

# GENERAL TERMS AND CONDITIONS OF EQUIPMENT RENTAL AGREEMENT

These general terms and conditions of Equipment Rental Agreement (“Terms”) stated here below, together with the Agreement, constitute an agreement between the Lessor and Lessee (individually a “Party” and collectively the “Parties.”)

**1. TERM.** Except as otherwise terminated at an earlier date in accordance with these Terms and Conditions (including without limitation Section 15), this Lease shall commence on delivery to the Lessee of the Equipment and shall continue in full force and effect until the Equipment is returned in accordance with Section 4 below (“Term”).

**2. RENTAL PAYMENTS.** Lessee agrees to pay the Rental Payments for the Term as specified in the Agreement, in immediately available funds, on the Due Date. No portion of any Rental Payment shall be deemed to constitute payment for any equity interest in the Equipment. All payments of Rent shall be made directly by Lessee in U.S. Dollars. Each payment received will be applied first to the oldest charge due under the Lease and then any current payments. If Lessee fails to pay any amounts as required under this Lease when due, Lessee shall pay Lessor, in addition to such amounts, interest at the lesser of an annual rate of 18% or the highest rate allowed by law governing this Lease on any unpaid and delinquent balance.

**3. SECURITY DEPOSIT.** The security deposit is in addition to the rental payment. Only after all equipment has been returned to the Lessor and found to be in good condition and repair shall the security deposit be reimbursed to the Lessee. Lessee shall pay the full retail value of any equipment that is not returned or is returned damaged.

**4. RETURN AND RENEWAL.** Five (5) days prior to the expiration of the Term, Lessee shall give Lessor written notice of Lessee's request to either extend the Lease, purchase the Equipment or to return the Equipment to Lessor. Provided Lessee has given such timely notice of return, Lessee shall return the Equipment, freight and insurance prepaid, to Lessor in the condition required by this Lease, and in a manner and to a location designated by Lessor. If Lessee fails to so notify Lessor, or having notified Lessor fails to return the Equipment as provided herein. Nothing contained herein is intended to relieve Lessee of its obligation to return the Equipment or restrict Lessor's right to recover the same in the event of termination of the Lease. At the time of return, the Equipment will be (i) free and clear of all Liens (other than Lessor Liens) and rights of third parties under sublease or similar agreements or arrangements; and (ii) in as good operating condition as when delivered to Lessee hereunder, ordinary wear and tear excepted.

**5. DELIVERY OF EQUIPMENT AND RISK OF LOSS.** Lessee shall bear risk of loss, theft, destruction, or damage of the Equipment from any and every cause whatsoever, regardless of whether or not insured. No loss of or damage to Equipment or any part thereof shall impair any obligation of Lessee under this Lease, which shall continue in full force and effect. In the event of damage of any kind whatsoever to any item of Equipment (unless the same is damaged beyond repair), Lessee, at the option of Lessor, shall, at Lessee's expense, (i) place the same in good repair, condition and working order, or (ii) replace the same with like equipment of the same make and of the same or a later model, and in good repair, condition and working order. If Equipment, or any item thereof, is determined by Lessor to be lost, stolen, destroyed or damaged beyond repair, Lessee shall immediately pay Lessor therefor in cash an amount equal to the present value of the unpaid balances of rent for the unexpired term of the Lease, plus the present value of the Lessor's anticipated residual recovery from the Equipment at the scheduled expiration of the Lease discounted to the date of payment, less the net amount of the recovery, if any, actually received by Lessor from insurance or otherwise for such loss or damage, whereupon Lessor shall transfer title to the Equipment or such item to Lessee as-is, where-is.

**6. TITLE.** Lessor shall at all times retain ownership and title to the Equipment (including for tax purposes). All documents of title and evidence of delivery shall be delivered to Lessor. Lessee shall at its expense protect and defend Lessor's title against all persons, at all times keeping the Equipment free from any legal process or encumbrance whatsoever, including but not limited to liens, attachments, levies and execution (other than those arising from claims against Lessor unrelated to the Equipment), and shall give Lessor immediate written notice thereof and shall indemnify Lessor from any loss caused thereby.

**7. PURCHASE OPTION.** At any time during the term of this lease, Lessee shall have the option, upon at least ten (10) days irrevocable notice to Lessor, to purchase the equipment, receiving a credit equal to 70% of the paid rentals towards the retail value of the Equipment as set forth in the Agreement, provided that at the time of giving such notice Lessee is not in material breach of the Lease. Upon such payment in full and payment of any other amounts then due hereunder, Lessor will transfer to Lessee, without recourse or warranty (except as to the absence of Lessor Liens) all of the Lessor's right, title and interest in and to the Equipment. Lessor's standard terms and conditions shall apply to such sale of the Equipment, provided that the title to the Equipment will pass in accordance with this section of the Lease.

**8. DISCLAIMER OF WARRANTIES.** THE EQUIPMENT IS BEING DELIVERED BY LESSOR TO LESSEE “AS IS, WHERE IS”. LESSOR HAS NOT MADE OR SHALL NOT BE DEEMED TO HAVE MADE, AND HEREBY EXPRESSLY DISCLAIMS, ANY REPRESENTATION OR WARRANTY, EXPRESS OR IMPLIED, AS TO THE TITLE, CONDITION, DESIGN, OPERATION, MERCHANTABILITY OR FITNESS FOR PARTICULAR PURPOSE OF ANY EQUIPMENT OR ANY PART THEREOF, AS TO THE ABSENCE OF LATENT OR OTHER DEFECTS, WHETHER OR NOT DISCOVERABLE, AS TO THE ABSENCE OF ANY INFRINGEMENT OF ANY PATENT, TRADEMARK OR COPYRIGHT, AS TO THE ABSENCE OF OBLIGATIONS BASED ON STRICT LIABILITY IN TORT, OR ANY OTHER REPRESENTATION OR WARRANTY WHATSOEVER, EXPRESS OR IMPLIED, WITH RESPECT TO ANY EQUIPMENT OR ANY PART THEREOF.

**9. NO SUBLETTING OR TRANSFER.** Lessee may not sublease, assign or transfer the Equipment or any interest therein to any third party without the prior written consent of Lessor. Further, Lessee may not transfer any Equipment out of the United States without the prior written consent of the Lessor.

**10. OPERATORS.** Unless otherwise mutually agreed in writing, Lessee shall supply and pay all operators on the equipment during the Term. All operators shall be competent. Should Lessor furnish any operators or other workmen for the equipment, they shall be employees of Lessee during the Term, and Lessee shall pay them salary or wages and all other applicable costs. Lessee shall provide and pay for all workmen's compensation insurance and pay all payroll taxes required by law and applying to such operators and workman.

**11. MAINTENANCE AND REPAIRS.** Lessee, at its own cost and expense, shall maintain, service, repair, and overhaul the Equipment. Lessee shall not remove, alter, disfigure or cover up any numbering, lettering, or insignia displayed upon the equipment, and shall see that the equipment is not subjected to careless, unusually or needlessly rough usage; and the expense of all repairs made during the Term, including labor, material, parts and other items shall be paid by Lessee.

**12. TAXES, FEES AND ASSESSMENTS.** This is a net lease and Lessee intends the rental payments hereunder to be net to Lessor. Lessee shall pay all license fees, assessments, and sales, use, property and excise, and other taxes or hereafter imposed, and relating to Lessee's use or possession of the equipment.

**13. INSURANCE.** Lessee shall keep the equipment insured against all risks of loss or damage from every cause whatsoever for not less than the full replacement value thereof; and shall carry public liability and property damage insurance covering the equipment and its operation and handling for the amount of at least Five Hundred Thousand Dollars (US\$500,000.00) or other reasonable amount specified by Lessor. Lessee shall pay the premiums and any deductible portions therefor and deliver said policies, or duplicates thereof, to Lessor.

**14. INSPECTION.** Lessee shall inspect the equipment within three (3) business days after receipt thereof. Unless Lessee, within said period of time, gives written notice to Lessor, specifying any defect in or other proper objection to the equipment. Lessee agrees that it shall be conclusively presumed, as between Lessor and Lessee, that Lessee has fully inspected and acknowledged that the equipment is in full compliance with

the terms of this agreement, in good condition and repair, and that Lessee is satisfied with and has accepted the equipment in such good condition and repair. Lessor shall have the right at any time to enter the premises occupied by the equipment and shall be given free access thereto and afforded necessary facilities for the purpose of inspection.

**15. DEFAULT; REMEDIES.** If (a) Lessee shall default in the payment of any rent or in making any other payment hereunder when due, or (b) Lessee shall default in the payment when due of any indebtedness of Lessee to Lessor arising independently of this lease, or (c) Lessee shall default in the performance of any other covenant herein and such default shall continue for five (5) days after written notice hereof to Lessee by Lessor, or (d) Lessee becomes insolvent or makes an assignment for the benefit of creditors, or (e) Lessee applies for or consents to the appointment of a receiver, trustee, or liquidator of Lessee or of all or a substantial part of the assets of Lessee under the Bankruptcy Act, or any amendment thereto (including, without limitation, a petition for reorganization, arrangement, or extension) or under any other insolvency law or law providing for the relief of debtors, then, if and to the extent permitted by applicable law. Lessor shall have the right to under any other insolvency law or law providing for the relief of debtors, then, if and to the extent permitted by applicable law. Lessor shall have the right to exercise any one or more of the following remedies:

- (a) To declare the entire amount of rent hereunder immediately due and payable as to any or all items of the equipment, without notice or demand to Lessee;
- (b) To sue for and recover all rents, and other payments, then accrued or thereafter accruing, with respect to any or all items of the equipment;
- (c) To take possession of any or all items of the equipment without demand, notice, or legal process, wherever they may be located. Lessee hereby waives any and all damages occasioned by such taking of possession. Any said taking of possession shall not constitute a termination of this lease as to any or all items of equipment unless Lessor expressly so notifies Lessee in writing;
- (d) To terminate this lease as to any or all items of equipment; and
- (e) To pursue any other remedy at law or in equity.

Notwithstanding any said repossession, or any other action which Lessor may take, Lessee shall be and remain liable for the full performance of all obligations on the part of Lessee to be performed under this Lease. All such remedies are cumulative, and may be exercised concurrently or separately.

**16. LIMITATION OF LESSOR'S LIABILITY.** IN NO EVENT, REGARDLESS OF THE FORM OF THE CLAIM OR CAUSE OF ACTION (WHETHER BASED IN CONTRACT, INFRINGEMENT, NEGLIGENCE, STRICT LIABILITY, OTHER TORT OR OTHERWISE) SHALL LESSOR'S LIABILITY TO LESSEE AND/OR ITS CUSTOMERS AND/OR SUBLESSEES EXCEED THE FAIR MARKET VALUE OF THE EQUIPMENT GIVING RISE TO THE CLAIM OR CAUSE OF ACTION. IN NO EVENT SHALL LESSOR'S LIABILITY TO LESSEE AND/OR ITS CUSTOMERS AND/OR SUBLESSEES INCLUDE INCIDENTAL, CONSEQUENTIAL, INDIRECT OR PUNITIVE DAMAGES. The term “consequential damages” shall include, but not be limited to, loss of anticipated profits, business interruption, loss of use, revenue, reputation and data, costs incurred, including without limitation, for capital, fuel, power and loss or damage to property or equipment.

**17. INDEMNIFICATION.** Lessee shall indemnify, protect and save and keep harmless the Lessor, its agents, servants, successors and assigns from and against all losses, damages, injuries, claims, demands and expenses, including legal expenses, of whatsoever nature, arising out of the use, condition (including but not limited to, latent and other defects whether or not discoverable by it), or operation of any item of Equipment, regardless of where, how and by whom operated (including by reason of strict liability or infringement claims); or, in the event of material breach hereunder, arising out of or resulting from the condition of any item of Equipment sold or disposed of after use by the Lessee. Lessee shall be liable for the expenses of the defense and the settlement of any suit or suits or other legal proceedings brought to enforce all such losses, damages, injuries, claims, demands for shall continue in full force and effect notwithstanding the termination of this Lease, whether by expiration of time, by operation of law, or otherwise. Lessee is an independent contractor and nothing contained in this Lease shall authorize the Lessee or any other person to operate any item of Equipment so as to incur or impose any liability or obligation for or on behalf of the Lessor.

**18. FORCE MAJEURE.** Notwithstanding any provision contained herein to the contrary, neither Party shall be deemed to be in default hereunder for failing to perform obligations arising pursuant to this Lease if such failure is the result of any acts of state or governmental action, riots, disturbances, war (whether by formal declaration or informal action), strikes, lockouts, terrorism, slowdowns, prolonged shortage of energy supplies, epidemics, fire, flood, hurricane, typhoon, earthquake, lightning and explosion (an “event of Force Majeure”).

**19. EXPORT REGULATIONS.** Lessee shall not sell, transfer or otherwise dispose of any origin Equipment or re-exports of Products to: (i) such countries or regions that are subject to U.S. sanctions programs, or (ii) to entities or individuals that appear on the U.S. government's (1) Specially Designated Nationals List; (2) Denied Persons List; (3) Unverified List; (4) Debarred List or (5) Entity List.

**20. GOVERNING LAW.** This Lease shall be governed by, and interpreted and construed in accordance with, the laws of the State of Missouri, United States, without regard to conflicts of law principles that would require the application of any other law.

**21. ENTIRE AGREEMENT.** The Terms and the Agreement and other schedules attached hereto, represent the entire agreement between the Parties on the subject matter hereof and supersedes all prior discussions, agreements, and understandings of every kind and nature between them. There are no conditions to this Lease not expressed herein. No modification of this Lease will be effective unless it is (i) in writing; (ii) specifically refers to this Lease; and (iii) signed by both Parties.

**22. SEVERABILITY.** In the event that any of the terms of this Lease are in conflict with any rule of law or statutory provision or are otherwise unenforceable under the laws or regulations of any government or subdivision thereof which has jurisdiction over the interpretation and enforcement of this Lease, such terms shall be deemed stricken from this Lease, but such invalidity or unenforceability shall not invalidate any of the other terms of this Lease and this Lease shall continue in force, unless the invalidity or unenforceability of any such provisions hereof does substantial violence to, or where the invalid or unenforceable provisions comprise an integral part of, or are otherwise inseparable from, the remainder of this Lease.

**23. EXPENSES.** Lessee shall pay Lessor all costs and expenses, including attorneys' fees and costs incurred by Lessor in exercising any of its rights hereunder or enforcing any of the terms or provisions of these Terms or the Agreement.

**24. WAIVER.** No failure by Lessor to take any action or assert any right hereunder shall be deemed to be a waiver of such right in the event of the continuation or repetition of the circumstances giving rise to such right.

**25. NOTICES.** Any notice under this Lease will be in writing and delivered by personal delivery, express courier, confirmed facsimile, confirmed email or certified or registered mail, return receipt requested, to the addresses set forth in the Agreement.