





**ADDITIONAL TERMS AND CONDITIONS  
OF RENTAL AGREEMENT**

**1. LESSOR'S OBLIGATION:** All rental equipment shall be in good operating condition at the time furnished by LESSOR. Acceptance of equipment by LESSEE will constitute acknowledgement that the equipment was furnished in good, safe, and serviceable condition unless NUECES POWER EQUIPMENT is notified to the contrary in writing within three (3) days following receipt of the equipment.

**2. TRANSPORTATION EXPENSES:** Unless otherwise stated, all transportation expenses from, or to, the place of business of LESSOR shall be paid by LESSEE.

**3. LESSEE'S OBLIGATIONS TO REPAIR AND MAINTAIN:** LESSEE shall, at LESSEE'S expense, supply all fuel, lubricants, repair parts, labor, and all other items necessary to operate the equipment and to maintain it in good operating condition during the term of this Rental Agreement. The equipment shall be returned in the same condition as when received, except for normal wear. If the equipment, when returned to LESSOR, is in need of repair, or is in a damaged and worn condition (including damage and wear to tires), not attributable to normal wear, LESSEE shall be obligated to pay to LESSOR the reasonable cost of the repairs and, in addition, LESSEE shall be obligated to continue the payment of rental, at the rate herein stated, for the period of time reasonably necessary to repair LESSOR'S equipment and to restore it to a good, safe, and serviceable condition. LESSEE agrees that any repairs and labor furnished by NUECES POWER EQUIPMENT, shall be charged to and paid by LESSEE at NUECES POWER'S established prices plus any local, county, or state tax, for similar repairs, parts, or accessories, in force at the time same are supplied.

**4. LESSEE'S RESPONSIBILITY FOR LOSS:** LESSEE is responsible for the rented equipment at all times while it is in the possession, custody, or control of LESSEE and all risks of loss shall be borne by LESSEE, whether such loss is caused by the negligence of LESSEE, abuse, fire, theft, accident, or any casualty of any nature whatsoever, it being the intent of LESSOR and LESSEE that LESSEE shall bear any loss resulting from the loss of or damage to said equipment, whether or not LESSEE was in any way at fault.

**5(a). INSURANCE:** LESSEE shall provide the following physical damage insurance coverage on the rented equipment to LESSOR:

\$1000.00 deductible - all risks - contractor's equipment floater with the loss payable clause in favor of Nueces Power Equipment.

LESSEE shall, in such event, furnish certificate of insurance coverage to LESSOR, which coverage shall be through existing policies owned by LESSEE, or through any insurance company authorized to do business in the State of Texas.

**5(b).** LESSEE shall promptly pay all taxes and assessments on the equipment (including but not limited to any federal, state and local taxes).

**6. INDEMNITY:** LESSEE shall indemnify LESSOR against, and hold LESSOR harmless from all claims, actions, proceedings, costs, damages, and liability, including attorneys' fees and investigation expenses incurred in the defense of any said claims, arising out of, or connected with, or resulting from the rented equipment, including without limitation, the manufacture, selection, delivery, possession, use, maintenance, operation, or return thereof.

**7. DISCLAIMER OF ALL WARRANTIES:** LESSOR MAKES NO WARRANTIES, EXPRESS OR IMPLIED, OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE AS TO THE EQUIPMENT RENTED AND HEREBY DISCLAIMS THE SAME. There are no oral or written promises, terms, conditions, representations, or warranties, of any nature whatsoever, express, or implied, concerning the herein described equipment.

**8. LIMITATION OF LESSOR'S LIABILITY:** In the event the rental equipment is not in good operating condition at the time furnished by LESSOR, and LESSOR is notified thereof within the time stated in paragraph 1, LESSOR shall refund a pro rata part of the rental charge until the equipment is placed in good operating condition by LESSOR. Such right to obtain a refund of rental shall constitute LESSEE'S sole and exclusive remedy and LESSEE hereby agrees that no other remedy, (including, but not limited to, claims for INCIDENTAL, CONSEQUENTIAL, OR SPECIAL DAMAGES, OR ANY CAUSE, LOSS, ACTION, CLAIM, OR DAMAGE WHATSOEVER, INCLUDING LOSS OF TIME, OR INJURY TO PERSON, OR PROPERTY, OR ANY OTHER CONSEQUENTIAL DAMAGE OR INCIDENTAL OR ECONOMIC LOSS) shall be available to LESSEE.

**9. DEFAULT BY LESSEE AND ATTORNEYS' FEES:** If LESSEE shall make default in punctually paying any rental, or if LESSEE shall breach any other term, covenant, or condition of this Rental Agreement, then and in any such event, LESSOR shall have the right to retake immediate possession of the said equipment and for such purpose LESSOR may enter upon any premises where said equipment may be and with or without notice to its intention to retake the same, without being liable to any suit or action or proceeding by LESSEE. Upon LESSOR's retaking possession of the said equipment, and for such purpose LESSOR may enter upon any premises where said equipment may be and with or without notice to its intention to retake the same, without being liable to any suit or action or proceeding by LESSEE. Upon LESSOR's retaking possession of the said equipment, this Rental Agreement shall thenceforth terminate without prejudice to LESSOR's right to recover for rental accrued to the time LESSOR takes possession of such equipment, and any damages for repair costs, and additional rental, which may be payable to LESSOR under the provisions of paragraph 3 above. LESSEE agrees to pay the reasonable expenses incurred by LESSOR for attorneys' fees and court costs in connection with the enforcement of any obligations of LESSEE, or the collection of any monies owed by LESSEE, under the terms of this Agreement.

**10. APPLICABLE LAW; VENUE:** The construction, enforcement, interpretation and validity of this agreement shall be governed by the laws of the State of Texas. The obligations of the parties are performable, and venue for any legal action arising out of this agreement shall lie in Nueces County, Texas.

