



BUSINESS CREDIT APPLICATION AND AGREEMENT

11002 Sapp Bros Dr
Omaha, NE 68138
(402) 891-8600 or 800-628-6025
Fax No. (402) 891-7608

FOR OFFICE USE ONLY

Table with 3 columns: Store, SLSM, Cr Limit. Header: Customer Number Assigned

Section A - Applicant Information
Legal Business Name, Business Phone No., Fax No., DBA, Contact Name & Email Address, Business Street Address, City, State, Zip, Description of Business, Yrs in Business, State of Incorporation/Organization/Formation, Entity Type, Federal Tax ID No. /Social Security No., Organizational ID No., Sales Tax License No., Tax Exempt?

Section B - Personal Information: Officers, Managers or Other Authorized Representatives
Name/Title, Address (Street, City, State, Zip), Social Security Number

Section C - Bank and Business References
Bank, Address (Street, City, State, Zip), Phone No., Fax No., Account No., Contact Name, Insurance Agent, Bonding Company, Credit Reference

Section D - Certification, Acknowledgment and Authorization

Amount of Credit Requested: \$ _____

The undersigned certifies for and on behalf of Applicant (a) that the information provided in this Business Credit Application and Agreement (this "Agreement") is accurate and complete, (b) that the undersigned is duly authorized to execute and deliver this Agreement on behalf of Applicant, and (c) that Applicant is applying for credit for a business purpose, and not for personal, family or household purposes.

The undersigned for and on behalf of Applicant acknowledges and agrees to the Terms and Conditions set forth in Section F. The undersigned, for and on behalf of Applicant, acknowledges and agrees to provide RAKA with prompt notice at such time as any of the information provided herein become false or misleading in any respect.

Signature _____ Signer's Printed Name and Title _____ Date _____

Section E – ECOA Notice (to be retained by Applicant)

Thank you for your business credit application. If your application for business credit is denied, you have the right to a written statement on the specific reasons for your denial. To obtain that statement, please contact us within 60 days from the date that you are notified of our decision. We will send you a written statement of the reasons for the denial within 30 days of your request for the statement. 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 our compliance with this law is the Federal Trade Commission, Equal Credit Opportunity, Washington, DC 20580.

Section F – Terms and Conditions

This Agreement and any sale made by RAKA to Applicant is subject to the following additional terms and conditions:

- 1. Timely Payments:** Unless otherwise agreed in writing by the parties, all amounts payable to RAKA are due the 15th day of the following month following the date of purchase and should be made payable to RAKA at the address set forth above or as otherwise provided by RAKA to Applicant from time to time. Payments made payable to third parties (including agents of RAKA) are not valid unless authorized in writing by RAKA's Branch Manager or Sales Manager. All amounts not paid for products or services purchased from RAKA ("Products") when due shall be considered past due. Interest shall be payable by Applicant on any amount not paid when due at the rate of one and one-half percent (1.5%) per month, or the maximum rate allowable by law, whichever is less. Any returned checks will be assessed a \$25 fee.
- 2. Excusable Delivery Delays:** Delays in delivery shall be excused when caused, directly or indirectly, by strikes, wars, lockouts, accidents, terrorism, insurrection, riots, fires, floods or other natural disasters, delays of manufacturer or carrier, acts of God, embargoes, or governmental action or any other cause beyond the reasonable control of the RAKA, whether the same as, or different from, the matters and things hereinbefore specifically enumerated, and if for such reasons, RAKA is unable to make delivery within a reasonable time after the time stipulated for delivery, RAKA, may at its option, cancel any purchase order by Applicant without liability, except for return of the amounts paid under such purchase order.
- 3. Title and Risk of Loss:** Passage of title and risk of loss shall be as follows: (a) if RAKA is to deliver the Products to Applicant (or to Applicant's designated agent, carrier or transportation company), title and risk of loss shall pass to Applicant upon RAKA's tender of delivery at the location agreed to between the parties; (b) if Applicant, Applicant's agent, carrier or transportation company of Applicant's choosing is to pick up the Products from RAKA's facility or such other location agreed to between the parties, title and risk of loss shall pass to Applicant when the Products are made ready for delivery from RAKA's facility or other location agreed to between the parties; and (c) if the Products are to be shipped via common carrier, title and risk of loss shall pass to Applicant when the Products are delivered to the common carrier. Upon receipt of the Products, Applicant shall make all necessary inspections and tests of the Products. Applicant shall promptly notify RAKA, in writing, of any defect or other proper objection to the type or condition of the Products. Applicant's failure to notify RAKA in writing of any deficiencies in the Products within (7) days after receipt of the Products shall be Applicant's acknowledgment that the Products were in good, safe and serviceable condition and fit for their intended use.
- 4. Security Interest:** Applicant hereby grants to RAKA a purchase money security interest to secure payment, performance and satisfaction of all present and future debts, obligations or other indebtedness of Applicant to RAKA in the following property: all of Applicant's products, equipment or inventory now or hereafter acquired from RAKA, together with all additions, accessories, attachments, parts and equipment now or hereafter affixed thereto or used in connection therewith and all substitutions, replacements and proceeds of the foregoing. Applicant, at Applicant's sole cost and expense, hereby irrevocably (a) authorizes RAKA from time to time to file a copy of any initial financing statements, continuation statements and any amendments thereto to perfect its security interests, (b) authorizes RAKA to notify other creditors of Applicant to the extent necessary to perfect its security interests, and (c) agrees to provide any other information required to make any such filings and to cooperate with RAKA and take all necessary actions, including without limitation, executing any and all additional documents, or taking such action requested by RAKA to avail itself, in addition to all other rights and remedies available at law, in equity or as contemplated herein, of all rights and remedies of a holder of a purchase money security interest under the Uniform Commercial Code. Applicant shall provide RAKA with not less than forty-five (45) days' prior written notice of any name change, change in place of business, or, if more than one, its chief executive office, or its mailing address, its organizational number, type of organization, jurisdiction of organization or other legal structure. Applicant hereby appoints RAKA as Applicant's attorney-in-fact for the purposes of carrying out the provisions of this section and taking any action and executing any instrument which RAKA may deem necessary or advisable to accomplish the purposes hereof, which appointment is irrevocable and coupled with an interest.
- 5. Default:** An "Event of Default" shall occur if Applicant fails to observe or perform any other covenant, agreement, condition or obligation to be observed or performed by Applicant hereunder or any representation or warranty made by Applicant is or fails to be true and correct in any material respect. Additionally, unless the Products are paid for in full in cash at the time of delivery, an Event of Default shall also occur if: (a) Applicant fails to pay any payment when due; (b) Applicant ceases doing business as a going concern, makes an assignment for the benefit of creditors or admits in writing its inability to pay its debts as they become due or becomes insolvent; (c) there is filed by or against Applicant a proceeding in bankruptcy, or of reorganization, receivership, insolvency, liquidation, dissolution or similar relief; (d) a trustee, receiver, or liquidator is appointed for Applicant, or of all or any substantial part of Applicant's assets or properties; (e) any sale or other disposition of the Products other than in Applicant's normal course of business; (f) Applicant dies; (g) any guarantor of any liability or obligation described in this Agreement, any purchase order or any other agreement between the parties denies that it has any or further liability or obligations hereunder; (h) any financial or credit information submitted by or on behalf of Applicant is proven to have been false or misleading in any respect when submitted; or (i) RAKA determines, in its sole discretion, that any material adverse change has occurred in Applicant's financial condition, in the value of the Products, or in the prospect for full and punctual payment and performance of all Applicant's obligations under any purchase order or any other agreement between the parties.
- 6. Remedies:** Upon the occurrence of an Event of Default, RAKA may (a) terminate this Agreement, any purchase order, other agreement between the parties or any open account or other credit accommodations, if any, at which time all payments, including any payment due at a later date, shall become immediately due and owing without further notice or demand, and/or (b) exercise any or all other rights and remedies available at law, in equity or as contemplated herein or in any purchase order or any other agreement between the parties, including without limitation, all rights and remedies of a holder of a purchase money security interest under the Uniform Commercial Code. In any case, upon an Event of Default, RAKA may recover all expenses incurred by reason of an Event of Default or the exercise of any remedy hereunder, including expenses of repossession, repair, storage, transportation, and disposition of the Products. Remedies provided herein or under any purchase order or agreement shall be cumulative and non-exclusive.
- 7. Disclaimer of Warranties:** If the Products are described herein as "new", such Products may be sold subject to manufacturer's warranties. HOWEVER, APPLICANT ACKNOWLEDGES THAT RAKA IS NOT THE MANUFACTURER OF THE PRODUCTS, AND UNLESS OTHERWISE PROVIDED HEREIN, RAKA MAKES NO WARRANTIES WHATSOEVER WITH RESPECT TO ANY PRODUCTS OR SERVICES PROVIDED BY RAKA, EXPRESS OR IMPLIED, INCLUDING ANY WARRANTY OF MERCHANTABILITY, VALUE, CONDITION, QUALITY, DESIGN, CAPACITY, MATERIAL WORKMANSHIP, FITNESS OR SUITABILITY FOR ANY PURPOSE OR USE AND, AS BETWEEN APPLICANT AND RAKA, APPLICANT TAKES ANY PRODUCTS "AS IS" AND WITH ALL FAULTS OR DEFECTS, AND ALL RISK, AS BETWEEN APPLICANT AND RAKA SHALL BE BORNE BY APPLICANT, AT APPLICANT'S EXPENSE.

8. Limitation of Liability: NOTWITHSTANDING ANYTHING TO THE CONTRARY IN THIS AGREEMENT, ANY PURCHASE ORDER OR ANY OTHER AGREEMENT BETWEEN THE PARTIES, RAKA WILL NOT BE LIABLE TO APPLICANT OR ANY PARTY FOR ANY LOSS OR DAMAGE TO REVENUES, PROFITS, OTHER ECONOMIC LOSS OR GOODWILL OR OTHER SPECIAL, INCIDENTAL, INDIRECT, PUNITIVE OR CONSEQUENTIAL DAMAGES OF ANY KIND, ARISING OUT OF, RELATING TO OR IN CONNECTION WITH THIS AGREEMENT, ANY PURCHASE ORDER, ANY OTHER AGREEMENT OR THE TRANSACTIONS CONTEMPLATED HEREBY, WHETHER RESULTING FROM BREACH OF CONTRACT, BREACH OF WARRANTY, NEGLIGENCE, STRICT LIABILITY, TORT OR OTHER LEGAL THEORY, EVEN IF RAKA HAS BEEN ADVISED, KNOWS OR SHOULD HAVE KNOWN OF THE POSSIBILITY OF SUCH DAMAGES, AND EVEN IF ANY OF THE LIMITED REMEDIES OF THIS AGREEMENT, ANY PURCHASE ORDER OR ANY OTHER AGREEMENT FAIL TO FULFILL THEIR ESSENTIAL PURPOSE.

9. Taxes: Unless otherwise stated, the quoted prices do not include applicable state or federal sales, use, or similar taxes, which shall be paid by the Applicant or, in lieu thereof, Applicant shall provide the RAKA with a tax-exemption certificate acceptable to the taxing authorities. From and after the transfer of possession of the Products to Applicant, Applicant shall timely pay all taxes or other charges assessed by any public body against same, including any applicable property taxes.

10. Applicant Representations: Applicant represents, warrants and agrees that: (a) it has full power and authority and legal right to enter into and perform under this Agreement and the execution, delivery and performance of this Agreement have been duly authorized by all necessary corporate, company or other legal actions on the part of Applicant; (b) Applicant is solvent, and upon execution of this Agreement will be solvent; and (c) there are no pending or threatened actions before any court or administrative agency which will affect Applicant's condition, business or operation or Applicant's ability to perform its obligations under this Agreement, any purchase order or any other agreement.

11. Governing Law; Venue; Waiver of Jury Trial; Attorney's Fees: This Agreement shall be governed by and construed in accordance with laws of the State of Nebraska without regard to the conflicts of law principles thereof. The parties agree that all litigation between RAKA and Applicant which may arise out of or in connection with this Agreement or any transaction between them shall be subject to the exclusive jurisdiction of the courts of Douglas County, Nebraska or of the federal courts sitting therein, and each hereby consents to the jurisdiction of such courts. Applicant agrees that any and all processes directed to it in any such litigation may be served upon it outside of Nebraska with the same force and effect as if such service had been made within Nebraska. To the extent allowed by applicable law, Applicant hereby waives any right it may have to a trial by jury in any action brought by or against RAKA. In the event of suit by RAKA on this Agreement, any purchase order or any other agreement on account of Applicant's breach thereof, RAKA shall be entitled to recover the costs and expenses of such suit, including reasonable attorney's fees.

12. Severability; Waiver: If any provision or application of this Agreement or any other agreement shall be held invalid, illegal or unenforceable in whole or in part, the remaining provisions and applications of this Agreement shall not be affected, and shall remain valid and enforceable. No course of conduct or dealing and no delay or failure by RAKA in exercising any right or remedy under this Agreement or applicable law shall operate to amend, modify or waive any provision of this Agreement.

13. Notification of Assignment of Rights: If this sale includes equipment previously held as rental equipment then notice is hereby given that RAKA has assigned its rights under this sale to RAKA Exchange LLC to sell the rental equipment described herein and, if applicable, to purchase the trade-in property described herein.

14. Conflict: In the event of a conflict between this Agreement and any other agreement between the parties, the terms of this Agreement shall control.

Section G – Guarantor Information, Guaranty and Acknowledgement

Name	Address (Street, City, State, Zip)
Name	Address (Street, City, State, Zip)

In consideration of, and as an inducement for the extension of credit to Applicant, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the undersigned guarantor, whether one or more (collectively "Guarantor") hereby guaranty, absolutely and unconditionally, jointly and severally, to RAKA the full and prompt payment of all liabilities, obligations, charges and dues of Applicant to RAKA (the "Guaranty"). This Guaranty is an absolute, continuing and unconditional guaranty of payment (and not of collection) and of performance of Applicant's obligations, and shall remain in full force and effect until the obligations and expenses in connection therewith shall be fully paid and performed. The liability and obligations of each Guarantor under this Guaranty are primary, joint and several and independent of the obligations of any and every other Guarantor or of Applicant, and a separate action or actions may be brought and executed against any one or more Guarantor, whether or not such action is brought against Applicant or any other Guarantor and whether or not Applicant or any other Guarantor is joined in such action or actions.

The undersigned authorizes the Lenders to obtain information from the references listed above and obtain a credit report (consumer or otherwise) that will be ongoing and relate not only to the evaluation and/or extension of the business credit requested, but also for purposes of reviewing the account, increasing the credit available on the account (if applicable), taking collection action on the account, and for any other legitimate purpose associated with the account as may be needed from time to time and acknowledges that RAKA may report the payment history of Guarantor to credit reporting agencies.

This Guaranty shall be governed by and construed in accordance with laws of the State of Nebraska without regard to the conflicts of law principles thereof. The parties agree that all litigation which may arise out of or in connection with this Guaranty or any transaction related thereto shall be subject to the exclusive jurisdiction of the courts of Douglas County, Nebraska or of the federal courts sitting therein, and the undersigned hereby consents to the jurisdiction of such courts. The undersigned agrees that any and all processes directed to the undersigned in any such litigation may be served upon the undersigned outside of Nebraska with the same force and effect as if such service had been made within Nebraska. To the extent allowed by applicable law, the undersigned hereby waives any right it may have to a trial by jury in any action brought by or against RAKA. In the event of suit by RAKA on this Guaranty, RAKA shall be entitled to recover the costs and expenses of such suit, including reasonable attorney's fees.

This Guaranty constitutes the entire understanding of the parties with respect to the subject matter hereof, and shall be modified only by a written agreement signed by the parties. This Guaranty shall inure to the benefit the successors and assigns of RAKA.

Signature Signer's Printed Name Date

Signature Signer's Printed Name Date