

**RENTAL AGREEMENT**

**THIS AGREEMENT** is dated effective as of \_\_\_\_\_, 2021

BETWEEN:

- AND -

**HEAVY IRON INC.**  
370145 – 79<sup>th</sup> Street East  
Aldersyde, AB T0L 0A0  
("HEAVY IRON")

**Billing Address:** \_\_\_\_\_  
**Billing Address:** \_\_\_\_\_  
**Contact/Phone** \_\_\_\_\_  
**Email:** \_\_\_\_\_  
**A/P Email:** \_\_\_\_\_  
(the "LESSEE")

**EQUIPMENT**

#	Description / Serial Number / Value

**RENTAL DETAILS**

**Term:**  Monthly     Weekly     Daily     Hourly

**Rental Start Date :** \_\_\_\_\_ **Rental End Date:** \_\_\_\_\_

**Rental Rate**

Rental Amount (exclusive of GST)	Hourly / Daily / Monthly	Pick up Location

**Use and Location of Equipment**

Location (Legal Description)	Use

**Hour Meter Reading**

**Hour Meter:** \_\_\_\_\_ **Hour Meter Return:** \_\_\_\_\_

**ACCEPTANCE:** By requesting Heavy Iron's services and equipment hereunder, including without limitation, this rental agreement, a purchase order, agreement, proposal or similar document (hereinafter collectively the "**Agreement**"), the customer or Lessee accepts and agrees to be bound by Heavy Iron's General Terms and Conditions attached hereto and the Agreement incorporates by reference the General Terms and Conditions. The General Terms and Conditions form part of the Agreement and Heavy Iron's services and equipment under the Agreement will be subject to and provided to the Lessee in accordance with the General Terms and Conditions.

CASL and CEM Consent: Lessee expressly consents to receipt of electronic communications from Heavy Iron. Lessee may unsubscribe or opt out at any time.

**IN WITNESS WHEREOF**, the parties hereto have executed this Agreement by their duly authorized representatives effective as of the date first written above.

**HEAVY IRON INC.**

**LESSEE:**

By: \_\_\_\_\_  
I have the authority to bind the corporation

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

## GENERAL TERMS AND CONDITIONS

WHEREAS Heavy Iron is in the business of leasing the equipment as more particularly described in the Agreement attached hereto, together with any replacements made thereto (the "**Equipment**");

WHEREAS The Lessee wishes to rent the Equipment from Heavy Iron and Heavy Iron has agreed to rent the Equipment to the Lessee on the terms and conditions contained herein; and

WHEREAS From time to time the parties may execute addendums which may include, but are not limited to the specific description and quantity of Equipment to be rented by the Lessee; the rental term; the rental rate; and other terms as may be mutually agreed to in writing by the parties.

NOW THEREFORE, for valuable consideration (the receipt and sufficiency of which is hereby irrevocably acknowledged), Heavy Iron and the Lessee hereby agree as follows:

1. **Agreement to Rent.** Heavy Iron agrees to rent to the Lessee and the Lessee agrees to rent from Heavy Iron the Equipment pursuant to the terms and conditions herein.
2. **Delivery and Acceptance.** Delivery of the Equipment shall take place F.O.B. Heavy Iron's facility in Aldersyde, Alberta or such other locations Heavy Iron may determine (the "**Heavy Iron Facility**"). Lessee agrees that it is responsible for all transportation costs, and any other fees or claims associated with transporting the Equipment to/from the Heavy Iron Facility, including without limitation loading, unloading, hauling and dismantling. Any special packing for international shipments may result in additional charges to Lessee. Lessee assumes all responsibility and risk of loss, delay, damage, or breakage of the Equipment after the Equipment has left the Heavy Iron Facility and until the Equipment is returned to the Heavy Iron Facility. Without limiting Lessee's risk of delay, damage or loss of the Equipment as set out herein; Lessee agrees to obtain appropriate transportation insurance for the total value of the Equipment for all of Equipment to Lessee and for all return transportation of Equipment back to Heavy Iron.
3. **Rental Charges - Rental charges ("Rent")** shall accrue commencing on the day that the Lessee takes possession of the Equipment from the Heavy Iron Facility and shall continue to accrue up to and including the day that the Lessee returns the Equipment to the Heavy Iron Facility (or such other place as Heavy Iron may designate in writing). Lessee agrees to pay all accrued Rent notwithstanding the Lessee's ability to utilize the Equipment during the Term. For greater certainty, if down time occurs due to mechanical failure or other reason whatsoever, Rent continues to accrue and shall not constitute a stop in rent.
4. **Payment of Rent.** On the date the Lessee takes possession of the Equipment (the "**Rental Start Date**"), as is stated on the first page of this Agreement, the Lessee shall pay the first month or day of Rent as applicable. All subsequent payments of Rent, except for the final month or day (as applicable) of the Term be paid by Lessee to Heavy Iron within 30 days of receipt of Heavy Iron's invoice. On the date the Lessee returns the Equipment (the "**Rental End Date**") all Rent becomes due and payable. Should Lessee fail to pay any part of the Rent herein reserved or any other sum required to be paid by Lessee to Heavy Iron on the date due, Lessee agrees to pay Heavy Iron interest on such delinquent payments at the rate of 1.5% per month or 18% per annum, such rate to be applicable both before and after the rendering of any judgment to enforce payment of such delinquent payments.

The Rent payable hereunder shall be completely net to Heavy Iron and shall be paid without any deduction, abatement, set off or compensation whatsoever. The daily Rent rate does not include sales tax (including the Canadian G.S.T.), use, excise or other taxes, export or import taxes or duties, customs duties, documentation charges, freight fees, license fees, registration fees, transfer fees, permit fees or similar costs or charges as may be applicable. Unless Lessee provides Heavy Iron with a tax exemption certificate acceptable to the applicable taxing authorities, an amount equal to any sales, use, excise or other tax which may be imposed upon the Rent or use of the Equipment, as well as all the other above mentioned duties, costs and charges shall be charged to Lessee as additional Rent for the Equipment set forth on such invoice.

5. **Term.** Lessee shall agree to rent the Equipment for a minimum period of time (the "**Minimum Term**") to be set forth on the Agreement, which term shall be at minimum: 200 hours per month; 50 hours per week; or 10 hours per day as the case may be. Lessee shall be obligated to pay rent for the entire Minimum Term regardless of Lessee's ability to utilize the Equipment during the Minimum Term. If Lessee retains the Equipment after the Minimum Term, Rent shall continue to accrue to Lessee on a day-to-day basis at the daily rental rate applicable during the Minimum Term up to and including the day that the Equipment is returned to the Heavy Iron Facility. The Minimum Term together with any additional time period hereunder or under any addendum hereto from the date of taking possession of the Equipment at the Heavy Iron Facility to and until the date of return of the Equipment to the Heavy Iron Facility is hereinafter called the "**Term**".
6. **Termination.** This Agreement is subject to termination on the following terms:
  - (a) Heavy Iron may terminate the Agreement:

- (i) immediately upon written notice to the Lessee upon the occurrence and continuation of an Event of Default in accordance with the terms herein; or
  - (ii) at any time upon fifteen (15) days prior written notice to the Lessee; and
- (b) the Lessee may terminate the Agreement at any time upon thirty (30) days prior written notice to Heavy Iron.

7. **Maintenance and Repair of Equipment.** At its own expense, the Lessee shall:

- (a) keep the Equipment in good repair, condition and working order and maintained in accordance with the manufacturer's recommended engineering and maintenance standards, including but not limited to proper lubrications, replacing filters at prescribed intervals, proper fuel and adjustments;
- (b) provide daily maintenance including but not limited to checking all fluid levels and greasing of the Equipment;
- (c) servicing of the Equipment to be completed at each and every 250 hour interval during the Term, which includes changing oil; and replacing the oil filters, air cleaners and fuel filters (the "Interval Service");
- (d) maintain the Equipment in the same condition as when delivered and the Lessee shall ensure all wear and tear items are replaced or repaired as required and to the standard herein;;
- (e) be responsible for all replacements and repairs for wear greater than 3% for every 200 hours per month on any and all running gear, including but not limited to undercarriage, all components and tires;
- (f) replace and repair all wear items and ground engaging tools to the equivalent status and condition as the Equipment was at the Rental Start Date or the date the Lessee took possession;
- (g) clean the Equipment on the inside and the exterior prior to return to the Heavy Iron Facility;;and
- (h) make all alterations or additions to the Equipment that may be required or supplied by the manufacturer of the Equipment or which is otherwise legally necessary or required to maintain the Equipment.

Within three (3) days of the date the Interval Service is due, the Lessee shall deliver to Heavy Iron the hour meter and service interval completion reports or similar documentation evidencing the Interval Service is completed and to the satisfaction of Heavy Iron. If Lessee fails to deliver the reports as provided herein, Heavy Iron will facilitate completion of the Interval Service and all costs associated thereto shall be paid by the Lessee, including but not limited to unloading, hauling, parts, labor and travel.

For wear and tear items or other repairs, Lessee shall report all incidents to Heavy Iron prior to undertaking repair. If Lessee is unable to complete the repair for any reason, then Lessor will complete the repair and the Lessee shall be responsible for all expenses incurred by Heavy Iron including travel time. .

In addition, the Lessee shall make no other modifications, alterations or additions to the Equipment (except for alterations or additions that will not impair the value or performance of the Equipment and that are readily removable without damage to the Equipment). Any modifications, alterations or additions that Lessee makes to the Equipment (except as permitted by clause in the preceding sentence), and any parts incorporated in any Equipment in connection with its maintenance or repair, shall become Heavy Iron's property and shall also be deemed to be Equipment.

8. **Use and Operation of Equipment.** The Lessee shall at its own expense:

- (a) comply with and conform to all applicable laws, ordinances and regulations (including laws, ordinances and regulations concerning environmental matters) relating to the Lessee, this Agreement or any amendment thereto, the Equipment, or the delivery, rental, possession, use, maintenance or redelivery of the Equipment ("**Applicable Laws**"), and obtain, maintain and comply with all necessary permits and licenses relating to the Equipment;
- (b) use the Equipment in a careful and prudent manner and in accordance with all Applicable Laws and not for any unlawful purpose;
- (c) ensure that the Equipment is operated only by competent and properly trained personnel who have all licenses, permits and approvals required by law to operate the Equipment, are wearing appropriate protective clothing and equipment and are not under the influence of drugs or alcohol;
- (d) ensure the Equipment is operated in accordance with the methods and standards of operation recommended and approved by the manufacturer of the Equipment and in accordance with any Applicable Laws;

- (e) ensure that the Equipment, when not in use, is stored safely and protected from theft, loss or damage;
- (f) not use or permit the use of the Equipment outside of the jurisdiction or jurisdictions referred to in the Agreement;
- (g) ensure that all safety and operating information supplied with the Equipment is attached to or otherwise kept with the Equipment and brought to the attention of any person using the Equipment;
- (h) not alter, deface, erase or remove any identifying mark, plate or number on or in the Equipment or otherwise interfere with the Equipment; and
- (i) maintain any manuals and log books supplied with the Equipment.

If Heavy Iron furnishes technical or other advice to Lessee, whether or not at Lessee's request, with respect to the Equipment or Lessee's processes concerning the Equipment, such advice shall be made gratuitously and Lessee assumes all risk of relying upon such advice and the results thereof.

9. **Inspection by Heavy Iron and Location of Equipment.** Heavy Iron shall have the right to inspect the Equipment at any time during the Term, regardless of its location. If Heavy Iron so requests, the Lessee shall promptly provide Heavy Iron or any party designated by Heavy Iron with access to the Equipment and with copies of all of the Lessee's books and records relating to the Equipment. Upon the request of Heavy Iron, the Lessee shall inform Heavy Iron of the exact location of the Equipment.
10. **Loss and Damage.** No loss of or damage to the Equipment or any part thereof shall impair any obligation of Lessee under this Agreement, which shall continue in full force and effect. Under no circumstances during the Term shall Heavy Iron have any liability whatsoever hereunder for loss of use or for any indirect or consequential damages, losses and costs incurred by Lessee hereunder, including without limitation, as a result of delayed delivery or loss of use. Lessee agrees that Heavy Iron shall not incur any liability to Lessee for any direct, indirect or consequential damages, losses and costs, including without limitation, loss of business or loss of profits incurred by Lessee by reason of non-performance, defective performance or breakdown of the Equipment nor shall Heavy Iron at any time be responsible for personal injury or loss or destruction of any other property resulting or arising directly or indirectly from the Equipment during the Term.
- In the event of loss or damage of any kind whatsoever to any unit of Equipment during the Term, Lessee shall have the option to either:
- (a) repair at its own cost and expense the unit(s) of Equipment so damaged, or
  - (b) replace, at its cost, the said units of Equipment with new units of similar or improved specifications and value, free and clear title to which shall vest in Heavy Iron and such replacement units becoming part of the Equipment herein subject to this Agreement, or
  - (c) pay to Heavy Iron within thirty (30) days of such loss or damage the value of all of the damaged units of Equipment as set forth in the Agreement. In such case all damaged units of Equipment shall be retained by Lessee and title in and to the damaged units of Equipment, shall be deemed to transfer to Lessee upon receipt by Heavy Iron of such payment without further action or documentation.
11. **Repairs and Alterations.** Upon return of the Equipment to Heavy Iron at the Heavy Iron Facility, the cost of all service and repairs necessary to bring the Equipment to the required return condition referred to in Sections 7, 10 and 11, will be solely for Lessee's account and shall be in addition to the Rent otherwise payable hereunder. Title to all additions and improvements of whatsoever kind or nature made to the Equipment shall vest exclusively in Heavy Iron, free and clear of encumbrances, claims, charges and liens (any of which shall be immediately discharged by and at the cost of Lessee).
12. **Ownership of Equipment; Registrations.** The Equipment is, and shall at all times be and remain, the sole and exclusive property of Heavy Iron, and Lessee shall have no right, title or interest therein or thereto except as expressly set forth in this Agreement or addendums thereto. Lessee shall not do or permit any act or occurrence whereby Heavy Iron's title or rights in the Equipment or this Agreement may be encumbered or impaired in any way. Heavy Iron, at Lessee's cost, may procure that this Agreement or notice thereof or a "financing statement" in respect thereof be registered (if registerable) at the Personal Property Registry in Alberta and at such other registries as Heavy Iron determines during the term. Lessee shall take no steps to register nor shall Lessee allow to be registered any other filings, registrations, statements or notices that shall lessen the priority and/or perfection of Heavy Iron's interest in the Equipment in any jurisdiction, including in any jurisdiction in which this Agreement (or a filing, registration, notice or statement in respect hereof) is registered.
13. **Identification.** The Lessee shall not remove, alter, disfigure or cover up any numbering, lettering, or insignia displayed on the Equipment. Further, at Heavy Iron's request, the Lessee shall at the Lessee's expense affix and maintain on the Equipment, in a manner and places satisfactory to Heavy Iron, labels, plates or other marks supplied by Heavy Iron to identify the Equipment as the property of Heavy Iron.

14. **Insurance.** At its sole expense, Lessee shall maintain the following insurance policies and shall provide to Heavy Iron certificates of insurance evidencing such insurances prior to taking delivery or possession of the Equipment pursuant to this Agreement:
- (a) Comprehensive general liability insurance in the minimum amount of \$2,000,000 to per accident or occurrence, covering bodily injury, personal injury, death, and/or property damage or loss and subject to a \$2,000,000 aggregate limit. Such liability coverage shall include coverage for Completed Operations, Pollution and Broad Form Contractual Liability coverage. The coverage shall be primary and non-contributory to any other insurances that may be available. Such insurance shall include Heavy Iron, its affiliates and their respective directors, officers, employees and agents as additional insureds;
  - (b) Automotive liability insurance in the minimum amount of \$1,000,000 combined single limit for bodily injury, death, personal injury, or property damage or loss, covering all owned, non-owned and hired automotive equipment, (including any automotive Equipment) in accordance with relevant local legislation of the jurisdiction in which the automotive equipment is being utilized. Such Automotive liability insurance coverage shall be required only if Lessee is renting trucks, trailers or other automotive Equipment from Heavy Iron;
  - (c) Excess liability insurance in the amount of \$5,000,000 for onshore operations and \$10,000,000 for offshore operations, in addition to the coverage limits specified above; and
  - (d) Environmental liability insurance on terms satisfactory to Heavy Iron.

All said insurances shall be with insurers satisfactory to Heavy Iron, acting reasonably. All insurance policies up to the value of the relevant Equipment shall include an endorsement waiving rights of subrogation against Heavy Iron, but only to the extent of its specifically assumed obligations. All policies shall provide that the insurer shall notify Heavy Iron in writing at least thirty (30) days prior to termination of any policy or to any changes being made which will restrict or reduce the coverages provided or effect any material changes.

In addition to the foregoing, Lessee shall maintain "All Risks" property insurance that shall provide, at a minimum, for replacement value for each unit of Equipment leased by Lessee from Heavy Iron pursuant to any addendum to this Agreement.

All insurances for loss or damage shall provide that losses, if any, shall be payable to Heavy Iron up to the value of the relevant Equipment. Lessee shall pay the premiums therefor and deductibles thereunder and, upon request by Heavy Iron, deliver true copies of such insurance policies to Heavy Iron. The proceeds of such insurances payable as a result of loss or damage to the Equipment shall, at the option of Heavy Iron, be applied: (a) toward replacement, restoration, or repair of the Equipment which has been lost, stolen, destroyed or damaged; or (b) toward payment of the obligations of Lessee hereunder. Lessee hereby irrevocably appoints Heavy Iron as Lessee's attorney-in-fact to make claim for, receive payment of, and execute and endorse all documents, cheques or drafts received in payment for loss or damage under any said insurance policies.

In case of failure of Lessee to procure or maintain the insurances referred to above or to pay the premiums and deductibles, Heavy Iron shall have the right, but shall not be obligated, to effect such insurances, or pay such fees, assessments, charges and taxes, as the case may be, and in that event, the costs thereof shall be repayable by Lessee to Heavy Iron forthwith upon demand, and failure by Lessee to repay the same shall carry with it the same consequence, including the accrual of interest thereon, as failure by Lessee to pay an installment of Rent.

15. **Lessee's Representations, Warranties and Covenants.** The Lessee represents, warrants and covenants to Heavy Iron that:
- (a) the Lessee is duly organized, validly existing and in good standing;
  - (b) the Lessee has the power and authority to enter into this Agreement, and all other related instruments or documents hereunder and which documents are enforceable against the Lessee in accordance with their terms and do not violate or create a default under any instrument or agreement binding on the Lessee;
  - (c) there are no pending or threatened actions or proceedings before any court or administrative agency that would reasonably be expected to have a material adverse effect on the Lessee and this Agreement, unless such actions are disclosed to Heavy Iron and consented to in writing by Heavy Iron;
  - (d) the Lessee shall comply in all material respects with all Applicable Laws, the violation of which could have a material adverse effect upon the Equipment or the Lessee's performance of its obligations hereunder;
  - (e) any financial statements and related information furnished by the Lessee to Heavy Iron shall present fairly the Lessee's financial position as of the dates given on such statements;
  - (f) the Equipment is rented for business purposes only and not for any other purpose.
16. **Warranty and Disclaimer.** Heavy Iron represents and warrants to Lessee that as of the date Lessee takes possession of the Equipment from Heavy Iron, the Equipment shall be in working order and repair. The foregoing warranty is the only warranty

made by Heavy Iron hereunder and can be amended only by a written instrument signed by an officer of Heavy Iron. The said warranty is made in lieu of any other warranty, representation or guarantee by Heavy Iron, express or implied, arising by statute or otherwise, and HEAVY IRON MAKES NO OTHER REPRESENTATION OR WARRANTY OF ANY KIND, EXPRESS OR IMPLIED, AS TO MERCHANTABILITY, FITNESS FOR PARTICULAR PURPOSE, VALUE, SUITABILITY, UTILITY, CONDITION, CAPABILITIES OR CAPACITIES, OR ANY OTHER MATTER WITH RESPECT TO ANY OF THE EQUIPMENT.

Upon Lessee's taking possession of the Equipment, Lessee agrees that it will fully inspect the Equipment and that it will notify Heavy Iron within twenty four (24) hours if any Equipment is in an unacceptable state of condition and repair. If no notice is received by Heavy Iron within twenty four (24) hours of Lessee taking possession of the Equipment, Lessee shall be deemed to have examined the Equipment and found the same to be in working order and repair and satisfactory for its purposes hereunder. Subject to the foregoing Lessee is leasing the Equipment "as is" and with all faults. Lessee waives any claim or action against Heavy Iron in respect of the condition of the Equipment, except for Heavy Iron's warranty that the Equipment is in working condition and repair as of the date Lessee takes possession.

17. **Limitation of Liability.** LESSEE'S EXCLUSIVE REMEDY SHALL BE FOR DAMAGES, AND HEAVY IRON'S TOTAL LIABILITY FOR ANY AND ALL LOSSES, COSTS AND DAMAGES ARISING OUT OF ANY AND ALL CAUSES WHATSOEVER HEREUNDER (WHETHER SUCH CAUSE BE BASED IN CONTRACT, INFRINGEMENT, NEGLIGENCE, STRICT LIABILITY, OTHER TORT OR OTHERWISE) SHALL IN NO EVENT EXCEED THE AGGREGATE RENT RECEIVED BY HEAVY IRON FROM LESSEE FOR THE EQUIPMENT AT THE TIME THE CAUSE OF ACTION ARISES, AND IN NO EVENT SHALL HEAVY IRON BE LIABLE FOR INDIRECT, INCIDENTAL, SPECIAL, PUNITIVE OR CONSEQUENTIAL DAMAGES HEREUNDER RESULTING FROM ANY SUCH CAUSE. HEAVY IRON SHALL NOT BE LIABLE FOR ANY DAMAGES CAUSED BY DELAY IN PERFORMANCE. The term "consequential damages" as used herein shall include, but not be limited to, loss of anticipated profits, loss of use, loss of revenues and/or cost of capital.
18. **General Indemnity.** Notwithstanding the existence of any insurances provided for herein, and without regard to the policy limits of any such insurances, Lessee shall indemnify and hold Heavy Iron, its affiliates and their respective directors, officers, employees, agents and insurers (collectively, "**Indemnified Parties**" and individually an "**Indemnified Party**") from and against any and all claims, actions, causes of action (including, but without limitation, causes of action arising under the law of tort, strict tort, products liability, warranties expressly made or implied by law or otherwise), losses, proceedings, costs, expenses, damages and liabilities, including without limitation, legal fees and disbursements arising out of, connected with or resulting from: (i) the lease, possession, operation, use, repair and/or maintenance, delivery and redelivery of the Equipment herein, (ii) any accident, injury to or death of persons or loss of or damage to property (including, but without limitation, any loss or damage caused to the environment) to property arising out of, connected with, or resulting, directly or indirectly, during the Term from the Equipment and including, without limitation, as a result of or arising from the design, manufacture, possession, use, misuse, non-use, condition, maintenance, repair, handling, transportation, operation and/or return of the Equipment, (iii) any taxes, duties, assessments or other impositions arising during the Term relating to the Equipment which are the obligations of Lessee to pay pursuant to the applicable provisions of this Agreement, and/or (iv) any failure on the part of Lessee to perform or comply with any of the terms of this Agreement and its addendums. Any amounts which become payable by Lessee under this section shall be paid within ten (10) days after liability therefor on the part of Lessee is determined by litigation or otherwise, and if not timely paid, shall bear interest (to the extent permitted by law) at the rate of 18% per annum from the date of such determination to the date of payment. Lessee's liability for a breach of this provision arising during the term hereof or any extension thereof shall survive termination or expiry of this Agreement.
19. **Surrender of Equipment.** At the end of the Term or the termination of the Agreement, whichever occurs first, the Lessee shall, at the Lessee's expense, forthwith surrender control of the Equipment to Heavy Iron and shall return the Equipment to Heavy Iron at the Heavy Iron Facility or such other place as may be specified by Heavy Iron. The Lessee shall return the Equipment in good repair, condition and working order, and in the same condition as when delivered to the Lessee, reasonable wear and tear excepted. The Lessee shall be responsible for all costs and expenses that Heavy Iron incurs to place the Equipment in such condition. The Lessee shall, if Heavy Iron so requests, store the Equipment on the Lessee's premises at the Lessee's risk and expense and as Heavy Iron's bailee for a period of up to 30 days after the end of the Term. The Lessee shall not use the Equipment or pay any Rent for the Equipment during such period but shall otherwise be bound by all terms of this Agreement during such period. If the Lessee fails to return the Equipment when required by this Agreement, the Lessee shall be deemed to be in unlawful possession of the Equipment without Heavy Iron's consent.
20. **Entry.** If the Lessee fails to surrender any Equipment to Heavy Iron as required under this Agreement, Heavy Iron may, without demand or notice to the Lessee or resort to any legal process, but subject to any applicable law, enter any premises where such Equipment is located and take possession of and remove the Equipment, and the Lessee expressly waives any and all claims, damages, or other liability that may be occasioned by any such repossession and agrees to indemnify and save harmless Heavy Iron from and against any and all claims, damages, costs, expenses (including solicitor and own client costs), or other liability that Heavy Iron may incur as a consequence of such repossession.
21. **Events of Default.** The occurrence of any one or more of the following events shall constitute an "**Event of Default**" on the part of Lessee:
  - (a) if Lessee shall fail to make payment of Rent or any other sum payable by Lessee under this Agreement when the same becomes due and payable and such failure is not cured by Lessee within seven (7) days of Heavy Iron's notice thereof;
  - (b) if Lessee shall fail to observe or perform any other term, covenant or condition of this Agreement;

- (c) if the leasehold estate or interest of Lessee in the Equipment or any part thereof shall be levied upon or attached in any proceeding and the same shall not be vacated or discharged within thirty (30) days after commencement thereof; or
- (d) if there shall occur a dissolution, wind-up termination of existence, insolvency or business failure of Lessee or there shall occur a filing of any petition in bankruptcy by or against Lessee or if any proceedings in bankruptcy, or under the laws or regulations of any jurisdiction relating to the relief of debtors, shall be commenced or for the relief or readjustment of any indebtedness of Lessee, either through reorganization, composition, liquidation or otherwise, or if Lessee should make an assignment for the benefit of creditors or take advantage of any insolvency law or if a receiver of any property of Lessee should be appointed at any time.

22. **Remedies.** Upon the occurrence of an Event of Default, Heavy Iron shall have the right to exercise any one or more of the following remedies:

- (a) to declare the entire amount of unpaid total Rent for the balance of the Term and the term of any addendum hereto due and payable, whereupon the same shall become immediately due and payable;
- (b) to sue for and recover all Rent, and other payments, then accrued or thereafter accruing, with respect to any or all units of the Equipment;
- (c) to take possession of and remove any or all units of the Equipment, without demand or notice, wherever the same may be located, without any court order or other process of law, and Lessee hereby waives any and all damages occasioned by such taking of possession. Any such taking of possession shall constitute a termination of this Agreement as to all units of Equipment unless Heavy Iron otherwise expressly so notifies Lessee in writing;
- (d) to terminate this Agreement as to any or all units of the Equipment;
- (e) register builders' liens on the location where the Equipment was used to perform work and or services and the Lessee hereby acknowledges Heavy Iron has a lienable interest and the right to register a builders' lien as a remedy hereunder; and
- (f) to pursue any other remedy available to Heavy Iron at law or in equity.

Notwithstanding any said repossession, or any other action which Heavy Iron may take, Lessee shall be and remain liable for the full performance of all obligations on the part of Lessee to be performed under this Agreement. If any bankruptcy proceeding is commenced by or against Lessee, or if Lessee is adjudged insolvent, or if Lessee makes any assignment for the benefit of its creditors, or if a writ of attachment or execution is levied on any item or items of the Equipment or if a receiver is appointed in any proceeding or action to which Lessee is a party with authority to take possession or control of any item or items of the Equipment or if any action shall be taken to effect the winding-up or dissolution of Lessee, then Heavy Iron shall have and may exercise any one or more of the remedies set forth herein and this Agreement shall, at the option of Heavy Iron, without notice, immediately terminate and shall not be treated as an asset of Lessee after the exercise of the said option.

No right or remedy herein conferred upon or reserved to Heavy Iron is exclusive of any other right or remedy herein or by law or equity given hereunder or now or hereafter existing at law or in equity or by statute or otherwise, and each such remedy may be enforced concurrently therewith or from time to time.

Lessee shall pay to Heavy Iron on demand all costs and expenses, including legal fees and disbursements, incurred by Heavy Iron in exercising any of its rights or remedies hereunder and enforcing any of the terms, conditions, or provisions hereof. It is acknowledged and agreed that any repossession by Heavy Iron of the Equipment shall not relieve Lessee from its obligation to pay the full unpaid balance of Rent owed by Lessee for the remainder of the Term.

23. **Performance of Lessee's Obligations.** If the Lessee fails to perform any of its obligations hereunder, Heavy Iron may do so on the Lessee's behalf and shall be entitled to an immediate reimbursement from the Lessee, without prejudice to any other of Heavy Iron's rights or remedies, and the Lessee appoints Heavy Iron its lawful attorney for such purposes. Any repairs or maintenance to Equipment performed by Heavy Iron on the Lessee's behalf shall, unless otherwise agreed to in writing by the parties hereto, be done in accordance with Heavy Iron's standard mechanical rate, on a time spent basis including travel time, together with the cost of parts and supplies consumed in the repair or maintenance.

24. **Assignment and Enurement.** Without the prior written consent of Heavy Iron, which consent may be withheld at Heavy Iron's discretion, Lessee shall not assign, transfer, or pledge this Agreement, the Equipment or any part thereof, or any interest therein; or sublet or lend the Equipment or any part thereof, or permit the Equipment or any unit or part thereof to be used by anyone other than Lessee or its authorized employees and agents. Any permitted assignment by Lessee shall not preclude or lessen Lessee's liability and obligations herein and Lessee shall continue to be liable hereunder.

Heavy Iron may assign this Agreement and any addendum thereto or any interest of Heavy Iron herein and, in such event, the assignee of Heavy Iron shall succeed to all of the rights and interests of Heavy Iron hereunder and Heavy Iron shall cease to be

liable hereunder as of the date of assignment. Subject always to the foregoing, this Agreement and associated addendums shall enure to the benefit of, and be binding upon, the successors and permitted assigns of the parties.

25. **Excuse of Performance.** Heavy Iron shall not be responsible for delays, hindrances, interruptions or other problems associated with the performance of its obligations under this Agreement when such delays, hindrances, interruptions, or problems are caused or affected in whole or in part by weather, natural disasters, fires, strikes, labor disputes, labor unrest, embargoes, licensing difficulties, governmental difficulties, transportation or manufacturing difficulties or delays, export licensing delays or priority exclusion by government authorities, material shortages, war, acts of terrorism, acts of God, pandemics, or any other matter or situation that is beyond Heavy Iron's control ("**Force Majeure**"). Heavy Iron shall advise Lessee of any such event, shall use reasonable efforts to remove the problems caused by such event, and upon the termination thereof, shall promptly resume performance of its obligations herein. Notwithstanding the foregoing, an event of Force Majeure shall not excuse or release the Lessee from its obligation to pay Rent in the amounts and at the times specified in this Agreement.
26. **General.**
- (a) **Survival.** All representations, warranties and covenants made by the Lessee and Heavy Iron hereunder shall survive the termination of this Agreement and shall remain in full force and effect. All of Heavy Iron's and the Lessee's respective rights, privileges, and indemnities, to the extent they are fairly attributable to events or conditions occurring or existing on or prior to the termination of this Agreement, shall survive such termination and be enforceable by Heavy Iron or the Lessee, as applicable, and any successors and assigns.
  - (b) **Notices.** All notices or other communications by the terms hereof required or permitted to be given by one party to another shall be given in writing addressed to the party for whom it is intended and may be delivered by courier, personal delivery, facsimile with transmission confirmed by a transmission report or sent by email to such other party to the address, facsimile number or email address set forth on the first page to the Agreement, and at other such address, facsimile number or email address as may be given by a party to the other party in writing from time to time and such notices or other communications shall be deemed to have been received when delivered or, if sent by facsimile, on the next Business Day after such notice or other communication has been transmitted (with receipt confirmed) or, if sent by email, on the next Business Day after such notice or other communication has been transmitted.
  - (c) **No Waiver.** Any failure of a party hereto to require strict performance by the other party hereto, or any written waiver by a party hereto of any provision hereof, shall not constitute consent or waiver of any other breach of the same or any other provision hereof.
  - (d) **Severability.** If any provision of this Agreement shall be prohibited by or invalid under any applicable law, such provision shall be ineffective only to the extent of such prohibition or invalidity, without invalidating the remainder of such provision or the remaining provisions of this Agreement.
  - (e) **Entire Agreement.** This Agreement executed by both Heavy Iron and the Lessee constitutes the entire agreement between Heavy Iron and the Lessee relating to the rental of the Equipment, and supersede all prior agreements relating thereto, whether written or oral, and may not be amended or modified except in a writing signed by the parties hereto.
  - (f) **Time of the Essence.** Time is of the essence of this Agreement.
  - (g) **Effect of Waiver.** No delay in exercising, or failure to exercise, any right or remedy accruing to Heavy Iron under this Agreement will impair or waive such right or remedy, nor will a waiver of any single Event of Default be deemed a waiver of any other prior, subsequent or concurrent Event of Default. Any waiver, permit, consent or approval on the part of Heavy Iron in respect of this Agreement must be in writing and shall have effect only to the extent specifically set forth in such writing.
  - (h) **Applicable Law and Jurisdiction.** This Agreement shall be governed by and construed in accordance with the laws of the Province of Alberta and the laws of Canada applicable therein and Heavy Iron and the Lessee attorn to the non-exclusive jurisdiction of the courts of the Province of Alberta with respect to any dispute arising in connection with this Agreement.
  - (i) **Enurement.** This Agreement shall enure to the benefit of and be binding upon the parties hereto and their respective successors and permitted assigns.
  - (j) **Receipt of Copy.** The Lessee acknowledges receipt of a true copy of this Agreement.
  - (k) **Counterparts.** This Agreement may be signed by facsimile and other electronic means and in any number of counterparts, each of which will be deemed to be an original, but all separate counterparts will together constitute one and the same instrument.