

Quote

Agreement #: G28373

Lessor: HOLT TEXAS, LTD
FT WORTH 817-246-6651
549 JIM WRIGHT FREEWAY NORTH,
FORT WORTH, TX 76108

Customer: 0500585
Bill to: CITY OF GRAND PRAIRIE
318 W MAIN ST
GRAND PRAIRIE, TX 75050-5621

Ordered By: RAY RIEDINGER

Ship From: FT WORTH
Freight on Board
F.O.B. Ship Pt: FT WORTH
Ship Via: HOLT CAT

Date Out: 09/13/2017 Wed 11:01 AM
Est. Date In: 10/11/2017 Wed 11:01 AM
Delivery Date: 09/13/2017 Wed 08:00 AM

Ship To: 318 W MAIN ST
GRAND PRAIRIE, TX
75050-5621

Contact: RAY RIEDINGER
Phone: 972 237 8017

Written By: christopher dimock
Sales Rep: CHRISTOPHER DIMOCK
Sales Rep #: E 1 802
Purchase Order:
Release #:

QTY	DESCRIPTION	DAY	WEEK	4WEEK	TOTALS
1.	- XQ60N	\$130	\$391	\$1,172	1,171.80
12	SET TO 240V SINGLE ID: 4/0 S/N: 4/0 MAKE: ZZ MODEL: 4/0-50'	\$30	\$30	\$75	900.00
4	ID: 4/0MALE S/N: 4/0MALE MAKE: ZZ MODEL: 4/0MALE	\$5	\$5	\$13	50.00
4	ID: 4/0FEMALE S/N: 4/0FEMALE MAKE: ZZ MODEL: 4/0FEMALE	\$5	\$5	\$13	50.00
1	TERP TAX				17.58
1	HET TAX MSG EFF				2.58
1	ENVIRONMENTAL FE				15.00
1	TRANSPORT OUT DE				117.33
1	TRANSPORT IN PU				117.33
1	LOSS DAMAGE WAVR				304.05
					.00
	Total:				2,745.67

EQUIPMENT RECONFIGURATION IS PROHIBITED UNLESS WRITTEN APPROVAL IS OBTAINED FROM HOLT'S RENTAL FLEET MANAGER.

☒ **Rental**

Tier 4? ☐ Yes ☐ No

LKE Eligible? ☐ Yes ☐ No

Transportation Charges:

If transportation is arranged by HOLT, transportation charges will be invoiced plus tax.

☒ **Each way:**

☐ **To be determined**

Rental Installments:

The amount of each installment of rent payable hereunder by Customer ("Rental Installment") shall be the amount set forth below.

Rental Installment:	<u>\$ 1171.80</u>
Accessories:	<u>\$ 1000.00</u>
LDW:	<u>\$ 304.05</u>
Transportation Charge:	<u>\$ 234.66</u>
Other Charges: (See above description)	<u>\$ 0.00</u>
Environmental Fee:	<u>\$ 15.00</u>
Subtotal:	<u>\$ 2725.51</u>
Sales Tax:	<u>\$ 0.00</u>
"Dealer's" Heavy Equipment Tax:	<u>\$ 2.58</u>
TERP Tax:	<u>\$ 17.58</u>
Total:	<u>\$ 2745.67</u>

Rental Term:

1 4-week period beginning 9/13/2017 ("Commencement Date").

Payment Dates:

The Payment Dates shall be the last day of each rental period during the Rental Term.

Overtime:

The above payment installment is based on a single shift rate of 8 hours a day for daily rentals, 40 hours a week for weekly rentals, and 160 hours per a four-week period. Lessee agrees to pay overtime hours based on double and triple shift rates.

Sales Tax Information:

Customer ☒ **does** ☐ **does not** claim that the rental of the Equipment is exempt from taxation under Chapter 151 of the Texas Tax Code.

The reason Customer claims such an exemption is as follows:

If Customer claims an exemption, an Exemption Certificate conforming to applicable law must be provided upon execution. If not provided sales tax will be charged.

LOSS DAMAGE WAIVER:

The Loss Damage Waiver ("LDW") is not available for all rental transactions. HOLT may refuse to offer the LDW in its sole discretion. The LDW charge is 14% of the Base Rental installment per month. See Paragraph 12 of the Other Terms and Conditions for more details.

Customer accepts the LDW: _____ (Customer initial here)

Customer declines the LDW: _____ (Customer initial here)

LDW not offered for this transaction:

_____ (Customer initial here) _____ (Salesman initial here)

OTHER INSURANCE REQUIRED:

Please see Paragraph 11 of the Other Terms and Conditions for additional insurance requirements.

DISCLAIMER OF WARRANTIES AND WAIVER OF CLAIMS

HOLT IS NOT A MANUFACTURER OF THE EQUIPMENT. ALTHOUGH HOLT MAY BE RESPONSIBLE FOR ADMINISTERING WARRANTIES ISSUED BY THE MANUFACTURER, CUSTOMER ACKNOWLEDGES AND AGREES THAT: (1) ANY EXPRESS WARRANTIES BY THE MANUFACTURER FOR THE EQUIPMENT ARE NOT THE RESPONSIBILITY OF HOLT; AND (2) THE MANUFACTURER'S WARRANTY CONTAINS LIMITATIONS, AND, CUSTOMER MAY INCUR CERTAIN REPAIR, TRANSPORTATION OR OTHER CHARGES BY HOLT WHICH ARE NOT COVERED BY THE MANUFACTURER'S WARRANTY. HOLT, BY VIRTUE OF HAVING RENTED OR SOLD THE EQUIPMENT UNDER THIS AGREEMENT, HAS NOT MADE AND DOES NOT MAKE ANY REPRESENTATION OR WARRANTY, EXPRESS OR IMPLIED, AS TO CONDITION, COMPLIANCE WITH SPECIFICATIONS OR REGULATIONS, QUALITY, DURABILITY, SUITABILITY, MERCHANTABILITY, FITNESS FOR USE OR FITNESS FOR A PARTICULAR PURPOSE, OR ANY OTHER WARRANTY WHATSOEVER, EXPRESS OR IMPLIED, WITH RESPECT TO THE EQUIPMENT. HOLT IS NOT LIABLE FOR ANY DAMAGES (WHETHER ORDINARY, SPECIAL OR PUNITIVE) CAUSED BY ANY FAILURE OF THE EQUIPMENT TO OPERATE OR THE FAULTY OPERATION OF THE EQUIPMENT. HOLT IS NOT LIABLE FOR ANY DAMAGES OR LOSSES (WHETHER ORDINARY, SPECIAL OR PUNITIVE) RESULTING FROM THE INSTALLATION, OPERATION, REPAIR OR USE OF THE EQUIPMENT.

OTHER TERMS AND CONDITIONS

THERE ARE ADDITIONAL TERMS AND CONDITIONS, INCLUDING, BUT NOT LIMITED TO, INDEMNIFICATION OF HOLT, ARBITRATION AND WAIVER OF JURY TRIAL, CONTAINED IN THE OTHER TERMS AND CONDITIONS ONLINE HERETO THAT ARE AN IMPORTANT PART OF THIS AGREEMENT. PLEASE REVIEW THE OTHER TERMS AND CONDITIONS BEFORE SIGNING THIS AGREEMENT. THESE TERMS AND CONDITIONS SUPERSEDE ALL OTHER TERMS AND CONDITIONS PRESENTED BY OR TO CUSTOMER UNLESS PROVIDED IN A DOCUMENT SIGNED BY AN AUTHORIZED REPRESENTATIVE OF BOTH PARTIES AND CONTAINING REFERENCE TO THIS RENTAL AGREEMENT.

HOLT TEXAS, LTD. DBA HOLT CAT (HOLT)

By: HOLT TEXAS, LTD. DBA HOLT CAT (HOLT)

By: _____
(Signature)

christopher dimock
(Printed Name)

Rental Coordinator
(Printed Title)

Date: 9/6/2017

CUSTOMER

CITY OF GRAND PRAIRIE

By: _____
(Signature)

RAY RIEDINGER
(Printed Name)

FACLTY SERV MGR
(Printed Title)

Date: 9/6/2017

ADDITIONAL RENTAL TERMS AND CONDITIONS

- 1. RENT AND OTHER PAYMENTS:** Customer shall pay Holt Texas, LTD.. ("Holt") each rental installment on or before each succeeding Payment Date, without demand, deduction or offset. "Customer" is identified on the front side hereof and includes any of its representatives, agents, officers, or employees and anyone signing this Contract on their behalf. If Customer defaults in the payment of any sum of money to be paid under this Agreement, Customer shall pay HOLT, as additional rent, interest on such unpaid sum from its due date to the date of payment at the Maximum Rate.
- 2. AGREEMENT:** This Agreement becomes binding on HOLT only upon HOLT's execution of this Agreement. Customer shall inspect the Equipment immediately upon its receipt, and shall be conclusively deemed to have accepted the Equipment in good and operating condition unless the Customer promptly notifies HOLT of any defects, in writing and via telephone. HOLT shall have the right, at its option, to either repair or replace the Equipment, or terminate this Agreement, in which event the Equipment shall be returned to HOLT. Delays in delivery shall be excused if caused by any cause beyond the reasonable control of HOLT.
- 3. TITLE:** Title to the Equipment shall at all times remain in HOLT. Customer, at its expenses, shall protect and defend the title of HOLT and keep it free of all claims and liens. All replacements, repairs, improvements, alterations, substitutions and additions shall constitute accessions to the Equipment and title thereto shall vest in HOLT, at all times the Equipment will remain the personal property of HOLT.
- 4. LOCATION OF EQUIPMENT:** Customer shall not remove the Equipment from the location set forth on the front page of this Agreement, without HOLT's written consent. Customer represents that the Equipment will not be affixed to any real estate or other goods so as to become fixtures on such real estate or accessions to other goods.
- 5. USE:** Customer agrees that HOLT has no control over the manner in which the equipment is operated during the Rental Period by Customer or any third party that Customer implicitly or explicitly permits. Customer warrants that: (1) prior to each use, Customer has or will inspect the Equipment to confirm that it is in good working condition, without defects, includes readable decals and operating and safety instructions and is suitable for Customer's intended use; (2) any apparent agent at the location listed by Customer for delivery is authorized to accept delivery of the Equipment; (3) The Equipment will at all times be used and operated solely in the conduct of Customer's business and not for personal, family or household use, and in accordance with the operation, use and/or instructional materials supplied to Customer; (4) Customer will comply with all applicable laws, acts, rules, regulations and orders affecting the Equipment or use thereof and shall be responsible for obtaining all authorizations, licenses, and certifications to operate the Equipment; (5) the Equipment will be used solely for the purpose for which it was designed and intended, and will not be abused; and, (6) Customer will only allow skilled operators trained in use of the Equipment to operate the Equipment. Customer shall operate the Equipment with reasonable care and diligence and use reasonable precautions to prevent loss, damage, or injury; (7) Customer will notify HOLT as quickly as possible if owner/user's manual is not provided with machine. HOLT hereby disclaims any liability related to the use of the machine by Customer if Customer fails to notify HOLT that the owners'/users' manual was not provided prior to Customer's use of the machine.
- 6. REPAIRS AND MAINTENANCE:** Except for repair costs covered by an express HOLT or manufacturer warranty, if any, Customer, at its expense shall: (1) keep the Equipment in good working order, (2) pay all costs, expenses, fees and charges incurred in connection with the use or operation of the Equipment including, but not limited to maintenance, storage and servicing, and pay HOLT, upon demand, its regular charges for any parts or labor furnished in making any repairs. Customer's maintenance obligations shall include, but not be limited to, the performance of all daily maintenance recommended in applicable manufacturer operation, lubrication and/or maintenance guides ("Daily Maintenance"). In connection with the performance of Daily Maintenance, Customer shall (i) be responsible for all cleaning of the Equipment as required for maintenance, including but not limited to removal of brush or debris from undercarriage, belly pans, radiator and engine compartment; (ii) be responsible for notifying HOLT of any unusual noises or problems with respect to the Equipment; and (iii) be responsible for making the Equipment available for maintenance and inspection by HOLT.
- 7. Taxes:** Customer shall pay all taxes, fees, assessments and other governmental charges of any kind or character on or relating to the Equipment.
- 8. LOSS AND DAMAGE:** Customer assumes all 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 was or was not the result of customer's negligence or lack of care, or could have been covered by insurance. The Agreement shall not terminate and there shall be no abatement, reduction, suspension or deferment of Rental Installments for any reason, including damage to or loss of the Equipment. Customer shall promptly give HOLT written and telephone notice of any loss or damage, describing in detail the cause and the extent of such loss or damage. Customer shall notify appropriate law enforcement authorities within two (2) hours of discovery of theft or vandalism. HOLT shall not be liable and Customer waives any claim it might have (i) for injury to Customer's business or any loss of income therefrom; (ii) for damage to the property of Customer, or (iii) for injury to the person of Customer or Customer's agents, representatives and employees or caused in any way by the Equipment. HOLT will not be responsible for sums spent by customer in an attempt to recover the rented machine. Customer should immediately contact HOLT and HOLT will attempt to recover the machine.
- 9. INDEMNITY: TO THE FULLEST EXTENT PERMITTED BY LAW, CUSTOMER INDEMNIFIES, RELEASES AND HOLDS HOLT HARMLESS, AND AT HOLT'S REQUEST, DEFENDS HOLT (WITH COUNSEL APPROVED BY HOLT) ITS PARTNERS, EMPLOYEES, AGENTS, REPRESENTATIVES, SUCCESSORS FROM AND AGAINST ANY AND ALL CLAIM, EXPENSE, CAUSE OF ACTION, DAMAGE, LIABILITY, COST, PENALTY, TAX, ASSESSMENT, CHARGE, PUNITIVE DAMAGE OR EXPENSE BY REASON OF ANY ACT OR OMISSION OF CUSTOMER OR ITS EMPLOYEES, AGENTS, CONTRACTORS, SUBCONTRACTORS, AFFILIATES OR INVITEES.**
- 10. Insurance:** Customer agrees to provide HOLT with a certificate of insurance providing evidence of these coverages: Equipment Insurance with HOLT listed as Loss Payee, General Liability and Automobile Liability, each with limits of at least \$1,000,000 Per Occurrence, with HOLT as Additional Insured, and with Waivers of Subrogation in favor of HOLT, Workers Compensation including Employer's Liability with limits of at least \$1,000,000 and with Waiver of Subrogation in favor of HOLT.
- 11. LOSS DAMAGE WAIVER ("LDW"):** If HOLT offers LDW and Customer purchases the LDW, then Customer will still be required to provide all other insurance coverages as listed above. HOLT agrees that Customer's financial responsibility shall be limited to \$10,000 for costs resulting from damage, loss or theft of the Equipment. The LDW shall not apply in the event of Theft unless the Customer reports the theft to appropriate law enforcement authorities within 2 hours of discovery and provides a copy of the police report to HOLT as soon as practicable. The LDW shall not apply with respect to: (i) overturn, rollover, or upset, (ii) undercarriage wear in excess of 5% per month, (iii) rubber tire wear in excess of 5% per month, or tire cuts and abrasions, or (iv) damage, loss or theft resulting from improper or unsafe operation, improper care, improper storage, damage intentionally caused by the Customer or Customer's employees, damage that results from the Customer's willful or wanton misconduct, or improper precautions to secure the Equipment. HOLT and Customer acknowledge that nothing in this Agreement is intended to be construed as creating an insurer/insured relationship between HOLT and Customer. HOLT shall be under no obligation to accept Customer's Certificate of Insurance in lieu of the LDW if provided by the Customer after the first day or rental period, and even if accepted by HOLT, Customer shall not be entitled to any refund of LDW charges accrued prior thereto

This contract offers an optional loss damage waiver for an additional charge to cover your responsibility for loss of or damage to the heavy equipment. You do not have to purchase this coverage. Before deciding whether to purchase this loss damage waiver, you may consider whether your insurance policies afford you coverage for loss of or damage to the heavy equipment rented and the amount of the deductible you would pay under your policies.

- 12. ASSIGNMENT AND SUBLEASE:** HOLT may assign any of its rights and obligations hereunder without notice, including, but not limited to, assignment of the HOLT equipment sale and/or trade-in purchase rights under this Agreement, if converted to a sale or trade-in purchase, to HLKE, Inc. No assignee of HOLT, including HLKE, Inc., as qualified intermediary or the assignee's officers, directors, agents, or employees, shall be obligated to perform any covenant, condition or obligation required to be performed by HOLT hereunder. However, in the event any assignee agrees to assume the obligations of HOLT, Customer agrees that HOLT shall be released from all further liability hereunder. Neither this Agreement nor any of Customer's rights hereunder shall be assignable by Customer without the prior written consent of HOLT. Customer agrees it will not rent or sublease any Equipment to others, without the prior, written consent of a HOLT manager. Customer shall ensure that its sub-lessees comply with all obligations of Customer in this Agreement.
- 13. EVENTS OF DEFAULT:** Each of the following is an event of default under this Agreement: (1) Customer's failure to pay any Rental Installment or other sum payable to HOLT or any affiliate of HOLT when due, whether such indebtedness arises hereunder or otherwise; (2) Customer's ceasing to do business as a going concern, becoming insolvent, taking advantage of any law for the relief of debtors, making an assignment for the benefit of creditors or a filing under the U.S. Bankruptcy Code by or against Customer; (3) HOLT deems the Equipment in jeopardy or feels insecure with respect to: Customer's continued ability to make payments or, the value of the Equipment; or (4) Customer fails to perform any other obligation imposed on Customer under this or any other HOLT Agreement.
- 14. REMEDIES ON DEFAULT:** In the event of any default by Customer, HOLT is entitled to any one or more of the following remedies, without any notice of default: (a) take possession of the Equipment or any other equipment, including enter premises where it's located; (b) terminate this Agreement; (c) seek specific performance or injunction or recover damages; (d) stop delivery of the Equipment or any other equipment; (e) without terminating this Agreement, HOLT may take possession of the Equipment and sell, relet or otherwise dispose of the Equipment as a secured party under UCC and deduct all expenses, costs, reasonable attorney's fees, and other charges incurred by HOLT; (f) Recover deficiency from Customer; and/or (g) perform by itself, or cause performance of, Customer's obligation, at Customer's cost. In no event shall HOLT be required to sell or relet the Equipment, nor required to rebate or pay back any gain or profit as a result of leasing the Equipment. HOLT's remedies hereunder shall not be exclusive, but shall be cumulative and in addition to all other remedies existing at law or in equity.
- 15. RETURN:** Upon the expiration or earlier termination of this Agreement, Customer shall promptly return the Equipment to HOLT free and clear of all mortgages, liens, security interests, charges, encumbrances and claims, and in the same operating order, repair, condition and appearance as when received, ordinary wear and tear excepted. Customer shall make such return at its expense and risk, freight and insurance prepaid, to the destination specified by HOLT. In the event Customer remains in possession of the Equipment after the expiration or earlier termination hereof, Customer shall be a Lessee at Will, and all terms and conditions of the Agreement shall continue in full force and effect. If Equipment is returned dirty or damaged, Customer shall be responsible for excess cleaning and repair charges in an amount determined by HOLT.
- 16. CUSTOMER'S WARRANTIES:** In addition to the other warranties contained herein, Customer warrants to HOLT that (i) if Customer is a corporation, limited liability company or limited partnership, Customer is duly organized and validly existing in good standing under the laws of the state in which it is organized and has duly authorized the execution, delivery and performance of this Agreement; and (ii) the Agreement has been duly and validly executed and delivered by Customer and constitutes a valid contract which is fully enforceable against Customer according to its terms.
- 17. NOTICES:** All notices hereunder shall be in writing and shall be deemed delivered if delivered personally or mailed, by certified mail, return receipt requested, to the respective addresses of the parties set forth above or any other address designated by written notice.
- 18. USURY:** This Agreement is a lease, and not a financing agreement or arrangement. However, if this Agreement shall ever be determined to be a financing agreement or arrangement involving the loan of monies, this paragraph shall apply. It being the intention of the parties to strictly conform to the applicable usury laws, all agreements between the Customer and HOLT, whether now existing or hereafter arising and whether written or oral are hereby expressly limited so that in no event, whether by reason of acceleration of the maturity of the obligations secured hereby or otherwise, shall the amount paid or agreed to be paid to HOLT for the use, forbearance, or detention of money hereunder or otherwise, exceed the maximum amount permissible under applicable law. If fulfillment of any provision or of any document evidencing or securing the obligations secured hereby shall involve exceeding the limits prescribed by law, then the obligation to be fulfilled shall be reduced to the legal limit; and if HOLT shall ever receive anything of value deemed interest under applicable law which would exceed interest at the highest lawful rate, an amount equal to any excessive interest shall be applied to the reduction of the principal amount owing hereunder and not to the payment of interest, or if such excessive interest exceeds the unpaid balance of principal hereof, such excess shall be refunded to the Customer. All sums paid or agreed to be paid to HOLT for the use, forbearance, or detention of the indebtedness of the Customer to HOLT hereof shall, to the extent permitted by applicable law, be amortized, prorated, allocated, and spread throughout the full stated term of such indebtedness so that the rate of interest on account of such indebtedness is uniform throughout the term thereof.
- 19. MAXIMUM RATE:** "Maximum Rate" shall be the lesser of: 1) 1.5% per month (18% per annum); or 2) the highest non-usurious rate of interest allowed by Texas law.
- 20. MISCELLANEOUS:** This Agreement may only be modified by a written agreement signed by HOLT but not to include a Customer's purchase order. Any terms in Customer's acceptance, purchase order or other documentation that are inconsistent with or in addition to this Agreement (except such additional terms which are required by law) shall be void and of no effect (any use or reference to Customer's purchase order or purchase number in any Rental Contract is for Customers convenience only). If any provision of this Agreement is hereafter held invalid or unenforceable, the remainder of the Agreement shall not be affected and the provisions are declared severable. If there is more than one Customer, the obligations of Customers hereunder are joint and several. Subject to the terms hereof, this Agreement shall be binding upon and inure to the benefit of HOLT and Customer and their respective personal representatives, successors and assigns. This Agreement shall be governed by the laws of Texas; each party hereby irrevocably consents to submit to the exclusive jurisdiction of the courts of the state of Texas in Bexar County, Texas
- 21. Right to a jury trial is hereby waived by all parties.**
- 22. ARBITRATION:** Parties agree to submit to binding arbitration for any dispute arising out of or relating to this transaction. Either party may initiate arbitration which shall be conducted in accordance with commercial arbitration rules of the American Arbitration Association, in San Antonio, Bexar County, Texas. Each party shall bear its own costs and attorney's fees unless the arbitrators award such fees to a party, each party shall share equally the cost of the arbitration.