

## RENTAL POLICY / TERMS AND CONDITIONS – EQUIPGO RENTALS

For good and valuable consideration, you, and Rentin' & Flippin' LLC, a Tennessee limited liability company, d/b/a "EQUIPGO RENTALS" (also referred to herein as "EGR," "Lessor," "we," "us" and "our") agree as follows:

**1. Definitions:** As used herein, "P.1" refers to the first page or "face" of this Contract; "Contract" refers to P.1 together with these Rental Policies / Terms and Conditions; "Rented Item(s)" or "Item(s)" means the item(s) provided (rented or if specifically set forth on P.1, sold) to you, as identified on P.1 (including any "Instructions" and/or safety devices provided per Section [or §] 5 below); "Site" means the address set forth on P.1 where the Item(s) is/are to be delivered and/or used; and "Customer," "Lessee," "you" and "your" mean the "Renter," "Customer," "Lessee" and/or "Guarantor" (as applicable) identified on P.1.

**2. Terms:** You agree to rent from EGR the Rented Item(s) for the period(s) specified on P.1 (the "Term"), to pay us our stated rental rate(s) (the "Rent"), together with all other charges accruing hereunder, without proration, reduction or setoff, and to remain liable for all loss, theft, injuries and damages of, to, or associated with such Item(s), until all Item(s) is/are returned to and accepted by EGR in the return condition required under this Contract. Unless otherwise specifically agreed by EGR in writing, all rental rates are for normal use of the Rented Item(s) on a single-shift basis during the Term, not exceeding 8 hours per 24-hour period for which Rent is charged hereunder (each, a "Rental Day"), 40 hours per week, 160 hours per 28-days (zero hours for any and all unchanged-for periods), and in accordance with the terms of this Contract. Additional Rent at our highest incremental rate will be charged for late returns and overuse. Lessee agrees to pay all taxes, fines, fees, assessments, and other charges as applicable (including all sales, use, fuel, and other taxes), related to each Item and/or the transactions contemplated in this Contract allowable or required under Tennessee Law. See Tenn. Code Ann. § 67-6-201 et seq. and its/their successor(s), if any, for details. You will not be entitled to any cancellation right or reduction of Rent or other amounts coming due hereunder to account for time in transit, Act(s) of God, event(s) of *force majeure* or any other period(s) of nonuse. We have estimated the Rent based on your estimate of the length of the Term (the "Estimated Rent"). Unless otherwise agreed by EGR in writing, you agree: (a) to pay us the Estimated Rent specified on P.1 in advance of the Term (the "Prepayment"), and all other amounts coming due hereunder upon demand; and (b) that: (i) we may deduct any amount(s) you owe us from any Prepayment; (ii) no interest will accrue on any Prepayment; (iii) no Prepayment will be deemed a limit of your liability to us; and (iv) all Prepayments are **NON-REFUNDABLE**. All amounts due hereunder but not timely paid will bear interest at the lesser of 18% per annum or the highest rate permitted under applicable law. You authorize us to charge all amounts coming due hereunder to any debit and/or credit card(s) you provide (up to 150% of the new replacement cost of the Item(s)). You agree to pay us the maximum lawful charge for any check you write which is returned unpaid. Our maximum liability in connection with this Contract is limited to the amount(s) actually paid by you and received by us hereunder for the Item(s) identified on P.1.

**3. Delivery and Retrieval:** If we agree to deliver and/or retrieve any Rented Item(s), you shall: (a) ensure the Site is reasonably clean, safe, secure and fit for delivery and use of the Item(s); (b) pay our regular charge(s) therefor, and for all waiting time; (c) be present at the Site at the agreed time(s); and (d) ensure our personnel have full access to the Site. We will not be responsible for delay(s) caused by any acts or omissions of/by you, your agents, employees or contractors, or any other parties, including without limitation, providers of other equipment or services ("Other Providers") for which you agree to indemnify, defend, and hold harmless EGR, its agents, employees, and contractors. If you are not present upon delivery or retrieval of any Item(s), you agree to accept the statements of our representatives and/or delivery personnel regarding the same (including status, condition, quality, utility, defects, and quantities of or with respect to the Item(s) and the Site). Anything remaining with, in or on any Rented Item(s) upon return will, at our option, be deemed abandoned.

**4. Title:** EGR owns and will retain title to all Rented Items at all times. You will have exclusive control over the Rented Item(s) during the Term, subject to your obligation to always fully and timely comply with this Contract. You SHALL NOT: (a) permit the taking or existence of any lien, claim, security interest or encumbrance on any Rented Item(s); (b) have any title or ownership interest in or with respect to any Rented Item(s); or (c) loan, share, transfer, sublease, store, surrender or assign any Rented Item(s) or this Contract, without our prior written consent (in our sole and absolute discretion). EGR may substitute Rented Item(s) and/or sell or assign all or any part of its interests in one or more Rented Item(s) and/or this Contract, in which event, you will attorn to the assignee, who will not be responsible for any pre-existing obligations or liabilities of EGR.

**5. Instructions:** Upon the earlier of your receipt, or the delivery to the Site, of the Rented Item(s), unless you thereupon reject it/them, you represent, warrant, acknowledge and agree that: (a) each Item: (i) is complete and in good order, condition and repair, fully charged and/or fueled (as applicable); (ii) is appropriate for your purposes and in all ways acceptable to you; and (iii) was selected (not based on any recommendation by us), carefully examined, counted and tested by you or your agent(s); and (b) you: (i) have carefully reviewed and fully understand all laws, rules, regulations, training, instructions, user manuals, maintenance requirements, and other information, if any, including all EPA, OSHA, MSHA, ASME, IBC, IFC, IEEE, UL, ASSP, DOT, FMCSA, IFTA, ANSI and other standards, applicable to the Item(s) (collectively, "Instructions"); (ii) will fully comply therewith (including Tier 4, Silica Dust, Ventilation, charging, fueling, cleaning, voltage, AWP Training and Familiarization, and site assessment requirements); (iii) have been made aware of the need to use all applicable personal protective equipment and safety devices (including, without limitation, FALL AND RESPIRATORY PROTECTION); (iv) will use each Item only for its intended purpose, in a reasonable and safe manner; (v) will timely give all applicable notice(s) to, and obtain all applicable licenses, authorizations, permits and approvals from, all affected parties, including (without limitation) governmental authorities, utilities, cable companies and the owner(s) of the Site, and ensure that all underground lines, cables and conduits are clearly and properly marked before using any Item(s) to disturb the ground surface (Call 811 and go to [www.Call811.com](http://www.Call811.com) at least 3 full working days in advance); and (vi) will ensure that all others comply with this Contract at all times. You shall not, nor shall you permit anyone else to: (i) use any handheld communication device while operating any Rented Item(s); (ii) use any Rented Item while under the influence of any intoxicant(s) (including without limitation, cannabis, cannabinoids, and alcohol, whether or not legal or medicinal); (iii) abuse, misuse, overuse, conceal, store with any third party, repair, modify or damage any Rented Item(s); (iv) violate any instruction, insurance policy or warranty; (v) expose Items to any flammable, explosive, harmful or hazardous substances/circumstances; (vi) disable, misuse or circumvent any safety equipment or device(s) in, on or with any Item(s); or (vii) take possession of or exercise control over any Rented Item(s) without our prior written consent (granted, conditioned, or withheld in our sole and absolute discretion). You agree to notify the authorities and EGR in the event of any theft or accident involving any Rented Item(s), and EGR if any of the above requirements is/are breached or proven incorrect.

**6. Equipment Return:** You agree to protect, properly maintain and care for the Rented Items, keep them safely and securely stored and locked when not in use, and return the Rented Items to us on time at the end of the Term, complete (with all original batteries, cords, attachments and peripherals), clean, free of contamination (including without limitation, asbestos, beryllium, silica and pathogens), in good order, condition and repair, properly serviced and maintained, and if applicable, fully charged and/or full of the appropriate fuel, fluids and lubricants. If you fail to do so, in addition to any other amounts specified on P.1, you will promptly pay us Rent at our highest incremental rate(s) until all such Item(s) have been returned or replaced **as required**, and all costs and expenses we may incur in connection with such failure.

**7. NO WARRANTIES: EGR IS NOT THE MANUFACTURER OR DESIGNER OF ANY RENTED ITEM(S). ALL OF WHICH ARE PROVIDED "AS-IS." EGR MAKES NO WARRANTY(IES), EXPRESS OR IMPLIED (INCLUDING ANY AND ALL WARRANTY(IES) OF MERCHANTABILITY, SUITABILITY, FITNESS FOR A PARTICULAR PURPOSE, FUNCTION, DESIGN, QUALITY, CAPACITY, FREEDOM FROM DEFECTS AND GOOD AND WORKMANLIKE PERFORMANCE, or any warranty(ies) arising from course of dealing, performance and/or usage of trade) regarding any Item(s) or Service(s) provided by or at the direction of EGR. EGR makes no warranty against INTERFERENCE OR INFRINGEMENT, all of which warranties you hereby waive. NO DESCRIPTIONS, SPECIFICATIONS OR ADVERTISEMENTS CONSTITUTE REPRESENTATIONS OR WARRANTIES BY EGR. THERE ARE NO WARRANTIES WHICH EXTEND BEYOND THE DESCRIPTION ON THE FACE HEREOF.**

**8. Malfunctions:** You agree to immediately cease using any Item that is damaged, breaks down, or proves defective (a "Malfunction"), in which event you will promptly notify, and return the Malfunctioning Item(s) to, EGR. Provided the Malfunction did not result from or in connection with any wrongful or negligent act or omission of/by you or anyone you permit to use or otherwise deal with any Rented Item(s), and/or your breach of any provision of this Contract, EGR will, at its option: (i) repair the Malfunctioning Item; (ii) provide you with a comparable Item; or (iii) solely with respect to the Malfunctioning Item, return the unused portion of the Rent and cancel this Contract. The foregoing remedies are EXCLUSIVE. EGR shall have no other obligation(s) regarding Malfunctions, all of which you waive, together with all incidental, consequential, special, exemplary, and punitive damages.

**9. WARNINGS: THE RENTED ITEM(S) CAN BE DANGEROUS. YOU AGREE TO ENSURE THAT RENTED ITEMS ARE FUELED, CHARGED, SERVICED, MAINTAINED, REPAIRED, AND USED WITH EXTREME CARE,**

LESSEE ACKNOWLEDGES THAT A LARGE-PRINT VERSION OF THESE TERMS AND CONDITIONS HAS BEEN MADE AVAILABLE TO LESSEE

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**ONLY FOR THEIR INTENDED PURPOSE(S), AND ONLY BY PROPERLY QUALIFIED, INSTRUCTED, TRAINED, FAMILIARIZED, AND (IF APPLICABLE) LICENSED, ADULT USERS, OPERATORS AND OCCUPANTS. YOU SHALL PROVIDE ALL APPLICABLE FAMILIARIZATION, TRAINING, INSTRUCTIONS AND WARNINGS TO ALL USERS AND ENSURE THAT EACH RENTED ITEM IS OPERATED AND OCCUPIED SAFELY AND ONLY WITHIN ITS RATED CAPACITY, UNLESS OTHERWISE SPECIFICALLY AGREED IN WRITING BY EGR, AT THE SITE, AND IN FULL COMPLIANCE WITH THIS CONTRACT, THE INSTRUCTIONS, AND ALL APPLICABLE WARRANTIES AND INSURANCE POLICIES, AT ALL TIMES.**

**10. INDEMNITY: TO THE MAXIMUM EXTENT PERMITTED UNDER APPLICABLE LAW, YOU: (A) ASSUME ALL RISK OF PERSONAL AND BODILY INJURY, ELECTRIC SHOCK, ILLNESS, PRODUCTS LIABILITY, LOSS, THEFT, DAMAGE, AND CONTAMINATION OF, TO, AND/OR ARISING IN CONNECTION WITH, THE ITEM(S) AND/OR SERVICE(S) REFERENCED IN THIS CONTRACT, INCLUDING ALL LIABILITIES, CLAIMS, DAMAGES, LOSSES, COSTS AND EXPENSES ARISING FROM AND/OR IN CONNECTION WITH THE SELECTION, PROVISION, INSPECTION, DESIGN, MANUFACTURE, FUELING, CHARGING, USE, LOADING, UNLOADING, TRANSPORTATION, DEMONSTRATION, INSTALLATION, CLEANING, STORAGE, SERVICING, MAINTENANCE, REPAIR, DELIVERY AND/OR RETRIEVAL OF SUCH ITEM(S) AND/OR SERVICE(S), WHETHER OR NOT YOUR FAULT (COLLECTIVELY, "RISKS"); (B) RELEASE AND DISCHARGE, AND AGREE TO INDEMNIFY, DEFEND AND HOLD HARMLESS, EGR, its respective parents, affiliates and subsidiaries, and their respective owners, shareholders, members, managers, officers, directors, agents, employees, insurers, subrogees, representatives, successors and assigns (each, an "Indemnitee"), for, from and against all such RISKS, as well as all other liabilities, claims, damages, losses, costs and expenses arising from and/or in connection with the Item(s), this Contract, our negligence, and/or your breach of any one or more of the terms hereof (and except only as provided in § 8), (C) WAIVE all rights, remedies and defenses available under the Uniform Commercial Code, as well as all direct, indirect, incidental, consequential, general, special, exemplary and punitive damages, against each Indemnitee.**

**11. Insurance:** You agree to maintain all insurance we may require, including: (a) liability insurance with minimum limits of \$1,000,000 per occurrence; (b) property damage/inland marine insurance covering all Items for the full (new) replacement cost thereof; (c) workers' compensation insurance; and (d) for all vehicles and trailers included with or in the Rented Item(s): (i) hired auto liability insurance with minimum limits of \$1,000,000; (ii) hired auto physical damage insurance for actual cash value; and (iii) replacement cost contents insurance for all contents thereof. Such policies shall, whenever possible: (A) name EGR as an additional insured and loss payee; (B) waive subrogation against us; (C) be primary and non-contributory; and (D) include a severability of interests clause and such other provisions (including deductibles) as we may require. You irrevocably appoint EGR as your agent and attorney-in-fact for purposes of submitting, negotiating, and settling claims on all such policies.

**12. Limited Damage Waiver:** If and only if, we have offered, and you have paid for our **OPTIONAL LIMITED DAMAGE WAIVER ("LDW")** (set forth on P.1, if available) in advance of the Term, you will have no liability to us for the first \$2500 of repair/replacement costs for physical damage to Item(s) covered by LDW ("Covered Item(s)"); provided that you will remain fully liable for: (a) all loss of and damage to: (i) Item(s) not covered by LDW; (ii) Covered Item(s) lost or damaged during transportation and/or as a result of: (A) any breach of this Contract by you or your agents, employees, sublessees, transferees, borrowers, successors and/or assigns; (B) theft, mysterious disappearance, or other failure to timely return Covered Item(s) to us; (C) negligence, misuse and/or abuse of Rented Item(s) (including submerging, overturning, striking overhead objects, and overloading); (ii) GPS and telematics systems, data, batteries, keys, glass, tires, tubes, tracks, booms, belts, chains, and knobs; and (b) all repair/replacement costs exceeding \$2500 in the aggregate across all Covered Item(s). You may decline LDW ONLY if you provide the insurance referenced in § 11. Your insurance (if any) will continue to apply and will remain primary. LDW IS NOT INSURANCE OR A WARRANTY AND IS NON-REFUNDABLE.

**13. Force Majeure:** To the maximum extent permitted under applicable law, you grant to EGR a lien on all real and personal property placed in, on, and/or improved with, any Rented Item(s). We may, without notice or liability to you or any Guarantor, monitor and/or inspect, in person and/or electronically (including via Telematics/GPS systems) Rented Item(s) at any time. You consent thereto and agree that all information thereby obtained will be EGR's property. If any performance required of EGR shall be delayed, impaired or made more costly as a result of any act or omission of/by you, any Other Provider(s) or any "Act of God," events of *force majeure* (including without limitation, fire, flood, storm, earthquake, tsunami, slide, subsidence, collapse, riot, war, violence, threat, theft, terrorism, cyber-attack, supplier delay, strike, shutdown, power surge or outage, epidemic, pandemic, and/or governmental and regulatory actions) or other events, facts or circumstances beyond our reasonable control, we will be excused from such performance. You waive all statutes of limitations regarding our rights and remedies.

**14. Defaults/Remedies:** This is a "net" rental. Your duties hereunder are unconditional. If you or any Guarantor shall: (a) fail to fully and timely honor, pay, perform or comply with this Contract and/or any of your obligations arising hereunder or in connection herewith; (b) provide any incorrect or misleading information to us; (c) become insolvent; or (d) die or cease conducting business, or if any Rented Item(s) shall be lost or, except to the extent covered by LDW per § 12, damaged, you will be in **DEFAULT** under this Contract, whereupon, EGR may with or without legal process or notice (and without liability to you or any Guarantor), to the maximum extent permitted under applicable law: (i) cancel the Term and/or the subject Contract(s) (and/or your rights to use and possess the Rented Item(s)); (ii) seek relief from stay; (iii) recover, empty, lock, restrict and/or disable any Item(s) without being guilty of breach, trespass or wrongful interference, or liable for any injuries or property damage, including without limitation, any and all damage to crops, flora and/or fauna (for which you will indemnify, defend and hold harmless each Indemnitee); (iv) perform your obligations hereunder on your behalf, without being obligated to do so; (v) purchase replacement item(s); (vi) recover from you and/or any Guarantor our associated damages, losses, costs and expenses (including without limitation, Rent for the balance of the scheduled Term, overtime, the cost of replacement item(s), loss of use, interest, attorneys' fees, collection costs, and if civil fraud has occurred, punitive damages for civil fraud); and/or pursue any other rights and/or remedies available hereunder, at law and/or in equity, all of which shall be cumulative. See Tenn. Code Ann. §§ 47-2A-504 and 29-39-104 and its/their successor(s) for details. Lessee acknowledges that in case of default by Lessee, the damages provided in this Contract are reasonable considering the anticipated harm that would result from the breach. Neither our exercise, nor our failure or delay in the exercise, of any rights or remedies available in connection herewith will constitute an election of remedies or a waiver of any of our rights or remedies.

**15. Venue and Arbitration:** If legal action is commenced in connection herewith, we will be entitled to recover our associated costs and expenses (including without limitation, attorneys' fees) from you if we prevail. This Contract shall be governed by and enforceable under the laws of Tennessee (unless waived by lessor). Disputes arising in connection with this Contract shall, at EGR's option, be submitted to binding **ARBITRATION** in accordance with the Rules of the American Arbitration Association before a single arbitrator and in a location selected by EGR. Judgment on the arbitrator's award shall be final and binding and may be entered in any court of competent jurisdiction. Proper venue for all other civil legal actions commenced in connection herewith shall lie solely and exclusively in the federal, state, and local courts located in or nearest to Williamson County, TN. You consent and submit thereto and waive all claims that such venue lies in an inconvenient forum. **YOU HEREBY WAIVE: (A) YOUR RIGHTS, IF ANY, TO PARTICIPATE IN ANY CLASS, COLLECTIVE OR OTHER JOINT ACTION AGAINST EGR; AND (B) YOUR RIGHT TO TRIAL BY JURY.**

**16. SALES:** Any and all item(s) sold to you ("Sale Items"), as provided on P.1 are provided "**AS-IS**" and "**WITH ALL FAULTS**," and are subject to the terms of this Contract (modified to address sales), provided that we will have no obligations under § 8. All item(s) not specifically identified as Sale Items on P.1 will be deemed "Rented Item(s)."

**17. Miscellaneous:** There are no third-party beneficiaries hereto other than the applicable Indemnitees. These Terms and Conditions apply to all Item(s) identified on P.1, and to all other Items you obtain from us at any time (except only as we may otherwise agree). The terms of this Contract are severable. To the extent it is deemed invalid or unenforceable by any court of competent jurisdiction, such term(s) will be deleted, and the remainder of this Contract will remain valid and in full force and effect. This Contract, and any pictures, videos and/or addenda we provide, each of which is incorporated herein, represent(s) the entire agreement between you and EGR, superseding all other agreements and representations (including our website and advertising) and cannot otherwise be amended or extended except in a writing signed by EGR. Time is of the essence. This Contract: (i) is a true operating lease, and not a financing; (ii) is fair and reasonable; and (iii) shall bind and be enforceable by you, EGR, other Indemnitees, and their respective insurers, subrogees, successors and permitted assigns. Digital, electronic, photocopied, and facsimiled signatures and initials appearing on this Contract will be deemed originals.

**18. THEFT WARNING:** Intentionally obtaining services available only for compensation by deception, threat, false token, or other means to avoid payment and/or failing to timely return such property may be deemed THEFT, resulting in CRIMINAL PROSECUTION AND/OR CIVIL PENALTY(IES). See Tenn. Code Ann. § 39-14-103 et seq. and its/their successor(s), if any, for details.

## TERMS AND CONDITIONS OF RENTAL CONTRACT (Enlarged Version)

For good and valuable consideration, you, and Rentin' & Flippin' LLC, a Tennessee limited liability company, d/b/a "EQUIPGO RENTALS" (also referred to herein as "EGR," "Lessor," "we," "us" and "our") agree as follows:

**1. Definitions:** As used herein, "P.1" refers to the first page or "face" of this Contract; "Contract" refers to P.1 together with these Terms and Conditions; "Rented Item(s)" or "Item(s)" means the item(s) provided (rented or if specifically set forth on P.1, sold) to you, as identified on P.1 (including any "Instructions" and/or safety devices provided per Section [or "\$"] 5 below); "Site" means the address set forth on P.1 where the Item(s) is/are to be delivered and/or used; and "Customer," "Lessee," "you" and "your" mean the "Renter," "Customer," "Lessee" and/or "Guarantor" (as applicable) identified on P.1.

**2. Terms:** You agree to rent from EGR the Rented Item(s) for the period(s) specified on P.1 (the "Term"), to pay us our stated rental rate(s) (the "Rent"), together with all other charges accruing hereunder, without proration, reduction or setoff, and to remain liable for all loss, theft, injuries and damages of, to, or associated with such Item(s), until all Item(s) is/are returned to and accepted by EGR in the return condition required under this Contract. Unless otherwise specifically agreed by EGR in writing, all rental rates are for normal use of the Rented Item(s) on a single-shift basis during the Term, not exceeding 8 hours per 24-hour period for which Rent is charged hereunder (each, a "Rental Day"), 40 hours per week, 160 hours per 28-days (zero hours for any and all uncharged-for periods), and in accordance with the terms of this Contract. Additional Rent at our highest incremental rate will be charged for late returns and overuse. Lessee agrees to pay all taxes, fines, fees, assessments, and other charges as applicable (including all sales, use, fuel, and other taxes), related to each Item and/or the transactions contemplated in this Contract allowable or required under Tennessee Law. See Tenn. Code Ann. § 67-6-201 et seq. and its/their successor(s), if any, for details. You will not be entitled to any cancellation right or reduction of Rent or other amounts coming due hereunder to account for time in transit, Act(s) of God, event(s) of *force majeure* or any other period(s) of nonuse. We have estimated the Rent based on your estimate of the length of the Term (the "Estimated Rent"). Unless otherwise agreed by EGR in writing, you agree: (a) to pay us the Estimated Rent specified on P.1 in advance of the Term (the "Prepayment"), and all other amounts coming due hereunder upon demand; and (b) that: (i) we may deduct any amount(s) you owe us from any Prepayment; (ii) no interest will accrue on any Prepayment; (iii) no Prepayment will be deemed a limit of your liability to us; and (iv) all Prepayments are **NON-REFUNDABLE**. All amounts due hereunder but not timely paid will bear interest at the lesser of 18% per annum or the highest rate permitted under applicable law. You authorize us to charge all amounts coming due hereunder to any debit and/or credit card(s) you provide (up to 150% of the new replacement cost of the Item(s)). You agree to pay us the maximum lawful charge for any check you write which is returned unpaid. Our maximum liability in connection with this Contract is limited to the amount(s) actually paid by you and received by us hereunder for the Item(s) identified on P.1.

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**5. Instructions:** Upon the earlier of your receipt, or the delivery to the Site, of the Rented Item(s), unless you thereupon reject it/them, you represent, warrant, acknowledge and agree that: (a) each Item: (i) is complete and in good order, condition and repair, fully charged and/or fueled (as applicable); (ii) is appropriate for your purposes and in all ways acceptable to you; and (iii) was selected (not based on any recommendation by us), carefully examined, counted and tested by you or your agent(s); and (b) you: (i) have carefully reviewed and fully understand all laws, rules, regulations, training, instructions, user manuals, maintenance requirements, and other information, if any, including all EPA, OSHA, MSHA, ASME, IBC, IFC, IEEE, UL, ASSP, DOT, FMCSA, IFTA, ANSI and other standards, applicable to the Item(s) (collectively, "Instructions"); (ii) will fully comply therewith (including Tier 4, Silica Dust, Ventilation, charging, fueling, cleaning, voltage, AWP Training and Familiarization, and site assessment requirements); (iii) have been made aware of the need to use all applicable personal protective equipment and safety devices (including, without limitation, FALL AND RESPIRATORY PROTECTION); (iv) will use each Item only for its intended purpose, in a reasonable and safe manner; (v) will timely give all applicable notice(s) to, and obtain all applicable licenses, authorizations, permits and approvals from, all affected parties, including (without limitation) governmental authorities, utilities, cable companies and the owner(s) of the Site, and ensure that all underground lines, cables and conduits are clearly and properly marked before using any Item(s) to disturb the ground surface (Call 811 and go to [www.Call811.com](http://www.Call811.com) at least 3 full working days in advance); and (vi) will ensure that all others comply with this Contract at all times. You shall not, nor shall you permit anyone else to: (i) use any handheld communication device while operating any Rented Item(s); (ii) use any Rented Item while under the influence of any intoxicant(s) (including without limitation, cannabis, cannabinoids, and alcohol, whether or not legal or medicinal); (iii) abuse, misuse, overuse, conceal, store with any third party, repair, modify or damage any Rented Item(s); (iv) violate any instruction, insurance policy or warranty; (v) expose Items to any flammable, explosive, harmful or hazardous substances/circumstances; (vi) disable, misuse or circumvent any safety equipment or device(s) in, on or with any Item(s); or (vii) take possession of or exercise control over any Rented Item(s) without our prior written consent (granted, conditioned, or withheld in our sole and absolute discretion). You agree to notify the authorities and EGR in the event of any theft or accident involving any Rented Item(s), and EGR if any of the above requirements is/are breached or proven incorrect.

**6. Equipment Return:** You agree to protect, properly maintain and care for the Rented Items, keep them safely and securely stored and locked when not in use, and return the Rented Items to us on time at the end of the Term, complete (with all original batteries, cords, attachments and peripherals), clean, free of contamination (including without limitation, asbestos, beryllium, silica and pathogens), in good order, condition and repair, properly serviced and maintained, and if applicable, fully charged and/or full of the appropriate fuel, fluids and lubricants. If you fail to do so, in addition to any other amounts specified on P.1, you will promptly pay us Rent at our highest incremental rate(s) until all such Item(s) have been returned or replaced **as required**, and all costs and expenses we may incur in connection with such failure

**7. NO WARRANTIES:** EGR IS NOT THE MANUFACTURER OR DESIGNER OF ANY RENTED ITEM(S), ALL OF WHICH ARE PROVIDED "AS-IS." EGR MAKES NO WARRANTY(IES), EXPRESS OR IMPLIED (INCLUDING ANY AND ALL WARRANTY(IES) OF MERCHANTABILITY, SUITABILITY, FITNESS FOR A PARTICULAR PURPOSE, FUNCTION, DESIGN, QUALITY, CAPACITY, FREEDOM FROM DEFECTS AND GOOD AND WORKMANLIKE PERFORMANCE, or any warranty(ies) arising from course of dealing, performance and/or usage of trade) regarding any Item(s) or Service(s) provided by or at the direction of EGR. EGR makes no warranty against INTERFERENCE OR INFRINGEMENT, all of which warranties you hereby waive. **NO DESCRIPTIONS, SPECIFICATIONS OR ADVERTISEMENTS CONSTITUTE REPRESENTATIONS OR WARRANTIES BY EGR. THERE ARE NO WARRANTIES WHICH EXTEND BEYOND THE DESCRIPTION ON THE FACE HEREOF.**

**8. Malfunctions:** You agree to immediately cease using any Item that is damaged, breaks down, or proves defective (a "Malfunction"), in which event you will promptly notify, and return the Malfunctioning Item(s) to, EGR. Provided the Malfunction did not result from or in connection with any wrongful or negligent act or omission of/by you or anyone you permit to use or otherwise deal with any Rented Item(s), and/or your breach of any provision of this Contract, EGR will, at its option: (i) repair the Malfunctioning Item; (ii) provide you with a comparable Item; or (iii) solely with respect to the Malfunctioning Item, return the unused portion of the Rent and cancel this Contract. The foregoing remedies are EXCLUSIVE. EGR shall have no other obligation(s) regarding Malfunctions, all of which you waive, together with all incidental, consequential, special, exemplary, and punitive damages.

**9. WARNINGS: THE RENTED ITEM(S) CAN BE DANGEROUS. YOU AGREE TO ENSURE THAT RENTED ITEMS ARE FUELED, CHARGED, SERVICED, MAINTAINED, REPAIRED, AND USED WITH EXTREME CARE,**

ONLY FOR THEIR INTENDED PURPOSE(S), AND ONLY BY PROPERLY QUALIFIED, INSTRUCTED, TRAINED, FAMILIARIZED, AND (IF APPLICABLE) LICENSED, ADULT USERS, OPERATORS AND OCCUPANTS. YOU SHALL PROVIDE ALL APPLICABLE FAMILIARIZATION, TRAINING, INSTRUCTIONS AND WARNINGS TO ALL USERS AND ENSURE THAT EACH RENTED ITEM IS OPERATED AND OCCUPIED SAFELY AND ONLY WITHIN ITS RATED CAPACITY, UNLESS OTHERWISE SPECIFICALLY AGREED IN WRITING BY EGR, AT THE SITE, AND IN FULL COMPLIANCE WITH THIS CONTRACT, THE INSTRUCTIONS, AND ALL APPLICABLE WARRANTIES AND INSURANCE POLICIES, AT ALL TIMES.

**10. INDEMNITY:** TO THE MAXIMUM EXTENT PERMITTED UNDER APPLICABLE LAW, YOU: (A) ASSUME ALL RISK OF PERSONAL AND BODILY INJURY, ELECTRIC SHOCK, ILLNESS, PRODUCTS LIABILITY, LOSS, THEFT, DAMAGE, AND CONTAMINATION OF, TO, AND/OR ARISING IN CONNECTION WITH, THE ITEM(S) AND/OR SERVICE(S) REFERENCED IN THIS CONTRACT, INCLUDING ALL LIABILITIES, CLAIMS, DAMAGES, LOSSES, COSTS AND EXPENSES ARISING FROM AND/OR IN CONNECTION WITH THE SELECTION, PROVISION, INSPECTION, DESIGN, MANUFACTURE, FUELING, CHARGING, USE, LOADING, UNLOADING, TRANSPORTATION, DEMONSTRATION, INSTALLATION, CLEANING, STORAGE, SERVICING, MAINTENANCE, REPAIR, DELIVERY AND/OR RETRIEVAL OF SUCH ITEM(S) AND/OR SERVICE(S), WHETHER OR NOT YOUR FAULT (COLLECTIVELY, "RISKS"); (B) RELEASE AND DISCHARGE, AND AGREE TO INDEMNIFY, DEFEND AND HOLD HARMLESS, EGR, its respective parents, affiliates and subsidiaries, and their respective owners, shareholders, members, managers, officers, directors, agents, employees, insurers, subrogees, representatives, successors and assigns (each, an "Indemnitee"), for, from and against all such RISKS, as well as all other liabilities, claims, damages, losses, costs and expenses arising from and/or in connection with the Item(s), this Contract, our negligence, and/or your breach of any one or more of the terms hereof (and except only as provided in § 8), (C) WAIVE all rights, remedies and defenses available under the Uniform Commercial Code, as well as all direct, indirect, incidental, consequential, general, special, exemplary and punitive damages, against each Indemnitee.

**11. Insurance:** You agree to maintain all insurance we may require, including: (a) liability insurance with minimum limits of \$1,000,000 per occurrence; (b) property damage/inland marine insurance covering all Items for the full (new) replacement cost thereof; (c) workers' compensation insurance; and (d) for all vehicles and trailers included with or in the Rented Item(s): (i) hired auto liability insurance with minimum limits of \$1,000,000; (ii) hired auto physical damage insurance for actual cash value; and (iii) replacement cost contents insurance for all contents thereof. Such policies shall, whenever possible: (A) name EGR as an additional insured and loss payee; (B) waive subrogation against us; (C) be primary and non-contributory; and (D) include a severability of interests clause and such other provisions (including deductibles) as we may require. You irrevocably appoint EGR as your agent and attorney-in-fact for purposes of submitting, negotiating, and settling claims on all such policies.

**12. Limited Damage Waiver:** If and only if, we have offered, and you have paid for our OPTIONAL LIMITED DAMAGE WAIVER ("LDW") (set forth on P.1, if available) in advance of the Term, you will have no liability to us for the first \$2500 of repair/replacement costs for physical damage to Item(s) covered by LDW ("Covered Item(s)"); provided that you will, remain fully liable for: (a) all loss of and damage to: (i) Item(s) not covered by LDW; (ii) Covered Item(s) lost or damaged during transportation and/or as a result of: (A) any breach of this Contract by you or your agents, employees, sublessees, transferees, borrowers, successors and/or assigns; (B) theft, mysterious disappearance, or other failure to timely return Covered Item(s) to us; (C) negligence, misuse and/or abuse of Rented Item(s) (including submerging, overturning, striking overhead objects, and overloading); (ii) GPS and telematics systems, data, batteries, keys, glass, tires, tubes, tracks, booms, belts, chains, and knobs; and (b) all repair/replacement costs exceeding \$2500 in the aggregate across all Covered Item(s). You may decline LDW ONLY if you provide the insurance referenced in § 11. Your insurance (if any) will continue to apply and will remain primary. LDW IS NOT INSURANCE OR A WARRANTY.

**13. Force Majeure:** To the maximum extent permitted under applicable law, you grant to EGR a lien on all real and personal property placed in, on, and/or improved with, any Rented Item(s). We may, without notice or liability to you or any Guarantor, monitor and/or inspect, in person and/or electronically (including via Telematics/GPS systems) Rented Item(s) at any time. You consent thereto and agree that all information thereby obtained will be EGR's property. If any performance required of EGR shall be delayed, impaired or made more costly as a result of any act or omission of/by you, any Other Provider(s) or any "Act of God," events of *force majeure* (including without limitation, fire, flood, storm, earthquake, tsunami, slide, subsidence, collapse, riot, war, violence, threat, theft, terrorism, cyber-attack, supplier delay, strike, shutdown, power surge or outage, epidemic, pandemic, and/or governmental and regulatory actions) or

other events, facts or circumstances beyond our reasonable control, we will be excused from such performance. You waive all statutes of limitations regarding our rights and remedies.

**14. Defaults/Remedies:** This is a “net” rental. Your duties hereunder are unconditional. If you or any Guarantor shall: (a) fail to fully and timely honor, pay, perform or comply with this Contract and/or any of your obligations arising hereunder or in connection herewith; (b) provide any incorrect or misleading information to us; (c) become insolvent; or (d) die or cease conducting business, or if any Rented Item(s) shall be lost or, except to the extent covered by LDW per § 12, damaged, you will be in **DEFAULT** under this Contract, whereupon, EGR **may with or without legal process or notice (and without liability to you or any Guarantor)**, to the maximum extent permitted under applicable law: (i) cancel the Term and/or the subject Contract(s) (and/or your rights to use and possess the Rented Item(s)); (ii) seek relief from stay; (iii) recover, empty, lock, restrict and/or disable any Item(s) without being guilty of breach, trespass or wrongful interference, or liable for any injuries or property damage, including without limitation, any and all damage to crops, flora and/or fauna (for which you will indemnify, defend and hold harmless each Indemnitee); (iv) perform your obligations hereunder on your behalf, without being obligated to do so; (v) purchase replacement Item(s); (vi) recover from you and/or any Guarantor our associated damages, losses, costs and expenses (including without limitation, Rent for the balance of the scheduled Term, overtime, the cost of replacement Item(s), loss of use, interest, attorneys’ fees, collection costs, and if civil fraud has occurred, punitive damages for civil fraud); and/or pursue any other rights and/or remedies available hereunder, at law and/or in equity, all of which shall be cumulative. See Tenn. Code Ann. §§ 47-2A-504 and 29-39-104 and its/their successor(s) for details. Lessee acknowledges that in case of default by Lessee, the damages provided in this Contract are reasonable considering the anticipated harm that would result from the breach. Neither our exercise, nor our failure or delay in the exercise, of any rights or remedies available in connection herewith will constitute an election of remedies or a waiver of any of our rights or remedies.

**15. Venue and Arbitration:** If legal action is commenced in connection herewith, we will be entitled to recover our associated costs and expenses (including without limitation, attorneys’ fees) from you if we prevail. This Contract shall be governed by and enforceable under the laws of Tennessee (unless waived by lessor). Disputes arising in connection with this Contract shall, at EGR’s option, be submitted to binding **ARBITRATION** in accordance with the Rules of the American Arbitration Association before a single arbitrator and in a location selected by EGR. Judgment on the arbitrator’s award shall be final and binding and may be entered in any court of competent jurisdiction. Proper venue for all other civil legal actions commenced in connection herewith shall lie solely and exclusively in the federal, state, and local courts located in or nearest to Williamson County, TN. You consent and submit thereto and waive all claims that such venue lies in an inconvenient forum. **YOU HEREBY WAIVE: (A) YOUR RIGHT(S), IF ANY, TO PARTICIPATE IN ANY CLASS, COLLECTIVE OR OTHER JOINT ACTION AGAINST EGR; AND (B) YOUR RIGHT TO TRIAL BY JURY.**

**16. SALES:** Any and all item(s) sold to you (“Sale Items”), as provided on P.1 are provided “**AS-IS**” and “**WITH ALL FAULTS**,” and are subject to the terms of this Contract (modified to address sales), provided that we will have no obligations under § 8. All Item(s) not specifically identified as Sale Items on P.1 will be deemed “Rented Item(s).”

**17. Miscellaneous:** There are no third-party beneficiaries hereto other than the applicable Indemnitees. These Terms and Conditions apply to all Item(s) identified on P.1, and to **all other Items** you obtain from us at any time (except only as we may otherwise agree). The terms of this Contract are severable. To the extent it is deemed invalid or unenforceable by any court of competent jurisdiction, such term(s) will be deleted, and the remainder of this Contract will remain valid and in full force and effect. This Contract, and any pictures, videos and/or addenda we provide, each of which is incorporated herein, represent(s) the entire agreement between you and EGR, superseding all other agreements and representations (including our website and advertising) and cannot otherwise be amended or extended except in a writing signed by EGR. Time is of the essence. This Contract: (i) is a true operating lease, and not a financing; (ii) is fair and reasonable; and (iii) shall bind and be enforceable by you, EGR, other Indemnitees, and their respective insurers, subrogees, successors and permitted assigns. Digital, electronic, photocopied, and facsimiled signatures and initials appearing on this Contract will be deemed originals.

**18. THEFT WARNING:** Intentionally obtaining services available only for compensation by deception, threat, false token, or other means to avoid payment and/or failing to timely return such property may be deemed THEFT, resulting in CRIMINAL PROSECUTION AND/OR CIVIL PENALTY(IES). See Tenn. Code Ann. § 39-14-103 et seq. and its/their successor(s), if any, for details.