

## TERMS & CONDITIONS OF SALE

**1. DEFINITIONS** In these terms and conditions, the following words shall have the following meanings: The "Seller" shall mean DECAST Ltd. "The Goods" shall mean the materials, products and services supplied by Seller in accordance with these conditions. "The Purchaser" shall mean the entity, firm or person purchasing the Goods from Seller. "Special Terms and Conditions" are terms and conditions that are applicable to specific Products and that supersede and replace the General Terms and Conditions provided below.

**2. THE CONTRACT** All orders received and accepted by Seller are based on the terms and conditions provided herein, unless the Quotation and/or Order acknowledgment indicates that special terms and conditions apply in which case they supersede these General Terms and Conditions.

**3. PRICE** 3.1 Quotations remain open until written acceptance but may be withdrawn if written acceptance has not been received by the Seller within 30 days of quotation. 3.2 All prices are exclusive of H.S.T. and all quotations are subject to any increase in sales tax or freight or to the imposition of new taxes in which case the amount of the increase will be added. 3.3 All prices quoted delivered are for delivery to site or as near thereto as safe roadway permits based on a 160 km radius from Barrie, Ontario F.O.B. job site. 3.4 Unless otherwise expressly agreed by the Seller in writing, prices cover only delivery on working days and during working hours. 3.5 All deliveries made or work done at Purchaser's request on Bank Holidays, Sundays, Saturday, and outside normal working hours will be subject to extra charges. 3.6 Part load charges will be made when the Purchaser requests deliveries to be made in quantities of less than a full load, other than the final load to finish a specific project. 3.7 Acceptance of quotations does not obligate the Seller until the Purchaser's credit is approved by the Seller's credit department. 3.8 The Seller reserves the right to make an extra charge for unreasonable delay in unloading or releasing their vehicles beyond one hour.

**4. PAYMENT** 4.1 Standard payment terms are net thirty days (30). A discount of three percent (3%) will only be allowed on gravity products if payment is received by the 25th day of the month following the date of invoice, provided there are no overdue invoices outstanding. H.S.T is not subject to the discount. 4.2 A service charge of two percent (2%) per month (twenty-four percent (24%) per year) will be applied to overdue accounts. 4.3 In the event credit has not been established DECAST Ltd. reserves the right to require payment in advance of shipment 4.4 The Purchaser shall not be entitled to withhold payment of any amount payable to the Seller by reason of any dispute or claim by the Purchaser and in the case of any incorrect or short delivery shall remain liable to pay the full invoice price of all goods delivered or available for delivery.

**5. PAYMENT TERMS EXCEPTIONS** 5.1 The 3% Discount is not applicable on all products unless specifically identified. See Quotation - Special Terms and Conditions for clarification. Discount is at DECAST Ltd.'s sole discretion and subject to confirmation at time of order. 5.2 Any variations, additions or deletions in payment terms to be authorized in writing by Accepted Purchase Order, (Sub) Contract Agreement or DECAST Ltd. Order acknowledgment.

**6. DELIVERY** 6.1 Delivery will be made at the delivery address specified in the quotation or order acknowledgment. 6.2 Delivery dates mentioned in any quotation, order acknowledgment or elsewhere are approximate only and not of any contractual effect. The Seller will not have any liability for loss or damage (including loss or profit and consequential loss) to the Purchaser in respect of any failure to deliver on any particular date or dates. 6.3 The Seller requires no less than forty eight (48) hours' notice of the Purchaser's requirements to ensure adequate service and to enable the Seller to schedule trucks and deliveries. 6.4 Delivery of goods may be totally or partially suspended during any period in which Seller is prevented or hindered from such delivery by reason of any circumstances beyond its control (including but not limited to the default of any person or firm engaged by the Purchaser) and such suspension shall not give rise to any claim by Purchaser against Seller nor shall it give the Purchaser the right to terminate any agreement with the Seller. 6.5 An allowance of five percent (5%) will be made for goods picked up at our yard, (not applicable to all products.) 6.6 Where delivery F.O.B. trucks at job site is included in the prices quoted, delivery shall be construed to mean motor truck delivery in 25 tonne minimum truckload quantities, as close to the job site, designated storage area, or the line of trench as is practical for loaded motor trucks and trailers operating under their own power, without risk of accident, injury or undue delay. The Purchaser shall be responsible for ensuring the safe and satisfactory access to such place and shall be solely responsible for any accident or damage resulting from his failure to do so and shall indemnify Seller against all claims of loss or damage thereby caused except where such loss or damage is caused by the negligence of Seller's employees. 6.7 At time of delivery to job site, the Purchaser is responsible for promptly off-loading Seller's truck. If Purchaser delays in off-loading the vehicle and Seller's vehicle is kept on site longer than 1 hour after arrival to delivery site, an additional charge will apply. 6.8 Quotations are made on the condition that full delivery will be taken within 6 months from acceptance of the order. Any goods delivered after this period will be subject to any increase in prices shown in our regular quoted list prices in effect at the time of delivery.

**7. TITLE AND RISK** 7.1 The Purchaser shall inspect the goods purchased at the time of delivery and claims in respect thereto must be made at that time. If any such goods are found to be defective, the Seller will deliver new goods to the Purchaser at the site of the work in lieu thereof, but it is a condition of sale that this will be the limit of the Seller's liability. The Seller will not be liable for any other labour costs or other consequential damages. 7.2 Acceptance of goods and services by the customer deems acceptance of the terms and conditions listed above.

**8. LIABILITY** 8.1 The Seller shall not be liable for delay or non-delivery caused by the failure of transportation facilities, strikes fire, war, flood, accident or any other cause beyond the Seller's control. 8.2 No warranties, representatives, conditions or agreements exist which are not set out in writing. 8.3 The Purchaser is reminded to verify all quantities, calculations, and specifications. The Seller assumes no liability in this regard. 8.4 Material returned for credit will be subject to freight charges and the acceptance of the Seller. Special projects ordered by the Purchaser are not subject to cancellation. Any special products not taken will be charged to the Purchaser. There will be a twenty-five percent (25%) handling charge for any standard stock products returned. 8.5 A waiver of any one or more of the terms and conditions herein by the Seller shall not constitute a general waiver of terms and conditions and the Seller reserves the right to enforce any and all conditions not so waived. Any such waiver must be in writing.

THIS CONTRACT, WHICH CONSISTS EXCLUSIVELY OF THIS ORDER ACKNOWLEDGMENT (INCLUDING ITS TERMS AND CONDITIONS OF SALE), TOGETHER WITH ANY WRITTEN SUPPLY AGREEMENT SIGNED BY BOTH PARTIES RELATED TO THE SALE OF PRODUCT TO PURCHASER AND ANY PRICE QUOTATION OF SELLER, FORMS THE ENTIRE AGREEMENT BETWEEN THE PARTIES AND EXCLUSIVELY GOVERNS ALL SALES AND PURCHASES OF PRODUCT HEREIN. ANY ADDITIONS, MODIFICATIONS OR CONTRADICTIONS TO THE TERMS OF THE CONTRACT APPEARING IN A PURCHASE ORDER, QUOTATION, ACKNOWLEDGMENT OR OTHER DOCUMENT OF PURCHASER ARE HEREBY EXPRESSLY REJECTED WITHOUT FURTHER NOTICE TO PURCHASER. ANY CONDUCT BY PURCHASER RECOGNIZING THE EXISTENCE OF AN AGREEMENT SHALL BE DEEMED AN ACCEPTANCE OF THE TERMS AND CONDITIONS OF THE CONTRACT