

Johnsons Aggregates and Recycling Ltd.

Standard Terms and Conditions of Sale

1. Definitions and Interpretation

1.1. In the Conditions the following definitions apply:

- 1.1.1. "Authorised Signatory" means an individual at Delivery Location that signs the Company's delivery note. It remains the Customers responsibility to ensure that said person is duly authorised by the Company to direct and accept delivery of the Goods.
 - 1.1.2. "Business Day" means any day which is not a Sunday or a Public holiday;
 - 1.1.3. "Company" shall mean Johnsons Aggregates and Recycling Limited. (JAR)
 - 1.1.4. "Conditions" means these Terms and Conditions of Sale as shown on Company's website and available on request;
 - 1.1.5. "Confidential Information" means all information relating to Company's business and affairs which the Customer directly or indirectly receives or acquires from Company or any representative of Company either in writing, by electronic mail or verbally;
 - 1.1.6. "Contract" means the Contract between Company and the Customer for the supply of Goods;
 - 1.1.7. "Customer" means the person or firm who purchases the Goods from Company;
 - 1.1.8. "Delivery Location" means the location of the site as laid out in the quotation and subsequent Purchase Order (where issued). It remains Customers responsibility to ensure that any person that directs Company's driver to unload the Goods is properly authorised by Customer.
 - 1.1.9. "Goods" means the goods (or any part of them) set out in the quotation typically comprising processed incinerator bottom ash aggregate, minerals, waste and by-products;
 - 1.1.10. "Goods Specification" means any specification for the Goods provided by Company to the Customer;
 - 1.1.11. "Insolvency Event" means the Customer:
 - 1.1.11.1. enters into an arrangement, compromise or composition in satisfaction of its debts (excluding a scheme of arrangements as a solvent company for the purposes of amalgamation or reconstruction); or
 - 1.1.11.2. without a declaration of solvency, it passes a resolution or makes a declaration that it be wound up; or
 - 1.1.11.3. has a winding up order or bankruptcy order made against it; or
 - 1.1.11.4. has appointed to it an administrator or administrative receiver; or
 - 1.1.12. "Price" means the price of the Goods excluding VAT as agreed in writing by Company;
 - 1.1.13. "Proposal" means the offer made by Company to deliver the Goods required. Such a Proposal may take the form of an email;
 - 1.1.14. "Public Holiday" means Christmas Day, Good Friday or a day which under the Banking and Financial Dealing Act 1971 is a bank holiday;
 - 1.1.15. "Specifications" means the Company's Specification as modified by Company's Proposal;
 - 1.1.16. "Warranty" means any warranty concerning the Goods given by Company in the Conditions or otherwise in writing, and "Warranty Period" means the period (if any) of such warranty.
- 1.2. Headings, references to persons, legislation etc.
- 1.2.1. In the Contract and these Conditions, unless the context others requires:
 - 1.2.1.1. the headings are included for convenience only and shall not affect the interpretation of the contract;
 - 1.2.1.2. the singular includes the plural and vice versa;
 - 1.2.1.3. a gender includes any gender;
 - 1.2.1.4. a reference to a 'person' includes any individual, firm, partnership, company and any other body corporate; and
 - 1.2.1.5. a reference to a statute, statutory instrument or other subordinate legislation ("legislation") is to such legislation as amended and in force from time to time, including any legislation which re-enacts or consolidates it, with or without modification.
- 1.3. Reckoning period of Days
- 1.3.1. Where under the Contract an act is required to be done within a specified period of days after or from a specified date, the period shall begin immediately after that date. Where the period would include a day which is a Public Holiday that day shall be excluded.

2. Basis of Contract

- 2.1. These conditions apply to all agreements for the supply of Goods by the Company and supersede any previous Terms and Conditions. No additions or modifications to, or terms inconsistent with these conditions shall be binding upon the Company unless specifically agreed in writing by the Company.
- 2.2. The Company shall provide a quotation related to sale of the Goods. This quotation may either be in writing or be given verbally.
- 2.3. The price stated in Quotation or Sales Order is valid for 30 days from the date of issue of the Quotation or Sales Order.
- 2.4. The Contract shall not come into force until the Customer has either sent Company a purchase order number that has been accepted by Company. or (if earlier) the Company delivers the Goods to the Customer with a Delivery Note, or the Customer

collects the Goods from the Company and is issued an advice note by the Company (as the case maybe). Any of the above events constitutes agreement by the Customer to purchase Goods and/or Services in accordance with the Conditions on which date the Contract shall come into existence (the "Commencement Date").

- 2.5. The Contract constitutes the entire agreement between the parties. The Customer acknowledges that it has not relied on any statement, promise or representation made or given by or on behalf of the Company which is not set out in the Contract.
- 2.6. Any samples, drawings, technical details and descriptive matter or advertising issued by the Company and any descriptions of the Goods contained on Company's website are published for the sole purpose of giving an approximate idea of the Goods described in them. They shall not form part of the Contract or have any contractual force unless specific reference is made to them in the Sales Order.
- 2.7. Company shall not be liable for any typographical, clerical or other error or omission in any sales literature, quotation, price list, Sales Order, invoice or the document or information issued by Company, which shall be corrected and Company shall take all reasonable steps to bring any such correction to the Customer's attention.
- 2.8. The Conditions apply to the Contract to the exclusion of any other terms that the Customer seeks to impose or incorporate, or which are implied by trade, custom, practice or course of dealing.
- 2.9. Orders are accepted by the Company is subject to availability of Goods for delivery.
- 2.10. Acceptance of Delivery of any of the Goods shall be deemed conclusive evidence of the Customers acceptance of Company's Terms and Conditions of Sale.

3. Price and Cancellation

- 3.1. The price for the Goods shall be that agreed between Company and the Customer and set out in the acknowledgement of order, quotation, delivery note, or advice note.
- 3.2. The price for the Goods shall be exclusive of any value added tax and any other government duty or tax which the Customer shall pay in addition when it is due to pay for the Goods.
- 3.3. Company reserves the right to increase the price of the Goods where the costs to Company are subject to increases beyond the control of Company. Customer shall be given at least 7 days' notice of its intent to increase prices.
- 3.4. Company reserves the right to recover costs it incurs should Customer cancel the Contract within 24 hours of the due delivery date.

4. Goods

- 4.1. The Goods are described on the Company's website-
- 4.2. Customer acknowledges that because the material is made from remanufactured material variations in the characteristics (including colour) of the Goods will occur from time to time despite the Company's efforts to maintain consistency. Consistency and such variations shall not render the Goods defective or the Company liable.
- 4.3. Company reserves the right to make technical and design changes at any time.
- 4.4. All recommendations and advice given by or on behalf of the Company to the Customer as to methods of storing, using or applying the Goods, the purposes for which the Goods may be applied and the suitability of using the Goods in any manufacturing process or in connection with any other materials are given without liability on the part of the Company.
- 4.5. It is for the Customer to satisfy himself of the suitability of the Goods for his own particular purpose and any implied warranty or condition (statutory or otherwise) as to fitness for purpose is excluded. The Company makes no representations and gives no warranties as to the quality, condition, state or description of the Goods including but not limited to any warranty that the Goods will be free from any contamination particularly (without limitation) where the Goods are remanufactured.

5. Delivery or Collection of Goods

- 5.1. The Company shall deliver the Goods to the location set out in the Sales Order or such other location as the parties may agree in writing (the "Delivery Location").
- 5.2. The Company shall not be liable for any delay in delivery of the Goods.
- 5.3. Where the Company is required to deliver the Goods, the Customer shall ensure safe and easy access for Company's delivery vehicles. If in Company's opinion such access is not available or any road or ground over which the delivery vehicles would have to travel is in Company's opinion unsuitable, Company reserves the right to refuse to deliver the Goods. Further, should the Company incur any extra costs and expenses as a result of the Customer's failure to ensure suitable access for delivery of the Goods, the Company shall be entitled to recover all such extra costs and expenses in addition to the price payable for the Goods.
- 5.4. Company reserves the right to deliver the Goods in instalments. Each separate instalment shall be invoiced and paid for in accordance with the provisions of the Contract. Each instalment shall be a separate Contract and no cancellation or termination of any one Contract relating to an instalment shall entitle the Customer to repudiate or cancel any other Contract or instalment.
- 5.5. Unless otherwise agreed in writing, delivery of the Goods shall be completed on the discharge of the Good's at the Delivery Location.
- 5.6. The Customer shall inspect deliveries immediately and sign the Delivery Note as required by Company driver. If the Goods do not comply with the Sales Order or the delivery note or if visible defects are identified, the Customer shall notify Company immediately and not more than one Business Day after delivery.

Johnsons Aggregates and Recycling Ltd.

Standard Terms and Conditions of Sale

- 5.7. If the Customer fails to accept or take delivery of the Goods when they are ready for delivery, or fails to give Company adequate delivery instructions, Company may:
- 5.7.1. Charge Customer waiting time at the rate of £15 per 15 minute period following a 15 minute grace period should Company's vehicle not be able to discharge the Goods on arrival;
- 5.7.2. store the Goods until actual delivery and charge the Customer for the reasonable costs of storage, whereupon the Customer shall be liable for all related costs and expenses (including, without limitation, storage, redelivery and insurance); or
- 5.7.3. sell the Goods at the best price readily obtainable and (after deducting all reasonable storage and selling expenses) charge the Customer for any short fall below the Contract price.
- 5.8. Where the Customer collects Goods from the Company, the Customer must act in accordance with the Company's operational procedures at that site and follow all instructions given by the Company. Company will not be liable for loss or damage to the Customer's property which results from the failure of the Customer to comply with Company's site operation procedures and instructions.

6. Title and Risk

- 6.1. In the case of Company delivery of the Goods, risk in the Goods shall pass to the Customer on commencement of offloading at the Delivery Location.
- 6.2. In the event of Customer collection, risk shall pass the moment the material is loaded onto Customer's vehicle.
- 6.3. Title to the Goods shall not pass to the Customer until Company has received payment in full (in cash or cleared funds) for the Goods.
- 6.4. Until title to the Goods has passed to the Customer:
- 6.4.1. the Customer hold the Goods on a fiduciary basis as Company's bailee.
- 6.4.2. the Customer shall store the Goods separately from all other goods held by the Customer so that they remain readily identifiable as the Company's property;
- 6.5. If before title to the Goods passes to the Customer or the Customer becomes subject to any Insolvency Event, or Company reasonably believes that any such event is about to happen and notifies the Customer accordingly then, without limiting any other right or remedy Company may have, Company may at any time require the Customer to deliver up the Goods and, if the Customer fails to do so promptly, may enter any premises of the Customer or of any third party where the Goods are or may be stored in order to recover them.

7. Customer's Obligations

- 7.1. The Customer shall:
- 7.1.1. ensure that the terms of the Sales Order are complete and accurate;
- 7.1.2. co-operate with Company in all matters relating to the Contract;
- 7.1.3. provide Company with such information as Company may require to perform the Contract and ensure that such information is accurate in all material respects; and
- 7.1.4. perform any other obligations of the Customer set out in the Conditions, the Sales Order and/or the Quotation.
- 7.1.5. Provide Company and any of its representative's full access to the Delivery Location provided that Company ensures personnel comply fully with Site Safety Requirements
- 7.2. If Company's performance of any of its obligations in respect of the Contract is prevented or delayed by any act or omission of the Customer or failure of the Customer to perform any relevant obligation (a "Customer Default"):
- 7.2.1. Company shall without limiting its other rights or remedies have the right to suspend performance of the Contract or any part of the Contract until the Customer remedies the Customer Default, and to rely on the Customer Default to relieve it from the performance of any of its obligations to the extent the Customer Default prevents or delays Company's performance of any of its obligations;
- 7.2.2. the Customer shall grant Company a reasonable extension of time for completion of the Contract; and
- 7.2.3. the Customer shall reimburse Company on written demand for demonstrable costs or losses sustained or incurred by Company arising from any Customer Default.
- 7.3. The Customer agrees to indemnify the Company against all damages, losses, costs, claims or expenses incurred by the Company in respect of any claim brought against the Company by any third party for:
- 7.3.1. any loss, injury or damage wholly or partly caused by the Goods or their use by the Customer;
- 7.3.2. any loss, injury or damage in any way connected with the performance of this Contract, provided that this clause will not require the Customer to indemnify the Company against liability for the Company's own negligence.
- 7.3.3. The Customer undertakes that it will maintain sufficient insurance to cover its potential liabilities under the Contract and the Customer shall provide proof of such insurance to the Company if so requested by the Company.
- 7.4. The Customer shall indemnify the Company and its employees, drivers and agents against any damage or injury caused by the acts and/or omissions of the Customer, its employees, subcontractors or agents while the delivery vehicle is present on or accessing the Customer's site.

8. Payment

- 8.1. The Customer shall pay each invoice submitted by Company:
- 8.1.1. within 30 calendar days of the end of the month invoiced (the "Due Date for Payment"); and
- 8.1.2. in full and in cleared funds to a bank account nominated in writing by the Company.
- 8.2. Without limiting any other right or remedy of the Company, if the Customer fails to make any payment due to Company under this Contract by the Due Date for Payment Company shall have the right to:
- 8.2.1. charge interest on the overdue amount in accordance with the Late Payment of Commercial Debts (Interest) Act 1998 at a rate of 4% per annum above the base lending rate for the Bank of England at the time; and
- 8.2.2. treat the failure to make payment as a Customer Default and the provisions of clause 8.2 shall apply (mutatis mutandis).
- 8.2.3. cancel the contract or suspend any further deliveries of Goods to the Customer without prejudice to its right to recover all sums due to it and to charge the Customer the expenses of cancellation or suspension (on an indemnity basis);
- 8.2.4. enter the Customer's premises and repossess and sell any Goods delivered;
- 8.2.5. ask for payment in advance before delivery of any further goods;
- 8.3. The Customer shall pay all amounts due under the Contract in full without any deduction, withholding except as required by law and the Customer shall not be entitled to assert any credit, set-off or counterclaim against Company in order to justify withholding payment of any such amount in whole or in part. Without limiting the generality of the foregoing, the Customer shall not withhold payment if delivery has been accepted by Customer.

9. Warranty

- 9.1. Company's liability for any breach of the Warranty is subject to:
- 9.1.1. the Customer having paid in full for the Goods;
- 9.1.2. the Customer giving notice in writing with indisputable evidence to Company during the Warranty Period within 14 days of Delivery that some or all of the Goods do not comply with the Proposal;
- 9.1.3. the Customer giving Company a reasonable opportunity of examining the Goods in the condition relevant to the Warranty claim;
- 9.1.4. the Customer being able to demonstrate that the Goods have been stored in accordance with Company's guidelines
- 9.2. In the event of any dispute arising between the parties as to whether a defect is covered by the Warranty, the parties hereby agree to refer the dispute to an industry expert accepted by both Parties whose decision shall be final and binding on the parties and whose fees shall be shared equally between the parties.
- 9.3. The Company makes no warranty as to the suitability of the Goods for any particular purpose.
- 9.4. All warranties, conditions and other terms implied by statute or common law (save for the conditions implied by section 12 of the Sale of Goods Act 1979) are, to the fullest extent permitted by law, excluded from the Contract.

10. Limitation of Liability

- 10.1. Nothing in the Contract shall limit or exclude Company's liability for death or personal injury caused by its negligence, or the negligence of its employees, agents or subcontractors.
- 10.1.1. Company shall under no circumstances be liable to the Customer, whether in contract, tort (including negligence), breach of statutory duty, or otherwise, for any indirect or consequential loss including but not limited to loss of profit, income, revenue, production or plant availability, loss of use or availability of any premises or for any third party losses (including damage to third party property), anticipated savings, opportunity data, or goodwill, arising under or in connection with the Contract;
- 10.1.2. except as expressly provided for in the Conditions, Company shall have no liability to the Customer in respect of the breach of any Warranty;
- 10.1.3. Company's total liability to the Customer for negligence shall not exceed the contract value; and
- 10.1.4. Company's total liability to the Customer in respect of all other losses arising under or in connection with the Contract, whether in contract, tort, breach of statutory duty, or otherwise, shall in no circumstances exceed 100% of the monies received by Company under the Contract.
- 10.2. Except as set out in the Conditions or the Sales Order, all warranties, conditions and other terms implied by statute or common law (including implied warranties of satisfactory quality and of suitability or fitness for a particular purpose) are, to the fullest extent permitted by law, excluded from the Contract.

11. Termination (This clause 11 shall survive termination of Contract)

- 11.1. The Company has the right to terminate if the Customer:
- 11.1.1. does not pay by the Due Date the amount properly due to Company in respect of any invoice and/or any VAT properly payable on that amount; or
- 11.1.2. fails to comply with clause 15.2 or any other obligation under this agreement; Company may give to the Customer a notice specifying the default or defaults (a "specified default or defaults")

Johnsons Aggregates and Recycling Ltd.

Standard Terms and Conditions of Sale

- 11.2. If a specified default continues for 14 days from receipt of notice under clause 12.1 Company may at any time by further notice to the Customer terminate the Contract.
- 11.3. If the Customer becomes subject to an Insolvency Event, Company may by notice to the Customer terminate the Contract.
- 11.4. On termination of the Contract:
- 11.4.1. other than arising from an Insolvency Event, the Customer shall immediately pay to Company all of Company's outstanding invoices and interest and, in respect of Goods or Services supplied or any additional cost arising from the default or termination but for which no invoice has yet been submitted, Company shall submit an invoice which shall be payable by the Customer immediately on receipt;
- 11.4.2. If so requested the Customer shall return all of Company's Goods, which have not been fully paid for, and if the Customer fails to do so, then Company may enter the Customer's or any third parties premises and take possession of them, and until they have been returned the Customer shall be solely responsible for their safe keeping and will not use them for any purpose not connected to the Contract;
- 11.4.3. the Customer will be liable for all the loss and/or expense suffered or incurred by Company as a result of the termination, including (without limitation) any diminution in the value of any Goods returned to Company, and loss of profit;
- 11.4.4. the accrued rights and remedies of the parties as at termination shall not be affected, including the right to claim damages in respect of any breach of the Contract which existed at or before the date of termination; and
- 11.4.5. clauses which expressly or by implication have effect after termination shall continue in full force and effect.
- 12. Force Majeure**
- 12.1. For the purposes of this Contract "Force Majeure Event" means an event beyond the reasonable control of the Company including but not limited to strikes, lock-outs or other industrial disputes (whether involving the workforce of Company or another party), failure of a utility service or transport network, act of God, war, riot, civil commotion, terrorism, malicious damage, compliance with any law or government order, rule, regulation or direction, accident, breakdown of plant or machinery, fire, flood, storm or the default of Company's or subcontractors.
- 12.2. Company shall not be liable to the Customer as a result of any delay or failure to perform its obligations under this Contract as a result of a Force Majeure Event.
- 12.3. If a Force Majeure Event prevents Company from providing any of Goods for more than 14 days, Company shall, without limiting its other rights or remedies, have the right to terminate the Contract immediately by giving written notice to the Customer.
- 13. Disputes**
- 13.1. Any dispute or difference between the parties as to the interpretation of the Contract or in respect of any matter or thing arising under, out of or in connection with the Contract which cannot be settled amicably by Company and the Customer shall be submitted to and decided by a single arbitrator (the Arbitrator), such arbitration to be held in the City of London.
- 13.2. The Arbitrator shall be appointed by agreement between Company and the Customer, or, failing agreement within 14 days of either of them requesting such agreement, by the current President of the Chartered Institute of Arbitrators.
- 13.3. The procedure to be followed shall be agreed by Company and the Customer, or, in default of agreement, decided by the Arbitrator.
- 13.4. If either Company or the Customer defaults in respect of any procedural order made by the Arbitrator, the parties agree that that Arbitrator shall have power to proceed with the arbitration in the absence of that party and deliver his award.
- 13.5. The parties agree that the decision of the Arbitrator shall be final and binding on the Company and the Customer and shall not be subject to appeal or other judicial review.
- 14. Notices**
- 14.1. Any notice or communication required to be given to a party under or in connection with this Contract shall be in writing and may be given or served by any effective means to the recipient at the address specified in the Sales Order or such other address as it may notify to the other party. If no such address is current, the notice or other communication shall be treated as effectively given or served if addressed and sent by pre-paid post to the recipient's last known principal business address or (where a body corporate) its registered office.
- 15. General**
- 15.1. **Assignment and subcontracting.** Company may at any time assign, transfer, charge, subcontract or deal in any other manner with all or any of its rights under the Contract and may subcontract or delegate in any manner any or all of its obligations under the Contract to any third party.
- 15.2. The Customer shall not, without the prior written consent of Company, assign, transfer, charge, subcontract or deal in any other manner with all or any of its obligations under the Contract.
- 15.3. **Waiver and cumulative rights.** A waiver by Company of any right under the Contract is only effective if it is in writing and shall not be deemed to be a waiver of any subsequent breach or default. No failure or delay by Company in exercising any right or remedy under the Contract or by law shall constitute a waiver of that or any other right or remedy, nor preclude or restrict its further exercise. No single or partial exercise of such right or remedy shall preclude or restrict the further exercise of that or any other right or remedy.
- 15.4. Unless specifically provided otherwise, rights arising under the Contract are cumulative and do not exclude rights provided by law.
- 15.5. **Agency.** Nothing in the Contract is intended to or shall be deemed to constitute a partnership or joint venture of any kind between any of the parties, nor constitute any party the agent of another party for any purpose. No party shall have the authority to act as agent for, or to bind, the other party in any way.
- 15.6. **Confidentiality.** The Customer shall not disclose Confidential Information unless:
- 15.6.1. disclosure is necessary for the proper performance of the Contract;
- 15.6.2. it is in the public domain other than due to wrongful use or disclosure; or
- 15.6.3. disclosure is required by law or because of disputes arising out of or in connection with the Contract.
- 15.7. **Severance.** If a court or any other competent authority finds that any provision of the Contract (or any part of any provision) is invalid, illegal or unenforceable, that provision or part-provision shall, to the extent required, be deemed deleted, and the validity and enforceability of the other provisions of the Contract shall not be affected.
- 15.8. If any invalid, unenforceable or illegal provision of the Contract would be valid, enforceable and legal if some part of it were deleted, the provision shall apply with the minimum modification necessary to make it legal, valid and enforceable.
- 15.9. **Contracts (Rights of Third Parties) Act 1999.** Notwithstanding any other provision of the Contract, nothing in the Contract confers or is intended to confer any right to enforce any of its terms on any party who is not a party to it.
- 15.10. **Variation.** Except as set out in these Conditions, any variation, including the introduction of any additional terms and conditions, to the Contract shall only be binding when agreed in writing and signed by Company.
- 15.11. **Privacy.** The Company has developed policies and procedures that fulfil the principles of Article 5 of GDPR in that personal data is processed fairly, lawfully and in a transparent manner in relation to the data subject, collected for specified, explicit and legitimate purposes and not further processed for other purposes incompatible with those purposes, is adequate, relevant and limited to what is necessary in relation to the purposes for which data is processed. The data is accurate and, where necessary, kept up to date, kept in a form that permits identification of data subjects for no longer than necessary for purposes for which personal data is processed, and is processed in a way that ensures appropriate security of the personal data including protection against unauthorised or unlawful processing and against accidental loss, destruction or damage using appropriate technical or procedural measures.
- 15.12. **Applicable law.** The Contract, and any dispute or claim arising out of or in connection with it or its subject matter or formation (including non-contractual disputes or claims), shall be governed by, and construed in accordance with, English law, and the parties irrevocably submit to the exclusive jurisdiction of the courts of England and Wales (subject to right of either party to enforce a judgement obtained in the courts of England and Wales in any other jurisdiction).