

**GDS INTERNATIONAL, LLC AND ITS AFFILIATES**  
**TERMS AND CONDITIONS FOR THE PROVISION OF EQUIPMENT, PARTS, SERVICES OR RENTAL**

**1. ACCEPTANCE**

Orders or other requests, whether oral or written, for the supply or sale of machinery or equipment ("Equipment"), or for the supply or sale of spare or replacement parts ("Parts"), or for the provision of services ("Services"), or for the rental of machinery or equipment ("Rental") to be provided by GDS International, LLC, on behalf of itself and its divisions and subsidiaries, or by its affiliates ("Seller") to its customers (each a "Buyer") (the "Order(s)") are subject to Seller's written acceptance by an authorized representative of Seller and any Orders so accepted will be governed by (a) the terms and conditions stated in these Terms and Conditions for provision of Equipment, Parts, Services or Rental (the "Terms and Conditions"); (b) the written proposal submitted by Seller to Buyer ("Proposal"), if any; (c) the written order acknowledgment issued by Seller to Buyer ("Acknowledgment"), if any; and, (d) any change orders identified as such and agreed to in writing by Seller (the Order, Terms and Conditions, Proposal, Acknowledgment, and any such change order, and any such additional terms as agreed to in writing by an authorized representative of Seller collectively referred to herein as the "Agreement"). Buyer's submission of a purchase order (or other similar document) for the supply or sale of spare or replacement parts with Seller's part number shall be deemed an express acknowledgment that such parts are not manufactured by the original equipment manufacturer (unless stated otherwise by Seller). Buyer's submission of a purchase order (or other similar document) shall be deemed to be an express acceptance of these Terms and Conditions notwithstanding language in Buyer's purchase order (or other similar document) inconsistent herewith, and any inconsistent language in Buyer's purchase order (or other similar document) is hereby rejected. Buyer's purchase order (or other similar document) is incorporated in this Agreement, only to the extent of specifying the nature and description of the Equipment, Parts, Services or Rental and then only to the extent consistent with the Proposal or Acknowledgment. In the event of any conflict between a Proposal and an Acknowledgment, the Acknowledgment shall prevail.

**2. PRICES**

Prices of Equipment, Parts, Services or Rental shall be as stated in the Proposal or Acknowledgment, or if there is no Proposal or Acknowledgment, as otherwise agreed to in writing by Seller. Unless otherwise specified, all prices contained in a Proposal are valid for 60 days from date of issue of the Proposal. All price quotations are EXW Seller's premises (INCOTERMS 2010), or as agreed per the Proposal or Acknowledgment and are subject to change without notice. All sales, use, rental, import, excise and like taxes, whether foreign or domestic, shall be charged to and borne by Buyer. Seller bears no responsibility for any consular fees, fees for legalizing invoices, certificates of origin, stamping bills of lading, or other charges required by the laws of any country of destination, or any fines imposed due to incorrect declarations. Charges will be added for factory preparation and packaging for shipment. Minimum freight and invoice charges in effect at the time of the Order shall apply. If by reason of any act of government, the cost to Seller of performing its obligations hereunder is increased, such increase shall be added to the quoted price.

**3. PAYMENT TERMS**

Unless alternate payment terms are specified and agreed to by Seller in writing, all charges, including applicable packing and transportation costs, billed by Seller are payable within net 30 days of the date of invoice. Seller reserves the right to modify or withdraw credit terms at any time without notice. Unless otherwise specified, all payments are due in the currency specified in Seller's Proposal, Acknowledgment and/or invoice. Interest shall be due from Buyer to Seller on overdue accounts at the maximum rate allowed by law. When partial shipments are made, the goods will be invoiced as shipped and each invoice will be treated as a separate account and be payable accordingly. Payment for goods is due whether or not technical documentation and/or any third party certifications are complete at the time of shipment. Seller shall be entitled to recover all reasonable attorneys' fees and other costs incurred in the collection of overdue accounts. Seller reserves the right, where a genuine doubt exists as to Buyer's financial position or if Buyer is in default of any payment obligation, to suspend delivery or performance of any Agreement or any part thereof without liability and without prejudice to, and without limitation of, any other remedy available to Seller until Buyer cures the default or satisfactory security for payment has been provided. Seller shall have the option to extend the delivery date by a time at least equal to the period of such suspension. In the event of Rental, should Buyer default in meeting any of the terms hereunder for any reason, Seller has the right to retrieve all Rentals as detailed in the Proposal and also to collect rental payments due. If Buyer elects to exercise a purchase option for Rental equipment, rental charges will be incurred and will be invoiced until the later of: (i) the end of the agreed rental period; or (ii) 30 days prior to the receipt of total purchase price and all other rental amounts due.

**4. DELIVERY**

Unless otherwise agreed to by Seller in writing, delivery terms shall be EXW Seller's premises (INCOTERMS 2010), except to the extent modified by these Terms and Conditions. Where goods are to be supplied from stock, such supply is subject to availability of stocks at the date of delivery. Partial shipments may be made as agreed to by Buyer and Seller. Stated delivery dates are approximate only and cannot be guaranteed. Seller shall have no liability for damages arising out of the failure to keep a projected delivery date, irrespective of the length of the delay. In the event Buyer is unable to accept delivery of goods when tendered, Seller may, at its option, arrange for storage of the goods at Buyer's sole risk and Buyer shall be liable to Seller for the reasonable cost of such storage. This provision is without prejudice to any other rights which Seller may have with respect to Buyer's failure to take delivery of goods, which includes the right to invoice Buyer for the goods. Buyer agrees that title to the stored goods will transfer to Buyer upon invoicing notwithstanding Buyer's inability to accept delivery and that Buyer assumes all risk of loss or damage to the goods from the date title passes to Buyer. Buyer is responsible for all shipping costs from Seller's premises to the location as designated by the Buyer. All shipping costs for the return of goods from the location specified by Buyer to Seller's premises shall also be for Buyer's account.

**5. FORCE MAJEURE**

If either party is unable by reason of Force Majeure to carry out any of its obligations under this Agreement, other than the obligations to pay money when due and indemnification obligations assumed hereunder, then on such party giving notice and particulars in writing to the other party within a reasonable time after the occurrence of the cause relied upon, such obligations shall be suspended. "Force Majeure" shall include acts of God, laws and regulations, government action, war, civil disturbances, strikes and labor problems, delays of vendors, carriers, lightening, fire, flood, washout, storm, breakage or accident to equipment or machinery, shortage of raw materials, and any other causes that are not reasonably within the control of the party so affected. Seller shall be paid its applicable standby rate, if any, during any such Force Majeure event.

**6. CANCELLATION**

Orders placed by Buyer and accepted by Seller may be canceled only with the consent of Seller and will subject Buyer to cancellation charges. All of Seller's documents, drawings and like information shall be

returned to Seller upon Buyer's request for cancellation. No Orders may be canceled subsequent to delivery or shipment, whichever occurs earlier. As estimated actual damages, Buyer agrees to pay Seller the greater of Seller's actual costs incurred prior to cancellation plus a reasonable profit, or the following minimum cancellation charges:

- a) 20% of Agreement value if canceled 30 or more days prior to the original delivery/shipment date;
- b) 50% of the Agreement value if canceled thereafter; or
- c) 100% of the value of any non-standard items (which are items not built for stock or built to customer specifications).

In the event of Rental, minimum rental charges as stated in the Proposal will apply. Buyer shall verify the amount of the cancellation charges prior to canceling an order.

**7. TITLE AND RISK OF LOSS**

For purchased goods, ownership and risk of loss pass to Buyer upon the earlier of (a) Seller's delivery of the goods, or (b) invoicing by Seller for the goods where Buyer is unable to accept delivery on the scheduled date. Seller retains a security interest in the goods until the purchase price has been paid, and Buyer agrees to perform upon request all acts required to secure Seller's interest. Seller accepts no responsibility for any damage, shortage or loss in transit. Seller will attempt to pack or prepare all shipments so that they will not break, rust or deteriorate in shipment, but Seller does not guarantee against such damage. Claims for any damage, shortage or loss in transit must be made by Buyer on the carrier.

In the event of Rental, Buyer assumes all risk and liability whether or not covered by insurance, for loss or damage to the Rental machinery or equipment. Risk and liability passes to Buyer upon delivery by Seller. Title to Rental machinery or equipment shall remain with Seller at all times. Buyer acquires no ownership, title or property rights to the Rental machinery or equipment except the right to use the Rental machinery or equipment subject to the terms of this Agreement.

**8. LIMITED WARRANTY**

New Equipment/Parts. In the case of the purchase of new Equipment/Parts, and solely for the benefit of the original user, Seller warrants, for a period of eighteen (18) months from date of delivery or twelve (12) months from installation, whichever is earlier, that new Equipment/Parts of its own manufacture shall conform to the material and technical specifications set forth in the Agreement. Goods manufactured by the original equipment manufacturer or others are sold "as is" except to the extent the manufacturer honors any applicable warranty made by the manufacturer. If the new Equipment/Parts fail to conform with such specifications upon inspection by Seller, Seller will, at its option and as Buyer's sole remedy, either repair or replace such defective Equipment/Parts with the type originally furnished.

Remanufactured to "As New" Equipment/Parts. Seller warrants to Buyer, that for a period of six (6) months from the date of delivery by Seller or three (3) months from installation of the "As New" Equipment/Parts, whichever is earlier, that reconditioned "As New" Equipment/Parts will be free from defects in material and workmanship. If the reconditioned "As New" Equipment/Parts fail to conform with such warranty upon inspection by Seller, Seller will, at its option and as Buyer's sole remedy, either repair or replace such defective Equipment/Parts with the type originally furnished.

Recertified and Overhauled Equipment. Seller warrants that for a period of six (6) months from the date of delivery by Seller or three (3) months from installation, whichever is earlier, that Recertified and Overhauled Equipment will be free from defects in workmanship. If the Recertified or Overhauled Equipment fails to conform with such warranty upon inspection by Seller, Seller will, at its option and as Buyer's sole remedy, either repair or replace such defective Equipment with the type originally furnished. This warranty expressly assumes that parts normally considered consumables (including, but not limited to rubber goods, seals (rubber, polymer and/or metallic) and/or bearings, are replaced during recertification or overhaul. If Buyer requests that such parts not be replaced, Seller hereby disclaims any warranty for said Recertified or Overhauled Equipment.

Secondhand Parts. Secondhand parts are sold "as is."

Z-Torque and STR Software. Seller assigns to Buyer all warranties provided by Shell. Buyer makes no other express warranties and all implied warranties are disclaimed as stated below.

Service. Seller warrants that the Services to be provided pursuant to this Agreement shall conform to the material aspects of the specifications set forth in the Agreement. Seller shall re-perform that part of the non-conforming Services, provided Seller is notified by Buyer prior to Seller's departure from the worksite.

If Seller has departed the worksite, Buyer must notify Seller of Service warranty claim prior to Seller's dispatch to worksite. Warranty credits shall be applied only following disposition.

Rental. Seller warrants that the Rental equipment to be provided pursuant to this Agreement shall conform to the material aspects of the specifications set forth in the Agreement. Provided Seller is notified by Buyer prior to Seller's departure from the worksite, Seller shall repair or replace non-conforming Rental equipment. In the event of failure or other non-performance of Seller's Rental equipment's contributing to loss of hole, rental rates will apply during re-drill to equivalent TD.

Seller will determine whether the inspection and/or warranty work will take place at Seller's facility or in the field. For warranty work in the field, all travel expenses and stand-by time incurred by the Seller will be borne by the Buyer. For warranty work at Seller's facility, all costs of freight will be borne by the Buyer. Seller's warranty for a repaired or replacement part assumes the remaining warranty of the original part. This warranty does not apply to any consumables sold as parts. If upon inspection, Seller determines that a warranty claim is not valid, all costs incurred by Seller will be borne by the Buyer.

Seller's warranty obligations hereunder shall not apply if non-conformity or failure was caused by (a) Buyer's failure to properly store or maintain the equipment or parts; (b) the unauthorized modification, repair or service of the equipment or parts by Buyer; (c) utilization of replacement parts not manufactured by Seller; or (d) use or handling of the equipment by Buyer in a manner inconsistent with Seller's recommendations in manuals, bulletins or other publications. Further, Seller's warranty obligations under this Article 8 shall terminate if (a) Buyer fails to perform its obligations under this or any other Agreement between the parties, or (b) if Buyer fails to pay any charges due Seller. Any third party warranties provided on equipment or parts not manufactured by Seller are assigned to Buyer, without recourse, at the time of delivery, provided such warranties are assignable.

**THIS ARTICLE 8 SETS FORTH BUYER'S SOLE REMEDY AND SELLER'S EXCLUSIVE OBLIGATION WITH REGARD TO NON-CONFORMING EQUIPMENT, PARTS, SERVICES OR RENTAL. EXCEPT AS OTHERWISE EXPRESSLY PROVIDED PURSUANT TO THE PROVISIONS OF THIS ARTICLE 8, SELLER UNDERTAKES NO RESPONSIBILITY FOR THE QUALITY OF THE GOODS. THERE ARE NO WARRANTIES THAT EXTEND BEYOND THE DESCRIPTION ON THE FACE HEREOF. SELLER MAKES NO OTHER WARRANTIES OR REPRESENTATIONS OF ANY KIND, EXPRESS OR IMPLIED, AND SELLER DISCLAIMS THE IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE.**

**9. CHANGES**

Seller expressly reserves the right to change, discontinue or modify the design and manufacture of its

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products without obligation to furnish, retrofit or install products previously or subsequently sold.

**10. RETURN OF MAKE TO STOCK GOODS**

With Seller's written approval, unused, incorrectly shipped or "Made to Stock" goods ordered incorrectly, in new condition and of current manufacture and catalog specifications may be returned by Buyer for credit (subject to a restocking fee), provided written request is received within one (1) year after the purchase date. Non-standard goods are not returnable for credit and such goods shall only be accepted for return with the prior written agreement of Seller. Requests for return of goods must show the original purchase order number, invoice number, description of material, and date of purchase. Return of goods does not relieve Buyer of the obligation to make payment against Seller's invoice, and any credit or refund allowed will be issued following Seller's receipt of the goods. The credit allowed on returned goods, if any, is a merchandise credit and is applicable only against future purchases of Seller goods. The credit given will be solely in Seller's discretion and may be based on the original or a subsequently adjusted price. A charge will be assessed to clean-up, refinish and restock the goods, if applicable. No rubber or electronic products or components may be returned for credit after six (6) months from date of purchase.

**11. LIABILITIES, RELEASES AND INDEMNIFICATION**

For purpose of this Article 11, the following definitions shall apply:

"Seller Group" shall mean (i) Seller, its parent, subsidiary or related companies, (ii) its and their working interest owners, co-lessees, co-owners, partners, joint venturers, if any, and their respective parents, subsidiary or related companies and (iii) the officers, directors, employees, consultants, agents and invitees of all of the foregoing.

"Buyer Group" shall mean (i) Buyer, its parent, subsidiary or related companies, (ii) its and their working interest owners, co-lessees, co-owners, partners, joint venturers, if any, and their respective parents, subsidiary or related companies and (iii) the officers, directors, employees, consultants, agents and invitees of all of the foregoing.

"Claims" shall mean all claims, demands, causes of action, liabilities, damages, judgments, fines, penalties, awards, losses, costs, expenses (including, without limitation, attorneys' fees and costs of litigation) of any kind or character arising out of, or related to, the performance of or subject matter of this Agreement (including, without limitation, property loss or damage, personal or bodily injury, sickness, disease or death, loss of services and/or wages, or loss of consortium or society).

a) Seller shall release, indemnify, defend and hold Buyer Group harmless from and against any and all Claims in respect of personal or bodily injury to, sickness, disease or death of any member of Seller Group or Seller Group's subcontractors or their employees, agents or invitees, and all Claims in respect of damage to or loss or destruction of property owned, leased, rented or hired by any member of Seller Group or Seller Group's subcontractors or their employees, agents or invitees.

b) Buyer shall release, indemnify, defend and hold Seller Group harmless from and against any and all Claims in respect of personal or bodily injury to, sickness, disease or death of any member of Buyer Group or Buyer Group's other contractors or their employees, agents or invitees, and all Claims in respect of damage to or loss or destruction of property owned, leased, rented or hired by any member of Buyer Group or Buyer Group's other contractors or their employees, agents or invitees.

c) Each party covenants and agrees to support the mutual indemnity obligations contained in Paragraphs (a) and (b) above, by carrying equal amounts of insurance (or qualified self-insurance) in an amount not less than U.S. \$5,000,000.00.

d) Notwithstanding anything contained in this Agreement to the contrary, in all instances where Seller is providing Services at a wellsite, Buyer, to the maximum extent permitted under applicable law, shall release, indemnify, defend and hold Seller Group and Seller Group subcontractors harmless from and against any and all Claims asserted by or in favor of any person or party, including Seller Group, Buyer Group or any other person or party, resulting from: (i) loss of or damage to any well or hole (including but not limited to the costs of re-drill), (ii) blowout, fire, explosion, cratering or any uncontrolled well condition (including but not limited to the costs to control a wild well and the removal of debris), (iii) damage to any reservoir, geological formation or underground strata or the loss of oil, water or gas therefrom, (iv) pollution or contamination of any kind (other than surface spillage of fuels, lubricants, rig sewage or garbage, to the extent attributable to the negligence of Seller Group, including but not limited to the cost of control, removal and clean-up, or (v) damage to, or escape of any substance from, any pipeline, vessel or storage facility.

e) NOTWITHSTANDING ANYTHING CONTAINED IN THIS AGREEMENT TO THE CONTRARY, NEITHER PARTY SHALL BE LIABLE TO THE OTHER AND EACH PARTY RELEASES THE OTHER FOR ANY INDIRECT, SPECIAL, PUNITIVE, EXEMPLARY OR CONSEQUENTIAL DAMAGES OR LOSSES (WHETHER FORESEEABLE AT THE DATE OF THIS AGREEMENT, INCLUDING WITHOUT LIMITATION, DAMAGES FOR LOST PRODUCTION, LOST REVENUE, LOST PRODUCT, LOST PROFIT, LOST BUSINESS OR BUSINESS OPPORTUNITIES.

f) Seller's total liability for all claims, damages, causes of action, demands, judgments, fines, penalties, awards, losses, costs and expenses (including attorney's fees and cost of litigation) shall be limited to and shall not exceed the value of the Equipment, Parts, Services or Rental purchased under the Agreement.

g) THE EXCLUSIONS OF LIABILITY, RELEASES AND INDEMNITIES SET FORTH IN PARAGRAPHS A THROUGH F. OF THIS ARTICLE 11 SHALL APPLY TO ANY CLAIM(S), LOSSES OR DAMAGES WITHOUT REGARD TO THE CAUSE(S) THEREOF, INCLUDING BUT NOT LIMITED TO PRE-EXISTING CONDITIONS, WHETHER SUCH CONDITIONS BE PATENT OR LATENT, THE UNSEAWORTHINESS OF ANY VESSEL OR VESSELS, IMPERFECTION OF MATERIAL, DEFECT OR FAILURE OF PRODUCTS OR EQUIPMENT, BREACH OF REPRESENTATION OR WARRANTY (EXPRESS OR IMPLIED), ULTRAHAZARDOUS ACTIVITY, STRICT LIABILITY, TORT, BREACH OF CONTRACT, BREACH OF DUTY (STATUTORY OR OTHERWISE), BREACH OF ANY SAFETY REQUIREMENT OR REGULATION, OR THE NEGLIGENCE OR OTHER LEGAL FAULT OR RESPONSIBILITY OF ANY PERSON (INCLUDING THE INDEMNIFIED OR RELEASED PARTY), WHETHER SUCH NEGLIGENCE BE SOLE, JOINT OR CONCURRENT, ACTIVE OR PASSIVE.

h) Redress under the indemnity provisions set forth in this Article 11 shall be the exclusive remedy(ies) available to the parties hereto for the matters, claims, damages and losses covered by such provisions.

**12. INSURANCE**

Upon written request, each party shall furnish to the other party certificates of insurance evidencing the fact that the adequate insurance to support each party's obligations hereunder has been secured. To the extent of each party's release and indemnity obligations expressly assumed by each party hereunder, each party agrees that all such insurance policies shall, (a) be primary to the other party's insurance; (b) include the other party, its parent, subsidiary and affiliated or related companies, and its and their respective officers, directors, employees, consultants and agents as additional insured; and, (c) be endorsed to waive subrogation against the other party, its parent, subsidiary and affiliated or related companies, and its and their respective officers, directors, employees, consultants and agents.

**13. GOVERNING LAW**

Except for Equipment, Parts, Services or Rental provided, or to be provided, by Seller in North or South

America (the "America's"), this Agreement shall be governed by and interpreted in accordance with the laws of England and Wales, excluding conflicts and choice of law principles.

For Equipment, Parts, Services or Rental provided, or to be provided, by Seller in the America's, this Agreement shall be governed by and interpreted in accordance with the substantive laws of the State of Texas, excluding conflicts and choice of law principles.

Seller retains the right to arbitrate any all disputes that may arise in connection with the provision of the Equipment, Parts, Services or Rental.

**14. REGULATORY COMPLIANCE**

By acceptance of delivery under this Agreement, Buyer warrants it has complied with all applicable governmental, statutory and regulatory requirements and will furnish Seller with such documents as may be required. Seller warrants and certifies that in the performance of this Agreement, it will comply with all applicable statutes, rules, regulations and orders, including laws and regulations pertaining to labor, wages, hours and other conditions of employment, and applicable price ceilings if any. Seller will not provide any certification or other documentation nor agree to any contract provision or otherwise act in any manner which may cause Seller to be in violation of applicable United States law, including but not limited to the Export Administration Act of 1979 and regulations issued pursuant thereto. All Orders shall be conditional upon granting of export licenses or import permits which may be required. Buyer shall obtain at its own risk any required export license and import permits and Buyer shall remain liable to accept and pay for material if licenses are not granted or are revoked.

**15. CONFIDENTIAL INFORMATION**

Each party recognizes and acknowledges that it shall maintain all data, information, disclosures, documents, drawings, specifications, patterns, calculations, technical information and other documents (collectively, "Confidential Information") obtained from the other party in strict confidence. However, nothing hereinabove contained shall deprive the party receiving the Confidential Information of the right to use or disclose any information: (a) which is, at the time of disclosure, known to the trade or public; (b) which becomes at a later date known to the trade or the public through no fault of the party receiving the Confidential Information and then only after said later date; (c) which is possessed by the party receiving the Confidential Information, as evidenced by such party's written records, before receipt thereof from the party disclosing the Confidential Information; (d) which is disclosed to the party receiving the Confidential Information in good faith by a third party who has an independent right to such information; (e) which is developed by the party receiving the Confidential Information as evidenced by documentation, independently of the Confidential Information; or, (f) which is required to be disclosed by the party receiving the Confidential Information pursuant to an order of a court of competent jurisdiction or other governmental agency having the power to order such disclosure, provided that the party receiving the Confidential Information uses its best efforts to provide timely notice to the party disclosing the Confidential Information of such order to permit such party an opportunity to contest such order. In the event that Seller owns copyrights to, patents to or has filed patent applications on, any technology related to the Equipment, Parts, Services or Rental furnished by Seller hereunder, and if Seller makes any improvements on such technology, then Seller shall own all such improvements, including drawings, specifications, patterns, calculations, technical information and other documents.

**16. INDEPENDENT CONTRACTOR**

It is expressly understood that Seller is an independent contractor, and that neither Seller nor its principle, partners, employees or subcontractors are servants, agents or employees of Buyer. In all cases where Seller's employees (defined to include Seller's and its subcontractors, direct, borrowed, special, or statutory employees) are covered by the Louisiana Worker's Compensation Act. La. R.S. 23:102 et seq., Seller and Buyer agreed that all Equipment, Parts, Services or Rental provided by Seller and Seller's employees pursuant to this Agreement are an integral part of and are essential to the ability of Buyer to generate Buyer's goods, products, and services for the purpose of La. R.S. 23:106(A) (1). Furthermore, Seller and Buyer agree that Buyer is the statutory employer of all of Seller's employees for the purpose of La. R.S. 23:106(A) (3).

**17. ADDITIONAL RENTAL TERMS AND CONDITIONS**

Unless otherwise indicated, the rental rates contained in Seller's Proposal are on a per day basis and such rates shall apply to each piece of equipment or part rented. Seller represents that it has fully inspected the Rental equipment and parts as detailed in the Agreement and that said equipment and parts are in good condition and repair, and are fully acceptable for use as specified in the Agreement. Furthermore, Seller represents that the Rental equipment and parts are not subject to any encumbrances or liens, and that Seller has full title to the equipment and parts, and thus, Seller is authorized to enter into and execute this Agreement.

Buyer represents that it shall use the Rental equipment and parts in a careful and proper manner and shall comply with all laws, ordinances and regulations relating to the possession, use and maintenance of the equipment and parts in accordance with Seller's approved procedures. In the event the parties agree that the Buyer shall operate the Rental equipment and parts, Buyer further represents that the Rental equipment and parts will be operated by skilled employees trained in the use of the Rental equipment and parts. Buyer shall keep the Rental equipment and parts free and clear of all liens and encumbrances arising in connection with Buyer's operations and/or use of the Rental equipment and parts. Buyer, at its sole cost, shall provide and maintain insurance against the loss, theft, damage or destruction of the Rental equipment and parts. The coverage shall be in an amount not less than the new replacement price of the Rental equipment and parts. GDS shall provide equipment and parts prices at execution of this Agreement.

At the expiration of the applicable rental term, Buyer will at its sole cost return the Rental equipment to the facility designated by Seller, in working condition (reasonable wear and tear excepted). Upon receipt of the returned Rental equipment, Seller will service and inspect the Rental equipment. In the event Seller determines that the Rental equipment is materially damaged or not in working condition (reasonable wear and tear excepted), any service work required to bring the Rental equipment to good working condition will be charged back to the Seller. Such charges may include service, inspection, and spare parts.

**18. GENERAL**

Failure of Buyer or Seller to enforce any of the terms and conditions of this Agreement shall not prevent a subsequent enforcement of such terms and conditions or be deemed a waiver of any subsequent breach. Should any provisions of this Agreement, or portion thereof, be unenforceable or in conflict with applicable governing country, state, province, or local laws, then the validity of the remaining provisions, and portions thereof, shall not be affected by such unenforceability or conflict, and this Agreement shall be construed as if such provision supersedes all prior oral or written agreements or representations. Buyer acknowledges that it has not relied on any representations other than those contained in this Agreement. This Agreement shall not be varied, supplemented, qualified, or interpreted by any prior course of dealing between the

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parties or by any usage of trade and may only be amended by an agreement executed by an authorized representative of each party.

**19. SOFTWARE LICENSE**

All software and its related documentation ("Software") used in connection with the products supplied by Seller is owned by Seller or licensed by Seller from its owner and is licensed or sublicensed to Buyer. Buyer agrees that Seller or its licensor is the sole owner of the Software and of all intellectual property rights therein. The license granted herein is a limited, personal, and non-transferrable license that permits Buyer to use the Software as installed by Seller and solely for Buyer's own business purposes. Any other use of the Software is prohibited. Buyer agrees not to disclose the Software to any third parties. Buyer shall not circumvent any technological measure used to control access to the Software. Buyer shall not copy, reverse engineer, decompile, disassemble or electronically transfer the Software. Buyer shall not establish an interface with the Software in order to read or write data by other components nor replace the Software with any version not provided by Seller.