

TERMS AND CONDITIONS OF SALE, FOR THE DELIVERY OF GOODS AND/OR SERVICES

1. DEFINITIONS

In these Terms and Conditions:

“the Company” means Mone Bros Limited or Mone Bros Excavations Limited, at Albert Road, Morley, Leeds, LS27 8RU.

“the Customer” means the person (individual), firm, Company or other entity to whom the goods and/or services are to be supplied.

“the goods and/or services” means the (as set out in the Quotation Letter from time to time)

- material supplied (goods) by the Company, and/or
- the removal of material to tip by the Company (services), or
- the tipping of material by the Customer in the Company’s tip (services).

“the delivery ticket” means the ticket recording the goods and/or services supplied by the Company to the Customer.

“Transfer Note” means the current controlled waste description consignment or other duty of care documentation required to be completed by the Customer under Environmental Laws; “Waste” means any waste including any by-product of an industrial process and anything which is abandoned, unwanted or surplus irrespective of whether it is capable of being recovered or recycled or has any value;

“Environment” means all or any of the air, water and land (including, without limitation, air within buildings and other material or man-made structures above or below the ground) and any living organisms or systems supported by those media.

“Environmental Laws” means all laws, regulations, common law, directives and other measures (including codes of practice and guidance notes which are of mandatory effect) imposed or issued by any relevant body insofar as they relate to or apply to the Environment including the new contaminated land power enacted by section 57 of the Environment Act 1995 (but not yet brought into force), including the first set of guidance and regulations under that power.

“Site” means such site as may be specified in the Quotation Letter and/or such other sites where the Company agrees to perform the service.

2. INTERPRETATION and APPLICATION OF THE TERMS AND CONDITIONS

2.1 Interpretation of these conditions shall govern and apply to every offer, quotation, acceptance and contract of sale between the Company or its subsidiaries and associated companies and undertakings, with the Customer.

2.2 All sales of the goods and/or services made by the Company shall be made on these terms and conditions, to the exclusion of any other terms, conditions, warranties or representations, written or oral, express or implied, whether or not contained or referred to in the Customer’s order.

2.3 These terms may only be varied with the written consent of Company and any alternative conditions proposed by the Customer are hereby excluded.

3. QUOTATIONS

3.1 Any quotation, shall be fully revocable at any time prior to acceptance by the Customer and, expires if not so accepted within 30 days from the date of issue.

4. PRICES

4.1 The prices stated in any quotation exclude Value Added Tax.

4.2 The prices are based on costs prevailing at the time of issue. In the event of cost increases to the Company for supplying the goods and/or services, the Company reserves the right to make a corresponding increase to the prices, unless stated as fixed for a period in the quotation.

4.3 All disposal rates are based on

- the material being dry
- having sufficient void space and available transport
- inert materials, WAC Analysis/ SI Report to be provided by yourselves (unless stated otherwise)

5. DELIVERY OF THE GOODS AND/OR SERVICES (refer to section 9 and 10 for the Acceptance of Waste)

5.1 The goods and/or services shall be delivered to the destination specified in the Customer's order and based on the assumptions made in the quotation regarding location(s).

5.2 In the event of the Customer cancelling or amending the delivery instructions, the Customer pays all reasonable costs and expenses incurred by the Company up to the time of cancellation or amendment.

5.3 Unless otherwise stated in any quotation, the goods and/or services will be carried out at times between:

- 7.00am and 5.00pm, Monday to Friday (excluding public holidays), and
- between 7.00am and 11.30am on Saturday
- if the Customer requires delivery outside these hours, the Company shall be entitled to make additional reasonable charges
- no time restrictions within these hours are to be given by the Customer unless agreed in writing

5.4 If the Company is prevented from, or delayed in delivering the goods and/or services by not obtaining the necessary transport, or suffers from labour disputes, lockouts, inclement weather conditions, fire, accident, Act of God, breakdown of plant used in production and from any other cause for which the Company has no control, the Company shall not be liable to the Customer for any costs, loss or damage, direct or indirect, caused by the Company's failure to deliver.

5.4.1 All plant, transport and materials are subject to availability.

5.5 The Customer must provide a safe and secure access to the place of delivery for the goods and/or services. The Company reserves the right to refuse delivery over roads or other ground conditions which it considers unsuitable.

5.6 If any Company vehicle delivering the goods and/or services is required delivery to a place situated off a public road, the Customer must supervise the entry, positioning and departure of the vehicle and shall be liable for any accident or damage resulting from such movements.

5.7 The Company assumes in its prices that any vehicle will not be detained on site by the Customer or any other party. Should any vehicle be detained for more than **15 mins on site**, the Company shall be entitled to make an extra charge in respect of the additional time on site charged by the hour as a minimum.

5.8 Where the delivery of the goods and/or services is by a series of loads, the contract between the Company and the Customer shall be divisible by load. Any defect found in any load shall only give rise to a remedy in respect of that load and will not affect any other load.

5.9 The Customer shall take delivery in full of the goods and/or services as detailed on the delivery ticket. An extra charge is payable by the Customer where the Company is required to remove from the site any fraction of the goods and/or services.

6. LIABILITY AND DEFECTS

6.1 The Company's liability in respect of defects in the goods and/or services, including failure to comply with specifications (which apply only if such specifications have been given to and accepted by the Company in full at the time of acceptance of the order) shall be limited to:

- the cost of removal and replacement of only the defective goods, and
- **a limit of liability to a maximum value of £1,000.00 (one thousand pounds)**

The above limitations are subject to 6.2 and 6.4.

6.2 If any defect or defects in the goods and/or services that should have been revealed by examination on delivery, the Company's liability in respect of any such defect or defects shall be limited to supplying and delivering replacement goods free of charge.

6.3 The Company may accept liability only where the Customer can establish the following:

- the sample tested has been taken in accordance with the relevant British Standard specification or other specification previously accepted in writing by the Company, and
- the test results have been properly interpreted in accordance with the relevant British Standard specification or other specification previously agreed in writing by the Company, and
- the Customer has, within **5 days** of delivery of the goods and/or services, notified the Company in writing of the non-compliance to the specification, and
- the Company has been given a reasonable opportunity to investigate any alleged defect and made/making representations as to any remedial action to be taken

6.4 The Company shall not be liable for the supply of incorrect quantities of the goods and/or services, unless the Customer has given the Company oral notification of the error within 12 hours, or written notification within 48 hours of the completion of delivery.

6.5 With regards to contamination, due to the potential for contamination after delivery, the Company will not accept any claims arising from material sampled on site, delivered by the Company.

7. CONSEQUENTIAL LOSS

7.1 Without prejudice to the generality of anything contained elsewhere in these terms and conditions, the Company shall not, in any event, be liable to the Customer for any indirect or direct loss, consequential loss, damage or expense.

7.2 Under no circumstances shall the Company be responsible or liable for the workmanship of the Customer, any Customer employee or Customer sub-contractor or associated 3rd party.

8. PAYMENT

8.1 Unless otherwise agreed in writing, the Company's invoices for the goods and/or services must be paid without retention, **no later than 21 days from the date of invoice, subject to 8.3.**

8.2 The Customer shall make payment in full without any deduction. The Customer shall not be entitled to make any deductions or set-off from any money or monies being due to the Company in respect of any claims for loss or expense alleged to have been incurred by the Customer whatsoever. This is regardless of whether this is due to a default by the Company in supplying any of the goods and/or services.

8.3 The Company reserves the right to insist upon payment for goods before delivery if the Customer is a private individual, the Customer has no history, or the Customer's credit is not satisfactory to the Company for any reason whatsoever, or if payment of any monies owed by the Customer to the Company is overdue.

8.4 The Company reserves the right if payment is overdue to carry out the following actions:

- to charge the Customer interest at 4% per annum over NatWest Bank's base rate during the period of delay, and/or
- to suspend or discontinue delivery of goods under any contract with the Customer, whether complete or not complete.

8.5 The Company shall be entitled (without prejudice to any of its other rights against the Customer) to give notice in writing to the Customer to rescind the contract for the supply of the goods and/or services in any of the following events:

- should the Customer (being a company entity) compound or enter into any composition or arrangement as follows:
 - have a proposal made for a voluntary arrangement with its creditors
 - have a petition presented for the appointment of an administrator
 - have a receiver or manager or administrative receiver appointed over all or any part of its assets
 - have a resolution passed for its voluntary winding-up (save for the purpose of amalgamation or reconstruction)
 - call a creditors' meeting for a voluntary liquidation
 - enter into voluntary liquidation
 - be in receipt of an unsatisfied statutory demand
 - have a petition presented for its winding-up.

- should the Customer (being an individual) enter into as follows:
 - a deed of arrangement
 - make any assignment for the benefit of them or others
 - enter into any arrangement, voluntary or otherwise, with their creditors, whether by composition or otherwise
 - make or have an application made for an interim order in connection with the proposal to creditors for a voluntary arrangement
 - be in receipt of an unsatisfied statutory demand
 - have a petition presented for their bankruptcy
 - be made bankrupt

8.6 The Company can at any time put the Customer on hold/stop for unpaid invoices. Normal supply for good and/or services will only resume once all outstanding monies have been classed as cleared funds in the Company's bank.

9 NON-CONFORMANCE WASTE

9.1 The Company shall be entitled to refuse to deal with any material which it has reason to believe is:

- toxic, poisonous, explosive, flammable, radioactive or otherwise dangerous; or
- the handling of which may cause the Company to incur any civil or criminal liability; or
- the disposal of which might involve the Company in additional expense or an unreasonable amount of extra work; or
- which is outside the terms of its licences from time to time; or
- which the Company is unable to treat or dispose of for any reason; or
- which has been inaccurately described; or
- which is in excess of the quantity agreed to be treated or disposed of; or
- in respect of which the Customer has breached its obligations under these Conditions

9.1.1 Any such material shall be removed or otherwise treated at the liability of the Customer in default of which the Company may charge the Customer the costs of such removal or treatment.

9.2 The Customer shall provide all such assistance and information as the Company shall require in order to identify and deal with non-conformance Waste.

10 ACCEPTANCE OF WASTE

10.1 When delivering Waste to the Company, the Customer shall deliver a signed Transfer Note fully completed in accordance with Environmental Laws. The Customer warrants that all Waste will be transferred in accordance with Environmental Laws and that the constituents of the Waste are stable containers (where used), are suitably labelled and that no hazard will arise therefrom.

10.2 The Customer shall give not less than **3 full working days' notice** to the Company in respect of any Waste to be delivered to the Company which requires special treatment or is classed as "special" or "hazardous" Waste under Environmental Laws.

10.3 The Company shall be entitled at any time to inspect any Waste delivered by the Customer to any Site and to reject such Waste or any part of it. No such inspection shall be deemed to be an acceptance of the Waste by the Company nor that the Waste accords with the Transfer Note. The

Company shall at its discretion take samples to carry out analysis to test for compliance with the specification.

10.4 The Customer warrants that any deviation in the composition of the Waste as described in the Transfer Note shall entitle the Company to:

- request that the Customer amends the description of Waste on the Transfer Note subject to legislative compliance, or
- charge the Customer for any extra cost incurred as a consequence of the Waste not being in accordance with the specification, forwarding a revised quotation where requested, or
- reject the Waste and require the Customer to remove the Waste from site and dispose of the Waste at its own expense and in a manner according to Environmental Laws.

10.5 The Company shall notify the Customer within 28 days if the Waste is not to specification. No such inspection or any such rejection shall affect or reduce the liability of the Customer to the Company and the Customer shall indemnify and hold the Company harmless against all losses, costs and expenses resulting directly or indirectly from such failure to meet specification.

10.6 The Customer agrees that except where otherwise agreed in writing by the Company the quantity of Waste specified by the Company's weighbridge shall be conclusive proof of the weight of Waste delivered.

11. TITLE

11.1 Upon delivery the goods shall be at the Customer's risk.

11.2 Notwithstanding 11.1, for all goods delivered by the Company, the Company retains the legal and equitable title until the Customer has paid all monies owed in full.

11.3 The title of goods shall not pass to the Customer until the earlier of:

- the Company receives payment in full, upon which title transfers at the time of payment to the Customer, or
- the Customer sells the Goods in the ordinary course of business

11.4 Title to the Waste shall pass to the Company upon acceptance by the Company of the Waste at the relevant Company waste management facility in accordance with the Transfer Note, provided that no breach of the Customer's obligations under these conditions or statute has occurred.

11.5 The Company reserves the right to recycle or otherwise treat, separate, or recover the Waste.

11.6 If the Customer has itself not received payment from its customers in respect of any Waste delivered to the Company shall upon request assign its rights against such customers to the Company.

12. GENERAL

12.1 The Company reserves the right to make a reasonable administration charge for the provision of copy delivery ticket's for proof of delivery of the goods and/or services.

13. GOVERNING LAW

13.1 These Conditions shall be governed by and construed in all respects in accordance with English law.

14. INVALIDITY/SEVERABILITY

14.1 If any condition or any part of any condition shall be held to be invalid, illegal or unenforceable in whole or in part or in conflict with English law, such condition or part condition shall be severed from this contract and it shall not invalidate this contract and the remainder of the contract shall continue in full force and effect.

MONE BROTHERS