



CAMERON QUARRY TERMS OF TRADE

1. Terms of Trade:

- a) These terms of trade (Terms) and the security interest created by these Terms apply to any and all goods or products (Goods) supplied by Cameron Quarry Limited (we, us, our) to you, the Purchaser. All other terms and conditions are expressly excluded. By signing the credit application form and/or ordering Goods from us, you agree to be bound by these Terms.
- b) Our agents, contractors and representatives do not have any authority to make any oral representations, statements, warranties, conditions or agreements that conflict with these Terms.
- c) We are under no obligation to supply Goods to you on credit. We may require Goods supplied be paid for in advance.
- d) If we do agree to supply Goods to you on credit, we will not do so until these Terms are signed and returned to us and until we are satisfied as to the credit worthiness of the Purchaser and any Guarantor(s).
- e) At any time (in our absolute discretion) we may:
 - i. require that Goods supplied be paid for wholly or partly in advance;
 - ii. elect not to supply Goods to you; and/or
 - iii. cancel any credit and require you to pay all outstanding amounts in full at any time.
- f) We reserve the right to vary these Terms. We will notify you of any amendments by email. The amendments will be effective from the date we notify you of the amendments.
- g) These Terms along with the Application for Credit and Guarantee (if applicable) constitute the entire agreement between us and supersede all previous agreements, arrangements or understandings. Any variations or supplementary Terms must be agreed between us in writing.

2. Orders:

- a) You may place orders by phone or email, providing us with the number plate of the collection vehicle and tonnage and product required and intended date of collection. We will notify if we are unable to supply a product you wish to order;





- b) Our confirmation email to you with these Terms will be the terms applicable to your order except for manifest error. Your collection of the Goods constitutes acceptance of these Terms;
 - c) On arrival at our premises, your driver will input the vehicle details at our weighbridge, the Goods will be brought to your vehicle for loading and an invoice will be emailed to you;
 - d) You are responsible for ensuring that the vehicle is appropriate for the Goods being collected. Your driver is responsible for ensuring your vehicle is not overloaded;
 - e) You must notify us immediately if you change your email address;
 - f) If you have not placed an order with us in advance:
 - i. we will email an invoice to you at the address provided by your driver;
 - ii. the invoice must be paid at the time of collection; however
 - iii. we may not be able to provide the Goods you wish to purchase at that time.
3. **Price:** The purchase price for Goods (Price) is set out in our price list which is available by email or can be discussed by phone. All prices are exclusive of Goods and Services Tax (GST). GST is payable by the Purchaser at the applicable rate in addition to the price for the Goods.
4. **Payment:**
- a) **Cash:** The Price is payable in full at the time of collection of Goods.
 - b) **Credit:** If we have agreed credit terms with you:
 - i. Subject to clause 1(d), the Price is payable by you no later than the 20th day of the month following the date of the invoice;
 - ii. you agree to pay to our nominated bank account the Price plus GST without setoff or deduction.
5. **Quality:**
- a) **Standards:** Our Goods are tested in accordance with NZS4407 prior to your collection of those Goods from our premises. On request, we will provide a copy of such test results to you. It is your responsibility to ensure that the attributes of the Goods purchased meet your requirements. We do not warrant Goods comply with any other New Zealand Standards, unless agreed by us in writing before you place your order.
 - b) **Acceptance:** You will be deemed to have accepted the quality and condition of the Goods at the time of purchase unless you notify us in writing within 5





Business Days of the date the Goods were collected that the Goods do not comply with NZS4407 (or such other New Zealand Standard we have agreed in writing) and provide a copy of test results showing such defect. No claim for compensation based on any alleged defect in quality or condition may be made thereafter unless the nature of the defect in quality or condition was not able to be ascertained by reasonable inspection at the time the Goods were delivered.

6. **Quantity/weight:** All quantities will be expressed metrically and to the nearest one/one hundredth (1/100) of a metric tonne. Purchase weights will be at weights specified on our weighbridge dockets at the time of purchase.
7. **Risk:** Risk in the Goods passes to the Purchaser when the Goods are loaded onto your vehicle.
8. **Title:** Title to the Goods remains with us until the Price and any other monies owing by you to us have been paid in full.
9. **PSA/Security interest:** You acknowledge that if you purchase the Goods on credit, under clause 8, we have a security interest for the purposes of the Personal Property Securities Act 1999 (PPSA) over the Goods as well as the proceeds of those Goods. You agree that we may take all steps required to perfect our security interest under the PPSA and you agree to execute any documents and provide us with all necessary information for this purpose. To the maximum extent permitted under the PPSA, you agree to waive your rights as debtor. In particular, you agree to waive your right to receive a verification statement when we register a financing statement or a financing change statement.
10. **Recovery of Goods:** If you fail to pay on the due date, or if you are in breach of these Terms, you authorise us to enter any premises to recover Goods supplied by us or in respect of which we have title or a security interest. If the premises are the premises of a third party, we will enter and recover the Goods as your agent. You will be responsible for any damage we cause in recovering the Goods and you indemnify us for any losses or costs that we incur. We will be entitled to sell any Goods and apply the proceeds towards moneys owed by you.
11. **Credit terms:** If you fail to make payment to us by the due date set out in clause 4(b):
 - a) default interest of 3% per month (compounding monthly) will be charged on the balance outstanding from the date payment was due until payment is made in full;
 - b) payment of default interest is without prejudice to our other rights and remedies; and
 - c) if we take action to protect our interests in relation to Goods over which we hold security or to recover any moneys due from you, or to otherwise protect our interests, you agree to pay our costs (including solicitor/client costs and debt collection costs).





12. **Health and Safety:**

- a) When onsite at our premises, you must, and must ensure your employees or contractors:
 - i. remain in your vehicle at all times;
 - ii. drive and otherwise operate your vehicle in a safe and appropriate manner;
 - iii. comply at all times with our directions including all health and safety rules and signs;
 - iv. comply with your obligations under the Health and Safety at Work Act 2015 (HSWA) (and any applicable regulations or codes of practice made pursuant to the HSWA) to ensure that, in performing your obligations or exercising your rights under these Terms, a safe working environment exists for your or our employees and contractors and for any third parties;
- b) You warrant that you, and your employees or contractors, will comply with all relevant statutory and contractual procedures and precautions when collecting Goods from our premises.

13. **Delay/Force Majeure:**

- a) We are not liable for any delay or failure in availability of the Goods including where such delay or failure is caused or contributed to by circumstances beyond our reasonable control. The Purchaser will not be relieved of any obligation to accept or pay for the Goods, due to delayed delivery.
- b) From time to time our weighbridge may be unavailable. Where you have ordered in advance we will attempt to notify you.

14. **Liability:** Subject to the time limitation in clause 5, to the maximum extent permitted by law, our maximum liability for any cost, loss, damage or claim arising out of or in connection with these Terms, or directly or indirectly in relation to any Goods, whether in contract, tort (including negligence) or otherwise, will be limited to the actual loss or damage suffered by you.

15. **No liability:** We will not be liable in any way whatsoever to you or any third party, whether in contract, tort (including negligence) or otherwise, for any indirect, special or consequential loss or damage howsoever arising or for any loss or damage as a result of unavailability described in clause 13(b).

16. **On-sale:** If you on-sell the Goods to any person, you must not make any representation inconsistent with these Terms. We have no responsibilities to persons other than you.





17. **No warranty:** To the maximum extent permitted by law all warranties implied by customary practice, statute or at law are excluded.

18. **Consumer Guarantees Act:** As you are acquiring the Goods in trade, the parties agree to contract out of the provisions of the Consumer Guarantees Act 1993 (CGA), and accordingly the provisions of the CGA will not apply. checked

19. **Privacy**

- a) The Purchaser, each Guarantor, and each person named in Part A of the credit application (Officer) acknowledges that any personal information collected or held by us is provided and may be held, used or otherwise disclosed for the following purposes:
 - i. providing Goods and administering, whether directly or indirectly, the contracts between the Purchaser and the Seller (including these Terms) and enforcing the Seller's rights and remedies under such contracts;
 - ii. ascertaining at any time the Purchaser's creditworthiness and the creditworthiness of the Guarantors and Officers and obtaining at any time credit reports, character/trade references and/or credit statements of the Purchaser and such persons;
 - iii. enabling the Seller to notify any credit or debt collection agency of any application for credit or default on any obligation of the Purchaser or a Guarantor to the Seller and enabling the Seller to provide such personal information to any credit or debt collection agency; and
 - iv. enabling the Seller to communicate with the Purchaser or a Guarantor for any purpose directly or indirectly related to the contracts between the Purchaser and Seller.
- b) The Purchaser, each Guarantor and each Officer authorises us to obtain at any time from any person or entity, any information we may require to process and/or accept any application for credit the Purchaser may make to us or to perform or complete any of the other purposes for which the Purchaser has provided personal information. The Purchaser, each Guarantor and each Officer authorises any such person to release to us any personal information that that person holds concerning the Purchaser, the Guarantor or the Officer.
- c) The Privacy Act 2020 entitles individuals to have access to, and if necessary, to request the correction of any personal information we hold about them. If an individual wishes to access or to correct any personal information that we hold about them, they can email us or contact us at our business premises.

20. **Disputes**





- a) If a dispute arises between the parties under these Terms, the party raising the dispute will promptly give full written particulars of the dispute to the other party and meet with the other party to try to resolve the dispute by good faith negotiations.
- b) If the dispute is not resolved within 10 Business Days from the date on which notice was given, then either party may require the dispute to be submitted to a mediator. If a mediator cannot be agreed upon within a further five Business Days, an independent mediator will be appointed by the President for the time being of the Resolution Institute (or their nominee).
- c) If mediation is unsuccessful, either party may submit the dispute to a Court of competent jurisdiction.
- d) Nothing in this clause shall prevent a party from seeking urgent injunctive relief.

21. **Guarantee:**

- a) In consideration of us entering into these Terms at the Guarantor's request, the Guarantor:
 - i. guarantees the due and punctual payment of all moneys payable and the performance of all obligations of the Purchaser under these Terms; and
 - ii. indemnifies the Seller against any liability, loss, cost or damage the Seller might incur by reason of any breach by the Purchaser of any of the Purchaser's obligations under these Terms.
- b) As between the Guarantor and the Seller, the Guarantor will be deemed to be a principal debtor and not merely a surety.
- c) The guarantee in these Terms continues until all of the obligations of the Purchaser to the Seller (whether under these Terms or otherwise) have been fully discharged.
- d) When the Guarantor consists of two or more persons, the obligations and agreements of this guarantee shall bind them jointly and severally.

22. **Miscellaneous:**

- a) We may subcontract any part or all of the services provided we remain responsible and liable for all acts and omissions of our subcontractors.
- b) We may assign our rights and obligations under these Terms by providing notice in writing to you. You may not assign your rights and/or obligations under these Terms without our prior written consent.





- c) If any provision of these Terms is illegal, invalid or unenforceable, such part, term or provision is deemed deleted from these Terms. Such deletion will not affect any other term or provision in these Terms.
- d) Notices given under these Terms must be given in writing and delivered by hand, email or by ordinary post. Notice given by ordinary post will be deemed received 3 Business Days after the date it is posted. Notice given by email will be deemed received at the time the notice leaves the information system of the sender. Any notices received after 5.00 pm on a Business Day, or on a non-Business Day, will be deemed to have been received at 9am on the next Business Day.
- e) You will give us at least 14 days' notice of any change in your name, address and any other details provided on your credit application form (if applicable).
- f) These Terms and all aspects of the supply of Goods are governed by New Zealand law. Both parties submit to the exclusive jurisdiction of the Courts of New Zealand.

23. Definitions: In these Terms:

- a) **Business Day** means a day that is not a Saturday, a Sunday or a regional or public holiday in Te Puke, New Zealand.

