EQUIPMENT LEASE AGREEMENT

****

This Equipment Lease Agreement (the “Agreement”) is effective [DATE],

**BETWEEN: [YOUR COMPANY NAME]** (the "Lessor"), a company organized and existing under the laws of the [State/Province] of [STATE/PROVINCE], with its head office located at:

[YOUR COMPLETE ADDRESS]

**AND: [COMPANY NAME]** (the "Lessee"), a company organized and existing under the laws of the [State/Province] of [STATE/PROVINCE], with its head office located at:

[COMPLETE ADDRESS]

WITNESSETH that in consideration of the mutual covenants and agreements to be performed and kept during the terms hereof and of any renewal, the Lessor and the Lessee covenant and agree as follows:

1. **LEASE**

The Lessor hereby leases to the Lessee and the Lessee hereby leases from the Lessor the equipment described in [SPECIFY SCHEDULE] and in all other Schedules which may hereafter be executed by the [COMPANY NAME] for the purpose of adding equipment thereto, which equipment including all original and replacement items, parts, accessories, and additions relating thereto is hereafter called the “Equipment”.

1. **EQUIPMENT DESCRIPTION**

The Lessee authorizes the Lessor to complete the description of the Equipment in [SPECIFY SCHEDULE] with the insertion of serial numbers and other details specifically identifying the Equipment, such schedule to be signed by both parties hereto and form part of this Lease.

1. **WARRANTIES BY LESSEE & LESSOR**

The Lessee and Lessor each represents and warrants that it has the power to enter into this lease, and that this lease is properly and lawfully authorized and executed by it.

1. **LESSOR’S WARRANTIES**

Lessor and Lessee acknowledge that there are no other warranties, conditions, terms, representations of inducements expressed or implied statutory or otherwise, save as are expressly contained in this lease. Lessor warrants that the equipment shall be delivered to the Lessee in accordance with the specifications contained in [SPECIFY SCHEDULE]. The Lessor makes no representations with respect to the suitability of the equipment to the Lessee’s operations. Lessor’s warranties shall not extend to any party assigned this Lease by Lessor pursuant to Clause [NUMBER] herein.

1. **WARRANTIES BY MANUFACTURERS**

Any warranties, conditions or guarantees by the manufacturers or suppliers of the Equipment are theirs alone and not the Lessor’s but are for the joint and several benefit of and enforcement by the Lessee and the Lessor. Any claims of the Lessee in connection with manufacturer’s warranties, conditions or guarantees shall be made directly by the Lessor (but not Lessor’s assignee) on behalf of the Lessee against the manufacturer or supplier only.

1. **TITLE**

The Lessor covenants that it has good titles to the Equipment and the Lessee acknowledges the Lessor’s ownership of and title to the Equipment and covenants to defend the same against any contrary claim.

1. **TERM**

The term of this lease with respect to each piece of Equipment shall commence on the date of acceptance thereof by the Lessee in accordance with Clause [NUMBER] herein and shall continue for the term specified in [SPECIFY SCHEDULE] hereto. Rental payments with respect to each piece of Equipment shall commence and accrue due to the Lessor on such date of acceptance of such piece of Equipment by the Lessee.

1. **POSSESSION, LOCATION**

The Lessee shall take and, when not in default hereunder, retain exclusive control of the Equipment from the Lessee’s location shown on [SPECIFY SCHEDULE]. The Lessee shall not change such location without the Lessor’s prior written consent, which will not be unreasonably withheld.

1. **PERSONAL PROPERTY, LANDLORD’S DISTRESS**

The Equipment is and shall remain personal and moveable property. The Lessee shall not affix the Equipment nor permit it to be affixed so that it becomes part of realty and shall notify the Lessee’s, Landlords, mortgagees, insurers and all others who may have an interest in or claim against the premises where the Equipment is to be located. Any removal from such premises shall be at the Lessee’s risk and expense.

1. **IDENTIFICATION PLATES**

The Lessor may affix plates, tags or markings to the Equipment showing its interest therein, and the Lessee may display its name and such other information as may reasonably promote its business, such Lessee’s markings shall be mutually approved by the parties. All Lessee’s markings must be removed by the Lessee upon termination of the lease.

1. **ORDER, DELIVERY, INSTALLATION**

Order and delivery and installations of the Equipment shall be entirely at the Lessor’s risk and expense and shall be arranged by the Lessor on behalf of the Lessee in a manner and upon terms and conditions according to the Lessee’s written instructions and, to the extent of such instructions are not provided for, according to the Lessor’s sole discretion but still at the Lessor’s risk and expense. The Lessor shall not be responsible for any costs, losses or damages suffered by the Lessee arising out of or in connection with delays in or refusal to accept delivery of equipment.

1. **INSPECTION**

The Lessee shall inspect the equipment prior to delivery and accept or reject it. Notice of rejections shall be received in writing within [NUMBER] hours by the Lessor and in the absence thereof, the Lessee shall be deemed conclusively to have accepted the Equipment. Rejection shall only occur if the equipment is not in accordance with the specifications contained in [SPECIFY SCHEDULE] or as the result of faulty materials or workmanship.

1. **RE-DELIVERY, REMOVAL AT TERMINATION**

Upon termination of this lease for any reason, the Lessee shall deliver the Equipment entirely at its own expense to an address as designated by the Lessor in the same condition as received, reasonable wear and tear from proper use only accepted, within [NUMBER] days of the date of termination. Brakes and tires will show no more than [PERCENTAGE %] wear for each year of the Lease has elapsed and the trailers must have all signage and customer specified paint removed and returned to a white color. All damages from accident and abuse must be repaired prior to the termination of the Lease in a manner approved by the Lessor.

1. **RENT: OTHER PAYMENTS: NO SET-OFF**

The Lessee shall pay to the Lessor rental in the amount and at the times shown in Schedule “A” hereto. The Lessee shall pay to the Lessor on demand all other amounts becoming payable hereunder. The Lessee shall make such payments to the Lessor at the address of the Lessor shown above or as otherwise designated by the Lessor, without any set-off or reduction whatsoever for claims the Lessee may assert against the Lessor. Any payment not paid by the due date shall bear interest thereafter at [PERCENTAGE %] per month.

1. **UNCONDITIONAL PAYMENT**

Lessee’s obligation to pay rent and other amounts hereunder shall be absolute and unconditional under all circumstances and without limiting the generality of the foregoing, shall not be affected by the following:

* 1. Failure of the Equipment to perform in the manner expected by the Lessee.
  2. Damage to or destruction of the Equipment so that it is either completely beyond repair or partially so and whether or not it is economically justifiable to repair.
  3. Theft of the Equipment or part thereof irrespective of whether the Equipment was insured by the Lessee or the Equipment is uninsured.
  4. Seizure of the Equipment by a third party (including landlord or mortgages of the premises on which the Equipment is located).

1. **USE: MAINTENANCE: REPAIR**

The Lessee shall comply with all applicable laws, rules and regulations of government or other authority, with all manufacturer’s and Lessor’s published operation and maintenance instructions and specifications, and with all terms of any insurance policy in connection with the Equipment. The Lessor may inspect the state of repair of the Equipment at any reasonable time.

1. **ALTERATIONS ETC. TO EQUIPMENT**

The Lessee shall not alter, add or improve the Equipment without the Lessor’s prior written consent. The Lessee shall pay for all alterations, additions, or improvements to the Equipment (including those required by [YOUR COUNTRY LAW]) all of which shall become the property of the Lessor.

1. **LIABILITY**

During the term of the Lease, the Lessee assumes all liability for loss, theft or damage to the Equipment or injury to persons or property arising directly or indirectly out of the possession, use or operation of the Equipment by Lessee whether or not caused by negligence unless such loss, damage or injury is attributable to Lessor or persons for whom he is responsible. The Lessee hereby indemnifies and covenants to save harmless the Lessor from any such liability and for legal and other fees and costs that the Lessor may incur in investigation and defending any claims, actions or proceedings in respect of such liability except where caused by the Lessor or persons for whom he is responsible.

The Lessee shall at its own expense, place, maintain and keep in force during the term of the lease, comprehensive General Liability insurance in the name of the Lessor and the Lessee in the amount of [AMOUNT] per occurrence and furnish the Lessor with certificates of such insurance. Such insurance shall provide for [NUMBER] days prior notice to the Lessor of any cancellation or change in the policy. In the event of loss, theft, or damage (by accident or abuse) to the Equipment, at the discretion of the Lessor, the Lessee shall either restore the dame to good and efficient working order or pay Lessor the stipulated insurance loss value as shown in [SPECIFY SCHEDULE] for such Equipment. No loss, theft or damage to the Equipment or any part thereof shall affect or impair the obligations of the Lessee hereunder other than to the extent of such adjustment and lease shall remain in full force and effect. The Lessor shall be named additional insured and loss payee.

1. **TAXES**

The Lessee shall pay when due, all taxes, duties and governmental levies accruing upon the Equipment arising out of use or possession of the Equipment or application of this Lease, excluding only the Lessor’s income taxes or taxes on capital.

1. **NO LIENS**

The Lessee shall not lease, mortgage, charge, encumber, pledge or sell the whole or any part of the Equipment or its interest therein, nor allow the same to be attached, seized or subject to liens, levy or sale.

1. **FAILURE TO REPAIR, PAY TAXES, KEEP CLEAN**

If the Lessee fails to repair or pay for repairs, to pay taxes and to keep the Equipment and its interest therein free and clear of all claims and proceedings as herein provided, the Lessor may, in addition to its other remedies, repair or pay for repairs, or pay taxes, pay to discharge any adverse claim or to release the Equipment from proceedings. The cost of such repairs or the amounts to be paid shall be payable hereunder by the Lessee to the Lessor and are secured hereby. All of such advances made by the Lessor shall be repayable by the Lessee as additional rent together with interest of [PERCENTAGE %] per month from the date of repayment by the Lessee.

1. **DEFAULT**

Default by the Lessee hereunder shall occur if (a) the Lessee fails to fulfill any term or condition hereof; or (b) the Equipment is misused or abandoned; or (c) the Lessee shall dissolve, cease to do business, become insolvent, dispose of substantial portions of its assets, commit an act of bankruptcy or be subject to winding up, comprise, arrangement, bankruptcy or receivership proceedings.

1. **ACCELERATION OF ARREARS**

Upon default by the Lessee, all moneys payable hereunder from date of default until the end of the term of the lease shall thereupon be due and payable.

1. **LESSOR’S REMEDIES**

Upon default by the Lessee, each of the following remedies shall accrue immediately to the Lessor, in addition to any other remedies available to it by law. All such remedies are cumulative and not alternative nor exclusive one of the other. The exercise of one or more remedies shall not operate to prevent the Lessor from exercising other remedies. The Lessor’s omission to enforce any of its rights or remedies or any of the Lessor’s obligations shall not be a waiver thereof and not affect the Lessor’s rights and the Lessee’s obligations thereafter. The Lessor’s remedies shall only expire and the Lessee’s obligations shall only be satisfied when the Lessor receives in cash all moneys payable hereunder

* 1. Action - The Lessor may sue the Lessee to recover any unpaid amounts payable hereunder but other remedies shall not merge in any judgment obtained,
  2. Repossession - If requested to do so by the Lessor. The Lessee shall surrender possession of the Equipment to the Lessor and if the Lessee fails to do so the Lessor may recover possession of the Equipment by process of [YOUR COUNTRY LAW]. The Lessee hereby releases the Lessor from all liability for damage from so doing and indemnifies and covenants to same the Lessor harmless from and against all claims for such damage. Any taking of possession pursuant hereto shall not constitute a termination of this lease as to any or all items of Equipment unless the Lessor expressly notifies the Lessee to that effect,
  3. Sale or Re-lease - After repossessing the Equipment, the Lessor may sell or re-lease the Equipment publicly or privately to such person, in such manner and upon such terms as the Lessor deems in the best interest of [COMPANY NAME].
  4. Redemption - The Lessee may cure its default at any tie prior to the sale or re-lease upon tendering to the Lessor the total of all amounts due and to fall due hereunder plus all the Lessor’s reasonable expenses in repossession, repair and proceeding for sale or re-lease including legal costs and fees on a solicitor-and-his-client basis,
  5. Proceeds of Sale or Re-Lease - Proceeds of any sale or re-sale shall, as and when received by the Lessor, be applied first to the expense of the Lessor to repossess, repair and sell or re-lease, a reasonable commission for sale or re-release, if incurred (hereby expressly authorized), all reasonable legal costs and fees, accrued over due interest then to the rentals payable hereunder,
  6. Any Surplus - Of the net proceeds or any sale or re-lease shall belong to the Lessor and any deficiency of the net proceeds after a sale or re-lease shall be payable forthwith by the Lessee to the Lessor. If the Lessee does not pay such deficiency, the Lessor may sue for its.

1. **ASSIGNMENT**

The Lessee shall not sell, transfer, convey, assign, pledge or mortgage this agreement or its interest therein in whole or in part without the Lessor’s prior written consent. The Lessor may assign its rights hereunder in whole or in part and the Lessee shall be bound by such assignment according to its terms save that the Lessee shall in no event raise against any assignee any claim the Lessor may have against the Lessor and Lessee shall intervene in the assignment in the form of an Intervention.

1. **TIME**

Time is of the essence of this Lease. No forgiveness of late payment or late performance of any obligation by the Lessee hereunder shall otherwise operate as a waiver of any of the Lessor’s obligations hereunder.

1. **NOTICE**

Any notice given under this Lease shall be sufficiently given if sent by registered mail, postage prepaid or by telex or telefax to the Lessee at the address given above; Attention: [SPECIFY] or Lessor’s assign at such address as it shall provide prior to such notice. And any notice so given by registered mail shall be deemed to have been received on the [NUMBER]th business day following mailing, and if given by telex or telefax shall be deemed to have been received on the day of sending. “Business day” shall mean any day other than a Saturday, Sunday or statutory holiday. Either party may give notice of change of address for notice.

1. **FURTHER ASSURANCE**

The Lessor and the Lessee shall execute all such acts as shall be necessary to carry out the intent hereof.

1. **INTERPRETATION**

“Lessor” throughout this Lease includes [COMPANY NAME]. and its successors, “Lessee” shall include their successors and permitted assigns of the Lessee and any pronoun reference to the Lessee shall be deemed to include such changes in number and gender as comply with the actual identity of the Lessee, provided that where the Lessee is more than one person, the liability of each shall be joint and several. Paragraph headings are for identification only and are not substantive. This agreement shall be construed according to the [YOUR COUNTRY LAW] of [COUNTRY]. The provisions, terms and conditions hereof are severable to the extent that any one which may be contrary to the [YOUR COUNTRY LAW] of any jurisdiction shall therein be deemed to be modified to comply with such [YOUR COUNTRY LAW] but every other provisions, terms and conditions as set out shall be and remain valid and binding.

1. **SUCCESSION**

Subject to its terms, this Agreement shall enure to the benefit of and be binding upon [COMPANY NAME] hereto, and their respective successors and permitted assigns.

1. **FINANCIAL STATEMENTS**

The Lessee shall furnish to the Lessor or its assign annually not more than [NUMBER] days following the completion of each of its financial year, a copy of its annual report.

THIS LEASE IS SUBJECT TO THE TERMS AND CONDITIONS PRINTED ABOVE AND WHICH LESSEE ACKNOWLEDGES THAT IT HAS READ.

IN WITNESS WHEREOF, each party to this agreement has caused it to be executed at [PLACE OF EXECUTION] on the date indicated above.

# **LESSOR LESSEE**

Authorized Signature Authorized Signature

Print Name and Title Print Name and Title