

IBL[®] Seaming Tool Rental Agreement

LESSEE:	SHIP TO:
	CONTACT: _____
	PHONE #: _____
	E-MAIL: _____

Customer Number: _____	Date Seamer Required on Job Site: _____
Job Number: _____	Anticipated Return: _____
Customer PO: _____	Square Footage of Roof: _____
	Panel Gauge: _____

Type of Tool: If more than one type of tool is needed, please fill out a separate form for each.

Electric Seamer

For Seaming Panel Sidelaps

Seamer Box Combination:
0-0-0-0

Declared Value \$7,500

Rental Rates

Daily	\$30.00
Weekly	\$115.00
Monthly (4 wks.)	\$350.00

Rental Fee

____ Days x \$30.00	= _____
____ Weeks x \$115.00	= _____
____ Months x \$350.00	= _____
x ____ Seamers	= _____
Tax	= _____
Freight (may vary)	= _____
Total Charge	= _____

IBL Hand Crimper

For crimping sidelaps at clip locations.

IBL Hand Crimper is **NOT** available for rental.

May be purchased through Sales by contacting your Sales Coordinator.



IMPORTANT - PLEASE READ CAREFULLY

PLEASE NOTE: DAMAGE TO RECEIVED EQUIPMENT MUST BE REPORTED TO IPS UPON RECEIPT. FAILURE TO REPORT DAMAGE MAY RESULT IN ADDITIONAL CHARGES TO THE CUSTOMER.

By accepting delivery of rented item, customer agrees to all terms and conditions shown on back, and front, of this Rental Agreement. **Customer assumes FULL RESPONSIBILITY** for rented item, including the safe and proper use, operation, routine maintenance (as specified in the Seamer Specification and Maintenance Section of the Field Seaming Tool Manual), storage, transportation, and return to NCI Group, Inc. **Customer is responsible for all loss, damage or repair.**

Warranty Disclaimer: NCI Group, Inc. makes no warranties of merchantability or fitness for particular purpose or any other warranties expressed or implied.

SIGNED _____	DATE _____
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RENTAL TERMS AND CONDITIONS

1. **Parties; Renting.** All references to IPS refer to NCI Group, Inc. (hereinafter "IPS" or "IPS"). IPS and Customer (named on the face hereof) may sometimes collectively be referred to herein as the "parties." IPS rents to Customer and Customer hires from IPS the tools or equipment (the "Equipment") described on the face hereof.
2. **Binding Effect.** The following terms and conditions (the "Terms and Conditions") shall apply to any and all equipment leases between IPS and the Customer and shall not be waived, modified or amended without the express written consent of the IPS's President or Executive Vice-President. Terms contained within any other purchase order, service order or other agreement issued by Customer conflicting with these Terms and Conditions shall be of no force and effect. All leases by IPS of any nature to Customer shall be made under the provisions of this Agreement. Any documents that Customer may use for its convenience including, but not limited to, purchase orders, services orders or lease acknowledgement forms, shall be deemed to be for the administrative convenience of Customer only, and this Agreement as well as the terms and conditions as stated in IPS's invoices and bills of lading shall supersede and take precedence over any of Customer's terms and conditions which may be contained on any such forms. Further, should IPS act upon this Agreement without first obtaining Customer's signature on a purchase order, service order or similar instrument, Customer hereby irrevocably agrees to be bound by these Terms and Conditions to the exclusion of any contrary terms and conditions proposed by Customer. All orders or leases are subject to approval and acceptance by IPS. CUSTOMER SPECIFICALLY AUTHORIZES IPS TO FILL IN ANY BLANKS IN ORDER TO REFLECT THE PARTIES' AGREEMENT AND CORRECT ANY APPARENT ERRORS. CUSTOMER ACKNOWLEDGES RECEIPT OF A TRUE COPY OF THE RENTAL AGREEMENT WITH BLANKS FILLED IN TO CUSTOMER'S SATISFACTION.
3. **Payment.** Payments due IPS under the terms of this lease and any other money due IPS by Customer shall be paid to IPS in U.S. dollars at its Houston, Harris County, Texas office. Unless otherwise agreed in advance and in writing by IPS's Credit Department, rental payment for the Equipment under this Agreement shall be due and payable in full, without set off or offset for any reason, upon receipt of IPS's invoice. IPS reserves the right to change the terms of payment as stated herein at any time for any reason at the sole discretion of IPS without prior written notice to Customer. Unless specifically enumerated on the face hereof, the rental price does not include any taxes (including excise, privilege, occupation, use, sales, etc.; Federal, State or local) or costs of shipment. All Equipment leased hereunder are leased F.O.B. IPS's plants.
4. **Term of Rental; Termination.** Rental charges commence when the Equipment leaves IPS's facilities located at 14031 W. Hardy, Houston, Harris County, Texas ("IPS's location") and cease when the Equipment is returned to IPS's location in as good condition as when received, ordinary wear and tear excepted, and Customer shall pay for repairs or replacements of all parts damaged by misuse or for all damage done; and Customer shall remain liable for rental hereunder until repairs or replacements to the unit have been completed. Customer may terminate this Rental Agreement at any time by notifying IPS when Customer wishes to return the Equipment, with such termination effective upon the return of the Equipment to IPS, at Customer's sole expense. IPS may terminate this Rental Agreement for any reason whatsoever (including for convenience) upon twenty-four(24) hours notice in writing to Customer and repossess all items of Equipment wherever they may be found, but Customer shall nevertheless remain liable for all its obligations hereunder through termination and for all sums then due and unpaid, plus a reasonable amount for attorney's fees and such expenses as may be expended in the repossession of the Equipment. The remedies provided herein in favor of IPS shall not be deemed exclusive, but shall be cumulative and in addition to whatever other remedies IPS may have at law or in equity. Customer's indemnification, hold harmless and repair obligations will survive termination of this Rental Agreement.
5. **Return Of Equipment; Holding Over.** Upon the expiration or termination of the Rental Agreement, Customer shall, unless otherwise directed in writing by IPS, deliver the Equipment to IPS at the address for IPS from which the Equipment was sent at the commencement of the rental. Any expenses relating to the return of the Equipment to IPS shall be borne by Customer, including, without limitation, any costs incurred by IPS in connection with removal of the Equipment. If the Customer retains possession of the Equipment beyond the date of anticipated return indicated on the face hereof or any later date agreed to in writing by IPS as the expiration of the Rental Agreement, then all terms and conditions of this Rental Agreement shall continue unchanged and the Customer shall continue to pay the agreed to rental rate(s) on the face hereof until the Equipment is returned to IPS in accordance with the terms and conditions stated herein. In addition to the foregoing, IPS may also elect to charge Customer for the declared value of the Equipment indicated on the face hereof, in which case the Customer shall be obligated to pay such amount to IPS within ten (10) days of date of invoice thereof (and such payment shall otherwise be subject to the terms of Section 3 above) and ownership of the Equipment shall transfer to the Customer upon the payment in full of both such declared value and any other amounts then owing under this Rental Agreement to IPS.
6. **Absence of Encumbrance or Unauthorized Use.** Customer shall not grant any lien or security interest in or otherwise encumber this Rental Agreement or the Equipment, nor permit any other person to use the Equipment without IPS's prior written consent. If Customer fails promptly to discharge or remove any such claim, lien, security interest or legal process, IPS may at its option discontinue the same, advancing any amounts necessary thereof. Customer shall promptly reimburse IPS for all such amounts with interest at the maximum legal rate. Upon request by IPS, Customer shall immediately execute and deliver to IPS UCC-1 forms for recording in the proper government offices.
7. **Costs of Collection.** If an invoice becomes past due, is placed in the hands of an attorney for collection, if collected by any legal proceedings, or if this Agreement is relevant to any other dispute between the parties, in addition to any other amounts and damages recovered by IPS, Customer agrees to pay IPS any and all attorney's fees and costs incurred in the collection of sums (which includes, without limitation, costs incurred in litigation, copying and mailing expenses, lien fees, lost management time, inspection expenses, and expert witnesses expenses in addition to taxable costs incurred in litigation) owed by Customer to IPS on account of principal, interest or other charges, which attorneys' fees shall not be less than thirty percent (30%) of the total amount payable.
8. **No Sale or Security Interest Intended.** This Agreement constitutes a lease of the tools or equipment described on the face hereof and is not a sale or the creation of a security interest in the leased property. IPS at all times retains sole ownership and title to the leased property, and Customer does not have and will not have, at any time, any right, title or interest in the leased property, except the right to possession and use as provided in this Agreement.
9. **Authorization for Credit History.** The Customer or undersigned individual who is either the credit applicant or a principal/agent of the Customer, recognizes that a credit history report may be a factor in the evaluation of the credit history of the Customer. Customer, therefore, consents to and authorizes the use of a commercial, consumer or any other credit report on the Customer or undersigned individual by IPS from time to time as may be needed in the credit evaluation process.
10. **Customer Responsible for Accuracy of Order/Delivery.** Customer hereby assumes responsibility for the accuracy of verbal orders unless written confirmation is received prior to fabrication. Confirming orders should be marked "Confirming Order-Do Not Duplicate." Customer may arrange for pickup of order at IPS's plant or shipment will be made by common carrier - "Freight Collect" - unless other arrangements are previously made.
11. **Cancellation.** Either party may cancel this Agreement by giving written notice to the other party not less than seven (7) days prior to date of shipment of the Equipment; provided, however, that the Terms and Conditions provided herein shall apply and remain in full force and effect with respect to any and all transactions entered into by and between IPS and Customer. In the event of such cancellation, Customer agrees to pay IPS for any and all costs and damages occasioned by the cancellation hereof.
12. **Condition of Equipment; No Warranties; Disclaimer.** It is agreed and understood that Customer has carefully inspected the Equipment and accepts the same in good condition and that Customer agrees that the Equipment is free from any defect and is properly and carefully assembled. Customer agrees that should any defect ever exist in Equipment, the Equipment will not be used until it is properly repaired, and Customer's sole and exclusive remedy shall be limited to, in IPS's sole discretion, the replacement of defective parts, F.O.B. IPS's plant (transportation, redesign, dismantling, disposal of material and installation are not included), or repair of defective parts. The Customer shall be entitled to the foregoing remedy only if (i) the defect was not caused by Customer, (ii) the Customer notifies IPS of the defect within five (5) days after delivery of the Equipment to Customer (which the Parties agree is a reasonable time), and (iii) all amounts owing to IPS under this or any other agreement with IPS must be fully paid. Customer will not remove or damage any identifying marks on the Equipment (such as serial numbers, logos, name of IPS as owner). **IPS HEREBY EXPRESSLY DISCLAIMS ALL WARRANTIES, EXPRESS OR IMPLIED, INCLUDING, WITHOUT LIMITATION, THE IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, AND THE PARTIES HERETO HEREBY STIPULATE THAT ALL SUCH WARRANTIES ARE HEREBY DISCLAIMED.**
13. **Use, Repair and Maintenance.** Customer agrees to at all times use, maintain and care for the Equipment properly and in compliance with all manufacturer's manuals and instructions and all applicable laws, to perform daily operational checks, to use it within its rated capacity, to restrict its use to Customer's qualified personnel and to prohibit anyone other than authorized personnel of IPS to repair or adjust the Equipment except for routine maintenance, for which Customer shall be fully responsible and which shall be performed as specified in the Seamer Specification and Maintenance Section of the Field Seaming Tool Manual (which Customer acknowledges receiving). Customer agrees to accept full responsibility and liability for any and all damages to the Equipment due to improper operation and/or lubrication, freezing, fire, theft, windstorm, hailstorm, flood, riot, insurrection, strike, explosion, collision, upset, damages while being transported, loaded or unloaded, or for any causes whatsoever other than ordinary wear and tear. Customer shall notify IPS immediately of accidents, disabilities, failures or like information concerning the Equipment. Customer further agrees to pay for all damage to the Equipment upon receipt of invoices therefor from IPS for the costs and expenses of repair. IPS may inspect the Equipment at any time during normal business hours.
14. **No Incidental, Special or Consequential Damages.** Notwithstanding any other agreement to the contrary, Customer hereby agrees and stipulates that IPS shall not be liable for any incidental, special, compensatory, expectation, exemplary or consequential damages, which Customer may suffer for any reason, including reasons attributable to IPS. Customer further agrees that IPS shall not be liable to Customer for failure to repair the Equipment if disabled or to furnish substitute Equipment for any reason whatsoever.
15. **Acceptance of Change Orders.** Customer may submit a written request for change orders to IPS adding, deleting or altering the quantity or type of the Equipment ordered. IPS, upon receipt of a written request for change order, shall price the requested changes and send to Customer a price quotation thereof. IPS shall be under no obligation to accept or perform a request for change order unless Customer accepts in writing, without alteration or adjustment, the change order at the prices and terms quoted by IPS.
16. **Insurance.** During the term of the lease of the Equipment covered by this agreement, Customer will, at its sole expense, procure and maintain in full force and effect liability insurance in amounts no less than \$1,000,000 per occurrence for bodily injury and property damage and \$2,000,000 in the aggregate, covering IPS with respect to any involvement covered by this agreement. Such property damage insurance shall provide coverage for the replacement value (new) of the Equipment and shall name Customer as loss payee. Customer agrees to name IPS as an additional named insured with respect to the coverages required by this agreement and to provide IPS with a conformed Additional Named Insured Endorsement setting forth the coverages required by this agreement. Customer agrees that its insurance coverages as required by this agreement shall be primary to and not concurrent with any insurance coverages maintained by IPS and that any such coverages maintained by IPS shall in no way be implicated unless and until all available coverages required by this agreement shall have been fully exhausted.
17. **Force Majeure.** IPS shall not be liable to Customer for liquidated damages, back charges or loss of use to Customer arising out of any delay or any other reason in carrying out this Agreement. **Under no circumstances shall IPS be liable in any way to Customer, building owner or any other party for delays, failure in performance, or loss or damage due to force majeure conditions including, without limitation: fire; flood; epidemics; quarantine; lightning; strike; embargo; explosion; power surge or failure; acts of God; war; labor or employment disputes; civil disturbances; acts of civil or military authority; inability to secure materials, fuel, products or transportation facilities; acts or omissions of suppliers; or any other causes beyond IPS's reasonable control, whether or not similar to the foregoing.**
18. **Jurisdiction/Venue/Waiver of Jury Trial.** Customer hereby acknowledges, stipulates and agrees that (i) any and all claims, actions, proceedings or causes of action relating to the validity, performance, interpretation, and/or enforcement hereof must be submitted to a court of competent jurisdiction in Houston, Harris County, Texas, (ii) to the maximum extent practicable, this Agreement will be deemed to call for performance in Harris County, Texas, (iii) Customer irrevocably submits itself to the jurisdiction of the state and federal courts in Harris County, Texas, (iv) service of process may be made upon it in any legal proceeding in connection with this Agreement or any other agreement as provided by Texas law, (v) Customer irrevocably waives, to the fullest extent permitted by law, any objection that it may now or hereafter have to the laying of venue of any litigation arising out of or in connection with this Agreement or any other agreement or transaction brought in any such court, (vi) Customer irrevocably waives any claims that litigation brought in any such court has been brought in an inconvenient forum, and (vii) it irrevocably consents to the service of process out of any of the aforementioned courts by the mailing of copies thereof by Certified Mail, Return Receipt Requested, postage prepaid, at its address set forth herein. The scope of each of the foregoing waivers is intended to be all encompassing. Customer acknowledges that this waiver is a material inducement to the agreement of IPS to enter into a business relationship, and that IPS has already relied on this waiver in entering into this Agreement. **EACH PARTY HEREBY AGREES NOT TO ELECT A TRIAL BY JURY OF ANY ISSUE TRIABLE OF RIGHT BY JURY, AND FULLY WAIVES ANY RIGHT TO TRIAL BY JURY TO THE EXTENT THAT ANY SUCH RIGHT NOW OR HEREAFTER EXISTS WITH RESPECT TO THIS AGREEMENT AND/OR THE AGREEMENTS, INSTRUMENTS AND DOCUMENTS CONTEMPLATED HEREBY OR ANY CLAIM, COUNTERCLAIM OR OTHER ACTION ARISING IN CONNECTION HERewith. EACH PARTY ACKNOWLEDGES AND AGREES THAT THIS WAIVER OF RIGHT TO TRIAL BY JURY IS GIVEN KNOWINGLY AND VOLUNTARILY BY SUCH PARTY AND IS INTENDED TO ENCOMPASS EACH INSTANCE AND EACH ISSUE AS TO WHICH THE RIGHT TO TRIAL BY JURY WOULD OTHERWISE ACCRUE. EITHER PARTY IS HEREBY AUTHORIZED TO FILE A COPY OF THIS SECTION IN ANY PROCEEDING AS CONCLUSIVE EVIDENCE OF THIS WAIVER.**
19. **Indemnification.** CUSTOMER ASSUMES ENTIRE RESPONSIBILITY AND LIABILITY FOR ANY CLAIMS OR ACTIONS BASED ON OR ARISING OUT OF INJURIES, INCLUDING DEATH, TO PERSONS OR DAMAGES TO OR DESTRUCTION OF PROPERTY, SUSTAINED OR ALLEGED TO HAVE BEEN SUSTAINED IN CONNECTION WITH OR TO HAVE ARISEN OUT OF OR INCIDENTAL TO THE EQUIPMENT, ITS OPERATION, POSSESSION, TRANSPORTATION, STORAGE OR MAINTENANCE, OR THE PERFORMANCE OF THIS CONTRACT BY CUSTOMER, ITS AGENTS AND EMPLOYEES, AND ITS SUBCONTRACTORS, THEIR AGENTS AND EMPLOYEES, INCLUDING CLAIMS OR ACTIONS FOUNDED IN WHO OR IN PART UPON THE ALLEGED ACTS, OMISSIONS OR NEGLIGENCE OF IPS, IPS'S REPRESENTATIVES, OR THE EMPLOYEES, AGENTS, INVITEES, OR LICENSEES THEREOF. CUSTOMER FURTHER AGREES TO DEFEND, INDEMNIFY AND HOLD HARMLESS IPS AND ITS REPRESENTATIVES, AND THE EMPLOYEES, AGENTS, INVITEES AND LICENSEES THEREOF IN RESPECT OF ANY SUCH MATTERS AND AGREES TO DEFEND ANY CLAIM OR SUIT OR ACTION BROUGHT AGAINST IPS, IPS'S REPRESENTATIVE, AND THE EMPLOYEES, AGENTS, INVITEES AND LICENSEES THEREOF. **THE PARTIES HEREBY WAIVE THEIR RESPECTIVE RIGHTS UNDER THE DECEPTIVE TRADE PRACTICES CONSUMER PROTECTION ACT, SECTIONS 17.41 THROUGH 17.63 INCLUSIVE, OF THE TEXAS AND COMMERCE CODE, A LAW THAT GIVES CONSUMERS SPECIAL RIGHTS AND PROTECTIONS. AFTER CONSULTATION WITH LEGAL COUNSEL, EACH VOLUNTARILY CONSENTS TO THIS WAIVER.**
20. **Severability.** Each of the provisions of this Agreement is a separate and distinct agreement and independent of the others. If any provision of this Agreement is found to be invalid or unenforceable in any jurisdiction, such provision shall be fully severable in such jurisdiction, and this Agreement shall be construed and enforced as if in such jurisdiction such provision had never comprised a part hereof. In such event, the remaining provisions of this Agreement shall remain in full force and effect. The terms of this Agreement are intended by the parties as a final expression of their agreement containing all oral and written understandings between the parties relative to the materials generally described in this Agreement.
21. **Acceptance/Entire Agreement.** As a condition precedent to the effectiveness of an order, all orders are subject to approval and acceptance by IPS. This Agreement, along with any attached exhibits, constitutes the entire agreement of the parties herein.

Signed _____

Date _____