



135 S State College Blvd. Suite 400 Brea, Ca 92821

Phone: 714-578-9654 - Fax: 714-449-2831

CustomerRelations@UnitedRock.Com

CustomerRelations@BlueDiamond.Com

Credit Application and Agreement

Failure to complete any section, or altering this application may result in credit being denied.

CUSTOMER INFORMATION

Business Name _____ Phone No.: _____ Fax No.: _____

Physical Address : _____ City: _____ Zip: _____

Billing Address : _____ City: _____ Zip: _____

Contact name (not Accounts Payable) _____ Phone No: _____ Email: _____

AP/ BILLING INFORMATION: We bill weekly and prefer to email your invoices.

Contact Name: _____ Phone No.: _____ Email: _____

CREDIT/ BONDING/INSURANCE INFORMATION

Federal Tax ID No: _____ Sales Tax No: _____

Contractor's License No: _____ Years in Business : _____

Bonding Company: _____ Phone No: _____

Have you ever signed a petition or legal pleading, declaring bankruptcy on behalf of yourself, your corporation or any other entity with which you are/have been affiliated with? Yes No

All sales tax exempt customer MUST provide certificate of exemption with this application.

BANK REFERENCES

Bank Name: _____ Address: _____ Account No.: _____

Contact Name: _____ Phone No: _____

TRADE REFERENCES

Name	Address	Phone No.
1. _____	_____	_____
2. _____	_____	_____
3. _____	_____	_____

AUTHORIZING REPRESENTATIVE –OWNER, OFFICERS OR PRINCIPAL

President Vice President Owner/Sole Proprietor Partner

Full Legal Name: _____ Soc. Sec/Tax No: _____

Address: _____

Phone No: _____ Email: _____



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CREDIT AGREEMENT

This Application for Credit and Credit Agreement, including the General Terms and Conditions of Sale which follow it, hereafter collectively referred to as the "Agreement", sets forth the terms and conditions of the granting of credit to the named Applicant (Buyer) and shall govern all sales of goods between UNITED ROCK PRODUCTS, a division of Sully-Miller Contracting Company, or any of its subsidiaries or divisions, (collectively referred to as Seller) and Buyer. This Agreement also sets forth the terms and conditions of the guaranty between Guarantor(s) and Seller. Buyer and Guarantor(s) hereby covenant and agree with Seller as follows:

Buyer agrees to pay Seller for all goods Seller provides to Buyer or for the dumping of materials as agreed on the quote. All bills are due and payable on the 10th day of the month following month of delivery or dumping, or as agreed and notified by the Seller. A 1 1/2% per month, 18% per annum or the maximum permitted by law, interest will be added to all amounts that remain unpaid as of the date due. In the event of default in payment, or any default under this agreement, Seller may, at its sole and absolute discretion, refuse to release any further goods until the account or accounts are brought current or the default cured, regardless of whether goods had been previously ordered under any purchase order or contract. All orders and deliveries are subject to Seller's approval at the time of shipment. All sales may be conditioned, at the discretion of the Seller, on Buyer continuing to meet credit terms and policies of Seller. Buyer understands that no representative or employee of Seller, other than Seller's corporate officers or credit manager, has any authority to enter any agreement with Buyer that is different or contrary to the terms herein. No inaction by Seller shall be deemed a waiver of Buyer's obligation to perform any covenant or agreement contained herein. Continuation of the account is discretionary with Seller which discretion may be entirely arbitrary in its exercise. Buyer agrees and acknowledges that Buyer's obligations to Seller to pay sums due are not affected or changed by any term or pre-condition to payment including, but not limited to, "pay when paid clauses" Buyer may be subject to in its dealings with third parties.

Buyer agrees to furnish Seller, on request, with copies of all "Bonds," "Contracts," "Notices of Commencements," purchase order(s) job addresses and other information Seller deems necessary to protect Seller's interests. Buyer agrees and consents that Seller may send out any necessary notices required to secure available lien and/or bond rights and provide and disclose invoices and charges to Buyer's account to obtain payment from any third party. Buyer acknowledges that Seller may elect to file materialman's liens to enforce collection rights.

Buyer and Guarantor(s) certify and warrant to Seller that the information provided in the Agreement is true and correct and authorizes Seller from time to time to (1) verify information supplied by the Buyer and Guarantor(s), (2) obtain credit reports and conduct credit investigation, including obtaining bank and financial institution credit information, (3) re-investigate credit at its sole discretion and (4) to act as a credit reference for Buyer and Guarantor(s) by responding to inquiries from other creditors or potential creditors regarding transactions or experiences with Buyer and Guarantor(s).

In consideration of the credit to be extended to Buyer, each of the Guarantor(s), jointly and severally, unconditionally guarantee to Seller the performance of all terms and conditions of the Agreement, including all obligations and the payment of all indebtedness now due or which may become due by Buyer and shall pay Seller on demand any sum for which should Buyer fail to pay same. This is a continuing, unconditional indemnity and guaranty by Guarantor(s) for the benefit of Seller and its assigns. This guaranty is reasonably expected to benefit the Guarantor(s) either directly or indirectly. In the event Buyer fails to pay Seller, Buyer and Guarantor(s) promise to pay legal fees, costs and expenses of Seller to collect all or any portion of the amounts due including, but not limited to, court costs, attorney's fees incurred whether for consultation, collection efforts that do or do not include litigation, or all of the foregoing. Seller shall be further entitled to recover its attorney's fees and court costs in connection with the foreclosing of any mechanic's lien or stop notice by Seller. This agreement is entered into and to be performed by Buyer and Guarantor(s) in the County of Orange, State of California. All payments by Buyer and Guarantor(s) are to be delivered to Sellers address. Buyer and Guarantor(s) agree to give written notice of any change in the principals, name or legal identity of Buyer 15 days prior to such change. If at any time in the opinion of the Seller, financial responsibility of the Buyer becomes impaired or unsatisfactory, Seller reserves the right to require payment in advance or other security for any future sales and payment for all goods sold to date becomes immediately due and payable. Any attorney's fees, costs and other expenses which may be incurred in the collection of monies due under this contract, including the enforcement of any lien, stop notice or bond right, will be paid for by the Buyer, including attorney's fees.

Seller may at any time change the credit terms of this Agreement effective upon postal mailing, electronic mailing or faxing a notice of the change to Buyer. Guarantor(s) waive any right to notice of any modification, supplement, extension, accord and satisfaction, amendment, termination or alteration of this Agreement, and further waives any right to notice or demand upon default by Buyer, including presentation for payment, and further waives any notice to any renewal, compromise or change in the time for payment by Buyer or the terms of any obligation by Buyer to Seller, and that Seller may do any of the foregoing upon any such terms and at such times as Seller, in its discretion, deems advisable, without impairing, affecting, reducing or releasing any of the terms of the guaranty. Buyer and Guarantor(s) waive any claims against Seller for any decision made by Seller.

This Agreement may be executed by any party in counterparts, irrespective of the date of its execution and delivery, and that a photocopy, or fax signature shall be effective, valid and enforceable as if it was an original signature. Neither Buyer nor Guarantor(s) shall be entitled to set-off or deduction against sums due Seller.

Note: Both Buyer and Guarantor(s) give their unconditional consent to have both their commercial and their non-business, personal consumer credit report and history search obtained and used by Seller in connection with this application for credit.

Buyer (Applicant): _____

Signature of Authorized Agent of Applicant: _____ Date _____

Print name of person signing: _____ Title _____

Guarantor signature: _____ Date _____

Print name of person signing guaranty: _____

OFFICE USE ONLY:

Account Manager: _____

Controller : _____

Approved Credit Limit: \$ _____

Date Approved: _____

Approved Term: Days: _____

Manager: _____



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GENERAL TERMS AND CONDITIONS

FOR CONTRACTORS DISCHARGING MATERIALS AT BLUE DIAMOND MATERIALS SITES

1. **Important General Provisions.** The term "Owner" as hereinafter used means **Blue Diamond Materials**, the entity identified as the Owner on the attached purchase order or delivery ticket and operator of dump site(s). The term "Contractor" means the person, firm or entity who will be delivering and discharging materials ("Materials") at the Owner dump site(s). "Order" means the purchase order or delivery ticket to which these Terms and Conditions are attached. The Terms and Conditions set forth in this document supersede and nullify any other Terms and Conditions found in any other agreements, including but not limited to Contractor's web site, rental agreements, field dispatch agreements, contracts, field time sheets, invoices or documents between the parties. Usual and/or customary business practices do not supersede the Terms and Conditions found in this Order.
2. **Modification.** No modification of this **Order** shall be effective without Owner's written consent. No course of prior dealing, no usage of the trade and no course of performance shall be used to modify, supplement or explain any terms used in this Order. The acceptance of this Order is expressly limited to the terms and conditions stated herein, and no additional or different terms offered by the Contractor shall be or become part of this **Order** nor shall this **Order** be modified without the express written approval of Owner.
3. **Termination.** Owner reserves the right to terminate this Order at any time with respect to undelivered Materials by written or telegraphic notice or oral notice confirmed in writing. In no event shall Contractor be entitled to any amounts for lost profits, delay, or any other direct, indirect or consequential damages.
4. **Delivery.** Contractor shall deliver and discharge Materials to the Property as specified in the Order. Owner reserves the right, in addition to its other rights and remedies, in its sole discretion to cancel this Order and to reject any Materials brought to the Property by Contractor in whole and/or part for any reason, including but not limited to Contractor's failure to comply with the warranties set forth in Section 5.
5. **Warranties.** In addition to all warranties and remedies available under law or other provisions of the Order, Contractor hereby warrants and agrees that all Materials discharged by Contractor at the Property (i) will not contain and Contractor agrees not to discharge any radioactive, volatile, corrosive, flammable, explosive, biomedical, infectious, biohazardous, regulated medical or hazardous waste, toxic substance or material, as defined by, characterized or listed under applicable federal, state or local laws or regulations, (ii) be limited to inert wastes as defined in 27 CCR, Section 20230(a), including but not limited to: native geological materials (such as clay, silt, gravel, etc.) generated by mining activities at the vicinity of the Property and materials that are acceptable at an Inert Debris Engineered Fill Operations as defined in Section 17381(1) of 14 CCR, including uncontaminated concrete, crushed glass, bricks, ceramics, clay and clay products, rock and clean soil, and fully cured asphalt, and (iii) otherwise be in conformance with all governmental laws, regulations and orders. Contractor further warrants that it is under no legal restraint or order that would prohibit transfer of possession or title to the Materials. Contractor will defend, indemnify and hold Owner, its employees, customers, successors and assigns, harmless against any claims or demands, action or proceeding, liability, loss or expense whatsoever, including reasonable attorneys' fees, arising from (a) any actual or alleged negligence of Contractor with respect to Materials, (b) Contractor's violations of any federal, state, or local statutes, ordinances, rules, regulations or orders with respect to the Materials, or (c) Contractor's breach of any of these Terms and Conditions.
6. **Safety and Conduct of Activities.** Contractor shall comply, and cause its employees, agents and/or subcontractors to strictly comply with all regulations and rules of the Property, including, without limitation, those relative to the environment, safety, health and fire prevention. Notwithstanding the preceding sentence, Contractor shall at all times be responsible for the safety and health of its (and its subcontractors, if any) employees and agents present at the Property or elsewhere in connection with this Agreement.
7. **Contingencies.** Failure of Owner to perform hereunder, in whole or in part, occasioned by act of God or the public enemy, fire, explosion, perils of the sea, flood, drought, war, riot, sabotage, accident, embargo, government priority, requisition or allocation, by interruption of or delay in transportation, labor disputes from any cause whether or not the demands of the employees involved are reasonable and within the Buyer's power to concede, compliance with any order or request of any government officer, department, agency or committee, or any circumstance of like or different character beyond the reasonable control of the Owner, shall not subject Owner to any liability or increased costs. At Owner's option, the period specified for delivery of goods or performance of services hereunder shall be extended by the period of delay occasioned by any such circumstance. The provisions of this paragraph shall be effective notwithstanding that such circumstance shall have been operative at the date of this Order.
8. **Insurance.** Contractor hereby agrees that before commencing any work it will obtain and maintain, and cause its subcontractors, if any, to obtain and maintain, insurance policies with unimpaired limits of coverage of no less than the following:
 - a. Workers' Compensation and Occupational Diseases, including Employer's Liability, subject to a limit no less than \$500,000 or the statutory requirements whichever is greater.
 - b. Comprehensive General Liability Insurance, including products, completed operations, premises and contractual liability endorsements, with limits of at least \$2,000,000 for each occurrence.
 - c. Comprehensive Automobile Liability insurance with limits for bodily injury and property damage combined of \$2,000,000. This coverage shall include insurance for non-owned and hired vehicles.Contractor agrees to insure (or self-insure) all loss or damage to any owned or leased tools, vehicles and equipment. All of the above



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insurance shall be written through a company or companies satisfactory to Owner, shall name the Owner and its affiliated companies as an additional insured (except under Statutory Part I of the Workers' Compensation and Occupational Diseases Insurance). All of the insurance coverage provided by Contractor will be primary to, and not contributing with, any other available insurance coverage of Owner and shall contain a waiver of any rights of subrogation in favor of Owner. Contractor shall provide Owner certificates of insurance and additional insured endorsements prior to commencing any work hereunder evidencing the procurement of the above insurance. The certificates shall be of the type that definitely obligates the insurer to notify the Owner at least thirty (30) days in advance of effective date of any modification and/or cancellation.

- 9. **Indemnification.** To the fullest extent permitted by applicable law, Contractor agrees to defend, indemnify, protect and save harmless Owner from and against any and all liability, losses, damages, costs, claims, lawsuits, whether groundless or not, judgments, settlements and expenses, including without limitation attorneys' fees and court costs ("Claim"), arising from bodily injury or property damage to any persons, whether employed by the Contractor, Owner or others, including death, or damage to any property, whether owned, leased or used by the Contractor, Owner or others, including without limitation, the loss of use thereof, occurring or arising out of or in connection with the delivery and discharge of Materials herein contemplated, whether or not occurring or arising out of or claimed to have occurred or arisen out of the concurrent acts or omissions of the Contractor, Owner, their agents, representatives or employees. This indemnification by Contractor includes either active or passive negligence by the Contractor or its employees, agents or representatives. No indemnification from the Contractor is due to the Owner for the Owner's sole negligence. This indemnification shall be provided even if the Contractor is partially responsible for the said Claim. Contractor's indemnity obligations under this Paragraph are not affected by any insurance required by this Agreement, or any other insurance carried by Contractor.
- 10. **Governing Law and Forum.** This validity, construction and enforcement Order shall be governed by and interpreted under the laws of the state of California, including its applicable Uniform Commercial Code. Unless otherwise indicated by the context, whenever a term used in this Order is defined in the Uniform Commercial Code, the definition contained therein is controlling as to the meaning of the term. The parties hereto agree to submit to the exclusive jurisdiction of the state and federal courts of the state of California. In any litigation involving this Order, the prevailing party shall be entitled to recover its reasonable attorneys' fees, costs and expenses from the non-prevailing party.
- 11. **Assignment.** Assignment of this Order without prior written consent of Owner shall be void.
- 12. **Severability:** If any provision of this Order as applied to any party or to any circumstance shall be adjudged by a Court to be void and unenforceable, the same shall in no way affect any other provision of this Order, the application of such provision in the other circumstances, and the validity or enforceability of the Order as a whole.

Buyer (Applicant): _____

Signature of Authorized Agent of Applicant: _____ Date _____

Print name of person signing: _____ Title _____

Guarantor signature: _____ Date _____

Print name of person signing guaranty: _____