

AG PAVING AND BUILDING PRODUCTS - STANDARD TERMS AND CONDITIONS OF TRADING

1. INTERPRETATION

- (i) These conditions apply to and form part of the contract between the Company and the Customer. They supersede any previously issued terms and conditions of purchase or supply.
- (ii) In these conditions:
 - "Company" means AG Paving and Building Products Limited (company number NI004475);
 - "Customer" means the person or company who places an order for the purchase of Goods from the Company;
 - "Goods" means any item of whatsoever nature manufactured by the Company, which the Customer buys or has agreed to buy from the Company including where the context so requires services provided by the Company BUT excluding Non Manufactured Goods;
 - "Contract" refers to any contract for the supply, or delivery of Goods which are sold by the Company subject to these conditions. A quotation does not constitute an offer to supply Goods. Cancellation of the Contract by the Customer will only be accepted at the discretion of the Company;
 - "Non Manufactured Goods" means items which are manufactured by a third party and purchased by the Company for supply to the Customer together with Goods;
 - "Retail Customer" means a Customer who purchases Goods for non-commercial purposes.
- (iii) No variation to these conditions shall be binding unless agreed in writing by a Director of the Company;
- (iv) Any typographical, clerical or other error or omission in any sales literature, quotation, invoice or any other document issued by the Company shall be subject to correction without any liability on the part of the Company;
- (v) In certain circumstances these standard terms and conditions may be supplemented by additional written terms and conditions in respect of Goods or work of a specialist nature.

2. SAMPLES, DRAWINGS, SPECIFICATIONS

- (i) Any sample or sales literature provided by the Company or any of its agents or displayed on its website is intended only as an indication of the quality, colour, size and finish of the product, and the Company will not accept liability for any deviation in the Goods supplied arising from factors outside its control;
- (ii) The Company shall not be under any obligation to check or verify the accuracy or adequacy of any plans or specifications supplied by the Customer or his agent, and the Customer shall be liable for any loss arising directly or indirectly from any error, omission, inaccuracy or fault in such plans or specifications. Where Goods are manufactured based on Customer's designs and specifications, no guarantee is given or implied as to the suitability for the purpose for which they are used.

3. ORDERS AND CANCELLATIONS

- (i) All Goods manufactured to order must be ordered by the Customer in writing before production can commence and must be paid for in full within normal credit terms irrespective of whether the Customer has taken delivery;
- (ii) The Company reserves the right to issue the Customer with an invoice for any undelivered Goods manufactured to order after a period of 6 months from the date the Goods were ordered;
- (iii) No order which has been accepted by the Company shall be amended or cancelled by the Customer except with the written agreement of the Company. Failing such written agreement, the Customer shall be responsible for the costs of any amendment and in the case of cancellation shall be responsible for all costs, damages, expenses and loss of profits incurred by the Company;
- (iv) At the time of ordering the Customer will be advised of the required lead time. The Company cannot guarantee that late additions to an order can be accommodated in the same timeframe;
- (v) Goods sold ex stock are subject to availability at time of sale;
- (vi) The Company will not be liable to accept the return of any Goods ordered by the Customer and delivered correctly and in good faith.

4. PRICES AND QUOTATIONS

- (i) Unless otherwise stated, prices quoted are exclusive of VAT and based on costs current at time of quotation and will remain effective for a period of 30 days. The Company reserves the right to charge all subsequent increases up to the date of delivery without notice;
- (ii) Quotations are based upon production capacity being available and upon mutual agreement of a program of supply at the time of order. Failure of the Customer to meet the obligations of this program may cause disruption and the Company reserves the right to charge any additional costs arising therefrom;
- (iii) Quoted prices for delivered Goods are based on full loads. The Company reserves the right to make a charge for delays, part-load deliveries, handling fee for Goods returned or waiting time at the place of delivery arising from factors outside the Company's control. Details of such charges are available on request.

5. DELIVERY

- (i) Goods will be delivered by the Company if specifically requested at time of order or may be collected by the Customer;
- (ii) Where Goods are to be delivered, the Customer must ensure adequate access to the specified destination. The Company will take all reasonable care in the delivery and unloading of Goods, but will not be responsible for damage to roadways, pipes, sewers, manholes or bridges caused by the combined weight of the delivery vehicle and its load;
- (iii) The delivery vehicle driver will have the final decision on the unloading point having regard to Health and Safety regulations;
- (iv) If requested, certain Goods may be delivered on pallets. Pallets will be chargeable and cannot be refunded;
- (v) Any time or date stated for delivery is given and intended as an estimate only and shall not be of the essence;
- (vi) Signature (including by electronic means) of any delivery notes by any agent, employee, nominee or representative of the Customer or by an independent carrier shall be conclusive proof of delivery or collection. If the Company fails to deliver the Goods, its entire liability shall be limited to the excess (if any) over the price of the Goods, of the cost to the Customer of purchasing similar Goods to replace those not delivered.
The Company reserves the right to make deliveries by installments and tender an invoice in respect of each installment.
If the Customer fails to take or make arrangement to accept delivery of the Goods or if delivery is delayed by the Customer or the Company is unable to deliver because of inadequate access or instructions or failure of the Customer to obtain necessary consents or licences, delivery shall be deemed and the Company may:
 - (a) make additional charges for failed delivery
 - (b) allocate new delivery dates
 - (c) store the Goods at the Customer's risk and cost
 - (d) invoice the Customer for the Goods
 - (e) terminate the Contract without liability on the Company's part
 - (f) recover from the Customer all costs and losses incurred by the Company; and
 - (g) resell or otherwise dispose of the Goods if, following a period of 6 months from the date the Goods were ordered, the Customer has not taken delivery of or collected the Goods. In this circumstance, the Company is under no obligation to

- (vii) provide a refund for the Goods
The Customer shall inspect the Goods at the place and time of delivery. If the Company delivers Goods to the Customer, no claim for shortages or loss or damage to Goods in transit or failure of Goods to conform to the Contract apparent on reasonable inspection will be considered unless the Customer notifies the Company within 5 days of delivery. If the Customer has not given notice, the Goods will be deemed to have been delivered in the quantities shown on the delivery documents and will be deemed to have been accepted by the Customer and the Customer shall not be entitled to reject the Goods.

6. TERMS OF PAYMENT

- (i) Retail customers shall pay for Goods in full, in clear funds on or before the date of delivery or collection.
- (ii) Subject to 6(i) above, unless agreed otherwise in writing, payment is due in full within 30 days of date of invoice;
- (iii) The Company reserves the right to charge interest at the rate of 2% per month on overdue accounts;
- (iv) In the case of Goods manufactured to order (MTO), the Company may insist on a deposit prior to commencement of work, the amount to be agreed in writing in advance;
- (v) Subject to 6(i) above, if the Customer fails to pay any invoice or any sum due to the Company under the Contract on the due date or the Customer's credit limit is withdrawn or exceeded, the Customer becomes insolvent or commits a material breach of the Contract, all sums outstanding between the Customer and the Company become immediately due and payable. The Company shall be entitled to:
 - (a) require payments of cleared funds in advance of further deliveries;
 - (b) suspend or cancel any further deliveries of Goods without liability on the Company's part;
 - (c) terminate this or any other Contract with the Customer without liability on the Company's part; and may in certain cases pursue legal action for recovery of all amounts outstanding;
- (vi) The Customer shall not be entitled to withhold payment of any amount payable under the Contract or any other amount due to the Company by reason of any right to off set or counterclaim which the Customer may have or allege to have for any reason whatsoever.

7. RISK AND PROPERTY

- (i) Risk of damage to or loss of the Goods shall pass to the Customer at the time of delivery or collection;
- (ii) Notwithstanding passing of risk in the Goods, the title in the Goods shall not pass to the Customer until the Company has been paid in full for the Goods;
- (iii) Until title passes the Company agrees that the Customer may use or agree to sell the Goods as principal in the normal course of the Customer's business subject to the entire proceeds of any sale received in respect of the Goods being held in trust for the Company. The Customer's right to use or sell the Goods may be withdrawn by the Company at any time and will automatically cease on the Customer becoming insolvent;
- (iv) The Company shall be entitled to recover the price of the Goods including VAT notwithstanding that the title in the Goods has not passed to the Customer;
- (v) Until such times as title in the Goods passes from the Company, the Customer shall upon request deliver up to the Company such of the Goods as have not ceased to be in existence or resold. If the Customer fails to do so, the Company may enter upon any premises owned occupied or controlled by the Customer where the Goods are situated and repossess the Goods;
- (vi) The Customer shall not pledge or charge by way of security for any indebtedness any of the Goods which are the property of the Company. Without prejudice to the other rights of the Company, if the Customer does so all sums whatever owing by the Customer to the Company shall forthwith become due and payable.

8. WARRANTIES AND LIABILITY

- (i) Subject to the conditions set out below, the Company warrants that the Goods will correspond with any specification provided of the Goods and will be free from defects in material or workmanship;
- (ii) Subject to 8(iii) below, the Company shall be under no liability under the above warranty:
 - (a) in respect of any defects arising from any drawing, design or specification supplied by the Customer;
 - (b) if the defect would have been apparent on reasonable inspection;
 - (c) unless a defect is discovered within 90 days of the date of delivery and the Company is given notice of the defect within 5 days of its discovery;
 - (d) if the Customer fails to adhere to the terms of payment;
 - (e) unless the Company is given opportunity to inspect the Goods before they are repaired or in any other way interfered with, except if this delay may cause a compromise of health and safety;
 - (f) if the Goods are damaged as a result of being used for a purpose other than that for which they were intended for;
 - (g) if the defect results from fair wear and tear or negligence, misuse, alteration or repair of the Goods;
 - (h) for any Non Manufactured Goods; and
 - (i) for any engineering solution provided to the Customer by an independent engineering company and not by the Company.
- (iii) Subject to the above, the Company may repair or replace defective Goods or refund the price of the Goods at the pro rata Contract rate;
- (iv) War, fire, tempest, strikes, accidents, breakdowns, or any other circumstances beyond its control shall relieve the Company of all liability for loss, damage, injury or delay arising in connection therewith;
- (v) Liability for defective Goods or services shall be limited to the replacement value of those Goods or services. No liability will be accepted for any consequential loss.

9. INSTALLATION REQUIREMENTS

- (i) To ensure optimum performance of its products, the Company provides advice and recommendations on construction or installation. Refer to the Company website.
- (ii) The Company does not install the Goods and does not employ installation engineers. The Company recommends the Customer engages the services of an independent installation engineer; a number of installation engineers are listed on the Company's website. The Company does not provide any warranty or guarantee in connection with any installer. The Company shall have no liability for the quality of the installer's workmanship or any issues which the Customer may have with the installer.

10. GENERAL

- (i) If any provision of these conditions is held by any competent authority to be invalid or unenforceable in whole or in part the validity of the other provisions of these conditions and the remainder of the provisions in question shall not be affected thereby;
- (ii) The Company will be entitled to assign subcontract or sub-let the Contract or any part thereof. The Customer shall not assign or transfer the Contract or any part thereof without the Consent of the Company;
- (iii) These conditions and the contract between the Company and the Customer shall be governed by the laws of Northern Ireland and the courts of Northern Ireland shall have exclusive jurisdiction.