

Mammoth Machinery Master Rental Agreement

This **Master Rental Agreement** is between Mammoth Machinery and Supply, LLC (Lessor) at 205 S. 1200 W. North Salt Lake, Utah 84054 and Lessee/Company whose is renting equipment from Mammoth. The terms and conditions stated below and those attached to this agreement referred to as Mammoth Rental Terms and Conditions shall apply to all rentals between Lessor and Lessee until this agreement is terminated by either party upon 60 days written notice to the other party.

Separate Rental Contracts. Lessor and Lessee agree to enter into separate rental contracts for equipment supplied by Lessor to Lessee. Such contracts shall provide the detail for the rental transaction including, but not limited to, the equipment rented, term of the rental and rental rates charged. By their signatures on this Master Rental Agreement, Lessor and Lessee agree that the terms and conditions of the Master Rental Agreement and Mammoth Standard Rental Terms and Conditions apply to every rental, even though such terms may not be attached to the separate rental quotes or contracts used during regular business.

Rental Term. The term of each rental shall be as stated on each separate rental contract. Lessee can return the equipment at any time. By keeping the equipment, Lessee agrees to continue the rental term until Lessee notifies Lessor that equipment is off rent.

Rental Rate and Equipment. The rental rates will be listed on each contract. Additional charges may apply when equipment is returned, including fuel, transportation, excess hours and equipment damages.

Acceptance. Accepting delivery of the equipment described in each rental contract is deemed as acceptance to all terms stated in the Rental Contract, Standard Rental Terms and Conditions, and Master Rental Agreement.

Signatures. The parties expressly agree that signatures may be either original signatures or electronic signatures to bind the parties. Electronic signatures may be transmitted via email, text or fax.

Electronic Documents. The parties agree that this Master Rental Agreement and the subsequently issued rental contracts may be maintained electronically by Lessor. Such documents do not have to be in paper format to be enforceable. Notices sent electronically shall be sent to:

Lessor: accounting@mammothmachinery.com

Contact Phone: 801-295-3302

Mammoth Machinery
205 S. 1200 W.
North Salt Lake, UT 84054



www.mammothmachinery.com
801-295-3302

Mammoth Machinery – Standard Rental Terms and Conditions

1. Acceptance and Agreement. Mammoth Machinery ("Lessor") agrees to lease to Lessee, and Lessee agrees to accept, the Equipment described in this Rental Agreement solely in accordance with the terms and conditions stated herein. This Rental Agreement becomes a binding contract with Lessor on the terms set forth herein when accepted by Lessee either by acknowledgment or commencement of performance. No modification hereof, whether oral, written, by course of performance or course of dealing of the parties will be binding unless confirmed in writing by Lessor.

2. Equipment Condition; Warranties: Unless notified by Lessee in writing to the contrary within forty-eight (48) hours after receipt, the Equipment will be conclusively presumed to be in good order and repair when received by Lessee. Upon timely notice of any material defect in the Equipment, Lessor will, at its expense and in its sole discretion, either put the Equipment in good working order or provide substitute Equipment of the same or similar kind. Except for this express limited warranty, the Equipment is rented "as-is" and with all faults, and LESSOR MAKES NO OTHER WARRANTIES, EXPRESS OR IMPLIED, AS TO THE CONDITION OF THE EQUIPMENT NOR AS TO VISIBLE OR HIDDEN DEFECTS IN MATERIAL, WORKMANSHIP OR CAPACITY OF THE EQUIPMENT OR ITS FITNESS FOR ANY PARTICULAR PURPOSE OR JOB. Provided no Lessee default has occurred and is continuing under this Rental Agreement, Lessor assigns to Lessee during the rental term all warranties, if any, made by the Equipment manufacturer. In no event will Lessor be liable to Lessee for any injury, delays or damages, consequential or otherwise, resulting from or by reason of, Lessee's use of the Equipment, the condition of the Equipment, or by reason of any failures or delays in making delivery to Lessee, or from strikes or other contingencies beyond its control, or from any cause whatsoever.

3. Maintenance: All labor and material for normal operation and proper maintenance of the Equipment is the responsibility of Lessee while the Equipment is in Lessee's possession, and Rent will not abate because of the need for such maintenance. Cylinder head breakage is the sole responsibility of Lessee. All labor and materials for normal operating repairs and maintenance including, but not limited to, all expendable items such as cables, end bits, cutting edges, antifreeze, belts, filters, O rings, hoses, minor repairs to the electrical system, and minor adjustments to the Equipment is the sole responsibility of Lessee. All replacement parts used or installed and repairs made to the Equipment will become Lessor's property. Lessee will pay for all fuel and oil used during the term of this Rental Agreement and will maintain proper oil, lubricant and coolant levels at all times. Lessee will utilize specific equipment vendor approved parts, materials, and trained workmanship while performing the maintenance. Any repair required because of abuse, negligence or abnormal use, damage resulting from lack of normal services, collision, overturning, or improper operation will be at Lessee's sole expense. Lessee will be responsible to reimburse Lessor for all lost revenue from the rental equipment while the equipment is under repair. Lessee will keep the Equipment free and clear of all liens, claims, and encumbrances of any kind. Some of Lessor's equipment may have CAT Service Agreements and extended warranties. In these specific cases, Lessor may choose to perform periodic Preventative Maintenance on the equipment while being rented by the Lessee. The Rental Contract will specify if Lessor will be doing any Preventative Maintenance. If not specified, Lessee will be responsible for all maintenance as described above in Paragraph 3.

4. Usage/Hours: Lessee agrees not to operate the equipment more than the standard of 8 hours per day, 40 hours per week, or 160 hours per month. Overtime usage exceeding these amounts will be billed using the daily rate. The hourly rate will be calculated as the daily rate divided by eight.

5. Fuel: Lessee agrees to return the equipment full of fuel. If equipment is not full upon return, Lessee agrees to pay \$7/gallon to Lessor.

6. Return: Lessee agrees that at the end of the rental term it will promptly return the Equipment to Lessor in as good condition as when received and, if otherwise, to pay the expense of putting it in such condition, less ordinary wear incident to normal use. This payment obligation is absolute and may not be excused by theft, vandalism, fire, weather, act of God, or for any other reason whatsoever. Lessor will inspect the Equipment upon its return by Lessee and will invoice Lessee for any repair costs relating to damage or abnormal wear. If, as of the end of the rental term, the Equipment should be lost, destroyed, or rendered unfit for service, or not returned, Lessee shall thereupon be obligated to pay Lessor the full value thereof, together with interest thereon at the rate of twenty-four percent (24%) per annum from that date until the said sum is paid, less a reasonable and fair credit as determined by Lessor for the lease payments theretofore made.

7. Malfunctioning Equipment: Should the Equipment become unsafe, malfunction, or require repair, Lessee must cease using the Equipment and notify Lessor. If such condition is the result of normal operation or inherent defect, Lessor will promptly repair or replace the Equipment with similar Equipment in good working order. Lessee's sole remedy for any such failure or defect in Equipment is the repair or replacement as set forth in this Section 5 and termination of any rental charges accruing after the time of failure and until such repair or replacement is completed (any rentals paid in advance will be adjusted accordingly and promptly credited or returned to Lessee).

8. Location; Removal: Lessor shall have the right to inspect the Equipment at any reasonable time. Lessee shall inform Lessor in writing prior to moving the Equipment to any location other than that indicated in this Rental Agreement. Lessor may remove the Equipment from any job or location where it may be found if in its opinion the Equipment is likely to be damaged or immobilized for a significant period, such as in the case of strikes, flood, storms, and other such conditions. Lessor may also remove the Equipment from any job or location when it is deemed necessary for the purpose of repair or inspection. Equipment will remain within the Western United States.

9. Insurance: During the rental term, Lessee must provide and maintain commercial general liability insurance during the term of any rental hereunder with limits of liability of \$1,000,000.00. Such insurance shall name Lessor as an additional insured, shall be endorsed to waive any right of subrogation against Lessor, and shall be primary to and without contribution from other insurance which may be maintained by Lessor. Lessee must also provide and maintain during the term of any rental hereunder property insurance on an "all risk basis" on all Equipment leased under this Contract with limits of coverage equal to the replacement values, or a minimum of \$500,000. Such property insurance must name Lessor as an additional insured and provide full waiver of subrogation in favor of Lessor. Further, such property insurance must be primary to and without contribution from other insurance which may be maintained by Lessor. Lessee must furnish the certificates (Certificate of Insurance - COI) of the aforementioned insurance to Lessor prior to Lessor's acceptance of a rental contract, and prior to delivery of the Equipment. Lessor may require an Endorsement Form for specific customers prior to acceptance of a rental contract. If Lessee does not provide the COI within 5 days of delivery of equipment, and/or, if the Lessee's insurance does not meet the limits of liability as stated in Section 7, Lessor will charge 18% of the gross rental rate as a damage waiver.

10. Indemnification: Except to the extent specifically attributable to Lessor's gross negligence or willful misconduct, Lessee will indemnify, defend, and hold harmless Lessor, its agents, employees, officers, directors, owners, insurers, and their successors and assigns from and against any and all liabilities, obligations, losses, damages, claims, penalties, injuries (both to body and property), and all costs and expenses thereof (including attorneys' fees and expenses) in any way relating to or arising out of Lessee's use of the Equipment, in whatever manner, in connection with any event occurring after delivery of the Equipment to Lessee and prior to the proper return of the Equipment. Lessee must give prompt notice in advance to any occurrence under which Lessee may be entitled to indemnification hereunder. The conditions of this section will survive the termination of this Rental Agreement.

11. Transportation Charges; Rental Period: Lessee agrees to pay all transportation charges on the Equipment from the point of shipment to the point of operation and return therefrom or to such place as Lessor shall designate, it being understood, however, that Lessee shall be put to no greater expense for the return of the Equipment than if the Equipment were returned to Lessor's place of business in North Salt Lake, Utah. The rental period will begin at the time when the Equipment is loaded at the shipping point for shipment to Lessee and will cease when the Equipment is received at Lessor's place of business, or authorized alternative site.

12. Payment; Taxes: If customer is extended terms on the rental contract, amounts due under the terms of this lease shall be due on the date of the invoice or such later date as may be specified on the invoice. Accounts not paid in full prior to the last day of the month when due will incur interest at the lesser of (i) twenty four percent (24%) per annum or (ii) the highest lawful rate. Lessee shall pay all taxes, fees, licenses, charges and all other assessments relating to the possession or use of the Equipment (other than Lessor's obligations for income taxes relative to rental charges it receives pursuant to this Rental Agreement) which arise or are imposed out of this Rental Agreement. If customer is required to pay cash or C.O.D., Lessor will collect payment for estimated rental period, fuel usage, damage waiver insurance, environmental fee, and taxes. Upon return, inspection and acceptance of the equipment, Lessor will reimburse Lessee of any credits due.

13. Time of Essence; Waivers: Time is the essence of this lease. Acceptance by Lessor of any late payment shall not be construed as a waiver of Lessor's right to have each subsequent payment made on the due date thereof. Similarly, the failure of Lessor to timely notify Lessee of any breach of the terms hereof shall not constitute a waiver by Lessor, of such provisions as to any subsequent breach of the same, or of any other provision hereof.

14. Default; Attorney's Fees; Lien: Lessee agrees that, in the event (i) it shall fail in the payment of any rental amount prior to the last day of the month when due or shall fail to perform any of its obligations hereunder, or (ii) bankruptcy, receivership, assignment for benefit of creditors or other insolvency proceedings are commenced by or against Lessee, then Lessee shall be in default under this Rental Agreement and Lessee shall, without notice, immediately be indebted to and hereby agrees to promptly pay Lessor, all sums due hereunder. Lessee will pay all costs and expenses of collection, including a reasonable attorney's fee, if Lessor elects to pursue collection efforts following Lessee's failure to pay amounts owing under this Rental Agreement. In the event Lessor elects to file a notice of lien with respect to the Equipment for its use, either with or without the default of Lessee, Lessee will pay all associated costs and expenses.

15. Repossession: If at any time Lessor, in its sole discretion, determines that its rights to the Equipment are endangered, or that the Equipment is being used improperly or beyond its capacity, or in any manner improperly cared for or abused, or if there shall be any default by Lessee in the payment of any rental amount or in the terms and conditions of this Rental Agreement, Lessor may repossess the Equipment, lock or remove the same from the job site and, at its option, terminate this Rental Agreement. Repossession alone shall not be construed to be an acceptance of surrender of this lease, and neither termination nor repossession shall deprive Lessor of the right to recover unpaid rentals and damages for Lessee's breach of this Rental Agreement.

16. Governing Law; Venue: This Rental Agreement is governed by the laws of the State of Utah (except for its choice of law rules). Venue of any action under this Rental Agreement shall be exclusively in the federal or state courts located Davis County, State of Utah unless Lessor otherwise elects, and Lessee irrevocably consents to jurisdiction and venue of such courts and waives any right to object to such jurisdiction or venue.

17. Offsets: Lessee may not apply or enforce any waivers, counterclaims, or offsets of any kind against Lessor unless the same is in writing signed by Lessor.

18. Assignment: Lessee may not (i) assign, transfer, pledge, mortgage, hypothecate, hire out or otherwise dispose of this Rental Agreement or the Equipment or any interest therein; (ii) sublet or lien the Equipment or surrender or part with its possession, custody or control; or (iii) permit the Equipment to be used by anyone other than Lessee or Lessee's employees.

19. Exposure to Hazardous Material or Waste: Lessee may not expose the Equipment to any hazardous material or waste. In the event the Equipment is exposed to any hazardous material or waste, Lessee must immediately (i) notify Lessor, (ii) remove the Equipment from such exposure and (iii) completely clean and decontaminate the Equipment. If the Equipment cannot be completely cleaned, decontaminated and otherwise discharge from all adverse effects of such exposure, Lessee will pay Lessor the full value of the Equipment, together with interest thereon at the rate of twenty four percent (24%) per annum from that date until paid in full. Lessee indemnifies and holds Lessor harmless from any and all claims, actions, expenses, damages, costs and liabilities arising from any such exposure of the Equipment or Lessee's personnel or contractors to hazardous material or waste. This indemnification survives and continues after the term of this lease.

20. Miscellaneous: If any provision of this Rental Agreement is or shall be invalid for any reason, the same shall be deemed severable from the remainder hereof and shall in no way affect or impair the validity of this Rental Agreement or of any other portion thereof. This Rental Agreement constitutes neither a sales contract nor an option to purchase, and that title to the Equipment above-described remains with Lessor and Lessee shall have no rights to the said Equipment other than as specifically provided herein. At the option of Lessor, this Rental Agreement may be recorded or filed with any appropriate governmental entity to evidence Lessor's interest in the equipment. All the terms and conditions of this Rental Agreement will be binding upon and shall inure to the benefit of the respective parties and their heirs, successors in interest, personal and/or legal representatives and assigns (where permission to assign has been given by Lessor). This lease contains all of the covenants between the parties hereto and any representation or understanding not contained herein is of no force or effect whatsoever. Performance by Lessor shall be subject to delay by strikes, breakage, fires, unforeseen commercial delays, insurrection, wars, acts of God, or governmental regulations or other actions. All remedies given Lessor hereunder are cumulative and the exercise of any one remedy by Lessor shall not be to the exclusion of any other remedy.

Lessee/Renter Signature

Date