



## EQUIPMENT RENTAL AGREEMENT

### RENTAL TERMS AND CONDITIONS

1. OWNER agrees to provide equipment on or before the beginning of the rental period. RENTER agrees to return all equipment to OWNER on or before the end of the rental period. No credit or refund will be issued for early return of equipment unless otherwise agreed by both OWNER and RENTER.
2. The RENTER shall keep and maintain the rented equipment during the terms of the rental at RENTER's own cost and expense. The RENTER shall keep the equipment and return the equipment to OWNER in a good state of repair, normal wear and tear excepted.
3. The RENTER shall pay the OWNER full compensation for repair and/or replacement (at OWNER's sole discretion) of any equipment which is not returned because it is lost or stolen or any equipment which is damaged and in need of repair to put it into the same functional condition it was in at the time of rental, normal wear and tear excepted. The OWNER's invoice for replacement or repair is conclusive as to the amount RENTER shall pay under this paragraph for repair or replacement.
4. The RENTER shall inform the OWNER, upon request, of the exact location of the equipment while it is in the RENTERS's possession.
5. The equipment shall be delivered to RENTER and returned to OWNER at the RENTER's risk, cost and expense. If a periodic rental rate is charged by OWNER, rental charges are billed to the RENTER for each period or portions of the period from the time the equipment is delivered to RENTER until it is received back by OWNER. If a term rental rate is charged by OWNER, rental charges are billed to the RENTER for the full term even if the equipment is returned before the end of the term. If the equipment is not shipped back during or at the end of the term, then the rental charges shall continue on a full term basis for any additional term or portion thereof until the equipment is received back by OWNER.
6. No allowance will be made for any rented equipment or portion thereof which is claimed not to have been used. Acceptance of returned equipment by OWNER does not constitute a waiver of any of the rights OWNER has under the rental agreement.
7. If the RENTER is in default of any of the terms and conditions of this agreement, or if the OWNER reasonably believes necessary, the OWNER, and/or its agents, at the RENTER's risk, cost and expense may at any time enter the RENTER's premises where the rented equipment is stored or used at all time and recover the rented equipment.



8. The RENTER shall not pledge or encumber the rented equipment in any way. The OWNER may terminate this agreement immediately upon the failure of RENTER to make rental payments when due or otherwise defaulting upon any other obligations of RENTER hereunder, or upon RENTER's filing for protection from creditors in any court of competent jurisdiction.

9. The OWNER warrants the equipment will operate in accordance with the manufacturer's specifications. The OWNER shall replace the equipment with identical or similar equipment if the equipment fails to operate in accordance with the manufacturer's specifications and operation instructions. Such replacement shall be made as soon as practicable. The RENTER agrees to return the non-conforming equipment to OWNER as soon as practicable. Ground shipping costs, within the continental United States, for replacement of non-conforming equipment are the responsibility of the OWNER.

10. RENTER will defend, indemnify and hold harmless OWNER from and against any third party claim arising out of the misuse, misapplication, storage damage or modification to the equipment or the negligence or misconduct of RENTER, ITS AGENTS OR AND/EMPLOYEES.

11. IN NO EVENT SHALL OWNER BE LIABLE FOR ANY INDIRECT, INCIDENTAL, PUNITIVE, SPECIAL OR CONSEQUENTIAL DAMAGES, OR DAMAGES FOR LOSS OF PROFITS, REVENUE, OR USE INCURRED BY RENTER OR ANY THIRD PARTY, WHETHER IN AN ACTION IN CONTRACT, OR TORT, OR OTHERWISE EVEN IF ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. OWNER'S LIABILITY FOR DAMAGES ARISING OUT OF OR IN CONNECTION WITH THIS AGREEMENT SHALL IN NO EVENT EXCEED THE RENTAL PRICE OF THE EQUIPMENT PAID BY RENTER.

12. During the entire rental period and until such equipment is returned to OWNER in accordance with this Equipment Rental Agreement and the other Lease Documents, RENTER shall procure and maintain: (a) All-Risk first party property insurance covering the equipment for any physical loss or damage to the equipment (or any portion thereof), including loss or damage caused, in whole or in part, by fire, water, wind, collapse, theft, vandalism, malicious mischief, collision, terrorism and other risks normally included in extended All-Risk property coverage in an amount not less than greater of: (1) the full replacement cost of the equipment, and (2) the stipulated loss value of the equipment; (b) liability insurance written on an "occurrence" basis covering all sums RENTER and/or OWNER shall become legally obligated to pay as damages for bodily injury, including bodily injury, sickness, disease or death, or property damage, including loss of use, arising, directly or indirectly, in connection with the equipment, with a combined single



limit of not less than \$1,000,000 per occurrence; and (c) any other coverage required pursuant to the terms of the attached itemization.

The insurance policies required under this Section 12 (including all endorsements) shall name OWNER as an additional insured, provide that the insurance provided under the required property and liability policies is primary and noncontributory with respect to any insurance maintained separately by OWNER, and require the insurer and/or RENTER to provide OWNER at least thirty (30) days' prior written notice of cancellation, of the required policy, and contain a waiver of subrogation in favor of OWNER.

13. The RENTER shall pay all reasonable attorney and other fees, the expenses and costs incurred by OWNER in protection its rights under this rental agreement and for any action taken by the OWNER to collect any amounts due the OWNER under this rental agreement.

14. The RENTER is entitled to technical support, via phone or email, from the OWNER during the rental period in accordance with the technical support terms and conditions as may be set forth in the attached itemization. In lieu of any specific term and conditions, OWNER shall be available for technical support by phone or email during OWNER's usual business hours.

**15.**

(a) This Agreement, and all matters arising out of or relating to this Agreement, shall be governed by the laws of the State of Rhode Island (exclusive of conflict of laws principles), and shall be deemed to be executed in Providence, Rhode Island.

(b) Any legal action or proceeding relating to this Agreement shall be instituted solely in a state or federal court in Providence, Rhode Island. OWNER and RENTER agree to submit to the jurisdiction of, and agree that venue is proper in, these courts in any such legal action or proceeding.

(c) All notices, including notices of address change, required to be sent hereunder shall be in writing and shall be deemed to have been given when mailed by first class mail or by fax to the address listed below.

(d) In the event any provision of this Agreement is held to be invalid or unenforceable, the remaining provisions of this Agreement will remain in full force.

(e) The waiver by either party of any default or breach of this Agreement shall not constitute a waiver of any other or subsequent default or breach.

(f) OWNER is an independent contractor; nothing in this Agreement shall be construed to create a partnership, joint venture or agency relationship between the parties.



(g) This Agreement constitutes the complete agreement between the parties with respect to its subject matter and supersedes all prior or contemporaneous agreements, understandings, representations, discussions, proposals, literature, and the like, written or oral. This Agreement may not be modified or amended except in a writing signed by a duly authorized representative of each party; no other act, document, usage or custom shall be deemed to amend or modify this Agreement. It is expressly agreed that the terms of this Agreement shall supersede the terms in any RENTER purchase order or other ordering document, if any.

(h) In any proceeding brought to enforce or interpret the terms of this Agreement, the prevailing party shall be entitled to recover its attorneys' fees and costs incurred.

(i) This Agreement shall be construed as to its fair meaning and not strictly for or against either party.

(j) OWNER shall not be deemed to be in default of any provision of this Agreement, or for failures in performance, resulting from acts or events beyond its reasonable control. Such acts shall include but not be limited to acts of God, civil or military authority, civil disturbance, war, strikes, fires, other catastrophes, labor disputes, parts shortages, or other events beyond OWNER's reasonable control.

(k) No action, regardless of form, arising out of this Agreement may be brought by either party more than one (1) year after the cause of action arose, or in the case of non-payment, more than two years from the date of last payment.

(l) This Agreement is not assignable, directly or indirectly, by Customer.