

RUBBL GENERAL TERMS OF SERVICE

Please read these Terms of Service and our Privacy Policy carefully as they contain important information regarding your legal rights, remedies, and obligations, including obligations and as You must agree to both documents in order to have permission to use our Services (as defined below).

I) SCOPE OF SERVICES

- 1) **Introduction and definitions.** Rubbl, LLC, a Texas limited liability company (collectively, "**Rubbl**", "**we**", or "**us**"), provides an online heavy equipment rental platform ("**Platform**") that connects equipment owners with customers seeking to book and rent one or more Units of equipment ("**Equipment**") for construction projects. Rubbl is accessible online including at [\[https://www.rubbl.com\]](https://www.rubbl.com) ("**Site**") and as an application for mobile devices. Rubbl's websites, blog, and mobile applications and all associated and delivered services are collectively referred to as the "**Services**" or "**our Service**". "**User(s)**" refers to anyone who uses our Service, including general visitors to our Site, owners of Equipment ("**Owner(s)**"), renters of Equipment ("**Renters**"), providers such as transportation specialists, service/repairmen, parts and tires suppliers ("**Providers**"). "**Unit**" means one piece of Equipment. "**You**" refers to you, the person who is entering into this Agreement with Rubbl. By accessing or using the Services, including by communicating with us or other Rubbl Users, You agree to comply with, and be legally bound by, the provisions of these General Terms of Service, regardless of whether or not You become a registered User of the Services. To the extent You use the Services as a Renter, You hereby agree to comply with, and be legally bound by the Rubbl Rental Terms ("**Rental Terms**"). To the extent You use the Services as an Owner, you hereby agree to comply with, and be legally bound by the Rubbl Owner Terms ("**Owner Terms**" collectively with the General Terms of Service and Rental Terms, the "**Terms**"). All registered Users of the Platform are referred to as "**Members**". These Terms govern your access to and use of the Services and constitute a binding legal agreement between You and Rubbl. These Terms, together with Rubbl's Privacy Policy, applicable insurance terms and certificates (the "**Policies**") constitute the "**Agreement**" between You and Rubbl (each a "**Party**" and together, "the **Parties**").
- 2) **Modification.** Rubbl reserves the right, at our sole discretion, to modify our Services or to modify these Terms at any time. If we modify these Terms, we will post all modifications of our Services and send You a notice of change by email. We will also update the "**Last Revised**" date at the top of these Terms. By continuing to access or use our Services after we have provided You with notice of a modification, You are indicating that You agree to be bound by the modified Terms; however, no modification of Terms shall apply to Equipment already contracted out to a Renter. If the modified Terms are not acceptable to You, your sole recourse is to stop using and accessing the Services and close your Rubbl Account (as defined below in Article II) within 14 days, in which case the previous effective version of these Terms will apply to You, unless You have used the Services during the intervening 14 day period, in which case the new version of these Terms will apply to You automatically. If You have any questions for us concerning the Agreement, or Rubbl generally, please contact us at support.rubbl.com, send an email to support@rubbl.com, or call us (866)-455-8531.
- 3) **Precision on Rubbl role.** While we will help facilitate the resolution of disputes between registered Users of our Platform, Rubbl does not guarantee or warrant, and You hereby waive any claim against Rubbl regarding (i) the existence, quality, safety, suitability, fitness for purpose, performance, or legality of any Equipment rented through our Platform Services, (ii) the truth or accuracy of any Equipment descriptions, ratings, reviews, or other member Content, or (iii) the performance of or the conduct of any Member or third party. Rubbl does not endorse any Member or Equipment. Any references to a Member being "verified" (or similar language) only indicate that the Member has completed a relevant verification or identification process and nothing else. Any such description is not an endorsement, certification, representation, warranty, or guarantee by Rubbl about any Member, including the Member's identity or background or whether the Member is trustworthy, safe or suitable. It's up to the Users to always exercise due diligence and care when deciding whether to rent or lease Equipment. Verified Images (as defined below) are intended only to indicate a photographic representation of the Equipment at the time the photograph was taken and are therefore not an endorsement by Rubbl of any Owner or Equipment. While Rubbl will attempt to provide appropriate attention to any feedback it receives in an effort to collectively improve the Rubbl Platform, there is no guarantee that Rubbl will be able to provide appropriate attention to all feedback. See [Contact section](#).

- 4) **Additional Services.** Rubbl from time to time may offer additional marketplace service, transportation, marketing, or other offerings, which may be subject to specific terms and conditions, which after acceptance by Member, shall be incorporated into the Terms; it being understood that in case of additional fees, the User will need to expressly agree to such additional Services.

II) ACCOUNT REGISTRATION AND CONTRACTING PROCESS

- 1) **Eligibility.** Our Services are intended solely for persons who are 18 or older. Any use of the Services by anyone that does not meet these age requirements is expressly prohibited and shall be considered a breach of these Terms.
- 2) **Registration.** To access certain features of the Services, You must sign up for an account with us (a "**Rubbl Account**") by either providing us your email address and creating a password, or connecting through an account with a third-party site or service (including but not limited to Facebook, LinkedIn, and Google).
- 3) **Verification.** When You list or rent a piece of Equipment and/or become a User of the Rubbl Platform, You provide us with certain information about yourself and/or your company that enables us to verify your identity. You promise to provide complete and accurate information to Rubbl about yourself, your company, and your Equipment, if applicable. Where permitted, Rubbl has the right to undertake screenings, checks, and processes designed to help verify or check the identities and/or backgrounds of Users and Units. Unless Owner has been given or subscribed to a Top Owner Designation premium service, Rubbl does not endorse any Unit, User, or a User's background, or commit to undertake any specific screening process, nor does Rubbl endorse any peer-review, if any, of the Units. The "**Top Owner Designation**" is awarded via a proprietary algorithm that in part, takes into consideration factors such as an Owner's fleet make up (size and health), community behavior and participation, and reviews. Notwithstanding anything to the contrary, while Rubbl will promote on its website the Top Owner Designation, it does not provide any warranty or representation regarding the Equipment or actions of any User, Member, Owner, Renter or third party; further Rubbl may remove any designation at any time for any reason Rubbl deems reasonable. Rubbl may at its sole discretion use third party services to verify the information You provide to us and to obtain additional related information and corrections where applicable, and You hereby authorize Rubbl to request, receive, use, and store such information. Rubbl may accept or reject your participation on the Rubbl Platform at its sole and absolute discretion. Rubbl may, but does not commit to, undertake efforts to ensure the safety of Units rented through the Services. Although our policies require Owners to ensure their Units are in safe and operable condition, have a clean (non- salvaged/non-branded/non-washed/non-written off) title, not subject to any applicable safety recalls, and submit any modifications made to factory ready equipment in writing, we cannot guarantee that Owners will always comply with such policies.
- 4) **Credit Information Authorization.** When You apply to become an Equipment Owner or a Renter through the Platform, You agree to provide Rubbl with written information, instructions, and authorization in accordance with the Fair Credit Reporting Act, applicable consumer reporting laws, or any similar laws to obtain your personal and/or business credit score, credit report and/or conduct a background check, including a criminal background check where permissible under applicable law. Rubbl may perform such checks from time to time as may be necessary throughout the term of this Agreement. Should any information change, including but not limited to deterioration of credit score, bankruptcy filing, incidents reported on background check, or other issues, Rubbl may terminate this Agreement at any time.
- 5) **Ongoing Information Updates.** You hereby agree to update information with respect to the contact, company, and Equipment information You have provided to Rubbl in the event of any changes. Specifically, Rubbl may deliver notices to You at the most recent email, telephone, or address provided by You, and those notices will be considered valid even if You no longer maintain the email account, telephone number, or receive mail at that address unless You provide updated contact information to us. Also, You are, and will be solely responsible for, all of the activity that occurs through your Rubbl Account. It is your responsibility to keep your password and Rubbl Account information secure. You agree that You will not disclose your password to any third party and that You will take sole responsibility for any activities or actions under your Rubbl Account, whether or not You have authorized such activities or actions. You will immediately notify Rubbl of any actual or suspected unauthorized use of your Rubbl Account. Rubbl not responsible, and You hereby waive any claim against Rubbl resulting or arising from your failure to comply with this clause, or for any

delay in shutting down or protecting your Rubbl Account after You have reported unauthorized access to us.

- 6) **Contracting process.** The contracting process between Owner and Renter shall be exclusively made through our Platform, and no offline or outside negotiations shall be authorized without Rubbl's prior written consent. As such the Renter will be presented with various options to choose from and/or conditions for a specific Unit (such as rental start date, rates, transportation costs, minimum period of rental, maximum usage hours, buying insurance or additional services, adding attachments, etc.) which shall be submitted for approval of the Renter at check out. The Owner will be able to upload the information regarding the Unit Owner wishes to rent, define the rental period, rates and other elements of its offer, and purchase promotional tools and Services from Rubbl.

III) RULES OF USE FOR ALL MEMBERS

- 1) **Your Commitments.** As a Member, You agree that You will always use your Rubbl Account and the Services in compliance with these Terms, applicable laws, and any other policies and standards provided to You in writing by Rubbl. You agree not to:
- a) Violate the laws of the United States, its states, or any foreign political entity having jurisdiction over this Agreement, whether or not the foreign political entity is a country or a subdivision (such as a state or province) or municipality (such as a city, town, county, or region) of a foreign country.
 - b) Post or send anything violent, threatening, pornographic, racist, hateful, or otherwise objectionable according to the opinion of Rubbl.
 - c) Infringe on anyone's intellectual property rights, defame anyone, impersonate anyone, or otherwise violate the rights of a third party.
 - d) Hack, crack, phish, SQL inject, introduce any spyware, malware, viruses, Trojan horses, backdoors or other software exploits or otherwise compromise the security or integrity of the Rubbl Site, Service, or its Users' computers.
 - e) Subcontract, sublicense, distribute, sell the Rubbl Service to any third party.
 - f) Use any means to discern the source code of our products and/or Services.
 - g) Share your password(s) to any third party, as your access to certain Services is password protected and You are responsible for assigning the passwords and maintaining password security.
 - h) Post false, inaccurate, misleading, disparaging, defamatory, or libelous content.
 - i) Infringe, reproduce, perform, display, distribute, reverse engineer, or prepare derivative works from content that belongs to or is licensed to Rubbl, or that comes from the Services and belongs to another Rubbl User or to a third party, including works covered by any copyrights, trademark, patent, or other intellectual property, privacy, publicity, moral, or contractual rights, except with prior express written permission of Rubbl;
 - j) Disparage the Rubbl brand, its employees, or representatives;
 - k) Knowingly provide or submit any false company, equipment, or rating information;
 - l) Engage in physically or verbally abusive or threatening conduct;
 - m) Use our Services to transmit, distribute, post, or submit any information concerning any other person or entity, including without limitation, photographs of others without their permission, personal contact information, or credit, debit, calling card, or account numbers;
 - n) Engage in unfair practices or discrimination practices;

- o) Use the Services for purposes unrelated to the Platform;
- p) Interfere with the operation of the Services;
- q) Using Rubbl's name, any Rubbl trademark, logo, or other proprietary information, or the layout and design of any page or form contained on a page in the Services, without Rubbl's express written consent;
- r) Accessing, tampering with, or using non-public areas of the Services, Rubbl's computer systems, or the technical delivery systems of Rubbl's Providers;
- s) Attempting to probe, scan, or test the vulnerability of any of Rubbl's system or network or breach any security or authentication measures;
- t) Avoiding, bypassing, removing, deactivating, destroying, impairing, descrambling, or otherwise circumventing any technological measure or Equipment implemented or used by Rubbl or any of Rubbl's Providers or any other third party (including another User) to protect the Services;
- u) Forging any TCP/IP packet header or any part of the header information in any email or newsgroup posting, or in any way use the Services to send altered, deceptive, or false source-identifying information;
- v) Attempting to decipher, decompile, disassemble, or reverse engineer any of the software used to provide the Services; or
- w) Endeavoring to circumvent a suspension, termination, or closure of your Rubbl Account, including, but not limited to, creating a new Rubbl Account to circumvent an account suspension or closure or giving Unit(s) registered to You or a member of your household to other Rubbl Users to list.
- x) Impersonate any person or entity, or falsify or otherwise misrepresent yourself or your affiliation with any person or entity;
- y) Fail to pay fees, penalties, or other amounts owed to Rubbl or another Member;
- z) Use the Services to find either an Owner of Equipment or a Renter, or any Member and then complete a transaction partially or wholly independent of the Services, in order to circumvent the obligation to pay any fees related to Rubbl's provision of the Services or for any other illegitimate reasons (aka, gray market transactions, collection efforts by creditors, etc.);
- aa) aa) Transfer your Rubbl Account and/or user ID to another party without our consent;
- bb) bb) Access or use the Services, including through the use of bots or other automatized process, for any purposes other than the bona fide purpose of transacting on Rubbl Platform and in particular shall not access or use the Services for competitive analysis of the Services, extracting data, the development, provision or use of a competing software service or product or any other purpose that is to Rubbl' detriment or commercial disadvantage.

- 2) **Violations.** Rubbl has the right, but not the obligation, to investigate, pursue, and seek to prosecute, litigate, or refer to law enforcement, violations of the Agreement to the fullest extent permissible by the law. Rubbl may access, preserve, and disclose any of your information if we are required to do so by law; if we believe in good faith that it is reasonably necessary to respond to claims asserted against Rubbl or to comply with permissible legal process (for example, subpoenas or warrants); to enforce or administer these Terms; to do so for fraud prevention, risk assessment, investigation, customer support, product development, and debugging purposes; and/or to protect the rights, property, or safety of Rubbl, its employees, its Users, or members of the public.

- 3) **Policy Enforcement.** When an issue arises, we may consider the User's performance history and the specific circumstances in applying our policies. Rubbl reserves the right to remove any post or content that we view violate our policies outlined herein above at any time. Rubbl reserves the right, at any time and without prior notice, in accordance with applicable law, to remove or disable access to any content that Rubbl, at its sole discretion, considers to be objectionable for any reason, in violation of this Agreement, or otherwise harmful to the Services or our community. If we believe You are abusing Rubbl, our Users, or employees in any way or violating the letter or spirit of any of this Agreement, we may, in our sole discretion and without limiting other remedies, limit, suspend, or terminate your Rubbl Account(s) and access to our Services, remove hosted content, deny a claim for coverage, remove and demote your listings, reduce or eliminate any discounts, and take technical and/or legal steps to prevent You from using our Services. Additionally, we reserve the right to refuse or terminate our Services to anyone for any reason at our discretion to the full extent permitted under applicable law.

IV) SPECIFIC OBLIGATIONS OF RUBBL

- 1) **Information Related to Renters.** Rubbl shall require and review information provided to it by prospective Renters in accordance with this Agreement, and other Platform requirements, as they may be amended. Rubbl shall require that, prior to renting any Unit, Renter provide the following information:
 - a) Acceptance of these Terms of Service;
 - b) Provide Certificate of Insurance as evidence that the Renter meets the requirements of Exhibit A to the Rubbl Rental Terms;
 - c) Credit check and background information as required by this Agreement;
 - d) Agree to the Rental Terms on the Rubbl Platform (<https://www.rubbl.com/help/index>)
- 2) **Information Related to Providers.** Rubbl shall require and review information provided to it by potential Providers in accordance with this Agreement, and other Platform requirements, as they may be amended. Rubbl shall require that, prior to providing any Services, all Providers shall provide a Certificate of Insurance as evidence the Provider meets the requirements of Exhibits A, B, or C, as applicable.
- 3) **Rubbl Obligations Related to Insurance.** Owner acknowledge that Rubbl uses a third-party insurance company to review and verify the insurance and compliance with the Insurance Requirements in these Terms. Rubbl is responsible for collecting the information required by the insurance provisions of these Terms; provided however, that Rubbl's obligations do not extend past the gathering of such information.
- 4) **GENERAL INDEMNITY OF RUBBL. RUBBL GENERAL INDEMNIFICATION. TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, RUBBL AGREES TO INDEMNIFY, DEFEND, AND HOLD OWNER, ITS PARENT COMPANY, SUBSIDIARIES, AFFILIATES, EMPLOYEES, OFFICERS, DIRECTORS, ENTITY MEMBERS, AND MANAGERS, HARMLESS FROM AND AGAINST ANY AND ALL CLAIMS, DEMANDS, SUITS, JUDGMENTS, COSTS, EXPENSES, LIABILITIES, DAMAGES, PUNITIVE DAMAGES, PROPERTY DAMAGE, PERSONAL INJURY, BODILY INJURY, THEFT OR OTHER DAMAGES (INCLUDING ALL ACTUAL AND REASONABLE ATTORNEYS' FEES, EXPENSES AND COSTS) TO THE EXTENT SUCH DAMAGE OR LOSSES ARE ARISING OUT OF OR RESULTING DIRECTLY FROM NEGLIGENT ACTS OR OMISSIONS OF RUBBL, ITS EMPLOYEES, AFFILIATES, SUBSIDIARIES, AGENTS OR ASSIGNS, RELATED TO (1) RUBBL'S MATERIAL BREACH OF THE TERMS OF THIS AGREEMENT; (2) RUBBL'S VIOLATION OF APPLICABLE LAWS; OR (3) ANY WILLFUL MISCONDUCT OF RUBBL.**
- 5) **Damage Claims:**
 - a) Rubbl will manage the entire damage claim process. Once submitted, Rubbl will review all check-out/check-in inspections submitted for that rental to determine if there is damage to the rented machine(s).

- b) If damage is found, Rubbl will assign a responsible party based on all four inspection reports, maintenance records, undercarriage and oil sample reports.
- c) Rubbl will contact the responsible party immediately via a damage notification which will provide all details about the damage, all inspection reports, and a damage quote from a Rubbl certified service provider.
- d) If the responsible party is the Renter, the Rubbl certified provider will conduct the repairs at the expense of the Renter. Rubbl will manage this entire process, while keeping both parties updated about current status changes. Damage charges will appear on the next billing cycle statement as a line item charge. Both parties will have access to the damage report, the damage reconciliation quote, as well as the final work done.
- e) If damages exceed \$2,500, a damage waiver claim will be submitted to JT Bates Insurance Group on behalf of the Renter. Once the repair has been completed, Rubbl will charge the responsible party a deductible of \$2,500 which will appear on the next billing statement.
- f) If the damage is the fault of the Renter, Rubbl reserves the right to continue charging rent on that piece of Equipment while it is being repaired to help the machine Owner recoup losses for the down machine.

V) CONTENT AND DATA

- 1) **Rubbl Content and User Content License.** Subject to your compliance with the provisions of these Terms, Rubbl grants You a limited, revocable, non-exclusive, non-transferable license, to access and view any Rubbl and/or user content to which You are permitted access, solely for purposes permitted by the Platform. You have no right to sublicense the license rights granted in this section. No licenses or rights are granted to You by implication or otherwise under any intellectual property rights owned or controlled by Rubbl or its licensors, except for the licenses and rights expressly granted in these Terms.
- 2) **User Content.** We may, in our sole discretion, permit You to post, upload, publish, submit or transmit content through our Services such as photographs of You and your Equipment, reviews, feedback, and descriptions of You, or your Equipment. By making available any content on or through the Services, or through Rubbl promotional campaigns, You grant Rubbl a worldwide, revocable, non-exclusive, nontransferable, royalty-free license, to use, view, copy, distribute, publicly display, publicly perform, transmit, stream, broadcast, access, view, and otherwise exploit such content on, through, by means of, or to promote or market the Services. Except as described above with respect to Images, Rubbl does not claim any ownership rights in any such content and nothing in these Terms will be deemed to restrict any rights that You may have to use and exploit any such content.
- 3) **Copyright Protection.** We respond to notices of alleged copyright infringement and terminate Rubbl Accounts of repeat infringers according to the process set out in the US Digital Millennium Copyright Act and similar laws. We take claims of copyright infringement seriously. We will respond to notices of alleged copyright infringement that comply with applicable law. If You believe any materials accessible on or from this Site infringe your copyright, You may request removal of those materials (or access to them) from the Site by submitting written notification to our Copyright Agent (designated below). In accordance with the Online Copyright Infringement Liability Limitation Act of the Digital Millennium Copyright Act (17 U.S.C. § 512) ("DMCA"), the written notice (the "DMCA Notice") must include substantially the following: (i) your physical or electronic signature, (ii) identification of the copyrighted work You believe to have been infringed or, if the claim involves multiple works on the Site, a representative list of such works, (iii) Identification of the material You believe to be infringing in a sufficiently precise manner to allow us to locate that material, (iv) adequate information by which we can contact You (including your name, postal address, telephone number, and, if available, email address), (v) a statement that You have a good faith belief that use of the copyrighted material is not authorized by the copyright owner, its agent, or the law, (vi) statement that the information in the written notice is accurate and (vi) statement, under penalty of perjury, that You are authorized to act on behalf of the copyright owner.

Our designated Copyright Agent to receive DMCA Notices is:

Lionel Bochurberg, Esq.
Dillon Miller Ahuja, LLP
5872 Owens Avenue, Suite 200, San Diego CA 92008
Tel: (858) 587-1800
[Email: lbochurberg@dmalaw.com](mailto:lbochurberg@dmalaw.com)

If You fail to comply with all of the requirements of Section 512(c)(3) of the DMCA, your DMCA Notice may not be effective. Please be aware that if You knowingly materially misrepresent that material or activity on the Website is infringing your copyright, You may be held liable for damages (including costs and attorneys' fees) under Section 512(f) of the DMCA.

- 4) **Data** You understand and agree that there are no expectations of privacy regarding the Units posted on the Platform and Rubbl may use the rental data for the purposes of your listings for the duration such listings are active under this Agreement. We occasionally may hire other companies to provide limited services on our behalf, such as for performing statistical analysis of our Services.

VI) FEES

- 1) **Fees and pricing list.** The fees we charge for using our Services and other cost structures are dynamic and based on real-time geographic and demand-side factors and are available once you put Unit(s) into the cart. Rubbl Managed Services are currently being charged at a 5% fee to Renters. A full explanation of Rubbl Managed Services can be found on the Rubbl website and on our Rental Terms Index, found here: www.rubbl.com/help/index.
- 2) **Payment Methods.** When You provide Rubbl with a payment method, You authorize Rubbl, or third-party service providers acting on Rubbl's behalf, to store your payment credential for future use. You authorize Rubbl to use stored payment credentials for balances, including for rental payments, additional fees, late fees, security deposits, processing fees and claims costs and related administrative fees, after such charges have been authorized by You. Rubbl and its partners will employ all legal methods available to collect the amounts, including the engagements of collection agencies or legal counsel or liens. Rubbl, or the collection agencies we retain, may also report information about your Rubbl Account to credit bureaus, and as a result, late payments, missed payments, or other defaults on your Rubbl Account may be reflected in your credit report. In addition to the amount due, delinquent accounts and/or chargebacks will be charged with fees and/or charges that are incidental to the collection of delinquent accounts and/or chargebacks including, but not limited to, collection fees, convenience fees, and/or other third-party charges. You hereby explicitly agree that all communication in relation to delinquent accounts may be made by e-mail or phone, as provided to Rubbl by You. Such communication may be made by Rubbl or by anyone on its behalf, including but not limited to a third-party collection agent. If You wish to dispute the information Rubbl reported to a credit bureau (i.e., Experian, Equifax, or TransUnion) please contact [\[accounting@rubbl.com\]](mailto:accounting@rubbl.com). If You wish to dispute the information a collection agency reported to a credit bureau regarding your Rubbl Account, You must contact the collection agency directly. It is understood that the Owners will only be billed for specific maintenance periods and additional equipment like GPS units that have been requested by the Owner and only after such charges have been authorized by the Owner.

VII) MISCELLANEOUS

- 1) **Communications with You.** In order to contact You more efficiently, You agree that we may at times contact You by calling your telephone number(s) and/or sending text messages and for notices purposes, send you emails. We may place such calls primarily to confirm your signup; investigate or prevent fraud; collect a debt owed to us; or communicate urgent messages. We may share your phone number(s) with service providers with whom we contract to assist us in pursuing these interests. We will not share your phone number(s) with third parties for their own purposes without your express written consent. Standard telephone minute and text and data charges may apply. Where Rubbl is required to obtain your consent for such communications, You may choose to revoke your consent. You authorize Rubbl and its partners, without further notice or warning and in our discretion, to monitor or record telephone conversations You or anyone acting on your behalf has with Rubbl or its agents for quality control and training purposes. You acknowledge and understand

that your communications with Rubbl may be overheard, monitored, or recorded without further notice or warning.

- 2) **Applicable Law and Dispute Resolution.** Except as otherwise stated in the Agreement, the Agreement and your use of the Services will be interpreted in accordance with the laws of the State of Texas and the United States of America, without regard to its conflict-of-law provisions. You hereby agree and stipulate that the exclusive venue for any legal proceeding involving or touching upon this agreement, the Rubbl Platform, or any Unit of Equipment offered, procured or used through the Rubbl Platform shall lie in Harris County, Texas, and You hereby submit to the jurisdiction of all courts located in Harris County, Texas. Further, any and all claims, disputes and other matters in question arising out of or relating to this agreement, the Rubbl Platform, or any Unit of Equipment offered, procured or used through the Rubbl Platform may at Rubbl's sole election, be decided by litigation or arbitration. If Rubbl elects arbitration, it shall be held in Houston, Texas, and conducted in accordance with the construction industry arbitration rules of the American Arbitration Association then in effect. This agreement to arbitrate shall be specifically enforceable by Rubbl. The award rendered by the arbitrators shall be final and conclusive, and judgment may be entered upon it in accordance with the applicable law in the court having jurisdiction thereof.
- 3) **Attorney's Fees.** In any dispute between Rubbl and You arising out of or related to this Agreement, the party or parties whose position is selected, awarded, or successful (regardless of whether damages are awarded) by the fact finder presiding over the dispute will be awarded its actual and reasonable attorneys' fees, costs, and expenses incurred in connection with the dispute. The fact finder will determine the prevailing party and award to such prevailing party, in addition to any other relief to which such party is entitled to recover, such actual and reasonable attorneys' fees, costs, and expenses incurred in connection with the dispute which the fact finder deems reasonable and necessary.
- 4) **Prohibition of Class and Representative Actions and Non-Individualized Relief.** THE PARTIES AGREE THAT EACH OF US MAY BRING CLAIMS AGAINST THE OTHER ONLY ON AN INDIVIDUAL BASIS AND NOT AS A PLAINTIFF OR CLASS MEMBER IN ANY PURPORTED CLASS OR REPRESENTATIVE ACTION OR PROCEEDING. UNLESS THE PARTIES AGREE OTHERWISE, THE ARBITRATOR MAY NOT CONSOLIDATE OR JOIN MORE THAN ONE PERSON'S OR PARTY'S CLAIMS AND MAY NOT OTHERWISE PRESIDE OVER ANY FORM OF A CONSOLIDATED, REPRESENTATIVE, OR CLASS PROCEEDING. THE ARBITRATOR MAY AWARD RELIEF (INCLUDING MONETARY, INJUNCTIVE, AND DECLARATORY RELIEF) ONLY IN FAVOR OF THE INDIVIDUAL PARTY SEEKING RELIEF AND ONLY TO THE EXTENT NECESSARY TO PROVIDE RELIEF NECESSITATED BY THAT PARTY'S INDIVIDUAL CLAIM(S). ANY RELIEF AWARDED CANNOT AFFECT OTHER USERS.
- 5) **Termination.** You may discontinue your use of the Services at any time and Rubbl may terminate your access to the Services and an Owner of Equipment remove its listings for any reason or no reason, to the extent permissible under applicable law, except with regard to any Equipment that is subject to an active rental contract (which shall continue to be governed by those terms). If You wish to remove a listing, You must contact Rubbl in writing or by e-mail and adhere to Rubbl's procedures for removing Equipment from its Platform. Termination of access to the Services will not release a Party from any obligations incurred prior to the termination. Termination of the Agreement will not have any effect on the disclaimers, waiver or liability limitations, or legal disputes provisions under the Agreement and/or any fees due, and all of those terms will survive any termination of the Agreement.
- 6) **No Transfer or Assignment of Title.** Except for the license granted by Owner to Rubbl for use of the Units pursuant to these Terms, Owners of Equipment and Renters agree that nothing in these Terms constitutes an actual or purported transfer or assignment of title in a Unit rented through the Rubbl Platform.
- 7) **DISCLAIMERS. RUBBL PROVIDES SERVICES THAT ENABLE THE RENTAL OF EQUIPMENT BETWEEN OWNERS AND RENTERS. RUBBL DOES NOT ITSELF PROVIDE EQUIPMENT RENTALS AND IS NOT RESPONSIBLE FOR ANY OF THE ACTS OR OMISSIONS OF ANY OF THE USERS OF ITS SERVICES, THE MANUFACTURER OF THE EQUIPMENT, OR ANY THIRD-PARTY PROVIDER OF SERVICES. THE SERVICES ARE PROVIDED "AS IS", WITHOUT WARRANTY OF ANY KIND, EITHER EXPRESS OR IMPLIED. TO THE EXTENT PERMITTED BY APPLICABLE LAW, WITHOUT LIMITING THE**

FOREGOING, RUBBL EXPLICITLY DISCLAIMS ANY WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, QUIET ENJOYMENT, OR NON-INFRINGEMENT, AND ANY WARRANTIES ARISING OUT OF COURSE OF DEALING OR USAGE OF TRADE. RUBBL MAKES NO WARRANTY THAT THE SERVICES, INCLUDING, BUT NOT LIMITED TO, THE LISTING AND/OR ANY UNIT, WILL MEET YOUR REQUIREMENTS OR BE AVAILABLE ON AN UNINTERRUPTED, SECURE, OR ERROR-FREE BASIS. RUBBL MAKES NO WARRANTY REGARDING THE QUALITY OF ANY LISTINGS, EQUIPMENT, INSURANCE, THE SERVICES, OR ANY CONTENT OR THE ACCURACY, TIMELINESS, TRUTHFULNESS, COMPLETENESS, OR RELIABILITY OF ANY CONTENT OBTAINED THROUGH THE SERVICES. NO ADVICE OR INFORMATION, WHETHER ORAL OR WRITTEN, OBTAINED FROM RUBBL, RUBBL INSURANCE AGENCY, OR ITS SERVICE PROVIDERS OR THROUGH THE SERVICES OR CONTENT, WILL CREATE ANY WARRANTY NOT EXPRESSLY MADE HEREIN.

8) LIMITATION OF LIABILITY AND WAIVER.

- a) **TO THE EXTENT PERMITTED BY APPLICABLE LAW AND EXCEPT AS OTHERWISE PROVIDED IN THIS AGREEMENT, YOU WAIVE ANY AND ALL RIGHTS YOU HAVE TO SUE OR MAKE CLAIMS AGAINST RUBBL AND ITS RESPECTIVE PARENT COMPANIES, SUBSIDIARIES, DIRECTORS, OFFICERS, AGENTS (INCLUDING THIRD PARTY ADMINISTRATORS, INSURANCE PRODUCERS, AND INSURANCE PROVIDERS), OR EMPLOYEES FOR ANY DAMAGES OR LOSSES ARISING OUT OF OR IN CONNECTION WITH YOUR USE OF THE SERVICES INCLUDING, WITHOUT LIMITATION, A UNIT NOT BEING AVAILABLE WHEN IT WAS SUPPOSED TO BE, ANY MALFUNCTION OF OR DEFICIENCY IN A UNIT, ANY BREACH OF WARRANTY OR OTHER OBLIGATION BY ANY MANUFACTURER OR OTHER THIRD PARTY, ANY PERSONAL INJURY OR PROPERTY DAMAGE SUFFERED BY YOU OR ANY INVITEE, RELATED PARTY, OR THIRD-PARTY AND, ANY ACTIONS OR INACTION OF THE OWNER OF THE UNIT AGAINST RUBBL AND ITS RESPECTIVE PARENT COMPANIES, SUBSIDIARIES, DIRECTORS, OFFICERS, AGENTS (INCLUDING THIRD PARTY ADMINISTRATORS, INSURANCE PRODUCERS, AND INSURANCE PROVIDERS), OR EMPLOYEES. NEITHER RUBBL NOR ANY OTHER PARTY INVOLVED IN CREATING, PRODUCING, OR DELIVERING SERVICES WILL BE LIABLE FOR ANY INCIDENTAL, SPECIAL, EXEMPLARY, OR CONSEQUENTIAL DAMAGES, INCLUDING LOST PROFITS, LOSS OF DATA, OR LOSS OF GOODWILL, SERVICE INTERRUPTION, COMPUTER DAMAGE OR SYSTEM FAILURE, OR THE COST OF SUBSTITUTE PRODUCTS OR SERVICES, FROM THE USE OF OR INABILITY TO USE THE SERVICES, OR FROM YOUR LISTING OR BOOKING OF ANY EQUIPMENT OR OPTIONAL EXTRA VIA THE SERVICES, WHETHER BASED ON WARRANTY, CONTRACT, TORT (INCLUDING NEGLIGENCE), PRODUCT LIABILITY, OR ANY OTHER LEGAL THEORY.**
- b) The payment of the rental price through the Rubbl Platform shall not be construed as conferring the Platform or Rubbl any fiduciary role or vest upon Rubbl any escrow duties or obligations, when the money is released, and exclusion of liabilities for the benefit of the Rubbl shall apply to the fullest extent possible.
- c) Except for our obligations to pay amounts to applicable Owners or Renters pursuant to these Terms, including an approved payment request or claim under a protection plan or applicable insurance policy, in no event will Rubbl's or its subsidiaries' aggregate liability arising out of or in connection with this Agreement or your use of the Services, exceed (i) if you are a Renter, the amounts You have paid or owe for bookings via the Services as a Renter in the twelve month period prior to the event giving rise to the liability, or (ii) if You are an Owner, the lesser of (a) the replacement cost of any Unit(s) which are the subject of the claim or (b) \$500,000.00. THE LIMITATIONS OF DAMAGES SET FORTH ABOVE ARE FUNDAMENTAL ELEMENTS OF THE BASIS OF THE BARGAIN BETWEEN RUBBL AND YOU. SOME JURISDICTIONS DO NOT ALLOW THE EXCLUSION OR LIMITATION OF LIABILITY FOR CONSEQUENTIAL OR INCIDENTAL DAMAGES, SO THE ABOVE LIMITATION MAY NOT APPLY TO YOU. SPECIFICALLY, TO THE EXTENT APPLICABLE (NOTWITHSTANDING THE GOVERNING LAW OF THESE TERMS AND/OR ANY RELATED CONTRACTS), YOU WAIVE CALIFORNIA CIVIL CODE §1542, OR ANY SIMILAR LAW, WHICH STATES: "A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS THAT THE CREDITOR OR RELEASING PARTY DOES NOT KNOW OR

SUSPECT TO EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE RELEASE AND THAT, IF KNOWN BY HIM OR HER MUST HAVE MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH THE DEBTOR OR RELEASED PARTY." TO THE EXTENT PERMITTED BY APPLICABLE LAW, AS A RENTER YOU WAIVE ANY AND ALL RIGHTS YOU HAVE TO SUE OR MAKE CLAIMS AGAINST THE OWNER OF THE UNIT FOR ANY DAMAGES OR LOSSES ARISING OUT OF OR IN CONNECTION WITH YOUR USE OF THE UNIT EXCEPT IN CASE OF GROSS NEGLIGENCE OR INTENTIONAL MISCONDUCT FROM SUCH OWNER.

- 9) **No Agency.** Rubbl does not appoint You or any other User as its employee, mandatory, legal agent, or form any kind of legal partnership or joint venture. You are not authorized to make any commitments on behalf of Rubbl and Rubbl will not make commitments on your behalf, except as contemplated by the Services or expressly stated in the Agreement.
- 10) **General.** The Agreement states the entire understanding between You and Rubbl concerning your access to and use of the Services and supersedes any earlier verbal or written communications between us; however, it may be modified and supplemented by subsequent written agreements between You and Rubbl. With the exception of appointing a custodian to manage your Equipment on your behalf, You may not delegate your legal obligations or transfer any of your rights, in whole or in part, to any third party without advance written notice to Rubbl. You will remain responsible for your obligations hereunder in any event. If any provision of the Agreement is construed to be unenforceable, the remaining provisions will not be affected and will continue in full force and effect. A Rubbl Director or Officer must agree to any modification or waiver of any term of the Agreement in writing. Rubbl's failure to exercise any right under the Agreement will not constitute a waiver of any other right Rubbl may have. Except as otherwise provided in the Agreement, if any provision of these Terms are held to be invalid, void, or for any reason unenforceable, such provision shall be struck out and shall not affect the validity and enforceability of the remaining provisions.

- EXHIBIT A — INSURANCE REQUIREMENTS FOR TRANSPORTATION SERVICES
- EXHIBIT B — INSURANCE REQUIREMENTS FOR PROFESSIONAL SERVICE CONTRACTORS
- EXHIBIT C — INSURANCE REQUIREMENTS FOR MAINTENANCE AND REPAIR CONTRACTORS