



TERMS AND CONDITIONS FOR BUYING PRODUCTS FROM KEANE CERAMICS PTY LTD AND JUST BROWSING OUR WEBSITE

Welcome to Keane Ceramics.

In these terms, we also refer to Keane Ceramics as “our”, “we, or “us”.

And you are you!

What are these terms about?

These terms apply when you use this Website, being <https://keaneceramics.com.au> and any other websites we operate with the same domain name and a different extension (“**Website**”).

These terms also apply when you purchase our Products through this Website (“**Products**”), as well as any other sales channel including email and phone.

If you’re looking for our Privacy Policy, which we will comply with and you also agree to be bound by, you can find a copy of it [here](#).

How do I read these terms?

We separated these terms into three parts, so they are easy to read and understand.

Those parts are:

- **PART A:** Terms for when you buy Products (applies when you buy)
- **PART B:** Terms for when you browse and interact with this Website (applies when you browse)
- **PART C:** Liability and warranties, and interpretation provisions (applies to buying and browsing)

Please let us know if you have any questions about these terms, and don’t continue using this Website or purchase any Products unless you have read and agree to these terms.

I’ve returned to your shop, do I need read these terms again?

Once you place an Order, the terms of Part A accepted at the point of sale will apply to your purchase of those Products. However, please note that we may change any part of these terms at any time by updating this page of this Website, so you may find that different terms apply next time you use this Website or purchase Products. You can check the date at the top of this page to see when we last updated these terms.

PART A

FOR WHEN YOU BUY PRODUCTS...

1. SUBMITTING AN ORDER

- (a) By submitting an order for purchase of a Product using the Website's functionality or otherwise in writing (**Order**) you represent and warrant that:
 - (i) you have the legal capacity and are of sufficient age to enter into a binding contract with us; and
 - (ii) you are authorised to use the debit or credit card you provide with your Order.
- (b) Submitting an Order constitutes your intention and offer to enter into Part A of these terms (including Part C which you agreed to by using this Website) where we will provide you with the Products you have ordered in exchange for your payment of the total amount listed upon checkout.
- (c) Part A of these terms is not agreed between you and us until we have approved your payment and you receive an email from us confirming that your order is being processed.

2. ORDERS

- (a) (**Orders are Final**) Once you submit an Order, no changes can be made to that Order, and the Order is final.
- (b) We accept no responsibility for any errors as a result of verbal miscommunication related to any Orders. We encourage you to submit all Orders in writing.
- (c) We try to process Orders the same day they are received but there may be unforeseen delays due to high volume of orders or unforeseen circumstances. We cannot guarantee delivery times when using a third party delivery service as there are situations beyond our control.
- (d) (**Stock not available**) In some cases, an item that you have ordered may not be available. In this case, we will contact you to arrange an alternative or provide you with a refund. If we cannot get in touch with you to process a refund, we will process any part of the Order that we can and issue you with a store credit for any unavailable items. You may contact us to obtain a refund. Store credit can be exchanged for a refund if you contact us during business hours as set out on our Website.
- (e) (**Custom Orders**) Custom orders are as agreed in writing. You are responsible for confirming that your Order accurately specifies (if applicable) the quantity, dimensions, colours and specifications of the goods required before accepting any Order. We will not be responsible for any issues with the Order for your non-compliance with this clause or due to you not having provided adequate design instruction or information.
- (f) (**Bulk Orders**) Where we offer any bulk discounts for bulk orders, that discount only applies to the one invoice. Bulk discounts will not be applied to split invoices.
- (g) (**Wholesale Orders**) If you are ordering a wholesale order and are reselling any of our Products, you must sell the Products at the recommended retail price we provide to you or as set out on our Website. If you do not comply with this, we reserve the right to refuse your wholesale order. Wholesale orders may be subject to further terms and conditions.
- (h) (**International Orders**) Keane Ceramics reserves the right to refuse international orders. Approved international orders may be subject to customs and import duties upon reaching its country of destination. You will be responsible for paying all customs and import duties and acknowledge that failure to pay may result in your order being held at customs. We will not be liable for any costs you may incur in having your order released from customs, including reimbursing you for any customs or import duties you may pay.

3. PRODUCTS

- (a) **(Products may vary from Website)** Please note that due to screen display, colour and brightness, and image quality, Products may not exactly match the image on our Website and images are only an indication of Products. We also use images from our manufacturers and wholesalers which may differ from the actual Products supplied. We will endeavour to ensure that our Products provided will be substantially the same as the Products displayed on our Website, or as otherwise agreed with you in writing prior to you placing your Order.
- (b) The stability and nature of our Products may be altered depending on storage conditions, or when used in combination with other ingredients. This is beyond our control and we strongly recommend testing prior to using any Products commercially. We do not accept any liability in this regard.
- (c) **(Manufactured Products Ingredient Disclaimer)** As the availability of ingredients and raw materials is not always certain whether due to changes in nature or otherwise, we reserve the right to substitute alternate ingredients/raw materials in the manufacture of our Products and bases in order to maintain supply. You should always refer to the ingredients label as affixed to each Product or to specification sheets which are current at the time of supply of the Product.
- (d) **(Instructional information)** Prior to use of any Product, you must always refer to any documents or information provided to you with the Products and current at the time of supply of the Product (including Material Safety Data Sheet / Specification Sheet/ ingredients label).
- (e) The user of the Product is solely responsible for compliance with all laws and regulations applying to the use of the Products, including intellectual property rights of third parties.
- (f) Until the price of your Products is paid in full, title in those Products is retained by Keane Ceramics. Risk in the Products will pass to you on delivery in accordance with clause 5. Delivery must not be refused by you.

4. PAYMENT

- (a) All prices are:
 - (i) per unit (except where indicated);
 - (ii) in Australian Dollars;
 - (iii) exclusive of delivery and shipping; and
 - (iv) subject to change prior to you completing an Order without notice.
- (b) **(Payment obligations)** Unless otherwise agreed in writing, you must pay for all Products at the time of placing an Order and prior to delivery. We must receive confirmation of your payment before we can process your Order. We may require you to email or otherwise send us verification of your payment (particularly if you pay via direct deposit or money order).
- (c) **(GST)** Unless otherwise indicated, amounts stated on the Website include GST. In relation to any GST payable for a taxable supply by Keane Ceramics, you must pay the GST subject to Keane Ceramics providing a tax invoice.
- (d) **(Card surcharges)** Keane Ceramics reserves the right to charge credit card surcharges in the event that payments are made using a credit, debit or charge card (including Visa, MasterCard, American Express or Diners Club).
- (e) **(Online payment partner)** We may use third-party payment providers (**Payment Providers**) to collect payments for Products. The processing of payments by the Payment Provider will be, in addition to these terms, subject to the terms, conditions and privacy policies of the Payment Provider and we are not liable for the security or performance of the Payment Provider. We reserve the right to correct, or to instruct our Payment Provider to correct, any errors or mistakes in collecting your payment.
- (f) **(Pricing errors)** In the event that we discover an error or inaccuracy in the price at which your order was purchased (including shipping prices), we will attempt to contact you and inform you of this as soon as possible. You will then have the option of purchasing your order at the correct price, or cancelling your order. If you choose to cancel your order and

payment has already been debited, the full amount will be credited back to your original method of payment.

5. DELIVERY AND SHIPPING

- (a) **(Delivery Costs)** Delivery costs will be added to the cart upon checkout. The prices displayed at checkout are inclusive of delivery to the address chosen by you.
- (b) **(Delivery Issues)** Third party courier terms apply to the delivery of the Products to you. Any problems with delivery should first be directed to the delivery service provider (e.g. Australia Post). If your delivery service provider cannot assist you, you may contact us and we will endeavour to assist you to ensure your delivery arrives. All delivery times provided to you are estimates only and are subject to postal delays and reasons beyond our control. We do not warrant or make any representation that your order will be delivered within the times indicated. We will not be liable for any loss or damage suffered as a result of or in connection with late deliveries. We do not provide the delivery service and there may be circumstances outside of our control (such as unforeseen events or natural disasters) that delay or otherwise affect your delivery. You may the option to choose your delivery service on our Website.
- (c) **(Delivery Estimates)** All delivery times provided to you or listed on our Website are estimates only. We cannot guarantee delivery by any date as use third party delivery services. Please keep this in mind when ordering your Product.
- (d) **(Acceptance of Delivery)** You must ensure you are available for delivery of the Products on the delivery date given to you by the third party delivery service. We may require you to sign for delivery or otherwise indicate acceptance of the Products. It is your responsibility to make sure you are available for delivery or otherwise pick up the Product. We will not accept any responsibility of liability for any delay in delivery or acceptance of the Product due to your fault. You are responsible for ensuring you provide us with the correct address details.
- (e) **(Verification and Acceptance of Orders)** You must check your Order when it arrives that it is what you ordered. Any issues with Orders, such as claims, errors or discrepancies must be reported immediately. All Orders will be deemed to be accepted within 7 days of delivery.

6. PICK UP – CLICK AND COLLECT

- (a) If you choose the pick up option for your Products, you must ensure that someone comes to pick up the Products from us within 7 days by either yourself or your authorised representative.
- (b) If for any reason you or your authorised representative are unable to collect the order within 7 days, you must contact us to arrange another collection time. If you do not collect the Products within 7 days of submitting your Order, your Order will be cancelled and we will re-stock your Order.
- (c) If you are sending an authorised representative to collect your Products, you must have authorised them to collect the Products. We will not be responsible for verifying the authorisation of any person who claims they are picking up Products for you.

7. CHANGES TO YOUR ORDER

7.1. CANCELLATION BY US

We reserve the right to cancel your order for any reason, and will notify you of this as soon as possible. Where payment has already been debited, the full amount will be credited back to your original method of payment, or if we cannot get in touch with you, we will provide you with a store credit.

7.2. CANCELLATION BY YOU

- (a) You may cancel your Order up to the time that we confirm your Order in writing to you. Once we confirm your Order, your Order is binding and cannot be changed by you. However, our refunds and exchanges process in clause 7.3(c) may apply.
- (b) Orders cancelled after 24 hours of the time of Order placement will incur a 20% restocking fee.

- (c) Orders left on "Wait" status or unconfirmed beyond 7 days will be automatically deleted from our system (except International Orders which will remain in the system for 14 days).
- (d) Any pick-up Orders must be collected within 7 days or they will be returned to warehouse inventory.

7.3. RETURNS AND EXCHANGES

- (a) We do not offer change of mind returns.
- (b) **(7 day discrepancy return)** If within 7 (seven) days of receiving your Order you contact us to report a discrepancy, we will provide a full refund of the price paid for a Product if we determine that:
 - (i) a Product you have ordered was not received by you solely due to failure by us;
 - (ii) a Products provided to you was not substantially the same as the Product you ordered as displayed on our Website (subject to reasonable variation as a result of screen display, colour and brightness, and image quality); or
 - (iii) a Product is faulty, in accordance with clause 7.3(c).
- (c) Any return we may accept after the 7 day period will incur additional re-stocking fees if we are able to resell the Product. Any returns, refunds or exchanges will not be accepted after 1 months of the Order date. Products must be returned in their original condition, original packaging, unopened and in re-saleable condition.
- (d) **(Faulty products)** The following process applies to any Product you believe to be faulty.
 - (i) If you believe your Product is faulty, please contact us by sending an email to sales@keaneceramics.com.au with a full description of the fault (including images).
 - (ii) If we determine that your Product may be faulty, we will request that you send the Product back to us at your cost for further inspection, including any accessories, manuals, documentation or registration shipped with the Product. We reserve the right to further inspection before deeming a Product faulty.
 - (iii) If we determine in our reasonable opinion that the Product is not faulty, or is faulty due to fair wear and tear, misuse, failure to use in accordance with the manufacturer's instructions, or failure to take reasonable care, we will refuse your return and send the Product back to you at your cost.
 - (iv) If we determine that the Product is faulty, you will be credited the full amount paid and you may request a refund, exchange or store credit. We may require you to pay for shipping costs, depending on your purchase. We will discuss shipping costs with you. All refunds will be credited back to your original method of payment unless you request otherwise and we approve this request. If we cannot contact you, we will provide you with a store credit and you may request a refund at a later date.
 - (v) If you fail to comply with the provisions of this clause 7 in respect of a faulty Product, we may, in our absolute discretion, issue only a partial refund or no refund in respect of the faulty Product.
 - (vi) Nothing in this clause 7 is intended to limit or otherwise affect the operation of any manufacturers' warranties which you may be entitled to or any of your rights which cannot be excluded under applicable law.

8. INTELLECTUAL PROPERTY

- (a) Keane Ceramics retains all intellectual property rights in the design of the Products, including the labelling and packaging, or those rights are owned by a third party. You must not attempt to copy, reproduce, manufacture or otherwise commercialise the Products.
- (b) In this clause, "**intellectual property rights**" means all copyright, trade mark, design, patent, semiconductor and circuit layout rights, trade, business, company and domain names, confidential and other proprietary rights, and any other rights to registration of such rights whether created before or after the date of these terms both in Australia and throughout the world.

9. THIRD PARTY SUPPLIERS

- (a) We may do any of the following:
 - (i) outsource any part of performing any services related to providing the Products, including delivery of your Products; or
 - (ii) procure materials and Products from third party suppliers;
without further notice to or permission from you.
- (b) To the maximum extent permitted under applicable law, we will not be liable for any acts or omissions of those third parties, including where such third parties cause delay or damage to any part of your Order, or are negligent in providing services or goods.

10. PUBLISHING PHOTOS ONLINE / ON SOCIAL MEDIA

You may publish photos of the Products online or on social media (or both), and we ask that you please provide accreditation to Keane Ceramics by reference or hashtag. We reserve the right to require you to remove any posts that feature the Products or remove any accreditation to us.

PART B

FOR WHEN YOU BROWSE THIS WEBSITE...

11. ACCESS AND USE OF THE WEBSITE

You must only use the Website in accordance with these terms and any applicable laws, and must ensure that your employees, sub-contractors and any other agents who use or access the Website comply with these terms and any applicable laws.

12. YOUR OBLIGATIONS

You must not:

- (a) copy, mirror, reproduce, translate, adapt, vary, modify, sell, decipher or decompile any part or aspect of the Website without the express consent of Keane Ceramics;
- (b) use the Website for any purpose other than the purposes of browsing, selecting or purchasing Products;
- (c) use, or attempt to use, the Website in a manner that is illegal or fraudulent or facilitates illegal or fraudulent activity;
- (d) use, or attempt to use, the Website in a manner that may interfere with, disrupt or create undue burden on the Website or the servers or networks that host the Website;
- (e) use the Website with the assistance of any automated scripting tool or software;
- (f) act in a way that may diminish or adversely impact the reputation of Keane Ceramics, including by linking to the Website on any other website; and
- (g) attempt to breach the security of the Website, or otherwise interfere with the normal functions of the Website, including by:
 - (i) gaining unauthorised access to Website accounts or data;
 - (ii) scanning, probing or testing the Website for security vulnerabilities;
 - (iii) overloading, flooding, mailbombing, crashing or submitting a virus to the Website; or
 - (iv) instigate or participate in a denial-of-service attack against the Website.

13. INFORMATION ON THE WEBSITE

- (a) While we make every effort to ensure that the information on the Website is as up-to-date and accurate as possible, you acknowledge and agree that we do not (to the maximum extent permitted by law) guarantee that:
 - (i) the Website will be free from errors or defects (or both, as the case may be);
 - (ii) the Website will be accessible at all times;
 - (iii) messages sent through the Website will be delivered promptly, or delivered at all;
 - (iv) information you receive or supply through the Website will be secure or confidential; and
 - (v) any information provided through the Website is accurate or true.
- (b) We reserve the right to change any information or functionality on the Website by updating the Website at any time without notice, including product descriptions, prices and other Website Content.

14. INTELLECTUAL PROPERTY

- (a) Keane Ceramics retains ownership of the Website and all materials on the Website (including text, graphics, logos, design, icons, images, sound and video recordings, pricing, downloads and software) (**Website Content**) and reserves all rights in any intellectual property rights owned or licensed by it not expressly granted to you.

- (b) You may make a temporary electronic copy of all or part of the Website for the sole purpose of viewing it. You must not otherwise reproduce, transmit, adapt, distribute, sell, modify or publish the Website or any Website Content without prior written consent from Keane Ceramics or as permitted by law.
- (c) In this clause, "**intellectual property rights**" means all copyright, trade mark, design, patent, semiconductor and circuit layout rights, trade, business, company and domain names, confidential and other proprietary rights, and any other rights to registration of such rights whether created before or after the date of these terms both in Australia and throughout the world.

15. THIRD PARTY TERMS AND CONDITIONS

- (a) You acknowledge and agree that third party terms & conditions (**Third Party Terms**) may apply.
- (b) You agree to any Third Party Terms applicable to any third party goods and services, and Keane Ceramics will not be liable for any loss or damage suffered by you in connection with such Third Party Terms.

16. LINKS TO OTHER WEBSITES

- (a) The Website may contain links to other websites that are not our responsibility. We have no control over the content of any linked websites, and we are not responsible for that content.
- (b) Inclusion of any linked website on the Website does not imply our approval or endorsement of the linked website.

17. THIRD PARTY HOSTING

- (a) This Website is hosted by a third party and the terms and conditions of that third party may apply to your use of this Website to the extent applicable to you.
- (b) To the maximum extent permitted under applicable law and our agreement with our third party hosting provider, we will not be liable for any acts or omissions of that third party, including in relation to any fault or error of the Website or any issues experienced in placing Orders.

18. SECURITY

Keane Ceramics does not accept responsibility for loss or damage to computer systems, mobile phones or other electronic devices arising in connection with use of the Website. You should take your own precautions to ensure that the process that you employ for accessing the Website does not expose you to risk of viruses, malicious computer code or other forms of interference.

19. REPORTING MISUSE

If you become aware of misuse of the Website by any person, any errors in the material on the Website or any difficulty in accessing or using the Website, please contact us immediately using the contact details or form provided on our Website.

PART C

LIABILITY AND OTHER LEGAL TERMS...

20. LIABILITY

- (a) To the maximum extent permitted by applicable law, Keane Ceramics limits all liability to any person for loss or damage of any kind, however arising whether in contract, tort (including negligence), statute, equity, indemnity or otherwise, arising from or relating in any way to this Website, these terms or any Products or services provided by Keane Ceramics to \$100 AUD.
- (b) Claims for loss of or damage to Products in transit must be made against the carrier.
- (c) Products sold by Keane Ceramics, will have only the benefit of any warranty given, and insurance held, by the manufacturer.
- (d) All other express or implied representations and warranties in relation to Products and the associated services performed by Keane Ceramics are, to the maximum extent permitted by applicable law, excluded.
- (a) Nothing in this agreement is intended to limit the operation of the Australian Consumer Law contained in the *Competition and Consumer Act 2010* (Cth) (**ACL**). Under the ACL, you may be entitled to certain remedies (like a refund, replacement or repair) if there is a failure with the goods or services we provide.
- (b) (**Indemnity**) You indemnify Keane Ceramics and its employees and agents in respect of all liability for loss, damage or injury which is or may be suffered by any person arising from your or your representatives':
 - (i) breach of any of these terms;
 - (ii) use of the Website; or
 - (iii) use of any goods or services provided by Keane Ceramics.
- (c) (**Consequential loss**) To the maximum extent permitted by law, under no circumstances will Keane Ceramics be liable for any incidental, special or consequential loss or damages, or damages for loss of data, business or business opportunity, goodwill, anticipated savings, profits or revenue arising under or in connection with this Website, these terms or any Products or services provided by Keane Ceramics (except to the extent this liability cannot be excluded under the *Competition and Consumer Act 2010* (Cth)).

21. GENERAL

21.1. GOVERNING LAW AND JURISDICTION

This agreement is governed by the law applying in New South Wales, Australia. Each party irrevocably submits to the exclusive jurisdiction of the courts of New South Wales, Australia and courts of appeal from them in respect of any proceedings arising out of or in connection with these terms. Each party irrevocably waives any objection to the venue of any legal process on the basis that the process has been brought in an inconvenient forum.

21.2. WAIVER

No party to these terms may rely on the words or conduct of any other party as a waiver of any right unless the waiver is in writing and signed by the party granting the waiver.

21.3. SEVERANCE

Any term of these terms which is wholly or partially void or unenforceable is severed to the extent that it is void or unenforceable. The validity and enforceability of the remainder of these terms is not limited or otherwise affected.

21.4. JOINT AND SEVERAL LIABILITY

An obligation or a liability assumed by, or a right conferred on, two or more persons binds or benefits them jointly and severally.

21.5. ASSIGNMENT

A party cannot assign, novate or otherwise transfer any of its rights or obligations under these terms without the prior written consent of the other party.

21.6. COSTS

Except as otherwise provided in these terms, each party must pay its own costs and expenses in connection with negotiating, preparing, executing and performing these terms.

21.7. ENTIRE AGREEMENT

This agreement embodies the entire agreement between the parties and supersedes any prior negotiation, conduct, arrangement, understanding or agreement, express or implied, in relation to the subject matter of these terms.

21.8. INTERPRETATION

- (a) **(singular and plural)** words in the singular includes the plural (and vice versa);
- (b) **(gender)** words indicating a gender includes the corresponding words of any other gender;
- (c) **(defined terms)** if a word or phrase is given a defined meaning, any other part of speech or grammatical form of that word or phrase has a corresponding meaning;
- (d) **(person)** a reference to "person" or "you" includes an individual, the estate of an individual, a corporation, an authority, an association, consortium or joint venture (whether incorporated or unincorporated), a partnership, a trust and any other entity;
- (e) **(party)** a reference to a party includes that party's executors, administrators, successors and permitted assigns, including persons taking by way of novation and, in the case of a trustee, includes any substituted or additional trustee;
- (f) **(these terms)** a reference to a party, clause, paragraph, schedule, exhibit, attachment or annexure is a reference to a party, clause, paragraph, schedule, exhibit, attachment or annexure to or of these terms, and a reference to these terms includes all schedules, exhibits, attachments and annexures to it;
- (g) **(document)** a reference to a document (including these terms) is to that document as varied, novated, ratified or replaced from time to time;
- (h) **(headings)** headings and words in bold type are for convenience only and do not affect interpretation;
- (i) **(includes)** the word "includes" and similar words in any form is not a word of limitation; and
- (j) **(adverse interpretation)** no provision of these terms will be interpreted adversely to a party because that party was responsible for the preparation of these terms or that provision.

22. NOTICES

- (a) A notice or other communication to a party under this agreement must be:
 - (i) in writing and in English; and
 - (ii) delivered via email to the other party, to the email address specified in this agreement, or if no email address is specified in this agreement, then the email address most regularly used by the parties to correspond regarding the subject matter of this agreement as at the date of this agreement (**Email Address**). The parties may update their Email Address by notice to the other party.
- (b) Unless the party sending the notice knows or reasonably ought to suspect that an email was not delivered to the other party's Email Address, notice will be taken to be given:
 - (i) 24 hours after the email was sent; or
 - (ii) when replied to by the other party,whichever is earlier.