

Rental Invoice Terms and Conditions

- Agreement; Acceptance.** The Rental Invoice (including these Rental Invoice Terms and Conditions) and the terms and conditions of the Master Services Agreement (if any) between Argus Group Holding, LLC d/b/a Premier Safety ("Premier") and the Customer (collectively the Rental Invoice, Rental Invoice Terms and Conditions, and the Master Services Agreement (if any) are referred to herein as the "Agreement") are the only terms and conditions pursuant to which Premier rents any equipment (the "Equipment") to its customers, and the terms and conditions of the Agreement are incorporated in all rental agreements entered into by Premier. All orders are subject to the approval of Premier. If the Customer has not otherwise agreed to the terms and conditions of the Agreement, then the Customer's acceptance of the terms and conditions of the Agreement shall take place at the earlier of (i) the date Customer takes possession of the Equipment at the Premier facility where the Equipment is rented; (ii) the delivery of the Equipment to the address specified by the Customer, or (iii) payment (including rental payments) to Premier for the Equipment.
- Ownership and Use/Financing Statement:** Premier agrees to rent the Equipment only to the Customer named on the Rental Invoice, and only under the terms and conditions of the Agreement. The Customer shall not assign the Agreement, or remove, sublease, rent, transfer, assign, sell, alter, modify, or encumber the Equipment without the prior written consent of Premier, which may be withheld at the sole discretion of Premier. The Equipment shall remain the property of Premier; any option to purchase must be agreed to in writing prior to the start of the rental period. Customer grants Premier a security interest in all Equipment rented hereunder, and Customer authorizes Premier or Premier's representative to file a financing statement or other evidence of ownership in any jurisdiction deemed appropriate by Premier.
- Trained User:** Because the projects on which the Equipment may be used are often highly hazardous, Premier requires that any person using the Equipment has received complete instructions from the Customer on its proper use and limitations. By accepting the Equipment, the Customer warrants that everyone the Customer allows to use the Equipment will have been fully trained in the use and limitations of the Equipment. The Customer agrees to assume all liability for such training, any failure to train, and for any loss or damage to Premier, to the Customer, its employees, or any third party caused by the improper use of the Equipment.
- Rental Period:** The equipment is rented on a daily, weekly, or four (4) week basis; whichever calculation results in the lowest price to the Customer. The minimum billable rental period is one (1) day.
- Rent:** The Customer shall pay Premier for the use of the Equipment for the term and at the rate set forth in the Agreement. Rental rates are not subject to adjustment due to the Customer's work schedule. Any purchased item(s) shipped with the Equipment or separately will be billed immediately, including freight. Unless the Customer notifies Premier no later than the next business day after receiving the Equipment, it shall be presumed that the Equipment was delivered to the Customer in good operating condition. Only Premier shall be authorized to maintain the Equipment during the rental period. The Customer is responsible for the cost of Premier maintaining the Equipment during the rental period and/or while it is in Customer's possession; Premier will not adjust the rents due if the Equipment is not returned to Premier to be maintained in operating condition or is not available for use due to matters beyond Premier's control. Customer shall be solely liable for loss or theft of, or damage to the Equipment occurring during the rental period. Customer agrees that Premier may charge Customer's credit card or debit card for any charges due under the Agreement without any prior notice.
- Late Charge:** If any rental payment is not received when due, the Customer agrees to pay an additional late charge of one and a half percent (1.5%) of the amount of the overdue payment per month, or the maximum amount permitted by law, whichever is greater. In addition to charging late charges, Premier has the right to terminate the Agreement, take immediate possession of the Equipment, and recover from the Customer all amounts due including, but not limited, to the costs of recovering the Equipment and Premier's costs of collection (including, without limitation, reasonable and actual attorney fees).
- Recalibration and Maintenance Fees:** The Customer shall pay costs for maintenance and restoration of the Equipment if, during its use or after its return, the Equipment requires work beyond normal wear and tear. Premier will be the sole judge of what is considered normal wear and tear. Additional charges may include decontamination, repair, the replacement of missing parts and manuals, etc. The Customer shall be responsible for all costs associated with recalibration of the Equipment upon return to Premier.
- Security Deposit:** Premier may require a security deposit in addition to rental payments. Upon return of the Equipment, the balance of the security deposit will be returned after deducting any amounts owed for cleaning, recalibration, decontamination, maintenance, replacement parts or manuals, or transportation.
- Taxes/Duties/Import & Export Fees:** The Customer will pay all taxes and governmental charges (including, without limitation, duties, import fees and export fees), in addition to interest and penalties on such charges, which may be levied and/or assessed on this rental transaction, the Equipment, or its use.
- Operation:** Premier supplies a copy of the manufacturer's manual(s) with all Equipment. The Customer agrees to comply with all operating and maintenance instructions and recommendations provided by such manual(s), and further agrees to comply with any additional instructions specified by Premier. In the event that one (1) or more manuals are not furnished at time of rental, Customer agrees to request copies of such manuals from Premier or obtain them from the Premier website. The Customer will comply at its own expense with all applicable laws governing the operation and use of the Equipment, including, without limitation, any applicable motor vehicle laws.
- Insurance:** The Customer agrees to protect Premier against any and all loss or damage to the Equipment, and/or to Premier resulting from Customer's use of the Equipment during the term of the Agreement. Prior to use of the Equipment, and during the entire rental period, including any period of time the Equipment is in transit between Customer and the Premier location where the Equipment was rented, Customer shall maintain the following insurance coverages: (i) Commercial general and auto liability insurance with a limit of at least \$1,000,000 per occurrence, including coverage for premises liability, products and completed operations liability, and contractual liability; (ii) Statutory worker's compensation insurance; and (iii) property coverage sufficient to cover any theft or loss of, or damage to the Equipment. All such coverages shall be primary and not secondary to the policies of Premier. Upon the request of Premier, at time of rental, the Customer shall provide Premier with a certificate of insurance evidencing the coverages required herein and naming Premier as an additional insured or loss payee, as required by the applicable insurance policy(ies) of Customer. The Customer shall continue to pay the rental fees until the Equipment has been repaired or the replacement cost has been paid for any items, parts or non-expendable materials that are lost, stolen, destroyed, damaged, contaminated beyond repair, or not returned.
- Delivery, Maintenance and Return:** Unless Premier agrees to a different address, the F.O.B. point for freight charges (using prepaid ground freight) is the Premier address on the Rental Invoice. Unless a different location is designated by Premier, all Equipment shall be returned to the location from which it was rented. The Customer shall not make upgrades, install engineering changes, or perform maintenance, adjustments, or repairs without the prior express written consent of Premier. Premier or its agent may inspect the Equipment at any time. The Customer shall be responsible for cleaning and decontaminating all Equipment in accordance with all established requirements and in compliance with all federal, state or local laws, rules, regulations, and/or safety codes, including but not limited to OSHA and RCRA. At the end of the rental period, the cleaned and decontaminated Equipment shall be returned to Premier in good operating condition (normal wear and tear excepted) at the Customer's cost. Premier shall be the sole judge of the need for any repairs and maintenance necessary to repair or place the Equipment in good operating condition, the cost of which the Customer agrees to pay upon invoice therefor.
- Default:** Each of the following shall be deemed an event of default, upon the occurrence of which Premier may declare all rental amounts immediately due and payable: (i) The Customer fails to use and operate the Equipment in a prudent, safe and proper manner to avoid abuse and abnormal wear and tear; (ii) The Customer neglects or refuses to comply with the operating standards specified by the Equipment manufacturer or Premier; (iii) The Customer refuses to pay Premier for any damage to the Equipment (other than ordinary wear and tear) resulting from proper use and operation; (iv) The Customer fails to make a rental payment or other owed payment when due; (v) The Customer becomes insolvent or makes an assignment for the benefit of creditors or files a Petition in Bankruptcy or if a receiver is appointed for the Customer's business; and/or (vi) The Customer fails to comply with any of the other terms or conditions of the Agreement. In the event of default, Premier may without notice or demand, pursue one (1) or more of the following remedies: (1) Declare all rentals to be immediately due and payable; (2) Terminate the Agreement and the Customer's right to possess and use the Equipment subject, however, to Premier's surviving right to collect all outstanding payments and receive the benefit of all provisions of the Agreement intended by their nature to survive termination; (3) Enter any premises believed to be the location of the Equipment and repossess the Equipment; (4) Sue for all rental amounts and other payments due and all costs and expenses incident to such outstanding payment obligations and repossession; and (5) Pursue any other remedy permitted by law. The Customer agrees to pay for all collection costs incurred by Premier, including, without limitation, actual and reasonable attorney fees.
- Acceptance, Limitation of Liability, Disclaimer, Assignment of Warranties:** The Customer agrees that Customer has selected the Equipment and accessories suitable for Customer's intended use and, therefore, Customer unconditionally accepts the Equipment. The Customer is solely responsible for the collection of appropriate information and data, calibration, accuracy of measurements, documentation of methods used and conditions under which data is collected, retention of collected data, and any other calculation, interpretation, use, or application of results.
- Disclaimer of Tort Liability:** THE CUSTOMER SPECIFICALLY UNDERSTANDS AND AGREES THAT Premier SHALL NOT BE LIABLE TO THE CUSTOMER IN TORT, WHETHER BASED ON NEGLIGENCE, STRICT LIABILITY, OR ANY OTHER THEORY OF TORT LIABILITY, FOR ANY ACT OR OMISSION IN RESPECT TO THE PREPARATION OF THE EQUIPMENT FOR RENTAL, DELIVERY, SERVICING, OR MAINTENANCE, OR FOR ANY LIABILITY, LOSS OR DAMAGE CAUSED OR ALLEGED TO BE CAUSED DIRECTLY OR INDIRECTLY BY Premier OR THE EQUIPMENT, BY ANY INADEQUACY THEREOF OR DEFICIENCY OR DEFECT THEREIN, NOR FOR ANY ALLEGED NEGLIGENCE OR CONDITION, CAUSED OR CREATED IN WHOLE OR IN PART BY Premier. IT IS THE INTENT OF THE CUSTOMER AND Premier AND THE INTENT OF THIS PROVISION TO ABSOLVE AND PROTECT Premier AND Premier's PARENTS, SUBSIDIARIES, AFFILIATES, EQUITYHOLDERS, DIRECTORS, MANAGERS, OFFICERS, EMPLOYEES AND AGENTS FROM ANY AND ALL TORT LIABILITY OF WHATSOEVER KIND OR NATURE TO THE GREATEST EXTENT ALLOWED BY LAW.
- Disclaimer of Warranties:** Premier MAKES NO WARRANTIES WHATSOEVER WITH RESPECT TO THE EQUIPMENT RENTED HEREIN, AND THE CUSTOMER HEREBY EXPRESSLY WAIVES ANY WARRANTY OR REPRESENTATION, EITHER EXPRESS OR IMPLIED, AS TO THE EQUIPMENT, INCLUDING WITHOUT LIMITATION, ANY WARRANTY OR REPRESENTATION AS TO (i) THE DESIGN, QUALITY OR CONDITION OF THE EQUIPMENT; (ii) ANY WARRANTY OF MERCHANTABILITY OR FITNESS OF THE EQUIPMENT FOR ANY PARTICULAR PURPOSE; AND (iii) ALL OTHER WARRANTIES EXPRESSED, IMPLIED, AND STATUTORY, OR AS TO ANY OTHER MATTER RELATING TO THE EQUIPMENT OR ANY PART THEREOF. THE CUSTOMER CONFIRMS THAT IT HAS SELECTED THE EQUIPMENT AND EACH PART THEREOF ON THE BASIS OF ITS OWN JUDGMENT AND EXPRESSLY DISCLAIMS RELIANCE UPON ANY STATEMENTS, REPRESENTATIONS OR WARRANTIES MADE BY Premier OR ANY EMPLOYEE, CONTRACTOR OR AGENT OF Premier. THE CUSTOMER ACKNOWLEDGES THAT Premier IS NOT A MANUFACTURER, VENDOR OR CONSULTANT OF ANY PART OF THE EQUIPMENT, AND THE CUSTOMER ACCEPTS THE EQUIPMENT AND EACH PART THEREOF ON AN "AS IS, WHERE IS" BASIS.
- Indemnification:** The Customer hereby agrees to indemnify, hold harmless and defend Premier and its parents, subsidiaries, equity holders, directors, managers, officers, employees, and agents from any and all claims, actions and damages, including attorney's fees, arising out of the Equipment and its use, rental, possession, operation, condition, purchase, maintenance and return, including without limitation, any such claims in tort, whether based on negligence, strict liability or any other theory of liability, which obligations shall survive termination of this Agreement. Notwithstanding anything herein to the contrary, in the event that it is determined by a court of final disposition that Premier is liable for any such type of claim referenced herein, it is understood and agreed that, to the greatest extent allowable by law, Premier's maximum liability under the Agreement whatsoever shall be limited to the amount of fees paid by the Customer to Premier during the previous twelve (12) months of the Agreement. Premier shall not be liable for any incidental, special, consequential, or punitive damages.
- Governing Law:** The Agreement will be governed by and construed in accordance with the laws of the State of Michigan, notwithstanding choice of law rules of the State of Michigan or any other jurisdiction. The parties hereby agree that the exclusive venue in any and all actions related to the Agreement or the subject matter thereof shall be in the state or federal courts located in Detroit, Michigan. The parties irrevocably submit to such jurisdiction and waive the defense of an inconvenient forum or the defense of lack of minimum contacts with such jurisdiction.
- Entire Agreement:** The terms of the Agreement constitute the entire agreement between Premier and the Customer with respect to the Equipment and shall not be amended except in a writing signed by both parties. In the event of any conflict or inconsistency between the terms and conditions within a Master Service Agreement (if any) between the parties and these Rental Invoice Terms and Conditions, the terms of the Master Service Agreement shall govern. Under no circumstances shall Premier be bound by the terms and conditions of Customer's form documents (including, without limitation, Customer's standard terms and conditions and/or Customer's purchase order form(s)) unless the Chief Executive Officer of Premier has expressly agreed in writing to be bound by such terms and conditions.