



Acct No. (Internal Use Only)

Thompson Tractor Company, Inc / Thompson Lift Truck Co.
 PO Box 10367
 Birmingham, AL 35202
 1-800-547-0760 (Attn: Credit Dept)

CREDIT APPLICATION AND AGREEMENT

IN MAKING THIS APPLICATION FOR CREDIT, **THE "APPLICANT" AGREES** THAT ANY CREDIT EXTENDED TO APPLICANT BY THOMPSON TRACTOR CO., INC., INCLUDING THE CAT RENTAL STORE DIVISION ("THOMPSON"), WILL BE SUBJECT TO THE TERMS AND CONDITIONS SET FORTH IN THIS APPLICATION.

Please Print or Type (Mark if applicable) - This is an application for Consumer Credit--primarily for personal, family, or household use.

Applicant's Exact Legal Name:		Trade Name or DBA:		Social Security Number (required):	
Legal Status: (check one)	<input type="checkbox"/> Proprietorship \ <input type="checkbox"/> Partnership \ <input type="checkbox"/> Corporation <input type="checkbox"/> L.L.C. \ <input type="checkbox"/> Individual (Personal Use)	State of Incorporation / Organization: _____ Charter or State ID No. _____ (<input type="checkbox"/> none)		Driver's Lic No. and State (required):	
Complete Physical Address of Main Office:		County:	Complete Mailing (billing) Address:		Payables Contact Person (required):
Telephone Number (required):		Facsimile Number (required):		E-mail address (optional):	
Primary Officers (Name and Title):					
					Check if also a shareholder <input type="checkbox"/>
					Check if also a shareholder <input type="checkbox"/>
Three Credit References: Name, Address, City, and State			** (Required) Telephone Number	** (Required) Facsimile Number	
Bank References: Name of Bank and Account Number			** (Required) Contact Person and Telephone Number		** (Required) Facsimile Number
Do You Furnish Purchase Order Numbers?		Yes <input type="checkbox"/>	No <input type="checkbox"/>	Federal Tax ID Number (if no SSN):	

The Terms and Conditions on Page 2 are part of this Application. Please read them before signing and returning this Application. If returned by fax, and if we do not receive the original application, the fax we receive from you will be the original of your application. Only the Credit Manager may waive the original-documentation requirement.

Please sign and execute the "Guaranty" section on Page 2, unless specifically waived by the Credit Manager.

The undersigned Applicant hereby agrees to the Terms and Conditions on Page 2 of this Application. Applicant represents, warrants, and agrees that the foregoing information is submitted for the purpose of obtaining credit from Thompson and is true and correct to the best of his/her knowledge, information, and belief; that he/she has authority to sign and deliver this Application on behalf of the Applicant and to bind Applicant to the terms and conditions hereof; that a photocopy or fax of this signed Application shall be considered an original and shall be sufficient for all purposes as a manually signed counterpart hereof; that Thompson is authorized to file a financing statement naming Applicant as Debtor, in any public office Thompson deems necessary to perfect its security interest in present or future collateral; that Thompson is authorized to obtain and update credit reports and credit references from time to time; and that Applicant received a full completed copy of this Application at the time he/she signed it. Applicant authorizes Thompson to deliver ordered equipment to job sites without customer being present, and accepts responsibility for such equipment upon delivery.

Dated this the _____ day of _____, 200__.

Witness:

Signature and Title of Witness

Signature and Title of Applicant or Authorized Agent

 (Print Name Above)

 (Print Name Above)

NOTICE: 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 concerning this creditor is the Federal Trade Commission, Suite 5M35, 60 Forsyth Street, SW, Atlanta, GA 30303-2322.

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 the statement, please contact Credit Department, Thompson Tractor Co., Inc., P.O. Box 10367, Birmingham, AL 35202, telephone (205) 841-8601, within 60 days from the date you are notified of our decision. We will send you a written statement of reasons for the denial within 30 days of receiving your request for the statement.

TERMS AND CONDITIONS

- 1. All orders and/or credit extensions are subject to approval and acceptance by an authorized representative of Thompson at its office in Birmingham, Alabama.
- 2. Terms of payment are subject to approval of Thompson's Credit Manager.
- 3. All sales or leases are subject to any additional terms and conditions of related contracts, invoices or leases. All terms and conditions of this agreement are expressly incorporated into related contracts, invoices or leases by reference. To the extent that any terms and conditions of a related contract, invoice or lease expressly contradict the terms and conditions herein, the terms and conditions in the sales order contract, invoice or lease are controlling. Other than as expressly stated in a contract, invoice or lease, this agreement contains the entire agreement of the parties and may not be modified except in writing and signed by an authorized representative of Thompson.
- 4. All **PARTS** and **SERVICE** charges that remain unpaid thirty (30) days from statement date are considered past due and are subject to a 1 1/2 % late charge. Payment terms on **ALL EQUIPMENT SALES** and **RENTALS**, unless otherwise specifically approved IN ADVANCE by the Credit Manager, are **NET DUE ON RECEIPT OF INVOICE**.
- 5. THOMPSON DISCLAIMS, AND APPLICANT WAIVES, WITH RESPECT TO EVERY PRODUCT SOLD OR LEASED BY THOMPSON, ALL WARRANTIES, EXPRESSED OR IMPLIED, INCLUDING ALL IMPLIED WARRANTIES OF **MERCHANTABILITY** OR FITNESS FOR A PARTICULAR PURPOSE. THOMPSON'S LIABILITY, IF ANY, FOR BREACH OF CONTRACT OR WARRANTY OR FOR NEGLIGENCE OR WANTONNESS IS EXPRESSLY LIMITED, AT THE OPTION OF THOMPSON, TO: (A) THE REPLACEMENT AT THE AGREED POINT OF DELIVERY OF ANY PRODUCT FOUND TO BE DEFECTIVE OR NOT TO CONFORM TO THE SPECIFICATIONS SET FORTH IN THE CONTRACT OR INVOICE, (B) THE REPAIR OF SUCH DEFECTIVE OR NONCONFORMING PRODUCT, OR (C) THE REFUND OR CREDITING TO APPLICANT OF THE PRICE OF SUCH PRODUCT. THOMPSON SHALL NOT IN ANY EVENT BE LIABLE FOR CONSEQUENTIAL DAMAGES.
- 6. Should the financial responsibility of Applicant at any time become unsatisfactory to Thompson, Thompson shall have the right to require payment in advance or satisfactory security. If Applicant fails to make payment in accordance with the terms of this agreement or fails to comply with any provisions hereof or any related contract, invoice or lease, Thompson may at its option, in addition to any other remedies, cancel or delay any undelivered portion of Applicant's order, Applicant to remain liable for all unpaid accounts. In the event that Applicant fails to make payment in accordance with the terms of this agreement or to make payment according to the term of any related contract, invoice or lease, the account shall be deemed to be delinquent. Applicant shall pay all collection costs and expenses, including reasonable attorneys fees, incurred by Thompson in collecting or attempting to collect such account.
- 7. No products may be returned for credit and no order may be canceled or changed in whole or in part without the prior written consent of Thompson. Delivery or products cannot be extended beyond the original delivery date specified without Thompson's consent.
- 8. Thompson shall not be liable for any failure or delay in, shipment or delivery of products resulting from any cause beyond Thompson's control, including, but not limited to, provisions of law or governmental regulations, accident, explosion, fire, windstorm, flood or other casualty, strike, lockout, or other labor difficulty, riot, war, insurrection, shortage of or inability to secure labor, raw materials, production or transportation facilities. Shipping or delivery dates are approximate and are based on factory conditions at the time of quotation. Thompson shall not be liable for failure or delay in performance due to prior sale of products.
- 9. Waiver of any terms of this agreement shall not be construed as a waiver of any other term and shall not constitute a waiver of the same term on a future occasion. Any provision of this agreement prohibited by applicable law shall be ineffective to the extent of such prohibition without invalidating the remaining provisions hereof.
- 10. In the event of a conflict between any of the printed provisions hereof and any written or typed provisions hereof, these provisions shall govern.
- 11. No modification or alteration of the provisions hereof shall result from Thompson's delivery of equipment or parts following receipt of applicant's purchase order, shipping order, or other forms containing provisions, terms or conditions in addition to or in conflict or inconsistent with the provisions hereof.
- 12. The laws of the State of Alabama shall govern the rights of the Applicant and Thompson under this credit application, the rights of the parties under any agreement between them and the rights of the parties arising out of any sale or lease by Thompson to Applicant.
- 13. Applicant acknowledges that Thompson's main office is in Jefferson County, Alabama. Applicant submits to the non-exclusive jurisdiction of the courts located in Jefferson County, Alabama and waives any objection to venue in Jefferson County, Alabama.
- 14. Applicant agrees that its continued solvency is a precondition to any sale or lease made to Applicant. Applicant agrees to provide Thompson a statement representing that it is and remains solvent. Applicant agrees that Thompson may utilize outside credit reporting services to obtain any information on the Applicant—or the undersigned—that Thompson deems necessary. Applicant agrees that immediately following the preparation of its fiscal year end financial statement, it will provide Thompson a copy of the same. Applicant agrees to provide Thompson a copy of Applicant's most current financial statement on a quarterly basis, if requested by Thompson. Applicant agrees to furnish Thompson, promptly upon request, copies of Applicant's Articles of Incorporation and bylaws, partnership agreement, Articles of Organization, Operating Agreement, and other organizational or governing document, certified to be true and correct by an officer or agent of Applicant acceptable to Thompson.
- 15. Unless this Application is expressly marked on the reverse side as being an application for consumer credit, Applicant represents that any credit extended by Thompson will not be primarily for personal, family or household use.
- 16. Arbitration of Disputes and Waiver of Jury Trial. Applicant acknowledges that the requested credit and the contemplated transactions with Thompson involve "commerce" as that term is used in the Federal Arbitration Act ("FAA"), 9 U.S.C. § 1. Except as provided below, Applicant and Thompson agree that all controversies of any kind and character whatsoever arising out of or related to this Application, or the transactions evidenced or contemplated by this Application or any breach thereof any prior negotiations or dealings between Applicant and Thompson, or any maintenance or service performed by Thompson on any equipment sold or leased to Applicant before, on, or after the date of this Application, or any relationship that results from any of the foregoing, or the validity or scope of this agreement to arbitrate controversies, whether based in tort, contract, warranty, or statutory or strict liability, shall be settled by **binding arbitration** under the FAA in Birmingham, Alabama in accordance with the Commercial Arbitration Rules of the American Arbitration Association. Judgment on the arbitrator's award may be entered in any court of competent jurisdiction. The arbitrator shall be well versed in the leasing and financing of equipment and shall, at the election of either party, be an attorney at law who has been actively engaged in private practice at least 10 years. This agreement does not affect the right of Applicant or Thompson to seek a judgment in court against the other on a contract claim for breach of an express covenant to pay a sum of money and for interest and costs of collection, or to exercise any right of offset or self-help repossession, or to seek a court order for possession of equipment, or to seek an injunction or other purely equitable remedy (other than a stay of arbitration) that does not include a claim for money damages. The parties agree that the commencement of litigation by either of them pursuant to the preceding sentence or otherwise shall not operate as a waiver or estoppel of the right to arbitrate any counterclaim or other similar claim, and that upon the giving of a notice of arbitration of the counterclaim or other similar claim by any party hereto, litigation of the counterclaim shall be stayed and the counterclaim shall be submitted to binding arbitration hereunder. The parties here **waive the right to trial by jury** of all disputes, controversies and claims now or hereafter arising between them, whether or not the dispute, claim or controversy is submitted to arbitration or is decided by a court.

GUARANTY: To induce Thompson to extend credit to the Applicant named in the above credit application and in consideration of each such extension of credit, the undersigned, jointly and severally, hereby absolutely and unconditionally guarantee the full and complete payment of all obligations of the Applicant to Thompson (as "Thompson" is defined in the above Credit Application) for all credit now or hereafter extended by Thompson, whether for the purchase or lease of equipment, the purchase of parts or services, or otherwise, and any renewals, modifications, extensions, and increases thereof, together with all interest and late charges thereon, and performance of all covenants made by the Applicant in connection with any such extensions of credit. The amount of the obligations guaranteed by this Guaranty is not limited. Upon default by the Applicant, the undersigned will pay the guaranteed obligations immediately without deduction by reason of any set-off, recoupment, defense or counterclaim. The liability of the undersigned is direct and unconditional and may be enforced without requiring Thompson first to resort to any other right, remedy or security. This is a continuing Guaranty, and it will remain in full force and effect with respect to all present and future obligations of the Applicant to Thompson until Thompson's Credit Manager receives written notice of termination and has a reasonable time to act on it. Any termination of the Guaranty will not be effective with respect to any obligation then owed to Thompson by the Applicant or to any credit that Thompson has then committed to extend to the Applicant, or interest and late charges thereafter accruing on them. If more than one person signs this Guaranty below, termination by one of the undersigned will not terminate this Guaranty with respect to the other(s). The undersigned hereby (a) waives acceptance of this Guaranty by Thompson, notice of acceptance, notice of default, and all other notices of any kind, (b) waives all defenses of suretyship and the defense of impairment of collateral, (c) agrees that nothing, including, without limitation, discharge of the Applicant in bankruptcy, will discharge or satisfy the obligation of the undersigned hereunder except the full, unavoidable payment and performance of all obligations of the Applicant to Thompson, (d) agrees to pay a reasonable attorney's fee for collection after default under this Guaranty, (e) waives and subordinates all right of subrogation against the Applicant until all of the Applicant's obligations to Thompson have been paid in full and are not avoidable by a trustee in bankruptcy, (f) consents to the non-exclusive jurisdiction of the courts located in Jefferson County, Alabama in any action to enforce this Guaranty, (g) confirms that the undersigned has read and agrees to the terms of the above Credit Application and Agreement, and (h) agrees that a photocopy or facsimile of this Guaranty will be considered an original and will be as sufficient for all purposes as a manually-signed counterpart hereof.

Guarantor Signature: _____

Guarantor Signature: _____

Home Address: _____

Home Address: _____

Social Security Number: _____

Social Security Number: _____