

# MAXIM CRANE WORKS, L.P.

Local Branch:

Contract #: 0000

7/24/120

2012,

## EQUIPMENT LEASE - BARE RENTAL AGREEMENT

THIS EQUIPMENT LEASE-BARE RENTAL AGREEMENT (this Lease) is entered into as of the \_\_\_\_\_ day of \_\_\_\_\_ by and between Maxim Crane Works, L.P., a Pennsylvania limited partnership ("Lessor"), 1225 Washington Pike, Bridgeville, PA 15017 and the Lessee ("Lessee") identified as follows: \_\_\_\_\_

Lessee Name:			Lessee is a: <b>Corporation</b>		
Lessee Street Address:			Lessee Billing Street Address (if different):		
Lessee City:	State:	ZIP:	Lessee City:	State:	ZIP:
Local Contact Name:	Position:	Lessee Phone No.:	Lessee Fax No.:		

### LIST OF EQUIPMENT AND ACCESSORIES LEASED

Equipment and Accessories Description/Model/Serial/Unit #	Replacement Value	Last Annual Inspection Date	Rental Rate		
			Per Month	Per Week	Per Day
1)					
2)					
Freight In/Out: Add. Charges: Other:					

Lessor hereby leases to Lessee the equipment and accessories identified above (the "Equipment"), and Lessee agrees to lease and pay for such Equipment from Lessor, subject to the terms and conditions of this Lease, at the Rental Rate listed above, for a minimum of \_\_\_\_\_ commencing on \_\_\_\_\_, which minimum rent shall be paid on demand. All Equipment shall remain in Lessee's possession and control at all times. The Equipment is to be located at: \_\_\_\_\_

THE EQUIPMENT IS RENTED TO LESSEE ON A **BARE RENTAL BASIS ONLY**, in its "As Is" condition. Lessee, at its own expense, shall transport, operate, inspect, maintain and repair the Equipment, and return the Equipment to Lessor in the same condition as when delivered to Lessee, ordinary wear and tear from normal use excepted. LESSEE IS RESPONSIBLE FOR ENSURING COMPLIANCE BY IT AND ITS EMPLOYEES/AGENTS, AND OF THE EQUIPMENT ITSELF, WITH ALL APPLICABLE LAWS, REGULATIONS AND ORDINANCES, INCLUDING THE OCCUPATIONAL SAFETY AND HEALTH ACT AND REGULATIONS (INCLUDING BUT NOT LIMITED TO 29 C.F.R. 1926, SUBPART CC CRANES AND DERRICKS IN CONSTRUCTION AND CFR 1910.18-CRAWLER LOCAMOTIVE 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 Lessee's possession or control. See Operation, and Inspection, Maintenance and Record Keeping requirements in the Terms and Conditions. Maxim's Rental Equipment Service Policy is incorporated herein by reference. This Lease is expressly subject to the Terms and Conditions on the following pages, which are incorporated by reference. Lessee is placed on notice that the terms and conditions on the following pages contain provisions that, among other things: require Lessee to indemnify others, including the Lessor (unless loss is due to Lessor's active negligence or willful misconduct); waive all jury trials; and eliminate all warranties.

Lessee acknowledges that it has read and understands this Lease in its entirety, including the Terms and Conditions on the following pages. This Lease is executed by a duly authorized representative of Lessor.

(Lessee Name: Print or Type)

By:

Maxim Crane Works, L.P.

By:

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Phone: \_\_\_\_\_ Fax: \_\_\_\_\_  
(Lessor's Local Phone & Fax Number)

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## Terms And Conditions

1. **Term:** Unless the parties hereto agree in writing otherwise, the Lease begins on the date the first piece of Equipment is shipped to Lessee, and ends on the date the last piece of Equipment is returned to Lessor.
2. **Operation:** Lessee shall not subject the Equipment to careless or needlessly rough usage and Lessee hereby agrees that the Equipment shall be operated, inspected, maintained and repaired only by experienced, competent persons under Lessee's supervision and control. The Equipment shall be operated in a safe and lawful manner at all times, and in accordance with the manufacturer's operators manual, OSHA rules and ANSI standards. Lessee's operation of the Equipment shall not exceed the manufacturer's safety requirements and rated load capacities. Equipment shall not be used when overloaded, while the operator is under the influence of drugs or alcohol, in violation of state or federal law, or to carry persons or property for hire. If the Equipment is a crane, it is to be used as a lift crane ONLY. Demolition, dynamic compaction, pile driving, and clamming work require additional documentation and Equipment authorized only by Lessor.
3. **Compliance with Laws and Standards:** Lessee shall comply with and conform to all laws, regulations, ordinances, rules and orders of any governmental entity relating to the possession, transportation, use, maintenance and repair of the Equipment, including but not limited to, all OSHA laws and regulations. Lessee shall also comply with all applicable ANSI Standards. Lessee agrees to assume full responsibility for, and to the fullest extent allowed by applicable law, shall indemnify, defend and save Lessor harmless against actual or asserted violations thereof, including all losses, damages, expenses, fines, forfeitures, seizures, confiscations, and penalties arising out of any such laws and regulations.
4. **Title:** All Equipment shall remain the property of Lessor at all times. Any attachments, accessions, replacement parts, repairs or additions to the Equipment shall automatically become Lessor's property. Lessee shall keep the Equipment free from any and all liens, encumbrances and claims whatsoever, and shall not do or permit any act which may encumber or impair Lessor's title or rights in the Equipment. Upon Lessor's request, Lessee shall promptly execute and/or deliver to Lessor all documentation (such as estoppel certificates or a landlord waiver), as Lessor deems necessary or appropriate for the preservation, perfection or enforcement of Lessor's interests in the Equipment and Lessor's rights under this Agreement, and if Lessee fails to do so, Lessor may execute such documents on Lessee's behalf and in Lessee's name.
5. **Acceptance:** Lessee shall inspect the equipment immediately upon delivery. The equipment is deemed accepted unless within 24 hours of delivery the Lessee notifies Lessor in writing that the equipment is not serviceable, specifying the reason(s) therefore. Acceptance of the equipment constitutes Lessee's acknowledgement that it has inspected the equipment and it is in good, safe, serviceable condition, and fit for the use intended. If the equipment thereafter proves defective or unfit for use, Lessor's liabilities and responsibilities are defined in Paragraph 8 (warranties). Consistent with Paragraph 8, Lessor's sole responsibility is to repair or replace the equipment. At Lessee's option, Lessee's sole remedy is to return the Equipment and terminate the Lease. If Lessee elects to terminate the Lease, Lessee shall pay all rental and other amounts due prior to termination, which shall never be less than rent due for the minimum rental period, transportation charges, and any outstanding costs of repairs.
6. **Insurance:** Lessee, at its expense and to the fullest extent permitted by California Civil Code Section 2782 or other applicable law, shall take out, carry and maintain the insurance specified herein and in the insurance addendum attached hereto, in full force during the term of this Lease, and prior to taking delivery of the Equipment:
  - a. Primary, non-contributing without regard to any "Other Insurance" clause, comprehensive general liability insurance, including contractual liability, protecting against liability for property damage and personal injury or death arising out of the possession, use, operation, maintenance and repair of the Equipment, with limits of liability not less than \$2,000,000 each occurrence; and a \$2,000,000 general aggregate;
  - b. Automobile liability, protecting against liability for property damage and personal injury or death arising out of the possession, use, operation and transportation of the Equipment, with limits of liability not less than \$ 1,000,000 each occurrence;
  - c. Inland marine all risk coverage (physical damage insurance), with any overload, boom and jib exclusion deleted, for the full replacement value of the Equipment in the amount indicated on the face hereof;
  - d. Umbrella liability with limits of liability of not less than \$3,000,000; and
  - e. Workers' compensation and employer's liability insurance, in accordance with all applicable state and federal laws, with limits of at least the statutory minimum or \$1,000,000.00, whichever is greater.

All insurance required hereunder, to the fullest extent permitted by California Civil Code Section 2782 or other applicable law, shall be deemed primary, non-contributory insurance of Lessor; shall name Lessor as an additional insured party (using ISO Form GC 20 10 or equivalent) and loss payee; shall be maintained with insurance companies with an A.M. Best rating of A- or higher and licensed and/or authorized to do business in the jurisdiction of the jobsite location; shall provide a waiver of subrogation with respect to the general liability, excess, inland marine all risk and auto coverage; and shall provide that the coverage thereunder may be altered or canceled only after not less than 30 days prior written notice to Lessor. Lessee is solely responsible for any insurance premiums and deductibles, and loss of usage of the Equipment. No "Other Insurance" provisions shall be applicable to Lessor or their underwriters by virtue of being named as an additional insured party and/or loss payee under the policy. Lessee shall furnish Lessor with certificate(s) of insurance evidencing such coverage. Lessor's policies shall be considered excess over all Lessee's policies. Indemnification obligations by Lessee under this Agreement are in addition to, and an alternative, to the insurance coverage required herein; and Lessee's maintenance of any such insurance coverage shall not operate to waive any such indemnification obligations. If Lessee fails to procure and maintain the required physical damage insurance coverage in accordance with this Section 6, Lessor shall have the right (but not the obligation), without notice and at Lessee's expense, to place such insurance coverage and/or enroll Lessee in any force-placed or waiver program maintained by Lessor from time to time, and Lessee shall pay the cost thereof upon the terms set forth in Lessor's invoice made in accordance with the provisions of Section 11 hereof. To the extent Lessee may perform under this Agreement without obtaining the required insurance coverage, such an occurrence shall not operate in any

manner as a waiver of Lessor's right to maintain any breach of contract action against Lessee.

**7. INDEMNIFICATION:** TO THE FULLEST EXTENT PERMITTED BY CALIFORNIA CIVIL CODE SECTION 2782 OR OTHER APPLICABLE LAW, LESSEE SHALL DEFEND, INDEMNIFY, AND HOLD HARMLESS LESSOR, ITS OFFICERS, DIRECTORS, SHAREHOLDERS, PARTNERS, MEMBERS, MANAGERS, EMPLOYEES, AFFILIATES, REPRESENTATIVES AND AGENTS ("INDEMNITEES") FROM ANY AND ALL ACTIONS, CAUSES OF ACTION, CLAIMS, SUITS, DEMANDS, INVESTIGATIONS, OBLIGATIONS, JUDGMENTS, LOSSES, COSTS, LIABILITIES, DAMAGES, FINES, PENALTIES AND EXPENSES, INCLUDING ATTORNEY FEES (COLLECTIVELY, "CLAIM" OR "CLAIMS") WHICH ARE INCURRED BY, ACCRUED, ASSERTED, OR MADE AGAINST, OR RECOVERABLE FROM ANY OF THE INDEMNITEES ARISING FROM OR RELATING TO, DIRECTLY OR INDIRECTLY, THE LESSEE'S ACCEPTANCE, POSSESSION, TRANSPORT, USE, OPERATION, CONTROL, MAINTENANCE AND/OR REPAIR OF THE EQUIPMENT, WHETHER OR NOT THE SAME ARISES FROM DAMAGE TO PROPERTY (REAL OR PERSONAL), INJURY OR DEATH TO PERSONS, INCLUDING BUT NOT LIMITED TO LESSEE'S EMPLOYEES, AGENTS AND REPRESENTATIVES, FAILURE TO COMPLY WITH APPLICABLE LAWS, REGULATIONS AND ORDINANCES, EQUIPMENT CONDITION, LOSS OF USE OR SEIZURE OF EQUIPMENT, OR OTHERWISE, TO THE EXTENT CAUSED IN WHOLE OR IN PART BY LESSEE OR ANYONE DIRECTLY OR INDIRECTLY EMPLOYED BY LESSEE OR ANYONE FOR WHOSE ACTS LESSEE MAY BE LIABLE; PROVIDED HOWEVER, LESSEE SHALL HAVE NO OBLIGATION TO DEFEND, INDEMNIFY, OR HOLD HARMLESS AN INDEMNITEE WITH RESPECT TO A CLAIM TO THE EXTENT THAT THE APPLICABLE CLAIM ARISES OUT OF, PERTAINS TO, OR RELATES TO THE ACTIVE NEGLIGENCE OR WILLFUL MISCONDUCT OF THE INDEMNITEE. LESSEE'S OBLIGATION TO DEFEND, HOLD HARMLESS AND INDEMNIFY THE INDEMNITEES SHALL SURVIVE THE TERMINATION OF THIS LEASE. IT IS EXPRESSLY AGREED THAT THIS INDEMNIFICATION CLAUSE APPLIES TO BOTH THIRD-PARTY CLAIMS AND ALL CLAIMS BETWEEN LESSOR AND LESSEE. LESSEE EXPRESSLY WAIVES ANY AND ALL WORKERS' COMPENSATION IMMUNITY IT MAY OTHERWISE HAVE.

**8. NO WARRANTIES:** LESSOR WARRANTS THAT THE EQUIPMENT WILL BE DELIVERED IN GOOD OPERATING CONDITION. LESSOR'S SOLE RESPONSIBILITY UNDER THE ABOVE WARRANTY SHALL BE, AT ITS OPTION, TO EITHER REPAIR OR SUITABLY REPLACE THE EQUIPMENT WITHIN A COMMERCIALLY REASONABLE TIME. THE ABOVE WARRANTY IS CONTINGENT UPON PROPER USE OF THE EQUIPMENT BY LESSEE AND SHALL NOT APPLY IF ADJUSTMENT, REPAIR OR REPLACEMENT IS REQUIRED BECAUSE OF ACCIDENT, MISUSE, IMPROPER HANDLING, OPERATION, MAINTENANCE, UNUSUAL PHYSICAL STRESS OR WEATHER CONDITIONS. THE FOREGOING IS THE EXCLUSIVE AND ENTIRE WARRANTY GIVEN IN CONNECTION WITH THE EQUIPMENT WHICH EQUIPMENT IS OTHERWISE BEING LEASED IN "AS IS" CONDITION. LESSOR IS NOT THE MANUFACTURER OF THE EQUIPMENT. LESSOR MAKES NO OTHER WARRANTY AND EXPRESSLY DISCLAIMS ANY AND ALL EXPRESS AND IMPLIED WARRANTIES AS TO THE EQUIPMENT, INCLUDING ANY WARRANTY OF MERCHANTABILITY, OR FITNESS FOR A PARTICULAR PURPOSE. LESSOR SHALL NOT BE LIABLE FOR ANY DELAYS, WORK STOPPAGES, LOSS OF USE OF EQUIPMENT, LOST TIME, INCONVENIENCE, LOST PROFITS OR ANY OTHER DIRECT OR INDIRECT INCIDENTAL, SPECIAL OR CONSEQUENTIAL DAMAGES RELATING TO THE POSSESSION, TRANSPORT, USE, OPERATION, CONTROL, MAINTENANCE AND/OR REPAIR OF THE EQUIPMENT, OR ANY LOSS, DAMAGE OR INJURY RESULTING THEREFROM.

**9. Rent Adjustments:** All Rental Rates are based on an 8 hour day (daily rentals), 40 hour week (weekly rentals), or 160 hour month (monthly rentals), on a single day-shift operation. Lessee shall pay 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 any non-working time of the Equipment (except as provided otherwise herein or as the parties hereto may agree in writing).

**10. Transportation:** The Equipment will be loaded at Lessor's expense F.O.B. Lessor's yard or other shipping point designated by Lessor. Lessee, at its own expense and risk, shall do all other loading, unloading, installation, dismantling and transportation of the Equipment and shall pay all other freight, demurrage, storage, switching, drayage, rigging, trucking or other transportation charges (including but not limited to, fuel costs and taxes, mileage charges, weight and road use permits, highway taxes and any other IFTA taxes) from the time of loading by Lessor to and including the time of the Equipment's return to Lessor, unless the parties hereto agree otherwise in writing. If the Equipment is transported on its own wheels, Lessee, at its own expense and risk, shall provide a responsible person (at least 21 years of age with a valid drivers license) to accompany the Equipment to and from the shipping and receiving point. Equipment shall be returned to the destination designated by Lessor.

**11. Payment:** In addition to the payment of the Rental Rate specified on the front of this Lease, Lessee shall pay Lessor upon demand:

- a. all taxes, levies, assessments, fees and other public charges against or upon any of the Equipment, including, but not limited to, personal property taxes, if applicable.
- b. all fines, penalties, forfeitures, court costs, expenses and attorneys fees arising with respect to Lessee's possession, transportation, use, maintenance or repair of the Equipment, including but not limited to any parking, traffic or other violations assessed against the Equipment, Lessor or Lessee.
- c. Lessor's costs and expenses, including reasonable attorney's fees (unless prohibited by law), incurred in enforcing this Lease, collecting any amounts due hereunder, or in repossessing the Equipment.
- d. All cost of repairs and any related expenses.

Any payments more than 30 days past due hereunder shall bear interest at 1.5% per month (or the maximum rate allowed by law, which ever is higher). Any and all personal property, sales (unless collected by Lessor), use or other taxes which may be applicable to the Equipment by reason of this Agreement or to the rental payments payable hereunder shall be paid and reported by Lessee directly to the appropriate governmental agency charged with the assessment and collection of such taxes, and evidence of such payments shall be provided to Lessor upon its request.

**12. Inspection, Maintenance, Repairs and Record Keeping Requirements:** Lessee shall effect and bear the expense of all necessary inspections, maintenance, adjustments and repairs required by the Equipment operators manual and by law, and shall maintain the Equipment at Lessee's expense in good working condition (including making all repairs occasioned by any accident). Lessee shall be responsible for performing all normal basic service, including filters, lubricants, lubrications, protection against freezing and restoration of parts affected by abnormal exposure. While Lessor shall have the right to inspect the

Equipment at any time during normal business hours, Lessee agrees that Lessor has no control over the operation, use, maintenance or repair of the Equipment when it is in Lessee's possession, supervision or control. Lessor shall have prompt access to the Equipment to properly maintain and repair same if Lessee fails to do so or upon Lessor's demand, all at Lessee's cost. Lessor retains the right to make or direct all repairs occasioned by any accident, all at Lessee's expense. All repairs must meet manufacturer specifications and equipment be certified by the manufacturer. OSHA regulations pertaining to the equipment require daily, monthly (or other periodic) and annual inspections. Lessee is solely responsible for conducting these inspections and for otherwise ensuring that the Equipment meets, and is operated in accordance with, OSHA requirements and ANSI Standards. Lessor also furnishes the following items with each crane to assist Lessee with OSHA compliance: crane logbook; operator's manual; fire extinguisher; and, load chart. Lessee will be charged a replacement fee equal to the cost to replace each missing item not returned with the Equipment. Lessee shall keep a written record of all inspections and shall be responsible for maintaining the crane log book while the Equipment is in Lessee's possession. Lessee shall be solely responsible for any liability imposed by Lessee's failure to maintain inspection records and crane log books while the Equipment is in Lessee's possession.

**13. Damage:** Lessee shall immediately notify Lessor of any damage to the Equipment. All repairs to the Equipment occasioned by damage during the term hereof shall be at the expense of Lessee (excluding latent manufacturing defects). All repairs must be authorized by Lessor. All repairs must meet manufacturer specifications and the Equipment must be certified by the manufacturer. If Lessor determines that the returned Equipment has been subjected to damage, excess wear and tear or improper usage, Lessee agrees to pay Lessor upon demand all costs to restore or repair the Equipment, ordinary wear and tear from normal use excepted. Lessee exclusively bears risk of loss or damage to the Equipment, accidental or otherwise (excluding latent manufacturing defects) including but not limited to, fire, flood, theft, comprehensive losses, collision, rollover and Acts of God. Lessor and Lessee acknowledge and agree that the replacement value(s) stated on the face hereof shall be used to determine the value of the Equipment in order to establish the amount of the loss or damage thereto. Rental payments shall not be applied to loss or damage claims. The Lease term and rental period shall continue to run while the Equipment is being repaired and shall continue to run until all repairs are completed and paid.

**14. Accidents:** Lessee shall immediately notify Lessor of any accident involving the Equipment, including but not limited to, personal injury and/or property damage arising from the transportation, possession, use, maintenance or repair of the Equipment so that Lessor's ability to investigate the accident is not prejudiced. Lessor shall have immediate access to, and right of retrieval and repair of, the Equipment. Lessee shall not remove equipment or components from site. Lessor shall make or have the right to direct all repairs occasioned by any accident at Lessee's expense. All repairs shall meet manufacturer specifications and approval. Lessee shall immediately deliver any summons, pleading, notice or paper of any kind involving any claim, suit or proceeding relating to any accident or event involving the Equipment to Lessor. Lessee shall not aid or abet the assertion of any such claim, suit or proceeding and shall fully cooperate with Lessor in investigating and defending the same.

**15. Default:** Time is of the essence with respect to Lessee's performance of its obligations under this Agreement. Lessor may declare this Lease in default if any one or more of the following occurs: (a) Lessee fails to make any payment required hereunder when due; (b) Lessee fails to maintain in force at all times the required insurance; (c) Lessee fails to properly operate, maintain or repair the Equipment; (d) Lessee fails to observe or perform any other covenant or requirement of this Lease, which failure is not cured to Lessor's satisfaction within five (5) days after Lessor's notice to Lessee thereof; (e) Lessee attempts to sell, transfer or encumber the Equipment; (f) a voluntary or involuntary proceeding is instituted in any court of competent jurisdiction, seeking a decree or order (i) for relief in respect of Lessee under any applicable bankruptcy, insolvency, reorganization, assignment for the benefit of creditors, or other similar law, or (ii) for the appointment of a receiver, liquidator, assignee, custodian, trustee, sequestrator or similar official of Lessee or its property, or (iii) for the winding up or liquidation of the Lessee's affairs; (g) Lessee shall generally fail to pay its debts as they come due; and/or (h) Lessee, in Lessor's opinion, shall become financially insecure. At any time after such declaration, Lessor may enter, with or without legal process, any premises where the Equipment is located and take possession thereof. Lessee shall provide Lessor with unobstructed ingress and egress for such purpose. Furthermore, Lessee shall immediately pay to Lessor all amounts then due hereunder and all costs of removal and repossession of the Equipment. Lessor's remedies herein shall be cumulative and are in addition to all other remedies existing at law or in equity, including but not limited to, (a) terminate this Agreement and all rights of Lessee hereunder; (b) to declare the entire unpaid rent due (including any rent accruing during any minimum rental term) to be immediately due and payable; (c) to enter the premises where the Equipment is located, take possession of and remove the Equipment or render the Equipment inoperable, with or without legal process; (d) to demand that Lessee surrender and deliver up possession of the Equipment to Lessor; (e) with or without terminating this Agreement, to re-let the Equipment on such terms and conditions as are then available and otherwise acceptable to Lessor, and apply rent payments received, after deduction of all costs and expenses incurred by Lessor, to amounts due from Lessee under this Agreement; and (f) within Lessor's sole discretion, but without any obligation, to take such action or make any payment to remedy any default, including but not limited to, procuring any required insurance coverage, paying any fine, imposition, penalty, taxes or fees incurred to recover and/or release the Equipment from any forfeiture, seizure, confiscation or similar proceeding, or from any lien or other encumbrance imposed on the Equipment, all such payments of which shall be reimbursed by Lessee. In addition to the payment of any amounts due Lessor hereunder, Lessee shall be responsible for and shall reimburse Lessor for all costs and expenses incurred by Lessor in connection with the exercise of any rights and remedies hereunder, including all expenses incurred in the removal and transportation of the Equipment to Lessor's premises, any cleaning, service and/or repair of the Equipment, and in the enforcement of the terms and conditions of this Agreement or damages recoverable hereunder, including costs of collection and reasonable attorney's fees (including fees and expenses incurred in any bankruptcy proceeding or on appeal).

**16. No Assignment or Sub-Lease:** This Lease may not be assigned by Lessee and the Equipment may not be offered by Lessee for use or sublet to any other person or entity without Lessor's prior written consent (which consent may be withheld for any reason). Any consent by Lessor to an assignment or sub-lease shall not release Lessee from any obligations under this Lease.

**17. Jury Waiver: UNLESS PROHIBITED BY LAW, LESSEE AND LESSOR EACH KNOWINGLY, UNCONDITIONALLY, AND IRREVOCABLY WAIVE TRIAL BY JURY WITH RESPECT TO ANY ACTION, CLAIM, SUIT OR PROCEEDING, WHETHER SOUNDING IN CONTRACT, TORT OR OTHERWISE, IN RESPECT OF, ARISING OUT OF, RELATED TO, OR INCIDENTAL TO THE RELATIONSHIP ESTABLISHED BETWEEN THEM (OR AS TO ANY THIRD PARTIES) IN CONNECTION WITH THIS LEASE, ANY OTHER DOCUMENT OR AGREEMENT EXECUTED OR DELIVERED IN CONNECTION HERewith, THE CONDUCT OF THE PARTIES, OR THE TRANSACTIONS RELATED HERETO.**

**18. Full Agreement; Governing Law; Waiver; Severability:** This Lease, together with any addenda attached, constitute the full agreement of Lessor and Lessee. Any changes to this Lease must be evidenced in writing signed by Lessor and Lessee. This Lease shall be binding upon and shall inure to the benefit of

the parties hereto, their respective successors and permitted assigns. The law of the state where the Equipment is delivered, assembled, inspected and operated shall control this Lease. Lessee agrees that exclusive jurisdiction to bring and maintain any action or proceeding arising out of or related to this Agreement shall be brought in the county of the state, or in the United States District Court where the Equipment is delivered, assembled, inspected and operated as set forth herein. Headings are provided for convenience only, not for interpretation of this Lease. Lessor and Lessee are independent contractors, and neither Lessee nor any operator of the Equipment shall be deemed to be the agent, servant or employee of Lessor for any reason or purpose. No failure of Lessor to enforce performance of any terms or covenants, or to exercise or delay in exercising any right, under this Lease shall operate as a waiver thereof; nor shall any single or partial exercise of any right hereunder preclude any other or further exercise thereof or the exercise of any other right. If any provision of this Lease is held to be invalid or illegal by a Court of competent jurisdiction, the invalid or illegal term will be deemed excluded from this Lease and will not invalidate the remaining terms of this Lease.

19. Lessor's Right To Effect Compliance: If Lessee fails to comply with any provision of this Agreement including, but not limited to, the obligation to pay or satisfy any taxes, liens, insurance premiums or other charges, Lessor shall have the right, but shall not be obligated, to effect such compliance in whole or in part, and all costs and expenses shall be paid by Lessee immediately upon demand by Lessor. Lessor's effecting such compliance shall not constitute a waiver of any default by Lessee hereunder.

20. Lifting Lugs, Rigging And Apparatus: Lessee hereby assumes all responsibility and liability to ensure the adequacy of design and strength of any lifting lug or device embedded in or attached to any object, and any and all rigging or lifting apparatus (even if such rigging or lifting apparatus is supplied by Lessor to Lessee), and Lessee will indemnify and hold Lessor harmless from any and all actions, causes of action, claims, suits, demands, investigations, obligations, judgments, losses, costs, liabilities, damages, fines, penalties and expenses, including attorney's fees arising or resulting from any failures or defects therefrom.

21. Assembly and Disassembly: The parties agree that any and all Equipment mobilization and/or demobilization costs including but not limited to, assembly, erection, reconfiguration, disassembly or other movement of the Equipment, were quoted by Lessor based on "Standard Activity". Standard Activity means mobilization and demobilization during the following minimum weather conditions, and otherwise absent a force majeure, (i) ambient temperature in excess of twenty (20) degrees Fahrenheit; (ii) sustained winds (including gusts) less than twenty (20) miles per hour; (iii) no precipitation in the form of snow or ice; or (iv) minor precipitation in the form of rain (less than one (1) inch per twenty-four (24) hour period). Rates for Standard Activity apply eight (8) hours per day Monday through Friday (excluding holidays). Rates for mobilization and/or demobilization which do not fall within Standard Activity (the "Non-Standard Rates") shall be provided to Lessee prior to any such costs being incurred and the parties hereto shall cooperate in good faith to schedule such mobilization and/or demobilization on a cost efficient basis.

## RENTAL EQUIPMENT SERVICE POLICY

The United State Department of Labor (“DOL”) and the Occupational Health and Safety Administration (“OSHA”) provide that anyone operating a crane be required to perform a safety check of the equipment prior to each shift of operation. These pre-operational inspections require all fluid levels to be checked prior to each shift of operation and all operational safety equipment to be in operating condition prior to equipment use. Also, OSHA requires written documentation of these and other inspections to remain in compliance with the laws. Maxim Crane Works, L.P. (“Maxim”) provides a log book in every crane to assist you in complying with the government regulations. Maxim will track all reported machine malfunctions with the help of your assigned competent equipment operator. Maxim provides annual inspections at no additional charge to help maintain compliance with OSHA laws and regulations.

As a customer of Maxim renting equipment on a bare-rental basis, you are responsible for the daily, weekly and monthly inspection, as well as maintenance and repair of the Maxim equipment in your possession. To be in compliance with OSHA regulations, you must perform the following maintenance and operating procedures:

- Ensure that the equipment is operated only by competent persons trained to operate the specific make and model of the crane provided.
- Coordinate all repairs with the Maxim Service Department to ensure that the equipment is in a safe working condition and complies with OSHA and other state and local regulations.

- Complete the DAILY CRANE LOG:

Ensure that all operators accurately complete the DAILY CRANE LOG located in the document compartment of the crane. Instructions on completing the DAILY CRANE LOG are located on the inside cover. ENTRIES INTO THE DAILY CRANE LOG ARE MANDATORY AS PRESCRIBED BY OCCUPATIONAL SAFETY AND HEALTH ACT SECTIONS 1910 AND 1926.

To help you stay in compliance with the laws:

- All deficiencies noted on Forms C4 and C5, maintained on the DAILY CRANE LOG shall be faxed to the MAXIM Service Manager listed below immediately after deficiencies are noted. The Service Manager will track the completion of each repair on a Maxim work-order. The requestor shall be notified when the necessary repairs have been completed.
- Completion of DAILY LUBRICATION, INSPECTION AND MAINTENANCE:

Document all inspection, lubrication and maintenance of the equipment prior to use (on a daily, weekly and monthly basis) as specified by the equipment manufacturer on the DAILY INSPECTION LOG (FORM C3).

  - A summary of required inspections, maintenance and lubrication procedures are detailed in the equipment operator’s manual.

Customers are responsible for returning the equipment in the same condition as when delivered, ordinary wear and tear accepted. Any damage to the equipment resulting from failure to maintain or care for the equipment, abuse of the equipment, operation of the equipment under abnormal or unreasonable conditions or any other cause, accidental or otherwise is the customer’s responsibility (excluding a latent manufacturer’s defect or Maxim negligence).

**MAXIM SERVICE:** The Maxim Service Department will perform all Long Term Preventative Maintenance (“LTPM”) pursuant to a two-hundred and fifty (250) engine hour cycle or every three months (whichever is first to occur). LTPM

includes, but is not limited to, a complete inspection of the crane/equipment and full oil and lube service pursuant to manufacturer specifications. Maxim will charge you for all such LTPM service work and any resulting repairs except in those cases where the condition(s) necessitating the repair work results from ordinary wear and tear to the equipment (or a latent manufacturer's defect or Maxim negligence). The charge to you for such service and repair work will be for: (i) labor (at the hourly service charge in effect and based on portal-to-portal determination); (ii) transportation costs; and (iii) parts and materials.

Maxim Service Department site labor rate: \_\_\_\_\_

Fixed Portal to Portal charge: \_\_\_\_\_

SERVICE OPTION:

- 1. MAXIM SERVICE OPTION: I elect to have Maxim perform LTPM service as described above.
- 2. CUSTOMER SERVICE OPTION: I elect to self-perform LTPM in accordance with manufacturer specification.
  - a. Upon Maxim's request customer is required to give Maxim access to inspect the equipment and maintenance records. If customer does not service crane in accordance with manufactures prescribed service intervals, Maxim will service the crane and charge the customer pursuant to Option 1

Maxim will respond within 24 hours for emergency repairs. For service performed other than during normal working hours, customers will be responsible for the difference between the straight time rates and the applicable overtime rates that are in effect at the time of service.

Upon arrival at a job site, at a time and date predetermined by the Maxim Service Manager and the Customer Site Supervisor, Maxim's personnel shall have access to the equipment to begin operations within one (1) hour of arrival. Excessive time is chargeable item to customer's account.

Upon termination of the rental, the equipment will be returned to Maxim's yard for inspection. Should there be any damages for which the customer is responsible; Maxim will invoice you for these damages under the same purchase order as the rental.

Maxim will notify you of any charges in a timely manner. Should you have any questions concerning the charges, please contact our Service Department.

Maxim Service Manager: \_\_\_\_\_

Office number: \_\_\_\_\_

FAX NUMBER: \_\_\_\_\_

Cell Phone Number: \_\_\_\_\_

Maxim assumes no responsibility for labor back charges due to downtime. However, every effort will be made to minimize downtime.



EQUAL OPPORTUNITY EMPLOYER

## INSURANCE REQUIREMENTS

1. Lessee, at its expense, shall take out, carry and maintain the insurance specified herein and in the insurance addendum attached hereto, in full force during the term of this Lease, and prior to taking delivery of the Equipment:

a. Primary, non-contributing, without regard to any "Other Insurance" clause, comprehensive general liability insurance, including contractual liability, protecting against liability for property damage and personal injury or death arising out of the possession, use, operation, maintenance and repair of the Equipment, with limits of liability not less than \$2,000,000 each occurrence; and a \$2,000,000 general aggregate (a non-contributory excess/umbrella policy may be utilized to meet minimum per occurrence coverage and aggregate limits);

b. Automobile liability, protecting against liability for property damage and personal injury or death arising out of the possession, use, operation and transportation of the Equipment, with limits of liability not less than \$ 1,000,000 each occurrence;

c. Inland marine all risk coverage (physical damage insurance), with any overload, boom and jib exclusion deleted, for the full replacement value of the Equipment in the amount indicated on the face hereof;

d. Umbrella liability with limits of liability of not less than \$3,000,000; and

e. Workers' compensation and employer's liability insurance, in accordance with all applicable state and federal laws, with limits of at least the statutory minimum or \$1,000,000.00, whichever is greater.

2. All insurance required hereunder shall be deemed primary, non-contributing, without regard to any "other Insurance" clause, insurance of Lessor; shall name Lessor as an additional insured party (using ISO Form GC 20 10 or equivalent) and loss payee, and shall be maintained with insurance companies with an A.M. Best rating of A- or higher and licensed or authorized to do business in the jurisdiction of the jobsite location

3. All insurance required hereunder shall be maintained with responsible insurance companies of recognized standing.

4. Waiver of subrogation with respect to the general liability, excess, inland marine all risk and auto coverage required.

5. Coverage may not be altered or canceled without 30 days prior written notice to Lessor.
6. Lessee is solely responsible for any insurance premiums and deductibles, and loss of usage of the Equipment.
7. No "Other Insurance" provisions shall be applicable to Lessor or their underwriters by virtue of being named as an additional insured party and/or loss payee under the policy.
8. Lessee shall furnish Lessor with certificate(s) of insurance evidencing such coverage.
9. Lessor's policies shall be considered excess over all Lessee's policies.

10.

Equipment to be covered:

- a. Manufacture/Model/Serial Number/Unit Number:
- b. Value:

Please fax and mail your certificate of insurance to the address below:

Address:

Phone:

Fax: