

THE CREDIT TIMES



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A QUICK GUIDE TO CREDIT APPLICATIONS

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Each corporation has its distinct set of credit policies, criteria on when and how to extend credit and forms to be utilized by a customer when seeking credit. While there is no such thing as a “perfect credit application”, there are various guidelines which a credit executive can use to make sure that the “credit application” or “new account form” or “open account application” is as thorough as can be. These guidelines will also protect the credit grantor in making sure that it is compliant with all the legal aspects of the extension of credit. Credit professionals should first and foremost understand why a credit application is beneficial and necessary:

A credit application, done properly, can constitute a formal contract between a trade credit grantor and its customer. Often, the credit application is the only written agreement that details customer information, terms and conditions of sale, guaranties, security interests and specific legal remedies.

To begin with, it is essential to obtain meaningful information about a customer by the use of a credit application. That information should include the legal makeup of the customer, the principal place of business, any additional locations, and business establishment details, such as the EIN number, date of establishment and state of incorporation or other type of organization.

Knowing the exact legal makeup of the customer and its exact legal name is both beneficial and necessary, especially in the event a security interest is to be taken or on the possibility that a lawsuit may become necessary in the future. This Quick Guide contains important topics that a trade creditor should be sure to include on its credit application so that it is most beneficial and informative.

1. **Know Thy Customer.** It is critical to know the exact legal formation of the customer. At the inception of the credit relationship a credit executive is likely to get the most accurate information. As the relationship continues, and sometimes deteriorates, the debtor often becomes reluctant to provide accurate data. Identify if your customer is a Corporation, Limited Liability Company, Partnership, Limited Partnership, Limited Liability Partnership or Sole Proprietorship.

2. **Business Establishment Details.** At a minimum, each credit application should obtain the following pertinent information from the business entity:

- * Date of Incorporation [or other artificial entity] (if applicable)
- * State of Incorporation [or other artificial entity] (if applicable)

- * Date of start of business
- * Federal tax identification number

3. **Ownership Details.** Each credit application should require the names, titles, home addresses and ownership interest of each owner of the business entity.

4. **References.** Credit grantors should require at least three trade references to be given by each customer. In addition, bank information and the ability to obtain a bank reference is extremely useful to a credit grantor. Information should be included directly on the credit application authorizing the credit grantor to obtain those references. The following authorization language is recommended:

Applicant certifies that all information contained herein is true and correct. Applicant grants permission to _____ to obtain independent credit reports or credit reports and other information from its references and bank, and authorizes the credit references and bank reference to release information to _____ that may be used to determine credit worthiness.

5. **Interest/Service Charges.** If a credit grantor wants to be able to obtain interest or service charges on past due sums, language to that effect should be included in the credit application, not just on the invoice.

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Make sure to enter this month's drawing by using your Special Placement form. For every claim you place you will be entered for a chance to win one of two 8" Amazon Kindle Fire HD.



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Applicant agrees to pay all bills as rendered, and agrees that overdue accounts are subject to monthly service charges of one and one-half percent (1½%) per month or the maximum legal interest rate allowed by law in the state where the customer is located.

6. **Attorneys' fees.** Similarly, if a credit grantor wants to be able to obtain collection costs and/or attorney's fees in the event a lawsuit becomes necessary, language to that effect should be included in the credit application, not just on the invoice. Most courts have a rule that unless attorneys' fees or collection costs are contracted for, each party bears its own costs and expenses.

Applicant agrees to pay all costs of collection, including actual out-of-pocket expenses and a collection fee of twenty-five percent (25%) if collected through a collection agency or attorney.

7. **Jurisdiction and venue.** Credit grantors should include language on their credit application that permits, but does not mandate, a particular state and/or court where a lawsuit may be commenced.

The laws of the State of _____ shall govern all contracts entered into between Applicant and _____, any litigation concerning this contract may be commenced, at the sole discretion of credit grantor, in any local, state or federal court within the state of _____.

8. **Individual credit report authorization.** When a credit grantor is dealing with a sole proprietor, you will always want to obtain a credit report on that individual. When dealing with a partnership, you will want a credit report on each partner. Likewise, when dealing with a small corporate entity, you will want to obtain a creditor report on the owner(s) of that small business. Although the Fair Credit Reporting Act permits the obtaining and using of a "consumer credit report" with a permissible business purpose, it is recommended that you include the authority to obtain an individual credit report within the body of the credit application. The following is recommended language which can be used to obtain that authority.

The undersigned is either a sole proprietor, a partner in a partnership, an individual who may be executing a personal guarantee in connection with the extension of credit to Applicant, or one of the principal stockholders of a corporation. I give permission to _____, to obtain and utilize an individual credit report on me personally to determine my creditworthiness.

9. **ECOA statement and notification.** By including an ECOA statement and notification within the body of a credit application, business credit grantors can safeguard themselves from memorizing the rules that govern each instance of an adverse decision. The following ECOA statement should be placed on every credit application in **Bold CAPS**.

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 (PROVIDED THE APPLICANT HAS THE CAPACITY TO ENTER INTO A BINDING CONTRACT), BECAUSE ALL OR PART OF THE APPLICANTS INCOME DERIVES FROM ANY PUBLIC ASSISTANCE PROGRAM OR BECAUSE THE APPLICANT HAS IN GOOD FAITH EXERCISED ANY RIGHT UNDER THE CONSUMER CREDIT PROTECTION ACT. THE FEDERAL AGENCY THAT ADMINISTERS COMPLIANCE WITH THIS LAW CONCERNING THIS CREDITOR IS THE FEDERAL TRADE COMMISSION, EQUAL CREDIT OPPORTUNITY, WASHINGTON, D.C. 20580.

The following ECOA notification should be placed on every credit application in **bold print**.

If your application for business credit is denied, you have the right to a written statement of the specific reasons for the denial. To obtain the statement, please contact {name, address and telephone number of the person or office from which the statement of reasons can be obtained} within 60 days from the date you are notified of our decision. We will send you a written statement of reasons for the denial within 30 days of receiving your request for the statement.

10. **Personal Guaranty.** There is no prohibition against including a personal guaranty on a credit application. However, there should be a clear delineation from where the credit application ends and where the personal guaranty begins. The credit application should contain one signature line and the personal guaranty should be separately signed without any designation of title.

11. **Terms and Conditions.** At the option of the credit grantor, you may wish to place all the terms and conditions of sale directly on and to become part of the credit application. Certain industries utilize these methods with much success.



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