

- **Definitions.** "Equipment" means any one or more of the items identified as such on the first page of this agreement and shall include any accessories, attachments or other similar items delivered to Customer, such as but not limited to air hoses, electric cords, blades, fuel tanks, nozzles and other similar items "Customer" means the person or entity identified as such on the first page of this agreement, including any representative, agent, officer or employee.
- **Authority to Sign.** Any individual signing this contract represents and warrants that he or she is of legal age and has the authority and power to sign this rental agreement for the Customer.
- **Disclaimer of Warranties.** RENTAL SERVICES OF TEXAS make no warranties, express or implied that the equipment is suited for customer's intended use or that it is free from defects except as may be specifically set forth in this rental agreement. Rental Services of Texas disclaims all other warranties, either express or implied, made in connection with this rental transaction.
- **Indemnity/Hold Harmless/Damages.** Customer acknowledges and assumes all risks inherent in the operation and use of the equipment by the customer and will take all necessary precaution to protect all persons and property from injury or damage while in possession of the equipment. RENTAL SERVICES OF TEXAS shall not be responsible to customer or any other party for any loss, damage or injury(including any loss of profits, business interruption or other special or consequential damage) caused by, resulting from, or in any way connected with the equipment, its operation or use, or any defect with respect thereto. Customer agrees to defend, indemnify and hold RENTAL SERVICES OF TEXAS harmless from and against any and all liability, claims and damages of any kind (including attorney's fees) or injuries or death to persons and damage to property arising out of the use, maintenance, instruction, operation, possession, ownership or rental of the equipment, however caused.
- **Receipt and Inspection of Equipment.** Customer acknowledges that customer has inspected equipment prior to taking possession thereof, finds it in good working order and repair and suitable for customer's needs. Customer is familiar with the proper operation and use of each item of equipment, RENTAL SERVICES OF TEXAS is not responsible for any damage to customer's towing vehicle caused by detachable hitches or mirrors.
- **Use of Equipment.** Customer will not use or allow anyone to use the equipment (a) for any illegal purpose or in any illegal manner, (b) without a license, if required under any applicable laws or (c) who is not qualified to operate it. Customer agrees to operate equipment abiding all regulations including OSHA which may apply to the use of specified equipment. Customer agrees to check filters, oil, fluid levels, tire pressure, clean and visually inspect the equipment daily to immediately notify RENTAL SERVICES OF TEXAS when equipment needs repair or maintenance. Customer acknowledges that RENTAL SERVICES OF TEXAS has no responsibility to inspect the equipment while it is in the customers possession.
- **Malfunctioning Equipment.** Should the equipment become unsafe, malfunction or require repair, Customer should immediately cease using such equipment and notify RENTAL SERVICES OF TEXAS. If such condition is the result of normal operation, RENTAL SERVICES OF TEXAS, will repair or replace with similar equipment if available. RENTAL SERVICES OF TEXAS have no obligation to replace equipment rendered inoperable by misuse, abuse or neglect. Customer's sole remedy for any failure or defect in equipment shall be the termination of any rental charges accruing after the time of failure. The equipment must be returned to RENTAL SERVICES OF TEXAS in order to terminate rental charges.
- **Return of Equipment, Damage & Lost Equipment.** At the expiration of the term, the customer will return the equipment to RENTAL SERVICES OF TEXAS during regular business hours, such equipment to be in the condition and repair as when delivered to customer, subject to reasonable wear and tear, as defined below. Customer shall be liable for all damages to or loss of the equipment, including any damage during transit to or from customer. In the case of the loss or destruction of any equipment or inability or failure to return same to Rental Services of Texas for any reason whatsoever, customer will pay RENTAL SERVICES OF TEXAS, THE FULL replacement list value TOGETHER WITH THE FULL RENTAL RATE AS SPECIFIED UNTIL SUCH EQUIPMENT IS REPLACED. If RENTAL SERVICES OF TEXAS has agreed to deliver the equipment to customer or to pick up the equipment from customer, customer shall be responsible for all loss or damage to the equipment from the time of delivery to customer until picked up by RENTAL SERVICES OF TEXAS. If the

equipment is returned in a damage or excessively worn condition, customer shall pay RENTAL SERVICES OF TEXAS the reasonable cost of repair and pay rental on the equipment at the regular rental rate until all repairs have been completed. RENTAL SERVICES OF TEXAS shall be under no obligation to commence repair work until customer has paid the estimated cost thereof.

- **Reasonable Wear and Tear.** Reasonable wear and tear of the equipment shall mean only the normal deterioration of the equipment caused by ordinary and reasonable use on the one shift (8 hours per day, 40 hours per week and 160 hours per 4 weeks) basis. The following shall NOT be deemed reasonable wear and tear: (a) damage resulting from lack of lubrication or maintenance of necessary oil, water and air pressure levels; (b) except where RENTAL SERVICES OF TEXAS expressly assumes the obligation to service or maintain the equipment, any damage resulting from lack of servicing or preventive maintenance suggested in the manufacturer's operation manual; (c) damage resulting from any collision, overturning or improper operation, including overloading or exceeding the rated capacity of the equipment; (d) damage in the nature of dents, bending, tearing and misaligning of the equipment or any part thereof; (e) wear resulting from use in excess of shifts for which rented; and (f) any other damage to the equipment which is not considered ordinary and reasonable in the equipment rental industry. Repairs to the equipment shall be made to the reasonable satisfaction of RENTAL SERVICES OF TEXAS and in a manner which will not adversely affect the operation manufacture's design or value of the equipment.
- **Late Return.** If not timely returned, in addition to the rental rates set forth in this agreement, customer agrees to pay an additional charge of 1/8<sup>th</sup> of the daily rate for each hour the equipment is retained beyond the expiration of the rental period.
- **Rental Period and Calculation of Charges.** Rental charges commence when the equipment leaves RENTAL SERVICES OF TEXAS location and end when the equipment is returned thereto. Rental charges accrue during Saturdays, Sundays and holidays. RENTAL RATES ARE FOR NORMAL USAGE BASED ON AN 8 HOUR DAY, 40 HOUR WEEK AND 160 HOUR 4 WEEK PERIOD. On power equipment, operations in excess of one shift will be at RENTAL SERVICES OF TEXAS standard premium rates.
- **Deposit.** In addition to securing the payment of rental charges hereunder, customer agrees that any rental deposit shall be deemed to be a guaranty by customer of the full and complete performance of each and all the terms, and in the event of any breach by customer said deposit shall be credited against any damages or expense incurred by RENTAL SERVICES OF TEXAS as a result of such breach.
- **Tire/Tube Repair or Replacement.** Repair or replacement of tires and tubes is the responsibility of the customer and is not included in the rental rate.
- **Default.** Should customer in any way fail to keep any provision of the rental agreement, RENTAL SERVICES OF TEXAS may do any of the following: (a) terminate this agreement, (b) declare the entire rent immediately due and payable and commence legal action thereof, (c) retake possession of equipment, holding the customer liable for all rental and other charges, or (d) pursue any other remedies available by law.
- **Repossession of Equipment.** In the event of any actual or anticipatory breach by customer, RENTAL SERVICES OF TEXAS employees or agents may without notice or legal process, go upon customer's property and take all action reasonably necessary to repossess the equipment. Customer waives all claims for damages and losses caused thereby and shall pay all costs and expense incurred by RENTAL SERVICES OF TEXAS in retaking the equipment.
- **Loss Damage Waiver.** Proof of insurance must be provided showing Rental Services of Texas, LLC (RST) as Loss Payee. In the event insurance coverage is not provided prior to delivery of taking possession of equipment, Customer agrees to purchase Loss Damage Waiver (LDW). The LDW charge will be 12% of the gross rental charge. Customer is not entitled to any refund or credit of LDW charges invoiced or paid. If LDW is paid, Customer will not be responsible for loss or damage, other than exclusions noted below, to the Equipment above \$3500 per incident/ event. LOSS DAMAGE WAIVER IS NOT INSURANCE.

#### **LDW Exclusions that will not be covered:**

- If Customer fails to give notice of the loss, theft, damage or destruction of the equipment to Rentals Services of Texas, LLC within 24 hours of the incident/ event occurring;

- Lost equipment not reported by CUSTOMER to police within 24 hours of discovery, and substantiated by a written police report that is promptly delivered to RST. Notwithstanding anything to the contrary in the LDW, if lost equipment is later recovered, RST retains ownership of the equipment regardless of any payments made by Customer or Customer's insurance company with respect to such equipment, all of which payments are non-refundable. Customer SHALL cooperate with RST on all claims and documents required at customers cost;
- If Customer fails to cooperate with RST in investigating the incident/event;
- Damage resulting from negligent transport;
- Damage from willful and reckless conduct;
- Tire damage is NOT covered by LDW;
- **Customer's Insurance Coverage.** Customer agrees to maintain and carry, at Customer's sole cost, the following insurance:
  - Commercial auto liability insurance with at least a per occurrence limit of \$1 million.
  - Commercial general liability insurance (providing coverage equal to or greater than the standard ISO CG 00 01 12 04 form) with limits of insurance not less than \$1 million per occurrence and \$2 million in the aggregate.
  - Property insurance for the full replacement cost of the Equipment, including coverage for all risks of loss or damage to the Equipment.
  - Customer shall obtain insurance policies that provide, or are endorsed to provide, that all insurance required hereunder is primary and non-contributory to any other insurance maintained by Rental Services of Texas.
  - Rental Services of Texas shall be named as an additional insured for liability insurance and, if applicable, additional loss payee for property insurance. Any deductibles or self-insured retentions shall be the sole responsibility of the Customer. All insurance required by the Agreement shall include a waiver of rights of recovery against Rental Services of Texas or its insurers by the Customer and its insurers, as well as a waiver of subrogation against Rental Services of Texas or its insurers. The policies required hereunder shall provide that Rental Services of Texas must receive not less than 90 days' notice prior to any cancellation.
- **Entire Agreement.** This written agreement represents the entire agreement between the customer and RENTAL SERVICES OF TEXAS. There are no oral or other representations not included herein.
- **Other Provisions.** Any failure of RENTAL SERVICES OF TEXAS to insist upon strict performance by customer of any terms and conditions of this agreement shall not be construed as a waiver of RENTAL SERVICES OF TEXAS'S right to demand strict compliance. Customer has carefully reviewed this agreement and waives any principle of law which would construe any provision hereof against RENTAL SERVICES OF TEXAS and the draftsman of this agreement. Customer agrees to pay all reasonable costs of collection, court attorneys' fees and other expense incurred by RENTAL SERVICES OF TEXAS in the collection of any charges due under this rental agreement or in connection with the enforcement of its terms.

The federal and state courts in Harris County shall have exclusive jurisdiction over all matters relating to the agreement. Trial by jury is waived. Services of process may be affected by certified mail, return receipt requested.

**RENTAL EQUIPMENT IS PROVIDED CLEAN AND WITH A FULL FUEL TANK AND SHOULD BE RETURNED THE SAME. A refuel service fee and/or wash fee will be charged upon return if these conditions are not met.**

**CRIMINAL WARNING: THE USE OF FALSE IDENTIFICATION TO OBTAIN EQUIPMENT OR THE FAILURE TO RETURN THE EQUIPMENT BY THE DATE DUE MAY BE CONSIDERED A THEFT SUBJECT TO CRIMINAL PROSECUTION PURSUANT TO APPLICABLE CRIMINAL OR PENAL CODE PROVISIONS.**