

MASTER LEASE AGREEMENT

Lessor: Trek Equipment Corporation
4000 Bridgeway Boulevard, #205
Sausalito, CA 94965

Lessee:

TERMS AND CONDITIONS OF LEASE

1. **LEASE; TERM; LEASE PAYMENTS.** Lessor hereby leases to Lessee and Lessee hereby leases from Lessor the equipment described in the attached Equipment Schedule (hereinafter, with all replacement parts, repairs, additions and accessories incorporated therein and/or affixed thereto, referred to as the ("Equipment")), on terms and conditions set forth herein (the "Lease") commencing on the date (the "Acceptance Date") that the Equipment is accepted by the Lessee as indicated in a Certificate of Acceptance signed by Lessee, and continuing for the number of months after the Commencement Date specified above. "Commencement Date" means, where the Acceptance Date falls on the first day of the month, that date, and in any other case, the first day of the month following the month in which the Acceptance Date falls. If the Delivery Date falls on any day other than the first day of the month, then Lessee shall pay interim rent due on the Date of Delivery, in an amount equal to the Monthly Lease Payment multiplied by the number of days between the Acceptance Date and the Commencement Date divided by 30. Unless otherwise provided herein, the monthly lease payments shall begin on the Commencement Date and shall be payable in advance on the first day of each month, in the amount stated above, until the total lease payments and all other obligations of Lessee under this Lease shall have been paid or performed in full. All lease payments shall be made to the Lessor (or its assignee) at its address or at such other place as Lessor may designate in writing. Lessee hereby authorizes Lessor to insert in this Lease the serial numbers and other identification data of the Equipment when determined by Lessor. THIS IS A NONCANCELABLE LEASE FOR THE TERM INDICATED ON THE EQUIPMENT SCHEDULE. The term of this Lease shall automatically extend for successive ninety (90) day periods following the end of the initial term unless terminated by Lessee by giving written notice to Lessor at least 180 days prior to the end of the initial term, or of any such successive period. Any such termination shall be effective only on the last day of the initial term, or the last day of such successive period. Upon termination of this Lease, Lessee shall have no further right to use and possession of the Equipment, but the obligations of Lessee hereunder for payments due Lessor and for the return of the Equipment shall remain in effect until satisfied.

2. **PURCHASE AND ACCEPTANCE; NO WARRANTIES.** Lessee requests Lessor to purchase the Equipment from the Vendor. Lessor shall have no responsibility for delay or failure of Vendor to fill the order for the Equipment. Lessee represents that it has selected the Equipment leased hereunder prior to having requested the Lessor to purchase the same for leasing to the Lessee, and that Lessee has reviewed and approved the purchase order or agreement with respect to the equipment, and Lessee agrees that the Lessor has made no representations or warranties of any kind or nature, directly or indirectly, express or implied, as to any matter whatsoever, including the suitability of such Equipment, its durability, its fitness for any particular purpose, its merchantability, its condition, and/or its quality, and as between Lessee and Lessor, and Lessor's assignee Lessee leases the Equipment "as is." Lessor and Lessor's assignee shall not be liable to Lessee for any loss, damage or expense of any kind or nature caused directly or indirectly by any Equipment leased hereunder or the use or maintenance thereof or the failure of operation thereof, or the repairs service or adjustment thereto, or by any delay or failure to provide any thereof, or by any interruption of service or loss of use thereof, or the use thereof in violation of the rights of any party whomsoever, or for any loss of business or damage whatsoever and howsoever caused. No representation or warranty as to the Equipment or any other matter by the Vendor shall be binding on the Lessor or Lessor's assigns nor shall the breach of such relieve Lessee of, or in any way affect, any of Lessee's obligations to the Lessor or Lessor's assigns as set forth herein. Lessor and Lessor's assigns disclaim and shall not be responsible for any loss, damage or injury to persons or property caused by the Equipment, whether arising through the negligence of the Vendor or imposed by law.

Lease payments will be due despite Lessee's dissatisfaction with the Equipment for any reason. If the Equipment is not properly installed, does not operate as represented or warranted by the Vendor or is unsatisfactory for any reason, Lessee shall make any claim on account thereof solely against the Vendor and hereby waives and releases any and all rights to now or hereafter assert any claim against Lessor or Lessor's assigns concerning the Equipment and shall nevertheless pay Lessor or Lessor's assigns all lease payments and other amounts payable under this Lease. Provided no event of default has occurred and is continuing under the Lease, Lessor assigns to Lessee (to the extent assignable) for the term of the Lease, any rights it may have against the Vendor for breach of warranty or representations respecting the Equipment. Lessee understands and agrees that neither the Vendor nor any agent of the Vendor is an agent of Lessor and that neither the Vendor nor its agent is authorized to waive or alter any term or condition of this Lease.

3. **UCC FILINGS.** Lessee shall at its expense protect and defend Lessor's interest in the Equipment, at all times keeping the Equipment free from all liens and claims whatsoever, except for this agreement, and shall indemnify Lessor from any loss caused from any failure so to do. Lessee shall execute and deliver to Lessor, upon Lessor's request, UCC Financing Statements and such further instruments and assurances as Lessor deems necessary or advisable for the confirmation or perfection of Lessor's rights hereunder, and Lessee authorizes Lessor to file any such instrument, including, but not limited to, any UCC Financing Statements, without Lessee's signature and, if the signature of Lessee is required thereon, Lessee irrevocably appoints Lessor as Lessee's attorney-in-fact to execute and file any such statement or other instrument in the name and on behalf of Lessee. Without limiting or modifying the foregoing, if any court of competent jurisdiction shall hold that the transactions contemplated herein constitute a financing and not a lease of the Equipment by Lessor, then Lessor has a first lien security interest in the Equipment as of the date hereof to secure the obligations of Lessee, its successors and assigns hereunder, and Lessor shall have all rights and remedies of a secured party under the Uniform Commercial Code as adopted in California and any other applicable jurisdiction.

To the extent permitted by applicable law, Lessee hereby waives any and all rights and remedies conferred upon a lessee by sections 2A-401 and 2A-402, and sections 2A-508 through 2A-522 of the Uniform Commercial Code, including, but not limited to, Lessee's rights to: (i) cancel, terminate, repudiate or rescind any Lease; (ii) suspend performance of any of its obligations; (iii) reject the Equipment or revoke acceptance of the Equipment; (iv) recover damages or rent or the Equipment from LESSOR for any breaches of warranty or for any other reason, or deduct any damages from any rent or other sums due LESSOR; (v) a security interest in the Equipment in Lessee's possession or control for any reason; (vi) sell or otherwise dispose of the Equipment, or claim any expenses in connection therewith; (vii) deduct all or any part of any claimed damages resulting from LESSOR'S default, if any, under any Lease; (viii) accept partial delivery of the Equipment; (ix) "cover" by making any purchase or lease or contract to purchase or lease equipment in substitution for those due from LESSOR; (x) recover any general, special, incidental, or consequential damages, for any reason whatsoever; and (xi) specific performance, repletion, retinue, sequestration, claim, and delivery or the like for any Equipment identified to any Lease. To the extent permitted by applicable Law, Lessee also hereby waives any rights now or hereafter conferred by statute or otherwise which may require LESSOR to sell, lease or otherwise use any Equipment in mitigation of LESSOR's damages hereunder or which may otherwise limit or modify any of LESSOR's rights or remedies hereunder.

4. **CARE AND USE OF EQUIPMENT.** Lessee shall maintain the Equipment in good operating condition and repair, and protect the Equipment from deterioration, other than normal wear and tear from proper use hereof, shall use the Equipment in the regular course of business only, without abuse and in a manner contemplated by the Vendor; shall comply with the laws, ordinances, regulations and requirements with respect to the use, maintenance and operation of the Equipment; shall not make any modification, alteration, or addition to the Equipment (other than normal operating accessories or controls which shall, when added to the Equipment, become the property of the Lessor) without the prior written consent of Lessor, which shall not be unreasonably withheld; shall not so affix the Equipment to realty as to change its nature to real property or fixture, and agrees that the Equipment shall remain personal property at all times regardless of how attached or installed; shall keep the Equipment at the location shown above; and shall not remove the Equipment from such location without the consent of Lessor, which shall not be unreasonably withheld. Lessee shall enter into a maintenance contract with Vendor for maintenance of the Equipment for the term of the Lease. Lessor shall have the right during normal business hours, upon reasonable prior notice to the Lessee and subject to applicable laws and regulations, to enter upon the premises where the Equipment is located in order to inspect, observe or remove the Equipment, or otherwise protect Lessor's interest therein.

Lessor: Trek Equipment Corporation

Lessee:

By: _____

By: _____

Title: President

Title: _____

Date: _____

Date: _____

SEE ADDITIONAL TERMS AND CONDITIONS ON REVERSE SIDE HEREOF

5. **NET LEASE; TAXES.** Lessee intends the lease payments hereunder to be "net" to Lessor and this Lease to be a "net lease", and Lessee shall pay all expenses, costs and claims incurred with respect to the ownership, possession, control, lease, or use of the Equipment, including, without limitation, all sales, use, excise, personal property, stamp, documentary, ad valorem and other taxes (except federal and state net income taxes imposed on Lessor), license and registration fees, UCC and other filing fees, assessments, fines, penalties and other charges (herein "taxes") and shall reimburse Lessor upon demand for any taxes or other costs paid by or advanced by Lessor. Lessee shall file all property tax returns required with respect to the Equipment and furnish copies to Lessor upon request.
6. **LESSEES OBLIGATIONS ABSOLUTE AND UNCONDITIONAL.** Lessee agrees that its monthly lease payment and other obligations hereunder shall be irrevocable, independent, absolute and unconditional and shall not be subject to any abatement, reduction, recoupment, defense, offset or counterclaim otherwise available to Lessee against Lessor; nor, except as otherwise expressly provided herein or as agreed to by Lessor in writing, shall this Agreement terminate for any reason whatsoever prior to the end of the Lease term.
7. **INDEMNITY.** Lessee hereby indemnifies and agrees to hold Lessor, its agents, successors, and assigns harmless against and from any and all liability, damages, or loss, including patent, trademark or copyright infringement, arising out of the ownership, selection, possession, lease, operation (regardless of where, how and by whom operated), control, use, and condition (including but not limited to latent and other defects, whether or not discoverable by Lessee) of the Equipment. The indemnities and obligations herein provided shall continue in full force and affect notwithstanding termination of this Lease.
8. **INSURANCE.** Lessee shall keep the Equipment insured against all risks of loss or damage from every cause whatsoever, in amounts not less than the loss amount set forth in Paragraph 9(c) herein. All casualty insurance shall include Lessor as a co-loss payee. Lessee also shall carry public liability, personal injury and property damage insurance, covering the Equipment. All liability insurance shall include Lessor as an additional named insured. All such insurance shall provide that losses, if any, shall be payable to Lessor and shall require that the insurer give Lessor at least ten (10) days written notice prior to cancellation thereof. Lessee shall pay the premiums for such insurance. The proceeds of insurance resulting from loss or damage to any Item of the Equipment shall be applied to satisfy Lessee's obligations as set forth in Paragraph 9 below. Upon request, Lessee shall provide Lessor with written evidence of such insurance. Lessee hereby irrevocably appoints Lessor as Lessee's attorney-in-fact to make claim for, receive payment of and execute and endorse all documents, checks or drafts received in payment for loss or damage under any such insurance policy.
9. **RISK OF LOSS.** Lessee hereby assumes the entire risk of loss, damage or destruction of the Equipment from any and every cause whatsoever during the term of this Lease and thereafter until redelivery to Lessor. In the event of loss, damage or destruction of any item of Equipment, Lessee at its expense and at Lessor's option, shall either (a) repair such item, returning it to its previous condition, unless damaged beyond repair, or (b) replace such item with a like item acceptable to Lessor, in good condition and having a value equivalent to or greater than the value the item lost, damaged or destroyed had immediately prior to the loss or casualty, which item shall become property included within the term "Equipment" as used herein, and leased from Lessor herewith for the balance of the full term of this Lease; or (c) pay Lessor all accrued and unpaid lease payments, late charges and interest, plus an amount (the "Loss Amount") equal to the sum of the net present values (discounted at a rate of 5% per annum) of (i) all lease payments to become due during the remaining term of this Lease, and (ii) any purchase obligation with respect to the Equipment.
10. **PERFORMANCE BY LESSOR OF LESSEES OBLIGATION.** In the event Lessee fails to comply with any provision of this Lease, Lessor shall have the right, but shall not be obligated, to effect such compliance on behalf of Lessee upon ten (10) days prior written notice to Lessee. In such event, all moneys, expended by, and an expenses of Lessor in effecting such compliance shall be deemed to be additional rental, and shall be paid by Lessee at the time of the next monthly payment of rent.
11. **DEFAULT.** The occurrence of any one or more of the following events (each an "event of default") shall constitute a default under this Lease: (a) Lessee fails to pay any lease payment or any other payment hereunder when due, and such failure continues for five (5) days; (b) Lessee or any guarantor becomes insolvent or makes an assignment for the benefit of creditors; (c) a receiver, trustee, conservator or liquidate of Lessee or any guarantor or of all or a substantial part of its assets is appointed with or without the application or consent of Lessee or such guarantor; (d) a petition is filed by or against Lessee or any guarantor under the U.S. Bankruptcy Code or any amendment thereto, or under any other insolvency law or laws providing for the relief of debtors; (e) Lessee fails to pay when due any obligation to Lessor arising independently of this Lease and such failure continues for five (5) days; (f) it becomes apparent to Lessor that Lessee has failed to maintain insurance as provided in Paragraph 8; (g) Lessee breaches any other covenant, warranty or agreement hereunder, and such breach continues for ten (10) days after written notice thereof; or (h) Lessee's Subscription Agreement with Vendor shall expire without the prompt renewal thereof.
12. **REMEDIES.** If an event of default shall occur as described in Paragraph 11 hereof, Lessor may, at its option, at any time (a) declare immediately due and payable and recover from Lessee, as liquidated damages for the loss of a bargain and not as a penalty, an amount equal to all accrued and unpaid lease payments, late charges and interest, plus the Loss Amount as set forth in Paragraph 9(c) hereinabove; (b) without demand or legal process, enter into the premises where the Equipment may be found and take possession of and remove the Equipment, without liability for such retaking; (c) enforce the Lease in accordance with its terms. Lessor may hold, sell or otherwise dispose of any such Equipment at a private or public sale. In the event Lessor takes possession of the Equipment, Lessor shall give Lessee credit for any sums received by Lessor from the lease of the Equipment for the remainder of the term after deduction of any expenses incident to this Lease or Lessor's exercise of its rights and remedies hereunder. Lessee shall also be liable for and shall pay to Lessor (a) all expenses incurred by Lessor in connection with the enforcement of any of Lessor's remedies, including all collection expenses, all expenses of repossessing, storing, shipping, repairing and seeing the Equipment, and (b) reasonable attorneys' fees and court costs. Lessor and Lessee acknowledge the difficulty in establishing a value for the unexpired lease term and owing to such difficulty agree that the provisions of this paragraph represent an agreed measure of damages and are not to be deemed a forfeiture or penalty. All remedies of Lessor hereunder are cumulative, are in addition to any other remedies provided for by law, and may, to the extent permitted by law, be exercised concurrently or separately. The exercise of any one remedy shall not be deemed to be an election of such remedy or to preclude the exercise of any other remedy. No failure on the part of the Lessor to exercise and no delay in exercising any right or remedy shall operate as a waiver thereof or modify the terms of the Lease.
13. **LATE CHARGES.** Whenever any payment is not made by Lessee in full when due hereunder, Lessee agrees to pay to Lessor an amount equal to 10% of such payment or \$25.00, whichever is greater, for each month [or part thereon after due date until such payment is made. Such amount shall be payable in addition to any other amounts payable by as a result of exercise of any of the remedies provided herein.
14. **ASSIGNMENT NOTICE OF INTENDED ASSIGNMENT.** Lessor may, without Lessee's consent, assign or transfer this Lease or its interest in any Equipment, lease payments or other sums due or to become due hereunder, and in such event Lessor's assignee or transferee shall have all of the rights, powers, privileges and remedies of Lessor hereunder. Lessee hereby acknowledges notice of Lessor's intended assignment of Lessor's interest in this Lease, and upon such assignment Lessee agrees not to assert, as against Lessor's assignee, any defense, setoff, recoupment, claim or counterclaim, that it may have against Lessor whether arising under this Lease transaction or otherwise. **Lessee shall not assign this Lease or the Equipment or any interest hereunder and shall not enter into any sublease with respect to the Equipment covered hereby without Lessor's prior written consent, and if Lessor shall permit any such assignment by Lessee, the assignee shall assume Lessee's obligations hereunder in writing in form and substance satisfactory to Lessor, but no such assignment shall release Lessee from any of Lessee's obligations hereunder.**
15. **GOVERNING LAW AND CHOICE OF FORUM FOR RESOLUTION OF DISPUTES.** This lease is made in the State of California and shall be governed by the laws of the State of California in all respects. All actions, proceedings or litigation brought by Lessor or Lessee or any guarantor shall be instituted and prosecuted in the California state courts which shall be the exclusive forum for any such action, notwithstanding that other courts may have jurisdiction over the parties and the subject matter.
16. **NO SUBROGATION.** Lessee, Lessor and any guarantor agree that no guarantor shall have any right of subrogation to any right of Lessor in the Equipment or this Lease or against the Lessee, and that any such right of subrogation that may exist, as well as any right of indemnity against Lessee for any obligation which may be performed by guarantor with respect to this Lease, is hereby waived and released.
17. **MISCELLANEOUS.** This lease contains the entire agreement between the parties and may not be amended, modified or terminated, except by a writing signed by an officer of Lessor. Lessor and Lessee intend this to be a valid and subsisting legal document, and agree that no provision of this Lease which may be deemed unenforceable shall in any way invalidate any other provision or provisions of this Lease, all of which shall remain in full force and effect. Any notice intended to be served hereunder shall be deemed sufficiently sent by regular mail, postage prepaid, addressed to the party at the addresses contained hereon. This Lease shall be binding upon the parties, their successors, legal representatives and assigns.
18. **COVENANT OF QUIET ENJOYMENT.** Provided no event of default has occurred and is continuing hereunder, Lessee shall be entitled to quietly possess and enjoy the Equipment under the terms and conditions of this Lease.
19. **AGREEMENT.** This Agreement shall not be binding upon Lessor unless signed on its behalf by a duly authorized officer. This Agreement shall be deemed to have been made in the State of California and shall be governed in all respects by the laws of such State. This agreement (including the attached Equipment Schedules and Supplements) constitutes the entire Agreement between Lessee and Lessor with respect to the Equipment, and no covenant, condition or other term or provision may be waived or modified orally.