



LIMITED DAMAGE WAIVER ADDENDUM

THE FOLLOWING TERMS AND CONDITIONS APPLY TO ALL DAMAGE WAIVERS PROVIDED TO CUSTOMERS ("LESSEES") OF HIGHTOWER EQUIPMENT CO. LLC, A TEXAS LIMITED LIABILITY COMPANY (ALSO REFERRED TO HEREIN AS "HEC," "LESSOR," "WE," "US" AND "OUR")

You, the "Customer" or "Lessee," are responsible for protecting all items rented to you (hereinafter, "Rented Item(s)") by HEC under the terms of your Rental Contract from any and all loss, theft and damage. Except as provided below, if any Rented Item(s) is/are lost, stolen, or damaged during your rental, you will be responsible to HEC for all costs associated with repairing, restoring and/or replacing such Rented Item(s). You may also be responsible to HEC for additional charges during the period required to repair, restore or replace any Rented Item(s) which is/are lost or damaged, and/or the loss in value of such Rented Item(s). If: (a) we make our Optional Limited Damage Waiver ("LDW") available; and (b) you (i) accept it (as provided below); and (ii) fully and timely pay to HEC the non-refundable LDW Fee reflected in your Rental Contract prior to commencement of your rental, then to the extent set forth below, HEC agrees to waive certain claims against you arising from physical damage to any Rented Item(s) covered by LDW (hereinafter, "Covered Item(s)"), subject to the remaining terms hereof. **You will otherwise remain liable for 100% of all loss, theft, and damage to the Rented Item(s) as well as all other amounts due and coming due under the Rental Contract.**

LDW IS OPTIONAL AND MAY BE DECLINED IF AND ONLY IF YOU PROVIDE TO HEC PROOF OF THE PROPERTY DAMAGE / INLAND MARINE INSURANCE REFERENCED IN SECTION 9 OF YOUR RENTAL CONTRACT PRIOR TO COMMENCEMENT OF YOUR RENTAL.

LDW IS NOT INSURANCE, NOR IS IT A WARRANTY. LDW is a **partial** waiver of our claims for physical damage to or destruction of only Covered Item(s). *It does not cover other types of costs, such as cleaning, maintenance, excessive wear and tear and/or damage to other (non-covered) item(s).* If LDW has been offered by HEC and you have paid the Non-Refundable LDW Fee set forth on Page 1 of your Rental Contract for each rental period, then subject to the remaining terms hereof, including without limitation the "Exceptions and Exclusions" set forth below, HEC will waive its right to recover from you 80% of its cost(s) (hereinafter, "Repair/Replacement Costs") to repair or, at HEC's option, replace Covered Item(s) which suffer physical damage of up to \$5,000 during the rental term set forth in your Rental Contract (the "Term"); provided however, that: (a) you will remain liable to HEC for: (i) a "deductible" equal to 20% of such Repair/Replacement Costs; and (ii) all Repair/Replacement costs which exceed \$5,000 in the aggregate across all Covered Item(s); (b) you must notify HEC in writing of any accident, loss or damage of or to Covered Item(s) within 24 hours thereafter; (c) you must provide HEC with documentary evidence of the nature and cause(s) thereof; (d) you must immediately return the subject Covered Item(s) to HEC, unless we elect to forego such return (in our sole discretion); and (e) you must continue to comply fully with the terms of your Rental Contract, by among other things, fully and timely paying all amounts due and coming due to HEC thereunder.

Exceptions and Exclusions: The foregoing notwithstanding, **the following are NOT COVERED by LDW, and you, the "Customer" or "Lessee," will remain 100% liable for:**

- (a) **Item(s) Not Covered:** (I) GPS and telematics systems, data, batteries, glass, tires, tubes, tracks, belts, fittings, chains, knobs, cords, cables, tanks, hoses and other accessories in or on any Rented Item(s); (II) any Rented Item(s) with respect to which you do not pay the non-refundable LDW Fee prior to commencement of your rental as provided on Page 1 of your Rental Contract for each rental period (unless otherwise agreed in writing by HEC); and (III) any and all loss, damage and/or destruction exceeding \$10,000 in the aggregate across all Covered Items;
- (b) **Deductible:** The "deductible" described above (Note: If you fail to promptly pay the deductible, LDW will be void, and you will be responsible for 100% of any damage to Item(s) that would otherwise have been covered by LDW);
- (c) **Violations / Breaches:** Loss of or damage to Covered Item(s) due to violation by you, your agents, employees or contractors, of any of the terms of your Rental Contract, any applicable laws, rules, regulations, policy(ies) of insurance, and/or any "Instructions" as defined in your Rental Contract (including without limitation, any instructions and/or warnings provided by manufacturer(s), as well as EPA Tier 4, and silica dust compliance), specifications and/or warnings provided by HEC, the owner(s) and/or the manufacturer(s) of such Rented Item(s);
- (d) **Misuse, Abuse, Neglect:** Loss of or damage to Covered Item(s) due to intentional abuse, improper use, negligence, willful misconduct, vandalism, neglect, submerging, overloading, overturning, striking overhead objects, and/or exceeding the rated capacity(ies) of such Item(s);
- (e) **Failure to Return / Criminal Activities:** (I) Any failure to return Covered Item(s) to HEC, including without limitation, loss, theft and disappearance, in whole or in part (including any theft(s) of engines, components, parts and/or attachments), unless we elect to forego such return as provided above; and (II) criminal, fraudulent, dishonest and/or illegal act(s) or omission(s);
- (f) **Maintenance Failures:** Damage to Covered Item(s) resulting from any failure to properly service and/or maintain such Covered Item(s) (including without limitation, failure to maintain proper pressure levels or proper levels of air, water, or manufacturer-approved oil, fuel, lubricants, hydraulic fluid, diesel exhaust fluid, brake fluid and/or coolant);
- (g) **Protection / Security:** Loss of or damage to any Covered Item due to failure to secure and/or protect it (e.g., by leaving it in an unprotected area, leaving it unlocked or with the keys in the ignition, etc.);
- (h) **Governmental Authority / War / Terrorism:** Damage to or loss of or to any Covered Item resulting from or in connection with: (I) action(s) or inaction(s) of any governmental or other civil authority; and/or (II) civil insurrection, act(s) of war and/or terrorism;
- (i) **Transportation:** Damage or loss of or to any Covered Item during transportation;
- (j) **Excessive Wear and Tear:** Wear and tear beyond that considered normal within the industry, as determined by YMCW Investment, LLC;
- (k) **Use of Drugs / Alcohol:** Damage or loss of or to any Covered Item resulting from or in connection with the use of alcohol or drugs by you or anyone employed or engaged by you, or anyone you permit to use or otherwise deal with any Rented Item(s);
- (l) **Electric Current:** Damage caused by electric current (including without limitation, use of non-utility generated power);
- (m) **Hazmat / Contamination:** Loss of or damage to any Covered Item resulting from: (I) its exposure to hazardous, explosive, combustible, radioactive, toxic, corrosive or noxious materials or substances; (II) nuclear hazard; (III) temperature/humidity; and/or (IV) contamination, including mold, mildew, rust, rot and/or exposure to pollutants and/or contaminants.

This Addendum shall be deemed to modify and supplement, and shall be deemed incorporated into and become a part of your Rental Contract. To the extent any of the terms of this Addendum conflict with the terms of your Rental Contract, the terms of this Addendum shall control. Your Rental Contract shall otherwise remain valid and in full force and effect, and all terms thereof will be deemed incorporated herein.

Notice for Heavy Equipment: This contract offers an optional loss damage waiver for an additional charge to cover your responsibility for loss of or damage to the heavy equipment. You do not have to purchase this coverage. Before deciding whether to purchase this loss damage waiver, you may consider whether your insurance policies afford you coverage for loss of or damage to the heavy equipment rented and the amount of the deductible you would pay under your policies.

IMPORTANT: LDW DOES NOT BENEFIT ANYONE OTHER THAN YOU, THE "CUSTOMER" OR "LESSEE" (SUCH AS BORROWERS, SUBLESSEES, REAL PROPERTY OWNERS, OTHER INSURERS, CONTRACTORS, INVITEES, AND OTHER THIRD PARTIES). WE AND OUR INSURER (THROUGH SUBROGATION) RETAIN THE RIGHT TO PURSUE RECOVERIES FROM THIRD PARTIES, INCLUDING YOUR INSURER, FOR ALL LOSS AND DAMAGE, WHETHER OR NOT COVERED BY LDW. YOU MAY DECLINE LDW IF YOU PROVIDE TO HEC PROOF OF THE PROPERTY DAMAGE / INLAND MARINE INSURANCE REFERENCED IN SECTION 9 OF YOUR RENTAL CONTRACT PRIOR TO COMMENCEMENT OF YOUR RENTAL. NONETHELESS, NO LDW COVERAGE WILL APPLY TO ANY ITEM(S) FOR WHICH YOU DO NOT TIMELY PAY THE APPLICABLE LDW FEE.



5. THE VALUE OF DAMAGE WAIVER.

Our Optional Limited Damage Waiver enables you to avoid costly downtime and expensive repairs and/or replacements by:

(a) Covering:

(i) **Repair/Replacement Costs:** A portion of the cost of repairing and/or replacing Covered Item(s) which suffer physical damage during your rental (subject to the limitations set forth in Section 6 below and the reverse side or Page 1 hereof); AND

(ii) **Rental Charges:** 100% of the Rent that would otherwise be due under your Rental Contract during the period in which the Covered Item(s) is/are being repaired or replaced (as applicable); AND

(iii) **Certain Other Costs:** 100% of the following charges that would normally be due under your Rental Contract: late fees, transportation and storage fees and interest; AND

(b) **Enabling You to Avoid Costly Insurance Claims and Premium Increases:** Costly insurance premium increases may be limited or avoided because in many cases, customers are able to avoid filing claims on their own insurance policies (increasing their "loss histories").

6. WHAT IS NOT COVERED?

Following is a summary of what LDW will not cover (as more specifically described on the reverse side or Page 1 hereof):

- Certain "Item(s) Not Covered" (including those with respect to which you do not pay or agree to pay the LDW fee in advance);
- A "deductible" equal to 20% of the total of all "Repair/Replacement Costs" (as defined on the reverse side hereof);
- Repair/replacement costs exceeding \$5,000 in the aggregate across all Covered Items;
- Intentional abuse, improper use, negligence, and neglect;
- Violation of your Rental Contract, applicable laws or any instructions provided by HEC and/or any owner(s) or manufacturer(s) of Covered Item(s);

- Criminal activities, Civil Insurrection, War and Terrorism;
- Actions of Governmental Authorities;
- Loss, theft, disappearance of, or any other failure to return, any Covered Item(s);
- Maintenance Failures, Excessive Wear and Tear, and Damage During Transportation;
- Failure to Secure and Protect Covered Item(s);
- Use of alcohol and/or illicit drugs;
- Damage caused by electric current; and
- Exposure to Hazardous Materials, Pollutants and/or Contaminants.

7. HOW DO I USE LDW?

If a Covered Item is damaged or destroyed (an "Event of Loss") during your rental, you must advise us of the date, time and suspected cause of the Event of Loss in writing within 24 hours. In the event of a reportable accident or vandalism, you must also properly complete and file a police report with local authorities. A copy of the police report must be provided to us within 48 hours after the Event of Loss. You will be 100% responsible for any Event of Loss which is not covered by LDW (e.g., for any Rented Item(s) which you elected not to cover and for Covered Item(s) with respect to which any exclusion(s) referenced in this Limited Damage Waiver Guide (including Page 1 hereof) apply(ies)).

8. HOW CAN I AVOID PAYING FOR LDW?

LDW is not mandatory; it is **OPTIONAL**. If you wish to decline LDW, you must provide us with proof that you have the property damage / inland marine insurance required under Section 9 of your Rental Contract. **NO LDW COVERAGE WILL APPLY TO ANY ITEM(S) FOR WHICH YOU DO NOT PAY THE APPLICABLE LDW FEE (WHICH, IF CHARGED, WILL BE SET FORTH IN YOUR RENTAL CONTRACT).**



LIMITED DAMAGE WAIVER GUIDE

1. YOUR RESPONSIBILITIES.

Rental customers or "lessees" are generally responsible for **ALL COSTS AND EXPENSES ARISING IN CONNECTION WITH ANY LOSS, THEFT, DAMAGE TO OR DESTRUCTION OF RENTED ITEM(S)** regardless of whether the rental customer or lessee was at fault. This can amount to thousands of dollars in additional expense, even for rental customers who maintain insurance (e.g., for deductibles, coverage limits, exclusions, etc.).

2. WHAT IS LIMITED DAMAGE WAIVER?

HEC's Limited Damage Waiver ("LDW") is an **OPTIONAL** program that **ENABLES OUR CUSTOMERS TO LIMIT THEIR EXPOSURE TO MANY CLAIMS** for physical damage to or destruction of "Covered Item(s)" when a covered loss occurs through no fault of the customer.

**LDW IS NOT INSURANCE,
NOR IS IT A WARRANTY.**

3. WHAT DOES LDW COST?

The fee for LDW (if offered) is the percentage (of the Rent) charged for LDW set forth on Page 1 of your Rental Contract solely with respect to Covered Item(s). No LDW Fee is applied to purchases, delivery charges, fuel, or tax. All LDW fees are non-refundable.

4. HOW DOES LDW WORK, AND WHAT DOES IT COVER?

In exchange for your purchase of LDW, HEC agrees to waive its claims against you and your company for a portion of the charges identified in Section 5 of this Limited Damage Waiver Guide with respect to Covered Item(s), enabling you to spend your valuable time and money on your business.