

## RENTAL AGREEMENT – ADDITIONAL TERMS AND CONDITIONS

1. **DEFINITIONS.** "Rental Agreement" means this Rental Agreement, including the front and back pages, as well as any Addendum attached hereto. "McLeod" means McLeod Safety Services Ltd., Inc. "Equipment" means any one or more of the items identified as rental items on the first page of this Rental Agreement contract and any accessories, attachments or other similar items delivered to Customer. "Customer" means the person or entity identified as such on the first page of this Rental Agreement contract or any representative, agent, officer or employee of Customer. "Rental Location" means the McLeod address in the upper right-hand corner on the first page of this Rental Agreement. "Rental Period" means the period of time between the "Pickup" and "Return," set forth on the first page of this Rental Agreement, except that the Rental Period may terminate earlier as provided in Sections 18 and 25 hereof or if Customer returns the Equipment earlier. "Credit Card" means the credit card provided by Customer as part of this Rental Agreement or otherwise kept on file with McLeod.

2. **AUTHORITY TO SIGN.** Any individual signing this Rental Agreement represents and warrants that he or she is of legal age and has the authority and power to sign this Rental Agreement on behalf of Customer.

3. **INDEMNITY / HOLD HARMLESS.** TO THE FULLEST EXTENT PERMITTED BY LAW, CUSTOMER AGREES TO INDEMNIFY, DEFEND AND HOLD McLEOD, AND ANY OF ITS RESPECTIVE OFFICERS, AGENTS, SERVANTS OR EMPLOYEES, AND AFFILIATES, PARENTS AND SUBSIDIARIES, HARMLESS FROM AND AGAINST ANY AND ALL LIABILITY, CLAIMS, LOSS, DAMAGE OR COSTS (INCLUDING, BUT NOT LIMITED TO, LEGAL FEES, LOSS OF PROFIT, BUSINESS INTERRUPTION OR OTHER SPECIAL OR CONSEQUENTIAL DAMAGES, DAMAGES RELATING TO PROPERTY DAMAGE, BODILY INJURY OR DAMAGES RELATING TO WRONGFUL DEATH) ARISING OUT OF OR RELATED TO THE OPERATION, USE, POSSESSION OR RENTAL OF THE EQUIPMENT. THIS INDEMNITY PROVISION ALSO APPLIES TO ANY CLAIMS ASSERTED AGAINST McLEOD BASED UPON STRICT OR PRODUCT LIABILITY CAUSES OF ACTION. HOWEVER, CUSTOMER SHALL NOT BE OBLIGATED TO INDEMNIFY McLEOD FOR THAT PART OF ANY LOSS, DAMAGE OR LIABILITY CAUSED SOLELY BY THE INTENTIONAL MISCONDUCT OR SOLE NEGLIGENCE OF McLEOD. IN FURTHERANCE OF, BUT NOT IN LIMITATION OF THE INDEMNITY PROVISIONS IN THIS AGREEMENT, CUSTOMER EXPRESSLY AND SPECIFICALLY AGREES THAT THE FOREGOING OBLIGATION TO INDEMNIFY SHALL NOT IN ANY WAY BE AFFECTED OR DIMINISHED BY ANY STATUTORY OR CONSTITUTIONAL LIMITATION OF LIABILITY OR IMMUNITY CUSTOMER ENJOYS FROM SUITS BY ITS OWN EMPLOYEES. THE DUTY TO INDEMNIFY WILL CONTINUE IN FULL FORCE AND EFFECT NOTWITHSTANDING THE EXPIRATION OR EARLY TERMINATION OF THE RENTAL AGREEMENT.

4. **INSPECTION OF EQUIPMENT.** Customer acknowledges that Customer 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 has inspected or will inspect all hitches, bolts, safety chains, hauling tongues and other devices and materials used to connect the Equipment to Customer's towing vehicle, if any. Customer acknowledges McLeod is not responsible for any damage to Customer's towing vehicle caused by detachable hitches or mirrors.

5. **LIMITATION OF LIABILITY.** In no event shall McLeod be liable or responsible to Customer or any other party for: (i) any loss, damage or injury caused by, resulting from or in any way connected with the Equipment, its operation or its use; (ii) McLeod's failure to deliver the Equipment as required hereunder or McLeod's failure to repair or replace non-working Equipment; (iii) or any incidental, consequential, punitive or special 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 McLeod and will take all necessary precautions to protect all persons and property from injury or damage from the Equipment.

6. **USE OF EQUIPMENT.** Customer will not use or allow anyone to use the Equipment: (i) for an illegal purpose or in an illegal manner; (ii) without a license, if required under any applicable law; (iii) or who is not qualified to operate it. Customer agrees, at Customer's sole expense, to comply with all applicable municipal, provincial, territorial, and federal laws, ordinances and regulations (including those related to occupational health and safety) which may apply to the use of the Equipment. Customer agrees to: (i) check tire air pressure; (ii) visually inspect the Equipment daily; (iii) and immediately notify McLeod when Equipment needs repair or maintenance and cease using the Equipment. Customer acknowledges that McLeod has no responsibility to inspect the Equipment while it is in Customer's possession. McLeod shall have the right to replace the Equipment with other reasonably similar equipment at any time and for any reason. Unless Customer otherwise notifies McLeod in writing at the time of signing this Rental Agreement, Customer represents and warrants that Customer is entering into this Rental Agreement only for business or commercial purposes and not for personal, family, household, or farming purposes.

7. **DISCLAIMER OF WARRANTIES. McLEOD 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 CUSTOMER'S INTENDED USE, OR THAT IT IS FREE FROM DEFECTS. EXCEPT AS MAY BE SPECIFICALLY SET FORTH IN THIS RENTAL AGREEMENT, McLEOD DISCLAIMS ALL WARRANTIES, EITHER EXPRESS OR IMPLIED, MADE IN CONNECTION WITH THIS RENTAL TRANSACTION.**

8. **MALFUNCTIONING EQUIPMENT.** Should the Equipment be involved in an accident, become unsafe, malfunction or require repair, Customer shall immediately cease using the Equipment and immediately notify McLeod. If such condition is the result of normal operation, McLeod will repair or replace the Equipment with reasonably-similar Equipment in working order, if such replacement Equipment is available. McLeod has no obligation to repair or replace Equipment rendered inoperable by misuse, abuse or neglect. Customer's sole remedy for any failure or defect in Equipment shall be the termination of any rental charges accruing after the time of failure. Customer must return the Equipment within 24 hours from the time of defect in order to terminate rental charges.

9. **RETURN OF EQUIPMENT / DAMAGED & LOST EQUIPMENT.** At the expiration of the Rental Period, Customer will return the Equipment to McLeod during McLeod's regular business hours. The Equipment is to be in the same condition as when delivered to Customer, subject to reasonable wear and tear, as defined below. In the event that McLeod has agreed to pick up the Equipment from Customer,

Customer shall notify McLeod in writing that the Equipment is "off rent". McLeod shall endeavor to pick up the Equipment within a commercially reasonable period of time after the Equipment is called "off rent." Customer shall be liable for all damages to or loss of the Equipment from the time the Equipment leaves McLeod's Location until the Equipment is: (i) returned to McLeod's Location, including any damage during transit to or from Customer; (ii) or picked up by McLeod after issuance of an "off rent" confirmation number. In the case of the loss or destruction of any Equipment, or inability or failure to return same to McLeod for any reason whatsoever, Customer will pay McLeod the then full replacement list value of the Equipment 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 McLeod the reasonable cost of repair and pay rental on the Equipment at the regular rental rate until all repairs have been completed. McLeod shall be under no obligation to commence repair work until Customer has paid to McLeod the estimated cost therefor. Customer agrees that McLeod 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 damaged or lost Equipment.

10. **REASONABLE WEAR AND TEAR.** Reasonable wear and tear of the Equipment shall mean only the normal deterioration of the Equipment caused by ordinary and reasonable use on a one shift basis (as defined in Section 12 below). The following shall not be considered reasonable wear and tear: (i) damage resulting from lack of lubrication, insertion of improper fuel or maintenance of necessary oil, water and air pressure levels; (ii) except where McLeod expressly assumes the obligation to service or maintain the Equipment, any damage resulting from lack of servicing or preventative maintenance suggested in the manufacturer's operation and maintenance manual; (iii) damage resulting from any collision, overturning or improper operation, including overloading or exceeding the rated capacity of the Equipment; (iv) damage in the nature of dents, bending, tearing, staining, corrosion or misalignment to or of the Equipment or any part thereof; (v) wear resulting from use in excess of shifts for which rented; (vi) and any other damage to the Equipment which is not considered ordinary and reasonable in the equipment rental industry.

11. **LATE RETURN.** Customer agrees that if the Equipment is not returned by the end of the Rental Period, McLeod, in its sole discretion, may require Customer to do any of the following: (i) continue to pay the rental rate(s) applicable to the Equipment as specified on the front page of this Rental Agreement; (ii) for periods less than 24 hours, pay the full daily rental rate applicable to the Equipment; (iii) or pay any increased rental rate(s) in effect at the time of, or after, the expiration of the Rental Period. Customer agrees that McLeod 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 return of Equipment.

12. **RENTAL PERIOD / CALCULATION OF CHARGES.** Rental charges commence when the Equipment leaves McLeod's location and ends when the Equipment is returned to McLeod's location during McLeod's regular business hours. Rental charges do not include any applicable taxes, the cost of the Delivery and Pickup Service Charge, transportation surcharges, or other miscellaneous charges. If Customer chooses to have McLeod deliver and pick up the Equipment, Customer agrees to pay a Delivery and Pickup Service Charge. In the event that Customer has elected to pay for the Delivery and Pickup Service Charge, Customer shall notify McLeod in writing that the Equipment is "off rent", at which time rental charges shall no longer be assessed, unless otherwise provided herein. Rental charges accrue during Saturdays, Sundays and Holidays. Customer's right to possess the Equipment terminates

on the expiration of the Rental Period and retention of possession after this time is a material breach of this Rental Agreement. **TIME IS OF THE ESSENCE OF THIS RENTAL AGREEMENT.**

13. **DEPOSIT.** In addition to securing the payment of rental charges hereunder, Customer agrees that any rental deposit shall be deemed to be a guarantee by Customer of the full and complete performance of each and all of the terms, covenants and agreements to be performed by Customer hereunder. In the event of any breach by Customer, the deposit will be credited against any damages, cost or expense incurred by McLeod as a result of the breach.

14. **PAYMENT.** All amounts due hereunder shall be payable in full upon receipt of invoice by Customer. Customer acknowledges that timely payment of rental charges is essential to McLeod's business operations and it would be impractical and extremely difficult to fix the actual damages caused by late payment. Customer and McLeod agree that there shall be added to all past due rental charges a late payment fee equal to the lesser of 2% per month (24% per annum) on any such payments outstanding after 30 days, 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 McLeod from Customer at any time upon, or in respect of, the Equipment and/or this Rental Agreement (collectively, "Taxes"). Customer agrees that McLeod 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.

15. **TITLE / NO PURCHASE OPTION / NO LIENS.** This Rental Agreement is not a contract of sale, and title to the Equipment shall at all times remain with McLeod. Unless covered by a specific supplemental agreement signed by McLeod, 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.

16. **TIRE AND TUBE REPAIR OR REPLACEMENT.** Repair or replacement of tires and tubes is the responsibility of Customer and is not included in the rental rate.

17. **DEFAULT.** Customer shall be deemed in default should Customer: (i) in any way fail to pay any amount when due hereunder, or to perform, observe or keep any provision of this Rental Agreement; (ii) become "Insolvent" (as defined herein), or should McLeod anticipate that Customer may become Insolvent; (iii) or otherwise be in default. If Customer is in default, McLeod may do any one or more of the following: (i) terminate the Rental Period; (ii) declare the entire amounts due hereunder immediately due and payable and commence legal action therefor; (iii) cause McLeod's employees or agents, with notice but without legal process, to enter upon Customer's property and take all action necessary to retake and repossess the Equipment, and Customer hereby consents to such entry, re-taking and re-possession and hereby waives all claims for damages and losses, physical and pecuniary, caused thereby and shall pay all costs and expenses incurred by McLeod in retaking and repossessing the Equipment; (iv) or pursue any other remedies available by law. Customer shall be considered "Insolvent" if Customer shall: (i) generally not pay, or be unable to pay, or admit its inability or anticipated inability to pay its debts as such debts become due; (ii) make an assignment for the benefit

of creditors, or petition or apply to any court or tribunal for the appointment of a custodian, receiver, or trustee for it or a substantial part of its assets; (iii) commence any proceeding under any bankruptcy, reorganization, arrangement, readjustment of debt, dissolution, or liquidation law or statute of any jurisdiction, whether now or hereafter in effect; (iv) have had any such petition or application filed or any such proceeding commenced against it in which an order for relief is entered or an adjudication or appointment is made; (v) or take any action indicating its consent to, approval of or acquiescence in any such petition, application, proceeding or order for relief or the appointment of a custodian, receiver or trustee for all or any substantial part of its properties.

18. **CUSTOMER'S INSURANCE COVERAGE.** Customer agrees to maintain and carry, at Customer's sole cost, the following insurance: commercial general liability insurance ("CGL") with limits of insurance not less than \$1 million per occurrence and \$2 million in the aggregate; (ii) and property insurance for the full replacement cost of the Equipment, including coverage for all risks of loss or damage to the Equipment. Any deductibles or self-insured retentions shall be the sole responsibility of the Customer. All insurance required by this Rental Agreement shall include a waiver of rights of recovery against McLeod or its insurers by the Customer and its insurers, as well as a waiver of subrogation against McLeod or its insurers. The policies required hereunder shall provide that McLeod must receive not less than 90 days' notice prior to any cancellation. FOR RENTAL OF EQUIPMENT NOT LICENSED FOR ROAD USE, CUSTOMER MUST EITHER (i) ELECT TO NAME McLEOD AS LOSS PAYEE EVIDENCING PROPERTY INSURANCE COVERAGE.

19. **NO ASSIGNMENT, LENDING OR SUBLETTING.** Customer shall not sublease, subrent, assign or loan the Equipment without first obtaining the written consent of McLeod, and any such action by Customer, without McLeod's written consent, shall be void. Customer agrees to use and keep the Equipment at the job site set forth on the first page of this Rental Agreement unless McLeod approves otherwise in writing. McLeod may at any time, without notice to Customer, transfer or assign this Rental Agreement or any Equipment or any moneys or other benefits due or to become due hereunder.

20. **ENTIRE AGREEMENT / ONLY AGREEMENT.** The Rental Agreement, including the front and back pages of the Rental Agreement, and any Addendum attached hereto, represent the entire agreement between Customer and McLeod with respect to the Equipment and the rental of the Equipment. There are no oral or other representations or agreements not included herein. None of McLeod's rights or Customer's rights may be changed and no extension of the terms of this Rental Agreement may be made except in writing, signed by both McLeod and Customer. Any use of Customer's purchase order number on this Rental Agreement is for Customer's convenience only and terms and conditions, whether oral or written, that are different or inconsistent with the terms contained herein are hereby rejected by McLeod.

21. **ORDER OF PRECEDENCE.** The terms and conditions of this Rental Agreement shall control over any conflicting preprinted terms and conditions contained in Customer's purchase order or similar documents and such other terms are hereby rejected by McLeod.

22. **CLASS ACTION WAIVER.** Customer agrees that any claims or proceedings brought by Customer relating to this Rental Agreement will be conducted on an individual basis, and not on a class-wide, collective, or representative basis, and that any one person's claims or proceedings may not be consolidated with any other claims or proceedings. Customer will not sue McLeod as a class plaintiff or class representative, join as a class member, or participate as an adverse party in any way in a class-action lawsuit against McLeod. Nothing in this paragraph, however, limits Customer's right to bring a lawsuit as an individual plaintiff.

23. **OTHER PROVISIONS.**

A. Any failure of McLeod to insist upon strict performance by Customer of any terms and conditions of this Rental Agreement shall not be construed as a waiver of McLeod's right to demand strict compliance. Customer has carefully reviewed this Rental Agreement and waives any principle of law which would construe any provision hereof against McLeod as the drafter of this Rental Agreement. Any rule of construction to the effect that any ambiguities are to be resolved against the drafting party shall not apply to the interpretation of this Rental Agreement.

B. Customer agrees to pay all reasonable costs of collection, court, legal fees and other expenses incurred by McLeod in the collection of any charges due under this Rental Agreement or in connection with the enforcement of its terms.

C. Customer shall pay the rental charge(s) without any offsets, deductions or claims.

D. McLeod shall have the right to immediately repossess the Equipment, without any liability to Customer, in the event of: (i) permanent closure of the Store Location; (ii) declaration of any emergency, disaster or similar situation by any federal, provincial, territorial or local government; (iii) or as otherwise set forth in this Rental Agreement.

E. This Rental Agreement shall be governed by and construed in accordance with the laws of the Province of Nova Scotia and the federal laws of Canada applicable therein.

**CRIMINAL WARNING:** The use of false identification to obtain Equipment or the failure to return the Equipment by the end of the Rental Period may be considered a theft subject to criminal prosecution pursuant to applicable criminal or penal code provisions.