



MASTER EQUIPMENT RENTAL AGREEMENT

Boart Longyear		
Address:		
City:	State:	Zip:
Phone:	Fax:	
Customer		
Address:		
City:	State:	Zip:
Phone:	Fax:	
Master Contract Number		
Master Contact Number:		
Effective Date		
Effective Date:		
Term		
Term:		
Boart Longyear Representative		
Name:		Position:
Address		
City:	State:	Zip:
Phone:	Fax:	Email:
Customer Representative		
Name:		Position:
Address:		
City:	State:	Zip:
Phone:	Fax:	Email:

The parties hereby enter into the Agreement consisting of the following documents attached hereto (collectively, the "Agreement"):

- a. This Master Equipment Rental Agreement Cover (the "MERA Cover")
- b. Schedule A: General Terms and Conditions
- c. Schedule B: Equipment Rental Addendum (as completed by the parties from time to time)

Boart Longyear and the Customer agree that the Agreement (including all Schedules attached hereto) will govern all equipment rentals by Boart Longyear as set forth on an Equipment Rental Addendum signed by the parties and referencing this Agreement from time to time during the Term. If there is any conflict, inconsistency, or ambiguity among the documents constituting the Agreement, the documents will rank in the order of precedence as follows: (a) MERA Cover, (b) Equipment Rental Addendum, and (c) General Terms and Conditions. Any other terms and conditions that may be proposed by the Customer or that appear on or are referenced in any purchase or rental order, release, facsimile, email, correspondence, acknowledgement, or other document or communication even though such additional or different terms and conditions are issued subsequent to the date of this Agreement will not apply.

By executing this Agreement, the Customer agrees to rent from Boart Longyear, and Boart Longyear agrees to rent to the Customer, the equipment set forth on an Equipment Rental Agreement signed by the parties, in accordance with the terms of this Agreement.

Executed by the parties as an agreement to be effective as of the Effective Date.

Signed on behalf of Boart Longyear by its duly authorized representative

Title

Date

Signed on behalf of the Customer by its duly authorized representative

Title

Date



SCHEDULE A GENERAL TERMS AND CONDITIONS

1. **Rental of Equipment.** Boart Longyear agrees to rent to the Customer and Customer agrees to rent from Boart Longyear, pursuant to the terms of this Agreement, the *Base Rental Unit and Accessories* (collectively, the "**Equipment**") described on the applicable Equipment Rental Addendum in the form attached hereto as Schedule B (each an "**Addendum**").
2. **Term of Rental.** The term of this Agreement shall commence on the Effective Date and continue until terminated as provided below. The rental period for all Equipment rented under this Agreement shall commence on the applicable Rental Commencement Date set forth on the applicable Addendum and shall continue until the twenty-fifth (25th) day of the calendar month following the month of the Rental Commencement Date (the "**Initial Rental Month**"); and thereafter shall automatically renew for subsequent consecutive monthly periods each commencing on the twenty-sixth (26th) day of the calendar month and continuing until the twenty-fifth (25th) day of the subsequent calendar month (each a "**Rental Month**"). The Initial Rental Month and each subsequent Rental Month are collectively referred to herein as the "**Rental Term**." If Customer desires to return any Equipment and terminate the applicable Rental Term, Customer must provide Boart Longyear with notice of termination not less than ten (10) business days' prior to the end of the then current Rental Month.
3. **Rental Charges; Use Reporting; Payment Terms.**
 - a. Customer shall pay monthly rental fees (the "**Rental Charges**") based on the *Daily Rental Rates* set forth on the applicable Addendum (the "**Rental Rates**") for all Equipment rented hereunder. Rental Rates are subject to change at the sole discretion of Boart Longyear effective as of the first day of a Rental Month upon not less than thirty (30) calendar days' prior written notice. A "Rental Month" shall commence.
 - b. Rental Charges are based on the number of days the applicable Equipment is in use by Customer in any full or partial Rental Month during the term of this Agreement. No later than the first (1st) calendar day following the end of each Rental Month, Customer shall deliver to Boart Longyear a report of the number of days each article of Equipment was in use during such Rental Month (the "**Use Report**"). If Customer fails to timely deliver a Use Report, or if any Use Report omits use data with respect to any Equipment, Boart Longyear will invoice Customer as if Customer used the applicable Equipment on every day of the applicable Rental Month. Equipment shall be deemed to have been used on each day during which the Equipment is operated for any period of time. Equipment Boart Longyear reserves the rights to audit any Customer records reasonably requested to confirm Equipment use or non-use.
 - c. In addition to Rental Charges, Customer shall pay the *Shipment Charge* set forth on the applicable Addendum for delivery of Equipment to the *Equipment Use Site* set forth on the applicable Addendum.
 - d. Boart Longyear will use commercially reasonable efforts to invoice the Rental Charges within five (5) calendar days following the end of each Rental Month. Customer shall pay all Rental Charges net thirty (30) calendar days following the invoice date. If Customer returns the Equipment to Boart Longyear without providing such notice, Customer will be charged the Early Return Fee set forth on the applicable Addendum.
4. **Net Rent.** Customer's obligation to pay all Rental Charges and other sums hereunder shall be absolute and unconditional, and shall not be subject to abatement, reduction, set-off, defense, counterclaims, interruption, deferment or recoupment, for any reason whatsoever.
5. **Taxes and Fees.** Customer shall report and pay promptly all taxes, fees and assessments due, imposed, assessed or levied against the Equipment (or purchase, ownership, delivery, importation, leasing, possession, use or operation thereof), this Agreement (or any rents or receipts hereunder), Boart Longyear or Customer, by any domestic or foreign governmental entity or taxing authority during or related to the term of this Agreement, including, without limitation, all license and registration fees, and all sales, use, personal property, excise, gross receipts, franchise, stamp or other taxes, imposts, duties and charges, together with any penalties, fines or interest thereon (collectively "**Taxes**"). Customer shall promptly reimburse (on an after tax basis) Boart Longyear for any Taxes charged to or assessed against Boart Longyear. Customer shall show Boart Longyear as the owner of the Equipment on all tax reports or returns, and send Boart Longyear a copy of each report or return and evidence of Customer's payment of Taxes upon request. Customer's obligations, and Boart Longyear's rights, privileges and indemnities, contained in this Section 5 shall survive the expiration or other termination of this Agreement.
6. **Ownership and Use.** The Equipment shall be the exclusive property of Boart Longyear or its strategic partner, except for Customer's rights to use it in normal business operations under this Agreement. The Equipment is and shall remain personal property even if installed in or attached to real property. Customer shall keep the Equipment at all times free and clear from all liens and encumbrances. Customer shall give Boart Longyear immediate notice of any such attachment or other judicial process affecting any article of Equipment. If requested by Boart Longyear, Customer will affix plates or markings on the Equipment and on any operating manuals and manufacturer's instruction indicating the interests of Boart Longyear and its assigns therein, and Customer will not allow any other indicia of ownership or other interest in the Equipment to be placed on the Equipment. Customer shall not sublease or rent the Equipment to another party outside of this agreement without Boart Longyear's prior written consent. Customer shall use the Equipment in a careful and proper manner and shall comply with all federal, state, and local laws. Customer shall not make any alterations or improvements to the Equipment without Boart Longyear's prior written consent.
7. **Delivery; Location and Use Restriction.** Boart Longyear shall deliver the Equipment to the applicable the *Equipment Use Site* set forth on the applicable Addendum. The Equipment shall remain at all times at the *Equipment Use Site* set forth on the applicable Addendum unless relocation of the Equipment is expressly authorized in writing by Boart Longyear.
8. **Damage; Failure to Return.** The Equipment is fully insured for accidental damage by Boart Longyear subject to a US\$5,000 deductible (the "**Deductible**"). Customer will be charged for covered damage to Equipment up to the Deductible. Customer is responsible for the full replacement cost of Equipment which is either: (a) subject to intentional damage or other circumstances not covered the Boart Longyear provided insurance coverage; or (b) lost, stolen or otherwise not returned to Boart Longyear's designated facility at the end of the Rental Term.
9. **Care and Maintenance.** Customer shall keep the Equipment in good condition in accordance with care and maintenance instructions or manual provided to Customer. Customer shall immediately notify Boart Longyear if the Equipment is in need of repairs. All such replacements shall immediately become the property of Boart Longyear. Boart Longyear reserves the right to exchange any Equipment at any time for the purpose of maintenance, repair or replacement.
10. **Return of Equipment.** Upon the expiration or termination of this Agreement or any applicable Rental Term, Customer shall return the Equipment to a location as Boart Longyear shall direct at Customer's sole expense. Customer shall return the Equipment in the same condition and appearance as when received by Customer (reasonable wear and tear excepted).
11. **Assignment.** Customer expressly covenants and agrees that it shall not assign, mortgage, hypothecate or encumber this Agreement or sublet or lend any of the Equipment or permit any of the Equipment to be used by anyone other than Customer. No assignment or sublease by Customer shall in any event relieve or release Customer of or from any debt, duty, obligation or liability hereunder, and Customer shall remain primarily liable hereunder.

12. **Default.** Any of the following shall constitute a “Default”:

- a. Customer fails to pay when due any rent or any other sum required to be paid hereunder and such failure shall continue for ten (10) days from written notice thereof from Boart Longyear;
- b. Customer fails to observe, keep or perform any other term, covenant or condition of this Agreement and such failure shall continue for thirty (30) days from written notice thereof from Boart Longyear;
- c. Customer becomes insolvent or admits in writing its inability to pay or fail to pay its debts as they become due, or makes an assignment for the benefit of its creditors, or applies for or acquiesces in the appointment of a receiver, trustee or other custodian for any of its properties or assets;
- d. Any proceeding shall be commenced by or against Customer for any relief which includes, or might result in, any modification of the obligations of Customer under this Agreement or relief under any bankruptcy or insolvency laws or other laws relating to the relief of debtors, adjustment of indebtedness, reorganization, composition or extension, unless, in the case of an involuntary proceeding not consented to or acquiesced in by Customer, such proceeding shall have been dismissed within ninety (90) days after the same shall have been commenced (provided that this Agreement shall terminate automatically if Customer fails to pay any rent when due hereunder after a proceeding has been commenced by or against Customer under the United States Bankruptcy Code or any foreign equivalent); or
- e. Customer voluntarily or involuntarily, by operation of law or otherwise, removes, sells, transfers, assigns, grants any security interest in, pledges, hypothecates, encumbers, parts with possession of or sublets this Agreement or any Equipment, or attempts to do so, except only as and to the extent expressly permitted hereby.

13. **Remedies.** On any Default hereunder by Customer, Boart Longyear shall have the right, but shall not be obligated, to exercise at any time or from time to time thereafter any one or more of the following rights and remedies, any of which rights and remedies may be exercised by Boart Longyear without notice to or demand on Customer:

- a. If Customer has paid any Rental Charges in advance of the due date, Boart Longyear may apply any or all thereof to any obligation of Customer hereunder;
- b. Boart Longyear may recover all Rental Charges, fees and other amounts due as of the date of such default and, if and for so long as Customer retains possession of the Equipment, recover all rent and other sums as they accrue thereafter;
- c. Boart Longyear may proceed by appropriate court action, either at law or in equity, to enforce performance by Customer of the terms and conditions of this Agreement or to recover damages for the breach hereof or to regain possession of the Equipment; and
- d. Boart Longyear may pursue any other remedy available to Boart Longyear at law or in equity.

Any of the foregoing actions by Boart Longyear shall not constitute a termination of this Agreement or any of Customer's obligations under this Agreement. Boart Longyear may, in its exclusive discretion, terminate this Agreement or any then current Rental Term by express written notice thereof to Customer, in which case Customer shall return the Equipment to Boart Longyear and pay all Rental Charges, fees and other amounts due up to and including the date of said return.

14. **Right to Reclaim Equipment.** If upon any termination of this Agreement or any then current Rental Term, or, at Boart Longyear's option, upon the occurrence of any Default, Customer fails or refuses to deliver the Equipment to Boart Longyear as prescribed herein, Boart Longyear shall have the right to enter Customer's premises and take possession of and remove the Equipment without legal process. In the event the Equipment is located at a site that is not owned by the Customer, Customer will take all actions required for Boart Longyear to gain lawful access to such site for the purposes contemplated in this Section. Customer releases Boart Longyear from, and shall indemnify Boart Longyear against, any claim or right of action for trespass or damages caused by the entry and removal. Under all circumstances, Customer shall also pay to Boart Longyear, on demand, an amount equal to any and all incidental damages sustained by Boart Longyear, including, without limitation, all costs of collection, repossession, transportation, storage, repair, reconditioning, resale or other disposition of the Equipment, all attorneys', expert witnesses' and accountants' fees and costs (whether or not suit is commenced), court costs and other costs and expenses incurred in exercising any rights or remedies hereunder or in enforcing any of the terms or conditions hereof. The provisions of this Section shall not prejudice Boart Longyear's right to recover or prove damages for unpaid rent accrued prior to default. No remedy referred to in this Section is intended to be exclusive, but each shall be cumulative and in addition to any other remedy referred to above or otherwise available to Boart Longyear at law or in equity and may be exercised concurrently or consecutively. The exercise or beginning of exercise by Boart Longyear of any one or more of such remedies shall not preclude the simultaneous or later exercise by Boart Longyear of any or all of such other remedies. Boart Longyear's remedies shall be available to Boart Longyear's successors and assigns.

15. **Further Assurances.** Customer will promptly and duly execute and deliver to Boart Longyear such further documents and assurances and take such further action as Boart Longyear may from time to time reasonably request in order more effectively to carry out the intent and purposes of this Agreement and to establish and protect the rights, interests and remedies intended to be created in favor of Boart Longyear hereunder, including, without limitation, the execution and filing of financing statements and continuation statements with respect to the Equipment.

16. **Performance by Boart Longyear of Customer's Obligations.** If Customer fails promptly to perform any of its obligations under this Agreement, Boart Longyear, on written notice to Customer, may (but shall not be obligated to and shall not incur any liability or obligation to Customer or any third party for failure to) perform the same for the account of Customer without waiving Customer's failure as a default. All sums paid or expense or liability incurred by Boart Longyear in such performance (including reasonable legal fees) shall be promptly reimbursed by Customer on demand of Boart Longyear, together with interest thereon from the date paid by Boart Longyear to the date reimbursed by Customer at the annual rate of twelve percent or, if lower, the maximum rate that Boart Longyear may lawfully charge.

17. **Indemnification.** Customer hereby agrees to indemnify and save Boart Longyear and its affiliates, and all of Boart Longyear's and such affiliates' respective directors, shareholders, officers, employees, agents, employees, predecessors, attorneys-in-fact, lawyers, successors and assigns (each an “Indemnitee”) harmless from and against any and all third party losses, damages, penalties, injuries, claims, actions and suits, including reasonable attorneys' fees and legal expenses, of whatsoever kind and nature and other costs of investigation or defense, including those incurred upon any appeal arising out of or relating to this Agreement or Customer's possession or use of the Equipment (collectively, “Claims”) whether in law or equity, or in contract, tort or otherwise. Customer shall pay on demand to each Indemnity any and all amounts necessary to indemnify such Indemnitee from and against any Claims.

18. **Financing Statement.** Customer authorizes Boart Longyear to file a financing statement or other public filing and any and all related amendments and continuations in any appropriate state, local or federal filing office to provide notice of Boart Longyear's ownership interest in the Equipment.

19. **LIMITATION OF LIABILITY.** BOART LONGYEAR SHALL HAVE NO LIABILITY FOR ANY LOSS, DAMAGE OR INJURY TO CUSTOMER AND CUSTOMER'S PROPERTY, INCLUDING LOST PROFITS, INDIRECT, SPECIAL, INCIDENTAL, EXEMPLARY OR CONSEQUENTIAL DAMAGES IN ANY WAY CONNECTED WITH THE OPERATION OF, USE OF, DEFECT IN OR FAILURE OF EQUIPMENT.

20. **Warranty.** Except as otherwise provided for below, Boart Longyear warrants that Equipment is free from defects in materials and workman ship during the Rental Term. Customer's sole remedy for any failure of or defect in the Equipment shall be the repair or replacement of the Equipment. THIS IS BOART LONGYEAR'S ONLY WARRANTY. BOART LONGYEAR MAKES NO OTHER WARRANTY, INCLUDING WITHOUT LIMITATION, ANY WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE. Anything contained herein to the contrary notwithstanding, in no event shall Boart Longyear be liable for breach of warranty or otherwise in any manner whatsoever for: (i) normal wear and tear; (ii) corrosion, abrasion or erosion; (iii) any goods, components, parts, software or services which, following delivery or performance by Boart Longyear, has been subjected to accident, abuse, misapplication, modification, improper repair, alteration, improper installation or maintenance, neglect, or excessive operating conditions; (iv) defects resulting from Customer's specifications or designs or those of its contractors or subcontractors other than Boart Longyear; (v) defects associated with consumable parts or materials, the lifetime of which is shorter than the warranty period set forth in this Section; (vi) defects associated with Customer's specifications or designs or those of its contractors or subcontractors other than Boart Longyear; (vii) defects resulting from the manufacture, distribution, promotion or sale of Customer's own products; or (viii) accessories of any kind used by the Customer which are not approved by Boart Longyear.

21. **Miscellaneous.** The article headings and captions contained in this Agreement have been inserted only as a matter of convenient reference and may not be construed in any way to define, limit, or describe the scope or intent of this Agreement or any of its provisions. This Agreement may be executed in several counterparts, each of which will be deemed an original but all of which shall constitute the same agreement. This Agreement constitutes the entire agreement among the parties and contains all of their agreements with respect to its subject matter. This Agreement supersedes all other agreements, whether oral or written, between the parties with respect to its subject matter. The invalidity or unenforceability of any particular provision of this Agreement will not affect the other provisions, and this Agreement will be construed in all respects as if such invalid or unenforceable provision were omitted. This Agreement may be amended only by the unanimous written consent of the parties hereto. Subject to the provisions of this Agreement relating to transferability, this Agreement will be binding upon and shall inure to the benefit of the parties and their respective distributors, heirs, successors, and permitted assigns. The waiver by any party of any provision, or the breach of any provision, of this Agreement will not operate or be construed as a subsequent waiver of any provision or the breach of any provision. No waiver will be valid unless in writing and signed by the party against whom enforcement is sought Nothing contained in this Agreement shall be construed to create any rights on behalf of any third parties, except as explicitly provided by this Agreement. BOART LONGYEAR AND CUSTOMER AGREE NOT TO ELECT A TRIAL BY JURY OF ANY ISSUE TRIABLE OF RIGHT BY JURY, AND WAIVE ANY RIGHT TO TRIAL BY JURY FULLY TO THE EXTENT THAT ANY RIGHT EXISTS WITH REGARD TO THIS AGREEMENT OR THE TRANSACTIONS ARISING FROM THIS AGREEMENT, OR ANY CLAIM, COUNTERCLAIM, OR OTHER ACTION ARISING IN CONNECTION WITH IT. THIS WAIVER OF RIGHT TO TRIAL BY JURY IS GIVEN KNOWINGLY AND VOLUNTARILY BY BOTH PARTIES, AND IS INTENDED TO ENCOMPASS INDIVIDUALLY EACH INSTANCE AND EACH ISSUE AS TO WHICH THE RIGHT TO A TRIAL BY JURY WOULD OTHERWISE ACCRUE.

22. **Governing Law.** This Agreement will be governed by and construed under the laws of the state of Utah, U.S.A. without regard to its conflicts of laws principles. The parties hereby agree that any legal or equitable action or proceeding with respect to this Agreement, or any agreement represented herein or entered into in connection herewith or the transactions contemplated therein or hereby shall be brought only in any state or federal district court sitting in the State of Utah, and each of the parties hereby submits to and accepts generally and unconditionally the jurisdiction of those courts with respect to it and its property and irrevocably consents to the service of process in connection with any such action or proceeding by personal delivery or by the mailing thereof by registered or certified mail, postage prepaid to its address for notices pursuant to this Agreement. Nothing herein shall affect the right of any party to serve process in any other manner permitted by law. Each party hereby irrevocably waives any objection to the laying of venue of any such action or proceeding in the above described courts.

**SCHEDULE B
EQUIPMENT RENTAL ADDENDUM**

Customer Name			
Name:			
Master Contract Number			
Master Contract No:		Effective Date: ____ / ____ / 20 ____	
Addendum No.			
Addendum No:		Effective Date: ____ / ____ / 20 ____	
Base Rental Units			
	Description	Serial Number	No. Units
1.			
2.			
3.			
Accessories			
	Description	Serial Number	No. Units
1.			
2.			
3.			
Rental Commencement Date		Daily Rental Rate	Shipping Charges
Date: ____ / ____ / 20 ____		\$ ____ per day	\$ ____
Equipment Use Site			
Site Name:			
Address:			
City:		State/Province/Region:	Zip:
Country:			

The Equipment Rental Addendum may be amended only by a written instrument specifically referencing this Equipment Rental Addendum duly executed by authorized personnel of both the Customer and Boart Longyear.

This schedule B of the Master Equipment Rental Agreement - Master Contract No. _____ / Addendum No. _____ is hereby signed by the duly authorized representatives of the parties.

Boart Longyear

Signed on behalf of Boart Longyear by its duly authorized representative Title Date

Customer

Signed on behalf of the Customer by its duly authorized representative Title Date

