



# APPLICATION FOR CREDIT 1 - 6

IMERYYS Clays, Inc. , IMERYYS Kaolin, Inc, IMERYYS Marble, Inc.  
Kentucky-Tennessee Clay Co. (and their affiliated Imerys companies)  
100 Mansell Court East - Suite 300  
Roswell, GA USA 30076  
770-594-0660 (P)

**PLEASE PRINT OR TYPE. ALL INFORMATION IS REQUIRED.**

\* Name of Firm \_\_\_\_\_  
\_\_\_Individual \_\_\_Partnership \_\_\_Corporation \_\_\_ LLC Year business started: \_\_\_\_\_

\*MAILING ADDRESS \_\_\_\_\_

City \_\_\_\_\_ \*County \_\_\_\_\_ \*State \_\_\_\_\_ \*Zip \_\_\_\_\_

Telephone \_\_\_\_\_ Fax \_\_\_\_\_

\*SHIP TO ADDRESS: \_\_\_\_\_

Contact Persons for purposes of this Application:

Name \_\_\_\_\_

Phone# w/area code \_\_\_\_\_ Email \_\_\_\_\_

If Applicant is a subsidiary: Name and address of parent company:

Name \_\_\_\_\_ Street \_\_\_\_\_

City \_\_\_\_\_ State \_\_\_\_\_ Zip \_\_\_\_\_ Phone# \_\_\_\_\_

**CREDIT REFERENCES:**

NAME	Address	City/State/Zip	Tel #/Fax
1. _____	_____	_____	_____
2. _____	_____	_____	_____
3. _____	_____	_____	_____
4. _____	_____	_____	_____

**BANK REFERENCES:**

Name	Address	City/State/Zip	Tel. # /Fax #	Bank /Acct. Number
1. _____	_____	_____	_____	_____
2. _____	_____	_____	_____	_____

Use Tax Status (check one): \_\_\_\_\_ Exempt \_\_\_\_\_ Non-exempt

- If Exempt, ATTACH a copy of your Sales Tax Exemption Certificate; otherwise sales taxes will be charged.

Applicant acknowledges and agrees that: (a) the above information is warranted by Applicant to be true and will be relied upon by Imerys in the granting of credit or releasing of goods for shipment; and (b)

each sales transaction to be entered into between Applicant and Imerys will be governed by the Terms and Conditions of Sale set forth in this Application. Applicant hereby authorizes Imerys to investigate the above-listed references pertaining to Applicant's credit and financial responsibility and authorizes such references to release to Imerys information it may request from them related to this Application. Imerys will treat all information about Applicant in a confidential manner and will use it only for the purpose of evaluating this request for credit.

**NOTICE:** If this Application is denied, you have the right to a written statement of the specific reason(s) for the denial. To obtain the statement please contact Imerys at the address or telephone number stated above within 60 days after the date you are notified of such denial. Imerys will send to you a written statement of the reason(s) for the denial within 30 days after receipt of your request for such statement.

Name \_\_\_\_\_ of

Applicant \_\_\_\_\_

By

(Signature): \_\_\_\_\_

Title (must be officer or owner Applicant): \_\_\_\_\_ Date \_\_\_\_\_

- If Applicant wishes to receive a monthly statement, initial here: \_\_\_\_\_
- Please complete the attached W-9 Request for Taxpayer Identification Number and Certification. Return it with this Credit Application.
- Please attach a copy of your most recent Financial Statement.

Name \_\_\_\_\_ of \_\_\_\_\_ Imerys salesperson if known: \_\_\_\_\_

<u>Sales Dept Use Only</u>	<u>Credit Dept Use Only</u>
Date _____ Salesman # _____	Account # _____ Company _____
Credit Requested _____ Terms: <b>Net 30</b>	Credit Limit _____
Salesperson : _____	Approved by _____ Date Approved _____

## TERMS AND CONDITIONS OF SALE

1. Except as otherwise set forth in this Application, the invoices of Imerys shall control the terms of the sale and such terms cannot be altered unless Imerys shall have agreed to the same in writing. No waiver of any terms as herein provided shall constitute a waiver of this Application.
2. Any invoice not paid by the due date may be subject to interest from the due date of the invoice to the date of payment at the rate of 1 ½ % per month (or such lower rate as may be the maximum legally allowable).
3. In the event Applicant shall fail to pay any obligation owing to Imerys when due, Imerys may declare all outstanding invoices of Applicant immediately due and payable, and Imerys may immediately terminate all agreements between Applicant and Imerys.
4. Any rebate, refund or other indebtedness owed by Imerys may be set off and applied by Imerys against any indebtedness or liability owed by Applicant to Imerys at any time.
5. No deductions on invoices may be taken by Applicant, and no debit memoranda will be issued by Applicant without the prior written approval of Imerys, and all returns permissible under any agreement between Applicant and Imerys may be subject to a reasonable restocking charge.
6. Applicant authorises the release of all information needed to verify the contents of this Application or to otherwise process this Application, including but not limited to contacting third parties concerning the creditworthiness of Applicant. Applicant agrees that Imerys may rely entirely on the information provided herein in extending the credit requested by Applicant and that Imerys is under no duty to secure or investigate credit reports, trade references or bank references. Credit extended to Applicant may be changed or withdrawn at any time and from time to time at the sole discretion of Imerys.
7. Applicant agrees to promptly notify Imerys of any material change in the information contained in this Application, and, if requested by Imerys from time to time, Applicant shall provide its then-current financial statements.
8. Any property of or held for Applicant or any company affiliated with Applicant at any time in the possession of Imerys or any company affiliated with Imerys, including but not limited to, merchandise billed and held (whether paid for or not) shall be deemed security for Applicant's obligations to Imerys. In the event Applicant or any company affiliated with Applicant shall be in default of any of its obligations to Imerys or any company affiliated with Imerys, Imerys may sell such property at a public or private sale. Applicant shall remain liable for the expenses of such sale and any deficiency in the price received by Imerys as compared with the price set forth in Imerys agreements with Applicant.
9. This Application and all other agreements between Imerys and Applicant shall be governed by the internal laws of the State of Georgia, notwithstanding the principles of conflicts of law.
10. Arbitration:
  - (a) Any controversy arising out of or relating to this Application, or any other agreement between Applicant and Imerys, or any modification or extension thereof, including any claim for damages and/or rescission, shall, at Imerys election, which election may be made at any time prior to the commencement of a judicial proceeding by Imerys. In the event of a judicial proceeding instituted by Applicant, at any time prior to the last day to answer and/or respond to a summons and/or complaint by Applicant, be resolved by arbitration before an arbitrator in Atlanta, Georgia (or if applicable law requires some other place, then such other place) in accordance with the then current rules of the American Arbitration Association.
  - (b) Applicant and Imerys consent to the jurisdiction of the Superior Court of Fulton County, Georgia and the United States District Court for the Northern District of Georgia for all purposes in connection with arbitration and all other disputes between, on or other application to either of said Courts and any paper in connection with arbitration or otherwise may be served inside or outside the State of Georgia, by certified mail or registered mail, return receipt requested or by personal service or in such other manner as may be permissible under the rules of the applicable court or arbitration tribunal, provided a reasonable time for appearance is allowed. In the event of litigation, Applicant waives the right, if any, to demand a trial by jury.

(c) Prior to the arbitration award being rendered, Imerys shall have all rights to provisional remedies, which it would have at law or equity, notwithstanding the existence of this agreement to arbitrate.

(d) The arbitrator shall have no power to alter or modify any express provision of this Application or any other agreement between Imerys and Applicant (all of which provisions are hereby incorporated by reference into this arbitration provision) or to award punitive damages to either party or render an award which has the effect of altering or modifying any express provisions hereof or of any such other agreement. Any award in violation hereof shall be deemed a departure from the terms of the submission to arbitration and shall be void and unenforceable.

(e) Applicant and Imerys agree that any arbitration hereunder shall not be consolidated with any other arbitration proceeding involving any third-party, and they further agree that where a demand for arbitration is served under this Application or any agreement between Applicant and Imerys. Neither of them shall assert any claim in such arbitration proceeding by answer, counterclaim, or otherwise, other than claims arising under this Application and the agreements specified in said Demand for Arbitration.

(f) In the event arbitration or legal proceedings are instituted by Imerys as a result of Applicant's failure to pay invoices rendered by Imerys or by reason of any other default by Applicant. Applicant agrees to pay all costs and expenses associated with the collection of any amounts due and owing to Imerys, including attorneys' and arbitrator's fees, incurred by Imerys, in collecting any amount due and owing, as well as attorneys' fees and costs incurred by Imerys in participating in Applicant's bankruptcy case, or in any related proceedings, together with interest on all unpaid invoices at the rate specified herein. The arbitrator in any arbitration or the court in any legal proceeding is hereby authorized to direct payment of said attorneys' fees and interest.