



GENERAL TERMS AND CONDITIONS OF SALE

1. SALE CONDITIONS

- 1.1 The following shall be the sale terms and conditions which Rockcrete Equipment (Pty) Ltd, ("Rockcrete"), will treat or contract to sell and/or install and/or deliver goods/products. Any general or special terms of purchase contained in any of Rockcrete's documents regardless of whether such documents were sent to the Purchaser before or after the signing of this contract shall be superseded by the terms and conditions recorded herein. Any order placed with Rockcrete and accepted by it shall be deemed that the Purchaser has acknowledged and accepted the terms and conditions recorded herein.
- 1.2 No variation of these conditions shall be binding unless reduced to writing and signed by a duly authorised representative of Rockcrete and the Purchaser.

2. GOODS/PRODUCTS SOLD

- 2.1 Goods/products sold are as described overleaf.
- 2.2 Goods/products are sold voetstoets and are subject to availability. If any of the goods/products are not readily available or undue delay is experienced in obtaining them, Rockcrete shall notify the Purchaser in writing at the earliest opportune time and shall enquire whether the Purchaser is willing to purchase similar goods/products available at the time.

3. PRICES/ORDERS

- 3.1 The contract price of the goods/products sold is reflected overleaf.
- 3.2 Unless agreed to in writing, all prices are ex-warehouse of Rockcrete.
- 3.3 If not otherwise confirmed by us in writing our price lists/quotations are net and exclude VAT.
- 3.4 If not otherwise confirmed by Rockcrete in writing, the price lists/quotations/orders are subject to variation in terms of changes in the cost of transport, shipping, import duty, surcharges etc. as well as a change in the exchange rate from such rate as qualified in our price offer.
- 3.5 All prices disclosed and/or displayed on Rockcrete's brochures/quotations/price lists are given entirely as a guideline with regard to models/prices and do not constitute a condition of and/or commitment on the part of Rockcrete.
- 3.6 Any changes and/or amendments to confirmed orders requested by the Purchaser shall be borne and paid for by the Purchaser.

4. DELIVERY OF GOODS

- 4.1 No delivery shall be affected unless the orders have been confirmed in writing.
- 4.2 While Rockcrete shall make every reasonable endeavour to deliver on the date stated in the quotation/order as soon as possible, no firm undertaking can be given by Rockcrete in this regard and such dates are not a condition of this Agreement. The Purchaser, therefor, agrees to accept the delivery of the goods as and when same are available.

- 4.3 Rockcrete shall not be responsible for any delay in delivery whatsoever and the Purchaser hereby indemnifies Rockcrete against all claims either by itself or of a third party arising out of a delay in delivery of the materials/goods, including damages consequential/direct/or indirect losses and or damages.
- 4.4 Partial deliveries are permissible; every partial delivery is regarded as an independent business transaction.
- 4.5 All transport and delivery charges including handling costs and risks associated therewith shall be borne and paid for by the Purchaser, who shall be responsible for the checking of the shipments and deliveries upon arrival and to lodge any claims, if necessary and if arising against the carriers for any reason whatsoever including payment of carriage costs.
- 4.6 All payments are to be made on the dates reflected overleaf falling which they shall be payable on delivery of the said goods.

5. PAYMENTS

- 5.1 Rockcrete reserves the right to arrange for cash on delivery shipments. In such event should the Purchaser not accept the C.O.D. charges, it agrees and undertakes to reimburse Rockcrete any carriage costs and other costs arising therefrom which may have been paid by Rockcrete on behalf of the Purchaser.
 - 5.1.1 All amounts overdue shall bear interest at prime overdraft rate plus 2% (two percent) as charged by Rockcrete's bankers from time to time
- 5.2 The ownership in and to the goods/products sold shall not pass to the Purchaser but shall remain vested with Rockcrete until payment in full of the contract price, legal charges, interest and other charges which may be due by the Purchaser have been paid in full.
- 5.3 In the event of the Purchaser being granted an extension within which to make payment, interest referred to in 6.1.1 shall apply to such payments. Interest shall be charged from due date to date of payment.
- 5.4 It is specifically agreed and recorded that in the event of non-payment Rockcrete shall be entitled to repossess the property and further be entitled to recover from the Purchaser all costs incidental to and incurred for the removal thereof. It is further recorded that any depreciation and/or deterioration of the goods/products shall be taken into account to establish the value of the said goods/products repossessed.
- 5.5 Rockcrete may in its sole discretion, appoint an expert to value the repossessed goods. The cost of such expert shall be borne by the Purchaser and shall constitute the claim against the Purchaser.

6. CLAIMS

- 6.1 Rockcrete shall not be liable for any loss of profit or any damage, direct or indirect which may be sustained by the Purchaser in consequence of late deliveries, delay in deliveries, failure to deliver, or defective delivery, whether through the fault of Rockcrete or through any cause whatsoever.
- 6.2 In the event of the goods/products having been delivered by Rockcrete it shall be deemed that the said goods/products have been inspected and accepted as being in good condition and of good quality according to the specifications/order and the Purchaser shall have no claims of whatsoever nature against Rockcrete for any reason whatsoever and hereby indemnifies Rockcrete against any claims which may be made in respect of the materials/goods sold and installed.

7. WARRANTY

- 7.1 All warranties and representations, whether express or implied as to the suitability of the articles for any specific purpose or otherwise, or as to their freedom from defects, are hereby expressly excluded and Rockcrete shall in no circumstances, whether or not there be any defect or nay faults on its part, be liable to the Purchaser or any other person for any consequential loss, damages or expenses of whatsoever nature.
- 7.2 It is recorded that no other conditions, stipulations, warranties and all representations whatsoever are made other than as specifically included herein.
- 7.3 The manufacturer's warranty shall be applicable to the goods/products sold. The manufacturer shall only be bound by undertakings and/or representation made by its Agents/employees which have been confirmed in writing by the manufacturer. Any claims regarding the goods/products for whatsoever reason or howsoever arising including, but not limited to the composition, quantity and weight shall be lodged to the Rockcrete. Any returned items to the manufacturer shall be accepted subject to the manufacturer's written approval and further subject that all costs of shipments to the manufacturer shall be borne and paid for by the Purchaser. Furthermore any risk attached to the returned goods whilst in transit shall be for the Purchaser's account.
- 7.4 Any faulty part may be replaced in accordance with the terms and conditions as set out and agreed to by the manufacturer and within the time period set out by the said manufacturer subject however that the cost of delivery of the faulty part to the manufacturer shall be borne and paid for by the Purchaser.
- 7.5 The manufacturer's warranty shall run for a period of 12 months from date of delivery.
- 7.6 The warranty is strictly limited to free replacement or repairs as confirmed by the manufacturer or Rockcrete in writing.
- 7.7 The warranty shall not apply in cases of improper and/or illegal use of the products nor shall the warranty apply in the event of any damage caused/occurring as a result of the negligent, wilful conduct, lack of supervision or defective and/or no maintenance or resulting from alterations made to the equipment without Rockcrete's and/or the manufacturer's written consent.
- 7.8 All delivery/carriage and assembly costs and any other costs and/or expenses resulting in the replacement of faulty parts shall be borne and paid for by the Purchaser.
- 7.9 No replacement shall extend beyond the warranty period
- 7.10 Any alterations and/or repairs made without the prior written approval of the manufacturer/supplier or any failure of inadequate maintenance shall exonerate the manufacturer/supplier of any of the warranty obligations recorded herein.
- 7.11 The Purchaser shall ensure that the product sold in terms hereof can be used with other products used by the Purchaser. The warranty shall not extend to the products being assembled to any other items and/or equipment, the origin and/or intended purpose of which are unknown to the manufacturer and/or Rockcrete.
- 7.12 The products hereby sold are sold without any warranty and or presentation that they are compatible to and/or designed for or may be incorporated in any finished product of the Purchaser.

7.13 It is specifically recorded that Rockcrete and/or the manufacturer reserves the right to alter the products without prior written notification to the Purchaser in order to comply with any technical developments in terms of any rules, laws and/or regulations in force at the time of placing the order and/or delivery thereof. It being specifically agreed and recorded that specifications, photographic images and/or descriptions of the products in the manufacturer's or Rockcrete's catalogue are guidelines and the manufacturer and/or Rockcrete shall not be bound thereto.

8. RETURNS

The Purchaser shall not be entitled to return goods/products or cancel any confirmed order. Any goods/products returned or cancelled shall be subject to an amount equivalent to 15% of the contract price as a handling charge and/or cancellation fee, and/or as pre-estimate damages suffered by Rockcrete, provided always that Rockcrete has agreed to the cancellation and return of the goods/products in writing.

9. JURISDICTION

At the election of Rockcrete and any action arising by virtue of these conditions may be instituted by it in the Magistrate's Court of the district having jurisdiction notwithstanding that such proceedings are otherwise beyond the jurisdiction of the Magistrate's Court.

10. LEGAL COSTS

10.1 The Purchaser shall pay all legal costs incurred by Rockcrete with its attorney on the attorney and own client scale in respect of all actions or disputes which may arise between Rockcrete and the Purchaser in terms of these conditions.

10.2 In the event of Rockcrete instructing its attorneys to collect any amount owing by a Purchaser, the Purchaser shall pay all collection commission and other costs incurred by Rockcrete with its attorneys in that regard on the attorney and own client scale.

11. NON-WAIVER

The failure by Rockcrete to strictly enforce any provision of these conditions shall not be construed as a waiver or novation by Rockcrete of any of its rights in terms hereof nor prejudice Rockcrete to strictly enforce such conditions.

12. RISK

12.1 Risk in the goods/products shall pass to the Purchaser on delivery.

12.2 The Purchaser shall keep the goods delivered but not paid, free from any claims by third parties and from attachment and shall not alienate, sell or transfer same, save in the normal conduct of the business between the parties, encumber same either in part or in whole or allow any lien to arise in respect thereof. Any costs incurred by Rockcrete to repossess the goods/products or to effect removal of the above encumbrances shall be payable by the Purchaser to Rockcrete on demand.

13. BREACH

13.1 Should the Purchaser breach any of the conditions hereof or fail to pay any amount payable in terms hereof on due date thereof or commit any act of insolvency, or attempt to compromise with any of its creditors or do or cause to be done anything which may prejudice Rockcrete's rights under this Agreement, or allow any judgment against it to remain unsatisfied for 7 (seven) days after the grant thereof, or be subject to a provisional or Final Order of Liquidation or judicial management, or in the case of the Purchaser being a natural person is a state being provisionally or finally sequestered or surrendered, or should the goods/products sold be ceded under any

legal process issued against the Purchaser, Rockcrete shall have the right, without prejudice to any other rights which it may have in law against the Purchaser to:

13.1.1 suspend the supplier of goods/products; and or

13.1.2 terminate this Agreement forthwith;

13.1.3 repossess the goods/products whether installed or not and/or claim all arrears owing as at date of termination

14. It is specifically recorded that this Agreement is not subject to or conditional upon any other Agreement which may exist or be entered into between the Purchaser and any third party.

15. It is specifically recorded and agreed that the Purchaser shall be solely responsible to Rockcrete for payment of the goods/products sold and delivered on due date, notwithstanding that the Purchaser's client/customer may have not made payment thereof to the Purchaser.

16. MISCELLANEOUS

16.1 In the event of the Purchaser failing to make payment upon the terms stated herein, it shall forfeit any discounts which may be due to it in terms of this Agreement.

16.2 Upon the Purchaser or its authorised representatives signing the delivery notes relative to the goods/products appearing thereon, it shall be deemed that the items delivered are to the Purchaser's satisfaction.

16.3 It is specifically agreed that in the event of the Purchaser claiming damages in respect of defective goods/products the Purchaser shall not be entitled to withhold any payments due in terms of this Agreement. In this event Rockcrete will not be obliged to attend to the rectification of any defective goods/products unless and until full payment of the total contract price has been made by the Purchaser.

16.4 The goods/products are sold voetstoets, without warranties express or implied, and Rockcrete shall not be liable for any defects, latent or otherwise nor for any damage occasioned to or suffered by the Purchaser by reason of such defects.

16.5 Insofar as Rockcrete or anyone else acting on its behalf may have made any oral or written representation other than those contained in this Agreement, the Purchaser acknowledges and accepts that such representations was given to him in good faith and that while Rockcrete or its agents have used the best endeavours to ensure the accuracy thereof, it remains the Purchaser's responsibility to satisfy himself that the representations are actually correct. The Purchaser shall have no claims against Rockcrete in respect thereof.

16.6 In the event of the Purchaser being a Company or a Close Corporation, it shall be deemed that the person signing this Agreement is duly authorised to do so and by his signature hereto binds himself to Rockcrete as surety for and co-principal debtor in solidium with the said Company/Close Corporation of its obligations in terms hereof.

16.7 No relaxation which Rockcrete may permit at any time or any indulgence granted by it in regard to the carrying out of the terms of these conditions shall be deemed to be a waiver of any of its rights or a novation of the terms and conditions herein.

17. It is acknowledged by the Purchaser that this Agreement is neither a quotation nor an Order but a binding Agreement which as from signature thereof by him shall be completely effective unless Rockcrete, as its entire discretion by written notice to the Purchaser elect to resile from and cancel this Agreement. In such

event the only obligations which Rockcrete shall have is to refund to the Purchaser, without interest, all monies thus far paid by it to the Purchaser.

18. This Agreement constitutes the entire Agreement between the parties who acknowledge that there are no undertaking, Agreement, representations or warranties express or implied relating to the goods sold and/or installed.
 - 18.1 Any amendments, alterations or collateral agreement shall be of any force or effect unless reduced to writing and signed by the parties hereto.
 - 18.2 The Purchaser acknowledges that he understands and is bound by all the terms and conditions contained herein.
19. Technical details and advice provided by Rockcrete are to the best of its knowledge and in no way shall it be deemed or construed that such technical details and advice provided are binding upon Rockcrete in any manner whatsoever.
20. The Purchaser shall be obliged to inspect all products upon delivery and shall endorse the delivery note as to any missing/damaged goods/products. No claims for missing or damaged goods/products shall be valid unless the Purchaser notifies Rockcrete in writing within 48 (fourty eight) hours of delivery of the product in question. The Purchaser shall simultaneously furnish Rockcrete a copy of the delivery note in question.
21. Insofar as Rockcrete or any person acting on their behalf may have made any oral/written representation other than those contained in this Agreement, it is acknowledged and accepted that such representations were made in good faith and while Rockcrete or its representatives have used their best endeavours to ensure the accuracy thereof. It remains the Purchasers responsibility/onus to satisfy itself that representations are actually correct.
22. It is specifically agreed and recorded that in the event of the Purchaser claiming damages in respect of defective goods/products, the Purchaser shall not be entitled to withhold any payments due in terms of this Agreement. In his event Rockcrete will not be obliged to attend to the rectification of any defective goods/products unless and until pull payment of the total contract price has been made by the Purchaser.

23. INSTALLATION OF GOODS/PRODUCTS

In the event of the installation of the goods/product being installed by Rockcrete the following provisions shall apply:-

- 23.1 While Rockcrete shall make every reasonable endeavour to commence with the installation of the goods/products on the date stated in the order/quotation as soon as possible, no firm undertaking can be given by them in this regard, and such date/s are not a condition of this Agreement.

The Purchaser therefore agrees to accept the installation of the goods/products as and when same is completed.
- 23.2 The Purchaser agrees and undertakes that he and/or members and/or employees and/or staff of his company/firm/business shall not either personally or through his/their agent, interfere in or obstruct any of Rockcrete's workmen, any sub-contractor or any other person employed or acting on behalf of Rockcrete in any way whatsoever or issue instructions to any of the aforementioned without the written approval of Rockcrete first having been obtained.
- 23.3 The Purchaser hereby indemnifies Rockcrete against any liability, loss, claim of whatsoever nature consequent on personal injury or to the death of any person whatsoever arising out of or in the course of or caused by the execution of the installation of the goods/products.

23.4 In the event of the Purchaser having installed the goods/products sold, it shall be deemed that the said goods/products have been accepted as being in good condition and of good quality and according to the order and the Purchaser shall have no claim of whatsoever nature against Rockcrete for any reason whatsoever and hereby indemnifies Rockcrete against any claims which may be made in respect of the goods/products sold and installed.

24. FORCE MAJEURE

In the event of force majeure or any situations beyond the control of Rockcrete, Rockcrete shall be released from its obligations to deliver the said products with no recourse to it including but not limited to any damages, consequential or otherwise. For the purposes of this clause force majeure shall include, but shall not be limited to, acts of war, civil war, fire, strikes, natural disaster and accidents of any kind whether in Rockcrete’s premises or at the supplier’s premises as well as the unavailability of raw materials, transport problems, impoundment, seizure or destruction of the goods/products by customs in terms customs rules and/or regulations, destruction, confiscation or requisition of the goods/products in terms of any Court Order.

THUS DONE and SIGNED at _____ by _____

On this the _____ day of _____ 20____ FOR AND BEHALF OF

AS WITNESSES:

1. _____

2. _____