



## Terms and Conditions for GFRC Australia Pty Ltd (trading as Concrete Studio)

These are our full terms and conditions. Updated July 2024.

Please pay particular attention to 8.1 which details standard warranty (2 years), extended warranty (10 years), and expectations when ordering handmade concrete furniture.

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### 1. Interpretation

#### 1.1 In these Conditions:

'BUYER' means the person who accepts a quotation of the Seller for the sale of the Goods or whose order for the Goods is accepted by the Seller.

'GOODS' means the goods (including any instalment of the goods or any parts for them) which the Seller is to supply in accordance with these Conditions.

'SELLER' means GFRC Australia Pty Ltd.

'CONDITIONS' means the standard terms and conditions of sale set out in this document and (unless the context otherwise requires) includes any special terms and conditions agreed in writing between the Buyer and the Seller.

'CONTRACT' means the contract for the purchase and sale of the Goods.

'WRITING' includes telex, cable, email, facsimile transmission and comparable means of communication.

1.2 Any reference in these Conditions to any provision of a statute shall be construed as a reference to that provision as amended, re-enacted or extended at the relevant time.

1.3 The headings in these Conditions are for convenience only and shall not affect their interpretation.

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## 2. Basis of the Sale

2.1 The Seller shall sell and the Buyer shall purchase the Goods in accordance with any written quotation of the Seller which is accepted by the Buyer, or any written order of the Buyer which is accepted by the Seller, subject in either case to these Conditions, which shall govern the Contract to the exclusion of any other terms and conditions subject to which any such quotation is accepted or purported to be accepted, or any such order is made or purported to be made, by the Buyer.

2.2 No variation to these Conditions shall be binding unless agreed in Writing between the authorised representatives of the Buyer and the Seller.

2.3 The Seller's employees or agents are not authorised to make any representations concerning the Goods unless confirmed by the Seller in Writing. In entering into the Contract the Buyer acknowledges that it does not rely on any such representations which are not so confirmed.

2.4 Any advice or recommendation given by the Seller or its employees or agents to the Buyer or its employees or agents as to the storage, application or use of the Goods which is not confirmed in Writing by the Seller is followed or acted upon entirely at the Buyer's own risk, and accordingly the Seller shall not be liable for any such advice or recommendation which is not so confirmed.

2.5 Any typographical, clerical or other error or omission in any sales literature, quotation, price list, acceptance of offer, invoice or other document or information issued by the Seller shall be subject to correction without any liability on the part of the Seller.

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## 3. Orders and Specifications

3.1 No order submitted by the Buyer shall be deemed accepted by the Seller unless and until confirmed in writing by the Seller's authorised representative.

3.2 The Buyer is responsible for ensuring the accuracy of the terms of any order, including any applicable specifications and dimensions. The Buyer must provide the Seller with necessary information relating to the Goods within a sufficient time to enable the Seller to perform the Contract in accordance with its terms.

3.3 The quantity, quality, and description of the Goods, as well as any specifications, shall be as set out in the Seller's quotation (if accepted by the Buyer) or the Buyer's order (if accepted by the Seller).

3.4 If the Goods are to be manufactured or any process applied to the Goods by the Seller according to a specification submitted by the Buyer, the Buyer shall indemnify the Seller against all loss, damages, costs, and expenses incurred in connection with any claim for infringement of any patent, copyright, design, trademark, or other industrial or intellectual property rights of any other person resulting from the Seller's use of the Buyer's specification.

3.5 The Seller reserves the right to make changes to the specification of the Goods to conform with any applicable statutory or Australian requirements or, where the Goods are to be supplied to the Seller's specification, which do not materially affect their quality or performance.

3.6 No order accepted by the Seller may be canceled by the Buyer except with the written agreement of the Seller and on terms that the Buyer shall indemnify the Seller in full against all losses (including loss of profit), costs (including the cost of all labor and materials used), damages, charges, and expenses incurred by the Seller as a result of cancellation.

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#### 4. Price of the Goods

4.1 The price of the Goods shall be the Seller's quoted price or, in the absence of a quoted price (or if a quoted price is no longer valid), the price listed in the Seller's published price list at the date of order acceptance. All quoted prices are valid for 30 days or until earlier acceptance by the Buyer. After this period, the Seller reserves the right to alter prices without notice to the Buyer.

4.2 The Seller reserves the right, by giving notice to the Buyer before delivery, to increase the price of the Goods to reflect any cost increase incurred by the Seller due to factors beyond its control. These factors may include, but are not limited to, foreign exchange fluctuations, currency regulations, alterations of duties, significant increases in labor or material costs, or other manufacturing costs. Price adjustments may also occur in response to changes in delivery dates, quantities, or specifications requested by the Buyer, or any delays caused by the Buyer's instructions or failure to provide adequate information.

4.3 Unless otherwise specified in the quotation or price list, and unless agreed otherwise in writing between the Buyer and the Seller, all prices are given on an ex-works basis. If the Seller agrees to deliver the Goods other than at its premises, the Buyer shall be responsible for the Seller's charges for transport, packaging, and insurance.

4.4 The price is exclusive of any applicable goods and services tax (GST), for which the Buyer shall be additionally liable to pay the Seller.

4.5 When applicable, the cost of pallets and returnable containers will be charged to the Buyer in addition to the price of the Goods. However, full credit will be given to the Buyer if these items are returned undamaged to the Seller before the due payment date.

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#### 5. Payment Terms

5.1 Unless otherwise agreed in writing between the Buyer and the Seller, the Seller shall invoice the Buyer for the full price of the Goods at the time of ordering.

5.2 For Goods valued in excess of AUD \$3000 (three thousand dollars), a non-refundable deposit of 50% (fifty percent) shall be payable against the invoice. Payment of this deposit is required prior to commencing any work on the Goods. For Goods valued less than AUD \$3000 (three thousand dollars), full payment is required before commencing any work on the Goods.

5.3 Unless otherwise specified, the Buyer shall pay the price of the Goods (less any applicable discount to which the Buyer is entitled and the value of any paid deposit, but without any other deduction) within 7 (seven) days after the Seller notifies the Buyer that the Goods are ready for collection (by either the Buyer or the shipping company). The timing of payment is essential to the Contract. Receipts for payment will be issued upon request.

5.4 If the Buyer fails to make any payment on the due date, then, without prejudice to any other right or remedy available to the Seller, the Seller shall be entitled to:

5.4.1 Cancel the contract or suspend any existing or further deliveries to the Buyer.

5.4.2 Appropriately allocate any payment made by the Buyer to such of the Goods (or the goods supplied under any other contract between the Buyer and the Seller) as the Seller deems fit (notwithstanding any purported appropriation by the Buyer).

5.4.3 Charge the Buyer interest (both before and after any judgment) on the unpaid amount at the rate of 8 percent per annum above the ANZ Bank base rate from time to time, until full payment is made (a part of a month being treated as a full month for interest calculation purposes). The due date shall be the 'relevant day' for the purpose of late payment of commercial debts.

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## 6. Delivery

6.1 Delivery of the Goods shall occur when the Buyer collects the Goods at the Seller's premises at any time after the Seller notifies the Buyer that the Goods are ready for collection. Alternatively, if another place for delivery is agreed upon by the Seller, delivery shall be completed when the Seller delivers the Goods to that agreed-upon place.

6.2 Any dates quoted for the delivery of the Goods are approximate, and the Seller shall not be liable for any delay in delivery, regardless of the cause. Time for delivery shall not be of the essence of the Contract unless previously agreed upon by the Seller in writing. The Seller may deliver the Goods in advance of the quoted delivery date upon giving reasonable notice to the Buyer.

6.3 If the Goods are to be delivered in instalments, each delivery shall constitute a separate contract. The Seller's failure to deliver any one or more instalments according to these Conditions, or any claim by the Buyer regarding any one or more instalments, shall not entitle the Buyer

to treat the Contract as a whole as repudiated.

6.4 If the Seller fails to deliver the Goods (or any instalment) for any reason other than any cause beyond the Seller's reasonable control or the Buyer's fault, and the Seller is accordingly liable to the Buyer, the Seller's liability shall be limited to the excess (if any) of the cost to the Buyer (in the cheapest available market) of similar goods to replace those not delivered over the price of the Goods.

6.5 If the Buyer fails to take delivery of the Goods or provide adequate delivery instructions at the specified time for delivery (other than due to any cause beyond the Buyer's reasonable control or the Seller's fault), the Seller may:

6.5.1 Store the Goods until actual delivery and charge the Buyer for the reasonable costs (including insurance) of storage; or

6.5.2 Sell the Goods at the best price readily obtainable, and (after deducting all reasonable storage and selling expenses) account to the Buyer for the excess over the price under the Contract or charge the Buyer for any shortfall below the price under the Contract.

6.7 If the Seller agrees to arrange for the Goods to be transported to a place other than its own premises for delivery:

6.7.1 The Seller will make such arrangements for carriage and insurance of the Goods during carriage as it deems appropriate, and the Seller shall not be liable to the Buyer for these arrangements.

6.7.2 The Buyer will indemnify the Seller against any costs or expenses the Seller may incur in making those arrangements.

6.7.3 The Goods shall be treated as delivered to the Buyer as soon as they are delivered to the carrier.

6.7.4 The Goods shall be at the Buyer's risk from the moment they are delivered to the carrier.

6.8 If the Seller agrees to deliver the Goods at a place other than its own premises, the Goods will be entirely at the Buyer's risk from the moment they are delivered to the carrier, and the Buyer shall insure the Goods accordingly.

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## 7. Risk, Title, and Property

7.1 Risk of damage to or loss of the Goods shall pass to the Buyer:

7.1.1 In the case of Goods to be delivered at the Seller's premises, at the time when the Seller notifies the Buyer that the Goods are available for collection.

7.1.2 In the case of Goods to be delivered otherwise than at the Seller's premises, at the time of delivery, or if the Buyer wrongfully fails to take delivery of the Goods, at the time when the Seller has tendered delivery of the Goods.

7.2 Notwithstanding delivery and the passing of risk in the Goods, or any other provision of these Conditions, the property in the Goods shall not pass to the Buyer until the Seller has received in cash or cleared funds payment in full of the price of the Goods and all other goods agreed to be sold by the Seller to the Buyer for which payment is then due.

7.3 Until the property in the Goods passes to the Buyer, the Buyer shall hold the Goods as the Seller's fiduciary agent and bailee. The Buyer shall keep the Goods separate from those of the Buyer and third parties, properly stored, protected, insured, and identified as the Seller's property. However, the Buyer shall be entitled to resell or use the Goods in the ordinary course of its business.

7.4 Until the property in the Goods passes to the Buyer (and provided the Goods are still in existence and have not been resold), the Seller shall be entitled at any time to require the Buyer to deliver up the Goods to the Seller. If the Buyer fails to do so promptly, the Seller may enter upon any premises of the Buyer or any third party where the Goods are stored and repossess the Goods.

7.5 The Buyer shall not be entitled to pledge or charge by way of security for any indebtedness any of the Goods that remain the property of the Seller. If the Buyer does so, all moneys owing by the Buyer to the Seller shall (without prejudice to any other right or remedy of the Seller) become due and payable immediately.

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## 8. Warranties and Liability from October 2023 Onwards

### 8.1 PRODUCT TWO-YEAR WARRANTY

Subject to the conditions below, the Seller warrants that the Goods will correspond with their specification at the time of delivery and will be free from defects in material and workmanship for a period of 2 years (see also 8.1.1-3). A reasonable margin of tolerance in manufactured Goods is acceptable, covering dimensions of the finished product (approximately 1%), variations in colour, finish, or texture due to the natural process of concrete curing or the addition of pigment, and variations in texture, including at seams or joins where moulds or formwork have been used. 'Crazing', hairline cracks, pinholes, or other features typically associated with aging concrete are expressly excluded from any warranty as they are not structural issues.

#### 8.1.1 EXTENDED LIMITED WARRANTY

Unless otherwise noted in the Tax Invoice, the Seller extends the above warranty to an additional 8 years beyond the first year (10 years in total) when the Buyer is an individual, not a business, and the Goods are to be installed in the Buyer's main residence (not in any rental or other property). To obtain this 10-year warranty, the item must be registered on the Concrete Studio website within seven days of installation, along with necessary supporting photography and no more than one month after the items have been delivered to the Seller unless otherwise agreed in writing. This limited warranty is not transferable and is expressly restricted to the repair or replacement of concrete items only as decided by the Seller.

#### 8.1.2 SEALER WARRANTY

a) The Seller warrants that CS Active (used on most indoor Concrete Studio products) is a highly effective stain-resistant hybrid concrete sealer. Under normal and reasonable use, CS Active will resist most stains, excluding those caused by known staining agents. Claims will be rejected if specific staining agents, such as hair dye or timber stain, come into contact with the sealer. The Seller further warrants that CS Active will not delaminate during the warranty period. The Seller expressly excludes any other type of damage to the sealer, including but not limited to scratches, pitting, and abrasion, beyond the control of the Seller. Users are advised to exercise care, keep the concrete clean, and avoid exposure to known staining agents for optimal performance.

b) The Seller warrants that CS Swift (used on most outdoor and commercial projects) is a penetrating sealer that will not require resealing for the length of the warranty. CS Swift is a penetrating sealer and, by definition, is not stain-proof.

8.2 The above warranties are given by the Seller subject to the following conditions:

8.2.1 The Seller is not liable for any defect in the Goods arising from any drawing, design, or specification supplied by the Buyer.

8.2.2 The Seller is not liable for any defect arising from fair wear and tear, wilful damage, negligence, abnormal working conditions, application of excessive heat (e.g., oven or BBQ), excessive moisture (continuous submersion for extended periods, such as a sink left full of water for longer than reasonable periods), failure to follow the Seller's instructions (whether oral or in writing), misuse, or alteration or repair of the Goods without the Seller's approval.

8.2.3 The Seller is not liable under the warranty if the total price for the Goods has not been paid by the due date.

8.2.4 The warranty does not extend to parts, materials, or equipment not manufactured by the Seller, for which the Buyer shall be entitled only to the benefit of any warranty or guarantee given by the manufacturer to the Seller.

8.2.5 The Seller is not liable for any defect in the Goods and/or appearance to the Goods arising from the natural process of efflorescence or any other similar natural process that can resemble a loss of intensity of colour and/or milky white stain to the Goods.

8.3 Subject to express provisions in these Conditions, and except where the Goods are sold to a person dealing as a consumer, all warranties, conditions, or other terms implied by statute or common law are excluded to the fullest extent permitted by law.

8.4 The statutory rights of the Buyer are not affected by these Conditions when the Goods are sold under a consumer transaction.

8.5 Any claim by the Buyer based on any defect in the quality or condition of the Goods or their failure to correspond with specifications shall be notified to the Seller within 24 hours from the date of delivery or, if the defect or failure was not apparent on reasonable inspection, within a reasonable time after discovery. If the Buyer does not notify the Seller accordingly, and delivery is not refused, the Buyer shall not be entitled to reject the Goods, and the Seller shall have no liability for such defect or failure.

8.6 When a valid claim is notified to the Seller, the Seller may, at its sole discretion, replace the Goods (or the part in question) free of charge or refund to the Buyer the price of the Goods (or a proportionate part of the price). The Seller shall have no further liability to the Buyer.

8.7 Except in respect of death or personal injury caused by the Seller's negligence, the Seller shall not be liable to the Buyer for any indirect, special, or consequential loss or damage (whether for loss of profit or otherwise), costs, expenses, or other claims for compensation whatsoever, arising out of or in connection with the supply of the Goods or their use or resale by the Buyer. The entire liability of the Seller under or in connection with the Contract shall not exceed the price of the Goods unless expressly provided in these Conditions.

8.8 The Seller shall not be liable to the Buyer or be deemed in breach of the Contract due to any delay in performing or any failure to perform any of the Seller's obligations related to the Goods, if the delay or failure results from any cause beyond the Seller's reasonable control. Causes beyond the Seller's reasonable control include, but are not limited to:

8.8.1 Act of God, explosion, flood, tempest, fire, or accident.

8.8.2 War or threat of war, sabotage, insurrection, civil disturbance, or requisition.

8.8.3 Acts, restrictions, regulations, by-laws, prohibitions, or measures by any governmental, parliamentary, or local authority.

8.8.4 Import or export regulations or embargoes.

8.8.5 Strikes, lockouts, or other industrial actions or trade disputes (whether involving employees of the Seller or of a third party).

8.8.6 Difficulties in obtaining raw materials, labor, fuel, parts, or machinery.

8.8.7 Power failure or breakdown in machinery.

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## 9. Indemnity

9.1 If any claim is made against the Buyer alleging that the Goods infringe upon, or that their use or resale infringes upon the patent, copyright, design, trademark, or other industrial or intellectual property rights of any other person, then, unless the claim arises from the use of any drawing, design, or specification supplied by the Buyer, the Seller shall indemnify the Buyer against all loss, damages, costs, and expenses awarded against or incurred by the Buyer in connection with the claim, or paid or agreed to be paid by the Buyer in settlement of the claim, provided that:

9.1.1 The Seller is given full control of any proceedings or negotiations in connection with any such claim.

9.1.2 The Buyer shall provide the Seller with all reasonable assistance for the purposes of any such proceedings or negotiations.

9.1.3 Except pursuant to a final award, the Buyer shall not pay or accept any such claim, or compromise any such proceedings without the consent of the Seller (which shall not be unreasonably withheld).

9.1.4 The Buyer shall not take any action that would or might vitiate any policy of insurance or insurance cover which the Buyer may have in relation to such infringement. This indemnity shall not apply to the extent that the Buyer recovers any sums under any such policy or cover (which the Buyer shall use its best endeavours to do).

9.1.5 The Seller shall be entitled to the benefit of, and the Buyer shall accordingly account to the Seller for, all damages and costs (if any) awarded in favour of the Buyer which are payable by, or agreed with the consent of the Buyer (which consent shall not be unreasonably withheld) to be paid by, any other party in respect of any such claim.

9.1.6 Without prejudice to any duty of the Buyer at common law, the Seller shall be entitled to require the Buyer to take such steps as the Seller may reasonably require to mitigate or reduce any such loss, damages, costs, or expenses for which the Seller is liable to indemnify the Buyer under this clause.

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## 10. Insolvency of Buyer

10.1 This clause applies if:

10.1.1 The Buyer makes any voluntary arrangement with its creditors, or (being an individual or firm) becomes bankrupt, or (being a company) becomes subject to an administration order or goes into liquidation (other than for the purposes of amalgamation or reconstruction).

10.1.2 An encumbrancer takes possession or a receiver is appointed of any of the property or assets of the Buyer.

10.1.3 The Buyer ceases, or threatens to cease, to carry on business.

10.1.4 The Seller reasonably apprehends that any of the events mentioned above is about to occur in relation to the Buyer and notifies the Buyer accordingly.

10.2 If this clause applies, then, without prejudice to any other right or remedy available to the Seller, the Seller shall be entitled to cancel the Contract or suspend any further deliveries under the Contract without any liability to the Buyer. If the Goods have been delivered but not paid for, the price shall become immediately due and payable, notwithstanding any previous agreement or arrangement to the contrary.

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## 11. Returns and Refunds

11.1 Goods cannot be returned without the prior written consent of the Seller.

11.2 Requests for returns must be made within 14 days of delivery, and the Goods must be in their original condition and packaging.

11.3 Refunds, if any, will be processed within 14 days of the Seller's receipt and inspection of the returned Goods.

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## 12. Inspection

12.1 The Buyer is required to inspect the Goods upon delivery and notify the Seller of any defects or discrepancies within 7 days.

12.2 Failure to notify within this period will be deemed acceptance of the Goods.

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## 13. Intellectual Property Rights

13.1 All intellectual property rights in or arising out of or in connection with the Goods shall be owned by the Seller.

13.2 The Buyer shall not use any intellectual property of the Seller without prior written consent.

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## 14. Confidentiality

14.1 Both parties agree to keep confidential all information that is disclosed to each other in connection with the Contract and not to use such information for any purpose other than to fulfil their obligations under the Contract.

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## 15. Force Majeure

15.1 The Seller shall not be liable for any failure to perform its obligations where such failure is as a result of Acts of God (including fire, flood, earthquake, storm, hurricane or other natural disaster), war, invasion, act of foreign enemies, hostilities (whether war is declared or not), civil war, rebellion, revolution, insurrection, military or usurped power or confiscation, terrorist activities, nationalisation, government sanction, blockage, embargo, labor dispute, strike, lockout or interruption or failure of electricity or telephone service.

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## 16. Dispute Resolution

16.1 In the event of any dispute arising out of or relating to this Contract, the parties shall first attempt to resolve the dispute through friendly consultations.

16.2 If the dispute is not resolved within 30 days, the parties agree to submit the dispute to mediation in accordance with the rules of [mediation organisation].

16.3 If the dispute is not resolved through mediation, it shall be referred to and finally resolved by arbitration under the rules of [arbitration organisation], which rules are deemed to be incorporated by reference into this clause.

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## 17. Data Protection

17.1 The Seller will comply with all applicable data protection laws and regulations in the processing of personal data.



17.2 The Buyer consents to the processing of their personal data by the Seller for the purposes of fulfilling the Contract.

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## 18. Environmental Responsibility

18.1 The Seller is committed to minimising the environmental impact of its operations and products.

18.2 The Buyer is encouraged to follow the Seller's guidelines for the disposal and recycling of the Goods.

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## 19. General

19.1 Any notice required or permitted to be given by either party to the other under these Conditions shall be in writing and addressed to that other party at its registered office or principal place of business or such other address as may at the relevant time have been notified pursuant to this provision to the party giving the notice.

19.2 No waiver by the Seller of any breach of the Contract by the Buyer shall be considered as a waiver of any subsequent breach of the same or any other provision.

19.3 If any provision of these Conditions is held by any competent authority to be invalid or unenforceable in whole or in part, the validity of the other provisions of these Conditions and the remainder of the provision in question shall not be affected.

19.4 The Contract shall be governed by the laws of Australia, and the Buyer agrees to submit to the non-exclusive jurisdiction of the Australian courts.

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