

- 1 Definitions
- In these conditions, unless the context requires otherwise:
- 1.1 'Francis Flower' is the Trading Name of Gurney Slade Lime & Stone Co. Limited, Registered Office Gurney Slade, Bath, Somerset BA3 4TE Company No. 00515604
- 1.2 'You' means the individual who buys or agrees to buy the goods from Francis Flower
- 1.3 'Conditions' means the terms and conditions of sale set out in this document and any special terms and conditions agreed in writing by Francis Flower
- 1.4 'Delivery Date' means the date agreed in writing by Francis Flower when the goods are to be delivered
- 1.5 'Goods' means the material that You agree to buy from Francis Flower;
- 1.6 'Price' means the price for the Goods
- 1.7 'Delivery Site' means the address identified on the Quotation given by Francis Flower, or otherwise agreed by Francis Flower in writing
- 1.8 'Normal Delivery Hours' means any Monday to Friday 7am to 5pm, excluding Bank Holidays
- 2 Application of these Conditions
- 2.1 These Conditions shall apply to all contracts for the sale of Goods by Francis Flower to You to the exclusion of all other terms and conditions including any terms or conditions which You may purport to apply under any purchase order, confirmation of order or similar document.
- 2.2 All orders for Goods shall be deemed to be an offer by You to purchase Goods pursuant to these Conditions.
- 2.3 Acceptance of delivery of the Goods shall be deemed conclusive evidence of Your 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 Francis Flower.
- 2.5 All supply is subject to availability.
- 3 Price and payment
- 3.1 The Price of the Goods shall be the price specified on Francis Flower's Quotation, which shall be binding on Francis Flower provided that You shall accept Francis Flower's Quotation within 30 days.
- 3.2 The Quotation shall constitute an offer to sell which may be accepted by You, subject to the right of Francis Flower in its absolute discretion to refuse to supply or apply special conditions as to payment in the event of Francis Flower receiving an unsatisfactory credit report on You.
- 3.3 The Price is exclusive of VAT, which shall be due at the rate ruling on the date of VAT invoice.
- 3.4 Francis Flower may be giving notice to You at any time up to 10 days before delivery increase the Price of the Goods to reflect any increase in the cost to Francis Flower which is due to factors occurring after the making of the contract of sale which are beyond the reasonable control of Francis Flower, provided that You may cancel this contract within 5 days of any such notice from Francis Flower.
- 3.5 Additional Charges will be made in accordance with Francis Flower's rates prevailing from time to time :-
- a) If delivery or collection is required outside Francis Flower's Normal Delivery Hours, and/or
- b) If delivery or collection is required in part loads rather than full loads of 30 tonnes, (or the carrying capacity of the vehicle if less), and/or
- c) If, for any reason, the delivery vehicle is unable to discharge its load in full within sixty minutes of arrival at the Delivery Site.
- 3.6 Payment of the Price and VAT shall be due within 28 days of the date of the invoice. Time for payment shall be of the essence.
- 3.7 All payments made by You under this agreement shall be made in full without any set-off or counter-claim whatever.
- 3.8 Interest and Charges on overdue invoices will be claimed in accordance with the Late Payment Interest Regulations.
- 4 The Goods
- 4.1 The quantity and description of the Goods shall be as set out in Francis Flower's Quotation.
- 4.2 Francis Flower may from time to time make changes in the specification of the Goods that are required to comply with any applicable safety or statutory requirements or which do not materially affect the quality or fitness for purpose of the Goods.
- 5 Warranties and liability
- 5.1 Francis Flower warrants that the Goods supplied will at the time of delivery correspond to the description given by Francis Flower and will be manufactured in accordance with all applicable British Standards which relate specifically to the Goods
- 5.2 No warranty is given that the Goods are suitable for any particular purpose unless You shall first have advised Francis Flower of all relevant factors relating to the particular purpose in writing and Francis Flower has confirmed in writing that the goods are suitable for that purpose.
- 5.3 All other warranties, conditions or terms relating to fitness for purpose, quality or condition of the Goods, whether express or implied by statute or common law or otherwise are excluded to the fullest extent permitted by law, provided that nothing in this contract shall restrict or exclude liability for death or personal injury caused by the negligence of Francis Flower.
- 5.4 You acknowledges and agrees that you do not and will not place any Order under these Conditions on the basis of any statement or representation made, given or agreed by or on behalf of Francis Flower (whether negligently or innocently made) except where expressly included in the Quotation or otherwise confirmed in writing, except that nothing in this clause shall operate to limit or exclude liability for fraud.
- 6 Delivery of the Goods
- 6.1 Delivery of the Goods shall be made to Delivery Site on the Delivery Date. The Goods may be delivered in advance of the Delivery Date upon the giving of reasonable notice to You. You shall make all arrangements to take delivery of the Goods whenever they are tendered for delivery.
- 6.2 Francis Flower may deliver the Goods by separate instalments. Francis Flower may raise a separate invoice and require payment for each instalment. The failure or refusal by You to take delivery or to pay for any one or more of the said instalments of the Goods on the due dates shall entitle Francis Flower (at the sole option of Francis Flower) to suspend further deliveries of the Goods pending payment by You, and/or to treat this contract as repudiated by You.
- 6.3 You must provide a safe and adequate access to the Delivery Site and the location within it at which You require discharge of goods, including adequate space to manoeuvre the delivery vehicle. If, in Francis Flower's opinion, the access is unsafe, inadequate or has insufficient manoeuvring space, then Francis Flower may, at its discretion, refuse to make delivery of goods.
- In that event You will pay:
- (a) the original delivery costs to the Delivery Site, and
- (b) 2/3 of the initial rate of the delivery for returning the load to its point of origin, and
- (c) additional handling costs for off loading the vehicle & putting the material back into store at £4.00 per tonne or the current charge then prevailing if higher.
- 6.4 You must provide at the Delivery Site a fully authorised employee or agent who must promptly:-
- a) Inspect the goods prior to discharge,
- b) Accept delivery of the goods when they arrive at his site, .
- c) Sign the Delivery Note,
- d) Sign to agree and authorise Additional Charges
- 6.5 You are responsible for the security, health and safety of our vehicles and employees at the Delivery Site, and making them aware of all health & safety procedures. Francis Flower reserves the right to inspect and have require prior sight of procedures before making any delivery. You agree to indemnify Francis Flower for any damage to the vehicles delivering goods and/or injury to the drivers of any such vehicles for any personal injury incurred by them whilst at the delivery site or on any access thereto not being a public highway, except to the extent that such damage or injury is due to the negligence of Francis Flower or the driver.
- 7 Acceptance of the Goods
- 7.1 You shall inspect the Goods on delivery and shall within 24 hours of delivery notify Francis Flower of any alleged defect, shortage in quantity, damage or failure to comply with description or sample. You shall afford Francis Flower an opportunity to inspect the Goods within a reasonable time following delivery and before any use is made of them. If You fail to comply with these provisions the Goods shall be conclusively presumed to be in accordance with the contract and free from any defect or damage which would be apparent on a reasonable examination of the Goods and You shall be deemed to have accepted the Goods.
- 8 Title and risk
- 8.1 The title to the Goods shall not pass to You until Francis Flower has received payment of the Price in full, together with interest and any Additional Charges. Until then Francis Flower may at any time repossess the Goods, and for this purpose may enter upon any premises where they are stored or where they are reasonably thought to be stored.
- 8.2 Risk shall pass on delivery of the Goods by Francis Flower or upon collection by You.
- 9 Your Remedies
- 9.1 If the Goods are not in accordance with the contract for any reason Your sole remedy shall be limited to Francis Flower making good any shortage by replacing such Goods or, if Francis Flower shall elect, by refunding a proportionate part of the Price.
- 9.2 Francis Flower's liability to You, whether for any breach of contract or otherwise, shall not in any event exceed the Price and Francis Flower shall be under no liability for any direct loss and/or expense or indirect loss and/or expense suffered by You or liability to third parties incurred by You.
- 9.3 Where You reject any Goods then You shall have no further rights whatever in respect of the supply to You of such Goods or the failure by Francis Flower to supply Goods which conform to the contract of sale.
- 9.4 Where You accept or are deemed to have accepted any Goods then Francis Flower shall have no liability whatever to You in respect of those Goods.
- 9.5 Francis Flower shall not be liable to You for late delivery or short delivery of the Goods.
- 10 Third Parties not intended that any term of these Conditions shall be enforceable by any third party as defined in the Contracts (Rights of Third Parties) Act 1999.
- 11 Dispute Resolution
- 11.1 If any dispute or difference arises out of or in connection with these Conditions the parties shall seek to resolve the dispute or difference amicably by using an Alternative Dispute Resolution (ADR) procedure acceptable to both parties.
- 11.2 If either party fails or refuses to agree to or participate in the ADR procedure or if in any event the dispute or difference is not resolved to the satisfaction of both parties within 90 days after it has arisen the dispute or difference may, by agreement of the parties, be resolved by arbitration, in which event such dispute or difference shall be referred to a single arbitrator to be agreed between the parties.
- 11.3 This contract is subject to the law of England and Wales, and the exclusive jurisdiction of the English Courts.