



ZFS Ithaca, LLC

CONFIDENTIAL CREDIT APPLICATION

Please complete all sections online or print and return to:

ZFS Ithaca, LLC.
P.O. Box 290, Zeeland, MI 49464
800.748.0595 • 616.772.9042 • Fax: 616.522.5924

Customer Information

Please check one: Corporation [ ] Limited Liability Corp. [ ] Partnership [ ] Sole Proprietor [ ]

Individual, corporate, farm or business name \_\_\_\_\_

Address \_\_\_\_\_

Billing address, if different \_\_\_\_\_

Years at current address \_\_\_\_\_

Phone ( ) \_\_\_\_\_ Fax ( ) \_\_\_\_\_

Email \_\_\_\_\_ Federal ID # \_\_\_\_\_

Desired line of credit \_\_\_\_\_ Please note: If desired line of credit exceeds \$50,000, a financial statement will be required

For individual and partnership farm accounts
Date of birth \_\_\_\_\_
Soc. Security # \_\_\_\_\_
Driver's license # \_\_\_\_\_
State of license # \_\_\_\_\_

Full names of officers, partners or proprietor(s)

Table with 4 columns: Name, Title, Address, City/State/Zip

Bank references

Bank name \_\_\_\_\_ Checking acct # \_\_\_\_\_
Address \_\_\_\_\_ Savings acct # \_\_\_\_\_
City \_\_\_\_\_ Contact \_\_\_\_\_
State & Zip code \_\_\_\_\_ Phone ( ) \_\_\_\_\_ Ext. \_\_\_\_\_

Trade references

Company name \_\_\_\_\_ Address \_\_\_\_\_ City/State/Zip \_\_\_\_\_ Phone \_\_\_\_\_ Fax \_\_\_\_\_
Company name \_\_\_\_\_ Address \_\_\_\_\_ City/State/Zip \_\_\_\_\_ Phone \_\_\_\_\_ Fax \_\_\_\_\_
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Company name \_\_\_\_\_ Address \_\_\_\_\_ City/State/Zip \_\_\_\_\_ Phone \_\_\_\_\_ Fax \_\_\_\_\_

**SALES OR USE TAX EXEMPTION**

Applicant certifies that the purchase of products by Applicant from ZFS Ithaca, LLC. is exempt from sales and use taxes. Applicant certifies that Applicant holds a valid tax permit/exemption certificate number \_\_\_\_\_ issued by the State of \_\_\_\_\_ under the applicable sales and use tax laws. Applicant understands that if for any reasons the purchased items are subject to a sales or use tax, Applicant shall report and pay tax on the purchase amount.

\_\_\_\_\_  
Date

Signed: \_\_\_\_\_  
Print Name: \_\_\_\_\_  
Title: \_\_\_\_\_

**SECURITY AGREEMENT**

Applicant grants to ZFS Ithaca, LLC a continuing security interest in all accounts, chattel paper (both tangible and electronic), goods, inventory, equipment, fixtures, payment intangibles, general intangibles, software, instruments, letters of credit, letter of credit rights, money, documents, deposit accounts, investment property, commodity contracts, commodity accounts, farm products, timber to be cut, oil, gas and other minerals prior to extraction, as-extracted collateral, vehicles, manufactured homes and supporting obligations, and all products and proceeds thereof, whether now owned or hereafter acquired, together with all proceeds of such property, to secure payment and performance of all obligations and indebtedness of Applicant now and in the future owing to ZFS Ithaca, LLC Applicant authorizes the filing of a financing statement evidencing this security interest. Applicant shall reimburse ZFS Ithaca, LLC on demand for all attorney fees and other expenses that ZFS Ithaca, LLC incurs in protecting and enforcing its rights under this security agreement. Terms used in the preceding collateral description shall have the respective meanings accorded such terms in the Uniform Commercial Code as in force in the state of Michigan from time to time hereafter.

\_\_\_\_\_  
Date

Signed: \_\_\_\_\_  
Print Name: \_\_\_\_\_  
Title: \_\_\_\_\_

**PERSONAL GUARANTEE**

***The undersigned personally guarantees prompt payment when due of the Applicant's account and all other present and future indebtedness owing by Applicant to ZFS Ithaca, LLC If there is more than one guarantor, this guaranty is joint and several.*** It is understood that credit would not be extended to the Applicant without this guarantee of payment.

\_\_\_\_\_  
Date

Signed: \_\_\_\_\_  
Print Name: \_\_\_\_\_  
(DO NOT INCLUDE TITLE WITH THIS SIGNATURE)

\_\_\_\_\_  
Date

Signed: \_\_\_\_\_  
Print Name: \_\_\_\_\_  
(DO NOT INCLUDE TITLE WITH THIS SIGNATURE)

Applicant represents and warrants that the information set forth in this credit application (including any attachments such as financial statements) is true, accurate, and complete in all respects. In support of this credit application, ZFS Ithaca, LLC is authorized to obtain credit and/or financial information from banks, other financial institutions or commercial firms with whom Applicant has done business. **Except to the extent set forth on any written contract generated and provided by ZFS Ithaca, LLC to Applicant. Applicant agrees that the Terms of Sale included with this credit application will apply to all purchases made by Applicant from ZFS Ithaca, LLC, whether on credit, by cash on delivery, or by any other method, and that the Terms of Sale will apply regardless of any different or additional terms on any purchase order or other form that Applicant might send.**

A copy of this credit application shall be deemed the equivalent of the original and may be used as such.

Applicant makes this credit application as of the date specified below. This credit application is subject to review and written approval by ZFS Ithaca, LLC.

\_\_\_\_\_  
Applicant's signature and title

\_\_\_\_\_  
Date

\_\_\_\_\_  
Applicant's signature and title

\_\_\_\_\_  
Date

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**PLEASE DO NOT WRITE BELOW THIS LINE**

References checked by: \_\_\_\_\_

Credit approved by: \_\_\_\_\_

Reference results: \_\_\_\_\_

Credit amount approved: \_\_\_\_\_

\_\_\_\_\_

Credit refused by: \_\_\_\_\_

\_\_\_\_\_

Date of final credit review: \_\_\_\_\_

# TERMS OF SALE

**BETWEEN:** \_\_\_\_\_ **AND:** ZFS Ithaca, LLC  
Hereafter named "**Customer**" Hereafter named "**ZFS**"



The Customer is applying for a credit account (the "Account"). If this application is accepted by ZFS, the Account and all sales shall be subject to the following terms and conditions:

## 1. AMOUNTS CHARGED TO ACCOUNT.

- (i) All purchases made from ZFS by the Customer on credit, and all interests and costs payable by the Customer with respect to such purchases, may be charged to the Account according to the amount and the due date appearing on the invoice relating to such purchases (the "**Invoice**").
- (ii) For the purposes of these Terms of Sale, all purchases not paid for on a cash on delivery basis shall be deemed to be credit purchases subject to the terms of these Terms of Sale.

## 2. PAYMENT TERMS.

- (i) Each Invoice must be paid by the Customer to ZFS in United States currency by the due date appearing on the Invoice, or if no due date is specified then within thirty (30) days from the date of the Invoice. If at any time ZFS determines that Customer's financial condition or credit rating does not justify a sale on credit or if Customer is at any time in default in payment of any indebtedness or performance of any obligation that Customer owes to ZFS, then ZFS may in addition to any other remedies provided in these Terms of Sale require advance payment or may ship C.O.D.
- (ii) Any Invoice which remains unpaid by the Customer at the due date will be considered delinquent and interest will be added to the delinquent amount in the Account until the total amount of the Invoice, including but not limited to interest, is paid in full. Interest will be calculated at one and a half percent (1.5%) per month, eighteen percent (18%) per year, on the unpaid principal balance of the Account, unless such interest rate shall exceed the maximum rate allowed by law, in which case the interest rate shall be the maximum rate allowed by law.
- (iii) In the event the Customer is in default in payment of an Invoice by its due date, ZFS may terminate or amend these Terms of Sale or the terms of any Invoice and demand immediate payment of all amounts owing to ZFS by Customer.
- (iv) In the event the Customer becomes insolvent, if a petition in bankruptcy is filed by or against the Customer, if a seizure or levy is made against the Customer's assets, if any type of receiver is appointed for the Customer's assets, or if in ZFS's reasonable opinion it is possible that the Customer is not or will not be able to discharge the Customer's duties or the Customer's obligations to ZFS, ZFS may, without prejudice to its other rights and remedies, without notice, cancel all pending orders and declare the Account due in full and immediately payable.
- (v) All judicial and extra judicial fees, charges and disbursements, including but not limited to attorney and other professional fees, along with any administrative cost and disbursement incurred by ZFS to recover amounts due by the Customer, will be charged to the Customer and added to the Account.
- (vi) In the event one of the Customer's payments is refused by any financial institution for any reason, ZFS may exercise any of the rights provided for in this Section 2 and may, in addition, charge a fee of up to fifty and 00/100 dollars (\$50.00) to the Account for each payment so refused.
- (vii) Payment shall be mailed to ZFS at P.O. Box 290, Zeeland, Michigan 49464.

## 3. FINANCIAL INFORMATION.

Customer authorizes ZFS to obtain credit and financial information concerning Customer at any time and from any source, including but not limited to financial institutions, trade credit references and credit reporting agencies. Customer consents to ZFS's use of such information in connection with any decision to extend or terminate credit to Customer. At ZFS's request, Customer shall provide financial statements and such other financial or other pertinent information of the Customer, in order to allow ZFS to evaluate Customer's financial condition or any other matter related to Customer's business. Customer agrees to release and hold harmless ZFS from, and indemnify ZFS for, any claims or liabilities in connection with such credit, financial and other pertinent information.

## 4. AGREEMENT.

If Customer has not otherwise agreed to these Terms of Sale, then Customer's acceptance of delivery of, or payment for, the goods sold to Customer (the "**goods**") or the services supplied to Customer (the "**services**") shall constitute Customer's agreement to these Terms of Sale. ZFS objects to and will not agree to any terms that are additional to or different from these terms. Terms that are printed on or contained in a purchase order or other form prepared by Customer, and any terms specified by the Customer in a different way (whether spoken, typed, hand written or printed) that changes, modifies, enhances, differs or adds to these Terms of Sale, which are additional to, in conflict with or inconsistent with these Terms of Sale shall be considered inapplicable and shall have no force or effect.

## 5. OFFSET.

Customer may not offset or recoup any claim against amounts due ZFS.

## 6. TAXES.

ZFS's price does not include any privilege, occupation, personal property, value-added, sales, excise, use or other taxes, and Customer shall be liable for all such taxes, whether or not ZFS invoices Customer for them.

## 7. UNAVOIDABLE DELAY.

If ZFS is not able to deliver the goods to Customer, or to perform the services, on time because of anything ZFS cannot control (such as casualty, labor trouble, accidents, unavailability of supplies or transportation), then the estimated delivery or performance time shall be extended accordingly, and ZFS shall not be liable to Customer for any damages caused by the delay.

## 8. LIMITED WARRANTY; REMEDIES.

(i) **Goods.** ZFS warrants to Customer that any goods sold by ZFS will be free from defects in material or workmanship under normal and intended use and service for a period of one (1) year from the date of delivery of the goods, except that the goods shall not be defective to the extent that they are damaged due to the method or length of time of storage by Customer, or to any alleged defect that results from damage, physical abuse, vandalism, misuse, alterations, modifications or additions made without ZFS's prior consent, exposure to water or corrosive liquids or other substances, exposure to excessive cold or heat, or use other than intended by ZFS. In the event of a defect in any goods constituting a breach of this warranty, ZFS will at its option either (a) replace such goods free of charge, or (b) in lieu of replacement, refund to Customer the original purchase price less the reasonable value of Customer's use of the goods. ZFS shall furnish to Customer instructions for the disposition of the defective goods. ZFS shall have the option of requiring the return of the defective goods, transportation prepaid, and proof that the goods were not used, altered or subject to misuse or abuse to establish the claim. No goods shall be returned to ZFS without its prior consent. The acceptance of any goods returned to ZFS shall not be deemed an admission that the goods are defective or in breach of any warranty, and if ZFS determines that the goods are not defective they may be returned to Customer at Customer's expense. This paragraph sets forth Customer's sole and exclusive remedies for any defect in the goods. The rights and obligation under this warranty may not be assigned or delegated to a third party by Customer without the prior written permission of ZFS. Neither Customer nor any other person may modify or expand this warranty, waive any of the limitations, or make any different or additional warranties with respect to the goods. Any statements to the contrary are rendered null and void unless expressly agreed to in writing by an authorized officer of ZFS.

(ii) **Services.** If a service provided by ZFS to Customer proves to be defective (as defined below) within one (1) year after ZFS performs the service, then ZFS shall, at its option, either re-perform the service, at ZFS's expense, or refund to Customer the price that Customer paid to ZFS for that part of the service that was defective. A service shall be considered defective if it is found by ZFS to have failed to meet the standards in ZFS's industry and if that failure materially impairs the value of the service to Customer, except that if Customer shall have approved or furnished to ZFS specifications for the service, then the service shall not be considered defective to the extent it conforms to the specifications. This paragraph sets forth Customer's sole and exclusive remedy for any defect in the service.

**9. WARRANTY LIMITATIONS. EXCEPT AS STATED IN SECTION 8, ZFS DOES NOT MAKE ANY WARRANTY AS TO THE GOODS OR SERVICES AND, IN PARTICULAR, DOES NOT MAKE ANY WARRANTY OF MERCHANTABILITY OR FITNESS FOR ANY PARTICULAR PURPOSE.**

Customer is solely responsible for determining the proper application and use of the goods and services. ZFS shall not have any tort liability to Customer with respect to any of the goods or services and shall not be liable for consequential, incidental, special, exemplary, indirect or punitive damages that arise from any product defect, delay, non-delivery, recall or other breach, including but not limited to such damages arising out of personal injury, death, property damage, lost profits or other economic injury. ZFS shall not be liable to Customer or any other person in tort for the omission of any warning, or for the negligent performance of the services. Neither Customer nor any other person may modify or expand this warranty, waive any of the limitations, or make any different or additional warranties with respect to the goods or services. No statement to the contrary shall bind ZFS unless made in a writing signed by an authorized officer of ZFS. Customer shall not have any right of rejection or of revocation of acceptance of the goods or services.

**10. SOLVENCY AND SECURITY INTEREST.**

Customer represents that Customer is solvent. Customer grants to ZFS a security interest in and the right of repossession of the goods, including but not limited to a purchase money security interest, until full and final payment for the goods and services (including but not limited to notes and collection costs) has been made. In the event of default in any payment due from or in the performance of any obligation of Customer to ZFS, the Account shall be due and payable in full on demand by ZFS, and ZFS may at ZFS's option either (i) recover the full amount unpaid and repossess the goods and all additions to them, wherever found, free from all claims whatsoever; or (ii) treat the contract between ZFS and Customer as void and retain all payments made. ZFS shall not be liable to Customer nor shall ZFS be subject to any legal proceedings, criminal or civil, for ZFS's acts in such repossession. ZFS shall not be liable to Customer for the repayment of any money paid as part payment for the goods. Customer agrees to execute any necessary instruments to perfect ZFS's security interest in the goods and ZFS shall have the benefit of the applicable Uniform Commercial Code and the remedies thereunder. Pursuit of any right reserved by ZFS or granted by law shall not preclude or waive the pursuit of any other such right.

**11. INSECURITY AND ADEQUATE ASSURANCE.**

If ZFS ever believes in good faith that it has grounds for insecurity as to Customer's performance under these Terms of Sale or any Invoice, then Customer shall provide adequate assurance of due performance within ten (10) days after ZFS demands the assurance, which shall be considered to be a reasonable time. Customer's failure to do so shall be considered to be a default by Customer of these Terms of Sale and of all other then-existing contracts that provide for Customer to purchase goods and/or services from ZFS. Grounds for insecurity include, without limitation, (i) Customer's failure to make a payment to ZFS or to perform another obligation to ZFS, (ii) Customer's insolvency, the filing by or against Customer of a petition in bankruptcy, the seizure or levy against the Customer's property, or the appointment of a receiver for the Customer's property, (iii) a deterioration in Customer's financial condition or if in ZFS's reasonable opinion it is possible that the Customer is not or will not be able to timely make payments due to ZFS or perform the Customer's obligations to ZFS, and (iv) Customer's failure to provide financial statements and other financial information to ZFS promptly upon ZFS's request. Adequate assurance of due performance includes, without limitation, providing a security interest, lien, guaranty, letter of credit or other security in form and substance satisfactory to ZFS for all obligations of Customer that then exist or that will arise in the future to ZFS. The remedies under this Section 11 are without prejudice to any other rights and remedies of ZFS. If the Customer neglects to meet the requirements of this Section 11 without delay, ZFS reserves the right to, without notice, cancel all pending orders and declare the Account due in full and immediately payable.

**12. QUANTITIES.**

Any claim by Customer that ZFS failed to deliver the agreed-upon quantity of goods must be submitted to ZFS in writing within fifteen (15) days after Customer receives the goods. If Customer fails to do so, then it shall be conclusively presumed that the proper quantity was delivered.

**13. CANCELLATION.**

Customer does not have any right to cancel its agreement to buy the goods or services from ZFS. If, however, ZFS agrees in writing to permit cancellation, then Customer shall immediately pay to ZFS a cancellation charge in an amount equal to the purchase price less allowances (in amounts that ZFS determines) for (i) the realizable value to ZFS of any goods that ZFS purchased or ordered before cancellation, (ii) the realizable scrap value to ZFS of the remaining goods that ZFS purchased or ordered before cancellation and (iii) any direct labor costs that ZFS saved by reason of the cancellation. If Customer fails to pay any indebtedness or perform any obligation that Customer at any time owes to ZFS, then ZFS may consider Customer's failure to be an anticipatory repudiation of any or all outstanding contracts that provide for ZFS to sell goods or services to Customer, and ZFS may, without liability to Customer, cancel any or all of those outstanding contracts.

**14. INDEMNITY.**

Customer shall indemnify and hold harmless ZFS with respect to all damages, losses, claims and expenses, including consequential and incidental damages and attorney fees that ZFS incurs as a result of Customer's breach of any of Customer's obligations under these Terms of Sale.

**15. ZFS' RIGHTS.**

ZFS has all rights and remedies that applicable law gives to ZFS. ZFS's rights and remedies are cumulative, and ZFS may exercise them from time to time. ZFS' waiver of any right on one occasion shall not be a waiver of any future exercise of that right.

**16. TIME FOR BRINGING ACTION.**

Any action that Customer brings against ZFS for breach of these Terms of Sale or for any other claim that arises out of or relates to the goods or their sale or delivery or the services must be brought within one (1) year after the cause of action accrues.

**17. GOVERNING LAW AND LANGUAGE.**

This credit agreement shall be considered to have been made in the State of Michigan, and it shall be governed by and interpreted according to Michigan law, excluding the United Nations Convention on Contracts for the International Sale of Goods. Either party may bring any action that arises out of or relates to these Terms of Sale in any federal or state court in Ottawa County, Michigan that has jurisdiction of the subject matter, and Customer irrevocably consents that any such court shall have personal jurisdiction over Customer and waives any objection that the court is an inconvenient forum.

**18. COMPLETE AGREEMENT; AMENDMENT.**

The terms on ZFS's Invoice and acknowledgment and these Terms of Sale contain the entire agreement between Customer and ZFS and supersede all prior understandings and communications, oral or written, between the parties. Any change in the terms must be by a writing signed by an authorized officer of ZFS. From time to time and at any time, ZFS may amend or revise the terms of these Terms of Sale, and may increase, decrease or terminate any credit availability to Customer in ZFS's sole discretion, provided that any such amendment or revision shall be presented to Customer in writing prior to implementation.

**19. ASSIGNMENT.**

These Terms of Sale shall be binding upon and inure to the benefit of the parties and their successors and assigns, except that Customer may not assign or transfer all or any part of Customer's rights or obligations without the express prior written consent of ZFS. ZFS may at any time assign or otherwise transfer all or any part of its interest under these Terms of Sale, and, to the extent of such assignment, any such assignee shall have the same rights or benefits against Customer, as if such assignee was ZFS.

**20. COMMERCIAL CREDIT.**

Customer represents and warrants to ZFS that Customer will use the credit requested for business and commercial purposes only and not for personal, family or household purposes. Customer understands that ZFS is relying on this representation and warranty and would not otherwise extend credit to Customer.

**21. NOTICES.**

All written notices to be given pursuant to these Terms of Sale may be sent by hand delivery, facsimile, e-mail or text, or may be mailed by first class mail, postage prepaid, upon the parties at the addresses listed on page 1 of these Terms of Sale, or by any other means of communication that may be available now or in the future.