



CREDIT APPLICATION

FAX: 866-791-4809

PH: 888-888-6087, OPTION 3, OPTION 3, OPTION 1

| | |
|-------------------------|----------------|
| LEGAL NAME OF CUSTOMER: | EMAIL ADDRESS: |
|-------------------------|----------------|

PLEASE SELECT ONE: SOLE PROPRIETORSHIP PARTNERSHIP CORPORATION NON PROFIT ORG. JOINT VENTURE L.L.C.

STREET ADDRESS: _____ CITY _____ STATE _____ ZIP _____

MAILING ADDRESS: _____ CITY _____ STATE _____ ZIP _____

COUNTY: _____ BUSINESS PHONE: _____ BUSINESS FAX: _____

| | | | |
|---|--------------------------------|-------------------|----------------------|
| ARE YOU SALES TAX EXEMPT? (AN EXEMPTION CERTIFICATION MUST BE ATTACHED) <input type="checkbox"/> YES <input type="checkbox"/> NO | ESTIMATED MONTHLY PURCHASES \$ | TYPE OF BUSINESS: | NO. OF EMPLOYEES: |
| | | | BUSINESS START DATE: |

A/P CONTACT: _____ PHONE: _____ FAX: _____ A/P EMAIL: _____

PURCHASE ORDER NO. REQUIRED? YES NO FED. TAX ID NO.:

***NAME OF BRANCH FROM WHICH PURCHASES WILL BE MADE:

***NAME OF BUSINESS OWNER(S)/ OFFICER(S) OF COMPANY:

GUARANTORS

| | | | |
|-------|---------------|------------|---------|
| NAME: | HOME ADDRESS: | PHONE NO.: | SS NO.: |
| NAME: | HOME ADDRESS: | PHONE NO.: | SS NO.: |

TRADE / BANK REFERENCES

| | | | |
|------------|----------|---------|--------|
| NAME: | ADDRESS: | ACCT #: | PHONE: |
| NAME: | ADDRESS: | ACCT #: | PHONE: |
| BANK NAME: | ADDRESS: | ACCT #: | PHONE: |

PLEASE ATTACH COPY OF PURCHASER'S MOST RECENT FINANCIAL STATEMENT.

Purchaser certifies that it is solvent and capable of meeting its obligations hereunder, and that all information provided to seller (including Purchaser's attached financial statement) is true, accurate and complete. All such information has been submitted for the purpose of obtaining credit. Purchaser and each Guarantor authorize HD Supply and/or its affiliates ("Seller") to request credit reports from credit bureaus (including consumer reporting agencies) regarding their respective commercial or personal credit and otherwise to investigate their respective creditworthiness before extending credit now or at any time in the future. Purchaser also agrees to comply with the applicable bulk sales laws. Purchaser agrees that all Terms and Conditions of Sale reverse side of this Credit Application and Personal Guaranty, as the same may be amended by written notice to Purchaser from time to time, shall apply to all sales and extensions of credit made to Purchaser by Seller.

SIGNATURE _____ PRINTED NAME _____ DATE _____

PERSONAL GUARANTY

To induce the extension of credit to Purchaser, Guarantor (jointly and severally, if more than one) hereby guarantees payment of all existing and future indebtedness of Purchaser to Seller, including any costs, expenses, and reasonable attorneys' fees payable as a consequence of Seller's collection efforts. This personal guaranty is absolute, complete, irrevocable and continuing and it shall not be necessary for Seller to give notice to Guarantor of any extension of credit to Purchaser, any renewal thereof, any modification of the terms thereof, or Seller's arrangements with any other Guarantor. Guarantor may by written notice to Seller at its Corporate Headquarters as described above (Attn: Credit Dept.) terminate its guarantee as to any new extensions of credit to Purchaser made more than ten days after such written notice, but Guarantor shall continue to be obligated in respect of any credit extended within ten days after Seller's receipt of such notice and any credit Seller remains obligated to extend to Purchaser at the close of business on the tenth day following Seller's receipt of such notice. Guarantor agrees to provide personal financial information as reasonable requested by Seller.

SIGNATURE _____ PRINTED NAME _____ DATE _____

SIGNATURE _____ PRINTED NAME _____ DATE _____

SELLER'S USE ONLY

BRANCH MANAGER: _____ BRANCH NUMBER: _____ SALESMAN: _____ ID: _____

COMMENTS: _____

TERMS AND CONDITIONS OF SALE

1. All references in this document to "Seller" shall include HD Supply, Inc. and/or any parent, subsidiary or affiliate of HD Supply, Inc. (including any division of the foregoing) whether or not performing any or all of the scope hereunder or specifically identified herein. All references to "Buyer" shall include all parent(s), subsidiaries and affiliates of the entity placing the order. Buyer and Seller may be referred to individually as a "Party" and collectively as "Parties".
2. All sales to Buyer are subject to these Terms and Conditions of Sale, which shall prevail over any inconsistent terms of Buyer's purchase order or other documents. Additional or different terms and conditions in any way altering or modifying these terms are expressly objected to and shall not be binding upon Seller unless specifically accepted in writing by Seller's authorized representative. No modification or alteration of these terms shall result by Seller's shipment of goods following receipt of Buyer's purchase order, or other documents containing additional, conflicting or inconsistent terms. There are no terms, conditions, understandings, or agreements other than those stated herein, and all prior proposals and negotiations are merged herein. These terms are binding on the Parties, their successors, and permitted assigns.
3. Prices on Seller website, catalogs or in Seller quotes are subject to change without notice, and all such prices expire and become invalid if not accepted within 10 calendar days from the date of issue, unless otherwise noted by Seller in writing. Price extensions if made are for Buyer's convenience only, and they, as well as any mathematical, stenographic or clerical errors, are not binding on Seller. Prices shown do not include any sales, excise, or other governmental tax or charge payable by Seller to any federal, state or local authority. Any taxes now or hereafter imposed upon sales or shipments will be added to the purchase price, and Buyer shall reimburse Seller for any such tax or provide Seller with an acceptable tax exemption certificate. All prices and other terms provided to Buyer shall be kept confidential except to the extent a Party is required by law to disclose the same.
4. Seller shall not be liable for delay or default in delivery resulting from any cause beyond Seller's reasonable control, including, but not limited to, governmental action, strikes or other labor troubles, fire, damage or destruction of goods, wars (declared or undeclared), acts of terrorism, manufacturers' shortages, availability or timeliness of transportation, materials, fuels, or supplies, and acts of God (each a "Force Majeure Event"). Upon the occurrence of a Force Majeure Event, (a) the time for Seller's performance shall be extended reasonably and the Parties shall adjust all affected dates accordingly, (b) the purchase price shall be adjusted for any increased costs to Seller resulting from such Force Majeure Event; and (c) Buyer shall not be entitled to any other remedy.
5. Seller is a reseller of goods only, and as such does not provide any warranty for the goods it supplies hereunder. Notwithstanding this As-Is limitation, Seller shall pass through to Buyer any transferable manufacturer's standard warranties with respect to goods purchased hereunder. BUYER AND PERSONS CLAIMING THROUGH BUYER SHALL SEEK RECOURSE EXCLUSIVELY FROM MANUFACTURERS IN CONNECTION WITH ANY DEFECTS IN OR FAILURES OF GOODS, AND THIS SHALL BE THE EXCLUSIVE RECOURSE OF BUYER AND PERSONS CLAIMING THROUGH BUYER FOR DEFECTIVE GOODS, WHETHER THE CLAIM OF BUYER OR THE PERSON CLAIMING THROUGH BUYER SHALL SOUND IN CONTRACT, TORT, STRICT LIABILITY, PURSUANT TO STATUTE, OR FOR NEGLIGENCE. BUYER SHALL PASS THESE TERMS TO SUBSEQUENT BUYERS AND USERS OF GOODS. SELLER EXCLUDES AND DISCLAIMS ALL OTHER EXPRESS AND IMPLIED WARRANTIES, INCLUDING, BUT NOT LIMITED TO, ALL IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE. SELLER ASSUMES NO RESPONSIBILITY WHATSOEVER FOR SELLER'S INTERPRETATION OF PLANS OR SPECIFICATIONS PROVIDED BY BUYER, AND BUYER'S ACCEPTANCE AND USE OF GOODS SUPPLIED HEREUNDER SHALL BE PREMISED ON FINAL APPROVAL BY BUYER OR BY BUYER'S RELIANCE ON ARCHITECTS, ENGINEERS, OR OTHER THIRD PARTIES RATHER THAN ON SELLER'S INTERPRETATION. TO THE EXTENT NOT PROHIBITED BY APPLICABLE LAW, IN NO EVENT, WHETHER IN CONTRACT, WARRANTY, INDEMNITY, TORT (INCLUDING, BUT NOT LIMITED TO, NEGLIGENCE), STRICT LIABILITY OR OTHERWISE, ARISING DIRECTLY OR INDIRECTLY OUT OF THE PERFORMANCE OR BREACH OF THIS AGREEMENT, SHALL SELLER BE LIABLE FOR (a) ANY INCIDENTAL, INDIRECT, PUNITIVE, SPECIAL, CONSEQUENTIAL OR SIMILAR DAMAGES SUCH AS LOSS OF USE, LOST PROFITS, ATTORNEYS' FEES OR DELAY DAMAGES, EVEN IF SUCH DAMAGES WERE FORESEEABLE OR CAUSED BY SELLER'S BREACH OF THIS AGREEMENT, (b) ANY CLAIM THAT PROPERLY IS A CLAIM AGAINST THE MANUFACTURER, OR (c) ANY AMOUNT EXCEEDING THE AMOUNT PAID TO SELLER FOR GOODS FURNISHED TO BUYER WHICH ARE THE SUBJECT OF SUCH CLAIM(S). ALL CLAIMS MUST BE BROUGHT WITHIN ONE YEAR OF ACCRUAL OF A CAUSE OF ACTION.
6. Buyer shall indemnify, defend, and hold Seller its officers, directors, employees and agents harmless from any and all costs (including attorneys' and accountants' fees and expenses), liabilities and damages resulting from or related to any third party (including Buyer's employees) claim, complaint and/or judgment arising from Buyer's use of any goods furnished hereunder, as well as any negligent, intentional, or tortious act or omission of Buyer or any material breach by Buyer of this Agreement.
7. When goods are delivered to Buyer in Seller's own vehicles, the F.O.B. point shall be Buyer's designated delivery site. In all other cases the F.O.B. point shall be Seller's store or warehouse and all responsibility and costs of shipping and delivery beyond the applicable F.O.B. point shall be borne by Buyer. Title and risk of loss shall pass to Buyer at the applicable F.O. B. point, which for goods not delivered in Seller's own vehicles shall be when Seller delivers the goods to the common carrier. All claims for shortage of goods or for loss or damage to goods as to which Seller has the risk of loss shall be waived unless Buyer, within 10 calendar days after receipt of the short or damaged shipment, gives Seller written notice fully describing the alleged shortage or damage. Partial shipments are permitted at Seller's discretion.
8. Any change in product specifications, quantities, destinations, shipping schedules, or any other aspect of the scope of supply must be agreed to in writing by Seller, and may result in a price and delivery adjustment by Seller. No credit for goods returned by Buyer shall be given without Seller's written authorization. All returns are subject to a restocking charge.
9. Unless otherwise agreed in writing, payment terms are net 30 days from delivery, payable in United States of America ("US") dollars. Notwithstanding the foregoing, all orders are subject to Seller's continuing approval of Buyer's credit. If Buyer's credit is not approved or becomes unsatisfactory to Seller then Seller, in its sole discretion, may suspend or cancel performance, or require different payment terms, including but not limited to cash on delivery or in advance of shipment. In addition, Seller may in its discretion require an advance deposit of up to 100% of Seller's selling price for any specially manufactured goods ordered by Buyer hereunder. Payments due hereunder shall be made in the form of cash, check, or money order, or other tender approved in writing by Seller. Seller may, in its sole discretion, apply Buyer's payment against any open charges. Past due accounts bear interest at the lesser of 1.5% per month or the maximum rate permitted by applicable law, continuing after Seller obtains judgment against Buyer. Seller may exercise setoff or recoupment to apply to or satisfy Buyer's outstanding debt. Buyer shall have no right of setoff hereunder, the same being expressly waived hereby.
10. Buyer shall not export or re-export, directly or indirectly, all or any part of the goods or related technology obtained from Seller under this Agreement unless in accordance with applicable export laws and regulations of the US. Further, a Buyer that is a non-U.S. company or citizen shall similarly limit any export or re-export activity to that which would be deemed compliant with U.S. export laws and regulations if performed by a U.S. company or citizen.
11. Buyer shall pay Seller all costs and expenses of collection, suit, or other legal action brought as a result of the commercial relationship between them, including, but not limited to, all actual attorneys' and paralegals' fees, and collection costs, incurred pre-suit, through trial, on appeal, and in any administrative or bankruptcy proceedings. Any cause of action that Seller has against Buyer may be assigned without Buyer's consent to HD Supply, Inc. or to any affiliate, parent or subsidiary of HD Supply, Inc.
12. This Agreement and the account and business relationship between Buyer and Seller shall be governed by and construed in accordance with the laws of Florida without regard to conflicts of laws, and specifically excluding the UN Convention on Contracts for the International Sale of Goods. Subject to the foregoing, Buyer and Seller agree that any legal action brought by either as a result of the account or business relationship between Buyer and Seller shall be brought in the venue of the state where the sales from Seller to Buyer occurred, and any right to object to such venue or to assert the inconvenience of such forum is hereby waived.
13. If Buyer fails to comply with these Terms and Conditions of Sale, Seller may terminate or restrict any order immediately upon notice to Buyer. Buyer certifies that it is solvent and that it will advise Seller immediately if it becomes insolvent. Buyer agrees to send Seller written notice of any changes in the form of ownership of Buyer's business within 5 days of such changes. Buyer and Seller are the only intended beneficiaries of this document, and there are no third party beneficiaries.
14. The invalidity or unenforceability of all or part of these Terms and Conditions of Sale will not affect the validity or enforceability of the other terms. The parties agree to replace any void or unenforceable term with a new term that achieves substantially the same practical and economic effect and is valid and enforceable.
15. The following provisions shall survive termination, cancellation and completed performance of this Agreement for a period of twenty (20) years: 5, 6, 9,10,11 and 12.