

# Santmyer

## CREDIT APPLICATION

Select the company for which you are requesting an account:

- Santmyer Energy, Inc.
  Santmyer Transportation, Inc.
  Red Rover, LLC

Submitted by \_\_\_\_\_

Company name **Attention: A separate application is required for each shipping location.** Phone Fax

EIN Years in business / At current location

Billing address City / State ZIP code

Ship to address City / State ZIP code

Ship to phone Ship to fax Parent (if applicable)

Company type (select one)  Corporation  Partnership  Proprietorship  LLC / LLP

### Guarantor information

1. Name of Guarantor SSN # Phone

Home address City / State ZIP code

2. Name of Guarantor SSN # Phone

Home address City / State ZIP code

### Billing information

Billing contact name Email Phone

How do you wish to receive your invoices (select one):

**Attention: Santmyer Energy, Inc. account invoices will be sent by mail only.**

- Mail
  Email
  Fax

Purchase order is required. Estimated monthly volume.

\$  
Credit limit requested

Ohio sales tax number

**Attention: Please attach an exemption certificate.**

Billing information

Name of Bank

Bank contact

Address

City / State

ZIP code

Account number

Checking  Savings  Other

Trade references — Please complete ALL information requested.

1. Name

Address

City / State

ZIP code

Contact

Phone

Fax

Account number

2. Name

Address

City / State

ZIP code

Contact

Phone

Fax

Account number

Shipping location property owner — If NOT applicant.

Name

Address

City / State

ZIP code

Contact

Phone

Fax

Account number

By signing this application, the undersigned authorizes the above Banks and Trade References to release information about the undersigned to the business identified by the check marked logo above (hereinafter "Santmyer") and acknowledges having received a copy of Santmyer's Terms and Conditions and agrees to be bound by said Terms and Conditions.

Signature

Title

Date

Commercial Cognovit Guaranty

In consideration of Santmyer extending credit to the above Applicant up to the amount of the approved credit limit listed herein, the undersigned guarantor (s) (collectively, the "Guarantor") jointly, severally, and unconditionally guarantees payment to Santmyer for any and all obligations of Applicant arising or relating to Applicant's account, any agreement between Applicant and Santmyer and/or the products purchased, including all obligations now existing or hereafter arising, together with all late fees, penalties, attorney's fees and other costs and expenses accruing thereon. This Guarantee is unlimited in duration and amount. Guarantor agrees to be bound by the Terms and Conditions attached to this application. Guarantor waives presentment, demand for payment, notice of dishonor, and further waives all defenses under R.C. §1303.59 and §1303.70. Guarantor jointly and severally authorizes any attorney at law at any time or times after any default hereunder to appear in any court in the State of Ohio, to waive the issuance and service of process, to admit the maturity of this Guaranty and the nonpayment of all unpaid guaranteed Obligations, to confess judgment against the undersigned in favor of Santmyer for the amount then due, together with interest and costs of suit, and thereupon to release all errors and to waive all rights of appeal and stay of execution. The foregoing warrant of attorney shall survive any judgment, and if any judgment be vacated for any reason, Santmyer nevertheless may thereafter use the foregoing warrant of attorney to obtain an additional judgment or judgments against the undersigned. The undersigned agrees that Santmyer's attorney may confess judgment pursuant to the foregoing warrant of attorney. The undersigned further agrees that the attorney confessing judgment pursuant to the foregoing warrant of attorney may receive a legal fee or other compensation from Guarantor.

**WARNING: BY SIGNING THIS PAPER YOU GIVE UP YOUR RIGHT TO NOTICE AND COURT TRIAL, IF YOU DO NOT PAY ON TIME A COURT JUDGMENT MAY BE TAKEN AGAINST YOU WITHOUT YOUR PRIOR KNOWLEDGE AND THE POWERS OF A COURT CAN BE USED TO COLLECT FROM YOU REGARDLESS OF ANY CLAIMS YOU MAY HAVE AGAINST THE CREDITOR WHETHER FOR RETURNED GOODS, FAULTY GOODS, FAILURE ON HIS PART TO COMPLY WITH THE AGREEMENT, OR ANY OTHER CAUSE.**

Signature of Guarantor

Print Name

SSN #

Name of Employer

Date

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Signature of Guarantor

Print Name

SSN #

Name of Employer

Date

## Terms and Conditions

1. | **Purchases.** In the event the Company's Application is approved, the applicable vendor - Santmyer Energy, Inc., Santmyer Transportation, Inc., and/or Red Rover, LLC (collectively, "VENDOR"), will grant you the right to purchase fuel, oil, propane and other products and/or services (collectively, "Products") and/or propane cage/exchange station(s), including, without limitation, propane cylinders and other items affixed thereto (collectively, "Equipment") from VENDOR on account, and all such transactions between VENDOR and you shall be subject to these terms and conditions and the New Account Application And Cognovit Credit Agreement (collectively, "Agreement"). Any orders for Products and/or Equipment shall be made pursuant to a written purchase order. You agree to pay by EFT, wire transfer, or certified checks. All prices for Products and Equipment shall be set forth on VENDOR's invoices and based upon the price applicable at the time of delivery.
2. | **Payment.** All charges incurred by you are due and payable upon receipt of an invoice, by fax, email or mail ("Due Date"). You do not have a right to defer payment of your account balance. All payments are to be made without deduction, set-off, or counterclaims. You are responsible for and shall indemnify VENDOR from any and all taxes associated with the Products and Equipment. Returned checks are subject to \$35.00 NSF fee.
3. | **EFT Authorization.** If you pay by EFT, you authorize VENDOR to initiate debit/credit entries to your bank account(s) for payment/refund of and debt incurred on any and all amounts due hereunder (collectively, "Obligations"), and further authorize the bank to debit/credit such entries to the bank account. This authorization shall remain in full force and effect until VENDOR has received payment in full for any and all Obligations unless earlier revoked in writing in accordance with the EFT Authorization Form. All debit/credit entries will be processed when payment is due. Each returned EFT is subject to a fee of \$250.00. The Applicant shall be charged a \$250.00 fee for each request to change the EFT date for 3-day extension and \$50.00 for each day thereafter.
4. | **Delivery.** All delivery dates are estimates and are not guaranteed. You authorize VENDOR to enter your place of business ("Premises") to conduct all activities which are authorized or incidental to this Agreement. You agree to pay for all Products and Equipment delivered to the Premises, regardless if you fail to sign a delivery ticket or invoice. Products and Equipment are shipped FOB point of origin, and title to the Products shall pass to you upon the commencement of delivery of the Products. You agree that VENDOR's invoices shall be conclusive upon actual delivery, unless you object in writing within 5 days of the Due Date. Notwithstanding the foregoing, if you request VENDOR to install Equipment on the Premises, you hereby acknowledge Equipment is VENDOR's sole and lawful property, is deemed personal property and not a fixture. You hereby grant VENDOR an irrevocable and perpetual license to install the Equipment at the Premises.
5. | **Late Fees.** Failure to make payment within 15 days of the Due Date, will result in a late fee equal to 2% of your then outstanding balance for each month the balance remains unpaid.
6. | **Credit Approval; Credit Limit.** All sales of Products and Equipment are subject at all times to credit approval by VENDOR. VENDOR further reserves the right to increase or decrease your credit limit or to revoke your credit at any time without notice. All sales are final and there are no returns.
7. | **7.Red Rover, LLC Customers Only.** Your account is limited to purchasing Products at VENDOR outlets and you are not entitled to use your card or account in any other manner. Your ability to purchase Products is personal and you cannot assign your rights under this account to any other party. You agree only to use your account for business, commercial or agricultural purposes.
8. | **8.Santmyer Energy, Inc. Customers Only.** In the event you fail to pay by the Due Date, the price per gallon for all Products purchased by you after said default shall be increased by one-half cent (\$0.005) for each five (5) day period in which you remain in default of payment.
9. | **Santmyer Propane Customers Only.** You have inspected the Equipment and acknowledge it is in good working condition and suitable for use. You shall exercise reasonable care and caution in the preservation and use of the Equipment and shall comply with all laws and regulations relating to the possession, use and maintenance of the Equipment. You shall not tamper with, paint, relocate, nor attempt any repair or maintenance on the Equipment, but instead shall notify VENDOR of any required maintenance, relocation or other similar requests. Such work will be performed by VENDOR at your expense unless attributed to normal wear and tear. You assume all risks of loss or damage to the Equipment which results from circumstances other than normal wear and tear. Upon termination of this Agreement, you shall return the Equipment to VENDOR in the same condition as received, except for normal wear and tear. You shall reimburse VENDOR for any loss or damage to the Equipment. VENDOR shall be the exclusive supplier of propane at the Premises. You shall utilize the Equipment only to safely and properly fill propane cylinders and dispense propane. You shall only allow properly trained individuals to dispense propane cylinders or operate the Equipment on the Premises. In the event you accept any propane cylinder that has been damaged, leaks, is beyond the 11-year manufacturers date, or which otherwise cannot be refilled by VENDOR for any reason, regardless of cause, then you shall be charged for a replacement cylinder and agree to pay for same. If you do not meet VENDOR's purchase requirements, then VENDOR shall have the option to exchange the Equipment for a smaller size or charge an annual minimum usage fee/annual rental charge of up to \$. You are responsible to obtain, at your expense, all necessary governmental permits for the installation of the Equipment.
10. | **Insurance.** You shall maintain liability insurance covering any Equipment and VENDOR's use of the Equipment in an amount not less than \$1,000,000.00 and shall provide VENDOR with a Certificate of Insurance listing VENDOR as an additional insured on your liability insurance policy.
11. | **Governing Law and Jury Waiver.** This Agreement shall be interpreted under the laws of Ohio and the parties stipulate that this Agreement came into existence in Wayne County, Ohio. The parties agree that any lawsuits relating to or arising out of this Agreement will be located exclusively in either Cuyahoga County, Ohio or Wayne County, Ohio, at Vendor's sole discretion. VENDOR and you hereby voluntarily agree to waive any rights to a trial by jury.
12. | **Recovery of Legal Fees and Costs.** In the event it becomes necessary for VENDOR to file a lawsuit to enforce any of the terms of this Agreement, VENDOR shall be entitled to recover its reasonable attorney's fees and costs incurred in such lawsuit.
13. | **Security Interest; Receiver.** Until the Products and Equipment are paid for, you grant VENDOR a security interest in all Products provided by VENDOR regardless if such is commingled with other goods. VENDOR shall, as a matter of right, without notice and without giving bond to you or anyone claiming by, under or through you, and without regard for the solvency or insolvency of you or the then value of the Products and/or Equipment, to the extent permitted by applicable law, be entitled to have a receiver appointed for all or any part of the Products, Equipment, and the proceeds, issues and profits thereof, with the rights and powers referenced below and such other rights and powers as the court making such appointment shall confer, and you hereby consent to the appointment of such receiver and shall not oppose any such appointment. Such receiver shall have all powers and duties prescribed by applicable law, all other powers which are necessary or usual in such cases for the protection, possession, control, management and operation of the Products and/or Equipment, and such rights and powers as VENDOR would have, upon entering and taking possession of the Products and Equipment.
14. | **Termination.** Either party may terminate this Agreement at any time after providing 30 days advance written notice delivered to the other party. VENDOR is authorized to terminate this Agreement without advance written notice upon your failure to make payment to VENDOR or upon your insolvency or bankruptcy. Upon termination, you hereby grant VENDOR a license to enter the Premises to remove any Products and Equipment. Termination or suspension of performance by VENDOR shall not relieve you of your obligations to make payments hereunder on a timely basis.
15. | **Indemnification.** You agree to indemnify and hold VENDOR and its agents and employees harmless from any and all claims and damages that arise or that VENDOR may hereafter be obligated to pay to any person or entity for claims for damages or injuries relating to or stemming from the your breach of this Agreement, the Products, and/or Equipment, whether occurring on or off the Premises which are not caused by VENDOR's gross negligence.
16. | **Remedies.** Upon your breach of this Agreement, or any other agreement between the parties, VENDOR may, at its election, terminate this Agreement and demand immediate payment of all Obligations. VENDOR may also enter the Premises and repossess all Products and Equipment, and/or exercise any other remedies at law or in equity. Your sole and exclusive remedy for a breach of this Agreement shall be a refund of the sum paid by you to VENDOR for the transaction at issue. No action or suit to enforce your rights or remedies arising under this Agreement, or any other agreement among the parties shall be commenced later than 1 year from the date of the transaction at issue.
17. | **Limitation of Damages/Warranties.** In no event will VENDOR be liable to you or any third party for any indirect, incidental, or consequential damages whatsoever, relating to any breach of this Agreement. In no event will the aggregate liability of VENDOR for any damages or claims arising out of or relating to this Agreement or any other agreement among the parties, whether in contract, tort, negligence, or otherwise, exceed the total amount you have paid VENDOR for the transaction which is the subject of the damages alleged by you. All Equipment is provided "As Is" and there are no warranties of any kind. VENDOR expressly disclaims any implied warranty of fitness for particular purpose or any implied warranty of merchantability.
18. | **Miscellaneous.** This Agreement shall be binding upon and inure to the benefit of the parties, their successors, heirs, executors, representatives, and assigns. You may not transfer or assign this Agreement in any manner. This Agreement states the entire agreement between the parties and neither party shall be bound by any stipulations, representations, agreement or promises, oral or otherwise, not contained in this Agreement. If any term or provision of this Agreement is held to be invalid, void, or unenforceable, the remainder of the Agreement shall remain in full force and effect. In the event of any inconsistency between this Agreement and any other document, this Agreement shall control. All remedies provided to VENDOR are in addition to its rights at law. No action or suit to enforce your rights or remedies arising from any sale shall be commenced later than one year from the date of receiving the Products or Equipment at issue.

Santmyer Companies office use only

Account number

Approved credit limit