

TERMS AND CONDITIONS OF RENTAL

In consideration of the hiring of the Equipment described, without operator, by the undersigned (hereinafter referred to as the "Lessee") from the company named on reverse side (hereinafter referred to as the "Lessor"), upon the terms and conditions, and for the price herein specified, it is agreed as follows:

1. **RENTAL TERM** begins on the date and time specified in this Agreement (the "Contract") as "TAKEN OUT" and expires on the date and time specified as "DUE IN" unless these terms are amended in writing as set forth on the reverse side of this Contract. This Contract is effective upon the earlier of Lessee's signature or acceptance of delivery of the Equipment, either of which constitute Lessee's acknowledgement that all terms and conditions of this Contract have been read and accepted, and that the person signing or accepting the terms of this Contract and delivery of the Equipment has full authority to do so. Rental charges commence upon delivery of Equipment to Lessee and end upon return of Equipment (as defined in this Contract) to Lessor's premises in the condition described more fully in Paragraph 2 of this Agreement. Lessor may terminate Rental at any time and take possession of the Equipment. Lessee agrees to pay, upon return of Equipment to Lessor's premises, all charges and costs for the use thereof. Lessee is responsible for all damages to or loss of the Equipment from the time Lessee takes possession of the Equipment until the Equipment is either returned to the Lessor by the Lessee or picked up by the Lessor. No pickups occur on weekends or statutory holidays. Lessee's right to use the Equipment terminates on the expiration on the "DUE IN" set forth above unless extended in writing by Lessor.
2. **CONDITIONS OF HIRING, INSPECTION PRIVILEGES AND WAIVER OF DEFECTS.** Lessee accepts and hires the Equipment on an "as is" basis. Lessee acknowledges receipt of all the equipment in good working condition and repair and declares that Lessee fully understands its proper operation and use. Lessee acknowledges and declares that Lessee has examined the Equipment and all hitches, bolts, safety chains, hauling tongues, together with all devices and materials used to connect the Equipment to the Lessee's towing motor vehicle, if any, and Lessee declares that he has received all of such Equipment in a secure and operative condition. Lessee agrees to return the Equipment to Lessor's premises upon the expiration and due date hereof in as good condition as when received by Lessee, ordinary wear and tear excepted. "Ordinary wear and tear" shall mean only the normal deterioration of the Equipment caused by ordinary and reasonable use on a one shift (eight hours per day, five days per week) basis. Lessee agrees to pay immediately all charges and cost incurred.
EQUIPMENT BECOMES UNSAFE OR IN DISREPAIR. Lessee will immediately discontinue use of the Equipment should it at any time, following the execution of this agreement or any subsequent agreement, become unsafe or in a state of disrepair. Furthermore, the Lessee will immediately notify Lessor that the Equipment is unsafe or in disrepair and until such time as Lessor has regained possession the Lessee agrees to take all steps reasonably necessary to prevent injuries to any person and all property from the Equipment or product.
3. **COMPLIANCE WITH LAWS.** Lessee acknowledges that Lessor has no control over the use of the Equipment by Lessee, and Lessee agrees, at his sole expense, to comply with all municipal, county, state and federal laws, ordinances and regulations, including the Occupational Safety and Health Administration Act of 1970 (OSHA) which may affect the Equipment while it is in the possession of and use by the Lessee. Lessee shall not permit any person who is not legally qualified to use the Equipment.
4. **PERMITTED AREA OF USE OF EQUIPMENT.** Without Lessor's prior written consent, Lessee shall not remove the Equipment from the state in which it is rented.
5. **LESSEE'S LIABILITY FOR MISUSE OF EQUIPMENT.** Lessee shall not abuse, harm, or misuse the Equipment. Lessee shall not permit any repairs to be made or lien to be placed upon the Equipment without Lessor's written consent. In the event of any accident or casualty resulting in bodily injury or property damages arising out of Lessee's use and hiring of said Equipment, Lessee agrees to accept all responsibility therefor and shall hold Lessor harmless from any claims or action arising therefrom. Lessee shall furnish Lessor with a complete report of any accident involving said Equipment, including names and addresses of all persons involved and all witnesses. Unless otherwise specified herein, in case of the loss or destruction of the Equipment, in whole or in part, or of loss of possession thereof, or inability to return the same to Lessor, on the expiration and due date, for any reason whatsoever, Lessee shall pay Lessor the actual replacement cost thereof, and in addition thereto Lessor's loss of use of said Equipment.
6. **DISCLAIMER OF WARRANTY AND LIMITATION OF DAMAGES.** Lessee has selected the Equipment to be leased hereunder and has not relied upon any statements or representations of Lessor. Lessor makes no representations, promises, statements or warranties, express or implied, with respect to the condition, quality, durability of the Equipment or that it is free from defects. Without limiting generality of the foregoing, there are no implied warranties of merchantability or of fitness for a particular purpose. Lessor shall not be liable for any incidental, special or consequential damages, including, but not limited to, any liability, claim, loss, damage or expense caused directly or indirectly by the Equipment, any of deficiency or defect therein, or by the use, maintenance, repair or service thereof, or by the inability to use the Equipment and any loss of business or profits related thereto. Lessee also acknowledges and agrees that no agent, employee or representative of Lessor has any authority to bind Lessor to any affirmation, representation, warranty, condition, covenant or obligation regarding this Contract or the Equipment beyond that stated in this Contract.
7. **USE OF DEPOSIT, AND LIABILITY FOR LATE PAYMENT, UPON BREACH BY LESSEE.** Lessor has the right to set off the deposit against any sum owed by Lessee under this Contract. Lessee acknowledges that the purpose and intent of the deposit paid by Lessee hereunder is to secure the payment of rental charges hereunder and to guarantee the full and complete performance of each of all of the terms, covenants and agreements to be performed by Lessee hereunder. Lessee agrees to pay a late payment penalty at the rate of two (2%) percent per month on all delinquent accounts.
8. **INDEMNIFICATION OF LESSOR BY LESSEE/WAIVER OF LIABILITY.** Lessee expressly indemnifies and holds Lessor harmless of, from and against all claims, loss, costs, damages, attorney's fees, and/or liability in connection with the hiring and use of the Equipment regardless of whether a lawsuit is filed. In the event a suit is instituted by Lessor to recover possession of said Equipment, or to enforce any of the terms, conditions or provisions hereof, Lessee agrees to pay all costs and reasonable attorney's fees of Lessor incurred in connection therewith. The Lessee accepts the equipment described herein from the Lessor with the understanding and Agreement that the Lessor assumes no liability, obligation or duty with regard to Lessee's operation, use and rental of Equipment described herein, and further Lessee hereby waives any claim, loss, liability, damage, cost, expense, action, or cause of action against Lessor arising from the Lessee's operation, use and rental of the equipment described herein.
9. **THEFT WARNING.** Failure to return Equipment on the expiration and due date in certain circumstances, will be considered a theft, resulting in a criminal prosecution.
10. **INSURANCE.** During the Rental Period, Customer shall maintain, at its own expense, the following minimum insurance coverage: (a) general liability insurance of not less than \$1,000,000 per occurrence, including coverage for Customer's contractual liabilities herein such as the release and indemnification clause; (b) property insurance against loss by all risks to the Equipment, in an amount at least equal to the MSLP thereof; (c) worker's compensation insurance as required by law; and (d) automobile liability insurance (including comprehensive and collision coverage, a non-owned vehicle endorsement and uninsured/underinsured motorist coverage), in the same amounts set forth in subsections (a) and (b), if the Equipment is to be used on any roadway. Such policies shall be primary, non-contributory, on an occurrence basis, contain a waiver of subrogation, name BND Rentals, Inc dba Vandalia Rental as an additional insured (including an additional insured endorsement) and loss payee, and provide for BND Rentals, Inc dba Vandalia Rental to receive at least 30 days prior written notice of any cancellation or material change. Any insurance that excludes boom damage or overturns is a breach. Customer shall provide BND Rentals, Inc dba Vandalia Rental with certificates of insurance evidencing the coverage's required above prior to any rental and any time upon BND Rentals, Inc dba Vandalia Rental request. To the extent BND Rentals, Inc dba Vandalia Rental carries any insurance; BND Rentals, Inc dba Vandalia Rental's insurance will be considered excess insurance. **THE INSURANCE REQUIRED HEREIN DOES NOT RELIEVE CUSTOMER OF ITS RESPONSIBILITIES, INDEMNIFICATION OR OTHER OBLIGATIONS PROVIDED HEREIN, OR FOR WHICH CUSTOMER MAY BE LIABLE BY LAW OR OTHERWISE.**
11. **TAXES.** Lessee agrees to pay any and all taxes, license fees, or permit fees arising out of the hiring and use of the Equipment. Lessee agrees to pay said taxes whether said taxes appear as part of the fact of this Contract or whether said taxes are later claimed by the governmental authority. In the event of a claim by any governmental authority for taxes arising out of this transaction, Lessee agrees to pay Lessor said taxes upon demand.
12. **TITLE.** Title to the Equipment is and shall remain in Lessor. If the Equipment is levied upon for any reason whatsoever, Lessor may retake the Equipment without notice or legal process, and may take all action reasonably necessary to do so.
13. **CONSTRUCTION.** The paragraph headings used herein are for convenience only and are not to be used in construing the meaning or intent of any of the terms or provisions of this Contract. This Contract shall be governed by, and construed in accordance with, the laws of the State of Ohio.
14. **DAMAGE WAIVER.** The Damage Waiver is NOT INSURANCE, and does not provide any benefits for personal or property injury or protection against liability to employees, agents of Lessee or third-parties. If Lessee initials the Damage Waiver Declined box on the front of this page, Lessee will be liable for the full cost of replacing and/or repairing any loss or damage to the Equipment, resulting from any cause whatsoever. If Lessee does not initial the Damage Waiver Declined box on the front of this page, and Lessee pays the Waiver Fee in full, Lessor will waive any claims which it may have against Lessee for loss or damage to the Equipment, up to a maximum of \$5,000, EXCEPT damage will NOT be waived under the following circumstances and conditions:
 - (a) Loss or damage to any item of Equipment in excess of \$5,000;
 - (b) All loss of accessory items, including but not limited to welding cables, power cords, wrenches, hoses, bits, etc.;
 - (c) All loss or damage caused by the mysterious disappearance or theft of the Equipment;
 - (d) All loss or damage resulting from overloading or exceeding the rated capacity of the Equipment;
 - (e) All loss or damage resulting from striking overhead objects with the Equipment;
 - (f) All loss or damage associated with rolling over, or upsetting the Equipment;
 - (g) All loss or damage to tires and tubes caused by other than normal wear and tear inherent in the use of the Equipment;
 - (h) All loss or damage resulting from the lack of, or neglect of lubrication or other proper servicing of the Equipment;
 - (i) All loss or damage resulting from any exposure of the Equipment to radioactive, contaminated or other hazardous materials;
 - (j) All loss or damage to the Equipment caused by the dishonesty of Lessee, his employees or persons to whom the Equipment is entrusted;
 - (k) All loss or damage caused by the Lessee or third party arising from accidental causes or for damages caused during the unauthorized use of the Equipment;
 - (l) All loss or damage resulting from the grossly negligent, reckless or intentionally destructive acts of Lessee, his employees, agents or other persons to whom the Equipment is entrusted;
 - (m) All loss or damage occurring during the operation of the Equipment in violation of any law or ordinance;
 - (n) For all claims resulting from a third-party's vandalism or malicious mischief. Lessee must provide Lessor with a police report, submitted within five (5) days of the occurrence;
 - (o) All loss or damage resulting from a use of the Equipment in violation of any terms of this Contract.

In the event of any loss or damage, Lessor will be subrogated to any right of the Lessee to recover against any person or legal entity. Lessee shall cooperate with Lessor by providing any documentation, information and testimony which Lessor may reasonably request. Lessee shall not take, nor permit or suffer, any action which may impair or prejudice Lessor's rights, whether acquired under this paragraph or otherwise.

TERMS AND CONDITIONS OF SALE

In consideration of the purchase of the Equipment described, by the undersigned (hereinafter referred to as the "Lessee") from the company named on the reverse side (hereinafter referred to as the "Lessor"), upon the terms and conditions, and for the price herein specified, it is agreed as follows:

USED PRODUCTS

The Lessee hereby acknowledges that the product(s) described on the reverse side hereof which is the subject of this sale is a "used product" and is being sold on an "as is" and "with all faults" basis. The Lessor as the seller, makes NO EXPRESS WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE and the LESSOR does NOT make any IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE or any other warranties unless the LESSOR has so provided in writing and the writing is signed by an AUTHORIZED REPRESENTATIVE of the LESSOR.

NEW PRODUCTS Lessee acknowledges that the ONLY warranties provided with this product(s) are those provided by the manufacturer and that the LESSOR makes NO WARRANTIES OF MERCHANTABILITY OR FITNESS.

TERMS AND CONDITIONS OF RENTAL

TRENCH & SHORING

Vandalia Rental has no responsibility hereunder regarding, the unloading or loading of the Equipment from or onto vehicles (i.e. Trucks) at the job site, or the assembly, installation, removal or dismantling of the Equipment. You acknowledge and agree that you will be solely responsible for the assembly, installation, maintenance, use, removal and dismantling of the Equipment in conformity with industry-standard safe practice and as detailed in the Tab Data (the engineering for the product). You also acknowledge and agree that you will assemble, install, maintain, use, remove and dismantle the Equipment in compliance with the requirements of all laws to include federal, state and local codes, ordinances and regulations. You acknowledge that Vandalia Rental has not and will not seek or obtain permitting that may be required under any federal, state and local codes, ordinances and regulations. To assure proper fit, safety and compliance with the foregoing requirements, you shall not intermingle, connect or use the Equipment with components not specifically supplied by Vandalia Rental under this Agreement (except Equipment required for Installation). The Equipment may not be moved from one job to another, nor may the Equipment be loaned or leased to any third party.

- I. If Vandalia Rental provides the services of an advisor at the job site, the advisors role is strictly to provide general familiarization of the Equipment via the Tab Data provided with the Equipment by Vandalia Rental; You (and/or the expertise provided by any third party) concerning the safe and proper assembly, installation, maintenance, use, removal and dismantling of the Equipment and, accordingly, you are solely responsible for the safe and proper assembly, installation, use, removal and dismantling of the Equipment notwithstanding any services provided by such advisor.
- II. You acknowledge that Vandalia Rental expressly disclaims any warranty, and shall not be liable for, and Customer assumes all risk of, inaccurate or unsuitable specifications, site conditions or information provided, selected or designated by you or any third party.
- III. Vandalia Rental is not responsible (for damages or otherwise) for your breach of or failure to adhere to any the foregoing to include the Tab Data as specified by the Manufacture.
- IV. You agree to indemnify and hold Vandalia Rental, its employees, officers, directors and agents, harmless from and against all damage which arises out of or in connection with any violation of the foregoing.
- V. Vandalia Rental warrants only that the Equipment and hereunder shall be substantially in accordance with the site conditions descriptions, specifications or set of specifications you (or any third party on your behalf) supplied to Vandalia Rental regarding the intended use of the Equipment. You acknowledge that Vandalia Rental expressly disclaims any warranty, and shall not be liable for, and Customer assumes all risk of, inaccurate or unsuitable specifications, site conditions or information provided, selected or designated by you or any third party. Vandalia Rental will furnish replacement parts or repair any parts that prove to be defective when used under normal conditions and service and in accordance with this Agreement. This shall constitute the sole and exclusive remedy for a breach by Vandalia Rental of any and all warranties, and you hereby expressly waive all other remedies.

General safety requirements:

- I. Trenches that are 5 feet or deeper require a protective system.
- II. Trenches that are 20 feet or deeper require a protective system designed by a registered professional engineer.
- III. Trenches that are 4 feet or deeper require a fixed means of egress, such as a ladder.
- IV. Ladders should extend at least 3 feet above the landing.
- V. Excavated materials should be placed at least 2 feet away from the edge of the trench.

General inspection procedures:

- I. A competent person should inspect trenches and protective equipment daily for hazards.
- II. Inspections may need to be more frequent if conditions change.

General equipment rental terms

- I. A Damage Waiver may be available for an additional charge.
- II. The Damage Waiver may limit the lessee's financial responsibility for damage to the rental equipment.
- III. The lessee may be able to opt out of the rental protection plan.
- IV. Review above for complete Rental Terms and Conditions.

Vandalia
RENTAL