

TERMS & CONDITIONS OF SERVICE

1. Definitions

In these terms and conditions, the following words shall have the following meanings: “the Company” shall mean Erris Concrete (+ trading names). “the Goods” shall mean the materials to be supplied by the Company in accordance with these conditions. “the Buyer” shall mean the corporate entity firm or person seeking to purchase the Goods from the Company.

2. The Contract

All orders received and accepted by the Company only on these terms and conditions.

3. Price

- 3.1. Quotations remain open until written acceptance but may be withdrawn if written acceptance has not been received by the Company within 30 days of quotation
- 3.2. Quotations based on all costs applicable to the supply of goods at the date of the quotation. Prices may be adjusted to reflect any increase in any applicable cost occurring after the date of the quotation.
- 3.3. Unless otherwise stated all prices quoted are net ex-works and exclusive of V.A.T.
- 3.4. Unless otherwise stated all prices quoted delivered are for delivery to site or as near thereto as safe roadway permits.
- 3.5. Unless otherwise expressly agreed by the Company in writing, prices cover only delivery and working days and during working hours.
- 3.6. All deliveries made or work done at the buyer’s request on Bank Holidays, Sundays, Saturday afternoons, and outside normal working hours will be subject to extra charges.
- 3.7. Part load charges will be made when the buyer requests deliveries to be made in quantities of less than a full load.

4. Payment

- 4.1. If we have agreed to offer credit terms, Net payment for goods must be received by the Company no later than 7 days from date of invoice. Non account customers are to pay in full on the day of delivery. Any invoice outstanding beyond this period may be referred to the

Company’s nominated collection agent and will be subject to a surcharge of 15% of the invoice value plus VAT to cover the collection costs incurred. This surcharge, together with all other charges and legal fees incurred, will be the responsibility of the Customer and will be legally enforceable.

- 4.2. The Company may at its discretion execute any further order and/or suspend or discontinue deliveries of goods or impose such special payment terms and conditions as the Company deems appropriate.
 - 4.3. Where any payment for goods has not been received by the Company within the time limit specified above, the Buyer shall also pay the Company interest on the net payment due at a rate of 4% per annum above the base rate charged by Barclays Bank Plc from the date of supply of the goods until the date when payment of the goods has been received by the Company.
 - 4.4. The Buyer shall not be entitled to withhold payment of any amount payable to the Company by reason of any dispute or claim by the Buyer and in the case of any incorrect or short delivery shall remain liable to pay the full invoice price of all goods delivered or available for delivery.
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- 5.1. Delivery shall be at the delivery address specified in the quotation or order acknowledgement or in the absence of any such address at the Company’s depot.
 - 5.2. Delivery dates mentioned in any quotation, order acknowledgement or elsewhere are approximate only and not of any contractual effect. The Company shall not have any liability for loss or damage (including loss or profit and consequential loss) to the Buyer in respect of any failure to deliver on any particular date or dates.
 - 5.3. Delivery of goods may be totally or partially suspended during any period in which it is prevented or hindered from such delivery by reason of any circumstances beyond its control (including but not limited to the default of any person firm of company engaged by the buyer) and such suspension shall not give rise to any claim by the Buyer against the Company nor shall it give the Buyer the right to terminate any agreement with the Company.

- 5.4. The Company's obligation is to deliver as near to site as a safe hard road permits. If a vehicle used for performing the Company's obligations to the Buyer is required to deliver the goods to a place off the public road the Buyer shall be responsible for ensuring safe and satisfactory access to such place and shall be solely responsible for any accident or damage resulting from his failure to do so and shall indemnify the Company against all claims loss or damage thereby caused except where such loss or damage is caused by the negligence of the Company's employees. If the Company vehicle is kept on site longer than 30 minutes an additional charge will be made.
- 6. Title and Risk**
- 6.1. The risk of the goods shall pass to the Buyer when the goods are unloaded at the Buyer's site or collected by the Buyer or his agent.
- 6.2. Notwithstanding delivery and passing of the risk, the ownership of the Goods shall remain with the Company until the Company has received in cash or cleared funds payment in full of the price of the Goods.
- 6.3. Until the ownership of the Goods passes, the Buyer shall store the Goods in such a way that they are readily capable of being identified as the Company's property.
- 7. Liability**
- 7.1. Nothing in the clause 7 shall exclude or restrict the Company's liability for death or personal injury resulting from negligence.
- 7.2. The Company's liability in respect of defects in the goods including failure to comply with the specifications, such specifications having been given to and accepted by the Company in full at the time of enquiry, is limited to the cost of removal and replacement as defined in 7.3 below. The Company can only accept such liability where the Buyer can establish that:
- 7.2.1. No additional water in excess of the amount recommended, or any other material has been added to the product without the prior agreement with the Company.
- 7.2.2. The sample tested has been taken during discharge from the Company's vehicle or from a central mixer in the case of collect goods from the Company's depot, in accordance with the relevant clauses of BS 1881 and BS 5328.
- 7.2.3. All sampling making, curing, and testing of specimens has been carried out in accordance with the relevant clauses of BS 1881 and BS 5328.
- 7.2.4. Test results have been interpreted with BS 5328 or any other specification previously accepted in writing by the Company.
- 7.2.5. References to compressive strength in the specification shall unless otherwise agreed refer to compressive strength obtained from concrete cubes, made cured and tested in accordance with BS 1881 and BS 5328.
- 7.2.6. The Buyer has notified the Company within 40 days of the delivery of the goods of their failure to comply with the specification.
- 7.2.7. The Company has been given the opportunity of investigating any alleged defect and of making representations as to any remedial action to be taken.
- 7.3. The cost of removal and replacement shall be in all circumstances limited to the cost of removing and replacing the goods as laid and shall exclude any additional costs arising from the Buyer having carried out any operation on or over the laid goods. Because of such limitation the Buyer intending to carry out operations which would prevent the removal and replacement of the defective goods or add to the cost of doing so is advised to check that the goods meet the specification before commencing such operations.
- 7.4. Subject as expressly provided in these conditions and except where the goods are sold to a person dealing as a Consumer (within the meaning of the Unfair Contract Terms Act 1977) all warranties, conditions or other terms implied by statute or common law are excluded to the fullest extent permitted by law.
- 7.5. Where the goods are sold under a consumer transaction (as defined by the Consumer Transaction (Restriction of Statements) Order 1976) the statutory rights of the Buyer are not affected by any conditions.