

Allied Concrete Limited

("the Company")

BRANCH _____
PLEASE COMPLETE ALL SECTIONS

Head Office/Administration
PO Box 1104, Invercargill 9840
Telephone: 03 217 1600
Email: creditcontrol@alliedconcrete.co.nz

CREDIT APPLICATION FORM

Company ☐	Sole Trader ☐	Partnership ☐	S.O.E./Govt ☐	Trust ☐	Incorporated Society ☐	Other ☐
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Account Name: (Full legal name of organisation or individuals(s)) _____

Trading Name: (If different from above) _____

Street address: _____

Postal address: _____

Town/City: _____ Post Code: _____

Business Phone: _____

Email for Statements: _____

Email for Invoices: _____

Co. Accountants: _____

Co. Solicitors: _____

Nature of Business: _____
Company Number/NZBN: _____
Driver License/Passport: (Copy attached) ☐
Orders/Delivery
Contact Name: _____
Phone: _____
PO Required (Y/N): _____
Admin/Accounting
Contact Name: _____
Email: _____
Phone: _____

Sole Trader, Partners, Company Directors or Trustees (if more than three please attached an extra sheet).

Surname	First Names	Date of Birth	Address (Home)	Phone (Home)
1. _____	_____	_____	_____	_____
2. _____	_____	_____	_____	_____
3. _____	_____	_____	_____	_____

Three Credit References (please include contact address, phone numbers, account numbers and other relevant information).

1. _____	Phone: _____
2. _____	Phone: _____
3. _____	Phone: _____

PERSONAL GUARANTEE (Partners, Company Directors or Trustees).

The guarantor(s) named hereunder (the guarantor) acknowledges by signing below that such person(s) have read the provisions of the personal guarantee set out below and understands the nature and effect of the guarantee. Such person(s) agree that they are bound by the guarantee.

Guarantee

In consideration of the Company entering into this agreement and/or credit arrangement with the Customer the guarantor guarantees to the Company the due and punctual payment by the Customer of all moneys payable under this agreement and the due and punctual performance of all obligations, duties, liabilities and undertakings of the Customer under this agreement.

a) Although as between the guarantor and the Customer the liability of the guarantor may be that of a surety only, as between the guarantor and the Company the guarantor will be deemed to be a principal debtor and not be released by any act, matter or thing the happening of which would release one liable only as a surety;

b) The bankruptcy or liquidation of the Customer or the guarantor or the giving of time or any indulgence by the Company to the Customer or the guarantor or any one or more of them or any other person or the exercise or non exercise by the Company of any of the powers under this agreement or the release or partial release or variation of this agreement or of any collateral agreement or other security at any time held by the Company or any other dealing whatever by the Company with the Customer or the guarantor or any one or more of them or any other person shall not exonerate or release the guarantor from its liability under this agreement, nor will the guarantor be released by any other act, omission, matter or thing whatever whereby the guarantor as a surety only would have been so released;

c) This guarantee is a continuous guarantee until all of the obligations of the Customer under this agreement have been fully discharged;

d) The guarantor agrees to indemnify the Company from and against any liability, loss or damage which it might incur by reason of any breach by the Customer of the Customer's obligations under this agreement or by reason of this agreement being or becoming void or unenforceable.

e) When two or more guarantors are parties hereto this Guarantee and the obligations and agreements on their part herein contained or implied shall bind them and every two or every greater number of them jointly and each of them severally.

f) The guarantor authorises any person, company or organisation to provide to the Company such information as the Company may require in response to the Company's credit inquiry. Any information obtained by the Company under this clause will be confined to that reasonably required by the Company.

Guarantor(s) Full Name(s): _____	Guarantor(s) Full Name(s): _____
Address of Guarantor: _____	Address of Guarantor: _____
Signature of Guarantor: _____ Date: ____ / ____ / ____	Signature of Guarantor: _____ Date: ____ / ____ / ____

APPLICATION: I hereby apply to open a Credit Account. I accept the terms of trading as detailed on the reverse of this form and verify that the application details are correct. CUSTOMER (Sole Trader, Partner, Company Director or Trustee) Accepted and Signed: _____ Position/Title: _____ Date: _____	OFFICE USE ONLY: Approved: _____ Position/Title: _____ Date: _____ Account No: _____
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ALLIED CONCRETE LIMITED TERMS AND CONDITIONS

1. Definitions

- 1.1 The Company includes all lawful assigns and successors.
- 1.2 "Goods" shall mean any product supplied by the Company to the Customer.

2. Acceptance of Terms and Conditions

Use of this account shall constitute acceptance of these terms and conditions, notwithstanding that the application has not been completed and/or signed by or on behalf of the Customer.

3. Price

- a) The price of the goods shall be the price as at the date of delivery. Where the delivery is by instalments, then the prices shall be those prevailing on the date of each delivery.
- b) The Company reserves the right to adjust its prices at any time and from time to time.
- c) No discounts or concessionary rates shall apply to accounts in respect of which there are any overdue moneys.

4. Payment

Any credit granted shall be on the basis that the price shall be paid in full within agreed payment terms without deductions, counterclaim or set-off, or if no term agreed by no later than the 20th day of the month following delivery. The Company may apportion payments to outstanding accounts as it thinks fit. If the Customer chooses to pay the price of the goods by credit card, the Company will be entitled to charge the Customer a surcharge fee. The default surcharge fee will be 2% of the total price of the goods, however from time to time the Company may adjust the prevailing surcharge rate to ensure that it bears a reasonable relationship to the Company's associated costs. If the Customer indicates that they wish to make payment by credit card, the Company will advise the Customer of the prevailing surcharge rate before the payment is processed.

5. Limitation of Credit Facility

Notwithstanding the Company having processed or approved the application or having previously granted credit and without prejudice to any other of its rights, the Company shall be entitled to withhold delivery until payment has been made or if it considers the Customer's credit worthiness to be unsatisfactory. Credit shall be revocable by the Company at any time prior to delivery.

6. Interest on Overdue Moneys

Without prejudice to any other of its rights, the Company shall be entitled to charge interest at the rate of 18% per annum on all overdue moneys. Interest shall compound monthly on the 20th day of each month.

7. Default

The whole of the amount of credit outstanding shall become immediately due and payable to the Company:

- a) If the Customer fails to make payment of any moneys on the due date for payment or is otherwise in breach of these terms and conditions; or
- b) On the appointment of a liquidator or receiver or administrator of the Customer; or
- c) Upon the termination of the contract by the Customer pursuant to clause 17.

8. Credit Information

- a) The Customer and the directors and shareholders of the Customer authorise any person, company or organisation to provide the Company with such information as the Company may require in response to the Company's credit enquiries. Any information obtained by the Company under this clause will be confined to that reasonably required by the Company.
- b) The Customer confirms to the Company that it understands and acknowledges that the Company may ask for personal information about individuals related to the Customer (for example Directors of the Customer) so as to use Equifax and/or CreditWorks credit reporting service to credit check those related individuals and/or the Customer. The Customer confirms that the Customer and related individuals understand that:
 - i) Equifax and/or CreditWorks are credit reporting agencies whose privacy policy can be found at www.equifax.co.nz/privacy or www.creditworks.co.nz/privacy-policy
 - ii) Personal information provided by the Customer to the Company in respect of related individuals will be given to Equifax and/or CreditWorks, and Equifax and/or CreditWorks will retain that information on their systems and use it to provide their reporting service to the Company and other Equifax and/or CreditWorks customers.
 - iii) Equifax and/or CreditWorks will give the Company information they hold about the Customer and/or related individuals for the purpose of a credit reference.
 - iv) If the Customer or any related individuals default on any payment obligations to the Company, information about that default may be given to Equifax and/or CreditWorks, and Equifax and/or CreditWorks may give that information about the default to other Equifax and/or CreditWorks customers.
 - v) The Company may use Equifax and/or CreditWorks credit reporting services in the future for purposes related to the provision of credit to the Customer. This may include using Equifax and/or CreditWorks monitoring services to receive updates if any of the information held changes.

Customer Initials: _____

- c) Under the Privacy Act 2020 the Customer and the Guarantor have the right of access to and correction of their personal information held by the Company.

9. Delivery

- a) Delivery shall be made at the place indicated by the applicant upon ordering and shall (subject as hereinafter provided) occur upon the discharge of the goods from the Company's delivery vehicle(s). If the Customer fails or refuses or indicates to the Company that he will fail or refuse to take or accept delivery, then the goods shall be deemed to have been delivered when the Company was willing to deliver them.
- b) The Company reserves the right to deliver the goods by instalments and the Company shall be entitled to require that each instalment be regarded as a separate contract under the same provisions as the main contract.
- c) The Company may charge the Customer transportation and disposal expenses and may in addition recover from the Customer all additional costs, charges and expenses incurred by the Company as a result of failure, refusal or inability to take or accept delivery. The Company shall not be required to make any adjustment to the contract price in respect of any such goods unless the Company shall have received written notice of the Customer's requirements before loading of the Company's delivery vehicle(s) at the Company's premises.
- d) The Customer shall provide suitable access to the site in all weather conditions for the Company's delivery vehicle(s). This includes but is not limited to, Safe clearance from overhead powerlines, Safe batters and clearances from the edge of slopes, Safe haul roads, Segregation of pedestrians from vehicular traffic. Failure to provide safe access to the site will result in the load being returned to the plant and charged to the Customer's account. Damage to footpaths, kerbs, drains, verges or other property caused by any of the Company's vehicles in the course of deliveries beyond the kerblines, charges payable in returning any of the Company's vehicles to the roadway and the removal of mud, clay and other materials tracked onto footpaths, roads or verges in the course of delivery shall be the Customer's responsibility and the Customer shall indemnify the Company from and against all costs, expenses, claims, actions and liabilities whatsoever in connection therewith.
- e) The Customer shall at its own cost ensure that the goods are discharged immediately upon arrival of the Company's delivery vehicle(s) at the site. The Company shall not be responsible for any malfunction of or damage caused to any such equipment used in discharging the goods and the Customer shall indemnify the Company from and against all costs, expenses, claims, actions and liabilities whatsoever in connection therewith.
- f) The Company shall be entitled to charge waiting time at their current rate on that period of time beyond ten minutes per cubic metre the vehicle is on or at site to discharge the goods.
- g) The Company shall be entitled to make an additional charge of an amount to be determined by the Company for deliveries made before 7.30am or after 5 pm on weekdays, before 7.30am or after 11.00am on Saturdays and at any time on Sundays and statutory holidays.
- h) Any claim by the Customer for alleged short delivery of goods must be made in writing and received by the Company within five days after delivery of the goods.
- i)
 - i) It is hereby acknowledged that where delivery is carried out by an independent contractor, the Company accepts no responsibility for the actions of the independent contractor.
 - ii) Notwithstanding anything hereinbefore appearing, the goods shall be at the sole risk of the Customer from the date of dispatch.

10. Delay

If any time for delivery is stated at time of order, such time shall be approximate only and shall not be deemed to be the essence of the contract.

11. Unauthorised Use of Account

The Customer shall be liable for any indebtedness arising from the unauthorised use of the account provided that the authorisation came from a servant or agent of the Customer.

12. Reservation of Title

- a) The Customer acknowledges that he is in possession of any goods supplied by the Company, solely as bailee for the Company until such time as full price thereof is paid to the Company and all other amounts owing to the Company together with the full price of any other goods the subject of any other contract with the Company.
- b) Until such time as the Customer becomes the owner of the goods he will wherever practicable store them on his premises separately from his own goods or those of any other person and in a manner which makes them readily identifiable as the goods of the Company.
- c) The Customer's right to possession of the goods shall cease if he, not being a company, commits an available act of bankruptcy or if he, being a company, does anything or fails to do anything which would entitle a receiver to take possession of any assets or which would entitle any person to make application for the appointment of a liquidator or administrator of a company. The company may for the purpose of recovery of its goods enter upon any premises where they are stored or where they are reasonably thought to be stored and may repossess the same.
- d) Subject to the terms hereof the Customer is licensed by the Company to process the said goods in such a fashion as he may wish and/or incorporate them in or with any other product or products subject to the express condition that the new product or products or any other chattel whatsoever containing any part of the said goods shall be separately stored and marked so as to be identifiable as being made from or with the goods the property of the Company.

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- e) If goods the property of the Company are admixed with the goods the property of the Customer or are processed with or incorporated therein, the product thereof shall become and/or shall be deemed to be sole and exclusive property of the Company. If goods the property of the Company are admixed with goods the property of any person other than the Customer or are processed with or incorporated therein the product thereof shall become or shall be deemed to be owned in common with that other person.
- f) The Customer shall be at liberty to agree to sell-on any product produced from or within the Company's goods on the express condition that such an agreement to sell shall take place as agents and bailees for the Company whether the intending buyer sells on his own account or not and that the entire proceeds therefor are held in trust for the Company and will not mingle with any other moneys and shall at all times be as the Company's moneys. The right to sell is revoked on the occurrence of any event specified in clauses 7 or 12(c).
- g) If the Customer has not received the proceeds of any such sale he will, if called upon to do so by the Company, within seven days thereof assign to the Company all rights against the person or persons to whom he has supplied any product or chattel made from or with the Company's goods.

13. Liability

- a) Unless expressly stated to the contrary in the contract, all goods supplied will be produced in accordance with the requirement of N.Z.S. 3104, 2004 or subsequent amendments and it shall be the Customer's responsibility to ensure that the goods (as regards mix, strength, consistency and otherwise) are fit for the purpose for which they are intended.
- b)
 - i) Unless the details on the delivery docket are checked by the Customer prior to the discharge of the goods from the Company's delivery vehicle(s) for compliance with the Job Specification, the Company shall not be responsible for any alleged variation between the mix ordered by the Customer and that supplied by the Company.
 - ii) No claim shall be made by the Customer if the goods fail to comply with the requirements of the contract unless the goods are sampled from goods discharged directly from the Company's delivery vehicle(s) strictly in accordance with N.Z.S. 3109, 1997 and tested in accordance with N.Z.S. 3112 Part 1, 1986 or subsequent amendments.
 - iii) The Company's obligations in respect of goods which do not comply with the contract shall be limited to re-supply of such goods and the Company shall not be responsible for or for the costs of and incidental to the removal and disposal of such goods or the preparation of the relevant part of the site for re-pouring of any such goods.
 - iv) No claim by the Customer under the foregoing provisions of this Clause 13 shall be accepted by the Company unless written notice of the claim is received by the Company within 14 days after delivery of the goods.
- c) The Company shall not be responsible for the mix strength, colour or slump of any goods to which water or any other material has been added without the Company's approval.
- d) The Company shall not be liable for any loss of profits or any consequential, indirect or special loss damage or injury of any kind whatsoever suffered by the Customer arising directly or indirectly from any breach of any of the Company's obligations arising under or in connection with the contract or from any cancellation of the contract or from any negligence on the part of the Company, its servants, agents or contractors nor shall the Company be liable for any loss, damage or injury caused to the Customer's servants, agents, contractors, customers, tenants, trespassers or other persons whomsoever (whether similar to the foregoing or not) arising as aforesaid. The Customer shall indemnify the Company against any of the foregoing persons in respect of any loss, damage or injury arising as aforesaid.
- e) Notwithstanding anything hereinbefore contained in this clause 13 or contained elsewhere in the contract, the liability of the Company, whether in contract or pursuant to any cancellation of any contract or in tort, in respect of all claims for loss, damage or injury arising from breach of any of the Company's obligations arising under or in connection with the contract, from any cancellation of the contract or from any negligence on the part of the Company, its servants, agents or contractors shall not in aggregate exceed the contract price.
- f) Quality of goods
 - i) Save as to warrant that the goods are in first class condition at the time of dispatch from the Company's yard, the Company accepts no responsibility for any claim howsoever arising relating to the quality or laying of the goods unless it can be shown by an independent assessment carried out by a professionally qualified assessor approved by the Company (which assessment shall be at the responsibility and cost of the Customer) that any defect in colour or quality in the goods is solely due to a manufacturing error on the part of the Company. Any claim must be made within a reasonable period of time and no later than one month after delivery. Notification otherwise must be made promptly and the Company shall be entitled to have its own assessment made, if required.
 - ii) Without limiting the generality of the foregoing, the words "any defect in colour" shall be deemed to include any variation or alteration in colour caused by efflorescence, changes in the cement after setting, and weathering away of the goods' surface.

14. Security

- a) All terms in this clause 14 have the meaning given in the Personal Property Securities Act 1999 ("the PPSA").
- b) Clause 12 creates, and the Customer grants to the Company, a security interest in all present and after acquired goods and their proceeds.
- c) On the request of the Company the Customer will promptly execute all documents, provide all necessary information and do anything else required by the Company to ensure that the security interest created under this Agreement constitutes a perfected security interest in the goods and their proceeds which will have priority over all other security interests in the goods.
- d) The Customer will pay to the Company (if demanded) all fees and expenses incurred by the Company in relation to the filing of a financing statement or a financing change statement in connection with these terms.
- e) Nothing in sections 114(1)(a), 133 and 134 of the PPSA will apply to these Terms and Conditions.
- f) The Customer waives its right to:
 - i) receive notice under section 120(2) and 129;
 - ii) receive a statement of account under section 116;
 - iii) receive surplus distributed under section 117;
 - iv) recover any surplus under section 119;
 - v) object to any proposal of the Company to retain collateral under section 121;
 - vi) not have goods damaged or to be reimbursed in the event that the Company were to remove an accession under sections 125, 126 or 127.
 - vii) apply to the Court for an order concerning the removal of an accession under section 131;
 - viii) redeem collateral under section 132.
- g) The Customer will give the Company prior written notice of a proposed change of its name or address.
- h) The Customer and Guarantor agree that the Company shall have the right to complete and register a mortgage over any property owned by the Customer and/or any Guarantor of the Customer to secure any sum owing to the Company whether under this contract or any other. The Company shall have the right at its discretion to place a caveat on any such property for the purpose of this clause and the Customer and/or Guarantor irrevocably appoint the Company as the attorney of the Customer and/ or Guarantor for the purpose of the Company exercising its right under this clause whilst any amount owing remains outstanding.

15. Costs of Collection

If the Customer fails to pay any money or do anything under this contract then the Company may (without prejudice to its other rights and remedies) require the Customer to pay all of the Company's costs (including legal costs on a solicitor and own client basis) in connection with the enforcement or attempted enforcement of the Company's rights, remedies and powers against the Customer or any Guarantor and the Customer shall be immediately liable for the payment of such costs.

16. Variation of Terms and Conditions

The Company reserves the right to amend these terms and conditions at any time and from time to time by giving to the Customer notice in writing and use thereafter by the Customer of this account shall constitute acceptance of any such amendments.

17. Termination

In addition to any other of the Company's rights of termination provided herein or at law, both the Company and the Customer shall have the right to terminate this credit facility on giving not less than three working days' notice in writing but no such termination shall release the Customer from any moneys owing or from liability for any previous breach of these terms and conditions.

18. Consumer Guarantees Act

The parties acknowledge that where the goods supplied under this Agreement are being purchased for business purposes the provisions of the Consumer Guarantees Act 1993 do not apply.

19. Copyright

Copyright in all drawings, specifications and other technical information provided by the Company in connection with the contract are vested in the Company.