

TERMS AND CONDITIONS OF EQUIPMENT RENTAL

The terms and conditions stated in this document and in the quotation on the reverse side together constitute the entire agreement of the Envirocon Systems, Inc., ("Lessor") and Lessee ("Agreement") with respect to the rental of the Equipment. "Equipment" means any one or more of the items identified as such on the first page of this Rental Agreement and any accessories or other similar items ("Accessories") delivered to Lessee. All products and services of Lessor are expressly conditioned upon Lessee's agreement to these terms. This Agreement may not be altered, supplemented, or amended by the use of any other document(s), and Lessor has not authorized any employee or agent to offer any terms, conditions, or any other rights whatsoever except as provided herein. Any additional or different terms and conditions contained in any oral communication or purchase order or other document of Lessee will be null and void, unless they are in writing and executed by an executive officer of Lessor. This Agreement shall apply to any and all rentals made by or through the Lessee from the Lessor on or after the date of this Agreement.

1. **TERM AND PAYMENT.** Time is of the essence of this Agreement and all of its provisions. The rental period begins on the date the Equipment leaves Lessor's facility at 1910 Rankin Road, Houston, Texas 77073 and ends on the date the Equipment is returned to Lessor's facility. Lessee agrees to pay all charges and costs of the use of the Equipment, late fees if Equipment is not returned on agreed date, and fuel replenishment if not returned with a full tank, and any other sums accruing hereunder at Lessor's facility or such other place as Lessor may direct in writing. Payment terms are Net 30 days from invoice date. Any sums not paid when due shall incur interest at the rate of 18% per annum from the date due until paid.

2. **CONDITION AND ORDINARY WEAR AND TEAR.** Lessee acknowledges that Lessee inspected the Equipment at the time of pickup or delivery and found the Equipment to be in safe and undamaged condition noting any exceptions on the Invoice/Delivery Ticket. Lessor must be notified of any such exceptions within forty-eight (48) hours of receipt of the receipt of the Equipment by Lessee or such exceptions are waived. LESSEE ACCEPTS THE EQUIPMENT "AS IS". LESSOR MAKES NO WARRANTIES AND EXCLUDES ALL WARRANTIES COVERING THE EQUIPMENT, WHETHER EXPRESS, IMPLIED, OR ARISING BY OPERATION OF LAW, INCLUDING THE IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE. Equipment is subject to ordinary wear and tear while in Lessee's possession during the rental period. Ordinary wear and tear shall mean only the normal deterioration of the Equipment caused by ordinary and reasonable use on a one shift ten (10) hours per day basis. Any usage over sixty (60) hours per week may result in additional charges at the sole discretion of the Lessor. Lessee agrees that in the event any Equipment becomes unsafe or in a state of disrepair, Lessee will immediately discontinue use and promptly return it to Lessor. Except for maintenance or repairs, Lessee shall not make any alterations, additions or modifications to the Equipment. Lessor may enter Lessee's premises at all reasonable times to observe the use of or inspect the condition of the Equipment. If not used at the Lessee's premises listed on the reverse, Lessee shall keep Lessor informed of the location of the Equipment.

3. **OWNERSHIP, USE, LIMITATIONS & RISK OF LOSS.** Lessee acknowledges title to the Equipment remains with Lessor at all times even if installed in or attached to real property. Lessee may not lend, sell, dispose of, create a security interest in, or otherwise permit use of the Equipment by any party not a party to this Agreement without Lessor's prior written permission. In addition, Lessee acknowledges that Lessor is neither the manufacturer of the Equipment nor the manufacturer's agent. Lessee represents that during the rental period only those knowledgeable and experienced in the proper and safe use of the Equipment will operate it for the purpose for which it was manufactured and intended in accordance with the manufacturer's instructions. LESSEE ASSUMES ALL RISKS OF LOSS AND LIABILITY WITH RESPECT TO THE EQUIPMENT AND ITS USE DURING THE TERM OF THIS RENTAL. LESSEE WAIVES ALL CLAIMS FOR AND AGREES LESSOR SHALL NOT BE RESPONSIBLE FOR ANY LOSS, DAMAGE, OR INJURY TO LESSEE, LESSEE'S PROPERTY, OR ANY THIRD PARTY OR ITS PROPERTY IN ANY WAY CONNECTED WITH THE OPERATION, USE, DEFECT IN OR FAILURE OF THE EQUIPMENT. FURTHERMORE, LESSOR SHALL NOT BE LIABLE FOR ANY INCIDENTAL, CONSEQUENTIAL, PUNITIVE OR SPECIAL DAMAGES UNDER ANY CIRCUMSTANCES.

4. **RETURN OF EQUIPMENT/DAMAGED & LOST EQUIPMENT.** At the expiration of the Rental Period, Lessee will return the Equipment to the Lessor (by delivery – FOB- Lessor's facility), such Equipment to be in the condition as delivered, ordinary wear and tear excepted. Ordinary wear and tear as defined in the Section 2. Additionally, accessories to the Equipment that are not received at the Lessor's facility within five (5) business days or Lessor has not provided a valid tracking number for the return of the accessories, Lessor reserves the right to invoice and replace accessory parts. After the aforementioned five (5) business days, a request to return accessory parts will be evaluated on a case by case basis by Lessor. Lessor, at its' discretion, may invoice the Lessee for the cost of the replacement accessory and/or any rental fees incurred in obtaining a replacement. In the case of lost, stolen, seized, or damaged ("Damaged") Equipment or inability or failure to return same to Lessee for any reason whatsoever, Lessee will pay Lessor the then full replacement list value of the Equipment together with the full rental rate as specified until such Equipment is replaced. If the Equipment is returned in a damaged or excessively worn condition, Lessee shall pay Lessor the reasonable cost of repair and pay rental on the Equipment at the regular rental rate until all repairs have been completed Lessor shall be under no obligation to commence repair work until Lessee has paid to Lessor the estimated cost therefore. Lessor reserves the right to immediately bill or otherwise charge Lessee Costs if the Equipment is Damaged.

5. **INSURANCE & INDEMNITY.** Lessee shall maintain insurance at its own expense to cover damage to the Equipment or liability arising out of the rental or operation of the Equipment. Such liability insurance for Commercial General Liability will have coverage amounts of at least \$2,000,000 per occurrence with provisions or endorsements waiving subrogation and covering contractually assumed liability, and naming Lessor as an Additional Insured from an insurance company acceptable to Lessor and licensed to do business in the State of Texas. Lessor may require proof of coverage. Failure of Lessor to require such proof does not relieve the Lessee of the responsibility of providing such insurance. If Lessee fails to acquire or maintain any insurance required by this Agreement, Lessor may obtain the insurance in Lessee's name or as Lessee's agent. Lessee shall compensate Lessor for any cost incurred, including payment of premiums, plus interest on all costs or sums advanced at the rate of 18% per annum. To the full extent permitted by law, LESSEE SHALL DEFEND, INDEMNIFY AND HOLD LESSOR HARMLESS FROM ALL CLAIMS, ACTIONS, SUITS, COSTS, EXPENSES, DAMAGES OR LIABILITIES OF ANY NATURE, INCLUDING ATTORNEYS' FEES, AND INCLUDING THOSE FOR BODILY INJURY, DEATH, OR DAMAGE TO PROPERTY RESULTING OR ARISING IN CONNECTION WITH LESSEE'S USE, OPERATION OR POSSESSION OF THE EQUIPMENT, THAT ARE NOT THE DIRECT RESULT OF LESSOR'S SOLE NEGLIGENCE.

6. **DEFAULT & REMEDIES.** Lessee's failure to either make any payment when due or comply with any other term or condition of this Agreement shall constitute default. If Lessee does not make a payment when due or has not cured any other default within thirty (30) days after written notice of such default, Lessor may, in addition to any other rights and remedies provided herein or under law, terminate Lessee's right to possession of the equipment, enter upon Lessee's premises or any premises where the Equipment may be found, forcibly if necessary, and remove the same from such location, without notice or demand, and without being guilty of trespass or liable for any damages to Lessee because of such entry or removal of the Equipment. In addition to any other damages provided herein or allowed under applicable law, Lessor shall recover all costs and expenses, including but not limited to collection costs, court costs, and attorneys' fees, incurred in connection with any default. Any waiver of a breach of the terms of this Agreement is not a waiver of any succeeding breach. Lessor's rights, options, and remedies under this Agreement are cumulative. No remedy is exclusive of any other remedy reserved under this Agreement or as otherwise allowed by law.

7. **CHOICE OF LAW AND JURISDICTION.** This Agreement and any rental hereunder shall be governed by the laws of the State of Texas, without reference to its principles of conflict laws. The parties hereto agree that jurisdiction and venue of any matter arising under or related to this Agreement or any rental hereunder shall be exclusive and proper in any court of competent jurisdiction located in Harris County, Texas, or in the United States District Courts for the Southern District of Texas, Houston Division.