs, drawings, specifications, illustrations and calculations furnished by the Company (which in the absence of agreement to the contrary will be limited to two copies) shall remain its property and shall be treated as confidential and not revealed to any other party without the consent of the Company
- 4.8 Where descriptions, samples, brochures or photographs are provided, these are submitted only as indicative of size, colour and shape of the goods quoted for. All descriptions, samples, brochures and photographs are given in good faith and are intended for general guidance only and do not form part of any contract for the sale of goods and no liability attaches to the Company for any loss or damage resulting from the reliance on such description.

5 PAYMENTS

- 5.1 The Company reserve the right to deliver instalments and to render separate invoices in respect of each such instalment and to hold an instalment pending full payment for the previous instalments within the terms and conditions of any contract for the delivery of the goods by the Company to the buyer.
- 5.2 Payment is due before delivery if required by the Company at the time of entering into the Contract. In all other cases, payment shall be made within 28 days of the date of invoice, but if default is made in the payment of any one invoice, these credit terms shall cease to apply and the Customer will become immediately liable for all sums outstanding and for Goods still to be manufactured.
- 5.3 If the Customer fails to make any payment on the due date then without prejudice to any other right or remedy available to the Company the Company shall be entitled to:

- (i) cancel the Contract or suspend any further deliveries to the Customer; and
 - (ii) charge the Customer interest (both before and after any judgment) on the amount unpaid at the rate of 4% per annum above Barclays Bank PLC's base rate from time to time until payment in full is made.
- 5.4 The Customer shall not be entitled to make any deduction from, set-off, or retention of, the amounts due under the Contract unless the Customer has a valid court order requiring an amount equal to such deduction, set-off or retention to be paid by the Company to the Customer. The Company shall be entitled to appropriate any payment made by the Customer to the Company to such of the Goods as the Company thinks fit despite any purported appropriation by the Customer including, but not limited to, any goods which have been supplied by the Company to the Customer under any contract between the Company and the Customer.
- 5.5 In the event of the buyer committing an act of bankruptcy or going into liquidation (whether voluntary or compulsory) or suffering the appointment of a Receiver of the levying if execution the price of all goods delivered to and/or of work executed for the buyer to the date of such event shall immediately become due and payable and the Company shall be entitled to stop any goods to transit, to suspend further deliveries, to exercise a lien over any goods, money or other property of the buyer in the possession of the Company or of its agents and to enter upon the premises of the buyer or of its agents for the purposes or re-possession and re-sale of any goods in respect of which payment has not already been made in full of which said rights shall be exercisable without prejudice to any other rights of the Company or to any existing claim notwithstanding the termination of the contract.
- 5.6 The title in goods agreed to be sold shall not pass to the buyer until the buyer has paid the price therefore including any interest charges, special packaging charges or other monies due from the buyer to the Company under the contract for the supply of the goods and the buyer has taken delivery of the goods.

6.0 WARRANTIES / GUARANTEES

- 6.1 Goods are not offered as suitable for any specific purpose and the buyer must satisfy himself regarding the quality and fitness of any items for his use. No warranty is offered or implied on any items supplied but full information will be made available to the buyer on request to enable him to assess suitability for any purpose. Where specification has been supplied by the buyer, the liability if the Company will be limited to replacement of any item not manufactured in accordance with the specification and no further liability for loss or damage howsoever caused shall rest with the Company.
- 6.2 Only Goods of the Company's own manufacture are guaranteed against defective materials or faulty replacement or repair, or at the Company's option, to refunding the purchase price or a fair proportion thereof, and any liability in respect of consequential loss sustained by the Buyer howsoever arising is expressly excluded.
- 6.3 Any Goods not of the Company's manufacture (including proprietary article of equipment and accessories supplied with or incorporated in Goods sold by the Company) shall be deemed sold subject to the terms of the guarantee, if any, given by the article manufacturers, and the Company shall be under no personal liability whatsoever in respect thereof otherwise than to afford the Customer any reasonable assistance in obtaining such redress as may be available to him against such manufacturers
- 6.4 **The Guarantee**

If the Customer can establish to the reasonable satisfaction of the Company that:—

the Goods are not in accordance with the quality or specification contained in the Contract; or

there is some other failure by the Company in relation to the Goods to comply with the Contract, then, subject to the remaining provisions of this Condition 11 and Condition 24, the Company shall at its sole discretion supply to the Customer additional goods in the same quantity as the defective or non-compliant Goods and which in all respects are in accordance with the Contract or repair the relevant Goods or refund all or part (as appropriate) of the price of the relevant Goods (the "Guarantee").

The Guarantee is subject to the following limitations:

the Guarantee shall not apply unless the Customer notifies the Company in writing of the alleged defect or failure immediately upon its first becoming aware thereof and in any event within 2 days of the date of delivery of the Goods or, where the defect or failure was not apparent on reasonable inspection, within 7 days after the earlier of the discovery of the defect or failure by the Customer, its employees, agents or sub-contractors or the time when the defect or failure ought reasonably to have been discovered by the Customer, its employees, agents or sub-contractors or 6 months from the date of delivery (whichever shall be the earlier);

the Company will accept no responsibility for faults in or failure of the Goods due to placing adopted by the Customer, or the effects of frost, heat or inclement weather;

the Company will accept no responsibility if the defect or failure in respect of the Goods results from incorrect specification or other data supplied by the Customer to the Company;

save in respect of death or personal injury caused by the negligence or breach of duty (as defined in section 25 of UCTA) of the Company, the Company shall have no liability whatsoever, whether in contract, tort or delict (including negligence) or otherwise for the presence of any lignite or other deleterious material in any of the aggregates contained in the Goods.

7 CANCELLATION

- 7.1 The suspension or cancellation of any order and / or contract, for any reason whatsoever, shall not, in any way, release the Buyer from unpaid accounts, or from any liability under such order and / or contract, to pay the Company for the products manufactured or goods ordered prior to suspension or cancellation.
- 7.2 Without prejudice to any of the Company's other rights or remedies, the Company shall be entitled forthwith upon the happening of any of the events detailed herein to cancel the contract (at the Company's absolute discretion), suspend further deliveries under this or any other contract with the Buyer, without liability, and if the Goods have been delivered, but not paid for, the price of Goods thereof shall become immediately due and payable, notwithstanding any previous agreements or arrangement to the contrary.

8 THE COMPANY'S LIABILITY

The company shall not be liable to the buyer for non-performance of the whole or part of the contract which is due to strikes, lockouts, trade disputes, accidents, Acts of God, fire, civil commotion, war national emergency or any other cause whatsoever outside of the Company's control and in particular (but without prejudice to the generality of the forgoing) the Company shall not be responsible for late performance of the contract due to delay on the part of the Company's suppliers to the breakdown if any of the Company's plant.