

GENERAL TERMS & CONDITIONS OF SALE

These conditions of sale apply to all contracts of sale entered into with Quarry & Mining Manufacture Pty Ltd, ABN 46 095 231 299.

1. The word 'Company' shall mean and include Quarry & Mining Manufacture Pty Ltd within the meanings of Section 50 of the Corporations Law.
2. In these Conditions of Sale, the singular shall include the plural and vice versa and reference to one gender shall include all genders, as the case requires.
3. A quotation, tender or price given by the Company is valid for thirty (30) days, but no contractual relationship shall arise until the Customer's order has been accepted by the Company.
4. Quotations are based on the current price of materials and components supplied by the manufacturer of the relevant goods. If the relevant manufacturer varies the price subsequent to acceptance of a given order, any increase price will be passed on to the Customer.
5. Delivery unless otherwise specified shall be effected F.O.R. or F.O.B. for delivery any where in Australia as the case requires, provided that the risk passes to the customer once the goods are on board BUT property in the goods does not pass at that time except in accordance with Clause 12.
6. The Company's responsibility ends at point of delivery. Where the goods are shipped F.O.R. or F.O.B. it will be incumbent on the customer to specify in writing or on his official order any insurance to be taken out on his behalf.
7. Delivery dates are forecast as accurately as possible and every endeavour will be made to effect the delivery by the delivery date specified, by reference to current availability and internal work schedules.
8. The Company accepts no responsibility for loss, damage or non-delivery arising by reason or riot, civil commotion, war whether declared or not, accident, shortened hours of labour, strikes, lock-outs, storm, flood, fire or any other circumstances beyond the direct control of the Company.
9. To the fullest extent permitted by law, the Company will accept no responsibility for any loss of profits or damage arising out of non delivery or failure to deliver the goods by the delivery date or non-fitness for purpose of any goods sold, unless previously agreed in writing.
10. Upon delivery, the Customer must check materials supplied for size, tolerance and quality. All descriptions, characteristics and particulars provided by the Company are approximate only. The Customer must satisfy himself as to the fitness of the goods and services for the particular purpose in question. The Customer does not rely on any skill or judgement of the Company or of any person on the Company's behalf by, whom any antecedent negotiations are conducted, to satisfy himself as to the said fitness. The Company does not accept any responsibility for any loss incurred arising out of work carried out on the goods.
11. Subject to the qualifications contained in Section 68A of the Trade Practices Act 1974 unless as otherwise agreed between the parties, should the Company be liable for breach of a condition of warranty mandatorily by law, its liability for such breach shall be limited to one of the following as determined by the Company.
 - i) In the case of Goods: the replacement of the goods or the supply of equivalent goods; the repair of the goods; the payment of the cost of replacing the goods or of acquiring similar goods; or the payment of having the goods repaired.
 - ii) In the case of Services: the supplying of the services again; or the payment of the cost of having the services supplied again
12. The Company will accept no responsibility for the loss of profits or damage arising out of non-delivery or delayed delivery or non-fitness for purpose, unless expressly agreed in writing by the Company.
13. Property in goods supplied shall remain with the Company until the full invoiced amount due to the Company has been paid. Until payment in full is received the Customer holds the goods as a fiduciary agent and bailee for the Company. The Customer must store the goods, separately from other goods in such a way that they are clearly identifiable as the Company's goods. The Customer must not sell the goods or make new objects from them or otherwise mix the goods with any others or have them become the constituents of anything else. If the Customer fails to pay the full invoiced amount when due under this agreement or under any agreement between the parties whether already in existence or yet to be entered into, or has a liquidator, receiver or mortgage's agent appointed to it or enters into any scheme of arrangement with its creditors or any form of insolvency administration, then the Company may without prejudice to any other rights and without liability to any person, in trespass or otherwise, enter the premises where the goods are located and recover possession of the goods. The Customer indemnifies the Company against any claim or liability arising out of the Company enforcing its rights under the Clause.
14. The Company shall not be liable for any claims whatsoever unless made in writing within two (2) weeks after delivery.
15. The Contract created by the acceptance of the Customer's order shall be governed by and construed in accordance with the laws of South Australia. The parties submit to the exclusive jurisdiction of the courts of the State of South Australia.
16. Unless previously agreed in writing by the Company, the goods must be paid for by the last day of the month following the month of purchase ("the due date"), time in this regard being of the essence of this agreement. The Company reserves the right to recover all legal and or collection costs associated with the recovery of any amounts outstanding by the customer.
17. The Customer shall not be entitled to rescind, cancel or amend the order without the written consent of the Company.
18. The Customer agrees to hold the Company indemnified against any loss, damage or expense arising from any alleged infringements of patent, registered designs or trademarks in relation to the order.
19. The Company reserves the right to charge a re-stocking fee of 5% of the full invoiced amount in respect of goods returned by the Customer provided that the goods returned were the goods supplied. Goods cannot be returned after 30 days from delivery.
20. If any one or more of the provisions contained in these conditions shall for any reason be held to be invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect any other provisions of these conditions but these conditions shall be construed as if such invalid, illegal or unenforceable provision had never been contained herein.
21. The amount payable in this invoice is due on the due date and must be paid by you to us using the same bank account details previously confirmed by us to you. If you receive any request (verbally or writing) from any person (including us or purportedly from us), please immediately advise your regular contact within our company using a telephone number that has been used by you prior to receiving the change request. Please do not take any other steps in relation to the change request until such time that we have been able to verify the legitimacy of the change request. The payment by you of any amount to a third party in good faith but not in compliance with our terms and conditions will not relieve you of your obligation to pay that amount to us.