Credit Application Form

CONFIDENTIAL DOCUMENT

This credit application form covers the following entities:
Allstone Quarries Pty Ltd | ABN: 63 089 515 659
ASQ Garden & Landscape Pty Ltd | ABN: 38 633 485 131

w asq.net.au | **a** PO Box 358, Eaglehawk VIC 3556
p 03 5446 1677 | **f** 03 5446 1227

Once completed, please forward your form to accounts@asq.net.au

1. Applicant details

Applicant name:			
Trading name:		**Date business established:**	
ABN:		**ACN:**	
Phone:			
Postal address:			
Street address:			

Business type:
Please tick applicable box

☐ Sole trader	☐ Partnership	☐ Company	☐ Trust	*Further details required on page 3*

Nature of business:	
Credit limit request: $	

For your records, is a **purchase order** a mandatory requirement on every delivery? *Tick box if yes.* ☐

Do you require **separate invoices** for every purchase order? *Tick box if yes.* ☐

Accounts contact

Name:		**Position:**	
Phone:		**Email:**	

Other contacts
Other contacts may be used for deliveries and product information

1	**Name:**		**Position:**	
	Phone:		**Email:**	
2	**Name:**		**Position:**	
	Phone:		**Email:**	
3	**Name:**		**Position:**	
	Phone:		**Email:**	

2. Trade references

A minimum of three trade references are required for all new customers. Commercial referees only

1	**Name:**		**Position:**	
	Phone:		**Email:**	
2	**Name:**		**Position:**	
	Phone:		**Email:**	
3	**Name:**		**Position:**	
	Phone:		**Email:**	

3. Sole trader / partnership details

Only complete if ticked as Business Type on page 2

Provide details for each owner or parter:

	Owner/ Partner 1	Owner/ Partner 2	Owner/ Partner 3
Name:			
Address:			
Phone:			
DOB:			
Driver's licence #:			

4. Company details

Only complete if ticked as Business Type on page 2

Provide details for each director:

	Director 1	Director 2	Director 3
Name:			
Address:			
Phone:			
DOB:			
Driver's licence #:			

5. Trust details

Only complete if ticked as Business Type on page 2

A copy of the Trust Deed together with all variation must be provided. Without this information your credit application will not be processed.

Trust name:	
Trust ABN:	
Trustee(s) names:	

6. Declaration and consent

Must be completed by all applicants

Applicant name:		**Date:**	

1. In consideration of ASQ granting a credit facility, I/we confirm and declare that:
   a. I/we have been provided with a copy of ASQ's Terms and Conditions of Trade which I/we have read, understood and agree to be unconditionally bound by, and
   b. The information supplied by us to the creditor is true and correct and I/we acknowledge the creditor will use this information for purposes of assessing an application for credit
2. I/we declare that the credit to be provided to me/us by ASQ is wholly or predominantly for business and/or investment purposes only.
3. I/we agree to abide by ASQ's payment terms, strictly 30 days from end of month of date of invoice. It is further agreed that in the event full payment has not being made by that date, the applicant and its guarantees will pay all legal and/or collection costs incurred in recovery of any overdue amounts and to pay compound interest of 0.5% per month on all overdue amounts calculated monthly from the due date.
4. ASQ is authorised, at any reasonable time, to enter and re-take the goods sold and then re-sell the goods sold and retain the proceeds of the sale without prejudice to its rights to claim the balance of the purchase price and interest from the applicant and its guarantees.
5. The goods sold remain the property of ASQ until the purchase price has been fully paid.

Privacy Consent

1. In accordance with the provisions of the Privacy Act 1988 (Cth) ('Act'), if the creditor considers it relevant to assess my/ our application for commercial credit, I/ we consent to the creditor obtaining from a credit reporting agency, a credit report containing personal credit information about me/us in relation to commercial credit provided by the creditor. I/we further consent to the retention of this information by the creditor for the purposes of continuing the credit review.
2. In accordance with the provisions of the Act, if the creditor considers it relevant to collecting overdue payments in respect of commercial credit provided to me/us, I/we agree to the creditor receiving from a credit reporting agency a credit report containing personal information about me/us in relation to collecting overdue payments. I/we further consent to the retention of this information by the creditor for the purposes of continuing the credit review.
3. In accordance with the provisions of the Act, I/we consent to the creditor providing a credit reporting agency or another credit provider with personal information about my/our credit application. Information which may be given to an agency or credit provider includes:
   a. Identity particulars
   b. The fact that I/we have applied for credit and the amount
   c. The fact that the creditor is a credit provider to me/us
   d. The amount of payments which become overdue more than sixty (60) days and for which collection action has been commenced
   e. Any credit reports received and held by the creditor in relation to me/us for inclusion in or establishment of a credit information file in relation to me/us
   f. Advice that payments are no longer overdue
   g. Information on cheques drawn by me/ us which have been dishonoured more than once
   h. In specific circumstances, that in the opinion of the creditor, I/we have committed a serious credit infringement
   i. That credit provided to me/us by the creditor has been paid or otherwise discharged.

To be signed by all proprietors, directors, partners and/or sole traders.

1	**Name:**		**Position:**	
	Signed:			

2	**Name:**		**Position:**	
	Signed:			

If the above declaration and consent is not signed, Allstone Quarries Pty Ltd will refuse your credit application.

7. Deed of guarantee and indemnity

Must be completed by all applicants

Applicant name:	
Date:	

Covering: Allstone Quarries Pty Ltd (ABN 63 089 515 659) and ASQ Garden & Landscape Pty Ltd (ABN 38 633 485 131)

This document operates as a deed.

1. Definitions:
   a. "Guarantee" means this Deed of Guarantee and Indemnity.
   b. "Applicant" is the party named above as APPLICANT.
   c. "The creditor" means Allstone Quarries Pty Ltd ABN 63 089 515 659, ACN 089 515 659.
   d. "Terms of Trade" includes the terms and conditions forming part of any sale or trade or service or contractor provision of credit or other thing provided by the creditor to the Applicant.
   e. "You" and any of its derivatives means the Guarantor herein named.
2. This deed of Guarantee and Indemnity makes me liable for all monies owing by the APPLICANT to the creditor under the creditor's terms and conditions. In consideration of the creditor granting a credit facility to the APPLICANT, I;
   a. Guarantee and undertake to discharge on demand, without counter-claim or set-off, the payment by APPLICANT of all monies (whether present or future) stated by the creditor to be payable by the APPLICANT under Allstone Quarries Pty Ltd's Terms and Conditions of Trade as if you were the APPLICANT.
   b. Undertake to indemnify the creditor, on demand, against all losses, costs, interest and expenses incurred by the creditor as a result of the Applicant breaching the Terms and Conditions of Trade or in connection with the creditor taking steps with respect to this Guarantee.
   c. Agree that Your liability will not in any way be discharged, released or affected by:
      i. Any of the obligations of the Applicant being unenforceable or void for any reason (in which case you will remain liable as principal debtor and this Guarantee will remain in effect); and
      i. Any indulgence or waiver being granted or an arrangement entered into with the Applicants.
3. It is acknowledged that the obligations contained in this Guarantee are:
   d. Undertaken as those of a principal debtor and not merely as surety.
   e. Continuing until such time as the Applicant's obligation to the creditor have been discharged in full.
4. If there is more than one Guarantor, you will be jointly and severally liable to the creditor.
5. If the creditor does not enforce its rights under the Terms of Trade or this Guarantee, the creditor does not waive its rights
6. Unless there is a manifest error, a certificate signed by one of the creditor's Directors or Managers which states that a specific amount is due and payable under this Guarantee, will be sufficient evidence of that fact for the purposes of any application for judgment against you.
7. Any part of this Guarantee which is or becomes void or unenforceable for any reason shall not invalidate the other provisions of this Guarantee.
8. You agree to submit to the exclusive jurisdiction of the courts of the State of Victoria for the purposes of this Guarantee and any dispute in relation thereto.
9. You have entered into this Guarantee of Your own free will and you have taken or had an opportunity to take professional advice upon the terms of this Guarantee and the consequences of signing.
10. You permit the creditor to obtain from any person or company, information which the creditor may require for credit reference purposes. You further irrevocably authorise the creditor to provide to any third party information about You in response to credit references and inquiries or by way of information exchange with credit reference agencies, details of this Guarantee and any subsequent dealings that you may have with the creditor as a result of this Guarantee being actioned by the creditor.

1. As a deed by (please print all text):

Guarantor's name:			
Guarantor's address:			
Guarantor's signature:		**Date:**	
Witness' name:			
Witness' address:			
Witness' signature:		**Date:**	

2. As a deed by (please print all text):

Guarantor's name:			
Guarantor's address:			
Guarantor's signature:		**Date:**	
Witness' name:			
Witness' address:			
Witness' signature:		**Date:**	

8. Office use only

Credit application checklist:

Task	Completed	Comments
Application completed	☐	
Terms and conditions signed	☐	
Trade references completed and attached	☐	
VEDA check if required	☐	
Credit limit approved	☐	Requested credit limit $ Approved credit limit $
ASQ Account Manager allocated	☐	Please tick relevant box: ☐ REP QUARRY ☐ REP PREMIX ☐ REP G&L
Signed off by Financial Controller	☐	
Signed off by Managing Director	☐	
Applicant notified with customer welcome letter	☐	
Scan documents and save to company drive	☐	
Details entered into database	☐	
Advise ASQ Managers via email	☐	

Credit application processed by:

Name:			
Position:			
Date completed:		**Signature:**	

Approved by:

Financial Controller

Name:			
Date completed:		**Signature:**	

Managing Director

Name:			
Date completed:		**Signature:**	

Terms & Conditions of Trade

Allstone Quarries Pty Ltd (ABN 63 089 515 659)
ASQ Garden & Landscape Pty Ltd (ABN 38 633 485 131)

1. Definitions

1.1 "The creditor" or any derivative thereof shall mean Allstone Quarries Pty Ltd and ASQ Garden & Landscape Pty Ltd, its successors and assigns.

1.2 "You" or any derivative thereof shall mean the person(s), business, company or Trustee(s) Applicant who applied for Credit with the creditor pursuant to this Credit Application, or any person acting on behalf of and with the authority of You.

1.3 "Carriage" means the transportation and/or delivery of Goods to You or on Your behalf by the creditor.

1.4 "Guarantor" means the person (or persons), who agrees herein to be liable for the debts of You on a principal debtor basis or any Administrator or assign thereof.

1.5 "Agreement" shall mean the Agreement formed between the creditor and You by submitting Your completed Credit Application to the creditor for a Commercial Credit Account and includes these Terms and Conditions of Trade, and the creditor's acceptance of Your completed application, which is confirmed by You either expressly or by Your conduct.

1.6 "Goods" shall mean any Products or Pre-mixed concrete supplied by the creditor to You (and where the context so permits shall include any supply of Services as hereinafter defined).

1.7 "Services" shall mean all services supplied by the creditor to You and includes any advice or recommendations (and where the context so permits shall include any supply of Goods as defined supra).

1.8 "Price" shall mean the cost of the Goods as determined by the creditor subject to clause 4 of this Agreement.

1.9 "GST" has the meaning given to it in A New Tax System (Good and Services Tax) Act 1999 (Cth);

1.10 "Pre-mixed concrete" means concrete of any specification delivered in a state that is ready to pour, subject to Your additional specifications (if any) and the addition of water (if any).

1.11 "Products" means all Goods supplied by the creditor and includes but is not limited to, crushed rocks, aggregates, concrete additives, precast, landscape and nursery supplies.

1.12 "PPSA" means the Personal Properties Security Act 2009 (Cth).

1.13 "PPSR" means the Personal Properties Securities Register.

1.14 "Security Interest" has the meaning prescribed to it in section 12 of the PPSA.

1.15 "Purchase money security interest" has the meaning prescribed to it in section 14 of the PPSA.

1.16 "Security Agreement", "Financing Statement", "Financing Change Statement", "Verification Statement" and "Registration" have the meanings prescribed to them in section 10 of the PPSA.

1.17 "Commingled" has the meaning given to it by section 10 of the PPSA;

1.18 "Terms and Conditions" shall mean the creditor Terms & Conditions of Trade detailed herein;

1.19 "Perfection" has the meaning prescribed to it in section 21 of the PPSA.

1.20 "Price" means the amount as determined by the creditor that shall be payable by You to the creditor for supply of any Goods by the creditor to You.

2. Acceptance

2.1 Any instruction received by the creditor from You for the supply of Goods and/or Your acceptance of Goods supplied by the creditor shall constitute acceptance of the Terms and Conditions contained herein.

2.2 Upon acceptance of these Terms and Conditions by You, the Terms and Conditions are irrevocable and can only be rescinded in accordance with these Terms and Conditions or with the written consent of the creditor.

2.3 None of the creditor's agents or representatives are authorised to make any representations, statements, conditions or agreements not expressed by the manager of the creditor in writing nor is the creditor bound by any such unauthorised statement unless made by the creditor's Manager in writing.

2.4 You undertake to give the creditor not less than fourteen (14) days prior written notice of any proposed change in Your name and/or any other change in Your details (including but not limited to, changes in Your address, phone number, email, or business practice). You agree to submit a new Credit Application to the creditor should Your name, ABN, or person(s) or entity responsible for payment to the creditor change. In the absence of a new Credit Application being submitted to and accepted by the creditor, those persons or entities (including Guarantor(s) originally liable to the creditor pursuant to the initial Application for a Credit Account) will remain liable.

3. Goods

3.1 The Goods are as described on the invoice, quotation, work authorisation or any other work commencement form as provided by the creditor to You.

4. Price and Payment

4.1 At the creditor's sole discretion the Price shall be either;

a. As indicated on invoices provided by the creditor to You in respect of Goods supplied; or

b. The creditor's quoted Price which (subject to 4.2 & 4.3) shall be binding upon You upon acceptance of the Goods.

c. Due to fuel price volatility, cartage service charges will not be fixed in relation to any quotation or supply agreement. Any information given about cartage service charges is current at that time and may be subject to change during a supply period.

4.2

a. The Price in respect of Pre-mixed concrete Goods is quoted as net per cubic metre delivered on the basis of a three (3) cubic metre minimum load supplied during normal working hours. For delivery on Public Holidays, weekends and one (1) hour either side of normal operating hours, surcharges apply. For deliveries less than 3.0m3 a moderate loading applies. These Price details are available upon request.

b. Standby charges will be applied at the discretion of the concrete plant manager where concrete trucks are held on site for 45 minutes for maxi mix loads or 30 minutes for mini mix loads.

4.3 The Price in respect of Quarry Materials is based on:

a. Current costs of transport, labour & materials and in the event of any variation to any of these costs prior to delivery, the creditor may adjust the Price accordingly without notice to You;

b. The creditor's ruling minimum load, and in the event of deliveries being required of less than the minimum load, an additional cartage charge will be payable in accordance with the creditor's ruling rate;

c. Delivery being made by the most practicable route available, and in the event of roads being closed and preventing delivery by the most practicable route, the creditor shall have the right to charge for any additional cost incurred by it in making delivery; and

d. Delivery being made during normal working hours and in the event of delivery being required outside such hours, an additional cartage charge will be payable in accordance with the creditor's ruling rates. If stated on a volumetric basis, the Price will be based on a loose uncompacted volume as measured in the truck body at the place of loading.

e. Additional charges will be applied to You if You cause or request that a delivery be returned.

4.4 Time for payment for the Goods shall be of the essence and will be stated on the invoice, quotation or any other order forms. If no time is stated then payment shall be on delivery of the Goods.

4.5 If You elect on page 1 of the Credit Application to receive invoices electronically, the creditor will send all invoices to You via the email address nominated on page 1 of the Credit Application. You are solely responsible to advise the creditor within 24 hours in writing of any change to Your email address. You accept all risk and liability from any failure to notify the creditor of any change to Your email address.

4.6 At the creditor's sole discretion, payment for approved customers shall be made by instalments in accordance with the creditor's delivery/payment schedule.

4.7 The creditor's standard payment terms are thirty (30) days following the month the invoice is dated.

4.8 Payment will be made by cash on delivery, or by cheque, or by bank cheque, or by credit card, or by direct credit, or by any other method agreed between the creditor and You.

4.9 The Price shall be increased by the amount of any GST and other taxes and duties which may be applicable, except to the extent that such taxes are expressly included in any quotation given by the creditor.

4.10 When You make an account payment for Product purchased a merchant fee cost will also be payable by You, 0.8% for credit card payments and 0.8% for debit card payments. For example, if Your payment amount was $6,000 by credit card then the merchant fee cost applicable would be $48.00 being 0.8%.

4.11 Any issued Tax Invoice is submitted as a payment claim under the Building and Construction Industry Security of Payment Act 2002 (Vic) and/or Allstone Quarries Pty Ltd Payment Terms contained in these Terms and Conditions of Trade.

5. Delivery of Goods/Services

5.1 Delivery of the Goods shall be made to Your address or to a place nominated by You. You shall make all arrangements necessary to take delivery of the Goods whenever they are tendered for delivery, or delivery of the Goods shall be made to You at the creditor's address.

5.2

a. Unless prior agreement is reached, the creditor undertakes to deliver and You agree to receive the Goods at the kerb alignment. The delivery vehicle will only enter the job area to facilitate unloading at Your sole risk and responsibility and at the absolute discretion of the truck driver.

b. Where You have indicated that material deliveries will be to unattended sites, You agree to provide the creditor with sufficient material unload point information and that the site has been inspected and a full safety audit has been conducted allowing for safe and secure tipping operation. You must ensure that evidence of safety audit is available upon request and are reminded of the condition outlined in 5.2(a) above. In the event the placement cannot occur, You will be liable for all transport costs associated with return loading.

c. Under no circumstances is material to be tipped in nominated "No Go Zones" as per AS/NZS 3000-2007 or unachievable areas as deemed by our truck driver due to narrow streets, overhead power lines, any unsafe or unstable ground surfaces.

5.3 Delivery of the Goods to a carrier, either named by You or failing such naming to a carrier at the discretion of the creditor for the purpose of transmission to You, is deemed to be delivery of the Goods to You.

5.4 The costs of carriage and any insurance which You reasonably direct the creditor to incur shall be reimbursed by You (without any set-off or other withholding whatsoever) and shall be due on the date for payment of the Goods. The carrier shall be deemed to be Your agent.

5.5 Where there is no agreement that the creditor shall send the Goods to You, delivery to a carrier at limited carrier's risk at the expense of You is deemed to be delivery to You.

5.6 Delivery of the Goods to a third party nominated by You is deemed to be delivery to You for the purposes of this Agreement.

5.7 The creditor will not be responsible to You in any way for loss, damage or delay arising from strikes, lockouts, cessation of labour, fire, transport delays, shortened hours of labour, accidents of any kind, war or the like, acts of God, non-delivery of material or parts or any other cause or contingency whatsoever beyond the control of the creditor. The failure of the creditor to deliver Goods to You at an agreed time or at all through exceptional circumstances entitles the creditor at its sole discretion to either extend the time for delivery for such reasonable period as it thinks fit or to cancel and terminate the Agreement insofar as it is incomplete without prejudice to the creditor's rights to recover all sums owing to it in respect of Goods previously provided or services performed prior to the date of such termination.

6. Risk

6.1 The creditor retains the property in the products until such time as the Price is paid in full. Upon delivery, a bailment is created where the creditor is the bailer and You are the bailee. As bailee, all risk for the Products passes to You on delivery.

6.2 If any of the Products are damaged or destroyed prior to the property in them passing to You, the creditor is entitled, without prejudice to any of its other right or remedies under these Terms and Conditions of Trade (including the right to receive payment of the balance of the Price for the Products), to receive all insurance proceeds payable for the Products. This applies whether or not the Price has become payable under the Agreement. The production of these terms and conditions by the creditor is sufficient evidence of the creditor's rights to receive the insurance proceeds without the need for any person dealing with the creditor to make further enquires.

7. Your Disclaimer

7.1 To the extent permissible by law, You hereby disclaim any right to rescind or cancel the Agreement or to sue for damages or to claim restitution arising out of any misrepresentation made to You by any servant or agent of the creditor and You acknowledge that You buy the Goods relying solely upon Your own skill and judgement.

8. Premixed Concrete Goods

8.1 The Premixed Concrete supplied is according to order under AS 1379-1997 and AS 3600-1994 or the latest revision of such standards. The creditor accepts no responsibility in respect of any defect which may develop in any concrete supplied if water is added to the concrete either before or after discharge from the delivery unit without the permission of the creditor's engineer or representative or if an admixture has been used in the concrete at Your request or specifications.

8.2 Mix details on the delivery docket must be checked by You prior to discharge. The creditor shall accept no responsibility for error if this is not done prior to discharge.

8.3 It should be expressly understood that in cases where You specify Your own mix design or implement Your own finishing technique, the creditor is in no way responsible for the quality, quantity or strength of exposed aggregate concrete.

9. Quarry Material Goods

9.1 Testing of materials supplied will be carried out by a NATA accredited laboratory in accordance with the relevant Australian Standard Test procedures at the frequency nominated in the Creditors "Schedule of Methods & Frequencies for Tests Performed on Allstone Quarries Pty Ltd Quarry Products". In the event of any additional pre-supply testing requirements, a pre-supply meeting between You and the creditor is required to agree and sign off the additional requirements. Testing of materials will be conducted from ex bin samples or samples stored in the laboratory library and shall be deemed representative of materials supplied to You. No testing of post supply and post compacted materials will be recognised by the creditor. Any additional testing shall be at Your expense.

9.2 In the event of any materials supplied by the creditor in pursuance hereof failing to meet the agreed standards, the liability of the creditor (if any) shall be limited to the replacement of such defective materials. To the extent permitted by law, all other guarantees, warranties, undertakings or representations expressed or implied and whether arising by statute or otherwise are hereby expressly excluded.

9.3 The testing standards agreed to between the creditor and You relate to the standards referenced in the schedule nominated in Item 9.1, or any additional requirements nominated at the pre-supply meetings.

10. The Competition and Consumer Act 2010 (Cth) and Fair Trading Acts

10.1 Nothing in this agreement is intended to have the effect of contracting out of any applicable provisions of the Competition and Consumer Act 2010 (Cth) or the Fair Trading Acts in each of the States and Territories of Australia, except to the extent permitted by those Acts where applicable.

11. Unpaid Seller's Right To Dispose Of Goods

11.1 In the event that:

a. The creditor retains or regains possession or control of the Products;

b. Payment of the Price is due by You to the creditor; and

c. The creditor has made demand in writing upon You for payment of the Price in terms of this Agreement; and

d. The creditor has not received the Price of the Goods, then, the creditor may dispose of the Products and may claim from You the loss to the creditor on such disposal.

11.2 In accordance with clause 6.1 hereof, Title in the Products does not pass to You upon delivery of the Products.

12. Default & Consequences of Default

12.1 Interest on overdue invoices shall accrue from the date when payment becomes due daily until the date of payment at the rate of 2% per annum above the creditor's overdraft interest rate.

12.2 If You default in payment of any invoice when due, You shall indemnify the creditor from and against all the creditor's costs and disbursements including solicitors and debt recovery collection costs.

12.3 Without prejudice to any other remedies the creditor may have, if at any time You are in breach of any obligations (including those relating to payment) the creditor may suspend or terminate the supply of Goods to You and any of the creditor's other obligation under the Terms and Conditions of Trade. The creditor will not be liable to You for any loss or damage whatsoever or howsoever arising that You suffer because the creditor exercises its rights under this clause.

12.4 In the event that:

a. any money payable to the creditor becomes overdue, or in the creditor's opinion You will be unable to meet Your payments as and when they fall due; or

b. You become insolvent, convene a meeting with Your creditors or propose or enter into an arrangement with creditors, or make an assignment for the benefit of Your creditors; or

c. A receiver, manager, liquidator (provisional or otherwise) or similar person is appointed in respect of You or any asset of Yours, then without prejudice to the creditor's other remedies at law:

d. The creditor shall be entitled to cancel all or any part of Your order(s) for Goods which remains unperformed in addition to and without prejudice to any other remedies; and

e. All amounts owing to the creditor shall whether or not due for payment, immediately become due and payable in addition to the interest payable under clause 12.1 hereof.

13. Title

13.1 It is the intention of the creditor and agreed by You that the property in the Products, including any products that become commingled within the meaning of sections 10 and 99 of the PPSA, or the proceeds thereof, shall not pass until:

a. You have paid all amounts owing for the Products, and

b. You have met all other obligations due by You to the creditor in respect of any Agreement between the creditor and You, and that where practicable, the Products shall be kept separate until the creditor shall have received payment and all other obligations of You are met;

13.2 Receipts by the creditor of any form of payment other than cash shall not be deemed to be payment until that form of payment has been honoured, cleared or recognised and until then, the creditor's ownership of rights in respect of the Products shall continue.

13.3 It is further accepted, acknowledged and agreed that:

a. The retention of title clause herein constitutes a Security Agreement pursuant to the PPSA which creates a Security Interest. It is the intention of the creditor and You that upon registration of the creditor's Security Interest on the PPSR, a purchase money security interest will result.

b. Until such time as ownership of the Products shall pass from the creditor to You, the creditor may give notice in writing to You to return the Products or any of them to the creditor. Upon such notice Your rights to obtain ownership or any other interest in the Products shall cease.

c. The creditor shall have the right of stopping the Products in transit whether or not delivery has been made; and

d. If You fail to return the Products to the creditor then the creditor or any agent thereof may enter upon and into land and premises owned, occupied or used by You, or any premises as the invitee of You, where the Products are situated and take possession of the said Products.

e. You are only a bailee of the Products and until such time the creditor has received payment in full for the Products then You shall hold any proceeds from the sale or disposal of the Products on trust for the creditor.

f. You shall not deal with the money of the creditor in any way which may be adverse to the creditor.

g. You shall not charge the Products in any way nor grant nor otherwise give any interest in the Products while they remain the property of the creditor.

h. The creditor may require payment of the Price or the balance of the Price due together with any other amounts due from You to the creditor arising out of these terms and conditions, and the creditor may take any lawful steps to require payment of the amounts due and the Price.

i. The creditor can issue legal proceedings to recover the Price of the Goods sold notwithstanding that ownership of the Products may not have passed to You.

j. Until such time that ownership in the Products passed to You, if the Products are so converted, or commingled, the parties agree that the creditor will be the owner of the end products to the extent permissible under PPSA.

14. Personal Properties Securities Act 2009

14.1 You hereby acknowledge that these Terms and Conditions of Trade constitute a Security Agreement which creates a Security Interest in favour of the creditor and in all Goods including services previously supplied by the creditor to You (if any) and all after acquired Goods including services supplied to You by the creditor (or for Your account) to secure the payment from time to time and at a time, including future advances. You agree to grant to the creditor a Purchase Money Security Interest.

14.2 You give the creditor a Security Interest in all Your present and after-acquired property in which Goods including services supplied or financed by the creditor have been attached or incorporated.

14.3 You acknowledge and agree that by agreeing to these Terms and Conditions of Trade, You grant a Security Interest (by virtue of the retention of title clause in these Terms and Conditions of Trade) to the creditor and all Goods including services previously supplied by the creditor to You (or for Your account) and these Terms and Conditions of Trade shall apply notwithstanding anything express or implied to the contrary contained in Your purchase order. You additionally agree that the creditor can without notice to You seek Registration of its Security Interest as a Purchase Money Security Interest on the PPSR and the PPSA.

14.4 You acknowledge, agree and undertake to:

a. Sign any further documents and/or provide any further information (which information You warrant to be complete, accurate and up-to-date in all respects) which the creditor may reasonably require to enable perfection of its Security Interest or registration of a financing statement or financing change statement on the PPSR;

b. Not register any financing change statement as defined in section 10 of the PPSA or make a demand to alter the financing statement pursuant to section 178 of the PPSA in respect of the Goods including services without the prior written consent of the creditor.

c. Give the creditor not less than 14 days written notice of any proposed change in Your name and/or any other changes in Your details (including but not limited to, changes in Your address, phone number, email address, trading name or business practice);

d. Pay all costs incurred by the creditor in the Registration and maintenance of its Financing Statement to enable Registration of its Security Interest (including registering a Financing Change Statement) on the PPSR. Such costs shall not exceed the regulated cost for registering or maintaining (updating) a Security Interest, as amended from time to time, together with an administrative charge of $10.00 per Registration (or at such other costs determined by the creditor provided that same is reasonable) or, and/or amendment to, a Security Interest, as a genuine pre-estimate of the creditor's costs, and/or enforcing or attempting to enforce the Security Interest created by these Terms and Conditions of Trade including but not limited to, executing subordination agreements.

e. Be responsible for the full costs incurred by the creditor (including actual legal fees and disbursements on a solicitor and client basis) in obtaining an order pursuant to section 182 of the PPSA;

f. You acknowledge and agree to waive any rights that You may have had under section 115 of the PPSA upon enforcement;

g. Pursuant to section 157 of the PPSA, unless otherwise agreed in writing by the creditor, You agree to waive the right to receive the Verification Statement in respect of any Financing Statement or Financing interest statement relating to the Security Interest;

h. You agree that immediately on request by the creditor You will procure from

any persons considered by the creditor to be relevant to its security position, such agreement and waivers as the creditor may at any time require.

15. Security and charge

15.1 Despite anything to the contrary contained herein or any other rights which the creditor may have:

a. Where You and/or the Guarantor (if any) is the owner of land, realty or any other asset capable of being charged, both You

and/or the Guarantor agree to mortgage and/or charge all of Your/ their joint and/or several interest in the said land, realty or any other asset to the creditor or the creditor's nominee to secure all amounts and other monetary obligations payable under these Terms and Conditions of Trade. You and/or the Guarantor acknowledge and agree that the creditor (or the creditor's nominee) shall be entitled to lodge where appropriate, a caveat to secure the creditor's interest, such caveat which shall be withdrawn once all payments and other monetary obligations payable including the cost of registering and removing the said caveat hereunder have been met.

b. Should the creditor elect to proceed in any manner in accordance with this clause and/or its sub-clauses, You and/or Guarantor shall indemnify the creditor from and against all the creditor's costs and disbursements including legal costs on a solicitor and own client basis.

c. To give effect to the provisions of clause (15.1 a and b) inclusive hereof You and/or the Guarantor (if any) do hereby irrevocably nominate, constitute and appoint the creditor or the creditor's nominee as Your and/or the Guarantor's true and lawful attorney to execute mortgages and charges (whether registrable or not) including such other terms and conditions as the creditor and/or the creditor's nominee shall think fit in his/her/its/ their absolute discretion against the joint and/or several interest of You and/or the Guarantor in any land, realty or asset in favour of the creditor and in Your and/or Guarantor's name as may be necessary to secure Your and/or the Guarantor's obligations and indebtedness to the creditor and further to do and perform all necessary and other acts including instituting any necessary legal proceedings, and further to execute all or any documents in the creditor's absolute discretion which may be necessary or advantageous to give effect to the provisions of this clause.

16. Cancellation

16.1 The creditor may cancel these Terms and Conditions of Trade or cancel delivery of Goods at any time before the Goods are delivered by giving written notice. The creditor shall not be liable for any loss or damage whatsoever arising from any such cancellation.

16.2 At the creditor's sole discretion You may cancel delivery of Goods. In the event that You cancel delivery of Goods, You shall be liable for any costs incurred by the creditor up to the time of cancellation.

16.3 In the event of any cancellations, any pre-mixed concrete already produced or dispatched will be invoiced regardless of whether or not You are able to accept the material.

16.4 Cancellation of a cement treated quarry material order once production has begun will result in a Plant Wash out fee being applied to You if the minimum order of 150 tonnes is yet to be produced. In the event of any cancellations, any cement treated material already produced or dispatched will be invoiced regardless of whether or not You are able to accept the material.

17. Privacy Act 1988 (Cth)

17.1 You and/or the Guarantor/s agree for the creditor to obtain from a credit-reporting agency a credit report containing personal credit information about You and any Guarantor/s in relation to credit provided by the creditor.

17.2 You and/or the Guarantor/s agree that the creditor may exchange information about You and any Guarantor/s with those credit providers named in the Application for Commercial Credit account or named in a consumer credit report issued by a reporting agency for the following purpose:

a. To assess an application by You;
b. To notify other credit providers of a default by You;
c. To exchange information with other credit providers as to the status of this credit account, where You are in default with other credit providers; and
d. To assess the credit worthiness of You and/or Guarantor/s.

17.3 You consent to the creditor being given a consumer credit report to collect overdue payment on commercial credit (Section 18K (1) (h) Privacy Act 1988 (Cth)).

17.4 You agree that Personal Data provided may be used and retained by the creditor for the following purposes and for other purposes as shall be agreed between You and the creditor or required by law from time to time:

a. Provision of Services & Goods;
b. Marketing of Service and Goods by the creditor, its agents or distributors in relation to the Services and Goods;
c. Analysing, verifying and/or checking Your credit, payment and/or status in relation to provision of Services/ Goods;
d. Processing of any payment instructions, direct debit facilities and/or credit facilities requested by You; and
e. Enabling the daily operation of Your account and/or the collection of amounts outstanding in Your account in relation to the Services and Goods.

17.5 The creditor may give information about You to a credit reporting agency for the following purposes:

a. To obtain a consumer credit report about You; and/or
b. Allow the credit reporting agency to create or maintain a credit information file containing information about You.

18. General

18.1 If any provision of these Terms and Conditions shall be deemed invalid, void, illegal or unenforceable, the validity, existence, legality and enforceability of the remaining provisions shall not be affected, prejudiced or impaired.

18.2 All Goods supplied by the creditor are subject to the laws of Victoria and the creditor takes no responsibility for changes in the law which affect the Goods supplied. The creditor and You agree that these Terms and Conditions of Trade, and every sale of Goods and/or services by the creditor to You thereunder, shall be governed by the laws of the State of Victoria and the creditor and You agree to submit to the exclusive jurisdiction of the Courts of the State of Victoria.

18.3 The creditor shall be under no liability whatsoever to You for any indirect loss and/ or expense (including loss of profit) suffered by You arising out of a breach by the creditor of these Terms and Conditions of Trade.

18.4 In the event of any breach of this Agreement by the creditor Your remedies shall be limited to damages. Under no circumstances shall the liability of the creditor exceed the Price of the Goods.

18.5 You shall not set-off against the Price amounts due from the creditor.

18.6 The creditor may license or sub-contract all or any part of its rights and obligations without Your consent.

18.7 The creditor reserves the right to review these Terms and Conditions of Trade at any time and from time to time. If, following any such review, there is to be any change to these Terms and Conditions of Trade then any changes will take effect thirty (30) days after the date on which the creditor notifies You of such change.

18.8 Neither party shall be liable for any default due to any act of God, war, terrorism, strike, lock-out, industrial action, fire, flood, drought, storm, inability on the part of creditor to obtain raw materials from any anticipated source or any other event beyond the reasonable control of either party.

18.9 If there is any inconsistency between these Terms and Conditions of Trade, a quotation or a purchase order, then these Terms and Conditions of Trade shall prevail, then the quotation, then the purchase order.

18.10 The creditor reserves its right to issue invoices to You pursuant to the Building and Construction Industry Security of Payment Act 2002 (Vic), and the creditor may exercise all rights and remedies available to it under that Act without limitation.

18.11 Upon entering an ASQ site, You will be required to comply to site specific Conditions of Entry.

18.12 On receipt of Services/ Goods at Your site, You will be required to comply to Conditions of Delivery.