

TONYAN BROS., INC.
Including Spring Lake Sand & Gravel
5101 N. RICHMOND ROAD RINGWOOD, ILLINOIS 60072
PHONE: (815) 728-3057
FAX: (815) 728-9155

APPLICATION FOR CREDIT AND AGREEMENT AS TO CREDIT TERMS

TERMS AND CONDITIONS OF BUSINESS CREDIT

COMPANY/CUSTOMER: _____

BILLING ADDRESS: _____

CITY: _____ STATE: _____ ZIP: _____

TELEPHONE NO: _____ FAX NO: _____

PRINCIPALS AND TITLES: _____

TYPE OF BUSINESS: _____ HOW LONG IN BUSINESS? _____

BANK REFERENCE: _____

(Name of Bank)

(Address)

(Account Number)

TRADE REFERENCES:

- | | | |
|----|----------------|--------------|
| 1. | Name: _____ | Phone: _____ |
| | Address: _____ | Fax: _____ |
| 2. | Name: _____ | Phone: _____ |
| | Address: _____ | Fax: _____ |
| 3. | Name: _____ | Phone: _____ |
| | Address: _____ | Fax: _____ |

Sales Tax Exempt? Yes _____ No _____

If yes, please fill out attached certificate of resale and return with the credit application.

ACCOUNTS PAYABLE CONTACT: _____

EMAIL ADDRESS: _____

PERSON RESPONSIBLE FOR ACCOUNT: _____ TITLE: _____

___CORPORATION ___PARTNERSHIP ___SOLE OWNER ___LLP ___LP/LLP ___OTHER

This application and the information contained herein, is a request for one or more extensions to defer payment for the sale of goods and services, by Applicant from Tonyan Bros., Inc. ("Tonyan"). Applicant will from time to time, as it requires, place orders, in writing or orally, with Tonyan, and that upon acceptance of each by Tonyan, the terms and conditions herein shall apply to each such order. By submitting this application to Tonyan, Applicant agrees to the terms and conditions of this credit agreement ("Agreement").

Applicant further acknowledges that acceptance of any such offer to purchase shall be complete only upon approval through Tonyan's registered office located at 5101 N. Richmond Road, Ringwood, Illinois 60072.

Applicant agrees to pay Tonyan the full amount of any outstanding balance on an invoice within thirty (30) days of the invoice date. Applicant agrees to pay a service charge of the lesser of 1^{1/2}% per month (18% per annum) of the Applicant's outstanding past due balance or the maximum rate allowed by law. Such service charge shall become part of the Applicant's outstanding balance.

Applicant authorizes any of its employees, subcontractors, and/or haulers it directs on its behalf to pick up or deliver materials to sign an order or delivery receipts for said materials and agrees to be bound by all the terms of this Agreement.

This Agreement supersedes any inconsistent provision in any purchase order or confirmation. Absence of purchase order number shall not constitute grounds for non-payment of charges when the Applicant has had possession, or the right to possession of the items charged.

Applicant will pay all costs of collection including but not limited to, reasonable attorney's fees, should all or any part of this account be placed for collection. Applicant agrees that this transaction shall be governed by the laws of the State of Illinois and that if any provision hereof is held invalid, illegal or unenforceable, then no other provision shall be affected or impaired thereby. Applicant further waives the right to jury trial in the event Tonyan is required to institute suit for collection of any sums due hereunder. Applicant agrees that any and all claims arising out of or relating to any sale or extension of credit by Tonyan, including but not limited to, any action by Tonyan to collect on account, as well as any action filed by either party regarding the terms and provisions of this Agreement shall be filed in the 22nd Judicial Circuit Court, McHenry County, Illinois, or in the McHenry Municipal District thereof. Applicant specifically consents to the exercise of non-exclusive personal jurisdiction over Applicant by a Federal or State court where orders are approved, and to extraterritorial service of process, if necessary.

Applicant authorizes Tonyan from time to time to obtain one or more credit reports from any reporting agency and to obtain information regarding Applicant from any of its creditors and others, including, but not limited to, each of the credit references provided from time to time. Applicant further authorizes each of the creditors to give to Tonyan from time to time any and all necessary information that will aid Tonyan in its credit investigation. Applicant further authorizes Tonyan to reinvestigate credit status from time to time as Tonyan deems necessary. Tonyan reserves the right to limit, terminate or change the terms of any extension of credit to Applicant at its sole discretion. Applicant authorizes Tonyan to act as a credit reference for Applicant by responding to inquiries from Applicant's creditors or potential creditors regarding transactions/experiences with Applicant.

Each of the undersigned does hereby certify that he/she is authorized to sign this application on behalf of the Applicant; that the information contained herein is true, accurate and complete in all respects; and that all purchases made by Applicant will be made in the ordinary course of business of Applicant for business purposes only and that no credit is sought or will be obtained for the personal, family or household purposes of any individual or for consumer purposes. Applicant will advise Tonyan in writing at the address referenced on its invoices of any changes which occur in respect to any of the information included in this application or any other information which may affect ability to pay, and until such time, Tonyan may continue to rely on this information. Any changes in legal status or the information provided above must be communicated at least five business days in advance by certified mail and mailed to Tonyan at 5101 N. Richmond

Road, Ringwood, Illinois 60072. The original Applicant will remain liable until such time as Tonyan has been given a reasonable period of time to respond to any notice regarding legal status changes.

Applicant represents and warrants to Tonyan that Applicant has special skill and knowledge in the selection and use of the material to be purchased from Tonyan and expressly disclaims any reliance upon any and all statements or representations made or to be made by Tonyan regarding the sale of material and/or the equipment used by Tonyan. Applicant waives claims of any kind whatsoever against Tonyan for any and all direct, special, or consequential damages that Applicant may suffer.

Applicant agrees to inspect all material immediately upon delivery to verify: (a) the quantities described in the accompanying delivery ticket(s) are consistent with the quantities delivered; and (b) there are no visible defects in the material. The Applicant also agrees to examine all delivery tickets and invoices upon receipt. Applicant agrees that any claims concerning quality control or compliance with product specifications shall be waived unless written notice of such claim shall be delivered to Tonyan by certified mail at 5101 N. Richmond Road, Ringwood, Illinois 60072 within 5 days of receipt of such products by Applicant. Provided Applicant provides notice as contained in the preceding sentence, if Applicant and Tonyan cannot reach a resolution with respect to such claim or dispute, Applicant shall pay in accordance with all the terms of this Agreement as to any undisputed amounts due.

Applicant hereby grants Tonyan a security interest in the property purchased from Tonyan prior to payment in full. In the event Applicant does not repay any amount the Applicant may owe Tonyan or breaches any provision contained in this Agreement or any other credit agreement Applicant may have with Tonyan, Tonyan can repossess such property, sell or use it for Tonyan's own benefit and exercise any rights available to a creditor under the Uniform Commercial Code. Applicant shall be considered in default if: (a) if Applicant does not make payment when payment is due; (b) if Applicant breaches any provision contained in this agreement; (c) if Applicant becomes insolvent or files bankruptcy; (d) if a notice of lien or lien claim is made against the property or funds to which Tonyan provided materials and/or services; (e) if Applicant does anything that reduces its ability or willingness to pay. In the event of default, Applicant hereby authorizes Tonyan to take possession of the property. If Tonyan desires to take possession of the materials, Applicant hereby permits Tonyan to take possession of the materials without providing Applicant with notice. In the event Tonyan excuses one default by Applicant shall not in any way mean any future defaults will be waived.

Cartage rates on all orders placed for delivery will be subject to a Fuel Surcharge ("FSC"). Such FSC shall be based upon the U.S. National Average Diesel Fuel Index as published by American Automotive Association ("AAA") which is set forth on its website at: www.fuelgaugereport.com (Chicago Metro Market). Such cartage rates are subject to change weekly.

The parties agree that this Agreement is the entire agreement of the parties and that no oral representation or agreement has been made which would modify this Agreement or be a condition precedent or subsequent to the enforcement of this Agreement. This Agreement may not be modified except by a writing signed by each of the parties.

Nothing in this Agreement shall require Tonyan to sell or provide goods or services to Applicant or to provide credit to or defer payments from Applicant.

Customer: _____

Accepted: Tonyan Bros., Inc.

By: _____

By: _____

Printed Name and Title

Frank Zebell, President

Signature

Effective Date: _____

Personal Credit Guaranty

THE UNDERSIGNED HEREBY PERSONALLY GUARANTEES PAYMENT WHEN DUE OF ALL INDEBTEDNESS NOW DUE OR WHICH MAY HEREAFTER BE DUE BY APPLICANT TO TONYAN. IF SIGNED HEREUNDER BY TWO OR MORE PERSONS, THE UNDERSIGNED AGREES THAT THE GUARANTEES, OBLIGATIONS AND UNDERTAKINGS IN THIS PERSONAL GUARANTY ARE JOINT AND SEVERABLE. TONYAN SHALL NOT BE REQUIRED TO LOOK TO APPLICANT FOR PAYMENT BEFORE EXERCISING ITS RIGHTS UNDER THIS CREDIT GUARANTY. FURTHER, THIS PERSONAL GUARANTY SHALL EXTEND TO TONYAN'S COST OF COLLECTION, INCLUDING INTEREST, ATTORNEYS' FEES, AND COLLECTION COSTS. PERSONAL GUARANTOR(S) HEREBY WAIVE THE RIGHT TO A JURY DEMAND IN THE EVENT TONYAN INSTITUTES SUIT UNDER THIS CREDIT GUARANTY.

THE GUARANTY IS ABSOLUTE, UNCONDITIONAL AND CONTINUING, AND PAYMENT OF THE SUMS FOR WHICH GUARANTOR BECOMES LIABLE SHALL BE MADE TO TONYAN AT ITS OFFICE FROM TIME TO TIME, ON DEMAND, OR AS THE SAME BECOME OR ARE DECLARED DUE, NOTWITHSTANDING THAT TONYAN HOLDS RECEIVABLES AGAINST WHICH TONYAN MAY BE ENTITLED TO RESORT FOR PAYMENT; AND ONE OR MORE SUCCESSIVE OR CONCURRENT ACTIONS MAY BE BROUGHT HEREON AGAINST GUARANTOR, EITHER IN THE SAME ACTION IN WHICH DEBTOR IS SUED OR IN SEPARATE ACTIONS, AS OFTEN AS DEEMED ADVISABLE. GUARANTOR EXPRESSLY WAIVES ANY RIGHT TO SET-OFF, RECOUP OR COUNTER-CLAIM ANY CLAIM OR DEMAND AGAINST TONYAN, OR AGAINST ANY OTHER PERSON OR CONCERN LIABLE ON THE RECEIVABLES; AND, AS FURTHER SECURITY TO TONYAN, ANY ASSETS OF GUARANTOR OF ANY KIND, NATURE, OR DESCRIPTION IN TONYAN'S POSSESSION, CUSTODY OR CONTROL, MAY WITHOUT FURTHER NOTICE, BE REDUCED TO CASH, OR IF CASH OR AN INDEBTEDNESS OWED TO GUARANTOR BY TONYAN, MAY BE APPLIED BY TONYAN IN REDUCTION OR PAYMENT OF ANY LIABILITY INCURRED HEREUNDER, AND ALL DEBTS OR LIABILITIES NOW OR HEREAFTER OWING TO GUARANTOR BY DEBTOR OR BY ANY OTHER PERSON ARE HEREBY SUBORDINATED TO TONYAN AND ARE HEREBY ASSIGNED TO TONYAN.

THE ACCEPTANCE OF ANY PARTIAL PAYMENT BY TONYAN, AFTER THE TIME WHEN IT BECOMES DUE AS HEREIN SET FORTH, SHALL NOT BE HELD TO ESTABLISH A CUSTOM OR WAIVE ANY RIGHTS TONYAN HAS TO ENFORCE PROMPT PAYMENT OF THIS GUARANTY. DEMAND, PRESENTMENT FOR PAYMENT, PROTEST, NOTICE OF A NON-PAYMENT, OR PROTEST OF ANY NOTES PLEDGED HEREUNDER, IS HEREBY WAIVED BY GUARANTOR. TONYAN SHALL NOT BE REQUIRED TO LOOK TO THE RECEIVABLES FOR THE PAYMENT OF THIS GUARANTY, BUT MAY PROCEED AGAINST GUARANTOR IN SUCH MANNER AS TONYAN MAY DEEM DESIRABLE. TONYAN SHALL NOT BE REQUIRED TO DEMAND OR OBTAIN PAYMENT FROM ANY OTHER GUARANTOR OF DEBTOR, PRIOR TO MAKING DEMAND UPON GUARANTOR. NONE OF THE RIGHTS OR REMEDIES TONYAN HAS IS TO BE DEEMED WAIVED OR AFFECTED BY FAILURE TO EXERCISE OR DELAY IN EXERCISING SAME. ALL REMEDIES CONFERRED BY GUARANTOR UPON TONYAN OR ANY OF THE COLLATERAL PLEDGED HEREUNDER SHALL BE CUMULATIVE, AND NONE IS EXCLUSIVE, AND TONYAN MAY, AT ITS OPTION, EXERCISE SUCH REMEDIES CONCURRENTLY OR CONSECUTIVELY.

IF ANY DEMAND IS MADE AT ANY TIME UPON TONYAN FOR THE REPAYMENT OR RECOVERY OF ANY AMOUNT RECEIVED BY IT IN PAYMENT OR ON ACCOUNT OF THE OBLIGATION AND IF TONYAN REPAYS ALL OR ANY PART OF SUCH AMOUNT BY REASON OF ANY JUDGMENT, DECREE OR ORDER OF ANY COURT OR ADMINISTRATIVE BODY OR BY REASON OF ANY SETTLEMENT OR COMPROMISE OF ANY SUCH DEMAND, GUARANTOR WILL BE AND REMAIN LIABLE HEREUNDER FOR THE AMOUNT SO REPAYED OR RECOVERED TO THE SAME EXTENT AS IF SUCH AMOUNT HAD NEVER BEEN RECEIVED ORIGINALLY BY TONYAN, AS THE CASE MAY BE. THE PROVISIONS OF THIS PARAGRAPH WILL BE AND REMAIN EFFECTIVE NOTWITHSTANDING ANY CONTRARY ACTION WHICH MAY HAVE BEEN TAKEN BY GUARANTOR IN RELIANCE UPON SUCH PAYMENT, AND ANY SUCH CONTRARY ACTION SO TAKEN WILL BE WITHOUT PREJUDICE TO TONYAN'S RIGHTS HEREUNDER AND WILL BE DEEMED TO HAVE BEEN CONDITIONED UPON SUCH PAYMENT HAVING BECOME FINAL AND IRREVOCABLE.

Date Signed

Print Name

Signature of Individual Guarantor

Social Security #



CRT-61 Certificate of Resale

Step 1: Identify the seller

1 Name _____

2 Business address _____

City State Zip

Step 2: Identify the purchaser

3 Name _____

4 Business address _____

City State Zip

5 Complete the information below. Check only one box.

The purchaser is registered as a retailer with the Illinois Department of Revenue. _____
Account ID number

The purchaser is registered as a reseller with the Illinois Department of Revenue. _____
Resale number

The purchaser is authorized to do business out-of-state and will resell and deliver property only to purchasers located outside the state of Illinois. See Line 5 instructions.

Step 3: Describe the property

6 Describe the property that is being purchased for resale or list the invoice number and the date of purchase.

Step 4: Complete for blanket certificates

7 Complete the information below. Check only one box.

I am the identified purchaser, and I certify that all of the purchases that I make from this seller are for resale.

I am the identified purchaser, and I certify that the following percentage, _____ %, of all of the purchases that I make from this seller are for resale.

Step 5: Purchaser's signature

I certify that I am purchasing the property described in Step 3 from the stated seller for the purpose of resale.

Purchaser's signature Date

Note: It is the seller's responsibility to verify that the purchaser's Illinois account ID or Illinois resale number is valid and active. You can confirm this by visiting our web site at tax.illinois.gov and using the Verify a Registered Business tool.

General information

When is a Certificate of Resale required?

Generally, a Certificate of Resale is required for proof that no tax is due on any sale that is made tax-free as a sale for resale. The purchaser, at the seller's request, must provide the information that is needed to complete this certificate.

Who keeps the Certificate of Resale?

The seller must keep the certificate. We may request it as proof that no tax was due on the sale of the specified property.

Do not mail the certificate to us.

Can other forms be used?

Yes. You can use other forms or statements in place of this certificate but whatever you use as proof that a sale was made for resale must contain

- the seller's name and address;
- the purchaser's name and address;
- a description of the property being purchased;
- a statement that the property is being purchased for resale;
- the purchaser's signature and date of signing; and
- either an Illinois account ID number, an Illinois resale number, or a certification of resale to an out-of-state purchaser.

Note: A purchase order signed by the purchaser may be used as a Certificate of Resale if it contains all of the above required information.

When is a blanket certificate of resale used?

The purchaser may provide a blanket certificate of resale to any seller from whom all purchases made are sales for resale. A blanket certificate can also specify that a percentage of the purchases made from the identified seller will be for resale. In either instance, blanket certificates should be kept up-to-date. If a specified percentage changes, a new certificate should be provided. Otherwise, all certificates should be updated at least every three years.

Specific instructions

Step 1: Identify the seller

Lines 1 and 2 Write the seller's name and mailing address.

Step 2: Identify the purchaser

Lines 3 and 4 Write the purchaser's name and mailing address.

Line 5 Check the statement that applies to the purchaser's business, and provide any additional requested information.

Note: A statement by the purchaser that property will be sold for resale will not be accepted by the department without supporting evidence (e.g., proof of out-of-state registration).

Step 3: Describe the property

Line 6 On the lines provided, briefly describe the tangible personal property that was purchased for resale or list the invoice number and date of purchase.

Step 4: Complete for blanket certificates

Line 7 The purchaser must check the statement that applies, and provide any additional requested information.

Step 5: Purchaser's signature

The purchaser must sign and date the form.