

STANDARD TERMS & CONDITIONS – SUPPLY AND DELIVERY OF READY-MIX CONCRETE

1. Definitions

1.1 “**Supplier**” means Attard Bros Construction Materials Limited, a limited liability company that is incorporated under the laws of Malta, having its registered address at ‘Mikesand’, Qasam Industrijali, Ta’ Qali, bearing registration number C 29511

1.2 “**Client**” means the person, entity or company placing the order and/or accepting delivery of the Goods.

1.3 “**Goods**” means ready-mix concrete and any related products supplied by the Supplier under these Terms & Conditions.

1.4 “**Contract**” means any agreement between the Supplier and the Client for the supply of Goods and/or services (including any pumping or ancillary services) together with these Terms and Conditions that shall form an integral part of the Contract.

1.5 “**EN 206 Concrete**” means concrete produced with valid production conformity in accordance with EN 206.

1.6 “**Non-EN 206 Concrete**” means any concrete mix not covered by EN 206 production conformity.

1.7 “**Prescribed Mix**” means a mix in which the composition or proportions are prescribed either by the Supplier under the specific instructions of the Client or by the Client, and for which the Goods performance is not guaranteed under EN 206.

2. Application of Terms

2.1 These Terms & Conditions apply to all quotations, offers, orders, deliveries and invoices issued by the Supplier and override any other prior arrangements with the Client unless expressly accepted in writing by the Supplier.

Without prejudice to the liability clauses set out above regarding the Goods’ quality, if the invoice is not disputed by the Client within ten (10) days from its date, it shall be deemed accurate and accepted as corresponding to the Client’s order. 2.2 By placing an order, signing the delivery note or accepting discharge of the Goods, the Client confirms acceptance of these Terms & Conditions.

2.3 These Terms and Conditions shall be read in conjunction with the *Standard Terms for Delivery of Ready Mix Concrete (Summary)* (the “Summary Terms”), and the two documents shall complement each other and be interpreted as a single, integrated agreement.

2.4 In the event of any inconsistency, conflict, or ambiguity between these Terms and Conditions and the Summary Terms, these Terms and Conditions shall prevail to the extent of such inconsistency, unless expressly agreed otherwise in writing by the Supplier.

2.5 The Goods shall be deemed to be supplied subject to these Terms and Conditions in all circumstances, including where the delivery note pursuant to the Summary Terms is not signed. These Terms and Conditions shall apply unless otherwise expressly agreed in writing by the Supplier.

3. Scope, Standards and Types of Mixes

3.1 Unless expressly stated otherwise in writing, fresh concrete supplied by the Supplier is produced in accordance with EN 206 and any applicable Maltese implementing standards, where production conformity has been established for the particular mix (“EN 206 Concrete”).

3.2 The Supplier’s product list shall clearly distinguish between:

- (a) mixes produced with valid EN 206 production conformity (“EN 206 Concrete”); and
- (b) mixes not covered by EN 206 production conformity (“Non-EN 206 Concrete”).

3.3 Non-EN 206 Concrete shall always be treated as **Prescribed Mixes** (either Supplier’s Prescribed Mixes or Client’s Prescribed Mixes) and shall **not** be designated or used as structural graded concrete.

3.4 Structural concrete shall be considered from strength class **C20/25 upwards**, and only where EN 206 production conformity exists for the relevant mix. For Non-EN 206 Concrete the Supplier does not guarantee conformity with EN 206 and gives no structural performance guarantee; the Client accepts full responsibility for its suitability and use, and hereby releases the Supplier from any liability arising therefrom. It is understood and agreed that, in such circumstances, the Supplier shall only be bound to deliver the requested and prescribed non-EN 206 concrete mix.

3.5 The Supplier gives no guarantee that the supplied concrete will remain free from cracking. Cracking can result from many factors outside the Supplier’s control (including but not limited to design, site practices, placing, compaction, finishing, curing, thermal or shrinkage stresses, substrate movement, loading and environmental conditions). The Client remains responsible for design, detailing, workmanship and site practices. The Supplier is not liable for consequences of cracking unless tests and investigations, carried out in accordance with the relevant standards and agreed procedures, demonstrate that the concrete supplied at loading failed to conform to the Standards and such failure is the sole proximate cause of the cracking.

4. Ordering of Concrete and Client’s Responsibilities

4.1 The Client is responsible to clearly define, in accordance with EN 206, all required characteristics of the ordered concrete, including, as applicable:

- (a) Type of concrete (e.g. normal, pump, screed, grout, lightweight, etc.);
- (b) Compressive strength class (both cylinder and cube, e.g. C20/25, C25/30, etc.);
- (c) Slump / consistency class;

- (d) Exposure class(es) and/or minimum cement content and maximum water/cement ratio;
- (e) Maximum aggregate size;
- (f) Any restrictions on aggregates (e.g. local aggregates, dolomite, lightweight, etc.);
- (g) Any restrictions on admixtures, with dosage and application always in accordance with the manufacturer's instructions;
- (h) Any additional admixtures requested by the Client, who is responsible to ensure that any two or more prescribed admixtures are chemically and functionally compatible, with dosage and application in accordance with the manufacturer's instructions;
- (i) Any restrictions on cement type (e.g. CEM II/A, CEM IV/A SRC, green cement, white cement, etc.);
- (j) Minimum air content when applicable.

4.2 The Client acknowledges that any missing requirement or characteristic of the concrete may lead to an incorrect selection/production of the mix. In such cases, the Supplier shall not be held responsible for any under-performing concrete resulting from incomplete or ambiguous specifications.

4.3 In the event that one or more of the characteristics listed in 4.1 are not specified by the Client, the producer has the obligation to ensure that the selected mix is in line with EN 206 and any other relevant standard and the technical data sheets of any used admixtures, **except** for lower-grade mixes of strength class **C20 or below**, which shall always be treated as Supplier's or Client's Prescribed Mixes and are not supplied with EN 206 production conformity.

4.4 It is the responsibility of the Client to ensure that its specified requirements and the intended use of the concrete comply with applicable national and/or international standards, regulations and design codes.

5. Guarantees on Mix, Delivery and Yield

5.1 The Supplier distinguishes between:

- (a) a **Guarantee on the Mix**, relating to conformity of the produced concrete with the agreed specification and applicable standards at the point of loading; and
- (b) a **Guarantee on the Delivery**, relating to the correct handling and transport of the concrete from the plant to the site within agreed time and temperature limits.

5.2 **Guarantee on the Mix** (strength, durability and performance) is subject to all of the following conditions being met:

- (a) The selected exposure class(es) and all other concrete characteristics have been correctly defined by the Client in accordance with EN 206 and relevant design codes;
- (b) The concrete structure has been designed in accordance with EN 1992-1-1 and any applicable national provisions;
- (c) Placing, compaction, finishing and curing are carried out correctly, e.g. in accordance with EN 13670 or any other recognised standard or good practice;

(d) Appropriate maintenance and protection of the concrete are applied during its working life.

5.3 Guarantee on Yield and Quantity:

(a) Any guarantee on the **yield and quantity** of the supplied concrete is only applicable for individual orders of **4 m³ or more**.

(b) For deliveries of less than 4 m³, no guarantee is given on yield due to the increased influence of batching tolerances and site handling.

5.4 Time on Site and Quality:

(a) The Client must organise placing such that the concrete is discharged and placed without undue delay.

(b) If the duration of the pour on site, measured from the truck's arrival at the site to the completion of discharge, **exceeds 2 hours**, the Supplier cannot guarantee the quality, workability, strength or durability of the concrete.

(c) Any quality or performance issues arising from pours exceeding this 2-hour on-site period shall be at the sole risk of the Client.

5.5 Any modification to the supplied concrete made on site at the instruction of the Client or third parties (including but not limited to addition of water, admixtures, cement or other materials) that is not expressly authorised in writing by the Supplier shall immediately nullify any guarantees on the mix, delivery, quality and yield.

6. Health & Safety – Fresh Concrete

6.1 Fresh concrete is **alkaline** and can cause irritation, burns or other injury to the **skin** and **eyes**, and can be harmful if inhaled or ingested. Wet concrete and cementitious materials shall therefore be handled with great care.

6.2 The Client shall ensure that all persons handling or coming into contact with fresh concrete use appropriate personal protective equipment, including as applicable: gloves, long sleeves and trousers, waterproof footwear, eye protection and respiratory protection.

6.3 In case of contact with skin or eyes, affected areas shall be rinsed immediately with plenty of clean water and medical advice sought where necessary.

6.4 The Supplier shall not be held responsible for any accident, injury, illness or damage arising from the mishandling, misuse, or inadequate protection of persons in contact with fresh concrete. Responsibility for safe handling on site rests with the Client.

7. Testing of Concrete and Interpretation of Results

7.1 Testing Standard

All sampling and testing of concrete for the purpose of assessing strength, conformity or

performance shall be carried out strictly in accordance with the applicable European standard for concrete testing in force at the time of supply.

Any tests that are not performed in full compliance with this standard shall not be used as a basis for interpreting the quality or strength of the supplied concrete.

7.2 Evaluation of Test Results

The evaluation and interpretation of any concrete test results shall be carried out strictly in accordance with the applicable European standard for concrete testing referred to in clause 7.1. Results evaluated using any other method or criteria shall not be used to assess the quality, strength or conformity of the supplied concrete.

7.3 28-Day Strength Assessment

Concrete compressive strength shall normally be assessed on the basis of test results at **28 days** of curing from casting. The Supplier shall not be held responsible for alleged under-performance of the concrete unless it is demonstrated, by tests carried out in accordance with clauses 7.1 and 7.2, that the supplied mix and/or delivery did not comply with the agreed specification or applicable standards. Furthermore, Should the Purchaser elect not to inspect the Goods, the Supplier shall not be liable for any damages, including latent defects. The responsibility for conducting the inspection rests solely with the Client; consequently, failure to perform such inspection shall result in the Purchaser waiving the right to claim any issues from the Supplier.

7.4 Delayed Strength Gain and Further Investigation

Where set-retarding admixtures or other factors may delay the hardening process, strength development at ages beyond 28 days (for example at **56 days**) may be considered before any further investigation is initiated. If additional investigations are required, the Client is responsible for commissioning any third-party testing, which shall be performed in accordance with the relevant European standard (such as EN 13791, where applicable). The Client and the Supplier shall liaise and agree in advance on the testing plan and the intended use of the results.

7.5 Testing Frequency

The frequency of production and conformity testing of concrete shall be in accordance with the requirements of EN 206 for the relevant concrete family or mix.

8. Delivery, Access and Risk

8.1 Delivery is deemed to occur when the Goods reach the delivery point specified by the Client or the nearest point the vehicle can safely reach, as determined by the Supplier's driver.

8.2 The Client must provide safe and adequate access roads, suitable ground conditions, gradients and turning space for the Supplier's vehicles. Without any liability on its part, the Supplier, shall have a right to instruct its employees not to discharge any Goods in events where the Client's site is found to be unsafe.

8.3 If the Client instructs vehicles to leave the public road, the Client is responsible for any damage to roadways, pavements, underground services, walls, drains, structures or other property, and for any towing or recovery costs.

8.4 Risk in the Goods passes to the Client when the concrete begins to be discharged from the delivery vehicle.

9. Unloading, Waiting Time and Surplus Concrete

9.1 The Client shall provide sufficient labour and equipment to receive and place the concrete without delay.

9.2 A free unloading period of 2 hours per load applies. Waiting time thereafter will be charged at the Supplier's current rates.

9.3 Once discharged, concrete cannot be returned. Any surplus concrete remaining in the truck after discharge will be removed and disposed of by the Supplier, and may be subject to a disposal/return charge.

10. Prices and Payment

10.1 Prices are as per the Supplier's current price list, unless otherwise agreed and are exclusive of VAT or other fiscal duties, unless stated otherwise.

10.2 Additional charges may apply for small loads, out-of-hours deliveries, pumping services, admixtures, special cements or aggregates, difficult access locations, waiting time and wash-out.

10.3 Payment terms are [e.g. 30 days from invoice date] unless otherwise agreed in writing. The Supplier may suspend deliveries where accounts are overdue. In the event of overdue accounts, the Supplier shall have the right to unilaterally revoke any discounts previously granted to the Client, and charge the Client, interest at the maximum rate that is allowed by the law.

10.5 The Supplier shall have a right to adjust the contracted supply prices, in the event of changes, including but not limited to, any of the following: cement prices, aggregates prices, additives prices, import duty, levies or other taxes, VAT, income tax, fuel prices, COLA, transport costs (if applicable), and any new costs, charges, or obligations introduced by legislation, regulation, or any judicial/authority decision

11. Liabilities and Indemnification

11.1 The Supplier shall not be liable for:

- (a) any indirect, special or consequential loss, including loss of profit, delay costs or penalties;
- (b) cracking, shrinkage, surface defects or other issues arising from the design of the

structure, reinforcement, jointing, loading, sub-base, or from placing, compaction, finishing, curing or maintenance carried out by or on behalf of the Client;

(c) defects or damage caused by site conditions, contamination, over-watering, extreme weather, aggressive environments or any factor beyond the Supplier's reasonable control, including by acts or omissions of third parties who are not employed, or under the Supplier's control.

(d) force majeure or unforeseen circumstances

11.2 In any event, the Supplier's total liability in relation to any Contract shall be limited to the total price paid by the Client for the Goods supplied under that Contract.

11.3 Nothing in these Terms & Conditions shall exclude or limit any liability which cannot be excluded or limited under applicable Maltese law.

11.4 Without prejudice to any warranty exclusions and/or limitations of liability as stipulated in these terms and conditions, any complaint regarding the quality, strength, or performance of the materials must be notified to the Supplier in writing immediately within 30 days, from delivery date. Failure to do so shall release the Supplier from any liability arising from such complaint.

The Client undertakes to hold the Supplier, its directors, officers, employees, and affiliated companies/persons fully indemnified against any claim for breach of these Terms and Conditions by the Client, including by its directors, officers, employees, and affiliated companies/persons; any claims for damages pursuant to any breach of the law or of any third-party rights in connection with these Terms and Conditions; any misuse, improper handling, storage, application, or alteration of the Goods by the Client or any third party acting on its behalf; any instructions, specifications, or requirements provided by the Client or any third party acting on its behalf; and/or any act, omission, negligence, or wilful misconduct of the Client or its directors, officers, employees, agents, contractors, or affiliates.

This indemnity shall apply regardless of whether such claim arises in contractor at Law and shall survive the termination or expiry of the contractual relationship between the Supplier and the Client.

12. Force Majeure

12.1 The Supplier shall not be responsible for any failure or delay in performance of its obligations under the Contract where such failure or delay results from events beyond its reasonable control, including but not limited to breakdowns, strikes, shortages of materials or fuel, shortage of labour, extreme weather, traffic disruption, or acts of government or public authorities.

12.2 In such cases, the delivery time period may be extended as necessary, beyond the duration of the delay, to allow for any additional time required, for the proper execution of the Supplier's obligation, without the Supplier incurring any additional costs.

13. Governing Law and Jurisdiction

13.1 The Contract and these Terms & Conditions shall be governed by and construed in accordance with the laws of Malta.

13.2 Any dispute arising out of or in connection with the Contract shall be subject to the exclusive jurisdiction of the Courts of Malta.