

TERMS AND CONDITIONS

Kaiser Rental LLC, a Colorado limited liability company (“Lessor”), rents to Lessee the equipment described on the Rental Agreement (the “Equipment”) subject to the provisions herein. “Lessee” refers to the Customer listed on the Rental Agreement and any other person, entity, or organization to whom charges are to be billed, all of whom shall be jointly and severally liable hereunder. “Rental Agreement” means the Rental Agreement to which these Terms and Conditions are attached. The Rental Agreement and these Terms and Conditions are collectively referred to as the “Agreement”. This Agreement governs any quotations, order confirmations and all transactions between Lessor and the Lessee and no additional or different terms and conditions will apply to a quotation, order confirmation or sale or be binding upon Lessor. Lessor objects to any proposal or agreement provided by Lessee that includes different or additional terms that vary from this Agreement, and any such proposal or agreement is disallowed and shall be of no effect. Lessee specifically waives any terms or conditions additional to or different from this Agreement by ordering or accepting the Equipment.

1. OWNERSHIP - The Equipment is the property of Lessor. Lessee acquires no ownership, title, property, right, equity or interest in the Equipment other than its leasehold interest solely as Lessee subject to all the terms and conditions of this Agreement. This Agreement does not include an option for Lessee to purchase the Equipment. Lessor has no obligation to sell the Equipment to Lessee, but in the event that it chooses to do so, the terms of such sale will be covered by separate documents. The parties intend that this Agreement constitute a true lease under applicable law.

2. EQUIPMENT INSPECTION AND RETURN – Lessee shall examine the Equipment upon pick up or delivery, as applicable, and promptly notify Lessor of any defects or concerns with the Equipment. If no such defects or concerns are noted, the Equipment shall be deemed to be in good condition. The Equipment is to be returned to the nearest Kaiser location at the end of the rental term unless otherwise agreed by both parties in writing. Lessee will be responsible for the cost of the return transport. Lessee shall cause the Equipment returned to be (i) clean, and free and clear of any debris or trash, and (ii) in the same condition as when received, excepting ordinary wear and tear. Any Equipment returned with debris will be charged a minimum \$2,500 to cover a dump and cleaning fee. If material is contaminated or otherwise not accepted at disposal site (such as hazardous or unknown material), the associated costs (and any additional costs to dispose of such material) will be paid by the customer at the rate charged plus transportation and cleaning fees. Unless this Agreement is accompanied by a separate tire or track wear agreement, Lessee will be responsible and charged for cuts, tears, punctures, bruises and separation of tires or unusual wear or damage to tracks. An inspection of the Equipment will be conducted upon return and in the presence of the Lessee, documented with the inspection report and correlating photographs. In the event the Lessee is not present for the inspection, Lessee agrees that the findings of the completed report are true and accurate and will be charged for the cost to repair or replace any damaged or missing components.

3. PAYMENT & BILLING TERMS – In consideration of Lessee's right to possess and use the Equipment during the lease term, Lessee shall pay Lessor the applicable rent specified in the Rental Agreement. This is a net lease and Lessee is responsible for paying all taxes, insurance, maintenance, and other costs

associated with the Equipment. Such expenses may include, without limitation, service, transportation, highway and bridge tolls, refueling, sales and use taxes, expenses and other charges and expenses, all of which shall be paid when due to a third party or upon invoice by Lessor. Lessee shall also pay all shipping, loading, unloading, assembly and dismantling expenses. The stipulated rental rate entitles Lessee to use of the Equipment equal to 50 hours/week, 200 hours/month of operation as determined by engine hours. Excess usage will be invoiced separately with payment due upon receipt of invoice at a rate reasonably determined by Lessor. All amounts due under this Agreement are payable in advance and must be received at the start of each new monthly rental billing period based on the Rental Start Date listed on the Rental Agreement unless otherwise specified in writing. In addition, payment for the initial month shall be due upon execution of the Agreement. Unless otherwise stated in the Agreement, any additional amounts owed under this Agreement that are not determinable at the start of a billing period will be due upon receipt of an invoice from Lessor.

4. SECURITY DEPOSIT – As security for the prompt and full payment of rent, and the faithful and timely performance of all provisions of this Agreement, and any extensions or renewals thereof, Lessee shall pledge and deposit with Lessor the security amount set forth in the Rental Agreement (the “Security Deposit”). In the event any default shall be made in the performance of any of Lessee’s obligations under this Agreement, or in the event that Lessee is late in paying any amounts owed to Lessor under this Agreement, Lessor shall have the right, but shall not be obligated, to apply the Security Deposit to the curing of such default. Within 15 days after Lessor notifies Lessee that Lessor has applied any portion of the Security Deposit to the curing of any default, Lessee shall restore the Security Deposit to the full amount set forth in the Rental Agreement upon completion of Equipment inspection and associated repairs resulting from the Equipment inspection. On the expiration or earlier termination of this Agreement, or any extension or renewal thereof, provided Lessee has paid all of the rent and other amounts herein called for and fully performed all other provisions of this Agreement, Lessor will return to Lessee any then remaining balance of the Security Deposit without interest. The Security Deposit may be commingled with Lessor’s other funds.

5. EQUIPMENT USE - Equipment shall be used solely in Lessee’s business, and only within its rated capacity by competent, trained employees of Lessee and in a safe and careful manner. Equipment shall not be used: (i) to carry persons for hire; (ii) to carry persons other than drivers or employees of Lessee (and these shall only be carried within the cab and only if such carriage is lawful); (iii) to transport property for hire unless Lessee obtains all necessary permits and licenses, at its sole expense; (iv) in violation of any law or ordinance or in any speed contest; or (v) for the carrying or hauling of explosives or other hazardous material. If Equipment is used in violation of this Agreement, or is obtained from Lessor by fraud or misrepresentation, or if used in furtherance of any illegal purpose, all such use of Equipment is without Lessor’s permission and is a material breach of this Agreement. Lessee is responsible for any damage to, or caused by, the Equipment.

6. MAINTENANCE AND REPAIRS – Lessee, at its expense, shall maintain, service, and repair the Equipment and keep the Equipment in good, serviceable, and operable condition, free of broken, damaged, or missing parts, suitable for the commercial use originally intended. This shall include, without limitation, performing, or having performed, maintenance service on the Equipment, replacing engine oil and filters every three hundred (300) hours, or as otherwise stated in the manual provided with the Equipment, and providing all service suggested by the Lessor or manufacturer of the Equipment. Lessee shall perform, at its own expense and in accordance with any supplied service and operation manuals, all

normal service, maintenance, and adjustments and lubrication of the Equipment before each use of the Equipment, including but not limited to the scheduled maintenance items in the manual provided with the Equipment plus checking and maintaining proper levels in crank case, transmissions, final drives, elevator gear box, radiator, tire pressure and batteries. Lessee shall be responsible for supplying a copy all service records covering the full duration of the lease term to the Lessor. All maintenance, service, and repair of any Equipment and any part thereof shall be done to standards and with parts of like kind and at least equal quality to items being maintained, serviced, or repaired; will be consistent with standard industry practice for similar equipment, Lessee's maintenance practices for its other similar equipment, and applicable insurance requirements; and will be in compliance with applicable laws and regulations. Lessee understands that upon return of the Equipment to Lessor and upon Lessor or any approved service partner receiving the Equipment for maintenance, the Equipment will be checked in, and inspected. If documented proof of normal service has not been provided by Lessee, appropriate service will be performed at Lessor's discretion and related costs will be invoiced to Lessee. If Equipment fails to operate properly or if it needs repair, Lessee shall cease using the Equipment immediately, notify Lessor and obtain the necessary repairs unless otherwise directed by Lessor. Any peripheral devices used to monitor performance, movement and equipment status must remain on the Equipment and in operation at all times during the term of the agreement.

7. PARTS –

(a) If during the term hereof the Equipment or any part thereof is lost, stolen, damaged beyond repair, or otherwise permanently rendered unfit for use, Lessee, at its sole expense, shall promptly replace or repair, or cause to be replaced or repaired, such part. Lessee shall cause the Equipment after the replacement or repair to be in as good an operating condition as, and have a value, remaining useful life, and utility at least equal to the value, remaining useful life, and utility of the Equipment before the replacement or repair (assuming the Equipment to have been in the condition required by the terms of Agreement).

(b) If Lessee incorporates or installs any part in or attaches any part to the Equipment, including without limitation any replacement or addition under Section 7(a), then such part shall, without further act or any cost to Lessor, be deemed part of the Equipment to the same extent as though originally incorporated or installed in or attached to the Equipment, and title to such part title shall vest in Lessor.

8. PROPER PERMITS, LICENSES - Any and all state or local permits for state or county road use, waste pickup or disposal, or any other use is the responsibility of the Lessee. Any modifications or additions to the Equipment required by any governmental entity shall be promptly made by Lessee, at its sole expense, after obtaining written approval to modify the Equipment from the Lessor. All Department of Transportation registration identification and placarding are the sole responsibility of the Lessee.

9. LAWS; REGULATIONS - Lessee shall, at its sole expense, comply with all local, state and federal laws and regulations affecting the Equipment and its use, operation, erection, dismantling and transportation, including all federal, state and local Department of Transportation regulations, licensing and building code requirements and shall defend, indemnify and hold harmless Lessor from all loss, liability or expense resulting from actual or asserted violations of such laws, requirements or regulations by Lessee.

10. FINANCIAL STATEMENTS – Lessee represents and warrants that it has, and will have throughout the term of this Agreement, the financial ability to make the payments required by, and to comply with all other obligations under, this Agreement. During the term of the Agreement, Lessee shall furnish Lessor, upon request, copies of Lessee’s financial statements and any other financial information reasonably requested by Lessor.

11. TERM – Unless earlier terminated as set forth below, this Agreement will terminate on the date set forth in the Rental Agreement unless extended by written agreement of the Lessor and Lessee.

12. TERMINATION –

(a) **TERMINATION FOR CAUSE** - If Lessee fails to make any payment when due, materially breaches this Agreement, attempts to sell or encumber the Equipment, ceases operation, institutes or has instituted against it proceedings under bankruptcy or insolvency law, makes an assignment for the benefit of creditors, or fails to comply with any other provision of this Agreement; or if any attachment, execution, writ or process is levied against the Equipment or any of Lessee’s property; or if for any reason Lessor deems itself insecure or the Equipment unsafe, Lessee agrees to deliver the Equipment to Lessor on demand and Lessor may enter on any job, building or place where the Equipment is located and take possession thereof, upon notice to Lessee, and at the option of Lessor, this Agreement shall thereupon terminate. In the event of any such action, Lessee agrees to pay all rentals and other amounts due under this Agreement, damages for any injury to the Equipment by Lessee, costs of removal from the Lessee’s possession and all transportation charges incurred by Lessor. If collection or legal action is required to enforce Lessee’s obligations hereunder, Lessee agrees to pay the cost thereof, including all collections costs and/or attorneys’ fees.

(b) **TERMINATION FOR CONVENIENCE**– Either party may immediately terminate this Agreement upon written notice. Lessee remains responsible for any and all charges incurred under this Agreement until such time as Lessor has received the Equipment, Lessee responsibilities have been met related to condition and any required repairs, maintenance or missing items, plus any and all payments have been received by Lessor in full. Lessor will notify Lessee when all conditions have been satisfied and Lessee is released from the Agreement. Notwithstanding the foregoing, all terms of the Agreement that should survive termination of the Agreement will so survive.

13. INSURANCE – Lessee, at its sole expense, shall provide and maintain in force during the time this Agreement is in effect, insurance policies in at least the amounts listed below, covering the Equipment from time of delivery to Lessee until return to Lessor. Said insurance shall be written by an insurance company or companies of adequate financial responsibility acceptable to Lessor, insuring Lessee against any loss, damage, claims, suits, actions or liability, caused by or occasioned by or arising from any use of the Equipment by or negligence of Lessee or any of Lessee’s agents, servants, visitors, licensees or employees during the lease term. The insurance shall by endorsement, name Lessor as an additional insured and loss payee. Such endorsement or endorsements shall provide in each case that said insurance company or companies shall give to Lessor at least thirty (30) days’ notice in writing of proposed cancellation, modification, or alteration of any said insurance.

Type	Amount	
Commercial General Liability	\$1,000,000	per occurrence, with general aggregate of \$2,000,000
Products-Completed Operations Aggregate	\$2,000,000	
Automobile Liability	\$1,000,000	
Excess/Umbrella Liability	\$1,000,000	each occurrence
Workers Comp/Employers Liability		
E.L. Each Accident	\$500,000	
E.L. Disease-EA Employee	\$500,000	
E.L. Disease-Policy Limit	\$500,000	
Inland Marine	\$250,000	per occurrence

Lessee shall also keep the Equipment insured for its total present value against any loss or damage through accident, fire, weather condition, theft or malicious destruction and any other insurable risks. Lessee shall furnish Lessor with evidence of insurance acceptable to Lessor. Policies covering the aforementioned fire and theft and collision insurance shall bear endorsements to the effect that proceeds thereof shall be payable to Lessor and/or Lessee as their interests may appear. Lessee shall, on demand, furnish Lessor a certificate of such insurance which may not be canceled or materially modified except on twenty (20) days prior written notice to Lessor during this Agreement. Lessee agrees to abide by the provisions of said policy and to notify Lessor and the insurer of any accident or occurrence involving the Equipment immediately by telephone and thereafter to promptly report to Lessor in writing all information relevant thereto. Lessee, its agents, and employees, shall cooperate fully with Lessor and insurer in the investigation, prosecution and or defense of any claim or suit and shall do nothing to impair or invalidate the applicable insurance coverage. Lessor's acceptance of Lessee's certificate(s) of insurance shall not be a waiver of Lessee's insurance obligations hereunder.

14. RENTAL CONTRACT - This is a rental contract only and Lessee may not assign, sublease, or delegate any of its rights or obligations under this Agreement, or the Equipment, without the written consent of Lessor, which may be withheld in Lessor's sole discretion. Any purported assignment, sublease, or delegation in violation of this paragraph is null and void. No permitted assignment or sublease shall relieve Lessee of its obligations under this Agreement and Lessee shall remain primarily liable under this Agreement for the performance of all of the terms hereof. Lessee is not an agent or employee of Lessor for any purpose. Lessee shall not suffer any liens or encumbrances to attach to Equipment and shall defend, indemnify and hold Lessor harmless from all loss, liability and expense by reason thereof. Use of Equipment by others than Lessee (or its employees) must be approved in writing in advance by Lessor and shall be at Lessee's sole risk. Lessor shall not be liable for loss or damage to any property left, stored, loaded or transported by Lessee or any other person in or upon the Equipment at any time during the rental term or while Equipment is in the physical possession of Lessee. Lessee hereby assumes all risk of such loss or damage, and from and against all loss, liability and expense (i) caused or arising out of Lessee's failure to comply with the terms of the Agreement or Lessee's negligence or willful misconduct; or (ii) to the extent required by this Agreement.

15. RECOVERY - Lessor shall have the right to issue and circulate theft notices; cause warrants to be issued for the taking into custody of Lessee or its agents, partners or employees, and/or take any other steps which Lessor shall reasonably deem necessary to recover Equipment if it is not returned at the time specified herein, or sooner as permitted by the terms of this Agreement.

16. INTEREST - Any amounts not paid in accordance with the terms of this Agreement will accrue interest at the rate of 18% per annum, or the maximum amount permitted by state or federal law.

17. REFUELING - Lessee agrees to return equipment with the same amount of fuel documented at the time Lessee received the Equipment, otherwise Lessee will be charged for refueling upon return.

18. CARTAGE - If Lessor arranges transportation of Equipment on behalf of Lessee, Lessor is not responsible in any way for delays in arrival / pick up dates or times.

19. LOSS - In the event of loss, theft or damage to Equipment, Lessee agrees to notify Lessor immediately by telephone, and thereafter to promptly report in writing to Lessor and the public authorities (where required by law or by Lessor) all information relating thereto. Lessee shall cause its agents and employees to give Lessor and the public authorities' proper and full information and assistance in the investigation and prosecution of any matter resulting from said loss, theft or damage.

20. WARRANTY DISCLAIMER – NOTWITHSTANDING ANYTHING HEREIN TO THE CONTRARY, THE EQUIPMENT IS PROVIDED “AS IS” AND LESSOR MAKES NO WARRANTY WHATSOEVER, INCLUDING BUT NOT LIMITED TO ANY (A) IMPLIED WARRANTY OF MERCHANTABILITY; OR (B) ANY IMPLIED WARRANTY OF FITNESS FOR A PARTICULAR PURPOSE; WHETHER ARISING BY LAW, COURSE OF DEALING, COURSE OF PERFORMANCE, USAGE OF TRADE OR OTHERWISE.

21. LIMITATION OF LIABILITY - TO THE MAXIMUM EXTENT PERMITTED BY LAW, LESSOR SHALL NOT BE LIABLE FOR ANY SPECIAL, INCIDENTAL, DIRECT, PUNITIVE, INDIRECT, CONSEQUENTIAL OR OTHER DAMAGES OF ANY KIND, UNDER ANY THEORY OF LIABILITY (WHETHER IN CONTRACT OR TORT, INCLUDING BUT NOT LIMITED TO, NEGLIGENCE OR OTHERWISE) ARISING OUT OF OR RELATED TO LESSEE'S USE OF THE EQUIPMENT, OR A DELAY OR INABILITY TO USE THE EQUIPMENT, INCLUDING WITHOUT LIMITATION DAMAGES DUE TO LOST PROFITS, BUSINESS INTERRUPTION, LOSS OF DATA OR DAMAGE TO SYSTEMS, EVEN IF LESSOR HAS BEEN EXPRESSLY ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. TO THE EXTENT PERMITTED UNDER APPLICABLE LAW, IN NO EVENT SHALL LESSOR'S AGGREGATE LIABILITY ARISING OUT OF OR RELATED TO THIS AGREEMENT, WHETHER ARISING OUT OF OR RELATED TO BREACH OF CONTRACT, TORT (INCLUDING NEGLIGENCE) OR OTHERWISE, EXCEED \$100,000.00. Any failure of performance by Lessor which is due to causes beyond Lessor's control, including but not limited to acts of civil or military authority, Acts of God, labor difficulties, failure of transportation, pandemic, epidemic, and delays of supplies is not deemed to be a default by Lessor.

22. INDEMNITY - Lessee shall indemnify and hold Lessor harmless from any and all claims, liability, loss, damage, cost, expense, fee, fine or penalty (including, without limitation, attorneys' fees), regardless of whether the same is also indemnified against by any other person, which Lessor in any way incurs arising from or in connection with (i) this Agreement, (ii) the delivery, possession, use, operation or return of any Equipment, (iii) any condition relating to any Equipment delivered to the possession of Lessee REGARDLESS OF HOW OR WHEN THE CONDITION ARISES AND REGARDLESS OF WHETHER IT ARISES OUT OF ANY ACT, OMISSION OR NEGLIGENCE OF LESSOR, (iv) Lessee's negligence or willful misconduct, (v) any other matter relating to any Equipment after the term of this Agreement to the extent such matter arises from a condition that arose or a modification, addition or change that was made during the term of this Agreement or any extension hereof or at any other time when the Equipment was in the possession or under the control of Lessee, or (vi) Lessee's breach of this Agreement. Lessee's obligation to indemnify

and hold harmless does not extend to any claims, liability, loss, damage, cost, expense, fee, fine or penalty that arise solely out of the gross negligence or willful misconduct of Lessor.

23. SECURITY INTEREST - The parties intend and agree that if this Agreement is recharacterized under applicable law as a secured financing or a lease intended for security, this Agreement shall be deemed a security agreement and the lease provided herein shall be deemed to grant Lessor by Lessee a lien on and first priority security interest in the Equipment and all proceeds thereof, to secure the payment of Lessee's obligations under this Agreement. Lessor and Lessee each agree to execute, acknowledge, deliver, file, and record, or cause to be executed, acknowledged, delivered, filed, and recorded such further documents (including without limitation UCC financing statements), and to do all such things and acts, necessary to ensure that such security interest would be a perfected first priority security interest under applicable Law. Without limiting the foregoing, Lessee expressly authorizes Lessor to file a financing statement with the appropriate governmental authority to perfect this security interest.

24. COMPLETE AGREEMENT - This instrument expresses the entire agreement between the parties. Lessee's execution of this instrument and or acceptance of delivery of any part or Equipment to be furnished hereunder will constitute Lessee's acceptance of the provisions contained herein and the exclusion of any terms and conditions otherwise stated by Lessee or contained in Lessee's purchase documents which conflict with or limit the provisions contained herein.

25. NOTICES – All notices, demands and other communications to be sent by one party to the other under the Agreement shall be in writing and shall be deemed to have been validly made, given, served and received if given or served by delivery in person to the addressee, or if sent by electronic transmission with delivery verification (as applicable), or three (3) days after deposit in the United States mail, postage prepaid, registered or certified mail, return receipt requested, addressed, if to Lessor at _____, and if to Lessee, at the address specified in the Rental Agreement (as each may be updated from time to time upon notice to the other party in accordance with this section addressed to the then applicable notice address of the other party).

26. MISCELLANEOUS - Lessor's failure to enforce any provision of this Agreement will not be construed as a waiver of such provision nor affect the validity of this Agreement or any part thereof, or Lessor's right to enforce any provision thereafter. Each provision of this Agreement is severable and if any provision will be finally determined to be invalid, illegal, or unenforceable in any jurisdiction, the remaining provisions will not be affected thereby. No amendment, waiver, modification of this Agreement shall be valid unless in writing signed by both parties. In the event any suit or other action is commenced to construe or enforce any provision of this Agreement, the prevailing party shall be awarded reasonable attorneys' fees and court costs, in addition to all other relief to which such party shall be entitled. Lessor's rights under this Agreement are in addition to, and not in lieu of, any other remedies available at law or in equity. This Agreement will be governed by and subject to the laws of the state of Colorado (including, without limitation, its Uniform Commercial Code) without regard to conflict of law principles. The District Court of the City and County of Denver, State of Colorado, shall have exclusive jurisdiction, including in personam jurisdiction, and shall be the exclusive venue for any and all controversies and claims arising out of or relating to this Agreement. This Agreement may be executed in counterparts with the same force and effect as though all signatures appeared on one original document.

I have read, understand, and agree to all the terms and conditions specified in this Agreement (including the Rental Agreement and the Terms and Conditions).