

RENTAL TERMS AND CONDITIONS

DEFINITIONS. As used in these Terms and Conditions ("Terms"), (1) "Elite Rental" means Elite Rental, LLC d/b/a Elite Rental, its agents, assigns, subsidiaries and all other affiliated companies. Where appropriate, "Elite Rental" shall include employees, agents, and representatives of Elite Rental. Elite Rental and Customer may be referred to herein individually as "Party" or collectively as the "Parties"; (2) "Rental Agreement" means all purchase orders, agreements, term sheets, or other similar documents related to the rental of Equipment from Elite Rental, along with these Terms; (3) "Equipment" means any one or more of the items identified in the Rental Agreement documents and any accessories, attachments or other similar items delivered to Customer, including, but not limited to panels, transformers, starters, and other electrical distribution equipment; (4) "Customer" is identified in the Rental Agreement documents and includes any of its representatives, agents, officers, employees or anyone signing this Contract on its behalf; (5) The "Rental Period" commences when the Customer receives and/or takes possession of the Equipment, and continues until the Equipment is returned to or picked up by Elite Rental during normal business hours, provided Customer has otherwise complied with this Contract.

TERMS AND ACCEPTANCE. Elite Rental's acceptance of Customer's offer to rent Equipment is expressly conditioned upon Customer's assent to the terms and conditions set forth in these Terms. Either Customer's execution of this Contract or taking possession of the Equipment shall be deemed acceptance of the terms herein. Any individual agreeing to 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. Elite Rental's failure to object to any term or condition contained in any communication between the Parties shall not be deemed a waiver of any provision of these Terms. All offers or orders to purchase and/or rent made by Customer must be approved and accepted by Elite Rental. These Terms shall be applicable whether or not they are attached to, or enclosed with, any Equipment that is sold or rented.

INSPECTION OF EQUIPMENT. Customer acknowledges that Customer will inspect the Equipment prior to taking possession thereof, and Customer will only accept delivery of the Equipment if Customer determines that the Equipment is in good working order and repair and is suitable for Customer's needs. Customer acknowledges that Customer is familiar with the proper operation and use of each item of Equipment. Customer acknowledges that, prior to taking possession and use or installation of the Equipment, Customer will obtain and read all safety bulletins, operator manuals, and tabulated data for each item of Equipment. Customer acknowledges its responsibility to regularly inspect and maintain the Equipment during the Rental Period.

PRICES AND FEES. Prices are subject to change without notice to Customer. All prices are exclusive of any present or future sales, revenue, applicable environmental fees, or excise tax, value added tax, turnover tax, import or export duty, or any other tax applicable to the manufacture and sale of any Equipment. Such taxes shall be paid by Customer. Unless agreed to in writing by the Parties, prices quoted by Elite Rental are those current at the date of

quotation and shall be subject to variation by Elite Rental. Prices quoted by Elite Rental shall expire thirty (30) days from the date of quotation unless Elite Rental receives a valid and proper Rental Agreement before the end of the thirty (30) day period.

PAYMENT TERMS. The net amount due shall be paid in full within thirty (30) days of the invoice date. Amounts unpaid after the due date shall accrue interest of 1% per month. Elite Rental reserves the right to require payment in advance. If partial shipments are made, payments shall become due in accordance with the designated terms upon submission of invoices.

TRANSPORTATION. Customer shall bear the expense of and responsibility for transporting, shipping, loading and unloading of all Equipment, whether from the original point of shipment or for return of Equipment to Elite Rental following the end of the Rental Period, or upon termination of the Rental Agreement for any reason. Elite Rental shall not be responsible or liable for any damage or loss which occurs during transportation and/or shipment of the Equipment.

TITLE AND OWNERSHIP. This Rental Agreement is not a contract of sale, and title to the Equipment shall at all times remain with Elite Rental. Unless covered by a specific supplemental agreement signed by Elite Rental, 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.

USE OF EQUIPMENT. Customer agrees that Elite Rental has no responsibility to inspect the Equipment during the Rental Period, and that Elite Rental has no control over the manner in which the Equipment is operated during the Rental Period by Customer or any third party that Customer implicitly or explicitly permits. Customer warrants that: (a) prior to each use, Customer shall inspect the Equipment to confirm that it is in good condition, without defects, includes readable decals and operating and safety instructions and is suitable for Customer's intended use; (b) Customer has received from Elite Rental all information needed or requested regarding the operation of the Equipment; (c) Elite Rental is not responsible for providing operator or other training; (d) Customer shall comply with all applicable municipal, state, and federal laws, ordinances and regulations, including but not limited to OSHA, which may apply to the use of the Equipment; (d) Customer shall immediately notify Elite Rental if the Equipment is Lost, damaged, unsafe, disabled, malfunctioning, levied upon, threatened with seizure, or if any Incident occurs;

PROHIBITED USE. Customer shall not: (a) alter or cover up any decals or insignia on the Equipment or remove any operational or safety equipment or instructions; (b) assign its rights under this Contract without express written consent from Elite Rental; (c) use the Equipment in a negligent, illegal, unauthorized or abusive manner, or in any publication (print, audiovisual or electronic); (d) use or allow anyone to use the Equipment for an illegal purpose or in an illegal manner, or without a license, if required under any applicable law; (e) allow the use of the Equipment by any unauthorized individual (Customer acknowledging that the Equipment may be dangerous if used improperly or by untrained parties).

EQUIPMENT DAMAGE OR LOSS. The Equipment is to be returned in the same condition as when delivered to Customer, subject to reasonable wear and tear. As specified by Elite Rental, certain Equipment shall be adequately covered and protected when transported to Customer's location and when returned to Elite Rental. If Customer fails to comply with this requirement, Elite Rental reserves the right to charge Customer for any resulting damage. Customer shall be liable for all damages to or loss of the Equipment from the time the Equipment leaves Elite Rental's facility until the Equipment is returned to Elite Rental's authorized return location, regardless of the cause or origin of such damage or loss. In the case of the loss or destruction of any Equipment, or inability or failure to return same to Elite Rental for any reason whatsoever, Customer will pay Elite Rental within thirty (30) days from such loss 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 Elite Rental the reasonable cost of repair and pay rental on the Equipment at the regular rental rate until all repairs have been completed. Elite Rental shall be under no obligation to commence repair work until Customer has paid to Elite Rental the estimated cost therefor.

CANCELLATION OR REVISIONS. Elite Rental may terminate this Rental Agreement at any time, for any reason. Any order may be cancelled or revised by Customer only upon written approval by an authorized officer of Elite Rental, said approval to be in Elite Rental's sole discretion. Should Elite Rental approve cancellation or revision of an order, Customer shall pay the cancellation or revision charges specified in said approval. Any cancellation or revision charges shall take into account expenses previously incurred, commitments made pursuant to or in reliance upon such order, whether or not such commitments are legally binding on Elite Rental, and any other factors considered relevant by Elite Rental. In the event that Elite Rental does not approve cancellation or revision, Customer shall remain liable to Elite Rental for the full price of the Equipment ordered.

NO WARRANTIES. Elite Rental does not design or manufacture the Equipment and is not the agent of those that do. ELITE RENTAL DISCLAIMS ALL REPRESENTATIONS AND WARRANTIES, EXPRESS OR IMPLIED, WITH RESPECT TO THE EQUIPMENT, ITS DURABILITY, CONDITION, MERCHANTABILITY, OR FITNESS FOR ANY PARTICULAR PURPOSE. CUSTOMER ACKNOWLEDGES ACCEPTANCE OF THE EQUIPMENT ON AN "AS IS, WHERE IS" BASIS, WITH "ALL FAULTS" AND WITHOUT ANY RECOURSE WHATSOEVER AGAINST ELITE RENTAL. CUSTOMER ASSUMES ALL RISKS ASSOCIATED WITH THE EQUIPMENT AND RELEASES ELITE RENTAL FROM ALL LIABILITIES AND DAMAGES (INCLUDING LOST PROFITS, PERSONAL INJURY, AND SPECIAL, INCIDENTAL AND CONSEQUENTIAL DAMAGES) IN ANY WAY CONNECTED WITH THE EQUIPMENT, ITS OPERATION OR USE OR ANY DEFECT OR

FAILURE THEREOF OR A BREACH OF ELITE RENTAL'S OBLIGATIONS HEREIN.

INDEMNITY AND RELEASE. TO THE FULLEST EXTENT PERMITTED BY LAW, CUSTOMER INDEMNIFIES, RELEASES, HOLDS ELITE RENTAL HARMLESS AND AT ELITE RENTAL'S REQUEST, DEFENDS ELITE RENTAL (WITH COUNSEL APPROVED BY ELITE RENTAL), FROM AND AGAINST ALL LIABILITIES, CLAIMS, LOSSES, DAMAGES, AND EXPENSES (INCLUDING ATTORNEY'S AND/OR LEGAL FEES AND EXPENSES) HOWEVER ARISING OR INCURRED, RELATED TO ANY INCIDENT, DAMAGE TO PROPERTY, INJURY OR DEATH OF, ANY PERSON, CONTAMINATION OR ALLEGED CONTAMINATION, OR VIOLATION OF LAW OR REGULATION CAUSED BY OR CONNECTED WITH THE (a) USE, POSSESSION, STORING, SHIPPING, SERVICING, REPAIR OR CONTROL OF THE EQUIPMENT DURING THE RENTAL PERIOD OR (b) BREACH OF THIS CONTRACT, WHETHER OR NOT CAUSED IN PART BY THE ACTIVE OR PASSIVE NEGLIGENCE OR OTHER FAULT OF ANY PARTY INDEMNIFIED HEREIN AND ANY OF THE FOREGOING ARISING OR IMPOSED IN ACCORDANCE WITH THE DOCTRINE OF STRICT OR ABSOLUTE LIABILITY. CUSTOMER ALSO AGREES TO WAIVE ITS WORKERS' COMPENSATION IMMUNITY, TO THE EXTENT APPLICABLE. CUSTOMER'S INDEMNITY OBLIGATIONS SHALL SURVIVE THE EXPIRATION OR TERMINATION OF THIS CONTRACT. All of Customer's indemnification obligations under this paragraph shall be joint and several.

LIMITATION OF DAMAGES. IN CONSIDERATION OF THE RENTAL OF EQUIPMENT, CUSTOMER AGREES THAT ELITE RENTAL'S LIABILITY UNDER THIS CONTRACT, INCLUDING ANY LIABILITY ARISING FROM ELITE RENTAL, OR ANY THIRD PARTY'S COMPARATIVE, CONCURRENT, CONTRIBUTORY, PASSIVE OR ACTIVE NEGLIGENCE THAT ARISES AS A RESULT OF ANY STRICT OR ABSOLUTE LIABILITY, SHALL NOT EXCEED THE TOTAL RENTAL CHARGES PAID BY CUSTOMER UNDER THIS CONTRACT. CUSTOMER EXPRESSLY UNDERSTANDS AND AGREES THAT IN NO EVENT IS CUSTOMER OR ANY THIRD PARTY ENTITLED TO THE RECOVERY OF INDIRECT, EXEMPLARY, CONSEQUENTIAL, INCIDENTAL, SPECIAL, LIQUIDATED, PUNITIVE, OR OTHER DAMAGES. Such incidental or consequential damages include, but are not limited to, the cost of labor, rework charges, delay, lost profits, or loss of good will. Customer agrees and acknowledges that no special circumstances are present or contemplated by the Parties that would entitle Customer to consequential or special damages.

CUSTOMER'S INSURANCE COVERAGE. Customer agrees to maintain and carry, at Customer's sole cost, the following insurance: (i) commercial auto liability insurance with at least a per occurrence limit of \$1 million, if the Equipment is to be used on any roadway; (ii) commercial general liability insurance with limits of insurance not less than \$1 million per occurrence; (iii) and property insurance for the full replacement cost of the Equipment, including coverage for all risks of loss or damage to the Equipment. Customer shall obtain insurance policies that provide, or are endorsed to provide, that all insurance required hereunder is primary and non-contributory to any other insurance maintained by Elite Rental. Elite Rental shall be named as an additional insured for liability insurance and, if applicable, additional loss payee for property insurance. 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 Elite Rental or its insurers by the Customer and its insurers,

as well as a waiver of subrogation against Elite Rental or its insurers. Customer is responsible for the full value of any loss of or damage to rented Equipment, regardless of fault, including any lost rental income to Elite Rental while Elite Rental repairs the Equipment. Customer may decline Physical Damage Waiver only if a Certificate of Insurance acceptable to Elite Rental is provided prior to delivery of the Equipment. Customer will be charged 15% for the Physical Damage Waiver. Customer is not entitled to any refund or credit of Physical Damage Waiver charges invoiced or paid.

DEFAULT. Customer shall be in default if Elite Rental deems itself insecure or if Customer: (a) fails to pay sums when due; (b) breaches any Section of this Contract; (c) becomes a debtor in a bankruptcy proceeding, goes into receivership, takes protection from its creditors under any insolvency legislation, ceases to carry on business, or has its assets seized by any creditor; (d) fails to insure the Equipment as required, or otherwise places the Equipment at risk; (e) fails to return Equipment immediately upon Elite Rental's demand; or (f) is in default under any other contract with Elite Rental. If a Customer default occurs, Elite Rental shall have, in addition to all rights and remedies at law or in equity, the right to repossess the Equipment without judicial process or prior notice. Customer shall pay all of Elite Rental's costs, including reasonable costs of collection, court costs, attorneys and legal fees, incurred in exercising any of its rights or remedies herein. **CUSTOMER WAIVES ANY RIGHT OF ACTION AGAINST ELITE RENTAL FOR SUCH REPOSSESSION.**

NO LICENSE. Unless expressly provided, nothing within these Terms shall be construed as conferring Customer a license to use any of Elite Rental's or any third party's intellectual property and proprietary rights. Except as expressly provided to the contrary, Customer agrees not to modify or alter any of the intellectual property made available by Elite Rental in connection with the Equipment.

JURY TRIAL WAIVER. IN ANY DISPUTE ARISING OUT OF, IN CONNECTION WITH, OR IN ANY WAY PERTAINING TO THIS RENTAL AGREEMENT, CUSTOMER AND ELITE RENTAL HEREBY KNOWINGLY, VOLUNTARILY AND INTENTIONALLY WAIVE ANY RIGHT TO A TRIAL BY JURY, THIS WAIVER BEING A MATERIAL INDUCEMENT TO ENTERING INTO THIS CONTRACT.

DISPUTE RESOLUTION, ATTORNEY FEES AND GOVERNING LAW. In the event of any dispute with respect to these Terms or performance of the Parties hereunder which cannot be reasonably settled by the Parties, Elite Rental and Customer agree to submit the dispute to mediation prior to initiating any litigation. If any action or proceeding shall be commenced to enforce these Terms, or any right arising in connection with these Terms be asserted, the prevailing Party in such action or proceeding shall be entitled to recover from the other Party, reasonable attorneys' fees, costs, and expenses incurred by such prevailing Party in connection with such action or proceeding. These Terms are intended by the Parties to be governed and construed in accordance with the laws of the state of Texas, and the parties hereby consent to personal jurisdiction and venue in Harris County, Texas.

FORCE MAJEURE. Elite Rental shall not be liable for any delay in providing the Equipment or any other failures in performance due to acts beyond its control. Such acts shall include, but are not limited to, acts of God, embargo, stoppage of labor, failure to secure materials or labor from usual sources of supply, riots, acts of war, fire, communication line failures, and acts of governmental or military authorities.

MISCELLANEOUS. Customer voluntarily elects to be bound by all of the terms and provisions contained herein. These Terms are controlling and supersede any prior agreement(s) made between the Parties hereto related to the same subject matter. The terms, conditions, and limitations set forth in these Terms may only be modified, altered, or added to at any time by a subsequent written instrument signed by an authorized officer of Elite Rental. Customer agrees not to assign or otherwise transfer its rights or obligations under these Terms without prior express written consent of Elite Rental. These Terms shall be binding on and inure to the benefit of the Parties to these Terms and their respective successors and permitted assigns. Every provision of these Terms is intended to be severable. If any term or provision is illegal, invalid, or unenforceable, for any reason whatsoever, such illegality, invalidity, or unenforceability shall not affect the validity of the remainder. In lieu of such illegal, invalid, or unenforceable provision, there shall be added automatically as part of these Terms provisions similar in terms as necessary to render such provision legal, valid, and enforceable. Elite Rental's failure to enforce any or all of these Terms shall not constitute a waiver of its rights with respect to the same or any subsequent breach. Customer acknowledges and agrees that nothing herein shall be construed to create a partnership, joint venture, agency, or employment relationship between the Parties. These Terms state the entire agreement between the Parties and supersedes all prior proposals and understandings, whether oral or written, and all other prior communications between the Parties relating to the subject matter of these Terms.