

## **Ellenberger Stone cc Trading as JustStone**

### **Trading Terms & Conditions**

#### **1. Definitions.**

Under these standard Terms and Conditions the term “the Supplier” refers to and shall mean Ellenberger Stone cc trading as JustStone.

The term “the Customer” means, the purchaser of goods, products, materials or services from Ellenberger Stone cc trading as JustStone.

#### **2. Quotations, Orders & Sales.**

These terms and conditions apply to all quotations issued, orders accepted by customers and all sales by the Supplier to the Customer. Only orders that have been confirmed in writing by the Supplier will be deemed to have been accepted by the Supplier.

The Customer may not cancel an order once it has been accepted in writing by the Supplier. Should the Customer wish to cancel an order then this can only be done with the Suppliers written acceptance of the cancellation subject to the terms that the Supplier will be indemnified in full against any loss (including loss of profit), costs (including costs of labour and materials used), transport costs, damages and any other charges or expenses that the Supplier may have incurred as a result of the cancellation of the order.

It is the Customer’s responsibility to ensure the accuracy of orders placed.

Quotations and/or sales orders issued by the Supplier will give a description and the specifications of the products ordered, the quantity ordered in units or square meters and the price quoted. Sales orders will also specify an expected date of delivery. Dimensions of products are approximate due to the nature of the manufacturing process.

It is the responsibility of the Customer to scrutinize the documentation thoroughly and if acceptable, the Customer must confirm acceptance of the quotation/ sales order in writing.

#### **3. Exceptions.**

Should the Supplier allow any latitude, concessions or indulgence to the Customer this shall not be construed as a waiver (tacit or otherwise), or abandonment of the rights of the Supplier. Any changes made or amendments to these terms and conditions will only be accepted if in writing and signed by a

duly authorized signatory of both the Supplier and Customer. These terms and conditions supersede any previous arrangements, practices or customs whether implied, written, or oral unless, otherwise stated in the written quotation issued by the Supplier. The Supplier will not accept any changes or alterations to any of these terms and conditions without the written consent and signed authorization of the Supplier's duly appointed and authorized representative.

#### **4. Errors or Miscalculations**

The Supplier reserves the right to rectify any bona fide errors that may have occurred on any quotations or sales orders. The Customer shall be obliged to pay the Supplier any difference in the amount quoted as a result of the correction. In the same vein, the Supplier shall refund the Customer any difference caused by such correction.

#### **5. Pricing, Payment and Deposits**

The price of goods shall be the price reflected in the quotation or sales order issued by the Supplier.

All quotations are valid for 30 days from date of issue of the quotation only. The Supplier reserves the right to change the price if the 30 day period is exceeded.

Quoted prices are based upon the extent or otherwise of the order requested and therefore the Supplier reserves the right to vary the prices quoted should any changes be requested or made by the Customer to the order, including delivery dates.

A deposit on all orders placed by the Customer is payable immediately upon acceptance of the quote and/or sales order. The extent of the deposit will be set out in the quotation or sales order. The Customer hereby acknowledges that until such a time as the deposit is paid, the manufacture of the order will not commence and the sales order shall not be deemed to have been accepted by the Supplier. If there is a delay in the payment of the deposit, the Customer acknowledges that the Supplier reserves the right to extend the delivery date of the order.

Deposits paid are not refundable and should the Customer cancel an order then the deposit shall be forfeited to the Supplier.

Final payment for sales orders must be made within 24 hours of the expected date of supply of the order. Proof of payment must also be furnished to the Supplier within the 24 hours of the expected delivery date failing which, the order will not be dispatched until such proof of payment has been received by the Supplier. Should final payment not be received within 48 hours after the expiry of the expected date of delivery then the Supplier reserves the right to cancel the order without further notice to the Customer and claim any damages that the Supplier may have suffered as a result of the cancellation of the order.

**Failure by the Customer to make any payment, be it a deposit or any other, within due time then the Supplier reserves the right without prejudice to;**

- **Cancel the contract**
- **Suspend any further deliveries to the Customer**
- **Appropriate any payment or deposit made by the Customer to such of the goods that the Supplier may deem fit (notwithstanding any purported appropriation by the Customer).**

#### **6. Delivery of Goods.**

**The Supplier gives no guarantee or warranty as to the date or time of delivery of any goods and the Supplier shall not be liable in any way for any delay in the execution of delivery, services or the production of the product.**

**The Supplier is not responsible for the delivery of any goods sold.**

**The Customer shall decide whether they will collect the goods or make their own arrangements for the goods to be collected.**

**The Customer may request the Supplier to act as its agent to arrange for a third party to collect and deliver the goods on the behalf of the Customer. In such a case, the Supplier reserves the right to charge the Customer a fee for acting as the agent of the Customer and add these costs of delivery to the Quotation or the Sales order.**

**In the event that the Customer is silent on the issue of delivery of goods ordered from the Supplier then the Customer shall be deemed to have requested delivery of the goods and to have appointed the Supplier as their duly authorized Agent to arrange for the delivery of the goods to the nominated address of the Customer.**

**It is duly understood that the Supplier in arranging for the delivery of the goods, is acting as the duly appointed Agent for the customer and that the Supplier acting in this capacity shall not be liable for any damages or loss to the goods that might arise as a result of loading, off-loading or conveyance of the goods.**

**Delivery of the goods by the Supplier to the Customer shall be deemed to have taken place at the premises of the Supplier upon presentation of the goods for loading either to the Customer or the appointed third party transporter. In this regard the Customer indemnifies the Supplier against any claim for loss or damage that may be instituted against it by the third party transporter or any other party arising as a result of the Supplier acting as an agent for the Customer.**

#### **7. Liability**

**The risk in all goods supplied shall pass from the Supplier to the Customer upon delivery thereof. Regardless of the passing of risk or the delivery of goods, ownership of any goods supplied or delivered to the Customer from the Supplier shall remain the property of the Supplier until such a time as the consignment of goods has been paid for in full.**

**Should the Customer default on payment in any manner or until such a time as the Customer takes legal ownership of the goods, the Supplier reserves the right to request the Customer to return the goods to the premises of the Supplier forthwith. Failure to do so shall entitle the Supplier to enter upon the premises of the Customer or the premises of a third party where the goods might be stored, in order to repossess the goods.**

**The Customer acknowledges that under such circumstances the goods may not be pledged, given as security or be resold. The Customer also undertakes to store these goods safely and in such a manner that they will not suffer any damage. The goods shall be stored on the customers or third party's premises separately from any other persons goods such that they are readily identifiable as the Supplier's goods.**

**The Customer shall reimburse the Supplier for any costs and expenses that the Supplier might have to incur in recovering any goods due to non-compliance by the Customer under these terms and conditions.**

**All goods sold by the Supplier are sold voetstoets and as is. The Supplier offers no warranties in respect of the goods and gives no guarantees in connection therewith.**

**The Supplier accepts no responsibility for any defects in the goods, especially in respect of goods that have been subjected to any additional process once they have been delivered to the Customer.**

**The Supplier will not accept any goods back for return.**

**The Customer hereby consents to the jurisdiction of the Magistrates Court for any action that might arise from the agreement between the Customer and the Supplier.**

**Should the Supplier need to take action against the Customer in respect of any matter relating to the enforcement of the Supplier's rights, including the recovery of monies owing to the Supplier, the Supplier shall be entitled to recover costs incurred in such proceedings, including collection fees and tracing agents.**

**For the purposes of any legal proceedings arising between the Supplier and the Customer, the Customer hereby chooses the physical address given on the quotation, alternatively sales order or alternatively credit application, as its domicilium citandi et executandi at which all notices, documents and process can be delivered or served.**

**Unless superseded by a specific signed agreement between the Customer and the Supplier, this agreement shall include the quotation, sales order, these general terms and conditions and all attachments which may be included with quotations or sales orders or in the general terms and conditions, and it shall constitute the entire agreement of the parties with regard to the subject matter contained therein. All other prior or contemporaneous representations, warranties, covenants or agreement between the Supplier and the Customer, or their representations with respect to the subject matter are hereby superseded.**