



CREDIT APPLICATION

**Fax to: Credit Dept. 480-633-4657 or
Email to: credit.applications@empire-cat.com**

Applicant Information:

General Information: Credit Account Equipment Financing Existing Client: Yes No Your Contact at Empire _____

Applicant Business Name _____

Physical Address _____ City _____ State _____ Zip _____ County _____

Mailing Address _____ City _____ State _____ Zip _____ County _____

Business Phone _____ Fax _____ Mobile _____

Contact Name _____ Title _____ Email _____

Email for Electronic Invoices _____ Email for Monthly Statements _____

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 clients 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, agents, assignees, and third party financing sources, 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

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

By: _____ Title: _____ Date: _____

By: _____ Title: _____ Date: _____

Guaranty and Signatures of Guarantors: The undersigned Guarantor(s) ("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, this Guaranty and the Credit Account Terms and Conditions, whether or not suit is commenced. The 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. The Guarantor(s) acknowledge and agree that any revocation of this Guaranty must be made in a signed writing by the Guarantor, delivered by personal delivery, certified mail, or overnight delivery to Empire's Credit Department at 1725 S. Country Club Dr., Mesa, AZ 85210. Guarantor(s) agree that email will not suffice as written revocation of this Guaranty. Guarantor(s) shall have the exclusive burden to prove delivery to Empire of such revocation. Both husband and wife must sign this Guaranty. If only one person signs this 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 _____

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, "Client") 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 Client will be determined by Empire and may vary from time to time. Client waives notice of any change in Client's credit limit. When Client'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 Client's account, including late charges, may be changed by Empire at any time, without written notice to Client.

2. **Payment:** Client agrees to pay for goods, services, leased equipment and other items charged to its credit account upon receipt of invoice. **Payment is late if not received by Empire within 10 days of the invoice date for machine sales or within 30 days of the invoice date for all other charges.** If no invoice is issued or received, Client 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 Client's obligation will be automatically billed to Client's credit account, unless payment has been received by Empire at the time of delivery. All amounts charged to the credit account are Client'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, Client 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. The Account Agreement shall be governed by and construed in accordance with the laws of the State of Arizona, without regard to its conflict of law provisions. Client and Empire agree that exclusive jurisdiction and venue for any proceeding at law or in equity will be in the state or federal courts located in Maricopa County, Arizona. **CLIENT EXPRESSLY WAIVES SOVEREIGN IMMUNITY WITH RESPECT TO ANY DEFAULT HEREUNDER AND UNDER ANY OTHER AGREEMENTS WITH EMPIRE.**

4. **Governing Document(s):** The Account Agreement governs the credit relationship between Empire and Client. Client agrees to be bound exclusively by the Account Agreement 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, including but not limited to Empire's Terms and Conditions of Sales and Service (the "Sales and Service Terms") which are available at www.empire-cat.com/sales serviceterms, and Empire's Rental Terms and Conditions (the "Rental Terms") which are available at www.empire-cat.com/rentalterms or such other successor websites at which Empire posts its Sales and Service Terms and its Rental Terms from time to time. The Sales and Service Terms and the Rental Terms are collectively referred to herein as the "Terms." A hard copy of the Terms is available upon written request to terms.conditions@empire-cat.com. Client's issuance of a purchase order, acceptance of goods or services, or rental of equipment from Empire constitutes acceptance of the Account Agreement, the Terms and Empire's other underlying agreements exactly as written. Notwithstanding anything to the contrary in the purchase order or other document(s) issued by Client, Empire rejects additional or different terms proposed by Client or any attempt by Client to vary the Account Agreement, the Terms or the terms of any of Empire's other underlying agreements. Any additions or modifications to the Account Agreement or the Terms shall not be binding on Empire unless they are set forth in a written document executed by a vice president of Empire. Client acknowledges and agrees that placement of a purchase order creates no burden on the part of Empire to verify its accuracy or validity.

5. **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 Client under any circumstances. No waiver or modification hereof shall be valid unless expressed in writing and executed by Client and a vice president of Empire.

6. **Security Interest:** Client 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 Client, whether absolute or contingent, and whether now existing or hereafter arising. Client agrees that Empire may, with or without prior notice or demand, charge any amounts Client owes to Empire against any credit balance or other money now or hereafter owed by Empire to Client.

7. **Assignment:** No right or interest in the Account Agreement shall be assigned by Client without the prior written consent of a vice president of Empire, and no delegation of any obligation owed or of the performance of any obligation by Client shall be made without the prior written consent of a vice president of Empire. Any such attempted assignment or delegation by Client shall be void.

8. **Damages:** In no event shall Client, or any person claiming by, through or under Client, 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.

9. **Miscellaneous:** Any and all contracts, certificates, invoices and other writings signed on behalf of Client by any employee of Client shall be deemed to have been executed on behalf of Client with full authority. Client 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 Client becomes insolvent or if Client breaches any term or condition herein, or in any invoice or other writing between Empire and Client, or if for any reason Empire deems itself insecure, Empire may terminate the Account Agreement and close the credit account immediately. This document may be signed in counterpart. Facsimile and photocopy signatures are binding upon Client.

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.