

CONDITIONS OF SALE 2002 REVISION

1. The Company accepts and processes all orders on the understanding that these Conditions Of Sale apply and bind the Buyer and have precedence over any conditions considered imposed by the said Buyer unless otherwise agreed in writing.
2. The Company issues quotations as invitations to treat only and not as offers. No contract shall exist between the Company and the Buyer until the Buyer's order has been received and accepted in writing by the Company's duly authorised representative, or the Company has indicated acceptance of the Buyer's offer by delivery or part delivery.
3. Unless otherwise agreed in writing, all orders are executed at the price prevailing at the date of despatch of the goods. In the event of the goods ordered being despatched at different times, each consignment will be sold at the price prevailing at the time of its despatch, notwithstanding the fact that notice of any increase has not been given to the Buyer.
4. Unless otherwise stated, all prices include the stacking of goods with equal assistance given by the Buyer. The maximum time allowed for unloading is 20 minutes per 1,000 bricks plus 20 minutes. Any time in excess of this, which counts from arrival on site, will be charged as waiting time at the hourly rate applicable to the size of vehicle making the delivery.
5. The terms of payment by the Buyer and discounts allowed by the Company are as set out in the acceptance of the Buyer's order or in the Company's invoice.
6. All times quoted by the Company for despatch are estimates only and do not form part of the contract unless otherwise expressly agreed in writing. Save as below, the Company will not be liable for any consequential loss suffered by the Buyer as a result of deliveries being made later than the time quoted. If the Buyer is likely to suffer any such consequential loss he should apply in writing to the Company before his order is accepted to have time made of the essence of the contract. If the Company agrees to make time of the essence of the contract it will do so only on the basis that liability for late delivery is limited to a sum agreed in writing between the parties as liquidated damages prior to the making of the contract and that clause 7 hereof applies in relation to that time.
7. Deliveries of goods may be wholly or partially suspended by the Company during such time as the Company may be prevented or hindered from manufacturing, delivering or supplying the goods by war, lockouts, strikes of combinations of workmen (either in their own or any other employ), fire, accidents, breakdowns of machinery, uncertainties of manufacture, difficulty in obtaining railway wagons or other vehicles, ships or other vessels, fuel or raw material, act of god, fog, snow, storm, railway or shipping delays, or any unforeseen occurrence beyond their control, and the Company shall not be under any liability for any delay, loss or damage caused in the event of such suspension. During such period of entire or partial suspension of delivery by the Company, the Buyer shall, after giving the Company written notice of their intention to do so, be at liberty to procure elsewhere, at their own cost and risk, such quantities of goods as may be necessary to permit the work for which it is required to be carried on, and the quantities so obtained shall be deducted from the total quantity to be provided by the Company.
8. If the Buyer is unable to accept delivery of the goods within 28 days of notification that the said goods are ready for despatch, the Company will be entitled to invoice and be paid for the goods as though the goods had been duly delivered in accordance with these Conditions of Sale.
9. Any objection to any invoice or account, or any item thereof, shall be made in writing to the Company within 14 days from the date thereof and after the expiration of that period such invoice or accounts shall be presumed to be admitted as correct.
10. In cases where delivery is to be made to the site, the Buyer is to provide, and adequately maintain, all necessary approach roads or tracks suitable for the purpose of such delivery, and is to be responsible for any loss or damage resulting from any breach of this stipulation.
11. **Passing of Property and Risk**
 - (a) **Title**

No property in any goods supplied by the Company to the Buyer ("the Goods") shall pass from the Company to the Buyer unless, and until, the Company has received payment in full for the Goods and for any other debts owed by the Buyer to the Company on any other account whatsoever.
 - (b) **Storage of the Goods**

Until payment in full, the Buyer shall store the Goods in such a way as to enable them to be identified as the property of the Company and shall hold such Goods as bailee for the Company provided that the Buyer may sell the Goods in the normal course of business.
 - (c) **Risk**

The risk in the Goods shall pass to the Buyer when they are available for delivery to, or collected by, the Buyer (whichever first occurs) at the point of delivery or collection as stated in the contract between the parties, unless otherwise agreed by the parties in writing.
 - (d) **Recovery of the Goods**

The Company reserves the right to repossess and uplift the Goods supplied to the Buyer and thereafter to resell the same and for this purpose the Buyer hereby grants an irrevocable right and licence to the Company's employees and agents to enter upon all or any of its vehicles or premises in which the Goods or other products are stored, with or without vehicles, during normal business hours. This right shall continue to subsist notwithstanding the termination of the contract for any reason and is without prejudice to any accrued rights of the Company there under or otherwise.
 - (e) **Recovery of Proceeds of Sale of Goods in the Event of Non-Payment**

If the Buyer resells the Goods, notwithstanding that payment to the Company has not been made and that title to the Goods has not passed to the Buyer the proceeds of any such resale, equivalent to all sums owing ("the Proceeds"), shall belong to the Company until payment has been received in full. The Buyer will hold the Proceeds in a fiduciary capacity and keep them in a separate account.
 - (f) **Termination of Buyer's Rights**

The Buyer's right to possession shall cease forthwith in the following events:

 - (i) the Buyer has not paid all amounts due to the Company on any account whatsoever;
 - (ii) the Buyer is declared bankrupt or makes any proposal to his creditors for composition or other voluntary arrangement with its creditors, or does or fails to do anything which would entitle a petition for winding up or a bankruptcy order to be presented;
 - (iii) the Buyer does or fails to do anything which would entitle any person to appoint a receiver to the whole or part of the Buyer's assets, or would entitle any person to present a petition for the administration of the Buyer, or a resolution is passed for the winding up of the Buyer;
 - (iv) a judgement against the Buyer remains unsatisfied;
 - (v) the Buyer is unable to pay a debt to a third party as it falls due and/or is deemed to be insolvent;
 - (g) All mitigation/recovery activities by the Company under the contract between the parties are agreed to be entirely without prejudice to any additional claims it may have against the Buyer for any failure by the Buyer to complete its obligations under the contract.
12.
 - (a) All goods supplied by the Company will be of merchantable quality.
 - (b) Samples are drawn from bulk: descriptions supplied are of the general characteristics of the goods described. The Company will use its best endeavours to ensure that the goods supplied will correspond to the samples or descriptions given but no other warranty or conditions, statutory or otherwise, is implied in cases of sales by samples or description.
 - (c) In the event of the Buyer not being satisfied that the Company has complied with its obligations under paragraph (a) or (b) hereof, the Buyer shall give notice to the Company within 10 working days of delivery or collection by him. The Company will replace defective goods free of charge in the condition originally specified. The Buyer will not use such goods for any purpose and will store them in such a way as to prevent further damage pending collection by the Company. Nor will the Buyer make any claim for consequential loss in respect of any such breach by the Company.
 - (d) Use of the goods by the Buyer constitutes acceptance by him of the goods in complete satisfaction of the Company's contractual obligation.
13. It is the Buyer's responsibility to ensure that the bricks will be satisfactory for the purpose to which they are to be put. The conditions implied by the Sale of Goods Act 1983 and the Supply of Goods (Implied Terms) Act 1973 as to the fitness of goods for the purpose of which they are supplied applies to the contract made between the Company and the Buyer, provided that the conditions thereof are satisfied and, in the same case of the supply of bricks, only in so far as the goods are used in accordance with the recommendations of the British Standards Institute, the Building Research Station and the Brick Development Association.
14. Any goods which have been supplied in accordance with a Buyer's order but which are subsequently returned will only be credited provided that the Company's written agreement to the return of the said goods has been obtained and that the price at which the goods are to be credited has been agreed beforehand.
15. VAT is charged at the statutory rate on all goods and services subject thereto.
16. In the event of the Buyer committing any breach of this contract, or in the event of non payment of any sums whatsoever due from the Buyer to the Company, or if any distress or execution is levied upon the goods by the Buyer, or if he offers to make any arrangement with or for the benefit of his creditors, or commits any act of bankruptcy or, being a Limited Company, has a Receiver appointed, or its undertaking or assets or any part thereof or, save for the purpose of reconstruction or amalgamation without insolvency, goes into liquidation, the Company shall there upon be entitled, without prejudice to their other rights, to suspend forthwith all further deliveries until the default has been made good, or to determine the contract or any unfulfilled part thereof, or, at the Company's option, to make partial deliveries.
17. The contract shall be governed and interpreted exclusively according to the Law of England and shall be subject to the jurisdiction of the English courts only.
18. In order to obtain as uniform a mixture as possible the user should take bricks from at least three packs at a time and ensure they are mixed prior to laying.