

COPPARD

Concrete - Standard Conditions of Sale

1 DEFINITIONS

“**Buyer**”: the person or company whose order for the Goods is accepted by the Company in accordance with these Conditions;

“**Company**”: Coppard Plant Hire Ltd or trading name of Coppard Concrete Services company number no. 01056494;

“**Conditions**”: these conditions of sale and any variation of them which is agreed in accordance with these Conditions;

“**Contract**”: the contract between the Company and the Buyer for the sale and purchase of the Goods; and

“**Goods**”: the goods which the Company is to supply under this Contract in accordance with these Conditions.

2 BASIS FOR SALE

2.1 These Conditions (and any additional terms contained in the quotation and/or mix design supplied by the Company) apply to all sales of the Goods to the exclusion of all other terms and conditions. No terms or conditions written upon, delivered with, or contained in the Buyer's purchase order, specification or similar document will form part of the Contract. No variation or addition to these Conditions (including the Buyer's own terms) is effective unless expressly confirmed in writing by a director of the Company. Acceptance of delivery of the Goods or any quantity of them shall be deemed to be acceptance by the Buyer of these Conditions.

2.2 Each order for the Goods by the Buyer to the Company is deemed to be an offer by the Buyer to purchase the Goods subject to these Conditions and shall be accepted by the Company on the earlier of issuing an acknowledgement of order or delivering the Goods.

2.3 Company reserves the right to charge the Buyer an additional charge where (i) delivery of Goods is required by the Buyer outside the Company's normal working hours; (ii) delivery of the Goods is required in part loads rather than full loads; (iii) if the delivery vehicle is unable to discharge its load waiting time is charge after five minutes per metre for each load / delivery at arrival at Buyer's site; or (iv) Buyer purchases quantities of the Goods which are substantially different from any quantity specified in the quotation / order.

2.4 Buyer is wholly responsible for ensuring the accuracy of the terms of any order and any applicable specification. Any recommendation or suggestion relating to any use, storage or handling of the Goods made by the Company either in sales and technical literature or in response to a specific enquiry or otherwise is given in good faith but it is strictly for the Buyer to satisfy itself of the suitability of the Goods for its own particular purposes and the Buyer accepts it does not rely on any such recommendation, suggestion or representation.

2.5 The quantity, quality, description and specification of the Goods shall be those set out in the Company's quotation, otherwise as set out in the conveyance note at delivery. The Company reserves the right to change the source of materials and the type and dosage rate of any admixtures and additives, from those set out in the quotation.

2.6 If the Buyer varies, cancels or refuses to accept delivery of an order then Buyer shall pay all additional costs that may be incurred by the Company. Buyer accepts the Company's cancellation policy and charges stated in the quotation. In respect of concrete, where a cancellation instruction is received by the Company after batching has started, Buyer shall pay the Company for the concrete in full plus a charge for safe disposal.

3. DELIVERY

3.1 Delivery of the Goods shall take place either on discharge into the Buyer's vehicle at the Company's premises or on discharge from the Company's vehicle at the Buyer's site or as otherwise agreed by the parties. Buyer shall comply with the Company's site policies.

3.2 Buyer must provide safe, adequate access to the point of discharge of the goods, including adequate manoeuvring space for the delivery vehicle and ensuring the Company's employees and/or agents are safe. Failure to comply shall entitle the Company to refuse to make delivery and to charge the Buyer for any costs and/or losses incurred. Buyer to provide adequate wash out facilities if required for the Company's vehicle.

3.3 Buyer shall indemnify the Company and its employees, drivers and agents against any damage or injury caused by the acts and/or omissions of the Buyer, its employees, sub-contractors or agents while the delivery vehicle is present on or accessing the Buyer's site or while the Buyer is collecting the Goods from the Company's site. On any delivery, the Buyer (i) satisfies itself as to the condition of the Goods; (ii) allows unhindered delivery of the Goods; (iii) signs the delivery note or for a sign glass device, Buyer accepts the time stamp / signature and / or geo code stamp will be conclusive evidence of acceptance of delivery; (iv) signs any record produced by the Company or its drivers in respect of any delay after the arrival of the Goods at the Buyer's site, including standing time, or other records; failing which or if the Company is unable to deliver the Goods on time because of the Buyer's default then (a) the Goods will be deemed to have been delivered; and (b) the Company may store the Goods until delivery whereupon the Buyer will be liable for all related costs and expenses (including without limitation storage and insurance).

3.4 Delivery times or dates specified by the Company are estimates only and the Company shall not be liable for any damages or losses arising out of failure to meet such date or time.

4. RISK AND TITLE

4.1 Risk in the Goods shall pass on delivery as provided by these Conditions. Ownership of the Goods shall not pass to the Buyer until the Company has received in full all sums due to it in respect of the Goods. If the Buyer fails to pay the contract price by the due date, the Company shall be entitled to enter the Buyer's site to recover the Goods and Buyer shall indemnify the Company against all and any cost incurred in so doing.

5. PRICE

5.1 The price payable for the Goods shall be the price stated in the quotation or the Company's applicable prices at the date of delivery where no quotation is given. The price quoted for the Goods is exclusive of any value added tax. The Buyer shall pay any such VAT or any other form of taxation imposed from time to time on the Goods. The Buyer agrees the price is confidential and will not disclose it to 3rd parties, except its professional advisers, agents and representatives.

5.2 The price in any quotation may be varied by the Company at any time upon giving written

notice (including by email), applicable to all orders delivered after the date specified in the notice.

5.3 The Company and the Buyer agree the Company may increase the price stated in any quotation by such additional amount to reflect any (i) increase and/or change in or introduction of any duties, tariffs, taxes, allowances, charges and/or levies which have the effect of increasing the Company's and/or its supply chain's costs; and/or (ii) change in applicable law which has the effect of increasing the Company's and/or its supply chain's costs. Such increase shall be in addition to the price stated in the quotation and the Buyer shall have no right of cancellation or termination due to any such increase. The Company shall have no liability to the Buyer for any losses, costs and/or damages suffered by the Buyer as a result of such increase to the price.

6. PAYMENT

6.1 Company must receive payment for the Goods not later than the 28th day of the month following the month the Goods are delivered by the Company to the Buyer. Company may refuse (under this Contract or other contracts with the Buyer or its associated companies) to accept or complete any order, suspend supplies, impose special conditions or cancel the Contract if (i) Buyer's credit limit is or will be exceeded on delivery; or (ii) where the Buyer fails to comply with these Conditions; or (iii) Buyer in the reasonable opinion of the Company, is unable to pay and/or stops or suspends payment of, any of, its debts as they fall due or is in financial distress; (iv) Buyer is subject to any form of insolvency procedure; or (v) where Buyer wishes to pay in cash.

6.2 In the case of late payment Buyer shall pay the Company interest on the net payment due at the rate set by the current order pursuant to section 6 of the Late Payment of Commercial Debts (Interest) Act 1998 (or any re-enactment thereof), late payment compensation, late payment interest, reasonable costs, charges and expenses incurred by the Company enforcing its rights.

6.3 Whether in relation to this Contract or other contracts between the parties, Buyer shall not have any right of set-off, counterclaim, discount, abatement or otherwise, nor to withhold any payments due to the Company in the event of any dispute. The Company shall be entitled to set off without notice any liability of the Buyer to the Company against any liability of the Company to the Buyer, under this Contract or any other contract between the Company and the Buyer.

6.4 All sums payable to the Company by the Buyer in respect of any Goods delivered by the Company to the Buyer, shall become due immediately upon the occurrence of any event listed in condition.

6.1 (iii) hereof, or, on termination of the Contract, on commencement of legal or dispute resolution proceedings against the Buyer or upon any failure by the Buyer to make payment for the Goods by the due date for payment.

6.5 In the event of any breach of these Conditions by the Buyer, or dispute between the parties relating to this Contract or any other contract between them, the Company shall be entitled to suspend, withdraw or terminate any discount or rebate agreement between the Parties, affecting this Contract or any other contract between them.

7. QUALITY

7.1 The Company warrants that the quality of the Goods shall be in accordance with the specification quoted by the Company; however the Company shall have no liability in respect of any minor deviations from any specification if the Goods are still compliant with applicable regulations or an independent expert has opined that the Goods are still suitable for uses appropriate with such specification. Subject to Conditions

7.2 and 8, where Goods supplied by the Company are proved to be defective or otherwise not in accordance with the Contract (“Defective Goods”): (a) the Company will at its sole discretion either (i) replace the Defective Goods as promptly as practicable; or (ii) refund the price paid for the Defective Goods; and (b) the Company shall reimburse the Buyer the cost of physically removing the Defective Goods, subject always to the limitations on liability in Conditions 7.2 and 8 below. Buyer shall be under a strict duty to mitigate and minimise the adverse consequences, damages, loss, costs and expense arising from the supply of Defective Goods. 7.2 In any event, the Company shall not be liable under Condition 7.1 for any defect or failure in the Goods unless the Buyer (i) notifies the Company in writing of the alleged defect or failure within 14 days of delivery, or where the defect or failure was not apparent on reasonable inspection at the time of delivery, within 14 days of the time when the defect or failure ought reasonably to have been discovered; and (ii) allows the Company all reasonable facilities to investigate any such defect or failure promptly and to advise the Buyer of any remedial action which may be appropriate; and (iii) follows any reasonable remedial action recommended to it by the Company; and (iv) provides documentary evidence satisfactory to the Company that the Goods do not meet the applicable specification. If any Goods are known by the Buyer to be outside of specification or the terms of any order, under no circumstances shall the Company be liable for costs or liabilities relating to the continuance of works or further constructions, which should be the sole risk of the Buyer.

7.3 No warranty or representation is given that the Goods are suitable for any particular purpose or application and all warranties, conditions and other terms implied by statute or common law (save for the conditions implied by section 12 of the Sale of Goods Act 1979 (as amended)) are, to the fullest extent permitted by law, excluded from the Contract.

7.4 Any sampling and testing is carried out in accordance with such British Standard or European Standard or specification acceptable to the Company as appropriate. Compliance with such standard or specification shall be discharged by the Company at the Buyer’s cost at the time of supply of the Goods to the Buyer and on the basis that the Company is the supplier and not the user of the Goods. No liability is accepted by the Company for surface finish.

7.5 The Company shall not be liable to the Buyer for any losses or costs resulting from unsuitable application, wrongful handling or placing of the Goods or inclement weather.

7.6 Goods comprising pre-coated materials must be used immediately after delivery. Company shall not be responsible for failure to comply with the specification by reason of temperature reduction in any pre-coated materials if there has been any delay in discharge of such materials. Buyer must satisfy itself as to the condition of the pre-coated materials on delivery, before use.

7.7 Concrete must be discharged within two hours of batching (or as otherwise agreed at the Company’s discretion but at Buyer’s sole risk). If the Buyer prevents such discharge, the Buyer will be charged for the concrete, its delivery, return and disposal. The Company accepts no responsibility for the workability, strength or quality of its concrete if the Buyer shall have added anything whatever to it or authorised the alteration of the mix or failed to keep appropriate records relevant to its receipt and use.

8. LIMITATION OF LIABILITY

8.1 Nothing in these Conditions shall limit or exclude the liability of the Company for death or personal injury resulting from the negligence of the Company, its employees or agents or for fraudulent misrepresentation. Save as specified in Condition 7.1, the Company shall not be liable whether in contract, tort (including negligence or breach of statutory duty), or otherwise to the Buyer for any form of damage, loss, cost or expense, whether direct, indirect, consequential,

physical or economic (including but not limited to loss of profit and liquidated and/or unliquidated damages attributable to delay and/or disruption), which arises out of or in connection with the supply of the Goods or their use by the Buyer.

8.2 The maximum aggregate liability of the Company arising out of Condition 7.1 or in connection with the supply of Goods or their use by the Buyer (including any refund made pursuant to Condition 7.1 (ii) above and/or any reimbursement made pursuant to Condition 7.1(b)) shall be limited to three times the price of the Defective Goods, save that in the event that such sum is less than the cost of physical removal provided for in Condition 7.1 above, the Company shall be liable for the additional cost of physical removal of the Defective Goods up to a maximum of a further sum of £25,000.00.

8.3 Buyer acknowledges it bears the risk of all additional expenses, costs, losses, damages and liabilities which are incurred. Buyer acknowledges it can obtain insurance to cover such potential expenses, costs, losses, damages and liabilities. Should the Buyer wish the Company to have a higher limit of liability this must be raised with the Company at the earliest opportunity and expressly agreed by the Company in writing.

8.4 The Company will use reasonable endeavours to inform the Buyer if the Company is prevented or hindered from manufacturing, supplying or delivering the Goods due to breakdown of plant, non-availability of material, energy shortage or Triad, labour disputes, fire accident or inclement weather, transport difficulties, delays or any circumstances outside the Company's control but shall have no liability to the Buyer for failure to deliver in such circumstances.