

TARMAC STANDARD TERMS AND CONDITIONS OF TRADE – SET OFF AGREEMENT

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1. Definitions

1.1 "Buyer" means the person firm or company who or which is the purchaser of goods or services from the Seller or from any agent of the Seller, and "Buyer" shall, where the context so admits, include any member of the Buyer's Group of Companies

1.2 "Seller" means Tarmac Limited (company number: 453791) or any agent of Tarmac Limited, and "Seller" shall, where the context so admits, include any member of the Seller's Group of Companies

1.3 "Group of Companies" means corporate group including all and any subsidiaries of the ultimate holding company of the Buyer or the Seller as the case may be

2. Set off

From the Effective Date, and in consideration of trading or continued trading between the Buyer and the Seller, all contracts between the Buyer and the Seller for the sale of goods by the Seller or the supply of services by the Seller (whether entered into before or after the Effective Date) shall incorporate the terms of this agreement including the terms set out in the Schedule below.

3. Invalidity etc

If any provision or part of this agreement is held to be invalid or unenforceable for any reason by any court, government agency, body or tribunal, such invalidity or unenforceability shall not affect the validity or enforceability of the remaining provisions or parts of this agreement, and this agreement shall be read, construed and applied as having been varied by the deletion of the invalid or unenforceable provision or part, so as to preserve the validity and enforceability of this agreement to the fullest extent permitted by law.

4. Conflicts

In the event of any conflict between the terms of this agreement and any other contractual terms applicable as between the Buyer and the Seller (whether entered into before or after the Effective Date) the terms of this agreement shall prevail unless the Seller otherwise agrees.

5. Law and Jurisdiction

This agreement shall be governed by and construed in accordance with the laws of England and Wales, and the Buyer and the Seller hereby submit to the jurisdiction of the Courts of England and Wales.

Schedule

Set off etc

(1) The Buyer undertakes to pay any sum due to the Seller in full without any deduction, offset or counterclaim whatsoever save in respect of any credit note issued to the Buyer by the Seller.

(2) The Seller shall be entitled to set off against any sum due from the Seller to the Buyer on any account whatsoever any sum owed to the Seller by the Buyer whether or not the same shall have become due for payment and any claim or counterclaim which the Seller may have against the Buyer whether liquidated or unliquidated and whether jointly or otherwise.

(3) These terms are in addition to rights of set off at common law or in equity.