



Application for Austral Bricks e>brick Access Code

AUSTRAL BRICK AUSTRALIA TERMS OF SALE NOTICE TO ALL CUSTOMERS

These terms of sale comprise the whole of the terms and conditions of sale upon which goods are sold by the company, subject only to such statutory terms and conditions as are not excluded expressly or by implication. Terms appearing upon any order form or other document issued to the company by a purchaser shall not apply to agreements for sale made by the company.

The company reserves the right to alter its terms of sale from time to time.

All sales of goods by the seller shall be made to the buyer upon and subject to the following terms:

1. PURCHASE PRICE

Unless otherwise agreed in writing, all sales are made by the seller, at the seller's ruling price for goods of that description at the time of delivery, any prior quotation shall be subject to alteration accordingly.

2. PAYMENT

The buyer shall pay for goods by cash or credit card approved by the seller, prior to delivery of the goods unless Clause 3 of these terms shall apply.

3. CREDIT SALES

The seller will, upon approval of application by the buyer and subject to such terms as shall be agreed in writing, sell goods to the buyer upon credit. All sales on credit by the seller shall be upon and subject to the terms of the credit sales agreement.

4. VARIATION IN FIRED CLAY PRODUCTS - LIMITATION OF CONDITIONS & WARRANTIES

- a. Due to variations in raw material and other factors, fired clay products offered for sale by the seller may vary
 - (i) in texture, composition, colour, glaze and in other respects from products of the same description displayed or advertised by the seller, and
 - (ii) from goods of that description manufactured at another time.
- b. Agreements for sale of the seller's fired clay products shall not be agreements for sale by sample. Warranties implied upon sale by sample are expressly excluded.
- c. The seller does not warrant that fired clay products sold under the same description as goods displayed or advertised by the seller shall be identical with goods of that description displayed or advertised by the seller or with goods sold under that description on another occasion. The seller merely warrants that fired clay goods sold under the same description as goods displayed or advertised by the seller or sold under that description on another occasion shall be generally similar.
- d. All facing bricks are sold with one face and one header unless otherwise specified by the buyer.
- e. The buyer acknowledges to the seller that the seller shall not be bound by representations, unless appearing in these conditions of sale, and that the buyer has not relied upon any representations, information, assistance, advice, warranty or service provided by the seller unless it shall have been put in writing by the seller.

5. DESCRIPTION

- a. Goods sold under the description "first quality" are warranted to comply with the quality standards of goods of that description published by the seller from time to time.
- b. Goods sold under any description other than "first quality" may be imperfect or damaged and no warranty is given by the seller as to quality or fitness for any particular purpose.

6. DELIVERY AND RETURN

- a. "Delivery site" means the land identified by the buyer when ordering goods as the land to which the seller is required to deliver those goods. "Invoice" means the seller's invoice, any copy of it or the seller's delivery docket. The buyer shall, when ordering goods from the seller, clearly identify the delivery site by reference to suburb, street, house or lot number and such further information as the seller may reasonably require. Goods shall be delivered to the buyer at kerbside adjacent to the delivery site unless:
 - (i) when goods are ordered the buyer requests otherwise,
 - (ii) the buyer provides Council approved crossings to the delivery site over the kerbs and footpaths, and,
 - (iii) in the opinion of the seller's carrier access for the seller's delivery vehicle to the delivery site, is safe and reasonable.
- b. When ordering goods for a delivery to a delivery site which may be unattended, the buyer shall specify the manner in which the buyer will mark the places on the delivery site where goods are to be deposited by the seller's carrier. If the buyer has not so marked the places at the time of delivery, the seller's carrier may deposit the goods in such place as to him seems reasonable which may include the kerbside adjacent to the delivery site.
- c. When, by reason of the buyer's inadequate or incorrect description of the delivery site, the seller's carrier cannot identify the delivery site, goods shall be returned to the seller and the buyer shall pay the seller's cartage charges for the journey.
- d. The seller shall not be liable for any loss of or damage to goods after delivery.
- e. The buyer
 - (i) indemnifies the seller and the seller's carrier against all claims, proceedings and costs in respect of death or injury to persons or damage to property however caused, and,
 - (ii) releases the seller and the seller's carrier from liability for injury to the buyer or damage to the buyer's property however caused consequent upon entry of the delivery vehicle upon the delivery site.
- f. Where, by reason of difficulty of access at the delivery site, particular delivery requirements of the purchaser or any other delay at the delivery site beyond the control of the seller's carrier, the time spent by the seller's carrier at the delivery site exceeds one (1) hour, the buyer shall pay waiting time for any period in excess of one (1) hour at the rate charged from time to time by the seller.
- g. The seller may at its sole discretion agree to repurchase goods. Returned goods are at the risk of the purchaser and title to the goods shall not pass to the seller until possession of the goods is accepted in writing by the seller at the premises nominated by the seller for return delivery. The purchaser shall pay to the seller cartage and administration charges at the rate from time to time specified by the seller.



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7. PROPERTY IN GOODS SOLD

- a. The seller reserves the following rights in relation to Goods until all accounts owed by the buyer to the seller are fully paid:
 - (i) legal ownership of the Goods;
 - (ii) to enter the buyer's premises or the delivery site (or the premises of any associated Company or agent where the Goods are located) without liability for trespass or any resulting damage and retake possession of the goods; and
 - (iii) to keep or resell any goods repossessed pursuant to (ii) above.

If the goods are resold or products manufactured using the goods sold by the buyer the buyer shall hold such part of the proceeds of any such sale as represents the invoice price of the goods sold or used in the manufacture of the products sold in a separate identifiable account as the beneficial property of the seller and shall pay such amount to the seller upon request. Notwithstanding the provisions above the seller shall be entitled to maintain an action against the buyer for the purchase price.

- b. The buyer expressly agrees that it shall examine the goods within three (3) days of delivery and that such time, shall for all purposes, be a reasonable opportunity for examining the goods for the purpose of ascertaining whether they are in conformity with the Contract for Sale.

8. RISK IN GOODS

Goods shall be at the buyer's risk from time of delivery by the seller's carriers or, if the buyer appoints some other carrier or other means of transport is used, risk passes to the buyer upon loading of the goods.

9. CLAIMS AGAINST SELLER

- a. The seller shall not be liable for any damage or loss suffered by the purchaser by reason of any failure to perform or delay of performance of the contract due to strikes, fires, explosion, flood, riot, lockouts, injunction, interruption or transportation, accidents, inability to obtain supplies, war, governmental, stockouts, action or other circumstances beyond the seller's reasonable control.
- b. Subject to any other terms of this agreement whether expressed or implied by law, the buyer shall not be entitled to make any claim against the seller in respect of goods sold unless
 - (i) the claim is in respect of more than 5% in number of the goods sold
 - (ii) notice is given in accordance with these terms on sale, and
 - (iii) defects in the goods arose during manufacture, carriage or otherwise prior to delivery to the delivery site.
- c. The seller's liability in respect of defective goods shall be limited to replacement of the defective goods but if the seller does not have sufficient stock then the seller shall only be liable to repay the purchase money.
- e. Unless the buyer shall within seven (7) days of delivery of goods, by notice in writing served upon the registered office of the seller of the goods, dispute the accuracy of the seller's invoice, the invoice shall be conclusive evidence as against the buyer as to the identity of the buyer, the quality, quantity and description of goods sold and purchased, the date and place of delivery and acceptance of the goods by the buyer.

The buyer shall have waived his right to dispute the invoice when goods or any of them have been removed from stacks after delivery otherwise than for inspection of the goods.

10. DELIVERY BY INSTALMENTS

The purchaser acknowledges and agrees with the seller that in the event that the quantity of goods sold exceeds one truck load, the goods may be delivered by instalments as nearly as possible in accordance with delivery instructions issued by the purchaser.



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11. SEVERABILITY

Any term of this contract which is held to be unenforceable or void by a Court of competent jurisdiction, shall be deemed to be a separate and severable term and this contract shall so far as is possible be construed as if such term had not been included.

TERMS AND CONDITIONS FOR ELECTRONIC TRADING

In addition to the Terms and Conditions of Trade included ("Terms") which you have agreed to above, the following terms and conditions ("eTerms") also apply to any purchase made via the Internet.

By using the Austral Bricks e>brick site, you acknowledge that you have read and understood the Terms and the eTerms and you agree to be bound by them.

If you do not agree with the Terms and/or the eTerms, you should immediately discontinue your use of this Site.

General

Description and images shown on this Site with respect to Goods are not intended to be literal or exact and are only intended to be used for the purpose of identification for ordering purposes only. Austral Bricks does not warrant that the description or images are accurate, complete or current.

All prices shown or quoted are in Australian Dollars. All prices are subject to change without notice and may not be accurate, complete or current.

While Austral Bricks will attempt to ensure the availability of Goods advertised on this Site, Austral Bricks does not guarantee that advertised Goods will be available. Austral Bricks specifically retains the right, at any time without notice, to remove, alter or add Goods to the Site or vary the prices or description of the Goods.

Ordering through this Site

An order placed on this Site is an offer to purchase particular Goods for the price which is current on the delivery date. Austral Bricks may accept or reject that offer for any reason. No contract with Austral Bricks will arise until after Austral Bricks has advised you that it has accepted your order. An order, once sent by you, cannot be withdrawn or amended unless Austral Bricks expressly agrees to it.

Only users of this Site who have a current password registered with Austral Bricks may order Goods via this Site. Austral Bricks is entitled to treat any order received with the appropriate password as fully authorised by you and binding upon you. Austral Bricks accepts no responsibility for misuse of your password.

You must protect the confidentiality of your password at all times and must not provide access to or allow use of the password by any other person. You acknowledge and agree that if you become aware of or suspect any unauthorised use of your password, you will immediately advise Austral Bricks immediately by phone on **1800 810 185** and follow up with written and email confirmation.

You must follow all procedures and protocols notified to you from time to time by Austral Bricks on this Site including all prompts and instructions appearing on this Site.

You acknowledge and agree that the format, content or transmission speed of any information over the Internet may change at any time without notice. You acknowledge and agree that Austral Bricks will be in no way responsible for the accuracy, completeness or timeliness of the information transmitted over the Internet.

Austral Bricks may keep any copies of information transmitted to or from you in paper or electronic form as it considers necessary or desirable.



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You agree not to dispute that any message or information passing between you and Austral Bricks is “in writing” or a “document” merely on the grounds that the message or document was transmitted electronically. If a message passing between Austral Bricks and you is transmitted in accordance with the Terms or the eTerms, neither party shall dispute that such a message has been “signed” or properly authorised by the party from whom the message purports to be given, unless otherwise agreed in writing.

Austral Bricks and you agree that transactions are validly formed by exchange of messages via this Site and both agree to expressly waive any rights to assert invalidity of a transaction between us on the ground that the transaction took place by use of the Internet.

Privacy & Information Collection Policy

Brickworks Group of Companies

Brickworks Limited and Group Companies (Brickworks) strive for complete compliance with the National Privacy Principles set out in the Privacy Act 1988 while providing the best possible service to our clients across a wide range of products.

We collect personal information in the course of conducting our business.

Brickworks will use your information primarily to provide you with the goods and services you have requested. We will also use the information to let you know about our products and services.

If you do not provide all the information we request on our application or order forms, we may not be able to complete your request.

Brickworks understand the importance of privacy. We will not sell your information.

We will not disclose your information to anyone except our employees, Group Companies, credit reporting agencies, credit bureaus, collection agencies, contractors and agents who act on our behalf, unless required to do so by law.

To find out what personal information Brickworks holds about you, and if necessary, to ask to update the information or make corrections, a fee may apply, you can write to

The Company Secretary

Brickworks Ltd

P O Box 6550

Wetherill Park NSW 1851

To find out more about our privacy policies or if you are concerned about our use and your personal information please feel free to contact our Credit Manager in your state.

