

## STANDARD ADDENDUM TO EQUIPMENT RENTAL AGREEMENT

The parties described below, as authorized by their signatures below, expressly agree that this addendum shall supersede, to the extent they are applicable, any conflicting terms or conditions in the Equipment Rental Agreement (Agreement) to which it is attached.

I. Time of Payment. Pursuant to the provisions of Iowa Code section 8A.514, the Iowa Department of Natural Resources (hereafter “DNR” or “Lessee”) shall pay its debts without penalty within 60 days from the date after which DNR receives a written invoice from Lessor for rental of equipment which has been supplied to DNR by Lessor according to the terms and conditions of this Agreement.

II. Self-Insurance and No Indemnity by the State of Iowa. Pursuant to Iowa Code chapter 669, DNR and the State of Iowa are self-insured against all risks and hazards related to this Agreement. DNR shall indemnify the Contractor only to the extent permitted by Article VII, Section 1 of the Iowa Constitution; Iowa Code chapter 669; and other applicable Iowa law, from and against property losses or personal injuries arising out of DNR’s use of the leased equipment. . No separate fund has been established to provide self-insurance, and the State of Iowa is not obligated to establish any such fund during the term of this Agreement.

III. Non-appropriation. The parties agree that DNR shall have the right to terminate this Agreement without penalty by giving sixty (60) days’ written notice to the Lessor as a result of any of the following:

1. The legislature or governor fail in the sole opinion of DNR to appropriate funds sufficient to allow DNR to either meet its obligations under this Agreement or to operate as required and to fulfill its obligations under this Agreement; or if funds anticipated for the continued fulfillment of the Agreement are, at any time, not forthcoming or are insufficient, either through the failure of DNR to appropriate funds or funding from a federal source is reduced or discontinued for any reason, or through discontinuance or material alteration of the program for which funds were provided; or
2. If funds are de-appropriated, reduced, not allocated, or receipt of funds is delayed, or if any funds or revenues needed by DNR to make any payment hereunder are insufficient or unavailable for any other reason as determined by DNR in its sole discretion; or
3. If DNR’s authorization to conduct its business or engage in activities or operations related to the subject matter of this Agreement is withdrawn or materially altered or modified; or
4. If DNR’s duties, programs or responsibilities are modified or materially altered; or
5. If there is a decision of any court, administrative law judge or an arbitration panel or any law, rule, regulation or order is enacted, promulgated or issued that materially or adversely affects DNR’s ability to fulfill any of its obligations under this Agreement.

IV. Compliance with Laws. The parties agree to comply with all applicable federal, state, and local laws, rules, ordinances, regulations and orders when acting under this Agreement, including without limitation, all laws applicable to the prevention of discrimination in employment. The parties also shall comply with all federal, state and local laws regarding business permits and licenses that may be required to carry out the work performed under this Agreement.

V. Choice of Law and Forum. The laws of the State of Iowa shall govern and determine all matters arising out of or in connection with this Agreement without regard to the choice of law provisions of Iowa law. In the event any proceeding of a quasi-judicial or judicial nature is commenced in connection with this Agreement, the exclusive jurisdiction for the proceeding shall be brought in Polk County District Court for the State of Iowa, Des Moines, Iowa, or in the United States District Court for the Southern District of Iowa, Central Division, Des Moines, Iowa wherever jurisdiction is appropriate. This provision shall not be construed as waiving any immunity to suit or liability including without limitation sovereign immunity in State or Federal court, which may be available to DNR or the State of Iowa.

VI. Certification Regarding Sales and Use Tax. By executing this Agreement, Lessor certifies that it is either (a) registered with the Iowa Department of Revenue, collects and remits sales and use taxes as required by Iowa Code chapter 432; or (b) not a “retailer” or a “retailer maintaining a place of business in this state” as those terms are defined in Iowa Code sections 423.1(42) and (43). Lessor also acknowledges that the DNR may declare the Agreement void if the above certification is false. Lessor also understands that fraudulent certification may result in the DNR or its representatives filing action for damages for breach of contract.

VII. Duration of the Contract. The parties agree Iowa law requires that the duration of the Contract be stated in the Contract. Therefore, the parties agree that the Contract shall not be self-renewing.

VIII. Independent Contractor. The parties agree that the status of the Contractor shall be that of an independent contractor. The Contractor, and its employees and agents performing under this Contract are not employees or agents of the State of Iowa or any agency, division or department of the state. Neither the Contractor nor its employees shall be considered employees of DNR or the State of Iowa for federal or state tax purposes. DNR will not withhold taxes on behalf of the Contractor. Contractor shall be responsible for payment of all taxes in connection with any income earned from performing this Contract.

IX. Termination. The parties agree that Iowa law requires termination provisions to be contained in this Agreement. Therefore, regardless of any other termination provisions contained in the Contract and following written notice, DNR may terminate this Contract in whole or in part without the payment of any penalty or incurring any further obligation to the Contractor. Following termination upon notice, the Contractor shall be entitled to compensation, upon submission of invoices and proper proof of claim, for services provided under this Contract to DNR up to and including the date of termination.

**Department of Natural Resources, Lessee**

\_\_\_\_\_, **Lessor**

By: \_\_\_\_\_

By: \_\_\_\_\_

Date: \_\_\_\_\_

Date: \_\_\_\_\_

Printed Name/Title: \_\_\_\_\_

Printed Name/Title: \_\_\_\_\_