

Account Agreement

Level Terrain LLC ("Company") offers goods bearing certain of the Trademarks, as defined below in Appendix A, ("Product") for sale to retailers that have been authorized by the Company to make purchases of such Product ("Customer"). The applicant identified on the Authorized Reseller Form ("Applicant") has submitted to the Company an Authorized Reseller application ("Application") requesting that Company accept it as a customer and/or permit it to purchase Product. To induce Product to consider Applicant's Application, Applicant agrees that, if approved as an authorized Customer, each order it submits to the Company for the purchase of Product (each, an "Order") will be governed by the terms and conditions in effect at the time that Order is submitted ("Terms and Conditions of Sale") and that those Terms and Conditions of Sale are incorporated in this Application. The Terms and Conditions of Sale that are current as of January 1, 2018 are attached below. The completed Application (if approved by the Company) shall be referred to as the "Account Agreement" and the Account Agreement, together with the Terms and Conditions of Sale, may be referred to as the "Agreement". In the Agreement, Applicant (if approved) is referred to as the "Customer".

1. TERMINATION: This Account Agreement may be terminated at any time by either party, with or without cause, upon written notice to the other party. The notice will be effective (a) immediately, if termination is for cause, and (b) ten days after receipt, if termination is without cause. Upon termination (i) Customer will no longer place orders or purchase Product on credit, for cash or otherwise; and (ii) Company may cancel or terminate any Order whether or not it had previously been accepted in writing and (iii) Company will not in any event ship any Product or otherwise accept any Orders, whether or not the Orders were placed prior to the effective date of the termination, and (iv) the following provisions of this Account Agreement will survive: Section 1 (Termination); Section 2 (Personal Certification of Customer's Representative); Section 3 (Security Agreement); and Section 5 (Restriction on Assignment). Upon termination, the terms, conditions and representations herein shall remain in full force and effect with respect to all Orders accepted by Company prior to the date of termination. In addition, the following provisions of the Terms and Conditions of Sale will survive expiration or termination of this Agreement: Section 6 (Customer Covenants); Section 7 (General Restrictions); Section 8 (Customer's General Representations, Warranties and Obligations); Section 9 (Trademarks); Section 10 (Limited Remedy; Disclaimer of Implied Warranties); Section 10 (Limitation on Damages and Actions); Section 13 (Confidentiality); Section 14 (Severability/Waiver/Construction); Section 15 (Attorney's Fees/Governing Law/Forum Selection); and any other provision that, by its nature, is intended to continue in effect following termination of the relationship.

2. PERSONAL CERTIFICATION OF CUSTOMER'S REPRESENTATIVE: The individual executing the Application and the Terms and Conditions on behalf of Customer certifies in his or her individual capacity that: (a) he or she is authorized to do so on behalf of Customer; and (b) that to his or her knowledge after reasonable investigation, the contents of and other data submitted with the Application accurately represent Customer's business, prospects as of the date reflected in that information; and (c) there has been no material change in Customer's business, prospects or condition between the dates reflected in that information and the date shown.

For Net Terms Customers:

A. PERSONAL CERTIFICATION OF CUSTOMER'S REPRESENTATIVE: The individual executing the Credit Application and the Terms and Conditions on behalf of Customer certifies in his or her individual capacity that: (a) he or she is authorized to do so on behalf of Customer; and (b) that to his or her knowledge after reasonable investigation, the contents of and the financial and other data submitted with the Credit Application accurately represent Customer's business, prospects and financial condition as of the date reflected in that information; and (c) there has been no material change in Customer's business, prospects or financial condition between the dates reflected in that information and the date shown.

B. SECURITY AGREEMENT: To secure payment and performance of Customer's current and future obligations to Company, Customer grants to Company a security interest in all Product and in all related displays, fixtures, equipment and promotional items (the "Promotional Items"), and in each case whether currently in existence or delivered to Customer in the future, and in all accounts receivables, instruments, documents, returns, general intangibles and other proceeds of the Product and Promotional Items (collectively with the Product and Promotional Items, the "Collateral"), in each case whether currently in existence or delivered to Customer in the future. A copy of the Credit Application may be filed as a financing statement, in which case Customer is the debtor and Company is the secured party. If Customer defaults in any of its obligations to Company, Customer will, at its sole cost and expense, assemble the Collateral and deliver that Collateral to Company at any location in the United States reasonably requested by Company.

C. CREDIT CHECK AUTHORIZATION: Customer's signature on the Credit Application or Customer's submission of an Order constitutes Customer's authorization under the Fair Credit Reporting Act for Company to (a) utilize customer credit reporting agencies to obtain reports on Customer and any of its affiliates in order to permit Company to appropriately evaluate the extension of business credit to Customer and (b) provide information about Customer's payment history and compliance with these terms to credit reporting agencies.

3. RESTRICTION ON ASSIGNMENT: Customer will not assign this Agreement, or any right conferred in this Agreement. A change of control of Customer, by stock sale or gift, by merger, by operation of law, by contract, or otherwise, will be deemed an assignment for purposes of this Section. Any purported assignment of this Agreement will be void; the successor entity will not be an authorized Customer of the Company unless it has (a) submitted a new credit application; and (b) been approved by the Company, in its sole discretion, as a new customer; and (c) executed an Account Agreement in the then-current form.

4. AMENDMENT: No modification of this Agreement (including the Terms and Conditions of Sale) will be binding against the Company unless it is reflected in a written instrument that: (a) expressly refers to the provision(s) of this Agreement to be amended; (b) provides the full text of the amendment; and (c) is signed by an authorized representative of the Company.

5. APPROVAL:

- THIS APPLICATION WILL HAVE NO FORCE OR EFFECT UNTIL APPROVED BY COMPANY AT ITS HEADQUARTERS OR REGIONAL SALES OFFICE.
- CUSTOMER IS NOT AUTHORIZED TO SELL COMPANY PRODUCT AT ANY RETAIL OUTLET OR (IN THE CASE OF APPROVED INTERNET SALES) ON WEBSITE OTHER THAN THAT OR THOSE IDENTIFIED IN AN APPROVED APPLICATION.
- APPROVAL BY COMPANY OF ONE STORE LOCATION DOES NOT MEAN OTHER STORE LOCATIONS WILL ALSO BE APPROVED. SIMILARLY, APPROVAL BY COMPANY OF AN APPLICATION FOR A STORE DOES NOT MEAN THAT THE APPLICANT IS AUTHORIZED TO SELL COMPANY PRODUCT BY CATALOGUE, THROUGH A WEBSITE OR ANY OTHER ELECTRONIC MEANS.
- APPROVAL OF THIS APPLICATION MAY BE APPROVAL FOR PRODUCTS BEARING ALL TRADEMARKS REGISTERED BY COMPANY.

6. Minimum Advertised Price: The Company has been building a brand of strong recognition and a high perceived value since 2014 with its Products. By not adhering to the established Minimum Advertised Price (MAP) a Customer can have a dramatic effect of diminishing or detracting from the perceived value of the Company's brands and its Product. The Internet, with its worldwide impact, has the possibility to cause great harm to any companies' products, if they are advertised at prices that will eliminate any legitimate retail competition. The Company's MAP pricing policy is intended for consumers to purchase from other resellers based on loyalty and customer care expectations. Therefore, if the Company accepts Orders from the Customer, the Customer agrees and accepts to abide by the following requirements and restrictions.

- A. The MAP for any Company's product shall not be less than 1% below the current Manufacturer's Suggested Retail Price (MSRP) as published on the Company's Retail Packet Price Sheet. MAP pricing is established by the Company and may be adjusted by the Company at its sole discretion.
- B. The MAP for all of Company's products shall be no more than the MSRP provided in the Retail Packet Price Sheet.
- C. The MAP policy applies to all advertisements of Company's products in any and all media, including, but not limited to, flyers, posters, coupons, mailers, inserts, newspapers, magazines, catalogs, mail order catalogs, Internet or similar electronic media, television, radio, and public signage.
- D. The MAP policy is not applicable to: 1) Any in-store advertising that is displayed only in the store and not distributed to any customer(s) outside of their store. 2) Any email newsletters sent to Customer's consumer database.
- E. The inclusion in advertising of free or discounted products (whether made by the Company or another manufacturer) with a Product covered by the MAP policy would be contrary to the policy if it has the effect of discounting the advertised price of the covered Product below the MAP.
- F. If pricing is displayed in other than a brick and mortar retail store, any strike-through or other alteration of the Minimum Advertised Price is prohibited.
- G. MAP applies only to advertised prices and does not apply to the price at which the Products are actually sold or offered for sale to an individual consumer within the dealer's retail location or over the telephone. Customers remain free to sell these Products at any price they choose.
- H. MAP does not establish maximum advertised prices. All Customers may offer the Company's products at any price in excess of the MAP.
- I. The Company's MAP policy does not in any way limit the ability of any Customer to advertise that "they have the lowest prices" or, they "will meet or beat any competitors price", that consumers should "call for a price" or phrases of similar import as long as the price advertised or listed for the products is not less than MAP.
- J. Intentional or repeated failure to abide by this policy will result in termination of the Customer Account and subject to Section 20 of Terms and Conditions of Sale.
- K. Negotiated Contracts: From time to time it may be explicitly approved by the Company in writing to sell certain Products at below MAP pricing. The discount amount and length of time will be determined at the time of this approved promotion by the Company.

Appendix A: Products

The Original FlipBelt Classic Edition
The Original FlipBelt Zipper Edition
The Original FlipBelt Reflective Edition
The Original FlipBelt Crops
The Original FlipBelt Water Bottle
The Original Million Mile Light
The Original Miiego AL3+ Woman
The Original Miiego AL3+ Freedom
The Original Miiego M1
The Original Sound Caddy

Terms and Conditions of Sale

By submitting an order to the Company (each, an "Order"), the Customer agrees that such Order will be governed by the terms and conditions of sale in effect at the time the Order is submitted ("Terms and Conditions of Sale"). The Terms and Conditions of Sale that are current as of January 31, 2018 are set forth below.

1. **ORDERS:** Orders submitted by the Customer are offers and do not form binding contracts unless and until they have been accepted by the Company. The preparation of a purchase order by the Company, or the acknowledgement or confirmation by the Company of receipt of an Order shall not constitute Company's acceptance of that Order. The Company may, in its sole discretion, accept all or any part of an Order or substitute comparable Product for the items that were ordered. The Company will be deemed to have accepted an Order, or part of an Order, only if and when the Company ships the Product. The Company may at any time refuse to ship Product for any reason, even if the Company has received payment for the applicable Order and/or has confirmed that Order on the Company's Customer ordering website, www.pro.levelterrain.com, or otherwise. The Company will in its sole discretion determine which of the Company's products are made available to the Customer for Orders, and determine how to allocate Products among Customers. Accordingly, the Company reserves the right to discontinue product lines and to make changes in goods offered at any time. Unless Customer complies with Section 5 regarding returns, Customer will be deemed to have accepted those substitute goods on the terms outlined in the Company's orders. The Company may cancel an Order at any time because the Order contains an incorrect price, requests Product that Customer is not authorized to sell, or for any other reason, even if the Company has acknowledged or confirmed that Order or has received payment for that Order. In the latter case, the Company will, at its election, either refund the payment or credit Customer's account. Any Order that conflicts with or that includes provisions (other than item and quantity) in addition to these Terms and Conditions of Sale will have no force or effect to the extent it is inconsistent or includes additional terms. The Company will be entitled to accept any Order and to rely on any other written or telephonic request or notice given by a person that appears to be an employee or agent of the Customer. Each Order will be subject to and governed in all respects by (a) these Terms and Conditions of Sale, and (b) if applicable, Customer's credit application and Account Agreement. Each Order, together with these Terms and Conditions of Sale and, if applicable Customer's credit application and Account Agreement, may be referred to collectively as the "Agreement". The Company has no obligation to accept Orders; as stated in Section 20, either party may terminate their relationship at any time.
2. **PRICES:** The Company may correct typographical or other errors in pricing, may reduce or cancel any discounts previously offered to the Customer, and may change its prices at any time. Each Order will be confirmed at the prices prevailing at the time that Order is fully recorded into the Company's central ordering system. Nothing contained herein shall obligate the Customer to resell the Product at any particular price or on any specific terms and conditions notwithstanding MAP agreement as defined in Section 6 of this Terms and Conditions of Sale.
3. **TERMS OF SALE:** Customer will pay for all Product by the date specified on the Company's invoice, or if none is specified, within 30 days after the date of that invoice. Any sum not paid when due is subject to a service charge of 1.5% per month or the maximum rate permitted by law. The amount reflected in each of the Company's invoice will be deemed to be an account stated unless Customer disputes the amount of that invoice in writing within 30 days after the date that invoice is due. The Customer will pay the undisputed portion of each invoice. The Company has the right to apply payments it receives from the Customer to any of the Customer's invoices and to disregard Customer's instructions to apply payment to any specific invoice. In the event the Customer is indebted to the Company or to any of the Company's affiliate, that debt may be offset against credits otherwise owing to the Customer to reduce or eliminate the credit.
4. **SHIPPING; RISK OF LOSS; TITLE:** The Company will ship Product Ex Works, the the Company's Distribution Center or other shipping point. The Company is not responsible for any loss resulting from any delay in shipping or failure to ship.
5. **RETURNS:** Product that was shipped in accordance with the specifications in the Order is not returnable unless the Company has authorized the return, in writing, prior to the return shipment. If the Customer wishes to return Products, the Customer may submit to the Company a request for return; provided, however, that the Company will not issue any refunds or apply any credits except where (1) the Product being returned was either (a) defective or (b) not comparable to the items that were ordered; or (2) the return was approved by the Company in writing and the Product was delivered to the Company in the same condition that it was received. In either case, no credit will be issued if the return request was received by the Company thirty days or more after delivery of those Products to Customer. If the Company issues a credit, as described above, the amount of the credit will be the net price actually paid by Customer, as reflected in the applicable invoice. Product sold as close-outs, irregulars, seconds or B-grades may not be returned; such sales are final. Customer will retain title and risk of loss until received by the Company at the designated return destination. Restocking fees may apply. Any items that are returned without the Company's approval will be disposed of by the Company unless the Customer prepays shipping costs for their return to Customer.

6. CUSTOMER'S COVENANTS:

A. *The following applies to Customers that are approved to sell Product at one or more physical store locations (a "brick and mortar" store).*

STORES – Except as expressly permitted in subsection 6.B and/or 6.C below, or when otherwise approved by the Company in writing, Customer will not (a) sell Product under any store name or at any physical store location other than under the store name and at the particular physical store identified in this Credit Application or, in the case of multiple store locations, at the location to which the Product was shipped (assuming it was an approved location); (b) sell Product other than to retail consumers physically present at such store location who are purchasing for their personal use and not for resale; or (c) accept orders or sell Product through the Internet, e-mail or any other electronic channel, except that Customer may advertise Product through those channels to create or enhance consumer awareness of Product

performance features and/or indicate the availability of Product at an authorized store location so long as the Customer complies with Section 9 below. The Customer will at all times provide clean, modern and adequate retail outlet(s) necessary for the proper merchandising and selling of Product.

B. The following applies to Customers that are approved to sell Product on a website.

INTERNET SALES – The Customer is authorized to sell Product to consumers via the Internet only from the website or websites identified in the Application or otherwise approved by the Company in writing (the "Authorized Website(s)") and to deliver that Product only to consumers with mailing addresses in the approved country, its territories and possessions.

(a) The Authorized Website(s) will not be co-branded with the name or other trademarks of any other person or entity.

(b) The Authorized Website(s) will not link to, or provide data feeds to, any transactional website, or permit any transactional website to link to the Authorized Website(s). For purposes of this Section 6B(b), a "transactional website" means a shopping portal, online marketplace, or other site which either (i) is capable of accepting orders from consumers, or (ii) creates the perception that orders are accepted on the site, even if the consumers are in fact redirected to other websites for order placement. The term "transactional website" excludes websites which aggregate images and information about merchandise without conducting sales transactions.

(c) Customer will not (i) permit any fulfillment house or any other third party to fill consumer orders placed through the Authorized Website(s); or (ii) use certain trademarked terms, as designated by the Company, in metadata; or (iii) purchase certain trademarked terms, as designated by the Company, as Internet search terms; or (iv) use any of the Company's trademark in any domain name or URL address.

C. The following applies to Customers that are approved for sales to (i) teams, leagues, sports clubs, schools, colleges, or universities (collectively, "Teams"); or (ii) coaches or agents of such Teams; or (iii) Team booster clubs.

TEAM SALES. Customer may screen print, embroider, decorate, or otherwise embellish Product according to the instructions of a particular Team (typically by applying a Team name, logo, or other trademark to the Product); provided, however, that Customer will submit to the Company samples of any such marks prior to their application and Customer shall not embellish Product with any mark unless approved by the Company. Customer will not embellish apparel or other products with the Company Trademarks, unless Customer's manufacturing facilities have been audited by COMPANY and passed the audit. Samples of any embellished product must be approved on a case-by-case basis, as described above.

D. The following applies to Customers that are approved for a non-retail account. Customer will distribute Product to the teams, players and sports participants, and other groups or individuals specified by the Company.

7. **GENERAL RESTRICTIONS:** Customer will not directly or indirectly: (a) sell, consign or otherwise transfer Product (i) outside the approved country (and, if a "brick and mortar" store, other than at the approved physical store location or locations to which it was shipped); or (ii) to another retailer, or to an e-tailer, distributor, or broker; or (iii) to another retailer, or to a broker or distributor, or to any other person under circumstances where it knows or should know, based on the circumstances of the transaction, that the Product is intended for resale or will likely be resold; or (b) purchase or sell, offer to sell, or distribute (including at no cost), counterfeit Company goods; or (c) purchase authentic Company goods from any third party; or (d) purchase any Company Products from, or sell or offer to sell Products on behalf of or for the account of, any other third party; or (e) if the Company sets a launch date for a particular Company Product, sell that Product prior to the date and time stated by the Company; or (f) collect or use any sensitive personal data about consumers other than in compliance with industry best practices for security standards, and applicable law.
8. **CUSTOMER'S GENERAL REPRESENTATIONS, WARRANTIES AND OBLIGATIONS:** Customer represents and warrants, and each time Customer submits an Order, Customer will be deemed to have represented and warranted, that (i) it wishes to purchase Product solely for business purposes and not for personal, family or household purposes; and (ii) the most recent financial information provided by Customer is true, accurate and complete as of the dates indicated in that information and that there has been no material adverse change in Customer's business, prospects or financial condition since those dates.
9. **TRADEMARKS:** Customer acknowledges Company's sole ownership of and exclusive right, title and interest in and to the name "FlipBelt" "Sound Caddy", "Million Mile Light", "Miiego", the FlipBelt, Sound Caddy, Million Mile Light, and Miiego logo design, and all other trademarks owned by the Company or its affiliates and partners (the "Company Trademarks"). Customer recognizes that the Company Trademarks possess substantial goodwill and agrees that it will not use or display COMPANY Trademarks in a manner that would disparage or damage them, or represent that it has any ownership in, or attempt to license, the Company Trademarks. All goodwill associated with Customer's use of the Company Trademarks will be owned exclusively by the Company. Customer will comply with Company's latest trademark usage guidelines, which the Company may provide and circulate from time to time, as well as any other policies governing the use of (i) Company logos and other trademarks, and (ii) product and athlete images and other copyrighted materials. Upon request by the Company, Customer will submit to the Company, for its review, any public statements about the Company or advertising materials bearing Company Trademarks, Product images, athlete images, or Product descriptions. If the Company does not approve such materials in writing, within five business days, the materials shall be deemed rejected and Customer shall cease any use of the rejected materials. Customer will not use any marks confusingly similar to the Company Trademarks or use of the Company Trademarks in combination with other trademarks. Customer will notify the Company in writing of any infringement or improper use of the Company Trademarks that comes to its attention. Customer acknowledges and agrees that the Company Trademarks and the Company reputation for quality are extremely valuable to the Company, and that the Company does not authorize Customer to sell or otherwise distribute any damaged or defective Company Products. Accordingly, Customer agrees that Company Products which may be damaged or defective, for any reason, shall be, at the Company's sole election, either returned to the Company or disposed of according to the Company's instructions. The Company and its agents shall have the right to witness such destruction.
10. **LIMITED REMEDY; DISCLAIMER OF IMPLIED WARRANTIES:** If any Product is defective, the Company's sole and exclusive

liability to Customer will be, at the Company's election, if the defect is material, to either (a) replace that defective Product or (b) refund the amount Customer paid the Company for that defective Product. AS BETWEEN THE CUSTOMER AND THE COMPANY, THE COMPANY EXPRESSLY DISCLAIMS ALL REPRESENTATIONS AND WARRANTIES, EXPRESS AND IMPLIED, INCLUDING THE IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE AND NONINFRINGEMENT.

11. **LIMITATION ON DAMAGES AND ACTIONS:** THE COMPANY WILL NOT BE LIABLE FOR ANY LOSS OF PROFIT, INTERRUPTION OF BUSINESS OR ANY SPECIAL, CONSEQUENTIAL, INCIDENTAL, INDIRECT, SPECIAL, EXEMPLARY OR PUNITIVE DAMAGES SUFFERED OR SUSTAINED BY CUSTOMER OR ANY OTHER PERSON. ANY ACTION (OTHER THAN FOR FAILURE TO PAY FOR GOODS DELIVERED) MUST BE COMMENCED WITHIN ONE YEAR FROM THE EARLIER OF THE DATE OF DELIVERY OF THE COMPANY PRODUCTS OR THE DATE OF THE ORDER GIVING RISE TO THE CLAIM. IN NO EVENT WILL THE COMPANY'S LIABILITY TO CUSTOMER EXCEED, FOR DEFECTIVE PRODUCT, THE AMOUNT CUSTOMER PAID THE COMPANY FOR THE PRODUCT GIVING RISE TO THE CLAIM, AND FOR ALL OTHER CLAIMS, THE AMOUNT CUSTOMER PAID THE COMPANY WITHIN THE THREE MONTH PERIOD PRECEDING THE DATE THE CLAIM AROSE. These limitations will apply regardless of whether the legal theory of liability for damages arises under contract, tort (including negligence and strict liability), or any other theory.
12. **MODIFICATION:** The Company may at any time, in its sole discretion, modify its Terms and Conditions of Sale. Each Order will be governed by the Terms and Conditions of Sale in effect at the time Customer submits that Order. Accordingly, Customer will review the then-current version of the Terms and Conditions of Sale (available at the Company's web ordering site for the Customer (www.pro.levelterrain.com), in the catalogue, or by request from the Company before placing each Order.
13. **CONFIDENTIALITY:**
 - A. *Non-Disclosure.* Customer acknowledges that it may have access to information owned or controlled by the Company or Company's Affiliates, disclosure of which would cause substantial or irreparable harm to the Company ("Confidential Information.") Confidential Information includes the Company's marketing plans, information regarding future releases of Company Products, and any other non-public material disclosed to Customer or to which Customer gains access. Customer shall protect Company's Confidential Information by using the same degree of care with respect to such information that it would exercise with its own confidential information or trade secrets, but in any event no less than reasonable care. Customer shall make Confidential Information available only to those employees of Customer who need to know the information in connection with Customer's business, and shall not disclose Confidential Information to any third party.
 - B. *Publicity Restrictions.* Customer will not hold itself out as a representative of Company in any interview or statement, whether or not it is recorded, and whether or not it is intended for such publication.
 - C. *Idea Submission.* If Customer chooses to submit to the Company or share with COMPANY any business plans, product or marketing ideas, or other materials, Customer agrees that (i) Company is not subject to any restrictions in using such materials; Customer hereby grants to Company an irrevocable license to use such materials, without compensation to Customer; and (ii) Company is under no obligation to use such plans, ideas, or other materials, or to commercially exploit them in any territory.
14. **SEVERABILITY\WAIVER\CONSTRUCTION:** If a court of competent jurisdiction determines that any provision of the Agreement is invalid or unenforceable for any reason, that determination will not affect any other provision unless enforcement of the remaining provisions would be grossly inequitable under the circumstances or would frustrate the primary purpose of the Agreement. A party's delay or failure to enforce or insist on strict compliance with any of the provisions of the Agreement will not constitute a waiver or otherwise modify the Agreement, and a party's waiver of any right related to the Agreement on one occasion will not waive any other right, constitute a continuing waiver or waive that right on any other occasion. Customer has had the opportunity to consult with its attorney in connection with these Terms and Conditions of Sale and the rest of the Agreement and to have the Agreement reviewed by its attorney; therefore, no rule of construction or interpretation that disfavors the Company or that favors the Customer will apply to its interpretation.
15. **ATTORNEYS' FEES\GOVERNING LAW\FORUM SELECTION:** Customer will pay all costs, collection agency fees, expenses, reasonable attorney fees (whether incurred prior to, at trial or on appeal) incurred by the Company in connection with the collection of any past due sums. The Agreement, and all disputes arising out of the Agreement or out of the relationship between the Company and the Customer, will be governed by the laws of the state of Colorado. Customer irrevocably consents to the jurisdiction of the state and federal courts located in the state of Colorado in connection with any action arising out of or in connection with the Agreement and waives any objection that such venue is an inconvenient forum. Customer will not initiate an action against the Company in any other jurisdiction. The Company may bring an action in any forum.
16. **FORCE MAJEURE:** If it becomes impossible for either the Customer or the Company to perform its obligations under the Agreement as a result of fire, flood, earthquake, or other natural disaster, or any other event beyond that party's reasonable control, that party's performance may be delayed for the duration of the force majeure event, except that nothing in this Section 16 will excuse Customer from its payment obligations.
17. **RESTRICTION ON ASSIGNMENT:** Customer will not assign any right conferred herein by the Company without the prior written consent of an authorized Company representative. A change of control of the Customer by stock sale or gift, merger, operation of law, by contract, or otherwise, will be deemed an assignment for purposes of this Section. Any attempted assignment or delegation by the Customer will be void. The Company may grant, withhold or condition its consent to assignment in its sole discretion. If the Company authorizes an assignment or delegation, that authorization will not release the Customer from any of its obligations under the Agreement unless (a) the authorization expressly releases the Customer; (b) the assignee or delegate agrees in writing to be bound by the Agreement; and (c) any agreement between the Customer and the assignee or delegate states that the Company has the right to enforce Customer's rights against the assignee or delegate.

18. **SET-OFF:** In the event the Customer is indebted to the Company or to any Company affiliate, that debt may be offset against credits otherwise owing to the Customer to reduce or eliminate the credit.

19. **TERMINATION:** Nothing in these Terms and Conditions of Sale shall be construed to imply that the Customer is required to place Orders or that the Company is required to accept Orders. Upon termination of the parties' relationship, the terms, conditions and representations herein shall remain in full force and effect with respect to all Orders accepted by the Company prior to the date of termination. Section 6 (Customer Covenants); Section 7 (General Restrictions); Section 8 (Customer's General Representations, Warranties and Obligations); Section 9 (Trademarks); Section 10 (Limited Remedy; Disclaimer of Implied Warranties); Section 11 (Limitation on Damages and Actions); Section 13 (Confidentiality); Section 14 (Severability/Waiver/Construction); Section 15 (Attorney's Fees/Governing Law/Forum Selection); and any other provision that, by its nature, is intended to continue in effect following termination of the relationship, shall survive.

20. **RELATIONSHIP:** The relationship of the Company and the Customer established by the Agreement is that of vendor-purchaser and nothing contained herein shall be construed to create a partnership, joint venture or any other relationship.

21. **ENTIRE AGREEMENT:** The Agreement contains the entire agreement and understanding between the parties with respect to its subject matter and supersedes prior and contemporaneous oral and written agreements, commitments and understandings concerning that subject matter.