

## TERMS AND CONDITIONS OF CONTRACT (GA)

- 1. INDEMNIFICATION** -- Lessee (Customer) agrees to indemnify and save Lessor (Phoenix Crane Service, Inc., dba Phoenix Crane Rental Company), its employees and agents harmless from all claims for death or injury to persons, including Lessor's employees, of all loss, damage or injury to property, including the equipment, arising in any manner out of lessee's operation. Lessee's duty to indemnify thereunder shall include all costs or expenses arising out of all claims specified herein, including all court and/or arbitration costs, filing fees, attorney's fees and costs of settlement. Lessee shall be required to indemnify Lessor for Lessor's own negligence or fault, whether the negligence or fault of the Lessor is direct, indirect or derivative in nature. However, pursuant to Georgia Code 13-8-2, Lessee shall not be required to indemnify, hold harmless, insure, or defend Lessor, including Lessor's officers, agents, or employees against liability or claims for damages, losses, or expenses, including attorney's fees, arising out of bodily injury to persons, death, or damage to property caused by or resulting from the sole negligence of the Lessor or its officers, agents, or employees. The indemnification above shall not be limited in any way by any limitation on the amount or type of damage, compensation or benefits payable by or for the Lessee under workers' compensation acts, disability benefits acts, or other employee benefits acts. The Lessee's obligations hereunder shall further not be limited by the amount of its liability insurance and the purchase of such insurance for Lessor shall not operate to waive any of the above obligations. This provision is separate and distinct from any other provision or paragraph in this contract, including any provision or paragraph concerning partial indemnification or procurement of insurance.
- 2. INSURANCE**—The Lessee agrees to purchase the following insurance coverages prior to the equipment's arrival on the job site. Pursuant to Georgia Code 13-8-2, the Lessee shall not be required to insure Lessor, including Lessor's officers, agents, or employees against liability or claims for damages, losses, or expenses, including attorney's fees, arising out of bodily injury to persons, death, or damage to property caused by or resulting from the sole negligence of the Lessor or its officers, agents, or employees. The Lessee shall procure the following coverage's for Lessor: a) worker's compensation and employer's liability insurance with limits of at least the statutory minimum or \$1,000,000, whichever is greater; b) primary non-contributory commercial general liability insurance on an occurrence basis, including bodily injury and property damage coverage with minimum limits of \$1,000,000 per occurrence and \$2,000,000, in the aggregate; c) excess/umbrella non-contributory insurance in the amount of \$5,000,000 and Lessee's primary and excess/umbrella policies must be endorsed so that they are primary and non-contributory to all of Lessor's insurance policies; d) inland marine/all risk physical damage insurance, on a primary non-contributory basis, to cover the full insurable value of the equipment, including any boom or jib, for its loss or damage from any and all causes, including, but not limited to, overloading, misuse, fire, theft, flood, explosion, overturn, accident, and acts of God occurring during the rental term, for the greater of \$1,000,000 or the valuation of the equipment listed on the front page of this contract, and the parties agree that this is the actual value of the equipment for the purposes of fixing the equipment's insurable value; e) the Lessor to name as an additional insured on all liability insurance policies, including excess/umbrella policies, and Lessee shall provide all insurance certificates to Lessor when requested; f) all of Lessors', and anyone Lessor is required to insure, policies are excess over all of Lessee's policies.
- 3. OPERATION OF EQUIPMENT**—Customer agrees to use the equipment in accordance with the manufacturer's instructions and within the rated load capacity for such or similar equipment. Customer

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agrees to allow only competent experienced and reliable personnel to operate and maintain the equipment. **Customer agrees to provide, or provide, or otherwise select, competent and experienced personnel to direct the operation of the equipment, and further agrees that the standard of care and responsibilities will be in accordance with all American National Standards Institute (ANSI) and that ASME B30.5-2007 (and as amended) shall be used when operating the equipment, specifically Chapter 5-3 Operation.** It is expressly agreed by and between the parties hereto that the equipment and all persons operating, repairing, or maintaining and assembling/disassembling the equipment are under the exclusive jurisdiction, supervision and control of Customer under this lease. It shall be the duty of Customer to give specific instructions and directions to all persons operating, repairing, and maintaining the leased equipment. Customer specifically agrees that the Crane Company has absolutely no control over any person operating or assisting in operating, repairing, or maintaining the leased equipment under this lease. Crane Company may provide an operator with the equipment. Customer may reject this operator; however, is not rejected the operator is under the Customer's exclusive direction and control and is Customer's agent, servant, and employee.

- 4. CONDITIONS-GROUND/POWERLINES/RIGGING**—The Lessee hereby agrees that it will assume all responsibility for the ground or soil conditions in the area where the crane is to be stored, parked or operated. The Lessee shall perform or have performed all necessary inspections or testing to determine the nature of the ground or soil and its ability to support the crane while in operation or otherwise. If the ground or soil condition is such that it cannot support the crane, the Lessee shall take all necessary measures to ensure that these conditions are remedied prior to the crane being placed on that ground or soil. These measures include, but are not limited to, the provision of proper shoring or cribbing or other measures. Lessee assumes all responsibility to protect the equipment and persons in or around the equipment from the danger of power lines. Lessee shall not expose the equipment or any persons in or around such equipment to the danger of energized power lines. All power lines in the work area shall be identified prior to the work beginning. All power lines are to be de-energized prior to the equipment being operated in or around such power lines. Lessee shall contact the local electric utility or other such authorized entity to arrange to have the power lined de-energized prior to beginning work. Even if power lines are de-energized, Lessee shall keep the equipment clear of such power lines at the distances required by OSHA, ANSI and any other safety regulations or standards. If it is not possible to de-energize power lines, then the Lessee shall be responsible for the insulating of any power lines, the grounding of all equipment and will be required to use rigging or other equipment designed to prevent electrocution. Lessee is required to provide and all rigging to be used with the equipment. This includes all chokers, slings, straps, chains, hooks, spreaders, ropes or wire. Lessee assumes responsibility for any defects in any rigging, whether the property of Lessee or otherwise. Lessee assumes the responsibility for damage to any load on hook due to a failure of the rigging. Lessee assumes the responsibility for the method of rigging and agrees that all persons involved in the rigging process are under Lessee's direct supervision and control.
- 5. NO RELIANCE ON LOAD MEASURING DEVICE**—If any crane has been fitted with a load measuring device, the Lessee hereby acknowledged and agrees that the Lessor has made no warranties or representations whatsoever with respect to the ability of the said load measuring device to accurately or consistently measure the weight of loads being

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lifted by such crane. The Lessee further acknowledges and agrees that it is the responsibility of the Lessee to independently determine the weight of every load to be lifted by any crane comprising all or portion of the equipment to ensure that any such load measuring device shall be used as an operator-aide only. As well, the Lessee acknowledges and agrees that if he relies in any way whatsoever on any load measuring device that he does so completely at his own risk.

6. Lessee (Customer) shall pay Lessor (Company) at 1855 Dickerson Dr., Mableton, GA 30126. The charges set forth on the reverse side are due thirty (30) days after invoicing and all unpaid amounts shall be charged interest at the rate of one and one-half percent (1-1/2%) per calendar month. If any term, part, or provision of this agreement is held to be void, invalid, or unenforceable, the rest and remainder of this Agreement shall not be affected and all other terms, parts, or provisions, shall be valid and enforceable. This agreement shall be interpreted according to the laws of the Crane Company's location state on the front page.