

TERMS AND CONDITIONS

- 1) **DEFINITIONS:** "Robertson" means *Robertson Rentals Inc.* "Equipment" means, individually and collectively, the items of equipment described on the first page of the agreement and shall include any and all accessories delivered to Customers chosen Location. "Accessories" means any and all accessories, attachments, and other items furnished to the Customer for use with the "Equipment" including but not limited to, air hoses, electric cords, blades, Welding cables, liquid fuel tanks, nozzles, printed matter, and other similar items. "Customer" means the person or entity identified as the Customer on the first page of this agreement. Including any representative, partner, or agent, officer, or employee thereof and all others the Customer might reasonably be expected to exercise control of. "Store Location" means the *Robertson* address which is identified on the first page of this rental agreement.
- 2) **AUTHORITY TO SIGN:** Each individual signing this contract represents and warrants that he or she is of legal age and has the authority and power to sign this rental agreement as or for the Customer.
- 3) **DISCLAIMER OF WARRANTIES:** *Robertson* 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 Customers Intended Use, or that It Is Free from Defects. Except as may Specifically Set forth In This Rental Agreement, *Robertson* disclaims all Other warranties either express Or Implied made in Connection With This Rental transaction.
- 4) **INDEMNITY/HOLD HARMLESS/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 *Robertson* and will take all necessary precautions to protect all persons and property from injury or damage from the Equipment. *Robertson* (which term, when used in this paragraph, shall include *Robertson*, its agents, Officers, employees, and Other persons for whom *Robertson's* is legally responsible), shall not be responsible for any injury, loss or damage of whatsoever nature or kind, howsoever caused, including without restriction any loss, damage, or injury caused by, resulting from or in any way connected with the operation or use of the Equipment, any defect, malfunction, or disrepair Of Equipment or misrepresentation, inaccuracy of deficiency of or contained in Information or instructions given or provided by *Robertson* (in whatever form or manner) or contained in any manual or other printed material furnished by *Robertson*. Customer hereby releases *Robertson* and agrees to defend, indemnify, and hold *Robertson* harmless from and against any and all liability, costs, claims and damages of any kind (including legal Costs) Sustained by the Customer or by any other person or entity, caused by, resulting from, or any way connected with the Equipment or this agreement, and including without limitation, any damage to, or loss or destruction of property belonging to the customer or any other person or entity, any bodily injury (including death), personal injury or loss, damages for personal discomfort, illness or distress, or any consequential injury or damage (including any loss of profits, business interruption or other special or consequential damages), howsoever caused.
- 5) **RECEIPT, INSPECTION AND USE OF EQUIPMENT:** Customer acknowledges that it has inspected the Equipment prior to taking possession thereof, finds it in good working order and repair, and suitable for Customer's needs. Customer is familiar with the proper operation and use of each item Of Equipment. Customer inspected or will inspect hitches, bolts, Safety chains, hauling tongues and other devices and materials used to connect the Equipment to Customer's towing Vehicle, if any, *Robertson* is not responsible for any damage to Customer's towing vehicle caused by detachable hitches or mirrors. Customer will not use or, allow anyone to use the equipment.
 - a) for an illegal purpose or in an illegal manner.
 - b) without a license, if required under any applicable law or.
 - c) Customer agrees, at customers sole expense, to comply with all applicable municipal, provincial, and federal laws. by-laws, ordinances and regulations which may apply to the use of the equipment and will allow operation of any machinery by informed/trained persons only. Customer agrees to check filters, oil, fluid levels, tire air pressure, clean and visually inspect the Equipment daily (Or more frequently if required by Equipment specifications or good operating practices) and to immediately notify *Robertson* Equipment needs repair or maintenance.
 - d) Customer acknowledges that *Robertson* has no responsibility to inspect the equipment while it is in customers possession.
- 6) **MAINFUNCTIONING EQUIPMENT:** Should the Equipment become unsafe, malfunction, or require repair, Customer shall cease using such Equipment immediately and contact *Robertson* for instructions.
- 7) **RETURN OF EQUIPMENT:** at the expiration of the term, Customer will return the equipment to the Store Location in as good condition and repair as when delivered to customer. Subject to reasonable wear and tear, as defined below. Customers right to possess the equipment terminates on the expiration of the rental period set forth on page one of this agreement and retention of possession after this is a material breach of this rental agreement. TIME IS OF THE ESSENCE OF THIS AGREEMENT.
- 8) **DAMAGED AND LOST EQUIPMENT:** Customer shall be liable for all damages to or loss of Equipment including any damage during transit to or from Customer: provided that if *Robertson* has agreed to deliver the Equipment to Customer or to pick up the equipment from customer. Customer shall be responsible for all loss damage to the equipment from time of delivery to Customer until picked up by *Robertson*. In the case of the destruction. Of any Equipment, or inability or failure to return same to *Robertson* for any reason whatsoever, Customer will pay *Robertson* the then full replacement list Value 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 *Robertson* the reasonable Cost Of repair pay rental on the Equipment at the regular rental rate until all repairs have been completed.
- 9) **REASONABLE WEAR AND TEAR:** reasonable wear and tear of the Equipment shall mean only the deterioration of the Equipment caused by ordinary and reasonable use on a one (eight hours per day, 40 pet week) basis. The Following shall not be considered reasonable wear and tear:
 - a) damage resulting, from lack of lubrication or maintenance of necessary Oil. Water and air pressure levels:
 - b) except where *Robertson* expressly assumes the obligation to service or maintain the Equipment, any damage resulting from lack of servicing or preventive Maintenance suggested in the manufacturers operation and maintenance manual.
 - c) damage resulting from any collision, overturning, or improper operation, including overloading, or exceeding the rated capacity Of the Equipment:
 - d) Damage in the nature of dents, bending, tearing, staining and misaligning to or of the Equipment or any part thereof.
 - e) wear resulting from use in excess of shifts for which rented, and
 - f) any other damage to the Equipment which is not considered ordinary and reasonable in the equipment rental industry. Repairs to the Equipment shall be made to the reasonable satisfaction of *Robertson* and in a manner, which will not adversely affect the operation, manufacturers design, or value Of the Equipment.
- 10) **LATE RETURNS:** Unless *Robertson* agrees in writing to extend the rental period, Equipment must be returned to the Store Location on the due date not later than the time Shown on the first page of this agreement. Late returns are subject to additional charges of 1/6 of the daily rate for each hour retained beyond the expiration of the rental period. Customers shall be liable for any damage to or loss of the Equipment in the event equipment is returned after regular business hours.
- 11) **RENTAL PERIOD AND CALCULATION OF CHARGES:** Rental charges commence when the Equipment leaves the Store Location and end When the Equipment as returned thereto. Rental Charges accrue during Saturdays, Sundays, and Holidays. Rental rates are for normal usage based on an 8-hour day, 40 hours per week and 160 hours per month. On power equipment, operation in excess of one shift (eight hours: per day) will accrue at *Robertson's* premium rates. Customer will truthfully and certify to *Robertson* the number of shifts the Equipment was operated.
- 12) **DEPOSIT:** In addition to securing the payment of rental charges hereunder, Customer agrees that any rental deposit shall be deemed to be a guaranty by Customer to the full and complete performance of each and all of the terms, covenants, and agreements to be performed by customer hereunder, and in the event of any breach by Customer thereof said deposit shall be credited against any damages, costs, or expenses incurred by *Robertson* as a result of such breach, without prejudice to any other rights or remedies which may be available to *Robertson* in respect to such breach.
- 13) **PAYMENT:** All amounts due hereunder shall be payable in full upon receipt of invoice by Customer. OAC qualified Customers acknowledge that timely payment of rental and service charges is essential to *Robertson's* business operations. OAC Qualified Customers and *Robertson* agree that there shall be added to all past due rental charges a late payment fee equal to the lesser of two percent (2%) per month (24% per annum) on any such payments outstanding after 30 days (OAC Dependent), 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 *Robertson* from Customer at any time upon, or in respect of, the Equipment and/or the Agreement (collectively, "Taxes"). Customer agrees that *Robertson* reserves the right to charge the Credit Card and/or Customer's account for any amount owed by Customer pursuant to this Section due to late or past due payment(s) or rental charges or Taxes. In the event Customer asserts that no Taxes should be collected, Customer agrees to provide a valid tax exemption certificate, tax registration or other documentation suitable for evidencing exemption.
- 14) **FAILURE TO DELIVER:** Customer releases and discharges *Robertson* from any and all liability or damages (including without limitation, damages for loss of profit; loss of business opportunity and any other economic loss) which might be caused by *Robertson's* failure or inability to deliver any equipment by any specific date or time.
- 15) **TITLE/NO PURCHASE OPTION/LIENS:** This agreement is not a contract of sale, and title to the equipment shall at all times remain with *Robertson*. Unless covered by a specific supplemental agreement signed by *Robertson's*. 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 without limitation, liens under the repair and storage liens act (Ontario) and other similar legislation. Customer shall notify *Robertson* immediately if the equipment is or becomes liable to seizures and shall indemnify *Robertson* and hold it harmless from and against any and all claims, costs, actions, damages, and expenses (including legal fees on a solicitor and its own client basis) Resulting from or in any way connected with any such liens or encumbrances.
- 16) **TIRE/TUBE REPAIR OR REPLACEMENT:** Repair or replacement of tires and tubes on any Equipment/Rental, is the responsibility of Customer and is not included in any rental rates.
- 17) **DEFAULT:** Should customer in any way fail to perform, observe, or keep any provision of this rental agreement, *Robertson* may as its option do any one or more of the following:
 - a) Terminate the Agreement,
 - b) Declare the entire rent immediately due and payable and commence legal action,
 - c) Retake possession Of Equipment, Holding the Customer liable for all rental and other charges, or
 - d) Pursue other remedies available by law, in equity or otherwise.
- 18) **REPOSSESSION OF EQUIPMENT:** without limiting the generality of the previous paragraph, in the event of any actual anticipatory breach by Customer, *Robertson's* employees, or agents, may without notice or legal process, go upon customers property and take all action reasonably necessary to repossess the Equipment. Customers waives all claims for damages and losses, physical or pecuniary, caused thereby and shall pay all costs and expenses incurred by *Robertson* in retaking the Equipment.
- 19) **CUSTOMERS INSURANCE COVERAGE:** Customers agree to and carry at its Sole costs, throughout the entire rental period, (1) Comprehensive general liability insurance against claims for bodily injury (including death), personal injury and property damage, and (2) legal liability, property damage and casualty insurance for an amount or amounts not less than the full replacement cost Of the Equipment, including all risk of loss or damage covered the standard extended Coverage endorsement. such policies to be informed and amount sufficient to cover any loss, damage or liability arising from the handling, transportation, maintenance, operation, and/or use Of the Equipment. When requested, Customer shall supply to *Robertson* proof of such insurance by Certificate of insurance clearly setting forth the coverage for Equipment and naming *Robertson* as loss payee additional insured; such Insurance and evidence thereof to be in amount ad from Satisfactory to *Robertson*. The Certificate of Insurance and policy shall provide that *Robertson* shall receive not less than (30) days' notice prior to any cancellation of the insurance required hereunder.
- 20) **ACCIDENTAL DAMAGE WAIVER PROVISIONS:** Except for the circumstances set forth in the next sentence. *Robertson* waives, and Customer shall not be responsible for, direct physical damage to the Equipment if it is used for its specific purpose, and not misused in any fashion. The damage waiver is not insurance and customer will remain liable for loss or damage.
 - a) Equipment as a result of Overloading or exceeding its rated capacity.
 - b) motors, generators, drills or electrical appliances or devices from portable electric current, whether or not, *Robertson* supplied portable current.
 - c) hydraulic cylinders,
 - d) tires and tubes caused by blow out, Bruises, Cuts, punctures, or Other causes inherent in the use of Equipment.
 - e) Resulting from lack of, or negligent lubrication or improper servicing of Equipment, or damage resulting from misuse, abuse, failure to maintain, cleanliness, proper fuel, hydraulic, coolant, or pressure levels,
 - f) mysterious disappearance, or equipment which is not returned for whatever reason. including theft,
 - g) any and all -accessories, such as, not limited to air hoses, electric cords, blades, welding cables, liquid fuel tanks, and other similar items and accessories,
 - h) use of equipment in violation of any terms of this agreement, law, ordinance, or regulation.If customer has insurance covering any loss or damage to which this Accidental Waiver relates, this Accidental Damage Waiver becomes secondary and shall only apply to the extent such damage is not covered by Customers insurance. Customer shall exercise all rights available to Customer under said insurance and take all and any proceeds from such insurance to *Robertson*. Upon request of *Robertson*, Customer shall fully Cooperate with *Robertson* and furnish the name of customers insurance agent, insurance company, and information concerning Customer's insurance coverage. As a Condition of *Robertson's* agreement pursuant to this Accidental Damage waiver provision. Customer must immediately notify *Robertson* of any loss or damage.
- 21) **ENTIRE AGREEMENT/ONLY AGREEMENT:** This written agreement represents the entire agreement between the Customer and *Robertson*. There are no oral or other or representations or agreements not included herein. None of *Robertson's* rights or Customers rights may be changed and no extension of the terms of this agreement may be accepted without in writing, signed by both *Robertson* and Customer. The use of Customer's purchase order number on this agreement is for Customer's convenience only. This rental agreement supersedes any purchase order or Other Customer provisions or forms whether sent to the receiver prior, or subsequent to this rental agreement.
- 22) **NO ASSIGNMENT, LENDING OR SUBLETTING:** Customer shall not sublease, sub rent, assign or loan the Equipment, and any such action by Customer shall be void. Customer agrees to use and keep the Equipment at the Location set forth the front page of this Contract unless *Robertson* approves Otherwise in writing.
- 23) **OTHER PROVISIONS:** (a) Any failure of *Robertson* to insist upon strict performance by Customer of any terms and conditions of this agreement shall not be construed as a waiver of *Robertson's* right to demand strict compliance. Customer has carefully reviewed agreement and waives any principle of law which would Construe any provision hereof against *Robertson* as the draftsman of this agreement. (b) Customer agrees to pay all reasonable costs Of Collection, legal and court Costs (On a solicitor and his own client basis) and other expenses incurred by *Robertson* in the collection of any charges due under this agreement or in connection with the enforcement of its terms. (c) Customer shall pay the rental charge without any offsets, deductions, or claims. (d) The agreement shall be governed by and construed in accordance with the laws of the province Of Ontario and the laws of Canada applicable therein. Trial by Jury is Waived. Service Of process may be affected by certified mail, return receipt requested or in any other manner permitted by law. *Robertson* shall be entitled to decrees of specific performance (without posting bond or other security) in addition to such other remedies as may be available. (e) Notwithstanding any other provision of this agreement. *Robertson*, may from time to time resort to any and all of the rights and remedies available to it in the event of default hereunder by Customer, either by any provision of this agreement, by statute, or common law, all Of which right and remedies are intended to be cumulative and not alternative, and the express provisions herein as to certain rights and remedies are not to be interpreted as excluding any other or additional rights and remedies available to *Robertson* by statute or the general law. (f) If any provision of this agreement is held to be illegal or unenforceable it shall be considered separate and severable from this agreement and the remaining provisions shall remain in force to the fullest extent permitted by law. (g) This agreement shall be binding upon the parties, hereto, their respective heirs, legal representatives, successors and assigns, no rights however shall ensure to the benefit of any sublessee or assignee of the customer.
- 24) **CRIMINAL WARNING:** The use of false identification to obtain equipment or the failure to return the Equipment by the Date Due In may be considered a theft subject to criminal prosecution pursuant to applicable criminal or penal provisions.