

**EQUIPMENT RENTAL AGREEMENT**

**THIS EQUIPMENT RENTAL AGREEMENT (this "Agreement") dated this \_\_\_\_\_ day of \_\_\_\_\_,**

**BETWEEN:**

**T&D Jackson's Equipment of 6987 Dalewood Dr. Middletown Ohio 45042**  
(the "Lessor")

OF THE FIRST PART

**- AND -**

\_\_\_\_\_ **of** \_\_\_\_\_  
(the "Lessee")

OF THE SECOND PART

(the Lessor and Lessee are collectively the "Parties")

**IN CONSIDERATION OF** the mutual covenants and promises in this Agreement, the receipt and sufficiency of which consideration is hereby acknowledged, the Lessor leases the Equipment to the Lessee, and the Lessee leases the Equipment from the Lessor on the following terms:

**Definitions**

1. The following definitions are used but not otherwise defined in this Agreement:
  - a. "Casualty Value" means the market value of the Equipment at the end of the Term or when in relation to a Total Loss, the market value the Equipment would have had at the end of the Term but for the Total Loss. The Casualty Value may be less than but will not be more than the original purchase price of the Equipment.
  - b. "Equipment" means \_\_\_\_\_

- c. "Total Loss" means any loss or damage that is not repairable or that would cost more to repair than the market value of the Equipment.

**Lease**

2. The Lessor agrees to lease the Equipment to the Lessee, and the Lessee agrees to lease the Equipment from the Lessor in accordance with the terms set out in this Agreement.

**Term**

3. The Agreement commences on \_\_\_\_\_ and will continue on a Daily basis (the "Term").

**Rent**

4. The rent, exclusive of sales tax, will be paid in installments of \$ \_\_\_\_\_ beginning on \_\_\_\_\_ and will be paid each succeeding period through the Term (the "Rent").

**Use of Equipment**

5. The Lessee will use the Equipment in a good and careful manner and will comply with all of the manufacturer's requirements and recommendations respecting the Equipment and with any applicable law, whether local, state or federal respecting the use of the Equipment, including, but not limited to, environmental and copyright law.
6. The Lessee will use the Equipment for the purpose for which it was designed and not for any other purpose.
7. Unless the Lessee obtains the prior written consent of the Lessor, the Lessee will not alter, modify or attach anything to the Equipment unless the alteration, modification or attachment is easily removable without damaging the functional capabilities or economic value of the Equipment.

**Repair and Maintenance of Equipment**

8. The Lessee will, at the Lessee's own expense, keep the Equipment in good repair, appearance and condition, normal and reasonable wear and tear excepted. The Lessee will supply all parts that are necessary to keep the Equipment in such a state.

9. If the Equipment is not in good repair, appearance and condition when it is returned to the Lessor, the Lessor may make such repairs or may cause such repairs to be made as are necessary to put the Equipment in a state of good repair, appearance and condition, normal and reasonable wear and tear excepted. The Lessor will make the said repairs within a reasonable time of taking possession of the Equipment and will give the Lessee written notice of and invoices for the said repairs. Upon receipt of such invoices, the Lessee will immediately reimburse the Lessor for the actual expense of those repairs.
10. The Lessee may, but is not obligated to, enforce any warranty that the Lessor has against the supplier or manufacturer of the Equipment. The Lessee will enforce such warranty or indemnity in its own name and at its own expense.

### **Warranties**

11. The Equipment will be in good working order and good condition upon delivery.
12. The Equipment is of merchantable quality and is fit for the purposes it is ordinarily used.

### **Loss and Damage**

13. To the extent permitted by law, the Lessee will be responsible for risk of loss, theft, damage or destruction to the Equipment from any and every cause.
14. If the Equipment is lost or damaged, the Lessee will continue paying Rent, will provide the Lessor with prompt written notice of such loss or damage and will, if the Equipment is repairable, put or cause the Equipment to be put in a state of good repair, appearance and condition.
15. In the event of Total Loss of the Equipment, the Lessee will provide the Lessor with prompt written notice of such loss and will pay to the Lessor all unpaid Rent for the Term plus the Casualty Value of the Equipment, at which point ownership of the Equipment passes to the Lessee.

### **Ownership, Right to Lease and Quiet Enjoyment**

16. The Equipment is the property of the Lessor and will remain the property of the Lessor.
17. The Lessee will not encumber the Equipment or allow the Equipment to be encumbered or pledge the Equipment as security in any manner.
18. The Lessor warrants that the Lessor has the right to lease the Equipment according to the terms in this Agreement.
19. The Lessor warrants that as long as no Event of Default has occurred, the Lessor will not disturb the Lessee's quiet and peaceful possession of the Equipment or the Lessee's unrestricted use of the Equipment for the purpose for which the Equipment was designed.

### **Insurance**

20. The Lessee will, during the whole of the Term and for as long as the Lessee has possession of the Equipment, take out, maintain and pay for insurance against loss of and damage to the Equipment for the full replacement value of the Equipment and will name the Lessor as the loss payee.
21. The Lessee will, during the whole of the Term and for as long as the Lessee has possession of the Equipment, take out, maintain and pay for comprehensive general liability insurance against claims for bodily injury, including death, and property damage or loss arising out of the use of the Equipment. The insurance policy will have limits of at least \$\_\_\_\_\_.
22. The insurance will be in the joint name of the Lessor and the Lessee so that both the Lessor and the Lessee will be protected from liability and will provide primary and non-contributing coverage for the Lessor. The insurance policy will have a provision that it will not be modified or cancelled unless the insurer provides the Lessor with thirty (30) days written notice stating when such modification or cancellation will be effective.
23. Upon written demand by the Lessor, the Lessee will provide the Lessor with an original policy or certificate evidencing such insurance.

24. The Lessee appoints the Lessor as the Lessee's attorney-in-fact ("Attorney") with the power to maintain the above insurance and to secure payments arising out of any insurance policy required by this Agreement. The Attorney has the power to do all acts that are necessary or desirable to secure such payments.
25. If the Lessee fails to maintain and pay for such insurance, the Lessor may, but is not obligated to, obtain such insurance, but if the Lessor does obtain such insurance, the Lessee will pay to the Lessor the cost of such insurance upon notification from the Lessor of the amount.

### **Taxes**

26. The Lessee will report and pay all taxes, fees and charges associated with the Equipment, with the use of the Equipment, and with revenues and profits arising out of the use of the Equipment, including, but not limited to, sales taxes, property taxes, and license and registration fees. The Lessee will pay any and all penalties and interest for failure to pay any tax, fee or charge on or before the date on which the payment is due. The Lessee will pay any and all penalties and interest for failure to report required information to any taxing authority with jurisdiction over the Lessee or the Equipment. If the Lessee fails to do any of the foregoing, the Lessor may, but is not obligated to, do so at the Lessee's expense.
27. Notwithstanding any other provision of this Agreement, the Lessee will not be required to pay any tax, fee or charge if the Lessee is contesting the validity of same in the manner prescribed by the legislation governing the imposition of same, or in the absence of a prescribed form, in a reasonable manner. However, the Lessee will indemnify and reimburse the Lessor for damages and expenses incurred by the Lessor arising from or related to the Lessee's failure to pay any tax, fee or charge, regardless of whether the Lessee is contesting the validity of the same or not.
28. If the Lessee fails to pay any and all taxes, fees, and charges mentioned in this Agreement and the Lessor, on behalf of the Lessee, pays the same, the Lessee will reimburse the Lessor for the cost upon notification from the Lessor of the amount.

### **Indemnity**

29. The Lessee will indemnify and hold harmless the Lessor against any and all claims, actions, suits, proceedings, costs, expenses, damages and liabilities, including attorney's fees and costs, arising out of or related to the Lessee's use of the Equipment.

### **Default**

30. The occurrence of any one or more of the following events will constitute an event of default ("Event of Default") under this Agreement:
- a. The Lessee fails to pay any amount provided for in this Agreement when such amount is due or otherwise breaches the Lessee's obligations under this Agreement.
  - b. The Lessee becomes insolvent or makes an assignment of rights or property for the benefit of creditors or files for or has bankruptcy proceedings instituted against it under the Federal bankruptcy law of the United States or another competent jurisdiction.
  - c. A writ of attachment or execution is levied on the Equipment and is not released or satisfied within 10 days.

### **Remedies**

31. On the occurrence of an Event of Default, the Lessor will be entitled to pursue any one or more of the following remedies (the "Remedies"):
- a. Declare the entire amount of the Rent for the Term immediately due and payable without notice or demand to the Lessee.
  - b. Apply the Deposit toward any amount owing to the Lessor.
  - c. Commence legal proceedings to recover the Rent and other obligations accrued before and after the Event of Default.
  - d. Take possession of the Equipment, without demand or notice, wherever same may be located, without any court order or other process of law. The Lessee waives any and all damage occasioned by such taking of possession.
  - e. Terminate this Agreement immediately upon written notice to the Lessee.
  - f. Pursue any other remedy available in law or equity.

### **Assignment**

32. THE LESSEE WILL NOT ASSIGN THIS AGREEMENT, THE LESSEE'S INTEREST IN THIS AGREEMENT OR THE LESSEE'S INTEREST IN THE EQUIPMENT WITHOUT THE PRIOR WRITTEN CONSENT OF THE LESSOR.
33. If the Lessee assigns this Agreement, the Lessee's interest in this Agreement or the Lessee's interest in the Equipment without the prior written consent of the Lessor, the Lessor will have recourse to the Remedies and will be entitled to all damages caused by the transfer to the extent that the damages could not reasonably be prevented by the Lessor.
34. THE LESSOR WILL NOT ASSIGN THIS AGREEMENT, THE LESSOR'S INTEREST IN THIS AGREEMENT OR THE LESSOR'S INTEREST IN THE EQUIPMENT WITHOUT THE PRIOR WRITTEN CONSENT OF THE LESSEE. THE LESSOR WILL NOT ASSIGN OR TRANSFER THE LESSOR'S RIGHT TO COLLECT RENT OR ANY OTHER FINANCIAL OBLIGATION OF THE LESSEE.
35. If the Lessor assigns this Agreement, the Lessor's interest in this Agreement or the Lessor's interest in the Equipment without the prior written consent of the Lessee, the Lessee will be entitled to terminate this Agreement without penalty.

### **Additional Documents**

36. Upon written demand by the Lessor, the Lessee will execute and deliver to the Lessor documents required by the Lessor to protect the Lessor's interest in the Equipment including, but not limited to, the documents necessary to file a UCC financing statement.

### **Entire Agreement**

37. This Agreement will constitute the entire agreement between the Parties. Any prior understanding or representation of any kind preceding the date of this Agreement will not be binding on either Party except to the extent incorporated in this Agreement.

### **Address for Notice**

38. Service of all notices under this Agreement will be delivered personally or sent by registered mail or courier to the following addresses:

Lessor: T&D Jackson's Equipment, 6987 Dalewood Dr. Middletown Ohio 45042

Lessee: \_\_\_\_\_

**Interest**

39. Interest payable on any overdue amounts under this Agreement will be at a rate of \_\_\_\_\_ percent per annum or at the maximum rate allowed under applicable legislation, whichever is lower.

**Interpretation**

40. Headings are inserted for the convenience of the Parties only and are not to be considered when interpreting this Agreement. Words in the singular mean and include the plural and vice versa. Words in the masculine mean and include the feminine and vice versa.

**Governing Law**

41. It is the intention of the Parties to this Agreement that this Agreement and the performance under this Agreement, and all suits and special proceedings under this Agreement, be construed in accordance with and governed, to the exclusion of the law of any other forum, by the laws of the State of Ohio (the "State"), without regard to the jurisdiction in which any action or special proceeding may be instituted.

**Severability**

42. If there is a conflict between any provision of this Agreement and the applicable legislation of the State of Ohio (the "Act"), the Act will prevail and such provisions of the Agreement will be amended or deleted as necessary in order to comply with the Act. Further, any provisions that are required by the Act are incorporated into this Agreement.
43. In the event that any of the provisions of this Agreement are held to be invalid or unenforceable in whole or in part, those provisions to the extent enforceable and all other provisions will nevertheless continue to be valid and enforceable as though the invalid or unenforceable parts had not been included in this Agreement and the remaining provisions had been executed by both Parties subsequent to the expungement of the invalid provision.



**General Terms**

- 44. This Agreement may be executed in counterparts. Facsimile signatures are binding and are considered to be original signatures.
- 45. Time is of the essence in this Agreement.
- 46. This Agreement will extend to and be binding upon and inure to the benefit of the respective heirs, executors, administrators, successors and assigns, as the case may be, of each Party to this Agreement.
- 47. Neither Party will be liable in damages or have the right to terminate this Agreement for any delay or default in performance if such delay or default is caused by conditions beyond its control including, but not limited to Acts of God, Government restrictions, wars, insurrections, natural disasters, such as earthquakes, hurricanes or floods and/or any other cause beyond the reasonable control of the Party whose performance is affected.

**Notice to Lessee**

- 48. **NOTICE TO THE LESSEE:** This is a lease. You are not buying the Equipment. Do not sign this Agreement before you read it. You are entitled to a completed copy of this Agreement when you sign it.

**IN WITNESS WHEREOF** \_\_\_\_\_ has duly affixed its signature under hand and seal and T&D Jackson's Equipment has affixed its signature by a duly authorized officer under seal on this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_

T&D Jackson's Equipment

\_\_\_\_\_  
(Witness)

Per: \_\_\_\_\_ (c/s)

\_\_\_\_\_ (Witness)

\_\_\_\_\_  
\_\_\_\_\_ (Lessee)