

## TERMS OF SERVICE

This Terms of Service (the “Agreement”) is made by and between Tiber Industries, LLC (the “Company”) and the undersigned customer (the “Customer”) establishes the terms and conditions under which Company provides equipment rental services to Customer. This Agreement shall govern all rental transactions, orders, and services provided by Company to Customer and each of customer’s affiliated entities unless superseded by a separate written agreement signed by both parties.

1. Customer shall submit rental requests via the Company’s website or via the Company’s order system placed via email or telephone (each a “Purchase Order”) specifying the equipment type, rental duration, pick up or delivery, intended location, and any additional requested requirements. Each rental request is non-binding until accepted by Company. Any requests for modification to a Purchase Order accepted by the Company shall be considered a “change order” and shall be incorporated into the terms of the Purchase Order. All Purchase Orders are subject to this Terms of Service.

2. Rental Period. Each rental period commences when the Customer takes possession of the equipment pursuant to the terms set forth in the Purchase Order and continues until the equipment is returned. In the event equipment is not returned pursuant to the terms of the Purchase Order, the Company may charge the Customer a reasonable rate for pickup of the equipment.

3. Rental Rates. Customer shall pay rental rates and fees as specified in each Purchase Order,(the “Quote”). All rates are based on standard usage defined as One Shift: maximum 8 hours per day, 40 hours per week, and 160 hours per 4-week period. Usage exceeding One Shift shall be assessed additional overage charges at the applicable daily rate. Rental charges accrue continuously, including weekends and holidays, unless otherwise specified.

4. Payment Terms. All invoiced amounts are due within 30 days of invoice date. Customer shall pay amounts owed without offsets, deductions, or claims regardless of any disputes. Past due accounts incurring charges of 30 days or more shall accrue a monthly finance charge of 1.5% (18% annual percentage rate), or the maximum amount permitted by applicable law, whichever is less. If any account becomes past due and Company refers the account to an attorney for collection, or if suit is filed, Customer shall pay all costs and expenses incurred by Company in enforcement, including reasonable attorney fees and court costs.

5. Customer Qualifications and Representations. Customer represents and warrants that: (a) all persons operating equipment hold all necessary licenses, certifications, permits, and credentials required by applicable law to operate the equipment in Customer’s intended jurisdiction and application; (b) all employees and agents of Customer who will operate equipment are properly trained, qualified, and experienced in the operation of such equipment and have satisfied all legal requirements for operation, including obtaining any required licenses or certifications; (c) all equipment use shall be for lawful purposes only and shall comply strictly with all applicable federal, state, local, and municipal laws, regulations, ordinances, and directives. Customer shall not operate equipment without required permits or licenses; (d) Equipment shall be used and stored only at the job sites identified in the Purchase Order. Customer shall not operate equipment on public highways or thoroughfares without Company’s prior written approval. Customer must request and receive written approval from Company before relocating equipment to any different location; (e) Customer shall maintain equipment in good working order and in safe operating condition, ordinary wear and tear excepted. Customer shall perform all routine maintenance required or recommended by the equipment manufacturer, including but not limited to daily safety inspections, fluid level checks, greasing of all grease points, fuel management, and tire pressure maintenance in accordance with manufacturer specifications; (f) Customer shall not make any alterations, modifications, adjustments, or improvements to equipment without Company’s advance written consent. Customer shall not remove, obscure, or tamper with any manufacturer labels, warning placards, or

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identification marks; (g) If equipment becomes damaged, malfunctions, becomes unsafe, or is involved in an accident, Customer shall immediately cease use and notify Company without delay. Customer shall not attempt repairs or adjustments except as specifically authorized by Company; (h) Customer shall comply with all applicable laws regarding worker safety, environmental protection, and public safety in connection with equipment use. Customer shall protect the health and safety of all persons who may come into contact with equipment and shall maintain equipment clean and free from hazardous materials.

6. Third-Party Equipment. Customer acknowledges and agrees that certain equipment made available to Customer under this Agreement may be owned by third parties and provided to Customer by the Company solely in its capacity as a broker or agent. (the “Third-Party Equipment”). In the event such equipment is subject to additional terms, conditions, limitations, or requirements imposed by the applicable third-party owner or supplier, Customer will be provided with a copy of such terms and such terms shall be incorporated herein.

7. Risk of Loss. Customer assumes all risk for equipment damage and loss from the time equipment is delivered or made available to Customer until equipment is picked up by the Company or returned to Company or Company's designated facility in the condition required by this Agreement.

8. Damage Liability. Customer shall be solely responsible for and shall pay Company the full cost of repair, replacement, or remediation for any and all damage to equipment, including but not limited to: damage beyond ordinary wear and tear; damage resulting from lack of lubrication, improper or contaminated fuel, or failure to maintain required fluid, coolant, water, or pressure levels; damage from failure to perform manufacturer-recommended maintenance; damage from collision, overturning, improper operation, overloading, or exceeding rated capacity; physical damage including dents, bending, tearing, staining, corrosion, or misalignment; and wear resulting from use exceeding the contracted shift level; damage from freezing, vandalism, weather, or other causes not considered ordinary wear and tear in the equipment rental industry. Ordinary wear and tear shall mean only the normal deterioration of equipment from ordinary and reasonable use on a single-shift basis as contracted. If a Third Party Equipment Owner assesses damages against the Company, such damages shall automatically be deemed damages which the customer is responsible for.

9. Damaged Equipment. Should the Equipment be involved in an accident, become unsafe, malfunction or require repair, Customer shall immediately cease using the Equipment and immediately notify Company. If such condition is the result of normal operation, Company will repair or replace the Equipment with reasonably similar Equipment in working order, if such replacement Equipment is available. Company has no obligation to repair or replace Equipment rendered inoperable by misuse, abuse or neglect. Customer's sole remedy for any failure or defect in Equipment shall be the termination of any rental charges accruing after the time of failure.

10. Vehicle Return Condition. Upon rental termination, Customer shall return equipment in the same condition as when delivered, ordinary wear and tear excepted. Equipment must be; completely empty of all contents and materials; clean and free of excessive dirt, concrete, paint, or debris; in full compliance with hazardous waste regulations and classified as “empty” under applicable law; and fueled to capacity. If equipment is returned damaged or fails to meet these requirements, Company shall assess reasonable charges for cleaning, repairs, hazardous waste remediation, and restoration. Customer shall pay rent at the regular daily rate until all repairs are completed and equipment is restored to acceptable condition. If a Third Party Equipment Owner assesses any fees against the Company for poor return condition, the customer shall be responsible for such fees. If equipment cannot be returned or is damaged beyond repair, Customer shall pay Company the then-current full replacement list price for equipment of the same make, model, and year, together with continued rental charges until replacement equipment is secured.

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11. Warranties and Disclaimers. COMPANY MAKES NO WARRANTIES, EXPRESS OR IMPLIED, REGARDING EQUIPMENT CONDITION, MERCHANTABILITY, FITNESS FOR ANY PARTICULAR PURPOSE, OR SAFETY. Company does not warrant that equipment is suited for Customer's intended use, is free from defects, or will perform as Customer expects. Equipment is provided on an "as-is" basis at the time of delivery. It is the customer's responsibility to inspect all equipment for all purposes. COMPANY DISCLAIMS ALL WARRANTIES REGARDING EQUIPMENT, whether arising from statute, common law, or otherwise. Customer's sole remedy for equipment failure or defect shall be the suspension of rental charges accrued during the period that equipment was not usable due to such failure or defect, provided Customer has complied with all notification and maintenance obligations.

12. Indemnification by Customer. To the maximum extent permitted by law, Customer agrees to indemnify, defend with counsel acceptable to Company, and hold harmless Company and its affiliates, parent companies, subsidiaries, officers, employees, agents, and representatives from and against any and all liability, claims, damages, losses, costs, and expenses (including reasonable attorney fees, court costs, and other defense expenses) arising from or related to; any equipment operation, possession, use, or maintenance while in Customer's care, custody, or control; property damage or bodily injury, including death, caused by or arising from equipment or its operation; Customer's failure or alleged failure to comply with applicable federal, state, or local laws and regulations; third-party claims for personal injury, property damage, or economic loss connected to equipment operation; strict liability or product liability claims asserted against Company based on equipment condition or performance; and any action resulting in damages to the Company brought by a Third Party Equipment holder as a result of Customer's breach of this Agreement. Customer shall not be required to indemnify Company for losses caused solely by Company's gross negligence or intentional misconduct. This indemnification obligation shall survive termination of this Agreement indefinitely.

13. Insurance Requirements. Customer shall obtain and maintain, at Customer's sole cost and expense, the following insurance coverage throughout the rental term: General Liability Insurance: Minimum limits of \$1,000,000 per occurrence and \$2,000,000 general aggregate covering bodily injury, property damage, and personal injury; Equipment Property Damage Insurance: Minimum \$100,000 per occurrence to cover damage to rented equipment; Auto Liability Insurance (if applicable); Minimum \$1,000,000 combined single limit if Customer transports equipment on public roads. All policies shall: name Company as additional insured on all liability policies; name Company as loss payee on property damage policies; include 30-day written notice of cancellation, non-renewal, or material modification; include waiver of subrogation in favor of Company; and be issued by insurers acceptable to Company with A.M. Best rating of A- or better. Company may request certificates of insurance upon signing and at any time during the rental term.

14. Transportation and Delivery. All transportation costs, including delivery to Customer's location and return pickup, shall be the responsibility of Customer unless otherwise set forth in the Purchase Order. If Customer arranges its own transportation, Customer shall: inspect equipment and all securing devices before transport; use industry standard securing methods and equipment to prevent damage during transport; assume all liability for damage to Customer's vehicle and to rented equipment during transport; and comply with all applicable laws regarding equipment transport. Company shall not be responsible for any damage to Customer's vehicle, personal or real property, or to equipment during transportation arranged or performed by Customer

15. Equipment Inspection and Acceptance. Upon receipt of equipment, Customer shall inspect the equipment within 24 hours to verify condition and suitability for Customer's intended use. If Customer fails to notify Company in writing of any defects, damage, or rejection within 24 hours of delivery, Customer shall be deemed to have accepted the equipment as delivered. By accepting equipment, Customer acknowledges that; equipment is in good working order and repair; equipment is suitable for

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Customer's intended use and application; equipment is in satisfactory condition; equipment has been delivered with applicable safety documentation.

16. **Default and Remedies.** Customer shall be in default of this Agreement upon the occurrence of any of the following: (a) Customer fails to make any payment when due; (b) required insurance coverage lapses, expires, is canceled, or fails to meet the requirements of Section 13; (c) any representation or warranty made by Customer is false, misleading, or inaccurate in any material respect; (d) Customer commits a material breach of any other obligation under this Agreement; (e) Customer defaults under any other agreement with Company; (f) Customer becomes insolvent, enters liquidation or dissolution, consolidates or merges with another entity, transfers substantially all assets or stock, ceases or threatens to cease business operations, or makes an assignment for the benefit of creditors; (g) a petition is filed by or against Customer under any federal or state bankruptcy, insolvency, or reorganization statute. Upon Customer's default, Company may, in its sole discretion: terminate this Agreement and any Purchase Order immediately; declare all outstanding rental charges and fees immediately due and payable; pursue legal action to recover all amounts owed; retake possession of equipment as provided in Section 17; and pursue any other remedies available at law or in equity.

17. **Repossession and Equipment Recovery.** If Customer is in default or Company reasonably anticipates default, Company may, without demand, legal proceedings or without advance notice to Customer, to the fullest extent permitted by law, exercise self-help remedies to retake possession of the equipment. For purposes of repossession, Customer irrevocably authorizes Company and its agents to enter upon any premises where the equipment is located, with or without notice, and to remove the equipment using such means as Company deems reasonably necessary, provided that such repossession is conducted without breach of the peace. Customer assumes all risk of loss or damage to the Equipment until it is actually repossessed by Company and waives, releases, and agrees not to assert any claims against Company or its agents for damage to property, interruption of business, lost profits, or personal injury arising out of or relating to such repossession, except to the extent caused by Company's gross negligence or willful misconduct. Customer shall reimburse Company on demand for all costs and expenses incurred in connection with repossession, removal, transportation, storage, repair, and remarketing of the equipment, including reasonable attorneys' fees, court costs, locksmith fees, towing, storage, and repair costs, whether or not litigation is commenced.

Company shall have the right to immediately repossess the equipment, without any liability to Customer, in the event of (i) permanent closure of the store location from which customer rented the equipment (ii) declaration of any emergency, disaster or similar situation by any federal, state or local government; or (iii) as otherwise set forth in this Agreement. Company shall not be responsible for Customer's personal property left on or with equipment. Company shall not be responsible for any theft of personal property upon repossession of the equipment.

18. **Illegal Activity.** The use of false identification to obtain equipment or the failure to return the equipment by the end of the Rental Period may be considered a theft subject to criminal prosecution pursuant to applicable criminal or penal code provisions. The Company reserves the right to pursue such breaches to the fullest extent of the law.

19. **Specially Designated Nationals.** Customer confirms that they and/or the persons or companies who will have access to the equipment purchased and/or rented are not listed on the Specially Designated Nationals ("SDN") List maintained by the Office of Foreign Assets Control, nor any other denied persons list maintained by a U.S. government agency, and agrees to notify Company should they become listed in the future. Refer to [www.treas.gov/offices/enforcement/ofac/](http://www.treas.gov/offices/enforcement/ofac/) for information regarding the SDN list and to [www.bis.doc.gov](http://www.bis.doc.gov) for information on other denied parties lists and other U.S. export restrictions.

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20. Title and Ownership. This Agreement is not and does not constitute a sale or contract of sale of equipment. Customer acquires no title, ownership interest, or option to purchase equipment unless documented in a separate written purchase agreement executed by Company. Customer shall keep all equipment free and clear of all liens, security interests, and encumbrances during the rental term. Customer shall not incorporate, attach, or join equipment into real property in a manner that would cause equipment to lose its status as movable personal property or to become classified as a fixture. All title and ownership interest in equipment shall remain with Company at all times. Customer's rights are limited to the right to possess and use equipment according to the terms of this Agreement. Customer's rights are subordinate to the rights of any lender, secured party, or other party holding a security interest in the equipment.

21. Confidentiality. Each party acknowledges that it may receive or learn confidential business, financial, pricing, technical, and operational information from the other party. Each party shall maintain such information in confidence, using at least the same degree of care as it uses to protect its own confidential information of similar nature, but in no case less than reasonable care. Confidential Information shall be used solely to exercise rights and perform obligations under this Agreement and shall not be disclosed to any third party without written authorization. Upon termination of this Agreement, all Confidential Information shall be returned or destroyed, except for archival or legally required copies.

22. Equipment Modifications and Inspections. Customer shall not make, permit, or authorize any alterations, additions, accessions, modifications, or improvements to equipment without Company's advance written consent. Any modifications made to equipment shall immediately become the sole property of Company without additional compensation to Customer. Company reserves the right to charge Customer for removal and remediation of any unauthorized modifications. Company reserves the unrestricted right to enter Customer's premises at any reasonable time to inspect, test, repair, maintain, or otherwise service equipment as Company deems necessary to comply with applicable laws and regulations, ensure equipment safety, and protect Company's interests. Customer shall not impede or restrict Company's right of access.

23. Data Collection. Customer and Company each consent to the collection and monitoring of electronic information, including Global Positioning System ("GPS") data, generated by or in connection with Customer's use of or the location of the equipment (including through or utilizing telematics devices). Customer agrees that Company owns the data described in this paragraph and may use such data, including GPS data for tracking and repossession purposes. Customer shall obtain all required consents as may be required under any applicable laws from its employees, contractors or other qualified operators to permit Company's collection and use of data.

24. Limitation of Liability. Except as expressly provided in Section 12 (Indemnification), neither party shall be liable to the other for any loss of profits, loss of revenue, loss of use, loss of business opportunity, business interruption, loss of contracts, or for any incidental, consequential, exemplary, special, or punitive damages arising from or related to this Agreement, equipment rental, or equipment operation, regardless of whether such liability is based on breach of contract, tort (including negligence), warranty, statute, or any other legal theory. This limitation applies even if Company has been advised of the possibility of such damages.

25. Taxes and Fees. Customer shall be solely responsible for all taxes, licenses, and fees levied by any governmental authority in connection with equipment rental, Customer's use of equipment, or transactions under this Agreement. Customer shall promptly reimburse Company for any taxes, fees, or charges assessed against Company related to this Agreement or equipment rental. Customer shall not claim any capital cost allowance, investment tax credit, depreciation benefit, or similar tax advantage in connection with the equipment. Company reserves all such rights and benefits for itself.

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26. Governing Law and Jurisdiction. This Agreement, and all claims or causes of action (whether in contract, tort or statute) that may be based upon, arise out of or relate to this Agreement, or the negotiation, execution or performance of this Agreement (including any claim or cause of action based upon, arising out of or related to any representation or warranty made in or in connection with this Agreement or as an inducement to enter into this Agreement), shall be governed by, and enforced in accordance with, the internal laws of the State of Mississippi including its statutes of limitations, without regard to any borrowing statute that would result in the application of the statute of limitations of any other jurisdiction. Any controversy or claim arising out of or relating to this Agreement, or the breach thereof, shall be exclusively determined by arbitration administered by the American Arbitration Association in accordance with its International Arbitration Rules. The seat of arbitration shall be the City of Flowood within the State of Mississippi, and the language to be used in the arbitral proceedings shall be English.

Each Party agrees that a final award in any legal action, inclusive of any arbitration, may be enforced in other jurisdictions in any other manner provided by law.

WAIVER OF JURY TRIAL. EACH PARTY IRREVOCABLY WAIVES ANY AND ALL RIGHTS IT MAY OTHERWISE HAVE TO ANY JURY TRIAL, IT BEING THE INTENTION OF THE PARTIES THAT NO DISPUTES ARISING UNDER OR RELATING TO THIS AGREEMENT SHALL BE SUBJECT TO ANY JURY TRIAL.

27. Term and Termination. This is a continuing agreement that shall commence on the Effective Date and continue indefinitely unless terminated by either party. Either party may terminate this Agreement by providing 60 days' written notice to the other party. Termination shall not affect Purchase Orders, rental agreements or transactions already in effect; Customer's obligations regarding those rentals shall continue until all equipment is returned in the condition required by this Agreement. The terms of this Agreement shall continue to apply to prior rentals and facts and circumstances arising out of such prior rentals even after termination of the Agreement.

28. Entire Agreement and Modifications. This Agreement, together with any Purchase Orders, Rate Sheets, and written amendments, constitutes the entire agreement between the parties regarding equipment rental services. This Agreement supersedes all prior negotiations, discussions, agreements, and understandings, whether written or oral. This Agreement may be amended or modified only by written instrument signed by authorized representatives of both Company and Customer. Customer's submission of a purchase order or other document with terms differing from this Agreement does not modify this Agreement; Company hereby objects to and rejects any such conflicting terms. If any provision of this Agreement is found to be invalid, illegal, or unenforceable by a court of competent jurisdiction, that provision shall be severed. All other provisions shall remain in full force and effect. If the non-compete, non-solicitation, or other restrictive provision is found overly broad, the parties request that the court reform the provision to the maximum extent permitted by law.

29. Miscellaneous Provisions. Company's failure to enforce any provision of this Agreement in any given instance shall not constitute a waiver of the right to enforce that provision or any other provision in subsequent instances. Customer acknowledges having carefully reviewed this Agreement and waives any principle of law that would require interpretation against Company as the drafter. Customer shall pay all reasonable costs and expenses incurred by Company in collecting past due amounts or enforcing this Agreement, including court costs, attorney fees, collection agency fees, and investigation costs. Customer shall pay all amounts due under this Agreement without offset, deduction, withholding, or counterclaim of any kind, regardless of any dispute with Company. Service of process may be made by certified mail, return receipt requested, or by any other method permitted by law. Company shall be entitled to obtain decretal relief, including specific performance and injunctive relief, without posting bond or other security, in addition to all other remedies available at law or in equity. Customer shall not commence any legal

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action or claim arising from this Agreement or equipment rental more than one (1) year after the basis for such action accrues. Either party may execute this Agreement using electronic signatures, whether digital or encrypted. Such electronic signatures shall be valid and enforceable and shall have the same force and effect as manual signatures under the Federal Electronic Signatures in Global and National Commerce Act and applicable state law. This Agreement may be executed in any number of counterparts, each of which shall be deemed an original, and all of which together shall constitute one and the same agreement. Customer may not assign this Agreement or any rights or obligations hereunder without Company's prior written consent. Any attempted assignment is void. Company reserves the right to assign this Agreement or its obligations at its discretion.

30. Notice. Any notices, demands, or requests required or permitted under this Agreement must be in writing and shall be deemed effective when: Delivered personally; Sent by overnight courier service; Sent by email (with confirmation receipt); Mailed by certified mail with return receipt requested, 48 hours after deposit in the U.S. mail.

Notices to Customer shall be sent to the address provided on the signature page or as subsequently modified by written notice. Notices to Company shall be sent to:

Tiber Industries LLC  
1209 Mountain Road Place NE, Suite N  
Albuquerque, NM 87110  
Attn: Legal Department