

TERMS AND CONDITIONS

1. ACCEPTANCE. These Terms and Conditions of Sale (“Terms and Conditions”) apply to all sales made by StonePeak (“Seller”) to any buyer (“Buyer”) of its products. Seller will only accept written purchase orders. All purchase orders, and any revised purchase orders, are subject to Seller’s acceptance at Seller’s office located in Itasca, Illinois. In some instances, provisions of a Buyer’s purchase order or other procurement document may conflict with the Terms and Conditions. These Terms and Conditions, in those instances, shall govern and control. Seller’s acceptance of any purchase order is expressly limited to and expressly made conditional on buyer’s acceptance of these terms and condition. Seller reserves the right at any time, and from time to time, to amend these Terms and Conditions. Buyer’s order of products after any amendment constitutes acceptance thereof.

2. PRICES AND PAYMENT TERMS. Price quotes are valid for ninety (90) days. If Buyer has not placed order within 90 days after quote, Seller may, in its sole discretion, revise or withdraw it. Buyer must make payment at the time the order is placed unless open account status (“Open Account”) has been previously arranged with Seller. Once Seller has agreed to Open Account, terms are NET 30 days from invoice date. Seller will invoice order when all or part of order is placed with carrier or when Buyer otherwise takes delivery. Buyer, unless otherwise directed by Seller, will send payment to the following address: StonePeak, 1159 Bryn Mawr Avenue, Itasca, IL 60143. Buyer must pay invoices in full, less any applicable discounts, without setoff or counterclaim. Past-due amounts will incur a service charge for costs and expense of administration in the amount of 1–1/2% per month or the maximum permissible rate allowed by law, whichever is less. Acceptance of any late payment by the Seller or any part thereof does not constitute a waiver of any of the Seller’s rights hereunder. Failure to make timely payment for any reason entitles Seller to put Buyer on credit hold and to accelerate all payments for outstanding invoices (including those not due yet), without further notice or act. Any payment that is submitted by Buyer and returned NSF by Seller shall require that Buyer pay an additional \$25.00 per check presented to Seller.

3. TAXES. Prices on the specified products are exclusive of all city, state and federal excise taxes, including, without limitation, taxes on manufacture, sales, receipts, gross income, occupation, use and similar taxes. Wherever applicable, any tax or taxes will be added to the invoice as a separate charge to be paid by the Buyer.

4. SHIPPING. All delivery dates are estimates and may not be relied upon by Buyer. Seller will ship order F.O.B., Origin, unless otherwise specified in Seller’s order confirmation. All tiles are sold in full cartons with the exception of trim pieces and decorative pieces. Seller will automatically round-up to the next full carton. Risk of losses passes to Buyer when products are delivered to carrier or when Buyer otherwise takes possession. Unless Buyer’s purchase order specifies a specific carrier, all orders will be shipped via Seller’s logistics program. All shipping charges shall be paid by Buyer. If Buyer advises Seller of Buyer’s preferred carrier, but such

carrier does not arrive at Seller's designated factory or warehouse within seven (7) days of Buyer being notified that the Products are ready for shipment, then Seller may ship the Products with a carrier of Seller's choice.

5. TERMINATION BY SELLER. Seller may terminate this any sale upon 5 days' prior written notice to Buyer if (a) Buyer is unwilling or unable to accept delivery of the product on the delivery date agreed upon by the parties and (b) the parties are unable to agree upon another date for delivery. In the event that Seller chooses to terminate pursuant to this paragraph, Seller, at its option, may retain all money paid by Buyer as of the date of such termination as an early termination fee and exercise all of its remaining remedies under Article 2 of the Uniform Commercial Code.

6. ASSIGNMENT. Buyer shall not assign or otherwise transfer any of its rights or obligations under this Sale Agreement without the prior written consent of Seller.

7. RETURNS AND CLAIM. Any and all products which Buyer desires to return and which Seller agrees to take back will be accepted only with prior written authorization and must be in full compliance of Seller's return policy. No returns will be honored on products if such order does not match any products then manufactured by Seller. Buyer shall pay all transportation costs, delivery charges and a restocking charge of 25% of any products value that may be accepted for return. Any and all claims that the Buyer may have regarding acceptability of any goods must be resolved prior to Buyer's use thereof.

Any use or attempted installation of the products constitutes unconditional acceptance of the products as conforming to the description appearing on the order form. Any products claimed to be defective must be held for inspection by Seller and/or its agent. No claim or credit will be considered for products that have been disposed of or destroyed prior to inspection and written authorization from Seller. Buyer must make any claims concerning compliance with the order requirements within 5 days after the receipt of the products. Seller will supply the run/color in stock at the moment of the order unless otherwise requested. Color variation is inherent in any fired product or natural stone, and Seller is not responsible for slight variations in the color of the products. Seller is not responsible for damage occurring during the transportation or delivery of the products. Buyer must file any possible claim for material damaged during the transportation with the carrier.

8. CHANGE ORDERS. Change orders involving part number or quantity changes will be assigned new shipment dates consistent with Seller's current projected delivery schedule and product availability. Requests for expedited shipment dates may incur additional charges for which Buyer shall be solely responsible. Unless Seller consents, Buyer may not change order after confirmed and transmitted to factory. If Seller does consent, Buyer agrees to pay Seller an additional twenty five percent (25%) as a restocking charge. Seller cannot guaranty timely shipment, and Buyer assumes full responsibility for any failure of delivery, if Buyer changes delivery destination after order has been staged for delivery at factory.

9. SPECIAL ORDERS. Special orders are any orders placed for any product that is not a standard inventory item. Fabricated product is always considered special order. Special orders may, at Seller's sole discretion, require a deposit even if Open Account status has been arranged. All deposits are non-refundable. No returns or cancellations whatsoever will be honored after such special order products have been produced by the manufacturer. Special orders will be invoiced upon Seller's acceptance of order. If Buyer fails or refuses to provide delivery instructions or to accept or take delivery of products as agreed Seller (a) charge a storage fee of \$15.00 per pallet per month, and (b) and if such failure or refusal continues for at least sixty (60) days from notification of arrival, Seller may sell all or part of the products and hold Buyer responsible for any and all damages Seller incurs, including lost profits.

10. No express or implied warranties. Buyer hereby acknowledges that seller has not made any promises, affirmations of fact, or guarantees relating to the products except as expressly set out the warranty provided in **Exhibit A**. Buyer understands and acknowledges that variations in size, color and texture are inherent in all kiln-fired products. The Seller is not responsible for failures resulting from tiles being installed in unsuitable areas or improper installation.

11. WARRANTY. Seller's sole and exclusive warranty is attached as **Exhibit A**, which is incorporated by reference and made a part hereof.

12. LIMITATION OF REMEDIES. In no event shall seller be liable to buyer for any special, indirect, incidental, or consequential damages arising out of or as a result of the sale, delivery, non-delivery, servicing, assembly, use, loss of use or failure of the products or any part thereof, or for any charges or expenses of any nature incurred without seller's prior written consent, even if seller may have been negligent. In no event shall seller liability under any claim made by buyer exceed the purchase price of the products in respect of which damages are Seller's liability hereunder in any case is expressly limited, at Seller's election, to repair or replacement (in the form originally shipped) of products found not to be in compliance with the purchase order, or to the repayment of or crediting Buyer with, an amount equal to the purchase price of such products. In addition, no claim arising out of or relating to these Terms and Conditions shall be deemed valid and under no circumstances shall be enforceable if not made within 180 days of the date of Buyer's receipt of product.

13. BUYER'S SOLVENCY. Buyer represents and warrants that it is presently solvent and does not reasonably anticipate filing for protection under the United States bankruptcy laws or making an assignment for the benefit of creditors. Buyer's continued solvency and good credit standing are conditions for Seller's performance under this Sale Agreement.

14. SECURITY INTEREST; COLLECTION EXPENSES. Buyer grants to Seller a security interest in all Buyer's products now existing or hereafter acquired, including all proceeds thereof as defined by the Uniform Commercial Code, as adopted in the State of Illinois, United States of America, and in all accounts receivable arising from the resale of the Buyer's products by Seller. This grant of security interest is made to secure payment of all debts or liabilities and

performance of all obligations of Buyer to Seller, whether such debts, liabilities, or obligations now exist or hereafter arise and whether direct or contingent. Buyer agrees to execute all instruments and perform all acts, which may be deemed necessary by Seller for the creation, perfection and protection of such lien and security interest. In the event Buyer shall fail to make payment when due for purchases, Buyer agrees to pay all of Seller's costs of collection, including reasonable attorneys' fees, costs, and expenses.

15. ENFORCEMENT. Buyer shall be responsible and liable for all costs incurred by Seller in enforcing its rights and Buyer's obligations under this Agreement, including but not limited to reasonable attorneys' fees and any costs incurred in connection with the collection of any amounts due under these Terms and Conditions, including any bankruptcy or appellate proceeding.

16. BINDING EFFECT. These Terms and Conditions shall be binding upon and inure to the benefit of the parties, their respective successors, legal representatives and permitted assigns.

17. JURISDICTION AND APPLICABLE LAW. Seller and Buyer mutually agree that any claims or other matters arising out of or involving any purchase orders for and sales of products and services shall be litigated in the Federal or State Courts location in Cook County, Illinois, United States of America, and Seller and Buyer each submit to the jurisdiction of such courts; provided, however, that the foregoing shall not preclude either party from taking any provisional measures or pursuing any provisional or other remedies, such as injunctions, attachment, or similar proceedings, which may be available to such party under the laws of any jurisdiction against the actions or assets of the other party. These Terms and Conditions shall be governed by the laws of the State of Illinois, United States of America, without regards to conflicts of law principles; specifically, without limitation, Article 2 of the Uniform Commercial Code. This purchase order shall not for any purpose be governed by the United Nations Convention on Contracts for the International Sale of Goods.

18. FORCE MAJEURE. Seller shall not be responsible for any failure of performance on its part by reason of matters or occurrences beyond its control, such as, but not limited to, acts of God, acts by Buyer, war, terrorism, unforeseen environmental conditions, civil commotion, delays in transportation, material shortages, delays in manufacture, strikes, or other labor disturbances.

19. INDEMNITY. Buyer shall defend, indemnify and hold harmless Seller, its successors, assigns, affiliates, agents and contractors, and the officers, directors and employees of each of them, from and against any damage, loss, claim, judgment, or other liability or expense (including but not limited to reasonable attorneys' fees) which may in any way arise out of any act or omission on Buyer's part in connection with these Terms and Conditions and, except the extent caused by Seller's negligence, the purchase, resale, or use of Seller's products by Buyer or Buyer's successors, assigns, affiliates, agents and contractors, or the officers, directors, or employees of any of them. Seller reserves the right, without being required to do so and without waiver of any indemnity hereunder, to defend any claim, action or lawsuit at Buyer's sole cost coming within the scope of this indemnity provision.

20. NO WAIVER. All rights, privileges and remedies afforded the Seller shall be deemed cumulative and not exclusive, and the exercise of any one of such remedies shall not be deemed a waiver of any other right, privilege, or remedy. No term or condition of these Terms and Conditions shall be deemed to have been waived by Seller, nor there any estoppel against Seller, except by written consent of the Seller.

21. NOTICES. All notices that are required to be given shall be in writing and delivered to Seller at the address set forth in Seller's order confirmation and to the Buyer at the address set forth in Buyer's purchase order. Any such notice shall be delivered: (a) by certified, first class mail, postage prepaid, return receipt requested and shall be deemed in such case given upon the three days after mailing or (b) by national courier service such as UPS or Federal Express and shall be deemed given upon delivery, or (c) by personal service and shall be deemed given upon the date hand delivered.

22. ENTIRE AGREEMENT. These Terms and Conditions and attached **Exhibit A** constitute the entire final, complete and exclusive understanding and agreement between the Buyer and Seller regarding the subject matter and supersede all prior representations, proposals, or understandings. The Terms and Conditions may not be amended, modified, or supplemented except in writing as agreed to and signed by the parties.

23. SEVERABILITY. The invalidity of any of the provisions of the Terms and Conditions shall not effect or impair the validity of enforceability of the remainder of the provisions of the Terms and Conditions.

EXHIBIT A

StonePeak Warranty

ONE YEAR LIMITED WARRANTY

StonePeak warrants to purchasers ("Buyer") that its products meet or exceed the performance specification outlined in ANSI A137.1-2008 at the time of production and for twelve (12) months from the date of shipment from our factory or until they are installed, whichever date occurs first.

Certain factors are beyond our control, including installation of our products, structural design and environmental conditions. Accordingly, StonePeak does not warrant its products after they are installed. In the event of latent defects caused by improper manufacture, defined as tiles not conforming to industry standards, StonePeak will at its option, either refund the purchase price for the defective pieces or provide replacement material of the same kind. StonePeak will not be

responsible for any costs of labor, installation, or removal of our products. StonePeak does not warrant that our glazed and unglazed porcelain will not scratch, chip, or show signs of wear.

Except as expressly stated above, this limited warranty states the sole and exclusive remedy of buyer and the sole and exclusive warranty of StonePeak and is in lieu of all other warranties, express or implied by statute or otherwise, whether of merchantability or fitness for any particular purpose or use or otherwise, on the products, or on any parts or labor furnished during the sale, delivery, or servicing of the products.

DISCLAIMER

Merchandising materials and samples are for general reference only. Our products should be examined prior to installation. Tile by its nature is subject to variation in color and/or veining as well as technical specifications, including COF, due to the inherent variability in the raw materials and production process. Technical data sheets or specifications are not guarantees of maximum or minimum thresholds of performance. Misuse of the product by the Buyer including negligence, physical, or chemical abuse is not covered by this warranty. Installation defects are not covered by this warranty. Visual defects or nonconformities apparent prior to installation are not covered by this warranty.

LIMITATION OF LIABILITY

In no event shall StonePeak be liable to buyer for any special, indirect, incidental, or consequential damages arising out of or as a result of the sale, delivery, non-delivery, servicing, assembly, use, loss of use or failure of the products or any part thereof, or for any charges or expenses of any nature incurred without StonePeak's prior written consent, even if StonePeak may have been negligent. In no event shall StonePeak StonePeak's liability under any claim made by buyer exceed the purchase price of the products in respect of which damages are claimed.

No claim arising out of or relating to this warranty terms shall be deemed valid and under no circumstances shall be enforceable if not made within 180 days of the date of delivery of products.