



# **ECONORENT EQUIPMENT RENTALS, INC.**

## **(“Econorent”)**

### **Rental Service Terms**

#### **Rental of equipment from or provision of services by Econorent**

**Last Update: June 1, 2023**

Please read carefully. This agreement includes an indemnification clause, a class action and jury waiver, and limitations of Econorent’s liability. By accepting delivery of the Equipment or Services (defined below) or making payment(s) to Econorent for the same, Customer agrees to be bound by the Rental and Service Terms even if the Rental and Service Agreement has not been fully executed.

#### **1. DEFINITIONS**

**“Agreement”** means the Rental Application & Reservation (as defined below), and any associated Rental and Service Agreement (as defined below), including these Rental and Service Terms which are incorporated by reference therein.

**“Customer”** means the person or entity identified as such in the Rental Application & Reservation or any representative, agent, officer or employee of Customer.

**“Equipment”** means any one or more of the items identified as rental items in the Rental Application & Reservation and any accessories, attachments or other similar items delivered to Customer including, but not limited to any items rented in association with the Services identified in Section 25 below.

**“Qualified Operator”** means any individual who is permitted by Customer to operate the Equipment. This includes individuals identified in the Rental and Service Agreement as additional QUALIFIED OPERATOR(S). All Qualified Operators must have a valid operator’s license (as applicable), and relevant experience and training to operate the Equipment which the Customer shall be responsible for and provide at their own expense. By operating the Equipment, a Qualified Operator will be deemed jointly and severally

responsible for Customer's obligations related to the Equipment and for any obligations that the Rental and Service Agreement imposes on a Qualified Operator of the Equipment.

**"Rental and Service Agreement"** means the agreement made between Customer and Econorent for Econorent to rent the Equipment and/or provide Services, whether that agreement is made in person at Econorent's location, online or at the time of Equipment delivery, and which incorporates by reference these Rental and Service Terms and, to the extent applicable, the Rental Protection Plan that Econorent makes available to direct commercial customers.

**"Rental Period"** means the period of time between the "Rental Out" and "Scheduled In," set forth in the Rental Application & Reservation, except that the Rental Period may terminate earlier as provided in Sections 22 and 30 hereof or if Customer returns the Equipment earlier.

**"Rental Application & Reservation"** means the Equipment, Rental Period, delivery information, payment information and other information set forth on the Confirmation/Order Summary Screen or the Rental and Service Agreement, as the case may be.

**"Service"** or **"Services"** means the delivery, pick up and repair of Equipment and other services provided by Econorent in connection with the rental of Equipment.

**"Econorent's Location"** means the Econorent address set forth in the Rental and Service Agreement.

**"Econorent"** means **ECONORENT EQUIPMENT RENTALS, INC.**

**"Equipment"** means a motor Equipment or EV (as defined below) or Tool identified as the rental item(s) in a Rental and Service Agreement, Rental Application and Reservation, or similar document; **"EV"** means a battery-powered motor Equipment with a non-combustion engine that is identified as an EV or electric Equipment rental item(s) in a Rental and Service Agreement, Rental Application and Reservation, or similar document; **"Tool"** means any other rental item(s) in a Rental and Service Agreement, Rental Application and Reservation, or similar document; and **"Equipment"** collectively refers to each such Equipment.

## **2. AUTHORITY TO SIGN**

Any individual signing the Agreement represents and warrants that they are of legal age and have the authority and power to sign this Agreement and bind the Customer on behalf of Customer.

## **3. INDEMNITY / HOLD HARMLESS**

TO THE FULLEST EXTENT PERMITTED BY LAW, CUSTOMER AGREES TO INDEMNIFY, DEFEND AND HOLD ECONORENT, AND ALL 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 (A) INSTALLATION, OPERATION, USE, ALTERATION, MODIFICATION, REMOVAL, POSSESSION OR RENTAL OF THE EQUIPMENT, (B) CLAIMS BY ANY CUSTOMER, INDEPENDENT CONTRACTOR OR CUSTOMER EMPLOYEE, AGAINST CUSTOMER, INCLUDING BUT NOT LIMITED TO ANY CLAIM THAT CUSTOMER FAILED TO DISCLOSE OR OBTAIN CONSENT TO DATA COLLECTION CONTEMPLATED UNDER THIS AGREEMENT OR (C) ERRORS, OMISSIONS, INACCURACIES OR MISREPRESENTATIONS (WHETHER INTENTIONAL OR INADVERTENT) IN THE DOCUMENTS OR OTHER INFORMATION PROVIDED BY CUSTOMER, OR

OBTAINED FROM OTHERS (INCLUDING ANY THIRD-PARTY DOCUMENTS OR DOCUMENTATION), UPON WHICH ECONORENTR RELIES WHEN PROVIDING THE EQUIPMENT OR SERVICES. THIS INDEMNITY PROVISION ALSO APPLIES TO ANY CLAIMS ASSERTED AGAINST ECONORENTR BASED UPON STRICT OR PRODUCT LIABILITY CAUSES OF ACTION. 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 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 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 Equipment, if any. Customer acknowledges Econorent is not responsible for any damage to Customer's towing Equipment caused by detachable hitches or mirrors. If Customer discovers any malfunction or defect in the Equipment, Customer shall promptly notify Econorent. Customer shall abide by all third-party manufacturer requirements regarding repair, maintenance, and notice.

#### **5. LIMITATION OF LIABILITY**

In no event shall Econorent be liable or responsible to Customer or any other party for: (1) any loss, damage or injury caused by, resulting from or in any way connected with the Equipment, its operation or its use, or Services; (2) Econorent's failure to deliver the Equipment as required hereunder or Econorent's failure to repair or replace non-working Equipment; (3) any incidental, consequential, punitive or special damages, including damages resulting from the delay to any ongoing projects, in connection with this Agreement or its subject matter under any legal or equitable theory, including breach of contract, tort (including negligence), strict liability, or product liability, even if so advised of the possibility of such damages, if such damages were otherwise foreseeable, and notwithstanding the failure of any agreed or other remedy of its essential purpose; or (4) any liquidated 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 or picked up by Customer until the Equipment is returned to Econorent and will take all necessary precautions to protect all persons and property from injury or damage from the Equipment.

#### **6. CUSTOMER RESPONSIBILITIES**

Customer shall provide Econorent with the information and the documentation Econorent requests to assess, plan and perform the Services and/or provide the Equipment. All Equipment is provided, and Services are performed based on information provided by Customer or others, including the Database Information (as defined below), and Econorent is relying on the accuracy and completeness of such information in providing the Equipment and performing such Services. Customer recognizes that it is impossible for Econorent to assure the accuracy, completeness and sufficiency of information provided by others, either because it is impossible to verify, or because of errors or omissions that may have occurred in assembling such information. Customer is responsible for providing a secure and safe work environment for all parties, including Econorent and its employees, and for ensuring that the Services are carried out in compliance with applicable laws. In the event that Econorent, in its sole discretion, determines that it is unable to perform the Services because Customer has not provided a secure and safe work environment, Econorent reserves the right to refuse to provide the Services and/or provide the Equipment without any liability whatsoever to Customer and Customer shall be responsible for any increased costs incurred by Econorent.

#### **7. USE OF EQUIPMENT**



Customer confirms they are familiar with the proper operation and use of each item of Equipment. Customer has selected the Equipment based on its requirements and will not use or allow anyone to use the Equipment for an illegal purpose or in an illegal manner; without a license, if required under any applicable law; or who is not a Qualified Operator. Customer shall not insert, or permit to be inserted, any dyed fuel into the propulsion tank of Equipment registered and licensed, or required to be registered and licensed, for use on any highway or other public road. In addition, Customer shall only use ultra-low-sulfur diesel fuel in Equipment requiring diesel fuel and 91 octane premium in Equipment with gasoline powered engines. **CUSTOMER AGREES TO DEFEND, INDEMNIFY AND HOLD ECONORENT HARMLESS FROM ALL FINES, PENALTIES, DAMAGE TO EQUIPMENT AND ANY OTHER COSTS INCURRED BY ECONORENT DUE TO DYED FUEL BEING INTRODUCED INTO THE PROPULSION TANK OF SUCH EQUIPMENTS.** Customer agrees to: (1) check filters, oil, fluid levels and tire air pressure; (2) clean and visually inspect the Equipment daily; and (3) immediately cease using the Equipment and immediately notify Econorent if Equipment needs repair or maintenance. Customer acknowledges that Econorent has no responsibility to inspect the Equipment while it is in Customer's possession. Econorent shall have the right to replace the Equipment with other reasonably similar equipment at any time and for any reason.

#### **9. WARRANTY / DISCLAIMER OF WARRANTIES**

ECONORENT WARRANTS THAT THE EQUIPMENT WILL BE IN GOOD WORKING ORDER UPON DELIVERY AND THE SERVICES WILL BE PERFORMED IN A GOOD AND WORKMANLIKE MANNER. EXCEPT AS EXPRESSLY SET FORTH HEREIN, ECONORENT MAKES NO WARRANTIES, EXPRESS OR IMPLIED, WITH RESPECT TO THE EQUIPMENT OR SERVICES AND 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 THE AGREEMENT, ECONORENT DISCLAIMS ALL WARRANTIES, EITHER EXPRESS OR IMPLIED, MADE IN CONNECTION WITH THIS RENTAL TRANSACTION. IN THE EVENT OF A BREACH OF THE ABOVE EQUIPMENT WARRANTY, ECONORENT SHALL, AT ITS SOLE COST AND EXPENSE, REPAIR OR REPLACE THE EQUIPMENT. IN THE EVENT OF A BREACH OF THE ABOVE SERVICE WARRANTY, ECONORENT SHALL, AT ITS SOLE COST AND EXPENSE, RE-PERFORM THE SERVICE.

#### **10. 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 Econorent. If such condition is the result of normal operation, Econorent will repair or replace the Equipment with reasonably similar Equipment in working order, if such replacement Equipment is available. Econorent 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 to the Econorent's Location within twenty-four (24) hours from the time of defect in order to terminate rental charges.

#### **11. RETURN OF EQUIPMENT / DAMAGED AND LOST EQUIPMENT**

At the expiration of the Rental Period, Customer will return the Equipment to the Econorent's Location during Econorent's regular business hours or if Econorent has agreed to pick up the Equipment, Econorent shall endeavor to pick up the Equipment within a commercially reasonable period of time after Customer notifies Econorent that the Equipment is called "off-rent". Customer is obligated to restore the Equipment to the same condition as when delivered, reasonable wear and tear (as defined below) excepted. Customer shall be responsible for all damages to or loss of the Equipment from the time Customer takes possession of the Equipment until the Equipment is either returned to the Econorent's Location by Customer or picked up by Econorent. In the case of the loss or destruction of any Equipment, or inability or failure to return same to Econorent for any reason whatsoever, Customer will pay Econorent 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 Econorent the reasonable cost of

repair and pay rental on the Equipment at the regular rental rate until all repairs have been completed. Econorent shall be under no obligation to commence repair work until Customer has paid to Econorent the estimated cost, therefore. Customer agrees that Econorent 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.

**Disinfecting:** During a widespread or global occurrence of an infectious disease, for Equipment handled by a person known or suspected to be infected or used in a known or suspected zone of infection including but not limited to permanent or temporary healthcare facilities and testing facilities, ambulance interiors, and biological laboratories, Customer shall disinfect the Equipment in accordance with the following requirements: (1) disinfection must be performed by an independent contractor acceptable to Econorent; (2) it must be documented to Econorent's satisfaction; (3) in the event Customer is unable to disinfect in accordance the Equipment, Econorent will disinfect it and charge Customer for the costs incurred.

## **12. 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 16 below). The following shall not be considered reasonable wear and tear: (1) damage resulting from lack of lubrication, insertion of improper fuel or maintenance of necessary oil, water and air pressure levels, cavitation or freezing; (2) except where Econorent 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; (3) damage resulting from any collision, overturning or improper operation, including overloading or exceeding the rated capacity of the Equipment; (4) damage in the nature of dents, bending, tearing, staining, corrosion or misalignment to or of the Equipment or any part thereof; (5) wear resulting from use in excess of shifts for which rented; (6) and any other damage to the Equipment which is not considered ordinary and reasonable in the equipment rental industry.

## **13. LATE RETURN**

Customer agrees that if the Equipment is not returned by the end of the Rental Period, Econorent, in its sole discretion, may require Customer to do any of the following: (1) continue to pay the rental rate(s) applicable to the Equipment as specified in the Agreement; (2) for periods less than 24 hours, pay the full daily rental rate applicable to the Equipment; (3) pay any increased rental rate(s) in effect at the time of, or after, the expiration of the Rental Period. Customer agrees that Econorent 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.

## **14. CUSTOMER PERSONAL PROPERTY**

With respect to any personal property left in or on the Equipment upon expiration of the Rental Period, Econorent is not a bailee or warehouseman of Customer's, or any other person's, personal property. Econorent expressly disclaims any custody, control, or responsibility for the care of Customer's, or any other person's, personal property. Econorent or its agents may remove the personal property from the Equipment. Under no circumstances are Econorent or its agents responsible for any personal property that may be lost, stolen, or damaged. Customer personal property left in or on the Equipment upon expiration of the Rental Period may be considered abandoned, unclaimed property in accordance with applicable law.

## **15. RENTAL PERIOD / CALCULATION OF CHARGES**

Rental charges commence when the Equipment leaves the Econorent's Location and end when the Equipment is either returned to the Econorent's Location during Econorent's regular business hours or picked up by Econorent after Customer notifies Econorent that the Equipment is "off rent" and obtains an "off rent" confirmation e-mail from Econorent. Pick-up and delivery by Econorent is subject to a "Delivery and Pick-up Service Charge", the amount(s) of which are disclosed on the Rental and Service Agreement. Rental charges



do not include the cost of the Refueling Service Charge, any applicable Taxes (as defined below), the cost of the Delivery and Pickup Service Charge, transportation surcharges, the cost of the Environmental Service Charge (as defined below) or other miscellaneous charges, the amount(s) of which are disclosed on the Rental and Service Agreement. Additionally, Econorent shall invoice Customer for any additional excess cleaning or repair costs, including: (1) removal of any alterations made by Customer to the Equipment; (2) restoration of the Equipment to its original configuration; (3) re-lining or re-painting of Tanks; (4) disposal of any contents left in Tanks; or (5) transportation to and from an approved repair facility. Rental charges accrue during Saturdays, Sundays and Holidays. Rental rates are for normal "one shift" usage based on an eight (8) hours day, 40 hours per week and 160 hours per four-week period. Operations in excess of one shift will be as follows: one and one-half times the rental charge for double shift and two times the rental charge for triple shift. Customer will truthfully and accurately certify to Econorent the number of shifts the Equipment was operated. 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 the Agreement.

#### **16. REFUELING SERVICE CHARGE**

Customer acknowledges that a "Refueling Service Charge" will be applied to all Equipment not returned with a full tank of fuel. The exact cost of the Refueling Service Charge may vary depending on the rate being charged by the Econorent's Location on the date Customer returns the Equipment. Customer acknowledges that the Refueling Service Charge is not a retail sale of fuel. Customer may avoid the Refueling Service Charge if Customer returns the Equipment with a full tank of fuel.

#### **17. ENVIRONMENTAL SERVICE CHARGE**

Due to the hazardous nature of some waste and other products, to comply with federal and provincial environmental regulations, and to promote a clean environment, Econorent charges an "Environmental Service Charge" for certain rentals. This is not a government-mandated charge. The Environmental Service Charge is not designated for any particular use and is used at Econorent's discretion. The Environmental Service Charge is 2.00% of the rental charge and will not exceed \$99.00. Customer acknowledges the items indicated in the Rental and Service Agreement are subject to the Environmental Service Charge and Customer agrees to pay that Environmental Service Charge.

#### **18. DEPOSIT**

Customer's Credit Card will be charged a deposit for the estimated rental (up to 28 days) 24 hours in advance of the scheduled rental start time. 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 of this Agreement to be performed by Customer. In the event of any breach by Customer, the deposit will be credited against any damages, cost or expense incurred by Econorent as a result of the breach.

#### **19. PAYMENT**

All remaining amounts due hereunder shall be payable in full upon receipt of invoice by Customer. Customer acknowledges that timely payment of rental and service charges is essential to Econorent's business operations, and it would be impractical and extremely difficult to fix the actual damages caused by late payment. Customer and Econorent agree that there shall be added to all past due rental charges a late payment fee equal to the lesser of two percent (2%) per month (24% per annum) on any such payments outstanding after 30 days, or the maximum amount allowed by applicable law. Where permitted by law, Econorent may impose a surcharge of 2% for credit card payments on charge accounts. This surcharge is not greater than Econorent's merchant discount rate for credit card transactions and is subject to sales tax in some jurisdictions. Rental rates do not include sales tax, goods and services tax or other taxes, levies and assessments required to be collected by Econorent from Customer at any time upon, or in respect of, the Equipment and/or the Agreement (collectively, "Taxes"). Customer agrees that Econorent 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), pickup or delivery charge(s), extended rental(s), rental charges or Taxes. In the event

Customer asserts that a transaction is exempt from Taxes, Customer agrees to provide a valid tax exemption certificate. Should the transaction later be deemed taxable, Customer is obligated to reimburse Econorent for any Tax assessed that was attributable to Customer.

## **20. TITLE / NO PURCHASE OPTION / NO LIENS**

The Agreement is not a contract of sale, and title to the Equipment shall at all times remain with Econorent, its parent or its subsidiaries. Unless covered by a specific supplemental agreement signed by Econorent, Customer has no option or right to purchase the Equipment. Customer shall keep the Equipment free and clear of all mechanics and other lines and encumbrances.

## **21. TIRE AND TUBE REPAIR OR REPLACEMENT**

Repair or replacement of tires and tubes on Equipment is the responsibility of Customer and is not included in the rental rate.

## **22. DEFAULT**

Customer shall be deemed in default should Customer fail to pay any amount when due hereunder; fail to perform, observe or keep any provision of the Agreement; become "Insolvent" (as defined herein), or should Econorent anticipate that Customer may become Insolvent; or otherwise, be in default. If Customer is in default, Econorent may do any one or more of the following: (1) terminate the Rental Period; (2) declare the entire amounts due hereunder immediately due and payable and commence legal action therefor; (3) cause Econorent'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 repossession and hereby waives all claims for damages and losses, physical and pecuniary, caused thereby and shall pay all costs and expenses incurred by Econorent in retaking and repossessing the Equipment; or (4) pursue any other remedies available by law. Customer shall be considered "Insolvent" if Customer shall generally not pay, or be unable to pay, or admit its inability or anticipated inability to pay its debts as such debts become due; 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; 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; 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; 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.

## **23. CUSTOMER'S INSURANCE COVERAGE**

- a. If the Customer is not a business and using the Equipment for personal use.** Customer shall have their insurance provider issue a letter on letterhead to Econorent which will include the following information:
  - The insured's name and policy number
  - The policy's effective and expiration date
  - Reference to rental damage coverage up to the value of the Equipment in question
  - The limit of liability insurance per instance and annual aggregate
  - Confirmation that Econorent Equipment Rentals, Inc. has been added as an additional insured for the Equipment in question
- b. If the Customer is a business.** Customer agrees to maintain and carry, at Customer's sole cost, the following insurance: (1) commercial auto liability insurance with at least a per occurrence limit of \$2 million; (2) commercial general liability insurance ("CGL") (providing coverage equal to or greater than the standard ISO CG 00 01 12 04 form) with limits of insurance not less than \$2 million per occurrence and \$4 million in the aggregate; and (3) 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 Econorent. Customer shall name Econorent as an additional insured for claims arising out of the maintenance, operation, or use by the Customer of equipment rented to Customer by Econorent (providing coverage equal or greater than the standard ISO CG 20 28 07 04 or its equivalent), and, if applicable, additional loss payee for property insurance. Customer further agrees that the amount of insurance available to Econorent shall be for the full amount of the loss up to policy limits of liability and shall not be limited to the minimum requirements of this Agreement. In the event any policy provided in compliance with this Agreement states that the insurance afforded to an additional insured will not be broader than that required by contract, or words of similar meaning, Customer agrees that nothing in this Agreement is intended to restrict or limit the breadth of such insurance. Any deductibles or self-insured retentions shall be the sole responsibility of the Customer. All insurance required by this Agreement shall include a waiver of rights of recovery against Econorent or its insurers by the Customer and its insurers, as well as a waiver of subrogation against Econorent or its insurers. The policies required hereunder shall provide that Econorent must receive not less than 90 days' notice prior to any cancellation. Customer shall provide Econorent with documented proof of all required insurance coverage.

#### **24. NO ASSIGNMENT, LENDING OR SUBLETTING**

Customer shall not sublease, subrent, assign or loan the Equipment without first obtaining the written consent of Econorent, and any such action by Customer, without Econorent's written consent, shall be void. Customer agrees to use and keep the Equipment at the job site set forth in the Agreement unless Econorent approves otherwise in writing. Econorent may at any time, without notice to Customer, transfer or assign the Agreement or any Equipment or any moneys or other benefits due or to become due hereunder.

#### **25. SERVICES PROVIDED IN CONNECTION WITH RENTAL OF EQUIPMENT**

The terms and conditions set forth in this Section 25 supplement the overall Rental Service Terms. All of the Rental Service Terms in this agreement apply to the specialty services listed below. In the event that there is a conflict between the overall Rental Service Terms and the terms and conditions of Section 25 below, the terms within Section 25 shall prevail.

#### **EQUIPMENT RENTAL**

1. **Lost Keys/Key Fobs/Lockouts.** If Customer loses the keys and/or key fobs to the Equipment, Econorent may charge Customer for the cost of replacing such keys and/or key fob and for the cost of delivering replacement keys and/or key fobs and/or towing the Equipment to Econorent's Location. If Customer or Qualified Operator locks the keys and/or key fobs in the Equipment and requests assistance from Econorent, Econorent may charge Customer for the cost of delivering replacement keys and/or key fobs and/or towing the Equipment to Econorent's Location.
2. **Mileage Charges; Additional Mileage Charges.** For certain types of licensed, over the road Equipment, the rental rate charged to Customer will include a specified number of miles per billing cycle. Customer will be charged for miles in excess of the specified number (the "Additional Mileage Charge") upon the return of the Equipment. The Additional Mileage Charge will be calculated by multiplying the number of additional miles driven as determined by the Equipment's odometer or Telematics Device (if applicable) by the charge per mile. For avoidance of doubt, the allowable number of miles per billing cycle and the rate for Additional Mileage Charges will be reflected in the Rental agreement and/or purchase order or similar documents.
3. **Accidents, Theft and Vandalism.** Customer must promptly and properly report any accident, theft or vandalism involving the Equipment to Econorent and to the police in the



jurisdiction in which such incident takes place. Customer should obtain details of witnesses and other Equipment involved and their drivers, owners and relevant insurances wherever possible. If Customer or any Qualified Operator receive any papers relating to such an incident, those papers must be promptly given to Econorent. Customer and any Qualified Operators must cooperate fully with Econorent's investigation of such incident and defense of any resulting claim. FAILURE TO COOPERATE FULLY MAY VOID ANY AND ALL LIABILITY PROTECTION PURCHASED FROM, OR PROVIDED BY, ECONORENT. Customer and any Qualified Operators authorize Econorent to obtain any records or information relating to any incident, consent to the jurisdiction of the courts of the jurisdiction in which the incident occurs and waive any right to object to such jurisdiction.

4. **Third Party Charges.** Taxes, tax reimbursements, Equipment licensing fees, governmental or other surcharges and similar fees are charged/recovered at the rates specified on the Rental Application & Reservation or as otherwise required by applicable law. Customer is responsible for paying these amounts to Econorent.
5. **Cleaning.** Upon return, if the Equipment in Econorent's discretion requires more than Econorent's standard cleaning, Econorent may charge Customer for the actual costs incurred by Econorent in having the Equipment professionally cleaned. Customer will also pay a reasonable fee for cleaning the Equipment's interior upon return if any stains, dirt, odor, or soiling attributable to Customer's use cannot be cleaned with Econorent's standard post-rental procedures as determined by Econorent in its discretion.
6. **Smoking.** Econorent maintains a non-smoking fleet, including a prohibition on the use of e-cigarettes in the Equipment. Customer will pay an additional charge if it returns the Equipment, and it smells or is soiled from smoke or vapor of any kind.
7. **Recovery Costs.** Customer is responsible for recovery expenses, consisting of costs of any and all kinds (and including legal fees and court costs) incurred by Econorent in recovering the Equipment (1) under this Rental and Service Agreement; or (2) if it is seized by governmental or regulatory authorities as a result of the use of the Equipment by Customer, any Qualified Operator or any other operator with Customer.
8. **Parking and Traffic Violations.** CUSTOMER WILL BE RESPONSIBLE FOR, AND WILL PAY WITHOUT DELAY, ALL PARKING AND TRAFFIC VIOLATIONS, AS WELL AS OTHER EXPENSES AND PENALTIES, ALL TOWING, STORAGE AND IMPOUND FEES AND ALL TICKETS INCURRED WHILE THE EQUIPMENT IS ON RENT TO CUSTOMER. IF CUSTOMER IS ISSUED AN AUTOMATED TRAFFIC VIOLATION, CUSTOMER AGREES TO PAY A "TRAFFIC VIOLATION SERVICE CHARGE" COMPRISED OF THE AMOUNT OF SUCH VIOLATION PLUS A FLAT FEE OF \$20.00 WHICH IS THE AMOUNT OF ECONORENT'S OUT-OF-POCKET ADMINISTRATIVE COSTS FOR ITS TRAFFIC VIOLATION MANAGEMENT SERVICE. THIS CHARGE WILL BE BILLED TO THE CUSTOMER WHEN INFORMATION REGARDING ANY SUCH VIOLATION, AND EXPENSES RELATED THERETO, IS RECEIVED BY ECONORENT, AND MAY BE CHARGED AT A LATER DATE.
9. **Tolls, Violations and Fees.** CUSTOMER ACKNOWLEDGES THAT CUSTOMER IS RESPONSIBLE FOR AND WILL PAY ALL TOLLS AND TOLL VIOLATIONS. IF CUSTOMER USES A TOLL-BY-PLATE SYSTEM, OR INCURS A TOLL OR TOLL VIOLATION, CUSTOMER AGREES TO PAY A "TOLLING SERVICE CHARGE" FOR THIS SERVICE. THE TOLLING SERVICE CHARGE IS THE AMOUNT OF THE TOLL PLUS A FLAT FEE OF \$3.30 TO COVER THE AMOUNT OF ECONORENT'S OUT-OF-

POCKET ADMINISTRATIVE COSTS FOR ITS TOLL MANAGEMENT SERVICE. THE EXACT COST WILL BE CALCULATED AND CHARGED BASED ON ACTUAL USAGE OF A TOLL-BY-PLATE SYSTEM OR THE TOLL OR TOLL VIOLATION INCURRED. THIS CHARGE WILL BE BILLED TO THE CUSTOMER WHEN INFORMATION REGARDING TOLL-BY-PLATE USAGE AND/OR THE TOLL OR TOLL VIOLATION INCURRED, AND EXPENSES RELATED THERETO, IS RECEIVED BY ECONORENT, AND MAY BE CHARGED TO CUSTOMER AT A LATER DATE. CUSTOMER MAY AVOID THE TOLLING SERVICE CHARGE BY PAYING TOLLS WITH ITS OWN TRANSPONDERS, BY USING ANOTHER TOLL PAYMENT SYSTEM, OR BY AVOIDING TOLL ROADS ALTOGETHER.

10. **Other Charges; Miscellaneous.** Any other charges specified on or in the Rental and Service Agreement will be charged at the applicable rates specified therein. Any such charges which are stated in the Rental and Service Agreement as a daily rate shall be due and payable for each full or partial rental day. Charges for the rental of the Equipment will continue to accrue until the Equipment is returned to Econorent or, if the Equipment has been stolen while in Customer's possession, until Customer reports the theft both to the police in the jurisdiction in which the theft occurs and to Econorent.
11. **Return of Equipment.** SOME EQUIPMENT MAY HAVE TELEMATICS DATA COLLECTION, TRACKING, AND RELATED SERVICES SUCH AS A TELEMATICS DEVICE, IN WHICH CASE, CUSTOMER UNDERSTANDS THAT ITS ACCESS AND USE OF THE EQUIPMENT OR THE SERVICES (AND ANY DATA THAT MAY BE STORED IN CONNECTION THEREWITH) ARE SUBJECT TO THE EQUIPMENT, SERVICE PROVIDER'S AND/OR DEVICE MANUFACTURER'S TERMS AND PRIVACY STATEMENT, WHICH MAY INCLUDE BUT NOT BE LIMITED TO OTHER TERMS, SERVICE LIMITATIONS, WARRANTY EXCLUSIONS, LIMITATIONS OF LIABILITY, WIRELESS SERVICE PROVIDER TERMS AND PRIVACY PRACTICES. ECONORENT HAS NO OBLIGATION TO DELETE OR REMOVE ANY TELEMATICS DATA THAT MAY BE CAPTURED ON ANY EQUIPMENT RETURNED TO ECONORENT, WHICH MAY BE STORED AND HELD IN SUCH EQUIPMENT INDEFINITELY. IF AFTER 30 DAYS, ECONORENT IS UNABLE TO RECOVER THE EQUIPMENT, THE EQUIPMENT SHALL BE DEEMED TO BE UNLAWFULLY CONVERTED TO CUSTOMER'S USE, AND ECONORENT MAY EXERCISE ITS LEGAL RIGHTS TO REMEDY THE THEFT OF THE EQUIPMENT. CUSTOMER HEREBY WAIVES ANY AND ALL RIGHTS TO COMPLAIN OF THE STEPS TAKEN BY ECONORENT TO RECOVER EQUIPMENT DEEMED TO BE UNLAWFULLY RETAINED BY CUSTOMER.
12. **Remote Drop Off Service Fee.** A Remote Drop Off Service Fee will be applied if Customer returns the Equipment to a different location from its originating location. The fee will be calculated based on factors including the type of Equipment, time of year, and Econorent's cost in transporting the Equipment from the return location. The charge will be disclosed when Customer notifies Econorent that Customer is returning the Equipment to a different location than where the Equipment originated. This fee can be avoided by returning the Equipment to its originating location.
13. **Customer Installation of Digital Video Recorder/Dashboard Camera on Equipment.** In certain cases, Econorent may be willing to provide prior written consent to Customer to install, or cause to be installed, dashboard cameras and/or other digital and audio recording devices (collectively, "Dash Cams") in the Equipment. In cases where Customer installs Dash Cams on any Equipment, Customer shall indemnify, defend, and hold harmless Econorent for any liability, claims, losses and/or damages incurred as a result of Customer's



actions or inactions including, but not limited to, those relating to: (i) actual or alleged bodily or mental injury to or death of any person; (ii) damage to or loss of use of the Equipment and/or property of Econorent, Customer, or any third party; (iii) any contractual liability owed by Customer to a third party; (iv) any breach of, or inaccuracy in, the covenants, representations, and warranties made by Customer under the Agreement; (v) any violation by Customer or its vendors of any ordinance, regulation, rule, or law of the Econorent States or any political subdivision or duly constituted public authority; or (vi) any lien or encumbrance arising out of or in connection with performance of Customer's obligations under the Agreement.

14. **Routine Maintenance/Daily Inspections.** Unless otherwise agreed to in writing by the parties, Customer shall perform Routine Maintenance (as defined herein) and daily inspections of the Equipment during the Rental Period. "Routine Maintenance" is defined as daily greasing after each 8-hour period or as otherwise defined in Econorent's equipment guidelines included with each Equipment rental.

#### **26. ENTIRE AGREEMENT / ONLY AGREEMENT**

The Agreement, and any Addendum hereto, represent the entire agreement between Customer and Econorent with respect to the Equipment, the rental of the Equipment, and the Service(s) provided to Customer. There are no oral or other representations or agreements not included herein. None of Econorent's rights or Customer's rights may be changed and no extension of the terms of the Agreement may be made except in writing, signed by both Econorent and Customer. Any use of Customer's purchase order number on the 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 Econorent.

#### **27. ORDER OF PRECEDENCE**

The terms and conditions of the 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 Econorent. In the event that Econorent signs Customer's purchase order or similar document, such signature shall be solely for the purpose of acknowledging the order; it being the express intent of the parties that the Agreement and these terms and conditions shall govern all rental and service transactions.

#### **28. CLASS ACTION WAIVER**

Customer agrees that any claims or proceedings brought by Customer relating to the 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 Econorent 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 Econorent. Nothing in this paragraph, however, limits Customer's right to bring a lawsuit as an individual plaintiff.

#### **29. JURY WAIVER**

The courts in the province in which the Econorent's Location is located shall have exclusive jurisdiction over all matters relating to the Agreement. TRIAL BY JURY IS WAIVED. Econorent shall be entitled to orders of specific performance (without posting bond or other security) in addition to such other remedies as may be available.

#### **30. OTHER PROVISIONS**

1. Any failure of Econorent to insist upon strict performance by Customer of any terms and conditions of the Agreement shall not be construed as a waiver of Econorent's right to demand strict compliance. Customer has carefully reviewed the Agreement and waives any principle of law which would construe any provision hereof against Econorent as the drafter of the 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 the Agreement.

2. Customer agrees to pay all reasonable costs of collection, court, legal fees and other expenses incurred by Econorent in the collection of any charges due under the Agreement or in connection with the enforcement of its terms.
3. Customer shall pay the rental charge(s) without any offsets, deductions or claims.
4. Customer consents to the collection, use and disclosure of his or her personal identification and financial information as described herein and in Econorent's Privacy Policy. Customer's personal identification and financial information is provided voluntarily and not as part of a credit card transaction. Personal identification information includes, for example, Customer's name, billing address, postal code, telephone number, date of birth, driver's license number and email address. Financial information includes, for example, information related to any balances or invoices related to the Agreement. Customer's personal identification information and financial information can be used for purposes of this transaction, any subsequent transactions with Econorent and for Econorent to evaluate and improve its products and services and/or develop new products or services.
5. Econorent shall have the right to immediately repossess the Equipment, without any liability to Customer, in the event of: (1) permanent closure of the Econorent's Location; (2) declaration of any emergency, disaster or similar situation by any federal, provincial, territorial or local government; or (3) as otherwise set forth in the Agreement.
6. Econorent may make any registrations, recordations, filings or financing statements necessary or desirable to protect or discharge, as the case may be, its ownership of and interests in the Equipment at the expense of Customer. Customer hereby consents to same and shall give such further assurances and do such acts and execute such documents as may be required by Econorent to give effect to the Agreement and the rights and obligations hereunder. To the extent permitted by applicable law, Customer irrevocably waives the right to receive a copy of any financing statement or financing change statement (or any verification statement pertaining thereto) filed under the personal property security statutes of the provinces and territories of Canada by Econorent in respect of the Agreement, and Customer hereby releases any and all claims or causes of action Customer may have against Econorent for failure to provide any such copy.
7. The Agreement shall be governed by and construed in accordance with the laws of the Province of Ontario and the federal laws of Canada applicable therein.

### **31. 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.

### **32. GPS TRACKING**

Customer and Econorent each consent to the collection and monitoring of electronic information, including Global Positioning System ("GPS") data, generated by or in connection with Customer's use of or the location of the Equipment (including the Telematics Devices). Customer agrees that Econorent owns the data described in this paragraph and may use such data, including GPS data, for any purpose, including commercial purposes. Customer shall obtain all required consents as may be required under any applicable laws from its employees, contractors or other Qualified Operators to permit Econorent's collection and use of data under this section.

### **33. FORCE MAJEURE**

Neither party shall be liable to the other party for failure to comply with the terms of the Rental and Service Agreement or performance of its obligations hereunder to the extent such failure has been caused by Force



Majeure, provided that the non-performing party shall give notice to the other party as soon as commercially possible and shall exercise reasonable efforts to resume performance. For the purposes of the Rental and Service Agreement, "Force Majeure" shall mean fire, war, insurrection, act of terrorism, riots, flood, hurricane, typhoon, earthquake, tornado, mudslide, tsunami, and any other natural disaster, pandemic or other causes beyond the reasonable control and not due to the fault of the non-performing party.

#### **34. CHANGES TO THE RENTAL AND SERVICE TERMS**

Econorent reserves the right to modify or make changes to these Rental and Service Terms at any time. Any such modification will be reflected in these terms as of the "Last update" date above and will be effective immediately upon public posting on Econorent's website. Customer's continued use of the Equipment following any such modification constitutes and shall be deemed to constitute the Customer's acceptance of these modified Rental and Service Terms. Except for changes described here, no other amendment or modification of these Rental and Service Terms will be effective unless in writing and signed by the parties.

#### **36. DIVISIBILITY**

If any provision of this Agreement is invalid, illegal or incapable of being enforced under applicable law, that provision will be severed from this Agreement and all other provisions of this Agreement shall nevertheless remain in full force and effect. Upon such determination that any provision is invalid, illegal or incapable of being enforced, the parties shall modify this Agreement so as to affect the original intent of the parties as closely as possible to the end that the transactions contemplated hereby are fulfilled to the fullest extent possible.

#### **37. HEADINGS**

The section and paragraph headings in this Agreement are for convenience of reference only and shall not affect the meaning, construction, scope, or effect of this Agreement.