

Castle Construction Products

PART I – GOODS AND SERVICES

CONDITIONS OF SALE

1. General Application

These terms and conditions (“Conditions”) apply without exception to all contracts between the Company and the Customer and provide for the sale of Goods and the supply of Services by the Company.

2. Definitions

In these conditions these words have the following meanings:

“the Company”	Castle Construction Products Limited (registered in England under company number 09487148) the supplier of the Goods and/or Services to the Customer;
“the Contract”	any contract under which the Company sells Goods and/or supplies Services to the Customer;
“the Customer”	the individual, firm, company or any other party with whom the Company contracts for the supply of Goods and/or Services;
“Goods”	the whole or any part of goods which the Company is to supply in accordance with these Conditions;
“the Services”	the services which the Company is to provide in accordance with these Conditions.

3. Interpretation

3.1 Any reference in these Conditions to any provision of a statute shall be construed as a reference to that provision as amended, re-enacted or extended at the relevant time.

3.2 Nothing in these Conditions shall restrict the statutory rights of a Customer who deals as a consumer.

4. Contract Procedure/Documentation

4.1 The Contract will only come into existence once the Company has received and formally accepted the Customer’s order either by issue of an order acceptance in response, or by dispatch of the order. Until such an order acceptance is issued or the order is dispatched, whichever is applicable, the Company will not be under any obligation to the Customer.

4.2 The Contract will be subject to these Conditions exclusively and unless otherwise agreed in writing by the Company, these Conditions will override any terms or conditions stipulated or referred to by the Customer. The Company reserves the right to correct any clerical or typographical errors made by its employees in respect of any Contract at any time.

4.3 All statements (whether written or oral), descriptions, drawings, sketches, photographs, illustrations, timing schedules and plans, diagrams or specifications concerning the Goods or Services made or given by or on behalf of the Company before contract, whether in catalogues, brochures, leaflets, price lists or otherwise, are for the purposes of information and guidance only.

5. Payment

5.1 Payment terms are nett cash inclusive of VAT by BACS due within 30 days of month of invoice, or prior to delivery if required unless expressly varied in writing by the Company.

5.2 Time of payment will be of the essence of the Contract.

5.3 Without prejudice to any other rights of the Company, interest will be payable on all overdue accounts at 2% per annum above National Westminster Bank Plc’s base lending rate from time to time and shall accrue (whether before or after judgement) from the due date of payment until the date of actual receipt by the Company.

5.4 The Customer shall pay to the Company, in addition to other amounts payable hereunder, any costs reasonably incurred by the Company (including, without limitation, legal costs and fees of debt collection agencies) in recovering any amounts due to the Company.

5.5 Non-payment on a due date will entitle the Company to demand payment of any outstanding balances whether due or not. Any such demand for payment shall render the relevant outstanding balances payable forthwith.

5.6 The Company may set off any sums received from the Customer against any debt due to the Company from the Customer irrespective of any purported appropriation by the Customer.

5.7 All prices quoted are exclusive of VAT and any other duties, taxes or charges payable in respect of the Goods and/or the Services which the Customer will pay in addition to the price.

6. Cancellation

6.1 The Company may defer or cancel any deliveries of Goods and cancel or suspend the performance of Services and/or treat the Contract as determined if the Customer:

6.1.1 fails to make any payment when it becomes due whether in respect of the Customer’s obligations under the Contract, or any other contract;

6.1.2 enters into any composition or arrangement with its creditors or otherwise becomes insolvent and/or unable to pay its debts as the same fall due or passes a resolution for winding up or a Court makes an order to that effect;

6.1.3 breaches any of these Conditions,; or

6.1.4 any other event occurs which the Company considers may jeopardise its interest in the Goods or its prospect of receiving payment for the Goods or Services.

6.2 Clause 6.1 is without prejudice to the Company’s right to the full purchase price for the Goods or full payment for the Services. The Company will be entitled to damages for any consequential loss it suffers due to the termination of the Contract.

6.3 Save as expressly provided herein, cancellation by the Customer will only be accepted at the discretion of the Company and must be in writing. Any costs or expenses incurred by the Company up to the date of cancellation and all loss or damage resulting from the cancellation will be paid by the Customer.

7. Liability

7.1 The Company will only be liable to the Customer in respect of defective Goods supplied if:

7.1.1 the Customer informs the Company of the defect as soon as is reasonably practicable and in any event;

7.1.2 the defect is notified to the Company within seven days of the delivery of the Goods or performance of the Services (as applicable);

- 7.1.3 no unauthorised repairs or alterations have been made to the Goods or so as to modify the result of the Services (as applicable) by any person;
- 7.1.4 at the Company's request the Customer provides authority for the goods to be returned or for Company to inspect the Goods or the result of the Services; and
- 7.1.5 such liability does not arise as a result of any defect comprised in any component part not manufactured by the Company, any defect in any component part supplied by the Customer or any defect arising as a result of the Customer's specification, instruction or design.
- 7.2 NOTWITHSTANDING ANYTHING IN THIS CONTRACT TO THE CONTRARY AND SAVE FOR THE LIABILITY OF THE COMPANY FOR DEATH OR PERSONAL INJURY CAUSED BY ITS NEGLIGENCE, THE LIABILITY OF THE COMPANY UNDER THE CONTRACT (WHETHER BY REASON OF BREACH OF CONTRACT, TORT OR OTHERWISE), SHALL BE LIMITED TO THE VALUE OF THE CONTRACT.
- 7.3 THE COMPANY SHALL NOT BE LIABLE FOR ANY INDIRECT DAMAGES INCLUDING BUT NOT LIMITED TO DAMAGES FOR LOSS OF USE OF FACILITIES OR EQUIPMENT, LOSS OF BUSINESS OR REVENUE, LOSS OF ANTICIPATED SAVINGS, LOSS OF PROFITS OR LOSS OF GOODWILL OR OTHER DAMAGES CONSEQUENTIAL UPON THE SAME PROVIDED THAT THIS CLAUSE SHALL NO LIMIT IN ANY WAY THE LIABILITY OF THE COMPANY FOR DEATH OR PERSONAL INJURY CAUSED BY ITS NEGLIGENCE.

PART II - GOODS

8. Prices

- 8.1 Unless otherwise agreed in writing by the Company and subject to Clause 4.3, any specific written quotation by the Company for the Goods remains open for acceptance for 30 days from its date of issue. All prices shown in catalogues, leaflets or brochures are for guidance only. The Company reserves the right to vary such prices at any time at its discretion.
- 8.2 The Company may also, so far as is reasonable, increase its prices at any time to take account of any increase in the cost to the Company of supplying the Goods due to:
 - 8.2.1 any error of inadequacy in any specification, instruction or design of the Customer; and/or
 - 8.2.2 any modification to the Goods specifically requested by the Customer.
- 8.3 Goods are mainly made to order and non-returnable. Therefore, where the Company agrees to accept the return of Goods as a special concession, the Company reserves the right to make a handling charge of at least 25% of the invoice price of the Goods returned or the actual handling costs.

9. Delivery

- 9.1 The Company offers delivery dates in expectation that they can be fulfilled by the Company but will not be liable for any failure to deliver by an agreed date and timing of the delivery of the Goods shall not be of the essence. The Customer shall not be entitled to cancel or to delay or refuse payment should delivery be made after the established delivery date.
- 9.2 When the delivery requirement requested is outside the normal delivery area of the Company, the Company will be entitled to add a reasonable charge for insurance, packaging and delivery.
- 9.3 The Customer shall provide at its expense adequate and appropriate equipment and manual labour for unloading the Goods.
- 9.4 Upon receipt of the good the Customer, his employee or agent shall sign a delivery note provided by the Company. Such delivery note shall be confirmation by the Customer to the Company that the Goods have been visually inspected and found to be satisfactory.
- 9.5 When the Company delivers Goods to the Customer, the Customer shall unload the Goods within a period of one hour from the arrival of the Goods at the Customer's site or place of business. In the event of the Customer failing to do this, the Customer shall pay any additional costs incurred by the Company.
- 9.6 The Customer shall provide adequate and safe access and space in which the Goods can be unloaded with no risk of damage to the Company's or Carrier's equipment, employees, operatives or load and without obstructing the public highway.
- 9.7 The quantity of any consignment of Goods as recorded by the Company upon despatch from the Company's place of business shall be conclusive evidence of the quantity received by the Customer on delivery unless the Customer can provide conclusive evidence proving the contrary

10. Goods Warranty

- 10.1 The Customer will carefully examine the Goods on receipt and notify the Company immediately of any:
 - 10.1.1 damage reasonably discovered on inspection;
 - 10.1.2 damage arising in transit;
 - 10.1.3 short or over delivery; or
 - 10.1.4 loss of Goods within seven days of receipt. The Customer shall give the Company written confirmation of any such damage, loss, over delivery or shortage. If no such written confirmation is received by the Company within such seven day period then the Customer will be deemed to have accepted the Goods in satisfaction of the corresponding order. Within fourteen days of the Company's request the Customer will make the Goods available for collection and/or inspection. THE COMPANY'S LIABILITY, IF ANY, WILL BE LIMITED TO REPLACING OR (AT ITS OPTION) REPAIRING.

11 Title/Risk

- 11.1 The Company shall retain ownership of the Goods, notwithstanding delivery to the Customer, until all sums due to the Company from the Customer, whether in respect of the Goods or otherwise, have been paid in full.
- 11.2 The risk in the Goods shall pass:
 - 11.2.1 on orders for delivery within the United Kingdom on delivery to either the Customer's premises, the Customer's designated address or the Customer's own designated carrier.
 - 11.2.2 on orders for delivery outside the United Kingdom on delivery FOB to the port notified hereunder.

PART III – MISCELLANEOUS – GOODS AND SERVICES

- 12 If the Company is delayed or prevented from delivering the Goods or supplying the Services due to circumstances beyond its reasonable control the Company may cancel or suspend delivery of Goods or the supply of Services comprised in the Customer's orders without notice and without liability. The Company may also require the Customer to take delivery of Goods which the Company has ready for delivery.
- 13 The Company may deliver Goods or supply Services in parts or in instalments and the Customer shall be obliged to pay for each such part or instalment as provided herein.
- 14 Notwithstanding any advice or interpretation which the Company may give either orally or in writing where the use, application or installation of the Goods ordered are required to satisfy any by-laws, regulations or statutory instruments, the Customer accepts absolute responsibility for ensuring that all such requirements are complied with. No guarantee or warranty is given that the Goods are designed or suitable for the purpose of which they may be intended
- 15 These conditions and any Contract shall be governed by and construed in accordance with English Law. Customer hereby agrees, for the Company's exclusive benefit, that the English Courts shall have sole jurisdiction to hear all claims or proceedings connected with the Goods, the Services and any Contract. The Company may nevertheless bring claims in any other courts of competent jurisdiction.
- 16 Failure by the Company to enforce strict compliance with these Conditions by the Customer will not constitute a waiver of any of these Conditions.
- 17 Notices must be in writing to the Company's or the Customer's address and shall be deemed delivered on the first working day after sending by hand or (subject to confirmation of transmission) by telex or facsimile, or within the UK, on the third working day after being placed prepaid in the first class post to the Company's or the Customer's address in the United Kingdom.
- 18 The Contract may not be assigned by Customer without the Company's prior written consent.