



# Application for Account Accommodations/Financing

REV 8/05

Fax to: Attn: Credit Dept. 480-633-4657

General Information Existing Customer: Yes No Empire Contact \_\_\_\_\_

Customer Business Name \_\_\_\_\_

Physical Address \_\_\_\_\_ City \_\_\_\_\_ State \_\_\_\_\_ Zip \_\_\_\_\_ County \_\_\_\_\_

Mailing Address \_\_\_\_\_ City \_\_\_\_\_ State \_\_\_\_\_ Zip \_\_\_\_\_ County \_\_\_\_\_

Business Phone \_\_\_\_\_ Fax \_\_\_\_\_ Mobile \_\_\_\_\_

Contact Name \_\_\_\_\_ Title \_\_\_\_\_ E-Mail Address \_\_\_\_\_

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 Sales Tax Exempt (if Yes, attach copy): Yes No

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 Y N Bonding Company \_\_\_\_\_ Contact \_\_\_\_\_ Ph# \_\_\_\_\_

### References

Bank \_\_\_\_\_ Acct# \_\_\_\_\_ Contact \_\_\_\_\_ Ph# \_\_\_\_\_

Checking: \$ \_\_\_\_\_ Savings: \$ \_\_\_\_\_ Loans: \$ \_\_\_\_\_

Trade Reference \_\_\_\_\_ Acct# \_\_\_\_\_ Contact \_\_\_\_\_ Ph# \_\_\_\_\_

Trade Reference \_\_\_\_\_ Acct# \_\_\_\_\_ Contact \_\_\_\_\_ Ph# \_\_\_\_\_

### Personal Information on Owner/Principals/Guarantors

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 \$ \_\_\_\_\_

### Signature of Owner/Principal or Authorized Officer/Partner

Notice: Applicant and each other person signing below warrants that the information provided herein or in connection with this application is true and correct and authorizes the release of such information to any party who may provide credit to applicant, whether herein or pursuant to a subsequent application or request to obtain from banks, credit bureaus, and other creditors, all of which are hereby authorized to release any credit/financial information concerning applicant or such other person (including personal credit bureaus) as such party may deem appropriate, and to share all such information with the other.

Read the Reverse Side before Signing

Required Signatures: Corporation – Officer Partnership – Partners and Spouses Sole Proprietorship – Proprietor and Spouse

BY: \_\_\_\_\_ Title: \_\_\_\_\_ Date: \_\_\_\_\_

BY: \_\_\_\_\_ Title: \_\_\_\_\_ Date: \_\_\_\_\_

### Signature of Guarantor

Guaranty: In consideration of advances and/or extensions of business credit for goods and services obtained by the above designated Applicant (or its successors) from Empire and as an inducement to make such advances to and/or extensions, the undersigned jointly, severally, irrevocably, and unconditionally agree to (1) all terms and conditions set forth on the front and reverse sides of this document; and (2) guaranty the payment of any and all indebtedness, including advances, debts, obligations, and liabilities now existing or hereafter made or incurred, together with such costs and expenses, including reasonable attorney fees, as may be incurred by Empire in the enforcement of this Guaranty, whether or not suit is commenced. The undersigned expressly authorize Empire to renew, compromise, extend, accelerate, or otherwise modify the terms of the credit agreement or any underlying agreement without notice or demand to the undersigned and without affecting the undersigned's liability hereunder. Husband and wife must both sign the guaranty. If only one person signs the guaranty, the person signing not only represents to Empire that he/she is not married, but also understands that Empire is relying on that representation to its detriment. This document can be signed in counterpart, and facsimile and photocopy signatures are binding upon the applicant.

Read the Reverse Side 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 application for business credit is denied, you have the right to a written statement of the specific reasons for the denial. To obtain this statement, please contact: \_\_\_\_\_ within 60 days from the date you are notified of our decision. We 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 against credit applicants 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 is the FTC Regional Office for the region in which the Lender operates of the Federal Trade Commission, Equal Credit Opportunity, Washington, DC 20580.

## OPEN ACCOUNT TERMS AND CONDITIONS

Applicant, its guarantors, agents and sureties (hereinafter collectively referred to as "CUSTOMER") acknowledge that in the event this Application for Business Credit is accepted and approved by EMPIRE, a credit account will be opened in the name of Applicant. CUSTOMER agrees to each and every term and condition set forth below in consideration of the opening of a credit account by EMPIRE.

1. **THE OPEN 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 open account without 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.

2. **OPEN ACCOUNT PAYMENT TERMS:** CUSTOMER agrees to pay for goods, services, leases and other items charged to its open account upon receipt of invoice. **Payment is late if not received by EMPIRE within 30 (thirty) days of date invoice.** If no invoice is issued or received, Customer agrees to pay upon receipt of the monthly statement or within thirty days of delivery of goods, rendering of services or on the lease payment is due date, whichever occurs first. Charges for goods, services, lease payments or any other item which is CUSTOMER's obligation will be automatically billed to CUSTOMER's open credit account unless payment has been received by EMPIRE at the time of delivery. All amounts charged to the open account are CUSTOMER's responsibility.

3. **OTHER AGREEMENTS:** CUSTOMER agrees to be bound by the terms and conditions of each underlying sale, lease or other written agreement with EMPIRE, which is intended to be incorporated herein by this reference and construed in conjunction herewith. Neither this agreement nor any other may be modified except in writing, signed by both parties.

4. **DEFAULT:** Payment shall be made when due. Failure to make a timely payment shall result in a default under the open account agreement and under the underlying agreement with EMPIRE. A late charge of 1.5% of the outstanding balance due will be assessed on the past due balance until it is paid in full. In the event of a default under any of the terms of this or the underlying agreement, CUSTOMER agrees to reimburse and pay EMPIRE for all expenses, costs, and attorney's fees (including in-house counsel fees) incurred or expended by EMPIRE in enforcing its rights, 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 any enforcement or lawsuit relating to said transactions and agreements shall be in the state or federal courts of Arizona. **CUSTOMER EXPRESSLY WAIVES SOVEREIGN IMMUNITY AND ITS VENUE RIGHTS AND CONSENTS TO THE ENFORCEMENT OF THIS AND ANY OTHER AGREEMENT WITH EMPIRE IN MARICOPA COUNTY, ARIZONA.**

5. **INDEMNITY:** CUSTOMER shall indemnify and hold EMPIRE harmless from any and all liability, claims, loss, damages or expenses, including without limitation counsel fees and costs, arising by reason of the death or injury of 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 expressly otherwise agreed in writing by EMPIRE and CUSTOMER. **EMPIRE MAKES NO WARRANTIES, EITHER EXPRESSED OR IMPLIED, AS TO ANY MATTER WHATSOEVER, EXCEPT AS MAY BE CONTAINED IN A SEPARATE WRITING SIGNED BY AN AUTHORIZED AGENT OF EMPIRE, INCLUDING WITHOUT LIMITATION THE CONDITION OF THE EQUIPMENT, ITS MERCHANTABILITY, OR ITS FITNESS FOR ANY PARTICULAR PURPOSE. OPERATOR TRAINING IS THE CUSTOMER'S RESPONSIBILITY.**

6. **PURCHASE ORDERS:** Issuance of a purchase order by CUSTOMER shall be deemed an acceptance of EMPIRE's terms and conditions, notwithstanding anything to the contrary in CUSTOMER's purchase order documents. CUSTOMER acknowledges and agrees that placement of a purchase order creates no burden on the part of EMPIRE to verify its accuracy or validity and goods, services or leases which are provided to CUSTOMER pursuant to a purchase order shall be the full responsibility and obligation of CUSTOMER.

7. **NON-WAIVER:** Nothing contained herein shall be construed as a waiver by EMPIRE of any lien 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 EMPIRE.

8. **INSURANCE:** CUSTOMER, at its expense, shall keep leased equipment insured for the term of any lease or rental and any renewals or extensions thereof, for the full and insurable value thereof, against all risk of loss or damage including without limitation public liability and property damage. CUSTOMER shall on request of EMPIRE deliver to EMPIRE the policies or evidence of insurance with the standard long form endorsement attached thereto, showing losses, if any, payable to EMPIRE, in form satisfactory to EMPIRE, together with the receipts for the premiums hereunder. All insurance policies must provide that no cancellation thereof shall be effective without thirty (30) days prior written notice to EMPIRE. 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.

9. **SECURITY INTEREST:** CUSTOMER grants EMPIRE a purchase money or other security 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 against any credit balance or other money now or hereafter owed by EMPIRE to CUSTOMER whether due or not.

10. **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 attempted assignment or delegation by CUSTOMER shall be wholly void and totally ineffective for all purposes unless made in conformity with this paragraph.

11. **RISK OF LOSS:** Risk of loss of goods shall pass to CUSTOMER as soon as the goods are properly loaded on the carrier. EMPIRE's responsibility for shipment ceases upon delivery of the goods to a transportation company. CUSTOMER shall carry such fire and other insurance as necessary to protect its interest and the interest of EMPIRE. Any claim by CUSTOMER for shortage in shipment shall be made within fifteen (15) days after receipt of the shipment. 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.

12. **RENTAL REPAIRS:** CUSTOMER, at its own cost, shall keep leased equipment in good repair and working order. If CUSTOMER fails to properly maintain and repair the 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 for the cost of repair. Rent shall continue until the equipment is returned in good repair.

13. **CHANGE OF TERMS:** The terms and conditions of CUSTOMER's accounts, including late charges, may be changed by EMPIRE at any time, without written notice to CUSTOMER.

14. **DAMAGES:** CUSTOMER, in consideration of EMPIRE's agreement to sell goods and services to CUSTOMER, agrees that in no event shall CUSTOMER or any person claiming by, through or under CUSTOMER, have the right to claim or recover consequential damages.

15. **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.

a. CUSTOMER shall furnish to EMPIRE, from time to time, promptly upon request, a) complete financial statements pertaining to CUSTOMER'S operations and financial condition, in such form and detail as EMPIRE shall request; and b) all other information and documents that EMPIRE may reasonably request.

b. If CUSTOMER becomes insolvent during the period covered by EMPIRE 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 the agreement and close the credit account immediately.

**Please initial and date below to indicate you have read the Terms and Conditions on this page:**

**Initial** \_\_\_\_\_

**Date** \_\_\_\_\_

## Customer Insurance Requirements Rented/Leased Equipment

Thank you for choosing to do business with Empire Rental. The following information outlines Empire's insurance requirements.

All Customers are required to have general liability insurance and physical damage insurance as outlined below. Customers may purchase Empire's Equipment Protection Plan (EPP) for rented off-highway equipment valued at up to \$1,000,000. Proof of physical damage insurance shall not be required for equipment covered by the EPP.

### Off-Highway Construction Equipment

1. Commercial general liability insurance: \$1,000,000 per occurrence, covering:
  - Customer's operations.
  - Empire as an additional insured.
2. Physical damage insurance:  
Full value of equipment, covering:
  - Rented or leased equipment using a contractors' equipment floater form or comparable form.
  - Name Empire as loss payee.

### On-Highway Construction Equipment

(Licensed for use on public highways)

1. Business auto liability insurance: \$1,000,000 per occurrence.
2. Auto physical damage insurance:  
Full value of trucks.
  - Specify trucks rented or leased from Empire.
  - Include coverage for hired and non-owned autos.
  - Name Empire as an additional insured and loss payee.

### Evidence of Insurance

Customer must provide Empire with a certificate of insurance confirming:

- Appropriate coverages are in full force and effect.
- Such insurance may not be cancelled or materially modified except by first giving Empire 30 days prior written notice.

Please mail insurance certificates to:

Empire Southwest  
PO Box 2985  
Phoenix, AZ 85062-2985  
Attn: Risk Management  
Contact phone number: 480-633-4029  
Fax number: 480-633-4783

***Insurance carried by Empire is not intended to cover the Customer, Customer's employees or any person to whom the Customer may entrust the equipment. The maximum amount of coverage available to a person or entity, other than Empire, required by law to be an insured on Empire's policy, will be the limit of insurance needed to comply with the minimum limits provision of the law in the appropriate jurisdiction.***

### Equipment Protection Plan

As a service to our Customers, Empire offers an Equipment Protection Plan (EPP) that provides some limited protection from accidental direct physical loss or damage to rented/leased equipment. The EPP is generally available for up to \$1,000,000 of off-highway construction equipment per customer.

**The EPP is not insurance. It is not a substitute for business insurance of any kind.** However, customers who purchase the EPP will not be required to show proof of physical damage insurance for off-highway construction equipment. The EPP does not cover automobiles or trucks licensed for use on public highways. **The EPP will not be in effect if the Customer refuses to pay the appropriate fees when due.**

**The EPP will not cover the following exclusions or causes of loss, which remain the responsibility of the Customer:**

1. The first \$5000 of damage, or an amount equal to one month's rent, whichever is less. This deductible applies to each accident and each separate piece of equipment stolen or damaged.
2. That portion exceeding \$500,000 of damage or loss to one or more pieces of equipment from a single occurrence or accident.
3. Theft of accessories, such as air hoses, tools, electric cords, blades, welding cable, fuel tanks, and other similar items.
4. Damage caused by overloading or exceeding the rated capacity of equipment.
5. Damage to motors or other electrical devices caused by a surge in electric current.

6. Damage to tires and tubes caused by blowout, bruises, cuts, road hazards, or other causes inherent in the use of the equipment.
7. Damage resulting from lack of lubrication or other normal servicing of equipment.
8. Wrongful conversion by the Customer in possession of the equipment or infidelity of Customer's employees or persons to whom the equipment is entrusted, carriers for hire excepted.
9. Voluntarily parting with the equipment by the Customer or by others to whom the equipment may be entrusted, except carriers for hire, if induced to do so by any fraudulent scheme, trick, or false pretense.
10. Loss or damage caused by use of the equipment in violation of any of the terms of the rental agreement.
11. Failure to file a police report following the theft, disappearance or vandalism of the equipment.
12. Damage caused by using straight gas in 2-cycle engines.
13. Loss or damage caused by failure to keep the equipment in a locked enclosure or otherwise secured when not in use.
14. Loss or damage caused by intentional acts.
15. Loss or damage that was, or should have been, expected due to an extraordinary application or use of the equipment.
16. Delay, loss of market, loss of use, loss of profit, business interruption or indirect or consequential loss of any kind.

If the Customer elects to accept the EPP, the Customer will be charged on the rental invoice at current EPP rate, depending on the equipment model.

Customers who do not provide proof of physical damage insurance covering the full replacement value of rented off-highway construction equipment will be automatically charged for EPP. For a comprehensive listing of which models are charged at which rate, refer to Empire's Rental Rate Card.