

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

For good and valuable consideration, you and SB Equipment Rentals, LLC, a Wyoming limited liability company (hereinafter, "SBER," "we," "us" and "our") agree as follows:

1. 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 of Rental Contract; "§" refers to a numbered Section of this Contract; "Rented Item(s)" or "Item(s)" means the item(s) rented to you, as identified on P.1 (including any "Instructions" and/or safety equipment provided per the terms of § 3 below); "Site" means the delivery or use address set forth on P.1; and "Customer," "Lessee," "you" and "your" mean the customer or "Lessee" identified on P.1.

2. You agree to rent from SBER the Rented Item(s) for the period(s) specified on P.1 (the "Term"). You agree to pay us our stated rental rate(s) (the "Rent"), together with any other charges accruing hereunder, without proration, reduction or setoff, and remain liable for loss of, damage to and/or destruction of the Rented Item(s) for the duration of the Term and until all such Rented Item(s) is/are returned to and accepted by SBER in the proper return condition as required under § 6. Unless otherwise agreed in writing by SBER, 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 calendar day, 40 hours per 7-day period, and 160 hours per 28-day period, and otherwise in accordance with the terms hereof and the "Instructions" described in § 3. Additional prorated Rent will be charged for late returns and overuse. No allowance will be made for weekends, holidays, weather delays, time in transit or other period(s) of nonuse. We have estimated the Rent based on your estimate of the length of the Term (the "Estimated Rent"). You agree: (a) to pay SBER: (i) any deposit and the Estimated Rent specified on P.1 in advance of the Term (the "Prepayment"); and (ii) any other amounts coming due hereunder upon demand; and (b) that: (i) we may deduct any amount 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** except as provided in § 4. Anything remaining with, in or on any Item(s) upon return will, at our option, be deemed abandoned.

3. Upon the earlier of your receipt, or our delivery to the Site, of the Rented Item(s) unless you immediately reject it/them, you represent, warrant, acknowledge and agree that: (a) each Item: (i) is complete and in good order, condition and repair; (ii) is appropriate for your purposes and in all ways acceptable to you; and (iii) was selected (not based on any recommendation by SBER), carefully examined and inspected by you or your agent(s); and (b) you: (i) have received, carefully reviewed and understand all applicable training, instructions, user manuals, maintenance requirements, and other information, if any, including all EPA, OSHA, MSHA, ASME, IBC, IEEE, ASSE, and/or ANSI Standards pertaining to such Item(s) (collectively, "Instructions"); (ii) will fully comply therewith (including Tier 4, silica dust and electronic logging device ["ELD"] requirements); (iii) have been made aware of the need to use all recommended and required safety devices (**including RESPIRATORY and FALL PROTECTION devices**); (iv) will use each Item only for its intended purpose, in a reasonable and safe manner; (v) will timely give any required notice(s) to, and obtain all necessary licenses, authorizations, permits and approvals from, all affected parties, including governmental authorities, utilities, cable companies and the owner(s) of the Site, and ensure all underground lines, cables and conduits are clearly and properly marked before using any Item(s) to dig or disturb the ground surface (call 811 or 800-849-2476 and go to [www.onecallofWyoming.com](http://www.onecallofWyoming.com)) at least 2, but not more than 14, full business days in advance; (vi) will immediately cease using any Item that is damaged, breaks down, or proves defective (a "Malfunction"); and (vii) will ensure that all others comply with this Contract. You will notify us immediately if any of the foregoing shall be breached.

4. In the event of a Malfunction, you will immediately notify, and return the Malfunctioning Item to, SBER, and provided such Malfunction did not result from or in connection with any wrongful or negligent act or omission of, or

any breach of any provision of this Contract by, you or anyone you permit to use or deal with such Item(s), we will, at our option: (a) repair the subject Item; (b) provide you with a comparable Item; or (c) return the unused portion of the Rent and cancel this Contract. The foregoing remedies are EXCLUSIVE. We will have no other obligation(s) with respect to Mal-functions, all of which you waive, together with all associated incidental and consequential damages.

5. You will ensure the Site is reasonably clean, safe, secure and otherwise fit for delivery and use of the Rented Item(s) at all times. If we agree to provide any service(s) (including delivery and/or retrieval), you agree to: (a) pay our regular charge(s) therefor, and for all waiting time; (b) be present at the Site at the agreed time(s); and (c) ensure our personnel have full access to the Site. We will not be responsible for any delay(s) caused by other parties, including providers of other equipment or services ("Other Providers") for which you hereby hold harmless SBER. If you are not present upon delivery or retrieval of any Item(s), you agree to accept the statements of SBER's representatives regarding the same (including status, condition, quality, freedom from defects and quantities).

6. You agree to protect, properly maintain and care for each Rented Item at all times, keep it safely and securely stored and locked when not in use, and return it to SBER on time, clean, free of contaminants (including without limitation, asbestos and silica) and otherwise in good order, condition and repair, properly serviced and maintained, and if applicable, full of the appropriate fuel, fluid and lubricants. If you fail to do so, you will pay to SBER: (a) Rent for each succeeding full rental period until the Item(s) has/have been returned or replaced as required; and (b) all costs and expenses SBER incurs in connection with such failure. You will not, nor will you permit anyone else to: (i) abuse, misuse, overuse, remove from the Site, conceal, repair, modify, damage or destroy any Rented Item(s); (ii) violate any law, policy of insurance or warranty; (iii) expose any Rented Item(s) to any flammable, explosive, corrosive, or otherwise harmful or hazardous substance(s) or circumstance(s); or (iv) take possession of or exercise control over any Rented Item(s), without our prior consent (which may be granted, conditioned or withheld in our sole and absolute discretion).

7. Except with respect to Rented Items which SBER rents from one or more third parties (each, a "TPO") and then re-rents to you ("Re-Rented Items"), SBER owns and will retain title to all Rented Items at all times. Your only right with respect to such Item(s) (including Re-Rented Item(s)) is to use it/them in full compliance with this Contract during the Term. You **SHALL NOT**: (a) permit the taking or existence of any lien, claim, security interest or encumbrance on any Rented Item(s); or (b) loan, transfer, sublease or assign any Rented Item(s) or this Contract, without the prior written consent of SBER (in its sole discretion). SBER may sell and/or assign all or any part of its interests in the 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 SBER or any TPO.

8. **WARNINGS: POWERED EQUIPMENT AND TOOLS, INCLUDING EQUIPMENT USED FOR LIFTING, LOADING, CUTTING, GRINDING, CHIPPING, SCRAPING, DIGGING, SHREDDING, BREAKING, BORING, WELDING, TOWING AND/OR HAULING CAN BE DANGEROUS AND SHOULD BE TRANSPORTED, SERVICED, MAINTAINED, REPAIRED AND USED WITH EXTREME CARE, ONLY FOR ITS/THEIR INTENDED PURPOSE(S), AND ONLY BY PROPERLY TRAINED, FAMILIARIZED, QUALIFIED, CERTIFIED, SUPERVISED, INSTRUCTED, AND IF APPLICABLE, LICENSED, ADULTS.**

9. YOU AGREE TO PROVIDE ALL APPLICABLE **TRAINING, FAMILIARIZATION**, INSTRUCTIONS AND WARNINGS TO ALL PERSONS WHO USE, OPERATE, OCCUPY, OR OTHERWISE DEAL WITH ANY RENTED ITEM(S), and ensure that each Item is used safely and only: (a) for its intended purpose(s); (b) within its rated capacity; (c) unless otherwise specifically agreed by SBER, at the Site; (d) **BY PROPERLY TRAINED, FAMILIARIZED, QUALIFIED, CERTIFIED, SUPERVISED AND/OR LICENSED (AS APPLICABLE) ADULTS**; and (e) otherwise in full compliance with the Instructions, §§ 6 and 8, and all applicable laws, rules and regulations, at all times.

10. SBER IS NOT THE MANUFACTURER OR DESIGNER OF ANY OF THE ITEMS, all of which are provided "AS-IS". NEITHER SBER NOR ANY TPO MAKES ANY WARRANTY, EXPRESS OR IMPLIED (INCLUDING ANY WARRANTY OF MERCHANTABILITY, SUITABILITY, FITNESS FOR A PARTICULAR PURPOSE, FUNCTION, DESIGN, QUALITY, CAPACITY, FREEDOM FROM DEFECTS, GOOD AND WORKMANLIKE PERFORMANCE, AND ANY WARRANTY(IES) ARISING FROM COURSE OF DEALING, COURSE OF PERFORMANCE AND/OR USAGE OF TRADE) regarding any Item(s) or Service(s) referenced in this Contract, nor does SBER or any TPO make any warranty against INTERFERENCE OR INFRINGEMENT, all of which you hereby waive. No depictions, models, samples, descriptions, specifications, recommendations or advertisements made or accepted by SBER or any TPO constitute representations or warranties by SBER or any such TPO.

11. TO THE MAXIMUM EXTENT PERMITTED UNDER APPLICABLE LAW, YOU: (A) ASSUME ALL RISK OF PERSONAL INJURY, LOSS, PROPERTY DAMAGE, DESTRUCTION AND CONTAMINATION OF, TO, AND/OR ARISING IN CONNECTION WITH, THE ITEM(S) AND SERVICE(S) REFERENCED IN THIS CONTRACT, INCLUDING WITHOUT LIMITATION, ALL LIABILITIES, CLAIMS AND DAMAGES ARISING IN CONNECTION WITH THE SELECTION, PROVISION, INSPECTION, EXAMINATION, DESIGN, MANUFACTURE, USE, LOADING, UNLOADING, TRANSPORTATION, DEMONSTRATION, STORAGE, SERVICING, MAINTENANCE, REPAIR, DELIVERY AND/OR RETRIEVAL OF SUCH ITEM(S) AND/OR SERVICE(S), WHETHER OR NOT YOUR FAULT (COLLECTIVELY, "CLAIMS"); (B) RELEASE AND DISCHARGE, AND AGREE TO INDEMNIFY, DEFEND AND HOLD HARMLESS, SBER AND EACH TPO, AND THEIR RESPECTIVE OWNERS, SHAREHOLDERS, MEMBERS, MANAGERS, OFFICERS, DIRECTORS, PARTNERS, AGENTS, EMPLOYEES, INSURERS, SUBROGEEES, REPRESENTATIVES, SUCCESSORS AND ASSIGNS (COLLECTIVELY, THE "INDEMNITEES"), FOR, FROM AND AGAINST ALL SUCH CLAIMS as well as any and all associated attorneys' fees, costs and expenses, and all Claims arising from and/or in connection with your breach of this Contract; and (C) waive all rights and remedies available under the Uniform Commercial Code as adopted in Wyoming, as well as all incidental, consequential, special, exemplary and punitive damages, against the Indemnitees (and each of them).

12. You agree to maintain all insurance SBER 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 value thereof; and (c) for all automobiles included in the Rented Item(s), hired auto liability insurance with minimum limits of \$1,000,000 and hired auto physical damage insurance for actual cash value. Such policies shall, whenever possible: (i) name SBER and each TPO as an additional insured and loss payee; (ii) waive subrogation against them; (iii) be primary and non-contributory; and (iv) include such other provisions (including deductibles) as we may require.

13. If and only if, we have offered and you have paid the non-refundable fee for the OPTIONAL LIMITED DAMAGE WAIVER ("LDW") (set forth on P.1, if available) prior to commencement of the Term, you will have no liability to SBER for 80% of the cost to repair or replace Item(s) covered by LDW ("Covered Item(s)") which suffer physical damage during the Term; provided however, that you will remain fully liable for: (a) all damage to or loss of: (i) Item(s) not covered by LDW; (ii) Covered Item(s) lost or damaged during transportation or as a result of: (A) your breach of this Contract; (B) theft or other failure to timely return Covered Item(s) to SBER; (C) gross negligence, misuse and/or abuse of any Rented Item(s); (D) vandalism and/or malicious mischief; (E) use of alcohol or drugs; and/or (F) use of any Item(s) in violation of any law, insurance policy or warranty; (iii) damage to batteries, glass, tires, tubes, tracks, belts, chains, knobs and/or hoses; (b) a "deductible" equal to 20% of all repair/replacement costs for Covered Items; and (c) all repair and replacement costs exceeding \$10,000 in the aggregate across all Covered Items. You may decline LDW if you fully and timely comply with § 12. LDW IS NOT INSURANCE, NOR IS IT A WARRANTY.

14. To the maximum extent permitted under applicable law, you grant to SBER a lien on all real and personal property: (a) placed in or on; and/or (b) improved with, any Rented Item(s). We may, without notice or liability to

you, monitor (in person and/or electronically) and/or inspect any Rented Item(s) at any time, and all information thereby obtained will be the sole and exclusive property of SBER. If any performance required of SBER is delayed or impaired as a result of any act or omission of any Other Provider(s) or any "Act of God" (any event, fact or circumstance beyond our reasonable control), we will be excused from such performance. You waive the benefits of all statutes of limitations regarding SBER's rights and remedies. All amounts due hereunder but not timely paid will bear interest at the lesser of: (a) 18% per annum; or (b) the highest rate permitted under applicable law until paid. You authorize SBER to charge all amounts coming due hereunder to any debit or credit card(s) you provide. You agree to pay SBER the maximum lawful charge for any check you write which is returned unpaid. SBER's maximum liability in connection with this Contract is limited to the amount(s) actually paid by you hereunder. You agree to pay all taxes (including all sales, use, transfer, value added and other taxes), fines, fees, assessments and other charges related to each Item. In the event legal action is commenced in connection herewith, we will be entitled to recover our costs and expenses associated therewith (including without limitation, attorneys' fees and expenses) from you if we prevail. 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. This Contract and any addenda we provide (including as applicable, our Aerial Equipment, Forklift and Tier 4 Addenda), each of which is incorporated herein, represent the entire agreement between you and SBER, superseding all other agreements and representations (including SBER's website and advertising). The terms of this Contract are severable. If any provision of this Contract is deemed invalid or unenforceable by any court of competent jurisdiction, such provision will be deleted, and the remainder of this Contract will remain valid and in full force and effect. This Contract cannot otherwise be amended or extended except in a writing signed by SBER. You acknowledge that this Contract: (a) constitutes a true operating lease, and not a disguised financing; (b) is fair and reasonable under the circumstances; and (c) shall be interpreted under the laws of the State of Wyoming, with proper venue for all associated civil legal proceedings lying solely and exclusively in the federal, state and local courts located in or nearest to Teton County, WY (unless waived by SBER). You consent and submit to such jurisdiction and venue and waive all claims that such venue lies in an inconvenient forum. Time is of the essence. There are no third-party beneficiaries hereto other than the TPO(s), if any. **These Terms and Conditions apply to all Item(s) identified on P.1, and also to all other Items you obtain from SBER at any time** (except only as otherwise agreed by SBER).

16. Your duties hereunder are unconditional. If: (a) you or any guarantor shall: (i) fail to timely pay or perform any of your obligations arising under this Contract; (ii) otherwise fail to fully and timely comply with this Contract; (iii) provide any incorrect or misleading information to SBER; (iv) become insolvent; or (v) die or cease conducting business; (b) any Item(s) shall be lost, damaged or destroyed (except to the extent covered by LDW, as provided in § 13); or (c) SBER shall deem itself insecure, you will be in default, whereupon, we may with or without legal process or notice (and without liability to you), to the maximum extent permitted under applicable law: (i) terminate your rental; (ii) seek relief from stay; (iii) recover, empty, lock or disable any or all Rented Item(s) without being guilty of trespass or liable for personal injuries or property damage (for which you will indemnify, defend and hold harmless SBER, its agents and employees); (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 (jointly and severally) our associated damages, losses, costs and expenses (including without limitation, Rent for the remainder of the Term and attorneys' fees); and/or (vii) pursue any other rights and/or remedies available hereunder, at law and/or in equity, all of which shall be cumulative.

17. **WARNING:** A person who, with intent to defraud, obtains services which he knows are available only for compensation, without paying for the service is guilty of theft of services, which may result in **CIVIL LIABILITY AND/OR CRIMINAL PROSECUTION**. See Wyo. Stat. § 6-3-408, *et seq.* for details.