

# CONSTRUCTION MATERIALS COMPANY, d/b/a ConRock

P.O. Box 1347, Harrisonburg, VA 22803

## CREDIT APPLICATION AND PURCHASE AGREEMENT

### I. General Information (Please type or print)

Name (Company or Individual) \_\_\_\_\_

Physical Street Address \_\_\_\_\_

Mailing Address \_\_\_\_\_

City \_\_\_\_\_ State \_\_\_\_\_ Zip \_\_\_\_\_ Years in business \_\_\_\_\_

Telephone ( \_\_\_\_\_ ) \_\_\_\_\_ Fax ( \_\_\_\_\_ ) \_\_\_\_\_ E-mail Address \_\_\_\_\_

Exempt from Sales Tax: No \_\_\_\_\_ ; Yes \_\_\_\_\_ (Exemption Certificate must be attached)

Type of Entity  Corporation  Partnership  LLC  Proprietor  Individual

Federal I.D.# \_\_\_\_\_ - \_\_\_\_\_ - \_\_\_\_\_ Social Security # \_\_\_\_\_ - \_\_\_\_\_ - \_\_\_\_\_

Name of President \_\_\_\_\_ Date of Birth \_\_\_\_\_

Accounts Payable Contact \_\_\_\_\_ Employer \_\_\_\_\_  
Title \_\_\_\_\_

### II. Credit/Financial Information

Request monthly credit: Under \$1,000  Under \$5,000  Under \$10,000  Over \$10,000

Bank & trade references must be attached hereto.

### III. If applicant is a corporation, partnership or limited liability company, the following personal guarantee is required:

In consideration of credit being extended to the above-named entity (hereafter sometimes Applicant), I/We jointly and severally along with the Applicant unconditionally personally guarantee all indebtedness of any kind, owing at any time by said entity or any successor thereto. I/We further agree that this guarantee is an absolute and continuing one; is a guarantee of payment and not of collection, and no notice of the indebtedness or any extension of credit already or hereafter contracted by or extended need be given. The terms may be rearranged, extended, accelerated and/or renewed without notice to me. The liability of the Guarantor(s) shall be primary and neither bankruptcy nor any other similar proceeding of such entities shall impair or affect my/our obligations under this guarantee. Seller may pursue its rights and remedies in such order as it determines, and the exercise by the Seller of any right or remedy will not preclude the Seller from exercising any other right(s) or remedy. The failure or delay by the Seller in exercising any of its rights hereunder in any instance shall not constitute a waiver thereof in that or any other instance. The Seller may not waive any of its rights except by an instrument signed by a corporate officer.

This guarantee may not be amended without the written approval of the Seller. Guarantors(s) authorize Seller to review their credit history by any manner available or deemed necessary by Seller at any time. Guarantor(s) waives all benefit of the homestead exemption and all other exemptions. Guarantor(s) *waives any right to trial by jury* in connection with any disputes or actions in any way relating to the dealings with Seller including without limitation any action, proceeding, or counterclaim brought by Seller, Guarantor and/or Applicant.

The terms and conditions set out under Section IV of this instrument are incorporated herein by reference and Guarantor(s) acknowledge they are bound by them as if written herein and that where appropriate the term "Applicant" shall be considered "Guarantor" as if first written therein.

By signing I/we acknowledge and attest that information submitted is complete and accurate to the best of my/our knowledge and that I/we have read, understand and accept the terms and conditions of this entire Agreement.

Date \_\_\_\_\_

Date \_\_\_\_\_

Signature \_\_\_\_\_

Signature \_\_\_\_\_

Printed Name \_\_\_\_\_

Printed Name \_\_\_\_\_

Soc. Sec. # \_\_\_\_\_

Soc. Sec. # \_\_\_\_\_

Address \_\_\_\_\_

Address \_\_\_\_\_

**IV. Agreement to Sellers Terms and Conditions:**

I/we certify that all information contained in this application is correct and complete and further understand that Seller will rely on this information for the extending of credit. Applicant hereby authorizes Seller to obtain credit and financial information at any time and from time to time concerning the Applicant and any principals named herein from sources including, but not limited to, credit bureaus and the bank and trade references listed. Applicant agrees that upon request from Seller to promptly furnish information requested for purposes of a credit review. Credit and delivery of goods shall be subject to approval of Seller who reserves the right to alter the terms and credit limits as Seller deems appropriate. The terms of this Agreement may NOT be altered or revoked by the Applicant while there is any balance due the Seller.

Seller may stop the manufacture or supply of any labor or materials at any time and for any reason when in its sole discretion including but not limited to when it believes that Applicant is in breach of this agreement or any other contract with Seller (or its related entities and/or subsidiaries), or Seller has insecurity with respect to Applicant's or any Guarantor(s) creditworthiness, until payment is made and any dispute or insecurity has been resolved. Applicant further agrees that Seller shall not in any event be responsible for damages due to delay in supply of materials or labor.

Applicant agrees to pay all amounts due, including interest and cost of collection for all labor and materials supplied on this account before the date on which Seller receives written notice closing this account mailed Certified US Mail no matter what person or entity ordered or used the labor and material supplied on this account and regardless of any change in the legal structure of Applicant or the existence of entities or individuals legally distinct from Applicant using the labor and material supplied, including but not limited to a related partnership, limited liability company, sole proprietorship or other entity. In the event of such a change in legal structure or the existence of related entities or individuals benefiting from the labor and materials supplied, it is agreed that both Applicant and the related legal entities and/or individuals shall be jointly and severally obligated for all amounts due under this Agreement.

Applicant acknowledges and agrees that Seller makes deliveries inside curb line and on property at customer's risk only. Applicant hereby indemnifies Seller against any and all damages resulting from such delivery. Applicant agrees to provide acceptable roadways or access to the delivery site. Seller shall have the right to refuse to deliver to any job site if such roadways or accesses are deemed unacceptable in Seller's sole discretion. As Applicant's sole remedy, Seller agrees to replace, FOB its plant, item for item any defective item sold to the Applicant. Applicant ACCEPTS THIS WARRANTY IN LIEU OF ANY OTHER WARRANTY, EXPRESS OR IMPLIED, INCLUDING THE WARRANTY OF MERCHANTABILITY. Seller's liability shall in no case exceed the amount which Applicant was invoiced for said items. Any claim for shortages must be made no later than 3 days after delivery. Any claim for defective materials, or any other cause, must be made no later than 30 days after delivery.

**GENERAL INDEMNITY.** Applicant shall indemnify and hold Seller, its subsidiaries, assigns, employees and agents harmless from and against any and all claims, losses, liabilities, damages, judgments, suit, and all legal proceedings of any nature whatsoever, including, but not limited to, negligence, tort, and strict liability, and any and all costs and expenses in connection therewith, including attorneys' fees arising out of or in any manner related to, (a) the manufacture, purchase, financing, ownership, delivery, rejection, non-delivery, possession, use, transportation, storage, operation, maintenance, repair, return or other disposition of the goods sold or this Agreement, including without limitation claims for injury or deaths of persons and for damage to property. Applicant shall give immediate written notice of any such claim or alleged liability.

Applicant agrees to pay for all charges in accordance with the terms as stated on each statement. If a cash discount is applicable, it may be deducted only if the statement balance is paid not later than the tenth (10<sup>th</sup>) day after the invoice date, NET 30 thereafter. No discount shall be allowed if there is any past due balance owing. Applicant agrees to pay a monthly service charge of 2% per month, compounded monthly and such shall be applied to all balances more than 30 days old. Should it become necessary to place the account with a collection agency or attorney, the Applicant hereby agrees to pay all costs, expense and attorney fees including post-judgment costs, expenses, and attorney fees in addition to all other sums due. It is agreed that venue in any legal action whether by or against Seller/Guarantor shall be in Rockingham County, Virginia, or in such other county/city of Seller's choice without objection.

Seller may sell, assign, or transfer all or any portion of your Account or any balances due under your Account without notice to you. You may not sell, assign, or transfer your Account or any of your obligations under this Agreement.

Applicant agrees that it will not change their/his/her name, or, if Applicant is an organization, its name, identity or corporate structure, without giving Seller at least 30 day prior written notice. Failure to so notify Seller shall constitute an event of default.

Seller may at its sole discretion place your account on cash/COD basis at any time.

Applicant agrees to pay Seller at its offices in Harrisonburg, Virginia for all purchases in accordance with the terms stated on each invoice.

Applicant waives all benefit of the homestead exemption and all other exemptions.

Applicant *waives any right to trial by jury* in connection with any disputes or actions in any way relating to the dealings with Seller including without limitation any action, proceeding, or counterclaim brought by Seller, Guarantor and/or Applicant.

By signing below I acknowledge and attest that Applicant is a valid properly licensed business entity and that I am authorized to make this application on the Company's behalf and that all information submitted is complete and accurate to the best of my knowledge. I further acknowledge that I have read, understand and accept the terms and conditions of this Agreement.

Applicant (printed name): \_\_\_\_\_

By: (signature) \_\_\_\_\_

Date: \_\_\_\_\_ Title: \_\_\_\_\_