RENTAL TERMS AND CONDITIONS

1. "Lessee" is defined as Dynamic Systems (DSI), LLC (and may also be referred to herein as "Dynamics", "DSI", "Purchaser" or "Contractor"). "Lessor" is defined as the party to the Purchase Order ("PO") other than DSI (and may also be referred to herein as "Seller" or "Subcontractor"). Lessor shall be responsible for all transportation, loading and unloading costs for the rental equipment, accessories and supplies ("Equipment") from the original point of shipment to DSI's' receiving point and all such costs for the subsequent return of the Equipment to Lessor's designated receiving point. Transportation costs include, but are not limited to, transportation, handling, tolls and applicable permits and fees. Lessor shall also be responsible and pay for any incurred detention or demurrage charges. All such transportation costs have been included in the PO Price.
2. DSI agrees to pay Lessor the rental rates set forth in the PO. Prices stated in the PO are firm, not subject to escalation, and include all federal, state and local taxes including, but not limited to, sales taxes, duties and surcharges unless otherwise stated in the PO. The amount payable under this PO shall not be subject to adjustment by reason of any increase or decrease in labor rates, freight costs, tax rates, cost of materials or equipment, any other costs or shortages or unavailability of materials or equipment.
3. Lessor warrants that the use of the Equipment by DSI will not constitute an infringement of any patent or patent application, and Lessor agrees to indemnify, defend and hold DSI and the Owner of the Project harmless from and against any and all patent infringement claims resulting from such use.
4. Time is of the essence in the performance of Lessor's obligations under this PO. Lessor shall deliver the Equipment on the date specified by this PO or, if no date is specified, in accordance with the schedule established by DSI. Should DSI delay Lessor's delivery of the Equipment, Lessor's sole and exclusive remedy against DSI shall be an extension of time for completion equal to the delay caused, and then only if written claim for delay shall be delivered to DSI within forty-eight (48) hours from the commencement of such delay. Lessor hereby waives and releases DSI from any and all claims and causes of action against DSI for damages, costs or expenses arising out of delays, hindrances or interruptions caused by DSI, except for a claim for an extension of time.
5. All shipments shall be subject to final inspection by DSI after receipt by DSI at destination. DSI reserves the right to reject and refuse acceptance of Equipment which is not in accordance with the terms of this PO. Payment shall not be deemed an acceptance of any Equipment that is not in conformance with the requirements of this PO. DSI shall have the right to reject any Equipment supplied under this PO at any time, even after acceptance, if it is subsequently determined that the Equipment is defective, does not comply with terms of this PO, or is rejected by the Owner or Architect/Engineer for the Project.
6. DSI shall have the right, at any time, by written notice to Lessor, without cause of default by Lessor, to cancel this PO, in whole or in part. In such event, DSI shall be responsible only for the cost of Lessor's finished Equipment or Equipment in progress which cannot be otherwise utilized or sold, and DSI shall not be responsible for any lost profits on any of the Equipment not supplied.
7. All Equipment furnished under this PO shall be sound, fit and suitable for the particular purpose for which they are rented. Lessor warrants that all such Equipment furnished shall be in strict accordance with the PO.
8. The terms and provisions of this PO shall be governed and construed in accordance with the laws of the State where the Project is located. Exclusive jurisdiction and venue for any action pertaining to this PO shall be in the state or federal courts, whichever is applicable, in the county in which the Project is located. Lessor represents to DSI that Lessor shall comply with all applicable federal, state or local laws, codes and regulations pertaining to the Equipment supplied by Lessor under the terms of this PO. Lessor shall be responsible for and pay for all taxes, permit fees, assessments, fines and penalties which may be assessed, levied against or incurred by Owner or Lessee by reason of any failure of Lessor to comply with any such laws, codes and regulations.
9. At DSI's sole option and discretion, all claims or disputes arising out of or relating to this PO may be decided by binding arbitration in accordance with Construction Industry Arbitration Rules of the American Arbitration Association with the arbitration to occur in the County/State in which the Project is located. Lessor consents to consolidation of any arbitration hereunder with arbitration proceedings involving DSI and any other parties involving a common question of law or fact.
10. Should Lessor, at any time in the opinion of DSI, refuse, neglect or fail to properly perform its obligations under this PO with dispatch and diligence, or fail to properly and timely supply the Equipment for any reason, or become insolvent, or should any bankruptcy or receivership petition be filed by or against Lessor, DSI, in addition to all other remedies available to DSI under applicable law, after three (3) calendar days written notice to Lessor of such failure, refusal, neglect or event, may stop all payments to the Lessor, may make the necessary arrangements to perform or have other vendors supply the Equipment required to be supplied by Lessor under this PO, and deduct the cost thereof from any amounts due or thereafter becoming due to Lessor under this PO, and/or DSI may also terminate Lessor's right to proceed under this PO, and may also pursue any and all other remedies available to it at law or in equity, and shall be entitled to recover any costs, expenses or damages incurred by DSI as a result of such failure, refusal, neglect or event.
11. To the fullest extent permitted by law, payments by DSI to Lessor under this PO are expressly contingent upon and subject to DSI's acceptance of the Equipment provided by the Lessor, and DSI's receipt of payment from the 'party with whom DSI has contracted with for this Project. Lessor agrees to accept and assume the risk of non-payment if DSI is not paid for the Equipment by the party with whom DSI has contracted with for this Project. All amounts payable hereunder by Lessor or by DSI shall be payable at DSI's office in the State where the Project is located.
12. **TO THE FULLEST EXTENT PERMITTED BY LAW, LESSOR EXPRESSLY AGREES TO INDEMNIFY, DEFEND (AT LESSOR'S EXPENSE, AND WITH COUNSEL ACCEPTABLE TO DSI, AND HOLD HARMLESS DSI, PRIME CONTRACTOR, PROJECT OWNER AND ANY PERSON OR ENTITY WITH WHOM THE DSI HAS CONTRACTED TO SUPPLY THE EQUIPMENT SUPPLIED BY LESSOR UNDER THIS PO, AND ANY OTHER PARTIES WHICH DSI HAS AGREED TO INDEMNIFY IN THE CONTRACT DOCUMENTS PERTAINING TO THE PROJECT, AND THEIR RESPECTIVE OFFICERS, DIRECTORS, SHAREHOLDERS, EMPLOYEES, AGENTS, SUCCESSORS, AFFILIATES AND ASSIGNS (HEREINAFTER REFERRED TO COLLECTIVELY AS THE "INDEMNITEES") FROM AND AGAINST ANY AND ALL CLAIMS, SUITS, LOSSES, CAUSES OF ACTION, DAMAGES, LIABILITIES, FINES, PENALTIES AND EXPENSES OF ANY KIND WHATSOEVER INCLUDING, WITHOUT LIMITATION, ALL EXPENSES OF LITIGATION AND ARBITRATION, COURT COSTS AND ATTORNEYS' FEES, ARISING ON ACCOUNT OF OR IN CONNECTION WITH INJURIES TO OR THE DEATH OF ANY PERSON, OR ANY AND ALL DAMAGES TO PROPERTY, INCLUDING LOSS OF USE, REGARDLESS OF POSSESSION OR OWNERSHIP AND REGARDLESS OF WHETHER CAUSED IN PART BY REASON OF THE ACTS OR OMISSIONS OF AN INDEMNITEE WHICH ARISE FROM THE EQUIPMENT SUPPLIED UNDER THIS PO, ANY ACTS, ERRORS OR OMISSIONS OF THE LESSOR, ANY PRODUCTS LIABILITY CLAIMS, OR ANY FAILURE OF THE LESSOR TO FULFILL ANY OF ITS OBLIGATIONS UNDER THIS PO. THE FOREGOING DEFENSE AND INDEMNITY PROVISIONS DO NOT COVER INJURIES, DEATH OR PROPERTY DAMAGE TO THE EXTENT CAUSED BY THE NEGLIGENCE OF ANY INDEMNITEE. THE DEFENSE AND INDEMNIFICATION OBLIGATIONS UNDER THIS PO SHALL NOT BE LIMITED IN ANY WAY BY ANY LIMITATION ON THE AMOUNT OR TYPE OF DAMAGES, COMPENSATION OR BENEFITS PAYABLE BY OR FOR THE LESSOR UNDER WORKMEN'S COMPENSATION ACTS, DISABILITY BENEFIT ACTS, OR OTHER EMPLOYEE BENEFIT ACTS, AND SHALL EXTEND TO AND INCLUDE ANY ACTIONS BROUGHT BY OR IN THE NAME OF ANY EMPLOYEE OF LESSOR OR ANY THIRD PARTY TO WHOM LESSOR MAY SUBLET ANY PART OF ITS OBLIGATIONS UNDER THIS PO.**
13. No modification of this PO shall be effective unless agreed to in writing, signed by authorized representative of DSI. This PO contains the entire agreement of the parties, and all prior representations, proposals, quotations or agreements, whether written or verbal, are superseded hereby. Any reference to Lessor's proposal or quotation does not imply acceptance of any term or condition contained in such proposal or quotation. Any additional or different terms and conditions proposed by Lessor which are not specifically set forth in this PO are rejected. Notice is hereby given pursuant to the Uniform Commercial Code of the State where the Project is located, and any applicable statute or code of DSI's objection to all terms and conditions in addition to or different from the terms and conditions of this PO contained in any written acceptance or order confirmation which may be issued by Lessor.
14. The rental period shall begin on the date Lessor delivers the Equipment to DSI and shall end on the date DSI notifies Lessor that the Equipment is ready for pickup by Lessor. 15. DSI shall not use, operate, maintain or store the Equipment improperly or in violation of any applicable law or regulation or for any purpose other than in the conduct of DSI's business. DSI shall notify Lessor of any known condition of the Equipment, including broken or worn parts, that impairs the Equipment's ability to operate in good order.