

**STERLING CRANE BARE LEASE AGREEMENT**

THIS AGREEMENT OF LEASE made at \_\_\_\_\_ in the Province of \_\_\_\_\_, on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_

BETWEEN: **STERLING CRANE** (Name)  
 \_\_\_\_\_ (Address)  
 (hereinafter called "the Lessor")

OF THE FIRST PART,

AND: \_\_\_\_\_ (Name)  
 \_\_\_\_\_ (Address)  
 (hereinafter called "the Lessee")

**ATTENTION:** \_\_\_\_\_ **PHONE:** \_\_\_\_\_

WITNESS that consideration of the mutual covenants and agreements hereinafter contained, the parties hereto agree as follows:

1. The Lessor hereby leases to the Lessee the equipment hereinafter described under the heading "Details of Equipment" (hereinafter called the "Equipment") commencing on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_ (hereinafter called the "Commencement Date") on the terms and conditions (including the General Conditions and the Special Conditions attached hereto) set forth in this Agreement for use by the Lessee at or near \_\_\_\_\_

The Lessee shall not move the Equipment from the above noted location without the prior written consent of the Lessor.

2. The Equipment shall be available for pick up by the Lessee at \_\_\_\_\_ in good condition and working order with all necessary tools peculiar to the Equipment and its operation but excluding any usual or standard tools and equipment, extra parts, extra wire rope, piping, hose, fuel, lubricants, supplies or crew.

**DETAILS OF EQUIPMENT**

Description	Lessor's Identification # or Manufacturer's Serial #	Replacement Value of New Equipment	Minimum Rental Period	Rental Rate Per Month (A)
<b>ONE (1)</b>  PO# _____	<b>UNIT #</b> <b>SERIAL #</b>	\$		\$

(A) In this agreement, a month shall be a 4-week, 28-day period.

**1. THE RENTAL PERIOD**

The Rental Period shall commence on the date set forth above and shall include the date upon which the Equipment is picked up by the Lessee or the Lessee's agent (including any public carrier). Notwithstanding anything to the contrary contained herein, the Rental Period and the term of this Lease shall end upon and include the earlier of the following dates:

- (a) the date of the actual delivery of the Equipment by the Lessee to the Lessor at such location as may be designated in writing by the Lessor; or
- (b) the date immediately preceding the one year anniversary of the commencement date of the Rental Period (the "Anniversary Date").

If, for any reason, the Lessee retains possession of the Equipment beyond the Anniversary Date, such continued possession on the part of the Lessee shall be deemed to be without the consent of the Lessor, and the Lessee shall pay to the Lessor, by way of liquidated damages, an amount equal to the Rental payable in respect of the Equipment pursuant to Paragraph 2 "Calculation of Rental Charges" hereof for the period during which the Lessee retains possession of the Equipment beyond the Anniversary Date and, notwithstanding that the Lessor may, in its discretion, provide cartage for the return of the Equipment, the Lessee shall be deemed to be in possession of the Equipment without the Lessor's consent until the Equipment has been returned to its point of origin or such other location as may be designated in writing by the Lessor.

**2. CALCULATION OF RENTAL CHARGES**

The Lessee shall pay Rental for the entire Rental Period on each article listed under Details of Equipment at the rate herein stipulated and on the following basis:

- (a) The Rental Rate expressed in the "Details of Equipment" is the rental for a one month period, running from the day of commencement up to but not including the same day in the fourth week following.
- (b) The Rental Rate stipulated under Details of Equipment shall apply only when the Equipment is operated for no more than 160 hours in a month. In the event that the Equipment is operated in excess of 160 hours in a month, the Lessee agrees to pay for any such excess operation in accordance with the following formula:

$$\frac{\text{Hours of operation in excess of 160 hours per month}}{160 \text{ hours}} \times \text{Rental Rate} \times \frac{66-2/3}{100}$$

The Lessee further covenants and agrees to open for inspection by the Lessor, any and all payroll records and hour meters for the purpose of verifying the actual hours worked.

- (c) After expiration of the minimum rental period, the rental payment for any succeeding period shall be the proportionate part of the monthly rate according to the number of calendar days in such period based on a 28 (twenty-eight) day month.
- (d) Rentals shall not be subject to any set-off or deduction for any reason whatsoever and, without limiting the generality of the foregoing, by reason of non-working time howsoever caused during the Rental Period or any extension thereof, nor shall the Lessee be relieved from his responsibility to pay rent for the entire Rental Period by reason of the fact that the Equipment is returned prior to the expiration of the minimum rental period.
- (e) Rental at the Rental Rate shall be paid by the Lessee to the Lessor until the Equipment is returned to the Lessor in good operating condition, reasonable wear and tear excepted. If repairs are found to be required by the Lessor, the Lessee shall continue to pay Rental at the Rental Rate until the Equipment is returned to good operating condition as determined by the Lessor.
- (f) The Lessee shall pay any and all federal and provincial taxes related in any way whatsoever to rent payable by the Lessee to the Lessor under this Lease.

**3. PAYMENT**

The rentals due under this Lease shall be paid monthly in advance at the office of the Lessor. All overdue payments shall bear interest at the rate of 2% per month (26.8% per annum) without prejudice to the Lessor's right as hereinafter stipulated to terminate this Lease for non-payment of Rental.

**4. LOADING, UNLOADING AND TRANSPORTATION**

The Lessee shall, at his own risk and expense, load the Equipment for transit and shall be responsible for all loading, unloading, assembling, installing, dismantling and hauling, and shall pay any and all trucking or rail standby charges accruing wherever the same shall be incurred. The Lessee shall pay all transportation charges from and to the Lessor's shipping and receiving point.

**5. RECALLING AND RETURNING NOTICE**

The Lessor may recall any or all of the Equipment upon giving 30 (thirty) days written notice to the Lessee and, subject to the provisions of General Condition No. 2 as to the Lessee's obligation to pay rental for a minimum period, the Lessee may return any or all of the Equipment to the Lessor at any time. Notwithstanding anything contained in this Agreement to the contrary, the Lessor reserves the right to recall the Equipment at any time and without notice to the Lessee when in the Lessor's opinion the Equipment is endangered or imperiled by any reason or cause whatsoever. Any action taken by either the Lessor or the Lessee as set forth herein shall be without prejudice to any other rights or remedies that the Lessor or Lessee may have respectively.

**6. MAINTENANCE, OPERATION AND REPAIRS**

The Lessee shall not remove, alter, disfigure or cover up any numbering, lettering or insignia displayed upon the Equipment, and shall see that the Equipment is not subject to careless or needless rough usage, and shall, at the Lessee's own expense, maintain and ultimately return to the Lessor the Equipment and its appurtenances, together with any tools and accessories pertaining thereto, the whole in good repair and running order, reasonable wear and tear excepted.

Without limiting the generality of the foregoing, the Lessee shall, at the Lessee's own expense, during the Rental Period of this Lease pay the cost of:

- a) all fuel, lubricants and filters required to operate the Equipment and the cost of servicing the Equipment in accordance with specifications of both the manufacturer and the Lessor;
- b) all repairs and servicing in accordance with the Service Schedules and Requirements included with this lease and required to be made to the Equipment in order to keep it in good repair and running order;
- c) replacing broken or worn out parts, reasonable wear and tear excepted; and
- d) any and all local, municipal, provincial and federal taxes, assessments and charges levied upon the Equipment for any reason whatsoever while in the possession of the Lessee.

The Lessee shall be solely responsible for any loss or damage to the Equipment, including, without limiting the generality of the foregoing, damage done by corrosion, rust, oxidation, and chemical reactions of every nature and kind whatsoever.

In the event that the Lessee does not return the Equipment to the Lessor in good repair and running order or had not completed the required service in accordance with the terms of this Lease and the Service Schedules and Requirements attached hereto and forming an integral part of this lease, the Lessee shall immediately and unconditionally pay to the Lessor all costs and expenses of any kind incurred by the Lessor in returning the Equipment to good repair, running order and up-to-date servicing. Without limiting the generality of the foregoing, the Lessee shall immediately and unconditionally pay to the Lessor all costs of labour and materials used or reasonably required by the Lessor to return the Equipment to good repair, running order and up-to-date servicing, the fees, charges and disbursements of all appraisers and experts used as reasonably required in returning the Equipment to good repair, running order and up-to-date servicing and also all solicitor and his own client costs and disbursements incurred by the Lessor in enforcing any of the obligations of the Lessee under this Lease or in any way relating hereto. The Lessee shall not, under any circumstances, permit any lien or charge to be filed against all or any portion of the Equipment. The Lessee shall give the Lessor prompt written notice of any accident or damage to all or any portion of the Equipment.

In the event that the Lessor performs repairs to the Equipment during the Rental Period while the Equipment is not located at the Lessor's place of business, the Lessee shall pay:

- (a) all direct and indirect costs of the Lessor in carrying out such repairs for items other than reasonable wear and tear; and
- (b) for those items of repair caused by reasonable wear and tear, all direct and indirect costs incurred by the Lessor for items and services arising because the repairs are carried out at a place other than the Lessor's place of business.

**7. SUPPLYING OPERATORS**

Unless otherwise agreed in writing, the Lessee shall supply and pay all operators and other employees employed on the Equipment during the term of this Lease and shall only allow competent persons to operate the Equipment and, where local, provincial or federal legislation requires such operator to be the holder of a valid operator's license or valid proficiency certificate, to only allow the holder of such license or proficiency certificate, as the case may be, to operate the Equipment. The Lessee shall pay the operators of the Equipment such salary or wages on the Lessee's regular pay day and provide them with such travelling expenses, board and lodging as may be agreed upon between the Lessee and such employees. The Lessee shall provide and pay for all Workers' Compensation, assessments and/or pay all taxes required by the law or otherwise applying to such operators and workmen.

In the event that an operator or workman is supplied by the Lessor and receives salary or wages from the Lessor, such operator or workman will be under the direction and control of the Lessee and shall for all purposes in connection with the operation, handling, transportation or use of the equipment and the provisions of the conditions contained herein, be conclusively deemed to be an employee or agent of the Lessee.

**8. DAMAGE TO EQUIPMENT**

The Lessee shall be liable for and does hereby agree to indemnify and save harmless the Lessor of and from any and all loss and damage to all or any portion of the Equipment howsoever caused. The appraisal of any such loss or damage shall be based upon the replacement value of new equipment as stated under the heading "Details of Equipment".

**9. LIABILITY OF LESSEE**

The Lessee shall be liable to the Lessor for and shall indemnify and save harmless the Lessor of and from any and all liabilities, losses, costs, damages, charges, legal fees and disbursements (including those legal fees on a solicitor and his own client basis with the right of full indemnity), fines, penalties, expenses, claims, causes of action, actions, suits, proceedings, fines and demands, all of whatever kind or nature, which the Lessor may suffer or incur or be liable for, directly or indirectly, howsoever caused and arising in any way whatsoever by virtue of the Equipment being leased hereunder to the Lessee including, without restricting the generality of the foregoing, by reason of:

- (i) the possession, operation, handling, transportation or use of the Equipment or any part thereof by or while in the hands or possession of the Lessee, its servants, agents, employees or carriers;
- (ii) the Equipment being in the possession of and/or being used by any person other than the Lessor during the Rental Period; or
- (iii) personal injuries, property damage (including environmental damage) during the Rental Period when the Equipment is not in the possession of the Lessor, and any consequential loss or damage arising therefrom.

The Lessor shall not be responsible in any way whatsoever, directly or indirectly, for or by reason of the Equipment not being fit for the purpose of the work that it may be required to perform or for the condition of all or any portion of the Equipment. The Lessee hereby remises and fully releases the Lessor of and from any and all claim which it may have against the Lessor for any direct or indirect loss or damage howsoever occasioned which the Lessee may suffer, either directly or indirectly, by reason of the condition of all or any portion of the Equipment, failure of all or any portion of the Equipment (whether mechanical or structural) or the suitability of all or any portion of the Equipment for the work that the Lessee requires the Equipment to perform. The Lessee shall not sue the Lessor for any such loss or damage which it may suffer. It is the intent of this Lease and agreed to by both parties hereto that all and every cost, expense, rate, tax or charge in any way related to the Equipment, except as otherwise expressly set forth herein to the contrary, will be the responsibility of and be paid for by the Lessee without any variation, set-off or deduction whatsoever.

**10. INSPECTION AND REPAIR**

Prior to picking up or taking possession of the Equipment the Lessee may, at its own expense, inspect the Equipment at a time and place designated by the Lessor. By taking possession of or picking up the Equipment the Lessee shall be deemed to have accepted that the Equipment is in good condition and running order with the effect that from the time of picking up or taking possession of the Equipment the Lessee shall be forever stopped and prevented from claiming that as at the Commencement Date the Equipment was not in good condition and running order or fit for the Lessee's purposes. The Lessee's right to inspect the Equipment is accepted by the Lessee in lieu of any warranties, representations or guarantees and it is agreed that the Lessor makes no warranties, representations or guarantees whatsoever as to the Equipment, its condition, its performance or its fitness for the purpose intended. The Lessor shall have the right at any time or times to enter upon the premises where the Equipment is located and shall be given free access thereto and afforded all necessary facilities for the purposes of inspecting the Equipment.

The Lessor shall, at the Lessor's option, either have the right to inspect the Equipment at the Lessee's shipping point prior to reshipment and shall be given sufficient notice prior to reshipment to make such an inspection or shall have the right to perform the final inspection at its yard upon delivery of the Equipment by the Lessor.

The Lessor shall promptly notify the Lessee, in writing, of any repairs or maintenance required, normal wear and tear excepted, arising out of the Lessee's use of the Equipment. The Lessee shall either make suitable arrangements to promptly carry out the required maintenance or repairs or shall authorize the Lessor to carry out said work at Lessee's sole cost.

**11. TITLE**

Title to the Equipment shall at all times be and remain vested in the Lessor and nothing contained in the Lease shall be deemed to have the effect of conferring upon the Lessee any right or title whatsoever in or to the Equipment, or any right to purchase the Equipment.

The Lessee shall give the Lessor immediate notice in the event that the Equipment or any part thereof is levied upon or becomes liable to seizure.

**12. TERMINATION OF LEASE**

Should the Lessee fail to make any payment for more than 5 (five) days after it becomes due, or become bankrupt, or fails to maintain and operate or to return the Equipment as provided in this Lease, or violates any other provision hereof, or abuses the Equipment, the Lessor may, after giving the Lessee 3 (three) days' notice in writing terminate this Lease, recover possession of the Equipment without becoming liable in trespass, and shall be entitled to recover all rentals due and payable pursuant to this Lease and shall be entitled to damages for any injury to, and all expenses incurred in obtaining the return of the Equipment including costs on a solicitor and own client basis for any and all action taken in relation to the recovery of the Equipment or the rentals or any other monies payable hereunder.

**13. INSURANCE**

Without restricting the generality of Article 9 Liability of Lessee, the Lessee shall provide, maintain, and pay for the insurance coverage specified below during the term of the lease:

- (a) Commercial General Liability insurance with limits of not less than \$2,000,000.00 per occurrence. The insurance coverage shall be in a form satisfactory to the Lessor and shall cover personal injury, environmental damage, and property damage arising from the possession, operation, handling, transportation or use of the Equipment or any part thereof while in the possession of the Lessee, its servants, agents, employees, or carriers, and any other person during the rental period;
- (b) "All Risk" equipment coverage, including coverage for any overload or boom damage, insuring not less than the replacement value of new equipment as described under Details of Equipment.

The Lessor shall be shown as Additional Insured under the foregoing coverage and as First Loss Payable under the equipment insurance policy with respect to the rented equipment. The Lessee is responsible for all deductibles under the coverage listed herein.

The Lessee shall, upon request, provide the Lessor with a certificate of insurance evidencing the coverage described herein is in force and effect. The insurers shall be required to provide 30 days prior written notice of termination or cancellation of the said coverage. Certificates must specifically state that the equipment coverage policy includes boom damage and overload coverage.

Where the Equipment is being transported by the Lessee as a motor vehicle under its own power, the Lessee shall ensure that the equipment at all times prominently displays appropriate license plates registered in the name of the Lessor. Where the Lessee caused the Equipment to be transported by any carrier, the Lessee shall ensure that such carrier maintains "All Risks" Cargo Insurance with adequate Limits of Liability.

**14. SUBLETTING**

None of the Equipment shall be sublet by the Lessee. The Lessee shall not assign or transfer its interest in this Lease or part with possession of all or any portion of the Equipment without the prior written consent of the Lessor which consent may be arbitrarily withheld.

**15. NOTICE**

Any notice required to be given hereunder by any party shall be in writing and shall be well and sufficiently given if delivered or sent by prepaid registered post to any party hereto at the respective address as set forth on the first page of this Agreement. Any notice delivered as aforesaid shall be deemed to have been received on the date of delivery and any notice mailed shall be deemed to have been received on the fifth day after the date it is post marked.

**16. SURVIVAL**

The parties acknowledge that the provisions of this Lease which are by their context meant to survive the expiry or sooner termination hereof for the benefit of the Lessor shall survive such termination or early expiry, as the case may be, for the benefit of the Lessor and shall not be merged therein or therewith.

**17. NO RELIANCE ON LOAD MEASURING DEVICE**

If any crane has been fitted with a load measuring device, the Lessee hereby acknowledges 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 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 a portion of the Equipment so as to ensure that any such load to be lifted does not exceed the rated load as determined by such crane's capacity chart and that the load measuring device shall be used as an operator-aid only. The Lessee will be liable for and shall indemnify and save harmless the Lessor of and from any and all liabilities, losses, costs, damages, charges, legal fees and disbursements (including those on a solicitor and his own client basis with right of full indemnity), fines, penalties, expenses, actions, suits, proceedings and demands, all of whatever kind or nature which the Lessor may suffer or incur or be liable for, either directly or indirectly, by reason of failure of any load measuring device to perform consistently or accurately, notwithstanding the negligence of the Lessor directly or indirectly related thereto. The Lessee hereby remises and releases the Lessor of and from any and all liabilities, losses, costs, damages, claims and demands which it may have against the Lessor, either directly or indirectly, arising by reason of the failure of any load measuring device to perform consistently or accurately, notwithstanding the negligence of the Lessor. Without restricting the generality of the foregoing, the Lessee covenants and agrees that he shall not sue the Lessor for any such losses, or costs, damages, claims or demands. As well, the Lessee acknowledges and agrees that if he relies in any way whatsoever on any such load measuring device that he does so completely at his own risk.

**18. RECEIPT OF COPY OF LEASE**

The Lessee acknowledges receiving an executed copy of this Lease.

**SPECIAL CONDITIONS**

The following Special Conditions form part of this Lease and in the event of there being a conflict between the provisions of the Special Conditions, and those of the General Conditions, the Special Conditions shall prevail.

Transport To Site: \$

Transport From Site: \$

Addendum A (attached) – Equipment Waiver forms a part of this agreement and must be signed if client exercises the option to use Sterling Cranes "All Risk" equipment insurance coverage. In this event, the client is still required to provide a certificate of insurance evidencing Commercial General Liability insurance.

An equipment insurance waiver fee of \$ [ ] will be charged each month until an acceptable Certificate of Insurance, evidencing "All Risk" equipment insurance coverage not less than the replacement value of the equipment rented, is received by Sterling.

IN WITNESS THEREOF the parties hereto have executed this Lease of Agreement on the day and date hereinabove first written.

In the presence of:

\_\_\_\_\_ By \_\_\_\_\_ Lessor  
**STERLING CRANE DIVISION OF PROCRA NE INC.**

In the presence of:

\_\_\_\_\_ By \_\_\_\_\_ Lessee

Addendum A to Rental Agreement dated \_\_\_\_\_ between Sterling Crane (Lessor) and \_\_\_\_\_ (Lessee).

In consideration of an additional monthly charge of \$\_\_\_\_\_, which is both additional to and separate from the rental charge for the equipment, the Lessor does hereby, for itself and its insurers, relieve the Lessee of the requirement to provide insurance as set forth under Section 13 (b) except that all other requirements of Section 13 shall be complied with strictly by the Lessee.

The cost of this insurance waiver will be invoiced to your account commencing on the first day of rental. These costs are for a minimum of one month - every month, regardless of the term of the rental. No prorating is allowed. For example, if a crane is rented for two months and three days, waiver would be invoiced for a period of three months.

For each claim for loss or damage, the Lessee shall be immediately indebted to the Lessor for the first \$10,000.00 as the deductible portion of the total claim.

All costs incurred by the Lessor in consequence of loss or damage attributable to mis-use and/or abuse of the equipment shall be to the account of the Lessee.

All incidents shall be reported promptly to the Lessor. This coverage may be void if the crane is moved after an incident without Sterling's authorization, unless such movement is required to remove danger to life or property.

\_\_\_\_\_  
Signed (Lessee)

\_\_\_\_\_  
Signed (Lessor)  
STERLING CRANE

*This addendum is not valid until signed by both parties.*