

GENERAL CONDITIONS

The conditions here below stated together with the agreement set forth above, constitute between the parties therein named, the contract which is hereinafter referred to as This Agreement.

1. **PARTIES.** Unless the contrary intention appears, the words "Lessors" and "Lessee" shall mean respectively "Lessors and their successors and/or assigns" and "Lessee, his, their or its heirs, executors, administrators, successors, and/or permitted assigns", and if there are more than one Lessee or the Lessee is a person whether female or male, this lease shall be read all grammatical changes appropriate by reason thereof, and all covenants and liabilities and obligations shall be joint and several.
2. **TITLE AND OWNERSHIP.** The title ownership right of property and right of possession to the equipment shall at all times remain in and be vested in the Lessor at the Lessor's risk and shall not be reason of being upon or attached to any land, building or erection whatsoever become or be a fixture or part of or appurtenant to any realty and shall at all times be severable therefrom and shall be and remain at all times the property of the Lessor, free of any claim by the Lessee and every other person or corporation whatsoever. The Lessee shall immediately notify the landlord or proprietor of the premises on which the equipment is located by the Lessee and that the same is the property of the Lessor and not subject to any lien for any rent due or to become due by the Lessee for the premises. The Lessee shall give the Lessor immediate notice in case any equipment is levied upon or from any cause becomes liable to seizure.
3. **RENTAL.** The rental period shall commence from the date hereinbefore covered by this agreement and shall continue for the period stated herein and until such equipment is returned to the Lessor's yard or such other point as the Lessor shall in writing or in text message direct.
4. **EXTENSION OF AGREEMENT.** If this agreement should be extended for a longer period of time, such extension shall be agreed to in writing, including a text message, by both parties and all items of this agreement except the clause relating to the period of time shall continue to be binding. If the extension shall be for a fraction of the 4 week period, week or day mention in the said agreement, the amount of rent payable shall be pro-rated on the basis of such period.
5. **DETERMINATION OF RENTAL CHARGES.** The lessee shall pay rent for the entire rental period of each piece of equipment named in this agreement at the rate therein stipulated and in accordance with the following:
 - a. (i) 4 week period rental rate shall not be subject to any deductions on account of any non-working time in the 4 weeks but the 4 weeks rental rate is for a minimum rental period of 4 weeks (ie. 4 weeks commences from the date of the commencement of the rental period and runs up to but not including the same date in the next 4 week period)
 - (ii) A weekly rental rate shall not be subject to any deductions on account of any non-working time in the week, but a weekly rental rate is for a minimum rental period of one week. (ie. One week commences from the date of the commencement of the rental period and runs up to but not including the same day in the next following week.)
 - (iii) A daily rental rate shall not be subject to deduction for non-working time in the day and a daily rental rate is for a rental period of 24 consecutive hours, or for any lesser number of hours within the 24 consecutive hourly period.
 - b. (i) 4 week period rental rates are computed on 160 hours or less 4 weeks. Any use of the equipment over the 160 hours during a rental period of 4 weeks shall be reported to the Lessor by the Lessee and the rental for the additional number of hours shall be pro-rated upon the said 4 weeks rental.
 - (ii) Weekly rental rates are computed on a 40 hour or less week. Any use of the equipment over the 40 hours during a rental period of a week shall be reported to the Lessor by the Lessee and the rental for the additional number of hours shall be pro-rated upon the said weekly rental.
 - (iii) Daily rental rates are computed on an 8 hour or less day. Any use of the equipment over the 8 hours during a rental period of a day shall be reported to the Lessor by the Lessee and the rental for the additional number of hours shall be pro-rated upon the said daily rental.
 - c. Upon the expiration of the rental period, as provided for in the agreement the equipment not having been returned in accordance with the conditions of this agreement, the amount of rent payable thereafter shall be pro-rated upon the basis of the rental rate for which the equipment was initially rented, for each day, week or 4 weeks as the case may be that the equipment is retained by the Lessee, but this shall not be deemed to be a renewal of the rental period nor shall it prejudice the Lessor's privilege to demand the return of the equipment at the expiration of this agreement.
 - d. Any equipment requiring fuel will be delivered to Lessee with a full fuel tank and this said equipment shall be returned to Lessor with a full fuel tank. If the tank requires filling upon its return, then a fuel charge will be added to the rental charge(s).
6. **PAYMENT.** The rentals due under this agreement whether being 4 weeks, weekly or daily, shall be paid within 14 days of "Date Sent Out" date as stated on invoice. **The Lessee shall pay a damage/rental deposit equal to 25%-50% of the total rent expected to be paid for the initial rental period.** This payment is payable before the delivery of the equipment to the Lessee or the Lessee's Agent or Carrier. The Lessor reserves the right to receive the full rental payment in advance. All overdue payments shall bear interest of 2% per month - 24% per annum, over 14 days from the "Date Sent Out" as stated on the invoice without prejudice to the Lessor's rights and in particular without prejudice to the Lessor's right hereinafter stipulated to terminate this agreement for non-payment of rental.
7. **LOADING, UNLOADING and TRANSPORTATION.** The equipment is F.O.B the Lessor's warehouse or yard and any expense incurred by the Lessor in transporting, loading or unloading at the time of delivery or of return by the Lessee, will be charged separately to the Lessee and shall be due and payable forthwith. The Lessee shall pay all shipping expenses from the original point of shipment to his receiving point and all return shipment expenses to the Lessor's yard or such other point as the Lessor shall in writing direct; but if the Lessee is directed in writing by the Lessor to return the equipment to a place other than the Lessor's yard then the Lessee shall pay the shipping expenses up to but not beyond the amount which would have been required to return the said equipment to the Lessor's yard.
8. **RECALLING and RETURNING EQUIPMENT.** The Lessor reserves the right to remove the equipment from the job at any time when, in the Lessor's opinion the equipment is in danger because of strikes, vandalism or any other hazardous condition.
9. **INSPECTION.** Before the equipment is loaded for transit by the Lessee or is unloaded from a Carrier to the Lessee, the Lessee may inspect the said equipment for any defects/damages and such be noted on rental agreement. If the Lessee does not inspect the said equipment before it is loaded for transit or unloaded, then the Lessee is conclusively deemed to have accepted that the equipment is in good running order, without broken or worn out parts and in a clean and unmarred condition. The Lessor shall have the right at any time, and from time to time, to enter the premises occupied by the equipment and shall be given free access thereto and afforded the necessary facilities for the purpose of inspection.
10. **DAMAGE TO EQUIPMENT.** The Lessee shall be liable to the Lessor for all loss or damage to the equipment while it is in the possession of the Lessee. Subject to the provisions of clause 9 hereof.
11. **MAINTENANCE, OPERATION and REPAIRS.** All equipment will be delivered with a full tank of fuel and upon its return The Lessee shall use the equipment for the purpose for which it is intended and operate it according to the manufacturers' instructions and fill out Lessor's daily inspection/maintenance list (separate manuals provided with each said equipment). Lessee shall exert reasonable caution at all times. The Lessee shall not remove, alter, disfigure or cover up any numbering, lettering or insignia displayed upon the equipment and shall see that the equipment is not subject to careless or needlessly rough usage. The Lessee shall at his own expense operate, maintain and keep in good repair the equipment rented. Specifically, the Lessee must:
 - (a) Supply all fuel and lubricants necessary to operate the equipment as set out in the Manufacturer's instructions.
 - (b) Execute all repairs necessary to keep the equipment in good running order.
 - (c) Replace all broken or worn parts and use only genuine repair parts produced by the Manufacturers of the equipment or its components.
12. **CONDITION OF RETURNED EQUIPMENT.** The equipment shall be returned to the Lessor by the Lessee in good repair, clean and unmarred and in good operating condition and in substantially the same condition as when received. Ordinary wear and tear expected; and if otherwise the Lessee shall pay the Lessor at its regular custom shop rates and prices for labour and material for cleaning and or painting and or repairing to return it to that condition and these charges shall be due and payable forthwith. In this respect it is especially agreed that breakage of glass, damage to tires or other running gear, such as would require replacement or repair or other damage throughout the equipment due to collision, fire, willful damage, acts of God or any other cause are not to be considered ordinary wear and tear. It is further agreed that the Lessor shall be the sole judge in respect of the provisions of this section.
13. **SUPPLYING OPERATORS.** Unless otherwise mutually agreed in writing, the Lessee shall supply and pay all operators employed on the equipment during the rental period and only qualified competent personnel shall be used to perform their respective duties. Should the Lessor by agreement furnish any operators each shall receive from the Lessee such wages, travelling expenses, board and lodging as the Lessor may agree in writing. Further the Lessee shall provide and pay for all Workmen's Compensation assessments and/or insurance and such taxes required by law.
14. **LIABILITY OF LESSEE.** The liability for injury, disability and/or death of workmen and other persons caused by the operation, handling or transportation of the equipment during the rental period or while same is in the possession or control of the Lessee, shall be that of the Lessee and he shall indemnify and save harmless the Lessor against all loss, expense, damages and/or penalty or penalties which may arise out of any action for damages to property or person or persons occasioned by the operation, handling or transportation of the equipment during the rental period or while same is in the possession or control of the Lessee.
15. **INSURANCE.** The Lessee shall at his own expense maintain public liability and property damage insurance to protect the Lessee and the Lessor against damage to property or persons from the operation, handling or transportation of the said equipment during the rental period or while the same is in the possession or control of the Lessee, in addition, the Lessee shall insure the equipment to its full insurable value in favour of the Lessor for loss or damage. The Lessee shall also provide such other insurance as may be requested by the Lessor. The Lessee shall pay for loss of equipment caused by breakage through ice where such hazards exists, and shall pay for the marine insurance on marine equipment. Upon the Lessee's failure to maintain the aforesaid insurance the Lessor, at its option, may insure the equipment as aforesaid and charge the premium to the Lessee and the amount thereof shall be payable on demand together with interest on any overdue amount.
16. **REMOVAL FROM MANITOBA.** The Lessee shall not remove the equipment from the Province of Manitoba without the consent of the Lessor in writing.
17. **SUBLETTING.** The equipment shall not be sublet or loaned by the Lessee, nor shall he assign or transfer any interest in this agreement without the consent in writing of the Lessor.
18. **LEGAL EXPENSES.** The Lessee will pay all costs, charges and expenses, including reasonable Solicitors' account incurred in re-taking possession of the equipment hereby rented or in the collection of any sums which may be due and owing to the Lessor by the Lessee, including the defense of any action brought against the Lessor for damages caused by the Lessor's equipment to any person while such equipment is in the possession of the Lessee. The said equipment shall be deemed to be in the possession of the Lessee for all purposes of this agreement from the time it is loaded for transit to the Lessee until time that the said equipment has been returned by the Lessee to the Lessor's yard or such other point as the Lessor shall direct. All questions, disputes and cause of action arising out of this agreement shall be deemed to have arisen in the Province of Manitoba and any litigation between the said parties arising out of and by virtue of this agreement and the equipment covered thereby shall be tried at the Court of Queen's Bench in the province of Manitoba.
19. **TERMINATION OF AGREEMENT.** Should the Lessee fall in arrears in making payment in accordance with the terms of this agreement or become bankrupt or make an assignment or fail to maintain and/or operate or to return this equipment as provided by this agreement or substantially violate any provision thereof, the Lessor may after three days notice in writing thereof take possession of the equipment wherever it may be found, without becoming liable for damage for trespass and recover all rental due, together with any damages for injury and repairs to the equipment and all expenses incurred in returning and repossessing the equipment.
20. **WAIVER.** The Lessor shall have power to waive any default arising hereunder upon such term and conditions as the Lessor may deem advisable and provided, however, that no act or omission of the Lessor shall extend to or be taken in any manner whatsoever to affect any subsequent default or the rights resulting therefrom.
21. **ENUREMENT AND BENEFIT.** It is further agreed and declared that these presents shall extend to and be binding upon, and enure to the benefit of the parties hereto, their heirs, executors, administrators, successors and assigns respectively as limited in this lease and shall be interpreted according to the laws of the Province of Manitoba.
22. **This agreement covers the entire contract between the parties hereto, and the Lessor shall not be responsible or liable in any way for or in respect of any undertaking, representation or warranty of any kind whatsoever leading up to or in respect of this agreement or the equipment given orally or otherwise which is not set out herein and the Lessee agrees accordingly and without limitation to the foregoing.**
23. **TIME.** Time shall be in every respect of the essence hereof.

