

D&D EQUIPMENT RENTAL, LLC

TERMS AND CONDITIONS OF OPERATED AND MAINTAINED RENTAL AGREEMENT

INDEMNIFICATION: LESSEE agrees that the equipment and all persons operating such equipment are under Lessee's exclusive jurisdiction, supervision and control and agrees to indemnify and save LESSOR, its employees and agents free and harmless from any and all claims for death or injury to persons and from any and all loss for damage to property including the rental equipment, arising in any manner out of Lessee's operation. Lessee's duty to indemnify hereunder shall include all costs and expenses, and any and all claims resulting from the use of the equipment, including all court and/or arbitration costs, filing fees, attorney's fees and costs of settlement.

INSURANCE: Physical loss and damage is the Lessee's responsibility. Lessee agrees, because the equipment is in his care, control and custody, to deliver to the Lessor upon the start of the rental period, a Certificate of Insurance to include General Liability coverage of \$1,000,000 blanket contractor's equipment coverage for all risk physical loss in an amount equal to the replacement cost of the rented equipment and an additional insured endorsement that names D&D Equipment Rental, LLC (herein referred to as "D&D") as an additional insured, but with D&D not liable for the payment of any premiums. Insurance shall be with companies acceptable to D&D and such insurance may not be canceled without 30 days written notice to D&D. If Lessee for any reason does not obtain any such insurance, the failure to do so shall constitute an agreement by Lessee to indemnify D&D against any and all loss, which such insurance would otherwise have covered.

WARRANTY: There are no express warranties or implied warranties to fitness for a particular purpose. The equipment covered by this agreement is in good operating condition suitable to do the work for which it is designed. Lessor's liability is limited to repair of any defects in the equipment, which Lessor determines occurred under normal use. Lessor will make any repairs that become necessary due to normal operation. If the equipment covered by this agreement is returned in damaged or excessively worn condition, Lessee shall pay to Lessor the reasonable cost of repair. ALL damage, including vandalism, occurring while under Lessee's direction shall be the responsibility of the Lessee. Equipment teeth, cutting edges and buckets, which become unserviceable because of abnormal conditions, such as excavation of rock and concrete will be replaced and/or repaired at Lessee's expense. Parts and outside repairs will be billed at cost plus handling charges. Lessee will be billed for replacement and repair costs for tire cuts, tears, separation, puncture and bruises and for excessive tire wear due to adverse job site conditions. Mechanic's time will be billed at the current hourly rate for travel time and on-site equipment repairs or modifications requested by Lessee. Damage to the property of others, while under Lessee's direction will be Lessee's responsibility.

RENTAL RATES: D&D is signatory to the SCCA/Union Contract, and observes the working rules of the agreement, pays wages accordingly and charges Lessee in accordance with said agreement. Operated equipment will be invoiced for actual work hours worked. The rate quoted includes rental for the equipment and payment for the crew at straight time. The minimum rental charge for the first day of scheduled work is eight (8) hours for the equipment and crew. CREW RATES PER PERSON is the quoted rate at the time of the rental. CREW STANDBY: If the equipment is shut down for any reason and the crew is directed to wait, the crew rate is charged at the appropriate straight or overtime rate. NO CHARGE will be made for the equipment while the crew is on standby.

OVERTIME: When the crew and equipment work overtime, the crew is charged at ONE AND ONE HALF TIME for work performed in excess of eight (8) hours per day and Saturday; **DOUBLE TIME:** For work performed in excess of twelve (12) hours per day and Sunday; **TRIPLE TIME:** For all designated Union Holidays. **NO LUNCH:** For working through the one-half hour lunch period at Lessee's request, double time shall be added. Working through the lunch period for the operator's convenience, straight time shall be charged.

SUBSISTENCE: When applicable, subsistence shall be charged at the quoted rate.

RIGHT TO REQUEST CHANGE OF OPERATOR: Lessee may, at any time during the term of the lease of equipment, request Lessor to supply a different Operator. Lessee's right to control the operator is exclusive, and Lessor shall not give the operator any instructions regarding the use of the equipment (other than routine maintenance and safety provisions). The Operator is considered to be a SPECIAL EMPLOYEE under the exclusive Supervision and Control of Lessee. Lessee is deemed to be in exclusive control of the job site, and Lessee shall be solely responsible to know job conditions, including the existence of underground hazards, pipelines, electrical lines and concealed obstructions.

Lessee represents and warrants that Lessee is the sole responsible excavator and Lessee accepts responsibility for supervising and directing excavation performed near any pipeline, electrical lines or other subsurface installation whether known or unknown to Lessee, and shall maintain a record of all notifications by excavators and operators to the regional notification center for a period of not less than three years.

TERMS OF PAYMENT: Full payment for all charges is due upon billing. Thirty (30) days after billing all past due accounts are subject to interest at the legal rate chargeable in the State rented. If rental is not paid when due, or if Lessee fails to comply with any of the terms and conditions herein, Lessor may, at its option, terminate this agreement and at Lessee's expense, enter upon the premises where equipment is stored, take possession of the equipment without previous notice or demand and return it to D&D, in addition to all other sums, reasonable attorney's fees and the cost of litigation.

MOVING EQUIPMENT: Moving equipment on and off jobsite is charged at the amount quoted. Lessee may move the equipment at his own expense. NO EQUIPMENT SHALL BE MOVED WITHOUT PRIOR NOTICE TO LESSOR.

The undersigned accepts and agrees that the terms and conditions for rental of equipment operated and maintained by D&D Equipment Rental, LLC shall apply to any and all rentals and are made a part of each and every rental contract.

COMPANY NAME: _____

BY _____
(owner or authorized agent)

DATE: _____

TITLE _____

D&D EQUIPMENT RENTAL, LLC

BY _____

DATE: _____

TITLE _____

D&D EQUIPMENT RENTAL, LLC

TERMS AND CONDITIONS OF BARE RENTAL AGREEMENT

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INSURANCE: Physical loss and damage is the Lessee's responsibility. Lessee agrees, because the equipment is in his care, control and custody, to deliver to the Lessor upon the start of the rental period, a Certificate of Insurance to include General Liability coverage of \$1,000,000 blanket contractor's equipment coverage for all risk physical loss in an amount equal to the replacement cost of the rented equipment and an additional insured endorsement that names D&D Equipment Rental, LLC (herein referred to as "D&D") as an additional insured, but with D&D not liable for the payment of any premiums. Insurance shall be with companies acceptable to D&D and such insurance may not be canceled without 30 days written notice to D&D. If Lessee for any reason does not obtain any such insurance, the failure to do so shall constitute an agreement by Lessee to indemnify D&D against any and all loss, which such insurance would otherwise have covered.

WARRANTY: There are no express warranties or implied warranties to fitness for a particular purpose. The equipment covered by this agreement is in good operating condition suitable to do the work for which it is designed. Lessor's liability is limited to repair of any defects in the equipment, which Lessor determines occurred under normal use. If the equipment covered by this agreement is returned in damaged or excessively worn condition, Lessee shall pay to Lessor the reasonable cost of repair. The following shall not be deemed reasonable wear and tear: Damage resulting from lack of lubrication or maintenance of necessary oil, water, proper fuel, and air pressure levels; damage resulting from lack of normal servicing or preventative maintenance as noted in the manufacturer's operation and maintenance manual; or operating the equipment while low on any lubricant or coolant, excessive fuel pressure or dirty filters; damage resulting from collision, overturning or improper operation of the equipment, including overloading or exceeding the rated capacity of the equipment; damage in the nature of dents, bending, tearing, straining and misalignment to the equipment or any part thereof; or damage resulting from jobsite vandalism. Mechanic's time for damage repair, travel time and for modifications requested by Lessee shall be billed at the current hourly rate. Parts and outside repairs will be billed at cost plus handling charges. Lessee represents and warrants that Lessee is the sole responsible excavator and Lessee accepts responsibility for supervising and directing excavation performed near any pipeline, electrical lines or other subsurface installation whether known or unknown to Lessee, and shall maintain a record of all notifications by excavators and operators to the regional notification center for a period of not less than three years.

EQUIPMENT SERVICE: Lessee is responsible for normal equipment servicing including but not limited to checking fuel levels, all fluid levels, tires and greasing equipment. Lessee is responsible for changing engine oil and filters every 250 hours per the hour meter on the machine.

WEAR ITEMS: Lessee is responsible for ground engaging tools (bucket teeth, cutting edges, etc.) Equipment is furnished with ground engaging tools in a serviceable condition and must be returned in like condition or additional charges will be due. Lessee shall be invoiced for replacement or repair costs for tire cuts, tears, separation, puncture and bruises and for excessive tire wear due to jobsite conditions.

RENTAL RATES: When monthly rate is quoted and the rental period is for less than one month, rental is charged at the weekly rate if the period is for one week or more. If the rental period is for less than one week, rent is charged at the daily rate. A workday is defined as eight (8) hours in a twenty-four (24) hour period, a week is defined at forty (40) hours in a seven (7) day period and a month is defined as one hundred seventy six (176) hours in a thirty (30) day period. Equipment worked in excess of the hours stated will be invoiced at the appropriate rate for the number of excess hours worked. Rental shall begin on

the date shipped and shall run consecutively through the date that Lessor is advised that the equipment is released by Lessee to Lessor.

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COMPANY NAME: _____

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