

# **ACTION**

## Materials

### CREDIT APPLICATION AND AGREEMENT

Action Materials, Inc. Washington Contractor's License No. ACTIONI906D4

SALESPERSON: \_\_\_\_\_

**(ATTENTION: PLEASE COMPLETE AND SIGN IN ENTIRETY)**

Credit Limit Requested \$ \_\_\_\_\_

**APPLICANT (Customer):** Corporate or Company Name: \_\_\_\_\_

Legal Name: \_\_\_\_\_

Trade Name: \_\_\_\_\_

Applicant Mailing Address: \_\_\_\_\_ Zip Code \_\_\_\_\_

Applicant Street Address (if different): \_\_\_\_\_ Zip Code \_\_\_\_\_

Applicant Phone #: \_\_\_\_\_ Fax #: \_\_\_\_\_ Cell Ph. #: \_\_\_\_\_ E-mail: \_\_\_\_\_

Founded: \_\_\_\_\_ Corporation  LLC  Partnership  Sole Proprietor  Applicant Federal Tax ID# \_\_\_\_\_

Contractor's Registration No.: \_\_\_\_\_ Expiration Date: \_\_\_\_\_ Bonding Agent: \_\_\_\_\_

Business License No.: \_\_\_\_\_ Annual Sales: \_\_\_\_\_ Phone-Agent: \_\_\_\_\_

**NAMES & POSITIONS OF PRINCIPALS AND GUARANTORS:**

\_\_\_\_\_  
Name Title Social Security No.

\_\_\_\_\_  
Name Title Social Security No.

\_\_\_\_\_  
Name Title Social Security No.

**PROJECT:** Prior to the delivery of materials or services by Action Materials, Inc. to a Customer, or prior to the Customer taking materials from Action Materials, Inc., Customer will complete an Action Materials, Inc. "NEW PROJECT WORKSHEET" for each project of Customer's. New Project Worksheets must be completed and returned to Action Materials, Inc. no later than three (3) business days after first pickup and/or delivery of materials and/or services.

The Applicant hereby authorizes the release of credit information to Action Materials, Inc. by any Trade or Bank reference listed herein.

**BANK REFERENCE:**

Bank Name: \_\_\_\_\_ Acct. No.: \_\_\_\_\_ Loan No.: \_\_\_\_\_

Contact Name: \_\_\_\_\_ Phone No.: \_\_\_\_\_ Fax No.: \_\_\_\_\_

**TRADE AND CREDIT REFERENCES:**

Name/Address	Phone	Fax	Contact Name

Will your purchases be resold? Yes \_\_\_\_\_ No \_\_\_\_\_ (if yes, a current Resellers Permit must be attached)

#### CHARGE AGREEMENT AND STATEMENT OF CREDIT POLICIES:

1. IN CONSIDERATION FOR THE SALES TO APPLICANT ON OPEN ACCOUNT, APPLICANT AND THE UNDERSIGNED AGREE THAT ALL INVOICES ARE NET AND PAYMENT IS DUE ON ALL INVOICES THROUGH THE END OF THE CALENDER MONTH BY THE 10<sup>TH</sup> OF THE FOLLOWING MONTH. THEREAFTER, THE BALANCE IS PAST DUE AND INTEREST WILL BE CHARGED AT 1.5% PER MONTH (18% PER ANNUM) ON ALL PAST DUE BALANCES UNTIL PAID IN FULL. All payments received by Action Materials, Inc. (hereinafter "Action Materials") on past due balances shall be applied first to interest, then to attorney's fees and costs associated with collection (if any) and finally to the principal amount owed. Action Materials shall have the right to offset the amount of any obligation due and owing to Action Materials by Customer against any obligations at any time due and owing to Customer or any individual or entity in any way related to Customer by Action Materials, whether under this Agreement or under any other Agreement or understanding between Action Materials and Customer or any individual or entity in any way related to Customer. Customer also grants to Action Materials the right to collect the amount of any obligation due by Customer to Action Materials from any individual or entity that is a debtor to Customer.
2. We reserve the right to terminate credit on any account at any time and for any reason and to declare any unpaid account balance immediately due and payable. Shipments may be held if an account is not paid according to the terms of sale.
3. By signing this Agreement, Customer hereby grants to Action Materials a security interest in all of Customer's "inventory" as that term is defined in the UCC (hereafter Collateral), now owned or hereafter acquired by Customer together with the proceeds thereof for the purpose of securing prompt payment of all amounts that may become due to Action Materials. As security for payment, Customer hereby grants to Action Materials a continuing security interest in the Collateral. Action Materials' security interest shall continually exist until all obligations of Customer have been paid in full to the satisfaction of Action Materials. Customer authorizes Action Materials to file financing statements covering the Collateral. Customer shall not file any amendments, correction statements, or termination statements concerning the Collateral without the prior written consent of Action Materials. The determination by Action Materials that the prospect for payment or performance of any of Customer's obligations is impaired for any reason or any other breach of this Agreement shall constitute an "Event of Default". Upon the occurrence of an Event of Default, Action Materials may, without notice or demand, accelerate the maturity of the debt and exercise the rights and remedies of a secured party under the Uniform Commercial Code and all other rights and remedies available to Action Materials under this Agreement and applicable law and may enter upon any premises on which the Collateral or any part thereof may be situated and remove the same therefrom without any liability for suit, action or other proceeding. Customer hereby waives any and all rights to prior notice and to judicial hearing with respect to repossession of Collateral. Action Materials shall have the right to require Customer, at Customer's expense, to assemble and deliver the Collateral to such place or places as Action Materials may designate.
4. In the event of litigation, the prevailing party shall be entitled to recover their reasonable attorney's fees and other disbursements and costs. The terms and conditions of this Agreement shall be governed by and interpreted under the case and statutory law of the State of Washington. In the event any action is brought, jurisdiction and venue shall be in Spokane County, Washington exclusively.
5. To buy from us on credit, the Customer must meet our credit policies as outlined herein. We reserve the right to refuse credit to anyone.
6. We reserve the right to check Customer's credit history, directly and through credit reporting agencies, and to report to others our credit experience with any Customer.
7. If there are any credits to be granted as determined in the sole discretion of Action Materials, we will either credit Customer's account or send a refund check. No hold-backs are allowed.
8. If, for any reason, a check is returned (NSF), that amount will immediately be due by Cashier's Check or cash plus a \$50.00 NSF charge. All subsequent orders will be suspended until the matter is resolved to the satisfaction of Action Materials.
9. Action Materials shall have the right, which may be exercised in its sole discretion, to terminate its relationship with Customer for any reason at any time, without liability. In the event Customer owes Action Materials any money, Action Materials will not be obligated to supply any further service or product to customer.
10. Customer shall indemnify, defend and hold harmless Action Materials and all of its agents and employees from and against all claims, damages, losses and expenses including attorney's fees and costs in any way arising out of, resulting from, related to or connected with any alleged act(s) or omission(s) of Customer, its agents, employees or any independent contractor.
11. This Agreement and any other current published policies, terms or conditions maintained by Action Materials, whether attached hereto or not, constitute the entire agreement between the parties with respect to the matters contained herein, and supersede all prior proposals, negotiations, representations and other communications on such matters between the parties, whether oral or written. Any change in the proposal and/or contract must be in writing and signed by all parties to this Agreement.
12. **LIMITATION OF LIABILITY: IT IS AGREED BY THE CUSTOMER THAT ACTION MATERIALS DISCLAIMS THE IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR REASON AND ALL LIABILITY FOR INCIDENTAL AND/OR CONSEQUENTIAL DAMAGES AND THAT THESE DISCLAIMERS HAVE BEEN BARGAINED FOR. ACTION MATERIALS MAKES NO EXPRESS WARRANTIES.**
13. Orders scheduled but not deliverable will be subject to a delivery fee.
14. Any materials returned must be returned within same business day. Action Materials will not accept any damaged or contaminated materials.
15. Special Orders, shop grade materials and sale items are non-refundable - No Exceptions.
16. The Customer shall notify Action Materials in writing within ten (10) business days of any claimed breach or default as a condition of any right to claim damages or other remedies. Action Materials shall have a reasonable period to investigate and remedy any alleged defect or breach.
17. The waiver by Action Materials of a breach of any provision of this Agreement shall not operate or be construed as a waiver of any subsequent breach.
18. Customer hereby assigns to Action Materials any and all mechanic and material lien rights it may have for the material and/or labor that Action Materials provides pursuant to this contract.
19. Customer shall provide Action Materials with prompt notice in writing of any change in name, address, or form of ownership.
20. In the event of a conflict in the terms and conditions of this Agreement and the terms or conditions of any other agreement to which the parties may have entered, the terms and conditions of this Agreement shall control without exception, regardless of the timing in which the agreements were entered and regardless of whether the other agreement(s) contain language similar to that stated in this section.
21. **Oral agreement or oral commitments to loan money, extend credit, or to forbear from enforcing repayment of a debt are not enforceable under Washington law.**
22. **I hereby certify under penalty of perjury that all the information given in this application is correct.**

I have read and hereby agree to abide by the terms stated above, particularly Section 12 above.

COMPANY (Legal Name): \_\_\_\_\_

\_\_\_\_\_  
AUTHORIZED SIGNATURE

\_\_\_\_\_  
TITLE

\_\_\_\_\_  
DATE

### PERSONAL GUARANTY

In consideration of the extension of credit and other good and valuable consideration by Action Materials to the Customer named above of themselves and their respective spouses, if married, hereby jointly and severally and unconditionally guarantee timely payment to Action Materials of all liabilities and indebtedness incurred by Customer (and any successor). This is a continuing guarantee and shall remain in force until released in writing by Action Materials. Action Materials shall not be bound to exhaust its legal remedies or to take any action against the Customer as a condition precedent to taking action against the undersigned. The undersigned further agrees to be bound unconditionally by all the terms and conditions of this Application.

PRINT NAME: \_\_\_\_\_

SIGNATURE: \_\_\_\_\_

DATE: \_\_\_\_\_

PHONE: \_\_\_\_\_

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

PRINT NAME: \_\_\_\_\_

SIGNATURE: \_\_\_\_\_

DATE: \_\_\_\_\_

PHONE: \_\_\_\_\_

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