



Fette Compacting America, Inc. General Terms and Conditions for Services

1. Subject Matter

(1) All services of Fette Compacting America, Inc. (hereinafter "FCA") are subject to the following General Terms and Conditions for Services (hereinafter: "Terms and Conditions"). Deviating, opposing or supplementary terms and conditions of the customer shall only be components of the contract if FCA has expressly consented to their application. Individual agreements signed by FCA and the customer in the individual case (including collateral, supplementary and amendment agreements) shall always take precedence over these Terms and Conditions, unless otherwise set forth therein.

(2) These Terms and Conditions apply to all services provided by FCA, including but not limited to,

- Repair and/or maintenance,
- Site acceptance test assistance,
- Installation,
- commissioning,
- qualification assistance,
- preventive maintenance
- inspections and calibration,
- consultations,
- training courses,
- process optimization,
- expert opinions,

(hereinafter: "Services").

(3) FCA's order confirmation (the "Order Confirmation") and these Terms and Conditions (collectively, the "Agreement") comprise the entire agreement between the parties, and supersede all prior or contemporaneous understandings, agreements, negotiations, representations and warranties, and communications, both written and oral. In the event of any conflict between these Terms and Conditions and the Order Confirmation, these Terms and Conditions shall govern.

(4) These Terms and Conditions prevail over any of customer's general terms and conditions regardless whether or when customer has submitted its request for proposal, service order or statement of work ("Order"). Any Order issued in response to an FCA offer or following delivery of these Terms and Conditions to customer shall be deemed customer's acceptance of these Terms and Conditions and rejection of any other terms and conditions, regardless of any reference to such other terms in the Order. Provision of Services to customer does not constitute acceptance of any of customer's terms and conditions and does not serve to modify or amend these Terms and Conditions.

2. Agreement; Service Order and Order Confirmation

(1) An Order Confirmation is considered issued, and a Agreement is considered in full force and effect, at such time as (a) the Order Confirmation is issued in writing by FCA, or (b) FCA commences any work or performance of the Services under an Order; provided that the Order shall only be considered accepted to the extent Services were performed by FCA thereunder and to the extent consistent with any FCA offer, if any. The written form requirement for the Order Confirmation is met if

the Order Confirmation is transmitted in text form by way of remote data transmission (e.g. e-mail) or fax.

(2) With respect to the specification of the Services to be provided and the specific project conditions (subject matter, duration and objectives of the project as well as remuneration, expenses etc.), unless otherwise stated in FCA's offers, all of FCA's offers shall be subject to changes and shall be non-binding offers to provide such Services. Orders from the customer shall be binding offers to FCA subject to FCA's acceptance by means of Order Confirmation in accordance with section 2(1) above.

(3) FCA has neither a legal claim to be hired by the customer for a specific Service, nor is it obliged to accept any service orders or statements of work by a customer. FCA reserves the right to decline any Orders by a customer.

(4) Order Confirmations shall contain the specification of the Services to be provided as well as the specific project conditions (subject matter, duration and objectives of the project as well as remuneration, expenses etc.).

(5) Advance estimates issued by FCA relating to the duration of the work and the costs (service fees, expenses, etc.) are only estimations and shall be deemed non-binding. If a Service cannot be carried out at the estimated costs or if FCA considers additional work necessary, the customer's consent must be obtained if any estimated costs provided by FCA in writing will be exceeded by more than 20%. If a customer requires a binding cost and/or completion date as a requirement for the performance of the contract, the parties may enter into a separate written agreement addressing such requirements. In any case, FCA's compensation shall be calculated based on the time spent, not on the estimate.

3. Performance of Services

(1) FCA shall perform the Services in a workmanlike manner according to the specifications in the Agreement. In doing so, it takes into account – as far as necessary and reasonable – general process descriptions and industry standards as well as, where applicable, specific regulations, methods and application practices, in each case, if and insofar they are communicated to FCA by the customer.

(2) FCA may, at its own discretion, either use its own employees or may make use of one or more subcontractors for the provision of Services (together: "FCA's Service Personnel").

(3) When performing the Services, neither FCA nor FCA's Service Personnel is subject to any instructions from the customer other than as set forth in section 3(1) above or the specifications of the Agreement with regard to the place, time and manner of the provision of the Service. If and insofar as no time or place of performance is specified in the Agreement and is not logically dictated by the circumstances of the respective service performance, FCA will determine the place and/or time of performance itself. FCA will, however, when allocating the days of activity and the time on these days, will make commercially reasonable efforts to determine these in such a way that optimum efficiency is achieved in its activities and in the realisation of the respective project.

(4) Generally, FCA provides the Service at its own premises with its own equipment, unless the project requires the Service to be provided at a different location (e.g. if work is to be undertaken at a machine at the customer's premises).

(5) Whenever a Service is provided at the customer's premises, FCA and FCA's Service Personnel shall comply with the working hours at the customer's site and with all reasonable safety and operating regulations of the facility, of which they shall be informed by the customer in writing in advance thereof. FCA's Service Personnel's statutory maximum number of working hours per day and/or week have to be observed (absolute maximum are 10 hours per day).

- (6) FCA is not entitled to represent the customer in legal transactions or to make or receive any other legally relevant declarations on behalf of the customer.
- (7) The Services are completed once the Services are ready for acceptance. If the customer causes a delay – including a delay in testing or accepting the Services –, the customer shall bear all of the costs resulting from this, especially the costs of waiting periods and additional travel costs.
- (8) If it becomes clear that completion of the Services may be delayed, FCA shall make commercially reasonable efforts to notify the customer and provide a new time estimate or estimated service period. If the parties entered into a separate written agreement whereby the time estimate or the service period was binding (per section 2(4)), then the parties shall find a mutually agreeable solution and agree on a new time frame or service period.
- (9) If agreed dates for performing Services are postponed at the request of the customer, the customer shall reimburse FCA for the costs and expenses which will incur and which have already incurred in connection with the originally agreed date for the Services. These also include the costs for FCA's Service Personnel assigned in accordance with FCA's fee and expense rates under section 8 applicable at the time that the Services were originally scheduled to be carried out; this shall only apply to the extent that FCA's Service Personnel cannot be assigned elsewhere. In addition to all other remedies set forth herein, FCA reserves the right to cancel an Agreement as a result of customer's postponement of the Services.
- (10) If the Services are interrupted due to circumstances for which FCA is not responsible (including, but not limited to, public holidays at the location of the customer), all costs incurred (including for waiting times) shall be borne by the customer.
- (11) With the completion of Service, FCA shall provide the customer with a written service report, including a record of the working hours, the works undertaken and results of the works undertaken (e.g. an error analysis if the Service included repair of maintenance work, if applicable). Once the service report is submitted, the customer shall immediately issue a written notice if the customer does not agree with the content of the service report. If the service report is not disputed by the customer by written notice, the customer report shall be deemed correct. Duties under section 5.5 remain unaffected.

4. Cooperation obligations of the customer

- (1) The customer will support FCA and FCA's Service Personnel in the provision of the Services by means of appropriate cooperative actions where necessary. In particular, the customer will provide FCA with the necessary information and data and allow FCA's Service Personnel to access its business premises during business hours to the extent necessary.
- (2) Whenever Services are being carried out at the customer's premises, the customer shall take special measures required to protect persons and property on-site, inform FCA and FCA's Service Personnel about the safety regulations applicable on-site and about particular risks and protective measures in connection with pharmaceutical products (e.g. antibiotics, cytostatic, hormones) in writing in due time before the Service is commenced. Furthermore, the customer must provide free of charge and without time delay all personal protective equipment such as protective clothing, protective goggles, safety shoes, etc.
- (3) Whenever Services are being carried out at the customer's premises, the customer is also responsible for preparatory measures such as, inter alia, but not limited to:
- transporting the assembly components/ equipment to be serviced to the service site;
 - providing all required supplies, including but not limited to heating, lighting, operating power (e.g. electricity, pneumatics, cooling water) and other supplies and outlets;

- where necessary, building exhaust-air-system respectively vacuum-system with the requested power level;
- providing suitable tools and spare parts as well as placebo, where this is necessary or has been agreed;
- protecting the service site and materials from harmful influences of all kinds;
- providing, where necessary, lockable rooms for storing the tools of FCA's Service Personnel;
- providing suitably trained operating staff; and
- cleaning the service site.

These preparatory measures must be taken in sufficient time in advance so that FCA's Service Personnel can commence the Service immediately when they arrive at the customer's premises. Otherwise, waiting times of the Service Personnel will be documented and charged on the basis of FCA's rates valid at the time the work is carried out. If the customer does not comply with these cooperation obligations, FCA is entitled, but not under an obligation, to carry out the preparatory measure itself at customer's costs.

5. Repair and Maintenance Services

(1) If and insofar as the Service to be performed consists of or requires maintenance, repair or other work on a machine located at the customer's premises ("Repair and Maintenance") and the Agreement does not contain any specific provision, the rules of this section shall apply.

(2) Repair and Maintenance dates (i.e. the dates on which an agreed Repair and Maintenance Service is to be performed) shall be agreed between the customer and FCA in sufficient time in advance, i.e. a reasonable period before the desired Repair and Maintenance date.

(3) Before performing Repair and Maintenance Services, a function test of the machines may be carried out by or in the presence of FCA's Service Personnel. For this purpose, the customer shall make available the machine, customer's own personnel as well as sufficient quantities of test material, if necessary, at customer's expense.

(4) If a part is used with the machine, which was not manufactured by FCA and the customer has not purchased this part from FCA, the customer must notify FCA of any intellectual property rights or copyrights that might be concerned; the customer shall indemnify FCA against any claims by third parties based on intellectual property rights or copyrights.

(5) Upon notification by FCA that the Repair- or Maintenance work has been completed, the customer shall immediately examine the work performed on the respective machine and notify FCA of any work found not to be substantially in accordance with FCA's obligations under the Agreement. Unless customer provides FCA with written notice of rejection within five (5) business days of FCA notice that the work has been completed, customer shall be deemed to have accepted the Services. Acceptance shall also be deemed to have taken place as soon as the customer puts the machine, on which Repair or Maintenance Services were performed, into operation for production purposes or to perform tests beyond testing of the Repair and Maintenance work.

(6) If the Services include repair of components and FCA deems, in its discretion, that such repairs should be conducted at FCA's premises, the defective component shall be sent to FCA at the customer's cost, including any packaging and loading, and, after the Services have been carried out, sent back to the customer. In addition, the customer shall bear all risk of loss for and during transportation and handling. For the duration of the Service at FCA, the customer shall arrange for sufficient insurance of the component.



(7) In preparation of Repair or Maintenance Services, the customer shall perform, inter alia but not limited to, the following works at its own cost and on its own responsibility:

- Delivery of the machine, parts or equipment to the production area or to FCA's facility for repair/testing purposes. Any damage during shipment must be reported to FCA without undue delay;
- Preparation of the equipment: The equipment must be degreased without using a harsh solvent, which could damage various machine components. The machine must be cleaned and made properly accessible. Any required energy and media supply to the machines must be prepared. The customer must ensure that the machine is not contaminated with residual substances from products and shall submit evidences to FCA upon request;
- Preparation of the working material: All requested material, spare parts, accessories shall be prepared to be accessible close to the machine; and
- Preparation for the work: All additional components of the machines for loading materials, filling, dosing and removing the products from the machine must be positioned in a way that they are well accessible and that the Service can be carried out without hindrances and time loss.

(8) For any Repair or Maintenance Services, regardless of whether on-site and off-site, the customer shall ensure at its own cost that all of the legal and technical prerequisites within its responsibility are fulfilled and the customer shall assist FCA with carrying out the Services. For on-site Repair or Maintenance Services, the customer shall also provide FCA, at customer's sole cost and expense, with the technical equipment (crane, lifting apparatus, transport rollers, scaffolding timbers, ropes, industrial trucks, materials and consumables, etc.) and customer's personnel necessary to carry out the Service.

(9) For the duration of the Repair or Maintenance Service, the FCA's Service Personnel must be able to freely access the machine; the machine will not be available for production operation during this time.

6. Liability for Defects

(1) With regard to Service defects, the rules of this section shall apply subject to the terms of section 10.

(2) FCA shall perform the Services in a workmanlike manner according to the specifications in the Agreement. Failure to do so shall be referred to herein as a "Defect." Unless otherwise agreed, FCA shall be liable for any Defects in the Service provided for a period of twelve (12) months after the respective Service was performed. In the event any parts manufactured by FCA are used in relation to the Services, FCA warrants that for a period of twelve (12) months, such parts will materially conform to their specifications in effect as of the date of manufacture and failure to do so shall similarly be referred to herein as a "Defect." In the event any parts manufactured by a third party are used in relation to the Services, FCA shall make reasonable efforts to ensure any product warranty to such parts is extended to customer; provided FCA makes no representations or warranties with respect to such parts. **EXCEPT FOR THE WARRANTIES SET FORTH IN THIS SECTION 6(2), FCA MAKES NO WARRANTY WHATSOEVER WITH RESPECT TO THE SERVICES OR ANY GOODS PROVIDED BY FCA (INCLUDING ANY PARTS), INCLUDING ANY (a) WARRANTY OF MERCHANTABILITY; (b) WARRANTY OF FITNESS FOR A PARTICULAR PURPOSE; OR (c) WARRANTY AGAINST INFRINGEMENT OF INTELLECTUAL PROPERTY RIGHTS OF A THIRD PARTY; WHETHER EXPRESS OR IMPLIED BY LAW, COURSE OF DEALING, COURSE OF PERFORMANCE, USAGE OF TRADE, OR OTHERWISE.**

(3) The customer shall without undue delay and at the latest five (5) business days after discovery of a Defect notify FCA in writing of any Defect. If the customer fails to give notice of a Defect within five

(5) business days of the date it discovered or should have discovered the Defect, it shall lose its rights in respect of the Defect and FCA shall not be liable for breach of any warranty related thereto.

(4) FCA is not liable for the condition of the machine prior to commencement of the Service or, except for FCA's liabilities pursuant to the warranties set forth herein, thereafter. In particular, FCA accepts no liability for any possible results of neglected maintenance or repairs on the part of the customer, or failure to maintain the functionality of the machine, or any other misuse of the machine.

(5) FCA is not liable for any misuse of machines that were subject to the Repair- or Maintenance Service in question by the customer or third parties, for wear and tear thereof, for wear and tear parts and for spare parts not manufactured by FCA.

(6) FCA is not liable for Defects resulting from measures, designs, procedures, or constructions, which the customer expressly requested, or from materials or products, which the customer provided or the use of which the customer expressly requested.

(7) After receipt of a notice or after FCA itself discovers a Defect, FCA shall examine the reported Defect and – in case a Defect is found in the examination – remedy any Defects in the Services provided or repair or replace any FCA-manufactured parts it has provided without undue delay (subsequent performance).

(8) If a Defect is found by FCA, FCA shall bear the costs of examination and subsequent performance in case FCA is responsible for the Defect. Otherwise, FCA can claim compensation from the customer for the costs arising from the unjustified request for the remedy of Defects.

(9) FCA has a right to make the subsequent performance owed subject to payment of the service fee due by the customer. However, the customer is entitled to retain part of the service fee, which is reasonable for the size of the Defect, until such Defect is remedied in accordance with the terms contained herein.

(10) The customer must give FCA reasonable time to carry out the subsequent performance. Subsequent performance does not include uninstalling a defective item or reinstalling it if FCA did not originally have a duty to install it.

(11) In urgent cases (e.g. in cases of risk to operational safety), the customer shall have a right to remedy the Defect itself and to claim reimbursement of the out-of-pocket expenses objectively necessary for this and incurred by customer, from FCA. The customer shall inform FCA about any remedy of Defects to be carried out by the customer itself immediately and before the work is carried out. The customer shall have no right to reimbursement of its out-of-pocket expenses as a result of remedying the Defect itself if FCA would have had a right to refuse corresponding subsequent performance in accordance with the Agreement or applicable law. If the customer does not remedy the Defect properly, FCA shall not be liable for the Defect or for FCA's failure to remedy such Defect, including any related consequences.

(12) If subsequent performance fails after (i) a minimum of two (2) attempts to remedy or (ii) within a reasonable deadline agreed to by the parties, the customer may terminate the Agreement or reduce the service fee. **THE REMEDIES SET FORTH IN SECTION 6(7) AND THIS SECTION 6(12) SHALL BE THE CUSTOMER'S SOLE AND EXCLUSIVE REMEDY AND FCA'S ENTIRE LIABILITY FOR ANY BREACH OF THE LIMITED WARRANTIES SET FORTH IN SECTION 6(2).**

7. General training courses

(1) If and to the extent that the Service to be rendered involves training or other courses to impart know-how by FCA, the rules of this section shall apply.

(2) Training documents as well as software and manuals are subject to copyright protection. The product names of FCA products are also subject to trademark protection. FCA has the exclusive rights in this regard. Training documents and other documents provided by FCA may only be duplicated for internal company purposes.

(3) Travel time and cost, accommodation expenses etc. for FCA's Service Personnel as well as daily allowance shall be borne by the customer and are governed by section 8.

8. Service Fee, Hourly Rates, Travel Expenses and other Expenses

(1) If no differing individual agreement on costs, fees and expenses is included in the Agreement, the rules of this section shall apply.

(2) Services shall be charged based on FCA's prices and overtime rates valid at the time the Services are provided. FCA shall inform the customer about these prices on request.

(3) If travel is necessary in the context of Services, travel costs (including, most importantly, fees for rail or airplane tickets, lodging expenses, the costs of transporting, customs and insuring of personal luggage as well as the tools and parts FCA's Service Personnel bring with them and have shipped, among others) shall be borne by the customer. The customer shall bear the costs for any further travel-related expenses (e.g. hotel, visa fee, transfer & parking charges, rental car, taxi, telephone, etc.) as well.

(4) In case Service work is undertaken at the customer's premises and no hotel for FCA's Service Personnel is available near the customer's premises or cannot be reached by means of public transport within half an hour transit time, the customer must either:

- provide a vehicle at customer's expense, or
- arrange for the transfer between the hotel and the place of work.

The transit time to and from customer's premises is working time.

(5) The customer shall receive an invoice for the travel costs and expenses of FCA's Service Personnel, at FCA's sole discretion, either at the end of a specific project or periodically.

(6) Additional expenses in connection with the Services or in connection with entering/staying in the country (e.g. country-specific work permits, access permits, remuneration statements, etc.) shall similarly be borne by customer unless otherwise set forth in the Agreement.

(7) If a project requires the presence of FCA's Service Personnel at a location other than FCA headquarters, the travel expenses also include the costs for trips home for weekends or public holidays. If FCA's Service Personnel do not travel home for weekends or public holidays, the full expense allowances, including, e.g. hotel, rental car, along with holiday surcharges and other surcharges according to FCA's internal policies, shall be charged.

(8) When calculating surcharges for public holidays, statutory public holiday regulations applicable to FCA's Service Personnel shall apply and be taken into account.

9. Payment Period

(1) Unless otherwise specified in the invoice or Agreement, invoices by FCA are due for payment without deduction within 14 days of invoice date.

- (2) After expiry of the payment period, FCA shall be entitled to interest from the day on which payment was due and to compensation for recovery costs. The rate of interest shall be the lowest of (a) the rate agreed between the parties or otherwise [8] percentage points above [prime rate, as set forth by the Wall Street Journal / the rate of the main refinancing facility of the European Central Bank], or (b) the maximum amount permitted by applicable law.
- (3) FCA may, in addition to any other remedies set forth herein or under applicable law, after having notified the customer thereof, suspend its performance of the Agreement and, after completion of the Service, retain equipment of the customer, which may be in its possession, in each case, until it receives payment. The customer shall, in case of suspension, further compensate FCA for any additional costs incurred due to the suspension and resumption of the respective Service.
- (4) If the customer does not make payments which are due and payable hereunder, FCA may, in its sole discretion, set a reasonable period for payment together with a requirement of advance payments for future business.
- (5) All fees and prices for Services are exclusive of all sales, use, value-added, excise taxes and any other similar taxes, duties or charges of any kind. Taxes incurred in connection with the Service (other than with respect to FCA's income), shall be borne by, and the sole responsibility of, the customer.

10. Liability and Limitation of Liability

- (1) Each party shall be liable for losses and damages incurred as a result of grossly negligent breach of the Agreement and/or as a result of willful misconduct without limitation. In any other cases, FCA's liability shall be limited to the service fee agreed in the Agreement, or – if no individual agreement on the service fee is included in the Agreement – on the resulting fee pursuant to section 8(2).
- (2) **NOTWITHSTANDING ANYTHING TO THE CONTRARY ELSEWHERE, FCA SHALL IN NO EVENT AND IRRESPECTIVE OF THE LEGAL BASIS (CONTRACT, TORT (INCLUDING NEGLIGENCE), STATUTORY LIABILITY, MISREPRESENTATION, INDEMNITY OR ANY OTHER AREA OF LAW), BE LIABLE FOR CONSEQUENTIAL, INCIDENTAL, SPECIAL, EXEMPLARY, INDIRECT OR PUNITIVE DAMAGES, LOSS OF PROFIT OR REVENUE, LOSS OF USE OR LOSS OF PRODUCTION, LOSS OF DATA, COST OF CAPITAL, COST OF SUBSTITUTE GOODS, PROPERTY DAMAGE EXTERNAL TO THE CONTRACTUAL PRODUCTS AND ANY DAMAGE, EXPENDITURE OR LOSS ARISING OF SUCH DAMAGE, OR ANY OF THE FOREGOING SUFFERED BY ANY THIRD PARTY, REGARDLESS OF WHETHER SUCH DAMAGES WERE FORESEEABLE AND WHETHER OR NOT FCA HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES, AND NOTWITHSTANDING THE FAILURE OF ANY AGREED OR OTHER REMEDY OF ITS ESSENTIAL PURPOSE. IN NO EVENT SHALL FCA'S AGGREGATE LIABILITY ARISING OUT OF OR RELATED TO THE AGREEMENT, WHETHER ARISING OUT OF OR RELATED TO BREACH OF CONTRACT, TORT (INCLUDING NEGLIGENCE), OR OTHERWISE, EXCEED THE TOTAL OF THE AMOUNTS PAID TO FCA FOR THE SERVICES PROVIDED HEREUNDER DURING THE TWELVE (12) MONTHS PRECEDING THE CLAIM.**
- (3) For the avoidance of doubt, the limitation of liability set forth in this section shall not apply (a) to the injury to life or health by a Party; or (b) to such cases where strict liability under law applies (e.g. Product Liability).
- (4) To the extent permitted by applicable law, customer's claims for damages for which liability is limited under this provision shall become time-barred one year from the start of the statutory limitation period.

11. Termination of Agreements

(1) Unless otherwise provided for in the respective Agreement, an Agreement can be terminated by either party (a) with 3 months' written notice, or (b) with immediate effect in the event of breach hereunder or failure to comply with applicable law by the other party.

(2) If the Agreement is terminated, FCA is entitled to remuneration for the Services provided and expenses incurred up to the effective date of termination. The Services agreed for the duration of the period between the date of such notice up to the effective date of termination and not yet fully performed shall still be properly performed and remunerated. The Customer may waive this, but must still pay the agreed remuneration in full.

12. Force Majeure

(1) FCA shall be entitled to suspend performance of its obligations under an Agreement, and shall not be liable to customer or deemed to be in breach hereunder, for any failure or delay to perform its obligations to the extent that such performance is impeded, delayed or made unreasonably onerous by an event beyond FCA's control ("Force Majeure"), including without limitation, any of the following circumstances: industrial or labor disputes, fire, war, military mobilization, insurrection, requisition, seizure, embargo, restrictions in the use of power, currency and export restrictions, pandemics, epidemics, natural disasters, extreme natural events, terrorists acts, defects or delays in deliveries or work by subcontractors or suppliers caused by any Force Majeure event, and any other circumstance beyond the control of FCA. An event of Force Majeure, however, shall not excuse the failure of payment of moneys due by either party to the other.

(2) If affected by Force Majeure, FCA shall notify the customer without delay of the occurrence and on the cessation of such circumstance.

(3) FCA shall be entitled to terminate an Agreement if performance of the Agreement is suspended for more than three months as a result of the Force Majeure-event.

13. Miscellaneous

(1) The laws of the state of New Jersey (U.S.A.) excluding the UN Convention on Contracts for the International Sale of Goods (CISG), applies to these General Terms and Conditions, the Agreement and to the contractual relationship between FCA and the customer.

(2) All disputes arising out of or in connection with the individual Agreement or these Terms and Conditions shall be finally settled under the Rules of Arbitration of the International Chamber of Commerce by one or more arbitrators appointed in accordance with the said rules. The seat of the arbitration is New York, New York. The language of the arbitration shall be English.

(3) If one of the above provisions of this Terms and Conditions is or becomes invalid, the parties undertake to replace the invalid provision by a valid provision which achieves, to the best possible extent, the economic intent of the parties. The invalidity of a provision of these Terms and Conditions shall not prejudice the validity of the other provisions of these Terms and Conditions.

(4) Each party irrevocably and unconditionally waives any right it may have to a trial by jury in respect of any legal action arising out of or relating to the Agreement or the transactions contemplated hereby.



(5) The relationship between the parties is that of independent contractors. Nothing contained in this Agreement shall be construed as creating any agency, partnership, joint venture or other form of joint enterprise, employment or fiduciary relationship between the parties, and neither party shall have authority to contract for or bind the other party in any manner whatsoever.

(6) These Terms and Conditions may only be amended or modified in a writing stating specifically that it amends these Terms and Conditions, signed by each party.