

Terms and Conditions

A. When these Terms are applicable:

1. These Terms come into effect whenever High Quality Concrete quotes, sells, supplies, or delivers Goods or Services to a Customer.
2. By requesting or accepting a Quotation, placing an Order, or receiving Goods or Services from High Quality Concrete, the Customer acknowledges acceptance of these Terms.
3. The Customer must accept these Terms as a condition of the Quotation, sale, supply, or Delivery of Goods and Services by High Quality Concrete, regardless of any other documents or instructions provided by the Customer, including subsequent purchase order terms.
4. In cases where High Quality Concrete and a Customer have a supply agreement for Goods or Services, these Terms apply unless they conflict with the terms of the agreement.

B. The Customer's commitments regarding Quotation or ordering:

5. All Relevant Information necessary for seeking a Quotation or placing an Order with High Quality Concrete will be provided including those relating to all safety aspects of the delivery.
6. Any Relevant Information provided by the Customer to High Quality Concrete will be accurate and complete.
7. High Quality Concrete is authorized to rely on the accuracy and completeness of any Relevant Information provided by the Customer when giving Quotations, accepting Orders, or providing Goods or Services.
8. Unless expressly stated otherwise in writing by High Quality Concrete, the Customer will not claim:
 - a. That High Quality Concrete approved or represented any specification (from the Customer, High Quality Concrete, or a third party) as suitable for a specific purpose.
 - b. High Quality Concrete is liable for Loss resulting from defects or unsuitability of the specification, unless contrary to Law.
 - c. The Customer has independently assessed the accuracy of any information, advice, or representations made by High Quality Concrete regarding Goods or Services and does not solely rely on them.
9. Unless specified otherwise, the Customer intends to acquire Goods for resale, transformation, or use in trade or commerce, and this intention is communicated to High Quality Concrete before placing an Order.
10. Testing of concrete, Aggregates, or technical Services will only occur if specifically requested by the Customer.

C. Delivery of Goods:

11. The Customer holds the full responsibility to evaluate and implement necessary traffic management measures for the Delivery, given the circumstances surrounding it.
12. By default, Delivery happens at the nearest kerbside to the Delivery address. Should the Customer need the Delivery vehicle to access an unloading location off a public road, the Customer must:
 - a. Ensure the vehicle has a safe, suitable, and unobstructed route from the nearest kerbside to the discharge or unloading location.
 - b. Indemnify High Quality Concrete against any Loss arising from events during this access, unless solely caused by High Quality Concrete's negligence.
 - c. High Quality Concrete reserves the right to refuse Delivery if it believes the Customer has failed to fulfill obligations under all relevant Clauses and will be indemnified by the Customer for resulting Loss.
13. Before Goods Delivery, the Customer must verify any differences between the delivered Goods, their description/quantity on the Delivery Docket, and the Customer's Order placed with High Quality Concrete.
14. If the Customer disagrees with details on the Delivery Docket or finds discrepancies in the Goods, the Customer must decide to accept or reject the Goods in whole or part. Subsequently:
 - a. Acceptance of all or some Goods means the Customer ordered what was delivered.
 - b. Rejection of all or some Goods requires the Customer to inform High Quality Concrete of the nature of the disagreement before the Delivery vehicle departs from the Delivery address.
15. Upon accepting the Goods, High Quality Concrete will:
 - a. Complete relevant Delivery Details on the Delivery Docket before delivering the Goods, making it available to the Customer.
 - b. Post-Delivery, complete the Delivery Details, noting any returned Goods or water added at the Customer's request, and provide a copy of the completed Delivery Docket to the Customer.
16. If the Customer isn't present at the Delivery location during Delivery, High Quality Concrete may choose to refuse Delivery. However, the Customer remains liable for payment as if the Goods were delivered.
17. If the Customer is absent or fails to report discrepancies on the Delivery Docket, and the Goods are discharged:
 - a. The Customer is deemed to have unreservedly accepted the Delivery and its accuracy.
 - b. High Quality Concrete holds no Liability for discrepancies between the Delivery Docket and the Customer's Order.
 - c. The Customer irrevocably waives rights to reject Goods listed in the Delivery Docket.
 - i. The Delivery Docket is considered prima facie evidence, except for defects not reasonably inspectable at Delivery.

D. Payment terms:

18. The Customer's payment to High Quality Concrete is contingent upon the specified quantities of Goods and Services outlined in the relevant Delivery Docket. This is calculated at the Applicable Rate, inclusive of any applicable delivery fee as well as any extra payments as per the schedule of extras payments applicable.
19. In instances where Aggregates are sold by volume rather than weight, their assessment is based on their loose uncompacted volume measured on the Delivery vehicle, utilizing the applicable weight-to-volume conversion factor during loading.
20. The Customer is required to settle the payment owed to High Quality Concrete either before Delivery or within the standard 30-day credit period as communicated by High Quality Concrete.
21. High Quality Concrete reserves the right to impose interest on outstanding amounts, at the interest rate applicable to unsatisfied judgment debts under the Governing Law, from the date of the invoice until the payment is made. Additionally, the Customer assumes responsibility for all associated Costs for the recovery of unpaid amounts.
22. The Customer agrees not to withhold any portion of the amount owed to High Quality Concrete under these Terms, regardless of the cause, through retention or set-off.
23. In the event of a disagreement regarding a payable sum between High Quality Concrete and the Customer, the Customer must remit the claimed amount to High Quality Concrete within the timeframe specified in these terms, High Quality Concrete will retain this amount until the resolution of the dispute.
24. A statement endorsed by High Quality Concrete, confirming any sum owed by the Customer, encompassing Costs, interest, or other claims under these Terms or otherwise, will serve as prima facie evidence of the amount owed, barring any evident error.
25. For each amount payable by the Customer concerning a Taxable Supply under these Terms, GST is not included. Additionally, alongside that sum and at the same time and manner, the Customer must remit the GST due for that supply upon receipt of a tax invoice. The terms "Taxable Supply" and "GST" are defined in the A New Tax System (Goods and Services) Act 1999.

E. Special conditions for Consumer Online Ordering Portal

High Quality Concrete bears no liability for:

26. Any information provided by the Customer.
27. Decisions or recommendations made by High Quality Concrete based on Customer-provided information, including the suitability of a particular product for the Customer's needs or the adequacy of product quantity.
28. The adequacy, accuracy, completeness, or truthfulness of any information or advice provided by High Quality Concrete to the Customer, or for any interpretation, opinion, or

conclusion drawn by the Customer from such information or advice, whether technical or otherwise.

29. Any direct, indirect, or consequential liability for losses, damages, costs, expenses, charges, outgoings, interest, loss of profits, or any other form of loss incurred by the Customer due to or in connection with the use, provision, or reliance on information provided in the Consumer Online Ordering Portal.
30. Corrections, updates, or revisions to any information provided in the Consumer Online Ordering Portal.
31. Suitability of the delivery address or location for product delivery.
32. Suitability of a specific delivery vehicle for product delivery; and
33. Any handling of the product after it has been delivered to the nearest kerbside to the delivery address.

F. Special conditions for Decorative Concrete

34. These clauses apply exclusively to the sale of decorative concrete by High Quality Concrete.
35. The Customer acknowledges and agrees to understand the following:
 - a. High Quality Concrete supplies decorative concrete in a plastic or semi-liquid form, comprising various materials such as cement, Aggregates, colour pigments, additives, and admixtures, mixed as per the Customer's selections or directions and in accordance with relevant Australian Standards.
 - b. Achieving the finish depicted in brochures or other materials published by High Quality Concrete is contingent upon accurately specifying the selected finish. The responsibility for achieving the selected finish lies with the Customer or their selected contractor.
 - c. Aggregates can react differently to exposure to elements, and therefore, High Quality Concrete assumes no liability for future colour changes or oxidation of Aggregates exposed unless informed beforehand by the Customer or their selected contractor.
 - d. A honed or polished finish is achievable only with specific mixes. High Quality Concrete holds no Liability for failing to achieve such finishes unless notified beforehand by the Customer or their selected contractor.
 - e. Natural variations in Aggregates and materials used may cause colour variations in the finished product, and colours in brochures by High Quality Concrete serve as indicators only.
36. To the extent permitted by Law, High Quality Concrete bears no responsibility for poor placement or finishing practices or for the final appearance, texture, or colour of any finished decorative concrete product.

G. Limitations on liabilities for High Quality Concrete:

For purchases made by Consumers:

High Quality Concrete's liability for breaching guarantees under certain sections of the Act is limited as follows:

37. For Goods not typically used for personal, domestic, or household purposes: High Quality Concrete may elect to replace or supply equivalent Goods, repair, or pay for replacement/repair/acquisition costs.
38. For Services not typically used for personal, domestic, or household purposes: High Quality Concrete may choose to supply the Services again or pay for the re-supply cost.
39. For non-Consumer customers:
 - a. All implied conditions or warranties by law are excluded unless prohibited.
 - b. High Quality Concrete's maximum liability for any claim related to defective/non-conforming Goods or Services is limited as follows:
 - c. Defective Goods: Replace/supply equivalent Goods, repair, or pay for replacement/repair/acquisition costs.
 - d. Defective Services: Supply the Services again or pay for the re-supply cost.
 - e. High Quality Concrete isn't liable for Loss due to Delivery delays or failures arising from various causes.
 - f. If the Customer accepts defective Goods/Services, High Quality Concrete holds no further liability, and the Customer indemnifies and releases High Quality Concrete.
 - g. The Customer indemnifies High Quality Concrete against damages exceeding specific replacement, re-supply, or repair costs.
40. High Quality Concrete's liability under the Act is limited to specific replacement or repair costs.
41. Regarding quotations and projects:
 - a. Goods and Services ordered based on a High Quality Concrete quotation for a specific project or area are considered a single acquisition, with the total payable amount covering all such Goods and Services for Act-related purposes.
42. High Quality Concrete is not liable to the Customer for Consequential Loss under circumstances not prohibited by Law.

H. Claims

43. High Quality Concrete's liability for any Loss claimed by the Customer due to issues related to the Quotation, sale, supply, or Delivery of Goods or Services under these Terms is limited as follows:
 - a. The Customer must notify High Quality Concrete in writing within 14 days of Delivery or within a reasonable time after becoming aware of the issue leading to the claim.

- b. High Quality Concrete must be given reasonable access to investigate the alleged issue promptly, provide suitable advice, and the Customer must comply with this advice.
 - c. A detailed claim must be submitted in writing to High Quality Concrete within 30 days of the Customer becoming aware of the issue.
44. When making a claim against High Quality Concrete, the Customer can only rely on test results from a NATA certified laboratory conducted according to all relevant Australian Standards.

I. General

45. If the Customer fails whatsoever or howsoever to comply with any of these Terms, High Quality Concrete shall have the right at its option to suspend further performance of its obligations to the Customer and/or to terminate any contract with the Customer without affecting any other right or remedy of High Quality Concrete.
46. To the maximum extent permitted by Law, the Customer indemnifies High Quality Concrete against any Loss to the extent the same was caused or contributed to by any negligent or wilful act or omission of, or any breach of or failure to comply with these Terms by, the Customer.
47. Property in the Goods shall not pass until the Customer has paid all moneys payable to High Quality Concrete under these Terms in full. Risk in the Goods passes to the Customer at the time of Delivery. Until payment of all moneys payable by the Customer to High Quality Concrete, the Goods are subject to the following terms:
48. The Customer holds the Goods as fiduciary, bailee and agent for High Quality Concrete and must keep the Goods physically separate from all other goods of the Customer, and clearly identified as owned by High Quality Concrete.
- a. If an Event of Default occurs, then without prejudice to High Quality Concrete's other rights, High Quality Concrete may without notice to the Customer enter any premises occupied by the Customer or any other place where the Goods may be and recover possession of them. If the Customer sells any of the Goods while money is owed to High Quality Concrete, the Customer must keep the proceeds of the sale in a separate account and not mix them with any other funds.
 - b. If the Customer uses the Goods in some manufacturing or construction process of its own or of some third party, then the Customer shall hold such part of the proceeds of such manufacturing or construction process as relates to such Goods in trust for High Quality Concrete. Such part shall be deemed to equal in dollar terms the amount owing by the Customer to High Quality Concrete and at the time of payment of such proceeds the Customer's obligation to pay the amount owed for such Goods will be discharged.
 - c. If the Goods are resold, or products using the Goods are manufactured and resold by the Customer, the Customer holds the entire book debts owed in respect of such sales and proceeds of such sales in trust for High Quality Concrete. Such part of the book

debts and proceeds shall be deemed to equal in dollar terms the amount owed by the Customer to High Quality Concrete at the time of the receipt of such book debts.

49. If there is failure to deliver or any time delay in Delivery due to any cause whatsoever beyond High Quality Concrete's control including weather, fire, labour dispute, strike or due to the inability of High Quality Concrete to obtain raw materials in a timely fashion from High Quality Concrete's planned source (whether such source is known to the Customer):
 - a. High Quality Concrete will not be liable for any Loss sustained by reason of any such failure or delay; and
 - b. High Quality Concrete will be entitled to suspend deliveries for such period as it may think fit or terminate the agreement immediately after suspending deliveries and shall not be liable for any Loss sustained by reason of such suspension or termination.
50. To the extent permitted by Law, the actions or signatures of any person appearing to have the Customer's authority shall bind the Customer.
51. A party may exercise a right, power, or remedy at its discretion, and separately or concurrently with another right, power or remedy. A single or partial exercise of a right, power or remedy by a party does not prevent a further exercise or that of any other right, power or remedy. A party is not liable for any loss caused by the exercise or attempted exercise of, failure to exercise, or delay in exercising the right, power, or remedy.
52. A right may only be waived in writing, signed by the party giving the waiver, and no other conduct of a party operates as a waiver of the right or otherwise prevents the exercise of the right.
53. A single or partial exercise or waiver of a right or a delay in the exercise of a right conferred on a party by these Terms or by Law does not prevent any other exercise of that or any other right.
54. These Terms are governed by and are to be construed in accordance with the Laws of:
 - a. the State or Territory of Australia in which the Goods are delivered, or the Services supplied; or
 - b. If they are delivered or supplied to a place outside of Australia, the State or Territory of Australia from which the Goods or Services were supplied – and the Customer irrevocably and unconditionally submits to the non-exclusive jurisdiction of the courts of that State or Territory and any courts that may hear appeals from those courts and waives any right to object to proceedings being brought in those courts in respect of any proceedings arising from or connected with a Delivery.
55. These Terms are not to be interpreted against the interests of a party because that party proposed these Terms or some provision of it or because that party relies on a provision of these Terms to protect itself.
56. The Customer consents to High Quality Concrete recording and disclosing telephone conversations between the Customer and High Quality Concrete.
57. High Quality Concrete's Applicable Rates, Surcharge Schedules, Technical Services Charges and Privacy Policy are available on request on our website.

J. Interpretation

58. In these Terms, unless the contrary intention appears:
- a. "Act" means the Competition and Consumer Act 2010.
 - b. "Aggregates" includes quarry products and sand.
 - c. "Applicable Rate" means:
 - i. where a Quotation has been accepted, the quoted rate, charges, and surcharges; and
 - ii. where no Quotation has been given, or if given, the Quotation has not been accepted, either:
 - iii. the relevant rate, charges and surcharges shown in a Rate Schedule; or
ii. if no such rate is shown, a rate determined by High Quality Concrete or as otherwise advised by High Quality Concrete.
59. "AS1379" means the Australian Standard "AS1379 – Specification and supply of concrete" as in force at the date of Delivery.
60. "Consequential Loss" includes:
- a. any direct or indirect loss of overhead costs, administrative expenses, revenue, profits, anticipated savings, business, data, and value of equipment (other than direct cost of repair).
 - b. any direct or indirect loss of opportunity, expectation loss or delay loss; any form of consequential, special, punitive, or exemplary loss or damages; and
 - c. liquidated damages – howsoever it arises or is claimed (including because of negligence or by the operation of Law).
61. "Consumers" means 'consumers' as defined by Section 4B or Section 3 of Schedule 2 of the Act.
62. "Consumer Online Ordering Portal" means an online ordering system where Customers may Order Goods or Services from High Quality Concrete.
63. "Costs" means all costs, charges and expenses actually incurred by High Quality Concrete or the Customer in relation to the reasonable exercise or attempted exercise of any power, right or remedy under these Terms or in remedying or attempting to remedy a failure of High Quality Concrete or the Customer to comply with these Terms.
64. "Customer" means a person or entity seeking or accepting a Quotation for, placing an Order, or accepting the supply or Delivery of Goods or Services from High Quality Concrete and includes that person's or entity's employees, agents, contractors, sub-contractors, successors, substitutes (including persons taking by novation), assigns and any person or entity claiming under or through that person or entity.
65. "Delivery" includes a delivery or supply of Goods and Services in response to an Order of the Customer or which the Customer accepts, whether High Quality Concrete and the Customer have reached a concluded agreement about all the terms of the delivery or supply including the price payable for the Goods or Services Ordered.
66. "Delivery Details" includes, in respect of a Delivery, details of:
- a. A number uniquely identifying a Delivery to be used as a reference.

- b. Customer name and account number with delivery address and any specific instructions
 - c. Date and times of loading and delivery stages (arrival and finish time)
 - d. Purchase order number from the Customer
 - e. Delivery vehicle identity (fleet number)
 - f. Water quantity that has been added after loading and slumping at the plant.
 - g. Water quantity that has been designed to be included as part of the batching process.
 - h. Description and system codes of Goods or Services that are being supplied.
 - i. Quantity of Goods or Services
 - j. For cash sales – the rate and value of Goods or Services supplied.
67. "Delivery Docket" means a document (digital or paper based) prepared by High Quality Concrete which records Delivery Details in respect of a Delivery.
68. "Event of Default" means any of the following events:
- a. the Customer fails to pay for the Products.
 - b. the Customer is in breach of these Terms.
 - c. if the Customer is a company: an order is made, or a resolution is effectively passed for winding up of the Customer.
69. "High Quality Concrete" means High Quality Concrete Pty Ltd and includes High Quality Concrete's employees, agents, contactors, sub- contractors, successors, substitutes (including persons taking by novation), assigns and any person or entity claiming under or through High Quality Concrete.
70. "Goods" includes concrete, Aggregates, cement, tools, concrete additives and admixtures and products for use in finishing concrete.
71. "Governing Law" means the Law governing the operation of these Terms in respect of a Delivery.
72. "Law" includes the common law of Australia, rules of equity and the provisions of any relevant statute or statutory instrument including a by-law.
73. "Loss" means any Liability incurred or alleged to have been incurred by High Quality Concrete, the Customer or a third party in respect of, arising from or connected with any supply of Goods or Services by High Quality Concrete or by High Quality Concrete's failure to supply any Goods or Services or of a breach of these Terms, whether arising in Law or otherwise.
74. "Liability" includes any demand or claim (including a demand or claim for direct or indirect Consequential Loss) in respect of any damage, cost, expense, harm, injury, or death or any fine or penalty imposed by or under a Law or by any authority.
75. "Order" means any order of Goods or Services placed by a customer by any means which includes, but is not limited to, orders via telephone, in person, facsimile, email or via the Consumer Online Ordering Portal.
76. "Quotation" includes:
- a. any document titled "Quotation" provided by High Quality Concrete to the Customer itemising Goods or Services and the rates at which High Quality Concrete is willing to supply these to the Customer for a project or in an area nominated by the Customer.

- b. any rates provided by High Quality Concrete to the Customer through the Consumer Online Ordering Portal relating to any Goods or Services which High Quality Concrete is willing to supply to the Customer.
77. "Rate Schedule" means, a schedule of rates, charges or surcharges for Goods or Services published by High Quality Concrete in force at the date of Delivery or supply, copies of which are available upon request from High Quality Concrete or at www.HighQualityConcrete.com.au.
78. "Relevant Information" includes all specifications relating to the Goods or Services, the application of the Goods or Services, Site Details and other matters that may affect High Quality Concrete's ability to supply the Goods or Services in a manner that conforms to the Customer's requirements as to performance or compliance with a standard communicated to High Quality Concrete by the Customer or with which the Customer ought reasonably to be aware that High Quality Concrete will be bound by contract, Law, custom or usage to conform.
79. "Services" includes:
- a. the testing of concrete, Aggregates, additives, or admixtures whether in respect of compliance with a relevant standard or otherwise.
 - b. the provision of other technical or design services or advice.
 - c. the provision of vehicles and drivers to Customers on a temporary basis.
80. "Site Details" includes all relevant details concerning gradients, substructures, surface conditions, and obstructions (including gates), width of access ways, footpath, and pavement strengths at on or under the delivery site and any Laws that regulate or affect the time or manner of safe, timely and lawful delivery to the site.
81. "Terms" means these Terms and Conditions of Sale.
82. In these Terms, unless the contrary intention appears:
- a. a reference to writing includes all modes of representing or reproducing words in a legible, permanent, and visible form.
 - b. headings and sub-headings are inserted for ease of reference only and do not affect the interpretation of this document.
 - c. where an expression is defined, another part of speech or grammatical form of that expression (whether capitalised or not) has a corresponding meaning; and
 - d. where the expression 'including' or 'includes' is used it means 'including but not limited to' or 'including without limitation'.