



CREDIT APPLICATION AND AGREEMENT

This Application is required by Webb Concrete and Building Materials, Inc., for the purposes of evaluating credit applications and for establishing terms upon which credit may be granted. Neither this Application nor any extension of credit hereunder creates any continuing obligation on the part of Webb Concrete and Building Materials, Inc., its owners, agents, or employees. The applicant understands that Webb Concrete and Building Materials, Inc. reserves the right to terminate any extension of credit at any time, with or without notice, for any reason, and to change the terms by which credit is extended at any time, with or without notice, for any reason.

****PAYMENT FOR ALL PURCHASES MADE ON CREDIT ARE DUE ON THE 10TH DAY OF THE FOLLOWING MONTH.****

A. Applicant Information

Legal or Business Name of Applicant: _____ SS#: _____
Street Address: _____ City: _____ State: _____ Zip: _____
Mailing Address: _____ City: _____ State: _____ Zip: _____
Phone: _____ Fax: _____ E-Mail: _____
Name & Address of Employment: _____
How Long Employed: _____ Phone: _____ Annual Income: \$ _____
Shipping Address: _____
Amount of Credit Requested: \$ _____ Type of Business: _____ How Long in Business: _____
Monthly Statement (please check one): _____ E-Mailed to the E-Mail address above _____ Mailed to the address above

B. Banking Information

Bank _____ Branch _____ Phone _____
Address _____ City _____ State _____ Zip _____
Officer Contact _____

I hereby authorize bank named above to release information requested for the purpose of obtaining and/or reviewing credit.

*****If you are a business, please complete C & D as well.**

C. Business Information

Sole Proprietorship Owner _____ SS# _____
 Partnership Partner _____ SS# _____
(list all general partners) Partner _____ SS# _____
 Corporation/LLC President/Member _____ SS# _____
(list all LLC members) V.P./Member _____ SS# _____

Federal Tax No. (if applicable) _____ Sales Tax Exemption Certificate Yes No (if yes, enclose signed certificate or copy)

D. TRADE REFERENCES (Please fill out 3 references)

| Name | Contact | Address | Phone# |
|----------|---------|---------|--------|
| 1. _____ | _____ | _____ | _____ |
| 2. _____ | _____ | _____ | _____ |
| 3. _____ | _____ | _____ | _____ |

SALESMAN _____ **LOCATION** _____

RIDER TO WEBB CONCRETE & BUILDING MATERIALS CREDIT APPLICATION AND AGREEMENT (the “Agreement”)

AFFIRMATIVE COVENANTS. Applicant agrees that from the date of the execution of this Agreement and until final payment in full of the Obligations under this Agreement or any prior or subsequent agreements with Webb, unless Webb shall otherwise explicitly consent in writing, Applicant will: **Business Continuity.** Conduct its business in substantially the same manner and locations as such business is now and has previously been conducted. **Payment of Debts.** Pay and discharge when due, and before subject to penalty or further charge, and otherwise satisfy before maturity or delinquency, all Obligations, debts, taxes, and liabilities of whatever nature or amount, except those which Applicant in good faith disputes. **Providing Information.** Deliver promptly such other information regarding the operation, business affairs, and financial condition of Applicant which Webb may reasonably request at Webb’s sole and subjective discretion, including, without limitation, the address and legal description of any real property where any materials supplied by Webb to Applicant may be used, the owner of such real property, and the date when the materials supplied by Webb may have first been used at such real property.

CORPORATE OR OTHER POWER. Applicant warrants that it has the power and authority to execute and perform this Agreement, to borrow hereunder and to execute and deliver this Agreement. Applicant further warrants that its performance hereunder shall not constitute a breach of any agreement to which Applicant is a party.

DETERMINATION OF AMOUNTS DUE. Webb's determination of the amounts due to it from Applicant shall at all times be indisputable and deemed correct. Applicant, at all times, shall cooperate with Webb by providing Webb information and access to Applicant's premises and business records and shall be courteous to Webb's agents.

NO THIRD-PARTY BENEFICIARY; NO WARRANTY BY WEBB; INDEMNIFICATION. **No Third-Party Beneficiary.** The parties hereto do not intend the benefits of this Agreement to inure to any third party. Notwithstanding anything contained in this Agreement or any other agreement or representation or any course of conduct by any of the parties hereto, this Agreement shall not be construed as creating any rights, claims, or causes of action against Webb, or any of its officers, agents, or employees, in favor of any owner or possessor of any property at which the materials provided in contemplation of this agreement may be used, contractor, subcontractor, supplier of labor, other materials or services, or any of their respective creditors, or any other person or entity other than Applicant. **No Warranty by Webb; Indemnification.** *Nothing contained in this Agreement or any other accompanying documentation or representation by Webb to Applicant shall constitute or create any duty on or warranty by Webb regarding (i) the proper application of the proceeds or materials provided in contemplation of this Agreement by Applicant or any general contractor or any subcontractor, (ii) the quality or condition of any project wherein the materials provided in contemplation of this Agreement are provided, or (iii) the competence or qualifications of the general contractor or any other party furnishing labor or other materials in connection with construction of the project. There are no warranties which extend beyond the description on the face of the Application. There are no warranties express nor implied given by Webb to Applicant, and no course of dealing shall give rise to any express nor implied warranties by Webb to Applicant. There are no express nor implied warranties of fitness for a particular purpose nor warranties of merchantability given by Webb to Applicant. All products sold by Webb to Applicant are “Sold As-Is, Where Is.”* Applicant (a) acknowledges that Applicant has not relied and will not rely upon any experience, awareness or expertise of Webb regarding such matters, and (b) shall indemnify, hold harmless, and defend Webb from any costs, expenses, damages, judgments, or liabilities, including without limitation, attorneys' fees, arbitration fees, and expert witness fees, arising from or connected with (i) such matters, (ii) payment or non-payment for labor or materials furnished for construction of any project, (iii) any claims of mechanics or materialmen, or (iv) any action or inaction by Applicant with respect to the foregoing. Moreover, Applicant will indemnify Webb and its affiliates from and against any losses, liabilities, claims, damages, penalties or fines imposed upon, asserted or assessed against or incurred by Webb arising out of the inaccuracy or breach of any of the representations contained in this Agreement or any other agreement between Webb and Applicant. The indemnity given by Applicant to Webb extends to all claims related to labor and materials by any property owner in which Webb’s goods or material were installed by Applicant or Applicant’s subcontractor, casual laborers, and others working at the direction of Applicant.

FEES, APPLICABLE LAW, JURISDICTION. **Fees.** Applicant shall pay all of Webb's reasonable expenses actually incurred to enforce or collect any of obligations associated with this Agreement including, without limitation, reasonable arbitration, paralegals', attorneys' and experts' fees and expenses, whether incurred without the commencement of a suit, in any trial, arbitration, or administrative proceeding, or in any appellate or bankruptcy proceeding (together with all other principal, interest, fees, costs, and other expenses Applicant owes to Webb, collectively, the “Obligations”). **Applicable Law.** This Agreement shall be governed by and construed under the laws of the State of Alabama. **Jurisdiction.** Applicant irrevocably agrees to non-exclusive personal jurisdiction in the State of Alabama.

OTHER PROVISIONS. Final Agreement. This Agreement (and the terms of any and all invoices issued to Applicant) represents the final agreement between the parties and may not be contradicted by evidence of prior, contemporaneous or subsequent oral agreements of the parties. There are no unwritten oral agreements between the parties. **Time is of the Essence.** In all matters pertaining to this Agreement, time is of the essence. **Notice of Guarantor’s Incapacity.** Applicant covenants to inform Webb within ten (10) days’ time upon learning of the death or incapacity (legal or physical) of any Guarantor.

LIMITATION ON LIABILITY; WAIVER OF PUNITIVE DAMAGES. EACH OF THE PARTIES HERETO, INCLUDING WEBB BY ACCEPTANCE HEREOF, AGREES THAT IN ANY JUDICIAL, MEDIATION OR ARBITRATION PROCEEDING OR ANY CLAIM OR CONTROVERSY BETWEEN OR AMONG THEM THAT MAY ARISE OUT OF OR BE IN ANY WAY CONNECTED WITH THIS AGREEMENT, ANY OTHER AGREEMENT OR DOCUMENT BETWEEN OR AMONG THEM OR THE OBLIGATIONS EVIDENCED HEREBY OR RELATED HERETO, IN NO EVENT SHALL ANY PARTY HAVE A REMEDY OF, OR BE LIABLE TO THE OTHER FOR, (1) INDIRECT, SPECIAL OR CONSEQUENTIAL DAMAGES OR (2) PUNITIVE OR EXEMPLARY DAMAGES. EACH OF THE PARTIES HEREBY EXPRESSLY WAIVES ANY RIGHT OR CLAIM TO PUNITIVE OR EXEMPLARY DAMAGES THEY MAY HAVE OR WHICH MAY ARISE IN THE FUTURE IN CONNECTION WITH ANY SUCH PROCEEDING, CLAIM OR CONTROVERSY, WHETHER THE SAME IS RESOLVED BY ARBITRATION, MEDIATION, JUDICIALLY OR OTHERWISE.

WAIVER OF JURY TRIAL. TO THE EXTENT PERMITTED BY APPLICABLE LAW, EACH OF APPLICANT BY EXECUTION HEREOF AND WEBB BY ACCEPTANCE HEREOF, KNOWINGLY, VOLUNTARILY AND INTENTIONALLY WAIVES ANY RIGHT EACH MAY HAVE TO A TRIAL BY JURY IN RESPECT OF ANY LITIGATION BASED ON, OR ARISING OUT OF, UNDER OR IN CONNECTION WITH THIS AGREEMENT OR ANY AGREEMENT CONTEMPLATED TO BE EXECUTED IN CONNECTION WITH THIS AGREEMENT, OR ANY COURSE OF CONDUCT, COURSE OF DEALING, STATEMENTS (WHETHER VERBAL OR WRITTEN) OR ACTIONS OF ANY PARTY WITH RESPECT HERETO. THIS PROVISION IS A MATERIAL INDUCEMENT TO WEBB TO APPROVE THIS APPLICATION. EACH OF THE PARTIES AGREES THAT THE TERMS HEREOF SHALL SUPERSEDE AND REPLACE ANY PRIOR AGREEMENT RELATED TO ARBITRATION OF DISPUTES BETWEEN THE PARTIES CONTAINED IN ANY LOAN DOCUMENT OR ANY OTHER DOCUMENT OR AGREEMENT HERETOFORE EXECUTED IN CONNECTION WITH, RELATED TO OR BEING REPLACED, SUPPLEMENTED, EXTENDED OR MODIFIED BY, THIS AGREEMENT.