

BAL HARBOUR

- V I L L A G E -

Mayor Jeffrey P. Freimark
Vice Mayor Seth E. Salver
Councilman Alejandro Levy
Councilman Buzzy Sklar
Councilman David Wolf

Village Manager Jorge M. Gonzalez
Village Clerk Dwight S. Danie
Village Attorneys Weiss Serota
Helfman Cole & Bierman, P.L.

Bal Harbour Village Council

Regular Council Meeting
Supplemental Agenda
September 16, 2025
At 6:30 PM

Bal Harbour Village Hall • 655 - 96th Street • Bal Harbour • Florida 33154

SUPPLEMENTAL AGENDA

- C7E** Purchase of Taskmaster Duplex Grinders for Sanitary Sewer Pump Station
A RESOLUTION OF THE VILLAGE COUNCIL OF BAL HARBOUR VILLAGE, FLORIDA; AUTHORIZING THE VILLAGE MANAGER TO PURCHASE UP TO THREE TASKMASTER DUPLEX GRINDERS FOR SANITARY SEWER PUMP STATION NUMBER ONE (PS-1) AND SANITARY SEWER PUMP STATION NUMBER TWO (PS-2) FROM THE MANUFACTURER, FRANKLIN MILLER, INC, OR PUMP STATION MAINTENANCE SERVICES, LLC, THE VILLAGE'S PREFERRED PUMP STATION MAINTENANCE COMPANY, OR ANY OTHER DISTRIBUTOR AS REQUIRED TO MAINTAIN EFFECTIVE SANITARY PUMP STATION OPERATIONS; SUBJECT TO ANNUAL BUDGET ALLOCATIONS; PROVIDING FOR IMPLEMENTATION; PROVIDING FOR AN EFFECTIVE DATE.

[Item Summary - Approval Preauthorization of Grinders ADA.pdf](#)

[Memorandum - Approval Preauthorization of Grinders ADA.pdf](#)

[Resolution - Approval Preauthorization of Grinders ADA.pdf](#)

[Franklin Miller, Inc. Quote No. 68374A ADA.pdf](#)

One or more members of any Village Committee/Board may attend this meeting of the Council and may discuss matters which may later come before their respective Boards/Committees. The New Business and Council Discussion Section includes a section for Public Comment. On public comment matters, any person is entitled to be heard by this Council on any matter; however, no action shall be taken by the Council on a matter of public comment, unless the item is specifically listed on the agenda, or is added to the agenda by Council action. Any person who acts as a lobbyist, pursuant to Village Code Section 2-301 (Lobbyists), must register with the Village Clerk, prior to engaging in lobbying activities before Village staff, boards, committees, and/or the Village Council. A copy of the Ordinance is available in the Village Clerk's Office at Village Hall. If a person decides to appeal any decision made by the Village Council with respect to any matter considered at a meeting or hearing, that person will need a record of the proceedings and, for such purpose, may need to ensure that a verbatim record of the proceedings is made, which record includes the testimony and evidence upon which the appeal is to be based (F.S. 286.0105). All persons who need assistance or special accommodations to participate in virtual meetings please contact the Village Clerk's Office (305-866-4633), not later than two business days prior to such proceeding. In accordance with the Americans with Disabilities Act of 1990, all persons who are disabled and who need special accommodations to participate in this proceeding because of that disability should contact the Village Clerk's Office (305-866-4633), not later than two business days prior to such proceeding. All Village Council meeting attendees, including Village staff and consultants, are subject to security screening utilizing a metal detector and/or wand, prior to entering the Council Chamber, Conference Room, or other meeting area located within Village Hall. This is for the safety of everyone. Thanks for your cooperation.

BAL HARBOUR

- V I L L A G E -

COUNCIL ITEM SUMMARY

Condensed Title:

A RESOLUTION OF THE VILLAGE COUNCIL OF BAL HARBOUR VILLAGE, FLORIDA; AUTHORIZING THE VILLAGE MANAGER TO PURCHASE UP TO THREE TASKMASTER DUPLEX GRINDERS FOR SANITARY SEWER PUMP STATION NUMBER ONE (PS-1) AND SANITARY SEWER PUMP STATION NUMBER TWO (PS-2) AS REQUIRED TO MAINTAIN EFFECTIVE SANITARY PUMP STATION OPERATIONS; SUBJECT TO ANNUAL BUDGET ALLOCATIONS.

Issue:

Should the Village Council approve the Resolution to authorize the Village Manager to purchase specified replacement sanitary sewer station grinders as needed?

The Bal Harbour Experience:

<input type="checkbox"/> Beautiful Environment	<input checked="" type="checkbox"/> Safety	<input checked="" type="checkbox"/> Modernized Public Facilities/Infrastructure
<input type="checkbox"/> Destination & Amenities	<input type="checkbox"/> Unique & Elegant	<input type="checkbox"/> Resiliency & Sustainable Community

Item Summary / Recommendation:


The Village is required by Chapter 62-604 of the Florida Administrative Code (FAC) to maintain spare parts, pumps and grinders for the proper operation of the two Village sanitary sewer pump stations, the collection/transmission system, and to eliminate sanitary sewer overflows. This Resolution provides authorization to purchase up to three (3) sanitary sewer station grinders to service the sanitary sewer stations on an as needed basis, subject to funding within the Utility Fund budget. I am requesting this authorization due to the lead time requirement, and the delivery timeframe of up to twelve (12) weeks to ensure the Village pump stations operate effectively and adhere to our maintenance responsibilities as required by Chapter 62-604, F.A.C. At this time, a grinder is required for PS-2; and will be purchased immediately after ratification of this resolution for an estimated amount of \$76,500.

THE ADMINISTRATION RECOMMENDS THE APPROVAL OF THIS RESOLUTION.

Financial Information:

	Amount	Account	Account #
	\$ 76,500	Utility Fund - Machinery and Equipment	40-36-504600

Sign off:

Director Public Works & Beautification Department	Chief Financial Officer	Village Manager
Julio E. Magrisso	Claudia Dixon	Jorge M. Gonzalez
		

BAL HARBOUR

- V I L L A G E -

COUNCIL MEMORANDUM

TO: Honorable Mayor and Village Council

FROM: Jorge M. Gonzalez, Village Manager 

DATE: September 16, 2025

SUBJECT: **A RESOLUTION OF THE VILLAGE COUNCIL OF BAL HARBOUR VILLAGE, FLORIDA; AUTHORIZING THE VILLAGE MANAGER TO PURCHASE UP TO THREE TASKMASTER DUPLEX GRINDERS FOR SANITARY SEWER PUMP STATION NUMBER ONE (PS-1) AND SANITARY SEWER PUMP STATION NUMBER TWO (PS-2) FROM THE MANUFACTURER, FRANKLIN MILLER, INC, OR PUMP STATION MAINTENANCE SERVICES, LLC, THE VILLAGE'S PREFERRED PUMP STATION MAINTENANCE COMPANY, OR ANY OTHER DISTRIBUTOR AS REQUIRED TO MAINTAIN EFFECTIVE SANITARY PUMP STATION OPERATIONS; SUBJECT TO ANNUAL BUDGET ALLOCATIONS; PROVIDING FOR IMPLEMENTATION; PROVIDING FOR AN EFFECTIVE DATE.**

ADMINISTRATIVE RECOMMENDATION

I am recommending approval of this Resolution.

BACKGROUND

The Village is required by Chapter 62-604 of the Florida Administrative Code (FAC) to provide minimum design, operation, and maintenance standards for domestic wastewater collection/transmission systems. It is also a requirement to maintain spare parts, pumps and grinders for the proper operation of the collection/transmission system and to eliminate sanitary sewer overflows.

Bal Harbour Village maintains two sanitary sewer pump stations, one of which is located at Collins and 96th Street, Pump Station No.-2 (PS-2) and Pump Station No.-1 (PS-1), which is located at 184 Bal Bay Drive. Both pump stations utilize a combination of submersible sanitary sewer pumps and grinders to move the sewage towards the City of Miami Beach receipt point and ultimately received at the Miami Dade County Sewage Treatment Facility at Virginia Key. The new PS-1 station at 184 Bal Bay Drive began operations in March of 2017 and the PS-2 station on Collins Avenue began operations in 2004 after renovations. The sanitary sewer systems require grinders to grind excess and large objects to prevent damage to the submersible sanitary pumps and impellers. The grinder at PS-2 is estimated to have been in service for 30 years.

ANALYSIS

Sanitary sewer pump station PS-1 operates with three (3) forty-seven (47) horsepower pumps and PS-2 operates with four (4) one hundred fifteen (115) horsepower pumps/motors. In the event one of the pumps fails and requires repair, the pump station bypasses the failed pump, and the remaining pumps operate at an increased level. Each sewer lift station requires one grinder. The grinders are produced when ordered, with lead time being as long as twelve (12) weeks.

Given the extended lead time to obtain these grinders, the ability to replace as needed is critical to ensure the operation of the two Village sanitary sewer pumps stations. It is appropriate to seek authorization to establish an approach to purchase replacement sanitary sewer station grinders as needed. At this time, a grinder is required for PS-2; and will be purchased immediately after ratification of this resolution for an estimated cost of \$76,500. Future purchases will be limited by budgeted available funds in a given fiscal year.

THE BAL HARBOUR EXPERIENCE

The pre-authorization to purchase the grinders for the sewer pump station as needed ensures compliance with Chapter 62-604, of the Florida Administrative Code and directly corresponds to the *Bal Harbour Experience* stated goals of Modernized Public Facilities/Infrastructure and Safety.

CONCLUSION

The Village is required by Chapter 62-604, of the Florida Administrative Code (FAC), to maintain spare parts and pumps for the proper operation of the collection/transmission system and to eliminate sanitary sewer overflows.

This Resolution provides authorization to purchase up to there (3) sanitary sewer station grinders to service the Village's two sanitary sewer stations on an as needed basis subject to funding within the Utility Fund budget. I am requesting this authorization due to the lead time requirement, and the extended delivery timeframe to ensure the Village pump stations operate effectively and adhere to our maintenance responsibilities as required by F.A.C. Chapter 62-604.

Therefore, I recommend your approval of this Resolution.

RESOLUTION NO. 2025-

A RESOLUTION OF THE VILLAGE COUNCIL OF BAL HARBOUR VILLAGE, FLORIDA; AUTHORIZING THE VILLAGE MANAGER TO PURCHASE UP TO THREE TASKMASTER DUPLEX GRINDERS FOR SANITARY SEWER PUMP STATION NUMBER ONE (PS-1) AND SANITARY SEWER PUMP STATION NUMBER TWO (PS-2) FROM THE MANUFACTURER, FRANKLIN MILLER, INC, OR PUMP STATION MAINTENANCE SERVICES, LLC, THE VILLAGE'S PREFERRED PUMP STATION MAINTENANCE COMPANY, OR ANY OTHER DISTRIBUTOR AS REQUIRED TO MAINTAIN EFFECTIVE SANITARY PUMP STATION OPERATIONS; SUBJECT TO ANNUAL BUDGET ALLOCATIONS; PROVIDING FOR IMPLEMENTATION; PROVIDING FOR AN EFFECTIVE DATE

WHEREAS, the effective operation of the pump stations requires serviceable pumps, grinders and spare parts; and

WHEREAS, the Village is required by Chapter 62-604, F.A.C., to provide minimum design, operation, and maintenance standards for domestic wastewater collection/transmission systems; and

WHEREAS, this Council has determined that it is in the best interest of the Village to authorize the Village Manager to purchase up to three (3) sanitary sewer station grinders to service the sanitary sewer stations on an as needed basis, to be funded from the Utility Fund budget.

NOW, THEREFORE, BE IT RESOLVED BY THE VILLAGE COUNCIL OF BAL HARBOUR VILLAGE, FLORIDA, AS FOLLOWS:

Section 1. Recitals Adopted. That the above stated recitals are hereby adopted and confirmed.

Section 2. Purchase Authorization Approved. The authorization for the Village Manager to purchase up to three (3) sanitary sewer station grinders to service the sanitary sewer stations on an as needed basis, to be funded from the Utility Fund budget, is hereby approved.

Section 3. Expenditure Approved for Purchase. That the expenditure for the purchase of submersible sanitary sewer grinders in the amount not to exceed annual budgetary allocations for the purchase is hereby approved.

Section 4. Implementation. That the Village Manager is hereby authorized to take all actions necessary to implement the purposes of this Resolution.

Section 5. Effective Date. That this Resolution shall take effect immediately upon the adoption hereof.

PASSED AND ADOPTED this 16th day of September 2025.



Mayor Jeffrey P. Freimark

ATTEST:

Dwight S. Danie, Village Clerk

APPROVED AS TO FORM AND LEGAL SUFFICIENCY:

Village Attorney
Weiss Serota Helfman Cole & Bierman P.L.



Franklin Miller Inc.
60 Okner Parkway
Livingston, NJ 07039 USA

Tel 973-535-9200
Fax 973-535-6269
info@franklinmiller.com

Quote No: 68374A

September 12, 2025

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Langer Langford

Pump Station Maintenance Services, L.L.C.

2772 NW 31st Ave
Fort Lauderdale, FL 33311 USA
Phone: 954-733-7511

langer@pumpstationmaintenanceservices.com

Your Local Representative:

Hydra Service (S) Inc.
Attn: Scott Carney
Tel: 954-240-9359
email: Scott Carney <scarney@hydrase

Salesperson:

Thomas Zangoglia, Regional Sales Manager
tomz@franklinmiller.com

Dear Langer ,

We are pleased to quote on the following model TM8524D Taskmaster grinder:

Project: Replacement of s/n 8540-Bal Harbour Village FL

Quantity	Description	Price	Totals
Ref: Bal Harbour Village Ps			
1	TASKMASTER® DUPLEX Grinder, Model TM8524D as follows: <ul style="list-style-type: none">- Nom. 24" w. x 24" Tall Cutting Chamber- 316 Stainless Steel Grinder Housing- Cutter Cartridges: 7Tooth Cam Cutters, 4140 H.T.- 2" Hexagonal Shafting, 4140 H.T.- Cycloidal Gear Reducer, 29:1 Ratio Direct Coupled,- Replacement for s/n 8540		
1	EA 5HP SUBMERSIBLE DRIVE INCLUDING: <ul style="list-style-type: none">- 5HP 230/460V. 60 HZ (IP68) Explosion-Proof Submersible Motor- Gear Reducer - Cycloidal- 50 Ft. Cable Length Note: Existing controls to be used.		
1	EA Brackets For Guide Rail (set of 4)		
			Total Lump Sum: \$76,305.00

Prices are Valid Until Sunday, October 12, 2025

Terms: 1/2 Down with Order, 1/2 Prior To Shipment FOB Factory.

Freight & Sales Tax (CA, NY, NJ, MD) if applicable, will be added to Invoice.

Shipment 12-14 weeks after final approval.

Thank you for this opportunity to be of service.

This quote is subject to Franklin Miller Standard Warranty, Terms and Conditions attached. Prices do not include applicable taxes.

FRANKLIN MILLER INC.

TERMS AND CONDITIONS DATED 5/30/2019

1. ENTIRE AGREEMENT

Any order resulting from a Franklin Miller ("SELLER") proposal shall be bound by the following Terms and Conditions. Any exception to these Terms and Conditions by the BUYER shall not be binding on SELLER unless agreed to in writing upon the parties hereto, their successors and assigns.

2. LIMITED WARRANTY

SELLER warrants the goods sold hereunder to be free from defects in material and workmanship under normal use and service not arising from misuse, negligence or accident, or unauthorized modification of the equipment, in connection with the use, installation, and transportation of the goods by BUYER, its agents, servants, employees or by carriers. SELLER's obligations under this warranty are limited to remedying any deficiencies in the goods at such place or places in the United States of America as may be designated by SELLER. This warranty shall pertain to any part or parts of any goods to which BUYER has, within (12) months after date of shipment given written notice of a claimed defect to the SELLER. The BUYER shall be required to furnish SELLER with details of such defects and this warranty shall be effective as to such goods which upon SELLER's examination shall disclose to its satisfaction to have been defective and which at SELLER's option shall be repaired in place if required for a warranty repair. The BUYER at his expense shall make available in a suitable location for repair by SELLER or promptly thereafter be returned to SELLER, at BUYER's, or its nominee's expense. If upon examination it is determined by the SELLER that the repair or replacement does not fall within the warranty as set forth in this clause, an estimate for cost of repair will be provided to the BUYER. This warranty is expressly in lieu of all other warranties expressed or implied. In no event shall the SELLER be liable to the BUYER or to any other person for any loss or damage, direct or indirect, arising out of or caused by the use or operation of the goods, or for the loss of profits, business, or good will. Under no circumstance will SELLER be liable for any of the following: (1) third party claims against BUYER for losses or damages including liquidated damages: (2) loss of or damage to BUYER's records or data; or (3) economic consequential damages (including loss of profits or savings) or incidental damages even if SELLER is informed of their possibility. Excluded from the warranty herein are (a) defects in parts or components not manufactured directly by SELLER (SELLER will, however, pass on the remaining balance of the purchased equipment manufacturer's warranty) or not part of SELLER's standard design or are supplied pursuant to special BUYER's requirements; (b) certain parts which are subject to wear and tear from abrasive action or use thereof; and (c) any part that has been subjected to misuse. SELLER's liability is limited to furnishing or repairing at SELLER's option parts determined by SELLER to be defective. NO EXPRESS WARRANTIES AND NO IMPLIED WARRANTIES, WHETHER OF MERCHANTABILITY OR FITNESS FOR ANY PARTICULAR USE, OR OTHERWISE (EXCEPT AS TO TITLE) OTHER THAN THOSE EXPRESSLY SET FORTH ABOVE WHICH ARE MADE EXPRESSLY IN LIEU OF ALL OTHER WARRANTIES, SHALL APPLY TO PRODUCTS SOLD BY US. In the case of delayed start-up, SELLER shall provide recommended maintenance and long-term storage instructions, including documentation forms which BUYER must complete in order to maintain this warranty. BUYER's failure to adhere to said maintenance instructions for any piece of the equipment shall void this warranty. Further, no waiver, alteration, or modification of the foregoing conditions shall be valid unless made in writing and signed by an executive officer of SELLER. If the BUYER is in default of Clause 6 (Payment of Purchase Price) this warranty is null and void unless reinstated by SELLER.

3. FORCE MAJEURE

The obligation of SELLER hereunder shall be modified or excused for reasons of act of God, war, changes in law or regulations, strikes or lock-outs, fire, breakdown of machinery, or if for any other cause beyond SELLER's control, including supplier delay, the goods cannot be delivered, or their delivery becomes delayed in whole or in part. In the above instances, time for delivery shall be extended for the period of the delay caused, with the proviso, however, that either party may cancel in writing the undelivered portion of the order or contract if the delay exceeds six (6) months from the delivery date originally confirmed by SELLER. In no event shall SELLER become liable in the aforesaid instances to BUYER or any third party for consequential damages, liquidated damages, particularly described in ARTICLE 2 herein.

4. DELIVERY

(a) All quoted delivery dates and/or periods are approximate. Unless otherwise agreed, delivery of the goods is F.O.B. Factory or (EX WORKS - INCOTERMS 2000). Delivery to any common carrier shall constitute delivery to BUYER, and thereafter the risk of loss or damage to the goods shall be upon BUYER. Delays by BUYER, Owner, or the engineer of the BUYER or Owner in furnishing necessary technical information or documents, or delays caused by order modifications requiring additional production time, shall result in a corresponding postponement of the delivery date.

5. SHORTAGE OR DAMAGE OF DESTINATION SHIPMENTS

Any claims of shortage or damage on destination shipments must be made in writing within ten (10) days after delivery of the goods (as to which such claim is made) to SELLER or its nominees, but in no event shall the claim be later than within the time limit provided by the carrier or insurance company, otherwise such claim shall be deemed waived.

6. PAYMENT OF PURCHASE PRICE

(a) Time of payment is of the essence under this contract. Upon default by BUYER in any of the terms of this contract, or failure to comply with any of the conditions hereof, or upon seizure of the property under execution or other legal process, or if BUYER becomes bankrupt or insolvent, or any petition for reorganization or for a state court receivership is filed against BUYER, or if the BUYER makes any assignment for the benefit of his creditors or otherwise sells, encumbers or disposes of the merchandise, or if for any other reason the SELLER should deem itself insecure, the full amount of the purchase price then remaining unpaid shall at once become due and payable at the option of the SELLER. Then, at its option, SELLER may take possession of any goods theretofore sold to BUYER, in connection with which the full purchase price has not been paid, analogous to the terms and provisions set forth herein.

(b) TERMS OF PAYMENT - All orders are subject to credit approval by the SELLER. Payment terms are as stated in SELLER's quotation. Retainage if required by OWNER shall be no more than 5% of the purchase price. Retainage shall be released and paid in full no later than 120 days after satisfactory start up of the SELLER's equipment. All shipments, including partial shipments, will be billed a pro rata amount as of date shipped. If the account remains unpaid after sixty (60) days, interest at the rate of 1-1/2% per month (18% per annum) will be added to the outstanding balance computed from date of shipment. All costs of collection will be added to the outstanding balance including legal fees and court costs. Acceptance of partial payments on account does not constitute any change in the payment terms and conditions herein and is not to be considered to extend the due date for payment.

7. SECURITY INTEREST AND TITLE

In states and localities which are governed by the Uniform Commercial Code, this contract shall serve as the security agreement, reserving in SELLER a security interest until full payment of purchase price. The provisions of the Uniform Commercial Code regarding security interest shall have preference and apply if inconsistent with other terms of the conditions of sale herein. In states and localities where the Uniform Commercial Code does not apply, title to the merchandise shall remain in the SELLER or its assigns until full payment of the purchase price. BUYER agrees to execute forthwith any and all documents in such form as SELLER may require for filing or recording the security interest under the Uniform Commercial Code with the proper registers or offices, or for filing or recording the conditional sales contract.

8. VARIATIONS IN DUTIES AND TAXES & RATE OF EXCHANGE

The prices on the products specified are exclusive of all city, state or federal taxes. BUYER shall bear any increases, after the date of this contract, in or any new imposition of duties, levies or taxes relating to the product sold hereunder. Unless a Sales Tax Exemption Certificate is provided, SELLER will invoice for the New Jersey Sales Tax on all items sold in New Jersey. SELLER is not authorized to collect sales tax for any other jurisdiction.

9. MODIFICATIONS AND CANCELLATION

The parties may agree to modify project plans or specifications provided BUYER pays SELLER for engineering time, materials costs, and other expenses relating to the requested modification. An order, once placed with and accepted by SELLER can be canceled only with SELLER's consent and upon terms that will indemnify SELLER against loss.

FRANKLIN MILLER INC.

TERMS AND CONDITIONS DATED 5/30/2019

10. STOP WORK ORDER OR DELAY:

If an engineering approval, release to manufacturer, shipment or work on any part of this contract is held or delayed by BUYER for greater than 120 days from the date of contract, SELLER is entitled to an increase in contract price to cover cost escalations caused by such delay.

11. MISCELLANEOUS PROVISIONS

(a) If for any reason a provision of the contract is legally invalid, then in such event the rest of the contract shall remain in full force and effect; (b) Any amendment to any contract or contracts shall require the consent in writing of both parties; and (c) The within terms shall govern in any instance where they conflict with the provisions of any forms used by BUYER.

12. BUYER'S RESPONSIBILITY AS TO MAINTENANCE

BUYER shall use and shall require its employees and agents to use all safety devices and guard safe operating procedures and shall maintain the same in proper working order. Further, BUYER shall obey and have its employees, subcontractors and agents obey safety instructions given by SELLER. BUYER agrees to indemnify and save SELLER harmless from any liability or obligation with respect to any personal injuries or property damage directly or indirectly connected with the operation of the equipment. BUYER agrees to notify SELLER promptly and in any event not less than ten (10) days after notice or knowledge of any accident or malfunction involving SELLER's equipment which has caused personal injury or property damages and to cooperate fully with SELLER in investigating and determining the causes of such accident.

13. REPAIR OBLIGATION FOR CONTAMINATED EQUIPMENT

Nothing herein shall be deemed to require SELLER to accept equipment for repair, modification or alteration unless the units have first been cleaned and decontaminated.

14. NOISE LEVEL REQUIREMENTS

Although SELLER's machines have been designed to satisfy the general requirements of BUYER's specifications, SELLER cannot represent or certify that they satisfy the noise level requirements for a specific application, location or operation since these circumstances are unknown to SELLER and are beyond SELLER's control and because of the general nature of size reduction equipment. If required to test for this noise level requirement, testing will be with no product fed to the machine and FMI will provide a quotation for each test to be performed. If corrections are required after completion of the tests, the costs for these modifications will be negotiated.

15. OSHA CONDITIONS

Although SELLER's machines and guards have been designed to satisfy the general intentions of OSHA requirements, SELLER cannot present or certify that they satisfy the requirements of OSHA for a specific application, location, or operation since these circumstances are unknown to SELLER and are beyond SELLER's control. The SELLER shall not be liable for any costs of compliance or other costs or fines resulting from non-compliance with any OSHA requirement.

16. DOCUMENTS REQUIRED

Prices quoted include the required number of manuals set forth in the specifications. If not stated, SELLER shall provide its standard Operations and Maintenance Manuals. Any additional manuals are not included in the quoted price and shall be charged to BUYER.

17. PATENT AND LICENSE & LIABILITY INDEMNIFICATION

BUYER agrees to indemnify SELLER, its agents, successors and assigns against any loss, damage and liability, including costs and expenses arising out of any claim against SELLER for actual or alleged infringement on any patent, copyright or trademark arising out of the use or sale by BUYER, its agents, servants, employees or customers of the product provided by SELLER, as used by BUYER, in conjunction with any other equipment, product or system. BUYER agrees to indemnify SELLER, its agents, successors and assigns against any loss, damage and liability, including costs and expenses arising out of any claim against SELLER for actual or "Bodily injury" or "property damage" arising from the actual, alleged or threatened discharge, dispersal, release or escape of pollutants from any source whatsoever. "Pollutants" means any solid, liquid, gaseous or thermal irritant or

contaminant, including smoke, vapor, soot, fumes, acids, alkalis, chemicals and waste. Waste includes materials to be recycled, reconditioned or reclaimed.

18. TRADEMARKS AND COPYRIGHTS

BUYER acknowledges that it has no right, title or interest in the trademarks or copyrights in the products, and BUYER covenants that it will take no action to register or otherwise interfere with such rights.

19. INDEPENDENT CONTRACTORS

SELLER and BUYER are independent contractors. BUYER is not authorized to and shall not make any representations on behalf of which are binding upon SELLER.

20. NON-ASSIGNMENT BY BUYER

Contract or contracts may not be assigned by the BUYER without prior written consent of the SELLER.

21. APPLICABLE LAW

Any contracts herein are governed by the applicable laws of the State of New Jersey.

22. BUYER APPROVALS

If BUYER approval is required of the SELLER's submittals, specifications and/or operating instructions submissions, upon receipt of such approval, the approved documents shall supersede the BUYER's description of requirements on this purchase order and the description on the SELLER's original proposal. SELLER will provide equipment, spares and data in accordance with the approved submittals.

23. STANDARD PRODUCTS

All of SELLER's machines are built to best commercial practices and as part of its standard product line, which may be modified to meet BUYER's specifications. However, no manufacturing drawings or procedures, formal inspection plans, schedules, progress reports, welding procedures, quality control plans, or sub-supplier information, will be supplied. Erection, safety, operation and maintenance instructions are contained in SELLER's manual to be supplied with the machines.

24. SIZES AND DIMENSIONS

The samples, measurements, dimensions and weights contained in the SELLER's catalogs, sales manuals, photographs and drawings constitute only an approximate guide. The SELLER reserves the right to make any changes which the SELLER, in its absolute discretion, considers necessary.

25. ARBITRATION

Actions by the SELLER for nonpayment by the BUYER of the undisputed purchase price of goods sold by the SELLER, or for redress for other undisputed breaches by the purchaser of the contract of sale, may be brought by the SELLER before any judicial court of competent jurisdiction without need for prior arbitration. All other disputes, controversies, or claims arising out of or relating to this agreement or the performance or breach thereof shall be settled by arbitration by an arbitrator mutually agreeable to be held in the County of Essex, State of New Jersey in accordance with the rules and procedure then obtaining of the American Arbitration Association.

26. FORUM.

ALL JUDICIAL PROCEEDING AND/OR ARBITRATION BROUGHT AGAINST BORROWER ARISING OUT OF OR RELATING TO THIS NOTE MAY BE BROUGHT IN ANY STATE OR FEDERAL COURT OF COMPETENT JURISDICTION IN THE STATE OF NEW JERSEY, AND BY EXECUTION AND DELIVERY OF THIS AGREEMENT BUYER ACCEPTS FOR ITSELF AND IN CONNECTION WITH ITS PROPERTIES, GENERALLY AND UNCONDITIONALLY, THE JURISDICTION OF THE AFORESAID COURTS AND FORUM FOR ARBITRATION AND WAIVES ANY DEFENSE OF FORUM NON CONVENIENS AND IRREVOCABLY AGREES TO BE BOUND BY ANY JUDGMENT RENDERED THEREBY IN CONNECTION WITH THIS AGREEMENT. BUYER hereby agrees that service of process sufficient for personal jurisdiction in any action against BUYER in the State of New Jersey may be made by registered or certified mail, return receipt requested, to BUYER at its address as provided by BUYER. BUYER hereby acknowledges that such service shall be effective and binding in every respect.