

1. **DEFINITIONS.** "Rental Agreement" means this Rental Contract and Agreement, including the front and back pages, as well as any Addendum attached hereto. "TAC" means TAC Industrial LLC "Equipment" means any one or more of the items identified as rental items on the first page of this Rental Agreement and any accessories, attachments or other similar items delivered to Customer including, but not limited to, air hoses, electric cords, blades, welding cables, liquid fuel tanks and nozzles. "Customer" means the person or entity identified as such on the first page of this Rental Agreement or any representative, agent, officer or employee of Customer. "Rental Period" means the period of time between the "Rental Out" and "Scheduled In," set forth on the first page of this Rental Agreement, except that the Rental Period may terminate earlier as provided in Sections 18 and 25 hereof or if Customer returns the Equipment earlier. "Store Location" means TAC Industrial LLC's business address which is listed on the first page of this Rental Agreement. "Credit Card" means the credit card provided by Customer as part of this Rental Agreement.

2. **AUTHORITY TO SIGN.** Any individual signing this Rental Agreement represents and warrants that he or she is of legal age and has the authority and power to sign this Rental Agreement on behalf of Customer and bind the Customer to the obligations under this Rental Agreement.

3. **INDEMNITY / HOLD HARMLESS. TO THE FULLEST EXTENT PERMITTED BY LAW, CUSTOMER AGREES TO INDEMNIFY, DEFEND AND HOLD TAC, AND ANY OF ITS RESPECTIVE OFFICERS, AGENTS, SERVANTS OR EMPLOYEES, AND AFFILIATES, PARENTS AND SUBSIDIARIES, HARMLESS FROM AND AGAINST ANY AND ALL LIABILITY, CLAIMS, LOSS, DAMAGE OR COSTS (INCLUDING, BUT NOT LIMITED TO, LEGAL FEES, LOSS OF PROFIT, BUSINESS INTERRUPTION OR OTHER SPECIAL OR CONSEQUENTIAL DAMAGES, DAMAGES RELATING TO PROPERTY DAMAGE, BODILY INJURY OR DAMAGES RELATING TO WRONGFUL DEATH) ARISING OUT OF OR RELATED TO THE OPERATION, USE, POSSESSION OR RENTAL OF THE EQUIPMENT. THIS INDEMNITY PROVISION ALSO APPLIES TO ANY CLAIMS ASSERTED AGAINST TAC BASED UPON STRICT OR PRODUCT LIABILITY CAUSES OF ACTION. HOWEVER, CUSTOMER SHALL NOT BE OBLIGATED TO INDEMNIFY TAC FOR THAT PART OF ANY LOSS, DAMAGE OR LIABILITY CAUSED SOLELY BY THE INTENTIONAL MISCONDUCT OR SOLE GROSS NEGLIGENCE OF TAC. IN FURTHERANCE OF, BUT NOT IN LIMITATION OF THE INDEMNITY PROVISIONS IN THIS AGREEMENT, CUSTOMER EXPRESSLY AND SPECIFICALLY AGREES THAT THE FOREGOING OBLIGATION TO INDEMNIFY SHALL NOT IN ANY WAY BE AFFECTED OR DIMINISHED BY ANY STATUTORY OR CONSTITUTIONAL LIMITATION OF LIABILITY OR IMMUNITY CUSTOMER ENJOYS FROM SUITS BY ITS OWN EMPLOYEES. THE DUTY TO INDEMNIFY WILL CONTINUE IN FULL FORCE AND EFFECT NOTWITHSTANDING THE EXPIRATION OR EARLY TERMINATION OF THE RENTAL AGREEMENT.**

4. **INSPECTION OF EQUIPMENT.** Customer acknowledges that Customer has inspected the Equipment prior to taking possession thereof, finds it in good working order and repair and suitable for Customer's needs. Customer further acknowledges that Customer has inspected the propulsion tank of vehicles registered and licensed, or required to be registered and licensed, for use on any highway or public road use, prior to taking possession thereof and such propulsion tank contained no dyed fuel. Customer is familiar with the proper operation and use of each item of Equipment. Customer has inspected all hitches, bolts, safety chains, hauling tongues and other devices and materials used to connect the Equipment to Customer's towing vehicle, if any, and finds such items in good working order and repair and suitable for Customer's needs. Customer acknowledges TAC is not responsible for any damage to Customer's towing vehicle caused by any reason.

5. **LIMITATION OF LIABILITY.** In no event shall TAC be liable or responsible to Customer or any other party for: (i) any loss, damage or injury caused by, resulting from or in any way connected with the Equipment, its operation or its use; (ii) TAC's failure to deliver the Equipment as required hereunder or TAC's failure to repair or replace non-

working Equipment; (iii) or any incidental, consequential, punitive or special damages. Customer acknowledges and assumes all risks inherent in the operation, use and possession of the Equipment from the time the Equipment is delivered to Customer until the Equipment is returned to TAC and will take all necessary precautions to protect all persons and property from injury or damage from the Equipment.

**6. USE OF EQUIPMENT.** Customer will not use or allow anyone to use the Equipment: (i) for an illegal purpose or in an illegal manner; (ii) without a license, if required under any applicable law; (iii) or who is not qualified to operate it. Customer agrees, at Customer's sole expense, to comply with all applicable municipal, provincial, territorial, and federal laws, ordinances and regulations (including those related to occupational health and safety) which may apply to the use of the Equipment. Customer shall not insert, or permit to be inserted, any dyed fuel into the propulsion tank of vehicles registered and licensed, or required to be registered and licensed, for use on any highway or other public road. **CUSTOMER AGREES TO DEFEND, INDEMNIFY AND HOLD TAC HARMLESS FROM ALL FINES, PENALTIES AND COSTS INCURRED BY TAC DUE TO DYED FUEL BEING INTRODUCED INTO THE PROPULSION TANK OF SUCH VEHICLES.** Customer agrees to: (i) check filters, oil, fluid levels and tire air pressure; (ii) clean and visually inspect the Equipment daily; (iii) and immediately notify TAC when Equipment needs repair or maintenance and cease using the Equipment. Customer acknowledges that TAC has no responsibility to inspect the Equipment while it is in Customer's possession. TAC shall have the right to replace the Equipment with other reasonably similar equipment at any time and for any reason. Unless Customer otherwise notifies TAC in writing at the time of signing this Rental Agreement, Customer represents and warrants that Customer is entering into this Rental Agreement only for business or commercial purposes and not for personal, family, household, or farming purposes, or in connection with the operation of a farm, ranch or feedlot, and the Equipment will not be used for any such purposes.

**7. DISCLAIMER OF WARRANTIES. TAC MAKES NO WARRANTIES, EXPRESS OR IMPLIED, AS TO THE MERCHANTABILITY OF THE EQUIPMENT OR ITS FITNESS FOR ANY PARTICULAR PURPOSE. THERE IS NO WARRANTY 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, TAC DISCLAIMS ALL WARRANTIES, EITHER EXPRESS OR IMPLIED, MADE IN CONNECTION WITH THIS RENTAL TRANSACTION.**

**8. MALFUNCTIONING EQUIPMENT.** Should the Equipment be involved in an accident, become unsafe, malfunction or require repair, Customer shall immediately cease using the Equipment and immediately notify TAC. If such condition is the result of normal operation, TAC will repair or replace the Equipment with reasonably-similar Equipment in working order, if such replacement Equipment is available. TAC has no obligation to repair or 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. Customer must return the Equipment to TAC Industrial LLC within 24 hours from the time of defect in order to terminate ongoing rental charges.

**9. RETURN OF EQUIPMENT / DAMAGED & LOST EQUIPMENT.** At the expiration of the Rental Period, Customer will return the Equipment to TAC Industrial LLC during TAC's regular business hours. The Equipment is to be in the same condition as when delivered to Customer, subject to reasonable wear and tear, as defined below. In the event that TAC has agreed to pick up the Equipment from Customer, Customer shall notify TAC in writing that the Equipment is "off rent" and shall obtain an "off rent" confirmation number from TAC. TAC shall endeavor to pick up the Equipment within a commercially reasonable period of time after the Equipment is called "off rent." Customer shall be liable for all damages to or loss of the Equipment from the time the Equipment leaves the TAC's possession until the Equipment is: (i) returned to the Store Location, including any damage during transit to or

from Customer; (ii) or picked up by TAC after issuance of an "off rent" confirmation number. In the case of the loss or destruction of any Equipment, or inability or failure to return same to TAC for any reason whatsoever, Customer will pay TAC the then full replacement list value of the Equipment together with the full rental rate as specified until such Equipment is replaced. If the Equipment is returned in a damaged or excessively worn condition, Customer shall pay TAC the reasonable cost of repair and pay rental on the Equipment at the regular rental rate until all repairs have been completed. TAC shall be under no obligation to commence repair work until Customer has paid to TAC the estimated cost therefor. Customer agrees that TAC reserves the right to charge the Credit Card and/or Customer's account for any amount owed by Customer due to damaged or lost Equipment.

**10. 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 a one shift basis (as defined in Section 12 below). The following shall not be considered reasonable wear and tear: (i) damage resulting from lack of lubrication, insertion of improper fuel or maintenance of necessary oil, water and air pressure levels; (ii) except where TAC expressly assumes the obligation to service or maintain the Equipment, any damage resulting from lack of servicing or preventative maintenance suggested in the manufacturer's operation and maintenance manual; (iii) damage resulting from any collision, overturning or improper operation, including overloading or exceeding the rated capacity of the Equipment; (iv) damage in the nature of dents, bending, tearing, staining, corrosion or misalignment to or of the Equipment or any part thereof; (v) wear resulting from use in excess of shifts for which rented; (vi) and any other damage to the Equipment which is not considered ordinary and reasonable in the equipment rental industry.

**11. LATE RETURN.** Customer agrees that if the Equipment is not returned by the end of the Rental Period, TAC, in its sole discretion, may require Customer to do any of the following: (i) continue to pay the rental rate(s) applicable to the Equipment as specified on the front page of this Rental Agreement; (ii) for periods less than 24 hours, pay the full daily rental rate applicable to the Equipment; (iii) or pay any increased rental rate(s) in effect at the time of, or after, the expiration of the Rental Period. Customer agrees that TAC reserves the right to charge the Credit Card, and/or Customer's account for any amount owed by Customer due to late return of Equipment.

**12. RENTAL PERIOD / CALCULATION OF CHARGES.** Rental charges commence when the Equipment leaves the Store Location and end when the Equipment is returned to the Store Location during TAC's regular business hours. Rental charges do not include the cost of the Refueling Service Charge, any applicable taxes, the cost of the Delivery and Pickup Service Charge, transportation surcharges, the cost of the Environmental Service Charge or other miscellaneous charges, all of which are the Customer's responsibility. If Customer chooses to have TAC deliver and pick up the Equipment, Customer agrees to pay a Delivery and Pickup Service Charge. In the event that Customer has elected to pay for the Delivery and Pickup Service Charge, Customer shall notify TAC in writing that the Equipment is "off rent" and obtain an "off rent" confirmation number from TAC, at which time rental charges shall no longer be assessed, unless otherwise provided herein. Rental charges accrue during Saturdays, Sundays and Holidays. Rental rates are for normal "one shift" usage based on an 8 hour day, 40 hours per week and 160 hours per 4 week period. On power equipment, operations in excess of one shift will be as follows: 1.5 times the rental charges for double shift and 2 times the rental charges for triple shift. Customer will truthfully and accurately certify to TAC the number of shifts the Equipment was operated, based on hours noted on the Rental Agreement. Customer's right to possess the Equipment terminates on the expiration of the Rental Period and retention of possession after this time is a material breach of this Rental Agreement. **TIME IS OF THE ESSENCE OF THIS RENTAL AGREEMENT.**

**13. REFUELING SERVICE CHARGE.** Customer acknowledges that a "Refueling Service Charge"

will be applied to all Equipment not returned with a full tank of fuel. The exact cost of the Refueling Service Charge may vary depending on the rate being charged by the Store Location on the date Customer returns the Equipment. Customer acknowledges that the Refueling Service Charge is not a retail sale of fuel. Customer may avoid the Refueling Service Charge if Customer returns the Equipment with a full tank of fuel.

**14. DEPOSIT.** In addition to securing the payment of rental charges hereunder, Customer agrees that any rental deposit shall be deemed to be a guarantee by Customer of the full and complete performance of each and all of the terms, covenants and agreements to be performed by Customer hereunder. In the event of any breach by Customer, the deposit will be credited against any damages, cost or expense incurred by TAC as a result of the breach.

**15. PAYMENT.** All amounts due hereunder shall be payable in full upon receipt of invoice by Customer. Customer acknowledges that timely payment of rental charges is essential to TAC's business operations and it would be impractical and extremely difficult to fix the actual damages caused by late payment. Customer and TAC agree that there shall be added to all past due rental charges a late payment fee equal to the lesser of 2% per month (24% per annum) on any such payments outstanding after 30 days, or the maximum amount allowed by applicable law. Rental rates do not include sales tax, goods and services tax or other taxes, levies and assessments required to be collected by TAC from Customer at any time upon, or in respect of, the Equipment and/or this Rental Agreement (collectively, "Taxes"). Customer agrees that TAC reserves the right to charge the Credit Card and/or Customer's account for any amount owed by Customer due to late or past due payment(s) or rental charges or Taxes.

**16. TITLE / NO PURCHASE OPTION / NO LIENS.** This Rental Agreement is not a contract of sale, and title to the Equipment shall at all times remain with TAC. Unless covered by a specific supplemental agreement signed by TAC, Customer has no option or right to purchase the Equipment. Customer shall keep the Equipment free and clear of all mechanics and other liens and encumbrances.

**17. TIRE AND TUBE REPAIR OR REPLACEMENT.** Repair or replacement of tires and tubes is the responsibility of Customer and is not included in the rental rate.

**18. DEFAULT.** Customer shall be deemed in default should Customer: (i) in any way fail to pay any amount when due hereunder, or to perform, observe or keep any provision of this Rental Agreement; (ii) become "Insolvent" (as defined herein), or should TAC anticipate that Customer may become Insolvent; (iii) or otherwise be in default. If Customer is in default, TAC may do any one or more of the following: (i) terminate the Rental Period; (ii) declare the entire amounts due hereunder immediately due and payable and commence legal action therefor; (iii) cause TAC's employees or agents, with notice but without legal process, to enter upon Customer's property and take all action necessary to retake and repossess the Equipment, and Customer hereby consents to such entry, re-taking and re-possession and hereby waives all claims for damages and losses, physical and pecuniary, caused thereby and shall pay all costs and expenses incurred by TAC in retaking and repossessing the Equipment; (iv) or pursue any other remedies available by law. Customer shall be considered "Insolvent" if Customer shall: (i) generally not pay, or be unable to pay, or admit its inability or anticipated inability to pay its debts as such debts become due; (ii) make an assignment for the benefit of creditors, or petition or apply to any court or tribunal for the appointment of a custodian, receiver, or trustee for it or a substantial part of its assets; (iii) commence any proceeding under any bankruptcy, reorganization, arrangement, readjustment of debt, dissolution, or liquidation law or statute of any jurisdiction, whether now or hereafter in effect; (iv) have had any such petition or application filed or any such proceeding commenced against it in which an order for relief is entered or an adjudication or appointment is made; (v) or take any action indicating its consent to, approval of or acquiescence in any such petition, application,

proceeding or order for relief or the appointment of a custodian, receiver or trustee for all or any substantial part of its properties.

**19. CUSTOMER'S INSURANCE COVERAGE.** Customer agrees to maintain and carry, at Customer's sole cost, the following insurance: (i) commercial auto liability insurance with at least a per occurrence limit of \$2 million; (ii) commercial general liability insurance ("CGL") (providing coverage equal to or greater than the standard ISO CG 00 01 12 04 form) with limits of insurance not less than \$2 million per occurrence and \$4 million in the aggregate; (iii) and 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 TAC. TAC 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 this Rental Agreement shall include a waiver of rights of recovery against TAC or its insurers by the Customer and its insurers, as well as a waiver of subrogation against TAC or its insurers. The policies required hereunder shall provide that TAC must receive not less than 90 days' notice prior to any cancellation. FOR RENTAL OF EQUIPMENT NOT LICENSED FOR ROAD USE, CUSTOMER MUST (i) ELECT TO NAME TAC AS LOSS PAYEE EVIDENCING PROPERTY INSURANCE COVERAGE. The Customer shall provide TAC with a certificate of Insurance form acceptable to TAC, which includes TAC as an additional insured and/or as a loss payee, as the case may be, prior to the rental of the Equipment.

**20. NO ASSIGNMENT, LENDING OR SUBLETTING.** Customer shall not sublease, subrent, assign or loan (together, "transfer") the Equipment without first obtaining the written consent of TAC, and any such action by Customer, without TAC's written consent, shall be void. Customer shall remain fully responsible for the Equipment and for all of Customer's obligations under this Rental Agreement notwithstanding any attempted transfer of the Equipment. Customer agrees to use and keep the Equipment at the job site set forth on the first page of this Rental Agreement unless TAC approves otherwise in writing, prior to any relocation. TAC may at any time, without notice to Customer, transfer or assign this Rental Agreement or any Equipment or any moneys or other benefits due or to become due hereunder.

**21. ENTIRE AGREEMENT / ONLY AGREEMENT.** The Rental Agreement, including the front and back pages of the Rental Agreement, and any Addendum attached hereto, represent the entire agreement between Customer and TAC with respect to the Equipment and the rental of the Equipment. There are no oral or other representations or agreements not included herein. All prior or contemporaneous promises, agreements, and understandings, whether oral or written, are deemed to be superseded by this Rental Agreement, and the Customer is not relying on any promise, agreement, or understanding not set forth in this Rental Agreement. None of TAC's rights or Customer's rights may be changed and no extension of the terms of this Rental Agreement may be made except in writing, signed by both TAC and Customer. Any use of Customer's purchase order number on this Rental Agreement is for Customer's convenience only and terms and conditions, whether oral or written, that are different or inconsistent with the terms contained herein are hereby rejected by TAC.

**22. ORDER OF PRECEDENCE.** The terms and conditions of this Rental Agreement shall control over any conflicting preprinted terms and conditions contained in Customer's purchase order or similar documents and such other terms are hereby rejected by TAC.

**23. CLASS ACTION WAIVER.** Customer agrees that any claims or proceedings brought by Customer relating to this Rental Agreement will be conducted on an individual basis, and not on a class-wide, collective, or representative

basis, and that any one person's claims or proceedings may not be consolidated with any other claims or proceedings. Customer will not sue TAC as a class plaintiff or class representative, join as a class member, or participate as an adverse party in any way in a class-action lawsuit against TAC. Nothing in this paragraph, however, limits Customer's right to bring a lawsuit as an individual plaintiff.

**24. JURISDICTION; JURY WAIVER.** The courts in the State of New Hampshire shall have exclusive jurisdiction over all matters relating to this Rental Agreement. The Customer hereby irrevocably and unconditionally (a) submits to exclusive personal jurisdiction in the Superior Courts of the State of New Hampshire over any suit, action, or proceeding arising out of or relating to this Rental Agreement or the use of Equipment, and (b) waives any and all personal rights under the laws of any other state to object to jurisdiction within the Superior Courts of the State of New Hampshire. The Parties agree that the only proper venue for any suit, action, or proceeding arising out of or related to this Lease shall be in the courts of the State of New Hampshire.

TRIAL BY JURY IS WAIVED. TAC shall be entitled to orders of injunctive relief and/or specific performance (without posting bond or other security) in addition to such other remedies as may be available.

**25. OTHER PROVISIONS.**

A. Any failure of TAC to insist upon strict performance by Customer of any terms and conditions of this Rental Agreement shall not be construed as a waiver of TAC's right to demand strict compliance. Customer has carefully reviewed this Rental Agreement and waives any principle of law which would construe any provision hereof against TAC as the drafter of this Rental Agreement. Any rule of construction to the effect that any ambiguities are to be resolved against the drafting party shall not apply to the interpretation of this Rental Agreement.

B. Customer agrees to pay all reasonable costs of collection, court, legal fees and other expenses incurred by TAC in the collection of any charges due under this Rental Agreement or in connection with the enforcement of its terms.

C. Customer shall pay the rental charge(s) without any offsets, deductions or claims.

D. Customer consents to the collection, use and disclosure of his or her personal identification and financial information as described herein and in TAC's Privacy Policy. Customer's personal identification and financial information is provided voluntarily and not as part of a credit card transaction. Personal identification information includes, for example, Customer's name, billing address, postal code, telephone number, date of birth, driver's license number and email address. Financial information includes, for example, information related to any balances or invoices related to the Rental Agreement. Customer's personal identification information and financial information can be used for purposes of this transaction, any subsequent transactions with TAC and for TAC to evaluate and improve its products and services and/or develop new products or services. Customer's personal identification information and/or financial information may be disclosed to contractors, service providers and other third parties, who may be located outside of Canada where Customer's information may be subject to disclosure under local laws, that support TAC's business and who are bound by contractual obligations to keep personal information confidential and use it only for the purposes for which we disclose it to them.

E. TAC shall have the right to immediately repossess the Equipment, without any liability to Customer, in the event of: (i) permanent closure of the Store Location; (ii) declaration of any emergency, disaster or similar situation by any federal, provincial, territorial or local government; (iii) or as otherwise set forth in this Rental Agreement.

F. TAC may make any registrations, recordations, filings or financing statements necessary or desirable to protect or discharge, as the case may be, its ownership of and interests in the Equipment at the expense of Customer. Customer hereby consents to same and shall give such further assurances and do such acts and execute such documents as may be required by TAC to give effect to this Rental Agreement and the rights and obligations hereunder. To the extent permitted by applicable law, Customer irrevocably waives the right to receive a copy of any financing statement or financing change statement (or any verification statement pertaining thereto) filed under the personal property security statutes of the provinces and territories of Canada by TAC in respect of this

Rental Agreement, and Customer hereby releases any and all claims or causes of action Customer may have against TAC for failure to provide any such copy.

**CRIMINAL WARNING:** The use of false identification to obtain Equipment or the failure to return the Equipment by the end of the Rental Period shall be considered a theft subject to criminal prosecution pursuant to applicable criminal or penal code provisions.