

# EQUIPMENT USE AGREEMENT

**THIS AGREEMENT** is made this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, by and between the \_\_\_\_\_ (the “Lender”) and the City of Hinckley, Minnesota (the “Borrower”).

1. Loaned Equipment. The Lender agrees to lend the following equipment (the “Equipment”) to the Borrower:
  - a. \_\_\_\_\_
  - b. \_\_\_\_\_
  - c. \_\_\_\_\_
2. Fees. There shall not be a fee for the use of the equipment.
3. Term. The Borrower shall be entitled to use the Equipment until June, 2027 or until the Lender recalls the Equipment or the Borrower returns the Equipment, whichever date is the earliest. The Lender may recall the Equipment at any time. The Lender and any officer, employee, volunteer or agent of the Lender may not be held liable for recalling the Equipment.
4. Return of Equipment. The Borrower is responsible for examining the Equipment prior to receiving it from the Lender and must return the Equipment in the same condition in which it was received, except normal wear and tear. Any Equipment using fuel or other fluids must be returned with the same level of fuel that the Equipment had when loaned to the Borrower.
5. Routine Maintenance. The Borrower is responsible for any routine maintenance required to operate the Equipment while in the Borrower’s possession. Routine maintenance would include fuel, lubricants, fluids, repair of a flat tire, and other items that are typically incidental to the use of the Equipment.
6. Trained Personnel. The Borrower agrees that only trained personnel shall be allowed to operate the Equipment. The Borrower agrees to follow all safety precautions including the wearing of personal protective equipment while using the Equipment.
7. Transportation. The Borrower shall be responsible for transporting the Equipment to and from the Borrower’s location.
8. Storage. Borrower shall store the Equipment in a safe place while in the Borrower’s possession.

9. Damage to Equipment. The Borrower shall be responsible for any damage to or loss of the Equipment while the Equipment is in the Borrower's possession due to negligence.
10. Insurance. The Borrower agrees to maintain commercial general liability (CGL) insurance on the equipment. The Borrower's insurance shall be primary and non-contributory to any other valid and collectible insurance available to the Lender.
11. Workers' Compensation. The Borrower shall be responsible for injuries or death of its own personnel while using the Equipment. The Borrower will maintain workers' compensation insurance covering its own personnel while they are using the Equipment.
12. Indemnification. The Borrower agrees to defend and indemnify the Lender against any claims brought or actions filed against the Lender or any officer, employee, or volunteer of the Lender for injury to, death of, or damage to the property of any third person or persons, arising from the Borrower's use of the Equipment.
13. Assumption of Risk. The Borrower acknowledges that using the Equipment has certain inherent risks that cannot be eliminated regardless of the care taken to avoid injuries. The Borrower assumes any and all risks, whether known or unknown, while using the Equipment.
14. Waiver. The Borrower understands and agrees that neither the Lender or any person acting on behalf of the Lender may be held liable in any way for any event which occurs in connection with using the Equipment which may result in harm, injury or other damage to the Borrower or any other person, including damage to property. This waiver of liability does not waive liability for any injuries that the Borrower obtains as the result of willful, wanton or intentional misconduct by the Lender or any person acting on behalf of the Lender.
15. Entire Agreement. This Agreement supersedes any prior or contemporaneous representations or agreements, whether written or oral, between the Borrower and Lender and contains the entire agreement.
16. Amendments. Any modification or amendment to this Agreement shall require a written agreement signed by both the Borrower and the Lender.
17. Governing Law. This Agreement shall be governed by and interpreted in accordance with the laws of the State of Minnesota.
18. Captions. Captions or headings contained in this Agreement are included for convenience only and form no part of the agreement between the Borrower and the Lender.
19. Waivers. The waiver by either the Borrower or the Lender of any breach or failure to comply with any provision of this Agreement by the other party shall not be construed as, or constitute a continuing waiver of such provision or a waiver of any other breach of or failure to comply with any other provision of this Agreement.

20. Counterparts. This Agreement may be executed in counterparts, each of which shall be an original, all of which shall constitute but one and the same instrument.

21. Savings Clause. If any court finds any portion of this Agreement to be contrary to law or invalid, the remainder of the Agreement will remain in full force and effect.

IN WITNESSS WHEREOF, the Borrower and Lender, by action of their respective governing bodies, caused this Agreement to be approved.

\_\_\_\_\_,  
**LENDER**

\_\_\_\_\_,  
**MINNESOTA, BORROWER**

BY: \_\_\_\_\_  
Officer

BY: \_\_\_\_\_  
Its Mayor

AND: \_\_\_\_\_  
Its Clerk