

AGREEMENT FOR PURCHASE AND SALE OF REAL ESTATE

by and between

BLUELINE RENTALS, LLC
as Seller

and

CITY AND COUNTY OF SAN FRANCISCO, a municipal corporation
as Buyer

For the purchase and sale of

One leasehold interest,
over, in, and upon a parcel of real property
located in the City and County of San Francisco, State of California

_____, 2016

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LIST OF EXHIBITS

EXHIBIT A Quit Claim Deed with attached legal description.

EXHIBIT B Lease Agreement dated September 25, 2012

AGREEMENT FOR PURCHASE AND SALE OF REAL ESTATE

THIS AGREEMENT FOR PURCHASE AND SALE OF REAL ESTATE (this "**Agreement**") dated for reference purposes only as of _____, 2016, is made by and between the BLUELINE RENTALS, LLC ("**Seller**"), and the CITY AND COUNTY OF SAN FRANCISCO, a municipal corporation ("**City**").

RECITALS

RECITALS

- A. Pursuant to City's purchase of certain real property, identified as 1975 Galvez Avenue in San Francisco, California and commonly known as Assessor's Parcel 5250-016 ("**Property**").
- B. Pursuant to the existing Lease Agreement on Property, executed September 25, 2012, by and between W.Y.L Five Star Service Industries, Inc., a California Corporation as Lessor and BlueLine Rentals, LLC (formerly Volvo Construction Equipment Rentals, Inc., a Delaware Corporation) as Lessee ("**Seller's Leasehold**").
- C. Pursuant to the assumption and assignment by the City of said Lease Agreement.
- D. In connection with the City's General Services Administration's Fleet Management Central Shops Facility Project (the "**Project**"), City wishes to purchase, and Seller wishes to relinquish Seller's Leasehold interest including any and all interest in, on, over, under, upon, along, and/or across certain portions of the Property in accordance with, and pursuant to, the terms and conditions of this Agreement.

IN CONSIDERATION of the respective agreements set forth below, Seller and City agree as follows:

1. PURCHASE AND SALE

1.1 Purchase and Sale of Leasehold Interest

Seller agrees to relinquish to City or its designee, and City agrees to purchase from Seller, subject to the terms, covenants, and conditions set forth below, Seller's Leasehold interest in the Property.

1.2 Easement Areas; Nature of Easement

The Leasehold interest consists of the Property described and depicted in respective exhibit to the quit claim deed attached as Exhibits A ("**Deed**").

2. PURCHASE PRICE

2.1 Purchase Price

The total rounded purchase price for Seller's Leasehold interest is One Million Three Hundred Eighty-Eight Thousand and 00/100 Dollars (\$1,388,000.00) (the "**Purchase Price**").

2.2 Payment

On the Closing Date (defined in Section 5.3 [Closing Date]), City shall pay the Purchase Price, adjusted pursuant to the provisions of Article 6 [Expenses], and reduced by any credits due City under this Agreement.

2.3 Funds

All payments made pursuant to this Agreement shall be in legal tender of the United States of America, paid by Controller's warrant or in cash or by wire transfer of immediately available funds. Unless the parties elect to close the transaction without an escrow, payments shall be made to Escrow Holder (defined in Section 5.2 [Escrow; Closing Without an Escrow]), as the escrow agent.

3. CONVEYANCE OF SELLER'S LEASEHOLD

3.1 Quit Claim Deed

At the Closing defined in Section 5.1 ["Closing" Defined]), Seller shall relinquish to City all interest in the Property, by delivery of the Quit Claim Deed, duly executed and acknowledged in the form of the attached as Exhibit A. The Deed shall be executed and delivered to City in a recordable form. City may record the Deed in the San Francisco County's Recorder's Office, State of Title

Omitted

4. CONDITIONS TO CLOSING

4.1 City's Conditions to Closing

The following are conditions precedent to City's obligation to purchase the Seller's Leasehold interest (collectively, "**Conditions Precedent**"):

(a) The physical condition of all portions of the Property shall be substantially the same on the Closing Date as on the date of City's execution of this Agreement, reasonable wear and tear and loss by casualty excepted (subject to the provisions of Article 8 [Risk of Loss]).

(b) The transactions contemplated by this Agreement shall have been approved by all applicable City departments and agencies, including, without limitation, the San Francisco General Services Administration, at their respective sole discretion, within sixty (60) days after Seller executes and delivers this Agreement to City.

(c) If required by City's Charter, the City's Mayor and the Board of Supervisors, at the sole discretion of each, shall have enacted a resolution approving, adopting, and authorizing this Agreement and the transactions contemplated by this Agreement, within ninety (90) days after Seller executes and delivers this Agreement to City.

(d) Seller shall have delivered the items described in Section 5.4 below [Seller's Delivery of Documents] on or before the Closing.

The Conditions Precedent contained in the foregoing subsections (a) through (d) are solely for City's benefit. If any Condition Precedent is not satisfied, at its sole discretion, City shall have the right either to waive in writing the Condition Precedent in question and proceed with the purchase (provided that the Conditions Precedent described in items (b) and (c) above may not be

be extended without the prior written approval of both Seller and City, except as otherwise expressly provided in this Agreement.

5.4 Seller's Delivery of Documents

(a) At or before the Closing, Seller shall deliver or cause to be delivered to City the following:

- (i) the duly executed and acknowledged Deed;
- (ii) such resolutions, authorizations, or other documents as City may reasonably require to demonstrate the authority of Seller to enter into this Agreement and consummate the transactions contemplated by this Agreement, and such proof of the power and authority of the individuals executing any documents or other instruments on behalf of Seller to act for and bind Seller;
- (iii) a closing statement in form and content satisfactory to City and Seller (which may be in the form of a letter or memorandum from City, countersigned by Seller, if the parties elect to consummate the transaction without an escrow).

Seller shall also deliver a properly executed California Franchise Tax Board Form 590 certifying that Seller is a California resident or that Seller has a permanent place of business in California or is qualified to do business in California, if Seller is a corporation, or other evidence satisfactory to City that Seller is exempt from the withholding requirements of Section 18662 of the California Revenue and Taxation Code. Seller acknowledges and agrees that if Seller fails at Closing to deliver to City such certificate, City may be required to withhold and remit to the appropriate tax authority a portion of the Purchase Price pursuant to Section 18662 of the California Revenue and Taxation Code. Any amount properly so withheld and remitted shall be deemed to have been paid by City as part of the Purchase Price, and Seller's obligation to consummate the transaction contemplated by this Agreement shall not be excused or otherwise affected by any such withholding.

(b) Seller shall deliver such items to Seller through escrow, unless the parties elect to close the transaction without an escrow in which event Seller shall deliver the items directly to City for a Closing in accordance with Section 5.7(b).

5.5 City's Delivery of Documents and Funds

(a) At or before the Closing, City shall deliver to Seller the following:

- (i) a certificate of acceptance, executed by City's Director of Property, to be attached to the Deed before recording;
- (ii) a closing statement in form and content satisfactory to City and Seller (which may be in the form of a letter or memorandum from City to Seller if the parties elect to consummate the transaction without an escrow);
- (iii) funds sufficient to pay City's share of expenses under Article 6; and
- (iv) the Purchase Price, as provided in Article 2 of this Agreement.

(b) City shall deliver such documents and funds through escrow; however, if the parties elect to consummate the transaction without an escrow, City shall deliver the funds and documents as provided in Section 5.7(b).

5.6 Other Documents; Cooperation

Seller and City shall perform such further acts and execute and deliver such additional documents and instruments as may be reasonably required in order to carry out the provisions of this Agreement and the intentions of the parties.

5.7 Closing

(a) Closing through Escrow. Subject to Section 5.7(b), at Closing, provided all the conditions to the parties' obligations have been satisfied or waived as provided and permitted by this Agreement, Escrow Holder shall perform the following acts in the following order:

- (i)** Perform such acts as are necessary in order to relinquish leasehold interest to City subject only to the Accepted Conditions of Title, including documentation as specified in supplemental escrow instructions submitted by City before Closing.
- (ii)** Deliver the Deed to City;
- (iii)** Deliver to Seller, or as Seller may instruct, the Purchase Price, less any amount necessary to satisfy any liens, bond demands, delinquent taxes, and Seller's share of expenses and proration under Article 6;
- (iv)** Deliver to the appropriate party any other documents, instruments, and sums required by this Agreement.

(b) Closing without Escrow. If the parties elect to consummate the purchase and sale without an escrow, City shall effect the Closing on the Closing Date as follows:

(i) City shall: **(A)** deliver to Seller, or as Seller may instruct, the Purchase Price (less any amount necessary to satisfy any liens, bond demands, delinquent taxes, and Seller's share of expenses and proration, if applicable, under Article 6), and **(B)** cause each respective certificate of acceptance for the Deed to be executed, when:

- (1)** City has received Seller's documents in accordance with Section 5.4, and
- (2)** City has received the Deed relinquishing Seller's Leasehold interest to City duly acknowledged and in a recordable form, subject only to the Accepted Conditions of Title, obtain the Title Policy (if City elects to do so), and deliver to the appropriate party any other documents, instruments, and sums required by this Agreement.

5.8 Possession and Use

The right of possession and use by City and/or its designees, including the right to remove and dispose of improvements and install and connect utilities, shall commence on _____ with respect to the Project (the "**Possession Date**"), which may occur before the Closing Date. The Purchase Price includes but is not limited to full payment for such possession and use, including interest and damages if any from such date. Notwithstanding any other provision of this Agreement, City shall provide Seller with at least thirty (30) days' advance written notice of the Possession Date.

6. EXPENSES; PRORATIONS

6.1 City's Expenses

City shall pay all escrow fees and title insurance charges, if any.

6.2 Seller's Expenses

Seller shall pay at the Closing any delinquent taxes that may have become a lien against the Property.

6.3 Other Expenses

Any other costs and charges of the Escrow not otherwise provided for in this Article or elsewhere in this Agreement shall be allocated in accordance with the closing customs for San Francisco County, as determined by Escrow Holder.

7. REPRESENTATIONS AND WARRANTIES

Seller represents and warrants to and covenants with City as follows:

(a) **Occupancy of Property.** Seller is the sole occupant of the City's Property, and has not entered in to any sublease agreements, orally or in writing.

(b) **Signing Authority.** Seller and the signatories on Seller's behalf represent and warrant that the signatories on Seller's behalf to this Agreement are authorized to enter into this Agreement to relinquish Seller's Leasehold interest in the Property and that no other authorizations are required to implement this Agreement on behalf of Seller.

(c) **No Subleases.** T, here are now, and will be at the Closing, no oral or written subleases or occupancy agreements affecting any portion of the Property executed by Seller.

(d)

(e) **No Lawsuits.** There are no lawsuits or proceedings pending or, to the best of Seller's knowledge, threatened against or affecting Seller, Seller's Leasehold interest, or its use that would affect Seller's ability to consummate the sale contemplated by this Agreement or City's use and enjoyment of the Property after the Closing.

(f) **No Known Hazardous Materials.** To the best of Seller's knowledge, there has been no release and there is no threatened release of any Hazardous Material in, on, under, or about the Property. As used in this Agreement, "**Hazardous Material**" shall mean any material that, because of its quantity, concentration, or physical or chemical characteristics, is deemed by any federal, state, or local governmental authority to pose a present or potential hazard to human health or safety or to the environment. "**Release**" or "**threatened release**" when used with respect to Hazardous Material shall include any actual or imminent spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping, or disposing into or inside any of the improvements, or in, on, under, or about the Property.

8. RISK OF LOSS

If any portion of the Property is damaged or destroyed before the Closing Date, then the rights and obligations of Seller and City under this Agreement shall be as follows: at its election,

City may terminate this Agreement in its entirety. City shall have thirty (30) days after Seller notifies City that an event described in this Article 8 has occurred to make such election by delivery to Seller of an election notice. City's failure to deliver such notice within such thirty (30) -day period shall be deemed City's election to terminate this Agreement in its entirety. If this Agreement is terminated in its entirety or in part pursuant to this Article 8, then City and Seller shall each be released from all obligations under this Agreement. If City elects not to terminate this Agreement, it shall remain in full force and effect.

9. MAINTENANCE; CONSENT TO NEW CONTRACTS

Omitted

10. DISMISSAL OF EMINENT DOMAIN ACTION

Seller hereby agrees and consents to the dismissal of any pending action in eminent domain by City as to Seller's Leasehold interest and Seller also waives all claims to court costs and any money that may now be on deposit in the Superior Court in such action.

11. GENERAL PROVISIONS

11.1 Notices

Any notice, consent, or approval required or permitted to be given under this Agreement shall be in writing and shall be given by (i) hand delivery, against receipt, (ii) reliable next-business-day courier service that provides confirmation of delivery, or (iii) United States registered or certified mail, postage prepaid, return receipt required, and addressed as follows (or to such other address as either party may from time to time specify in writing to the other upon five (5) days' prior, written notice in the manner provided above):

City:

To: Real Estate Division
25 Van Ness Avenue, Suite 400, San Francisco,
CA 94102
Attention: Jeff Suess

with copy to: Brian Crossman
Deputy City Attorney
Office of the City Attorney
City Hall, Room 234
1 Dr. Carlton B. Goodlett Place
San Francisco, CA 94102-4682

Seller:

To:

BlueLine Rentals, LLC
Attention: Cliff Eckberg
9401 New Trails Drive, Suite 150
The Woodlands, TX 77380

Facsimile No.: _____

with copy to:

Facsimile No.: _____

A properly addressed notice transmitted by one of the foregoing methods shall be deemed received upon the confirmed date of delivery, attempted delivery, or rejected delivery, whichever occurs first. Any facsimile numbers or email addresses provided by one party to the other shall be for convenience of communication; however, neither party may give official or binding notice by facsimile or email. The effective time of a notice shall not be affected by the receipt, prior to receipt of the original, of a telefacsimile or email copy of the notice.

11.2 Brokers and Finders

Neither party has had any contact or dealings in connection with the subject matter of this Agreement, through any licensed real estate broker or other person who could claim a right to a commission or finder's fee in connection with the purchase and sale contemplated in this Agreement. In the event that any broker or finder perfects a claim for a commission or finder's fee based upon any such contact, dealings, or communication, the party through whom the broker or finder makes his or her claim shall be responsible for such commission or fee and shall indemnify and hold harmless the other party from all claims, costs, and expenses (including, without limitation, reasonable attorneys' fees and disbursements) incurred by the indemnified party in defending against the same. The provisions of this Section shall survive the Closing.

11.3 Successors and Assigns

This Agreement shall be binding upon, and inure to the benefit of, the parties to this Agreement and their respective successors, heirs, administrators, and assigns, subject to Section 9.2 [Contracts Affecting the Easement Areas].

11.4 Amendments; Waivers

Except as otherwise provided in this Agreement **(a)** this Agreement may be amended or modified only by a written instrument executed by City and Seller, **(b)** no waiver of any provision of this Agreement will be binding unless executed in writing by the party making the waiver, **(c)** no waiver of any provision of this Agreement will be deemed to constitute a waiver of any other provision, whether or not similar, and **(d)** no waiver will constitute a continuing waiver unless the written waiver so specifies.

11.5 Continuation and Survival of Representations and Warranties

All representations and warranties by the respective parties contained in this Agreement or made in writing pursuant to this Agreement are intended to be, and shall remain, true and correct as of the Closing, shall be deemed to be material, and, together with all conditions, covenants, and indemnities made by the respective parties contained in this Agreement or made in writing

pursuant to this Agreement (except as otherwise expressly limited or expanded by the terms of this Agreement), shall survive the execution and delivery of this Agreement and the Closing, or, to the extent the context requires, beyond any termination of this Agreement. All statements contained in any certificate or other instrument delivered at any time by or on behalf of Seller in conjunction with the transaction contemplated by this Agreement shall constitute representations and warranties under this Agreement.

11.6 Governing Law

This Agreement shall be governed by California law and City's Charter. There shall be no obligation for the payment of money by City under this Agreement unless City's Controller first certifies, pursuant to Section 3.105 of City's Charter, that there is a valid appropriation from which the expenditure may be made and that unencumbered funds are available from the appropriation to pay the expenditure.

11.7 Merger of Prior Agreements; No Inducement

The parties intend that this Agreement (including all of the attached exhibits and schedules and any documents specifically described in this Agreement, which are hereby incorporated into this Agreement by reference) shall be the final, complete, and exclusive expression of their agreement with respect to the subject matter of this Agreement and may not be contradicted by evidence of any prior or contemporaneous oral or written agreements or understandings. The parties further intend that this Agreement shall constitute the complete and exclusive statement of its terms and that no extrinsic evidence whatsoever (including, without limitation, term sheets and prior drafts or changes to such drafts) may be introduced in any judicial, administrative, or other legal proceeding involving this Agreement. The making, execution, and delivery of this Agreement by the parties has been induced by no representations, statements, warranties, or agreements other than those expressed in this Agreement.

11.8 Parties and Their Agents; Approvals

The term "**Seller**" as used in this Agreement shall include the plural as well as the singular. If there is more than one (1) Seller, then the obligations under this Agreement imposed on Seller shall be joint and several. As used in this Agreement, the term "**Agents**" when used with respect to either party shall include the agents, employees, officers, contractors, and representatives of such party. Subject to applicable law, all approvals, consents, or other determinations permitted or required by City under this Agreement shall be made by or through the General Manager of City's Public Utilities Commission or the City's Director of Property, unless otherwise provided in this Agreement.

11.9 Interpretation of Agreement

The article, section, and other headings of this Agreement and the table of contents are for convenience of reference only and shall not affect the meaning or interpretation of any provision contained in this Agreement. Whenever the context so requires, the use of the singular shall be deemed to include the plural and vice versa, and each gender reference shall be deemed to include the other and the neuter. This Agreement has been negotiated at arm's length and between persons sophisticated and knowledgeable in the matters dealt with in this Agreement. In addition, each party has been represented or had the opportunity to be represented by experienced and knowledgeable legal counsel. Accordingly, any rule of law (including California Civil Code Section 1654) or legal decision that would require interpretation of any ambiguities in this Agreement against the party that has drafted it is not applicable and is waived. The provisions of this Agreement shall be interpreted in a reasonable manner to effect the purposes of the parties and this Agreement.

11.10 Attorneys' Fees

The prevailing party in any action or proceeding to enforce or interpret, or otherwise arising out of or relating to, this Agreement or any provision of this Agreement (including but not limited to any arbitration, trial, administrative hearing, bankruptcy, or appeal) will be entitled to recover from the other party all of its costs and expenses, including but not limited to reasonable attorneys' fees and experts' fees. For purposes of this Agreement, reasonable attorneys' fees of the City's Office of the City Attorney shall be based on the fees regularly charged by private attorneys with the equivalent number of years of experience in the subject matter area of the law for which the City Attorney's services were rendered who practice in the City of San Francisco in law firms with approximately the same number of attorneys as employed by the Office of the City Attorney.

11.11 Severability

If any term or provision of this Agreement, or the application of any term or provision of this Agreement to any person or circumstances, shall to any extent be invalid or unenforceable, the remainder of this Agreement, or the application of such provision to persons or circumstances other than those as to which it is invalid or unenforceable, shall not be affected thereby, and each provision of this Agreement shall be valid and shall be enforceable to the extent permitted by law.

11.12 Sunshine Ordinance

Seller understands and agrees that under the City's Sunshine Ordinance (San Francisco Administrative Code, Chapter 67) and the State Public Records Law (Gov. Code Section 6250 et seq.), this Agreement and any and all records, information, and materials submitted to the City under this Agreement are public records subject to public disclosure. Seller hereby acknowledges that City may disclose any records, information, and materials submitted to City in connection with this Agreement.

11.13 Conflicts of Interest

Through its execution of this Agreement, Seller acknowledges that it is familiar with the provisions of Section 15.103 of the San Francisco Charter, Article III, Chapter 2 of City's Campaign and Governmental Conduct Code, and Section 87100 et seq. and Section 1090 et seq. of the Government Code of the State of California, and certifies that it does not know of any facts that would constitute a violation of those provisions, and agrees that if Seller becomes aware of any such fact during the term of this Agreement, Seller shall immediately notify City.

11.14 Notification of Limitations on Contributions

Through its execution of this Agreement, Seller acknowledges that it is familiar with Section 1.126 of the San Francisco Campaign and Governmental Conduct Code, which prohibits any person who contracts with the City for the selling or leasing any land or building to or from the City whenever such transaction would require approval by a City and County of San Francisco elective officer or the board on which that elective officer serves, from making any campaign contribution to the officer at any time from the commencement of negotiations for such contract until the termination of negotiations for such contract or three (3) months has elapsed from the date the contract is approved by the City and County of San Francisco elective officer, or the board on which that elective officer serves.

11.15 Non-Liability of City Officials, Employees and Agents

Notwithstanding anything to the contrary in this Agreement, no elective or appointive board, commission, member, officer, employee, agent, or consultant of City shall be personally liable to Seller, its successors and assigns, in the event of any default or breach by City or for any

amount that may become due to Seller, its successors and assigns, or for any obligation of City under this Agreement.

11.16 Counterparts

This Agreement may be executed in two (2) or more counterparts, each of which shall be deemed an original, but all of which taken together shall constitute one and the same instrument.

11.17 Effective Date

As used in this Agreement, the term "**Effective Date**" shall mean the date on which both parties shall have executed this Agreement provided the Agreement and the transactions contemplated by the Agreement shall have been authorized **(a)** in a manner required by law governing Seller, **(b)** by a duly adopted resolution of the City's Public Utilities Commission, and **(c)** if required by City's Charter or other applicable law, by a duly adopted resolution of the City's Board of Supervisors and Mayor.

11.18 Release of Claims

Seller, for itself, its agents, heirs, assigns, successors in interest, and any related or affiliated entities, hereby fully releases and discharges City, its agents, employees, officers, directors, divisions, attorneys, accountants, insurers, successors, and other representatives, and any and all related or affiliated private or public agencies or entities, from any and all causes of action, actions, judgments, liens, indebtedness, obligations, losses, claims, damages, expenses, liabilities, and demands, including, without limitation, any claim arising out of or pertaining, directly or indirectly, to the acquisition or use of the property interest described in this Agreement and/or the construction of any improvements thereon, including without limitation, inverse condemnation, nuisance, severance damages, relocation benefits, reestablishment benefits, the cost or value of any equipment or fixtures, attorneys' fees and costs, loss of goodwill, construction-related dust, noise, traffic, and other related construction activity, and lost rentals or business associated with construction of any improvements, and any other types of related losses or damages.

Seller acknowledges that it may hereafter discover facts or law different from, or in addition to that which it now believes to be true with respect to his/her release of claims as set forth in this Agreement, and understands that by executing this Agreement it is waiving any rights of claims for any other or future benefits or damages to which it might be entitled which are not specifically exempted in this Agreement. In giving this release, Seller expressly waives the protection of Civil Code Section 1542, which statute provides as follows:

A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS WHICH THE CREDITOR DOES NOT KNOW OR SUSPECT TO EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE RELEASE, WHICH IF KNOWN BY HIM OR HER MUST HAVE MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH THE DEBTOR.

If this Agreement is terminated this Section 11.18 shall have no force or effect.

NOTWITHSTANDING ANYTHING TO THE CONTRARY CONTAINED IN THIS AGREEMENT, SELLER ACKNOWLEDGES AND AGREES THAT NO OFFICER OR EMPLOYEE OF CITY HAS AUTHORITY TO COMMIT CITY TO THIS AGREEMENT UNLESS AND UNTIL APPROPRIATE LEGISLATION OF CITY'S PUBLIC UTILITIES COMMISSION (AND, IF REQUIRED BY CITY'S CHARTER, APPROPRIATE LEGISLATION OF CITY'S BOARD OF SUPERVISORS) SHALL HAVE BEEN DULY ENACTED APPROVING THIS AGREEMENT AND AUTHORIZING THE TRANSACTIONS CONTEMPLATED BY THIS AGREEMENT. THEREFORE, ANY OBLIGATIONS OR

LIABILITIES OF CITY UNDER THIS AGREEMENT ARE CONTINGENT UPON THE DUE ENACTMENT OF SUCH LEGISLATION.

[Signatures on next page]

The parties have duly executed this Agreement as of the respective dates written below.

SELLER:

BlueLine Rentals, LLC

By: _____
Printed
name &
Title: _____

Date: _____

By: _____
Printed
name &
Title: _____

Date: _____

CITY:

CITY AND COUNTY OF SAN FRANCISCO,
a municipal corporation

By: _____
JOHN UPDIKE
Director of Property

Date: _____

APPROVED AS TO FORM:

DENNIS J. HERRERA, City Attorney

By: _____
XXX
Deputy City Attorney

ESCROW HOLDER'S ACKNOWLEDGMENT

[Applicable only when the parties will close the transaction through an escrow]

Escrow Holder agrees to act as escrow holder in accordance with the terms of this Agreement. Escrow Holder's failure to execute below shall not invalidate the Agreement between City and Seller.

ESCROW HOLDER:

CHICAGO TITLE COMPANY

By:

[signature]

Name:

[print name]

Its:

Date:

[When Seller and City have delivered a copy of this Agreement for Purchase and Sale of Real Estate, executed by Seller and City, to escrow, Escrow Holder should sign this page and transmit a copy to Seller and City. Seller and City agree that a photocopy, scanned copy or faxed copy is adequate for this purpose.]

EXHIBIT A

TO

AGREEMENT FOR PURCHASE AND SALE OF REAL ESTATE

FORM OF QUIT CLAIM DEED

RECORDING REQUESTED BY
AND WHEN RECORDED RETURN TO:

Director of Property
Real Estate Division
City and County of San Francisco
25 Van Ness Avenue, Suite 400
San Francisco, California 94102

The undersigned hereby declares this
instrument to be exempt from Recording Fees
(Govt. Code § 27383) and Documentary
Transfer Tax (Rev. & Tax. Code §11922).

(Space above this line reserved for Recorder's use only)

QUIT CLAIM DEED

(Assessor's Parcel No. Block 5250 Lot 016)

For valuable consideration, GRANTOR, BlueLine Rentals, LLC, do hereby release and quitclaim to the City and County of San Francisco all rights, title and interest to that certain real property in the City of San Francisco, County of San Francisco, State of California, as more particularly described in Exhibit "A" attached hereto and made a part hereof.

[Remainder of page intentionally left blank.]

Executed as of this _____ day of _____, 2015.

GRANTOR:

BlueLine Rentals, LLC

By: _____
Printed name &
Title: _____

Date: _____

By: _____
Printed name &
Title: _____

Date: _____

ACCEPTED:

CITY AND COUNTY OF SAN FRANCISCO,
a municipal corporation

By: _____
John Updike
Director of Property

PUC Resolution: _____

Dated: _____

APPROVED AS TO FORM:

DENNIS J. HERRERA, City Attorney

By: _____
Brian Crossman, Deputy City Attorney

CERTIFICATE OF ACCEPTANCE

This is to certify that the interest in real property conveyed by this deed dated _____, from the Grantor to the City and County of San Francisco, is hereby accepted pursuant to Board of Supervisors' Resolution No. 18110 Series of 1939, approved August 7, 1957, and the grantee consents to recordation thereof by its duly authorized officer.

Dated: _____

By: _____
JOHN UPDIKE
Director of Property

A Notary Public or other officer completing this certificate verifies only the identity of the individual who signed the document, to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California)
)
County of _____)

SS

On _____, before me, _____, a notary public in and for said State, personally appeared _____, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.
I certify under Penalty of Perjury under the laws of the State of California that the foregoing paragraph is true and correct.
Witness my hand and official seal.

Signature _____ (Seal)

A Notary Public or other officer completing this certificate verifies only the identity of the individual who signed the document, to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California)
)
County of _____)

SS

On _____, before me, _____, a notary public in and for said State, personally appeared _____, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.
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State of California)
County of _____)

SS

On _____, before me, _____, a notary public in and for said State, personally appeared _____, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.
I certify under Penalty of Perjury under the laws of the State of California that the foregoing paragraph is true and correct.
Witness my hand and official seal.

Signature _____ (Seal)

A Notary Public or other officer completing this certificate verifies only the identity of the individual who signed the document, to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California)
County of _____)

SS

On _____, before me, _____, a notary public in and for said State, personally appeared _____, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.
I certify under Penalty of Perjury under the laws of the State of California that the foregoing paragraph is true and correct.
Witness my hand and official seal.

Signature _____ (Seal)

Exhibit A
Legal Description

5250

O'NEAL & HALEY BLKS 136 & 170
BLOCK RENUMBERED 1953

SCALE: 1"=60'-0"

© COPYRIGHT SAN FRANCISCO
CITY & COUNTY ASSESSOR 1935

REVISED '63
" '64
" '65
REVISED '68
" '69
" '92

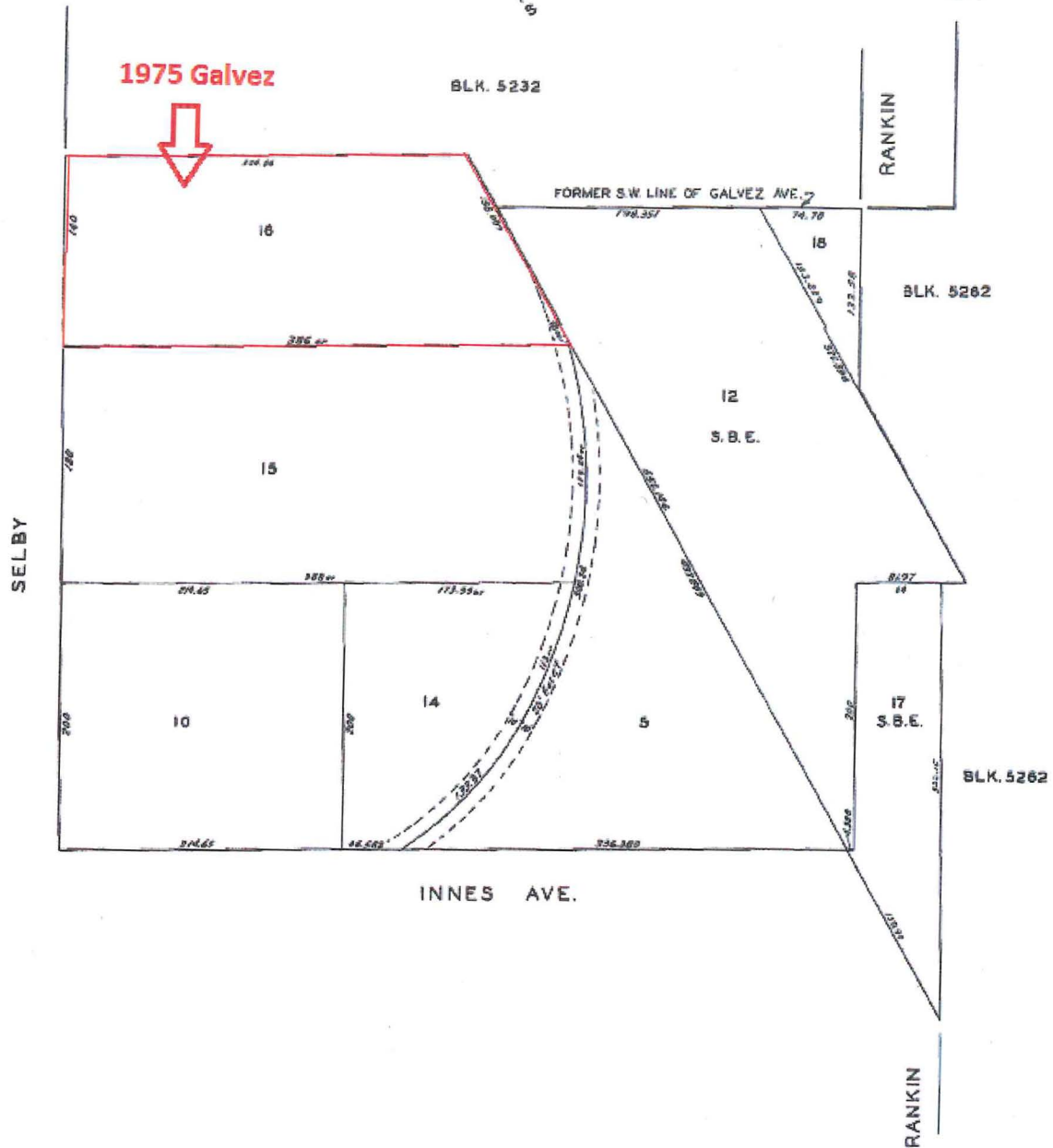


EXHIBIT B

TO

AGREEMENT FOR PURCHASE AND SALE OF REAL ESTATE

COPY OF LEASE AGREEMENT

LEASE AGREEMENT

THIS LEASE AGREEMENT ("Lease") made and entered into this the 25th day of September, 2012, by and between W.Y.L. Five Star Service Industries, Inc., a California corporation (the "Lessor"), and Volvo Construction Equipment Rents, Inc., a Delaware corporation (the "Lessee").

RECITALS

- A. Lessor is the fee owner of the Premises (defined in Section 1 below).
- B. Lessee has entered into a Asset Purchase Agreement, dated September 26, 2012 (the "APA") with Lessor ("Existing Lessee") in which Lessee is purchasing the Lessor's construction equipment rental business that Lessor was conducting from the Premises.
- C. The APA is subject to the execution of a new lease agreement with Lessor to lease the Premises. Lessor and Lessee have opened escrow with Wall, Esteeck, and Babcock LLP and have agreed to close escrow on approximately September 26, 2012 (such date shall be referred to as "Close of Escrow").
- D. Provided that the transaction referenced in Paragraph B & C above is consummated, Lessor desires to lease the Premises to Lessee, and Lessee desires to lease the Premises from Lessor pursuant to the terms, covenants and conditions set forth below.

W I T N E S S E T H:

1. **PREMISES.** Lessor, for the consideration of the rents, covenants, agreements and stipulations herein contained to be kept and performed by Lessee, hereby agrees to lease to Lessee and Lessee hereby agrees to hire from Lessor, at the rent and upon the conditions herein set forth, the certain real property, including all improvements therein and commonly known as 1975 Galvez Avenue, San Francisco, California, Assessor's Parcel Number 5250-016 in the San Francisco County Records (the "Premises"). The Premises are delivered subject to any and all easements in place as of the date of this Lease.

2. **USE.** The Premises shall be used and occupied by Lessee in connection with its business of Construction Equipment Rental or any other legal use which is reasonable comparable thereto, and for no other purposes without first obtaining Landlord's prior written consent, which shall not be unreasonably withheld. Lessee shall not use or permit the use of the Premises in a manner that is unlawful, creates damage, waste, or a nuisance, or that disturbs the occupants of or causes damage to neighboring premises or properties.

3. **CONDITION PRECEDENT.** This Lease shall be subject to the completion and closing of the transaction set forth in the APA between Lessor and Lessee. Should completion and closing of the transaction set forth in the APA not take place, then this Lease shall be null and void. Lessor shall have no liability to Lessee under this Lease whatsoever

if the closing of the APA does not take place.

4. **TERM.** The term of this Lease shall be for 5 years to commence on Close of Escrow ("Term Commencement Date"), and to terminate five (5) years after the Term Commencement Date, or should the Term Commencement Date Fall on a date other than the first day of the month, the Lease shall expire five (5) years after the first day of the month next following the Term Commencement Date. Lessee shall surrender the Premises to Lessor immediately upon the termination of the Lease term in broom clean and free of debris, and in good working order, repair and condition, except for reasonable wear and tear. In no event shall HVAC equipment, plumbing or sprinkler system components, air lines, power panels, electrical distribution systems, lighting fixtures, fencing or any other component from any major building system be removed from the Premises. Any furniture or personal property left on the Premises after Lessee has surrendered possession shall be deemed abandoned and shall become property of Lessor. Provided that Lessee is not in default in the performance of this Lease, Lessee shall have two (2) successive options to extend the Lease for a period of five (5) years each (each an "Option Term") effective upon the expiration of the initial term. In order to exercise the Option Term, Lessee must deliver to Lessor written notice of its election to exercise the Option Term not less than 90 days prior to the expiration of preceding term of the Lease. All of the terms and conditions of the Lease shall apply during the renewal term, except that the Base Rent payable hereunder shall be increased on the commencement of each Option Term by two percent (2%), and again on each anniversary of the commencement of the Option Term by two percent (2%). The period of time during which the Option Term must be exercised may not be extended or expanded by reason of Lessee's failure to exercise its Option Term, or its inability to exercise its Option Term due to the provisions of this section. Failure to exercise the first Option Term on time shall render both Option Terms void and null.

5. **BASE RENT.** Lessee agrees to pay Lessor as monthly rental for the use of the above described Premises the sum of thirteen thousand four hundred dollars (\$13,400.00) ("Base Rent"). The amount of Base Rent payable hereunder shall be adjusted annually by a two percent (2%) increase over the Base Rent previously in effect, such adjustments to occur on the first anniversary of the Term Commencement Date (or if the Term Commencement Date does not fall on the first of the month, then the first adjustment date shall be on the first day of the month next following the Term Commencement Date) and each anniversary of the first adjustment date thereafter.

6. **ADDITIONAL RENT.** Lessee agrees to pay as rent, in addition to the Base Rent reserved in Paragraph 5 hereinabove, the following:

6.1 All ad valorem property taxes and all other assessments, bonds, levies, or fees (other than inheritance, personal income, or estate taxes) levied against the Premises for any year during the term of this Lease, or any renewal thereof. Payment, to Lessor, for the taxes shall be due 30 days after receipt of the original tax notice by Lessee. In the event that such taxes are assessed for a tax year extending beyond the term of the Lease, the obligation of Lessee shall be proportionate to the portion of the Lease Term included in such year. Lessor shall provide Lessee proof of payment of taxes due 30 days after receipt of tax payment from Lessee; and

6.2 If any installment of Rent (as defined in Paragraph 6 below) is not paid within ten (10) days after the

date such Rent is due, Lessee shall pay to Lessor, in addition to the installment of Rent then owing, a late payment charge equal to five percent (5%) of the amount of the delinquent installment, regardless of whether a notice of default or notice of termination has been given by Lessor. The parties agree that this late charge represents a reasonable estimate of the costs and expenses incurred by Lessor from the late payment, and is fair compensation to Lessor for its loss suffered by such nonpayment by Lessee. ; and

6.3 If Lessee pays any amount to Lessor by means of a check on an account with insufficient funds, in addition to any other rights and remedies available to Lessor with respect to such default, Lessor shall have the right to charge Lessee the amount of twenty-five dollars (\$25.00) for the first check passed on insufficient funds and an amount of thirty-five dollars (\$35.00) for each subsequent check to that payee passed on insufficient funds. Nothing in this paragraph shall relieve Lessee of its obligation to pay any Rent at the time and in the manner provided by this Lease or constitute a waiver of any default of Lease with regard to any nonpayment of Rent.

7. **DEFINITION OF RENT.** As used in this Lease, the term "Rent" shall include: (i) the Base Rent; (ii) Additional Rent; and (iii) all other amounts which Lessee is obligated to pay under the terms of this Lease, including, without limitation, any and all sums which may become due by reason of the failure of Lessee to comply with all covenants of this Lease, Lessee agreeing to pay any and all damages, costs or expenses which Lessor may suffer or incur by reason of any default of Lessee or failure on its part to comply with the covenants of this Lease. Lessee shall pay to Lessor the Rent at an address designated by Landlord in advance on or before the first day of each month. Rent for any portion of a month shall be prorated on the basis of a thirty (30) day month. All Rent payable hereunder shall be paid in lawful money of the United States and without prior notice or demand, deduction or offset for any causes whatsoever.

8. **LESSEE'S RIGHT TO ALTER AND IMPROVE.** Provided that Lessee obtains Lessor's prior written consent, which shall not be unreasonably withheld, conditioned or delayed, Lessee shall have the right at its own expense from time to time during the lease term to improve or alter the building which forms a part of the Premises in such a manner as shall be reasonably necessary or appropriate in Lessee's judgment for Lessee's conduct thereon of its business. Upon termination of this Lease, such improvements shall be the property of Lessor. Lessee agrees that all additions or improvements of whatsoever kind or nature made to the Premises other than furniture and movable fixtures, shall belong to and become the property of Lessor upon the expiration of the Term of this Lease or sooner termination thereof, unless Lessor requests their removal, in which event Lessee shall remove the same and restore the Premises to their condition as of the date of Lessor's delivery of possession of the Premises to Lessee, at Lessee's expense. Lessee shall promptly pay and discharge all claims for work or labor done, supplies furnished or services rendered and shall keep the Premises and Property free and clear of all mechanic's and materialmen's liens in connection therewith. If any such lien is filed, Lessee will pay the amount necessary to discharge the lien or bond around the lien, otherwise Lessor may, but shall not be required to, take such action or pay such amount as may be necessary to remove such lien; and, Lessee shall pay to Lessor, upon demand, any such amounts expended by Lessor in discharging such lien, together with interest at the maximum allowable interest rate permitted by law from the date of the expenditure by Lessor to the date of repayment by Lessee.

9. INSURANCE.

9.1 During the term of the Lease and for any further time that Lessee shall hold the Premises, Lessee shall obtain and maintain at its sole expense the following types and amounts of insurance:

- (A) Lessee shall keep all buildings, improvements and equipment on the demised Premises, including all alterations, additions, and improvements, insured against loss or damage by fire, with all standard extended coverage that may be required by any mortgagee of Lessor. The insurance shall be equal to the greater of the full insurable replacement cost of the Premises or the requirement required by any mortgage of Lessor. If at any time there is a dispute as to the amount of such insurance, the same shall be settled by arbitration;
- (B) Lessee shall provide insurance against liability for bodily injury and property damage and machinery insurance, all to be in amounts and in forms of insurance policies as may from time to time be required by Lessor. This requirement shall specifically include plate glass insurance, covering the glass in the Premises. Absent any other determination by Lessor, the minimum amount of such insurance shall be \$1,000,000.00 for any one occurrence with an annual aggregate of not less than \$ 2,000,000; and
- (C) Lessee shall provide and keep in force the following insurance in the operation of its business:
 - (i) Lessee shall obtain and maintain insurance coverage on all of Lessee's personal property, trade fixtures, and Lessee owned alterations and utility installations. Such insurance shall be at full replacement cost and with a deductible of no less than \$5,000 per occurrence. The proceeds of any such insurance shall be used by Lessee in accordance with this paragraph.
 - (ii) Lessee shall obtain and maintain worker's compensation insurance in such amount as may be required by law.

9.2 All insurance policies shall name Lessor as an additional named insured. Any policy or policies of insurance, which either party obtains in connection with the Premises, shall, to the extent the same can be obtained without undue expense, include a clause or endorsement denying the insurer any rights of subrogation against the other party to the extent rights have been waived by the insured prior to the occurrence of injury or loss. If requested by Lessor, any insurance against fire or other casualty shall provide that loss shall be payable to the holder of Lessor's Mortgage or other security interest under a standard mortgage clause. All insurance shall be written with responsible companies, and Lessee shall provide appropriate certificates of insurance to Lessor and the holder of any mortgage or

other security interest in the Premises promptly upon request. All policies shall require ten (10) days notice by registered mail to Lessor and to any mortgagee of Lessor of any cancellation change affecting any interest of Lessor or any mortgagee of Lessor.

10. AFFIRMATIVE COVENANTS AND RESPONSIBILITIES OF LESSEE. Lessee covenants and agrees that Lessee will, without demand:

10.1 Pay prior to delinquency any and all taxes and assessments against and levied upon trade fixtures, furnishings, equipment, and personal property contained in the Premises. Whenever possible, Lessee shall cause such items to be assessed and billed separately from the real property portion of the Premises. Lessee shall be responsible for any taxes and assessments attributable to any such items assessed against the real property portion of the Premises.

10.2 Procure and maintain, at Lessee's sole cost and expense, all HVAC, utilities and services required or desired by Lessee for its use and occupancy of the Premises, including, without limitation, water, sewer, gas, electricity, telephone, internet, janitorial, waste disposal services, and recycling services. Lessee shall make payment for any such services directly to the person or entity supplying such services. Lessor shall not be liable for any claims, costs or damages, including without limitation, loss or injury to person or property, and Lessee shall not be entitled to any reduction or abatement of rent or other charges hereunder, on account of any unavailability of, or interruption in, the utilities and services described in this paragraph.

10.3 Keep the Premises reasonably clean and free from all rubbish, ashes, debris, dirt and other matter;

10.4 At Lessee's own expense maintain the Premises in good repair, and in at least as good condition as that in which they were delivered, allowing for ordinary wear and tear, which shall include, without limitation, the maintenance and repair of the following: repair or replacement of (a) any structural components including, without limitation, load bearing walls and floor slabs and masonry walls and foundations (but excluding roof and roof membranes which shall be maintained by Lessor), (b) the plumbing system, (c) the electrical system, (d) the utility lines and connections to the Premises, (e) the sprinkler mains, if any, (f) the heating, ventilation, and air conditioning system (but only to the extent that if the HVAC System cannot be repaired other than at a cost which is in excess of fifty percent (50%) of the cost of replacing the HVAC system, then the HVAC system shall be replaced by Lessor), (g) fixtures, (h) interior walls, (i) windows and skylights, (j) doors, (k) plate glass, (l) landscaping, (m) driveways and parking lots, (n) fences, (o), signs, (p) sidewalks and parkways located in, on, or adjacent to the Premises, and (q) all other areas of the Premises that would normally be repaired by a tenant in a single-tenant industrial lease agreement. If Lessee fails to perform Lessee's obligations under this Paragraph 7.1, Lessor may enter upon the Premises after ten (10) days prior written notice to Lessee (except in the case of emergency in which case no notice shall be required) to perform such obligations on Lessee's behalf, and put the Premises in good order, condition and repair, and Lessee shall pay to Lessor a sum equal to 110% of the cost thereof.

10.5 Comply with any requirements of any government authority, and with the terms of any state or federal statutes or local ordinances or regulations applicable to Lessee to or for Lessee's use of the Premises and save Lessor

harmless from penalties, fines, costs or damages resulting from the failure to do so;

10.6 Give to Lessor prompt written notice of any accident involving persons other than agents or employees of Lessee, fire or damage occurring on or to the Premises;

10.7 At the termination of this Lease, remove any signs, improvements of a non-permanent nature, projections or devices placed upon the Premises at or prior to the expiration of this Lease. In case of breach of this covenant, in addition to all other remedies given to Lessor in case of breach of any condition or covenant of this Lease, Lessor shall have the privilege of removing said improvements, signs, projections, or devices and Lessee, at Lessor's option, shall be liable to Lessor for any and all expenses so incurred by Lessor;

10.8 Comply with all laws, and all applicable Environmental Laws which is defined as all federal, state, and local laws, rules, regulations, codes, plans, injunctions, judgments, orders, decrees, rulings, and charges thereunder and other governmental requirements relating to pollution, control of chemicals, storage and handling of petroleum products, management of waste, discharges of materials into the environment, health, safety, natural resources, and the environment, including laws relating to emissions, discharges, releases, or threatened release of pollutants, contaminants or chemical, industrial, hazardous, or toxic materials or wastes into ambient air, surface water, ground water, on lands or otherwise relating to the manufacture, processing, distribution, use, treatment, storage, disposal, transport, or handling of pollutants, contaminants, or chemical, industrial, hazardous, or toxic materials or waste. Lessee may have a Phase I Environmental Site Assessment performed prior to commencing operations. Lessee shall also notify Lessor if Lessee knows or has reason to know (or has reasonable cause to believe) that a hazardous substance has come to be located in, on, under or about the Premises, and shall provide lessor with any notices, reports, claim or other related documentation regarding the presence of such hazardous substance.

10.9 Indemnify Lessor against all expenses, liabilities, damages, loss of rents, penalties, and claims of any kind, including reasonable attorney's fees, by or on behalf of any person or entity arising out of or involving either:

- (A) A failure by Lessee to perform any of the terms or conditions of this Lease;
- (B) Any injury or damage happening on or about the demised Premises;
- (C) Any hazardous substance brought onto the Premises by or for Lessee, or any third party, in which case Lessee's obligations shall include, without limitation, the effects of any contamination or injury to person, property, or the environment created or suffered by Lessee, and the cost of investigation, removal, remediation, restoration and/or abatement, and shall survive the expiration or termination of this lease (no termination, cancellation, or release agreement entered into by Lessee and Lessor shall release Lessee from its obligations under this Lease with regards to hazardous substances, unless specifically so agreed to by Lessor in writing at the time of such agreement);

- (D) Failure to comply with any law of any governmental authority; or
- (E) Any mechanic's lien or security interest filed against the Premises as a result of any actions or conduct of Lessee at or with respect to the Premises; and

10.10 Secure any and all governmental and quasi-governmental permits for such use as Lessee intends to make of the Premises, and upon obtaining such permit, Lessee shall not use the demised Premises in any manner not inconsistent with or in violation of such permit.

11. **NEGATIVE COVENANTS OF LESSEE.** Lessee covenants and agrees that it will do none of the following things without the consent in writing of Lessor first had and obtained:

11.1 Occupy the Premises in any other manner or for any other purpose other than as set forth herein; and

11.2 Assign, mortgage or pledge, or sublease this Lease; nor shall any assignee assign, mortgage, pledge or sublease this Lease without the written consent by the Lessor, and without such consent no such assignment, mortgage, pledge or sublease shall be valid. Lessor will not unreasonably withhold such consent.

12. **ADDITIONAL COVENANTS:**

12.1 If the Premises are totally destroyed by storm, fire, lightning, earthquake or other casualty, this Lease, and all rights and obligations arising hereunder, shall terminate as of the date of such destruction, and rental shall be accounted for as between Lessor and Lessee as of that date. If the Premises are damaged but not totally destroyed by any of such casualty, rent shall abate in such proportion as use of the Premises has been destroyed, and Lessor shall restore the Premises to substantially the same condition as before such damage, whereupon full rental shall resume. For purposes of this section, damage to the Premises to the extent that full repairs cannot be made within 120 days after the date of the damage or destruction, shall be deemed to be a total destruction of the Premises.

12.2 Lessor shall not be liable for any damage, compensation or claim by reason of inconvenience or annoyance arising from the necessity of repairing any portion of the building, the interruption of the use of the Premises, or the termination of this Lease by reason of the destruction of the Premises.

12.3 Lessee acknowledges that Lessee has conducted or has had the opportunity to conduct a comprehensive investigation ("Due Diligence Investigation") of the Premises and all other matters which in Lessee's judgment may affect the value or suitability of the Premises for Lessee's purposes or which may influence Lessee's willingness to enter into this Lease. Lessee agrees that Lessee (i) accepts the Premises "as is" and with all faults; (ii) neither Lessor nor any of its officers, agents, employees or representatives has made any representations or warranties of any kind or nature, whether express or implied, with respect to the Premises or any of the matters relating thereto, except for those representations or warranties (if any) as may be expressly set forth in this Lease or the APA; (iii)

Lessee is relying on Lessee's own familiarity with the Premises, together with such further investigations as Lessee has deemed appropriate; (v) expressly waives the implied warranty of habitability and suitability for a particular purpose as may be provided by law; and (vi) Lessor shall not be required to perform any work of construction, alteration, repair or maintenance of or to the Premises. If Lessor obtains or has obtained or provides to Lessee any services, opinions, or work product of surveyors, architects, soil engineers, environmental auditors, engineers, title insurance companies, governmental authorities or any other person or entity with respect to the Premises, Lessee and Lessor agree that Lessor does so only for the convenience of the parties, Lessor does not vouch for the accuracy or completeness of any such items, and the reliance of Lessee upon any such items shall not create or give rise to any liability of or against Lessor.

12.4 It is hereby covenanted and agreed by and between the parties that any law, usage or custom to the contrary notwithstanding, Lessor shall have the right at all times to enforce the covenants and provisions of this Lease in strict accordance with the terms hereof, notwithstanding any conduct or custom on the part of Lessor in refraining from so doing at any time or times, and further, that the failure of Lessor at any time or times to enforce Lessor's right under said covenants and provisions strictly in accordance with the same shall not be construed as having created a custom in any way or manner contrary to the specific terms, provisions or covenants of this Lease, or as having in any way or manner modified the same. No failure by Lessor to insist upon the strict performance of any term hereof or to exercise any right or remedy consequent upon a breach thereof, and no acceptance of full or partial payment of rent during the continuance of any such breach shall constitute a waiver of any such breach or of any such term. Efforts by Lessor to mitigate the damages caused by Lessee's breach of this Lease shall not be construed to be a waiver of Lessor's right to recover damages under this Lease.

12.5 Since compliance with the Americans with Disabilities Act of 1990, 42 USC sections 12101 et seq. ("ADA") is dependent upon Lessee's specific use of the Premises, Lessor makes no warranty or representation as to whether or not the Premises comply with ADA or any similar legislation. Lessee shall be solely responsible for compliance with and shall make or cause to be made all such improvements and alterations to the Premises (including, without limitation, removing such barriers and providing such alternative services) as shall be required by the ADA, as the same may be amended from time to time, or by any similar or successor law and the rules promulgated thereunder.

12.6 Lessor warrants and guarantees, for a period of ninety (90) days FROM THE TERM COMMENCEMENT DATE, that the HVAC, plumbing, wash rack and other electrical and mechanical systems on the Premises will be free from defect and are in good working order, normal wear and tear excepted.

12.7 In the event of any subsurface excavation (including trenching), Lessor and Lessee agree to utilize a site soil management plan.

13. EVENTS OF DEFAULT. The occurrence of any of the following shall constitute Events of Default:

13.1 Any part, portion or component of the Rent, or any other sums payable under this Lease are not received within three (3) days of the due date;

13.2 The Premises are deserted, vacated, or not used as regularly or consistently as would normally be expected for similar premises (which shall be defined as the failure to be open for business at the Premises for a period of ten (10) continuous days), even though Lessee may continue to pay Rent;

13.3 Any petition is filed by or against Lessee under any section or chapter of the Federal Bankruptcy Code, and, in the case of a petition filed against Lessee, such petition is not dismissed within thirty (30) days after the date of such filing;

13.4 Lessee becomes insolvent or transfers property in fraud of creditors;

13.5 Lessee makes an assignment for the benefit of creditors;

13.6 A receiver is appointed for any of the Lessee's assets; or

13.7 Lessee breaches or fails to comply with any term, provision, condition or covenant of this Lease, other than the payment of Rent.

14. LESSOR'S REMEDIES.

14.1 If Lessee vacates or abandons the Premises, this Lease shall continue in effect unless and until terminated by Lessor in writing, and Lessor shall have all of the rights and remedies provided by Section 1951.4 of the California Civil Code (i.e. Lessor may continue this Lease in effect after Lessee's breach and abandonment and recover Rent as it becomes due, if Lessee has the right to sublet or assign subject only to reasonable limitations).

14.2 Following the occurrence of any Event of Default, Lessor shall have the right, so long as the default continues, to terminate this Lease by written notice to Lessee setting forth: (i) the default; (ii) the requirements to cure it; and (iii) a demand for possession, which shall be effective three (3) days after it is given. Lessor shall not be deemed to have terminated this Lease other than by delivering written notice of termination to Lessee.

14.3 Following termination of the Lease, without prejudice to any other remedies Lessor may have by reason of Lessee's default or of such termination, Lessor may then or at any time thereafter (i) peaceably reenter the Premises, or any part thereof, upon voluntary surrender by Lessee, or, expel or remove Lessee and any other persons occupying the Premises, using such legal proceedings as may be available; (ii) repossess and enjoy the Premises, or relet the Premises or any part thereof for such term or terms (which may be for a term extending beyond the Term), at such rental or rentals and upon such other terms and conditions as Lessor in Lessor's sole discretion shall determine, with the right to make reasonable alterations and repairs to the Premises; and (iii) remove all personal property from the Premises.

14.4 Following termination of the Lease, Lessor shall have all the rights and remedies of a Lessor provided by Section 1951.2 of the California Civil Code which provides that Lessor may recover from Lessee the following: (i) the worth at the time of the award of the unpaid rent which had been earned at the time of termination; (ii) the worth at the time of the award of the amount by which the unpaid rent which would have been earned after termination until the time of the award exceeds the amount of such rental loss that Lessee proves could have been reasonably avoided; (iii) the worth at the time of the award of the amount by which the unpaid rent for the balance of the Term (or extension thereof, if applicable) after the time of award exceeds the amount of such rental loss that Lessee proves could be reasonably avoided; and (iv) any other amount necessary to compensate Lessor for all detriment proximately caused by Lessee's failure to perform Lessee's obligations under the Lease or which in the ordinary course of things would be likely to result therefrom. The "worth at the time of award" of the amounts referred to in (i) and (ii) of this subsection, shall be computed by allowing interest at the Interest Rate. The "worth at the time of the award" of the amount referred to in (iii) above shall be computed by discounting such amount at the discount rate of the Federal Reserve Bank of San Francisco at the time of award plus one percent (1%).

14.5 If Lessee causes or threatens to cause a breach of any of the covenants, terms or conditions contained in this Lease, Lessor shall be entitled to retain all sums held by Lessor, any trustee or in any account provided for herein, to enjoin such breach or threatened breach, and to invoke any remedy allowed at law, in equity, by statute or otherwise as though re-entry, summary proceedings and other remedies were not provided for in this Lease.

14.6 Each right and remedy of Lessor provided for in this Lease shall be cumulative and shall be in addition to every other right or remedy provided for now or hereafter existing at law, in equity, by statute or otherwise. The exercise or beginning of the exercise by Lessor of any one or more of the rights or remedies provided for in this Lease, or now or hereafter existing at law, in equity, by statute,

or otherwise, shall not preclude the simultaneous or later exercise by Lessor of any or all other rights or remedies provided for in this Lease or now or hereafter existing at law, in equity, by statute, or otherwise.

14.7 No failure by Lessor to insist upon the strict performance of any term hereof or to exercise any right or remedy consequent upon a breach thereof, and no acceptance of full or partial payment of rent during the continuance of any such breach shall constitute a waiver of any such breach or of any such term. Efforts by Lessor to mitigate the damages caused by Lessee's breach of this Lease shall not be construed to be a waiver of Lessor's right to recover damages under this Section.

14.8 Upon Lessee's failure to perform any obligation of Lessee hereunder shall have the right, but not the obligation, to perform such obligations of Lessee on behalf of Lessee and/or to make payment on behalf of Lessee to such parties. Upon demand, Lessee shall reimburse Lessor for the cost of Lessor's performing such obligations on Lessee's behalf, including, without limitation, reimbursement of any amounts that may be expended by Lessor and Lessor's reasonable attorneys' fees, plus the maximum interest rate allowable by law, from the date of any such expenditure until the same is repaid.

14.9 For purposes of any unlawful detainer action by Lessor against Lessee pursuant to California Code of Civil Procedure Sections 1161 through 1179, or any similar or successor statutes, Lessor shall be entitled to recover as Rent not only such sums specified as the Monthly Base Rent which may then be overdue, but also any and all additional sums of money as may then be overdue.

14.10 Lessor's exercise of any one or more of the remedies set forth in this Section shall not affect the rights of Lessor or the obligations of Lessee under the indemnification set forth in Section 16.1 hereof.

14.11 Lessor shall be under no obligation to observe or perform any covenant of this Lease on its part to be observed or performed which accrues after the date of any Event of Default, and for so long as the Event of Default continues.

15. LESSOR'S DEFAULT.

In the event of a default by Lessor in the performance of any of its obligations under this Lease, Lessee shall deliver written notice to Lessor specifying, in detail sufficient for Lessor to correct such default, the default by Lessor. Lessor shall have thirty (30) days from receipt of Lessee's notice, which thirty (30) days shall be extended for a reasonable period of time if such matter is not reasonably susceptible to cure within such 30 day period provided Lessor is diligently pursuing to cure any such default. If any such default set forth in Lessee's notice remains uncured after the aforesaid time period, Lessee shall have all rights and remedies available to it at law and equity, except that in no event shall Lessee be entitled to offset Rent due hereunder in order to recoup expenses or losses claimed by Lessee in connection with such default by Lessor.

16. LEASE CONTAINS ALL AGREEMENTS.

It is expressly understood and agreed by and between any parties hereto that this Lease and the Exhibits attached hereto and forming a part hereof, set forth all of the promises, agreements, conditions and understandings between Lessor, or Lessor's agents, and Lessee relative to the demised Premises, and that there are no promises, agreements, conditions or understandings, either oral or written, between them other than as set forth herein. It is further understood and agreed that, except as herein otherwise provided, no subsequent alteration, amendment, charge or addition to this Lease shall be binding upon Lessor or Lessee unless reduced to writing and signed by them.

17. PARTIES BOUND.

All rights and liabilities herein given to, or imposed upon, the respective parties hereto shall extend to and bind the several and respective heirs, executors, administrators, successors and assigns of said parties, and if there shall be more than one Lessee, they shall all be bound jointly and severally by the terms, covenants and agreements herein, and the word "Lessee" shall be deemed to and taken to mean each and every person or party mentioned as a Lessee herein, be the same one or more; and if there shall be more than one Lessee, any notice required or permitted by the terms of this Lease shall be given by or to anyone thereof, and shall ever have the same force and effect as if given by or all thereof. The word "his" and "him" and "her", wherever stated herein shall be deemed to refer to the "Lessor" and "Lessee" whether such Lessor and Lessee be singular or plural and irrespective of gender. No rights, however, shall inure to the benefit of any assignee of Lessee unless the assignment to such assignee has been approved by Lessor in writing as herein provided.

18. SUBORDINATION. This Lease and all rights of Lessee hereunder shall be subject and subordinate to the lien of any mortgagee of Lessor. While this paragraph is self-operative, and no further instrument of subordination shall be necessary, Lessee shall, in confirmation of such subordination, upon demand at any time or times, execute, acknowledge and deliver to Lessor or any mortgagee of Lessor any and all instruments requested by either of them to evidence such subordination. Lessee shall, upon demand, at any time or times, execute, acknowledge, and deliver to Lessor or any mortgagee of Lessor, without expense, any and all instruments that may be necessary to make this Lease subordinate to the lien of any mortgagee of Lessor. If a holder of any mortgage of Lessor shall hereafter succeed to the rights of Lessor under this Lease, Lessee shall, at the option of such holder, attorn to and recognize such successor as Lessee's landlord under this Lease and shall promptly execute and deliver any instrument that may be necessary to evidence such attornment. Upon such attornment, this Lease shall continue in full force and effect as a direct lease between each successor Lessor and Lessee, subject to all of the terms, covenants and conditions of this Lease. If Lessee fails at any time to execute, acknowledge and deliver any of the instruments provided for by this paragraph within ten (10) days after Lessor's notice so to do, Lessor, in addition to the remedies allowed by this Lease may execute, acknowledge and deliver any and all of such instruments as the attorney-in-fact of Lessee and in its name, place and stead, and Lessee hereby irrevocably appoints Lessor, its successors and assigns as such attorney-in-fact.

19. NOTICES.

19.1 Except for legal process which may also be served as by law provided, all notices required or desired to be given with respect to this Lease shall be in writing and shall be deemed to have been given when hand delivered or three (3) days after deposited, postage prepaid, with the United States Postal Service (or its official successor), certified, return receipt requested, properly addressed as follows:

To Lessee:

Volvo Construction Equipment Rents, Inc
127 Walnut Bottom Road
Shippensburg, PA 17257
Attn: Evan Brumm
Vice President and CF

With a copy going to:

Volvo Construction Equipment Rents, Inc.
127 Walnut Bottom Road
Shippensburg, PA 17257
Attn: Jeff Dunlop
General Counsel

To Lessor:

W.Y.L. Five Star Service Industries, Inc., a California corporation
c/o James Lew
26 Dorantes Avenue
San Francisco, CA 94116

Such addresses may be changed from time to time by either party by notice to the other.

19.2 Lessee hereby designates and appoints as its agent to receive notice of all dispossessory or distraint proceedings the person in charge of or occupying the Premises at the time such notice is given, or, if there is no such person, then such service of notice may be made by attaching it on the main entrance of the Premises.

20. **HOLDING OVER.** If Lessee shall, with Lessor's written consent, remain in possession of the Premises or any part thereof after the expiration of the Term hereof, such occupancy shall constitute a tenancy from month to month, terminable upon thirty (30) days notice by either party, upon all of the terms, covenants and conditions of this Lease, except that the Base Rent shall be increased to one hundred twenty five percent (125%) of the Monthly Base Rent in effect immediately prior to such expiration. Otherwise, any such occupancy shall constitute a tenancy at sufferance, and Lessee shall be liable to Lessor for any and all claims, damages, liabilities, costs and expenses (including attorneys' fees and expenses) incurred by Lessor and arising out of Lessee's failure to timely surrender the Premises in accordance with the requirements of this Lease.

21. **INDEMINIFICATION**

(A) Lessor and Lessee each represents and warrants to the other that no broker, agent, commission salesman or other person has represented the warranting party in the negotiations for and procurement of this Lease and of the Premises, and that no commissions, fees or compensation of any kind are due and payable in connection herewith to any such person or entity. Each party further warrants that any compensation arrangement with the parties excepted from the foregoing warranty has been reduced to writing in its entirety in a separate agreement signed simultaneously with or before this Lease by the party against whom the commission or compensation is charged.

(B) Lessee hereby releases and shall indemnify, defend with counsel acceptable to Lessor, and hold Lessor, and its officers, directors, employees and agents, harmless from and against any and all liabilities, penalties, losses, damages, costs and expenses, demands, causes of action, claims or judgments (including, without limitation, attorneys' fees and expenses) (collectively, "Claims") arising, claimed or incurred against or by Lessor, or its officers, directors, employees or agents, from any matter or thing arising from (i) the use or occupancy of the Premises by Lessee or any sublessee or assignee of Lessee, or any of their respective officers, directors, employees, agents, licensees and invitees, the conduct of Lessee's business, or from any activity, work or other thing done, permitted or suffered by Lessee in or about the Premises; (ii) any accident, injury to or death of Lessee and/or its officers, directors, employees, agents, invitees or

licensees or any other person or loss of or damage to property of Lessee or any such persons occurring on or about the Premises or any part thereof during the term hereof; (iii) any breach or default in the performance of any obligation on Lessee's part or to be performed under the terms of this Lease; or (iv) the performance of any labor or services or the furnishing of any materials or other property in respect of the Premises or any part thereof at the request of Lessee, or its officers, directors, agents and employees; provided that Lessee shall have no obligation to indemnify, defend and hold Lessor harmless from and against any Claims resulting solely from the gross negligence or willful misconduct of Lessor. Notwithstanding any provision hereof to the contrary, the indemnification provided in this Section shall survive any termination of this Lease or expiration of the Term hereof. Lessee shall give prompt notice to Lessor in case of casualty or accidents known to Lessee on or about the Premises.

(C) Lessor shall indemnify, defend and hold Lessee, its officers, directors, employees and agents harmless from and against any and all liabilities, penalties, losses, damages, costs and expenses, demands, causes of action, claims or judgments due solely to the gross negligence or willful misconduct of Lessor.

22. **ATTORNEYS' FEES/WAIVER OF JURY TRIAL.** If any party commences an action against the other party arising out of or in connection with this Lease, (a) the prevailing party shall be entitled to recover from the losing party the cost and expenses of such action, including reasonable collection fees, attorneys' fees (including without limitation the allocated cost of in-house counsel) and court costs; and (b) the parties agree that the matter shall be tried by the court without a jury, and each party specifically waives the right to a jury trial in any such action.

23. **LIMITATION OF LESSOR'S LIABILITY.** The obligations of Lessor under this Lease shall not constitute personal obligations of the individual partners, directors, officers, or shareholders of Lessor, and Lessee shall look solely to the real estate that is the subject of this Lease and to no other assets of Lessor for satisfaction of any liability in respect of this Lease and shall not seek recourse against the individual partners, directors, officers or shareholders of Lessor or any of their personal assets for such satisfaction.

24. **RECORDING.** This Lease shall not be recorded by Lessee without Lessor's consent endorsed hereon, however, a Memorandum of this Lease may be recorded by Lessee or Lessor only upon agreement in writing by both parties.

25. **ESTOPPEL CERTIFICATE.** At any time and from time to time, and, on or before the date specified in a request therefore made by Lessor, which date shall not be earlier than ten (10) days from the making of such request, Lessee shall execute, acknowledge and deliver to Lessor a certificate evidencing:

25.1 Whether or not this Lease is in full force and effect;

25.2 Whether or not this Lease has been amended in any way;

25.3 Whether or not there are any existing defaults on the part of Lessor hereunder to the knowledge of Lessee and specifying the nature of such defaults, if any; and

25.4 The Base Rent amount at that time, and date to which Rent has been paid; and

25.5 Any other information that may be reasonably pertinent to a lender or a buyer of Lessor's interest in the Premises.

Each certificate delivered pursuant to this Paragraph may be relied on by any prospective purchaser or transferee of Lessor's

interest hereunder or of any part of Lessor's property or by any holder or prospective holder of any mortgage of Lessor, or a mortgagee or prospective mortgagee of any part of Lessor's other property.

26. **SEVERABILITY.** If any clause or provision of this Lease is or becomes illegal, invalid, or unenforceable because of present or future laws or any rule or regulation of any governmental body or entity, effective during its term, the intention of the parties hereto is that the remaining parts of this Lease shall not be affected thereby, unless the amount of Rent payable hereunder is thereby decreased, in which event Lessor may terminate this Lease.

27. **CAPTIONS.** The captions used in this Lease are for convenience only and do not in any way limit or amplify the terms and provisions hereof.

28. **SUCCESSORS AND ASSIGNS.** The provisions of this Lease shall inure to the benefit of and be binding upon Lessor and Lessee, and their respective successors, heirs, legal representatives and assigns.

29. **STATE LAW.** The laws of the State of California shall govern the interpretation, validity, performance and enforcement of this Lease.

30. **TIME IS OF THE ESSENCE.** Except as otherwise specifically provided herein, time is of the essence of this Lease. If any date set forth for the performance of any obligation or for the delivery of any instrument or notice should be on a Saturday, Sunday or legal holiday, compliance with such obligations or delivery shall be deemed acceptable on the next business day following such Saturday, Sunday or legal holiday. As used herein, the term "legal holiday" means any state or federal holiday for which financial institutions and post offices are generally closed in the State of California for observance thereof. Except as expressly provided to the contrary in this Lease, all references to days shall mean calendar days.

31. **ENTRY BY LESSOR.** Lessor and its authorized representatives shall have the right to enter the Premises at all reasonable times and upon reasonable notice (provided that in the event of an emergency, notice need not be given) for the purpose of inspecting the same or taking any action or doing any work permitted hereunder (but nothing herein contained in this Lease shall create or imply any duty on the part of Lessor to make any such inspection or to take any such action or do any such work). No such entry shall constitute an eviction of Lessee. In connection with any such entry, Lessor will use reasonable efforts not to disrupt or interfere with the normal operation of Lessee's business. Reasonable notice for entry by Lessor during non-business hours shall be twenty-four (24) hours.

32. **EXECUTION.** This Lease may be executed in any number of counterparts, each of which shall be deemed an original and any of which shall be deemed to be complete in itself and be admissible into evidence or used for any purpose without the production of the other counterparts.

33. **DEFINITION OF LESSOR.** As used in this Lease, the term "Lessor" means only the current fee owner of the Premises at the time in question. Each Lessor is obligated to perform the obligations of the Lessor hereunder only during the time such Lessor owns such leasehold interest. Any Lessor who transfers title to its leasehold interest in the Premises is relieved of all liabilities of Lessor under this Lease to be performed on or after the date of such transfer. The former or successor Lessor shall promptly send written notice to Lessee of any change in ownership described in this paragraph.

34. **FORCE MAJEURE.** Lessor shall be excused from the performance of any of its obligations for the period of any delay resulting from any cause beyond its control, including, without limitation, all labor disputes, governmental regulations or controls, fires or other

casualties, inability to obtain any material or services, or acts of God.

35. EMINENT DOMAIN. If the Premises, or any part thereof or any estate therein, or any other part of the building materially affecting Lessee's use of the premises, shall be taken by eminent domain, this lease shall terminate on the date when title vests pursuant to such taking. The rent, and any additional rent, shall be apportioned as of the termination date, and any rent paid for any period beyond that date shall be repaid to Lessee. Lessee shall not be entitled to any part of the award for such taking or any payment in lieu thereof, but Lessee may file a claim for any taking of fixtures and improvements owned by Lessee, and for moving expenses.

36. SECURITY DEPOSIT.

36.1 Simultaneously with the execution of the Lease, Lessee shall deposit with Lessor a security deposit of thirteen thousand four hundred dollars (\$ 13,400.00) ("Security Deposit") to be held by Lessor as security for the faithful performance by Lessee of all terms, covenants and conditions of this lease. Alternatively, Lessee may deposit the Security Deposit with escrow officer named in the APA, in which case Lessee shall direct escrow officer to release the Security Deposit to Lessor at Close of Escrow. The Security Deposit shall not be mortgaged, assigned, transferred or encumbered by Lessee and any such act on the part of Lessee shall be without force and effect and shall not be binding upon Lessor. The Security Deposit shall not bear interest nor shall Lessor be required to keep such sum separate from its general funds.

36.2 If (i) any rent, additional rent or other sums due hereunder shall be overdue and unpaid, (ii) Lessor makes any payment on behalf of Lessee, (iii) Lessee fails to perform any of the terms of this Lease, or (iv) this Lease terminates due to Lessee's default or abandonment of the Premises; then, in any of the foregoing events, Lessor shall have the right (but not the obligation), without prejudice in addition to any other remedy available to Lessor, to use, apply or retain all or any portion of the Security Deposit (a) for the payment of any Rent, Additional Rent or other sum in default, (b) for the payment of any other sum to which Lessor may become obligated by reason of Lessee's default or breach, and/or (c) to compensate Lessor for any loss or damage which Lessor may suffer thereby, as reasonably estimated by Lessor, whether such damages accrue prior to or after termination of the Lease. Such damages may include, without limitation, prospective damages, damages recoverable pursuant to California Civil Code Section 1951.2, lost rents, costs to repair damage caused by Lessee, costs to clean the Premises upon termination of the tenancy, costs to relet the Premises, and/or any other costs, expenses, or damages available at law or in equity due to Lessee's default or abandonment. Lessee shall, within ten (10) days of demand therefor, restore the Security Deposit to the higher of (y) the original amount of the Security Deposit, or (z) the amount of the Security Deposit prior to Lessor's application thereof to amounts due by Lessee.

36.3 If Lessor uses or applies only a portion of the Security Deposit, as provided above, Lessor agrees to pay Lessee, without payment of interest or other increment for its use, the remaining un-used or un-applied balance of the Security Deposit within thirty (30) days after the later of the date Lessor receives possession of the Premises from Lessee, or the termination date of this Lease. However, it is expressly understood and agreed that the Security Deposit is not an advance rental deposit or a measure of the Lessor's damages as a result of Lessee's default and/or abandonment, and Lessor shall retain all rights and remedies available, at law or in equity, as a result of such a default or abandonment by Lessee. Further, Lessor's return of the Security Deposit, or any part thereof, shall not be construed as an admission that Lessee has performed all of its obligations under the Lease. In the event of bankruptcy or other debtor-creditor proceedings against Lessee, the Security Deposit shall be deemed to be applied first to the payment of Rent, Additional Rent and other sums due Lessor for all periods prior to the filing of such proceedings.

37.4 Lessee hereby expressly waives the provisions of California Civil Code section 1950.7(c) and any other laws and rules of law in effect from time to time during the Term that limit Lessor's right to use or apply the Security Deposit to offset Lessor's damages after a lease termination due to Lessee's default or abandonment.

38. **SUBLETTING and ASSIGNMENT.** Lessee shall have the right to sell, assign, hypothecate, or otherwise transfer this Lease or any interest hereunder, or sublet the Premises or any part thereof, or permit the use of the Premises by any party other than Lessee, provided that Lessee first obtains Lessor's written consent, which shall not be unreasonably withheld. Lessor hereby reserves the right to condition any such approval upon the following, any failure of which Lessee agrees shall be a reasonable basis upon which to withhold consent: (i) Lessor's determination that the proposed assignee or sublessee is financially responsible and has sufficient business repute and experience to operate a successful business of the type permitted hereunder; (ii) obtaining the written agreement by the proposed assignee or sublessee to be bound by each and every obligation of Lessee under this Lease; (iii) the use to be made of the Premises by the proposed assignee or sublessee is permitted hereunder and is a first-class and quality business; (iv) the proposed use would not materially increase the operating costs of the Property, or increase the security concerns on the Property; (v) the proposed use would create a substantial probability that the comfort or safety of the agents or employees of Lessor (vi) such other factors or conditions as shall not be unreasonable. If Lessor consents to a proposed assignment, Lessee shall pay to Lessor a transfer fee of Two Thousand Dollars (\$2,000.00) to cover Lessor's legal and review costs in connection with such transfer. If Lessor's withholding of consent is found to be unreasonable by a court of competent jurisdiction, Lessee's sole remedy shall be to have the proposed assignment or subletting declared valid as if Lessor's consent had been given, and Lessee waives any other remedy at law or in equity. Lessee shall deliver to Lessor complete, fully executed documentation with regard to the transfer, assignment or sublease upon execution and delivery of the same. Notwithstanding assignment or subletting, Lessee shall remain liable for the full and complete performance, satisfaction, and compliance with each and every agreement, term, covenant, condition, requirement, provision, and restriction of this Lease, as principal and not as surety or guarantor, and as if no such assignment or subletting had been made. Notwithstanding the foregoing, Lessee shall have the right to assign this Lease to any affiliate if such affiliate is under common ownership with Lessee.

39. **SIGNS.** Lessee shall not place, construct or maintain on the Premises any signs without Lessor's prior written consent, which shall not be unreasonably withheld. All signage must comply with law. Lessor may place on the Premises "For Sale" signs at any time and "For Lease" signs during the last six months of the term thereof.

40. **WAIVERS.** No provision of this Lease shall be deemed to have been waived by Lessor unless such waiver is in writing signed by the waiving party, nor shall any custom or practice which may evolve between the parties in the administration of the terms hereof be construed to waive Lessor's right to require the obligations of Lessee be performed in strict accordance with the terms of this Lease.

41. **AUTHORITY.** Each individual executing this Lease on behalf of Lessee represents and warrants that he or she is duly authorized to execute and deliver this Lease on behalf of Lessee, and that this Lease is binding upon Lessee in accordance with its terms. As a condition precedent to the legal effectiveness of this Lease, Lessor may, at Lessor's option, require corporate or partnership resolutions as are reasonably necessary to establish the authority of Lessee to enter into this Lease.

42. **PEACEFUL POSSESSION.** So long as Lessee observes and performs the covenants and agreements contained herein, it shall at all times during the lease term hereunder peacefully and quietly have and enjoy possession of the Premises, but always subject to the terms hereof.

43. **AMENDMENTS.** This Lease may be only modified in writing, signed by the parties in interest at the time of the modification.

IN WITNESS WHEREOF, the parties hereto have executed these presents the day and year first above written.

TENANT:

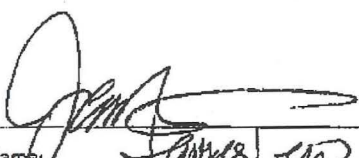
LANDLORD:

Volvo Construction Equipment Rents, Inc., a Delaware corporation

W.Y.L. Five Star Service Industries, Inc., a California corporation

By: 

Print Name: Evan Brumm
Title: Vice President & CFO

By: 
Print Name: James W. Brumm
Title: President