



IGNITING HUMAN POTENTIAL

TERMS AND CONDITIONS OF SALE

1. These terms and conditions shall be binding upon the Purchaser and shall preclude and exclude any terms and conditions proposed by Purchaser unless such proposed terms are agreed to in writing by Luck Stone Corporation ("Seller"). Should any discrepancy or difference arise between these terms and conditions, including those on the first page of the Seller's quotation (collectively, "the Terms and Conditions"), and any other purported agreement between Seller and Purchaser regarding this transaction, the Terms and Conditions shall govern, and shall be part of the contract between Seller and Purchaser ("the Contract"). Any amendments to this quotation must be in writing and signed by the party against whom the amendment is being enforced.
2. Purchaser shall pay to Seller, in addition to the prices quoted for material and haul, if applicable, all federal, state, and local sales, use, or other taxes arising from transactions contemplated pursuant to the Contract, including without limitation, any taxes imposed on material, ingredients, the sale thereof, or incidental transportation as applicable.
3. Sales and deliveries will be made during Seller's regular working hours as noted on quote. An additional charge may be incurred by Purchaser for all deliveries made on Saturday, Sunday, Seller's holidays, or before or after Seller's regular working hours.
4. Purchaser agrees to give Seller reasonable notice of the time and rate of deliveries requested under this Contract. Delivery schedules shall be mutually agreed upon between Seller and Purchaser. Seller will make all reasonable efforts to make requested deliveries. Purchaser waives any claims associated with any delays in deliveries beyond Seller's control.
5. In the event Seller agrees to a specific delivery schedule, Seller shall nonetheless not be responsible for failure to make delivery by inability to procure transportation or an event beyond the control of Seller. Seller reserves the right to refuse to make delivery when it believes delivery to be unsafe or impractical by reason of any existing or threatened causes listed above. Seller shall not be responsible, and in no event shall Purchaser seek to hold Seller responsible for, any delays or defaults caused by the owner, general contractor, subcontractors or other suppliers, architects, engineers, or other persons. Seller reserves the right to ship from a plant other than the one supplying the delivery point specified herein.
6. If Seller is to provide transportation, Purchaser agrees to provide and maintain suitable roadways and approaches to points of delivery in places other than paved streets. If such suitable roadways and approaches are not provided and maintained, Seller reserves the right to refuse delivery until the condition is remedied. In the event Purchaser orders delivery beyond curb lines, Purchaser assumes all liability for, and Seller will not assume liability nor will it be liable for, any damages caused by such delivery, and Purchaser hereby agrees to indemnify and hold Seller harmless from and against any and all liability, loss and expense incurred as a result of such delivery, and specifically waives any right of subrogation against Seller.
7. Purchaser agrees that Purchaser must give written notice to Seller within five (5) business days after delivery of any claim against Seller as a result of any alleged nonconforming materials, delay or any other cause whatsoever, time being of the essence. Seller shall be given reasonable opportunity to investigate all claims. Any failure by Purchaser to give said written notice within five (5) business days shall be deemed a conclusive waiver by Purchaser of all such claims against Seller.
8. Notice: Any notices required shall be given to Seller in writing at the sales office noted on Seller's quotation.
9. At the plant of origin, Seller warrants material conforms to applicable specifications as noted under product description of this document. Base materials shipped to VDOT projects will conform to VDOT Central Mix Aggregate Plant Quality Assurance Program requirements regarding four sample averages or lots. Base materials shipped to non-VDOT projects which specify VDOT materials will conform to the VDOT single-sample grading test tolerance. These terms also apply to base materials shipped to projects for Department of Transportation projects in states other than Virginia, except that state's Department of Transportation requirements shall be substituted for VDOT requirements. Any charges incident to inspection or tests made by or on behalf of Purchaser to determine compliance with specification(s) shall be paid by Purchaser.

10. PURCHASER ACKNOWLEDGES THAT SELLER IS NOT RESPONSIBLE FOR, AND MAKES NO WARRANTY REGARDING, THE ULTIMATE MIX THAT PURCHASER REQUIRES TO COMPLY WITH SPECIFICATIONS REGARDING ALKALI-SILICA REACTIVITY OR MITIGATION OF ALKALI-SILICA REACTIVITY.
11. DISCLAIMER OF WARRANTIES: EXCEPT AS IS EXPRESSLY SET FORTH HEREIN, THERE ARE NO WARRANTIES, EXPRESSED OR IMPLIED. THE PARTIES AGREE THAT IMPLIED WARRANTIES OF MERCHANTABILITY OR OF FITNESS FOR A PARTICULAR PURPOSE ARE EXCLUDED FROM THIS TRANSACTION AND SHALL NOT APPLY TO THE PRODUCTS SOLD HEREUNDER. SELLER'S LIABILITY FOR ANY CLAIMS SHALL BE LIMITED TO, AND IN NO EVENT WILL EXCEED THE PURCHASE PRICE OF THE PRODUCTS SOLD PURSUANT TO THIS CONTRACT. IN NO EVENT WILL SELLER BE LIABLE FOR INCIDENTAL OR CONSEQUENTIAL DAMAGES, ANY DAMAGES RELATING TO DELAY, LOST PROFITS, OR PUNITIVE DAMAGES.
12. Purchaser agrees to indemnify and save Seller harmless from and against any and all claims, demands, damages, attorney's fees, expenses, loss and liability of every kind and character made or asserted against Seller because of anything done or omitted to be done, or alleged to have been done or omitted to be done, by Purchaser, its subcontractors, or anyone acting on Purchaser's behalf.
13. In the event it becomes necessary for Seller to retain legal counsel to collect any amounts owed to it or to represent Seller in connection with any claims made relating to this Contract, then in addition to Seller's other rights and remedies Seller shall be entitled to recover from Purchaser all costs of collection, litigation, and/or defending any claims against Seller including, but not limited to, Seller's attorney's fees.
14. The contract between Seller and Purchaser ("the Contract") shall be governed by and construed in accordance with the laws of the Commonwealth of Virginia, excluding its conflict of laws provisions. Purchaser hereby consents to the exclusive jurisdiction and venue of the Circuit Court of the Goochland County, Virginia for the resolution of any dispute arising hereunder or relating in any way to this Contract or materials provided by Seller. Purchaser waives trial by jury and agrees that all issues will be determined by a judge, sitting without a jury.
15. Severability. The invalidity or unenforceability of any provision of this Contract shall not affect the validity or enforceability of any other provision of this Contract. Each provision of this Contract shall be severable and enforceable to the extent permitted by law.