



CREDIT APPLICATION



Please mail the original signed application and the attached Customer Set-Up form to:
P. O. Box 9830, Rancho Santa Fe CA 92067
Phone 858-481-1434

Company Legal Name _____ Phone (____) _____
 Fax (____) _____ Accounting Email Address: _____
 Mailing Address _____ City _____ State _____ Zip _____
 Physical Address _____ City _____ State _____ Zip _____
 Nature of Business _____ () Corporation
 If the firm is a corporation, when was it incorporated? _____ In what State? _____ () Sole
 Proprietorship
 Year established _____ At present business address since _____ () Partnership
 Business License Number _____ Contractor's License Number _____ Class _____
 Are Material's Purchased for Resale? ____ ***If yes, please include a completed Resale Certificate.***
 Has the applicant been subject to a bankruptcy, reorganization, assignment for the benefit of creditors or similar restructure of
 debt within the past 10 years? () Yes () No ***If yes, Please include a letter of explanation.***

Officers: List Officers of the Corporation, Owners or Partners

Name _____ Title _____
 Home Address _____ S. S. # _____
 Name _____ Title _____
 Home Address _____ S. S. # _____
 Name _____ Title _____
 Home Address _____ S. S. # _____

Local Business Credit References – *Primary Suppliers*

Name _____ Phone (____) _____ Fax () _____
 Address _____ Email _____
 Name _____ Phone (____) _____ Fax () _____
 Address _____ Email _____
 Name _____ Phone (____) _____ Fax () _____
 Address _____ Email _____
 Bank _____ Branch _____
 Account _____ Phone (____) _____

WE UNDERSTAND THAT ALL INFORMATION PROVIDED HEREIN IS FOR THE PURPOSE OF OBTAINING CREDIT AND SUCH INFORMATION WILL BE HANDLED IN CONFIDENCE. THE UNDERSIGNED HAS READ AND AGREES TO THE TERMS AND CONDITIONS OF SALE OF THIS CONTRACT SET FORTH ON THE REVERSE SIDE AND FURTHER PERSONALLY GUARANTEES ALL DEBTS INCURRED IN THE NAME OF THE FIRM.

Legal Name of Firm _____
 By: _____
 SIGNATURE – must be an officer or owner of the firm Date _____
 Print Name _____
 Title _____

FOR ACCOUNTING ONLY
 Account # _____
 Credit Limit _____
 Approved by _____

Products and or materials, supplies and equipment (goods) purchased by Buyer shall be sold by Seller subject to the following terms and conditions.

1. **Prices, Payment and Late Charges.** Prices do not include delivery unless otherwise indicated. Delivery charges will be charged to Buyer at Seller's standard rates in effect from time to time. Full payment of the purchase price and other charges is due within 30 days of the date of the invoice. If full payment is not received by such date, Buyer agrees to pay Seller late charges equal to one and one-half percent (1 ½ %) of the amount of such delinquent payment, or any portion thereof, such charges to accrue and be payable on a monthly basis for each and every calendar month for which full payment, together with the accrued late charges, is delinquent. Buyer shall be responsible for the payment of all state and local taxes and all taxes of a similar nature.
2. **Credit Approval.** All orders are subject to approval of Buyer's credit. If Buyer's credit is not approved by the seller prior to delivery of the goods, Buyer agrees to pay Seller cash upon delivery, or to return the goods at Buyer's expense.
3. **Telephone Orders.** If the goods are sold to Buyer as a result of a telephone order or under other circumstances where Buyer is not available to execute this agreement at the time the order is placed, Buyer agrees, in any event, to be bound by these terms and conditions of sale.
4. **Deliveries, Returns and Irrevocability.** Buyer acknowledges that Seller may not have on hand in Seller's open stock all of the items purchased by Buyer and that Seller will be relying on Buyer's agreement to purchase such items as a basis for Seller to enter into binding agreements with others for the delivery of such items in the case of those items which must be special ordered, altered or made for Buyer, the preparation, design and/or manufacture of such items. Because of Seller's reliance, Buyer hereby agrees that Buyer's obligation to purchase the goods shall be unconditional and irrevocable. If Buyer requests delivery inside curb line, Seller shall not be responsible for damages to the premises or improvements thereon, including without limitation curbs, sidewalks, pavement and landscaping. Seller may in its sole discretion accept return of the goods and if such return is approved, store credit will be given. No cash refunds will be issued under any circumstances. If such goods are returned within five (5) days of delivery or customer pick-up and are in the same condition as received, they will be subject to a restocking charge equal to twenty percent (20%) of the purchase price of such goods. Buyer must have prior approval by Seller and must be accompanied with the invoice number of which the material was purchased and must show proof of purchase. If seller has to pickup returned items an additional delivery charge will be applied.
5. **Seller's Right To Substitute.** Seller shall have the right to substitute goods of comparable quality for goods ordered by Buyer which are not currently in Seller's open stock. The obligation of the Seller to sell the goods to the Buyer is subject to seller's inventory on hand in open stock, which items are subject to prior sale, and if Seller is unable to furnish some or all the goods specified, seller hereby reserves the privilege to cancel such items and deduct the price thereof from the balance owed by Buyer.
6. **Delays and Interruptions.** Seller's obligation to sell and deliver the goods to Buyer, labor slowdowns and or work stoppages, availability of materials, adverse weather, availability of transportation, acts of carriers, acts of God and other causes beyond the reasonable control of Seller.
7. **Nonconforming Goods.** Buyer shall notify Seller in writing within twenty-four (24) hours after delivery of any deficiencies or shortages, otherwise all such claims shall be deemed waived by Buyer. The use by Buyer of any goods claimed to be nonconforming or deficient shall constitute acceptance of such items by Buyer. Unless Seller otherwise specifically agrees, Buyer shall have no right to withhold payment of the purchase price or to adjust the amount of the purchase price because of any such claim, the sole remedy of Buyer being the replacement or repair by Seller of nonconforming or deficient items, which remedy shall be in lieu of Buyer's right to consequential damages or any other remedy available under applicable laws, provided, however, that Seller shall have no obligation to replace or repair any such items, if Buyer is in default under this agreement in any respect. Any goods delivered to Buyer but not accepted shall be held and stored by Buyer in a commercially reasonable manner, and Seller shall be given a reasonable amount of time to remove such Property.
8. **Title.** Title to all goods shall be retained by Seller until delivery to the location designated by Buyer or pick-up by Buyer. Title passes to Buyer at curbside upon delivery prior to placement, planting, stocking or spreading. Risk of loss for all goods shall pass to buyer at the time title passes.
9. **Removal of Goods.** Goods delivered to Buyer shall not be removed from the location to which delivered until the full purchase price has been paid, except with the prior written consent of Seller.
10. **Assignment.** No transfer, assignment, pledge, renewal or extension of all or a portion of this agreement, or any loss, injury or destruction of the goods for any cause whatsoever shall release Buyer from Buyer's obligations or operate to pass title to all or any portion of such goods to any third party. Seller shall have the right to assign all or a portion of its rights under this agreement and such assignee shall be entitled to all the rights and remedies of Seller without liability for any right or recoupment, setoff or counterclaim which buyer may have against Seller.
11. **Disclaimer of Warranties.** Any description of the goods in an invoice or purchase order is for the sole purpose of identifying the goods, and any such description is not part of the basis of the bargain, and does not constitute a warranty that the goods shall conform to that description. The use of any sample in connection with this contract is for illustrative purposes only, is not part of the basis of the bargain and is not to be construed as a warranty that the goods will conform to the sample. No agent, representative or employee of Seller has any authority to bind Seller to any affirmation, representation or warranty concerning the goods and no such affirmation, representation or warranty shall be enforceable by Buyer. SELLER MAKES NO WARRANTY, EXPRESS OR IMPLIED, AS TO THE GOODS SOLD. SELLER DOES NOT WARRANT THAT THE GOODS ARE FIT FOR ANY PARTICULAR PURPOSE. The entire risk as to the quality and performance of the goods is with the Buyer. The goods are sold on an as is basis.
12. **Liens and Insurance.** Prior to full payment of the purchase price, Buyer shall not permit any lien, encumbrance or security interest to attach to the goods or to be levied upon the goods under legal process, or dispose of the goods, other than in the ordinary course of business, or permit anything to be done that may impair the value of the goods.
13. **Buyer's Default.** Occurrence of any of the following with respect to Buyer shall constitute an event of default under this agreement: (i) failure to pay when due the balance of the purchase price; (ii) failure to pay when due any costs or expenses necessary to preserve or protect the goods; (iii) failure to perform any covenants or obligation in this agreement; (iv) giving any representation or warranty or furnishing any financial information to Seller that should prove untrue or materially misleading; (v) refusal by Buyer to accept delivery of all or a portion of the goods or Buyer's rejection of all or a portion of the goods upon delivery; (vi) business failure or failure or inability to pay debts in the ordinary course or as they become due, or insolvency within the meaning of the federal bankruptcy laws or state insolvency laws or otherwise; (vii) commission of any act of bankruptcy, assignment for the benefit of creditors or commencement of any proceedings, whether voluntary or involuntary, under any federal or state bankruptcy, reorganization or insolvency laws; or (viii) attachment or garnishment of or levy of execution upon the assets, property, business or income of Buyer or appointment of a receiver or trustee of or for any part of the assets, property or business of Buyer.
14. **Seller's Remedies Upon Buyer's Default.** Upon the occurrence of any event of default, Seller shall have all the rights and remedies available to Seller under the California Uniform Commercial Code or other applicable law and all rights provided in this agreement, all of which rights and remedies shall, to the fullest extent permitted by law, be cumulative. Without limiting the generality of the foregoing, upon the occurrence of any such event of default, Seller shall have the right, either in person or by agent with or without bringing any action or proceeding, or by a receiver to be appointed by a court, to take possession of all or part of goods, to reclaim the goods, to withhold delivery or stop delivery in transit, or otherwise, or to rescind this agreement, to pursue its rights and remedies under applicable mechanic's lien laws, and to take such other action as Seller may deem necessary and appropriate for the protection of its interests. After any such default, Seller may require Buyer to assemble the goods and to make them available to Seller at a place designated by Seller which is reasonably convenient to Seller and Buyer. Seller shall have the right to take immediate possession of the goods and shall have the right to take such action as may be required to enforce Buyer's obligations to Seller, including the retention of the goods without accounting to Buyer, sale of the goods at public or private sale upon reasonable notice to Buyer of Seller's intent to resell, such sale to include, at the option of Seller, all goods reclaimed by Seller, goods not yet delivered to Seller, goods then in process of being grown, altered, manufactured or reconstructed, and goods the preparation, alteration, manufacture or construction of which had not yet begun at the time of Buyer's default. Alternatively, Seller may resell for scrap or salvage all goods in the process of being grown, altered, manufactured or constructed at the time of Buyer's default. Seller shall not be accountable to Buyer for any proceeds received by Seller as a result of such private or public sale, but Seller shall have the right to recover from Buyer the difference between such resale price and Buyer's purchase price of the goods, together with all expenses of sale, including, without limitation, transportation, removal, storage, repair, maintenance, sales commission and such other expenses as may be allowed under the California Uniform Commercial Code and other applicable laws, less any expenses actually saved by Seller in consequence of Buyer's default. Seller shall have the right to purchase the goods at any such private or public sale.
15. **Attorneys' Fees.** Buyer agrees to pay Seller all attorneys' fees and costs and expenses of enforcement of this agreement, including without limitation, service of process fees, filing fees, court and court reporter costs, investigative costs, expert witness fees, appraisal fees, receiver's fees, keeper fees and the costs of any bonds, whether otherwise taxable or not, incurred by Seller: (i) in any action or proceeding pertaining to this agreement and the rights and obligations of the parties; (ii) in enforcing Seller's rights and the pursuit of Seller's rights and remedies under the California Uniform Commercial Code, or mechanic's lien laws, or any other applicable law, whether such enforcement proceeding be by way of claim and delivery, attachment, non judicial or judicial sale and foreclosure, or any other proceeding for all or any portion of the amounts payable under this agreement; (iii) in obtaining a judgment against Buyer for all or any portion of the amounts payable under this agreement; (iv) in enforcing any judgment which may be obtained in such proceeding, including without limitation the judicial sale of underlying real property under the mechanic's lien laws.
16. **Time and Waiver.** Time is of the essence under this agreement. The waiver of any default shall not be a waiver of any subsequent default. Seller's acceptance of partial or delinquent payments or Seller's failure to exercise any rights it may have shall not waive any obligation of Buyer or any rights of the Seller or otherwise modify this agreement, or waive any other similar matter.
17. **Notice.** Any notices or communications to be given in this agreement shall be deemed given on the date of delivery if personally delivered or seventy-two (72) hours after mailing, if mailed to the party to whom notice is to be given by first-class, registered or certified mail, postage prepaid, at the address set forth in this agreement, or to such other address as may be provided in writing by such party.
18. **Successors and Assigns.** All rights of Seller shall inure to the benefit of its successors and assigns. All obligations of Buyer shall bind Buyer's heirs, beneficiaries, legal representatives, successors, and assigns.
19. **Governing Law and Severability.** This agreement is entered into at San Diego, California and shall be governed by and construed in accordance with the laws of the State of California. If any provision of this agreement is invalid or contravenes any applicable law, such provision shall be deemed not to be a part of this agreement and shall not affect the validity or enforcement of the remaining provisions. All legal proceedings concerning disputes arising out of or in connection with this agreement or purchase of the goods, shall be commenced only in the State of California, San Diego Judicial District.



CUSTOMER SET UP FORM

Company Name: _____

Email address to send invoices to: _____

Do you require purchase order numbers on all invoices? _____ Yes _____ No

Contact information for payment status

Name: _____ Title: _____

Phone #: _____ Email Address: _____

Contact information for Preliminary Notices and Releases

Name: _____ Title: _____

Phone #: _____ Email Address: _____

Contact information for Authorized Users

Name: _____ Title: _____

Phone #: _____ Email Address: _____

Authorized users for your account – Must be an officer or employee of the company.

_____	_____
_____	_____
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To make changes to your account, please contact our accounting department at ar@evergreennursery.com