

## TERMS AND CONDITIONS OF SALE

These Terms and Conditions herein will apply to all transactions between Buyer and King Structural LLC dba Liquid Stone

### 1. Agreement

All material sold ("Products") to Buyer are purchased and sold pursuant to these Terms and Conditions of Sale and any and all documents referenced herein, whether existing and/or communicated in electronic or physical form, including but not limited to the Credit Application/Sales Contract, Terms and Conditions of Sale (together, the "Application"), order confirmations, delivery tickets, delivery confirmations, Liability Waiver and the invoices corresponding to the sale of Products (together, the "Agreement"). The Agreement shall constitute the final, complete and exclusive statement of the terms and conditions regarding the purchase and sale of the items covered by the Agreement; additional or different terms and conditions contained in Buyer's purchase order or other document shall be deemed material alterations and are hereby rejected and shall not become part of any agreement. The parties reject and disclaim any course of dealing, course of performance and usage of trade.

**2. Pricing:** Unless otherwise stated on the invoice, after delivery to the Work Site, Buyer is responsible for any additional transportation, assembly and installation of the Products and all prices are exclusive of installation, temperature control, admixtures, transportation, insurance, taxes (including, without limitation, any sales, use or similar tax, and any tax levied on or assessed to Liquid Stone after delivery by reason of Liquid Stone's security interest in the Products), license fees, customs fees, duties and other charges related thereto, and Buyer shall report and pay any and all such shipping charges, premiums, taxes, fees, duties and other charges related thereto.

### 3. Payment Terms & Credit Policy

New customers will be COD for the first 2 orders placed. Then with approval there will be a new credit account with **Net 10 payment terms** for an introductory period of **90 days**. During this time, all invoices are due within 10 days of the invoice date.

After the 90-day introductory period, accounts in good standing will transition to **Net 30 payment terms**, with payment due within 30 days of the invoice date.

A **past due payment fee of \$25** will be applied beginning on the **first day the payment becomes past due**. In addition, any unpaid balance will accrue **interest at a rate of 1.5% per month**, compound monthly, until the balance is paid in full.

Account statements are generated on the **5th of each month**. At that time, any applicable interest charges will be added to outstanding balances, regardless of the age of the invoice.

To maintain account stability, Liquid Stone allows a maximum outstanding balance of **\$5,000**. Once this limit is reached, the account will be placed on a **credit hold**, including accounts in good standing, until the balance is reduced in accordance with accounting policies. Liquid Stone reserves the right to **modify payment terms at any time**. Any updates to payment terms will be communicated on monthly statements or sent directly to the billing email address on file.

**4. Payment Due:** Amounts due and payable hereunder shall be paid to Liquid Stone by the date stated on the invoice, time being of the essence. There shall be no retainage and similar types of withholding; all amounts invoiced must be paid by the due date. All amounts Buyer wishes to pay via alternative method, e.g., credit card, debit card, or third-party service, will be levied a corresponding convenience fee. Unpaid balances will accrue interest at the rate of 1.5% interest, compounded monthly until paid in full. Non-payment of any amount invoiced constitutes a material breach of this Agreement whereby Liquid Stone is relieved of any obligation to continue any performance hereunder and Buyer agrees to pay all collection costs, including attorney's fees and court costs.

**5. Performance:** Liquid Stone shall not be liable because of: any delay in performance due to acceptance of prior orders; technical difficulties; strike; lockout; riot; war; fire; act of God; accident; failure or breakdown of components necessary to complete an order; Buyer caused delays, including failure to provide access; or compliance with any law, or regulation or order, or due to any unforeseen circumstances and/or causes reasonably beyond Liquid Stone's control. Liquid Stone's performance shall be deemed suspended during and extended for such time as it is so delayed, and thereafter Buyer shall accept performance hereunder. Liquid Stone shall have no obligation to commence any extra or changed work without written agreement as to adjustments to contract price and delivery schedules affected thereby. Liquid Stone is not responsible for the strength or quality of any Products to which water or other material has been added by, on behalf of, or at the direction of Buyer. Upon delivery Buyer is solely responsible to see that the Products are handled in accordance with best construction practices. Liquid Stone has no control over the placing or

handling of Products during unloading and does not guarantee the finished work in which the Products are used. Buyer is solely responsible to prevent unloaded Products from coming into contact with any material or substance which may (or actually does) adversely impact Product strength; Liquid Stone does not guarantee and disclaims any and all responsibility for the final appearance of the Products, including the appearance of exposed aggregate, integral coloring, stamped and decorative surfacing, and all other forms of architectural and design concrete.

- 6. Access to Work Site:** Buyer agrees to provide roadways and approaches permitting safe access to Liquid Stone's trucks for delivery. Liquid Stone assumes no responsibility for deliveries beyond the public road. Where delivery is made beyond the public road: Buyer assumes responsibility for a suitable roadway from a public road to point of delivery; Buyer represents and warrants to Liquid Stone that Buyer has agency authority from the property owner to so direct and further prospectively waive any property damage claims of such owner; and Buyer assumes responsibility for damages, including but not limited to, curb, sidewalk, driveway, or any property of the contractor or property owner or agents. ( See also "Job Site Liability Waiver")
- 7. Inspection upon delivery:** Buyer shall immediately inspect and test the Products at its own expense upon delivery to ensure that the Products meet the product description stated on the applicable invoice and delivery ticket. Buyer shall be conclusively presumed to have accepted the Products unless Buyer immediately notifies Liquid Stone in writing of any and all non-conformance with the product description. For all Products, payment and/or any use of the Products by Buyer, its agents, employees, contractors or licensees, for any purpose without testing and inspection shall constitute acceptance of those products by Buyer. Liquid Stone's truck allows for full customization of mix designs but has preprogrammed designs to begin every appointment, any changes to the predetermined mix are made at the discretions and liability of the Buyer.
- 8. Electronic communications:** Buyer and Liquid Stone agree communications pertinent to transaction(s) consummated pursuant to this Agreement may be provided by and through electronic means provided by Liquid Stone as a service to Buyer. Buyers are required to create a personalized account for their communications with Liquid Stone (Buyer's "Account"). Creation of Buyer's Account requires Buyer to: (a) provide a cellular telephone number where Liquid Stone can send and Buyer will receive written confirmations; and submit personally identifiable information (including, but not limited to, an individual's company name, address, e-mail, and telephone number); and (b) provide an executed version of this Agreement accepting these Terms and Conditions. Buyer agrees that it will limit access to Buyer's Account only to such persons whom Buyer authorizes ("Authorized Persons"). Buyer accepts the responsibility to prevent unauthorized access to Buyer's Account, including but not limited to individuals who may have formerly been Authorized Persons. Liquid Stone may take orders by any method it deems sufficient and all orders will be confirmed in electronic written form to Buyer's Account. Buyer will be deemed to have received written notice of order confirmations posted by Liquid Stone to Buyer's Account when such confirmations are transmitted. Liquid Stone may at any time modify these Terms and Conditions, disseminate notice of such modification through Buyer's Account. Buyer accepts the responsibility to review all communications to Buyer's Account including any modifications to these Terms and Conditions, as there will be no individual notices to any individual user regarding such changes or modifications. Users may check for new versions of these Terms and Conditions by checking [www.liquidstonecrete.com](http://www.liquidstonecrete.com), Buyer's continued use of Buyer's Account will be adequate consideration for any modification and Buyer's acceptance of the terms and conditions in force at the time of Buyer's use constitutes an affirmative acknowledgment by Buyer of these Terms and Conditions including any subsequent modifications made to them and Buyer's agreement to abide and be bound by them.
- 9. Disputes:** Liquid Stone and Buyer hereby waive any right to trial by jury in any action, suit, proceeding or counterclaim of any kind arising out of or relating to this Agreement. No action, regardless of form, arising out of, or in any way connected with, the products or services furnished by Liquid Stone, may be brought by Buyer more than one (1) year after the time of delivery thereof. The parties irrevocably commit to resolve their disputes in the Courts of the County and State with primary jurisdiction over the Liquid Stone office to which Buyer directed the order or request for Products that gave rise to such dispute.
- 10. Indemnification:** Buyer agrees to defend, indemnify and hold harmless Liquid Stone from any and all loss, liability, damages or costs that may be sustained by any person arising out of, alleged to arise out of, or in any way related to, directly or indirectly, the sale, delivery, unloading, handling, or use of the Products, or exposure to the Products, whether or not caused by the negligence, breach of implied or express warranty or product liability of Liquid Stone, so long as the damage is not caused by the sole negligence of Liquid Stone arising out of a non-highway construction or design contract. Liquid Stone shall have the right to select its own legal counsel, irrespective of whether the Buyer and/or the Buyer's insurance carrier affords the Liquid Stone with a defense under a reservation of rights or without a reservation of rights. To the extent applicable law does not permit indemnity against Liquid Stone's negligence, without limiting the foregoing duty to defend, Buyer agrees to indemnify, save, and hold harmless Liquid Stone from and against any and all of the above referenced loss, liability, damages or costs, to the fullest extent permitted by such law. Buyer's obligation in this section will survive termination of this Agreement. Buyer shall maintain, at its sole cost (including deductibles and self-insured retentions), with insurers, rated A VII or better in Best's Insurance Reports, and Authorized by the Insurance Commissioner to do business in every State in which the Products are ordered for delivery, a Commercial General Liability Insurance ISO CG 00 01 12 07 Occurrence Form, for which Liquid Stone shall be named as additional insured on a primary and non-contributory basis, for any liability arising directly or indirectly from the work of Buyer. Additional insurance coverage

should be issued on the Insurance Services Office (ISO) form numbers CG 2010 and CG 2037, or an endorsement equivalent in coverage.

- 11. General Conditions:** No delay or failure on the part of Liquid Stone in exercising any right or remedy shall constitute a waiver of such right or any other remedy. The parties intend for the binding effect of these Terms and Conditions to be read expansively such that use of the term Buyer herein shall mean and refer to not only the legal entity identified on the cover page of any purchasing document but also any other legal entity that directly or indirectly controls, is controlled by, or is under common ownership or control with such subject legal entity so that all of Liquid Stone's rights and remedies hereunder shall be and are equally applicable, binding and available with respect to any such other legal entity all the same as the subject legal entity. This Agreement shall not be deemed a limitation of any rights or remedies that Liquid Stone has under any federal or state mechanic's lien laws or under any applicable payment bond or any other rights, remedies, powers or privileges now or hereafter existing in law or in equity. Liquid Stone's rights and remedies under any contract resulting here from are cumulative and not alternative. If any part, provision or clause of this Agreement is held invalid, void or unenforceable, such holding shall not affect and shall leave valid all other parts, provisions and clauses of this Agreement. Any contract resulting here from shall be binding upon the heirs, personal representative, successors and permitted assigns of the parties. Notwithstanding the foregoing, execution of the Credit Application/Sales Contract by Buyer and Guarantor(s) (defined below) does not obligate Liquid Stone to sell Products to Buyer.
- 12. Credit Reports:** Buyer/Guarantor (and Co-Buyer(s)/Co-Guarantor(s) if applicable) authorizes King Structural LLC dba Liquid Stone to investigate personal credit standing, financial circumstances and responsibility and instructs all persons having information concerning such credit standing, financial circumstances and responsibility to release such information to Liquid Stone, its agents, attorneys or employees. This includes, without limitation, authorization for Liquid Stone. and its agents, attorneys or employees to request, obtain and use for all purposes which Liquid Stone deems necessary, a copy of any credit bureau or consumer credit report for the Buyer/Guarantor (and Co-Buyer(s)/Co-Guarantor(s) (if applicable) at any time.
- 13. Unconditional Personal Guaranty:** The undersigned, individually, as well as on behalf of the Buyer, agrees to pay all account balances, penalties, service charges, reasonable attorney's fees, and court costs incurred in the collection of their past due account. Liability shall be joint and several. The undersigned further agree that any line of credit desired or approved is not a limitation of liability, and individually and on behalf of the Buyer, to be responsible for charges in excess of credit either desired or approved. This guarantee is a continuing guarantee of payment and shall ensure to the benefit of King Structural LLC dba Liquid Stone from the date hereon and shall remain in full force and effect until written notice of termination thereof has been received by Liquid Stone by certified mail. Termination of the guaranty by the undersigned shall not affect any of the guarantor's obligations hereunder with respect to indebtedness incurred prior to the termination.