



**LIVE OAK**  
**EQUIPMENT**

## **Rental Agreement, Waiver, Release of Liability and Assumption of Risk Agreement**

This **Rental Agreement, Waiver, Release of Liability and Assumption of Risk Agreement** (hereinafter the **"Rental Agreement"**) is applicable to all renters, operators, passengers, and any other users of equipment, trailers, and accessories (hereinafter collectively the **"Equipment"**) provided by or rented from **Live Oak Equipment, LLC**, a Georgia limited liability company (hereinafter **"Live Oak"**). For purposes of this Rental Agreement, the term **"Live Oak"** shall include all members, managers, officers, employees, agents, representatives, assigns, successors, insurers and subsidiaries of **Live Oak**. I agree that I will disclose to **Live Oak** all potential renters, operators, passengers and users of the Equipment. I further agree that in the event that I fail to notify **Live Oak** of all potential renters, operators, passengers or users of such Equipment, I will be personally liable for any injuries or damages to the undisclosed individuals, **even if such damages arise out of the gross negligence of Live Oak**.

### **I. RENTAL**

I authorize Live Oak to charge the credit card below for the Rental Cost upon delivery of the Equipment to me.

### **II. EXPRESS ASSUMPTION OF RISK—CAUTION!! READ BEFORE SIGNING**

I ACKNOWLEDGE THAT THE RENTAL, OPERATION OR USE OF THE EQUIPMENT HAS INHERENT RISKS THAT MAY LEAD TO BODILY INJURY, DEATH, OR PROPERTY LOSS OR DAMAGE. I KNOWINGLY AND VOLUNTARILY ASSUME ALL RISK OF INJURY, ILLNESS, DAMAGE OR LOSS, BOTH KNOWN AND UNKNOWN, ASSOCIATED WITH THE RENTAL, OPERATION OR USE OF THE EQUIPMENT, EVEN IF ARISING FROM THE NEGLIGENCE OR OMISSION OF **LIVE OAK**, AND ASSUME FULL RESPONSIBILITY FOR THE RENTAL, OPERATION AND USE OF THE EQUIPMENT.

### **III. RELEASE / COVENANT NOT TO SUE—CAUTION!! READ BEFORE SIGNING**

I, FOR MYSELF AND FOR MY HEIRS, EXECUTORS, ADMINISTRATORS, LEGAL REPRESENTATIVES, ASSIGNEES, AND SUCCESSORS IN INTEREST, HEREBY WAIVE, RELEASE, DISCHARGE, HOLD HARMLESS, AND PROMISE TO INDEMNIFY AND NOT TO SUE **LIVE OAK** FROM ALL LIABILITY, CLAIMS, DEMANDS, LAWSUITS, ARBITRATIONS, OR CAUSES OF ACTION, AND OTHER LIABILITIES FOR ANY INJURY, ILLNESS, DISABILITY, DEATH, OR

LOSS OR DAMAGE TO ANY PERSON OR PROPERTY THAT MAY RESULT FROM OR ARISE IN CONNECTION WITH THE USE OF THE EQUIPMENT, WHETHER CAUSED BY THE NEGLIGENCE OF LIVE OAK OR OTHERWISE. THIS INCLUDES ANY INJURY, ILLNESS, DISABILITY, DEATH, OR LOSS OR DAMAGE TO PERSON OR PROPERTY SUSTAINED AS A RESULT OF A HIDDEN, LATENT OR OBVIOUS DEFECT ON THE EQUIPMENT OR ANY FAILURE ON THE PART OF LIVE OAK TO PROPERLY INSTRUCT, SUPERVISE OR TRAIN ME ON THE OPERATION OF THE EQUIPMENT. AS PART OF THE CONSIDERATION FOR USING THE EQUIPMENT, I PROMISE NOT TO FILE A LAWSUIT OR OTHER PROCEEDING OR MAKE A CLAIM AGAINST LIVE OAK FOR ANY DEATH, ILLNESS, INJURIES, OR DAMAGE OR LOSS TO PERSONS OR PROPERTY SUFFERED AS A RESULT OF THE RENTAL, OPERATION AND USAGE OF THE EQUIPMENT. IT IS THE INTENT OF THIS RENTAL AGREEMENT TO FULLY AND COMPLETELY RELEASE LIVE OAK FROM ANY AND ALL LAWSUITS, PROCEEDINGS OR CLAIMS OF ANY TYPE WHATSOEVER.

**IV. INDEMNITY / LIABILITY TO THIRD PARTIES—CAUTION!! READ BEFORE SIGNING**

I AGREE THAT I WILL INDEMNIFY AND HOLD HARMLESS LIVE OAK FOR ALL PERSONAL INJURIES, DEATHS, PROPERTY LOSS OR DAMAGE, OR ANY OTHER DAMAGES TO ANY AND ALL THIRD PARTIES AS A RESULT OF ANY AND ALL ACTIVITIES RELATED TO MY RENTAL, OPERATION, OR USE OF EQUIPMENT PROVIDED BY LIVE OAK, EVEN IF SUCH DAMAGES ARISE OUT OF THE NEGLIGENCE OR FAULT OF LIVE OAK.

V. **DISCLAIMER OF WARRANTIES AND LIMITATION OF LESSOR'S LIABILITY.** I acknowledge: (i) Live Oak is not the manufacturer of the Equipment or the manufacturer's agent, (ii) the Equipment is of a size, design, capacity, description and manufacture selected entirely by me, (iii) I have had the opportunity to and has made such inspection of the Equipment as I deem necessary to determine the advisability of leasing the Equipment and I am satisfied that the Equipment is suitable and fit for my purposes, (iv) LIVE OAK HAS NOT MADE AND DOES NOT MAKE, nor shall Live Oak be deemed to have made or make, AND LIVE OAK EXPRESSLY DISCLAIMS, ANY WARRANTY OR REPRESENTATION WHATSOEVER, EITHER EXPRESS OR IMPLIED, oral or written, with respect to the Equipment leased hereunder or any component thereof, including, without limitation, any warranty as to DESIGN, COMPLIANCE WITH SPECIFICATIONS OR APPLICABLE LAWS, QUALITY OF MATERIALS OR WORKMANSHIP, SUITABILITY, MERCHANTABILITY, FITNESS FOR ANY PURPOSE, USE, SAFETY, PATENT, TRADEMARK OR COPYRIGHT INFRINGEMENT, and (vi) I RENT AND ACCEPT THE EQUIPMENT "AS IS," "WHERE IS" AND "WITH ALL FAULTS," IT BEING AGREED THAT ALL SUCH RISKS, AS BETWEEN LIVE OAK AND ME, ARE TO BE BORNE BY ME.

**VI. STANDARDS FOR WEAR AND USE; PHYSICAL DAMAGE.**

Rental rates do not include fuel charges. A full tank of fuel is provided upon departure by Live Oak. I understand I am responsible for returning all Equipment with a full tank of fuel at the conclusion of the rental period. In the event Equipment is not returned with a full tank of fuel, Live Oak is hereby authorized to charge my credit card for the cost of fuel to fill the fuel tank at \$5.99 per gallon.

I agree to return the Equipment in a clean condition. I understand that if I do not return the Equipment in a clean condition, I will be charged a cleaning charge of no less than \$100.00, and I authorize Live Oak to charge the credit card on file for the cleaning charge in the event the Equipment is not returned in a clean condition.

During my possession of the Equipment, I shall be responsible for maintaining the Equipment in the same condition as when I first took possession of the Equipment, normal wear and tear excepted. Excess wear and tear includes but is not limited to:

- (a) Inoperative electrical or mechanical parts;
- (b) Dented scratched, chipped, rusted, pitted, broken, or mismatched body parts, paint vehicle identification items, trim or grill work;
- (c) non-functioning, scratched, cracked, pitted or broken glass or lights;
- (d) missing equipment, parts, accessories or adornments;
- (e) torn, damaged, smoked in, or stained interior;
- (f) repair of any damage that makes the Equipment unlawful or unsafe to use;
- (g) damage due to installation or removal of non-manufacturer, after-market or replacement parts.

For trailer rentals, I understand that I am obligated to repair or replace flat tires or other damage to the tires.

**I understand that I shall be solely and fully liable for repair of any damage to the Equipment during the rental period with the exception of ordinary wear and tear. By my signature below, I hereby authorize Live Oak to charge my credit card listed below for all costs to repair damage to the Equipment or for any repairs/replacement required for excess wear and tear. Prior to departing with the Equipment, I have inspected the Equipment and notified Live Oak of any existing damage. I will indemnify and hold Live Oak harmless from all expenses incurred by Live Oak in connection with damage to the Equipment during the rental period. I further agree to pay any attorney's fees incurred by Live Oak in the event Live Oak should need to use the services of an attorney to pursue collection from me for damage caused to the Equipment.**

VII. **LATE FEE**. I agree to return the Equipment to the location from which the Equipment was rented at the conclusion of the rental period. Late returns of Equipment will be charged **\$50** for every 1 hour past agreed rental return time (the "Late Fee"). I understand and agree that if I do not timely return the Equipment, my credit card will be charged the Late Fee, which shall not exceed the cost of replacing the Equipment.

#### **VIII. GENERAL TERMS AND CONDITIONS**

I AGREE THAT THE REPRESENTATIONS, WARRANTIES, AND AGREEMENTS CONTAINED HEREIN ARE CONTRACTUALLY BINDING AND ARE NOT MERE RECITALS. SHOULD I ASSERT ANY CLAIM IN CONTRAVENTION OF THIS AGREEMENT, I SHALL BE LIABLE FOR ALL

OF THE EXPENSES INCURRED BY LIVE OAK, ITS AFFILIATES, SUCCCESSORS, AND ASSIGNS IN DEFENDING ANY SUCH CLAIM.

I certify that I am capable in all aspects of the handling and operation of the Equipment and following all safety instructions provided by Live Oak. I agree not to use, nor permit the use of the Equipment (a) for any unlawful purpose; (b) in a careless, reckless, or negligent manner; (c) while under the influence of alcohol and/or drugs; (d) in violation of any instructions I received from Live Oak; or (e) in violation of this Rental Agreement.

I agree to utilize the Equipment in a manner that neither endangers myself nor others. I will use the Equipment only for the normal and customary use for which such Equipment is intended and only so as to subject it to ordinary wear and tear. I assume responsibility and liability for my actions during the use of the Equipment.

I shall comply with all laws and regulations in connection with my use of the Equipment.

I expressly agree that Live Oak shall not be liable for any loss or damage to any personal property left, stored or transported by me in or upon the Equipment.

This Agreement may not be modified orally, and a waiver of any provisions shall not be construed as a modification of any other provision herein or as a consent to any subsequent modification.

This Rental Agreement sets forth the entire agreement and understanding between the parties, and all previous discussions, understandings, representations, negotiations, and agreements with respect to the matters included in this Rental Agreement are merged herein. Additionally, the consideration recited herein is the full, complete and entire consideration for this Rental Agreement, and there is no further consideration to be paid by any party to any other party except as recited herein.

If any provision or part of this Rental Agreement shall be determined to be void or unenforceable by a court of competent jurisdiction, the remainder of the Rental Agreement shall remain valid and enforceable by any party to this Rental Agreement.

This Rental Agreement shall be governed by and construed in accordance with the laws of the State of Georgia without regard to conflicts or choice of laws rules, principles or provisions. I expressly agree that any action at law or in equity arising out of or relating to this Agreement shall be filed only in the Superior Court of Cobb County, Georgia, or the United States District Court for the Northern District of Georgia. I hereby consent and submit to the personal jurisdiction and venue of such courts for the purposes of litigating any such action. In the event Live Oak prevails in any litigation or claim relating to the enforcement of the provisions contained herein, I agree to pay and indemnify Live Oak for its litigation expenses, including without limitation, reasonable attorneys fees and court costs.

**I EXPRESSLY WARRANT AND REPRESENT THAT BEFORE EXECUTING THIS RENTAL AGREEMENT I HAVE FULLY INFORMED MYSELF OF THE TERMS, CONDITIONS AND EFFECT OF THIS RENTAL AGREEMENT, AND THAT I HAVE RELIED SOLELY ON MY OWN JUDGMENT IN EXECUTING THIS RENTAL AGREEMENT. I HAVE READ THE TERMS OF THIS RENTAL**

AGREEMENT, INCLUDING, BUT NOT LIMITED TO, THE PROVISIONS REGARDING ASSUMPTION OF RISK, RELEASE AND COVENANT NOT TO SUE, AND INDEMNITY, AND I UNDERSTAND THAT I AM WAIVING SUBSTANTIAL RIGHTS IN CONSIDERATION FOR MY USE OF LIVE OAK'S EQUIPMENT. I ENTER INTO THIS RENTAL AGREEMENT FREELY AND VOLUNTARILY WITHOUT ANY INDUCEMENT.

**CAUTION!!! READ THE ENTIRE RENTAL AGREEMENT BEFORE SIGNING. THIS RENTAL AGREEMENT AFFECTS YOUR LEGAL RIGHTS AND RELEASES ALL OF YOUR CLAIMS AGAINST LIVE OAK**

**Agreement indicates that you have read this entire Rental Agreement and agree to its terms and conditions.**