



**Scott Equipment Company, L.L.C./Scott Financial Services, L.L.C.**  
CREDIT APPLICATION AND AGREEMENT

For Internal Use

LEGAL NAME \_\_\_\_\_ TAX ID/SSN \_\_\_\_\_

 Corporation     Limited Liability Company     Partnership     Sole Proprietorship     Other \_\_\_\_\_

MAILING ADDRESS \_\_\_\_\_ CITY \_\_\_\_\_ STATE \_\_\_\_\_ ZIP \_\_\_\_\_

SHIPPING ADDRESS \_\_\_\_\_ CITY \_\_\_\_\_ STATE \_\_\_\_\_ ZIP \_\_\_\_\_

PHONE \_\_\_\_\_ EMAIL ADDRESS \_\_\_\_\_

SALES TAX EXEMPTION NO. \_\_\_\_\_ PARENT COMPANY \_\_\_\_\_

TYPE OF BUSINESS (BE SPECIFIC) \_\_\_\_\_ DATE STARTED \_\_\_\_\_

PRINCIPALS OR OFFICERS

TITLE

SSN

PURCHASE ORDERS REQUIRED  YES  NOINVOICES TO BE SENT TO:  HOME OFFICE     BRANCH OFFICE

TRADE REFERENCES

ADDRESS

PHONE

1. \_\_\_\_\_

2. \_\_\_\_\_

3. \_\_\_\_\_

BANK NAME/ADDRESS \_\_\_\_\_ CITY \_\_\_\_\_ STATE \_\_\_\_\_ ZIP \_\_\_\_\_

BANK OFFICER (NAME) \_\_\_\_\_ BANK PHONE \_\_\_\_\_ ACCOUNT NUMBER \_\_\_\_\_

THE UNDERSIGNED DOES HEREBY AGREE TO THE CREDIT TERMS AND AGREEMENT SET FORTH BELOW.

SIGNATURE

TITLE

PRINT NAME

DATE

### CREDIT TERMS AND AGREEMENT

1. **PARTIES.** The above-named applicant ("Applicant") hereby submits this Credit Application and Agreement ("Agreement") to Scott Equipment Company, LLC and/or Scott Financial Services, LLC (collectively, "SCOTT")

2. **PAYMENTS.** Applicant promises to pay each invoice/customer statement upon receipt of the Scott Invoice. Applicant promises to make payments as necessary to keep Applicant's account balance with Scott within credit limit and terms. Nothing herein will excuse Applicant from paying all sums lawfully due by Applicant to Scott notwithstanding that such sums advanced, or credit extended may exceed or differ from the credit terms extended by Scott. If Applicant fails to pay any debt or obligation more than two (2) times, Scott shall have the right to make Applicant submit to ACH or EFT payments. Applicant agrees to execute any and all documents to facilitate such payments.

3. **CREDIT TERMS.** Payments not made by Applicant within terms will incur a finance and/or charge after the date due calculated at a rate equal to 18% per annum. Should collection action or litigation ever become necessary to collect delinquent sums due to Scott, Applicant in the event Scott prevails, agrees to pay to reasonable attorney's fee(s) including all out-of-pocket collection or litigation expenses whether or not suit is filed. Notwithstanding the credit terms extended to Applicant, Applicant agrees to pay upon demand at any time to Scott the full amount of outstanding indebtedness owing to Scott. No terms or conditions of any purchase orders different from the credit terms of Scott will become part of any sales agreement, purchase order, or other agreement between the parties unless such terms are specifically and expressly approved in writing by Scott. No items will be accepted for return without prior written approval of Scott, and all returns agreed to by Scott are subject to a restocking charge.

4. **DEFAULT.** An event of default ("Event of Default") occurs when: (1) any debt or obligation of Applicant to Scott is not paid when due; (2) any covenant or agreement of Applicant with Scott is not fully and timely performed or an occurrence of default occurs thereunder; (3) any statement, representation or warranty by Applicant to Scott is false, misleading, incomplete or erroneous in any respect; (4) Applicant does not pay their debts as such debts become due; (5) Applicant commences any case, proceeding or other action seeking the reorganization, rearrangement, adjustment, liquidation or dissolution under any debtor relief laws or bankruptcy laws or an involuntary case or proceeding is commenced against the Applicant under any debtor relief laws or bankruptcy laws; (6) a final judgment is entered against Applicant or any process is levied or directed against Applicant's property; (7) Scott receives any checks or drafts from Applicant which are returned uncollected or insufficient; or (8) the financial status of the Applicant becomes impaired; (8) Any company having the same controlling interest of Applicant has an Event of Default. Upon the occurrence of an Event of Default, Scott may (1) terminate all credit terms, agreements, accommodations, and conditions hereunder; (2) demand immediate payment; (3) require sales by prompt payment terms, cash, cashier's check or other terms determined at the discretion of the Scott; (4) discontinue shipment of product and/or (5) demand for return of equipment.

5. **CREDIT HISTORY.** Applicant authorizes all of Applicant's creditors and references, including but not limited to those listed herein, to release to Scott whatever information may be contained in their files pertaining to dealings with Applicant. Applicant grants Scott permission to obtain independent consumer and commercial credit reports and complete reasonable credit investigation of Applicant including but not limited to reports by a credit reporting agency or entity and including credit information from Applicant's references and past and present creditors. Scott may require credit information to be updated from time to time during the credit relationship. Scott reserves the right to report negative information to reporting agencies.

6. **SUCCESSOR OR ASSIGNS OF APPLICANT.** Applicant agrees that should credit be extended to Applicant, Applicant shall notify Scott of any material change in ownership or change in type of entity of Applicant. Applicant shall be responsible for payment of all monies due and owing to Scott from both the original Applicant and the successor until (i) Applicant notifies Scott in writing of such change in business status, (ii) such written notification is received by Scott's credit department, (iii) the prior entity or form has paid any balance due to Scott and (iv) Scott has approved the new applicant.

7. **ACCURACY OF DATA.** Applicant certifies that any financial information provided by Applicant to Scott pursuant to this Agreement was given to Scott as inducement for the extension of credit from Scott. Applicant further certifies that any such information is accurate, true, complete and correct as of the time it was provided. Applicant further certifies that if any property purchased tax-free becomes subject to sales or use tax, Applicant will pay the tax due directly to the appropriate taxing authority when state law so provides or reimburse Scott for such tax.

8. **CHANGE IN CREDIT TERMS/DENIAL OF CREDIT.** Scott retains the right to deny credit to any Applicant. Applicant agrees that should Scott grant credit availability, all credit extended shall be at the sole discretion of Scott. Scott may increase, decrease or terminate any credit availability at any time at Scott's sole discretion. As a condition of continued extension of credit, Applicant agrees to provide Scott with an updated financial statement including the balance sheet and profit and loss statement with 15 days of request. Scott may request the Applicant to provide an updated credit agreement and guaranty at any time including whenever Applicant requests additional terms or a change in terms. Applicant's failure to comply may cause Scott to terminate any credit availability, solely at Scott's discretion. Any acceptance of a payment by Scott after the Applicant's account is past due shall not be construed as a

waiver of any of the terms or conditions of this Agreement or as a modification or extension of this Agreement. Any payment received from Applicant by Scott shall not be construed to extend the time for payment of any remaining balance due from the Applicant.

9. **PAYMENT OF INVOICES.** No statement or special endorsement on a check or other banking item from Applicant to Scott or on a letter accompanying any payment shall be binding upon Scott. Scott may, with or without notice to Applicant, negotiate any such check without being bound by the conditions of any such statement or endorsement. All payments may be credited first to any finance charges, attorney's fees, or collection costs, if any, due from Applicant with any remainder paid on the unpaid principal balance of the Applicant's account.

10. **TITLE/SECURITY INTEREST.** Title to rented and lease option property and to all accessories, replacements, or substitutions is and will remain the property of Scott. If equipment, parts or services were sold and or provided to Applicant and financed by Scott, Applicant hereby grants Scott a security interest in the property that is sold or supplied by Scott.

11. **RIGHT TO OFFSET.** In the event of delinquency or other default on the part of the Applicant, Applicant agrees that Scott may offset any amounts owed to Applicant by Scott against Applicant's obligations to Scott owned under this Agreement.

12. **SAFE HANDLING OF GOODS/USE OF EQUIPMENT.** Applicant agrees that Applicant shall be solely responsible for the safe selection, installation, handling, storage, use, application and disposal of any goods or products or wastes of any goods purchased by Applicant from Scott and the operation of equipment within the guidelines set forth by the manufacturer (the "Safe Practices"). Applicant shall be responsible for familiarizing Applicant with all information regarding Safe Practices, for following Safe Practices, and for assuring that all employees, contractors, agents, and customers of Applicant follow Safe Practices. Applicant will comply with all federal, state or local laws, rules and regulations and follow all industry standards concerning Safe Practices. **APPLICANT WILL INDEMNIFY SCOTT AGAINST ANY CLAIMS, LOSS, LIABILITY AND/OR EXPENSE (INCLUDING REASONABLE ATTORNEY'S FEES AND COSTS OF DEFENSE) ARISING OUT OF APPLICANT'S FAILURE TO FOLLOW SAFE PRACTICES.**

13. **WAIVER.** Applicant agrees that Scott has the absolute right in Scott's sole discretion to cease providing products or services to Applicant at any time. Applicant agrees that Scott will not be liable or responsible for any actual or consequential damages suffered as a result of Scott ceasing to supply products or services to Applicant at Scott's sole discretion. SCOTT EXCLUDES AND DISCLAIMS ANY IMPLIED WARRANTY OF MERCHANTABILITY, SUITABILITY OR FITNESS FOR A PARTICULAR PURPOSE WITH RESPECT TO ANY PRODUCTS OR SERVICES SOLD TO APPLICANT. THERE ARE NO EXPRESS OR IMPLIED WARRANTIES WHICH EXTEND BEYOND THE WARRANTIES EXPRESSLY STATED BY A SEPARATE WRITTEN INSTRUMENT. Scott is not responsible for delays in making shipments or deliveries caused by labor conditions, raw material shortages, carrier delays, acts of God, fire, the elements, disease, pestilence, terroristic acts, accidents, embargoes, war, insurrection, governmental restriction or regulation or other causes beyond the control of Scott. In no event shall Scott be liable for consequential damages incurred by reason of delay for any reason.

14. **INDEMNITY. FOR SEPARATE, GOOD AND VALUABLE CONSIDERATION, THE RECEIPT AND SUFFICIENCY OF WHICH IS HEREBY ACKNOWLEDGED, APPLICANT AGREES TO HOLD SCOTT HARMLESS AND INDEMNIFY SCOTT AGAINST AND FOR ALL LIABILITY, COST, EXPENSES, CLAIMS AND DAMAGES (COLLECTIVELY, "CLAIMS") WHICH SCOTT MAY AT ANY TIME SUFFER OR SUSTAIN OR BECOME LIABLE FOR BY REASON OF ANY ACCIDENT, DAMAGES OR INJURIES EITHER TO THE PERSONS OR PROPERTY OF EITHER PARTY, OR OF ANY OTHER PARTIES, IN ANY MANNER ARISING FROM THE USE OF THE EQUIPMENT, PARTS SOLD OR SERVICES PROVIDED HEREIN, EXCEPT TO THE EXTENT SUCH CLAIMS ARISE OUT OF A NEGLIGENT ACT OR OMISSION OF SCOTT, ITS OFFICERS, AGENTS OR EMPLOYEES. SCOTT TO THE EXTENT OF A CLAIM ARISING OUT OF ITS NEGLIGENCE OR OMISSIONS AGREES TO HOLD APPLICANT HARMLESS AND INDEMNIFY APPLICANT FOR CLAIMS.**

15. **NON-CONFORMING GOODS.** Within 30 days after receipt by Applicant of any goods or products from Scott and before any part of the goods or products have been changed from their original condition, organization, grouping or location, Applicant shall inform Scott, in writing, if the goods or products are non-conforming or defective in any respect or if Applicant disputes the count, amount or pricing of such products. Failure to timely inform Scott of any such claim as provided in this Paragraph shall be conclusive on Applicant that conforming goods or products were delivered to Applicant and accepted by Applicant in all respects. All prices on any invoice or statement of Scott are deemed accurate if not contested by Applicant in writing to Scott within 10 days after receipt of the invoice or statement.

16. **NONUSURIOUS INTEREST RATES.** Interest charged on any obligation of Applicant shall not exceed the maximum amount of nonusurious interest that may be contracted for, taken, or received under applicable law. Any interest in excess of that maximum amount shall be credited to the principal of the obligation or, if that has been paid, refunded.

17. **MISCELLANEOUS.** This Agreement shall inure to the benefit of all successors and assigns of Scott. Applicant is not a partner, agent or joint venturer with Scott. In the event on a conflict between the terms and conditions of this Agreement and any loan agreement, rental agreement, or any other agreement (hereafter Related Documents) by and between the parties, the terms and conditions the Related Documents shall control to the extent they conflict with a term or condition in this Agreement. To the extent this Agreement is not in conflict it shall control and be its terms and conditions shall be incorporated in Related Documents and made a part thereof. This Agreement may not be altered except by written agreement signed by all the parties. All rights and remedies herein granted to Scott and any rights and remedies which Scott may have at law, are cumulative, not alternative, and the exercise of one such right or remedy by Scott shall be without prejudice to the enforcement of any other right or remedy authorized by law or this Agreement. Scott may delay the enforcement of any of Scott's rights arising under this Agreement or by operation of law without waiving any such rights. If any provision of this Agreement or any part hereof is declared invalid by any court of competent jurisdiction, such action shall not affect the validity of this Agreement, and the remainder of this Agreement shall remain in full force and effect in accordance with the tenor of the remaining provisions or parts of provisions contained in this Agreement.

18. **AUTHORITY TO SIGN.** The person(s) signing certifies that such person(s) possesses the authority to apply for credit with Scott on behalf of Applicant, authorize any credit investigation Scott may deem necessary, and to fully bind the Applicant to these terms and conditions.

19. **GOVERNING LAW/JURISDICTION.** This Agreement shall be governed by and interpreted in accordance with the laws of Louisiana. Applicant agrees that the sole and exclusive forum for any legal proceedings between the parties shall be in the court located in the parish or county where the Scott facility that sold, serviced, rented/leased or repaired the property. Applicant waives its right to a trial by jury and waives its right to remove any action to federal court and the right to dismiss or transfer any legal proceeding under the doctrine of forum non conveniens. The parties hereby waive any claim that such aforementioned parish or county is an inconvenient forum and any claim that any action or proceeding arising out of or relating to the transactions contemplated by this Application is not in the proper venue and/or jurisdiction. Scott, at its option, may institute proceedings in any court having jurisdiction.

20. **NOTICE.** The Federal Equal Credit prohibits creditors from discriminating against credit applicants on the basis of race, color, religion, national origin, sex, marital status, age (provided that 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 programs, 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 this creditor is the Federal Trade Commission, Equal Credit Opportunity, Washington DC, 20580.

## PERSONAL GUARANTY

In consideration of extension of credit by Scott Equipment Company, LLC and Scott Financial Services, LLC (COLLECTIVELY, "Scott") to Applicant, the undersigned guarantor(s) (herein "Guarantor" whether one or more) hereby unconditionally guarantees, jointly and severally, punctual payment and performance, when due or on demand, of all Applicant's obligations and liabilities, present and future of every kind or character, to Scott including all collection costs, court costs and reasonable attorney's fees. This Guaranty shall be continuing and unlimited. Scott may exercise Scott's rights under this Guaranty without first taking any action against the Applicant. Guarantor shall be bound hereunder even if Applicant for any reason is not liable in law or equity to pay part or all of Applicant's obligations to Scott (e.g., if Applicant is incompetent, does not have the capacity to create or be bound to pay such obligation, Applicant does not legally exist, or Applicant does not properly and lawfully authorize the creation of such obligation). Guarantor acknowledges that Guarantor will receive a direct and material benefit from the obligations of Applicant covered by the terms of this Guaranty. Scott shall be entitled to enforce the obligations of this Guaranty against the Guarantor without regard to the filing of any bankruptcy or insolvency proceeding by Applicant. This Guaranty is independent of the obligations of any co-debtor and is not conditioned on the financial condition of the Applicant or any other event. Guarantor hereby authorizes Guarantor's creditors and references to release to Scott whatever information may be contained in their files pertaining to personal and financial dealings with Guarantor and grants Scott permission to complete any credit investigation of Guarantor, including but not limited to reports by a credit reporting agency or entity. Guarantor consents and waives notice of any modification, extension or renegotiation of any term or condition of the guaranteed debt (including interest rate and payment terms), and any settlement with the Applicant or any co-debtor.

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SIGNATURE

\_\_\_\_\_  
SIGNATURE

\_\_\_\_\_  
PRINT NAME

\_\_\_\_\_  
PRINT NAME

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DATE OF BIRTH AND SOCIAL SECURITY NUMBER

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DATE AND SOCIAL SECURITY NUMBER

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ADDRESS

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