

Customer Agreement: FROZEN DRINK MADNESS OF TEXAS INC ¹

1. Frozen Drink Madness of Texas, Inc, Lessor, hereby rents to the Lessee named above ___ item(s) as described, and is subject to all the terms and provisions contract.
2. LESSEE SHALL BE FULLY LIABLE FOR DAMAGE AND ALL OTHER LOSS. IF THE EQUIPMENT IS LOST, STOLEN, DESTROYED, OR OTHERWISE RENDERED UNFIT FOR NORMAL USAGE, LESSEE SHALL BE FULLY LIABLE FOR, AND AGREES TO PAY LESSOR, IMMEDIATELY UPON DEMAND THE FULL REPLACEMENT COST FOR SAID EQUIPMENT, TOGETHER WITH INTEREST THEREON AT THE RATE OF EIGHTEEN PERCENT (18%) PER ANNUM COMPOUNDED DAILY, UNTIL SAID SUM IS PAID IN FULL TO LESSOR, except as provided in Section 20, damage waiver.
3. Lessee shall not permit any repairs to the equipment without Lessor's consent, and the Lessee will pay any and all unauthorized charges in connection with any repairs. Lessee will pay for all repairs and replacement resulting from causes inherent in the use to which the equipment is put.
4. Neither Lessee nor any operator of the equipment shall be deemed to be an agent, servant, or employee of Lessor for any reason or for any purpose.
5. LESSEE SHALL INDEMNIFY AND HOLD LESSOR HARMLESS from all fines, penalties, forfeitures and disabilities arising from use of the rented equipment and imposed by any federal, state, county and municipal statute and law or insurance policy provision. Lessee shall be liable for all damages to the rented equipment and for all other claims if Lessee uses, or permits its operation by an operator under the influence of drugs or alcohol or in violation of criminal statutes, or is grossly negligent in operation of the equipment or otherwise violates the terms of this rental agreement.
6. Lessee shall immediately report any accident to Lessor and deliver to Lessor or its insurer, every process, pleading notice or paper of any kind received by Lessee or any operator of the equipment relating to any claim, suit or proceeding connected with any accident or event involving the equipment. Neither Lessee nor any operator of the equipment shall aid or abet the assertion of any such claim, suit or proceeding and shall cooperate fully with Lessor and its insurer in investigating and defending the same.
7. INDEMNITY: Lessee shall, to the fullest extent permissible by law, defend, indemnify and hold harmless Lessor, its employees and agents, from and against any and all losses, liabilities, damages, injuries, claims, demands, cost and expenses of every character whatsoever (including without limitation (i) demands arising from injuries or death of persons, including employees of either Lessor or Lessee, (ii) claims of or liabilities to third parties arising out of the abandonment, conversion, secretion, concealment, or unauthorized sale of the equipment by Lessee or its operator, agents, or employees or the confiscation of the equipment by any government authority for illegal or improper use of said equipment, and (iii) demands for damage to property), arising directly or indirectly, at any time, out of the obligations herein undertaken or out of or connected with the possession, maintenance or use of the equipment. The provisions of the indemnity described herein shall apply whether or not Lessor's negligence, active or passive, contributed in any way towards the alleged injury or harm and shall not be limited except to the extent that it will not apply to claims caused by the sole negligence or willful misconduct of Lessor. Lessee further agrees it will reimburse Lessor for any expenditure, including reasonable attorneys' fees, Lessor may make by reason of such and, if requested by Lessor will defend any such claims at the sole cost and expense of Lessee.
8. ASSUMPTION OF RISK: Lessee hereby assumes any and all risks of damages to Lessee and to Lessee's agents, employees and representatives, and to all others, arising out of or in any way related to this rental, and Lessee's use of the equipment and property rented pursuant hereto. Compensation benefits incurred by or claimed by Lessee's agents employees and representatives; (2) Liability insurance providing primary insurance to Lessor for defense of claims and actions arising out of or in any way related to this rental, and Lessee's use of the equipment and property rented pursuant hereto; (3) Liability insurance providing primary indemnity coverage to Lessor with limits of no less than the limit presently covering Lessee for liability of actions arising out of or in any way related to this rental, and Lessee's use of the equipment and property rented pursuant hereto. All such insurance shall be primary for all purposes, regardless of other insurance that may be available to Lessor, and shall contain a severability of interest clause. In the event that Lessee fails to comply with this provision, damages in any action by Lessor against Lessee for breach of this provision, shall include but not be limited to, the dollar amount of insurance benefits that Lessor would have received had Lessee complied with this provision.
10. LESSOR MAY DEMAND THE RETURN OF THE EQUIPMENT AT ANY TIME, and if in Lessor's judgment such demand might not be complied with, Lessor may repossess the equipment and terminate this Rental Agreement without any liability for any loss or damage which losses may be sustained as a result of such demand, termination or repossession. Lessor may assign its rights under the contract without the Lessee's consent, but will remain bound by all obligations herein. The Lessee shall not sublease, assign or loan equipment. The Lessee shall not use the equipment when in a bad state of repair or unsafe.
11. Lessee agrees that the rented equipment is in a safe and satisfactory condition; that Lessee has inspected it or has been given the opportunity to inspect it before accepting it for use. THE LESSEE ACKNOWLEDGES THAT THEY HAVE THE DUTY TO INSPECT THE EQUIPMENT PRIOR TO USE and notify the Lessor of any defects found. In the event the equipment becomes unsafe or in disrepair due to normal use, the Lessee agrees to discontinue use and notify the Lessor, who will replace the equipment with a similar one in working order as available. The Lessor is not responsible for any incidental or consequential damages whatsoever caused by delays or otherwise.
12. Lessee agrees that any misstatement herein contained or giving of false identification, address, telephone number, fictitious name, or any breach of any provision of this agreement will authorize the Lessor to, forthwith, repossess the rented equipment by use of any lawful means.
13. Neither the Lessee nor any other person operating the equipment shall leave it unattended. **Lessee is responsible for theft or damage to rented equipment under any circumstances, and has sole responsibility for proper and safe storage and protection of it while this contract is in effect.**
14. If suit is instituted by Lessor to recover possession of said equipment or to enforce any term of this agreement or to collect any sums of money, damages, or costs from Lessee herein, Lessee shall pay all costs and reasonable attorney's fees and collections costs incurred by Lessor in such suit or suits.
15. "Equipment" means rental equipment identified in this agreement along with all accessories attached thereto or contained therein, or included to make up a usable unit.
16. It is expressly understood that this is a rental contract and does not involve a purchase agreement except those miscellaneous products listed in the sale section. Title to the rented property is explicitly reserved to the Lessor.
17. THERE ARE NO WARRANTIES OF MERCHANTABILITY OR FITNESS, EITHER EXPRESSED OR IMPLIED. There is no warranty that the equipment is suited for Lessee's intended use, or that it is free from defects.
18. Failure, refusal, or neglect by the Lessee to RETURN RENTED/LEASED EQUIPMENT ON THE AGREED DATE WHEN rental period has expired, or the presenting of false or misleading identification to the Lessor shall be Prima Facie evidence of intention to commit larceny. FAILURE TO COMPLY WILL RESULT IN AN EXTRA DAY CHARGE OF \$65 A DAY PER DAY THEREAFTER UNTIL EQUIPMENT IS RETURNED.

I have had the opportunity to read the terms and conditions of this agreement. I have been instructed in the proper use and operation of all equipment delivered and will ensure that all operators receive this training. I understand these directions to my satisfaction and have had all of my questions answered.

RENTAL/LEASE TERMS: DAY/MONTHS _____ RATE _____ DELIVERY/PICK UP DATE: ___/___/___ RETURN DATE: ___/___/___

EQUIPMENT TYPE:

CHECK/CASH/VISA/MC/DSC # _____ EXP: ___/___/___ V CODE: _____

CC BILLING ADDRESS: STREET _____ CITY _____ STATE _____ ZIPCODE _____

CUSTOMER NAME OR NAME ON CARD: (PRINT) _____ DL # _____ STATE _____

SIGNATURE: _____ DATE: ___/___/___ EMAIL: _____