

DryAir Rentals Terms and Conditions

1. DEFINITIONS.

“Authorized Individuals” are those individuals that Customer directly or indirectly allows to use the Equipment, who must be properly trained to use the Equipment, at least 18 years old or the legal age of majority in the state, whichever is greater and are not under the influence of any drugs, alcohol, substances or otherwise impaired.

“Customer” is identified earlier and includes any of the Customer’s representatives, agents, officers, employees or anyone signing this Contract on Customer’s behalf.

“DryAir” is DryAir and its affiliated companies, their respective officers, directors, employees and agents.

“DryAir Entities” means DryAir and all of DryAir’s directors, officers, agents, employees and DryAir’s affiliates, parents and subsidiaries.

“DryAir Location” is the DryAir location identified on the DryAir Rental Contract.

“Equipment” is the equipment and/or services identified on the DryAir Rental Contract, together with all replacements, repairs, additions, attachments and accessories and all future Equipment rented.

“FMV” is the Equipment’s fair market value on or about the date of the Incident relating to the Equipment, plus any administrative fees and expenses, as determined by DryAir.

“Incident” is any fine, citation, theft, accident, casualty, loss, vandalism, injury, death or damage to person or property, claimed by any person or entity that appears to have occurred in connection with the Equipment.

“Lost” means the Equipment is either stolen, its location is unknown, or Customer is unable to recover it for a period of 30 days.

“Ordinary Wear and Tear” means normal deterioration considered reasonable in the equipment rental industry for the Rental Period.

“Party” means DryAir or Customer and together both are the “Parties”.

“Rental Period” commences when the Equipment is delivered to Customer or picked up by the Customer from the DryAir Location and continues until the Equipment is returned to the DryAir Location or picked up by DryAir during normal business hours, provided Customer has otherwise complied with this Contract.

2. TERMS. Customer’s execution of this Contract or taking possession of the Equipment (whichever occurs first) shall be deemed acceptance of the terms herein for this and all past and future contracts between DryAir and Customer upon Customer’s receipt of DryAir’s Equipment under those contracts. Customer rents the Equipment from DryAir pursuant to this Contract, which is a true lease. The Equipment (a) is and shall remain the personal property of DryAir and (b) shall not be affixed to any other property. Customer shall not pledge or encumber the Equipment in any manner.

3. PERMITTED USE. Customer agrees and warrants that (a) DryAir has no control over the manner in which the Equipment is operated during the Rental Period by Customer or any third party that Customer implicitly or explicitly permits (including Customer Clients, defined below), (b) prior to each use and its return to DryAir, Customer shall inspect the Equipment to confirm that the Equipment is in good condition, without defects, readable decals are on the Equipment, and the Equipment is suitable for Customer’s intended use; (c) Customer has access to and reviews the operating and safety instructions and will operate the Equipment in accordance with the manufacturer’s instructions and with applicable safety equipment; (d) Customer shall immediately stop use and notify DryAir if the Equipment is damaged, unsafe, disabled, malfunctioning, levied upon, threatened with seizure, Lost, or if any Incident occurs; (e) Customer has received from DryAir all information needed or requested regarding the operation of the Equipment; (f) DryAir is not responsible for providing operator or other training unless Customer specifically requests in writing and DryAir agrees to provide such training (Customer being responsible to obtain all training that Customer desires prior to the Equipment’s use); (g) only Authorized Individuals shall use and operate the Equipment, however Customer is responsible for the Equipment and its use during the Rental Period regardless of the user; (h) the Equipment shall be used and maintained in a careful manner, within the Equipment’s capacity and in compliance with all applicable laws, regulations, as well as all operating and safety instructions provided on, in or with the Equipment and all applicable federal, state and local laws, permits and licenses, including but not limited to, OSHA and ADA, as revised; (i) the Equipment shall be kept in a secure location; and (j) Customer shall provide DryAir with accurate and complete information, which DryAir relies upon to provide the appropriate Equipment to Customer.

In the event the Customer re-rents the Equipment to another party (“Customer Client”), the Customer remains fully liable for compliance with this Contract. In the event of such re-rental, the Customer shall ensure that the Customer Client fully complies with all obligations of the Customer arising under this Contract.

Moreover, it is imperative for the Customer to promptly notify DryAir of any maintenance, service, or warranty calls that arise during the re-rental period. In the event of such re-rental, then Customer shall, upon request, provide DryAir with the name, address, and contact information of each Customer Client. Customer’s obligations under this Agreement shall not be diminished or circumvented by the actions or inactions of the Customer Clients or other third parties. Customer acknowledges that DryAir is not assuming any obligations other than those under this Contract and will not be liable for any property damage or loss, bodily injury, or other liability arising from Customer’s re-rental of the Equipment to any Customer Client.

4. PROHIBITED USE. Customer shall not (a) alter or cover up any decals or insignia on the Equipment, remove any operating or safety equipment or instructions or alter or tamper with the Equipment; (b) assign its rights under this Contract; (c) use the Equipment in a negligent, illegal, unauthorized or abusive manner; or (d) allow the use of the Equipment by anyone other than Authorized Individuals (Customer acknowledging that the Equipment may be dangerous if used improperly or by untrained parties).

5. MAINTENANCE. Customer shall perform routine maintenance on the Equipment, including routine inspections and cleaning in accordance with the manufacturer’s specifications, as applicable. All other maintenance or repairs may only be performed by DryAir or its agents, but DryAir has no responsibility during the Rental Period to inspect or perform any maintenance or repairs unless Customer requests a service call. If DryAir determines that repairs to the Equipment are needed, other than Ordinary Wear and Tear, Customer shall pay the full repair charges, additional fees, if any, and rental of the Equipment until the repairs are completed. If Equipment is stolen or damaged in excess of 40% of the Equipment’s FMV, Customer will be responsible for the FMV of the Equipment, including sales tax, as applicable. DryAir has the right to inspect the Equipment wherever located. Customer has the authority to and hereby grants DryAir and its agents the right to enter the physical location of the Equipment for the purposes set forth herein. DryAir shall be responsible for repairs needed because of Ordinary Wear and Tear. Customer agrees that repair or replacement of the Equipment is Customer’s exclusive remedy for DryAir’s breach of this Section. Notwithstanding DryAir’s service commitment, if Customer breaches this Contract, DryAir shall have no obligation to stop the Rental Period, commence repairs or rent other equipment to Customer until Customer or its agent agrees to pay for such charges.

6. CUSTOMER LIABILITY. DURING THE RENTAL PERIOD, CUSTOMER ASSUMES ALL RISK ASSOCIATED WITH THE POSSESSION, CONTROL OR USE OF THE EQUIPMENT, INCLUDING BUT NOT LIMITED TO, PERSONAL INJURY, DEATH, RENTAL CHARGES, THEFT, LOSSES, DAMAGES AND DESTRUCTION, INCLUDING CUSTOMER TRANSPORTATION, LOADING AND UNLOADING, WHETHER OR NOT THE CUSTOMER IS AT FAULT. After an Incident, Customer shall (a) immediately notify DryAir, the police, if necessary, and Customer's insurance carriers; (b) secure and maintain the Equipment and the surrounding premises in the condition existing at the time of such Incident, until DryAir or its agents investigate; (c) immediately submit copies of all police or other third party reports to DryAir; and (d) as applicable, pay DryAir, in addition to other sums due herein, the rental rate for Equipment until the repairs are completed or Equipment replaced plus either (i) the FMV or (ii) the full charges of recovery and repairs of damaged Equipment. Accrued rental charges shall not be applied against these amounts. DryAir shall have the immediate right, but not obligation, to reclaim any Equipment involved in any Incident.

7. NO WARRANTIES. DRYAIR DISCLAIMS ALL REPRESENTATIONS AND WARRANTIES, EXPRESS OR IMPLIED, WITH RESPECT TO THE EQUIPMENT, ITS DURABILITY, CONDITION, MERCHANTABILITY, NON-INFRINGEMENT, OR FITNESS FOR ANY PARTICULAR PURPOSE. CUSTOMER ACKNOWLEDGES ACCEPTANCE OF THE EQUIPMENT ON AN "AS IS, WHERE IS" BASIS, WITH "ALL FAULTS" AND WITHOUT ANY RECOURSE WHATSOEVER AGAINST DRYAIR ENTITIES. CUSTOMER ASSUMES ALL RISKS ASSOCIATED WITH THE EQUIPMENT AND RELEASES DRYAIR ENTITIES FROM ALL LIABILITIES AND DAMAGES (INCLUDING LOST PROFITS, PERSONAL INJURY, AND SPECIAL, INCIDENTAL AND CONSEQUENTIAL DAMAGES, EVEN IF ADVISED OF THE POSSIBILITY OF SUCH DAMAGES) IN ANY WAY CONNECTED WITH THE EQUIPMENT, ITS OPERATION OR USE OR ANY DEFECT OR FAILURE THEREOF, A BREACH OF DRYAIR'S OBLIGATIONS HEREIN OR ERRORS OR INACCURACIES IN INFORMATION OBTAINED FROM CUSTOMER OR THIRD PARTIES, UPON WHICH DRYAIR RELIES.

8. RELEASE AND INDEMNIFICATION. TO THE FULLEST EXTENT PERMITTED BY LAW, CUSTOMER INDEMNIFIES, RELEASES, HOLDS DRYAIR ENTITIES HARMLESS AND AT DRYAIR'S REQUEST, DEFENDS DRYAIR ENTITIES (WITH COUNSEL APPROVED BY DRYAIR), FROM AND AGAINST ALL LIABILITIES, CLAIMS, LOSSES, DAMAGES, AND EXPENSES (INCLUDING ATTORNEY'S AND/OR LEGAL FEES AND EXPENSES) HOWEVER ARISING OR INCURRED, RELATED TO ANY INCIDENT, DAMAGE TO PROPERTY, INJURY OR DEATH OF ANY PERSON, CONTAMINATION OR ALLEGED CONTAMINATION, OR VIOLATION OF LAW OR REGULATION CAUSED BY OR CONNECTED WITH THE (a) ACCESS, USE, POSSESSION OR CONTROL OF THE EQUIPMENT BY CUSTOMER OR ANY THIRD PARTY THAT CUSTOMER IMPLICITLY OR EXPLICITLY PERMITS TO ACCESS, USE, POSSESS OR CONTROL THE EQUIPMENT DURING THE RENTAL PERIOD OR (b) BREACH OF THIS CONTRACT, WHETHER OR NOT CAUSED IN PART BY THE ACTIVE OR PASSIVE NEGLIGENCE OR OTHER FAULT OF ANY PARTY INDEMNIFIED HEREIN AND ANY OF THE FOREGOING ARISING OR IMPOSED IN ACCORDANCE WITH THE DOCTRINE OF STRICT OR ABSOLUTE LIABILITY. CUSTOMER ALSO AGREES TO WAIVE ITS WORKERS' COMPENSATION IMMUNITY, TO THE EXTENT APPLICABLE. CUSTOMER'S INDEMNITY OBLIGATIONS SHALL SURVIVE THE EXPIRATION OR TERMINATION OF THIS CONTRACT. All of Customer's indemnification obligations under this paragraph shall be joint and several.

9. INSURANCE. During the Rental Period, Customer shall maintain, at its own expense, the following minimum insurance coverage: (a) general liability insurance of not less than \$2,000,000 per occurrence, including coverage for Customer's contractual liabilities herein such as the release and indemnification clause contained in Section 8; (b) worker's compensation insurance as required by law; and (c) automobile liability insurance (including comprehensive and collision coverage, and uninsured/underinsured motorist coverage), in the same amounts set forth in subsection (a) if the Equipment is to be used on any roadway. Such policies shall be primary, non-contributory, on an occurrence basis, contain a waiver of subrogation, name DryAir and its agents as an additional insured (including an additional insured endorsement) and loss payee, and provide for DryAir to receive at least 30 days prior written notice of any cancellation or material change. Any insurance that excludes boom damage or overturns is a breach. Customer shall provide DryAir with certificates of insurance to scott@dryair.ca evidencing the coverages required above prior to any rental and any time upon DryAir's request. To the extent DryAir Entities carry any insurance, DryAir Entities' insurance will be considered excess insurance. The insurance required herein does not relieve Customer of its responsibilities, indemnification, or other obligations provided herein, or for which Customer may be liable by law or otherwise.

10. RENTAL RATES. The total charges specified in this Contract are estimated based upon Customer's representation of the estimated Rental Period identified herein (rental rates beyond the estimated Rental Period may change) and other information conveyed by Customer to DryAir. Rental charges accrue during Saturdays, Sundays and holidays. The rental rates do not include and Customer is responsible for, (i) all consumables, fees, licenses, present and future taxes and any other governmental charges based on Customer's possession and/or use of the Equipment; (ii) delivery and pickup charges to and from the DryAir Location, including but not limited to any freight, transportation, delivery, pickup and surcharge fees listed in this Contract; (iii) maintenance, repairs and replacements to the Equipment as provided herein; (iv) a cleaning fee if required; and (v) miscellaneous charges, such as fees for lost keys, costs to recover Equipment.

11. PAYMENT. Customer shall pay for the rental of Equipment, sale of Equipment, materials and all other items and services identified in this Contract and all other amounts due, without any offsets, in full, in advance at the time of rental, unless DryAir approves Customer's executed commercial credit application. Commercial customers who are approved for DryAir's extended payment terms must pay, in arrears, upon receipt of DryAir's invoice, either by cash, check or ACH. Customer must notify DryAir in writing of any disputed amounts, including credit card charges, within 15 days after the receipt of the invoice/contract or Customer shall be deemed to have irrevocably waived its right to dispute such amounts. At DryAir's discretion, any account with a delinquent balance may be placed on a cash basis, deposits may be required and the Equipment may be picked up without notice. Due to the difficulty in fixing actual damages caused by late payment, Customer agrees that a service charge equal to the lesser of 1.5% per month or the maximum rate permitted by law shall be assessed on all delinquent accounts, until paid in full. Customer shall reimburse DryAir for all costs incurred in collecting any late payments, including, without limitation, attorneys' fees. Payment of any late charge does not excuse Customer of any default under this Contract. Deposits will only be returned after all amounts are paid in full. **CUSTOMER AGREES THAT IF A CREDIT OR DEBIT CARD IS PRESENTED TO PAY FOR CHARGES OR TO GUARANTEE PAYMENT, CUSTOMER AUTHORIZES DRYAIR TO CHARGE THE CREDIT OR DEBIT CARD ALL AMOUNTS SHOWN ON THIS CONTRACT AND CHARGES SUBSEQUENTLY INCURRED BY CUSTOMER, INCLUDING BUT NOT LIMITED TO, LOSS OF OR DAMAGE TO THE EQUIPMENT AND EXTENSION OF THE RENTAL PERIOD.**

12. RETURN OF EQUIPMENT. DryAir may terminate this Contract at any time, for any reason. The Equipment shall be returned to DryAir (when needed for inspections, maintenance and at the end of the Rental Period) in the same condition it was received, less Ordinary Wear and Tear and free of any hazardous materials and contaminants. Customer will return the Equipment at the end of the Rental Period, but will continue to be responsible for rental and other charges after the Rental Period if the Equipment is not returned in the condition required herein. Customer shall return Equipment to the same DryAir Location during that DryAir Location's normal business hours. If the Equipment is not returned by the estimated end of the Rental Period specified earlier, Customer agrees to pay the applicable rental rate for the Equipment until the end of the Rental Period.

13. PURCHASES. If this Contract identifies any Equipment, materials or other items that is to be purchased by Customer, DryAir sells and delivers such items to Customer on an "AS IS, WHERE IS" basis, with all faults and without any warranties (other than manufacturer warranties, if any) in consideration for Customer's payment to DryAir of the full purchase price of the item, DryAir retains title to the item until Customer has paid in full.

14. DEFAULT. Customer shall be in default if DryAir deems itself insecure or if Customer: (a) fails to pay sums when due; (b) breaches any Section of this Contract; (c) becomes a debtor in a bankruptcy proceeding, goes into receivership, takes protection from its creditors under any insolvency legislation, ceases to carry on business, or has its assets seized by any creditor; (d) fails to insure the Equipment as required, or otherwise places the Equipment at risk; (e) fails to return Equipment immediately upon DryAir's demand; or (f) is in default under any other contract with DryAir. If a Customer default occurs, DryAir shall have, in addition

to all rights and remedies at law or in equity, the right to repossess the Equipment without judicial process or prior notice. Customer shall pay all of DryAir's costs, including reasonable costs of collection, court costs, attorneys and legal fees, incurred in exercising any of its rights or remedies herein. DryAir shall not be liable due to seizure of Equipment by order of governmental authority. **CUSTOMER WAIVES ANY RIGHT OF ACTION AGAINST DRYAIR ENTITIES FOR SUCH REPOSSESSION.**

15. CRIMINAL WARNING. The use of false identification to obtain Equipment or the failure to return Equipment by the end of the Rental Period may be considered theft, subject to criminal prosecution and civil liability where permitted, pursuant to applicable laws.

16. ACCOUNT SUSPENSION/TERMINATION/BLOCKING: DryAir Rentals reserves the right to suspend, terminate, and/or block customer accounts for any reason, including, but not limited to, suspicious/malicious activity or the account being compromised in any way.

17. LIMITATION OF DRYAIR'S LIABILITY. IN CONSIDERATION OF THE RENTAL OF EQUIPMENT, CUSTOMER AGREES THAT DRYAIR'S LIABILITY UNDER THIS CONTRACT, INCLUDING ANY LIABILITY ARISING FROM DRYAIR'S, DRYAIR ENTITIES, OR ANY THIRD PARTY'S COMPARATIVE, CONCURRENT, CONTRIBUTORY, PASSIVE OR ACTIVE NEGLIGENCE OR THAT ARISES AS A RESULT OF ANY STRICT OR ABSOLUTE LIABILITY, SHALL NOT EXCEED THE TOTAL RENTAL CHARGES PAID BY CUSTOMER UNDER THIS CONTRACT.

18. JURY TRIAL WAIVER. IN ANY DISPUTE ARISING OUT OF, IN CONNECTION WITH, OR IN ANY WAY PERTAINING TO THIS CONTRACT, CUSTOMER AND DRYAIR HEREBY KNOWINGLY, VOLUNTARILY AND INTENTIONALLY WAIVE ANY RIGHT TO A TRIAL BY JURY, THIS WAIVER BEING A MATERIAL INDUCEMENT TO ENTERING INTO THIS CONTRACT.

19. ARBITRATION AGREEMENT & CLASS ACTION WAIVER. AT THE ELECTION OF CUSTOMER OR DRYAIR, ANY DISPUTE ARISING OUT OF, IN CONNECTION WITH OR IN ANY WAY PERTAINING TO THIS CONTRACT SHALL BE SETTLED BY ARBITRATION BROUGHT IN THE PARTY'S INDIVIDUAL CAPACITY AND NOT AS A PLAINTIFF IN A PURPORTED CLASS OR REPRESENTATIVE CAPACITY, ADMINISTERED BY THE AMERICAN ARBITRATION ASSOCIATION UNDER ITS COMMERCIAL ARBITRATION RULES OR BY JAMS PURSUANT TO ITS STREAMLINED ARBITRATION RULES AND PROCEDURES AND JUDGEMENT ON THE AWARD RENDERED BY THE ARBITRATOR(S) MAY BE ENTERED IN ANY COURT HAVING JURISDICTION THEREOF. THERE SHALL BE NO RIGHT OR AUTHORITY FOR ANY CLAIMS TO BE ARBITRATED OR TRIED ON A CLASS ACTION BASIS.

20. COMPLIANCE WITH EXPORT AND IMPORT LAWS. Removal of the Equipment from the United States ("U.S.") is prohibited under this Contract. If Customer desires or causes the transport and/or operation of the Equipment outside of the U.S., Customer must (a) obtain DryAir's consent prior to taking such action, including approval of established customs broker, and (b) execute an amendment to this Contract, which amendment is incorporated herein.

21. COLLECTION OF DATA. Customer consents to the collection, use and disclosure of the data and information Customer voluntarily provides to DryAir, including personal identifiable information and financial information as described in our Privacy Policy found at <https://www.exchangeincomecorp.ca/privacy-policy>.

22. GOVERNING LAW. The Parties expressly and irrevocably agree: (a) this Contract, including any related tort claims, shall be governed by the laws of New York, without regard to any conflicts of law principles and (b) if any Section of this Contract is prohibited by any law, such Section shall be ineffective to the extent of such prohibition without invalidating the remaining Sections.

23. FORCE MAJEURE. DryAir shall not be liable or responsible to the Customer, nor be deemed to have defaulted under or breached this Contract, for any failure or delay in fulfilling or performing any term of this Contract when and to the extent such failure or delay is caused by or results from acts beyond DryAir's control, including, without limitation, the following force majeure events ("Force Majeure Event(s)"): (a) acts of God; (b) flood, fire, earthquake, epidemics, pandemics or explosion; (c) war, invasion, hostilities (whether war is declared or not), terrorist threats or acts, riot or other civil unrest; (d) government order, law, regulations, shutdowns, or actions; (e) embargoes or blockades in effect on or after the date of this Contract; (f) national or regional emergency; (g) strikes, labor stoppages or slowdowns, or other industrial disturbances; (h) shortage of adequate power or transportation facilities; and (i) other events beyond the control of DryAir.

24. MISCELLANEOUS. This Contract, together with any Customer executed commercial credit application, if any, constitutes the entire agreement of the Parties regarding the Equipment and may not be modified except by written amendment signed by the Parties. Any reference in Customer's purchase order or other Customer document to other terms that shall control this transaction shall be void. This Contract benefits solely the Parties and their respective permitted successors and assigns and nothing in this Contract, express or implied, confers on any other person any legal or equitable right, benefit or remedy of any nature whatsoever under or by reason of this Contract. Customer's obligations hereunder shall survive the termination of this Contract. If any term is invalid, illegal, or unenforceable, such invalidity, illegality, or unenforceability shall not affect any other term or invalidate or render unenforceable such term. This Contract and all of Customer's rights in and to the Equipment are subordinate to all rights, title and interest of all persons (including DryAir's lenders) who have rights in the Equipment. Headings are for convenience only. To the extent that any terms in this Contract conflict, the Parties agree that the more specific terms control. A copy of this Contract shall be valid as the original. Any failure by DryAir to insist upon strict performance of any Section of this Contract shall not be construed as a waiver of the right to demand strict performance in the future. Customer and the person signing this Contract agree, represent and warrant that: (a) the person executing is 18 or the legal age of majority in the state, whichever is greater and they both have full authority to execute, deliver and perform this Contract; and (b) this Contract constitutes a legal, valid and binding obligation of Customer, enforceable in accordance with its terms. If the Parties have a fully executed, active agreement, intended to govern over conflicting terms and conditions, such agreement shall take precedence over the terms herein.