

## EQUIPMENT RENTAL AGREEMENT

This Equipment Rental Agreement (“Rental Agreement” or “Agreement”) is entered into between Scheele Engineering Corporation (“SECOR”) and the undersigned lessee (“Customer”) effective as of the date in the signature line below.

Customer’s signature or initials on this Rental Agreement represent’s Customer’s acceptance of [SECOR’S E-Signature Policy](#), its [Terms & Conditions](#), and [Dispute Resolution policy](#), each separate writings restated and incorporated herein as set forth verbatim.

IN CONSIDERATION OF the mutual covenants, promises and terms in this Equipment Rental Agreement, in the **Rental Schedule**, and in SECOR’S Terms & Conditions, the receipt and sufficiency of which is hereby acknowledged, SECOR leases the Equipment and provides service and training ancillary to use of the leased Equipment to Customer, and Customer leases the equipment and accepts the services provided by SECOR on the following terms:

1. **Billing and Pricing**. The sums due as rental charges, freight charges, and service technician fees are set forth in the attached Rental Schedule. Invoices will be sent at approximately thirty-day intervals and at the end of the rental period. The Equipment daily rate will be billed for each day from the day of delivery until the day of return, regardless of weather conditions or other acts of God, construction delays, or the actual amount of time the equipment was used.

2. **SECOR’S Warranty Disclaimer**. THE EQUIPMENT IS LEASED **AS IS**, UNLESS OTHERWISE SPECIFICALLY STATED HEREIN. SECOR MAKES NO EXPRESS WARRANTY, AND HEREBY DISCLAIMS ANY AND ALL WARRANTIES, EXPRESS OR IMPLIED, INCLUDING WITHOUT LIMITATION, IMPLIED WARRANTIES OF MERCHANTABILITY AND IMPLIED WARRANTIES OF FITNESS FOR A PARTICULAR PURPOSE. Customer represents that it has selected the Equipment for its own purposes, it is of a capacity and design selected by Customer.

3. **Customer’s Indemnity and Risk for Third Party Claims**. Customer acknowledges the Equipment rented hereunder is in used condition, and is leased to Customer “**AS IS**.” Customer hereby indemnifies SECOR (and its officers, employees and agents) against all claims, actions, suits, or other proceeding (collectively “Proceeding”) brought or threatened against SECOR, and all costs, expenses, damages and liabilities, including attorney’s fees, professional fees and other costs, relating thereto where such Proceeding has arisen out of, results from, or is connected with Customer’s use of the Equipment. Specifically, without limiting or modifying the scope of the indemnity stated in the proceeding sentence, Customer also indemnifies, and shall defend and hold SECOR harmless, including its directors, officers, employees and agents, from all liabilities, damages, losses, claims or expenses, arising out of or in connection with (a) any willful or negligent use of the Equipment by Customer and/or any of its employees, contractors or representatives, including but not limited to any claim by a contractor, customer, or client of Customer against SECOR for an alleged negligent commercial transaction; (b) Customer’s use, sale, lease, transfer or other exploitation of any Equipment, in a manner not authorized or reasonably contemplated by this Agreement; (c) any injury or death of a person or damage to property caused by or arising out of any acts or omissions of Customer, its agents, employees, and contractors, or in connection with Equipment handled, stored, sold, applied or otherwise utilized by Customer; (d) Customer’s possession of breach of this Agreement; and (e) any failure by Customer, its employees, agents or contractors, to comply with the terms of this Agreement (including warranty process), or applicable federal, state and local laws, regulations and

guidances. Customer hereby holds SL harmless from and against any adverse third party claims, loss, cost, or expense that might result from the assertion of any secured creditor interests or UCC liens.

4. **Limitation of Liability.** SECOR's maximum liability to Customer under any theory of recovery whether in tort or in contract is the amount of rental payments actually paid by the Customer. Except as stated herein, SECOR shall not be liable to Customer for any liability, loss or damage caused directly or indirectly by the use of the Equipment. SECOR's sole obligation for defective Equipment or failure to deliver Equipment shall be abatement of rental on those days the Equipment was not operable and replacement equipment was not furnished.

5. **Insurance and Customer's Risk of Loss.**

A. **Insurance.** Customer shall, and has an affirmative obligation to, insure the Equipment. Proof of Insurance and/or a Certificate of Insurance showing SECOR as Additional Insured and Loss Payee must be presented physically or digitally to SECOR's satisfaction before the Equipment can leave SECOR's premises. Customer shall maintain such insurance for the duration of the rental and shall provide proof thereof to SECOR at any time upon request. To avoid doubt regardless of labels such as Additional Insured or Loss Payee, SECOR shall have the first right to proceeds resulting from any damage to the Equipment, and can exercise that right any time the Customer as named insured files a claim. With respect to its insurable interests, SECOR shall have the right to deal directly with Customer's insurer regardless if Customer is the primary named insured or policy owner.

B. **Customer's Risk of Loss.** Customer assumes all risk of loss, damage or theft of the Equipment during the lease term, including during loading, unloading and transport on SECOR property. Customer is responsible for providing necessary personnel and equipment to safely load and unload and transport the Equipment. Customer shall visually inspect Equipment on receipt for damage and immediately notify SECOR of any problems or damage. Thereafter, Customer shall notify SECOR within 24 hours of any problems with, damage to, or loss of the Equipment. In the event of loss or damage that is not repairable or that would cost more to repair than the market value of the Equipment, within 30 days of such loss or damage Customer will pay SECOR all unpaid rent for the term of this Agreement, plus the market value of the Equipment as of the end of the lease term.

6. **Condition of Equipment.** Customer shall keep the Equipment in good working order and shall perform routine scheduled maintenance according to manufacturer specifications. Except as necessary to perform routine scheduled maintenance, Customer shall not disassemble, repair, change, modify, or alter the equipment or accessories without first obtaining written permission from SECOR. The Equipment shall be returned at the end of the lease term in the same appearance and condition as when received except for ordinary wear and tear. Except for ordinary wear and tear, Customer shall pay SECOR's actual costs and third party charges to restore the Equipment to the condition in which it was received by Customer at the commencement of the lease term.

7. **Return of Equipment.** In addition to any other remedy allowed by law or equity, Customer will be liable for damages caused by failure to return the Equipment at the end of the lease term, or failure to return the Equipment in the condition in which it was received. Such damages include, but are not limited to, lost profits, lost revenues and lost business opportunity.

8. **Training and Instruction.** From time-to-time SECOR may furnish technical advice, training and instruction regarding use of the Equipment, however SECOR has no obligation to do so unless specifically agreed in writing. Notwithstanding any such advice, training or instruction, Customer remains solely responsible for any personal injury to Customer, its privies, or third parties, or any damage to the Equipment incurred during the lease term. Customer releases SECOR for any liability, claim or setoff related to such technical advice, training or instruction. If the parties have entered into a separate written services agreement under which SECOR has agreed to train and certify personnel in polyethylene fusion pursuant to industry standards, the terms of that services agreement will supersede this paragraph.

9. **Consequence of Customer's Non-Performance.** If the Customer fails to perform any of its obligation under this Agreement, including but not limited to, obligations to make timely payment and maintain and safeguard the equipment, or if Customer in any way interferes with SECOR's ability to perform its obligations, then in its sole discretion SECOR may terminate the Agreement and immediately take possession of the Equipment without demand or notice to Customer. Customer grants SECOR the right to enter the premises on which the Equipment is located and inspect the Equipment at anytime the Equipment is in use or during regular business hours.

10. **No Assignments.** Customer's rights to use the Equipment shall not be assigned or subleased without the prior written approval of SECOR. In the event that SECOR consents to any such assignment or subletting, Customer remains primarily liable for all obligations under this Agreement.

11. **Locale for Use.** Without prior written authorization, the Equipment shall not be removed from the continental United States of America for any reason.

12. **Dispute Resolution.** Any dispute, claim, suit, and/or proceeding arising from or relating to this Agreement is subject to [SECOR's Dispute Resolution Policy](#), which is restated and incorporated herein verbatim.

Customer  
Name: \_\_\_\_\_ Equipment: \_\_\_\_\_  
Customer  
Address: \_\_\_\_\_ Serial  
Number \_\_\_\_\_  
\_\_\_\_\_ Date Rented \_\_\_\_\_