

RENTAL TERMS AND CONDITIONS

1. Agreement. Unless otherwise agreed in a written document signed by a vice president of Cashman Equipment Company, LLC dba Empire Southwest (“Cashman”), these Rental Terms and Conditions (“Terms”) govern the rental of all equipment from Cashman (“Equipment”) by any individual or entity that rents such Equipment from Cashman (“Client”) and are incorporated into each of Client's Rental Orders for Equipment from Cashman (each, a “Rental Order”).

Cashman hereby rejects the terms of any purchase order, rental agreement or other document submitted by Client, unless the document is signed by a vice president of Cashman. The placing of a Rental Order with Cashman, the issuance of a purchase order for rental of Equipment from Cashman, or the receipt, acknowledgement or acceptance of Equipment for rental by Client constitutes Client's acceptance of these Terms exactly as written. Cashman reserves the right, in its sole discretion, to modify or replace any of these Terms at any time, and such modifications or replacements shall apply to all rentals of Equipment from Cashman after the date of such modification or replacement. It is Client's responsibility to review the Terms each time Client rents Equipment from Cashman.

2. Title. Cashman is and shall remain the owner of the Equipment. Client will not acquire any equity or ownership interest in the Equipment by making rental payments or performing repairs. Client will not place any liens on the Equipment and will not allow third parties to encumber Cashman's title to the Equipment. Rental rates, in compliance with A.R.S. § 44-1799.41, include an amount sufficient to cover personal property tax due in connection with the Equipment.

3. Rental Term and Rental Period. As to each piece of Equipment, the “Rental Term” is the time period for which Client has ordered such Equipment, as specified on the Rental Order. As to each piece of Equipment, the “Rental Period” is the time period that commences on the delivery of the Equipment to Client and ends upon its return to Cashman's premises. Client shall pay rent on the Equipment at the rates set forth on the Rental Order for the entire Rental Period (and during repairs to Equipment returned to Cashman in a damaged or excessively worn condition as described in Section 10 below). No allowances will be made for Saturdays, Sundays, holidays, transit time, or for any period Equipment is not in actual use.

4. Payment Terms. For Clients with an open credit account with Cashman, payments are due Net 30 from date of invoice. For Clients who do not have an open credit account with Cashman, payment is due upon delivery of Equipment. Cashman may, in its sole discretion, at any time: (a) revoke credit; (b) modify terms and conditions of credit; (c) require payment in advance; and/or (d) withhold Equipment, until receipt of payment. If Client fails to pay for Equipment as and when due, Client shall pay a late charge of 1.5% of the invoice balance each month until charges are paid in full, and Client shall pay Cashman all reasonable attorneys' fees and collection costs incurred by Cashman. In addition to any other right of set-off or recoupment Cashman has under applicable law, Client agrees that, with respect to any amounts due from Client or Client's affiliates to Cashman or Cashman's affiliates, Cashman and its affiliates may set-off such amounts against any amounts owing to Client or Client's affiliates.

5. Excess Usage Charge. Rental rates are based upon maximum Equipment usage of: one shift of 8 hours per day; or upon 40 hours per week; or upon 160 hours per four weeks. If the Equipment is used longer during any specified period, overtime rental will accrue at the hourly rate of 1/8 of the daily charge (daily rental), 1/40 of the week charge (weekly rental) and 1/160 of the 4 week charge (4 week rental).

6. Written Safety Instructions; Training. Operating instructions and safety manuals will be located inside of the Equipment. If Client is unable to locate operating instructions and safety manuals inside of the Equipment or if Client has any questions or concerns regarding the safe operation of the Equipment, Client must contact Cashman immediately. It is Client's obligation to ensure that individuals operating the Equipment or working in proximity to the Equipment fully understand all safety and operating instructions associated with the Equipment.

7. Disclaimer of Warranties. By receiving the Equipment, Client acknowledges the Equipment to be in good, safe and serviceable condition, and Client accepts the Equipment "AS IS" regardless of defects, latent or otherwise. Cashman makes no warranty, express or implied, with respect to the Equipment, including but not limited to, any implied warranties of merchantability or fitness for a particular purpose. To the maximum extent permitted by law, all such warranties are hereby disclaimed by Cashman and waived by Client. Client's sole remedy shall be the termination of the rental charges at the time of failure or discovery of defect, provided Client returns the Equipment to Cashman's premises within 24 hours of the failure or discovery of defect.

8. Machine Maintenance and Repairs. During the Rental Period, Client, at its own cost, shall perform all daily lube, fuel and daily maintenance on the Equipment as prescribed in the Original Equipment Manufacturer's Operation and Maintenance Manual (the "OEM Manual"). Cashman will perform the required preventative maintenance during the Rental Period as prescribed in the OEM Manual. Upon request, Client will make the Equipment available for Cashman to perform such preventative maintenance during Cashman's regular business hours. Client is not authorized to incur any expense for the account of Cashman.

9. Return of Equipment. Upon expiration of the Rental Term set forth in the Rental Order (unless Cashman agrees in writing to an extension) or upon demand from Cashman prior to expiration of the Rental Term, Client shall return the Equipment to Cashman's premises during Cashman's regular business hours. Client shall be liable for all damages to, or loss of, the Equipment occurring because it was not returned within Cashman's regular business hours. If the Rental Order for the Equipment states that Cashman will pick up the Equipment, Client will be responsible for all loss or damage to the Equipment until Cashman actually picks up the Equipment.

10. Damaged Equipment; Reasonable Wear and Tear: If the Equipment is returned in a damaged or excessively worn condition, Client shall pay Cashman the reasonable cost of repair (or the replacement cost, if Equipment cannot be repaired to Cashman's satisfaction) and also shall pay rental on the Equipment at the regular rental rate until repairs have been completed or an adequate replacement obtained. Reasonable wear and tear means only the normal deterioration of the Equipment caused by ordinary and reasonable use on a one-shift (eight hours per day, five days per week) basis. Without limiting the generality of the foregoing statement, the following shall not be deemed reasonable wear and tear: damage resulting from lack of lubrication or failing to maintain necessary oil, water, and air pressure levels; damage resulting from lack of daily inspection and maintenance; and damage resulting from exposure to leach pads, scrap metal operations or other corrosive or harsh environments. Repairs to the Equipment shall be made to the reasonable satisfaction of Cashman, and in a manner that will not adversely affect the operation, safety, or value of the Equipment as determined by Cashman (for example, welding repairs rather than replacing a part will be at Cashman's discretion). Client agrees that if Equipment is returned with a damaged ROPS (Rollover Protection Structures) or boom, Client will be required to pay replacement costs for the ROPS and/or boom (and any associated costs

related thereto); thereafter, Cashman shall destroy the damaged ROPS and/or boom and Client shall have no right to salvage of the same.

11. Tires. Repair and replacement of tires are not included in the rental rate. Client shall pay for any tire damage, regardless of the cause. All tires substituted by Client shall become Cashman's property.

12. Insurance. Prior to commencement of the Rental Term, Client must obtain, and must maintain in effect during the entire Rental Period, the following insurance: workers' compensation insurance (in accordance with applicable law); employer's liability insurance (not less than \$1,000,000 per person, per accident); if renting a truck licensed for use on public highways, automobile liability insurance covering all owned, non-owned and hired vehicles (with a combined single limit of \$1,000,000); general liability insurance (\$1,000,000 per occurrence, \$2,000,000 general aggregate); and physical damage insurance (full value of the Equipment). Client's required policies shall be primary, and any insurance maintained by Cashman shall be excess and non-contributory. Client must provide an insurance certificate to Cashman evidencing all of the foregoing before commencement of the Rental Term. Additionally, Client's required policies must be endorsed to include waivers of subrogation; Client's general liability and automobile liability policies must be endorsed to name Cashman as an additional insured; and Cashman must be named as loss payee on the physical damage insurance. Such endorsements shall be provided to Cashman along with the insurance certificate. Cashman's standard insurance requirements do not limit or qualify the liabilities, obligations or indemnities of Client hereunder. Client agrees to pay for Rental Equipment Protection (provided by JT Bates Group and described below) until Client submits a compliant insurance certificate. The physical damage insurance requirement shall not apply when Client elects and pays for the Rental Equipment Protection prior to the beginning of the Rental Term.

13. Rental Equipment Protection™. The Rental Equipment Protection ("REP") program is OPTIONAL and MAY BE DECLINED. If Client declines REP™, or Client fails to pay the REP fee, Client will be responsible for all damage, repair(s) and replacement(s) of/to the Equipment at the full replacement value. REP covers construction, forestry, power, agriculture, material handling, and other non-excluded equipment. REP excludes vehicles licensed for the road while in transit and underground mining equipment. REP is a waiver of claims by Cashman for perils covered by REP to the Equipment. REP is not "insurance" for Client but may serve to supplement or replace physical damage insurance for Client on the Equipment. REP covers up to \$500,000.00 per occurrence. If Client purchases REP, Client will have no liability to Cashman for physical damage to the applicable Equipment up to the covered amount, except that Client will remain liable to Cashman in all events for damage or loss caused in whole or in part by: (a) Client's breach of any provision of the Rental Order; (b) criminal/fraudulent acts; (c) loss of use - REP does not cover loss of use while the Equipment is being repaired; (d) mechanical/electrical breakdown; (e) missing property; (f) ordinary wear and tear; (g) weight of load; (h) damage to tires, unless such tire damage is caused by a covered peril; (i) pollution; (j) nuclear waste; (k) corrosion; or (l) civil authority. In the event of an REP claim, Client is responsible for the deductible: (a) \$1,000.00 for Equipment valued up to \$25,000.00; or (b) \$2,500.00 for Equipment valued greater than \$25,000.00. The cost of REP is as follows: Client will pay Cashman fifteen percent (15%) of the value of the Rental Order to cover the Equipment listed on that Rental Order. If Client fails to provide a certificate of insurance with the coverages and endorsements set forth in Section 12 above, Client shall pay Cashman fifteen percent (15%) of the applicable Rental Order value to cover the Equipment listed on that Rental Order. REP covers the following perils: (a) accidental damages; (b) collisions; (c) overturns/rollovers; (d)

falling objects; (e) fire; (f) theft; (g) vandalism; (h) flood (submersion and acts of nature); (i) earthquake; (j) hail; (k) wind; (l) tornado; and (m) other non-excluded perils. Cashman will not subrogate for perils covered by REP.

14. Limitation of Liability; Indemnification. In no event shall Cashman be liable, whether based in contract, warranty, indemnity, tort, strict liability or any other theory of law or equity for any special, incidental, indirect, punitive, exemplary, or consequential damages, including but not limited to lost profits, downtime, or loss of third party contracts, regardless of whether or not Cashman is advised of the possibility of such damages. In addition, Cashman's maximum aggregate liability for damages or loss, howsoever arising or caused, shall in no event exceed the amount Client paid to Cashman for rental of the Equipment to which such liability relates. Client shall indemnify, defend and hold harmless Cashman, its affiliated companies, and their respective owners, officers and employees, for, from and against any and all threatened or actual claims, losses, liabilities, damages, costs or expenses (including attorneys' fees, expert witness fees, costs and expenses) of any nature whatsoever arising out of or related to: the operation, possession, use, failure, or maintenance of the Equipment while on rent to Client; the breach of any provision of the Rental Order by Client; personal injury, death or property damage or loss of any nature whatsoever arising from or related to the Equipment while on rent to Client; the negligence or willful misconduct of Client; any violation by Client of applicable laws; and claims by Client's employees related to the Equipment.

15. Default. Client is in default if (a) Client fails to pay any installment of rent or other payment to Cashman when due; (b) Client fails to return the Equipment at the end of the Rental Term or upon demand; (c) Client fails to perform or observe any condition of the Rental Order or any other agreement with Cashman; (d) Client ceases doing business as a going concern, makes an assignment for the benefit of creditors, files a petition in bankruptcy or consents to or acquiesces in the appointment of a trustee, receiver or liquidator of all or any substantial part of its assets or properties; (e) Client abuses, neglects or attempts to remove, sell, transfer, encumber, part with possession of, or sublease the Equipment or any item thereof; or (f) Cashman in good faith deems itself insecure.

16. Remedies; Retaking of Equipment. Cashman reserves all rights and remedies available at law or under contract in the event of a default by Client, and Cashman may, at its option, demand that Client immediately deliver the Equipment to Cashman's premises at Client's expense. If the Equipment is not returned at the end of the Rental Term or for any reason it becomes necessary for Cashman to retake the Equipment to protect it from loss or damage, Cashman and its agents may, without notice or legal process, enter into any job, building, or place where the Equipment may be and repossess same by using all force necessary to do so. In the event of default, Client waives all rights to a prior judicial hearing, any further right to possession of the Equipment and all claims for injuries, damages or loss arising out of the repossession of the Equipment. Client shall pay all costs and expenses incurred by Cashman in retaking the Equipment.

17. Compliance with Laws and Regulations; Hazardous Materials. Client shall not abuse, harm or improperly operate the Equipment. Client, at its sole expense, shall comply with all laws and regulations applying to the use, operation or possession of the Equipment. Client warrants and represents that it shall return the Equipment free from all toxic, hazardous or regulated materials, as those terms may be defined in applicable federal, state and local regulations and laws. Client shall indemnify, defend and hold Cashman harmless from any loss, claim or damage that may arise out of Client's breach of these representations and warranties.

18. Additional Client Obligations. At all times, Client shall advise Cashman of the exact location and condition of the Equipment and shall give Cashman immediate written notice of any lien or judicial process affecting the Equipment. Cashman may enter any job, building or place to inspect the Equipment. Client shall furnish Cashman with a complete written report of any accident involving the Equipment, including names and addresses of all witnesses and persons involved.

19. Choice of Law; Venue. All Rental Orders shall be governed by and construed in accordance with the laws of the State of Arizona, without giving effect to its conflict of law provisions. The parties agree that the exclusive jurisdiction and venue for any proceedings at law or in equity will be in the state or federal courts located in Maricopa County, Arizona.

20. Privacy Policy. Client consents to the collection, use, retention and disclosure of information by Cashman and its parent, subsidiary and affiliated entities (collectively, "Cashman Entities") in accordance with Cashman's Privacy Policy, which is posted at www.cashmanequipment.com/privacy (as such Privacy Policy may be revised from time to time), and agrees that such information may be accessed by the Cashman Entities and their partners and manufacturers with a legitimate business reason to access it, as well as third parties who may process such information on their behalf.

21. Equipment Information. Caterpillar Equipment that is rented by Client may be equipped with Product Link or other equipment monitoring technology, which transmits data concerning the Equipment, its condition and its operation ("Telematics Information") to Caterpillar and its affiliates, Cashman and its affiliates, and/or other Caterpillar dealers to better serve Client and to improve Caterpillar products and services. Telematics Information being transmitted may include machine serial number, machine location, and other machine data including, but not limited to, fault codes, emissions data, fuel usage, service meter hours, software and hardware version numbers and installed attachments. The Telematics Information will be collected, used, retained and disclosed in accordance with the Caterpillar Data Governance Statement, which is posted at <https://www.caterpillar.com/en/legal-notices/data-governance-statement.html> (as such statement may be revised from time to time) ("Statement"). As set forth in the Statement, Caterpillar may use Telematics Information in combination with information about Client. Notwithstanding anything herein to the contrary, transmission of Telematics Information shall not impose upon Cashman any obligation to monitor the Equipment while on rent to Client and/or to notify Client of any operational, performance or other issues associated with the Equipment.

22. Miscellaneous. Client may not assign Client's rights or obligations hereunder without Cashman's prior written consent, and any such attempted assignment will be void. If any provision in these Terms is found to be invalid, unlawful or unenforceable, the remaining provisions in these Terms shall remain in full force and effect. A party's waiver of any breach will not constitute a waiver of any different or subsequent breach. No employment, agency, joint venture, or similar arrangement is created or intended between Client and Cashman. Cashman is an EEO/Affirmative Action Employer. Client warrants that the Equipment will be used for business or agricultural purposes and not for personal, family or household purposes.

23. Compliance with California Regulations, Including California Air Resources Board ("CARB") Regulations. When operated in California, diesel-fueled (or alternative diesel-fueled) vehicles and engines may be subject to California laws, regulations, measures, and programs, including environmental and CARB regulations, measures, and programs. For instance, any on-road heavy-duty diesel vehicle, off-road diesel vehicle, alternative-diesel vehicle, or portable

diesel engine may be subject to CARB's Regulation to Reduce Emissions of Diesel Particulate Matter, Oxides of Nitrogen and Other Criteria Pollutants from In-Use Heavy-Duty Diesel-Fueled Vehicles; In-Use Off-Road Diesel Vehicle Regulation (or In-Use Off-Road Diesel-Fueled Fleets regulation); Portable Equipment Registration Program; Large Spark-Ignition Engine Fleet Requirements Regulation; or Airborne Toxic Control Measures. Therefore, Client acknowledges that the Equipment may be subject to restrictions (including use, operation, and idling restrictions), retrofit, exhaust retrofit, or accelerated turnover requirements to reduce emissions of air pollutants. Further, Clients subject to the In-Use Off-Road Diesel-Fueled Fleets regulation must comply with the renewable diesel (R99 or R100) requirements found in Section 2449.1 of title 13, California Code of Regulations. For more information, please review CARB regulations and websites, including at <https://www.arb.ca.gov/dieseltruck>, <https://www.arb.ca.gov/msprog/ordiesel/ordiesel.htm>, or <https://www.arb.ca.gov/portable/portable.htm>. Client acknowledges that, if CARB requests verification information regarding compliance with the renewable diesel requirements, Cashman and Client must timely disclose Client's name and business contact information to CARB. Client, at its sole expense and responsibility, must comply with all applicable laws, regulations, measures, and programs relating to the use, operation, or possession of the Equipment. By entering into a Rental Order, or by using, operating, or possessing the Equipment, Client acknowledges that Client has reviewed and understands all applicable laws, regulations, measures, and programs, and agrees to comply with the terms and requirements thereof.

24. Requirements Applicable to Rental of On-Highway Equipment. The provisions of this Section apply to all rentals of Equipment that are authorized or used for operation on public roadways ("On-Highway Equipment"). Upon rental of On-Highway Equipment by Client, Client shall have complete control and supervision of the On-Highway Equipment (unless otherwise in the care, custody and control of Cashman). Client represents and warrants that, at all times such On-Highway Equipment is in Client's care, custody or control, such On-Highway Equipment shall be operated only under the USDOT number and operating authority of Client (i.e., Client may not allow a third-party to transport such On-Highway Equipment without the written consent of Cashman). Further, Client shall comply with the Federal Motor Carrier Safety Administration ("FMCSA") requirements set forth in 49 CFR 376.11(c) pertaining to the proper identification and marking of the On-Highway Equipment upon taking possession and prior to operating any On-Highway Equipment. Before giving up possession of the On-Highway Equipment, Client shall remove all identification showing it as the operating carrier. If Client provides drivers, such drivers must be qualified under and meet all applicable federal, state and local laws and regulations, including but not limited to a valid CDL in good standing.

The Rental Order shall constitute the receipt evidencing the transfer of possession of On-Highway Equipment as set forth in 49 CFR 376.11(b). The Rental Order shall be carried in the On-Highway Equipment by Client during the full term of the Rental Order. Cashman agrees to cooperate with all federal, state and local law enforcement officials nationwide to provide the identity of any client who operates the On-Highway Equipment.

Client will provide persons to manage and/or operate the On-Highway Equipment. Such persons are under the sole control and direction of Client, and are not acting in the capacity of independent contractors or employees of Cashman.