

1. **Agreement.** This Agreement (this "Agreement") is for the sale of the equipment described on the first page hereof ("Page 1"), including all parts thereof and accessories thereto (collectively, the "Equipment"), by Cashman Equipment Company ("Cashman") to the customer described on Page 1 ("Customer"). This Agreement shall be binding on Cashman only upon its execution of this Agreement, subject to availability of the Equipment.

2. **Title to Equipment.** Title to the Equipment shall pass to Customer upon receipt by Cashman of the purchase price and all other sums due hereunder.

3. **Payment.** Customer shall pay all amounts due hereunder within ten (10) days of receipt by Customer of an invoice from Cashman. Failure to notify Cashman in writing of any dispute regarding an invoice within sixty (60) days of receipt thereof waives Customer's right to dispute such invoice. Customer's obligation to pay amounts invoiced shall be absolute and unconditional and shall not be subject to any delay, reduction, set-off, defense or counter-claim.

4. **Loss and Damage.** Customer assumes all liability and risk of, and shall be solely responsible for, all damage and loss to the Equipment from any cause whatsoever, whether or not such loss or damage is or could have been covered by insurance, upon the earlier of (i) Cashman's tender of the Equipment to the carrier and (ii) receipt by Customer of the Equipment. Until the purchase price and all other sums due hereunder are paid in full, Customer shall promptly give Cashman written notice of any loss or damage.

5. **Loading and Unloading.** Customer is responsible for the loading and unloading of the Equipment. IF CASHMAN EMPLOYEES ASSIST IN LOADING OR UNLOADING THE EQUIPMENT, CUSTOMER ASSUMES THE RISK OF ANY RESULTING DAMAGE OR INJURY AND SHALL INDEMNIFY, DEFEND AND HOLD HARMLESS CASHMAN FROM AND AGAINST ANY LOSS, COST OR EXPENSE (INCLUDING ATTORNEYS' FEES AND EXPENSES) ARISING FROM OR RELATED TO THE SAME, WHETHER OR NOT CAUSED, IN WHOLE OR IN PART, BY CASHMAN'S NEGLIGENCE OR THE NEGLIGENCE OF CASHMAN'S EMPLOYEES, AGENTS OR ASSIGNS.

6. **Insurance.** Customer shall maintain such insurance, with such insurers, in such amounts, for such duration and with such endorsements and certificates as Cashman may specify.

7. **Taxes and Other Charges.** Customer shall promptly pay all taxes, fees, duties, transportation and other costs, assessments and all governmental charges of any kind or character, and any penalties, fines or interest thereon relating to the Equipment.

8. **Delivery.** Customer shall pay for and hold Cashman harmless from all shipping charges and insurance costs. Unless otherwise agreed in writing, Cashman shall deliver the Equipment F.O.B. to the location specified on Page 1 using Cashman's standard methods for packaging and shipping. Cashman's sole responsibility for shipments shall be to deliver the Equipment to a public carrier company. Any time quoted by Cashman for delivery is an estimate only, and Cashman shall not be liable for or in respect of any loss or damage arising from any delay in delivery. No delay in delivery shall relieve Customer of its obligations hereunder. Cashman may, in its sole discretion and without liability or penalty, make partial shipments of the Equipment to Customer.

9. **Taken In Trade.** Customer irrevocably sells, assigns, transfers and conveys possession, ownership and title of any Trade-in Equipment described on Page 1 to Cashman. Customer warrants that it is the sole owner of the Trade-in Equipment, that it has power and authority to sell the Trade-in Equipment, and that no lien or any encumbrance of any kind or nature exists against the Trade-in Equipment. Customer shall not withhold, offset, recoup or debit any other amounts owed (or to become due and owing) hereunder or otherwise to Cashman or any of its affiliates against any other amount owed (or to become due and owing) to it or its affiliates.

10. **Warranties.** In addition to the other warranties contained herein, Customer warrants that (i) if an entity, it is duly organized and validly existing in good standing; (ii) it is duly authorized to execute, deliver and perform its obligations under this Agreement; (iii) when executed and delivered by each party, this Agreement will constitute the legal, valid and binding obligation of Customer, enforceable against Customer in accordance with its terms; (iv) it is not insolvent and is paying all of its debts as they become due; (v) any payments made pursuant to this Agreement are intended by Customer to be a substantially contemporaneous exchange for new value given to Customer; and (vi) each payment made of a debt incurred by Customer under this Agreement is or was in the ordinary course of business or financial affairs of Customer.

11. **Security.** Customer grants to Cashman a security interest in and to all right, title and interest of Customer in, to and under the Equipment and any and all additions, substitutions and all proceeds thereof to secure Customer's payment and other obligations hereunder whether now existing or hereafter created and all renewals, extensions and rearrangement of such liabilities. Customer appoints Cashman as Customer's irrevocable attorney-in-fact to file, at Customer's cost, any financing statement (and any amendments, renewals and related instruments) (i) to perfect such security interest, and/or (ii) to release, terminate and void Cashman's security interest. Customer shall execute any such statements or other documentation necessary to perfect such security interest. The security interest granted under this provision constitutes a purchase money security interest under the Nevada Uniform Commercial Code ("UCC").

12. **Default.** The following are defaults by Customer: (i) failure to pay any amount due hereunder by Customer to Cashman; (ii) ceasing to do business, becoming insolvent, taking advantage of any law for the relief of debtors, filing bankruptcy or making an assignment for the benefit of creditors; (iii) Cashman deeming itself insecure with respect to Customer's performance; (iv) failure to perform any obligations to Cashman hereunder or otherwise; and (v) any representation or warranty by Customer is false or misleading.

13. **Remedies.** Upon any default by Customer, Cashman may exercise any one or more of the following remedies without notice of default: (i) terminate this Agreement; (ii) seek immediate relief from any automatic stay, seek specific performance or injunction or recover damages; (iii) stop delivery of the Equipment or any other equipment ordered by Customer; (iv) declare all amounts due and coming due, together with interest and late fees, immediately due and

payable; (v) without terminating this Agreement, take possession of the Equipment, including entering the premises where the Equipment is located WITH OR WITHOUT PROCESS OF LAW, and sell, relet or otherwise dispose of Equipment as a secured party under the UCC and deduct all expenses, costs, attorney's fees, and other charges incurred by Cashman; (vi) recover any deficiency from Customer; and/or (vii) perform, or cause performance of, Customer's obligations at Customer's cost. In no event shall Cashman be required to sell or relet the Equipment or rebate or pay back any gain or profit as a result of leasing the Equipment. The exercise of any remedy will not constitute an election of remedies or a waiver of any other remedy; remedies hereunder shall not be exclusive, but shall be cumulative and in addition to all other remedies existing at law or in equity.

14. **Indemnity.** TO THE EXTENT PERMITTED BY APPLICABLE LAW, CUSTOMER HEREBY AGREES TO INDEMNIFY, DEFEND AND HOLD HARMLESS CASHMAN, ITS AFFILIATES AND THEIR RESPECTIVE OWNERS, OFFICERS, DIRECTORS, EMPLOYEES, AGENTS, SUCCESSORS AND ASSIGNS FROM AND AGAINST ANY AND ALL CLAIMS, LOSSES, DEFICIENCIES, JUDGMENTS, SETTLEMENTS, INTEREST, AWARDS, FINES, CAUSES OF ACTION, DAMAGES, LIABILITIES, COSTS, PENALTIES, TAXES, ASSESSMENTS, CHARGES, PUNITIVE DAMAGES AND EXPENSES (INCLUDING ATTORNEYS' FEES) INCURRED AS A RESULT OF (i) ANY BREACH BY CUSTOMER OF THIS AGREEMENT OR ANY APPLICABLE LAW OR (ii) ANY ACT OR OMISSION OF CUSTOMER OR ITS EMPLOYEES, AGENTS, CONTRACTORS, SUBCONTRACTORS, AFFILIATES OR INVITEES.

15. **Assignment.** Cashman may assign any of its rights and obligations hereunder without notice or consent. No assignee of Cashman as qualified intermediary or the assignee's officers, directors, employees or agents shall be obligated to perform any covenant, condition or obligation required to be performed by Cashman hereunder. However, in the event any assignee agrees to assume the obligations of Cashman, Customer agrees that Cashman shall be released from all further liability hereunder. Neither this Agreement nor any of Customer's rights or obligations hereunder shall be assignable by Customer without the prior written consent of Cashman. Any purported assignment by Customer in violation of this provision is null and void.

16. **Data Sharing.** Data concerning equipment purchased, rented or leased from Cashman, including data as to the condition and operation of such equipment, may be collected and transmitted to Caterpillar Inc., its affiliates and/or its dealers, including Cashman. BY EXECUTING THIS AGREEMENT, CUSTOMER ACKNOWLEDGES RECEIPT AND REVIEW OF THE TELEMATICS SHARING CONSENT FORM TERMS AND CONDITIONS INCORPORATED HEREIN BY REFERENCE AND AVAILABLE AT www.CashmanEquipment.com/terms.

17. **Miscellaneous.** Headings herein are for reference only and do not affect the interpretation of this Agreement. This Agreement may be executed in counterparts and delivered by electronic transmission with the same legal effect as delivery of an original fully executed copy. This Agreement shall not be binding upon Cashman until signed by an authorized representative (prior to which, if first signed by Customer, it will be deemed a proposal by Customer to Cashman, which Cashman may accept or reject, at its sole option). This Agreement may only be modified or waived by a written agreement signed by Cashman and Customer. If any provision of this Agreement is hereafter held invalid or unenforceable, the remainder of this Agreement shall not be affected and the provisions are declared severable. Subject to the terms hereof, this Agreement shall be binding upon and inure to the benefit of Cashman and Customer and their respective representatives, successors and assigns. This Agreement (and all matters arising out of or relating to this Agreement) shall be governed in all respects by the laws of the State of Nevada without regard to any choice or conflict of law provisions. Each party hereby irrevocably submits to the exclusive jurisdiction of the courts situated in Clark County in the State of Nevada and waives all claims that such courts lie in an inconvenient forum. EACH PARTY HEREBY WAIVES THE RIGHT TO A JURY TRIAL. Provisions that by their nature apply beyond their terms will remain in force after any termination or expiration of this Agreement including, but not limited to, [Sections 6 \(Insurance\)](#), [14 \(Indemnity\)](#), [17 \(Miscellaneous\)](#) and [18 \(Dispute Resolution\)](#).

18. **Dispute Resolution.** Any dispute or controversy arising under or in connection with this Agreement shall first be resolved by informal discussion between senior management of the parties. If informal discussion fails to produce a resolution, the parties must then attend non-binding mediation in the County of Clark, Nevada with a mutually agreeable mediator. If mediation fails to produce a resolution, or if the parties cannot agree on a mediator, any dispute or controversy arising out of or relating to this Agreement shall be settled by binding arbitration. Either party may initiate arbitration, which shall be conducted in the County of Clark, Nevada in accordance with the commercial arbitration rules of the American Arbitration Association. Each party shall share equally the cost of the arbitration and shall bear its own attorney's fees, unless the arbitrator awards such fees and costs to a party. The arbitrator shall not have the power to award any punitive damages.

19. **Future Sales.** The terms of this Agreement will apply to all future sales by Cashman to Customer (except as to the purchase price of such items) unless such sale is governed by a separate written agreement.

20. **Entire Agreement.** This Agreement, including all related exhibits, schedules, attachments and appendices, constitutes the sole and entire agreement of the parties with respect to the Equipment and supersedes all prior and contemporaneous understandings, agreements, representations and warranties, both written and oral, with respect thereto. No purchase order in connection with the Equipment shall be binding on Cashman unless accepted in writing. Any such purchase order shall create a separate contract consisting of the terms of this Agreement and any additional terms proposed by such purchase order; if the terms of such purchase order conflict with the terms of this Agreement, the terms of this Agreement shall control.

A LARGER FONT COPY OF THESE TERMS AND CONDITIONS IS AVAILABLE UPON REQUEST.