

CREDIT APPLICATION AND SALE AGREEMENT

VCNA Prestige Concrete Products, Inc., VCNA Prestige Gunitite, Inc., American Gunitite Management Company, Inc., Sacramento Prestige Gunitite, Inc., "Seller", as used herein, shall be defined as those specific entities listed in paragraph 19 from which Buyer purchases materials. This Credit Application and Sale Agreement, the Terms and Conditions and the Irrevocable Individual Personal Guarantee will be relied upon and enforced by Seller as defined in paragraph 19 of the Terms and Conditions.

Buyer / Applicant Information:

MONTHLY CREDIT LIMIT REQUEST _____

Buyer / Applicant Name: _____ D/B/A: _____

Physical Address: _____

City: _____ State: _____ Zip: _____ Country: _____

Mailing/Billing Address: _____ Main Contact: _____

Accounts Payable Contact: _____ **Purchase Order Required? YES NO**

Business #: (_____) _____ - _____ Fax #: (_____) _____ - _____ Mobile #: (_____) _____ - _____

Corporation: _____ Partnership: _____ Individual: _____ L.L.C. _____ Non-Profit: _____ Tax Exempt# _____ Date Established: _____

Former Business If Less Than Five (5) Years: _____ Location: _____

Within the last seven (7) years, has the corporation or any of its principals been involved in bankruptcy proceedings or in litigation either filed by them or against them? _____ YES _____ NO

Has the corporation changed ownership in the past 3 years? _____ Yes _____ No If so, how? _____

Does the corporation or any of its principals have any Final Judgments outstanding against them for money damages? _____ YES _____ NO

Nature of Business: _____ Gen. Contr. _____ Sub-Contr. _____ Finisher _____ Own/Dev. _____ Commercial _____ Residential _____

Tax Status*: Taxable _____ Exempt _____ Resale _____ Federal Tax I.D. #: _____ Bonding Company: _____

***(If Tax Exempt attach Copy of Valid Tax Certificate otherwise tax will be charged without exceptions and invoices will not be re-billed)**

State Contractors License #: _____ Holder: _____

Are you listed with any credit bureau? _____ Yes _____ No: _____ Dunn's/File # _____ Experian # _____

Principals, Owners, Partners, and/or Officers:

| Full Name | Title | Home Address | (_____) Home Number | Social Security # |
|-----------|-------|--------------|---------------------|-------------------|
| | | | (_____) _____ | |
| | | | (_____) _____ | |

Bank References:

| Name | Address | Account # | Type |
|------|---------|-----------|------|
| | | | |
| | | | |

Trade References: (Active Credit Accounts – Material/Suppliers)

| Name | Address | Account # | (_____) Phone # |
|------|---------|-----------|-----------------|
| | | | (_____) _____ |
| | | | (_____) _____ |
| | | | (_____) _____ |

The above information is submitted for the purpose of obtaining credit. The undersigned verifies under the penalties of perjury the above information to true and correct. Buyer agrees to the Terms and Conditions on the reverse side of the Credit Application and Sale Agreement (Page two (2) if a fax transmittal), which Terms and Conditions shall be applicable to all sales to the Buyer. The Buyer further authorizes Seller to investigate references pertaining to the credit and banking information on the business, partners, owners, and any individual guarantors. Seller is authorized to investigate references pertaining to Buyer's credit and financial history. A faxed copy of this document is considered as an original authorization. For the purpose of establishing a credit line, Buyer hereby authorizes the above named Bank and Trade References to furnish account credit information and for Seller to obtain credit bureau information at any time and any number of times.

| | | | |
|---|---------|-------|------|
| Authorized Signature Buyer / Applicant | Printed | Title | Date |
|---|---------|-------|------|

**8529 S. Park Circle, Suite 320, Orlando, FL 32828
Ph: 407-802-3540 FAX: 407-847-9468**

SALES MANAGER _____

TERMS AND CONDITIONS

Seller hereby agrees to sell to Buyer and Buyer hereby agrees to purchase from Seller goods and materials, subject to all terms, conditions and provisions as set forth below or herein (hereinafter "Terms and Conditions").

1. **Advance Credit.** Seller agrees to advance credit to the Buyer by permitting the Buyer to purchase goods and materials from the Seller on an open account; provided, however, that the Seller has the absolute right to refuse Buyer any credit or additional credit at any time and retains the right to deny said credit to the Buyer based on the Seller's credit and underwriting requirements, conditions and criteria. Seller shall retain the sole and exclusive right to increase, decrease or refuse to provide credit at anytime and without notice. The acceptance or approval of this Credit Application and Sale Agreement creates no obligation on the part of Seller to sell product or extend credit to the Buyer.

2. **Governing Conditions of Sale.** All sales of goods, materials and services by the Seller are subject to these Terms and Conditions. No changes, modification or alteration of the Terms and Conditions will be effective against Seller, unless the same are in writing and signed by a duly authorized officer of the Seller. Buyer's acceptance of delivery of all part of the goods and materials to be furnished hereunder shall constitute Buyer's acceptance of the Terms and Conditions herein. To the extent any terms, conditions and provisions contained in Buyer's purchase documents, purchase orders, invoices, work orders or other writings conflict with or limit the Terms and Conditions contained herein, same shall be null and void and these Terms and Conditions shall control.

3. **Acceptance of Goods and Materials.** Acceptance of delivery of the goods and materials constitutes acknowledgement by the Buyer of its acceptance of the same. Prices quoted to the Buyer do not include cost of inspection, tests or bond. Any and all testing of goods and/or materials to be performed prior to Buyer's acceptance of the goods and/or materials and which testing is to be performed by the Buyer or Buyer's agents or at Buyer's request, must be approved in writing by the Seller prior to shipment.

4. **Warranty.** Seller warrants that the goods and materials shall conform to the description in the Delivery Ticket issued by the Seller at the time the goods and materials leave the Seller's facilities. **THE FOREGOING WARRANTY IS EXCLUSIVE AND IS GIVEN AND ACCEPTED IN LIEU OF ANY AND ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, INCLUDING WITHOUT LIMITATION THE IMPLIED WARRANTY OF MERCHANTABILITY AND THE IMPLIED WARRANTY OF FITNESS FOR A PARTICULAR PURPOSE. BUYER'S SOLE AND EXCLUSIVE REMEDY UNDER THIS WARRANTY IS THE REFUND OF THE PURCHASE PRICE PAID AND IS TO THE EXCLUSION OF ALL OTHER REMEDIES INCLUDING WITHOUT LIMITATION THE RECOVERY OF SPECIAL, INDIRECT, INCIDENTAL OR CONSEQUENTIAL DAMAGES.** The remedy set forth herein is the sole and exclusive remedy and the Buyer shall have no other rights or remedies other than as set forth herein. Additionally, Seller makes no Warranties other than as set forth herein, whether expressed or implied, and shall have no responsibility whatsoever once admixtures, water or other materials are added to the goods and/or materials at the time of delivery, whether the admixtures, water or other materials are added by the Buyer or the Seller at the Buyer's request. Any Warranties that might otherwise exist shall be deemed null and void and of no further force or effect if the goods and/or materials are not received, handled, placed, furnished and or cured in accordance with applicable ACI, ASTM or specific project guidelines by certified personnel. The Buyer hereby agrees not to return to the Seller any goods and materials for the Seller's account without specific written authorization from the Seller. Buyer further agrees not to withhold any payments due, notwithstanding a pending adjustment may be necessary with respect to a claim.

5. **Charges.** Buyer shall be liable for and shall promptly pay when due, all charges set forth herein, including but not limited to, the price of goods and materials, taxes, delivery, pick-up and other charges in accordance with these Terms and Conditions. Unless otherwise agreed in writing, payment terms are Net 10 days, no retainage. Invoices and payment will be for the actual quantities at the quoted prices based on Delivery Tickets provided by the Seller. An environmental fee for concrete may be assessed per yard. The Buyer shall be responsible to pay for any goods and materials ordered and which the Buyer does not take delivery of, unless a written cancellation prior to the time that the Seller has commenced the production of the goods and materials is received by Seller. All payments due hereunder and not made in a timely manner in accordance with the terms set forth herein, shall accrue interest thereon at the rate of 1.5% per month or the maximum permitted by law. Time is of the essence with regard to payments due hereunder. Any check tendered with an endorsement purporting to be an accord and satisfaction or a partial or full release of limitation of Seller's rights or remedies shall be without effect. All sums due and payable hereunder shall be paid at any of Seller's locations.

6. **Delivery of Goods and Materials.** Buyer shall provide a minimum twenty-four (24) hours advance notice for delivery. Buyer shall schedule pours at least twenty-four (24) in advance stating a specific start time and a specific pour rate. Seller shall have no responsibility for goods lost due to Buyer's failure to maintain the scheduled delivery time and the curb line or enter upon public or private property, or to make delivery at a specific delivery site. The Buyer shall be responsible to provide safe and adequate access. Buyer shall be responsible for any and all costs and/or damages that may be incurred with regard to such a delivery. The Seller and Buyer further agree that (a) the Seller reserves the right to determine whether the delivery site is suitable for such a delivery and the Seller may refuse delivery to such a site, and its sole and absolute discretion; (b) Buyer shall provide reasonable facilities to allow Seller to clean delivery vehicles to avoid tracking mud, dirt, rocks, and debris onto public roads; (c) at the time of delivery, Buyer shall provide duly authorized personnel to execute a delivery ticket, and Buyer's failure or refusal to do so shall be deemed agreement with all matters set forth in the relevant delivery ticket furnished by Seller, including without limitation the price, quantity, and quality of the materials and/or goods being delivered; and (d) where Buyer requests delivery of goods and materials to an unattended site, the Seller will not be liable for any loss or damage to such goods and materials so delivered.

7. Due to mixing limitations, deliveries will not be made for less than 1 cubic yard. Aggregate and sand loads less than truckload quantities may be subject to standard short load fees. (MATERIAL ORDERED IN EXCESS OF REQUIREMENTS AND RETURNED WILL BE CHARGED AT SELLERS CURRENT PROCESSING CHARGE).

8. Guaranteed strength concrete is designated to attain the specific compressive strength per square inch at 28 days, using a water cement ratio to produce a slump not to exceed 5" when tested in accordance with rules of A.S.T.M. Where the Buyer requires concrete at greater slump, a charge will be made to cover the cost of additional cement required.

9. If at any time water or other material is added to the concrete by Buyer or at his request, the Seller is no longer responsible for either the slump or the strength of the concrete so treated.

10. A maximum 60 minutes per load is allowed for the delivery of each load of material. If trucks are held beyond this period, the excess will be charged to the Buyer at the Seller's current hourly rate for the particular equipment.

11. **Default.** Buyer shall be in default hereunder if: (a) Buyer fails to pay when due any amounts due under the Terms and Conditions; (b) Buyer shall fail to perform or observe any covenant, condition or

agreement to be performed or observed under the Terms and Conditions; (c) Buyer ceases doing business as a going concern, makes an assignment for the benefit of creditors, admits in writing its inability to pay its debts as they become due, files a voluntary petition in bankruptcy or elsewhere for liquidation, dissolution, readjustment, composition or reorganization, is adjudicated a bankrupt or insolvent, or files an answer admitting the material allegations of a petition filed against it and any such proceeding, consents to or acquiesces in the appointment of the trustee, receiver or liquidator of it or all or any substantial part of its assets or properties, of if it, or its shareholders shall take any action looking to its dissolution or liquidation; or (d) within sixty (60) days after the commencement of any involuntary proceedings against Buyer seeking reorganization, arrangement, readjustment, liquidation, dissolution or similar relief, such proceeding shall have not been dismissed or vacated.

12. **Remedies.** In the event of Buyer's default, or if Seller has any reason to believe that Buyer may be unable to perform its obligations hereunder, Seller, at its option, shall be entitled to exercise any and all legal rights available to Seller including, any one or more of the following remedies: (a) Seller may suspend any or all shipments to Buyer until such time as Seller has received adequate assurance, in Seller's sole and absolute discretion, of Buyer's ability to perform its obligations hereunder, or (b) bring an action to file for amounts due. Should it be necessary for the Seller to place the Buyer's account for collection, suit or other legal proceeding to enforce these Terms and Conditions, then in such event the Buyer agrees to pay all costs and expenses of collection, suit or other legal action including attorney's fees, paralegal fees, expert fees, collection agency commissions and any other fees and costs necessary to enforce any right provided herein or to collect any sums due hereunder, including but not limited to the forgoing and any appeal or bankruptcy proceedings. All rights and remedies of Seller specified hereunder are cumulative and do not exclude any other rights or remedies allowed by law or equity. Interest shall accrue on all monies due hereunder both pre-judgment and post-judgment at the rate of 18% per annum.

13. **Governing Law and Jurisdiction.** The parties hereby voluntarily and unconditionally waive trial by jury. Any and all litigation arising out of or relating in any way to this Credit Application and Sale Agreement or by virtue of the parties' relationship shall be initiated and/or maintained solely in Hillsborough County, Florida and not elsewhere. The Buyer hereby irrevocably, voluntarily consents and agrees to submit itself to the personal jurisdiction of the state court in Hillsborough County, Florida having jurisdiction over the amount in controversy. Buyer hereby waives any objections to personal jurisdiction or venue. The laws of the state of Florida shall govern the terms of this Credit Application and Sale Agreement.

14. **Indemnification for Buyer's Negligence.** Buyer, at its own cost and expense, shall assume liability, indemnify, defend and hold harmless Seller and its officers and employees, from and against any liability and all loss, costs, damages, expenses, including court costs, reasonable attorneys' fees, reasonable appellate attorneys' fees, paralegal fees and disbursements paid or incurred by Seller, whether or not suit shall be commenced, on account of claims for whatever reason, including but not limited to, personal injury, including death, sustained by any person or persons whomsoever, including employees of Buyer, and for injury to or damage or destruction of property of a person or organization, including loss of use thereof, arising out of or resulting before, after or in connection with the performance of Buyer's work or otherwise, excepting such matters caused in whole or in part by the fault or negligence of Seller.

15. **Indemnification for Matters Caused in Whole or in Part by the Fault or Negligence of Seller.** Buyer, at its own cost and expense, shall assume liability, indemnify, defend and hold harmless Seller, and its officers and employees, from and against any liability and all loss, costs, damages, expenses, including court costs, attorneys' fees, reasonable appellate attorneys' fees, paralegal fees and disbursements paid or incurred by Seller, whether or not suit shall be commenced, on account of claims for whatever reason, including but not limited to, personal injury, including death, sustained by any person or persons whomsoever, including employees of Buyer, and for injury to or damage or destruction of property of a person or organization, including loss of use thereof, arising out of or resulting before, after or in connection with the performance of Seller's work under this Credit Application and Sale Agreement. Buyer's monetary limitation for this specific indemnity clause shall be \$1,000,000 or the maximum allowed by law.

16. **Project Information.** The Buyer agrees to furnish to the Seller, with respect to the goods and materials furnished hereunder, upon oral or written request, with copies of all payment bonds, notices of commencements, job addresses, and other information the Seller deems necessary to protect the Seller's interest. The Seller shall have the absolute right to provide any necessary notices to third parties or otherwise, required to secure lien and bond rights available to the Seller as a matter of common or statutory law.

17. **Miscellaneous.** Seller's failure at any time to require strict performance by Buyer of any of the provisions hereof shall not waive or diminish Seller's right thereafter to demand strict compliance therewith, or with any other provision. In case one or more provisions contained in these Terms and Conditions shall for any reason be held invalid, illegal or unenforceable, in any respect, such invalidity, illegality or unenforceability shall not effect any other provision hereof and these Terms and Conditions shall be constructed as if the same had not been contained herein. These Terms and Conditions shall be binding upon and inure to the benefit of respective successors and assigns and is applicable to heirs and legal representatives of the parties hereto.

18. **Entire Terms of Credit Application and Sale Agreement:** The entire terms of this Credit Application and Sale Agreement are contained herein. No verbal representations or agreements shall modify the terms hereof. It is anticipated that materials or labor supplied by Seller to Buyer may be initiated through the use of invoices, purchase orders, work orders or written direction for Buyer to Seller. It is expressly agreed and understood that the terms of this Credit Application and Sale Agreement shall apply to all such purchase orders, work orders, invoices or other writings placed by Buyer to Seller. To the extent there is any inconsistency between the Buyers invoice, purchase order, work order or other writing, the Terms and Conditions shall govern.

19. **Buyer may be purchasing material from a number of entities.** Those entities include VCNA Prestige Concrete Products, Inc., VCNA Prestige Gunitite Inc., American Gunitite Management Company, Inc., Sacramento Prestige Gunitite, Inc. These entities are collectively and individually referred to as "Seller". The specific Seller from which materials are purchased will be identified on the Delivery Ticket or Invoice from that specific Seller. Buyer agrees, acknowledges and understands that the Credit Application and Sale Agreement, Terms and Conditions and Irrevocable Individual Personal Guaranty shall apply, be enforced by and relied upon by the specific Seller for which Buyer procures goods and materials.

IRREVOCABLE INDIVIDUAL PERSONAL GUARANTEE

In consideration of the extension of credit to the Buyer, the undersigned jointly, severally, and unconditionally individually guarantees and promises to pay all amounts now owing or which may hereinafter become owing by the Buyer to Seller. This is a continuing individual guaranty and obligation and shall not be affected by any change in terms of indebtedness, the extension of credit beyond amounts specified herein, a change in the term or time for payment, a change in the form of indebtedness or the acceptance of security or collateral. Seller shall not be required to exhaust any remedies against Buyer prior to exercising rights granted hereby.

The undersigned hereby waives (a) notice of acceptance of this guaranty and of extensions of credit by Seller to the Buyer; (b) presentment and demand for paying of any indebtedness of the applicant; (c) protest and notice of dishonor or default to the undersigned with respect to any indebtedness of the Buyer; (d) all other notices to which the undersigned might otherwise be entitled; (e) any demand for payment under this guaranty; (f) benefit of all exemptions and homestead laws; (g) all set-offs and counterclaims.

This is an individual guaranty of payment and not of collection and the undersigned further waives any right to require that any action be brought against the Buyer or any other person or to require that resort be had to any security

The undersigned agrees that, with or without notice or demand, the undersigned shall reimburse Seller, to the extent that such reimbursement is not made by the applicant, for all expenses (including counsel fees) incurred by Seller in connection with any indebtedness of the applicant or the collection thereof, and will pay attorneys' fees if this guaranty is placed with any attorney for enforcement or collection from the undersigned.

The undersigned individual personal guarantor, recognizing that his or her individual credit history may be a necessary factor in the evaluation of this personal guarantee, hereby consents to and authorizes the use of a consumer credit report on the undersigned by Seller, from time to time as may be needed, in the credit evaluation process. Seller is authorized to investigate references pertaining to the undersigned's credit and financial history. A faxed copy of this document is considered as an original authorization.

If any provision or part of any provision of this individual guaranty is in conflict with any applicable statute of rule of law then such provision, or part thereof, as the case may be, shall be deemed null and void to the extent that it may conflict therewith, but without invalidating the remaining provisions hereof or the remaining part of such.

THE UNDERSIGNED HEREBY WAIVES THE RIGHT TO A JURY TRIAL OF ANY OR ALL CLAIMS OR DISPUTES WHICH MAY ARISE IN CONNECTION WITH THIS GUARANTY. The Buyer hereby irrevocably and voluntarily consents and agrees to submit itself to the personal jurisdiction of the state court in Hillsborough County, Florida having jurisdiction over the amount in controversy. Buyer hereby waives any objections to personal jurisdiction or venue. The laws of the state of Florida shall govern the terms of this Irrevocable Individual Personal Guarantee. The undersigned further acknowledges and represents that any titles written near their signatures below is/are merely intended to clarify the individual's position with the Buyer and in no way is intended to limit or cancel the individual nature of this individual guarantee.

Name of Individual Social Security No.
Guarantor (please print)

Name of Individual Social Security No.
Guarantor (please print)

Signature Date

Signature Date

Witness Date

Witness Date

FOR OFFICE USE ONLY

ACCOUNT NUMBER

YES NO
PRICE QUOTE/ SHEET ATTACHED

SALES MANAGER