

RENTAL TERMS AND CONDITIONS

Lessee must check engine oil, water and fuel daily. Lessee is responsible for all tire maintenance, fuel, missing parts and all damage other than normal wear. Any damage to this Equipment resulting from improper care will be charged directly to Lessee. The lease shall extend beyond the term at the same terms if Lessee holds the Equipment over the specified term of this Agreement.

1. **Equipment Location.** The Equipment will be delivered to and used at the listed address unless otherwise approved by Lessor in writing.
2. **Tires.** All damage to tracks, tires, and tubes caused by blow-out, bruises, cuts, road hazards and other causes inherent to the use of the Equipment is the responsibility of Lessee.
3. **Theft.** Lessee is responsible for theft of the Equipment, until Lessor takes possession of the Equipment.
4. **Malfunctioning Equipment.** Should the Equipment become unsafe, malfunction or require repair, Lessee shall immediately cease using such Equipment and immediately notify Lessor. If such condition is the result of normal operation, Lessor will repair or replace the Equipment with similar Equipment in working order if such replacement Equipment is available. Lessor has no obligation to replace Equipment rendered inoperable by misuse, abuse or neglect.
5. **Past Due Accounts.** Interest on all past due amounts shall accrue at the lesser of: (a) 1.5% per month, or (b) the highest rate permitted by law.
6. **Possession/Title.** Lessee's right to possession of the Equipment terminates on the return date indicated in this Agreement or upon termination of this Agreement, whichever occurs first. Retention of possession after this date constitutes a material breach of this Agreement. Time is of the essence of this Agreement. Any extension of this Agreement must be agreed upon in writing. Title to the Equipment is and shall remain in Lessor. If the Equipment is not returned and/or is levied upon for any reason whatsoever, Lessor may terminate this Agreement without further notice, retake said items without further notice or legal process and use whatever force is reasonably necessary to do so. Lessee hereby agrees to indemnify, defend, and hold Lessor harmless from any and all claims and costs arising from such retaking. If Equipment is levied upon, Lessee shall notify Lessor immediately.
7. **Receipt/Inspection of Equipment.** Lessee hires the Equipment on an "AS IS" basis. Lessee acknowledges that it has personally inspected the Equipment prior to its leaving Lessor (regardless of point of delivery) and finds it suitable for its needs. Lessee acknowledges receipt of all items listed in this Agreement in good working order and repair and that it understands its proper operation and use without further instructions regarding operation and use from Lessor. Lessee acknowledges that it has had an opportunity to inspect all hitches, bolts, safety chains, hauling tongues and other devices and materials used to connect the Equipment to Lessee's vehicle, if any, and Lessee declares that it has received the Equipment in a secure and operative condition. Lessee shall, whenever requested, advise Lessor of the exact location of the Equipment.
8. **Equipment Data.** The Equipment may be equipped with telematics hardware and software ("Telematics") that transmit data to Lessor, the Equipment manufacturer, or the Equipment manufacturer's other dealers. Lessee agrees that Lessor, the Equipment manufacturer, and the Equipment manufacturer's other dealers (and their affiliates, successors and assigns), without further notice to Lessee have the right to: (i) access, use, collect and disclose any data generated by, collected by, or stored in, the Equipment or any hardware or devices interfacing with the Equipment ("Machine Data"); (ii) access Machine Data directly through data reporting devices integrated within, or attached to, the Equipment, including Telematics ("Data Reporting Systems"); and (iii) update the Data Reporting Systems software from time to time. Machine Data may be transferred out of the country where it is generated. In the event that the Machine Data includes Lessee's personal information, Lessee hereby consents to the collection, use and disclosure of such personal information, to permit Lessor, the Equipment manufacturer, and the Equipment manufacturer's other dealers to access and use the Machine Data as set forth herein. Lessee warrants that it has obtained any necessary consent from its employees or any other third parties, including with respect to the transfer of Machine Data to other jurisdictions, to comply with any applicable privacy laws or contractual agreements with such employees or third parties and to permit Lessor, the Equipment manufacturer, and the Equipment manufacturer's other dealers to access and use the Machine Data as set forth herein. Lessee shall not use the Data Reporting Systems to track the location of any person unless Lessee has first obtained any necessary approvals from such person to permit Lessee, Lessor, the Equipment manufacturer, and the Equipment manufacturer's other dealers to track such location. Lessee shall not remove, modify or disable any Data Reporting Systems without Lessor's prior written consent.
9. **Solvency.** Lessee represents to Lessor that Lessee is not insolvent and should it become insolvent, that it will return all Equipment to Lessor immediately.
10. **Rental Period/Rate/Payment.** Rental period is for a maximum of 24 hours unless a longer term is specified in the "return date." Rental charges begin immediately upon delivery of the Equipment to the location directed by the Lessee or upon Equipment leaving Lessor, whichever happens first. Rental charges end upon return of the Equipment to Lessor in an acceptable condition. If the Equipment is returned prior to the end of the minimum rental period, the rental due shall be for the entire designated rental period. Lessor may terminate or cancel rental at any time and retake the Equipment without further notice in case of violation by Lessee of any terms or conditions of this Agreement. Lessee agrees to pay any collection costs and attorneys' fees incurred in relation to any matter arising under this Agreement, including trials, appeals and bankruptcy proceedings. Rental rates are based upon single shift usage. Overtime usage is determined by service meter hour readings. If Lessee makes greater use of the Equipment, it is agreed that the additional usage will be charged.
11. **Ordinary Wear and Tear.** "Ordinary wear and tear" shall mean only the normal deterioration of the Equipment caused by ordinary, reasonable and proper use of the Equipment on a one-shift basis. Damage which is not "ordinary wear and tear" includes but is not limited to: damage resulting from lack of fuel or lubrication, failure to maintain proper oil, water, hydraulic or air pressure levels, damage due to

overturning, overloading or exceeding a rated capacity; improper use; abuse; lack of cleaning; tire or track damages. Lessee shall be responsible for all damage not caused from ordinary wear and tear.

12. **Compliance with Laws/Use of Equipment.** Lessee agrees not to use or allow anyone to use the Equipment for any illegal purpose or in any illegal manner. Lessee acknowledges that Lessor has no physical control over the use of the Equipment. Lessee agrees at its sole cost and expense to comply with all municipal, county, state and federal laws, ordinances and regulations (including OSHA) which may apply to the use of the Equipment during the rental period. **IF AERIAL EQUIPMENT, LESSEE MUST COMPLY WITH CURRENT ANSI USER REQUIREMENTS FOR SUCH EQUIPMENT.** Lessee further agrees to pay all licenses, fees, permits or taxes arising from his use of the Equipment, including any subsequently determined to be due as a result of an audit. Lessee shall not permit Equipment to be operated by any person other than Lessee or Lessee's duly authorized employee, who has experience and training in the safe and proper use and operation of the Equipment, and is not under the influence of alcohol, intoxicants, narcotics or drugs. If Equipment is a motor vehicle, Lessee warrants and agrees that Equipment will not be operated or used by any person who has been convicted of a major traffic violation (excluding parking violations) including but not limited to careless or reckless driving, or driving while under the influence of alcohol, drugs or other intoxicants within the prior three years. Lessee shall not allow any person to use or operate the Equipment when it is in need of repair or when it is in an unsafe condition or situation; modify, misuse, harm or abuse the Equipment; permit any repairs to the Equipment without Lessor's written permission; or allow a lien to be placed upon the Equipment. Lessee agrees to check filters, oil, fluid levels, and air pressure and clean and visually inspect the Equipment at least daily and to discontinue use and immediately notify Lessor when Equipment is found to need repair or maintenance. Lessee acknowledges that Lessor has no responsibility to inspect the Equipment while it is in Lessee's possession. If the Equipment becomes unsafe or requires repair, Lessee shall discontinue using it and notify Lessor immediately.
13. **Contamination-Free Return of Equipment.** Lessee agrees to return the Equipment to Lessor during regular business hours on the "return date" or immediately upon termination or cancellation of this Agreement, whichever occurs first. Lessee agrees to return Equipment free of contamination by Hazardous Substances (as defined by state and federal laws) and agrees that the cost of any cleaning and decontamination caused by Lessee's failure to do so will be Lessee's responsibility. Lessee must inform Lessor if the Equipment has been in contact with Hazardous Substances.
14. **Sole Remedy.** Lessee's sole remedy for any failure of or defect in the Equipment shall be termination of the rental charges at the time of failure, provided that Lessee notifies Lessor immediately of such failure and returns the Equipment to Lessor within 24 hours of such failure. Lessor shall not be liable for damages of any kind, including special, incidental or consequential damages.
15. **Purchase Orders.** Any use of Lessee's purchase order number in or on this Agreement is for Lessee's convenience in identification only.
16. **Location of Equipment.** Lessee shall not move Equipment from the address at which Lessee represented it was to be used.
17. **Default.** Should Lessee in any way fail to observe or comply with any provision of this Agreement, Lessor may, at its sole option, exercise any and all of the following remedies: (a) termination of this Agreement, (b) retake the Equipment, (c) declare any outstanding rent and charges due and payable and initiate legal process to recover the monies, (d) pursue any other remedies available to Lessor under law. Exercise of any remedy available to Lessor shall not constitute an election of remedies or a waiver of any additional remedies to which Lessor may be entitled.
18. **Retaking of Equipment.** If for any reason it becomes necessary for Lessor to retake the Equipment, permission is granted to Lessor to enter upon property, including tribal lands, and retake the Equipment without further notice.
19. **Accidents and Indemnification.** For and in additional consideration of providing the Equipment, Lessee agrees to defend, indemnify and hold harmless Lessor, its assigns, the wholesale distributor, or the manufacturer, its affiliated companies, and its and their officers, agents and employees for, from and against all loss, liability, claim, action or expense, including reasonable attorneys' fees, arising out of Lessee's use or possession of the Equipment. The foregoing includes, without limitation, property damage and bodily injury, including death, sustained by any person or persons, including, but not limited to, employees of Lessee, arising out of the maintenance, use, possession, operation, erection, dismantling, servicing or transportation of the Equipment or Lessee's failure to comply with the terms of this Agreement, except to the extent caused solely by the gross negligence or the intentional wrongful act of Lessor.
20. **Insurance and Loss Damage Waiver.** Lessee will, at all times during the term of this Agreement, maintain general and auto liability coverages in amounts that may be required from time to time by Lessor, of not less than \$1,000,000. Lessee shall provide a certificate evidencing such insurance with Lessor named as an additional insured and if providing physical damage coverage for Equipment, Lessor should also be named as loss payee. If Lessee requests, or if Lessee fails to provide adequate proof of physical damage insurance, Lessee will be provided with and charged for loss damage waiver (LDW). If Lessee does not want to be provided with LDW, it must maintain contractor's equipment physical damage coverage for rented Equipment in an amount equal to the replacement value of the Equipment. LDW is a service offered by Lessor to cover repair charges for accidental damage and does not relieve Lessee from responsibility for damage to the Equipment caused by gross negligence, abuse or other willful misconduct. **LESSEE WILL REMAIN RESPONSIBLE FOR THE FIRST \$1,000 PER INCIDENT OF ANY LOSSES TO THE EQUIPMENT, NORMAL WEAR AND TEAR EXCEPTED.** The charge for LDW will appear as a separate line item in the invoice and is not insurance.
21. **Venue, Sovereign Immunity and Jury Trial Waiver.** Lessee agrees that jurisdiction and venue for the litigation of any disputes arising under this Agreement shall be in the applicable state or federal court in the county in which Lessor is located. This agreement shall be governed by the laws of the United States and the laws of the state in which this Agreement was entered. Lessee waives its sovereign immunity to any legal action, arbitration, or other proceeding brought to enforce this Agreement or resolve any dispute and further waives its sovereign immunity as to the enforcement of any judgment or award resulting therefrom. **LESSOR AND LESSEE HEREBY**

EXPRESSLY WAIVE ANY RIGHT TO TRIAL BY JURY OF ANY CLAIM ARISING OUT OF OR CONNECTED IN ANY WAY WITH THIS AGREEMENT.

22. **Notice of Non-Waiver/Severability.** No failure of Lessor to insist upon strict performance by Lessee as regards to any provision of this Agreement shall be interpreted as a waiver of Lessor's right to demand strict compliance with all other provisions of this Agreement against Lessee or any other person. The provisions of this Agreement shall be severable so that unenforceability, invalidity or waiver of any provision shall not affect any other provision.
23. **Assignment and Subordination.** Lessee agrees that Lessor may assign this Agreement and all right, title and interest of Lessor in and to the Equipment, and all sums due or to become due to Lessor hereunder (of which assignment Lessee hereby waives notice), and Lessee agrees to recognize such assignment. Lessee's obligations to pay rent under this Agreement will not as to any such assignee be subject to any diminution arising out of any breach of any obligation hereunder or other liability of Lessor to Lessee. Lessee may not assign this Agreement. This Agreement is subordinate and subject to any lease with a manufacturer or financial institution, and their interest therein, providing the Equipment to Lessor.
24. **Entire Agreement.** Except as otherwise indicated in writing executed by both Lessor and Lessee, this Agreement constitutes the sole and entire existing agreement between Lessor and Lessee in respect of the Equipment. If any other document is issued by Lessee in connection with the transactions contemplated hereby, any additional terms contained therein shall not become a part of the agreement between Lessor and Lessee and the terms and conditions herein shall supersede any inconsistent terms in any such document.

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