

CMD Corporation

TERMS AND CONDITIONS OF SALE

1. Part of Order Acknowledgement or Spare Parts Proposal. These Terms and Conditions of Sale are a material part of the Order Acknowledgement or Spare Parts Proposal, as the case may be. As used below,

(a) "Order Acknowledgement" and "Spare Parts Proposal" may be referred to individually or collectively as "this Contract"; and

(b) Below, reference to, "this Contract", or use of the term "herein", "hereof", "hereto", "hereby", or "hereunder", or any similar term, shall refer to this Contract in its entirety and including, but not limited to, these Terms and Conditions of Sale.

2. Definitions. For purposes of these Terms and Conditions of Sale, the following terms shall have the following meanings:

(a) Customer. "Customer" shall mean the party(ies) identified as the customer in this Contract.

(b) CMD. "CMD" shall mean CMD Corporation, a Wisconsin corporation.

(c) Machinery. "Machinery" shall mean any and all machines, machine parts, accessories, optional equipment, and spare, repair, change or other parts, which are identified in this Contract and which are to be sold or otherwise provided by CMD to Customer under or pursuant to this Contract.

3. Agreement. This Contract governs the sale or other provision of the Machinery by CMD to Customer. The provisions of this Contract are in lieu of and replace any and all terms and conditions contained in any document(s) issued at any time by Customer (and including, without limitation, any request for proposal, invitation to bid, purchase order, term sheet or specifications). Any additional or different terms or conditions contained in any document(s) issued at any time by Customer are hereby objected to by CMD, shall be wholly inapplicable to the sale or other provision of the Machinery by CMD to Customer, and shall not be binding in any way on CMD. Neither CMD's commencement of performance nor delivery shall operate or be construed as an acceptance of any terms or conditions contained in any document(s) issued at any time by Customer.

4. Acceptance by Customer. Acceptance by Customer of this Contract may be evidenced by any of the following, if applicable: (a) written acceptance received by CMD within the period of time, if any, specified in this Contract; (b) commencement by CMD of production of the Machinery unless Customer, within ten (10) days after Customer's receipt of this Contract, notifies CMD in writing of Customer's objection to this Contract; (c) receipt by CMD of Customer's down payment for the Machinery; (d) shipment by CMD of, and Customer's acceptance of, or payment of all or any part of the price of, the Machinery; or (e) any other conduct by Customer which recognizes the existence of a contract between CMD and Customer with respect to the subject matter hereof.

5. Acceptance by CMD. No document(s) issued at any time by Customer (and including, but not limited to, any request for proposal, invitation to bid, purchase order, term sheet or specifications), nor any offer to sell or agreement or contract of sale (separate from this Contract), shall be binding on CMD unless expressly accepted in writing by a duly authorized representative of CMD at CMD's principal offices located in Appleton, Wisconsin.

6. Entire understanding. This Contract constitutes the entire and final understanding and agreement of CMD and Customer with respect to the subject matter hereof, regardless of any prior course of dealing or usage of trade, and there are not any promises, covenants, conditions, agreements, understandings, warranties or representations with respect to such subject matter other than those set forth herein and any and all prior promises, covenants, conditions, agreements, understanding, warranties and representations, whether oral or written, pertaining to such subject matter are hereby merged into and superseded and replaced by this Contract. Any additional or different terms contained in any document(s) issued at any time by Customer are not part of the understanding or agreement of CMD and Customer, and CMD shall not be bound thereby unless accepted by CMD in accordance with paragraph 5 above.

7. Amendment. This Contract shall be modified or amended only in a writing signed by CMD and Customer, and any modification or amendment which is not so reduced to writing and signed by CMD and Customer shall not be binding on either party.

8. No cancellation by Customer. This Contract, upon acceptance by Customer as provided herein, is not cancelable by Customer.

9. Price. The price of the Machinery shall be as set forth in this Contract. Customer shall not be entitled to any discount, allowance, rebate or credit unless otherwise expressly provided herein. Unless otherwise expressly provided herein, spare, repair, change or other parts, if any, provided by CMD to Customer shall be paid for in accordance with CMD's invoice therefor.

10. Payment terms. The price of the Machinery shall be paid in accordance with the payment schedule or other payment terms set forth in this Contract. Time shall be of the essence as to payment.

Any payment which is not made when due shall bear interest from the date due until the date paid at a rate of interest equal to the lesser of (a) eighteen percent (18%) per annum or (b) the maximum rate per annum allowed by applicable law, if any.

If shipment is delayed by Customer, or by anyone not a party hereto, payment shall be due on the date on which CMD is prepared to make shipment. If the work covered hereby is delayed by Customer, or by anyone not a party hereto, payment shall be made forthwith based on the full price, or the percentage of completion, to be determined at CMD's option.

If Customer fails to make any payment when due, then, at CMD's option, the full price shall become immediately due and payable upon demand by CMD, or CMD may, without prejudice to any other rights or remedies available to CMD hereunder, or at law, equity or by statute, defer delivery, suspend performance, or cancel this Contract and seek damages.

Machinery held for Customer shall be held at the risk and expense of the Customer.

If the financial condition of Customer at any time does not, in the judgment of CMD, justify shipment or continuance of the work covered hereby, CMD may, in addition to any other rights or remedies available to CMD hereunder or at law, equity or by statute, defer shipment and/or suspend the work until Customer provides to CMD payment assurances deemed adequate by CMD (e.g., a standby bank letter of credit), or require full or partial payment in advance, and, in the event of the bankruptcy or insolvency of Customer, or in the event any proceeding is brought by or against Customer under any bankruptcy or insolvency laws, or if Customer shall make an assignment for the benefit of creditors or have a receiver or trustee appointed for Customer or for a material part of Customer's assets, then CMD may cancel this Contract and shall receive reimbursement for CMD's damages.

11. Taxes. Any taxes, including, but not limited to, turnover taxes, duties, fees, or other assessments which may be levied against the Machinery, shall be extra and shall be borne by Customer. If CMD is required to pay any of the above, Customer shall reimburse CMD upon demand, or furnish to CMD upon demand documents which exempt such payment.

12. Delivery. Unless otherwise specifically provided in this Contract, delivery terms for the Machinery shall be FOB, CMD's plant of manufacture. Customer shall pay all shipping costs when due and bear the risk of loss after CMD places the Machinery in the possession of the carrier. Shipping dates submitted are approximate. CMD shall use its best reasonable efforts to meet the approximated shipping date(s) provided that Customer timely supplies all necessary information, but CMD shall not be responsible for failure to meet approximated date(s). Shipping date(s) is or are based upon construction to CMD standards (unless otherwise specifically provided herein) and is or are further dependent upon vendor's and subcontractor's delivery commitments. CMD shall not be required to make shipment as contemplated herein when prevented or delayed by force majeure. The term "force majeure" as used herein means, but is not limited to, any act of God; strike, lockout, or other labor action or disturbance; invasion, war, terrorism, insurrection, mob violence, sabotage, or riot; fire, flood, explosion, earthquake or action of the elements; inability to procure or a general shortage of labor, equipment, facilities, materials or supplies in the open market; failure of transportation; governmental orders or restraints; civil or military disturbances; or any other cause(s) beyond the reasonable control of CMD. CMD SHALL NOT BE SUBJECT TO ANY PENALTY OR LIABILITY FOR FAILURE TO MEET A SHIPPING DATE AND SHALL NOT IN ANY EVENT BE HELD RESPONSIBLE FOR LOSS OF PROFITS OR OTHER DAMAGES INCURRED BY CUSTOMER OR ITS CUSTOMERS OR OTHER INCIDENTAL OR CONSEQUENTIAL DAMAGES THAT MAY RESULT THEREFROM.

13. Damage or loss of shipment. Unless otherwise specifically provided in this Contract, CMD shall not be responsible for damage or loss in transit and all claims shall be made by Customer directly to or with the carrier. Claims for shortages or incorrect packing lists shall be made in writing within fifteen (15) days after receipt of the shipment by Customer (time being of the essence), and failure to give CMD

written notice within that period of time shall be an unqualified acceptance of the shipment and a waiver of all claims for shortages and/or incorrect packing lists

14. Testing materials. Customer shall furnish to the point of manufacture, at Customer's expense, sufficient product, sample packages, and packaging materials, complete manufacturing data and other material necessary for full testing of the Machinery when requested by CMD.

15. Method of manufacture. If applicable, the Machinery shall be manufactured by CMD in accordance with normal CMD methods of manufacture and the specifications set forth herein or attached hereto.

16. Warranty. The Machinery is warranted by CMD to be free from defects in material and workmanship for a period of one (1) year from the date of shipment. CMD agrees to repair or replace, free of charge, FOB CMD's manufacturing plant, installation extra, or to refund the price of, any part(s) which fail, through defect in material or workmanship, within such period of time, provided that Customer, within such period of time (time being of the essence), notifies CMD in writing of the alleged defect(s) in material or workmanship and provided, further, that CMD's examination of the allegedly defective part(s) shall disclose to CMD's satisfaction that the same is or are in fact defective in material or workmanship. Any and all such parts shall be returned to CMD's place of shipment, freight prepaid, pursuant to the prior authorization of CMD, which authorization shall be granted upon Customer's detailed statement of the claimed defect(s) in material or workmanship. All parts returned shall be clearly marked with the number of CMD's return authorization number. The risk of loss and freight charges to and from CMD shall be borne by Customer, but CMD shall bear the cost of repair or replacement and the risk of loss while the parts are in CMD's possession at CMD's plant. If the parts are returned without CMD's prior authorization, CMD shall return the parts to the sender, freight collect.

Any replacement part(s) shall have the same warranty as the replaced part(s), but this shall not operate or be construed to extend the warranty of the original Machinery.

All equipment that is a part of the Machinery, or that is separately sold, but not manufactured by CMD is not warranted or guaranteed by CMD, and any warranty or guarantee is limited to the warranty or guarantee, if any, of the manufacturer.

Notwithstanding any provision hereof to the contrary, no warranty is made with respect to: (a) consumable articles within the Machinery, such as silicone grease, teflon or other coatings, belts, cutting knives, etc.; (b) any defect or failure not reported to CMD in writing within the applicable warranty period (time being of the essence); (c) any defect, failure or damage due to misapplication, lack of proper maintenance, abuse, improper installation by any party other than CMD, or abnormal conditions of temperature, moisture, dirt, or corrosive matter, etc.; (d) any defect or failure due to operation, either intentional or otherwise, above the rated capacities, or in an otherwise improper manner; (e) any defect or failure due to the addition to the Machinery of any equipment which is not intended to run with the Machinery or that is not approved in advance in writing by CMD for use with the Machinery; (f) any Machinery which has been altered by anyone other than CMD or an authorized representative of CMD, or (g) any Machinery damaged without fault of CMD. CMD shall not be liable for any expenses, including, but not limited to, expenses for scrap material, incurred by Customer in an attempt to correct

any allegedly defective Machinery. Spare, repair, replacement and/or other parts and/or services required for any Machinery not owned by the original purchaser or beyond original warranty shall be supplied and shall be accepted "as is" with no guarantee or warranty whatsoever.

THE WARRANTY GIVEN IN THIS PARAGRAPH IS EXCLUSIVE. CMD DOES NOT WARRANT MERCHANTABILITY OR FITNESS FOR ANY PARTICULAR PURPOSE, OR AGAINST INFRINGEMENT, OR MAKE ANY OTHER WARRANTY OR AGREEMENT, EXPRESS OR IMPLIED, WITH RESPECT TO THE MACHINERY OR ANY OTHER ITEM. IF ANY MODEL OR SAMPLE WAS SHOWN TO CUSTOMER, SUCH MODEL OR SAMPLE WAS USED MERELY TO ILLUSTRATE THE ITEM AND NOT TO REPRESENT THAT ANY ITEM DELIVERED HEREUNDER WOULD CONFORM TO THE MODEL OR SAMPLE.

CMD's obligation with respect to Machinery which does not conform to the warranty set forth above shall be limited to the measures set forth above (i.e., repair, replacement, or refund of price), which measures shall constitute Customer's sole and exclusive remedy against CMD for Machinery which does not conform to the warranty set forth above.

CMD SHALL NOT BE LIABLE FOR ANY LOSSES, DAMAGES, COSTS OR FORFEITURES OR ANY DIRECT, INDIRECT, INCIDENTAL, SPECIAL OR CONSEQUENTIAL DAMAGES (INCLUDING, BUT NOT LIMITED TO, PROFITS, SCRAP MATERIAL, AND LIABILITIES OF CUSTOMER TO ITS CUSTOMERS OR THIRD PERSONS), WHETHER OR NOT RESULTING FROM OR CONTRIBUTED TO BY THE DEFAULT OR NEGLIGENCE OF CMD, ITS AGENTS, EMPLOYEES OR SUBCONTRACTORS, WHICH MIGHT BE CLAIMED AS THE RESULT OF THE SALE EVIDENCED HEREBY OR THE MACHINERY OR THE USE OR FAILURE OF THE MACHINERY OR ANY OTHER ITEM. THERE IS NO FURTHER WARRANTY, EITHER EXPRESS OR IMPLIED, IN CONNECTION WITH THE DESIGN, SALE, MERCHANTABILITY, FITNESS OR USE OF THE MACHINERY OR ANY OTHER ITEM DELIVERED HEREUNDER EXCEPT AS TO TITLE; AND CMD'S LIABILITY ON ITS WARRANTY SHALL IN NO EVENT EXCEED THE PRICE OF THE MACHINERY OR OTHER ITEM.

17. Purchaser's product. Purchaser shall hold CMD harmless from any action arising by reason of alleged design and/or construction of the product(s) handled by the Machinery or the method or process carried out thereon.

18. Product safety and liability. Various federal, state, and local laws may impose restrictions on Customer with respect to certain features and/or operation of the Machinery. CMD has attempted to be in compliance with all laws known to CMD. However, because of the variability of these laws, and the non-uniform interpretation of some of them, CMD does not warrant that the Machinery conforms to any federal, state, or local law covering either design features or operation of the Machinery. Compliance with all federal, state and local laws shall remain with Customer.

The use of all guards, interlocks, electrical devices, and other safety devices on the Machinery, and the operation of the Machinery in accordance with CMD operating instructions, is essential to the safe use of the Machinery, and, therefore, Customer agrees that Customer shall keep in legible condition all warnings or operating instructions affixed to the Machinery, and that Customer shall not add any devices or modify the Machinery in any way that will render the Machinery unsafe, and that Customer shall operate the Machinery in accordance with CMD operating instructions. Customer agrees to pay on behalf of CMD all sums (including, but not limited to, reasonable attorneys' fees and legal expenses) which CMD becomes legally obligated to pay because of bodily injury or property damage caused by or resulting from any breach by Customer of any provision of the preceding sentence.

Customer agrees to indemnify and hold CMD harmless from all actions, claims or demands by any person, firm or corporation arising out of or in any way connected with the Machinery, or the operation, use or misuse of the Machinery, or the design, construction or composition of any product made or handled by the Machinery, and including, but not limited to, any and all actions, claims or demands based in whole or in part on, or arising out of or in any way connected with, (a) any failure by Customer to use any guard, interlock, electrical device or other safety device on the Machinery; (b) any failure by Customer to use or operate the Machinery in accordance with CMD operating instructions; (c) any failure by Customer to keep in legible condition all warning or other operating instructions affixed to the Machinery; (d) any addition by Customer of any device to, or any modification by Customer of, the Machinery; (d) any abuse or misuse by Customer of the Machinery; or (f) the design, construction or composition of any product made or handled by the Machinery, and including, but not limited to, for purposes of clauses (a) through (f) above, all such actions, claims or demands based in whole or in part on the default or negligence of Customer. If Customer allows the Machinery to be used by any other party, then Customer agrees to indemnify and hold CMD harmless from any and all claims, actions or demands whatsoever arising thereafter by reason of the use or misuse of the Machinery.

19. Patent indemnity. CMD agrees that it shall defend any suit, and indemnify against any award subject to the limitations herein, that may be instituted by any party against Customer for an alleged infringement of any United States of America patent relating to the structure of any Machinery manufactured by CMD as originally furnished hereunder, provided that Customer shall have timely made all payments due and provided, further, that Customer gives to CMD immediate written notice of the institution of such suit and permits CMD, through CMD's counsel, to defend the same, and gives all needed information, assistance and authority to enable CMD to do so. CMD's obligation to meet the expenses of defending any such suit and for payment of any award for infringement is expressly limited to an amount no greater than the price of the Machinery. CMD shall not be obligated to pay any award based on a holding of willful infringement of a patent prior to Customer notifying CMD in writing of the patent. Subject to the foregoing and in case of a final award of damages in any such suit, CMD, at CMD's option, may pay such award or remove the Machinery and refund the price so that CMD's total liability shall not exceed the price of the Machinery. In case the structure of any Machinery manufactured by CMD in suit is held to infringe any United States of America patent and the use of the Machinery is enjoined, CMD may, at CMD's option: (a) obtain for Customer the right to continue using the Machinery, or (b) replace the same with non-infringing equipment, or (c) modify the Machinery so that it is non-infringing, or (d) remove the Machinery and refund the price reduced by a factor of use allowance of twenty (20%) percent per year. Because CMD cannot know or control the use or nature and character of products produced on the Machinery, CMD assumes no responsibility for any damages or expenses which may be incurred in the defense of any infringement action brought by any third party against Customer and/or Customer's customers for infringement of patent claims directed to: (1) the products manufactured by the Machinery, (2) the design and construction of the products handled by the Machinery, and/or (3) the method or process carried out on the Machinery. Customer shall indemnify and hold CMD harmless with respect to all infringement actions brought by third parties against CMD for infringement of patent claims relating to (i) the products manufactured by the Machinery, (ii) the design and construction of the products handled by the Machinery and/or (iii) the

method or process carried out on the Machinery, including, but not limited to, all infringement actions against CMD for patent infringement or as a contributory infringer.

20. Services. Services (including, but not limited to, installation or set-up services), if any, described herein to be provided by CMD to Customer for or in respect to the Machinery shall be rendered by CMD without warranty and in accordance with the other provisions of this Contract and the price thereof shall be paid by Customer in accordance with this Contract, time being of the essence as to payment.

21. License. CMD hereby grants Customer a non-exclusive, royalty free license to use the software, if any, that is embedded in the Machinery ("Licensed Software"), if any. The Licensed Software shall not include any control programming software that is not embedded in the Machinery. Customer shall be permitted to use the Licensed Software solely in connection with the operation of the Machinery. Customer shall not copy, assign, sub-license, transfer or otherwise convey the Licensed Software to any third party. Unless otherwise provided in writing, which is signed by a duly authorized representative of CMD, Customer shall not engage in, nor cause or permit others to engage in modifying the Licensed Software, including, but not limited to, reverse engineering, disassembly, decompilation or similar manipulation. The license granted hereunder shall terminate upon the earlier of (a) Customer ceasing to use the Machinery, or (b) Customer's default under the terms of this Contract. In the event of termination, Customer shall immediately cease use of the Licensed Software and shall, at CMD's option, return to CMD or destroy the Licensed Software.

22. Copying. If applicable, Customer acknowledges that the Machinery has been designed and built through expenditure of substantial time, effort and money by CMD, and Customer agrees not to make drawings of the Machinery or any portions thereof, or permit others to do so, and Customer shall not duplicate or conspire in the duplication of the Machinery.

23. Local law and conditions. If national or local laws, regulations, orders, etc., or unusual climate conditions, require modification(s) of the Machinery, which modification(s) is or are not within CMD's standard specifications, Customer shall specify in detail and pay for such modification(s) according to CMD's normal pricing policy in addition to Customer paying the price stated herein. If such modification(s) alter the performance of or prevent the Machinery from performing according to specifications, CMD shall not be liable therefor and shall not be required to meet those specifications to the extent that the performance may be adversely affected.

24. Law. The rights and duties of all persons and the construction and effect of all provisions hereof shall be governed by and construed in accordance with the laws of the State of Wisconsin (exclusive of Wisconsin's conflicts of laws principles). Subject to the dispute resolution provisions herein, the forum for resolution of any and all disputes arising under or out of this Contract shall be the state or courts of, or federal courts located in, the State of Wisconsin.

25. Assignment by Customer. Customer shall not assign or otherwise transfer all or any part of this Contract, voluntarily or involuntarily, by operation of law or otherwise, without the prior written consent of CMD.

26. Counterparts. This Contract may be executed in one or more counterparts, each of which will be deemed an original, but all of which together will constitute one and the same agreement.

27. Facsimile or e-mail signatures. Any signed document (including, but not limited to, this Contract) transmitted by facsimile, e-mail or other electronic transmission shall be considered an original document and shall have the binding and legal effect of an original document. The signature of Customer or CMD on a counterpart (including, but not limited to, this Contract) transmitted by facsimile, e-mail or other electronic transmission shall be considered an original signature and an original counterpart.

28. Severability. If any provision of this Contract, or the application thereof under certain circumstances, shall be deemed by a court or arbitrator(s) having jurisdiction to be invalid or unenforceable, the remainder of this Contract, or the application of such provision to circumstances other than those as to which it is deemed invalid or unenforceable, shall not be affected thereby.

29. Security interest. To secure Customer's performance hereof (including, but not limited to, payment of the price provided for herein), CMD shall have, and Customer hereby grants to CMD, a security interest in the Machinery and Customer agrees that CMD may, or that Customer shall promptly, upon demand by CMD, execute and deliver such financing statement(s) or other document(s) as CMD may reasonably require to perfect such security interest. In the event of default by Customer, CMD shall have all of the rights and remedies of a secured party under the Wisconsin Uniform Commercial Code as amended to date and from time to time in the future, which rights and remedies shall be in addition to, and not in lieu of, any and all other rights and remedies available to CMD hereunder or at law, equity or by statute.

30. Representations by Customer. Customer warrants and represents to CMD (a) that Customer is duly organized and validly existing; (b) that Customer has full right, power and authority to execute, deliver and perform this Contract; (c) that the individual(s) executing and delivering this Contract on behalf of Customer has or have been duly authorized to do so by all necessary or appropriate action duly taken by Customer; (d) that this Contract, when executed and delivered by Customer, shall constitute Customer's legal and binding obligation, enforceable against Customer in accordance with its terms; and (e) that neither the execution nor the delivery nor the performance of this Contract by Customer shall violate or conflict with Customer's charter documents, if any, or any statute, law, rule, regulation, code or ordinance, or any judgment, order or decree, or any contract, agreement or restriction, to which Customer is bound, subject or a party.

31. Waiver by CMD. CMD shall not be deemed to have waived any provision or breach of this Contract unless such waiver shall be in a writing signed by CMD and delivered to Customer. No waiver by CMD of any provision or breach of this Contract shall be deemed to be, or to constitute, a waiver of any other provision or breach, whether or not similar, nor shall such waiver constitute a continuing waiver unless otherwise expressly provided in a writing signed by CMD and delivered to Customer.

32. DISPUTE RESOLUTION. ANY CLAIM OR DISPUTE ARISING FROM, OUT OF, OR RELATING TO THIS CONTRACT SHALL BE: (A) GOVERNED BY THE LAWS OF THE STATE OF WISCONSIN, UNITED STATES OF AMERICA, WITHOUT REGARD TO ITS CONFLICTS OF LAW PROVISIONS; AND (B) RESOLVED ONLY BY THE SEQUENTIAL METHODS OF THE DISPUTE RESOLUTION PROCESS (AS DEFINED BELOW); PROVIDED, HOWEVER, THAT CMD MAY, AT ANY TIME, SEEK EQUITABLE RELIEF FROM THE DESIGNATED COURT(S) TO PREVENT IMMEDIATE OR IRREPARABLE HARM TO CMD, WITHOUT HAVING TO COMMENCE, CONTINUE, OR FOLLOW THE DISPUTE RESOLUTION PROCESS.

The term “Dispute Resolution Process” shall be defined as follows: (a) first, the parties shall meet at a mutually agreed time(s) and location(s) to resolve in good faith any claim or dispute, after a party’s prior written negotiation request; (b) second, if the matter is not resolved within sixty (60) days after that request, then, on a party’s written request, the parties shall enter into non-binding mediation to be conducted at a mutually agreed time(s) and location(s), using a neutral mediator having experience with the applicable industry; and (c) finally, as a last resort, either party may commence litigation.

The 1980 United Nations Convention on Contracts for the International Sales of Goods shall not govern this Contract. Any and all negotiations are confidential and shall be treated as settlement negotiations and shall be conducted in English, and unless otherwise expressly provided herein, all documents, including this Contract, shall be written in English. Each party shall bear its own costs and expenses in the Dispute Resolution Process, except that if a party commences litigation, the losing party in that litigation shall pay all of the prevailing party’s attorneys’ fees, court costs, and other costs and expenses related to that litigation. Venue for any litigation arising out of or relating to this Contract shall be in federal court in Brown County, Wisconsin, or state court in Outagamie County, Wisconsin. Each party consents to such courts’ personal jurisdiction.

33. WAIVER OF JURY TRIAL. THE PARTIES KNOWINGLY AND VOLUNTARILY WAIVE TRIAL BY JURY IN ANY ACTION, PROCEEDING, CLAIM OR COUNTERCLAIM BASED UPON, ARISING OUT OF OR IN ANY WAY RELATING TO THIS CONTRACT, AND AGREE AND CONSENT THAT ANY SUCH ACTION, PROCEEDING, CLAIM OR COUNTERCLAIM SHALL BE DECIDED BY TRIAL TO THE COURT WITHOUT A JURY.

34. Interpretation. Unless the context requires otherwise, all words used herein in the singular number shall extend to and include the plural, all words used herein in the plural number shall extend to and include the singular, and all words used herein in any gender shall extend to and include all genders.

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