

EXHIBIT "A"

**RESERVATION AND
RENTAL CONTRACT ** COPY ****
HercRentalsTM
R.A. No. 55098583
Page 1 of 2

BRANCH: 175	BILL TO CUSTOMER: 3000310	SHIPPING ADDRESS
HERC NYC-NJ PROTRUCK 49 WESLEY ST S. HACKENSACK, NJ 07606 201-968-0991	TOWNSHIP OF WEST ORANGE DPW25 25 LAKESIDE AVENUE WEST ORANGE, NJ 07052	DPW 25 LAKESIDE AVE WEST ORANGE, NJ 07052 973-325-4056

DESCRIPTION/CHARGES
EST START: 11/01/23 9:00
EST RETURN: 3/31/24 9:00
DROP DATE: _____
SHIPPED BY:
ORDERED BY: JOE PELOSE
DROP TIME: _____
ORDER DATE: 5/25/23
SALESPERSON: 804
SALES COORDINATOR:
RENTAL TAX CLAIM: MUNICIPAL/CITY
TAX DOCUMENT #: 22-6002396
PO# / JOB#: GS-21F-0020T
/ 2 - DPW - DPW

Qty	Equipment #	Hrs/	Min	Hour	Day	Week	4 Week	Amount
1	TRUCK DUMP 5-6 YD DSL 6596170	8/	391.00	65.17	391.00	1193.00	2933.00	17051.00
	MIL CHG: .25							
1	TRUCK SPREADER HOPPER 9 FT 6598020	8/	115.00	19.17	115.00	450.00	1360.00	7700.00
	MIL CHG: .25							
1	TRUCK SNOW PLOW 10 FT 6598130	8/	115.00	19.17	115.00	338.00	956.00	5456.00
	MIL CHG: .25							

SALES ITEMS:

Qty	Item number	Unit	Price
28	DOMESTIC SECURITY FEE 2217000001	EA	5.000

Sub-total: 30347.00
Taxable Sub-total: 0.00
Total: 30347.00

TRANSPORTATION-DRIVER WAIT TIME is charged if a driver spends more than 20 minutes waiting to unload/load Equipment after scheduled delivery/pickup time. Wait time is \$20 for each 20-minute period thereafter. Customer is responsible for daily maintenance, fuel, damages, and cleaning fees if Equipment is not cleaned before return. TO END RENTAL CHARGES, Customer must call the branch to get a release #.

CAREFULLY READ THE TERMS AND CONDITIONS THAT APPEAR BELOW AND ON REVERSE SIDE OF THIS PAGE ("TERMS")

RENTAL PROTECTION PLAN. Customer must either show proof of Property Insurance as required in Section 8 on reverse side hereof or purchase Rental Protection Plan ("RPP"). Herc Rentals Inc. or its affiliate ("Herc") may offer RPP for a fee to Customer on certain Equipment and for certain types of loss or damage to limit Customer's liability for property loss or damage to such Equipment for such loss or damage. RPP is not offered on all types of Equipment. NOTWITHSTANDING PAYMENT OF THE RPP FEE, RPP DOES NOT APPLY, AND CUSTOMER IS LIABLE FOR, ALL DAMAGES TO OR REPLACEMENT COST OF, THE EQUIPMENT, AS APPLICABLE, AND ANY ADMINISTRATIVE FEES AND EXPENSES OF HERC: (1) CAUSED BY THE EQUIPMENT BEING USED OR OPERATED IN VIOLATION OF ANY OF THE TERMS; (2) IN CASE OF NEGLIGENCE, AS DETERMINED IN HERC'S SOLE DISCRETION; AND/OR (3) IF COVERAGE IS EXCLUDED UNDER THE RPP TERMS AND CONDITIONS POSTED ON HERC'S WEBSITE. Upon accepting RPP, Customer agrees to pay an RPP fee. Customer must review the RPP Terms and Conditions posted on Herc's website at <https://www.hercRentals.com/services/rpp-rental-protection-plan/terms-and-conditions.html> before deciding whether to accept RPP. If Herc offers RPP to Customer for certain Equipment and Customer accepts RPP and pays Herc the RPP fee, in return for the RPP fee, if at the time of the claim, RPP covers such repair or replacement. Herc agrees to waive certain claims for accidental damages to or theft of such covered Equipment occurring during normal and careful use. Customer remains liable for all other damages as set forth in the Terms. RPP IS NOT INSURANCE. TO THE EXTENT HERC DOES NOT OFFER RPP TO CUSTOMER, OR CUSTOMER DOES NOT ACCEPT RPP, CUSTOMER MUST MAINTAIN THE PROPERTY INSURANCE COVERAGE REQUIRED BY PARAGRAPH 8. PLEASE BE AWARE THAT IF CUSTOMER DOES NOT ELECT TO TAKE RPP AND IT ELECTS TO MAINTAIN PROPERTY INSURANCE COVERAGE, AND IF THE CERTIFICATE OF INSURANCE PROVIDED TO HERC TO EVIDENCE SUCH INSURANCE COVERAGE IS UNACCEPTABLE TO HERC OR THE APPLICABLE POLICIES EXPIRE, CUSTOMER AGREES THAT HERC MAY CHARGE RPP FOR ALL APPLICABLE RENTALS UNTIL SUCH TIME AS AN ACCEPTABLE AND VALID CERTIFICATE OF INSURANCE IS PROVIDED AND SUCH MATTERS ARE CORRECTED TO HERC'S REASONABLE SATISFACTION. NOTWITHSTANDING ANY NOTATION ON THE RENTAL RECORD, RPP IS NOT OFFERED ON OR AVAILABLE FOR THE RENTAL OF PASSENGER MOTOR VEHICLES AND CERTAIN OTHER EQUIPMENT LISTED ON HERC'S WEBSITE.

A detailed description of fees and surcharges that may be applicable to Customer's rental can be found on Herc's website at <https://www.hercRentals.com/services-associated-charges.html>. Customer agrees to pay, in addition to all rental charges, all fees and charges set forth above and, the following charges as applicable: (i) based on Customer's possession and/or use of the Equipment, all consumables, fees, licenses, present and future taxes and any other governmental charges; (ii) additional charges for more than one shift use; (iii) freight, delivery, pickup, transportation charges; (iv) transportation services surcharges; (v) repairs and replacement per this contract; (vi) cleaning charge for Equipment returned with excessive dirt, concrete, and/or paint; (vii) fees for lost keys; (viii) refueling service charges; (ix) fines for use of dyed diesel fuel in on road Equipment; (x) preventative maintenance charges; (xi) emissions and environmental surcharges and fees; (xii) vehicle license fees. HERC COLLECTS THESE FEES AND CHARGES AS REVENUE AND USES THEM AT ITS DISCRETION.

THE EQUIPMENT IS RENTED BY HERC TO THE CUSTOMER PURSUANT TO THE TERMS. CUSTOMER REPRESENTS HAVING READ AND AGREED TO SAME.

PARAGRAPH 11 ON THE BACK OF THIS PAGE IS IN LIEU OF (I) ALL WARRANTIES, EXPRESS, IMPLIED OR STATUTORY, INCLUDING, BUT NOT LIMITED TO, THE IMPLIED WARRANTY OF MERCHANTABILITY AND THE IMPLIED WARRANTY OF FITNESS FOR A PARTICULAR PURPOSE; AND (II) ALL OBLIGATIONS ON THE PART OF HERC TO CUSTOMER FOR DAMAGES.

CUSTOMER WAIVES ALL INDIRECT, INCIDENTAL, CONSEQUENTIAL OR SPECIAL DAMAGES ARISING OUT OF OR IN CONNECTION WITH THIS AGREEMENT, INCLUDING WITHOUT LIMITATION, THE RENTAL, MAINTENANCE, USE, OPERATION, STORAGE, ERECTION, DISMANTLING OR TRANSPORTATION OF THE EQUIPMENT.

Customer is obligated to return the Equipment in a good, clean, and uncontaminated condition, free of any and all hazardous substances.

Customer Name

Title

Terms are due upon receipt Not valid without Barcode

Customer Signature

Date

For GREAT DEALS on USED EQUIPMENT - visit us on-line at [HercRentals.com](https://www.HercRentals.com)


RESERVATION AND RENTAL CONTRACT - HERC RENTALS INC. AND AFFILIATES ("HERC")

This Agreement ("Agreement") is for the rental of the vehicles and equipment and related services described on the other side of this page ("Front"), including all parts of and attachments and accessories to such equipment ("Equipment"). This Agreement is between the customer identified on the Front ("Customer") and Herc. Both parties acknowledge that this Agreement consists of the terms written or printed on this page and the Front.

1. NATURE OF THIS AGREEMENT: This Agreement is solely for the purpose of creating a rental transaction, which allows Customer to use the Equipment as permitted by this Agreement. CUSTOMER REPRESENTS THAT THE EQUIPMENT IS TO BE USED SOLELY AND EXCLUSIVELY FOR BUSINESS OR COMMERCIAL PURPOSES. The Equipment is owned by Herc. Customer acknowledges that no one other than Herc may transfer or assign the Equipment or any rights or obligations under this Agreement. Neither Customer nor any Authorized Operators (as defined below) are agents of Herc. No one may repair or alter the Equipment without Herc's prior written consent. Each party in the Equipment will defend, indemnify, and hold Herc harmless from all loss, liability, and expense by reason thereof.

2. **WHO MAY OPERATE THE EQUIPMENT.** Only Customer and the following persons with Customer's express permission, subject to the requirements of this Section, ("Authorized Operators") may operate the Equipment: Customer's employer, employees, and fellow employees operating the Equipment in the course and scope of such employee's regular employment, and persons approved by Here in writing. Customer and all Authorized Operators must only use the Equipment in the course and scope of Customer's or Customer's employer's regular business operations, hold a valid driver's license to operate a motor vehicle, be of legal age to operate the Equipment, be properly qualified and trained to operate the Equipment, and have a valid operator's license with respect to the Equipment where required by law. Customer is solely responsible for determining that the Authorized Operators meet the requirements of this Section and are properly qualified and trained to use the Equipment prior to operating the Equipment. Customer is solely responsible for limiting the use of the Equipment to Authorized Operators meeting the requirements of this Section and for the acts and omissions of any person that operates, uses, stores or moves the Equipment regardless of whether that person is an Authorized Operator.

3. RENTAL FEES AND OTHER CHARGES. Customer will pay Herc on demand to the address and by the date specified in the applicable invoice, all charges, including without limitation, rental, time, mileage, service, transportation, fueling service, surcharges, sales and use taxes, and tax reimbursements imposed with respect to the Equipment and this Agreement, and all expenses including reasonable attorney's fees and costs incurred in enforcing same, in accordance with this Agreement. A detailed description of all fees and surcharges that may be applicable to the Rental shall be found on Herc's website at <https://www.hercrentals.com/services-associated-charges.html>. All charges shall be deemed to have irrevocably waived such disputed charge. The basic daily, weekly and 4-week rental rates are as follows: (a) Basic daily rate: \$100 per day (for a one-shift use); (b) Basic weekly rate: \$700 per week (for a one-shift use); (c) Basic 4-week rate: \$2800 per week (for a one-shift use). In excess of one shift will be payable at the hourly rate of 1/6 of the daily charge (for a daily use), or 1/6 of the weekly charge (for a weekly use), or 1/6 of the 4-week rate (for a 4-week rental), plus applicable taxes. All charges are subject to final audit by Herc. Herc will have a lien as allowed by law against the Equipment for all charges due to Herc under this Agreement. Rental charges shall be paid by Customer at the end of each rental period. Rentals are F.O.B. the Herc Branch unless otherwise specified. Shipping charges from such location to the destination, including loading, unloading, assembling and dissembling will be paid by Customer. All rates for rentals in excess of 4 weeks are subject to change on 30 days written notice. Customer shall also be charged a reasonable fee for any check used for payment beyond the rental period then remaining. Charges not paid on time, as required by this Agreement, may be subject to a late payment fee as provided in this Agreement. Customer must also be charged a reasonable fee for any check used for payment hereunder that is returned unpaid. Customer agrees in the event of a default, that any deposit made by Customer shall be used by Herc for unpaid rent and other charges, damages and costs incurred due to the default.

4. CUSTOMER'S RESPONSIBILITIES. Customer is responsible to Hero for all loss or damage to the Equipment, and for its return in the same condition it was received, except for ordinary wear, and free of any hazardous materials and/or contaminants. Such responsibility is limited to the full value of the Equipment at the time it is lost, damaged, or destroyed, less salvage value, plus any administrative fees and Hero's related expenses, such as loss of use, appraisal fees or recovery costs ("Full Value"). The Equipment must be returned to Hero at the renting Hero's location, at the Estimated Return Date (EST RETURN) specified on the Front, or sooner if demanded by Hero. Customer must notify Hero if it desires to change the EST RETURN for all or some of the Equipment. Customer agrees to hold said Equipment in a safe and secure manner. The Equipment will be used and kept only at Customer's place of business or the job site at which the Equipment is receives actual possession of the Equipment. Customer agrees to read and follow all instructions on the Equipment. The Equipment will be used only in accordance with the manufacturer's instructions within its rated capacity. Customer will perform or cause to be performed and used and will not be moved without the aid of proper service, adjustments and lubrication of the Equipment, including but not limited to: checking of the Equipment before each shift; checking and maintaining cranes, transducer, cooling and pay for all normal periodic maintenance. Customer will check the pressures and battery fluid and charge levels weekly. If the Equipment fails to operate properly or becomes in need of repair, Customer must immediately cease use and will immediately shut down the Equipment. Customer is responsible for checking the pressures and battery fluid and charge levels weekly. If the Equipment fails to operate properly or becomes in need of repair, Customer must immediately cease use and will immediately shut down the Equipment. Customer is solely responsible for providing a secure and safe work environment for all parties, including Hero and its employees, and for ensuring that the Equipment is used in accordance with applicable laws and industry standards, (including but not limited to those relating to worker safety and the environment). Customer is solely responsible for supervising the use and operation of the Equipment to ensure it is used in accordance with manufacturer instructions for proper operation and safety, for ensuring that the Equipment is proper for Customer's intended use and environment, and for ensuring users of the Equipment are qualified, trained, and familiar with the Equipment.

5. **RISK OF LOSS.** All loss of or damage to the Equipment from any cause whatsoever while on rental and whether or not due to the fault of Customer, including, but not limited to, fire, flood, theft, comprehensive losses, collision and other causes, and Acts of God, will be the sole responsibility of Customer and will be paid to Herc promptly upon Customer's receipt of an invoice therefor. Such responsibility is limited to the Full Value of the Equipment at the time it is lost or damaged. THE COST OF LABOR FOR REPAIRS WILL BE EITHER HERC'S THEN PREVAILING HOURLY RATE FOR LABOR, POSTED AT THE HERC BRANCH WHERE THE EQUIPMENT IS TO BE REPAIRED, OR THE REPAIRER'S HOURLY RATE FOR LABOR CHARGED TO HERC FOR REPAIRS AS THE CASE MAY BE. PARTS WILL BE CHARGED AT HERC'S COST PLUS A RETAIL MARKUP. Use of the Equipment by persons other than Customer or Authorized Operators will be at Customer's sole risk.

Customer or Authorized Operators will be at Customer's sole risk.

6. **EVENTS OF DEFAULT.** Customer shall be in default of this Agreement if Customer fails to pay any amount when due hereunder, or if Customer breaches any of the other terms of this Agreement, or if Customer becomes insolvent or ceases to do business as a going concern, or if a petition in bankruptcy is filed by or against Customer, or if Customer is in default pursuant to the provisions of any other agreement by and between Customer and Herc. Customer will further be deemed to be in default if the Equipment is obtained from Herc through fraud or misrepresentation or is stored or used: (A) in violation of any law or ordinance including without limitation, any local, state or federal law or regulation involving "Hazardous Materials," including "DOT Hazardous Materials," as set forth in 49 C.F.R. 171-180; (B) in a reckless, negligent or abusive manner, or is damaged while being rented by Customer; (C) in violation of Paragraph 4 above; (D) in any fashion or manner for which the Equipment was not designed or beyond the manufacturer's rated capacity for the Equipment.

Paragraph 4 above, (D) in any fashion or manner for which the Equipment has not been designed or beyond the intended use of the Equipment.

7. REMEDIES OF HERC. In case of default by Customer, or if Herc deems itself insecure, Herc may, but is not required to, peacefully enter the premises where the Equipment is located and render it inoperative or remove same with or without process of law and without any notice to Customer or liability. Customer hereby waives any right to any hearing or to receive any notice of legal process, as a pre-condition for Herc recovering the Equipment. Customer agrees to permit such entry and action by Herc. In such case Herc may also terminate this Agreement with no notice to Customer or prejudice to any remedies or claims which Herc might otherwise have for any amount due hereunder, expense of retaining, court costs and reasonable attorneys' fees. Customer will remain responsible for the Equipment and shall be liable for any loss or injury to the Equipment, any property and/or persons, notwithstanding such termination. Herc shall have the right to issue and circulate their notices, cause warrants to be issued and take any other steps which Herc may reasonably deem necessary to recover the Equipment, if the Equipment is not returned on the date specified on the Front or sooner as permitted by the terms of this Agreement. The remedies provided herein in favor of Herc are not exclusive but shall be cumulative and in addition to all other remedies existing at law or in equity, any one or more of which may be exercised simultaneously or successively.

existing at law or in equity, any one or more of which may be exercised simultaneously or successively.

9. **INSURANCE**. Liability Insurance for Injury/Damages to Third Parties - Customer agrees to maintain and carry, at its own expense and at all times during the term of this Agreement, the following insurance: (1) commercial automobile insurance, with at least a per occurrence limit of \$1 million, which includes coverage for owned and non-owned motor vehicles. Herc shall be named as an additional insured for all claims arising out of the maintenance, operation, or use of the vehicle. All insurance, whether issued on a primary or umbrella/excess basis, afforded to Herc hereby shall be primary to, and non-contributory with, any other insurance on which Herc is a named insured; and whether such other insurance is primary, excess, self-insurance, or insurance on any other basis, to the fullest extent permitted by law. Whereby, by operation of law, Herc is required to provide primary coverage, such primary and non-contributory protection shall not exceed the minimum limits required by the automobile financial responsibility laws of the applicable state. Such protection will conform to the basic requirements of the applicable No-Fault law. BUT DOES NOT INCLUDE UNINSURED/UNDERINSURED MOTORIST, SUPPLEMENTARY MEDICAL PAY OR FULT OR ANY OTHER OPTIONAL COVERAGE. TO THE EXTENT PERMITTED BY LAW, HERC AND CUSTOMER REJECT THE INCLUSION OF ANY SUCH COVERAGE. If such coverage is provided under ISO CG 00 01 12 04 form, including contractual liability coverage covering Customer's indemnity obligations of Section 9, with limits of insurance of at least \$1 million (providing coverage equal to or greater than the aggregate. Customer shall name Herc as an additional insured for all claims and liability arising out of the maintenance, operation, or use by the Customer of the Equipment, with a per occurrence limit of at least \$1 million per occurrence and \$1 million or greater than the aggregate. Customer shall name Herc as an additional insured for all claims and liability arising out of the maintenance, operation, or use by the Customer of the Equipment, with a per occurrence limit of at least \$1 million per occurrence and \$1 million or greater than the standard ISO CG 20 28 H 11 85). Such insurance shall be primary and non-contributory to any other insurance maintained by Herc. The Customer further agrees that the amount of insurance available to Herc 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 the agreement. Customer agrees that nothing in this agreement is intended to restrict or limit the breadth of such insurance; and (3) property insurance for the full replacement cost of the Equipment, including coverage for theft, fire, lightning, explosion, windstorm, hail, vandalism, riot, civil commotion, sabotage, terrorism, war, nuclear hazard, and equipment breakdown, including motor vehicles (if applicable), while in your care, custody and control. Customer shall carry adequate compensation and employers' liability insurance with at least a per occurrence limit of \$1 million. Customer shall name Herc as an additional insured for all claims arising out of the maintenance, operation, or use of the equipment, and as an additional loss payee. Any deductibles or self-insured retentions shall be the sole responsibility of the Customer. All insurance required by this Rental Agreement shall be maintained continuously throughout the term of the rental, and shall be subject to cancellation. Customer shall provide Herc with documented proof of all required insurance coverage. The policies required hereunder shall provide that the Customer receives not less than 30 days' notice prior to any cancellation. Customer shall provide Herc with documented proof of all required insurance coverage. Including copies of all applicable additional insured endorsements. FOR RENTAL OF EQUIPMENT NOT LICENSED FOR ROAD USE, CUSTOMER MUST EITHER (A) ELECT TO NAME HERC AS LOSS PAYEE ENDORSEMENT OR (B) ELECT TO PURCHASE THE RENTAL PROTECTION PLAN. Nothing contained in this insurance section shall limit or modify the obligations set forth in Section 9.

[illegible]

10. **NOTICE OF LOSS OR ACCIDENT.** In the event of an accident, loss of, theft of, or damage to, spill or leak of hazardous materials from, the Equipment, Customer agrees to notify Herc as soon as possible by telephone and thereafter, to immediately report in writing to Herc and to the public authorities (where required by law or by Herc) all necessary information relating to the loss or accident.

11. **CONDITION OF THE EQUIPMENT.** Customer acknowledges having examined the Equipment upon its delivery to Customer. The Equipment shall be deemed to be accepted by Customer upon delivery and subject to the terms and conditions of this Agreement. Customer shall notify Herc within 24 hours of delivery of the Equipment of any problem with the Equipment. If the Equipment is found by Customer not to be in good mechanical condition, as a result of conditions not the responsibility of Customer, nor caused by the fault or negligence of Customer or Customer's employees or agents, Customer will not notify Herc, whereupon: Herc will then, at its option and without any other liability or responsibility by Herc to Customer, (a) repair or suitably replace the Equipment within a reasonable time during Herc's normal working hours, with the commencement or running of the terms of this Agreement to any other liability or responsibility by Herc to Customer; (b) remove the Equipment and terminate this Agreement and refund payments of rental charges, if any, for the unexpired term of the Agreement, less whatever is due Herc for damage to or maintenance of Equipment which is the responsibility of Customer. Customer agrees to provide full access to the Equipment to Herc's representatives to enable Herc to meet its responsibilities hereunder.

12. **LATE PAYMENT FEE.** Should Customer fail to pay any invoice to Herc in accordance with the terms of such invoice, Customer will pay a late payment fee to Herc on such delinquent payment until fully paid, at an amount up to the maximum rate allowed by the laws of the jurisdiction in which the Herc location specified on the Front is located.

13. **FUELING SERVICE CHARGE.** Herc agrees to provide the Equipment to Customer with full fuel tanks. Customer agrees to return the Equipment with full fuel tank(s). If Customer returns the Equipment with the fuel tank(s) less than full, Customer will pay to Herc a sum equal to Herc's then applicable refueling service charge posted at Herc's location where the Equipment is returned for the number of gallons required to refill the tank(s) at the time of delivery. Customer's obligation to pay the Fueling Service Charge shall be effective as of the date of delivery of the Equipment to Customer.

14. **MERGER/MODIFICATION/SEVERABILITY.** This Agreement expresses the entire agreement between the parties with respect to the subject matter hereof. No modification or alteration of the terms hereof will be effective as against Herc unless same is in writing and signed by a duly authorized officer of Herc. Customer's use and/or delivery of the Equipment and/or Customer's signing of this Agreement shall be deemed acceptance of this Agreement and shall constitute Customer's acceptance of all of the Terms contained on the Front hereof and herein, and the exclusion of any terms and conditions otherwise stated by Customer or contained in any of Customer's documents and the paragraph headings contained in this Agreement are for convenience only and will not be used to expand or limit the actual terms and conditions hereof. Customer and the person signing this Agreement represent that: (a) they both have full authority to execute, deliver and perform this Agreement, and (b) this Agreement is a legal, valid and binding obligation of Customer, enforceable in accordance with its terms.

they both have full authority to execute, deliver and perform this Agreement, and (b) this Agreement is a legal, valid and binding contract for the benefit of the Customer. This Agreement shall be governed by and construed in accordance with the laws of the state of Delaware without regard to its rules of conflict of laws. Customer irrevocably and unconditionally consents to submit to the jurisdiction of the state and federal courts within the State of Delaware (the "Delaware Courts") or Florida ("Florida Courts") for any litigation arising out of or relating to this Agreement and the transactions contemplated hereby, and waives any objection to the venue and forum in the Delaware Courts and/or the Florida Courts. If any provision, or any part of any provision of this Agreement or the application thereof is thereafter held invalid or unenforceable under any applicable law, the remainder of this Agreement shall not be affected thereby and to this end the provisions of this Agreement are declared severable. Each party hereby waives and releases all right to trial by jury in any trial, proceeding or counterclaim brought by either party hereto against the other (and/or against its officers, directors, employees, agents, or subsidiary or affiliated entities) on any claim, whether arising out of or in any way connected with this Agreement. THE MAXIMUM LIABILITY OF HERC, ITS OFFICERS, DIRECTORS, EMPLOYEES, AGENTS OR AFFILIATES UNDER THIS AGREEMENT (REGARDLESS OF WHETHER A CLAIM IS BASED UPON WARRANTY, CONTRACT, TORT, NEGLIGENCE OR OTHERWISE) SHALL NOT EXCEED THE AMOUNT PAID TO HERC BY CUSTOMER UNDER THIS AGREEMENT.

16. **ELECTRONIC SIGNATURES.** Customer agrees that this Agreement may be signed manually or by scanning and sending .pdf or other copies thereof via email or via any other electronic means and in one or more counterparts, each of which shall be (i) an original, and all of which taken together shall constitute one and the same agreement; (ii) a valid and binding agreement and fully admissible under state and federal rules of evidence; and (iii) enforceable under the applicable Uniform Commercial Code Section 2A-204, Section 3-309 and under any other similar statute applicable to this Agreement.

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17. **FAMILIARIZATION.** All familiarization requests must be made in writing not less than five (5) calendar days before scheduled delivery date or at time of purchase. Requests must be submitted to the location in which the Equipment was rented and identify the name of the person(s) designated to receive the Equipment. If requested, the User as defined by ANSI A92.5 or CSA B354 agrees to have the person designated present at the time of delivery to receive the equipment familiarization. Familiarization will be made in accordance to ANSI A92.5 or CSA B354. Familiarization is not considered training or certification and does not impact the obligations of Section 2.

RESERVATION AND
RENTAL CONTRACT ** COPY ****HercRentals**TM

R.A. No. 55095389

Page 1 of 2

BRANCH: 175	BILL TO CUSTOMER: 3000310	SHIPPING ADDRESS
HERC NYC-NJ PROTRUCK 49 WESLEY ST S. HACKENSACK, NJ 07606 201-968-0991	TOWNSHIP OF WEST ORANGE DPW25 25 LAKESIDE AVENUE WEST ORANGE, NJ 07052	DPW 25 LAKESIDE AVE WEST ORANGE, NJ 07052 973-325-4056

DESCRIPTION/CHARGES

EST START: 11/01/23 9:00

EST RETURN: 3/31/24 9:00

DROP DATE: _____

SHIPPED BY:

ORDERED BY: JOE PELOSE

DROP TIME: _____

ORDER DATE: 5/24/23

SALESPERSON: 804

SALES COORDINATOR:

RENTAL TAX CLAIM: MUNICIPAL/CITY

TAX DOCUMENT #: 22-6002396

PO# / JOB#: GS-21F-0020T

/ 2 - DPW - DPW

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CAREFULLY READ THE TERMS AND CONDITIONS THAT APPEAR BELOW AND ON REVERSE SIDE OF THIS PAGE ("TERMS")

RENTAL PROTECTION PLAN. Customer must either show proof of Property Insurance as required in Section 8 on reverse side hereof or purchase Rental Protection Plan ("RPP"). Herc Rentals Inc. or its affiliate ("Herc") may offer RPP for a fee to Customer on certain Equipment and for certain types of loss or damage to limit Customer's liability for property loss or damage to such Equipment for such loss or damage. RPP is not offered on all types of Equipment. NOTWITHSTANDING PAYMENT OF THE RPP FEE, RPP DOES NOT APPLY, AND CUSTOMER IS LIABLE FOR, ALL DAMAGES TO OR REPLACEMENT COST OF, THE EQUIPMENT, AS APPLICABLE, AND ANY ADMINISTRATIVE FEES AND EXPENSES OF HERC: (1) CAUSED BY THE EQUIPMENT BEING USED OR OPERATED IN VIOLATION OF ANY OF THE TERMS; (2) IN CASE OF NEGLIGENCE, AS DETERMINED IN HERC'S SOLE DISCRETION; AND/OR (3) IF COVERAGE IS EXCLUDED UNDER THE RPP TERMS AND CONDITIONS POSTED ON HERC'S WEBSITE. Upon accepting RPP, Customer agrees to pay an RPP fee. Customer must review the RPP Terms and Conditions posted on Herc's website at: <https://www.hercrentals.com/services/rpp-rental-protection-plan/terms-and-conditions.html> before deciding whether to accept RPP. If Herc offers RPP to Customer for certain Equipment and Customer accepts RPP and pays Herc the RPP fee, in return for the RPP fee, if at the time of the claim, RPP covers such repair or replacement, Herc agrees to waive certain claims for accidental damages to or theft of such covered Equipment occurring during normal and careful use. Customer remains liable for all other damages as set forth in the Terms. RPP IS NOT INSURANCE. TO THE EXTENT HERC DOES NOT OFFER RPP TO CUSTOMER, OR CUSTOMER DOES NOT ACCEPT RPP, CUSTOMER MUST MAINTAIN THE PROPERTY INSURANCE COVERAGE REQUIRED BY PARAGRAPH 8. PLEASE BE AWARE THAT IF CUSTOMER DOES NOT ELECT TO TAKE RPP AND IT ELECTS TO MAINTAIN PROPERTY INSURANCE COVERAGE, AND IF THE CERTIFICATE OF INSURANCE PROVIDED TO HERC TO EVIDENCE SUCH INSURANCE COVERAGE IS UNACCEPTABLE TO HERC OR THE APPLICABLE POLICIES EXPIRE, CUSTOMER AGREES THAT HERC MAY CHARGE RPP FOR ALL APPLICABLE RENTALS UNTIL SUCH TIME AS AN ACCEPTABLE AND VALID CERTIFICATE OF INSURANCE IS PROVIDED AND SUCH MATTERS ARE CORRECTED TO HERC'S REASONABLE SATISFACTION. NOTWITHSTANDING ANY NOTATION ON THE RENTAL RECORD, RPP IS NOT OFFERED ON OR AVAILABLE FOR THE RENTAL OF PASSENGER MOTOR VEHICLES AND CERTAIN OTHER EQUIPMENT LISTED ON HERC'S WEBSITE.

A detailed description of fees and surcharges that may be applicable to Customer's rental can be found on Herc's website at: <https://www.hercrentals.com/services-associated-charges.html>. Customer agrees to pay, in addition to all rental charges, all fees and charges set forth above and, the following charges as applicable: (i) based on Customer's possession and/or use of the Equipment, all consumables, fees, licenses, present and future taxes and any other governmental charges; (ii) additional charges for more than one shift use; (iii) freight, delivery, pickup, transportation charges; (iv) transportation service surcharges; (v) repairs and replacement per this contract; (vi) cleaning charge for Equipment returned with excessive dirt, concrete and/or paint; (vii) fees for lost keys; (viii) refueling service charges; (ix) fines for use of dyed diesel fuel in on road Equipment; (x) preventative maintenance charges; (xi) emissions and environmental surcharges and fees; (xii) vehicle license fees. HERC COLLECTS THESE FEES AND CHARGES AS REVENUE AND USES THEM AT ITS DISCRETION.

THE EQUIPMENT IS RENTED BY HERC TO THE CUSTOMER PURSUANT TO THE TERMS. CUSTOMER REPRESENTS HAVING READ AND AGREED TO SAME.

PARAGRAPH 11 ON THE BACK OF THIS PAGE IS IN LIEU OF (I) ALL WARRANTIES, EXPRESS, IMPLIED OR STATUTORY, INCLUDING, BUT NOT LIMITED TO, THE IMPLIED WARRANTY OF MERCHANTABILITY AND THE IMPLIED WARRANTY OF FITNESS FOR A PARTICULAR PURPOSE; AND (II) ALL OBLIGATIONS ON THE PART OF HERC TO CUSTOMER FOR DAMAGES.

CUSTOMER WAIVES ALL INDIRECT, INCIDENTAL, CONSEQUENTIAL OR SPECIAL DAMAGES ARISING OUT OF OR IN CONNECTION WITH THIS AGREEMENT, INCLUDING WITHOUT LIMITATION, THE RENTAL, MAINTENANCE, USE, OPERATION, STORAGE, ERECTION, DISMANTLING OR TRANSPORTATION OF THE EQUIPMENT.

Customer is obligated to return the Equipment in a good, clean, and uncontaminated condition, free of any and all hazardous substances.

Customer Name _____

Title _____

Terms are due upon receipt Not valid without Barcode

Customer Signature _____

Date _____

For GREAT DEALS on USED EQUIPMENT - visit us on-line at [HercRentals.com](https://www.HercRentals.com)

RESERVATION AND RENTAL CONTRACT - HERC RENTALS INC. AND AFFILIATES ("HERC")

This Agreement ("Agreement") is for the rental of the vehicles and equipment and related services described on the other side of this page ("Front"), including all parts of and attachments and accessories to such Equipment ("Equipment"). This Agreement is between the customer identified on the Front ("Customer") and Herc. Both parties acknowledge that this Agreement consists of the terms written or printed on this page and the Front.

1. **NATURE OF THIS AGREEMENT.** This Agreement is solely for the purpose of creating a rental transaction, which allows Customer to use the Equipment as permitted by this Agreement. CUSTOMER REPRESENTS THAT THE EQUIPMENT IS TO BE USED SOLELY AND EXCLUSIVELY FOR BUSINESS OR COMMERCIAL PURPOSES. The Equipment is owned by Herc. Customer acknowledges that no one other than Herc may transfer or assign the Equipment or any rights or obligations under this Agreement. Neither Customer nor any Authorized Operators (as defined below) are agents of Herc. No one may repair or alter the Equipment without Herc's prior written approval. Customer will not suffer any liens or encumbrances to attach to the Equipment and will defend, indemnify, and hold Herc harmless from all loss, liability, and expense by reason thereof.
2. **WHO MAY OPERATE THE EQUIPMENT.** Only Customer and the following persons with Customer's express permission, subject to the requirements of this Section, ("Authorized Operators") may operate the Equipment: Customer's employer, employees, and fellow employees operating the Equipment in the course and scope of such employee's regular employment, and persons approved by Herc in writing. Customer and all Authorized Operators must only use the Equipment in the course and scope of Customer's or Customer's employer's regular business operations, hold a valid driver's license to operate a motor vehicle, be of legal age to operate the Equipment, be properly qualified and trained to operate the Equipment; and have a valid operator's license with respect to the Equipment where required by law. Customer is solely responsible for determining that the Authorized Operators have met the requirements of this Section and are properly qualified and trained to use the Equipment prior to operating the Equipment. Customer is solely responsible for limiting the use of the Equipment to Authorized Operators meeting the requirements of this Section and for the acts and omissions of any person that operates, uses, stores or moves the Equipment regardless of whether that person is an Authorized Operator.
3. **RENTAL FEES AND OTHER CHARGES.** Customer will pay Herc on demand to the address and by the date specified in the applicable invoice, all charges, including without limitation, rental, time, mileage, service, transportation, refusing service, surcharges, sales and use taxes, and tax reimbursements imposed with respect to the Equipment and this Agreement, and all expenses, including reasonable attorney's fees and costs incurred in collecting same, all in accordance with this Agreement. A detailed description of all fees and surcharges that may be applicable to Customer's rental is found on Herc's website at <https://www.hercrentals.com/services-associated-charges.htm>. Customer must notify Herc in writing of any disputed charge within 30 days of receipt of such invoice or Customer shall be deemed to have irrevocably waived such disputed charge. The basic daily, weekly and 4-week rental rates will entitle Customer to a maximum of one-shift use (i.e., a maximum of 8 hours per day, 40 hours per week, 160 hours per week, 180 hours per week, 180 hours per week). Use in excess of one shift will be payable at the hourly rate of 1/8 of the daily charge (for a daily rental), 1/40 of the weekly charge (for a weekly rental) and 1/160 of the 4-week charge (for a 4-week rental), plus applicable taxes. All charges are subject to final audit by Herc. Herc will have a lien as allowed by law for charges incurred hereunder upon the premises and improvements upon which the Equipment is employed. Rentals are F.O.B. the Herc Branch unless otherwise specified. Shipping charges from such Branch to the Customer's destination and return and all loading, unloading, assembling and dismantling will be paid by Customer. All rates for rentals in excess of 4 weeks are subject to charge on 30 days' written notice to the Customer with respect to any portion of the rental period then remaining. Charges not paid on time, as required by this Agreement, may be subject to a late payment fee as provided in this Agreement. Customer may also be charged a reasonable fee for any clock used for payment hereunder that is returned unpaid. Customer agrees in the event of a default, that any deposit made by Customer shall be used by Herc for unpaid rent and other charges, damages and costs incurred due to the default.
4. **CUSTOMER'S RESPONSIBILITIES.** Customer is responsible to Herc for all loss or damage to the Equipment, and for its return in the same condition it was received, except for ordinary wear, and free of any hazardous materials and/or contaminants. Such responsibility is limited to the full value of the Equipment at the time it is lost or damaged, less its salvage value, plus any administrative fees and Herc's related expenses, such as loss of use, appraisal fees or recovery costs ("Full Value"). The Equipment must be returned to Herc at the renting Herc Branch by the Estimated Return Date (EST RETURN) specified on the Front, or sooner if demanded by Herc. Customer must notify Herc if it desires to change the EST RETURN for all or some of the Equipment. Customer acknowledges that it must confirm return receipt of the Equipment by Herc at the expiration or earlier termination of the rental. Until such time as Herc receives actual possession of the Equipment, Customer agrees to hold said Equipment in a safe and secure manner. The Equipment will be used only in accordance with the manufacturer's instructions within its rated capacity. Customer will perform or cause to be performed and used and will not be moved without the prior written consent of Herc. The Equipment will be used only in accordance with the manufacturer's instructions within its rated capacity. Customer will perform or cause to be performed and used for all normal periodic and other basic service, adjustments and lubrication of the Equipment, including but not limited to: checking of the Equipment before each shift; checking and maintaining crankcase, transmission, cooling and fuel systems daily; and checking tire pressures and adjusting and lubrication of the Equipment. If the Equipment fails to operate properly or becomes in need of repair, Customer will immediately cease using same and will immediately notify Herc. Customer is solely responsible for providing a secure and safe work environment for all parties, including Herc and its employees, and for ensuring that the possession, storage, use and operation of the Equipment is carried out in compliance with applicable laws and industry standards, (including but not limited to those relating to worker safety and the environment). Customer is solely responsible for supervising the use and operation of the Equipment to ensure it is used in accordance with manufacturer instructions for proper operation and safety, for ensuring that the Equipment is proper for Customer's intended use and environment, and for ensuring users of the Equipment are qualified, trained, and familiar with the Equipment.
5. **RISK OF LOSS.** All loss or damage to the Equipment from any cause whatsoever while on rental and whether or not due to the fault of Customer, including, but not limited to, fire, flood, theft, comprehensive losses, collision and rollover, and Acts of God, will be the sole responsibility of Customer and will be paid to Herc promptly upon Customer's receipt of an invoice therefor. Such responsibility is limited to the Full Value of the Equipment at the time it is lost or damaged. THE COST OF LABOR FOR REPAIRS WILL BE EITHER HERC'S THEN PREVAILING HOURLY RATE FOR LABOR, POSTED AT THE HERC BRANCH WHERE THE EQUIPMENT IS TO BE REPAIRED, OR THE REPAIRER'S HOURLY RATE FOR LABOR CHARGED TO HERC FOR REPAIRS AS THE CASE MAY BE. PARTS WILL BE CHARGED AT HERC'S COST PLUS A RETAIL MARKUP. Use of the Equipment by persons other than Customer or Authorized Operators will be at Customer's sole risk.
6. **EVENTS OF DEFAULT.** Customer shall be in default of this Agreement if Customer fails to pay any amount when due hereunder, or if Customer breaches any of the other terms of this Agreement, or if Customer becomes insolvent or ceases to do business as a going concern, or if a petition in bankruptcy is filed by or against Customer, or if Customer is in default pursuant to the provisions of any other agreement by and between Customer and Herc. Customer will further be deemed to be in default if the Equipment is obtained from Herc through fraud or misrepresentation or is stored or used: (A) in violation of any law or ordinance including without limitation, any local, state or federal law or regulation involving "Hazardous Materials," including "DOT Hazardous Materials," as set forth in 49 C.F.R. 171-180; (B) in a reckless, negligent or abusive manner, or is damaged while being rented by Customer; (C) in violation of Paragraph 4 above; (D) in any fashion or manner for which the Equipment was not designed or beyond the manufacturer's rated capacity for the Equipment.
7. **REMEDIES OF HERC.** In case of default by Customer, or if Herc deems itself insecure, Herc may, but is not required to, peacefully enter the premises where the Equipment is located and render it inoperative or remove same with or without process of law and without any notice to Customer or liability. Customer hereby waives any right to any hearing or to receive any notice of legal process, as a pre-condition for Herc recovering the Equipment. Customer agrees to permit such entry and action by Herc. In such case Herc may also terminate this Agreement without notice to Customer or prejudice to any remedies or claims which Herc might otherwise have for any amount due hereunder, expense of relating, court costs and reasonable attorneys' fees. Customer will remain liable for the Equipment or for any loss or injury to the Equipment, any property and/or persons, notwithstanding such termination. Herc shall have the right to issue and execute theft notices, cause warrants to be issued and take any other steps which Herc may reasonably deem necessary to recover the Equipment, if the Equipment is not returned on the date specified on the Front or sooner as permitted by the terms of this Agreement. The remedies provided herein in favor of Herc are not exclusive but shall be cumulative and in addition to all other remedies existing at law or in equity, any one or more of which may be exercised simultaneously or successively.
8. **INSURANCE.** Liability Insurance for Injury/Damage to Third Parties - Customer agrees to maintain and carry, at its own expense and at all times during the term of this Agreement, the following insurance: (1) commercial automobile insurance, with at least a per occurrence limit of \$1 million, which includes coverage for owned and non-owned motor vehicles. Herc shall be named as an additional insured for all claims arising out of the maintenance, operation, or use of the vehicle. All insurance, whether issued on a primary or umbrella/excess basis, afforded to Herc hereby shall be primary to, and non-contributory with, any other insurance on which Herc is named insured, and whether such other insurance is primary, excess, self-insurance, or insurance on any other basis, to the fullest extent permitted by law. Where, by operation of law, Herc is required to provide primary coverage, such primary and non-contributory protection shall not exceed the minimum limits required by the automobile financial responsibility laws of the applicable state. Such protection will conform to the basic requirements of the applicable No-Fault law, BUT DOES NOT INCLUDE UNINSURED/UNDERINSURED MOTORIST, SUPPLEMENTARY NO FAULT, OR ANY OTHER OPTIONAL COVERAGE. TO THE EXTENT PERMITTED BY LAW, HERC AND CUSTOMER REJECT THE INCLUSION OF ANY SUCH COVERAGE. If such coverage is imposed by operation of law, then the limits of such coverage will be the minimum required by the law of the applicable state; (2) commercial general liability insurance (providing coverage equal to or greater than the standard ISO CG 00 01 12 04 form), including contractual liability coverage covering Customer's indemnity obligations of Section 9, with limits of insurance not less than \$1 million per occurrence and \$2 million in the aggregate. Customer shall name Herc as an additional insured for all claims and liability arising out of the maintenance, operation, or use by the Customer of equipment leased to Customer by Herc (providing coverage equal to or greater than the standard ISO CG 00 20 11 85). Such insurance shall be primary and non-contributory to any other insurance maintained by Herc. Customer further agrees that the amount of insurance available to Herc 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; and (3) property insurance for the full replacement cost of the Equipment, including coverage for all risks of loss or damage to the Equipment. The policy must expressly cover owned and non-owned equipment, including motor vehicles (if applicable), while in your care, custody and control. Customer shall carry workers compensation and employers' liability insurance with at least a per occurrence limit of \$1 million. Customer shall name Herc as an additional insured for all claims arising out of the maintenance, operation or use of the equipment, and as an additional loss payee. 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 subrogation against Herc or its insurers by the Customer and its insurers, as well as a waiver of subrogation against Herc or its insurers. The policies required hereunder shall provide that Herc must receive not less than 30 days' notice prior to any cancellation. Customer shall provide Herc with documented proof of all required insurance coverage, including copies of all applicable additional insured endorsements. FOR RENTAL OF EQUIPMENT NOT LICENSED FOR ROAD USE, CUSTOMER MUST EITHER (i) ELECT TO NAME HERC AS LOSS PAYEE EVIDENCING PROPERTY INSURANCE COVERAGE, OR (ii) ELECT TO PURCHASE THE RENTAL PROTECTION PLAN. Nothing contained in this insurance Section shall limit or modify the obligations set forth in Section 9.
9. **INDEMNIFICATION.** TO THE FULLEST EXTENT PERMITTED BY LAW, AND FOR AND IN ADDITIONAL CONSIDERATION OF PROVIDING THE EQUIPMENT HEREIN, CUSTOMER WILL DEFEND, INDEMNIFY AND HOLD HARMLESS HERC, ITS PARENT COMPANY, THEIR AFFILIATES AND THEIR RESPECTIVE DIRECTORS, OFFICERS, AGENTS AND EMPLOYEES (COLLECTIVELY "HERC INDEMNIFIED PARTIES"), FROM AND AGAINST ANY AND ALL ACTUAL, ALLEGED, OR PERCEIVED RISKS OF INJURY, DEMANDS, CLAIMS, SUITS, LIABILITIES, LOSSES, SETTLEMENTS, JUDGMENTS, DAMAGES (INCLUDING BUT NOT LIMITED TO COSTS, EXPENSES, DELAYS, DEDUCTIBLE AMOUNTS OF INSURANCE, THE COSTS OF ENFORCING ANY RIGHT TO INDEMNIFICATION UNDER THIS AGREEMENT, THE COST OF PURSUING ANY INSURANCE PROVIDERS, AND LIQUIDATED, CONSEQUENTIAL AND PUNITIVE DAMAGES), ENVIRONMENTAL SPILLS, ATTORNEYS' FEES AND DISPUTE RESOLUTION COSTS, WHETHER OR NOT SUCH LOSSES, LIABILITIES, CLAIMS OR DAMAGES ARE BASED, IN WHOLE OR IN PART UPON ANY OF THE HERC INDEMNIFIED PARTIES' ALLEGED NEGLIGENCE OR PARTICIPATION IN THE WRONG OR UPON ANY ALLEGED BREACH OF A STATUTORY OR REGULATORY DUTY OR OBLIGATION ON THEIR PART, ARISE OUT OF OR ALLEGED TO HAVE ARISING OUT OF ANY ACT OR OMISSION IN CONNECTION WITH THE CUSTOMER'S MAINTENANCE, USE, POSSESSION, OPERATION, ERECTION, DISMANTLING, SERVICING OR TRANSPORTATION OF THE EQUIPMENT OR MOTOR VEHICLE, OR CUSTOMER'S FAILURE TO COMPLY WITH THE TERMS OF THIS AGREEMENT BY REASON OF BODILY INJURY, INCLUDING DEATH, AND PROPERTY DAMAGE, SUSTAINED BY ANY PERSON OR PERSONS, INCLUDING BUT NOT LIMITED TO EMPLOYEES OF CUSTOMER, CUSTOMER WILL, AT ITS SOLE EXPENSE, COMPLY WITH ALL FEDERAL, STATE AND LOCAL LAWS AND REGULATIONS AFFECTING THE EQUIPMENT AND ITS USE, OPERATION, ERECTION, DESIGN AND TRANSPORTATION, INCLUDING WITHOUT LIMITATION, ALL FEDERAL, STATE AND LOCAL LICENSING AND BUILDING CODE REQUIREMENTS, AND WILL DEFEND, INDEMNIFY AND HOLD HERC INDEMNIFIED PARTIES HARMLESS FROM ALL LOSS, LIABILITY OR EXPENSE RESULTING FROM ACTUAL, OR ALLEGED VIOLATIONS OF ANY SUCH LAWS, REGULATIONS OR REQUIREMENTS. The foregoing indemnification provisions will not reduce or affect the other rights or obligations which would otherwise exist in favor of the Herc Indemnified Parties. Any insurance requirements set forth in this Agreement or any Agreement will not limit foregoing indemnification.
10. **NOTICE OF LOSS OR ACCIDENT.** In the event of an accident, loss of, theft of, or damage to, split or leak of hazardous materials from, the Equipment, Customer agrees to notify Herc as soon as possible by telephone and, thereafter, to immediately report in writing to Herc and to the public authorities (where required by law or by Herc) all necessary information relating to the loss or accident.
11. **CONDITION OF THE EQUIPMENT.** Customer acknowledges having examined the Equipment upon its delivery to Customer. The Equipment shall be deemed to be accepted by Customer upon delivery and subject to the terms and conditions of this Agreement. Customer shall notify Herc in writing within 24 hours of delivery of the Equipment of any problem with the Equipment. If the Equipment is found by Customer not to be in good mechanical condition, as a result of conditions not the responsibility of Customer, nor caused by the fault or negligence of Customer or Customer's employees or agents, Customer will so notify Herc, whereupon Herc will then, at its option and without any other liability or responsibility by Herc to Customer: (a) repair or suitably replace the Equipment within a reasonable time during Herc's normal working hours, with the commencement or running of the terms of this Agreement to be tolled for the period the Equipment is "down"; or (b) remove the Equipment and terminate this Agreement and refund payments of rental charges, if any, for the unexpired term of the Agreement, less whatever is due Herc for damage to or maintenance of Equipment which is the responsibility of Customer. Customer agrees to provide full access to the Equipment to Herc's representatives to enable Herc to meet its responsibilities hereunder.
12. **LATE PAYMENT FEE.** Should Customer fail to pay any invoice to Herc in accordance with the terms of such invoice, Customer will pay a late payment fee to Herc on such delinquent payment until fully paid, at an amount up to the maximum rate allowed by the laws of the jurisdiction in which the Herc location specified on the Front is located.
13. **FUELING SERVICE CHARGE.** Herc agrees to provide the Equipment to Customer with full fuel tanks. Customer agrees to return the Equipment with full fuel tank(s). If Customer returns the Equipment with the fuel tank(s) less than full, Customer will pay to Herc a sum equal to Herc's then applicable refueling service charge posted at Herc's location where the Equipment is returned for the number of gallons required to refill the tank(s) at the time of return.
14. **MERGER/MODIFICATION/SEVERABILITY.** This Agreement expresses the entire agreement between the parties with respect to the subject matter hereof. No modification or alteration of the terms hereof will be effective as against Herc unless same is in writing and signed by a duly authorized officer of Herc. Customer's use and/or delivery of the Equipment and/or Customer's signing of this Agreement shall be deemed execution of this Agreement and shall constitute Customer's acceptance of all of the Terms contained on the Front hereof and herein, and the exclusion of any terms and conditions otherwise stated by Customer or contained in any of Customer's documents. The paragraph headings contained in this Agreement are for convenience only and will not be used to expand or limit the actual terms and conditions hereof. Customer and the person signing this Agreement represent that: (a) they both have full authority to execute, deliver and perform this Agreement; and (b) this Agreement is a legal, valid and binding obligation of Customer, enforceable in accordance with its terms.
15. **GOVERNING LAW/JURISDICTION/JURY TRIAL WAIVER/LIMITATION OF LIABILITY.** This Agreement shall be governed by and construed in accordance with the laws of the state of Delaware without regard to its rules of conflict of laws. Customer irrevocably and unconditionally consents to submit to the jurisdiction of the state and federal courts within the State of Delaware (the "Delaware Courts") or Florida ("Florida Courts") for any litigation arising out of or relating to this Agreement and the transactions contemplated hereby, and waives any objection to the laying of venue and forum in the Delaware Courts and/or the Florida Courts. If any provision, or any part of any provision of this Agreement or the application thereof is hereafter held invalid or unenforceable, the remainder of this Agreement shall not be affected thereby and to this end the provisions of this Agreement are declared severable. Each party hereby waives and releases all right to trial by jury in any action, proceeding or counterclaim brought by either party hereto against the other (and/or against its officers, directors, employees, agents, or subsidiary or affiliated entities) on any matters whatsoever arising out of or in any way connected with this Agreement. THE MAXIMUM LIABILITY OF HERC, ITS OFFICERS, DIRECTORS, EMPLOYEES, AGENTS OR AFFILIATES UNDER THIS AGREEMENT (REGARDLESS OF WHETHER A CLAIM IS BASED UPON WARRANTY, CONTRACT, TORT, NEGLIGENCE OR OTHERWISE) SHALL NOT EXCEED THE AMOUNT PAID TO HERC BY CUSTOMER UNDER THIS AGREEMENT.
16. **ELECTRONIC SIGNATURES.** Customer agrees that this Agreement may be signed manually or by scanning and sending .pdf or other copies thereof via email or via any other electronic means and in one or more counterparts, each of which shall be (i) an original, and all of which taken together shall constitute one and the same agreement; (ii) a valid and binding agreement and fully admissible under state and federal rules of evidence; and (iii) enforceable under the applicable Uniform Commercial Code Section 2A-204, Section 3-309 and under any other similar statute applicable to this Agreement.
17. **FAMILIARIZATION.** All familiarization requests must be made in writing not less than five (5) calendar days before scheduled delivery date or at time of purchase. Request(s) must be submitted to the location in which the Equipment was rented and identify the name of the person(s) designated to receive the Equipment. If requested, the User as defined by ANSI A92/CSA B354 agrees to have the person designated present at the time of delivery to receive the equipment familiarization. Familiarization will be made in accordance to ANSI A92 & CSA B354. Familiarization is not considered training or certification and does not impact the obligations of Section 2.

**RESERVATION AND
RENTAL CONTRACT ** COPY ****



Show R.A. Number on all Correspondence

R.A. No. 55095408

Page 1 of 3

BRANCH: S41	BILL TO CUSTOMER: 3000310	SHIPPING ADDRESS
HERC FAIRFIELD EARTH 19-25 ROUTE 46 WEST FAIRFIELD, NJ 07004 973-439-5641	TOWNSHIP OF WEST ORANGE DPW25 25 LAKESIDE AVENUE WEST ORANGE, NJ 07052	DPW 25 LAKESIDE AVE WEST ORANGE, NJ 07052 973-325-4056

DESCRIPTION/CHARGES

EST START: 11/01/23 9:00	EST RETURN: 3/31/24 9:00	DROP DATE: _____
SHIPPED BY:	ORDERED BY: JOE PELOSE	DROP TIME: _____
ORDER DATE: 5/24/23	SALESPERSON: 804	SALES COORDINATOR:
RENTAL TAX CLAIM: MUNICIPAL/CITY	TAX DOCUMENT #: 22-6002396	
PO# / JOB#: GS-21F-0020T	/ 1 - DPW	

Qty	Equipment #	Hrs/	Min	Hour	Day	Week	4 Week	Amount
1	COMPACT LOADER 1.0-1.4 YD STD BKT DSL 2651110	8/	575.00	95.83	575.00	1350.00	3358.00	19490.00
1	WHEEL LOADER 3.0-3.4 YD STD BKT DSL 2651310	8/	874.00	145.67	874.00	2385.00	5610.00	32820.00
1	LOADER ATTACHMENT SNOW PUSHER 2907020	8/	120.00	20.00	120.00	356.00	761.00	4517.00
2	LOADER BUCKET COMBINATION 2907120	8/	92.00	15.33	92.00	239.00	531.00	6266.00

* * * Items are priced per piece * * *

DELIVERY CHARGE 630.00

PICKUP CHARGE 630.00

Sub-total: 64353.00

Taxable Sub-total: 0.00

Total: 64353.00

TRANSPORTATION-DRIVER WAIT TIME is charged if a driver spends more than 20 minutes waiting to

CONTINUED

CAREFULLY READ THE TERMS AND CONDITIONS THAT APPEAR BELOW AND ON REVERSE SIDE OF THIS PAGE ("TERMS")

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A detailed description of fees and surcharges that may be applicable to Customer's rental can be found on Herc's website at <https://www.hercrentals.com/services-associated-charges.html>. Customer agrees to pay, in addition to all rental charges, all fees and charges set forth above and, the following charges as applicable: (i) based on Customer's possession and/or use of the Equipment, all consumables, fees, licenses, present and future taxes and any other governmental charges; (ii) additional charges for more than one shift use; (iii) freight, delivery, pick up, transportation charges; (iv) transportation service surcharges; (v) repairs and replacement per this contract; (vi) cleaning charge for Equipment returned with excessive dirt, concrete and/or paint; (vii) fees for lost keys; (viii) refueling service charges; (ix) fines for use of dyed diesel fuel in on road Equipment; (x) preventative maintenance charges; (xi) emissions and environmental surcharges and fees; (xii) vehicle license fees. HERC COLLECTS THESE FEES AND CHARGES AS REVENUE AND USES THEM AT ITS DISCRETION.

THE EQUIPMENT IS RENTED BY HERC TO THE CUSTOMER PURSUANT TO THE TERMS. CUSTOMER REPRESENTS HAVING READ AND AGREED TO SAME.
PARAGRAPH 11 ON THE BACK OF THIS PAGE IS IN LIEU OF (I) ALL WARRANTIES, EXPRESS, IMPLIED OR STATUTORY, INCLUDING, BUT NOT LIMITED TO, THE IMPLIED WARRANTY OF MERCHANTABILITY AND THE IMPLIED WARRANTY OF FITNESS FOR A PARTICULAR PURPOSE; AND (II) ALL OBLIGATIONS ON THE PART OF HERC TO CUSTOMER FOR DAMAGES.
CUSTOMER WAIVES ALL INDIRECT, INCIDENTAL, CONSEQUENTIAL OR SPECIAL DAMAGES ARISING OUT OF OR IN CONNECTION WITH THIS AGREEMENT, INCLUDING WITHOUT LIMITATION, THE RENTAL, MAINTENANCE, USE, OPERATION, STORAGE, ERECTION, DISMANTLING OR TRANSPORTATION OF THE EQUIPMENT.

Customer is obligated to return the Equipment in a good, clean, and uncontaminated condition, free of any and all hazardous substances.

Customer Name

Title

Terms are due upon receipt Not valid without Barcode

Customer Signature

Date

For GREAT DEALS on USED EQUIPMENT - visit us on-line at [HercRentals.com](https://www.hercrentals.com)



RESERVATION AND
RENTAL CONTRACT ** COPY ****HercRentals**TM

R.A. No. 55095408

Page 2 of 3

BRANCH: S41	BILL TO CUSTOMER: 3000310	SHIPPING ADDRESS
HERC FAIRFIELD EARTH 19-25 ROUTE 46 WEST FAIRFIELD, NJ 07004 973-439-5641	TOWNSHIP OF WEST ORANGE DPW25 25 LAKESIDE AVENUE WEST ORANGE, NJ 07052	DPW 25 LAKESIDE AVE WEST ORANGE, NJ 07052 973-325-4056

DESCRIPTION/CHARGES

EST START: 11/01/23 9:00

EST RETURN: 3/31/24 9:00

DROP DATE: _____

SHIPPED BY:

ORDERED BY: JOE PELOSE

DROP TIME: _____

ORDER DATE: 5/24/23

SALESPERSON: 804

SALES COORDINATOR:

RENTAL TAX CLAIM: MUNICIPAL/CITY

TAX DOCUMENT #: 22-6002396

PO# / JOB#: GS-21F-0020T

/ 1 - DPW

Qty Equipment # Hrs/ Min Hour Day Week 4 Week Amount

unload/load Equipment after scheduled delivery/pickup time. Wait time is \$20 for each 20-minute period thereafter. Customer is responsible for daily maintenance, fuel, damages, and cleaning fees if Equipment is not cleaned before return. TO END RENTAL CHARGES, Customer must call the branch to get a release #.

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Customer Name _____

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Customer Signature _____

Date _____

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RESERVATION AND RENTAL CONTRACT - HERC RENTALS INC. AND AFFILIATES ("HERC")

This Agreement ("Agreement") is for the rental of the vehicles and equipment and related services described on the other side of this page ("Front"). Including all parts of and attachments and accessories to such equipment ("Equipment"). This Agreement is between the customer identified on the Front ("Customer") and Herc. Both parties acknowledge that this Agreement consists of the terms written or printed on this page and the Front.

- NATURE OF THIS AGREEMENT.** This Agreement is solely for the purpose of creating a rental transaction, which allows Customer to use the Equipment as permitted by this Agreement. CUSTOMER REPRESENTS THAT THE EQUIPMENT IS TO BE USED SOLELY AND EXCLUSIVELY FOR BUSINESS OR COMMERCIAL PURPOSES. The Equipment is owned by Herc. Customer acknowledges that no one other than Herc may transfer or assign the Equipment or any rights or obligations under this Agreement. Neither Customer nor any Authorized Operators (as defined below) are agents of Herc. No one may repair or alter the Equipment without Herc's prior written approval. Customer will not suffer any liens or encumbrances to attach to the Equipment and will defend, indemnify, and hold Herc harmless from all loss, liability, and expense by reason hereof.
- WHO MAY OPERATE THE EQUIPMENT.** Only Customer and the following persons with Customer's express permission, subject to the requirements of this Section, ("Authorized Operators") may operate the Equipment: Customer's employer, employees, and fellow employees operating the Equipment in the course and scope of such employee's regular employment, and persons approved by Herc in writing. Customer and all Authorized Operators must only use the Equipment in the course and scope of Customer's or Customer's employer's regular business operations, hold a valid driver's license to operate a motor vehicle, be of legal age to operate the Equipment, be properly qualified and trained to operate the Equipment, and have a valid operator's license with respect to the Equipment where required by law. Customer is solely responsible for determining that the Authorized Operators have met the requirements of this Section and are properly qualified and trained to use the Equipment prior to operating the Equipment. Customer is solely responsible for limiting the use of the Equipment to Authorized Operators meeting the requirements of this Section and for the acts and omissions of any person that operates, uses, stores or moves the Equipment regardless of whether that person is an Authorized Operator.
- RENTAL FEES AND OTHER CHARGES.** Customer will pay Herc on demand to the address and by the data specified in the applicable invoice, all charges, including without limitation, rental, time, mileage, service, transportation, refueling service, surcharges, sales and use taxes, and tax reimbursements imposed with respect to the Equipment and this Agreement, and all expenses, including reasonable attorney's fees and costs incurred in collecting same, all in accordance with this Agreement. A detailed description of all fees and surcharges that may be applicable to Customer's rental can be found on Herc's website at <https://www.herc.com/services-associated-charges.html>. Customer must notify Herc in writing of any disputed charge within 30 days of receipt of such invoice or Customer shall be deemed to have irrevocably waived such disputed charge. The basic daily, weekly and 4-week rental rates will entitle Customer to a maximum of one-shift use (i.e., a maximum of 8 hours per day; 40 hours per week; 160 hours per 4 weeks). Use in excess of one shift will be payable at the hourly rate of 1/8 of the daily charge (for a daily rental), 1/40 of the weekly charge (for a weekly rental) and 1/160 of the 4-week rental (for a 4-week rental), plus applicable taxes. All charges are subject to final audit by Herc. Herc will have a lien as allowed by law for charges incurred hereunder upon the premises and improvements upon which the Equipment is employed. Rentals are F.O.B. the Herc Branch unless otherwise specified. Shipping charges from such Branch to the Customer's destination and return and all loading, unloading, assembling and dismantling will be paid by Customer. All rates for rentals in excess of 4 weeks are subject to change on 30 days written notice to the Customer with respect to any portion of the rental period then remaining. Charges not paid on time, as required by this Agreement, may be subject to a late payment fee as provided in this Agreement. Customer may also be charged a reasonable fee for any check used for payment hereunder that is returned unpaid. Customer agrees in the event of a default, that any deposit made to Customer shall be used by Herc for unpaid rent and other charges, damages and costs incurred due to the default.
- CUSTOMER'S RESPONSIBILITIES.** Customer is responsible to Herc for all loss or damage to the Equipment, and for its return in the same condition it was received, except for ordinary wear, and free of any hazardous materials and/or contaminants. Such responsibility is limited to the full value of the Equipment at the time it is lost or damaged, less its salvage value, plus any administrative fees and Herc's related expenses, such as loss of use, appraisal fees or recovery costs ("Full Value"). The Equipment must be returned to Herc at the renting Herc Branch by the Estimated Return Date (EST RETURN) specified on the Front, or sooner if demanded by Herc. Customer must notify Herc if it desires to change the EST RETURN for all or some of the Equipment. Customer acknowledges that it must confirm return receipt of the Equipment by Herc at the expiration or earlier termination of the rental. Until such time as Herc receives actual possession of the Equipment, Customer agrees to hold said Equipment in safe and secure manner. The Equipment will be used only at Customer's place of business or the job site at which the Equipment is used and will not be moved without the prior written consent of Herc. The Equipment will be used only in accordance with the manufacturer's instructions within its rated capacity. Customer will perform or cause to be performed and pay for all normal periodic and other basic service, adjustments and lubrication of the Equipment, including but not limited to: checking of the Equipment before each shift, checking and maintaining crankcase, transmission, cooling and fluid systems daily; and checking the pressures and battery fluid and charge levels weekly. If the Equipment fails to operate properly or becomes in need of repair, Customer will immediately cease using same and will immediately notify Herc. Customer is solely responsible for providing a secure and safe work environment for all parties, including Herc and its employees, and for ensuring that the possession, storage, use and operation of the Equipment is carried out in compliance with applicable laws and industry standards, (including but not limited to those relating to worker safety and the environment). Customer is solely responsible for supervising the use and operation of the Equipment to ensure it is used in accordance with manufacturer instructions for proper operation and safety, for ensuring that the Equipment is proper for Customer's intended use and environment, and for ensuring users of the Equipment are qualified, trained, and familiar with the Equipment.
- RISK OF LOSS.** All loss of or damage to the Equipment from any cause whatsoever while on rental and whether or not due to the fault of Customer, including, but not limited to, fire, flood, theft, comprehensive losses, collision and rollover, and Acts of God, will be the sole responsibility of Customer and will be paid to Herc promptly upon Customer's receipt of an invoice therefor. Such responsibility is limited to the Full Value of the Equipment at the time it is lost or damaged. THE COST OF REPAIRS TO THE EQUIPMENT SHALL BE CHARGED TO THE CUSTOMER AT THE PREVALING HOURLY RATE FOR LABOR, POSTED AT THE HERC BRANCH WHERE THE EQUIPMENT IS TO BE REPAIRED, OR THE REPAIRER'S HOURLY RATE FOR LABOR CHARGED TO HERC FOR REPAIRS AS THE CASE MAY BE. PARTS WILL BE CHARGED AT HERC'S COST PLUS A RETAIL MARKUP. Use of the Equipment by persons other than the Customer or Authorized Operators will be at Customer's sole risk.
- EVENTS OF DEFAULT.** Customer shall be in default of this Agreement if Customer fails to pay any amount when due hereunder, or if Customer breaches any of the other terms of this Agreement, or if Customer becomes insolvent or ceases to be a going concern, if a petition in bankruptcy is filed by or against Customer, or if Customer is in default pursuant to the provisions of any other agreement by and between Customer and Herc. Customer will further be deemed to be in default if the Equipment is obtained from Herc through fraud or misrepresentation or is stored or used: (A) in violation of any law or ordinance including without limitation, any local, state or federal law or regulation involving "Hazardous Materials," including "DOT Hazardous Materials," as set forth in 49 C.F.R. 171-180; (B) in a reckless, negligent or abusive manner, or is damaged while being rented by Customer; (C) in violation of Paragraph 4 above, (D) in any fashion or manner for which the Equipment was not designed or beyond the manufacturer's rated capacity for the Equipment.
- REMEDIES OF HERC.** In case of default by Customer, or if Herc deems itself insecure, Herc may, but is not required to, peacefully enter the premises where the Equipment is located and render it inoperative or remove same with or without process of law and without notice to Customer. Customer hereby waives any right to any hearing or to receive any notice of legal process, as a pre-condition for Herc recovering the Equipment. Customer agrees to permit such entry and action by Herc. In such case Herc may also terminate this Agreement without notice to Customer or prejudice to any remedies or claims which Herc might otherwise have for any amount due hereunder, expense of retaking, court costs and reasonable attorney's fees. Customer will remain liable for the Equipment's injury to the Equipment, any property and/or persons, notwithstanding such termination. Herc shall have the right to issue and grate that notices, cause warrants to be issued and take any other steps which Herc may reasonably deem necessary to recover the Equipment, if the Equipment is not returned on the date specified on the Front or sooner as permitted by the terms of this Agreement. The remedies provided herein in favor of Herc are not exclusive but shall be cumulative and in addition to all other remedies existing at law or in equity, any one or more of which may be exercised simultaneously or successively.
- INSURANCE.** Liability Insurance for Injury/Damage to Third Parties - Customer agrees to maintain and carry, at its own expense and at all times during the term of this Agreement, the following insurance: (1) commercial automobile insurance, with at least a per occurrence limit of \$1 million, which includes coverage for owned and non-owned motor vehicles. Herc shall be named as an additional insured for all claims arising out of the maintenance, operation, or use of the vehicle. All insurance, whether issued on a primary or umbrella/excess basis, afforded to Herc hereby shall be primary to, and non-contributory with, any other insurance on which Herc is named insured, whether such other insurance is primary, excess, self-insurance, or insurance on any other basis, to the fullest extent permitted by law. Where, by operation of law, Herc is required to provide primary coverage, such primary and non-contributory protection shall not exceed the minimum limits required by the automobile financial responsibility laws of the applicable state. Such protection will conform to the basic requirements of the applicable No-Fault law, BUT DOES NOT INCLUDE UNINSURED MOTORIST, SUPPLEMENTARY NO FAULT, OR ANY OTHER OPTIONAL COVERAGE. TO THE EXTENT PERMITTED BY LAW, HERC AND CUSTOMER REJECT THE INCLUSION OF ANY SUCH COVERAGE. If such coverage is imposed by operation of law, then the limits of such coverage will be the minimum required by the law of the applicable state; (2) commercial general liability insurance (providing coverage equal to or greater than the standard ISO CG 00 01 12 04 form), including contractual liability coverage covering Customer's indemnity obligations of Section 9, with limits of insurance not less than \$1 million per occurrence and \$2 million in the aggregate. Customer shall name Herc as an additional insured for all claims and liability arising out of the maintenance, operation, or use by the Customer of equipment leased to Customer by Herc (providing coverage equal to or greater than the standard ISO CG 20 28 11 85). Such insurance shall be primary and non-contributory to any other insurance maintained by Herc. Customer further agrees that the amount of insurance available to Herc 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; and (3) property insurance for the full replacement cost of the Equipment, including coverage for all risks of loss or damage to the Equipment. The policy must expressly cover owned and non-owned equipment, including motor vehicles (if applicable), while in your care, custody and control. Customer shall carry workers compensation and employers' liability insurance with at least a per occurrence limit of \$1 million. Customer shall name Herc as an additional insured for all claims and liability arising out of the maintenance, operation or use of the equipment, and as an additional loss payee. 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 subrogation against Herc and its insurers, as well as a waiver of subrogation against Herc or its insurers. The policies required hereunder shall provide that Herc must receive not less than 30 days' notice prior to any cancellation. Customer shall provide Herc with documented proof of all required insurance coverage. Including copies of all applicable additional insured endorsements, FOR RENTAL OF EQUIPMENT NOT LICENSED FOR ROAD USE, CUSTOMER MUST EITHER (i) ELECT TO NAME HERC AS LOSS PAYEE EVIDENCING PROPERTY INSURANCE COVERAGE, OR (ii) ELECT TO PURCHASE THE RENTAL PROTECTION PLAN. Nothing contained in this insurance Section shall limit or modify the obligations set forth in Section 9.
- INDEMNIFICATION.** TO THE FULLEST EXTENT PERMITTED BY LAW, AND FOR AND IN ADDITIONAL CONSIDERATION OF PROVIDING THE EQUIPMENT HEREIN, CUSTOMER WILL DEFEND, INDEMNIFY AND HOLD HARMLESS HERC, ITS PARENT COMPANY, THEIR AFFILIATES, AND THEIR RESPECTIVE OFFICERS, AGENTS AND EMPLOYEES (COLLECTIVELY "HERC INDEMNIFIED PARTIES"), FROM AND AGAINST ANY AND ALL ACTUAL, ALLEGED, POTENTIAL OR PERCEIVED RISKS OF INJURY, DEMANDS, CLAIMS, SUITS, SETTLEMENTS, JUDGMENTS, DAMAGES (INCLUDING BUT NOT LIMITED TO COSTS, EXPENSES, DELAYS, DEDUCTIBLE AMOUNTS OF INSURANCE, THE COSTS OF ENFORCING ANY RIGHT TO INDEMNIFICATION UNDER THIS AGREEMENT, THE COST OF PURSUING ANY INSURANCE PROVIDERS, AND LIQUIDATED, CONSEQUENTIAL AND PUNITIVE DAMAGES), ENVIRONMENTAL SPILLS, ATTORNEYS' FEES AND DISPUTE RESOLUTION COSTS, WHETHER OR NOT SUCH LOSSES, LIABILITIES, CLAIMS OR DAMAGES ARE BASED, IN WHOLE OR IN PART UPON ANY OF THE HERC INDEMNIFIED PARTIES' ALLEGED NEGLIGENCE OR PARTICIPATION IN THE WRONG OR UPON ANY ALLEGED BREACH OF A STATUTORY OR REGULATORY DUTY OR OBLIGATION ON THEIR PART, ARISE OUT OF OR ALLEGED TO HAVE ARISING OUT OF ANY ACT OR OMISSION IN CONNECTION WITH THE CUSTOMER'S MAINTENANCE, USE, POSSESSION, OPERATION, ERECTION, DISMANTLING, SERVICING OR TRANSPORTATION OF THE EQUIPMENT OR MOTOR VEHICLE OR CUSTOMER'S FAILURE TO COMPLY WITH THE TERMS OF THIS AGREEMENT BY REASON OF ANY INJURY, INCLUDING DEATH, AND PROPERTY DAMAGE, SUSTAINED BY ANY PERSON OR PERSONS, INCLUDING BUT NOT LIMITED TO EMPLOYEES OF CUSTOMER, AGREEMENT BY REASON OF ANY INJURY, INCLUDING DEATH, AND PROPERTY DAMAGE, SUSTAINED BY ANY PERSON OR PERSONS, INCLUDING BUT NOT LIMITED TO EMPLOYEES OF CUSTOMER, TRANSPORTATION, INCLUDING WITHOUT LIMITATION, LICENSING AND BUILDING CODE REQUIREMENTS, AND LOCAL LAWS AND REGULATIONS AFFECTING THE EQUIPMENT AND ITS USE, OPERATION, ERECTION, DESIGN AND LIABILITY OR EXPENSE RESULTING FROM ACTUAL OR ALLEGED VIOLATIONS OF ANY SUCH LAWS, REGULATIONS OR REQUIREMENTS. The foregoing indemnification provisions will not reduce or affect the other rights or obligations which would otherwise exist in favor of the Herc Indemnified Parties. Any insurance requirements set forth in this Agreement or any Agreement will not limit foregoing indemnification.
- NOTICE OF LOSS OR ACCIDENT.** In the event of an accident, loss of, theft of, or damage to, spill or leak of hazardous materials from, the Equipment, Customer agrees to notify Herc as soon as possible by telephone and, thereafter, to immediately report in writing to Herc and to the public authorities (where required by law or by Herc) all necessary information relating to the loss or accident.
- CONDITION OF THE EQUIPMENT.** Customer acknowledges having examined the Equipment upon its delivery to Customer. The Equipment shall be deemed to be accepted by Customer upon delivery and subject to the terms and conditions of this Agreement. Customer shall notify Herc in writing within 24 hours of delivery of the Equipment of any problem with the Equipment. If the Equipment is found by Customer not to be in good mechanical condition, as a result of conditions not the responsibility of Customer, nor caused by the fault or negligence of Customer or Customer's employees or agents, Customer will so notify Herc, whereupon Herc will then, at its option and without any other liability or responsibility by Herc to Customer: (a) repair or suitably replace the Equipment within a reasonable time during Herc's normal working hours, with the commencement or running of the terms of this Agreement to be tolled for the period the Equipment is "down"; or (b) remove the Equipment and terminate this Agreement and refund payments of rental charges, if any, for the unexpired term of the Agreement, less whatever is due Herc for damage to or maintenance of Equipment which is the responsibility of Customer. Customer agrees to provide full access to the Equipment to Herc's representatives to enable Herc to meet its responsibilities hereunder.
- LATE PAYMENT FEE.** Should Customer fail to pay any invoice to Herc in accordance with the terms of such invoice, Customer will pay a late payment fee to Herc on such delinquent payment until fully paid, at an amount up to the maximum rate allowed by the laws of the jurisdiction in which the Herc location specified on the Front is located.
- FUELING SERVICE CHARGE.** Herc agrees to provide the Equipment to Customer with full fuel tanks. Customer agrees to return the Equipment with full fuel tank(s). If Customer returns the Equipment with the fuel tank(s) less than full, Customer will pay to Herc a sum equal to Herc's then applicable refueling service charge posted at Herc's location where the Equipment is returned for the number of gallons required to refill the tank(s) at the time of return.
- MERGER/MODIFICATION/SEVERABILITY.** This Agreement expresses the entire agreement between the parties with respect to the subject matter hereof. No modification or alteration of the terms hereof will be effective as against Herc unless same is in writing and signed by a duly authorized officer of Herc. Customer's use and/or delivery of the Equipment and/or Customer's signing of this Agreement shall be deemed execution of this Agreement and shall constitute Customer's acceptance of all of the terms contained on the Front hereof and herein, and the exclusion of any terms and conditions otherwise stated by Customer or contained in any of Customer's documents. The paragraph headings contained in this Agreement are for convenience only and shall not be used to expand or limit the actual terms and conditions hereof. Customer and the person signing this Agreement represent that: (a) they both have full authority to execute, deliver and perform this Agreement; and (b) this Agreement is a legal, valid and binding obligation of Customer, enforceable in accordance with its terms.
- GOVERNING LAW/JURISDICTION/JURY TRIAL WAIVER/LIMITATION OF LIABILITY.** This Agreement shall be governed by and construed in accordance with the laws of the state of Delaware without regard to its rules of conflict of laws. Customer irrevocably and unconditionally consents to submit to the jurisdiction of the state and federal courts within the State of Delaware (the "Delaware Courts") or Florida ("Florida Courts") for any litigation arising out of or relating to this Agreement and the transactions contemplated hereby, and waives any objection to the laying of venue and forum in the Delaware Courts and/or the Florida Courts. If any provision, or any part of any provision of this Agreement or the application thereof is thereafter held to be invalid, unenforceable, or unenforceable, the remainder of this Agreement shall not be affected thereby and to this end the provisions of this Agreement are declared severable. Each party hereby waives and releases all right to trial by jury in any action, proceeding or counterclaim brought by either party against the other (and/or against its officers, directors, employees, agents, or subsidiary or affiliated entities) on any matters whatsoever arising out of or in any way connected with this Agreement. THE MAXIMUM LIABILITY OF HERC, ITS OFFICERS, DIRECTORS, EMPLOYEES, AGENTS OR AFFILIATES UNDER THIS AGREEMENT (REGARDLESS OF WHETHER A CLAIM IS BASED UPON WARRANTY, CONTRACT, TORT, NEGLIGENCE OR OTHERWISE) SHALL NOT EXCEED THE AMOUNT PAID TO HERC BY CUSTOMER UNDER THIS AGREEMENT.
- ELECTRONIC SIGNATURES.** Customer agrees that this Agreement may be signed manually or by scanning and sending .pdf or other copies thereof via email or via any other electronic means and in one or more counterparts, each of which shall be (i) an original, and all of which taken together shall constitute one and the same agreement; (ii) a valid and binding agreement and fully admissible under state and federal rules of evidence; and (iii) enforceable under the applicable Uniform Commercial Code Section 2A-204, Section 3-309 and under any other similar statute applicable to this Agreement.
- FAMILIARIZATION.** All familiarization requests must be made in writing not less than five (5) calendar days before scheduled delivery date or at time of purchase. Request(s) must be submitted to the location in which the Equipment was initially rented and identify the name of the person(s) designated to receive the Equipment. If requested, the User as defined by ANSI A92/CSA B354 agrees to have the person designated present at the time of delivery to receive the equipment familiarization. Familiarization will be made in accordance to ANSI A92 & CSA B354. Familiarization is not considered training or certification and does not impact the obligations of Section 2.