

**Commercial Credit Application**

Customer's Business Name \_\_\_\_\_

Fictitious name(s) used \_\_\_\_\_

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

Mailing Address, if different \_\_\_\_\_

City \_\_\_\_\_ State \_\_\_\_\_ Zip \_\_\_\_\_

Business Phone # \_\_\_\_\_ Mobile Phone # \_\_\_\_\_

Fax # \_\_\_\_\_ Designated Email Address \_\_\_\_\_

If you have previously had an account with Blue Water Industries LLC or its affiliates, please tell us when and where:

Check one: Corporation/LLC \_\_\_\_\_ Partnership \_\_\_\_\_ Sole Proprietor \_\_\_\_\_ FEI or SS# \_\_\_\_\_

Describe your primary business: \_\_\_\_\_

Type of License(s) Held	State	Name of Holder	Number	Expiration Date

Date Established \_\_\_\_\_ If Corporation or LLC, Date and State of filing \_\_\_\_\_

Are you taxable? \_\_\_\_\_ (If non-taxable, a tax exempt certificate must be attached)

If you are already working with a Sales Representative, who is it? \_\_\_\_\_

Are POs required on invoices/tickets? \_\_\_Yes \_\_\_No Should we send you statements? \_\_\_Yes \_\_\_No

We prefer to communicate with you by Email - if acceptable, list the proper address by category:

General contact: \_\_\_\_\_ Material Safety Data Sheets: \_\_\_\_\_

Invoices: \_\_\_\_\_ Statements: \_\_\_\_\_

Name and Address of Principal Owner(s), Officers, Managers/Members or Partners:

 Name \_\_\_\_\_ Title \_\_\_\_\_  
 Address \_\_\_\_\_

 Name \_\_\_\_\_ Title \_\_\_\_\_  
 Address \_\_\_\_\_

 Please furnish at least three (3) **TRADE REFERENCES** with phone and fax numbers:

Name \_\_\_\_\_ Phone No \_\_\_\_\_

Fax No. \_\_\_\_\_ Email Address \_\_\_\_\_

Name \_\_\_\_\_ Phone No. \_\_\_\_\_

Fax No. \_\_\_\_\_ Email Address \_\_\_\_\_

Name \_\_\_\_\_ Phone No. \_\_\_\_\_

Fax No. \_\_\_\_\_ Email Address \_\_\_\_\_

 Please furnish one bank reference with phone number and fax number:

Bank \_\_\_\_\_ Account # \_\_\_\_\_

Phone No. \_\_\_\_\_ Fax No. \_\_\_\_\_

## CREDIT/SALES AGREEMENT

In consideration of and as an inducement to the periodic extensions of credit by Blue Water Industries, LLC, a Delaware limited liability company, or any of its subsidiaries or affiliated companies (hereafter collectively referred to as "Seller") to Customer named in the Commercial Credit Application, or its successors, permitted assigns, nominees, agents, or personal guarantors, if any (hereafter collectively referred to as "Customer"), for the purchase of goods, wares, products, materials, and supplies (hereafter referred to as "materials"), Customer hereby agrees to the following terms and conditions:

1. Customer hereby certifies that the information provided on the Commercial Credit Application and this Credit/Sales Agreement (the Commercial Credit Application and this Credit/Sales Agreement are together referred to herein as this "Agreement") is correct and complete and Customer acknowledges and agrees that Seller will rely on such information for current and subsequent extensions of credit. CUSTOMER AUTHORIZES SELLER AT ANY TIME AND FROM TIME TO TIME TO CONDUCT AN INVESTIGATION OF CUSTOMER'S CREDIT HISTORY OR AVAILABLE FUNDING INFORMATION, BY OBTAINING CREDIT REPORTS ON CUSTOMER OR ANY INDIVIDUALS LISTED ON THE AGREEMENT, INCLUDING PERSONAL GUARANTORS, THROUGH CREDIT REPORTING AGENCIES OF SELLER'S CHOICE, AND/OR BY MAKING INQUIRIES TO CUSTOMER'S TRADE CREDITORS, VENDORS, BANKS AND OTHER LENDERS AS TO CUSTOMER'S CREDIT STANDING FOR REFERENCE PURPOSES, AND HEREBY AUTHORIZES ANY SUCH CREDIT REPORTING AGENCY, TRADE CREDITOR, VENDOR, BANK, AND OTHER LENDER TO RELEASE CREDIT OR FUNDING INFORMATION TO SELLER (WHETHER DURING OR AFTER THE INITIAL CREDIT EVALUATION PROCESS, INCLUDING AFTER ANY DEFAULT IN PAYMENT, OR DURING COLLECTION ACTIVITY OR LITIGATION) BASED ON A PHOTOCOPY HEREOF. CUSTOMER UNDERSTANDS THAT SELLER'S DECISION TO GRANT OR DENY CREDIT MAY BE BASED IN WHOLE OR IN PART ON INFORMATION OBTAINED IN THIS INVESTIGATION. Customer agrees that it shall immediately notify Seller in writing by hand delivery, by overnight courier or by U.S. certified mail, postage prepaid, return receipt requested, of any changes of ownership, officers, or legal form in which the Customer's business operates, and that any failure to do so shall not affect or impair in any way Seller's enforcement of the terms of this Agreement.
2. In no event shall Seller bear any responsibility for claims arising from technical advice or assistance provided to Customer. Advice by Seller is for Customer's guidance only and Customer agrees to rely solely on its own architects, engineers, other technical experts, or third parties.
3. Materials relating to these terms and conditions may be supplied by Seller or one or more of its affiliates or subsidiaries. Seller or one or more of its subsidiaries or affiliates may act as Seller's collection agent for Customer's account(s) with Seller, and shall have the ability to enforce the terms and conditions hereof. This Agreement is intended to benefit Seller and all such subsidiaries and affiliates.
4. Unless otherwise agreed to by Seller and Customer, Seller will invoice Customer for all deliveries/shipments of materials. Discounts, if offered, will be shown on the invoice and will apply only if Customer has no outstanding balance with Seller. Customer will pay to Seller the full amount due for each invoice by the 25th day of the month following the invoice date. Customer shall make all payments due in accordance with these terms and as stated on invoices or other notices of terms, without any right of setoff or retention and without regard to any agreement Customer may have with any third party.
5. Unless otherwise agreed to by Seller and Customer, Seller will send Customer a statement at the end of each billing cycle if there is a balance due on Customer's account. If Customer fails to pay any invoice amount in full, Customer agrees to pay interest at the rate of 18% per annum on the unpaid balance of the invoice from the date payment was due until payment is made in full.
6. Customer shall not be required to pay late fees, finance charges or interest in excess of rates allowed by applicable law. To conform strictly to applicable usury laws, any prohibited late fees, finance charges or interest shall be subject to reduction to the amount allowed by applicable law.
7. In the absence of directions from Customer prior to application of Customer payments by Seller, Seller reserves the right to apply payments to Customer's account in any manner at Seller's sole discretion, unless otherwise required by applicable law.
8. In the event Customer fails to make payment in full on any invoice when due, or if Customer is in default of any provision of this Agreement or any other agreement between Customer and Seller, Seller may at its option exercise any one or more of the following rights or remedies: (i) refuse to accept additional orders from Customer (ii) cancel the unfulfilled portion of any orders placed by Customer, (iii) declare immediately due and payable all outstanding invoices to Customer whether or not such invoices are due and payable, and/or (iv) exercise any other rights or remedies that Seller may have at law or in equity. Seller may also suspend pending deliveries during any period when Customer has overdue balances or evidence of a changed financial condition.
9. Customer agrees to indemnify Seller for and pay all expenses and costs incurred by Seller to enforce the terms of this Agreement or any invoice or statement or to collect any amounts due hereunder or under any invoice or statement, including, without limitation, collection agency fees and reasonable attorneys' fees and court costs whether suit be brought or not, when incurred for consultation, litigation, post-judgment collection procedures (discovery, garnishment, levy and contempt proceedings), bankruptcy proceedings and appellate services, as well as attorney fees incurred in litigating entitlement to, and quantifying the amount of, attorney fees. Any judgment obtained against the undersigned in litigation to enforce this Agreement shall bear interest at the minimum rate of 18% per annum.
10. **This Agreement shall be governed by the laws of the State of Florida, without regard to its choice of law provisions. Any controversy or claim arising out of or relating to this Agreement shall be litigated exclusively in the state court sitting in or having jurisdiction over Duval County, Florida or, at Seller's discretion, in the United States District Court for the Middle District of Florida, Jacksonville Division. Customer hereby expressly submits and consents in advance to such jurisdiction. Customer waives any claim that Duval County, Florida, or the United States District Court for the Middle District of Florida, Jacksonville Division, is an inconvenient or an improper forum based on lack of venue or personal jurisdiction.**
11. **Customer voluntarily and irrevocably waives the right to trial by jury with respect to any action or claim brought in connection with this Agreement.**
12. Seller may assume that orders given and documents or receipts executed by employees or agents of Customer customarily relied upon shall have been validly authorized by Customer and that Customer will be responsible for them, unless Seller is otherwise notified in writing in advance by hand delivery, by overnight courier or by U.S. certified mail, postage prepaid, return receipt requested, and has had a reasonable opportunity to act upon such notice.
13. Customer shall make a careful inspection of all materials at the time of delivery. Customer's failure to give written notice of any type of claim within ten (10) days of delivery (the "Inspection Period") shall constitute an unqualified, irrevocable acceptance and a waiver of all claims with respect thereto. Seller shall not be liable for damages, and back charges will not be accepted without prior notification and an opportunity to view, and repair, replace or otherwise cure any material subject to a claim made within the Inspection Period. Seller agrees to replace or, at

Seller's option, repair any defective materials within a reasonable time. Customer's exclusive remedy and Seller's limit of liability for any and all loss or damage resulting from defective materials or from any other cause shall be the amount paid by Customer for the particular materials with respect to which loss or damage is claimed, plus any transportation charges actually paid by the Customer. **SELLER MAKES NO OTHER EXPRESS OR IMPLIED WARRANTY AND THE FOREGOING WARRANTY IS EXCLUSIVE AND IS IN LIEU OF ALL OTHER WARRANTIES, WHETHER WRITTEN, ORAL OR IMPLIED, INCLUDING THE WARRANTIES OF MERCHANTABILITY AND FITNESS OR FITNESS FOR A PARTICULAR PURPOSE. SELLER MAKES NO GUARANTY OF FINISHED WORK WHATSOEVER. IN NO EVENT SHALL SELLER BE LIABLE FOR ANY DAMAGE DUE TO DELAY OF ANY TYPE OR FOR INDIRECT, INCIDENTAL, CONSEQUENTIAL, SPECIAL, EXEMPLARY OR PUNITIVE DAMAGES, INCLUDING LOST PROFITS, WHETHER SUCH CLAIM IS BASED ON EXPRESS OR IMPLIED WARRANTY, CONTRACT, TORT (INCLUDING NEGLIGENCE) OR OTHERWISE, EVEN IF SELLER HAS BEEN ADVISED OF SUCH DAMAGES.**

14. Delay in delivery or non-delivery by Seller, in whole or in part, shall not be a breach or default by Seller if performance is delayed or made impracticable by the occurrence of any one or more of the following: (1) fires, floods or other casualties, (b) wars, riots, terrorism, embargos, governmental regulations or martial law, (c) inability to obtain necessary materials from usual sources of supply, (d) shortage of transportation or delays in transit, (e) strikes or other labor disputes, and (f) other conditions not reasonably within Seller's control, whether or not of a kind mentioned herein.

15. Seller shall have the right to change, modify or amend any of the terms of this Agreement (including adding new terms) upon 30 days written notice of such change, modification, amendment or addition to Customer by email to Customer's "Designated Email Address" contained on the Commercial Credit Application. The effective date of the change, modification, amendment or addition shall be as stated in the written notice. Customer shall be deemed to have consented to the changes upon the placing of orders with Seller following receipt of such notice.

16. Seller's failure in any one or more events to insist upon the strict performance of any of the terms or conditions of this Agreement or to exercise any of its rights shall not be construed as a waiver or a relinquishment of any such term, condition, or right in the future, and shall not affect Seller's right to enforce strict compliance of these terms and conditions. A receipt and acceptance by Seller of any payment, or the acceptance or performance of anything required to be performed hereunder, with knowledge of the breach of any term or condition hereof, shall not be deemed a waiver of such breach, nor shall any such acceptance of payment in a lesser amount than is herein provided for (regardless of any endorsement of any check, or any statement in any letter accompanying any payment) be construed either as an accord and satisfaction or in any manner other than as payment on account of the earliest amount then unpaid by Customer.

17. If any term or provision of this Agreement or its application to any person or circumstance is determined to be invalid or unenforceable, the remainder of these terms and conditions, or the application of such term or provision to persons or circumstances other than those to which it is invalid or unenforceable, shall not be affected thereby, and each term and provision hereof shall be valid and enforced to the fullest extent permitted by law.

18. Unless otherwise specified, any notices or communications permitted or required to be given by Customer to Seller shall be in writing and shall be given by overnight courier, or by U.S. certified mail, postage prepaid, return receipt requested. Notices by overnight courier or by U.S. certified mail shall be effective upon receipt.

19. Unless otherwise specified, any notices or communications permitted or required to be given by Seller to Customer shall be in writing and may be sent by email to the "Designated Email Address" on the Commercial Credit Application or by hand, overnight courier, or by U.S. certified mail, postage prepaid, return receipt requested. Notices by email, hand, overnight courier, or by U.S. certified mail shall be effective upon receipt (or receipt failed or refused). Notices by regular U.S. mail shall be effective three (3) days after deposit in the U.S. mail.

20. Customer shall at all times provide Seller with its current, active "Designated Email Address" and Customer waives the defense of failure to receive notices or communications from Seller resulting from Customer's failure to comply with this paragraph.

21. Customer acknowledges that it is an ordinary and customary record-keeping business practice of Seller to scan or otherwise convert its agreements into digital form for the purpose of electronic storage and that the original of the Commercial Credit Application and this Agreement may be destroyed. Customer agrees that any subsequent reproduction of an electronically stored version thereof that may later be produced in the ordinary course of record-keeping procedures shall have the same force and effect as the original for all purposes, including admissibility into evidence in all jurisdictions, courts, and tribunals.

22. This Agreement contains the entire agreement between the parties. This Agreement shall be binding upon, and shall inure to the benefit of, the parties and their respective heirs, personal representatives, successors, and permitted assigns. This Agreement may not be assigned by Customer without the prior written consent of Seller, which may be withheld in Seller's sole discretion. Any assignment not in accordance with the foregoing shall be void.

IN WITNESS WHEREOF, Customer has caused this Agreement to be signed by its duly authorized representative and execution by electronic signature or delivery of this Agreement to Seller by fax or email shall not impair its legal validity or enforceability.

DATE \_\_\_\_\_

\_\_\_\_\_  
Customer Signature

\_\_\_\_\_  
Witness Signature

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

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

## PERSONAL GUARANTY

In consideration of and as an inducement to the periodic extensions of credit by Blue Water Industries, LLC or any of its subsidiaries or affiliated companies (collectively referred to in this Guaranty as "Seller") to the customer named on the Commercial Credit Application or its successors, permitted assigns, nominees, agents, or personal guarantors, if any (collectively referred to in this Guaranty as "Customer"), the undersigned hereby enter into this Personal Guaranty (this "Guaranty") and agree:

1. To jointly and severally guaranty payment to Seller in accordance with the terms and conditions set forth in the Commercial Credit Application and the Credit/Sales Agreement (collectively, the "Agreement") of all sums, including interest and any other fees and charges, now due or which may hereafter become due and owing to Seller by Customer for "materials" as defined in the above Agreement, previously or hereafter sold or supplied to Customer.
2. To waive the following: notice of acceptance of this Guaranty; notice of orders, sales, shipments, or deliveries; notice of default, nonpayment, extensions, cancellation of credit to Customer, and the acceptance of and/or release of notes or security from Customer for amounts owed by Customer.
3. To consent to, and waive notice of, any renewal, extension, substitution, modification, amendment or enforcement of the above Agreement, and agree that any such renewal, extension, substitution, modification, amendment or enforcement shall in no way impair or affect the liability of this Guaranty.
4. That Seller shall not be required to seek legal or other means to attempt to collect sums owed by Customer before looking to the undersigned for payment.
5. That this is a continuing guaranty applying to all sales, regardless of the person or entity ordering or using the materials sold on Customer's account, and regardless of any change in the legal form of Customer's business or the existence of entities or individuals legally distinct from Customer using or benefiting from the materials supplied.
6. That this Guaranty shall not be revoked by the death of the guarantor but shall remain in full force and effect until canceled in writing by notice to Seller by overnight courier or by U.S. certified mail, postage prepaid, return receipt requested, addressed to Seller's then current main business address. Such written notice shall not become effective until the thirtieth (30<sup>th</sup>) day following receipt thereof by Seller. Such cancellation shall only affect indebtedness incurred after the effective date of the notice, and shall only affect the person giving such notice.
7. That termination of this Guaranty by any single guarantor will not affect the existing and continuing obligations of any other guarantor.
8. That there is no limit to the liability of the undersigned under this Guaranty.
9. Jointly and severally, to pay all expenses and costs incurred by Seller to enforce the terms of this Guaranty or of the above Agreement, or any Customer invoice or statement, including collection agency fees and reasonable attorney fees and court costs, whether suit be brought or not, whether incurred for consultation, litigation, post-Judgment collection procedures (discovery, garnishment, levy, contempt proceedings and Proceedings Supplementary), bankruptcy proceedings and appellate services, as well as attorney fees incurred in litigating entitlement to, and quantifying the amount of, attorney fees. Any Judgment obtained against the undersigned in litigation to enforce this Guaranty shall bear interest at the minimum rate of 18% per annum.
10. **That this Guaranty shall be governed by the laws of the State of Florida, without regard to its choice of law provisions. Any controversy or claim arising out of or relating to this Guaranty shall be litigated exclusively in the court of appropriate jurisdiction of Duval County, Florida or, at Seller's discretion, in the United States District Court for the Middle District of Florida, Jacksonville Division. Guarantor hereby expressly submits and consents in advance to such jurisdiction. Guarantor waives any claim that Duval County, Florida, or the United States District Court for the Middle District of Florida, Jacksonville Division, is an inconvenient or an improper forum based on lack of venue or personal jurisdiction.**
11. **That the right to trial by jury with respect to any action or claim brought in connection with this Guaranty is voluntarily and irrevocably waived.**
12. That liability of multiple guarantors (if applicable) is joint and several, with each other and with the Customer; that any individual guarantor had the option of applying for individual credit by submitting an individual financial statement for evaluation; that the undersigned have waived the right to apply for individual credit, have opted to supply multiple guarantors, and have waived any rights they may have under the Equal Credit Opportunity Act to void this Guaranty.
13. That this Guaranty shall inure to the benefit of Seller, and its respective successors and assigns.
14. That any use of a corporate or business title is only to identify the undersigned's position with Customer and does not negate the execution of this guaranty in the undersigned's individual capacity.
15. That it is an ordinary and customary record-keeping business practice of Seller to scan or otherwise convert its agreements into digital form for the purpose of electronic storage and that the original of the Commercial Credit Application, the Credit/Sales Agreement and this Guaranty may be destroyed. That any subsequent reproduction of an electronically stored version thereof that may later be produced in the ordinary course of record-keeping procedures shall have the same force and effect as the original for all purposes, including admissibility into evidence in all jurisdictions, courts, and tribunals.
16. That his, her or their individual credit history may be a necessary factor in the evaluation of this Guaranty and in the collection of Customer's account if it becomes delinquent, and therefore consents to and authorizes the Seller to obtain and to use a consumer credit report of the undersigned and/or make inquiries to any trade creditors, vendors, financial institutions or other lenders of the undersigned as to the credit standing of the undersigned at any time for reference purposes, (whether during or after the initial credit evaluation process, including after any default in payment, or during collection activity or litigation) authorizing any such credit reporting agency, trade creditor, vendor, financial institution or other lender to release credit information to Seller based on a photocopy hereof.

SIGNITURE PAGE TO FOLLOW

IN WITNESS WHEREOF, I have executed this Guaranty as of the date set forth below. Execution by electronic signature or delivery of this Guaranty to Seller by fax or email shall not impair its legal validity or enforceability.

Guarantor Signature: \_\_\_\_\_ Date: \_\_\_\_\_ Witness Signature: \_\_\_\_\_ Date: \_\_\_\_\_  
Print Name: \_\_\_\_\_ Print Name: \_\_\_\_\_  
Social Security Number: \_\_\_\_\_

Guarantor Signature: \_\_\_\_\_ Date: \_\_\_\_\_ Witness Signature: \_\_\_\_\_ Date: \_\_\_\_\_  
Print Name: \_\_\_\_\_ Print Name: \_\_\_\_\_  
Social Security Number: \_\_\_\_\_

Guarantor Signature: \_\_\_\_\_ Date: \_\_\_\_\_ Witness Signature: \_\_\_\_\_ Date: \_\_\_\_\_  
Print Name: \_\_\_\_\_ Print Name: \_\_\_\_\_  
Social Security Number: \_\_\_\_\_