

CPI MORTARS LIMITED CONDITIONS OF SALE

- 1 In these conditions CPI Mortars Limited is called the “**Company**”; the “**Customer**” means the person, firm or company purchasing Goods from the Company; the “**Goods**” means any goods to be supplied by the Company in accordance with the Conditions; the “**Silo**” means the silo or silos (if any) in which the Goods are delivered; and the “**Conditions**” means these conditions and any conditions set out in the Company’s written quotation and (in respect of Customers who have a credit account with the Company) contained in the Company credit account application form.
- 2 The Conditions apply to all agreements for the sale of Goods by the Company to the Customer to the exclusion of all other terms and conditions which the Customer may purport to apply under any purchase order, in correspondence or elsewhere, or which are implied by trade custom or course of dealing. Subject to Clause 24 below, the Company shall not be liable to the Customer for loss arising from or in connection with any representations made by the Company’s employees or agents except as they appear on the face of this document.
- 3 An order submitted by the Customer constitutes an offer to purchase the Goods in accordance with the Conditions. The Customer is responsible for ensuring that the terms of the order and any applicable specifications are complete and accurate. The Customer’s offer to purchase as contained in its order will be deemed accepted by the Company when the Company issues a written order confirmation, at which stage a contract will come into existence between the Customer and the Company on the basis of these Conditions, any terms included by the Company in its written quotation, the Customer’s order (excluding any terms and conditions of purchase purported to be incorporated by the Customer) and the Company’s written order confirmation (the “**Contract**”). The Customer may only cancel a Contract (save pursuant to Clause 6(a) below) with the Company’s written agreement and the Company reserves the right to recover any loss incurred as a result of cancellation. The Company may in its absolute discretion agree to vary, add or depart from the Conditions in respect of a Contract but no such variation, addition or departure shall be effective unless it is in writing and is signed by the Company’s Chief Executive. No employee, agent, manager or director of Company (other than the Chief Executive) has authority to vary, add or depart from the Conditions in respect of a Contract or make any representation about the Equipment or the contract made herein and any purported variation, addition, departure or representation made by any such person shall be null and void. If the Customer orders any additional goods in relation to an existing Contract, these Conditions shall apply in respect of any such order for additional goods.
- 4 The Company reserves the right to amend the Goods or their specification if required by any applicable statutory or regulatory requirements.
- 5 The price of the Goods (exclusive of VAT which the Customer must also pay) shall be the Company’s quoted price. All prices quoted are valid for one month only unless stated otherwise in writing.
- 6 The Company reserves the right by giving notice to the Customer at any time before delivery to increase the price of the Goods to reflect (a) any increase in the cost to the Company which is due to any factor beyond the control of the Company (such as alterations of duties or significant increase in the costs of labour materials or other costs of manufacture) in which case the Customer may cancel the Contract within seven days of such notice from the Company; (b) any change in the delivery dates, quantities or specifications of the Goods requested by the Customer; or (c) any delay caused by the Customer.
- 7 The Company reserves the right to make additional charges to the quoted price in the amounts and in the circumstances set out in the Company’s written quotation (“**Additional Charges**”). The Customer acknowledges that it shall be responsible to pay the Company any Additional Charges. The Additional Charges shall be payable by the Customer in the same manner and on the same terms as payment is made for the Goods. Where payment for the Goods is made via credit, charge or debit card (or any other form of payment where the Customer’s presence is not required) or details of the foregoing are provided to the Company for the purpose of taking payment for the Goods (“**Original Method of Payment**”), the Customer (by entering into the Contract) expressly authorises the Company to debit the amount of any Additional Charges to the Customer’s Original Method of Payment. Where the Customer has a credit account with the Company, the Additional Charges will be debited to the Customer’s credit account and the Customer (by entering into the Contract) expressly authorises the Company to debit the amount of any Additional Charges to the Customer’s credit account.
- 8 Payment for the Goods shall be made as follows:

Non-Credit Account Customers

The Company will invoice the Customer when it issues its written order confirmation and the Customer shall make payment as specified in the Invoice and in any event prior to delivery of the Goods. If the Customer fails to make any payment on the due date, the Company shall be entitled to terminate the Contract and claim damages for any loss incurred as a result of cancellation. In the event of non-payment, the Company may in its absolute discretion affirm the Contract by making delivery of the Goods in which case the price for the Goods shall be payable on demand and shall accrue interest in accordance with Clause 26 from the payment date specified in the Invoice.

Credit Account Customers

The Company will invoice the Customer on or after delivery of the Goods and the Customer will make payment within 30 days of the end of the month in which the invoice is raised. If the Customer fails to make any payment on the due date, the Company shall be entitled to suspend any future deliveries and appropriate any payment for any Goods as they may determine.

- 9 Delivery of the Goods shall be completed on the arrival of the Goods at the Customer’s premises or other agreed place.

- 10 Silos and any other equipment are placed on site and at a location solely under direction of the Customer. It is the Customer's responsibility to assess the suitability of the ground with respect to its ability to support any Silos and other equipment safely. Weights and dimensions of all silo types are available on request. CPI Mortars Limited accepts no liability for designing, assessing or advising on the strengths of the foundation or ground provided for the placing of Silos or other equipment and the Customer shall be responsible (at its sole expense) for taking any action necessary to prepare the site in order to support such Silos or other equipment. The Company's quotation is based upon safe and easy access for its vehicle for delivery and collection of the Goods and Silo. If in the opinion of the Company such access is not available or is unsuitable, the Company reserves the right to refuse to deliver or collect. The Company may recover from the Customer any additional costs, damage or loss incurred as a result of making a delivery or collection off road or on unsatisfactory road.
- 11 If the Customer fails to take delivery at the time and place specified or fails to provide suitable and safe access for delivery and subsequently fails to take delivery or to provide suitable and safe access for delivery within 48 hours thereafter, then (a) the delivery of Goods shall be deemed to have been completed at the expiry of such 48-hour period and (b) the Company shall store the Goods until delivery takes place and charge the Customer for all related costs and expenses. Any charges made pursuant to this Clause 11 shall constitute Additional Charges and the provisions of Clause 7 shall apply.
- 12 The price quoted by the Company only covers delivery or collection on normal working days during normal working hours. All deliveries made on Saturdays, Sundays, Public Holidays, or any other time outside normal working hours will be charged for by the Company as an increase to the quotation price and shall constitute Additional Charges to which the provisions of Clause 7 shall apply.
- 13 Any delivery dates quoted are approximate only and time of delivery is not of the essence. The Company shall not be liable for delay in delivery nor shall the Customer be entitled to refuse to accept the Goods because of late delivery.
- 14 The Customer shall not be entitled to reject the Goods if the Company delivers up to and including 5% more or less than the quantity of Goods ordered, but a pro rata adjustment shall be made to the quoted price on receipt of notice from the Customer that the wrong quantity of Goods was delivered. For the avoidance of doubt, nothing in this Clause 14 shall be construed as acknowledging that the Customer has the right to reject Goods where the quantity of Goods delivered differs from the amount of Goods ordered by more than 5% and the Customer is put to strict proof of its ability to reject in those circumstances.
- 15 The Company may deliver the Goods by instalments which shall be invoiced and paid for separately. Each instalment shall constitute a separate contract. Any delay in delivery or defect in one instalment which would give the Customer the right to cancel that instalment (of which the Customer is put to strict proof) shall not entitle the Customer to cancel any other instalment.
- 16 Risk of damage to or loss of the Goods will pass to the Customer on delivery (including deemed delivery pursuant to Clause 11).
- 17 Title to the Goods will not pass to the Customer until:
 - i the Company has received in cash or cleared funds payment in full for the Goods and for all other goods agreed to be sold by the Company to the Customer for which payment is then due and all other amounts outstanding and payable by the Customer; and
 - ii (in respect of Goods which are delivered in Silos) the Goods have been transferred from the Silo (and, for the avoidance of doubt, Goods remaining in the Silo shall belong to the Company for so long as they remain in the Silo).

Where title to the Goods remains with the Company, the Customer will not be entitled to use, remove, dispose of, transfer or otherwise deal with such Goods after the shelf life of the Goods has passed. The shelf-life of the Goods will be communicated to the Customer by way of the docket provided to the Customer on delivery (or by such other methods reasonably utilised by the Company from time to time).

For the avoidance of doubt, the Customer is required to pay for the Goods ordered even if they are never transferred from the Silo and title never passes to the Customer.

- 18 Nothing in the Contract will give the Customer any right title or interest in the Silo, the terms of use of which are governed by the Conditions of Hire set out below.
- 19 Until title to the Goods has passed to the Customer, the Customer will hold them as mere bailee and will maintain the Goods in satisfactory condition, not remove, deface or obscure any identifying mark or packaging on or relating to the Goods (in the case of bagged Goods) and keep them insured against all risks for their full price from the date of delivery, save that the Customer may use the Goods in the ordinary course of its business. If, before the Company has received in cash or cleared funds payment in full for the Goods and for all other goods agreed to be sold by the Company to the Customer for which payment is then due and all other amounts outstanding and payable by the Customer, the Customer becomes subject to any of the events listed in Clause 25, then, without limiting any other right or remedy the Company may have: (i) the Customer's right to use the Goods in the ordinary course of its business shall cease immediately; and (ii) the Customer shall deliver up the Goods on demand by the Company and if the Customer refuses the Company is licensed to come on to any premises of the Customer or of any third party where the Goods are stored in order to collect them.
- 20 Subject to the conditions set out below the Company warrants that at the time of delivery the Goods will correspond with their general specification at the time of the delivery and will be free from material defects. This warranty is given by the Company subject to the following conditions:

- i The Company shall be under no liability in respect of any defect arising from fair wear and tear, wilful damage, negligence, abnormal working conditions, failure to follow the Company instructions (whether oral or in writing) or (if a higher standard) good industry practice, misuse or alteration or repair of the Goods without the Company's approval;
 - ii The Company shall be under no liability under the above warranty (or other warranty, condition or guarantee) if the total price of the Goods has not been paid by the due date for payment.
- 21 Subject as expressly provided in the 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 as amended) all warranties, conditions or other terms implied by statute or common law are excluded to the fullest extent permitted by law. The Company shall not be liable for any failure or delay in performing its obligations under the Contract to the extent that such failure or delay is caused by a Force Majeure Event. A "**Force Majeure Event**" means any event beyond the Company's reasonable control, which by its nature could not have been foreseen, or, if it could have been foreseen, the Company could not have avoided, including strikes, lock-outs or other industrial disputes (whether involving its own workforce or a third party's), failure of energy sources or transport network, acts of God, war, terrorism, riot, civil commotion, interference by civil or military authorities, national or international calamity, armed conflict, malicious damage, breakdown of plant or machinery, nuclear, chemical or biological contamination, sonic boom, explosions, collapse of building structures, fires, floods, storms, earthquakes, loss at sea, epidemics or similar events, natural disasters or extreme adverse weather conditions, or default of the Company's suppliers or subcontractors.
- 22 Any claim by the Customer which is based on any defect in the quality or condition of the Goods or failure to correspond with the general specifications shall be notified in writing to the Company immediately following discovery of the defect and in any event no later than seven days from the date of delivery by the Company. If the Customer does not notify the Company accordingly, the Customer shall be deemed to have accepted the Goods and shall not be entitled to reject them.
- 23 Where any valid claim is notified to the Company in accordance with Clause 22 above. The Company shall be entitled to repair or replace the Goods free of charge or at the Company's sole discretion, refund to the Customer the price of the Goods (or a proportional part of the price), but the Company shall have no further liability to the Customer. The Conditions shall apply to any repaired or replacement Goods supplied by the Company.
- 24 Except in respect of death or personal injury caused by the Company's negligence, fraud or fraudulent misrepresentation, or for any other liability which cannot be excluded or limited by law, the Company shall not be liable for any indirect or consequential loss of time arising out of the supply of the Goods or their use or resale by the Customer. Subject to the foregoing, the entire liability of the Company to the Customer shall not exceed the price of the Goods.
- 25 All sums owed by the Customer in respect of the Goods will immediately become payable and the Company will be entitled to suspend all future deliveries and/or treat all outstanding orders as cancelled and/or terminate the Contract and all other contracts with the Customer and/or take possession of any Goods to which title has not passed to the Customer if any of the following occurs: (a) the Customer fails to pay for the Goods or otherwise breaches the Contract; (b) any process of execution, or distress is levied on the whole or any part of the Customer's assets; (c) the Customer commences negotiations with or makes any arrangement or composition with all or any class of its creditors; (d) the Customer is unable to pay its debts as they fall due; (e) any resolution or petition to wind up the Customer is passed or presented; (f) an application is made or a person becomes entitled to appoint a receiver, administrator or administrative receiver or manager over the Customer's business or assets; (g) (being an individual) the Customer is the subject of a bankruptcy petition or order; (h) any event occurs with respect to the Customer in any jurisdiction to which it is subject that has a similar effect to the events mentioned in Clause 25 (b)-(g); or (i) the Customer suspends or ceases to carry on all or substantially the whole of its business.
- 26 Interest will be charged on all late payments in accordance with the Late Payments of Commercial Debts (Interest) Act 1998.
- 27 If any provision or part-provision of the Contract 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. Any modification to or deletion of a provision or part-provision under this clause shall not affect the validity and enforceability of the rest of the Contract.
- 28 Any notice given by either party shall be in permanent readable terms addressed to the other at its registered office, principal place of business or last known business address.
- 29 The Conditions and the Contract and any dispute or claim arising out of or in connection with their subject matter or formation (including non-contractual disputes or claims), shall be governed by the laws of England and the parties irrevocably agree that the courts of England and Wales shall have non-exclusive jurisdiction to settle any dispute or claim arising out of or in connection with the Conditions and the Contract and their subject matter or formation (including non-contractual disputes or claims).

CPI MORTARS LIMITED CONDITIONS OF HIRE

- 1 In these conditions CPI Mortars Limited is called the "**Company**"; the "**Hirer**" means the person, firm or company entering into this hiring contract with the Company; the "**Equipment**" means any silos and other equipment hired by the Hirer together with any accessories, replacements, renewals or additions thereto; the "**Goods**" means any goods supplied by the Company and stored in the Equipment; and the "**Conditions**" means these conditions and any conditions set out in the Company's written quotation and (in respect of Customers who have a credit account with the Company) contained in the Company credit account application form.

- 2 The Conditions apply to all contracts for the hire of Equipment by the Company to the Hirer to the exclusion of all other terms or conditions which the Customer may purport to apply under any purchase order or in correspondence or elsewhere, or which are implied by trade custom or course of dealing. The Company may in its absolute discretion agree to vary, add or depart from the Conditions in respect of a Contract (as defined in 3 below) but no such variation, addition or departure shall be effective unless it is in writing and is signed by the Company's Chief Executive. No employee, agent, manager or director of Company (other than the Chief Executive) has authority to vary or add or depart from the Conditions or make any representation about the Equipment or the contract made herein and any purported variation, addition, departure or representation made by any such person shall be null and void..
- 3 An order submitted by the Customer constitutes an offer to hire the Equipment in accordance with the Conditions. The Customer is responsible for ensuring that the terms of the order and any applicable specifications are complete and accurate. The Customer's offer to hire as contained in its order will be deemed accepted by the Company when the Company issues a written order confirmation at which stage a contract will come into existence between the Hirer and the Company on the basis of these Conditions, any terms included by the Company in its written quotation, the Customer's order (excluding any terms and conditions of purchase or hire purported to be incorporated by the Customer) and the Company's written order confirmation (the "**Contract**").
- 4 The minimum period of hire shall be one week. Subject to the foregoing, the Hirer may give the Company 1 week's notice to terminate the period of hire at any time. The period of hiring shall be deemed to commence on the date when the Equipment is delivered to the Hirer's site (the "**commencement date**") and shall terminate on the date when the Equipment is removed from the Hirer's site (the "**termination date**").
- 5 Hire charge ("**Rent**") shall be at the weekly rate given on the Company's quotation. The Company shall be entitled to increase the Rent to correspond with its current rate of hire charges for similar equipment by giving not less than seven days' notice in writing to the Hirer. The Hirer shall pay Rent for the period commencing on the commencement date until the termination date by weekly instalments in arrears. The Company reserves the right to make additional charges to the Rent, in the amounts and in the circumstances that are set out in the Company's written quotation ("**Additional Charges**"). The Hirer acknowledges that it shall be responsible to pay the Company any Additional Charges. The Additional Charges shall be payable by the Hirer in the same manner and on the same terms as the Rent is paid. Where payment of the Rent is made via credit, charge or debit card (or any other form of payment where the Hirer's presence is not required) or details of the foregoing are provided to the Company for the purpose of taking payment of the Rent ("**Original Method of Payment**"), the Hirer (by entering into the Contract) expressly authorises the Company to debit the amount of any Additional Charges to the Hirer's Original Method of Payment. Where the Customer has a credit account with the Company, the Additional Charges will be debited to the Customer's credit account and the Customer (by entering into the Contract) expressly authorises the Company to debit the amount of any Additional Charges to the Customer's credit account.
- 6 Any delivery dates quoted for delivery of the Equipment are approximate only and time of delivery is not of the essence. The Company shall not be liable for delay in delivery of the Equipment.
- 7 Delivery of the Equipment shall be completed on the arrival of the Equipment at the Customer's premises or other agreed place. The Company's quotation for delivery is based upon safe and easy access for its vehicle for delivery and collection of the Equipment. If in the opinion of the Company such access is not available or is unsuitable, the Company reserves the right to refuse to deliver or collect. The Company may recover from the Customer any additional costs, damage or loss incurred as a result of making a delivery or collection off road or on unsatisfactory road. Additional fees will be payable for deliveries and collections made on Saturdays, Sundays, Public Holidays or outside normal working hours. Any additional fees payable pursuant to this Clause 7 shall constitute Additional Charges and the provisions of Clause 5 shall apply *mutatis mutandis*. Silos and equipment are placed on site and at a location solely under direction of the Customer. It is the Customer's responsibility to assess the suitability of the ground with respect to its ability to support the Equipment safely. Weights and dimensions of all silo types are available on request. CPI Mortars Limited accepts no liability for designing, assessing or advising on the strengths of the foundation or ground provided for the placing of silos or Equipment and the Customer shall be responsible (at its sole expense) for taking any action necessary to prepare the site in order to support the Equipment.
- 8 The Hirer's acceptance of delivery of the Equipment shall be conclusive evidence that the Hirer has examined the Equipment and found it to be complete in accordance with the description on the order confirmation and in good order and condition and fit for any purpose for which it may be required.
- 9 Subject as expressly provided in the Conditions and except where the Hirer is a person dealing as a consumer (within the meaning of the Unfair Contract Terms Act 1977 as amended), the Company's liability for any loss or damage whatsoever, including any damage resulting from delay in delivery or from directly or indirectly using the Equipment (save for the Company's liability for death or personal injury caused by the negligence of its employees or agents or for any other liability which cannot be excluded by law) shall in no circumstances exceed the Rent payable by the Hirer and all warranties, conditions or other terms implied by statute or common law are excluded to the fullest extent permitted by law. The Hirer shall fully and completely indemnify the Company in respect of all claims in connection with or arising out of the hire and use of the Equipment and in respect of all costs and charges in connection therewith whether such claims arise under statute common law or otherwise. The Hirer shall effect the necessary insurance to support such indemnities (including, but not limited to, insurance against any third party or public liability risks of whatever nature and however arising in connection with the hire and use of the Equipment) and produce evidence thereof to the Company if required to do so.
- 10 The Hirer shall use the Equipment in a skilful and proper manner, and in accordance with any safety and operating instructions (whether written or oral) and (if a higher standard) good industry practice. The Hirer shall not use the Equipment in any location other than the location specified.

- 11 The Hirer shall take such steps as may be necessary to ensure, so far as is reasonably practicable, that the Equipment is at all times safe and without risk to health when it is being set, used, cleaned or maintained by any person at work. The Hirer shall maintain and make available to the Company such records in respect of the use of the Equipment as the Company may reasonably require.
- 12 The Hirer shall not without prior written consent of the Company use the Equipment to store any material other than the Goods or make any alteration, addition or improvement to the Equipment and such alterations additions or improvements so made shall belong to and remain the property of the Company without cost to the Company.
- 13 The Hirer shall have no right of property in the Equipment except the right to use the Equipment as a Hirer in accordance with the Conditions. The Hirer shall not sell, assign, let or hire, mortgage, pledge, charge, suffer any diligence distraint or execution to be made upon or in any way dispose or part with possession of, or deal with the Equipment or any part thereof or allow any lien to be created thereon.
- 14 The Company, its employees and/or agents shall at all reasonable times have access to the Equipment for the purpose of inspecting it and testing its condition.
- 15 The risk of loss, theft, damage or destruction of the Equipment shall pass to the Hirer on delivery and shall remain at the sole risk of the Hirer until such time as the Equipment is collected by the Company and the Hirer shall keep the Equipment insured against all risks to a value not less than its full replacement value. The Hirer shall immediately notify the Company of and shall indemnify the Company against any loss or damage to the Equipment. No loss or damage to the Equipment or any part thereof shall affect or impair the obligations of the Hirer under the Contract which shall continue in full force and be permitted by law.
- 16 Any repairs or replacement to the Equipment shall be carried out by the Company and the Hirer shall upon demand reimburse to the Company the cost thereof.
- 17 If the Hirer fails to pay any Rent or other sum payable under the Contract within seven days of it becoming due (whether demanded or not) or fails to observe or perform any of the Conditions whether expressed or implied or shall do or allow to be done any act or thing which in the opinion of the Company may jeopardise the Company's rights in the Equipment or any part thereof, or cause the Company or the Hirer to incur any liability to any third party, then in each and every such case the Company may by notice in writing sent to the Hirer forthwith or at any time thereafter for all purposes terminate the Contract.
- 18 Notwithstanding the generality of Clause 17 above upon the occurrence of any of the following events namely:
 - i if any process of execution, or distress shall be levied on or due against the Equipment or any part thereof or any premises or vessel where the same may be or any of the Hirer's goods or other property or if the Hirer shall permit any judgement against the Hirer to remain unsatisfied for seven days; or
 - ii if the Hirer makes any voluntary arrangements with its creditors or (being a company) becomes subject to an administration order or any resolution or petition to wind up the Hirer is passed or presented; or
 - iii loss or damage to the equipment; or
 - iv on inspection of the Equipment pursuant to Clause 14 if the Company is dissatisfied with the manner of erection of the Equipment or its condition;then in each and every such case the Company may by notice in writing send to the Hirer forthwith or at any time thereafter for all purposes terminate the Contract.
- 19 Upon termination of the Contract, however caused, the Company's consent to the Hirer's possession and use of the Equipment shall cease and the Company may enter on the Hirer's premises (or the premises of any third party on which the Equipment is located) in order to collect the Equipment. The Hirer shall ensure that the Equipment is empty at the time of collection. The Hirer acknowledges that should the Equipment contain any Goods at the time of collection:
 - i the Hirer will be charged a recollection charge based on the weight of the Goods remaining in the Equipment; and
 - ii notwithstanding the collection of any Equipment containing Goods, the Hirer will remain liable for payment for the Goods pursuant to the Conditions of Sale.Any additional fees payable pursuant to this Clause 19 shall constitute Additional Charges and shall be payable in accordance with the provisions of Clause 5
- 20 Interest will be charged on all late payments in accordance with the Late Payments of Commercial Debts (Interest) Act 1998.
- 21 If any provision or part-provision of the Contract 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. Any modification to or deletion of a provision or part-provision under this condition shall not affect the validity and enforceability of the rest of the Contract.
- 22 Any notice given by either party shall be in permanent readable terms addressed to the other at its registered office, principal place of business or last known business address.

23 The Conditions and the Contract and any dispute or claim arising out of or in connection with their subject matter or formation (including non-contractual disputes or claims), shall be governed by the laws of England and the parties irrevocably agree that the courts of England and Wales shall have non-exclusive jurisdiction to settle any dispute or claim arising out of or in connection with the Conditions and the Contract and their subject matter or formation (including non-contractual disputes or claims).