

Credit Policy and Procedures Part 2

Credit Applications

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The Credit Application

The ultimate goal of a
credit investigation
is to assess
business **risk** and
maximize **reward**



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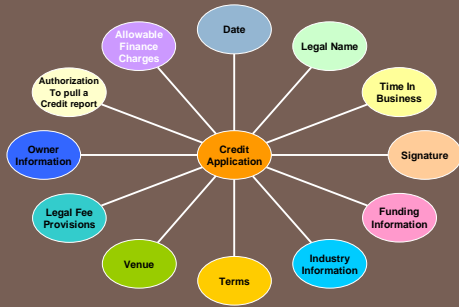
Purpose of a Credit Application

- Should be the primary document that describes who and what the customer is and represents
- Serves as a picture of the company at that point in time
- Is the initial source of information
- Is the legal-binding contract between us, as the seller of goods, and the customer or business, as the buyer of the goods.

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Credit Application as a Source of Information



Sales Tax Exemption

When a company is tax exempt be sure to get the appropriate documentation

- Signed tax exempt certificate that is approved by your state
- Purpose for tax exemption



The Entity Itself – The Real Customer

- Sole Proprietor
- Partnership
- Corporation
- LLC
- Joint Venture



Knowing the type of legal entity the business has formed helps you evaluate risk and lets you know if you need a separate agreement for a personal guaranty

Bank & Trade Reference Releases

It may be easier to get a reference if the applicant has authorized the release of information

Useful information includes:

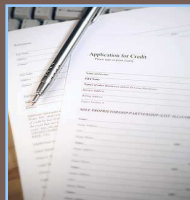
- Bank account numbers
- Social Security number
- Name of loan officer
- Credit contact for given reference

Personal Information and Privacy Laws

From time to time, it will be necessary to obtain personal credit information in the form of a credit report in order to make a credit decision. By signing this application you agree to allow _____(company name) to pull credit reports, check credit and bank references and gather other information pertaining to the credit status of the undersigned.

When Do I Need a New Credit Application

- Change of ownership
- Change of name
- Death of a partner
- Acquisitions



Caution!!! Make sure when asking for a new application you do not weaken your position.

Terms and Condition of Sale

- While you may include your actual payment terms such as 1%10thN30, in this part of the credit application, think broader.
- Terms and conditions can encompass All the conditions and clauses we are talking about today.
- The signature on the credit application causes the signer to be bound to All terms and conditions, not just payment terms.
- Remember payment terms can be part of anti-trust - treat like customers the same.

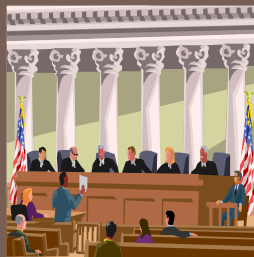
Interest Charges

- Spell out clearly when your due date is.
- At what point is interest charged?
- How much will the interest charge be?
- How will the interest calculate?
- What will be the policy if interest charges are not paid?



Venue Provision

Venue is the location where a court case will be filed and heard. You want the venue to benefit you.



Signed Applications or Information Sheets

- Company Name
- Address
- Officers
- Federal Tax ID number
- Phone number
- References
- A short clause that says they agree to pay by your terms



Shipment Terms and Title to Goods

When does title of the goods pass from the seller to the buyer? The answer lies in the shipping terms associated with your credit application.



Seller



Buyer



Below the Signature Line

Personal Guarantors

Sole Proprietors and partners of a partnership are personally liable for the business debt they incur.

Corporations stand as a separate entity and the officers are not personally responsible for the debt of the company.

Do not accept the personal guarantee if they sign the guaranty using a company title such as... John Doe, President.

Fair Credit Reporting Act - FCRA

- You must have a valid reason to pull a consumer credit report
- You must have written authorization to pull a consumer credit report
- Written permission must be conspicuous and not buried in other language on the credit application

FCRA

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Example of Buried Language Authorizing the Release of Consumer Credit Reports

Invoices are due 30 days from the date of the invoice. A 2% service charge will be charged on all past due accounts. I authorize the seller to pull a business credit report or a personal credit report and personally guaranty this account. All costs involved in collecting monies owed to the seller will be paid by the applicant if the account is deemed uncollectible by the seller.

I agree to pay ___ by the terms outlined in the terms and condition section of this credit application.

Signature _____ Date _____

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Conspicuous Authorization to Pull a Consumer Credit Report or Give a Personal Guarantee

I agree to the terms of this application
Signed _____ Date _____

The undersigned individual agrees to personally guarantee payment of this account should the company fail to pay on time. I also agree to the release of consumer credit information for the purpose of granting credit under the terms of this personal guaranty

Signed _____ Date _____

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Equal Credit Opportunity ECOA

The Federal Equal Credit Opportunity Act prohibits creditors from discriminating against credit applicants on the basis of:

- ❑ Race
- ❑ Color
- ❑ Religion
- ❑ National origin
- ❑ Sex
- ❑ Marital status
- ❑ Age



Alternative Dispute Resolution ADR

- ❑ Mediation = non binding attempt to resolve an issue using a neutral third party who is trained in Mediation
- ❑ Arbitration = a binding decision from a court appointed arbitrator. Once the decision is made it can not be appealed. The decision is signed by a judge.



Escheatment

Escheatment = The act of turning abandoned assets over to the state

Escheatment covers tangible and intangible asset



(Creditor) imposes an inactivity fee of \$ ___ per month against any credit balance presumed abandoned by applicant. An account is presumed abandoned if there is no activity for one year.

Other Considerations

- Right of offset
- Waiver of the right to a jury trial
- Security instrument/agreement
- Warranty expressed or implied
- Financial Statements
