

GMC (CONCRETE) LTD

Terms and Conditions



GMC (Concrete) Ltd - Terms & Conditions Concrete Blocks

1. Definitions

- a) For the purposes of this purchase GMC (Concrete) Ltd shall hereafter be known as the Vendor.
- b) The "Purchaser" is the Company, firm, person, Corporation or public authority purchasing the Vendors Blocks and includes their successors or personal representatives.
- c) "Concrete Block" covers all classes of Concrete Blocks, including Jersey Blocks, which the Vendor agrees to sell to the Purchaser, in plural as well as singular.

2. Extent of contract

No conditions other than specifically set forth shall be deemed to be incorporated in or to form part of the Contract or shall otherwise govern the relationship between the Vendor and the Purchaser in relation to the purchase of any particular Concrete Block. The Contract does not create any right enforceable by or purport to confer any benefit on any person not a party to it except that a person who is a successor to or an assignee of the rights of the Vendor is deemed to become a party to the Contract after the date of succession or assignment (as the case may be).

3. Acceptance of Concrete Block

Acceptance of the Concrete Block on site implies unqualified acceptance of the Concrete Block in acceptable condition, and all terms and conditions herein unless otherwise agreed in writing by the Vendor.

4. Unloading

The Purchaser shall be responsible for the unobstructed access and, unless otherwise agreed in writing, for unloading of the Concrete Blocks at the site and any personnel supplied by the Vendor for such unloading shall be deemed to be under the direction and control of the Purchaser. Such personnel shall for all purposes in connection with their employment in the be regarded as the servants or agents of the Purchaser (but without prejudice to any of the provisions of Clause 9) who alone shall be responsible for all claims arising in connection with unloading of the concrete Barrier by, or with the assistance of, such personnel.

5. Concrete Block Delivery

Delivery undertaken by the Vendor is not included in the purchase charges and is charged as an extra. Where the Vendor has agreed to provide transport for the Concrete Blocks to or from the Purchaser's site:

- a) The Purchaser shall provide or ensure that access to and over the Purchaser's site is in every respect suitable for the vehicle used for transporting the concrete blocks.
- b) The Purchaser shall not suffer or permit the transport vehicle to be unduly delayed on site. The Vendor may make a Waiting Time charge for any delays incurred on site, or may not complete the delivery at the Vendor's entire discretion if the delay is deemed to be unreasonable.
- c) The Vendor will not deliver Concrete Blocks over roads or grounds that in the Vendor's (or its authorised representative's) opinion is considered to be unsuitable. The decision of the Vendor's (or its authorised representative's) driver is final. If delivery is not completed for this reason, the Concrete Blocks will be returned to the Vendor, the Purchaser will still be liable for the delivery charge.
- d) The Purchaser shall indemnify the Vendor against any claims for injury to persons or loss or of damage to property (including land), during unloading of the Concrete Blocks
- e) The Vendors shall not be liable for the consequences of any delay in the delivery at the Purchaser's site howsoever arising.

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f) Concrete Blocks will not be delivered by the Vendors in the absence of the Purchaser or his representative, unless agreed beforehand in writing. If delivery is completed by the Vendors in the absence of the Purchaser or his representative, the Purchase Delivery Note shall be forwarded to the Purchaser's address and deemed to be conclusive proof of delivery of the concrete Barrier in good condition, listed thereon.

6. Handling / use of Concrete Blocks

- a) The Purchaser shall be responsible for ensuring the observance of all proper safeguards and precautions against accidents in connection with the use of the Concrete Blocks, and for ensuring its use by authorised persons only.
- b) The Purchaser will be responsible for compliance with relevant regulations issued by the Government or Local Authorities, including regulations under the Factories Acts, Health and Safety at Work Act etc. and observance of the Road Traffic Acts should they apply, and any insurances made necessary thereby.
- c) Final determination of the suitability of the Concrete Blocks for any specific use is the Purchasers responsibility and the Purchaser assumes all risk and liability in this regard.
- d) The Purchaser shall indemnify the Vendor for injury to persons or loss of or damage to property caused by the Purchasers use of the Concrete Blocks or the Purchasers failure to use the Concrete Blocks in a safe and proper manner.

7. Concrete Block failure

Each Concrete Block is sold as a separate unit and any failure by one or more Concrete Blocks through any cause whatsoever, shall not entitle the Purchaser to compensation or allowance for the loss of working time.

No claims will be admitted for hold ups through causes outside the Vendors control, including bad weather or ground conditions nor shall the Vendor be responsible for the cost or expense of recovering any Concrete Block from soft ground.

8. Limitation of liability

Except for liability on the part of the Vendor which is expressly provided for in the Contract (including these Clauses):

- a) The Vendor shall have no liability or responsibility for any loss or damage of whatever nature due to or arising through any cause beyond his reasonable control including late or non-arrival of the Concrete Blocks to the purchasers specified location.
- b) the Vendor shall have no liability or responsibility, whether by way of indemnity or by reason or any breach of the Contract, breach of statutory duty or misrepresentation or by reason of the commission of any tort (including but not limited to negligence) in connection with the purchase, for any of the Purchaser's loss of profit, loss of use of the concrete Barrier or any other asset or facility, loss of production or productivity, loss of contracts with any third party, liabilities of whatever nature to any third party, and/or any other financial or economic loss or indirect or consequential loss or damage or whatever nature; and
- c) whenever the Contract (including these Clauses) provides that any allowance is to be made against purchase charges, such allowance shall be the Purchaser's sole and exclusive remedy in respect of the circumstances giving rise to the allowance, and such remedy shall be limited to the amount of purchase charges which would otherwise be or become due if the allowance in question had not been made.

9. Protection of Vendor's rights

a) If the Purchaser makes default in punctual payment of any sum due to the Vendor for the purchase of Concrete Blocks or other charges or shall fail to observe and perform the terms and conditions of this Contract, or if the Purchaser shall suffer any distress or execution to be levied against him or make or propose to make any arrangement with his creditors or becomes insolvent; or shall do or cause to be done or permit or suffer any act or thing whereby the Vendor's rights in the Concrete Blocks may be prejudiced or put into jeopardy, this Contract may forthwith be determined by notice from the Vendor to the Purchaser (notwithstanding that the Vendor may have waived some previous default matter of the same or a like nature). The Contract shall thereupon be deemed

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determined by reason of the Purchaser's breach and it shall be lawful for the Vendor to retake possession of the said Concrete Blocks and for that purpose enter into or upon any premises where the same may be and the determination of the purchase under this condition shall not affect the right of the Vendor to recover from the Purchaser any monies due to the Vendor under the Contract or any of the Vendor's rights and remedies. In particular, without limitation, the Vendor shall be entitled to claim return transport charges, and damages for the Purchaser's actual or deemed breach of the Contract under this clause.

10. Payment terms

The purchase and delivery charges are payable in advance, unless otherwise agreed by the Vendor in writing. The Purchaser shall pay all sums due to the Vendor under this Contract without any set-off, deduction, counter claim and/or any other withholding of monies. Payment shall not be deemed to be made until the Vendors have received either cash or cleared funds in respect of the full amount outstanding.

11. Responsibilities of person agreeing contract

The person agreeing the contract warrants that he has authority of the Purchaser to make this contract on the Purchaser's behalf. The said person hereby indemnifies the Vendor against all losses and costs that may be incurred by the Vendor if this is not so. The said person hereby acknowledges that he has been instructed in the operation and use of the Barrier. The said person and the Purchaser jointly and severally hereby undertake to ensure that no one uses the Barrier who is not properly instructed.

12. Advice

If advice or information is sought from and given by any representative of the Vendor, the Purchaser understands and accepts that such advice or information is given in good faith and does not relieve or reduce the Purchasers requirement to make his own independent assessment as outlined above.

13. Availability of Concrete Blocks

Concrete Blocks are offered for purchase subject to availability at the time of order. The Vendor will not be liable for any loss as a result of the Concrete Blocks being unavailable for purchase.

14. Insurance

The Purchaser shall take out and maintain insurance against any and all liabilities the Purchaser might incur under the Contract provided the same is commercially available. The Vendor reserves the right at any reasonable time to require confirmation that the Purchaser is complying with its insurance obligations.

15. Invoice queries

All invoice queries must be notified in writing to Head Office within 72 hours of invoice date.

16. Purchase charge alterations

The Vendor shall be entitled to revise, increase or decrease the purchase rate for any item of Concrete Blocks.

17. VAT

VAT will be charged at the prevailing rate.

18. Separate term validity

In the event that any clause (or part thereof) of these conditions is held to be unlawful, unenforceable or invalid by any court or other competent body, this shall not in any way affect the validity of the remainder of such clause and the remainder of the other clauses in these conditions.

19. Jurisdiction

The Contract and/or Conditions of Purchase are subject to English Law only.

End 01-Aug-2021