

## **EASY STREET EQUIPMENT RENTAL CORP.**

**RENTAL DAMAGE WAIVER TERMS AND CONDITIONS.** These Rental Damage Waiver Terms and Conditions (this “Damage Waiver Policy”) apply only where a customer (“Lessee”) has a Rental Contract with Easy Street Equipment Rental Corp. (“Easy Street” or “Lessor”) and a Damage Waiver has not been declined in accordance with Section 3 below. This Damage Waiver Policy is a contractual waiver of certain charges Lessee would otherwise owe to Easy Street for physical damage to rented equipment. The Damage Waiver is not an insurance policy. Lessee’s election of the Damage Waiver does not make Lessee an insured or third-party beneficiary under any Easy Street insurance and does not cover every type of loss. This Damage Waiver Policy is part of and subject to the Easy Street Rental Contract Terms and Conditions (the “Rental Agreement”). If there is any conflict between this Damage Waiver Policy and the Rental Agreement regarding Lessee’s basic rental obligations, or allocation of risk for losses not expressly waived in this Damage Waiver Policy, the Rental Agreement controls, except that this Damage Waiver Policy controls the scope and conditions of any Damage Waiver benefit.

### **1. KEY DEFINITIONS.**

#### **1.1 Definitions.** For purposes of this Damage Waiver Policy:

“Actual Cash Value” means the cost to replace the Equipment with property of like kind and quality at the time and place of loss, less a reasonable deduction for depreciation, wear and tear, age, and obsolescence.

“Authorized User” means Lessee and any individual identified or otherwise authorized by Easy Street to use, operate, transport, or control the Equipment under the Rental Agreement.

“Customer” or “Lessee” or “You” or “Your” means the customer identified as lessee in the Rental Agreement and, its owners, officers, employees, and agents.

“Covered Cause of Loss” means a fortuitous, accidental cause or event (not otherwise excluded) that occurs during the Rental Period, and results in direct physical loss of or damage to Covered Property. A Covered Cause of Loss does not include: a cause or event (whether or not excluded) that actually occurred before the Rental Period, even if discovered later; or loss or damage where the cause is unknown or cannot reasonably be determined.

“Covered Property” under this Damage Waiver Policy means Equipment that Easy Street rents to Lessee under a Rental Agreement, and that which falls within an eligible category under Easy Street’s Rental Equipment Coverage and is specifically identified as being subject to a physical damage waiver issued by Easy Street before any loss as part of the Rental Agreement. If an item is not treated as “Covered Property” under Easy Street’s policy, it is not Covered Property for this Damage Waiver Policy.

“Easy Street” or “Lessor” or “We” or “Us” means Easy Street Equipment Rental Corp.

“Equipment” means any machinery, tools, trailers, or other tangible personal property Easy Street rents to Lessee, as listed on a Rental Contract.

“Pollutants” includes any irritant or contaminant, including smoke, vapor, soot, fumes, acids, alkalis, chemicals, waste, and any materials defined as pollutants or contaminants in Easy Street’s rental damage waiver insurance.

“Rental Agreement” means the Easy Street Rental Contract Terms and Conditions and the specific Rental Contract or invoice or online order that lists the rented equipment, rates, and rental period.

“Rental Period” means the period beginning when an authorized user takes physical possession of the Equipment under a signed Rental Agreement and ending at the earlier of the expiration of the rental period stated in the Rental Agreement, or the time the Equipment is actually returned to and accepted by Easy Street.

## 2. OVERVIEW

2.1 Basic Effect. If Damage Waiver applies to a Rental Agreement and all conditions in this Damage Waiver Policy are met, Easy Street agrees to waive certain charges Lessee would otherwise owe under the Rental Agreement for direct physical loss of or damage to Covered Property caused by a Covered Cause of Loss during the Rental Period, subject to: (i) the limits and deductible in Section 5; (ii) the exclusions in Section 7; and (iii) the conditions in Section 8.

2.2 No Third-Party Liability Protection. The Damage Waiver does not waive or limit Lessee’s responsibility for bodily injury or death to any person, or damage to any property other than Covered Property. Lessee’s obligations to indemnify Easy Street and others for third-party claims are governed by the Rental Agreement and remain fully in effect.

2.3 No Broader Protection than Our Own Insurance. Easy Street may maintain its own insurance for rental equipment. This Damage Waiver Policy never provides broader protection than the direct physical damage coverage Easy Street actually has in force for the relevant loss. Easy Street will only waive amounts that fall within the scope of its own rental damage waiver insurance and that are actually paid (or would be payable) under that insurance, above the applicable deductible.

## 3. PROGRAM PARTICIPATION; FEE; DECLINING DAMAGE WAIVER

3.1 Program Fee. For eligible rentals, Easy Street charges a Damage Waiver fee. The Damage Waiver fee is as stated on the Rental Contract. The exact fee for a given rental will be shown on the Rental Contract or online order.

3.2 Default Enrollment; Right to Decline. By default, the Damage Waiver applies to rentals where the Damage Waiver fee is charged. Lessee may decline Damage Waiver for a particular rental by providing proof of insurance acceptable to Easy Street that covers physical damage to the Equipment during the Rental Period and affirmatively indicating “DECLINE Damage Waiver” on the Rental Contract or in the online checkout process. If Lessee validly declines Damage Waiver,

this Damage Waiver Policy does not apply to that rental, and Lessee remains fully responsible for all loss or damage to the Equipment as stated in the Rental Agreement.

3.3 Administrative and Documentation Requirements. The Damage Waiver is only available for rentals that meet Easy Street's administrative requirements, which include, at minimum: (i) a signed Rental Agreement listing the Equipment; (ii) a current government-issued photo identification for the Lessee and all Authorized Users; and (iii) a major credit card or other payment method acceptable to Easy Street on file for the rental. If Lessee fails to provide required documentation or information, Easy Street may refuse to extend the Damage Waiver for that rental or treat the Damage Waiver as void with respect to a particular loss, in which case Lessee remains fully liable under the Rental Agreement.

#### 4. SCOPE OF DAMAGE WAIVER COVERAGE

4.1 Covered Property and Time Limitation. The Damage Waiver applies only to Covered Property during the Rental Period. Equipment is not treated as Covered Property before any authorized user takes physical possession under a signed Rental Agreement or after expiration of the Rental Period or return of the Equipment to Easy Street.

4.2 Covered Causes of Loss. Subject to the exclusions in Section 7, the Damage Waiver applies to direct physical loss of or damage to Covered Property caused by a Covered Cause of Loss during the Rental Period. A Covered Cause of Loss can include, for example, accidental damage from a jobsite incident, collision, falling objects, fire, or other fortuitous events not otherwise excluded.

4.3 Debris Removal. The Damage Waiver may also extend to those debris removal charges that Lessee would otherwise owe, subject to any time limits for reporting such costs and the debris removal sublimit under Easy Street's policy.

4.4 Pollutant Cleanup and Removal. Where a Covered Cause of Loss results in the release of pollutants from Covered Property, the Damage Waiver may extend to those cleanup charges that Lessee would otherwise owe, but only up to the pollutant cleanup and removal aggregate limit under Easy Street's policy, and subject to all policy conditions, including reporting time limits. The Damage Waiver does not extend to testing or monitoring costs except to the limited extent such testing is necessary to perform covered cleanup.

#### 5. LIMITS OF WAIVER AND DEDUCTIBLE

5.1 Per-Item Limit; Actual Cash Value. For each item of Covered Property involved in a single occurrence, Easy Street will waive the lesser of: (A) the item's Actual Cash Value at the time of loss; or (B) the actual cost to repair or replace the item with property of like kind and quality, up to Five-Hundred Thousand Dollars (\$500,000) per item of Covered Property. For these purposes, a piece of Equipment and its attachments may be treated as a single item.

5.2 Per-Occurrence and Aggregate Limits. The total amount Easy Street will waive for all Covered Property arising out of any one occurrence will in no event exceed Three Million Dollars (\$3,000,000) and is subject to Easy Street's damage waiver policy period aggregate limit.

5.3 Deductible. For each occurrence, Lessee remains responsible for a per-item deductible equal to Two Thousand Five Hundred Dollars (\$2,500) per item unless otherwise stated on the Rental Contract. The Damage Waiver applies only to loss amounts above that deductible, up to the applicable limits.

5.4 Changes in Limits and Deductible. The limits and deductible stated here reflect Easy Street's current insurance program and may change if Easy Street modifies or replaces its insurance. In the event of such change, Easy Street's obligations under this Damage Waiver Policy will automatically adjust to match the then-current limits and deductible of its rental damage waiver insurance.

## 6. PROPERTY NOT COVERED

6.1 Types of Property Excluded. The Damage Waiver does not apply to the following types of property, even if rented by Easy Street:

- Aircraft or watercraft.
- All-terrain vehicles and certain recreational vehicles that are not scheduled as Covered Property under Easy Street's policy.
- Furniture, fixtures, or property permanently attached to buildings or structures.
- Equipment while used in logging or pulpwood operations.
- Equipment while used in strip mining or underground mining operations.
- Equipment while located underground, except for buckets or attachments on excavators, backhoes, or similar equipment used in standard excavations or trenching.
- Equipment while waterborne (on any vessel).
- Equipment (other than properly used submersible pumps) while operated underwater or in caissons.
- Self-propelled automobiles, motor trucks, motorcycles, recreational vehicles and similar conveyances designed primarily for highway use and used for over-the-road transportation of people or cargo (except vehicles designed and used primarily to carry mounted equipment).
- Snow machines and any other property Easy Street designates as excluded in its rental damage waiver insurance.

If a loss involves any such property, Easy Street will not waive any charges related to that loss under this Damage Waiver Policy.

## 7. DAMAGE WAIVER EXCLUSIONS

7.1 Exclusions. The Damage Waiver does not apply to loss or damage caused directly or indirectly by, resulting from, or consisting of any of the following exclusions in this Section 7 (even if another cause contributes in any sequence).

7.2 War, Nuclear, Governmental, or Catastrophic Perils. Loss or damage caused by:

- War, civil war, invasion, insurrection, or similar military action;
- Nuclear reaction, nuclear radiation, or radioactive contamination;
- Seizure, confiscation, demolition, or nationalization of property by governmental authority;
- Certain biological or chemical materials that are treated as excluded perils under Easy Street's policy.

7.2 Pollution. Loss or damage caused by the discharge, seepage, migration, dispersal, release, or escape of pollutants, except to the limited extent covered and waived under Section 4.4.

7.3 Overloading. Loss or damage caused by weight exceeding the registered lifting capacity or rated load of any machine.

7.4 Unexplained Loss. Unexplained loss, shortage discovered only upon taking inventory or audit, or mysterious disappearance of Equipment.

7.5 Electrical Disturbance. Damage from artificially generated electrical current, including electric arcing, that disturbs electrical devices, appliances, or wiring, except to the extent specifically treated as a covered loss under Easy Street's policy.

7.6 Failure to Maintain; Mechanical Breakdown; Wear and Tear. Loss or damage caused by or consisting of:

- failure to properly service and maintain the Equipment, including failure to lubricate or follow manufacturer maintenance guidelines;
- mechanical breakdown or failure;
- normal wear and tear, gradual deterioration, corrosion, rust, inherent defect, freezing, extremes of temperature, or structural defects;
- damage arising from processing or working upon the Equipment; or
- ingestion or drawing-in of foreign objects (e.g., rocks, dirt, trash, debris) that damage internal systems.

7.7 Abnormal or Improper Use. Loss or damage arising from use of the Equipment in a manner inconsistent with its intended purpose or design, or in a Prohibited Use under the Rental Agreement.

7.8 Pre-Rental or Unknown Causes. Loss or damage that actually occurred before the Rental Period begins, even if discovered later, and loss where the cause is unknown or cannot reasonably be determined.

## 8. DAMAGE WAIVER BENEFITS

8.1 Terms and Conditions. The following are conditions precedent to any waiver under this Damage Waiver Policy. If Lessee fails to satisfy these conditions in a way that materially prejudices Easy Street, Easy Street may reduce or deny Damage Waiver for that loss.

8.2 Protection of Equipment. Lessee must take reasonable steps to protect the Equipment from further damage after any incident and, where feasible, set aside damaged property in the best possible order for examination.

8.3 Prompt Notice. Lessee must notify Easy Street immediately of any accident, loss, theft, or damage involving the Equipment. For theft or suspected theft, Lessee must also promptly notify law enforcement and obtain a police report.

8.3 Cooperation and Documentation. Lessee agrees to: (i) provide Easy Street with information, records, and documents reasonably requested in connection with the loss (including rental documents, photographs, maintenance or usage records, and third-party contact information); (ii) permit Easy Street and any insurer to inspect damaged property and the site; and (iii) assist in securing rights against potentially responsible third parties.

8.4 Statements and Examinations. Upon reasonable request, Lessee and relevant personnel must provide statements and, where required by Easy Street's insurer, submit to examination under oath regarding matters connected to the loss.

8.5 Books and Records. Upon request, Lessee must produce relevant books of account, invoices, statements, or certified copies for review at a reasonable time and place and allow Easy Street or its insurer to make copies.

8.6 No Prejudicial Admissions or Settlements. Lessee must not admit liability, agree to settle, or sign releases in connection with any loss involving the Equipment if doing so would prejudice Easy Street or its insurer, without Easy Street's prior consent.

## 9. OTHER INSURANCE; SUBROGATION; NO THIRD-PARTY BENEFIT

9.1 Lessee's Own Insurance. Lessee is encouraged and may be required by the Rental Agreement to maintain its own insurance. If Lessee's own insurance covers some or all of a loss, that insurance will generally apply first. The Damage Waiver will apply only to waive amounts that remain Lessee's responsibility and that fall within the scope of this Damage Waiver Policy.

9.2 Subrogation. If Easy Street or its insurer pays amounts for a covered loss, Easy Street and/or its insurer may have rights to recover those amounts from third parties, and Lessee must not impair those rights and must cooperate, upon request, to help enforce such rights. Notwithstanding the foregoing, nothing in this Section 9.2 confers upon Lessee any independent right to avoid obligations that are not waived under this Damage Waiver Policy.

9.3 No Benefit to Carriers or Other Bailees. This Damage Waiver Policy is intended for the benefit of Easy Street and, subject to its terms, Lessee. It does not confer any benefits on carriers, storage facilities, or other bailees, and does not limit Easy Street's rights against them.

## 10. RENTAL AGREEMENT; GOVERNING LAW; INTERPRETATION

10.1 Subject to Rental Agreement. This Damage Waiver Policy is part of, and is incorporated into, the Rental Agreement for any rental where the Damage Waiver applies. Nothing in this Damage Waiver Policy waives Lessee's obligations to pay rent, taxes, fees, or charges unrelated to covered physical damage or modifies Lessee's obligations regarding third-party claims, safety, or compliance with law as set out in the Rental Agreement.

10.2 Governing Law and Venue. This Damage Waiver Policy shall be governed by and construed in accordance with the laws of the State of New York, without giving effect to its conflict-of-law rules. Any lawsuit or proceeding arising out of or relating to this Agreement shall be brought exclusively in the state or federal courts located in Suffolk County, New York, and the Lessee consents to the personal jurisdiction of such courts.

10.3 Interpretation; No Contra Proferentem. To the fullest extent permitted by applicable law, this Damage Waiver Policy will be construed fairly and in accordance with its plain meaning and no presumption or rule that ambiguities are to be construed against the drafter will apply.

10.4 Entire Agreement on Damage Waiver. This Damage Waiver Policy and the applicable Rental Contract constitute the entire agreement between Easy Street and Lessee with regard to the Damage Waiver. Any marketing materials or summaries are for convenience only, and to the extent that any such materials or summaries differ from this Damage Waiver Policy, this Damage Waiver Policy controls.