

## Bolton Builders Merchant Terms and Conditions

### 1. Application

The following Terms and Conditions shall construe the full agreement between Company and Customer. Please read the Terms and Conditions in full before you place your order as once we accept your order, a legally enforceable agreement is formed.

### 2. Definitions

**Business Day:** a day, other than a Sunday, or public holiday in England, when banks in London are open for business.

**Business Hours:** the period from 7.30 am to 5.00 pm on any Business Day and 8 am to 1 pm on Saturday's. During the winter months, the opening times will vary to 8 am to 4.30 pm on any Business Day and 8.30am to 12.30 pm on Saturday's.

**Conditions:** the terms and conditions set out in this document, as amended from time to time in accordance with Clause 17.

**Contract:** the contract between the Supplier and the Customer for the sale and purchase of the Goods in accordance with these Conditions.

**Customer:** the person, company, or firm who purchases the Goods from the Supplier.

**Delivery Location:** has the meaning given in Clause 7.

**Force Majeure Event:** any event, circumstance or cause beyond a party's reasonable control.

**Goods:** the Goods (or any part of them) set out in the Order.

**Losses:** all liabilities, damages, losses (including loss of profits, loss of business, loss of reputation, loss of savings and loss of opportunity), fines, expenses and costs (including all interest, penalties, legal costs (calculated on a full indemnity basis) and reasonable professional costs and expenses).

**Order:** the Customer's order for the Goods, as set out in the purchase order form or other written order accepted by the Supplier.

**Specification:** any specification for the Goods, including any related plans and drawings, which is agreed in writing by the Customer and the Supplier.

**Supplier:** Bolton Builders Merchants Ltd, a Company registered in England and Wales with company number 12701119 whose registered address is at Victoria Mill Storage Yard, Bolton Road, Atherton, Manchester, M46 9JQ.

**Warranty Period:** has the meaning Clause 9.

**Perishable Items:** any Goods that are susceptible to degradation, spoilage, or a loss of performance or usability over time or due to environmental conditions. This includes, but is not limited to: aggregates, cement, plaster, sand, gravel, and any powder-based or moisture-sensitive products.

**Made to Order or Special Order Goods:** any Goods that are manufactured, customised, or specifically sourced to the Customer's specifications or request. These items are non-refundable and require a 25% non-refundable deposit payable at the time the order is placed.

### **3. Interpretations:**

3.1 A person includes a natural person, corporate or unincorporated body (whether or not having separate legal personality).

3.2 A reference to a party includes that party's personal representatives, successors and permitted assigns.

3.3 A reference to legislation or a legislative provision is a reference to it as amended, extended, re-enacted, or replaced from time to time, and includes all subordinate legislation made under it.

3.4 Any words following the terms including, include, in particular, for example, or any similar expression shall be interpreted as illustrative only and shall not limit the generality of the related general words.

3.5 A reference to writing or written includes email but excludes fax and other electronic messaging platforms unless expressly agreed otherwise.

### **4. Basis of Contract**

4.1 These Conditions apply to the Contract to the exclusion of any other terms that the Customer seeks to impose or incorporate, or which are implied by law, trade custom, practice or course of dealing.

4.2 The Order constitutes an offer by the Customer to purchase the Goods in accordance with these Conditions. The Customer shall ensure that the terms of the Order and any applicable Specification submitted by the Customer are complete and accurate.

4.3 The Order shall only be deemed to be accepted when the Supplier issues a written acceptance of the Order, at which point and on which date the Contract shall come into existence.

4.4 The Customer waives any right it may otherwise have to rely on any term endorsed upon, delivered with, or contained in any of the Customer's documents that is inconsistent with these Conditions.

4.5 Any samples, drawings, descriptive matter, or advertising produced by or on behalf of the Supplier, and any descriptions, or illustrations contained in the Supplier's catalogues or brochures (whether digital or otherwise) are provided for illustrative purposes only. They shall not form part of the Contract or have any contractual force.

4.5 A quotation for the Goods given by the Supplier shall not constitute an offer. A quotation shall only be valid for a period of 30 Days from its date of issue, unless otherwise agreed in writing.

### **5. Goods**

5.1 The description of the Goods is as set out in the Website, catalogues, brochures, or other form of advertisement. Any description is for illustrative purposes only and there may be minor discrepancies in the size, colour, or appearance of the Goods supplied.

5.2 In the case of any Made to Order Goods or Special Order Goods, it is the Customer's responsibility to ensure that any information or specification provided is accurate as any Made to Order Goods cannot be cancelled once the manufacturing has commenced.

5.3 To the extent that the Supplier manufactures (or appoints a third party to manufacture) the Goods in accordance with a Specification supplied by the Customer, the Customer shall indemnify the Supplier against all Losses incurred by the Supplier as a result of any claim that the Supplier's use of the Specification infringes the intellectual property rights of any third party. This indemnity obligation shall survive termination of the Contract.

5.4 The Supplier reserves the right to amend the Specification if required by any applicable law or regulatory requirement, and shall promptly notify the Customer in such an event.

## **6. Price and Payment**

6.1 The price of the Goods shall be the price set out in the Order, or, if no price is quoted, the price set out in the Supplier's published price list in force as at the date of submitting the Order.

6.2 The Supplier may, by giving notice in writing to the Customer at any time before delivery, increase the price of the Goods to reflect any increase in the cost of the Goods that is due to:

- a) any factor beyond the Supplier's control (including foreign exchange fluctuations, increases in taxes and duties, and increases in labour, materials and other manufacturing costs);
- b) any request by the Customer to change the delivery date(s), quantities or types of Goods ordered, or the Specification; or
- c) any delay caused by any instructions of the Customer or failure of the Customer to give or delay by the Customer in giving the Supplier adequate or accurate information or instructions.

6.3 The price of the Goods:

- a) excludes amounts in respect of value added tax (VAT), which the Customer shall additionally be liable to pay to pay the Supplier at the prevailing rate, subject to the receipt of a valid VAT invoice; and
- b) excludes the costs and charges of packaging, insurance and transport of the Goods, which shall be invoiced to the Customer.

6.4 The Supplier shall issue an invoice to the Customer upon placement of the order, or at any time after the completion of delivery pursuant to Clause 7.

6.5 Credit terms are subject to additional checks and will only be provided at the manager's discretion.

6.6 The Customer shall pay each invoice submitted by the Supplier:

- a) Within 30 days from the date of the invoice;
- b) In full and in cleared funds to a bank account nominated in writing by the Supplier, or by clearing the balance on the Customer's client account, if applicable; and
- c) Payment is due by the end of the month following the 30-day period from the invoice date. If the invoice is dated 15th April, payment shall be due by the end of May.

6.7 If the Customer fails to make a payment due under this Contract by the due date, the Customer shall pay interest on the overdue sum from the due date until the overdue sum is paid, whether before or after judgment. The interest shall accrue daily at a rate of 8% per annum above the Bank of England's base rate from time to time, or at 8% per annum if the base rate is below 0%.

## **7. Delivery**

7.1 The Supplier shall deliver the Goods to the Delivery Location for a fee as specified in the Order, or such other location as the parties may agree in writing, at any time after the Supplier notifies the Customer that the Goods are ready for delivery.

7.2 The Customer warrants that they will ensure the delivery can be made by providing a suitable place for unloading the delivery vehicle and ensuring access for the delivery.

7.3 Any dates quoted for delivery are approximate only, and the time of delivery is not of the essence. The Supplier shall not be liable for any delay in delivery caused by a Force Majeure Event or the Customer's failure to provide adequate delivery instructions or any other necessary instructions for the supply of the Goods.

7.4 If the Supplier fails to deliver the Goods for any reason, the Supplier shall refund the cost of the failed Goods to the Customer.

7.5 If the Customer fails to accept delivery of the Goods, the Customer shall be liable for an additional delivery fee for any subsequent delivery attempts made by the Supplier.

## **8. Returns and Refunds**

8.1 All requests to return Goods must be submitted in writing within 14 days of receipt of the Goods. The acceptance of any return shall be at the sole discretion of the Seller's manager.

8.2 Where a return is accepted, a restocking fee of 15% of the value of the returned Goods will apply, which shall be payable by the Customer.

8.3 The following items are non-returnable and non-refundable under any circumstances:

- a) Made to Order Goods;
- b) Special Order Goods (i.e., goods sourced specifically on the Customer's instruction); and
- c) Perishable Goods.

8.4 All returned Goods must be in resalable condition, in original packaging (where applicable), and accompanied by proof of purchase. The Seller reserves the right to refuse any return that does not meet these conditions.

8.5 Refunds for returned Goods shall be processed as follows:

- a) Where the Customer holds a client account and pays in arrears, the refund shall be applied as a credit against the outstanding account balance.
- b) If no balance is outstanding, the refund will be made via the original payment method or by BACS transfer within 7 working days of the return being accepted.

## **9. Warranties**

9.1 The Seller warrants that all Goods supplied under this Contract shall:

- a) conform in all material respects to the description and any specifications agreed in writing;
- b) be of satisfactory quality and suitable for their intended use in construction, building, or trade applications;
- c) be free from material defects in design, workmanship, and materials; and comply with all relevant UK laws, regulations, and recognised industry standards

9.2 Where the Buyer makes known to the Seller any particular purpose for which the Goods are required, the Seller confirms that it has assessed and agrees that the Goods are suitable for that purpose.

9.3 The Buyer shall inspect the Goods within 1 business days of delivery and notify the Seller in writing of any defects or non-conformities. If no such notice is given within this timeframe, the Goods shall be deemed accepted, except in the case of latent defects not discoverable upon reasonable inspection.

9.4 The warranties in this clause are in addition to any statutory rights and shall survive any acceptance of the Goods.

9.5 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.

9.6 If you are placing an order as a Consumer (an individual who is not acting in the course of business), and not as a company, you may have additional legal rights under the Consumer Rights Act 2015. These rights cannot be overridden or limited by the terms of this Contract. This means that, regardless of what is stated in this agreement, your legal rights as a consumer (such as the right to return goods, warranties, etc.) are still fully applicable and protected by law.

## **10. Title and Risk**

10.1 The risk in the Goods shall pass to the Customer on completion of delivery, as defined in Clause 10.

10.2 Title to the Goods shall not pass to the Customer until the Supplier has received payment in full (in cash or cleared funds) for the Goods and for any other goods that the Supplier has supplied to the Customer under any contract.

10.3 Until title to the Goods passes to the Customer, and in the event that the Customer fails to make payment, the Supplier may:

- a) by notice in writing to the Customer, terminate the Customer's right to resell the or use the Goods.
- b) require the Customer to return all Goods to the Supplier. If the Customer fails to do so promptly, the Supplier may, at its discretion, enter any premises of the Customer or any third party where the Goods are stored to recover them. The Customer shall procure entry to any third-party premises if requested by the Supplier.

## **11. Limitation of Liability**

11.1 The limits and exclusions in this Clause 1 reflect the insurance cover the Supplier has been able to arrange. The Customer is responsible for making its own arrangements for the insurance of any excess liability beyond the Supplier's cover.

11.2 References to liability in this Clause 1 include every kind of liability arising under or in connection with the Contract, including liability in contract, tort (including negligence) or otherwise.

11.3 Nothing in the Contract limits any liability for:

- a) death or personal injury caused by negligence;
- b) fraud or fraudulent misrepresentation;
- c) breach of the terms implied by section 12 of the Sale of Goods Act 1979;
- d) the Customer's payment obligations under the Contract.

11.4 The Supplier's total liability to the Customer shall be limited to the total amount due under this Agreement, whether or not the amount has been paid at the time of the claim.

11.5 Subject to clause 11.3, the following types of loss are expressly excluded and shall not be recoverable by the Customer:

- a) loss of profits (including loss of anticipated savings);
- b) loss of sales or business;
- c) loss of agreements or contracts;
- d) loss of use or corruption of software, data or information;
- e) loss of or damage to goodwill; and
- f) indirect or consequential loss.

This clause 11 shall survive termination of the Contract.

## 12. Termination

12.1 Without limiting its other rights or remedies, the Supplier may terminate the Contract with immediate effect by giving written notice to the Customer if:

- a) the Customer commits a material breach of any term of the Contract and (if such a breach is remediable) fails to remedy that breach within 28 days of it being notified in writing to do so;
- b) the Customer takes any step or action in connection with its entering administration, provisional liquidation or any composition or arrangement with its creditors (other than in relation to a solvent restructuring), obtaining a moratorium, being wound up (whether voluntarily or by order of the court, unless for the purpose of a solvent restructuring), having a receiver appointed to any of its assets or ceasing to carry on business;
- c) the Customer suspends, threatens to suspend, ceases or threatens to cease to carry on all or a substantial part of its business; or
- d) the Customer's financial position deteriorates to such an extent that it reasonably justifies the Supplier's belief that the Customer's ability to perform its obligations under the Contract is in jeopardy.

12.2 Without limiting its other rights or remedies, the Supplier may suspend supply of the Goods under the Contract or any other contract between the Customer and the Supplier if:

- a) the Customer becomes subject to any of the events listed in clause b) to **Error! Bookmark not defined.**, or the Supplier reasonably believes that the Customer is about to become subject to any of them; or
- b) if the Customer fails to pay any amount due under this Contract on the due date for payment.

12.3 Without limiting its other rights or remedies, the Supplier may terminate the Contract with immediate effect by giving written notice to the Customer if the Customer fails to pay any amount due under the Contract on the due date for payment.

12.4 On termination of the Contract for any reason, the Customer shall immediately pay to the Supplier all of the Supplier's unpaid invoices and any accrued interest. In respect of Goods supplied but for which no invoice has been submitted, the Supplier shall submit an invoice, which the Customer shall pay immediately upon receipt.

12.5 Termination of the Contract, however arising, shall not affect any of the parties' rights and remedies that have accrued at the date of termination, including the right to claim damages in respect of any breach of the Contract which existed at or before the date of termination.

12.5 Any provision of the Contract, that expressly or by implication, is intended to come into or continue in force on or after termination of the Contract shall remain in full force and effect.

### **13. Force Majeure**

13.1 Neither party shall be liable for any failure or delay in performing its obligations under the Contract (except for any payment obligations) to the extent that such failure or delay is caused by a Force Majeure Event.

13.2 A "Force Majeure Event" means any event beyond a party's reasonable control, including but not limited to: acts of God, flood, drought, earthquake or other natural disaster; epidemic or pandemic; terrorist attack, civil war, civil commotion or riots; war, threat of or preparation for war; imposition of sanctions, embargo, or breaking off of diplomatic relations; nuclear, chemical or biological contamination; any law or action taken by a government or public authority; collapse of buildings, fire, explosion or accident; interruption or failure of utility service; or non-performance by suppliers or subcontractors due to any of the foregoing.

13.3 The party affected by the Force Majeure Event shall:

- a) A promptly notify the other party in writing of the nature and extent of the Force Majeure Event; and
- b) use all reasonable endeavours to mitigate the effect of the Force Majeure Event on the performance of its obligations.

13.4 If the period of delay or non-performance continues for more than 30 days, the party not affected may terminate the Contract by giving not less than 14 days' written notice to the affected party.

### **14. Assignment**

14.1 The Supplier may at any time assign, mortgage, charge, subcontract, delegate, declare a trust over, or deal in any other manner with any or all of its rights and obligations under the Contract, provided that it gives prior written notice of such dealing to the Customer.

14.2 The Customer shall not assign, transfer, mortgage, charge, subcontract, delegate, declare a trust over, or deal in any other manner with any of its rights and obligations under the Contract without the prior written consent of the Supplier.

### **15. Confidentiality**

15.1 Each party undertakes that it shall not, at any time during the Contract, and for a period of two (2) years after its termination, disclose to any person any confidential information concerning the business, assets, affairs, customers, clients or suppliers of the other party, except as permitted By Clause 15.2.

15.2 Each party may disclose the other party's confidential information:

- a) to its employees, officers, representatives, contractors, subcontractors, or advisers who need to know such information for the purposes of exercising that party's rights or carrying out its obligations under or in connection with the Contract. Each party shall ensure that such persons comply with this Clause 15; and
- b) as may be required by law, a court of competent jurisdiction, or any governmental or regulatory authority.

15.3 No party shall use the other party's confidential information for any purpose other than to exercise its rights and perform its obligations under or in connection with the Contract.

### **16. Entire Agreement**

16.1 The Contract constitutes the entire agreement between the parties and supersedes and extinguishes all previous agreements, promises, assurances, warranties, representations, and understandings between them, whether written or oral, relating to its subject matter.

16.2 Each party acknowledges that in entering into the Contract it does not rely on, and shall have no remedies in respect of, any statement, representation, assurance, or warranty (whether made innocently or negligently) that is not expressly set out in the Contract.

16.3 Nothing in this clause shall limit or exclude any liability for fraud or fraudulent misrepresentation.

## **17. Variation**

17.1 No variation of the Contract shall be effective unless it is in writing and signed by or on behalf of each of the parties (or their authorised representatives).

## **18. Waiver**

18.1 A waiver of any right or remedy under the Contract or by law is only effective if given in writing and shall not be deemed a waiver of any subsequent breach or default.

18.2 A failure or delay by a party to exercise any right or remedy provided under the Contract or by law shall not constitute a waiver of that or any other right or remedy, nor shall it prevent or restrict any further exercise of that or any other right or remedy.

18.3 No single or partial exercise of any right or remedy shall prevent or restrict the further exercise of that or any other right or remedy.

## **19. Severance**

19.1 If any provision or part-provision of the Contract is or becomes invalid, illegal or unenforceable, it shall be deemed deleted, but that shall not affect the validity and enforceability of the rest of the Contract.

19.2 If any provision or part-provision of the Contract is deemed deleted under Clause 19.1, the parties shall negotiate in good faith to agree a replacement provision that, to the greatest extent possible, achieves the intended commercial result of the original provision.

## **20. Notices**

20.1 Any notice or other communication given to a party under or in connection with the Contract shall be in writing and shall be:

- a) delivered by hand or sent by pre-paid first-class post or other next working day delivery service to its registered office (if a company) or its principal place of business (in any other case); or
- b) sent by email to the following address:

Victoria Mill Storage Yard  
Bolton Road  
Atherton  
Manchester  
M46 97Q

Email Address: [Accounts@boltonbuildersmerchants.co.uk](mailto:Accounts@boltonbuildersmerchants.co.uk)

20.2 Any notice shall be deemed to have been received:



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- a) if delivered by hand, on signature of a delivery receipt or at the time the notice is left at the proper address;
- b) if sent by pre-paid first-class post or other next working day delivery service, at 9.00 am on the second Business Day after posting; or
- c) if sent by email, at the time of transmission, provided that no delivery failure notification is received.

20.3 This clause does not apply to the service of any proceedings or other documents in any legal action or, where applicable, any arbitration or other method of dispute resolution.

## **21. Third Party Rights**

21.1 A person who is not a party to the Contract shall not have any rights under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of the Contract.

21.2 The rights and remedies provided under the Contract are in addition to, and not exclusive of, any rights or remedies provided by law.

## **22. Governing Law**

22.1 The Contract and any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with it or its subject matter or formation shall be governed by and construed in accordance with, the law of England and Wales.

## **23. Jurisdiction**

23.1 Each party irrevocably agrees that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with the Contract or its subject matter or formation.