

Purchase Order Terms and Conditions

1. **Applicability.** The purchase order to which these Terms (defined herein) are attached is an offer by Elite Equipment Rental LLC (the “**Buyer**”) for the purchase of the goods specified on the face of such purchase order (the “**Goods**”) from the party to whom the purchase order is addressed (the “**Seller**”) in accordance with and subject to these terms and conditions (the “**Terms**”; together with the terms and conditions on the face of the purchase order, the “**Order**”). This Order, together with any documents incorporated herein by reference, constitutes the sole and entire agreement of the parties with respect to the Order, and supersedes any and all prior or contemporaneous understandings, agreements, negotiations, representations and warranties, and communications, whether written and oral, with respect to the subject matter of the Order. Seller's acceptance is expressly limited to the terms of the Order and any additional or contradictory terms are not included. These Terms expressly exclude any of Seller's general terms and conditions of sale or any other document issued by Seller in connection with this Order. In the event of a conflict between these Terms and the Order, the order of precedence shall be the Order and then these Terms.

2. **Acceptance.** This Order shall be binding at such time as Seller accepts the Order in writing or starts to perform in accordance with the Order. Buyer may withdraw the Order at any time before it is accepted by Seller.

3. **Delivery Date.** Seller shall deliver the Goods in the quantities and on the date(s) specified in this Order or as otherwise agreed in writing by the parties (the “**Delivery Date**”). Timely delivery of the Goods is of the essence. If Seller fails to deliver the Goods in full on the Delivery Date, Buyer may terminate the Order immediately by providing written notice to Seller and Seller shall indemnify Buyer against any losses, claims, damages, and reasonable costs and expenses directly attributable to Seller's failure to deliver the Goods on the Delivery Date.

4. **Delivery Location; Shipping Terms.** All Goods shall be delivered to the address and on the date specified in this Order (the “**Delivery Location**”) during Buyer's normal business hours or as otherwise instructed by Buyer. Delivery shall be made FOB Delivery Location.

5. **Title and Risk of Loss.** Title and risk of loss passes to Buyer after the unloading of the Goods at the Delivery Location. For the purpose of clarity, Seller bears all risk of loss or damage to the Goods until the unloading of the Goods at the Delivery Location.

6. **Amendment and Modification.** No change to this Order is binding upon Buyer unless it is in writing, specifically states that it amends this Order and is signed by an authorized representative of Buyer.

7. **Inspection and Rejection of Nonconforming Goods.** The Buyer has the right to inspect the Goods on or after the Delivery Date. Buyer, at its sole option, may inspect all or a sample of the Goods, and may reject all or any portion of the Goods if it determines the Goods are nonconforming or defective. If Buyer rejects any portion of the Goods, Buyer has the right, effective upon written notice to Seller, to: (a) rescind the Order in its entirety; (b) accept the Goods at a reasonably reduced price; or (c) reject the Goods and require replacement of the rejected Goods. If Buyer requires replacement of the Goods, Seller shall, at its expense, promptly replace the nonconforming Goods with conforming Goods and pay for all related expenses, including, but not limited to, transportation charges for the return of the defective Goods and the delivery of replacement Goods. Any inspection or other action by Buyer under this Section shall not reduce or otherwise affect Seller's obligations under the Order, and Buyer shall have the right to conduct further inspections after Seller has carried out its remedial actions.

8. **Price.** The price of the Goods is the price stated in the Order (the “**Price**”). Unless otherwise specified in the Order, the Price includes all packaging, transportation costs to the Delivery Location, insurance, customs duties and fees and applicable taxes, including, but not limited to, all sales, use or excise taxes. No increase in the Price is effective, whether due to increased material, labor or transportation costs or otherwise, without the prior written consent of Buyer.

9. **Payment Terms.** Seller shall issue an invoice to Buyer on or any time after the completion of delivery and only in accordance with the Terms. Buyer shall pay all properly invoiced amounts due to Seller within sixty (60) days after Buyer's receipt of such invoice, except for any amounts disputed by Buyer in good faith. All payments hereunder must be in US dollars and made by check or wire transfer to an account designated by Seller.

10. **Setoff.** Without prejudice to any other right or remedy it may have, Buyer reserves the right to set off at any time any amount owing to it by Seller against any amount payable by Buyer to Seller.

11. **Warranties.** Seller warrants to Buyer that for a period of one (1) year from the Delivery Date, all Goods will: (a) be free from any defects in workmanship, material and design; (b) conform to applicable specifications as set forth in the Order; (c) be merchantable; (d) be free and clear of all liens, security interests or other encumbrances; and (e) not infringe or misappropriate any third party's patent or other intellectual property rights. These warranties survive any delivery, inspection, acceptance, or payment of or for the Goods by Buyer. These warranties are cumulative and in addition to any other warranty provided by law or equity.

12. **Indemnification.** Seller shall defend, indemnify and hold harmless Buyer, its subsidiaries, affiliates, successors or assigns and its respective directors, officers, shareholders and employees and Buyer's customers (collectively, “**Indemnitees**”) against any and all loss, injury, death, damage, liability, claim, deficiency, action, judgment, interest, award, penalty, fine, cost or expense, including reasonable attorney and professional fees and costs, and the cost of enforcing any right to indemnification hereunder and the cost of pursuing any insurance providers (collectively, “**Losses**”) arising out of or occurring in connection with: (a) the Goods; (b) Seller's wrongful act or omission; (c) Seller's breach of the Order; or (d) any claims that Buyer's or Indemnitee's use or possession of the Goods infringes or misappropriates the patent, copyright, trade secret or other intellectual property right of any third party. Seller shall not enter into any settlement without Buyer's or Indemnitee's prior written consent.

13. **Compliance with Law.** Seller represents and warrants that Seller is in compliance with and shall comply with all applicable laws, regulations and ordinances. Seller has and shall maintain in effect all the licenses, permissions, authorizations, consents and permits required to carry out its obligations under the Order.

14. **Waiver.** No waiver by any party of any of the provisions of the Order shall be effective unless explicitly set forth in writing and signed by the party so waiving. Except as otherwise set forth in the Order, no failure to exercise, or delay in exercising, any rights,

remedy, power or privilege arising from the Order shall operate or be construed as a waiver thereof, nor shall any single or partial exercise of any right, remedy, power or privilege hereunder preclude any other or further exercise thereof or the exercise of any other right, remedy, power or privilege.

15. Confidential Information. All non-public, confidential or proprietary information of the Buyer, including, but not limited to, specifications, samples, patterns, designs, plans, drawings, documents, data, business operations, customer lists, business plans, pricing, discounts or rebates, disclosed by Buyer to Seller, whether disclosed orally or disclosed or accessed in written, electronic or other form or media, and whether or not marked, designated or otherwise identified as "confidential," in connection with the Order is confidential, solely for the use of performing the Order and may not be disclosed or copied unless authorized by Buyer in writing. Upon Buyer's request, Seller shall promptly return all documents and other materials received from Buyer. Buyer shall be entitled to injunctive relief for any violation of this Section. This Section shall not apply to information that is: (a) in the public domain through no fault of Seller; (b) known to the Seller at the time of disclosure; or (c) rightfully obtained by the Seller on a non-confidential basis from a third party.

16. Assignment. Seller shall not assign, transfer, delegate or subcontract any of its rights or obligations under the Order without the prior written consent of Buyer. Any purported assignment or delegation in violation of this Section shall be null and void. No assignment or delegation shall relieve the Seller of any of its obligations hereunder.

17. Governing Law. Each Party irrevocably and unconditionally agrees that it will not commence any action, litigation, or proceeding of any kind whatsoever against the other Party in any way arising from or relating to this Agreement or any exhibits or schedules attached hereto, or any contemplated transaction, in any forum other than the state and federal courts located in Clark County, Nevada, and any appellate court from any thereof. Each Party irrevocably and unconditionally submits to the exclusive jurisdiction of such courts and agrees to bring any such action, litigation, or proceeding only in the state and federal courts located in Clark County, Nevada. Each Party agrees that a final judgment in any such action, litigation, or proceeding is conclusive and may be enforced in other jurisdictions by suit on the judgment or in any other manner provided by law.

18. Severability. If any term or provision of this Order is invalid, illegal or unenforceable in any jurisdiction, such invalidity, illegality or unenforceability shall not affect any other term or provision of this Order or invalidate or render unenforceable such term or provision in any other jurisdiction.