



2.02. Lessor or its representative may, for the purpose of inspecting Equipment, at all reasonable times, enter upon any job, building, or place where the Equipment is located.

#### **Alterations**

2.03. (a) If Lessor consents to such alterations, equipment, or painting, Lessee agrees to pay for any structural alterations, special equipment, or material alteration in painting, lettering, or art work required by Lessee after acceptance of the Equipment.

(b) If, after the acceptance of any Equipment by Lessee, any federal, state, or local law, ordinance, or regulation requires the installation of any additional equipment, specifically including but not limited to anti-pollution or safety devices, Lessee shall be responsible for the cost of this additional equipment, including installation expenses. Lessor agrees either to install the additional equipment or to arrange for its installation, and Lessee agrees to pay Lessor the full cost of the equipment on receipt of Lessor's invoice.

(c) Lessee may make no alteration of any leased Equipment without Lessor's prior written consent.

#### **Title To Equipment**

2.04. Title to all Equipment leased under this Agreement will remain in Lessor. Lessee will acquire no right, title, equity, or other interest in any leased Equipment. Lessee grants Lessor a continuing security interest in the Equipment, including all parts, accessories and attachments attached thereto and agrees to provide, as requested, and reasonable assistance to Lessor which may be required to protect Lessor's ownership and security interest in such Equipment, including the execution of the appropriate UCC-1 Financing Statement(s).

#### **Registration**

2.05. All Equipment leased under this Agreement will remain at all times under the registered ownership of Lessor according to the public record of each state where the Equipment is principally used.

### **3. Payments by Lessee**

#### **Rent**

3.01. (a) Lessee agrees to pay Lessor for each Equipment the Total Rental designated on the attached Schedule(s). Rental payments must be made at Lessor's place of business or at any other place of business as Lessor or an assignee of the rent may direct. Rental payments are payable monthly, in advance, on receipt of an invoice for rental payment.

(b) Lessee agrees to pay eighteen (18) percent annual interest, or the maximum rate allowed by law, whichever is more, on all delinquent rentals until paid.

#### **Compensation**

3.02. (a) Lessee shall compensate Lessor for the rental of the Equipment in accordance with the attached and applicable Schedule. Lease charges will commence once such piece of Equipment has left possession of Lessor and is headed to Lessee's location and will cease upon Lessee's delivery of such piece of Equipment to its point of origin, or such alternative location

Lessor: DAE

Lessee: 

designated by Lessor. Monthly and weekly rental rates shall not be subject to any deductions on account for any non-working time during such period, but the amount payable for any fraction of a month or week, as the case may be, at the end of the rental period shall be calculated using the formula of (3) three days equal (1) one week, (3) three weeks equal (1) one month for the remainder of days the equipment was in the Lessee's possession. Daily rent rates are not subject to any non-working time in a day and shall be charged for each calendar day in the period. The Rental Fee shown on the applicable Schedule, unless otherwise noted, is based on an 8-hour day, and a month no longer than 176 hours. The term of all rentals, unless otherwise stated, will be monthly. For the purposes of billing, a month is defined as 28 days or 4 weeks.

### **Licenses and Taxation**

3.03. (a) All taxes and license charges levied on, or assessed against, Equipment leased under this Agreement are borne by Lessee, including taxes and license charges levied or assessed by any tax or licensing authority on account of the ownership, lease, or operation of the Equipment during the term of the Agreement, except for any taxes based on or measured by income of Lessor.

(b) Lessor will license all Equipment prior to delivery to Lessee. Lessee must reimburse Lessor for any payments made to license the Equipment. Any license payments made by Lessor will be billed to Lessee on a separate invoice and are in addition to the rentals and any other charges due under this Agreement.

(c) If unit hereinafter described is a power unit, Lessee is required to add any such unit to their IFTA account, and is responsible for all reporting and fees accordingly. Lessee shall display their US DOT Number, and be listed as the Carrier Responsible For Safety on the cab card, as well as be responsible for any duties so required by any governing authority.

## **4. Operation and Maintenance**

### **Ordinary Use**

4.01. Lessee promises to operate the Equipment only in the normal and ordinary course of Lessee's business, and not in violation of any law, rule, regulation, statute, or ordinance. Lessee promises to indemnify and hold Lessor harmless from and against all fines, forfeitures, seizures, confiscations, and penalties arising out of any violations.

### **Use of Additional Equipment**

4.02. Whenever Lessee operates Equipment in conjunction with any other equipment not included on the attached Schedule, or not maintained by Lessor under a separate agreement, Lessee warrants that the truck, trailer, equipment, or any other item will be in good operating condition. Lessee promises to indemnify and hold Lessor harmless against any claim or loss or damage resulting from Lessee's failure to maintain such other equipment properly.

### **No Operator Provided by Lessor**

4.03. All Equipment leased hereunder is without operator. Lessee shall supply and pay all operators employed on the Equipment and covenants only operators with appropriate skilled, training and knowledge of safe operating procedures shall be used. Lessee shall provide and pay for all workers compensation insurance and pay all payroll taxes or other taxes and payments

Lessor: DAE

Lessee: 

required by law applying to such operators. Lessee shall hold Lessor harmless from all such amounts.

#### **Maintenance of Equipment**

4.04. Lessee shall not remove, alter, disfigure or cover up any numbering, lettering, insignia or any owner's tag(s) displayed upon the Equipment and shall assume the responsibility to see that the Equipment is not subjected to careless or rough usage. Lessee shall at its own expense maintain the Equipment and all additions, attachments and accessories in good mechanical condition and running order in strict accordance with the manufacturer's specifications and recommendations and return it in its original condition, less reasonable wear and tear. The expense of all maintenance and repairs relating to the Equipment, including labor, materials, parts, travel time, and other items, including the cleaning of equipment, shall be paid by Lessee and shall become part of the Equipment and be the property of the Lessor. At Lessee's expense, Lessor may perform any maintenance or repairs on the Equipment at any time, including, without limitation, maintenance, repairs or other services necessitated by the Lessee's misuse or extraordinary use or inadequate maintenance of the equipment. All units must be returned in reasonably clean condition. Lessee will be billed for excessive cleanup at posted shop rates. Customer is required to check all oil levels daily, clean air filters daily, lubricate the equipment as required, and monitor all tire pressures.

#### **Repairs Required to Be Made or Authorized by Lessor**

4.05. (a) Lessee agrees not to cause or permit any person other than Lessor, or persons expressly authorized by Lessor, to make repairs and adjustments to the Equipment or install any accessories. When repairs are necessary, Lessee will notify Lessor of that fact by the most expedient means of communication available.

(b) Lessor is not responsible for any emergency repairs or services performed while the Equipment is away from Lessor's facility unless (1) Lessor expressly authorizes performance of the repairs, and (2) Lessee submits an acceptable voucher for the repairs or services.

### **5. Drivers**

#### **Qualifications of Drivers**

5.01. (a) Lessee agrees that each item of Equipment may be operated only by a safe, careful, properly licensed driver. Each driver must be at least 21 years of age, and be the employee or agent of Lessee, paid by and subject to Lessee's exclusive direction and control. Lessee agrees to reimburse Lessor fully for loss or damage to Equipment, including related expenses, if any Equipment is operated by drivers under 21 years of age.

(b) Lessee must immediately remove any driver on receipt of a written complaint from Lessor specifying any reckless, careless, or abusive handling of any Equipment, or any other incompetence of any driver, and requesting his or her removal. If Lessee fails to remove such driver, or is prevented from doing so by any agreement with the driver, Lessee will reimburse Lessor in full for any loss and expense sustained by Lessor for damage to any Equipment while being operated by such driver. Lessee promises to release, indemnify, and otherwise hold Lessor

Lessor: DAE

Lessee: 

harmless from and against any claims or causes of action for death or injury to persons, or loss or damage to property, arising out of the use or operation of any Equipment by such driver.

**Restrictions on Use**

5.02. Lessee agrees that the Equipment will not be operated (1) to carry passengers for a consideration, whether express or implied; (2) in any race, test, or contest; (3) by any driver in possession of or under the influence of alcohol or any drug that may impair the ability to operate the Equipment; (4) in a reckless or abusive manner; or (5) while improperly loaded or loaded beyond the manufacturer's recommended maximum gross weight shown on the attached Schedule(s). Lessee agrees to reimburse Lessor in full for damages, including expenses, resulting from any violation of this paragraph. Lessee shall not operate the Equipment in connection with any use, storage, handling, shipment, disposal or other use of hazardous or toxic substances, waste or other prohibited or dangerous contaminants without the prior written consent of Lessor, and Lessee shall promptly notify Lessor if any such Equipment is or becomes subject to contamination from hazardous or toxic substances.

**6. Insurance and Indemnity**

**Liability Insurance**

6.01. Prior to Lessee taking possession of any Equipment hereunder, Lessee shall procure and maintain, at its own expense, the following primary property and liability insurance with companies satisfactory to Lessor: (a) Property insurance covering all Equipment for the aforementioned Value for damage as a result of fire, theft, collision or any other causes and thereon naming Lessor as loss payee and (b) Comprehensive general liability insurance with a combined single limit of not less than \$1,000,000 per occurrence naming Lessor as an additional insured and providing waiver of subrogation in favor of Lessor. Prior to Lessee taking possession of any Equipment hereunder, Lessee shall provide Lessor a certificate of insurance evidencing such aforementioned coverages and endorsements and further providing that Lessor shall be provided at least (30) thirty days' notice of any cancellation or material change to such policies.

6.02. Notwithstanding any of the above, Lessee expressly agrees to be responsible for any and all damage to the Equipment for any reason, including, without limitation, any damage as a result of negligence or neglect on its part, whether willful or not. If Lessee fails to provide and maintain such insurance as specified above, then Lessor may terminate this agreement and demand equipment to be returned immediately.

**Indemnity**

6.03. (a) Lessee agrees to indemnify and hold Lessor harmless from and against any claims or causes of action for death or injury to persons or loss or damage to property arising out of or caused by the ownership, maintenance, use, or operation of any leased Equipment.

(b) In addition to any obligation to insure leased Equipment or to indemnify Lessor in the absence of such insurance, Lessee agrees to release, indemnify, and hold Lessor harmless from and against any claims or causes of action for death or injury to persons or loss or damage to property that exceed the limits of Liability Insurance required by Paragraph 6.01 if the loss, damage, or claim results from or is connected to the ownership, maintenance, use, or operation of any Equipment leased or furnished under this Agreement. Lessee further agrees to release,

Lessor: DAE

Lessee: \_\_\_\_\_

*Lessee's*

*\_\_\_\_\_*

*\_\_\_\_\_*

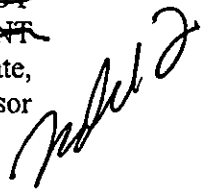
*Lessee's*

*\_\_\_\_\_*

indemnify, and hold Lessor harmless from any claims or causes of action that exceed policy limits that Lessor is statutorily required to pay and that Lessor would not be required to pay under the terms of this Agreement.

(c) Notwithstanding any of the insurance coverages required to be maintained by Lessee under the terms of this Agreement, LESSEE SHALL PROTECT, DEFEND, INDEMNIFY, AND HOLD HARMLESS LESSOR, ITS OFFICERS, EMPLOYEES, CONTRACTORS, SERVANTS, AGENTS, SUCCESSORS, AND ASSIGNS, FROM AND AGAINST ALL LOSSES, DAMAGES, INJURIES, CLAIMS, DEMANDS AND EXPENSES, INCLUDING LEGAL EXPENSES, OF WHATEVER NATURE, ARISING OUT OF THE USE, MAINTENANCE, CONDITION, OPERATION, HANDLING, AND TRANSPORTATION OF ANY EQUIPMENT, ~~REGARDLESS OF WHERE HOW AND BY WHOM OPERATED, AND REGARDLESS OF WHETHER ARISING FROM THE HOBT OR CONCURRENT NEGLIGENCE OF LESSOR.~~ At Lessor's option, Lessor may participate, or assume, its defense in any legal action naming Lessor, and Lessee agrees to reimburse Lessor the cost of such defense, irregardless of the outcome of such action(s).

LESSEES



#### Physical Damage Responsibility

6.04. (a) At all times during the lease term, Lessee must procure and maintain, at Lessee's expense, insurance covering physical damage to each Equipment leased under this Agreement.

(b) To the extent not covered by insurance procured by Lessee on which Lessor is listed as an insured, additional insured, or loss payee, Lessee bears the risk of loss, damage to, or destruction of each Equipment, whether resulting from fire, theft, governmental action, collision, or any cause whatever.

#### Notice of Accident

6.05. Lessee agrees to notify Lessor immediately of any accident or collision involving the use of a leased Equipment. Lessee agrees to make a detailed report to Lessor concerning such collision in writing as soon as practicable, by the most expedient means of communication available. Lessee further agrees to render any other assistance to Lessor and any insurer in the investigation, defense, or prosecution of any claims or suits.

#### 7. Breach or Default

If Lessee breaches or defaults on any of the obligations of this Agreement, Lessor may immediately, without notice or demand, take possession of the Equipment, together with any equipment and accessories. In order to repossess the Equipment, Lessor is entitled to enter any premises where the Equipment is located. If Lessee's breach or default continues for 20 days after written notice has been mailed to Lessee, Lessor may terminate the lease of Equipment.

#### 8. Termination

Lessor may terminate the lease of any Equipment before the expiration of its term for any reason. Lessee does not have the right to do so and shall remain obligated and bound by the Minimum Rental Period, here within mentioned.

#### 9. Return of Property on Termination

Lessee will promptly return each leased Equipment to Lessor at the end of the term, or upon Lessors early termination, for the Equipment as specified in the attached Schedule(s). The

Lessor: DAE

Lessee: 

Equipment must be returned to Lessor at Lessor's facility located at 3132 Hwy. 31 N, Longview, Texas 75603.

## 10. General Provisions

### Consequential Damages.

11.01. Neither Lessor nor Lessee shall be liable to the other for special, indirect, or consequential damages resulting from or arising out of this Agreement including, without limitation, loss of profit or business interruption, however caused.

### Taxes.

11.02. Lessee shall pay all sales taxes, use taxes, excise taxes, and all other governmental charges, fees, and penalties whatsoever, whether payable by Lessor, Lessee, or others, on or relating to any of Equipment or its use, registration, rental, shipment, transportation, delivery, or operation thereof, and shall file all returns required thereof and, upon Lessor's request, furnishes copies thereof to Lessor. Lessee shall reimburse Lessor for any such taxes, assessments, charges, fines or penalties which Lessor may be compelled to pay in connection with any of the Equipment.

### Warranty

11.03. LESSOR MAKES NO REPRESENTATION, COVENANT, OR WARRANTY, EXPRESS OR IMPLIED, WITH RESPECT TO THE CONDITION, MERCHANTABILITY, QUALITY, SUITABILITY, OR FITNESS FOR ANY PARTICULAR PURPOSE OF THE PROPERTY LEASED BY THIS AGREEMENT, except that Lessor warrants that it will have title to each item of property at the time specified for delivery. WITH RESPECT TO LESSOR'S DUTY TO LESSEE, IT IS EXPRESSLY AGREED THAT LESSEE LEASES THE PROPERTY "AS IS" AND "WITH ALL FAULTS."

11.04. LESSOR IS NOT LIABLE FOR ANY DAMAGES CAUSED BY ANY FAILURE OF THE LEASED PROPERTY TO OPERATE OR THE FAULTY OPERATION OF THE LEASED PROPERTY. LESSOR IS NOT LIABLE FOR ANY DAMAGES OR LOSSES RESULTING FROM THE INSTALLATION, OPERATION, OR USE OF THE PRODUCTS FURNISHED BY LESSOR.

11.05. New Equipment shall be warranted only to the extent that the original equipment manufacturer warrants to Lessor.

### Waiver of Breach.

11.06. The waiver by Lessor of violation of any provision of this Agreement shall not operate as, or be construed to be, a waiver of any subsequent breach of the same or other provision(s) hereof.

### Attorney's Fees

11.07. Lessee shall pay Lessor all of Lessor's costs and expenses, including reasonable attorney's fees, incurred in collecting amounts due from Lessee or in enforcing any rights of Lessor under this Agreement.

Lessor: DAE

Lessee:



**Assignment**

11.08. (a) Lessee may not assign this Agreement or any of Lessee's rights under this Agreement without the prior written consent of Lessor. Lessee may not sublease any of the Equipment, or permit others to use them, without the prior written consent of Lessor. Lessor's consent to an assignment or sublease does not release Lessee from any obligation under this Agreement.

(b) Any attempted assignment or sublease by Lessee without prior written consent shall be void and will confer no rights on the intended assignee or sublessee.

**Modification**

11.039 Modifications or amendments to this Agreement are valid only when made in a writing that is signed by all contracting parties. Oral agreements purporting to modify or amend this Agreement are void and of no effect.

**Waiver**

11.10. (a) The provisions of this Agreement may be waived only by means of a writing that is signed by all contracting parties. No delay or omission by either party to exercise any remedy or right accruing on default impairs any remedy or right under this Agreement.

(b) An express, written waiver by either party of any breach of any provision of this Agreement by the other party may not be deemed to be a waiver of the breach of any other provision or of any subsequent breach of the waived provision.

**Additional Schedules**

11.11. Any additional Schedules that have been duly executed are incorporated as part of this Agreement.

**Force Majeure**


11.12. Lessor incurs no liability to Lessee for failure to supply any Equipment, failure to provide a substitute Equipment, failure to repair any disabled Equipment, or failing to provide fuel for Equipment, if Lessor is prevented from fulfilling its obligations under this Agreement because of national emergency, wars, riots, fires, labor disputes, interference of any governmental authority, fuel allocation programs, or any other cause beyond Lessor's control. Notwithstanding Lessor's inability to perform under any of these conditions, Lessee's obligation to make payments under this Agreement shall continue.

**Representations**

11.13. The parties hereto represent and warrant that the individuals executing this Agreement are duly authorized to do so on their respective company's behalf.

**Parties Bound**

11.14. This Agreement is binding on, and inures to the benefit of the contracting parties and their respective heirs, successors, legal representatives, and assigns when permitted by this Agreement. Lessee must promptly notify Lessor in writing before any substantial changes in ownership or any material disposition of the assets of Lessee's business.

Lessor: DAE Lessee: 



**Notices**

11.15. All notices, consents, waivers, or other communications, except invoices, required under this Agreement must be sent by certified mail, return receipt requested, and will be deemed to have been given when mailed to the parties at their respective addresses as set forth in the preamble or when mailed to the last address provided in writing to the other party by the addressee.

**Governing Law**

11.16. This Agreement is to be construed under, and in accordance with, the laws of the State of Texas, and all obligations of the parties created by this Agreement are to be performed in Gregg County, Texas.

**Entire Agreement**

11.17. This Agreement and the attached Schedule(s), incorporated by reference and made an integral part of the Agreement, constitute the entire agreement between the parties with respect to its subject matter. All previous negotiations, understandings, or written or oral agreements have been merged in this Agreement. The terms and conditions of this Agreement prevail notwithstanding any variance in this Agreement from the terms and conditions of any other document relating to this transaction, whether prepared and submitted by Lessor or by Lessee.

**Severability**

11.18. If any one or more provisions of this Agreement are held invalid, illegal, or unenforceable in any respect for any reason, the remaining provisions remain valid, binding, and effective as if the invalid, illegal, or unenforceable provisions had never been contained in this Agreement.

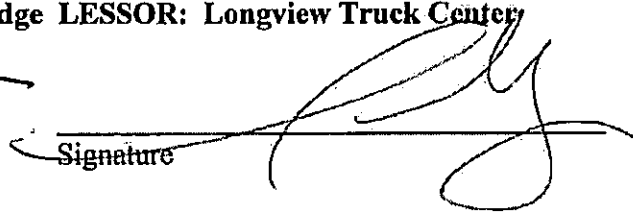
**Headings**

11.19. The headings and subheadings of the various Articles and Paragraphs of this Agreement are inserted merely for the purpose of convenience and do not express or imply any limitation, definition, or extension of the language of the various Articles and Paragraphs.

**LESSEE: Upshur County Road and Bridge Department LESSOR: Longview Truck Center**



Signature



Signature

TODD TEFTELLER

Printed Name

1-27-2022

DEIDRA EVERETT

Printed Name

UPSHUR CO.

Title

TRUCKER

RENTAL COORDINATOR

Title

Lessor: DAE

Lessee: 

**LONGVIEW**  
TRUCK CENTER

3132 TX-31  
Longview, Texas 75603  
www.longviewtruckcenter.com  
903-753-1933 Phone

**Status: Open**  
Contract #: 11557

Invoice Date: Mon 1/24/2022 11:25AM

Operator: Desiree  
Terms: 30

Customer #: 5000

UPSHUR COUNTY ROAD & BRIDGE DE  
P.O. BOX 730  
GILMER, TX 75644

Phone 903-843-7623

Job Descr: ANNETTE NORTON  
PO #: 0

Ordered By: ANDY JORDAN

Picked up by: ANDY JORDAN

**Used at Address**

ANNETTE NORTON 903-843-7623  
2255 STATE HWY 271 N GILMER, TX 75644

Qty	Key	Items Rented	Ser#	Replacement Cost	Price
1	DUMPTRK#KEN4499	TRUCK - 2022 KENWORTH	2NKHHM6X5NM134499	\$125,000.00 each	\$3,750.00
MONTH TO MONTH RENTAL TERM - THIS RENTAL PERIOD IS FROM 01/24/22 - 02/20/22					

**Thank you for your Business**

**Rental Contract**

This contract is governed by the Master Rental Agreement and the terms and conditions therein. Please refer to the Master Rental Agreement for all terms related to the rental. This contract serves as a schedule of rented equipment and rates which have been included under the current Master Rental Agreement.

Rental:	\$3,750.00
Subtotal:	\$3,750.00
Total:	\$3,750.00
Paid:	\$0.00
Amount Due:	\$3,750.00

Signature: \_\_\_\_\_

*Andy Jordan* 1-27-2022

ANDY JORDAN

**LONGVIEW**  
TRUCK CENTER

3132 TX-31  
Longview, Texas 75603  
www.longviewtruckcenter.com  
903-753-1933 Phone

**Status: Open**  
Contract #: 11556

Invoice Date: Mon 1/24/2022 11:25AM

Operator: Desiree  
Terms: 30

Customer #: 5000  
UPSHUR COUNTY ROAD & BRIDGE DE Phone 903-843-7623  
P.O. BOX 730 Job Descr: ANNETTE NORTON  
GILMER, TX 75644 PO #: 0

Ordered By: ANDY JORDAN

Picked up by: ANDY JORDAN

**Used at Address**

ANNETTE NORTON 903-843-7623  
2255 STATE HWY 271 N GILMER, TX 75644

Qty	Key	Items Rented	Ser#	Replacement Cost	Price
1	TAHLTRK#KEN3811	TRUCK - 2022 KENWORTH	3WKDD49X8NF143811	\$200,000.00 each	\$6,000.00
MONTH TO MONTH RENTAL TERM - THIS RENTAL PERIOD IS FROM 01/24/22 - 02/20/22					

FILED  
TERRI ROSS  
COUNTY CLERK  
2022 FEB 15 PM 1:16  
BY [Signature]  
UPSHUR COUNTY, TX.  
DEPUTY

**Thank you for your Business**

**Rental Contract**

This contract is governed by the Master Rental Agreement and the terms and conditions therein. Please refer to the Master Rental Agreement for all terms related to the rental. This contract serves as a schedule of rented equipment and rates which have been included under the current Master Rental Agreement.

Rental:	\$6,000.00
Subtotal:	\$6,000.00
Total:	\$6,000.00
Paid:	\$0.00
Amount Due:	\$6,000.00

Signature: \_\_\_\_\_

ANDY JORDAN

1-27-2022