

HEAVY EQUIPMENT RENTAL AGREEMENT

This Heavy Equipment Rental Agreement (which along with the General Terms and Conditions of the Heavy Equipment Rental Agreement is referenced as the "Agreement"), is made by and between MARSH HEAVY EQUIPMENT RENTAL, LLC, an Ohio Limited Liability Company (referenced herein as the "Lessor"), and the below identified Lessee.

In accordance with the terms and conditions set forth herein and the *General Terms & Conditions of the Heavy Equipment Rental Agreement*, which by signing this Agreement the Lessee acknowledges receipt thereof, the Lessor agrees to lease to the Lessee the equipment set forth in the List of Equipment (referenced as the "Leased Equipment") for the specified Rental Period and at the specified Rental Rate.

1. Lessee:

Driver's license must be provided for the Lessee or authorized representative of the Lessee and a photo copy or scan attached with this Agreement.

EACH PERSON SIGNING THIS AGREEMENT AS A PARTY OR ON BEHALF OF A PARTY REPRESENTS THAT HE OR SHE IS DULY AUTHORIZED TO SIGN THIS AGREEMENT ON SUCH PARTY'S BEHALF. AND BY EXECUTING THIS AGREEMENT THE TERMS AND CONDITIONS ARE VALID AND ENFORCEABLE AS AGAINST THE LESSEE.

GENERAL TERMS & CONDITIONS OF THE HEAVY EQUIPMENT RENTAL AGREEMENT

1. Rental Period. The Rental Period shall include all time in which the Leased Equipment shall be in transport, including the time when the Leased Equipment shall depart from the Lessor's place of business to the time when the Leased Equipment is checked in at the Lessor's place of business. The Lessee shall be responsible for the Leased Equipment, in accordance with the terms and conditions set forth herein from the time such equipment is leaves the Lessor's place of business to the time it is returned to the Lessor's place of business.
2. Rental Charges. Lessee shall pay rental for the entire Rental Period on each article of Leased Equipment at the rate therein stipulated and in accordance with the following:
 - A. Monthly Rental Rates shall not be subject to any deductions on account of any non-working time in the month. The amount of rent payable for any fraction of a month at the beginning or end of the Rental Period shall be the monthly rental rate, prorated according to the number of calendar days in such fraction.
 - B. Daily Rental Rates shall not be subject to deductions for any non-working time in the day and shall be paid for each calendar day in the month.
 - C. Usage in excess of 8 hours for a 24 hour rental shall incur additional charges as set forth in the List of Equipment.
3. Condition of the Leased Equipment. The Lessee represents and warrants that upon receipt of the Leased Equipment, the Lessee had a full and unobstructed opportunity to inspect the Leased Equipment, the Leased Equipment was delivered in good working order and condition and with all necessary safety devices and controls in place, and the Lessee accepted the Leased Equipment in its then "as-is" condition.
4. Maintenance and Repair. The Lessee shall return the Leased Equipment to the Lessor in the same condition as when delivered to the Lessee. Lessee shall be responsible for all damage not caused from ordinary wear and tear. "Ordinary wear and tear" shall mean the normal deterioration of the equipment caused by ordinary, reasonable, and proper use of the equipment. The Lessee shall be responsible for all tire damage. Damage which is not "ordinary wear and tear" includes, but is not limited to: damage due to overturning, overloading or exceeding rated capacities; breakage; improper use; abuse; lack of cleaning; dirtying of equipment by paint, mud, plaster, concrete, resin or any other material. A cleaning charge will be made on equipment returned unclean. Lessee authorizes the Lessor to draft the Lessee's credit card for any obligations of the Lessee, including repair costs and to deduct such amounts from any security deposit paid by the Lessee. Lessee shall not remove, alter, disfigure or cover up any numbering, lettering, or insignia displayed upon the equipment, and shall see that the equipment is not subjected to careless, unusually or needlessly rough usage. Lessor shall have the right to enter on or in any property at which the Leased Equipment is located to inspect the condition of the Leased Equipment.
5. Security Deposit. Any security deposit paid by Lessee to Lessor is paid to guarantee Lessee's full and faithful performance of all terms, conditions and provisions of this Agreement. If Lessee shall so perform, an equal sum shall be repaid without interest to Lessee at the termination of this Agreement. Lessor shall be permitted to deduct from the Security Deposit

any amounts necessary to repair the Leased Equipment, to replace the Leased Equipment, or to satisfy any Lessee obligations under this Agreement.

6. Physical Damage Waiver and Insurance. For an additional fee, at or before delivery of the Leased Equipment the Lessee was provided the opportunity to purchase through the Lessor a physical damage insurance waiver which provides certain coverages for physical damage to the Leased Equipment as set forth herein. Should the Lessee purchase the physical damage waiver coverage and physical damage to the Lease Equipment should occur, the Lessee shall be responsible for the deductible amount of \$1,000.00. In the event the Lessee elects not to purchase the physical damage waiver the Lessee will during the entire Rental Period and for so long as the Lessee is in possession of the Leased Equipment, take out, maintain, and pay for one or more policies of insurance against loss of and damage to the Leased Equipment for the full replacement value of the Leased Equipment and will cause the Lessor to be named as an additional insured under such policy/policies. The policy/policies of insurance will provide primary and non-contributing coverage for the Lessor and the Leased Equipment.

(A) The physical damage waiver insurance will pay for direct physical loss of or damage to covered equipment caused by or resulting from any "covered causes of loss." Covered causes of loss means risks of direct physical loss unless the loss is specifically excluded under the terms of the policy.

(B) Covered equipment does not include: automobiles and other vehicles designed for use on public roads; forestry equipment or any machine being used in a forestry application; property or equipment used in conjunction with any mining operations; any equipment while located underground or underwater other than submersible pumps; watercraft and any other equipment while on water; commercial equipment while airborne; and snow machines.

(C) The physical damage waiver program does not provide coverage for, amongst other things, loss or damage to equipment resulting from careless, reckless or intentional mistreatment, including ignoring recommended manufacturer or designer specifications while using such equipment, abuse or improper operation of the equipment or its attachments; equipment being used for a purpose for which it was not designed; loss or damage to equipment resulting from failing to properly service and maintain the equipment while in the Lessee's possession, including failing to provide lubrication or follow the guidelines as set out in any manufacturer's or other maintenance manuals; and blowouts, punctures, or other road damage to tires unless caused by other loss covered by the policy.

(D) The Lessee shall be subject to all terms and conditions set forth in the physical damage waiver program.

7. Risk of Loss. Lessor shall not be responsible for loss or damage to property, material, or equipment belonging to Lessee, its agents, employees, suppliers, or anyone directly or indirectly employed by Lessee, including any Permitted User, while said Leased Equipment is in Lessor's care, custody, control or under Lessor's physical control. Lessee is encouraged to obtain appropriate equipment, material, or installation floater insurance against such risk of loss. Lessee and its insurers waive all rights of subrogation against Lessor for such losses. Further, Lessor shall not be liable to the Lessee or any third party for any consequential damages, including damages for delays or lost profits.

8. Safety.

A. All Permitted Users shall comply with all safety standards and accident prevention regulations promulgated by federal, state or local authorities having jurisdiction and shall at all times conduct all operations in a manner to avoid the risk of bodily harm to any persons and the risk of damage to all property, equipment, and material, including the Leased Equipment. Prior to operation of the Leased Equipment, the Lessee shall inspect such Leased Equipment to verify it is in proper working condition, and the Lessee shall not operate the Leased Equipment if it is determined such Leased Equipment is not in proper working order. The Lessee and Permitted User operator of the Leased Equipment shall continuously inspect all work, materials and equipment to discover and determine any conditions which might involve such risks and shall be solely responsible for discovery, determination and correction of any such conditions so as to prevent injury, death, and property damage, including damage to the Leased Equipment.

B. The Lessee is responsible for the actions of omissions or commission by the Permitted Users, its representatives, personnel, agents, contractors and vendors and their respective employees and shall be liable and shall promptly remedy damage or loss to equipment, including the Leased Equipment, as a result of such acts. The Lessee shall be fully responsible for the safety, health and protection of its Permitted Users. Further, the Lessee represents and warrants that the Permitted Users

C. The Lessee represents and warrants that it has conducted a safety and training orientation for all Permitted Users that includes safe work practices, safety policies and rules, personal protective equipment requirements and hazardous materials. In addition, the Lessee further represents and warrants that all Permitted Users have been fully and properly trained on the proper and safe use of the Leased Equipment, all Permitted Users are qualified to operate the Leased Equipment, and all Permitted Users possess all necessary permits or licenses (if necessary) to operate the Leased Equipment.

D. All accidents involving the Leased Equipment or damage to the Leased Equipment shall be immediately reported to the Lessor in writing.

E. The safety requirements set out herein are only the minimum requirements and the Lessee should take all precautions necessary to prevent bodily injury and property damage, including damage to the Leased Equipment. In the event the Lessor observes or learns of any unsafe practice or activities that may cause excessive, unreasonable, or unnecessary wear and tear to the Leased Equipment, the Lessor reserves the right to terminate the Lessee's use of the Leased Equipment and to demand an immediate return thereof.

9. Indemnity and Assumption of the Risk.

THE LESSEE AND EACH PERMITTED USER HEREBY ASSUMES ALL RISKS AND ALL LIABILITY FOR AND ASSOCIATED WITH THE OPERATION OF THE LEASED EQUIPMENT. THE LESSEE FURTHER AGREES TO DEFEND, INDEMNIFY AND HOLD HARMLESS THE

LESSOR AND ITS OFFICERS, MEMBERS, DIRECTORS, EMPLOYEES, AGENTS, SUCCESSORS AND ASSIGNS (COLLECTIVELY, THE "INDEMNIFIED PARTIES"), FROM ALL CLAIMS, FINES, DAMAGES, LIABILITIES, LOSSES, COSTS, EXPENSES (INCLUDING WITHOUT LIMITATION REASONABLE ATTORNEYS' FEES AND COURT COSTS), PENALTIES, ASSESSMENTS, AND/OR INJUNCTIVE OBLIGATIONS, WHICH MAY BE SUFFERED OR INCURRED AT ANY TIME BY THE INDEMNIFIED PARTIES, ON ACCOUNT OF INJURIES TO OR DEATH OF ANY PERSONS, DAMAGE TO OR DESTRUCTION OF ANY PROPERTY, INCLUDING THE LEASED EQUIPMENT, AND/OR ANY VIOLATION OF ANY APPLICABLE LAW, RULE, REGULATION, OR ORDER OF ANY GOVERNMENTAL ENTITY, CAUSED BY, RESULTING FROM, OR ARISING OUT OF THE USE OR OPERATION OF THE LEASED EQUIPMENT, AND THE ACTS OR OMISSIONS OF THE LESSEE, ITS OFFICERS, DIRECTORS, EMPLOYEES, AND AGENTS, THE PERMITTED USER, AND ANY OPERATOR OF THE LEASED EQUIPMENT.

10. Damage. If any piece of Leased Equipment under this Agreement is damaged, vandalized, lost, stolen, or destroyed as a result of its operation, use, maintenance, or possession by the Lessee, the Lessee shall promptly notify the Lessor of the occurrence, shall file all necessary accident reports, including those required by law and those required by interested insurance companies, and the Lessee shall be solely responsible for all costs and expenses resulting therefrom.

11. Use, Location, Removal, Inspection, and Subletting. The Leased Equipment shall be used only at the location identified in the Agreement and only by the Permitted Users. Further, the Lessee shall not sublet any of the Leased Equipment nor assign to any third-party any rights under this Agreement without the express written consent of the Lessor. Unless expressly agreed in writing use of any Leased Equipment for forestry mulching, land clearing, or such similar use is expressly prohibited.

12. Accessory Equipment. Accessory equipment used with the Leased Equipment must be approved by the Lessor.

13. If Lessor is unable to deliver possession of the Leased Equipment at the commencement of the Rental Period, Lessor shall not be liable for any damage caused thereby, including but not limited to project delay costs or lost profits.

14. Events of Default. The occurrence of any of the following events shall be deemed to constitute a default within the meaning of this Agreement:

A. If the Lessee fails to pay the Rental Payments or any other sums when due hereunder.

B. If the Lessee shall fail or omit to perform or observe any of the covenants, agreements or conditions contained in this Agreement.

C. If any representation or warranty made herein by the Lessee, or in any written statement of certificate now or later furnished by or for Lessee in connection herewith, shall prove to be materially untrue as of the date with respect to which it was made.

15. Remedies. Upon any event of default, the Lessor shall be entitled to (1) take possession of any or all items of the Leased Equipment without demand, notice, or legal process, wherever

they may be located. Lessee hereby irrevocably grants to Lessor and its agents a licensee to enter onto and into any real property at which any Leased Equipment may be located for purposes of exercising any or all of the Lessor's rights granted by this Agreement and Ohio law. Lessee hereby waives any and all damages occasioned by such taking of possession, including all consequential damages, damages for delays, and lost profits; (b) to terminate this lease as to any or all items of Leased Equipment, and (c) to pursue any other remedy at law or in equality. The rights granted to the Lessor under this Agreement shall be cumulative and action on one shall not be deemed to constitute an election or waiver of any other right to which the Lessor may be entitled. In the event the Lessor engages an attorney to enforce the terms of this Agreement the Lessee shall to pay all costs and expenses incurred enforcing this Agreement, including reasonable attorney's fees, whether or not suit is instituted.

16. Binding on Permitted Users. Lessee is obligated to bind all Permitted Users to the Safety Provision of this Agreement.

17. Non-Waiver. A waiver of a specific default shall not be a waiver of any other or subsequent default. No waiver by the Lessor of any provisions hereof shall constitute a waiver of any other matter and all waivers shall be in writing and executed by the Lessor. No failure on the part of the Lessor to exercise, and no delay in exercising, any right or remedy hereunder shall operate as a waiver thereof.

18. Entire Agreement. These General Conditions are expressly made part of the Heavy Equipment Rental Agreement (collectively the "Agreement") which constitutes the entire agreement between the parties and may not be modified except by an instrument signed by the parties.

19. Severability. If any provision of this Agreement is prohibited by law in any state, such provision shall, as to such state, be ineffective to the extent of such prohibition without invalidating the remaining provisions hereof.

20. Governing Law. This instrument shall be governed by and construed in accordance with the laws of the State of Ohio and the Lorain County, Ohio Court of Common Pleas shall have the exclusive jurisdiction over all claims arising from or relating to this Agreement or the rental of the Leased Equipment. Each Party hereto along with all Permitted Users hereby consents to the exclusive jurisdiction of the Lorain County, Ohio Court of Common Pleas and each party hereto irrevocably waives a trial by jury on all disputes arising from or relating to this Agreement.

21. Headings. Headings in this instrument are for convenience only and shall not be used to interpret or construe its provisions.

22. Counterparts. This Agreement may be executed in two or more counterparts, each of which shall be deemed an original but all of which together shall constitute one and the same instrument.