

**ASHTEAD TECHNOLOGY OFFSHORE, INC.  
TERMS AND CONDITIONS**

Customer agrees to rent or buy the Equipment from Company in accordance with the Contract, which incorporates these terms and conditions (“**Terms and Conditions**”).

**Definitions.** The following definitions apply to the defined terms used in these Terms and Conditions:

“**Company**” means Ashtead Technology Offshore, Inc., a Delaware corporation.

“**Contract**” means (a) these Terms and Conditions, including the Rental Terms, Sales Terms, and General Terms, and (b) the agreement to which these Terms and Conditions are attached or which incorporates these Terms and Conditions.

“**Customer**” means the person or entity who is renting or purchasing the Equipment, or purchasing the Services, under the Contract.

“**DLW**” means the equipment damage and loss waiver that Customer may acquire from Company with respect to the Equipment it is renting under the Contract.

“**Equipment**” means the equipment Company rents or sells to Customer under the Contract.

“**General Terms**” means the terms in **Part C** of these Terms and Conditions.

“**New Equipment**” means Equipment which has not previously been used other than in tests of that Equipment.

“**Rental Terms**” means the terms in **Part A** of these Terms and Conditions.

“**Sale Terms**” means the terms in **Part B** of these Terms and Conditions.

“**Services**” means the services described in the Contract that Company will perform for Customer.

**Part A. Rental Terms**

1. **Applicability.** If Customer elects to rent Equipment from Company under the Contract, then the Rental Terms and the General Terms will govern the rental of that Equipment.
2. **No Other Terms.** No term or condition of any order or other document from Customer related to the rental of Equipment from Company will become part of the Contract, and Company objects to all different and additional terms in Customer’s

order and other documents. Company's rental of Equipment to Customer is expressly conditioned on Customer's acceptance of the Contract.

3. **Inspection by Customer.** If Customer picks up the Equipment, Customer will inspect the Equipment and will give Company written notice of any problems or deficiencies before taking the Equipment from Company's premises. If Company ships the Equipment to Customer, Customer will inspect the Equipment promptly after it receives it and will give Company written notice of any problems or deficiencies within 24 hours after Customer receives the Equipment. Subject only to any particular problems or deficiencies specified in any written notice Customer delivers to Company in accordance with this **Section 3**, Customer will be deemed to have accepted the Equipment and to have verified that it was in good condition and proper working order.
4. **Customer's Liability for Lost, Stolen and Destroyed Equipment.** If during the Rental Period (defined in **Section 5** of the Rental Terms below) the Equipment is lost, stolen, destroyed, or damaged to an extent that Company determines, in its sole discretion, it is not practical to repair the Equipment, Company will invoice Customer for the full cost of new replacement Equipment, and Customer will pay Company the invoiced amount within 30 days after the date of the invoice. Customer will continue to pay Company the applicable rental rate on any Equipment that is lost, stolen, or destroyed until Customer pays Company the amount due under this **Section 4**.
5. **Rent, Fees and Payment.** Unless a different start date is specified in the Contract, the rental period for the Equipment ("**Rental Period**") starts when Customer or its designee picks up the Equipment at Company's premises, and ends when Customer delivers the Equipment to Company in accordance with the requirements of the Contract. Company will calculate the rent Customer owes based on the applicable daily rate. . Company will invoice Customer at the end of the Rental Period, or for continuing contracts the last day of the month, and Customer will pay all invoiced amounts within 30 days after the date of the invoice. All invoices will include all taxes and other governmental charges due in connection with the Contract or the Equipment, all of which Customer will pay. If Customer desires to pay Company using a credit card, Customer must complete and submit to Company for approval a credit card authorization form before the beginning of the Rental Period. If Company approves Customer's paying by credit card, Company will charge the credit card to pay all invoices for rent Company issues during the Rental Period and all additional amounts due under the Contract during or at the end of the Rental Period. Company's failure to invoice Customer for an amount due will not be a waiver of that amount, and Company may invoice Customer for that amount at a later date.
6. **Inspection by Company.** Company will be entitled to inspect, and to observe the use of, the Equipment wherever it is located at any time during the Rental Period, but Company will not have any obligation to do so. Company will give Customer 48 hours prior notice of its intention to inspect the Equipment or observe its use, and Customer will provide Company access to do so.

7. **Customer's Duty to Maintain, Repair and Report.** During the Rental Period, Customer will provide and pay for all consumable parts, batteries, supplies, lubricants, all service, and all routine maintenance required by the manufacturer to keep the Equipment in good condition and proper working order, normal wear and tear excepted. Company will have no obligation to provide routine maintenance for the Equipment during the Rental Period. If the Equipment fails to perform properly and needs to be replaced, Company will use reasonable efforts to find available replacement Equipment in its inventory. If Company notifies Customer that it has found that replacement Equipment, Customer will return the original Equipment to Company, Company will give Customer a credit for Customer's reasonable shipping costs, and Company will ship the replacement Equipment to Customer at Company's expense. Customer will immediately notify Company in writing if any of the Equipment becomes lost, damaged, stolen, unsafe or disabled, if the Equipment is used in connection with any violation of applicable law, or if the Equipment is involved in any accident causing any injury or damage. At Company's request, Customer will obtain and deliver to Company all reports regarding any such incident.
8. **Customer's Use; No Alterations.** Customer will: (a) inspect the Equipment regularly to confirm that the Equipment is in good condition and proper working order; (b) have each person who uses the Equipment read all instructional, operational and safety manuals and decals for the Equipment (collectively, "**Manuals**") before he or she uses the Equipment; (c) allow only employees of Customer who are authorized, qualified and trained to operate the Equipment to use the Equipment; (d) cause each person who uses the Equipment to use the Equipment in a careful and prudent manner for its intended purposes only and in accordance with the Manuals and applicable laws, regulations and safety requirements; (e) not remove, alter, disfigure or cover up any numbering, lettering or decals displayed on the Equipment; and (f) not subject the Equipment to any careless or rough use. Company reserves the right to impose additional charges on Customer in accordance with **Section 11** of the Rental Terms below if Customer uses the Equipment in a manner not permitted by the Contract. Customer will not make any alterations, deletions, additions or improvements to the Equipment without Company's prior written consent in each instance.
9. **Risk of Loss.** During the Rental Period, Customer assumes full responsibility for the Equipment and all risk of loss with respect to the Equipment.
10. **Title.** Company will be the owner of, and will have title to, the Equipment during the Rental Period and at all other times. Customer will give Company immediate written notice if Customer becomes aware that any person or entity other than Company claims any ownership of, title to or other interest in any of the Equipment or if any Equipment is levied upon, claimed or threatened with seizure. Customer will not permit any of the Equipment to become affixed to, or to become part of, any building or other real property. Customer will not permit the Equipment to become subject to any lien or third party claim.
11. **Return of Equipment.** Customer will return the Equipment to Company at Customer's expense at the end of the Rental Period in good condition and proper

working order, normal wear and tear excepted. Customer will be responsible for, and will pay within 30 days after receiving Company's invoice, all of Company's costs to return the Equipment to good condition and proper working order, plus an administrative fee of 15% of those costs.

12. **Insurance.** During the Rental Period, Customer will maintain, at its own expense and with an internationally recognized insurer satisfactory to Company: (a) property damage insurance covering the Equipment for the full value of new replacement Equipment; (b) commercial general liability insurance of not less than One Million Dollars (U.S. \$1,000,000.00) per occurrence, including coverage for the contractual liability of the indemnification clause in the General Terms and for the use of the Equipment; and (c) if the Equipment is to be used on any roadway, automobile insurance (including comprehensive and collision coverage, a non-owned vehicle endorsement and uninsured/underinsured motorist coverage), in the same amount stated in subsection (b) above. Those insurance policies will state that they are primary and not secondary coverage, regardless of any insurance coverage Company has. Concurrently with the execution of the Contract and from time to time at Company's request, Customer will deliver to Company a current insurance certificate showing Customer has in place the foregoing insurance coverage, listing Company as an additional insured and loss payee, and providing that Company will receive at least 10 days prior written notice of any modification or cancellation of any insurance policy. The insurance required by this **Section 12** does not relieve Customer of any of Customer's responsibilities or obligations under the Contract, at law, in equity or otherwise.
13. **Financing.** This Contract and all of Customer's rights in and to the Equipment are subject to and subordinate to all rights, title and interests of all persons or entities (including Company's secured lenders) who have financed or leased the Equipment or who have provided financing to Company.
14. **Services**
  - a. **Applicability.** If the Contract states that Company will perform Services for Customer, then, in addition to the Rental Terms above and the General Terms below, the following terms and conditions will also govern Company's performance of those Services.
  - b. **Price; Payment.** Customer will pay Company for the Services in accordance with the price and payment terms in the Contract. It is often difficult to determine at the beginning of an engagement the full nature and extent of the services necessary to perform the task. Therefore, estimates in the Contract regarding the total cost of Services are not binding.
  - c. **Expenses.** Customer will be responsible for all costs Company incurs in performing the Services, including costs of photocopying, travel, long distance telephone calls, express mail, lodging, and meals. Company will either advance such costs on Customer's behalf or ask Customer to pay them directly

or in advance. If Company pays the fees in advance on Customer's behalf, Company will deliver periodically to Customer an invoice listing all the expenses Company incurred in providing the Services, along with reasonable backup documentation. Customer will pay each invoice within 30 days after Customer receives it.

d. **Customer's Additional Obligations.**

(i) Customer will take reasonable precautions to secure and protect the Equipment, will not intentionally damage or misuse the Equipment, and will not use or operate the Equipment in a negligent, reckless or abusive manner.

(ii) Within 48 hours after the occurrence of any loss, theft or destruction of, or any damage to, the Equipment (other than accidental damage that occurs during the normal use of the Equipment in the presence of an employee of Customer), Customer will complete some form of formal written report, and will deliver a complete copy of the report to Company. Additionally, Customer will promptly provide to Company all documents and records Company requests and will provide to Company all other assistance Company requests.

e. **Subrogation.** With respect to any loss, theft or destruction of, or damage to, the Equipment, (i) Company will be subrogated automatically to Customer's rights to recover against any person or entity arising out of that loss, theft, destruction or damage, (ii) Customer hereby irrevocably assigns to Company all claims, rights and proceeds arising out of that loss, theft, damage or destruction, and (iii) Customer agrees to execute and deliver to Company all documents that may be necessary or helpful, and to take all other steps Company requests, to secure in Company all of those rights.

**Part B. Sale Terms**

1. **Applicability.** If Customer elects to purchase Equipment from Company under the Contract, then the Sales Terms and the General Terms will govern the sale of that Equipment.

2. **Equipment.** No term or condition of any purchase order or other document from Customer related to the sale of Equipment from Company will become a part of the Contract between the parties or bind Company, and Company objects to all different and additional terms in Customer's purchase order and other documents. Company's sale of Equipment to Customer is expressly conditioned on Customer's acceptance of the Contract.

3. **Price; Payment.**

a. The purchase price of the Equipment will be specified in the Contract. The purchase price does not include any sales, use, revenue, excise or other taxes

or governmental charges (collectively, “**Taxes**”), all of which Customer will pay.

- b. If Company is required to collect any Taxes, Company will add them to the purchase price and invoice Customer (in the original invoice or separately), and Customer will pay the invoice. Company will invoice Customer when Company delivers the Equipment as specified in **Section 4** below, and Customer will pay the total purchase price of the Equipment within 30 days after the date of Company’s invoice. The date of any payment will be the date Company receives the payment.
- c. No partial payment by Customer will constitute an accord and satisfaction or otherwise satisfy the entire outstanding balance of any Company invoice, notwithstanding any notation or statement accompanying that payment.
- d. If Customer desires to pay Company using a credit card, Customer must complete and submit to Company for approval a credit card authorization form.

4. **Delivery; Cancellation; Rescheduling.**

- a. All prices are net of any delivery charges, all of which Customer will pay. Company will deliver the Equipment to Customer ex works (Incoterms 2010) at Company’s facility, and title and all risk of loss will pass to Customer at that point. Company will not be responsible for any damage to the Equipment caused by a carrier, and Customer’s sole recourse for that damage will be against the carrier. All delivery schedules and dates given by Company are estimates only.
- b. If Customer cancels all or part of any order, Customer will reimburse Company for all non-recoverable costs of materials, labor, cancellation charges by third parties and other costs that Company has incurred, and Customer will pay Company an additional cancellation charge of 10% of the total amount of the order or portion of the order canceled.
- c. If Customer has reschedule, Customer agrees in writing to reimburse Company promptly for all rescheduling, handling, storage and other costs and expenses Company incurs in connection with the rescheduling.

5. **Title.** Ownership and title in the Equipment will remain with Company and will not pass to Customer until Customer has paid to Company the sale price in full, notwithstanding delivery of the Equipment to the Customer or to any independent carrier or any third party. Until ownership of the Equipment has passed to Customer in accordance with this **Section 5**, Customer will (a) store the Equipment at Customer’s expense separately from all other goods of Customer or any other third party in such a way that they remain readily identifiable as Company’s property, and (b) not destroy, deface, or obscure any identifying mark or packaging on or relating to the Equipment.

6. **Default; Remedies.** The occurrence of any of the following will constitute an event of default by Customer: (a) Customer's failure to pay any sum to Company as and when due; or (b) Customer's default under any other provisions of the Contract which is not cured within 10 days after Company gives Customer written notice of default. Upon the occurrence of an event of default, and in addition to any other rights and remedies that Company may have, Company will have the right, at its option, to take one or more of the following actions: (a) declare all or part of Customer's obligations to Company immediately due and payable; (b) suspend its performance under or terminate pending Contracts; and (c) pursue its other rights and remedies under the Contract and applicable law. All amounts Customer does not pay as and when due will accrue interest at the rate of 18% per annum until paid in full. If Customer defaults under its obligations to Company, Customer will pay Company all costs of collection, including reasonable attorneys' fees and costs.
7. **Insurance.** Customer will maintain at all times until it has paid the purchase price (and all other amounts) for the Equipment in full, with an insurer reasonably satisfactory to Company, property damage insurance on the Equipment for its full insurable value and will provide to Company from time to time thereafter at Company's request, a valid and current insurance certificate showing Company as loss payee and providing that Company will receive at least 10 days prior written notice of any modification or cancellation of the insurance policy.
8. **Security Interest.** Customer grants Company a continuing first-priority security interest in all Equipment Company sells to Customer and all proceeds of that Equipment to secure the purchase price and all other sums due with respect to that Equipment. Company will be entitled to file UCC financing statements, continuation statements, and all other documents and instruments necessary or desirable to evidence, perfect, and continue Company's security interest in the Equipment and proceeds.

### **Part C. Terms Applicable to both Rental and Sale of Equipment**

1. **Applicability.** The General Terms govern Company's rental and Company's sale of Equipment to Customer.
2. **Export.** The Equipment may be subject to U.S. export control laws, including the Export Administration Regulations (EAR), the International Traffic in Arms Regulations (ITAR), and the Foreign Assets Control regulations. Customer is responsible for determining whether export or re-export licenses or other authorizations are required for any export, re-export, deemed export, or deemed re-export, and for obtaining any such required licenses or authorizations from the United States government and any other relevant government, before exporting or re-exporting the Equipment. Customer is also responsible for obtaining all required licenses and other authorizations necessary for the return of the Equipment. Customer acknowledges its responsibility for ensuring that no unauthorized transfers or diversions of the Equipment occur.

3. **Deposit.** Company may require Customer to deposit with Company a security deposit (“**Deposit**”), and Company may delay performance of its obligations under the Contract until Customer has paid the Deposit to Company. If Customer fails to pay any sum to Company as or when due under the Contract, or if Customer damages, destroys, or loses any Equipment, Company may deduct from the Deposit all amounts Customer owes Company. Company will return to Customer any unpaid balance on the Deposit within 21 days after Customer returns the Equipment at the end of the Rental Period in accordance with the Contract.
4. **Delivery.** Customer will provide at the delivery point designated in the Contract and at Customer’s expense adequate and appropriate equipment and manual labor for loading the Equipment. The quantity of any Equipment that Company records when dispatching Equipment to Customer will be conclusive evidence of the quantity Customer received on delivery unless Customer can provide conclusive evidence to the contrary. If Customer fails to accept delivery of any Equipment when it is ready for delivery in accordance with the Contract, or if Company is unable to deliver the Equipment because Customer has not provided appropriate instructions, documents, licenses, authorizations, equipment, or labor, then (a) risk of loss with respect to the Equipment will automatically pass to Customer, (b) the Equipment will be deemed to have been delivered, and (c) Company may store the Equipment until delivery, and Customer will be liable for all related costs and expenses, including storage and insurance.
5. **Notices.** Any notice permitted or required under the Contract will be deemed given if it is in writing and is (a) delivered personally, (b) deposited with FedEx or in the United States mail, certified mail, return receipt requested, (c) sent by facsimile to the facsimile numbers Company and Customer specify to each other from time to time, or (d) sent by email to the email addresses Company and Customer specify to each other from time to time.
6. **Default; Termination.** Customer will be in default under the Contract if Customer: (a) fails to pay any sum to Company as and when due; (b) fails to comply with any other provision of the Contract and does not cure that noncompliance within 10 days after Company gives Customer written notice of default; (c) places the Equipment at risk of damage, destruction or loss, or encumbers the Equipment, in Company’s reasonable judgment. If Customer defaults under the Contract, (x) Company may, in addition to its other rights and remedies under the Contract and applicable law, enter any location where the Equipment is and repossess the Equipment without judicial process or notice, and (y) Customer will pay Company its reasonable attorney’s fees and expenses in connection with collecting all amounts due under the Contract, obtaining possession of the Equipment, and defending all Claims arising out of or relating to Customer’s breach of the Contract. Customer waives any right of action against Company for any such entry or repossession. All past due amounts will bear interest at the lower of 18% per annum or the highest rate allowed by law until paid in full. Company will also have the right to terminate the Contract at any time for Company’s convenience by giving Customer written notice of termination, and if



Company elects to terminate the Contract, Customer will promptly return the Equipment to Company in accordance with the Contract.

7. **Warranty; Disclaimers.**

- a. **Limited Warranty.** Company represents and warrants to Company that (a) it is authorized to rent or sell the Equipment to Customer in accordance with the Contract, and (b) it will perform the Services in a professional manner.
- b. **Disclaimers.** Company does not design or manufacture the Equipment and is not the agent of any person or entity that does. With respect to any New Equipment that Company sells to Customer under the Contract, the Equipment may have a warranty from the applicable manufacturer. Notwithstanding the foregoing, except for the warranties in **Section 7(a)** of these General Terms, **COMPANY IS LEASING THE EQUIPMENT AND IS SELLING THE EQUIPMENT TO CUSTOMER AS IS, WITHOUT WARRANTY. COMPANY DISCLAIMS ALL OTHER WARRANTIES AND REPRESENTATIONS, EXPRESS AND IMPLIED, AS TO THE EQUIPMENT OR SERVICES, INCLUDING ALL REPRESENTATIONS AND WARRANTIES: (i) AS TO MERCHANTABILITY, THE FITNESS OF THE EQUIPMENT FOR ANY PARTICULAR PURPOSE, OR NON-INFRINGEMENT; AND (ii) AS TO THE SUITABILITY OF THE EQUIPMENT OR SERVICES FOR CUSTOMER'S PURPOSES OR THE IMPACT OF THE EQUIPMENT OR SERVICES ON CUSTOMER'S BUSINESS OR OPERATIONS.** Company makes no warranties or guarantees regarding the production, performance, or economic benefit Customer may obtain from the Equipment or Services.

8. **Limitations.**

- a. Regardless of the theory of recovery, Company's liability with respect to the Contract, including any rental or sale of Equipment and any Services, will not exceed the amount Customer has paid to Company under the Contract within the 12-month period preceding the act or omission giving rise to the claim. Company will not be liable for any late delivery or for the condition of the Equipment.
- b. Company will not be liable under any circumstances for any special, indirect, incidental, consequential or punitive damages arising out of or related to the Contract, the Equipment, or the Services, including lost revenues or profits, regardless of the theory of recovery and regardless of whether Company is informed of the possibility of those damages.
- c. Any action or proceeding by Customer arising out of or relating to this Contract will be forever barred unless it is commenced within the earlier of: (a) one year after the claim or cause of action has accrued; or (b) the period prescribed by applicable statute of limitation or repose.

9. **Indemnification.**

- a. **Equipment.** CUSTOMER WILL DEFEND, INDEMNIFY AND HOLD HARMLESS, COMPANY AND ALL OF ITS SUBSIDIARIES AND AFFILIATES AND ALL OF THEIR RESPECTIVE DIRECTORS, OFFICERS, EMPLOYEES AND AGENTS (COLLECTIVELY, “INDEMNIFIED PARTIES”) AGAINST ALL CLAIMS (AND ALL RELATED LOSSES, DAMAGES, ATTORNEYS’ FEES AND EXPENSES) (COLLECTIVELY, “CLAIMS”) FOR (i) INJURY TO OR DEATH OF ANY PERSON, (ii) DAMAGE TO, DESTRUCTION OF, OR CONTAMINATION OF ANY REAL OR PERSONAL PROPERTY, (iii) VIOLATION OF ANY ENVIRONMENTAL OR OTHER LAW, OR (iv) VIOLATION OF ANY SAFETY REQUIREMENT, BASED IN WHOLE OR IN PART ON THE EQUIPMENT, THE USE, POSSESSION OR CONTROL OF THE EQUIPMENT BY ANY PERSON OR ENTITY, OR THE SERVICES. Customer’s obligation under this Section 9 to indemnify, defend, and hold harmless the Indemnified Parties will include any Claim that results from the negligence, fault or conduct of one or more of the Indemnified Parties; provided that Customer will not be required to indemnify, defend or hold harmless the Indemnified Parties under this **Section 9** for any Claim based solely on Company’s negligence or violation of applicable law. If any part of this **Section 9** is determined to be invalid by a court of competent jurisdiction, Customer agrees that this release and indemnification will be enforceable to the fullest extent permitted by applicable law.
- b. **Procedure.** Company will give Customer prompt written notice of any Claim under this **Section 9**, will permit Customer to conduct the defense of such claim as long as Customer confirms in writing that such Claim is within Company’s indemnification obligations, and will provide, at Customer’s expense, reasonable cooperation in the defense of such Claim.

10. **Force Majeure.** Company will not be liable for delays or failure to perform directly or indirectly resulting from events and causes beyond Company’s reasonable control, accidents, acts of God, acts and omissions of any governmental authority, declared or undeclared wars, terrorism, strikes or other labor disputes, fires, floods, earthquakes, storms, epidemics and other natural calamities, changes in the law, and delays in obtaining or the inability to obtain labor, equipment, materials or services through Company's usual sources at normal prices.

11. **Miscellaneous.** Sections 6, 7, 8, and 9 of these General Terms will survive the termination of the Contract for any reason, including the expiration of the Rental Period. Company has the right to file Uniform Commercial Code financing statements and all other documents and instruments necessary or desirable to evidence, maintain and protect Company’s ownership of and interest in the Equipment. Customer may not assign to any person or entity all or any portion of its rights or obligations under the Contract or with respect to any Equipment without Company’s prior written consent in each instance, and any attempted assignment without that consent will be

void. Company is an independent contractor, and nothing in the Contract will be construed as creating a partnership, joint venture, agency or fiduciary relationship between the parties. The Contract and any controversy relating to the Contract or the Equipment will be governed by the laws of the State of North Carolina, excluding its conflict of law principals. Any action or proceeding relating to the Contract or a breach of the Contract will be commenced and heard exclusively in the Texas state courts for Houston, Texas or the United States District Court for the Southern District of Texas, Houston Division, and the parties consent and submit to the jurisdiction and venue of those courts. Any waiver under the Contract must be in writing and signed by the waiving party to be effective. No failure or delay by any party in exercising any right, power or privilege under the Contract will operate as a waiver. The term “including” will not be construed to be limiting. The Contract will be binding on, and will inure to the benefit of, the parties and their respective successors, heirs and permitted assigns. The Contract constitutes the entire agreement between the parties, and supersedes all prior and contemporaneous understandings, agreements, usages of trade and courses of dealing regarding the subject matter. The Contract may only be modified by a written agreement signed by both parties.