

Terms and Conditions of Sale

QUICKSTONE MIDLANDS LIMITED

1. Interpretation

- 1.1 In these Terms, unless the context otherwise requires or admits the following expressions shall have the following meanings attached to them: -
“Customer” shall mean the person who accepts a quotation of the Company for the purchase of Products or whose order for Products is accepted.
“Terms” shall mean the standard terms and conditions set out herein and any special terms agreed in writing between the Company and the Customer.
No variation to these Terms shall apply unless specifically agreed in writing by the Company.
“Company” shall mean Quickstone Midlands Limited (company no: 03260591); Goldholme Stone Limited (company no: 04266732) and Harnfield Properties Limited (company no: 03809400) (which shall include all their agents or sub-contractors and successors and assigns).
“Products” shall mean all the products, materials, goods and services supplied by the Company to the Customer.
- 1.2 The clause and section headings which appear in these Terms do not form part of the Terms and are only included to assist the convenient reading of the terms.
- 1.3 To the extent that any clauses in this Contract may be held to be unlawful and/or unenforceable or may be limited or varied by statute, this shall only affect the relevant clause and shall not invalidate or limit the application and relevance of all other clauses contained in the Contract.
- 1.4 When counting the number of days for the purpose of interpreting this Contract all public and bank holidays shall be ignored.
- 1.5 All Legislation referred to in this Contract should be read as the legislation in its current/amended format.
- 1.6 This Contract shall be governed by and construed in all respects in accordance with the laws of England and the parties submit to the exclusive jurisdiction of the Courts of England and Wales.
- 1.7 Any notice to a party under this Contract shall be in writing signed by or on behalf of the party giving it and shall, unless delivered to a party personally, be left at, or sent by prepaid first class post, prepaid recorded delivery, or special delivery to the address of the party as set out on the Sales Quotation or as otherwise notified in writing from time to time.
- 1.8 A notice shall be deemed to have been served at the time of delivery if delivered personally, 48 hours after posting in the case of an address in the United Kingdom and 96 hours after posting for an overseas address provided that where the deemed time of service is after 6 p.m. on a business day or on a day which is not a business day, the notice shall be served at 9 a.m. on the next business day.
- 1.9 No variation or waiver by the Company of any of these Terms shall be effective unless agreed in writing by the Company. Any waiver by the Company of strict compliance with any of these Terms shall not affect the obligations of the Customer strictly to comply with all these Terms at any future time.
- 1.10 The Customer shall not assign the Contract without the Company’s prior express written consent.

2. Sales Quotation

- 2.1 All prices stated in the Sales Quotation are exclusive of VAT payable at the current rate, unless otherwise stated.
- 2.2 The Sales Quotation is based upon the tax contribution or levies in force at the date of the same. In the event in any increase in the Company’s tax or levies burden in connection with the Sales Quotation prior to the delivery to the Customer, the Company shall be entitled to recover the increased burden from the Customer
- 2.3 Prices stated in the Sales Quotation include the costs of labour and materials and general overhead costs at the date of issue of the Sales Quotation. The Company reserves the right to increase its prices upon written notice to the Customer in the event that any of these costs increase as a result of matters which are outside the reasonable control of the Company.
- 2.4 The prices stated in the Sales Quotation apply only to the specific details given by the Customer at the time in respect of quantity of Products required, location of the Site and time and mode of delivery based upon the delivery by the full load and delivery during normal working hours. It shall be the Customer’s obligation to establish normal working hours of all the Company’s facilities likely to affect delivery or collection.
- 2.5 In issuing a Sales Quotation the Company does not warrant that the Products are available and in the event that the Products are not available to the Company the contract shall be void.
- 2.6 Any Sales Quotation given is provisional only and may be subject to amendment if an order is not placed by the Customer within one calendar month of the date of the Sales Quotation.
- 2.7 The Sales Quotation shall remain open for acceptance for one calendar month from the date of the same, thereafter it shall be incapable of acceptance save at the Company’s sole discretion which shall at all times be confirmed in writing.

3. Contract

- 3.1 The Sales Quotation produced by the Company constitutes an offer to the Customer to enter into a contract on these Terms.
- 3.2 The Customer’s order shall constitute acceptance of the Company’s Sales Quotation. Upon receipt of that order by the Company a contract is made for the Customer’s purchase of and the Company’s supply of the Products in accordance with the Company’s Sales Quotation and on these Terms. The Customer should confirm its order in writing but the Customer shall not be entitled to deny the existence of a contract on the grounds of the Customer’s failure to confirm the order in writing in circumstances where offer and/or acceptance of has been effected verbally.
- 3.3 The Customer acknowledges that all contracts with the Company are subject to these Terms and all other conditions, warranties, and representations, express or implied except as to the title are hereby excluded.
- 3.4 All contracts are entered into by the Company subject to the Products being available to the Company.
- 3.5 The Contract constitutes the entire agreement between the parties. The Customer acknowledges that it has not relied on any statement, promise or representation made or given by or on behalf of the Company which is not set out in the Contract.

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4. Specification and Warranties

- 4.1 The Customer shall be responsible to the Company for ensuring the accuracy of the terms of any order (including any applicable specification) submitted by the Customer and for giving the Company any necessary information relating to Products within a sufficient time to enable the Company to perform the Contract in accordance with the Terms.
- 4.2 The Customer warrants that it has made full investigations into the suitability of the Products requested by the Customer and it is satisfied that the Products will be suitable in all respects for the Customer's requirements save and except defects arising from the Company's negligence. The Company gives no warranty or representation as to fitness of the Products for any particular purpose.
- 4.3 In giving a Sales Quotation for the Products, the Company accepts no responsibility whatsoever that the materials referred to therein shall be suitable for the purpose the Customer intends.
- 4.4 Any advice or recommendation given by the Company its employees or agents to the Customer its employees or agents as to the storage application or use of Products is followed or acted upon entirely at the Customer's own risk and accordingly the Company shall not be liable for any such advice or recommendation.
- 4.5 Where the Products comprise or contain natural marine dredged or quarried materials, they may contain natural imperfections and are sold by the Company with any such imperfections as may exist in them and the Company shall not be liable in respect of any such imperfections.
- 4.6 The nature of Products made from natural stone means that the look, colour, tone and texture may vary resulting in the actual physical stone differing in shape, size and appearance from that of any sample panel. These Products are sold on the express understanding that they are of natural stone which is subject to natural formation characteristics, variation in colour, texture and markings and are all part of the natural makeup and appeal of natural stone.
- 4.7 The Company shall have no liability whatsoever or howsoever arising in the event that the Products are altered in any way, drilled, doweled or restrained in any way, other than using appropriate cavity wall ties.
- 4.8 The Company shall have no liability whatsoever or howsoever arising for any damage caused to the Products as a consequence of incorrect mortar specification and/or use and/or as a result of defective design in relation to the fixing of the Products including but not limited to the lack of thermal movement joints within the design and/or poor building practices (see our Essential Guide).
- 4.9 Save as provided for by any statutory right, all conditions and warranties, express or implied, as to the quality or fitness for any purpose of the Products are hereby expressly excluded.

5. Price and Payment

- 5.1 The price for the Products shall be the price set out in the Sales Quotation unless otherwise notified by the Company in writing.
- 5.2 The Company may invoice the Customer for the Products on or at any time after delivery or collection of the Products.
- 5.3 The Customer shall pay the invoice in full and in cleared funds by the end of the month following the month in which the invoice is dated. The Company reserves the right to require full payment of the price prior to any Products being delivered if so stated on the Sales Quotation.
- 5.4 If credit facilities have been granted the account must not at any time exceed the sum provided by the Company as a credit limit. The credit limit will be confirmed in writing at the time of the granting of the facility. In the event that the Customer wishes to order further Products the Company reserves the right to postpone or to withhold delivery of the Products if the delivery of the said Products would cause the account limit to be exceeded. In these circumstances the Customer will be expected to make payment of such funds as to prevent the credit limit from being exceeded.
- 5.5 In respect of all payments due from the Customer to the Company, time of payment shall be of the essence of the Contract.
- 5.6 If the Customer fails to make any payment by the due date, then without prejudice to any other right or remedy available to it the Company shall be entitled to: -
- 5.6.1 terminate the Contract or suspend any further deliveries to the Customer; and/or
- 5.6.2 charge interest on any outstanding amount at an annual rate of 4% above the Bank of England's Base Rate from time to time exclusive of VAT, and where the Customer is trading in the course of business the Company will rely on the provisions of the Late Payment of Commercial Debts (Interest) Act 1998.
- 5.7 Where any sum owed by the Customer to the Company under this or any other contract is overdue the Company may withhold deliveries of Products due to be made under this Contract until arrangements as to payment or credit have been established which are satisfactory to the Company.
- 5.8 The Customer shall not be entitled to withhold payment by reason of any claim or counterclaim which the Customer may have against the Company.
- 5.9 If the Customer fails to pay for the Products in accordance with these Terms, the Company may bring an action against the Customer for the price at any time, even though the property and title in the Products has not passed to the Customer.

6. Delivery

- 6.1 The Sales Quotation is based upon safe and easy access for delivery and collection of the Products using the Company's usual road vehicles. In the event that the Company considers in its absolute discretion that such access is not available or that any road or ground over which the Company's vehicle would have to travel is unsafe/unsuitable, the Company shall have the right to effect delivery or collection at the location determined by the Company as being the closest to the Customer's requirements or refuse to make the delivery. Should the Company incur extra costs in making a delivery to or collection from an unsatisfactory access or over an unsuitable road or ground, the Company shall be entitled to recover the extra costs from the Customer and should the Company refuse to make delivery the Company may charge the Customer for all costs incurred under the contract. The Company shall have no obligation to make further deliveries or collections until the Customer has met the extra costs.
- 6.2 Statements made as to the time and date for delivery of the Products shall be treated as a guide only and the Customer shall not be entitled to refuse delivery or to compensation because of any delay.
- 6.3 The Company shall not be responsible for any consequences arising out of its failure to deliver or, where the Customer will collect materials, for its delay in supplying any Products.

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- 6.4 The Company's responsibility following any missed delivery or collection shall be limited to effecting delivery or collection at the earliest reasonable opportunity after the missed delivery or collection.
- 6.5 The Customer shall provide, free of charge, access and reasonable assistance in unloading at the Site.
- 6.6 Where the Products are to be delivered by instalments, each delivery shall constitute a separate contract and failure by the Company to deliver any one or more of the instalments in accordance with these Terms or any claim by the Customer in respect of any one or more instalments shall not entitle the Customer to treat the contract as a whole as repudiated.
- 6.7 The Company will not be liable to the Customer for any damage caused to the Customer's property by delivery of the Products.
- 6.8 Delivery shall be deemed to take place at the moment of discharge from the delivery vehicle at the Site or in the event that the Customer collects and/or transports the Products from the Company the moment of loading into the Customer's vehicle or container and upon delivery, risk passes to the Customer or any carrier acting upon the Customer's behalf.
- 6.9 The property and title in the Products shall not pass to the Customer until the Contract Price has been paid in full.
- 6.10 If the Customer has failed to pay for the Products in accordance with these Terms, they shall be held in a fiduciary capacity by the Company until such time as payment is made in full and the Company shall have the right to bring an action against the Customer and effect lien and recovery in accordance with clause 11 herein, for the price of the Products outstanding notwithstanding that property and title has not passed to the Company.
- 7. Lien and Recovery**
- 7.1 The Company (without prejudice to any other remedy available to it) has in respect of all unpaid debts due from the Customer a general lien on all property belonging to the Customer which is in possession of the Company including but not limited to the Products (whether they are in the Customer's possession or not) for which some or all sums due under these Terms are unpaid.
- 7.2 The Company shall be entitled on the expiration of not less than 14 days' notice in writing to dispose of such property and to apply the proceeds, if any, towards the repayment of any overdue sums.
- 7.3 In respect of lien and recovery of the Products in the Customer's possession, the Customer hereby grants a licence to the Company to enter the Customer's premises and/or the Site to re-take the Products.
- 7.4 In respect of lien and recovery of the Products in the Customer's possession, the Company will not be liable whatsoever for any reasonable damage to the Customer's property, the Site or goods or materials incurred whilst the Products are being removed and/or recovered.
- 8. Limitation of Liability**
- 8.1 The Company shall have no liability whatsoever or howsoever arising in either contract, tort or otherwise for any consequential loss, indirect loss, or economic loss.
- 8.2 The Company shall be under no liability whatsoever or howsoever arising in respect of any damage to third parties caused directly or indirectly by the Products and the Customer shall at all times indemnify the Company against any such loss or damage.
- 8.3 The Company shall have no liability whatsoever or howsoever arising in contract, tort or otherwise for any personal injury loss or damage of whatever kind suffered by the Customer as a result of its use of the Products.
- 8.4 The Customer shall inspect the Products immediately upon receipt. If the Customer considers that the Products are defective in any way whatsoever it shall within 48 hours of receiving the Products give notice in writing to the Company setting out details of the defects or discrepancies. Unless the Customer gives such notice, the Products shall be deemed to be in all respects in accordance with the Contract and to the satisfaction of the Customer.
- 8.5 Products represented by the Customer or any third parties to be defective or not in accordance with the Contract shall be made available for inspection and testing by the Company and if accepted by it as defective the Company will at the request of the Customer and if practicable replace the defective Products.
- 8.6 In the event of the desired finish not being obtained owing to the supply by the Customer of inappropriate specifications or any other reason outside the Company's control, no responsibility shall attach to the Company and the Customer shall remain liable to pay the Contract Price.
- 8.7 The Company's only liability to the Customer or others in respect of the Products shall, in any circumstance, be limited solely to supplying replacement products. The Customer shall have no other right in contract, delict, tort or otherwise and all and any conditions, terms and representations, whether express, implied, statutory or otherwise are by agreement excluded.
- 9. Termination of Contract**
- 9.1 The Company may terminate all or any of its contracts with the Customer if the Customer is in breach of such contract or (in the case of the Customer being a limited company) goes into liquidation, has an administrative receiver appointed to it or has an administration order made in respect of it or (if the Company is an individual) he or she is adjudicated bankrupt or an interim receiver is appointed to his/her property.
- 9.2 The Customer may not terminate any Order or Contract which has been accepted by the Company without the Company's express written consent which it at its absolute discretion. The Customer shall fully indemnify the Company against all losses (including loss of profit) costs (including the cost of all labour and materials used) damages, charges and expenses incurred by the Company as a result of such termination.
- 10. Force Majeure**
- 10.1 The Company accepts no responsibility for total or partial failure to supply or for the delay in supplying any Products which may be due directly or indirectly to any incidence of force majeure, which shall include but not be limited to any act of God, any war, invasion, riot, civil commotion, military or usurped power, any legislation, Government order, regulation or direction, any strike, differences with workmen or lock out, any fire, accident, breakdown in machinery, any shortage of labour or raw materials, equipment or spare parts effecting the production or transit of such materials or goods or any other cause or circumstances reasonably beyond the control of the Company. In the event of partial stoppage of work resulting from, one of the circumstances referred to above, the Company shall perform its obligations under the Contract pro rata with other engagements existing at the time.
- 11. Set Off**
- 11.1 The Customer will have no right of set-off statutory or otherwise.