

Statement of Terms and Conditions

ATTACHMENT I

CAPTIONS AND HEADINGS: The captions and headings throughout this Agreement are for convenience and reference only, and the words contained therein shall in no way be held or deemed to define, limit, describe, modify, or add to the interpretation, construction, or meaning of any provisions of or scope or intent of this Agreement.

PAYMENT: Upon any extension of credit by Leonhardt Pipe & Supply, Inc. ("Leonhardt") to the undersigned ("Applicant"), Applicant agrees to pay for all materials, supplies, services and expenses incurred by Leonhardt in accordance with the contract between the parties. Leonhardt will invoice Applicant for materials and supplies as they are shipped, along with any services and expenses, incurred by Leonhardt through the date of the invoice. Each invoice is due and payable on presentation. Invoices are past due 30 days after the date of the invoice. Past due amounts are subject to a late payment fee of one and one-half percent per month (18 percent per annum) or the highest amount allowed by applicable law on the outstanding balance, whichever is less. Attorney's fees and other costs incurred by Leonhardt in collecting past due amounts shall be paid by the Client. Applicant expressly agrees that Applicant's obligation to pay under this Agreement is in no way dependent upon the Applicant's ability to obtain financing, payment from third parties, approval of governmental or regulatory agencies, or upon Applicant's successful completion of the Project.

REPRESENTATIONS OF APPLICANT: Applicant warrants and covenants that sufficient funds will be available upon receipt of Leonhardt's invoice to make payment in full for any and all materials, supplies and services rendered by Leonhardt. Applicant warrants that for each separate request for materials, supplies and/or services from Leonhardt, Applicant will provide Leonhardt with the name of the project and project location that the materials, supplies and/or services are to be delivered and/or performed on. Additionally, Applicant agrees to provide Leonhardt with the name and address of the general contractor for the project, along with the name and address for the project owner and any construction manager or architect. Applicant agrees to furnish Leonhardt, its agents and employees, with a copy of any bond and/or its contract relating to any project for which Leonhardt has supplied materials or services and remains unpaid for more than thirty (30) days.

TERMINATION FOR CONVENIENCE: Upon written notice, Leonhardt may terminate the performance of any further supplies or services included in this Agreement for any project it is currently working on with Applicant if it determines termination is in its best interest. Upon dispatch of the termination notice for any given project, Leonhardt shall no longer supply any further materials to Applicant for use on the project. Upon termination, Applicant shall be responsible for all materials and services supplied up to the date of termination pursuant to this Agreement. Leonhardt and Applicant shall have no further rights or remedies

other than those included herein, including any claim for consequential or other damages allegedly claimed by Applicant.

INDEMNITY: Applicant agrees to indemnify, defend and hold harmless Leonhardt, its agents and employees from and against any and all losses, liabilities, and costs and expenses of every kind (including cost of defense, investigation, settlement and reasonable attorney's fees), which Leonhardt may incur, become responsible for or pay out as a result of bodily injuries (including death) to any person, damage to any property or both, to the extent caused by Applicant's, or any of Applicant's employees and/or subcontractor's, negligence or willful misconduct.

NO WAIVER: No waiver by either party of any default by the other party in the performance of any provision of this Agreement shall operate as or be construed as a waiver of any future default, whether like or different in character.

CHOICE OF LAW: The validity, interpretation, and performance of this Agreement shall be governed by and construed in accordance with the laws of the state of North Carolina, without giving effect to any choice or conflict of law provision or rule (whether of the State of North Carolina or any other jurisdiction) that would cause the application of the laws of any jurisdiction other than the State of North Carolina. Should any provision of this Agreement be deemed unenforceable by any court of competent jurisdiction, those provisions deemed unenforceable shall be severed from the body of this Agreement, so that the primary intent of this Agreement shall remain intact.

DISPUTE RESOLUTION: Any controversy or claim arising out of or related to this Agreement or the breach thereof shall first attempt to be resolved between the parties through mediation pursuant to applicable Alternative Dispute Resolution procedures. Should the parties be unable to reach settlement through the mediation process as provided herein, either party may initiate the appropriate action through the judicial system in the proper forum and venue. Notwithstanding the foregoing, nothing herein shall be construed to affect Leonhardt's statutory lien rights in the event of non-payment.

ATTORNEYS FEES: Should Leonhardt deem it necessary to retain an attorney or other counsel to defend and/or pursue the enforcement of this Agreement, Leonhardt shall be entitled to recover reasonable attorneys' fees and costs.

PERSONAL GUARANTY: As consideration for any extension of credit issued by Leonhardt pursuant to this Agreement, Applicant agrees to execute and return to Leonhardt the Personal Guaranty Agreement attached hereto as "Attachment II" and incorporated herein by reference.

GUARANTY AGREEMENT
ATTACHMENT II

TO BE ATTACHED TO AND FORM A PART OF THE CREDIT APPLICATION DATED _____, 20____ BETWEEN LEONHARDT PIPE & SUPPLY, INC. (“Leonhardt”) AND _____ (“Applicant”)(the “Agreement”).

IN CONSIDERATION OF and as an inducement for any extension of credit by Leonhardt to Applicant and the supply of materials and/or services by Leonhardt to Applicant, as requested by Applicant, the undersigned (hereinafter, “Guarantor”), intending to be legally bound, hereby unconditionally guarantees the timely and unconditional payment to Leonhardt (or its order) of all payments due under the Agreement between Applicant and Leonhardt and of the entire unpaid balance thereof. Guarantor further unconditionally guarantee’s the prompt and faithful performance of each of every obligation specified in the Agreement, strictly construed, including all Terms and Conditions, to which this Guaranty is attached, in addition to any other agreement or contract creating an obligation between Leonhardt and Applicant in connection with any extension of credit and/or supply of materials and/or services to Applicant.

Guarantor waives all rights to presentment, protest, demands for payment or performance and notices of demand, default, extension, nonpayment, nonperformance, protest, dishonor, and acceptance of this Guaranty Agreement and any other notices to which Guarantor might otherwise be entitled in connection with this Guaranty Agreement. Guarantor understands and agrees that nothing but full payment in cash to Leonhardt (or to its order) of all amounts owed by Applicant under the Agreement, and the full and timely performance of all of Applicant’s other obligations pursuant to the Agreement, shall reduce or release Guarantor from its obligations and liability under this Guaranty Agreement. Guarantor’s liability hereunder shall not be terminated, decreased or otherwise affected by: (1) any settlement made by Leonhardt or anyone its behalf; (2) any change to, or acceleration or extension of the time specified for the payment of the whole or any part of the sums due to Leonhardt under the Agreement, or of the time specified for the performance of any other obligation of Applicant thereunder (without limit as to the number or term of such extensions for payment or performance); (3) the change of any term or condition of the Agreement; (4) the surrender, release, or modification of any obligation of the Applicant; (5) the failure of Leonhardt to assert or enforce any of its rights (from whatever source they might be derived) against Applicant and/or Guarantor, due to any cause whatsoever; or (6) the termination for convenience or any cause whatsoever, including, without limitation, negligence by Leonhardt, of any right that Leonhardt may have against Applicant or Guarantor.

Leonhardt may proceed directly against Guarantor, individually or collectively, for any amount or any performance hereby guaranteed without taking any action against Applicant or any other person or entity. Guarantor hereby waives any right to require Leonhardt to proceed against Applicant or any other person or entity; to require the joinder of any other person or entity in any suit that Leonhardt may bring pursuant to this Guaranty Agreement; or to exhaust any other remedy in Leonhardt’s power whatsoever. Further, if Applicant is a corporation, limited liability company or partnership, Leonhardt need not inquire into the power of Applicant or the authority of its officers, directors, members, managers, partners, employees or agents acting or purporting to act on its behalf, and any credit granted or materials or services provided in reliance upon the purported exercise of such power or authority is hereby unconditionally guaranteed.

GUARANTY AGREEMENT
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In the event Leonhardt incurs any expenses to collect any amounts owed to it under the Agreement and/or the terms of this Guaranty, or incurs any expenses to otherwise enforce or defend its rights hereunder or under the terms of the Agreement, Guarantor agrees to reimburse Leonhardt for those expenses, including without limitation, attorney's fees, court costs and any other expenses, whether or not formal litigation is commenced against Guarantor.

All of Leonhardt's rights, powers and remedies hereunder and under any other agreement now or at any later time in force between Leonhardt and Guarantor shall be cumulative and not alternative and shall be in addition to all rights, powers, and remedies given to Leonhardt by law or in equity.

This Guaranty Agreement shall be governed by the Laws of the State of North Carolina. Leonhardt may assign or transfer this Guaranty Agreement, or any of its rights under this Guaranty Agreement, to anyone it chooses, at any time, without Guarantor's consent. Anyone to whom this Guaranty Agreement is assigned will have the same rights and remedies under this Guaranty Agreement as Leonhardt. The provisions of this Guaranty Agreement shall be binding upon the undersigned, his/her heirs, legal representatives, successors, and assigns and will accrue to the benefit of Leonhardt, its legal representatives, successors and assigns. If any provision of this Guaranty Agreement is invalid or cannot be enforced for any reason, the remainder of this Guaranty Agreement shall remain in effect. Any provision of this Guaranty Agreement that is contrary to any applicable law shall be considered to be modified to the extent required to conform with the law, if possible, and if not possible, shall be omitted from this Guaranty Agreement.

This Guaranty Agreement constitutes the entire agreement between Leonhardt and Guarantor and no modification hereof shall be enforceable unless such modification shall be in writing signed by both parties to this Guaranty Agreement.

IN WITNESS WHEREOF, the undersigned has caused this Guaranty to be duly executed and sealed pursuant to authority duly given as of this _____ day of _____, 20____.

GUARANTOR:

_____(SEAL)
[insert name]

STATE OF NORTH CAROLINA
COUNTY OF _____

I, a Notary Public for said County and State, do hereby certify that _____ personally appeared before me this _____ day of _____, 20____, and acknowledged the due execution of the foregoing instrument.

Notary Public _____
Print Name: _____
My Commission expires: _____