

Plain Hardware Home and Garden

18636 Beaver Valley Road ~ Plain, WA 98826

509-763-3836

Fax 509-763-2204

TERMS & CONDITIONS

Effective as of 03/20/2007

The terms and conditions of any account cash or credit, and any sales made by Plain Hardware to Applicant, established pursuant to this application and agreement shall be subject to the following terms and conditions, as modified from time to time, furnished or posted by Plain Hardware. This application and agreement shall be binding on all successors and assigns of Applicant.

A) **Price** Prices are as quoted from time to time by Plain Hardware, and is subject to changes for future orders without notice.

B) **Payment (1) Method.** Payments may be made by check or cash. Payments are considered made when received by Plain Hardware at the address given above or at such other address as it may from time to time designate. **(2)** Unless otherwise agreed to in writing or stated on the face of the invoice, payment shall be due Net 10th. Plain Hardware may demand COD payment at any time. **(3)** Bank cards are not accepted for payment of this account. Check or cash only with no exceptions.

C) **Late Payments** If any payment is not made when due under these terms and conditions, or by the earlier time stated on any invoice, Applicant agrees that a charge of the greater of \$2.00 or two percent (2%) per month (24% per annum) of the unpaid amount, or the maximum amount allowed by law (whichever is less), shall accrue from the date payment is due until paid. Applicant further agrees that at Plain Hardware's sole option all future purchases may be strictly for cash on delivery or some other terms as Plain Hardware may fix from time to time.

D) **Cancellation** Plain Hardware may cancel extension of credit or sale and deliveries or both at any time without notice.

E) **Credit Inquiries** Applicant authorizes Plain Hardware to make such inquiries as Plain Hardware may deem appropriate of banks, lenders and credit and trade references, whether or not listed herein, as to Applicant's credit worthiness.

F) **Change in Status** Applicant shall immediately notify Plain Hardware of any changes in ownership or management of Applicant or its business. Upon any such change, Plain Hardware may require that all amounts outstanding hereunder be paid in full, and Plain Hardware may, in addition, refuse to make any further sales and deliveries hereunder, and reclaim all goods in accordance with the Uniform Commercial Code.

G) **Warranties and Limitation of Warranties** Seller warrants that the merchandise it sells will be the kind and quality described in the purchase order and will be free of defects in workmanship or materials. EXCEPT AS SET FORTH ABOVE, THERE ARE NO IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR PARTICULAR PURPOSE AND THERE ARE NO OTHER IMPLIED WARRANTIES OF ANY NATURE WHATSOEVER. Seller shall not under any circumstances be liable for special, incidental or consequential damages such as, but not limited to, bodily injury or property damage, loss of profits or revenue, cost of capital, cost of purchased or replacement goods or claims of customers of Applicant or Buyer. Buyer agrees to be responsible for checking the moisture content of any lumber product and determining its readiness for installation prior to using the material.

H) **Jurisdiction and Venue** The agreement shall be construed according to the laws of the State of Washington applicable to transactions to be wholly performed within that State. In the event of any litigation, Applicant hereby expressly submits and consents to the jurisdiction of all Federal and state Courts located in the State of Washington and consents that any process, notice, motion or any other application to those courts or a judge thereof may be served within or without such court's jurisdiction by registered or certified mail or by personal service, provided a reasonable time for appearance is allowed. Applicant also waives any claim that any court in Chelan County or Douglas County, Washington is an inconvenient forum and consent to venue in said counties.

I) **RETURN POLICY** All returned or exchanged goods must be accompanied by a receipt or invoice. For regularly stocked material that is re-sellable when returned to us, we will promptly credit you at the original price if returned within 15 days of original purchase date. Adjustments may be made based on products condition, current

market conditions, or revenue lost due to the return. Returns after 15 days are subject to a reduced credit due to current market conditions, or due to product condition. **SPECIAL ORDERS (i.e. non-stocked items that we do not regularly carry, are cut or formed to customers' specifications, or ordered specifically for a customer even if regularly stocked)** are in general, not returnable. We may consider Special Order returns only with written management approval, and if approval is given, will be subject to restocking charge.

J} **SHIPMENT DELAYS; INSPECTION; NOTICE** Any delay in shipment requested by Applicant, whether or not granted by Plain Hardware, shall not affect Applicant's payment obligation, and Applicant shall pay for all goods as if shipped on the date scheduled for shipment by Plain Hardware. Plain Hardware shall not be liable to Applicant or anyone else for any delay in shipment or transit, whether or not caused by circumstances beyond Plain Hardware's control. Applicant agrees that **(1)** 2 days from the date of delivery of goods shall be a reasonable opportunity for Applicant to inspect the goods delivered; and **(2)** 4 days from the date of delivery shall be a reasonable time for Applicant to give notice to Plain Hardware of any breach, damage or unacceptable condition concerning the goods delivered.

K} **ATTORNEY FEES AND COST** Applicant shall pay all costs and fees, including attorney fees incurred by Plain Hardware in interpreting and/or enforcing this agreement, whether or not trial is commenced, including, but not limited to, Plain Hardware's attorney fees and expert witness fees at trial, on appeal or otherwise, including fees incurred in or the result of any bankruptcy case, including nondischargeability proceedings and the litigation of all issues peculiar to federal bankruptcy law. If a suit, action, adversary proceeding or contested matter should be instituted, including hearings to confirm a plan under any chapter of the Bankruptcy Code, to interpret, construe, avoid, modify, classify, or treat Plain Hardware's claim or to enforce the terms of this application and agreement, or to otherwise collect the amounts due Plain Hardware hereunder, Applicants shall pay such amounts as the court shall adjudge reasonable as Plain Hardware's attorney fees, costs and expert witness fees at trial, on appeal, and for post-judgment collection efforts and for pre-judgment provisional process, or other pre-judgment enforcement proceedings.

L} **APPROVED SIGNATURES** Owners and employees of Plain Hardware are approved to sign invoices on behalf of applicant as deemed necessary by Plain Hardware. Other individuals are approved to sign for applicant, unless limited approved individuals are listed below. Any changes to this list shall be made in writing.

Names of persons authorized to charge on this account:

M} **MODIFICATION OF AGREEMENT** Plain Hardware may, at its sole option, modify this agreement. The effective date of the modification shall be the date the revised Terms & Conditions is posted at Plain Hardware.

The undersigned agrees to these Terms and Conditions and warrants that there are no verbal agreements between Plain Hardware and the undersigned.

NAME: _____ **TITLE:** _____ **DATE:** _____

NAME: _____ **TITLE:** _____ **DATE:** _____