

TERMS AND CONDITIONS OF SALE (Effective from 1st January 2023)

The Stonemen Pty Ltd

1. Terms:

1.1. Each sale of Goods is made upon and subject to these Terms and Conditions of Sale.

2. Definitions

2.1. "Customer" means the person, trust, partnership or company to whom the invoice is submitted, and if more than one, jointly and severally.

2.2. "Goods" means goods supplied by the Seller to the Customer (and where the context so permits shall include any supply of Services or hereinafter defined).

2.3. "PPS Regulations" means the Personal Property Securities Regulations 2010 (Cth). 2.4. "PPSA" means the Personal Property Securities Act 2009 (Cth).

2.5. "PPS Law" means: a) the PPSA and any regulation made at any time under the PPSA, including the PPS Regulations (each as amended from time to time); and b) any amendment made at any time to any other legislation as a consequence of a law or regulation.

2.6. "Price" means the cost of the Goods as agreed between the Seller and the Customer subject to clause 5 of this contract.

2.7. "Seller" means The Stonemen AUS Pty Ltd , ABN 52661435043 and its successors and assigns.

2.8. "Services" means all services supplied by the Seller to the Customer and includes any advice or recommendations (and where the context so permits shall include any supply of Goods as defined).

2.9. "Terms and Conditions" means these terms and conditions of sale.

3. Acceptance

3.1. Acceptance of these Terms and Conditions is deemed to occur when the Customer orders Goods and Services from the Seller. Either buy verbal or written consent.

3.2. Where more than one Customer has entered into this agreement, the Customers shall be jointly and severally liable for all payments of the Price.

3.3. Upon acceptance of these Terms and Conditions by the Customer the Terms and Conditions are irrevocable and can be rescinded only in accordance with these Terms and Conditions or with the written consent of the manager of the Seller.

3.4. None of the Seller's agents or representatives are authorized to make any representations, statements, conditions or agreements not expressed by the manager of the Seller in writing nor is the Seller bound by any such unauthorized statements.

4. Goods:

4.1. The Goods are as described on the invoices and quotation as provided by the Seller to the Customer.

5. Price and Payment:

5.1. The prices charged are based on the price list published by the Seller or Quoted by the seller.

5.2. The Price shall be as indicated on invoices provided by the Seller to the Customer in respect of Goods supplied.

5.3. Prices are subject to change without notice.

5.4. Any prices do not include delivery costs unless otherwise specifically stated. The charge for delivery of goods shall be at the Seller's ruling rate of cartage at the date of delivery. Urgent deliveries will attract a further surcharge.

5.5. At the Seller's sole discretion a deposit will be required at the time of rising a sales order or invoice, A minimum of 30-50% of the total invoice will be changed dependant on if the item is a stock product ,order in item or direct import ,the products will not be dispatched until the full balance is received.

5.6. Payment is required prior to delivery of the Goods and / or Services unless credit arrangements have been made strictly in accordance with the Seller's credit policy.

5.7. Payment will be made by: (a) Direct Deposit. Westpac Bank, Mt Ommaney BSB Code: 034-108, Account No.: 702616, Goods released upon receipt of payment advice. Please e-mail remittance advice to steve@thestonemen.com.au . (b) Cheque. Made payable to: The Stone Men Aust Pty Ltd . Goods released upon clearance of cheque. (c) Credit Card. The Seller accepts MasterCard and Visa with transaction fee applicable (d) Cash.

6. Ordering:

6.1. It is the responsibility of the Customer to ensure that sufficient Goods are purchased to complete the project . The Seller cannot guarantee future supply of any product or specific batches of a product.

6.2. It is not the responsibility of the seller to provide a measure up when offering an estimate , the Customer must satisfy itself of its accuracy to the correct quantities prior to placing an order .

7. Colour:

7.1. The Customer acknowledges that variations in the colour of the Goods will occur from batch to batch and are beyond the control of the Seller. In particular stone is a natural material variation is an inherent feature not a fault. All Goods must be inspected and approved prior to laying as claims cannot be accepted or liability admitted once any materials are installed or are laid.

7.2. The Seller accepts no responsibility for variations in colour between Goods supplied under different orders or where Goods are delivered separately at the request of the Customer.

8. Delivery of Goods and / or Services:

8.1. Delivery of the Goods shall be made to the Customer's specified address. The Customer shall make all arrangements necessary to take delivery of the Goods or make access available whenever they are tendered for delivery, Delivery will be to the safest most accessible point of the property and at the discretion of the driver . We do not carry goods into properties unless stated on the invoice .

8.2. Delivery of the Goods to a carrier, either named by the Customer or failing such naming to a carrier at the discretion of the Seller for the purpose of transmission to the Customer, is deemed to be a delivery of the Goods to the Customer.

8.3. The costs of delivery which the Customer reasonably directs the Seller to incur shall be reimbursed by the Customer and shall be due on the date for payment of the Price. The carrier shall be deemed to be the Customer's agent.

8.4. The Seller may deliver the Goods by separate instalments (in accordance with the agreed delivery schedule).

8.5. Delivery of the Goods to a third party nominated by the Customer is deemed to be delivery to the Customer for the purposes of this agreement.

8.6. The Seller shall not be liable for any loss or damage whatsoever due to failure by the Seller to deliver the Goods (or any of them) promptly or at all.

9. Advice a. Any advice, recommendation, information, assistance or service provided by The Stonemen and its employees in relation to Goods sold or their use or application is provided in good faith but does not warrant the accuracy or veracity of such advice. The Purchaser acknowledges that it has not relied on any representation, advice, recommendation or information provided by The Stonemen in relation to the Goods and has satisfied itself with respect to all matters of and incidental to the Goods and, subject to clause 13.4 below, shall not hold The Stonemen liable for any representation made with respect to the Goods supplied. b. The Purchaser acknowledges that prior to accepting the Quote and/or the Order Confirmation (as applicable) in the manner set out in clause 3 & 4 above, it has had the opportunity to obtain independent legal advice with respect to these terms and conditions and otherwise fully understands these terms and conditions.

10. Return of Goods / Defects / Competition and Consumer Act 2010

10.1. It is the responsibility of the buyer to check all Goods on receipt, in all respects – no claims will be investigated by the Seller for shortages, batch variations, product quality or performance 48 hours after delivery or if the tiles have been fixed.

10.2. Any Goods delivered to the Customer which are damaged or defective, or which are not otherwise in accordance with the Customer's order, may be returned to the Seller within seven (7) days of delivery, at no cost to the Customer. The Customer shall afford the Seller an opportunity to inspect the Goods within a reasonable time following delivery if the Customer believes the Goods are defective in any way. If the Customer shall fail to comply with these provisions, the Goods shall be conclusively presumed to be in accordance with the Terms and Conditions and free from any defect or damage.

10.3. For defective Goods, the Seller's liability is limited to either (at the Seller's discretion) replacing the Goods or repairing the Goods provided that: (a) the Customer has complied with the provisions of Clause

10.2; a. the Seller will not be liable for Goods which have not been stored or used in a proper manner;

b. the Goods are returned in the condition in which they were delivered and with all packaging material, brochures and instruction material in as new condition as it is reasonably possible in the circumstances.

10.4. No tiles will be accepted for credit unless they are provided in unopened cartons , packets of current shades and colours with the Customer's copy of the original invoice. The only exceptions are pool coping and surrounds, steppers or similar which aren't supplied in cartons. The Seller will deduct up to a 30% restocking fee with a minimum fee of \$50 for returned Goods in resaleable condition within 30 days of invoice date. The returned Goods also must be a product batch that is still in stock in our warehouse. The cost of return freight will be borne by the Customer.

10.5. Goods made to special order or Customer specifications are under no circumstances acceptable for credit or return. Cancellation of orders for special items will not be accepted once these orders are in production. Deposits paid for special orders are non-refundable once production has commenced. If production has been completed and the order is cancelled, the Customer is responsible for full payment of the order.

10.6. Whilst every effort will be taken by the Seller to match colour of product, the Seller will take no responsibility for any variation between sale samples and the final product.

10.7. The Seller reserves the right to refuse to accept any tiles for credit. 11. Default and Consequences of Default 29/30 11.1. Interest on overdue invoices shall accrue from the date when payment becomes due daily until the rate of payment at a rate of 2.5% per calendar month and shall accrue at such a rate after as well as before any judgment.

11.2. If the Customer defaults in payment of any invoice when due, the Customer shall indemnify the Seller from and against all the Seller's costs and disbursements including legal costs and in addition all of the Seller's nominees cost of collection.

11.3. Without prejudice to any other remedies the Seller may have, if at any time the Customer is in breach of any obligation (including those relating to payment), the Seller may suspend or terminate the supply of Goods to the Customer and any of its other obligations under the Terms and Conditions. The Seller will not be liable to the Customer for any loss or damage the Customer suffers because the Seller exercised its rights under this clause.

11.4. In the event that: (a) any money payable to the Seller becomes overdue, or in the Seller's opinion the Customer will be unable to meet its payments as they fall due; or (b) the Customer becomes insolvent, convenes a meeting with its creditors or proposes or enters into an arrangement with creditors, or makes an assignment for the benefit of its creditors; or (c) a receiver, manager, liquidator (provisional or otherwise) or similar person is appointed in respect of the Customer or any asset of the Customer; then without prejudice to the Seller's other remedies at law (d) the Seller shall be entitled to cancel all or any part of any order of the Customer which remains unperformed in addition to and without prejudice to any other remedies; and (e) all amounts owing to the Seller shall, whether or not due for payment, immediately become payable.

12. Privacy Act 1988

12.1. The Customer agrees for the Seller to obtain from a credit reporting agency a credit report containing personal credit information about the Customer in relation to credit provided by the Seller.

12.2. The Customer consents to the Seller being given a consumer credit report to collect overdue payment on commercial credit under Section 18K (1)(h) of the Privacy Act 1988.

12.3. The Customer agrees that Personal Data provided may be used and retained by the Seller for the following purposes and for other purposes as shall be agreed between the Customer and Seller or required by law from time to time: (a) provision of Goods and Services; (b) marketing of Goods and Services by the Seller, (c) analysing, verifying and/or checking the Customer's credit, payment and/or status in relation to provision of Goods and / or Services; (d) processing of any payment instructions and/or credit facilities requested by the Customer; and (e) enabling the daily operation of the Customer's account and/or the collection of amounts outstanding in the Customer's account in relation to the Goods and Services.

12.4. The Seller may give information about the Customer to a credit reporting agency for the following purposes: (a) to obtain a consumer credit report about the Customer; and or (b) allow the credit reporting agency to maintain a credit information file containing information about the Customer.

12.5. The Customer further authorises and consents to The Seller disclosing information about its credit worthiness to credit reporting agencies and credit providers (including identity particulars and details of overdue payments), who have or are to intend to enter into some commercial or business dealings with it and/or grant credit to it. For the purposes of this paragraph 'report' and 'information' include any credit report originating from a credit reporting agency or any other record or information that has any bearing on the Applicant's credit worthiness, credit standing, credit history, credit capacity and personal information.

13. Liability / Warranty

13.1. Nothing herein contained shall be read or applied so as to purport to exclude, restrict or modify or have the effect of excluding, restricting or modifying the application in relation to the supply of any Goods pursuant to the contract of all or any of the provisions of Part V of the Trade Practices Act 1974 (as amended) or any relevant State Act (hereunder collectively referred to as "the Acts") which by law cannot be excluded, restricted or modified. Provided that to the extent that any of the Acts permits the Seller to limit its liability for the breach of any condition or warranty applying in the case of Goods, such one or more of the following as the Seller in its discretion determines: (a) the replacement of the Goods or the supply of equivalent Goods; (b) the repair of the Goods; (c) the payment of the cost of replacing the Goods or acquiring equivalent Goods; (d) the payment of the cost of having the Goods repaired.

13.2. The Seller is not responsible for any expenses or injury arising from the use of any product supplied thereby.

13.3. For Goods not manufactured or imported by the Seller, the warranty shall be the current warranty provided by the manufacturer of the Goods. The Seller shall be under no liability whatsoever, except for the express conditions as details and stipulated in the manufacturer's warranty.

13.4. Except as prescribed by applicable law or separately warranted in writing by The Stonemen in respect of any particular product and for the purpose of reliance by the Purchaser, The Stonemen shall not be liable to the Purchaser for any loss of any nature in relation to the supply by Stonemen of any goods or services.

14. Law

14.1. The parties agree that these Terms and Conditions shall be governed and construed in accordance with the laws of the State of Queensland and the parties agree to submit to the jurisdiction to the Courts of Queensland.

15. Force Majeure

15.1. Neither party shall be liable for any default due to any act of God, war, terrorism, strike, lock out, industrial action, fire, flood, drought, storm, government restrictions, theft, vandalism, delay in shipment or any other event beyond the reasonable control of either party.