



P.O. Box 118108 Carrollton TX 75011-8108 877-765-2267 (Phone) 817-887-4253 (Fax) Orders@ShowMasters.com	Bill Hall, President 817-300-0539 (Mobile)
---	---

PRODUCTION SERVICE ESTIMATE AND CONTRACT v1 (30 Jan 2018, 106 PM CST)

PLEASE SIGN AND RETURN VIA EMAIL OR FAX AS SOON AS POSSIBLE.
Crew is only booked after this signed Service Estimate And Contract has been returned.
Prompt return of contract ensures the highest quality crew available.

SHOW NAME: Season 2017-2018

SMPL JOB #: 18.0311
CLIENT PO #:
SERVICE TO: Plano Community Band

SERVICE START DATE: 26 February 2018
VENUE: **Eisemann Center (2351 Performance Drive)**
ROOM: Hill Performance Hall
MEETING PLACE: Hill Performance Hall
SMPL SALESPERSON: Roy Pond (Roy.Pond@ShowMasters.com)

DATE: 30 January 2018
TO: **Plano Community Band**

FROM: **Traci Thompson (Traci.Thompson@ShowMasters.com), Administration**
c/o Show Masters Production Logistics, Inc.
EIN #: 02-0544767

SUBJECT: Contract agreement for: Service Based On Estimate
Additional Notes: See below

LABOR										
DATE	CALL STARTING TIME	CALL ENDING TIME	CALL TYPE	POSITION	# OF CREW	HOURS RT <small>(UNIT PRICE x 1)</small>	HOURS OT <small>(UNIT PRICE x 1.5)</small>	HOURS DT <small>(UNIT PRICE x 2)</small>	UNIT PRICE	EXTENDED PRICE
26 Feb 2018 Monday	5:00 PM	10:00 PM	LOAD IN, SHOW & LOAD OUT	LIGHTING BOARD OP	1	5.00			34.50	\$172.50
	5:00 PM	10:00 PM	LOAD IN, SHOW & LOAD OUT	AUDIO BOARD OP	1	5.00			34.50	\$172.50
	5:00 PM	10:00 PM	LOAD IN, SHOW & LOAD OUT	HAND - DECK	2	5.00			25.75	\$257.50

PRODUCTION SERVICE ESTIMATE AND CONTRACT v1 (30 Jan 2018, 106 PM CST)

PLEASE SIGN AND RETURN VIA EMAIL OR FAX AS SOON AS POSSIBLE.
Crew is only booked after this signed Service Estimate And Contract has been returned.
Prompt return of contract ensures the highest quality crew available.

SHOW NAME: Season 2017-2018

SMPL JOB #: 18.0311
CLIENT PO #:
SERVICE TO: Plano Community Band

LABOR SUBTOTAL:		\$602.50
ESTIMATED TAX:		\$0.00
TOTAL ESTIMATE:		\$602.50

Balance shall be paid in full within 30 days after completion of above said services (about 29 March 2018).

This contract is based on times provided by Jim Winsor 214-850-7144 (Plano Community Band)
Hours per labor call is based on billing guidelines applied to client's estimate.
Estimates may take 1 hour meal breaks into consideration.

ESTIMATE FUNDAMENTALS:

Technicians (indicated by <>) are billed as ordered - hours billed are based on order, regardless of actual work time if less than time ordered.
Non-labor services or items cancelled after install begins may incur charges. See Equipment Rental Agreement, if applicable.
Labor Calls must be cancelled no later than twenty-four (24) hours before that labor call is to begin. Failure to notify Show Masters of cancellation will result in a 4 or 5 hour minimum charge (depending on the standard billing block of that particular crew member) for each member of the crew labor call.
Guidelines regarding billing are defined in "BILLING GUIDELINES". Signing this contract is an agreement to those terms.
New revisions of the Estimate & Contract voids all previous versions for this show. Changes made to order after contract has been signed will be invoiced.

PAST DUE INVOICE AND INTEREST POLICY:

Past due invoices (invoices unpaid beyond the agreed upon terms) are subject to an interest charge of 1½% interest (18% per annum) on the existing balance due. Interest, therefore, is compounded monthly until balance is paid.

CONTRACT ACCEPTANCE POLICY:

Lessee acknowledges and understands included and attached terms, conditions, and billing guidelines and hereby accepts this contract.
Acceptance of this contract with a signature also approves the accuracy of the order.
Show Masters cannot be liable for inaccurate information that has been accepted by client via a signed contract, so please make sure to review all details.
To avoid unnecessary complications and cancellation charges, please review carefully before signing and returning.
Estimate valid for 30 days.

Please read, sign below, initial on bottom of each page, and return immediately via an e-mailed scan or by fax.
Crew is only booked after this signed Service Estimate And Contract has been returned.

E-mail: Orders@ShowMasters.com
Fax: 817-887-4253

Signed: _____ Date: _____

Enter Purchase Order number generated by your company for this show: _____

Is your on-site contact authorized to add to or change the order? ☐ YES ☐ NO

On-site Contact: Jim Winsor

Please contact us if you have any questions, concerns, corrections, changes or comments.

Thank You! Traci Thompson, Administration
Show Masters Production Logistics, Inc.

EISEMANN CENTER BILLING AND FIELD GUIDELINES:

Effective February 26, 2016

DEFINITIONS:

Show Masters: All references to "Show Masters" refer to Show Masters Production Logistics, Inc.

Crew: All references to "crew" in these guidelines refer to persons supplied by Show Masters.

Labor Call: All references to "labor call" in these guidelines refer to all labor booked within a single timeframe within an event that is billed on a single invoice.

Labor Order: All references to "labor order" in these guidelines refer to all labor booked for an event that is billed on a single invoice.

ORDERING LABOR / CHANGES TO CALL

Original labor order should be made as far in advance as possible and the Estimate and Contract must be signed and returned.

Original Labor Order: Place original labor order with your Show Masters Representative, Show Masters Main Office: 877-765-2267, Fax: 817-887-4253, or Email: Orders@ShowMasters.com

Updates, Changes To Original Labor Order Before Labor Call: Place pre-call changes to labor order using the above contact information.

Last Minute On-site Changes To Call: Place all on-site changes to labor call with on-site Show Masters Crew Leadership or local representative.

Show Masters does its best to ensure crew continuity throughout an event. However, we are not always able to guarantee crew continuity for a large crew after the original labor order has been dramatically altered. In this event, we will indicate when this issue exists in critical crew positions.

For changes made before first labor call within 24 hours, it is highly recommended to speak to your Show Masters representative or the Show Masters Main Office by phone and not to rely on fax, email or voicemail. Also, please call to confirm that fax has been received when sending.

GUIDELINES FOR STANDARD CREW RATES:

Please note that the prices above are for the payment terms stated and represent base regular time prices in their entirety.

We do not impose an administrative percentage upon our rates, as our administrative costs are built in to our prices.

Minimums: Minimums are defined as a minimum charge of time for a labor call. Use of minimums are an industry standard.

Standard Crew: Includes the following positions: Stage Hands (Deck/Carpenter/Props/Video/Audio/Lighting), Truck Loaders, Spotlight Operator, Wardrobe Dresser, Sound Board Operator, Sound/Audio Assistant, Light Board Operator, Master Electrician, Video Operator, Audio Visual Technician, Wardrobe Supervisor, Flyman, Arbor Loader and Rigger. These positions are listed as Standard Crew as they are the most commonly utilized positions at the Eisemann Center.

All Standard Crew positions: Billed on a 4 hour minimum and are billable in 1 hour increments after 4 hours.

Wardrobe Technician (Large Format) & Prop Master: Billed in 5 hour blocks (half day and full day) and are billable in 1 hour increments after 10 hours.

Runner: Billed on a flat day rate.

If a break between calls is greater than one and a half (1.5) hours, the second call will be considered as a separate call and a new minimum will apply.

Overtime: Overtime is determined by multiplying the regular hourly rate by 1.5 and is subject to the following:

Overtime for all Standard Crew positions: Based on the number of hours worked over 8 billable hours in a single day and hours worked between 12:00 AM (midnight) and 8:00 AM. Paid but not worked hours are billed at regular time.

Overtime for Wardrobe Technician (Large Format): Based on the number of hours worked over 10 billable hours in a single day.

Forced Calls: (Turnaround Penalty) For purposes of Overtime, at least eight (8) hours must elapse from the end of a call to the next day's call for the call to be considered separate and not an extension of the first call. If less than eight (8) hours elapses between calls from one day to the next, the second call will be considered an extension of the first call for purposes of calculating overtime hours. This applies to all Show Masters personnel.

Double Time: Double time is determined by multiplying the hourly rate stated in the Labor Service Estimate (attached as an appendix hereto) by 2.0. Labor calls exceeding 20 billable hours will be billed double time.

Designated National Holidays: All labor calls falling on New Year's Eve, New Year's Day, Easter Sunday, Independence Day, Labor Day, and Thanksgiving Day, are designated holidays to be billed at Overtime rates up to 20 hours billable time. Christmas Day is billed at doubletime rates up to 20 hours billable time. All labor calls exceeding 20 billable hours will be billed double time. This above rule for designated national holidays applies to technicians as well.

FLSA Overtime: Any Show Masters personnel working in excess of 40 regular time billable hours over the course of a calendar week (Sunday through Saturday) for a single event will be billed at Overtime rates.

Meal Penalty Overtime: See Delayed Meal Breaks/Overtime Charges section below.

GUIDELINES / DESCRIPTIONS FOR PERSONNEL

Use of Personnel: Show Masters Production Logistics takes pride in the practice of not operating in a strict, departmental fashion. Therefore, it is acceptable for client's representative to reassign personnel without permission as needed for various jobs so long as the billing rates for the jobs are identical. Reassignment of personnel with differing billing rates requires approval from Show Masters Production in writing signed by the Show Masters Supervisor.

Client Requested Personnel: Client requested personnel may be personnel Show Masters would not normally hire. It is in our policy to make our clients aware of a requested person's hiring status in such a case. However, in our efforts to accommodate our clients, we make personnel requests available and cannot be held responsible for substandard performance on behalf of client requested personnel.

Direct Hire of Personnel: Show Masters invests a considerable amount of time, effort and training to develop and maintain our employees. Client agrees in good faith not to solicit, induce, or direct Show Masters employees to work independently of Show Masters.

Crew Leadership: Strong crew management onsite is considered critical to provide a smooth, efficient, and organized service. This person shall record hours worked, handle personnel issues and client relations.

Crew Chief: The Crew Chief works in a position as one of the crew for crews of up to 19 and is the Show Masters primary representative in the venue. This position is not billed separately. It appears on the invoice as one of the working crew.

Supervisor: The Supervisor works in a position in a supervisory role for crews of 20 or greater and is the Show Masters primary representative in the venue. This position will be invoiced as Supervisor, as opposed to being included as one of the working crew as Crew Chief is.

EISEMANN CENTER BILLING AND FIELD GUIDELINES *(continued)* :

Effective February 26, 2016

GUIDELINES / DESCRIPTIONS FOR PERSONNEL *(continued)* :

Stagehands:

Lighting Hand: Otherwise known as "Electrician", on either the deck or in the air, these personnel hang lighting equipment, run and circuit cable, focus and gel lights and assist the Lighting Board Operator with getting the lighting system show ready.

Carpentry/Props Hand: This is a stagehand with general skills in stagecraft for the construction of scenery and props on stage. The hands set the orchestra shells, set risers and chairs, lay dance floors, handle ballet Barres, set up quick change dressing rooms and work with pipe and drape.

Audio or Video Hand: These personnel are involved in the setup and strike of the audio or video equipment, and assist the Audio Board Operator with getting the systems show ready.

Truck Loader Hand: These personnel start with the loading in and out of any trucked-in equipment. Truck loaders will remain on the call after the trucks are empty and assist on the deck until they are not needed. Truck Loaders can be transferred to the load-in as hands after a short break. It is common and even suggested, if acceptable to Client, for the truck loaders to wear T-shirts during work in the back of the truck. Once the truck is unloaded, the truck loaders that become regular crew on the load-in change into dress code for the job during that break.

Spotlight Operator: These personnel operate the followspots during rehearsals and shows. Normally, they take cues from the Lighting Board Operator or whomever is calling the show's cues. As Client, it is important to make sure there is someone to call the cues if it requires specific moves by the spots.

Runner: This person is able to provide transportation as needed. Duties include transportation of show personnel around town to hotels or from hotels to the Eisemann Center. Duties also include transportation of show crew to and from local stores or businesses as needed for emergency show purchases or repairs.

Wardrobe Dresser: This person assists performers with costume changes. Duties include laundry services, such as washing, drying, folding or ironing clothing or costumes.

Technicians:

Audio Board Operator: This person is responsible for the operation of the sound system. Duties include microphone selection, patching, audio cues and the mixing of the audio console during rehearsal and show. As Client, it is important to make sure that the Audio Board Operator has everything necessary for the rehearsals and show, such as cues, timing, music, microphone use and recording needs, and in sufficient enough time beforehand to prepare. When providing audio content such as music, the preferred format is a music CD. Other formats should be approved before load in begins.

Audio Assist: This technical assistant to the Audio Board Operator is the eyes and ears on the deck, acting as technician for the system while the Audio Board Operator is involved with the console. They are often used to set gear, chase cable and dispense wireless microphones to the performers. This position is of a higher technical caliber than an Audio Hand.

Lighting Board Operator: This person is responsible for the operation of the lighting system. Duties include lighting focus, patching, programming of the lighting cues and running of those cues during rehearsal and show. As Client, it is important to make sure that the Lighting Board Operator has everything necessary for the rehearsals and show, such as cues and timing, and in sufficient enough time beforehand to prepare.

Master Electrician: Otherwise known as "Lighting Assist", this is the technical assistant to the Lighting Board Operator, acting as technician for the system while the Lighting Board Operator is involved with the console. This position is of a higher technical caliber than a Lighting Hand.

Video Operator: This person is responsible for running the setup of the Eisemann's video and computer systems, including both Eisemann and client projection equipment. Duties also include interface configuration, troubleshooting and operation during rehearsal and show. As Client, it is important to make sure that the Video Operator has everything necessary for the rehearsals and show, such as interface equipment (such as a laptop or DVD media), cues and timing, and in sufficient enough time beforehand to prepare.

AV Technician: Otherwise known as "Video Assist", this technical assistant to the Video Operator acts as technician for the system while the Video Operator is involved with the user interface. This position is of a higher technical caliber than a Video Hand.

Wardrobe Technician (Large): This person is a top-end wardrobe tech. Includes all the duties of a Wardrobe Dresser, the Wardrobe Supervisor position and anything more. Show Kit available for additional cost, based on its contents, such as a sewing machine. Needs for such equipment should be addressed when placing the order for personnel needs.

Wardrobe Supervisor: This person is the standard caliber of wardrobe tech. Includes all the duties of a Wardrobe Dresser position, plus the ability to sew, but not necessary to bring sewing machine on site. Sewing repairs include, but not limited to: button repairs, zipper repairs, small rips and tears in clothing and costumes.

High End Technicians: Show Masters provides the full scope of production positions outside of the Standard Crew position list, including but not limited to: Audio Engineer, Video Engineer, Teleprompter, Graphics, PowerPoint, Hairdresser/Makeup, Camera, Jib Camera, Technical Director, Project Manager, Video Director, V2, Video Switcher, System Designer, Video Blending Engineer, Projectionist, and Lighting Director. Please contact Show Masters for more information.

Flyrail Personnel:

Flyman: This person is responsible for the operation of the Eisemann's flyrail system. Duties include directing the loading personnel (Arbor Loaders) and communicate with the deck hands for safe and expedient loading and flying of scenic elements for the production. Operation of a traveler curtain already at the deck does not require a Flyman to open or close it.

Deck/Flyman: This person acts as both a Flyman and as a Deck Hand. Billed at the Flyman rate.

Arbor Loader: This person works directly with the Flyman in loading and unloading the arbors as they come up to the loading rail. Once the loading is completed the Arbor Loader may be asked to assist on stage for the remainder of the call.

Rigging: The following are guidelines involving rigging:

Rigger Up: An Up Rigger is responsible for safely assessing, making, and checking the attachment of any overhead, permanent or temporary, dynamic or static suspended loads to a building structure or representation of a building structure.

Rigger Down: A Ground Rigger is responsible for assisting in the assembly of attachments, the making of attachments, and the monitoring of the floor and all rigging details for the safety of all concerned on any and all job sites.

Normally, a minimum of three riggers is required, as the only person qualified to assist or backup a rigger is another rigger. At very least, this would be a ground rigger and two up riggers.

These rigging guidelines are for the safety of all personnel, equipment, and facilities involved. Therefore, they are not negotiable for budgetary adjustments. The only exception to this policy is to be addressed prior to a job for a changeover or motor movement and is determined by the Eisemann Center.

RECORDING LABOR

Crew Sign-In/Sign-Out: A sign-in/sign-out sheet, called a "Timesheet" will be provided for every show/work environment to record all work times, dates, and personnel involved. The original Timesheet will be used to produce the final invoice. At Client request, a copy of the Timesheet will be provided. We require the client to sign each Timesheet to approve hours worked for billing purposes.

EISEMANN CENTER BILLING AND FIELD GUIDELINES *(continued)* :

Effective February 26, 2016

BREAKS:

Breaks: Except in the case of a show or production, Crew Members are entitled to a 15 minute break every 2-3 hours of consecutive work. It is at the crew's collective option only to take this break or continue working. During a show, breaks are only appropriate during breaks in the show or at the discretion of those running the show. If a break between calls is greater than 1.5 hours, the second call will be considered as a separate call and a new minimum will apply. Excess breaks imposed by client that are not relevant to the break guidelines herein is considered billable time.

Meal Breaks: Meal Breaks will be provided and are required after 5 hours. It is at the crew's collective option only to take a meal break or continue working. The crew may elect to complete the job without a meal break if there is little time required to finish. Any meal break of one hour or more will not be billed. Meal breaks of less than one hour are billed.

Delayed Meal Breaks/Overtime Charges: If a meal break is established to take place after 5 hours, and the meal break is delayed by the client, and not due to the show, charges of 1.5 times the current rate will apply until meal break is taken. In such a case, a Meal Penalty Agreement will be signed by both the client and the Show Masters Supervisor. A crew's choice to not take the Meal Break will waive the Meal Penalty.

Offsite Meal Breaks: Offsite Meal Breaks must be one hour in duration (to allow time for travel) unless crew agrees to take a shorter meal break, which would be billed.

Client-Provided Meals: Client-provided meals to Crew must be of nutritional value in a volume considered by the crew to be satisfactory within reasonable limits. If there is a vegetarian on the crew, arrangements should be made to accommodate a vegetarian diet. Otherwise, the vegetarian should be released for an Offsite Meal Break for one hour.

Water: If drinking water is not reasonably available to crew, (i.e. drinking fountains or other consumable water), it must be provided to crew members per OSHA Regulation 1926.51. If water is not provided, Show Masters will provide water to the crew and client will be billed. Coffee, tea, sodas, colas, or other carbonated beverages are not acceptable substitution for water.

CANCELLATIONS:

Labor Calls must be cancelled no later than twenty-four (24) hours before that labor call is to begin. Failure to notify Show Masters of cancellation will result in a 4 hour minimum charge (depending on the standard billing block of that particular crew member) for each member of the crew labor call.

PAYMENT TERMS:

Payment terms for services to entity other than Eisemann Center: Payment is to be made in full upon conclusion of the show, unless other arrangements have been made, in writing, prior to beginning of first labor call of the job. The Show Masters Supervisor will present the invoice, including the load out (based on an estimate) and payment is to be made at that time. If the load out exceeds our estimate, an invoice for the balance will be billed. Regular, repeat clients with an established history of on-time payment may be given opportunity to submit payment on different terms, subject to status of continued on-time payments.

Payment terms for services to Eisemann Center Presents and Eisemann Operations: Payment is to be made in full within 30 days of the end of the job.

Payments: Payments should be made out to: **"Show Masters"**

Onsite to: **Show Masters Crew Leadership Representative or Upper Management**

Postal Mailed to: **Show Masters, P.O. Box 118108, Carrollton, Texas 75011-8108**

Overnighted to: **Show Masters, 3960 Valez Drive, Carrollton, Texas 75007**

Wired payments: **Contact us at 877-765-2267 for details.**

Invoice Disputes: Disputes with the invoice must be made to Show Masters' Main Office within 48 hours after receipt of invoice.

Past Due Invoices: (invoices unpaid beyond the agreed upon terms) are subject to an interest charge of 1½% interest (18% per annum) on the existing balance due. Interest, therefore, is compounded monthly until balance is paid.

Returned Payments: Returned checks will be assessed a \$30 return fee.

INSURANCE:

Show Masters maintains a general comprehensive liability policy with a limit of one million dollars (\$1,000,000.00) per occurrence with a two million dollar (\$2,000,000.00) general aggregate limit.

Show Masters also maintains a hired/non-owned automotive liability policy with a limit of one million dollars (\$1,000,000.00) per occurrence.

Show Masters also holds a worker's compensation and general liability policy for its employees.

Proof of Insurance is available upon request.

Indemnification: All parties shall agree to indemnify and hold harmless any of the other parties and their respective present and future subsidiaries, partners, officers, directors, employees, shareholders, agents, successors and assigns, from and against, any and all losses, liabilities, damages, claims, demands, suits, and judgments, including without limitation, attorneys' fees and the costs of any legal action, arising solely out of: (i) any act or omission of the indemnifying party related to the performance of its duties pursuant to this agreement, (ii) the negligence or intentional misconduct of the indemnifying party, its officers, employees, or agents in connection with this agreement, and, (iii) any breach of this agreement by the indemnifying party and all costs incurred by any other party or related entity (including, but not limited to, attorneys' fees) as a result of any breach of this agreement or the enforcement of this agreement against the indemnifying party.

MISCELLANEOUS

Entire Agreement: This Agreement, including the exhibits and schedules hereto (which are incorporated by reference herein and constitute a part hereof) contains every obligation and understanding among the Parties relating to the subject matter hereof and merges all prior discussions, negotiations and agreements, if any, among them, and none of the Parties shall be bound by any conditions, definitions, understandings, warranties or representations other than as expressly provided or referred to herein.

Binding Effect: This Agreement shall be binding upon and inure to the benefit of the Parties hereto and their respective successors, heirs, personal representatives, legal representatives, and permitted assigns.

Waiver and Amendment: Any representation, warranty, covenant, term or condition of this Agreement which may legally be waived, may be waived, or the time of performance thereof extended, at any time by the Party hereto entitled to the benefit thereof, and any term, condition or covenant hereof (including the period during which any condition is to be satisfied or any obligation performed) may be amended by the Parties hereto at any time. Any such waiver, extension or amendment shall be evidenced by an instrument in writing executed by the appropriate Party or on its behalf by an officer authorized to execute waivers, extensions or amendments on its behalf. No waiver by any Party hereto, whether express or implied, of its rights under any provision of this Agreement shall constitute a waiver of such Party's rights under such provisions at any other time or a waiver of such Party's rights under any other provision of this Agreement. No failure by any Party hereto to take any action against any breach of this Agreement or default by another Party shall constitute a waiver of the former Party's right to enforce any provision of this Agreement or to take action against such breach or default or any subsequent breach or default by such other Party.

No Third Party Beneficiaries: Nothing expressed or implied in this Agreement is intended, or shall be construed, to confer upon or give any Person other than the Parties hereto and their respective heirs, personal representatives, legal representatives, successors and permitted assigns, any rights or remedies under or by reason of this Agreement.

EISEMANN CENTER BILLING AND FIELD GUIDELINES *(continued)* :

Effective February 26, 2016

MISCELLANEOUS *(continued)* :

Severability: If any one or more of the provisions contained in this Agreement shall be declared invalid, void or unenforceable, the remainder of the provisions of this Agreement shall remain in full force and effect, and such invalid, void or unenforceable provision shall be interpreted as closely as possible to the manner in which it was written.

Headings: The section and other headings contained in this Agreement are for reference purposes only and shall not affect the meaning or interpretation of any provisions of this Agreement.

Governing Law: This Agreement shall be construed and enforced in accordance with the laws of the State of Texas, regardless of the jurisdiction in which enforcement is sought, without reference to the choice of law principles thereof.

Venue; Jurisdiction: If, notwithstanding the provisions of the Arbitration/Mediation requirements of this document, any litigation is to be instituted regarding this Agreement, it shall be instituted in the state and federal courts located in Dallas County, Texas, and each Party irrevocably consents and submits to the personal jurisdiction of such courts in any such litigation, and waives any objection to the laying of venue in such courts. Service of process in any such litigation shall be effective as to any Party if given to such Party by registered or certified mail, return receipt requested, or by any other means of mail that requires a signed receipt, postage prepaid, mailed to such Party as provided in this Agreement.

Further Assurances: The Parties shall deliver any and all other instruments or documents required to be delivered pursuant to, or necessary or proper in order to give effect to, all of the terms and provisions of this Agreement.

Mediation; Arbitration: All claims arising under this Agreement which the Parties are unable to settle shall be submitted for mediation by a mediator mutually acceptable to the Parties involved in such claim. It shall be a condition to the right of the Parties to commence an arbitration proceeding with respect to any claim that each Party shall have made a good faith effort to resolve the dispute through a mediation proceeding as provided in the preceding sentence. Any and all claims arising under this Agreement which the Parties are unable to settle by mutual agreement or mediation as provided above shall be resolved by binding arbitration pursuant to the Commercial Arbitration Rules of the American Arbitration Association as in force at the time ("AAA").

Any claim, action, dispute or controversy of any kind arising out of or relating to this Agreement or concerning any aspect of performance by any Party under the terms of this Agreement that is not resolved by the mediation process set forth above ("Dispute") shall be resolved by mandatory and binding arbitration administered by the AAA pursuant to the Federal Arbitration Act (Title 9 of the United States Code) in accordance with this Agreement and the then-applicable Commercial Arbitration Rules of the AAA. To the extent that any inconsistency exists between this Agreement and the foregoing statutes or rules, this Agreement shall control. Judgment upon the award rendered by the arbitrator acting pursuant to this Agreement may be entered in, and enforced by, any court having jurisdiction absent manifest disregard by such arbitrator of applicable law; provided, however, that the arbitrator shall not amend, supplement or reform in any manner any of the rights or obligations of any Party hereunder or the enforceability of any of the terms of this Agreement. Any arbitration proceedings under this Agreement shall be conducted in Dallas County, Texas before a single arbitrator being a member of the State Bar of Texas for no less than ten (10) years and having recognized expertise in the field or fields of the matter(s) in dispute.

After first exhausting the mediation process set forth above, upon the request by written notice delivered in accordance the Agreement from any Party, whether made before or after the institution of any legal proceeding, but prior to the expiration of the statutory time period within which a Party must respond upon receipt of valid service of process in order to avoid a default judgment, any Dispute shall be resolved by mandatory and binding arbitration in accordance with the terms of this Agreement. Within ten (10) days after a Party's receipt of such notice, the Parties shall agree upon a qualified arbitrator. If the Parties cannot agree within such 10-day period, an arbitrator shall be appointed by the AAA. If a replacement arbitrator is necessary for any reason, such replacement arbitrator shall be appointed by the AAA.

All statutes of limitation that would otherwise be applicable shall apply to any arbitration proceeding. Any attorney-client privilege and other protection against disclosure of privileged or confidential information including, without limitation, any protection afforded the work-product of any attorney, that could otherwise be claimed by any Party shall be available to, and may be claimed by, any such Party in any mediation or arbitration proceeding. No Party waives any attorney-client privilege or any other protection against disclosure of privileged or confidential information by reason of anything contained in, or done pursuant to, the mediation or arbitration provisions of this Agreement.

The arbitration shall be conducted and concluded as soon as reasonably practicable, based on a schedule established by the arbitrator. Any arbitration award shall be based on and accompanied by findings of fact and conclusions of law, shall be conclusive as to the facts so found and shall be confirmable by any court having jurisdiction over the Dispute, provided that such award, findings and conclusions are not in manifest disregard of applicable law. The arbitrator shall have no authority to make any ruling, finding or award that does not conform to the terms and conditions of this Agreement.

Each Party shall bear its own expenses, including, without limitation, expenses of counsel incident to any mediation or arbitration. The expenses of the arbitrator and the AAA shall be borne equally by the Purchaser, on one hand, and the Sellers, on the other hand. The arbitrator shall have the power and authority to award expenses to the prevailing Party if the arbitrator elects to do so.

In order for an arbitration award to be conclusive, binding and enforceable under this Agreement, the arbitration must follow the procedures set forth in the portions of this Agreement relating to such arbitration and any award or determination shall not be in manifest disregard of applicable law. The obligation to mediate or arbitrate any Dispute shall be binding upon the successors and assigns of each Party.