

Grindstone Quarry



BUSINESS CREDIT APPLICATION				BUSINESS START DATE				ESTIMATED MONTHLY PURCHASES			
Kiewit Mining Group											
LEGAL COMPANY NAME				TRADE NAME / DBA				FEDERAL ID# (Please also attach completed W9)			
PHYSICAL ADDRESS						BILLING ADDRESS					
CITY	COUNTY	STATE	ZIP CODE	CITY	STATE	ZIP CODE					
TELEPHONE NUMBER		FAX NUMBER		CELL NUMBER		ADDITIONAL INFORMATION					
A/P CONTACT NAME		A/P CONTACT TELEPHONE NUMBER				A/P EMAIL ADDRESS					
E-MAIL ADDRESS TO RECEIVE ELECTRONIC INVOICING – Use A/P e-mail address above (See paragraph 14 of the General Terms and Conditions of Sale.)											
BUSINESS STRUCTURE: SOLE PROPRIETOR CORPORATION (select one)				PARTNERSHIP		JOINT VENTURE		LIMITED LIABILITY COMPANY (LLC)			
LIMITED LIABILITY PARTNERSHIP (LLP) PRIME CONTRACTOR				SUBCONTRACTOR		SUB/ SUB CONTRACTOR		DISTRIBUTOR OTHER			
TAX STATUS		EXEMPTION / RESALE NUMBER		IF PURCHASES ARE EXEMPT FROM SALES TAX - A SIGNED EXEMPTION OR RESALE CERTIFICATE <u>MUST BE ATTACHED.</u>							
PURCHASE ORDERS REQUIRED?		CONTRACTOR'S LICENSE NUMBER (LOCATION SPECIFIC)				LIST ANY SPECIFIC PURCHASE REQUIREMENTS					
OWNER OR OFFICER						TITLE					
OWNER OR OFFICER						TITLE					
GUARANTORS											
GUARANTOR			SOCIAL SECURITY NUMBER			GUARANTOR			SOCIAL SECURITY NUMBER		
HOME ADDRESS			TELEPHONE NUMBER			HOME ADDRESS			TELEPHONE NUMBER		
CITY	STATE	ZIP CODE	CITY	STATE	ZIP CODE						
TRADE REFERENCE / BANK & BOND INFORMATION											
SUPPLIER TRADE REFERENCE COMPANY NAME			TELEPHONE NUMBER			FAX NUMBER			ACCOUNT NUMBER AND/OR CONTACT PERSON		
SUPPLIER TRADE REFERENCE COMPANY NAME			TELEPHONE NUMBER			FAX NUMBER			ACCOUNT NUMBER AND/OR CONTACT PERSON		
BONDING COMPANY NAME(S) (IF MULTIPLE ATTACH LIST)			POLICY NUMBER		AGENT NAME		TELEPHONE NUMBER		FAX NUMBER		
IF YOUR COMPANY OR A CONTRACTED HAULER WILL BE PICKING UP PRODUCT AT OUR FACILITY, A CERTIFICATE OF INSURANCE IS REQUIRED											
<p>Purchaser certifies that it is solvent and capable of meeting its obligations hereunder, and that all information provided to Seller (including Purchaser's attached financial statement) is true, accurate and complete. All such information has been submitted for the purpose of obtaining credit. Purchaser and each guarantor authorize Kiewit Mining Group and/or any subsidiary or affiliate ("Seller") to request credit reports from credit bureaus (including consumer reporting agencies) regarding their respective commercial or personal credit and otherwise to investigate their respective creditworthiness before extending credit now or at any time in the future. Purchaser also agrees to comply with all applicable bulk sales laws. Purchaser agrees that it has received, reviewed and is in agreement with the Terms and Conditions of Sale, reverse side (or page 2) of the Credit Application and Personal Guaranty.</p>											
Authorized Signature _____				Printed Name _____				Date _____			

PERSONAL GUARANTY											
<p>To induce the extension of credit to Purchaser, Guarantor (jointly and severally, if more than one) hereby guarantees payment of all existing and future indebtedness of Purchaser to Seller, including any cost, expenses, and reasonable attorneys' fees payable as a consequence of Seller's collection efforts. This personal guaranty is absolute, complete, irrevocable and continuing and it shall not be necessary for Seller to give notice to Guarantor of any extension of credit to Purchaser, any renewal thereof, any modification of the terms thereof, of Seller's arrangements with any other Guarantor. Guarantor may by written notice, sent via certified or registered mail, to Seller at its Corporate Headquarters as described above (Attn: Credit Dept.) terminate its guarantee as to any new extensions of credit to Purchaser made more than ten days after such written notice, but Guarantor shall continue to be obligated in respect of any credit extended within ten days after Seller's receipt of such notice and any credit Seller remains obligated to extend Purchaser at the close of business on the tenth day following Seller's receipt of such notice. Guarantor agrees to provide personal information as reasonably requested by Seller.</p>											
Signature _____				Printed Name _____				Date _____			
Signature, Printed Name, Date. (Spouse's signature is required in the following states AZ, CA, ID, LA, NM, NV, TX & WA) SEE GENERAL TERMS AND CONDITIONS OF SALE ON REVERSE SIDE OR PAGE 2											

GENERAL TERMS AND CONDITIONS OF SALE

1. All references in this document to "Seller" shall include Kiewit Mining Group, (including any division of the foregoing) performing any or all of the scope hereunder, whether or not specifically identified herein. Applicant (hereinafter "Purchaser") further agrees that the following terms and conditions will apply to all sales of goods or services by Seller to Purchaser ("Sales").
2. All matters between Seller and Purchaser, including venue, will be governed by the laws of the state in which the delivery of goods or services by Seller to Purchaser is to occur. All indebtedness due is payable at Seller's office identified in the invoice or billing for such payment, unless and until Seller designates a different place of payment. Invoices shall be deemed correct unless contested in writing within seven (7) business days of receipt.
3. Purchaser agrees that any terms and conditions appearing on any document submitted by Purchaser which are in conflict with (i) the terms and conditions contained herein, (ii) any quotation submitted by Seller, or (iii) any sales contract between Seller and Purchaser shall be hereby expressly rejected and shall not constitute terms of any sale of goods or services by Seller. The foregoing shall apply to all documents heretofore or hereafter submitted by Purchaser, whether executed by Seller or not.
4. Prices in quotations made by Seller are subject to change without notice, and all quotations expire and become invalid if not accepted within 30 days from the date of issue, unless otherwise noted by Seller in writing. Price extensions when made are for Purchaser's convenience only, and they, as well as any mathematical, stenographic or clerical errors, are not binding on Seller. Prices shown may not include any sales, excise, or other governmental tax or charge payable by Seller to Federal, State or local authority. Any taxes now or hereafter imposed upon sales of shipments will be added to the purchase price. Purchaser agrees to reimburse Seller for any such tax or to provide Seller with an acceptable and authorized tax exemption certificate.
5. Any order for goods or services by Purchaser shall constitute a representation that Purchaser is solvent. In addition to Seller's right under the Uniform Commercial Code, if in the judgment of Seller, the financial condition of the Purchaser at the time of shipment does not justify the terms of payment specified, Seller reserves the right to require from Purchaser full or partial cash payment or other adequate assurance of performance before shipment. Seller reserves the right to suspend its performance until such payment or adequate assurance of performance has been received. Purchaser agrees that all funds owed to Purchaser from anyone or received by Purchaser to the extent those funds result from the materials supplied by Seller shall be held in trust for the benefit of Seller (the Trust Funds). Purchaser agrees it has no interest in the Trust Funds held by anyone and to promptly account for and pay to Seller all such Trust Funds. Seller maintains the right to periodically review and adapt payment terms as necessary and to curtail, modify or eliminate any credit availability or credit limit within its sole discretion.
6. Purchaser agrees to pay Seller all costs and expenses of collection, suit, or other legal action, including all actual attorneys' and paralegal fees, incurred through trial, on appeal, or in any administrative proceedings brought as a result of the commercial relationship between them. Any cause of action which Seller may have against Purchaser may be assigned by Seller. Unless otherwise stated on the invoice or other writing from Seller, payment terms are Net 30 EOM. Payment is due in the form of cash, cash equivalent, check, or money order. Seller may apply Purchaser's payment against any open charges within Seller's sole discretion. On past due accounts Seller may impose a monthly finance charge to the higher of one and one half percent per month or the maximum interest charge permitted to be charged by the law governing the account between Purchaser and Seller. The finance charge stated herein shall continue to accrue after Seller obtains a judgment against Purchaser. The Seller has the right to exercise setoff or recoupment when needed to satisfy an outstanding debt. All agreements between Seller and Purchaser (and any affiliate or subsidiary or Purchaser) shall be considered as one single integrated agreement between Seller and Purchaser.
7. Purchaser agrees to pay reasonable storage fees if materials are stored on Seller's yard more than sixty (60) days after Seller is ready for delivery.
8. Seller will not be responsible for delays in production or delivery for any reason resulting from fire, flood, force majeure, strikes, lockouts, difference with workers, accidents, war, insurrection, delays in transportation, equipment failure, shortage of cars, trucks, fuel or materials, governmental interference or regulation, acts of God or for any other reason beyond the Seller's reasonable control. Seller reserves the right to adjust prices due to delays, shortage, or increased costs of materials or transportation.
- 9. THE FOLLOWING IS IN LIEU OF ALL WARRANTIES, EXPRESS, IMPLIED, OR STATUTORY, INCLUDING BUT NOT LIMITED TO ANY EXPRESS OR IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE AND OF ANY OTHER OBLIGATION ON THE PART OF THE SELLER.** Seller warrants that at the time of delivery, the quality of materials and workmanship of Seller's goods or services will conform to the requirements of the specifications set forth in the applicable sales contract(s), quotation, or to Seller's standard manufacturing practice. If the goods or services furnished by Seller fail to conform, at time of delivery, to Seller's warranty, Seller's sole and exclusive liability will be to repair or replace (at Seller's discretion), f.o.b. Seller's plant with full freight allowed to the jobsite, or upon mutual agreement to credit Purchaser's account. If repair or replacement is made, Seller will have a reasonable time to make such repair or replacement. Notice of defective goods or services must be given to Seller immediately upon discovery of the defect, notwithstanding the foregoing, final notice of any defect must be given within thirty (30) days from the date of delivery of such goods or services. Seller's liability, whether under contract, in tort or otherwise shall not in any event exceed the price of the goods or services or portion of such goods or services on which such liability is based, and Purchaser waives any claim for amount in excess of that amount. **IN NO EVENT SHALL SELLER BE LIABLE FOR INDIRECT, SPECIAL, INCIDENTAL, OR CONSEQUENTIAL DAMAGES, LOSSES OR EXPENSES DIRECTLY OR INDIRECTLY ARISING FROM THE SALE, HANDLING OR USE OF THE GOODS OR SERVICES OR FROM ANY OTHER CAUSE OR BREACH INCLUDING, BUT NOT LIMITED TO BREACH OF WARRANTY OR NEGLIGENCE.**
10. No legal action shall be brought by the Purchaser against the Seller for any claim with respect to any goods or services sold by Seller to Purchaser more than one (1) year after delivery of such goods or services to the Purchaser. It is agreed that any cause of action with respect to such goods or services will accrue on the date of delivery of such goods or services. If any provision hereof is held by any court of competent jurisdiction to be illegal, void, or unenforceable, such provision will be of no force and effect, but the legality or unenforceability will have no effect upon and will not impair the enforceability of any other provision of this document.
11. A counterpart of this document delivered by facsimile or electronic transmission shall be deemed an original document and be valid for all purposes. If Seller electronically stores this document in the manner known as "scanning", a reproduction from the scanned document shall be considered to be an original counterpart and shall be enforceable. The Electronic Signatures in Global and National Commerce Act (P.L. No. 106-229) or the Uniform Electronic Transactions Act (or its equivalent in Illinois, New York and Washington) apply to this document and to all Sales. Electronic and digital signatures may be used by either party.
12. Purchaser and Seller represent and agree that there are no third party beneficiaries to this document and that Purchaser and Seller are the sole intended beneficiaries of this document and all Sales.
13. When applicable, the terms of Executive Order 11246 and 41C.F.R. Part 60-1 shall apply to this document and to all Sales.
14. As a standard practice, Seller offers electronic invoicing to its customers. Purchaser must contact Seller if Purchaser does not wish to receive electronic invoicing.