

TERMS AND CONDITIONS OF SALE

1. DEFINITION

In these conditions of sale:

"Supplier" means MCM Construction Materials Supply Company Limited, with its registered office at 733 Tai Kei Leng, Yuen Long, N.T., Hong Kong;

"Contract" means the contract for the purchase and sale of the Goods by the Supplier to the Customer

"Customer" means any person who has placed an order with the Supplier or request a quotation from the Supplier;

"Delivery Date" means the date specified by the Supplier when the Goods are to be delivered.

"Goods" means any goods and/or services requested by the Customer in an order;

2. CONDITIONS APPLICABLE

2.1 These conditions shall apply to the Contract to the exclusion of all other terms and conditions including any terms or conditions which the Customer may purport to apply under any purchase order confirmation of order or similar document.

2.2 All orders for the Goods shall be deemed to be an offer by the Customer to purchase the Goods pursuant to these conditions.

2.3 Acceptance of delivery of the Goods shall be deemed conclusive evidence of the Customer's acceptance of these conditions.

2.4 Any variation to these conditions (including any special terms and conditions agreed between the parties) shall be inapplicable unless agreed in writing by the Supplier.

3. SALE PRICE

3.1 The price of the Goods shall be the price set out overleaf, which shall be binding on the Supplier provided that the Customer shall accept the same within 14 days. The Supplier may by giving notice to the Customer at any time up to 7 days before delivery increase the price of the Goods.

3.2 All prices are EXW (HK) prices.

4. THE GOODS

4.1 The quantity and description of the Goods shall be as set out overleaf.

4.2 The Supplier reserves the right to make any changes in the specification of the Goods without prior notice to the Customer.

4.2 All implied terms, conditions and warranties relating to the quality and/or fitness for purpose of the Goods or any of the Goods are excluded.

4.3 All terms, conditions and warranties (whether implied or made expressly) whether by the Supplier or its employees or agents or otherwise relating to the quality and/or fitness for purpose of the Goods or any of the Goods are excluded.

4.4 The Supplier's employees or agent are not authorised to make any representations concerning the Goods unless confirmed by the Supplier in writing. In entering into the Contract the Customer acknowledges that it does not rely on, and waives any claim for breach of, any such representation which is not so confirmed.

4.5 Any advice or recommendation given by the Supplier or its employees or agents to the Customer or its employee or agents as to the storage, application or use of the Goods which is not confirmed in writing by the Supplier is followed or acted upon entirely at the Customer's own risk, and accordingly the Supplier shall not be liable for any such advice or recommendation which is not so confirmed.

5. DELIVERY AND DELIVERY CHARGES

5.1 Delivery of the Goods shall be made to the Customer's address within the territory of Hong Kong Special Administrative Region on the Delivery date free of charge for order amount over \$2000; otherwise delivery service of \$100 will be charged per order. Customer shall make all arrangements necessary to take delivery of the Goods whenever they are tendered for delivery.

5.2 Upon receipt of a purchase order, the Supplier will inform the Customer the Delivery Date.

5.3 Upon the request of the Customer and subject to express agreement of the Supplier, urgent delivery may be arranged by the Supplier. All additional delivery costs shall be born by the Customer.

5.4 The Supplier shall not be liable for any loss or damage whatever due to failure by the Supplier to deliver the Goods (or any of them) promptly or at all.

5.5 Notwithstanding that the Supplier may have delayed or failed to deliver the Goods (or any of them) promptly the Customer shall be bound to accept delivery and to pay for the Goods in full provided that delivery shall be tendered at any time within three months of the Delivery Date.

5.6 Where the Goods are to be delivered in instalments, each delivery shall constitute a separate contract and failure by the Supplier to deliver any one or more of the instalments in accordance with these Conditions or any claim by the Customer in respect of any one or more instalments shall not entitle the Customer to treat the Contract as a whole as repudiated.

6. TERMS OF PAYMENT

6.1 Payment of the price of the Goods shall be due 30 days after invoice is issued unless otherwise stated. Time for payment shall be of essence.

6.2 Interest on overdue invoice shall accrue from the date when payment becomes due from day to day until the date of payment at a rate of 2% above the Hong Kong dollar Best Lending Rate of the HongKong and Shanghai Banking Corporation Limited (HSBC).

7. COLLECTION AND LEGAL FEES

All legal costs and expenses incurred by the Supplier in demanding, recovery or attempted recovery of any sums due from the Customer to the Supplier and/or in any proceedings taken by the Supplier against the Customer as result of default by the Customer of payment of any sum due to the Supplier and/or breach or non-compliance by the Customer of any conditions contained herein shall be borne and paid by or be recoverable from the Customer on a full indemnity basis.

8. ACCEPTANCE AND RETURN OF GOODS

8.1 The Customer shall be deemed to have accepted the Goods 24 hours after delivery to the Customer. After acceptance the Customer shall not be entitled to reject Goods which are not in accordance with the contract.

8.2 No Goods delivered to the Customer which is in accordance with the contract or Goods accepted or deemed to be accepted by the Customer can be returned without the prior written approval of the Supplier on terms to be determined at the absolute discretion of the Supplier.

8.3 Request for return will not be considered by the Supplier unless:

- the request for return is made in writing within 45 days from the date of Delivery;
- the Goods are in original packaging, free from any damage or defect; and
- the Supplier is satisfied that the Goods are in saleable condition.

8.4 If the Supplier agrees to accept any such Goods for return the Customer shall be liable to pay a handling and restocking charge of 20% (or minimum \$200) of the invoice price. Such Goods must be returned by the Customer carriage-paid to the Supplier in their original shipping carton.

8.5 Goods returned without the prior written approval of the Supplier may at the Supplier's absolute discretion be returned to the Customer or stored at the Customer's costs without prejudice to any rights or remedies the Supplier may have.

9. PROPERTY AND RISK

9.1 The Goods shall be at the Customer's risk as from delivery.

9.2 In spite of delivery having been made property in the Goods shall not pass from the Supplier until:

- the Customer shall have paid the price in full; and
- no other sums whatever shall be due from the Customer to the Supplier.

9.3 Until property in the Goods passes to the Customer in accordance with clause 9.2 the Customer shall hold the Goods and each of them on fiduciary basis as bailee for the Supplier. The Customer shall store the Goods (at no costs to the Supplier) separately from all other goods in its possession and marked in such a way that they are clearly identified as the Supplier's property.

9.4 Notwithstanding that the Goods (or any of them) remain the property of the Supplier the Customer may sell or use the Goods in the ordinary course of the Customer's business at full market value for the account of the Supplier. Any such sale or dealing shall be a sale or use of the Supplier's property by the Customer on the Customer's own behalf and the Customer shall deal as principal when making such sales or dealings. Until property in the Goods passes from the Supplier the entire proceed of sale or otherwise of the Goods shall be held in trust for the Supplier and shall not be mixed with other money or paid into any overdrawn bank account and shall be at all material times identified as the Supplier's money.

9.5 The Supplier shall be entitled to recover the Price notwithstanding that property in any of the Goods has not passed from the Supplier.

9.6 Until such time as property in the Goods passes from the Supplier the Customer shall upon request deliver up such of the Goods as have not ceased to be in existence or resold to the Supplier. If the Customer fails to do so the Supplier may enter upon any premises owned occupied or controlled by the Customer where the Goods are situated and repossess the Goods. On the making of such request the right of the Customer under clause 9.4 shall cease.

9.7 The Customer shall not pledge or in any way charge by way of security for any indebtedness any of the Goods which are the property of the Supplier. Without prejudice to the other rights of the Supplier, if the Customer does so all sums whatever owing by the Customer to the Supplier shall forthwith become due and payable.

10. WARRANTIES

10.1 Subject to the conditions set out below the Supplier warrants that the Goods will be free from substantial defects in material and workmanship for the period stated in the literature that accompanies the Goods sold unless otherwise specified.

10.2 The above warranty is given by the Supplier subject to the following conditions:

10.2.1 The Supplier shall be under no liability if the Goods are modified in any aspect by the Customer without the prior approval of the Supplier.

10.2.2 The Supplier shall be under no liability in respect of any defect arising from fair wear and tear, willful damage, negligence, abnormal working conditions, failure to follow the Supplier's instructions (whether oral or in writing), misuse or alteration or repair of the Goods without the Supplier approval.

10.2.3 The Supplier shall be under no liability under the above warrant (or any other warranty, condition or guarantee) if the total price for the Goods has not been paid by the due date for payment.

10.2.4 The above warranty does not extend to parts, materials or equipment not manufactured by the Supplier, in respect of which the Customer shall only be entitled to the benefit of any such warranty or guarantee as is given by the manufacturer to the Supplier.

11. LIABILITY OF THE SUPPLIER

11.1 The Supplier shall be under no liability whatever to the Customer for any indirect loss and/or expense (including loss of profit) suffered by the Customer arising out of a breach by the Supplier of these conditions.

11.2 In the event of any breach of these conditions by the Supplier the remedies of the Customer shall be limited to damages. Under no circumstances shall the liability of the Supplier exceed the price of the Goods.

11.3 The Supplier shall be under no liability whatever to the Customer or any third party for any loss or damages (including indirect and consequential loss, damage or expense), howsoever caused (whether by negligence or otherwise), suffered or incurred by the Customer or the third party directly or indirectly in respect of the Goods, where any person:

11.3.1 modifies or in any way alters the Goods or change the formulation or make-up of the Goods without the prior approval of the Supplier;

11.3.2 fails to use the Goods in accordance with the instructions or recommendations of the Supplier given from time to time in connection with the use of the Goods (whether oral or in writing);

11.3.3 fails to use the Goods in accordance with any applicable laws or regulations;

11.3.4 repairs the Goods without the prior approval or authorisation of the Supplier.

11.4 The Supplier shall be under no liability whatever to the Customer or any third party for any loss or damage (including indirect and consequential loss, damage or expense) however caused (whether by negligence or otherwise) suffered or incurred by the Customer or the third party directly or indirectly by reason of any technical advice or assistance given or rendered by the Supplier to the Customer whether or not in connection with the manufacture, preparation or supply of the Goods to the Customer.

12. SET-OFF AND COUNTERCLAIM

The Customer may not withhold payment of any invoice or other amount due to the Supplier by reason of any right of set-off or counterclaim which the Customer may have or alleged to have or for any reason whatever.

13. SUPPLIER'S LIEN

The Supplier shall be entitled to a general lien on the goods of the Customer in the Supplier's possession (including the goods of the Customers which has been paid for) for the unpaid price of the goods sold to the Customer by the Supplier under these conditions or any other contract.

14. NOTES

The Supplier reserves the rights and final decision to alter the content of these conditions without prior notice.

15. GOVERNING LAW

The contract is governed by the law of Hong Kong Special Administrative Region (HKSAR).