

## Terms & Conditions

### 1. Definitions

In this document the following words shall have the following meanings:

- 1.1. "Consumer" shall have the meaning ascribed in section 12 of the Unfair Contract Terms Act 1977
- 1.2. "Customer" means any person who purchases Goods or services from the Supplier
- 1.3. "Goods" means the articles specified in the proposal
- 1.4. "Proposal" means a statement of work, quotation or other similar document describing the Goods and Services to be provided by the Supplier
- 1.5. "Services" means the services specified in the Proposal
- 1.6. "Supplier" means Evans Transport Ltd of Bideford Business Park, Bideford, Devon, EX39 4GD
- 1.7. "Terms and Conditions" means the terms and conditions of supply set out in this document and any special terms and conditions agreed in writing by the Supplier
- 1.8. "Specification" means Goods sold by the company shall be the type, description and amount as shown on the delivery note/ Proposal.
- 1.9. "Contract" means the contract between the supplier and the customer for the sale and purchase of materials or service provided.
- 1.10 "Materials/Products " means any goods and materials agreed in the contract from the supplier to the customer
- 1.11 "Services" means any services agreed in the contract from the supplier to the customer.
- 1.12 "Third Party" means any person than the customer or supplier

### 2. General

- 2.1. See Road Haulage Association Limited Conditions of Carriage 2020 (index 1) for the Terms and Conditions of haulage. All other terms listed are in addition to what is listed by the conditions of carriage. A copy of which can be found on our website [www.evanstransport.co.uk/downloads](http://www.evanstransport.co.uk/downloads)
- 2.2. These Terms and Conditions shall apply to all contracts for the supply of Goods and Services by the Supplier to the Customer and shall prevail over any other documentation or communication from the Customer.
- 2.3. Any variation to these terms and conditions shall be inapplicable unless agreed in writing by the Supplier.
- 2.4. Nothing in these Terms and Conditions shall prejudice any condition or warranty, expressed or implied, or any legal remedy to which the Supplier may be entitled in relation to the Goods and Services, by virtue of any statute, law or regulation.
- 2.5. Nothing in these Terms and Conditions shall affect the Customer's statutory rights as a Consumer.
- 2.6. By opening a credit account you agree that the supplier can use the data provided (personal or company) with third party credit checks applications to check the applicant credit scores. For legitimate business interests, we may pass the provided information onto our preferred

legal teams to collect outstanding debt due. Further details of our privacy policy can be obtained upon request.

- 2.7. The supplier has the right to record telephone call and will comply with the Data protection act 2018 in respect of the information gathered.
- 2.8. The company may at anytime choose to assign transfer subcontract or deal in any other manner with all or any of its rights of obligation under this contract

### **3. The Order**

- 3.1. The Proposal attached to these Terms and conditions shall all remain valid for a period of 14 day.
- 3.2. The Customer shall be deemed to have accepted the Proposal by placing an order with the Supplier ('The Order') within the period specified in Clause 3.1. therefore entering a contract.
- 3.3. All orders for Goods and Services shall be deemed to be acceptance of the Proposal pursuant to these Terms and Conditions.
- 3.4. Notice given to cancel an order must be a minimum of 3 working days otherwise charges may still be applicable.
- 3.5. Caution – Cement, Concrete & Screeds contain lime and other chemicals which can cause irritation, dermatitis and burning. To avoid harm to skin, minimise contact with wet concrete and wear suitable clothing. If one does become in contact wash thoroughly.
- 3.6. Sampling and testing will be carried out in accordance with the BSI standard.
- 3.7. The material / services supplied by the company shall be the description and / or specification as shown on the delivery note. The company gives no warranty the goods are suitable for any particular purpose unless the company has received the intended use of the materials and the customer receives written confirmation that the materials are suited for a specific purpose note images available on our website are for illustrative purposes only and could differ from the product supplied. Colour can vary due to and not limited to natural variance in raw materials, finishing techniques, added water, environmental impacts and / or weather conditions. We are unable to accept any claim for colour variance.
- 3.8. Our products are naturally occurring therefore we cannot guarantee to be 100% free of lignite.

### **4. Price & Payment**

- 4.1. The Price for the Goods and Services is as specified in the Proposal and is inclusive of VAT (if applicable).
- 4.2. Payment of the price shall be in the manner specified in the Proposal. All MOT charges are to be prepaid. If Customers do not have an account with the Supplier, all charges must be prepaid.
- 4.3. If the Customer fails to make any payment within 30 days of it becoming due, the Supplier shall be entitled to charge interest at a rate of 10% per month on any outstanding amounts.
- 4.4. The Supplier may at any time increase the price specified in the Proposal by giving not less than 7 days written notice to the Customer. The increased price shall apply to all orders for good delivered/collected after the date specified in the notice.
- 4.5. Additional charges will also be made if:
  - 4.5.1. Goods are required outside the Supplier's normal working hours.
  - 4.5.2. If delivery is required in part loads rather than full loads.

- 4.5.3. If for any reason the delivery vehicle is unable to discharge its loads within 30 minutes of arrival at the Customer's site.
- 4.6. The title of the goods will be passed to the customer when the Supplier has received physical payment of the goods.

## 5. Delivery

- 5.1. The Customer must provide safe and adequate access to the point of discharge of the goods. Failure to comply may result in the Supplier refusing to make delivery and the Customer will be charged for the costs incurred.
- 5.2. Upon unloading, the Customer, his authorised employee or an agent must promptly:
- 5.2.1. Accept delivery of the goods once arrive on site
  - 5.2.2. Inspect the goods when they are discharged
  - 5.2.3. Sign the delivery note
  - 5.2.4. Sign the record of any delay after the arrival of goods on site
- 5.3. Where there is a complaint about the quality/quantity of the goods, the Customer must:
- 5.3.1. Record the complaint on the conveyance note
  - 5.3.2. Phone the office from which the goods were ordered on the day of delivery
  - 5.3.3. Confirm the complaint in writing to the Supplier
  - 5.3.4. Allow the Supplier all reasonable facilities to investigate any such complaint promptly. The Supplier must then advise to the Customer of any remedial action that may be appropriate.
- 5.4. If a Customer refuses delivery or diverts a load for reasons other than noncompliance with the specification, the Customer shall pay the full cost of the delivered material to the original site plus any additional cost incurred diverting to another location.

## 6. Risk

- 6.1. The risk in the goods shall pass to the Customer when immediately discharged from the Supplier's vehicle at the Customer's site or on loading the goods into the Customer's vehicle.
- 6.2. Accept in the case of supplier or driver negligence, the customer shall indemnify the supplier and any subcontractor against damage or injury cause during the presence on site or access by the delivery vehicle.
- 6.3. Concrete must be discharged within two hours of batching 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. If the Customer wishes to extend discharge by more than two hours of batching, it must be notified to the Supplier in writing and any risk in the goods shall be passed onto the Customer
- 6.4. The Supplier will accept no responsibility for the workability, strength, or quality of the concrete if the Customer has added anything to it. The Supplier's drivers has instructions to

make no alterations to a mix without specific authorisation by the Customer and such authorisation shall be at the Customer's risk.

## 7. Quality

7.1. Where products supplied by the company are found to be defective. The company will work with the customer in a timely manner to address and make carry out any rectification work or replacement where require without charge and will only reimburse the customer for any expenses proved to have been directly incurred with the removal / rectification of the defective goods. The Supplier will not be liable for any consequential loss or damage (for loss of profits or otherwise) third party claims, loss expenses or other claims related to the supply of products as stated in the terms. The supplier shall not be liable to the customer for any losses or costs from unsuitable application, wrongful handling or placing from any fault in a design or specification provide by or on behalf of the customer.

## 8. Disposal

- 8.1. The Customer shall be responsible for any additional costs suffered by the Supplier, including charges for disposal of materials, in the event that an order is cancelled or varied by the Customer after the acceptable notice period stated in 3.4.
- 8.2. Where material is delivered or in the process of being delivered, the Customer is responsible for providing tipping facilities for any excess materials ordered or material rejected for reasons other than non-compliance with the specification.

## 9. Packaging

- 9.1. The Customer where agreed will provide a cash deposit to the supplier of a stipulated amount representing the value of the packaging (Pallet, Bearers etc) which will be held by the company until the packaging has been returned in a good and reusable condition.
- 9.2. The customer will return any such packaging at its own expense.
- 9.3. The company will collect packaging at an agreed cost or other written agreements as part of the contract.
- 9.4. No refund will be given should the packaging turn up damaged and in an unusable state.

## 10. Third Parties

- 10.1. No Third-party repairs will be undertaken without prior written warning from the Supplier.
- 10.2. No Third-party repairs will be undertaken without full permission from the Customer.

## 11. Force Majeure

11.1. Neither party shall be liable for any delay or failure to perform any of their obligations if said delay or failure results from events or circumstances outside of reasonable control. This includes, but is not limited to, acts of God, Strikes, Lockouts, Accidents, War, Fire, Breakdown of plant or machinery or shortage/unavailability of raw materials from a natural source of supply, Labour disputes or transport delays / difficulties or any other event outside the supplier's control. Either party shall be entitled to a reasonable extension of their obligations.

## **12. Severance**

12.1. If any terms of provision of these Terms and Conditions is held invalid, illegal or unenforceable for any reason by any court of competent jurisdiction, such provision shall be served and the remainder of the provisions hereof shall continue in full force and effects as if these Terms and Conditions had been agreed with the invalid, illegal or unenforceable provision eliminated.

## **13. Governing Law**

13.1. These Terms and Conditions shall be governed by and construed in accordance with the Law of England and these parties hereby submit to the exclusive jurisdiction of the English Courts.