

TBK MATERIALS, LLC

CREDIT APPLICATION & ACCOUNT AGREEMENT

The undersigned Applicant and Purchaser ("Purchaser") hereby applies and specifically requests the establishment of an open account from TBK Materials, LLC ("TBK") for the purpose of purchasing goods and services on credit. The following information is provided for TBK's consideration in the approval of the Application. The Purchaser understands that the submittal of this Application does not constitute a credit account until approved by TBK. Purchaser approves TBK to request credit references from trades, banks, and to pull credit reports from agencies for review and consideration in establishing open account.

BUSINESS INFORMATION

Legal Name/Business Entity: _____			Phone Number: _____		
Doing Business As (DBA) Name: _____			Fax Number: _____		
Company Type: <input checked="" type="checkbox"/> Proprietorship <input checked="" type="checkbox"/> Partnership <input checked="" type="checkbox"/> LLP <input checked="" type="checkbox"/> Corporation <input checked="" type="checkbox"/> LLC			Years in business _____		
Physical Address: _____		City: _____	State: _____	Zip: _____	
Billing Address: _____		City: _____	State: _____	Zip: _____	
Fed I.D.# _____		Social Security # _____		DUNS # _____	
<i>Note: SOCIAL SECURITY NUMBERS ARE REQUIRED FOR SOLE PROPRIETORSHIP, PARTNERSHIP, LLC, LLP OR SUB CHAPTER "S" CORP.</i>					
Accounts Payable Contact _____		Phone # _____	Fax# _____	E-Mail: _____	
APPROXIMATE TONS per month: _____		ANTICIPATED MONTHLY SALES \$ _____			

BANK REFERENCE(S) – attach separate sheet if multiple bank references

Bank Name: _____	Account # _____	Loan # _____	Contact _____
Address _____	City _____	State _____ Zip _____	Phone _____ Fax _____

TRADE CREDIT REFERENCES- OPEN ACCOUNT PURCHASES ONLY-Please include Fax Numbers to expedite process

1) Company Name _____		Contact _____	Your account number with this company. _____			
Address _____	City _____	State _____	Zip _____	Phone _____	Fax _____	
2) Company Name _____		Contact _____	Your account number with this company. _____			
Address _____	City _____	State _____	Zip _____	Phone _____	Fax _____	
3) Company Name _____		Contact _____	Your account number with this company. _____			
Address _____	City _____	State _____	Zip _____	Phone _____	Fax _____	
4) Company Name _____		Contact _____	Your account number with this company. _____			
Address _____	City _____	State _____	Zip _____	Phone _____	Fax _____	

Attach listing of additional references.

FINANCIALS – Please submit your most recent audited financials, including auditor’s notes. The financial statements to be provided to TBK shall include an operating statement, an income statement, and a balance sheet, as well as auditor’s notes. Purchaser represents that such financial statements are prepared in accordance with GAAP and shall be materially complete and correct. **All information will be held in strictest confidence.**

TERMS AND CONDITIONS:

PURCHASER HEREBY AGREES THAT, UPON EXTENSION OF CREDIT BY TBK, ALL PURCHASES AND/OR RENTALS BY PURCHASER FROM TBK ARE SUBJECT TO THE FOLLOWING TERMS AND CONDITIONS:

The Purchaser shall comply with and satisfy all payment terms, conditions and charges of TBK, in connection with the sale of goods and/or services to the Purchaser (collectively the “Goods”).

The Purchaser shall promptly notify TBK, of any change of ownership of the Purchaser. The Purchaser shall promptly notify TBK, by letter, fax, or e-mail, of any address changes for invoices.

The Purchaser agrees to pay TBK for Goods provided by TBK at TBK’s designated prices. All invoices tendered by TBK will be deemed accurate and conclusive unless given written notice of any discrepancy within 7 days of receipt. All payments by Purchaser may be applied against open invoices at the sole discretion of TBK.

No terms or conditions of Purchasers’ purchase orders, which may be different from the terms of sale of TBK, will become part of any sales agreement, purchase order or other document(s) unless specifically approved in writing by TBK.

Checks in payment for Goods that are not honored by the bank upon which drawn may be subject to such charges as may be assessed in connection therewith under the laws of the State of Texas or, in the sole discretion of TBK’s bank. If TBK’s bank should charge a fee as independent consideration for the additional work required, the fee shall be passed on by TBK to Purchaser for payment. The parties agree that this fee is not to be deemed and is not interest for the purposes of determining usury.

In the event Purchaser’s account should be past due, TBK may engage a collection agency and/or attorneys to collect the account. In the event TBK engages a collection agency and/or attorneys to collect the account, Purchaser agrees that Purchaser will be solely liable to TBK for any and all fees charged by the collection agency and/or the attorneys, separate and apart from its liability for the account balance and accrued interest. Purchaser will also be solely liable to TBK for all repossession fees, court costs, and any other applicable costs incurred by TBK in attempting to collect on Purchaser’s account. All such fees and costs will be immediately due and payable to TBK. TBK and Purchaser agree that any fees or costs incurred in connection with the collection of Purchaser’s account, including, but not limited to, reasonable attorneys’ fees, collection agency fees, repossession fees, and court costs, that may be charged, are supported by independent consideration provided by TBK in the form of, among other things, the additional effort required for TBK to collect the payments due and the fees and costs advanced by TBK to a collection agency and/or attorneys. The parties agree that all such charges are not interest, are being charged independently of any interest charges or the extension of credit by TBK, and are not considered interest for purposes of determining usury.

Any legal action or proceeding with respect to Purchaser may be brought in the appropriate state or federal court of Collin County, Texas. Purchaser hereby accepts, generally and unconditionally, the non-exclusive jurisdiction of the aforesaid courts. Purchaser further waives any objection to the venue of any action or proceeding in any such court in Tarrant County, and waives any right to trial by jury therein. Nothing herein shall affect the right of TBK to serve process in any other manner permitted by law or to commence legal proceedings or otherwise proceed against Purchaser in any other jurisdiction.

All credit matters shall be processed through the Credit Department of TBK located in Aubrey, Texas.

The extension by TBK of credit availability to the Purchaser and the amount and the terms of such credit availability are in the sole, absolute and exclusive discretion of TBK. TBK reserves the right to terminate the extension of credit availability to the Purchaser at any time with or without notice, and to change any of the terms and conditions thereof upon notice to the Purchaser.

Purchaser agrees to provide its financial statements to TBK on an annual basis or more frequently as TBK deems necessary. The financial statements to be provided to TBK shall include an operating statement, an income statement, and a balance sheet. Purchaser represents that such financial statements are prepared in accordance with GAAP and shall be materially complete and correct.

11. TBK warrants title to the Good(s) and, except as noted below with respect to items not of TBK’s manufacture, also warrants the Good(s) on date of shipment to Purchaser, to be of the kind and quality described herein, merchantable, and free of defects in workmanship and material. THIS WARRANTY IS IN LIEU OF ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, INCLUDING BUT NOT LIMITED TO THOSE OF MERCHANTABILITY AND FITNESS FOR A SPECIFIC PURPOSE – WHICH ARE SPECIFICALLY DISCLAIMED, AND CONSTITUTES THE ONLY WARRANTY OF TBK WITH RESPECT TO THE GOOD(S).

12. NOTWITHSTANDING ANY OTHER PROVISION OF THIS AGREEMENT, THE TOTAL LIABILITY, IN THE AGGREGATE, OF TBK TO PURCHASER AND ANYONE CLAIMING BY OR THROUGH PURCHASER, FOR ANY AND ALL CLAIMS, LOSSES, COSTS, ATTORNEYS' FEES OR DAMAGES (OF ANY FORM, INCLUDING CONSEQUENTIAL DAMAGES), RESULTING FROM OR IN ANY WAY RELATED TO THE ACCOUNT OR THIS AGREEMENT FROM ANY CAUSE OR CAUSES SHALL NOT EXCEED THE TOTAL AMOUNTS PAID TO TBK FOR THE GOODS. IT IS INTENDED THAT THIS LIMITATION APPLY TO ANY AND ALL LIABILITY OR CAUSE OF ACTION HOWEVER ALLEGED OR ARISING, UNLESS OTHERWISE PROHIBITED BY LAW.
13. Purchaser and TBK further agree that if the terms of this agreement conflict with the terms of any other written agreement signed by both Purchaser and TBK, the terms of the other agreement will control.

FEDERAL EQUAL CREDIT OPPORTUNITY ACT: If your application for credit is denied, you have the right to a written statement of the specific reasons for the denial. To obtain such statement, please contact TBK Materials, LLC's credit manager at the above-identified address within sixty (60) days of the date you are notified of its decision. TBK Materials, LLC will send a written statement of the reason(s) for the denial within thirty (30) days of receiving your request for such statement. NOTICE: The Federal Equal Credit Opportunity Act prohibits creditors from discriminating against credit applicants on the basis of race, color, religion, national origin, sex, marital status, age (provided the applicant has the capacity to contract); because all or part of the applicant's income derives from any public assistance program; or because the applicant has in good faith exercised any right under the Consumer Credit Protection Act. The federal agency that administers compliance with this law concerning this creditor is the Federal Trade Commission, Equal Credit Opportunity, Washington DC 20580.

The Purchaser hereby certifies that all information contained in the Credit Application and Account Agreement is true and correct. The Purchaser understands that the submittal of this Application does not constitute a credit account until approved by TBK. **Purchaser approves TBK to request credit references from trades, banks, and to pull credit reports from agencies for review and consideration in establishing open account.**

The undersigned individual, who is either a principal of the Purchaser or a sole proprietor, recognizing that his or her individual the company's credit history may be a factor in the evaluation of the credit history of the Purchaser, **hereby consents to and authorizes the use of a consumer credit report on the undersigned business by TBK, from time to time as may be needed, in the credit evaluation and continued updating process. The Purchaser and the undersigned individual agree to provide TBK with an updated credit application every year as a condition for the continued extension of credit by TBK.**

PURCHASER SIGNATURE:

Name of Business: _____

Signature: _____
Principal or Owner

Name Printed: _____

Title: _____

Date: _____

PERSONAL GUARANTY

In consideration of TBK extending credit to Purchaser, the undersigned individually, jointly and severally does hereby personally and unconditionally guarantee to TBK the payment of any and all indebtedness of the Purchaser, including any and all costs of collection, including collection agency fees and reasonable attorney's fees. The undersigned waives notice of acceptance of this guarantee by TBK and notice of default or of non-payment on any of the liabilities. The use of any titles shall in no way be deemed to limit the personal guaranty. Any change in ownership interest or relationship of Guarantor to Purchaser shall not relieve Guarantor of obligations under this personal guarantee. This Guarantee shall be a continuing guarantee and shall remain in effect subject to discontinuance as to any of the undersigned only upon actual receipt by TBK of 30 days written notice from undersigned, provided no such notice of discontinuance shall impair or effect any of the agreements or obligations incurred with respect to any and all liabilities existing prior to the time of such actual receipt by TBK of such discontinuance notice. Guarantor agrees by signing this Guaranty Agreement to authorize TBK and its agents to investigate his business and personal credit history.

GUARNTOR SIGNATURE:

Signature: _____

Name Printed: _____

Date: _____