



Q-crete  
premix

# CREDIT APPLICATION FORM Q-crete Premix Pty Ltd

Q-crete Premix Pty Ltd ABN 63 160 844 173 and its Related Bodies Corporate

Q-crete Premix Sales Representative: \_\_\_\_\_

**WARNING: If you do not understand this document, you should seek independent legal advice. Please do not use correction fluid or tape as this is a legal document. Any corrections should be crossed out and initialled.**

## Section 1 – Applicants details (Enter all details relevant to your business)

Name (Company Name/Partnership/Sole Trader)	ACN
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Trust Name (if a Trust)
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Trading as (Registered Business Name)	ABN
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Company <input type="checkbox"/>	Sole Proprietor <input type="checkbox"/>	Partnership <input type="checkbox"/>	Trustee <input type="checkbox"/>	Government/Statutory Authority <input type="checkbox"/>
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Nature of Business:
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Date of company registration (dd/mm/yy) / /	Contracting Building Licence Number
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Street address (not a PO Box)	State	Postcode
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Postal address (if different)	State	Postcode
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Telephone number	Fax Number for invoices
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Mobile Number	Email Address for invoices
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### Partner, Sole Trader, Director or Trustee details

Names of Directors (if company), Partnership or Sole Trader	Residential address	Date of Birth (dd/mm/yy)

## Section 2 – Credit limit required (Enter the estimated amount required equivalent to two (2) months purchases)

\$
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## Section 3 – Details of Assets & Liabilities (Please provide details of all assets and liabilities owned by the Applicant and Guarantors)

Assets			Liabilities/Loans		
	Address or Description	Value (\$)		Description	Value (\$)
1			1		
2			2		
3			3		
4			4		

**Section 4 – Credit Account Terms and Conditions**

**1. Definitions and interpretation**

**Account** means any account maintained by the Customer or any Related Body Corporate of the Customer, with any Group Company.

**Our Credit and Billing Agent** means Boral Construction Materials Group Limited (ABN 15 000 028 080) or such other Group Company who We have appointed as Our agent to undertake credit checks, provide credit facilities, billing and take recovery actions on Our behalf.

**Group Company** means any company which is part of the Boral group of companies or any Related Body Corporate of Boral Limited ABN 13 008 421 761

**Conditions** means these Terms and Conditions.

**Consequential Loss** means loss of expected savings, loss of use, loss of opportunity, loss of profit, loss of revenue, increased financing costs, loss arising from delay, or any consequential, special or indirect loss or damage, whether or not the possibility or potential extent of the loss or damage was known or foreseeable, and whether arising from a claim under indemnity, contract, tort (including negligence), statute or otherwise.

**Customer** means the party requesting the provision of Goods and Services and/or making an application for credit.

**Goods** means any goods supplied by Us being building or construction materials, building or construction products and all related or ancillary goods.

**Insolvency Event** means, for the Customer, as applicable, being served with an application by a third party to appoint an external controller to the Customer, a Customer being in liquidation or provisional liquidation, bankruptcy or under administration, having a controller (as defined in the Corporations Act 2001) or analogous person appointed to the Customer or any of the Customer's property, being taken under section 459F(1) of the Corporations Act to have failed to comply with a statutory demand, being unable to pay the Customer's debts, dying, ceasing to be of full legal capacity or otherwise becoming incapable of managing the Customer's own affairs for any reason, taking any step that could result in the Customer becoming an insolvent under administration (as defined in section 9 of the Corporations Act 2001), entering into a compromise or arrangement with, or assignment for the benefit of, any of the Customer's members or creditors, or any analogous event.

**Loss** means any expense, cost or damage of any kind and includes Consequential Loss and a fine or penalty imposed by a statutory or other authority.

**New Entity** means an entity that becomes a Related Body Corporate of Boral Limited ABN 13 008 421 761 after this application for credit is made by the Customer.

**Order** includes any written, verbal or electronic request made by the Customer, its employees, agents and contractors or under the Customer's Account number and/or Account name for Goods or Services.

**PMSI** means a purchase money security interest as defined in the *Personal Property Securities Act 2009* (Cth) and any regulations made under the *Personal Property Securities Act 2009* (Cth), as amended from time to time.

**Real Property** means all real property interests held by the Customer or any guarantor now or in the future.

**Related Body Corporate** has the same meaning as in the Corporations Act 2001.

**Services** means any services provided by Us being the supply of building or construction services, the supply of building or construction products and all related or ancillary services.

**Ts&Cs** means:

- (a) any terms and conditions of quotation and supply, however described, provided or notified by Us to the Customer;
- (b) any supply agreement (however described) in Our standard form entered into in writing between Us and the Customer; or
- (c) if neither of paragraphs (a) or (b) apply, Our standard terms and conditions applicable to the Goods and Services ordered by the Customer as identified in Annexure A.

**We, Us, Our** mean in connection with the supply of any Goods or Services, Q-crete Premix Pty Ltd or any other Group Company making the supply to the Customer.

**Interpretation:**

Singular words include the plural and vice versa. 'Include', 'includes' or 'including' is not exclusionary and is without limitation.

The fact that a provision of these Terms is expressly declared to be an essential term does not mean that other terms are not essential (whether or not so described)

**2. Structure of this document**

- (a) These Conditions and the Ts&Cs together regulate the commercial relationship between Us and the Customer, including the extension of credit, in connection with the supply of Goods or Services by Group Companies to the Customer.
- (b) The terms set out in Part A of these Conditions are incorporated by reference as part of the Ts&Cs. These Conditions are legally binding between Us and the Customer and should be read together with the Ts&Cs. To the extent of any inconsistency, the Ts&Cs prevail over these Conditions.
- (c) A quotation to supply Goods or Services is an offer open to acceptance by the Customer within 30 days from the date on the quotation and any such acceptance must be on the basis that supply of the Goods and Services is started within 3 months of the date of the quotation. The Customer's acceptance may be in writing

or oral ("Customer's Order"). The Customer's Order constitutes acceptance of the offer.

- (d) Our Credit and Billing Agent is a Group Company. The terms set out in Part B form an agreement directly between the Customer and Our Credit and Billing Agent. Those terms are legally binding between the Customer and Our Credit and Billing Agent.
- (e) We may amend these Conditions as reasonably necessary to achieve its legitimate business interests. Thirty (30) days' notice in writing of any amendment will be supplied to the Customer's email or postal address that has been provided by the Customer to Us. The amended Conditions shall apply to all Orders placed by the Customer after the thirty day notice period. If the amendment is not acceptable to the Customer, the Customer should place no further Orders with Us. All future Orders placed will be subject to the amended terms.
- (f) Except to the extent otherwise explicitly agreed in writing between the parties, these Conditions and Our Ts&Cs govern the entire relationship between Us and the Customer in connection with the Goods and Services and will prevail over any other document (including purchase order terms or procurement terms provided by the Customer or terms contained in an Order or on the back of delivery dockets to the extent inconsistent with these Conditions or the Ts&Cs) from time to time.
- (g) Any variations to these Conditions or the Ts&Cs not expressly agreed to in writing by Us are expressly rejected by Us.

**PART A**

**3. Customer obligations**

- (a) The Customer agrees to accurately complete all documentation required by Us in relation to the provision of Goods and Services, and the provision of credit. The Customer accepts that We are relying upon the representations made by the Customer in such documentation in determining whether to provide Goods or Services or credit to the Customer. The Customer is liable to Us for any inaccuracies, relevant omissions and misrepresentations made.
- (b) The Customer agrees to ensure that the representations set out in all documentation provided to Us are current and must immediately inform Us, in writing, of any material change to the information, particulars or any detail supplied.
- (c) The Customer agrees that these Conditions apply to any Related Body Corporate of the Customer where that entity is conducting the business of the Customer as a result of any assignment, novation, sale, agency, transmission or corporate or business restructure.
- (d) These Conditions and the Ts&Cs apply if the Customer places an Order with Us, whether for cash or on credit.
- (e) The Customer has no entitlement to credit unless We, whether directly or through Our Credit and Billing Agent, extend credit to the Customer. If in a particular case We give the Customer credit on agreed terms, We still reserve the right at any time and for any reason consistent with the protection or achievement of Our legitimate business interests, to refuse to supply any further Goods or Services to the Customer on credit terms. If We decline to give the Customer further credit then that decision does not affect the credit terms which apply to any amounts the Customer then owes to Us.
- (f) The Customer must:
  - (i) pay, without any deduction or set-off, the price charged by Us for Goods or Services supplied to the Customer on delivery or performance, or, if credit terms are offered, within 30 days following the end of the month during which the Goods or Services were supplied or provided;
  - (ii) pay any:
    - (A) legal costs incurred by a Group Company on an indemnity basis, or on such other basis as a Court (if applicable) may determine if proceedings have been commenced; and
    - (B) bank charges or merchant fees or like charges levied on Us or Our Credit and Billing Agent by any bank or other credit provider whose banking or credit card facilities are utilised by the Customer for paying Us; and other costs and expenses payable (including any collection or mercantile fees or commissions paid or incurred by Us or Our Credit and Billing agent);
 in connection with:
    - (I) the enforcement of, or any litigation in relation to, these Conditions;
    - (II) the recovery of overdue amounts and enforcing the charge in clause 10;
    - (III) preparation and registration of documents required to perfect the security provided or to prepare and register any mortgage or caveat documents (whether or not signed by the Customer or created pursuant to the power of attorney set out in clause 10(c));
    - (IV) any credit application or any security documents signed by the Customer or any guarantor; or
    - (V) any other collection costs and dishonoured cheque fees,

## CREDIT APPLICATION FORM (CONTINUED)

- (iii) pay any stamp duty assessed on this document or fee to register or maintain any security interest held by Us in respect of Goods or Services supplied to the Customer.
- (iv) advise Us in writing of the occurrence of any Insolvency Event, any variation to any of the information supplied by the Customer to Us or in the structure or nature of the Customer's business, any change in its name, ownership, change of any directors or change of control, or any step being taken to sell an asset or assets (separately or together having a value being greater than 20% in value of its gross assets) as soon as practicable and not later than within two business days of such event, change or step occurring. The Customer acknowledges that, despite any such event, change, or step the Customer remains liable to pay the price for all Goods or Services supplied.

### 4. Orders

The Customer is liable for payment in relation to all Orders. It is not Our responsibility to confirm authority of the person placing the Order. It is the sole responsibility of the Customer to ensure there is no unauthorised use of its Account number or name, and that only authorised persons place Orders on behalf of the Customer.

- (a) No Order can be cancelled without Our express written consent. If consent is given, and unless otherwise agreed, the Customer must pay Us for Goods supplied or Services rendered which have been performed in accordance with these Conditions prior to date of cancellation of that Order. For the avoidance of doubt, in the event of cancellation of an Order under this clause:
  - (i) We are entitled to payment for Goods and Services supplied prior to the cancellation but not yet paid for;
  - (ii) if Goods have been prepared but not delivered at the time of cancellation the Customer must accept that Goods when delivered and pay the relevant portion of the contract sum for it;
  - (iii) the Customer must reimburse Us, as a debt immediately due and payable, for all costs, losses, liabilities, damages and expenses in connection with the cancellation of that Order (including the cost of goods, materials or services ordered by Us in connection with the Order prior to cancellation of the Order).

### 5. Variation of Credit

Any credit limit is solely for Our benefit. The obligations of the Customer under these terms and conditions remain unchanged if the credit limit is exceeded or not specified at any time. Despite any other clause in these Conditions or the Ts&Cs, We or Our Credit and Billing Agent may withdraw or amend the Customer's credit or credit limit at any time if the Customer is or has been in default of these Conditions, or the T&C's or any applicable credit terms, or if, in Our reasonable opinion, the Customer's credit worthiness has changed.

### 6. Withdrawal of credit

- (a) If the Customer
  - (i) fails to comply with
    - (A) any of the terms of these Conditions, or
    - (B) the T&C's or
    - (C) any applicable credit terms, or
    - (D) any obligation to pay money to another Group Company when due, or
  - (ii) makes or is discovered to have made, any misrepresentation to Us or any other Group Company,

We may, at Our absolute discretion, immediately cease to extend credit to the Customer.
- (b) If We cease to extend the Customer credit under this clause:
  - (i) all moneys payable by the Customer pursuant to these Conditions, the Ts&Cs or under any other terms or arrangements between the parties, shall become a debt immediately due and payable;
  - (ii) these Conditions, the Ts&Cs and any other terms or arrangements between the parties will continue unaffected except to the extent expressly notified in writing by Us; and
  - (iii) the provision of Goods or Services to the Customer after We cease to extend the Customer credit may cease or will be on the basis of cash on delivery or performance.

### 7. Overdue Accounts

- (a) Any amount not paid by the due date will incur interest at a rate of 5% above the Reserve Bank of Australia Cash Rate as at the due date calculated daily and compounded monthly but in no circumstances will the interest charged exceed 20% per annum.
- (b) The Customer acknowledges and agrees that We have appointed Our Credit and Billing Agent as Our non-exclusive agent to issue credit and collect any debts owed by the Customer that are due from time to time to Us.
- (c) A statement in writing signed by Our authorised officer or Our Credit and Billing Agent confirming that there is a valid Order or setting out the moneys due or owing to Us at the date of the statement, shall be sufficient and prima facie evidence of

the placement of the Order and the amount due or owing, until the contrary is proven.

- (d) We acknowledge that any payment made to Our Credit and Billing Agent for a debt owed to Us is in full or partial satisfaction of the debt owed to Us, to the extent of the payment made.

### 8. Retention of title

- (a) We retain legal and equitable title in any Goods supplied to the Customer until payment in full for or in connection with the supply of the relevant Goods has been received by Us.
- (b) Notwithstanding that title in the Goods remains with Us until payment has been received in full, the Customer may sell such Goods or use the Goods in a manufacturing or construction process in the ordinary course of the Customer's business. As between the Customer and the purchaser of any item of the Goods, the Customer sells as principal and not as Our agent.
- (c) The proceeds of sale of each item of Goods or process must be held by the Customer in a separate fund on trust for Us and the Customer is under a duty to account to Us for such proceeds. The creation of, or any failure of, any such trust shall not in any way limit the obligation of the Customer to pay an amount to Us for Goods supplied.
- (d) Until Goods are sold or used in a manufacturing or construction process, the Customer must keep the Goods safe and free from deterioration, destruction, loss or harm, clearly designate the Goods as Our property, store them in such a way they are clearly identified as Our property and keep full and complete records, firstly, of the physical location of the Goods and, secondly, the ownership of the Goods by Us.
- (e) In the event of default of these Conditions, or the Ts&Cs or any applicable credit terms, or an Insolvency Event occurs, We are irrevocably entitled to inspect or to recover and retake possession of such Goods and otherwise exercise in relation to the Goods, any of its rights whether those rights are as owner and/or unpaid seller or otherwise and whether those rights are conferred by common law, contract, statute or in any other way. In order to exercise such entitlement, We and Our agents are irrevocably authorised by the Customer to enter any of the Customer's premises or vehicles or those of any third party. The Customer agrees to obtain the consent of any such third party to such entry by Us and to indemnify Us and Our agents for any liability arising from any entry upon such third parties' premises or vehicles. We and Our agents agree to take all reasonable care in removing the Goods from such premises or vehicles but, to the extent this liability may be disclaimed by law, are not liable for any damage or injury to such premises caused by the removal of the Goods, unless caused by the negligent or reckless conduct of Us or Our agents.
- (f) This reservation of title and ownership is effective whether or not the Goods have been altered from their supplied form, or commingled with other goods.

### 9. Security interest

- (a) The retention of title arrangement described in clause 8 constitutes the grant of a PMSI or other security interest by the Customer in favour of Us in respect of all present and after acquired Goods supplied to the Customer by Us.
- (b) The Customer must immediately, if requested by Us, sign any documents, provide all necessary information and do anything else required by Us to ensure that Our PMSI or other security interest is a perfected security interest.
- (c) The Customer will not enter into any security agreement that permits any other person to have or to register any security interest in respect of the Goods or any proceeds from the sale of the Goods until We have perfected Our PMSI.
- (d) For any Goods supplied that are not goods that are used predominately for personal, domestic or household purposes, the parties agree to contract out of the application of ss 95, 118, 121(4), 130, 132(4), 135, 142 or 143 of the PPSA in relation to the Goods.
- (e) The Customer hereby waives any rights the Customer may otherwise have to:
  - (i) receive any notices the Customer would otherwise be entitled to receive under ss 95, 118, 121, 130, 132 or 135;
  - (ii) apply to a Court for an order concerning the removal of an accession under section 97;
  - (iii) object to a proposal of the Customer to purchase or retain any collateral under ss 130 and 135; and
  - (iv) receive a copy of a verification statement confirming registration of a financing statement, or a financing change statement, relating to any security interest We may have in Goods supplied to the Customer from time to time.
- (f) For the purposes of this clause "PPSA" means the Personal Property Securities Act 2009. The expressions "accession", "collateral", "financing statement", "financing change statement", "security agreement", "security interest", "perfected security interest" and "verification statement" have the meanings given to them under, or in the context of the PPSA. References to sections are to sections of the PPSA.

### 10. Risk

Risk in relation to any Goods passes to the Customer on delivery of the Goods.

## CREDIT APPLICATION FORM (CONTINUED)

### 11. Charging Real Property - Customer

- (a) To better secure the payment of all monies which the Customer may become liable to pay to Us under any Account, and as an essential condition of these Conditions, the Customer charges all of its interest in real and personal property both present and future and wheresoever situated with the amount of the Customer's indebtedness under any Account to Us and any other Group Company on any account whatsoever.
- (b) The Customer shall, immediately upon demand being made on the Customer by Us, whether directly or via Our Credit and Billing Agent, sign all documents and do all things that We may reasonably require to be signed and done to further secure to Us the amount of any indebtedness owed to Us from time to time by the Customer including, but without being limited to, such mortgage or mortgages over any Real Property (whether acquired before or after the date of the Goods or Services are supplied) containing such covenants as are required by Us and such bills of sale or mortgage debentures over any or all items of personal property.
- (c) The Customer (and if more than one then jointly and each of them severally) irrevocably appoint(s) Us, Our Credit and Billing Agent, each Manager and each Credit Manager from time to time of Us, each of Our successors, each of Our assignees and each of them severally to be the duly constituted attorney of each Customer to execute in the name of each Customer any documents including, without limitation, any mortgage or mortgages of Real Property, bills of sale, mortgage debentures or any like documents and Consents to any Caveats as We may wish to lodge against any dealings in the Real Property of the Customer in any Titles Office (and if more than one Customer, the Real Property of each Customer severally and Real Property of each combination of Customers) and to do all acts and execute any documents necessary to give effect to and/or register any of the foregoing. If the power granted under this clause is to be exercised the Customer will be provided with 3 days' notice.
- (d) The Customer consents unconditionally to Us lodging a caveat or caveats noting its interest in any Real Property. If any payment made by or on behalf of the Customer is later alleged to be void or voidable by any liquidator or like officer of the Customer under any law related to insolvency, the Customer indemnifies Us and Our Credit and Billing Agent against any costs or losses it may incur in connection with such claim including by consenting unconditionally to Us or Our Credit and Billing Agent or both lodging a caveat or caveats noting its interest in any Real Property.
- (e) Each Customer undertakes and warrants not to object to or otherwise endeavour to prevent the lodging of any such caveat or take any steps to remove any such caveat. "Real Property" includes estates and interests including leasehold.
- (f) Without limiting, or otherwise prejudicing the above, the power of attorney under clause 10(c) may be granted under:
- (i) Powers of Attorney Act 2003 (NSW);
  - (ii) Instruments Act 1958 (Vic);
  - (iii) Powers of Attorney Act 1998 (Qld);
  - (iv) Transfer of Land Act 1893 (WA)
  - (v) Powers of Attorney and Agency Act 1984 (SA);
  - (vi) Powers of Attorney Act 2000 (Tas);
  - (vii) Powers of Attorney Act 1980 (NT); and
  - (viii) Powers of Attorney Act 2006 (ACT).
- (g) The Customer also authorises any officer, partner or employee of any solicitors or agents engaged by Us, Our Credit and Billing Agent or any of their officers or employees as referred to previously in this clause to sign any stamp duties form on their behalf so as to stamp any form required to lodge or withdraw any caveat lodged by Us over any of the Real Property.
- (h) If the Customer is an incorporated body:
- (i) in consideration of, and as an essential condition of the acceptance of this application for credit by Us, the person accepting these Conditions (being directors of the Customer, or any person purporting to be a director or to otherwise have authority to bind the Customer), jointly and severally with the incorporated body and in their own names:
    - (A) accept liability to Us for the payment as principal debtor of all monies owed by the incorporated body to Us from time to time and waive all rights as a mere surety which may be inconsistent therewith and hereby guarantee to Us payment of all such monies;
    - (B) accept liability to Us for the payment as principal debtor of any sum required to be paid by Us to any administrator, liquidator, receiver or other controller of the incorporated body pursuant to law;
    - (C) enter in this agreement and the charge as contained in clause 10 above; and
    - (D) bind the incorporated body and warrant our authority to bind the incorporated body.

### 12. Trustee

- (a) Where the Customer is the trustee of a trust, then the following provisions shall apply:

- (i) the Customer shall be liable in its personal capacity and in its capacity as trustee of the trust, for the performance of all obligations and undertakings under these Conditions and the Ts&Cs;
- (ii) the Customer warrants that the Customer has full, complete and valid authority pursuant to the trust to enter into these Conditions and the Ts&Cs and that it is indemnified out of the assets of the trust;
- (iii) notwithstanding that there is no reference to a specific trust Our rights of recourse shall extend to both the Customer's assets personally and the assets of the trust; and
- (iv) the Customer undertakes to Our Credit and Billing Agent that the Customer's rights of indemnity against the trust assets have not been excluded by the provisions of the trust or by any breach of trust or otherwise and that the Customer will not release or otherwise prejudice such rights of indemnity.

### 13. Exclusion of implied terms

The Customer may have the benefit of certain statutory guarantees relating to the Goods and Services pursuant to the Competition and Consumer Act 2010 (Cth) that cannot be lawfully excluded. Nothing in these Conditions or the Ts&Cs excludes or restricts those guarantees. However, to the maximum extent not prohibited by law, all terms, conditions or warranties that would be implied into these Conditions or the Ts&Cs or in connection with the supply of any Goods or Services by law, statute, custom or convention (including those relating to quality or fitness for purpose) are excluded.

### 14. Limitation of liability

- (a) To the maximum extent permitted by law and subject to clause 14, Our total liability arising out of or in connection with the performance of Our obligations pursuant to these Conditions, the Ts&Cs, or arising out of or in connection with the supply of specific Goods or Services (including pursuant to or for breach of these Conditions, Ts&Cs or repudiation thereof, under statute, in equity or for tort, including negligent acts or omissions) is limited as follows:
- (i) Our total aggregate liability for Loss, however arising, shall not exceed the GST exclusive aggregate price paid by the Customer to Us for the specific Goods or Services that gave rise to the Loss in question. The limitations and exclusions in this sub-clause 13 (b) do not apply to the extent that any Loss is directly attributable to:
    - (A) personal injury or death caused by Our negligence or breach of these Conditions or the Ts&Cs; or
    - (B) fraud by, or wilful default of, Us.
- (b) Each party must take reasonable steps to mitigate any Loss it suffers or incurs.
- (c) Neither party will be liable to the other for any Consequential Loss;

### 15. Limitation of liability under Australian Consumer Law Guarantees

- (a) To the extent that Goods supplied by Us are not goods of a kind ordinarily acquired for personal, domestic or household use and the Customer is deemed to be a consumer for the purposes of section 64A of the Australian Consumer Law, the Customer agrees that Our liability for a failure to comply with a consumer guarantee under the Australian Consumer Law in relation to those Goods (other than a guarantee under ss 51 (title), 52 (undisturbed possession) and 53 (undisclosed securities)), is limited to, at Our option, one or more of the following:
- (i) replacement of the Goods or the supply of equivalent goods;
  - (ii) the repair of the Goods;
  - (iii) the payment of the cost of replacing the Goods or of acquiring equivalent goods; or
  - (iv) equivalent goods; or
  - (v) the payment of the cost of having the Goods repaired.
- (b) To the extent that Services supplied by Us are services other than services of a kind ordinarily acquired for personal, domestic or household use or consumption, Our liability for failure to comply with a consumer guarantee that the Customer may have the benefit of is limited to, at Our option:
- (i) the supply of the Services again; or
  - (ii) the payment of the cost of having the Services supplied again.

### 16. GST

If We have any liability to pay Goods and Services Tax (GST) on the supply of any Goods or Services to the Customer, the Customer must pay Us an amount equivalent to Our GST liability at the same time as the consideration is paid for the Goods or Services (unless the consideration for that supply is expressed specifically to be GST inclusive).

## PART B

### 17. Guarantee to Our Credit and Billing Agent

- (a) If the Customer has requested that We extend credit to the Customer in relation to any Account, Our Credit and Billing Agent has agreed to arrange for credit as Our agent. The Customer acknowledges that the Customer will receive a valuable commercial benefit as a result of Us and Our Credit and Billing Agent facilitating the extension of credit terms.
- (b) The Customer guarantees to Our Credit and Billing Agent, and to Us, that the Customer will pay all amounts payable to Us under any Account from time to time

## CREDIT APPLICATION FORM (CONTINUED)

for the supply of Goods or Services to the Customer when they are due including interest and taxes. The Customer's guarantee continues until all these amounts have been paid in full.

- (c) The Customer must pay Our Credit and Billing Agent for its costs in administering (including legal costs on the indemnity basis (or otherwise as order by a Court, if applicable) and other costs in enforcing or taking any other action in connection with its rights) this guarantee.
- (d) The Customer remains liable to Our Credit and Billing Agent under this guarantee and the Customer's obligations under this guarantee will not be affected by any refusal by Us to provide further credit to the Customer or a variation in the Ts&Cs between Us and the Customer.
- (e) Our Credit and Billing Agent may at any time release or discharge the Customer from this guarantee and give time for payment, accept any composition from or make any other arrangements with the Customer without releasing or discharging any other guarantor or otherwise prejudicing or affecting Our Credit and Billing Agent's rights and remedies against the Customer.
- (f) As long as this guarantee remains in existence the Customer may not, without the consent of Our Credit and Billing Agent, reduce the Customer's liability under this guarantee by claiming that the Customer or any other person has a right of set-off or counterclaim against Us or Our Credit and Billing Agent.
- (g) Where the Customer is a partnership no change in the constitution of the partnership shall affect, impair or discharge the liability of the Customer under this guarantee and indemnity whether past, present or future notwithstanding the provisions of any legislation or any other similar enactment in amendment, modification or substitution regulating partnerships.
- (h) A statement in writing signed by Our authorised officer, or Our Credit and Billing Agent, setting out the moneys due or owing to Us at the date of the statement shall be sufficient evidence of the amount so due or owing until the contrary is proven.
- (i) Where the Customer enters into this guarantee as a trustee of any trust, then the following provisions shall apply:
  - (i) the Customer shall be personally liable in its personal capacity and in its capacity as trustee of the trust, for the performance of all obligations and undertakings under this guarantee;
  - (ii) the Customer warrants that the Customer has full, complete and valid authority pursuant to the trust to enter into this guarantee and that it is indemnified out of the assets of the trust;
  - (iii) notwithstanding that there is no reference to a specific trust the rights of recourse shall extend to both the Customer's assets personally and the assets of the trust; and
  - (iv) the Customer undertakes to Our Credit and Billing Agent that the Customer's rights of indemnity against the trust assets have not been excluded by the provisions of the trust or by any breach of trust or otherwise and that the Customer will not release or otherwise prejudice such rights of indemnity.
- (j) The Customer's obligation to pay to Our Credit and Billing Agent the amounts referred to under this document is a primary obligation and Our Credit and Billing Agent is not obliged to proceed against or enforce any security or other right against the Customer or demand payment from the Customer before those amounts become due for payment.

### 18. New Entities

- (a) It is intended that all New Entities will have the benefit of these Conditions. The New Entity will notify the Customer that it is a New Entity upon issuing a quote or before the Customer orders goods or services.
- (b) The Customer promises Our Credit and Billing Agent that it will only order Goods or Services from a New Entity on the strict condition that these Conditions and the Ts&Cs apply to such an Order and that the New Entity will have the benefit of and may enforce these Conditions and the Ts&Cs irrespective of the fact that the New Entity may not have been in existence or a Group Company at the time of initial acceptance by the Customer of these Conditions.
- (c) Further, the Customer acknowledges that, in consideration for facilitating the extension of credit by a New Entity by Our Credit and Billing Agent to the Customer, Our Credit and Billing Agent holds the benefit of the promises made by the Customer under these Conditions on behalf of that entity.

### 19. Privacy disclosure and consent

- (a) Our Privacy Policy will be provided to the Customer, is available on Our website at <https://www.boral.com.au/privacy-policy> or otherwise upon request to Us, forms part of these Conditions and the Ts&Cs.
- (b) The Customer and any guarantor authorise Us and Our Credit and Billing Agent to:
  - (i) obtain credit information about its personal, consumer and commercial credit worthiness from any bank or trade referee disclosed in this document and from any other credit provider or credit reporting agency for the purpose of assessing this application for credit, or in connection with any guarantee given by the Customer;
  - (ii) use, disclose or exchange with other credit providers and any Group Company information about the Customer's credit arrangements and

performance in order to assess an application for credit, monitor credit worthiness and collect overdue Accounts; and

- (iii) disclose the contents of any credit report on the Customer to Us and any other Group Company, and any of their solicitors and mercantile agents. If the Customer does not provide the information requested in this document, We or Our Credit and Billing Agent may be unable to process the application or continue to provide credit or Goods and Services.
- (c) Our web site may be hosted, or some data stored overseas for reasons of uniformity and convenience for Us outside Australia. All personal information derived from Australia will still be treated in accordance with the Our Privacy Policy while being stored overseas and in compliance with, at minimum, the provisions of the Privacy Act 1988.
- (d) In addition to the above, and in accordance with the Privacy Policy, the Customer and any guarantor agree that We or Our agent may collect, use or disclose personal information to the Group Companies and to third parties for the purpose of providing the Goods and Services, responding to queries, providing information about goods and services;
  - (i) sending information on the Group Companies and Our services, performing the Our administrative and marketing operations, complying with legislative and regulatory requirements or as otherwise permitted or authorised by law;
  - (ii) considering any other application the Customer may make to Us or any Group Company, managing Our rights and obligations in relation to external payment systems, e.g. credit card schemes and debit payment schemes; conducting market research or Customer satisfaction research;
  - (iii) developing, establishing and administering arrangements (including rewards programs) with other organisations in relation to the promotion, administration and use of Our goods;
  - (iv) in connection with potential or actual unlawful activity, misconduct or transfers of Our business or assets; and
  - (v) developing and identifying products and services that may interest the Customer. Our Credit and Billing Agent complies with the privacy principles imposed by law in relation to the collection and disclosure of information regarding individuals. For further information on the way Our Group Companies manage personal information, refer to Our Privacy policy.

### 20. Governing law

These Conditions are governed by and is to be interpreted according to the laws in force in the State or Territory where the Goods or Services are supplied and the parties submit to the non-exclusive jurisdiction of the courts operating in that State or Territory. Where the Goods or Services are supplied to multiple States, these Conditions are governed by and is to be interpreted according to the laws in force in New South Wales and the parties submit to the non-exclusive jurisdiction of the courts operating in New South Wales. The operation of the United Nations Convention on Contracts for the Sale of International Goods is hereby excluded.

**Section 5 – Acknowledgement**

**Acknowledgement**

The Customer acknowledges that the Goods it will acquire from any Group Company will be obtained for either the purpose of re-supply (whether or not in an altered form or as part of some other manufacture) 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.

**Who must sign this Agreement on behalf of the Customer:**

For Companies: Where there is only one director for the company then that person must sign; where there are two or more directors for the company then 2 Directors or a Director + Company Secretary must sign.

Sole Traders operating under their own name or under a business name: The individual.

Partnerships: All Partners of the Partnership.

Where this is not possible please contact the Q-crete Premix Office - details as per mailing instruction on Personal Guarantee and Indemnity Agreement - page 3 of 3.

**The Customer agrees to be bound by the Credit Account Terms and Conditions stated in Section 4 of this Agreement.**

**Signatory**

Print Name (in block letters)	
Position	
Signature	
Date	/ /

**Witness (Executed by Independent Witnesses)**

Print Name (in block letters)	
Address	
Signature	
Date	/ /

**Signatory**

Print Name (in block letters)	
Position	
Signature	
Date	/ /

**Witness (Executed by Independent Witnesses)**

Print Name (in block letters)	
Address	
Signature	
Date	/ /

**Signatory**

Print Name (in block letters)	
Position	
Signature	
Date	/ /

**Witness (Executed by Independent Witnesses)**

Print Name (in block letters)	
Address	
Signature	
Date	/ /

**Signatory**

Print Name (in block letters)	
Position	
Signature	
Date	/ /

**Witness (Executed by Independent Witnesses)**

Print Name (in block letters)	
Address	
Signature	
Date	/ /



# PERSONAL GUARANTEE AND INDEMNITY AGREEMENT

## Q-crete Premix Pty Ltd

Q-crete Premix Pty Ltd ABN 63 160 844 173 and its Related Bodies Corporate

**WARNING : THIS IS AN IMPORTANT DOCUMENT. IF YOU DO NOT UNDERSTAND THIS DOCUMENT YOU SHOULD SEEK INDEPENDENT LEGAL ADVICE.**

**IMPORTANT:** As part of your application for credit, this Deed of Personal Guarantee and Indemnity Agreement must be completed and signed by all Directors, Sole Traders and Business Partners in the presence of Independent Witnesses (not Spouses/Partners or Family Members). Spouses/Partners of all Directors, Sole Traders and Business Partners must sign as Guarantors in the presence of Independent witnesses where there is joint ownership of personal assets.

For the purposes of this Guarantee, Q-crete Premix Pty Ltd is referred to as "Us," "We," "Our" and Q-crete Premix Pty Ltd or any related body corporate of Boral Limited is referred to as "Group Company."

### Should We elect to supply Goods or Services to the Customer:

In consideration of Our Credit and Billing Agent, Us and/or a Group Company agree at the request of the Guarantor (which request is testified by the Guarantor's execution of this document) to commence or continue to supply to the Customer credit and Goods and/or Services from time to time on the terms and conditions imposed from time to time by Us on the Customer, the Guarantor (jointly and severally if more than one) agrees with Us as follows:

1. This Guarantee applies to all money owed:
  - (a) by the Customer to Us or any Boral Group Company;
  - (b) under the Customer's Account number and/or Account name;
  - (c) by the Guarantor under any Account or direct liability to Us or any Group Company for any reason; and/or
  - (d) by any agent of the Customer under any Account where that entity is conducting the business of the Customer as a result of any assignment, novation, sale, agency, transmission or corporate or business restructure.
2. That We enter into this Guarantee in Our own right and as agent for each Group Company.
3. To pay to Us without any deductions or set-off, all monies which are now or may from time to time hereafter be owing or remain unpaid by the Customer to Us on all accounts whatsoever including (without limitation):
  - (a) all moneys payable in respect of the supply of Goods and Services;
  - (b) interest payable on overdue accounts;
  - (c) all moneys payable under the Customer's name and account number; and
  - (d) costs (on the full indemnity basis, or as otherwise determined by a court (if applicable)) of any attempt made by or on behalf of Us to recover monies from the Customer or from the Guarantor or to secure any such indebtedness or liability to Us. Monies shall, for the purpose of this Guarantee, remain owing and unpaid until they have been actually paid to Us notwithstanding that they may not be or may cease to be recoverable from the Customer or any other person.
4. To Guarantee the due performance of the Customer of any other obligations owed by it to Us.
5. That this Guarantee shall be a continuing Guarantee, and continues in force regardless of whether the Guarantor, or any of them, have ceased to be a director, shareholder or officer of the Customer, and whether or not the Guarantor has any continuing involvement with the Customer or its business operations.
6. That We may at any time (with or without the notice to the Guarantor) without discharging the Guarantor from liability:
  - (a) grant time or other indulgence to the Customer in respect of the liability of the Customer to pay Us;
  - (b) accept payment from the Customer in cash or by means of negotiable instruments;
  - (c) refuse to supply to the Customer further supplies of products and/or services;
  - (d) grant to the Customer or to any drawers, acceptors or endorsers of Bills of Exchange, Promissory Notes or other securities received by Us from the Customer or on which the Customer may be liable to Us at any time, further time or other indulgences;
  - (e) may release or impair any security;
  - (f) release or otherwise compromise with the Customer; and/or
  - (g) release or otherwise compromise with another Guarantor.
7. That the Guarantor shall not be discharged from liability by:
  - (a) the administration in insolvency of the Customer or the Guarantor or either of them ('administration in insolvency') including any receivership or receivership and management, any winding up (voluntary or compulsory) and any official management or composition, arrangement with or assignment for the benefit of creditors in the administration in equity or otherwise of the estate or assets in whole or in part of the Customer or Guarantor as the case may be);
  - (b) from time to time any variation, modification or novation in the terms of supply of the obligations of the Customer or of other aspects of the relationship between Us and the Customer;
  - (c) Our act, neglect, omission, delay or default by which the whole or part of the liability of the Guarantor or all or any part of the liabilities Guarantee would but for this provision have been affected or discharged;
  - (d) any variation or modification (including any increase) to the credit limit for the Customer. In this regard the Guarantor accepts that any credit limit is solely for Our benefit. The obligations of the Customer under the terms and conditions remain unchanged if the credit limit is exceeded or not specified at any time;
  - (e) any purported withdrawal of the Guarantee by the Guarantor; or
  - (f) the release of the Customer and/or one or more Guarantor by operation of law or otherwise.
  - (g) any rule of law or equity that can be excluded by agreement that would, but for this clause, otherwise discharge the Guarantor from liability.
8. That the Guarantor shall pay to Us upon demand from time to time amounts equal to amounts received by Us for the credit of any account of the Customer and for which We may in or in connection with any administration in insolvency of the Customer be obliged to account to any person or may in Our discretion so account.
9. That the Guarantor shall be jointly and severally liable as principal debtor with the Customer and not a mere surety for the Customer and the Guarantor waives all rights inconsistent with the provisions of this clause which the Guarantor might otherwise have been entitled to claim and enforce. The obligations of the Guarantor imposed by this clause shall not be in any way limited by other clauses in this Guarantee.
10. That this Guarantee shall be enforceable against the Guarantor (if more than one) jointly and against each of them severally notwithstanding that any negotiable instrument or other securities shall at the time of proceedings being taken by Us against the Guarantor or any of them be then outstanding or in circulation.
11. That the Guarantee shall remain in force so long as the Customer shall maintain an Account for the sale of products and/or rendering of services by Us to the Customer notwithstanding that the account may from time to time be not in debt provided that the Guarantor may, by giving Us three (3) months prior notice in writing, terminate this Guarantee so far as it relates to transactions occurring between Us and the Customer after the expiry of that period whereupon the liability of the Guarantor upon this Guarantee shall be limited to the amount representing the indebtedness of the Customer to Us at the date upon which that period of three (3) months expires. That Notice must be delivered to Our National Credit Manager or such other person as may be

## PERSONAL GUARANTEE AND INDEMNITY AGREEMENT (CONTINUED)

- notified by Us to the Guarantor in writing. The Guarantor acknowledges that such termination may result in withdrawal or amendment of the credit arrangements with the Customer.
12. In the event that the whole or any part of parts of any provision in this Guarantee should be held to be void or unenforceable in whole or in part then such provision or part thereof shall to that extent be severed from this Guarantee but the validity and enforceability of the remainder of this Guarantee shall not be affected.
13. A statement in writing signed by Our Manager or the Credit Manager of Our Credit and Billing Agent stating that a valid Order has been placed by the Customer or under the Customer's account and that monies are payable by the Guarantor to Us shall be prima facie evidence of the amount payable and will be deemed to be served if left in an envelope or mailed or emailed to the Guarantor at the address shown on this Guarantee.
14. Whatever the context of this Guarantee so admits or requires, words importing the singular number shall include the plural number, and those importing a gender include the other genders, and words importing natural persons shall include corporations. This Guarantee and all obligations hereunder shall be binding on the Guarantor's personal representatives, successors and permitted assigns.
15. This Guarantee is governed by and is to be interpreted according to the laws in force in the State or Territory where the Goods or Services are supplied to the Customer, and the parties submit to the non-exclusive jurisdiction of the courts operating in that State or Territory. Where the Goods or Services are supplied to multiple States, This Guarantee is governed by and is to be interpreted according to the laws in force in New South Wales and the parties submit to the non-exclusive jurisdiction of the courts operating in New South Wales. The operation of the United Nations Convention on Contracts for the Sale of International Goods is hereby excluded.
16. Where the Guarantor is a trustee:
- The Guarantor agrees to forthwith produce a stamped copy of the trust deed (with all amendments) if and when requested by Us;
  - The Guarantor shall be liable in its personal capacity and in its capacity as trustee of the trust, for the performance of all obligations and undertakings under this Guarantee; and
  - The Guarantor warrants that he, she or it has full power and authority for the benefit and purposes and objects of the trust to enter into this Guarantee on behalf of the trust and that he, she or it (as the case may be) (and that the trust and all of its real or personal property) shall be bound by the terms of this Guarantee both personally and as trustee irrespective of whether or not the Guarantor discloses to Us that the Guarantor is a trustee at the time of entering into this Guarantee.
17. Charging Real Property - Guarantor
- To better secure the payment of all monies which the Customer or Guarantor may become liable to pay to Us, and as an essential condition of this Guarantee, the Guarantor charges and mortgage all of its interest in real and personal property both present and future and wheresoever situated with the amount of the Customer's indebtedness to Us and any other Group Company on any account whatsoever.
  - The Guarantor shall, immediately upon demand being made on the Guarantor by Us, whether directly or via Our Credit and Billing Agent, sign all documents and do all things that We may reasonably require to be signed and done to further secure to Us the amount of any indebtedness owed to Us from time to time by the Customer or Guarantor including, but without being limited to,
    - such mortgage or mortgages over any Real Property (whether acquired before or after the date the Goods or Services are supplied) containing such covenants as are required by Us; and
    - such bills of sale or mortgage debentures over any or all items of personal property as are required by Us.
  - The Guarantor (and if more than one then jointly and each of them severally) irrevocably appoint(s) Us, Our Credit and Billing Agent, each of Our Manager and Credit Manager from time to time, each of Our successors, each of Our assignees and each of them severally to be the duly constituted attorney of each Guarantor to execute in the name of each Guarantor any documents including, without limitation, any mortgage or mortgages of Real Property, bills of sale, mortgage debentures or any like documents and Consents to any Caveats as We may wish to lodge against any dealings in the Real Property of the Guarantor in any Titles Office (and if more than one Guarantor, the Real Property of each Guarantor severally and Real Property of each combination of Guarantors) and to do all acts and execute any documents necessary to give effect to and/or register any of the foregoing. If the power granted under this clause is to be exercised the Customer will be provided with three (3) days' notice.
- The Guarantor consents to Us or Our Credit and Billing Agent lodging a caveat or caveats noting its interest in any Real Property. If any payment made by or on behalf of the Customer is later alleged to be void or voidable by any liquidator or like officer of the Customer under any law related to insolvency, the Guarantor indemnifies the Us and Our Credit and Billing Agent against any costs or losses We may incur in connection with such claim including by consenting unconditionally to Us or Our Credit and Billing Agent or both lodging a caveat or caveats noting its interest in any Real Property. This indemnity shall continue to apply notwithstanding any earlier withdrawal of this Guarantee or earlier removal of any caveat.
  - Each Guarantor undertakes not to, and warrants that it will not, object to or otherwise endeavour to prevent the lodging of any such caveat or take any steps to remove any such caveat. "Real Property" includes estates and interests including leasehold. Without limiting, or otherwise prejudicing the above, the power of attorney under clause 18(c) may be granted under Powers of Attorney Act 2003 (NSW); Instruments Act 1958 (Vic); Powers of Attorney Act 1998 (Qld); Transfer of Land Act 1893 (WA); Powers of Attorney and Agency Act 1984 (SA); Powers of Attorney Act 2000 (Tas); Powers of Attorney Act 1980 (NT); and Powers of Attorney Act 2006 (ACT).
  - The Guarantor also authorises any officer, partner or employee of any solicitors or agents engaged by Us, Our Credit and Billing Agent or any of their officers or employees as referred to previously in this clause to sign any stamp duties form on its behalf so as to stamp any form required to lodge or withdraw any caveat lodged by Us over any of the Real Property.
  - If the Guarantor is an incorporated body:
    - in consideration of, and as an essential condition of the acceptance of this Guarantee by Us, the individual signing and accepting this Guarantee (being a director of the Guarantor, or any person purporting to be a director or to otherwise have authority to bind the Guarantor), jointly and severally with the incorporated body and in their own names:
      - accept liability to Us for the payment as principal debtor of all monies owed by the incorporated body to Us from time to time and waive all rights as a mere surety which may be inconsistent therewith and hereby guarantee to Us payment of all such monies;
      - accept liability to Us for the payment as principal debtor of any sum required to be paid by Us to any administrator, liquidator, receiver or other controller of the incorporated body pursuant to law;
      - bind the incorporated body and warrant that they have authority to bind the incorporated body.
18. Each Guarantor acknowledges that the information provided to Us is the basis for evaluation by Us of the financial standing and credit worthiness. We and the Guarantor do hereby:
- certify that the information provided to Us is true and correct;
  - acknowledge that We have informed the Guarantor, in accordance with the Privacy Act 1988 (Cth) as amended, that certain items of personal information, including an opinion about the Customer and the Guarantor are permitted to be kept on a credit information file and might be disclosed to credit reporting agencies;
  - in accordance with the Privacy Act 1988 (Cth) as amended:
    - agree to Us obtaining from a business which provides information about the commercial credit worthiness of persons, information concerning the Guarantor's commercial activities or commercial credit worthiness and using such information for the purpose of assessing whether to accept the Guarantor as guarantor; and
    - authorise Us to exercise rights to access the Guarantor's credit information file and credit reports;
  - agree that We may give to, and seek from, any credit providers, reports and information that has any bearing on the Guarantor's credit worthiness, credit standing, credit history or credit capacity for any of the following purposes:
    - to assess an application for credit or commercial credit;
    - to notify other credit providers of a default;
    - to exchange information with other credit providers as to the status of the account with Us;
    - to notify other credit providers that the Guarantor is in default with Us;



## PERSONAL GUARANTEE AND INDEMNITY AGREEMENT (CONTINUED)

- (v) to assess the Guarantor's credit worthiness or commercial credit worthiness at any time; and
- (vi) to assess whether to accept the Guarantor as guarantor/s or to continue supplying credit to the Customer;
- (e) agree that We may seek, from a credit reporting agency, a credit report containing personal information about the Guarantor to assess whether to accept the Guarantor as a Guarantor for credit applied for, or provided to, the Customer;
- (f) agree that these authorisations shall continue to have effect for the duration of the period during which credit or commercial credit is provided for or sought by the Customer from Us or while any moneys are owed by the Guarantor or the Customer to Us on any account under this or any other Guarantee or any terms and conditions for the sale of products or supply of services by Us to the Customer as the case may be; and
- (g) agree that they have read and understood Our Terms and Conditions signed by the Customer (above) and Our Privacy Terms – available at <https://boral.creditapps.com.au/>

**IMPORTANT: Spouses of all Directors, Sole Traders and Business Partners must also sign below as Guarantors in the presence of Independent Witnesses.**

### Certificate of Guarantee - Executed as a Deed

#### Acknowledgement

By signing below as Guarantor(s), I/we certify that I/we understand the terms of this Guarantee. In particular, I/we understand that if the Customer fails to make any required payments to the Supplier, the Supplier may recover the amount of these payments from me/us personally. In such case, the Supplier may, amongst other recovery rights, take a charge over any Real Property.

**That I/We have had the opportunity of taking independent legal advice in relation to the meaning and effect of this Guarantee.**

#### Guarantor

Print Name	
Address	
Signature	

#### Witness (Executed by Independent Witnesses)

Print Name	
Address	
Signature	
Date	/ /

#### Guarantor

Print Name	
Address	
Signature	

#### Witness (Executed by Independent Witnesses)

Print Name	
Address	
Signature	
Date	/ /

#### Guarantor

Print Name	
Address	
Signature	

#### Witness (Executed by Independent Witnesses)

Print Name	
Address	
Signature	
Date	/ /

#### Guarantor

Print Name	
Address	
Signature	

#### Witness (Executed by Independent Witnesses)

Print Name	
Address	
Signature	
Date	/ /

### Mailing Instructions

For your application to be processed ensure you have completed and signed both the Credit Application Form and the Personal Guarantee and Indemnity Agreement.

Please return all original signed and witnessed documents to:

**Q-crete Premix Pty Ltd**  
PO Box 6041  
North Ryde NSW 2113  
Ph: 1300 QCRETE (72 73 83)  
Email: [bcas@boral.com.au](mailto:bcas@boral.com.au)