

## EQUIPMENT DEMO AGREEMENT

THIS EQUIPMENT DEMO AGREEMENT (this "Agreement") dated this \_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_

**BETWEEN:** **Froggy's Fog of 302 Rutherford Ln, Columbia, TN 38401** (the "Lessor")

- AND -

\_\_\_\_\_  
(the Lessor and Lessee are collectively the "Parties")

**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:

### **Definitions**

1. The following definitions are used but not otherwise defined in this Agreement:
  - a. "Equipment" means Special Effects Equipment which has an approximate value of the Minimum Advertised Price (the "MAP") of the Equipment.
  - b. "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.
  - c. "Repair Costs" means all associated costs for parts and labor to repair the Equipment.

### **Residual Value**

2. The residual value (the "Residual Value") of the equipment is the MAP of the Equipment as listed on Lessor's company website [www.froggysfog.com](http://www.froggysfog.com).

### **Lease**

3. 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.

### **Term**

4. The Agreement commences on shipment date of Equipment and continues for exactly 28 days. (the "Term"). This allows for 7 Days for delivery of Equipment to the Lessee, 14 Days to demo the Equipment and 7 Days to return the Equipment to the Lessor.

### **Deposit**

5. The Lessee will pay a deposit (the "Total Deposit") of 10% of the MAP of the Equipment (the "Equipment Deposit") and the shipping costs from Lessor to Lessee and the Return Shipping costs from Lessee to Lessor (the "Shipping Costs") before Lessor ships the Equipment. The Lessor will refund the Equipment Deposit to the Lessee at the end of the Term provided the Lessee has performed all the Lessee's obligations under this Agreement.

### **Purchasing the Equipment**

6. The Lessee has the option to purchase the Equipment at the end of the Term by paying the following amounts:
  - a. The agreed purchase price of the equipment
  - b. any fees, taxes, and expenses related to the purchase of the Equipment
7. After the Lessee has paid all the costs and fees associated with purchasing the Equipment, the Lessor will return the Total Deposit.

### **Delivery of Equipment**

8. The Lessor will, at the Lessee own expense and risk, deliver the Equipment to the Lessee.

### **Use of Equipment**

9. The Lessee will use the Equipment in a good and careful manner and will comply with all of the 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.
10. The Lessee will use the Equipment for the purpose for which it was designed and not for any other purpose.
11. 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 easily removable without damaging the functional capabilities or economic value of the Equipment.

#### **Warranties**

12. The Equipment will be in good working order, good condition upon delivery and fit for the following purpose: Demonstration.

#### **Loss and Damage**

13. 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.
14. If the Equipment is damaged, the Lessee will provide the Lessor with prompt written notice of such damage and will, if the Equipment is repairable, pay all associated costs for parts and labor to repair the Equipment. The Lessee will pay the lower amount of either the Repair Costs or the Residual Value of the Equipment.
15. In the event of Total Loss of the Equipment, the Lessee will provide the Lessor with prompt written notice of such loss and will pay to the Lessor the Residual Value of the machine and if applicable any associated cost for the Flight Case used to ship Equipment. The Total Deposit will be returned, at which point ownership of the Equipment passes to the Lessee.

#### **Ownership, Right to Lease and Quiet Enjoyment**

16. The Equipment is the property of the Lessor and will remain the property of the Lessor.
17. The Lessee will not encumber the Equipment or allow the Equipment to be encumbered or pledge the Equipment as security in any manner.
18. The Lessor warrants that if 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.

#### **Surrender**

19. On or before the end of the Term, the Lessee will return the Equipment at the Lessee's cost, expense and risk to the Lessor by shipping or delivering the Equipment to 302 Rutherford Ln, Columbia, TN 38401. Return Shipping labels will accompany each piece of Equipment and should be used for return shipping purposes. The Equipment Deposit will be returned within 14 days from the date the Equipment is received.
20. If the Lessee fails to return the Equipment to the Lessor at the end of the Term, the Lessee will pay to the Lessor the Residual Value of the machine and if applicable any associated cost for the Flight Case used to ship Equipment. The payment will be taken on the day after the end of the term as a new order (the "Non-Surrender Order") for all Equipment at their respective Residual Values to be charged in full to the payment method on file at the time Agreement was executed (the "Non-Surrender Payment"). The Total Deposit will be returned within 14 days from the end of the Term, at which point ownership of the Equipment passes to the Lessee.
21. If Equipment is returned after the Term has ended, the penalty is the forfeiture of the Equipment Deposit. Once the Equipment is received by Lessor, the Non-Surrender Order will be voided, and the Non-Surrender Payment will be refunded within 14 days from the receipt of Equipment by Lessor.
22. Equipment always needs to be boxed while in transit to avoid any damages. Froggy's Fog will box the demo unit when it leaves our facility and expects it returned in the same packaging. A \$25.00 repacking fee will be assessed if original packaging is not returned.
23. Lessee is responsible for all Froggy's Fog equipment while in Lessee's possession and must be returned in the same condition as received. Lessee is responsible for cleaning the equipment. Failure to do so is a breach of this agreement and Lessee will be liable for the cost of replacement, repair or a \$75 cleaning fee of the equipment.

#### **Insurance**

24. No insurance coverage for the Equipment is required under this Agreement.

#### **Default**

25. The occurrence of any one or more of the following events will constitute an event of default ("Event of Default") under this Agreement:
- a. The Lessee fails to pay any amount provided for in this Agreement within 30 days after same is due or otherwise breaches the Lessee's obligations under this Agreement.
  - b. 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.
  - c. A writ of attachment or execution is levied on the Equipment and is not released or satisfied within 10 days.

**Remedies**

26. 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"):
- a. Declare the entire amount of the Residual Value immediately due and payable without notice or demand to the Lessee.
  - b. Apply the Deposit toward any amount owing to the Lessor.
  - c. Commence legal proceedings to recover the Residual Value and other obligations accrued before and after the Event of Default.
  - d. Take possession of the Equipment, 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.
  - e. Terminate this Agreement immediately upon written notice to the Lessee.
  - f. Pursue any other remedy available in law or equity.

**Address for Notice**

27. Service of all notices under this Agreement will be delivered personally or sent by registered mail or courier to the addresses of the Lessor and Lessee.

**Interest**

28. Interest payable on any overdue amounts under this Agreement will be at a rate of 12.00 percent per annum or at the maximum rate allowed under applicable legislation, whichever is lower.

**Governing Law**

29. 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 Tennessee (the "State"), without regard to the jurisdiction in which any action or special proceeding may be instituted.

**General Terms**

- 30. This Agreement may be executed in counterparts. Electronic signatures are binding and are considered to be original signatures.
- 31. This Agreement will extend to and be binding upon and inure to the benefit of the respective heirs, executors, administrators, successors and assigns, as the case may be, of each Party to this Agreement.
- 32. 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.

**Notice to Lessee**

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

**I hereby agree to the terms of the above agreement**

\_\_\_\_\_  
Signature  
Lessee (Authorized Representative of Lessee)

\_\_\_\_\_  
Signature  
Lessor (Authorized Representative of Froggy's Fog)