



EQUIPMENT RENTAL/SERVICES AGREEMENT GENERAL TERMS AND CONDITIONS

Company hereby agrees to furnish to Customer Equipment and/or Services, subject to and in consideration of the following terms and conditions of this Equipment Rental/Services Agreement ("Terms"):

1. DEFINITIONS

- 1.1. "Claims" means all claims, demands, causes of action, liabilities, damages, judgments, awards, losses, costs, expenses (including reasonable attorney's fees) of any kind or character.
- 1.2. "Company" means H.B. Rentals, L.C.
- 1.3. "Company Group" means Company, its contractors and subcontractors, its affiliates and the officers, directors, employees, agents, consultants, servants and invitees of each of them.
- 1.4. "Customer" means the party requesting and/or on whose behalf the Equipment and/or Services are provided, furnished, ordered, rented or sold by Company.
- 1.5. "Customer Group" means Customer, its joint venturers, partners, co-lessors, its and their contractors and subcontractors (other than Company), its and their affiliates and the officers, directors, employees, agents, consultants, servants and invitees of each of them.
- 1.6. "Equipment" means all equipment, tools, products, materials and supplies and/or merchandise rented or sold by Company, and/or provided in connection with Services performed by Company.
- 1.7. **"REGARDLESS OF FAULT" means without regard to the cause or causes thereof including without limitation pre-existing conditions, whether such conditions be patent or latent, the unseaworthiness of any vessel or vessels, imperfection of material, defect or failure of equipment, breach of representation or warranty (express or implied), ultra hazardous activity, strict liability, tort, breach of contract, breach of statutory duty, breach of any safety requirement or regulation or the negligence or fault of any person, party, or entity, including the indemnified party or parties, whether such negligence be sole, joint or concurrent, active, passive or gross, or any other theory of legal liability.**
- 1.8. "Services" means all services provided by Company, including services of Company employees and the use of Equipment necessary to perform any such services.

2. GENERAL

- 2.1. These Terms take precedence over any alternative terms in any other document connected with the Equipment and/or Services unless such alternative terms are part of a signed master rental, service or other similar agreement between Customer and Company. Except as provided in the immediately preceding sentence, the Terms constitute the sole and entire agreement governing the rental of Equipment or provision of Services by Company to Customer and supersede (a) all prior discussions and agreements between Customer and Company, (b) other inconsistent terms submitted by Customer, and (c) any conflicting provisions of any contract, work order, purchase order or other similar document issued by Customer at any time. Customer shall be deemed to have accepted these Terms upon the earlier of when Customer i) signs any Company invoice, delivery ticket, field ticket or credit application, or ii) receives any Equipment and/or Services without previously providing written notice to Company of its rejection of these Terms, and such acceptance shall constitute Customer's Agreement that the Equipment and Services will be provided pursuant to these Terms.

3. RENTAL AND SERVICE TERMS

- 3.1. Unless stated otherwise in Company's written quotation for the rental of the Equipment, rental charges will commence when the Equipment is delivered to Customer's receiving authority and will terminate when (a) the Equipment is returned to the original rental point and accepted by Company in accordance with these Terms, or (b) Company is notified by Customer that the Equipment has been lost or damaged beyond repair. All rental charges for Equipment are on a daily basis for a 24-hour day or any part thereof.
- 3.2. Invoices shall be due and payable within 30 days of the invoice date. Invoices not paid within 30 days of the invoice date shall be subject to interest charged at the rate of 1.5% per month. All invoices will be payable in US Dollars. Customer will pay all of Company's costs, including attorneys' fees and expenses, incurred in connection with the collection of past due amounts from Customer.
- 3.3. Unless stated otherwise in Company's written quotation for the provision of Services, (a) all Services are charged on a daily basis, subject to any minimum charge reflected in Company's written quotation for the Services or Company's current price list, (b) Service charges begin when each person departs the Company's facility where such person is based and continue until such person returns to that facility. Customer will furnish quarters and meals for Company personnel or reimburse Company for reasonable living expenses incurred at cost plus 15%. If Service personnel and/or Equipment are dispatched at Customer's request and the request is then cancelled by Customer, Customer will then be invoiced as provided in Company's current price list.
- 3.4. Customer's acceptance of delivery of Equipment indicates that Customer has inspected and found the Equipment to be suitable for its needs and in good condition.
- 3.5. Customer assumes all risk of loss, destruction or damage to Equipment once delivered by Company. Customer agrees to use the Equipment in a lawful, careful and prudent manner with competent agents, employees, or subcontractors in accordance with the specifications of the manufacturer of the Equipment. Customer agrees to return each piece of Equipment to Company in as good condition as it was upon delivery to Customer, ordinary wear and tear from reasonable use excepted. With respect to Equipment that is not returned or is damaged beyond repair, Customer will reimburse Company with the current list price, new, of such Equipment. No damages or charges of any kind, either for labor, expenses or otherwise suffered or incurred by Customer in repairing or replacing damage to Equipment will be allowed.
- 3.6. Customer agrees to pay Company the entire cost of any inspections performed by Company or a third party inspection service upon return of the Equipment. Where the Equipment is returned in an unclean condition, Company reserves the right to clean such Equipment or to have it professionally cleaned by a third party. Where applicable, the charges for all such cleaning and disposal shall be for the account of Customer at cost plus 15%.
- 3.7. Unless otherwise agreed to, Company or an independent carrier will pick up or deliver Equipment. All transportation charges will be paid by Customer and will be in addition to any rental or service charges hereunder. Customer will be invoiced at cost plus 15% for commercial transportation or at the standard delivery rates set by Company, as appropriate. Transportation charges are separate and apart from rental charges. All customs duties, government taxes, import/export permits and documentation fees levied or pertaining to Equipment and/or Services are for the sole account of the Customer.
- 3.8. Customer shall be solely responsible for obtaining all necessary permits and licenses for use of Equipment or performance of Services at Customer's desired site.
- 3.9. The Equipment shall at all times remain the property of Company, and title to the Equipment shall likewise remain at all times with the Company. Nothing contained in these Terms shall confer any interest in the Equipment to the Customer and the Customer shall not assign, sublease, pledge, mortgage or encumber the Equipment or any interest therein. Customer shall not make any alteration to or modification of the Equipment, and shall not alter, deface, cover up or conceal any numbering, lettering, insignia or labels displayed on the Equipment.

- 3.10. Company warrants and represents that all Equipment it supplies shall conform in all respects to these Terms and the specifications agreed to in a signed work order between the parties. Company's liability to Customer for any Equipment which does not meet the aforementioned standard is limited to (a) abatement of any rental fees due Company during such period of non-conformance, or (b) either repair or replacement of such non-conforming Equipment, at Company's cost.
- 3.11. Company warrants and represents that all services provided by it shall conform in all respects to these Terms and the specifications agreed to in a signed work order between the parties. Company shall repair or re-perform any defective Services, excluding Installation or Technical Services (as defined below), which are brought to Company's attention and proven to Company's reasonable satisfaction, prior to Company's departure from the work site. Notwithstanding the foregoing, any assistance in equipment installation or technical or engineering information concerning equipment provided by company (collectively, "Installation or Technical Services") will be advisory only, at Customer's sole cost and expense, and on an "as is-where is" basis. No warranty is given with respect to such Installation or Technical Services and Company will not be liable for any claims arising therefrom.
- 3.12. **THE REMEDIES SET FORTH ABOVE ARE CUSTOMER'S SOLE AND EXCLUSIVE REMEDIES. COMPANY MAKES NO OTHER WARRANTY OR REPRESENTATION, EXPRESSED OR IMPLIED, WITH REGARD TO THE EQUIPMENT OR SERVICES, INCLUDING ANY IMPLIED WARRANTY OF MERCHANTABILITY OR FITNESS FOR ANY PARTICULAR PURPOSE, IT BEING AGREED THAT ALL SUCH RISKS AS BETWEEN COMPANY AND CUSTOMER ARE TO BE BORNE BY CUSTOMER.**
- 3.13. Company's warranty obligations shall not apply to the extent any non-compliance is caused by (i) any alteration or repair by Customer Group of any Equipment or Services, or Customer Group's failure to properly use, operate or maintain any Equipment or Services in accordance with Company's or the manufacturer's recommendation, (ii) vandalism by a party other than an employee of Company Group, (iii) force majeure, or (iv) incorrect, incomplete or inaccurate data, drawings, information or specifications provided by Customer Group.
- 3.14. **COMPANY WILL NOT BE RESPONSIBLE FOR ANY INCIDENTAL, INDIRECT, SPECIAL, PUNITIVE OR CONSEQUENTIAL DAMAGES OF ANY KIND, WHICH SHALL INCLUDE LOSS OF REVENUE, PROFITS OR ANTICIPATED PROFITS, LOSS OF BUSINESS OPPORTUNITY, PRODUCTION, LOSS OF HOLE, RE-DRILLING EXPENSES, RESERVOIR OR FORMATION DAMAGE, POLLUTION DAMAGE AND/OR WRECK OR DEBRIS REMOVAL EXPENSE.**

4. INDEMNITY

- 4.1. **CUSTOMER SHALL INDEMNIFY, DEFEND AND HOLD HARMLESS COMPANY GROUP FROM AND AGAINST ANY AND ALL CLAIMS BROUGHT BY ANY PERSON, PARTY OR ENTITY FOR PERSONAL OR BODILY INJURY, SICKNESS, DISEASE OR DEATH, AND FOR DAMAGE TO OR LOSS OR DESTRUCTION OF PROPERTY ARISING OUT OF (i) DELIVERY, INSTALLATION, PICK UP, REPAIR, USE OR OPERATION OF EQUIPMENT, OR (ii) COMPANY'S PERFORMANCE OR NON-PERFORMANCE OF SERVICES, REGARDLESS OF FAULT.**
- 4.2. **CUSTOMER SHALL INDEMNIFY, DEFEND AND HOLD HARMLESS COMPANY GROUP FROM AND AGAINST ANY AND ALL CLAIMS ARISING FROM ALL POLLUTION OR CONTAMINATION, INCLUDING CONTROL AND REMOVAL THEREOF, ARISING OUT OF (i) THE DELIVERY, INSTALLATION, PICK UP, REPAIR, USE OR OPERATION OF EQUIPMENT, OR (ii) THE PERFORMANCE OR NON-PERFORMANCE OF SERVICES, REGARDLESS OF FAULT**
- 4.3. The parties agree that the indemnities provided by Customer herein shall be supported by insurance with a carrier admitted to do business in the jurisdiction where the Equipment will be used or the Services provided. Customer will, at its expense, maintain a policy of insurance with the following coverages: (a) Statutory Workers' Compensation, (b) Employer's Liability Insurance with limits of not less than \$1,000,000 per occurrence, (c) Commercial General Liability Insurance of not less than \$1,000,000 per occurrence to cover liability for bodily injury and property damage, and (d) Excess Liability Insurance of \$5,000,000 per occurrence, insuring Customer's obligations herein. Customer's insurance policy shall be primary to any other insurance covering indemnified parties and name Company as an additional insured, to the extent of the liabilities and obligations assumed herein. Customer's insurance policy will be endorsed to waive all rights of subrogation against the Company Group and their insurers to the extent of the indemnity obligations assumed herein. If requested, Customer shall provide Company with a current certificate of insurance as evidence of such insurance policy.

5. MISCELLANEOUS

- 5.1. The Terms may not be altered or amended unless agreed to in writing by Customer and Company. No field employee of Company shall be empowered to alter the Terms. Failure of Company to object to any provisions which may be contained in any other writing of Customer shall not be construed as a waiver of the Terms or an acceptance by Company of any other terms and conditions of Customer.
- 5.2. Company will not be responsible for any delays or damages caused by events of force majeure or any other occurrences beyond Company's control, including without limitation acts of God, war or preparations for war, fire, flood, adverse weather conditions, strike or other labor unrest, riot, act of terrorism, embargo, inability of Company to obtain products from usual sources, or delays in manufacturing or transportation. Force majeure shall not, however, excuse payment by Customer to Company prior to, during, or subsequent to such force majeure.
- 5.3. The delay or failure of Company to strictly enforce any provision herein shall not be construed as a waiver or forfeiture of Company's right of subsequent enforcement thereof. The express waiver of one provision of the Terms shall not be deemed a waiver of any other provision herein. All parts hereof are separable and the invalidity of any part hereof shall not affect the validity of any other parts.
- 5.4. Neither party may assign or transfer any rights, duties, or obligations under these Terms without the prior written consent of the other party.
- 5.5. These Terms shall be governed by the laws of the State of Texas (excluding any conflict of law principles or rules which would impose the laws of another jurisdiction). Company and Customer agree that venue for any lawsuit arising from or in connection with these Terms shall be the U.S. District Court for the Southern District of Texas, or the State Courts of Harris County, Texas