



7590 Whipple Ave NW  
N. Canton, OH 44720  
Phone (330) 497-9090  
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Credit Department Use Only  
Credit Limit \_\_\_\_\_ Approved By \_\_\_\_\_  
Date \_\_\_\_\_ Account No. \_\_\_\_\_

### Credit Application

Name of Business			Date:		
Address			Billing Address		
City			City	State	Zip Code
Phone:	Fax:	PO REQUIRED?	Accounts Payable Manager:		Credit Limit Requested?
Email:					
Business Structure	<input type="checkbox"/> Corporation <input type="checkbox"/> Partnership <input type="checkbox"/> Sole Proprietorship / Date Established _____				
	Publicly Held _____ General _____ <input type="checkbox"/> D&B Number _____				
	Closely Held _____ Limited _____ Direct Pay Permit# _____ (Attach copy)				
	IF INCORPORATED: _____ Date _____ State _____				
Company Principals In Charge Of Business Activity	IF A DIVISION OR SUBSIDIARY: _____ Name of Parent Company _____				
	Name		Position		
	Home Address		City	State	Zip Code
	Driver's License #	Social Security No.		% Of Ownership	
	Name		Position		
	Home Address		City	State	Zip Code
Trade References	Name		Name		Name
	Address		Address		Address
	Phone Number		Phone Number		Phone Number
	Fax Number		Fax Number		Fax Number
Bank Information	Name		Account Number		Phone Number
STATEMENT OF DATA ACCURACY AND RELEASE OF AUTHORITY TO VERIFY	<p>The undersigned, for the purpose of procuring and establishing credit from time to time with W Construction Supply, hereafter referred to as Supplier, and to induce Supplier to permit (Customer Name)X _____ to become indebted to Supplier for purchase of goods, materials and/or services, furnishes the above business and personal credit information. The undersigned, jointly and individually, certify that all information in this Credit Application is complete, factual and correct, and understands that Supplier will rely on the accuracy of this information for any credit that may be extended. The undersigned hereby expressly authorizes Supplier to contact any parties listed by Supplier herein for the purpose of verifying any information contained in this credit application. The undersigned hereby waives any right of privacy it may have in such information, and waives the effect and benefit of any status or regulations which give it the right to control or bar the release of such information. Further, the undersigned hereby authorizes such parties to disclose to Supplier whatever information they may have with respect to the undersigned, and hereby agrees to hold such parties harmless for any such disclosure. <b>Credit bureau report will be pulled.</b> If any representations made on the Application prove to be untrue, the undersigned agrees that all obligations of (Customer Name)X _____ to, or held by, Supplier shall immediately become due and fully payable without demand or notice. The undersigned hereby acknowledges receipt of a copy of the Credit Application.</p>				
X					
SIGNATURE			DATE		

SUPPLY AGREEMENT

CREDIT APPLICATION submitted to W Construction Supply LLC "WCS"

by \_\_\_\_\_ DATE \_\_\_\_\_ CUSTOMER NAME \_\_\_\_\_

Amounts due as a result of any and all rentals/purchases hereafter made by Customer from Supplier be paid to Supplier on the following terms and conditions. Customer also agrees to abide by and comply with the attached "W CONSTRUCTION SUPPLY TERMS AND CONDITIONS".

TERMS Unpaid invoices are past due 30 days from date of invoice.

LATE PAYMENT Past due amounts are subject to a late charge of one and one-half percent (1 1/2%) per month on the amount overdue.

BAD CHECKS A service charge of \$30.00 will be applied to each check. If at any time, Customer fails to pay invoices when due, or if for any reason Supplier feels insecure in extending credit, supplier may decline to provide further goods on credit.

FAILURE TO PAY OR INSOLVENCY Failure of Customer to pay any part of the amount when due, or in the event that proceedings in bankruptcy, receivership, or insolvency are instituted by or against the Customer or his property, Supplier may at this option, cause the entire unpaid balance to become due immediately payable and Supplier shall have the right to enter at anytime without notice upon the premises where any of the materials procured by the Customer from Supplier are located. Customer hereby expressly waives any right to action which may accrue by reason of the entry for taking possession of or the selling of with respect thereto including service charges and reasonable attorney's fees and court costs. Customer will be liable for all costs of collection, including by not limited to attorney's fees, if necessary.

MISCELLANEOUS This Agreement, including the provisions in the attached "WCS TERMS AND CONDITIONS", covers all materials which the Customer may hereafter acquire at any time from Supplier. Customer hereby acknowledges that it has read and expressly agrees to abide by and comply with the attached "WCS TERMS AND CONDITIONS". No waivers or modifications to this Agreement shall be valid unless the same are in writing and executed by the parties hereto. This Contract shall apply and accrue to the benefit of, and be binding upon, the heirs, executors, administrators, successors, and assigns of the respective parties.

RECEIPT OF A COPY Customer hereby acknowledges the receipt of a copy of the Agreement at the time of its execution.

ACCEPTANCE BY CUSTOMER:

X \_\_\_\_\_ SIGNATURE OF OWNER OR OFFICER \_\_\_\_\_ TITLE \_\_\_\_\_

PERSONAL GUARANTY

For and in consideration of the original and continuing extension of the credit by W Construction Supply LLC, hereafter referred to as ("Supplier").

to X \_\_\_\_\_ (Company Name), (Company), the undersigned irrevocably and unconditionally guarantees payment and performance when due of all the obligations of Company to Supplier whether now existing or hereafter arising (the "Obligations"). The undersigned agrees to pay Supplier any amounts demanded under the Guaranty within 15 days of written notice from Supplier that Company has defaulted on any Obligations.

The undersigned agrees to pay such amounts to Supplier, or order, and to pay all expenses incurred by Supplier or its agents, in collecting or attempting to collect any of the Obligations or to enforce the Guaranty including, but not limited to, reasonable attorney's fees, any collection agency costs, court costs, lien or foreclosure expenses, asset search fees, or any and all other costs of collection or enforcement of any judgements, whether against the Company of the undersigned. Any amounts owing under this guaranty will bear interest at the maximum rate permissible by law or at a rate payable under the primary Obligation, whichever is higher.

Supplier may, without in any way effecting the liability of the undersigned, ( i ) release, renew, or extend the time for the performance of any of the Obligations; ( ii ) extend the maturity date or time for performance for any such Obligations; ( iii ) sell, release, waive, or change any security held for such Obligations, even if such transfers are conducted in a manner which provides the Company or the undersigned with any anti-deficiency defenses; and ( iv ) otherwise deal with the Company or any endorser or co-guarantor, as it may elect. Notice of acceptance of the guaranty, as well as all demands, presentments, notices of protests, and notices of Company or anyone else are hereby waived. Upon default of Company, Supplier may, at its option, proceed directly and at once, after 15 days elapsed from the date of notice provided above, against, the undersigned to collect and recover the full amount guaranteed or agreed to the paid herein, or any portion therefore, without first ( i ) proceeding against Company or any other person, or ( ii ) foreclosing upon, selling or otherwise disposing of or collecting or applying any property, real or personal, securing Obligations or any renewals or extensions thereof.

DATE \_\_\_\_\_ X \_\_\_\_\_ GUARANTOR SIGNATURE

\_\_\_\_\_  
TYPED OR PRINTED NAME



# W CONSTRUCTION SUPPLY TERMS AND CONDITIONS

## A. The following term applies only to the Sales Agreement:

A.1 **Sold Equipment:** Pursuant to all of the terms, provisions and conditions of this Agreement and any attached Schedules, Company sells to Customer and Customer purchases from Company the personal property described in Section I on the reverse side hereof (such personal property is herein called "Equipment").

## B. The following terms apply only to the Rental/Labor Agreement:

B.1 **Leased Equipment:** Work. Pursuant to all of the terms, provisions and conditions of this Agreement and any attached Schedules, Company leases to Customer and Customer leases from Company the personal property described in this document and on any attached Rental Schedules (such personal property and all replacements, additions, accessories and repairs are herein called "Equipment"), and Company agrees to perform the work ("Work") described in this document.

B.2 **Rental Term 28 day month, weekly, daily, or hourly.** The rental term begins the day Equipment is picked up by Customer or Customer's agent or the day Equipment is shipped by Company to Customer (FOB Company's branch), and ends the day Equipment is received by Company at the location of Company from which equipment was picked up or shipped, or at such other location as Company shall designate, unencumbered, cleaned and in the same good condition as when received by Customer, reasonable wear and tear resulting from normal use excepted. Rented Equipment shall be returned by Customer unless Company has agreed in writing to pick up the Equipment at Customer's expense.

B.3 **Maintenance.** Except as otherwise specified on the reverse side hereof, Customer shall at all times and at its sole cost and expense (a) maintain the Equipment in good safe, efficient working order, condition and repair, and shall not permit any injury, damage or alteration thereto or removal of any part thereof, (b) maintain the Equipment free and clear of all liens, encumbrances and security interests, (c) pay all license, registration and other fees, assessments and charges on the rental, use of possession of the Equipment, (d) prevent any seizure, attachment or levy of the Equipment and notify Company within 12 hours of any attempt to seize, attach or levy on the Equipment and (e) indemnify and hold harmless Company from all loss or damage resulting from Customer's breach of any of the obligations under this Section B.3.

B.4 **Use of Rented Equipment.** Customer shall be responsible for the use of the Equipment by any persons, and shall not sublet the Equipment or allow its use by anyone other than Customer and its trained and qualified employees.

B.5 **Risk of Loss of Rented Equipment.** Upon any loss or damage of rented Equipment, Customer shall promptly notify Company in writing. If Company determines the Equipment to be lost, Stolen, Destroyed or damaged beyond repair, Customer shall pay Company in cash the current retail list price for the Equipment. If Company determines that the Equipment is repairable, Customer shall pay Company in cash the cost of such repair. Upon such payment, this Agreement shall terminate with respect to the subject item of Equipment.

B.6 **Insurance.** Customer, at its own expense shall (a) insure the Equipment, with an insurance company acceptable to Company, for full replacement value against all risks of loss or damage, naming Company as first mortgagee under a standard mortgage clause with all losses payable to Company, (b) maintain general public liability insurance, with an insurance company acceptable to Company, naming Company as an additional insured, with limits of not less than \$1,000,000 for injury or death and \$500,000 for property damage, (c) provide Company with certificate of such insurance (and the amount of any deductible or self-insured retention) and (d) notify Company within 12 hours after the occurrence of any claim, loss, damage or injury relating to the Equipment or Work. Upon Customer's failure to provide such insurance and certificates, Company may obtain same at Customer's expense and Customer shall forthwith reimburse Company for any costs incurred by Company therefor.

B.7 **Title to Rented Equipment.** Rented Equipment shall at all times remain (a) the sole and exclusive property of Company and (b) personal property, notwithstanding its attachment to any real property or building. Notwithstanding the foregoing, Customer shall, at Company's request, sign security agreements and UCC financing and continuation statements and pay all filing fees therefor to evidence Company's interest in and title to the Equipment, the customer will pay.

## C. The following terms apply to both the Rental/Labor Agreement and the Sales Agreement:

C.1 **Payment Period.** Payment for Equipment and Work is due within ten days after date of invoice and is payable in full, without offset, claim or counterclaim, at the address of Company set forth on the invoice, late payments shall bear a finance charge from the due date thereof at the rate of 1 1/2% per month, and a bookkeeping and related expense service charge of 6% of the balance owing on the due date of the invoice. Customer acknowledges that Company will incur additional bookkeeping and related expenses in servicing delinquent payments. Customer shall also reimburse Company for attorneys' fees, court costs and other out-of-pocket costs incurred by Company in collecting any delinquent payment of Customer.

C.2 **Inspection.** Equipment to be picked up by Customer shall be counted and inspected by Customer prior to taking possession. Equipment shipped by Company shall be counted and inspected by Customer upon receipt by Customer. If Customer takes possession of Equipment, or fails within 24 hours after receipt of Equipment shipped by Company to notify Company in writing of any defect or objection, Customer shall be conclusively presumed to have counted and inspected the Equipment and accepted it in good Condition, without defect or objection. Customer shall continually inspect the equipment and the Work and notify the Company in writing of any defect within 24 hours after the discovery thereof. Company shall have the right at any time, but it is not obligated, to inspect the Equipment and to enter upon the real property and premises where the Equipment is located in order to make such inspections.

C.3 **Use of Equipment.** Customer agrees, acknowledges and represents that the Equipment shall be used solely for its intended purpose, that only personnel trained, qualified, competent, skilled and knowledgeable in the installation, erection, use, operation, inspection, maintenance and handling (collectively, "Operate" or "Operation") of the Equipment shall Operate the Equipment. The Equipment shall be operated and maintained by Customer only in a proper and safe manner, under safe conditions, and fully in compliance with all applicable laws, ordinances, rules and regulations, industry standards, safety rules and guidelines of Company and the insurance carriers of Company and Customer, and regulations and orders of governmental and public authorities.

C.4 **Company's Safety Instructions.** Customer acknowledges knowledge of all local, state, or federal statutes, regulations and taxes against company equipment,

receipt of the safety instructions referred to on any attached or accompanying Riders or Schedules and that it will require all personnel operating the Equipment to read instructions and Operate the Equipment in accordance therewith.

C.5 **Disclaimer of Warranties.** COMPANY MAKES NO WARRANTY OF ANY KIND OR NATURE WHATSOEVER, EXPRESS OR IMPLIED, OR IN FACT OR BY LAW. COMPANY SPECIFICALLY DISCLAIMS ANY IMPLIED WARRANTY OF MERCHANTABILITY OR FITNESS FOR ANY PARTICULAR PURPOSE INCLUDING, WITHOUT LIMITATION, ANY PURPOSE INTENDED BY CUSTOMER.

C.6 **Risk of Loss.** Customer assumes and shall bear the entire risk of loss and damage to the Equipment from any and every cause whatsoever. No loss or damage to the Equipment, in whole or in part, shall impair any obligation of Customer under this Agreement, which shall continue in full force and effect.

C.7 **Delay.** Company shall not be liable for any delay or failure on its part to deliver assemble, erect or dismantle the Equipment or perform the Work due to any act of God or other cause beyond its control.

C.8 **Default.** Company shall retain a security interest in all Equipment until the same has been fully paid for. If Customer shall fail to timely perform any of its obligations hereunder or under any other agreement with Company, or if any proceeding shall be instituted by or against Customer under any bankruptcy or similar law, or if Customer becomes insolvent or makes an assignment for the benefit of creditors, or if a judgment is rendered against Customer and is not dismissed within 30 days thereafter, or if any levy or attachment occurs on any property of Customer, or if a receiver is appointed for Customer or any of its assets, or if Customer shall dissolve or its existence shall be terminated, then Company may, in addition to any and all other remedies available to Company hereunder or at law or in addition to any and all remedies available to Company hereunder or at law or in equity,

a. Take possession of any of the Equipment, wherever located, without demand, notice, court order or other process of law (and Customer agrees to pay the costs of taking possession and waives any claim for loss or damage occasioned by such taking and agrees not to impede any such taking of possession);

b. Cease performing any of the Work;

c. Declare all rent and other charges then or thereafter owing to Company hereunder or otherwise immediately due and payable without notice or demand;

d. Sue for and recover all rent and other charges then or thereafter accrued with respect to any or all of the Equipment, the Work or otherwise.

e. Terminate this Agreement as to any or all of the Equipment or Work; and/or

f. Pursue any other remedy available to Company hereunder, at law or in equity.

Notwithstanding any such repossession or other act of Company, Customer shall remain liable for the full performance of all of Customer's obligations to Company hereunder. All remedies of Company are cumulative and may be exercised concurrently or separately. Any default by Customer hereunder shall constitute a default by Customer under all other agreements between Customer and Company.

C.9 **Assignment.** Customer shall not, by operation of law or otherwise, assign, pledge, transfer or hypothecate this Agreement, any part thereof or any interest therein. Company may assign, pledge or transfer this Agreement in whole or in part and/or sublet any of the Work without notice to Customer, in which event Customer shall not be relieved of any of its obligations hereunder.

C.10 **Indemnification.** Customer unqualifiedly agrees to indemnify and hold harmless Company from and against any and all claims, costs, damages, expenses, liabilities, actions and causes of action (collectively, Claims) including, without limitations, court costs and attorneys' fees, relating to, arising out of, resulting from, incident to or in any manner connected with, directly or indirectly, Customer's possession, use, maintenance, storage or control of any of the Equipment or Work, or any death, injury, damage or destruction caused or allegedly caused by any of the Equipment or Work and/or any actual or alleged act or failure to act of Customer or any person or entity acting through, under or on behalf of Customer, including Claims resulting in part from Company's negligence, and/or product defect, but excluding Claims resulting from Company's sole negligence or willful misconduct. Customer shall defend Company against any and all Claims, unless Company shall notify Customer in writing that Company will defend itself, and in either case Customer shall be liable for pay and/or reimburse Company for all fees, costs and expenses of such defense (including, without limitation, attorney's fees) and any settlement costs, judgments and/or other resolutions of any Claims.

C.11 **Miscellaneous.** This Agreement (a) constitutes the entire agreement between the parties with respect to the subject matter hereof, supersedes all prior negotiations with respect thereto and may not be amended except by a writing signed by both parties. Customer waives and releases any terms and conditions of any proposal, purchase order or other document submitted by Customer to Company which are in addition to, inconsistent with or different from the terms and conditions hereof. (b) shall be interpreted in accordance with the local laws of the State from which the Equipment was shipped by Company or picked up by Customer at Company's branch, and (c) shall be binding upon and inure to the benefit of the parties hereto and their respective heirs, representatives, successors and permitted assigns. If any legal proceedings are commenced by Company to enforce any of the terms hereof, Customer shall pay all of Company's enforcement expenses and attorneys fees and all court costs. If any provision of this Agreement is held by a court of competent jurisdiction to be invalid, void or unenforceable, all other provisions thereof shall remain in full force and effect to the fullest extent and shall in no manner be affected, altered, impaired or invalidated. Time is the essence of this Agreement and each of its provisions. Section headings are for convenience only and shall have no effect on the interpretation of any provisions hereof. All notices hereunder shall be in writing and shall be sent to the party for whom intended at its address on the first page hereof by overnight mail or courier or by U.S. certified mail, return receipt requested, postage prepaid.

C.12 **Limitation of Liability.** The liability of Customer for claims under, by reason of or arising out of the subject matter of this Agreement shall, in the aggregate, be limited to the amount of the contract price hereunder for the Equipment and Work. In no event shall Company be responsible to Customer for indirect or consequential damages.

C.13 In addition to the prices quoted herein, Customer shall pay all present and future sales, use, property, excise and other taxes, whether local, state or federal, applicable to the transaction evidenced hereby the Equipment and the purchase sale, replacement, value or use of the Equipment, the Work or any aspect of the Work.