

TERMS AND CONDITIONS OF RENTAL CONTRACT

For good and valuable consideration, you and ABAL Enterprise, LLC, d/b/a "A&B Rental" (hereinafter also referred to as "PER," "Lessor," "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; "Rented Item(s)" or "Item(s)" means the item(s) rented to you, as identified on P.1 (including any "Instructions" and/or safety device(s) provided per the terms of Section [or "S"] 4 below); "Site" means the **delivery** or use address set forth on P.1; and "Customer," "Lessee," "you" and "**your**" mean the "Customer/Lessee" identified on P.1.

2. You agree to rent the Rented Item(s) from **PER** for the period(s) specified on P.1 (the "**Term**"), at the end of which, **you agree to return** such Item(s) to us. **You** agree to pay us our stated rental rate(s) (the "**Rent**"), together with all other charges **accruing** hereunder, without proration, reduction or setoff, and remain **liable** for all 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 PER in the proper return condition as required under this Contract (including § 10). **Unless** otherwise agreed in writing by PER, 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 7-Rental Day Period, 176 hours per 28-Rental Day period, and otherwise in accordance with the terms of this Contract and the "Instructions" referenced in § 4. Additional prorated Rent will be charged for **late** returns and overuse. No allowance will be made for 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"). Unless we otherwise agree in writing (a) **you** shall pay us: (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)(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; (iv) all Prepayments will be **NON-REFUNDABLE** except only as provided in § 5; and (v) anything remaining with, in or on any Item(s) upon return to us will be deemed abandoned.

3. You agree to 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 without limitation, **delivery**, setup 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 agree to indemnify, defend and hold harmless PER. **If you** are not present upon delivery or retrieval of any **Item(s)**, **you** agree to accept the statements of our representatives regarding the same (including the status, condition, quality, **existence** or lack of defects and quantities of the Item(s) and the Site).

4. 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, (ii) is appropriate for your purposes and in all ways acceptable to you; and (iii) was selected (not based on any recommendation by PER), carefully examined and tested by **you** or **your** agent(s); and (b) you: (i) have received, carefully reviewed and understand all training, instructions, user manuals, maintenance requirements, and other information, if any, including all applicable EPA, OSHA, MSHA, ASME, IBC, IFEE, ASSE, DOT, FMCSA, IFTA, ANSI and other applicable standards (**collectively**, "Instructions"); (ii) will fully **comply therewith** (including Tier 4, Silica Dust and Electronic Logging Device requirements); (iii) have been made aware of the need to use all applicable personal protective equipment and 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 all applicable notice(s) **to**, and obtain all applicable licenses, authorizations, permits and approvals from, all affected parties, including 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 dig** or disturb the ground **surface** (call 811 and go to www.nebraska811.org at least 3 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 at all times. You will notify us immediately if any of the foregoing shall be breached or proven **incorrect** or misleading

5. In the **event** of a Malfunction, you will immediately notify, and return the Malfunctioning **Item** to, PER, 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 otherwise deal with such Item(s), we will, at our option: (a) repair the subject Item; (b) provide you with a comparable replacement Item; or (c) with respect only to the Malfunctioning Item(s), return the **unused** portion of the Rent and cancel this Contract. The foregoing remedies are EXCLUSIVE. PER will have no other obligation(s) with respect to Malfunctions, all of which **you** waive, together with all associated direct, incidental, consequential and other **indirect** damages.

6. Except with respect to Rented Items which PER rents from one or **more** third parties (each, a "TPO") and then **re-rents** to you ("Re-Rented Items"), PER 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 however**, to your obligation to fully and timely comply with this Contract at all times. 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, share, transfer, sublease, surrender or assign any **Rented Item(s)** or this Contract, without our prior written consent (in our sole discretion). PER may at any **time**, substitute any **Rented Item(s)** and/or 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 our **pre-existing** obligations or liabilities.

7. WARNINGS: THE RENTED ITEM(S) CAN BE DANGEROUS. ACCORDINGLY, YOU AGREE TO: (A) PROVIDE ALL APPLICABLE TRAINING **FAMILIARIZATION**, INSTRUCTIONS AND **WARNINGS** to all persons who **use**, operate, **occupy** or otherwise deal with any Rented Item(s); AND (B) ENSURE THAT EACH RENTED ITEM IS TRANSPORTED, SERVICED, MAINTAINED, REPAIRED, USED, OPERATED AND OCCUPIED: (1) WITH GREAT CARE; (II) within its rated capacity; (III) unless otherwise specifically agreed by PER, at the Site; (IV) by properly trained, **FAMILIARIZED**, qualified, certified, SUPERVISED and/or licensed (as applicable) ADULTS; and (V) otherwise in full compliance with THIS CONTRACT, the Instructions AND all applicable laws, rules and regulations, at all times.

8. no warranties LESSOR IS NOT THE MANUFACTURER OR DESIGNER OF the Rented ITEM(S), ALL OF WHICH ARE PROVIDED "**AS-IS**". NEITHER ABAL Enterprise, LLC NOR ANY TPO, MAKES ANY WARRANTY(ies), EXPRESS OR IMPLIED (INCLUDING ANY WARRANTY (IES) OF **MERCHANTABILITY**, SUITABILITY, FITNESS FOR A PARTICULAR PURPOSE, FUNCTION, DESIGN, QUALITY, CAPACITY, FREEDOM FROM DEFECTS AND/OR GOOD AND WORKMANLIKE PERFORMANCE, AS WELL AS ANY WARRANTY(ies) arising FROM OR IN CONNECTION WITH ANY COURSE OF DEALING, COURSE OF PERFORMANCE AND /OR USAGE OF TRADE) REGARDING ANY ITEM(S) OR **SERVICE(S)** referenced in this contract, NOR DOES PER OR ANY TPO MAKE ANY WARRANTY(ies) AGAINST INTERFERENCE OR INFRINGEMENT, ALL OF WHICH **YOU** WAIVE. NO DESCRIPTIONS, SPECIFICATIONS, DEPICTIONS OR ADVERTISEMENTS CONSTITUTE REPRESENTATIONS OR WARRANTIES BY PER OR ANY TPO

9. TO THE MAXIMUM EXTENT PERMITTED UNDER APPLICABLE LAW, **YOU:** (A) ASSUME ALL **RISK OF PERSONAL AND BODILY INJURY, LOSS, PROPERTY DAMAGE, DESTRUCTION 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 (**including** attorneys' fees) ARISING from and/or IN CONNECTION WITH THE SELECTION, PROVISION, INSPECTION, DESIGN, MANUFACTURE, USE, LOADING, UNLOADING, TRANSPORTATION, DEMONSTRATION, INSTALLATION, 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, **PER** AND **EACH** TPO, and their respective owners, affiliates, subsidiaries, 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 (including attorneys' fees) arising from and/or in connection with the Rented Item(s), this Contract and/or **your** breach of any one or more of the terms hereof; and except only as provided in § 5. (C) WAIVE all rights and remedies available under the Uniform Commercial Code, as well as all direct, indirect, incidental, consequential, **general**, special, exemplary and punitive damages against each and every **Indemnitee**.

10. 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 PER on time, clean, free of contaminants (including without limitation, asbestos, beryllium 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, then in addition to the amounts set forth on **P.1**, **you** will pay us: (a) hourly **Rent** until all **Item(s)** has/have been returned or replaced as required; and (b) all costs and expenses we incur 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 or damage any **Rented Item(s)**; (ii) **violate** any law, policy of insurance or warranty; (iii) expose any Rented Item(s) to any flammable, explosive, harmful or hazardous substance(s) or circumstance(s); (iv) disable, misuse or circumvent any **safety** equipment or device(s) in, on or with any Rented Item(s); or (v) take possession of or exercise control over any Rented **Item(s)**, without our prior **consent** (granted, conditioned or withheld in our **sole** and absolute discretion). Additionally, **YOU SHALL NOT** PLACE OR STORE IN OR ON ANY RENTED ITEM(S) (including trailers) any: (A) toxic, noxious, flammable, explosive, corrosive, contaminated or other potentially harmful or hazardous materials and/or substances; or (B) **contraband**.

11. 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) if applicable (e.g. for trailers and/or vehicles): (i) hired auto liability insurance with minimum limits of \$1,000,000; (ii) hired auto physical damage insurance for actual cash **value**; and (iii) **contents** insurance for the full new replacement cost of all **contents** thereof. Such policies shall, whenever possible: (A) name PER and each TPO as an additional insured and loss payee; (B) waive subrogation against them; (C) be primary and non-contributory; and (D) include such other provisions (including deductibles) as we may require. **You** irrevocably appoint PER as **your** agent and attorney-in-fact for purposes of submitting and negotiating claims on all of the above referenced policies.

12. If and **only**, we have offered, and you have elected to purchase **our** Optional LIMITED Damage **Waiver** ("LDw") set forth on P.1, if available, and paid the LDW Fee **set** forth therein prior to commencement of the Term, **you** will have **no** liability to PER for 80% of the **cost** to repair or replace **Rented** Item(s) covered by LDW (Covered Items") **which** suffer physical damage during the Term; *provided however*, that **you** will remain 100% liable **for**: (a) all other (**non**-physical) loss and damage; (b) all damage to or loss of: (1) Item(s) not covered by LDW; (ii) Covered Items lost or damaged as a result of: (A) **your** breach of this Contract; (B) theft or other failure to return **Rented** Item(s) to PER as and when required under this Contract; (C) gross **negligence**, misuse and/or abuse; (D) vandalism and/or malicious mischief, (E) use of alcohol or drugs; (F) use of any Rented Item in violation of this Contract or any applicable law or policy of insurance; (iii) batteries, keys, glass, tires, tracks, tubes, belts, chains, knobs and hoses; and (c) 20% of all repair/replacement costs **for** Covered Items. You may decline LDW by **initialing** in the appropriate space if and only you maintain the property damage/inland marine insurance referenced in § 11. LDW IS **NOT** INSURANCE NOR IS IT A WARRANTY.

13. You agree to pay all taxes (including all sales, use, inventory, SMM, Environmental, equipment and other taxes), fines, fees, assessments, tolls 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) from you if we prevail. To the maximum extent permitted under applicable law, **you** grant to ABAL Enterprise, LLC 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 and/or **inspect** (in person and/or electronically) any **Rented Item(s)** at any time, and all **information** thereby **obtained** will be the sole and exclusive property of PER. If any performance required of PER is delayed or impaired as a result of any act or omission of you, 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 our rights and remedies. All amounts due hereunder but not timely paid will bear interest at the lesser of: (i) 18% per annum; or (ii) the highest rate permitted under applicable law until paid. **You** authorize us to **charge** all amounts coming due hereunder to **any** debit and/or credit card(s) you provide. You will 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 **Rent** actually paid by **you** to us hereunder. **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.

14. **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, (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, unless covered by LDW **per** § 12, damaged, **you** will be **in default** under this Contract, whereupon, we may **with** or **without** legal process or notice (and without liability to you or any guarantor), to the maximum extent permitted under applicable law: (1) terminate **your** rental(s); (ii) seek relief from stay; (iii) recover, empty, lock, restrict and/or disable any one or more **Rented Item(s)** (without being guilty of breach, trespass or wrongful **interference**, or liable for any injuries or property damage (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 our associated direct and indirect damages, losses, costs and expenses (including without limitation, **Rent** for the balance of the scheduled Term, overtime, loss of use, **interest**, **attorneys' fees** and **collection** costs); and/or (vii) pursue any other rights and/or remedies available hereunder, at law and/or in equity,

all of which are cumulative.

15. Any Item(s) sold to **you** ("Sale Items"), as provided on Page 1 are provided "**AS-IS**" and "WITH ALL FAULTS," and are subject to the terms of this Contract (modified to address sales); *provided that* our obligations under § 5 shall expire and terminate 3 days after the date of purchase. All item(s) not specifically identified as Sale **Items** on P.1 will be deemed to be "**Rented Item(s)**".

16. Time is of the essence. There are no third-party beneficiaries hereto other than the applicable Indemnitees. This Contract, and any addenda provided by PER, each of which is incorporated herein, represent(s) the entire agreement between you and PER, superseding all other oral and written agreements and representations (including our website and advertising). The terms of this Contract and each such Addendum are severable. If **any** provision (I) thereof is deemed invalid or **unenforceable** under applicable law by any court of competent jurisdiction, such provision will be deleted, and the remainder of (t)hereof will remain valid and enforceable. This Contract cannot otherwise be amended or extended except in a writing signed by ABAL Enterprise, LLC. 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 otherwise agreed by PER). **You** acknowledge that this Contract: (a) constitutes a true operating lease, and not a disguised financing, (b) is fair and reasonable; (c) shall be enforceable by you, ABAL Enterprise, LLC and the other Indemnitees; and (d) shall be interpreted under the laws of Nebraska, with proper **venue** for all associated civil legal proceedings **lying** exclusively in the **federal**, state and local courts **located** in or nearest to Keith County, NE (unless waived by PER). You consent and submit thereto and waive all claims that such venue lies in an **inconvenient forum**.

17. WARNING: Fraudulently obtaining, failing to **timely** return, and/or **concealing**, abandoning and/or disposing of, rented personal property may subject the Lessee to **CIVIL** PENALTIES and/or CRIMINAL PROSECUTION, See § 4-401, 18 C.R.S., *et seq.* and its successor(s), if any, for details.