



CREDIT APPLICATION & SALES AGREEMENT

COMPANY NAME: \_\_\_\_\_ PHONE \_\_\_\_\_

PHYSICAL ADDRESS \_\_\_\_\_ CITY/ST/ZIP \_\_\_\_\_

BILLING ADDRESS (If Different) \_\_\_\_\_ CITY/ST/ZIP \_\_\_\_\_

FEDERAL TAX ID \_\_\_\_\_

CONTRACTOR'S LICENSE #/STATE \_\_\_\_\_ EXPIRATION DATE \_\_\_\_\_

CORPORATE OFFICERS/PARTNERS/OWNERS

NAME \_\_\_\_\_ TITLE \_\_\_\_\_ SSN \_\_\_\_\_

HOME ADDRESS \_\_\_\_\_

NAME \_\_\_\_\_ TITLE \_\_\_\_\_ SSN \_\_\_\_\_

HOME ADDRESS \_\_\_\_\_

Corporation checkboxes: CORPORATION, SOLE PROPRIETOR, PARTNERSHIP, LLC, LLP, START DATE \_\_\_\_\_

FINANCIAL INFORMATION

BANK NAME \_\_\_\_\_ ACCOUNT # \_\_\_\_\_ PHONE \_\_\_\_\_

ADDRESS \_\_\_\_\_ CITY/ST/ZIP \_\_\_\_\_

HAVE YOU EVER DECLARED BANKRUPTCY? \_\_\_\_\_ IF YES, WHEN? \_\_\_\_\_ CASE # \_\_\_\_\_

REFERENCES: LIST THREE TRADE REFERENCES WHERE CREDIT IS ON OPEN ACCOUNT

- 1. COMPANY NAME \_\_\_\_\_ PHONE \_\_\_\_\_ CONTACT/ACCOUNT # \_\_\_\_\_ FAX/EMAIL \_\_\_\_\_
2. COMPANY NAME \_\_\_\_\_ PHONE \_\_\_\_\_ CONTACT/ACCOUNT # \_\_\_\_\_ FAX/EMAIL \_\_\_\_\_
3. COMPANY NAME \_\_\_\_\_ PHONE \_\_\_\_\_ CONTACT/ACCOUNT # \_\_\_\_\_ FAX/EMAIL \_\_\_\_\_

ACCOUNTS PAYABLE:

CONTACT NAME \_\_\_\_\_ PHONE \_\_\_\_\_ EMAIL \_\_\_\_\_

PURCHASE ORDERS REQUIRED: YES NO PO FORMAT: \_\_\_\_\_ INVOICE BY: EMAIL US MAIL

AUTHORIZED PURCHASERS (attach list if necessary): \_\_\_\_\_

Applicant authorizes, by signature on page 4 of this agreement, the above listed trade and financial references to release information requested relative to open accounts, mortgages, construction loans, average deposit balances, etc. pertinent to the granting of credit to the applicant.



**PERSONAL GUARANTY**

In consideration of the extension of credit by The Miller Lumber Company ("the Company") to the Customer named above and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the undersigned hereby jointly and severally and unconditionally guaranty the full and prompt performance of the obligations of the foregoing Sales Agreement by Customer including the payment of all sums due or to become due under the Sales Agreement. This guaranty is intended to cover a running account or accounts by Customer and will remain in full force and effect until fourteen (14) days after a termination in writing is sent by any of the undersigned by registered mail, return receipt, and received by Seller at the above address. In such event, this guaranty shall terminate only as to new obligations of the undersigned but shall not terminate as to any obligations incurred prior to the date of such termination.

Each of the undersigned acknowledges the Company is relying upon this guarantee and would not extend credit to the Customer without the undersigned entering into this guarantee. Each of the undersigned hereby waives any notice of the time and amount of extension of credit to the Customer, as well as rights to set-off, redemption and counterclaim that may be alleged to exist in favor of the Customer. This guarantee shall extend, without limitation, to principal, interest, costs of collection and attorney's fees incurred by the Company relating to any amounts owed pursuant to this Guaranty or amounts owed by the Customer to the Company.

Each of the undersigned unconditionally and irrevocably waives (i) notice of every kind, including, without limitation, notice of dishonor, (ii) protest, (iii) presentment, and (iv) any and all defense based on suretyship, impairment of collateral or an election of remedies. This guaranty shall not be limited or impacted in any way by any failure, omission or delay to enforce, assert or exercise any right, power or remedy conferred by the terms between the Company and the Customer, by any claim, defense, counterclaim or setoff, other than that of prior payment or performance. No rights against the undersigned are waived by failure to exercise any rights against the Customer upon his or its default. The incorporation, merger, reorganization or sale of the Customer's business shall not operate as a termination of this guaranty. This guaranty shall survive any bankruptcy or receivership proceeding of the Customer.

Each of the undersigned hereby consents and authorizes The Miller Lumber Company and its ownership entities use of non-business consumer credit report on the undersigned to further evaluate the credit worthiness of the undersigned as principal(s), proprietor(s) and/or guarantor(s) in connection with the extension of business credit as contemplated by this credit application.

\_\_\_\_\_  
Personal Guarantor/Individual (Signature)

\_\_\_\_\_  
Personal Guarantor/Individual (Signature)

\_\_\_\_\_  
Personal Guarantor/Individual (Please Print)

\_\_\_\_\_  
Personal Guarantor/Individual (Please Print)

\_\_\_\_\_  
Date

\_\_\_\_\_  
Date



### TERMS AND CONDITIONS

- PAYMENT TERMS:** Payment terms are 10th day of the month following the statement date (Net 10th Prox) and all amounts not paid on or before the due date are delinquent. Retainage shall not apply and Customer/Applicant (hereinafter referred to as "Customer") shall not hold back any amounts from The Miller Lumber Company (hereinafter referred to as "Seller"), even if retainage is contractually withheld from Customer by another party. Payments may be applied to oldest unpaid invoices at the discretion of Seller. Payment to Seller is not contingent on Customer's receipt of payment from a third party. Seller, in its sole discretion, may determine that the Customer's financial condition requires adequate assurance of due performance from Customer, including but not limited to, requiring full or partial payment in advance of delivery of any materials or goods ordered by Customer (any such materials or goods collectively being referred to herein as, the "Goods"). In the event Customer fails to make any payment when due, Seller reserves the right to suspend any further deliveries or to cancel the unfilled portion of any order without liability of Seller, and all unpaid accounts shall thereupon become due and payable to Seller. Customer shall pay a service charge of one and one-half percent (1.5%) per month on any amounts not paid on or before the due date. Waiver of one or more interest charges shall not be deemed to be a waiver of any other interest charges. Customer shall be responsible for, and pay, Seller's cost of collection, including but not limited to Seller's reasonable attorney fees and court costs. Seller may apply payments first to accrued interest on any outstanding invoices and then to principal amounts due and owing on any outstanding invoices unless Customer specifies a particular invoice to which such payment applies.
- ACCEPTANCE; INDEPENDENT CONTRACTORS:** Acceptance of any order is subject to credit approval by Seller and all orders are subject to the TERMS AND CONDITIONS STATED HEREIN. ANY ADDITIONAL OR DIFFERENT TERMS, CONDITIONS OR INSTRUCTIONS PROPOSED BY CUSTOMER, WHETHER CONTAINED IN A PURCHASE ORDER OR OTHER DOCUMENT, ARE UNENFORCEABLE AND OF NO EFFECT UNLESS EXPRESSLY AGREED TO IN WRITING BY AN AUTHORIZED REPRESENTATIVE OF THE SELLER. NO EMPLOYEE OR REPRESENTATIVE OF SELLER HAS THE AUTHORITY TO ORALLY MODIFY THESE TERMS AND CONDITIONS. Customer further agrees that the amount of credit desired and approved is not a limitation of liability, and Customer expressly agrees that it will be responsible for valid charges in excess of the amount of credit either desired or approved. The extension of credit hereunder, the amount of credit and the cancellation or reduction of credit shall be within the sole discretion of the Seller. Neither these terms and conditions nor the sale of Goods hereunder shall be construed as constituting a partnership, agency, distributorship or joint venture between Seller and Customer. Neither party shall have any right to obligate or bind the other party in any manner whatsoever, and nothing herein shall give, or is intended to give, any rights of any kind to any third parties.
- WARRANTIES:** SELLER IS A DISTRIBUTOR AND NOT A MANUFACTURER OF ANY GOODS. ACCORDINGLY, TO THE FULLEST EXTENT PERMITTED BY LAW, SELLER MAKES NO (AND EXPRESSLY DISCLAIMS ALL) WARRANTIES, EXPRESS, IMPLIED OR STATUTORY, WITH RESPECT TO ANY GOODS, INCLUDING WITHOUT LIMITATION, ANY IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, OR NONINFRINGEMENT, OR ARISING FROM A COURSE OF PERFORMANCE, DEALING, USAGE OR TRADE. IF ANY WARRANTIES ARE PROVIDED BY THE MANUFACTURER OF ANY GOODS, SELLER MAY ASSIGN ANY SUCH WARRANTIES TO CUSTOMER TO THE EXTENT PERMITTED.
- CONSEQUENTIAL DAMAGES; FORCE MAJEURE:** IN NO EVENT SHALL SELLER [OR ITS VENDORS] BE LIABLE FOR ANY INCIDENTAL, CONSEQUENTIAL, SPECIAL, PUNITIVE, EXEMPLARY, INDIRECT, CONTINGENT OR OTHER SIMILAR DAMAGES OF ANY DESCRIPTION, WHETHER ARISING OUT OF WARRANTY, CONTRACT, NEGLIGENCE OR OTHER TORT, OR OTHERWISE, INCLUDING WITHOUT LIMITATION, LOST PROFITS OR REVENUE, BACK-CHARGES, LABOR COSTS, COSTS OF REMOVAL AND/OR REPLACEMENT, TESTING OR INSTALLATION, LOSS OF EFFICIENCY, DOWNTIME, LOSS OF USE OF GOODS OR ANY ASSOCIATED MATERIALS OR GOODS OR DAMAGE TO ASSOCIATED MATERIALS OR GOODS OR EQUIPMENT, UNAVAILABILITY OF GOODS, COST OF CAPITAL, OR COST OF SUBSTITUTE GOODS, FACILITIES OR SERVICES, WHETHER OR NOT SELLER HAS ACTUAL KNOWLEDGE OR REASON TO BELIEVE THAT ANY SUCH LOSSES OR DAMAGES ARE FORESEEABLE, AND SELLER'S LIABILITY SHALL NOT EXTEND TO ANY DAMAGES OR LOSSES CUSTOMER MAY SUFFER OR INCUR AS A RESULT OF CLAIMS, SUITS OR OTHER PROCEEDINGS AGAINST CUSTOMER BY THIRD PARTIES. Seller shall not be liable to the Customer for failure or delay in the performance of a required obligation to Customer if such failure or delay is caused by or results from acts beyond Seller's control, including but not limited to, terrorist threats or acts, riot or other civil unrest, war, government acts or orders, epidemics, pandemics, quarantines, strikes, labor stoppages or slowdowns or other industrial disturbances, shortages or delays in receiving raw materials, fire, flood, earthquake, hurricane, or other natural disaster. The parties hereby agree, when feasible, not to cancel but to reschedule the pertinent obligations and deliveries for mutually agreed dates as soon as practicable after the force majeure condition ceases to exist.
- TITLE AND RISK OF LOSS; CLAIMS:** Title to the Goods and risk of loss thereof, or damage thereto shall pass to Customer at the location where Customer receives possession or the location that Customer directs Seller to deliver the Goods. Customer shall provide a safe work environment for Seller to deliver the Goods and with right-of-access to any delivery site, and Seller shall have the right to refuse to deliver the Goods if it reasonably believes that such working conditions are not safe or if Seller is not provided with such right-of-access, in which case Seller shall have no liability for failure to deliver the Goods and Customer shall be liable for the full amount payable for such Goods. All Goods shall be received by Customer subject to its right of inspection and rejection. Customer shall be allowed a period of two (2) business days following delivery or such longer period as may be reasonably necessary to inspect or reject the Goods (not to exceed five (5) business days and to notify Seller of any such rejection for non-conforming Goods. As used herein, 'non-conforming' means Goods that are different from the Goods ordered by Customer or identified in the corresponding purchase order from Customer that is accepted by Seller or Goods that contain a particular defect which is ascertainable by reasonable inspection. In the case of specially-ordered Goods (*i.e.*, non-stock items), Seller will collaborate with Customer in determining the properties of the specially-ordered Goods including their conformance with any plans, specifications or intended uses. Customer is ultimately responsible for confirming the acceptability of the specially-ordered Goods for any specific project or job and Customer must approve in writing any order of specially-ordered Goods prior to sale. Specially-ordered Goods may not be returned to Seller. Claims for any non-conforming Goods must be made by Customer, in writing, within five (5) business days of Customer's partial or complete receipt of such Good and must state with particularity all material facts concerning the claim then known to Customer. Failure by Customer to give notice, within such five (5) business day period shall constitute an unqualified acceptance of such Goods by Customer, and a waiver of any right to reject or revoke acceptance of such Goods.
- RETURN OF GOODS:** Seller will accept returns of normal stock Goods for a period of thirty (30) calendar days following delivery for exchange or refund of the purchase price subject to the restocking fee/charge and provided that the Goods must be unused and in substantially similar condition to that when such Goods were delivered to Customer. All Goods returned shall be subject to a restocking fee/charge of 25% of the invoiced amount(s), or current market, whichever is less, for such returned Goods. Seller shall be under no obligation to accept the return of any specially ordered (non-normal stock) Goods or any fabricated materials.



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- 7. ORDER CANCELLATION: If an order for Goods is canceled by Customer, whether in part or full, then Customer shall be required to pay the full amount of the quoted price issued by Seller for specially ordered (non-normal stock) Goods or any fabricated materials along with any labor or other costs related to such Good or fabricated materials.
8. SECURITY INTERESTS; LIENS: To secure Customer's prompt and complete payment and performance of any and all obligations and liabilities of Customer to Seller, Customer hereby grants Seller a security interest in all Goods purchased from Seller, wherever located, and whether now existing or hereafter arising or acquired from time to time, and all replacements or modifications thereto, as well as all proceeds of the foregoing.
9. TAXES: If Seller is required to make any payment on account of any tax in relation to any sum received or receivable by it hereunder or any liability in respect of any such payment is asserted, imposed, levied or assessed against Seller, to the extent that such payment or liability is in excess of the amount of taxes paid by Customer to Seller, Customer shall indemnify and hold harmless Seller at all times on demand against such payment or liability, together with any interest, penalties, costs and expenses payable or incurred in connection therewith.
10. CONFIDENTIAL INFORMATION: Customer understands and acknowledges that the terms of any purchase order with respect to Goods (including but not limited to the purchase price for Goods) and the terms and conditions stated herein, shall not be disclosed by Customer for any reason without Seller's prior written consent.
11. INDEMNIFICATION: Customer agrees to defend, indemnify and hold harmless Seller and Seller's employees, agents, contractors, representatives or agents from claims, actions, damages, losses, liability, costs and expenses (including reasonable attorneys' fees) arising as a result of or in connection with Customer's breach or other violation of the terms and conditions contained herein, except to the extent of Seller's gross negligence or fraud with respect to such claim.
12. NO WAIVER; ASSIGNMENT: No waiver, addition to or modification to the terms and conditions contained herein shall be binding upon Seller unless set forth in a written document signed by Seller. Any failure or delay in exercising any right, remedy, power or privilege or in enforcing any terms or conditions herein, or any act, omission or course of dealing between Seller and Customer shall not constitute a waiver of any right, remedy, power or privilege or condition arising from these terms and conditions. No right or obligation of Customer under these terms and conditions shall be delegated, assigned or otherwise transferred (whether by operation of law or otherwise) without Seller's prior written consent.
13. GOVERNING LAW AND VENUE: These terms and conditions of sale shall be governed by laws of the State of Oregon, without regard to any conflict of law rules or principles. All disputes arising out of these terms and conditions shall be resolved exclusively in the applicable courts within the State of Oregon, which courts shall have personal jurisdiction over the parties. In any action between Customer and Seller relating to these terms and conditions, the prevailing party or substantially prevailing party will have the right to recover from the other its costs and reasonable fees and expenses arising as a result of such action (including attorneys' fees). CUSTOMER AND SELLER EACH HEREBY KNOWINGLY, VOLUNTARILY AND INTENTIONALLY WAIVES ANY RIGHTS IT MAY HAVE TO A TRIAL BY JURY WITH RESPECT TO MATTERS RELATED TO THE SUBJECT MATTER HEREOF.
14. SEVERABILITY: If any provision of these terms and conditions is held to be unenforceable for any reason, it will be modified rather than voided, if possible, in order to achieve the intent of Seller and Customer to the extent possible. Any provision held overbroad as written will be deemed amended to narrow its application to the extent necessary to make the provision enforceable under applicable law, and enforced as amended. In any event, all other provisions of these terms and conditions will be deemed valid and enforceable to the full extent.

THE UNDERSIGNED REPRESENTS AND WARRANTS THAT THE ABOVE STATED TERMS AND CONDITIONS HAVE BEEN CAREFULLY READ BY CUSTOMER AND THAT CUSTOMER UNDERSTANDS THE SAME. CUSTOMER REPRESENTS AND WARRANTS THAT IT HAS THE LEGAL RIGHT AND AUTHORITY TO ENTER INTO AND AGREE TO THESE TERMS AND CONDITIONS, WHICH TERMS AND CONDITIONS SHALL BE BINDING ON AND ENFORCEABLE AGAINST CUSTOMER, AS WELL AS ANY ASSIGNEES OR SUCCESSORS SUBSEQUENT TO SIGNATURE OF THIS AGREEMENT.

BY SIGNATURE OF THE APPLICANT (OFFICER, PRINCIPAL, OWNER, OR PARTNER) YOU HEREBY AUTHORIZE THE MILLER LUMBER COMPANY TO RUN A FULL INVESTIGATION OF YOUR CREDIT HISTORY INCLUDING, BUT NOT LIMITED TO, OBTAINING A CONSUMER CREDIT REPORT.

FULL LEGAL NAME OF COMPANY (applicant) \_\_\_\_\_

BY (signature): \_\_\_\_\_ TITLE: \_\_\_\_\_

NAME (printed): \_\_\_\_\_ DATE: \_\_\_\_\_

ACKNOWLEDGED AND ACCEPTED:

The Miller Lumber Company

BY (signature): \_\_\_\_\_ TITLE: \_\_\_\_\_

NAME (printed): \_\_\_\_\_ DATE: \_\_\_\_\_