

## TERMS & CONDITIONS OF SALE

### 1 GENERAL

These Terms & Conditions shall apply to and be deemed to be incorporated in every order (the "Order") sent to us by the Customer and shall not be modified, amended or varied save by our agreement thereto in writing. Our representatives or agents have no authority to vary or add to these Terms & Conditions save by our express written authority. Deliveries or installations pursuant to the Quotation or Order Acknowledgement shall in the absence of any written acceptance be deemed an unconditional acceptance by the Customer of these Terms & Conditions.

### 2 TERMS FOR ACCEPTANCE

(i) The Quotation is an offer to sell the materials and /or installation shown overleaf (both referred to hereafter as the "Materials") on these Terms & Conditions and contracts will be formed if the Customer accepts the Quotation (either expressly or by giving an Order which will be deemed to be an Order on the terms of the Quotation and/or the Order Acknowledgement (either expressly or by giving an Order which will be deemed to be an Order on the terms of the Quotation and/or Order Acknowledgement and not otherwise) in relation to one or more quantities of the Materials to which the Quotation refers .

(ii) The Customer also hereby agrees that the supply of the Materials will be governed by satisfactory credit limits being available for the value of the goods to be supplied on credit at any time during the contract for supply.

### 3 ORAL INFORMATION

No responsibility can be accepted for any oral information or Orders whether given or received unless confirmed by us in writing.

### 4 DESIGN AND MATERIALS OFFERED

(i) We accept no responsibility for misinterpretation and inaccuracies or omissions of any Specifications, Drawings, Bills of Quantities or other Information supplied by the Customer. We will not be liable for any direct or consequential losses arising there from.

(ii) If the Materials shown on the Quotation are not available either before or after an Order has been placed with us then we reserve the right to substitute alternative materials of equivalent performance and we will not be liable for any direct or consequential losses arising there from.

### 5 EXCLUSION

Unless we have expressly guaranteed in writing the suitability of the Materials for some particular purpose, no warranty or condition shall be implied in law that the Materials are suitable for any particular purpose whether such purpose has been made known to us or not. Where plants are supplied every effort is made to ensure that they are true to type and free from pest or disease but any warranties whether express or implied as to the quality or fitness for the purpose supplied or productivity or freedom from pests or disease are expressly excluded.

### 6 LIABILITY

(i) We (subject as herein provided) undertake at our option to replace or repair free of charge any of the Materials found to be defective prior to their incorporation in any structure if such defects arise solely from our faulty Material or workmanship PROVIDED ALWAYS:

(a) written notice of the complaint is given to us within 4 days of the delivery of the Material to the Customer.

(b) that the defect or failure has not been caused by or is not in any way attributable to misuse by the Customer, his agents or sub-contractors.

(ii) In addition to the above in the case of Materials manufactured or supplied otherwise than by us the Customer shall be entitled to the benefit insofar as the same is given to us of any guarantees or warranties given by the manufacturers thereof and our liability in respect of such goods is limited to using our best endeavours to make the benefits of the manufacturers guarantees available to the Customer.

(iii) Whilst any advice offered by us is given in good faith, we shall not be liable for any consequences of any technical information recommendations statements or advice given by us our staff or our agents.

SUBJECT as aforesaid our liability under this contract shall be limited solely to such replacement or repair on the terms stated above and in no circumstances do we accept any further liability for any direct or consequential losses howsoever or whenever arising in particular but without prejudice to the generality of the foregoing we cannot accept any liability once the Materials have been incorporated in any structure or work. This undertaking is given by us in substitution for any conditions or warranties express or implied under common law statute or otherwise or other rights or remedies whether contractual or otherwise relating to the Materials which are hereby excluded/or extinguished.

### 7 DELIVERY

(i) Collection or delivery of the Material shall be made by us during our normal working hours Mondays to Fridays and Saturday mornings only in each week and the Customer shall pay an additional charge for collection or delivery outside such normal working hours, Saturday afternoons, Sundays or Bank Holidays.

(ii) The Customer undertakes to provide a safe and convenient route for the vehicles to pass. The driver of any vehicle has the right to refuse to deliver over a route which in his opinion is not safe or convenient for the vehicle to pass and such refusal shall not constitute a breach of contract by us. The Customer shall indemnify us against any loss or damage sustained as a result of any failure to provide such a route.

(iii) The Customer at his own expense shall be responsible for the proper unloading of the Materials (which shall be completed expeditiously upon arrival of the vehicle on site) stacking, storing and protection of all such materials and any cartage necessary after unloading. We do not accept any liability for any damage to the Materials while they are being unloaded.

(iv) All times and dates of deliveries specified herein are estimates and are not to be deemed to be of the essence of the contract. Whilst we will undertake to use our best endeavours to execute the order by the time or dates specified herein, we will not be liable for any direct or consequential losses arising therefrom due to delays in delivering the Materials. Further, we will not accept any cancellation of the Order by the Customer because of any such delays.

(v) Delivery or collection will only be allowed if the Customer's account has sufficient credit for the value of the Materials to be delivered or collected and the Customer's account is not on stop for any reason such as failure to pay to terms. We will not be liable for any direct or consequential losses arising there from due to delays in delivering the Materials. Further, we will not accept any cancellation of the Order by the Customer because of any such delays.

(vi) Where each contract is to be fulfilled in separate instalments, deliveries or parts, each instalment, delivery or part shall be made as if the same constituted a separate contract.

### 8 SHORTAGE OR DAMAGE IN TRANSIT

A copy of our Delivery Note must be signed by or on behalf of the Customer at the time of collection or delivery of the Materials. Subject to Clause 7 hereof such Delivery Note shall be final and conclusive proof that the Customer has received the materials in good order and condition. Claims for short delivery or damage of the Materials must be noted on the Delivery Note which will be signed by the driver and the Customer. The Customer must also advise us in writing immediately thereafter of any such shortage or damage.

### 9 OWNERSHIP OF THE MATERIALS

(i) Until the ownership of any of the goods passes to him the Customer will after their Delivery (which term means their arrival at the point of their delivery either to the Customer or to his order) hold them as our Bailee (i.e. he will hold them on our behalf in a fiduciary capacity) and will store them accordingly or will procure that they are so stored.

(ii) Whilst the Customer is our Bailee he may nevertheless as principal enter into a Resale Agreement (which term means any agreement to resell any of the goods to a third party) if he does so in the normal course of business (and in particular at a resale price which constitutes their full market value).

(iii) On receipt by the Customer of any such resale price and not otherwise the ownership of any such goods will pass to such third party to the extent necessary to give effect to a Resale Agreement.

(iv) The ownership of each load or consignment of the goods will otherwise pass to the Customer either at the time of our receipt of Full Payment (which term includes payment to us both of the price of the goods and of all other money whatsoever which may be due and owing to us from the Customer) or (if later) at the time of their delivery.

(v) At any time before our receipt of Full Payment we shall have the right to terminate such bailment and (without prejudice to our other rights) to recover any of such goods.

(vi) The Customer will receive and retain any money which may be paid to him pursuant to a Resale Agreement on trust to use so much of it as necessary then to enable him to effect Full Payment to us.

(vii) If the Customer is not in possession of any of the goods after their Delivery and in respect of which the Customer has entered into Resale Agreement (and in respect of which ownership has not passed to the Customer or to any such third party) the Customer will at our request (and without prejudice to our other rights) assign to us any debt which may be owing to him in respect of such Resale Agreement or so much of it as may enable him to effect Full Payment to us.

(viii) The risk in the goods will pass to the Customer on their Delivery.

### 10 SUPPLIERS ORDER

With the exception of installation we contract as Suppliers only and are not bound by nor are we to be imputed with any knowledge of any contract between the Customer and any other person. When the Materials include installation the additional Terms and Conditions of Installation will be provided with the Quotation or Order Acknowledgement.

### 11 TERMINATION

If the Customer commits any breach of these Conditions or shall go into liquidation, either voluntary or compulsory, or shall enter into any composition with its creditors or shall suffer any distress or execution to be levied on its goods or (being an individual) shall commit any act of bankruptcy, we may terminate this contract and refuse to effect further deliveries without any liability for damages.

### 12 SAMPLES

Any samples of Materials submitted to the Customer are intended to indicate only the substance and the general character of such Materials and we accept no liability if the colour grading feature or the particular shape of the bulk of the Material does not correspond with the sample.

### 13 TESTING

We accept no responsibility for the cost of any testing detailed in the specification or required to be undertaken by the Customer and no such costs have been included in the prices in the Quotation. ABG policy is to acknowledge test results from laboratories with UKAS (or equivalent) accreditation for that particular test and that the sample tested has full traceability to the product supplied to the customer by ABG. It is known from inter laboratory tests that the variability of results between accredited laboratories can be in the order of 20%

### 14 INSTALLATION

No responsibility can be accepted by ABG for damage to materials supplied and/or installed where damage to the materials has been caused by other than our own employees.

### 15 CONFLICTING TERMS

Any conditions in a Customer's Order which may conflict with the Conditions hereof or in any way negate or qualify these Terms & Conditions shall be excluded and (unless otherwise agreed in writing by us) be deemed to be inapplicable to the Order placed with us.

### 16 FORCE MAJEUR

We shall not be liable for breach of contract or for late or non-delivery of any of the Materials arising from Act of God, Force Majeure, riots, civil commotion, military or usurped power, Government order, direction or legislation, fire, strikes, lock-outs, labour disturbances, adverse weather conditions or for any matter whatsoever (whether similar or otherwise) over which we may have no control or from any abnormal conditions arising from any of the foregoing matters. Nor (to the extent to which the same may be beyond our control) from shortages of labour, stoppage of machinery or from shortage of material.

### 17 CREDIT FOR PALLETS, CRATES ETC RETURNED BY CUSTOMERS

No credit will be allowed for pallets, crates or other returnable containers unless they are returned to the company's depots in good condition, carriage paid, within one month of the date of delivery.

### 18 DATA PROTECTION

We will take all reasonable precautions to keep the details of the order and payment secure, but unless we are negligent, we will not be liable for unauthorised access to information supplied by the customer. We will only use the information provided by the customer for the purposes of fulfilling the order.

### 19 GOVERNING LAW AND JURISDICTION

The Quotation and any resulting Order and Order Acknowledgement shall be governed by and construed in accordance with English law and the parties hereto hereby submit to the exclusive jurisdiction of the English Courts.

### 20 TERMS OF PAYMENT

Payment of invoices shall be paid in full without any deduction or set-off in accordance with the terms stated on the seller's order acknowledgement and invoice. Time of payments shall be of the essence of all contracts between the seller and the buyer. We reserve the right to suspend the provision of Goods to the Buyer where any amounts are overdue under any Contract with the Buyer until all such amounts have been paid.

Should the Buyer not pay within the Seller's terms the Seller can engage an outside agency to assist with collection and the Buyer agrees to pay the agency's collection fees in addition to any interest together with any charges specified in the 'Late Payment of Commercial Debts (Interest) Act 1998'.

Any credit given to the Buyer may be withdrawn or limited at any time on such notice as we may think fit and consequently we may refuse to deliver all or part of the goods