

## **TERMS & CONDITIONS OF RENTAL**

In consideration of the renting of the Equipment described without operator, by the undersigned (hereafter referred to as the "Renter") from the company named on said contract (hereinafter referred to as the "Dealer" upon the terms *and* conditions and for the price herein specified, it is agreed as follows:

**1. RENTAL AND TERM** begins on the date and time specified as "TAKEN OUT" and terminates on the date and time specified as "DUE IN" unless amended in writing on the said contract. Rental charges commence on delivery of Equipment to renter and end upon return of equipment to Dealer's premises. Dealer may terminate Rental at any time and take possession of the equipment. Renter agrees to pay, on return of Equipment to Dealer's premises, all charges *and* costs for the use thereof. Renter's right to use the Equipment terminates on the expiration and due dates set forth above unless extended by Dealer. Rental charges accrue during Saturdays, Sundays and holidays. Rental rates are for normal "one-shift" usage based on eight hours per day, 40 hours per week and 160 hours per four-week period. The equipment rented is and shall remain the property of Fusco's Rental World and shall not be affixed to any other property. The customer shall not encumber the equipment in any manner.

**2. CONDITIONS OF RENTING, INSPECTION, PRIVILEGE AND WAIVER OF DEFECTS** Renter accepts and rents The Equipment on an "as-is" basis. Renter acknowledges receipt of all of the equipment in good working condition *and* repair. Renter acknowledges *and* declares that Renter has examined the Equipment and all hitches, bolts, safety chains, hauling tongues together with all devices and materials used to connect the Equipment to Renter's towing motor vehicle, if any, and Renter declares that he has received all of such Equipment in a secure and operative condition. Renter agrees to return the Equipment to Dealer's premises upon the expiration and due date hereof in as **good** condition as when received by Renter, ordinary wear and *tear* excepted. "Ordinary wear *and* tear" shall mean only the normal deterioration of the Equipment caused by ordinary and reasonable use on a one-shift (eight hours per day, five days per week) basis. Renter agrees to pay immediately all charges and costs incurred. Reasonable wear and tear excludes damage caused by lack of lubrication, improper insertion of fuel, oil, improper maintenance of water and air pressure levels, damage from collision, overturning, improper operation including overloading or exceeding the capacity of the equipment, damage by dents, bending, tearing, staining and corrosion, wear caused by excess number of shifts and any other damage to the equipment which is not considered ordinary and reasonable in the equipment rental industry.

**3. EQUIPMENT BECOMES UNSAFE OR IN DISREPAIR** Renter will immediately discontinue use of the personal property should if at any time, following the execution of this agreement or any subsequent agreement become unsafe or in a state of disrepair. Furthermore, the Renter will immediately notify Dealer that the Equipment is unsafe or in disrepair *and* until such time as Dealer has regained possession the Renter agrees to take all steps reasonably necessary to prevent injuries to any person and all property from the Rental Equipment or product. If such a condition is deemed the result of normal operation, the equipment will be repaired or replaced with similar equipment if such equipment is available. If the equipment is deemed inoperable as a result of misuse, abuse or neglect, Fusco's has no responsibility to repair or replace the equipment.

**4. COMPLIANCE WITH LAWS** Renter acknowledges that Dealer has no control over the use of Equipment by

Renter, and Renter agrees at his sole expense, to comply with all municipal, county, state *and* federal laws, ordinances and regulations, including the Occupational Safety and Health Admission Act of 1970 (OSHA) which may affect the Equipment while it is in the possession of and use by the Renter. Renter shall not permit any person who is not legally qualified to use Equipment.

**5. PERMITTED USE OF THE EQUIPMENT** Renter agrees not to loan, sublet or otherwise dispose of equipment or to use it at any other location than listed on the face of the contract. Renter shall not remove the Equipment from the county in which it is rented *and* not cross state lines without written permission from Dealer. The customer shall inspect the equipment prior to use and return to Fusco's to confirm the equipment is in good condition and without defects. The customer shall review the operating and safety instructions and agrees to operate the equipment in such a manner. Only authorized individuals may use and operate the equipment and the customer is responsible during the rental period regardless of the user. The equipment shall be kept in a secure location.

**6. RENTER'S LIABILITY FOR MISUSE OF EQUIPMENT** Renter shall not abuse, harm or misuse the Equipment. Renter shall not permit any repairs to be made or lien to be placed upon the Equipment without Dealer's written consent. In the event of *any* accident or casualty resulting in bodily injury or damages arising out of Renter's use and hiring of said Equipment Renter agrees to accept all responsibility therefore and shall hold Dealer harmless from any claims or action arising therefrom. Renter shall furnish Dealer with a complete report of any accident involving said Equipment including names and addresses of all persons involved and all witnesses. Unless otherwise specified herein, in case of the loss or destruction of any part of the Equipment or of loss of possession thereof, or inability to return the same to Dealer, on the expiration and due date for any reason whatsoever. Renter shall pay Dealer the actual replacement cost hereof, and in addition thereto Dealer's loss of use of said equipment and continue to pay rent until full settlement is made.

**7. DISCLAIMER OF WARRANTIES, DEALER MAKES NO WARRANTIES, EXPRESSED OR IMPLIED, AS TO THE EQUIPMENT'S MERCHANTABILITY OR FITNESS FOR ANY PARTICULAR PURPOSE** Renter's sole remedy or any failure of or defect in the Equipment shall cause the termination of the rental charges at the time of failure provided the Equipment is returned to Dealer within 24 hours after such failure. Dealer shall not be responsible for any loss, damage or injury to Renter of Renter's property including incidental, special or consequential damages, in any way connected with the operation, use, defect in or failure of the Equipment. There *are* no warranties of merchantability or fitness, either express or implied. There is no warranty that the equipment is suited for Lessee's intended use, or that it is free from defects.

**8. USE OF DEPOSIT, AND LIABILITY OF LATE PAYMENT, UPON BREACH BY RENTER** Renter acknowledges that the purpose and intent of the deposit paid by Renter hereunder is to secure the payment of rental charges hereunder and to guarantee the full *and* complete performance of each of all of the terms, covenants and agreements to be performed by Renter hereunder. Renter agrees to pay a late payment penalty at the rate of one and one half (1.5%) percent per month on all delinquent accounts. In the event of any breach by the customer, the deposit will be credited against any damages, cost or expense incurred by Fusco's Rental World as a result of such breach.

**9. INDEMNIFICATION OF DEALER BY RENTER** Renter expressly indemnifies and holds Dealer harmless from and against any and all claims, loss costs, damages, attorney's fees of *any* kind or nature, including, but not limited to injuries or death to persons and damage to property, arising out of the use, maintenance,

instruction, operation, possession, ownership of rental, however caused and/or liability in connection with the hiring and use of the Equipment.

**10. THEFT WARNING** Failure to return Equipment on the expiration and due date in certain circumstances will be considered a theft, resulting in a criminal prosecution. Dealer reserves the right to consider the property lost or stolen if not returned by the date and time printed under the "TIME AND DATE DUE IN" column on the contract. Dealer has the right to charge payment to Renters Credit Card supplied. If funds *are* not available, equipment will be considered stolen *and* theft charges will be filed.

**11. TAXES** Renter agrees to pay any and all taxes, license fees, or permit fees arising out of the hiring *and* use of the Equipment. Renter agrees to pay said taxes whether said taxes appear as part of the fact of this contract or whether said taxes are later claimed by the governmental authority. In the event of a claim by any governmental authority for taxes arising out of this transaction, Renter agrees to pay to Dealer said taxes upon demand.

**12 TITLE** Title to the Equipment is and shall remain with the Dealer. If the Equipment is levied upon for any reason whatsoever, Dealer may relate the equipment without notice or legal process and may take all action reasonably necessary to do so.

**13. CONSTRUCTION** The paragraph headings used herein *are* for convenience only and are not to **be** used in construing the meaning or intent of any of the terms or provisions of this Rental Contract.

**14. DAMAGE WAIVER** Unless previously accepted or rejected by a separate written agreement, by accepting the **DAMAGE WAIVER**, Renter agrees to pay an additional charge as specified on said contract on specific items as may be posted in Dealer's office in return therefore certain claims for loss or damage to the Equipment rented as specified below.

**15. COLLECTION.** Renter/buyer agrees to pay any and all costs incurred by Dealer arising out of the collection of any unpaid balance.

**16.REPOSSESSION** Renter agrees to Dealer's rights to enter premises of renter, or renter's job site, to repossess said equipment. Renter hereby waives any rights of action against owner by reason of such taking or entry and agrees to reimburse Dealer's cost of repossession if any.

**17.PAYMENT** A. Renter agrees to pay Dealer upon demand:

1. All rates, charges, taxes, fuel, delivery, pickup and reservation cancellation fees and all other amounts incurred as a result of this rental transaction.
2. Replacement cost for any loss or disappearance of equipment due to theft, conversion or other dishonest acts on the part of any person or persons to whom the issued property is entrusted or any person or persons in the service or re-employment of the Renter whether or not occurring during the hours of such service or employment.
3. Credit Card - Renter authorizes that Dealer may bill renter's credit card at time of reservation or upon receipt of the rented item(s) or upon the return of the item(s).
4. Payment Guarantee - If I have directed Dealer and Dealer has agreed to bill charges to someone else who fails to make payment promptly when due, Renter promises to pay Dealer on demand. If Renter directs charges to be billed to another person, Renter represents that he is authorized to **give** Dealer such direction. Renter understands that he remains individually responsible for all charges even if Renter directed Dealer to bill another person.

5. **Final Audit** – Renter UNDERSTANDS THAT ALL CHARGES ARE SUBJECT TO FINAL AUDIT.

Renter authorizes any credits or additional charges to be made and paid by the method used at the time of the reservation, rental or return.

A charge will be assessed for all checks returned as “insufficient funds”. A finance charge will be issued for past-due payments. Fusco’s Rental World reserves the right to place any customer with a delinquent balance as a “cash customer”. A processing fee is assessed for all credit card charges.

**18. RENTER AGREES** to pay in full replacement cost, including labor, for all damages to rental equipment due to any cause whatsoever.

**19. CREDIT AND DEBIT AUTHORIZATION** Renter specifically authorizes DEALER to charge RENTER'S CREDIT CARD (SUCH AS Visa, Master Card, American Express, Discover) or Debit card any *and* all charges related to this rental. This includes but is not limited to, rental charges, cleaning charges, damage, loss of rental, costs of repairs as a result of the rental and charge. A processing fee will be assessed for all credit card charges.

**20. DELIVERY** Dealer expressly disclaims responsibility for damage to driveways, lawns, and sprinkler systems, gardens, septic tanks, drain fields and/or existing landscaping as a result of job site deliveries. By executing a delivery ticket and/or accepting product/equipment delivery, the Renter, contractor, subcontractors and suppliers acknowledge that they *are* authorized both to accept delivery and release the Dealer from and against any damage to any of their property caused by the weight of any truck or equipment. The Renter hereby waives any and all claims for damages which may be made during the delivery of Dealer's products/equipment.

**21. WAIVER OF JURY TRIAL** Each party waives its right to a jury trial of any claim or cause of action based on or arising out of this agreement or the subject matter hereof. This waiver pertains to all disputes that may relate to the subject matter hereof, including, without limitation, contract, tort, breach of duty and all other common law and statutory claims, and will not be subject to any exceptions. Each party (A) understands that this is a waiver of important legal rights and (B) acknowledges that he/she/it has reasonable opportunity to discuss this waiver and its effects with legal counsel. Accordingly, each party knowingly, voluntarily, irrevocably and unconditionally waives its jury trial rights.

**22. TICKETS, FINES AND PENALTIES** Renter agrees to fully and promptly pay all fines, *and* the penalties, parking tickets, traffic tickets, tolls, court costs, attorney's fees and other charges assessed during the Term in connection with the use, parking, storage and or possession of the Equipment, regardless of identity of the driver, of any vehicle rented from us.

**23. LOADING AND UNLOADING EQUIPMENT** Renter is responsible for loading and unloading equipment. If Dealer's employees assist in loading *or* unloading the equipment, Renter agrees to assume risk of and hold Dealer and/or its employees harmless for any property damage or personal injury, including damage and personal injuries attributable to the negligence of Dealer and or its employees.

**24. WEATHER-RELATED RISKS** Renter assumes all weather-related risks involved in holding an outdoor tented event. Dealer will endeavor to minimize said risk. However, should the tenting become unusable due to high wind, snow, rain, flooding, extreme cold or heat, *or* any other factor beyond Dealer's control, Renter shall still **be** liable for payment in full of all charges.

**25.DAMAGE TO CUSTOMER'S VEHICLE** Customer agrees that Dealer is not liable for damage to Customer's vehicle – interior or exterior as the result of loading, unloading rented goods; nor is Dealer liable for damage to Customer's vehicle due to hooking-up or uncoupling trailers from Customer's vehicle including, but not limited to damaged windows, tailgates, bumpers or electrical systems including electronic components.

### **DAMAGE WAIVER**

If the Renter has accepted the DAMAGE WAIVER by not checking his rejection and initiating the appropriate portion of this Agreement, then Renter shall have no responsibility for physical damage to the equipment EXCEPT the following for which Renter shall **be** responsible:

- A. Insurance does not cover misuse and abuse caused by operator.
- B. Loss or damage from any cause other than those losses or damages set forth in paragraphs A,C,D,E,F,G,H and I below for which Renter shall be fully responsible.
- C. Loss or damage resulting from overloading or exceeding the rated capacity of equipment.
- D. Loss or damage to motors or other electrical appliances or devices caused by artificial current.
- E. Damage to tires and tubes caused by blowout, bruises, cuts, road hazards or other causes inherent in the use of equipment.
- F. Loss or damage resulting from lack of lubrication or other normal services of equipment.
- G. Loss or damage due to theft, mysterious disappearance or shortage disclosed on inventory.
- H. Loss or damage caused by infidelity of Renter, his employees or persons to whom the equipment is entrusted.
- I. Use of the equipment in violation of the terms of this agreement.
- J. Renter further agrees that Dealer shall be subrogated for any recovery rights that Renter may have for damage to the equipment rented hereunder, in the form of insurance protection for such damage.
- K. Insurance does not cover mechanical failure not caused by abuse.

If Renter has insurance covering such loss or damage, Renter shall exercise all rights available to him under said insurance, take all action necessary to process said claim, and Renter further agrees to assign said claim and pay *any* and all proceeds from such insurance to Dealer. Renter shall furnish the name of his insurance agent, insurance company and complete information concerning insurance coverage carried. Dealer's waiver of claims against Renter as herein set forth is contingent upon Renter's prompt making of submission to Dealer of copy of policy. If equipment is damaged by renter, rental charges will continue to be due and owing until equipment is repaired or replaced by renter and/or his insurance company. A damage waiver fee will be assessed when the equipment is scheduled for rent if no certificate of insurance is presented at the time of the reservation. Certificates of insurance will NOT be accepted at the end of the rental or any time during the term of the rental. Certificates MUST be shown PRIOR to when the reservation is made. There are NO exceptions to this rule! All terms must be met on the certificate of insurance. (amount of coverage and Fusco's must be listed as "loss payee" and "additional insured"). If a certificate of insurance is issued, the terms of the insurance policy MUST

remain in effect for the entire term of the rental agreement.

**Rental Charges will continue to accrue until a pick-up number is obtained. It is the responsibility of the customer to obtain this number.**