

TERMS AND CONDITIONS OF STANDARD EQUIPMENT RENTAL AGREEMENT

1. Rental Term: The rental term shall commence upon loading of the equipment on the conveyance and shall continue until the equipment is redelivered to Lessor.

2. Rental: The rental rates noted on the Standard Equipment Rental Agreement shall apply during the entire rental term, subject to the following additional conditions:

- A.** Upon execution of this agreement and before delivery of the equipment, Lessee shall pay Lessor the minimum rental payment (minimum rental period X total monthly rental charge). The minimum rental payment shall be deemed fully earned regardless of when the equipment is redelivered.
- B.** The total monthly charge for each succeeding month (following the rental period covered by the minimum rental payment), shall be paid on or before the first day of each succeeding month, but Lessee will be reimbursed any advance rental paid but not earned if the rental period ends before the month ends.
- C.** All rental charges shall be paid in US dollars without any deduction or offset regardless of whether invoiced by Lessor.
- D.** Interest on rent which is due but has not been paid shall accrue at the rate of **1.5% per month** until fully paid.

3. Delivery, Redelivery and risk of loss: The equipment shall be considered delivered to Lessee when it is loaded to the conveyance at the delivery location noted on the face of this agreement. All risk of loss and/or damage to the equipment shall pass to Lessee and shall remain with Lessee until the equipment is redelivered to Lessor at the redelivery location, regardless of how such loss or damage arises or occurs. Redelivery shall not be deemed to occur, and the rental period shall continue until the equipment is redelivered to Lessor in the same condition as Lessee received, less ordinary wear and tear.

4. Transportation: All transportation is deemed to be for Lessee's benefit regardless of whether provided or arranged by Lessor (in which event Lessor is merely the agent for Lessee), and all risk of loss and/or damage related to such transportation (including stowage, securing and transit) shall be within the risk of loss transferred to Lessee.

5. Operation, Maintenance, and Repair: Lessee shall supply trained operators for the equipment, and shall insure that the equipment is operated properly and is not subjected to careless, rough or improper use. Lessee shall be responsible for maintaining the equipment during the rental term, at their own expense, in the same condition as upon delivery, including all routine maintenance all factory recommended maintenance (if applicable), and all repair of the equipment. Lessee shall not alter or modify the equipment without the written permission of Lessor.

6. Inspection and Warranties: The equipment being rented is **used** and is being rented on an **"as is"** basis, with Lessee having full opportunity to inspect the equipment, or having the equipment inspected for them by technicians of their choice, before this agreement is signed. **Any recommendations and/or advice from Lessor is agreed to be informal and shall not create any warranty from Lessor, it shall remain Lessee's sole responsibility to determine the suitability of the equipment for the application intended by Lessee.** It is agreed Lessor shall be held to no other warranty or representation whatsoever and shall specifically be exculpated from any warranty of merchantability or fitness for particular purpose or any other warranty whatsoever, including any warranty that the equipment is free from latent defects.

7. Liability and Indemnity: Lessee shall be liable for all loss of or damage to the equipment during the rental term regardless of how caused, and shall insure against such loss or damage as noted elsewhere in this agreement, and if such insurance fails to fully reimburse Lessor for loss or damage to the equipment Lessee agrees that it will fully indemnify Lessor. Lessor shall not be liable for any damages to the equipment or for any other damages whether by reason of faulty operation, failure of equipment or otherwise. Lessee shall also be liable for all demands, claims, suits or actions for third party property damage and/or bodily injury, and any other charge, expense, tax, loss, damage, claim or liability whatsoever, arising out of or relating to the equipment during the term of this agreement or involving its use pursuant to this agreement (other than caused by the sole direct negligence of Lessor), and Lessee agrees to fully indemnify and hold harmless (including costs and legal fees) Lessor of and from all such charges, expenses, taxes, losses, damages, claims, suits or actions, including those from its own employees notwithstanding any immunity from suit pursuant to a compensation act.

8. Insurance: Lessee at its sole cost shall procure and maintain the following insurance during the term of this agreement:

- A.** Broad form **Equipment Floater** or similar all risk direct property insurance on all equipment rented, such insurance to include waterborne, transit and general average risks, with limits of coverage to the values of the equipment noted on face of this agreement.
- B.** Broad form **Public Liability Insurance** covering property damage and bodily injury, such insurance to be endorsed to include contractual liability coverage for this agreement with minimum limits of \$1,000,000.00. Both insurance policies identified above shall name Lessor as an assured, and Lessor shall be sole loss payee upon the insurance identified in "B". Lessee shall be responsible for all deductibles. Both insurance policies shall be endorsed to be primary to any other insurance, including any insurance maintained by Lessor, and to provide Lessor with thirty days advance notice of cancellation. Lessee shall provide Lessor with a certificate of insurance confirming compliance with this section in advance of delivery of equipment.
- Lessee shall also provide Lessor with a certificate of insurance confirming that it maintains **Standard Workers Compensation and Employers Liability Insurance**, and if the equipment is to be used on or about a vessel, **Standard Hull & Machinery and Protection & Indemnity Insurance**. Lessee shall cause each of the policies to be endorsed to waive subrogation against Lessor.

9. Title, Ownership, and Liens: Title to all equipment and ownership of that equipment shall remain with Lessor throughout this agreement. Lessee agrees that it will not impair such title, represent to any person that it owns or has ownership rights relative to the equipment, and shall not attempt to mortgage, pledge or use such equipment as collateral under any circumstances. Lessee shall not remove deface or conceal signs and markings which identify the equipment as owned by Lessor, and shall maintain such signs and markings. Lessee shall not allow any levy, lien or encumbrance to be placed against the equipment, and shall immediately notify Lessor if any levy or seizure of the equipment is threatened or occurs.

10. Default: Lessee shall be deemed to be in default of this agreement if any of the following circumstances occur.

- A.** Lessee fails to pay rental when due and/or according to this agreement.
- B.** The equipment is damaged from any cause and not promptly repaired.
- C.** Lessee files for bankruptcy protection, either Chapter 7 or 22.
- D.** Lessee is otherwise in breach of this agreement.
- In event of default, this agreement and all of Lessee's rights hereunder shall, without notice, immediately terminate and Lessor may at their discretion do all acts and make all reasonable expenditures necessary to retake possession of the equipment, or attempting to retake and regain, possession of the equipment. Lessee covenants and agrees to promptly reimburse Lessor, with interest at the rate of **12% per annum** and an additional **10% administrative** surcharge, for any and all expenditures so made or incurred. If this agreement terminates, it may only be reinstated by a separate written agreement signed by Lessor.

11. Taxes, Fees, etc.: Lessee shall pay all taxes, fees, licenses, charges and all other assessments relating to the possession or use of the equipment (other than Lessor's obligation for taxes relative to rental charges it receives pursuant to this lease) which arise or are imposed out of this agreement.

12. Consequential damages: Neither party shall be responsible to the other for consequential or special damages, regardless of the cause thereof and whether resulting from delay, neglect or otherwise.

13. Jurisdiction, Applicable law, Venue and Legal costs: Any suit relating to this agreement or the rented equipment must be filed in the federal or state courts located in Polk County, WI and Lessee agrees to the appropriateness of that forum and will submit to its jurisdiction. The law of the State of WI and/or general maritime law of the U.S. shall be applicable to this agreement. The prevailing party in any action shall be entitled to recover legal costs and fees.

14. Headings and Integration: The headings are for convenience only and may not be used to construe this agreement. This agreement constitutes the final understanding between the parties, superseding all prior oral or written agreements. It may be modified only by a written document signed by both parties.

15. Counterparts and Facsimile Execution: This agreement may be executed in one or more identical counterparts, with each such counterpart deemed the same agreement. Signatures to this agreement may be exchanged by facsimile, with a facsimile copy of a signature deemed equivalent to an original signature.