

HONOLULU CRANE SERVICE LLC

MASTER TERMS & CONDITIONS OF OPERATED EQUIPMENT RENTAL

1. ACCEPTANCE OF AGREEMENT

Initiation of services, signature on an estimate, equipment mobilization, or permitting Honolulu Crane Service LLC ("Company") onto a job site constitutes full acceptance of these Terms and Conditions by the Customer ("Customer"). These terms supersede any conflicting provisions in Customer purchase orders or subcontracts.

2. "BORROWED SERVANT" DOCTRINE, TANDEM LIFTS & CONTROL OF PERSONNEL

- **Borrowed Servant Status:** All Company personnel (operators, riggers, signal persons, and crew) are furnished strictly as "Borrowed Servants" operating under the Customer's **exclusive jurisdiction, direction, supervision, and control**.
- **Surrender of Operational Control:** Company surrenders direct control of on-site lifting activities to Customer. Customer accepts full legal responsibility for all acts, omissions, or errors of personnel acting under Customer's direction.
- **Tandem / Multi-Crane Lifts:** For any lift involving two or more cranes (tandem or multiple-hook picks), Customer must designate a single qualified Lift Director to hold exclusive operational control over load balancing, crane coordination, and signal synchronization. Customer assumes full liability for load imbalances or side-loading caused by Customer-directed signaling errors.

3. SITE RESPONSIBILITIES, ACCESS & PERMITTING

- **Site Access & Security Credentials (DBIDS/TWIC):** Customer is solely responsible for acquiring, funding, and delivering all required site access passes, security clearances, visitor badges, vehicle decals, and military/Defense Biometric Identification System (DBIDS) credentials for Company personnel and equipment. Access delays due to missing credentials or base security holds will be billed as standby time.
- **Military / Government Facility Delays:** Company is held harmless for delays, access denials, or work stoppages caused by military installation command orders, base lock-downs, elevated security threat levels (FPCON), or federal credentialing system outages. Standby time during base lock-downs remains fully billable.
- **FAA & Airspace Notifications (FAA Form 7460-1):** Customer is solely responsible for determining if equipment height or location requires Federal Aviation Administration (FAA) or military air traffic notification, filing FAA Form 7460-1, providing obstruction lighting/flagging, and assuming all liability for airspace delays or lack of clearance.
- **Traffic Control & Municipal Permits:** Customer must obtain and pay for all State of Hawaii DOT and municipal street/lane closure permits, certified Traffic Control Plans (TCP), flaggers, barricades, and Honolulu Police Department (HPD) escorts.
- **Lift Director & Rigging (ASME B30.5):** Customer must provide a qualified Site Supervisor and Lift Director. Customer is responsible for providing certified riggers, signalpersons, inspected rigging gear, and accurate load weights/dimensions unless explicitly contracted from Company in writing.
- **Ground Conditions (OSHA 1926.1402):** Customer is the designated "Controlling Entity" and must provide firm, compacted, level ground capable of supporting the crane, outriggers, and loads. Customer must identify and mark all subsurface utilities, vaults, and voids. Company is not liable for surface or subsurface damage (concrete, asphalt, underground mains) from normal setup.
- **Power Line Safety (OSHA 1926.1408):** Customer is responsible for maintaining required clearances (minimum 20 ft) from energized utility lines, coordinating with Hawaiian Electric (HECO) as needed, and assuming all liability for electrical contacts or arc flashes.

4. ROOFTOP, DEMOLITION & DYNAMIC SHOCK LOAD EXCLUSIONS

- **Structural Integrity & Disconnection:** Customer warrants the structural integrity of aged, rusted, or corroded loads and lifting points. Equipment must be 100% unbolted, disconnected, cut free, and drained from building structures, roof curbs, piping, and ductwork prior to lifting.
- **Dynamic Shock Loading & Stuck Loads:** Customer warrants all loads (including structural steel, pre-cast concrete, piles, forms, and rooftop equipment) are completely freed and unattached prior to hoisting. Customer accepts full financial liability for dynamic shock loading, rigging failure, or boom damage caused by "stuck loads" breaking free suddenly or load disintegration.
- **Hazardous Materials & Insulation:** Customer warrants loads are free of uncontained asbestos, lead, or toxic insulation. Company assumes no liability for air quality claims or abatement costs resulting from the tearing or disintegration of aged insulation during load removal.

5. CUSTOMER EQUIPMENT & RIGGING DAMAGE

- **AS-IS Operation of Customer Machinery:** Customer-provided equipment (forklifts, telehandlers, manlifts) is operated "AS-IS" under Customer's direction as Borrowed Servants. Customer warrants such machinery is safe, fully insured, and OSHA-compliant.
- **Damage to Company Rigging Gear:** If Company supplies specialized rigging gear (slings, shackles, spreader beams, glass vacuum lifters), Customer is financially responsible for the full repair or replacement cost of any rigging tackle damaged or destroyed due to sharp load edges, improper Customer signaling, or exceeding stated capacity limits.

6. SAFETY "STOP WORK", EQUIPMENT BREAKDOWN & FORCE MAJEURE

- **Safety Stop Work:** Company operators hold absolute discretionary authority to halt operations immediately due to unsafe weather (including wind gusts), ground instability, rigging failure, or unsafe customer directions. All resulting standby time remains fully billable.
- **Equipment Breakdown & Non-Performance:** Company maintains equipment to high operational standards. Company shall not be liable for any claims, site downtime, trade standby costs, or project delays resulting from mechanical breakdown or equipment failure. Company's sole obligation is to repair, replace, or credit rental charges for the downtime period.
- **Force Majeure:** Company shall not be liable for delay or failure to perform resulting from weather conditions, high winds, natural disasters, acts of God, road closures, labor disputes, or government delays beyond Company's reasonable control.

7. OVERNIGHT SECURITY & PROHIBITION OF USE

- **Site Security:** Customer must provide secure site protection (fencing, lighting, monitoring) for any equipment left on-site overnight or during work stoppages.
- **Strict Prohibition:** Customer and third parties are strictly prohibited from operating, moving, starting, or tampering with Company equipment. Customer assumes full liability for theft, vandalism, fuel loss, or unauthorized operation.

8. COMMERCIAL TERMS, RATES, TAXES & CANCELLATIONS

- **Port-to-Port Billing:** Rentals are billed on a port-to-port basis (yard exit to yard return), subject to applicable minimums.
- **Overtime Rates:** Standard rates apply to 8 hours between 07:00 AM and 3:30 PM, M–F. Work outside these hours, on weekends, or on holidays will be billed at 1.5x or 2.0x rates.
- **Hawaii General Excise Tax (GET):** All quoted rates, estimates, and invoices are subject to applicable Hawaii GET.
- **Delays & Standby:** Customer-caused delays (weather, site unreadiness, credential delays, material delays) will be billed as standby time at standard hourly rates. Scope changes require a written Change Order.
- **Payment Terms & Collections:** Payment is due upon receipt. Past-due balances accrue interest at **1.5% per month** (18% per annum) plus all collection costs. In any legal dispute arising from this agreement, the prevailing party shall be entitled to recover reasonable attorney's fees and costs.
- **Cancellation:** Requires **24 hours' advance notice** for single-day jobs. Cancellations under 24 hours incur a **4-hour minimum charge** plus mobilization costs.

9. INDEMNIFICATION, INSURANCE & LIMITATION OF LIABILITY

- **Indemnification & HRS § 431:10-222:** To the fullest extent permitted by Hawaii law, Customer shall defend, indemnify, and hold harmless Honolulu Crane Service LLC and its personnel from all claims, injuries, liabilities, or losses arising from the job. In compliance with **HRS § 431:10-222**, nothing herein requires Customer to indemnify Company against liability resulting from Company's sole or willful negligence.
- **Insurance Requirements:** Customer must carry minimum **\$2,000,000 CGL insurance**, naming Honolulu Crane Service LLC as an Additional Insured on a primary/non-contributory basis with a Waiver of Subrogation.
- **DISCLAIMER OF IMPLIED WARRANTIES:** TO THE MAXIMUM EXTENT PERMITTED BY HAWAII LAW, COMPANY RENTS ALL EQUIPMENT "AS IS" AND EXPRESSLY DISCLAIMS ALL IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE.
- **Waiver of Consequential & Delay Damages:** Company shall not be liable to Customer or any third party for indirect, punitive, special, delay, or consequential damages—including lost profits, liquidated damages, idle trade costs, or business interruption—regardless of cause.
- **Maximum Liability Cap:** Company's total cumulative financial liability for any and all claims, breaches, or non-performance under this agreement shall strictly not exceed the actual rental charges paid by Customer for the specific job.

- **Hazardous Materials & Hydraulic Spills:** Customer assumes remediation expenses for toxic leaks from Customer loads. Company is not liable for minor fluid drips or normal pavement staining. If a hydraulic leak occurs due to standard equipment operation or Customer site hazards (e.g., debris punctures), Customer is responsible for site containment and cleanup.
- **Mechanic's Lien Rights:** Company reserves all lien rights against the real property under **Hawaii Revised Statutes (HRS) Chapter 507**.

10. INCIDENT REPORTING, GOVERNING LAW & LEGAL WAIVERS

- **48-Hour Notice of Claim:** Customer must provide written notice to Company of any alleged property damage, site damage, or operational dispute within **forty-eight (48) hours** of the occurrence, and afford Company immediate site access to inspect the alleged damage prior to any repair or alteration. Failure to provide timely written notice and inspection access constitutes a complete waiver of such claim by Customer.
- **Governing Law:** This agreement is governed by the laws of the **State of Hawaii** (venue in Honolulu).
- **WAIVER OF JURY TRIAL:** CUSTOMER AND COMPANY KNOWINGLY AND VOLUNTARILY **WAIVE ANY RIGHT TO A TRIAL BY JURY** IN ANY LEGAL PROCEEDING ARISING OUT OF OR RELATED TO THIS AGREEMENT.
- **Contractual Claim Limitation:** Any legal action or claim against Company arising from or related to this agreement must be formally filed in a court of competent jurisdiction within **one (1) year** from the date the cause of action accrued, or be forever barred.
- **Severability & Entire Agreement:** If any provision is deemed unenforceable, all remaining provisions remain in full force. This document constitutes the entire agreement between the parties.