

Bairn

EQUIPMENT RENTAL AGREEMENT

**THIS EQUIPMENT RENTAL AGREEMENT (this "Agreement") dated this _____
day of _____, _____.**

BETWEEN:

Bairn, LLC

(the "Lessor")

OF THE FIRST PART

- AND -

(the "Lessee")

OF THE SECOND PART

IN CONSIDERATION OF the mutual covenants and promises in this Agreement, the receipt and sufficiency of which consideration is hereby acknowledged, the Lessor leases the Equipment to the Lessee, and the Lessee leases the Equipment from the Lessor on the following terms:

1. Definitions

The following definitions are used but not otherwise defined in this Agreement:

- a. "Casualty Value" means the market value of the Equipment at the end of the Term or when in relation to a Total Loss, the market value the Equipment would have had at the end of the Term but for the Total Loss. The Casualty Value may be less than but will not be more than the original purchase price of the Equipment.
- b. "Equipment" including:

Which has an approximate total value (Casualty Value) of \$_____.

- c. "Total Loss" means any loss or damage that is not repairable or that would cost more to repair than the market value of the Equipment.

2. Lease

The Lessor agrees to lease the Equipment to the Lessee, and the Lessee agrees to lease the Equipment from the Lessor in accordance with the terms set out in this Agreement.

3. Term

The Agreement commences on _____, _____ until the end of day of _____, _____ (the "Term").

4. Rent

The rent for the Equipment, inclusive of sales tax, will be \$_____ (the "Rent") and the Rent will be paid prior to the Lessee taking possession of the Equipment.

5. Delivery of Equipment

The Lessee will, at the Lessee's own expense and risk, pick up and transport the Equipment from

Person of contact: _____

At the address of: _____

6. Use of Equipment

- a. The Lessee will use the Equipment in a careful manner and comply with all manufacturer's requirements and recommendations respecting the Equipment and with any applicable law, whether local, state or federal respecting the use of the Equipment, including, but not limited to, environmental and copyright law.
- b. The Lessee will use the Equipment for the purpose for which it was designed and not for any other purpose.
- c. Unless the Lessee obtains the prior written consent of the Lessor, the Lessee will not alter, modify or attach anything to the Equipment unless the alteration, modification or attachment is removable without damage to the functional capabilities or economic value of the Equipment.

7. Repair and Maintenance of Equipment

- a. The Lessee will, at the Lessee's own expense, keep the Equipment in good repair, appearance and condition, normal and reasonable wear and tear excepted. The Lessee will supply all parts that are necessary to keep the Equipment in such a state.

- b. If the Equipment is not in good condition, appearance, repair, and/or the same condition prior to commencing this Agreement, when it is returned to the Lessor, the Lessor will make the necessary repairs to bring the Equipment to a state of good condition, appearance, and/or repair within a reasonable time of taking possession of the Equipment. The Lessor will then give the Lessee written (or email) notice of and invoices for the said repairs. Upon receipt of such invoices, the Lessee will immediately reimburse the Lessor for the total and verifiable expense of those repairs.

8. Warranties

- a. The Equipment will be in good working order and good condition upon delivery.
- b. The Equipment is of merchantable quality and is fit for the purposed designed by the manufacturer.

9. Loss and Damage

- a. To the extent permitted by law, the Lessee will be responsible for risk of loss, theft, damage or destruction to the Equipment from any and every cause, except to the extent such loss, theft, damage, and/or destruction arises from the gross negligence or willful misconduct of Lessor.
- b. If the Equipment is lost or damaged, the Lessee will continue to pay Rent, will provide the Lessor with prompt written (or email) notice of such loss or damage and will, if the Equipment is repairable, put or cause the Equipment to be put in a state of good repair, appearance, and condition.
- c. In the event of Total Loss of the Equipment, the Lessee will provide the Lessor with prompt written (or email) notice of such loss and will pay to the Lessor all unpaid Rent for the Term plus the Casualty Value of the Equipment, at which point ownership of the Equipment passes to the Lessee.

10. Insurance

During the Term, should the Casualty Value of Equipment be equal to or exceed \$3000, Lessee shall at its own expense obtain and maintain:

- (a) commercial general liability insurance (naming Lessor and its assigns as additional insured) for bodily injury and property damage resulting from the maintenance, use or transportation of the Equipment subject to this Agreement, with minimum limits of \$1,000,000 per occurrence;
- and (b) property and casualty insurance (naming Lessor and/or any Assignee as sole loss payee) covering all risks of loss or damage to such Equipment from any cause whatsoever, including, without limitation, fire and theft, in an amount not less than the greater of the Stipulated Loss Value or replacement value thereof.

All insurance will be from an insurer and in a form and amount satisfactory to Lessor. Lessee shall deliver to Lessor the certificates of such insurance (and each renewal or replacement thereof) and evidence of the payment of the premiums for such insurance policies. All policies will provide for a lender's loss endorsement in favor of Lessor and any Assignee, that no cancellation or material modification of such insurance shall be effective without thirty days prior written notice to Lessor and that, in respect of the interests of Lessor and any Assignee, no such insurance policy shall be invalidated by any action or inaction on the part of Lessee.

11. Ownership, Right to Lease and Quiet Enjoyment

- a. The Equipment is the property of the Lessor and will remain the property of the Lessor unless under the conditions of **Section 9(c)** or that of **Section 12(b)**.
- b. The Lessee will not encumber the Equipment or allow the Equipment to be encumbered or pledge the Equipment as security in any manner.
- c. The Lessor warrants that the Lessor has the right to lease the Equipment according to the terms in this Agreement.
- d. The Lessor warrants that as long as no "Event of Default" has occurred, the Lessor will not disturb the Lessee's quiet and peaceful possession of the Equipment or the Lessee's unrestricted use of the Equipment for the purpose for which the Equipment was designed.

12. Surrender

- a. At the end of the Term or upon earlier termination of this Agreement, the Lessee will return the Equipment at the Lessee's cost, expense and risk to the Lessor by delivering the Equipment to _____.
- b. If the Lessee fails to return the Equipment to the Lessor at the end of the Term or any earlier termination of this Agreement, the Lessee will pay to the Lessor any unpaid Rent for the Term plus 10% of the Casualty Value per additional late day until 100% of the Casualty Value is paid, at which point ownership of the Equipment will pass to the Lessee.

13. Taxes

- a. The Lessee will report and pay all taxes, fees and charges associated with the Equipment, with the use of the Equipment, and with revenues and profits arising out of the use of the Equipment, including, but not limited to, sales taxes, property taxes, and license and registration fees.
- b. The Lessee will pay any and all penalties and interest for failure to pay any tax, fee or charge on or before the date on which the payment is due. The Lessee will pay any and all penalties and interest for failure to report required information to any taxing authority with jurisdiction over the Lessee or the Equipment. If the Lessee fails to do any of the foregoing, the Lessor may, but is not obligated to, do so at the Lessee's expense.
- c. Notwithstanding any other provision of this Agreement, the Lessee will not be required to pay any tax, fee or charge if the Lessee is contesting the validity of same in the manner prescribed by the legislation governing the imposition of same, or in the absence of a prescribed form, in a reasonable manner. However, the Lessee will indemnify and reimburse the Lessor for damages and actual, verifiable expenses incurred by the Lessor arising from or related to the Lessee's failure to pay any tax, fee or charge.
- d. If the Lessee fails to pay any and all taxes, fees, and charges mentioned in this Agreement and the Lessor, on behalf of the Lessee, pays the same, the Lessee will reimburse the

Lessor for the actual and verifiable cost upon receipt of written (or email) notification from the Lessor of the amount.

14. Default

- a. The occurrence of any one or more of the following events will constitute an event of default ("Event of Default") under this Agreement:
 - I. The Lessee fails to pay any amount provided for in this Agreement when such amount is due or otherwise breaches the Lessee's obligations under this Agreement upon a failure to cure said alleged breach within a reasonable time hereunder. (Up to 60 days)
 - II. The Lessee becomes insolvent or makes an assignment of rights or property for the benefit of creditors or files for or has bankruptcy proceedings instituted against it under the Federal bankruptcy law of the United States or another competent jurisdiction.
 - III. A writ of attachment or execution is levied on the Equipment and is not released or satisfied within 10 days.

15. Remedies

- a. On the occurrence of an Event of Default, the Lessor will be entitled to pursue any one or more of the following remedies (the "Remedies"):
 - I. Declare the entire amount of the Rent for the Term immediately due and payable with or without notice or demand to the Lessee
 - II. Commence legal proceedings to recover the Rent and other obligations accrued before and after the Event of Default.

III. Take possession of the Equipment, with or without demand or notice, wherever same may be located, without any court order or other process of law. The Lessee waives any and all damage occasioned by such taking of possession.

IV. Terminate this Agreement immediately upon written notice to the Lessee.

V. Pursue any other remedy available in law or equity.

16. Address for Notice

a. Service of all notices under this Agreement will be delivered electronically or emailed to the following addresses:

Lessor:

Name: Bairn, LLC

Email: Contact@bybairn.com

Mailing: _____

Lessee:

Name: _____

Email: _____

Mailing: _____

17. Governing Law

a. It is the intention of the Parties to this Agreement that this Agreement and the performance under this Agreement, and all suits and special proceedings under this Agreement, be construed in accordance with and governed, to the exclusion of the

law of any other forum, by the laws of the State of Georgia (the "State"), without regard to the jurisdiction in which any action or special proceeding may be instituted.

18. General Terms

- a. This Agreement may be executed in counterparts. Facsimile signatures are binding and are considered original signatures.
- b. This Agreement will extend to and be binding upon and inure to the benefit of the respective heirs, executors, administrators, successors and assigns of each Party.
- c. Neither Party will be liable in damages or have the right to terminate this Agreement for any delay or default in performance if such delay or default is caused by conditions beyond its control including, but not limited to Acts of God, Government restrictions, wars, insurrections, natural disasters, such as earthquakes, hurricanes or floods and/or any other cause beyond the reasonable control of the Party whose performance is affected.

19. Notice to Lessee

NOTICE TO THE LESSEE: This is a lease. You are not buying the Equipment. Please do not sign this Agreement before assessment. You are entitled to a completed copy of this Agreement when you sign it.

LESSOR SIGNATURE (Bairn):

LESSEE SIGNATURE:

Name printed:

Name printed:
