

GENERAL CONDITIONS

1. RENTAL TERM - The rental term shall start when the equipment is loaded out for shipment and shall end when the equipment is returned to point of origin. If LESSEE shall continue to hire the equipment beyond the minimum herein specified, LESSOR may recall or LESSEE may return to LESSOR all or any part of the equipment on thirty (30) days written notice to the other party. The minimum term shall thereupon be extended to the date the equipment is returned to LESSOR's unloading point or the expiration of such thirty (30) days notice period, whichever is later. Any such extended rental shall be subject to all applicable terms and conditions hereof.

2. PAYMENT OF RENTAL - LESSEE shall pay the minimum guaranteed rental as specified on the face of this Agreement and the full rental rates during any extension of the term beyond the original minimum. The rental payable shall be at the rate specified in this Agreement undiminished by any offset or credit on account of LESSEE's sooner surrender of the equipment or the reasonable rental value thereof, whether or not thereafter LESSOR shall itself use said equipment or shall rent any comparable equipment it may have to others, or on account of any payment by LESSEE of additional rental for overtime use pursuant to the overtime and shift provisions on the face of this Agreement, or of any other charges, costs or damages hereunder; provided, however, that the rental payments, if any, actually received by LESSOR under a new lease for any part of the minimum term shall be credited to LESSEE, subject to repossession, reconditioning, re-leasing costs and all other charges and claims of LESSOR against LESSEE.

LESSEE shall pay all rents at the offices of LESSOR at 10700 Bigge Avenue, San Leandro, CA 94577, or at such other place as LESSOR may designate. If requested by LESSOR, LESSEE shall pay rentals monthly in advance; otherwise, LESSOR shall submit monthly rental invoices at the beginning of each rental period and LESSEE shall pay the same in full within ten days of the invoice date. Unpaid rentals shall bear interest from the due date until paid at 18% per annum, and accrual or payment of such interest shall not impair LESSOR's right otherwise to repossess the equipment or to terminate this lease or to any other remedies it may have.

3. OPERATION COSTS & REPAIRS - The equipment shall be inspected by the LESSEE at, or prior to the beginning of the rental term (on rent inspection) and acceptance of delivery by LESSEE shall constitute acknowledgment that the equipment received and inspected is then in good and serviceable condition, safe and fit for the use of LESSEE. LESSEE, at its own expense, shall at all times maintain the equipment in good and safe operating condition and shall pay for all labor, fuel, lubrication, materials, parts and supplies of every nature and kind required to operate and so maintain the equipment and to make all necessary repairs and replacements thereon including structural and mechanical failure. LESSEE is not authorized to incur any liability or to expend any money for LESSOR's account for any operating, maintenance or repair cost or expense without prior written authority from LESSOR. Title to any repairs or replacements, and parts and supplies furnished in connection therewith shall vest in the holder of title to the equipment.

Any accessories or attachments not included with the equipment leased hereunder shall be separately furnished by and at the expense of LESSEE.

4. RETURN OF EQUIPMENT - LESSEE shall return the equipment to LESSOR unencumbered and in the same condition as when received by LESSEE, reasonable wear resulting from proper use alone excepted. Condition shall be determined by an off-rent inspection. If LESSOR shall be required to make repairs to restore the equipment or any part thereof to said condition, the time required therefor shall extend beyond the minimum term as herein defined to include such additional repair time.

5. TRANSPORTATION - LESSEE shall pay all loading and unloading costs and all transportation costs. LESSEE shall furnish timely instructions for shipment and, absent such instructions, LESSOR may ship to railhead or shipping point which LESSOR in good faith believes to be closest to the 'location of use'. LESSOR shall furnish shipping instructions for the return.

6. USE OF EQUIPMENT - LESSEE shall keep and use the equipment at its place of designated use until LESSOR in writing permits its removal and shall use it only in the conduct of LESSEE's business. At no time shall the equipment be subjected to improper use, any careless or needlessly rough use or to any use in violation of any federal, state or municipal statute, ordinance or regulation, including CalOSHA and FedOSHA, or to any use beyond the safe or manufacturer's rated limits or capacity of the equipment. **AT NO TIME WILL THE EQUIPMENT BE USED TO DRIVE PILE.** The equipment shall be operated and stored free of any hazards. **The equipment shall not be altered or modified in any way or subjected to addition of any counterweight beyond that furnished with the equipment.** LESSEE shall not remove, alter, disfigure or cover up any numbering, lettering, insignia or signage, including illuminated signage, placed upon the equipment. LESSEE shall, if requested, advise LESSOR of the exact location and condition of the equipment and LESSOR shall, at reasonable times be given access thereto and afforded necessary facilities for the purpose of inspection.

7. OPERATORS - LESSEE shall be solely responsible for supplying, employing, compensating and authorizing only competent and qualified personnel who are experienced, knowledgeable, trained, and, where required by law, certified and/or licensed, to operate and maintain the equipment. LESSEE shall comply with all applicable laws, rules, regulations and labor agreements relating to employment of personnel on the equipment and shall provide and pay for all workmen's compensation insurance, taxes and contributions for social security benefits, unemployment insurance, and union benefits, including any pensions and annuities imposed under any applicable law or labor agreement. LESSEE shall hold LESSOR free and harmless from any liability for any such taxes, insurance, contributions, payments and benefits under any workmen's compensation law, employer's liability or other expense.

8. HOLD HARMLESS - INSURANCE - To the fullest extent permitted by law, LESSEE shall hold LESSOR, its agents, employees and assigns, free and harmless from and indemnify and defend LESSOR against any and all suits, actions, proceedings, claims, demands, liabilities, costs and charges, legal expenses, damages or penalties of any nature actually or allegedly arising out of or related to equipment furnished by LESSOR or to any alleged actions or omissions by LESSEE, including, but not limited to, those resulting from, or claimed to result from injury, death or damage to any and all persons, employees or property in any way arising out of LESSEE's work or any person acting for or on behalf of LESSEE. To the fullest extent permitted by law, this Agreement applies to claims, demands or liability for injury or loss contributed to by the negligence or other misconduct of LESSOR. The foregoing indem-

nity and defense obligations shall apply regardless of whether there was any negligence or fault on the part of LESSOR, or by its subcontractor, employees, agents or suppliers. **LESSEE, however, shall have no liability for the sole negligence of LESSOR.** LESSEE shall furnish and pay for Public Liability insurance with limits not less than \$2,000,000 and Property Damage insurance with limits not less than \$2,000,000 or such higher amounts as, in the opinion of LESSEE, are needed to protect LESSOR and LESSEE against any and all such liability or risk of loss and to cover LESSEE's obligations herein. LESSEE's obligations hereunder shall not be limited by the amount of insurance provided. LESSOR shall be named as an additional insured without limitation on LESSEE's insurance and the additional insured endorsement shall state that the coverage is primary to any and all other available insurance. The deductible for the insurance shall be paid by and for the account of LESSEE. LESSEE shall provide proof of workers compensation insurance and will have its insurer waive all rights of subrogation against LESSOR.

Further, LESSEE shall indemnify and protect LESSOR against, and on demand shall pay to LESSOR in full for, any destruction or loss of or damage to the equipment howsoever caused during the rental term, and LESSEE shall furnish and pay for fire and extended coverage insurance, naming LESSOR as Loss Payee, for the full insurable value of the equipment for any and all lost or damage to the equipment occasioned by fire, theft, flood, explosion, overturn, accident, acts of God or any other cause that may occur during the rental term. LESSEE shall have its insurer waive all rights of subrogation against LESSOR.

The above insurance policies shall be in companies acceptable to LESSOR. LESSEE shall furnish certificates evidencing such insurance in form acceptable to LESSOR prior to the equipment being shipped, which shall provide that such insurance may not be canceled without 30 days notice to LESSOR in advance. If LESSOR shall, for any reason, fail to enforce any requirement for any insurance as provided in this Agreement, or if LESSEE is in default of its obligation to obtain any such insurances, the failure to provide insurance shall constitute an agreement by LESSEE to indemnify LESSOR against any and all loss which such insurance would otherwise have covered, including all special and consequential damages regardless of whether the same are foreseeable.

9. DAMAGE TO EQUIPMENT - In the even the equipment is damaged in any way or form, other than normal operating wear, the LESSEE is to notify the LESSOR within 48 hours of the extent of the damage. Repairs to boom sections are not to be attempted without express consent of the LESSOR.

10. PREVENTIVE MAINTENANCE SCHEDULE AGREEMENT – For years Carde Pacific has provided customers throughout the United States with reliable machinery and superb service. If we are to maintain this high level of quality service our **equipment must be serviced** while in the field. The following is our Preventive Maintenance Schedule Agreement. LESSEE is responsible for the Maintenance Schedule and acknowledges receipt of the service requirements.

Engine Oil and Oil Filter – Engine oil and filter is changed every 250 hours or once a month, whichever comes first. Engine oil used is 15/40 weight or manufacture requirements..

Air Cleaner Filter – This filter may be blown out one every week or daily depending on job conditions and will be changed once a month.

Fuel Filters – These filters will be changed once a month.

Filters will be sent to you according to this schedule and you will receive a separate monthly invoice for this service. Should you specify you desire to purchase your own filters, we will supply you the filter types to be used.

Hydraulic Filter – The hydraulic filter will be changed every 500 hours or once every 3 months, whichever comes first.

Transmission Oil and Filter – The transmission oil and filter will be changed every 500 hours or every 3 months, whichever comes first. Quantity and type of Transmission oil to be used – “ per manufacture requirement”.

Adverse Weather / Corosive Environment – The equipment must be protected from the effects of adverse weather and corrosive environments (salt water, etc.)

Note – Different machines take different fluid type. Consult Carde Pacific for fluid type.

o Carde Pacific, may, if agreed, provide maintenance at customers expense.

Mileage Surcharge – Any field service work will be charged \$3.00 per mile portal to portal. Maintenance includes ware and tear on teeth and tires.

11. ASSIGNMENT - TRANSFER – SUBLETTING - BANKRUPTCY - Any assignment, transfer, subletting or hypothecation of this lease or any interest therein or of the equipment or any part thereof without the prior written consent of LESSOR shall be void. LESSEE shall not, without the prior written consent of LESSOR, except as otherwise provided herein, remove the equipment or any part thereof from its place of designated use or surrender or part with the possession, custody or control thereof. If LESSOR shall assign this lease or any rights or the rental payable hereunder, assignee's rights shall be free and independent of any claim, offset, counter-claim or cross-complaint of LESSEE against LESSOR; LESSEE upon receiving notice thereof shall abide thereby and make payment as may therein be directed. In the even of such an assignment, the term "LESSOR" as used herein shall include and refer to LESSOR'S assignee. Should LESSEE make an assignment for the benefit of creditors or seek protection under the Bankruptcy Code or commit any other insolvency, LESSOR may terminate this Agreement upon giving forty-eight (48) hours written notice by certified mail to LESSEE, its trustee and surety, if any, unless LESSEE, its trustee or surety promptly cures all defaults, provides adequate assurance of future performance, compensates LESSOR for actual pecuniary loss resulting from such defaluts and assumes the obligations of LESSEE within statutory time limits.

12. TAXES - LESSEE shall be liable for and shall pay all licenses, permits, fees, taxes and assessments, and penalties and fines, if any, assessed or levied by a public authority against the equipment, this Agreement and the transaction represented thereby, or any interest therein or any part thereof, or arising out of the ownership, use, operation or possession of the equipment hereunder. Nothing in this paragraph is to be construed as meaning that the LESSEE is to pay the personal property tax levied against the machinery rented when said machinery is delivered within the home state of the LESSOR, as in this case the LESSOR is to pay his own personal property tax. In the event the equipment is rented outside of the home state of the LESSOR, any and all taxes assessed against the machinery, including personal property tax, are to be paid by the LESSEE.

13. **TITLE** - Title to the equipment shall at all times remain in LESSOR exclusively. LESSEE shall keep the equipment free from any and all liens, claims and encumbrances and shall not do or permit any act or thing whereby LESSOR's rights, title or interest in the equipment or in this Agreement may be encumbered or impaired.

14. **REPOSSESSION - ATTORNEY'S FEES** - If LESSEE shall fail to make any payment as herein provided or, at any time during the term hereof, shall fail to perform any of the terms and conditions to be performed by the LESSEE or become insolvent or make an assignment for the benefit of creditors or be subject to any reorganization or bankruptcy proceeding, or if LESSOR shall deem it to be to its best interest to do so to protect it or the equipment against loss or damage or upon termination of this lease for whatever cause or reason, then LESSOR and its agents or representatives may, in addition to any other rights or remedies it may have under this lease or at law or in equity, without notice or demand or liability or legal process, enter any premises of or under the control or jurisdiction of the LESSEE where said equipment is or is believed to be located and repossess all or any part thereof; and LESSEE expressly waives all further rights to possession of said equipment and all claims for injury suffered through or loss caused by such repossession. If LESSOR shall repossess the equipment or shall institute any proceeding to recover any moneys due hereunder to recover possession of the equipment or any part thereof or to enforce any term or condition hereof, LESSEE shall pay LESSOR's costs incurred therein including LESSOR's attorney's fees, expert fees, litigation expenses other than costs of suit permitted by statute and all costs of suit. LESSEE stipulates that expert fees and litigation expenses other than costs of suit may be recovered by post-judgment motion and need not be proven at trial. LESSOR's rights hereunder, included under this Section 14. are cumulative and not exclusive or alternative.

15. **WARRANTIES - LIMITATION OF WARRANTIES** - LESSOR warrants that it has the right to lease the equipment to LESSEE and that during the rental term, LESSEE shall have and enjoy quiet possession of the equipment against any lawful claims against the LESSOR. **This equipment is leased where is, as is, and LESSOR makes no representation or warranty of any kind that the equipment is or shall be fit or suitable for any specific purpose or purposes of LESSEE, including merchantability, whether or not disclosed or known to LESSOR.** Except as expressly contained herein, LESSOR makes no warranty express or implied with respect to the equipment or any part thereof, nor any representation, promise or agreement.

16. **NOTICES** - All notices required to be given hereunder may be served personally on the party to be given such notice or sent by certified or registered mail with postage prepaid to the address given herein unless a different address is hereafter specified. LESSEE shall provide accurate and timely information for purposes of serving preliminary notices.

17. **SUCCESSORS & ASSIGNS** - This Agreement and the terms and conditions hereof shall bind the parties hereto, their heirs, successors, legal representatives and assigns.

18. **APPLICABLE LAW, NON-WAIVER, SEVERABILITY** - The interpretation of this Agreement and the execution and performance thereof shall be governed by the laws of the State of California. Time is of the essence. LESSOR's failure to require strict performance by LESSEE of any of the provisions hereof shall not constitute a waiver of LESSOR'S rights thereafter to demand strict compliance therewith or with any other provision hereof. If any provision of this Agreement is found to be invalid, the balance of the Agreement shall not be rendered invalid or unenforceable and to the greatest extent possible, the invalid provision shall be reformed to make the provision lawful and consistent with the intentions of the parties.

19. **FORM OF AGREEMENT** - This Agreement, when duly executed by LESSOR, is the only form of Agreement LESSOR will recognize and constitutes the sole and entire Agreement between the parties hereto. No equipment shall be shipped until this Agreement has been fully executed by both parties, but in any event shipment by LESSOR and receipt by LESSEE shall constitute acceptance by both parties of these General Conditions as applicable to the rental of the equipment. Paragraph headings of this lease are inserted only for convenience and in no way define, limit or describe the scope or intent of this lease or affect its terms and provisions. All different or additional terms are hereby rejected and will not become part of any agreement formed by the parties.

It is expressly agreed and understood that LESSOR shall not be bound by any agreement, warranty or representation, express or implied, except as contained in the Agreement. No representative, agent or employee of LESSOR has the authority to amend or modify this Agreement or to change or waive any of its terms and conditions. No modification hereof shall be binding on LESSOR unless in writing and signed by LESSOR.

IN WITNESS Whereof, the parties have executed this Agreement the day and year indicated.

CARDE PACIFIC
(LESSOR)

(LESSEE)

By _____
(Date)

By _____
(Date)

Title _____

Title _____

Address: 14480 Alondra Blvd.
dress _____
La Mirada, CA 90638

Ad- _____

(City and State)