

Revised 3.29.18

Fax to Suzanne Godwin at NEW SOUTH CONSTRUCTION SUPPLY, LLC Company Headquarters
(866) 834-4292 or send a scan to CREDIT APPLICATION AND AGREEMENT 9 N. Kings Rd.
accountsreceivable@newsouthsupply.com & CONTINUING PERSONAL GUARANTY Greenville, SC 29605

NEW SOUTH CONSTRUCTION SUPPLY, LLC (Seller) - Salesperson Initiating Application _____

Legal Business Name (Purchaser) _____

Street Address _____ **City, State and Zip Code** _____

Mailing Address _____ **City, State and Zip Code** _____

Business Phone Number (____) _____ **Fax Number** (____) _____

E-mail address for invoices _____ (____) **Check here for invoices via U. S. Mail**

Proprietorship **Partnership** **Corporation** **Joint Venture** **Nonprofit Org.** **Ltd. Liability Company**

Business Started _____ **Average Annual Sales \$** _____ **Number of Employees** _____

Type of Business _____ **Credit Line Requested** _____

Bonding Company _____ **Contact & Phone** _____

Federal ID # _____ **Tax Exempt** ()Yes ()No **Exemption No.** _____

DUNS # _____ **Contact for payment** _____ **e-mail** _____

PRINCIPALS, OWNERS, PARTNERS, AND/OR OFFICERS

Name _____ **Title** _____ **Social Security #** ____ - ____ - ____

Home Address _____ **Home Phone** (____) _____

Name _____ **Title** _____ **Social Security #** ____ - ____ - ____

Home Address _____ **Home Phone** (____) _____

If any of the principals were ever involved in bankruptcy proceedings, please provide name (personal or business), location, date and bankruptcy type: _____

TRADE REFERENCES

List 5 unrelated Suppliers where you have an active account and who are not competitors of ours

Name	City & State	Contact name	Contact e-mail or fax
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____

BANK REFERENCES

Name	City & State	Account Number	Contact & Telephone
_____	_____	_____	_____
_____	_____	_____	_____

The undersigned certifies the above information to be true and correct, that it is submitted for the purpose of obtaining or continuing credit, and agrees to the Terms and Conditions of Sale of Seller on page 2 and any changes to those terms which may occur in the future all of which are herein incorporated by reference. The undersigned further authorizes Seller to request and receive credit reports from credit bureaus and other credit service organizations regarding the undersigned's personal credit for the purpose of investigating the Purchaser's business and its eligibility for commercial credit. The undersigned consents to an investigation into the creditworthiness of the Purchaser.

Officer's Signature or Authorized Signer

By: (Print or Type Name)

Title:

SELLER'S USE ONLY	
Branch _____	_____
Salesman _____	Number _____
Comments _____	
Branch Name & Number _____	

Lead Source _____	

TERMS AND CONDITIONS OF SALE

NOW THEREFORE, as a condition of and in consideration for Seller's sale of goods and its willingness to continue the sale of goods to Purchaser, and other good and valuable consideration, Purchaser does, for itself, its successors and assigns hereby agree with Seller as follows:

All references in this document to "Seller" shall include each location or division of New South Construction Supply, LLC, whether or not specifically identified herein.

All sales made by Seller to Purchaser, including also all sales previously made by Seller to Purchaser for which payment in full has not been received by Seller as of the date hereof, are subject to the Terms and Conditions of Sale, which shall prevail over any inconsistent terms of Purchaser's purchase order or other documents. Purchaser agrees that written purchase orders are not required and that verbal purchase orders are effective to constitute the entire final and exclusive statement of the agreement between Seller and Purchaser. Purchaser acknowledges that Seller's delivery of Goods to the mutually agreed upon site and notation of such on the Delivery Ticket, regardless of whether Purchaser or its agent or employee is available to sign for Goods, will constitute acceptance by Purchaser. No terms and conditions in any way altering or modifying these provisions shall be binding upon Seller unless they are specifically authorized in writing by Seller's authorized representative. No modification or alteration of these provisions shall result by Seller's shipment of goods following receipt of Purchaser's purchase order, or other documents containing provisions, terms, or conditions in addition to, in conflict with, or inconsistent with these provisions. There are no terms, conditions, understandings, or agreements other than those stated herein, and all prior proposals and negotiations are merged herein. ALL SELLER INVOICES WILL BE SENT VIA E-MAIL UNLESS THE BOX IS CHECKED ON PAGE ONE.

Purchase Money Security Interest. For value received, Purchaser grants to Seller the purchase money security interest in all of the following property of the Purchaser that has purchased from Seller, wherever located, whether now or hereafter acquired and all identifiable proceeds of any of the following property: each item on Purchaser's equipment and other goods purchased from Seller ("the Purchase Money Collateral"). The foregoing security interest in each item of Purchase Money Collateral shall secure the purchase price of that item and also secure any other obligations of Purchaser to Seller related to the purchase price of that item to the extent that such other obligations may, under applicable law, be secured by a purchase money security interest in that item ("the Purchase Money Obligations"). Seller shall be authorized to file a UCC and to perfect any security interest in the Purchase Money Collateral.

Prices in quotation made by Seller are subject to change without notice, and all quotations expire and become invalid if not accepted and shipped within thirty (30) days from the date of issue, unless otherwise noted by Seller in writing. Price extensions, when made, are for Purchaser's convenience only, and they, as well as any mathematical 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 Federal, State or local authority. Any taxes now or hereafter imposed upon sales of shipments will be added to the purchase price. Purchaser agrees to reimburse Seller for any such tax or to provide Seller with an acceptable tax exemption certificate.

Seller shall not be liable for delay or default in delivery and all quotations and agreements are contingent upon 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, manufacturer's shortages, inability to obtain materials, fuels, or supplies, acts of God, or any other cause whatsoever beyond Seller's control.

Goods not manufactured by Seller are warranted and guaranteed only to the extent and in the manner warranted and guaranteed to Purchaser by the original manufacturer of such goods.

ALL OTHER WARRANTIES ARE EXCLUDED, WHETHER EXPRESSED OR IMPLIED BY OPERATION OF LAW OR OTHERWISE, INCLUDING ALL IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE. SELLER'S LIABILITY HEREUNDER, AND PURCHASER'S EXCLUSIVE REMEDIES HEREUNDER, EITHER IN CONTRACT OR IN TORT OR PURSUANT TO STATUTE, FOR BREACH OF WARRANTY OR FOR NEGLIGENCE, ARE EXPRESSLY LIMITED TO THE GIVING OF CREDIT OR REPLACEMENT. SELLER MUST BE GIVEN WRITTEN NOTICE IDENTIFYING THE DEFECTIVE GOODS AND SPECIFYING THE DEFECT WITHIN TEN (10) DAYS AFTER RECEIPT OF THE GOODS BY PURCHASER. SELLER MUST ALSO BE GIVEN THE OPPORTUNITY TO INSPECT THE ALLEGEDLY DEFECTIVE GOODS, AND IF REQUESTED BY SELLER, THE ALLEGEDLY DEFECTIVE GOODS MUST BE RETURNED TO SELLER. FAILURE TO GIVE REQUIRED NOTICE WITHIN THE TIME PROVIDED, OR FAILURE TO RETURN ALLEGEDLY DEFECTIVE GOODS TO SELLER FOLLOWING SELLER'S REQUEST CONSTITUTES A WAIVER OF ALL CLAIMS AGAINST SELLER. SELLER'S RESPONSIBILITY TO GIVE CREDIT OR REPLACEMENT IS LIMITED TO THE EXTENT THAT SELLER IS ABLE TO OBTAIN EQUIVALENT CREDIT OR REPLACEMENT FROM THE ORIGINAL MANUFACTURER OF SUCH GOODS. PURCHASER AND SELLER AGREE THAT SELLER SHALL NOT BE LIABLE DIRECTLY OR INDIRECTLY FOR ANY CONSEQUENTIAL, INCIDENTAL, SPECIAL OR INDIRECT DAMAGES IN ANY WAY ARISING FROM THE SALE, HANDLING, INSTALLATION, OR USE OF THE GOODS SOLD OR FROM ANY OTHER BREACH OF THIS DOCUMENT, ANY PURCHASE ORDER OR ANY OTHER AGREEMENT BETWEEN PURCHASER AND SELLER.

No credit for goods returned by Purchaser shall be given without Seller's written authorization. All returns are subject to a restocking charge. No claim for shortage of goods or damage to goods shall be allowed unless Purchaser, within ten (10) days after receipt of shipment, gives Seller written notice of the claim for shortage or damage and in such written notice fully describes the shortage and/or damage alleged. Seller's responsibility ceases upon issuance of Bill of Lading. Seller shall not be liable to Purchaser for goods which are damaged or lost while in the possession of a common carrier, and it will be Purchaser's responsibility to recover any and all damage directly from the common carrier.

Any change in quantities or destination may result in a price adjustment by Seller.

Seller assumes no responsibility whatsoever for Seller's interpretation of plans or specifications provided by Purchaser and Purchaser's acceptance must be premised on final approval by architects, engineers, or other third parties, and not in Seller's interpretation.

Unless otherwise stated, payment terms are net 30 days. Payment is due in the form of cash, check, ACH, or money order. In the absence of remittance advice Seller may apply Purchaser's payment against any open charges at Seller's sole discretion. Purchaser agrees to pay Seller on accounts over 30 days past due a monthly interest charge of 1 1/2% (18% per annum).

In the event of legal action to collect sums owed to Seller the prevailing party is entitled to reimbursement for all costs and expenses of collection, suit, mechanic's liens, or other legal action, including all reasonable attorney's and paralegal fees, incurred pre-suit, through trial, on appeal, or in any administrative proceedings brought as a result of the commercial relationship between them. Any cause of action that Seller may have against Purchaser may be assigned by Seller to New South Construction Supply, LLC, or any affiliate thereof without the consent of Purchaser. The parties hereby agree that this agreement (Terms and Conditions of Sale) is made in, governed by, be performed in, and shall be construed in accordance with the laws of the State of South Carolina. The parties further consent to and submit to the jurisdiction of the Courts of South Carolina and expressly agree to such forum for the bringing of any suit, action or other proceeding arising out of their obligations herein, and expressly waive any objection to venue in any such courts.

To the extent allowed by law, Purchaser waives any and all privileges and rights that Purchaser may have relating to venue. Purchaser and Seller agree that any legal action brought by either as a result of the account or business relationship between Purchaser and Seller shall be brought in the venue of the state where the sales from Seller to Purchaser occurred, not where Purchaser is located. Purchaser agrees to provide a copy of their performance bond within 7 days of request of Seller.

If Purchaser fails to comply with these Terms and Conditions of Sale, or Purchaser's credit becomes unsatisfactory in Seller's sole discretion, Seller reserves the right to terminate or restrict any order upon notice to Purchaser. Purchaser certifies that it is solvent and that it will immediately advise Seller if it becomes insolvent. Purchaser agrees to send Seller written notice of any changes in the form of ownership of Purchaser's business within five (5) days of such changes.

The provisions of these Terms and Conditions of Sale shall be applied and interpreted in a manner consistent with each other so as to carry out the purposes and intent of the parties, but, if for any reason any provision, or portion thereof, is unenforceable or invalid, such provision, or portion thereof, shall be deemed severed from these Terms and Conditions of Sale and the remaining provisions shall be carried out with the same force and effect as if the severed portion had not been a part of these Terms and Conditions of Sale.

Customer Name: _____ Customer # _____ Branch # _____

TO: NEW SOUTH CONSTRUCTION SUPPLY, LLC ("SELLER")

Please sell and deliver to Purchaser: (_____) or its representatives, pursuant to the Terms and Conditions of Sale contained in the credit application incorporated herein by reference and made a part hereof, such merchandise as they or their representatives may order or select, and in consideration thereof the undersigned ("Guarantor(s)", which shall include Guarantor, if only one, and Guarantors, if more than one) hereby fully guarantee and agree that the Guarantor(s) shall be personally responsible, jointly and severally for the payment whether by open account acceptance, note or otherwise, together with all other damages and costs for which Purchaser may be obligated to Seller, including all costs and expenses of collection, suit, or other legal action, including all reasonable attorney's and paralegal fees incurred pre-suit through trial, on appeal, or in any administrative proceedings brought as a result of the commercial relationship between them. The Guarantor(s) hereby waive notice of acceptance hereof, amounts of sale, dates of shipments or deliveries, notice of default in payment and legal proceedings against Purchaser. Guarantor(s) acknowledge that the Guaranty is a condition for extending, and continuing to extend, commercial credit to Purchaser. The interest rate applicable to the Purchaser's account shall continue to accrue after Seller obtains a judgment against Guarantors.

This is intended to be, and shall be construed to be, a Continuing Personal Guaranty ("Guaranty") applying not only to all future sales made by Seller to Purchaser, but all sales made by Seller to Purchaser for which payment in full has not been received by Seller as of the date hereof, and shall not be revoked by: (1) the death of a Guarantor(s); (2) the sale or transfer of Purchaser subsequent to the execution of the Guaranty; or (3) the departure, resignation and/or disassociation for any reason, of Guarantor(s) from Purchaser. This Guaranty shall remain in full force and effect until the Guarantor(s) shall have given notice in writing to Seller to make no further advances on the security of this Guaranty, and until such notice shall have been received by an authorized agent of Seller. Unless Seller agrees in writing otherwise, the Guaranty shall extend to the transactions between Seller and Purchaser, as well as any successor or related business entities or to any other business entity in which the undersigned owns or holds an interest. Guarantor(s) agree to notify Seller in writing of any changes in the form of the Purchaser's business or ownership of Purchaser's business within five (5) days of such change, otherwise this Guaranty shall extend to Purchaser, and any successor companies, individuals or assignees, or related entities, as a condition of maintaining an open account with Seller. The obligation of the Guarantor(s), where more than one, shall be joint and several, and the death, discontinuance or discharge for any reason as to one or more of the undersigned shall not operate as a discontinuance or discharge as to any of the others.

The provisions of this Guaranty shall be applied and interpreted in a manner consistent with each other so as to carry out the purposes and intent of the parties, but, if for any reason any provision, or portion thereof, is unenforceable or invalid, such provision, or portion thereof, shall be deemed severed from this Guaranty and the remaining provisions shall be carried out with the same force and effect as if the severed portion had not been a part of this Guaranty.

It is understood and agreed that the Guarantor(s) liability under this Guaranty shall be unlimited.

The undersigned consents to an investigation into the creditworthiness of the Guarantor(s).

IN WITNESS WHEREOF, the undersigned hereby execute(s) the Guaranty this _____ day of _____, 20_____.

DO NOT USE CORPORATE OR BUSINESS TITLES AS THEY ARE INAPPLICABLE

Guarantor's Signature (Individually) _____ Name (Please Print) _____

WITNESSES _____ Date _____

Guarantor's Signature (Individually) _____ Name (Please Print) _____

WITNESSES _____ Date _____