

STANDARD CONDITIONS OF SALE

1. References in these Standard Conditions "WAGNERS", "we", "us" etc are references to Wagner Investments Pty Ltd ACN 011 055 271 and its Related Bodies Corporate (as that term is defined in the Corporations Act 2001 (Cth)) and each reference to "you", "your" etc are references to the party ordering the goods and/or services from WAGNERS.
2. You acknowledge and agree that WAGNERS has all the rights and remedies of any "associated entity" of WAGNERS within the Wagner Group of Companies to recover any amounts owing or to enforce any provision under this Agreement, or any other agreement between You and WAGNERS notwithstanding that the supply of goods or services may be from, or that monies owed by You may be to, a holding, subsidiary or associated company or entity of Wagner Investments Pty Ltd and/or from a WAGNERS' site other than the site listed on the delivery docket.
3. These Terms apply whenever goods or services are quoted for, sold, supplied or delivered by Wagners to You.
4. If You place an oral order with WAGNERS based on a quotation We give You, and We supply goods to You, then every load delivered forms a separate contract that is subject to the terms of our quotation. If You place a written order based on a quotation we give You and the order involves a series of deliveries, then no contract comes into existence until we give You a written acceptance. However, if, in the interim, We make a delivery, or deliveries, to You before notifying Our acceptance in writing of Your written order, then each delivery constitutes a separate contract that is subject to the terms of the quotation. Every contract between You and WAGNERS is subject only to the terms of our quotation, and no variation of those terms is binding on Us unless agree to in writing by the parties.
5. You must pay Us for goods ordered before We deliver them, or at the time of delivery, unless You have an "approved account" with Us.
 - a) You do not have an "approved account" with Us unless We notify You in writing to that effect;
 - b) We reserve the right, at any time and without giving a reason, to withdraw Your "approved account" status ("approved account" means that You must pay us within 30 days from the end of the month in which purchases are made); and
 - c) unless We agree otherwise with You in writing, deliveries will begin within a reasonable time after acceptance of Our quotation and terms. In the event of dispute of the contents of any invoice, only the invoice or invoices that are in dispute may be underpaid. You agree to pay all other invoices in full by the due date for payment.
6. You agree to pay interest at the rate of 15% per annum on any overdue amounts. Interest accrues daily until those amounts are paid and is payable without further demand.
7. In the event that You fail to pay all invoices on Your account by the due date, Your account will become overdue and all monies outstanding on the overdue account and on any other account that You, or a related entity has with WAGNERS will become immediately due and payable.
8. If any goods or services supplied by us are defective, delayed or are not otherwise in accordance with the specification You ordered, our liability is limited, to the extent permitted by law to replacing the defective or non-complying goods or resupplying the services or paying You the value of the Goods or Services in Your order, which remedy WAGNERS may decide in its absolute discretion. You agree that notwithstanding any other provision of this agreement or a breach of this agreement, WAGNERS is not liable to You for any consequential loss or damage, including loss of profit, loss of revenue, loss of production, loss of business opportunity, loss of goodwill, loss of business reputation, loss of anticipated savings or profit, economic loss or financial costs, any indirect, remote or unforeseeable loss You may suffer whether arising in contract, tort (including negligence), equity or any other legal principle or doctrine.
9. A certificate signed by a WAGNERS' authorised officer setting out details of goods supplied and delivered and/or the amount You owe us (including interest on overdue accounts) is prima facie evidence of these matters.
10. You agree to pay any costs and expenses we incur, including solicitor's costs on a full indemnity basis, in connection with the recovery or attempted recovery of any money You owe us. These Standard Conditions are governed by and must be construed in accordance with the laws of Queensland and You agree to submit to the exclusive jurisdiction of the courts of Queensland and courts competent to hear appeals from those courts.
11. All warranties and conditions in relation to goods we supply to You, whether arising by statute or otherwise are excluded except to the extent that such exclusion is prohibited by law.
12. Our goods and services come with guarantees that cannot be excluded under the Australian Consumer Law. For major failures with the service, you are entitled:
 - a) to cancel your service contract with us; and
 - b) to a refund for the unused portion, or to compensation for its reduced value.You are also entitled to choose a refund or replacement for major failures with goods. If a failure with the goods or a service does not amount to a major failure, you are entitled to have the failure rectified in a reasonable time. If this is not done you are entitled to a refund for the goods and to cancel the contract for the service and obtain a refund of any unused portion. You are also entitled to be compensated for any other reasonably foreseeable loss or damage from a failure in the goods or service.

For the purposes of this clause "Australian Consumer Law" means the laws set out in Schedule 2 of the *Competition and Consumer Act 2010* (Cth).
13. No variation of these terms is binding on us unless the variation is in writing and signed by Us.
14. Unless we tell You otherwise, our prices for goods supplied by us do not include Goods and Services Tax. You must pay Goods and Services Tax payable in relation to the supply of those goods in addition to paying the price for the goods, at the same time as You pay the price for the goods.
15. WAGNERS' responsibility for delivery of goods ceases at the kerbside of the job address You state in Your order. If it is necessary for a vehicle to cross a footpath or to enter private property in the course of making the delivery, You must provide safe, adequate and timely access and have all necessary Council permits. In addition, You agree to indemnify us against any loss, costs (including delay and establishment costs) or damage we may suffer in connection with crossing a footpath or entering private property. Your obligation to indemnify will be reduced proportionally to the extent WAGNERS causes or contributes to the loss, cost or damage.
16. We are not liable for any delay in delivery, or any non-delivery that results from any loss, including, without limitation, plant and delivery-equipment breakdowns and industrial stoppages, any consequential or prolongation costs that may directly or indirectly occur.
17. We are entitled to charge You for any goods You order but are unable to take delivery of.
18. Where the goods (or any part thereof) are sold in bulk, weights registered on WAGNERS' weighbridge or on any other certified weighbridge are binding on You. Where goods are sold in packages, the sale will be on the basis that the net weight of the contents of such packages will be as specified in WAGNERS' package marking which is binding on You.
19. You will arrange for an inspection of the delivered goods in accordance with the Specification. In the event that goods are supplied in accordance with this Agreement You will sign a certificate or delivery docket signifying acceptance of the goods. You will be deemed to have accepted the goods on delivery of the goods.
20. In the event that You identify any shortfall of the delivered goods from the goods listed in WAGNERS' invoice/delivery docket, or the delivered goods do not meet the specification or they are not in conformity with WAGNERS' invoice/delivery docket due to the fault of WAGNERS, You may require Us to remedy the discrepancies or the non-conforming items. WAGNERS shall, at its sole discretion, repair, replace or re-supply (to Your delivery location) the affected goods and shall be liable for all the expenses (such as inspection charges, freight for returning the goods and for sending the replacement, insurance premium, storage and loading and unloading charges) associated with such a repair, replacement or re-supply.
21. By You providing Your personal information You authorise WAGNERS to obtain credit information from and to give credit information to credit reporting agencies and to use credit information to the extent permitted by the provisions of the *Privacy Act 1988* (Cth), in particular ss20F, 21H, 21J and 21K (where applicable). You acknowledge that such information may include personal credit information regarding You to the extent such information is relevant to assessing Your credit worthiness and managing the ongoing provision of credit to You. You agree that WAGNERS may obtain a consumer credit report about You from a credit

22. reporting agency for the purpose of collecting payments owed by You to Us. You agree that Your personal information You have provided to WAGNERS may be disclosed elsewhere within the Wagner Group of Companies and You consent to this disclosure. WAGNERS will use Your information to manage its business dealings with You, for example:
- a) to provide You with the products or services You have requested;
 - b) to manage Your payments or accounts;
 - c) to inform You (including by electronic means) of other products and services supplied by WAGNERS or another entity within the Wagner Group of Companies;
 - d) to comply with WAGNERS' legal obligations, and WAGNERS may supply Your personal information to contractors and advisers that help WAGNERS to do this.
23. You may access or request changes to Your (individual) personal information held by WAGNERS, subject to the provisions of the *Privacy Act 1988* (Cwth). For more information, please refer to WAGNERS' Privacy Policy. By You executing this Agreement You acknowledge either having received a copy of WAGNERS' current Privacy Policy or obtaining a copy of it for Yourself and that You are aware that the policy is available on WAGNERS' website at: www.wagner.com.au or by request.
24. Where You or any nominated representative of You is granted access by WAGNERS to a WAGNERS' facility You and/or Your representative will abide by the facility's safety and security arrangements in force from time to time.
25. You agree that as a condition of WAGNERS selling goods on credit to You that:
- a) You will not own the Goods until You have paid WAGNERS all monies owed to it, both from Your order for the particular Goods or for any other goods from any other account that You may have with WAGNERS, even though the Goods may have already been delivered to You;
 - b) You will hold the goods on behalf of WAGNERS and to store them (at Your risk) so that they are able to be separately identified as WAGNERS goods until You have paid WAGNERS in full;
 - c) You authorise WAGNERS to enter any land or buildings under Your control to recover possession of the goods and You indemnify WAGNERS against any action or claim in connection with WAGNERS recovering possession of the goods;
 - d) You may resell (only at arms length and on normal terms) the goods, but only as fiduciary agent of WAGNERS. Upon any sale, You will receive and hold the proceeds on trust for WAGNERS and keep these proceeds in a separate account;
 - e) if the goods are incorporated in a manufacturing, fabrication or construction process, so that the goods are no longer identifiable or separable then You and WAGNERS will be owners in common of the resulting new product. You will then hold on trust for WAGNERS the proceeds from the sale of this new product in proportion to the interest of WAGNERS in the new product;
 - f) the provisions of the *Building Industry Fairness (Security of Payment) Act* (QLD) (or its equivalent in any of the States or Territories) may apply and that the provisions of the Act may be used by WAGNERS to resolve any dispute or claim for unpaid goods or services at its sole discretion;
 - g) the provisions of the *Personal Property Securities Act 2009* (Cwth) [PPSA] (as amended) may apply to Our supply of Goods to You, the definitions in that Act apply to this Agreement and where used in this Agreement they have the same meaning and that the provisions of the Act may be used by WAGNERS to protect its interests in the Goods provided or to recover any unpaid goods or services at its sole discretion;
 - h) this Agreement including the Standard Conditions of Sale, any order You place with Us, Our delivery dockets, or a certificate issued under clause 10 of this Agreement form a security agreement under the PPSA which secures Our interest in the Goods and the collateral secured by this Agreement is any Goods ordered by You and delivered by Us for which the purchase price has not been fully paid and any asset of Yours charged under this Agreement;
 - i) You consent to Us affecting and maintaining a registration on the register created by the PPSA [PPSR] (in any manner We consider appropriate) in relation to any security interest contemplated or constituted by Your security agreement with Us and You agree to sign any documents and provide all assistance and information to Us required to facilitate the registration and maintenance of any security interest. We may at any time register a financing statement or financing change statement in respect of a security interest (including any purchase money security interest). You waive the right to receive notice of a verification statement in relation to any registration on the register of a security interest in respect of the Goods;
- j) You undertake to:
- (i) do anything (in each case, including executing any new document or providing any information) that is required by Us:
 1. so that We acquire and maintain one or more perfected security interests under the PPSA in respect of the Equipment and its proceeds;
 2. to register a financing statement or financing change statement; and
 3. to ensure that Our security position, and rights and obligations, are not adversely affected by the PPSA.
 - (ii) not register a financing change statement in respect of a security interest contemplated or constituted by this agreement without Our prior written consent; and
 - (iii) not register, or permit to be registered, a financing statement or a financing change statement in relation to the Goods in favour of a third party without Our prior written consent;
 - (iv) indemnify Us, and upon demand reimburse Us for all expenses incurred in registering a financing statement to perfect a security interest or correcting a financing statement on the PPSR or releasing any Goods charged;
- k) if Chapter 4 of the PPSA would otherwise apply to the enforcement of a security interest arising under or in connection with this Agreement and:
- (i) section 115(1) of the PPS Act allows for the contracting out of provisions of the PPS Act, the following provisions of the PPS Act will not apply and You will have no rights under them: section 95 (to the extent that it requires the secured party to give notices to the grantor); section 96; section 118 (to the extent that it allows a secured party to give notices to the grantor); section 121(4); section 125; section 130; section 132(3)(d); section 132(4); section 135; section 142 and section 143; and
 - (ii) section 115(7) of the PPS Act allows for the contracting out of provisions of the PPS Act, the following provisions of the PPS Act will not apply and You will have no rights under them: section 127; section 129(2) and (3); section 130(1); section 132; section 134(2); section 135; section 136(3), (4) and (5) and section 137;
- l) unless otherwise agreed and to the extent permitted by the PPSA, You and We agree not to disclose information of the kind referred to in section 275(1) of the PPSA to an interested person, or any other person requested by an interested person. You waive any right You may have, or but for this clause may have had, under section 275(7)(c) of the PPSA to authorise the disclosure of the above information;
- m) if We take apparent possession of any collateral under the PPSA, We may dispose of any such collateral on Your premises in any manner We choose at Our sole discretion;
- n) where You are the owner of land, realty or any other asset capable of being charged, both You agree to mortgage and/or charge all joint and/or several interest in that land, realty or any other asset to WAGNERS or a WAGNERS' nominee to secure all amounts and other monetary obligations payable under these terms and conditions. You acknowledge and agree that WAGNERS (or their nominee) shall be entitled to lodge a caveat or any other document necessary to secure all amounts and other monetary obligations payable, which shall be released once all payments and monetary obligations payable hereunder have been met;
- o) should WAGNERS elect to proceed in any manner in accordance with this clause 19, You shall indemnify WAGNERS for and against all of WAGNERS costs and disbursements including legal costs on a solicitor and own

- client basis;
p) to give effect to the provisions of this clause:
- (i) You irrevocably nominate, constitute and appoint WAGNERS or their nominee as Your true and lawful attorney to execute mortgages and charges, whether registrable or not, including such other items and conditions as WAGNERS and/or their nominee shall think fit in its absolute discretion against the joint and/or several interest of You in favour of WAGNERS and Your name may be necessary as to secure Your obligations and indebtedness to WAGNERS, and further to do and perform all necessary and other acts including instituting any necessary legal proceedings and further to execute all or any documents in WAGNERS absolute discretion which may be necessary or advantageous to give effect to the provisions of this clause; and
 - (ii) You irrevocably authorise the States and Territories' Governmental Departments for Vehicle Licensing (Queensland Transport, the Roads & Traffic Authority (NSW), Dept of Territory and Municipal Services (ACT), Vic Roads, Dept of Infrastructure, Energy & Resources Transport (Tas), SA Dept of Transport, WA Dept of Transport, Dept of Lands & Planning (NT) and their successors) to release Your personal information about Your last known address that the Department has on file to WAGNERS for the purpose of WAGNERS locating You.
26. You acknowledge that WAGNERS may, at its discretion:
- a) impose a credit limit on your account;
 - b) discontinue supply at any time should You be in default under any of the conditions of this agreement;
 - c) increase the credit limit;
- without prejudicing any of its rights hereunder.
27. WAGNERS will provide account information upon written request by You; however, You acknowledge that the account's status, (that is, the activity thereon, payment, credit limit and any default) is Your responsibility.
28. You acknowledge that You enter into this Agreement with the full authority and knowledge of its ramifications as an individual debtor or on behalf of any company or corporation, and fully indemnify WAGNERS for any amounts incurred under this Agreement.
29. Where You are the Trustee of a Trust, then You acknowledge and agree that as Trustee You shall be personally liable for the account in addition to the Trust and the assets of You and the Trust shall be available to WAGNERS to discharge the monies owed on the account.
- e) ISO Containers are delivered in a clean and serviceable condition and are to be in a similar condition when collected by WAGNERS. You will be liable for any cleaning, repair or replacement costs at invoice cost plus 10%.
- f) Alterations or modifications to the ISO Containers' tank, frame or fittings is strictly prohibited. You will be liable for any costs associated with restoring the ISO Container to its original state.
- g) ISO Container hire fee is applicable every day of the hire. Hire fee is calculated from the date of despatch to the date of return to despatch point, multiplied by the quoted daily hire rate.
- h) Any cementitious product left in hired ISO Containers at time of collection from Your site becomes the property of WAGNERS and no credit will be applicable.
- i) Where WAGNERS' drivers are prevented from carrying out their duties, either for collections or deliveries by conditions on Your site beyond WAGNERS' control, waiting time charges will be payable by You.
- Compressors
- j) Compressor and fittings hired from WAGNERS are only to be used for pumping out cement powder from WAGNERS' ISO Containers. They are not to be used for any other purpose.
 - k) Compressor/s must be stored in a safe and secure location in the set-down area.
 - l) You must provide the fuels and oils for the Compressor and perform daily maintenance and checks.
- Risk
- m) ISO Containers, Compressors and ancillary equipment, i.e. filters and trailers are held by You at Your risk and it is Your responsibility to ensure they are adequately secured.
 - n) Any loss, theft or damage to any hired items will be at Your expense.

READYMIXED CONCRETE – ADDITIONAL TERMS

30. All cement and cement blended products are offered for sale under Australian Standard Specification AS 3972:2010, unless otherwise stated on the face of the delivery docket.
31. The terms and conditions in clauses 30 and 31 of the Agreement apply to a hire of ISO Containers by You where You request a remote storage option to accompany the supply and delivery of WAGNERS' cement. WAGNERS' cement delivered in ISO Containers require a compressor, filter and trailer to pump out the cement powder and this equipment must be hired in conjunction with Your hire of the ISO Container.
- ISO Containers
- a) Only WAGNERS' cement and cementitious materials are to be stored in hired ISO Containers.
 - b) ISO Containers are not to be refilled by You or a third party with any substance whatsoever.
 - c) Delivery sites are to be nominated by You allowing for the ISO Containers to be stored in a secure, safe and suitable set-down area. A WAGNERS' representative can deem a set-down area unsuitable and You must provide a suitable alternative set-down area. If a suitable set-down area cannot be provided, the driver will return to depot with You being liable for cartage costs. If relocation is required, WAGNERS reserve the right to re-price cartage and cement pricing as applicable.
 - d) Once the ISO Container is placed on site in the set-down area, it can only be moved again by WAGNERS and ISO Containers must not be moved by You or a third party. Trailer mounted ISO Containers may be moved by You or an authorised agent by agreement with WAGNERS and only on and around Your site.
32. All concrete is offered for sale under Australian Standard Specification AS1379, unless otherwise stated on the face of the delivery docket.
33. Despite any other provision of this agreement and notwithstanding any breach of this agreement by WAGNERS, you agree that WAGNERS has no responsibility or liability to you whatsoever in respect of either the strength of the concrete we supply or any defect that may develop in it if:
- a) water is added to concrete either before or after discharge from the delivery unit without the express written approval of our representative;
 - b) an admixture or other materials are used in the concrete at Your request or specification; or
 - c) any lack of strength or defect is due to Your job practice, handling, placing or curing of the concrete;
 - d) You accept, take, place or otherwise use any concrete or Goods we supply to You which are not to the specification You ordered.
34. The mix ordered by You is stated on the face of the delivery docket. At the time of delivery it is Your responsibility to check it for compliance with the job specification. WAGNERS has no liability if You fail to make this check before discharge begins.
35. WAGNERS will not recognise test results from concrete we supply unless it is sampled at the point of delivery and tested in accordance with Australian Standard AS1012. We do not carry out tests unless You ask us to. If You do, we will institute a test programme at Your expense. We will charge You for this service according to our rates current at the time of delivery.
36. WAGNERS will use reasonable endeavours to supply concrete in accordance with your schedule. However, should supply/execution of the delivery of concrete be early or delayed for any reason beyond the control of WAGNERS or as a result of any cause which you are or should reasonably have been aware of all loss arising will be your responsibility and you agree to indemnify WAGNERS in respect of such loss. Your obligation to indemnify will be reduced proportionally to the extent that WAGNERS causes or contributes to the loss.
37. We allow a period of thirty (30) minutes per load for unloading. You must pay for any detention beyond that period at our rate current at the time of delivery.
38. Our prices are based on minimum individual deliveries of four (4) cubic metres. You must pay additional cartage for loads of less than four (4) cubic metres at our rate current at the time of delivery.
39. Our prices are based on current material, labour, overhead and transport costs and are subject to change as the costs of these elements change.

40. Unless otherwise stated in our quotation, our prices are based on slumps of not more than 80mm, using 20mm maximum size aggregate. Where slumps of more than 80mm and maximum size aggregate below 20mm occur, You agree to pay any an extra charge at our rate current at the time of delivery, should we elect to charge You. We reserve the right to utilise flyash and other supplementary cementitious materials in quantities within Australian standard tolerance in mixes unless You specifically state that You do not wish this to occur.
41. Prices quoted are for delivery during normal working hours, i.e. 6.00am. to 5.15pm. (Queensland) Monday to Friday. Deliveries made outside of these hours will be subject to a surcharge at our ruling rate at that time.
42. Concrete will be paid for by you at the rates according to the actual quantities supplied as shown on the delivery docket, subject to these conditions. You acknowledge that, unless otherwise specifically stated on the face of the quotation or applicable delivery docket, the rates are subject to additional charges pursuant to the fees & surcharges sheet. You acknowledge that the concrete will be paid for in full without any retention or set-off.
43. Our invoice charges are based on the quantity of concrete supplied according to the delivery docket. You must make any claim for alleged short delivery within 24 hours of delivery; otherwise we will not recognise the claim. If no claim for short delivery is made, You are liable to pay for the quantity of concrete stated in our delivery docket.
44. Concrete supplied for pumping may be subject to a surcharge. You must tell us if You require this type of concrete. WAGNERS does not guarantee the pumpability of concrete supplied for pumping. Any trials for pumpability of concrete are at your risk and expense.
45. Special concrete for CRITICAL ELEMENTS is subject to a surcharge. You must tell us if You require this type of concrete.
46. Exposed & coloured concrete disclaimer. Natural products can vary. Whilst WAGNERS will make every effort to provide a consistent mix, decorative concrete including exposed and coloured concrete mixes contain various natural products, including aggregate and sand that originate from natural sources. Therefore, variation in colour and appearance can occur and is beyond WAGNERS control, images and samples are representative only. If decorative concrete is to be placed by pump, You must notify WAGNERS in advance, and while WAGNERS will use reasonable endeavours to accommodate such request, it does not warrant that such concrete will be able to be pumped due to the variations in pumps and the concrete process. Pumped mixes can also result in changes to exposed concrete appearance once placed. By ordering this product You understand and agree to this disclaimer.
47. Any back charge whatsoever must be notified in writing to WAGNERS within 24 hours of the time of delivery.

STEEL – ADDITIONAL TERMS

48. WAGNERS product will conform to the specification supplied. However, WAGNERS does not provide engineering structural design services or advice in regard to the suitability of the product for its intended use.
49. Our price is based on:
 - a) receiving an order for the whole of the works. We reserve the right to adjust our quote if there are any variations;
 - b) loading of units in full loads between the hours of 7.00am and 4.00pm Monday to Friday (excluding holidays & rostered days off). The time and rate of loading for deliveries will be dependent on the availability of trucks and loading cranes;
 - c) half an hour per truck for unloading.
50. Deliveries can only be made if suitable site access is provided. Any changes to Pilot and Escort laws are not included, nor delivery at night, or out of hours.
51. Industry standard tolerances are applicable to all dimensions.
52. This quotation is to form part of any future contract/order for the work, and should there be any changes to details or conditions, we reserve the right to amend our quotation.
53. Every effort has been made to accurately estimate quantities. However WAGNERS reserves the right to invoice product for the actual tonnage used, not the estimated quantities.