

1. **Terms and Conditions.** In consideration of the mutual covenants and agreements set forth herein and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Cashman Equipment Company ("Cashman") agrees to supply the goods (the "Goods") described in an Order (as defined below) to the buyer specified therein ("Customer" together with Cashman, the "Parties," and each a "Party") in accordance with the following terms and conditions (the "Terms").

2. **Orders.** Customer's intent to purchase the Goods in accordance with the Terms, and Customer's acknowledgement and acceptance of the Terms as written, shall be evidenced by any or all of the following: (a) Customer's acceptance of any quote, proposal, bid or any other document issued by Cashman for the Goods (together with any exhibits, schedules, attachments and appendices thereto, a "Bid"); (b) Customer's issuance to Cashman of a purchase order or other document evidencing Customer's intent to purchase the Goods (together with any exhibits, schedules, attachments and appendices thereto, a "Purchase Order"); (c) Customer's acceptance of the Goods when delivered; and (d) Customer's payment of any invoice issued by Cashman for the Goods. Any Bid accepted by Customer or Purchase Order accepted by Cashman shall constitute an "Order" for the Goods described therein.

3. **Entire Agreement.** An Order, together with the Terms, shall constitute the sole and entire agreement between the Parties for the supply of the Goods described therein (this "Agreement"). This Agreement shall supersede all prior and contemporaneous understandings and agreements, both written and oral, regarding such subject matter. The supply of the Goods by Cashman to Customer shall not constitute acceptance by Cashman of any terms and conditions contained in any Purchase Order, nor does it serve to modify or amend the Terms. If the terms of any Purchase Order shall conflict with the Terms, the Terms shall control.

4. **Amendments.** No amendment to or modification, rescission, termination or discharge of this Agreement shall be effective unless it shall (a) be in writing; (b) specifically identify this Agreement; (c) specifically state that such document amends, modifies, rescinds, terminates or supersedes this Agreement; and (d) be accepted and signed by an authorized representative of Cashman.

5. **Waiver.** No waiver of any provision of this Agreement shall be effective unless it shall (a) be in writing; (b) specifically identify this Agreement; (c) specifically state that such document waives certain terms of this Agreement; and (d) be accepted and signed by an authorized representative of Cashman. Any waiver authorized on one occasion is effective only in that instance and only for the purpose stated, and does not operate as a waiver on any future occasion. None of the following constitutes a waiver or estoppel of any right, remedy, power, privilege or condition arising from this Agreement: (a) any failure or delay in exercising any right, remedy, power or privilege or in enforcing any condition under this Agreement; or (b) any act, omission or course of dealing between the Parties. Unless otherwise specified, remedies hereunder shall not be exclusive, but shall be cumulative and in addition to all other remedies existing at law or in equity. The receipt, acceptance and/or negotiation of, or any endorsement on, any check or draft received from one Party will not operate to waive or release, in whole or in part, any claim of the other Party arising hereunder or in connection herewith (except as to the portion thereof actually received by the other Party in cash or other good funds).

6. **Acceptance and Rejection of Purchase Orders.** Cashman has no obligation to accept any Purchase Order; however, Cashman may accept a Purchase Order by confirming the Purchase Order in writing or by delivering the applicable Goods to Customer, whichever occurs first. Cashman may reject a Purchase Order without liability or penalty and without constituting a waiver of any of Cashman's rights or remedies under this Agreement.

7. **Cancellation or Modification of Orders.** Customer shall be obligated to purchase from Cashman the quantities of the Goods specified in an Order. Cancellation or modification of all or part of any Order is subject to Cashman's prior written consent in each instance. If cancellation or modification is allowed, Customer agrees to pay to Cashman all expenses incurred and damage sustained by Cashman as a result of such cancellation or modification.

8. **Shipment.** Cashman shall select the method of shipment of and the carrier for the Goods. Cashman, in its sole discretion, without liability or penalty, may make partial shipments of the Goods to Customer. Each shipment will constitute a separate sale and Customer shall pay for the Goods shipped in accordance with the payment terms specified in this Agreement, whether such shipment is in whole or partial fulfillment of an Order.

9. **Delivery.** Unless otherwise agreed to in writing by the Parties, Cashman will, at Customer's cost and expense, deliver the Goods to the location specified in the Order (the "Delivery Location") using Cashman's standard methods for packaging and shipping.

10. **Late Delivery.** Any time quoted for delivery is an estimate only; provided, however, that Cashman shall use commercially reasonable efforts to deliver all Goods within a reasonable time consistent with the Order.

11. **Transfer of Title and Risk of Loss.** Title to the Goods shipped under any Order passes to Customer upon Customer's payment in full for the Goods. Risk of loss or damage passes to Customer upon delivery of Goods to the carrier.

12. **Price.** Unless otherwise set forth in the Order, the price for the Goods shall be Cashman's list price for such Goods on the date such Goods are delivered to Customer (the "Price"). Pricing for future orders is subject to change without notice. If Customer requests customization of the Goods, Customer agrees to pay all parts and labor costs that Cashman incurs in customizing the Goods, regardless of whether or not Customer completes the purchase of the customized Goods.

13. **Shipping Charges and Taxes.** All Prices are exclusive of, and Customer is solely responsible for, and shall pay all taxes, levies, imposts, duties, deductions, charges, fees or withholdings imposed, levied, withheld or assessed by any governmental authority, with respect to, or measured by, the manufacture, sale, shipment, use or Price of the Goods (including interest and penalties thereon); provided, however, that Customer shall not be responsible for any taxes imposed on, or with respect to, Cashman's income, revenues, gross receipts, personnel or real or personal property.

14. **Payment Terms.** Customer shall pay to Cashman all invoiced amounts within thirty (30) days from the date of such invoice. Customer shall make all payments in US dollars by check, credit card or wire transfer.

15. **Late Payments.** Customer shall pay interest on all late payments calculated daily and compounded monthly, at the lesser of the rate of one and one-half percent (1.5%) per month and the highest rate permissible under applicable law. Customer also shall reimburse Cashman for all reasonable costs incurred by Cashman in collecting any late payments, including attorneys' fees and court costs. In addition to all other remedies available under this Agreement or at law (which Cashman does not waive by the exercise or waiver of any other rights under this Agreement), if Customer fails to pay any undisputed amounts when due under this Agreement, Cashman may suspend the delivery of any Goods.

16. **No Set-off Right.** Customer shall not have, and acknowledges that it does not have, any right to withhold, offset, recoup or debit any amounts owed (or to become due and owing) to Cashman under this Agreement.

17. **Unsatisfactory Credit Status.** Customer shall furnish Cashman with statements evidencing Customer's financial condition as Cashman may, from time to time, reasonably request, and shall notify Cashman immediately of any and all events that may have a material adverse effect on Customer's business or financial condition. If Cashman determines in its sole discretion that Customer's financial condition or creditworthiness is inadequate or unsatisfactory, then in addition to Cashman's other rights, Cashman may without liability or penalty take any of the following actions:

- (a) require that Customer provide a standby letter of credit satisfactory to Cashman in its sole discretion;
- (b) accelerate all amounts owed by Customer to Cashman under this Agreement;
- (c) modify the payment terms specified in Section 14 (*Payment Terms*) for outstanding and future Orders, including requiring Customer to pay cash in advance;
- (d) cancel any previously accepted Orders;
- (e) delay any further shipment of Goods to Customer;
- (f) terminate this Agreement; or
- (g) any combination of the above.

No actions taken by Cashman under this Section 17 (nor any failure of Cashman to act under this Section 17) shall constitute a waiver by Cashman of any of its rights to enforce Customer's obligations under this Agreement including, but not limited to, the obligation of Customer to make payments as required under this Agreement.

18. **Termination.** In addition to any remedies that may be provided under this Agreement, Cashman may terminate this Agreement with immediate effect upon written notice to Customer, if Customer: (a) fails to pay any amount when due under this Agreement; (b) has not otherwise performed or complied with any terms of this Agreement, in whole or in part; or (c) becomes insolvent, files a petition for bankruptcy or commences or has commenced against it proceedings relating to bankruptcy, receivership, reorganization or assignment for the benefit of creditors.

19. **Effect of Expiration or Termination.** Any termination under this Agreement automatically operates as a cancellation of any deliveries of Goods to Customer that are scheduled to be made subsequent to the effective date of termination, whether or not any orders for such Goods had been accepted by Cashman. With respect to any Goods that are still in transit upon termination of this Agreement, Cashman, in its sole discretion, may require that all sales and deliveries of such Goods be made on either a cash-only or certified-check basis.

20. **Customer Warranties.** Customer warrants that (a) if an entity, it is duly organized and validly existing in good standing; (b) it is duly authorized to perform

its obligations under this Agreement; (c) this Agreement will constitute Customer's legal, valid and binding obligation, enforceable against it in accordance with its terms; (d) it is not insolvent and is paying all of its debts as they become due; (e) any payments made pursuant to this Agreement are intended by it to be a substantially contemporaneous exchange for new value given to it; and (f) each payment made of a debt incurred by it under this Agreement is or was in the ordinary course of its business or financial affairs.

21. **Limited Product Warranty.** Cashman warrants to Customer that for a period of one (1) year from the date of the delivery of the Goods to Customer (the "Warranty Period") that (a) no Goods will be Nonconforming Goods (as defined below); and (b) Customer will receive good and valid title to the Goods, free and clear of all encumbrances and liens of any kind. "Nonconforming Goods" means any Goods received by Customer from Cashman pursuant to an Order that (i) do not conform to the specification of the applicable Order; (ii) contain significant defects in material and workmanship; or (iii) exceed (and then only to the extent exceeding) the quantity of Goods ordered by Customer pursuant to an Order. Where the context requires, Nonconforming Goods are deemed to be Goods for purposes of this Agreement. Customer acknowledges that (1) Cashman is not the manufacturer of the Goods; (2) if the Goods include an original equipment manufacturer's ("OEM") warranty, Cashman will pass through to Customer the OEM's warranty to the extent permitted by the terms of such warranty; and (3) the OEM's warranty will be subject to all conditions and exclusions set forth therein.

22. **Warranty Limitations.** The Limited Warranty set forth above shall not apply to any Goods that (a) have been subjected to abuse, misuse, neglect, negligence, accident, improper testing, improper storage, improper handling, abnormal physical stress, abnormal environmental conditions or use contrary to any instructions issued by Cashman or the product manufacturer, as applicable; or (b) have been altered in any way by anyone other than Cashman.

23. **Customer's Exclusive Remedy.** Notwithstanding any other provision of this Agreement, this Section 23 contains Customer's exclusive remedy for a breach of Section 21 (*Limited Product Warranty*). Customer's remedy under this Section 23 with respect to Nonconforming Goods is conditioned upon Customer's compliance with clauses (a) – (c) below:

- (a) Prior to the expiration of the Warranty Period, Customer must request an authorization from Cashman to return the Nonconforming Goods (a "Return Authorization");
- (b) In such request, Customer must provide Cashman with (i) the part number or description of the Goods; (ii) the Order number; (iii) the quantity of Goods to be returned; and (iv) a detailed description of all defects and nonconformities; and
- (c) Upon Customer's receipt of a Return Authorization from Cashman, Customer shall return the Goods to Cashman in accordance with such Return Authorization.

All defects and nonconformities that are not so specified will be deemed waived by Customer, and such Goods shall be deemed to have been accepted by Customer. Cashman shall determine, in its reasonable discretion, whether any Goods returned by Customer in accordance with a Return Authorization are Nonconforming Goods. If Cashman determines that returned Goods are Nonconforming Goods, Cashman shall at its option either: (i) replace such Nonconforming Goods with conforming Goods; or (ii) refund to Customer such amount paid by Customer for such Nonconforming Goods. THIS SECTION 23 SETS FORTH CUSTOMER'S SOLE REMEDY AND CASHMAN'S ENTIRE LIABILITY FOR ANY BREACH OF THE LIMITED PRODUCT WARRANTY SET FORTH IN SECTION 21 (*Limited Product Warranty*).

24. **Disclaimer of Warranties.** EXCEPT FOR THE EXPRESS WARRANTIES SET FORTH IN SECTION 21 (*Limited Product Warranty*), (a) NEITHER CASHMAN NOR ANY PERSON ON CASHMAN'S BEHALF HAS MADE OR MAKES ANY EXPRESS OR IMPLIED REPRESENTATION OR WARRANTY WHATSOEVER, EITHER ORAL OR WRITTEN, INCLUDING ANY WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE, OR NON-INFRINGEMENT, WHETHER ARISING BY LAW, COURSE OF DEALING, COURSE OF PERFORMANCE, USAGE OF TRADE OR OTHERWISE, ALL OF WHICH ARE EXPRESSLY DISCLAIMED; AND (b) CUSTOMER ACKNOWLEDGES THAT IT HAS NOT RELIED UPON ANY REPRESENTATION OR WARRANTY MADE BY CASHMAN, OR ANY OTHER PERSON ON CASHMAN'S BEHALF, EXCEPT AS SPECIFICALLY PROVIDED IN SECTION 21 (*Limited Product Warranty*). Any warranty by Cashman shall be null and void and have no legal effect if Customer has failed to pay for the Goods at issue.

25. **Limitation of Liability.** IN NO EVENT SHALL CASHMAN OR ITS REPRESENTATIVES BE LIABLE FOR CONSEQUENTIAL, INDIRECT, INCIDENTAL, SPECIAL, EXEMPLARY, PUNITIVE OR ENHANCED DAMAGES, LOST PROFITS OR REVENUES OR DIMINUTION IN VALUE, ARISING OUT OF OR RELATING TO ANY BREACH OF THIS AGREEMENT,

REGARDLESS OF (a) WHETHER SUCH DAMAGES WERE FORESEEABLE, (b) WHETHER OR NOT CASHMAN WAS ADVISED OF THE POSSIBILITY OF SUCH DAMAGES AND (c) THE LEGAL OR EQUITABLE THEORY (CONTRACT, TORT OR OTHERWISE) UPON WHICH THE CLAIM IS BASED, AND NOTWITHSTANDING THE FAILURE OF ANY AGREED OR OTHER REMEDY OF ITS ESSENTIAL PURPOSE. IN NO EVENT SHALL CASHMAN'S AGGREGATE LIABILITY ARISING OUT OF OR RELATED TO THIS AGREEMENT, WHETHER ARISING OUT OF OR RELATED TO BREACH OF CONTRACT, TORT (INCLUDING NEGLIGENCE) OR OTHERWISE, EXCEED THE LESSER OF (a) TOTAL OF THE AMOUNTS PAID TO CASHMAN PURSUANT TO THE APPLICABLE ORDER GIVING RISE TO THE CLAIM; AND (b) \$25,000. WITHOUT LIMITING THE GENERALITY OF THE FOREGOING, CUSTOMER ASSUMES ALL RISK AND LIABILITY FOR THE RESULTS OBTAINED BY THE USE OF ANY GOODS IN THE PRACTICE OF ANY PROCESS, WHETHER IN TERMS OF OPERATING COSTS, GENERAL EFFECTIVENESS, SUCCESS OR FAILURE RELATED TO THE USE OF SUCH GOODS.

26. **Intellectual Property Rights.** Customer acknowledges and agrees that all intellectual property rights relating to the manufacturing of the Goods are the sole and exclusive property of Cashman or its third party licensors, and Customer shall not acquire any ownership interest in any such intellectual property rights under this Agreement. Any goodwill derived from the use by Customer of such intellectual property rights inures to the benefit of Cashman or its third-party licensors. Without limiting the foregoing, all tooling, patterns, casting patterns, molds and documentation (including engineering specifications and test reports) used by Cashman in connection with the manufacture and sale of the Goods, together with any accessions, attachments, accessories, substitutions, replacements and appurtenances thereto (the "Tooling") are owned by Cashman or its third party licensors and Customer has no right, title, or interest in or to any of the Tooling.

27. **Confidentiality.** From time to time during the term of this Agreement, Cashman may disclose or make available to Customer non-public proprietary and confidential information that, if disclosed in writing or other tangible form is clearly labeled as "confidential," or if disclosed orally, is identified as confidential when disclosed and promptly thereafter is summarized in writing and confirmed as confidential ("Confidential Information"); provided, however, that Confidential Information does not include any information that (a) is or becomes generally available to the public other than as a result of Customer's breach of this Section 27; (b) is or becomes available to Customer on a non-confidential basis from a third party source, provided that such third party is not and was not prohibited from disclosing such Confidential Information; (c) was in Customer's possession prior to Cashman's disclosure hereunder; (d) was or is independently developed by Customer without using any Confidential Information; or (e) is disclosed to a third person by Cashman without similar restrictions. Customer shall (i) protect and safeguard the confidentiality of Cashman's Confidential Information with at least the same degree of care as Customer would protect its own Confidential Information, but in no event with less than a commercially reasonable degree of care; (ii) not use Cashman's Confidential Information, or permit it to be accessed or used, for any purpose other than to exercise its rights or perform its obligations under this Agreement; and (iii) not disclose any such Confidential Information to any person or entity, except to Customer's representatives who need to know the Confidential Information to assist Customer, or act on its behalf, to exercise its rights or perform its obligations under this Agreement. If Customer is required by applicable law or legal process to disclose any Confidential Information, it shall, prior to making such disclosure, use commercially reasonable efforts to notify Cashman of such requirements to afford Cashman the opportunity to seek, at Cashman's sole cost and expense, a protective order or other remedy. Cashman shall be entitled to injunctive relief for any violation of this Section 27.

28. **Indemnity.** TO THE EXTENT PERMITTED BY APPLICABLE LAW, CUSTOMER HEREBY AGREES TO INDEMNIFY, DEFEND AND HOLD HARMLESS CASHMAN, ITS AFFILIATES AND THEIR RESPECTIVE OWNERS, OFFICERS, DIRECTORS, EMPLOYEES, AGENTS, SUCCESSORS AND ASSIGNS FROM AND AGAINST ANY AND ALL CLAIMS, LOSSES, DEFICIENCIES, JUDGMENTS, SETTLEMENTS, INTEREST, AWARDS, FINES, CAUSES OF ACTION, DAMAGES, LIABILITIES, COSTS, PENALTIES, TAXES, ASSESSMENTS, CHARGES, PUNITIVE DAMAGES AND EXPENSES (INCLUDING ATTORNEYS' FEES) INCURRED AS A RESULT OF (a) ANY BREACH BY CUSTOMER OF THIS AGREEMENT OR ANY APPLICABLE LAW OR (b) ANY ACT OR OMISSION OF CUSTOMER OR ITS EMPLOYEES, AGENTS, CONTRACTORS, SUBCONTRACTORS, AFFILIATES OR INVITEES.

29. **Relationship of the Parties.** Nothing in this Agreement shall be construed as creating a joint venture, partnership, agency, employer/employee, franchise or similar relationship between the Parties, or as authorizing either Party to act as the agent of the other. The relationship between Customer and Cashman under this Agreement is intended to be that of buyer and seller. Customer is an independent contractor and neither it nor its employees, shall under any circumstances, be

considered to be agents or employees of Cashman. Neither Party shall have the right to enter into contracts or commitments in the name of the other or to bind the other in any respect whatsoever.

30. **Severability.** If any provision of this Agreement shall be deemed invalid, illegal or unenforceable by any court of competent jurisdiction, such provision shall be automatically modified to the minimum extent necessary to render the same valid and enforceable, giving due consideration to the purpose and economic substance of this Agreement, or if no such modification shall be possible, deleted, and the remainder of this Agreement will remain valid and enforceable.

31. **Assignment.** Customer may not assign any of its rights or delegate any of its obligations under this Agreement without the prior written consent of Cashman. Any purported assignment or delegation in violation of this Section 31 is null and void. No assignment or delegation relieves the assigning or delegating party of any of its obligations under this Agreement.

32. **No Third Party Beneficiaries.** This Agreement benefits solely the Parties and their respective permitted successors and assigns. Nothing in this Agreement, whether express or implied, confers on any other person any legal or equitable right, benefit or remedy of any nature whatsoever under or by reason of this Agreement.

33. **Headings.** Headings are for reference only and do not affect the interpretation of this Agreement.

34. **Interpretation.** Any rule of construction that ambiguities are to be resolved against the drafting party shall not apply in interpreting this Agreement.

35. **Force Majeure.** Cashman shall not be liable, nor be deemed to have defaulted or breached this Agreement, for any failure or delay in fulfilling or performing any term of this Agreement to the extent such failure or delay is caused by or results from acts or circumstances beyond Cashman's reasonable control including, without limitation, acts of God, flood, fire, earthquake, explosion, governmental actions, war, invasion or hostilities (whether war is declared or not), terrorist threats or acts, riot or other civil unrest, national emergency, revolution, insurrection, epidemic, lock-outs, strikes or other labor disputes (whether or not relating to either Party's workforce), restraints or delays affecting carriers, an inability or delay in obtaining supplies of adequate or suitable materials, telecommunication breakdown or power outage.

36. **Communications.** All notices, requests, consents, claims, demands, waivers and other communications under this Agreement (each, a "Communication") must be in writing and addressed to the other Party at its address that the receiving Party has designated in accordance with this Section 36. Unless otherwise agreed, all Communications must be delivered by facsimile, e-mail, personal delivery, courier or certified or registered mail (return receipt requested, postage prepaid). A Communication is effective only on receipt by the receiving Party if the Party giving the Communication has complied with the requirements of this Section 36. Communications shall be deemed received (a) if given by facsimile or e-mail, on the date of transmission if sent prior to 3:00 p.m. (PT) on a business day and otherwise on the following business day; (b) if by courier or personal delivery, on the date of delivery; and (c) if by mail, two (2) days after the date of mailing.

37. **Successors and Assigns.** This Agreement is binding on and inures to the benefit of the Parties and their respective permitted successors and permitted assigns.

38. **Applicable Law/Venue.** This Agreement (and all matters arising out of or relating to this Agreement) will be governed in all respects by the laws of the State of Nevada without regard to any choice or conflict of law provisions. Each Party hereby irrevocably submits to the exclusive jurisdiction of the courts situated in Clark County in the State of Nevada and waives all claims that such courts lie in an inconvenient forum.

39. **Waiver of Jury Trial.** EACH PARTY KNOWINGLY, VOLUNTARILY, IRREVOCABLY AND UNCONDITIONALLY WAIVES ITS RIGHT TO A JURY TRIAL OF ANY CLAIM OR CAUSE OF ACTION BASED ON OR ARISING OUT OF THIS AGREEMENT OR THE SUBJECT MATTER HEREOF (INCLUDING, WITHOUT LIMITATION, CONTRACT, TORT, BREACH OF DUTY, AND ALL OTHER COMMON LAW AND STATUTORY CLAIMS), AND WILL NOT BE SUBJECT TO ANY EXCEPTIONS. EACH PARTY (a) UNDERSTANDS THAT THIS IS A WAIVER OF IMPORTANT LEGAL RIGHTS AND (b) ACKNOWLEDGES HAVING HAD A REASONABLE OPPORTUNITY TO DISCUSS THIS WAIVER AND ITS EFFECTS WITH LEGAL COUNSEL.

40. **Dispute Resolution.** Any dispute or controversy arising under or in connection with this Agreement shall first be resolved by informal discussion between senior management of the Parties. If informal discussion fails to produce a resolution, the Parties must then attend non-binding mediation in the County of Clark, Nevada with a mutually agreeable mediator. If mediation fails to produce a resolution, or if the Parties cannot agree on a mediator, any dispute or controversy arising out of or relating to this Agreement shall be settled by binding arbitration. Either Party may

initiate arbitration, which shall be conducted in the County of Clark, Nevada in accordance with the commercial arbitration rules of JAMS. Each Party shall share equally the cost of the arbitration and shall bear its own attorneys' fees, unless the arbitrator awards such fees and costs to a Party. The arbitrator shall not have the power to award any punitive damages.

41. **Enforcement.** Subject to Section 40 (*Dispute Resolution*), Customer shall pay all costs Cashman may incur in enforcing or exercising its rights under this Agreement, whether or not suit is filed.

42. **Survival.** Provisions of this Agreement that by their nature should apply beyond their terms will remain in force after any termination or expiration of this Agreement including, but not limited to, Sections 22 (*Warranty Limitations*), 23 (*Customer's Exclusive Remedy*), 24 (*Disclaimer of Warranties*), 25 (*Limitation of Liability*), 27 (*Confidentiality*), 28 (*Indemnity*), 34 (*Interpretation*), 38 (*Applicable Law/Venue*), 39 (*Waiver of Jury Trial*), 40 (*Dispute Resolution*), 41 (*Enforcement*) and 42 (*Survival*).