

National Concrete Solutions Pty Ltd ("NCS")
Purchase Order Terms and Conditions

1. Agreement

Unless otherwise agreed in writing, the agreement between the parties ("**Agreement**") consists of the Purchase Order, these Standard Purchase Terms and any agreement in writing between the parties (which has priority over these Standard Purchase Terms to the extent of any inconsistency), but excluding any terms and conditions expressed in any document of the Supplier, unless National Concrete Solutions Pty Ltd ("**NCS**") has expressly accepted those terms and conditions in writing.

2. Acceptance

- (a) The Supplier is deemed to have accepted the Agreement upon acknowledgement of a Purchase Order or upon any supply pursuant to a Purchase Order, whichever occurs first.
- (b) In the case of any inconsistencies between these Standard Purchase Terms and a Purchase Order, the Purchase Order will prevail.
- (c) For the purposes of this Agreement into the extent that they are relevant, the terms of the Head Contract for which purpose NCS is entering into this Agreement are incorporated into this Agreement.

3. Price and Payment

3.1 Price

- (a) Each Purchase Order is placed on a firm price basis in accordance with the price(s) of the goods ("**Goods**") and/or services specified in the Purchase Order ("**Goods or Services**") and is not subject to any increase in price without the prior written agreement of NCS.
- (b) The price(s) must include all costs payable by NCS for the Goods or Services, including (where applicable): delivery charges to the destination stated on the Purchase Order (Destination), if delivery is specified on the Purchase Order;

3.2 Payment

Unless otherwise stated, payment of the Purchase Order price shall be made in full within thirty (30) days from receipt by NCS of correct and proper invoice and required supporting documentation following delivery of Goods to the delivery point stated in the Purchase Order.

- (a) The Supplier must provide a monthly statement of account to NCS and invoice NCS promptly in respect of each delivery.
- (b) The tax invoice must comply with Australian Tax Office requirements and identify the Supplier's Australian Business Number; and the GST for each component of the Goods or Services supplied pursuant to the Purchase Order.

4. Delivery

The Supplier, at its expense, shall deliver the Goods using the mode, on the date and at the place specified in the Purchase Order, in which any required advance notification of delivery may be indicated. Unless stated otherwise in the Purchase Order, the Supplier at its cost shall unload the Goods at the specified location.

- (a) Goods are to be accompanied by a delivery note stating the date of issue, the Supplier's details, the Goods delivered and the Purchase Order details; in good condition and without damage; and with copies of all relevant engineering details, designs, evidence of compliance with applicable standards and other documentation reasonably requested by NCS.
- (b) Quantities received in excess of the amount ordered may be returned at NCS's option and at the Supplier's expense.
- (c) Delivery of Goods will not have occurred for the purposes of the Agreement, unless NCS has acknowledged receipt of any Goods which are delivered.

5. Inspection and rejection

NCS or its nominee may from time to time inspect all work in progress associated with the supply of Goods or Services. The purchase of the Goods is subject to inspection and approval by NCS or its authorised representative within a reasonable time after delivery, and NCS reserves the right to either require correction of or reject and return any Goods found not to be in accordance with the Agreement. Goods rejected will be held by NCS at the Supplier's risk and cost, for no more than 60 days pending the Supplier's instructions (after which NCS may return the defective Goods at the Supplier's cost). The Supplier must pay the cost to NCS of rejecting and removing or returning any defective Goods to the Supplier.

6. Title and risk

Title to and property in the Goods shall pass to NCS on the first payment of any part of the Purchase Order price or delivery to the place specified in the Purchase Order. Such Goods yet to be delivered by the Supplier shall be appropriately marked and identified as the property of NCS.

Risk in the Goods shall remain with the Supplier until the time NCS takes delivery of the Goods unless otherwise expressly stated in the Purchase Order. Any loss or damage to Goods howsoever caused when under the Supplier's risk shall at its own cost be rectified by the Supplier and thereafter when the risk in the Goods has transferred to NCS, the Supplier shall be liable for any loss or

damage to such Goods to the extent caused by its negligence, wilful act, misconduct, fault, breach of duty (statutory or otherwise) or breach of the Purchase Order.

7. Insurance

The Supplier shall, at its cost, effect and maintain until the risk in the Goods passes to NCS adequate material loss or damage insurance at least to the full replacement value of the Goods including adequate transit insurance and also covering unloading if the Supplier is required to unload the Goods. Such insurance shall cover the parties' respective rights and if required by NCS shall be in the joint names of the parties.

The Supplier shall carry: (a) Workers Compensation/Employer's Liability required by law with where legally permitted an indemnity for NCS (including its client as applicable) and ensure that its sub-suppliers have similarly insured its employees; (b) adequate public & product liability insurance and (c) any other insurance pursuant to Clause 8 (if applicable) or as required by law.

8. Erection work and Services

When erection work and services on an external site ("Works") away from the Supplier's workshops or premises form part of the Purchase Order, the following provisions shall apply: (a) All invoices shall be accompanied by a Works Completed form by NCS of the Works completed. (b) Progress payments shall not be made unless so stated in the Purchase Order. (c) The Supplier shall obtain within ten (10) days of receipt of the Purchase Order and keep in effect during the currency of the Purchase Order such insurance as necessary to adequately protect the Supplier and NCS in respect of liability under law and shall lodge certificates of currency with NCS.

9. Time

If at any time the Supplier discovers that the time of delivery will not be met, it shall notify NCS within two (2) working days of discovery, stating cause of delay and earliest possible delivery date. NCS may thereupon (without prejudice to any other rights) terminate all or part of the Purchase Order.

If the Supplier is delayed in delivery of the Goods by unforeseeable occurrences or causes such as acts of God, state or nationwide strikes, fire or other causes of a similar nature beyond the Supplier's reasonable control, the Supplier shall notify NCS within two (2) days of the commencement of each such occurrence or cause and request an extension of time. If approved by NCS, any extension of time shall be granted in writing.

The Supplier shall not be entitled to and hereby waives any and all claims to increased compensation for/or damages which it may suffer from any such unforeseeable causes.

10. Damages for delay

If the Supplier fails to deliver the Goods and Services in accordance with the specifications and delivery schedule as set out in the Purchase Order, or if there is no such specifications or schedule, then within a reasonable time, the Supplier will be indebted to NCS for:

- (a) Extra costs incurred by NCS for extended overheads and other damages excluding damage referred to in clause 12; and
- (b) If the failure by the Supplier causes NCS to be in breach of the Head Contract, damages whether liquidated or otherwise which NCS thereby become liable to pay the Principal under the Head Contract.

11. Consequential Loss

In the event that the Supplier does not fulfil its rights and obligation of supply under the (Agreement) of the Purchase Order, NCS may exercise the right to claim any consequential loss including but not limited to loss of Contract, profit or anticipated profit.

12. Liquidated Damages

If the Supplier fails to deliver the Goods or Services in accordance with the specifications and delivery schedule as set out in the Purchase Order, NCS reserves the right to exercise its discretion to: (a) require the Supplier to pay or (b) deduct from the total Purchase Order price, as and for liquidated damages, a sum to be calculated at the rate of five percent (5%) of the total price of the undelivered Articles or any part thereof whichever is greater, for each day of delay or any part thereof between the date of delivery specified, in the Purchase Order and the actual delivery date.

13. Suspension

NCS may suspend all or part of the supply of the Goods at any time for any period of time by notice in writing to the Supplier. The Supplier must comply with the notice and recommence supply when notified by NCS. The Supplier will not be entitled to any additional payment arising as a result of the suspension.

14. Cancellation

NCS may at its option cancel the Purchase Order or any part thereof at any time. NCS's liability will be to pay for materials manufactured and supplied in accordance with the Purchase Order up to the date of cancellation and for costs of materials and other items ordered in connection with the Goods for which the Supplier is legally bound to pay. Upon such payment, title to and property in all those materials and other items shall pass to NCS.

NCS reserves the right to cancel a Purchase Order or any part thereof within a reasonable time if the full amount of all Goods or Services ordered is not delivered in accordance with the Agreement or if the Purchase Order is not fulfilled as per agreement.

15. Warranties

The Supplier warrants that the Goods supplied shall be of merchantable quality, fit for the purpose intended and free of defects in materials, workmanship and design. If NCS supplies manufacturing drawings to the Supplier, the Supplier warrants that the Goods are manufactured and supplied strictly in accordance with such drawings

- (a) The Goods will comply with all specifications provided by NCS; any services are provided with due care and skill;
- (b) The Goods or Services are fit for the purpose for which goods or services of the same kind are commonly supplied and for any other purpose made known to the Supplier;
- (c) These warranties apply in addition to any warranties implied by law, and are not a waiver of any such implied warranties.
- (d) These warranties (express or implied) survive delivery, inspection, acceptance and payment by NCS.

The Supplier warrants that Goods supplied other than Goods supplied in accordance with technical plans or drawings provided to the Supplier by NCS do not infringe any patent, copyright, design or trademark (whether foreign or domestic) which any person may in any way be entitled to and shall save harmless and indemnify NCS from and against all claims and proceedings for or on account of such infringements in respect of Goods supplied by the Supplier and from and against all related claims, demands, proceedings, damages, costs, charges and expenses.

16. Intellectual Property

All specifications, drawings, and other intellectual property furnished by NCS to the Supplier or developed by the Supplier for the purpose of a Purchase Order are confidential, must not be disclosed or furnished to any third party without written consent of NCS.

- (a) The Supplier must not, without the prior written consent of NCS, advertise or publish the fact that the Supplier has entered into, or is supplying Goods or Services under, this Agreement.
- (b) The Supplier agrees to take all reasonable steps to ensure that its Officers, Employees, Contractors and Agents comply with the obligations set out in this clause.

17. Confidentiality

The Supplier acknowledges that it may obtain knowledge of or access to proprietary and confidential information of NCS, and agrees to keep such information strictly confidential and not to use that information for any purpose other than fulfilling a Purchase Order.

18. Indemnities

The Supplier shall be solely responsible for and shall indemnify and hold NCS harmless against all claims, liens, demands, proceedings, judgements, fines, penalties, costs (including legal costs), losses, liabilities and other expenses whatsoever for any personal injury, including death and disease or loss of or damage to any property (including NCS's personnel and property) arising directly or indirectly out of or as a consequence of the performance of the Purchase Order or by failure of the Supplier to perform any of its obligations under or to comply with requirements of the Purchase Order irrespective of sole or contributory negligence, misconduct, fault or breach of duty (whether statutory or otherwise) on the part of NCS.

However, in circumstances where the Supplier is performing Works (as defined in Clause 8), the Supplier's liability to NCS under the foregoing paragraph that arise as a direct result of such Works shall be reduced proportionally to the extent that an act or omission of NCS may have contributed to the injury, death, loss or damage.

19. Notices

Unless otherwise agreed to by the parties, any notice (and other documents) required or permitted to be given or delivered under this Purchase Order shall be delivered and addressed to the party at the addresses set forth in the Purchase Order. Notice shall be deemed to have been received by any party, and shall be effective: (a) on the day given, if personally delivered or if sent by confirmed facsimile or electronic mail transmission (including any attached scanned documents), receipt verified, to a facsimile number or electronic mail address provided by the receiving party to the sending party for the purpose of receiving such notices; or b) on the third day after which such notice is deposited, if mailed by certified or prepaid post.

20. General provisions

- (a) The Supplier may not assign, delegate or subcontract the Agreement or any part of it without the prior written consent of NCS.
- (b) No waiver of a right or remedy under the Agreement is effective unless in writing and signed by NCS, and shall not constitute a waiver of any other right or remedy under, or condition of, the Agreement.
- (c) The Agreement is governed by the laws of New South Wales and the parties irrevocably and unconditionally submit to the jurisdiction of the courts of New South Wales.
- (d) The Agreement may not be modified except with the written agreement of NCS. No local, general, or other trade customs will be applied to alter the terms of the (Agreement).
- (e) The Supplier must notify NCS within 7 days of any change of more than 50% in the beneficial ownership or control of the Supplier.
- (f) Any term of the Agreement which is wholly or partially void or unenforceable is severed to the extent that it is void or unenforceable. The validity or enforceability of the remainder of the Agreement is not affected.