

PART II – STANDARD TERMS AND CONDITIONS (EQUIPMENT LEASE)

- 1. LEASE AGREEMENT.** Lessor hereby leases to Lessee, and Lessee hereby rents from Lessor, the equipment described in Part I herein.
- 2. DELIVERY.** The equipment shall be delivered to Lessee by Lessor at the place and on the date specified in Part I. At the time of delivery, Lessee shall be entitled to inspect the equipment. Unless Lessee gives written notice to Lessor at the time of delivery specifying any defect in or other objection to the equipment, Lessee shall be conclusively presumed to have inspected and acknowledged that the equipment is in good condition and repair and in every way fit for the intended service.
- 3. RENTAL PAYMENTS.** Lessee will pay Lessor rent and fees for the use of the equipment in the amount set forth in Part I. The first payment of rent and fees shall be due on the date specified in Part I. Subsequent payments of rent shall be due in advance on the first day of each month commencing with the month following the first payment. Lessee hereby waives any existing and future claims and offsets against rent or other payments due hereunder, and agrees to pay such rent and other amounts regardless of any offset or claim that may be asserted by Lessee or on his behalf. Interest on late payments of rent shall accrue daily at the annual rent set forth in Part I.
- 4. TITLE TO EQUIPMENT.** Title to the equipment leased hereunder shall remain with Lessor during the term of the lease. All equipment shall at all times be and remain personal property, even if affixed to realty. Lessor shall be permitted to display notice of its ownership of the equipment by affixing to each item of equipment an identifying stencil or plate or any other indicia of ownership.
- 5. USE.** Lessee shall use the equipment in a careful and proper manner and shall comply with all laws, ordinances and regulations relating to the possession, use or maintenance of the equipment.
- 6. REDELIVERY.** Lessee shall redeliver the equipment to Lessor at the place and on the date specified in Part I in the same good order and condition as when delivered to Lessee by Lessor, ordinary wear and tear excepted.
- 7. INSPECTION BY LESSOR.** Lessor shall have the right, upon reasonable prior notice to Lessee, to inspect the equipment during business hours at the premises of Lessee or wherever the equipment may be located.
- 8. MAINTENANCE AND REPAIR.** Lessee will maintain the equipment, including all additions, attachments and accessories thereof, in good condition and running order at all times during this lease, but shall not be responsible for normal wear and tear, or depreciation. Lessee shall have the responsibility for the repair of any damage to the equipment, howsoever caused during this lease, and Lessee shall repair or cause the equipment to be repaired promptly after the damage. In every such instance, Lessor shall assign to Lessee any and all rights Lessor may have under insurance coverage carried by Lessee, as reimbursement to Lessee for any sum or sums expended by Lessee in connection with the repair of such equipment. Notwithstanding damage to the equipment, the monthly rental for the equipment shall continue to be paid by Lessee. All additions, attachments, accessories and repairs at any time made to or placed upon the equipment shall become part of the equipment and shall be the property of Lessor. Lessor shall have no responsibility for the maintenance or repair of the equipment after it is delivered to and accepted by Lessee and before it is redelivered to Lessor.
- 9. INSURANCE.** Lessee shall procure and maintain in force throughout the lease of the equipment at its sole cost the following insurance: (a) all risk insurance on a customary form satisfactory to Lessor covering the equipment for the value specified in Part I; and (b) comprehensive general liability insurance, including automobile bodily injury and property damage, with a combined maximum limit of \$1,000,000.00 per accident. The aforesaid policies shall have deductibles of no more than \$2,500.00 or 5% of the value of the equipment, whichever is less, and all deductibles shall be for Lessee's account. Lessor shall be named as an assured with waiver of subrogation of the aforesaid policies and said policies shall provide for notice to Lessor 30 days prior to cancellation or material change in coverage. At or prior to the time of delivery of the equipment to Lessee, Lessee shall deliver policies or certificates evidencing the aforesaid insurance coverage. Delivery of the equipment to Lessee without receipt of said policies or certificates shall not be a waiver by Lessor of Lessee's obligation to provide the insurance coverage required by this clause.
- 10. TAXES, ETC.** Lessee shall pay all sales taxes, use taxes, excise taxes, personal property taxes, assessments, ad valorem taxes, stamp and documentary taxes and all other governmental charges, fees, fines or penalties whatsoever, whether payable by Lessor or Lessee or others, on or relating to the equipment or the use, registration, rental, shipment, transportation, delivery or operation thereof, other than federal or state income and franchise taxes of Lessor, and on or relating to this lease, and shall file all returns required therefor and furnish copies thereof to Lessor. Upon demand, Lessee shall reimburse Lessor for any such taxes, assessments, charges, fines or penalties which Lessor may be compelled to pay in connection with the equipment. Lessor will cooperate with Lessee and furnish Lessee with any information available to Lessor in connection with Lessee's obligations under this paragraph.
- 11. INDEMNITY BY LESSEE.** Lessee shall indemnify, protect, save and keep harmless Lessor, its agents, officers, employees, directors, 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 and whether or not discoverable by it), or operation of the equipment, regardless of where, how and by whom operated, or whether due in whole or in part to the negligence, strict liability or other fault of Lessor or Lessee, or, in the event Lessee shall be in default hereunder, arising out of or resulting from the condition of any item of equipment sold or disposed of after use by Lessee. The indemnities and assumptions of liabilities and obligations herein provided for shall continue in full force and effect notwithstanding the termination of this agreement, whether by expiration of time, by operation of law or otherwise.
- 12. ASSIGNMENT AND SUBLEASE.** Lessee may not sublet the equipment. Neither party shall assign this lease without the written consent of the other party, except that Lessor may assign this lease to any of its present or future subsidiaries or affiliated companies.
- 13. OPERATORS.** Unless otherwise mutually agreed in writing, Lessee shall supply and pay all operators employed on the equipment, and shall employ none thereon who are incompetent to perform their respective duties. Should Lessor loan any operators or other workmen for the equipment, they shall be employees of Lessee for the purpose of third party claims of liability for personal injury or property damage, and Lessee shall be responsible for all actions of such operators or workmen. Lessee shall reimburse Lessor for the salary or wages, any fringe benefits, travelling expenses and board and lodging for such operators or workmen as may be agreed between Lessee and Lessor.
- 14. LESSOR'S WARRANTIES.** Lessor warrants that it has the right to lease the equipment to Lessee, that it will not sell, assign, lease or otherwise dispose of the same, and that it will do nothing to disturb Lessee's full right of possession and enjoyment thereof and the exercise of all of Lessee's rights with respect thereto as provided by this lease. Other than the foregoing, Lessor makes no warranties and expressly disclaims any warranties or strict liabilities in connection with this equipment.
- 15. LESSEE'S DEFAULT.** The following events shall constitute defaults on the part of Lessee hereunder: the failure of the Lessee to pay any installment or rental when due; any breach or failure of Lessee to observe or perform any of its other obligations hereunder and the continuance of such default for 15 days after notice in writing to Lessee of the existence of such default; and the institution by or against Lessee of bankruptcy, reorganization, arrangement, assignment for the benefit of creditors, or insolvency proceedings. Upon the occurrence of any such default, Lessor may declare this lease in default and thereupon the equipment and all rights of the Lessee therein shall be surrendered to Lessor. Lessor may take possession of the equipment and all rights of Lessee therein shall be surrendered to Lessor. Lessor may take possession of the equipment wherever found, with or without process of law, and for this purpose may enter upon any premises of Lessee without liability for suit, action or other proceeding by Lessee and remove the same. With respect to the equipment repossessed by Lessor, Lessor shall be entitled, in addition to the net amounts realized by Lessor through the sale, lease or other disposition of the equipment, to all damages sustained, including all sums due and unpaid, and all sums to become due as rentals to the end of the lease term, had it not been terminated by Lessor, less the re-rental or other value thereof. No delay or omission to exercise any right, power or remedy accruing to Lessor pursuant to this clause shall be a waiver of any breach or default by Lessee, or an acquiescence therein, or of any similar breach or default thereafter occurring.
- 16. OSHA COMPLIANCE.** The exact manner in which the equipment will be used and the trade or occupation of the user and the qualifications or lack of qualifications of the user are beyond the control of Lessor. Lessor therefore expressly disclaims any responsibility for failure of the equipment to comply with the Occupational Safety and Health Act and/or any other governmental safety or health regulations or standards.
- 17. NOTICE.** Any notice to be given under this lease shall be mailed (by registered or certified mail) or telexed to the party to be notified at the address set forth in Part I and shall be deemed given when so mailed or telexed.
- 18. INVALID PROVISION.** Any provisions of this lease found to be prohibited by law shall be ineffective to the extent of such prohibition without invalidating the rest of the lease.
- 19. COMPLETE AGREEMENT.** This lease executed by the parties contains the entire understanding of the parties, and such understanding may not be modified or terminated except in writing signed by the parties and by proper sublessee or assignee.