

DEFINITIONS

The following terms shall have the following meanings ascribed thereto:

- a. **“Acceptance Date”** means, as to any Lease, the date Lessee shall have actually accepted the Equipment subject to such Lease or shall be deemed to have accepted the Equipment subject to such Lease in accordance with Section 3.
- b. **“Equipment Location”** means, as to any Equipment, the address at which such Equipment is delivered and installed, as specified in the applicable Lease. Lessee shall not move the Equipment from the Equipment Location without the prior written consent of Lessor.
- c. **“Guarantor”** means any guarantor of all or any portion of Lessee’s obligations under a Lease as defined herein.
- d. **“Pricing Expiration Date”** means, as to any Lease, the date set forth in the Lease or, if no date is specified, the date that is thirty (30) days following the date of delivery of the Equipment subject to such Lease, to the Equipment Location.
- e. **“Purchase Documents”** means, as to any Equipment, any purchase agreement, purchase order, contract, bill of sale, license agreement, invoice and/or other documents that Lessee has, at any time, approved, agreed to be bound by or entered into with any Supplier of such Equipment relating to the purchase, ownership, use or warranty of such Equipment.
- f. **“Seller”** means, as to any Equipment, the seller of such Equipment, as specified in the applicable Lease.
- g. **“Supplier”** means, as to any Equipment, the Seller and the manufacturer or licensor of such Equipment collectively, or where the context requires, any of them.
- h. **“Taxes”** means any and all taxes, duties, charges, fees, levies or other assessments imposed by any taxing authority, including, without limitation, value-added, excise, withholding, personal property, real estate, sale, use, ad valorem, license, lease, service, stamp, transfer, customs, duties, alternative, add-on, minimum, estimated and franchise taxes (including any interest, penalties or additions attributable to or imposed on or with respect to any such assessment).
- i. **“Term”** means, as to any Lease, the term thereof as specified in the Lease.

1. PURPOSE

The purpose of these Terms and Conditions of Lease (“Terms and Conditions”) is to set forth the general terms and conditions upon which Lessor shall lease to Lessee and Lessee shall lease from Lessor items of equipment (collectively, “Equipment”), whether payment for such Equipment is remitted on a fixed periodic basis (e.g., weekly, monthly, quarterly) or on a Cost Per Procedure® (CPP®) basis. The lease of Equipment under these Terms and Conditions is referred to herein as the “Lease”.

2. ACCEPTANCE; TERM OF LEASE

Lessee shall accept the Equipment in accordance with Section 3. The Term of each Lease for such Equipment shall begin on the Acceptance Date of the Equipment and shall continue for the period described in the Lease.

3. SELECTION AND ACCEPTANCE OF EQUIPMENT

Lessee acknowledges, represents and warrants that it has selected the Equipment and has relied on its own skill and experience in selecting Equipment suitable to its particular needs and purposes. Upon receipt of the Equipment, Lessee shall inspect the Equipment to confirm that it conforms to Supplier's published specifications and shall verify, by means to be specified by Lessor, such information as Lessor may require, including without limitation, execution of an Acceptance Certificate, if required by Lessor. Lessee shall be deemed to have accepted the Equipment, subject to the provisions of the Supplier's warranty for the Equipment as applicable, if Lessee does not notify Lessor, in writing, within ten (10) days from the date of delivery that Equipment does not meet the Supplier's published specifications. Lessor shall provide confirmation to Lessee of the Acceptance Date if requested by Lessee. If Lessee notifies Lessor that the Equipment fails to meet the Supplier's published specifications and the Lessee is unable to require Supplier to make the Equipment conform to published specifications by the Pricing Expiration Date, then Lessor may, in its sole discretion, elect to declare Lessee in default of the applicable Lease and exercise any of the rights or remedies available to Lessor (including but not limited to those set forth in Section 12). Delivery and installation costs are Lessee's responsibility. If Lessee separately executed a purchase contract for the Equipment, Lessee assigns its rights, but none of its obligations, under such purchase contract to Lessor. Lessor shall not be liable for specific performance under a Lease.

4. PAYMENTS

As payment ("Periodic Lease Payment") for the Equipment under the Lease, Lessee agrees to pay the amounts specified in the applicable Lease on the due dates specified in the applicable Lease. All Periodic Lease Payments and other amounts due hereunder shall be made by Lessee unconditionally without defense, counterclaim, or offset of any kind for any reason whatsoever. The expiration or earlier termination of the Lease shall not release Lessee from its obligation to pay any amount owed to Lessor hereunder (including without limitation the Periodic Lease Payments) or operate to discharge any liability or obligation to Lessor incurred by Lessee prior to, contemporaneous with, or after the expiration or termination date of the Lease. Lessor shall have the right to charge an administration fee of up to five percent (5%) of the delinquent amount due to cover the additional administrative burden, overhead and internal costs of collecting such delinquent amount.

In addition to the Periodic Lease Payment attributable to the rental of Equipment, Lessee may request Lessor to finance other items, which Lessor may consent to finance in its sole and absolute discretion (the "Other Financed Items"). Other Financed Items may include, and are not limited to, maintenance and repair contracts related to the Equipment, computer hardware, software and related maintenance costs, other equipment and machinery, shipping charges, working capital, consulting and other services. Other Financed Items shall be clearly identified on schedules, riders, amendments and attachments to the Lease, as applicable. Lessee's rights and obligations with respect to the Other Financed Items shall be identified in separate agreements ("Related Agreements") governing the terms of such Other Financed Items. Lessor shall have no responsibility or obligation with respect to the Related Agreements, unless otherwise expressly agreed in a written instrument duly executed by Lessor and Lessee (to that end, if Lessor is the party to the Related Agreement, then Lessor shall be liable under such Related Agreement in accordance with its terms, but if any affiliate of Lessor is a party to the Related Agreement, then Lessor shall have no liability or obligation under such Related Agreement). If Lessor consents to finance Other Financed Items on any schedule, rider, amendment or attachment, the Periodic Lease Payment shall be adjusted to include these amounts on the basis Lessor is requested to finance such items, subject to Lessor's cost to finance the Other Financed Items. Lessee hereby assumes all risks and obligations associated with the Related Agreements and shall indemnify and hold harmless Lessor for any expenses or losses incurred as a result of Lessee's failure to completely comply with all terms and conditions of the underlying Related Agreements. If Lessor (not any affiliate of Lessor) is a party to such Related Agreement, then Lessor shall be liable under such Related Agreement in accordance with its terms. Notwithstanding the immediately preceding sentence or anything else in the Lease or the Related Agreement to the contrary, under no circumstances shall the portion of the Periodic Lease Payment attributable to Other Financed Items be cancellable or subject to any offset, defense or counterclaim under the Lease.

5. ASSIGNMENT OF EQUIPMENT WARRANTIES

To the extent permitted, Lessor hereby assigns to Lessee, for the Term of the Lease, all Equipment warranties provided by any Supplier in the applicable purchase contract.

6. TITLE

The Equipment is and shall remain the sole personal property of Lessor. No right, title or interest in the Equipment shall pass to Lessee other than those rights expressly set forth in the Lease. Lessee shall, at its expense, protect and defend Lessor's title to the Equipment and shall at all times keep the Equipment free from any legal process and/or encumbrances whatsoever, including but not limited to liens, attachments, levies and executions, and Lessee shall give Lessor immediate written notice thereof and shall indemnify Lessor for any loss caused by the failure of Lessee to take action as provided herein. Lessor shall have the right, upon reasonable advance notice and during normal business hours, to enter upon the premises where the Equipment is located for the purpose of confirming its existence, condition, and proper maintenance.

To the extent accessory, disposable or other equipment is provided under the Lease, Lessor reserves the right to transfer title to such products to Lessee as set forth in Section 6 hereof, except in the event that a Lease is terminated prior to conclusion of the Term or satisfaction of all Lease requirements are not met.

In the event of early Lease termination or Lessee's failure to meet its requirements under the Lease, all such items must be returned to Lessor. Failure to return such items will result in Lessee being responsible for their cost at the lesser of Lessor's then-current list price or Lessee's contract price, and shall be invoiced by Lessor to Lessee.

7. REPRESENTATIONS, WARRANTIES & COVENANTS OF LESSEE

Lessee represents, warrants, and/or covenants to Lessor that: (a) the Equipment will be used only: (i) by Lessee, (ii) in the manner for which it was intended, (iii) in accordance with all applicable manuals and instructions, and (iv) in compliance with all applicable laws and regulations; (b) it has the authority to enter into the Lease; (c) the person executing the Lease on behalf of Lessee has been duly authorized and has all required corporate approvals; (d) by entering into the Lease, Lessee is not in violation of any laws or agreements applicable to Lessee; (e) Lessee's obligations under the Lease are absolute and shall continue in full force and effect regardless of the inability of Lessee to use the Equipment for any reason; (f) Lessee shall, at Lessee's own cost and expense, maintain the Equipment in good repair, operating condition, and working order (ordinary wear and tear excepted), including but not limited to the performance of reprocessing, cleaning, and maintenance procedures described in the manufacturer's instruction manuals; and (g) Lessee shall not modify, alter, or add to the Equipment (other than the use of normal operating accessories or controls) without the prior written consent of Lessor.

8. TAXES

Lessee acknowledges and agrees the Lease is intended to be a net lease and accordingly, all applicable Taxes related to the Equipment and/or the Lease shall be paid by Lessee regardless of whether or not Lessee is deemed the owner of the Equipment under any national, state or local laws and regulations. Lessor shall report and pay all license and registrations fees and Taxes now or hereafter imposed or assessed by any governmental body, agency or taxing authority upon the purchase, ownership, delivery, installation, leasing, rental, use or sale of the Equipment, the Periodic Lease Payments or other charges payable hereunder, or otherwise upon or in connection with the Lease, whether assessed on Lessor or Lessee. Lessee shall remit payment to Lessor for any and all license and registration fees and all Taxes applicable on the Lease, as invoiced by Lessor to Lessee, subject to the tax-exempt provisions listed in this Section 8. Notwithstanding the foregoing, if applicable, Lessee represents and warrants that it is a tax-exempt organization and as such is not subject to applicable Taxes. Tax-exempt status must be substantiated by a copy of Lessee's tax-exempt certificate. If: (a) Lessee is not tax-exempt; (b) Lessee loses its tax-exempt status or is acquired by an entity which is not tax-exempt; or (c) a taxing authority imposing Taxes does not permit Lessor to obtain the benefit of Lessee's tax exemption; then: (i) the payments hereunder are to be net to Lessor, and (ii) Lessee shall pay directly to Lessor all license and registration fees and Taxes which may be assessed upon the Lease or the ownership, rental, purchase, possession or use of the Equipment during the applicable Term.

9. RISK OF LOSS

In the event any condemnation, taking, loss, destruction, theft or damage beyond repair of the Equipment (collectively, a "Casualty Loss") shall occur, the insurance proceeds (referenced in Section 10) shall be paid to Lessor so that the Equipment can be replaced and, provided that Lessee is not otherwise in default under the Lease, the Lease shall continue in full force without any abatement of the Periodic Lease Payment with such replacement equipment there-

after being deemed to be Equipment leased thereunder. In the event of any repairable damage to any Equipment, the Lease shall continue with respect to such Equipment without any abatement of the Periodic Lease Payment and Lessee shall at its expense promptly cause such Equipment to be repaired to the condition it is required to be maintained in pursuant to Section 7. Lessee shall notify Lessor, in writing, of any Casualty Loss or repairable damage to any Equipment as soon as reasonably practicable after the date of any such occurrence.

10. INSURANCE

Lessee shall, at its cost, maintain in force, at all times from shipment of the Equipment until its return to Lessor, property damage and risk insurance and liability with such coverage, from such insurance carriers and in such amounts as shall be satisfactory to Lessor. The Equipment must be insured against all risks that are customarily insured against on the type of equipment leased hereunder. Lessee shall name Lessor as loss payee and as additional insured on Lessee's property insurance policy. Lessee shall use commercially reasonable efforts to ensure that each insurer agrees that it will provide Lessor with thirty (30) days' prior written notice of any alteration or cancellation of such policy. Lessee shall, upon request, deliver to Lessor evidence satisfactory to Lessor of such insurance coverage.

11. DEFAULT

Any of the following events or conditions shall constitute an event of default by Lessee under the Lease: (a) Lessor has not received any Periodic Lease Payment or other payment due under the Lease, in full, within ten days after its due date; or (b) Lessee or any guarantor becomes insolvent, is liquidated or dissolved, stops doing business or assigns its rights or property for the benefit of creditors, and such actions or proceedings are not dismissed within sixty (60) days after commencement of such actions or proceedings; or (c) a petition is filed by or against Lessee or any guarantor under any section or chapter of the United States Bankruptcy Code or any successor or similar law, and such actions or proceedings are not dismissed within sixty (60) days after commencement of such actions or proceedings; or (d) *(for individuals)* Lessee or any guarantor dies or a guardian is appointed for Lessee or guarantor; or (e) Lessee (or any affiliate) is in default of or fails to fulfill the terms of any other agreement between Lessee and Lessor or any affiliate of either; or (f) without Lessor's consent, Lessee attempts to remove from the Equipment Location, sell, transfer, encumber, part with possession of, or sublet any Equipment; or (g) Lessee consolidates with or merges with or into any entity, or sells or otherwise transfers a majority of its assets or stock to any entity, or incurs a substantial amount of indebtedness other than in the ordinary course of its business, unless Lessee provides reasonable advance written notice to Lessor and Lessor consents, in writing, to not find Lessee in default and continue with the terms of the Lease, which consent shall not be unreasonably withheld or delayed if Lessor determines that the criteria upon which the Lessor had originally approved Lessee for leasing would not be adversely changed as a result of the proposed merger or sale of substantially all of its assets; or (h) Lessee or any guarantor violates any other term of the Lease or any guarantee and fails to correct such violation within ten (10) days after written notice from Lessor.

12. REMEDIES

Upon the occurrence of an event of default by Lessee (as described in Section 11), Lessor may, at Lessor's sole discretion, exercise any and/or all of the following remedies: (a) terminate the Lease and/or any other lease with Lessee; (b) as liquidated damages for loss of a bargain and not as a penalty, declare all amounts due and to become due under any or all Leases to be immediately due and payable, plus the then-current fair-market value of the Equipment, plus any other amounts due under the Lease, including without limitation any expenses or costs of Lessor in connection with the repossession, holding, repair and subsequent sale, lease or other disposition of the Equipment; provided, however, that in no event shall Lessor be entitled to recover any amount in excess of the maximum permitted by applicable law; (c) require Lessee to return the Equipment in good condition, repair and working order at Lessee's cost and expense to a location acceptable to Lessor; (d) to the extent allowed by law, collect interest on any delinquent payment or payments made by Lessor on Lessee's behalf, which shall continue to accrue at the lower of prime plus two (2%) percent or the highest lawful rate from the due date until paid by Lessee; and/or (e) pursue any other remedy available at law or in equity. Lessee's obligations hereunder shall not abate by reason of Lessor's taking of possession of the Equipment or for any other reason. Lessee agrees to pay to Lessor all costs and expenses, including reasonable attorneys' fees, incurred by Lessor in exercising any or all of its rights or remedies or in collecting and setting off money due or to become due under the Lease. All rights and remedies hereunder are cumulative and may be enforced separately or concurrently and from time to time. The exercise of any one remedy shall not be deemed to be an election of such remedy or to preclude the exercise of any other remedy. If there is more than one Lessee hereunder, each Lessee shall be jointly and severally liable under the Lease.

13. EQUIPMENT RETURN REQUIREMENTS

Except if Lessee elects to purchase the Equipment pursuant the Lease or other agreement, on or before the last day of the Term of each Lease (and any other time Lessee is required to return Equipment to Lessor under the terms of the Lease), Lessee, at its own expense, shall immediately return the Equipment, decontaminated, complete, and in good working order and condition (normal wear and tear excepted) in accordance with the manufacturer's guidelines, to such place within the continental United States as is designated by Lessor, properly crated, freight prepaid and insured. Certain Equipment may, at Lessor's sole discretion, require de-installation by Lessor at Lessee's cost and expense. Lessee shall be responsible for, and shall reimburse Lessor promptly on demand for, any cost incurred by Lessor to qualify the Equipment for the Supplier's maintenance service or, if not available, to return the Equipment to good working condition.

If Lessee fails to return the Equipment within thirty (30) days following the last day of the Term, or otherwise arrange to purchase the Equipment in accordance with Section 6 herein, without any additional notice or documentation, the Term shall be automatically extended for successive months with respect to all items of Equipment then subject to such Lease until such time as the Equipment is returned to Lessor in accordance with this Section 13. At any time during such month-to-month renewal, Lessor shall have the right to terminate the Lease by providing written notice to Lessee no less than thirty (30) days prior to the date of termination of such Lease and Lessee shall return all of the Equipment subject to such terminated Lease to Lessor during such thirty (30) day period. For each month that the Term of such Lease is so extended, Lessee shall pay to Lessor Periodic Lease Payments in amount equal to the Periodic Lease Payment in effect immediately prior to such extension, and all other provisions of the Lease shall continue to apply, including Lessee's obligation to report procedures performed with respect to the Lease that is subject to a Cost Per Procedure[®] (CPP[®]) payment structure. For any Cost Per Procedure payment structure, Lessee agrees that Lessee will report an amount that is no less than the Non-reporting Procedure Amount (as defined in the applicable Cost Per Procedure[®] (CPP[®]) provisions) to ensure that Lessor is paid the fair rental value of the Equipment during each month of the renewal period. Additionally, in the event Lessee fails to return the Equipment, upon expiration or earlier termination of the Lease, Lessor or its designee may enter upon the premises where the Equipment is located, with or without demand or legal process, and peacefully repossess the Equipment, free from all claims by Lessee and without liability for trespass, conversion, refund, or damages. Lessor may sell, assign, re-lease or otherwise dispose of the Equipment to such persons and upon such terms as Lessor may determine, at one or more public or private sales, with or without notice to Lessee and with or without having the Equipment present at the sale. If notice of sale or re-lease is required by law, written notice not less than ten (10) days prior thereto shall be sufficient. Lessor shall apply the net proceeds of any sale, after deducting its costs and expenses as well as the fair market value of the Equipment on the date of such sale, to Lessee's obligations under the Lease (including but not limited to the as-yet unpaid Periodic Lease Payments for the balance of the Term) and Lessee shall remain liable for any deficiency.

To the extent accessory, disposable or other equipment is provided under a Lease, Lessor reserves the right to transfer title to such products to Lessee as set forth in Section 6 hereof, except in the event that a Lease is terminated prior to conclusion of the Term or satisfaction of all Lease requirements are not met.

In the event of early Lease termination or Lessee's failure to meet its requirements under the Lease, all such items must be returned to Lessor. Failure to return such items will result in Lessee being responsible for their cost at the lesser of Lessor's then-current list price or Lessee's contract price, and shall be invoiced by Lessor to Lessee.

14. ASSIGNMENT

WITHOUT THE PRIOR WRITTEN CONSENT OF LESSOR, LESSEE SHALL NOT (A) SUBLET, LEND, ASSIGN, PLEDGE OR ABANDON THE EQUIPMENT, OR (B) SELL, ASSIGN, OR TRANSFER ANY RIGHTS, INTERESTS, OR OBLIGATIONS UNDER THE LEASE. All rights of Lessor in the Equipment and under the Lease may be assigned, pledged or otherwise disposed of without notice to Lessee, in whole or in part, to one or more assignees, subject to the rights of Lessee. Lessee agrees that any assignee of Lessor will be entitled to receipt of all payments and Lessee's payment obligation to such assignee shall not be subject to any abatement, offset, defense, or counterclaim. Lessee acknowledges notice of Lessor's intent to assign without the prior written consent of Lessee. Notwithstanding any such assignment, Lessor shall remain fully liable for its performance under the Lease and Lessee shall not look to any assignee for the performance of any such obligations.

15. FURTHER ASSURANCE

Lessee shall execute such further documents as reasonably requested by Lessor to more fully protect the rights of Lessor in the Equipment. Notwithstanding that Lessor is the owner of and retains title to the Equipment, to provide for public notice Lessor may file Uniform Commercial Code financing statements disclosing Lessor's interest in the Equipment and Lessee shall execute any financing statements requested by Lessor. In addition, Lessee agrees to obtain and provide to Lessor, as Lessor or its assigns may reasonably request based upon the nature of the Equipment and for purposes of the continued of extension of credit to Lessee under the Lease, estoppel certificates, Lessee's certified annual financial statements, landlord waivers, mortgage waivers, and/or any other documents deemed necessary and relevant by Lessor. The statements and financial reports submitted by Lessee to Lessor are material inducements to the granting of the Lease and that any material misrepresentations therein shall constitute default hereunder. In the event Lessor is deemed not to have title to the Equipment, Lessee hereby conveys a security interest in the Equipment (and all proceeds thereof) in favor of Lessor to secure all obligations of Lessee to Lessor.

16. CHOICE OF LAW & FORUM

The Lease shall be deemed to have been made and entered into in the Commonwealth of Pennsylvania and shall be governed by the laws of the Commonwealth of Pennsylvania without regard to its conflict of laws rules. The parties agree that all controversies, disputes and claims arising out of this transaction or the breach or threatened breach of the Lease shall be adjudicated exclusively by a court of competent jurisdiction within Lehigh County, the Commonwealth of Pennsylvania, or the United States District Court for the Eastern District of Pennsylvania, applying Pennsylvania law without regard to the conflict of laws rules thereof, except that any judgment, order, or decree obtained in any such action may be enforced in other jurisdictions by suit or in any other permitted manner. Lessee consents to the service of process in any action or proceeding by the mailing of copies thereof by registered or certified mail, postage prepaid, to Lessee at its address set forth herein. Any action by Lessee against Lessor for any default under the Lease, including breach of warranty or indemnity, shall be commenced within one year after any such cause of action accrues. LESSEE AND LESSOR EACH WAIVE ALL RIGHTS TO A TRIAL BY JURY.

17. LIMITATION ON LIABILITY; INDEMNITY

LESSEE ACKNOWLEDGES AND AGREES THAT LESSOR SHALL NOT BE RESPONSIBLE FOR ANY INJURIES, DAMAGES, PENALTIES, CLAIMS OR LOSSES, INCLUDING LEGAL EXPENSES, INCURRED BY LESSEE OR ANY OTHER PERSON CAUSED BY THE TRANSPORTATION, INSTALLATION, MANUFACTURE, SELECTION, PURCHASE, OWNERSHIP, POSSESSION, MODIFICATION, MAINTENANCE, CONDITION, OPERATION, USE, RETURN OR DISPOSITION OF THE EQUIPMENT. LESSEE AGREES TO REIMBURSE LESSOR FOR AND DEFEND LESSOR AGAINST ANY CLAIMS FOR SUCH LOSSES, DAMAGES, PENALTIES, CLAIMS, INJURIES, OR EXPENSES. THIS INDEMNITY CONTINUES EVEN AFTER THE LEASE HAS EXPIRED FOR ACTS OR OMISSIONS WHICH OCCURRED DURING THE TERM. IN NO EVENT SHALL LESSOR BE LIABLE FOR ANY INDIRECT, INCIDENTAL, CONSEQUENTIAL OR SPECIAL DAMAGES OF ANY KIND (INCLUDING WITHOUT LIMITATION LOSS OF PROFITS OR LOSS OF USE), WHETHER OR NOT LESSOR SHALL BE OR SHOULD BE AWARE OF THE POSSIBILITY OF SUCH POTENTIAL LOSS OR DAMAGE. THIS SECTION SHALL SURVIVE EXPIRATION OR TERMINATION OF THE LEASE.

18. LEASE NON-CANCELABLE; NET LEASE; WAIVER OF DEFENSES TO PAYMENT

IT IS SPECIFICALLY UNDERSTOOD AND AGREED THAT THE LEASE SHALL BE NON-CANCELABLE, AND THAT THE LEASE IS A NET LEASE. LESSEE AGREES THAT IT HAS AN ABSOLUTE AND UNCONDITIONAL OBLIGATION TO PAY ALL PERIODIC LEASE PAYMENTS AND OTHER AMOUNTS WHEN DUE. LESSEE IS NOT ENTITLED TO ABATE OR REDUCE PERIODIC LEASE PAYMENTS OR ANY OTHER AMOUNT DUE, OR TO SET OFF ANY CHARGE AGAINST ANY SUCH AMOUNT. LESSEE HEREBY WAIVES ANY RECOUPMENT, CROSS-CLAIM, COUNTERCLAIM OR ANY OTHER DEFENSE AT LAW OR IN EQUITY TO ANY PERIODIC LEASE PAYMENT OR OTHER AMOUNT DUE WITH RESPECT TO THE LEASE, WHETHER ANY SUCH DEFENSE ARISES OUT OF THE LEASE, ANY CLAIM BY LESSEE AGAINST LESSOR, LESSOR'S ASSIGNEES OR SUPPLIER, OR OTHERWISE. IF THE EQUIPMENT IS NOT PROPERLY INSTALLED, DOES NOT OPERATE OR INTEGRATE AS REPRESENTED OR WARRANTED BY SUPPLIER OR IS UNSATISFACTORY FOR ANY REASON WHATSOEVER, LESSEE SHALL MAKE ANY CLAIM ON ACCOUNT THEREOF SOLELY AGAINST SUPPLIER AND SHALL NEVERTHELESS PAY ALL SUMS DUE WITH RESPECT TO THE LEASE.

19. LEASE INTERPRETATION

For the purposes of the Lease, the term Lessee shall be deemed to include all direct and indirect (through one or more intermediaries) parent companies, subsidiaries and/or affiliates of Lessee to which Lessor now, or in the future, may lease equipment. The terms and provisions of the Lease, as amended or supplemented from time to time shall be binding upon Lessee and the respective parent company, subsidiary and/or affiliate. Each party hereto acknowledges that it has had ample opportunity to review and comment on Lease. The Lease shall be read and interpreted according to its plain meaning and any ambiguity shall not be construed against either party. It is expressly agreed by the parties that the judicial rule of construction that a document should be more strictly construed against the draftsman thereof shall not apply to any provision of the Lease. The headings contained herein are for reference only and are not a part of the Lease and shall not be used in connection with the interpretation of the Lease.

20. TERM OF LEASE; SURVIVAL

The Lease shall commence and be effective upon the execution hereof by both parties and shall continue in effect until terminated by either party by thirty (30) days' prior written notice to the other. However, no termination of the Lease pursuant to the preceding sentence shall be effective with respect to any lease that commenced prior to such termination until the expiration or termination of such lease and the satisfaction by Lessee and Lessor of all of their obligations hereunder with respect thereto. All representations, warranties and covenants made by Lessee and Lessor hereunder shall survive the termination of the Lease and shall remain in full force and effect. All of Lessor's rights, privileges and indemnities under the Lease, to the extent they are fairly attributable to events or conditions occurring or existing on or prior to the expiration or termination of the Lease, shall survive such expiration or termination and be enforceable by Lessor and Lessor's successors and assigns.

21. MISCELLANEOUS

The Lease and these Terms and Conditions contain the entire agreement between Lessee and Lessor. THE LEASE MAY ONLY BE AMENDED BY ANOTHER WRITTEN DOCUMENT WHICH STATES THAT IT IS AMENDING THE LEASE AND WHICH IS PROPERLY EXECUTED BY AN AUTHORIZED REPRESENTATIVE OF EACH PARTY. Notwithstanding the foregoing, Lessor and Lessee may enter into additional or supplemental schedules for the Lease of additional pieces of equipment during the Term of the Lease. Any of such additional pieces of equipment shall be deemed Equipment governed by the terms and provisions of the Lease. Any and all prior discussions, negotiations, commitments or understandings related hereto, if any, are hereby merged herein. Any provision or part of the Lease which for any reason may be unenforceable in any jurisdiction shall not invalidate the remaining provisions or parts thereof of the Lease, which shall remain in full force and effect. A delay and/or omission in exercising any right or remedy accruing to Lessor upon any breach or default by Lessee under the Lease shall not be construed as a waiver of any such breach or default or of any similar breach or default thereafter occurring. The Lease may be executed in counterparts, which collectively shall constitute one document.

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