

BBS

BERCO BILLING SERVICE
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 (800) 446-4975
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COMMERCIAL CREDIT APPLICATION

PLEASE COMPLETE AND SIGN THIS CREDIT APPLICATION IN FULL TO BE CONSIDERED FOR OPEN ACCOUNT STATUS IF THE INFORMATION SUPPLIED IS INCOMPLETE OR FOUND TO BE INCORRECT, THIS MAY DELAY PROCESSING OF THE APPLICATION AND COULD AFFECT PROMPT DELIVERY OF PRODUCTS OR SERVICES.

I, (WE) SUBMIT THE FOLLOWING INFORMATION IN APPLYING FOR AN OPEN ACCOUNT.

| | | | | | |
|--------------------------|-------|-----|------------------|-------|-----|
| BUSINESS NAME | | | TYPE OF BUSINESS | | |
| ADDRESS | | | SHIPPING ADDRESS | | |
| CITY | STATE | ZIP | CITY | STATE | ZIP |
| PHONE () | | | FAX () | | |
| ACCOUNTS PAYABLE CONTACT | | | | | |

COMPLETE APPLICABLE SECTION: INDIVIDUAL PARTNERSHIP CORPORATION SUBSIDIARY OF _____

| | | | | | |
|-------------------|--|---------|--------------------------------|-------------------|-----|
| 1 | OWNER'S, OFFICER'S, DIRECTOR'S, OR PARTNER'S NAMES | ADDRESS | CITY | STATE | ZIP |
| 2 | | | | | |
| YEAR INCORPORATED | | | STATE | YEARS IN BUSINESS | |
| 1 | OWNERS' SOCIAL SECURITY NUMBER | 2 | OWNERS' SOCIAL SECURITY NUMBER | | |

| | | | | | |
|-----------|-------|-----|--------------------|--|--|
| BANK NAME | | | CHECKING ACCOUNT # | | |
| ADDRESS | | | SAVINGS ACCOUNT # | | |
| CITY | STATE | ZIP | PHONE () | | |

| | | | | |
|-----------|------|-------|-----|-------------------|
| TRADE (1) | | | | ACCOUNT # |
| ADDRESS | CITY | STATE | ZIP | PHONE () |
| TRADE (2) | | | | ACCOUNT # |
| ADDRESS | CITY | STATE | ZIP | PHONE () |
| TRADE (3) | | | | ACCOUNT # |
| ADDRESS | CITY | STATE | ZIP | PHONE () |

| | | | | | |
|---|---------------------------------|--|--|--|--|
| ESTIMATED MONTHLY CREDIT REQUIREMENT | | | | | |
| SUBJECT TO SALES TAX? <input type="checkbox"/> YES <input type="checkbox"/> NO | IF NO, LIST RESALE PERMIT # | | | | |
| SUBJECT TO PURCHASE ORDERS? <input type="checkbox"/> YES <input type="checkbox"/> NO | AUTHORIZED PERSON TO ISSUE P.O. | | | | |

If representations made by the buyer in this credit application are subsequently found incorrect or incomplete, the right is reserved to reject the application and to negate any obligation to proceed with any merchandise. (1) Buyer recognizes Seller's term as Net 10th Prox and acknowledges and authorizes a service charge of 1-1½% per month (18% annual) on any past due amounts. (2) Seller shall have the right to (a) declare the entire amount due and payable if default occurs in making any payment when due, (b) In the event of default customer agrees to pay attorney and/or collection agency fees (c) To change the terms of the account from time to time (consistent with applicable law) to be effective not less than 30 days after given written notice (d) To limit the amount of credit extended under this account or terminate the account, upon giving written notice thereof; but it may avail itself of the terms of this agreement until full payment of the entire balance with Finance Charge to date of payment has been received. (3) In submitting this application for credit, I authorize you to investigate my credit record, for the purpose of procuring and establishing credit from time to time with supplier for purchase of goods, materials, and/or service, furnishes the above business and personal credit information.

| | | |
|---|---------------------------------------|------|
| I CERTIFY THAT THE ABOVE INFORMATION IS CORRECT AND AGREE TO THE ABOVE SHOWN. | SIGNATURE OF OWNER/PARTNER OR OFFICER | DATE |
| | AUTHORIZED SIGNATURE OTHER THAN ABOVE | DATE |

STATEMENT BALANCES ARE DUE ON THE 10TH OF THE FOLLOWING MONTH. A CREDIT LIMIT MAY BE ESTABLISHED AT OUR DISCRETION. A GUARANTEE OF PAYMENT BY OWNER(S) MAY BE REQUESTED.

The term "Berco" means Gee Dealer Services, LLC, dba Berco Billing Service, a Oregon limited liability company. The term "Buyer" means the person and/or entity submitting this Commercial Credit Application (the "Credit Application"). Buyer, by submitting this Credit Application, represents and warrants to Berco that all information contained herein is true and correct. From time to time, Buyer may wish to purchase goods, products, materials and/or services (hereinafter collectively "goods") from Berco. All such purchases shall be subject to the credit policies and Terms & Conditions of sale included in this Credit Application, and such terms shall supersede any terms and conditions on the Buyer's purchase orders and other documents. In the event any amount is not paid when due, Buyer shall pay a finance charge of 1.5% per month on all past due amounts. By submitting this Credit Application, Buyer authorizes Berco, prior to extending any credit, to investigate any and all references given by Buyer, and to obtain consumer credit reports for use in evaluating this Credit Application. If a legal proceeding is filed to interpret or enforce this Credit Application and its Terms & Conditions, the prevailing party shall be entitled to recover its reasonable attorney's fees and collection costs in such proceeding or any appeal thereof, including any bankruptcy proceedings.

BUYER:

Signature_____

Printed Name: _____

Title: _____

Date: _____

Terms & Conditions

- 1. Terms.** Buyer acknowledges that any and all sales and extensions of credit by Berco are **expressly conditioned** upon Buyer's unconditional acceptance of Berco's Terms & Conditions as stated herein and as hereafter amended. Berco's Terms & Conditions supersede any and all terms and conditions appearing on Buyer's documents, including, but not limited to, purchase orders, regardless of the time presented.
- 2. Revocation of Credit.** Berco reserves the right to revoke or reduce credit for any reason, including, but not limited to the following: (a) Buyer fails to pay an invoice when due; (b) a sale may cause Buyer to exceed its credit limit as determined by Berco; (c) any representation or warranty made by the Buyer in its Credit Application or other communication with Berco proves to be false or misleading in any material respect when furnished or made; (d) Buyer becomes insolvent; or (e) in the judgment of Berco, there has been a material adverse change in Buyer's financial condition.
- 3. Authorization to Obtain Credit Information.** Buyer and Guarantor hereby authorize Berco to order, obtain, and use a non-business consumer credit report for Guarantor in order to further evaluate the credit worthiness of Buyer and/or Guarantor in connection with the extension of business credit as contemplated by this Credit Application. Guarantor authorizes Berco to order, obtain, and utilize a consumer credit report for Guarantor from time to time in connection with the extension or continuation of the business credit accommodation contemplated by this Credit Application. Guarantor, as (an) individual(s), hereby knowingly consent(s) to the use of such credit report consistent with the Federal Fair Credit Reporting Act in 15 U.S.C. §1681, et. seq.
- 4. Orders Made by Agents of Buyer.** Buyer is responsible for all purchases made by Buyer and any agent or apparent agent of Buyer ordering on Buyer's behalf or for the benefit of Buyer.
- 5. Change of Ownership, Entity, Name, or Address.** Buyer, by accepting Berco's extension of credit, promises to advise Berco, in writing, of any change of ownership, business name, or the address of Buyer's business. All such notifications shall be made to Berco, in writing, within ten (10) working days of the change. Berco reserves the right to immediately call all indebtedness due if it is not notified within 10 days of a change in ownership or business structure or entity. Within 10 days of a change in ownership or business structure or entity, a new credit application must be executed and provided to Berco before any further extension of credit may be granted. The new credit application shall be subject to Berco's usual credit review procedures. Regardless of a change of ownership, Berco will retain a lien on all of the goods sold to secure payment of all outstanding sums owing to Berco. In the event Buyer changes its business structure or type of entity, Buyer and Guarantor agree that all of the Terms & Conditions will remain in full force and effect against the Buyer's new business structure or entity and the Guarantor.
- 6. Prices.** Prices quoted are in U.S. dollars and are effective as of the date of quotation and subject to change.
- 7. Warranty, Disclaimer and Exclusions.** Berco assigns Buyer all rights and remedies, if any, under any express and implied warranties of the manufacturer of the goods. Except as covered by the applicable manufacturer's warranty, the goods are sold "AS IS" and Berco makes no other warranties, express or implied, and **DISCLAIMS ANY IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS, AND ALSO DISCLAIMS ANY LIABILITY BASED UPON NEGLIGENCE OR STRICT LIABILITY IN TORT.**
- 8. Limitation of Liability.** Berco's liability for any claim shall be limited to an amount equal to the amount of monies actually received by Berco for the particular goods which give rise to the claim. This limitation of liability applies to all claims, including, without limitation, those based

upon contract, warranty, tort (including negligence) and strict liability. Berco shall not be liable for any incidental, consequential, special, indirect, or exemplary damages arising out of or in connection with the purchase, storage or use of the goods, including, but not limited to: (a) damages for loss of use, income or profit; (b) losses sustained as a result of injury (including death) to any persons; and/or (c) damages to property, other than the goods.

9. **Force Majeure.** If Berco's performance is made commercially impracticable or impossible because of the occurrence of a contingency beyond the reasonable control of Berco, the quotation, and any contract deriving therefrom, shall be voidable upon Berco's notice to the Buyer. Berco is not responsible for any loss, damage, or delay caused or conditioned by strikes, accidents, or delays beyond Berco's control, acts of God, transportation delays, accidents, fire, civil or military authority or by insurrection or riot, by the requirements of any statute, order, or directive or any proper government authority, or by any other cause which is unavoidable or beyond Berco's control.
10. **Payment Terms and Charges.** Berco may invoice for the goods delivered separately. Payment is due on the 10th day of the month after the date of the invoice. Buyer shall promptly inspect all invoices upon receipt and shall notify Berco in writing of any inaccuracy within 10 days of receipt of the invoice. All invoices shall be conclusively deemed received immediately upon emailing or on the 4th day after mailing to the addresses indicated in the Credit Application. In the event Buyer fails to notify Berco of any inaccuracies within 10 days after receipt of an invoice, Buyer agrees that it shall be conclusively assumed to have accepted the invoices as accurate and to have waived any right to object. Invoices become "past due" on the 11th of the month in which they are due. A financial charge may be assessed on amounts past due in the amount of 1.5% per month. A \$35.00 fee will be charged for all checks returned from the bank for any reason. All payments must be made to:

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11. **Security Interest.** To secure payment of sums due, Buyer grants to Berco a purchase money security interest in the goods purchased and in the proceeds thereof. At Berco's request the Buyer shall sign financing statements and any documents necessary to establish, perfect, and quantify the debt and, if Berco, in its sole judgment, questions the Buyer's ability to pay for the goods, Berco may, at any time, require payment in full in advance of delivery or ordering of the goods. Failure to adhere to Berco's terms may result in a hold on all orders and/or a reduction in the credit Berco will extend.
12. **Delivery.** Berco makes no guarantee with respect to delivery dates. Shipping dates are estimates only. Buyer will be responsible for any damage or loss related to the goods occurring after the goods are used or installed, no matter the cause of the damage or loss. Buyer will be responsible for any damage or loss occurring after delivery of the goods to the location designated by Buyer, regardless of whether a delivery confirmation is signed by Buyer. Claims for shortages, damaged goods, or mis-shipments must be made within 48 hours of delivery. All other claims must be made within 30 days of delivery.
13. **Cancellation.** Goods ordered by Buyer may not be cancelled or changed; provided, however, upon payment of a restocking charge, Berco may, in its sole and absolute discretion, permit Buyer to cancel orders for goods which are not specially ordered or specially manufactured and which have not been shipped.

- 14. Back Charges.** No back charges or other offsets shall be made by Buyer without first obtaining the written approval of the Manager of Berco.
- 15. Rights and Remedies.** Berco will have all the rights and remedies of a seller under the UCC and all other applicable law, and all the rights and remedies will be cumulative and nonexclusive to the extent permitted by law.
- 16. Amendments.** Except as provided herein, these Terms & Conditions control all terms of sale between Berco and Buyer and cannot be modified, superseded, changed, revised, or amended, except in writing signed by the Manager of Berco. Berco may, in its sole discretion, periodically review and modify Buyer's account and terms.
- 17. Cooperation.** Buyer promises to cooperate with Berco to carry out Berco's Terms & Conditions.
- 18. Waiver.** Berco may accept late or partial payments or checks and money orders marked "payment in full" without prejudice to Berco's rights under these Terms & Conditions, which are hereby explicitly reserved. Berco may apply payments to any outstanding invoices in any order in its sole discretion, regardless of how Buyer indicated payments should be applied. Waiver of any breach of any provisions in the Terms & Conditions by Berco will not be a waiver of any succeeding breach of that provision or any other provision.
- 19. Severability.** If any provision of these Terms & Conditions is invalid or unenforceable in any respect for any reason, the validity and enforceability of such provision in any other respect and of the remaining provisions of these Terms & Conditions will not be in any way impaired.
- 20. Attorney Fees.** With respect to any dispute relating to amounts due for the goods or these Terms & Conditions, or in the event that a suit, action, arbitration, or other proceeding of any nature whatsoever is instituted to interpret or enforce any outstanding amounts due or the provisions of these Terms & Conditions, including, without limitation, any proceeding under the U.S. Bankruptcy Code and involving issues peculiar to federal bankruptcy law or any action, suit, arbitration, or proceeding seeking a declaration of rights or rescission, the prevailing party shall be entitled to recover from the losing party its reasonable attorney fees, paralegal fees, expert fees, and all other fees, costs, and expenses actually incurred and reasonably necessary in connection therewith, as determined by the judge or arbitrator at trial, arbitration, or other proceeding, or on any appeal or review, in addition to all other amounts provided by law.
- 21. Oregon Law and Venue.** All transactions between Buyer and Berco shall be interpreted under the laws of the State of Oregon. Further, Buyer stipulates to jurisdiction and venue in Marion County, Oregon for any dispute, arbitration, suit or action arising out of any transactions between Buyer and Berco.

Continuing Guaranty

In consideration of Berco granting credit to Buyer, the undersigned (“Guarantor”) personally and unconditionally guarantees to Berco and any of its affiliates or successors or assigns, the payment and performance of any and all guaranteed obligations, as described in this Continuing Guaranty. Guarantor acknowledges that he/she is directly benefited by Berco’s willingness to grant credit to Buyer and that Berco would not grant credit to Buyer without this Guaranty. The guaranteed obligations include any and all of Buyer’s liabilities, obligations, debts, and indebtedness to Berco and the full and prompt performance, observance, compliance, and satisfaction of all obligations on the part of Buyer to be paid, performed, observed, complied with, or satisfied. Guarantor specifically recognizes and acknowledges the following: (1) this is a continuing and irrevocable guaranty and is binding on Guarantor as well as Guarantor’s heirs, successors, and assigns; (2) this Guaranty creates direct and unconditional liability which may be enforced without requiring Berco to first exercise, enforce, or exhaust any right or remedy against Buyer; (3) Guarantor waives presentment, demand, protest, notice of acceptance, notice of demand, notice of protest, notice of dishonor, notice of default, notice of non-payment, and all other notices to which Guarantor might otherwise be entitled; (4) Guarantor agrees, in addition to the guaranteed obligations described in this paragraph, to reimburse Berco for all of Berco’s costs and expenses, including reasonable attorney fees, incurred in collecting on or enforcing this Guaranty; (5) all parties signing hereunder are jointly and severally liable; (6) any title written near the signature of any Guarantor is not intended to limit or cancel the personal nature of this Guaranty and this Guaranty will be read as though no title is contained next to the signature; (7) Guarantor acknowledges that his/her personal credit history is a necessary factor in evaluating the amount of credit extended to Buyer, and consents to and authorizes the use of consumer credit reports of the Guarantor by Berco as may be needed from time to time to evaluate the amount of credit extended to Buyer. All of the Terms & Conditions on this application are included and incorporated into this Guaranty and Guarantor acknowledges that he/she has read and agrees to the same.

Signature

Printed Name

Date

Signature

Printed Name

Date

INDIVIDUAL PERSONAL GUARANTEE

Date: _____

I, _____, residing at _____
for and in consideration of your extending credit at my request to (NAME OF COMPANY)

(hereinafter referred as the "Company," of which I am (TITLE) _____, hereby personally guarantee to you the payment of any obligation of the Company and hereby agree to bind myself to pay you on demand of any sum which may become due to you by the Company whenever the Company shall fail to pay the same. It is understood that this guarantee shall be continuing and irrevocable and indemnity for such indebtedness of the Company, I do hereby waive notice of default, non-payment and notice thereof and consent to any modification or renewal of the credit agreement hereby guaranteed.

SIGNATURE

NOTARY STAMP / WITNESS _____

ADDRESS