

**TERMS AND CONDITIONS WHICH APPLY TO THE SUPPLY OF CONCRETE PRODUCTS BY
ANY MEMBER OF THE BREEDON GROUP**

Please in particular note Clause 3.6 (Additional Charges) and Clause 10 (Limitation of Liability)

1. DEFINITIONS AND INTERPRETATION

1.1 In these Conditions:

"Additional Charge(s)" means the additional charge(s) payable in addition to the Contract Price for the Products provided for in Clause 3.4.

"Breedon Group" means Breedon Cement Limited (CRN: 08284549) Breedon Southern Limited (CRN: 00156531) both having their registered office at Pinnacle House, Breedon Quarry, Breedon on the Hill, Derby, DE73 8AP and/or Breedon Northern Limited (CRN: SC144788) having its registered office at Ethiebeaton Quarry, Kingennie, Monifieth, Angus, DD5 3RB or any other company within the Breedon Group of companies, further details of which can be found at www.breedongroup.com.

"Calendar Days" means all days including Saturdays, Sundays and Bank Holidays.

"Company" means the member of the Breedon Group supplying the Products to the Purchaser.

"Conditions" means the terms and conditions set out in this document and includes any special terms and conditions set out in the Company's quotation or otherwise agreed in writing between the Company and the Purchaser.

"Contract" means the contract between the Company and the Purchaser for the supply of Products incorporating these Conditions.

"Contract Price" means the amount payable by the Purchaser to the Company pursuant to the Contract in respect of the supply of the Products.

"Defect" means any material shortcoming or material non-conformity in the condition and/or attributes of the Products as compared with the requirements of the Contract.

"Delivery" means the time when the Purchaser is notified that the Products are available for collection or (in the case of delivered Products) the time when the Products arrive at the Site, subject to Clauses 6.1 to 6.4.

"Delivery Ticket" means the ticket issued by the Company and accompanying the Products on Delivery.

"Losses" means all and any costs claims damages or liabilities whether direct or indirect suffered or incurred by the Company.

"Products" means concrete blocks, beams and other products to be supplied by the Company to the Purchaser (including any part or parts of them) and shall (in the context of exclusions or limitations of the Company's liability contained in the Conditions or where the context admits or requires) include goods, materials or parts as aforesaid which are defective or otherwise non-compliant with the obligations of the Company pursuant to the Contract or otherwise.

"Party" means a party to the Contract.

"Product Specification" means the material safety data sheet and/or the specification of the materials forming part of the Products as shown at www.breedongroup.com.

"Purchaser" means the person who purchases the Products from the Company.

"Quotation" means the Company's quotation given to the Purchaser for the supply by the Company of the Products.

"Site" means the address to where the Products are to be delivered as set out in the Quotation.

"Specification" means the Product Specification and the Technical Specification.

"Technical Specification" has the meaning set out in Clause 4.6.

"Third Party" means any person firm or company other than the Purchaser or the Company.

- 1.2 Headings are for convenience only and do not affect interpretation.
- 1.3 A reference to a particular law is a reference to that law as it is in force for the time being and from time to time taking account of any amendment, extension, variation or re-enactment and includes any subordinate legislation for the time being and from time to time in force made under it.
- 1.4 Words in the singular include the plural and vice versa.
- 1.5 A person includes a natural person, company or unincorporated association (whether or not having a separate legal personality). A reference to a party includes its personal representatives, successors or permitted assigns.
- 1.6 Any phrase introduced by the terms including, include, in particular or any similar expression shall be construed as illustrative and shall not limit the sense of the words preceding those terms.
- 1.7 A reference to writing or written includes email but not facsimile communications.

2. BASIS AND FORMATION OF THE CONTRACT

- 2.1 All Products supplied by the Company shall be subject to these Conditions, and any Contract shall be on the basis of these Conditions, to the exclusion of all other terms and conditions.
- 2.2 Any Quotation issued by the Company may be withdrawn at any time before acceptance of an order and shall be deemed to be withdrawn if an order is not received within 30 days of its date unless stated otherwise on the Quotation.
- 2.3 A Quotation does not constitute an offer to supply the Products on any other basis than a Contract incorporating these Conditions and no contract shall exist until there has been an order from the Purchaser which has been accepted by the Company and any such order shall be deemed to be an offer by the Purchaser to purchase the whole of the Products as set out in the Quotation (and not part only) subject to these Conditions.
- 2.4 The Quotation shall set out, in detail, the Products required, and the Purchaser shall be responsible for checking the Quotation is accurate and complete. Details required include the location of the Site, any restrictions as to access to the Site (including any parking or unloading restrictions on the public highway adjacent to the Site).
- 2.5 The Company reserves the right to make any change to the specification of the Products which do not materially affect the quality and performance of the Products or which is required by law or applicable regulatory requirements.
- 2.6 Any purported amendment or variation to these Conditions or purported cancellation by the Purchaser of the Contract in whole or in part shall have no effect unless expressly agreed in writing and signed by an authorised representative of the Company.
- 2.7 Subject to Clause 9.3.4 below, the Purchaser acknowledges that it has not relied on any statement, promise or representation in relation to the Products (including design, planning or logistics of the Products or the use, strength, fitness for any purpose, surface area yield, storage or handling of the Products) made or given by or on behalf of the Company either before or after the date of the Contract which is not set out in the Contract.
- 2.8 All samples, drawings, descriptive matter, specifications and advertising issued by the Company to Purchasers and any descriptions or illustrations contained in the Company's literature or web sites are issued or published for the sole purpose of giving product information or as a guide for Purchasers in relation to the Products described in them and can be relied upon by the Purchaser. They shall not form part of the Contract with a Purchaser or be treated as a description of the Products unless expressly stated in writing to be such in the Contract. No Products are sold by sample.
- 2.9 The Company may withdraw any Order, at any time after acceptance, if the Purchaser does not meet any credit checks carried out by the Company, or the Company is unable to obtain credit

insurance in respect of the debts (actual or anticipated) of the Purchaser in relation to the Products, on commercially sensible terms.

3. PRICE

- 3.1 The Contract Price is fixed for the period set out in the Quotation.
- 3.2 Clauses 3.1 to 3.2 shall override any other provision relating to price in any estimate given by the Company or which the Purchaser seeks to impose, or incorporate, or which are implied by trade, custom, practice or course of dealing.
- 3.3 The Contract Price shall be exclusive of any VAT or other applicable sales taxes duties and/or levies and of any Additional Charges, all of which amounts the Purchaser shall pay in addition to and together with and on the same due date as the Contract Price. The Contract Price is inclusive of aggregates levy and carbon levy as at the rate in force at the date of the Conditions. The Company reserves the right to increase the Contract Price in the event of any such increase in the aggregates levy and/or carbon levy.
- 3.4 Without prejudice to any other rights or remedy available to the Company an Additional Charge may be made if:
- 3.4.1 the Purchaser incurs any of the additional charges set out on the relevant Quotation; or
 - 3.4.2 the Purchaser is notified prior to or at the time of acceptance of the order that an additional charge will be made for Delivery using more vehicles than are set out on the Quotation; or
 - 3.4.3 Delivery is to be performed outside the Company's normal working hours (8am to 5pm Monday to Friday) or on a bank or public holiday; or
 - 3.4.4 the Purchaser re-directs, refuses or fails to take or permit a Delivery, fails to give sufficient Delivery instructions, or fails to obtain appropriate licences or authorisations which prevents or delays Delivery; or
 - 3.4.5 the Products are not offloaded within the times permitted as are set out in the Quotation (time being of the essence for the purposes of this Clause 3.4.5); or
 - 3.4.6 Delivery cannot be performed due to unsuitable or unsafe access to the Site (but for the avoidance of doubt the Company is under no obligation to deliver the Products in such circumstances); or
 - 3.4.7 the Purchaser makes a request to change the Delivery dates, quantity or types of Products ordered, or to change the Technical Specification; or

- 3.4.8 the Purchaser varies or cancels any Delivery without giving at least 48 hours' notice to the Company; or
- 3.4.9 the Purchaser requests the sampling or testing of Products other than the Company's routine laboratory analysis and quarry control.

4. PRODUCTS: SPECIFICATION AND USE

- 4.1 The Company warrants to the Purchaser that the Products shall conform in all material respects to the Product Specification. The Company shall have no liability to the Purchaser as to the suitability of the Products for any particular purpose and the Purchaser must rely on its own skill and judgment.
- 4.2 The Company does not accept any responsibility or liability for the design of the Products and the Purchaser must independently verify that its choice of Products and proposed use of the Products is suitable for its purpose.
- 4.3 The Company shall not be liable for any Losses arising out of any failure to comply with all and any recommendations in relation to the use or maintenance of the Products either generally or in accordance with good industry practice or customs or as set out on any of the Breedon Group's webpages or literature relevant to the Products or otherwise as notified to the Purchaser orally or in writing ("**Recommendations**") or for any Losses arising out of any act or omission which is inconsistent, not recommended or otherwise advised against pursuant to the Specification or good industry custom and practice. The Company shall not be liable for any Losses arising out of any failure to comply with the Recommendations.
- 4.4 The Company shall not be liable for (or for the characteristics of) any of the Products which are, at the request of the Purchaser, not supplied in accordance with the Product Specification.
- 4.5 The Purchaser acknowledges and accepts that the Products may contain substances which can cause harm or damage to humans and animals, plants, property or the environment and the Purchaser shall take all necessary steps in the use of the Products to ensure no such harm or damage is caused. The Company shall not be liable for any failure of the Purchaser to handle or use the Products in accordance with good industry practice and generally applicable or recognised health and safety obligations and procedures and/or the Recommendations.
- 4.6 The Company shall provide a Quotation to the Purchaser which may include details of all or any part of the following information:
 - 4.6.1 Floor beam type;
 - 4.6.2 Floor beam weight;
 - 4.6.3 Imposed design loading;

- 4.6.4 Imposed finished loading;
- 4.6.5 Lightweight block partitions;
- 4.6.6 Infill block density;
- 4.6.7 Proposed floor schedule or layout;
- 4.6.8 Type of pre-stressed flooring unit;
- 4.6.9 Layout of block or beam;
- 4.6.10 Intended use of floor;
- 4.6.11 Any other information relating to width, design, loads or capacities of a proposed flooring system;

all or any part of which is the “**Technical Specification**”.

- 4.7 The Company accepts no liability for the accuracy of the Technical Specification (whether produced by the Company or not) and the Purchaser acknowledges and accepts that:
 - 4.7.1 the Purchaser must verify the accuracy of the Technical Specification before accepting any Quotation;
 - 4.7.2 the Purchaser does not rely on any of the Technical Specification for its own purposes;
 - 4.7.3 the Purchaser must obtain independent advice as to its requirements for the Products, including the contents of the Technical Specification from a structural engineer or other suitably qualified professional.
- 4.8 The Company is under no obligation to do so, but if, in its absolute discretion, the Company provides sketches, plans, diagrams or similar documents in advance of the provision of the Products, then any such material is intended for illustrative purposes only and is not intended to provide an exact Specification of the Products nor to guarantee specific results. For the avoidance of doubt the Company is not liable for the design of the Specification, or all or any part of the Products.
- 4.9 Each provision of this Clause 4 which states that the Company shall not be liable for a matter or thing shall include an obligation on the part of the Purchaser fully and effectually to indemnify the Company from and against all Losses arising from or in consequence of that matter or thing.

5. PAYMENT AND DEFAULT

- 5.1 Unless stated otherwise on the Quotation subject to Clause 5.2 below, payment of the Contract Price shall be made in pounds sterling in cleared funds on the Payment Dates or if there are no Payment Dates on or before the end of the month following the month of Delivery of the Products to the Purchaser (the "Final Date for Payment").
- 5.2 Unless stated otherwise on the Quotation payment shall be made to the Company each month for Products purchased in the month irrespective of any provisions to the contrary either in the Purchaser's main contract conditions, other subcontract or agreement.
- 5.3 Time for payment shall be of the essence and notwithstanding any other provision of the Contract all sums owing to the Company under the Contract shall become due and payable immediately on its termination.
- 5.4 Unless stated otherwise on the Quotation the Purchaser shall make all payments due under the Contract without deduction for set off, counterclaim, abatement or otherwise either in relation to this Contract or any other contract which the Purchaser may have with the Company.
- 5.5 The Company reserves the right in its absolute discretion to require payment by the Purchaser for any Products that have already been supplied by way of cleared funds before further Products are supplied notwithstanding any previous agreement to provide credit to the Purchaser. Likewise, in its absolute discretion, the Company reserves the right to require payment by the Purchaser in cleared funds for the supply of such further Products, notwithstanding any previous agreement to provide credit to the Purchaser.
- 5.6 If the Purchaser:
- 5.6.1 fails to make any payment to the Company on the due date; or
 - 5.6.2 suspends, or threatens to suspend, payment of its debts, or is unable to pay its debts as they fall due or admits inability to pay its debts; or
 - 5.6.3 exceeds any credit limit assigned to the Purchaser from time to time by the Company; or
 - 5.6.4 commences negotiations with all or any class of its creditors with a view to rescheduling any of its debts; or
 - 5.6.5 has a petition filed, notice given, resolution passed, or order made, for or in connection with its winding up or bankruptcy; or
 - 5.6.6 is the subject of an application to court or order for the appointment of an administrator; or

- 5.6.7 has a receiver or an administrative receiver or administrator appointed over any of its assets; or
- 5.6.8 is in breach of any term of this Contract and (where such breach is capable of remedy) fails to remedy such breach within 14 days of being so requested to do so by the Company; or
- 5.6.9 (being an individual) is the subject of a bankruptcy petition or order; or
- 5.6.10 (being an individual) dies or by reason of illness or incapacity (whether physical or mental), is incapable of managing his or her own affairs or becomes a patient under any mental health legislation; or
- 5.6.11 suspends, or threatens to suspend, ceases or threatens to cease to carry on all or a substantial part of its business; or
- 5.6.12 suffers deterioration in its financial position to such an extent that in the Company's reasonable opinion the Purchaser's capability adequately to fulfil its obligations under the Contract has been placed in jeopardy; or
- 5.6.13 is in breach of, or the Company suspects the Purchaser is in breach of, any provisions of Clause 11; or
- 5.6.14 in the opinion of the Company (in its absolute discretion) the Site or the route to the Site is unsafe as defined in clause 6.4.

then the full balance outstanding on any account between the Company and the Purchaser shall become immediately payable and the Company shall be entitled to do one or more of the following (without prejudice to any other right or remedy it may have):

- (i) require payment in cash or cleared funds in advance of Delivery of any undelivered Products; or
- (ii) immediately and without notice cancel or suspend any further Delivery to the Purchaser under the Contract; or
- (iii) immediately and without notice sell or otherwise dispose of any Products which are subject of the Contract; or
- (iv) terminate the Contract with immediate effect by giving notice to the Purchaser.

5.7 Where any payments or sums due to the Company under the Contract are not paid by the Final Date for Payment then the payments or sums remaining due shall carry interest at the rate

prescribed by the Late Payment of Commercial Debts (Interest) Act 1998 in force from time to time from the Final Date for Payment until the date on which the payment is made, whether before or after judgment. The Purchaser shall pay the interest together with the overdue amount.

6. DELIVERY OF THE PRODUCTS

- 6.1 The Purchaser shall ensure that the Company has reasonable prior notice (which shall not be less than 14 Business Days) of the required time and date of Delivery of the Products and that the Company (or its agent or contractor) is given sufficient particulars of the Site and indicative times for Delivery of given amounts of the Products to ensure that the Company is able to deliver the Products without returns.
- 6.2 If the Company is unable to supply Products because of inadequate instructions, unsuitable personnel at the Site, inadequate or unsafe conditions at the Site, the failure of the Purchaser to give uninterrupted access to the Site, or provide a safe working environment, the Purchaser fails to permit supply of the Products, or the Purchaser's failure to obtain appropriate licences or authorisations prevents or delays the supply of Products, Delivery shall be deemed to have taken place at the time when the Company has notified the Purchaser it is ready willing and able to deliver the Products.
- 6.3 The Company shall use reasonable efforts to comply with any time or date agreed by the Company for supply of the Products, but any dates and times are intended for guidance purposes only and shall not be of the essence, and shall not be capable of being made of the essence by notice from the Purchaser. If no times or dates are agreed, the Products shall be supplied to the Purchaser within a reasonable time of the acceptance of the order.
- 6.4 The Company, its agents and/or contractors shall not be obliged to provide the Products if the Company or its agents or contractors suffer failure of any of the safety equipment designed for use in the course of Delivery by the Company, its agents or contractors; or where, in the opinion of the Company (in its absolute discretion), the Site or the access to the Site, equipment at the Site or the Site manoeuvrability is unsafe, unsuitable, hazardous or inadequate for the proper and safe unloading of the Products, or where personnel at the Site are rude, offensive or abusive to the Company's employees, contractors or agents. The Purchaser shall indemnify and keep the Company indemnified against any Losses arising from the access to the Site, equipment at the Site or onsite manoeuvrability of the Site being unsuitable, hazardous or inadequate or the Purchaser's personnel being rude, offensive or abusive. In this Clause 6.4 "unsafe" shall mean that it poses a risk, actual or potential, to persons, property or the environment.
- 6.5 Where the Purchaser signs a Delivery Ticket or advice note this shall be conclusive evidence that the Products have been inspected and accepted in full by the Purchaser.

7. TITLE

- 7.1 Ownership of the Products shall not pass to the Purchaser until the Company has received payment in cleared funds of all sums owed by the Purchaser to the Company under the Contract and under any other contract between the Company and the Purchaser in respect of which payment has become due.
- 7.2 The Company shall be entitled to recover payment for the Products (and also VAT, other sales taxes and Additional Charges) from the Purchaser even though the ownership of the Products has not passed from the Company to the Purchaser.
- 7.3 On termination of the Contract, the Company's rights under this Clause 7 shall remain in effect.

8. QUALITY

- 8.1 Whilst every effort is made to maintain consistency in the characteristics of the Products, the Purchaser may find that the Products are affected by the following matters or variances, and the Purchaser hereby agrees to such matters or variances and acknowledges that they shall not constitute a Defect:
- 8.1.1 variations in the colour, consistency, texture, and size of the particles forming all or part of the Products;
 - 8.1.2 the surface finish or visual appearance of the Products;
 - 8.1.3 the size, shape or finished edge of the Products;
 - 8.1.4 the presence in the Products of lignite, carbonaceous particles or organic material, or the consequences of such presence;
 - 8.1.5 variations arising from permitted tolerances to the formula to which the Products are manufactured;
 - 8.1.6 the interchangeable use by the Company in the Company's discretion of the constituents forming part of the Products;
 - 8.1.7 any other specific variances that are drawn to the Purchaser's attention before entering into the Contract;
 - 8.1.8 the apparent fading of colour or any other effect on the appearance of the Product due to effervescence;
 - 8.1.9 the Company manufacturing the Products to an approved British Standard notwithstanding the Purchaser has requested manufacture to a withdrawn standard

or designation; and/or

8.1.10 the Purchaser's breach of Clause 4.7.

8.2 The Company does not guarantee any particular volume of Products will cover any particular area or yield any particular volume.

8.3 Subject always to Clause 8.1, the Company shall not be liable for a breach of Clause 8.1 (in whole or in part) unless:

8.3.1 the Purchaser gives written notice of any Defect to the Company within 2 business days of either discovery of the Defect or when the Purchaser ought reasonably to have discovered the Defect which shall be 2 business days after Delivery whichever is the earlier; and

8.3.2 the Company is thereafter given a reasonable opportunity of examining the Products and in any case before the Products are further used, interfered with, added to, or constructed upon in any way; and

8.3.3 the Purchaser has complied with the Recommendations; and

8.3.4 the Purchaser has complied with the recommended storage conditions as may be notified by the Company and has not tampered with the Products in an attempt to rectify any alleged Defect.

8.4 Subject always to Clause 8.3 and 8.4, the Company shall not be liable for a breach of Clause 8.1 in any case where the Defect has arisen as a result of:

8.4.1 the Purchaser's failure to use the Products in accordance with the guidelines set out in the Specification, the Recommendations or good industry practice; or

8.4.2 the work of the Purchaser, any of its employees, agents or subcontractors; or

8.4.3 the Products being laid by the Company to the specification of the Purchaser which is not consistent with the Specification or to a specification which has been withdrawn; or

8.4.4 fair wear and tear; or

8.4.5 the failure of the Purchaser to stop the use of the Products where a Defect is apparent on inspection of discharge or unloading; or

8.4.6 any fact matter or issue provided for in the Quotation; or

8.4.7 the ground conditions onto which the Products are to be used not being suitable or

appropriate to receive them; or

8.4.8 the Purchaser breaches any part of Clause 8.3; or

8.4.9 the Purchaser using the Products for an application for which they are not suitable or appropriate in accordance with; or

8.4.10 any specific maintenance requirements should be taken into consideration and completed after installation; or

8.4.11 a failure of the Purchaser to comply with the precautions and limitations in respect of the Products as set out in the Product Specification available on the Company's website from time to time; or

8.4.12 any fuel spillage on the Products not caused by the Company; or

8.4.13 failure to lay the Products in accordance with the Technical Specification; or

8.4.14 using the Products in any manner which is incompatible with the Technical Specification; or

8.4.15 increasing the intended load bearings to be applied to the Products; or

8.4.16 laying the Products upside down, on the incorrect side or facing the wrong way; or

8.4.17 failure to ensure adequate underside ventilation once laid; or

8.4.18 failing to ensure the correct supporting block and/or beam or other materials used in conjunction with the Products; or

8.4.19 failing to ensure the correct surface coat is applied to the Products once laid or is not applied correctly; or

8.4.20 damage caused by any additional materials used in conjunction with the Product; or

8.4.21 failing to prevent the Products being exposed to extremes of heat or cold; or

8.4.22 failing to set out the Products correctly.

8.5 Subject always to Clauses 8.3 and 8.4, if the Products do not conform with Clause 8.1, and are consequently the subject of a Defect, then the Company shall at its option:

8.5.1 re-perform the Delivery of the Products free of charge; or

8.5.2 remedy the Defect free of charge; or

8.5.3 issue a credit note at the pro rata Contract Price.

8.6 If the Company either re-supplies the Products or remedies the Defect or issues a credit note under Clause 8.5 then it shall have no further liability for a breach of Clause 8.1. This Clause does not affect any other rights or claims of the Purchaser arising out of any other provision of the Contract.

9. LIMITATION OF LIABILITY

9.1 Save for where the Contract provides specific remedies to the Purchaser in respect of delay under Clause 6 (Delivery of the Products), and breach of Clause 8 (Quality), the following provisions set out the total liability of the Company (including any liability for the acts or omissions of its employees, agents and subcontractors) for loss and damage suffered by the Purchaser in respect of:

9.1.1 any breach of the Contract including any matter in respect of which specific remedies are provided (as aforesaid) but where those remedies are for any reason held by a court of competent jurisdiction to be insufficient or unreasonable in a particular case; and

9.1.2 any use made by the Purchaser of the Products, or any product incorporating the Products; and

9.1.3 any representation, statement or tortious act or omission including negligence arising under or in connection with the Contract or the supply of the Products.

9.2 All warranties, conditions and other terms implied by statute or common law which may be excluded by the agreement of the Purchaser (which do not include the conditions implied by Section 12 of the Sale of Goods Act 1979 and section 17 of the Consumer Rights Act 2015) are, to the fullest extent permitted by law, excluded from the Contract.

9.3 Nothing in these Conditions shall exclude or restrict the Company's liability:

9.3.1 for death or personal injury resulting from the Company's negligence; or

9.3.2 under Section 2(3) of the Consumer Protection Act 1987; or

9.3.3 for any matter which it would be unlawful for the Company to exclude or attempt to exclude its liability; or

9.3.4 for fraud or fraudulent misrepresentation.

- 9.4 Subject to Clauses 9.2 and 9.3:
- 9.4.1 The Company's total liability to the Purchaser in contract, tort (including negligence or breach of statutory duty), misrepresentation, restitution or otherwise, arising in connection with the Contract, or the Products, shall be limited to a maximum financial cap of the lesser of:
- 9.4.1.1 £50,000.00; and
- 9.4.1.2 a sum equivalent to the Contract Price.
- 9.4.2 The Company shall not be liable to the Purchaser for any of the following (whether direct or indirect):
- 9.4.2.1 pure economic loss;
- 9.4.2.2 loss of profits;
- 9.4.2.3 loss of business;
- 9.4.2.4 loss of goodwill and/or reputational damage;
- 9.4.2.5 losses arising from any liability to a Third Party (including liquidated damages claims); or
- 9.4.2.6 claims for liquidated damages or lane occupancy charge; or
- 9.4.2.7 claims for consequential costs, charges, expenditure or compensation (including legal costs).
- 9.5 The Company shall have no liability for any Defect to the extent that the loss or damage suffered by the Purchaser or any Third Party arises from:
- 9.5.1 normal wear and tear; or
- 9.5.2 the Purchaser's or a Third Party's wilful damage, negligence, abnormal working practice, misuse, alteration or repair of the Products; or
- 9.5.3 failure to comply with the recommended conditions for the Maintenance of the Products; or
- 9.5.4 use of the Products in unsuitable conditions; or
- 9.5.5 matters in respect of which the Company is relieved from liability under Clauses 8.2,

8.3, 8.4 or 8.5.

9.6 If the Products are manufactured by the Company to the specifications of the Purchaser or its agents, the Purchaser shall fully and effectually indemnify the Company against all loss, damages, costs, liability, and direct and indirect economic loss or expenses awarded against or incurred by the Company in connection with any claim arising from such manufacture processing or mixing (including for infringement of any patents copyright design trademark or any other industrial or intellectual property rights of any Third Party) or the defence or settlement of such claim.

10. FORCE MAJEURE

10.1 The Company may defer Delivery, terminate the Contract or reduce the volume of Products delivered to the Purchaser and shall not be liable to the Purchaser or be deemed to be in breach of the Contract by reason of the aforesaid deferment, termination, or reduced Delivery, or by reason of any failure to perform any of the Company's obligations, in any case where a Force Majeure Event exists.

10.2 A Force Majeure Event means any event beyond a party's reasonable control, including without limitation strikes, lock-outs or other forms of industrial action (whether involving its own work force or a Third Party's) failure of energy sources, or transport networks, acts of God, war, terrorism, riot, civil commotion, interference by civil, governmental, regulatory or military authorities, road traffic accidents; road closures; ice, snow, vehicle breakdown; ill health or incapacity of the driver of any vehicle or equipment, breakdown of mixing plants, machinery or vehicles or other plant or machinery or vehicles used in the provision of the Products, fire, industrial action, lightning, power surges or shortfalls, chemical or biological contamination, explosions, floods, storms and collapse of buildings or structures.

10.3 If the Force Majeure Event in question continues for a continuous period in excess of 30 days, either the Company or the Purchaser may give notice in writing to the other terminating the Contract.

11. ANTI-BRIBERY AND COMPETITION

11.1 The Purchaser shall comply and use reasonable endeavours to ensure that all subcontractors, suppliers and all persons associated with the Purchaser (as defined by section 8 of the Bribery Act 2010) comply with all applicable anti-bribery and anti-corruption legislation including without limitation the Bribery Act 2010. The Purchaser shall maintain and enforce its own policies and procedures, including adequate procedures under the Bribery Act 2010, to ensure compliance with all applicable anti-bribery and anti-corruption legislation.

11.2 The Purchaser shall comply with the provisions of the Modern Slavery Act 2016 ("**MSA**") and shall take all reasonable steps to ensure its supply chain is slavery free and the Purchaser shall use all reasonable endeavours to assist the Company in its compliance with the MSA.

11.3 The Purchaser shall not engage in any agreement, arrangement, concerted practice, information exchange or behaviour in breach of UK, EU or other competition law in force from time to time.

12. GENERAL

12.1 "Breedon", "Breedon Southern" and "Naunton Quarry" are trading names of the Breedon Group.

12.2 The Company is a data controller for the purposes of the EU Regulation 2016/679 General Data Protection Regulation ("GDPR") and the Purchaser on behalf of itself and any of its directors, shareholders, members, employees, servants and agents ("Associates") acknowledges the use and processing of personal data described in this Clause 12.

12.3 The Company processes personal data of the Purchaser and its Associates in accordance with the Privacy Notice: All Breedon Group Customers, a copy of which can be found at www.breedongroup.com ("Privacy Notice").

12.4 The Purchaser on behalf of itself and its Associates acknowledges and accepts the processing of its personal data as referred to in the Privacy Notice.

12.5 If any clause or sub-clause of these Conditions is held by any court or other authority of competent jurisdiction to be wholly or partly void or unenforceable the validity and enforceability of the other clauses or sub-clauses of these Conditions shall not be affected and they shall remain in full force and effect. If any provision or part provision of these Conditions is or becomes invalid, illegal or unenforceable, it shall be deemed modified to the minimum extent necessary to make it valid, legal and enforceable. If such modification is not possible, the relevant provision or part provision shall be deemed deleted.

12.6 The Purchaser shall not be entitled to transfer, charge, subcontract or deal in any other manner with all or any of its rights or obligations under the Contract without the prior written consent of the Company. The Company may at any time assign, transfer, charge, subcontract or deal in any other manner with all or any of its rights or obligations under the Contract.

12.7 The waiver by the Company of any breach or default under any provision of these Conditions by the Purchaser shall not be construed as a continued waiver of that breach or default nor as a waiver of any subsequent breach or default of the same or any other provision.

12.8 Termination of the Contract, however arising, shall not affect any rights or remedies of either party which have accrued prior to the date of termination; and termination of the Contract shall not affect the continuing force and effect of any provision of the Contract which, whether expressly or by implication, is to survive termination of the Contract.

- 12.9 Save for any member of the Breedon Group, the Parties to the Contract do not intend that any term of the Contract shall be enforceable by virtue of the Contracts (Rights of Third Parties) Act 1999 by any person that is not a party to it. Any member of the Breedon Group may enforce the terms of the Contract as if it were an original contracting party.
- 12.10 Any notice by either Party to the other shall be in writing addressed to that other Party at its registered office or principal place of business or such other address as notified by the receiving Party to the Party giving the notice.
- 12.11 Notices shall be deemed to have been received 48 hours after posting (exclusive of the day of posting) if sent by first class post; on the day of Delivery if delivered by hand; or at the time of transmission if sent by email. Notices shall not be sent by facsimile.
- 12.12 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 where the Delivery Address is situated in England or Wales, the parties submit to the exclusive jurisdiction of the Courts of England and Wales and where the Delivery Address is situated in Scotland, the parties submit to the exclusive jurisdiction of the Courts of Scotland.