

Terms & Conditions

1. Glossary

In these conditions:

- 1.1 "Agreement" means any agreement or contract entered into for the provision of goods and/or services by the Supplier to the Customer;
- 1.2 "Customer" means a person, firm or corporation, jointly and severally if there is more than one, acquiring goods or services from the Supplier;
- 1.3 "Goods" means goods supplied by the Supplier to the Customer;
- 1.4 "GST" means the Goods and Services tax as defined in A New Tax System (Goods and Services Tax) Act 1999 as amended;
- 1.5 "Supplier" means Grava Stones Pty Ltd ABN 77675997065.
- 1.6 "Services" means services supplied by the Supplier to the Customer; and
- 1.7 "Terms" means these Terms and Conditions of Trade;

2. Basis of Agreement

- 2.1 Unless otherwise agreed by the Supplier in writing, the Terms apply exclusively to every contract for the sale of goods or services by the Supplier to the Customer and cannot be varied or supplanted by any other terms, including the Customer's terms and conditions of purchase (if any).
- 2.2 Any written quotation provided by the Supplier to the Customer concerning the proposed supply of goods or services is:
 - (a) valid for 30 days;
 - (b) an invitation to treat only; and
 - (c) subject to the Customer offering to enter into an Agreement and accepting these Terms.
- 2.3 The Terms may include additional terms in the Supplier's quotation, which are not inconsistent with the Terms.
- 2.4 The Agreement is accepted by the Supplier when the Supplier confirms its acceptance of an offer from the Customer in writing or electronic means or provides the Customer with the goods or services.
- 2.5 The Supplier in its absolute discretion may refuse to accept any offer.
- 2.6 It is the Customer's responsibility to provide the Supplier with its specific requirements in relation to the goods and services.
- 2.7 The Supplier may vary or amend these Terms by notice in writing to the Customer at any time. Any variations or amendments will apply to orders made by the Customer after the date of notice.

3. Pricing

- 3.1 Prices quoted for the supply of goods and services include GST and any other taxes or duties imposed on or in relation to the goods and services. In addition to payment of the price of goods and services, the Customer must pay any GST and any other taxes or duties imposed on the goods and services.

3.2 If the Customer requests any variation to the Agreement, the Supplier may increase the price to account for the variation.

3.3 Where there is any change in the costs incurred by the Supplier in relation to the goods or services, the Supplier may vary its price for the goods or services in order to take account of any such change, by notifying the Customer.

3.4 Product ranges and prices are subject to change without notice.

4. Payment

4.1 Unless otherwise agreed in writing:

(a) Payment for the goods or services must be made in full before the customer can receive the goods.

(b) If the goods are a custom or special order and will not be available for 4 or more weeks, a deposit of no less than 50% deposit is required to reserve the stock.

(b) The Supplier reserves the right to require payment in full before delivery of the goods or completion of the services.

4.2 Payment by cheque is not deemed made until the proceeds of the cheque have cleared.

4.3 Payment terms may be revoked or amended at the sole discretion of the Supplier immediately upon giving written notice to the Customer.

5. Payment Default

5.1 If the Customer defaults in payment by the due date of any amount payable to the Supplier, then all money which would become payable by the Customer to the Supplier at a later date on any account, becomes immediately due and payable without the requirement of any notice to the Customer, and the Supplier may, without prejudice to any other remedy available to it:

(a) charge the Customer interest on any sum due at the prevailing rate pursuant to the Penalty Interest Rates Act 1983 (Vic) plus 4 per cent for the period from the due date until the date of payment in full;

(b) charge the Customer for, and the Customer must indemnify the Supplier from, all costs and expenses (including without limitation all legal costs and expenses) incurred by it resulting from the default or in taking action to enforce compliance with the Terms or to recover any goods;

(c) cease or suspend for such period as the Supplier thinks fit, supply of any further goods or services to the Customer;

(d) by notice in writing to the Customer, terminate any contract with the Customer so far as unperformed by the Supplier;

without effect on the accrued rights of the Supplier under any contract.

5.2 Clauses 5.1(c) and (d) may also be relied upon, at the option of the Supplier:

(a) where the Customer is an individual and becomes bankrupt or enters into any scheme of arrangement or any assignment or composition with or for the benefit of his or her creditors or any class of his or her creditors generally; or

(b) where the Customer is a corporation and, it enters into any scheme of arrangement or any assignment or composition with or for the benefit of its creditors or any class of its creditors generally, or has a liquidator, provisional liquidator, administrator, receiver or receiver and manager appointed, or any action is taken for, or with the view to, the liquidation (including provisional liquidation), winding up or dissolution without winding up of the Customer.

6. Passing of Property

6.1 Until full payment in cleared funds is received by the Supplier for all goods and services supplied by it to the Customer, as well as all other amounts owing to the Supplier by the Customer:

- (a) title and property in all goods remain vested in the Supplier and do not pass to the Customer;
- (b) the Customer must hold the goods as fiduciary bailee and agent for the Supplier;
- (c) the Customer must keep the goods separate from its goods and maintain the labelling and packaging of the Supplier;
- (d) the Customer is required to hold the proceeds of any sale of the goods on trust for the Supplier in a separate account however failure to do so will not affect the Customer's obligation to deal with the proceeds as trustee;
- (e) the Supplier may without notice, enter any premises where it suspects the goods may be and remove them, notwithstanding that they may have been attached to other goods not the property of the Supplier, and for this purpose the Customer irrevocably licences the Supplier to enter such premises and also indemnifies the Supplier from and against all costs, claims, demands or actions by any party arising from such action.

7. Risk and Insurance

7.1 The risk in the goods and all insurance responsibility for theft, damage or otherwise in respect of the goods will pass to the Customer immediately on the goods being despatched or taken from the Supplier's premises.

7.2 The goods are sold to the Customer on the basis that the Customer has obtained all necessary licenses or permits under all relevant laws and regulations in relation to the goods.

7.3 The Customer assumes all risk and liability for loss, damage or injury to persons or to property of the Customer, or third parties arising out of the use, installation or possession of any of the goods sold by the Supplier, whether such goods are used singularly, or in combination with other substances, or any process.

8. Acknowledgments and Warranties

8.1 The Customer acknowledges that:

- (a) Natural stone products display inherent natural colour and shade tones, markings such as fissures and cats paws, texture and veining that may vary from samples provided and Showroom displays. The supplier gives no guarantee (expressed or implied) that samples or photos on our website will match the Goods supplied. The supplier will make every effort to match samples to the Goods supplied but will not be liable in any way whatsoever for samples differing from the Goods supplied.
- (b) No claims will be accepted after the products have been cut or chipped or used in any way.
- (c) Natural stone is porous Goods; therefore, it is recommended by the Supplier that all Goods supplied should be sealed for protection unless otherwise agreed in writing between Supplier and the Customer. The Customer acknowledges that failure to have the Goods sealed may result in damage to the Goods as oil and acidic substances are prone to causing discolouration and staining if left on surfaces for some time. The Customer agrees to indemnify the Supplier against any damage occurring as a result of a lack of sealant on the Goods.
- (d) Size and weights quoted are estimates only due to the inherent nature of the natural stone, variations during processing cannot be avoided. Please allow for up to 3mm variation in stock

thickness. Also, length (Left to Right) and Height (Bottom to Top) can vary (usually more) to size as in invoice, however customer will be charged only for agreed size.

(e) Whilst the supplier will take all due care to avoid contamination of the finished surface, the supplier accepts no responsibility for contamination by natural contaminants such as dust or hair which may be present at the worksite.

(f) If the Customer orders an insufficient number of tiles, the Supplier will take no responsibility for any variation of colour in further batches supplied to the Customer or the inability to supply Goods.

(g) The Customer acknowledges that it is the Customer's responsibility to check quantities, with an on-site measurement before commencing fixing. Measurements taken off plans or the Customer's figures by the Supplier are approximate only and no responsibility is taken for their accuracy.

(h) The Supplier will accept no responsibility for tiles that have already been affixed.

(i) The Supplier will accept no responsibility for granite stone slabs that have already been affixed and installed.

(j) The veins, rust veins, quartz and colors are features of the natural stone granite, and thus, these features cannot be considered as cracks or defects and are not liable for any claim, replacement or repair.

8.2 The Supplier warrants that samples of all goods have been tested and meet with all relevant Australian Standards.

8.3 The Supplier acknowledges that the installation of fireplace hearths is subject to Australian/New Zealand Standards entitled "Domestic Solid Fuel Burning Appliances – Installation" as approved on behalf of the Council of Standards Australia or other Australian/New Zealand Standards as may be applied from time to time, comprising specific regulations for the fireplace and flooring specifications applicable to the installation of stone hearths ("the Standards"). The Customer assumes sole responsibility for making their own enquiries as to the relevant Standards for their purpose and the Supplier makes no representation as to whether its stone fireplace hearths are suitable for the Customer's requirements. The Customer indemnifies the Supplier against any claim or loss which may be suffered by the Customer or any third party with respect to the installation of any stone fireplace hearth acquired by the Customer from the Supplier."

8.4 Natural stone does not come with any supplier, manufacturer or installer warranty.

9. Performance of Agreement

9.1 Any period or date for delivery of goods or provision of services stated by the Supplier is intended as an estimate only and is not a contractual commitment. The Supplier will use its reasonable endeavours to meet any estimated dates for delivery of the goods or completion of the services but will, in no circumstances whatsoever, be liable for any loss or damage suffered by the Customer or any third party for failure to meet any estimated date.

9.2 A completed driver's manifest or delivery docket whether signed by the driver or by the Customer or its employee or agent will be proof of delivery of goods invoiced.

10. Delivery

10.1 Subject to 10.2, the Customer must arrange for delivery of the goods from the Supplier's premises within 14 days of notification that the goods are ready.

10.2 The Supplier may, at the Customer's request and in the Supplier's absolute discretion, arrange for the delivery of the goods to the Customer and shall designate the route and the means of transportation for the delivery of goods or services. In the event that the Customer requires a more expensive route and/or means of transportation the Customer will reimburse the Supplier for the extra cost involved.

10.3 Unless otherwise agreed in writing by the Supplier, the Customer will be responsible for all costs associated with delivery, including loading, freight, insurance and other charges arising from the point of dispatch of the goods to the Customer to the point of delivery.

10.4 The Customer authorises the Supplier to subcontract delivery in its absolute discretion.

10.5 The Customer must provide reasonable and proper access to the location specified for delivery. Where the Supplier engages a carrier to deliver the goods to the Customer, the point of delivery will be adjacent to the kerb immediately in front of the location specified for delivery. A maximum of 30 minutes is allocated for unloading. Any additional time required, due to delays will be charged to the Customer at the rate of \$90.00 per hour, with a minimum \$90.00 payable.

10.6 The Customer indemnifies the Supplier against any loss or damage suffered by the Supplier, its sub-contractors or employees as a result of delivery, except where caused by the negligence of the Supplier.

10.7 If the Supplier does not receive forwarding instructions sufficient to enable it to dispatch the goods or the goods are not picked up by the Customer within 14 days of notification that the goods are ready, the Customer shall be deemed to have taken delivery of the goods from such date. The Customer shall be liable for storage charges payable monthly on demand.

10.8 The Customer must inspect the Goods on delivery and must, within three (3) days of delivery, notify the Supplier in writing of any evident defect/damage, shortage in quantity, or failure to comply with the description or quote. The Customer must notify the Supplier of any other alleged defect in the Goods as soon as reasonably possible after any such defect becomes evident. Upon such notification the Customer must allow the Supplier to inspect the Goods.

10.9 Warehouse orders can take 2–3 days to process and be ready for pick up or delivery. Large deliveries are processed by external contractors and may require extra planning time. Larger orders are done by 'fork / crane truck' or suitable machines.

11. Liability

11.1 Except as specifically set out herein, or contained in any warranty statement provided with the goods or services, any term, condition or warranty in respect of the quality, merchantability, fitness for purpose, condition, description, assembly, manufacture, design or performance of the goods or services, whether implied by statute, common law, trade usage, custom or otherwise, is hereby expressly excluded.

11.2 Replacement or repair of the goods or resupply of the services is the absolute limit of the Supplier's liability howsoever arising under or in connection with the sale, installation, use of, storage or any other dealings with the goods or service by the Customer or any third party.

11.3 Any warranty provided by the Supplier in the Terms does not apply in circumstances where:

- (a) the goods or services are not defective;
- (b) the goods were used or services required for a purpose other than for which they were intended;
- (c) the goods were repaired, modified or altered by any person other than the Supplier;
- (d) the defect has arisen due to misuse, neglect or accident;

- (e) the defect has arisen due to the incorrect installation of the goods;
- (f) the goods have not been stored or maintained as recommended by the Supplier;
- (g) the defect has arisen due to normal wear and tear on the goods; or
- (h) the Customer is in breach of the Conditions.
- (i) change of mind by customer

11.4 The Supplier is not liable for any indirect or consequential losses or expenses suffered by the Customer or any third party, howsoever caused, including but not limited to loss of turnover, profits, business or goodwill or any liability to any other party.

11.5 The Supplier will not be liable for any loss or damage suffered or any claims made by the Customer or a third party in relation to the goods once the goods have been installed or fixed into place.

11.6 The Supplier will not be liable for any loss or damage suffered by the Customer where the Supplier has failed to deliver goods or services or fails meet any delivery date or cancels or suspends the supply of goods or services.

11.7 The Supplier will not be liable for any of the events listed in 8.1.

11.8 The Customer acknowledges that:

- (a) it has not relied on any service involving skill and judgement, or on any advice, recommendation, information or assistance provided by the Supplier in relation to the goods or services or their use or application.
- (b) it has the sole responsibility of satisfying itself that the goods or services are suitable for the use of the Customer or any contemplated use by the Customer, whether or not such use is known by the Supplier.
- (c) any description of the goods provided in a quotation or invoice is given by way of identification only and the use of such description does not constitute a contract of sale by description.

11.9 Nothing in the Terms is to be interpreted as excluding, restricting or modifying or having the effect of excluding, restricting or modifying the application of any State or Federal legislation applicable to the sale of goods or supply of services which cannot be excluded, restricted or modified.

12. Cancellation

12.1 All order cancellations and returns must be authorized by Grava Stones Pty Ltd.

12.2 Goods which are held at Grava Stones Pty Ltd warehouse or at warehouse outsourced by Grava Stones Pty Ltd – Order cancellations within 15 days of purchase will incur a handling / service charge of 20% of the total invoice value. We do not accept any order cancellations after 15 days from the date of invoice.

12.3 Any goods altered, used or damaged by the customer are not eligible for returns or replacements under any circumstances.

12.4 The responsibility and costs of returning goods for return to our store or warehouse are solely that of the customer.

12.5 Custom orders and Clearance products are non-refundable, non-exchangeable. Custom or special orders are items that are not in stock or as manufactured for specific customers or projects.

13. Returns and Exchanges

13.1 Subject to clause 13.2, the Supplier will not be liable for any defects, shortages, damage or non-compliance with the specifications in the Agreement unless the Customer notifies the Supplier with full details within 7 days of delivery and must be made before the goods have been installed or laid.

13.2 When any defects, shortages, claim for damage or non-compliance with the Agreement specifications is accepted by the Supplier, the Supplier may, at its option, replace the goods, or refund the price of the goods.

13.3 If the Customer fails to give the notice as required in clause 13.1, it is deemed to have accepted the goods.

13.4 The Supplier will not under any circumstances accept goods for return that:

- (a) have been specifically produced, imported or acquired to fulfil any contract; including custom orders.
- (b) are discontinued goods or no longer stocked by the Supplier;
- (c) have been altered in any way;
- (d) have been used;
- (e) are not complete pallet lots; or
- (f) are not in their original condition and packaging.

13.5 The Buyer accepts that there will be a 50% mark down on purchased price where stock product has been supplied correctly or over supplied.

13.6 The Customer must;

- (a) Obtain the Supplier's prior written approval for the return of goods; and
- (b) pay all freight changes associated with the return of goods.

13.7 Note that for all custom orders stock will not be refunded or returned.

14. Force Majeure

14.1 The Supplier shall have no liability whatsoever under or in any way related to the sale and purchase of the goods or services or otherwise for any failure to fulfil any obligation hereunder to the extent that such fulfilment is prevented by circumstances beyond its reasonable control including but without limitation to industrial disputes, strikes, lockouts, accident, breakdown, import or export restrictions, acts of God, acts of terrorism, or acts of war. Should an event of force majeure occur the Supplier may terminate the Agreement by giving the Customer written notice.

15. Acceptance of the Product

FIXING OF THE PRODUCT CONSTITUTES ACCEPTANCE OF THE PRODUCT

All Tiles & Slabs should be examined upon receipt.

It is the fixers responsibility to lay the material under control of the client or the client's agent e.g. builder

Act of laying the material means the material is accepted for décor, shade, quality, type and size.

Shade variations are inherent in all Natural Stone products.

No responsibility can be accepted for crazing or shade variations.

Natural stone do not come with any supplier, manufacturer or installer warranty.

Cracks are natural part and are property of natural stone and thus may be repaired to a limited extent if possible but there will not be any replacement because of cracks.

All Tiles must be laid in accordance with recognized industry standards.

All Polished or Honed Tiles can be slippery when wet.

All natural stones are recommended to be sealed periodically depending on type of stone

Liability will not be accepted for accidents due to inappropriate tile selection, inappropriate maintenance or carelessness.

NO CLAIM WILL BE ACCEPTED ONCE MATERIAL IS LAID

CHECK ALL GOODS ON RECEIPT.

CLAIMS FOR INCORRECT OR SHORT SUPPLY MUST BE NOTIFIED WITHIN 24HOURS

16. Others

16.1 The law of Victoria from time to time governs the Terms and the parties agree to the non-exclusive jurisdiction of the courts of Victoria, the Federal Court of Australia, and of courts entitled to hear appeals from those Courts.

16.2 Failure by the Supplier to enforce any of these Terms shall not be construed as a waiver of any of the Supplier's rights.

16.3 If any of the Terms are unenforceable it shall be read down so as to be enforceable or, if it cannot be so read down, the term shall be severed from these Terms without affecting the enforceability of the remaining terms.

16.4 A notice must be in writing and handed personally or sent by facsimile or prepaid mail to the last known address of the addressee. Notices sent by pre-paid post are deemed to be received upon posting. Notices sent by facsimile are deemed received on the facsimile machine confirming transmission.

17. Privacy

The Australian Privacy Principles (or APPs) are the cornerstone of the privacy protection framework in the Privacy Act 1988 (Privacy Act).

17.1 The Supplier is bound by the Privacy Act 1988 and takes steps to ensure that all personal information obtained in connection with the Customer will be appropriately collected, stored, used, disclosed and transferred in accordance with the Australian Privacy Principles. Such information may be accessed by request to the Supplier in accordance with the Privacy Act.

17.2 The Supplier requires that the Customer comply with the Australian Privacy Principles in connection with any personal information supplied to it by the Supplier in connection with this Agreement.

For any query, please email at service@gravastones.com.au

Thank you very much.
Grava Stones Pty Ltd