

S. MORRIS LTD.

Ready Mixed Concrete, Sand, Aggregates & Concrete Products

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TERMS AND CONDITIONS OF SALE

1) DEFINITIONS AND INTERPRETATION

In these Conditions:

"Additional Charges" means the additional charges Clause 9 (Delivery) provides.

"Carrier" means any person who in a contract of carriage undertakes to perform or procure the carriage of the Materials to the Purchaser and any employee, agent or contractor of that person.

"Company" means S Morris Limited (Company No:00781444).

"Conditions" means the conditions set out in this document and includes any special terms and conditions agreed in writing between the Company and the Purchaser.

"Consumer" shall have the meaning given to it by the Unfair Contract Terms Act 1977 or the Unfair Terms in Consumer Contracts Regulations 1994.

"Contract" means the contract between the Company and the Purchaser for the sale and purchase of the materials provided.

"Contract Price" means the amount payable by the Purchaser to the Company pursuant to the Contract in respect of the supply of the Materials.

"Customer" means the person, firm or company who purchases the Materials from the Company.

"Delivery Ticket" means the proof of delivery/collection ticket to be signed by the Purchaser (except for times such as the Coronavirus Pandemic, when the ticket will be signed by the delivery driver as C19 and the purchaser will provide his full name and returned to the Company setting out various details including the Purchaser's details and a description of the product type and quantity, delivery date and purchase order number. The delivery ticket also includes a reference to and acknowledgement of these Conditions.

"Destination" means the site and the point of unloading for the Materials.

"Materials" means any goods and materials agreed in the Contract to be supplied by the Company to the Purchaser (including any part or parts of them).

"Party" means a party to the Contract.

"Third Party" means any person other than the Purchaser or the Company.

"Working Day" means a day other than Saturday, Sunday and a public holiday in England.

- (a) Contracts shall be governed by the laws of England and Wales. The Parties agree that the courts of England and Wales shall have non-exclusive jurisdiction to settle any dispute which arises in connection with the Contract.
- (b) Condition headings are for convenience only and do not affect interpretation.
- (c) A reference to a particular law is a reference to it as it is in force for the time being taking account of any amendment, extension, application or re-enactment and including any subordinate legislation for the time being in force made under it.
- (d) Words in the singular include the plural and, in the plural, include the singular.
- (e) These Conditions shall apply to any replacement Materials supplied by the Company under any Contract.

2) CONTRACTS, QUOTATIONS AND ORDERS

- (a) These terms and conditions apply to all sales by us (the Company) and any variations or additional terms must be expressly confirmed in writing by the company. All other terms and conditions which the purchaser purports to apply under any purchase order, confirmation order or similar are excluded.
- (b) Acceptance by the customer of the goods shall be deemed to be acceptance of these conditions and are incorporated into the contract.

3) QUOTATIONS

- (a) Quotations remain open until written acceptance but may be withdrawn if the Company has not received written acceptance within 30 days of quotation.
- (b) This quotation is subject to VAT
- (c) **CAUTION: Cement, concrete and screeds contain chemicals which can cause irritation, dermatitis and burning. To avoid harm to skin, minimise contact with wet concrete and wear suitable protective clothing. Where contact occurs (whether directly or through saturated clothing) wash thoroughly. In case of irritation or burns consult a doctor immediately.**
- (d) Where an alternative product or material has been offered, this will be subject to site Engineers' or Specifiers' approval.
- (e) Mixes Quoted for our subject to site Engineer approval.

4) SAMPLING

Sampling and testing shall be carried out in accordance with the appropriate British Standard or specification accepted by the Company. Compliance with such standard or specification shall be discharged by the company if goods meet such specification at the time of supply to the Customer.

5) SPECIFICATION

- (a) Goods sold by the Company shall be the type, description and/or specification as shown on the conveyance note or quotation. No warranty is given that the goods are suitable for any particular purpose unless the Customer shall first have advised the Company of all relevant factors relating to the purpose and the Company has confirmed in writing that the goods are suitable for that purpose. Product images are for illustrative purposes only and may differ from the actual product. Due to differences in monitors and any computer peripheral devices, the colours of the final products may also appear different to those shown on our website or in any email. We are unable to accept any claim for colour variance.

Colour of products can vary due to and not limited to:

- a. Natural variances in raw materials lead to load or day to day
 - b. Water added to loads
 - c. Finish applied to product
 - d. Effects of the environment, and/or
 - e. Weather
- (b) Our products are made from naturally occurring materials; therefore, we cannot guarantee our products to be 100% free of Lignite and are unable to accept any claim for Lignite content.
- (c) Curing time for design compressive strength may exceed 28 days with cement combination CIIIB.

6) PRICE VARIATION

The Company may at times increase the price specified in the quotation by giving not less than seven days written notice to the Customer. The increased price shall apply to all orders for goods delivered after the date specified in the notice.

7) ADDITIONAL CHARGES

Additional charges will also be made if:

- (a) Goods are required outside the Company's normal working hours.
- (b) If delivery is required in part loads rather than full loads.
- (c) Concrete delivery via conveyor.
- (d) If for any reason the delivery vehicle is unable to discharge its load within thirty minutes of arrival at the customer's site.

8) PAYMENT

- (a) Payment for the Goods must be received by the Company not later than the 30th day of the month following the month of the supply of goods. If as a result of making a delivery the Customer's credit limit is exceeded or the Customer fails to comply with payment terms or any other of these conditions then the Company may refuse (whether under this or any other contracts between the Company and the Customer or any associated companies of the Customer) to accept or complete any order, suspend supplies or impose such special payment terms or other conditions as the Company deems appropriate.

If at any time the Customer shall fail to pay any sum due to the Company under the terms on or before the due date, then the whole of the indebtedness of the Customer shall immediately be due and payable.

Overdue accounts will be charged interest at the rate of 8% per month from the day on which such accounts become overdue until receipt of payment therefore such interest to run from day to day and to accrue after as well as before judgement.

- (b) The Customer shall not have a right of set-off not to withhold payments properly due to the Company in the event of any dispute with the Company.

- (c) Failure to make payment on time may result in your account or transactions being discussed and passed to a debt collection agency and/or solicitor of our choice. By agreeing to these terms, you agree that you might be charged late payment collection fees and interest on any overdue balances.

9) DELIVERY

- (a) Deliveries may be totally or partially suspended during any period in which the Company may be prevented or hindered from manufacturing, supplying or delivering the goods due to breakdown of plant, non-availability of material, labour disputes, fire, accident or inclement weather, transport difficulties or delays or any circumstances outside the Company's control.

The Company will inform the Customer should any such occasion arise but shall be under no liability to the Customer for failure to deliver in such circumstances. While every effort will be made to meet any agreed requirements of the Customer the Company shall not be liable for any loss or damage arising through its failure to meet such requirements.

- (b) Time for the delivery shall not be the essence of the contract.

10) ACCESS

The Customer must provide safe and adequate access to the point of discharge of the goods. Failure to comply may result in the Company refusing to make delivery and charging the Customer with the costs incurred.

11) UNLOADING

The Customer, his employee or agent must promptly:

- (a) Accept delivery of the goods when they arrive on site.
- (b) Inspect the goods when they are discharged.
- (c) Sign the conveyance note.
- (d) Sign the record of any delay after the arrival of the goods on site.

12) RESPONSIBILITY

Except in the case of negligence by the Company or the driver of the Company's delivery vehicle, the Customer shall indemnify the Company and its hauliers against damage or injury caused during the presence on-site or access thereto of delivery vehicle.

13) QUALITY

Where there is any complaint about the quality or quantity of the goods the Customer must:

- (a) Record the complaint on the conveyance note.
- (b) Phone the office from which the goods were ordered on the day of delivery.
- (c) Confirm the complaint in writing to the Company's head office within three days.
- (d) Allow the Company all reasonable facilities to enable it to investigate any such complaint promptly and to advise the Customer of any remedial action that may be appropriate.

14) QUALITY

Where goods supplied by the Company are proved to be defective, the Company will replace the goods as promptly as possible without charge and will only reimburse the Customer for any expenses proved to have been directly incurred in the removal and replacement of the defective goods. The Company shall not be liable to the Customer for any consequential loss or damage (whether for loss of profits or otherwise) third party claims, losses expenses or other claims for consequential compensation which arise out of or connection with the supply of goods or their use by the Customer except as expressly stated in these conditions. Without limitation to generality of the foregoing, the Company shall not be liable to the Customer for any losses or costs resulting from unsuitable application, wrongful handling or placing from any fault in a design or specification provided by or on behalf of the Customer.

15) TITLE

Property of the goods shall pass to the Customer when the Company has received actual payment for the goods.

16) RISK

- (a) The risk in the goods shall pass to the Customer at the moment of discharge from the delivery vehicle at the Customer's site, or on loading the goods into the Customer's vehicle.
- (b) Concrete must be discharged within two hours of batching (or such extended time and may be instructed by the Customer and at the Company's discretion and the Customer's risk or such lesser time as is required by any particular specification or ambient conditions) and if the Customer prevents such discharge, the driver will return the concrete to the batching plant and the Customer will be charged for the concrete and its delivery, return and disposal.
- (c) The Company will accept no responsibility for the workability, strength or quality of its concrete if the Customer has added anything whatsoever to it. The Company's drivers have instruction to make no alterations to a mix without specific authorisation by the Customer and such authorisation shall be at the Customer's risk. If the Customer or their representative demands the driver to mix and discharge the concrete being supplied at a workability different to that specified and ordered the Company will accept no responsibility for the consequences of the concrete being supplied at a workability outside the tolerance of that specified in the quotation.
- (d) The Company will not accept responsibility for the surface finish.
- (e) Concrete blocks or Reconstructed Stone should not be used when frosted or saturated with water.
- (f) Where materials are supplied by a customer to be used with our factory-controlled materials, the company will accept no liability for the final product. This includes, but is not limited to: admixtures, aggregate.
- (g) S Morris Ltd will accept no liability for the final strength/ condition of any screed materials where floor coverings have been applied outside of the recommended curing period. This includes, but is not limited to tiles and tile adhesive.

17) DISPOSAL

- (a) The Customer is responsible for any additional costs suffered by the Company, including charges for disposal of materials, in the event that an order is cancelled or varied by the Customer. Where material is delivered or in the process of delivery the Customer is responsible for providing tipping facilities for any excess material ordered or material rejected for reasons other than non-compliance with the specification. Where material is tipped, either after batching, loading or delivery has commenced the Customer shall pay the full delivered price of materials and, where tipping facilities are not provided by

the Customer, a disposal charge and any other additional costs suffered by the Company.

- (b) If a Customer refuses delivery or diverts a load the Customer shall pay the full cost of the delivered material to the original site plus any additional cost incurred diverting to another location.

18) RETURN OF PACKAGING

- (a) The Customer will provide a cash deposit to the Company of the amount stipulated as representing the value of such pallet or packaging which will be held by the Company until the return in good condition of such items.
- (b) The Customer will at its own expense return any pallets owned by the Company.
- (c) If a Customer requests the Company to collect pallets a charge may be made to cover costs.
- (d) No refund will be issued for any pallets returned to our works damaged.

19) GENERAL

- (a) Through completing the application form, you are confirming that you are happy for us to use the Company and personal data disclosed with third party credit applications to check company, business and personal credit scores. For legitimate business interests, we may pass your personal information to our preferred legal representatives in order to collect any outstanding balance due to our company. Further details of our privacy policy are available on our website at www.smorris.co.uk.
- (b) Recording of telephone calls: The Company reserves the right to record all telephone orders and enquiries and shall comply in all respects with the Data Protection Act 2018 in respect of such information.
- (c) Assignment: The Company may at any time assign, transfer, charge, sub-contract or deal in any other manner with all or any of its rights or obligations under the Contract. The Customer may not assign, transfer, charge, sub-contract or deal in any other manner with all or any of its rights or obligations under the Contract without the prior written consent of the Company.
- (d) Third Party Rights: The Parties to the Contract do not intend that any term of the contract shall be enforceable by virtue of the Contracts (Rights of Third Parties) Act 1999 by any person that is not party to it.