

TERMS AND CONDITIONS OF RENTAL AGREEMENT – U-COOL REFRIGERATION, LLC

For good and valuable consideration, you and U-Cool Refrigeration, LLC (also referred to herein as "U-Cool," "Lessor," "we," "us" and "our") agree as follows:

1. As used in this Agreement, "P.1" refers to the "Bid," "Order," "Ticket," "Reservation," "Contract" first page or "face" of this Agreement; "Agreement" refers to P.1 together with these Terms and Conditions of Rental Agreement; "Rented Item(s)" or "Item(s)" means the item(s) rented or sold (if applicable) to you, as identified on P.1 (including any "Instructions" and/or safety devices provided per the terms of Section [or "§"] 6 below); "Site" means the address where the Item(s) will be delivered and/or used, as set forth on P.1; and "Customer," "Lessee," "you" and "your" mean the "Customer," "Renter" or "Lessee" identified on P.1.

2. You agree to: (a) rent from U-Cool the Rented Item(s) for the period(s) specified on P.1 (the "Term"), at the end of which, your rights to use and possess the Rented Item(s) shall expire and terminate; (b) fully and timely pay us as and when due the rent ("Rent") and other amount(s) set forth on P.1 therefor, together with all other charges accruing hereunder, without proration, reduction or setoff; and (c) remain liable for all associated injuries and property damage for the duration of the Term and until all such Rented Item(s) is/are returned to and accepted by U-Cool in the proper return condition per § 8. Unless otherwise agreed in writing by U-Cool, all Rent is charged for normal use of the Rented Item(s) in accordance with the terms of this Agreement and the "Instructions" described in § 6. Additional prorated daily Rent will be charged for late returns and overuse. No allowance will be made for weekends, holidays, weather delays, time in transit or other period(s) of nonuse.

3. We have estimated the Rent based on your estimate of the length of the Term (the "Estimated Rent"). Unless otherwise agreed by U-Cool in writing, you: (a) will pay us: (i) any deposit and the Estimated Rent specified on P.1 in advance (the "Prepayment"); and (ii) all other amounts coming due hereunder upon demand; and (b) agree that: (i) we may deduct any amount you owe us from any Prepayment; (ii) no interest will accrue on any Prepayment; (iii) no Prepayment will be deemed a limit of your liability to us; and (iv) all Prepayments are **NON-REFUNDABLE** except as provided in § 7. Anything remaining with, in or on any Item(s) upon return will be deemed surrendered and abandoned.

4. Except with respect to Item(s) we rent from third parties (each, a "TPO") and re-rent to you, U-Cool owns and will retain title to all Rented Items at all times. You will have exclusive control over the Rented Item(s) during the Term, subject however, to your duty to fully and timely comply with this Agreement at all times. **YOU SHALL NOT:** (a) permit the taking or existence of any lien, claim, security interest or encumbrance on any Rented Item(s); or (b) loan, transfer, sublease, re-rent, surrender possession or control of, sell, encumber, assign or dispose of any Item(s) or this Agreement, without our prior written consent (granted, conditioned or withheld in our sole discretion). We may sell and/or assign all or any part of our interests in such Item(s) and/or this Agreement, in which event, you will attend to the assignee, who will not be responsible for our pre-existing obligations or liabilities.

5. You shall ensure the Site is reasonably clean, safe, secure and otherwise fit for use of the Rented Item(s) at all times. If we agree to provide any service(s) (including delivery, installation and/or retrieval), you agree to: (a) pay our regular charge(s) therefor, and for all waiting time; (b) be present at the Site at the agreed time(s); and (c) ensure our personnel have full access to the Site. We will not be responsible for any delay(s) caused by you, your agents, or any other parties, including providers of other equipment or services ("Other Providers") for which you agree to indemnify, defend and hold harmless U-Cool. If you are not present upon delivery, installation or retrieval of any Item(s), you agree to accept the statements of our representatives regarding the same (including status, condition, quality, utility and quantities of the Item(s) and the Site).

6. Upon the earlier of your receipt, or our delivery to the Site, of the Rented Item(s) unless you immediately reject it/them, you represent, warrant, acknowledge and agree that: (a) each Item: (i) is complete and in good order, condition and repair; (ii) is appropriate for your purposes and in all ways acceptable to you; and (iii) was selected (not based on any recommendation by U-Cool), carefully examined and tested by you or your agent(s); and (b) you: (i) have received, carefully reviewed and understand all training, instructions, user manuals, maintenance requirements, and other information, if any, including all applicable EPA, OSHA, MSHA, ASME, IBC, UL, IEEE, ASSE, DOT, FMCSA, IFTA, ANSI, trailer connection/disconnection procedures and other Standards applicable to the Item(s) (collectively, "Instructions"); (ii) will fully comply therewith (including Tier 4, Silica Dust, Beryllium and other safety requirements); and (iii) have been made aware of the need to use all applicable safety devices; (iv) will use each Item only for its intended purpose, in a reasonable and safe manner; (v) will timely give all applicable notice(s) to, and obtain all necessary licenses, authorizations, permits and approvals from, all affected parties, including governmental authorities, utilities, cable companies and the owner(s) of the Site; (vi) will immediately cease using any Rented Item that is damaged, breaks down, or proves defective (a "Malfunction"); and (vii) will ensure that all others comply with this Agreement at all times. You will notify us immediately if any of the foregoing is breached or proves untrue or misleading.

7. In the event of a Malfunction as defined in § 6, you will immediately notify, and return the Malfunctioning Item to, U-Cool (**you SHALL NOT attempt to repair such Item**), and provided such Malfunction did not result from or in connection with any wrongful or negligent act or omission of, or any breach of any provision of this Agreement by, you or anyone you permit to use or deal with such Item(s), we will, at our option: (a) repair such Item; (b) provide you with a comparable Item; or (c) with respect to the Malfunctioning Item(s), return the unused portion of the Rent and cancel this Agreement. **The foregoing remedies are EXCLUSIVE. We will have no other obligation(s) with respect to Malfunctions, all of which you waive, together with all associated claims and damages as provided in § 11.**

8. Subject to § 7, you agree to protect, properly service, maintain and care for each Rented Item at all times, keep it safely and securely stored and locked when not in use, and return it to U-Cool on time at the end of the Term, clean, free of contamination (including silica, beryllium and asbestos, as well as organic materials such as food and food byproducts), and in good order, condition and repair, properly serviced and maintained, and if applicable, full of the appropriate fuel, fluids and lubricants. If you fail to do so, then in addition to the amounts set forth on P.1, you will pay us: (a) Rent for each succeeding full rental period until all Item(s) have been returned or replaced as required; and (b) all costs and expenses we incur in connection with such failure. **You will not, nor will you permit anyone else to:** (i) abuse, misuse, overuse, remove from the Site, conceal, store, repair, modify or damage any Rented Item; (ii) violate any law, instruction, insurance policy or warranty; (iii) expose any Rented Item(s) to any hazardous substance(s) or circumstance(s); or (iv) take possession of or exercise control over any Rented Item, without our prior consent (in our sole discretion).

9. **WARNINGS: THE RENTED ITEM(S) (INCLUDING WITHOUT LIMITATION, REFRIGERATION EQUIPMENT, TRUCKS, CABLES, CONDUITS, ELECTRICAL DEVICES AND RELATED ITEMS) CAN BE DANGEROUS, AND SHOULD BE TRANSPORTED, SERVICED, MAINTAINED, REPAIRED AND USED WITH EXTREME CARE, ONLY FOR ITS/THEIR INTENDED PURPOSE(S) BY PROPERLY TRAINED, FAMILIARIZED, QUALIFIED, CERTIFIED, SUPERVISED, INSTRUCTED, AND IF APPLICABLE, LICENSED, ADULTS. YOU AGREE TO PROVIDE ALL APPLICABLE TRAINING, FAMILIARIZATION, INSTRUCTIONS AND WARNINGS TO ALL USERS OF SUCH ITEM(S), and ensure that each Item is used safely and only: (a) for its intended purpose(s); (b) within its rated capacity; (c) unless otherwise specifically agreed by U-Cool on a case-by-case basis, at the Site; (d) BY PROPERLY TRAINED, FAMILIARIZED, QUALIFIED, CERTIFIED, SUPERVISED AND/OR LICENSED (AS APPLICABLE) ADULTS; and (e) otherwise in full compliance with this Agreement (including without limitation, §§ 6 through 9 and 12), at all times.**

10. **U-COOL IS NOT THE MANUFACTURER OR DESIGNER OF ANY OF THE ITEMS, ALL OF WHICH ARE PROVIDED "AS-IS". U-COOL MAKES NO WARRANTY(IES), EXPRESS OR IMPLIED (INCLUDING ANY AND ALL WARRANTY(IES) OF MERCHANTABILITY, SUITABILITY, FITNESS FOR A PARTICULAR PURPOSE, FUNCTION, DESIGN, QUALITY, CAPACITY, FREEDOM FROM DEFECTS, GOOD AND GOOD AND WORKMANLIKE PERFORMANCE, AND ANY WARRANTY(IES) ARISING FROM ANY COURSE OF DEALING, COURSE OF PERFORMANCE AND/OR USAGE OF**

TRADE) REGARDING ANY ITEM(S) OR SERVICE(S) REFERENCED IN THIS AGREEMENT, NOR DOES U-COOL MAKE ANY WARRANTY(IES) AGAINST INTERFERENCE OR INFRINGEMENT, ALL OF WHICH YOU WAIVE. NO DEPICTIONS, MODELS, DESCRIPTIONS, SPECIFICATIONS OR ADVERTISEMENTS MADE OR ACCEPTED BY U-COOL OR ANY TPO CONSTITUTE REPRESENTATIONS OR WARRANTIES BY U-COOL.

11. **INDEMNIFY/HOLD HARMLESS: TO THE MAXIMUM EXTENT PERMITTED UNDER APPLICABLE LAW, YOU: (A) ASSUME ALL RISKS, INCLUDING WITHOUT LIMITATION, RISK(S) OF PERSONAL AND BODILY INJURY, LOSS, PROPERTY DAMAGE, DESTRUCTION AND CONTAMINATION OF, TO, AND/OR ARISING IN CONNECTION WITH, THE ITEM(S) AND SERVICE(S) REFERENCED IN THIS AGREEMENT, AS WELL AS ALL LIABILITIES, CLAIMS, DAMAGES, LOSSES, COSTS AND EXPENSES (INCLUDING ATTORNEYS' FEES) ARISING FROM AND/OR IN CONNECTION WITH THE SELECTION, PROVISION, INSPECTION, DESIGN, MANUFACTURE, USE, LOADING, UNLOADING, FUELING, TRANSPORTATION, DEMONSTRATION, STORAGE, SERVICING, MAINTENANCE, REPAIR, DELIVERY, INSTALLATION AND/OR RETRIEVAL THEREOF, WHETHER OR NOT YOUR FAULT (COLLECTIVELY, "RISKS"); (B) RELEASE AND DISCHARGE, AND AGREE TO INDEMNIFY, DEFEND AND HOLD HARMLESS, U-COOL, EACH TPO, and their respective owners, shareholders, members, managers, officers, directors, partners, agents, affiliates, employees, insurers, subrogees, representatives, successors and assigns (each, an "Indemnitee" and collectively, the "Indemnitees"), for, from and against all such RISKS, as well as all other liabilities, claims, damages, losses, costs and expenses (including without limitation, attorneys' fees) arising from and/or in connection with the Rented Item(s), this Agreement and/or any breach hereof by you, your agents, employees, contractors, sublessees, successors and/or assigns; and except only as provided in § 7, (C) WAIVE all rights and remedies available under the Uniform Commercial Code, as well as all direct, indirect, incidental, consequential, general, special, exemplary and punitive damages, against each and every Indemnitee.**

12. You agree to maintain all insurance we may require, including: (a) liability insurance with minimum limits of \$1,000,000 per occurrence; (b) property damage/inland marine insurance covering all Rented Items for the full (new) replacement cost thereof; (c) workers' compensation insurance; and (d) if applicable (e.g., for vehicles and/or trailers), hired auto liability (with minimum limits of \$1,000,000) and physical damage (for actual cash value) insurance. All such policies shall, to the maximum extent possible: (i) name U-Cool as an additional insured and loss payee; (ii) waive subrogation against the Indemnitees; (iii) be primary and noncontributory; (iv) include a severability of interests clause and such other provisions as we may require. You irrevocably appoint U-Cool as your agent and attorney-in-fact for purposes of making and negotiating claims on all such policies.

13. If and only if, we have offered our **OPTIONAL LIMITED DAMAGE WAIVER ("LDW")** and you have paid the LDW fee set forth on P.1 prior to commencement of the Term, then with respect solely to the Rented Item(s) covered by LDW ("Covered Items"), your liability for such Covered Item(s) will be partially waived if and to the extent they suffer physical damage during the Term; provided however, that **you will remain 100% liable for:** (a) all damage to or loss of Covered Items caused in whole or in part by: (i) your breach of this Agreement; (ii) theft of or failure to return any Covered Item(s); (iii) negligence, misuse and/or abuse; (iv) vandalism and malicious mischief; (v) use of alcohol or drugs; and/or (vi) use of any Rented Item(s) in violation of this Agreement, any Instruction(s) or any law or policy of insurance; (b) all loss of and damage to batteries, data, glass, tires, belts, chains, knobs and/or hoses; (c) overhead damage; (d) a "deductible" of \$250 for each Covered item which suffers damage; and (e) all replacement or repair costs for damage to Covered Items in excess of \$10,000 in the aggregate across all Covered Items. You may decline LDW if you provide the property/physical damage insurance referenced in § 12. **LDW IS NOT INSURANCE, NOR IS IT A WARRANTY.**

14. Your duties hereunder are unconditional. If you or any guarantor shall: (a) fail to fully and timely honor, pay, perform or comply with this Agreement and/or any of your obligations arising hereunder or in connection herewith; (b) provide any incorrect or misleading information to us; (c) become insolvent or bankrupt; or (d) die or cease conducting business, or if any Rented Item(s) shall be lost or, unless covered by LDW per § 13, damaged, you will be in **default** under this Agreement, whereupon, U-Cool may with or without legal process or notice (and without liability to you), to the maximum extent permitted under applicable law: (i) cancel the Term and/or this Agreement (and/or your rights to use and possess the Rented Item(s)); (ii) seek relief from stay; (iii) recover, empty, lock, restrict, disassemble and/or disable such Item(s) without being guilty of breach, trespass or wrongful interference, or liable for any injuries, property damage or spoliation (for which you agree to indemnify, defend and hold harmless each Indemnitee); (iv) perform your obligations hereunder on your behalf, without being obligated to do so; (v) purchase replacement Item(s); (vi) recover from you and/or any guarantor our associated direct and indirect damages, losses, costs and expenses (including without limitation, Rent for the balance of the scheduled Term, loss of use, interest, attorneys' fees and collection costs); and/or (vii) pursue any other rights and/or remedies available hereunder, at law and/or in equity, all of which shall be cumulative.

15. You agree to pay all taxes (including all sales, use, "business and occupation" and other taxes), tolls, fines, fees, assessments and other charges related to each Item and/or the transaction(s) referenced in this Agreement. In the event legal action is commenced in connection herewith, we will be entitled to recover our associated costs and expenses (including without limitation, attorneys' fees and expenses) from you if we prevail. Neither our exercise, nor our failure or delay in the exercise, of any rights or remedies available in connection herewith will constitute an election of remedies or a waiver of any of our rights or remedies. To the maximum extent permitted under applicable law, you grant to U-Cool: (a) a lien on all real and personal property: (i) placed in or on; and/or (ii) improved with, any Rented Item(s); and (b) the right to claim on any bond provided in connection therewith. We may, without notice or liability to you, monitor and/or inspect (in person and/or electronically, including via GPS and/or telematics) any Item(s) at any time. You consent thereto and agree that all information thereby obtained will be our property. If any performance required of U-Cool is delayed or impaired as a result of any act or omission of/by you, any Other Provider(s) or any "Act of God" (any event, fact or circumstance beyond our reasonable control), we will be excused from such performance. You waive the benefits of all statutes of limitations regarding U-Cool's rights and remedies. All amounts due hereunder but not timely paid will bear interest at the lesser of: (a) 18% per annum; or (b) the highest rate permitted by law until paid. You authorize us to charge all amounts coming due hereunder to any debit and/or credit card(s) you provide. You agree to pay us the maximum lawful charge for any check you write which is returned unpaid. Our maximum liability in connection with this Agreement is limited to the amount(s) actually paid by you hereunder.

16. This Agreement, and any addenda we provide (including our "Operating Instructions" and "Generator Instructions"), each of which is incorporated herein, represent(s) the entire agreement between you and us, superseding all other agreements and representations (including our website and advertising). The terms of this Agreement are severable. If any provision hereof shall be deemed invalid or unenforceable by any court of competent jurisdiction, such provision will be deleted, and the remainder hereof will remain valid and enforceable. This Agreement cannot otherwise be amended or extended except in a writing signed by us. Time is of the essence. These Terms and Conditions apply to the Item(s) identified on P.1 and to all other Items you obtain from us at any time (unless we otherwise agree in writing). You acknowledge and agree that: (a) this Agreement: (i) is an operating lease, and not a financing; (ii) is fair and reasonable; (iii) shall bind and be enforceable by and against you, U-Cool Refrigeration, LLC, the Indemnitees and our/their respective permitted successors and assigns (there being no other third-party beneficiaries hereto); and (iv) shall be governed by the laws of Washington; and (b) proper venue for all civil legal proceedings commenced in connection herewith shall lie solely in the federal, state and local courts located in or nearest to Pierce County, WA (unless waived by us). You consent and submit thereto, and waive all claims that such venue lies in an inconvenient forum. Digital, electronic, photocopied and facsimiled signatures appearing on P.1 will be deemed originals.

17. **WARNING:** Wrongfully obtaining or exerting unauthorized control over the property or services of another with the intent to deprive the owner of such property or services may be deemed theft resulting in **Civil Penalties** and/or **Criminal Prosecution**. See RCW § 9A.56.020, et. seq. for details.

LESSEE ACKNOWLEDGES THAT A LARGE-PRINT VERSION OF THESE TERMS AND CONDITIONS HAS BEEN MADE AVAILABLE TO LESSEE

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