

# CIVILMART

*#1 in Civil ✓ Built to last*

## CREDIT APPLICATION CHECKLIST

Writing is printed clear and legible

Section 1 complete – Name/Business Details

Section 2 complete – Contact and Business Particulars

Section 3 complete – Director/Owner Information

Section 4 complete – Account Details (a credit limit must be requested)

Section 5 complete – Trade/Credit References

Privacy Act Statement and Authority has been signed and dated (pg 3)

Terms and Conditions of Trade have been signed, dated and witnessed (pg 6)

The Guarantee has been signed, dated and witnessed (pg 7)

# CIVILMART

#1 in Civil ✓ Built to last

PRECAST CIVIL INDUSTRIES PTY LTD  
ABN: 78 615 726 924

Please email completed applications to  
[AR.VIC@civilmart.com.au](mailto:AR.VIC@civilmart.com.au)

Trading as: **Icon-Septech Vic**  
80 Doyles Road, Shepparton, VIC, 3630  
11-15 Industrial Drive, Pakenham, VIC, 3810

Trading as: **MC Pipes**  
16 Industrial Drive, Shepparton, VIC, 3630  
215-225 Heales Road, Corio, VIC, 3214

Trading as: **Civilmart Bendigo**  
280-310 Mclvor Hwy, Junortoun, VIC, 3551

**Corporate Office:**  
Tel: (03) 5822 1232  
Post: PO Box 6145, Shepparton, VIC, 3632  
Email: [AR.VIC@civilmart.com.au](mailto:AR.VIC@civilmart.com.au)

## APPLICATION FOR 30 DAY CREDIT ACCOUNT

ALL SECTIONS OF THIS APPLICATION MUST BE COMPLETED

### Section 1: Name / Business Details

I / We the undersigned, request that you open a 30 day Credit Trading Account in the name of:

Type of entity:  Sole Trader  Partnership  Company  Trust  Government  Other

ACN: ..... ABN: .....

Legal name: .....

Trust name (if trading as trustee): ..... Trust ABN: .....

Trading name: .....

Registered Office: .....

Postal Address: .....

Suburb: ..... State: ..... Post Code: .....

Street Address: .....

Suburb: ..... State: ..... Post Code: .....

Phone: ..... Fax: .....

### Section 2: Customer Contact / Financial Institution / Business Particulars

Accounts Payable Contact: ..... Phone: ..... Fax: .....

Email Address (for invoices/statements): .....

Financial Institution: ..... BSB: ..... A/C Number: .....

Nature of business: ..... Business Establishment date: ...../...../.....

### Section 3: Directors / Owners Personal Information

1. Name: ..... 2. Name: .....

Home Address: ..... Home Address: .....

Phone: ..... DOB: ..... Phone: ..... DOB: .....

*\*If more than 2 Director's please provide full details on Company letterhead.*

## Section 4: Account Details

Credit Limit Required: \$ ..... Estimated Monthly Purchases: \$.....

Has a Civilmart Sales Representative visited your Organisation? **YES / NO**

Name of Sales Representative: ..... Date Visited: .....

## Section 5: Trade / Credit References

**\*\*Please provide references that support your Credit Application, but only from referees that have agreed to provide a reference on your behalf\*\***

**Company 1:** ..... **Company 2:** .....

Ph: ..... Fax: ..... Ph: ..... Fax: .....

Email: ..... Email: .....

Average Monthly Spend: \$ ..... Average Monthly Spend: \$ .....

**Company 3:** ..... **Company 4:** .....

Ph: ..... Fax: ..... Ph: ..... Fax: .....

Email: ..... Email: .....

Average Monthly Spend: \$ ..... Average Monthly Spend: \$ .....

## Privacy Act Statement and Authority to: The Applicant

Precast Civil Industries Pty Ltd ABN 78 615 726 924 (the Company) is subject to certain legal requirements (Privacy Law) which regulates the way it deals with information which personally identifies you and/or contains information or an opinion about you (Personal Information). The Company complies with the Privacy Law and the privacy principals imposed by the Privacy Law in the collection, storage and disclosure of Personal Information (Privacy Law). A copy of the Company's Privacy Policy is available by contacting the Company's office.

I/We acknowledge that the information provided in this Credit Account Application (Application) and accompanying Guarantee has been given to the Company for the purposes of its assessing the financial standing and credit worthiness of each of us. I/we:

1. Authorise the Company to make any enquiries and obtain any information from bankers and business referees mentioned in this Application or from anybody else that the Company may reasonably consider necessary;
2. Have been informed by the Company in accordance with Privacy Law that Personal Information about me/us (including an opinion) might be disclosed to credit reporting agencies;
3. In accordance with Privacy Law:
  - (a) agree to reports being given to the Company for the purpose of assessing this Application;
  - (b) agree that the Company may use, for the purpose of assessing an Application for credit and any accompanying Guarantee, any information concerning my/our commercial activities or commercial credit worthiness obtained from a person or body carrying on any business involving the provision of information about the commercial credit worthiness of persons; and
  - (c) authorise the Company to exercise my/our rights of access to my/our credit information files and credit reports;
4. Agree that the Company may disclose or receive from any credit providers or credit reporting agency whether or not named in this Application any report or record or information that may have any bearing on my/our credit worthiness, credit standing, credit history or credit capacity for any of the following purposes:
  - (a) the assessment of any Application by me/us for credit or commercial credit;
  - (b) to notify other credit providers of a default by me/us;
  - (c) to exchange information with other credit providers as to the status of my/our account when I am/we are in default with the Company or with another credit provider;
  - (d) to assess my/our credit worthiness or commercial credit worthiness at any time; or
  - (e) to assess whether to accept me/us as an Applicant or to continue to provide us/me with credit;
5. Agree that the Company may disclose Personal Information to third parties for the purposes of debt recovery, commencement or continuance of proceedings brought under the Terms and Conditions of Trade and any accompanying Guarantee, data analysis or as outlined in the Company's Privacy Policy.

**\*This Application is only in respect of commercial credit and not consumer credit\***

**TO BE SIGNED BY AUTHORISED SIGNATORY ON BEHALF OF THE APPLICANT(S):**

.....  
**Name**

.....  
**Signature**

.....  
**Position**

.....  
**Date**

## Terms and Conditions of Trade

- 1 In these Terms and Conditions of Trade (Terms), unless the context otherwise requires:
  - (a) *Application* means an application for commercial credit only which includes these Terms and the accompanying application by You. It does not include an application for consumer credit.
  - (b) *Business Day* means between 8:00am and 4:30pm on a day (not being a Saturday, Sunday or public holiday) on which banks are open for general banking business in Victoria.
  - (c) *Goods* means any item available for sale (including any services) to You by Us.
  - (d) *GST* means Goods and Services Tax as defined in the *A New Tax System (Goods and Services Tax) Act 1999*. (e) *PPSA* means the Personal Property Securities Act 2009.
  - (f) *Purchase Order* means any purchase of Goods made by You from Us, in writing, by telephone, in person, SMS, email or fax.
  - (g) *We, Us, Our* means Precast Civil Industries Pty Ltd (ABN 78 615 726 924) and includes any subsidiary or related entity as those terms are defined in the *Corporations Act 2001* (Cth) and any agents, employees, successors and assigns.
  - (h) *You, Your* means any person, firm, corporation or in the case of an unincorporated body, each proprietor jointly and severally that has requested the supply of Goods from Us, and includes employees, agents, successors, administrators, and assigns of You. Where You are comprised of two or more persons then it means each person jointly and severally.
- 2 These Terms are a fundamental part of any Application by You and form part of the agreement between You and Us in relation to any credit account or Purchase Order. You declare, affirm, acknowledge and warrant that:
  - (a) All person or persons who sign an Application or other document on Your behalf are authorized by You to do so;
  - (b) You have read and understood these Terms and agree to be bound by them; and
  - (c) You are bound to the terms of our suppliers in relation to the Goods you purchase. Our suppliers' terms are made available on request.
- 3 Conditions of approved credit accounts
  - (a) Your credit account must never exceed the credit limit nominated and approved by Us. We may at any time amend your credit limit without prior notice.
  - (b) You will be provided with a customer number and You are responsible for its use and safe keeping. You remain liable for any Purchase Orders made in the name of Your customer number, whether made with or without Your authorisation.
  - (c) You acknowledge that as part of Your Application, We will check the credit history of You, and if You are a company, Your directors and officers to enable Us to evaluate Your creditworthiness.
  - (d) If You are a company, Your directors may be required to provide Us with a personal guarantee for any debts or liabilities of the company owed to Us, including unpaid Goods. This may be a condition of Us granting approval to Your Application or continuing to provide You with a credit account.
  - (e) We may at any time and without the need to provide a reason to You refuse to extend further credit to You and/or terminate Your credit account. Termination does not affect the parties' rights and obligations prior to the date of termination and, notwithstanding any such termination, each party will remain fully responsible and liable for all charges, expenses and costs incurred or earned as at the date of termination. In addition, termination does not affect any clauses of these Terms which by their nature are designed to survive the termination, and does not prejudice any rights in respect of any breach prior to termination.
  - (g) We may require that You execute further security documentation as a condition of granting or continuing to provide You with a credit account. If there is an inconsistency between the provisions of those security documents and these Terms and the failure by Us to insist upon compliance with any of these terms or any parts of a term not constitute a waiver of that term or part of a term and We are entitled to insist upon compliance with all of these Terms at any time.
- 4 Sale of Goods
  - (a) All goods sold by Us are sold and supplied on these Terms as amended from time to time by Us by notice in writing to You, at Our discretion. Any alterations to these Terms will apply to all transactions between You and Us occurring after written notification of the altered Terms has been given to You.
  - (b) In Our absolute discretion, We may refuse to sell the Goods to You whether or not part of a contract has been performed, where the Goods are unavailable for any reason, a Purchase Order is received that does not comply with Our requirements or You breach these Terms.
  - (c) A Purchase Order will identify the Goods ordered, the quantity required and refer to any quotation pursuant to which the Purchase Order is made. Subject to any guarantee under the *Australian Consumer Law*, We may supply Goods that vary from the Goods ordered by You and You must accept the Goods supplied provided that such variations are not material.
  - (d) Any variation of a Purchase Order or cancellation of an order must be agreed in writing by Us.
  - (e) You agree to notify Us in writing of any change in Your ownership or address. Notwithstanding any change in Your ownership/trading structure or any advice by You to Us of such change, You remain liable for any Goods requested by You or on Your behalf until we have received payment in full for the Goods.
  - (f) These Terms and any contract between Us and You are governed by the laws of the State of Victoria. The parties submit to the exclusive jurisdiction of the courts in Victoria. The parties agree that proceedings may be commenced in any court in Victoria and consent to that court having jurisdiction, notwithstanding that the court would not have such jurisdiction without this clause.
- 5 Representations
  - (a) Subject to any guarantee under the *Australian Consumer Law*, the descriptions, illustrations and performances contained in catalogues, price lists and other advertising matter do not form part of these Terms.
  - (b) All Goods to be supplied must be described in the Purchase Order. That description prevails over all other descriptions including Your specification or enquiry.
- 6 Payment and price
  - (a) Unless otherwise stated, all prices quoted are net, exclusive of delivery or other charges or GST.
  - (b) All Goods are supplied at the price quoted or, in the absence of any quote, at the price described in Our current Goods price list.
  - (c) If We have any liability to pay GST on the supply of any Goods to You, we will add an amount equivalent to our GST liability to the tax invoice for the Goods and You must pay that amount, in addition to the price of the Goods, when you pay the invoice (unless the consideration for that supply is specifically expressed to be GST inclusive).
  - (d) We will issue You with a valid tax invoice corresponding to your Purchase Order and any additional charges incurred.
  - (e) You agree to pay the Invoice within 30 days from the end of month of invoice (Payment Date), unless otherwise agreed to by Us in writing.
- 7 Breach by Customer
  - (a) Precast Civil Industries Pty Ltd shall be free to suspend or cancel any Order in circumstances where the Customer has failed to make any payment within the payment terms.
  - (b) The Customer hereby indemnifies Precast Civil Industries Pty Ltd in respect of any costs incurred (including legal costs on an indemnity basis) as a result of any breach of this agreement by the Customer, including any breach of terms of payment of Products or Services. Such costs include but are not limited to the costs of any demands made of the Customer to remedy any breach, fees or charges (including commission costs) incurred to recover debts and any legal proceedings to recover unpaid money.
- 8 Delivery
  - (a) If agreed by Us, We will deliver the Goods to the address nominated by You. If We deliver the Goods:
    - (i) You must pay all freight and other charges associated with the delivery, unless otherwise agreed;
    - (ii) You or Your representative must be present at the agreed place and time for delivery. If not present, We may unload the Goods at that place and in which case the Goods will be deemed to have been delivered and We will not be responsible for any claims, costs or losses suffered by You;
    - (iii) In the event that a delivery date is nominated by You, We will take all reasonable steps to achieve delivery on or about that date. The delivery times made known to You are estimates only. Subject to any guarantee under the *Australian Consumer Law*, We are under no liability for late delivery or non-delivery, nor are We liable for any loss, damage or delay occasioned to You or Your customers arising from late or non-delivery of the Goods; and
    - (iv) Subject to these Terms all Goods will be paid for by You prior to delivery by Us irrespective of whether delivery is a part or all of a sale.
- 9 Set off
  - (a) Subject to any rights under the *Australian Consumer Law*, You are not entitled to make any claim against Us if any Invoice remains unpaid. You are not entitled to set off any amount against Us. We may at any time set-off amounts owed by Us to You against any sums owed by You to Us.
  - (b) You must not deduct any sum from the total amount due on any of Our Invoices or statements for any reason whatsoever.

- 10 Rights in relation to Goods supplied to You
- (a) Property in Goods remains with Us until:
    - (i) We receive full payment for those Goods; and
    - (ii) We receive full payment of all other monies owing by You to Us including monies in respect of Goods previously or subsequently supplied to You;
  - (b) So long as any money remains unpaid by You to Us, the relationship between You and Us is fiduciary.
  - (c) You will hold the Goods as bailee for Us and will be responsible for any loss, damage or conversion of the Goods, until such time as all monies owing to Us have been paid in full.
  - (d) You must store the Goods in a manner that clearly shows that they remain Our property, until such time as all monies owing to Us have been paid in full;
  - (e) We reserve the following rights in relation to the Goods until all accounts owed by You to Us are fully paid and any cheques cleared:
    - (i) legal ownership of the Goods;
    - (ii) to enter Your premises (or the premises of any associated company or agent where the Goods are located) without liability for trespass or any resulting damages in order to retake possession of the Goods (if possible); and
    - (iii) to keep or re-sell any Goods repossessed pursuant to clause 9(e)(ii).
  - (f) You are at liberty to sell the Goods in the ordinary course of Your business, for full market value, provided that You account to Us for any proceeds of such sale and those proceeds will be kept in a separate account or trust for Us for that purpose, until accounted for to Us.
  - (g) Where You sell those Goods, as between You and the purchaser You will sell as principal and with no power to commit Us to any contract or liability, but as between You and Us, You will sell as our fiduciary agent.
  - (h) We will be given full ownership of any new Goods or objects formed if You transfer Our Goods into other products or affix the Goods to other objects.
  - (i) Despite the provisions of this clause, We are entitled to maintain an action against You for the purchase price of the Goods.
  - (j) Where Goods are supplied by Us to You without payment in full of all moneys payable in respect of the Goods (and any services), You acknowledge that We have a right to register and perfect a purchase money security interest pursuant to the PPSA.
- 11 Goods
- (a) You must inspect the Goods immediately upon delivery, and carry out any tests that a prudent consumer would carry out.
  - (b) You must give notice to Us of any alleged irregularity in quantity of the Goods as ordered, within 5 Business Days from the delivery.
  - (c) If no notice is given by You to Us in accordance with clause 10(b) above, You are deemed to have accepted the Goods.
  - (d) Goods must be returned, at Your cost, to Us, that is, from where they were purchased (unless this involves significant cost to You in which case We will collect the Goods). Subject to any rights under the *Australian Consumer Law*, Goods returned for credit and accepted by Us will be subject to handling charges of an amount equivalent up to the full value of the Goods if deemed appropriate. If Goods are not returned after 20 Business Days of notification of the claim to Us, You are not entitled to any credit. Unless otherwise agreed, no request for credit will be approved until Our representative has inspected the Goods. Until this inspection, You are responsible for maintaining proper care of the Goods. Subject to any guarantees under the *Australian Consumer Law* We will not accept claims for damaged or defective Goods or for Goods returned where You have not in Our opinion maintained proper care of the delivered Goods.
  - (e) You waive any claim for shortage of any Goods delivered if You have not lodged a claim with Us within 5 Business Days from the delivery.
  - (f) You acknowledge and agree that custom Goods manufactured by Us on Your instruction are not acceptable for return or credit where these goods match the description in the Purchase Order.
  - (g) You acknowledge and agree that Goods altered or damaged by You are not acceptable for return or credit.
  - (h) A standard restocking fee of 25% may be applicable if the return of goods stem from a customer issue.
    - (i) Goods returned by You that are no longer required.
    - (ii) Goods returned that were incorrectly ordered by You.
  - (i) Nothing in this clause 10 affects Your rights in respect of any alleged failure of a guarantee under *Australian Consumer Law*.
- 12 Warranties
- (a) We agree to manufacture and supply the Goods in good faith, using reasonable endeavours and with due care and skill. To the full extent allowed by law, We disclaim all other warranties, either express or implied.
  - (b) You agree that use of the Goods is at Your risk. To the full extent allowed by law, Our liability for breach of any term implied into these Terms is excluded.
  - (c) We give no warranty in relation to the Goods provided or supplied. Under no circumstances are We or any of Our suppliers liable or responsible in any way to You or any other person for any loss, damages, costs, expenses or other claims (including consequential damages and loss of profits or loss of revenues), as a result, direct or indirect of any defect, deficiency or discrepancy in the Goods including in their form, content and timeliness of deliveries, failure of performance, error, omission, defect, including, without limitation, for and in relation to any of the following:
    - (i) any Goods supplied to You; or
    - (ii) any delay in supply of the Goods; or
    - (iii) any failure to supply the Goods.
  - (d) To the fullest extent permissible at law, We are not liable for any direct, indirect, punitive, incidental, special, consequential damages or any damages whatsoever including, without limitation, damages for loss of use or profits, arising out of or in any way connected with the provision of or failure to provide Goods, or otherwise arising out of the provision of Goods, whether in contract tort or otherwise, even if We have been advised of the possibility of damages.
  - (e) The *Australian Consumer Law* may give to You certain guarantees. Where liability for breach of any such guarantee can be limited, Our liability (if any) arising from any breach of those guarantees is limited with respect to the supply of Goods, to the replacement or repair of the Goods or the costs of resupply or replacement of the Goods or with respect to services to the supply of services again or cost of re-supplying the services again
  - (f) The Customer acknowledges that the Goods (including any services) are not for personal, domestic or household purposes.
  - (g) Each party is under a duty to mitigate any damages or loss suffered or incurred as a result of any breach of these terms by another party.
  - (h) Any advice, recommendation, information, assistance or service given by Us in relation to Goods is given in good faith and is believed to be accurate, appropriate and reliable at the time it is given, but is provided without any warranty or accuracy, appropriateness or reliability. We do not accept any liability or responsibility for any loss suffered as a result of Your reliance on such advice, recommendation, information, assistance or service.
  - (i) Where You are a partnership or trustee You warrant that you have the right to be fully indemnified out of trust or partnership assets in relation to any liability incurred by You in connection with any sale of goods or credit provided by Us to You.
- 13 Security interest
- (a) You hereby grant a security interest in all of Your present and after-acquired property and in all of Your present and future rights in relation to any personal property (as defined in the PPSA) and charge all beneficial interests (freehold and leasehold) in land wherever located held now or in the future by You as security for Your indebtedness to Us and Your obligations pursuant to the Terms;
  - (b) You will immediately execute a consent to caveat or mortgage (in terms determined by Us), as required by Us to secure the obligations pursuant to this clause; and
  - (c) You agree that if you fail to execute a consent to caveat or mortgage within a reasonable time of being so requested by Us, then You irrevocably and by way of security appoint Us and Our agent or solicitor to be Your true and lawful attorney with authority to execute and register such instruments on your behalf.
- 14 PPSA
- (a) For the purpose of this clause, the terms "security agreement" and "security interest" have the same meaning as that given to them by the PPSA.
  - (b) You agree that you will, if requested by Us, sign any documents, provide any information or do anything else We request, to ensure that any security interest created in Our favour by these Terms is, to the fullest extent possible under the PPSA, perfected in accordance with Part 2.2 of the PPSA.
  - (c) You agree that, until any security interest created in Our favour by these Terms has been perfected, you will not register or permit to be registered or enter into any security agreement that allows any other party to register a security interest that may adversely affect the priority or enforceability of Our security interest.
  - (d) You agree to indemnify and pay Us on demand for any expenses that we may incur in registering, perfecting or enforcing, any security interest created in Our favour by these Terms.
  - (e) In relation to security interests that are not used predominantly for personal, domestic or household purposes, the PPSA allows the parties to contract out of certain provisions of the PPSA (Removable Provisions). In the absence of this clause, some of those Removable Provisions would have the effect of conferring rights on You or imposing obligations on us that You and We would not otherwise have had (Removable Rights and Obligations). You and We agree that all of the Removable Rights and Obligations are hereby contracted out of and will therefore not apply to these Terms or to any security interest created by these Terms.
  - (f) You agree to waive Your right to receive a verification statement under section 157 of the PPSA.
  - (g) Notwithstanding section 275 of the PPSA, You and We agree to keep confidential information of the kind referred to in section 275, unless compelled by law to disclose such information

- 15 Liability
- (a) Where the Goods are not manufactured by Us, the guarantee of the manufacturer is the only guarantee given to You in respect of the Goods.
  - (b) To the extent that Our liability under these Terms is not otherwise limited or excluded and to the extent permitted by law, Our total liability to You, whether in tort, contract, or otherwise, for any loss, damage or injury arising directly or indirectly from any defect in the Goods or any other breach of Our obligations under these Terms or for any other cause connected with Our sale or deliver of Goods to You shall be limited to the purchase price of the Goods.
- 16 Your obligations
- (a) You must provide any assistance and information as requested by Us and make any arrangements for Us that are reasonably necessary for Us to perform Our obligations under these Terms or as agreed by both parties in writing.
  - (b) You acknowledge and agree to each of the following:
    - (i) You are responsible for all acts and omissions of Your employees and contractors, whether You have authorised those acts or omissions or not;
    - (ii) We are not liable for any delays where those delays are caused in whole or in part by You, Our suppliers or other third parties;
    - (iii) Delivery of Goods may be subject to technical limitations such as third party availability; and
    - (iv) Goods are provided on an 'as is' basis.
- 17 Lien
- We have a lien on Your assets and any of Your related documents in Our possession for all sums payable by You to Us and for that purpose have the right to sell Your assets and all related documents in Our possession, by public auction or privately without notice to You.
- 18 Notices
- (a) Any notice required to be given by You to Us must be delivered personally, posted to Us at PO Box 6145 Shepparton VIC 3632 or emailed to [AR.VIC@civilmart.com.au](mailto:AR.VIC@civilmart.com.au) and is only be taken as delivered when received by Us. Any notice to be given to You may be delivered personally or sent by post to Your last known address or email address.
  - (b) A notice given in accordance with clause 17(a) takes effect when received (or at a later time specified in it), and is taken to be received:
    - (i) if hand delivered, on delivery;
    - (ii) if sent by prepaid post, 2 Business Days after the date of posting (or 5 Business Days after the date of posting if posted to or from outside Australia);
    - (iii) if sent by facsimile or email, when the sender's facsimile system generates a message confirming successful transmission or the sender's email system indicates that the email has been sent and no "send error" is subsequently received unless, within eight Business Hours after the transmission, the recipient informs the sender that it has not received the entire notice or the email, but if the delivery, receipt or transmission is not on a Business Day or after 4:30pm on a Business Day, the notice is taken to be received at 8:00am on the Business Day after that delivery, receipt or transmission.
- 19 Termination of Purchase Order
- (a) After following the Dispute Resolution process in clause 19, We may by providing You with 2 Business Days prior written notice:
    - (i) terminate the Purchase Order;
    - (ii) cancel any discounted prices given to You and recalculate the outstanding invoices on Our standard prices.
  - (b) Termination does not affect the parties' rights and obligations prior to the date of termination and each party will remain fully responsible and liable for all charges, expenses and costs incurred or earned as at the date of termination.
  - (c) Termination does not affect any clause of these Terms which by its nature is designed to survive or operate in the event of the termination and does not prejudice any rights in respect of any breach prior to termination.
- 20 Dispute resolution
- (a) If a dispute arises between the parties (Dispute) the following procedure applies:
    - (i) A party may give another party a notice of the Dispute, and the Dispute must be dealt with in accordance with the procedure set out in this clause.
    - (ii) A party must not commence legal proceedings (except proceedings seeking interlocutory relief) in respect of a Dispute unless the Dispute has been referred for resolution in accordance with this clause.
    - (iii) A party must not oppose any application for a stay of any legal proceedings that may be issued in respect of a Dispute pending the completion or termination of the procedure set out in this clause.
  - (b) If a Dispute is notified pursuant to clause 19(a)(i), the Dispute must immediately be referred to the parties' respective senior management. Those representatives must endeavour to resolve the Dispute as soon as possible and in any event within 5 Business Days (or other period as agreed).
  - (c) Unless otherwise agreed by the parties, any Dispute that cannot be settled by negotiation between the parties or their representatives in accordance with clause 19(b) must be referred to an expert for a binding determination. A Dispute submitted to an expert must be dealt with in the following manner:
    - (i) The expert must be agreed between the parties, or failing agreement, appointed by an independent party.
    - (ii) The location of any hearing or determination in relation to the Dispute is to be held in Victoria.
    - (iii) The Dispute is conducted in accordance with the IAMA's Rules and Guidelines which are operating at the time the Dispute is referred to the IAMA.
    - (iv) The expert must undertake to make the decision within 15 Business Days after receiving all relevant information and submissions.
    - (v) The parties must provide all relevant documentation to the expert within 20 Business Days of the expert's appointment and may make written submissions to the expert during this period.
    - (vi) The expert acts as an expert and not an arbitrator, however the determination of the expert is binding on the parties, subject to manifest error.
    - (vii) The costs of the expert must be shared equally between the parties to the Dispute.
  - (d) Notwithstanding the existence of a Dispute, each party must continue to perform its obligations under these Terms.
  - (e) The parties must hold confidential, unless otherwise required by law, all information relating to the subject matter of the Dispute that is disclosed during or for the purposes of dispute resolution.
  - (f) Clause 19 survives termination of these Terms.
- 21 General
- (a) If any of these Terms or part of a term of these Terms cannot be given effect for any reason that term or part of a term will be severed and read down respectively and the remaining terms of these Terms and part of any term will remain valid and binding so as to give effect to the intention of the parties.
  - (b) You agree to notify Us in writing of any change in Your ownership or address. Notwithstanding any change in Your ownership/trading structure or any advice by You to Us of such change, You remain liable for any Goods requested by You or on Your behalf until we have received full payment for those Goods.
  - (c) These Terms and any contract between Us and You are governed by the laws of the State of Victoria. The parties submit to the exclusive jurisdiction of the courts in Victoria. The parties agree that proceedings may be commenced in any court in Victoria and consent to that court having jurisdiction, notwithstanding that the court would not have such jurisdiction without this clause.
  - (d) No amendment or variation to these Terms will be effective unless it is in writing and signed by one of Our authorised representatives.

**SIGNED BY DIRECTORS, PARTNERS, OR SOLE TRADERS AS APPROPRIATE:  
(MINIMUM OF TWO SIGNATURES REQUIRED IF MORE THAN ONE DIRECTOR/PARTNER)**

Name	Signature	Position	Date
Name	Signature	Position	Date
Name of witness	Signature of witness	Position of witness	Date

# Guarantee

1. The Guarantor(s) (You) acknowledge that:
  - (a) This Guarantee is provided in consideration of Precast Civil Industries Pty Ltd (ABN 78 615 726 924) (Us/We) considering a credit application submitted by the applicant named in the Credit Account Application (Customer) which this Guarantee accompanies. If We agree to provide a credit account to the Customer, it will be subject to Our standard Trading Terms and Conditions (Agreement) and Our decision to do so will be made in reliance on You providing this Guarantee;
  - (b) You have not relied upon any representation or warranty, including any negligent misrepresentation made by any other party, or any person on behalf of another party in relation to this Guarantee or the negotiations relating to or leading up to this Guarantee;
  - (c) We have not provided You with any legal, financial or other advice in respect of this Guarantee;
  - (d) We have no obligation to notify You of any changes to any agreement or any dealings We have with the Customer; and
  - (e) Your obligations under this Guarantee continue in force until We confirm in writing that You have been released.
2. You guarantee to Us the due performance by the Customer of all of the Customer's obligations to Us, either under the Agreement or otherwise, including the payment of any money by the date due for payment. If the Customer does not comply, on time and in accordance with any agreement between Us and the Customer, with any obligations that the Customer owes to Us, then You agree to comply Your obligations under this Guarantee immediately upon demand from Us.
3. You indemnify Us and will at all times keep Us indemnified from and against all losses and expenses which We may suffer or incur in consequence of:
  - (a) any non-observance by the Customer or any guarantor of any of the terms of the Agreement or any guarantee given in connection with the Agreement;
  - (b) any representation or warranty by the Customer to Us being found to have been incorrect or misleading;
  - (c) any part of the Agreement or this Guarantee being void or unenforceable; and
  - (d) any money paid by the Customer to Us is required to be repaid under any law relating to insolvency or liquidation.
4. Security:
  - (a) You hereby grant a security interest in all of Your present and after-acquired property and in all of Your present and future rights in relation to any personal property (as defined in the PPSA) and charge all beneficial interests (freehold and leasehold) in land wherever located held now or in the future by You as security for the performance of Your obligations under this Guarantee.
  - (b) You must, within 10 days after having been requested by Us, execute such documents as We require to perfect any security interest created by this Guarantee, including without limitation a financing statement under the PPSA, a consent to caveat, or a mortgage. You must pay on demand any stamp duty (including any fines and penalties) assessed in connection with any such documents;
  - (c) You agree that if you fail to execute a consent to caveat, a mortgage or any document required by Us to perfect any security interest created by this Guarantee, within ten days after being so requested by Us, then You irrevocably and by way of security appoint Us and Our agent or solicitor to be Your true and lawful attorney with authority to execute and register such instruments on your behalf;
  - (d) You agree to indemnify and pay Us on demand for any costs associated with producing, executing, finalising, registering, lodging or enforcing any documents that we deem necessary to perfect or enforce any security interest created by this Guarantee, including any stamp duty that we may become liable to pay in connection with any such documents.
5. We will not be required to give notice to, make demand on, or commence proceedings against the Customer or incur any expense in relation to any breach by the Customer of any obligation that the it owes to Us prior to Us making demand on You to fulfil Your obligations under this Guarantee.
6. This is a continuing guarantee and Your obligations to Us are not affected by:
  - (a) Any other person giving or not giving a guarantee to Us in relation to the Customer's performance of its obligations to Us;
  - (b) The winding up, deregistration, administration, liquidation or insolvency of the Customer;
  - (c) Any delay by Us or granting of time or concession (including a release, waiver, variation, assignment, novation, or relinquishment of rights) to the Customer;
  - (d) Any variation, assignment or novation of any agreement between Us and the Customer (whether or not You are a party to that variation and whether or not such variation increases Your liability under the Guarantee); and
  - (e) Our taking, varying, wholly or partially discharging or otherwise dealing with or losing or impairing any security for the Customers obligations to Us under any agreement or a security granted by the Customer in our favour being or becoming void, voidable or unenforceable; or
  - (f) Any other act or omission by Us or anyone or any other circumstance which by law would, but for this clause, have the effect of varying or releasing You from Your obligations to Us under this Guarantee.
7. You agree that, while You have any obligation to Us under this Guarantee, You will not:
  - (a) Demand, claim, seek to recover or receive any amount, or enforce any security in relation to any amount, owing or allegedly owing by the Customer or by any guarantor of the Customer to You and if You do receive any such money You will immediately pay as much of that money to Us as is necessary to satisfy Your obligations to Us under this Guarantee; and
  - (b) Prove for any debts owed to You in any liquidation or bankruptcy of the Customer.
8. General
  - (a) This Guarantee may be altered only in writing signed by You and Us.
  - (b) You must pay Your own costs of negotiating, preparing and executing this Guarantee.
  - (c) Any stamp duty, duties or other taxes of a similar nature (including fines, penalties and interest) in connection with this Guarantee or a transaction contemplated by this Guarantee, must be paid by You.
  - (d) Any indemnity or other term of this Guarantee which, by its nature is intended to survive termination of this Guarantee, survives termination of this Guarantee.
  - (e) The rights and obligations of the parties under this Guarantee do not merge on completion of any transaction contemplated by this Guarantee.
  - (f) This Guarantee constitutes the entire agreement between the parties in connection with its subject matter and supersedes all previous agreements or understandings between the parties in connection with its subject matter.
  - (g) A term or part of a term of this deed that is illegal or unenforceable may be severed from this deed and the remaining terms or parts of the term of this deed continue in force.
  - (h) This deed is governed by the law of Victoria, Australia and each party irrevocably and unconditionally submits to the non-exclusive jurisdiction of the courts of Victoria, Australia.

**SIGNED AS A DEED POLL BY:**

<b>Name</b>	<b>Signature</b>	<b>Your Position/Title</b>	<b>Date</b>
<b>Name</b>	<b>Signature</b>	<b>Your Position/Title</b>	<b>Date</b>
<b>Name of witness</b>	<b>Signature of witness</b>	<b>Position of witness</b>	<b>Date</b>

**Please send completed application forms to [AR.VIC@civilmart.com.au](mailto:AR.VIC@civilmart.com.au)**