



**DICKINSON READY MIX
CO. & CONCRETE
PRODUCTS**

37 Westgate Ave
PO Box 726
Dickinson, ND 58602-0726
701-483-9175
www.dickinsonreadymix.com

Dickinson Ready Mix Co. Terms & Conditions

1. SALES

- a. The sale of any product sold, manufactured, or delivered by Dickinson Ready-Mix Co. ("DRM"), including any products sold, manufactured, or delivered by the Dickinson Concrete Products ("DCP") division of DRM, is subject to the terms and conditions set forth herein. "Product" shall be broadly defined to include any and all goods sold, manufactured, or delivered by DRM or DCP.
- b. "Customer" shall mean any person, limited liability, corporation, partnership, or other entity ordering Product.
- c. **By accepting delivery of any Product, placing an order for Product, or otherwise authorizing delivery, Customer hereby agrees to the terms and conditions herein, acknowledging that these Terms & Conditions are a material part of the bargain, a copy of which has been made available to Customer prior to ordering, and which are available online at: www.dickinsonreadymix.com. These Terms & Conditions shall apply to all current and future transactions between DRM and Customer unless expressly modified in a written agreement signed by an officer of DRM.**

2. PAYMENT

- a. Statements are generated on a month-to-month basis. Daily invoices that are generated within the statement month are mailed/E-mailed at the end of the statement date. Provided an email address is listed, invoices can be emailed. Terms of payment shall be Net 30 days from the date of invoice with a 1.5% late charge added to past due amounts (18% Annual Interest Percentage Rate). Finance charges will continue to accrue monthly on any open balance over 30 days old until the open balance is paid. Exceeding the credit limit will cause Customer's account to be temporarily placed on hold until payment is satisfied, or alternative arrangements are made with DRM and reduced to writing.
 - i. Accounts having a credit application on file older than 7 years may be required to submit a current credit application. This requirement is at the discretion of management.
- b. No discount will be allowed on past due or current balances that are outstanding, until all past due balances are paid including all finance charges.
- c. Outstanding balances and/or delinquent accounts inactive beyond 90 days shall be considered an abuse of your credit privileges and can result in immediate termination of this credit

agreement without prior notice. Excessive occurrences of late payments could also result in termination of the credit agreement. Should it be necessary to assign your account balance to a licensed collection agency or attorney for collection, all subsequent collection charges and legal fees shall be paid by your firm.

- i. Any account that maintains a balance of 50% or greater of that accounts approved credit limit during the construction off season (November – March) will not be allowed to charge on the account the following construction season until the account is paid in full.
- ii. During the construction off season, payments on account need to be maintained.
- d. DRM rejects all additional or different terms proposed by Customer, orally, or in writing, including terms contained in Customer’s purchase orders (if applicable), notwithstanding DRM’s acceptance of any order or performance under such order, unless specifically agreed to in writing by DRM.
- e. If Customer wishes to purchase without (re) applying for credit, payment must be pre-paid prior to shipping or pick-up.
 - i. If paying via credit card, a copy of the credit card and the card holders ID will be required in order to process that sale
 - ii. This may be waived at the discretion of Management.
- f. Payments should be sent to this address only, unless otherwise agreed to by DRM:.
 - i. Dickinson Ready-Mix Co., 37 Westgate Avenue, PO Box 726, Dickinson, ND 58602-0726
- g. ACH Payments can be accommodated.
- h. These Terms & Conditions shall be governed by and construed in accordance with the laws of the State of North Dakota, without regard to conflicts of law principles. Venue for any action arising out of or relating to these Terms & Conditions or the Product shall lie exclusively in the court located in Stark County, North Dakota

3. TAX EMEMPTION

- a. Customer is responsible for properly executing sales tax exemption certificate if applicable or authorization letter for the exemption prior to delivery. this documentation shall be sent to accounting@dickinsonreadymix.com

4. FEES

- a. Any concrete order that is less than 5 CY that does not follow a full load to finish a pour will be assessed a minimum load fee of \$ 90.00.
- b. DRM does not supply integral color for concrete, if the Customer decides to add color to DRM delivery equipment a washout fee of \$90.00 per truck will be assessed.
- c. DRM allows 10 mins per cubic yard to unload the truck once the truck is on location. Thereafter, a truck wait time fee of \$ 140.00/ hr. will be assessed for unloading time that exceeds the 10 min per cubic yard allowed.
- d. If concrete is ordered outside of normal operating hours an after hours call back fee of \$200.00 per truck could be assessed.
- e. If DRM brings trucks in early or requires trucks to work after hours at Customer’s request, and the job does not proceed, a standby fee of \$ 140.00 per truck could be assessed.
 - f. A Fuel Surcharge can be assessed depending on the price of diesel at any given time and shall be assessed on a per-load basis. Any fuel surcharge shall be commercially reasonable and based on prevailing market conditions. and fuel surcharges are subject to change at any time without notice.
 - g. If a DRM delivery vehicle is required to go to multiple locations, a multiple drop fee of \$75.00 per extra location will be assessed.

5. PRODUCT LOADING

- a. When DRM representatives are loading concrete or landscape products into vehicles, neither DRM nor its employees or representatives shall be responsible for any damages when loading the vehicle requested by the customer.

6. SCHEDULING

- a. To adequately service all the needs of our customers DRM requires a minimum of twenty-four (24) hours notice prior to delivery, with all the following information accurately given to DRM Dispatch Representative.

i. Customer	vii.	Yardage
ii. Contact	viii.	Spacing
iii. Order Status	ix.	Slump
iv. Turn by Turn Directions	x.	Use
v. Placement Method	xi.	Air Entrained or Not
vi. Mix Design	xii.	Any Added Products
- b. If foregoing information is not timely and accurately provided, the requested delivery schedule may not be met by DRM.
- c. All orders must be confirmed by customer with DRM no later than the business day prior to the scheduled delivery date. Orders that are not timely confirmed may, in DRM's sole discretion, be cancelled, rescheduled, or subject to standby, cancellation, or other applicable fees.

7. DELIVERY CONDITIONS

- a. The customer of the concrete will provide safe and secure access to a project for the DRM equipment to deliver to. If the DRM equipment becomes stuck or have any type of accident on the location due to the on-site conditions, all associated costs will fall solely on the Customer.
- b. DRM will not deliver to a project location unless the DRM delivery vehicle can enter and leave the project location under its own power.
- c. If a DRM vehicle is damaged due to performing a task requested by the Customer or making the delivery it will be the responsibility of the Customer for any associated costs for repair and/or the replacement of the damaged vehicle.
- d. If any property is damaged by a DRM vehicle while performing a task requested by Customer, it will be the responsibility of the Customer for any associated costs for the repair and/or replacement of the property, unless said property damage is caused by the sole negligence of DRM or its employees, and not by any act or omission of Customer or any third party.
- e. It is the Customer's responsibility to provide a safe accessible washout area on the project location. If a washout area is not provided an enviro-bag will be used and an \$ 85.00 fee will be assessed. DRM will not agree to utilize a wash-out area that is not on the project location where ready-mix concrete is delivered.
- f. DRM will not allow concrete pumps to pump back into the concrete trucks unless agreed upon by both the customer and DRM prior to delivery.

8. WATER ADDITION

- a. Any water added at the direction of the Customer will be the responsibility of the Customer, and Customer assumes the risk of the addition of water, even if the water is added by the DRM driver. If the water addition at the direction of the Customer causes the manufacturer

specified water to cement (W/C) ratio to be exceeded, it will void any warranty, either implied or expressed, provided by DRM. Further, if Customer adds water that caused the W/C ratio to be exceeded, and litigation related to the concrete work of Customer arises thereafter, Customer shall defend, indemnify, and hold DRM harmless from any claim, demand, cause of action, loss, damage, or judgment, including reasonable attorneys' fees. This indemnity obligation shall survive delivery and acceptance of the Product.

9. WARRANTY AND LIMITED LIABILITY

- a. DRM warrants that its standardized concrete mixtures will meet the plan or customer specification only if the concrete mixtures are sampled and tested in accordance with ASTM C172, ASTM C143, ASTM C231, ASTM C138, ASTM C31, and ASTM C39. DRM warrants that its standardized grout mixtures will meet the plan or customer specification only if the grout mixtures are sampled and tested in accordance with ASTM C109 and ASTM C1019. And all sampling and testing should be done by individuals having current applicable American Concrete Institute (ACI) Certifications.
- b. DRM warrants only that the concrete/concrete products provided were delivered in accordance with the plans and/or customer's specifications for this project as provided to DRM at the time such Product was ordered. DRM does not warrant against any defects resulting, directly or indirectly, from improper construction or design, improper placing and finishing, effects of weather and climate, use and abuse of the Product, improper or inadequate maintenance, or anything other than factors directly controlled by DRM. ADDING WATER OR ANY OTHER ALTERATION TO THE DELIVERED CONCRETE SHALL VOID THIS LIMITED WARRANTY REGARDLESS OF WHETHER THE CUSTOMER OR A DRM EMPLOYEE AT THE REQUEST OF THE CUSTOMER ADDS THE WATER OR MAKES THE ALTERATION.
- c. THE WARRANTIES SET FORTH HEREIN ARE DRM'S SOLE AND EXCLUSIVE WARRANTIES AND THEY ARE MADE IN LIEU OF ALL OTHER WARRANTIES. THERE ARE NO OTHER WARRANTIES, EXPRESS OR IMPLIED, WHETHER ARISING BY OPERATION OF LAW, STATUTE, USAGE OF TRADE, CUSTOM, COURSE OF DEALING OR PERFORMANCE, THE PARTIES' CONDUCT OR OTHERWISE, FOR ANY PRODUCTS, SERVICES OR OTHER ITEMS SOLD OR FURNISHED BY DRM. WITHOUT LIMITING THE GENERALITY OF THE FOREGOING, DRM DISCLAIMS ALL IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE AND, EXCEPT TO THE EXTENT EXPRESSLY STATED HEREIN, THERE ARE NO WARRANTIES WHICH EXTEND BEYOND THE DESCRIPTION ON THE FACE OF THIS DOCUMENT.
- d. TO THE MAXIMUM EXTENT PERMITTED BY LAW, DRM'S TOTAL AGGREGATE LIABILITY ARISING OUT OF OR RELATING TO THE PRODUCT OR THESE TERMS & CONDITIONS SHALL NOT EXCEED THE AMOUNT PAID BY CUSTOMER FOR THE SPECIFIC PRODUCT GIVING RISE TO THE CLAIM.
- e. IN NO EVENT SHALL DRM BE LIABLE FOR ANY INCIDENTAL, CONSEQUENTIAL, SPECIAL, EXEMPLARY, OR PUNITIVE DAMAGES, INCLUDING WITHOUT LIMITATION LOST PROFITS, DELAY DAMAGES, LOSS OF USE, OR DIMINUTION IN VALUE, REGARDLESS OF THE THEORY OF LIABILITY.

10. CONCRETE TESTING AND ACCEPTANCE OF CONCRETE

- a. DRM will not accept any testing performed by an individual or company that does not have current applicable American Concrete Institute (ACI) Certifications. DRM will only accept results as sampled from the chute of the delivery truck, no other location will be acceptable to DRM.
- b. If a DRM delivery vehicle is being tested, it is the responsibility of the Customer to stop the

delivery vehicle from unloading while being tested. If the Customer continues to unload while the testing is being completed and the concrete fails to meet the plastic testing standards of the project, DRM will not accept responsibility for any costs associated with the concrete in question.

- c. If concrete delivered to any location and is tested and fails to meet plastic testing standards of the project, and the customer continues to unload the load it will be considered an accepted load by the customer and DRM will not be responsible for any costs associated with the load in question. A load unloaded is a load accepted.
- d. DRM does not supply integral color for concrete, DRM will not be responsible for any issues of the concrete when the customer adds an integral color, or any product added to the concrete delivered not supplied by DRM.
- e. In the event of any claim arising from or related to the Product, Customer agrees to allow DRM to test any and all Product in accordance with ACI testing standards.

11. INDEMNIFICATION

a. To the fullest extent permitted by law, Customer shall defend, indemnify, and hold DRM and its affiliates, officers, directors, shareholders, employees, and agents wholly harmless from any claims, damages, costs, suits, losses, and expenses, including attorneys' fees, arising out of or resulting from (i) customer's use of the Product, (ii) jobsite conditions, (iii) Customer's acts or omissions, or (iv) Customer's breach of these Terms & Conditions, except to the extent caused by the sole negligence of DRM.

12. WAIVER, ALTERATION, OR MODIFICATION

- a. No waiver, alteration, or modification of these terms and conditions shall be binding on DRM unless in writing and signed by an officer of DRM. No failure or delay by DRM in enforcing any provision shall operate as a waiver of that provision or any other provision.

13. ACCEPTANCE OF TERMS AND CONDITIONS

- a. Delivery of Product will be considered acceptance of DRM terms and conditions by the Customer.

Dickinson Ready-
Mix Co.

DRM Representative Name Printed

DRM Representative Signed

Date

Company Name

Representative Name Printed

Representative Signed

Date