

J. & N. STONE, INC. TERMS AND CONDITIONS OF SALE

1. General Terms and Applicability. All sales by J. & N. Stone, Inc. ("Company") are governed by and subject to these Terms and Conditions of Sale (these "Terms"), as may be amended from time to time by Company. These Terms form a binding agreement between the original purchaser ("Customer") of products (the "Products") and services (the "Services" and together with the Products, the "Deliverables" and each, a "Deliverable") and Company (the "Agreement"). This Agreement incorporates all additional terms and conditions stated in quotations, pricelists, invoices, order acknowledgments and other documentation furnished by Company to Customer ("Additional Terms"). These Terms govern in the event of any conflict or inconsistency with any Additional Terms. There are no other terms of agreement. Company rejects any terms or conditions contained in Customer's purchase order, statement of work or other documents that are additional to or in conflict or inconsistent with this Agreement, and any such terms or conditions shall be without force or effect. If Customer has not otherwise agreed to these terms, Customer's acceptance of delivery of, or full or partial payment for, the Deliverables will constitute Customer's acceptance of these terms and conditions. This Agreement cannot be modified or amended except by a subsequent written instrument executed by the parties which expressly supersedes the provisions of this Agreement.

2. Orders. All orders for Deliverables sold by Company must be in the form of a sales order or statement of work (an "Order"). All Orders are subject to final acceptance by Company. Following acceptance by Company, Orders may not be changed or canceled without the prior written approval of Company. Customer shall reimburse Company for all expenses and losses resulting from any change or cancellation. In the event of any suspension of payment or the institution of any proceedings by Company against Customer, or the initiation of voluntary or involuntary proceedings in bankruptcy or insolvency proceedings, or proceedings under any provisions of the United States Bankruptcy Code in which Customer is a debtor, or for the appointment of a receiver or a trustee or an assignee for the benefit of creditors, Company shall be entitled to cancel the Order or any subsequently entered into agreement forthwith, without liability to Customer for loss of anticipated profits or otherwise.

3. Prices. The prices for Deliverables are those as specifically quoted by Company. Except as otherwise stated in writing by Company, quoted prices are subject to change by Company by written notice to Customer or by notation on Customer's invoice. For the avoidance of doubt, square footage as indicated in any quote, proposal or Order is subject to change based on actual measurements by Company. Prices quoted are exclusive of packaging/shipping and taxes, including, without limitation, sales, excise, use and property taxes. Customer agrees to pay all applicable taxes and charges.

4. Payment Terms. Customer agrees to pay for all Deliverables supplied and any other charges due pursuant to this Agreement, including any transfer or banking fees. Company will not be responsible for any charges or fees assessed in connection with payment by Customer, except as otherwise provided in this Agreement. A down payment of one-half of the total quoted price is due upon Customer's acceptance of a Proposal issued by Company. All remaining charges shall be paid upon completion of any work performed, including without limitation, delivery and installation of Products and provision of related Services. All amounts not so paid shall be subject to a charge of 2% per month on the outstanding balance. Company is hereby authorized to charge Customer's credit card upon completion of the work and final delivery of the Deliverables. Company will be entitled to suspend performance of

any order or obligation to Customer until the Customer's account is current. Company may accept any Order on credit terms, whereby Customer shall be required to pay the outstanding invoice within 30 days of completion and delivery of Deliverables. If at any time Company determines in its sole discretion that Customer's financial condition, payment practices or credit rating does not justify a sale on credit, Company may require advance payment or such other payment assurances as it may deem acceptable in its sole discretion, and it may cancel any order without recourse by Customer. Customer will reimburse Company for all expenses, including reasonable attorney and paralegal fees, incurred to collect any delinquent account, enforce its rights under this Agreement, or pursue any lawsuit, arbitration, or other proceeding related to this Agreement.

5. Title to Products. Customer grants Company a security interest in the Products and will keep the Products properly stored, insured and identifiable as subject to Company's lien until full payment is made by Customer for the Products. Customer agrees that Company may enter Customer's premises to repossess Products for which payment is overdue and file financing statements to reflect its lien in the Products.

6. Delivery and Delay. Company will deliver Products to Customer F.O.B. at Company's place of business unless otherwise agreed by the parties. Delivery dates specified in a proposal are estimates only and time is not of the essence. Customer assumes the risk of loss of Products once delivered to the carrier or ten (10) days after Company notifies Customer that the Products are ready for pick-up. Company may deliver all of the Products at one time or in portions from time to time. All deliveries are subject to modifications or cancellation due to events beyond Company's reasonable control, including without limitation acts of God, compliance with any law, order, rule or regulation of any governmental or other authority, disruption of suppliers, delay in transportation, labor disputes, pandemics or epidemics, strikes, failure of equipment or systems, or shortages of any labor or materials or services. Company will not be liable for any loss of profit or property, or for any direct, indirect, special, incidental, consequential or other damages caused by any delay or failure to deliver. If Customer causes or requests a delay in the delivery of any Products, Customer will reimburse Company for all resulting damages, including without limitation reasonable storage expenses. Customer shall acquire and maintain sufficient property and casualty insurance to cover any loss or risk of loss to any Products.

7. Limited Warranty. Company warrants that its Products will be free from defects in material and workmanship for a period of fifty (50) years following the date of Customer's purchase of the Products, subject to the terms and conditions of the warranty (the "Company Warranty") set forth on Exhibit A attached hereto. EXCEPT FOR THE COMPANY WARRANTY, THE DELIVERABLES ARE PROVIDED "AS IS" AND WITHOUT WARRANTY OF ANY KIND, WHETHER EXPRESS, IMPLIED OR STATUTORY. COMPANY DISCLAIMS ANY AND ALL IMPLIED WARRANTIES, INCLUDING, BUT NOT LIMITED TO, ANY IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE. IN THE EVENT A DEFECT ARISES IN THE PRODUCTS THAT IS A VALID WARRANTY CLAIM PURSUANT TO A MANUFACTURER'S WARRANTY OF THE SAME, COMPANY AGREES TO ASSIGN SUCH WARRANTY RIGHTS TO CUSTOMER TO THE EXTENT SUCH RIGHTS ARE ASSIGNABLE. CUSTOMER ACKNOWLEDGES AND AGREES THAT THE ONLY WARRANTY APPLICABLE TO ANY PRODUCTS SOLD BY

COMPANY UNDER THIS AGREEMENT ARE THE WARRANTY (IF ANY) OFFERED BY THE APPLICABLE MANUFACTURER OF THE PRODUCT AND THE COMPANY WARRANTY.

8. Acceptance & Notice of Claims. The Products shall be deemed to have been accepted within ten (10) days after receipt by Customer unless rightfully rejected within such period by written notice to Company, by certified mail, return receipt requested, setting forth any claim for shortages with reference to Company's invoice numbers. Failure to give such notice shall constitute an absolute waiver and release of all claims Customer may have, and Company shall have no liability, under this Agreement or otherwise. As a condition to the enforcement of any claim, Company and its agents must be provided access to the original Products for inspection. The product must remain unmodified for Company's inspection. Any modification, replacement, attempted repair, self-help, or alteration of the Products, or other product into which the Products are incorporated, without Company's prior approval or before Company inspects the Products shall render any warranty and claim null and void. Customer's claims for damage or shortage in transit must be filed by Customer against carrier. Customer and any third-party seeking recourse for defects in or failures of the Products shall make such claims exclusively to the manufacturer. No such claim shall be justification for withholding payment to Company for receiving the right quantity of Products. Customer also shall not withhold or reduce payments on account of claims not accepted by Company.

9. Limitation on Liability. COMPANY'S AGGREGATE LIABILITY UNDER THIS AGREEMENT AND IN CONNECTION WITH THE DELIVERABLES SHALL IN NO EVENT EXCEED THE AMOUNT PAID BY CUSTOMER FOR THE DELIVERABLES GIVING RISE TO ANY SUCH CLAIM FOR LIABILITY. IN NO EVENT SHALL COMPANY BE LIABLE FOR ANY INDIRECT, SPECIAL, INCIDENTAL, CONSEQUENTIAL, PUNITIVE OR EXTRAORDINARY DAMAGES OF ANY KIND, INCLUDING BUT NOT LIMITED TO LOSS OF USE, LOSS OF TIME, INCONVENIENCE, LOST PROFITS OR OTHER DAMAGES WITH RESPECT TO PERSONS, BUSINESS OR PROPERTY, WHETHER AS A RESULT OF BREACH OF WARRANTY, NEGLIGENCE OR OTHERWISE. **CUSTOMER ACKNOWLEDGES THAT THESE LIMITATIONS AND WAIVERS HAVE BEEN BROUGHT TO ITS ATTENTION, THAT CUSTOMER HAS READ AND UNDERSTANDS ALL TERMS AND AGREES TO BE SO BOUND, AND THAT CUSTOMER'S RECEIPT OF THE AGREEMENT AND DELIVERABLES, AND ANY PAYMENT FOR THESE, SIGNIFIES THAT CUSTOMER HAS VOLUNTARILY AND KNOWINGLY CONSENTED TO ALL TERMS, INCLUDING THESE WAIVERS AND LIMITATIONS.**

10. Period of Limitations. No claim, suit, or other proceeding arising out of or related to the Deliverables or this Agreement may be brought by Customer after one (1) year from the date it accrues. No discovery, estoppel, or other rule shall apply to extend this limitations period.

11. Intellectual Property & Confidentiality. Customer acknowledges Company's ownership of all trademarks, service marks, copyrights, imprints, rights of publicity, patents, design patents, registered designs, industrial designs, product design, trade secrets and other intangible rights relating to the Products ("Company Intellectual Property") and agrees that Customer shall have no right, title or interest whatsoever in any Company Intellectual Property. Customer shall keep confidential all designs, processes, drawings, and other technical

or proprietary information disclosed by Company to Customer. Customer hereby acknowledges and agrees that Company is entitled to use photos, videos and other related materials of the Deliverables at any stage prior to, during or after delivery and installation of the Deliverables, for purposes of Company's marketing and advertising efforts.

12. Indemnification. Company shall have no liability to Customer or any third party for any loss, damage, injury or death caused by any Deliverables during the term of this Agreement and thereafter. Customer shall indemnify and hold Company harmless from and against any and all claims, demands, liabilities, losses, damage to or loss of property or injury to or death of any person or any related expenses (including, but not limited to, reasonable attorney's fees and court costs) arising from the use, proper or improper, operation, storage or transportation of any Products at any time after its delivery to Customer or the breach by Customer of this Agreement.

13. Waiver. No waiver by Company of any of the provisions of this Agreement is effective unless explicitly set forth in writing and signed by Company. No failure to exercise, or delay in exercising, any right, remedy, power or privilege arising from this Agreement operates, or may be construed, as a waiver thereof. No single or partial exercise of any right, remedy, power or privilege hereunder precludes any other or further exercise thereof or the exercise of any other right, remedy, power or privilege.

14. Assignment. Customer shall not assign, transfer, delegate or subcontract any of its rights or obligations under this Agreement without the prior written consent of Company. Any purported assignment or delegation in violation of this provision shall be null and void. No assignment or delegation shall relieve Company of any of its obligations hereunder. Company may at any time assign or transfer any or all of its rights or obligations under this Agreement without Customer's prior written consent to any affiliate or to any person acquiring all or substantially all of Company's assets.

15. Governing Law and Venue. This Agreement shall be governed in all respects, including validity, interpretation and effect, by the laws of the State of Indiana, without regard to principles of conflicts of law. Each party hereby consents to the exclusive personal jurisdiction of the federal courts located in the Northern District of Indiana or the state courts located in Elkhart County, Indiana over any action arising out of or relating to this Agreement and waives any objection it may now or hereafter have to venue or to convenience of forum.

16. Company's Rights. Company has all rights and remedies given to sellers by applicable law, and Company's rights and remedies are cumulative and may be exercised from time to time by Company. No waiver by Company of any breach of the Agreement by Customer shall be effective unless in writing nor operate as a novation or waiver of any other breach. Company shall not lose any right because it has not exercised that right in the past.

EXHIBIT A
COMPANY WARRANTY
(SEE ATTACHED)



Warranty

Limited Warranty on Stone Products

J & N Stone warrants its stone products for a period of 50 years from the date of purchase against defects in material in normal use of any structure to which they are applied, so long as such application is performed according to the manufacturer's instructions and acceptable masonry practices. ON VERTICAL APPLICATIONS ONLY

In the event of defects, the consumer must notify J & N Stone in writing. Upon receipt of such notification, and after a factory representative inspection, J & N Stone will provide free of charge new stone products to replace any defective product. This warranty covers only manufacturing defects.

Horizontal Product Warranty: (caps, well covers, sills, etc.)

Products installed on a flat horizontal surface (top of retaining wall, pillar tops, etc.) are warranted for a period of 3 years from installation against manufacturing defects only as long as they are installed using common masonry practices. After a factory representative inspection JN Stone will replace the defective material at no cost. This warranty does not cover installation of the defective material.

Exclusions

The warranty applies to the veneer units only and does not cover application replacement nor does it cover defects or damages resulting

from or connected with misuse or improper installation, settlement of the building or other movement, contact with chemicals or paint, airborne contaminants, staining or oxidation. Hearth Blocks are not warranted for use on the ground or as a surface area subject to foot traffic. THE FOREGOING WARRANTY IS THE EXCLUSIVE WARRANTY AND IS IN LIEU OF ANY ORAL REPRESENTATION, AND ALL OTHER WARRANTIES AND DAMAGES, WHETHER EXPRESSED, IMPLIED OR STATUTORY. J & N STONE HAS NOT MADE NOR DOES MAKE ANY OTHER WARRANTIES OF ANY KIND, EXPRESSED OR IMPLIED, INCLUDING WITHOUT LIMITATION ANY WARRANTY OF FITNESS FOR A PARTICULAR PURPOSE, MERCHANTABILITY, OR OF NON INFRINGEMENT OF THE THIRD PARTY.

Governing law, Jurisdiction, and Venue

The laws of the state of Indiana shall govern the interpretation and enforcement of this warranty. By the parties' Irrevocable agreement, State and Federal courts in Indiana shall enjoy exclusive venue and jurisdiction over all disputes, arising in either law or equity, that pertain to the existence, validity, interpretation and/or breach of this warranty.

