TERMS AND CONDITIONS OF RENTAL CONTRACT – RIVER RAIL RENTALS LLC

For good and valuable consideration, you and River Rail Rentals LLC, a Tennessee limited liability company (also referred to herein as "Lessor," "RRR," "we," "us" and "our"), agree as follows:

1. DEFINITIONS: As used herein, "P.1" refers to the first page or "face" of this Contract; "Contract" refers to P.1 together with these Terms and Conditions; "Rented Item(s)" or "Item(s)" means the item(s) rented to you, as identified on P.1 (including any "Instructions" and/or safety devices provided per Section [or "§"] 5 below); "Site" means the address set forth on P.1 where the Item(s) is/are to be delivered and/or used; and "Customer," "Lessee," "you" and "your" mean the "Renter," "Customer," "Lessee" and/or "Guarantor" (as applicable) identified on P.1.

2. TERMS: You agree to rent from RRR the Rented Item(s) for the period(s) specified on P.1 (the "Term"), to pay us our stated rental rate(s) (the "Rent") together with all other charges accruing hereunder, without proration, reduction or setoff, and to remain liable for all loss, theft, injuries, and damages of, to, or associated with such Item(s), until all Rented Item(s) is/are returned to *and accepted by* RRR in the return condition required under this Contract (including § 6). Unless otherwise specifically agreed by RRR in writing, all rental rates are for normal use of the Item(s) on a *single-shift* basis during the Term, not exceeding 8 hours per 24-hour period for which Rent is charged hereunder (each, a "Rental Day"), 40 hours per 7-Rental Day period, or 160 hours per 28-Rental Day period. Zero hours are permitted for any and all uncharged-for periods. Additional Rent at our highest incremental rate will be charged for late returns and overuse. You will not be entitled to any cancellation right or reduction of Rent or other amounts coming due hereunder to account for time in transit, Act(s) of God, event(s) of *force majeure,* or any other period(s) of nonuse. We have estimated the Rent based on your estimate of the length of the Term (the "Estimated Rent"). Unless otherwise agreed by RRR in writing, you agree: (a) to pay us the Estimated Rent specified on P.1 together with any deposit(s) specified on P.1, including any security deposit we may require in advance of the Term (together, the "Prepayment"); and all other amounts coming due hereunder upon demand; and (b) that: (i) we may deduct any amounts you owe us from any Prepayment; (ii) no interest will accrue on any Prepayment; (iii) no Prepayment will be deemed a limit of your liability to us; and (iv) all Prepayments are **NON-REFUNDABLE**, except any unapplied security deposit balance. You agree to fully and timely pay all applicable taxes (including all sales, use, fuel and other taxes), tolls, fines, fees, assessments, and other charges related to each Item and/or the transactions contemplated in this Contract. All amounts due hereunder but not timely paid will bear interest at the lesser of 18% per annum or the highest rate permitted under applicable law. You authorize us to charge all amounts coming due hereunder to any debit and/or credit card(s) you provide (up to 150% of the new replacement cost of the Item(s)). You agree to pay us the maximum lawful charge for any returned check.

3. SERVICES: You will ensure that the Site is reasonably clean, safe, secure, and fit for delivery and use of the Item(s). If we agree to provide any services (e.g., delivery, retrieval, servicing or maintenance), you will: (a) pay our regular charge(s) therefor, and for all waiting time; (b) be present at the Site at the agreed times; and (c) ensure our personnel have full access to the Site at all times. We are not responsible for delays caused by any acts or omissions of/by you, your agents, employees or contractors, or other parties, including providers of other equipment or services ("Other Providers") for which you agree to indemnify, defend, and hold harmless RRR, its agents, employees, and contractors. If you are not present upon delivery or retrieval of any Item(s), you agree to accept the statements of our representatives and delivery personnel regarding the same (including status, condition, quality, utility, defects, and quantities of or with respect to the Item(s) and the Site). Anything remaining with, in, or on any Item(s) upon return will, at our option, be deemed abandoned.

4. TITLE/OWNERSHIP: RRR owns and shall retain title to all Rented Item(s) at all times. **You will have exclusive control over the Item(s) during the Term;** *subject to* your obligation to always fully and timely comply with this Contract. You **SHALL NOT (nor shall you allow anyone else to)** permit the taking or existence of any lien, claim, security interest, or encumbrance on any Rented Item(s); have any title or ownership interest in or with respect to any Item(s); or **loan, share, transfer, sublease, store, surrender or assign any Rented Item(s) or this Contract, without our prior written consent (in our sole and absolute discretion), and any attempt(s) to do so SHALL, at RRR's option, BE VOID**. RRR may substitute the Item(s) and/or sell or assign all or any part of its interests in one or more Item(s) and/or this Contract, in which event, you will attorn to the assignee, who will not be responsible for any pre-existing obligations or liabilities of RRR.

5. INSTRUCTIONS: Upon the earlier of your receipt or the delivery to the Site of the Item(s), unless you immediately reject it/them, you represent, warrant, acknowledge and agree that: (a) each Item: (i) is complete and in good order, condition and repair, fully charged and/or fueled (as applicable); (ii) is appropriate for your purposes and in all ways acceptable to you; and (iii) was selected not based on any recommendation by us, carefully examined, counted and tested by you and/or your agent(s); and (b) you: (i) have carefully reviewed and understand all laws, rules, regulations, training, instructions, user manuals, maintenance requirements, and other information, if any, including all OSHA, MSHA, IBC, IFC, IEEE, ASSP, DOT, FMCSA, ANSI and other standards, applicable to the Item(s) (collectively, "Instructions"); (ii) will fully comply therewith (*including Tier 4, Silica Dust, Ventilation, AWP training and familiarization, charging, fueling, cleaning, voltage, and site assessment requirements*); (iii) have been made aware of the need to use all applicable personal protective equipment and safety devices (including without limitation, **FALL AND RESPIRATORY PROTECTION DEVICES**); (iv) will use each Item only for **its *Intended Purpose*** (that is, the purpose(s) for which it was designed and manufactured) in a reasonable and safe manner; (v) will timely give all applicable notices to, and obtain all applicable licenses, authorizations, permits and approvals from, all affected parties, including governmental authorities, utilities, cable companies and the owner(s) of the Site, and ensure that all underground lines, cables and conduits are clearly and properly marked before using any Item(s) to disturb the ground surface (**Call 811 and go to www.Call811.com at least 3 full working days in advance**); (vi) will promptly notify the authorities and RRR in the event of any theft or accident involving the Item(s); (vii) will comply and ensure that all others comply with this Contract at all times; and (viii) agree to notify RRR if any of the above requirements is/are breached, incorrect or misleading.

6. CARE OF RENTED ITEMS: You agree to protect, properly maintain and care for all Item(s) at all times, keep the Item(s) safely stored and locked when not in use, and return the Item(s) to us on time at the end of the Term, complete (with all original batteries, cords, attachments and peripherals), clean, free of contamination (e.g., any fuel contaminants, asbestos, beryllium, silica and/or pathogens) or paint damage, in good order, condition, and repair, properly serviced and maintained, and if applicable, fully charged and/or full of the appropriate clean and uncontaminated fuel, fluids, and lubricants. If you fail to comply, you will promptly pay RRR, in addition to the amounts specified on P.1: (a) Rent at our highest incremental rate(s) until all such Item(s) have been returned or replaced as required; and (b) all costs and expenses we incur in connection with such failure. **You shall not**, nor shall you permit anyone else to: (i) **text, email or otherwise use any handheld communication device while operating any Item(s)**; (ii) use any Item(s) while under the influence of any intoxicant(s) (including, without limitation, **CANNABIS, CANNABINOIDS AND ALCOHOL, WHETHER OR NOT LEGAL OR MEDICINAL**); (iii) abuse, misuse, overuse, conceal, store with any third party, repair, modify or damage any Item(s); (iv) violate any law, Instruction, insurance policy or warranty; (v) expose any Item(s) to any flammable, explosive, harmful or hazardous substance(s) or circumstance(s); (vi) disable, misuse or circumvent any safety equipment or device(s) in, on or with any Item(s); or (vii) take possession of or exercise control over any Item(s), without our prior consent.

7. MALFUNCTIONS: You agree (and shall cause all others using the Items) to immediately cease using any Item that is damaged, breaks down, or proves defective (a "Malfunction"). In the event of a Malfunction, you will immediately notify and return the Malfunctioning Item(s) to RRR. Provided that the Malfunction did not result from or in connection with any wrongful or negligent act or omission of/by you or anyone you permit to use or otherwise deal with any Item, or your breach of any provision of this Contract, RRR will, at its option: (i) repair the Malfunctioning Item; (ii) provide you with a comparable item; *or* (iii) solely with respect to the Malfunctioning Item, return the unused portion of the Rent and cancel this Contract. **The foregoing remedies are EXCLUSIVE**. RRR shall not have any other obligation(s) regarding Malfunctions (including without limitation loss of income, jobsite delay penalties, project delays or any other loss-of-use claim) all of which **YOU WAIVE, TOGETHER WITH ALL INCIDENTAL, CONSEQUENTIAL, SPECIAL, EXEMPLARY AND PUNITIVE DAMAGES.**

8. SAFETY WARNINGS: The Item(s) can be **DANGEROUS** and should be fueled, charged, maintained, and used with **EXTREME CARE. ONLY: FOR ITS/THEIR INTENDED PURPOSE AND BY PROPERLY QUALIFIED, INSTRUCTED, TRAINED, FAMILIARIZED, AND (IF APPLICABLE) LICENSED, ADULT USERS AND OPERATORS.** YOU AGREE TO PROVIDE ALL APPLICABLE FAMILIARIZATION, TRAINING, INSTRUCTIONS AND WARNINGS and ensure that each Item is fueled, charged, used, operated and occupied safely and only: (a) **for its Intended Purpose**; (b) within its rated capacity; (c) ***at the Site*** (unless otherwise specifically agreed by RRR); (d) by properly trained, qualified, certified and licensed adults; and (e) in full compliance with this Contract, the Instructions, and all applicable warranties and insurance policies, at all times. **ENGINES MAY EMIT TOXIC GAS FUMES; ALWAYS REFUEL IN AN OPEN AND WELL-VENTILATED AREA. DO NOT USE LIGHT TOWERS INDOORS, NEAR POWER LINES, FIRE OR GAS, AND NEVER CLIMB ON LIGHT TOWERS WITHOUT PROPER FALL PROTECTION.**

9. NO WARRANTIES: RRR IS NOT THE MANUFACTURER OR DESIGNER OF ANY ITEM(S), ALL OF WHICH ARE PROVIDED "**AS-IS**." **RRR MAKES NO WARRANTY(IES), EXPRESS OR IMPLIED (INCLUDING ANY AND ALL WARRANTY(IES) OF MERCHANTABILITY, SUITABILITY, FITNESS FOR A PARTICULAR PURPOSE, FUNCTION, DESIGN, QUALITY, CAPACITY, FREEDOM FROM DEFECTS AND GOOD AND WORKMANLIKE PERFORMANCE**, AS WELL AS ANY WARRANTY(IES) ARISING FROM COURSE OF DEALING, COURSE OF PERFORMANCE AND/OR USAGE OF TRADE) REGARDING ANY ITEM(S), SOFTWARE, TELEMATICS, DATA OR SERVICE(S) PROVIDED BY OR AT THE DIRECTION OF RRR, NOR DOES RRR MAKE ANY WARRANTY AGAINST **INTERFERENCE OR INFRINGEMENT**, ALL OF WHICH WARRANTIES **YOU HEREBY WAIVE**. NO DESCRIPTIONS, SPECIFICATIONS OR ADVERTISEMENTS CONSTITUTE REPRESENTATIONS OR WARRANTIES BY RRR. **THERE ARE NO WARRANTIES WHICH EXTEND BEYOND THE DESCRIPTION ON THE FACE HEREOF.**

10. ASSUMPTION OF RISK / INDEMNITY: **TO THE MAXIMUM EXTENT PERMITTED UNDER APPLICABLE LAW, YOU:** (A) **ASSUME ALL RISK OF PERSONAL AND BODILY INJURY, ELECTRIC SHOCK, ILLNESS, PRODUCTS LIABILITY, LOSS, THEFT, DAMAGE, AND CONTAMINATION OF, TO, AND/OR ARISING IN CONNECTION WITH, THE ITEM(S) AND/OR SERVICE(S) REFERENCED IN THIS CONTRACT, AND ALL SOFTWARE, TELEMATICS AND DATA ASSOCIATED THEREWITH, including all liabilities, claims, damages, losses, costs and expenses arising from and/or in connection with the selection, provision, inspection, design, manufacture, fueling, charging, use, loading, unloading, transportation, demonstration, installation, cleaning, storage, servicing, maintenance, repair, delivery and/or retrieval of such Item(s) and/or service(s), whether or not your fault (collectively, "RISKS")**; (B) **RELEASE AND DISCHARGE, AND AGREE TO INDEMNIFY, DEFEND AND HOLD HARMLESS RRR**, its respective parents, affiliates and subsidiaries, and their respective owners, shareholders, members, managers, officers, directors, agents, employees, insurers, subrogees, representatives, successors and assigns (each, an "Indemnitee"), for, from and against all such RISKS, as well as all other liabilities, claims, damages, losses, costs and expenses arising from and/or in connection with the Item(s), this Contract, our negligence, and/or your breach of any one or more of the terms hereof; and (C) except only to the extent provided in § 7, **WAIVE** all rights, remedies and defenses available under the Uniform Commercial Code, as well as all **DIRECT, INDIRECT, INCIDENTAL, CONSEQUENTIAL, GENERAL, SPECIAL, EXEMPLARY AND PUNITIVE DAMAGES**, against each Indemnitee. Our maximum liability under this Contract is limited to the amounts actually paid by you and received by us hereunder for the Item(s) identified on P.1.

11. INSURANCE: You agree to maintain and provide proof of all insurance we may require, including: (a) liability insurance with minimum limits of $1,000,000 per occurrence and $2,000,000 in aggregate; (b) property damage/inland marine insurance covering all Items for the full (new) replacement cost thereof; (c) workers' compensation insurance; and (d) for all vehicles and trailers included with, in or used to tow the Item(s): (i) any auto liability insurance with minimum limits of $1,000,000; (ii) any auto physical damage insurance for actual cash value; and (iii) replacement cost contents insurance for all contents thereof. Such policies shall, whenever possible: (a) name River Rail Rentals LLC, as an additional insured and loss payee; (b) waive subrogation against us; (c) be primary and non-contributory; and (d) include a severability of interests clause and such other provisions (including deductibles) as we may require. You irrevocably appoint RRR as your agent and attorney-in-fact to submit, negotiate, and settle claims on all such policies.

12. LIMITED DAMAGE WAIVER: If and *only if*, we have offered, and you have paid for our **OPTIONAL** LIMITED DAMAGE WAIVER ("LDW") (set forth on P.1, *if available*) in advance of the Term, then with respect solely to the Rented Item(s) covered by LDW ("Covered Item(s)"), you will have no liability to RRR for 80% of the first $2,500 of the repair/replacement cost of physical damage to such Covered Item(s) during the Term, **EXCEPT THAT YOU WILL REMAIN FULLY LIABLE FOR**: (a) all loss of and damage to: (i) Item(s) not covered by LDW; (ii) Covered Item(s) lost or damaged during transportation and/or as a result of: (A) any breach of this Contract by you or your agents, employees, sublessees, transferees, borrowers, successors and/or assigns; (B) theft or other failure to timely return Covered Item(s) to us; (C) negligence, misuse and/or abuse of Rented Item(s) (including submerging, overturning and overloading) as determined in RRR's sole reasonable discretion; (iii) GPS and telematics systems, data, batteries, keys, glass, tires, tubes, tracks, booms, belts, chains, knobs and hoses; (b) 20% of the first $2,500 of repair/replacement costs for Covered Item(s); and (c) all repair/replacement costs exceeding $2,500 in the aggregate across all Covered Item(s). You may decline LDW if you provide the property damage/inland marine insurance referenced in § 11. Your insurance will continue to apply and remain primary. You agree to assist us in recovering thereunder for all losses covered by LDW. **LDW IS NOT INSURANCE, NOR IS IT A WARRANTY**.

13. FORCE MAJEURE / LIENS / DATA: To the maximum extent legally permitted, you grant RRR a lien on all real and personal property: (a) placed in or on; and/or (b) improved with, any Item(s). **WE MAY, WITHOUT NOTICE OR LIABILITY TO YOU, MONITOR AND/OR INSPECT, IN PERSON AND/OR ELECTRONICALLY (INCLUDING VIA TELEMATICS/GPS SYSTEMS), THE ITEM(S) AT ANY TIME. YOU CONSENT TO THE USE OF TELEMATICS AND TO RRR'S COLLECTION AND USE OF ALL RELATED DATA, ALL OF WHICH SHALL BE RRR'S PROPERTY**. You shall not tamper with any telematics/GPS devices used in connection with any Item. If any performance required of RRR shall be delayed, impaired or made more costly as a result of any act or omission of/by you, any Other Provider(s) or any "*Act of God*," event of *force majeure* (including fire, flood, storm, earthquake, tsunami, slide, subsidence, collapse, riot, war, violence, threat, theft, terrorism, cyber-attack, supplier delay, strike, shutdown, power surge or outage, epidemic, pandemic, and governmental and regulatory actions) or other events, facts or circumstances beyond our reasonable control, we will be excused from such performance.

14. RIGHTS / REMEDIES: This is a "net" rental. Accordingly, your duties hereunder are *unconditional* and shall not be subject to any reduction, setoff, or counterclaim. If you or any Guarantor shall: (a) fail to fully and timely honor, pay, perform or comply with this Contract and/or any of your obligations arising hereunder or in connection herewith; (b) provide any incorrect or misleading information to us; (c) become insolvent; or (d) die or cease conducting business, or if any Item(s) shall be lost or, except to the extent limited by LDW per § 12, damaged, you will be in **DEFAULT** under this Contract, whereupon, RRR may with or without legal process or notice (and without liability to you or any Guarantor), to the maximum extent permitted under applicable law: (i) cancel the Term and/or the subject Contract(s) (and/or your rights to use and possess the Item(s)); (ii) seek relief from stay; (iii) recover, empty, lock, restrict and/or disable any Item(s) without being guilty of breach, trespass or wrongful interference, or liable for any injuries or property damage, including without limitation, any and all damage to crops, flora and/or fauna (for which you will indemnify, defend and hold harmless each Indemnitee); (iv) perform your obligations hereunder on your behalf, without being obligated to do so; (v) purchase replacement Item(s); (vi) recover from you and/or any Guarantor our associated damages, losses, costs and expenses **FOR WHICH YOU WILL BE PERSONALLY LIABLE** (including without limitation, the full (new) replacement cost of the Item(s), Rent for the entire scheduled Term, overtime, loss of use, interest, repossession costs, collection costs and if civil fraud has occurred, punitive damages for civil fraud); and/or (vii) pursue any one or more other rights and/or remedies available in connection (t)herewith, all of which shall be cumulative. You agree the damages provided in this Contract are reasonable. Neither our exercise, nor our failure or delay in the exercise, of any rights or remedies available in connection herewith will constitute an election of remedies or a waiver of any of our rights or remedies.

15. LAW / VENUE: This Contract shall be governed by and enforceable under the laws of Tennessee, without regard to conflict of laws principles (unless waived by RRR). ***At RRR's option***, disputes arising hereunder shall be submitted to binding **ARBITRATION** in accordance with the Rules of the American Arbitration Association before a single arbitrator in Greene County, TN. Judgment on the arbitrator's award shall be final and binding and may be entered in any court of competent jurisdiction. Proper venue for all other civil actions commenced in connection herewith shall lie solely and exclusively in the federal and state courts located in or nearest to Greene County, TN. You consent and submit thereto and waive all claims that such venue lies in an inconvenient forum. The terms of this Contract are severable. Should any one or more of the terms of this Contract be deemed invalid or unenforceable in whole or in part by any court or arbitral body of competent jurisdiction, such term(s) shall be deemed modified to the minimum extent necessary to make it/them valid and enforceable, or if no such modification shall be possible, deleted, and in either such case, the remaining terms of this Contract shall remain valid and enforceable. **IF LEGAL ACTION IS COMMENCED IN CONNECTION HEREWITH, WE SHALL BE ENTITLED TO RECOVER OUR ASSOCIATED COSTS AND EXPENSES (INCLUDING REASONABLE ATTORNEYS' FEES) FROM YOU IF WE PREVAIL.** Otherwise, each party shall be responsible for its own associated costs and expenses, including attorneys' fees. **YOU HEREBY KNOWINGLY AND VOLUNTARILY WAIVE: (A) YOUR RIGHT(S), IF ANY, TO PARTICIPATE IN ANY CLASS, COLLECTIVE OR OTHER JOINT ACTION AGAINST RRR; AND (B) YOUR RIGHT TO TRIAL BY JURY.**

16. MISCELLANEOUS: There are no third-party beneficiaries hereto other than the applicable Indemnitees. These Terms and Conditions apply to all Item(s) identified on P.1 and to ***all other Items*** you obtain from us at any time (except only as we may otherwise agree). This Contract, and any pictures, videos and/or addenda we provide, each of which is incorporated herein, represent the entire agreement between you and RRR, superseding all other agreements and representations (including our website and advertising) and cannot otherwise be amended or extended except in a writing signed by RRR. Time is of the essence. This Contract: (i) is a true operating lease, and not a financing; (ii) is fair and reasonable; and (iii) shall bind and be enforceable by you, RRR, the other Indemnitees, and their respective insurers, subrogees, successors and permitted assigns. Digital, electronic, photocopied, and facsimiled signatures and initials appearing on this Contract will be deemed originals.

17. THEFT WARNING: Wrongfully obtaining the property or services of another and/or failing to timely return the Rented Item(s) to RRR may be deemed **THEFT resulting in CRIMINAL PROSECUTION AND/OR CIVIL PENALTIES**. See Tenn. Code Ann. §§ 39-14-103, -104 and -108 and its/their successor(s), if any, for details.

LESSEE ACKNOWLEDGES THAT A LARGE-PRINT VERSION OF THESE TERMS AND CONDITIONS HAS BEEN MADE AVAILABLE TO LESSEE

Copyright © JWL International. All Rights Reserved. Unauthorized reproduction and distribution expressly prohibited.

TERMS AND CONDITIONS OF RENTAL CONTRACT – RIVER RAIL RENTALS LLC
Large Print Version

For good and valuable consideration, you and River Rail Rentals LLC, a Tennessee limited liability company (also referred to herein as "Lessor," "RRR," "we," "us" and "our"), agree as follows:

1. **DEFINITIONS**: As used herein, "P.1" refers to the first page or "face" of this Contract; "Contract" refers to P.1 together with these Terms and Conditions; "Rented Item(s)" or "Item(s)" means the item(s) rented to you, as identified on P.1 (including any "Instructions" and/or safety devices provided per Section [or "§"] 5 below); "Site" means the address set forth on P.1 where the Item(s) is/are to be delivered and/or used; and "Customer," "Lessee," "you" and "your" mean the "Renter," "Customer," "Lessee" and/or "Guarantor" (as applicable) identified on P.1.

2. **TERMS**: You agree to rent from RRR the Rented Item(s) for the period(s) specified on P.1 (the "Term"), to pay us our stated rental rate(s) (the "Rent") together with all other charges accruing hereunder, without proration, reduction or setoff, and to remain liable for all loss, theft, injuries, and damages of, to, or associated with such Item(s), until all Rented Item(s) is/are returned to *and accepted by* RRR in the return condition required under this Contract (including § 6). Unless otherwise specifically agreed by RRR in writing, all rental rates are for normal use of the Item(s) on a *single-shift* basis during the Term, not exceeding 8 hours per 24-hour period for which Rent is charged hereunder (each, a "Rental Day"), 40 hours per 7-Rental Day period, or 160 hours per 28-Rental Day period. Zero hours are permitted for any and all uncharged-for periods. Additional Rent at our highest incremental rate will be charged for late returns and overuse. You will not be entitled to any cancellation right or reduction of Rent or other amounts coming due hereunder to account for time in transit, Act(s) of God, event(s) of *force majeure,* or any other period(s) of nonuse. We have estimated the Rent based on your estimate of the length of the Term (the "Estimated Rent"). Unless otherwise agreed by RRR in writing, you agree: (a) to pay us the Estimated Rent specified on P.1 together with any deposit(s) specified on P.1, including any security deposit we may require in advance of the Term (together, the "Prepayment"); and all other amounts coming due hereunder upon demand; and (b) that: (i) we may deduct any amounts you owe us from any Prepayment; (ii) no interest will accrue on any Prepayment; (iii) no Prepayment will be deemed a limit of your liability to us; and (iv) all Prepayments are **NON-REFUNDABLE**, except any unapplied security deposit balance. You agree to fully and timely pay all applicable taxes (including all sales, use, fuel and other taxes), tolls, fines, fees, assessments, and other charges related to each Item and/or the transactions contemplated in this Contract. All amounts due hereunder but not timely paid will bear interest at the lesser of 18% per annum or the highest rate permitted under applicable law. You authorize us to charge all amounts coming due hereunder to any debit and/or credit card(s) you provide (up to 150% of the new replacement cost of the Item(s)). You agree to pay us the maximum lawful charge for any returned check.

3. **SERVICES**: You will ensure that the Site is reasonably clean, safe, secure, and fit for delivery and use of the Item(s). If we agree to provide any services (e.g., delivery, retrieval, servicing or maintenance), you will: (a) pay our regular charge(s) therefor, and for all waiting time; (b) be present at the Site at the agreed times; and (c) ensure our personnel have full access to the Site at all times. We are not responsible for delays caused by any acts or omissions of/by you, your agents, employees or contractors, or other parties, including providers of other equipment or services ("Other Providers") for which you agree to indemnify, defend, and hold harmless RRR, its agents, employees, and contractors. If you are not present upon delivery or retrieval of any Item(s), you agree to accept the statements of our representatives and delivery personnel regarding the same (including status, condition, quality, utility, defects, and quantities of or with respect to the Item(s) and the Site). Anything remaining with, in, or on any Item(s) upon return will, at our option, be deemed abandoned.

4. **TITLE/OWNERSHIP**: RRR owns and shall retain title to all Rented Item(s) at all times. **You will have exclusive control over the Item(s) during the Term;** *subject to* your obligation to always fully and timely comply with this Contract. You **SHALL NOT (nor shall you allow anyone else to)** permit the taking or existence of any lien, claim, security interest, or encumbrance on any Rented Item(s); have any title or ownership interest in or with respect to any Item(s); or **loan, share, transfer, sublease, store, surrender or assign any Rented Item(s) or this Contract, without our prior written consent (in our sole and absolute discretion), and any attempt(s) to do so SHALL, at RRR's option, BE VOID**. RRR may substitute the Item(s) and/or sell or assign all or any part of its interests in one or more Item(s) and/or this Contract, in which event, you will attorn to the assignee, who will not be responsible for any pre-existing obligations or liabilities of RRR.

5. **INSTRUCTIONS**: Upon the earlier of your receipt or the delivery to the Site of the Item(s), unless you immediately reject it/them, you represent, warrant, acknowledge and agree that: (a) each Item: (i) is complete and in good order, condition and repair, fully charged and/or fueled (as applicable); (ii) is appropriate for your purposes and in all ways acceptable to you; and (iii) was selected not based on any recommendation by us, carefully examined, counted and tested by you and/or your agent(s); and (b) you: (i) have carefully reviewed and understand all laws, rules, regulations, training, instructions, user

Copyright © JWL International. All Rights Reserved. Unauthorized reproduction and distribution expressly prohibited.

manuals, maintenance requirements, and other information, if any, including all OSHA, MSHA, IBC, IFC, IEEE, ASSP, DOT, FMCSA, ANSI and other standards, applicable to the Item(s) (collectively, "Instructions"); (ii) will fully comply therewith (*including Tier 4, Silica Dust, Ventilation, AWP training and familiarization, charging, fueling, cleaning, voltage, and site assessment requirements*); (iii) have been made aware of the need to use all applicable personal protective equipment and safety devices (including without limitation, **FALL AND RESPIRATORY PROTECTION DEVICES**); (iv) will use each Item only for **its *Intended Purpose*** (that is, the purpose(s) for which it was designed and manufactured) in a reasonable and safe manner; (v) will timely give all applicable notices to, and obtain all applicable licenses, authorizations, permits and approvals from, all affected parties, including governmental authorities, utilities, cable companies and the owner(s) of the Site, and ensure that all underground lines, cables and conduits are clearly and properly marked before using any Item(s) to disturb the ground surface (**Call 811 and go to www.Call811.com at least 3 full working days in advance**); (vi) will promptly notify the authorities and RRR in the event of any theft or accident involving the Item(s); (vii) will comply and ensure that all others comply with this Contract at all times; and (viii) agree to notify RRR if any of the above requirements is/are breached, incorrect or misleading.

6. CARE OF RENTED ITEMS: You agree to protect, properly maintain and care for all Item(s) at all times, keep the Item(s) safely stored and locked when not in use, and return the Item(s) to us on time at the end of the Term, complete (with all original batteries, cords, attachments and peripherals), clean, free of contamination (e.g., any fuel contaminants, asbestos, beryllium, silica and/or pathogens) or paint damage, in good order, condition, and repair, properly serviced and maintained, and if applicable, fully charged and/or full of the appropriate clean and uncontaminated fuel, fluids, and lubricants. If you fail to comply, you will promptly pay RRR, in addition to the amounts specified on P.1: (a) Rent at our highest incremental rate(s) until all such Item(s) have been returned or replaced as required; and (b) all costs and expenses we incur in connection with such failure. **You shall not**, nor shall you permit anyone else to: (i) **text, email or otherwise use any handheld communication device while operating any Item(s)**; (ii) use any Item(s) while under the influence of any intoxicant(s) (including, without limitation, **CANNABIS, CANNABINOIDS AND ALCOHOL, WHETHER OR NOT LEGAL OR MEDICINAL**); (iii) abuse, misuse, overuse, conceal, store with any third party, repair, modify or damage any Item(s); (iv) violate any law, Instruction, insurance policy or warranty; (v) expose any Item(s) to any flammable, explosive, harmful or hazardous substance(s) or circumstance(s); (vi) disable, misuse or circumvent any safety equipment or device(s) in, on or with any Item(s); or (vii) take possession of or exercise control over any Item(s), without our prior consent.

7. MALFUNCTIONS: You agree (and shall cause all others using the Items) to immediately cease using any Item that is damaged, breaks down, or proves defective (a "Malfunction"). In the event of a Malfunction, you will immediately notify and return the Malfunctioning Item(s) to RRR. Provided that the Malfunction did not result from or in connection with any wrongful or negligent act or omission of/by you or anyone you permit to use or otherwise deal with any Item, or your breach of any provision of this Contract, RRR will, at its option: (i) repair the Malfunctioning Item; (ii) provide you with a comparable item; *or* (iii) solely with respect to the Malfunctioning Item, return the unused portion of the Rent and cancel this Contract. **The foregoing remedies are EXCLUSIVE**. RRR shall not have any other obligation(s) regarding Malfunctions (including without limitation loss of income, jobsite delay penalties, project delays or any other loss-of-use claim) all of which **YOU WAIVE, TOGETHER WITH ALL INCIDENTAL, CONSEQUENTIAL, SPECIAL, EXEMPLARY AND PUNITIVE DAMAGES.**

8. SAFETY WARNINGS: The Item(s) can be **DANGEROUS** and should be fueled, charged, maintained, and used with **EXTREME CARE, ONLY: FOR ITS/THEIR INTENDED PURPOSE AND BY PROPERLY QUALIFIED, INSTRUCTED, TRAINED, FAMILIARIZED, AND (IF APPLICABLE) LICENSED, ADULT USERS AND OPERATORS.** YOU AGREE TO PROVIDE ALL APPLICABLE FAMILIARIZATION, TRAINING, INSTRUCTIONS AND WARNINGS and ensure that each Item is fueled, charged, used, operated and occupied safely and only: (a) **for its Intended Purpose**; (b) within its rated capacity; (c) ***at the Site*** (unless otherwise specifically agreed by RRR); (d) by properly trained, qualified, certified and licensed adults; and (e) in full compliance with this Contract, the Instructions, and all applicable warranties and insurance policies, at all times. **ENGINES MAY EMIT TOXIC GAS FUMES; ALWAYS REFUEL IN AN OPEN AND WELL-VENTILATED AREA. DO NOT USE LIGHT TOWERS INDOORS, NEAR POWER LINES, FIRE OR GAS, AND NEVER CLIMB ON LIGHT TOWERS WITHOUT PROPER FALL PROTECTION.**

9. NO WARRANTIES: RRR IS NOT THE MANUFACTURER OR DESIGNER OF ANY ITEM(S), ALL OF WHICH ARE PROVIDED "**AS-IS**." **RRR MAKES NO WARRANTY(IES), EXPRESS OR IMPLIED (INCLUDING ANY AND ALL WARRANTY(IES) OF MERCHANTABILITY, SUITABILITY, FITNESS FOR A PARTICULAR PURPOSE, FUNCTION, DESIGN, QUALITY, CAPACITY, FREEDOM FROM DEFECTS AND GOOD AND WORKMANLIKE PERFORMANCE,** AS WELL AS ANY WARRANTY(IES) ARISING FROM COURSE OF DEALING, COURSE OF PERFORMANCE AND/OR USAGE OF TRADE) REGARDING ANY ITEM(S), SOFTWARE, TELEMATICS, DATA OR SERVICE(S) PROVIDED BY OR AT THE

Copyright © JWL International. All Rights Reserved. Unauthorized reproduction and distribution expressly prohibited.

DIRECTION OF RRR, NOR DOES RRR MAKE ANY WARRANTY AGAINST **INTERFERENCE OR INFRINGEMENT**, ALL OF WHICH WARRANTIES **YOU HEREBY WAIVE**. NO DESCRIPTIONS, SPECIFICATIONS OR ADVERTISEMENTS CONSTITUTE REPRESENTATIONS OR WARRANTIES BY RRR. **THERE ARE NO WARRANTIES WHICH EXTEND BEYOND THE DESCRIPTION ON THE FACE HEREOF.**

10. ASSUMPTION OF RISK / INDEMNITY: **TO THE MAXIMUM EXTENT PERMITTED UNDER APPLICABLE LAW, YOU:** (A) **ASSUME ALL RISK OF PERSONAL AND BODILY INJURY, ELECTRIC SHOCK, ILLNESS, PRODUCTS LIABILITY, LOSS, THEFT, DAMAGE, AND CONTAMINATION OF, TO, AND/OR ARISING IN CONNECTION WITH, THE ITEM(S) AND/OR SERVICE(S) REFERENCED IN THIS CONTRACT, AND ALL SOFTWARE, TELEMATICS AND DATA ASSOCIATED THEREWITH**, **including all liabilities, claims, damages, losses, costs and expenses arising from and/or in connection with the selection, provision, inspection, design, manufacture, fueling, charging, use, loading, unloading, transportation, demonstration, installation, cleaning, storage, servicing, maintenance, repair, delivery and/or retrieval of such Item(s) and/or service(s), whether or not your fault (collectively, "RISKS")**; (B) **RELEASE AND DISCHARGE, AND AGREE TO INDEMNIFY, DEFEND AND HOLD HARMLESS RRR**, its respective parents, affiliates and subsidiaries, and their respective owners, shareholders, members, managers, officers, directors, agents, employees, insurers, subrogees, representatives, successors and assigns (each, an "Indemnitee"), for, from and against all such RISKS, as well as all other liabilities, claims, damages, losses, costs and expenses arising from and/or in connection with the Item(s), this Contract, our negligence, and/or your breach of any one or more of the terms hereof; and (C) except only to the extent provided in § 7, **WAIVE** all rights, remedies and defenses available under the Uniform Commercial Code, as well as all **DIRECT, INDIRECT, INCIDENTAL, CONSEQUENTIAL, GENERAL, SPECIAL, EXEMPLARY AND PUNITIVE DAMAGES**, against each Indemnitee. Our maximum liability under this Contract is limited to the amounts actually paid by you and received by us hereunder for the Item(s) identified on P.1.

11. INSURANCE: You agree to maintain and provide proof of all insurance we may require, including: (a) liability insurance with minimum limits of $1,000,000 per occurrence and $2,000,000 in aggregate; (b) property damage/inland marine insurance covering all Items for the full (new) replacement cost thereof; (c) workers' compensation insurance; and (d) for all vehicles and trailers included with, in or used to tow the Item(s): (i) any auto liability insurance with minimum limits of $1,000,000; (ii) any auto physical damage insurance for actual cash value; and (iii) replacement cost contents insurance for all contents thereof. Such policies shall, whenever possible: (a) name River Rail Rentals LLC, as an additional insured and loss payee; (b) waive subrogation against us; (c) be primary and non-contributory; and (d) include a severability of interests clause and such other provisions (including deductibles) as we may require. You irrevocably appoint RRR as your agent and attorney-in-fact to submit, negotiate, and settle claims on all such policies.

12. LIMITED DAMAGE WAIVER: If and *only if*, we have offered, and you have paid for our **OPTIONAL** LIMITED DAMAGE WAIVER ("LDW") (set forth on P.1, *if available*) in advance of the Term, then with respect solely to the Rented Item(s) covered by LDW ("Covered Item(s)"), you will have no liability to RRR for 80% of the first $2,500 of the repair/replacement cost of physical damage to such Covered Item(s) during the Term, **EXCEPT THAT YOU WILL REMAIN FULLY LIABLE FOR**: (a) all loss of and damage to: (i) Item(s) not covered by LDW; (ii) Covered Item(s) lost or damaged during transportation and/or as a result of: (A) any breach of this Contract by you or your agents, employees, sublessees, transferees, borrowers, successors and/or assigns; (B) theft or other failure to timely return Covered Item(s) to us; (C) negligence, misuse and/or abuse of Rented Item(s) (including submerging, overturning and overloading) as determined in RRR's sole reasonable discretion; (iii) GPS and telematics systems, data, batteries, keys, glass, tires, tubes, tracks, booms, belts, chains, knobs and hoses; (b) 20% of the first $2,500 of repair/replacement costs for Covered Item(s); and (c) all repair/replacement costs exceeding $2,500 in the aggregate across all Covered Item(s). You may decline LDW if you provide the property damage/inland marine insurance referenced in § 11. Your insurance will continue to apply and remain primary. You agree to assist us in recovering thereunder for all losses covered by LDW. **LDW IS NOT INSURANCE, NOR IS IT A WARRANTY**.

13. FORCE MAJEURE / LIENS / DATA: To the maximum extent legally permitted, you grant RRR a lien on all real and personal property: (a) placed in or on; and/or (b) improved with, any Item(s). **WE MAY, WITHOUT NOTICE OR LIABILITY TO YOU, MONITOR AND/OR INSPECT, IN PERSON AND/OR ELECTRONICALLY (INCLUDING VIA TELEMATICS/GPS SYSTEMS), THE ITEM(S) AT ANY TIME. YOU CONSENT TO THE USE OF TELEMATICS AND TO RRR'S COLLECTION AND USE OF ALL RELATED DATA, ALL OF WHICH SHALL BE RRR'S PROPERTY**. You shall not tamper with any telematics/GPS devices used in connection with any Item. If any performance required of RRR shall be delayed, impaired or made more costly as a result of any act or omission of/by you, any Other Provider(s) or any "*Act of God*," event of *force majeure* (including fire, flood, storm, earthquake, tsunami, slide, subsidence, collapse, riot, war, violence, threat, theft,

Copyright © JWL International. All Rights Reserved. Unauthorized reproduction and distribution expressly prohibited.

terrorism, cyber-attack, supplier delay, strike, shutdown, power surge or outage, epidemic, pandemic, and governmental and regulatory actions) or other events, facts or circumstances beyond our reasonable control, we will be excused from such performance.

14. **RIGHTS / REMEDIES**: This is a "net" rental. Accordingly, your duties hereunder are *unconditional* and shall not be subject to any reduction, setoff, or counterclaim. If you or any Guarantor shall: (a) fail to fully and timely honor, pay, perform or comply with this Contract and/or any of your obligations arising hereunder or in connection herewith; (b) provide any incorrect or misleading information to us; (c) become insolvent; or (d) die or cease conducting business, or if any Item(s) shall be lost or, except to the extent limited by LDW per § 12, damaged, you will be in **DEFAULT** under this Contract, whereupon, RRR may with or without legal process or notice (and without liability to you or any Guarantor), to the maximum extent permitted under applicable law: (i) cancel the Term and/or the subject Contract(s) (and/or your rights to use and possess the Item(s)); (ii) seek relief from stay; (iii) recover, empty, lock, restrict and/or disable any Item(s) without being guilty of breach, trespass or wrongful interference, or liable for any injuries or property damage, including without limitation, any and all damage to crops, flora and/or fauna (for which you will indemnify, defend and hold harmless each Indemnitee); (iv) perform your obligations hereunder on your behalf, without being obligated to do so; (v) purchase replacement Item(s); (vi) recover from you and/or any Guarantor our associated damages, losses, costs and expenses **FOR WHICH YOU WILL BE PERSONALLY LIABLE** (including without limitation, the full (new) replacement cost of the Item(s), Rent for the entire scheduled Term, overtime, loss of use, interest, repossession costs, collection costs and if civil fraud has occurred, punitive damages for civil fraud); and/or (vii) pursue any one or more other rights and/or remedies available in connection (t)herewith, all of which shall be cumulative. You agree the damages provided in this Contract are reasonable. Neither our exercise, nor our failure or delay in the exercise, of any rights or remedies available in connection herewith will constitute an election of remedies or a waiver of any of our rights or remedies.

15. **LAW / VENUE**: This Contract shall be governed by and enforceable under the laws of Tennessee, without regard to conflict of laws principles (unless waived by RRR). ***At RRR's option***, disputes arising hereunder shall be submitted to binding **ARBITRATION** in accordance with the Rules of the American Arbitration Association before a single arbitrator in Greene County, TN. Judgment on the arbitrator's award shall be final and binding and may be entered in any court of competent jurisdiction. Proper venue for all other civil actions commenced in connection herewith shall lie solely and exclusively in the federal and state courts located in or nearest to Greene County, TN. You consent and submit thereto and waive all claims that such venue lies in an inconvenient forum. The terms of this Contract are severable. Should any one or more of the terms of this Contract be deemed invalid or unenforceable in whole or in part by any court or arbitral body of competent jurisdiction, such term(s) shall be deemed modified to the minimum extent necessary to make it/them valid and enforceable, or if no such modification shall be possible, deleted, and in either such case, the remaining terms of this Contract shall remain valid and enforceable. **IF LEGAL ACTION IS COMMENCED IN CONNECTION HEREWITH, WE SHALL BE ENTITLED TO RECOVER OUR ASSOCIATED COSTS AND EXPENSES (INCLUDING REASONABLE ATTORNEYS' FEES) FROM YOU IF WE PREVAIL.** Otherwise, each party shall be responsible for its own associated costs and expenses, including attorneys' fees. **YOU HEREBY KNOWINGLY AND VOLUNTARILY WAIVE: (A) YOUR RIGHT(S), IF ANY, TO PARTICIPATE IN ANY CLASS, COLLECTIVE OR OTHER JOINT ACTION AGAINST RRR; AND (B) YOUR RIGHT TO TRIAL BY JURY.**

16. **MISCELLANEOUS**: There are no third-party beneficiaries hereto other than the applicable Indemnitees. These Terms and Conditions apply to all Item(s) identified on P.1 and to ***all other Items*** you obtain from us at any time (except only as we may otherwise agree). This Contract, and any pictures, videos and/or addenda we provide, each of which is incorporated herein, represent the entire agreement between you and RRR, superseding all other agreements and representations (including our website and advertising) and cannot otherwise be amended or extended except in a writing signed by RRR. Time is of the essence. This Contract: (i) is a true operating lease, and not a financing; (ii) is fair and reasonable; and (iii) shall bind and be enforceable by you, RRR, the other Indemnitees, and their respective insurers, subrogees, successors and permitted assigns. Digital, electronic, photocopied, and facsimiled signatures and initials appearing on this Contract will be deemed originals.

17. **THEFT WARNING**: Wrongfully obtaining the property or services of another and/or failing to timely return the Rented Item(s) to RRR may be deemed **THEFT resulting in CRIMINAL PROSECUTION AND/OR CIVIL PENALTIES**. See Tenn. Code Ann. §§ 39-14-103, -104 and -108 and its/their successor(s), if any, for details.

Copyright © JWL International. All Rights Reserved. Unauthorized reproduction and distribution expressly prohibited.