

1. RENTAL TERM: The Rental Term shall start when the Equipment is loaded out for shipment and shall end when the Equipment is returned to point of origin. If LESSEE desires to continue rental of the Equipment beyond the minimum Rental Period specified, LESSEE shall request consent for such extension in writing from LESSOR sixty (60) days before expiration of the minimum Rental Period. LESSEE shall submit a written request for LESSOR's consent if LESSEE desires to change the Rental Start Date. LESSOR may, at its option, terminate this Agreement if such change is more than fourteen (14) days and/or require an Equipment Reservation Fee equal to the 28-day rental charge and such other expenses incurred as a result of the change in Rental Start Date. LESSOR reserves the right to deny such request in its sole discretion. LESSOR may recall or LESSEE may return the Equipment to LESSOR on thirty (30) days' written notice to the other party after the expiration of the minimum Rental Period or agreed extension thereto. The Rental Term shall thereupon be extended to the date the Equipment is returned to LESSOR's unloading point or the expiration of such thirty (30) days' notice period, whichever is later. Any such extended rental shall be subject to all applicable terms and conditions hereof. All Rental Rates are based on the maximum hourly usage per month stated herein. If such maximum hourly usage per month is not indicated, then same shall be based on a one hundred and sixty (160) hours per 28-day period. LESSEE shall pay for a proportionate hourly charge for all excess hours of usage. LESSEE shall not be entitled to any abatement, deduction, reduction, set-off, counterclaim, recoupment, or defense against rent for any reason, including without limitation any non-working time of the Equipment except as provided otherwise herein or as the Parties may agree in writing. Rental charges shall not be reduced by any unused portion of the rental period increment stated herein (weekly or 28-day).

2. PAYMENT OF RENTAL: LESSEE shall pay the minimum guaranteed rental as specified on the face of this Agreement and the full rental rates during any extension thereto. The rent payable shall be at the rate specified in this Agreement undiminished by any offset or credit on account of LESSEE's sooner surrender of the Equipment or the reasonable rental value thereof, whether or not thereafter LESSOR shall itself use said Equipment or shall rent any comparable Equipment it may have to others, or on account of any payment by LESSEE of additional rental for overtime use pursuant to the overtime and shift provisions on the face of this Agreement, or of any other charges, costs or damages hereunder; provided, however, that the rental payments, if any, actually received by LESSOR under a new lease for any part of the minimum term shall be credited to LESSEE, subject to repossession, reconditioning, re-leasing costs and all other charges and claims of LESSOR against LESSEE.

LESSEE shall be responsible for and pay: i) all taxes, levies, fees, and other public charges against or upon any of the Equipment, including without limitation personal property taxes; ii) all fines, penalties, forfeitures, court costs, expenses and attorneys' fees arising with respect to LESSEE's possession, transportation, in the event of a dispute, undisputed amounts shall be paid when due. Unpaid amounts shall bear interest from the due date until paid at 18% per annum or the highest rate allowed by law, whichever is less, and accrual or payment of such interest shall not impair LESSOR's right otherwise to repossess the Equipment or to terminate this lease or to any other remedies it may have. Any accessories or attachments not included with the Equipment leased hereunder shall be separately furnished by and at the expense of LESSEE. If any such accessories or attachments are ordered prior to the Rental Start Date, LESSEE shall pay such costs within thirty (30) days of invoice. All mobilization and installation costs shall be paid within thirty (30) days of invoice.

3. OPERATION, COSTS & REPAIRS: The Equipment shall be inspected by the LESSEE at, or prior to the beginning of the rental term (on-rent inspection) and acceptance of delivery by LESSEE shall constitute acknowledgment that the Equipment received and inspected is then in good and serviceable condition, safe and fit for the use of LESSEE.

LESSEE, at its own expense, shall at all times maintain the Equipment in good and safe operating condition and shall pay for all labor, fuel, lubrication, materials, parts and supplies of every nature and kind required to operate and so maintain the Equipment and to make all necessary repairs and replacements thereon including structural and mechanical failure. LESSEE shall immediately inform LESSOR of any damage, accident, or mechanical failures of or involving the Equipment or its operation. LESSEE is not authorized to incur any liability or to expend any money for LESSOR's account for any operating, maintenance or repair cost or expense without prior written authority from LESSOR. Title to any repairs or replacements, and parts and supplies furnished in connection therewith shall vest in the holder of title to the Equipment. LESSEE shall reimburse LESSOR for any third-party charges for repairs plus 35% for overhead and administration costs.

4. RETURN OF EQUIPMENT: LESSEE shall return the Equipment to LESSOR unencumbered and in the same condition as when received by LESSEE, reasonable wear resulting from proper use alone excepted. Condition shall be determined by an off-rent inspection by LESSOR and LESSOR will notify LESSEE of any required repairs within forty-five (45) days of such inspection. The Rental Period will continue throughout such time required to make all necessary repairs for which LESSEE is responsible.

5. TRANSPORTATION: LESSEE shall pay all loading and unloading costs and all transportation costs. LESSEE shall furnish timely instructions for shipment, and, absent such instructions, LESSOR may ship to railhead or shipping point which LESSOR in good faith believes to be closest to the 'location of use'. LESSOR shall furnish shipping instructions for the return. LESSEE assumes all expense and risk of loss during transportation of Equipment, same being loaded and shipped EXW LESSOR's location or other shipping point designated by LESSOR.

6. USE OF EQUIPMENT: LESSEE shall keep and use the Equipment at its place of designated use until LESSOR in writing permits its removal and shall use it only in the conduct of LESSEE's business. In no event will LESSEE use the Equipment to drive pile. At no time shall the Equipment be subjected to improper use, any careless or needlessly rough use or to any use in a violation of any federal, state, or municipal statute, ordinance, or regulation, including State OSHA and Fed OSHA, or to any use beyond the safe or manufacturer's rated limits or capacity of the Equipment. The Equipment shall be operated and stored free of any hazards. The Equipment shall not be altered or modified in any way or subjected to addition of any counterweight beyond that furnished with the Equipment. LESSEE shall not remove, alter, disfigure, or cover up any numbering, lettering, insignia, or signage, including illuminated signage, placed upon the Equipment.

LESSEE shall not, without the prior written consent of LESSOR, except as otherwise provided herein, remove the Equipment or any part thereof from its place of designated use or surrender or part with the possession, custody, or control thereof. LESSEE shall, if requested, advise LESSOR of the exact location and condition of the Equipment and LESSOR shall, at reasonable times be given access thereto and afforded necessary facilities for the purpose of inspection.

LESSEE is responsible for ensuring compliance by it and its employees and/or agents, and of the Equipment itself, with all applicable laws and regulations, including without limitation, 29

C.F.R. 1926, subpart CC Cranes and Derricks in Construction and

C.F.R. 1910.180 – Crawler Locomotive and Truck Cranes and all applicable ANSI Standards. LESSOR shall have no responsibility of any kind for compliance with any such laws, regulations, or ordinances during the period the Equipment is in LESSEES' possession or control.

7. OPERATORS: LESSEE shall be solely responsible for supplying, employing, compensating, and authorizing only competent and qualified personnel who are experienced, knowledgeable, trained, and, where required by law, certified and/or licensed, to operate and maintain the Equipment whether or not the operator is an employee of LESSEE. LESSEE shall comply with all applicable laws, rules, regulations, and labor agreements relating to employment of personnel on the Equipment and shall provide and pay for all workers' compensation insurance, taxes and contributions for social security benefits, unemployment insurance, and union benefits, including any pensions and annuities imposed under any applicable law or labor agreement. LESSEE shall hold LESSOR free and harmless from any liability for any such taxes, insurance, contributions, payments and benefits under any workers' compensation law, employer's liability, or other expense.

8. BORROWED SERVANTS: LESSOR will make one or more of the following persons available for assembly, disassembly, maintenance, repair and/or operation of the Equipment: Assembly and Dismantle Director, Technician, Rigger, Assist Crane Operator, Mechanic, Welder, Hoist Operator and/or Crane Operator. These persons are supplied to LESSEE under the Borrowed Servant Doctrine as borrowed servants or employees of LESSEE. LESSEE shall supervise and have the right to control the work of the persons supplied and shall be fully liable for any and all loss or damage, including property damage and bodily injury or death as a result of the acts or omissions of those person provided hereunder under the original scope of this agreement or any added scope.

9. INDEMNITY: TO THE FULLEST EXTENT PERMITTED BY LAW, LESSEE SHALL HOLD LESSOR, ITS AGENTS, EMPLOYEES AND ASSIGNS, FREE AND HARMLESS FROM AND INDEMNIFY AND DEFEND LESSOR AGAINST ANY AND ALL SUITS, ACTIONS, PROCEEDINGS, CLAIMS, DEMANDS, LIABILITIES, COSTS AND CHARGES, LEGAL EXPENSES, DAMAGES OR PENALTIES OF ANY NATURE, ACTUALLY OR ALLEGEDLY ARISING OUT OF OR RELATED TO EQUIPMENT FURNISHED BY LESSOR OR TO ANY ALLEGED ACTIONS OR OMISSIONS BY LESSEE, INCLUDING, BUT NOT LIMITED TO, THOSE RESULTING FROM, OR CLAIMED TO RESULT FROM INJURY, DEATH OR DAMAGE TO ANY AND ALL PERSONS, EMPLOYEES OR PROPERTY IN ANY WAY ARISING OUT OF LESSEE'S WORK OR ANY PERSON ACTING FOR OR ON BEHALF OF LESSEE. THIS AGREEMENT APPLIES TO CLAIMS, DEMANDS OR LIABILITY FOR INJURY OR LOSS CAUSED OR CONTRIBUTED TO BY THE NEGLIGENCE OR OTHER MISCONDUCT OF LESSOR. LESSEE, HOWEVER, SHALL HAVE NO LIABILITY FOR THE ACTIVE NEGLIGENCE OR WILLFUL MISCONDUCT OF LESSOR. THE DUTY OF THE LESSEE HEREIN TO DEFEND AND INDEMNIFY LESSOR SHALL ARISE AS OF THE TIME OF THE TENDER OF DEFENSE.

10. INSURANCE: LESSEE is obligated to procure and produce upon LESSOR's request commercial general liability insurance with limits not less than \$2,000,000 and in no event less than

\$2,000,000 per occurrence and in the aggregate, or such higher amounts as, in the opinion of LESSOR, are needed to protect LESSOR and LESSEE against any and all such liability or risk of loss and to cover LESSEE's obligations herein. If the LESSEE chooses to carry insurance coverage above the minimum described herein, including excess or umbrella coverage, said additional coverage shall be endorsed to also extend to LESSOR to include all the terms and conditions set forth herein. LESSOR shall be named as an additional insured without limitation on LESSEE's insurance and the coverage shall include an endorsement that states that such insurance shall be primary and any insurance maintained by LESSOR, including both primary and excess insurance, shall be excess and noncontributing. The coverage shall contain an endorsement that waives subrogation against LESSOR. The deductible, if any, for the insurance shall be paid by and for the account of LESSEE, and LESSOR shall be entitled to fully recover from LESSEE's insurance carrier, and all such payments shall be made directly and solely to LESSOR.

Should LESSEE come onto LESSOR's yard to pick-up, haul and drop off the Equipment, then LESSEE shall be obligated to procure auto commercial liability insurance with a combined single limit not less than \$1,000,000 for property damage and bodily injury. Such coverage shall name LESSOR as additional insured under an endorsement and shall contain an endorsement that waives subrogation against LESSOR. In addition, LESSEE shall be obligated to procure cargo insurance covering the full stated value of the Equipment LESSEE is hauling from LESSOR's yard to another location.

LESSEE shall be obligated to procure fire and extended coverage insurance, naming LESSOR as Loss Payee, for the full stated value of the Equipment, as listed in the agreement, for any and all loss or damage to the Equipment occasioned by fire, theft, flood, explosion, overturn, accident, acts of God or any other cause that may occur during the rental term.

LESSEE shall be obligated to procure and produce upon LESSOR's request workers compensation insurance and employer's liability insurance upon all of its employees and the employees of its subcontractors. The coverage shall contain an endorsement that waives subrogation against LESSOR. LESSEE's obligations hereunder shall not be limited by the amount of insurance provided. If LESSEE is based in and the location of Equipment use is in a monopolistic state where waiver of subrogation is not obtainable, then LESSEE is not required to submit a waiver of subrogation endorsement.

The above insurance policies shall be with companies acceptable to LESSOR. LESSEE shall be obligated to procure and produce upon LESSOR's request certificates of insurance and endorsements evidencing such insurance in form acceptable to LESSOR and naming LESSOR as certificate holder prior to the Equipment being shipped, which shall provide that such insurance may not be canceled without Thirty (30) days written notice to LESSOR in advance. If LESSOR shall, for any reason, fail to enforce any requirement for any insurance as provided in this Agreement, or if LESSEE is in default of its obligation to obtain any such insurances, the failure to provide insurance shall constitute an agreement by LESSEE to indemnify LESSOR against any and all loss which such insurance would otherwise have covered, including all special and consequential damages regardless of whether the same are foreseeable.

LESSOR shall not participate in any wrap-up or Owner Controlled Insurance Program with limits less than \$50 million and any costs related thereto shall be paid by LESSEE.

11. DAMAGE TO EQUIPMENT: In the event the Equipment is damaged in any way or form, other than normal operating wear, LESSEE shall notify LESSOR immediately of the incident and describe the extent of the damage. Repairs to Equipment are not to be attempted without express written consent of LESSOR. All repairs to the Equipment shall be at the expense of LESSEE (excluding latent manufacturing defects) and LESSEE shall provide full documentation to LESSOR. The rental period will continue throughout such time required to make all necessary repairs for which LESSEE is responsible. Should Equipment not be repairable (as determined by the manufacturer), LESSEE must pay full replacement value as stated herein plus applicable taxes. The rental period shall continue until LESSOR receives full payment for the loss.

12. PREVENTIVE MAINTENANCE: LESSEE is responsible, at its own cost, to schedule and perform maintenance, adjustments, and repairs on the Equipment in accordance with the Equipment manufacturer's specifications and applicable laws and regulations, including without limitation OSHA and DOL.

LESSEE shall be responsible for performing all normal basis service, including without limitation all filters, lubrications, protection against freezing and repair of any parts affected by exposure to the elements. LESSOR has the right but not the obligation to inspect the Equipment at any time during normal working hours. However, LESSEE agrees that LESSOR has no control over the Equipment's use, operation, maintenance and/or repair while in LESSEE's possession, control and/or supervision. LESSEE shall provide LESSOR with prompt access to the Equipment to properly maintain and/or repair the Equipment if LESSEE fails to do so or upon LESSOR's request, all at LESSEE's expense. LESSOR shall have the right to make and/or direct all repairs required due to any accident, at LESSEE's expense. All repairs shall meet manufacturer's specifications and be certified by the manufacturer and/or qualified inspector/certifier

OSHA and DOL regulations require daily, monthly (or other periodic) and annual inspections. LESSEE is solely responsible for conducting and properly documenting these inspections and for otherwise ensuring that the Equipment meets and is operated in accordance with OSHA and DOL requirements and ANSI Standards. LESSOR furnishes the following items with each crane to assist LESSEE with said compliance: i) crane logbook, ii) operator's manual; iii) fire extinguisher; and iv) load chart. LESSEE shall pay all costs associated with the replacement of any such item supplied and not returned in usable condition upon return of the Equipment.

LESSEE shall keep a written record of all inspections and shall be responsible for keeping the crane logbook current and accurate while the Equipment is in LESSEE's possession or control and shall be solely responsible for any liability for failure to do so. If LESSEE operates the Equipment in adverse or corrosive environments, LESSEE shall take all reasonable measures to protect the Equipment from damage from those environments.

LESSOR may provide maintenance and repair services for a fixed monthly fee if agreed to under separate Repair Agreement Addendum to this contract. In such event, LESSOR's repair personnel shall be Borrowed Servant of LESSEE as stated herein.

13. ASSIGNMENT: Any assignment, transfer, subletting or hypothecation of this lease or any interest therein or of the Equipment or any part thereof by LESSEE without the prior written consent of LESSOR shall be void. If LESSOR shall assign this lease or any rights or the rental payable hereunder, assignee's

rights shall be free and independent of any claim or offset of LESSEE against LESSOR. LESSEE upon receiving notice shall abide to the assignment and make payment as directed. In the event of such an assignment, the term "LESSOR" as used herein shall refer to LESSOR'S assignee.

14. TAXES: LESSEE shall be liable for and shall pay all licenses, permits, fees, taxes and assessments, and penalties and fines, if any, assessed or levied by any public authority against the Equipment, this Agreement and the transaction represented thereby, or any interest therein or any part thereof, or arising out of the ownership, use, operation, or possession of the Equipment hereunder. Nothing in this paragraph is to be construed as meaning that the LESSEE is to pay the personal property tax levied against the machinery rented when said machinery is delivered within the home state of the LESSOR, as in this case the LESSOR is to pay his own personal property tax. In the event the Equipment is rented outside of the home state of the LESSOR, any and all taxes assessed against the machinery, including personal property tax, are to be paid by the LESSEE.

15. TITLE: Title to the Equipment shall at all times remain in LESSOR exclusively. LESSEE shall keep the Equipment free from any and all liens, claims and encumbrances and shall not do or permit any act or thing whereby LESSOR's rights, title, or interest in the Equipment or in this Agreement may be encumbered or impaired.

16. TERMINATION, REPOSSESSION AND ATTORNEY'S FEES: LESSOR reserves the right to terminate this Agreement for its convenience at any time. LESSOR shall have the right to terminate this Agreement if: 1) LESSEE fails to make any payment as herein provided; 2) at any time during the term hereof, fails to perform any of the terms and conditions LESSEE is obligated to perform; 3) becomes insolvent or makes an assignment for the benefit of creditors or becomes the subject of any reorganization or bankruptcy proceeding; 4) LESSEE changes the Rental Start Date by more than fourteen (14) days; and/or 5) if LESSOR shall deem it to be to its best interest to do so to protect its interests or protect the Equipment against loss or damage. Upon termination of this Agreement for whatever cause or reason, then LESSOR and its agents or representatives may, in addition to any other rights or remedies it may have hereunder or at law or in equity, without notice or demand or liability or legal process, demand LESSEE halt further operation of the Equipment, enter any premises where said Equipment is or is believed to be located and take any actions necessary to secure and protect the Equipment from further use, repossess all or any part thereof. LESSEE expressly waives all further rights to possession of the Equipment and all claims for injury suffered through or loss caused by such termination and/or repossession. If LESSOR shall repossess the Equipment or shall institute any proceeding to recover any monies due hereunder to recover possession of the Equipment or any part thereof or to enforce any term or condition hereof, LESSEE shall pay LESSOR's costs incurred therein including LESSOR's attorney's fees, expert fees, litigation expenses other than costs of suit permitted by statute and all costs of suit. LESSEE stipulates that expert fees and litigation expenses other than costs of suit may be recovered by post-judgment motion and need not be proven at trial. LESSOR's rights hereunder are cumulative and not exclusive or alternative.

17. LIMITATION OF WARRANTIES AND LIABILITY: LESSOR WARRANTS THAT IT HAS THE RIGHT TO LEASE THE EQUIPMENT TO LESSEE AND THAT DURING THE RENTAL TERM, LESSEE SHALL HAVE AND ENJOY QUIET POSSESSION OF THE EQUIPMENT AGAINST ANY LAWFUL CLAIMS AGAINST THE LESSOR. THIS EQUIPMENT IS LEASED WHERE IS, AS IS, AND LESSOR MAKES NO REPRESENTATION OR WARRANTY OF ANY

KIND THAT THE EQUIPMENT IS OR SHALL BE FIT OR SUITABLE FOR ANY SPECIFIC PURPOSE OR PURPOSES OF LESSEE, INCLUDING MERCHANTABILITY, WHETHER OR NOT DISCLOSED OR KNOWN TO LESSOR. EXCEPT AS EXPRESSLY CONTAINED HEREIN, LESSOR MAKES NO WARRANTY EXPRESS OR IMPLIED WITH RESPECT TO THE EQUIPMENT OR ANY PART THEREOF, NOR ANY REPRESENTATION, PROMISE OR AGREEMENT. LESSEE HAS RELIED SOLELY AND EXCLUSIVELY ON ITS OWN JUDGMENT, EXPERTISE AND CRITERIA IN SELECTING AND INSPECTING THE EQUIPMENT.

UNLESS OTHERWISE EXPRESSLY REPRESENTED, LESSOR IS NOT THE MANUFACTURER OF THE EQUIPMENT. LESSOR EXTENDS NO WARRANTIES, EXPRESS OR IMPLIED, OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, DESIGN, MATERIALS, OR OTHERWISE, EXCEPT AS SET FORTH IN THIS AGREEMENT. IN NO EVENT SHALL LESSOR OR THE MANUFACTURER (OR ITS COMPONENT SUPPLIERS) OF THE EQUIPMENT BE LIABLE FOR ANY DELAY, WORK STOPPAGE, LOSS OF USE OF EQUIPMENT, LOSS OF TIME, INCONVENIENCE, LOSS OF PROFIT, OR ANY DIRECT, INDIRECT, INCIDENTAL, LIQUIDATED, SPECIAL OR CONSEQUENTIAL DAMAGES. THE SOLE AND EXCLUSIVE REMEDY OF LESSEE FOR ANY BREACH, ERROR AND/OR OMISSION BY LESSOR OF THIS AGREEMENT SHALL BE THE SUSPENSION OF THE RENTAL CHARGES DURING THE PERIOD OF TIME THE EQUIPMENT IS NOT IN OPERATION OR FOR ANY DELAYS IN DELIVERING, INSTALLING, JUMPING, REPAIRING/MAINTAINING, AND/OR REMOVING THE EQUIPMENT. NOTWITHSTANDING ANYTHING TO THE CONTRARY, LESSOR SHALL NOT BE LIABLE FOR ANY DIRECT, CONSEQUENTIAL, PUNITIVE, INCIDENTAL OR LIQUIDATED DAMAGES, EXCEPT AS EXPRESSLY STATED IMMEDIATELY ABOVE. IN NO EVENT WILL LESSOR'S LIABILITY ARISING OUT OF CONTRACT OR TORT OR ANY OTHER CAUSE OF ACTION EXCEED THE RENTAL RATE FOR ONE (1) MONTH AS STATED HEREIN.

18. NOTICES: All notices required to be given hereunder may be served personally on the party to be given such notice, by electronic mail, or sent by certified or registered mail with postage prepaid to the address given herein unless a different address is hereafter specified. LESSEE shall provide accurate and timely information for purposes of serving preliminary notices.

19. SUCCESSORS & ASSIGNS: This Agreement and the terms and conditions hereof shall bind the parties hereto, their heirs, successors, legal representatives, and assigns.

20. APPLICABLE LAW, NON-WAIVER, SEVERABILITY: The interpretation of this Agreement and the execution and performance thereof shall be governed by the laws of the State of California. The sole and exclusive venue for any disputes arising from this Agreement shall be in a court of competent jurisdiction in Alameda County, California. Time is of the essence. LESSOR'S failure to require strict performance by LESSEE of any of the provisions hereof shall not constitute a waiver of LESSOR'S rights thereafter to demand strict compliance therewith or with any other provision hereof. If any provision of this Agreement is found to be invalid, the balance of the Agreement shall not be rendered invalid or unenforceable and to the greatest extent possible, the invalid provision shall be reformed to make the provision lawful and consistent with the intentions of the parties.

21. EXCLUSIVE AGREEMENT: This Agreement, when duly executed by LESSOR, is the only form of Agreement LESSOR will recognize and constitutes the sole and entire Agreement between the parties hereto. No Equipment shall be shipped until this Agreement has been fully executed by both parties, but in any event shipment by LESSOR and receipt by LESSEE shall constitute acceptance by both parties of these General Conditions as applicable to the rental of the Equipment. Paragraph headings of this lease are

GENERAL TERMS

inserted only for convenience and in no way define, limit, or describe the scope or intent of this lease or affect its terms and provisions. All different or additional terms are hereby rejected and will not become part of any agreement formed by the parties. It is expressly agreed and understood that LESSOR shall not be bound by any agreement, warranty, or representation, express or implied, except as contained in the Agreement. No representative, agent, or employee of LESSOR, except the Contract and Risk Manager, has the authority to amend or modify this Agreement or to change or waive any of its terms and conditions. No modification hereof shall be binding on LESSOR unless in writing and signed by LESSOR.