

LEASE TERMS AND CONDITIONS

THIS AGREEMENT CONTAINS THE TERMS AND CONDITIONS (THE "TERMS AND CONDITIONS") THAT APPLY TO ANY LEASE OF MATS (AS DEFINED BELOW) FROM EMPIRE GROUP, INC. ("LESSOR") TO A LESSEE ("LESSEE"). LESSEE AGREES, AS A CONDITION OF LEASE, TO BE BOUND BY AND ACCEPT THESE TERMS AND CONDITIONS AS APPLICABLE TO THE LEASE OF MATS FROM EMPIRE.

RECITALS

1. AGREEMENT AND ACCEPTANCE

Lessor and Lessee have agreed that Lessor will lease to Lessee for a period of time a quantity of goods ("Mats") more fully described and defined in the Quote issued by Lessee to Lessor (the "Quote"). Lessee will pay Lessor for its order, certain sums of money, representing the lease for the use of those mats, and return the mats to Lessor's possession, all as herein set out. Acceptance of the Mats referenced in the Quote shall constitute agreement and acceptance of these Terms and Conditions unless and until a separate written Lease Agreement has been agreed to in writing by and between Lessor and Lessee. Any lease of Mats by Lessor to Lessee that is accepted by Lessee are subject to these Terms and Conditions. LESSOR HEREBY EXPRESSLY OBJECTS TO AND REJECTS ALL TERMS AND CONDITIONS IN ANY QUOTE, PURCHASE ORDER OR OTHER DOCUMENT FROM LESSEE WHICH CONFLICT WITH OR ARE IN ADDITION TO THESE TERMS AND CONDITIONS, AND NO SUCH TERMS OR CONDITIONS SHALL BE BINDING UPON LESSOR UNLESS EXPRESSLY ACCEPTED IN WRITING BY AN OFFICER OF LESSOR.

2. LEASE TERM

The lease will commence on the day Mats are delivered (the "Commencement Date") and will conclude at the expiration of the lease term (the "Lease Term") as provided in the Quote.

3. INVOICE AND PAYMENT

Lessor shall invoice Lessee for Mats shipped to or made available by the Lessor to Lessee at a single location or locations agreed to ("Staging Yard" or "Staging Area"), as supported by electronically signed Proof of Delivery, as well as for the associated freight to ship Mats to and from the agreed location. Lessee shall pay each invoice in full within thirty (30) days of the invoice date. Lessee will owe Lessor the full amount due for the Lease Term under the provisions of these Terms and Conditions for each Mat regardless of any contingency, including loss of, damage to, or destruction of any Mats during the Lease Term.

- A. Extended Lease and Overages: If Lessee fails to return Mats to the Lessor by the end of the quoted Lease Term, Lessee shall pay a daily fee per Mat set forth in the Quote ("Overages"). Should Lessee request to extend the Lease Term (each, an "Extended Lease Term"), Lessor shall issue an updated Quote, as well as a new lease agreement for the Extended Lease Term. Lessee shall pay invoices for the Extended Lease Term and/or Overages within thirty (30) days of the invoice date.
- B. Late Charges and Interest: Should Lessee fail to pay any amounts that are due Lessor under the provisions of these Terms and Conditions during the Lease Term or any Extended Lease Term and/or Overages, Lessee will pay Lessor interest on the unpaid balance at the rate of Eighteen percent (18%) per annum from the first day such sum becomes delinquent until paid, and all partial payments will be applied first to interest and then to balance due.

4. SHIPMENT AND PREPAID FREIGHT

Lessor shall deliver the Mats by motor carrier, freight in and out prepaid by Lessee, to the Staging Yard/Area. Delivery shall commence immediately after verbal or written acceptance of the Quote, or as otherwise agreed to by Lessor and Lessee. Lessee shall furnish all means to promptly unload and receipt for Mats.

5. INSPECTION BY LESSOR

Lessee shall promptly inspect Mats upon delivery and report to Lessor immediately in writing any damaged or unsuitable Mats. Lessee will store such Mats separately at the Staging Yard/Area for inspection by Lessor. Failure by Lessee to provide such notice (not to exceed 48 hours after receipt of Mats) will constitute full acceptance of

Mats, and Lessee agrees that it shall be conclusively presumed, as between Lessor and Lessee, that Lessee has fully inspected and acknowledged that the Mats are in full compliance with these Terms and Conditions, in good condition and repair, and that Lessee is satisfied with and has accepted the Mats "AS IS" with no warranties whatsoever. LESSEE ACKNOWLEDGES THAT LESSOR HAS MADE NO REPRESENTATIONS OR WARRANTIES OF ANY KIND, EXPRESSED OR IMPLIED, AS TO ANY MATTER WHATSOEVER WITH RESPECT TO THE CONDITION OR PERFORMANCE OF THE MATS, ITS MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE. LESSEE FURTHER WAIVES AND LESSOR FURTHER DISCLAIMS ANY AND ALL SUCH WARRANTIES. LESSEE ACKNOWLEDGES THAT THERE SHALL BE NO ABATEMENT OF RENT OR ANY OTHER AMOUNTS DUE FROM LESSEE UNDER THE PROVISIONS OF THESE TERMS AND CONDITIONS AS A RESULT OF ANY INSUFFICIENCY OR INADEQUACY OF THE MATS FOR ANY PURPOSE, WHETHER OR NOT KNOWN OR DISCLOSED TO LESSEE, OR ANY DEFICIENCY OR DEFECT IN THE MATS OR THE USE OR PERFORMANCE OF THE MATS, OR ANY LOSS OF BUSINESS OR ANY OTHER CONSEQUENTIAL OR INCIDENTAL LOSS OR DAMAGE WHETHER OR NOT RESULTING FROM ANY OF THE FOREGOING.

6. SCOPE OF USE AND STORAGE

Lessee shall use the Mats in accordance with standard industry practice. Lessee shall use the Mats in a manner that complies, in all material respects, with applicable foreign, federal, state, territorial, or municipal law or regulation and shall be solely responsible for any fines, penalties, or forfeitures occasioned by any violation thereof while using the Mats provided that such violation did not result from any act or omission on the part of Lessor, in which case Lessor shall be responsible. Lessee shall not use the Mats in any manner which would contravene the uses and purposes stipulated in the insurance policies referred to in these Terms and Conditions. Nothing herein shall authorize Lessee or any other person to use the Mats, or to incur any liability or obligation, on behalf of Lessor. Lessee shall not abuse, damage, or destroy any of the Mats, as normal use and wear is acceptable. The Mats shall be used on the location aforementioned, and at such other places as Lessor and Lessee shall agree in writing. In the event the Mats are lost, stolen, or damaged beyond repair, Lessee shall pay to Lessor the replacement cost of the Mats. All the obligations of Lessee under these Terms and Conditions shall continue in full force and effect through the Lease Term (or any Extended Lease Term) without off-set or deduction, regardless of if the Mats are, among other things, lost, stolen, or damaged beyond repair.

7. NO SUBLETTING OR ASSIGNMENT

No Mats shall be sublet by Lessee, nor shall Lessee assign or transfer any interest in these Terms and Conditions or any agreement with Lessor to lease the Mats without prior written consent of Lessor. Lessor may assign these Terms and Conditions or any other agreement to lease the Mats without notice. Subject to the foregoing, these terms inure to the benefit of, and are binding upon, the heirs, successors, and assigns of the Parties hereto.

8. MAT RETURN

Furthermore, Lessee shall notify Lessor no less than ten (10) days before Lessee intends to return Mats to the Staging Yard/Area. During which time the Mats are being returned, Lessee will allow Lessor access to (ingress and egress) and use of the Staging Area without cost to store, count, inspect and load the Mats for re-shipment. Returned Mats will be graded by Lessor, at which time a representative appointed by the Lessee may be present. Any Mat deemed by the Lessor, in its sole and absolute discretion, to be so damaged that it is not suitable for further use (each a "Cull Mat") in excess of the allowed attrition rate set forth in the quote will be invoiced to the Lessee at a replacement fee, payable within thirty (30) days of the invoice date.

9. MAT TRANSFER

Lessee will not move mats from the said project location or Staging Yard/Area without the written consent of the Lessor. In the event mats need to be relocated, Lessee must contact Lessor to arrange transfer, whereas mats relocated without acknowledgement from Lessor may be subject to additional fees.

10. LESSOR'S REPRESENTATIONS

Lessor represents and warrants that it has the right to lease the Mats as provided herein and that Lessee shall be entitled to quietly hold and possess the Mats, and Lessor will not interfere with that right as long as Lessee timely complies with payment terms and performs all other obligations under these Terms and Conditions.

11. MAT OWNERSHIP

The Mats are and shall remain the exclusive property of Lessor, and Lessee shall not make any claim or assertion to Lessor or any third party that Lessee has any ownership interest in the Mats or any right to them except the rights granted under these Terms and Conditions. However, Mats shall be the sole responsibility of Lessee while in Lessee's possession, during which time Lessee shall be responsible/liable for all risk of damage to, or loss or destruction of any of the Mats from any event including, without limitation, acts of God, theft, and mysterious disappearance.

12. REPLACEMENT FEE

Lessee shall pay Lessor a replacement fee (each a "Replacement Fee") per Mat as set forth in the Quote for:

- A. Each mat not returned by Lessee to the Staging Area by the last day of the Lease Term (or any Extended Lease Term) and as to which the parties have not agreed to an Extended Lease Term, or each Mat not returned by Lessee to the Staging Area by the last day of any Extended Lease Term applicable to it (each an "Unreturned Mat" and collectively, the "Unreturned Mats"), and
- B. Each Mat returned to the Staging Area in a condition so damaged that it is not suitable for further use (each a "Cull Mat").

Provided, however, if Lessee pays all amounts due under the provisions of these Terms and Conditions during the Lease Term and any Extended Lease Term as and when due and without default and does not default in making such payments due Lessor or of any other provision of these Terms and Conditions, Lessor may forgive the Replacement Fee for Cull Mats up to the allowable attrition rate set forth in the Quote. Only Cull Mats will be eligible for this limited forgiveness of Replacement Fee. Unreturned Mats will not be eligible for such limited forgiveness of Replacement Fee.

13. INSURANCE

Lessee shall be responsible to maintain insurance on the Mats with losses payable to Lessor against all risk, including, but not limited to, fire, theft, collision, commercial general liability, injury, death, property damage, and other such risks as are appropriate and specified by Lessor. Upon request by Lessor, Lessee shall provide proof of such insurance. Lessee shall also have Lessor named as an additional insured and loss payee on all of its applicable insurance policies during the Lease Term or any Extended Lease Term.

14. INDEMNITY

In addition to the insurance requirements contained herein, Lessee assumes all risks inherent in the operation and use of the Mats and agrees to indemnify Lessor against, to assume the entire responsibility for the defense of, to hold Lessor harmless from, and to release Lessor from, any and all claims, actions, suits, proceedings, costs, expenses, damages, and liabilities, including attorneys' fees, arising out of, connected with, or resulting from or relating to the Mats, these Terms and Conditions, and any other agreement for the lease of the Mats, including without limitation, the manufacture, selection, delivery, leasing, renting, control, possession, use, operation, transportation, maintenance, storage, or return of the Mats. Lessee shall further indemnify Lessor and hold Lessor harmless from any and all loss and damage to the Mats. 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 death, injury, disability of its employees or contractors or any other persons injured, killed, or in any way damaged by the operation, use, control, handling, maintenance, or transportation of the Mats during the Lease Term or any Extended Lease Term. Lessee shall further indemnify Lessor 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 Lessor's access to any property of any third-party to deliver, pick up, or service any mats, when such access to a third-party's property is directed or provided by Lessee.

15. DEFAULT

Lessee will be in default under these Terms and Conditions if:

- A. Lessee fails to pay when due, all or any part of the amounts due Lessor under the provisions of these Terms and Conditions during the Lease Term, any Extended Lease Term, or any other sum which Lessee is obligated under these Terms and Conditions to pay and fails to cure said default within ten (10) days of receiving written notice of such default,
- B. Lessee fails or refuses to strictly comply with any obligation created by these Terms and Conditions, other than payment obligations addressed in part (A) above, and fails to cure said default within thirty (30) days of receiving written notice of such default,
- C. Any warranty or material representation made by Lessee to Lessor in these Terms and Conditions or in any other agreement between the parties, or if any application by Lessee to Lessor is false in any material respect when made or furnished,
- D. Lessee sells, or attempts to sell, subleases, rents out, or allows any third party to use any of the Mats, or transfers or moves any of the Mats to any location not specifically approved in advance by Lessor, or if any material number of Mats are lost by Lessee, Stolen, substantially damaged, or seized by any third party pursuant to legal proceedings against Lessee, or
- E. Any insolvency or bankruptcy proceeding is commenced by or against Lessee.

In the event of default by Lessee in the payment of any sum required hereunder, Lessee shall, upon request of Lessor, assemble the Mats at the Staging Area or at some other location agreed by the parties where Lessor may take possession of them.

16. REMEDIES UPON DEFAULT

Upon default at the option of the Lessor, all obligations of Lessee to pay Lessor any amount under the provisions of these Terms and Conditions shall become immediately due and payable without demand or notice, and Lessor may proceed to enforce payment of the same and exercise all the rights and remedies provided by Lessor. Upon any such default, Lessor shall have the right to take immediate possession of all the Mats and shall have the right to remove the Mats from any location, and for purposes of removal and repossession. Lessor or its employees, agents or representatives may enter any premises of the Lessee without legal process and Lessee does hereby waive and release Lessor of and from all claims (including but not limited to claims for trespass and/or damage to property) in connection therewith or arising therefrom. In the event of default, Lessee shall pay all of Lessor's reasonable costs and attorney's fees for the enforcement of Lessor's rights under these Terms and Conditions or under any law.

17. BINDING EFFECT

The covenants and conditions contained in these Terms and Conditions shall apply to and bind the Parties and the heirs, legal representatives, successors, and permitted assigns of the Parties.

18. GOVERNING LAW

These Terms and Conditions shall be governed by and construed in accordance with the laws of the State of Mississippi. Any disputes or litigation over these Terms and Conditions, its terms or the enforcement thereof shall be subject to the sole jurisdiction and venue of the federal and state courts having venue in Lamar County, Mississippi.