



**Hot Bricks, LLC**

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Burbank, CA 91502

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## **HOT BRICKS EQUIPMENT RENTAL TERMS AND CONDITIONS**

Please Read Carefully. You Are Liable For Our Equipment and Vehicles From The Time They Leave Our Places of Business Until the Time They Are Returned To Us.

- 1. Indemnity.** Lessee/Renter (hereinafter designated as “You” or “Your”) agree to defend, indemnify, and hold Hot Bricks, LLC its parent, subsidiary and affiliated companies and their owners, officers, and employees (hereinafter designated as “Us” or “We” or “Our”) harmless from and against any and all claims, actions, causes of action, demands, rights, damages of any kind, costs, loss of profit, expenses and compensation whatsoever including court costs and reasonable attorney fees (“Claims”), in any way arising from, or in connection with, the Vehicles and Equipment rented/leased (which vehicles and equipment, together, are referred to in this document as “Equipment”), including, without limitation, as a result of its use, maintenance, or possession, irrespective of the cause of the Claim, including the active or passive negligence of Us, except as the result of Our sole negligence or willful misconduct, from the time the Equipment leaves Our place of business when You rent/lease it until the Equipment is returned to Us.
- 2. Loss of or Damage to Equipment.** You are responsible for loss, damage or destruction of the Equipment, including but not limited to losses while in transit, while loading and unloading, while at any and all locations, while in storage, while on Your premises, and while being used by You in any manner whatsoever, including damage or destruction of the Equipment caused by the active or passive negligence of Us, except that You are not responsible for damage to or loss of the Equipment caused by Our sole negligence or willful misconduct. You are also responsible for actual and verifiable loss of use and You shall fully compensate Us for the loss of use of the Equipment during the time it is being repaired or replaced, as applicable.
- 3. Protection of Others.** You will take reasonable precautions in regard to the use of the Equipment to protect all persons and property from injury or damage. The Equipment shall be used only by Your employees or agents qualified to use the Equipment.
- 4. Equipment in Working Order.** We have tested the Equipment in accordance with reasonable industry standards and found it to be in working order immediately prior to the inception of this Agreement, and to the extent You have disclosed to Us all of the intended uses of the Equipment, it is fit for its intended purpose. Other than what is set forth herein, You acknowledge that the Equipment is rented/leased without warranty, or guarantee, except as required by law or otherwise specifically agreed upon in writing by the parties at the inception of this Agreement.
- 5. Property Insurance.** You shall, at Your own expense, maintain at all times during the term of this Agreement, all risk perils property insurance (“Property Insurance”), covering the Equipment from all sources (Equipment Rental Floater or Production Package Policy) including coverage for, without limitation, (i) theft by force (ii) theft by fraudulent scheme and/or “voluntary parting” (iii) mysterious disappearance (iv) theft from unattended vehicles (v) loss of use of the Equipment, from the time the Equipment is picked up by You or a shipper at Our place of business or placed upon a common carrier for forwarding to You, as applicable, until the Equipment is returned to and accepted by Us. Policies with locked vehicle warranties, unattended vehicle exclusions or any other limitations on theft from vehicles are not acceptable. The Property Insurance shall be on a worldwide basis and name Us as the loss payee with respect to the Equipment and shall cover all risks of loss of, or damage or destruction to, the Equipment. The Property Insurance coverage shall be sufficient to cover the Equipment at its replacement value but shall, in no event, be less than \$1,000,000. The Property Insurance shall be primary coverage over Our insurance. A copy of the Property Risk insurance policy, including the declarations pages and the specific endorsement naming Us as an additional insured will be provided to Us on Our request.
- 6. Workers Compensation Insurance.** You shall, at Your own expense, maintain worker’s compensation insurance during the course of the Equipment rental as required by applicable law and employer’s liability insurance during the course of the Equipment rental with minimum limits of \$1,000,000.

- 7. Liability Insurance.** You shall, at your own expense, maintain commercial general liability insurance (“Liability Insurance”), including coverage for the operations of independent contractors and standard contractual liability coverage. The Liability Insurance shall name Us as an additional insured and provide that said insurance is primary coverage. Such insurance shall remain in effect during the course of this Agreement, and shall include, without limitation, the following coverages: standard contractual liability, personal injury liability, completed operations, and product liability. The Liability Insurance shall provide general liability aggregate limits of not less than \$2,000,000 (including the coverage specified above) and not less than \$1,000,000 per occurrence. A copy of the Liability Insurance policy, including the declarations pages and the specific endorsement naming Us as an additional insured will be provided to Us on Our request.
- 8. Vehicle Insurance.** You shall, at Your own expense, maintain business motor vehicle liability insurance (“Vehicle Insurance”), including coverage for loading and unloading Equipment and hired motor vehicle physical damage insurance, covering owned, non-owned, hired and rented vehicles, including utility vehicles such as trailers. Coverage for physical damage shall include “comprehensive” and “collision” coverage. We shall be named as an additional insured with respect to the liability coverage, and as a loss payee with respect to the physical damage coverage. The Vehicle Insurance shall also include coverage for pollution, if caused by accident, caused by any vehicles. The Vehicle Insurance shall provide not less than \$1,000,000 in combined single limits liability coverage and actual cash value for physical damage and shall provide that said insurance is primary coverage with respect to all insureds, the limits of which must be exhausted before any obligation arises under Our insurance. A copy of the Liability Insurance policy, including the declarations pages and the specific endorsement naming Us as an additional insured will be provided to Us on Our request.
- 9. Insurance Generally.** All insurance maintained by You pursuant to the foregoing provisions shall contain a waiver of subrogation rights in respect of any liability imposed by this Agreement on You as against Us. You shall hold Us harmless from, and shall bear the expense of, any applicable deductible amounts and self insured retentions provided for by any of the insurance policies required to be maintained under this Agreement. In the event of loss, You shall promptly pay amount of the deductible amount or self-insured retention or the applicable portion thereof to Us or the insurance carrier, as applicable. Notwithstanding anything to the contrary contained in this Agreement, the fact that a loss may not be covered by insurance provided by You under this Agreement or, if covered, is subject to deductibles, retentions, conditions or limitations shall not affect Your liability for any loss. Should You fail to procure or pay the cost of maintaining in force the insurance specified herein, or to provide Us upon request with satisfactory evidence of the insurance, We may, but shall not be obliged to, procure the insurance and You shall reimburse Us on demand for its costs. Lapse or cancellation of the required insurance shall be deemed to be an immediate and automatic default of this agreement. The grant by You of a sublease of the Equipment rented/leased shall not affect Your obligation to procure insurance on Our behalf, or otherwise affect Your obligations under this Agreement.
- 10. Control.** It is considered that You have taken delivery of equipment, and assume all risks of loss from the time You or any authorized representative takes physical control of the equipment at a Hot Bricks place of business, or when the items are placed into your or an authorized representative's vehicle. Furthermore, in the event any equipment is transported by Hot Bricks to a location that is not a Hot Bricks place of business at your request, You are considered to have taken delivery of said equipment once each item is placed safely at your requested delivery location regardless of weather or not You or an authorized representative takes physical control of any or all items at the time of delivery. You are considered to have returned leased equipment when the items are back in physical control of an employee of Hot Bricks, your intention was to returning the item/s, and Hot Bricks accepts the equipment. Returned equipment will however be subject to inspection for damages or loss up to 5 business days following the date of return.
- 11. Cancellation of Insurance.** You and Your insurance company shall provide Us with not less than 30 days written notice prior to the effective date of any cancellation or material change to any insurance maintained by You pursuant to the foregoing provisions.
- 12. Certificates of Insurance.** Before obtaining possession of the Equipment You shall provide to Us Certificates of Insurance confirming the coverages specified above. All certificates shall be signed by an authorized agent or representative of the insurance carrier.
- 13. Drivers.** Any and all drivers who drive the Vehicles You are renting/leasing from Us shall be duly licensed, trained and qualified to drive vehicles of this type. Although We may, from time to time, recommend certain qualified drivers with whom We are familiar, We do not supply drivers. You must supply and employ any driver who drives Our Vehicles (even if the driver is the registered owner of the vehicle or owner of a company that owns the vehicle) and that driver shall be deemed to be Your employee for all purposes and shall be covered as an insured on all of Your applicable insurance policies.

- 14. Operators.** Any and all Operators of the Equipment shall be duly experienced, trained and qualified to operate Equipment of this type. Although We may, from time to time, recommend certain qualified Operators with whom We are familiar, We do not supply Operators. You must supply and employ any Operator who operates the Equipment (even if the Operator is the owner of the Equipment or owner of a company that owns the Equipment) and that Operator shall be deemed to be Your employee and acting under Your supervision or control for all purposes and shall be covered as an insured on all of Your applicable insurance policies.
- 15. Compliance With Law and Regulations.** You agree to comply with the laws of all states in which the Equipment is transported and/or used as well as all federal and local laws, regulations, and ordinances pertaining to the transportation and use of such Equipment. Without limiting the generality of the foregoing and by way of example, You shall at all times (i) display all necessary and proper placards; (ii) obtain all necessary permits; and (iii) keep all required logs and records. You shall indemnify and hold Us harmless from and against any and all fines, levies, penalties, taxes and seizures by any governmental authority in connection with or as a result of Your possession or use of the Equipment including, without limitation, the full replacement value of the Equipment in the event of seizure or impound, including Our reasonable costs and reasonable attorney fees.
- 16. Valuation of Loss/Our Liability is Limited.** Unless otherwise agreed in writing, You shall be responsible to Us for the replacement cost value or repair cost of the Equipment (if the Equipment can be restored, by repair, to its pre-loss condition) whichever is less. If there is a reason to believe a theft has occurred, You shall file a police report. Loss of use shall be calculated at the rental rate provided for in this Agreement. Accrued rental charges shall not be applied against the purchase price or cost of repair of the lost, stolen or damaged Equipment. In the event of loss for which We are responsible, Our liability will be limited to the contract price and We will, in no event, be liable for any consequential, special or incidental damages.
- 17. Subrogation.** You hereby agree that We shall be subrogated to any recovery rights You may have for damage to the Equipment.
- 18. Bailment.** This agreement constitutes an Agreement or bailment of the Equipment and is not a sale or the creation of a security interest. You will not have, or at any time acquire, any right, title, or interest in the Equipment, except the right to possession and use as provided for in this Agreement. We will at all times be the sole owner of the Equipment.
- 19. Condition of Equipment.** You assume all obligation and liability with respect to the possession of Equipment, and for its use, condition and storage during the term of this Agreement except as otherwise set forth herein. You will, at Your own expense, maintain the Equipment in good mechanical condition and running order. The rent on any of the Equipment will not be prorated or abated while the Equipment is being serviced or repaired for any reason for which You are liable. We will not be under any liability or obligation in any manner to provide service, maintenance, repairs, or parts for the Equipment, except as otherwise specially agreed by Us in writing. All installations, replacements, and substitutions of parts or accessories with respect to any of the Equipment will become part of the Equipment and will be owned by Us.
- 20. Identity.** We will have the right to place and maintain on the exterior or interior of each piece of property covered by this Agreement the following inscription: Property of \_\_Hot Bricks, LLC\_\_. You will not remove, obscure, or deface the inscription or permit any other person to do so.
- 21. Expenses.** You will be responsible for all expenses, including but not limited to fuel, lubricants, and all other charges in connection with the operation of the Equipment.
- 22. Accident Reports.** If any of the Equipment is damaged, lost stolen, or destroyed, or if any person is injured or dies, or if any property is damaged as a result of its use, maintenance, or possession, You will promptly notify Us of the occurrence, and will file all necessary accident reports, including those required by law and those required applicable insurers. You, Your employees, and agents will cooperate fully with Us and all insurers providing insurance under this Agreement in the investigation and defense of any claims. You will promptly deliver to Us any documents served or delivered to You, Your employees, or Your agents in connection with any claim or proceeding at law or in equity begun or threatened against You, Us, or both You and Us.
- 23. Default -** If You fail to pay any portion or installment of the total fees payable hereunder or You otherwise materially breach this Agreement, then such failure or breach shall constitute a default ("Default"). Upon the occurrence of any such Default, and in addition to all other rights and remedies available at law or in equity, We shall have the right, at Our option, to terminate this Agreement and cease performance hereunder. You further agree that the continuation of Our performance

hereunder after a Default shall not constitute a waiver or operate as any form of estoppel with respect to Our later assertion of Our right to cease such performance at any time so long as such Default has not been cured.

**24. Return.** Upon the expiration date of this Agreement with respect to any or all Equipment, You will return the property to Us, together with all accessories, free from all damage and in the same condition and appearance as when received by You.

**25. Additional Equipment.** Additional Equipment may from time to time be added as the subject matter of this Agreement as agreed on by the parties. Any additional property will be added in an amendment describing the property, the monthly rental, security deposit, and stipulated loss value of the additional Equipment. All amendments must be in writing and signed by both parties. Other than by this amendment procedure, this Agreement may not be amended, modified, or altered in any manner except in writing signed by both parties.

**26. Entire Agreement.** This Agreement and any attached schedules, which are incorporated by reference and made an integral part of the Agreement, constitute the entire agreement between the parties. No agreements, representations, or warranties other than those specifically set forth in this Agreement or in the attached schedules will be binding on any of the parties unless set forth in writing and signed by both parties.

**27. Applicable Law.** This Agreement will be deemed to be executed and delivered in Los Angeles, California, and governed by the laws of the State of California.

**28. Arbitration.** Any controversy or claim arising out of or related to this Agreement or breach of this Agreement will be settled by binding arbitration, in Los Angeles, California, under the auspices of the Judicial Arbitration and Mediation Service ("JAMS"). The arbitration will be conducted by a single arbitrator under JAMS Streamlined Arbitration Rules. The decision and award of the arbitrator will be final and binding and any award may be entered in any court having jurisdiction. The prevailing party in any such arbitration shall be entitled to an award of reasonable attorney's fees and costs in addition to any other relief granted.

**29. Severability.** If any provision of this Agreement or the application of any of its provisions to any party or circumstance is held invalid or unenforceable, the remainder of this Agreement, and the application of those provisions to the other parties or circumstances, will remain valid and in full force and effect.

**30. Facsimile/Scanned Signature.** This Agreement may be executed in counterparts and by facsimile signature or signature that is scanned and transmitted by e-mail; such forms of signature shall be deemed to be original and fully binding.

**31. TERMS: ALL CHARGES ARE DUE AND PAYABLE WITHIN (30) DAYS AFTER THE INVOICE DATE. A SERVICE CHARGE OF ONE AND ONE-HALF PERCENT (1.5%) PER MONTH WILL BE ADDED TO ALL PAST DUE ACCOUNTS IF NOT PAID WITHIN THAT THIRTY (30) DAY PERIOD. ANY DISCOUNT SHOWN ON THE INVOICE MAY NOT BE ALLOWED IF PAYMENT IN FULL IS NOT MADE WITHIN THAT THIRTY DAY (30) DAY PERIOD. Any request for adjustment for Rental charges must be made within (10) days after the receipt of the invoice.**

**ACKNOWLEDGED AND AGREED BY AUTHORIZED REPRESENTATIVE:**

LESSEE'S AUTHORIZED REPRESENTATIVE: I declare under penalty of perjury, under the laws of the State of California, that I am an employee or representative of the above Lessee. I have been authorized by my said Employer/Principal to execute this lease agreement. I have read and understand the foregoing lease agreement and agree to bind my Employer/Principal to all the terms and conditions herein.

_____	_____	_____	_____
Print Name	Date	Print Name	Date
_____	_____	_____	_____
Signature		Signature	
Authorized Representative		Authorized Representative	
<b>HOT BRICKS</b>		<b>LESSEE</b>	