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## MANDATORY TERMS AND CONDITIONS

- 1. Binding and Continuing Agreement:** These Mandatory Terms and Conditions constitute, together with any other terms and conditions of any current Agreement between Lessor and Lessee, a binding and enforceable agreement. Lessor and Lessee agree that these Mandatory Terms and Conditions shall apply to any rental of Equipment by Lessee from Lessor occurring on or after the date of this Agreement even though the specific Property, duration of rental and/or the price for the rental may vary. The parties acknowledge and agree that the terms and conditions of this Agreement shall continue to apply to all future rental transactions between them, without necessity of either party executing a new Rental Agreement or other agreement, unless and until these Mandatory Terms and Conditions are modified or superseded by new or revised Mandatory Terms and Conditions, in which case, the new or revised Terms and Conditions shall apply upon their effective date.
- 2. Identified Equipment:** The equipment ("Equipment") subject to this Agreement shall be the Equipment expressly set forth on Lessor's Equipment Schedule or Rental Receipt furnished to Lessee at the time of delivery. Any such Equipment Schedule and or Rental Receipt shall be incorporated by reference into this Agreement.
- 3. Rental Term:** Unless otherwise agreed in writing, all Equipment shall be leased on a daily basis, and Lessor's standard day rates shall apply to all or a portion of a rental day. The rental time shall include all times in which the Equipment is not in the possession of Lessor, and a full standard day rent for each day will be charged after 10:00 am on the due date should the Equipment not be returned by that time. Lessee is responsible for all shipping and delivery charges.
- 4. Charges:** All payments are due upon Lessee's receipt of an invoice or prior to delivery of the Equipment, as applicable. Rates are based on Lessee's credit information at the time of rental. Discounts, if any, may be revoked or revised at any time by Lessor. If Lessee's credit information was incorrect or has adversely changed during the rental term, Lessor may modify the rate to Lessee without notice.
- 5. Interest:** Lessee shall pay to Lessor interest at the lesser of 1.5% per month or the legal rate of interest on all past due balances.
- 6. Cancellation:** Cancellation where notice is given less than 12 hours in advance for any reason is subject to a cancellation fee equal to 50% of the full rental order price or forfeiture of deposit, whichever is greater.
- 7. Warranties Disclaimer:** Lessor does not assume and expressly disclaims all express and implied warranties and warranties by operation of law, including warranties of fitness for intended use and merchantability to the extent permitted by law. Unless otherwise set forth in the agreement, the Equipment leased hereunder, shall be AS-IS, WHERE-IS.
- 8. Incorporation:** These Mandatory Terms and Conditions shall be incorporated into any Agreement between Lessor and Lessee. Including credit agreements and rental agreements. Should these Mandatory Terms and Conditions be revised or superseded, the revised and superseded Mandatory Terms and Conditions shall be incorporated into any agreements existing at such time.
- 9. Risk of Damage and Loss:** Lessee bears all risk of damage and loss to the Equipment during all times that the Equipment is out of Lessor's possession and/or control, including all times in which the Equipment is in transit (except where the Equipment is shipped by Lessor's employees in which case, Lessee bears all risk of damage and loss to the Equipment upon delivery).
- 10. Actual Damage or Loss:** For any damage and/or loss while the Equipment is out of Lessor's possession, Lessee shall be liable for the actual cost of repair in addition to all continuing rental charges until the Equipment is available as a part of Lessor's rental inventory. Where the repairs cannot be timely completed or where repairs would be unfeasible in Lessor's sole discretion, Lessee shall be liable for the Equipment's full replacement cost in addition to the continuing rental charges until the Equipment is replaced. If any of the Equipment is lost, stolen or otherwise made unavailable such as by private or government seizure while not in the possession of Lessor, Lessee shall be liable for the Equipment's full replacement cost in addition to the continuing rental charges until the Equipment is replaced. In all circumstances under this paragraph, rental charges shall continue and Lessor shall not be required to repair or replace any of the Equipment until and unless Lessee has made advance payment to Lessor for the full repair or replacement.
- 11. Delivery, Return & Acceptance:** For purposes of this Agreement, Delivery of all Equipment to Lessee shall occur at the time the Equipment is set aside from Lessor's general inventory for Lessee's use. Return of all Equipment shall take place at the time Lessee returns the Equipment during Lessor's normal business hours to Lessor's shipping department but only after Lessor has accepted all of the Equipment. Acceptance by Lessor occurs after Lessor unpacks all of the Equipment, examines the Equipment for damages, and scans and logs the Equipment into Lessor's computer system. Acceptance shall constitute neither a waiver of claims Lessor may have against Lessee, nor a waiver of latent damage or other damage not caused by Lessor and discovered after Acceptance of the Equipment.
- 12. Transit:** Lessee may arrange with a shipping service of Lessee's choice, and shall notify Lessor of such arrangement at the time of the rental order. In the absence of such notification, Lessor may arrange with a shipping service or Lessor may ship the Equipment itself. If Lessor arranges with a shipping service, Lessee shall bear for all risk of loss or damage after the Equipment leaves Lessor's possession. If Lessor ships the Equipment directly or arranges with a shipping service, Lessee shall pay all fees and expenses associated therewith.
- 13. Inspection and Acceptance:** Lessee shall inspect the Equipment immediately upon delivery to confirm that it is in proper working order and that it is correctly identified on the Equipment Schedule and/or Equipment Receipt. If Lessee finds that the Equipment is not in proper working order in any respect, or is not correctly identified, Lessee shall so notify Lessor immediately. Unless Lessor is so notified, Lessee is deemed to have accepted the Equipment in proper working order in all respects; Late notice of any discrepancy in identification or that any of the Equipment is not in proper working order shall be invalid. Lessor shall have a continuing right to inspect any or all of the Equipment, including inspection as to how the Equipment is being used, at reasonable times on reasonable notice to Lessee.
- 14. Holding Over:** It is Lessee's sole responsibility to ensure that all of the Equipment is returned to Lessor at the end of the rental period set forth in the Agreement. Should Lessee, for any reason, retain any of the Equipment for a longer period than the stated lease period, whether or not the Equipment is being used by Lessee, Lessor may, at its sole option, declare Lessee in Default hereunder. In addition to, and not in lieu of, any other remedies hereunder, Lessor shall be entitled to and Lessee shall pay to Lessor the full rental amount for any such hold-over period on a pro-rated basis or Lessor's daily rental rate for each day the Equipment is not returned by the end of the rental period, whichever is greater.

**15. Full Replacement Value Security Deposit:** For all rentals, a "full replacement value" security deposit is required. Checks will not be accepted for this purpose.

**16. Credit, Debit and Charge Card Policy:** Lessor accepts certain valid credit, debit and charge cards as a convenience to its customers. Lessor maintains a policy of not permitting customers to file disputes with credit, debit or charge card issuers as a means of resolving disputes between Lessor and Lessee. Payments made with credit, debit or charge cards shall be deemed final payments, same as cash, and may not be delayed, reversed or held in abeyance by the process of a Lessee's making a dispute through the card issuer. Lessee expressly acknowledges, agrees and grants to Lessor the unequivocal and non-revocable right to recover from Lessee's credit card(s) all monetary amounts owing to Lessor as such sums become due, until Lessor is paid in full.

**17. Insurance Requirements:** Lessee shall comply in all respects with the following insurance requirements in order to lease, and continue leasing, any of the Equipment:

(1) **Insurance Certificate:** With or without demand but prior to delivery of any of the Equipment, Lessee shall furnish Lessor with a Certificate of Insurance, signed by an authorized representative or agent of an insurance carrier admitted in California, with an A.M. Best rating of A or higher, setting forth all of the required coverages set forth below. All such insurance shall be in full effect at all times from Delivery to Return, and shall be obtained and maintained by Lessee at Lessee's sole cost and expense. Such required policies include (3) Comprehensive General Liability Insurance (CGL); (4) Personal Property Insurance; (5) Business Auto Coverage; and (6) Workers' Compensation/Employers Liability coverage. The requirements for and minimum limits of such policies are set forth below.

(2) **Subrogation Waiver:** All of Lessee's insurance policies hereunder shall contain an express waiver of subrogation against Lessor.

(3) **Commercial General Liability:** Commercial general liability ("CGL") insurance shall include independent contractor and contractual liability coverage, specifically referring to this Agreement and to the hold-harmless terms herein. Lessor shall be named an additional insured. Such insurance shall include broad-form contractual liability, personal injury liability, completed operations, and products liability, with minimum \$2,000,000 general aggregate limits, minimum \$1,000,000 personal injury limits (per-occurrence), and minimum \$1,000,000 advertising injury limits (per-occurrence). Any such policy must expressly state that it is primary coverage as to all insureds, and that their policy limits must be paid out prior to any obligation arising under any other insurance policy, including those maintained by Lessor.

(4) **Personal Property Insurance:** Property insurance shall cover "full replacement cost" and including an amount sufficient to cover Lessor's rental charges until the Equipment is repaired or replaced. Lessor shall be named an additional insured and loss payee on each such policy or policies.

(5) **Business Auto Insurance:** Business automobile insurance shall provide minimum comprehensive/collision coverage of \$1,000,000.00 combined single limits and actual cash value. The maximum deductible shall be \$1,000 for physical damage for comprehensive/collision damage or loss. Such coverage shall specifically include loading and unloading and all owned, rented, leased, hired, and co-owned vehicles. Lessor shall be named as an additional insured on the liability coverage and as an express loss payee all physical damage coverage.

(6) **Workers Compensation:** Workers' compensation/Employers Liability coverage shall provide minimum \$1,000,000 limits.

(7) **Notice of Cancellation:** Lessee shall give Lessor reasonable but in no event less than thirty (30) days' written notice before any cancellation, revocation or change to any insurance policy(ies) required under this paragraph.

(8) **Lessee's Failure to Obtain or Maintain Required Insurance Policies:** Lessee's failure to obtain or maintain any required insurance coverage under this paragraph shall constitute a default under this Agreement. At Lessor's sole election, Lessor may, but shall not be required to, obtain such coverage. In such circumstance, Lessee shall immediately reimburse Lessor for the costs of obtaining such coverage, including an administrative fee, in addition to any remedies which Lessor may have.

**18. Default and Remedies:** (A) Should Lessee (i) not make any required payment when due or (ii) fail to perform any material term or condition of this Agreement or (B) Should the occurrence of default set forth in other parts of this Agreement deem Lessee in default, then Lessor may, in addition to Lessor's other legal and equitable remedies which are not waived, may exercise one or more of the following options, without prior notice, demand, or legal process:

(1) Repossess all Equipment;

(2) Recover from Lessee all sums then due;

(3) Recover from Lessee all damages caused by Lessee;

(4) Retain all prior payments received under this Agreement, and apply same as a set-off against all damages caused by Lessee and/or all sums due under this Agreement.

(5) Recover from Lessee all fees and expenses incurred by Lessor arising out of the enforcement of the Terms and Conditions of this Agreement, including, but not limited to pre-litigation and litigation-related attorney fees and court costs. Attorney fees shall be recoverable whether or not a legal action is filed under this paragraph.

(6) Retroactively revoke any discounts and/or any other favorable-to-Lessee non-standard terms previously given to Lessee.

**19. Lessee's Remedies:** Lessee's sole remedy for any claimed breach of this Agreement by Lessor or any other claim shall be a monetary credit for amounts paid for equipment proven to be have performed unsatisfactorily without fault of Lessee or third persons other than Lessor.

**20. Waiver of Certain Damages:** Unless otherwise expressly set forth in this Agreement, neither Lessee nor Lessor shall be liable to the other for and they expressly waive all consequential, non-direct, non-economic, punitive or exemplary damages of any nature, type or kind.

**21. Agreement Signed:** A current rental agreement must be signed by every applicant and person paying by credit card if different.

**22. No Assignment:** Neither this Agreement nor the Equipment may be assigned, transferred, or encumbered, including by operation of law.

**23. Insolvency:** If the Lessee files for bankruptcy, voluntarily or involuntarily, or if the Lessee is adjudged insolvent, or makes any assignment for the benefit of his creditors, or if levy is made on any of the Equipment and is not released or satisfied within ten (10) days thereafter, or if a receiver is appointed with authority to take possession or control of any of the Equipment, Lessee shall be deemed to be immediately in default hereunder. This Agreement shall, at Lessor's sole option and without notice, immediately terminate and shall not be treated as an asset of Lessee after such exercise. In such event, and in addition to any of Lessor's remedies hereunder, Lessor shall be entitled to recover from Lessee any and all fees and costs, including reasonable attorney fees and court costs, associated with recovery of the Equipment in addition to any and all damages.

**24. Title:** Lessee is a lessee of and shall not be deemed to hold legal or equitable title to any of the Equipment nor shall Lessee be deemed to have an option to purchase any of the Equipment. Lessee shall keep all of the Equipment free of all liens, levies, and encumbrances. Lessee shall, under no circumstances, have or hold a security interest in any of the Equipment.

**25. Taxes:** Lessee shall be solely responsible for the payment of all taxes arising out of the rental of the Equipment, including all taxes assessed by federal, state and local agencies.

**26. Sublease:** Any sublease of any of the Equipment by Lessee must be approved in advance in writing by Lessor, in its sole discretion. In the event a sublease is approved by Lessor, Lessee's obligations hereunder shall remain in full force and effect, including but not limited to Lessee's obligations to procure insurance for Lessor's benefit.

**27. Removal from California:** Under no circumstances shall Lessee remove any of the Equipment from the state of California without Lessor's prior written consent which consent may be denied, delayed and withheld in Lessor's sole discretion. Under no circumstances shall any of the Equipment be removed from the USA.

**28. Expiration/Early Termination:** Upon the expiration or early termination of this Agreement, Lessee shall return all of the Equipment to Lessor in the same condition as it was at time of delivery to Lessee, ordinary wear and tear excepted.

**29. Use and Misuse:** Lessee shall not abuse or misuse any of the Equipment. Lessee shall not use, transport, or store any of the Equipment in any manner or location which could subject it to undue risk of damage. The Equipment shall be used only by trained and qualified employees and/or agents of Lessee. Lessee shall use all of the Equipment in full compliance with all manufacturers' instructions, and in full compliance with all applicable federal, state and local laws and regulations. Lessee shall take all necessary precautions during the use, transport and storage of all of the Equipment to protect all of the Equipment and all persons from damage or injury. Lessee shall not alter, repair, or otherwise modify any of the Equipment, including but not limited to altering or removing Lessor's and the manufacturer's identification, without the prior written consent of Lessor, which consent may be withheld, delayed and denied at Lessee's sole discretion.

**30. Controlling Law and Forum:** This Agreement is entered into in Los Angeles County, California, and governed by California law. In the event of any dispute between the parties, Lessor and Lessee agree that the sole forum for resolution of such disputes shall be the California Superior Court, County of Los Angeles, to the exclusion all other forums.

**31. Headings:** Headings are for the convenience of Lessor and Lessee and shall have no effect on the substantive provisions of the Agreement.

**32. Indemnity:** Lessee shall defend, indemnify and hold Lessor harmless from and against any liability, lawsuit, judgment, award, claim, damage, loss, injury, fee, expense, or cost, asserted by any person or entity against Lessor and/or its principals and/or employees arising out of any agreement between Lessor and Lessee, including this agreement, and/or the subject matter thereof, including but not limited to the use, misuse or abuse of any of the Equipment, the transport thereof, personal injury and/or property damage.

**33. Entire Agreement:** These Mandatory Terms and Conditions, together with the credit agreement, rental agreement, and schedules, constitute the sole agreement between Lessor and Lessee. It may only be amended, revised or superseded by an agreement subsequently prepared and signed by Lessor and Lessee. No verbal statement by any employee of Lessor which is materially different from any term or condition herein shall be deemed authorized or shall have any force and effect unless in writing signed by an authorized representative of Lessor. In the event that any portion of these Mandatory Terms and Conditions, and any agreement to which they for a part of, is deemed to be unenforceable for any reason, the other portions shall remain in full force and effect.

**SIGNED BY** ..... **TITLE** .....

**PRINT NAME** ..... **DATE** .....