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## TERMS AND CONDITIONS OF TRADE

These terms and conditions of trade relate to the supply of products by Macrostone International (Macrostone) to its customers (You). By submitting an order to Macrostone, You indicate your acceptance of these terms and conditions of trade. Macrostone may amend these terms and conditions of trade by providing written notice to You. The amendment will take effect immediately for all new orders placed and for any products already supplied thirty (30) days after we send You the written notice of the amendment.

### **1. Placement of Orders**

Upon ordering a container a deposit of 20% of the value of the order is required to be paid unless otherwise agreed upon in writing by Macrostone .

Amendments to container orders, once placed, may incur a processing fee. Macrostone will advise You at the time of amendment, if the fee will be applied and what the value of that fee shall be for the particular amendment.

If a container order is cancelled after the order has been placed the deposit will be forfeited or in the event that no deposit or a lesser deposit than 20% has been paid a fee of 20% of the value of the order will be charged.

### **2. Acceptance of Orders**

Macrostone reserves the right to accept or decline any order from You in its absolute and unfettered discretion. Should we choose to accept your order and the stock is available then we will endeavor to dispatch the same to you within 2 days from date of your order. Where stock has not yet landed in the country we will endeavor to dispatch same to you within 14 days of landing and clearing customs.

### **3. Quoted Prices**

If the quoted price is for a product not listed on the Macrostone pricing sheet then any quoted price is good for a period of 28 days from the date of the quote.

### **4. Product Pricing and Currency**

All products supplied by Macrostone will be invoiced in Australian dollars regardless of the country of origin of the products.

Macrostone guarantees that the price at which the order was placed will be held regardless of any fluctuations in the Australian Dollar from the time of departure from country of origin until the time of arrival at the clients destination.

The pricing of the stone is subject to change due and fourteen (14) days notice will always be given by Macrostone should this occur.

All prices are based on full container loads (FCL) unless otherwise stated.

### **5. Shipment Of Containers**

All ETA's (estimated time of arrival into Australia) for container delivery dates and times supplied by Macrostone are estimations only and Macrostone is not responsible for any delays in the delivery of containers.

Once a container has been 'slotted' in at the port of destination, the Principal will be issued with a date of delivery for that container. If the delivery date is changed by the Distributor storage and/or holding charges from the wharf may apply. The Distributor will pay for, any storage and/or holding charges payable in full, due to the Distributor changing delivery dates of containers.

Any cost or fees charged for late return of empty containers, as a result of your negligence, will be passed on to You

### **6. Packing Slips – Proof Of Delivery**

A Signed Packing slip must be returned by You within 24 hours of the container arriving at the your premises by either faxing or emailing it to Macrostone. If the packing slip is not returned to Macrostone confirming the quantity and products in the container then it is deemed that You have accepted the quantity and products in the container as is. . You waive all rights to a call back on the order and quantity of the products within the container if the packing slip has not been returned to Macrostone within 24 hours.

### **7. Accounts**

If You are utilising an account with Macrostone, then Macrostone has the right to hold any container from delivery to You should your account be outside of the agreed terms of trade, even if a deposit has been paid for the container. If your account is outside of the trading terms, Macrostone retains ownership of that container until the account is brought back into the trading terms. Any costs or charges related to a container being held due to your account being outside of the terms of agreement will be payable in full by You.

The terms (number of days) of the trading account will be set by the trading terms as outlined in the Macrostone account application form.

### **8. Payment Terms**

Where credit is provided the terms and conditions of such credit will be as indicated on the accepted credit application. Macrostone will provide a Tax Invoice at the same time and same place on or before the delivery of the goods. Macrostone has the right to charge interest on any overdue amounts calculated from the due date for payment until receipt of cleared funds. The interest rate payable on overdue amounts is 3% above the rate charged by Macrostone's bankers from time to time, for a personal loan of \$25,000.

All 30 day accounts are strictly 30 days from the end of the month in which the invoice is dated. All 7, 14 and 60 day accounts are strictly from the date of the invoice from Macrostone.

Where an accepted credit application does not exist all orders must be paid in full prior to delivery of the container.

### **9. Title to the Goods**

All goods delivered by Macrostone to You under a credit arrangement remain the sole and absolute property of Macrostone as legal and equitable owner until the purchase price has been paid in full. You acknowledge that you are in possession of all the aforesaid goods as bailee for Macrostone and you confirm Macrostone may register its interest in the goods on the Personal Property Security Register.

If you are a import/platinum client, you agree to store the goods in your premises separately from your own goods or those of any other person or corporation and in a manner which makes them readily identifiable as Macrostone's goods. Your right to possession of the said goods will cease if You do anything or omit to do anything which would entitle a

receiver or trustee, as the case may be, to take possession of any assets which would entitle any person to present a petition to wind you up or, as the case may be, commencing bankruptcy proceedings.

Prior to payment, Macrostone or its agents may, enter upon any premises (during ordinary business hours) where those goods may be or are reasonably thought to be stored from time to time, for the purpose of examination or recovery of the goods. The entire proceeds of the sale of any goods for which payment has not been made, will be held in trust for Macrostone and must not be mingled with any other money paid into any of your bank accounts and must at all times be identifiable as Macrostone's money.

#### **10. Risk**

Risk in the goods will pass to You immediately the goods leave Macrostone's premises or the wharf. Where a courier or other third party carrier is engaged to deliver the goods to You, the courier or other third party carrier which will act as your agent.

#### **11. Returns and Credits**

All shortage or defect claims must be lodged within 48 hours of delivery of the goods to You. You may return defective goods or any goods which are not in accordance with their description and obtain a credit for the value of those goods provided as follows:-

- a) that the goods returned are in the same condition as they were when delivered to You, this includes that the stone products have not been laid; and
- b) that the risk in the goods remains with you until the products are received by Macrostone and Macrostone reserves the right to charge a restocking or return fee as may be deemed appropriate by Macrostone in the circumstances.
- c) Photographic evidence must be supplied to Macrostone of any product that You claim to be faulty and must be kept separate from the container for inspection by a Macrostone representative upon their next available visit. It is your responsibility to inspect the goods within 48 hours to detect and advise Macrostone of any faults.
- d) Should any issues of quality arise outside the above time frame, then each case will be treated as an individual assessment and it would be at the discretion of Macrostone as to whether or not the claim will meet acceptance.
- e) Colour variation is not considered a fault, due to the fact that natural stone has inherent variations in colour. Colour variation between batches and within batches is fully acceptable. Macrostone will endeavour to provide photos of the latest batch upon request when ordering. This will be a guide only and no guarantee of the exact colour arriving in the container ordered. *Please refer the terms and conditions of Macrostone International Money Back Guarantee.*
- f) Macrostone will raise a credit memo in favour of your account which will apply to any returns of goods. If your account is less than the credit memo then your account will be in credit until your next purchase.
- g) Short-payments on accounts in anticipation of credit memos will not be allocated onto your account and not accepted by Macrostone
- h) You will not be able to return any special orders placed with Macrostone.
- i) No returns will be accepted If You decide to place an order based on photo or non-tested products .

#### **12. Samples/Displays**

Any sample goods or display is provided to indicate only the general nature of the goods. The use of sample or display goods does not constitute a contract of sale by sample.

#### **13. 'Specials' or 'Seconds'**

13.1 Macrostone shall not be liable in any way for any defect in goods where:

- (a) a good is supplied by Macrostone as a 'second' or 'special'; and
- (b) the reason why the goods is defective

#### **14. Wastage and/or Breakages**

10.1 The Concrete Masonry and Natural Stone industry allows up to 5% wastage/breakage factor.

#### **15. Warehouse Purchases and Pricing**

Should any stock be supplied out of Macrostone warehouse the stock will be charged at warehouse price list rates. Container rates will NOT apply to stock purchases from the warehouse, unless Macrostone has agreed in writing to such purchase and it is clearly stated upon orders and invoices. Warehouse stock availability will always vary and therefore no guarantee of stock availability out of the warehouse can be given.

When quoting price for products ex-warehouse, all prices are Ex Brisbane Warehouse Prices and do not include delivery.

#### **16. Marketing and promotion of Products**

You agree to use your best efforts to assist in the sale and marketing of the Products including:

- a) ensuring adequate stock on hand is available for supply and projected sales of the products to any customers.
- b) briefing sales and sales support personnel in the conduct of handling sales as would be necessary to obtain and maintain maximum sales of the products, and in particular ensuring those sales referrals which have been directed to You from Macrostone are handled correctly and promptly, and in accordance with Macrostone's policies.

#### **17. Disclaimer of warranty**

- (a) If the products do not accord with the samples or Macrostone's description, Macrostone agrees to provide You with a money back guarantee in accordance with the requirements of Clause 6. and Clause 11. Except as otherwise agreed in writing, all other conditions and warranties implied by law in relation to any product/services supplied by Macrostone are excluded to the maximum extent permitted. Macrostone does not represent or warrant under these terms and conditions of trade that the product supplied to You will be complete or free from any and all latent or patent defects or errors.
- (b) You acknowledge that the majority of products are quarried natural stone and consequently there may be variations in colour between batches. It is also not possible to determine what the products' reaction will be to different environments and therefore Macro stone is unable to give a warranty should the product vary in colour due to circumstances beyond its control. Such variations do not constitute a defect and are therefore not covered by any warranty.

#### **18. Remedies for breach of warranty**

if Macrostone breaches any express provision of these terms and conditions of trade or a conditional warranty implied under any law, which cannot be lawfully modified or excluded by these terms and conditions of trade, then Macrostone's liability to you will, to the extent permitted by law, be limited at Macrostone's option to one or more of the following:

- (a) in the case of goods: (i) the replacement of the goods or the supply of equivalent goods; (ii) the repair of the goods; or (iii) payment of the cost of repairing the goods or acquiring similar goods, and
- (b) in the case of services: (i) the supplying of the services again; or (ii) the payment of the cost of having those services supplied again.

The aggregate liability of Macrostone under or relating to these terms and conditions or the supply of any goods or services, for any cause whatsoever, is limited to an amount equal to the invoices paid in the immediately preceding month. In no event, whether as a result of breach of contract, indemnity, warranty, tort (including negligence), strict liability or otherwise will Macrostone have any liability for special, incidental, consequential, punitive or indirect damages or losses whatsoever. Macrostone's liability to you for loss or damage of any kind (including loss or damage caused by negligence) is reduced to the extent that you caused or contributed to that loss or damage.

### **19. Care and Laying Guide**

You must take note of Macro stone's care and laying guide on their website to ensure that the products are being used in terms of the guide. It is your responsibility, as a macrostone distributor, to ensure that your clients are following the recommended laying and care guidelines. If you or your client installs a Macrostone product and the Care and Laying Guide is not adhered to, in full, both during and after the installation then these products are not covered by any warranty by macrostone. This includes, and is not limited to, variation in size and thickness of the stone, changes in the appearance or colour of the stone, cracking, flaking or peeling of the stone.

### **20. Notice to End User**

There is an obligation on you to disclose to the end user the contents of clauses 15, 16, 17 and 18 of these Terms and Conditions.

### **21. General**

These terms and conditions will apply to the exclusion of all other terms and conditions contained in your order. In the event of any inconsistency, Macrostone will be deemed, by delivering the products to You, to have made an offer to You to sell the products pursuant to these terms and conditions which will be deemed to have been accepted by You if You retain the product in Your possession. Macrostone reserves the right to recover from You all goods and services, taxes (GST) payable in respect of the supply of the product to You. These terms and conditions are governed by and will be construed in accordance with the laws of the State of Queensland and the parties agree to submit the jurisdiction of the Courts of that State. The failure by Macrostone to exercise, or delay an exercise, any right power or privilege available to it under these terms and conditions will not operate as a waiver thereof or preclude any other or further exercise thereof or the exercise of any other right or power.