

# THE NEILSEN GROUP

## **CONDITIONS OF SALE** **SUPPLY AND DELIVERY OF CONCRETE** Neilsens Concrete Pty Ltd

1. Unless otherwise specified concrete supplied will be in accordance with.
2. AS1379 – 2007 *Specification and supply of concrete*  
Incorporating Amendments Nos 1 and 2, Reconfirmed 2017

Testing of concrete supplies will not automatically be carried out, but the purchaser/customer may request an assessment in accordance and under the terms of contract and arranged at the purchasers/customer's expense.

Test samples will be taken only at the agitator discharge chute.

The results of such tests will only be recognised by Neilsens Concrete Pty Ltd if carried out in accordance with the standards nominated and by a N.A.T.A registered testing authority.

3. The concrete supplied is as designated on the face of the delivery docket and refers to the following outline:
  - (a) The quantity of concrete required.
  - (b) The standard compressive strength and grade.
  - (c) A standard slump at point of acceptance;
  - (d) The maximum nominal size of aggregate,(the '**Delivery Docket**').
4. It is a condition precedent to the supply and delivery of the concrete that the purchaser/customer must ensure that the site to which delivery is specified meets at the time of delivery the requirements of the Safe Site Delivery Checklist in **Annexure A** (hereinafter referred to as the '**Conditions Precedent**').
5. If the Conditions Precedent are not met at the time of delivery, Neilsens Concrete Pty Ltd may in its absolute discretion cancel the delivery and the purchaser/customer will be liable to Neilsens Concrete Pty Ltd as a debt due and payable for all loss and damage incurred by Neilsens Concrete Pty Ltd as a consequence.
6. It is to be understood that the purchaser/customer will ensure that a Neilsens Concrete Pty Ltd representative is available at the Delivery Docket can be signed electronically, including on a hand-held or portable electronic device and by signing the purchaser/customer acknowledges that the quantity and other designated information outlined on the front of the docket complies with the purchaser's/customer's request.
7. Neilsens Concrete Pty Ltd will not be liable in any manner whatsoever to the purchaser/customer including in respect of strength or any other defect which may develop in any concrete supplied if:
  - (a) water is added to concrete before or after discharge from the delivering agitator without the approval of the Neilsens Concrete Pty Ltd representative.
  - (b) an admixture is used at the purchasers request.
  - (c) discharge from the agitator occurs more than ninety minutes after leaving the mixing plant.
  - (d) in the event of delays in delivery or non-delivery arising from any cause beyond the control of Neilsens Concrete Pty Ltd including but not limited to unforeseen traffic conditions, plant breakdown, truck and agitator breakdown, industrial stoppages, bans or shortage of materials.
  - (e) due to mishandling, placement, curing or improper job practices.

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- (f) Due to a non-delivery arising from a failure to comply with the Conditions Precedent.
8. The price stated is based on:
- (a) Concrete batched and/or delivered between the hours of 6.00am to 5.30pm on weekdays not being public holidays. A surcharge will apply for concrete batched and/or delivered outside these hours;
  - (b) a three (3) cubic metre minimum payment applies to cartage rates and in the event of deliveries being required of less than the minimum load an additional cartage charge will be payable in accordance with Neilsens Concrete Pty Ltd ruling rates;
  - (c) delivery being made by the shortest access route available, and in the event of roads being closed and preventing delivery by the shortest access route, Neilsens Concrete Pty Ltd shall have the right to charge for any additional costs incurred by it in making delivery.
  - (d) the discharging of the concrete on site from the agitator within the time specified within the Neilsens Concrete Pty Ltd within the Neilsens Concrete Pty Ltd surcharge schedule and an additional charge will be payable for waiting time in excess of the standard unloading time of thirty (30) minutes.
  - (e) and is subject to an additional surcharge when concrete is returned from the delivery to the concrete plant in the event of the purchaser/customer being unable to accept the full batch as ordered.
9. Delivery of concrete shall be at the kerb alignment and Neilsens Concrete Pty Ltd shall not in any circumstances or in any dispute be liable for any indirect or consequential loss or damage of any nature whatsoever arising from entry of agitator trucks and delivery on site.
10. The purchaser/customer shall pay the price for the concrete to Neilsens Concrete Pty Ltd in cash prior to delivery or as agreed in writing within the agreed credit period of the thirty (30) days. All amounts not paid within the agreed credit period shall bear interest at the overdraft rate charged by the Neilsens Concrete Pty Ltd principal bankers in respect of amounts over \$100,000 from invoiced date until payment. All amounts received by Neilsens Concrete Pty Ltd will be credited first against interest.
11. If the purchaser/customer fails to make due payments or if any other dispute arises Neilsens Concrete Pty Ltd shall have the right:
- (a) to suspend further performances of its obligations hereunder until the matter of payment (plus interest as aforesaid) or settlement of the dispute; and/or
  - (b) to terminate the contract at any time, in either case without affecting any right or remedy of Neilsens Concrete Pty Ltd whether arising before, after, or as a result of the dispute or the purchaser's/customer's failure to make due payment.
12. Any reference to the purchaser/customer in these terms and conditions includes the employees, agents, sub- contractors, successors, assignees of, and any entity claiming through or under, the purchaser/customer. The actions or signatures of any person appearing to have the authority of the purchaser so to do shall bind the purchaser.
13. In the event of any materials supplied by Neilsens Concrete Pty Ltd in pursuance hereof failing to meet the agreed standards, the liability of Neilsens Concrete Pty Ltd (if any) shall be limited to the replacement of such defective materials. All other guarantees, warranties, undertakings, or representations express or implied and whether arising by statute or otherwise are hereby expressly excluded (except to the extent only that such exclusion is prohibited by statute) and subject to the last mentioned exception these terms and conditions are the only terms and conditions of the contract between Neilsens Concrete Pty Ltd and the purchaser/customer. These terms and conditions cannot be altered, except in writing by Neilsens Concrete Pty Ltd authorised representative.
14. Neilsens Concrete Pty Ltd shall not in any circumstances be liable for any indirect or consequential loss or damage of any nature whatsoever.

15. Neilsens Concrete Pty Ltd supplies concrete in accordance with its Standard Conditions of Sale. Neilsens Concrete Pty Ltd supplies concrete with colour pigments sourced from Concrete Colour Systems (CCS) which are used in accordance with the CCS guidelines unless otherwise agreed with the purchaser/customer. The final colour and finish of the concrete is subject to environmental conditions, placement and techniques and naturally occurring raw material variation. Some variation in appearance and consistency may occur which is beyond Neilsens Concrete Pty Ltd control. Colour pigments are an admixture used solely at the purchaser's request and although all care is taken Neilsens Concrete Pty Ltd accepts no liabilities in regards to the final colour of any individual load.

## DISCLAIMER FOR DECORATIVE CONCRETE :

### Notes on Neilsens Concrete Pty Ltd Decorative Concrete:

- The aggregates and other raw materials used to make our decorative concrete are products by nature and therefore are subject to variation in colour, size and shape.
- Minerals in aggregate can cause staining. An approved sealer will reduce the likelihood of this condition occurring.
- Please refer to the Cement and Concrete Aggregates Association recommended practices for placing decorative concrete.
- Our exposed aggregate mixes are designed to be placed directly "off the chute" from concrete agitators. Please consult with us if you require to place these mixes via a concrete pump.
- We recommend an approved same day sealer be applied to coloured concrete.
- If on site water addition takes the concrete slump beyond specification colour variation and aggregate segregation may occur.
- Please allow us reasonable lead time to obtain colour from our supplier.

## Annexure A - Safe Site Delivery Checklist

CCAA Concrete Pump Delivery Industry Guidelines

### Appendix 3 Safe Site Delivery Checklist

Your Name: \_\_\_\_\_ Date: \_\_\_\_\_  
 Site Location: \_\_\_\_\_ Job #: \_\_\_\_\_  
 Docket #: \_\_\_\_\_ Truck #: \_\_\_\_\_ Time: \_\_\_\_\_

#### Take Five to Stay Alive

<b>1</b>	Stop, look, walk around	<b>2</b>	Think through the task	<b>3</b>	Identify hazards
<b>4</b>	Control and communicate	<b>5</b>	Do the job safely		

<h4>Site Access</h4> <table border="0"> <tr> <td style="width: 50%; vertical-align: top;"> <p><b>Safe and legal entry to site</b> eg clear visibility, traffic control, signage</p> <p><b>Surface/grade of access safe</b> eg loose material, steep, soft ground</p> <p><b>Access clear and unobstructed</b> eg trees, steel storage, width</p> <p><b>Overhead clearance adequate</b> eg powerlines, scaffolding, roofs</p> <p><b>Pedestrian accesses defined and safe</b> eg clear visibility, signage, barriers</p> <p><b>Safe and legal exit from site</b> eg clear visibility, traffic control, signage</p> </td> <td style="width: 10%; text-align: center; vertical-align: top;"> <table border="0"> <tr><td><b>Y</b></td><td><b>N</b></td></tr> <tr><td><input type="checkbox"/></td><td><input type="checkbox"/></td></tr> <tr><td><input type="checkbox"/></td><td><input type="checkbox"/></td></tr> <tr><td><input type="checkbox"/></td><td><input type="checkbox"/></td></tr> <tr><td><input type="checkbox"/></td><td><input type="checkbox"/></td></tr> <tr><td><input type="checkbox"/></td><td><input type="checkbox"/></td></tr> <tr><td><input type="checkbox"/></td><td><input type="checkbox"/></td></tr> </table> </td> <td style="width: 40%; 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If you don't feel safe to work on this site then stop.  
Immediately communicate any issues or changes on site to plant staff.

