

Terms and Conditions of Trade

1. Definitions

- 1.1 "Rockbond" means Rockbond Special Concrete products Limited, or any agent or employees thereof.
- 1.2 "Customer" means the Customer, any person acting on behalf of and with the authority of the Customer, or any person purchasing products and services from Rockbond.
- 1.3 "Goods" means the products, being purchased by the Customer from Rockbond.
- 1.4 "Order" means an agreement between Rockbond and the Customer for Rockbond to supply Goods and/or services to the Customer.
- 1.5 "Quote" means a written offer from Rockbond to the Customer to supply Goods and/or Services for a specified price subject to the terms and conditions of such offer.
- 1.6 "PPSA" means Personal Properties Security Act.

2. Quotes, Pricing and Orders

- 2.1 Quotations will be exclusive of goods and services tax unless specifically stated to the contrary.
- 2.2 Unless otherwise agreed the quotation will be valid for 30 days.
- 2.3 Prices quoted are for the quantities requested. Rockbond may vary the price if the order quantity is different from that contained in the quotation. The price will be as indicated on invoices provided by Rockbond to the Customer in respect of Goods and/or Services supplied.
- 2.4 The price will be Rockbond's current price at the date of delivery of the Goods and/or provision of the Services.
- 2.5 All orders must be in writing and include an order number.

3. Delivery of Goods

- 3.1 Delivery will be completed upon receipt of the Goods by a carrier for delivery to the Customer (where a carrier is used) or upon either receipt of the Goods by or on behalf of the Customer where a carrier is not used.
- 3.2 Where Rockbond delivers the Goods to the place nominated by the Customer, the cost of delivering the Goods to the nominated delivery point will be borne by the Customer and will be shown separately on the relevant invoice.
- 3.3 If the Customer specifies a delivery date, Rockbond will use its reasonable endeavours to try and deliver the Goods to the Customer by that date, but Rockbond will not be responsible in any way to the Customer for delivery delays or non-delivery. Rockbond will not be liable for any damage to the Goods.
- 3.4 Rockbond will not be liable for any loss or damage whatever due to failure by Rockbond to deliver the Goods (or any of them) promptly or at all.

4. Delivery and Risk

- 4.1 Rockbond reserves the right to deliver Goods by instalments, and each instalment will be deemed to be a separate contract under these terms.
- 4.2 The Customer is deemed to have accepted the Goods unless within seven days after delivery or the date on which Rockbond has notified the Customer that the goods are available for collection the Customer gives Rockbond written notice of any defect in the goods discoverable on careful inspection or reasonable testing, and the Customer will give Rockbond an opportunity to inspect any such damage or defect.
- 4.3 Payment for each instalment will be in accordance with clause 6, and failure to pay on the due date will entitle Rockbond to suspend deliveries of other instalments without prejudice to any other remedy available to Rockbond.



- 4.4 Rockbond may charge storage and transportation expenses if the Customer fails to, or refuses to, take or accept delivery or indicates to Rockbond that it will fail or refuse to take or accept delivery at the time specified in the contract, or at any other times as Rockbond is able to deliver the Goods.
- 4.5 The risk of any loss or damage to or deterioration of the Goods from any cause will be borne by the Customer from time of delivery.
- 4.6 Rockbond will not insure any Goods unless requested in writing by the Customer. The cost of that insurance will be borne by the Customer.
- 5. Consumer Guarantees Act 1993, Fair Trading Act 1986, and Part 3 of the Contract and Commercial Law Act 2017 (Sale of Goods)**
- 5.1 The Customer acknowledges and agrees that the Goods have been supplied by Rockbond for business purposes, and the parties have agreed to contract out of the provisions of the Consumer Guarantees Act 1993.
- 5.2 The Customer acknowledges and agrees that no express or implied warranty is given by Rockbond in respect of the Goods, whether for the purposes of part 3 of the Contract and Commercial Law Act 2017 (the former Sale of Goods Act 1908) or otherwise.
- 5.3 The Customer agrees that it is not relying on any representations made by or on behalf of Rockbond in respect of the Goods except such written representations that Rockbond releases from time to time in its technical data sheets, as published on its website.
- 5.4 The Customer acknowledges and agrees that:
- (a) the Goods are both supplied and acquired in trade; and
 - (b) Both Rockbond and the Customer are in trade; and
 - (c) The Customer agree to contract out of section 9, 12A, 13, or 14(1) of the Fair Trading Act 1986 except as provided for in clause 5.3 above.
- 6. Payment, Late Payment, Default of Payment and Consequences of Default of Payment**
- 6.1 All payments shall be made strictly in accordance with the payment direction on the invoice.
- 6.2 The customer shall not be entitled to withhold payment or to make any deductions from, or setoff against, the contract price without the prior written consent of Rockbond. The Customer waives the right to withhold payment pending the resolution of any dispute between the Customer and Rockbond.
- 6.3 If the Customer defaults in payment of any invoice then, without prejudice to any of Rockbond's other rights and remedies:
- (a) Interest shall be charged at a rate of 12% per annum on any amounts overdue.
 - (b) Any further orders placed by the Customer shall attract a 20% surcharge which will be applied first to interest and then to any amounts overdue until payment of overdue amounts is cleared in full.
 - (c) Any further orders shall require payment on or in advance of delivery or release of the Goods until such time as Rockbond, in its sole discretion, decides that the Customer shall be extended further credit. Rockbond shall be entitled to impose any special conditions it thinks necessary, on the extension of further credit to the Customer.
- 6.4 The Customer shall indemnify Rockbond from and against all Rockbond's costs and disbursements incurred in recovering or seeking to recover any outstanding amounts owing by the Customer, including on a solicitor and own client basis.
- 6.5 Without prejudice to any other remedies Rockbond may have, if at any time the Customer is in breach of any obligation (including those relating to payment), Rockbond may suspend or terminate the supply of Goods and/or Services to the Customer and any of its other obligations under the terms and conditions. Rockbond will not be liable to the Customer for any loss or damage the Customer suffers because Rockbond exercised its rights under this clause.

7. Reservation of Title and Personal Property Securities Act 1999 (“PPSA”)

7.1 Rockbond and Customer agree that ownership of the Goods shall not pass until:

- (a) the Customer has paid Rockbond all amounts owing for the particular Goods; and
- (b) the Customer has met all other obligations due by the Customer to Rockbond in respect of all contracts between Rockbond and the Customer.

7.2 It is further agreed that where practicable the Goods shall be kept separate and identifiable until Rockbond shall have received payment and all other obligations of the Customer are met; and

7.3 If the Customer fails to return the Goods to Rockbond then Rockbond or Rockbond’s agent may (as the invitee of the Customer) enter upon and into land and premises owned, occupied or used by the Customer, or any premises where the Goods are situated and take possession of the Goods, and Rockbond will not be liable for any reasonable loss or damage suffered as a result of any action by Rockbond under this clause.

7.4 The Customer acknowledges and agrees that:

- (a) these terms and conditions constitute a security agreement for the purposes of the PPSA; and
- (b) a security interest is taken in all Goods previously supplied by Rockbond to the Customer (if any) and all Goods that will be supplied in the future by Rockbond to the Customer.

8. Guarantee

8.1 In consideration of Rockbond agreeing to supply Goods and/or Services to the Customer at the request of the Guarantor(s), the Guarantor(s):

- (a) Guarantee payment of all amounts payable by the Customer to Rockbond and the performance by the Customer of its obligations to Rockbond.
- (b) Indemnifies Rockbond against any loss it might suffer if any obligation is lawfully disclaimed, abandoned or otherwise unperformed by a liquidator, receiver or other person.
- (c) Covenant that no release, delay or other indulgence given by Rockbond to the Customer, or any other thing by which the Guarantor(s) would have been released if the Guarantor(s) had merely been sureties, shall release, prejudice or affect the liability of the Guarantor(s) as guarantor(s) or as indemnifiers.
- (d) As between the Guarantor(s) and Rockbond the Guarantor(s) may for all purposes be treated as the Customer, and Rockbond shall be under no obligation to take proceedings against the Customer before taking proceedings against the Guarantor(s).
- (e) If there is more than one Guarantor their liability under this guarantee and indemnity shall be joint and several.

9. Dispute Resolution

9.1 The Customer agrees that any court proceedings taken against Rockbond shall be undertaken in the court district nearest to Rockbond, unless Rockbond first agrees otherwise in writing.

10. Liability

10.1 **Limitation of Liability - Important:** To the fullest extent permitted by law, the liability of Rockbond to the Customer in respect of the Goods, howsoever arising shall be limited to the cost of the Goods sold to the customer (excluding GST and Disbursements) or the sum of **NZ\$10,000**, whichever is greater.