

EQUIPMENT LEASE

This Equipment Lease ("Lease"), dated as of the day of _____, is entered into between Sling N' Scoops, LLC ("Lessor") and _____ ("Lessee").

RECITALS:

WHEREAS Lessor desires to lease to Lessee and Lessee desires to lease from Lessor, certain equipment described herein, all on the following terms and conditions:

NOW, THEREFORE, in consideration of the foregoing, and of the covenants and agreements hereinafter contained, the parties agree:

Section 1. Description of Equipment. Lessor hereby leases to Lessee, and Lessee hereby leases from Lessor, all Equipment set forth in Schedule "A" hereto ("Equipment").

Section 2. Lease Term. The term of this Lease shall be as follows:

Begin: _____ at _____ a.m./p.m.

Terminate: _____ at _____ a.m./p.m.

Section 3. Delivery. Lessor shall deliver Equipment to the following address upon the beginning of the Lease Term state in Section 2 of this Lease:

Section 4. Rent and Security Deposit. In consideration of the leasing of Equipment, Lessee agrees to pay Lessor rent in the amount of \$_____, with one-half due upon signing as a Security Deposit and the remaining one-half due 24 hours before delivery. Any payment of rent or any other amounts due hereunder that are not paid when due shall bear interest at the lower of (i) 5% per month or (ii) the highest rate allowed by law. Lessor may, but shall not be required to, use the security deposit to pay all amounts that Lessee is required to pay under this Lease but fails to do so. Security Deposits are nonrefundable.

Section 5. Place of Payment. All rent and other payments made pursuant to this Lease shall be made at the address of Lessor indicated herein or at such other address as shall be designated from time to time by Lessor in writing to Lessee.

Section 6. Lessee's Acceptance of Equipment. Lessee's receipt of Equipment and completion of "Mobile Cold Storage Delivery and Set Up Check List" as shown in Schedule B shall constitute acceptance thereof. By acceptance of Equipment, Lessee waives

any defense, setoff, or counterclaim that it may have against Lessor relating to or arising out of Equipment.

Section 7. Location and Conditions of Equipment Use.

- (a) Equipment cannot be relocated in any way by Lessee. If Equipment needs to be relocated, Lessee must call Lessor for Equipment relocation. Additional fee may be required and will be determined at the time of the relocation.
- (b) Equipment must be parked within 50 feet of a single phase, 120 volt, 20 amp, outlet. A dedicated circuit is required. Lessor will provide a 50-foot, 10-gauge heavy duty power cord. Lessee is not permitted to use any other cord except the one provided nor add on an additional cord for added length.
- (c) Equipment must be parked on a flat surface which will be approved by Lessor.
- (d) Lessor is not responsible for any power failures unless the power failure is caused by Equipment provided by Lessor. Any power failures caused by Lessee's equipment, or any actions taken by Lessee, shall be the responsibility of Lessee.
- (e) Upon delivery and set up, Lessor shall charge a fee in the amount of \$ _____. Lessee shall have an agent or person on site at the time of the delivery and set up.
- (f) If Lessee is using a generator to power Equipment, Lessee must provide generator brand and model number to Lessor for review and approval.
- (g) If requested, Lessor shall provide a generator for an additional fee of \$ _____. The generator will come with a full tank of gas. Lessee is responsible for maintaining generator operation including fuel levels. The generator must be returned with a full tank of gas.
- (h) Prior to termination of Lease Term, Equipment must be emptied and cleaned by using a mop and/or hose before collection by Lessor. Lessor will be responsible for disinfecting Equipment after it has been returned to Lessor.
- (i) Pick up time may vary. All pick up of Equipment shall be made within 12 hours of the termination date and time of the Lease Term. As described above, Lessee shall have cleaned out Equipment before it is picked up by Lessor.

Section 8. Lessee's Care of Equipment. Lessee agrees to (i) use Equipment in a careful and prudent manner in the regular course of its business; and (ii) comply with all rules, regulations, laws, and ordinances and any and all insurance provisions applicable to Lessee's use, maintenance, or possession of Equipment. Lessee, without the prior written consent of Lessor, shall not make any modifications, additions, or alterations to Equipment. Any and all such modifications, additions, and alterations shall belong to and become Lessor's property and be subject to the provisions of this Lease.

Section 9. Maintenance; Repair. Lessor, at its own cost and expense, shall (i) maintain Equipment in good condition and working order as when delivered, ordinary and reasonable wear and tear excepted; and (ii) furnish any and all mechanisms and parts needed to maintain Equipment in good working order. Any and all manuals and operating instructions provided by Lessor shall be carefully maintained by Lessee and returned to Lessor upon expiration or termination of this Lease.

Section 10. Lessor's Right To Inspect. During the Lease Term, Lessee shall permit and facilitate the inspection of Equipment and Lessee's records relating thereto at any reasonable time or times by Lessor.

Section 11. Term Extension. Lessor may, in Lessor's sole discretion, grant Lessee the option to extend the Lease Term. Such extension will be subject to availability. Additional Rent will be due upon approval of extension. At Lessor's sole discretion, Lessor may increase Rent in effect during any renewal period.

Section 12. Loss and Damages. Lessee hereby assumes all risk of loss, theft, damage, or destruction to Equipment from any cause whatsoever. No such loss, theft, damage, or destruction shall affect any obligation of Lessee under the Lease, which will continue in full force and effect, except as expressly provided below. In the event of any such loss, theft, damage, or destruction of Equipment, Lessee shall immediately give Lessor written notice thereof and the facts relative thereto, and shall, at the sole option of Lessor, do the following:

- (i) promptly repair such Equipment;
- (ii) promptly replace such Equipment with like equipment in good repair and working order, which equipment shall become subject to the provisions of this Lease; or
- (iii) promptly pay Lessor the value of Equipment to the full extent of Lessor's interest in Equipment, including any residual interest of Lessor in Equipment.

The value to be paid to Lessor pursuant to Subsection (iii) above shall be the value of such Equipment as is reasonably established by Lessor from time to time. Upon Lessor's receipt of indemnification from Lessee pursuant to Subsection (iii) above, this Lease shall terminate with respect to Equipment for which Lessor has received indemnification. Lessor may, at its option, terminate this Lease with respect to any remaining Equipment. Lessee agrees to provide Lessor with prompt written notice of the loss, theft, damage, or destruction of any Equipment, including, without limitation, all of the facts relevant thereto, and shall provide assistance to Lessor in investigating such loss, theft, damage, or destruction and in recovering damages from any and all third parties who may have any liability with respect thereto.

Section 13. Insurance. Lessee, at its own cost and expense, shall maintain insurance for Equipment in such amounts and to protect against such risks as Lessor shall from time to time require. Such insurance shall be maintained with a carrier or carriers acceptable to Lessor. All such insurance shall (i) name Lessor as an additional insured, (ii) contain a loss payable endorsement in favor of Lessor, (iii) be in a form acceptable to Lessor, and (iv)

provide that it cannot be canceled or modified without at least _____ days' prior written notice to Lessor. All such Insurance shall provide that Lessor may at its option, but shall not be obligated to, pay any premium not paid by Lessee, and that the coverage with respect to Lessor shall not be forfeited or suspended as a result of any default or breach by Lessee with respect thereto. From time to time as requested by Lessor, Lessee shall deliver to Lessor evidence, satisfactory to Lessor, of the insurance required to be maintained hereunder. In the event that Lessee fails to maintain the insurance required hereunder, Lessee shall not be entitled to use or possess Equipment.

Section 14. Ownership and Status of Equipment. Equipment is, and shall at all times remain, the sole personal property of Lessor. Lessee shall hold or possess no right, title, or interest in, to, or under Equipment except as specifically described in this Lease.

Section 15. Liens. Lessee hereby agrees to keep Equipment free and clear of all liens, claims, and encumbrances.

Section 16. Indemnification by Lessee. Lessee hereby agrees to indemnify and hold harmless Lessor from and against any and all actions, claims, damages, judgments, costs, and expenses (including, without limitation, attorneys' fees) resulting from or relating to Lessee's use, possession, or maintenance of Equipment or the breach by Lessee of any provision of this Lease.

Section 17. Limitation of Warranties. Lessor has not made and does not make any representation or warranty, express or implied, with respect to the condition, quality, durability, suitability, or merchantability of Equipment. Lessor shall not be liable for any liability, loss, or damage caused or alleged to be caused by Equipment or any defect or inadequacy thereof.

Section 18. Events of Default. For purposes of this Lease, the occurrence of any of the following shall constitute an "Event of Default" under this Lease:

- (i) the failure of Lessee to pay rent or any other sum due under this Lease for a period of 5 days following the date such sum is due;
- (ii) Lessee's failure to perform any of its other obligations or covenants under this Lease, provided such failure is not cured within 15 days following Lessor's written notice thereof;
- (iii) any affirmative act of insolvency by Lessee including, without limitation, the making of an assignment for the benefit of creditors or the filing by Lessee of any petition under any bankruptcy, insolvency, reorganization, or moratorium law;
- (iv) the filing of any involuntary petition against Lessee under any bankruptcy or insolvency law, or the appointment of any trustee or receiver with respect to Lessee or a substantial portion of Lessee's property, provided such petition or appointment is consented to or acquiesced in by Lessee or remains undismissed for 15 days; or

- (v) any material adverse change in the condition of Lessee.

Section 19. Remedies upon Default. Upon the occurrence of any one or more of the Events of Default, Lessor may, without notice to or demand on Lessee, do any of the following:

- (i) Repossess Equipment and re-lease all or any portion of Equipment to any person or entity selected by Lessor;
- (ii) Repossess Equipment and sell all or any portion of Equipment at a public or private sale; or
- (iii) Accelerate the payments due under this Lease and demand the total.

In the event that Lessor takes the action in Section 19 above, Lessee shall immediately pay Lessor the difference between (i) the aggregate rent to be received by Lessor from any third party for the balance of this Lease or the purchase price of Equipment, as the case may be; and (ii) the total unpaid rent and other outstanding obligations of Lessee under this Lease (including accrued interest thereon calculated at the highest rate allowed by law), plus all costs and expenses incurred by Lessor in connection with Lessee's default (including, without limitation, reasonable attorneys' fees and other costs incurred by Lessor in repossessing, repairing, storing, re-leasing, and selling Equipment).

Section 20. Cumulative Remedies. All rights and remedies are cumulative, and the exercise of any right or remedy provided hereunder shall be without prejudice to the right to exercise any other right or remedy provided herein, by law or equity.

Section 21. Waiver. No waiver of any default hereunder by a party shall operate as a waiver of any continuing or subsequent default. Any forbearance to act shall not be construed as a waiver of any right or remedy hereunder. To be effective, any and all waivers shall be in writing and specifically state what is being waived thereby.

Section 22. Severability. The invalidity or unenforceability of any provision of this Lease shall not affect, impair, or render unenforceable any other provision hereof. It is intended that each provision herein that is invalid or unenforceable as written be valid and enforceable to the fullest extent possible.

Section 23. Assignment. Lessee, without the prior written consent of Lessor, shall not do any of the following: (i) sell, transfer, assign, pledge, or hypothecate the Lease or any of Equipment; (ii) allow any of Equipment to be used by any person or entity other than Lessee or any of Lessee's employees; or (iii) sublet any of Equipment. Lessor may, without notice to Lessee, at any time assign this Lease or grant a security interest in this Lease or Equipment. In such event, Lessor's assignee or secured party shall have all of Lessor's rights under this Lease and may reassign this Lease or its security interest without prior notice to Lessee. Subject to the above terms, the provisions of this Lease shall be binding on and inure to the benefit of the respective successors, assigns, and personal representatives of the parties hereto.

Section 24. Notices. Each notice, consent, request, or other communication required or permitted by this Lease shall be in writing (unless otherwise specifically provided herein) and shall be deemed "given" to a party (i) when delivered by hand to such party; (ii) on the [third] day after deposit in the U.S. mail, postage prepaid and certified (return receipt requested), addressed to the party to which it is to be given at the address set forth below; (iii) on the date sent, if sent by telegram, telex, or facsimile transmission, provided confirmatory notice is sent by first-class mail, postage prepaid, to such party at the address set forth below; or (iv) on the first day after proper and timely deposit, freight prepaid, with a nationally recognized next-day delivery service providing next-day service to the location of the recipient, if sent to such party at the address set forth below:

If to Lessor:

Sling N' Scoops
204 S. Main Street
Red Bud, IL 62278

If to Lessee:

Any party at any time may change the address at which such party is to be given notice by giving notice of such party's new address to the other party in the foregoing manner.

Section 25. Captions. Captions are for convenience only and are not to be construed as substantive parts of this Lease.

Section 26. Governing Law. This Lease shall be construed and governed in accordance with the laws of the State of Illinois, without regard to conflicts of laws principles.

Section 27. Arbitration. Any dispute, claim, or controversy arising out of or relating to this Lease or the breach, termination, enforcement, interpretation, or validity thereof, including the determination of the scope or applicability of this agreement to arbitrate, shall be determined by binding arbitration in Red Bud, Illinois, before one arbitrator. If the parties cannot agree on the selection of an arbitrator within 10 days of commencement of an arbitration proceeding by service of a demand for arbitration, the arbitrator will be selected by the American Arbitration Association. Judgment on the award may be entered in any court having jurisdiction. The foregoing shall not preclude the parties from seeking provisional remedies in aid of arbitration from a court of appropriate jurisdiction. Each party shall bear its own legal expenses in connection with any arbitration, subject to the right of the arbitrators to award legal fees and costs to the prevailing party in such proceeding.

Section 28. Entire Agreement. This Lease, which includes any schedules or the like attached hereto, sets forth the entire agreement and understanding between the parties hereto with respect to the subject matter hereof. No party shall be bound by any amendment to this Lease unless any such amendment shall be signed by the party to be bound.

Section 29. Counterparts; Electronic Transmission. This Lease and any schedules or other documents relating hereto may be executed in counterparts, each of which shall be deemed to be an original, but all of which shall together constitute but one and the same document. Receipt of an executed signature page by facsimile or other electronic transmission shall constitute effective delivery thereof.

IN WITNESS WHEREOF, the parties have executed this Lease of the date first above written:

LESSOR:

LESSEE:

Sling N' Scoops, LLC

Kyle C. Winkelman, Managing Member

Schedule A

Schedule B

**MOBILE COLD STORAGE
DELIVERY AND SET UP CHECK LIST**

- _____ PARK TRAILER ON LEVEL SURFACE. SET WHEEL CHOCKS
- _____ UNHOOK AND LEVEL TRAILER
- _____ PLUG IN TRAILER. CONFIRM DEDICATED CIRCUIT
- _____ SET CONTROLLER TO REQUESTED TEMPERATURE
- _____ ATTACH HITCH LOCK & WHEEL LOCK
- _____ WALK AROUND UNIT WITH CUSTOMER. NOTE ANY EXTERIOR DAMAGES
- _____ DEMONSTRATE DOOR OPERATION WITH CUSTOMER. NOTE ANY INTERIOR DAMAGES
- _____ CONFIRM WITH CUSTOMER THAT THE UNIT MUST RUN ON A DEDICATED CIRCUIT

NOTES: _____

Lessee agrees that the above checklist has been completed as part of the delivery and setup by Lessor:

Dated _____ day of _____, _____.

LESSEE SIGNATURE: _____

DRIVER SIGNATURE: _____