Terms and Conditions of Sale

Version 1.0 Effective 1 April 2026

When these Terms are in force

1. These Terms apply whenever Goods or Services are quoted for, sold, supplied or Delivered by HQ to a Customer.
2. Requesting or accepting a Quotation from, placing an Order with or accepting a supply or Delivery of Goods or Services from HQ by a Customer constitutes acceptance by the Customer of these Terms.
3. By entering into a Quotation, sale, supply or Delivery of Goods and Services by HQ to a Customer, the Customer is offering to do so on the basis of these Terms which are accepted by HQ where it supplies the Goods or provides the Services.
4. Where HQ has granted the Customer a credit facility, the Credit Terms apply. In the event of any conflict, ambiguity or inconsistency between these Terms and the Credit Terms, the Credit Terms prevail to the extent of the conflict, ambiguity or inconsistency
5. Where HQ and a Customer enter into a supply agreement for Goods or Services, these Terms shall continue to apply to the extent they are not inconsistent with the terms of the supply agreement.

Conditions of Quotation or ordering

6. The Customer warrants that:
    a. the Customer will provide all Relevant Information to HQ when seeking a Quotation or placing an Order for Goods or Services from HQ;
    b. any Relevant Information supplied by the Customer to HQ is accurate and complete in all material respects;
    c. in giving any Quotation, accepting any Order or supplying or delivering any Goods or Services, HQ will be entitled for all purposes to rely upon the accuracy and completeness of any Relevant Information provided by the Customer;
    d. subject to any Law to the contrary, unless HQ makes an express representation to the contrary in writing, the Customer will not allege or in any circumstances maintain:
        i. that HQ had, or should be taken to have, approved of or represented any specification (whether supplied by the Customer, by HQ or by a third party) as being suitable for any particular purpose; or
        ii. that HQ is liable for any Loss to the extent that the Loss results from or is attributable to any defects in, or unsuitability of, the specification except to the extent caused by HQ's fraud or wilful misconduct;
    e. the Customer has formed its own opinion as to the correctness or otherwise of any information or advice provided by or any representation made by HQ (including as to product design and application) in connection with any Goods or Services quoted for, Ordered from or supplied or Delivered by HQ and does not rely on HQ in respect of such information, advice or representation or maintain or allege that it has so relied; and
    f. unless the Customer notifies HQ to the contrary prior to or when placing an Order for the Goods, the Customer is, and has held itself out to be, acquiring the Goods for

either the purpose of re-supply (in an altered form or condition or to be incorporated into other goods) or for the purpose of using them up or transforming them in trade or commerce in the course of a process of production or manufacture or in the course of repairing or treating other goods or fixtures on land.

7. Testing of concrete and/or Aggregates or other technical Services will not be carried out or provided, unless ordered by the Customer.
8. Unless otherwise agreed in writing, Quotations will remain valid for a period of thirty (30) days from the date of quotation.
9. HQ reserves the right to not accept a Customer's Order in its sole discretion.

Delivery of Goods

10. The Customer shall take full responsibility for assessing any requirements for traffic management associated with a Delivery to the Customer and for putting in place all traffic management measures which the Customer ought reasonably to know are required in all the circumstances of the Delivery.
11. Unless agreed by HQ in writing the Customer otherwise requires, Delivery will be made to the kerbside nearest the Delivery address and during normal working hours. If the Customer requires the Delivery vehicle to leave a public road to gain access to the discharge or unloading location, the Customer shall:
    a. ensure that the vehicle has a safe, suitable and unrestricted route between the kerbside nearest to the Delivery address and the discharge or unloading location; and
    b. indemnify HQ against any Loss arising from events occurring while gaining such access unless solely caused by HQ's fraud, negligence or wilful misconduct.
12. HQ may refuse to deliver if it is of the reasonable opinion that the Customer has failed to perform its obligations under Clause 10 or 11(a) and will be indemnified by the Customer against any Loss arising from the refusal.
13. Subject to Clause 16, the Customer shall, before the Delivery of the Goods, check for any difference between the Goods as delivered, the description or quantity of the Goods appearing on the Delivery Docket and the Customer's Order placed with HQ.
14. If the Customer disagrees with any of the details on the Delivery Docket or if there is a difference between the Goods as delivered, the description or quantity of the Goods appearing on the Delivery Docket or the Goods Ordered, then the Customer must elect whether to accept or reject the Goods in whole or in part, and thereafter:
    a. if the Customer accepts all or some of the Goods, the Customer will be taken to have Ordered the Goods that are delivered; and
    b. if the Customer rejects all or some of the Goods, the Customer shall advise HQ of details sufficient to accurately identify the nature of such disagreement or difference before the Delivery vehicle departs from the Delivery address.
15. If the Customer accepts the Goods then:
    a. before delivering the Goods, HQ shall complete the then relevant Delivery Details on the Delivery Docket and make it available to the Customer; and
    b. after Delivery, HQ shall complete the Delivery Details and enter the quantity of any returned Goods on the Delivery Docket and any water added on site at the Customer's request and make available a copy of the completed Delivery Docket to the Customer.
16. If the Goods are:
    a. concrete or cement and the Customer is not present at the Delivery location at the time of Delivery, HQ may, in its reasonable discretion, elect to refuse to deliver the Goods but, in those circumstances, the Customer will none the less be liable

to pay for those Goods as if they had been delivered where the Goods are delivered in accordance with the agreed Delivery Details; or

b. not concrete or cement and the Customer is not present at the Delivery location at the time of Delivery, HQ may, in its reasonable discretion, elect to refuse to deliver the Goods but, in those circumstances, the Customer indemnifies HQ for costs reasonably incurred in the attempted delivery of the Goods and any subsequent delivery of the Goods, except to the extent the costs are incurred due to HQ's fraud, negligence or wilful misconduct.

17. Notwithstanding any other provisions of these Terms, if the Customer is not present at the Delivery location at the time of Delivery, or the Customer is present but does not advise HQ of any disagreement or difference on the Delivery Docket in accordance with Clause 11 and the Goods are discharged then, to the extent permitted by Law:
    a. the Customer shall be deemed to have unreservedly accepted both the Delivery and the accuracy of the Delivery Details;
    b. HQ shall have no liability to the Customer for Loss in respect of any difference between the description and quantity of the Goods appearing on the Delivery Docket and the Customer's Order except to the extent the Loss is caused by HQ's fraud, negligence or wilful misconduct;
    c. the Customer irrevocably waives all of its rights to reject the Goods referred to in the Delivery Docket; and
    d. the Delivery Docket shall be prima facie evidence of all matters recorded thereon including the Delivery Details and the application of Delivery related surcharges.

    Sub-clause (c) shall not apply in relation to any defect, non-conformity or failure which would not have been apparent upon reasonably diligent inspection at the time of Delivery.

18. Any period or date for delivery stated is intended as an estimate only. HQ will use reasonable endeavours to deliver on the estimated delivery date but will not be liable for any loss or damage suffered for failure to meet an estimated delivery date.

Payment

19. The amount payable by the Customer to HQ shall be calculated by reference to the quantities of Goods and Services shown on the relevant Delivery Docket, at the Applicable Rate, plus any applicable delivery fee.

20. When Aggregates are sold by volume rather than weight, their volume will be determined by their loose uncompacted volume as measured on the Delivery vehicle by using the applicable weight to volume conversion factor at the time of loading.

21. The Customer shall pay the amount payable to HQ prior to Delivery or within the relevant credit period which HQ has advised in writing. Where the Goods are rejected by the Customer under clause 15 or the Customer is otherwise entitled to a refund, HQ will return the relevant amount paid to it to the Customer.

22. HQ is entitled to charge the Customer interest on amounts not paid at the time they are payable under Clause 21 at the interest rate payable from time to time on unsatisfied judgement debts under the Governing Law from invoice date until payment and the Customer shall be liable to HQ for all Costs reasonably incurred.

23. The Customer hereby irrevocably agrees that it is not entitled to withhold payment of the whole or any part of an amount payable to HQ under these Terms by the way of retention or set-off for any reason whatsoever.

24. In the event of any dispute arising between HQ and the Customer as to whether an amount is payable, the Customer shall, within the relevant period under Clause 21, pay to HQ the amount in dispute (including any amount charged by HQ under Clause 18), to be held separately by HQ until settlement of the dispute.

25. Each amount payable by the Customer under these Terms in respect of a Taxable Supply is exclusive of GST and the Customer must, in addition to that amount and at the same time and manner, pay the GST payable in respect of that supply upon receipt of a tax invoice. “Taxable Supply” and “GST” have the meanings set out in the A New Tax System (Goods and Services) Act 1999.

Special conditions for concrete

26. Clauses 27 to 30 inclusive apply only to the sale of concrete by HQ.

27. Unless otherwise agreed in writing by HQ and the Customer, pre-mixed concrete will comply generally with AS1379 and will contain materials of HQ’s choice, including where applicable recycled and returned materials.

28. Unless otherwise stated in the Quotation, concrete is supplied as, and prices are based on, “Normal Class Concrete” as specified in AS1379, having a nominal slump not exceeding 80mm and using a nominal 20mm maximum size aggregate. If the Customer requires a slump other than 80mm or aggregate with a maximum size other than 20mm, a surcharge at the Applicable Rate will apply. If compliance with AS1379 requires the addition of a cooling agent, a surcharge to the quoted price at the Applicable Rate will apply.

29. HQ may charge for any concrete and for the reasonably incurred return cartage, handling and disposal costs relating to any concrete Ordered by the Customer and batched by HQ which is returned or rejected by the Customer because:
    a. the Customer cancels or does not accept Delivery even though the concrete was batched in accordance with the Customer’s Order;
    b. the Customer was unable to use the full quantity Ordered; or
    c. the time between batching and discharge exceeds the time permitted by AS1379 or the specification that covers the project being supplied, provided that the excess time was not due to HQ’s acts or omissions.

30. To the extent not caused by HQ’s fraud, negligence or wilful misconduct, HQ shall not be liable in any circumstances for any Loss arising from any alleged defect, non-conformity or failure in any concrete delivered, caused by, contributed to or arising from:
    a. preparing, handling, placing, working, curing, pumping, compacting, surface finishing, rolling or levelling of the concrete not being in accordance with any applicable Australian Standard, specification or guidelines applying to the work;
    b. the addition, without the written instructions of a representative of HQ other than the driver, of any water, admixtures, additives or other material to the concrete:
        i. prior to Delivery commencing:
            A. by the Customer or a third party; or
            B. by HQ at the request or specification of the Customer or a third party; or
        ii. after Delivery has commenced (either before or after discharge from the Delivery vehicle):
            A. by the Customer or a third party; or
            B. by the Delivery vehicle driver on the instruction of the Customer or a third party;
    c. the effect of any weather conditions or temperature including heat, cold, rain, wind or hail; or
    d. any act or omission (including construction or site practices) of the Customer or a third party.

Information and suitability including for the Consumer Online Ordering Portal

31. To the extent not caused by HQ's fraud, negligence or wilful misconduct, HQ is not liable for:
    a. any information provided by the Customer;
    b. any decision or recommendation by HQ based on any information provided by the Customer including whether a particular product (including a Good or Service) is fit or suitable for a Customer's requirements or whether the quantity of products (including a Good or Service) is fit or suitable for a Customer's requirements;
    c. the adequacy, accuracy, completeness or veracity of any information or advice, whether technical in nature or not, provided by HQ to the Customer or for any interpretation, opinion or conclusion that a Customer may place on this information or advice;
    d. any liability whether direct or indirect or consequential, for any Loss, damage, cost, expense, charge, outgoing, interest, loss of profits or loss of any kind suffered or incurred by the Customer, as a result of or in connection with the provision, use of, or reliance on the information provided in the Consumer Online Ordering Portal;
    e. correcting, updating or revising any information provided in the Consumer Online Ordering Portal;
    f. the delivery address or delivery location including whether they are suitable for delivery of any Goods and Services;
    g. whether the selection of a particular delivery vehicle is suitable for the delivery of the Goods and Services; and
    h. any handling of the product after the product has been delivered to the kerbside nearest to the delivery address.

Special conditions for Decorative Concrete

32. Clauses 33 and 34 apply only to the sale of decorative concrete by HQ.
33. The Customer acknowledges and agrees that:
    a. HQ supplies decorative concrete in a plastic or semi liquid form comprised of assorted materials including cement, Aggregates, colour pigments, additives and admixtures mixed in accordance with the Customer's selections or directions and the relevant Australian Standards.
    b. HQ can only supply a mix capable of being laid and finished in a way that achieves a finish depicted in any brochures or other materials published by HQ, if the Customer accurately specifies the selected finish. Achieving the selected finish is the responsibility of the Customer or the Customer's selected contractor.
    c. Aggregates vary in their reaction to exposure to the elements and that because of this HQ has no liability for any future colour changes or oxidation of Aggregates that have been so exposed unless the Customer or the Customer's selected contractor has, before placing an Order for decorative concrete, informed HQ that the Customer or the Customer's selected contractor, proposes to achieve a finish that involves exposure of the Aggregates to the elements.
    d. A honed or polished finish can only be achieved using mixes that have been formulated so as to make the achievement of these finishes possible, and that because of this HQ has no liability flowing from a failure to achieve a honed or polished finish unless the Customer or the Customer's selected contractor has, before placing an Order for decorative concrete, informed HQ that the Customer or the Customer's selected contractor proposes to achieve such a finish.
    e. The Aggregates and other materials used in decorative concrete are subject to natural variations which could cause colour variation to the finished product and that

because of this the colours depicted in any brochures or other materials published by HQ can be indicative only of the finished colours that can be achieved by the Customer or the Customer's selected contractor.

f. This Clause does not affect or limit the operation of Clause 30.

34. To the extent permitted by Law, or where not caused by HQ's fraud or wilful misconduct, HQ accepts no responsibility for poor placement or finishing practices or for the final appearance, texture or colour of any finished decorative concrete product.

Special conditions for Smart Rock Sensors

35. Clauses 36 to 42 apply only to the sale of Sensors and supply of Sensor Services.

36. In order to be able to use the measurement functions of Sensors with regard to a specific concrete, access by the Customer to the Giatec Platform is required. For this purpose, the Customer has to create a customer account with Giatec. The Customer can use its account on the Giatec Platform to access certain measurement data of all of the Sensors it has purchased from HQ. Pursuant to Giatec's specifications, this access is possible via an internet browser or a smartphone app developed by Giatec for this purpose.

37. The account as well as access to the Giatec Platform are provided to the Customer by Giatec free of charge. At the Customer's request, HQ will generate for the Customer an invitation for the Giatec Platform for an e-mail address to be specified by the Customer and the Giatec Platform will send this invitation to the Customer. For the use of the Giatec Platform as well as for the account, the Customer has to either accept Giatec's applicable general terms and conditions or otherwise agree them with Giatec.

38. The Customer is responsible for the proper installation of the Sensor in accordance with the instructions enclosed with the Sensor, except to the extent caused by HQ's fraud or wilful misconduct. The Customer may engage HQ to provide Sensor Services. Calibration will be provided in accordance with the ASTM C 1074 standard using Australian Standard test methods. If HQ provides calibration for a particular concrete, HQ will make that calibration available in the Giatec Platform so that the Customer can use the measurement functions of the Sensors with that concrete in the Giatec Platform.

39. The Customer acknowledges and agrees that:

a. all data or information from or about HQ provided on the Giatec Platform and of which the Customer gains knowledge is confidential information of HQ;

b. the Customer may use that information only for the use of the measurement functions of Sensors via the Giatec Platform and must otherwise disclose the information only to those employees who have a reasonable need to know that information;

c. Sub-Clause 39.b does not apply to the extent that such information:

i. was known to Customer lawfully and without restriction on use or disclosure before such information was made available to Customer by HQ;

ii. was or became generally known to the public, other than due to a Customer's failure to comply with the confidentiality obligation under this Clause 39; or

iii. is required to be disclosed by customer due to applicable law, a court order or an official order.

40. The Customer acknowledges and agrees that, except to the extent caused by HQ's fraud or wilful misconduct, HQ is not responsible for and has no liability in respect of:

a. downloading any data produced by the Sensors, the analysis of that data or any testing performed with the assistance of that data or the Sensors;

b. identifying the location for installation of the Sensors;

c. installation of the Sensors;

d. ensuring Sensors are operational prior to concrete placement and are not damaged during the pour of concrete;

unless HQ has agreed to perform those services as part of the Sensor Services.

41. In case of a defect in respect of the Sensor or Sensor Services, HQ shall have the right to choose to remedy the defect by way of repair, refund or replacement at HQ's discretion.

42. To the extent that HQ's processes personal data of the Customer or its employees via or on the Giatec Platform on behalf of the Customer in order to provide the Sensor Services, the terms of HQ's Privacy Policy apply.

Limitations on HQ liabilities

43. Notwithstanding any other provision of these Terms, for sales or deliveries to Customers who are Consumers, HQ's liability for a breach of a guarantee arising by operation of Division 1 of Part 3-2 of Schedule 2 of the Act (other than Sections 51, 52 or 53 of that Schedule) is limited to one of the following, at HQ's election:

   a. in the case of Goods other than Goods of a kind ordinarily acquired for personal, domestic or household use or consumption, the replacement of the Goods or the supply of equivalent Goods, repair or payment of the cost of replacement or repair of the Goods or of acquiring equivalent Goods; and

   b. in the case of Services other than Services of a kind ordinarily acquired for personal, domestic or household use or consumption, supplying the Services again or payment of the cost of having the Services supplied again.

44. Notwithstanding any other provision of these Terms, for deliveries to Customers who are not Consumers:

   a. All conditions or warranties which would be implied into these Terms by Law are excluded unless such exclusion is forbidden or made void by Law.

   b. Subject to Sub-Clause 44 (c), HQ's maximum aggregate liability to the Customer in respect of any claim for Loss in relation to defective or non-conforming or non-complying Goods or Services is limited to one of the following, at HQ's election:

      i. in relation to defective or non-complying Goods, the replacement of the Goods or the supply of equivalent Goods, repair or payment of the cost of replacement or repair of the Goods or of acquiring equivalent Goods; and

      ii. in relation to defective or non-complying Services, supplying the Services again or payment of the cost of having the Services supplied again.

   c. Notwithstanding Sub-Clause 44 (b), HQ shall not in any circumstances be liable for any Loss, arising directly or indirectly from delays in Delivery or failure to deliver for any cause or reason including traffic delays, equipment breakdown, unavailability of raw materials, inclement weather and labour disputes, except to the extent caused by HQ's fraud or wilful misconduct.

   d. If the Customer agrees (whether before or after any agreed rectification) to accept defective, non-conforming or non-complying Goods or Services HQ will have no further liability in relation to those Goods or Services and the Customer releases HQ and indemnifies HQ against any further liability in relation to those Goods or Services.

   e. To the extent not caused by HQ's fraud, negligence or wilful misconduct, the Customer hereby irrevocably indemnifies HQ in respect of that part of any damages HQ may be ordered to pay to a third party:

      i. under Division 2 of Part 5-4 of Schedule 2 of the Act which arise from the supply of Goods or Services other than Goods or Services of a kind ordinarily acquired for personal, domestic or household use or consumption to the Customer; or

      ii. in any other case -

which exceeds the lowest of the cost of replacing the Goods, supplying the Services again, obtaining equivalent Goods or Services or having the Goods repaired. HQ must take all reasonable steps to mitigate its losses.

f. HQ's liability under s274 of Schedule 2 of the Act is limited to paying an amount equal to the cost of replacing the Goods concerned, obtaining equivalent Goods or having them repaired.

45. Where Goods or Services are Ordered by the Customer in reliance upon a Quotation issued by HQ to the Customer for work to be undertaken by the Customer in respect of a project or in an area nominated by the Customer, all of the Goods and Services Ordered for that project or area shall be deemed to constitute a single acquisition and the total amount payable for all such Goods and Services shall be taken to be the amount payable for the Goods or Services so acquired for all purposes including the purposes of the Act. Notwithstanding anything else contained in these Terms or in any Law, to the extent not prohibited by Law, neither party may in any circumstances be liable to the other party for Consequential Loss.

46. Subject to clauses 43 to 45 inclusive, HQ's liability for any Loss, however caused, suffered or incurred in connection with Goods or Services supplied under these Terms is limited to the sum paid by the Customer to HQ for those Goods and Services prior to the date the Customer incurred the Loss.

Claims

47. To the extent permitted by Law and to the extent not caused by HQ's fraud, negligence or wilful misconduct, HQ shall not be liable for any claim by the Customer alleging a Loss arising out of the Quotation, sale, supply or Delivery of Goods or Services under these Terms unless:

a. HQ is notified by the Customer in writing of any alleged defect, non-conformity or failure giving rise to the claim within 14 days of the Delivery or such later date as the Customer became, or ought reasonably to have become, aware of the events or circumstances on which the claim is based;

b. the Customer allows HQ reasonable facilities to investigate any such defect, non-conformity or failure promptly, to advise the Customer of any appropriate remedial action and follows any such reasonable advice;

c. a fully particularised claim is lodged in writing with HQ not later than 2 months after the Customer became or ought reasonably to have become aware of the events or circumstances on which the claim is based.

48. In pursuing a claim against HQ a Customer may only rely upon test results if they have been arrived at by a NATA certified laboratory using tests carried out in accordance with all applicable Australian Standards.

General

49. If the Customer fails whatsoever or howsoever to comply with any of these Terms in a material respect and does not remedy the non-compliance within 5 business days following written notice (where the non-compliance is capable of remedy), HQ 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 HQ.

50. To the maximum extent permitted by Law, the Customer indemnifies HQ 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.

51. Property in the Goods shall not pass until the Customer has paid all moneys payable to HQ 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 HQ, the Goods are subject to the following terms:
    a. The Customer holds the Goods as fiduciary, bailee and agent for HQ and must keep the Goods physically separate from all other goods of the Customer, and clearly identified as owned by HQ.
    b. If an Event of Default occurs and the customer has failed to remedy the Event of Default within 5 business days following written notice (where capable of remedy, then without prejudice to HQ's other rights, HQ 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 HQ, the Customer must keep the proceeds of the sale in a separate account and not mix them with any other funds.
    c. 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 HQ. Such part shall be deemed to equal in dollar terms the amount owing by the Customer to HQ and at the time of payment of such proceeds the Customer's obligation to pay the amount owed for such Goods will be discharged.
    d. 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 HQ. Such part of the book debts and proceeds shall be deemed to equal in dollar terms the amount owed by the Customer to HQ at the time of the receipt of such book debts.
52. In the event that there is failure to deliver, any time delay in delivery or failure to perform any obligation due to any cause whatsoever beyond HQ's control including weather, fire, labour dispute, strike or due to the inability of HQ to obtain raw materials in a timely fashion from HQ's planned source (whether or not such source is known to the Customer):
    a. HQ will not be liable for any Loss sustained by reason of any such failure or delay; and
    b. HQ 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.
53. To the extent permitted by Law, the actions or signatures of any person with the Customer's authority shall bind the Customer unless HQ is on notice that the Customer has revoked such authority.
54. If the whole or any part of a provision of these Terms is unenforceable, the provision (or part thereof, as the case may be) is to be read down so as to be enforceable, and if it cannot be so read down, severed to the extent necessary to make these Terms enforceable.
55. 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.
56. 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.

57. 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.

58. 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 parties irrevocably and unconditionally submit 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.

59. 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.

60. The Customer consents to HQ recording and disclosing telephone conversations between the Customer and HQ.

61. HQ's Applicable Rates, Surcharge Schedules, Technical Services Charges and Privacy Policy are available on request or at www.highqualityconcrete.com.au

Interpretation

62. In these Terms, unless the contrary intention appears:

"Act" means the Competition and Consumer Act 2010.

"Aggregates" includes quarry products and sand.

"Applicable Rate" means:

   a. where a Quotation has been accepted, the quoted rate, charges and surcharges; and

   b. where no Quotation has been given, or if given, the Quotation has not been accepted, either:

      i. the relevant rate, charges and surcharges shown in a Rate Schedule; or

      ii. if no such rate is shown, a rate determined by HQ or as otherwise advised by HQ.

"AS1379" means the Australian Standard "AS1379 - Specification and supply of concrete" as in force at the date of Delivery.

"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;

   c. any form of consequential, special, punitive or exemplary loss or damages; and

   d. liquidated damages -

howsoever it arises or is claimed (including as a result of negligence or by the operation of Law).

"Consumers" means 'consumers' as defined by Section 4B or Section 3 of Schedule 2 of the Act.

"Consumer Online Ordering Portal" means an online ordering system where Customers may Order Goods or Services from HQ.

“Costs” means all costs, charges and expenses actually and reasonably incurred by HQ 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 HQ or the Customer to comply with these Terms.

“Credit Terms” means the HQ credit terms, as set out in the credit agreement executed by the Customer (where applicable) and as varied in accordance with that agreement from time to time.

“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 HQ and includes that person’s or entity’s employees, officers, 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.

“Delivery” includes a delivery or supply of Goods and Services in response to an Order of the Customer or which the Customer accepts, whether or not HQ and the Customer have reached a concluded agreement about all of the terms of the delivery or supply including the price payable for the Goods or Services Ordered.

“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.

“Delivery Docket” means a document (digital or paper based) prepared by HQ which records Delivery Details in respect of a Delivery.

“Event of Default” means any of the following events:

a. the Customer fails to pay for the Products;
b. the Customer is in material 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;
    i. the Customer resolves to appoint a receiver or provisional liquidator or an administrator, or a receiver or provisional liquidator or an administrator, or a receiver or provisional liquidator or administrator is appointed;
    ii. the Customer goes into liquidation or makes an assignment or an arrangement or composition with its creditors; or
    iii. the Customer stops payment or is deemed unable to pay its debts within the meaning of the Corporations Act 2001; and
d. if the Customer is a natural person, an order is made for the Customer’s bankruptcy; or the Customer dies or becomes mentally or physically incapable of managing his or her affairs; or an order is applied for or made to place the assets and affairs of the Customer under administration; or the Customer ceases or threatens to cease carrying on business.

"HQ" means HQ Concrete Pty Ltd ABN 44 695 640 530 and includes HQ's employees, officers, agents, contactors, sub- contractors, successors, substitutes (including persons taking by novation), assigns and any person or entity claiming under or through HQ.

"Giatec Platform" means a platform operated by Giatec Scientific, Inc.

"Goods" includes concrete, Aggregates, cement, tools, concrete additives and admixtures and products for use in finishing concrete.

"Governing Law" means the Law governing the operation of these Terms under Clause 47 in respect of a Delivery.

"Law" includes the common law of Australia, rules of equity and the provisions of any relevant statute or statutory instrument including a by-law.

"Loss" means any loss, liability reasonable cost, charge, expense or outgoing incurred by HQ, the Customer or a third party in respect of, arising from or connected with any supply of Goods or Services by HQ or by HQ's failure to supply any Goods or Services or of a breach of these Terms, whether arising in Law or otherwise.

"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 and which is accepted by HQ in writing or by electronic means.

"Quotation" includes:

a. any document titled "Quotation" provided by HQ to the Customer itemising Goods or Services and the rates at which HQ is willing to supply these to the Customer for a project or in an area nominated by the Customer; or
b. any rates provided by HQ to the Customer through the Consumer Online Ordering Portal relating to any Goods or Services which HQ is willing to supply to the Customer.

"Rate Schedule" means, a schedule of rates, charges or surcharges for Goods or Services published by HQ in force at the date of Delivery or supply, copies of which are available upon request from HQ or at www.thehighqualityconcrete.com.au "Relevant Information" includes all specifications relating to the Goods or Services, the application of the Goods or Services, Site Details or other matters that HQ asks the Customer to provide.

"Sensors" means Smart Rock Sensors developed and manufactured by Giatec Scientific, Inc.

"Sensor Services" means the installation of a Sensor at a construction site, calibration of a Sensor for use with a particular concrete, or other additional services in connection with the Sensors, in each case as agreed with HQ.

"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;
d. weighbridge services.

"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.

"Terms" means these Terms and Conditions of Sale.

63. 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’.