

CITY OF HILLSBORO

EQUIPMENT USE AGREEMENT

This Equipment Use Agreement ("Agreement") is effective as of the date of last signature ("Effective Date"), and is made between the CITY OF HILLSBORO, an Illinois municipal corporation, with offices at 447 S. Main St., Hillsboro, IL 62049 ("Owner"), and _____ ("User"). Owner and User are hereinafter collectively referred to as "Parties".

Owner allows the User to use from Owner, subject to the terms and conditions of this Agreement:

1998 JLG 600A man lift ("Equipment").

1. Term. This Agreement shall commence on the Effective Date and remain in full force and effect until Equipment is returned to Owner. User shall return the Equipment on _____, _____, unless terminated earlier consistent with the terms herein.

2. Fees. User shall also pay other charges in accordance with this Agreement due upon return of Equipment, to the fullest extent allowed by law, including but not limited to:

- a) loss of, or damage or repair to the Equipment, loss of use, diminution of the Equipment's value caused by damage to it or repair to it, and costs to enforce such charges including administrative fees for processing the claim and legal expenses;
- b) a \$10.00 charge per day for late return of the Equipment;
- c) a \$4.50 a gallon fuel charge if not returned with fuel used (**DIESEL FUEL ONLY**)
- d) unless due to the fault of Owner, all fines, penalties, court costs and other expenses relating to the Equipment assessed against Owner or the Equipment during the User Term;
- e) all expenses Owner incurs due to Users failure to return the Equipment including costs in locating and recovering the Equipment;
- f) all costs incurred to collect unpaid monies due; and
- g) twenty-five dollars (\$25.00) for making payment with insufficient funds.

3. Security Deposit. In addition to the fees listed in Section 2, Renter shall pay a deposit of \$200.00 at the time this Agreement is signed. Owner may use the deposit to cover any amounts due under this Agreement.

4. Location of Equipment. During the Term, Equipment shall be located at _____, unless expressly agreed otherwise in writing by Owner.

5. Care of Equipment. Equipment can only be used in a careful and proper manner and shall not be used in any way that is inconsistent with Owner's instructions or manuals.

6. Repair and Alterations. The costs of all repairs made during the Term shall be paid by User, including but not limited to labor, material, parts and other items. Equipment shall not be serviced or repaired and parts and accessories shall not be replaced without Owner's prior consent.

7. Restrictions on Use. User shall not:

- a) permit the Equipment to be used by any person who is not authorized to use such Equipment;
- b) operate or use the Equipment or permit it to be operated or used in violation of law;
- c) operate or use the Equipment or permit it to be operated or used to commit a violation of law; and/or
- d) operate, use, maintain or store the Equipment in a manner likely to cause damage to the Equipment.
- e) equipment shall be used for purposes related to building maintenance only unless prior consent by the Owner
- f) User shall use a safety harness at all times while operating equipment
- g) User shall follow manufactures recommendations on use of the equipment

8. Certificate of Insurance. A certificate of Insurance showing that the owner is covered against any claim, demand, cause of action, loss or liability including both personal damage and personal injury arising from the users use of equipment by any cause, in the amount of not less than \$1,000,000.00. The provisions of this article shall survive the termination of this agreement with respect to any claims or liability occurring before such termination. The City shall also be named as an additional insured under the policy.

9. Loss or Damage. User shall alert Owner to any damage to the Equipment. User shall be responsible for any loss or damage to Equipment and loss of use, diminution of the Equipment's value caused by damage to it or repair to it and missing equipment during Users use.

10. Condition of Equipment. User acknowledges that User has examined the Equipment and that it is in good condition except as otherwise specified. OWNER MAKES NO WARRANTY, EXPRESS OR IMPLIED, COURSE OF DEALING, COURSE OF PERFORMANCE, USAGE OF TRADE OR OTHERWISE, AND EXPRESSLY EXCLUDES AND DISCLAIMS ALL WARRANTIES AND REPRESENTATIONS OF ANY KIND, INCLUDING ANY WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE AND NON-INFRINGEMENT.

11. Return of Equipment. User shall return Equipment on the date specified in Section 1 in the same condition as User received it, except for normal wear and tear. User shall return the Equipment to the agreed return location. If Equipment is not returned on said date, Owner reserves the right to take any action necessary to regain possession of the Equipment.

12. Termination. This Agreement shall terminate on the date specified in Section 1. Owner reserves the right to terminate this Agreement earlier upon notice to User.

13. Indemnification and Liability. User shall indemnify, defend and hold harmless Owner from and against any claim, demand, cause of action, loss or liability (including attorney's fees and expenses of litigation) for any property damage or personal injury arising from Users use of Equipment by any cause, except to the extent caused by Owner's gross negligence or willful misconduct. The provisions of this Article shall survive the termination of this Agreement with respect to any claims or liability accruing before such termination.

14. Severability. In the event any provision of this Agreement is held by a court to be unenforceable, that provision will be enforced to the maximum extent permissible under applicable law, and the other provisions of this Agreement will remain in full force and effect.

15. Entire Agreement. This Agreement represents the entire understanding relating to the subject matter hereof and prevails over any prior or contemporaneous, conflicting or additional communications. This Agreement can only be modified by a written amendment signed by the party against whom enforcement of such modification is sought.

16. Assignment. User may not, without the prior written consent of Owner, transfer or assign this Agreement or any part thereof. Any attempt to do so shall be a material default of this Agreement and shall be void.

User acknowledges receipt of a copy of this Agreement and acknowledges having read and understood the foregoing.

City of Hillsboro, Illinois

Printed Name

Signature

Title

Date

User information

Printed Name

Signature

Title

Date

INDEMNITY/HOLD HARMLESS AGREEMENT

This Indemnity/Hold Harmless Agreement is entered into the ____ day of _____, 2019, between THE CITY OF HILLSBORO, hereinafter referred to as "CITY," and _____, hereinafter referred to as "BUSINESS."

WHEREAS, CITY and BUSINESS have agreed to enter into a contract, whereby BUSINESS is to perform certain services with City equipment, and which BUSINESS will use City equipment to perform improvements to property located in the Business District of the CITY OF HILLSBORO, Montgomery County, Illinois, or repair properties in the Business District of the CITY OF HILLSBORO, Montgomery County, Illinois.

It is a condition of BUSINESS being allowed to borrow City property, that this Indemnity/Hold Harmless Agreement be executed and delivered by BUSINESS to CITY, and CITY is allowing BUSINESS to use the equipment pursuant to the following regulations.

NOW, THEREFORE, BUSINESS undertakes to indemnify CITY from any and all liability, loss or damage that CITY may suffer as a result of all claims, demands, costs, or judgments against BUSINESS arising out of operations related to the borrowing of equipment from the CITY OF HILLSBORO.

BUSINESS also agrees to hold CITY harmless from any and every type of claim, whether based on tort, contract, or other theory of recovery, which may be brought against BUSINESS, or which may hereafter accrue or otherwise be acquired, on account of, or any way growing out of the use of the equipment being loaned by CITY to BUSINESS, or any claim which may have been brought against BUSINESS alleging acts or omissions of liability against BUSINESS.

BUSINESS acknowledges the receipt of this Indemnity/Hold Harmless Agreement and agrees that no action will be taken with any City property that is borrowed until a signed original of this Agreement has been returned to the City Clerk of the City of Hillsboro, Montgomery County, Illinois.

BUSINESS

Printed Name