

CREDIT APPLICATION AND SALE AGREEMENT

American Gunitite Management Company, Inc.

“Seller”, as used herein, shall mean American Gunitite Management Company, Inc. This Credit Application and Sale Agreement, the Terms and Conditions and the Irrevocable Individual Personal Guarantee will be relied upon and enforced by Seller.

Buyer / Applicant Information:

Buyer / Applicant Name: _____ D/B/A: _____
Physical Address: _____
Billing Address: _____
Mailing Address: _____
Main Contact: _____
Accounts Payable Contact: _____
City: _____ State: _____ Zip: _____ Country: _____
Business #: (____) _____ - _____ Fax #: (____) _____ - _____ Purchase Order Required _____ YES _____ NO
Mobile #: (____) _____ - _____ Pager #: (____) _____ - _____
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 _____ (Attach Copy of Valid Tax Certificate If Applicable or tax will be charged without exception, no rebilled invoices)
Federal Tax I.D. #: _____ Bonding Company: _____
State Contractors License #: _____ Holder: _____
Are you listed with any credit bureau? _____ Yes _____ No: Dunns/File # _____ Experian # _____
INITIAL CREDIT REQUEST _____ MONTHLY CREDIT REQUEST _____

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.

BUYER HEREBY WAIVES THE RIGHT TO A JURY TRIAL ON ANY AND ALL MATTERS WHICH IN ANY WAY RELATE TO OUR ARISE OUT OF, DIRECTLY OR INDIVIDUALLY, THE CREDIT APPLICATION AND SALE AGREEMENT.

Signature _____ Printed _____ Title _____ Date _____
Buyer / Applicant

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 gunite construction to be structurally sound and equal to, if not superior to, accepted trade practice; and produced with model state of the art equipment. Seller guarantees the pool's integrity and its capacity for retaining water. In the unlikely event of a required repair, Seller will restore the pool so that it will retain water. Liability is restricted to repair of the gunite structure only, and does not apply to any other phase of the structure such as plaster, decks, tile, coping, brick, electrical, plumbing or consequential damages, failure to the structure due to external forces such as ground movement are not covered in the warranty. Seller will, upon request, transfer this guarantee from the original owners to a second owner for a transfer fee of four hundred and fifty dollars if paid at time of invoice.

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. 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.

7. 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.

8. 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, or 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.

9. 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.

10. 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.

11. 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.

12. 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.

13. 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.

14. 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.

15. 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.