



PREPAY APPLICATION FOR WATER DEPOT ACCESS

SUBMIT TO: PO Box 2343, Williston, ND 58802

Email: waws@wawsp.com

PH: 701-774-6605 FAX: 701-774-6606

COMPANY INFORMATION

COMPANY NAME: TAX ID: PHYSICAL ADDRESS: PHONE: MAILING ADDRESS: FAX:

BUSINESS STRUCTURE (CIRCLE ONE): CORPORATION PARTNERSHIP PROPRIETORSHIP OTHER

TYPE OF BUSINESS: YEAR ESTABLISHED:

WATER USAGE (CIRCLE ONE): INDUSTRIAL (FRACKING, DRILLING, MAINTENANCE WATER) OR COMMERCIAL (LANDSCAPING, CONSTRUCTION, OTHER)

PRE-PAY INFORMATION

WAWSA is authorized to charge account again with a phone call or email from authorized employee: YES OR NO

Pre-Pay Amount: Date of Transaction:

I authorize WAWSA to initiate either an electronic debit or to create and process a demand draft against my bank account according to the terms outlined below. I acknowledge that the origination of ACH transactions to my account must comply with the provisioning of United States law.

ACCOUNT INFORMATION

ACCOUNT #: TYPE OF ACCOUNT (CIRCLE ONE): CHECKING SAVINGS OTHER

ROUTING #:

OR

I authorize WAWSA to initiate a credit card transaction according to the terms below and understand that a 3% surcharge fee applies.

ACCOUNT INFORMATION

CARD #: TYPE OF CARD (CIRCLE ONE): VISA AMEX MASTERCARD OTHER

CID #: EXPIRATION DATE:

NAME: TITLE:

SIGNATURE: DATE:

TERMS AND CONDITIONS

- 1. WAWSA reserves the right to de-activate depot access at any time, for any reason
2. Customer assumes responsibility of all access codes and pin numbers issued to company. WAWSA will be immediately notified of any access code and pin numbers that need to be changed or de-activated.
3. Additional terms and conditions are set forth in the Depot Access Agreement attached to this Application for Water Depot Access.

NAME: TITLE:

SIGNATURE: DATE:

TRUCK ACCESS CODE AND PIN

**WAWSA OFFICE USE ONLY**

Cust ID# \_\_\_\_\_

COMMERCIAL

OR

INDUSTRIAL

COMPANY NAME: \_\_\_\_\_ A/P Contact: \_\_\_\_\_

Billing Address: \_\_\_\_\_ A/P Phone: \_\_\_\_\_

A/P Email Address: \_\_\_\_\_ A/P Fax: \_\_\_\_\_

\* Invoices will be emailed automatically to A/P email on invoice date. Invoices will not be mailed, unless otherwise noted.

Main Contact: \_\_\_\_\_ Title: \_\_\_\_\_

Email Address: \_\_\_\_\_ Phone: \_\_\_\_\_

Dispatch Contact: \_\_\_\_\_ Title: \_\_\_\_\_

Email Address: \_\_\_\_\_ Phone: \_\_\_\_\_

INVOICE WATER TRANSACTIONS BACKUP NEEDED (CIRCLE ONE): YES OR NO

CUSTOMER ACCESS TO WATER TRANSACTION WEBSITE: YES OR NO

NAME AND EMAIL: \_\_\_\_\_

DEPOT UPDATES OR CLOSING NOTIFICATION NEEDED (CIRCLE ONE): YES OR NO

CUSTOMER REQUIRES AN ACCESS CODE AND PIN FOR EACH DRIVER OR JOB (CIRCLE ONE): YES OR NO

IF YES, PLEASE LIST DRIVERS OR JOBS HERE (WAWSA WILL ASSIGN ACCESS CODES AND PINS):

1 \_\_\_\_\_

5 \_\_\_\_\_

2 \_\_\_\_\_

6 \_\_\_\_\_

3 \_\_\_\_\_

7 \_\_\_\_\_

4 \_\_\_\_\_

8 \_\_\_\_\_

LIST OF PEOPLE AUTHORIZED TO MAKE CHANGES TO YOUR ACCOUNT. NO ACCOUNT INFORMATION WILL BE PROVIDED TO ANYONE NOT LISTED AS AN AUTHORIZED USER.

**NOTE: ANY CHANGES TO THE LIST OF AUTHORIZED USERS MUST BE MADE IN WRITING.**

1 \_\_\_\_\_

4 \_\_\_\_\_

2 \_\_\_\_\_

5 \_\_\_\_\_

3 \_\_\_\_\_

6 \_\_\_\_\_

**WAWSA OFFICE USE ONLY**

TRUCK ACCESS CODE: \_\_\_\_\_ TRUCK PIN NUMBER: \_\_\_\_\_

\_\_\_\_\_ FLOW POINT

\_\_\_\_\_ QUICKBOOKS

## DEPOT ACCESS AGREEMENT

This depot access agreement (this "Agreement") is made and entered into as of \_\_\_\_\_ (the "Effective Date") by and among Western Area Water Supply Authority ("WAWSA") and \_\_\_\_\_ (your business). In consideration of the representations, warranties, covenants and agreements contained herein and in the Application for Water Depot Access to which this Agreement is attached, WAWSA and Customer agree to the following:

1- Definitions: Definitions set forth on this agreement shall apply to both the singular and plural forms of the term defined. When used in this Agreement, the following terms shall have the following meanings:

**Authorized Drivers:** Collectively, the individuals employed, contracted or otherwise directed by Customer to access the Water Depot.

**Customer Responsible Persons:** Collectively, (i) Customer, (ii) Authorized Drivers, (iii) All other employees, agents, independent contractors, subcontractors, or representatives of Customer, (iv) other persons otherwise acting or purporting to act on behalf of, for the benefit of or at the request or direction of Customer; and (v) all other persons who have an active access code assigned to Customer; and (vi) any person who has accessed any Water Depot by using an active access code.

**Depot Rules:** Collectively, all written rules that WAWSA establishes from time to time with respect to (i) the conduct of persons in or near any Water Depot; and/or (ii) the loading and handling of water at any Water Depot.

**Person:** any individual, corporation, firm, enterprise, partnership, limited liability company, governmental unit or any other entity of any kind.

**Water Depot:** A water depot operated by WAWSA at which Customers can purchase and load water by tanker truck.

2- Access: Subject to the provisions of this Agreement, WAWSA grants Customer revocable, non-exclusive access to Water Depots for the sole purpose of taking delivery of water for the account of Designated Customers. WAWSA may revoke a Customer's access at any or all Water Depots at any time and without prior notice, at WAWSA's sole discretion.

3-Authorized Drivers: Customer authorizes its Authorized Drivers to access Water Depots on Customer's behalf. Customer shall not permit any persons, other than Authorized Drivers, to access any Water Depot. Customer shall be responsible for and ensure that each Authorized Driver is: (i) physically capable of handling all loading equipment necessary to load water at a Water Depot, and properly instructed in the safe use of such equipment; and (ii) properly instructed in the characteristics and safe handling and loading methods for all water to be loaded by such Authorized Driver. WAWSA shall have no responsibility to train or instruct any Authorized Driver with respect to any matter, including, without limitation, the handling or loading of water.

4- Access Code: Water Depots require the use of access codes to actuate the automated loading racks and/or automated accounting equipment at such Water Depots. WAWSA will furnish to Customer such access codes (each an active access code). Customer shall report immediately any stolen or otherwise compromised access code. Customer assumes responsibility of all access codes and pin numbers issued to company.

5- Depot Rules/Applicable Law: Customer shall comply with: (i) this Agreement; (ii) all Depot Rules; (iii) all applicable federal, state, and local laws standards and regulations; and (iii) applicable commercial standards for safe loading and delivery of water. WAWSA may amend the Depot Rules, with such amended Depot Rules becoming effective immediately upon posting at a Water Depot.

6- Insurance: So long as Customer has access to any Water Depot, Customer, at Customer's sole cost and expense, shall purchase and maintain in effect: (i) all insurance required by law, including, without limitation, workers compensation insurance; (ii) comprehensive general liability insurance with minimum limits of insurance of not less than \$1,000,000 per occurrence and \$2,000,000 in the aggregate; and (iii) commercial automobile liability insurance for each vehicle owner or operated by Customer with combined single limit of not less than \$1,000,000 per occurrence, with such policy including a MCS-90 endorsement. Customer shall provide certificates evidencing all insurance required by this Agreement (collectively "Required Insurance") to WAWSA on demand and all such certificates shall specify that any policy for required insurance may only be cancelled upon thirty (30) days advance written notice to WAWSA. In addition, WAWSA shall be named an additional insured under each policy of required insurance, and the required insurance certificates shall show WAWSA as an additional insured. For purposes of all Required Insurance, Water Depots shall not be considered property under care, custody, or control of Customer. All policies for Required Insurance shall be written by insurance companies licensed to write such business and with an A.M. Best Company rating of A+ or higher.

7- WAWSA Loading Equipment: Access to and use of loading and other equipment at all Water Depots (collectively, "Depot Equipment") shall be on a strictly "as is" basis and WAWSA makes no representation or warranties of any kind with respect to Depot Equipment, including, without limitation representations or warranties with respect to condition or safety of Depot Equipment. Customer assumes all risks associated with the use of Depot Equipment by any Customer Responsible Person. Customer shall ensure that all Authorized Drivers are qualified and trained to operate Depot Equipment. Customer will be responsible for damages attributed to the Customer's access and/or use of the depot.

Customer storing, handling, transporting, or disposing of a hazardous or other chemical substance or waste shall notify WAWSA of the occurrence of any spill or discharge as soon as possible after the discovery of such spill or discharge. Depending on the nature and extent of any such spill or discharge, WAWSA shall notify the proper state office in the manner established by the state. WAWSA shall not be liable to any person for claims of damages, injuries, or losses. Any person/company causing the spill or discharge of a hazardous or other chemical substance on WAWSA property shall be subject to a fine of \$1,000.00 for self-reported spill or \$5,000.00 for non-reported spill and leaving the scene, termination of any Depot Access Agreement, or both.

8-Assignment: This Agreement shall be binding on and inure to the benefit of WAWSA and Customer and their respective successors and assigns.

**DEPOT ACCESS AGREEMENT (cont.)**

Customer shall not assign its rights, or delegate any of its duties or obligations under this Agreement without WAWSA's prior written consent, which consent may be given or withheld at WAWSA's sole discretion.

9- Indemnity: Customer shall indemnify, defend, and hold WAWSA, its parents, affiliates and subsidiaries and its and their respective shareholders, partners, members, managers, officers, directors, employees, agents, and attorneys (collectively as "Indemnified Parties") harmless against any and all claims, liabilities, judgments, injuries, losses, damages, costs, and expenses (including, without limitation, reasonable attorney's fees) which may be incurred by, asserted against, or imposed by any indemnified party, whether direct or indirect and regardless of whether caused by, or within the control of, Customer or any other Person, arising from, by virtue of or in connection with, (i) any act or failure to act by any Customer Responsible Person which is related in any way to the loading, hauling, storage, or transportation of water sold by WAWSA; (ii) any act of negligence, recklessness, or intentional misconduct of any Customer Responsible Person, including, without limitation, the removal of water from any Water Depot without the consent or authorization of a Designated Customer; (iii) the use, misuse, or condition of any Depot Equipment; (iv) presence of any Customer Responsible Person at or near any Water Depot; (v) any material misrepresentation or omission by any Customer Responsible Person in this agreement or in any other application, communication or agreement submitted to or with WAWSA; and (vi) any other breach or default by any Customer Responsible Person of any of such Customer Responsible Person's covenants, representations, warranties, or other obligations under this agreement or any other agreement between such Customer Responsible Person and WAWSA. Customer shall not be obligated to indemnify the Indemnified Parties against any claim, liability, judgment, injury, loss, damage, cost or expense identified above to the extent such claim, liability, judgment, injury, loss, damage, cost or expense is determined by a court of competent jurisdiction to have been solely caused by the gross negligence or intentional misconduct of WAWSA.

10- Notices: All notices and communications provided for in this Agreement shall be in writing and delivered by hand or overnight courier service, mailed by certified or registered mail or sent by facsimile as follows, (i) if to WAWSA, to notice address for WAWSA set forth on the Application for Water Depot Access to which this agreement is attached, or such other address as may be identified by WAWSA as WAWSA's notice address in A written notice to Customer; (ii) if to Customer, to the notice address for Customer set forth on the Application for Water Depot Access, or such other address as may be identified by Customer as Customer's notice address in a written notice to WAWSA. All notices and communications sent by hand or overnight courier service or mailed by certified or registered mail shall be deemed to have been given when received. All notices and communications sent by facsimile shall be deemed to have been given when sent.

11-Customer Duty to Update. Customer shall promptly inform WAWSA in the event that any representation contained in this Agreement or any information contained in the Application for Water Depot Access changes.

12- Choice of Law/Waiver of Jury Trial: the laws of the State of North Dakota, without regard to its principles of conflicts law, shall govern all aspects of Customer access to Water Depots and this Agreement. CUSTOMER HEREBY SUBMITS TO THE PERSONAL JURISDICTION OF ANY STATE COURT SITTING IN WILLIAMS COUNTY, NORTH DAKOTA OR FEDERAL COURT SITTING IN BURLEIGH COUNTY, NORTH DAKOTA FOR THE RESOLUTION OF ANY CONTROVERSY, CAUSE OF ACTION, DISPUTE OR CLAIM ARISING OUT OF, RELATING TO OR IN CONNECTION WITH CUSTOMER'S ACCESS TO WATER DEPOTS AND/OR THIS AGREEMENT (COLLECTIVELY, "CLAIMS") AND HEREBY WAIVES THE RIGHT TO A TRIAL BY JURY REGARDING ANY CLAIMS AND ANY RIGHT TO OBJECT TO VENUE OR TO ASSERT THE DOCTRINE OR FORUM NON CONVENIENS IN ANY CLAIMS BROUGHT IN ANY SUCH STATE OR FEDERAL COURT.

13- Miscellaneous: Failure to insist upon strict compliance shall not be deemed a waiver of any provision of this Agreement, and no waiver or relinquishment of any right or power at any one or more times shall be deemed a waiver or relinquishment of such right or power at any other time. If any one or more provisions of this Agreement shall be invalid or unenforceable in any respect, the validity or enforceability of the remainder of this Agreement shall not in any way be affected or impaired. Section headings in this Agreement are for convenience only and shall not limit or change the subject matter of this Agreement. This Agreement (and the Application for Water Depot Access) contain the entire agreement of WAWSA and Customer with respect to the subject matter thereof; there are no other covenants, representations, or warranties. This agreement may be executed in any number of counterparts, all of which taken together shall constitute one agreement, and any of the parties hereto may execute this Agreement by signing any such counterpart. Delivery of an executed an executed counterpart of a signature page of this agreement by facsimile shall be effective as delivery of a manually executed counterpart of this Agreement. If this Agreement is signed on behalf of a Customer, the Person signing this agreement represents that he or she has the authority to sign this Agreement on behalf of such customer. WAWSA declines any warranty that any water furnished pursuant to this Agreement is suitable for any specified purpose.

NAME: \_\_\_\_\_ TITLE: \_\_\_\_\_

SIGNATURE: \_\_\_\_\_ DATE: \_\_\_\_\_

**PERSONAL GUARANTEE TO WESTERN AREA WATER SUPPLY AUTHORITY**

The undersigned, in consideration of the applicant herein receiving credit, does hereby unconditionally, jointly and severally, and personally guarantee payment of any and all bills or obligations incurred by applicant. All charges incurred have a net term of 45 days from invoice date. The undersigned acknowledges that collection costs, "NSF" fees, and also service charges (equal to the lesser of 1.5% or the maximum legal rate) can be charged. In any event of default, the undersigned as guarantor agrees to pay all obligations, including interest and reasonable attorney fees. The undersigned as guarantor waives protest, setoff, notice of delinquency, or demand.

NAME: \_\_\_\_\_ TITLE: \_\_\_\_\_

SIGNATURE: \_\_\_\_\_ DATE: \_\_\_\_\_