

ORANGE AND ROCKLAND UTILITIES, INC.

STANDARD TERMS AND CONDITIONS

RENTAL OF EQUIPMENT

February 24, 2003

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STANDARD TERMS AND CONDITIONS
RENTAL OF EQUIPMENT

1. Definitions. The following terms as used herein shall have the meanings stated:

"Orange and Rockland"	Orange and Rockland Utilities, Inc., the Lessee hereunder.
"Lessor"	The party named on the face of the Purchase Order as renting equipment to Orange and Rockland.
"Equipment"	The equipment described in the Purchase Order to be rented hereunder.
"Purchase Order"	The rental contract between Orange and Rockland and the Lessor consisting of: (a) the Orange and Rockland purchase order form (both sides and all pages) and all documents expressly incorporated by reference therein, including, without limitation, the Invitation for Bids or Request for Proposals and all documents directly or indirectly incorporated by reference therein; (b) these Standard Terms and Conditions; and (c) any and all special conditions, schedules, specifications, drawings and other documents, to the extent that they are incorporated by reference in (a) or (b) above. (The words "hereof," "herein," "hereto" and "hereunder" as used in these Standard Terms and Conditions shall be deemed to refer to the Purchase Order.)

2. Contract Formation. Acceptance of the bid or proposal is expressly conditioned upon the Lessor's assent to the terms and conditions hereof. Lessor shall be bound by the Purchase Order and its terms and conditions upon the mailing hereof, unless the Lessor's offer contains terms additional to or different from those expressed herein. In such event, the Lessor shall be bound by the Purchase Order and its terms and conditions when it executes the acknowledgment copy or any other writing to that effect or when it delivers the Equipment to Orange and Rockland. No terms or conditions stated by the Lessor in its bid or proposal, acknowledgment or other correspondence shall be binding upon Orange and Rockland if different from or in addition to the express provisions of the Purchase Order.

3. Rental Term and Commencement Date. The rental term of this Purchase Order shall be as set forth in the purchase order form. The commencement date for the purpose of determining when charges begin shall be the date after the date the Equipment is delivered to and accepted by Orange and Rockland. The Equipment shall

be subject to inspection and approval by Orange and Rockland prior to its acceptance. The Equipment shall be inspected within a reasonable time after delivery and the date of approval acknowledged by Orange and Rockland. All rejected Equipment will be held at Lessor's expense and at Lessor's risk for Lessor's disposition instructions.

4. Return of Equipment. The Lessor shall pick up the Equipment at the end of the rental period or of any extension thereof. Orange and Rockland shall not be liable for any additional rental for Equipment kept beyond the rental period specified herein resulting from the Lessor's failure for any reason to pick up the Equipment, or, if no rental period is specified, within one day of notice by Orange and Rockland to the Lessor to pick up the Equipment. The Lessor shall inspect the Equipment at the time of its return (by pick-up or otherwise) and promptly notify Orange and Rockland of any damage or disrepair or missing components. The Lessor shall sign a receipt for the Equipment returned on which it must state any deficiencies in the Equipment. The failure of Lessor to indicate damage or disrepair or missing components at the time of pick-up shall be deemed to conclusively establish that the Equipment was free of damage and in good repair.

5. Demonstrator Unit(s). Any demonstrator unit provided shall be of the same quality as a rental unit and subject to the same terms except that it shall be at no charge to Orange and Rockland.

6. Hour Meter and Mileage Readings. Invoices covering compressor and construction Equipment rentals shall show engine-hour clock readings at the start and the end of the invoice period. In the case of a vehicle the rent for which is determined in whole or in part by mileage, the invoice shall show starting and ending odometer readings.

7. Estimated Usage. Notwithstanding any estimated Equipment usage stated by Orange and Rockland in its Invitation for Bids or Request for Proposals, Orange and Rockland does not represent nor in any way guarantee that Orange and Rockland will rent Equipment from the Lessor hereunder in the estimated usage amounts or in approximations thereof. This is not a requirements contract.

8. Noise Abatement. Where the Equipment consists of vehicles, trucks, compressors, pneumatic hammers and other construction equipment, the Lessor shall be responsible for complying with applicable Governmental noise abatement laws and regulations in all jurisdictions where the Equipment may be operated.

9. Safety. Equipment furnished by the Lessor shall be safe for ordinary use and shall conform to all the requirements of the Occupational Safety and Health Act and all other applicable Federal, State and Local laws, regulations and rules relating to safety. The Equipment shall also meet the standards of the American National Safety Institute (ANSI).

10. Option to Purchase. Orange and Rockland shall have the option to purchase all of the Equipment or individual major items of the Equipment at any time during the term of the Purchase Order by applying ____% of the rent paid hereunder for such Equipment towards the purchase price(s) to the extent any are set forth herein. When such an application of rent reaches any such price, the payment of rent shall cease and title to the Equipment shall pass to Orange and Rockland.

11. Out-of-Service. When Equipment is leased on a calendar basis, Lessor will not be entitled to receive rent for periods of time that Equipment is out-of-service because it is in disrepair. Out-of-service time will be computed on the basis of hours and days.

12. Amendments. No modification of or amendment to the Purchase Order shall be valid or binding unless in writing and signed by an authorized representative of Orange and Rockland.

13. Firm Price. Unless otherwise specifically provided herein, the rent(s) stated in the Purchase Order are firm and not subject to increase.

14. Payment. Payment shall be made by Orange and Rockland to the Lessor within thirty (30) days after receipt and processing of invoices, unless otherwise specified in the Purchase Order. Invoices shall be submitted in duplicate to Orange and Rockland's Accounts Payable Department (with a copy to Orange and Rockland's Rental Coordinator designated on the purchase order form), in such detail and with such supporting documentation as may reasonably be required by Orange and Rockland for tax and regulatory purposes. The acceptance by the Lessor of final payment, notwithstanding any purported reservation of rights, shall be and shall operate as a release of Orange and Rockland from all claims of and all liability to the Lessor for all things done or furnished in connection with the Purchase Order and for every act and neglect of Orange and Rockland and others for whom Orange and Rockland is or may be responsible relating to or arising out of the Purchase Order. However, no payment, final or otherwise, shall operate to release the Lessor from any obligations under the Purchase Order.

15. Taxes. Except as otherwise provided in this Purchase Order, the price does not include any Federal state or local sales, use, or other similar tax which may now or hereafter be applicable to the goods or services furnished hereunder. Orange and Rockland agrees to pay or reimburse the Lessor for any such tax. Orange and Rockland shall have the right to direct the basis on which any such taxes shall be paid or contested and to control any contest and shall reimburse the Lessor for any interest, penalties or expenses the Lessor may be required to pay on account of any such taxes

or contest. Conducting any hearings or litigation regarding a tax dispute shall be Orange and Rockland's responsibility, but the Lessor shall cooperate and assist Orange and Rockland therein.

16. Risk of Loss or Damage. Unless otherwise specified in the Purchase Order, the risk of loss of or damage to the Equipment shall remain with the Lessor except where caused by the sole negligence of Orange and Rockland.

17. Time of Performance. The Lessor shall deliver the Equipment to the location stated in the Purchase Order and perform any services to be furnished in accordance with the delivery dates and any schedule of performance stated herein. It is understood and agreed by the Lessor that TIME IS OF THE ESSENCE OF THIS PURCHASE ORDER.

18. Warranties. The Lessor warrants the Equipment leased under the Purchase Order to be free from defects in design, material, fabrication and workmanship, to conform to any applicable samples and to specifications, drawings and other descriptions herein, and to be suitable for the purpose intended. The Lessor further warrants and covenants that the Equipment is safe as stated in Article 9, Safety, that it complies and may be used in compliance with all requirements of Federal, state and local laws and regulations, and that Orange and Rockland shall have the quiet enjoyment of the Equipment free of claims by others asserting a superior right to it. Equipment failing to meet any warranty may be rejected by Orange and Rockland. If failure occurs after initial acceptance, Lessor shall, upon notice by Orange and Rockland, pick up the Equipment, and no further rent shall be due on the Equipment after such notice.

19. Indemnification. Lessor agrees to indemnify and save Orange and Rockland, its trustees, officers, employees and agents harmless from all claims, damage, loss and liability, including costs and expenses, legal and otherwise, for injury to or the death of persons or damage to property, including the property of Orange and Rockland, resulting, in whole or in part, from or connected with use of the Equipment by Orange and Rockland, its agents, servants or employees, except to the extent that such personal injury or death or damage to property is caused by the negligence of Orange and Rockland.

20. Insurance. At all times during performance of the Purchase Order, the Lessor shall maintain Workers' Compensation Insurance covering bodily injury and occupational disease. The Lessor shall also maintain such liability insurance covering injury to or death of persons, and damage to property, including automobile and contractual liability, as required to insure the risks assumed by the Lessor under the Purchase Order. Said insurance shall be in at least the limits of \$1,000,000 per occurrence for bodily injury or death and \$500,000 per occurrence for property damage, or any other limits specified in the Invitation for Bids or Request for Proposals issued by Orange and Rockland. The Lessor shall cause its insurers to name Orange and Rockland as an additional insured in its insurance policies. At the request of Orange

and Rockland, Lessor shall promptly submit certificates of insurance indicating that the required insurance policies have been issued and are effective and may not be cancelled or their limits reduced without ten days' written notice by the insurers to Orange and Rockland. Such certificate shall not contain a disclaimer of liability of the insurer for failure to provide Orange and Rockland with notice of cancellation or substantial alteration. Lessor's obligations under the Purchase Order shall not be affected by the grant to, or the exercise or non-exercise by, Orange and Rockland of the right to specify or approve the insurance coverage maintained by Lessor.

21. Patent Infringement. Lessor shall indemnify and hold Orange and Rockland harmless against any liability arising from a claim, suit or proceeding brought against Orange and Rockland alleging that the Equipment or any part or combination thereof supplied by the Lessor hereunder infringes any patent or other proprietary right.

22. Assignment. Lessor shall not assign all or any of its rights under this Purchase Order without the written consent of Orange and Rockland, and any assignment made without such consent shall be void.

23. Termination. Orange and Rockland may for any reason, even without cause and for its convenience, on three (3) days written notice to Lessor, terminate all or any part of the unperformed portion of the Purchase Order without liability to Lessor except as stated in this Article. In the event of such a termination, in full discharge of its obligations to the Lessor in respect of the Purchase Order and such termination, Orange and Rockland shall pay to the Lessor an amount which bears the same proportion to the rent stated for the entire term of the Purchase Order as the time expired prior to the termination bears to the entire term of the Purchase Order less payments previously made. In no event shall Orange and Rockland be liable to Lessor for damages of any kind arising out of the termination, whether based on lost profit, unrecovered or increased overhead, lost opportunities to obtain other rentals, or otherwise.

In the event Seller is in default of any of its obligations under this Purchase Order, Orange and Rockland shall have the right, on written notice to the Seller, to terminate the Purchase Order for such default. In the event of cancellation for default hereunder, the preceding paragraph of this Article shall not apply and Orange and Rockland shall have all rights and remedies provided by law and under this Purchase Order.

24. Set-Off. Orange and Rockland shall have the right to set off against any sums due Lessor hereunder any claims Orange and Rockland may have against Lessor under the Purchase Order or any other contract between Orange and Rockland and Lessor without prejudice to the rights of the parties in respect of such claims.

25. Compliance with Laws. Lessor shall comply with all applicable Federal, state and local laws, Executive Orders, regulations and rules. Without limiting the generality of the foregoing, Lessor agrees to comply, as applicable, with the provisions contained in [Appendix A](#) hereto, which is incorporated in these Standard Terms and Conditions as if fully set forth herein. It contains articles entitled Equal Employment Opportunity, Disabled Veterans and Veterans of the Vietnam Era, Employment of the Handicapped, and Clean Air and Water.

26. Effect of Orange and Rockland Approval. Lessor's obligation under the Purchase Order shall not be affected by the grant to, or the exercise or non-exercise by, Orange and Rockland of rights to inspect, test, review or approve the Equipment or Lessor's performance hereunder. Any failure of a Orange and Rockland representative to object to a non-conformity of the item, even if apparent or discoverable, with all the requirements of the Purchase Order shall not be effective as a waiver or acceptance of the non-conformity.

27. No Waiver. Neither the acceptance of the Equipment or any part thereof nor any payment therefor nor any order or certificate issued under the Purchase Order nor any performance by Orange and Rockland of any of Lessor's duties or obligations nor any failure of Orange and Rockland to insist on strict performance or observance by Lessor of any of the terms or conditions of the Purchase Order or to assert Orange and Rockland's rights in any one or more instances shall constitute a waiver by Orange and Rockland of such performance, terms, conditions or rights, either then or for the future. Any waiver shall be effective only if in writing and signed by Orange and Rockland's authorized representative, and only with respect to the particular event to which it specifically refers.

28. Entire Agreement. The Purchase Order, as it may be amended in accordance with Article 12 hereof, contains the entire agreement between Orange and Rockland and Lessor. Any prior or contemporaneous, oral or written, understandings or agreements affecting the subject matter of the Purchase Order are merged herein.

29. New York Law. The Purchase Order shall be construed, and the rights and liabilities of the parties hereto determined, in accordance with the laws of the State of New York.

30. Protection of Persons and Property; Notice of Accidents. When Lessor's performance hereunder entails the presence of Lessor, its agents, servants or employees on Orange and Rockland's premises for any purpose, including, without limitation, the delivery of Equipment, Lessor shall ensure at all times that every reasonable precaution is taken to protect persons and property. Lessor shall cause its and its agent's personnel, while on or about Orange and Rockland's premises, to observe and comply with all fire, safety, hazard, "No Smoking", and other rules and regulations prescribed by Orange and Rockland or legally in effect at the time. Lessor shall promptly report in writing to Orange and Rockland all accidents whatsoever,

arising out of or in connection with any performance of the Purchase Order on or adjacent to Orange and Rockland's premises, which result in death, injury or property damage, giving full details and statements of witnesses. In addition, if death or serious injury or serious damage is caused, Lessor shall immediately orally report the accident to Orange and Rockland.