

APPLICATION FOR CREDIT AND AGREEMENT TO CREDIT TERMS

El Toro Ready Mix LLC

ACCOUNT NAME

STREET ADDRESS

CITY

STATE

ZIP CODE

TELEPHONE NUMBER

EMAIL ADDRESS

FEDERAL TAX ID NUMBER

GC LIC NUMBER

CELL PHONE NUMBER

MONTHLY PURCHASES

YEAR STARTED BUSINESS.

PRINCIPALS

NAME

SSN #

TITLE

PHYSICAL ADDRESS

NAME

SSN #

TITLE

PHYSICAL ADDRESS

TERMS

In consideration of El Toro Ready Mix LLC's extension of credit, the undersigned (individually and collectively "Applicants") agree to all terms set forth herein. If this is a joint application, all applicants agree to be jointly and severally liable for all charges made on the account and for any other charges made by and credit issued to the applicants.

The applicants agree that if credit is issued as a result of this application, El Toro Ready Mix LLC has the right to change the limit and terms in its sole and absolute discretion. In the event this account is placed in the hands of an attorney for collection, applicants jointly and severally agree and promise to pay El Toro Ready Mix LLC's reasonable attorneys' fees. Upon execution of this application, applicants agree that the terms of credit and sale attached hereto shall apply to all transactions between El Toro Ready Mix LLC and applicants (if such terms of credit and sale are not attached, applicants agree that El Toro Ready Mix LLC's terms of credit and sale in effect as of the date of this application shall apply to all transactions between El Toro Ready Mix LLC and applicants and that a copy of same have been provided to or made available to applicants.

PERMISSION TO CHECK CREDIT

By signing this application, applicants authorize El Toro Ready Mix LLC and its agents to investigate the applicants credit worthiness. By signing this application or guaranty, applicants and any guarantors further authorize El Toro Ready Mix LLC and its agents not only to investigate the applicants' business and/or corporate credit worthiness, but also to investigate the applicants' and/or guarantors' personal credit worthiness. Specifically, and without limitation, applicants and any guarantors authorize El Toro Ready Mix LLC and its agents to request Consumer Reports in connection with the processing of this application and subsequently pursuant to the Fair Credit Reporting Act. Upon request, El Toro Ready Mix LLC will inform applicant and any guarantors of the names and addresses of any consumer reporting agencies which have provided El Toro Ready Mix LLC with such reports with respect to the requesting party.

OFFICER SIGNATURE

DATE

PRINT OFFICER NAME

TITLE

GUARANTY OF PAYMENT

Guaranty given by all the undersigned (individually and collectively "Guarantor") to and for the benefit of El Toro Ready Mix LLC, in order to induce it to extend credit to, or otherwise become the creditor of _____ ("Debtor") (same as account name).

Guarantor guarantees to El Toro Ready Mix LLC the full and prompt payment when due of any and all debts now due or which may hereinafter be incurred in favor of El Toro Ready Mix LLC by the debtor. This guarantee shall be an absolute, continuing and unlimited guaranty of payment, and El Toro Ready Mix LLC shall not be required to take any proceedings against the debtor, or give any notice to the guarantor before El Toro Ready Mix LLC had the right to demand payment by the guarantor upon default by the debtor. This guaranty shall remain in full force and effect until revoked by written notice delivered to El Toro Ready Mix LLC by way of certified mail. Such revocation, however, shall be effective only to debts that may be incurred in favor of El Toro Ready Mix LLC by the debtor which arise out of transactions entered into after receipt by El Toro Ready Mix LLC of such written notice. This obligation shall cover the renewal of any debts guaranteed by this instrument or extensions of time of payment thereof, and shall not be affected by any surrender or release by El Toro Ready Mix LLC of any other security held by it for any claim hereby guaranteed. In the event that this guaranty shall be placed in the hands of an attorney for collection, the undersigned jointly and severally agree to pay El Toro Ready Mix LLC's reasonable attorneys' fees in connection therewith. This guaranty shall be construed in accordance with the laws of the State of North Carolina and shall bind heirs, executors, legal representatives, successors or assigns of the undersigned, and when signed by more than one shall be joint and several obligations of each.

WITNESS the signature and seal of the undersigned, this _____ day of _____, 20__.

WITNESS

PRINCIPAL

WITNESS

CO-SIGNOR

WITNESS

PRINCIPAL

WITNESS

CO-SIGNOR

In consideration of the extension of credit by El Toro Ready Mix LLC, for any reason, including, without limitation, the purchase of materials or the rendering of services, the applicants and any guarantors (hereinafter collectively "customer") understands and agrees to the following terms of sale and credit (the application for credit and these terms and conditions are collectively referred to as "agreement").

1. Customer agrees that El Toro Ready Mix LLC's invoices are due within thirty (30) days from the date set forth on each invoice and that in the event any invoice is not paid according to its terms, customer's account is in default and is subject to any interest, late or service charge in the amount of 1.5 % per month (18% per annum) on the outstanding principal balance. Payment received by El Toro Ready Mix LLC shall be applied first to interest and then to principal.
2. El Toro Ready Mix LLC may agree to increase or decrease the amount of credit extended to customer at any time. In the event an account is in default, including, without limitation, the failure by customer to make any payment at the time due, El Toro Ready Mix LLC may, at its sole discretion, suspend or cancel this agreement and any other agreement between El Toro Ready Mix LLC and customer. Any failure to make payment at the time provided shall be a bar to any claim by customer against El Toro Ready Mix LLC for any delay in completion of the work due to such suspension arising out of customer's failure to pay.
3. Customer agrees that in the event it defaults in the payment or performance of any of its obligations or agreements with El Toro Ready Mix LLC, customer will pay all costs of collection, including, without limitation, reasonable attorney's fees incurred by El Toro Ready Mix LLC in the enforcement of its rights of the enforcement of customer's obligations and agreements hereunder.
4. Disclaimer of warranties/damages, El Toro Ready Mix LLC makes no warranty to anyone, as to any matter whatsoever, express or implied, including without limitation, the fitness, merchantability, design, condition, quality, capacity, performance or any other aspect of the materials or workmanship. All material sold hereunder is being sold "as is and with all faults." Company disclaims any liability for loss, damage or injury to customer or third parties as a result of any defects, latent or otherwise, in the materials or workmanship. El Toro Ready Mix LLC shall have no obligation to maintain, install, erect, test, adjust or service the materials whether arising from El Toro Ready Mix LLC's negligence or application of the laws of strict liability. El Toro Ready Mix LLC's liability and customer's sole and exclusive remedy for any cause of action, including, without limitation, claims in warranty, contract, negligence indemnity, strict liability or otherwise, arising out of or connected with this agreement is expressly limited to repair or replacement of non-conforming materials or, at El Toro Ready Mix LLC's sole option, payment not to exceed the purchase price of the materials for which damages are claimed. El Toro Ready Mix LLC shall not be liable to customer or any other

person or entity for any indirect, liquidated, special, incidental or consequential damages, whether arising out of breach of warranty, breach of contract, negligence, indemnity, strict liability or otherwise.

5. To the fullest extent permitted by law, customer shall indemnify, defend, protect and hold harmless El Toro Ready Mix LLC and El Toro Ready Mix LLC's owners, member, managers, agents and employees of, from and against any claims, damages, losses, expenses and costs, including but not limited to attorneys' fees, arising out of or resulting from the subject matter of this agreement or the performance hereunder to the extent caused by the acts or omissions of customer or anyone directly or indirectly employed or subcontracted by customer or anyone for whose acts customer may be liable, regardless of whether or not such claim, damage, loss or expense is caused in part by a party indemnified hereunder. Such obligation shall not be construed to negate, abridge, or reduce customer's other obligations of indemnity that may otherwise exist.
6. Customer specifically authorizes any of its employees to purchase materials under this agreement, pick-up materials, and sign, deliver and receive invoices for said materials and agrees to be bound by all the terms of said invoices.
7. Customer agrees to inspect all material immediately upon delivery to verify: (a) the quantities described in the accompanying delivery ticket or invoice are the quantities delivered; and (b) that there are no visible defects in the material. Customer also agrees to examine all delivery tickets and invoices upon receipt. Unless customer gives El Toro Ready Mix LLC written notice by certified mail, return receipt requested, with three (3) days of delivery, customer waives any claim he may have against company and any objection he may have to the amount of the invoice.
8. The parties agree that this is the entire agreement and that no oral representation or agreement has been made which would modify this agreement or be a condition precedent or subsequent to the enforcement of this agreement and that this agreement may not be modified except by a writing signed by each of the parties.
9. If any one or more of the provisions contained in this agreement or any document executed in connection herewith shall be invalid, illegal or unenforceable in any respect under any applicable law, the validity, legality and enforceability of the remaining provisions contained herein shall not in any way be affected or impaired; provided, however, that in such case the parties oblige themselves to use their best efforts to achieve the purpose of the invalid provision by a new legally valid stipulation.
10. This agreement and the purchase of materials pursuant to this agreement shall be governed by the laws of the State of North Carolina. Customer consents to personal jurisdiction of the courts of the State of North Carolina over it. Customer agrees that the sole and exclusive venue for any action brought by customer against El Toro Ready Mix LLC shall be in the North Carolina General Courts of Justice for Union County, North Carolina.

