

## PERSONAL PROPERTY LEASE

**THIS PERSONAL PROPERTY LEASE** (“Agreement”) is made by and between **Flying V Rentals, LLC**, a Texas limited liability company (“Lessor”), whose address is 1733 Briarcrest Drive, Suite 210, Bryan, Texas 77802 and \_\_\_\_\_ (“Lessee”), whose address is \_\_\_\_\_. Lessor leases to Lessee the personal property described in **Exhibit “A”** attached to this Agreement (the “Equipment”) on the terms and conditions set forth herein.

### ARTICLE 1 TERM OF LEASE

1.01. **Initial Term.** The initial term of this Lease is for \_\_\_\_\_ ( ) days commencing on \_\_\_\_\_, 20\_\_.

1.02. **Effect of Holding Over.** If Lessee retains possession of the Equipment after the expiration of the Lease term, this retention of the Equipment will be deemed to constitute a further lease of the Equipment for a similar period at the rental in the amount of 200% per day. In the event of such a holdover, all other provisions and conditions of this Lease continue unchanged.

### ARTICLE 2 PAYMENTS BY LESSEE

2.01. **Rental Payments.** The amount of the rental payment is \$ \_\_\_\_\_. All rental payments are due and payable in advance.

2.02. **Security Deposit.** As security for the prompt and full payment of rent and the complete and timely performance of all provisions of this Lease, Lessee will deposit with Lessor \$\_\_\_\_\_ as the Security Deposit. If Lessee defaults in the performance of any covenant in this Lease, Lessor has the right, but is not obligated, to apply the Security Deposit in order to cure the default. The application of the Security Deposit by Lessor shall not be a defense to any action by Lessor arising out of the default. On the expiration or earlier termination of this Lease, provided Lessee has paid all of the required rent and fully performed all of the other provisions of this Lease, Lessor will return to Lessee any remaining balance of the Security Deposit.

### ARTICLE 3 USE OF EQUIPMENT

3.01. **Rights of Lessee.** Lessee is entitled to the use, operation, possession, and control of the Equipment during the Lease term, provided Lessee is not in default of any provision of the Lease, and subject to any security interest Lessor may have given or may give to any third party during the Lease term. Lessee shall employ and have absolute control, supervision, and responsibility over any operators or users of the Equipment.

3.02. **Duties of Lessee.**

(a) Lessee must use the Equipment in a careful and proper manner. Lessee agrees that the Equipment will be used in accordance with any applicable vendors or manufacturer's manuals or instructions, by competent and fully qualified personnel only. Lessee agrees to reimburse Lessor in full for all damage to the Equipment arising from any misuse or negligent act by Lessee, its employees, or its agents.

(b) Lessee shall not permit any Equipment to be operated or used in violation of any applicable federal, state, or local statute, law, ordinance, rule, or regulation relating to the possession, use, or maintenance of the Equipment. Lessee will indemnify and hold Lessor harmless from all liabilities, fines, forfeitures, or penalties for violations of any statute, law, ordinance, rule, or regulation of any duly constituted public authority.

ARTICLE 4  
MAINTENANCE, REPAIRS, AND ALTERATIONS PERFORMED BY LESSEE

4.01. **Maintenance and Repairs.** Lessee assumes all obligation and liability concerning possession of the Equipment, and for its use, operation, condition, and storage during the lease term. Lessee shall, at Lessee's expense, maintain the Equipment in good mechanical condition and running order, excepting reasonable wear and tear resulting from the ordinary use of the Equipment. Lessee shall, at Lessee's expense, provide all parts, mechanisms, and devices required to keep the Equipment in good repair, condition, and running order. Lessor has no liability or obligation of any kind to provide service, maintenance, repairs, or parts for the Equipment.

4.02. **Alterations.** Lessee shall not make any alterations, additions, or improvements to the Equipment (other than those required to keep the Equipment in good condition and running order as described in Paragraph 4.01) without the prior written consent of Lessor.

ARTICLE 5  
OPERATING EXPENSES

Lessee agrees to pay for all expenses of operating the Equipment, including but not limited to fuel bills, license fees, registration fees, and all other charges in connection with the operation of the Equipment.

ARTICLE 6  
LESSOR'S RIGHT OF INSPECTION AND REPAIR

6.01. **Inspections.** Lessor has the right to enter the premises where the Equipment is located or operated for the purpose of inspecting the Equipment in order to ascertain its condition and manner of use. Such an inspection may be made by Lessor at its discretion, but only during Lessee's regular business hours.

6.02. **Repair Remedy.** If Lessor's inspection of the Equipment, as described in Paragraph 6.01, reveals that any Equipment is not being properly maintained or utilized according to the provisions of this Lease, Lessor has the right, but not the obligation, to have the Equipment repaired or maintained at the expense of Lessee.

ARTICLE 7  
INDEMNIFICATION AND LIABILITY

7.01. **Risk of Loss and Liability Assumed by Lessee.** Lessee assumes all risk and liability for the loss of or damage to the Equipment, for the death of or injury to any person or Equipment of another, and for all other risks and liabilities arising from the use, operation, condition, possession, or storage of the Equipment. Nothing in this Lease authorizes Lessee or any other person to operate any of the Equipment so as to impose any liability or other obligation on Lessor.

7.02. **Lessee's Duty to Indemnify.** Lessee agrees to indemnify, defend, and hold harmless Lessor, its agents, and employees from all claims, loss, or damage Lessor may sustain for any of the following reasons:

- (a) Loss of, or damage to, Equipment by any cause.
- (b) Injury to, or death of, any person, including but not limited to agents or employees of Lessee.
- (c) Damage to any Equipment arising from the use, possession, selection, delivery, return, condition, or operation of Equipment.

7.03. **Liability for Fines and Penalties.** Lessee has sole liability for, and must reimburse Lessor for, all expenses, losses, liabilities, fines, penalties, and claims of every type, including reasonable attorney's fees, imposed by any

governmental or regulatory agency or entity by virtue of Lessee's use or operation of any Equipment, or because of the failure by Lessee to perform any of the Lease terms. Lessee will also pay interest ten percent (10%) from the day any such payment is made by Lessor until the date Lessor is reimbursed by Lessee.

7.04. **Payment of Stipulated Loss Value.** If the Equipment becomes lost, stolen, destroyed, or damaged beyond repair, Lessee shall pay Lessor in cash the Stipulated Loss Value as set forth in **Exhibit "B"**. This Lease will terminate at the time of such payment with respect to that item of Equipment for which payment is made. After paying the Stipulated Loss Value, Lessee is entitled to the Equipment on an as-is basis, without warranty by Lessor, express or implied, for any matter concerning the Equipment.

7.05. **Obligations Survive Lease Term.** The indemnities, assumptions of risk, liabilities, and obligations of Lessee arising under this Lease will continue in effect after the termination of the Lease, regardless of the reason for termination.

The indemnities, assumptions of risk, liabilities, and obligations of Lessee arising under this Lease may be excused only to the extent that they are covered by the insurance policies described in Article 9 of this Lease. Any payment received by Lessor from an insurance carrier shall be set off against the obligations described in this Article 7.

#### ARTICLE 8 INCIDENTAL DUTIES IN CASE OF ACCIDENT, LOSS OF, OR DAMAGE TO EQUIPMENT

8.01. **Notification to Lessor.** If the Equipment is damaged, lost, stolen, or destroyed as a result of its operation, use, maintenance, or possession, Lessee shall promptly notify Lessor of the occurrence and shall file all necessary accident reports, including those required by law and those required by interested insurance companies.

8.02. **Cooperation in Defense of Claims.** Lessee and its employees and agents must cooperate fully with Lessor and all insurers providing insurance under this Lease in the investigation and defense of all claims or suits. Lessee must promptly deliver to Lessor all papers, notices, and documents served on, or delivered to Lessee or its employees and agents in connection with any claim, suit, action, or proceeding at law or in equity commenced or threatened against Lessee or Lessor concerning the Equipment.

#### ARTICLE 9 INSURANCE

Lessee shall maintain in effect from the date of Equipment Acceptance until its return of the Equipment to Lessor insurance against all risk or physical loss or damage to the Equipment in an amount not less than one hundred-percent (100%) of the replacement value of the Equipment. Such insurance policy or policies will name Lessee and Lessor as their respective interest will appear, and such policy or policies may not be altered, amended, or canceled without thirty (30) days prior written notice to Lessor.

#### ARTICLE 10 WARRANTIES

The Equipment has been selected by Lessee, and Lessor shall have no responsibility in connection with the selection of said Equipment, its suitability for the use intended by Lessee.

#### ARTICLE 11 CIRCUMSTANCES CONSTITUTING DEFAULT BY LESSEE

Lessor may, at its option, declare Lessee in default by giving Lessee written notice of default on the occurrence of any of the following events:

- (a) Failure by Lessee to make rental payments or perform any other of its obligations as set forth in this Lease.
- (b) Involuntary transfer of Lessee's interest in this Lease by operation of law.
- (c) Lessee's assignment of any interest in this Lease.
- (d) Institution by or against Lessee of any proceedings in bankruptcy or insolvency, or the reorganization of Lessee under any law, or the appointment of a receiver or trustee for the Equipment of Lessee, or any assignment by Lessee for the benefit of creditors.

ARTICLE 12  
RIGHTS, REMEDIES, AND OBLIGATIONS ON DEFAULT

12.01. **Lessor's Rights and Remedies.** If the Lessee defaults, and if a notice of default is given as specified in Article 11 and the default remains uncorrected for five (5) days, Lessor may exercise any one or more of the following remedies:

- (a) Termination of the Lease and Lessee's rights under this Lease as to the Equipment
- (b) A declaration that all due but unpaid rent and all other charges due under the Lease are due and payable immediately, and that Lessor is entitled to this balance together with interest at the rate of one (1) percent per month from the date of notification of default to the date of payment.
- (c) Repossession of the Equipment without legal process, free of all rights of Lessee in and to the Equipment. By this provision, Lessee expressly authorizes Lessor or Lessor's agent to enter any premises owned or controlled by Lessee, or Lessee's agents and assigns, where the Equipment is located for the purpose of repossessing and removing Equipment. Lessee specifically waives any right of action Lessee might otherwise have arising out of the entry and repossession, and releases Lessor from any claim for trespass or damage caused by reason of the entry, repossession, or removal.

12.02. **Lessee's Obligation for Lessor's Costs and Attorney's Fees.** If Lessee defaults, Lessee shall reimburse Lessor for all reasonable expenses of repossession and enforcement of Lessor's rights and remedies, together with interest at the rate of one (1) percent per month until the date of payment. Notwithstanding any other provisions of this Lease, if Lessor places all or any part of Lessor's claim against Lessee in the hands of an attorney for collection, Lessee shall pay Lessor's reasonable attorney's fees.

12.03. **Remedies Cumulative.** The remedies of Lessor set forth in this Article are cumulative to the extent permitted by law and may be exercised partially, concurrently, or separately. The exercise of one remedy does not preclude the exercise of any other remedy.

12.04. **Failure To Enforce Not Waiver.** Any failure or delay on the part of Lessor to exercise any remedy or right under this Lease is not a waiver. The failure of Lessor to require performance of any of the terms, covenants, or provisions of this Lease by Lessee will never constitute a waiver of any of the rights under the Lease. No single or partial exercise by Lessor of any remedy or right precludes any other or further exercise of that remedy or right or the exercise of any other rights or remedies. No forbearance by Lessor to exercise any rights or privileges under this Lease is a waiver, but all rights and privileges continue in effect as if no forbearance occurred. Acceptance by Lessor of rent or other payments made by Lessee after default is not a waiver of Lessor's rights and remedies arising from Lessee's default.

12.05. **Forfeiture of Lessee's Interest on Default.** If Lessee defaults for any reason and this Lease is terminated and the Equipment repossessed, Lessee and Lessee's successors in interest shall have no right, title, or interest in the

Equipment, its possession, or its use. Lessor shall retain all rents and other payments of any kind made by Lessee under this Lease.

### ARTICLE 13 RETURN OF EQUIPMENT ON EXPIRATION OF LEASE

13.01. **Lessee's Duty to Return.** On the expiration of the lease term, or on any earlier termination of this Lease, Lessee must return the Equipment to Lessor in good repair, condition, and working order, less normal wear, tear, and depreciation. The Equipment must be returned in the following manner, as may be specified by Lessor:

- (a) By delivering the Equipment, at Lessee's cost and expense, to such place as Lessor will specify within the city or county in which it was delivered to Lessee or to which it was moved with the written consent of Lessor.
- (b) By loading the Equipment, at Lessee's cost and expense, on board a carrier Lessor designates and shipping the Equipment, freight collect, to the destination designated by Lessor.

13.02. **Right of Lessor to Repossess.** If Lessee fails or refuses to return the Equipment to Lessor at the expiration of the lease term or at some earlier termination of this Lease, Lessor has the right to take possession of the Equipment without legal process, free of all rights of Lessee in and to the Equipment. By this provision, Lessee expressly authorizes Lessor or Lessor's agent to enter any premises owned or controlled by Lessee, or Lessee's agents and assigns, where the Equipment is located for the purpose of repossessing and removing the Equipment. Lessee specifically waives any right of action Lessee might otherwise have arising out of the entry and repossession, and releases Lessor from any claim for trespass or damage caused by reason of the entry, repossession, or removal.

### ARTICLE 14 GENERAL PROVISIONS

14.01. **Notices.** All notices required to be given under this Lease must be in writing. Notices under this Lease will be deemed duly served and given when either (a) personally delivered to the party or the designated agent of the party to whom they are directed; or (b) deposited in the United States mail, first class postage prepaid, addressed to the party at the address given for the party in this Lease.

14.02. **Change of Address.** Either party may change its address for the purpose of this Lease by giving written notice of the changed address in the manner specified in Paragraph 20.01.

14.03. **Amendment, Modification, and Waiver.** This Lease may not be amended, modified, or altered in any manner except in a writing signed by all parties. No covenant or condition of this Lease may be waived except by the written consent of Lessor. Any such written waiver of any term of this Lease is effective only in the specific instance and for the specific purpose given.

14.04. **Entire Agreement.** This Lease and the attached **Exhibit "A"** (which is incorporated by reference and made an integral part of this Lease) constitute the entire agreement between the parties. No agreements, representations, or warranties other than those specifically set forth in this Lease or in **Exhibit "A"** are binding on any of the parties.

14.05. **Choice of Law.** This Lease has been executed and delivered in the State of Texas and shall be interpreted under and construed in accordance with the law of Texas. It is agreed that Texas law will control the validity of and the obligations created by this Lease. Venue shall be in Brazos County, Texas.

14.06. **Severability.** If one or more of the provisions of this Lease, or the application of any provision to any party

or circumstance, is held invalid, unenforceable, or illegal in any respect, the remainder of this Lease and the application of the provision to the other parties or circumstances remain valid and in full force and effect.

14.07. **Heirs and Successors.** This Lease and each of its provisions is binding on and inures to the benefit of the respective heirs, assignees, executors, administrators, trustees, and successors of the parties.

14.08. **Time of Essence.** Time is of the essence in this Lease and in each provision contained in it. Each provision of this Lease is agreed by the parties to be a material, necessary, and essential part of this Lease.

14.09 **Authority.** Lessee represents and warrants that it has the power to enter into this Lease; that all procedures required for the authorization and execution of this Agreement.

Dated: \_\_\_\_\_, 20\_\_.

LESSOR:

**Flying V Rentals, LLC,**  
a Texas limited liability company

By: \_\_\_\_\_  
\_\_\_\_\_, \_\_\_\_\_

LESSEE:

\_\_\_\_\_

**Exhibit "A"**

*Personal Equipment*