



P.O. Box 40  
 Graham, Texas 76450-0040  
 FAX: (940) 549-4565  
 Email: zbcocredit@ZackBurkettCo.com

INTERNAL USE ONLY

Credit	___	Approved	___	Denied	___
By	_____	Date	_____		
Notified:	___	Office;	Plants	___	1 ___ 2
	___	3 ___ 4	___	5 ___ 6	___ 7 ___ 8
Customer #	_____				

**BUSINESS CREDIT APPLICATION**

APPLICANT FULL LEGAL NAME			TYPE OF BUSINESS			YR. ESTABLISHED		FEDERAL E.I.N.			
PHYSICAL ADDRESS					BILLING/MAILING ADDRESS						
CITY		STATE	COUNTY		ZIP CODE		CITY		STATE	COUNTY	ZIP CODE
TELEPHONE		FAX		A/P CONTACT NAME			A/P CONTACT PHONE		A/P CONTACT EMAIL		

BUSINESS STRUCTURE  SOLE PROPRIETOR  CORPORATION  PARTNERSHIP  LIMITED LIABILITY COMPANY  
 LIMITED LIABILITY PARTNERSHIP  MUNICIPAL/GOVT ENTITY  OTHER \_\_\_\_\_

**IF PURCHASES ARE EXEMPT FROM SALES TAX, A SIGNED EXEMPTION OR RESALE CERTIFICATE MUST BE ATTACHED.**

PURCHASE ORDER REQUIRED?  YES  NO **ATTACH COPY OF APPLICANT'S MOST RECENT FINANCIAL STATEMENT.**

ELECTRONIC (E-MAIL) BILLING ACCEPTABLE?  YES  NO IF YES, E-MAIL ADDRESS FOR BILLING: \_\_\_\_\_

**MANAGEMENT**

NAME	TITLE	PHONE & EXTENSION	EMAIL
NAME	TITLE	PHONE & EXTENSION	EMAIL
NAME	TITLE	PHONE & EXTENSION	EMAIL

**BUSINESS / TRADE REFERENCES**

1. COMPANY NAME	CONTACT NAME	CONTACT PHONE	CONTACT EMAIL
2. COMPANY NAME	CONTACT NAME	CONTACT PHONE	CONTACT EMAIL
3. COMPANY NAME	CONTACT NAME	CONTACT PHONE	CONTACT EMAIL

**BANKING REFERENCES**

BANK NAME/BRANCH	CONTACT NAME	CONTACT PHONE	CONTACT EMAIL
BANK NAME/BRANCH	CONTACT NAME	CONTACT PHONE	CONTACT EMAIL

Applicant certifies that it is solvent and capable of meeting its obligations hereunder and that all information provided to Seller (including Applicant's attached current financial statement) is true, accurate and complete. All such information has been submitted for the purpose of obtaining credit. Applicant and each guarantor authorize Zack Burkett Co. (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. Applicant agrees that it has received, reviewed and is in agreement with the GENERAL TERMS AND CONDITIONS, reverse side (or page 2) of this BUSINESS CREDIT APPLICATION and the following PERSONAL GUARANTY.

Authorized Signature \_\_\_\_\_ Title \_\_\_\_\_ Printed Name \_\_\_\_\_ Date \_\_\_\_\_

**PERSONAL GUARANTY**

To induce the extension of credit to Buyer, Guarantor(s), jointly and severally, hereby guarantees payment of all existing and future indebtedness of Buyer to Seller, including any cost, 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 Buyer, any renewal thereof, any modification of the terms thereof, or of Seller's arrangements with any other Guarantor. Guarantor may, by written notice sent via certified or registered mail to Seller at the address above, terminate its guarantee as to any new extensions of credit to Buyer 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. Guarantor agrees to provide personal financial information as reasonably requested by Seller.

Signature \_\_\_\_\_ Printed Name \_\_\_\_\_ Date \_\_\_\_\_

Signature \_\_\_\_\_ Printed Name \_\_\_\_\_ Date \_\_\_\_\_

**THE CERTIFICATION ON THE REVERSE (or on page 2) MUST BE COMPLETED AND SIGNED.**

## GENERAL TERMS AND CONDITIONS

**DEFINITIONS:** All references in this document to "Seller" shall include Zack Burkett Co. and/or any of its subsidiaries, affiliates and or divisions, whether or not specifically identified herein. References to "Buyer" herein shall mean the firm or entity applying for open credit purchase privileges from Seller.

**VENUE, PLACE OF PAYMENT:** All matters between Seller and Buyer, including venue, will be governed by the laws of the State of Texas. All accounts are payable at Seller's main office located at 105 Industrial Blvd., Graham, Young County, Texas 76450. Payment may be made by USPS mail to Seller's mailing address, PO Box 40, Graham, Young County, Texas 76450.

**CONTROLLING DOCUMENT:** Buyer agrees that any terms and conditions appearing on any document submitted by Buyer which are in conflict with (a) the terms and conditions contained herein, or (b) any quotation submitted by Seller shall be expressly rejected and shall not constitute terms of any sales between Buyer and Seller. The terms and conditions of any written agreement signed by Seller and Buyer shall prevail to the extent of any inconsistency with these terms and conditions. Fulfillment of Buyer's order does not constitute acceptance of any of Buyer's terms and conditions and does not serve to modify or amend this document.

**PRICE CHANGES, ACCEPTANCE PERIOD, SALES TAXES, TITLE:** Unless expressly stated therein, prices in Seller's quotations are subject to change without notice, and all quotations expire and become invalid if not accepted within 30 days from the date issued. Price extensions by Seller, if/when made, are for Buyer's convenience only, and any such extension, along with any mathematical and/or clerical errors, are not binding on Seller. Unless expressly stated otherwise, prices shown do not include any sales, excise or other governmental tax. All such taxes, as applicable, will be added to the invoice/statement, and Buyer agrees to pay such taxes unless and until Buyer furnishes Seller fully-executed tax exemption certificate(s) acceptable to Seller. Title and risk of loss to goods shall transfer to Buyer upon Seller's delivery, whether F.O.B. Seller's plant or delivery by Seller or third party to Buyer-designated location.

**PAYMENT TERMS AND CONDITIONS:** All accounts are due and payable in cash, cash equivalent, check or money order to Seller on or before the 30<sup>th</sup> day of the month following the month of purchase, in Graham, Young County, Texas. Payments will be applied first to unpaid finance charges, then to unpaid invoices, beginning with the oldest. **Account balances not paid in full when due will incur FINANCE CHARGES at the rate of 1.0% per month, or 12% per annum, or at the highest rate allowed by law, whichever is less, from the date payment was due until paid in full, and Buyer hereby agrees to pay all such FINANCE CHARGES.** Buyer agrees to pay all costs of collection, including but not limited to lien and bond claim perfection fees and costs, attorney fees, arbitration fees, paralegal fees, expert fees, court costs and all other costs incurred by Seller through trial, on appeal or in any administrative or bankruptcy proceedings brought as a result of the commercial relationship between Buyer and Seller, regardless of whether suit is actually filed or arbitration demanded. Buyer waives presentment of claim for purposes of recovering fees. Any cause of action Seller may have against Buyer may be assigned by Seller. Buyer agrees and stipulates that where materials sold under this agreement were ultimately installed on a construction project, any funds Buyer receives as payment for such materials are construction trust funds pursuant to Chapter 162 of the Texas Property Code.

**SELLER'S RIGHT TO SUSPEND CREDIT PRIVILEGES, MODIFY CREDIT TERMS:** Any order for goods or services by Buyer shall constitute a representation that Buyer is solvent. In addition to Seller's rights under the Uniform Commercial Code, if, in the judgment of Seller, Buyer's financial condition and/or history of non-compliance with the terms of this agreement does not justify or support the payment terms contained herein, Seller reserves the right (1) to require from Buyer full or partial cash payment or other adequate assurance of payment before shipment, (2) to suspend Buyer's credit privileges and place Buyer on Cash-On-Delivery (C.O.D.) Only sale status, (3) to suspend all sales to Buyer until Buyer's account is paid in full, INCLUDING ALL ACCRUED FINANCE CHARGES. Seller maintains the right to periodically review and adopt payment terms as necessary and to curtail, modify or eliminate any credit availability or credit limit at Seller's sole discretion. Buyer shall provide Seller all information requested by Seller to enable Seller to perfect lien rights and/or payment bond claims.

**COMMERCIAL USE:** Buyer understands and represents that this extension of credit (if granted) is for commercial or business purposes only and not for the purchase of personal, family or household goods or services. Buyer understands this is a material representation on which Seller is relying in determining whether to extend credit to Buyer.

**WARRANTIES: THE FOLLOWING IS IN LIEU OF ALL WARRANTIES, EXPRESS, IMPLIED OR STATUTORY, INCLUDING BUT NOT LIMITED TO ANY EXPRESS OR IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE AND ANY OTHER OBLIGATION ON THE PART OF SELLER.** Seller warrants that at the time of delivery, the quality of the materials and workmanship of Seller's goods or services will conform to the requirements of the specifications set forth in the applicable sales contract(s), quotation, or to Seller's standard manufacturing practice. If Seller's good or services fail to conform, at time of delivery, to Seller's warranty, Seller's sole and exclusive liability will be, at Seller's sole discretion: (a) to repair or replace the non-conforming goods or services within a reasonable time, F.O.B. Seller's plant, or (b) to refund the purchase price for such non-conforming goods or services. Notice of defective goods or services must be given to Seller immediately upon discovery of the defect, but in no event later than 30 days from the date of delivery. All scheduled delivery dates are estimated, and in no event shall Seller be liable for any damages resulting from delays in providing goods or services.

**SELLER'S LIABILITY LIMITED: SELLER'S LIABILITY ARISING OUT OF OR RELATED TO THE SALES, WHETHER IN CONTRACT, TORT, INDEMNITY, STRICT LIABILITY, OR ANY OTHER LEGAL THEORY, SHALL IN NO EVENT EXCEED THE PRICE OF THE SALES OR PORTION OF SUCH SALES ON WHICH SUCH LIABILITY IS BASED, AND BUYER WAIVES ANY CLAIM IN EXCESS OF THAT AMOUNT. IN NO EVENT SHALL SELLER BE LIABLE FOR LOST PROFITS, INDIRECT, SPECIAL, INCIDENTAL OR CONSEQUENTIAL DAMAGES, LOSSES OR EXPENSES, DIRECTLY OR INDIRECTLY ARISING FROM THE SALE, HANDLING OR USE OF THE GOODS OR SERVICES OR FROM ANY OTHER CAUSE OR BREACH, INCLUDING BUT NOT LIMITED TO BREACH OF WARRANTY OR NEGLIGENCE.**

**FORCE MAJEURE:** Seller will not be responsible for delays in production or delivery for any reason resulting from acts of God, earthquakes, sabotage, fire, flood, strikes, lockouts, other labor issues of any kind, priorities, allocations, limitations or other restraints which affect manufacture or delivery, accidents, war, insurrection, delays in transportation, equipment failure, damage to equipment or facilities, shortage of transportation, fuel or materials, present or future laws and governmental interference, or for any other reason beyond Seller's reasonable control. Seller reserves the right to adjust prices due to delays, shortage or increased cost of materials or transportation. Seller reserves the right to exercise setoff or recoupment to satisfy an outstanding debt or Buyer's past due account.

**MISCELLANEOUS:** If any provision of this agreement is held by a court of competent jurisdiction to be illegal, void or unenforceable, such provision will be of no force and effect, but the illegality or unenforceability will have no effect and will not impair the effect or enforceability of any other provision of this agreement. This document constitutes the entire agreement between Buyer and Seller, and no changes to this agreement will be enforceable unless in writing and signed by both Buyer and Seller. A counterpart of this document delivered by facsimile or electronic transmission shall be deemed an original document and be valid for all purposes. If Seller electronically stores this document, a reproduction from the scanned/stored document shall be considered to be an original counterpart and shall be enforceable. Buyer and Seller agree there are no third party beneficiaries to this agreement and that Buyer and Seller are the sole intended beneficiaries of this agreement and all sales.

I have read, understand, and in my capacity as \_\_\_\_\_  
(title) of \_\_\_\_\_ (Buyer), hereby execute  
this agreement and bind \_\_\_\_\_ (Buyer)  
to all terms and conditions set forth in this BUSINESS CREDIT  
APPLICATION and the above GENERAL TERMS AND CONDITIONS.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Name and Title (printed)

\_\_\_\_\_  
Date