



MASTER EQUIPMENT LEASE AGREEMENT & RENTAL CONTRACT



MASTER EQUIPMENT LEASE AGREEMENT and Rental Contract dated _____ between _____ with offices at _____ (hereinafter referred to as "Lessee"), and FRONTERA EQUIPMENT / BLUE CAT RENTALS with offices at 2300 Expressway 83, Donna, Texas (hereinafter referred to as "Lessor"), following List of Equipment. Lessor hereby leases to Lessee, and Lessee leases from Lessor, each item of machinery, equipment and other personal property described in the following List of Equipment (individually an "Item of Equipment" and collectively the "Equipment"), for use at such location, at such rental rate and for such time as is therein stated. It is contemplated that additional items of machinery, equipment and other personal property may be included under this Agreement from time to time by the execution of a Schedule setting forth, with respect to such additional items, the information called for in the List of Equipment set forth below. When such Schedule has been signed by the Lessee and signed and approved on behalf of Lessor as herein provided, such Schedule shall be considered an integral part hereof and each item of machinery, equipment or other personal property described therein shall be deemed to be an "Item of Equipment" as herein defined from the date of such Schedule to the same extent as if such item had been described in the following List of Equipment. Lessee shall keep the equipment located at the point of delivery stated herein below unless Lessee receives written permission from FRONTERA EQUIPMENT CO to move the equipment to another specified location. All payments by Lessee are to be made at Lessor's offices in Donna, Texas.

LIST OF EQUIPMENT

Table with 6 columns: Description of Items of Equipment, Serial No., Tax Yes or No, Agreed Value of Items of Equipment, Minimum Rental Period, Monthly Rental Rate, Applicable Warranty (List Card Numbers), New or Used. Includes rows for Special Inventory Tax, Transportation Charge, Texas H.E. Surcharge 2%, Sales Tax 8.25%, and a TOTAL row.

Delivery and Miscellaneous Instructions:

Lessee, at its own expense, shall do all loading, unloading, installing, dismantling and hauling, and shall pay all demurrage accruing at its own shipping and receiving point and all freight and switching charges in both directions.

2. Term and Lease Rentals. The terms of this Agreement shall be, with respect to each Item of Equipment, the Minimum Rental Period specified for such Item of Equipment above. Rental payments for each item of Equipment shall be made as follows:

2.1 Minimum Rental Period of One Month or More. With respect to each Item of Equipment leased for a Minimum Rental Period of one month or more, Lessee shall pay to Lessor on the date such Item of Equipment becomes subject to this Agreement and on the same day of each and every month thereafter until the later of (a) expiration of minimum rental period as expressed above or (b) until such Item of Equipment is returned to Lessor's yard (i) base rentals in the amount of the Monthly Rental Rate set forth above for such Item of Equipment; and (ii) in the event such Item of Equipment was used more than 200 hours during the month preceding the payment date, additional rentals in the amount equal to 1/200 of the Monthly Rental Rate for each hour of such Item of Equipment was operated during such preceding month in excess of 200 hours.

2.2 Minimum Rental Period of Less Than One Month. With respect to each Item of Equipment leased for a Minimum Rental Period of less than one month, Lessee shall pay to Lessor: (i) on the date such Item of Equipment becomes subject to this Agreement and on the same day of each of the next three weeks thereafter (unless such Item of Equipment is returned to Lessor's yard prior thereto): (a) base rentals in the amount of one-third (1/3) of the Monthly Rental Rate set forth above for such Item of Equipment; and (b) in the event such Item of Equipment was used more than 40 hours during the week preceding the payment date, additional rentals in the amount equal to 1/40 of the weekly charge for such Item of Equipment for each hour such Item of Equipment was operated during such preceding week in excess of 40 hours; and (ii) on the same day of each week thereafter beginning with the fourth week after such Item of Equipment becomes subject to this Agreement (a) base rentals in the amount of one-fourth (1/4) of the Monthly Rental Rate set forth above for such Item of Equipment and (b) in the event such Item of Equipment was used more than 40 hours during the week preceding the payment date, additional rentals in the amount equal to 1/40 of the weekly charge for such Item of Equipment for each hour such Item of Equipment was operated during such preceding week in excess of 40 hours.

Rental & Late Fees: For purposes of the foregoing, calculation of the rental period shall commence on the date an Item of Equipment has been notified by the Lessee to be on rent and shall terminate the later of (a) expiration of minimum rental period as expressed above or (b) until such Item of Equipment has been notified by the Lessee to be on off rent. Time is of the essence hereof, and if Lessee shall fail to pay any rental as herein provided the full amount of rent then unpaid hereunder shall become due and payable forthwith, and Lessor may at its option, in addition to and without prejudice to any other remedy, without notice or demand and without legal process, take possession of the equipment wherever it may be located, whereupon all rights of lessee to the Equipment shall terminate absolutely. Late payments shall bear interest at the highest contract rate permitted by law, but the payment of such interest shall not waive Lessor's right to terminate this Agreement as herein set forth. This Agreement is irrevocable for the full term hereof and for the aggregate rental reserved, and the rent shall not abate by reason of termination of Lessee's right of possession for failure to observe any provision of this Agreement.

3. Product Warranty, DISCLAIMER and Limitation. The only warranties, if any, applicable to any Item of Equipment are identified in the List of Equipment set forth in paragraph 1 hereof or in the Schedule relating thereto.

3.1 New products. Lessor and Lessee hereby agree that Lessor has not made any warranties, express or implied, regarding any new Item of Equipment leased by Lessee pursuant hereto and that Lessor has expressly DISCLAIMED ALL WARRANTIES, EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, ALL IMPLIED WARRANTIES OF MERCHANTABILITY AND OF FITNESS FOR A PARTICULAR PURPOSE. Lessee agrees that its sole and exclusive remedy, if any, for defects in materials or workmanship with respect to any new Item of Equipment shall be against the manufacturer or manufacturers thereof pursuant to the express, written warranty, if any, extended by such manufacturer or manufacturers with respect to such products and described in the Item of Equipment set forth in paragraph 1 hereof or in the Schedule relating to such Item of Equipment. If any such express, written warranty is to be in effect, Lessee hereby acknowledges that it has received, read and understands the terms of such warranty and that a description of the warranty (including the warranty card number relating thereto) is set forth in the Item of Equipment or in the Schedule relating to such Item of Equipment.

Approval. This Agreement shall not be binding upon Lessor until approved by an authorized officer or manager of Lessor, such approval to be evidenced by appropriate execution of this Agreement in the place provided herein therefor.

IN WITNESS WHEREOF, Lessor and the Lessee have caused these presents to be duly executed.

Signature lines for LESSOR and LESSEE. Lessor: FRONTERA EQUIPMENT / BLUE CAT RENTALS. Lessee: _____

THIS MASTER EQUIPMENT LEASE AGREEMENT AND RENTAL CONTRACT IS SUBJECT TO THE ADDITIONAL PROVISIONS SET FORTH ON THE REVERSE SIDE HEREOF SAME BEING INCORPORATED HEREIN BY REFERENCE

3.2. Used Products. Lessor and Lessee further agree that Lessor has not made any warranties, express or implied, regarding any used Item of Equipment leased by Lessee pursuant hereto and that Lessor has expressly **DISCLAIMED ALL WARRANTIES, EXPRESS OR IMPLIED, INCLUDING BUT NOT LIMITED TO ALL IMPLIED WARRANTIES OF MERCHANTABILITY AND OF FITNESS FOR A PARTICULAR PURPOSE** regarding any used Item of Equipment leased by Lessee pursuant hereto except for any express warranties specifically described in the List of Equipment set forth in paragraph one hereof or in the schedule relating to such Item of Equipment. The only warranties offered by Lessor with respect to used products are as follows: "Banded".

(i) **BONDED:** An Item of Equipment warranted against defective material or workmanship for a period of 60 days from lease date. No charge will be made for parts or labor if defect occurs and Lessor is notified in writing during the 60-day period.

Lessor and Lessee agree that Lessee's **SOLE AND EXCLUSIVE REMEDY** against Lessor under "BONDED", warranties shall be for the repair or replacement of defective parts as provided in the warranty or condition selected. Repair or replacement shall be at Lessor's discretion. Lessor will make every attempt to replace any equipment that can not be repaired in a timely manner. Rental payment will cease during the time the equipment is unavailable due to defective parts.

Lessee acknowledges and agrees that this Agreement contains all agreements between Lessor and Lessee, and such terms are hereby accepted by Lessee. Lessee further agrees and acknowledges that no verbal contracts, agreements, or warranties other than as written in this Agreement have been received or given and its signature on this Agreement acknowledges such fact.

4. Maintenance and Repair. Lessee shall not remove, alter, disfigure or cover up any numbering, lettering, or insignia displayed upon any Item of Equipment. Lessee shall see that the Equipment is not subjected to careless or needlessly rough usage. Lessee shall at its own expense maintain the Equipment and all additions, attachments and accessories in good mechanical condition and running order in strict accordance with the manufacturer's specifications and recommendations, and return it in its original condition less normal wear and tear or depreciation. Tires shall be the sole responsibility of Lessee, and Lessee agrees to return the Equipment with tires equal to those received less normal wear and tear. The expense of all maintenance and repairs made during the rental period, including labor materials, parts and other items, shall be paid by Lessee, except where covered by paragraph 3, shall become part of the Equipment and shall be the property of the Lessor.

5. Damage to Equipment. All risk of loss or damage to each Item of Equipment shall be borne by Lessee. Notwithstanding damage to an Item of Equipment, rental for such Item of Equipment shall continue to be paid by Lessee. Lessee shall have the responsibility for the repair of any damaged Item of Equipment, and Lessee shall repair, or cause to be repaired, each such damaged Item of Equipment promptly after the damage. In the event any Item of Equipment is destroyed, stolen or damaged to such extent that Lessee finds it undesirable or impossible to continue its use, Lessee shall immediately pay the remaining unpaid rental payments as to such Item of Equipment and all of Lessee's right, title, and interest in such Item of Equipment, together with any and all insurance rights it may have with respect to such Item of Equipment, shall be assigned to Lessor. To the extent not covered by insurance, Lessee shall indemnify Lessor against any and all loss and/or damage to Equipment.

The receipt and acceptance by the Lessee of any Item of Equipment shall constitute acknowledgement that such Item of Equipment has been accepted and found in good, safe, and serviceable condition, and fit for use, unless the Lessee makes claim to the contrary to Lessor by registered mail, return receipt requested, addressed to Lessor's office within three days after receipt of such Item of Equipment. The complaint shall set forth in detail the complete nature and the condition of the Equipment received. In the event of notice to Lessor by the Lessee that such Item of Equipment is not in good, safe, and serviceable condition and fit for use upon its arrival, Lessor shall have the right to put such Item of Equipment in good, safe and serviceable condition and fit for use, within a reasonable time, or to cancel this Lease.

6. Indemnity to Lessor. Lessee shall indemnify, protect and save and keep harmless Lessor, its agents, and servants, successors, and assigns from and against all losses, damages, injuries, claims, demands, and expenses, including reasonable legal expenses, arising out of the use, OR OPERATION by the lessee or, in the event Lessee's possession of any Item of Equipment terminates by virtue of Lessee's default hereunder, arising out of or resulting from the condition of any Item of Equipment sold or disposed of after use by the Lessee, to the extent permitted under the Constitution and laws of the State of Texas. Lessee shall notify Lessor in writing within five (5) days of institution of suit or the occurrence of any event which might be the basis of an adverse claim regarding any Item of Equipment. **THE INDEMNITIES AND ASSUMPTIONS OF LIABILITIES AND OBLIGATIONS HEREIN PROVIDED SHALL CONTINUE IN FULL FORCE AND EFFECT NOTWITHSTANDING TERMINATION OF THIS AGREEMENT, WHETHER BY EXPIRATION OF TIME, BY OPERATION OF LAW, OR OTHERWISE.**

7. Insurance. Lessee shall at its own expense keep each Item of Equipment insured, at the full value thereof, against all risks of direct physical loss or damage to the Equipment, and shall likewise insure all Equipment adequately against such other risks and in such amounts as Lessor may reasonably require and with insurance companies qualified to do business in the state in which the Equipment may be located, with losses, if any, payable to Lessor. Lessee shall deliver to Lessor the policies or evidence of insurance satisfactory to Lessor. The failure of Lessee to secure or maintain such insurance shall constitute a default under this Agreement. In the event of such default, Lessor may, but shall not be obligated to, effect such insurance and an amount equal to the cost of such insurance shall be deemed additional rental to be paid forth by Lessee.

8. Taxes. Lessee shall pay all sales taxes, use taxes, excise taxes, personal property taxes, assessments, and all other governmental charges, fees, fines, or penalties whatsoever, whether payable by Lessor or Lessee or others, on or relating to any of the Equipment or the use, registration, rental, shipment, transportation, delivery, or operation thereof, other than federal or state income and franchise taxes of Lessor, and shall file all returns required thereof and furnish copies thereof to Lessor to the extent permitted under the Constitution and laws of the State of Texas. Upon demand, Lessee shall reimburse Lessor for any such taxes, assessments, charges, fines, or penalties which Lessor may be compelled to pay in connection with any of the Equipment. Lessor will cooperate with Lessee and furnish Lessee with any information available to Lessor in connection with the Lessee's obligations under this paragraph.

9. Assignment and Sublease. Neither this Agreement nor Lessee's rights hereunder shall be assignable by Lessee without Lessor's prior written consent, and if the Lessee assigns this Agreement or any of its rights hereunder with the consent of Lessor as herein provided all of the conditions and obligations of this Agreement shall be binding upon Lessee's successors and assigns. Lessor may, without the necessity of prior consent or approval by Lessee, assign its rights and obligations under this Agreement, or may assign only its rights to receive lease rentals under this Agreement, and Lessee upon receiving written notice of any such assignment shall abide thereby. In the event Lessor assigns only its rights to receive lease rentals hereunder, Lessee agrees that it will, upon receipt of notice thereof, make payments of lease rentals to Lessor's assignee in accordance with such notice, that Lessee will make no attempt to off-set against such payments, any claim arising either under this Agreement or apart therefrom that Lessee may have against Lessor, that Lessee's obligations to Lessor's assignee shall exist and continue notwithstanding any total or partial invalidity of this Agreement, any right of rescission Lessee may have, or for any other reason, to the end that Lessee's obligation to pay rent to Lessor's assignee of lease rentals hereunder will have the same effect as if such promise was contained in a negotiable promissory note executed and negotiated by Lessee to a holder in due course. Assignment by the Lessor of its right to receive lease rental payments hereunder shall not relieve the Lessor of its obligations under this Agreement, and the Lessee agrees to look solely to the Lessor for enforcement of such obligations; provided, however, that in the event Lessor assigns all of its rights and obligations under the terms and provisions of this Agreement, Lessee agrees that upon receipt by it of notice of such assignment the assignee of Lessor shall thereafter be deemed to be the Lessor for all purposes, and the Lessee agrees thereafter to look only to said assignee for the performance of all of Lessor's obligations hereunder.

10. Title to Equipment. Lessor and Lessee expressly agree that all of the property subject to this Agreement is personal property and is in the nature of equipment as defined in the Uniform Commercial Code of the State of Texas, and that the same shall never be so attached or affixed to any real estate as to be or become a fixture. Lessor and Lessee further expressly agree that this Agreement is a contract of lease only, and that Lessee shall not acquire any title to any of the Equipment subject hereto. Lessee shall keep the Equipment free from any and all liens and claims, and shall not do so or permit any act or thing whereby Lessor's title or rights in and to any of the Equipment may be encumbered or impaired. Lessor and Lessee expressly agree that in the event any of the Equipment is now, or may hereafter be, subject to any security interest therein created by the Lessor, Lessee's rights hereunder in and to the Equipment are and shall be subordinate to any such security interest.

11. Lessee's Default. The following events shall constitute defaults on the part of Lessee hereunder: failure of Lessee to pay any installment of rental on the date which the same shall become due; failure to return equipment to Lessor upon date due; failure of Lessee to receive written permission from FRONTERA EQUIPMENT prior to changing the location of the equipment from the last location thereof which was agreed to in writing by FRONTERA EQUIPMENT; any breach or failure of Lessee to observe or perform any of its other obligations hereunder; insolvency or bankruptcy of Lessee or the making by Lessee of an assignment to the benefit of creditors, or the consent of Lessee to the appointment of a trustee or receiver, or the appointment without its consent, of a trustee or receiver for Lessee or for a substantial part of its property; the institution by or against Lessee of bankruptcy, reorganization, arrangement, insolvency or other debtor-relief proceedings. Upon occurrence of any such default, Lessor may, at its option and without notice to or demand on Lessee, declare this Agreement in default and thereupon all Equipment and all rights of Lessee therein shall be surrendered to Lessor. Lessor may, by its agents, take possession of the Equipment wherever found, with or without process of the law, and for this purpose may enter upon any premises of Lessee without liability for suit, action or other proceedings by Lessee and remove the same. Lessor may hold, use, sell, lease, or otherwise dispose of the Equipment of any Item of Equipment or keep any of them idle if Lessor so chooses, without affecting the obligations(s) of Lessee. With respect to Equipment that is the subject of a default by Lessee, Lessor shall be entitled to all sums due and unpaid plus all sums to become due as rental to the end of the respective rental period of each Item of Equipment as if this Lease had not been terminated and all other damage sustained by Lessor by virtue of such breach. Any repossession or resale of any Item of Equipment shall not bar an action for a deficiency as above provided, and, the bringing of an action or entry of judgment against Lessee shall not bar Lessor's right to repossess any or all the Equipment.

12. Operators. Unless otherwise mutually agreed in writing, Lessee shall employ all operators to operate and repair the Equipment during the rental period, and shall employ none who are not qualified to perform their respective duties.

13. Inspection. Lessor shall have the right to inspect Lessee's time records and to take copies and extracts therefrom and discuss such records with Lessee's officers and employees during regular business hours to determine whether additional rentals are payable hereunder.

14. Prohibited Use. Lessee will not operate the equipment in connection with any use, storage, handling, shipment, disposal or other use of hazardous or toxic substances, waste or other prohibited or dangerous contaminants, and Lessee will promptly notify Lessor if any such equipment is or becomes subject to contamination from any hazardous or toxic substances. Lessee agrees to indemnify, protect and save and keep harmless Lessor, its agents, servants, successors and assigns, from and against any and all losses, damages, injuries, claims, demands and expenses, including legal expenses, of whatever nature, arising out of the operation or use of the equipment in connection with any hazardous or toxic substances, waste or other prohibited or dangerous contaminants.

15. Compliance with Regulations. Lessee agrees to comply with and conform to all applicable municipal, county, state and federal laws relating to the operation of the equipment, including, without limitation, all laws relating to hazardous waste and toxic substances.

16. Miscellaneous Provisions. Any provision of this Agreement found to be prohibited by law shall be ineffective to the extent of such prohibition without invalidating the rest of this Agreement. This Agreement contains the entire understanding of the parties, and such understanding may not be modified or terminated except in writing signed by the parties. **THIS AGREEMENT SHALL BE GOVERNED BY THE LAWS OF THE STATE OF TEXAS.** For purposes of interpretation, the singular shall be deemed the plural and the plural deemed singular; the forms of masculine, feminine and neuter shall be deemed one and the same.

No delay or omission to exercise any right, power or remedy accruing to Lessor upon any breach or default by Lessee under this Agreement shall impair any such right, power or remedy of Lessor, nor be construed as a waiver of any such breach or default, or of any similar breach or default thereafter occurring; nor shall any waiver of a single breach or default be deemed a waiver of any subsequent breach or default. All waivers under this Lease must be in writing. All remedies either under this Lease or by law afforded to Lessor shall be cumulative and alternate.

In case any matter is written or typed into this printed Agreement other than such as is necessary to fill the blanks provided therein, such matter shall be deemed an addition to the Lease and it is specifically understood and agreed by the Lessee and the Lessor that such added matter is not in any manner whatsoever intended to alter the meaning or intention of the printed clauses of the Agreement and in case of conflict and inconsistency between the printed portions and the written or typed additions, the printed portions shall control and any written or typed clauses in conflict therewith shall be treated as void.

