

## Terms and Conditions of Sale

- 1) **Definitions:** In these terms and conditions the "Company" shall mean Soils and Stone Limited and the "Customer" shall mean the company or person to whom the goods or services, 'the goods' are supplied.
  - i) These terms and conditions cover all sales contracts between the Company and the Customer and no variation in these terms and conditions shall be permitted unless expressly agreed in writing by a director of the Company.
  - ii) A contract will only be formed when the Company has accepted an order by the Customer to supply the goods.
  - iii) The Customer hereby authorises the company to obtain such credit reports as it may require on the customer and its principals, partners and directors.
- 2) **Price:** Unless otherwise agreed, the price payable shall be in pounds sterling.
  - i) Unless otherwise agreed the price payable shall be that ruling at the date of delivery of the goods.
  - ii) Prices cover delivery, unless otherwise stated, and working in normal working hours during normal working hours. The Company shall be entitled to make an extra charge where supply is requested outside normal times.
  - iii) All quoted prices are exclusive of any Value Added Tax which may be payable.
  - iv) Unless otherwise stated, quotations are valid for 30 days and represent no obligation until the Company accepts the order. The Company reserves the right to adjust the price in accordance with conditions at the time and date of despatch.
- 3) **Delivery:** Any time periods or dates quoted for the delivery of goods by the Company are approximate only and do not impose an obligation on the Company to deliver on or before the quoted times, periods or dates.
  - i) The Company shall not be liable for any loss howsoever arising and caused by its failure to deliver or to make goods available for collection on the due date.
  - ii) The Company reserves the right to deliver by instalments and to render a separate invoice for each instalment.
  - iii) Delivery shall be effected at the point of arrival at the address specified by the Customer or at the point of collection of the goods by the Customer. If required to do so, the Customer shall unload the vehicle expeditiously and shall provide all labour and tackle for so doing.
- 4) **Force Majeure:** Deliveries may be partly or totally suspended by the Company at any time when delivery is prevented or hindered by circumstances outside the Company's control. Such circumstances may include inter alia the following factors affecting the Company or its suppliers: Act of God, Force majeure, war hostilities (whether war is declared or not) riot, civil commotion, explosion, military invasion or usurped power, strike, lockout, industrial action, abnormal weather conditions, fire, flood, Government Action or regulations (UK or otherwise) delay by suppliers, accidents, breakdown, shortage of materials, labour or facilities.
- 5) **Passing of Property:** Goods once delivered shall be at risk of the Customer but shall remain the sole and absolute property of the Company until payment in full is received by the Company for the goods and there are no other amounts being outstanding from the Customer to the Company in respect of any other goods supplied by the Company. If the payment is overdue in whole or in part the Company may (without prejudice to any of its other rights) recover or re-sell the goods or any part of them and may enter the premises where the goods are stored to reclaim possession.
  - i) Subject to these terms and conditions, the Customer is permitted by the Company to use or agree to sell the goods delivered but until such time as the Customer becomes the owner of the goods that shall be stored in such a way as to be clearly identifiable as belonging to the Company.
  - ii) If the goods are sold at such a time when the title to them remains vested in the Company, the customer will hold the sale proceeds upon trust for the Company to the extent of and for the purpose of discharging sums due to the Company and upon receiving the sale, sufficient proceeds will be set aside to pay the Company for all sums due in respect of the goods.
- iv) The Customer shall be responsible for any demurrage or waiting time caused by any delay in unloading and an appropriate charge will be made in any event where such delay exceeds one hour.
- v) If, in the opinion of the Company, the ground or access over which delivery of unloading is required is unsuitable for safe passage, the Company may refuse to deliver or deliver to the nearest accessible point.
- vi) The Customer shall indemnify the Company in respect of any claim for the loss or damage arising for unloading of the goods.

- iii) The Customers power of use or sale of the goods shall automatically cease if such conditions as permit the Company to terminate the contract arise.
6. Claims: The Company shall not be liable to the Customer for damage shortage or discrepancy that would be apparent on careful inspection of the goods by the Customer unless such claims are notified within 24 hours of delivery (except in special circumstances justifying delay) and in any event in writing within 7 days (time to be of the essence hereof) of the date of delivery, detailing the alleged damage, shortage or discrepancy and providing a reasonable opportunity to the Company to inspect the goods before they are put to any use.
- i) No shortage in respect of goods sold by weight will be accepted unless properly weighed over a public weighbridge and respective certificates of weight produced.
- ii) The liability of the Company in respect of any claim whatsoever, whether founded upon an allegation of negligence (except where the claim related to personal injury of death) or otherwise and whether or not in respect of any damage shortage or discrepancy that would be apparent on a careful inspection by the Customer, shall be limited to the free replacement of defective goods and claims for loss of profits, increased cost of working or any other consequential losses are expressly excluded.
7. Payment: For Customers who have been granted credit facilities, all sums become due by the end of the month following the month of invoice and timely payment is of the essence.
- i) Thereafter the Company shall be entitled to charge interest on a day to day basis at 4% above Barclays Bank Plc base rate on any sums outstanding beyond the due date. For Customers who have not been granted credit facilities for the goods must be made in full before the goods are supplied delivered or collected. In addition, the Company shall be entitled to recover from the Customer and the Customer indemnified the Company against all and any costs howsoever incurred in connection with and in contemplation of any proceedings brought to recover sums due to the company. The Customer shall not be entitled to withhold or offset any sum in respect of any loss or damage which it alleges it has sustained due to any act or default of the Company or goods which are alleged to be defective.
8. Warranty: The Company acts as a supplier of goods to the order of the Customer and knowledge, if any, of the purpose for which the goods are intended to be used does not imply any representation or warranty by the Company as to the quality or fitness for purpose of the goods supplied. The use of the goods is the sole responsibility of the Customer.
- i) Unless otherwise expressly agreed in writing by a Director of the Company, all goods are supplied without any warranty as to their size, dimension or weight.
9. Limitation of Liability: The Company accepts no liability whatsoever for any consequential loss or damage caused or arising by reason of lateness or non-delivery or fault failure or defect in any goods supplied by reason of the same not being quality, quantity or fitness for the purpose for which they were intended or otherwise and whether or not allegedly caused by negligence or otherwise. This exclusion does not restrict the Company's liability for death or personal injury resulting from negligence in respect of its liability under the Consumer Protection act 1987.
10. Samples: Samples of goods provided by the Company are intended as a guide to the general character and substance of the Goods and the Company is not liable if the bulk of the goods do not correspond with any samples.
- i) It is the responsibility of the Customer to determine the quantity of the sample which may be necessary at the time of its supply in order to ensure that the sample may be representative of the bulk.
11. Termination of Contract: No cancellation by the Customer is permitted except where expressly agreed by the Company. The Company may, without prejudice to its other rights, be immediately entitled to suspend or cancel each or any of its contracts with the Customer upon the occurrence of any of the following.
- i) The Customer shall fail to make payment of any sum owing on the due date or commits any act of bankruptcy or makes any arrangements with its creditors or if any execution or distress is levied upon the goods of the Customer or
- ii) Being a body corporate shall have a receiver or administrative receiver appointed or if any petition be presented for an administration order or if any petition be presented or resolution passed for the winding up of the same (otherwise than for the purpose of a bona fide amalgamation or reconstruction) or
- iii) The Customer makes default in respect of any of its obligations under any of its contracts with the Company.
12. Waiver: Any failure, delay or indulgence by the Company in the exercise of its rights shall not limit or extinguish the rights or remedies available to the Company under the Contract.
13. Jurisdiction: All contracts between the Company and the Customer shall be governed by English Law and shall be subject to the exclusive jurisdiction of the English Courts.