



SUBSCRIBER AGREEMENT

This Subscriber Agreement (this "Agreement") is entered into as of the date of acceptance by the Subscriber (the "Effective Date") by and between Lowe's Companies, Inc., and its wholly owned subsidiaries, a North Carolina corporation with corporate offices at 1000 Lowe's Blvd., Mooresville, NC 28117 ("Lowe's"), and the party indicating his or her acceptance below, on behalf of himself or herself individually, as well as on behalf of any entity that he or she represents ("Subscriber").

Statement of Purpose

Lowe's and Subscriber desire to enhance their business relationship by utilizing certain Internet-based applications and other support services. For that purpose, the parties are entering into this Agreement to set forth the terms and conditions pursuant to which Lowe's will allow Subscriber to access the web site maintained by Lowe's at www.loweslink.com (the "Site"), for purposes of obtaining or providing Internet-based application services and/or Internet-based support services from or to Lowe's.

In the event Lowe's and Subscriber are (or become during the term of this Agreement) parties to a Master Standard Buying Agreement (the "MSBA") that governs the business relationship of the parties, they intend that this Agreement constitute an addendum to such MSBA which shall remain in full force and effect notwithstanding the execution of this Agreement and in the event of any conflict or inconsistency between the MSBA and this Agreement, the terms of the MSBA, as it may be amended from time to time, shall control.

For good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Lowe's and Subscriber hereby agree as follows:

ARTICLE I **ACCESS TO AND USE OF SITE**

1.1 Access Authority and Conditions. Subject to the terms of this Agreement, Lowe's agrees to permit Subscriber to access the Site on a limited, revocable, non-exclusive, non-transferable basis solely for the purpose of obtaining or providing Internet-based application services and/or Internet-based support services from or to Lowe's and exchanging product, sales and related information to enhance the business relationship between Lowe's and Subscriber. Lowe's may, in its sole discretion, provide Subscriber with access on the Site to certain data pertaining to Subscriber's business with Lowe's or other information relevant to Lowe's (collectively, the "Information"). Subscriber's access to the Site and Information shall be subject to the terms of this Agreement, any guidelines, rules or regulations issued by Lowe's from time to time in its sole discretion and the following terms:

a. Subscriber shall not use or access the Site or Information in any way that, in Lowe's sole discretion, may adversely affect the performance or function of the Site.

b. Subscriber shall not gain access, or attempt to gain access, by any means, to any unauthorized portion of Lowe's computer system or database, other than the Site.

c. Subscriber shall not use or attempt to use the Site to obtain data or other information except Information that pertains to Subscriber's business with Lowe's.

d. Lowe's may terminate, update, alter or supplement all or any portion of the Site and all or any portion of the Information in its sole discretion without providing Subscriber with notice thereof. While Lowe's does not presently charge for access to the Site and Information, Lowe's may assess such charges in the future in its sole discretion by providing notice of such charges to Subscriber.

e. Subscriber may not use the Information for any purpose other than to facilitate its business relationship

with Lowe's; nor may Subscriber disclose any Information to any third party without Lowe's prior written consent. Upon termination of this Agreement, Subscriber shall return to Lowe's all computer files or written materials in Subscriber's possession that contain, or were derived or prepared based upon, the Information or any other content on the Site.

f. Subscriber agrees to comply with all security procedures established by Lowe's and in particular acknowledges its responsibility to maintain appropriate access to the Site.

g. Subscriber shall not copy, use, modify or prepare derivative works from Information or other content on the Site other than to facilitate its business relationship with Lowe's.

1.2 Subscriber Data. Subscriber agrees that Lowe's may collect publicly available data or other information about Lowe's, and its business and business activities with Subscriber, that such data and other information (relating to periods both before and after the date of this Agreement) shall be the sole property of Lowe's and that Lowe's may incorporate such data or information into the Information made available on the Site both during and after the term of this Agreement without Subscriber's consent.

1.3 Evaluation. Upon Lowe's request, Subscriber shall, at its own expense, assist and cooperate with Lowe's in its analysis and evaluation of the accuracy, accessibility, functionality and usability of the Site, any portion thereof or any improvements or changes thereto and shall provide Lowe's with feedback in such form and at such times as requested by Lowe's.

1.4 Acknowledgement. Subscriber acknowledges that the Site and Information are subject to change from time to time in Lowe's sole discretion without notice to Subscriber. Subscriber expressly acknowledges that Lowe's makes no representation and provides no warranties regarding the availability or functionality of the Site and that inaccuracies and interruptions in the availability, functionality and completeness of the Site and Information are possible. Subscriber further acknowledges that Subscriber is solely responsible for Subscriber's own internet access and connectivity and such access to the internet is outside Lowe's control.

1.5 Support. Lowe's shall have no obligation to provide any support or maintenance for the Site; nor shall Lowe's have any obligation to provide access to, maintain, update or ensure the accuracy of the Information or other content on the Site.

ARTICLE II **ACCESS & SECURITY**

Subscriber shall use the Site only in accordance with applicable laws, rules and regulations, now or hereafter imposed and with any conditions of use that may be established or specified by Lowe's from time to time and as may be set forth in any documentation or instructions furnished by Lowe's (electronically or otherwise). Lowe's reserves the right to take all actions, including suspension or revocation of the Subscriber's access to the Site which it believes to be advisable to comply with applicable laws, rules and regulations, and with Lowe's conditions of use as described above. Subscriber shall keep his or her user name and password secure and shall not disclose or share them. Subscriber acknowledges and agrees that a token, ID, or similar technology may be stored on Subscriber's private device in order to create a secure sign-on process.

ARTICLE III **TERM AND TERMINATION**

3.1 Term. The term of Subscriber's authorization to access the Site shall commence as of the Effective Date and shall terminate in accordance with Section 3.2 of this Agreement.

3.2 Termination. Lowe's, in its sole discretion, may terminate this Agreement and Subscriber's access to the Site and Information at any time, and for any reason. Subscriber may elect to cease accessing the Site at any time for any or no reason.

**ARTICLE IV
DISCLAIMER OF WARRANTIES,
LIMITATION ON LIABILITY
AND INDEMNIFICATION**

4.1 DISCLAIMER OF WARRANTIES.

A. THE INFORMATION AND USE OF THE SITE ARE PROVIDED "AS IS". NO WARRANTY, REPRESENTATION, CONDITION, UNDERTAKING OR TERM, EXPRESS OR IMPLIED, STATUTORY OR OTHERWISE, AS TO THE CONDITION, QUALITY, DURABILITY, PERFORMANCE, NON-INFRINGEMENT, MERCHANTABILITY, OR FITNESS FOR A PARTICULAR PURPOSE OR USE OF THE SITE OR THE INFORMATION IS GIVEN OR ASSUMED BY LOWE'S OR ITS AGENTS. ALL SUCH WARRANTIES, REPRESENTATIONS, CONDITIONS, UNDERTAKINGS AND TERMS ARE HEREBY EXCLUDED TO THE FULLEST EXTENT PERMITTED BY LAW. LOWE'S MAKES NO WARRANTY WITH RESPECT TO THE ACCURACY OR COMPLETENESS OF THE INFORMATION. LOWE'S DOES NOT WARRANT THAT SUBSCRIBER'S USE OF THE SITE WILL BE UNINTERRUPTED, SECURE OR ERROR FREE.

B. LOWE'S MAKES NO WARRANTY OR REPRESENTATION, AND HEREBY DISCLAIMS ANY WARRANTY OR REPRESENTATION, CONCERNING THE ADEQUACY, COMPLETENESS, USEFULNESS OR SUFFICIENCY OF ANY SERVICES PROVIDED HEREUNDER, AND FURTHER DISCLAIMS ANY AND ALL LIABILITY FOR NEGLIGENCE AND LACK OF REASONABLE CARE WITH RESPECT THERETO. WITHOUT LIMITING THE GENERALITY OF THE FOREGOING, NO WARRANTIES OF ANY TYPE ARE MADE WITH RESPECT TO THE SERVICES, EXPRESS, IMPLIED, OR STATUTORY, INCLUDING BUT NOT LIMITED TO ANY WARRANTY OF MERCHANTABILITY OR FITNESS FOR USE FOR A PARTICULAR PURPOSE OR IMPLIED WARRANTY ARISING FROM COURSE OF DEALING OR COURSE OF PERFORMANCE.

4.2 LIMITATION OF LIABILITY. IN NO EVENT WILL LOWE'S BE LIABLE TO SUBSCRIBER OR ANY THIRD PARTY FOR ANY SPECIAL, INDIRECT, INCIDENTAL, EXEMPLARY, PUNITIVE OR CONSEQUENTIAL DAMAGES OR PENALTIES (INCLUDING LOSS OF PROFITS AND INABILITY TO USE THE SITE OR THE INFORMATION) ARISING HEREUNDER OR IN CONNECTION HERewith EVEN IF LOWE'S HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES OR PENALTIES. THIS LIMITATION OF LIABILITY SHALL BE APPLICABLE TO THE EXTENT PERMITTED BY LAW IN THE EVENT OF THE GROSS NEGLIGENCE OR WILLFUL MISCONDUCT OF LOWE'S OR IN THE EVENT OF PERSONAL INJURY OR DEATH. WITHOUT LIMITING THE GENERALITY OF THE FOREGOING, IN NO EVENT SHALL LOWE'S BE LIABLE FOR ANY DAMAGES (DIRECT OR OTHERWISE) OR PENALTIES OR LOSS ARISING IN CONNECTION WITH THIS AGREEMENT TO SUBSCRIBER OR ANY THIRD PARTY, REGARDLESS OF THE FORM OF ACTION OR CLAIM, WHETHER IN CONTRACT, TORT OR OTHERWISE.

4.3 Indemnification. Subscriber will, at its sole cost and expense, indemnify and hold Lowe's, its affiliates and its and their respective officers, directors, employees, agents, successors and assigns harmless from and against any and all claims, losses, damages, judgments, cost and expenses (including attorneys' fees and expenses) arising out of or related to (a) Subscriber's use of the Site or Information; or (b) any breach or non-performance by Subscriber of the terms of this Agreement in any manner. Subscriber shall permit Lowe's to participate in any such action to the extent that, in Lowe's judgment, Lowe's may be prejudiced thereby, and Subscriber shall not settle any such action without the prior written consent of Lowe's.

**ARTICLE V
CONFIDENTIALITY AND OWNERSHIP OF SITE**

5.1 Confidentiality. Subscriber shall maintain in confidence and not disclose in any manner to any third party without Lowe's prior written consent (i) the existence and terms of this Agreement; (ii) the existence, URL address, functionality, features, underlying concept or any aspect of the Site; (iii) any Information, and; (iv) any information appearing on the Site relevant to Lowe's: that (a) was not known by Subscriber prior to the effective date of this Agreement, (b) is not publicly available, (c) was not disclosed to Subscriber free from any duty of confidentiality, or (d) was not independently developed by Subscriber.

5.2 Ownership. By permitting access to the Site and Information hereunder, Lowe's does not convey to Subscriber any right to or interest in the Site, the content on the Site, the Information or any other property of Lowe's. Any data and information about Lowe's business and business activities with Subscriber, whether provided to Lowe's by Subscriber or developed by Lowe's independently, shall be the sole property of Lowe's. Lowe's shall retain the sole and exclusive editorial and creative control of the Site. Subscriber hereby acknowledges that the Site, its operation, content, underlying concept and trade dress are proprietary to Lowe's and that Lowe's owns all right, title and interest in and to the Site and its content, including any patent, trademark, copyright, trade dress or trade secret rights therein.

ARTICLE VI **MISCELLANEOUS**

6.1 Amendment and Waiver. This Agreement may not be modified unless such modification is reduced to a writing or an electronic file, dated and executed (including electronically) by both parties; provided, that Lowe's may in its sole discretion establish guidelines and procedures for Subscriber's access to and use of the Site that shall be binding upon Subscriber. Neither the course of conduct between the parties nor trade usage shall act to modify or alter the provisions of this Agreement. No provision of this Agreement shall be deemed waived by Lowe's unless such waiver is in written or electronic form and signed (including electronically) by a duly authorized officer of Lowe's.

6.2 Authority. Subscriber represents and warrants that the person accepting this Agreement on its behalf has full right and authority to enter into this Agreement on Subscriber's behalf.

6.3 Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the State of North Carolina excluding its conflicts of laws principles.

6.4 Attorneys' Fees. Should Lowe's use the services of an attorney to enforce any of its rights hereunder in an action in which Lowe's prevails, Subscriber shall pay Lowe's for all costs and expenses incurred, including reasonable attorney's fees.

6.5 Assignment. Subscriber may not assign any of its rights or delegate any of its duties hereunder, including without limitation any rights with respect to or the use of the Site, without the prior written consent of Lowe's. Lowe's may assign its rights or delegate its duties under this Agreement to a parent, affiliate, subsidiary, or successor in interest.

6.6 Severability. If any provision or portion of a provision of this Agreement is determined to be invalid, illegal, or unenforceable under any circumstances, such provision or portion will be deemed omitted with respect to those circumstances, and the remaining provisions of this Agreement shall continue to be valid and enforceable as to the parties hereto.

6.7 No Fiduciary Relationship. Lowe's is not Subscriber's agent, fiduciary, trustee or other representative. The relationship between Subscriber and Lowe's is not that of agent and principal. Subscriber has no authority to bind Lowe's, by contract or otherwise, to any obligation and shall make no representations to the contrary, either expressly, implicitly, by appearance, or otherwise.

6.8 Governmental Regulations. Lowe's obligation to perform the Certification services contemplated hereunder is subject to all governmental requirements and restrictions that may now be or hereafter become applicable thereto.

6.9 Governing Agreement. In the event of any dispute relating to this Agreement or the relationships and obligations created herein, Lowe's file version of this Agreement shall govern.

6.10 Signature. For purposes of this Agreement, an electronic signature shall constitute a valid signature (N.C.Gen.Stat. §§66-312, 317, 319).

6.11 Entire Agreement. This Agreement together with the MSBA (in the event the parties have entered into, or enter into during the term of this Agreement, a MSBA), and any guidelines, rules or regulations issued by Lowe's from time to time pertaining to access to the Site or use of the Information constitute the entire agreement of the parties with respect to the subject matter hereof and supersede any prior written or oral agreements between them with respect thereto.