

AGENDA PLACEMENT FORM

(Submission Deadline – Monday, 5:00 PM before Regular Court Meetings)

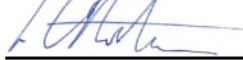
Date: 4/8/2024

Meeting Date: 4/22/2024

Submitted By: Lance Anderson

Department: Purchasing

Signature of Elected Official/Department Head:



Court Decision: <small>This section to be completed by County Judge's Office</small>

<p>April 22, 2024</p>

Description:

Consideration and approval with Authorization for County Judge to Sign renewal of Master Rental Agreement and Johnson County Contract Terms Addendum for H&E Equipment Services, Inc. Renewal Term date May 1, 2024 - April 30, 2025.

(May attach additional sheets if necessary)

Person to Present: Lance Anderson

(Presenter must be present for the item unless the item is on the Consent Agenda)

Supporting Documentation: (check one) PUBLIC CONFIDENTIAL

(PUBLIC documentation may be made available to the public prior to the Meeting)

Estimated Length of Presentation: 5 minutes

Session Requested: (check one)

Action Item Consent Workshop Executive Other _____

Check All Departments That Have Been Notified:

County Attorney IT Purchasing Auditor

Personnel Public Works Facilities Management

Other Department/Official (list) _____

**Please List All External Persons Who Need a Copy of Signed Documents
In Your Submission Email**

**MASTER RENTAL AGREEMENT AND
JOHNSON COUNTY CONTRACT TERMS
ADDENDUM TO RENTAL CONTRACT**

This Master Rental Agreement And Johnson County Contract Terms Addendum to Rental Contract, (hereinafter referred to as the “AGREEMENT”) is between **Johnson County, Texas**, a political subdivision of the State of Texas, (hereinafter referred to as “COUNTY”), and H&E Equipment Services, Inc. (hereinafter referred to as “VENDOR”), collectively referred to as the “PARTIES”, and is a master rental agreement and an addendum to the Rental Contract of Vendor between the Parties for the rental of equipment and together this AGREEMENT and the Rental Contract shall constitute the entire and complete contract between the Parties.

NOW, THEREFORE, in consideration of the mutual promises and covenants contained herein, the Parties agree and understand as follows:

1. This Agreement is to apply to each and every Rental Contract for the rental of equipment by County from Vendor after the date this Agreement is approved by the Parties and shall continue to be effective until April 30 20 25 . A signed copy of this Agreement shall be attached to and become part of each Rental Contract between the Parties as though said copy of this Agreement were an original. In the event a signed copy of this Agreement is not attached to a Rental Contract, the Parties agree that the terms and conditions of the Agreement will apply to the Rental Contract as though said Agreement had been attached.
2. This Agreement is to clarify, limit, modify or delete terms and provisions of the Rental Contract and in the event of any conflict between the terms and provisions of this Agreement and the terms and provisions of those contractual provisions tendered to Johnson County in the Rental Contract, this Agreement shall control and amend the contractual provisions of the Rental Contract and any provisions in the Rental Contract to the contrary are hereby deleted.
3. This Agreement is being executed in order to facilitate County being able to rent equipment from Vendor on an “as needed” basis and that when a representative of County signs the Rental Contract upon taking possession of the equipment, the representative of County is acknowledging the tender or delivery of Vendor’s equipment, the rate to be charged and the time period of the rental; however, the representative of County is not agreeing to or binding the County to any terms and conditions that conflict with this Agreement.
4. Each Rental Contract with a signed copy of this Agreement attached will be an effective agreement between the Parties upon the Purchasing Agent of County issuing a Purchase Order for the rental of equipment listed on the Rental Contract and a representative of County signing the said Rental Contract.

5. Either Party may cancel this Agreement by providing written notice to the other Party thirty (30) days prior to cancellation.
6. This Agreement will be governed by and construed according to the laws of the State of Texas. Venue for any action or claim arising out of the Agreement will be in the state district courts in Johnson County, Texas or the federal district courts in Dallas County, Texas. Any provision in the Rental Contract stating that County agrees to waive any right to trial by jury is hereby deleted.
7. Limitations for the right to bring an action, regardless of form, shall be governed by the laws of the State of Texas, Texas Civil Practice and Remedies Code §16.070, as amended, and any provision in the Rental Contract to the contrary is hereby deleted.
8. Under Texas law, a contract with a governmental entity that contains a claim against future revenues is void; therefore, any term in the Rental Contract which provides for such a claim is hereby deleted.
9. Under the Texas Constitution and laws of the State of Texas, Johnson County cannot enter into an agreement whereby Johnson County agrees to indemnify or hold harmless any other party; therefore, all references in the Rental Contract of any kind to Johnson County indemnifying and holding harmless any individuals or entities for any reason whatsoever are hereby deleted.
10. County is a political subdivision of the State of Texas, and therefore has certain governmental/sovereign immunity and limitations on liability, and that County's general liability and vehicle insurance coverage is with the Texas Association of Counties Risk Pool and said insurance coverage is limited to the statutory maximum limits of the Texas Tort Claims Act (Chapter 101, Texas Civil Practice and Remedies Code); therefore, any provisions in the Rental Contract requiring County to provide and maintain any insurance in excess of the statutory maximum limits are hereby deleted.
11. County does not waive any of its common law, statutory or constitutional defenses to which it may be entitled; therefore any provisions in the Rental Contract to the contrary are hereby deleted.
12. County will provide property insurance covering the replacement (fair market value) cost of the equipment rented and will provide Vendor with a certificate of insurance.
13. County will provide statutory workers compensation for its employees; however, County does not agree to include a waiver of subrogation, and therefore any provisions in the Rental Contract to the contrary are hereby deleted.

14. County does not agree to waive any rights and remedies available to County under the Uniform Commercial Code ("UCC"); therefore, any provisions in the Rental Contract to the contrary are hereby deleted.
15. County does not agree to waive any rights and remedies available to County under the Texas Deceptive Trade Practices-Consumer Protection Act; therefore, any provisions in the Rental Contract to the contrary are hereby deleted.
16. Except for a heavy equipment tax, County does not agree to be responsible for any sales tax, use tax, or any other taxes, fees, fines or penalties that may be imposed, levied or assessed by any federal, state or local government or agency which relates to the Rental Contract, the equipment or its use; therefore, any provisions in the Rental Contract to the contrary are hereby deleted.
17. Pursuant to Texas Government Code Section 2251.021 and this Agreement, a payment by a governmental entity under a contract is overdue on the 31st day after the later of:
 - a. the date the governmental entity receives the goods under the contract;
 - b. the date the performance of the service under the contract is completed; or
 - c. the date the governmental entity receives an invoice for the goods or service.

Pursuant to Texas Government Code Section 2251.021 and this Agreement, a payment begins to accrue interest on the date the payment becomes overdue. The rate of interest that accrues on an overdue payment is the rate in effect on September 1 of the fiscal year in which the payment becomes overdue. The rate in effect on September 1 is equal to the sum of: (1) one percent; and (2) the prime rate as published in the Wall Street Journal on the first day of July of the preceding fiscal year that does not fall on a Saturday or Sunday. Interest on an overdue payment stops accruing on the date the governmental entity or vendor mailed or electronically transmits the payment. Therefore, all provisions in the Rental Contract to the contrary are hereby deleted.

18. To the extent, if any, that any provision in this Agreement is in conflict with Chapter 552 of the Texas Government Code (the "Public Information Act"), the same shall be of no force and effect. Furthermore, it is expressly understood and agreed that Johnson County, its officers and employees may request advice, decisions and opinions of the Attorney General of the State of Texas in regard to the application of the Public Information Act.
19. Services provided under the Agreement shall be provided in accordance with all applicable state and federal laws.

IN WITNESS WHEREOF, intending to be legally bound, the Parties have caused their authorized representative to execute this Agreement. Each representative whose signature appears

on this Agreement represents and does hereby certify that they have the authority to enter into this Agreement for their represented Party.

APPROVED AS TO FORM AND CONTENT:

JOHNSON COUNTY:



Christopher Boedeker
County Judge


April 22, 2024
Date

Attest: 

April Long
County Clerk



April 22, 2024
Date

VENDOR: 

H&E Equipment Services, Inc.
Authorized Representative
Printed Name: Wesley Hebert
Title: Corporate Counsel

Mar 25, 2024
Date

Johnson County TX Master Agreement and Addendum to Rental Contract_H&E_V.1_Approved

Final Audit Report

2024-03-25

Created:	2024-03-18
By:	Lori West (lwest@he-equipment.com)
Status:	Signed
Transaction ID:	CBJCHBCAABAAOGNY4OVdbaZVBt6coumAQvZBbOn1vcpy

"Johnson County TX Master Agreement and Addendum to Rental Contract_H&E_V.1_Approved" History

-  Document created by Lori West (lwest@he-equipment.com)
2024-03-18 - 8:37:05 PM GMT - IP address: 68.229.137.58
-  Document emailed to Wesley Hebert (whebert@he-equipment.com) for signature
2024-03-19 - 4:08:32 PM GMT
-  Email viewed by Wesley Hebert (whebert@he-equipment.com)
2024-03-19 - 5:10:13 PM GMT - IP address: 172.225.18.114
-  Document e-signed by Wesley Hebert (whebert@he-equipment.com)
Signature Date: 2024-03-25 - 8:04:36 PM GMT - Time Source: server- IP address: 142.190.104.238
-  Agreement completed.
2024-03-25 - 8:04:36 PM GMT

H&E EQUIPMENT SERVICES, INC.
RENTAL AGREEMENT TERMS AND CONDITIONS

THIS AGREEMENT CONTAINS PROVISIONS RELATING TO INDEMNIFICATION, LIABILITY RELEASE,
LIMITATION OF REMEDY, ALLOCATION OF RISK AND INSURANCE.

This agreement may be delivered and or received by electronic transmission or facsimile which shall be deemed to be an original.

1. **DEFINITIONS.** The term “agreement” shall mean this agreement, all pages, front and back. The term “Equipment” shall reference and mean all pieces of equipment referenced in this agreement as well as all attachments or parts rented or sold to Lessee. The term “manual” shall mean any operating manual, safety manual, or other information provided by the Equipment manufacturer. The term “H&E” shall include H&E Equipment Services, Inc. and any of its subsidiaries, related entities, divisions, or controlled affiliates including, but not limited to, Great Northern Equipment, Inc., H&E Equipment Services (California), L.L.C., and H&E Equipment Services (Mid-Atlantic, Inc.).

2. **INSURANCE.** Lessee is responsible for the full value of loss or damage to the Equipment, regardless of fault, including lost rental income. Lessee shall, prior to delivery of the Equipment and throughout the rental period, maintain Commercial General Liability/Commercial Auto Liability, Physical Damage Insurance, and Workers’ Compensation Insurance (if required by law). Commercial General Liability/Commercial Automobile Liability must name H&E as primary and non-contributory additional insured with waiver of subrogation, and must have a per occurrence limit of at least \$1,000,000. Physical Damage Insurance must cover the full replacement value all Equipment with a deductible acceptable to H&E, name H&E as loss payee, and shall be on an “all-risk” form insuring against all perils attendant to Lessee’s use, maintenance or possession of the Equipment. Lessee shall provide a Certificate of Insurance and shall provide that the issuing companies shall give H&E thirty (30) days written notice prior to any cancellation. Lessee will bear all costs associated with this insurance, including any deductible(s) and any loss or damage not covered by insurance.

3. **LOSS DAMAGE WAIVER.** In the event proof of acceptable insurance coverage is not provided prior to delivery of the Equipment, Lessee agrees to purchase Loss Damage Waiver (LDW). The LDW charge will be 15% of the gross rental charge. Lessee is not entitled to any refund or credit of Loss Damage Waiver charges invoiced or paid. If LDW is paid, Lessee will not be responsible for loss or damage to the Equipment above \$2,500 per incident from any cause except: (a) overloading or exceeding rated capacity, (b) misuse, abuse, or improper servicing of the Equipment; (c) damage to tires (d) violation of the manual; (e) disappearance or wrongful conversion; (f) damage to glass; or (g) damage resulting from Lessee breach of any provision of this agreement. LDW IS NOT INSURANCE and only applies to physical loss or damage to the Equipment. Regardless of and in addition to any LDW, Lessee must maintain Commercial General Liability / Commercial Automobile Liability and Workers’ Compensation insurance pursuant to the requirements above.

FOR LEASES SUBJECT TO THE TEXAS BUSINESS AND COMMERCE CODE ONLY: This contract offers an optional loss damage waiver for an additional charge to cover your responsibility for loss of or damage to the 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 Equipment rented and the amount of the deductible you would pay under your policies. H&E reserves the right to not rent to any Lessee. The following exclusions apply to Lessee’s loss damage waiver purchase: loss or damage to the Equipment that is caused by an unexplained disappearance or abandonment of the Equipment; damage that is intentionally caused by Lessee; or damage that results from Lessee’s willful or wanton misconduct.

4. RENTAL PERIOD, CALCULATION OF RENT. The rental period begins when the Equipment leaves H&E's possession and ends when the Equipment is returned to H&E in good condition or is put in good condition by H&E. No deduction shall be made for Sundays, holidays, time in transit, or any period of time the Equipment is not in use. A rental day is 24 hours. Any rental period less than 24 hours shall constitute a full rental day. A rental week is seven calendar days. A rental month is four weeks (there are 13 rental months in a calendar year). All rental rates are based on 8 hours of Equipment use per day, 40 hours per rental week and 160 hours per rental month. If the Equipment is used more hours than allotted, an overtime rate will apply. Lessee agrees to immediately notify H&E if Equipment is used more than the allotted hours in any rental period(s) and to permit H&E to inspect its records upon request. Lessee shall pay all drayage charges, all taxes associated with the agreement, including but not limited to sales tax, use tax, tax on damage repairs, fuel taxes, or any other levied taxes, and any recovery fees/surcharges as required or permitted by law. Lessee shall hold H&E harmless against any liability or expense resulting from Lessee's failure to pay taxes or file tax returns.

5. MISC. FEES AND CHARGES. To the extent other charges apply to this agreement, including but not limited to permit charges, freight charges, delivery or pick-up charges, fuel charges, supply charges, environmental charges and LDW charges, these charges are not designated for any particular use and are used at H&E's discretion.

6. OPERATION / KNOWLEDGE. Lessee has studied and understands the manual. Lessee agrees to restrict the use of the Equipment to only its employees, and only those employees who are competent and qualified operators, who are familiar with the Equipment, who understand the manual, and the limitations of the Equipment. Lessee agrees to use the Equipment within its rated capacity, with all safety devices fully operational, and only for purposes for which it was designed. Lessee shall maintain and use the Equipment pursuant to applicable law and regulation. Customer represents and warrants that Customer and its employees are familiar with and shall at all times comply with applicable safety regulations, including but not limited to ANSI Safety Requirements for Excavating (ANSI/ASSP A10.12-1998 (R2016)), OSHA Excavating standards (29 CFR Part 1926, Subpart P), and OSHA Trenching and Excavation Safety (OSHA 2226-10R 2015). Lessee shall not operate the Equipment, and shall notify H&E, if any safety device or label is missing or damaged.

7. EQUIPMENT RETURN AND LESSEE DUTY TO MAINTAIN EQUIPMENT. Lessee is solely responsible for the Equipment until H&E regains physical possession of the Equipment, regardless of any "call-off". Lessee agrees to return the Equipment in the same condition as when received. If damaged, subject to applicable LDW provisions, Lessee agrees to pay the expenses of returning the Equipment to its original condition, subject to normal wear. This guarantee is unconditional and may not be excused by theft, act of God, or for any other reason. Lessee agrees, while Equipment is in its possession, to check engine oil, water, tire condition, cooling systems, and fuel each day, and to perform routine preventive maintenance pursuant to the manual. Equipment returned unclean will be cleaned by H&E and a cleaning fee determined in H&E's discretion shall be imposed.

8. REPAIRS. Lessee will immediately notify H&E of any accidents, failures, or breakdowns involving the Equipment. Lessee expressly agrees all repairs must be conducted by only H&E. The cost of all repairs outside of normal wear and tear shall be borne by Lessee, subject to any applicable LDW provisions, and shall be considered additional rent owed by Lessee. In the event the Equipment requires repair, this agreement, including the invoicing of rent, shall continue during the repair period.

9. EQUIPMENT LOCATION, JOBSITE AND BOND INFORMATION. Lessee shall use the Equipment only at the address shown on the face of this agreement. The Equipment may not be moved without prior written consent of H&E. Upon H&E's request, Lessee shall promptly provide (a) copies of any contracts governing the projects on which the Equipment is used; (b) copies of any payment and/or

performance bond(s) issued on said projects; and (c) the name and location of all projects where the Equipment has been used. Lessee agrees to provide any other information requested by H&E.

10. **OWNER CONTROL OF EQUIPMENT.** Lessee agrees that H&E shall retain all ownership rights in the Equipment, and agree to execute any financing statements or other documents necessary to disclose and protect H&E's ownership. If necessary, Lessee agrees to subordinate any of its interests arising from this agreement to any interest that H&E or its lender may have in the Equipment. During this lease, in the event the Equipment is liened for any reason, this agreement shall immediately terminate and H&E, or anyone acting on H&E's behalf, may take possession of the Equipment. H&E and its agents shall have free access to the Equipment at all times for any lawful purpose.

11. **ASSIGNMENT/SUBLEASE.** Lessee may not assign, sublease, or loan the Equipment. Any act by Lessee in violation of this provision shall be void.

12. **HAZARDOUS WASTE.** Lessee agrees that it is familiar with all hazardous waste laws and regulations and all hazards that may be encountered on the job, project, or work on which the Equipment will be used. Lessee shall not expose the Equipment to any hazardous material or waste. In the event of exposure, Lessee shall immediately notify H&E and, if applicable, the appropriate regulatory authority and have the Equipment removed from such exposure, and completely clean and decontaminate the Equipment, all pursuant to applicable local, state, or federal laws and regulations. If the Equipment cannot be completely cleaned and decontaminated, Lessee shall pay for the full value of the Equipment.

13. **HOLDOVER.** If Lessee keeps the Equipment beyond the agreed upon end date, this agreement shall extend and continue until the Equipment is returned pursuant to section 7. During this holdover period, H&E may terminate the agreement and take possession of the Equipment for any reason without notice.

14. **INDEMNIFICATION/HOLD HARMLESS.** LESSEE AGREES TO INDEMNIFY, DEFEND, AND HOLD HARMLESS H&E AND ANY OF H&E DIRECTORS, OFFICERS, OR AGENTS (COLLECTIVELY, THE "INDEMNITEE") FROM ANY AND ALL CLAIMS OR DAMAGES (WHETHER SOUNDING IN TORT, CONTRACT, PRODUCTS LIABILITY, STATUTE OR OTHERWISE) ARISING FROM, RELATING TO OR CONNECTED WITH LESSEE'S USE, SELECTION, ACCEPTANCE, REJECTION, TRANSPORTATION, OPERATION, RENTAL, MAINTENANCE, PURCHASE OR POSSESSION OF THE EQUIPMENT, OR FROM EXPOSURE OF THE EQUIPMENT TO HAZARDOUS WASTE OR MATERIAL, INCLUDING BUT NOT LIMITED TO ANY LOSS OR DAMAGE TO THE EQUIPMENT, ANY LOSS, DAMAGE, OR INJURIES TO PERSONS OR PROPERTY, INCLUDING EMPLOYEES, THIRD PARTIES AND THEIR PROPERTY, OR FROM ANY INACCURACY IN OR BREACH OF ANY OF THE REPRESENTATIONS MADE BY INDEMNITY TO LESSEE OR ANY BREACH OR NON-FULFILLMENT OF ANY COVENANT, AGREEMENT, OR OBLIGATION TO BE PERFORMED BY INDEMNITEE, AND ANY AND ALL EXPENSES INCURRED IN THE DEFENSE OF SUCH CLAIMS INCLUDING ATTORNEY FEES AND COSTS. THE LESSEE ACKNOWLEDGES, UNDERSTANDS AND AGREES ITS OBLIGATION TO INDEMNIFY, DEFEND AND HOLD HARMLESS INDEMNITEE PURSUANT TO THIS AGREEMENT SHALL APPLY REGARDLESS OF WHETHER THE LOSS OR DAMAGE IS CAUSED IN WHOLE OR IN PART BY THE NEGLIGENCE, ACTS, OR OMISSIONS OF INDEMNITEE OR ANY THIRD PARTY. IN NO EVENT SHALL INDEMNITY BE HELD RESPONSIBLE FOR INJURY, DELAYS, OR DAMAGES, CONSEQUENTIAL OR OTHERWISE, RESULTING BY REASON OF THE CONDITION, FAILURE, OR OPERATIONAL DIFFICULTY OF THE EQUIPMENT, INCLUDING, WITHOUT LIMITATION, LATENT OR OTHER DEFECTS IN THE EQUIPMENT, WHETHER OR NOT DISCOVERABLE BY INDEMNITEE OR LESSEE, DELIVERY DELAYS, LOSS OR DAMAGE TO THE EQUIPMENT IN TRANSIT OR WHILE IN USE BY LESSEE, STRIKES OR ANY CONTINGENCIES BEYOND THE CONTROL OF THE H&E, OR ANY OTHER CAUSE.

INDEMNITEE SHALL NOT BE LIABLE FOR ANY CONSEQUENTIAL DAMAGE UNDER ANY CIRCUMSTANCE.

15. **GOODS SOLD.** Any option to purchase the Equipment must be in a separate written contract, signed by authorized officers of both H&E and Lessee. In the event that goods are sold as part of this agreement, the goods that are sold shall be clearly identified on the face of this agreement. In the event that goods are defective, buyer's sole remedy from H&E, and H&E's sole obligation to buyer, is for H&E to use its best efforts to secure repair and/or replacement of the goods pursuant to the existing manufacturer's warranty. As to these goods, H&E PROVIDES NO OTHER WARRANTIES, EITHER WRITTEN, ORAL, IMPLIED OR STATUTORY, PARTICULARLY NO IMPLIED STATUTORY WARRANTY OF MERCHANTABILITY OR FITNESS FOR PARTICULAR PURPOSE. Returned goods shall be subject to a reasonable restocking charge.

16. **TERMS AND REMEDIES.** Except for extended term agreements, invoices are payable upon receipt and Lessee agrees to pay the amount due within thirty (30) days of the invoice date. Balances that are unpaid beyond 30 days of the date of the invoice will be subject to a finance or interest charge per month at the highest rate allowable by law. Lessee's account will be delinquent when any part of the account is 30 days past due. H&E reserves the right to apply payments at its discretion. H&E may, at its option and without notice, raise or allow charges in excess of any credit limit granted. Lessee understands it is responsible for all charges to the account. Lessee shall be liable for all costs and fees, including attorney and/or collection agency fees and expenses, incurred in pursuit and/or collection of any amounts past due, including interest charges. H&E shall have any and all remedies provided in this agreement, at law or equity, including but not limited to the right to sue for damages, collection of unpaid rent or other charges, repossession, and consequential damages for Lessee's breach of this agreement. All remedies provided to H&E in this agreement are cumulative, and the exercise of any one remedy by H&E shall not affect H&E's right to exercise any other remedy. Termination of this agreement shall not affect H&E's right to pursue any remedy provided here or at law or equity. If at any time H&E, in its sole discretion, determines that the Equipment is being used beyond its capacity, improperly maintained, damaged, or that H&E's rights to the Equipment are endangered, or if Lessee defaults on any term or condition set forth in this agreement, H&E may: (a) demand return of the Equipment and Lessee shall return the Equipment to H&E within 72 hours of such demand; or (b) promptly repossess the Equipment, lock up or remove the Equipment from the job site, and immediately terminate this agreement without demand or notice to Lessee. H&E will deem Lessee's failure to timely return Equipment as theft. Lessee grants H&E the right to enter the premises where the Equipment is located for the purpose of taking possession of the Equipment.

17. **AGREEMENT BINDING, ENTIRE AGREEMENT AND SEVERABILITY.** This agreement shall be binding upon Lessee, H&E, and their heirs, successors, personal representatives, agents, and assigns. This writing constitutes the entire agreement between the parties regarding the subjects addressed, and any representation or agreement not contained in this agreement shall be of no force or effect. The provisions in this agreement cannot be waived or amended unless made in a writing signed by H&E's authorized corporate officer. If any word, phrase, clause, sentence, or paragraph of this agreement is or shall be invalid for any reason, it shall be severed from the remainder of this agreement and shall in no way affect or impair the validity of the remaining provisions of this agreement.

18. **NOTICE OF NON-WAIVER.** H&E's failure to insist upon strict performance of any provision of this agreement shall not be construed as a waiver of H&E's right to demand strict performance of any and all provisions, and Lessee waives notice of demand for strict compliance.

19. **VENUE, JURISDICTION, CHOICE OF LAW, JURY WAIVER.** This agreement shall be construed under Louisiana law. Lessee agrees that the sole and exclusive venue for any dispute arising from or relating to this agreement is East Baton Rouge Parish, except that H&E, in its sole discretion, may file

suit in the parish or county of Lessee's domicile or where the transaction occurred. Lessee agrees to waive any right to a trial by jury in any proceeding arising from or relating to this agreement.

20. CLASS ACTION WAIVER. Lessee agrees that any claims or proceedings that it brings against H&E will be conducted on an individual basis, and not on a class-wide, collective, or representative basis, and that any one person's or entity's claims shall not be consolidated with any other claims or proceedings. Lessee will not sue H&E as a class plaintiff or class representative, join as a class member, or participate as an adverse party in any way in a class-action lawsuit against H&E. Nothing in this provision limits Lessee's right to bring an individual claim, action, or lawsuit against H&E.

21. ACCEPTANCE. Lessee will be deemed to have accepted the provisions of this agreement, regardless of Lessee signing this agreement, upon Lessee's acceptance, use, or possession of the Equipment. Lessee's signature will also be deemed acceptance.

MASTER EQUIPMENT RENTAL CONTRACT

This Master Equipment Rental Contract ("**Contract**") is made and entered into by and between H&E EQUIPMENT SERVICES, INC., a Delaware corporation, with a business address of 7500 Pecue Lane, Baton Rouge, LA 70809 ("**LESSOR**"), and _____, with a business address of _____ ("**LESSEE**"), effective as of the ____ day of _____, 2024.

For the consideration hereinafter stated, the parties agree as follows:

1. RENTAL. This Contract sets forth the terms and conditions by which LESSOR may from time to time lease equipment to LESSEE or its affiliates during the effective period hereof. (Where equipment is leased to an affiliate of LESSEE, the term "LESSEE" shall hereinafter include such affiliate.) From time to time, LESSOR may lease to LESSEE the Equipment described on a Rental Order (individually or collectively, the "Equipment") at the rental rates and for the duration stated thereon. A request for rental equipment may be in the form of a Purchase Order or other writing ("RENTAL ORDER"). The provisions of the RENTAL ORDER shall be read in conjunction with this Contract. In the event of a conflict between the RENTAL ORDER and this Contract, the terms of this Contract shall govern, except to the extent the RENTAL ORDER identifies specific provisions of this Contract that are to be modified as it applies to that RENTAL ORDER.

2. TERM. This term of this Contract begin on the effective date and shall terminate thirty (30) days from either party giving written notice to the other party of its intent to terminate this Contract. Regardless of the date of termination notice, this Contract shall remain effective through the completion of all rental periods pursuant to RENTAL ORDER commenced prior to the date on which this Contract would otherwise terminate; further, all obligations and rights accrued prior to termination shall survive said termination, howsoever effected.

3. RENTAL RATES; RENTAL PERIOD; PAYMENT.

3.1 The agreed rental rates noted in the applicable RENTAL ORDER shall apply during the entire rental term.

3.2 The rental period begins when the Equipment leaves H&E's possession and ends when the Equipment is returned to H&E in good condition or is put in good condition by H&E. No deduction shall be made for Sundays, holidays, time in transit, or any period of time the Equipment is not in use. A rental day is 24 hours. Any rental period less than 24 hours shall constitute a full rental day. A rental week is seven calendar days. A rental month is four weeks (there are 13 rental months in a calendar year). All rental rates are based on 8 hours of Equipment use per day, 40 hours per rental week and 160 hours per rental month. If the Equipment is used more hours than allotted, an overtime rate will apply. Lessee agrees to immediately notify H&E if Equipment is used more than the allotted hours in any rental period(s) and to permit H&E to inspect its records upon request.

3.3 All rental charges shall be paid in U.S. Dollars and be due within thirty (30) days after LESSEE's receipt of LESSOR's invoice. RENTAL PERIOD, CALCULATION OF RENT. Interest on rent which has not been paid within thirty (30) days after LESSEE's receipt of LESSOR's invoice shall accrue at the rate of 1% per month until fully paid, except to the extent subject to a good faith dispute. Invoices shall reference this Contract and the relevant RENTAL ORDER. All payments to LESSOR will be made to such address as LESSOR shall indicate on its invoice.

4. DELIVERY; REDELIVERY; AND RISK OF LOSS. The Equipment shall be considered delivered to LESSEE when, at the agreed delivery location noted in the applicable RENTAL ORDER, i) the equipment is ready for pickup, where transportation of the Equipment is by LESSEE, or ii) the equipment is unloaded at LESSOR's location or jobsite, where transportation of the equipment is by the LESSOR. The Equipment shall be considered redelivered to LESSOR when the Equipment is in LESSOR's possession. Lessee is responsible for the Equipment until its return to Lessor, regardless of any "call-off date and/or time.

5. TRANSPORTATION. Transportation costs shall be for the account of the party as detailed in the applicable RENTAL ORDER and all risk of loss and/or damage related to such transportation (including stowage, securing and transit) shall be in accordance with Section 4 above.

6. OPERATION; MAINTENANCE; AND REPAIR. LESSEE shall supply trained operators for the Equipment, shall ensure that the Equipment is operated properly and shall be responsible for maintaining the Equipment during the rental term, at its own expense, in the same condition as upon delivery (less ordinary wear and tear), including all routine maintenance (if applicable). LESSEE shall not alter or modify the Equipment without the prior written permission of LESSOR.

7. INSPECTION AND WARRANTIES. LESSEE's receipt and possession of the Equipment constitutes its acknowledgment that it has accepted the Equipment, unless LESSEE notifies LESSOR to the contrary, in writing, within two (2) business days after receipt of the Equipment.

LESSOR warrants to LESSEE that LESSOR has the right to rent the Equipment and that upon delivery to LESSEE the Equipment is in proper operating condition (subject to any assembly that may be required upon delivery), free from latent defects and conforms to the description stated in the relevant RENTAL ORDER. If written notice from LESSEE that the Equipment does not conform to such description, LESSOR has the right to promptly cure such defect. To the extent permitted, LESSOR extends the benefit of all express and implied warranties of the original manufacturer, if any, to LESSEE and if necessary

to assert said warranties against the manufacturer.

The warranties set forth in this Section 7 are intended solely for the benefit of LESSEE. All claims must be made by LESSEE except for claims made to the original manufacturer which will be made by LESSOR. THE WARRANTIES SET FORTH ABOVE ARE IN LIEU OF ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, WHICH ARE HEREBY DISCLAIMED AND EXCLUDED BY LESSOR.

LESSOR shall have the privilege, at all times, of entering any job, building, or location where the Equipment is being used, for the purpose of inspection, and reserves the privilege of removing the Equipment immediately if it is being overloaded or taxed beyond its capacity or in any manner abused or neglected. LESSOR acknowledges that it must notify LESSEE in advance if LESSOR Group personnel enter LESSEE sites and that LESSOR will comply with safety, security and other applicable rules and requirements.

8. LIABILITY AND INDEMNITY. For purposes of this Section 8 the following definitions shall apply:

8.1 "LESSOR Group" shall mean each of LESSOR, its parent, subsidiary and affiliated companies; and their respective officers, directors, direct or borrowed employees (even if determined to be borrowed employees of LESSEE), members, managers, agents, representatives, invitees, contractors and subcontractors; and each of their respective successors, spouses, relatives, dependents, heirs and assigns.

8.2 "LESSEE Group" shall mean each of LESSEE, LESSEE's customers, LESSEE's and its customer's respective parent, subsidiary and affiliated companies; their respective officers, directors, employees, members, managers, agents, representatives, invitees, contractors and subcontractors (other than members of the LESSOR Group); and each of their respective successors, spouses, relatives, dependents, heirs and assigns.

8.3 "Indemnifiable Claims" means claims, losses, demands, expenses, costs, damages, suits, judgments, fines, penalties, liabilities, debts, and causes of action, including without limitation, expenses of investigation, reasonable expenses of experts, reasonable attorneys' fees and expenses and all other reasonable costs and expenses, whether known or unknown, of whatever kind arising in connection with or in any way related to bodily injury or death, including without limitation, illness, disease, or loss of services, wages, consortium, society, or damage to property (other than the Equipment), and whether arising out of contract, tort, fault, strict liability, misrepresentation, and violation of applicable law, operated, used or hired by LESSEE Group or LESSOR Group.

8.4 LESSEE shall indemnify LESSOR Group against Indemnifiable Claims of third parties to the proportionate extent (i.e., in the same degree) resulting from the negligence of LESSEE Group or from the possession, use, storage, maintenance or repair of the Equipment by LESSEE Group.

8.5 LESSOR shall indemnify LESSEE Group against Indemnifiable Claims of third parties to the proportionate extent (i.e., in the same degree) resulting from the negligence of LESSOR Group or from the possession, use, maintenance or repair of the Equipment by LESSOR Group.

9. INSURANCE. LESSEE shall provide and maintain commercial general liability insurance during the term of any rental hereunder with limits of liability of \$5,000,000.00 combined single limit per occurrence and general aggregate. Such insurance shall name LESSOR as an additional insured, shall be endorsed to waive any right of subrogation against LESSOR, and shall be primary to and without contribution from other insurance which may be maintained by LESSOR.

LESSEE shall provide and maintain during the term of any rental hereunder property insurance on an "all risk basis" on all Equipment leased under this Contract with limits of coverage equal to the agreed replacement values shown in the applicable RENTAL ORDER. Such property insurance shall name LESSOR as an additional insured and provide full waiver of subrogation in favor of LESSOR. Further, such property insurance shall be primary to and without contribution from other insurance which may be maintained by LESSOR.

LESSEE shall furnish the certificates of the aforementioned insurance to LESSOR within five (5) business days of LESSOR's acceptance of a RENTAL ORDER, and in any event prior to delivery of any Equipment thereunder.

10. TITLE; OWNERSHIP; AND LIENS. Title to all Equipment shall remain with LESSOR throughout the entire rental term. LESSEE agrees that it will not impair such title, represent to any person that it owns or has ownership rights relative to the Equipment. LESSEE shall not remove, deface or conceal signs and markings which identify the Equipment as owned by LESSOR, and shall maintain such signs and markings. LESSEE shall not take any action that results in any levy, lien or encumbrance being placed against the Equipment, and shall notify LESSOR if any levy or seizure of the Equipment is threatened or occurs.

11. DEFAULT. LESSEE shall be deemed to be in default if:

11.1 LESSEE fails to pay rental when due and/or according to this Contract and fails to cure same within five (5) business days after written notice from LESSOR;

11.2 LESSEE is in breach of this Contract and fails to cure same despite written notice from LESSOR and a reasonable opportunity to cure same; or

11.3 LESSEE becomes insolvent or files for bankruptcy protection, either Chapter 7 or 11.

In the event of uncured default, LESSOR may retake the Equipment without legal process wherever the same may be, provided that LESSOR acknowledges that it must notify LESSEE in advance if LESSOR Group personnel enter LESSEE sites and that LESSOR will comply with safety, security and other applicable rules and requirements.; or in its discretion do all acts and make all reasonable expenditures necessary to retake possession of the Equipment, or attempt to retake and regain, possession of the Equipment. LESSEE covenants and agrees to reimburse LESSOR for any and all reasonable expenditures so made or incurred.

12. TAXES; FEES; CHARGES; ETC. LESSEE shall pay all drayage charges, all taxes associated with the agreement, including but not limited to sales tax, use tax, tax on damage repairs, fuel taxes, or any other levied taxes, licenses, recovery fees/surcharges and all other assessments relating to the possession or use of the Equipment as required or permitted by law. Lessee shall hold H&E harmless against any liability or expense resulting from Lessee's failure to pay taxes or file tax returns. To the extent other charges apply to this agreement, including but not limited to permit charges, freight charges, delivery or pick-up charges, fuel charges, supply charges, environmental charges and LDW charges, these charges are not designated for any particular use and are used at H&E's discretion.

13. MALFUNCTIONING EQUIPMENT. Should the Equipment become unsafe, malfunction or require repair, LESSEE shall cease using the Equipment and notify LESSOR. If such condition is the result of normal operation or inherent defect, LESSOR will promptly repair or replace the Equipment with similar Equipment in good working order. LESSEE's sole remedy for any such failure or defect in Equipment shall be the repair or replacement as set forth above and termination of any rental charges accruing after the time of failure and until such repair or replacement is completed (any rentals paid in advance shall be adjusted accordingly and promptly credited or returned to LESSEE). SHOULD THE EQUIPMENT BE REMOVED FROM SERVICE FOR REPAIRS FOR MORE THAN 48 HOURS FROM RECEIPT OF NOTIFICATION OF A REPAIR REQUIREMENT, THE EQUIPMENT WILL BE TEMPORARILY REPLACED WITH A UNIT PROVIDED BY LESSOR FOR THIS PURPOSE UNTIL THE DOWN UNIT IS RETURNED TO SERVICE.

14. NO ASSIGNMENT OR SUBLETTING. Except as set forth below, LESSEE shall not sublease, sub-rent, re-rent or assign the Equipment without first obtaining the written consent of LESSOR, and any such action by LESSEE, without LESSOR's written consent, shall be void. LESSEE agrees to use and keep the Equipment at the job site set forth on the RENTAL ORDER unless LESSOR approves otherwise in writing.

15. NO PURCHASE OPTION. NOTHING CONTAINED IN THIS CONTRACT SHALL GRANT LESSEE A RIGHT TO PURCHASE THE EQUIPMENT. ANY RIGHT TO PURCHASE THE EQUIPMENT GRANTED BY LESSOR MUST BE CONTAINED IN A SEPARATE SIGNED CONTRACT.

16. CONSEQUENTIAL DAMAGES. LESSOR and LESSEE waive and release any claim against the other for consequential damages, however and whenever arising under this Contract or as a result of or in connection with the rental of the Equipment, and whether based on negligence, breach of warranty, breach of contract, strict liability or otherwise. Consequential damages shall include but not be limited to loss of revenue, profit or use of capital, production delays, loss of product, reservoir loss or damage, losses resulting from failure to meet other contractual commitments or deadlines and downtime of facilities.

17. JURISDICTION; CHOICE OF LAW; VENUE; LEGAL COSTS. Any suit relating to this Contract or the Equipment must be filed in the United States District Court for the Middle District of Louisiana, situated in Baton Rouge, Louisiana (or, state courts situated in the East Baton Rouge Parish, State of Louisiana), and LESSEE and LESSOR agree to the appropriateness of that forum and will submit to its exclusive jurisdiction.

In the event there is a conflict between the provisions hereof and any papers or documents which may have been executed or passed between the parties hereto in connection with the subject matter hereof, it is understood and agreed that the provisions hereof shall govern. It is expressly understood and agreed by the parties that no preprinted terms or conditions included on, attached to, or on the reverse side of any purchase order, delivery ticket, invoice, shipping documentation, bills of lading, preprinted general conditions, proposals and/or other instrument used by LESSOR or LESSEE in setting forth the operations conducted hereunder shall supersede the provisions of this Contract.

The laws of the State of Louisiana shall be applicable to this Contract, excluding any choice of law rule which may direct the application of the laws of another state.

18. HEADINGS AND INTEGRATION. The headings are for convenience only and may not be used to construe this Contract. This Contract constitutes the final understanding between the parties, superseding all prior oral or written statements. This Contract may be modified only by a written document signed by both parties.

19. NOTICES. Any notices required or permitted to be sent may be delivered personally, or by overnight courier service or certified mail return receipt requested to the following addresses or such other address as either party may designate by written notice to the other:

TO LESSOR:
H&E EQUIPMENT SERVICES, INC.
Attention: Corporate Counsel
7500 Pecue Lane
Baton Rouge, Louisiana 70809

TO LESSEE:

Attention: _____
Address: _____
Address: _____

20. ENTIRE AGREEMENT. This agreement shall be binding upon LESSEE, LESSOR, and their heirs, successors, personal representatives, agents, and assigns. This writing constitutes the entire agreement between the parties regarding any and all equipment rental between the parties, and any representation or agreement not contained in this agreement shall be of no force or effect. These terms cannot be waived or amended unless made in a writing signed by authorized corporate officer of LESSOR and LESSEE. Pre-printed, online or standard terms and conditions shall have no effect while this agreement is in place between the parties.

21. AUTHORITY TO SIGN. Any individual signing this Contract on behalf of LESSEE represents and warrants to LESSOR that he or she is of legal age, and has the authority and power to sign this Contract for LESSEE and to legally bind LESSEE to the terms hereof.

22. FORCE MAJEURE. No party hereto shall be deemed to be in default or otherwise responsible for delays or failures in performance resulting from acts of God, acts of war or civil disturbance, epidemics, governmental action or inaction, fires, earthquakes, unavailability of labor, materials, power or communication, any condition or occurrence not the fault of the party so delayed, or other causes or contingencies of whatsoever nature beyond such delayed party's reasonable control.

23. INFERENCES. This Contract is the product of negotiations between sophisticated parties of equal bargaining power. For convenience, it has been drafted in final form by one of the parties. In the event any ambiguities arise with respect to any provision of this Contract, no inferences will be drawn against either party solely on the basis of authorship of this Contract.

24. COMPLIANCE WITH LAWS. Each party hereto shall comply with all applicable United States federal, state and local, as well as applicable foreign, laws (including immigration laws) and regulations governing the Equipment, including all applicable safety and health laws and regulations.

25. SEVERABILITY. In the event that one or more of the provisions of this Contract, for any reason, be held by a court of competent jurisdiction to be invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect any other provision hereof, and this Contract shall be construed as if such invalid, illegal or unenforceable provision or provisions had never been contained herein.

26. WAIVER. No waiver by either party of any provision of or a default under this Contract shall affect the right of the party making such waiver to thereafter enforce said provision or to exercise any right or remedy in the event of any other default, whether or not similar.

27. COUNTERPARTS. This Contract may be executed in one or more counterparts, each of which shall be deemed an original, and all of which shall constitute one and the same agreement.

THUS DONE AND EXECUTED on behalf of the parties by duly authorized representatives of each in multiple originals before the undersigned, competent witnesses effective as of the date first written above.

LESSOR:
H&E EQUIPMENT SERVICES, INC.

LESSEE:

By: _____
Name: _____
Title: _____

By: _____
Name: _____
Title: _____