

RUSH

MASTER LEASE/RENTAL AGREEMENT

This Master Lease/Rental Agreement (this "Agreement"), is made _____, ____, 20__ between Rush Truck Leasing, Inc., a Delaware corporation, with offices at 8810 IH-10 East, San Antonio, Texas 78219 ("Owner"), and _____, whose address is _____ ("Customer").

W I T N E S S E T H:

WHEREAS, Owner is the owner of certain equipment and is engaged in the business of leasing/renting such equipment; and

WHEREAS, Customer desires to lease/rent certain equipment for commercial use;

NOW THEREFORE, in consideration of the following mutual promises and covenants, Customer and Owner hereby agree as follows:

1. **DESCRIPTION OF LEASED/RENTED EQUIPMENT.** Owner agrees to lease/rent to Customer, and Customer agrees to lease/rent from Owner the equipment described on the attached Schedule(s), as amended and/or supplemented from time to time, executed by Customer and Owner and made part of this Agreement (individually, an "item of Equipment" and collectively, the "Equipment").
2. **TERM; CHARGES.** The Agreement shall become effective with respect to each item of Equipment on the date such item of Equipment is delivered by Owner to Customer, and shall continue for the term specified on the applicable attached Schedule(s) unless terminated earlier as provided hereinafter. In consideration for the lease/rental by Owner to Customer of the Equipment, Customer agrees to pay base lease/rental payments and other charges as specified on the applicable attached Schedule(s) and in this Agreement.
3. **ACCEPTANCE AND INSPECTION.** By accepting delivery of any item of Equipment, Customer acknowledges and accepts the warranty and limitations with respect thereto as set forth in Paragraph 4 and Paragraph 5, respectively, and further acknowledges and represents that Customer has inspected each item of Equipment and concluded that it is in proper operating or serviceable condition and that it has been selected by Customer as adequate and sufficient for Customer's intended uses. Customer is responsible to provide all O.S.H.A., federal, and state required safety equipment. Customer assumes all responsibility for the care and use of each item of Equipment and agrees to pay to Owner, in addition the base rental payments and all other amounts required to be paid to Owner hereunder, an amount equal to all damages to and losses with respect to any item of Equipment.
4. **WARRANTY. OWNER LEASES/RENTS EACH ITEM OF EQUIPMENT TO CUSTOMER "AS IS" AND MAKES NO WARRANTIES REGARDING ANY ITEM OF EQUIPMENT (INCLUDING, WITHOUT LIMITATION, (a) THE BODY, ENGINE, TRANSMISSION, DRIVETRAIN, AND ANY OTHER MECHANICAL PART OF ANY ITEM OF EQUIPMENT, (b) THE ELECTRICAL SYSTEM OF ANY ITEM OF EQUIPMENT, (c) ANY ACCESSORIES ON ANY ITEM OF EQUIPMENT AND (d) ANY OPTION ON ANY ITEM OF EQUIPMENT), WHETHER EXPRESS OR IMPLIED, INCLUDING, WITHOUT LIMITATION PERFORMANCE GUARANTIES AND IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, ALL OF WHICH ARE EXPRESSLY EXCLUDED.** Owner shall not be liable for any direct, indirect, incidental or consequential damages or losses resulting from the operation or use of any item of Equipment, including, without limitation, damages for loss of business profits or business interruption. In addition, Owner shall not be responsible for any loss, damage or claim caused by or attributable to any defect or deficiency in any item of Equipment whether arising out of such item of Equipment's manufacture, design or otherwise.

Customer agrees that Owner does not guarantee performance of any item of Equipment and Customer hereby waives and releases Owner from any losses or claims due to the non-performance of any item of Equipment, the inability of any item of Equipment to perform a task, repair time required for any item of Equipment and/or any other cause.

Customer's Initials: _____

Owner's Initials: _____

5. **LIMITATION OF LIABILITY. OWNER'S LIABILITY WHETHER IN CONTRACT OR OTHERWISE, WITH RESPECT TO THIS AGREEMENT AND/OR ANY ITEM OF EQUIPMENT SHALL IN NO EVENT EXCEED THE AMOUNT RECEIVED BY OWNER FROM CUSTOMER UNDER THIS AGREEMENT ATTRIBUTABLE TO SUCH ITEM OF EQUIPMENT.**

6. **TAXES; LICENSES; PERMITS; RELATED FEES.** Customer acknowledges that the base payments are exclusive of any federal, state, or local taxes and license or registration fees now in force or hereafter imposed, unless otherwise specified herein or on the attached Schedule(s). Customer shall pay all sales, use and other taxes and all fees and charges that are levied on any item of Equipment during the term of this Agreement. Customer shall also pay all taxes (other than income taxes) that are charged to Owner by reason of Owner's interest in any item of Equipment. Unless otherwise specified herein or on the attached Schedule(s), Customer shall, at Customer's sole expense, (a) license and register each item of Equipment to the extent required by federal, state, and local law or regulations and (b) maintain such licenses and registrations in full force and effect throughout the term of this Agreement. Customer shall furnish to Owner copies of any filings required under this Agreement.

7. **MAINTENANCE; REPAIR; TIRE WEAR.** Customer shall provide and pay for all gas, oil, anti-freeze fluid, lubrication and routine servicing for each item of Equipment. Subject to reasonable and normal wear and tear, unless otherwise stated in the attached Schedule(s), Customer shall keep each item of Equipment in good operating condition and repair and shall pay the costs of all repairs to each item of Equipment. All service and repairs shall be done when needed, but in any event no less often than as set forth in the owner's manual for such item of Equipment, receipt of which owner's manual is hereby acknowledged by Customer. Tread depth measurements of the Equipment's tires shall be made and documented immediately prior to the delivery of the Equipment. All tire repair and servicing is the responsibility of Customer, unless otherwise stated on the attached Schedule(s). Customer shall provide to Owner a record of all the foregoing maintenance and repair.

Customer agrees not to cause or permit Customer's drivers, employees or agents to make any repairs or adjustments to any item of Equipment or to tamper with the governors on any item of Equipment. In all cases of defect or failure or when repairs are necessary, Customer shall notify Owner by the speediest means of communication available giving a description of the repairs needed and the location of the item of Equipment. Customer shall further abide by Owner's directions concerning emergency repair service. Owner shall not be responsible for any repair of or service to any item of Equipment by a third party unless expressly authorized in advance by Owner.

Upon return of each item of Equipment, in addition to the other amounts due hereunder, Customer shall be charged and agrees to pay charges for (a) any damage or loss, other than normal wear and tear, to any item of Equipment, (b) excessive clean-up required for any item of Equipment, and (c) the cost of any fuel provided by Owner.

8. **PURCHASE OF EQUIPMENT.** If, but only if, specified on a Schedule, and further provided that Customer is not in default under this Agreement, Customer shall have the option to purchase the Equipment from Owner at the end of this Agreement at the purchase price stated on the Schedule. Customer shall notify the Owner sixty (60) days prior to the expiration of this Agreement if Customer desires to purchase the Equipment. If applicable, Owner shall deliver title to Customer within fifteen (15) business days after payment to Owner of the purchase price, plus taxes and all other debts of Customer due to Owner as set forth herein. Customer shall have no interest in the Equipment as a result of this option until the exercise by Customer of the option and payment in full to Owner of all amounts due from Customer to Owner in connection with this Agreement.

9. **INSURANCE.** Customer shall bear the risk of loss and damage to the Equipment during the term of this Agreement and shall be fully responsible for the cost of, at Owner's option, replacing or repairing any damage to any item of Equipment. Customer shall also be liable for all damages and injuries to persons and property involving any item of Equipment during the term of this Agreement. Customer is required to carry insurance of the following kinds and in the amounts specified for the term of this Agreement: (1) all risks of physical damage insurance (including collision, upset and overturn) on Equipment in an amount adequate to replace the Equipment with Owner named as Loss Payee, a Deductible not to exceed \$2,500, and with the Waterborne Exclusion, Boom Overload Exclusion and Boom Exclusion deleted; (2) General Liability Insurance written on an Occurrence Form providing a Combined Single Limit of at least \$5 million per occurrence for Bodily Injury and Property Damage (\$1 million per occurrence for refuse equipment) with an Annual Aggregate of \$10 million (\$2 million Annual Aggregate for refuse equipment), with deductible amounts to be approved by Owner; (3) Automobile Liability Insurance providing a Combined Single Limit of at least \$5 million per occurrence for Bodily Injury and Property Damage (\$1 million per occurrence for refuse equipment) covering all Owned, Hired and Non-Owned Automobiles, with deductible amounts to be approved by Owner; (4)

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Owner's Initials: _____

Workers' Compensation Insurance providing Statutory Coverage for all employees in all states where the Customer operates or has employees with Employers' Liability Insurance coverage limits of at least \$1 million for Bodily Injury By Accident or Disease. When Equipment is being used at a petrochemical installation, the General and Automobile Liability Insurance limits must be increased to \$10 million with a \$20 million Annual Aggregate. Customer is required to provide Owner with evidence of such insurance satisfactory to Owner, in Owner's sole discretion. All liability policies, except Workers' Compensation and Employers' Liability, must be endorsed to name "Rush Enterprises, Inc. and its subsidiaries and its affiliates, successors and assigns, and PACCAR Leasing Company, as their interests may appear" as additional insureds ("Additional Insureds"). In addition, Customer, as well as any and all of Customer's insurer(s) and or reinsurer(s), agree to waive any and all subrogation rights against Rush Enterprises, Inc. and its subsidiaries and affiliates. The Workers' Compensation policy and all liability policies must be endorsed to include the waiver subrogation. Customer's insurers shall be obligated to give Owner 30 days' prior written notice of their intent to cancel or alter Customer's insurance. Customer hereby authorizes Owner to receive or collect any money paid under the insurance policies, endorse checks and drafts relating to payment, cancel the insurance or settle or release any claim with respect to the insurance coverages. Regardless of whether or not the Equipment is insured, Customer shall pay the base rental payments for the Equipment during the term of this Agreement in the event the Equipment is lost, damaged or destroyed. **EQUIPMENT INSURANCE AND/OR LIABILITY INSURANCE IS NOT PROVIDED BY OWNER.**

10. ACCIDENT REPORTING. Customer shall notify Owner within twenty-four (24) hours of any accident or occurrence involving any item of Equipment in which a person or property is, or is claimed to be, injured or damaged.
11. USE, LOCATION AND MARKING OF EQUIPMENT. Customer shall have the sole use, control and responsibility for each item of Equipment until it is returned to Owner. Customer hereby affirms that it is leasing/renting each item of Equipment for a business, agricultural or commercial purpose and that no item of Equipment shall be used for personal, family or household uses. Customer shall obey all federal, state, and local laws and regulations in using each item of Equipment and shall only allow any item of Equipment to be used by competent and qualified personnel. Customer shall use each item of Equipment only in the state where it was titled and/or registered as of the commencement of this Agreement, unless (a) Owner gives Customer written permission to use it in another state, or (b) Customer's use of any item of Equipment in another state is for not more than 30 days. In no event shall Customer transport or use any item of Equipment outside the United States of America without obtaining the prior written consent of Owner, which consent may be granted or withheld in Owner's sole and absolute discretion. Customer shall not place any sign or mark on any item of Equipment without Owner's consent and Customer shall pay the costs of removing the sign or markings and all needed repairs that are caused by such removal.
12. INDEMNITY. Customer agrees to defend, indemnify, and hold Owner and its parent company, affiliates, officers, employees, agents and representatives harmless from and against any and all claims, causes of action, damages, demands, liabilities, and expenses of any kind (including without limitation attorney's fees, fines and penalties) relating to or arising out of the ownership, maintenance, possession, use, operation, control or storage of each item of Equipment, and/or contents thereof, covered by this Agreement, including, without limitation, any injury to persons and/or property. The provision of this Paragraph 12 shall survive expiration or termination of this Agreement. Nothing contained in Paragraph 9 or Paragraph 10 shall be construed to limit the provisions of this Paragraph 12. If Customer fails to pay any fine(s) and Owner pays the same, Customer shall continue to be responsible for the amount of the fine(s) and shall also pay Owner a \$20.00 administration charge each time Owner is required to pay a fine on behalf of Customer.
13. TITLE AND OWNERSHIP. The Equipment shall at all times remain the property of Owner and Customer shall have no right or property interest therein during the term of this Agreement. Owner shall have the right to display notice of its ownership of the Equipment by affixing an identifying plate, stencil or other indicia of ownership on any item of Equipment. Upon Owner's request, Customer shall execute and pay all filing costs of UCC financing statements, including, without limitation, continuation statements, deemed appropriate by Owner, covering any item of Equipment and setting forth Owner's interest therein. Customer shall not pledge, encumber or permit any lien to attach to any item of Equipment.
14. DEFAULT. Time is of the essence of this Agreement. The due dates for base payments and the performance of the other obligations of Customer under this Agreement are among its most crucial provisions. The occurrence of any of the following events shall constitute a default hereof: (a) Customer shall fail to pay on or before the due date the full amount of any payment (including, without limitation, any base payment), tax, insurance premium or other obligation of Customer under this Agreement, (b) Customer shall fail to perform any other of Customer's obligations under this Agreement, (c) Customer shall attempt to remove, sell, transfer, sublease, encumber, or otherwise transfer, dispose or part with possession of any item of

Customer's Initials: _____

Owner's Initials: _____

Equipment without Owner's prior written consent, (d) Customer shall make any false or misleading statement to Owner in connection with this Agreement, (e) any check, note or other instrument given for any payment under this Agreement, shall be dishonored when presented for payment, (f) Customer shall become insolvent or shall become the subject of a petition in bankruptcy, either voluntarily or involuntarily, or shall make an assignment for the benefit of creditors or shall be named or subjected to a suit for the appointment of a receiver, (g) any item of Equipment shall be seized or levied upon by reason of any legal or governmental process directed against Customer, (h) Owner shall reasonably deem any item of Equipment to be in danger of misuse, confiscation, damage or destruction or (i) Customer shall violate, neglect or fail to observe, keep or perform any covenant, agreement or stipulation to be observed, kept or performed by Customer under this Agreement.

15. **REMEDIES.** In the event of any default by Customer under this Agreement, Owner shall have all of the rights and remedies permitted at law and in equity. Customer acknowledges and agrees that Owner shall be entitled to exercise any and all available rights and remedies in any combination or sequence not expressly prohibited by law. Unless prohibited by law, Owner's available rights and remedies in the event of a default by Customer include, without limitation, (a) suing for and recovering all accrued and thereafter accruing amounts owing under this Agreement, (b) requiring Customer to assemble any item of Equipment or all of the Equipment, to make the same available to Owner at a reasonable time and place designated by Owner, and to put Owner in possession thereof, (c) immediately and without legal proceedings or notice to Customer (and at Customer's expense) and without liability for any damages occasioned by such taking of possession, entering Customer's premises, taking possession of, removing and retaining any item of Equipment or all of the Equipment or rendering the same unusable, (d) without notice to Customer, terminating this Agreement as to any item of Equipment or all of the Equipment, but such termination shall not release Customer from the liabilities and obligations arising from such breach, (e) filing a construction lien on Customer's projects, (f) selling or otherwise disposing of any item of Equipment or all of the Equipment, whether or not in possession, with or without notice to Customer, at private or public sale, or re-leasing/re-renting any or all of the same on such terms and conditions as Owner deems appropriate and (g) utilizing any and all other remedies at law or in equity available to Owner. In the event that Owner re-leases, re-rents, sells or otherwise disposes of any item of Equipment, Customer shall receive a credit against amounts due to Owner under this Agreement equal to the net proceeds of such action, after deducting all cost of such re-lease, re-rent and sale. Unless otherwise required by applicable law, any remaining net proceeds shall belong solely to Owner. Irrespective of the remedies exercised by Owner hereunder, Customer shall continue to remain liable for any amounts due to Owner hereunder after application of the net proceeds as set forth above.

Customer hereby expressly waives any rights it may have to possession of any item of Equipment after default and all claims it may have for damages or injuries suffered through or loss caused by any repossession, sale or other disposition of any item of Equipment hereunder. Customer agrees that any property, other than an item of Equipment, which is in or upon any item of Equipment at time of repossession may be taken and held without liability until its return is requested by Customer. Customer hereby acknowledges and agrees that any applicable standard of commercial reasonableness shall be satisfied if Owner sells or otherwise disposes of any item of Equipment by any method which is customarily used for similar items of Equipment, or which Owner has used or would use for similar items of Equipment owned solely by Owner, even if Customer believes or proves that a different method of disposition would have been more beneficial for Customer.

Nothing herein contained shall require Owner to re-lease, re-rent, sell or otherwise dispose of any item of Equipment.

Owner's remedies are cumulative and may be exercised concurrently and repeatedly and the exercise of one remedy shall not be deemed an election of remedies. No waiver of a default is a waiver of any other default or subsequent breach of this Agreement by Customer. In addition to all other charges provided under this Agreement, Customer agrees to pay all removal, freight, storage, labor and other charges and costs insured by Owner as a result of Customer's breach of this Agreement.

16. **PAYMENT; DELIQUENCY CHARGES.** Customer agrees to pay to Owner all base payments and other amounts set forth in this Agreement, including Schedule A, Schedule B or Schedule C, as applicable, without deduction or setoff. All base payments shall be invoiced in advance; provided, however, mileage and all charges other than fixed charges shall be invoiced in arrears. All payments shall be delivered to Owner at the address set forth above, or at such other address as may be designated in writing from time to time by Owner. All amounts due to Owner hereunder shall be paid within ten (10) days after the date of the invoice.

Customer acknowledges that Customer's failure to timely pay all base payments or any other amounts which become owing to Owner during the term hereof shall cause Owner to incur costs not contemplated by this Agreement, the exact amount of

Customer's Initials: _____

Owner's Initials: _____

which shall be difficult to ascertain. Such costs include, without limitation, processing and accounting charges. Accordingly, for each base payment or other amount due to Owner hereunder which is not paid within ten (10) days after it is due, Customer agrees to pay Owner a delinquency charge calculated thereon equal to the greater of (a) interest at the rate of one and one-half percent (1 ½ %) per month on such unpaid base payment or other amount due hereunder calculated from the day the same is due until Owner receives payment thereof or (b) five percent (5%) of such base payment or other amount due hereunder; **provided, however**, that in no event shall such delinquency charge exceed the maximum amount permitted by applicable law. Customer shall also pay all reasonable costs of collection, including attorney's fees incurred by Owner in the collection of any amounts owing to Owner hereunder.

17. **TERMINATION.** Except as otherwise set forth herein, this Agreement shall terminate with respect to each item of Equipment upon the occurrence of all of the following events with respect to each item of Equipment: (a) the end of the term of this Agreement for such item of Equipment as stated on the attached Schedule(s), (b) the return of such item of Equipment to Owner, and (c) the payment by Customer of all amounts owed to Owner under this Agreement. Notwithstanding the foregoing, Owner may (i) immediately terminate this Agreement pursuant to Paragraph 15 if Customer defaults under this Agreement and (ii) terminate this Agreement upon giving thirty (30) days' prior written notice to Customer, at Owner's sole and absolute discretion.

18. **RETURN OF EQUIPMENT.** Upon the expiration of this Agreement for any item of Equipment, Customer shall return, at Customer's sole expense, such item of Equipment to Owner at the address shown above or to such other place as Owner may direct. Unless stated otherwise on the attached Schedule(s), each item of Equipment shall be returned by Customer in the same condition as when received by Customer. Customer shall pay to Owner on demand, the cost of any repairs necessary to place any item of Equipment in the condition required by this Agreement. A recovery charge of \$10.00 per mile shall be charged against and shall be paid by Customer if any item of Equipment is not returned by Customer at the termination of this Agreement.

If Customer retains possession of any item of Equipment after the expiration of the term of this Agreement or the prior termination of this Agreement pursuant to Paragraph 15 or Paragraph 17, Customer shall continue to pay the base payments and other charges as set forth herein and on the attached Schedule(s). Acceptance of such base payments by Owner, however, shall not be deemed a renewal of this Agreement and Customer shall pay Owner any damages which Owner may incur because Customer fails to return any item of Equipment as required herein.

19. **DEPOSITS.** If Customer fails to pay any base payment or any other amount under this Agreement when due, Owner may use, apply and retain all or any portion of any of Customer's deposits for payment or satisfaction of the amounts owed to Owner, or to compensate Owner for any loss or damage which Owner may suffer as a result of Customer's default. Customer shall continue to remain liable for any amounts due Owner hereunder after application of any deposit.

20. **USE; ASSIGNMENT.** This Agreement is between Owner and Customer alone and the Equipment must be used exclusively by Customer or Customer's employees. This Agreement may not be assigned, or any item of Equipment subleased by Customer without Owner's prior written consent. Owner may assign this Agreement and any or all base payments or other amounts payable by Customer hereunder. Upon notice of such assignment by Owner, Customer shall pay such amounts to the assignee without offset, counter-claim or defense of any kind. Owner may also execute any type of security instrument with respect to any item of Equipment and Customer's rights shall be subordinate to the rights of the holder of such instrument.

21. **NOTICES.** All notices, demands, requests, base payments and other payments required to be made under this Agreement shall be in writing and shall be either delivered personally, or mailed, postage prepaid, to the address indicated above, or to such other addresses as either party may designate to the other by a written communication to the other party in accordance with this Paragraph 21. Notices shall be deemed effective on the day of delivery if delivered personally or on the fifth (5th) business day following mailing.

22. **GOVERNING LAW; VENUE.** This Agreement shall be governed by the laws of the State of Texas, exclusive of its conflict of law rules. The venue of any legal action to collect or enforce the obligations under this Agreement shall be in Bexar County in the State of Texas. Any legal action regarding this equipment must be filed only in Bexar county Texas.

Customer's Initials: _____

Owner's Initials: _____

23. **ENTIRE AGREEMENT; SEVERABILITY.** This Agreement and the Schedule(s) attached hereto, set forth all of the agreements of Owner and Customer for the lease/rental of each item of Equipment, and supersedes any and all prior understandings or agreements, both oral and/or written, between and among the parties respecting the Equipment. Except for taxes and insurance charges on Schedule A and/or Schedule B and/or Schedule C, as applicable, this Agreement and the attached Schedule(s) cannot be modified unless in a written statement signed by both parties. If any term, provision or agreement contained in this Agreement is held by a court of competent jurisdiction to be invalid, void or unenforceable, the remaining terms, provisions and agreements shall in no way be affected, impaired or invalidated. The parties to this Agreement shall negotiate in good faith to agree on replacing any invalid, illegal, or unenforceable provision with a valid, legal, and enforceable provision which, in effect, shall, from an economic and legal perspective, most fairly approach the effect of such invalid, illegal, or unenforceable provision.
24. **ATTORNEY'S FEES.** In the event Owner engages an attorney to enforce any provision of this Agreement, Customer agrees to pay to Owner upon demand an amount equal to Owner's reasonable attorney's fees.

NOTICE TO CUSTOMER

- (1) **DO NOT** sign this Agreement before you read all six (6) pages of it or if it has any blank spaces to be completed.
- (2) You have the right to a completed copy of this Agreement,
- (3) Customer states that Customer has read this Agreement and Schedule(s) attached hereto and has been given a complete and fully executed copy thereof at the time this Agreement has been executed by both Customer and Owner.

CUSTOMER:

By: _____
(Signature)

Name: _____
(Type or Print)

Title: _____
(Type or Print)

Date: _____
(Type or Print)

OWNER:

RUSH TRUCK LEASING, INC.

By: _____
(Signature)

Name: _____
(Type or Print)

Title: _____
(Type or Print)

Date: _____
(Type or Print)

Customer's Initials: _____

Owner's Initials: _____