



**Resolute Industrial LLC dba Mobile Air & Power Rentals  
Rental Agreement Terms & Conditions (the "Agreement")**

**1. DEFINITIONS:** **A.** "Lessee" shall mean the party to this Agreement identified herein or in any associated quote/purchase order, other than Resolute Industrial LLC dba Mobile Air & Power Rentals and its Affiliates. **B.** "Lessor" shall mean Resolute Industrial LLC dba Mobile Air & Power Rentals and its Affiliates. **C.** "Ordinary Wear and Tear" means, as to each item of Equipment, normal deterioration considered reasonable in the equipment rental industry. **D.** "Authorized Individuals" are those individuals that Lessee directly or indirectly allows to use the Equipment, who in each instance must be properly trained to use the Equipment, at least 18 years old or the legal age of majority in the state, whichever is greater, and are not under the influence of drugs, alcohol, substances, or otherwise impaired. **E.** "Incident" is any fine, citation, theft, accident, casualty, loss, vandalism, injury, death or damage to person or property, claimed by any person or entity that appears to have occurred in connection with the Equipment. **F.** "Equipment" is the equipment and/or services identified on the other pages provided or any quote/purchase order, together with all replacements, repairs, additions, attachments, and accessories and all future equipment rented by Lessor. **G.** "Affiliate(s)" shall have the meaning ascribed thereto under Rule 405 promulgated under the Securities Act of 1933. **H.** "Fair Market Value" is the Equipment's fair market value on or about the date of the Incident relating to the Equipment, plus any administrative fees and expenses. **I.** "RPP" is the rental protection plan described in Section 32.

**2. RENTAL PERIOD; USE OF EQUIPMENT:** The rental period shall commence from the date of shipment of the Equipment covered by this Agreement or any related quote/purchase order, from the point of shipment and shall continue until the Equipment is returned to Lessor's warehouse (the "Rental Period"). If the rental period is extended for any reason beyond the original dates contemplated in the quote/purchase order, pricing is subject to change in Lessor's sole discretion to the pricing then in effect for similar items and quantities of Equipment then in effect. Lessee agrees and warrants that **A.** Lessor has no control over the manner in which the Equipment is operated during the Rental Period by Lessee or any third party that Lessee implicitly or explicitly permits; **B.** prior to each use and its return to Lessor, Lessee shall inspect the Equipment to confirm that the Equipment is in good condition, without defects, readable decals are on the Equipment, and the Equipment is suitable for Lessee's intended use; **C.** Lessee has access to and reviews the operating and safety instructions and will operate the Equipment in accordance with the manufacturer's instructions and with applicable safety equipment; **D.** any apparent agent at the delivery address is authorized to accept delivery of the Equipment (and if Lessee requests, Lessee authorizes Lessor to leave the Equipment at the specified delivery address without requirement of written receipt); **E.** Lessee shall immediately stop use and notify Lessor if the Equipment is damaged, unsafe, disabled, malfunctioning, warning lights come on, levied upon, threatened with seizure, lost, or if any Incident occurs; **F.** Lessee has received from Lessor all information needed or requested regarding the operation of the Equipment; **G.** Lessor is not responsible for providing operator or other training unless Lessee specifically requests in writing and Lessor agrees to provide such training (Lessee being responsible to obtain all training that Lessee desires prior to the Equipment's use); **H.** Lessor is not responsible for Lessee's obligation to provide reasonable accommodation(s) to any (disabled) Authorized Individual(s); **I.** only Authorized Individuals shall use and operate the Equipment, however Lessee is responsible for the Equipment and its use during the Rental Period regardless of the user; **J.** the Equipment shall be used and maintained in a careful manner, within the Equipment's capacity and in compliance with all applicable laws, regulations, as well as all operating and safety instructions provided on, in or with the Equipment and all applicable federal, state and local laws, permits and licenses, including but not limited to, OSHA and ADA, as revised; **K.** the Equipment shall be kept in a secure location; and **L.** Lessee shall provide Lessor with accurate and complete information, which Lessor relies upon to provide the appropriate Equipment to Lessee.

**3. DETERMINATION OF RENTAL CHARGES:**

**3.1 GENERAL RENTAL CHARGES:** The Lessee shall pay for the rental period on each piece of Equipment named in the list of Equipment in this Agreement or any associated quote/purchase order at the rate stipulated therein. A rental rate is for a minimum rental period of one week, any portion of a week will be billed as a full week. The standard monthly rental rate is defined as a period of twenty-eight (28) days. Upon seventeen (17) days of rental, Lessee will be billed a full month. In addition to the billing identified in the quote or associated quote/purchase order, Lessee will be billed as follows:

- **A. Labor** – If not explicitly stated in the quote or associated quote/purchase order, labor will be billed during regular business days other than weekends or holidays commencing at 8:00 am through 5:00 pm to Lessee at \$150/hr. Overtime (daily after 5:00 pm) and Saturday labor will be billed to Lessee at \$225/hr.(time and a half); Sunday and holiday labor will be billed at \$300/hr (double time).
- **B. Cooling tower, air handler, and heat exchanger cleaning charge** – If not explicitly stated in the quote or associated quote/purchase order, a cleaning charge may be charged based on labor rates listed above. Estimated range of charges (\$1,000 - \$3,000) per unit.

**3.2 SEASONAL RENTAL CHARGES:** A seasonal rental is defined as a rental beginning not before October 1<sup>st</sup> and ending no later than April 15<sup>th</sup> of the following year. To qualify for seasonal rental rates and secure the required Equipment, Lessor must receive a quote/purchase order by October 15<sup>th</sup>. Billing will begin upon receipt and acceptance by Lessor of a quote/purchase order, with payment being received within 30 days of the invoice date for Lessor to honor the seasonal rates.

**4. PAYMENT:** All rental payments due under this Agreement or any associated quote/purchase order are due and payable net 30 days to the Lessor at Resolute Industrial LLC, Mobile Air and Power Rentals, P.O. Box 734443, Chicago, IL 60673-4443. All overdue payments for all charges including damages and loses referred to in Sections 9 and 16 shall bear interest at the rate of 1.5% per month without prejudice to any of Lessor's other rights and in particular without prejudice to the Lessor's right contained in Section 15 to terminate this Agreement and any quote/purchase order with Lessee for non-payment of rent. Lessee must notify Lessor in writing of any disputed amounts, including credit card charges, within 15 days after the receipt of the invoice/contract/quote/purchase order, or Lessee shall be deemed to have accepted such charges and irrevocably waived its right to dispute such amounts. At Lessor's discretion, any account with a delinquent balance may be placed on a cash basis, deposits may be required and the Equipment may be picked up without notice and Lessee hereby grants Lessor and right of entry to any place where such Equipment is stored to enable Lessor to gain access thereto for the purpose of retrieving said Equipment. Lessee shall reimburse Lessor for all costs incurred in collecting any late payments, including, without limitation, attorneys' fees and costs of collection. Payment of any late charge does not excuse Lessee of any default under this Agreement or any associated quote/purchase orders. Lessee shall pay a fee of \$75 for each check returned for lack of sufficient funds to compensate Lessor for its overhead for processing missed payments. Deposits will only be returned after all amounts are paid in full subject to Lessor's right to recuperate any amounts owed under this Agreement or any associated quote/purchase orders by Lessee to Lessor. **LESSEE AGREES THAT IF A CREDIT OR DEBIT CARD IS PRESENTED TO PAY FOR CHARGES OR TO GUARANTEE PAYMENT, LESSEE AUTHORIZES LESSOR TO CHARGE THE CREDIT OR DEBIT CARD FOR ALL AMOUNTS SHOWN ON THIS AGREEMENT OR ANY ASSOCIATED QUOTE/PURCHASE ORDERS AND FOR ANY AND ALL CHARGES SUBSEQUENTLY INCURRED BY LESSEE, INCLUDING, BUT NOT LIMITED TO, LOSS OF OR DAMAGE TO THE EQUIPMENT AND EXTENSION OF THE RENTAL PERIOD.**

**5. TRANSPORTATION:** The Lessee shall pay all shipping expenses from the original point of shipment to its receiving point and all return shipping expenses to the Lessor's warehouse. The Lessee shall pay all shipping expenses on any change orders. If no rate is stated on the quote/purchase order, the shipping fee will be cost plus 25%.

**6. RECALLING AND RETURNING NOTICE:** The Lessor may recall any and all Equipment upon at least a three (3) day advance written notice to the Lessee and the Lessee may return any and all Equipment upon like notice to the Lessor. In the event of a recall, the Lessee shall remain responsible for any transportation costs as referred to in Section 4.

**7. MAINTENANCE, OPERATION AND REPAIRS:** The Lessee shall not make any alterations, additions or improvements to the Equipment without the Lessor's prior written consent. Specifically, the Lessee must: **A.** Ensure that the Equipment is operated in accordance with applicable manufacturer's guidelines and instructions by Authorized Individual; and **B.** Return the Equipment in the same condition, subject to Ordinary Wear and Tear and in a clean and unmarked condition. If Lessor determines in its sole opinion that repairs to the Equipment are needed, other than Ordinary Wear and Tear, Lessee shall pay the full repair charges, additional fees, if any, and rental of the Equipment until the repairs are completed. Lessee shall perform routine maintenance on the Equipment, including routine inspections and maintenance in accordance with the manufacturer's specifications, as applicable. Lessee will return the Equipment at the end of the Rental Period, but will continue to be responsible for rental and other charges after the Rental Period if the Equipment is not returned in the conditioned required herein. Lessee remains liable for any loss, theft, damage to or destruction of the Equipment until Lessor confirms that the Equipment is returned in the condition required herein.

**8. INSPECTION:** The Lessor shall have the right at any time and from time to time to enter the premises occupied by the Equipment and shall be given free access thereof and afforded necessary facilities for the purpose of inspection.

**9. DAMAGE TO EQUIPMENT:** Except for Ordinary Wear and Tear, the Lessee shall be liable to the Lessor for all loss of or damage to the Equipment while it is in the possession of the Lessee, regardless of the cause or origin of such loss or damage, except as limited by Section 16. In the event of loss of or damage to Equipment, the Lessee shall immediately notify Lessor in a writing describing the condition of the Equipment with reasonable particularity.

**10. LOST OR STOLEN EQUIPMENT:** In the event of lost or stolen Equipment while in the possession of the Lessee, the Lessee agrees to pay within thirty (30) days from such loss or theft, the Lessor's replacement cost of such Equipment, and if such Equipment are not then available for purchase from Lessor's vendors, similar Equipment options as seen on current manufacturers supplied price lists, including sales tax, as applicable. Additionally, the parties acknowledge that the Equipment is unique in design and manufacture, and to Lessor it is inherently valuable as rental Equipment. Therefore in the event of total loss of the Equipment, Lessor and Lessee agree that the loss comprises in addition to the replacement cost, the loss of use of such Equipment until it can be replaced. In such an event the Lessee shall also be liable for, and agrees to pay within thirty (30) days from receipt of Lessor's invoice, an amount equal to the loss of rentals which such Equipment could have produced for such period of time which elapses from the date of total loss until the Equipment are replaced. Notwithstanding anything to the contrary herein, if lost or stolen Equipment is later recovered, Lessor retains ownership of the Equipment regardless of any payments made by Lessee or Lessee's insurance company with respect to such Equipment, all of which payments are non-refundable. Lessee agrees to promptly return any Equipment that is recovered. Lessor shall be subrogated to Lessee's rights to recover against any person or entity relating to any loss, theft, damage or destruction to the Equipment. Lessee shall cooperate with, assign Lessor all claims and proceeds arising

from such loss, theft, damage or destruction, execute and deliver to Lessor whatever documents are required and take all other necessary steps to secure in Lessor such rights, at Lessee's expense.

**11. LIABILITY OF LESSEE: DURING THE RENTAL PERIOD, LESSEE ASSUMES ALL RISK ASSOCIATED WITH THE POSSESSION, CONTROL OR USE OF THE EQUIPMENT, INCLUDING, BUT NOT LIMITED TO, PERSONAL INJURY, DEATH, RENTAL CHARGES, THEFT, LOSSES, DAMAGES AND DESTRUCTION, INCLUDING LESSEE TRANSPORTATION, LOADING AND UNLOADING, WHETHER OR NOT THE LESSEE IS AT FAULT.** After an Incident, Lessee shall: **A.** immediately notify Lessor, the police, if necessary, and Lessee's insurance carriers; **B.** secure and maintain the Equipment and the surrounding premises in the condition existing at the time of such Incident, until Lessor or its agents investigate; **C.** immediately submit copies of all police or other third party reports to Lessor; and **D.** as applicable, pay Lessor, in addition to other sums due herein, the rental rate for Equipment until the repairs are completed or Equipment replaced plus either (1) the Fair Market Value or (2) the full charges of recovery and repairs of damaged Equipment. Accrued rental charges shall not be applied against these amounts. Lessor shall have the immediate right, but not obligation, to reclaim any Equipment involved in any Incident and Lessee hereby grants Lessor and right of entry to any place where such Equipment is located to enable Lessor to gain access thereto for the purpose of retrieving said Equipment. **TO THE FULLEST EXTENT PERMITTED BY LAW, LESSEE INDEMNIFIES, RELEASES, HOLDS LESSOR HARMLESS AND AT LESSOR'S REQUEST, DEFENDS LESSOR (WITH COUNSEL APPROVED BY LESSOR), FROM AND AGAINST ALL LIABILITIES, CLAIMS, LOSSES, DAMAGES, AND EXPENSES (INCLUDING ATTORNEY'S FEES AND EXPENSES, COURT AND INVESTIGATION EXPENSES AND COSTS) HOWEVER ARISING OR INCURRED, RELATED TO ANY INCIDENT, DAMAGE TO PROPERTY, INJURY OR DEATH OF ANY PERSON, CONTAMINATION OR ALLEGED CONTAMINATION, OR VIOLATION OF LAW OR REGULATION CAUSED BY OR CONNECTED WITH THE A. ACCESS, USE, POSSESSION, OR CONTROL OF THE EQUIPMENT BY LESSEE OR ANY THIRD PARTY THAT LESSEE IMPLICITLY OR EXPLICITLY PERMITS TO ACCESS, USE, POSSESS, OR CONTROL THE EQUIPMENT DURING THE RENTAL PERIOD OR B. BREACH OF THIS AGREEMENT OR ANY RELATED QUOTE/PURCHASE ORDER, WHETHER OR NOT CAUSED IN PART BY THE ACTIVE OR PASSIVE NEGLIGENCE OR OTHER FAULT OF ANY PARTY INDEMNIFIED HEREIN AND ANY OF THE FOREGOING ARISING OR IMPOSED IN ACCORDANCE WITH THE DOCTRINE OF STRICT OR ABSOLUTE LIABILITY, LESSEE ALSO AGREES TO WAIVE ITS WORKERS' COMPENSATION IMMUNITY, TO THE EXTENT APPLICABLE. LESSEE'S INDEMNITY OBLIGATIONS SHALL SURVIVE THE EXPIRATION OR TERMINATION OF THIS AGREEMENT OR ANY RELATED QUOTE/PURCHASE ORDER.** All of Lessee's indemnification obligations under this Section shall be joint and several and will survive the termination of this Agreement or any related quote/purchase orders.

**12. INSURANCE:** During the term of this Agreement or any related quote/purchase order and during the rental period (and during any time in which Lessee is in possession of the Equipment), Lessee shall maintain at its own expense, the following minimum insurance coverage: **A.** All risk perils property insurance ("Property Insurance") covering the Equipment from all sources (Equipment Rental Floater or Production Package Policy) including coverage for, without limitation, (i) theft by force, (ii) theft by fraudulent scheme and/or "voluntary parting," (iii) mysterious disappearance, and (iv) loss of use of the Equipment. Coverage shall begin from the time Lessee or Lessee's agents pick the Equipment up at Lessor's place of business, or take delivery of the Equipment, whichever is applicable, and shall continue until the time the Equipment is returned to and accepted by Lessor. The Property Insurance shall be on a worldwide basis shall name Lessor as an additional insured and as the loss payee with respect to the Equipment and shall cover all risks of loss of, or damage or destruction to the Equipment. The Property Insurance coverage shall be sufficient to cover the Equipment at its replacement value but shall, in no event, be less than \$1,000,000. The Property Insurance shall be primary coverage over Lessor's insurance. **B.** Commercial general liability insurance ("Liability Insurance"), including coverage for the operations of independent contractors and standard contractual liability coverage. The Liability Insurance shall name Lessor as an additional insured and provide that said insurance is primary coverage. Such insurance shall remain in effect during the course of this Agreement and any related quote/purchase order, and shall include, without limitation, the following coverage's: standard contractual liability, personal injury liability, completed operations, and product liability. The Liability Insurance shall provide general liability aggregate limits of not less than \$1,000,000 (including the coverage specified above) and not less than \$1,000,000 per occurrence. **C.** Commercial auto liability insurance ("Auto Liability Insurance"). The Auto Liability Insurance shall name Lessor as an additional insured and provide that said insurance is primary coverage. Such insurance shall remain in effect during the course of this Agreement and any related quote/purchase order, and shall include, without limitation, the following coverage's: owned, non-owned and hired automobile comprehensive coverage. The Liability Insurance shall provide general liability aggregate limits of not less than \$1,000,000 (including the coverage specified above) and not less than \$1,000,000 per occurrence.

All insurance maintained by Lessee pursuant to the foregoing provisions shall contain a waiver of subrogation rights in respect of any liability imposed by this Agreement or any related quote/purchase order on Lessee as against Lessor. Lessee shall hold Lessor harmless from and shall bear the expense of any applicable deductible amounts and self-insured retentions provided for by any of the insurance policies required to be maintained under this Agreement or any related quote/purchase order. In the event of loss, Lessee shall promptly pay the amount of the deductible or self-insured retention or the applicable portion thereof to the insurance carrier, as applicable or Lessor. Notwithstanding anything to the contrary contained in this Agreement or any related quote/purchase order, the fact that a loss may not be covered by insurance provided by Lessee under this Agreement or any related quote/purchase

order or, if covered, is subject to deductibles, retentions, conditions or limitations shall not affect Lessee's liability for any loss. Should Lessee fail to procure or pay the cost of maintaining in force the insurance specified herein, or to provide Lessor upon request with satisfactory evidence of the insurance, Lessor may, but shall not be obliged to, procure the insurance and Lessee shall reimburse Lessor on demand for its costs. Lapse or cancellation of the required insurance shall be deemed to be an immediate and automatic default of this Agreement or any related quote/purchase order. The grant by Lessee of a sublease of the Equipment rented/leased shall not affect Lessee's obligation to procure insurance on our behalf, or otherwise affect Lessee's obligations under this Agreement or any related quote/purchase order. Insurance is to be placed with insurers authorized to conduct business in the state with a current A.M. Best's rating of no less than A: VII, unless otherwise acceptable to the Lessor. Before obtaining possession of the Equipment, Lessee shall provide to Lessor Certificates of Insurance confirming the coverages specified above. Lessee shall furnish the Lessor with original Certificates of Insurance including all required amendatory endorsements (or copies of the applicable policy language effecting coverage required by this clause) and a copy of the Declarations and Endorsement Page of the CGL policy listing all policy endorsements to Lessor before obtaining possession of the equipment. However, failure to obtain the required documents prior to the work beginning shall not waive the Lessee's obligation to provide them. Lessor reserves the right to require complete, certified copies of all required insurance policies, including endorsements, required by these specifications, at any time. An authorized agent or representative of the insurance shall sign all certificates carrier.

**13. LEGAL EXPENSES:** The Lessee shall pay all costs, charges, expenses, and attorney's fees incurred in retaking the possession of the Equipment hereby rented and/or in the collection of any such sums the Lessee owes.

**14. SUBLETTING:** No Equipment shall be sublet by the Lessee nor shall Lessee assign or transfer any interest in this Agreement or any related quote/purchase order without prior written consent of the Lessor, which may be withheld, delayed or conditioned. Lessor may freely assign its rights and obligations under this Agreement or any related quote/purchase order at any time without the consent of Lessee.

**15. TERMINATION OF THE AGREEMENT:** Should the Lessee; **A.** fail to make payment in accordance with the terms of this Agreement or any related quote/purchase order, and such failure continues for a period of five (5) days, **B.** becomes a debtor in bankruptcy proceeding, goes into receivership, takes protection from its creditors under any insolvency legislation, ceases to carry on business, or has its assets seized by any creditor, **C.** fail to maintain and/or operate, or to return the Equipment as provided by this Agreement or any related quote/purchase order, **D.** fail to maintain insurance required by Section 12 or otherwise places the Equipment at risk, **E.** or violate any material provision hereof, **F.** fails to return the Equipment immediately upon Lessor's demand, or **G.** is in default under any other contract with Lessor, the Lessor may after three (3) days' notice in writing of such event, terminate this Agreement or any related quote/purchase order, take possession of the Equipment wherever it may be found without becoming liable for damages or for trespass, and in addition to any other remedies Lessor may have, recover all amounts due together with any amounts for damage to the Equipment and all expenses incurred for repossessing the Equipment. Lessee shall pay all of Lessor's costs, including reasonable costs of collection, court costs, attorneys and legal fees, incurred in exercising any of its rights or remedies herein. Lessor shall not be liable due to seizure of Equipment by order of governmental authority. Lessee waives any right of action against Lessor for such repossession.

**16. NO WARRANTIES: THE EQUIPMENT RENTED HEREUNDER HAS BEEN SELECTED BY LESSEE FOR LESSEE'S OWN PURPOSES. LESSOR DISCLAIMS ALL REPRESENTATIONS AND WARRANTIES, EXPRESS OR IMPLIED, WITH RESPECT TO THE EQUIPMENT, ITS DURABILITY, CONDITION, MERCHANTABILITY, NON-INFRINGEMENT, OR FITNESS FOR ANY PARTICULAR PURPOSE. LESSEE ACKNOWLEDGES ACCEPTANCE OF THE EQUIPMENT ON AN "AS-IS, WHERE-IS" BASIS, WITH "ALL FAULTS" AND WITHOUT ANY RECOURSE WHATSOEVER AGAINST LESSOR. LESSEE ASSUMES ALL RISKS ASSOCIATED WITH THE EQUIPMENT AND RELEASES LESSOR FROM ALL LIABILITIES AND DAMAGES INCLUDING LOST PROFITS, PERSONAL INJURY, AND SPECIAL, INCIDENTAL, AND CONSEQUENTIAL DAMAGES, IN ANY WAY CONNECTION WITH THE EQUIPMENT, ITS INSTALLATION, OPERATION OR USE OR ANY DEFECT OR FAILURE THEREOF, A BREACH OF LESSOR'S OBLIGATIONS HEREIN OR ERRORS OR INACCURACIES IN INFORMATION OBTAINED FROM LESSEE OR THIRD PARTIES, UPON WHICH LESSOR RELIES; PROVIDED, HOWEVER, IF LESSEE IS A CONSUMER UNDER APPLICABLE LAW, THEN NO CONSEQUENTIAL DAMAGES LIMITATION OF INJURIES TO PERSONS SHALL APPLY. THE LESSOR LIABILITY UNDER THIS SECTION 16 IS LIMITED TO REPAIRING OR REPLACING (AT THE DISCRETION OF THE LESSOR) EQUIPMENT NOT PERFORMING ACCORDING TO RATED OPERATION.**

**17. AUTHORITY OF AGENTS:** The execution hereof by an agent of the Lessee shall conclusively establish the authority of such agent to contract herein upon which Lessor is exclusively relying upon in providing the Equipment, unless Lessor receives written notification to the contrary prior to the loading of the Equipment for transit.

**18. SPECIAL CONDITIONS:** Notwithstanding any provisions contained in this Agreement or any related quote/purchase order to the contrary; **A.** If the Equipment goes down for maintenance or repairs while in Lessee's service, Lessee may notify Lessor and if Lessee elects to return the down Equipment, Lessor will make arrangements to send Lessee Equipment to replace it. The Lessee will be charged for all applicable transportation costs. **B.** If the Equipment goes down for maintenance or repairs while in Lessee's

service and the Lessee elects not to return the down Equipment, Lessor will send a qualified technician to repair it. Lessee will be charged travel time, mileage, labor and parts for such technician at Lessor's regular rates. **C.** If Lessor determines that required maintenance or repairs is Lessor's responsibility, the travel time, mileage, labor and parts for such technician will be provided at no charge to the Lessee. **D.** If Lessor determines that the repair (including those resulting from improper maintenance or the failure to perform required maintenance or for any reason other than Lessor's negligence) is Lessee's responsibility then the Lessee agrees to pay, within thirty (30) days from receipt of Lessor's invoice, all applicable travel time, mileage, labor and parts for repair at the Lessor's standard rates. Additionally, the parties to this Agreement and any related quote/purchase order acknowledge that the Equipment is unique in design and manufacture, and as to Lessor, it is inherently valuable as rental Equipment. Therefore, in the event of damage to the Equipment which does not constitute a total loss, Lessor and Lessee agree that the loss to the Lessor comprises, in addition to the cost of labor, parts to repair the Equipment, as well as transportation costs, travel time, mileage and other such incidental costs, the loss of use of such rental Equipment (rentals) until it can be fully repaired, in such event Lessee shall also be liable for, and agrees to pay within thirty (30) days from receipt of Lessor's invoice, the loss of rentals which such damaged Equipment could have produced during the time it is being repaired, had it not been damaged.

**19. TAXES AND FEES:** The Lessee shall pay all license fees, registration fees, assessments, duties and taxes which may now or hereafter be imposed upon the ownership, possession, or use of the Equipment excepting only those based on the Lessor's net income or exempted by law. The Lessee shall promptly notify Lessor of the receipt of any tax notices, or tax reports, or inquiries, or notices of taking, or other authorities concerning taxes, fees, or assessments.

**20. AIR QUALITY:** The Lessee shall comply with all laws, rules and regulations with regard to the operation of the Equipment under any local, state, or Federal Air Quality Standard.

**21. OWNERSHIP OF EQUIPMENT, ENCUMBRANCES:** The Equipment is, and shall at all times remain the property of the Lessor, and the Lessee shall have no right, title or interest therein or thereto except the right of possession and use of the Equipment pursuant to the terms of this Agreement or any related quote/purchase order. Lessee shall not remove or deface any plate or marking on the Equipment identifying Lessor as the owner of the Equipment or the manufacturer's serial number. The Equipment is, and shall at all times remain personal property notwithstanding the Equipment or any part thereof may be or become, in any manner affixed or attached to any other personal or real property. The Lessee shall keep the Equipment free and clear of any and all liens, security interests and encumbrances of any kind, and shall give the Lessor prompt notice of any such attachments. Lessee shall not use the Equipment in a negligent, illegal, unauthorized or abusive manner nor shall Lessee allow the use of the Equipment by anyone other than an Authorized Individual (Lessee acknowledging that the Equipment may be dangerous if used improperly or by untrained parties).

**22. LIMITED LIABILITY OF LESSOR: IN CONSIDERATION OF THE RENTAL OF THE EQUIPMENT, LESSEE AGREES THAT LESSOR'S LIABILITY UNDER THIS AGREEMENT AND ANY RELATED QUOTE/PURCHASE ORDER, INCLUDING ANY LIABILITY ARISING FROM LESSOR'S, LESSOR'S AFFILIATES, OR ANY THIRD PARTY COMPARATIVE, CONCURRENT, CONTRIBUTORY, PASSIVE, OR ACTIVE NEGLIGENCE OR THAT ARISES AS A RESULT OF ANY STRICT OR ABSOLUTE LIABILITY, SHALL NOT EXCEED THE TOTAL RENTAL CHARGES PAID BY LESSEE UNDER THIS AGREEMENT OR ANY RELATED QUOTE/PURCHASE ORDER. IN NO EVENT SHALL THE LESSOR BE LIABLE TO THE LESSEE OR ANY OTHER PARTY FOR ANY INCIDENTAL, CONSEQUENTIAL OR SPECIAL DAMAGES.**

**23. SCOPE OF DAMAGES:** In consideration of the rental of Equipment, Lessee agrees that Lessor's liability under this Agreement or any related quote/purchase order, including any liability arising from Lessor's or any third party's comparative, concurrent, contributory, passive or active negligence or that arises as a result of any strict or absolute liability, shall not exceed the total rental charges paid by Lessee under this Agreement or any related quote/purchase order.

**24. ENTIRE AGREEMENT, GOVERNING LAW & VENUE:** This Agreement and any related quote/purchase order, as well as any executed credit application, if any, constitutes the entire agreement between the Lessor and the Lessee, and supersedes any representation; warranties or agreements (written and oral) heretofore made or entered into between the parties relating to the Equipment. This Agreement and any related quote/purchase order shall be governed by the laws of the State of Ohio other than its conflicts of laws provisions. Lessor and Lessee hereby irrevocably consent to the jurisdiction and federal courts located in the State of Ohio and shall be bound by any judgments rendered thereby after all appeals taken hereby waiving any defense or claim of inconvenient forum of venue for any cases in such courts. If any provision of this Agreement or any related quote/purchase order is prohibited by law, such Section shall be ineffective to the extent of such prohibition without invalidating the remaining Sections.

**25. CHANGES, MODIFICATIONS, WAIVERS, ETC.:** Changes, modifications, waivers, additions or amendments to the terms and conditions of this Agreement and any related quote/purchase order shall be binding on Lessor only if such are in writing and signed by a duly authorized representative of Lessor. The failure of Lessor to enforce, at any time or for any period of time, any of the provisions of this Agreement and any related quote/purchase order shall not constitute a waiver of such provisions or the right of Lessor to enforce such and every provision. Any reference in Lessee's quote/purchase order or any other Lessee document to other terms that shall control this transaction shall be void.

**26. PURCHASES:** If this Agreement or any related quote/purchase order identifies any Equipment, materials or other items that are to be purchased by Lessee, Lessor sells and delivers such items to Lessee on an “AS-IS, WHERE-IS” basis, with all faults and without any warranties (other than the unexpired term of any applicable manufacturer warranties, if any) in consideration for Lessee’s payment to Lessor of the full purchase price of the item, Lessor retains title to the item until Lessee has paid in full.

**27. JURY TRIAL WAIVER: IF ANY DISPUTE ARISING OUT OF, IN CONNECTION WITH, OR IN ANY WAY PERTAINING TO THIS AGREEMENT OR ANY RELATED QUOTE/PURCHASE ORDER, LESSEE AND LESSOR HEREBY KNOWINGLY, VOLUNTARILY, AND INTENTIONALLY WAIVE ANY RIGHT TO A TRIAL BY JURY, THIS WAIVER BEING A MATERIAL INDUCEMENT TO ENTERING INTO THIS AGREEMENT OR ANY RELATED QUOTE/PURCHASE ORDER.**

**28. ARBITRATION AGREEMENT & CLASS ACTION WAIVER: AT THE ELECTION OF LESSEE OR LESSOR, ANY DISPUTE ARISING OUT OF, IN CONNECTION WITH OR IN ANY WAY PERTAINING TO THIS AGREEMENT OR ANY RELATED QUOTE/PURCHASE ORDER SHALL BE SETTLED BY ARBITRATION BROUGHT IN THE PARTY’S INDIVIDUAL CAPACITY AND NOT AS A PLAINTIFF IN A PURPORTED CLASS OR REPRESENTATIVE CAPACITY, ADMINISTERED BY THE AMERICAN ARBITRATION ASSOCIATION UNDER THIS COMMERCIAL ARBITRATION RULES OR BY JAMS PURSUANT TO ITS STREAMLINED ARBITRATION RULES AND PROCEDURES AND JUDGMENT ON THE AWARD RENDERED BY THE ARBITRATOR(S) MAY BE ENTERED IN ANY COURT HAVING JURISDICTION THEREOF. THERE SHALL BE NO RIGHT OR AUTHORITY FOR ANY CLAIMS TO BE ARBITRATED OR TRIED ON A CLASS ACTION BASIS.**

**29. COMPLIANCE WITH EXPORT AND IMPORT LAWS:** Removal of the Equipment from the United States is prohibited under this Agreement or any related quote/purchase order. If Lessee desires to causes the transport and/or operation of the Equipment outside of the United States, Lessee must **a.** obtain Lessor’s consent prior to taking such action, including approval of established custom broker, and **b.** execute an amendment to this Agreement or any related quote/purchase order, which amendment is incorporated herein. If Lessee exports or re-exports without complying with the above sentence, Lessee agrees that (1) the Equipment is subject to and must comply with all applicable export laws, including but not limited to the Export Administration Regulations, and (2) Lessee, as the exporter/importer of record, is responsible for: (A) determining whether and obtaining if necessary, export or re-export licenses or other authorizations as required prior to exporting or re-exporting the Equipment, (B) obtaining any required documentation necessary for return of the Equipment, and (C) ensuring no unauthorized transfers or diversions of the Equipment occur.

**30. FORCE MAJEURE:** Lessor shall not be liable or responsible to the Lessee, nor be deemed to have defaulted under or breached this Agreement or any related quote/purchase order, for any failure or delay in fulfilling or performing any term of this Agreement or any related quote/purchase order when and to the extent such failure or delay is caused by or results from acts beyond Lessor’s control, including, without limitation, the following force majeure events: (a) act of God, (b) flood, fire, earthquake, epidemics, pandemics, or explosion, (c) war, invasion, hostilities (whether war is declared or not), terrorist threats or acts, riot or other civil unrest, (d) government order, law, regulations, shutdowns, or actions, (e) embargos or blockades in effect on or after the date of this Agreement or any related quote/purchase order, (f) national or regional emergency, (g) strikes, labor stoppages, or slowdowns, or other industrial disturbances, (h) shortage of adequate power or transportation facilities, and (i) other events beyond the control of Lessor.

**31. DATA COLLECTION:** Lessee consents to the collection, use and disclosure of the data and information Lessee voluntarily provides to Lessor, including, without limitation, personal identifiable information and financial information, as well as any data collected within the Equipment or via software relating to the Equipment, its performance, location, operators, and related information.

**32. RENTAL PROTECTION PLAN:** Lessee’s repair or replacement responsibilities in Sections 7 and 11 of this Agreement may be modified by the RPP, if offered on the Equipment and purchased by the Lessee, and Lessor shall limit the amount Lessor collects from Lessee for the Equipment loss, damage or destruction as reflected in the RPP. **The RPP is NOT INSURANCE.** The RPP does not protect Lessee from liability to Lessor or others arising out of possession, control or use of the Equipment. **THE RPP IS A CONTRACTUAL MODIFICATION OF LESSEE’S LIABILITY.** All of the conditions outlined in the RPP must be satisfied for the RPP and corresponding liability reduction to apply. Any exclusions, as outlined in the RPP, shall remain the liability of Lessee and are not modified by the RPP.

**33. ACCEPTANCE OF TERMS:** Lessee’s execution of this Agreement or any related quote/purchase order, or taking possession of the Equipment (whichever occurs first) shall be deemed acceptance of the terms herein for this and all past and future agreements between Lessor and Lessee upon Lessee’s receipt of the Equipment under those agreements. Lessee rents the Equipment from Lessor pursuant to this Agreement and any related quote/purchase order, which is a true lease.

**34. MISCELLANEOUS:** Lessee’s obligations hereunder shall survive the termination of this Agreement or any related



quote/purchase order. If any term is invalid, illegal, or unenforceable, such invalidity, illegality, or unenforceability shall not affect any other term or invalidate or render unenforceable such term. This Agreement and any related quote/purchase order, and all of Lessee's rights in and to the Equipment are subordinate to all rights, title and interest of all persons (including Lessor's lenders) who have rights in the Equipment. Headings are for convenience only. To the extent that any terms in this Agreement or any related purchase conflict, the parties agree that the more specific terms control. A copy of this Agreement and any related quote/purchase order shall be valid as the original. Lessee and the person signing this Agreement agree, represent and warrant that: (a) the person executing is 18 or the legal age of majority in the state, whichever is greater and they both have full authority to execute, deliver and perform this Agreement and any related quote/purchase order; and (b) this Agreement and any related quote/purchase order constitutes a legal, valid and binding obligation of Lessee, enforceable in accordance with its terms. If the parties have a fully executed, active agreement, intended to govern over conflicting terms and conditions, such agreement shall take precedence over the terms herein. Anything not mentioned above is not included or provided by Lessor.