



1. Charge Sales: If Wellington Hamrick, Inc. elects to extend credit to Applicant, then the purchase of goods and/or materials (collectively the "Materials") hereunder by Applicant from WELLINGTON HAMRICK, INC. shall constitute acceptance of the terms as set forth herein. WELLINGTON HAMRICK, INC. invoices weekly, with the entire balance of Applicant's account due and payable by the 10<sup>th</sup> day of the following month. No finance charge will be imposed on Applicant's account if the account is paid in full by the 10<sup>th</sup> day of the following month. If Applicant's account is not paid in full by the 10<sup>th</sup> day of the following month, then the account shall be past due and a finance charge will be assessed thereon in the amount of 1 ½ % per month (18% per annum) until payment in full is received by WELLINGTON HAMRICK, INC. If Applicant becomes, or is, insolvent, bankrupt, or any proceeding materially affecting Applicant's business or property is instituted against Applicant, or Applicant fails to pay WELLINGTON HAMRICK, INC.'s invoices when due, then WELLINGTON HAMRICK, INC. may, at its sole option, restrict, or discontinue sales or deliveries to Applicant for as long as WELLINGTON HAMRICK, INC. shall determine, in its sole and exclusive discretion. In addition, applicant shall be responsible for and obligated to pay all court costs, reasonable attorney's fees, and other expenses incurred by WELLINGTON HAMRICK, INC. in collection of Applicant's past due balance.
2. Materialman's Liens: Applicant, as an inducement to WELLINGTON HAMRICK, INC. to sell and deliver the Materials to Applicant, hereby expressly represents to WELLINGTON HAMRICK, INC. that Applicant has not done, and will not do, either directly or indirectly, anything whatsoever which has, or will have, the effect of releasing, waiving, surrendering, or adversely affecting the lien rights of WELLINGTON HAMRICK, INC.. No waiver of lien for the Materials shall be required of WELLINGTON HAMRICK, INC. until the same shall have been fully paid for. Upon demand by WELLINGTON HAMRICK, INC., Applicant shall be obligated to immediately furnish WELLINGTON HAMRICK, INC. with all necessary legal descriptions and all other relevant information necessary for WELLINGTON HAMRICK, INC. to file or perfect a lien. Applicant agrees to pay for all court costs, recording, fees, reasonable attorney's fees, and other expenses incurred by WELLINGTON HAMRICK, INC. in securing WELLINGTON HAMRICK, INC.'s lien rights in the event of default by Applicant to pay WELLINGTON HAMRICK, INC. according to the terms stated in Paragraph 1 hereof.
3. Delivery and Purchase: Applicant authorizes purchases and deliveries to be made without Applicant's signature. Applicant shall have an agent at the delivery site to receive all Materials. The signature and written statement of WELLINGTON HAMRICK, INC.'s employee or agent who delivers the Materials describing the Materials delivered and the delivery location shall be conclusive evidence of delivery of the Materials to Applicant. All Materials when delivered shall become the sole responsibility of Applicant, and all risks of loss, damages or injury shall be assumed exclusively by Applicant.
4. Warranties: WELLINGTON HAMRICK, INC. warrants to Applicant that, for a period of one year from delivery all the Materials delivered are merchantable and will pass without objection in the trade under the Invoice description. THERE ARE NO OTHER WARRANTIES EXPRESS OR IMPLIED, AS TO DESCRIPTION, QUALITY, FITNESS FOR ANY PARTICULAR PURPOSE OR ANY OTHER MATTER, WHICH EXTEND BEYOND THOSE STATED HEREIN. All claims under this warranty must be in writing and received by WELLINGTON HAMRICK, INC. within one year from the date of delivery of the Materials to Applicant in order to be valid. No new warranty or amendment of the provisions to this Paragraph 4 may be made except in writing and signed by the President of WELLINGTON HAMRICK, INC.. Applicant's exclusive remedy for breach of warranty related to the Materials delivered to Applicant shall be limited to, at WELLINGTON HAMRICK, INC.'s sole option, (1) refurbishing the Materials which have been found in breach of warranty, or (2) refunding the purchase price paid for the Materials. WELLINGTON HAMRICK, INC. shall not be liable for any consequential, indirect or incidental damages, or for any amounts that extend beyond that afforded by the exclusive remedy stated in this paragraph 4. However, if Applicant, through its agents, employees and/or independent contractors, directly or indirectly, performs, requests, instructs, and/or otherwise authorizes any alteration, modification or amendment to the Materials including, but not limited to, the addition of water exceeding the maximum designed water/cement ratio, or other materials to ready mix concrete, or the use of any precast structure for any purpose other than the designed intended use, then the express warranty contained herein is void and ineffective, and WELLINGTON HAMRICK, INC. GIVES NO WARRANTY, EXPRESS OR IMPLIED, AS TO DESCRIPTION, QUALITY, MERCHANTABILITY, FITNESS, FOR ANY PARTICULAR PURPOSE OR ANY OTHER MATTER. Additionally, if an alteration, modification, or amendment occurs to the Materials, then Applicant assumes sole responsibility for the use, application, defects, deficiencies and suitability of the Materials and hereby waives all rights, claims, demands, and causes of action against WELLINGTON HAMRICK, INC. therefor.
5. Liability Limitation: In no event shall Wellington Hamrick, Inc. be liable for consequential, incidental, or special damages resulting from or in any manner related to the Materials, their design or use, or any inability to use the same, including, without limitation, damages arising out of or in any manner relating to the delivery of the Materials or any delay with respect to their delivery, it being understood that the SOLE AND EXCLUSIVE REMEDY with respect to defective products shall be the repair, correction or replacement thereof covered by the warranties listed in paragraph 4 above, if any. If the Materials prove so defective, however, as to preclude the remedying of warranted defects by repair

Initials: \_\_\_\_\_

or replacement, the Purchaser's SOLE AND EXCLUSIVE REMEDY shall be the refund of the purchase price of the defective Materials involved.

- 6. Force Majeure: The Company shall not be responsible or liable for any delays or failures in manufacture or delivery due to any cause or condition beyond the control of the Company, including, without limiting the generality of the foregoing, strikes or other labor difficulties, fire, floods, inability to secure transportation facilities, acts of God, actions of the elements, shortage of materials or equipment, riots or other civil commotion, governmental interference or embargoes, or war.
- 7. Approved Credit Limit: \$\_\_\_\_\_. The Approved Credit Limit does not limit the liability of Applicant to WELLINGTON HAMRICK, INC., nor does it require that WELLINGTON HAMRICK, INC. extend credit to Applicant in the entire amount. Applicant shall pay to WELLINGTON HAMRICK, INC. whatever amount shall at any time be owing on Applicant's account to WELLINGTON HAMRICK, INC.

*The undersigned individual is a principal, owner, or sole proprietor of the Applicant, and in recognition that his or her individual credit history may be a factor in the evaluation of the credit of the Applicant, hereby consents to and authorizes the use of a consumer credit report on the undersigned by WELLINGTON HAMRICK, INC. as may be needed in the credit evaluation of Applicant. By its signature below, Applicant acknowledges that the above information is true and correct and that the undersigned individual has read and understands the foregoing.*

APPLICANT: \_\_\_\_\_  
NAME OF APPLICANT

DATE:\_\_\_\_\_ BY:\_\_\_\_\_ TITLE:\_\_\_\_\_

PLEASE PRINT NAME AS SIGNED:\_\_\_\_\_

DATE:\_\_\_\_\_ BY:\_\_\_\_\_ TITLE:\_\_\_\_\_

PLEASE PRINT NAME AS SIGNED:\_\_\_\_\_

### GUARANTY AGREEMENT (Required)

In consideration of extension of credit by WELLINGTON HAMRICK, INC. to Applicant, the undersigned does hereby unconditionally guarantee payment of whatever amount Applicant, named above, shall at any time owe to WELLINGTON HAMRICK, INC. on account of the Materials hereafter delivered, furnished or supplied, whether said indebtedness is in the form of notes bills or open accounts. This shall be an open and continuing guarantee and shall continue in force notwithstanding any change in the form of such indebtedness or renewals or extensions granted by WELLINGTON HAMRICK, INC., and until expressly revoked by written notice of the undersigned delivered to WELLINGTON HAMRICK, INC.. Any such revocation shall not in any manner effect the undersigned's liability as to the indebtedness contracted for prior thereto. The undersigned further agrees to pay all expenses, including court costs, reasonable attorney's fees, or any other expense incurred by WELLINGTON HAMRICK, INC. in collection of any or all amounts owed by Applicant to WELLINGTON HAMRICK, INC. or in enforcing this Guaranty Agreement. This Guaranty Agreement shall be continuing, absolute and unconditional, and shall be enforceable by WELLINGTON HAMRICK, INC.. All diligence in collection or protection and all presentment, demand, protest and/or notice as to anyone or everyone, of dishonor and default and non-payment and of the creation and existence of any and all guaranteed debts, and of any and all extensions of credit and indulgence hereunder, are expressly waived. The liability of the undersigned shall be joint and several. Payment from the undersigned of monies due and owing as a result of this Guaranty agreement shall be due upon demand by WELLINGTON HAMRICK, INC.

*The undersigned personal guarantor, in recognition 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 guarantor by WELLINGTON HAMRICK, INC. as may be needed in the credit evaluation of Applicant.*

Date:\_\_\_\_\_ (SEAL)  
Guarantor

Initials:\_\_\_\_\_

Date: \_\_\_\_\_ (SEAL)  
Guarantor \_\_\_\_\_

Date: \_\_\_\_\_ (SEAL)  
Guarantor \_\_\_\_\_

*Please sign all requested locations and initial each page of the application. Return all four (4) pages of the completed application in entirety to:*

Wellington Hamrick, Inc.  
P. O. Box 755  
Boiling Springs, NC 28017  
Fax: 704-434-2803  
or  
Wellington Hamrick, Inc.  
1111 Airport Rd.  
Shelby, NC 28150  
Fax: 704-487-6747

Initials: \_\_\_\_\_