

**TERMS AND CONDITIONS OF EQUIPMENT RENTAL  
(Finance Lease)**

**1. Formation of Contract.** Unless the context clearly requires otherwise, as used in these Terms and Conditions (these "Terms"), the terms "*our*," "*we*," "*us*" and the like mean and refer to **Bohl Equipment Co.** and our affiliates if applicable, and the terms "*your*," "*you*" and the like mean and refer to the lessee of Equipment. "*Equipment*" means the unit(s) described in the attached Quotation, Rental Agreement, or Purchase Order. "*Order*" means your written, electronic or verbal communication to rent Equipment. "*Agreement*" means these Terms and the Order. Our offer to rent Equipment to you is conditioned upon your agreement to the Agreement. Only the Agreement shall apply and we expressly reject any other terms proffered by you at any time whether as part of an Order or otherwise. Our delay or failure to object to any terms or conditions received from you, including your original Order, will not be a waiver of any Agreement term. Under no circumstances shall your Order or our acceptance of your Order be construed or implied to create an obligation (a) on your part to make, subsequent to the Order, any additional rental orders for any of our Equipment, or (b) on our part to accept any such additional purchase orders for any of our products. Your Order, whether on your rental order or otherwise, is an acceptance of the Agreement.

**2. Rental Period.** The rental period shall begin on and include the date of delivery of the Equipment to you and shall end on and include the date you return the Equipment to us.

**3. Rental Rates.** The rental rates for the Equipment are as stated in the Order. The rental rates set forth on the Order excludes all taxes (imposed by any state, country or other governmental entity), duties, special packing and freight costs (including, without limitation, the cost of loading the Equipment on board a carrier) and related costs and expenses, all of which shall be added to such prices and paid by you. Until we accept an Order, published and quoted prices are subject to change without notice. You agree that the rates quoted are considered straight time rates based on 8 hours per day, 40 hours per week, or 160 hours per month (4 weeks = 1 month). Should the Equipment rented be used longer than the above specified hours in any specific period, the overtime rate shall be based as follows: 1/8 of the daily rate for each hour worked in excess of eight (8) hours in any one day, 1/40 of the weekly rate for each hour worked in excess of forty (40) hours in any one weekly period, 1/160 of the monthly rate for each hour in excess of one hundred and sixty (160) hours in any one 4 week period.

**3. Payment Terms.** You agree to pay all rental charges when they are due, as specified on the Order or invoice for payment. Time is of the essence regarding your payment obligations.

**4. Title, Risks and Delivery.** We are responsible for the delivery of the Equipment to the location set forth in the Order. You acknowledge and agree that all delivery times or shipment dates are approximate, and may be changed. We will give you as much notice as is reasonably possible of such change. Time for delivery of the Equipment is not of the essence and we shall not be liable for any loss or damage you may suffer due to any changed or missed delivery times or shipment dates. In the event you fail to take delivery of the Equipment tendered by us, you shall, notwithstanding anything to the contrary herein, (i) thereafter bear all risk of loss with respect to such Equipment, (ii) promptly reimburse us for any packing, un-packing, loading, un-loading, storage, protection, freight and other costs thereafter incurred by us in connection with such Equipment, and (iii) pay us, at our then current commercial billing rates, for any storage of such Equipment by us.

**5. Inspection and Acceptance.** You acknowledge that you have fully inspected and accepted the Equipment in good condition and repair. We shall not be liable in any event to you for any loss, delay or damage of any kind or character resulting from defects in, or inefficiency of Equipment hereby leased or from accidental breakage thereof.

**6. Your Responsibilities.**

**A. Return of Equipment.** You agree to return the Equipment in the same condition as when delivered by us, and to pay for all damages to the Equipment, except for the usual and ordinary wear and tear, during the life of this Agreement. Ordinary wear and tear does not include paint over spray and residue.

**B. Use/Misuse of Equipment.** The Equipment is being rented to you subject to the following conditions: (i) you shall not (nor permit others to) manufacture, reverse engineer, create derivative works based on the whole or any part of the Equipment, disassemble, adapt, modify, duplicate or otherwise copy or reproduce any of the Equipment; (ii) you shall accurately represent the Equipment, including, without limitation, as to quality, function, purpose and compatibility, (iii) you shall not add, remove, obstruct, conceal, change or deface any notice, legend, logo, designation or other mark on, or affixed to, any Equipment or any packing or other materials provided with the Equipment, and (iv) you shall permit operation, maintenance and use of the Equipment only in accordance with, and in a manner anticipated by, applicable design conditions, specifications and operating instructions.

**7. Insurance.** You agree to protect us by providing All-Risk physical damage insurance coverage during the life of this Agreement at the current specified value of all Equipment and furnish an evidence of property insurance listing us as a loss payee. You further agree to add us as an additional insured on your general liability insurance and include an indemnity agreement holding us harmless in the event of any claim in conjunction with the use of any Equipment in the amounts of: \$1,000,000 per occurrence; and \$2,000,000 in the aggregate. Upon request, you agree to furnish a Certificate of Insurance to us showing the above prior to the delivery of any Equipment.

**8. Safety Requirements.** You shall ensure that only properly trained individuals will operate the Equipment furnished under this Agreement. A properly trained person is the one who has been trained, evaluated and determined to be competent to operate safely the type of Equipment furnished hereunder in accordance with OSHA Standard 29 CFR 1910.178(1) or equivalent. Upon our request, you agree to furnish satisfactory evidence of the competence of any person who will operate the Equipment.

**9. Our Right to Inspect.** We shall have the privilege at all times of entering any job, building or location where the Equipment is being used for the purpose of inspection and reserves the privilege of removing said Equipment if it is being overloaded or taxed beyond its capacity or in any manner abused or neglected.

**10. Indemnification.** You agree to indemnify us against all loss, damage, expense and penalty arising from any action or account of any injury to person or property of any character whatsoever occasioned by the operation, hauling or transportation of any of the Equipment during the rental period. Further, you shall indemnify, defend and hold us harmless from any and all damages,

liabilities, costs, and expenses, including without limitation, reasonable legal fees and expenses, arising out of, under or in connection with any claim, demand, charge, action, cause of action or other proceeding relating to the conduct of your business, including without limitation, the acquisition, transfer, operation and/or use of Equipment covered hereby.

**11. Manufacturer's Warranty.** We do not manufacture the Equipment. Therefore, you must refer to the separate limited warranty documentation, if any, provided with the Equipment by the manufacturer or licensor for information on the limitation and disclaimer of certain warranties. Remedies for breach of any such warranties will be limited to those expressly set forth in such documentation. If the Equipment did not include a limited warranty from the manufacturer or licensor, you agree that you accept the Equipment "AS IS". **OTHER THAN WARRANTIES, IF ANY, AS TO THE EQUIPMENT EXPRESSLY SET FORTH IN DOCUMENTATION PROVIDED WITH THE EQUIPMENT BY THE MANUFACTURER OR LICENSOR, WE MAKE NO WARRANTIES OF ANY KIND, EXPRESS OR IMPLIED, AND SPECIFICALLY DISCLAIM ANY WARRANTY OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE OR NON-INFRINGEMENT OR ANY WARRANTY ARISING BY USAGE OF TRADE, COURSE OF DEALING OR COURSE OF PERFORMANCE. THE FOREGOING WILL NOT BE DEEMED TO LIMIT ANY DISCLAIMER OR LIMITATION OF WARRANTY SET FORTH IN THE DOCUMENTATION PROVIDED WITH THE EQUIPMENT BY THE MANUFACTURER OR LICENSOR.**

**12. Limitation of Liability.**

**A. In General.** To the fullest extent permitted by law, in no event will we be liable, whether in contract, warranty, representation, tort (including negligence or breach of statutory duty), strict liability, indemnity, contribution or otherwise, for any indirect, special, punitive, exemplary, incidental or consequential loss, damage, cost or expense of any kind whatsoever, howsoever caused, or any loss of production, cost of procurement of substitute Equipment, loss of capital, loss of software, loss of data, loss of profit, loss of revenues, contracts, business, cost of rework, loss of goodwill or anticipated savings, wasted expenses, or wasted management time, even if we have been advised of their possibility or they are foreseeable.

**B. Aggregate Limit of Liability.** Our total aggregate liability on all claims, whether in contract, warranty, representation, tort (including negligence or breach of statutory duty), strict liability, indemnity, contribution, or otherwise, shall not exceed the rental amount received by us on the rental of the Equipment.

**C. Allocation of Risk.** You acknowledge and agree that the allocation of risk contained in these Terms is reflected in the rental rates for the Equipment and is reasonable in all the circumstances having regard to all relevant factors, including the parties' bargaining position, and your ability to rely on your own insurance arrangements and resources to bear or recover any costs or damages incurred for which we are not liable.

**13. Finance Lease Status.**

**A. Transfer of Title.** After the final rental payment has been made, plus all accrued but unpaid late charges, interest, taxes, penalties, and/or any other sums due and owing under this Agreement, and if you have not defaulted on your obligations hereunder, you shall have the option to purchase the Equipment from us for One Dollars (\$1.00) plus all applicable sales tax, at which time title to the Equipment shall transfer from us to you "as-is, where-is", without any warranties, express or implied.

**B. Ohio Uniform Commercial Code.** You agree that this Agreement is a finance lease as defined by Section 1310.01(A)(7) of the Ohio Uniform Commercial Code (the "UCC"). You further acknowledge the following: (a) we have not selected, manufactured, or supplied the Equipment; (b) we acquired the Equipment or the right to possess and use of the Equipment in connection with this Agreement; and (c) before you signed the Order, (i) we notified you in writing of the identity of the Equipment supplier/manufacturer; (ii) we informed you that you are entitled under Sections 1310.01 to 1310.78 of the Ohio UCC to the promises and warranties, including those of any third party, provided to us by the Equipment manufacturer or supplier in connection with or as part of the contract by which we acquired the Equipment or the right to possess and use the Equipment; and (iii) we informed you that you may communicate with the Equipment manufacturer or supplier and receive an accurate and complete statement of those promises and warranties, including any disclaimers and limitations of them or of remedies.

**14. Force Majeure.** We shall be excused from performance hereunder for any period, and to the extent, that we are hindered or prevented from performing pursuant hereto, in whole or in part, as a result of delays caused by you or third parties, floods or other acts of God, war, revolution, terrorism or civil disturbance, governmental action, statute, ordinance or regulation, court order, strike or other labor dispute, fire, damage to or destruction in whole or in part of Equipment or place of manufacture. In the event of nonperformance occasioned by any of the foregoing circumstances or conditions, the time for performance shall be extended to the extent of such delay. Such nonperformance shall not be a default hereunder or a ground for termination hereof and shall not excuse you from your payment obligations hereunder or extend the time for such payment.

**15. General Terms.**

**A. Assignment.** We may assign, transfer or subcontract our rights and/or obligations under the Agreement. You may not assign, transfer or subcontract your rights or obligations, without our prior written consent. The Equipment shall not be sublet without our prior written consent. Except as otherwise set forth herein, this Agreement will inure to the benefit of the respective parties, their successors and assigns.

**B. Notices.** Notices required or permitted by the Agreement must be in writing and signed on behalf of the noticing party, addressed to the receiving party as specified in the Order, and sent by courier, certified mail, facsimile, personal delivery or other recognized manner of delivery. Notices will be effective on receipt by the party to whom the notice is given except where the notice is sent by facsimile, in which case it shall be deemed to have been received immediately upon transmission provided the sender receives electronic confirmation of an error-free transmission.

**C. Business Relationship.** In providing the Equipment to you, we have acted only as an independent contractor and under no circumstances shall we be deemed to be in any relationship with you carrying with it fiduciary or trust responsibilities, whether through partnership or otherwise. Unless otherwise specified herein, we do not undertake to perform any of your obligations, whether regulatory or contractual, or to assume any responsibility for your business or operations. No rights or benefits are hereby conferred upon any third party, including, without limitation, any of your employees, customers, business associates, creditors or affiliates.

**D. Entire Agreement; Modifications and Waiver.** This Agreement constitutes the entire agreement and understanding of us and you with respect to the Equipment, and supersedes all prior communications, representations, agreements, understandings, proposals, negotiations and promises relating to that subject matter, whether written or oral. Except as expressly set forth in these Terms, no modification or waiver of either the Order or this Agreement will be effective unless made in a writing signed by the party charged with having given the modification or waiver. No failure or delay by us to assert any rights or remedies arising from a breach shall be construed as a waiver or a continuing waiver of such rights and remedies, nor shall a failure or delay to assert a breach be deemed to waive that or any other breach. If any part of the Agreement is found by a court of competent jurisdiction to be invalid, unlawful or unenforceable then such part shall be severed from the remainder of the Agreement which will continue to be valid and enforceable to the fullest extent permitted by law.

**E. Governing Law; Venue; Dispute Resolution.** The Agreement will be governed, construed and enforced according to the laws of the State of Ohio, excluding its conflicts of law principles. The federal and state courts of the State of Ohio shall have exclusive jurisdiction to adjudicate any dispute arising out of the Order or the Agreement. You hereby expressly consent to (i) the personal jurisdiction of the courts of Ohio and (ii) service of process being effected upon you by registered mail sent to your address specified in the Order.