



CREDIT APPLICATION AND AGREEMENT

Willcan, Inc. d/b/a Basic Ready Mix
P.O. Box 1357, Calhoun, GA 30703 - 706-629-2256 - ar@basicreadymix.com

BUSINESS INFORMATION

Business Legal Name or Individual:

Doing Business As:

Application Date:

Federal ID # (required):

Type of Business:

☐ Corporation

☐ Partnership

☐ Individual

☐ LLC

☐ Other

Date Established:

Website:

Address:

City:

State/Zip:

Billing Address (if different from above)

City:

State/Zip:

Main Phone Number:

Accounts Payable Contact:

Accounts Payable Email(s): *Invoices and Statements emailed to this email*

Preferred Method to Receive Invoices and Statements:

Sales Tax Exempt? (certificate copy required)

☐ Email ☐ Mailed ☐ Both

☐ Yes ☐ No

****Tax Exemption Certificate must be submitted prior to the start of a project****

OWNERS/OFFICERS

Full Name:

Title:

Social Security Number:

Cell Number:

Home Address:

City:

State/Zip:

Full Name:

Title:

Social Security Number:

Cell Number:

Home Address:

City:

State/Zip:

Full Name:

Title:

Social Security Number:

Cell Number:

Home Address:

City:

State/Zip:

BANK REFERENCE/INFORMATION

Bank Name:	Bank Address	City:	State/Zip:
Account #	Main Phone Number:	Contact Name:	Contact Phone Number:

BUSINESS REFERENCES

Reference 1:

Company

Account #

City / State

Phone

Reference 3:

Company

Account #

City / State

Phone

Reference 2:

Company

Account #

City / State

Phone

Reference 4:

Company

Account #

City / State

Phone

TERMS AND CONDITIONS (of sales)

- 1.) **Notice and Delivery.** Seller will take reasonable steps to deliver the goods (e.g., ready-mix concrete, grout) to the locations at the times and quantities requested by Customer, provided Customer schedules (time and delivery rate) with Seller the deliveries during normal hours of operation and not less than twenty-four hours in advance of the requested deliveries and deliveries are subject to the other terms herein. Seller is authorized to make deliveries requested by Customer's personnel and agents, including its purchase managers, project managers, superintendents, foremen, builders, subcontractors and concrete placers and finishers. Under no circumstances shall Seller have any liability whatsoever resulting from delay regardless of the reasons.
- 2.) **Goods.** Seller has available a few ready-mix concrete (also simply referred to as "concrete") and grout mixtures. Information on these concrete and grout mixtures is available at the offices of Seller or upon request. Strengths are based on a maximum of a 4-inch slump. If Customer desires a different concrete or grout mixture, it will need to provide in writing the design and proportioning of the concrete or grout mixture to Seller, specifying materials readily available to Seller, and Seller will assign a unique mix code name for the concrete or grout mixture. Seller shall not be responsible for the performance of the concrete or grout mixtures provided by Customer or others, including the 28-day strength. The ready-mix concrete and grout mixtures will be batched, mixed and delivered to Customer in accordance with ASTM C94. The ready-mix concrete and grout are being provided by the cubic yard. Customer acknowledges that the amount of concrete and grout ordered has been determined by the Customer, and the Customer assumes full responsibility therefor and shall hold Seller harmless regarding the adequacy of the amount of ready-mix concrete and grout ordered. Customer further acknowledges that Seller is not responsible and has no control over the placing or handling of the concrete and grout during and after unloading the delivery truck, and Customer assumes full responsibility therefor and shall hold Seller harmless regarding the placement, curing, and finishing of the concrete and grout.
- 3.) **Payment.** Customer shall make payment within thirty (30) calendar days of the batching and loading of each concrete ready-mix truck. If requested, Seller will provide an applicable lien waiver in exchange for contemporaneous payment. There shall be no recoupment or setoff or other condition precedent of payment.
- 4.) **Inspection.** Customer shall inspect the goods (e.g., the ready-mix concrete, grout) at the time of delivery, and failure of Customer to identify and notify Seller's home office in writing of any and all suspected or known defects and/or nonconformities, in addition to noting such on the delivery ticket, shall be an unqualified acceptance of the goods.
- 5.) **Shipments Subject to Payment.** If Customer fails to make full and timely payments on this or any other agreement between Customer and Seller in accordance with Seller's terms, Seller may defer further deliveries of goods until such payments are made, or may, at its option, cancel in whole or part any further deliveries. Seller, at any time and for any reason, may require the Customer to make payment in advance of delivery of goods, and if the Customer refuses or fails to do so, the Seller may suspend deliveries or cancel this or any other agreement between Customer and Seller.
- 6.) **Additional Charges.** The prices shall be increased to cover: (a) any municipal, county, state, or federal sales, use, or local tax, (b) environmental, fuel, and retarder charges or surcharges, (c) temperature control, (d) changed, additional or different goods (e.g., concrete, grout) at prices set by Seller, (e) deliveries outside normal hours of operation of Seller, and (f) jobsite monitoring,

- coordination, or other services provided by Seller at hourly rates set by Seller. Additionally, Seller may charge Customer an hourly unloading fee of \$150 should any delivery truck not be unloaded within sixty (60) minutes or ten (10) minutes per cubic yard, after arriving at the place of delivery or job site, whichever is the shortest duration. Seller may also charge an additional load charge of \$300 for each ready mix concrete truck hauling less than six (6) cubic yards of ready-mix concrete or grout.
- 7.) **No Credit After Loading.** Customer shall be charged for all goods (e.g., ready-mix concrete, grout) loaded into the delivery truck of Seller, and Customer shall have no right to a credit, even if goods are not delivered or used by Customer. Customer must cancel delivery prior to the batching and loading operations occurring to avoid being charged for the goods.
- 8.) **Changed, Additional, or Different Goods | Decreased Volumes of Priced Goods.** The pricing does not include changed, additional, or different goods from those goods priced in the quote. Seller shall set the price for any changed, additional, or different goods that Seller elects, at its sole discretion, to provide to Customer. Should the actual volumes of the goods priced by Seller be more than 20% less than estimated, then Seller shall be entitled to an equitable adjustment that provides for additional payment by Customer to Seller for goods previously delivered and future deliveries.
- 9.) **Wet Volume.** Prices and quantities are based on wet volume at the time of discharge from delivery truck.
- 10.) **Normal Hours of Operation.** Normal hours of operation are between the hours of 7:00 AM and 5:00 PM Monday through Friday and Saturday 7:00 AM and 12:00 PM excluding federal and state holidays. A \$5,000 opening fee shall be applied to deliveries outside of normal hours of operation.
- 11.) **Disclaimer.** Customer acknowledges and agrees that from time to time, and for periods of time, Seller may be unable to obtain certain materials to manufacture the goods, including but not limited to cement, flyash, aggregate, and admixtures, at the rate or volume needed to service Customer and other customers of Seller, and that such inability to obtain or source these materials at the volumes needed by Seller may contribute or cause Seller to be unable to provide Customer's ready-mix concrete and other goods at the volume or in a timely and reliable manner and, therefore, Seller disclaims any, and Customer agrees Seller shall have no, responsibility for any resulting hardships or damages caused or arising therefrom. Upon recognition of a material shortage, Seller will endeavor to promptly notify Customer of same and Customer may, without penalty, obtain the goods elsewhere during the material shortage without any recourse against Seller. Notwithstanding the foregoing, Customer shall remain fully liable for all goods ordered or delivered prior to the material shortage, shall timely pay Seller, and shall immediately resume obtaining the goods from Seller upon dissipation of the material shortage.
- 12.) **Force Majeure.** In the event of fire, war, flood, strike, accident, repair of machinery, labor trouble, accident, riot, act of government authority, terrorism, explosion, act of God, embargo, civil or military authority, pandemic, epidemic, changes in market conditions relating to costs or availability of raw materials (e.g., cement, flyash, aggregate, or admixture), commercial impracticability, or contingencies beyond the control of Seller interfering with or affecting the production or transportation of the goods or with the supply of any material (e.g., cement, flyash, aggregate, or admixture) used in connection therewith, Seller may, at its option, cancel, in whole

or part, any unshipped balance of the goods, and Seller shall not be liable for the failure to make any delivery.

13.)**Unloading.** Customer shall provide suitable roadways and approaches to points of delivery beyond the public roads. Customer shall provide safe areas for the ready-mix concrete trucks to be unloaded as well as provide adequate locations and contained areas where Seller may washout and clean delivery trucks to avoid tracking mud, dirt, rocks, debris or concrete onto public roads. Customer shall be responsible for complying with all environmental laws regarding the washout of the ready-mix concrete and grout delivery trucks and shall indemnify Seller from any and all liabilities arising from the environmental laws. Customer shall be responsible for all liability for damage to sidewalks, driveways, other property, and person incurred as a result of deliveries beyond the curb line. Customer shall pay for any wrecker or similar charges associated with getting the delivery truck into and out of the job site or delivery location.

14.)**Warranty and Limitation of Liability.** Seller warrants that the concrete and grout mixtures, when sampled and tested by Customer, will meet the 28-day strengths, provided the concrete mixtures are sampled and tested in accordance with ASTM C172 and ASTM C31 and the grout mixtures are sampled and tested in accordance with ASTM C1019, by a certified American Concrete Institute Grade 1 Concrete Field Testing Technician.

SELLER SHALL NOT BE LIABLE FOR ANY LOSS OF PROFITS, INDIRECT, SPECIAL, INCIDENTAL OR CONSEQUENTIAL DAMAGES, OR OTHER DAMAGES, INCLUDING DELAY DAMAGES. THIS WARRANTY IS GIVEN AND ACCEPTED IN LIEU OF ALL OTHER LIABILITY WARRANTIES ON THE PART OF SELLER, EXPRESS OR IMPLIED, IN FACT OR IN LAW. ALL IMPLIED WARRANTIES AND SPECIFICALLY THE IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE ARE EXPRESSLY EXCLUDED AND DISCLAIMED.

This warranty shall constitute Customer's sole and exclusive remedy and Seller's sole and exclusive liability. Seller's liability to Customer arising out of the manufacturing or delivery of the goods, whether based on warranty, contract, negligence (including strict liability) or otherwise, shall not (in any case) exceed the cost of correcting defects in the goods, but shall, in all events, be limited to the purchase price of the defective goods.

Seller does not warrant and shall have no liability for any ready-mix concrete or grout that has materials or water added to it by or at the direction or request of Customer's personnel and agents.

15.)**Brand.** The brand of cement used in goods shall be Seller's option.

16.)**Admixtures.** The Seller will use chemical admixtures in accordance with the manufacturer's recommendations or as directed by Customer, and Seller shall have no responsibility or liability for the effect of such admixtures on the goods before or after delivery.

17.)**Ready-Mix Concrete.** All concrete shall be batched, mixed, and delivered in accordance with the requirements of ASTM C-94 Specifications for Ready-Mixed Concrete. Cement and aggregates shall meet the requirements of the applicable ASTM specifications except that the sand shall meet the gradation requirements of the Georgia Department of Transportation, Section 500 Concrete Structures.

18.)**Addition of Water or Other Material.** Seller does not warrant, shall have no liability, and is not responsible for the slump, strength or quality of any goods (e.g., ready-mix concrete, grout) to which water or any other material has been added by or at the direction of the Customer or his personnel or agents.

19.)**Insurance.** Seller shall be only obligated to obtain and maintain the minimum insurance requirements as mandated by the State of Georgia.

20.)**Interest and Collection.** Any payment not made when due shall be subject to a charge of one and one-half percent (1-1/2%) finance charge per month on the unpaid balance. Customer shall pay all costs and expenses incurred in collecting sums due or owing, including court or arbitration fees and costs, attorneys' fees, and expert witness fees, arising before, during, or after trial, including any costs, attorneys' fees, or expenses incurred in any appeal there from.

21.)**Indemnification.** To the fullest extent permitted by law, Customer shall defend, indemnify, and hold Seller and its officers, directors, employees and agents wholly harmless from any claims, demands, liabilities, damages, costs, suits by any person or persons, losses, and expenses, including attorney's fees, arising out of or resulting from the execution of or in connection with the sale, delivery and use of the goods, including liability for any negligence of a party indemnified hereunder, provided the negligent act was not the sole negligence of a party indemnified hereunder.

22.)**Waiver, Alteration or Modification.** No waiver, alteration, or modification of these terms and conditions shall be binding on Seller unless in writing and signed by an officer of Seller.

23.)**Applicable Law.** This Agreement is made in and shall be governed by the laws of the State of Georgia, without giving effect to the conflict of laws provisions of the laws of the State of Georgia.

24.)**Disputes.** At the discretion and sole election of Seller, Seller may require that any controversy, dispute or claim, of whatever kind, arising out of or relating to the sale, delivery or use of the goods, be resolved by and in accordance with the Commercial Arbitration Rules of the American Arbitration Association, as from time to time amend and in effect. Any litigation or arbitration arising out of the sale, delivery or use of the goods shall be brought, maintained and administered in Gordon County, Georgia. Should Seller be successful, in whole or part, in prosecuting or defending any lawsuit or arbitration, then Seller shall be entitled to recover its litigation or arbitration expenses, including expert and attorneys' fees, as well as any expenses incurred in any appeal there from. Any controversy, dispute, or claim that Customer may have against Seller must be initiated no later than one (1) year after the goods were delivered. Any judgment or arbitration award entered in favor of Seller shall bear interest at the rate of 18% per annum, until paid in full, in lieu of the statutory rate of interest.

25.)**Covid-19, Pandemic, or Epidemic.** This agreement does not include or account for any impacts resulting from or concerning Covid-19, other pandemics, or epidemics. Seller shall be entitled to an equitable adjustment for demonstrated impacts.

26.)**Price Escalation.** The materials used to make ready mix concrete and grout are sometimes subject to price volatility due to political, economic, and other things. If the cost for any of the materials increase, then Customer shall pay for said additional costs.

AGREEMENT & AUTHORIZATION

THE INFORMATION IN THIS CREDIT APPLICATION AND AGREEMENT IS SUBMITTED BY THE BUSINESS FOR THE PURPOSE OF OBTAINING CREDIT AND IS CERTIFIED TO BE TRUE, COMPLETE, AND CORRECT. THE UNDERSIGNED REPRESENTS AND WARRANTS THAT HE/SHE IS DULY AUTHORIZED TO EXECUTE THIS CREDIT APPLICATION AND AGREEMENT ON BEHALF OF THE BUSINESS. BASIC READY MIX IS AUTHORIZED TO INVESTIGATE REFERENCES PERTAINING TO THE BUSINESS' CREDIT AND FINANCIAL HISTORY. THE UNDERSIGNED AUTHORIZES THE RELEASE OF CREDIT AND BANKING INFORMATION ON THE BUSINESS. IF THE APPLICATION IS FOR A PARTNERSHIP OR PROPRIETORSHIP, AUTHORIZATION IS GRANTED TO OBTAIN CONSUMER CREDIT REPORTS ON THE PARTNERS OR PROPRIETORS.

DATE	PRINT FULL NAME	TITLE	SIGNATURE
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THE UNDERSIGNED FURTHER REPRESENTS AND WARRANTS THAT HE/SHE IS DULY AUTHORIZED TO ACCEPT AND AGREE TO THE TERMS AND CONDITIONS (of sales) ON BEHALF OF THE BUSINESS (which is referenced as "Customer" in said Terms and Conditions), AND DOES HEREBY ACCEPT AND AGREE THAT ALL OF THE PURCHASES BY THE BUSINESS FROM BASIC READY MIX (which is referenced as "Seller" in said Terms and Conditions) ARE EXPRESSLY SUBJECT TO THE TERMS AND CONDITIONS (of sales), WHICH SHALL TAKE PRECEDENCE OVER ANY OTHER CONDITIONS, AND NO CONTRARY, ADDITIONAL OR DIFFERENT PROVISIONS OR CONDITIONS SHALL BE BINDING UPON THE SELLER, UNLESS ACCEPTED BY AN OFFICER OF SELLER IN WRITING.

DATE	PRINT FULL NAME	TITLE	SIGNATURE
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THE UNDERSIGNED, JOINTLY AND SEVERALLY GUARANTEE FULL PAYMENT OF ALL INDEBTEDNESS AND LIABILITIES OF THE BUSINESS TO BASIC READY MIX ON DEMAND AND IN ACCORDANCE WITH THE TERMS AND CONDITIONS (of sales), UNTIL AND UNLESS REVOKED IN WRITING VIA CERTIFIED MAIL, RETURN RECEIPT REQUESTED ADDRESSED TO BASIC READY MIX, P.O. BOX 1357, CALHOUN, GA 30703. IT IS FURTHER AGREED THAT SUCH NOTICE SHALL NOT RELIEVE THE UNDERSIGNED FROM ANY INDEBTEDNESS OR LIABILITY INCURRED PRIOR TO THE ACTUAL RECEIPT BY SELLER. AUTHORIZATION IS GRANTED TO OBTAIN CONSUMER CREDIT REPORTS ON THE GUARANTORS AS MAY BE NEEDED IN THE CREDIT EVALUATION PROCESS.

DATE	PRINT FULL NAME	SOCIAL SECURITY NO.	SIGNATURE
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DATE	PRINT FULL NAME	SOCIAL SECURITY NO.	SIGNATURE
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