

# Transrock Terms of Trade

Read these Terms with your quotation, the Product Guide and the Delivery, Site and Charges Guide and, for a trade account, the Trade Account Terms. They are available at [transrock.com.au/terms](https://transrock.com.au/terms). These Terms set out each party's rights and obligations. The Product Guide describes our products, classes and sizes and shows, with examples, how we measure them. The Delivery, Site and Charges Guide sets out site requirements, the vehicle table and the Charges Schedule. Our Privacy Policy at [transrock.com.au/privacy](https://transrock.com.au/privacy) explains how we handle personal information.

## 1 The agreement

### 1.1 Definitions.

**Transrock, we and us** mean Transrock Pty Ltd ABN 55 686 085 441.

**You** means the customer named in the quotation, order or credit application.

**Guides** means the Product Guide and the Delivery, Site and Charges Guide, including its Charges Schedule.

**Insolvency event** means, for a company, administration, liquidation, provisional liquidation, receivership, a restructuring under Part 5.3B of the Corporations Act 2001 (Cth), or a scheme or arrangement with creditors; for an individual, bankruptcy or a personal insolvency agreement; and, for any person, being unable to pay its debts as and when they fall due.

**Operating location** is any Transrock operating location.

**PPSA** means the *Personal Property Securities Act 2009* (Cth).

**Trade account** is an account on which we supply goods on credit.

**Trade Account Terms** are Transrock's Trade Account Terms, which apply to every trade account.

**1.2 When these Terms apply.** These Terms and the Guides govern every order and supply of goods by us to you, unless otherwise expressly agreed in writing by us. You are taken to have accepted and you are exclusively bound by these Terms and the Guides by placing an order with us for goods, whether pursuant to a quotation, order confirmation or invoice, on our website, at the counter or in a signed credit application. They apply to each order, whether you accept an order in writing, verbally, by payment, or by conduct, including when you or anyone acting for you takes delivery or collects the goods. Under a standing supply arrangement, these Terms apply to every order placed in respect of such standing supply arrangement. On a trade account, these Terms apply to every order on the account, including orders placed by phone, once you have signed a credit application or, for an account opened before the Trade Account Terms took effect, once we have given you notice of these Terms.

**1.3 People acting for you.** A person acts for you when you have authorised them, or when they are your employee, contractor, site representative, driver or carrier and it is reasonable for us to believe they are authorised to place, receive, check or collect the order. You are liable for orders they place. You are not liable for an order placed by a person who you have told us in writing is not authorised, or where the order breaks a restriction you have set on your trade account. If you tell us in writing that a person has left your business or is not authorised, we will not accept orders from them after we receive that notice. We take reasonable steps to verify orders placed in your name and record who places each order and, for collections, the driver's name and vehicle registration.

**1.4 Order of precedence.** If documents conflict, this order applies: (a) specific written terms agreed for the order; (b) on credit, security and guarantee matters, the Trade Account Terms, the signed credit application and any director's guarantee; (c) the quotation; (d) these Terms; (e) the Guides. Emails

explain these documents. Where an email and these Terms differ, these Terms prevail, except that a price or quantity stated on the quotation prevails.

- 1.5 Purchase orders.** Terms in your purchase order, portal, subcontract or other document do not apply unless a Transrock director or authorised officer expressly accepts them in writing. Our acknowledgement of your purchase order is an offer to supply on these Terms only, not acceptance of your terms. You accept these Terms for each order by instructing us to proceed or by taking delivery or collection.
- 1.6 Version.** The version of these Terms and the Guides current at the quotation date applies, or at the order date where there is no quotation. Changes apply only to orders accepted after the change.
- 1.7 Your legal rights.** Nothing in these Terms excludes, restricts or modifies any right or remedy, including under the Australian Consumer Law (ACL), that cannot lawfully be excluded, restricted or modified.
- 1.8 Advice.** Any advice, recommendation, information, assistance or service provided by us in relation to goods supplied is given in good faith and is based on our own knowledge and experience and shall be accepted without liability on the part of Transrock. Where such advice or recommendations are not acted upon then this is at your sole risk. Transrock offers no warranty in regard to the aforementioned.

## 2 Quotations, prices and changes

- 2.1 Validity and price changes.** A quotation is open for acceptance for 30 days unless it states otherwise. After you accept, we may change the price of goods not yet supplied by giving you at least 4 weeks' written notice. Supply continues at the existing price during the notice period, and the new price applies only to goods supplied after it ends. Before it ends you may cancel the unsupplied part of the order without charge.
- 2.2 Prices and GST.** Prices are in Australian dollars. Consumer quotations show GST-inclusive prices. Business quotations may show prices excluding GST, with GST and the total shown separately. If the GST rate changes, or a new government tax or charge on the goods or their supply takes effect, after the quotation date, the price changes by that amount.
- 2.3 Delivery and other charges.** Delivery is priced by truck, as shown on the quotation. Minimum charges apply in accordance with these Terms and the Charges Schedule. No other charge is payable unless it and its rate were disclosed on the quotation, order confirmation or Charges Schedule before you accepted the order, or such charges are expressly permitted subject to these Terms.
- 2.4 Fuel rise and fall (trade and project quotations only).** Where a trade or project quotation states a fuel base price, the delivery charge (not the product price) is adjusted if, on the day of dispatch, the Australian Institute of Petroleum national average terminal gate diesel price is more than 5% above that base price.  $\text{Adjustment} = \text{delivery charge} \times 30\% \times (\text{current price} - \text{base price}) / \text{base price}$ . The adjustment applies to increases only and is shown separately on the invoice. Where a delivered rate includes delivery, the quotation states the delivery component and the adjustment applies to that component only. Fixed price truck load quotations and retail quotations carry no base price and no fuel adjustment.
- 2.5 Changes you ask for.** If you change the product, quantity, sizes, truck, site or timing after you accept, we tell you any change to the price before we supply. You may accept the new price or withdraw the change.
- 2.6 Errors and availability.** We may correct an obvious clerical error in a quotation, order confirmation or invoice. We may decline an order, or cancel it before loading, if the product is not available or the quotation contains an obvious error in price or description. If a correction increases the price of goods

not yet supplied, you may cancel them without charge. If we cancel, we refund any amount prepaid for the cancelled goods.

- 2.7 Cancellation.** You may cancel standard stock without charge before loading. If you cancel an order after loading, this will be deemed a "failed delivery" for which charges apply (see below). You are also responsible for any third party costs incurred by us which we are unable to cancel following your cancellation of any order (including costs of hiring equipment or engaging third parties to perform services in respect of the order). We will endeavour to confirm any such costs on cancellation and submit a claim for compensation to the value of such costs, which you will pay within 14 days from the date of submission.

### 3 What we sell and how we measure it

- 3.1 Two kinds of product.** Rock loads are landscape rock (also called beaching or retaining wall rock), spalls, rip-rap, walling stone and rubble. Measured materials are crushed rock, aggregates, gravels, pebbles, soils and similar garden landscape materials. The Product Guide lists the products of each kind.
- 3.2 Rock loads: we sell a truck bin.** For a rock load, our offer is a truck of a stated bin size, filled with the rock described. A truck's size is its bin capacity. The rock, including the spaces between pieces, occupies the bin, and the bin is the measure. Every m<sup>3</sup> figure for a rock load refers to truck bin space: the capacity of a truck's bin, or the part of the bin a load occupies. It is never the solid or installed volume of the stone. A bin is charged at its capacity, so a 4m<sup>3</sup> truck is charged as 4m<sup>3</sup>, unless we agree otherwise in writing.
- 3.3 Full truck loads.** A rock load is a full truck load when, before the bin is full, it reaches the truck's legal payload, the limit of safe stacking, or the point where no more pieces of the ordered size can safely fit. A full truck load is charged as a full truck of that size, however many pieces it holds. The quotation and invoice describe it by the truck, for example "Honey Granite, 1 x 10m<sup>3</sup> bin truck, full load". The 10m<sup>3</sup> is the truck's bin capacity, not the quantity of stone.
- 3.4 Selected pieces that do not fill the truck.** If you order selected pieces, or a number of pieces, and the load is not a full truck load, you must tell us before the load leaves the operating location either to (a) top the load up to the truck's safe limit with the same product in the same size range, or (b) charge the load on the bin space it occupies, being (unless agreed otherwise) the bin space below a level line at the general height of the top of the load, as if the top were levelled out, measured to the nearest half m<sup>3</sup>, with the level to be signed off by you prior to the load leaving the operating location. If you give no instruction, (a) applies. This clause does not apply to a fixed price truck load, which is charged at the fixed price. To avoid doubt, we will only charge for a part-filled bin (measured according to the nearest half m<sup>3</sup> of bin space) where we have expressly agreed in writing to do so and you (or your nominated representative or delivery driver) have signed off on the measured load prior to the load leaving the operating location.
- 3.5 Measured materials.** Measured materials are sold by measured volume: m<sup>3</sup> of loose material, measured at loading in a truck bin whose capacity has been measured with a verified measure, to the nearest quarter m<sup>3</sup>. They are always charged on the volume measured after loading and before departure. A fixed price quotation for a measured material is for the measured volume it states. Loose material settles and compacts in transit, so it may look smaller on site than the volume measured at loading.
- 3.6 Minimum charges and other units of sale.** The minimum charge is 0.25m<sup>3</sup> for pickup and 1m<sup>3</sup> for delivery. Other units of sale apply only where the quotation states them: (a) per tonne, only for quarry-direct loads of products we offer by the tonne, weighed on a quarry weighbridge Transrock relies on; (b) per piece, where you specify a piece size and the quotation prices per piece; (c) per m<sup>2</sup> for sawn paving and steps; (d) per lineal metre, where the quotation prices the product per lineal metre; (e) per pallet,

where the quotation prices the product per pallet; (f) per face metre for Wistow walling only, meaning one square metre of exposed vertical wall face, excluding depth. Other walling stone is sold per m<sup>3</sup> of truck bin.

- 3.7 Product classes and size requests.** Product classes and their typical size ranges are in the Product Guide. The ranges overlap, and rock breaks when it is loaded, tipped or moved, so a load of any class may include smaller or broken pieces. Chips, fractures and broken pieces from loading and tipping are a normal feature of rock loads. Each piece is charged at the rate of the product it is selected from. Where you ask for a size or size range, we supply from the product that best fits most of your request, or a mix of products on the one load, each charged at its own rate, as shown on the quotation or order confirmation. Size limits are firm only where the quotation states them as firm limits for selected pieces.
- 3.8 Size tolerance.** A nominal size means the longest dimension of a piece. For pieces with a nominal size of 200mm or more, each piece may be larger or smaller than its nominal size by up to 20%, or for pieces with a nominal size of 300mm or more, by up to 20% or 200mm, whichever is greater. Products with a nominal size under 200mm (such as rubble and aggregates) are supplied as graded by the quarry, and this tolerance does not apply to them. Where you ask for particular sizes, we make every reasonable effort to supply as close to them as we can. The tolerance applies to the size of pieces however they are sold, including by the truck bin, m<sup>2</sup> or m<sup>3</sup>. It does not apply to sawn dimensions, to firm limits or to ex-quarry direct loads (see below), and it never permits a shortfall in the quantity charged.
- 3.9 Natural stone.** Stone is a natural product. Colour, shape, texture, markings, seams and dimensions vary between pieces and batches. Photos and samples show the natural range, not identical pieces. A later order may come from a different batch and look different, so where a match matters, order enough for the whole job at once. We must still supply the product described and honour any selection that forms part of the order.
- 3.10 Hand selection.** Where colour, shape, texture, markings, seams or dimensions matter to you, we recommend you hand-select at the yard, ideally 2 to 4 business days before delivery. Selected pieces you have not paid for are held for 7 days, after which they may be returned to stock unless we agree to hold them longer. We do not substitute hand-selected pieces without your agreement during this holding period.
- 3.11 Critical use, standards and estimates.** We do not provide engineering design or certification. Where your designer, engineer or a council permit requires design or testing of stone (for example retaining, load-bearing, waterway or erosion control works), you arrange it at your cost and tell us the resulting specification before ordering. A product meets an Australian Standard or other specification only where the quotation says so. Quantity and coverage figures we give are estimates; you are responsible for ordering the quantity you need.
- 3.12 Missing pieces.** We invoice what leaves the yard, so a piece missing from a load is not invoiced. We may supply it on a later load, with no delivery charge if the omission was our fault.
- 3.13 Uncollected goods.** If goods you have paid for are not collected, or not available to be delivered because of you, within 30 days after we tell you they are ready: (a) for palletised goods, we may charge storage at the rate in the Charges Schedule from then until they are collected or delivered; and (b) landscape rock, other rock loads and measured materials may be returned to stock, and when you are ready we will supply the same product and quantity, which for hand-selected pieces you may re-select. If goods are still not collected or able to be delivered 6 months after we tell you they are ready, we may end the order for those goods by notice and refund the price paid for them, less any storage charge under paragraph (a) and any reasonable handling costs.

- 3.14 Ex-quarry direct loads.** Loads delivered direct from a quarry cannot be hand-selected, sizing is approximate (standard tolerances do not apply), they need ample room on site and access for the truck shown on the quotation, usually a truck and trailer, and they are weather dependent. Ex-quarry direct loads are not “special orders” unless the quotation expressly states so.
- 3.15 Silica.** Cutting, drilling or grinding stone creates respirable crystalline silica. Always follow applicable WHS controls. Ask us for a safety data sheet if needed. Any modification to stone we have supplied by you or on your behalf is solely at your risk.

## 4 Delivery, collection, site and risk

- 4.1 Hours and loads.** Deliveries are Monday to Friday, 7am to 4pm; Saturday by agreement. Arrival times are estimates only. We may deliver an order in several loads, and each load may be invoiced separately.
- 4.2 Truck and access.** The quotation shows the truck. You confirm that access to the site can take that truck, using the vehicle table in the Delivery, Site and Charges Guide. If we change the truck for our own operational reasons, any extra cost is ours. If a different truck is needed because of your order (for example the pieces selected or the quantity) or because of site access you did not disclose, the delivery charge for the truck used applies. Either way, we tell you before dispatch and dispatch only occurs once you confirm access can take that truck. We do not charge for reloading onto a different truck before dispatch.
- 4.3 Site safety.** You must give us accurate access information, provide a firm, level receiving area, identify underground services and other hidden site hazards, and obtain any permit needed to deliver to or place goods on a road, footpath or nature strip. We do not drive on concrete less than 28 days old, and you must tell us before delivery about any concrete on the route or receiving area that is less than 28 days old. If you do not, damage to that concrete is your responsibility, except to the extent caused by our negligence. Tipping can damage sealed surfaces; we recommend a buffer. The driver may refuse to unload where it is unsafe, including on slopes, soft ground, or with people in the fall or roll path. Our decision to unload is not an assessment that the site is safe or suitable. If you direct tipping after the driver has disclosed a specific risk, that risk is yours, except to the extent of our negligence. Unattended deliveries are made only to a spot you have authorised in advance. We keep records where practicable; the absence of a record does not defeat this clause.
- 4.4 Your site warranty.** You warrant that: (a) the access and site information you give us is accurate; (b) you own or occupy the site, or are authorised by its owner or occupier, and may have us enter and deliver there; and (c) so far as you know or ought reasonably to know, the route and receiving area you direct us to can carry the laden truck shown on the quotation. We are not liable for damage to driveways, kerbs, paths, lawns, sealed surfaces or underground services on the route or receiving area you direct us to, except to the extent caused by our negligence or breach of these Terms. If a truck becomes bogged or stuck on that route or area, you pay the reasonable cost of recovering it, except to the extent caused by our negligence.
- 4.5 Waiting.** 15 minutes on site is included. Delay beyond that caused by you or the site is charged per minute at the waiting rate shown on the quotation or Charges Schedule. If no waiting rate was disclosed, no waiting charge applies.
- 4.6 Failed delivery.** If a delivery fails because of a site closure or stoppage, or issues with access you did not disclose which you knew or ought reasonably to know about, you pay the delivery charge for the failed delivery and for each later delivery. Where the goods were sent with a third-party carrier (for example a forklift truck delivery), you also pay the carrier's charge to return them to our yard, as shown on the quotation. If a later delivery needs a different truck or several smaller trucks, the delivery charge for the

truck(s) used applies. We tell you the delivery charge for each truck before dispatch and redeliver only once you confirm. These charges do not apply where Transrock caused the failure.

- 4.7 Collection by your vehicle or carrier.** When you or your carrier collect: (a) the driver must give the order reference (if known) or the name of the person the order was placed with; (b) the vehicle must be roadworthy and suited to the load, and the driver must tell us its capacity; (c) your driver acts for you in deciding when the vehicle is full and in accepting the goods, and we rely on the driver's assessment; (d) we will not load a vehicle beyond its legal limits, or where loading would be unsafe or breach our chain of responsibility duties under the Heavy Vehicle National Law, as determined in conjunction with your carrier, and we will generally contact you if that happens; and (e) the driver must follow our yard rules and directions. To the maximum extent permitted by law, the carrier is solely responsible for carriage of the load and the driver is responsible for restraining the load.
- 4.8 Risk** passes to you when unloading is complete at the site for delivery, or when loading is complete for collection.
- 4.9 Inspection.** Please check the load description on the order details or docket before unloading, and inspect goods on delivery. You must notify us in writing of any evident defect/damage, shortage in quantity, or failure to comply with the description set out in the quotation (**Defect**) within 24 hours, with photos. You must notify us of any other alleged Defect as soon as reasonably possible after any such Defect becomes evident and allow us to inspect the defective goods. If we accept your notice of a Defect, we will provide the following remedy: (a) replacement goods to the same specification and value; or (b) refund of the value of the goods.

## 5 Payment

- 5.1 Standard payment terms.** Unless we agree otherwise in writing, you are required to pay upfront prior to delivery or collection.
- 5.2 Trade accounts and deferred payment terms.** Credit is available only on a trade account. Trade accounts are payable on the credit terms agreed in writing for your trade account, being 30 days from the end of the month of the invoice (30 days EOM), 14 days from the invoice date or 30 days from the invoice date. If no other term has been agreed, 30 days EOM applies.
- 5.3 No set-off.** You must pay the undisputed amount of each invoice by its due date, without set-off, deduction or retention. Unless agreed otherwise, we apply payments to the oldest undisputed amounts first.
- 5.4 Invoice queries.** Please raise any invoice query within 7 days of the invoice. The undisputed amount remains payable when due.
- 5.5 Interest and recovery costs.** Overdue undisputed amounts accrue interest daily from the due date until paid at the rate fixed under the Penalty Interest Rates Act 1983 (Vic) from time to time. If you are a business customer and an undisputed amount is overdue, you must pay the reasonable costs we actually incur in recovering it, including reasonable collection agency fees and legal costs.
- 5.6 Overdue accounts.** If an undisputed amount is overdue after written notice, we may suspend credit supply under a trade account or require payment before dispatch for new orders. If an undisputed amount remains unpaid more than 30 days after its due date and after written notice, or if you suffer an insolvency event, all amounts owing on your trade account become payable immediately, subject to applicable laws.
- 5.7 Security of Payment.** Where the Building and Construction Industry Security of Payment Act 2002 (Vic) applies to any supply: (a) each accepted order is a separate construction contract; (b) we may serve a

payment claim for an order on and from its delivery or collection date; (c) invoices, quotations and order confirmations are not payment claims; a payment claim is a separate document that states it is made under the Act; (d) we serve no more than one payment claim for an order in a month; (e) under a standing supply arrangement, one payment claim a month may cover all unpaid supply under it. You agree that payment claims and other notices under the Act may be served by email to the accounts email address you give us. Nothing in this clause limits either party's rights under the Act. This clause also applies, with the necessary changes, to equivalent security of payment legislation in any other State or Territory in which the supply occurs.

- 5.8 Title.** Title in goods passes to you when the price of those goods is paid in full. A payment is made only when funds have cleared. Until title passes, you hold the goods as bailee for us. You may use, install or resell them in the ordinary course of your business, and you hold the proceeds of any resale for us to the extent of the amount owing.
- 5.9 Security interest.** In this clause, financing statement, financing change statement, security agreement and security interest each has the meaning given to it by the PPSA. On acceptance of these Terms, you acknowledge and agree that these Terms constitute a security agreement and create a security interest in all goods we have supplied or will supply in the future under these Terms, and in their proceeds, to secure all amounts owing in respect of any orders. We may register our security interest on the Personal Property Securities Register. You must promptly sign documents and give us information we reasonably require to register or perfect it, and you must not register a financing change statement relating to it without our consent. To the extent the goods are not used predominantly for personal, domestic or household purposes and the PPSA permits, sections 95, 96, 117, 118, 120, 121(4), 125, 126, 130, 132(3)(d), 132(4), 134(1), 135, 136(3)–(5), 137, 142 and 143 of the PPSA do not apply, and you waive your right to receive a verification statement under section 157 of the PPSA.

## 6 Standing supply, project supply and special orders

- 6.1 Standing supply arrangement.** Where we agree in writing to supply goods for a project or under an account over an agreed period at agreed rates, you may place orders under that standing supply arrangement and these terms apply to all orders placed under it. We reserve the right to terminate the standing supply arrangement on 14 days' notice in writing and otherwise on the terms agreed in writing in respect of that standing supply arrangement.
- 6.2 Project supply.** We may agree to supply goods under a standing supply arrangement for a specific project, where you accept a quotation flagged as project supply for an expected ongoing supply of at least 8 truck deliveries or pickups of a specified product and size range. Acceptance of a project supply quotation is a standing supply arrangement, which allows us to offer more favourable pricing and security of supply of the desired product. For project supply arrangements: (a) you must give us an initial non-binding forecast of quantities and timing for orders and update it when it changes; (b) you must give us 14 days' written notice to reduce, pause or end supply; (c) if you end or reduce supply without that notice, or your off-take is more than 25% below forecast without notice, you must pay us the unavoidable net cost of stock committed for you in reliance on the forecast that the missing notice or shortfall caused, after credit for stock we can reasonably resell or use elsewhere (provided the amount is capped at the lower of the actual committed cost and 14 days supply, based on 14 days of your average daily off-take over the forecast period, at the project supply rate, subject to us providing a breakdown and not recovering the same cost twice), provided that no charge or cost for any shortfall applies following termination of the project supply arrangement or where any shortfall applies due to our failure to supply the goods; (d) we agree to hold the project rates for the forecast period stated on the quotation, up to 6 months, provided supply starts within 3 months of acceptance, subject always to our ability to apply fuel adjustments and rate changes expressly permitted under these Terms; (e) we will use

all reasonable endeavours to hold forecast stock or ensure availability of ongoing supply and agree to give you notice of any shortfalls against forecast (including pursuant to quarry availability issues); (f) you acknowledge that held stock weathers naturally and that there may be variance in stock quarried at different times; (g) you acknowledge and agree that, for cut-to-spec or specially quarried stock, we may require a deposit at the rate in the Charges Schedule or as otherwise agreed pursuant to the standing supply arrangement, on acceptance of the order, with the balance payable on delivery or our agreed payment terms for trade accounts (if you cancel after we commit costs, you pay our net unavoidable loss after mitigation, capped at the order price, and we refund any deposit above that amount); and (h) where site or quarry access limits supply, the quotation may state a maximum supply rate (loads or m<sup>3</sup> per week), in which case we will plan deliveries with you within that rate (provided that supply within limits is not a breach by us, and a shortfall against forecast caused by such limits does not count against you).

- 6.3 Rate changes.** We may change standing or project rates on 4 weeks' written notice for material cost increases. Supply continues at the existing rates during the notice period. You may end the arrangement before the notice period ends, without responsibility for shortfalls against forecasts following termination. Orders accepted before the change are supplied at the earlier rate.
- 6.4 Special orders.** A special order is one-off procurement of a product we do not ordinarily stock. Before procuring it, we disclose your cancellation exposure and may ask for a deposit. If you cancel after we commit costs, you pay our net unavoidable loss after mitigation, capped at the order price, and we refund any deposit above that amount.

## 7 Remedies and liability

- 7.1 Consumers.** Nothing in these Terms purports to modify or exclude any of your ACL rights (or rights under applicable State or Territory laws) to certain statutory implied guarantees or warranties that cannot lawfully be excluded (**consumer guarantees**). If you are a consumer under the ACL but the goods are not of a kind ordinarily acquired for personal, domestic or household use, our liability for a failure to comply with a consumer guarantee (other than title, undisturbed possession and undisclosed securities) is limited, where section 64A of the ACL permits, to replacing or repairing the goods or paying the cost of doing so.
- 7.2 Non-consumer supply.** Where consumer guarantees do not apply, our liability for non-conforming goods is limited to repair or replacement or, if we cannot do that within a reasonable time, a refund of the product price and its delivery charge.
- 7.3 Shared responsibility.** Our liability is reduced to the extent that a loss is caused or contributed to by the breach or negligence of you or anyone acting for you, for example negligent handling or installation, inadequate support or foundations, or installing goods with a defect that was obvious on a reasonable inspection before installation.
- 7.4 Excluded loss.** To the extent the law allows, no party under these Terms is liable for consequential loss, however arising (including in negligence). Consequential loss means loss of revenue, profit, business, opportunity or anticipated savings, and any indirect or special loss. Where you have used goods following delivery, including installation as part of any project works, in no circumstances will we be liable for any costs associated with removal or reinstallation of goods in situ and you are solely responsible for ensuring goods are made available for collection from the place they were originally delivered or such other place agreed by us.

- 7.5 Liability limit.** To the extent the law allows, our total liability for an order, however arising (including in negligence), is limited to the price of that order. This limit does not apply to death or personal injury, or to damage to property caused by our negligence.
- 7.6 Returns.** We do not accept returns of goods that match the order unless we agree in writing. Where we agree, you pay the return cartage and any handling charge we agree beforehand. This does not affect your rights for goods that do not conform.

## 8 Events outside our control

We are not liable for delay or failure to perform an obligation to the extent caused by an event beyond our reasonable control, including quarry closure, road closure (where no alternative route is available), flood, fire, extreme weather, epidemic, fuel or power shortage, industrial action not confined to Transrock, government direction, or failure of a third-party carrier that is itself caused by such an event. We will promptly notify you and take reasonable steps to resume performance. Charges under clause 4.6 do not apply to a delivery that fails because of such an event. If the event continues for more than 30 days, either party may cancel the affected supply by notice, and we refund amounts paid for supply not delivered.

## 9 Ending the agreement

Either party may end an order or arrangement by notice if the other commits a material breach that is not capable of remedy, or that is not remedied within 10 business days after notice requiring it to be remedied, or suffers an insolvency event, subject to any law restricting that right. A failure to pay an undisputed amount within 10 business days after written notice is a material breach. We may suspend supply while a breach notified under this clause is unremedied. Amounts for goods already supplied prior to termination remain payable.

## 10 General

- 10.1 Entire agreement.** The accepted quotation or order, these Terms, the Guides and, for trade accounts, the Trade Account Terms, the credit application and any director's guarantee are the whole agreement for an order. You do not rely on any statement outside them, except where the law does not allow that to be excluded. The Privacy Policy is not part of the agreement.
- 10.2 Assignment, subcontracting and referrals.** You may not assign an order without our written consent. We may assign our rights under an order or account, including amounts owing, to a related body corporate or a buyer of our business, on notice to you. We may subcontract carriage, including to quarry-direct carriers. We remain responsible for work done by our subcontractors. Where we refer you to a contractor, you engage them directly and we are not responsible for their work.
- 10.3 Law.** Victorian law governs, including for interstate deliveries, subject to any mandatory law that applies. The parties submit to the non-exclusive jurisdiction of the Victorian courts.
- 10.4 Electronic signatures.** Electronic signatures shall be deemed to be accepted by either party providing that the parties have complied with Section 9 of the *Electronic Transactions (Victoria) Act 2000* or any other applicable provisions of that Act or any Regulations referred to in that Act.
- 10.5 Waiver.** A failure or delay in exercising a right is not a waiver of it.
- 10.6 Severance.** If a provision is unenforceable, it is severed and the rest continues.
- 10.7 Disputes.** Either party may ask for a dispute to be discussed at management level, in which case senior representatives of each party must meet (in person or remotely) within 10 business days to try to resolve it. If the dispute is not resolved within 20 business days after the notice, either party may refer it to

mediation or pursue any other available remedy. This does not prevent urgent relief, statutory adjudication or recovery of undisputed debts.

**10.8 Contact details, notices and electronic documents.** We may send quotations, order confirmations, invoices, statements and notices by email, SMS or post to the contact details you give us, and we choose the method. You may accept orders and sign documents electronically. You must keep your contact details up to date and tell us of any change in writing. Unless a law requires otherwise, a document or notice is treated as received: (a) if emailed, when it becomes capable of being retrieved at the latest email address you have given us, unless you show that it was not received; (b) if sent by SMS, when it is sent to the latest mobile number you have given us; and (c) if posted, on the fifth business day after posting to your latest postal address.

**10.9 Privacy.** We collect personal information about you and people acting for you (including names, contact details, site details and photos, and for collections the driver's name and vehicle registration) to quote, supply, deliver, invoice, manage accounts and recover amounts owing. If you do not provide it, we may not be able to supply. We may disclose it to our carriers, quarries, service providers (some of whom are overseas, including in the Philippines and the United States), debt collectors and advisers. Our Privacy Policy at [transrock.com.au/privacy](https://transrock.com.au/privacy) explains how to access or correct your information and how to complain. You must tell people acting for you that we collect their information as described in this clause. The Privacy Policy is not part of these Terms.