

Bobcat of Knoxville/ Chattanooga
TERMS AND CONDITIONS OF CONTRACT - Rentals

Please Read Carefully

Lessor (Bobcat of Knoxville /Chattanooga) hereby rents to Lessee ("Customer") the equipment described on the face of this Contract ("Equipment") subject to the provisions of this Agreement. "Customer" means the person signing this Agreement and any person(s), organization, company, employer, or partner to whom charges are billed, all of whom shall be jointly liable hereunder. **Obtaining rental property through the use of false or fictitious identification or without intent to return same is THEFT and will be prosecuted to the full extent of the law.**

1. Agreement: (A) Customer agrees to pay the rental rates of Equipment as specified on the face of this contract from the time of departure to the time of return, noting specifically that (i) rental rates are determined by TIME OUT *not* time used unless hours on meter exceed the limits as specified below; (ii) Customer agrees to notify Lessor immediately if Equipment fails to work properly; and (iii) Customer will make Equipment available for inspection by Lessor upon request by Lessor; (B) Customer agrees to: (i) care for the Equipment properly, (ii) perform normal periodic service, check fluid levels, check tire pressure and make adjustments of belt or track tension before each shift, (iii) provide, at customer's sole cost, all fuel, fluids, lubricants, and supplies for operation as recommended by the manufacturer; (C) Customer agrees to: (i) provide, at its sole cost, qualified operators for the Equipment, and to restrict the use of Equipment to these authorized personnel, (ii) to review the applicable provisions of the operator's/owner's manual for the Equipment and all warning labels affixed to the Equipment, (iii) adhere to and cause its employees to adhere to all such instructions and warnings, (iv) use Equipment within its rated capacity and, only for the purposes for which it was intended, (v) discontinue use of and return to us any Equipment that breaks or becomes unsafe or is in need of maintenance or repair without attempting to repair same; (vi) pay any mechanic's overtime pay for all service required at times other than normal business hours: Mon.-Fri. 8AM-5PM; (viii) follow and be in full compliance with all applicable laws, rules, regulations and orders; (D) Customer agrees to provide, at sole cost, (i) adequate security and storage to protect the Equipment against: abuse, misuse, exposure to adverse conditions, neglect, theft, vandalism or unauthorized use, and (ii) maintain insurance pursuant to Paragraph 4 below; (E) Customer agrees to return said Equipment in the same condition as received, ordinary wear and tear excepted, to the place from which rented on the day and time specified or sooner upon Lessor's demand; (F) Customer understands that the rent will continue to accrue at rate specified in Contract until Equipment is returned in good working order; (G) Customer agrees to pay extra charges if usage exceeds the hour limits on each rental period: (5 hours per 1/2 day; 10 hours per day; 40 hours per week; 160 hours per 4-week period). Extra hours will be computed using the following: 1/10th of daily rate on hours over 10, 1/40th of weekly rate for hours over 40, 1/160th of 4-week rate for hours over 160. (H) Customer understands and agrees that rental rates do not include delivery, pickup, abusive wear, damage, theft or liability insurance, operator, fuel refill and/ or cleaning of Equipment. (I) Rental rates are subject to change on thirty (30) days written notice to Customer. (J) Customer shall not encumber this contract or Equipment; (K) Customer will not permit the Equipment to be moved to a job location other than the one shown herein without Lessor's consent; (L) Customer expressly authorizes the Lessor to submit any and all charges accrued for payment on this contract under the credit/ debit card provided at time of rental, unless some other form of payment acceptable to Lessor is offered by Customer within 24 hours from Equipment return. Unless expressed in a written agreement signed by an authorized representative of Lessor, the payment, irrespective of amount, shall not constitute an option to purchase the Equipment or a claim of ownership in the Equipment.

2. Acknowledgement: Customer acknowledges, warrants and/or represents that: (A) he / she is authorized to enter into this contract, (B) is experienced *and* knowledgeable about the operation of the Equipment; (C) he /she recognizes the potential for personal injury and /or property damage arising from improper use of the Equipment; (D) he /she has reviewed or will review the applicable provisions of the owner's manual for the Equipment; (E) Customer is financially solvent and capable of paying the amounts due under the Contract when due; and (F) he/she will adhere to and / or cause all employees to adhere to all such instructions and warnings. Customer shall, at its own expense, comply with all state, federal, and local laws and regulations affecting Equipment and its use, operation, erection, design and transportation including licensing and building codes requirements and shall defend, indemnify and hold harmless Lessor, its subsidiaries, officers, agents and employees from all loss, liability or expense resulting from actual or asserted violations of any such law, requirements and regulations.

3. Assumption of Liability: Customer assumes full responsibility for all damage, destruction or loss of Equipment once placed in Customer's possession until returned to Lessor's premises during normal business hours. Customer agrees to pay Lessor in cash the full "market value" in the event the Equipment is lost, damaged or destroyed regardless of how or why such loss or damage occurs. Full "market value" shall be determined by Lessor. Customer also agrees to assume full responsibility for all personal injuries or property damage resulting from Customer's use and /or possession of Equipment and to defend, indemnify and hold harmless Lessor, its subsidiaries, officers, agents, and employees, from and against all loss, liability, claim, action or expense including reasonable attorney fees and expenses for any such bodily injury including death or property damage sustained by any person or persons, including but not limited to employees of Customer, as a result of maintenance, ownership, use, operation, storage, erection, dismantling, servicing, or transportation of Equipment. Customer agrees that the Lessor shall not be liable to Customer, nor this Contract be impugned for Lessor's failure to repair the Equipment if disabled or furnish substitute Equipment for any reason whatsoever, and that **Lessor in no event is or shall be liable for special or consequential damages of any nature whatsoever or however caused.**

4. Insurance: To protect both Lessor and Customer from claims arising out of the rental or operation of the Equipment during the term of this lease and any renewal thereof and while in transit to and from Lessor's place of business, Customer (ii) agrees to obtain and maintain comprehensive general liability coverage with minimum limits of \$1,000,000 per occurrence for personal injury (including death), and "all risk" physical damage supplemental coverage on Equipment for not less than the full market value of Equipment as determined by Lessor. **As Lessor, Bobcat of Knoxville/Chattanooga must be named as LOSS PAYEE and ADDITIONAL INSURED on the Certificate of Insurance with (10) day Notice of Cancellation to Lessor. All policies shall be specifically endorsed to provide that the coverage will be primary and that any insurance carried by Lessor shall be excess and noncontributory.** Customer agrees to abide by the provisions of said policy and to notify insurer, Lessor and public authorities of any accident or occurrence involving Equipment within 24 hours by telephone, and thereafter to promptly report the accident and all relevant information about the accident in writing. Customer, its agents and employees shall cooperate fully with Lessor and Customer's insurer in the investigation, prosecution and / or defense of any claim or suit and shall do nothing to impair or invalidate the applicable insurance coverage. Lessor's acquiescence in Customer's certificate(s) of insurance shall not be a waiver of Customer's insurance and indemnity obligations hereunder.

5. Damage Waiver: Customer may purchase a Damage Waiver (DW) from Bobcat of Knoxville / Chattanooga. The Damage Waiver (DW) is *not* insurance but will, for a fee of 15% of standard rental rate (excluding any discounts), waive all claims against the Customer for uninsured damage to the Equipment for the first **\$500** of damage. For damage or loss over **\$500**, the Customer will pay a **\$500** deductible *and* **50%** of all repairs up to **\$12,000**. If damage exceeds \$12,000, the DW is no longer applicable and Customer will pay **100%** of all repairs or replacement costs **over \$12,000** up to the full "market value" of the Equipment. Customer continues to be responsible to pay lost rental time penalties until equipment repair bills and/or the deductible have been paid in full. The DW only applies to uninsured loss or damage to the Equipment and does not release or diminish Customer's obligations under any other provision herein. The DW is subject to certain exceptions.

(See Damage Waiver Addendum for Waiver Exceptions.)

6. Subrogation: In the event of any loss or damage to Equipment Lessor will be subrogated to any right of the Customer to recover against any person, firm or corporation. Customer agrees to cooperate fully with Lessor and /or its insure(s) in the prosecution of those rights and will neither take nor permit any action to prejudice the rights of Lessor or its insure(s) with respect thereto.

7. Security Agreement: This Contract by which Customer accepts Equipment for rental or purchase shall also constitute a security agreement by which the Customer grants to Bobcat of Knoxville / Chattanooga a security interest in any and all goods purchased that shall continue until any balance owed for such goods is paid in full and sufficient time has lapsed to ensure that all payments received are free from the claims of any and all third parties, including but not limited to a trustee or debtor-in-possession in bankruptcy. In the event that the Customer becomes subject to any state or federal insolvency, bankruptcy, receivership, trusteeship or similar proceeding, or if Customer shall default in any other term of the Contract, Lessor may immediately terminate the Contract and repossess all items or Equipment wherever they may be found. As long as any balance remains unpaid, Customer authorizes Bobcat of Knoxville / Chattanooga to file any financing statement, continuation of financing statement, or similar document required to perfect and continue such security interest. Customer agrees to pay service charges of one-and-one-half percent per month (18% per annum) on any outstanding invoices resulting from this contract, and to pay all costs of collection, including reasonable attorney fees and expenses. **TO THE EXTENT PERMITTED BY APPLICABLE LAW, CUSTOMER HEREBY WAIVES ANY AND ALL RIGHTS AND REMEDIES GRANTED TO THE CUSTOMER BY ARTICLE 2A OF THE UNIFORM COMMERCIAL CODE.**

8. Condition of Equipment: Customer acknowledges that he /she has inspected or shall inspect the Equipment prior to taking delivery of same. Customer agrees that the Equipment, as delivered, is acceptable and in good operating condition and repair. Customer has selected the Equipment for a particular job based upon his/her determination that it is appropriate for that purpose and not based on any recommendation of the Lessor. The Equipment is rented to Customer AS IS, WHERE IS and WITHOUT ANY WARRANTIES, EXPRESSED OR IMPLIED, INCLUDING WITHOUT LIMITATION, WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE.

9. Replacement by Us: If the Equipment does not function in accordance with the manufacturer's specifications, other than as a result of Customer's failure to care for or operate the same properly and the Equipment is returned, the Lessor will replace the Equipment with a comparable item for the balance of the rental period, if one is reasonably available. If not, or if the Equipment exhibits signs of abuse or excessive wear, Lessor has the right to terminate this Contract. In either case, you will **not** be entitled to collect any damage, loss or expense incurred as a result of the malfunction of the Equipment, including any loss of time, lost profits or other consequential damages or any greater amount that you may have to pay to obtain comparable equipment from another source.

10. Miscellaneous: This Contract will be governed in all respects by the laws of the State of Tennessee, the state in which the Equipment was rented or purchased. Customer agrees to the personal jurisdiction of this state and the jurisdiction of the federal courts of appropriate subject matter in this state. Customer agrees to pay Lessor's attorneys' fees, expenses, and other costs incurred in enforcing or exercising Lessor's rights under this Contract. No failure by Lessor to insist upon Customer's strict performance of any provision of this Contract will constitute a waiver of that or another provision, nor will the exercise of any right(s) or remedies available hereunder, at law or in equity, constitute an election of rights or remedies in any instance.

If any provision of this Contract is unenforceable or invalid for any reason, the remainder of this Contract will continue to be valid and enforceable. Customer may not assign its rights under this Contract, and may not sublease or loan out the Equipment. This document contains the entire agreement of the parties. The parties hereby confirm that they are not relying on any statement or representation except as expressly set forth herein.

11. Trailer Rental Additional Terms: Customer accepts full responsibility for any property transported on said Equipment and agrees to save the Lessor harmless from any claim for loss or damage to such property. Customer agrees to inspect all trailer coupling mechanisms, tongue, jack, safety chains, pins and tie downs, and see that the trailer is securely attached to Customer's vehicle before leaving Lessor's place of business. Customer shall periodically inspect said Equipment, coupling mechanism and safety chains and will maintain them in a safe and secure condition while in use. Customer further agrees that he/she will not use or permit use of this Equipment with any other vehicle. Customer is responsible to pay any fees or fines related to towing, overloading and/or licensing during the rental period.

12. Rain Policy: It is the Customer's responsibility to check the weather forecast before renting equipment. However, when the weather makes using the rental equipment dangerous or impossible Customer must call the rental manager promptly. There is no automatic credit for a "rain day" until the manager is contacted. Remember, rental rates are based on time OUT, not time used.