



## Application for Business Credit

**NOTE:** This Application for Business Credit is to be used in connection with commercial or business purposes only, and not for the purchase of personal, family or household goods or services. For more information, see Section 28 of the Standard Terms and Conditions. **Failure to complete this application completely & legibly will cause a delay in processing.**

### APPLICANT INFORMATION:

Legal Business Name: _____ DBA _____	
Business Address (street): _____	City: _____ State _____ Zip _____ - _____
Phone: _____	Fax: _____ Cell: _____ E-mail: _____

### BILLING INFORMATION:

Billing Address: _____		City: _____	State _____	Zip _____
Do you require purchase orders? <input type="checkbox"/> Yes <input type="checkbox"/> No		Are you tax exempt? <input type="checkbox"/> Yes <input type="checkbox"/> No		
Sales Tax Exemption #: _____		State(s): _____ <b>please attach an exemption certificate for each state.</b>		
Requested Credit Limit: _____				

### ABOUT YOUR COMPANY:

Individual	Partnership	LLP	C-Corp	S-Corp	LLC	Joint Venture
Business Type: _____			In Business Since: _____			
Fed-ID # _____ - _____		Contractor License # _____		Expiration Date: _____		
Incorporation Date: _____		State of Incorporation: _____		UBI #: _____		
A/P Contact: _____		Phone: _____		E-mail: _____		

### BONDING / BANK INFORMATION:

Bonding Co.: _____		Bond # _____	Amount: _____
Bonding Co. Address: _____		Phone #: _____	
Bank Name: _____		Branch & Phone #: _____	
Bank Account #: _____		Name of Officer: _____	

### PRINCIPAL OFFICERS:

Title	Name	Social Security #	City/State	Date of Birth	Phone

### PRINCIPAL SUPPLIERS:

Type	Name	Account #	City/State	Phone	Fax	Credit Contact
Supplier						
Supplier						
Supplier						

## OLDCASTLE PRECAST STANDARD TERMS AND CONDITIONS:

1. **ENFORCEABILITY/AUTHORIZATION FOR CREDIT REVIEW:** The "Applicant" is submitting this application for credit from Oldcastle Precast, Inc., including companies it now owns or hereafter may come into ownership thereof (hereinafter collectively referred to as the "Seller"). Applicant hereby authorizes Seller to obtain any and all information it deems necessary from any and all sources or references listed on this Application for Business Credit ("Application") and from any credit bureau, creditors of Applicant, trade references, banks or other financial institutions. Applicant further authorizes each of such sources, references, credit bureaus, creditors, banks and financial institutions to supply Seller such information as Seller deems necessary to assist it in its consideration of this Application.
2. **ENTIRE AGREEMENT:** These terms and conditions, in combination with the terms and conditions attached to Seller's invoice, purchase order and/or delivery ticket which are incorporated herein by reference (hereinafter collectively referred to as the "Terms"), represent the entire agreement between the parties. Any terms, including those on any Applicant purchase order, which are different, conflicting, add to, modify, supersede or otherwise alter the Terms without express written approval signed by an authorized representative of the Seller are hereby rejected.
3. **PAYMENT TERMS:** If this Application is accepted, Applicant agrees to pay in full the invoice price of all purchases now or hereafter made from Seller promptly when due according to the N30 terms set forth in this APPLICATION, without any retention. If the total invoice price is not paid in full on or before the due date, interest will accrue on the unpaid balance at the greater of 1.5% per month or the maximum rate allowed by the state laws of Seller's principal place of business, whichever is greater. If Applicant should fail to fulfill any of its obligations under this Application, or if Seller in good faith deems itself insecure because the prospect for payment is impaired or the prospect of performance of any provision of this Application is impaired, or if a default occurs for any other reason provided in this Application, then Seller, at its option and without notice, may declare the entire unpaid balance owed by Applicant under this Application to be immediately due and payable, or terminate the credit privileges of Applicant under the Application, or both. Applicant agrees to pay in full all costs and expenses incurred by Seller in collecting the amounts owed by Applicant under this Application, including any and all court costs, attorneys' fees and collection costs. Payments received will be applied against items on unpaid invoices in an order and sequence determined by Seller in its sole discretion. *Checks returned unpaid by your bank are automatically deposited a second time in an effort to clear your payments before they are returned to Seller. Returned checks regardless of the reason, are subject to a service charge in an amount not to exceed applicable law.*

When you provide payments, you authorize us to either use the information from your check to make an electronic fund transfer (EFT) from your account, or to process the payment as a check transaction. When paying by check, you authorize us or our legal agent to process the check by traditional deposit, electronically (EFT), or through a preauthorized draft. You understand that as this may be an electric transaction, these funds may be withdrawn from account as soon as the day in which it is received. You will not dispute us debiting your deposit account, so long as the amount corresponds to the amount indicated on the check(s). In the event that the transaction is returned unpaid for any reason, you authorize us or our agent to collect a returned payment fee up to the maximum amount as permitted by law.

4. **CREDIT DISCRETION:** Notwithstanding anything contained herein to the contrary, this Application shall not be construed as imposing any obligation on the part of Seller to furnish credit in any amount, and Seller, in its sole and absolute discretion, may terminate or limit the credit privileges of Application without prior notice to Applicant. The exercise of this discretion shall be in addition to any other right or remedy which Seller may have pursuant to Application or pursuant to applicable law.
5. **BANK AUTHORIZATION:** In order for Oldcastle to acquire the necessary information from your bank, by signing this application you authorize your bank to release the information needed on any or all of your accounts listed above in order to process your credit application.
6. **RETENTION:** If retention is applicable for a project, payment in full for the retention balance will not exceed 45 days from installation. Based in the applicable prompt payment status of the applicable state, a 2% penalty will apply to the outstanding balance each month the retention balance is past due.
7. **DELIVERY OF MATERIALS:** Unless otherwise agreed in writing, prices include delivery F.O.B. Job Site. "F.O.B. Job Site" means trucks carrying maximum legal loads operating under their own power, with delivery as close to the job or accessible storage area as Seller deems practical. Applicant shall provide suitable access for Seller's delivery trucks (without pushing or towing of the truck), traffic control and labor (at least two (2) men) to assist in the off-loading of materials. Applicant agrees that the receiving/installation location will be properly prepared and ready to receive the materials at the time specified in writing. Standby time in excess of one (1) hour from the time of arrival of Seller's trucks at the designated point will be at Applicant's expense and charged to its account.
8. **RISK OF LOSS:** When materials are sold "F.O.B. Plant," delivery of materials therefor shall be accomplished at Seller's plant, and Applicant shall bear all risks of loss, damage, injury or liability associated with transportation and placement of materials. When materials are specified to be sold "F.O.B. Job Site," delivery shall be accomplished at agreed upon Applicant job site, and Applicant bears all risk of loss or damage to the materials once delivered by Seller.
9. **SECURITY INTEREST:** Applicant hereby grants Seller a security interest in all products, materials, component and related parts sold hereunder, whether or not the same become fixtures. Should Applicant fail to pay all or portions of any amounts due and payable hereunder, breach this Application or otherwise default, Seller shall have all rights and remedies as a secured party available to it under law or equity including but not limited to rights of self-help (i.e., without notice) to repossess all or any portion of such materials.
10. **PRE-ENGINEERED PRODUCTS:** Unless otherwise agreed to by Seller in writing, all materials sold by Seller hereunder are pre-engineered products manufactured in accordance with standard catalog data, and are not intended for unusual or specific applications. If Applicant requires specially engineered materials, Applicant must approve in writing all applicable specifications and drawings for such specially engineered materials before Seller will commence production of the same.
11. **WARRANTY, DISCLAIMER LIMITATIONS ON LIABILITY:** Unless otherwise agreed to in writing by both parties, Seller warrants only that, for a period of one (1) year after installation, Seller products or materials sold hereunder shall be free from material defects in workmanship. Any failure by Applicant to timely pay any or all amounts due hereunder shall automatically void this express warranty made by Seller. No agent, employee or representative of Seller has authority to bind Seller to any affirmation, representation or warranty concerning any products or materials sold to Applicant, unless and until said affirmation, representation or warranty is expressed in writing and signed by an authorized Seller representation. The description of the goods contained herein is the sole basis for this agreement, and no statements or representations other than those embodied herein have been made or relied upon.

**EXCEPT AS EXPRESSLY PROVIDED HEREIN, SELLER DOES NOT MAKE AND SPECIFICALLY EXCLUDES AND DISCLAIMS ALL OTHER WARRANTIES, WHETHER EXPRESS, IMPLIED, OR ARISING BY TRADE USAGE OR COURSE OF DEALING, INCLUDING WITHOUT LIMITATION, ANY AND ALL IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE, NON-INFRINGEMENT, AND ANY IMPLIED INDEMNITIES. IN NO EVENT WILL SELLER BE LIABLE FOR ANY INDIRECT, CONSEQUENTIAL, SPECIAL, PUNITIVE OR INCIDENTAL DAMAGES (INCLUDING BUT NOT LIMITED TO DAMAGES FOR LOST PROFITS, BUSINESS INTERRUPTION, AND LOSS OF BUSINESS INFORMATION) ARISING OUT OF THE USE, INABILITY TO USE OR FAILURE OF ANY MATERIALS OR PRODUCTS SOLD HEREUNDER, EVEN IF SELLER HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. ANY DEFECTS CAUSED BY IMPROPER USE, DESIGN, INSTALLATION OR MAINTENANCE VOIDS ANY AND ALL WARRANTIES EXPRESSED OR IMPLIED, AND WHICH OTHERWISE APPLY. IT IS AGREED THAT SELLER SHALL NOT BE RESPONSIBLE FOR ANY DAMAGES WHICH EXCEED THE INVOICE PRICE OF ANY MATERIALS WHICH ARE DETERMINED TO BE DEFECTIVE OR NON-CONFORMING.**

12. **LIMITED REMEDY:** For Defective Products/Materials. Should the products or materials sold hereunder breach the limited warranty made by Seller in Section 11 above, Applicant must provide written notice to Seller of such breach within forty-eight (48) hours of Applicant's initial knowledge of said defect. Applicant hereby waives and relinquishes all actions and claims for replacement and repair thereof if Applicant fails to deliver such written notice within the applicable 48-hour period. Upon Seller's receipt of timely written notice, Seller's sole obligation and Applicant's exclusive remedy shall be the repair or replacement of the defective products or materials within a commercially reasonable period of time. Under no circumstances shall Seller be liable for any liability, damages or costs due to delays in the approval, delivery or installation of any Seller products or materials. Applicant understands and agrees that "but for" this limited remedy and Seller's limitations on liability as stated in Section 11 above, Seller would not be able to sell its products and materials to Applicant at the agreed prices and that the warranty disclaimers, the limitations on liability, and the limited remedy described in this Section 11 constitute an agreed allocation of risk between Applicant and Seller.
13. **INDEMNIFICATION:** Applicant agrees to defend, indemnify and hold Seller harmless from and against all claims, losses, damages, penalties, costs and/or expenses for damage to property of whatsoever kind or nature, or injury to persons arising out of performance under this Application by Applicant, its agents or employees. Applicant's duty to indemnify Seller for liability and/or damages arising out of bodily injury to persons or damage to property caused by or resulting from the concurrent negligence of Seller and Applicant shall apply only to the extent of the negligence of Applicant, its agents or employees. Applicant's indemnification obligations hereunder shall exclude claims, losses, liabilities, costs or expenses for damage to property of whatsoever kind or nature, or injury to persons arising out of performance under this Agreement from the sole negligence of the Seller, its agents or employees.
14. **SAFETY:** Applicant must provide a safe delivery site and comply with all federal, state and local safety laws, rules, ordinances and other requirements. Applicant shall indemnify and hold harmless Seller, its agents, employees and contractors from, and shall defend any and all actions, claims, suits or proceedings that may subject Seller to liability arising from Applicant's failure or inability to properly handle the products or materials, or provide a safe delivery site. Seller agrees that, when its employees, agents or contractors deliver the products or materials purchased hereunder, it and they shall comply with all federal, state and local safety requirements.
15. **STOP WORK:** If credit conditions become unsatisfactory at any time prior to Seller's completion of the work hereunder, Applicant shall furnish adequate security upon Seller's request. To the extent Applicant fails to provide adequate security, as determined in Seller's sole discretion, Seller may stop work.
16. **APPLICANT'S BANKRUPTCY:** Should Applicant become bankrupt or insolvent during the terms of this Application, this Application shall automatically terminate, provided such termination shall not prejudice Seller's rights to the amounts then due and owing.
17. **GOVERNING LAW:** Applicant acknowledges that all billings, accounts receivable, and credit functions of Seller are processed either through (i) the division or branch office from which Applicant makes purchases on credit pursuant to the credit granted hereunder; (ii) or any member of the Seller group of affiliated companies; or (iii) any other Seller related administrative entity. Therefore, in the event of arbitration between Seller and Applicant, the arbitration, at the sole option of Seller, shall take place in any city within any State having proper jurisdiction. Seller and Applicant agree that the laws of the State in which the Seller branch granting credit hereunder is located shall govern the interpretation of this Application.
18. **MANDATORY BINDING ARBITRATION. ANY DISPUTE ARISING UNDER THIS APPLICATION SHALL BE SUBMITTED TO AND RESOLVED BY BINDING ARBITRATION IN ACCORDANCE WITH SECTION 17. THE AMERICAN ARBITRATION ASSOCIATION SHALL CONDUCT THE ARBITRATION UNLESS THE PARTIES MUTUALLY AGREE TO USE AN ALTERNATIVE ARBITRATION SERVICE. THE COSTS OF THE ARBITRATION SHALL BE BORNE EQUALLY BY THE PARTIES. JUDGMENT UPON ANY AWARD MADE BY THE ARBITRATOR MAY BE ENTERED IN ANY COURT HAVING JURISDICTION THEREOF.**
19. **ASSIGNMENT:** Applicant shall not assign this Application without the prior written consent of Seller. Notwithstanding the foregoing, Applicant shall have the right to assign this Application to any person or entity that acquires or succeeds to all or substantially all of Applicant's business or assets upon written notice to Seller in accordance with Section 25, so long as the assignee or transferee assumes and continues to fulfill and perform all of the assignor/transferee's obligations hereunder. Notwithstanding anything contained herein to the contrary, Applicant shall remain liable for any and all obligations hereunder until Seller acknowledges and approves any assignment in writing.
20. **MODIFICATION AND WAIVER:** Neither this Application nor any term or provision hereof may be changed, waived, discharged, amended, modified or terminated orally, or in any manner other than by an instrument in writing signed by both parties hereto. The failure of any party hereto to insist upon strict performance of any of the covenants and agreements herein contained, or to exercise any right or remedy herein conferred, in any one of more instances, shall not be construed to be a waiver or relinquishment of any such right or remedy, or of any other covenants or agreements, but the same shall be and remain in full force and effect.
21. **SEVERABILITY:** If any provision of this Application is determined by a court of competent jurisdiction to be invalid or unenforceable, such determination shall not affect the validity or enforceability of any other part or provision of this Application.
22. **FORCE MAJEURE:** A party is excused from its obligations under this Application (except for Applicant's obligations to pay any monies due and payable to Seller hereunder) to the extent such party (or a third party upon whom such party materially relies) sustains a loss by strike, fire, flood, windstorm, accident, act of God or other similar or dissimilar calamity or occurrence out of the reasonable control of such party which materially interferes with the conduct of such party's business, regardless of whether or not any such loss has been insured.
23. **RELATIONSHIP OF THE PARTIES:** Nothing contained in this Application shall be deemed or construed by the parties hereto or by any third person to create the relationship of principal and agent or partnership or of any association between any of the parties hereto other than independent contracting parties.

24. **COMPLIANCE WITH LAWS:** Applicant must comply with all federal, state and local laws, codes, regulations and ordinances. Applicant agrees to pay all applicable fees, licenses and taxes, including sales and use taxes and inspection costs.
25. **INTERPRETATION AND CONSTRUCTION:** This Application has been reviewed and approved by each of the parties. In the event it should be determined that any provision of this agreement is uncertain or ambiguous, the language in all parts of this agreement shall be in all cases construed as a whole according to its fair meaning, not strictly construed for nor against either party, nor construed with any presumption or rule requiring that it might be construed against the party causing this agreement, or any part of it to be drafted.
26. **NOTIFICATION OF CHANGE IN OWNERSHIP:** Applicant hereby agrees to notify Seller, in writing, thirty (30) days prior to any change in ownership, name or business structure of Applicant and further agrees to be jointly and severally liable for all purchases by the new business structure and/or owners should said notification not be given. Seller may, regardless of the terms herein or on any invoice, require all outstanding account balances be paid in full on demand upon change in ownership and/or business structure, and may refuse to make further sales or extend credit pending approval of the new business structure's/owners' credit, which approval shall be at Seller's sole discretion.
27. **CORPORATE AUTHORITY AND LIABILITY:** Applicant warrants and represents that it has the authority to enter into this Application and that any person signing this Application has been duly authorized to execute this Application for and on behalf of Applicant. Applicant acknowledges that Seller is relying upon the creditworthiness and financial ability of the owner(s) and upon the business name of Applicant; therefore, the owner(s) of Applicant shall be liable to Seller for all indebtedness of Applicant then existing and thereafter incurred.
28. **BUSINESS PURPOSES:** Applicant agrees, represents and warrants at the time of each purchase from Seller that its account shall be used only for purchases for business or commercial purposes, and not for personal, family or household purposes, and Applicant understands that Seller is relying upon this representation in entering into this Application. Applicant understands that its agreement not to use its account for personal, family or household purposes means that important duties imposed on Seller, and important rights conferred upon a consumer, pursuant to certain federal or state laws, will not apply to this account. Applicant further understands that Seller will be unable to determine whether any given purchase conforms to this Section 26. Applicant agrees that a breach of this Section 26 will not affect Seller's right to enforce your promise to pay for the credit extended to Applicant, including related charges, or to use any remedy legally available to Seller even if such remedy would not have been available had the account been established as a consumer credit account.
29. **COUNTERPARTS:** This Application may be executed in any number of counterparts, each of which, when taken together, shall constitute one original document.
30. **THE FEDERAL EQUAL CREDIT OPPORTUNITY ACT:** THE FEDERAL EQUAL CREDIT OPPORTUNITY ACT PROHIBITS CREDITORS FROM DISCRIMINATING AGAINST CREDIT APPLICANTS ON THE BASIS OF RACE, COLOR, RELIGION, NATIONAL ORIGIN, SEX, MARITAL STATUS, AGE (PROVIDED THE APPLICANT HAS THE CAPACITY TO ENTER INTO A BINDING CONTRACT), BECAUSE ALL OR PART OF THE APPLICANT'S INCOME DERIVES FROM ANY PUBLIC ASSISTANCE PROGRAM, OR BECAUSE THE APPLICANT HAS IN GOOD FAITH EXERCISED ANY RIGHT UNDER THE CONSUMER CREDIT PROTECTION ACT. THE FEDERAL AGENCY THAT ADMINISTERS COMPLIANCE WITH THIS LAW CONCERNING THIS CREDITOR IS FEDERAL TRADE COMMISSION, EQUAL CREDIT OPPORTUNITY, WASHINGTON, D.C. 20580.
31. **DENIAL:** If your application for business credit is denied, you have the right to a written statement of the specific reasons for the denial. To obtain the statement, please contact our office within 60 days from the date you were notified of our decision. We will send you a written statement of reasons for the denial within 30 days of receiving your request for the statement.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Printed or Typed Name

\_\_\_\_\_  
Title

\_\_\_\_\_  
Date

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Signature

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Printed or Typed Name

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Title

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Date

**Continuing Personal Payment Guarantee:**

1. To induce Seller to extend credit or continue the extension of existing credit, the undersigned Guarantor(s) do hereby absolutely and unconditionally guarantee, jointly and severally, the prompt payment of any and all indebtedness of Applicant now existing or hereafter incurred without requiring Seller to first proceed with collection proceedings against the Applicant.
2. The undersigned Guarantor(s) waive any notices regarding the governing credit agreement or this Guaranty.
3. This Guaranty shall be in effect until the Application has terminated and all amounts due hereunder have been fully paid. Guarantor(s) agree(s) that if amounts owed by Applicant are not paid as agreed, Seller may report Guarantor(s) liability for and the status of the amounts due to credit bureaus and others who may lawfully receive such information.
4. Guarantor(s) also understand(s) and agree(s) that your personal credit may be used in making credit decisions on the extension of credit to Applicant hereunder and consumer reports and other inquiries regarding your credit may be obtained from time to time by Seller or any assignee in connection with the extension of credit hereunder.
5. Guarantor agrees to indemnify and hold Seller harmless from an and all claims or losses relating to any alleged fraudulent transfer and/or preferential and/or avoidable transfer either under state law or pursuant to Federal law, including but not limited to, 11 U.S.C § 547, 548, 549 and/or 550 and relating in any way to voluntary or involuntary payments made to Seller either by Guarantor, Customer or any other party that are applied to Customer's indebtedness or to obligations under this Guaranty.
6. Guarantor agrees to pay any and all costs and attorneys' fees incurred by Seller in defending any such action, including an appeal.

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Guarantor Signature

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Guarantor Signature

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Printed or Typed Name of Guarantor

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Printed or Typed Name of Guarantor

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Social Security Number of Guarantor

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Social Security Number of Guarantor

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City, State, Zip Code

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