

TERMS AND CONDITIONS OF RENTAL CONTRACT (Enlarged Version)

For good and valuable consideration, you and C & E Holdings, Inc., an Oregon corporation, d/b/a "C & E Rentals" (hereinafter referred to as "C&E") 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; "Site" means the address/ location set forth on P.1 where the Item(s) are to be installed and/or used; "Customer," "Lessee," "you" and "your" mean the customer or "Lessee" identified on P.1; and "Lessor," "we," "us" and "our" mean C&E.
2. You agree to rent from C&E, and C&E agrees to rent to you, the Rented Item(s) for the period(s) specified on P.1 (the "Term"). You agree to pay C&E the rent set forth on P.1 (the "Rent"), together with any other charges accruing hereunder, without proration, reduction or setoff, until all Rented Item(s) is/are returned to and accepted by C&E in the return condition required under § 7 below. Unless otherwise specifically agreed by C&E, all rental rates are for normal use of the Rented Item(s) on a single-shift basis for all Items (including without limitation, tools and equipment), 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 § 6. You agree to pay additional prorated Rent for overuse. No allowance will be made for weather, regulatory or permitting delay(s), time in transit, or other period(s) of nonuse.
3. We have estimated the Rent based on your estimate of the length of the Term (the "Estimated Rent"). You agree: (a) to pay C&E: (i) the Estimated Rent, together with any deposit specified on P.1 in advance (together, the "Prepayment"); and (ii) any additional amounts coming due hereunder upon demand; and (b) that: (i) C&E may deduct any amount you owe hereunder from any Prepayment; (ii) no interest will accrue on any Prepayment; (iii) no Prepayment will be deemed a limit of your liability to C&E; and (iv) all Prepayments are NON-REFUNDABLE unless otherwise specifically agreed by C&E. No allowance will be made for weather, regulatory or permitting delay(s), time in transit, or other period(s) of nonuse, unless otherwise separately agreed in writing by C&E. Anything remaining with, in or on any Rented Item(s) upon return to C&E will, at C&E's option, be deemed surrendered and abandoned.
4. Except with respect to Rented Items which we rent from one or more third party(ies) (each, a "TPO") and then re-rent to you ("Re-Rented Items"), C&E 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 will not permit the taking or existence of any lien, claim, security interest or encumbrance on any such Item. You SHALL NOT loan, transfer, sublease or assign any Rented Item or this Contract without the prior written consent of C&E. C&E 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 C&E or any TPO.
5. If we agree to provide any services (including without limitation, permitting, delivery and/or retrieval) in connection with your rental, you will: (a) pay our regular charge(s) for such services, and for all waiting time; (b) be present at the Site at the agreed time(s); (c) ensure the Site is reasonably clean, safe and secure; and (d) ensure our personnel have full and uninterrupted access to the Site. We will not be responsible for delay(s) caused by other parties, including providers of other equipment or services ("Other Providers") for which you hereby release and hold harmless C&E, its agents and employees. If you are not present upon delivery and/or retrieval of any Item(s), you agree to accept the statements of C&E's representatives regarding the same (including status, condition, quality, quantities, freedom from defects and proper installation).

6. Upon your execution of this Contract (or upon C&E's later delivery of the Item(s), unless you immediately reject it/them), you represent, warrant, acknowledge and agree that: (a) each Item: (i) is in good repair and operating condition and is in all ways acceptable to you; (ii) is appropriate for your purposes; and (iii) was selected (not based on any recommendation by C&E), carefully examined and inspected solely by you or your agent(s); and (b) you: (i) have received, carefully read and understood the training, instructions, user manuals, servicing and maintenance requirements, and other information, if any (including all applicable manufacturers' manuals as well as all EPA, OSHA, NFPA, IFC, IBC, ASSE, ASME, IEEE, UL, MSHA, SAIA and/or ANSI Standards) regarding the proper and safe transportation, installation, fueling, use, maintenance and storage of such Item(s) ("Instructions"); (ii) will fully comply therewith (including EPA Tier 4 requirements); (iii) have been made aware of the need to use all recommended and required safety equipment (INCLUDING PERSONAL PROTECTIVE AND FALL PROTECTION EQUIPMENT); (iv) will use each Item only for its intended purpose, in a reasonable and safe manner; (v) will give any required notice(s) to, and obtain all necessary licenses, authorizations and permits from, the appropriate governmental authorities as well as the owner(s) of the Site; (vi) will advise all local utilities and cable companies, and properly mark all underground lines and cables, before using any Item(s) to dig or disturb the ground surface (call 811 or 800-332-2344, or go to www.digsafelyoregon.com at least 2 full business days in advance); (vii) will immediately cease using any Item that breaks down, malfunctions or proves defective (a "Malfunction"); and (viii) will ensure that all other users of the Rented Item(s) comply fully with this Contract at all times. You agree to notify C&E immediately if any of the above requirements is breached or proves untrue or misleading.

7. 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 C&E on time, clean and otherwise in good order, condition and repair, properly serviced and maintained, and free of damage, scuffs and scrapes. If you fail to do so, you will pay C&E: (a) Rent for each succeeding full rental period until all Rented Item(s) have been returned or replaced as required hereunder; and (b) any and all costs and expenses C&E may incur in connection with your failure to do so.

8. With respect to rented trailers, you agree to: (a) carefully inspect the coupling mechanism(s), safety chain(s), tongue jack(s), door(s), latch(es), tires, brakes, taillights, turn signals, pins and tie-downs before each use; (b) secure, protect and routinely inspect all contents of, and refrain from overloading, such trailer(s); (c) exclude all illegal and/or hazardous substance(s); (d) comply with all D.O.T. requirements and connect all taillights and turn signals; and (e) avoid confiscation, seizure, impounding and/or "booting"; (f) timely pay all tolls, taxes, fees, fines, duties and other applicable charges; (g) maintain them in roadworthy condition; and (h) waive all claims against C&E for damage to any motor vehicle(s) (including bumpers, hitches and mirrors), regardless of cause.

9. In the event of a Malfunction as defined in § 6, you will immediately notify, and return Malfunctioning Item(s) to, C&E. Provided the Malfunction did not result from or in connection with any wrongful or negligent act(s) or omission(s) of, or any breach of this Contract by, you or anyone you permit to use or deal with the Rented 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. C&E will have no other obligation(s) regarding Malfunctions, all of which you waive as provided in § 13.

10. **SAFETY WARNINGS:** "TEMPORARY STRUCTURES" (INCLUDING TENTS AND CANOPIES), AS WELL AS VEHICLES, LIFTS, HOISTS, JACKS, TRENCHERS, AND POWERED TOOLS AND EQUIPMENT (INCLUDING ITEMS USED FOR DIGGING, DRILLING, CUTTING, GRINDING, SPRAYING, COMPACTING, BREAKING, BORING, HEATING, COOKING, LOADING, TOWING AND/OR HAULING), CAN BE **DANGEROUS**, AND MAY MOVE, SHIFT, TIP, SINK, OVERTURN, LEAK, OR COLLAPSE, **PARTICULARLY DURING SEVERE WEATHER AND/OR ON STEEP TERRAIN**. EXERCISE, AND ENSURE ALL OTHERS EXERCISE **EXTREME CARE** WHEN USING OR OTHERWISE DEALING WITH SUCH ITEMS.

11. YOU AGREE TO PROVIDE ANY AND ALL NECESSARY FAMILIARIZATION, TRAINING, INSTRUCTIONS AND WARNINGS TO ALL USERS AND OCCUPANTS OF THE RENTED ITEM(S), and ensure that each Rented

Item is used safely and only: (a) for its intended purpose(s); (b) in accordance with the Instructions and all applicable laws, rules and regulations; (c) within its rated capacity; (d) unless otherwise specifically agreed by C&E in writing on a case-by-case basis, at the Site; and (e) BY COMPETENT AND PROPERLY TRAINED, QUALIFIED, CERTIFIED, FAMILIARIZED, AND/OR LICENSED (AS APPLICABLE) ADULTS; at all times. You will not, nor will you permit anyone else to: (i) abuse, misuse, overuse, remove from the Site, conceal, repair, alter, modify or damage any Rented Item; (ii) violate any Instruction, applicable law, policy of insurance or warranty; or (iii) take possession of or exercise control over any Rented Item without C&E's prior consent (which may be granted, conditioned, or withheld in C&E's sole discretion). **YOU AGREE TO: (A) ENSURE THAT ALL CHILDREN IN, ON, OR NEAR ANY RENTED ITEM(S) ARE SUPERVISED BY A COMPETENT ADULT AT ALL TIMES, AND (B) POST IN A CONSPICUOUS PLACE, AN OSHA-COMPLIANT EVACUATION PLAN FOR ALL RENTED TEMPORARY STRUCTURES.**

12. C&E IS NOT THE MANUFACTURER OR DESIGNER OF ANY RENTED ITEM(S), ALL OF WHICH ARE PROVIDED "**AS-IS**". EXCEPT ONLY AS REQUIRED BY APPLICABLE LAW, **NEITHER C&E NOR ANY TPO MAKES ANY REPRESENTATION OR WARRANTY, EXPRESS OR IMPLIED (INCLUDING ANY WARRANTY OF MERCHANTABILITY, SUITABILITY, FITNESS FOR A PARTICULAR PURPOSE, FUNCTION, DESIGN, QUALITY, CAPACITY, FREEDOM FROM DEFECTS AND/OR WORKMANLIKE PERFORMANCE, AS WELL AS ANY WARRANTY 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 C&E OR ANY TPO MAKE ANY WARRANTY AGAINST **INTERFERENCE OR INFRINGEMENT**, ALL OF WHICH YOU WAIVE. No descriptions, specifications, models, depictions or advertisements offered or accepted by C&E or any TPO constitute representations or warranties.

13. **INDEMNITY/HOLD HARMLESS. TO THE MAXIMUM EXTENT PERMITTED UNDER APPLICABLE LAW, YOU HEREBY: (A) ASSUME ALL RISK** OF INJURY, LOSS, DAMAGE, DESTRUCTION AND ENVIRONMENTAL 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, DESIGN, MANUFACTURE, USE, LOADING, UNLOADING, TRANSPORTATION, DEMONSTRATION, STORAGE, SERVICING, MAINTENANCE, REPAIR AND/OR RETRIEVAL THEREOF; (B) **RELEASE AND DISCHARGE C&E AND EACH TPO FROM AND AGREE TO INDEMNIFY, DEFEND AND HOLD HARMLESS C&E AND EACH SUCH TPO**, AND THEIR RESPECTIVE OWNERS, OFFICERS, MANAGERS, DIRECTORS, AGENTS, EMPLOYEES, INSURERS, REPRESENTATIVES, SUBROGEEES, SUCCESSORS AND ASSIGNS, FOR, FROM AND AGAINST ANY AND ALL LIABILITIES, CLAIMS, DAMAGES, LOSSES, COSTS AND EXPENSES (INCLUDING WITHOUT LIMITATION, ATTORNEYS' FEES) ARISING FROM OR ASSOCIATED WITH ANY AND/OR ALL OF SUCH ITEM(S) AND/OR SERVICES (INCLUDING WITHOUT LIMITATION, THOSE ARISING FROM YOUR BREACH OF THIS CONTRACT, AND/OR THE NEGLIGENCE OR CLAIMED NEGLIGENCE OF C&E); AND (C) waive all rights, claims and damages arising under the Uniform Commercial Code, as well as all incidental, consequential, special, exemplary and punitive damages against C&E and each TPO.

14. You agree to maintain all insurance C&E deems necessary during the Term, including without limitation: (a) liability insurance with minimum limits of at least \$1,000,000 per occurrence; (b) property damage/inland marine insurance covering all Rented Items for the full (new) replacement value thereof; and (c) with respect to all vehicles included in the Rented Item(s): (i) hired auto liability insurance with minimum limits of \$1,000,000 per occurrence; and (ii) hired auto physical damage insurance for the actual cash value of each such vehicle. All such policies shall, as applicable: (A) name C&E as an additional insured and loss payee; (B) waive subrogation against C&E; (C) be primary and non-contributory; (D) include a severability of interests provision; and (E) include such other provisions (including deductibles) as C&E may require.

15. Your duties hereunder are unconditional. If you: (a) fail to fully and timely pay or perform any of your obligations under, or otherwise fail to fully and timely comply with, this Contract; (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, damaged or destroyed, you will be in default, whereupon, C&E 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 any automatic stay; (iii) recover, lock, empty or disable any 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 C&E as provided in § 13); (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 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.

16. To the maximum extent permitted under applicable law, C&E will be entitled to, and you hereby grant to C&E, a lien on: (a) all real property improved with any Rented Item(s), or on which it/they may be located or used, and (b) all personal property attached to, or placed or stored in or on, any Rented Item(s). You agree to pay C&E the maximum lawful charge for any check you write which is returned unpaid. C&E may, without notice or liability to you, inspect and/or monitor (*e.g.*, via GPS or telematics) any Rented Item(s) at any time, and all data generated thereby will be the sole property of C&E. If any performance required of C&E is delayed or rendered impractical as a result of any act or omission of any Other Provider(s) or any "Act of God" (*e.g.*, any event, fact or circumstance beyond C&E's reasonable control), C&E will be excused from such performance. 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. Except only as otherwise expressly set forth herein, this Contract cannot be further amended or extended except in a writing signed by both you and C&E. C&E's maximum liability in connection with this Contract is limited to the amount(s) actually paid by you to C&E hereunder. You agree to pay all sales, use, transfer and other taxes, as well as all fines, fees, assessments and other charges related to each Item. No failure or delay in the exercise of any rights or remedies will constitute a waiver of any right or remedy we may have. We will be entitled to recover from you our attorneys' fees, costs and expenses in any legal action commenced in connection herewith, if we prevail.

17. You authorize C&E to submit any and all amounts now or hereafter coming due under this Contract and/or any other agreement between you and C&E for payment on any debit or credit card you provide, and you waive all associated claims, setoffs and chargebacks. This Contract is (a) a true "operating" lease, and not a disguised financing, and (b) reasonable and fair under the circumstances. This Contract, and any Addenda provided by C&E (each of which is incorporated herein), constitute(s) the entire agreement between you and C&E, superseding all other oral and written agreements and representations (including our website and advertising). If any provision of this Contract is deemed invalid or unenforceable by any court of competent jurisdiction, such provision will be modified to the minimum extent necessary to make the same valid and enforceable, or if no such modification shall be possible, deleted, and the remainder of this Contract will remain valid and in full force and effect. Except only as expressly provided herein, this Contract cannot be modified without the express written consent of C&E. Time is of the essence. There are no third-party beneficiaries hereto, other than the TPO(s), if any. These Terms and Conditions will apply not only to all Item(s) identified on P.1, but also to all other Items you obtain from C&E at any time (except only as may otherwise be agreed by C&E). This Contract shall be interpreted under the laws of the State of Oregon. Proper venue for all civil legal proceedings commenced in connection herewith shall lie solely and exclusively in the federal, state and local courts located in or nearest to Lane County, Oregon (unless waived by C&E). You consent and submit to such jurisdiction and venue, and waive any and all claims that such venue constitutes an inconvenient forum. Digital, electronic, photocopied and facsimiled signatures and initials appearing on this Contract will be deemed originals.

18. **THEFT WARNING:** Wrongfully obtaining, retaining or controlling property or services of another which is/are available only for compensation, by deception, threat, false token, or other means to avoid payment may be deemed theft, resulting in **CIVIL LIABILITY AND/OR CRIMINAL PROSECUTION.** See ORS §16.125, *et seq.* and its successor provision(s) for details.