

YELLOW IRON, LLC EQUIPMENT LEASE AGREEMENT

Lessee Account #: _____
Lessee Order Number: _____

Date: _____

Jobsite Address:

THIS IS A "BARE" LEASE. NO OPERATOR(S) ARE INCLUDED.

ALL PRICES DO NOT INCLUDE DELIVERY OF THE EQUIPMENT TO JOBSITE ADDRESS OR PICK UP AT JOBSITE UPON TERMINATION OF LEASE.

YELLOW IRON, LLC (hereinafter "Lessor") having corporate offices at 210 HANGAR ROAD KISSIMMEE, FL 34741 leases to:

_____ (hereinafter "Lessee") the following equipment (hereinafter "Equipment") for use at the jobsite location above:

Unit#	Description	Serial#	Insured Value

Lease Period in Calendar Days: _____

Delivery Date: _____

Lease Price: U.S. \$ _____, plus sales tax at _____ % plus _____.

Lessee shall pay the lease on the first of each month in advance, without offset or counterclaim, at Lessor's office as set forth above or as otherwise specified. First month's lease charge shall be paid upon acceptance of order. The lease rate is based on usage up to _____ hours of use per month with no credit if minimum hours are not used. If the use is greater than _____ hours per month, Lessee shall pay \$ _____ per additional hour used or fraction thereof.

The lease term shall begin upon acceptance of the order and making of the first payment. The lease term shall end upon the date on which the Equipment is available for pick-up by Lessor. Lease charges are not subject to any deductions on account of any non-working time of the Equipment unless caused by Lessor. In this regard, Lessor guarantees 85% equipment availability during the term hereof. If the Equipment operates at less than 85% availability during a 30 day period, Lessee's sole remedy will be a pro rata credit for the downtime in excess of the 15% assumed possible.

LESSEE AGREES TO BE SOLELY RESPONSIBLE FOR ENSURING COMPLIANCE BY IT AND ITS EMPLOYEES AND SUBCONTRACTORS WITH ALL APPLICABLE LAWS, REGULATIONS AND ORDINANCES, INCLUDING, WITHOUT LIMITATION, THE OCCUPATIONAL SAFETY AND HEALTH ACT OF 1970 ("OSHA"), REGULATIONS (PARTICULARLY 29 C.F.R. 1926 SUBPART CC AND CURRENT ASME B30.3, B30.29, AND A17.1 STANDARDS, AS APPLICABLE). Lessee agrees that Lessor shall have no responsibility of any kind for Lessee's compliance with any such laws, regulations, or ordinances during the periods when the Equipment is in possession of Lessee or its subcontractors.

Lessee shall not sublet, assign, use as collateral, hypothecate, or otherwise encumber the lease equipment in any manner whatsoever.

LESSEE:

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ADDITIONAL TERMS AND CONDITIONS

1. **TRANSPORTATION CHARGES:** All costs and expenses associated with the loading, unloading, installation, erection, climbing, dismantling and transportation of the Equipment are not included in the Lease Agreement.

2. **INDEMNIFICATION:** LESSEE SHALL DEFEND, INDEMNIFY AND HOLD HARMLESS LESSOR, ITS OFFICERS, AGENTS, SERVANTS AND EMPLOYEES FROM: (I) ALL LIABILITY FOR WAGES, TAXES, INSURANCE CONTRIBUTIONS, OTHER SUCH PAYMENTS, BENEFITS UNDER ANY WORKMEN'S COMPENSATION LAWS (UNDER WHICH ANY EMPLOYER IMMUNITY HEREUNDER SHALL BE WAIVED BY LESSEE) OR SIMILAR LAW AND EMPLOYER'S LIABILITY CHARGES OR OTHER SIMILAR EXPENSES REFLECTING LESSEE'S EMPLOYMENT OF PERSONNEL, INCLUDING WITHOUT LIMITATION, PERSONNEL WHO ERECT, OPERATE, MAINTAIN, REPAIR OR DISMANTLE THE EQUIPMENT; AND (II) ALL CLAIMS, DEMANDS, LIABILITIES, LAWSUITS, JUDGMENTS, LOSSES OR AWARDS OF ANY KIND OR NATURE WHATSOEVER ARISING FROM THE LESSEE'S ERECTION, OPERATION, ASSEMBLY, DISASSEMBLY, POSSESSION, USE OF THE EQUIPMENT, INCLUDING BUT NOT LIMITED TO DAMAGE TO, LOSS OF AND/OR INJURY TO ANY PERSON OR PROPERTY INCLUDING THE DEATH OF ANY PERSON, UNLESS CAUSED BY LESSOR'S SOLE FAULT. LESSEE'S OBLIGATION TO DEFEND, HOLD HARMLESS AND INDEMNIFY LESSOR AS PROVIDED HEREIN SHALL SURVIVE THE TERMINATION OF THIS AGREEMENT..

3. **LIMITATION OF WORKERS COMPENSATION IMMUNITY:** Lessee's defense, indemnification and hold harmless obligations hereunder shall not be limited by the provisions of any Worker's Compensation Act or similar statute.

4. **LESSEE'S WAIVER AND RELEASE TO LESSOR.** Lessee agrees that Lessor shall not be liable to Lessee for any loss, claim, demand, liability, suit, cost, judgment, award or expense of any kind, with no exceptions. Lessee fully releases Lessor and all of its employees, agents, servants, officers and shareholders from any claim for damage, injury or death arising from the Lessee's use, operation, or possession of the Equipment and any action or inaction of any of the crew or any employee, agent, servant, officer or shareholder of Lessor whether within or outside of their scope of employment, except for willful misconduct or negligence.

5. **TITLE:** All Equipment shall remain the sole personal property of Lessor, and title thereto shall remain in Lessor exclusively, and nothing in this Agreement shall be deemed to have the effect of conferring any right or title whatsoever in or to the Equipment upon or to Lessee, other than as a lessee thereof. Lessee shall keep the Equipment free from any and all liens and claims and shall do or permit no act or thing whereby Yellow Iron's title or rights in or to the Equipment may be encumbered or impaired.

6. **EQUIPMENT CONDITION, INSPECTION, MAINTENANCE, REPAIRS AND RECORD KEEPING REQUIREMENTS:** Lessee shall effect and bear the expense of all necessary inspections, maintenance, adjustments and repairs required by the Equipment operators manual and by law, and shall maintain the Equipment at Lessee's expense in good working condition (including making all repairs occasioned by any accident). Lessee shall be responsible for performing all normal basic service, including filters, lubricants, lubrications, protection against freezing and restoration of parts affected by abnormal exposure. While Lessor shall have the right to inspect the Equipment at any time during normal business hours, Lessee agrees that Lessor has no control over the operation, use, maintenance or repair of the Equipment after it has been inspected and signed off and it is in Lessee's possession, supervision or control. Lessor shall have prompt access to the Equipment to properly maintain and repair same if Lessee fails to do so or upon Lessor's demand, all at Lessee's cost. Lessor retains the right to make or direct all repairs occasioned by any accident, all at Lessee's expense. All repairs must meet manufacturer specifications. Lessee is solely responsible for ensuring that the Equipment meets, and is operated in accordance with, OSHA requirements and ANSI Standards. Lessee shall keep a written record of all inspections and shall give possession of such documents to Lessor at the conclusion of the lease. Lessee shall be solely responsible for any liability arising out of or relating to Lessee's failure to maintain inspection records and equipment log books. In order to meet Lessee's obligations herein, Lessee may elect to hire Lessor to perform certain inspections, maintenance or repairs to the equipment.

7. **DAMAGE TO EQUIPMENT:** Lessee shall immediately notify Lessor following discovery of any damage to the Equipment. Lessee shall bear the sole risk of all theft, loss, damage or destruction of the equipment and shall defend,

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indemnify and hold Yellow Iron LLC harmless from any loss or theft or damage or destruction to the equipment while the Equipment is in Lessee's possession, custody, or control. All repairs to the equipment occasioned by damage while the Equipment is in Lessee's possession, custody, or control shall be at the expense of Lessee. All repairs must be preauthorized by Lessor. All repairs must meet manufacturer specifications and the Equipment must be certified by the manufacturer, if applicable. If Lessor determines that the returned Equipment has been subjected to damage, excess wear and tear, concrete splatter or Improper usage, Lessee agrees to pay Lessor upon demand all costs to restore or repair the Equipment, ordinary wear and tear from normal use excepted. Lessee exclusively bears risk of loss or damage to the Equipment, accidental or otherwise (excluding latent manufacturing defects) including but not limited to, fire, flood, theft, comprehensive losses, collision, rollover and Acts of God.

Lessor and Lessee acknowledge and agree that the insured value(s) stated on the face hereof shall be used to determine the value of the Equipment in order to establish the amount of the loss or damage thereto. Lease charges shall not be applied to loss or damage claims. The Lease term shall continue to run while the Equipment is being repaired and shall continue to run until all repairs are completed and paid.

8. ACCIDENTS: Lessee shall immediately notify Yellow Iron LLC of any accident involving the Equipment, including but not limited to, personal injury and/or property damage arising from the transportation, possession, use, maintenance or repair of the Equipment so that Lessor's ability to investigate the accident is not prejudiced.

9. INSURANCE: Lessee, at its expense, shall take out, carry and maintain the following insurance during the term of this Agreement:

- a. Comprehensive General Liability, including contractual liability, protecting the interests of both Lessor and Lessee against liability for property damage and personal injury or death arising out of the Lessee's selection, inspection, acceptance, maintenance, repair, use, dismantling operation and/or control of the Equipment with limits of liability no less than \$1,000,000 per occurrence \$2,000,000 aggregate;
- b. Automobile coverage with limits of liability no less than \$1,000,000;
- c. Umbrella Liability with limits of liability of no less than \$5,000,000; and
- d. Worker's Compensation with an "All states" endorsement, in accordance with applicable state and federal law. Lessee will provide a waiver of subrogation in favor of the Lessor.
- e. Lessee shall insure the rented/leased equipment at actual cash value at an agreed upon amount prior to taking possession of equipment. The equipment should be insured on an All RISK PHYSICAL DAMAGE basis policy with a deductible not to exceed \$5,000.

All insurance required hereunder shall be deemed primary, and where applicable, non-contributory, insurance of Lessee, shall name Lessor and successors as Additional Assureds/Loss Payees, as applicable, (except with respect to (d) above) with Lessor having no obligation to pay premiums or deductibles. The insurance shall be maintained with responsible insurance companies of recognized standing and shall provide that the coverage hereunder may be altered or canceled only after not less than thirty (30) days prior written notice to Lessor. No "Other Insurance" provisions shall be applicable to Lessor or its insurers by virtue of having been named an insured party under these policies. Lessee shall furnish Lessor with certificate(s) of Insurance evidencing such coverage ten (10) days prior to delivery of the equipment. Lessee hereby waives and agrees to have its insurers waive any rights of subrogation against Lessor and its insurers. Lessee irrevocably assigns to Lessor all rights to receive proceeds of All Risk Physical Damage Insurance, directs any such insurer to pay all proceeds of such insurance directly to Lessor and irrevocably authorizes Lessor to endorse Lessee's name to any draft for the proceeds and to make, settle and compromise all claims.

10. LIMITATION OF WARRANTIES AND REMEDIES: EXCEPTS AS EXRPRESSLY SET FORTH IN THIS AGREEMENT, LESSOR HAS NOT MADE, AND DOES NOT HEREBY MAKE, NOR SHALL IT BE DEEMED TO HAVE MADE, ANY REPRESENTATION OR WARRANTY, EITHER EXPRESS OR IMPLIED, WHATSOEVER AS TO THE EQUIPMENT, INCLUDING BUT LIMITED TO, ANY REPRESENTATION OR

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WARRANTY WITH RESPECT TO MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, DESIGN OR CONDITION OF, OR AS TO THE QUALITY OF THE WORKMANSHIP IN, THE EQUIPMENT, AND ALL SUCH REPRESENTATIONS AND WARRANTIES ARE DISCLAIMED.

11. LESSEE AND LESSOR ACKNOWLEDGE AND AGREE THAT NEITHER PARTY SHALL NOT BE LIABLE FOR INCIDENTAL, SPECIAL, INDIRECT OR CONSEQUENTIAL OR OTHER SIMILAR DAMAGES.

12. DISPUTE RESOLUTION: This agreement is governed by the laws of the State of Florida. Any dispute arising out of this agreement shall be decided by binding arbitration before a single arbitrator. If the parties cannot agree on a single arbitrator, either may petition the Circuit Court of the Ninth Judicial Circuit of Florida to appoint an arbitrator. Venue for the binding arbitration shall be exclusively in Orange County, Florida.

13. ENTIRE AGREEMENT; COUNTERPARTS: This Agreement constitutes the full and complete agreement between the parties relating to the equipment services and/or man power provided for herein and supersedes all prior and contemporary agreements, representations, warranties and understanding of the parties regarding the services, equipment and/or machinery and personnel, whether oral, written or implied.