

UNITED STATES BANKRUPTCY COURT		DISTRICT OF <u>Delaware</u>	PROOF OF CLAIM
Name of Debtor <u>Chicago Tribune Company</u>		Case Number <u>08-13152-KJC</u>	
NOTE: This form should not be used to make a claim for an administrative expense arising after the commencement of the case. A "request" for payment of an administrative expense may be filed pursuant to 11 U.S.C. § 503.			
Name of Creditor (The person or other entity to whom the debtor owes money or property): <u>Health Concepts/Dolphin Capital</u>		☐ Check box if you are aware that anyone else has filed a proof of claim relating to your claim. Attach copy of statement giving particulars. ☐ Check box if you have never received any notices from the bankruptcy court in this case. ☐ Check box if the address differs from the address on the envelope sent to you by the court.	
Name and address where notices should be sent: <u>P.O. Box 644006</u> <u>Moberly, MO 65270</u>		THIS SPACE IS FOR COURT USE ONLY	
Telephone number: _____			
Last four digits of account or other number by which creditor identifies debtor: <u>019-4782395-005</u>		Check here ☐ replaces if this claim ☐ amends a previously filed claim, dated: _____	
1. Basis for Claim ☐ Goods sold ☐ Services performed ☐ Money loaned ☐ Personal injury/wrongful death ☐ Taxes ☒ Other <u>lease</u>			
☐ Retiree benefits as defined in 11 U.S.C. § 1114(a) ☐ Wages, salaries, and compensation (fill out below) Last four digits of your SS #: _____ Unpaid compensation for services performed from _____ to _____ (date) (date)			
2. Date debt was incurred: _____		3. If court judgment, date obtained: _____	
4. Classification of Claim. Check the appropriate box or boxes that best describe your claim and state the amount of the claim at the time the case was filed. See reverse side for important explanations.			
Unsecured Nonpriority Claim \$ <u>3,142.22</u> ☐ Check this box if: a) there is no collateral or lien securing your claim, or b) your claim exceeds the value of the property securing it, or c) none or only part of your claim is entitled to priority.		Secured Claim ☐ Check this box if your claim is secured by collateral (including a right of setoff). Brief Description of Collateral: ☐ Real Estate ☐ Motor Vehicle ☐ Other _____ Value of Collateral: \$ _____ Amount of arrearage and other charges <u>at time case filed</u> included in secured claim, if any: \$ _____	
Unsecured Priority Claim ☐ Check this box if you have an unsecured claim, all or part of which is entitled to priority. Amount entitled to priority \$ _____ Specify the priority of the claim: ☐ Domestic support obligations under 11 U.S.C. § 507(a)(1)(A) or (a)(1)(B). ☐ Wages, salaries, or commissions (up to \$10,000),* earned within 180 days before filing of the bankruptcy petition or cessation of the debtor's business, whichever is earlier - 11 U.S.C. § 507(a)(4). ☐ Contributions to an employee benefit plan - 11 U.S.C. § 507(a)(5).		☐ Up to \$2,225* of deposits toward purchase, lease, or rental of property or services for personal, family, or household use - 11 U.S.C. § 507(a)(7). ☐ Taxes or penalties owed to governmental units - 11 U.S.C. § 507(a)(8). ☐ Other - Specify applicable paragraph of 11 U.S.C. § 507(a)(____). *Amounts are subject to adjustment on 4/1/07 and every 3 years thereafter with respect to cases commenced on or after the date of adjustment.	
5. Total Amount of Claim at Time Case Filed: \$ _____ (unsecured) (secured) (priority) (total) ☐ Check this box if claim includes interest or other charges in addition to the principal amount of the claim. Attach itemized statement of all interest or additional charges.			
6. Credits: The amount of all payments on this claim has been credited and deducted for the purpose of making this proof of claim. Filed: USBC - District of Delaware Tribune Company, Et Al. 08-13141 (KJC)		THIS SPACE IS FOR COURT USE ONLY 20 DEC 15 AM 9:36	
7. Supporting Documents: Attas orders, invoices, itemized state agreements, and evidence of pe documents are not available, ex		0000000010 purchase es, security If the	
8. Date-Stamped Copy: To rec... self-addressed envelope and copy of this proof of claim.		stamped,	
Date <u>12/11/08</u>	Sign and print the name and title, if any, of the creditor or other person authorized to file this claim (attach copy of power of attorney, if any): <u>Attila Simon Grotchen Simon Specialist</u>		

Penalty for presenting fraudulent claim: Fine of up to \$500,000 or imprisonment for up to 5 years, or both. 18 U.S.C. §§ 152 and 3571.

Vendor:

health concepts LLC

Health Concepts, LLC

Vendor Address

SEP 22 2008

145 Tower Drive, Suite 10

Burr Ridge, IL 60527

Ph: 630-230-5100 Fax: 630-230-5102

H782395-005

Customer:

Customer: (Billing Address if Different)

Legal Name: Chicago Tribune

Address: _____

Type of entity: ☐ Corp ☐ LLC ☐ Partnership ☐ Prop

City: _____

Address: 777 W. Chicago Ave - 1st Floor

State: _____

Zip: _____

City: ChicagoTax Exempt: ☒ No ☐ Yes (attach certificate)State: IL Zip: 60610Phone: 312-222-6525

Fax: _____

Contact Person: MARIA JOE

Terms and Payment Schedule

Number of Months

Monthly Payments: \$ 50.00Payment Due: \$ 150.006.0

Months 1 - 12 \$

Months 13 - 60 \$

(Payments do not include applicable tax)

Billed: ☐ Monthly ☒ Quarterly

Terms Continued on Page 2

Equipment (Attach additional sheet if necessary)

Quantity	Model
<u>1</u>	<u>CHILLER 3</u>

Quantity	Model

Special Instructions: _____

RENTAL AGREEMENT: The Customer agrees to rent from Vendor the equipment listed above. The Customer agrees to all terms and conditions contained in this Rental Agreement. The Customer agrees this Rental Agreement is for the rental term indicated above and cannot be cancelled for any reason.

Authorized Signer: The person signing this agreement on behalf of the Customer specifically represents they have the authority to do so.

Company's Full Legal Name: CHICAGO TRIBUNEAuthorized Signer (Please Print): MARIA JOE

Title: _____

Authorized SIGNATURE: [Signature]Date: 9/2/08

A Vendor's representative's signature below indicates Vendor's acceptance of this rental.

[Signature]Date: 9/8/08

Acceptance of Vendor

GUARANTY: I guaranty that the Customer will make all rental payments and pay other charges required under the rental agreement when they are due, and the Customer will perform all the obligations under the rental fully and promptly. I also agree that Vendor need not notify me of any default under the rental and, in the event of default, I will pay all amounts due and perform all other obligations arising under the terms of the rental agreement. In addition, I will reimburse Vendor for any costs or attorney fees incurred in enforcing their rights.

SIGNATURE: _____

Name (Please Print) _____

Home Address: _____

City: _____

State: _____

Zip: _____

Home Phone: _____

SS# _____

Acceptance of Delivery

I am authorized to sign this certificate on behalf of the Customer. I certify that the equipment has been delivered and is fully installed and working properly. I hereby authorize the commencement of the rental.

Authorized Signature: _____

Equipment Delivery Date: _____

RENTAL AGREEMENT TERMS AND CONDITIONS

- 1. OWNERSHIP OF EQUIPMENT:** Health Concepts, LLC ("Vendor") is the sole owner and titleholder to the Equipment. This Agreement constitutes a lease or bailment and not a sale or the creation of a security interest. Customer shall not have, or at any time acquire, any right, title or interest in the Equipment, except the right to possession and use as provided in this Agreement.
- 2. RENT:** Monthly payments will begin on the contract date or delivery date, whichever is later. The Customer agrees to pay Vendor the rental payment when due. If any payment is more than ten (10) days late, the Customer agrees to pay a late fee of five percent (5%) or Five Dollars (\$5.00) (whichever is greater) on the overdue amount. Customer also agrees to pay Twenty-Five Dollars (\$25.00) for each check that the bank returns for insufficient funds or any other reason. Vendor shall have the right to increase the rent upon the renewal or extension of this Agreement. Vendor shall notify Customer of the rental increase forty-five (45) days before the expiration of the Initial Term. The monthly rental shall not be increased more than five percent (5%).
- 3. TAXES AND FEES:** This is a net rental. Customer agrees to pay on or before their due dates, all sales taxes, use taxes, personal property taxes, business personal property taxes, and assessments, or other direct taxes or governmental charges imposed on the property or levied against, or based on, the amount of rent to be paid under the Agreement or assessed in connection with this Agreement, even if billed after the end of the rental period. Customer shall promptly notify Vendor and send Vendor copies of any notices, reports, and inquiries from taxing authorities concerning delinquent taxes, fees, or other charges received, or assessments received by Customer. Customer shall be liable for any taxes for licenses, registrations, permits, and other certificates as may be required for the lawful operation of the Equipment. If any taxing authority requires that a tax be paid to the taxing authority directly by Vendor, Customer shall, on notice from Vendor, pay to Vendor the amount of the tax, together with the next rent installment. Vendor has the option to estimate all such taxes due for the year and bill the Customer monthly on the basis of the estimate.
- 4. UCC FILINGS:** The Customer authorizes, appoints and empowers Vendor and its assignees as its true and lawful attorney-in-fact to prepare, execute in Customer's name and file at Customer's cost any and all documents Vendor or its assignees deem appropriate or desirable in connection with the Uniform Commercial Code, including but not limited to UCC financing statements. The Customer authorizes Vendor to insert the serial number(s) of the Equipment in this Rental Agreement (including any schedules) and in any filings.
- 5. LIABILITY AND INSURANCE:** The Customer is responsible for any losses or injury caused by the Equipment. Customer assumes all risk and liability for the loss of or damage to the Equipment, for the injury to any person or property of another, and for all other risks and liabilities arising from the use, operation, condition possession or storage of the Equipment. The Customer must continue to make rental payments through the entire term of this Agreement and may not cancel this Agreement for any reason, even if the Equipment has been damaged or destroyed. Vendor is not responsible for any losses or injuries caused by the installation or use of the Equipment. The Customer promises to keep the Equipment fully insured against loss and maintain insurance that protects Vendor from liability for any damage or injury caused by the Equipment or its use. Upon the request of Vendor, the Customer shall provide Vendor evidence of the insurance showing Vendor as the loss payee. If the Customer fails to provide such evidence within fifteen (15) days, the Customer authorizes Vendor to obtain coverage on its behalf. Alternatively, Vendor may choose to self insure and add an insurance surcharge to the Customer's rent. Customer authorizes Vendor to file claims and endorse insurance checks on the Customer's behalf.
- 6. INDEMNITY:** The Customer agrees to indemnify, defend and hold harmless Vendor and its agents and employees from and against any claim, loss, liability and expense, including reasonable attorneys' fees, caused by the Equipment, unless due to the intentional conduct of Vendor. The indemnities and assumptions of risk, liabilities and obligations of Customer arising under this Agreement shall continue in effect after termination of this Agreement, regardless of the reason for termination.
- 7. USE, MAINTENANCE AND CARE OF EQUIPMENT:** The Customer shall be entitled to the absolute right to the use, operation, possession, and control of the Equipment during the term of this Agreement, provided Customer is not in default of any provision on this Agreement. The Customer shall assume all obligation and liability with respect to the possession of the Equipment, and for its use and operation during the lease term. Customer agrees to reimburse Vendor in full for all damage to the Equipment arising from any misuse or negligent act by Customer, its employees, and its agents.
- 8. LOCATION OF EQUIPMENT:** The Customer will keep the Equipment at the location specified in this Agreement. The Customer must obtain Vendor's written permission to move the Equipment. The Customer will allow Vendor or its agents to inspect the Equipment at any reasonable time where it is located. If the Equipment is not being properly maintained in the sole opinion of Vendor, Vendor shall have the right, but not the obligation, to have it repaired or maintained at a service facility at the expense of Customer.
- 9. ASSIGNMENT:** THE CUSTOMER HAS NO RIGHT TO SELL, TRANSFER, ENCUMBER, SUBLET OR ASSIGN THE EQUIPMENT OR THIS AGREEMENT. Vendor may sell, transfer or assign this Agreement without the Customer's consent. In the event of any assignment by Vendor, assignee shall have all the rights, powers, privileges and remedies of Vendor set forth in this Agreement, but none of the obligations (including but not limited to any service or maintenance obligations). Customer agrees not to raise any claim or defense against Vendor or such assignee arising out of this Agreement as a defense, counterclaim, or off-set to any action by any assignee for the unpaid balance of rentals due under this Agreement or the possession of the Equipment. Vendor shall assign to Customer all manufacturer, dealer, or supplier warranties applicable to the Equipment to enable Customer to obtain any warranty service available for the Equipment. Vendor appoints Customer as Vendor's attorney-in-fact for the purpose of enforcing any warranty. Any enforcement by Customer shall be at the expense of Customer and shall in no way render Vendor responsible to Customer for the performance of any of the warranties. This Agreement and each of its provisions shall be binding on and shall inure to the benefit of the respective heirs, devisees, legatees, executors, administrators, trustees, successors and assigns of the parties to this Agreement.
- 10. DEFAULT:** If the Customer does not pay any amount when it is due or perform any obligation required under this Agreement, the Customer will be in default. If the Customer defaults, Vendor can demand that the Customer pay the remaining balance of the Agreement and return the Equipment at the Customer's expense. At Vendor's option, Vendor may repossess the Equipment. Customer waives any rights Customer may have to notice before Vendor seizes any of the Equipment and waives any requirement that Vendor post a bond in connection with any such seizure or possession. In addition, if the Customer breaks any promise in this Agreement, Vendor can use any remedies available to Vendor under the Uniform Commercial Code or any other applicable law. The exercise of one remedy shall not be deemed to preclude the exercise of any other remedy. No failure or delay on the part of Vendor to exercise any remedy or right shall operate as a waiver. Acceptance by Vendor of rent or other payments made by Customer after default shall not be deemed a waiver of Vendor's rights and remedies arising from Customer's default. The Customer promises to pay reasonable attorneys' fees and any costs associated with any action to repossess the Equipment or to enforce or interpret any provision of this Agreement. This action will not void the Customer's responsibility to maintain and care for the Equipment.
- 11. BUSINESS AGREEMENT AND CHOICE OF LAW:** THE CUSTOMER AGREES THAT THIS AGREEMENT WILL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE IN WHICH VENDOR IS HEADQUARTERED, OR IF THIS AGREEMENT HAS BEEN ASSIGNED BY VENDOR, THE STATE IN WHICH THE ASSIGNEE IS HEADQUARTERED. VENDOR AND CUSTOMER WAIVE THE RIGHT TO A TRIAL BY JURY IN THE EVENT OF A LAWSUIT.
- 12. RENEWAL:** After the Initial Term or any extension thereto, this Agreement shall automatically renew for an additional term equal to the Initial Term, not exceeding twelve (12) months, unless the Customer notifies Vendor in writing thirty (30) days prior to the expiration of the Initial Term or extension. Upon the expiration date of this Agreement, Customer shall return the Equipment to Vendor together with all accessories, free from damage and in the same condition and appearance as when received by Customer, allowing for ordinary wear and tear. The Customer agrees to pay shipping charges. If Customer fails or refuses to return the equipment to Vendor, Vendor shall have the right to take possession of the Equipment and for that purpose to enter any premises where the Equipment is located without being liable in any suit, action, defense, or other proceedings to Customer. The Customer must pay any additional rents due until Vendor or its agents receive the Equipment.
- 13. OTHER RIGHTS:** The Customer agrees that Vendor's delay or failure to exercise any rights does not prevent Vendor from exercising them at a later time. If any part of this Agreement is found to be invalid, then it shall not invalidate any of the other parts, which shall remain valid and in full force and effect, and this Agreement shall be modified to the minimum extent permitted by law.
- 14. ENTIRE AGREEMENT, AMENDMENT, SEVERABILITY:** This Agreement represents the entire agreement between Vendor and the Customer. Any amendment, waiver or changes will bind neither Vendor nor the Customer, unless agreed to in writing and signed by both parties. Except for identifying the goods and services ordered, the price(s), and the quantity(ies), the terms and conditions of the purchase order or other ordering documents of Customer will not modify or affect this Agreement, or have any other legal effect whether issued or signed before, on or after the date of this Agreement. No agreements, representations, or warranties other than those specifically set forth in this Agreement shall be binding on any of the parties unless set forth in writing and signed by both parties.

UNITED STATES BANKRUPTCY COURT _____ DISTRICT OF <u>Delaware</u>		PROOF OF CLAIM
Name of Debtor <u>Chicago Tribune Company</u>		Case Number <u>08-13152-KJC</u>
NOTE: This form should not be used to make a claim for an administrative expense arising after the commencement of the case. A "request" for payment of an administrative expense may be filed pursuant to 11 U.S.C. § 503.		
Name of Creditor (The person or other entity to whom the debtor owes money or property): <u>Health Concepts/Capital</u>	☐ Check box if you are aware that anyone else has filed a proof of claim relating to your claim. Attach copy of statement giving particulars. ☐ Check box if you have never received any notices from the bankruptcy court in this case. ☐ Check box if the address differs from the address on the envelope sent to you by the court.	
Name and address where notices should be sent: <u>P.O. Box 644006</u> <u>Mobile, AL 366270</u>	Telephone number: Last four digits of account or other number by which creditor identifies debtor: <u>019-4782395-005</u>	
1. Basis for Claim ☐ Goods sold ☐ Services performed ☐ Money loaned ☐ Personal injury/wrongful death ☐ Taxes ☒ Other <u>lease</u>		Check here if this claim ☐ replaces ☐ amends a previously filed claim, dated: _____ ☐ Retiree benefits as defined in 11 U.S.C. § 1114(a) ☐ Wages, salaries, and compensation (fill out below) Last four digits of your SS #: _____ Unpaid compensation for services performed from _____ (date) to _____ (date)
2. Date debt was incurred:	3. If court judgment, date obtained:	
4. Classification of Claim. Check the appropriate box or boxes that best describe your claim and state the amount of the claim at the time the case was filed. See reverse side for important explanations.		
Unsecured Nonpriority Claim \$ <u>3,142.22</u> ☐ Check this box if: a) there is no collateral or lien securing your claim, or b) your claim exceeds the value of the property securing it, or c) none or only part of your claim is entitled to priority.		Secured Claim ☐ Check this box if your claim is secured by collateral (including a right of setoff). Brief Description of Collateral: ☐ Real Estate ☐ Motor Vehicle ☐ Other _____ Value of Collateral: \$ _____ Amount of arrearage and other charges at time case filed included in secured claim, if any: \$ _____
Unsecured Priority Claim ☐ Check this box if you have an unsecured claim, all or part of which is entitled to priority. Amount entitled to priority \$ _____ Specify the priority of the claim: ☐ Domestic support obligations under 11 U.S.C. § 507(a)(1)(A) or (a)(1)(B). ☐ Wages, salaries, or commissions (up to \$10,000),* earned within 180 days before filing of the bankruptcy petition or cessation of the debtor's business, whichever is earlier - 11 U.S.C. § 507(a)(4). ☐ Contributions to an employee benefit plan - 11 U.S.C. § 507(a)(5).		☐ Up to \$2,225* of deposits toward purchase, lease, or rental of property or services for personal, family, or household use - 11 U.S.C. § 507(a)(7). ☐ Taxes or penalties owed to governmental units - 11 U.S.C. § 507(a)(8). ☐ Other - Specify applicable paragraph of 11 U.S.C. § 507(a)(____). <i>*Amounts are subject to adjustment on 4/1/07 and every 3 years thereafter with respect to cases commenced on or after the date of adjustment.</i>
5. Total Amount of Claim at Time Case Filed: \$ _____ (unsecured) _____ (secured) _____ (priority) _____ (total) ☐ Check this box if claim includes interest or other charges in addition to the principal amount of the claim. Attach itemized statement of all interest or additional charges.		
6. Credits: The amount of all payments on this claim has been credited and deducted for the purpose of making this proof of claim. 7. Supporting Documents: Attach copies of supporting documents, such as promissory notes, purchase orders, invoices, itemized statements of running accounts, contracts, court judgments, mortgages, security agreements, and evidence of perfection of lien. DO NOT SEND ORIGINAL DOCUMENTS. If the documents are not available, explain. If the documents are voluminous, attach a summary. 8. Date-Stamped Copy: To receive an acknowledgment of the filing of your claim, enclose a stamped, self-addressed envelope and copy of this proof of claim.		THIS SPACE IS FOR COURT USE ONLY RECEIVED DEPT. OF CLERK 11/10/08 PM 9:36
Date <u>12/11/08</u>	Sign and print the name and title, if any, of the creditor or other person authorized to file this claim (attach copy of power of attorney, if any): <u>Michael Simonon Grutken Simonon & Associates, P.A. Litigation Specialist</u>	

Vendor: **health concepts LLC**

Health Concepts, LLC

Vendor Address **SEP 22 2008**

145 Tower Drive, Suite 10

Burr Ridge, IL 60527

Ph: 630-230-5100 Fax: 630-230-5102

4782395-005

Customer:

Customer: (Billing Address if Different)

Legal Name: Chicago Tribune

Address: _____

Type of entity: ☐ Corp ☐ LLC ☐ Partnership ☐ Prop

City: _____

Address: 777 W. Chicago Ave - 13th Floor

State: _____ Zip: _____

City: Chicago

Tax Exempt: ☒ No ☐ Yes (attach certificate)

State: IL Zip: 60610

Phone: 312-222-6525 Fax: _____

Contact Person: MARIA JOE

Terms and Payment Schedule

Number of Months

Monthly Payments: \$ 50.00

Payment Due: \$ 150.00

60

Months 1 - 12 \$

Months 13 - 60 \$

Billed: ☐ Monthly ☒ Quarterly

(Payments do not include applicable tax)

Terms Continued on Page 2

Equipment (Attach additional sheet if necessary)

Quantity	Model
<u>1</u>	<u>CHILLER 3</u>

Quantity	Model

Special Instructions: _____

RENTAL AGREEMENT: The Customer agrees to rent from Vendor the equipment listed above. The Customer agrees to all terms and conditions contained in this Rental Agreement. The Customer agrees this Rental Agreement is for the rental term indicated above and cannot be cancelled for any reason.

Authorized Signer: The person signing this agreement on behalf of the Customer specifically represents they have the authority to do so.

Company's Full Legal Name: CHICAGO TRIBUNE

Authorized Signer (Please Print): MARIA JOE

Title: _____

Authorized SIGNATURE: [Signature]

Date: 9/2/08

A Vendor's representative's signature below indicates Vendor's acceptance of this rental.

[Signature]

Date: 9/8/08

Acceptance of Vendor

GUARANTY: I guaranty that the Customer will make all rental payments and pay other charges required under the rental agreement when they are due, and the Customer will perform all the obligations under the rental fully and promptly. I also agree that Vendor need not notify me of any default under the rental and, in the event of default, I will pay all amounts due and perform all other obligations arising under the terms of the rental agreement. In addition, I will reimburse Vendor for any costs or attorney fees incurred in enforcing their rights.

SIGNATURE: _____ Name (Please Print): _____

Home Address: _____ City: _____ State: _____ Zip: _____

Home Phone: _____ SS# _____

Acceptance of Delivery

I am authorized to sign this certificate on behalf of the Customer. I certify that the equipment has been delivered and is fully installed and working properly. I hereby authorize the commencement of the rental.

Authorized Signature: _____

Equipment Delivery Date: _____

RENTAL AGREEMENT TERMS AND CONDITIONS

- 1. OWNERSHIP OF EQUIPMENT:** Health Concepts, LLC ("Vendor") is the sole owner and titleholder to the Equipment. This Agreement constitutes a lease or bailment and not a sale or the creation of a security interest. Customer shall not have, or at any time acquire, any right, title or interest in the Equipment, except the right to possession and use as provided in this Agreement.
- 2. RENT:** Monthly payments will begin on the contract date or delivery date, whichever is later. The Customer agrees to pay Vendor the rental payment when due. If any payment is more than ten (10) days late, the Customer agrees to pay a late fee of five percent (5%) or Five Dollars (\$5.00) (whichever is greater) on the overdue amount. Customer also agrees to pay Twenty-Five Dollars (\$25.00) for each check that the bank returns for insufficient funds or any other reason. Vendor shall have the right to increase the rent upon the renewal or extension of this Agreement. Vendor shall notify Customer of the rental increase forty-five (45) days before the expiration of the initial Term. The monthly rental shall not be increased more than five percent (5%).
- 3. TAXES AND FEES:** This is a net rental. Customer agrees to pay on or before their due dates, all sales taxes, use taxes, personal property taxes, business personal property taxes, and assessments, or other direct taxes or governmental charges imposed on the property or levied against, or based on, the amount of rent to be paid under the Agreement or assessed in connection with this Agreement, even if billed after the end of the rental period. Customer shall promptly notify Vendor and send Vendor copies of any notices, reports, and inquiries from taxing authorities concerning delinquent taxes, fees, or other charges received, or assessments received by Customer. Customer shall be liable for any taxes for licenses, registrations, permits, and other certificates as may be required for the lawful operation of the Equipment. If any taxing authority requires that a tax be paid to the taxing authority directly by Vendor, Customer shall, on notice from Vendor, pay to Vendor the amount of the tax, together with the next rent installment. Vendor has the option to estimate all such taxes due for the year and bill the Customer monthly on the basis of the estimate.
- 4. UCC FILINGS:** The Customer authorizes, appoints and empowers Vendor and its assignees as its true and lawful attorney-in-fact to prepare, execute in Customer's name and file at Customer's cost any and all documents Vendor or its assignees deem appropriate or desirable in connection with the Uniform Commercial Code, including but not limited to UCC financing statements. The Customer authorizes Vendor to insert the serial number(s) of the Equipment in this Rental Agreement (including any schedules) and in any filings.
- 5. LIABILITY AND INSURANCE:** The Customer is responsible for any losses or injury caused by the Equipment. Customer assumes all risk and liability for the loss of or damage to the Equipment, for the injury to any person or property of another, and for all other risks and liabilities arising from the use, operation, condition, possession or storage of the Equipment. The Customer must continue to make rental payments through the entire term of this Agreement and may not cancel this Agreement for any reason, even if the Equipment has been damaged or destroyed. Vendor is not responsible for any losses or injuries caused by the installation or use of the Equipment. The Customer promises to keep the Equipment fully insured against loss and maintain insurance that protects Vendor from liability for any damage or injury caused by the Equipment or its use. Upon the request of Vendor, the Customer shall provide Vendor evidence of the insurance showing Vendor as the loss payee. If the Customer fails to provide such evidence within fifteen (15) days, the Customer authorizes Vendor to obtain coverage on its behalf. Alternatively, Vendor may choose to self insure and add an insurance surcharge to the Customer's rent. Customer authorizes Vendor to file claims and endorse insurance checks on the Customer's behalf.
- 6. INDEMNITY:** The Customer agrees to indemnify, defend and hold harmless Vendor and its agents and employees from and against any claim, loss, liability and expense, including reasonable attorneys' fees, caused by the Equipment, unless due to the intentional conduct of Vendor. The indemnities and assumptions of risk, liabilities and obligations of Customer arising under this Agreement shall continue in effect after termination of this Agreement, regardless of the reason for termination.
- 7. USE, MAINTENANCE AND CARE OF EQUIPMENT:** The Customer shall be entitled to the absolute right to the use, operation, possession, and control of the Equipment during the term of this Agreement, provided Customer is not in default of any provision on this Agreement. The Customer shall assume all obligation and liability with respect to the possession of the Equipment, and for its use and operation during the lease term. Customer agrees to reimburse Vendor in full for all damage to the Equipment arising from any misuse or negligent act by Customer, its employees, and its agents.
- 8. LOCATION OF EQUIPMENT:** The Customer will keep the Equipment at the location specified in this Agreement. The Customer must obtain Vendor's written permission to move the Equipment. The Customer will allow Vendor or its agents to inspect the Equipment at any reasonable time where it is located. If the Equipment is not being properly maintained in the sole opinion of Vendor, Vendor shall have the right, but not the obligation, to have it repaired or maintained at a service facility at the expense of Customer.
- 9. ASSIGNMENT:** THE CUSTOMER HAS NO RIGHT TO SELL, TRANSFER, ENCUMBER, SUBLET OR ASSIGN THE EQUIPMENT OR THIS AGREEMENT. Vendor may sell, transfer or assign this Agreement without the Customer's consent. In the event of any assignment by Vendor, assignee shall have all the rights, powers, privileges and remedies of Vendor set forth in this Agreement, but none of the obligations (including but not limited to any service or maintenance obligations). Customer agrees not to raise any claim or defense against Vendor or such assignee arising out of this Agreement as a defense, counterclaim, or off-set to any action by any assignee for the unpaid balance of rentals due under this Agreement or the possession of the Equipment. Vendor shall assign to Customer all manufacturer, dealer, or supplier warranties applicable to the Equipment to enable Customer to obtain any warranty service available for the Equipment. Vendor appoints Customer as Vendor's attorney-in-fact for the purpose of enforcing any warranty. Any enforcement by Customer shall be at the expense of Customer and shall in no way render Vendor responsible to Customer for the performance of any of the warranties. This Agreement and each of its provisions shall be binding on and shall inure to the benefit of the respective heirs, devisees, legatees, executors, administrators, trustees, successors and assigns of the parties to this Agreement.
- 10. DEFAULT:** If the Customer does not pay any amount when it is due or perform any obligation required under this Agreement, the Customer will be in default. If the Customer defaults, Vendor can demand that the Customer pay the remaining balance of the Agreement and return the Equipment at the Customer's expense. At Vendor's option, Vendor may repossess the Equipment. Customer waives any rights Customer may have to notice before Vendor seizes any of the Equipment and waives any requirement that Vendor post a bond in connection with any such seizure or possession. In addition, if the Customer breaks any promise in this Agreement, Vendor can use any remedies available to Vendor under the Uniform Commercial Code or any other applicable law. The exercise of one remedy shall not be deemed to preclude the exercise of any other remedy. No failure or delay on the part of Vendor to exercise any remedy or right shall operate as a waiver. Acceptance by Vendor of rent or other payments made by Customer after default shall not be deemed a waiver of Lessor's rights and remedies arising from Customer's default. The Customer promises to pay reasonable attorneys' fees and any costs associated with any action to repossess the Equipment or to enforce or interpret any provision of this Agreement. This action will not void the Customer's responsibility to maintain and care for the Equipment.
- 11. BUSINESS AGREEMENT AND CHOICE OF LAW:** THE CUSTOMER AGREES THAT THIS AGREEMENT WILL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE IN WHICH VENDOR IS HEADQUARTERED, OR IF THIS AGREEMENT HAS BEEN ASSIGNED BY VENDOR, THE STATE IN WHICH THE ASSIGNEE IS HEADQUARTERED. VENDOR AND CUSTOMER WAIVE THE RIGHT TO A TRIAL BY JURY IN THE EVENT OF A LAWSUIT.
- 12. RENEWAL:** After the Initial Term or any extension thereto, this Agreement shall automatically renew for an additional term equal to the Initial Term, not exceeding twelve (12) months, unless the Customer notifies Vendor in writing thirty (30) days prior to the expiration of the Initial Term or extension. Upon the expiration date of this Agreement, Customer shall return the Equipment to Vendor together with all accessories, free from damage and in the same condition and appearance as when received by Customer, allowing for ordinary wear and tear. The Customer agrees to pay shipping charges. If Customer fails or refuses to return the equipment to Vendor, Vendor shall have the right to take possession of the Equipment and for that purpose to enter any premises where the Equipment is located without being liable in any suit, action, defense, or other proceedings to Customer. The Customer must pay any additional rents due until Vendor or its agents receive the Equipment.
- 13. OTHER RIGHTS:** The Customer agrees that Vendor's delay or failure to exercise any rights does not prevent Vendor from exercising them at a later time. If any part of this Agreement is found to be invalid, then it shall not invalidate any of the other parts, which shall remain valid and in full force and effect, and this Agreement shall be modified to the minimum extent permitted by law.
- 14. ENTIRE AGREEMENT, AMENDMENT, SEVERABILITY:** This Agreement represents the entire agreement between Vendor and the Customer. Any amendment, waiver or changes will bind neither Vendor nor the Customer, unless agreed to in writing and signed by both parties. Except for identifying the goods and services ordered, the price(s), and the quantity(ies), the terms and conditions of the purchase order or other ordering documents of Customer will not modify or affect this Agreement, or have any other legal effect whether issued or signed before, on or after the date of this Agreement. No agreements, representations, or warranties other than those specifically set forth in this Agreement shall be binding on any of the parties unless set forth in writing and signed by both parties.