

## MASTER SUPPLY AGREEMENT

THIS MASTER SUPPLY AGREEMENT (this “**Master Agreement**”) is made and entered into as of the [ day of \_\_\_\_\_, 20\_\_ ] (the “**Effective Date**”), by and between [ \_\_\_\_\_, a \_\_\_\_\_ ] (“**Supplier**”), and LOFTIN EQUIPMENT COMPANY, an Arizona corporation (“**Customer**”). Supplier and Customer are each a “**Party**” and are, collectively, the “**Parties**.”

### 1. APPLICABILITY OF MASTER AGREEMENT.

This Master Agreement contains the general terms and conditions under which Supplier may provide [ \_\_\_\_\_ ] (together with any modifications, updates and upgrades thereto, collectively, “**Products**”) to Customer. The Products and pricing therefor covered by this Master Agreement as well as certain other additional terms are identified in **Exhibit A**, attached hereto, which may be updated or replaced from time to time upon the written agreement of both Supplier and Customer. Any documentation, deliverable or other tangible work product provided as part of or together with any Product is included in the definition of such Product(s) and shall be transmitted to Customer with the applicable Product. Supplier acknowledges that Customer may incorporate the Products into a finished product or assembly produced by Customer and/or Customer’s designee(s) and that Customer shall pass-through to such designees, if applicable, any warranties, indemnification, and liability of Supplier and related to the Products provided hereunder.

### 2. PURCHASE ORDERS.

Customer shall order Products during the term of this Master Agreement pursuant to one or more purchase orders (each a “**Purchase Order**”). All Purchase Orders issued by Customer will be subject to approval and acceptance by Supplier. Supplier may accept a Purchase Order by written acknowledgement (an “**Order Acceptance**”) or by commencement of performance. If Supplier rejects a Purchase Order, Supplier will notify Customer of such rejections by issuing an email or other writing within two (2) business days after receipt of the applicable Purchase Order. If Supplier fails to reject a Purchase Order within such two (2) business day period after receipt of such Purchase Order, then such Purchase Order shall be deemed accepted by Supplier. Customer shall only be obligated to pay for Products where Customer has issued a Purchase Order and Supplier has accepted such Purchase Order pursuant to the terms of this Section 2. No terms or conditions contained in any Purchase Order, Order Acceptance, or in any “shrinkwrap” or specialty terms that may accompany any Products shall be binding on the Parties unless such terms or conditions are either (a) separately agreed to in writing by the Parties; or (b) already set forth in this Master Agreement. In the event of any conflict between the terms of this Master Agreement (which shall include the terms of any Exhibit or attachment hereto) and any Purchase Order, the order of precedence shall be: (a) this Master Agreement; and (b) the applicable Purchase Order (provided that such Purchase Order shall control only with respect to such individual Purchase Order). The Parties acknowledge and agree that Purchase Orders may be issued and approved by the Parties from time to time and that, unless otherwise specifically provided herein, Customer does not guarantee the purchase of any minimum quantity of any Product and is not obligated to submit any Purchase Orders.

### 3. TERM AND TERMINATION.

3.1 Term. This Master Agreement shall commence on the Effective Date and shall continue until terminated as provided below (the “**Term**”).

3.2 Termination.

(a) Termination Without Event of Default. This Master Agreement may be terminated by Supplier without cause upon one hundred eighty (180) days’ written notice to Customer. This Master Agreement may be terminated by Customer without cause upon thirty (30) days’ written notice to Supplier. For purposes of clarity, a Purchase Order may be terminated by Customer in accordance with the terms of such Purchase Order, in which event this Master Agreement and all other Purchase Orders shall remain in full force and effect in accordance with their respective terms; provided that if a Purchase Order does not provide for termination, any such Purchase Order may be terminated by Customer upon thirty (30) days’ written notice to Supplier.

(b) Termination Upon Event of Default. This Master Agreement may be terminated by either Supplier or Customer by written notice to the other Party upon the occurrence of an Event of Default on the part of the other Party; provided, however, that Customer, in its sole discretion and upon the occurrence of an Event of Default on the part of Supplier described in clause (A) below with respect to one or more Purchase Order(s), Customer may elect either (i) to terminate this Master Agreement and all then open Purchase Orders or (ii) to terminate only the Purchase Order(s) affected by the Event of Default, in which event this Master Agreement and all other Purchase Order(s) shall remain in full force and effect in accordance with their respective terms. For purposes of this Master Agreement, an “**Event of Default**” by the other Party means either: (A) a failure by the other Party to perform any of its obligations under this Master Agreement, where such failure continues for thirty (30) days after its receipt of written notice of such failure (which notice will detail the circumstances of such failure); or (B) that the other Party dissolves (except for any administration dissolution that is promptly remedied), or becomes insolvent, makes an assignment for the benefit of its creditors, files a bankruptcy petition, has an involuntary bankruptcy petition filed against it which is not dismissed within sixty (60) days thereafter, a receiver or similar officer is appointed to take charge of all or part of its assets, or it discontinues for any reason substantially all of its business.

3.3 Effect of Termination. Following termination of this Master Agreement (the “**Termination Date**”), no further Purchase Order shall be executed between the Parties pursuant to this Master Agreement. Notwithstanding the termination of this Master Agreement, this Master Agreement shall remain in full force and effect with respect to any Purchase Order(s) in effect as of the Termination Date until all obligations under such Purchase Order(s) are satisfied or such Purchase Order(s) are terminated. Following termination of this Master Agreement, all outstanding and undisputed payment obligations through the Termination Date will continue to apply and the non-breaching Party may also cancel any and all Purchase Order(s) then in effect. If Customer terminates this Master Agreement, Supplier will immediately refund to Customer any pre-paid amounts paid to Supplier.

#### 4. PAYMENT TERMS.

4.1 Invoices. Unless otherwise agreed by the Parties in writing, Supplier may not issue any invoices prior to receipt of the applicable Products by the carrier selected by Customer. Customer shall pay all undisputed amounts set forth in Supplier’s invoices within thirty (30) days of Customer’s receipt of an invoice. Customer and Supplier will work together, reasonably and in good faith, to resolve any disputed portion of any invoice. No payment made by Customer hereunder shall be deemed to constitute acceptance of any Product or a waiver by Customer of any right or remedy to which Customer is or may be entitled under this Master Agreement, at law, or in equity. Payments may be made by Customer via check, automated clearinghouse (ACH), Customer procurement card or other means chosen by Customer in its sole discretion. Unless otherwise agreed by the Parties in writing, all amounts payable under this Master Agreement shall be payable in U.S. dollars.

4.2 Taxes. Customer shall be responsible for all excise, sales, use, transfer and other similar taxes and duties imposed by any federal, state, municipal or other governmental authority with respect to Customer’s purchase of the Products hereunder provided that such Taxes are properly set forth on the applicable invoice (collectively, “**Taxes**”). Notwithstanding the foregoing, Taxes shall in no event be deemed to include any tax, duty or other charge that is calculated or assessed on the basis of the income, revenue or earnings of Supplier or any of its affiliates, owners or related parties. Supplier shall timely remit any Taxes collected from Customer to the appropriate governmental authority. Supplier shall be responsible for all taxes not specifically included within the definition of “**Taxes**” as set forth above, as well as any Taxes not properly set forth on the applicable invoice provided to Customer. If Customer claims exemption from any Taxes, then (a) Customer will provide Supplier with appropriate documentation required by the applicable state or local tax authority; (b) Supplier will reasonably assist Customer in obtaining such exemption; and (c) Supplier will indemnify and hold harmless Customer from and against any and all costs, fees, expenses, taxes, or other liabilities that arise out of Supplier’s failure to either file such exemption or to refrain from collecting Taxes after Customer has notified Supplier of such exemption.

4.3 Most Favored Nations. If Supplier, during the Term, enters into arrangements with any other Customer providing more favorable Key Economic Terms, Supplier will immediately notify Customer in writing and Supplier will immediately provide the same Key Economic Terms to Customer. “**Key Economic Terms**” means pricing for products, warranty terms, indemnification terms, and limitations of liability. If the relevant Key Economic Term offered to another Customer is pricing and Supplier is unable to offer Customer the most favorable pricing due to prior contractual agreements, then Supplier agrees to provide Customer with the most favorable pricing plus 1%.

4.4 Competitiveness. During the Term, Supplier will be competitive in terms of delivery, quality, technology and service and will provide Customer with the best prices it offers to any other Customer purchasing a comparable volume and mix of products. Supplier will reduce its prices at any time during the Term to maintain this competitiveness, effective as of the date that the prices became non-competitive. If Customer provides Supplier with written notice along with specific information as to the nature of any Supplier non-competitiveness, then Supplier will promptly remedy its non-competitiveness, no later than fifteen (15) days after receipt of such notice. In the event that Supplier fails or chooses not to remedy its non-competitiveness, as determined by Customer in its sole discretion, Customer may terminate this Master Agreement or any Purchase Order, in whole or in part, pursuant to Section 3.2(b)(A) above.

## 5. PRODUCTS.

5.1 Products. The Products to be provided by Supplier are identified in the applicable Purchase Order. Supplier will only provide Products to Customer that are in strict conformance with the terms of this Master Agreement, including any specifications provided by Customer or its Customers to Supplier.

5.2 Products Inspections. Upon receipt of the Products by Customer, Customer may, but is not obligated to, perform inspections to confirm that the Products conform to the requirements set forth in this Master Agreement. On notice from Customer, Customer may also inspect Supplier's facilities and any other facilities utilized or related to the raw materials, manufacture or delivery of any Product to Customer. Supplier shall be responsible for obtaining such Customer inspection rights for any facility which Supplier has contracted with but is not controlled by Supplier. Customer's acceptance of Products will not be deemed evidence that Products conform to such requirements, nor will payment by Customer for Products prior to inspection constitute acceptance thereof, or remove Supplier's responsibility for Non-Conforming Products (as such term is defined below). At any time before or after taking title to Products, Customer may reject any Product that Customer has determined is a Non-Conforming Product.

### 5.3 Warranty, Non-Conforming Products and Recall.

(a) Product Warranties. Supplier represents, warrants and covenants that, upon delivery, all Products furnished to Customer by Supplier under this Master Agreement will (i) be new; (ii) be delivered with good title, free and clear of any security interest, claim, demand, lien or any other encumbrance; (iii) be free from material defects in design, material and workmanship; (iv) be merchantable and fit for their intended purpose(s); (v) be in substantial conformity with all specifications, drawings, samples and performance requirements or other descriptions furnished by Customer or Customer's Customer(s); (vi) comply with all applicable Laws of the countries in which the Products are to be sold; and (vii) not misappropriate any trade secret or infringe, violate, trespass or in any other manner contravene or constitute the unauthorized use of any patent, trademark, copyright or other intellectual property right. Additionally, for the longer of (A) the period specified in Exhibit B, attached hereto, and (B) two (2) years, all Products furnished to Customer by Supplier under this Master Agreement will comply with the warranty, specifications, guidelines, quality standards, or other requirements set forth in such Exhibit B. These warranties are in addition to any warranties implied or provided for by Law or otherwise made by Supplier and will survive acceptance and payment by Customer.

(b) Non-Conforming Products. If a Product does not conform to the warranties in Section 5.3(a) (each, a "**Non-Conforming Product**"), then, in addition to all other remedies under this Master Agreement, Customer will have the following remedies with respect to such Product:

(i) Return Product. Customer may elect to return the Non-Conforming Product.

(ii) Replace Product. Customer may elect to return the Non-Conforming Product and have Supplier, as directed by Customer, replace the returned Non-Conforming Product with a replacement Product, such replacement Product to be delivered to Customer in accordance with instructions provided by Customer in writing.

(c) Defend Title; Remove Encumbrances. If a Product has a defective title or is not free and clear of all security interests, claims, demands, liens or any other encumbrances, then Customer may elect to have

Supplier, at Supplier's sole cost and expense, defend the title thereto and, if requested in writing by Customer, Supplier will promptly cause any security interest, claim, demand, lien or other encumbrance to be removed by discharging such encumbrance or posting a bond therefor. If Supplier fails to cause any such security interest, claim, demand, lien or other encumbrance to be removed by discharge or posting a bond within two days after Customer requests such removal, then Customer, at Customer's option, may either (i) cause the removal of such security interest, claim, demand, lien or other encumbrance by bonding, in which case Supplier will be liable to Customer for the expenses thereby incurred, including any payments made in discharging the security interest, claim, demand, lien or other encumbrance, or (ii) revoke its acceptance of such Product, in which case Supplier will promptly refund any compensation Supplier received from Customer in connection with such Products together with all costs incurred by Customer in connection with such revocation.

(d) Recall. In the event that Customer determines that any Products furnished by Supplier create or contribute to any voluntary or government-mandated recall, service campaign or similar program initiated by Customer or its Customers ("Recall"), Supplier will be responsible for its proportional costs and damages resulting from such Recall, including costs of notification, costs of repair and/or replacement, penalties, fines and buy backs, as well as shipping, labor and administrative costs, based upon the Parties' reasoned allocation of responsibility for the Recall. This Section 5.3 will not limit Supplier's responsibility under any other provision of this Master Agreement.

5.4 Rejected Products. In the event Customer rejects Products pursuant to Sections 5.2 or 5.3, Supplier will reduce the quantity of Products under the Purchase Order by the same amount as the quantity of rejected Non-Conforming Products and Customer will have no obligation to pay Supplier for such rejected Products. If Customer has already paid for the rejected Products, then Supplier will promptly refund to Customer all amounts paid by Customer for such Products. The Products rejected by Customer will be held by Customer at Supplier's risk. Supplier will be responsible for all costs of return for the rejected Products. Supplier's failure to provide instructions to Customer within fifteen (15) days (or such shorter period as may be commercially reasonable under the circumstances) after notice of rejection to Supplier by Customer, will entitle Customer to charge Supplier for reasonable storage and handling costs and to dispose of the applicable rejected Products without liability to Customer.

5.5 Environmental Reports. Prior to the shipment of any Products, Supplier will provide Customer with (a) any and all material safety data sheets that are related, directly or indirectly, to the Products (or products used in subassemblies or in the manufacture or production of the Products); and (b) such other documentation as Customer may request from time to time that is prepared pursuant to any applicable Law and any and all Customer requirements relating to environmental or similar matters. Supplier will promptly notify Customer of any changes to such documentation.

## 6. **DELIVERY, TITLE, RISK OF LOSS, AND LOGISTICS.**

6.1 Packing and Shipment. Supplier will properly pack and ship the Products in conformity with any instructions contained herein or that Customer may provide. If Customer has not provided packing or shipping instructions, Supplier will pack and ship Products in accordance with industry best practices. Supplier will furnish all shipping documents required by Customer, and plainly mark Customer's name and the identity of the delivery destination on all packages and associated documents.

6.2 Delivery, Title and Risk of Loss. All deliveries of Products must be made in accordance with the delivery schedule and terms in the applicable Purchase Order or as otherwise directed by Customer. Time is of the essence in making all deliveries of Products to Customer or Customer's designee. Supplier will deliver all Products in the quantities and at the time and place specified in the Purchase Order. Unless otherwise specified in a Purchase Order, all Products will be delivered FOB Supplier's delivery point. Unless otherwise agreed in writing, Customer shall designate the carrier for shipping and be responsible for shipping costs. Title for the Products will pass to Customer upon delivery to Customer's designated delivery location and acceptance of the Products by Customer or Customer's designee in accordance with this Master Agreement or other terms specified in the applicable Purchase Order.

6.3 Logistics. Unless otherwise agreed by the Parties and except as provided in this Section 6.3, Customer shall select the method of transportation and the carrier to be used by Supplier. Notwithstanding the

foregoing, if the acts or omissions of Supplier (or any individual or entity acting under the direct control of Supplier) result in a failure by Supplier to meet the delivery schedule, Supplier will select a premium freight option and ship the affected Products to Customer as quickly as possible, all at Supplier's sole expense.

## 7. REPRESENTATIONS AND WARRANTIES.

Supplier represents and warrants to Customer that:

(a) Supplier is fully authorized to enter into this Master Agreement and to fulfill its obligations hereunder. Supplier has good title to the Products, which shall be fully unencumbered as of their sale to Customer. Supplier is not a party to any agreement that would be violated by or that would prohibit or restrict it from performing its obligations under this Master Agreement, and it is not a party to any pending litigation, the resolution of which would be reasonably likely to adversely affect its ability to fully perform its obligations under this Master Agreement, and no such litigation is reasonably foreseeable;

(b) Supplier will perform its obligations under this Master Agreement in compliance with all applicable laws (including those arising under common law), statutes, codes, rules, regulations, reporting or licensing requirements, ordinances and other pronouncement having the effect of law of the United States, any other country or any state, county, city, provincial or other political subdivision, including those promulgated, interpreted or enforced by any governmental or regulatory authority that are relevant to the performance of this Master Agreement including any of the foregoing those enacted during the Term (collectively, "**Laws**"). Compliance with Laws shall include, but is not limited to, compliance with: (i) all rules, regulations and relevant orders of the U.S. Secretary of Labor pertaining to Equal Employment Opportunity and Affirmative Action; (ii) U.S. Foreign Corrupt Practices Act of 1977, as amended, or any such other applicable anti-bribery or anti-corruption Laws by Supplier, any Supplier Personnel, any of affiliate of Supplier, nor any director, officer, agent, employee or other person acting on behalf of any of the foregoing, directly or indirectly; (iii) minimum age of employment requirements prescribed by the International Labor Organization conventions or applicable Law, whichever is higher; and (iv) any law pertaining to collective bargaining, labor rights, or union and employee organization. Supplier will not compel any person to work involuntarily or under any threats or duress, and Supplier shall not employ forced labor or impose similar working conditions. Supplier will provide Customer with any information reasonably required in order for Customer and its customers to comply with all Laws.

(c) All Products have been produced with the highest degree of professionalism and care in conformity with the specifications, guidelines, and standards communicated to Customer or published by Supplier. Products do not infringe the intellectual property rights of any third-party.

## 8. LIMITATION OF LIABILITY.

EXCEPT FOR SUPPLIER'S INDEMNIFICATION OBLIGATIONS SET FORTH IN SECTION 9 (THE "**EXEMPT CLAIMS**"), IN NO EVENT SHALL EITHER PARTY OR ITS AFFILIATES OR THEIR RESPECTIVE DIRECTORS, OFFICERS, EMPLOYEES, AGENTS OR REPRESENTATIVES BE LIABLE FOR ANY SPECIAL, INDIRECT, EXEMPLARY, INCIDENTAL, MULTIPLE OR CONSEQUENTIAL DAMAGES (INCLUDING ANY DAMAGES RESULTING FROM LOSS OF USE, LOSS OF DATA, LOSS OF PROFITS, LOSS OF SAVINGS, LOSS OF BUSINESS OR OTHER ECONOMIC LOSS) ARISING OUT OF OR IN CONNECTION WITH THIS MASTER AGREEMENT, EVEN IF SUCH PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

## 9. INDEMNIFICATION.

9.1 Indemnification Obligation. Supplier shall, at its expense, defend, indemnify and hold harmless Customer and its directors, officers, principals (partners, shareholders or holders of an ownership interest, as the case may be), employees, representatives and agents (the "**Indemnified Parties**") from and against any and all claims, judgments, losses, damages, demands, payments, fines, costs, expenses (including reasonable attorneys' fees and court costs), liabilities and recoveries of any nature or description incurred by an Indemnified Party arising from or relating to the following: (i) any personal injury or property damage caused by the acts or omissions of Supplier or any Supplier

Personnel, or resulting from the Products, including any fault or negligence relating to products liability or the design, manufacture, or installation of the applicable Product; (ii) any breach by Supplier of this Master Agreement, including the breach of any representation, warranty, covenant or other agreement contained in this Master Agreement, and (iii) any actual or alleged infringement of any Product on the rights of any third-party.

9.2 Process. The Indemnified Party shall notify Supplier promptly in writing of any claim for which it seeks indemnification, and the Indemnified Party and Supplier shall cooperate in the defense of such claim; provided, however, that the failure of the Indemnified Party to provide timely notice pursuant to this Section 9.2 shall not relieve Supplier of any indemnification obligations hereunder except to the extent that such delay results in material prejudice to Supplier's ability to defend such claim. Notwithstanding anything to the contrary herein, the Indemnified Party may retain separate counsel at its own expense to monitor or participate in the defense of any third party claim for which such Indemnified Party is seeking indemnification from Supplier. Supplier will not, without the prior written consent of the Indemnified Party (such consent not to be unreasonably withheld or delayed), settle any third party claim for which such Indemnified Party is seeking indemnification from Supplier.

## 10. MISCELLANEOUS.

10.1 Assignment; Subcontracting. Except as may be expressly authorized elsewhere herein, neither this Master Agreement nor any rights granted hereunder or thereunder may be sold, assigned or transferred by Supplier in any manner without the prior written consent of Customer. Supplier shall have the right to subcontract its obligations under this Master Agreement, but such subcontracting shall not relieve Supplier of any obligation or responsibilities under this Master Agreement, and Supplier shall be fully responsible and liable for any liability to Customer caused by such subcontractors and any breach by such subcontractors of the terms or conditions of this Agreement or applicable Law.

10.2 Governing Law; Venue. The rights and obligations of the Parties under this Master Agreement shall be governed by and interpreted, construed and enforced as a sealed instrument in accordance with the internal Laws of the State of Arizona, without giving effect to its principles of conflict of Laws, and without reference to the U.N. Convention on Contracts for the International Sale of Goods, the application of which is hereby excluded. The Parties hereby submit to the exclusive jurisdiction of the State or Federal Courts located in Maricopa County, Arizona with respect to the adjudication of any dispute or controversy, and expressly waive any objecting to the laying of venue in such forums.

10.3 Force Majeure. In the event that either Party is prevented from performing, or is unable to perform, any of its obligations under this Master Agreement due to any act of God, fire, casualty, flood, war, strike, lock out, epidemic, riot or insurrection (each, a "**Force Majeure Event**"), and if such Party has used all reasonable efforts to avoid such Force Majeure Event and minimize its duration and, in the case of Supplier, has given prompt written notice to Customer of such Force Majeure Event, then such Party's failure to perform shall be excused and the time for performance shall be extended for the period of delay or inability to perform due to such Force Majeure Event; provided, however, if a delay on the part of Supplier due to a Force Majeure Event continues for a period of thirty (30) days or more, then Customer shall be entitled to terminate any pending Purchase Orders.

10.4 Severability; Remedies; Waiver. In the event that any one or more provisions contained in this Master Agreement shall be held by a court of competent jurisdiction to be invalid, illegal or unenforceable in any respect, the validity, legality and enforceability of the remaining provisions shall not in any way be affected or impaired thereby. The remedies contained in this Master Agreement are cumulative and in addition to any other remedies available to a Party at law or in equity. Each Party's failure to enforce, or waiver of a breach of, any provision contained in this Master Agreement shall not constitute a waiver of any other breach or of such provision.

10.5 Notices. All notices, demands, requests and other communications which may be or are required to be given, served or sent by any Party to any other Party pursuant to this Master Agreement shall be in writing and shall be delivered by hand delivery (including delivery by local courier); commercially recognized overnight or express courier service (such as FedEx, UPS, or DHL) with deposit receipt; or electronic mail with system verification of sending, in each case addressed as follows:

If to Customer: Loftin Equipment Company

1220 N 52<sup>nd</sup> Street  
Phoenix, AZ 85008  
Attn: Rod Dode  
Email: rdode@loftinequip.com

and Loftin Equipment Company  
1220 N 52<sup>nd</sup> Street  
Phoenix, AZ 85008  
Attn: Lori Rodriguez  
Email: lrodriguez@loftinequip.com

If to Supplier: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
Attn: \_\_\_\_\_  
Email: \_\_\_\_\_

Each Party may designate by notice in writing a new person or persons or a new address to which any notice, demand, request or communication may thereafter be so given, served or sent. Each notice, demand, request or communication made in the manner described above shall be deemed sufficiently given, served, sent and received for all purposes upon receipt if delivered by hand delivery, the next business day if delivered by overnight courier, the same day if delivered by electronic mail, or at such time as delivery is refused by the addressee upon presentation.

10.6 Entire Agreement; Headings; Amendment. This Master Agreement, together with any Purchase Orders executed pursuant to this Master Agreement and any rebate, marketing fund contribution, or similar agreements executed by the Parties from time to time, is the complete and exclusive statement of the contract between Supplier and Customer with respect to the subject matter of this Master Agreement, and supersedes any prior written or oral agreement regarding the same subject matter. This Master Agreement shall govern and supersede (unless otherwise provided herein) all terms and conditions relating to any Products provided by Supplier pursuant to any Purchase Order. The headings in this Master Agreement are for convenience of reference only and have no legal effect. No waiver, consent, modification, amendment or change of the terms contained in this Master Agreement shall be binding unless in writing and signed by a duly authorized representative of Supplier and Customer.

10.7 Public Announcement; Intellectual Property. Supplier shall not make any media releases or public announcements that reference this Master Agreement or Customer without the prior approval of Customer in each instance; which approval may be withheld or withdrawn in Customer's sole discretion. Notwithstanding the foregoing, nothing in this Section 10.7 shall be construed to limit the right of either Party to issue such disclosures as are reasonably believed by such Party to be required by Law. Further, without Customer's prior written consent, which consent may be withheld or withdrawn in Customer's sole discretion, Supplier shall not use the Customer's logos, trademarks, service marks or any variations thereof in any of its promotional, advertising or other materials, including without limitation, its client, vendor or supplier lists.

10.8 Non-Exclusive Agreement. Except as otherwise expressly provided below, none of the activities to be performed by Supplier and Customer under this Master Agreement are exclusive. This Master Agreement does not grant to Supplier any exclusive right or privilege to provide to Customer any Product, and do not grant to Customer an exclusive right or privilege to receive from Supplier any Product. Supplier and Customer reserve the right to contract with other parties for the sale and procurement of comparable Products, or for the sale and performance of any other activities contemplated under this Master Agreement.

10.9 Relationship of Parties. This Master Agreement is only intended to create an independent contractor relationship and is not intended to create any other relationship such as a partnership, franchise, joint venture, agency or employment relationship. Neither Party may act in a manner which expresses or implies a relationship other than that of independent contractor, nor may either Party bind the other Party.

10.10 Drafting of Agreement; Contract Interpretation. The Parties have jointly participated in the negotiation and drafting of this Master Agreement. In the event of an ambiguity or question of intent or interpretation arises, the

Master Agreement shall be construed as if jointly drafted by the Parties and no presumption, inference or burden of proof shall arise favoring or disfavoring a Party by virtue of authorship of any or all of the Master Agreement provisions. Ambiguities, inconsistencies or conflicts in the Master Agreement will not be strictly construed against either Party, but will be resolved by applying the most reasonable interpretation under the circumstances, giving full consideration to the Parties' intentions at the time the Master Agreement was entered into and common practice in the industry. All references in this Master Agreement to "including" or "includes" or words of similar meaning, shall be deemed to be immediately followed by the words "without limitation," regardless of whether such words are actually included.

10.11 Confidentiality. Supplier and Customer shall not during the Term, as well as for a period of five (5) years following the expiration or earlier termination of the Term, disclose any of the terms of this Master Agreement to any third party without the prior written consent of the other party. Notwithstanding the foregoing, the parties may, without the prior written consent of the other party, disclose the terms of this Master Agreement: (a) as reasonably necessary to its employees, representatives, affiliates, attorneys, accountants, management agencies, partners, consultants, financial advisors, and existing and prospective lenders and purchasers of the Property ("**Permissible Parties**"), so long as such Permissible Parties agree to be bound by the confidentiality provisions of this Section 10.11; or (b) as required by law.

10.12 Third Party Beneficiaries. Except with respect to the Indemnified Parties pursuant to Section 9.1, this Master Agreement is intended for the sole and exclusive benefit of the Parties, and are not intended to benefit any third party, and only the Parties (and, as applicable, the Indemnified Parties) may enforce this Master Agreement.

10.13 Insurance. Supplier shall obtain and maintain on a continuous basis such insurance which is sufficient in nature, scope and amount to cover any liability it may incur in connection with the performance of its obligations pursuant to this Master Agreement, including, at a minimum:

(a) Workers' Compensation and Employers Liability, in the amounts and with the limits as required by Law in the State in which the work is to be performed and elsewhere as may be required under applicable law.

(b) Commercial General Liability (including Premises - Operations, Independent Contractors, Products/Completed Operations, Broad Form Property Damage, Contractual Liability (including Liability for Employee Injury assumed under a Contract), and Explosion, Collapse and Underground Coverages), with limits not less than \$1,000,000 per occurrence and \$5,000,000 in the aggregate.

(c) Automobile Liability, which includes coverage on all owned, hired and non-owned vehicles and contractual liability coverage (including liability for employee injury assumed under a contract), with limits not less than \$1,000,000 per occurrence and \$3,000,000 in the aggregate; and

(d) Commercial Umbrella Liability, with limits not less than \$5,000,000 per occurrence and \$10,000,000 in the aggregate.

All insurance policies shall be issued by an insurance company with a Best's Rating of no less than A- (Excellent) and Best's Financial Size Category of no less than Class VII. Customer shall be added as ADDITIONAL INSURED on all liability policies. All policies shall be endorsed to reflect that it is primary and non-contributory as to the Customer as an additional insured and will not be canceled, materially changed or non-renewed without at least thirty (30) days' advance written notice to Customer. Supplier shall first pursue recovery for loss or damage covered by any of the insurance maintained by Supplier before pursuing recovery against Customer. The amount of insurance required under this Section 10.13 shall not be construed to be a limitation of the liability on the part of Supplier. The carrying of insurance described shall in no way be interpreted as relieving Supplier of any responsibility or liability under this Master Agreement. Upon request, Supplier shall submit all requested certificates of insurance to Customer.

10.14 Survival. Any and all provisions in this Master Agreement which would reasonably be expected to be performed, in whole or in part, after the termination or expiration of this Master Agreement shall survive and be



enforceable after such termination or expiration, including any provisions relating to confidentiality, representations and warranties, indemnification, limitations of liability, effects of termination, insurance, governing law and forum.

10.15 Counterparts and Electronic PDF Signatures. This Master Agreement and any Purchase Order(s) may be executed in counterparts, each of which will constitute an original and all of which will constitute one agreement. The Parties agree that they will accept signature by electronic transmission in portable document format (PDF) in lieu of original signatures and that this Master Agreement and any Purchase Order(s) will have the same binding and enforceable effect with electronic PDF signatures as they would have with original signatures.

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IN WITNESS WHEREOF, this Master Agreement has been executed by each Party's duly authorized representative to be effective as of the Effective Date.

**SUPPLIER:**

[ \_\_\_\_\_ ]  
a(n) \_\_\_\_\_

**Customer:**

LOFTIN EQUIPMENT COMPANY,  
an Arizona corporation

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

**EXHIBIT A**

Products, Pricing, and Other Terms

**EXHIBIT B**

Product Warranty

[DRAFTING NOTE: INSERT "NOT APPLICABLE" IF THERE IS NO EXPRESS WARRANTY TO BE INSERTED]