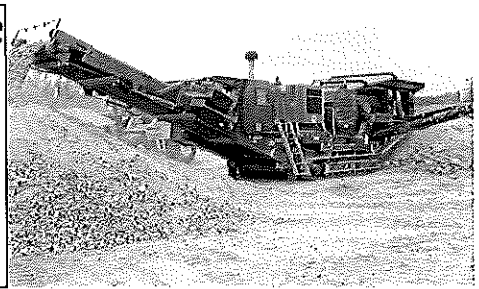


**D & L Equipment, Inc**  
**3203 Brooklyn Rd**  
**Jackson, MI 49203**  
**800-442-7276 Phone**  
**517-990-0269 Fax**



October 3, 2022

Nathanael Gentle, EGLE, AQD  
Bay City District Office  
401 Ketchum Street, Suite B  
Bay City, MI 48708

SRN; P0146; Clare County

RE: Second Violation Notice

Dear Mr. Gentle,

I have included a copy of the signed rental agreement along with a full non-completed agreement showing the terms and conditions of our rentals. We simply rent the equipment out, we do not operate the equipment. As per section 6 of our Terms and Conditions listed on the contract itself, "Lessee shall perform any and all acts, necessary and proper to comply with said laws, rules, and regulations, required in connection with the use, possession, control and operation such Equipment included but not limited to applying for and obtaining any and all necessary licenses, permits, or written approvals of any kind or nature whatsoever to operate such equipment". The customer / Lessee is required to obtain any necessary permits for their operation.

Sincerely,

M. David Conlon  
President  
D & L Equipment Inc.

posted

# D&L EQUIPMENT INC.

800-442-7276 • 517-990-0268 • Fax 517-990-0269 • 3203 Brooklyn Rd. • Jackson, MI 49203

DATE: 11-3-21

## Equipment Lease Contract

D&L Equipment Inc. of Jackson, Michigan, ("Lessor"), hereby proposes and does lease to Arden Shell ("Lessee"), having its offices at 2596 Weber, Gladwin MI 49824. The term "Lease" shall refer to the terms and conditions stated on the face hereof and on the reverse side of this page and shall constitute the entire agreement between the Lessor and Lessee. On the terms and conditions of this Lease, Lessor shall lease to Lessee and Lessee shall hire from Lessor, the units of personal property (collectively the "Equipment" and individually a "Unit" or "Item") described as "Equipment Leased". The term "Equipment", "Unit" or "Item" as used in this Lease shall include the "Equipment Leased" stated on the face hereof and all additional necessary items furnished by Lessor. Until a Lease is duly executed by Lessor, a Lease signed by Lessee constitutes an irrevocable offer by Lessee to lease from Lessor.

BASE MONTHLY RENTAL: \*\*\* 6% MI Use Tax will be added unless certificate of tax exemption is provided.

\$ 25,000.00 + tax Base Monthly Rental payable with order and covering the first month's rental.

\$ 25,000.00 + tax Base Monthly Rental per month thereafter.

BASE TERM: 1 Month(s)

ALL RENTALS ARE DUE IN ADVANCE, AND THEN SHALL BE PAYABLE MONTHLY THEREAFTER.

LESSEE SHALL CHECK MACHINES UPON DELIVERY FOR ANY DAMAGE OR MISSING PARTS AND NOTIFY LESSOR IMMEDIATELY OF SAME. LESSEE WILL BE RESPONSIBLE FOR ALL REPAIR COST FOR ANY DAMAGES TO EQUIPMENT INCURRED DURING LESSEE'S RENTAL PERIOD NO EXCEPTIONS.

Insured \$ Value: 550,000.00

Delivery & Pickup \$ 2,000 Per-Hour

### EQUIPMENT LEASED:

Qty	Mfg.	Model	Serial Number	Meter Reading
1	Tesab	7001	22 1174 1654	16

Equipment Location: \_\_\_\_\_

Invoiced To: \_\_\_\_\_

Address: \_\_\_\_\_

LEASE AGREEMENT. The above named Lessee hereby leases the above described equipment from Lessor and agrees to the above and to the terms and conditions on the reverse side hereof. SUCH TERMS AND CONDITIONS INCLUDE PROVISIONS DISCLAIMING WARRANTIES AND LIMITING LESSEE'S REMEDIES AND LESSOR'S LIABILITY. Lessee acknowledges the (a) Lessee, or a person signing below on Lessee's behalf has read and understands and agrees to be bound by such terms and conditions, (b) Lessee has been afforded an opportunity fully to examine the equipment. (c) safe operation of the equipment observation of the instructions therein contained with respect to operation, service, maintenance and other matters. Lessee represents and warrants that the equipment is leased for commercial use. **Machines must be free of all contaminants prior to being returned.**

D&L Equipment does not cover belt repair: Initial here: AS

LESSEE Arden Shell DATE 11-3-21  
THE SIGNATURE OF THE PERSON SIGNING ABOVE ON THE LESSEE'S BEHALF SHALL BE CONSTRUED TO BE THAT OF AN AUTHORIZED AGENT OF THE LESSEE.

### TERMS & CONDITIONS:

1. TERM - The Base Term of this Lease shall begin on the date the Equipment is shipped from Lessor's premises ("Base Term Commencement Date") and terminate on the last day of the month of the Base Term. If the Lease is not so terminated at the end of the Base Term and other rental amounts are not specified in the Lease or mutually agreed to in writing by the parties, the Base Monthly Rental shall be due and payable by the Lessee. In no event shall the (i) Base Term of the Lease be less than 28 consecutive days from the Base Term Commencement Date ("Minimum Rental Period") and (ii) usage of the Equipment exceed 176 hours ("Standard Monthly Usage" except as provided under paragraph 2 hereof.

2. EXTENSION OF TERM - The Base Term of this Lease may be extended by Lessee with Lessor's consent, provided Lessee notifies Lessor in writing, by overnight courier, no later than 48 hours before the Base Term expires, of Lessee's intention to extend. The Lease may be extended upon termination of the Base Term, set forth in Paragraph 1 hereof, for a Minimum Rental Period or such lesser period as mutually agreed by the Lessor and Lessee. If the Lease is extended at the end of the Base Term for an additional Minimum Rental Period, Lessee shall pay the Base Monthly Rental, in advance of the commencement of the extended Base Term and before the termination of the initial Base Term.

If the Lease is extended at the end of the Base Term for a period less than the "Minimum Rental Period" the applicable rental rates are: (i) a weekly rental charge, equal to one third (1/3) the Base Monthly Rental ("Weekly Rental Rate") representing

five and one-half (5 1/2) consecutive days for the use of the Equipment not to exceed forty-four (44) hours ("Weekly Usage") or (ii) a daily rental charge equal to one-fifteenth (1/15) of the Base Monthly Rental ("Daily Rental Rate") for use of the Equipment less than the Weekly Usage (collectively referred to as "Applicable Rental Rate(s)"). The Daily Rental Rate is the minimum rent for any use of the Equipment less than the Weekly Usage during the extension of the Base Term.

3. RENT - Lessee shall pay the Base Monthly Rental as stated on the face hereof on or before the Base Term Commencement Date. The Base Monthly Rental entitles Lessee to use the Equipment for Standard Monthly Usage during the Base Term. If Lessee uses such Equipment during the Base Term in excess of the Standard Monthly Usage, as metered or determined by Lessor, Lessee agrees to pay Lessor an Overtime Usage Charge as hereinafter defined in paragraph 4. Until the return of the Equipment by Lessee to Lessor, (i) at such a location as shall be designated by Lessor, and (ii) in the same operating order, repair condition and appearance as determined by Lessor, reasonable wear and tear excepted, Lessee shall be obligated to pay the Base Monthly Rental, and/or the Applicable Rental Rate(s), whichever is applicable, and all other sums due, including but not limited to the Overtime Usage Charge, due under the Lease and the Applicable Rental Rate(s) due for any extension of the Base Term granted Lessee under Paragraph 2 hereof. Any rent or other charges not paid when due shall be subject to a late charge of 1 1/2% per month or at the maximum rate permitted by law. Such Base Monthly Rental, Overtime Usage Charge, Applicable Rental Rate(s) and any and all additional sums, charges or amounts of whatever nature to be paid by

TERMS & CONDITIONS CONTINUED ON OTHER SIDE...

White Copy - Office Canary Copy - Sales Department Pink Copy - Customer

## TERMS AND CONDITIONS CONTINUED FROM SIDE ONE

Lessee to Lessor in accordance with the provisions of this Lease, whether or not such sums, charges or amounts are referred to as additional rent ("Additional Rent") shall herein collectively be referred to as "Rent", and shall be paid as provided in this Lease without notice, demand, setoff or deduction of any kind.

**4. LIMITATIONS ON USE OF EQUIPMENT** - The Base Monthly Rental for use of the Equipment during the Base Term of the Lease and any extension thereof under paragraph 2, is based upon the agreement that Lessee's use of the Equipment for the Minimum Rental Period shall not exceed Standard Monthly Usage as metered or determined by Lessor. If the Lessee, during the Minimum Rental Period, or such lesser period as provided in paragraph 2 exceeds the Standard Monthly Usage or the Weekly Usage, if applicable, Lessee agrees and shall pay as additional rent an excess usage charge at the end of the Base Term and any extension thereof. The excess usage charge shall be based on a calculation of 1/32 of the Monthly Rental Rate for each hour in excess of the Standard Monthly Usage or Weekly Usage if applicable ("Overtime Usage Charge").

In the event the Base Term of the Lease is extended in accordance with paragraph 2 hereof, and Lessee's use of the Equipment during such extension shall exceed either the Standard Monthly Usage or the Weekly Usage, whichever applies, Lessee shall pay Lessor an additional rent the excess usage charge equal to the Overtime Usage Charge for each hour in excess of the Standard Monthly Usage or Weekly Usage respectively.

**5. NET LEASE** - The Lease is a net lease, it being the intention of the parties that all costs, expenses and liabilities associated with the Equipment or its lease shall be borne by Lessee unless expressly agreed to the contrary in the Lease. Lessee's agreement to pay all obligations under the Lease, including but not limited to Rent hereunder, is absolute and unconditional and such agreement is for the benefit of Lessor, its successors and assigns. Lessee's obligations shall not be subject to any abatement, deferment, reduction, setoff, defense, counterclaim or recoupment for any reason whatsoever. Except as may be otherwise expressly provided in the Lease, it shall not terminate nor shall the obligations of Lessee be affected, by reason of any defect in or damage to, or any loss or destruction of, or obsolescence of the Equipment from any cause whatsoever, or the interference with its use by any private person, corporation or governmental authority, or as a result of any war, riot, insurrection or Act of God. It is the express intention of Lessor and Lessee that all rent and other sums payable by Lessee under the Lease shall be, and continue to be, payable in all events throughout the Base Term of the Lease and any extension thereof. The Lease shall be binding upon the Lessee, its successors and assigns and shall inure to the benefit of Lessor, its successors and assigns. All references to Lessor shall include the Lessor's successors and assigns.

**6. ACCEPTANCE** - Receipt of the Equipment by the Lessee shall constitute an acknowledgment by Lessee that the Equipment has been accepted and found in good, safe and serviceable condition and fit for use. Written notice of any claimed defect must be given to the Lessor within 3 days after Lessee receives the Equipment. Any claim not given within such 3 day period, or arising from use of Equipment after discovery of defect, shall be deemed waived. Lessee shall execute an acceptance certificate upon receipt of the Equipment in a form reasonably satisfactory to Lessor and duly executed by Lessee.

The Lessee warrants that the Equipment shall at all times be used and operate under and in compliance with the laws of the United States and the laws of the jurisdiction in which the Equipment may be operated, and in compliance with all lawful acts, rules and regulations and orders of any municipalities, commissions, boards or other legislative, executive or judicial bodies or officers having power to regulate or supervise the use of such Equipment. Lessee shall perform any and all acts, necessary and proper to comply with said laws, rules and regulations, required in connection with the use, possession, control and operation such Equipment including but not limited to applying for and obtaining any and all necessary licenses, permits or written approvals of any kind or nature whatsoever to operate such Equipment; provided, however, that the Lessee may in good faith and by appropriate proceedings contest the application of any such rule, regulation or order in any reasonable manner which not adversely affect the title of the Lessor to the Equipment or subject the same to forfeiture of sale.

**7. MAINTENANCE, USE & OPERATION OF EQUIPMENT** - Lessee shall, at its expense, maintain all Equipment in the same condition as when received by it, pay the cost of all necessary repairs to said Equipment and return said Equipment to Lessor in as good condition as when received, usual wear and tear expected. In the event of accident to, or breakage of, any part of the Equipment, Lessee shall have the same repaired at its expense, and if it fails to do so, agrees to pay Lessor the cost of having it repaired. Lessee shall use and maintain the Equipment or allow it to be used and maintained only at the job location stated on the face hereof and only by competent personnel, in a careful manner and in conformity with all laws, ordinances and regulations relating thereto. Lessee shall keep the Equipment free and clear of all security interests, liens, charges and other interests of third persons. Unless otherwise provided on the face hereof Lessee shall pay all wages, taxes, and other compensation or charges of every nature, payable to or by reason of the employment of any operator or other person required by it in connection with the equipment covered by this Lease.

**8. LOSS** - Unless otherwise provided for in this Lease, Lessee shall bear all risk of loss and damage, whether or not insured against, of the Equipment from any and every cause whatsoever as of the date the Equipment is delivered to Lessee or while the Equipment is under its control or in transit. If the Equipment or any part thereof is determined by Lessee to be lost, stolen, destroyed or damaged beyond repair, with or without fault on the part of Lessee, Lessee shall pay to Lessor the unpaid Rent on such Equipment for the balance of the Base Term of the Lease including any extension thereof and the true value as determined by Lessor of said Equipment or any part thereof. Lessee agrees to pay Lessor, as additional rent, the cost of any and all damage or repairs required to place the Equipment in good repair, condition and working order to the satisfaction of the Lessor.

**9. INDEMNITY** - Lessee shall have the exclusive custody and control of the Equipment and shall be solely responsible for its use and direction during the Term of this Lease. Lessee shall and does agree to indemnify, protect, save Lessor and hold Lessor harmless from and against any and all loss, liability, damage, penalties, claims, actions, suits, costs and expenses (including, but not limited to, attorney's fees) of any kind and nature whatsoever which may be imposed upon, incurred by or asserted against Lessor or its respective agents, successors, or assigns, in any way relating to or arising out of the Lease, the manufacture, purchase acceptance, rejection, return, ownership, lease, disposition, installation, delivery, possession, use, condition, operation, or accident in connection with the Equipment (including without limitation any failure to pay any fees, assessments, charges or taxes, any violation of any law, ordinance or regulation, or any claims based on latent and other defects whether or not discoverable, or claims based on strict liability or any claim for patent, trademark or copyright infringement). Lessee shall notify Lessor immediately of any of the foregoing contingencies or happenings. The indemnities and assumptions of liability contained in this Lease shall continue in full force and effect notwithstanding the cancellation or termination of this Lease for any reason.

**10. INSURANCE** - During the term of the Lease, Lessee, at its own expense, shall maintain in regard to the Equipment coverage for damage to the Equipment for an insured value listed on the face of this Lease. This coverage shall be written with an admitted carrier and cover damage to the Equipment on a special cause of loss form. The policy shall cover both the Lessor and the Lessee. The Lessee is also required to carry Comprehensive General Liability Insurance in the amount of at least \$1,000,000 each occurrence and shall include contractual liability. The policy must also name D&L Equipment Inc. as an additional insured and provide that the coverage may not be terminated, canceled, or altered without at least thirty (30) days prior notice to Lessor and its successors or assigns. Coverage for the two Lessors shall not be rescinded, impaired, or invalidated by any act or negligent act of the Lessee. Lessee shall supply to the Lessor evidence of these coverages in the form of a Certificate of Insurance.

**11. OWNERSHIP, LIENS AND INSPECTIONS** - Title to the Equipment and all additions thereto and replacements thereof shall not pass to Lessee or its purported assigns. The Equipment is and shall remain personal property irrespective of its use or manner of attachment to real property, and Lessee shall not cause or permit any equipment to be attached to real property in such a manner that it might be deemed part of the real property.

(a) Lessee shall keep the Equipment free from any marking or labeling which might be interpreted as a claim of ownership by Lessee or any party other than Lessor, its successors and assigns and shall affix and maintain tags, decals or plates furnished by Lessor to the Equipment indicating ownership and title to the Equipment in Lessor (or its successors or assigns), Lessor, its employees or agents shall have access, during business hours to enter any job, building or location, where the Equipment may be found, to inspect or observe the use of the Equipment and Lessee's books and records with respect to the Lease and the

Equipment for the purpose of inspection or any other purposes contemplated by the Lease.

(b) Lessor is hereby authorized by Lessee to cause this Lease or other instruments, including Uniform Commercial Code financing statements, to be filed or recorded for the purposes of evidencing and putting third parties on notice of Lessor's interest in the Equipment. Lessee agrees that Lessor may execute such instruments for and on behalf of Lessee. Lessee shall execute and deliver such instruments and such other documents required by the Lessor, including Uniform Commercial Code financing statements, as are required to be filed to evidence the interest of Lessor, its successors and assigns in the Equipment or the Lease. Lessee has no interest in the Equipment except as expressly set forth in the Lease, and that interest is a lease-hold interest. Lessor and Lessee agree, and Lessee represents for the benefit of Lessor its successors and assigns that the Lease is a true Lease, and that the Lease is intended to be a "finance lease" and not a "lease intended as security" as those terms are used in the Uniform Commercial Code.

(c) Lessee shall keep the lease and the Equipment free and clear of all liens and encumbrances and Lessee shall not assign the Lease or any of its rights under the Lease or sublease any of the equipment or grant any rights to the Equipment without the prior written consent of Lessor. No permitted assignment or sublease shall relieve Lessee of any of its obligations under the Lease and Lessee agrees to pay all costs and expenses Lessor may incur in connection with such sublease or assignment.

**12. TRANSPORTATION CHARGES AND TAXES** - Lessee shall pay, as additional rent, all transportation, storage, and any other charges against the Equipment from point of delivery to destination and any and all return charges to the point of delivery, or equal freight or trucking distance elsewhere if so directed by Lessor.

The rental rates set forth in this Lease do not include Taxes. The term "Taxes" shall mean all taxes, fees and assessments due, assessed or levied by any foreign, federal, state or local government or taxing authority, and/or any penalties, fines or interest, which are imposed on the Equipment, its use, operation, or ownership or the rentals or receipts due under the Lease or penalties arising from failure to file a return with respect to the Taxes. Lessee shall pay as additional rent any such Taxes.

**13. DISCLAIMERS OF WARRANTIES** - LESSOR MAKES NO REPRESENTATION OR WARRANTY, EXPRESS OR IMPLIED, SPECIFICALLY, LESSOR MAKES NO WARRANTY AS TO THE EQUIPMENT'S MERCHANTABILITY, FITNESS FOR ANY PARTICULAR PURPOSE, CONDITION, QUALITY, OR COMPLIANCE WITH THE REQUIREMENTS OF ANY STANDARD PROMULGATED UNDER THE OCCUPATIONAL SAFETY AND HEALTH ACT OF 1970. LESSOR LEASES THE EQUIPMENT "AS IS" AND BEING NEITHER THE MANUFACTURER OF THE EQUIPMENT NOR THE AGENT OF EITHER THE MANUFACTURER OR SELLER, LESSOR DISCLAIMS ANY REPRESENTATION OR WARRANTY OF ANY KIND, EXPRESS OR IMPLIED, WITH RESPECT TO THE CONDITION OR PERFORMANCE OF THE EQUIPMENT, ITS MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE OR WITH RESPECT TO PATENT INFRINGEMENTS OR THE LIKE. LESSOR SHALL HAVE NO LIABILITY TO LESSEE FOR ANY CLAIM, LOSS OR DAMAGE OF ANY KIND OR NATURE WHATSOEVER INCLUDING THE ACTIVE OR PASSIVE NEGLIGENCE OR STRICT LIABILITY OF LESSOR, NOR SHALL THERE BE ANY ABATEMENT OR RESTRICTION FOR ANY REASON INCLUDING CLAIMS ARISING OUT OF OR IN CONNECTION WITH: (i) THE DEFICIENCY OR INADEQUACY OF THE EQUIPMENT FOR ANY PURPOSE, WHETHER OR NOT KNOWN OR DISCLOSED OR LESSOR, (ii) ANY DEFICIENCY OR DEFECT IN THE EQUIPMENT, (iii) THE USE OR PERFORMANCE OF THE EQUIPMENT, OR (iv) ANY LOSS OF BUSINESS OR OTHER CONSEQUENTIAL LOSS OR DAMAGE, WHETHER OR NOT RESULTING FROM ANY OF THE FOREGOING. IN NO EVENT SHALL LESSOR BE LIABLE FOR ANY INCIDENTAL, CONSEQUENTIAL OR SPECIAL DAMAGES. No person is authorized by Lessor to make any representation or warranty which extends beyond the description of the Equipment on the face hereof.

**14. ASSIGNMENT** - Lessor may transfer or assign all its right, title and interest in and to the Equipment, this Lease and all moneys due and to become due hereunder, and in such event Lessor's transferee or assignee shall have all the rights, powers, privileges and remedies of Lessor hereunder and Lessee's obligations hereunder shall not be subject to any defense, offset or counterclaim available to Lessee against Lessor. Lessee shall not sublet, transfer or assign the Equipment or any of Lessee's rights hereunder without the prior written consent of Lessor, and any such purported assignment shall be void.

**15. DEFAULT** - Should Lessee default in the payment of Rent or any sums due hereunder or fail to perform any other term, covenant, or provision hereof, or if Lessee should become bankrupt or unable to discharge its obligations as they become due, or if any bankruptcy, reorganization, arrangement, or insolvency proceeding is instituted by or against Lessee, or if Lessor shall reasonable believe that Lessee is about to violate any term, covenant, or provision hereof or that the Equipment is being abused or its safety jeopardized, then the entire unpaid balance of rent for the Equipment shall become due and payable and Lessor may, without notice, enter any job, building, or location where the Equipment may be found, take possession of and remove the same at Lessee's expense and pursue any other remedy available at law or in equity. Lessee shall reimburse Lessor promptly for all its expenses, including attorney's fees, incurred in connection with Lessors exercise of its rights under this paragraph 15 and any default by Lessee under this Lease. The return of the Equipment to Lessor shall be without prejudice to Lessor's right to recover Lessor's actual damages or loss of profits by reason of the termination of this Lease or, at Lessor's option and as liquidated damages, the unpaid Rent on the Equipment for the balance of the Base Term, inclusive of any extensions of the Base Term extended in accordance with Paragraph 2 hereof.

**16. FORCE MAJEURE** - Any failure or delay of performance of any obligation owed by Lessor hereunder shall be excused, and Lessor shall not be liable for any loss or damage resulting therefrom, is such failure or delay directly or indirectly results from or is contributed to by war; riot; embargo; major change in economic conditions; action, requirements, statute, ordinance or regulation of civil or military authority; strike; labor dispute; shortage of labor, material; fire; explosion accident; natural disaster; or any other contingency whatsoever (whether of the same nature as those enumerated or otherwise) beyond Lessor's reasonable control.

**17. AGREEMENT** - This Lease (a) constitutes the final expression of the parties agreement with respect to the transaction herein described, (b) is a complete and exclusive statement of the terms of such agreement, (c) supersedes all prior or contemporaneous oral or written agreements, promises, representations, warranties and statements of any kind whatsoever made by any employee or agent or Lessor (including, without limitation, any representation or warranty with respect to the Equipment's condition, quality or fitness for any purpose), and (d) shall not be supplemented by any course or dealing or performance or usage of trade.

**18. MODIFICATION; WAIVER** - No course of performance shall be deemed to give rise to any modification hereof binding upon Lessor or to any waiver by Lessor of a breach hereof by Lessee. No purported modification hereof or waiver by Lessor of a breach hereof by Lessee shall be binding upon Lessor unless in writing and signed by a duly authorized employee or agent of Lessor. No waiver by Lessor of a breach hereof by Lessee on one occasion shall be deemed to be waiver of the same or any other breach hereof by Lessee on a future occasion.

**19. ASSIGNMENT OF FUNDS** - If the Lessee fails to pay any Rent or other sums when due to the Lessor, including repair costs and loss of use charged as a rental therefor, the Lessee hereby assigns to the Lessor, such amount of the funds due Lessee from the Contractor or Owner as to the project upon which the rented Equipment was used, as is due, or which may become due, as security (and not in payment) of Lessee's indebtedness to the Lessor; and Lessor is authorized to file an Assignment of Funds in compliance with the Lien Law of the State where the project and the Equipment is located and more fully described herein as if this Assignment were dated when the last of said Rent becomes due and owing.

**20. APPLICABLE LAW** - The Lease shall be governed by and construed and interpreted in accordance with the law of the State of Michigan and the parties agree that the Venue of any dispute shall be Jackson County, Michigan.

**21. PARTIAL INVALIDITY** - Whenever possible each provision hereof shall be interpreted in such manner as to be effective and valid under applicable law, but if the whole or any portion of any provision shall be ineffective only to the extent of such prohibition or invalidity without invalidating the remainder thereof or the remaining provisions hereof.