

TWO GUNS



READY-MIX
325-939-2250

APPLICATION FOR CREDIT AND SALES AGREEMENT

Date: _____

6951 Spindle Top
San Angelo, Tx 76901
amy@twogunsreadymix.com

APPLICANT/BUYER INFORMATION

CHECK APPROPRIATE BOX: Individual Partnership Corporation LLC Other (Specify)

LEGAL BUSINESS NAME: _____ D/B/A (If any): _____

BUSINESS ADDRESS: _____ MAILING ADDRESS: _____
CITY, STATE, ZIP CODE: _____ CITY, STATE, ZIP CODE: _____

BILLING ADDRESS (IF DIFFERENT THAN ABOVE): _____

BILLING TO BE EMAILED Yes No EMAIL ADDRESS: _____

EMAIL: _____ PHONE #: _____ FAX #: _____

FEDERAL TAX ID OR SSN: _____ STATE SALES TAX NUMBER: _____

NET WORTH OF BUSINESS: _____ PLEASE ATTACH A CURRENT FINANCIAL STATEMENT

COMMODITY TO BE PURCHASED: Cement Coal Concrete Aggregates Other (Specify)

TAX EXEMPT: Yes No Please submit certificate YEARS ESTABLISHED _____

TYPE OF BUSINESS: _____

STATE AND THE DATE OF INCORPORATION: _____

ACCOUNTS PAYABLE CONTACT INFORMATION: _____

HAVE YOU, OTHER OWNERS OR YOUR BUSINESS EVER FILED FOR BANKRUPTCY PROTECTION? Yes No If yes, when: _____

HAVE YOU, OTHER OWNERS OR YOUR BUSINESS EVER APPLIED FOR OR RECEIVED CREDIT FROM TWO GUNS READY-MIX? Yes No
If yes, when and under what name: _____

PREVIOUS COMMODITY SUPPLIER: _____ ESTIMATED MONTHLY PURCHASE: _____

AUTHORIZED PERSONS TO ORDER ON ACCOUNT: _____

OWNERS / PARTNERS / CORPORATE OFFICERS

Name	Address	Social Security #	Title	Phone #
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____

BANK INFORMATION

Name of Bank	Address	Type and # of account	Fax/Phone #	Contact Person at Bank
_____	_____	_____	_____	_____

TRADE CREDIT REFERENCES

NAME	Address	Fax/Phone #	Open/Closed	Contact Person
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____

GENERAL INFORMATION

1.For purposes of this Application for Credit and Sales Agreement, the above-named Applicant/Buyer shall be referred to as either "Applicant" or "Buyer".

2.If Two Guns Ready-Mix, at its own discretion, offers extension of credit to Buyer, the terms and conditions set forth in this Application for Credit and Sales Agreement shall apply to all commercial transactions between Two Guns Ready-Mix and Applicant.

CERTIFICATION/SIGNATURE OF APPLICANT AND GUARANTOR

I, the undersigned Applicant, in signing this Application for Credit and Sales Agreement, represent and warrant that I am authorized to execute this Application for Credit and Sales Agreement on behalf of the Applicant. Moreover, we, the undersigned Applicant and Guarantor, hereby certify that all the information given in this Application for Credit and Sales Agreement is true, correct, accurate, and complete, and is given for the purpose of determining the amount and conditions of the credit to be extended, and Two Guns Ready-Mix and its representatives, any other creditor or prospective creditor of the undersigned Applicant and Guarantor, or any agency employed by Two Guns Ready-Mix, or any of them, are hereby authorized to make investigations, from time to time, concerning the above information, and to disclose to each other the information set forth herein, and the results of such investigations, as Two-Guns ready-Mix deems necessary, and to contact any credit reporting agency or any other credit references for the purpose of obtaining a consumer credit report with the purpose of evaluating creditworthiness. We expressly agree that we have carefully and fully read and understand the content of this Application for Credit and Sales Agreement and will abide by and be bound by all its the terms and conditions set forth herein. We understand that Two Guns Ready-Mix, upon conducting such credit investigations, at its sole discretion may limit the credit to be extended to the Applicant. We represent to Two Guns Ready-Mix that we are solvent and that any financial information provided reflects the present financial condition of the Applicant and Guarantor, and we will notify Two Guns Ready-Mix by certified mail, within forty-eight (48) hours, after any material change in Applicant or Guarantor's financial or ownership status.

APPLICANT SIGNATURE

TITLE

DATE

BELOW LINES FOR TWO GUNS READY-MIX INTERNAL USE ONLY

APPLICANT/BUYER ACCOUNT NUMBER:	CODE NUMBER:
APPROVED BY:	DATE:
SALES REPRESENTATIVE INFORMATION:	
CREDIT REPRESENTATIVE INFORMATION:	
PROJECT:	LOCATION:
COMMODITY TO BE SOLD:	TWO GUNS READY-MIX ENTITY NAME:
PRICE:	QUANTITY:
ADDITIONAL TERMS:	

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SALES AGREEMENT

1. Acceptance. In consideration of maintaining a commercial charge account for the Buyer and for the provision of the personal guaranty below, Buyer, the person(s) signing the Personal Guaranty ("Guarantor"), and the TWO GUNS READY-MIX entity maintaining such charge account agree to the standard terms and conditions contained in this Application for Credit and Sales Agreement ("Agreement") regarding all purchases made by Buyer or anyone authorized by Buyer. Use of the commercial charge account by Buyer will constitute acceptance of this Agreement. If this is a joint account, each party listed on the Application for Credit will be bound jointly and severally. Upon prior reasonable notice to Buyer, TWO GUNS READY-MIX may change the terms and conditions of sale set forth in this Agreement, and the new terms and conditions will apply to all purchases made after TWO GUNS READY-MIX's notice.

2. Payment/Finance Charges. Payment for charges made on the account during a specific month are due in full on the last day of the month following the purchase of the Commodity, without any right of setoff or retention. If payment is submitted by mail, payments postmarked by the U.S. Post Office on or before the last day of the month will be considered timely paid. A finance charge will be assessed on all amounts not paid in full when due until paid in full. The finance charge will be one point five percent (1.5%) per month on the past due unpaid balance, which equates to an annual percentage rate of eighteen percent (18%) or the highest lawful rate. In addition, any amounts paid to TWO GUNS READY-MIX by Buyer may be applied by TWO GUNS READY-MIX to outstanding principal and interest and other charges as TWO GUNS READY-MIX deems appropriate. In addition, TWO GUNS READY-MIX has the right, if Buyer becomes delinquent in payments on its account, to hire a collection agency or attorney, to collect on the account. Buyer shall be liable for all costs and expenses, without limitation, reasonable attorneys' fees incurred by TWO GUNS READY-MIX in the collection of any unpaid balance. TWO GUNS READY-MIX, at its own discretion, may suspend pending deliveries during any period when Buyer has overdue balances or evidence of a changed financial condition. TWO GUNS READY-MIX may exercise the right of set-off under this Agreement as to any sums owed by Buyer and/or its affiliates under any other contract or agreement with TWO GUNS READY-MIX.

3. Agreement Governs. Except as otherwise provided by a written document signed by Buyer and TWO GUNS READY-MIX, this Agreement shall supersede the terms and conditions of any Buyer's purchases orders, invoices, without limitation, any statement that Buyer's terms or conditions are to take precedence over any contrary provisions. This Agreement contain the entire agreement between TWO GUNS READY-MIX and Buyer. Except as specifically stated herein with respect to the Guaranty, no prior or subsequent understanding, oral representation, agreement, terms, or trade custom at variance with or supplemental to this Agreement shall be binding upon TWO GUNS READY-MIX and Buyer.

4. Security Interest/Mechanic Lien. Buyer hereby irrevocably grants TWO GUNS READY-MIX a purchase money security interest in all commodities purchased by Buyer, or anyone authorized by Buyer, under this Agreement, for as long as a balance remains outstanding with respect to such commodities. Moreover, Buyer acknowledges that if the commodities or services charged to Buyer's account are used in connection with the alteration, repair or construction of any building, or for any other improvement of any real estate, TWO GUNS READY-MIX has the right to obtain a mechanic's lien upon the real estate to secure payment. In addition, Buyer agrees to timely provide in writing to TWO GUNS READY-MIX information regarding bonding companies, general contractors or owners for the purpose of filing preliminary notices and claims on payment bonds or liens.

5. Error or Discrepancies. If Buyer believes its monthly account statement contains an error, or Buyer needs more information about a transaction included on a monthly account statement, Buyer must write TWO GUNS READY-MIX as soon as possible, but not later than ten (10) days after TWO GUNS READY-MIX issues its monthly account statement. Telephoning TWO GUNS READY-MIX will not preserve Buyer's rights. The letter is to contain all particulars about the error including the Buyer's name, address, phone number and the name of the person who prepared the notice of error. Absent such written notification from Buyer, monthly account statements shall be presumed correct.

6. Termination. TWO GUNS READY-MIX reserves the right to terminate this Agreement at any time, with or without cause, and terminate Buyer's right to make further purchases under this account, but Buyer shall continue to be responsible for the obligation for which Buyer was liable prior to such termination, without limiting, all amounts owed at the time of termination. Buyer may terminate the Agreement, with or without cause, but only if Buyer has a \$0.0 balance on Buyer's account.

7. Specifications, Limited Warranty and Liability Disclaimer. All TWO GUNS READY-MIX commodities manufactured, transported, sold, delivered, or shipped, as the case may be, under this Agreement, are warranted to conform in quality with the applicable commodity industry specification or applicable quotation, if any. Acceptance by Buyer of the commodities sold shall constitute confirmation by Buyer that the commodities meet the description and specifications. **EXCEPT AS EXPRESSLY SET FORTH IN THE PRECEDING SENTENCE, THERE ARE NO WARRANTIES, EITHER WRITTEN OR ORAL, EXPRESS, OR IMPLIED, BY LAW, STATUTORY, OR CONTRACTUAL, PERTAINING TO THE COMMODITIES SOLD UNDER BUYER'S ACCOUNT. WITHOUT LIMITING THE FOREGOING, THERE ARE NO STATUTORY OR IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE MADE IN RESPECT OF ANY COMMODITY SOLD HEREUNDER.** Having no control over the use of TWO GUNS READY-MIX commodities, TWO GUNS READY-MIX will not guarantee finished work, nor shall TWO GUNS READY-MIX be responsible for the installation or condition of TWO GUNS READY-MIX commodities after title of such commodities shall pass upon Buyer. Any charges incident to inspections or tests made by, or on behalf of, Buyer to determine compliance with specifications, shall be paid exclusively by Buyer. Buyer's exclusive remedy for breach of this warranty shall be to require TWO GUNS READY-MIX, at TWO GUNS READY-MIX option, to refund the purchase price for the commodities sold hereunder, to repair or to provide Buyer with conforming replacements for any nonconforming commodities.

8. Liability for Delay. In the event TWO GUNS READY-MIX shall be delayed or prevented from the performance of any of its obligations under this Agreement, or it shall become commercially unreasonable to perform such obligations, TWO GUNS READY-MIX shall not be liable to Buyer for any damages or loss caused by, without limitation, any delays in manufacturing, shipping, or delivering said TWO GUNS READY-MIX commodities, by reason of governmental allocations, restrictions or regulations now or hereafter in effect, earthquake, flood, tornado, fire, strikes, lockouts, labor disputes, other Acts of God, breakdown of equipment, plant failure, inability to secure rail cars, transportation shortages, changes in market conditions, shortages of materials, labor, raw materials, fuel, power or production facilities, or other contingencies beyond TWO GUNS READY-MIX's reasonable control. If a shortage of the supply of TWO GUNS READY-MIX commodities occurs for any reason or if TWO GUNS READY-MIX commodities are unavailable for any reason, TWO GUNS READY-MIX shall have the right to apportion available TWO GUNS READY-MIX commodities among its customers, including Buyer, as TWO GUNS READY-MIX may determine at its own discretion, and Buyer shall accept such part of the commodities and pay for the part delivered pro rata at the same rate as the whole of the order agreed to be sold and on the same commercial terms.

9. Claims. ANY AND ALL CLAIMS FOR LOSS OR DAMAGE ON THE PART OF BUYER ARE LIMITED TO ACTUAL DAMAGES OF BUYER NOT TO EXCEED THE PURCHASE PRICE OF THE COMMODITY PURCHASED HEREIN. THIS SHALL BE THE EXCLUSIVE REMEDY OF BUYER. IN ADDITION, BUYER WAIVES ALL RIGHTS TO CLAIMS FOR LOSS OR DAMAGES AGAINST TWO GUNS READY-MIX IN EXCESS OF THOSE PROVIDED FOR IN THIS AGREEMENT, INCLUDING, BUT NOT LIMITED TO, ANY AND ALL RIGHTS, CLAIMS OR DAMAGES WHICH BUYER MAY HAVE AGAINST TWO GUNS READY-MIX FOR SPECIAL, INCIDENTAL, CONSEQUENTIAL, LIQUIDATED DAMAGES, INDIRECT LOSS, OR PUNITIVE DAMAGES FROM ANY DEFAULT, BREACH OR PERFORMANCE OF THIS AGREEMENT BY TWO GUNS READY-MIX OR BUYER'S USE OF TWO GUNS READY-MIX'S COMMODITIES SOLD HEREIN. ALL SUCH SPECIAL, INCIDENTAL, CONSEQUENTIAL, INDIRECT LOSS, OR PUNITIVE DAMAGES WAIVED BY BUYER INCLUDE, BUT ARE NOT LIMITED TO, ANY AND ALL RIGHTS, CLAIMS OR DAMAGES WHICH BUYER MAY HAVE AGAINST TWO GUNS READY-MIX FOR BACK CHARGES, LABOR COSTS, COSTS OF REMOVAL, REPLACEMENT, TESTING OR INSTALLATION, LOSS OF EFFICIENCY, LOSS OF PROFITS OR REVENUES, LOSS OF USE OF THE

COMMODITIES SOLD HEREIN, DAMAGE TO ASSOCIATED PRODUCTS, LATENESS OR DELAYS IN DELIVERY, UNAVAILABILITY OF COMMODITIES, COST OF CAPITAL, COST OF SUBSTITUTE COMMODITIES, FACILITIES OR SERVICE, DOWNTIME, OR CLAIMS FROM BUYER'S CUSTOMERS OR OTHER PARTIES.

10. Applicable Law and Jurisdiction. Any disputes, interpretation or enforcement arising out of or related to this Agreement, or to the business transactions between TWO GUNS READY-MIX and Buyer ("Dispute"), shall be resolved, construed and governed by the laws of the State of Colorado without regard to choice-of-law principles. TWO GUNS READY-MIX and Buyer

(a) consents to the nonexclusive personal jurisdiction of the state and federal courts located in the state of Colorado in connection with any Dispute; and (b) waive any argument that the litigation venue in Colorado is inconvenient. The prevailing party in any Dispute shall be entitled to recover all of its reasonable costs and expenses, including attorneys' fees, incurred in such Dispute. Notwithstanding the foregoing, if the Buyer is delinquent in payments on its account, nothing in this section shall affect nor bar the right of TWO GUNS READY-MIX or its assignees to bring any action or proceeding against Buyer or its property in order to collect on the account in the courts of other jurisdiction or fill any court action necessary to perfect a mechanic's lien or otherwise to protect a TWO GUNS READY-MIX's right to enforce a judgment obtained in litigation. **THE PARTIES WAIVE ANY RIGHT TO TRIAL BY JURY IN ANY ACTION OR PROCEEDING BASED ON OR PERTAINING TO THIS AGREEMENT.**

11. Title, Risk of Loss. Title and ownership of the commodity sold to Buyer shall remain in Seller and pass upon to Buyer when the commodity reaches the destination stated on the bill of lading, or delivery to, or pick-up by Buyer. Seller shall be liable and responsible for all loss of, or damage to, the commodity or other persons or property until Buyer has title of the commodity.

12. Personal Guaranty. The Guarantor below personally and unconditionally guarantees the Buyer's full compliance with all terms of this Agreement, including, without limitation, payment of all purchases ordered by Buyer, whether existing or hereafter made, whether on open account or evidenced by any instrument or documents. This guaranty shall be absolute, continuing, and unlimited and shall continue until TWO GUNS READY-MIX receives thirty (30) days written notice from Guarantor terminating this guaranty; provided, however, that such termination shall not affect Guarantor's liability for obligations of Buyer incurred prior to such termination. This guaranty shall not be affected by any acceptance or any payment of the indebtedness, in whole or in part, or by extension of the time, manner, form or amount of payment. This is a guarantee of payment and not of collection, and the Guarantor waives notice of acceptance, nonpayment, and protest with respect to the obligation covered hereunder. The Guarantor acknowledges and agrees that Guarantor's liability hereunder shall not be affected by any modification of this Agreement whether made with or without the prior or subsequent notice to or consent of the Guarantor.

13. Severability. If any term, provision, covenant, or condition contained herein is held by a court of competent jurisdiction to be invalid, void, or unenforceable, the remainder of the provisions shall remain in full force and effect and shall in no way be affected, impaired or invalidated.

14. Confidentiality. TWO GUNS READY-MIX and Buyer agree that each of them will hold in confidence the content of this Agreement and all technical, commercial and business information either party may disclose to the other, except as permitted by the applicable law.

15. Miscellaneous. Time is of the essence. This Agreement may be executed in several, including electronic, counterparts and the signatures delivered by e-mail, each of which will be deemed to be an original. This Agreement binds and inures to the benefit of the parties and their respective successors and permitted assigns. Buyer shall not assign this Agreement without the prior written consent of TWO GUNS READY-MIX. Headings are inserted solely for ease of reference and are not to be considered in the interpretation. TWO GUNS READY-MIX and Buyer will perform as an independent party. This Agreement represents the entire understanding between TWO GUNS READY-MIX and Buyer with respect to the subject matter hereof, and replaces all previous agreements and understandings, and can be amended, supplemented, or changed, and any provision hereof can be waived, only by written instrument duly executed by TWO GUNS READY-MIX and Buyer. No failure on the part of TWO GUNS READY-MIX or Buyer to exercise any right, power, or remedy hereunder will operate as a waiver. All remedies hereunder are cumulative and are not exclusive of any other remedies provided at law or in equity.

IN WITNESS WHEREOF, TWO GUNS READY-MIX and Buyer have caused this Agreement to be executed by their duly authorized representatives as of the date set forth in page one.

APPLICANT/BUYER

GUARANTOR(S)

By: _____
Name: _____
Title: _____

By: _____
Name: _____
Title: _____

TWO GUNS READY-MIX

SECOND GUARANTOR (IF APPLICABLE)

By: _____
Name: _____
Title: _____

By: _____
Name: _____
Title: _____