

EQUIPMENT SUBLEASE

This Equipment Sublease Agreement ("this Sublease") made as of _____, 2024 (the "Effective Date") between [INSERT NAME], ("Lessee") and [INSERT NAME] ("Lessor"):

1. **Sublease Agreement.** Lessor hereby leases to Lessee, and Lessee hereby rents from Lessor, all the equipment and other personal property ("Equipment") described in Equipment Lease Schedule A, which is or may from time to time hereafter be executed by Lessor and Lessee and attached hereto or incorporated herein by reference (the "Schedule"), upon the terms and conditions set forth in this Sublease, as supplemented by the terms and conditions set forth in the appropriate Schedule identifying such items of Equipment. All of the terms and conditions of this Sublease shall govern the rights and obligations of Lessor and Lessee except as specifically modified in writing. Whenever reference is made herein to "this Sublease," it shall be deemed to include each of the various Schedules identifying all items of Equipment, all of which constitute one undivided lease of the Equipment and the terms and conditions of which are incorporated herein by reference.

2. **Term.** The obligations under this Sublease shall commence upon the written acceptance thereof by Lessor and shall end upon full performance and observance of the terms, conditions and covenants set forth in this Sublease, each Schedule thereto and any extensions thereof. The rental term of the Equipment listed in each Schedule shall commence on the date that the first rental payment is due and shall terminate on the last day of the term stated in such Schedule. Lessor, at its option, may terminate any Schedule as to which the Equipment listed therein has not been delivered to Lessee prior to the outside delivery date, if any, specified in such Schedule.

3. **Rental Payments.** The rent for the Equipment described in each Schedule shall be the amount stated in such Schedule and shall be due and payable on the date set forth therein. Such rent shall be payable to Lessor at [INSERT ADDRESS] or to such other payee or at such other place as Lessor may from time to time designate in writing. Lessee is also responsible additional costs to Lessor, including:

- a. \$7.50 per gallon refueling if Equipment returned unfilled
- b. \$75 per hour cleaning fee, with one (1) hour minimum charged

c. Costs as incurred by lessor for neglected maintenance or failure.

4. **Delivery and Installation.** Lessee, at its expense, will pay all transportation, packing, taxes, duties, installation, testing and other charges in connection with the delivery, installation and use of the Equipment. If Lessee is granted permission by Lessor to take possession of the Equipment during or after normal business hours on and from Lessor's property, Lessee assumes all risk associated with pick up of said Equipment, and Lessee hereby holds Lessor harmless and indemnifies Lessor against any damage to property or injury to person that occurs as a result of Lessee picking up and transporting said Equipment.

5. **Warranties.** Lessee accepts the Equipment in its present condition. LESSOR, BEING NEITHER THE MANUFACTURER OF THE EQUIPMENT NOR HIS AGENT, MAKES NO WARRANTY AS TO THE FITNESS OR MERCHANTABILITY NOR ANY OTHER WARRANTY WITH RESPECT TO THE EQUIPMENT. Any warranties of the manufacturer hereby are assigned to Lessee. No oral agreement, guaranty, promise, condition, representation or warranty of Lessor shall be binding upon Lessor. No modification hereof shall be binding unless in writing signed by Lessor.

6. **Title To and Location of Equipment.**

(a) Title to each item of Equipment leased hereunder shall remain with Lessor at all times and Lessee shall have no right, title or interest therein except as expressly set forth in this Sublease. Lessee, at its expense, will protect and defend Lessor's title to the Equipment and will keep the Equipment free and clear from any and all claims, liens, encumbrances and legal processes of Lessee's creditors and other persons. Lessor assumes no liability and makes no representation as to the treatment by Lessee of this Sublease, the Equipment or the rental payments for financial statement or tax purposes.

(b) All items of Equipment shall at all times be and remain personal property notwithstanding that any such Equipment may now or hereafter be affixed to realty. The Equipment shall be delivered to the location specified in the Schedule with respect thereto and shall not thereafter be removed from such location without the written consent of Lessor. Lessor shall be permitted to display notice of its ownership of the Equipment by affixing to each item of Equipment an identifying stencil or plate or any other indicia of ownership and Lessee will not alter, deface, cover or remove such ownership identification.

7. **Use of Equipment, Inspection and Reports.** Lessee may possess and use the Equipment in accordance with this Sublease, provided that any such use is in conformity with all applicable laws, any insurance policies and any warranties of Lessor with respect to the Equipment. Lessee agrees that (a) Lessor has no control over the manner in which the Equipment is used during the Term by Lessee, (b) Lessee shall inspect the Equipment and confirm it is suitable for Lessee's purposes, (c) Lessee will follow any manufacturer operating and/or safety instructions, and will notify Lessor if Equipment is disabled, damaged, or any warning lights or indicators appear on the Equipment, and (d) Lessor is not responsible for providing operating or other training of the Equipment to Lessee. Lessee shall not have the right to alter, remove, tamper with, or cover any decals, insignia, or warning labels or instructions on the Equipment. Lessor shall have the right, upon reasonable prior notice to Lessee and during Lessee's regular business hours, to inspect the Equipment at the premises of Lessee or wherever the Equipment may be located. Lessee shall promptly notify Lessor of all details arising out of any change in location of the Equipment, any alleged encumbrances thereon or any accident allegedly resulting from the use or operation thereof. The leased Equipment shall be used for no other purpose than for performing the operations for which it is designed.

8. **Further Assurances.** Lessee shall execute and deliver to Lessor, upon Lessor's request, such instruments and assurances as Lessor deems necessary for the confirmation or perfection of this Sublease and Lessor's rights hereunder. In furtherance hereof, Lessor may file or record this Sublease or a financing statement with respect thereto so as to give notice to any interested parties. Any such filing or recording shall not be deemed evidence of any intent to create a security interest under the Uniform Commercial Code.

9. **Risk of Loss.** All risk of loss, damage, theft or destruction to each item of Equipment shall be borne by Lessee. No such loss, damage, theft, or destruction of the Equipment, in whole or in part, shall impair the obligation of Lessee under this Sublease, all of which shall continue in full force and effect; and Lessee, at Lessor's option, shall either (a) place the affected Equipment in good repair, condition and working order or (b) replace the same with like Equipment in good repair, condition and working order or (c) pay Lessor an amount equal to all unpaid rent due and to become due under this Sublease with respect to the affected Equipment, less the net amount of the recovery, if any, actually received by Lessor from

insurance or otherwise for such loss, damage, theft or destruction. After compliance with the foregoing to Lessor's satisfaction, and provided Lessee is not in default under this Sublease, Lessee shall be subrogated to Lessor's rights with respect to any insurance policies or claims for reimbursement by others with respect to such loss, damage, theft or destruction.

10. **Maintenance and Repairs.** Lessee shall, at its expense, maintain each item of Equipment and all additions, attachments and accessories with respect thereto in good mechanical condition and running order, but shall not be responsible for normal wear and tear or depreciation resulting from the authorized use thereof. Such maintenance includes, but is not limited to: greasing, maintaining track tension and tire pressure, using only clean fuel to fill machines, and cleaning machines prior to surrender to Lessor. Without the prior written consent of Lessor, Lessee shall make no repair, alteration or attachment with respect to any item of Equipment which interferes with the normal and satisfactory operation or maintenance thereof, or creates a safety hazard, or which might result in the creation of a mechanic's or materialman's lien with respect thereto. All additions, attachments, accessories and repairs at any time made or placed upon the Equipment shall become part of the Equipment and shall be the property of Lessor.

11. **Insurance.**

(a) Lessee will, at its own expense, insure the Equipment at all times against all hazards requested by Lessor including but not limited to, fire, theft and extended coverage insurance, and such policies shall be payable to Lessor as its interest may appear. Lessor may act as attorney for Lessee in making, adjusting or settling any claims under any insurance policies insuring the Equipment. The proceeds of any fire, theft and extended coverage insurance with respect to the Equipment shall be payable solely to Lessor and shall be applied by Lessor toward the payment of Lessee's obligations hereunder and any balance of the proceeds shall be the property of Lessor, provided that at Lessor's option such proceeds may be used for the repair or replacement of the affected Equipment.

(b) Lessee will, at its own expense, carry public liability insurance with respect to the Equipment and the use thereof, in such amounts and with such insurers as are reasonably satisfactory to Lessor and such insurance policies shall also name Lessor as an

insured thereunder. The proceeds of any property damage insurance shall be payable first to Lessor to the extent of its liability, if any, and the balance to Lessee.

(c) All such policies of insurance shall be reasonably satisfactory to Lessor as to form, amount and insurer, and shall provide for at least thirty (30) days written notice of cancellation to Lessor. In no event shall the coverage provided by the insurance be for less than the fair market value of the Equipment. Lessee shall furnish certificates of insurance to Lessor as evidence that such insurance is in effect.

12. **Taxes.** Lessee will keep the Equipment free and clear of all levies, liens and encumbrances and, as additional rent during the term of this Sublease, shall pay all assessments, license fees, taxes (including sales, use, excise, personal property, ad valorem, stamp, documentary and other taxes) and all other governmental charges, fees, fines or penalties whatsoever, whether payable by Lessor or Lessee, on or relating to the Equipment or the use, registration, rental, shipment, transportation, delivery, ownership or operation thereof, and on or relating to this Sublease and any Schedules executed in connection herewith, and Lessee shall file all returns required therefor and furnish copies thereof to Lessor at its request, provided, however, that the foregoing shall not include any federal or state income or franchise taxes of Lessor. Upon demand, Lessee shall reimburse Lessor for any such assessments, fees, taxes, charges, fines or penalties which Lessor may be compelled to pay in connection with the Equipment. Lessor will cooperate with Lessee and furnish Lessee with any information available to Lessor in connection with Lessee's obligations under this paragraph.

13. **Lessor's Performance of Lessee's Obligations.** If Lessee shall fail to duly and promptly perform any of its obligations under this Sublease with respect to the Equipment, Lessor may (at its option) perform any act or make any payment which Lessor deems necessary for the maintenance and preservation of the Equipment and Lessor's title thereto, including payments for satisfaction of liens, repairs, taxes, levies and insurance, and all sums so paid or incurred by Lessor, together with interest as provided below, and any reasonable legal fees incurred by Lessor in connection therewith, shall be additional rent under this Sublease and payable by Lessee to Lessor on demand. The performance of any act or payment by Lessor as aforesaid shall not be deemed a waiver or release of any obligation or default on the part of Lessee.

14. **Late Charges**. Should Lessee fail for a period in excess of 15 days to duly pay any part of any rental payment or other sum to be paid to Lessor under this Sublease, then Lessee shall pay interest on such delinquent payment from the due date until paid at the lower of 1% per month or the highest legal contract rate of interest.

15. **Indemnification**. Lessee assumes liability for, and hereby agrees to indemnify, protect and keep harmless Lessor, its agents, employees, officers, directors, successors and assigns from and against any and all liabilities, obligations, losses, damages, injuries, claims, demands, penalties, actions, costs and expenses, including reasonable attorney's fees, of whatsoever kind and nature, arising out of the use, condition (including, but not limited to, latent and other defects and whether or not discoverable by Lessee or Lessor), operation, ownership, selection, delivery, leasing or return of any item of Equipment, regardless of where, how and by whom operated, or any failure on the part of Lessee to perform or comply with any conditions of this Sublease. The indemnities and assumptions of liabilities and obligations herein provided for shall continue in full force and effect notwithstanding the expiration or other termination of this Sublease. Nothing contained in this Sublease shall authorize Lessee or any other person to operate any item of Equipment so as to incur or impose any liability or obligation for or on behalf of Lessor. Each party agrees that it will give the other prompt notice of the assertion of any such claim or the institution of any such action, suit or proceeding.

16. **No Offset**. This Sublease is a net lease and all rental payments shall be paid by Lessee irrespective of any set-off, counterclaim, recoupment, defense or other right which Lessee may have against the supplier of the Equipment or any other party.

17. **Purchase Option**. Lessee shall have no option to purchase or otherwise acquire title or ownership of any item of Equipment unless (a) a written purchase option executed by Lessor is referred to in and annexed to the Schedule relating to such item of Equipment and (b) if there is such a purchase option, Lessee is not in default under this Sublease. Any such purchase option can only be exercised by Lessee's written notice to Lessor not earlier than 120 days prior to the end of the original term of the lease of any item of Equipment nor later than 10 days prior to the end of such original term.

18. **Renewal**. If a renewal rental is set forth in any Schedule relating to any item of Equipment, Lessee may, at its option, renew the lease thereof by giving Lessor written

notice thereof not less than 30 days before the expiration of the original term thereof or the anniversary date of any prior renewal thereof; and paying to Lessor the amount of the annual renewal rental, provided that such renewal option is not exercisable if Lessee is in default under this Sublease. Upon such notification and payment, the lease of any such item of Equipment shall be renewed for one year at the stated annual renewal rental, but the other provisions and conditions of this Sublease shall continue unchanged. If Lessee fails to return any item of Equipment at the end of the original lease term or any renewal thereof, and does not exercise its renewal option or purchase option as aforesaid, then the lease

thereof shall automatically be renewed from month to month with rent payable at the monthly rate applicable during the original term.

19. **Advance Rentals and Security.** Any advance rentals paid by Lessee to Lessor shall be applied to rental payments coming due under this Sublease in the inverse order of maturity. Lessee's obligations under this Sublease are secured by any of its property with respect to which Lessor may be granted a security interest in any other agreement or document.

20. **Assignment by Lessee.** Without Lessor's prior written consent, Lessee may not, by operation of law or otherwise (a) assign, transfer, pledge, hypothecate or otherwise dispose of this Sublease or any interest therein or (b) sublet or lend the Equipment or permit same to be used by anyone other than Lessee or Lessee's employees.

21. **Assignment by Lessor.** Lessee agrees (a) that Lessor may assign, sell or encumber all or any part of this Sublease, the Equipment and the rental payments hereunder and (b) in the event of any such assignment or rental payments hereunder and written notice thereof to Lessee, to unconditionally pay directly to any such assignee all rentals and other sums due or to become due under this Sublease. THE RIGHTS OF ANY SUCH ASSIGNEE SHALL NOT BE SUBJECT TO ANY DEFENSE, COUNTERCLAIM OR SET-OFF WHICH LESSEE MAY HAVE AGAINST THE LESSOR. Notwithstanding the foregoing, any such assignment (a) shall be subject to Lessee's right to possess and use the Equipment so long as Lessee is not in default under this Sublease and (b) shall not release any of Lessor's obligations hereunder or any claim which Lessee has against Lessor.

22. **Return of Equipment.** Upon payment in full of all rental payments for any item of Equipment described in any Schedule, unless Lessee shall have duly exercised any

renewal or purchase option with respect thereto, Lessee will at its expense deliver such items of Equipment to Lessor at any place or places within a radius of 100 miles of Lessee's premises designated by Lessor in writing, for such disposition as Lessor may determine. In the event of default by Lessee under this Sublease, Lessee will return all Equipment to Lessor in the same manner. All Equipment so delivered by Lessee to Lessor will be in the same condition as when delivered to Lessor, reasonable wear and tear resulting from authorized use thereof alone excepted.

23. **Events of Default.** Lessee shall be in default under this Sublease upon the happening of any of the following events or conditions ("Events of Default"):

(a) Default by Lessee in payment of any installment of rent or any other indebtedness or obligation now or hereafter owed by Lessee to Lessor under this Sublease or otherwise and the continuance of such default for ten consecutive days; or (b) default in the performance of any obligation, covenant or liability contained in this Sublease or any other agreement or document with Lessor, and the continuance of such default for ten consecutive days after written notice thereof by Lessor to Lessee; or (c) any warranty, representation or statement made or furnished to Lessor by or on behalf of Lessee proves to have been false in any material respect when made or furnished; or (d) loss, theft, damage, destruction, or the attempted sale or encumbrance by Lessee of any of the Equipment, or the making of any levy, seizure or attachment thereof or thereon; or (e) dissolution, termination of existence, discontinuance of its business, insolvency, business failure, or appointment of a receiver of any part of the property of, or assignment for the benefit of creditors by Lessee or the commencement of any proceedings under any bankruptcy, reorganization or arrangement laws by or against Lessee.

24. **Remedies of Lessor.** Upon the occurrence of any Event of Default and at any time thereafter (subject to any applicable grace provisions), Lessor may, without any further notice or demand, exercise one or more of the following remedies as Lessor in its sole discretion shall elect: (a) declare all unpaid rentals under this Sublease to be immediately due and payable; (b) terminate this Sublease as to any or all items of Equipment; (c) take possession of the Equipment wherever found, and for this purpose enter upon any premises of Lessee and remove the Equipment, without any liability for suit, action or other proceeding by Lessee; (d) cause Lessee at its expense to promptly return the Equipment to Lessor and in the condition set forth

above; (e) use, hold, sell, lease or otherwise dispose of the Equipment or any item thereof on the premises of Lessee or any other location without affecting the obligation of Lessee as provided in this Sublease; (f) sell or lease the Equipment or any part thereof, at public auction or by private sale or lease at such time or times and upon such terms as Lessor may determine, free and clear of any rights of Lessee and, if notice thereof is required by law, any notice in writing of any such sale or lease by Lessor to Lessee not less than 10 days prior to the date thereof shall constitute reasonable notice thereof to Lessee; (g) proceed by appropriate action either by law or in equity to enforce performance by Lessee of the applicable covenants of this Sublease or to recover damages for the breach thereof; (h) exercise any and all rights accruing to a lessor under any applicable law upon a default by a lessee. In addition, Lessor shall be entitled to recover immediately as liquidated damages, and not as a penalty, a sum equal to the aggregate of the following: (a) all unpaid rentals or other sums which are due and payable for any items of Equipment up to the date of redelivery to or repossession by Lessor; (b) any expenses paid or incurred by Lessor in connection with the repossession, holding, repair and subsequent sale, lease or other disposition of the Equipment, including attorney's fees and legal expenses; (c) all unpaid rentals due and to become due under this Sublease for any item of Equipment which Lessee fails to return to Lessor as provided above or converts or destroys, or which Lessor is unable to repossess; and (d) an amount equal to the difference between (i) all unpaid rentals for any item of Equipment returned to or repossessed by Lessor from the date thereof to the end of the respective rental period therefor and (ii) the present fair market rental value of each such item or item of Equipment for such unexpired rental period (the "Unexpired Rental Value"), provided, however, that the Unexpired Rental Value of each item of Equipment shall be deemed to be an amount equal to the proceeds of any sale thereof by Lessor for a period substantially similar to the unexpired rental period therefor. Should Lessor, however, estimate its actual damages to exceed the foregoing, Lessor may, at its option, recover its actual damages in lieu of or in addition thereto. Lessor shall not be obligated to sell, lease or otherwise dispose of any item of repossessed Equipment hereunder if it would impair the sale, lease or other disposition of similar equipment in the ordinary course of Lessor's business or which was previously repossessed by Lessor from any party. None of the remedies under this Sublease are intended to be exclusive, but each shall be cumulative and in addition to any other remedy referred to herein or otherwise

available to Lessor in law or in equity. Any repossession or subsequent sale or lease by Lessor of any item of Equipment shall not bar an action for a deficiency as herein provided, and the bringing of an action or the entry of judgment against Lessee shall not bar the Lessor's right to repossess any or all items of Equipment. LESSEE WAIVES ANY AND ALL RIGHTS TO NOTICE AND TO A JUDICIAL HEARING WITH RESPECT TO THE REPOSSESSION OF THE EQUIPMENT BY LESSOR IN THE EVENT OF A DEFAULT HEREUNDER BY LESSEE.

25. **Severability.** Any provision of this Sublease which is prohibited or unenforceable in any jurisdiction shall, as to such jurisdiction, be ineffective to the extent of such prohibition and unenforceable without invalidating the remaining provisions hereof. To the extent permitted by applicable law, Lessee hereby waives any provision of law which prohibits or renders unenforceable any provisions hereof in any respect.

26. **Notices.** All notices, reports, and other documents provided for herein shall be deemed to have been given or made when mailed, postage prepaid, addressed to Lessor or Lessee at their respective addresses or such other addresses as either of the parties hereto may designate in writing to the other from time to time for such purpose.

27. **Amendments and Waivers.** This instrument and the Schedules executed by Lessor and Lessee constitute the entire agreement between Lessor and Lessee with respect to the Equipment and the subject matter of this Sublease. No term or provision of this Sublease may be changed, waived, amended or terminated except by a written agreement signed by both Lessor and Lessee, except that Lessor may insert the serial number of any item of Equipment on the appropriate Schedule after delivery thereof. No express or implied waiver by Lessor of any Event of Default hereunder shall in any way be, or be construed to be, a waiver of any future or subsequent Event of Default whether similar in kind or otherwise.

28. **Construction.** This Sublease shall in all respects be governed by and construed in accordance with the laws of the Commonwealth of Pennsylvania. The titles of the sections of this Sublease are for convenience only and shall not define or limit any of the terms or provisions hereof. Time is of the essence of this Sublease in each and all of its provisions.

29. **Parties.** The provisions of this Sublease shall be binding upon, and shall inure to the benefit of the assigns, representatives and successors of Lessor and Lessee. If there is more than one Lessee named in this Sublease, the liability of each shall be joint and several.

NOW THEREFORE, Lessor and Lessee have each caused this Sublease to be duly executed.

LESSEE HEREBY ACKNOWLEDGES RECEIPT OF AN EXECUTED AND TRUE COPY OF THE SUBLEASE AND THAT IT IS NON-CANCELLABLE FOR THE ORIGINAL RENTAL TERM.

SCHEDULE A

Equipment:

Total Rent per month: \$

Rental Term

Begins:

Ends:

Rent: The total monthly rental price for the equipment shall be as stated above, with the first payment due on _____[date] and following payments due on the same date of each month (or next succeeding business date thereto if such date is not a business day of Lessee).

Renewal and Purchase Option:

Lessee may, at the expiration of the term of this Sublease, renew this Sublease for successive annual periods subject to the terms and conditions of this Sublease. The annual renewal rental shall be agreed upon by the parties at the time of such renewal.

Lessee, at the expiration of the term of this Sublease and subject to the terms and conditions of this Sublease, shall have the option to purchase the Equipment for a price equal to the greater of 10% of Lessor's cost for the Equipment or the then fair market value of the Equipment as mutually determined by Lessor and Lessee or as determined by an independent qualified appraiser selected by Lessor and Lessee acting in good faith.