

NICHOLAS & COMPANY

Foodservice First



Confidential Account Agreement



P.O. Box 45005 • Salt Lake City, Utah 84145-0005

Corporate Headquarters

5520 West Harold Gatty Drive • Salt Lake City, Utah 84116

Business (801) 531-1100 • Watts (800) 873-3663 • Credit Dept. Fax (801) 530-5127

www.nicholasandco.com



NICHOLAS & COMPANY

OPEN ACCOUNT APPLICATION FORM

BILL TO:

LEGAL NAME OF BUSINESS: _____

TRADE NAME (DOING BUSINESS AS): _____

MAILING ADDRESS: _____

CITY: _____ STATE: _____ ZIP: _____

TELEPHONE: _____

FEDERAL ID#: _____ SALES TAX EXEMPT NO.: _____

SHIP TO:

TRADE NAME (DBA): _____

DELIVERY ADDRESS: _____

CITY: _____ STATE: _____ ZIP: _____

BUSINESS PHONE: _____ FAX #: _____

EMAIL ADDRESS: _____

CONTACT PERSON: _____

LEGAL FORM OF BUSINESS

- PROPRIETORSHIP (Sole Owner) PARTNERSHIP CORPORATION
 LIMITED LIABILITY COMPANY LIMITED PARTNERSHIP SUBS CORPORATION

BUSINESS REGISTERED IN THE STATE OF: _____ COUNTY: _____ OTHER AFFILIATES: _____

PROPRIETORSHIP/SOLE OWNER (list all states of residence):

TYPE OF BUSINESS: RESTAURANT FAST FOOD NON PROFIT INSTITUTIONAL HOTEL/MOTEL FRANCHISE OTHER _____

NUMBER OF EMPLOYEES	ESTIMATED MONTHLY PURCHASES \$	LENGTH OF TIME IN BUSINESS (YEARS)
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PREVIOUS CUSTOMER? YES NO IF YES, UNDER WHAT NAME? _____

BLDG/FACILITIES OWNED LEASED RENTED

IF OWNED Name/Address of Mortgagor _____ (Phone Number) _____

IF LEASED Name/Address of Landlord _____ (Phone Number) _____

ACCOUNTS PAYABLE: CONTACT PERSON _____ PHONE NUMBER _____

IS A STATEMENT REQUIRED TO BE MAILED? YES NO IF YES MAIL TO: BILL TO ADDRESS SHIP TO ADDRESS

IS A PURCHASE ORDER NUMBER REQUIRED? YES NO COMMENTS: _____

TERMS REQUESTED COD WEEKLY (ANY TERM BEYOND STANDARD WEEKLY REQUIRES APPROPRIATE APPROVALS)

COMPLETE INFORMATION FOR ALL CORPORATE OFFICERS, PARTNERS, OR INDIVIDUAL PROPRIETOR

(1) NAME / TITLE _____

HOME ADDRESS _____

CITY, STATE, ZIP _____

HOME PHONE NUMBER _____

EMAIL _____

(2) NAME / TITLE _____

HOME ADDRESS _____

CITY, STATE, ZIP _____

HOME PHONE NUMBER _____

EMAIL _____

BANKING:

BANK NAME _____ ACCOUNT NUMBER _____

CONTACT PERSON _____ PHONE NUMBER _____

TRADE REFERENCES: (Food, equipment, distributors, etc.)

NAME	ADDRESS	PHONE NO.
1. _____	_____	_____
2. _____	_____	_____
3. _____	_____	_____

AGREEMENT: Parties hereby agree that all purchases made are subject to the following terms and conditions:

- The undersigned purchaser (hereafter referred to as "purchaser") hereby agrees that all amounts due for goods and services purchased from Nicholas & Company, Inc. are payable at 5520 West Harold Gatty Drive, Salt Lake City, UT, 84116: P.O. Box 45005, Salt Lake City, Utah 84145-0005. Nicholas & Company, Inc. in its sole discretion, and not withstanding any request of purchaser, shall have the right to terminate purchasers credit privileges under this application at any time without prior notice to purchaser, except as otherwise provided by law.
- Interest.** The undersigned purchaser hereby agrees that all amounts due Nicholas & Company, Inc. are payable as stated on each invoice at date of sale. If any amount due Nicholas & Company, Inc. is not paid in said period, a finance charge of 1-1/2% per month of the delinquent balance. This is an Annual Percentage Rate of 18%. Minimum finance charge is .75¢ per month on all balances less than \$50.00.
- Applicable Law.** The undersigned purchaser agrees to pay, in the event the account becomes delinquent and is turned over to an attorney or collection agency for collection, reasonable attorney's fees plus all attendant collection costs and fees. The entire outstanding balance due Nicholas & Company, Inc. on all invoices shall become due in full immediately upon default in the payment of any invoice. By executing the credit application, the parties expressly agree that the place of contracting for all goods and services provided by Nicholas & Company, Inc. is Salt Lake County, Utah, and hereby submits to the jurisdiction and venue of courts in Salt Lake County, Utah, and agrees that any law suit concerning the performance of this agreement shall be filed in Salt Lake County, Utah.
- The undersigned agrees to notify Nicholas & Company, Inc. by certified mail thirty (30) days prior to any ownership changes of the business and further agrees to be liable for all purchases of the new owner should the undersigned fail to comply with said notification. In the event that this agreement is executed by more than one person, then, in such event the liabilities and obligations of the undersigned hereunder shall be joint and several and the relative words herein shall be read as if written in plural. Purchaser further agrees to comply with Utah laws governing Utah transfer of assets.
- The parties hereby acknowledge that the goods and/or services purchased from Nicholas & Company, Inc. are not payable in installments, but are payable in full as stated herein. Payments will be made in accordance with the terms and conditions of this application and any invoices and/or other document evidencing purchaser obligations to Nicholas & Company, Inc.
- Terms.** The undersigned purchaser hereby acknowledges and agrees to the established terms of each purchase as outlined on Nicholas & Company, Inc. invoices. Nicholas & Company, Inc. will not be responsible for any shortages after purchaser has signed the invoice and accepted receipt of the order. Purchaser, or qualified employee of purchaser, agrees to count the number of pieces being delivered and verify the order as to proper item(s) being billed and received with the Nicholas & Company, Inc. driver. Returns may be subject to restocking charges.
- Security Interest.** The purchaser grants to Nicholas & Company, Inc., a security interest in all foods, inventory, furniture, fixtures and equipment, now or hereafter purchased, either by applicant or its successors, to secure full payment of all amounts which are presently due and owing or may hereafter become due and owing Nicholas & Company, Inc. by applicant or its successor(s). A default of this security agreement shall occur if purchaser fails to promptly pay when due, all amounts then owing Nicholas & Company, Inc. or does not provide Nicholas & Company, Inc. with any notice required herein. Upon default, Nicholas & Company, Inc. shall be entitled to all remedies available under Utah laws.
- If this purchaser is not fully approved or if any other adverse action is taken to purchaser's credit with Nicholas & Company, Inc., purchaser has the right to request within 60 days of notification from Nicholas of such adverse action, a snapshot of specific reasons for such action, which statement will be provided within 30 days of said request. The Federal Equal Credit Opportunity Act prohibits creditors from discrimination against credit applicants on the basis of race, color, religion, national origin, sex, marital status, or age (provided that the applicant has the capacity to enter into a binding contract); because all or part of the purchaser's income derives from any public assistance programs; or because the purchaser has in good faith exercised any right under the Consumer Credit Protection Act. The federal agency that administers compliance with this law concerning the creditor is the Federal Trade Commission, Washington, D.C.
- Release of Credit Information.** Purchaser authorizes Nicholas & Company, Inc. to inquire into and obtain from any bank, lending institution or credit reference, whether listed on this Credit Application or not, any and all information relating to purchaser's creditworthiness or financial condition.
- Special Orders.** If purchaser ceases doing business with Nicholas & Company for any reason, purchaser will immediately purchase from Nicholas & Company, Inc. all remaining proprietary/special order items in Nicholas & Company, Inc. inventory.
- Purchaser hereby certifies that the information furnished under the application and any other financial statements furnished in connection herewith, is true and correct that this information is being furnished to Nicholas & Company, Inc. for the purpose of including Nicholas & Company, Inc. to extend credit to applicant, and understands that Nicholas & Company, Inc. relies upon such information. The undersigned individual who is either a principal of the credit applicant or a sole proprietorship of the credit applicant, recognizing that his or her individual credit history may be a factor in the evaluation of the credit history of the purchaser, hereby consents to and authorizes the use of a consumer credit report on the undersigned by the above named business credit grantor, from time to time as may be needed, in the credit evaluation process.
- No Waiver.** No waiver of any breach of any term or condition of this agreement by any party shall be construed to waive any subsequent breach of the same or any other term or condition of this agreement.

X

CUSTOMER SIGNATURE

PRINT NAME

DATE

INDIVIDUAL PERSONAL GUARANTEE

The undersigned, ("Guarantor"), for and in consideration of Nicholas & Company, Inc. extending credit to the purchaser, hereby personally guarantee's payment of any obligation of the purchaser, and hereby agrees to bind himself/herself to pay Nicholas & Company, Inc. on demand any sum which may become due to Nicholas & Company, Inc. by the purchaser whenever the purchaser shall fail to pay. In the event of default by purchaser on its obligations to Nicholas & Company, Inc., Nicholas & Company, Inc. may proceed directly to enforce its rights hereunder and shall have the right to proceed first against Guarantor, without proceeding with or exhausting any other remedies it may have. Guarantor agrees to pay all fees, costs and expenses, including reasonable attorneys fees, which may be incurred by Nicholas & Company, Inc. in enforcing this Guaranty or protecting its rights following any default on the part of Guarantor. Guarantor agrees that an interest charge of one and one-half (1-1/2) percent per month, or the highest rate permitted by law, whichever is less, shall be assessed on any amount due and owing to Nicholas & Company, Inc. by Guarantor, under this Guaranty until collected. The Guarantor hereby expressly agrees that the place of contracting for all goods and services provided by Nicholas & Company, Inc. and for this Guarantee is Salt Lake County, Utah, and Guarantor hereby expressly submits to the jurisdiction and venue of the courts of Salt Lake County, Utah, and agrees that any law suit concerning this Personal Guarantee shall be filed in Salt Lake County, Utah. If executed by more than one Guarantor, the obligation of Guarantors shall be joint and several and all references to the singular shall be deemed in the plural. **It is understood that this guaranty shall be a continuing and irrevocable guaranty.** USE OF A CORPORATE TITLE SHALL IN NO WAY LIMIT THE PERSONAL LIABILITY OF THE PERSONAL GUARANTEE SIGNATORY.

X

SIGNATURE

PRINT NAME

DATE

SIGNATURE

PRINT NAME

DATE

AUTHORIZATION TO OBTAIN CONSUMER CREDIT REPORT

INDIVIDUAL NAME

BUSINESS NAME

SOCIAL SECURITY #

HOME ADDRESS

THE UNDERSIGNED INDIVIDUAL WHO IS EITHER A PRINCIPAL OF THE CREDIT APPLICANT OR A SOLE PROPRIETORSHIP OF THE CREDIT APPLICANT, RECOGNIZING THAT HIS OR HER INDIVIDUAL CREDIT HISTORY MAY BE A FACTOR IN THE EVALUATION OF THE CREDIT HISTORY OF THE APPLICANT, HEREBY CONSENTS TO AND AUTHORIZES THE USE OF A CONSUMER CREDIT REPORT ON THE UNDERSIGNED BY THE ABOVE NAMED BUSINESS CREDIT GRANTOR, FROM TIME TO TIME AS MAY BE NEEDED, IN THE CREDIT EVALUATION PROCESS.

X

SIGNATURE

TITLE