



NORTHSTONE MATERIALS LIMITED TERMS AND CONDITIONS OF SALE

1. THE CONTRACT

Unless otherwise agreed, the sale and purchase of the goods (the "Products") to be supplied by Northstone Materials Limited (the "Company") to the buyer (the "Buyer") shall be on these conditions (the "Contract") to the exclusion of all other terms and conditions (including any terms or conditions which the Buyer purports or seeks to impose or incorporate, or which are implied by trade, custom, practice or course of dealing). Any terms and conditions sought to be incorporated by the Buyer shall be of no effect unless and to the extent they are expressly agreed to in writing by the Company.

2. ORDERS AND SPECIFICATIONS

2.1 Each order or acceptance of a quotation for the Products by the Buyer from the Company shall be deemed to be an offer by the Buyer to buy the Products subject to these conditions. No order placed by the Buyer shall be deemed to be accepted by the Company until the Company delivers the Products to the Buyer. The Buyer shall ensure that the terms of its order and any applicable specifications are complete and accurate.

2.2 Unless otherwise agreed, any quotation is valid for a period of sixty (60) days only from its date, provided that the Company has not previously withdrawn it.

2.3 If the Products is to be manufactured or any process is to be applied to the Products by the Company in accordance with a specification submitted by the Buyer, the Buyer shall indemnify and hold harmless the Company, its directors, officers, employees, shareholders, successors and assigns against all loss, damages, costs and expenses incurred in connection with any claim which results from the Company's use of the Buyer's specification. For the avoidance of doubt this clause shall survive termination of the Contract.

2.4 The Company reserves the right to make any changes in the specification of the Products which are required to conform with any applicable laws, rules or regulations, or, where the Products is to be supplied to the Company's specification, which do not materially affect its quality or performance.

3. DESCRIPTION

3.1 The description of the Products shall be as set out in the Company's quotation. Any typographical, clerical or other error or omission on any document issued by the Company shall be subject to correction by the Company, without incurring any liability.

3.2 All samples, drawings, descriptive matter, specifications and advertising issued by the Company and any descriptions or illustrations contained in the Company's catalogues or brochures are issued or published for the sole purpose of giving an approximate idea of the Products described in them. They shall not form part of the Contract or have any contractual force.

3.3 Any advice or recommendation given by, or statement or representation made by the Company or its employees or agents to the Buyer or its employees or agents relating to the Products, which is not confirmed in writing in this Contract, is followed or acted upon entirely at the Buyer's own risk, and the Company shall not be liable for any unconfirmed advice or recommendation.

4. DELIVERY

4.1 Delivery of the Products shall be made by the Buyer collecting the Products at the Company's premises or, if some other place for delivery is agreed by the Company, by the Company delivering the Products to that place.

4.2 The Buyer is responsible for providing and clearly indicating to any driver operating on the Company's behalf, a safe means of access and egress from the public road (to include providing a banksman where necessary) to the discharge point, and for ensuring that the Products delivered are used safely, and that all persons and property are protected from injury, damage and nuisance resulting from their storage, movement or use. The Buyer indemnifies the Company against all claims, costs and expenses arising from injury, damage or nuisance which result from their failure to do so.

The Buyer is responsible for ensuring that anyone who accepts delivery is authorised to do so on their behalf, and that they sign a delivery note to signify that:

- (a) the Products described on the delivery note complies with the Buyer's order; and
- (b) any addition of water or other material has been recorded on the delivery note and has been authorised by him on the Buyer's behalf; and
- (c) the times of arrival and departure of the delivery vehicle are correctly recorded; and
- (d) the Products has been received in good condition.

In the absence of remarks on the delivery note to the contrary, failure to provide such signature shall not be taken by the Buyer as grounds for disputing delivery, the above matters or the quantity or quality of the Products delivered.

4.3 Where copies of delivery notes are requested by the Buyer, a charge will be applied to cover the cost of administration and printing.

4.4 Any times specified by the company for delivery of the Products are intended to be an estimate only and time for delivery shall not be made of the essence by notice.

4.5 The Buyer shall provide at the delivery site and at its expense adequate and appropriate equipment and manual labour for loading and / or unloading the Products.

4.6 The quantity of any consignment of Products as recorded by the Company on despatch from the Company's place of business shall be conclusive evidence of the quantity received by the Buyer on delivery unless the Buyer can provide conclusive evidence proving the contrary.

5. DELIVERIES OUTSIDE WORKING HOURS

The Company reserves the right to charge the Buyer for the additional cost of making deliveries outside normal working hours which are 8.00am – 6.00pm Monday to Friday, and 8.00am – 1.00pm Saturday.

6. PART LOADS AND WAITING TIME

The Company reserves the right to charge the Buyer for waiting time if its delivery vehicle is on site for more than 40 minutes per load (concrete) and 10 minutes per load (stone) and to charge the Buyer for any unused capacity of the delivery vehicle.

7. CANCELLATION

Any loss incurred by the Company as a result of the cancellation of an order after the Products has been batched will be reimbursed by the Buyer.

8. RISK/TITLE

8.1 Risk in the Products shall pass to the Buyer at the time of delivery or, if the Buyer wrongfully fails to take delivery of the Products, the time when the Company has tendered delivery of the Products.

8.2 Ownership of the Products shall not pass to the Buyer until the Company has received in full (in cash or cleared funds) all sums due to it in respect of (a) the Products, and (b) all other sums which are or which become due to the Company from the Buyer on any account.

Until ownership of the Products has passed to the Buyer, the Buyer shall: (a) keep the Products insured on the Company's behalf for its full price against all risks to the reasonable satisfaction of the Company; (b) store the Products separately from all other goods held by the Buyer so that they remain readily identifiable as the Company's property; (c) maintain the Products in satisfactory condition and keep it insured against all risks for their full price from the date of delivery; (d) notify the Company immediately if it becomes subject to any of the events listed in clause 8.3; and (e) give the Company such information relating to the Goods as the Company may require from time to time.

8.3 The Buyer's right to possession of the Products shall terminate immediately if the Buyer goes into liquidation or a receiver, administrator, or similar officer is appointed over all or substantially all of the assets of the Buyer, or anything analogous to any of the above under the laws of any applicable jurisdiction occurs in relation to the Buyer.

8.4 The Buyer grants the Company, its agents and employees an irrevocable license at any time to enter any premises where the Products is or may be stored in order to inspect them, or, where the Buyer's right to possession has terminated, to recover them.

9. PRICE AND PAYMENT

9.1 Unless otherwise agreed, the price for the Products shall be the Company's relevant price at the date of the order. The price for the Products shall be exclusive of any Value Added Tax. Where VAT is to be charged, the rate applied will be the rate as set by HMRC.

9.2 The Company reserves the right, by giving notice to the Buyer at any time before delivery, to increase the price of the Products to reflect any increase in the cost to the Company which is due to any factor beyond the control of the Company (such as, without limitation, any foreign exchange fluctuation, currency regulation, alteration of duties, significant increase in the costs of labour, materials or other costs of manufacture).

9.3 Credit accounts must be settled by the Buyer in accordance with terms agreed before delivery. The Company reserves the right to alter or withdraw credit facilities at any time. Customers who have no credit account with the Company must pay cash with their order. Cheques presented to the Company as payment for cash orders must be presented in sufficient time for them to clear before delivery is due.

9.4 The Buyer shall make all payments due under the Contract in full without any deduction whether by way of set-off, counterclaim, discount, abatement or otherwise. The Company is entitled to set off any amount due to the Buyer from the Company against any amount due to the Company from the Buyer under this Contract.

9.5 If the Buyer fails to pay the Company any sum due pursuant to the Contract, the Company shall be entitled to cancel the Contract or suspend any further deliveries to the Buyer and charge interest from the due date for payment at the annual rate of 4% above the refinancing base rate from time to time of the Bank of England, accruing on a daily basis until payment is made, whether before or after any judgment.

10. WARRANTIES

10.1 Unless expressly provided overleaf, the Company does not undertake that a Products shall reach a particular strength or be fit for a particular purpose.

10.2 The Company shall not be liable for any defect in the Products nor any other loss or damage incurred by the Buyer that arises as a result of the Company manufacturing the Products in accordance with: any designs, specifications, calculations, or any other information supplied by the Buyer to the Company from time to time; and/or any designs, specifications, calculations, or any other information supplied by the Company to the Buyer which is based on any information the Buyer has provided to the Company and the Buyer hereby agrees that it shall be solely responsible for any inaccuracies in the information supplied to the Company for the purpose of manufacturing the Products.

10.3 Without prejudice to Clause 10.1 and 10.2, and except where the Products is sold to a person dealing as a consumer, all other warranties, conditions and other terms implied by statute or common law are, to the fullest extent permitted by law, excluded from the Contract.

11. LIMITATION OF LIABILITY

11.1 Nothing in these conditions excludes or limits the liability of the Company for any matter for which it would be illegal for the Company to exclude or attempt to exclude its liability.

11.2 If the Buyer fails to comply with the requirements of the complaints procedure as recorded below, he shall be deemed to have waived all rights to pursue such dispute and to have indemnified the Company in respect of any claims arising therefrom, unless the Buyer shall show that a longer notification period is reasonable and necessary because of circumstances beyond his control and that of his servants, sub-contractors or agents.

11.3 The Company's liability in respect of a failure of the Products to comply with the specification is limited to the cost of replacement of the Products, which shall be in all circumstances be limited to the cost of replacing the Products as laid and shall exclude any additional costs arising from the Buyer having carried out any operation on or over the laid Products. Because of such limitation where the Buyer is intending to carry out operations which would prevent the replacement of the defective Products or add to the cost of doing so is advised to check that the Products meets the specifications before commencing such operations. All testing shall be carried out using third party accredited testing facilities or testing companies.

11.4 If a defect in the Products should have been revealed by examination on delivery, the Company's liability in respect of such defect shall be limited to resupplying the Products.

The Company shall not be liable for damages, including the replacement of its Products if any of the following have taken place:

- (a) additional water or other material has been added to the Products on the instruction of the Buyer, or his employee, agent or sub-contractor without the prior consent of the Company;
- (b) replacement or additional materials have been added to the products without prior consent of the Company. All such materials including, but not limited to GGBS, specialist admixtures, fibres etc. must be approved by the Company. Guidance on the use of such replacements or additions, which may affect the Buyers expected characteristics or performance of the Products, can be obtained on request from the Company;
- (c) on arrival to site, discharge from the transporting vehicle has not been completed within the time period specified in current compliance standards, or the Products have not been placed in their final position immediately discharge has been completed;
- (d) the Products, after final placing have not been adequately protected from the effects of frost, rain, sun and drying winds and/or adequate curing has not been applied;
- (e) all sampling, making, curing and testing of specimens have not been carried out in accordance with the relevant clauses of the current testing and compliance standards and/or accredited sampling and testing has not taken place;
- (f) test results have not been interpreted in accordance with the current compliance standards or any other specification previously agreed between the Buyer and the Company. Any reference to compressive strength of concrete as supplied, will be to cubes made, cured and tested in accordance with the current testing and compliance standards and using an accredited facility;
- (g) the Buyer fails to implement guidance given by the Company at the Buyers request regarding the use of replacement or additional materials in the Products such as GGBS, specialist admixtures, fibres etc.

All references to current testing and compliance standards above will be those British Standards or others recognised by the industry as applicable to the product at that time.

11.5 Subject to conditions 11.1, 11.2 and 11.3, and without prejudice to condition 11.5 the Company's total liability in contract, tort (including negligence or breach of statutory duty), or otherwise, arising in connection with the performance or contemplated performance of the Contract, or the use or resale of the Products by the Buyer shall be limited to the Contract price.

11.6 The Buyer shall not be liable to the Buyer for economic loss, loss of profit, loss of business, or depletion of goodwill in each case whether direct, indirect or consequential, or any claims for consequential compensation whatsoever (howsoever caused) which arise out of or in connection with the Contract, or the use or resale of the Products.

12. COMPLAINTS

12.1 Complaints regarding the quantity, mix, strength or quality of the Products supplied are to be advised to the Company in writing, as soon as the Buyer suspects that a problem may exist, and as soon as a problem becomes known to him, his servants, sub-contractors or agents.

12.2 Where it would not significantly increase remedial costs, the Company must be given an opportunity to inspect all alleged defects and contribute to decisions concerning remedial action. If the Company reasonably disagrees with decisions concerning remedial action, it will not be liable for the cost of removal and replacement of its defective Products.

12.3 No claim regarding the quantity of Products supplied shall be brought after collection or after three (3) working days following the delivery date, and no claim regarding the mix, strength or quality of the Products delivered shall be brought after thirty (30) days from the delivery date, except in the case where 56 day concrete strengths have been quoted, the period will be 60 days

12.4 To enable the Company to attend to the Buyer's complaint, dispute or claim, the Buyer shall immediately upon the Company's request provide it and its agents with all information, access, permission and support to take samples, make enquiries and receive information from all persons under their influence or control.

12.5 Within thirty (30) days from the date on which a complaint, dispute or claim is notified by the Buyer, he shall forward to the Company a final written claim showing details of cost against each item, and thereafter, without delay, shall provide the Company with whatever supporting documentation it shall reasonably request.

13. GENERAL

13.1 The Company may assign this Contract or any part of it to any person, firm or company. The Buyer shall not be entitled to assign the Contract or any part of it without the prior written consent of the Company.

13.2 Each right or remedy of the Company under the Contract is without prejudice to any other right or remedy of the Company whether under the Contract or not.

13.3 If any provision of the Contract is found by any court, tribunal or administrative body of competent jurisdiction to be wholly or partly illegal, invalid, void, voidable, unenforceable or unreasonable it shall to the extent of such illegality, invalidity, voidness, voidability, unenforceability or unreasonableness be deemed severable and the remaining provisions of the Contract and the remainder of such provision shall continue in full force and effect.

13.4 Failure or delay by the Company in enforcing or partially enforcing any provision of the Contract shall not be construed as a waiver of any of its rights under the Contract.

13.5 The Company shall not be liable for damages arising from failure to supply, or delay in supplying the Products due to acts of God, force majeure, war, civil commotion, or usurped power, government order, direction or legislation, fire or accident, strike, lock out or other industrial action, shortage of materials, exceptionally inclement weather, delays because of traffic congestion or any event or occurrence over which the Company has limited or no control.

13.6 This Contract and any dispute or claim arising out of or in connection with it or its subject matter or its formation (including non-contractual disputes or claims) shall be governed by and construed in accordance with the laws of Northern Ireland and the parties submit to the exclusive jurisdiction of the Northern Irish courts.

13.7 No variation to these terms and conditions shall be binding unless agreed in writing between the authorised representative of the Company and the Buyer.

13.8 A person who is not a party to the Contract shall have no rights under or in connection with it.

13.9 The Company shall comply with the obligations imposed on it by the Data Protection legislation being (i) the Data Protection Act 1998 and (ii) the General Data Protection Regulation (EU) 2016/679) and any national implementing laws, regulations, secondary legislation and any successor legislation to the extent that those obligations are pertinent to performing the Company's obligations under these terms and conditions.

14. NOTICE

14.1 Any notice by either party to this Contract to the other shall be in writing addressed to the other party at its registered office address or principal place of business or such other address as notified to the party giving the notice. Notices shall be deemed to have been received 48 hours after posting (exclusive of the day of posting) if sent by first class post; on the day of delivery by hand; or at the time of transmission if sent by email