

APPLICATION FOR CREDIT

1. CUSTOMER DETAILS

1.1 Trading/Business Name: Telephone:

1.2 Business Address: Fax:

..... Post Code:

1.3 Postal Address:
 Post Code:

1.4 Contact Names: Purchasing Officer: Accounts Payable:

2. CUSTOMER INFORMATION

2.1 Business Registration Number: Date of Commencement of Business:

2.2 If Company:-

2.2.1 Name:

2.2.2 A.B.N.: Date of Incorporation: State of Incorporation:

2.2.3 Registered Office Address:

2.2.4 If Trustee of Trust: Name of Trust: Date of Commencement:

3. PROPRIETORS/DIRECTORS DETAILS

Full Name(s) and address(es) of sole trader, partners, directors

3.1 Name:..... Telephone:

Address:..... Postcode:

3.2 Name:..... Telephone:

Address:..... Postcode:

4. TRADE REFERENCES

	<u>Company</u>	<u>Suburb</u>	<u>State</u>	<u>Ave.Monthly Value</u>	<u>Contact</u>	<u>Facsimile</u>
4.1
4.2
4.3

5. FINANCIAL INFORMATION

5.1 Expected Monthly Purchases: \$

5.2 Bank: Branch: A/c No:

6. APPLICATION FOR CREDIT

6.1 The Customer applies for and the Guarantors (if applicable) request ResourceCo Concrete to open a Credit Account in the name of the Customer and to supply goods and/or services to the Customer and the Customer agrees to be bound by the Terms and Conditions overleaf.

6.2 **Each of their persons whose signature appear below (in whatever capacity) authorise and acknowledge the Customer to make this Application and have each read, understood and agree to be bound by all the Terms and Conditions overleaf.**

Authorised Signature: Authorised Signature:

Print Signatory's Name: Print Signatory's Name:

Date: Date:

and indicate if: Sole Trader Partner Director and indicate if: Sole Trader Partner Director
 or if Employee, Position or if Employee, Position

6.3 Guarantors: If the Customer is a company, the directors of the company must complete and sign a separate Guarantee and Indemnity form.

Guarantee and Indemnity

Customer Details
Name: ACN
Address:
.....

Guarantor Details
Name of Director:
Address:
.....
Name of Director:
Address:
.....

Terms and Conditions of Guarantee

1. Definitions

- “Application” means an Application For Credit made by the Customer to ResourceCo for trade credit.
- “Credit Account” means the credit account between ResourceCo and the Customer whether arising pursuant to an Application or otherwise.
- “Customer” means the customer of ResourceCo as detailed above.
- “Guaranteed Amount” means the amount presently owing and all future amounts owing to ResourceCo by the Customer pursuant to the Credit Account including interest and any costs of enforcement of this guarantee.
- “Guarantor” means the person or if more than 1, the persons whose details appear above.
- “ResourceCo” means ResourceCo Concrete Pty Ltd ACN 123 150 792.

2. Guarantee

In consideration of ResourceCo agreeing at the request of the Customer and the Guarantor to provide the Customer with credit pursuant to the Credit Account and forbearing from the recovery of the present indebtedness under the Credit Account, if any, the Guarantor unconditionally guarantees the due and punctual payment by the Customer to ResourceCo of the Guaranteed Amount.

3. This Guarantee:-

- 3.1 is a principal obligation and will not be treated as ancillary or collateral to any other right or obligation however created or arising;
- 3.2 may be enforced against the Guarantor without ResourceCo first being required to exhaust any remedy it may have against the Customer or to enforce any security it may hold with respect to the Credit Account or the Guaranteed Amount;
- 3.3 is a continuing guarantee and indemnity for the whole of the Guaranteed Amount and will be irrevocable and will remain in full force and effect until discharged; and
- 3.4 will not be considered as wholly or partially discharged by the payment at any time of any of the Guaranteed Amount or by any settlement of account or by any other matter or thing whatsoever and will apply to the present and future balance of the Credit Account.

4. The liability of the Guarantor is absolute and will not be affected by any act, omission, matter or thing which but for this provision might operate to release or otherwise exonerate the Guarantor from their obligation in whole or in part including but not limited to:-

- 4.1 the grant to the Customer or any other person of any time, waiver or other indulgence or concession, or the discharge or release of any other security or guarantee held by ResourceCo in respect of the Credit Account;
- 4.2 the insolvency, which in this Guarantee includes; administration, bankruptcy, official management, compromise, arrangement, amalgamation, reconstruction, winding up, dissolution and assignment for or compromise with creditors, of the Customer;
- 4.3 ResourceCo exercising or refraining from exercising any other security or guarantee, or any other rights, powers or remedies conferred on it by law or by agreement, or any other agreement with any other person, or taking or failing to take any other security or guarantee;

- 4.4 the variation (including a variation which increases the Guaranteed Amount), extinguishment, unenforceability, failure, loss, release, discharge, abandonment or transfer either in whole or in part of the Credit Account or any security or guarantee now or in the future held by ResourceCo from any person;
 - 4.5 the Customer's obligations under the Credit Account or any part of them being or becoming wholly or partially illegal, void, voidable or unenforceable;
 - 4.6 the failure by ResourceCo to give notice to the Guarantor of any default by the Customer under this Guarantee; or
 - 4.7 any legal limitation, disability, incapacity or other circumstances related to the Customer.
5. Until the Guaranteed Amount have been discharged in full the Guarantor shall not:
- 5.1 be entitled to share in any security held or money received by ResourceCo or to stand in the place of ResourceCo in respect of any security or money;
 - 5.2 take steps to enforce a right or claim against the Customer in respect of any money paid by the Guarantor to ResourceCo under this Guarantee; or
 - 5.3 have or exercise any rights as surety in competition with ResourceCo.
6. If the Customer becomes insolvent, the Guarantor authorise ResourceCo to prove for all moneys the Guarantor will have paid under this Guarantee and to retain and to carry into a suspense account and to appropriate at the discretion of ResourceCo any dividends received in the liquidation, bankruptcy or other insolvency of the Customer and all other moneys received in respect of the Guaranteed Amount until ResourceCo has been paid the Guaranteed Amount in full.
7. Any settlement, discharge or release between the Guarantor and ResourceCo will be conditional upon no security or payment to ResourceCo by the Customer or any other person being avoided or reduced by virtue of any provision or enactments relating to insolvency for the time being in force, and ResourceCo may recover the value or amount of any such security or payment from the Guarantor subsequently as if that settlement, discharge or release had not occurred.
8. If the whole or any part of the Guaranteed Amount are or may be irrecoverable from the Customer by ResourceCo for any reason whatever whereby the amount thereof or resulting therefrom is not recoverable from the Guarantor as surety, then and in each such case:
- 8.1 the Guarantor as a separate and additional liability under this Guarantee indemnifies ResourceCo in respect of the Guaranteed Amount;
 - 8.2 as a principal debtor agrees to pay ResourceCo when demanded in writing a sum equal to the amount of the Guaranteed Amount; and
 - 8.3 for the purposes of this indemnity, this clause shall be construed as if the Guaranteed Amount were recoverable and the terms of this Guarantee will apply as far as possible, with any necessary changes being made.
9. The obligations on the part of the Guarantor, if more than one, contained in this Guarantee take effect as joint and several obligations and references to the Guarantor take effect as references to those persons or any of them.
10. General
- 10.1 This Agreement and the rights and obligations of the parties will be construed pursuant to the laws of South Australia. The courts of South Australia and courts of appeal shall have jurisdiction in relation to this Guarantee.
 - 10.2 If any part of this Guarantee is invalid, that invalidity will be severed from this Guarantee and will not affect the validity or the enforceability of any other part of this Guarantee.
 - 10.3 The Customer must pay stamp duty and other government fees or charges in respect of this Guarantee and all other documents associated with it.

Signed by the Guarantor as a Deed on the _____ day of _____ 20____.

SIGNED BY DIRECTOR.....
 Print Name of Director.....
 Signature of Witness.....
 Print Name of Witness.....

SIGNED BY DIRECTOR:.....
 Print Name of Director.....
 Signature of Witness.....
 Print Name of Witness.....

TERMS AND CONDITIONS

1. DEFINITIONS

'Application' means an application by the Customer to ResourcecCo for trade credit.

'Customer' means the customer identified on the other side of this page.

'Contract' means all contracts entered into between ResourcecCo and the Customer for the supply of Goods and/or Services by ResourcecCo to the Customer.

'Goods' means the goods supplied by ResourcecCo to the Customer.

'ResourcecCo' means ResourcecCo Concrete Pty Ltd ABN 61 123 150 792 and its successors, assigns and all related bodies corporate (within the meaning of the Corporations Act 2001).

'Services' means the services supplied by ResourcecCo to the Customer.

2. ALL CONTRACTS

These Terms and Conditions shall apply to all Contracts.

3. CREDIT

3.1 ResourcecCo may grant the Customer credit upon these terms and conditions on the basis of an Application and such other documents and information as may be required by ResourcecCo.

3.2 Until ResourcecCo grants the Customer credit by notice in writing, ResourcecCo will only supply Goods and/or Services to the Customer in accordance with clause 4.1.1.

3.3 The granting of credit does not oblige ResourcecCo to extend any particular amount of credit to the Customer.

3.4 The Customer must notify ResourcecCo in writing if there is any change in the shareholding or ownership of the Customer or any material change in the Customer's financial position.

3.5 The Customer authorises and acknowledges that:-

3.5.1 items of personal information contained in any Application and permitted to be kept on a credit information file might be disclosed to a credit reporting agency.

3.5.2 in accordance with the Privacy Act 1988, that disclosure by a credit reporting agency and/or use by ResourcecCo of the relevant information may occur for the purposes of assessing any Application.

3.5.3 ResourcecCo may supply information about the Customer's credit worthiness to other credit providers and authorises any trade references to provide ResourcecCo with information about the Customer's credit worthiness.

3.5.4 the Customer has been advised to and have had the opportunity to seek independent legal advice in respect of the implications of any Application.

4. PAYMENT

4.1.1 If credit has not been granted to the Customer by ResourcecCo in accordance with clause 3.1, payment shall be made by the Customer in full (without any set off) and received by ResourcecCo when the Goods are picked up or upon delivery of the Goods or supply of the Services by ResourcecCo.

4.1.2 If credit has been granted to the Customer by ResourcecCo in accordance with clause 3.1, payment shall be made by the Customer in full (without any set off) and received by ResourcecCo within 30 days of the end of the month of invoice.

4.2 Interest will be charged on overdue amounts of the rate of 2% per month.

4.3 Legal costs of recovery of any overdue amounts shall be recoverable by ResourcecCo as a debt due by the Customer.

5. DELIVERY AND RISK

Where the Contract is for the supply of Goods:-

5.1 Delivery shall be made by ResourcecCo at the Customer's expense to the Customer's premises or in accordance with the Customer's written instructions by such transport at ResourcecCo's discretion.

5.2 ResourcecCo will make all reasonable efforts to have the Goods delivered to the Customer as agreed between the parties (or if there is no specific agreement then at ResourcecCo's reasonable discretion), but ResourcecCo shall not be liable for any failure to deliver or delay in delivery for any reason.

5.3 Except as required by law, ResourcecCo will be under no obligation to accept Goods returned for any reason.

5.4 Risk shall pass to the Customer on delivery of the Goods notwithstanding that property shall remain with ResourcecCo when the Goods have not been paid in full.

5.5 If payment in full has not been made by the Customer upon delivery, insurance against all risks whatsoever shall be maintained by the Customer from when the Goods delivered.

6. PROPERTY IN GOODS

6.1 Property in Goods will not pass to the Customer until payment in full has been made by the Customer to ResourcecCo for all Goods delivered to the Customer by ResourcecCo.

Until payment has been made in full and property passes in accordance with 6.1:-

6.2 Bailee and Storage: The Customer shall hold all Goods as bailee and as a fiduciary for ResourcecCo and shall securely store same separately from the Customer's other goods so as to clearly identify the Goods as ResourcecCo's.

6.3 Disposal of Goods: The Customer is authorised to sell the Goods but the Customer shall hold the book debt and the proceeds of sale on trust for ResourcecCo and shall account to ResourcecCo for any overdue amount from the proceeds thereof, and at the request of ResourcecCo assign the book debt arising from such sale to ResourcecCo.

6.4 Use of Goods: If the Customer uses the Goods in some manufacturing or construction process of its own or some third party, then the Customer shall hold such part of the proceeds of such manufacturing or construction process as related to the Goods on trust for ResourcecCo. Such part shall be deemed to equal in dollar terms the amount owing by the Customer to ResourcecCo at the time of the receipt of such proceeds.

6.5 Repossession of Goods: ResourcecCo shall be entitled to require the Customer to return unsold Goods failing which ResourcecCo is irrevocably authorised to enter the Customer's premises to repossess the Goods without notice on the occurrence of any of the following events:-

6.5.1 the Customer fails to make payment of any amount outstanding,
6.5.2 the Customer commits an act of bankruptcy or is declared insolvent or, if a company, proceedings are issued to wind-up the Customer or the Customer is placed under official management or a receiver is appointed over the Customer's property or undertaking, or
6.5.3 the Customer enters into some arrangement or assignment for the benefit of creditors.

7. LIEN: ResourcecCo is entitled to claim a general lien on all goods belonging to the Customer for all amounts owing to ResourcecCo by the Customer.

8. REPRESENTATIONS AND FITNESS FOR PURPOSE

Except as expressly provided to the contrary in the Contract, all representations, warranties, terms and conditions in relation to Goods (whether implied or otherwise) are hereby excluded to the maximum extent permitted by law. The Customer agrees that if it is aware (or should be aware) that the Goods, the subject of a Contract, are for a particular purpose or are required to possess special or uniform characteristics, the Customer will clearly specify that purpose or those characteristics in any such Contract.

9. WARRANTY AND DAMAGES

9.1 Standard Warranty imposed by statute law only applies with all other conditions, warranties and representations on the part of ResourcecCo expressly excluded.

9.2 Damages for breach of any warranty shall be limited to replacement of the Goods or the provision of the Services again or the cost of replacement of the Goods or having the Services provided again, at ResourcecCo's discretion, and shall not extend to any indirect or consequential loss or damages whatsoever.

10. ACCESS TO RESOURCECOS PREMISES

10.1 The Customer agrees to abide by all ResourcecCo's safety rules and procedures and agrees to ensure that such safety rules and procedures are abided by all the Customer's employees, agents, contractors and representatives when entering or accessing the premises of ResourcecCo and the Customer warrants that it will maintain appropriate Workcover or other insurance in respect of its employees, agents, contractors and representatives.

10.2 The Customer shall indemnify ResourcecCo for any loss or damage incurred by ResourcecCo arising from any breach of clause 10.1.

11. ASSIGNMENT

Without notice to the Customer, ResourcecCo may assign to any person this document and any Contract.

12. APPLICABLE LAW

This document is governed by the laws of South Australia.