

Equipment Lease Agreement

THIS AGREEMENT, made the _____ day of _____, 20_____,
by and between Argyle Construction Equipment Services LLC
, a corporation organized and existing under
(Name of Lessor)
the laws of the state of Utah, with its principal office located at
(Name of State)
881 W 500 S Farmington, Utah 84025, referred to
herein as hereafter called the *Lessor*;
(Street Address, City, County, State, Zip Code)
and _____, a corporation organized and existing under the
(Name of Lessee)
laws of the state of _____, with its principal office located at
(Name of State)
_____, referred to herein as *Lessee*.
(Street Address, City, County, State, Zip Code)

For and in consideration of the mutual covenants contained in this Agreement, and other good and valuable consideration, the parties agree as follows:

1. Lessor hereby leases to Lessee all equipment named, identified, and described in the List of Equipment, attached hereto as **Exhibit A**, for use at Lessee's business at _____, for the total sum of _____ per day for _____ days beginning on the _____ day of _____, 20_____, and ending on the _____ day of _____, 20_____. Lessor shall deliver such equipment F.O.B. in operative condition. The amount of rent payable for any fraction of a month shall be the monthly rental rate, prorated according to the number of calendar days in such fraction. Lessee shall pay Lessor interest at twelve percent (12%) or the highest lawful rate, whichever is greater, on any delinquent payment from the date when such payment was due until paid along with expenses of collection or suit, including actual attorneys' fees.
2. The sum of \$ 100.00 shall be immediately paid by Lessee to Lessor as a security deposit to guarantee Lessee's full and faithful performance of all terms, conditions and provisions of this Agreement. If Lessee shall so perform, an equal sum shall be repaid without interest to Lessee at the termination of this Agreement.
3. Lessee shall pay all license fees, assessments, and sales, use, property and excise, and/or other taxes hereafter imposed, and relating to Lessee's use or possession of the equipment.
4. Lessee shall not remove, alter, disfigure or cover up any numbering, lettering, or insignia displayed upon the equipment, and shall see that the equipment is not subjected to careless, unusually or needlessly rough usage; and Lessee shall at his own expense maintain the

equipment and its appurtenances in good repair and operative condition, and return it in such condition to Lessor, ordinary wear and tear resulting from proper use thereof alone expected.

5. The expense of all repairs made during the term of this Lease, including labor, material, parts and other items shall be paid by Lessee.

6. Unless otherwise mutually agreed in writing, Lessee shall supply and pay all operators of the equipment during the term of this Lease. All operators shall be competent.

7. LESSOR, BEING NEITHER THE MANUFACTURER NOR A DEALER IN THE EQUIPMENT, MAKES NO WARRANTIES, EXPRESS OR IMPLIED, AS TO ANY MATTER WHATSOEVER, INCLUDING, WITHOUT LIMITATION, THE CONDITION OF THE EQUIPMENT, ITS MERCHANTABILITY, ITS DESIGN, ITS CAPACITY, ITS PERFORMANCE, ITS MATERIAL, ITS WORKMANSHIP, ITS FITNESS FOR ANY PARTICULAR PURPOSE. LESSOR FURTHER DISCLAIMS ANY LIABILITY WHATSOEVER FOR LOSS, DAMAGE, OR INJURY TO LESSEE OR THIRD PARTIES AS A RESULT OF ANY DEFECTS, LATENT OR OTHERWISE, IN THE EQUIPMENT. LESSEE AGREES THAT HE IS LEASING THE EQUIPMENT IN ITS *AS IS* AND PRESENT CONDITION. LESSOR SHALL NOT BE LIABLE IN ANY EVENT TO LESSEE FOR ANY LOSS, DELAY, OR DAMAGE OF ANY KIND OR CHARACTER RESULTING FROM DEFECTS IN, OR INEFFICIENCY OF, EQUIPMENT HEREBY LEASED OR ACCIDENTAL BREAKAGE THEREOF.

8. Lessee shall indemnify Lessor against, and hold Lessor harmless from, any and all claims, actions, suits, proceedings, costs, expenses, damages, and liabilities, including attorneys fees, arising out of, connected with, or resulting from the equipment or the Lease, including without limitation, the manufacture, selection, delivery, leasing, renting, control, possession, use, operation, maintenance or return of the equipment. Lessee shall further indemnify Lessor, and hold Lessor harmless, from all loss and damage to the equipment during the rental period. Lessee recognizes and agrees that included in this indemnity clause, but not by way of limitation, is Lessee's assumption of any and all liability for injury, disability and death of workmen and/or other persons caused by the operation, use, control, handling, or transportation of the equipment during the term of this Lease.

9. Lessee shall inspect the equipment within three (3) business days after receipt thereof. Unless Lessee within said period of time gives written notice to Lessor, specifying any defect in or other proper objection to the equipment. Lessee agrees that it shall be conclusively presumed, as between Lessor and Lessee, that Lessee has fully inspected and acknowledged that the equipment is in full compliance with the terms of this Agreement, in good condition and repair, and that Lessee is satisfied with and has accepted the equipment in such good condition and repair. Lessor shall have the right at any time to enter the premises occupied by the equipment and shall be given free access thereto and afforded necessary facilities for the purpose of inspection.

10. Lessee shall keep the equipment insured against all risks of loss or damage from every

cause whatsoever for not less than the full replacement value thereof. Proof of valid drivers license and full coverage insurance shall be shown at time of lease.

11. Lessor shall at all times retain ownership and title of the equipment. Lessee shall give Lessor immediate notice in the event that any of said equipment is levied upon or is about to become liable or is threatened with seizure, and Lessee shall indemnify Lessor against all loss and damages caused by such action.

12. The following shall constitute a default under this Agreement:

A. Lessee shall default in the payment of any rent or in making any other payment hereunder when due, or

B. Lessee shall default in the payment when due of any indebtedness of Lessee to Lessor arising independently of this lease, or

C. Lessee shall default in the performance of any other covenant herein and such default shall continue for five days after written notice hereof to Lessee by Lessor, or

D. Lessee becomes insolvent or makes an assignment for the benefit of creditors, or

E. Lessee applies for or consents to the appointment of a receiver, trustee, or liquidator of Lessee or of all or a substantial part of the assets of Lessee under the Bankruptcy Act, or any amendment thereto (including, without limitation, a petition for reorganization, arrangement, or extension) or under any other insolvency law or law providing for the relief of debtors.

13. Upon any such default, and in the event of any default by Lessee in any of the terms of this Agreement, Lessor shall have the right to exercise any one or more of the following remedies:

A. To declare the entire amount of rent hereunder immediately due and payable as to any or all items of the equipment, without notice or demand to Lessee;

B. To sue for and recover all rents, and other payments, then accrued or thereafter accruing, with respect to any or all items of the equipment;

C. To take possession of any or all items of the equipment without demand, notice, or legal process, wherever they may be located. Lessee hereby waives any and all damages occasioned by such taking of possession. Any said taking of possession shall not constitute a termination of this lease as to any or all items of equipment unless Lessor expressly so notifies Lessee in writing;

D. To terminate this lease as to any or all items of equipment, and/or

E. To pursue any other remedy at law or in equality.

14. Notwithstanding any such repossession, or any other action which Lessor 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 Lease. All such remedies are cumulative, and may be exercised concurrently or separately.

15. No equipment shall be sublet by Lessee, nor shall he assign or transfer any interest in this Agreement without written consent of Lessor. Lessor may assign this Agreement without notice. Subject to the foregoing, this Agreement inures to the benefit of, and is binding upon, the heirs, successors, and assigns of the parties hereto.

16. All remedies of Lessor hereunder are cumulative and may, to the extent permitted by law, be exercised concurrently or separately, and the exercise of any one remedy shall not be deemed to be an election of such remedy or to preclude the exercise of any other remedy. No failure on the part of the Lessor to exercise and no delay in exercising, any right or remedy, hereby shall operate as a waiver thereof; nor shall any single or partial exercise by Lessor of any right or remedy hereunder preclude any other or further exercise of any other right or remedy. If any term or provision of this lease is found invalid, it shall not affect the validity and enforcement of all remaining terms and provisions of this lease.

17. Lessee shall pay Lessor all costs and expenses, including attorneys' fees, incurred by Lessor in exercising any of its rights or remedies hereunder or enforcing any of the terms, conditions, or provisions hereof.

18. Severability. The invalidity of any portion of this Agreement will not and shall not be deemed to affect the validity of any other provision. If any provision of this Agreement is held to be invalid, the parties agree that the remaining provisions shall be deemed to be in full force and effect as if they had been executed by both parties subsequent to the expungement of the invalid provision.

19. No Waiver. The failure of either party to this Agreement to insist upon the performance of any of the terms and conditions of this Agreement, or the waiver of any breach of any of the terms and conditions of this Agreement, shall not be construed as subsequently waiving any such terms and conditions, but the same shall continue and remain in full force and effect as if no such forbearance or waiver had occurred.

20. Governing Law. This Agreement shall be governed by, construed, and enforced in accordance with the laws of the State of _____.

(Name of State)

21. Notices. Unless provided herein to the contrary, any notice provided for or concerning this Agreement shall be in writing and shall be deemed sufficiently given when sent by certified or registered mail if sent to the respective address of each party as set forth at the beginning of

this Agreement.

22. Mandatory Arbitration. Notwithstanding the foregoing, and anything herein to the contrary, any dispute under this Agreement shall be required to be resolved by binding arbitration of the parties hereto. If the parties cannot agree on an arbitrator, each party shall select one arbitrator and both arbitrators shall then select a third. The third arbitrator so selected shall arbitrate said dispute. The arbitration shall be governed by the rules of the American Arbitration Association then in force and effect.

23. Entire Agreement. This Agreement shall constitute the entire agreement between the parties and any prior understanding or representation of any kind preceding the date of this Agreement shall not be binding upon either party except to the extent incorporated in this Agreement.

24. Modification of Agreement. Any modification of this Agreement or additional obligation assumed by either party in connection with this Agreement shall be binding only if placed in writing and signed by each party or an authorized representative of each party.

25. Assignment of Rights. The rights of each party under this Agreement are personal to that party and may not be assigned or transferred to any other person, firm, corporation, or other entity without the prior, express, and written consent of the other party.

26. Counterparts. This Agreement may be executed in any number of counterparts, each of which shall be deemed to be an original, but all of which together shall constitute but one and the same instrument.

27. Compliance with Laws. In performing under this Agreement, all applicable governmental laws, regulations, orders, and other rules of duly-constituted authority will be followed and complied with in all respects by both parties.

WITNESS our signatures as of the date first named above.

(Name of Lessor)

(Name of Lessee)

By: _____
(Signature of Lessor)

By: _____
(Signature of Lessee)

(Printed Name and Title of Lessor)

(Printed Name and Title of Lessee)

