

Purchaser's Credit Application and Agreement Governing Purchases:



**Carolina Tractor & Equipment Company**

PO Box 1095, Charlotte NC 28269  
 800-277-1212 | Fax 704-599-4511  
 credit@carolinacat.com

<b>For office use only</b>
Salesman: _____
Ind. Code: _____
Store: _____

**GENERAL INFORMATION:** *Please print or type*

Business Name: \_\_\_\_\_ and DBA (if applicable): \_\_\_\_\_

Physical Address: \_\_\_\_\_

Billing Address: \_\_\_\_\_

Business Phone #: \_\_\_\_\_ Mobile Phone #: \_\_\_\_\_ Fax #: \_\_\_\_\_

Contact Name: \_\_\_\_\_ Title: \_\_\_\_\_ E-mail: \_\_\_\_\_

Description of Business: \_\_\_\_\_ Business Start Date: \_\_\_\_\_ Time of Current Owner: \_\_\_\_\_

**Type of Business:**  Sole Proprietorship  Corporation  General Partnership  L.L.C.  Other

**Has the business or any principal ever declared bankruptcy?**  Yes  No

**Are there any outstanding liens or judgements?**  Yes  No If yes, date filed: \_\_\_\_\_

Federal ID Number: \_\_\_\_\_ Sales Tax Exempt?  Yes  No *If yes, please attach copy of exemption certificate.*

Purchase Order Required?  Yes  No

Accts Payable E-mail: \_\_\_\_\_ Contact Name: \_\_\_\_\_ Contact Phone #: \_\_\_\_\_

**FINANCIAL INFORMATION:** *Additional financial information may be requested*

**Bank/Finance Reference:** *Optional*

Bank Name	Contact	Phone #	Account #	Checking	Savings	Loan
1.				<input type="checkbox"/> \$	<input type="checkbox"/> \$	<input type="checkbox"/> \$
2.				<input type="checkbox"/> \$	<input type="checkbox"/> \$	<input type="checkbox"/> \$

**Trade References:**

Contact Name	Address	Phone #/ Fax#	Account #
1.			
2.			
3.			
4.			

**Personal Information on Owner/Principals/Guarantors:** *Attach additional sheets, if necessary*

Name and Title: \_\_\_\_\_ SSN# (optional): \_\_\_\_\_

Home Address: \_\_\_\_\_ Birthdate (optional): \_\_\_\_\_

E-mail: \_\_\_\_\_ Phone #: \_\_\_\_\_ Ownership %: \_\_\_\_\_

Name and Title: \_\_\_\_\_ SSN# (optional): \_\_\_\_\_

Home Address: \_\_\_\_\_ Birthdate (optional): \_\_\_\_\_

E-mail: \_\_\_\_\_ Phone #: \_\_\_\_\_ Ownership %: \_\_\_\_\_

**SIGNATURE OF OWNER/PRINCIPAL OR AUTHORIZED OFFICER/PARTNER/MANAGER**

NOTICE: Applicant and each other person signing below warrants that the information provided herein or in connection with this application is true and correct and authorizes the release of such information to any party who may provide credit to applicant, whether therein or pursuant to a subsequent application or request, to obtain from banks, credit bureaus and other creditor, all of which are hereby authorized to release, any credit/financial information concerning applicant or such other person (including personal credit bureaus) as such party may deem appropriate, and to share all such information with the other.

By: \_\_\_\_\_ Title: \_\_\_\_\_ Date: \_\_\_\_\_

By: \_\_\_\_\_ Title: \_\_\_\_\_ Date: \_\_\_\_\_

NOTICE: 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 within 60 days from the day you are notified of our decision: CTE Credit Department 704-596-8880 or e-mail credit@carolinacat.com. 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 (provided the applicant has the capacity to enter into a binding contract); because all or part of 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 administer compliance with this law concerning this Lender is the FTC Regional Office fro the region in which the Lender operates or the Federal Trade Commission, Equal Credit Opportunity, Washington DC 20580.

## CREDIT APPLICATION AND AGREEMENT GOVERNING PURCHASES

**1. Terms.** All purchases of Buyer from Seller, whether on credit or otherwise, shall be subject to and governed by this Agreement, Seller's purchase order form ("Purchase Order") and any other written agreement executed by Buyer and Seller (the "Sale Documents"). NO TERM OF ANY PURCHASE ORDER OR OTHER DOCUMENT ISSUED BY BUYER AND NOT EXECUTED BY AN AUTHORIZED REPRESENTATIVE OF SELLER ("BUYER'S DOCUMENTS") SHALL BE EFFECTIVE OR BIND SELLER, AND SELLER OBJECTS TO ALL DIFFERENT OR ADDITIONAL TERMS OF BUYER'S DOCUMENTS AND EXPRESSLY CONDITIONS ITS OFFER TO SELL TO BUYER AND ITS ACCEPTANCE OF BUYER'S OFFER TO PURCHASE ON BUYER'S ACCEPTANCE OF THE TERMS OF THE SALE DOCUMENTS.

**2. Order Procedure.** All of Buyer's orders shall be placed on a Purchase Order, which Buyer shall execute. If Buyer places an order by telephone or is otherwise unable or omits to execute a Purchase Order, Buyer hereby authorizes Seller to execute the Purchase Order on behalf of Buyer. Seller may execute such Purchase Orders by writing on the Purchase Order "telephone order" or some similar, appropriate phrase. No Purchase Order shall become binding on Seller until it is approved by an authorized representative of Seller at Seller's Charlotte, North Carolina office. Seller's salesmen may only place Buyer's order on a Purchase Order and submit it for approval. Seller's salesmen may not approve a Purchase Order.

**3. Prices.** The amount of any present and future sales, revenue, excise and other taxes and governmental charges shall be added to the purchase price of the items that Buyer purchases from Seller ("Goods") and shall be paid by Buyer. Prices quoted in any particular Purchase Order are valid for that order only. The prices specified in a Purchase Order shall be increased by any increase in the cost of the specified Goods to Seller after the Purchase Order is approved by Seller. Unless otherwise specified, prices do not include installation, training, setup or other similar services. If Seller agrees to provide any such services, Buyer shall pay such additional charges to which the parties agree in writing.

**4. Payment.** Unless otherwise specified in the Sale Documents, the total purchase price of all Goods shall be due and payable on or before delivery of the Goods to Buyer.

**5. Delivery.** All prices are net of any delivery charges. Unless Buyer and Seller agree otherwise, Buyer shall arrange and pay for the delivery of the Goods from Seller's place of business to Buyer. If Seller agrees to arrange for delivery of the Goods, Buyer shall pay for all costs associated therewith. Delivery shall occur and all risk of loss shall pass to Buyer upon the earliest to occur of the following: (a) Buyer takes possession of the Goods; (b) the Goods leave Seller's premises to be delivered to Buyer; or (c) the Goods are placed in the possession of a common, contract or other carrier to be delivered to Buyer. Seller may deliver any Goods sold on one or more installments. No delivery of Goods by Seller shall waive any rights or remedies that Seller may have with respect to any prior deliveries. All delivery schedules and dates given by Seller are estimates only. Seller shall not be liable for any delay in the performance of any order or contract or in the delivery or shipment of any Goods, or for any damages suffered by Buyer by reason of any such delay. Seller's obligation to deliver the Goods is subject to Buyer's Compliance with the terms and conditions of the Sale Documents and Buyer's maintaining credit satisfactory to Seller. Seller may suspend or delay performance or delivery at any time pending receipt of assurances of Buyer's ability to pay (including full or partial prepayment) adequate to Seller in its discretion. Buyer's failure to provide such assurances shall entitle Seller to cancel any Purchase Order or other contract without notice to Buyer and without further liability or obligation to Buyer.

**6. Notice.** of Nonconformity. Buyer must give Seller written notice of any claim that it has regarding the condition, quantity or quality of the Goods or the nonconformity of the Goods with the Sale Documents within ten (10) days after delivery of the Goods occurs as specified in paragraph 5. The notice must specify the basis of Buyer's claim in detail. Buyer's failure to comply with this paragraph 6 shall constitute Buyer's irrevocable acceptance of the Goods and shall bind it to pay Seller the full price of the Goods.

**7. Security Agreement.** Buyer hereby grants to Seller a purchase money security interest in all of the Goods. This security interest shall terminate with respect to particular Goods when the full amount of the invoice reflecting those Goods, including any delinquency charges, attorneys' fees and other costs imposed by the Sale Documents, is paid. Buyer shall execute and deliver to Seller all assignments, financing statements and other agreements and documents that Seller may request, in forms satisfactory to Seller, and shall take any and all other steps requested by Seller, in order to perfect and maintain Seller's security interest in the Goods.

**8. Delinquency Charges.** If Seller extends any credit to Buyer on this account, unless otherwise specified in the Purchase Order, the full purchase price shall be due on or before the tenth (10th) day of the first month following the month of the Invoice date (i.e., net, 10th prox.). If Buyer does not pay the full price on or before the thirtieth (30th) day of the month in which the payment is due, delinquency charges on the amount of one and one-half percent (1 1/2%) per month on any overdue unpaid balance shall accrue and be added to the unpaid balance. All payments to Seller on Buyer's account shall be applied first to all accrued delinquency charges, second to all past due amounts in order of their maturity, and finally to all other amounts due to Seller. Seller may employ one or more attorneys to enforce its rights and remedies under this Agreement, and Buyer hereby agrees to pay Seller its reasonable attorneys' fees plus all other costs, expenses and collection fees incurred by Seller in exercising its rights and remedies under this Agreement.

**9. DISCLAIMER OF WARRANTIES.** SELLER MAKES NO WARRANTY OR REPRESENTATION, EITHER EXPRESS OR IMPLIED: (A) AS "TO THE DESIGN, QUALITY OR CONDITION OF THE GOODS; (B) AS TO THE MATERIAL, EQUIPMENT OR WORKMANSHIP IN THE GOODS; OR (C) AS "TO MERCHANTABILITY OR FITNESS OF THE GOODS FOR ANY PARTICULAR PURPOSE. SELLER MAKES NO WARRANTY WITH RESPECT TO ANY PATENT, COPYRIGHT, TRADEMARK, TRADE NAME, SERVICE MARK OR PROPRIETARY LAWS OR RIGHTS.

**10. Limitation of Liability.** Seller's sole obligation to Buyer for any nonconforming Goods shall be, at Seller's option, to repair or replace such Goods. Seller shall not be liable to Buyer for, and Buyer hereby waives, any special, indirect, incidental or consequential damages and any claims, demands or liabilities for property damage or personal injury, including without limitation claims, demands or liabilities arising out of or relating to Seller's negligence. Any action by Buyer arising out of or relating to the Sale Documents or any Goods must be commenced within one (1) year after the claim or cause of action has accrued. If for any reason Seller at any time is unable to provide the Goods to Buyer, Seller, at its option may terminate the particular Purchase Order entirely or as to the Goods Seller is unable to provide, and Seller shall have no further obligation to Buyer with respect thereto.

**11. Indemnification.** Buyer shall indemnify and hold Seller harmless from and against all claims, demands, costs, attorneys' fees, liabilities and obligations arising out of or relating to Buyer's use, possession or control of the Goods, including without limitation all claims of infringement of any patent, copyright, trademark, trade name, service mark or proprietary rights and all personal injury and property damage claims of any employee or agent of Buyer or any other person, firm, corporation or entity.

**12. Default by Buyer.** The occurrence of any of the following shall constitute an event of default by Buyer under this Agreement and all other agreements between Buyer and Seller:

- (a) Buyer's failure to pay any sum of money as and when due under this Agreement or any other agreement with Seller which is not cured within five (5) days after it is due; and
- (b) Buyer's default under any other term of this Agreement or any other agreement with Seller which is not cured within ten (10) days after Seller gives Buyer written notice of that default.

Upon the occurrence of an event of default by Buyer under this Agreement or any other agreement between Buyer and Seller, and in addition to any other rights and remedies that Seller may have, Seller shall have the right, at its option, to take one or more of the following actions: (a) declare all or part of Buyer's obligations to Seller under this Agreement or any other agreement immediately due and payable; (b) require Buyer to assemble the Goods subject to a security interest in favor of Seller and deliver them to Seller's premises at Buyer's sole expense; (c) retake possession of any Goods subject to any unpaid invoice without notice to or demand on Buyer wherever the Goods shall be located without any court order or other process of law (Buyer hereby waives all claims, demands and liabilities that may arise from any such repossession); and (d) pursue any other right or remedy at law or in equity.

**13. Notices.** Any notice permitted or required under this Agreement shall be deemed given if in writing and delivered personally or deposited in the United States mail, certified mail return receipt requested, first class postage prepaid, to the respective addresses of Seller and Buyer specified in this Agreement or such other addresses of which a party gives the other party written notice.

**14. Remedies Cumulative Nonwaiver.** No remedy under this Agreement or otherwise conferred upon or reserved to Seller shall be considered exclusive of any other remedy, but the same shall be distinct, separate and cumulative and shall be in addition to every other remedy or right given under this Agreement or now or hereafter existing at law or in equity. Every power and remedy given by this Agreement to Seller may be exercised severally, concurrently or in any combination from time to time as often as occasion may arise or as Seller may deem expedient. No delay or omission of Seller to exercise any right or power arising from any default on the part of Buyer shall impair any such right or power or shall be construed to be a waiver of any such default.

**15. Nature, Extent and Modification of Agreement.** This Agreement contains the entire agreement of the parties relating to the Goods and supercedes all previous and contemporaneous agreements and understandings, whether written or oral. This Agreement may be modified only by an agreement in writing, signed by both parties, expressly purporting to modify this Agreement.

**16. Severability.** The provisions of this Agreement are severable, and the invalidity or unenforceability of any one or more of the provisions of this agreement, or any part thereof, shall not affect the validity or enforceability of any other provision.

**17. Binding Effect.** This Agreement shall be binding upon, and shall inure to the benefit of, the parties and their respective successors, heirs and assigns.

**18. Applicable Law.** This Agreement and any controversy relating hereto shall be governed by and construed in accordance with the laws of the State of North Carolina. At Seller's sole option, any action or proceeding relating to this agreement or its enforcement shall be commenced and heard in (or transferred to if necessary) the appropriate state and federal courts for Mecklenburg County, North Carolina. Buyer hereby consents and submits to the jurisdiction and venue of those courts