

SKENE GROUP CONSTRUCTION SERVICES LIMITED CONDITIONS OF SALE

1. All orders you place with Skene Group Construction Services Limited ("us") are accepted by us subject to these conditions, which shall be deemed to form part of any contract between us and you, and shall apply to any such contract to the exclusion of any other terms which you may seek to impose or incorporate. No other terms and conditions of sale or purchase shall apply to any order placed by you (including any terms that are implied by trade, custom, practice or course of dealing) unless agreed in writing signed by our authorised representative.
2. We shall deliver the goods to the site agreed between us and you at the time you place your order. Delivery is completed on the completion of the unloading of the goods at the site.
3. Any agreed dates for delivery are approximate only and the time of delivery is not of the essence.
4. Deliveries shall be made by the shortest possible route, subject to the conditions of the road. Access to the site should be over hard roads. We do not undertake to deliver any load over roads or over ground which we consider to be unsuitable. If a vehicle used for performing our contract with you delivers a load to a place situated off a public road, you will be solely responsible for any accident or damage resulting in consequence.
5. You must provide all reasonable assistance to our drivers to ensure speedy unloading. A charge will be made for any undue time spent on site, including waiting time in excess of the agreed discharge period for ready-mix concrete.
6. We may deliver the goods in instalments which shall be invoiced and paid for separately. Any such instalment will form a separate contract and any delay in delivery or defect in an instalment shall not entitle you to cancel any other instalment.
7. We accept no responsibility for failure to supply or delay in supplying any goods which may be due directly or indirectly to any cause whatsoever not reasonably within our control.
8. Subject to clause 7, if we fail to deliver the goods, our liability shall be limited to the costs and expenses incurred by you in obtaining replacement goods of a similar description and quality in the cheapest market available, less the price of the goods we have failed to deliver.
9. If you fail to take delivery or fail to provide us suitable access and other assistance to deliver the goods, then we shall store the goods and charge you for all related costs and expenses (including insurance) and we shall be entitled to resell or otherwise dispose of part or all of the goods and charge you for any shortfall below the price of the goods.
10. The risk in the goods will pass to you on completion of delivery.
11. Subject to clause 13, title to the goods shall not pass to you until the receipt by us in cleared funds of payment for all goods we have supplied to you (including delivery and other charges and taxes) in which case title shall pass to you at the time of our receipt of all such sums.
12. Until the title to the goods has passed to you, you shall give us such information relating to the goods as we may require from time to time and maintain the goods in satisfactory condition and keep them insured against all risks for their full price from the date of delivery.
13. You may resell or use the goods in the ordinary course of your business (but not otherwise) before we receive payment for the goods. If you re-sell the goods before that time, then title to the relevant goods shall pass from us to you immediately before the time at which the resale by you occurs.
14. If, before title passes to you, you become subject to any of the events listed in clause 25 then without limiting any other right or remedy we may have: (i) your right to re-sell goods or use them in the course of your business ceases immediately; (ii) we may at any time require you to deliver up all the goods in your possession that have not been resold or irrevocably incorporated into another product and; and (iii) where you fail to do (ii) promptly we may enter any of your premises (or any third party's premises) in order to recover them.
15. The price of the goods shall be the price agreed between you and us at the time you place your order.
16. The price of the goods is usually inclusive of the costs and charges of packaging (excluding pallets which shall always be payable by you), insurance and transport and always exclusive of levies and taxes (including VAT) which shall be payable by you. Any changes to levies and taxes shall also be payable by you.
17. Our prices are based on the cost of materials, labour, transport and maintenance of machinery ruling at the date such prices are quoted or agreed by us. We may amend any quoted or agreed prices if the performance of this contract increases or reduces our expenses directly or indirectly by reason of any subsequent fluctuation or change in the above costs, including where we agree to make changes or amendments to your order or due to any delay caused by you. We reserve the right after notice to make a corresponding adjustment in our prices to meet any such fluctuations or changes.
18. Our prices cover delivery only on normal working days during normal working hours. All deliveries made at your request on public holidays or Sundays or at any other time outside normal working hours will be subject to an extra charge.
19. Our quoted delivery prices cover full lorry loads. Where part loads are required, an additional haulage element will be incorporated into our prices.
20. We may agree to open a credit account for you. The following provisions shall apply to our credit accounts:
 - (a) we may invoice you for the goods on or at any time after the completion of the delivery;
 - (b) you shall pay our invoice in full and in cleared funds within thirty (30) days from invoice date;
 - (c) credit accounts will be subject to such credit limits as we may notify you;
 - (d) we may pass any relevant personal information including the personal information of any directors, partners or members to credit reference agencies and they may keep a record of any search that they do.
21. In the absence of a credit account, payment shall be due in full on receipt of our invoice and goods will not be despatched until payment has been received.
22. You shall pay all amounts due under any contract in full without any set-off, counterclaim, deduction or withholding (except for any deduction or withholding required by law). We may at any time, without limiting any other rights or remedies we may have, set off any amount owing to us by you against any amount payable by us to you.
23. Time of payment is of the essence. If you fail to pay to us any amount in accordance with these conditions, then we will withhold the goods ordered.
24. If you fail to make any payment due to us by the due date for payment, then (without prejudice to our other legal rights or rights under these conditions) you shall pay interest on the overdue amount at the rate of 5% per annum above Royal Bank of Scotland plc's base rate from time to time. Such interest shall accrue on a daily basis from the due date until actual payment of the overdue amount, whether before or after judgment. You shall pay the interest together with the overdue amount.
25. Any order or contract may be cancelled or suspended by us in the event of the unavailability of goods, your non-payment or in the event

- of you becoming insolvent, going into liquidation, or having a receiver appointed and following cancellation, payment for all goods invoiced or delivered by us (plus interest) shall become due for immediate settlement.
26. Subject to clause 27, if any goods supplied by us are defective or not of the correct quality or specification you have ordered, our sole liability to you shall be limited to the repair or replacement (at our option) of any goods shown to be unsatisfactory.
 27. Any claim in relation to any defect or the quality and/or specification of the goods we have delivered shall only be valid if it is made in writing within 24 hours of the time of delivery of goods of which the complaint is made, and we shall not be liable in respect of clause 26 in any of the following events:
 - (a) where you have made any further use of the goods after giving notice in accordance with this clause; (b) the defect arises because you failed to follow our oral or written instructions as to the storage, commissioning, use and maintenance of the goods or (if there are none) good trade practice regarding the same; (c) the defect arises as a result of us following any specification supplied by you; (d) you have altered the goods without our written consent; (e) the defect arises as a result of fair wear and tear, wilful damage, negligence, or abnormal storage or working conditions; or (f) the goods differ from their description or specification as a result of changes made to ensure they comply with applicable statutory or regulatory requirements.
 28. The terms implied by sections 13 to 15 of the Sale of Goods Act 1979 are, to the fullest extent permitted by law, excluded from the contract.
 29. These conditions shall apply to any repaired or replacement goods supplied by us.
 30. No test of goods supplied by us will be recognised unless it is carried out in accordance with the appropriate British Standard Specification or a method agreed by us.
 31. No allowance will be made, or claim admitted for any discrepancy in quantities of delivered goods, unless you notify us of such discrepancy in writing within 24 hours of delivery and we are given an opportunity to visit the site and verify quantities delivered.
 32. Nothing in these conditions will:
 - (a) limit or exclude any liability for death or personal injury resulting from negligence; or
 - (b) limit or exclude any liability for fraud or fraudulent misrepresentation; or
 - (c) limit or exclude any liabilities in any way that is not permitted under applicable law.
 33. We will not be liable to you in respect of (i) loss of profits or anticipated savings; or (ii) loss of revenue or income; or (iii) loss of use or production; or (iv) loss of business, contracts or opportunities; or (v) any special, indirect or consequential loss or damage.
 34. Subject to clauses 32 and 33, our aggregate liability to you in respect of any goods shall in no circumstances exceed the total amount paid by you to us at the time of the occurrence of the event for the goods giving rise to the liability.
 35. We shall not be liable for any damages, losses, costs or expenses arising out of your or any third party's failure to store / use the goods in accordance with good UK building practice.
 36. The limitations and exclusions of liability set out in clauses 33 and 34 govern all liabilities arising under these conditions or relating to the subject matter of any contract between us, including liabilities arising in contract, in delict (including negligence) and for breach of statutory duty, or otherwise.
 37. You agree that we may assign, transfer, sub-contract or otherwise deal with our rights and/or obligations under these conditions. You may not without our prior written consent assign, transfer, sub-contract or otherwise deal with any of your rights and/or obligations under these conditions.
 38. These conditions shall constitute the entire agreement between you and us in relation to the sale and purchase of our goods and shall supersede all previous agreements between you and us in relation to the sale and purchase of our goods.
 39. You agree that you shall have no remedies in respect of any statement, representation, assurance or warranty (whether made innocently or negligently) that is not set out in these conditions.
 40. Except as set out in these conditions no variation of the contract, including the introduction of any additional terms and conditions, shall be effective unless it is in writing and signed by us.
 41. No breach of any provision of the contract under these conditions will be waived except with the express written consent of the party not in breach. No waiver of any breach of any provision of the contract under these conditions shall be construed as a further or continuing waiver of any breach of that provision or any other provision of the contract under these terms and conditions.
 42. If any provision or part-provision of the contract under these conditions is or becomes invalid, illegal or unenforceable, it shall be deemed modified to the minimum extent necessary to make it valid, legal and enforceable. If such modification is not possible, the relevant provision or part-provision shall be deemed deleted. Any modification to or deletion of a provision or part-provision under this clause shall not affect the validity and enforceability of the rest of these conditions.
 43. No one other than us or you (and any permitted assignees) shall have any right to enforce the contract governed by these conditions.
 44. We take customers' privacy seriously and will only use personal information to administer and handle all aspects of your account including providing the products and/or services you order from us. When we receive personal information from you that enables us to provide you with the requested products and/or services, your consent to allow us to use and deal with that personal information in a reasonable manner is we believe implied. The confidentiality and security of customers' personal information is protected with safeguards – physical, electronic and procedural – appropriate to the sensitivity of the information. We may utilise the services of a credit insurance company to assist with the setting of an appropriate credit limit. We will never release your personal information to anybody else for any other purpose without your consent unless required to do so for example by law, in the course of legal proceedings or in order to pursue debt recovery.
 45. To ensure that we carry out your instructions accurately, to help us to continually improve our service and in the interests of security, we may monitor and/or record your telephone calls with us. Call recording may protect the interests of both parties in the event of anything contentious about the products and/or services supplied including delivery instructions and price.
 46. In the interests of security we may use CCTV recording equipment around our premises.
 47. We will retain your details for an appropriate period. You have the right to ask us for a copy of the personal data we hold about you. To make a "Subject Access Request" please write to our Data Protection Controller (DPC) at Skene House, Glenrothes, KY6 2RD. If any of the information we hold about you is inaccurate please contact our DPC at the same address.
 48. The contract governed by these conditions shall be governed and construed in accordance with Scots law. Any disputes relating to the contract under these conditions shall be subject to the exclusive jurisdiction of the courts of Scotland.