

## J Creek Equipment Rental Terms & Conditions

1. **Terms-** Lessee's execution of this Contract or taking possession of the Equipment (whichever occurs first) shall be deemed acceptance of the terms herein for this and all future contracts between J Creek Equipment Rental and Lessee upon Lessee's receipt of J Creek Equipment under those contracts. This contract is a true lease. The Equipment which is the subject of this is and shall remain the property of Creek Equipment Rental and shall not be affixed to any real property.
2. **Assignment-** Without prior written consent of the Lessor, Lessee shall not assign, transfer, pledge, or otherwise dispose of this lease, the equipment that is the subject of this lease, or any part thereof or any interest therein. The Lessor shall not sublet or lend equipment, or any part thereof, or permit equipment, or any part thereof, to be used by anyone other than the Lessee or Lessee's employees. Upon any permitted assignment by Lessee, its assignees shall become bound by all the terms hereof and the original Lessee shall remain fully liable for all provisions of the Lease.
3. **Accident Notification-** **It is the Lessee's responsibility to immediately notify the Lessor in the event of any accidents** involving leased equipment.
4. Lessee agrees and accepts the following terms and conditions:
  - (a) J Creek Equipment Rental has no control over the manner in which the Equipment is operated during the Rental Period by Lessee or Lessee' employees.
  - (b) Prior to each use and return of equipment to J Creek Equipment, Lessee shall inspect the Equipment to confirm that the Equipment is in good condition, without defects, and readable decals are on the Equipment, and the Equipment is suitable for Lessee' intended use.
  - (c) Lessee has access to and reviews the operating and safety instructions and will operate the Equipment in accordance with the manufacturer's instructions and with applicable safety equipment.
  - (d) Any apparent agent at the Site Address is authorized to accept delivery of the Equipment (and if Lessee requests and/or Lessee authorizes J Creek Equipment to leave the Equipment at the Site Address without requirement of written receipt).
  - (e) Lessee shall immediately stop use and notify J Creek Equipment if the Equipment is damaged, unsafe, disabled, malfunctioning, warning lights come on, levied upon, threatened with seizure, Lost, or if any Incident occurs.
  - (f) Lessee has received from J Creek Equipment all information needed or requested regarding the operation of the Equipment.
  - (g) J Creek Equipment is not responsible for Lessee' obligation to provide reasonable accommodation(s) to any (disabled) Authorized Individual(s).
  - (i) Only Authorized Individuals shall use and operate the Equipment, however Lessee is responsible for the Equipment and its use during the Rental Period regardless of the user.
  - (j) The Equipment shall be used and maintained in a careful manner, within the Equipment's capacity and in compliance with all applicable laws, regulations, as well as all operating and safety instructions provided on, in or with the Equipment and all applicable federal, state and local laws, permits and licenses, including but not limited to, OSHA and ADA, as revised.
  - (k) The Equipment shall be kept in a secure location; and (l) Lessee shall provide J Creek Equipment Rental with accurate and complete information, which J Creek Equipment relies upon to provide the appropriate Equipment to Customer.
5. **Prohibited Uses-** Lessee shall not (a) alter or cover up any decals or insignia on the Equipment, remove any operating or safety equipment or instructions or alter or tamper with the Equipment; (b) assign its rights under this Contract; (c) move the Equipment from the Site Address without J Creek Equipment's written consent; expect trailers (d) use the Equipment in a negligent, illegal, unauthorized or abusive manner; or (e) allow the use of the Equipment by anyone other than the Lessee or lessee' employees, without the Lessor's written permission (Lessee acknowledges that the Equipment may be dangerous if used improperly or by untrained parties). (f) smoke in any enclosed cab machine or trailer.
6. **Inspection-** The lessor shall have the right to inspect the equipment at reasonable times and to enter the premises where the equipment is located for such purpose.
7. **Lessee inspection-** The Lessee acknowledges that they must personally inspect the equipment, including but not limited to (a) sign off on noticeable dents, scratches, or other damages, (b) find that the equipment is suitable for their needs and in good working condition, and (c) understand its proper use and agrees to notify Lessor of any defects before use. The Lessee agrees to inspect the trailer and bindings before leaving rental facilities to ensure that (a) the trailer coupling mechanism is safely locked and secure, (b) safety chains are properly secure to the vehicle, (c) trailer brakes are working and set to proper settings (d) all chains and bindings are working properly and all 4 sides of equipment are secure, and (e) inspect equipment and trailer periodically (100 miles) to ensure the trailer is coupled securely with working brakes, and equipment is secure at all four bindings. These inspections must occur both before leaving the site location and returning to the rental office location.
8. **Acceptance by Lessor Upon Return:** J Creek Equipment Rental shall inspect the Equipment within 72 hours upon return and termination of rental. At this time the Lessee is still responsible for any damages made to the machine during the rental period.
9. **Labels-** The lessee shall not remove, alter, or cover up any numbering, lettering, or insignia placed upon the equipment, nor place any signage thereon.
10. **Alterations-** Without written permission of the Lessor, the lessee shall not make any alterations, additions, or improvements to equipment. All additions and/or improvements or whatsoever kind of nature shall belong to and become the property of the Lessor when made.
11. **Maintenance-** Lessee shall perform routine maintenance on the Equipment, including routine inspections and maintenance of fuel and oil levels, grease, cooling and fluid systems, batteries, tires/tracks cutting edges, and cleaning in accordance with the manufacturer's specifications, as applicable. All other maintenance or repairs may only be performed by J Creek Equipment Rental or its agents, but J Creek Equipment has no responsibility during the Rental Period to inspect or perform any maintenance or repairs unless

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Lessee requests a service call. If J Creek Equipment determines that repairs to the Equipment are needed, other than normal wear and tear, Lessee shall pay the full repair charges, additional fees, if any, and rental of the Equipment until the repairs are completed. J Creek Equipment shall be responsible for repairs needed because of normal wear and tear. Notwithstanding J Creek Equipment Rental service commitment, if Lessee breaches this Contract, J Creek Equipment shall have no obligation to stop the Rental Period, commence repairs, or rent other equipment to Lessee until Lessee or its agent agrees to pay for such charges.

12. Replacement of Malfunctioning Equipment- It is the Lessee's responsibility to notify the Lessor if the equipment becomes unsafe or in disrepair. The Lessee agrees to immediately discontinue the use of the equipment and notify the Lessor. The Lessor will replace the equipment with similar equipment in good working order, if available. The Lessor is not responsible for any incidental or consequential damage caused by delays or otherwise.

13. Customer Liability- **DURING THE RENTAL PERIOD, LESSEE ASSUMES ALL RISK ASSOCIATED WITH THE POSSESSION, CONTROL, OR USE OF THE EQUIPMENT, INCLUDING BUT NOT LIMITED TO, PERSONAL INJURY, DEATH, RENTAL CHARGES, THEFT, LOSSES, DAMAGES, AND DESTRUCTION, INCLUDING LESSEE TRANSPORTATION, LOADING, AND UNLOADING, WHETHER OR NOT THE LESSEE IS AT FAULT.** After an Incident, Lessee shall (a) immediately notify J Creek Equipment, the police, if necessary, and Lessee's insurance carriers; (b) secure and maintain the equipment and the surrounding premises in the condition existing at the time of such Incident until J Creek Equipment or its agents investigate; (c) immediately submit copies of all police or other third-party reports to J Creek Equipment. J Creek Equipment shall have the immediate right, but not the obligation, to reclaim any Equipment involved in any Incident.

14. **No Warranties: J CREEK EQUIPMENT RENTAL DISCLAIMS ALL REPRESENTATIONS AND WARRANTIES, EXPRESS OR IMPLIED, WITH RESPECT TO THE EQUIPMENT, ITS DURABILITY, CONDITION, MERCHANTABILITY, NON-INFRINGEMENT, OR FITNESS FOR ANY PARTICULAR PURPOSE. LESSEE ACKNOWLEDGES ACCEPTANCE OF THE EQUIPMENT ON AN "AS IS, WHERE IS" BASIS, WITH "ALL FAULTS" AND WITHOUT ANY RECOURSE WHATSOEVER AGAINST J CREEK EQUIPMENT ENTITIES. LESSEE ASSUMES ALL RISKS ASSOCIATED WITH THE EQUIPMENT AND RELEASES J CREEK EQUIPMENT ENTITIES FROM ALL LIABILITIES AND DAMAGES (INCLUDING LOST PROFITS, PERSONAL INJURY, AND SPECIAL, INCIDENTAL, AND CONSEQUENTIAL DAMAGES, EVEN IF ADVISED OF THE POSSIBILITY OF SUCH DAMAGES) IN ANY WAY CONNECTED WITH THE EQUIPMENT, ITS INSTALLATION, OPERATION OR USE OR ANY DEFECT OR FAILURE THEREOF.**

15. Loss & Damages- Lessee hereby assumes and shall bear the entire risk of loss, theft, destruction, and damage to equipment from any and every cause whatsoever. The lessee agrees to pay for any damage to or loss of equipment, regardless of cause, within 15 days of notice. If the equipment is damaged beyond repair, the lessee will be required to pay the replacement cost of the machine. The Damage Waiver does not cover theft (see more information below).

(a). Damages to bumpers: The lessor is not liable for any damage to the lessee's bumper or vehicle done by detachable hitches.

(b). Loading & Unloading Equipment: if the lessor's employees assist in loading or unloading the equipment, the Lessee agrees to assume the risk of, and hold the Lessor harmless for any property damage or personal injuries, including, but not limited to damage or injuries attributable to the negligence of the Lessor and its employees.

16. Insurance- For all rentals of equipment, the Lessee must either show proof of General Liability (GL) Insurance of \$1,000,000.00 with J Creek Equipment Rental, LLC additional insured on the policy, as well as being listed as the lost payee, OR purchase the Damage Waiver (DW). The purchase of the DW for the rental of equipment is NOT mandatory and may be declined if you have proof of GL Insurance.

17. Damage Waiver - The lessor charges a damage waiver fee of 14% on all rentals. In doing so, the lessor waives its right to recover direct costs, set as a maximum of \$150, associated with damage or destruction of rental equipment while in the possession of the lessee. The lessee may decline damage waiver coverage by providing lessor with a current insurance certificate that names the lessor as additional insured and loss payee. Providing the lessor with an insurance certificate eliminates the necessity of a DW so long as the insurance certificate remains valid and in full force and effect. Providing a valid insurance certificate will not relieve the lessee obligation regarding prior DWs. Damage waiver is null and void if the damage is caused by a third party not associated with or related to the renter. The damage waiver is not insurance, nor is it a warranty. The DW does not cover negligence or neglect by the lessee, including but not limited to:

- (a). Loss by damage, vandalism, malicious mischief, and theft.
- (b). Loss, damage, or theft of accessory equipment, such as electric cords, hose points, etc.
- (c). Loss or damage resulting from overloading, exceeding rated capacity, misuse, abuse, or improper servicing of equipment.
- (d). Damage to tires and tubes caused by blowouts, bruises, cuts, flat spotting, or other causes inherent in the use of equipment.
- (e). Loss due to mysterious disappearances or wrongful conversion by a person entrusted with equipment.
- (f). Remnants of smoking inside enclosed cab machines and trailers.

18. Payments- The Lessor will charge the Lessee a 20% deposit at the time of rental reservation unless the lessee states they will pay the full amount and only be charged one credit card fee. If the lessee is renting equipment the day of payment will be taken in full at the time of the rental. The lessee has three payment options: cash, check, or credit card. All credit card charges are subjected to a 3.5% card fee. The Lessor will require a credit card to be left on file for damages or charges that may accrue at the end of the rental. Lessee with approved accounts can pay the balance at the end of the rental, within a net 15-day period, unless otherwise discussed with the Lessor.

19. Liens & Taxes- Lessee agrees to pay all expenses of every character occasioned by, or involving the use, or operation of the equipment and further agrees to pay all legal assessments, taxes, and/or public charges which may be levied upon said equipment while in Lessee's possession.

20. Lessor's Expenses- Lessee shall pay Lessor all costs and expenses, including attorneys' fees, incurred by Lessor as exercising any of its rights and remedies hereunder or enforcing any of the terms, conditions, or provisions hereof.

21. Default and Remedies: The following events shall constitute defaults on the part of the Lessee hereunder: (i) Failure of Lessee to pay any installment of rental on its due date; (ii) any breach or failure of Lessee to observe or perform any of its other obligations

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hereunder; (iii) failure of Lessee to return the equipment at the end of the minimum rental term; or (iv) bankruptcy, reorganization arrangement, receivership, or insolvency proceedings being instituted by or against the Lessee; (v) or the death or judicial declaration of incompetency of the Lessee. If an individual upon the occurrence of any such default, the Lessee may, at its options and without notice or demand on Lessee, declare this Agreement in default and declare all remaining rental to be immediately due and payable, and thereupon, the equipment and all rights of the Lessee therein shall be surrendered to Lessor. Failure of the Lessor to exercise its right in the event of default shall not constitute a waiver to exercise such right at a later date. In addition to all other rights and remedies provided by law, upon default by Lessee, Lessor and its agents may take possession of the equipment wherever found, with or without process of law, and for that purpose may enter upon the premises of the Lessee to remove the same.

22. Overdue accounts- Lessee with approved accounts are due and payable at the termination of the rental period with a 15-day net. A 15% late fee will be charged to accounts not paid in the 15-day net pay period. J Creek Equipment has the right to decline reservations if Lessee has an open unpaid balance.

23. Cancellations: The Lessee can cancel an equipment reservation at any time; however, fees will apply if the reservation is canceled within 48 hours of the equipment reservation. Reservations canceled before 48 hours of the scheduled date will receive a full refund minus the 3.5% credit card fee. Reservations that are canceled within 48 hours of scheduled delivery/pick-up will receive an 80% refund (minus 3.5% CC fee), as the 20% deposit will not be refunded at this point. Lessees who verbally claim to pay cash or check at the time of delivery/pick-up for the full reservation amount will then be subjected to pay a 20% cancellation fee. This cancellation fee will be processed on the card on file and is subjected to the 3.5% credit card fee as well.

23. Repossession- If Lessee fails to pay rent or breaches this contract, the Lessor may terminate the contract for breach and take possession of and remove equipment from wherever it is. The Lessor and its agents shall not be liable for any claims for damages or trespassing arising from the removal of equipment.

24. Smoking Fee: Lessee are subject to a \$500 cleaning fee to machines and/or trailers which have been smoked in.

25. Return of Equipment- J Creek Equipment Rental may terminate this Contract at any time, for any reason. The Equipment shall be returned to J Creek Equipment (when needed for inspections, maintenance, and at the end of the rental period) in the same condition it was received, with only normal wear and tear and free of any hazardous materials and contaminants. The Lessee will return the equipment at the end of the rental period but will continue to be responsible for the rental and other charges after the rental period if the equipment is not returned in the condition required herein. If J Creek Equipment delivered the equipment to Lessee, Lessee shall notify J Creek Equipment that the equipment is ready to be picked up at the site address provided. The lessee remains liable for any loss, theft, damage to, or destruction of the Equipment until J Creek Equipment confirms that the Equipment is returned in the condition required herein. No pickups occur on Sundays or holidays and Saturday pickups are dependent on availability. If Lessee picked up equipment, the Lessee shall return the equipment during normal business hours. If the equipment is not returned by the estimated end of the rental period specified earlier, Lessee agrees to pay the applicable rental rate for the equipment until the equipment is returned.

26. Criminal Warning- The use of false identification to obtain equipment or the failure to return equipment by the end of the rental period may be considered theft, subject to criminal prosecution and civil liability where permitted, pursuant to applicable laws.

27. Entire Agreement- Lessee agrees that this agreement constitutes the entire agreement and that no written or oral representation, promises or warranties, express or implied, have been made by Lessor with reference to said equipment. This agreement shall be binding upon and ensure the benefit of each party, and their respective legal representatives, successors, and assigns.