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| BAUER_Equipment_America_cmyk  **BAUER Equipment America, Inc. Credit Application**  680 Conroe Park West Drive CONROE, TEXAS 77303 Tel: 713-691-3000 FAX: 713-691-0089  **Email to: HOU-Accounts@bauer-equipment.com** | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| BUSINESS Information | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Business Legal Name: | | | | | | |  | | | | | | | | | | | | | | DBA: | | | | |  | | | | | | | | |
| Description of Business: | | | | |  | | | | | | | | | | | | | | Credit Amount Requested: | | | | | | | | | | | | |  | | |
| Type of Business: | Sole Proprietorship | | | | | | | | | Corporation | | | | | | | General Partnership | | | | | | | | | | | L.L.C. | | | | Other \_\_\_\_\_\_\_\_ | | |
| ***\*\*Note: Personal guarantee required for Sole Proprietorship, S-Corporation and LLCs\*\**** | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Date of Incorporation(MM/YY): | | | | | |  | | | | | | | State of Incorporation/Formation: | | | | | | | | | | |  | | | | | | Tax ID# | | | |  |
| Sales Tax Exempt: | | | Yes  No | | | | | | | Years in Business: | | | | | | | |  | | | | | | | | | No. of Employees: | | | | | | |  |
| Sales per Year: | |  | | | | | | | | | Net Worth: | | | | |  | | | | | | | | | | | Income: | | | |  | | | |
| How long at current address: | | | | | |  | | | | | | | | Headquarters and Billing Address Same: | | | | | | | | | | | | | | | | | Yes | | | |
| Headquarters’ address (location of executive offices): | | | | | |  | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Business Address: | | |  | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Billing Address: | | |  | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Person Name: |  | | | | | | | | | | | Title: | | |  | | | | | | | | Phone: | | | | | |  | | | | | |
| Mobile: |  | | | | | | | | | | | Fax: | | |  | | | | | | | | E-mail: | | | | | |  | | | | | |
| Has the business or any principal or subsidiary ever declared bankruptcy, been subject to an involuntary bankruptcy proceeding, or been subject to any receivership?  Yes  No | | | | | | | | | | | | | | | | | | | | | | | | | If yes, when filed: | | | | | | | | | |
| Are there any outstanding liens or judgments?  Yes  No If yes, please attach details. | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Financial Information: *Additional financial information may be requested and is required for exposure over $250,000* | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| BANK / FINANCE CO. REFERENCE | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Bank Name | | | | Account No. | | | | | | Person Name | | | | | | | | Phone # | | | | | | | Fax # | | | | | | | | Address | | |
| (1) | | | |  | | | | | |  | | | | | | | |  | | | | | | |  | | | | | | | |  | | |
| (2) | | | |  | | | | | |  | | | | | | | |  | | | | | | |  | | | | | | | |  | | |
| (3) | | | |  | | | | | |  | | | | | | | |  | | | | | | |  | | | | | | | |  | | |
| Business/trade references | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Company Name: | | | | | | | | | | | | | | | | | | | | Person Name: | | | | | | | | |  | | | | | |
| Street: | | | | | | | | | City and State: | | | | | | | | | | | | | Zip Code: | | | | | | | | | | | | |
| Phone: | | | | | | | | | Fax: | | | | | | | | | | | | | E-mail: | | | | | | | | | | | | |
| Type of account: | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Company Name: | | | | | | | | | | | | | | | | | | | | Person Name: | | | | | | | | |  | | | | | |
| Street: | | | | | | | | City and State: | | | | | | | | | | | | | | Zip Code: | | | | | | | | | | | | |
| Phone: | | | | | | | | Fax: | | | | | | | | | | | | | | E-mail: | | | | | | | | | | | | |
| Type of account: | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Company Name: | | | | | | | | | | | | | | | | | | | | Person Name: | | | | | | | | |  | | | | | |
| Street: | | | | | | | | City and State: | | | | | | | | | | | | | | Zip Code: | | | | | | | | | | | | |
| Phone: | | | | | | | | Fax: | | | | | | | | | | | | | | E-mail: | | | | | | | | | | | | |
| Type of account: | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Agreement | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |

NOTICE: Applicant and each other person signing below (i) represents and warrants that the information provided herein or in connection with this application and any attachment is true and correct and (ii) 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 and investigate from any bank, credit bureau, financial institution, trade reference and other creditors, all of which are hereby authorized to release, any banking and credit history information concerning applicant or such other person (including personal credit bureaus and personal credit information) as such party may deem appropriate, and to share all such information with the other.

It is agreed that rental of products, or sales of products or services rendered by Bauer Equipment America, Inc. (“Bauer Equipment America”) will be subject to the terms and conditions of the Open-End Account Agreement. If Applicant is a corporation, partnership, LLC, or other business entity, the undersigned affirmatively represents and warrants that she/he is authorized to submit this application on behalf of Applicant and to obligate same for any credit extended thereto as a result of this application; and further that the entity on whose behalf application is hereby made will continue to be bound and obligated for any credit advanced thereto until such notice to the contrary is given in writing to: Bauer Equipment America, Inc. at 680 Conroe Park West Drive, Conroe, TX 77303. Applicant represents and warrants that Applicant is not insolvent. Applicant authorizes any individual, firm, corporation, or credit agency to disclose to Bauer Equipment America orally or in writing, any information pertinent to this application and agrees that credit information may be given to other banks, financial institutions, trade sources and credit reporting agencies as a normal course of business. If your application for business credit is denied, you have the right to a written statement of the specified reasons for the denial. To obtain the statement, please contact: Bauer Equipment America, Inc., 680 Conroe Park West Drive, Conroe, TX 77303 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 (providing 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 the Lender is the FTC Regional Office for the region in which the Lender operates or the Federal Trade Commission, Equal Credit Opportunity, Washington, DC 20580.

**Notice to applicant – Do Not Sign This Application Until You Have Read It. You Are Entitled To A Copy Of The Signed Application. By Signing This Application, You Acknowledge That You Have Read The Entire Application, Including The Terms And Conditions, And Agree To Same, In Full.**

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| --- | --- | --- | --- |
| SIGNATURES | | | |
| By: | Date: | By: | Date: |

**OPEN-END ACCOUNT AGREEMENT**

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| --- | --- | --- | --- | --- | --- | --- | --- | --- |
| This Open End Account Agreement (“Agreement”) is between (“Customer”) and Bauer Equipment America, Inc. ("Bauer Equipment America") and sets forth the terms and conditions under which Customer may from time-to-time make purchases, lease or rent goods or have its goods serviced. Customer and Bauer Equipment America hereby agree as follow:   1. **Extension of Credit:** Customer desires to obtain and Bauer Equipment America agrees to extend open-end credit for Customer’s account (the "Account") with Bauer Equipment America for the purchase, lease or rental of goods and services offered by Bauer Equipment America Customer will pay Bauer Equipment America at its address set forth in paragraph 4 below (or such other address provided in writing to Customer by Bauer Equipment America), all amounts charged to the Account by Customer or any person acting or purporting to act on Customer’s behalf, and all finance and any other charges incurred. Bauer,-Pileco, in its sole discretion, may decline to authorize a charge, even if Customer pays timely and the Account is not in default. Bauer Equipment America is not responsible for any losses Customer incurs if Bauer Equipment America does not authorize a charge. Bauer Equipment America is authorized to obtain, verify, and record any and all information required by the Patriot Act, or any similar financial disclosure laws or regulations. 2. **Terms:** Invoices charged to an approved open-end account are due and payable as follows or as otherwise provided in a particular invoice: 3. Parts and Services – thirty (30) days from invoice date 4. Equipment Sales – per the terms of that certain Sales Contract between Bauer Equipment America and Customer 5. Rentals – One month minimum rent and payable upon start of monthly period   All payments must be in the form of cash, check, ACH or wire transfer, or such other method as Bauer Equipment America, in its sole discretion, shall authorize. Payments must be received by Bauer Equipment America by the specified due date.   1. **Finance Charge:** Invoices not paid on or before the due date will be assessed a finance charge on the unpaid invoice balance in the amount equal to the lesser of (i) the maximum allowable interest rate under applicable law (the "Maximum Rate"), or (ii) 1.5% per month (18% per annum). Any payment received by Bauer Equipment America that is less than the full balance amount will be first applied to the finance charges and other charges incurred, if any, before it is applied to the principal invoice amount. Notwithstanding the foregoing, if BAUER-Pieleco shall receive interest in an amount that exceeds the Maximum Rate, the excess interest shall be applied to the principal of the unpaid invoice balance, and, if it exceeds such unpaid principal, be refunded to the Borrower. 2. **Change of Address and Billing Inquiries:** Customer will give prompt written notice to Bauer Equipment America Inc. at 680 Conroe Park West Drive, Conroe, Texas 77303 or such other address provided in writing to Customer by Bauer Equipment America, of any billing inquiries or a change of Customer’s address. 3. **Default:** At the option of Bauer Equipment America, Customer shall be deemed in default hereunder if: (a) Customer fails to pay any amount when it is due, (b) Customer makes a payment that is returned unpaid, (c) Customer defaults under any agreement between Customer and Bauer Equipment America, including but not limited to any Rental Contract or Sales Contract, (d) Customer defaults or fails to comply with any term under this Agreement, (e) Customer becomes insolvent or declares bankruptcy, (f) Customer provides Bauer Equipment America with any information that is not true, (g) Bauer Equipment America obtains information that causes Bauer Equipment America to believe that Customer may be unwilling or unable to pay its debts to Bauer Equipment America or others timely or (h) Bauer Equipment America believes the Account is being used for an unlawful purpose or to commit fraud. Upon the occurrence of any of the above events of default, Bauer Equipment America may, at its sole discretion, and without demand or notice, exercise any or all of the following remedies: (1) Accelerate any obligation under this Agreement or any other agreement between Customer and Bauer Equipment America, and file suit therefore, (2) Suspend Customer's ability to make charges to the Account, (3) Cancel the Account and require Customer to pay the Account balance within 5 business days to Bauer Equipment America , (4) Exercise any remedy of Bauer Equipment America under any agreement between Customer and Bauer Equipment America, including but not limited to repossessing any equipment rented under a Rental Contract, removing it from Customer’s possession without penalty to Bauer Equipment America, and without being guilty of any trespass, wrong or other civil injury at law or in equity, or (5) exercise any other rights and remedies available to Bauer Equipment America in law or in equity; and Customer shall be liable for each of the following: (i) Any amount owed on the Account, (ii) Any amount owed under any agreement between Customer and Bauer Equipment America, including but not limited to any monthly rent and fees under a Rental Contract, (iii) Any cost incurred by Bauer Equipment America to exercise any remedy, (iv) Any damage to the equipment incurred before or during Bauer Equipment America exercise of any remedy and (v) Legal costs associated with exercising any remedy. 4. **Limitation of Warranties and Damages:** Any warranty is provided by the manufacturer. Bauer Equipment America assigns to Customer all manufacturers' warranties. BAUER EQUIPMENT AMERICA MAKES NO WARRANTY, EXPRESS OR IMPLIED NOR ANY IMPLIED WARRANTY OF USE, MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE UNDER THIS AGREEMENT. Bauer Equipment America shall not be responsible or liable for any losses, expenses or damages, including but not limited to, incidental or consequential damages, or lost profits suffered or claims made by CUSTOMER, any of its affiliates or any other person or entity, directly or indirectly, arising in connection with this Agreement or the use, inability to use, malfunction, misuse or failure of any goods purchased from, rented from or serviced by Bauer Equipment America for any purpose whatsoever. 5. **Financial Data:** Customer agrees to provide financial statements, and as Bauer Equipment America may reasonably request other financial reports, federal or state income tax return, information or data. 6. **Miscellaneous:** This Agreement will be applicable to all transactions between Bauer Equipment America and Customer involving or relating to advances made under this Agreement. Any sale and rental of equipment shall also be governed by the respective Sale Contract or Rental Contracts, as applicable, between Bauer Equipment America and Customer and to the extent of any conflict between this Agreement and such Sale Contract or Rental Contract, the terms of such Sale Contract or Rental Contract shall control. No delay or omission to exercise any right, power or remedy accruing to Bauer Equipment America upon any breach or default of Customer under this Agreement shall impair any such right, power or remedy of Bauer Equipment America nor shall it be construed to be a waiver of any such breach or default, or an acquiescence therein, or in any similar breach or default occurring thereafter; nor shall any waiver of any single breach or default be deemed a waiver of any other breach or default theretofore or thereafter occurring. The provisions of this Agreement shall inure to the benefit of, and be binding upon, the successors, assigns, heirs, executors and administrators of the parties hereto; provided, however, that Customer shall not be permitted to assign any of its rights or obligations under this Agreement without the prior written consent of Bauer Equipment America in its sole discretion. 7. **Governing Law; Exclusive Jurisdiction:** This Agreement and all its terms and conditions shall be interpreted and enforced in accordance with the laws of the State of Texas without giving effect to any rules and principles of conflict of laws. Any legal proceeding instituted by either party hereunder shall be brought in the courts, state of federal, sitting in Harris County, Texas, and the parties hereunder consent to the jurisdiction and venue of such courts. Bauer Equipment America shall also be entitled to file any lawsuit at the Customer’s principle place of business. CUSTOMER HEREBY AGREES NOT TO ELECT A TRIAL BY JURY OF ANY ISSUE TRIABLE OF RIGHT BY JURY, AND WAIVES ANY RIGHT TO TRIAL BY JURY FULLY TO THE EXTENT THAT ANY SUCH RIGHT SHALL NOW OR HEREAFTER EXIST WITH REGARD HERE TO, OR ANY CLAIM, COUNTER CLAIM OR OTHER ACTION ARISING IN CONNECTION HEREWITH. THIS WAIVER OF RIGHT TO TRIAL BY JURY IS GIVEN KNOWINGLY AND VOLUNTARILY BY CUSTOMER AND IS INTENDED TO ENCOMPASS INDIVIDUALLY EACH INSTANCE AND EACH ISSUE AS TO WHICH THE RIGHT TO A TRIAL BY JURY WOULD OTHERWISE ACCRUE. BAUER EQUIPMENT AMERICA IS HEREBY AUTHORIZED TO FILE A COPY OF THIS PARAGRAPH IN ANY PROCEEDING AS CONCLUSIVE EVIDENCE OF THIS WAIVER. | | | | | | | | |
| If Customer is a corporation, partnership, LLC, or other business entity, the undersigned affirmatively represents and warrants that she/he is authorized to execute this Agreement on behalf of Customer; and further that the Customer will continue to be bound and obligated for any credit advanced thereto until such notice to the contrary is given in writing to: Bauer Equipment America, Inc. at 680 Conroe Park West Drive, Conroe, TX 77303. Customer represents and warrants that the business is not insolvent. | | | | | | | | |
| **Do Not Sign This Agreement Until You Have Read It. You Are Entitled To A Copy Of The Signed Agreement. By Signing This Agreement, You Acknowledge That You Have Read The Entire Agreement And Agree To Same, In Full.** | | | | | | | | |
|  | | |  |  | | |  | |
| Signature |  | |  |  | | |  | |
|  | |  |  |  | |  |  |  |
| Print Name | | | Title |  | Phone Number | |  | Date |
|  | | |  |  |  | |  | |
| Signature | | |  |  |  | |  | |
|  | |  |  |  |  | |  |  |
| Print Name | |  | Title |  | Phone Number | |  | Date |

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| **Personal Guaranty**  For value received, and in consideration of Applicant applying for credit herein, the undersigned Guarantor(s) in order to induce Bauer Equipment America, Inc. (“Bauer Equipment America”) to extend credit to Applicant, does/do, jointly and severally, hereby consent to the terms above and does unconditionally personally guarantee all sums which may be owed by Applicant to Bauer Equipment America, whether said indebtedness is due now or hereafter incurred, including but not limited to the payment of all costs of collection and attorney’s fees. This Guaranty is continuing, and shall continue to apply to all indebtedness which Applicant may hereafter incur, renew, or extend in whole or in part, with Bauer Equipment America all without notice to the undersigned Guarantor(s). Bauer Equipment America may jointly or independently modify the indebtness, accept or release collateral, or release the Applicant without releasing any of the undersigned Guarantor(s) any or all of which actions may be taken without notice to Guarantor(s). If this Guaranty is executed by more than one Guarantor, one or more Guarantors may be released, and such release shall not release other Guarantor(s) and may be done without notice to other Guarantor(s). The undersigned Guarantor(s) promise to pay the indebtedness and obligations incurred hereunder at Conroe, Texas. The undersigned Guarantor(s) hereby consent(s) to Bauer Equipment America use of non-business consumer credit report on the undersigned in order to further evaluate the credit worthiness of the undersigned as guarantor(s) in a connection with the extension of the business credit as contemplated by this credit application. The undersigned hereby authorize(s) Bauer Equipment America to utilize a consumer credit report on the undersigned from time to time in connection with the extension or continuation of the business credit represented by this credit application.  Please note that this guarantee is strictly a guarantee of payment. As well guarantor is required to ratify this guarantee after the credit application is approved and becomes effective. | | | | | | | | | | |
|  | | | | | | | | | | | | | | |
| I, |  | | | ,hereby personally guarantee the obligations of | |  | | to Bauer Equipment America, Inc. | | | |  | | |
|  | Print Name | | |  |  | Name of Applicant | |  | | | |  | | |
|  |  | | |  |  |  |  |  | | | |  | | |
|  |  | | |  |  |  |  | |  | |  | |
|  | Date | | |  | Guarantor’s Signature / SSN |  | Spouse’s Signature (if applicable) / SSN | | | | |  | | |
|  |  | | |  |  |  | |  | | | |  | | |
| If Guarantor resides in a **Community Property State** such as AL, AZ, CA, ID, LA, NV, NM, TX, WA or WI, **Guarantor hereby warrants that he/she is** | | | | | | | | | | | | | | |
| Unmarried (initials) | | |  | or the **Guarantor’s Spouse must also sign above.** | | | | | | | | | | |
|  |  | | |  |  |  | |  | | | |  | | |
| I, |  | | | ,hereby personally guarantee the obligations of | |  | | to Bauer Equipment America, Inc. | | | |  | | |
|  | Print Name | | |  |  | Name of Applicant | |  | | | |  | | |
|  |  | | |  |  |  | |  | | | |  | | |
|  |  | | |  |  |  |  | | |  | |  | |
|  | Date | | |  | Guarantor’s Signature / SSN |  | Spouse’s Signature (if applicable) / SSN | | | | |  | | |
|  |  | | |  |  |  |  |  | | | |  | | |
|  | | | | | | | | | | | | | | |
| If Guarantor resides in a **Community Property State** such as AL, AZ, CA, ID, LA, NV, NM, TX, WA or WI, **Guarantor hereby warrants that he/she is** | | | | | | | | | | | | | | |
| Unmarried (initials) | |  | | or the **Guarantor’s Spouse must also sign above.** | | | | | | | | | | |