



CREDIT APPLICATION

Fax to: Credit Dept. 480-633-4657

Applicant Information:

General Information: Credit Account Equipment Financing Existing Customer: Yes No Empire Contact _____

Applicant Business Name _____

Physical Address _____ City _____ State _____ Zip _____ County _____

Mailing Address _____ City _____ State _____ Zip _____ County _____

Business Phone _____ Fax _____ Mobile _____

Contact Name _____ Title _____ E-Mail _____

Business Start Date _____ Time as Current Owner _____ State of Inc. _____ Contractor License # & State _____

Business Description _____ Fed ID # or SS # _____ Number of employees _____

Business Type: Corporation LLC Partnership Sole Proprietorship Other _____ Tax Exempt: Yes No (if Yes, attach certificate)

Business or Principal ever declared bankruptcy? Yes No Date Filed _____ Outstanding Liens or Judgments? Yes No

Minimum Credit Request \$ _____ Insurance Company _____ Contact _____ Ph# _____

Purchase Order System: Yes No Bonding Company _____ Contact _____ Ph# _____

References:

Bank _____ Acct# _____ Contact _____ Ph# _____

Checking \$ _____ Savings \$ _____ Loans \$ _____

Trade Reference _____ Acct# _____ Contact _____ Ph# _____

Trade Reference _____ Acct# _____ Contact _____ Ph# _____

Owner, Principal, Guarantor Information:

Proof of Identity Will Be Required

Name _____ Title _____ Birthdate _____ SS# _____

Home Address _____ Home Ph# _____ % Ownership _____

Net Worth \$ _____ Annual Income \$ _____ Monthly Housing Payment \$ _____

Name _____ Title _____ Birthdate _____ SS# _____

Home Address _____ Home Ph# _____ % Ownership _____

Net Worth \$ _____ Annual Income \$ _____ Monthly Housing Payment \$ _____

Signatures of Owners, Principals, Partners, Members or Authorized Officers:

Applicant and each person signing below: (a) warrant that all information provided on this Credit Application is true and correct; (b) warrant that such person(s) has/have all legal authority necessary to sign this Credit Application on behalf of Applicant; (c) acknowledge that this Credit Application is for business customers only, and any credit provided pursuant hereto is not to be used for personal, household or family purposes; and (d) authorize banks, other financial institutions, credit bureaus, and other creditors to release to Empire Southwest, LLC, its subsidiaries and affiliates (collectively, "Empire"), and their respective employees and agents, any credit/financial information concerning Applicant and/or each person signing below (including personal credit information). Applicant shall be bound by all terms and conditions of this Credit Application and the Credit Account Terms and Conditions on Page 2.

Applicant and each person signing below acknowledge that he/she has read and fully understands the terms of this Credit Application and the Credit Account Terms and Conditions on Page 2.

Read the Second Page Before Signing

Applicant & Signatory Identity Verified

Required Signatures: Corporation – Officer Partnership – Partners and Spouses Sole Proprietorship – Proprietor and Spouse LLC – Manager or Member(s)

By: _____ Title: _____ Date: _____

By: _____ Title: _____ Date: _____

Signatures of Guarantors:

The undersigned Guarantor(s) jointly, severally, irrevocably, and unconditionally agree to: (1) all terms and conditions of this Credit Application and the Credit Account Terms and Conditions on Page 2; and (2) guarantee the payment of any and all indebtedness, including advances, debts, obligations, and liabilities now existing or hereafter made or incurred by Applicant, together with any attorneys' fees, costs and expenses incurred by Empire in the enforcement of this Credit Application (including, but not limited to this Guaranty and/or the Credit Account Terms and Conditions), whether or not suit is commenced. The undersigned Guarantor(s) expressly authorize(s) Empire to renew, compromise, extend, accelerate, or otherwise modify the terms of the credit agreement with Applicant or any underlying agreement with Applicant, without notice or demand to the undersigned and without affecting the undersigned's liability hereunder. Both husband and wife must sign the Guaranty. If only one person signs the Guaranty, the person signing represents to Empire that he/she is not married and expressly acknowledges that Empire is relying on that representation to its detriment and that any misrepresentation as to marital status was made in furtherance of the marital community. **Applicant and each person signing below acknowledge that he/she has read and fully understands the terms of this Credit Application and the Credit Account Terms and Conditions on Page 2.**

Read the Second Page Before Signing

Guarantor's Signature _____ Social Security Number _____

Spouse's Signature _____ Social Security Number _____

Residence Address _____ Home Phone _____

Guarantor's Signature _____ Social Security Number _____

Spouse's Signature _____ Social Security Number _____

Residence Address _____ Home Phone _____

NOTICE: If your credit application is denied, you have the right to a written statement of the specific reasons for the denial. To obtain this statement, contact Empire's Credit Department at 480-633-4523 within 60 days from the date you are notified of the decision. Empire will send you a written statement of the reasons for the denial within 30 days from receiving your request. The Federal Equal Credit Opportunity Act prohibits creditors from discriminating 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 applicant's 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 these creditors is the FTC Regional Office for the region in which Empire operates or the Federal Trade Commission, Equal Credit Opportunity, Washington, DC 20580.

CREDIT ACCOUNT TERMS AND CONDITIONS

In the event Empire approves Applicant's Credit Application and agrees to open a credit account in Applicant's name, Applicant, its guarantors, agents and sureties (collectively, "Customer") agree to be bound by all of the terms and conditions set forth on the Credit Application and by all of the terms and conditions included in these Credit Account Terms and Conditions (collectively, the "Account Agreement").

1. **Credit Account:** Unless a credit account has been approved, all goods and services must be paid for at the time of delivery or, in the case of lease, in advance. Empire's Credit Department reserves the right to approve or disapprove credit as and whenever it deems appropriate, but at all times in accordance with applicable laws. The amount of credit extended to Customer will be determined by Empire and may vary from time to time. Customer waives notice of any change in Customer's credit limit. When Customer's credit limit is reached, no additional charges may be made to the credit account without written approval of a Credit Department Account Manager. The purchase of goods (such as parts and equipment) and services (such as repairs, hauling and freight charges), the leasing of equipment, and other amounts owing to Empire may be charged to an approved open account with available credit. The terms and conditions of Customer's account, including late charges, may be changed by Empire at any time, without written notice to Customer.

2. **Payment Terms:** Customer agrees to pay for goods, services, leases and other items charged to its credit account upon receipt of invoice. **Payment is late if not received by Empire within 30 days of the invoice date.** If no invoice is issued or received, Customer agrees to pay upon the earlier of receipt of the monthly statement or within 30 days of delivery of goods, rendering of services or commencement of lease. Charges for goods, services, lease payments or any other item which is Customer's obligation will be automatically billed to Customer's credit account, unless payment has been received by Empire at the time of delivery. All amounts charged to the credit account are Customer's responsibility.

3. **Default:** Payment shall be made when due. Failure to make a timely payment shall result in a default under the Account Agreement and under any underlying agreement with Empire. A late charge of 1.5% per month of the outstanding balance due will be assessed on the past due balance until it is paid in full. In the event of such a default, Customer agrees to pay Empire for all attorneys' fees, costs and other collection expenses incurred by Empire in the enforcement of the Account Agreement, whether or not suit is commenced. Customer agrees that the laws of the State of Arizona shall govern all transactions and agreements between Empire and Customer, and Customer irrevocably consents to jurisdiction and venue in the State and Federal Courts located in Maricopa County, Arizona. **CUSTOMER EXPRESSLY WAIVES SOVEREIGN IMMUNITY WITH RESPECT TO ANY DEFAULT HEREUNDER AND UNDER ANY OTHER AGREEMENTS WITH EMPIRE.**

4. **Indemnity/Warranty Disclaimer:** Customer shall indemnify, defend and hold Empire harmless from any and all liability, claims, loss, damages or expenses, including, without limitation, attorneys' fees and costs, arising by reason of the death of, or injury to, any person, or by reason of the damage or destruction of any property, caused or allegedly caused by any goods, machinery, parts, tools or services sold, leased or delivered by Empire, except as otherwise expressly agreed in a written document executed by Customer and an officer of Empire. **EMPIRE MAKES NO WARRANTIES WITH RESPECT TO ANY GOODS, MACHINERY, PARTS, TOOLS OR SERVICES SOLD, LEASED OR DELIVERED BY EMPIRE, EXCEPT SUCH WARRANTIES AS ARE EXPRESSLY SET FORTH IN A SEPARATE WRITING SIGNED BY AN AUTHORIZED OFFICER OF EMPIRE. ALL OTHER EXPRESS OR IMPLIED WARRANTIES, INCLUDING, WITHOUT LIMITATION, WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, ARE DISCLAIMED BY EMPIRE AND WAIVED BY CUSTOMER.**

5. **Governing Document(s):** These terms and conditions govern the relationship between Empire and Customer. Customer agrees to be bound exclusively by all of these terms and conditions and all of the terms and conditions of Empire's underlying sale, lease, service, invoice and other agreements, all of which are intended to be incorporated herein by this reference and construed in conjunction herewith. Customer's issuance of a purchase order constitutes acceptance of all of these terms and conditions exactly as written. Notwithstanding anything to the contrary in the purchase order or other document(s) issued by Customer, Empire rejects additional or different terms proposed by Customer or any attempt by Customer to vary these terms or the terms of any of Empire's documents. Any additions or modifications to these terms shall not be binding on Empire unless they are set forth in a written document executed by an officer of Empire. Customer acknowledges and agrees that placement of a purchase order creates no burden on the part of Empire to verify its accuracy or validity.

6. **Non-Waiver:** Nothing contained herein shall be construed as a waiver by Empire of any lien or UCC rights or any rights which it may now have or hereafter acquire by law, nor shall anything stated herein be construed as an obligation to extend credit to Customer under any circumstances. No waiver or modification hereof shall be valid unless expressed in writing and executed by Customer and an officer of Empire.

7. **Security Interest:** Customer grants Empire a purchase money or other security interest and lien in all goods, repair parts and accessories acquired from, or financed by, Empire ("Goods"), including accessions and all cash and non-cash proceeds and accounts receivable arising from their sale or other disposition (all of which, including Goods, being "Collateral"), to secure payment of all amounts financed by Empire to acquire Goods and all other obligations of Customer, whether absolute or contingent, and whether now existing or hereafter arising. Customer agrees that Empire may, with or without prior notice or demand, charge any amounts Customer owes to Empire against any credit balance or other money now or hereafter owed by Empire to Customer.

8. **Assignment:** No right or interest in this agreement shall be assigned by Customer without the written permission of Empire, and no delegation of any obligation owed or of the performance of any obligation by Customer shall be made without written permission of Empire. Any such attempted assignment or delegation by Customer shall be void.

9. **Risk of Loss:** Risk of loss of goods shall pass to Customer, and Empire's responsibility for shipment shall cease, as soon as the goods are properly loaded on the carrier. Customer shall carry such fire and other insurance as necessary to protect its interest and the interest of Empire. It is specifically agreed that the risk of loss shall not be altered by the fact that the conduct of either party hereto may constitute a default or breach. Within 72 hours of receipt, Customer has a duty to inspect the goods and report in writing to Empire any claims of non-conformity or shortage of goods.

10. **Provisions Applicable to Rentals:** In addition to the requirements and provisions of any underlying rental agreement between Customer and Empire, Customer agrees that the following terms shall apply to all rental transactions with Empire. Customer, at its expense, shall keep leased equipment in good repair and working order. If Customer fails to properly maintain and repair leased equipment, Empire may repair it upon its return to Empire, whether during or after the lease, without prior notice to Customer. Customer shall be responsible for all damages to said equipment beyond normal wear and tear and shall be responsible for the cost of repair. Customer shall be obligated to pay rent to Empire until the equipment is returned and repaired to good working order. Customer, at its expense, shall keep leased equipment insured for the entire term of any lease or rental and any renewals or extensions thereof, with Empire named as loss payee, for the full and insurable value thereof, against all risk of loss or damage, which includes, without limitation, general liability and property damage. Upon commencement of any lease and upon any subsequent request by Empire, Customer shall deliver certificate(s) of insurance, in a form satisfactory to Empire, evidencing the required insurance. The proceeds of such insurance, at the option of Empire, shall be applied: (a) toward the replacement, restoration or repair of the equipment, and/or (b) toward payment of the obligations of Customer hereunder. Customer is responsible for rental charges for the entire period that rental goods are outside the possession of Empire. There are no allowances for weekends, holidays, inclement weather, down days, or any period the equipment is not in use.

11. **Damages:** In no event shall Customer, or any person claiming by, through or under Customer, have the right to seek or recover from Empire any consequential, special, incidental, indirect, punitive or exemplary damages, whether based in contract, warranty, indemnity, tort, strict liability or any other theory of law or equity, regardless of whether or not Empire was advised of the possibility of such damage.

12. **Miscellaneous:** Any and all contracts, certificates, invoices and other writings signed on behalf of Customer by any employee of Customer shall be deemed to have been executed on behalf of Customer with full authority. Customer shall furnish to Empire, from time to time, promptly upon request: (a) complete financial statements, in such form and detail as Empire may request; and (b) such other information and documents that Empire may reasonably request. If Customer becomes insolvent or if Customer breaches any term or condition herein, or in any invoice or other writing between Empire and Customer, or if for any reason Empire deems itself insecure, Empire may terminate this Account Agreement and close the credit account immediately. This document may be signed in counterpart. Facsimile and photocopy signatures are binding upon Customer.

Initial and date below to indicate you have read the Credit Account Terms and Conditions on this page:
Initial _____
Date _____