

CREDIT APPLICATION

Company legal name: _____

**James Hardie
Building Products, Inc.**

Company d/b/a name: _____

 26300 La Alameda
Suite 400
Mission Viejo, CA 92691

Date business started: _____

Street address: _____

 Credit Fax 949-348-4509
Customer Service 800-968-7040

City / State / Zip: _____

www.jameshardie.com

Telephone number: _____

Facsimile number: _____

Email address: _____

 Billing address if other than above: _____

 Invoicing method (USPS is not an option): Email Fax

Sole Proprietorship _____ Partnership _____ Corporation _____

Name, titles and phone numbers of principals.

 _____ Ownership % _____
 _____ Ownership % _____
 _____ Ownership % _____

Type of business _____ Number of employees _____

Approximate square feet of covered warehouse _____ Yard size _____

Is Property Owned _____ and/or Leased _____.

Anticipated monthly purchasing requirement in dollars \$ _____.

James Hardie Salesrep Contact _____ . **Product** _____

Financial statements (please include two fiscal year-ends and most current interim): YES _____ NO _____

Financial statements will be mailed (date) ____/____/____.

List four trade references (full address, zip, phone and facsimile numbers required) or attach trade list:

Will all purchases be exempt from applicable sales tax?

No _____ Yes _____ Sales Tax # _____ State _____

We hereby jointly and severally agree to pay your account according to your terms of sale, and to pay interest at the rate of 1-1/2% of the maximum allowed by law, in all amounts past due as outlined in your terms and conditions of sale. We are aware that any invoice not paid over 90 days will be subject to attorney, and/or collection fees. In addition to 1-1/2% interest monthly.

 Company legal name

 Signature

 Witness

 Date

UNIFORM SALES & USE TAX CERTIFICATE - MULTIJURISDICTION

Issued to Seller: James Hardie Building Products, Inc.
 Address: 26300 La Alameda, Suite 400 Mission Viejo, CA, 92691

I certify that: _____ is engaged as a registered
 Name of Firm (Buyer): _____ Wholesaler _____
 _____ Retailer _____
 Address: _____ Manufacturer _____
 _____ Seller (California) _____
 _____ Lessor _____
 _____ Other (Specify) _____

and is registered with the below listed states and cities within which your firm would deliver purchases to us and that any such purchases are for wholesale, resale, ingredients or components of a new product or service to be resold, leased, or rented in the normal course of business. We are in the business of wholesaling, retailing, manufacturing, leasing (renting) the following:

Description of Business: _____

General description of tangible property or taxable services to be purchased from the seller: Building Materials and/or Products

 State Registration, Seller's Permit, or ID Number of Purchaser:

- | | | | |
|----|-------|----|-------|
| AL | _____ | MO | _____ |
| AR | _____ | MS | _____ |
| AZ | _____ | NC | _____ |
| CA | _____ | ND | _____ |
| CO | _____ | NR | _____ |
| CT | _____ | NJ | _____ |
| DC | _____ | NM | _____ |
| GA | _____ | NV | _____ |
| HI | _____ | OH | _____ |
| IA | _____ | OK | _____ |
| ID | _____ | PA | _____ |
| IL | _____ | SC | _____ |
| KS | _____ | SD | _____ |
| KY | _____ | TN | _____ |
| MD | _____ | TX | _____ |
| ME | _____ | VT | _____ |
| MI | _____ | WA | _____ |
| MN | _____ | WI | _____ |

*** Please submit the following state forms for sales in the following states:**
FL use DR-13 (renewed annually); **IN** use ST-105; **LA** use R-1028; **MA** use ST-4;
NY use ST-120; **RI** use State Certificate; **UT** use TC-721; **VA** use ST-10;
WV use WV/CST-280; and for **WY** use ETS Form 101.

I further certify that if any property or service so purchased tax free is used or consumed by the firm as to make it subject to a Sales or Use Tax we will pay the tax due directly to the proper taxing authority when state law so provides or inform the seller for added tax billing. This certificate shall be a part of each order which we may hereafter give to you, unless otherwise specified, and shall be valid until canceled by us in writing or revoked by the city or state.

Under penalties of perjury, I swear or affirm that the information on this form is true and correct as to every material matter.

Authorized Signature: _____
 (Owner, Partner or Corporate Officer)

Title: _____ **Date:** _____



James Hardie Building Products

26300 La Alameda, Suite 400, Mission Viejo CA 92691
Credit Fax 949-348-4509, Customer Service 800-968-7040

BANK INFORMATION

Date: _____
Bank Name: _____
Bank Address: _____
City/State/Zip: _____
Phone Number: _____
Fax Number: _____
Account Number: _____
Officer familiar with this account: _____
Sir or Madam: _____

James Hardie Building Products, Inc.

26300 La Alameda
Suite 400
Mission Viejo, CA 92691

Credit Fax 949-348-4509
Customer Service 800-968-7040

www.jameshardie.com

Your name has been given as a banking reference by the subject firm. To enable us to give proper consideration to the request for credit from _____
(Company Name)
we ask that you furnish the information requested below per the signed release authorization.

RELEASE AUTHORIZATION

I, _____, as authorized signor on the account of _____
(Print Name) (Company Name)
authorize the release of banking information to JAMES HARDIE BUILDING PRODUCTS, INC. for the purpose of renewing or establishing an open credit line with said company.

(Sign Name)

BANK RATING

Account Opened: _____
Checking Account (Average):
Low _____ Med _____ High _____ \$ _____
Savings Account (Average):
Low _____ Med _____ High _____ \$ _____
Line of Credit (Average):
Low _____ Med _____ High _____ \$ _____
Secured By: _____ Unsecured: _____ % Utilized _____
Relationship Satisfactory: _____ Unsatisfactory: _____
Comments: _____

Neither this bank nor any member of its staff shall be responsible for the accuracy of this information and are under no obligation to notify you of changes.

Date of Reply: _____ By: _____
Title: _____



26300 La Alameda, Suite 400, Mission Viejo, CA 92691
Credit Fax 949-348-4509, Customer Service 800-968-7040

CONTINUING GUARANTY

As an inducement for James Hardie Building Products, Inc. to extend credit to _____ (“Debtor”). I / We

_____ (“Guarantor”) guaranty payment of all indebtedness owed by Debtor to Hardie. The term “indebtedness” shall mean all liquidated or unliquidated sums now due or to become due from Debtor to Hardie arising for whatever reason, whether as principal, guarantor, or endorser, and all interest thereon or associated costs of collection (including attorneys’ fees) incurred by Hardie in dealing with Debtor or Guarantor.

This is a continuing guarantee of payment which shall terminate 30 days after Hardie receives from Guarantor written notice of revocation sent by certified or registered mail or hand delivered. Such revocation shall not release Guarantor from liability for all indebtedness incurred prior to the expiration of the 30-day notice period or interest thereon.

Guarantor waives notice of: acceptance hereof; extension of credit or incurrence of indebtedness; amount of indebtedness; extension for time of payment; default; demand for payment; non-payment; protest; and all other notices of any sort whatsoever. Nothing shall affect Guarantor’s liability hereunder, including extension or renewal of time to pay the indebtedness, release or surrender of any security whatsoever, release of anyone obligated to pay, or delay in enforcement of payment or security. Hardie may apply all payments from debtor or anyone else or the proceeds of security as it may determine. Hardie may enforce this guaranty without first proceeding against Debtor.

With respect to any payments to be made hereunder, Guarantor waives any and all claims against Debtor, any security of any other person for reimbursement, indemnity, contribution, exoneration or similar reasons whether arising in its own behalf or by subrogation. Guarantor shall pay all costs and attorneys’ fees incurred by Hardie to defend against attempts by Debtor to avoid payment to Hardie or to prevent Hardie from realizing upon security. In the event Hardie must repay sums received from Debtor in any bankruptcy or insolvency proceeding for any reason whatsoever, Guarantor shall pay Hardie the amount of such repayment, together with all costs and attorneys’ fees incurred by Hardie in connections therewith.

If this guaranty is executed by more than one person, it shall be the joint and several obligation of each. If this guaranty is executed by a corporation, its undersigned officer warrants that he had the power to make this guaranty, his execution of the guaranty has been duly authorized, and the guaranty is in the corporation’s best interest.

This Agreement is to be governed by, and interpreted according to the laws of the State of California without applying its choice of law provisions, but including California’s application and adoption of the Uniform Commercial Code. The parties consent to the jurisdiction of the state and federal courts in California. The Purchaser agrees service of process is effective if Purchaser receives Seller’s summons and complaint filed in any California court by certified United States mail, to Purchaser’s last known address.

This guaranty shall be binding upon Guarantor and his / their successors, assigns, heirs and / or legal representatives, and shall inure to the benefit of Hardie and its successors and / or assigns.

Date: _____

(Witness)

(Guarantor Signature)

(Guarantor Printed Name)



These are the Terms and Conditions of sale for James Hardie Building Products Inc. and each of its divisions ("Seller"). There are no other terms of sale unless Seller agrees in writing to different terms with you, the "Purchaser" of Seller's products:

1. ACCEPTANCE OF ORDERS

Seller's offer to sell products to Purchaser or acceptance of Purchaser's order is expressly conditioned upon Purchaser's acceptance of these Terms and Conditions ("Terms"). Purchaser's acceptance, use or holding of Seller's products for ten (10) days after shipment also establishes Purchaser's acceptance of these Terms. Seller expressly rejects and objects to all new, different or additional terms of sale submitted by Purchaser. Seller also reserves the right to select its own customers and the right to reject any order for any reason. Affidavits or certificates of compliance must be requested when orders are placed.

2. PRICES

All prices are subject to change without notice. Unless otherwise specified, orders will be shipped and invoiced at the price in effect at the time of shipment, and price adjustments for products in transit or in Purchaser's inventory will not be allowed. Any tax or other charge on the production, sale or shipment of the products imposed by federal, state or local governmental authorities will be added to the price to be paid by Purchaser.

3. TERMS OF PAYMENT

Subject to the approval of Seller's credit department, terms of payment are those in effect for product sales as of the date of shipment. Purchaser is also responsible for amounts due under No. 11 below. If Purchaser fails to comply with any provisions of this agreement or fails to make payments in accordance with the terms of this agreement, Seller may at its option defer further shipments or, without waiving any other rights it may have, terminate this agreement.

4. DELIVERY

All product sales are FOB Seller's place of shipment. Seller shall have no liability for delays, damage, or delivery failures occurring after the product is delivered to the carrier. Purchaser is solely liable for detention and demurrage charges, assessed at the destination. Product shortages and visibly damaged or defective products must be reported to Seller within ten (10) days of delivery. Purchaser may not withhold payment on uncontested product deliveries. Seller may choose the means of transportation when Purchaser's order does not provide specific instructions otherwise. Seller shall have the right to make and to invoice for partial shipments of goods ordered.

5. TITLE AND RISK OF LOSS: SECURITY INTEREST

Title to and all risk of loss or damage to the products vests in Purchaser at the time Seller delivers the products to the carrier regardless of any shipping and insurance arrangements made by Seller on Purchaser's behalf. However, Seller reserves and by execution of these Terms and Conditions, Purchaser grants, until full payment is received a purchase money security interest in each of the products delivered. Purchaser hereby authorizes Seller to file such financing statements and deliver such notices as Seller may reasonably require to perfect such purchase money security interest. Seller shall have all rights and may exercise all remedies of a secured creditor under Article 9 of the Uniform Commercial Code as adopted from time to time in the State of California. The remedies reserved herein shall be cumulative and in addition to any other remedies provided in law or equity. No waiver of the remedy for any breach of any provision in these Terms shall constitute a waiver of any other remedy.

6. RETURNS

Product returns will be accepted only after Purchaser receives Seller's prior written approval as follows: (a) For returns authorized due to Purchaser's rightful rejection or justifiable revocation of acceptance of the products, Seller will pay for reasonable handling and transportation charges for the product return and, in addition, will, at Seller's option, refund or credit the full purchase price upon return of the products. No request for returns based on damaged or defective product will be approved unless received within the time periods set forth in No. 4 and No 7; (b) Where Seller determines, in its sole discretion, to accept returns for the convenience of Purchaser, the products are to be returned to the point of shipment, at Purchaser's expense, properly packaged. Seller will issue a credit for the quantity of product received at Seller's shipping point in reasonable condition, as determined by Seller in its reasonable discretion, less (i) twenty percent (20%) of the original purchase price for handling and reconditioning, or if greater, (ii) the actual charges incurred.

7. LIMITED WARRANTY SPECIFICATIONS

All products, not sold with a written warranty, are sold and are subject to the following limited warranty; Seller warrants that for a period of one year from the date of shipment the product will be free from defects in material and workmanship and is manufactured in all material respects to Seller's product specifications. Note: Seller's products may vary in details of design and construction from descriptions in any literature or from any sample, display or other model inspected by Purchaser. Products sold hereunder are subject to Seller's standard manufacturing variations, tolerances, and classifications. Seller assumes no responsibility for the adequacy of performance of engineering, design or specifications furnished by Purchaser or others. **SELLER DISCLAIMS ALL OTHER REPRESENTATIONS AND WARRANTIES OF ANY KIND, EXPRESS OR IMPLIED, IN FACT OR IN LAW, INCLUDING, WITHOUT LIMITATION, THE IMPLIED WARRANTY OF**

MERCHANTABILITY AND THE IMPLIED WARRANTY OF FITNESS FOR A PARTICULAR PURPOSE. Every claim under this limited warranty shall be deemed waived unless in writing and received by Seller within ten (10) days of delivery, if the product is visibly damaged or defective, and, otherwise, within thirty (30) days after the defect is discovered, or should have been discovered, but in no event longer than one (1) year after product shipment.

8. LIMITATION OF REMEDY

PURCHASER'S EXCLUSIVE REMEDY AND THE LIMIT OF SELLER'S LIABILITY FOR BREACH OF THE LIMITED WARRANTY SET FORTH IN NO. 7, WHETHER BASED ON NEGLIGENCE, BREACH OF WARRANTY, STRICT LIABILITY, OR ANY OTHER THEORY AT LAW OR IN EQUITY, SHALL BE, AT SELLER'S OPTION, REPAIR, REPLACEMENT WITH A LIKE QUANTITY OF NON-DEFECTIVE PRODUCT OR REFUND OF THE PURCHASE PRICE, PLUS REASONABLE HANDLING AND TRANSPORTATION CHARGES INCURRED FOR APPROVED RETURNS UNDER NO. 6 ABOVE.

9. NO RECOVERY OF CONSEQUENTIAL OR SPECIAL DAMAGES

SELLER SHALL NOT BE LIABLE FOR ANY CONSEQUENTIAL OR SPECIAL DAMAGES BASED ON NEGLIGENCE, BREACH OF WARRANTY, STRICT LIABILITY, OR ANY OTHER THEORY AT LAW OR IN EQUITY, FOR FAILURE TO PERFORM ITS OBLIGATIONS UNDER THIS AGREEMENT, ADDITIONALLY, CONSEQUENTIAL AND SPECIAL DAMAGES SHALL NOT BE RECOVERABLE EVEN IF THE REPAIR, REPLACEMENT OR REFUND REMEDY FOR SELLER'S BREACH OF ITS LIMITED WARRANTY FAILS OF ITS ESSENTIAL PURPOSE OR FOR ANY OTHER REASON.

10. FORCE MAJEURE

Seller shall not be liable, nor deemed in default hereunder, for any failure or delay in delivering the products or in the performance of its other obligations to Purchaser hereunder, caused by or arising out of (a) good faith compliance with any applicable foreign or domestic governmental regulation, or order of whatever nature, whether foreign, federal, state or local; (b) all acts of God (such as, but not limited to, floods, fires, or tornadoes); (c) strikes and other labor trouble or a facility closure (whether voluntary or involuntary); (d) delays or nonperformance by suppliers (or other third parties) of raw materials, power or other needed supplies or services (e) delays or nonperformance by transporting carriers; and/or (f) any other cause, contingency, or circumstance not subject to the reasonable control of Seller affecting the performance of Seller's obligations hereunder. If, due to any such contingency, Seller is unable to supply the total orders of all its customers, Seller shall have the right to pro-rate its available supply among its customers, including Purchaser. In no event shall Seller be obligated to purchase the goods from others in order to enable it to deliver goods to Purchaser hereunder."

11. ATTORNEYS' FEES AND INTERESTS UPON DEFAULT

In the event of Purchaser's default under this or any other agreement between Purchaser and Seller, Purchaser agrees to pay all costs and expenses, including reasonable attorneys' fees, incurred by Seller. In the event Seller reasonably anticipates a default by Purchaser, whether involving collecting payments due, or otherwise, under these Terms, Purchaser also agrees to pay Seller simple interest on unpaid amounts from the date of shipment at the highest legal rate permissible in the State of California. Seller may, at its election demand that Purchaser furnish within ten (10) days a guaranty of full payment which satisfies Seller, upon the occurrence of a default which includes the following events: (a) Purchaser's arbitrary deductions from payment due to Seller; (b) the insolvency of, the business failure of, any transfer of, or change in ownership of Purchaser's business, the appointment of a custodian, trustee, liquidator or receiver for or for any of the property of, the assignment for the benefit of creditors by, or the filing of a petition under bankruptcy, insolvency or debtor's relief law or the filing of a petition for any adjustment of indebtedness by or against Purchaser; (c) the determination by Seller that any representation or warranty made to Seller by Purchaser under this or any other agreement between the parties is or was, when it was made, untrue or materially misleading; (d) Purchaser's failure to pay or perform its financial obligations to Seller; (e) impairment of Purchaser's credit information or Seller's receipt of unfavorable credit reports made to Seller; or (f) the failure of Purchaser's business to comply with any law or regulation controlling its operation.

12. SEVERABILITY

If any of these provisions are determined to be invalid, illegal or unenforceable, the validity, legality and enforceability of the remainder of these Terms shall be unaffected. Also there shall be substituted for the attached provision a valid and enforceable provision as similar as possible to the affected provision.

13. MODIFICATION OR TERMINATION

These Terms, any written warranty if issued by Seller, and the specific order provisions contained on Seller's purchase order are the entire agreement between the parties with respect to this order. This cancels and supersedes all previous agreements, confirmations, and terms of sale, oral or written. Purchaser shall cause the execution of these Terms to be performed by an authorized representative. No waiver or modification of these terms shall be binding upon Seller unless made in writing and signed by a duly authorized representative of Seller. Additional or different terms submitted by anyone other than Seller are specifically rejected and shall be deemed to be of no effect.

14. **GOVERNING LAW: JURISDICTION**

This agreement is to be governed by, and interpreted according to the laws of the State of California without applying its choice of law provisions, but including California's application and adoption of the Uniform Commercial Code. The parties consent to the jurisdiction of the state and federal courts in California. Purchaser agrees service of process is effective if Purchaser receives Seller's summons and complaint filed in any California court by certified United States mail, to Purchaser's last known address.

15. **Indemnification**

Purchaser agrees to indemnify and hold harmless Seller and its officers, from and against all liabilities, damages, losses, costs, and expenses for injury or death of any officer, agent, or employee of Purchaser, arising out of or in connection with products and services to be provided under this order, or any other orders Purchaser places with Seller.

16. **Assignment**

No assignment by either party of any rights, including rights to moneys due or to become due, or delegation of any duties herein, or under any orders subject to these Terms shall be binding upon the other party until its written consent has been obtained.

17. **Non-Waiver**

Any failure by either party to enforce any provision shall not constitute a waiver of the provisions or prejudice the right of either party to enforce the provision at any subsequent time.

18. **RIGHT TO OFFSET**

Seller shall have the right to set off and apply against any amounts owed to Seller by Purchaser, any rebate payments or other sums owed to Purchaser, in such manner as Seller may determine at any time and without notice to Purchaser.

19. **Headings And INTERNATIONAL SALES**

Headings used are for convenience reference only and shall not affect the interpretation of the Terms and Conditions stated herein. Sales of products exported from the United States are subject to the Seller's International Terms.

ACKNOWLEDGED AND AGREED TO BY AN AUTHORIZED REPRESENTATIVE:

SIGNED

DATE

PRINTED NAME