

# REVOLVING CREDIT APPLICATION

Fax completed application to 866-325-0072



Amount Requested: \$ \_\_\_\_\_ Store #: \_\_\_\_\_ Salesman #: \_\_\_\_\_

**APPLICANT: PLEASE READ THE FOLLOWING BEFORE COMPLETING THIS FORM:**

1. The Business named below (the "Customer") and the Personal Guarantor(s) (collectively "Applicant", "you" or "your") represent that the information given in this Application is complete and accurate and authorizes McCoy Corporation ("we", "us" or "our") to check with credit reporting agencies, credit references and other sources we deem appropriate in investigating the information given.
2. Applicant requests a Revolving Credit Account with McCoy Corporation for the purpose of conducting business and/or trade.
3. The Authorized Representative who will sign the Application must have proper authority to enter into contractual agreements on behalf of the Business.
4. All Applicants must complete the Personal Guaranty section and provide at least one Personal Guarantor.
5. The Personal Guarantor(s) must be of proper authority to enter into contractual agreements.

**PLEASE READ THE ATTACHED AGREEMENT AND SIGN BELOW BEFORE SUBMITTING YOUR APPLICATION.  
IF THIS APPLICATION IS NOT COMPLETELY FILLED OUT, THERE COULD BE A DELAY IN PROCESSING THE APPLICATION.**

**BUSINESS INFORMATION AND PRINCIPAL INFORMATION**



**ALL FIELDS ARE REQUIRED**

Full Legal Business Name: \_\_\_\_\_ In Business Since (YR): \_\_\_\_\_ Fed. ID # \_\_\_\_\_

Doing Business As / Also Known As: \_\_\_\_\_ Do you operate from your home? (Circle one) Y N

Physical Address (No PO Boxes): \_\_\_\_\_ Business Phone Number: \_\_\_\_\_ - \_\_\_\_\_ - \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_ Fax Number: \_\_\_\_\_ - \_\_\_\_\_ - \_\_\_\_\_

Email address: \_\_\_\_\_ \*To opt out of electronic billing check here  Cell Phone: \_\_\_\_\_ - \_\_\_\_\_ - \_\_\_\_\_

Previous McCoy Customer (circle one) Y N If yes, Account # \_\_\_\_\_ Other Number: \_\_\_\_\_ - \_\_\_\_\_ - \_\_\_\_\_

Business Gross Sales: \$ \_\_\_\_\_ for fiscal year ending: \_\_\_\_\_ Business Entity: (circle one) Corporation LLC Partnership Sole Proprietor

Type of Business: \_\_\_\_\_

Mailing Address (If different from above): \_\_\_\_\_ Contact / Payable Person: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_ Contact Position: \_\_\_\_\_

Contact Email address: \_\_\_\_\_ Contact Phone Number: \_\_\_\_\_ - \_\_\_\_\_ - \_\_\_\_\_

Authorized Buyers on Account: (Provide names below.) Contact Fax: \_\_\_\_\_ - \_\_\_\_\_ - \_\_\_\_\_

Trade Credit Accounts (Company Name): \_\_\_\_\_ Phone: \_\_\_\_\_ - \_\_\_\_\_ - \_\_\_\_\_ City: \_\_\_\_\_ State: \_\_\_\_\_

Trade Credit Accounts (Company Name): \_\_\_\_\_ Phone: \_\_\_\_\_ - \_\_\_\_\_ - \_\_\_\_\_ City: \_\_\_\_\_ State: \_\_\_\_\_

Bank Name: \_\_\_\_\_ Account Type: \_\_\_\_\_ City: \_\_\_\_\_ State: \_\_\_\_\_

**The undersigned hereby certifies that he/she is authorized by the above stated entity to sign this application and to bind the above entity to all the terms and conditions as set forth in the Agreement and Agree to the Terms and Conditions on the reverse (or attached).**

By: X \_\_\_\_\_  
Signature of Authorized Representative Title Date

Finance charges will be imposed in amounts or at rates not exceeding those permitted by law. Service charges not exceeding those permitted by law will be charged on outstanding balances from month to month. The amount of finance charges and fees, as well as the date or occasion upon which finance charges or fees may begin to accrue, are as disclosed in the Agreement. Federal law requires us to obtain, verify, and record information that identifies you when you open an ACCOUNT. We will use your name, address, date of birth, and other information for this purpose.


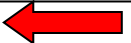
**PERSONAL GUARANTY**



For and in consideration of any of the extensions of credit by MCCOY CORPORATION ("MCCOY'S") to the Customer, and in order to induce MCCOY'S to enter into a Credit Agreement to extend credit to Customer, the Undersigned, jointly and severally, unconditionally guarantee to MCCOY'S the full, prompt payment and faithful performance and discharge by Customer of all obligations which Customer presently or hereafter may have to MCCOY'S whether arising by the sale of goods, the extension of credit, default in obligations or otherwise.

The Undersigned shall reimburse MCCOY'S, on demand, for all expenses, including without limitation, attorney's fees incurred by MCCOY'S in the enforcement or attempted enforcement of any of MCCOY'S rights hereunder against Customer or any of the Undersigned. The Undersigned's obligations hereunder are joint and several and independent of the obligations of Customer and a separate action may be maintained against the Undersigned, whether action is brought against Customer or whether Customer is joined in such action. The Undersigned waives any right to require MCCOY'S to proceed against Customer or to proceed against or exhaust any security and waives any rights of subrogation and any right to participate in any benefit of any security now or hereafter held by MCCOY'S. Notice of MCCOY'S acceptance hereof, of default and nonpayment by Customer or any other parties, of presentment, protest, and demand, and of all other matters to which the Undersigned otherwise might be entitled, is hereby waived.

MCCOY'S is not required to inform the Undersigned of any matters affecting the financial condition of the Customer. MCCOY'S has no obligation to use diligence in preserving the liability of any person, including Customer, on any the indebtedness or any other liability, fixed or contingent, or in bringing suit to enforce collection of any of the indebtedness due under this guaranty. This shall be a continuing and unlimited guaranty and indemnity, and irrespective of the lack of any notice to or lack of consent of the Undersigned, their obligations hereunder shall not be impaired in any manner whatsoever by any: new agreements or obligations of Customer with or to MCCOY'S; increase in credit limits by MCCOY'S to Customer; amendments, extensions, modifications, renewals or waivers of default as to any existing or future agreements or obligations of Customer, the Undersigned or other parties, or exchanges, releases or sales or any security of Customer, any of the Undersigned or other parties; incorrectness, invalidity or unenforceability, for any reason, of any instrument or writing, or actions of commission or omission by MCCOY'S or Customer; extensions, moratoria or other relief granted to Customer pursuant to any statute, whether State or Federal, presently in force or hereinafter enacted; or interruptions in the business relations between MCCOY'S and Customer.

The obligations hereunder of each of the Undersigned shall be binding upon their respective heirs and personal representatives. Failure of any person to sign this guaranty and indemnity shall not affect the liability of any signor thereof. The death or release from liability of any of the Undersigned shall not relieve the others from liability. This guaranty and indemnity is assignable by MCCOY'S and shall be construed liberally in MCCOY'S favor and shall inure to the benefit of MCCOY'S, its successors, and assigns. Legal rights and obligations hereunder shall be determined in accordance with the laws of the State of Texas and the Undersigned agrees that all payments due or to become due under this guaranty are payable to McCoy Corporation at its offices in Hays County, Texas. The Undersigned consents and submits to jurisdiction of the courts of the State of Texas for the enforcement of this agreement. The Undersigned agrees that the exclusive and mandatory venue for any lawsuit filed to collect payment pursuant to this agreement, shall be in Hays County, Texas. The Undersigned hereby irrevocably waives any objection, including, without limitation, any objection to venue based on forum non conveniens, which they have now or hereafter may have, to the bringing of such action or proceeding in Hays County.

<b>PERSONAL GUARANTOR #1</b>		<b><u>ALL FIELDS ARE REQUIRED FOR EACH GUARANTOR</u></b>	
Name (First-Middle-Last – Please Print): _____ Title _____			
Date of Birth _____ Social Security # _____ - _____ - _____ Driver's License # _____			
Present Address (if different than business address): _____			
City: _____ State: _____ Zip: _____			
The undersigned hereby certifies that he/she has read the above Personal Guaranty and understands that his/her obligations hereunder are joint and several and independent of the obligations of Customer and a separate action may be maintained against him/her, whether action is brought against Customer or whether Customer is joined in such action.			
Company Complete Legal Name _____			
By: X _____		_____	
Personal Guarantor		Date	

<b>PERSONAL GUARANTOR #2</b>		<b><u>ALL FIELDS ARE REQUIRED FOR EACH GUARANTOR</u></b>	
Name (First-Middle-Last – Please Print): _____ Title _____			
Date of Birth _____ Social Security # _____ - _____ - _____ Driver's License # _____			
Present Address (if different than business address): _____			
City: _____ State: _____ Zip: _____			
The undersigned hereby certifies that he/she has read the above Personal Guaranty and understands that his/her obligations hereunder are joint and several and independent of the obligations of Customer and a separate action may be maintained against him/her, whether action is brought against Customer or whether Customer is joined in such action.			
Company Complete Legal Name _____			
By: X _____		_____	
Personal Guarantor		Date	

McCoy Corporation Revolving Business Account Agreement:

1. **GENERAL.** This Agreement ("Agreement") governs your McCoy Corporation Business Revolving Credit account ("Account"). In this Agreement and your billing statement ("Statement"), "we," "us," and "our" mean McCoy Corporation located at 1350 IH 35 North, San Marcos, Texas 78666; "you" and "your" mean the person or entity that signs the Application or on whose behalf the Application is signed. The effective date of this Agreement will be the earlier of (i) the date you submit an Account application that is approved by us; or (ii) the first date that you or someone authorized by you uses the Account.

2. **USE OF ACCOUNT.** You may use your Account to purchase goods or services ("Purchases"), up to any credit limit we may establish ("Credit Limit"), from McCoy's Building Supply locations ("McCoy's") for your business use. We may approve a transaction that causes the balance of your Account to exceed your Credit Limit without waiving any of our rights under this Agreement. We may decline to authorize any Purchase or change your Credit Limit at any time. You agree that you may use your Account only for Purchases for commercial or business purposes, and not for personal, family or household purposes. In this connection, you understand that your agreement not to use this Account for personal, family or household purposes means that important duties imposed upon us, and important rights conferred upon a consumer, pursuant to certain federal or state laws, will not apply to this Account. You also understand that we will be unable to determine whether any given Purchase conforms to this paragraph of this Agreement. You agree that a breach by you of this paragraph of this Agreement will not affect our right to enforce your promise to pay for the credit extended to you, including related charges, or to use any remedy legally available to us even if that remedy would not have been available had the Account been established as a consumer credit account.

3. **PROMISE TO PAY.** You may buy from McCoy's the merchandise (including any related services) described in the sales invoice(s) for the cash price(s) shown on such invoices. By signing this Agreement (if applicable), you have requested that we establish this Business Revolving Credit Account for your business use and that we permit you to finance your Purchase from McCoy's on credit under the terms of this Agreement. Any other terms set out in your purchase order or in any other or different form will not apply, even though such purchase order or other or different form may be submitted to or accepted by us in connection with a Purchase. You promise to pay us for all credit that we extend on your Account for Purchases and all other amounts owed to us under the terms of this Agreement. You understand that we will be unable to determine whether any given Purchase charged on your Account was in fact authorized by and for the benefit of the business in whose name the Account is established. You agree that your promise to pay, as contained in this paragraph of this Agreement, will apply to all Purchases made by you whether or not the Purchase was in fact authorized by and for the benefit of that business. Any person signing the Application on behalf of a business attests that the business is a valid business entity or a qualified religious, educational, or other non-profit entity, or a governmental agency or instrumentality; and that the business has authorized (a) the execution of the Application, and (b) the person signing the Application to execute the Application on its behalf.

4. **EMAIL OPT OUT.** Unless you have specifically requested to opt out of electronic communication by checking the designated box on your application, you agree to accept invoices and other communication sent to the email address you provided on the application. You are solely responsible for providing an accurate email address and promptly notifying McCoy's of any changes. Any invoices, statements or other communication sent to your email will have the same effect as any written communications McCoy's sends you by US mail or other means and will satisfy any legal requirement that such communications be in writing. Your agreement to accept email communication will not affect any other terms of this agreement.

5. **BALANCE SUBJECT TO FINANCE CHARGE.** There is a minimum FINANCE CHARGE of \$1 for a billing period in which a Finance Charge is assessed. The Finance Charge for each billing cycle is calculated by multiplying the Average Daily Balance by the Periodic Rate (as described below) for the account by the number of days in the billing cycle. The Average Daily Balance is calculated by adding each end-of day-balance during the billing cycle and dividing that sum by the total number of days in the billing cycle. We use the Average Daily Balance of each purchase and credit invoice (collectively called "transactions"), payments and previous statement balance (which could include Finance Charges, Late Payment Fees, Returned Check Fees, and Over Limit Fees from previous billing cycles) (the "New Balance") and perform the interest calculation at the end of the billing cycle, which is the last day (or the previous business day if the end of month falls on a Sunday) of each calendar month.

6. **MAXIMUM FINANCE CHARGES.** The Periodic Rate for your Account is the Standard Rate unless the Delinquency Rate applies as described below. The Standard Rate for a billing period is .05477% (ANNUAL PERCENTAGE RATE 19.99%), unless we in our sole and absolute discretion elect to apply a lesser rate based on our credit review. If you do not make your required Minimum Payment within 1 month after the Payment Due Date, the Delinquency Rate will apply to all existing balances on your Account and all new transactions beginning with the first day of the billing period that begins after the Payment Due Date. The Delinquency Rate is a fixed rate of .06025% (ANNUAL PERCENTAGE RATE 21.99%). Once the Delinquency Rate applies, if you make any required Minimum Payment by the Payment Due Date in twelve consecutive billing periods, you may request (in writing) that the Standard rate apply and, subject to credit review and approval, the Standard Rate (rather than the Delinquency Rate) will apply to all existing balances on your Account and all new transactions beginning with the first day of the billing period reflected on that Statement. These rates are subject to change pursuant to Paragraph 12 below.

7. **WHEN FINANCE CHARGES BEGIN TO ACCRUE.** Unless you pay your New Balance, including any balance of Purchases made under any Special Payment Plan that McCoy's may offer in the future, for each billing period in full on or before the Payment Due Date, Purchases and other debits will incur a Finance Charge from the first day of the billing period following the billing period in which they are posted to your Account.

8. **PAYMENTS.** A. You must pay at least the Minimum Payment on your Statement by the Payment Due Date shown on the Statement. You may pay more than the Minimum Payment at any time. Your Minimum Payment will be (i) the greater of (a) \$100 or (b) a maximum of 10% of your New Balance, rounded to the next highest cent, plus (ii) any late charges and previous unpaid Minimum Payments. However, the Minimum Payment is the New Balance if the New Balance is less than \$100. You must pay any past due amounts as part of your Minimum Payment. B. All written communications concerning disputed amounts, including any check or other payment instrument that (i) indicates that the payment constitutes "payment in full" or is tendered as full satisfaction of a disputed amount, or (ii) is tendered with other conditions or limitations ("Disputed Payments"), must be mailed or delivered to us at the address for billing inquiries shown on the Statement, not the Payment Address. C. All payments, except Disputed Payments, must be mailed or delivered to us at the address shown on your Statement (the "Payment Address") or at any McCoy's retail location (you should retain your cash register receipt for confirmation of payment). Any payments received after 5:00 p.m. on any business day, or on any day other than a business day, will be credited on the next business day. Credit to your Account may be delayed if payment is: (i) not received at the Payment Address or a McCoy's retail location; (ii) not made in U.S. dollars drawn on a U.S. financial institution located in the U.S.; or (iii) not accompanied by the top portion of your Statement. You understand, however, that payments may not be made, and may not be deemed received by us, at any location other than the Payment Address or a McCoy's retail location. Although we post your payments in the manner described above, we may delay restoring your available Credit Limit in the amount of your payment. All credits for payments to your Account are subject to final payment by the institution on which the item of payment was drawn. D. Except as specified in paragraph 9 below with respect solely to the determination of the extent of our purchase money security interest and subject to requirements of applicable law, we reserve the right to select the method by which payments and credits are allocated to your Account in our sole discretion. Depending on how you use your Account, when you make payments, the amount of your payments and the types of transactions you make, the particular payment allocation method that we use may result in increased Finance Charges on your Account. E. We reserve the right to obtain payment electronically for any check or other instrument that you send to us by initiating an ACH (electronic) debit in the amount of your check or instrument to your account. Your bank account may be debited as early as the same day we receive your payment. Your check or item will not be returned to you by us or your bank.

9. **FEES.** You agree to pay the following fees. A. A Late Payment Fee of the greater of \$25 or 1.5% of the Minimum Payment if we have not received your Minimum Payment within 8 days of the Payment Due Date shown on your Statement. B. A Returned Check Fee of \$25 if any check or other instrument sent to us, or any electronic payment authorization you provide us in payment on your Account, is not honored upon first presentment, even if the check, instrument, or

electronic authorization is later honored. C. An Over-Limit Fee of \$25 for each billing period in which your New Balance as shown on your Statement exceeds your Credit Limit. We may assess an Over-Limit Fee even if we authorize the transactions on your Account that caused you to exceed your Credit Limit or if you exceed your Credit Limit as a result of unpaid Finance Charges, the billing of deferred accrued Finance Charges or other fees.

10. SECURITY INTEREST. You grant us a purchase money security interest in each item of merchandise purchased on your Account to secure its unpaid purchase price until such merchandise is paid in full. Solely for the purpose of determining the extent of our purchase money security interest in each such item of merchandise, your payments will be allocated first to Finance Charges on the Account, and then to pay off each Purchase on the Account in the order in which the Purchase was made. If you made a Purchase pursuant to a credit promotion, the balance with respect to the promotional Purchase may be shown on Statements during the promotional period and may reflect a different payment allocation method. In no event will we assert a security interest in the promotional Purchase for an amount greater than the lowest balance shown on a Statement for that promotional Purchase. We agree that no security interest is or will be retained or acquired under this Agreement in any real property which is used or is expected to be used as your dwelling.

11. SPECIAL PAYMENT PLANS. A. From time to time, you may be offered special promotional terms which modify the terms of this Agreement with respect to certain Purchases on your Account ("Special Payment Plans"). Any fees and the portion of any minimum finance charge that exceeds the calculated finance charge will be included in the non-Special Payment Plan balance, not any Special Payment Plan balance, of your Account. The provisions of this Agreement apply to any Special Payment Plan, unless otherwise provided in this Agreement or under the Special Payment Plan offering. We may, without prior notice, terminate your participation in any Special Payment Plan if you are in default under this Agreement. Default includes, but is not limited to, any payment delinquency whether or not such delinquency relates to a Special Payment Plan. In the event of termination or expiration of your participation in any Special Payment Plan: (i) each remaining balance will not be treated as a Special Payment Plan Purchase and will be subject to the standard provisions applicable to such Purchases; and (ii) finance charges accrued on the Special Payment Plan balance from the date of purchase, if any, will be added to your balance. B. The Special Payment Plans available to your Account on qualifying Purchases, which are disclosed at the time of purchase, include, but are not limited to, the following: (i) Deferred Interest/With Payments No periodic finance charges will be assessed on your promotional purchase balance if you pay the promotional purchase balance in full by the end of your promotional period disclosed at the time of purchase and on your Statement ("promotional period"). If you do not, periodic finance charges will be assessed on the promotional purchase balance from the date of purchase. Minimum Payments will be required on your promotional purchase balance during and after the promotional period. (ii) Deferred Interest/Delayed Payments No Minimum Payments will be required on your promotional purchase balance during the promotional period and no periodic finance charges will be assessed on your promotional purchase balance if you pay the promotional purchase balance in full by the end of your promotional period disclosed at the time of purchase and on your Statement ("promotional period"). If you do not, periodic finance charges will be assessed on the promotional purchase balance from the date of purchase and Minimum Payments will be required on the remaining promotional purchase balance.

12. TERMINATION/CHANGE IN TERMS. You may terminate your Account at any time by providing us written notice. We may, at any time and subject to applicable law, change, add or delete provisions of this Agreement ("Terms Change") or, subject to applicable law, terminate your Account. Except as prohibited by applicable law, we may apply any Terms Change to any outstanding or future balances of your Account. We will send to you notice of any Terms Change as required by applicable law. Upon any termination of your Account, you remain obligated to repay the balance of your Account and this Agreement will continue to apply until you do so. No change to any term of this Agreement will affect your obligation or the obligation of any Personal Guarantor of this Agreement to pay, in full, all amounts owing under this Agreement or otherwise perform the terms and conditions of this Agreement or any related guaranty.

13. DEFAULT. A. Subject to the limitations of applicable law, we may declare you in default if you: (i) fail to make at least the Minimum Payment when due; (ii) violate any other term of this Agreement; (iii) become the subject of a bankruptcy or insolvency proceeding; or (iv) supply us with misleading, false, incomplete, or incorrect information. B. After your default or your death, and subject to the limitations of applicable law, we may: (i) reduce your Credit Limit; (ii) terminate your Account; (iii) require immediate payment of your entire Account balance; (iv) terminate any Special Payment Plan and convert any balance on such Plan to the standard terms and conditions of the Account; (v) bring an action to collect all amounts owed; and/or (vi) take any action allowed by law. C. If, after your default, we refer your Account for collection to an attorney who is not our salaried employee, you will pay, to the extent permitted by applicable law, our collection costs, including court costs and reasonable attorneys' fees.

14. LIABILITY FOR UNAUTHORIZED USE. The Account is issued to you by us at your request. You may be liable for the unauthorized use of the Account. You agree to promptly notify us if there is unauthorized use of your Account by writing to P.O. Box 1028, San Marcos, TX 78667 or by calling us at 512-395-6644. If you orally give us notice concerning loss or theft, you agree to confirm it in writing. You agree that unauthorized use does not include use by a person to whom you have given authority to use the Account and that you will be liable for all use by such a person. To terminate that authority, you must notify us at 512-395-6644.

15. CREDIT REPORTS AND ACCOUNT INFORMATION. The credit of your business and the personal credit of any individual signing the Application, including any Personal Guarantor, may be used in making credit decisions. You, and any Personal Guarantor, authorize us to investigate your credit worthiness by requesting information and making whatever inquiries we consider necessary and appropriate (including obtaining information from third parties and requesting consumer reports from consumer reporting agencies) for the purpose of considering your Application for this Account and subsequently, in connection with any updates, renewals or extensions of credit or reviewing or collecting your Account. You also authorize us to report information concerning you or your Account, and any Personal Guarantor, including information about your, and any Personal Guarantor's, performance under this Agreement, to consumer reporting agencies and others who may properly receive such information.

16. INFORMATION WE USE. Because your Account is a business account, you understand and agree that all information relating to you and/or your Account, including without limitation, the purchases you make on your Account, your application information, and your balance and payment information, may be shared with other organizations such as Dun & Bradstreet Corporation or other credit reporting agencies to create and update their customer records and as a professional courtesy in exchanging trade information of commercial credit accounts. We may also share information about you and your Account with our affiliates (companies related to us by common ownership or control) or with service providers who assist us in delivering services in connection with your Account. Finally, we may share information as otherwise permitted by law.

17. TELEPHONE MONITORING. To ensure that you receive accurate and courteous customer service, any telephone call between you and McCoy's personnel may be monitored by our employees or agents, and you agree to any such monitoring.

18. WAIVER. A. We may, in our sole discretion, choose to not exercise any right under this Agreement, including the right to impose the full amount of any charge, without waiving that right. Any waiver of a right by us must be in writing and signed by us. Except as we may agree in a signed writing, we will not waive any rights if we: (i) accept a late or partial payment; (ii) accept a check or other payment marked "payment in full" or tendered with other conditions or limitations; (iii) extend the due date of any payment due under this Agreement; and/or (iv) release any collateral or person responsible for your obligations under this Agreement, without notifying you or any Personal Guarantor and without releasing you or any Personal Guarantor from your obligation to pay all amounts owing under this Agreement in full, or to otherwise perform the terms and conditions of this Agreement. B. You and any Personal Guarantor understand and agree that your obligation and the obligation of any Personal Guarantor to pay all amounts owing under this Agreement and otherwise to perform the terms and conditions of this Agreement and any related guaranty are absolute and unconditional.

19. CHANGE OF ADDRESS. You will notify us promptly if you change your address. We may send Statements and other notices to your address in our records until we have a reasonable opportunity to update our records with any new address for you. You agree that when we are notified that you have a new address, the terms of this Agreement specifically applicable to the residents of your new state of residence will apply to the entire balance of your Account.

20. ARBITRATION PROVISION. A. If you or we elect to Arbitrate a claim, you will not have the right to pursue that claim in court or have a jury decide the claim, also, your ability to obtain information from us and to appeal is more limited in an arbitration than in a lawsuit. Other rights that you would have if you went to court may also not be available in arbitration. The fees charged by the administrator may be higher than the fees charged by a court. If you or we elect to arbitrate a claim: (i) neither you nor we may participate in a class action in court or in class-wide arbitration, either as a representative or a class member; (ii) neither you nor we may act as a private attorney general in court or in the arbitration; and (iii) claims brought by or against one account holder may not be joined or consolidated with claims brought by or against any other account holder. B. Only a court may determine the validity and effect of the language in this paragraph. If a court should hold this language to be invalid, then the entire Arbitration Provision shall be null and void.

Definitions: As used in this Provision: "we," "us," "our" and similar terms mean McCoy Corporation and all its parents, wholly or majority owned subsidiaries, affiliates, predecessors, successors, assigns, employees, owners, shareholders, officers, and directors.

"Claim" means any dispute between you and us that arises from or relates to your Account, the relationships which result from your Account, this Agreement or any prior agreement or account, including the enforceability or scope of this Provision. It includes disputes based on constitutional provisions, statutes, regulations, contracts, torts, and acts of every type (whether intentional, fraudulent, reckless, or negligent). It includes disputes that seek relief of any type, including injunctive, declaratory or damages. It includes disputes that arose before the Provision's effective date.

Location and Costs: Any arbitration hearing that you attend will occur at a place reasonably convenient for you. If you cannot afford the Administrator's fees or believe they are too high, we will consider any reasonable written request for us to bear the cost. Each party must pay for its own attorneys, experts, and witnesses, regardless of who wins the arbitration, except where applicable law, this Provision, and/or the Administrator's rules provide otherwise. We will pay any fees or expenses we are required to pay by law.

Governing Law: This Agreement involves interstate commerce, and this Provision is governed by the Federal Arbitration Act, 9 U.S.C. §§1 et seq. ("FAA").

The parties agree that the arbitrator may not consolidate proceedings for more than one person's claims and may not otherwise preside over any form of a representative or class proceeding, and that if this specific provision dealing with the prohibition on consolidated, class or aggregated claims is found unenforceable, then the entirety of this arbitration clause shall be null and void.

YOU MAY OPT OUT OF THE ARBITRATION PROVISION ABOVE. To opt out of the arbitration clause, you must send us a notice that you do not want the arbitration clause to apply to this Agreement. For any opt out to be effective, you must send an opt out notice to the following address by certified mail, within 14 days after the date of this Agreement: McCoy Corporation, 1350 IH-35, San Marcos, Texas 78666, Attention: Darryl Baker.

21. GOVERNING LAW. This Contract is performable in Hays County, Texas. This Agreement and your Account and any claim, dispute or controversy arising from or relating to this Agreement or your Account, whether based on contract, tort, fraud and other intentional torts, statute, common law and/or equity, are governed by and construed in accordance with the laws of the State of Texas (without regard to internal principles of conflicts of law), and applicable federal law. The legality, enforceability and interpretation of this Agreement and the amounts contracted for, charged, and received under this Agreement will be governed by such laws. This Agreement is entered into between you and us in Texas (McCoy Corporation's State of Incorporation). We make decisions about granting credit to you, extending credit to you, and accepting payments from you under this Agreement in Hays County, Texas. The parties agree that exclusive and mandatory venue for any lawsuit filed to collect payment pursuant to this agreement, shall be in Hays County, Texas. Customer hereby irrevocably waives any objection, including, without limitation, any objection to venue based on forum non conveniens, which you have now or hereafter, to the bringing of such action or proceeding in Hays County, Texas.

22. ASSIGNMENT. We may sell, assign, or transfer any of our rights or obligations under this Agreement or your Account, including our rights to payments, without prior notice to you. You may not sell, assign, or transfer any of your rights or obligations under this Agreement or your Account.

23. SEVERABILITY. If any provision of this Agreement is determined to be void or unenforceable under applicable law, all other provisions of this Agreement shall still be valid and enforceable.

24. ENTIRE AGREEMENT. This Agreement, together with any Application you signed or otherwise submitted in connection with the Account and the Personal Guaranty (which is hereby incorporated by reference in this Agreement), constitutes the entire agreement between you and us relating to your Account and supersedes any other prior or contemporaneous agreement between you and us relating to your Account. This Agreement may not be amended except in accordance with the provisions of this Agreement. It is not the intention of the parties that anything in this Agreement should result in the assessment of fees or charges exceeding those permitted by applicable law. If any fee or charge assessed under this Agreement is finally determined to exceed that permitted by applicable law, the excess amount will be applied to reduce the outstanding balance in your Account or, if there is no outstanding balance, will be refunded to you.