



Customer Rental/Credit Application and Credit Terms and Conditions

Thank you for choosing Blue Diamond Machinery, LLC ("BDM") for your rental needs. We are looking forward to doing business with you. Please provide the information requested below.

Business Information:

Name of Customer or Lessee (hereinafter referred to as "Customer"): _____

Bill To: _____ Ship To (if different): _____

Main Phone: _____ Fax: _____ Email: _____

Check One: Individual Corporation Partnership Limited Liability Company Subsidiary/Division of: _____

Years in Business: _____ Type of Business: _____

D&B No.: _____

VP/Finance: _____ A/P Manager (and Phone #): _____

Tax Exempt?: No Yes If "Yes," Tax Exempt / Resale #: _____ Please attach Tax Exemption/Resale Certificate.

Principal Owner(s) (more than 10% of equity or voting rights in Customer): _____

Parent(s): _____ Affiliate(s): _____ Subsidiary(ies): _____

Terms of Account:

The terms you are requesting (check all that apply): Credit Card Cash/Check Net 30 Other: _____

Charge Authorization (To Charge the Following Account for All Amounts Due and Coming Due to BDM from Customer / Lessee):

Type of Card: Visa MasterCard American Express Discover Other: _____

Account Number: _____ CVV Code: _____ Expiration Date: _____

Cardholder Name: _____ Cardholder's Address: _____

Email /Fax Receipt To: _____ City, State, Zip: _____

Bank Information:

Bank: _____ Contact Name: _____

Account No.: _____ Phone: _____

Address: _____ Fax / Email: _____

Trade References / Principal Suppliers:

Reference #1: _____ Contact: _____

Phone: _____ Fax/Email: _____

Reference #1: _____ Contact: _____

Phone: _____ Fax/Email: _____

Reference #1: _____ Contact: _____

Phone: _____ Fax/Email: _____

Charge Authorization / Guarantee:

BDM is authorized to do business with all of Customer's employees and contractors, and to assume that each has signatory authority on Customer's behalf.

The undersigned hereby: (a) certifies that all information provided by the undersigned (including credit information set forth above) is true, correct and complete, and does not fail to set forth any material information; (b) authorizes BDM and/or its assigns to make all inquiries it/they may deem necessary to verify the accuracy of information provided in order to determine the creditworthiness of the undersigned, including, without limitation, obtaining and retaining one or more credit reports and/or such other information as BDM deems appropriate; (c) **PERSONALLY GUARANTEES AND AGREES TO PAY** all amounts due and coming due to BDM up to and including the full (new) replacement value of each Rented Item (See Section 13 on Page 2 for a complete statement of the terms of such **GUARANTY**); and (d) agrees to promptly pay and perform Customer's obligations set forth in his/her/its agreement with each applicable credit card issuer. The above referenced card(s) will be charged for all future obligations owing to BDM, unless another card is provided in lieu thereof. **The undersigned further certifies that: (i) he/she has carefully reviewed, understands, agrees to comply with, the terms of this Agreement, including BDM's Credit Terms and Conditions (See Page 2);** and (ii) is authorized to sign this application on behalf of the Customer. Digital, photocopied, facsimiled and emailed signatures appearing on this Agreement will be deemed the equivalents of originals for all purposes.

Date 20_____ Print Name Signature of Customer/Guarantor Title

PLEASE RETURN THIS COMPLETED FORM TO BDM at: newaccounts@bluediamondmachinery.com

CREDIT TERMS AND CONDITIONS

The "Customer" identified on the preceding page ("P.1") has requested that Blue Diamond Machinery, LLC (hereinafter "Lessor or "BDM") sell, rent, lease, loan, demonstrate, service, and/or repair certain equipment and/or other items of personal property (hereinafter referred to as the "Rented Item(s)" or "Item(s)") on account and/or otherwise extend credit to Customer, in consideration of which the Customer and BDM agree as follows:

1. As used herein, "P.1" refers to the first page or "face" of this Agreement; "Agreement" refers to P.1 together with these Credit Terms and Conditions, "Contract(s)" means each and every Rental Contract, Bill of Sale and other agreement you enter into with BDM; "Customer," "you" and "your" mean the "Customer" identified on P.1, and "Lessor," "we," "us" and "our" mean BDM.

2. In consideration of BDM's agreement to evaluate Customer's creditworthiness for purposes of the possible extension of commercial credit to Customer based upon the information furnished herein, Customer represents, warrants, acknowledges and agrees that, by executing this Agreement: (a) all purchases and rentals made by Customer from BDM are subject to these terms and conditions; (b) Customer has received, read, understands and accepts the same as well as all of the terms and conditions of each "Contract" (as defined above); and (c) each such Contract (whether or not signed by Customer) shall be deemed incorporated into and made a part of this Agreement.

3. This Agreement supplements, but does not supersede, the Contract(s). Use of or reference to any acceptance(s), invoice(s), purchase order(s) or other similar document(s) is for convenience and identification only. This Agreement and the Contract(s), shall supersede any and all inconsistent provision(s) in any such acceptance, invoice, purchase order or other such document(s) (except only to the extent required by law).

4. Customer agrees to pay the full amount of any outstanding balance due under the subject Contract(s) on the terms set forth therein (or if none, upon receipt of each invoice from BDM). Customer acknowledges and agrees that the absence of an invoice or purchase order number on any statement, invoice or other billing delivered by BDM to Customer shall not constitute grounds for delay or non-payment of charges due or coming due to BDM under this Agreement and/or any Contract(s) at any time.

5. BDM may, at its sole option, agree to increase the amount of credit extended from time to time. BDM may also terminate the credit arrangement described herein at any time, for any reason, by written notice to Customer (whereupon, to the maximum extent permitted under applicable law, all amounts outstanding and owing by Customer to BDM will, at BDM's option, become immediately due and payable). **Customer authorizes BDM to make any credit investigation(s) and inquiries (including without limitation, by direct contact with Customer's lenders, vendors and suppliers) that BDM deems necessary or appropriate in order to evaluate Customer's credit and financial standing, credit experience with credit bureaus and other creditors.** Nothing contained in this Agreement or any Contract shall be deemed to obligate BDM to rent or otherwise extend credit to Customer or any Guarantor.

6. Customer acknowledges that Customer has special skill and knowledge in the selection and use of the Item(s) and expressly disclaims any reliance upon any statements or representations made or to be made by BDM regarding the same. Customer also acknowledges that it is Customer's responsibility to comply with all manufacturers' instructions and warnings pertaining to the Item(s) (or any of them), and Customer expressly disclaims any reliance upon any statements or representations made by BDM regarding the same.

7. Customer also represents, warrants and confirms that Customer and all other parties who will have access to the item(s) purchased and/or rented from BDM are not listed on the Specially Designated Nationals ("SDN") List maintained by the Office of Foreign Assets Control or any other denied persons list maintained by any United States government agency, and agrees to notify BDM should any of such persons become listed in the future. Refer to <https://www.treasury.gov/resource-center/sanctions/Pages/default.aspx> for information regarding the SDN list, and to www.bis.doc.gov for information on other denied parties lists and U.S. export restrictions.

8. **Customer authorizes each of its employees, agents and representatives (including without limitation, drivers and delivery personnel) to sign any and all Contracts, Addenda and other documents, instruments and agreements presented by BDM, and Customer agrees to honor and be bound by all of the terms thereof (excepting only Contract(s) executed by such person(s) whose authority to do so has been revoked by written notice from Customer delivered to and received by BDM prior to such execution). In the event Customer or any of such employees or representatives shall request that BDM deliver or drop off any Rented Item(s) and/or other personal property, Customer authorizes BDM to leave the subject item(s) at the designated delivery site, whether or not Customer and/or Customer's representative is/are present.** From and after said delivery, Customer will be solely responsible for any and all liabilities, claims, damages, losses, costs and expenses (including without limitation, attorneys' fees) arising from or associated with any such Rented Item(s) and/or other personal property, including without limitation, any use, misuse, contamination, loss and/or damage of/to the same, as well as any personal and/or bodily injury(ies) (including death) and/or property damage arising therefrom and/or in connection therewith (including without limitation, any attempted or actual use, operation, movement, storage, maintenance and/or repair of such Rented Item(s) and/or other personal property).

9. If: (a) you or any guarantor: (i) fail to fully and timely comply with any provision of this Agreement, any Contract and/or any Addendum included therewith; (ii) provide any incorrect or misleading information to BDM; (iii) become insolvent; or (iv) die or cease conducting business; (b) any Rented Item(s) shall be lost, damaged or destroyed; or (c) more than 25% of the equity and/or voting interest(s) in Customer shall be transferred without the prior written approval of BDM, you will be in default hereunder (a "Default"), whereupon, BDM may with or without notice or legal process (and without liability to you), to the maximum extent permitted under applicable law: (I) terminate this Agreement and/or any Contract(s); (II) seek relief from stay; (III) recover, empty, lock and/or disable the Item(s) without being guilty of trespass or other transgression (for which you hereby agree to indemnify, defend and hold harmless BDM); (IV) perform your obligations hereunder on your behalf, without being obligated to do so; (V) purchase replacement Item(s); (VI) recover from you and/or any guarantor our associated direct and indirect damages, losses, costs and expenses (including attorneys' fees and costs); and/or (VII) pursue any other rights and/or remedies available hereunder, at law and/or in equity, all of which shall be cumulative. For these purposes, attorneys' fees of 40% of the amount due and owing, but remaining unpaid, will be deemed reasonable. Neither BDM's exercise, nor its failure or delay in the exercise, of any rights or remedies available hereunder or in connection herewith will constitute an election of remedies or a waiver of any right or remedy BDM may have.

10. From and after the date of any Default, all amounts due from Customer to BDM will bear interest at the lesser of: (a) 18% per annum (1.5% per month); or (b) the highest rate permitted under applicable law until paid. Customer shall pay BDM the maximum fee(s) permitted under applicable law for any check returned unpaid or any debit or credit card charge submitted hereunder which is declined, charged back, reduced or reversed.

11. This Agreement, together with the applicable Contract(s) and any Exhibit(s) and/or Addenda signed and/or provided by BDM, represent the entire agreement between Customer and BDM, superseding all other oral and written agreements and representations. The terms of this Agreement are severable. If any provision hereof is deemed invalid or unenforceable by any court of competent jurisdiction, such provision will be deleted, and the remainder of this Agreement will remain valid and in full force and effect. This Agreement shall be interpreted under the laws of the United States and the State of Nevada, with proper venue for all associated civil legal proceedings lying exclusively in the federal and state courts located in or nearest to Clark County, NV, unless waived by BDM. You hereby consent and submit to such jurisdiction and venue and waive all claims that such venue lies in an inconvenient forum.

12. Customer and each Guarantor agree to promptly and at its sole cost, take such actions, and execute, deliver and/or file of public record (as applicable) such documents and instruments as may be requested by BDM from time to time in order to give full effect to the terms of this Agreement.

13. **GUARANTY:** Each person or entity ("Guarantor") signing P.1 of this Agreement, for and in consideration of BDM's agreement to extend credit to the Customer at Guarantor's request, **hereby guarantees the full and prompt payment and performance of all obligations of the Customer owing to BDM** (including without limitation, all rent and other amounts due and coming due under each Contract as well as all interest, attorneys' fees and other charges now or hereafter owing thereunder and/or in connection therewith) and waives presentment, demand, notice of acceptance, modification, extension, renewal, non-payment, Default, homestead exemption(s), dishonor, diligence, maturity, protest and notice of protest, and consents without notice, to any extension(s) of time or increase(s) in the amount of the credit made available by BDM to Customer. Each such Guarantor waives its right to a jury trial and to file a counterclaim, and consents to jurisdiction and venue in the federal and state courts located in or nearest to the State and County identified in Section 11. Each such Guarantor acknowledges the obligations of the Customer arising under and in connection with the Contract(s), and agrees to hold a portion of all payments received in connection with Customer's use of the Rented Item(s) sufficient to fully satisfy all amounts due and coming due to BDM under and/or in connection with such Contract(s) **in trust** for the sole benefit of BDM. Accordingly, the Customer and each Guarantor agree to act as fiduciaries for such payment to BDM and agree that Customer shall not use said funds for any other purpose. Customer and each Guarantor further agree that any failure to hold such funds in trust for BDM shall create a debt which is not dischargeable in bankruptcy, and which shall be an exception to discharge pursuant to the terms of 11 USC Sections 523(a)(2), (4) and (6) (and any successor provision(s)). BDM shall not be required to exhaust any other remedies against Customer or any other party before seeking recovery from any Guarantor(s) (each of whom shall be jointly and severally liable to BDM for all of Customer's liabilities and obligations to BDM). This is intended to be a continuing guaranty of payment and performance (and not merely of collection), and shall continue as to all new indebtedness incurred by or for the benefit of Customer, unless and until a written notice is sent by any Guarantor to, and received by, BDM, via certified mail-return receipt requested, declaring that this Guaranty has been terminated by such Guarantor. Bank and trade reference(s) can (and are hereby authorized by Customer and each Guarantor to) accept this authorization to disclose to BDM and its designee(s) (and any assignee or potential assignee thereof), any and all information normally released to a prospective creditor including: length of time any account has been active, average monthly balances, how the account has been handled, and details of any rental and/or lending relationship. The digital, photocopied, facsimiled and emailed signature(s) of Customer and any and all Guarantor(s) appearing on P.1 will be deemed the equivalents of originals for all purposes.