

OMNEKY SERVICES AGREEMENT - EULA

This Services Agreement (“Agreement”) by and between Omneky, Inc. (“Omneky”, “us”, or “Company”) and the Company, Organization or Entity indicated on the signature block below (“You,” or “Customer”) governs your access to Omneky’s personalized ad design and analytic services as further described on Exhibit A or via selections on Omneky’s platform (the “Services”). BY EXECUTING THIS AGREEMENT, REGISTERING FOR OR USING AN ACCOUNT (“ACCOUNT”) AND/OR BY ACCESSING THE SERVICES, YOU AGREE TO THE FOLLOWING TERMS AND CONDITIONS OF THIS SERVICES AGREEMENT ON BEHALF OF YOURSELF AND THE COMPANY OR ORGANIZATION IDENTIFIED AS THE CUSTOMER IN THE OMNEKY PORTAL. YOU FURTHER AGREE THAT SUCH CUSTOMER WILL BE RESPONSIBLE FOR THE ACTS AND OMISSIONS OF ANY INDIVIDUALS OR OTHER USERS WHO REGISTER FOR, ACCESS OR USE THE SERVICES THROUGH YOUR ACCOUNT. IF YOU AND/OR CUSTOMER DOES NOT AGREE TO ALL OF THE TERMS OF THIS AGREEMENT, DO NOT EXECUTE THIS AGREEMENT AND DO NOT ACCESS THE SERVICES. You will provide accurate, current and complete information (including about Customer and Customer’s users) in any registration or other Account related forms on the Omneky Platform accessed at www.omneky.com (the “Platform”) and agree to maintain the security of your username(s) and password(s). YOU UNDERSTAND THAT ANY PERSON WITH YOUR USERNAME(S) AND PASSWORD(S) MAY BE ABLE TO ACCESS YOUR ACCOUNT (INCLUDING CUSTOMER INFORMATION AND OTHER CUSTOMER DATA. YOU ACCEPT ALL RISKS OF UNAUTHORIZED ACCESS TO YOUR ACCOUNT BASED ON THE SHARING OR LOSS OF A USERNAME AND PASSWORD. You will promptly notify Omneky if you discover or otherwise suspect any security breaches related to your account or the Services, including any unauthorized use or disclosure of a username or password. Omneky may update this Agreement at any time and will notify you of such changes. By continuing to use the Services or accessing the Platform after the changes become effective, you agree to the new terms. If you do not agree to the new terms, you must cease your use of the Services and terminate this Agreement in the accordance with the terms below.

1. Services

1.1. Service Tiers.

Omneky will provide the Services which correspond with the service level tier as described on Exhibit A or otherwise selected by Customer via the Platform.

1.2. Platform License Grant.

Platform License Grant. Subject to the terms and conditions of this Agreement, Omneky grants Customer a non-transferable, nonexclusive right, during the Term to use the Platform and to access the Services for its internal use only.

1.3. Restrictions.

Customer will use the Services and access the Platform in accordance with any documentation or instructions supplied by Omneky. Except as specifically provided herein, Customer will not modify or copy the Services any portion thereof and shall not demonstrate, market, reuse, copy, modify, translate or create derivative works of the Services or any portion thereof, rent, sell, lease, transfer or otherwise make available the Services or any portion thereof, or use it or any portion thereof for the benefit of a third party. Customer shall not disassemble, de-compile, reverse assemble, reverse compile or reverse engineer the Services or any portion thereof, or otherwise attempt to discover any source code or underlying proprietary information. Customer shall not use any information in any way related to or acquired by use of the Services for the prospective economic advantage of any third party.

1.4. Service Level Terms:

The Services shall be available 99.9%, measured monthly, excluding scheduled maintenance. Further, any downtime resulting from outages of third-party connections or utilities or other reasons beyond Company's control will also be excluded from any such calculation. Customer's sole and exclusive remedy, and Company's entire liability, in connection with Service availability shall be that for each period of downtime, Company will credit Customer 5% of Service fees for each period of 15 or more consecutive minutes of downtime, provided that no more than one such credit will accrue per day.

Downtime shall begin to accrue as soon as Customer (with notice to Company) recognizes that downtime is taking place and continues until the availability of the Services is restored. In order to receive downtime credit, Customer must notify Company within 24 hours from the time of downtime, and failure to provide such notice will forfeit the right to receive downtime credit. Such credits may not be redeemed for cash and shall not be cumulative beyond a total of credits for one (1) week of Service Fees in any one (1) calendar month in any event. Company will only apply a credit to the month in which the incident occurred. Company's blocking of data communications or other Service in accordance with its policies shall not be deemed to be a failure of Company to provide adequate service levels under this Agreement.

Support Terms:

Company will assign a Customer Success Representative who will be introduced during onboarding and will be available during business hours. Omneky will provide an agreed upon cadence for 1 on 1 meetings that will be determined during onboarding that works for both teams. An escalation contact will be provided.

1.5. Campaign Management.

If requested by Customer, and applicable to a Customer's selected Services Tier, Omneky will provide campaign management services at the direction of Customer. Such services will be rendered through Customer's own ad accounts to which Omneky will be provided access. Any such access credentials shall be considered Confidential Information of Customer. Omneky will not be liable for any third-party expenses incurred in rendering campaign management services for Customer.

1.6 AI Tools.

1.6.1 Certain features of the Services use artificial intelligence models, tools, and other technology (collectively, "**AI Tools**") to generate suggested text, information, results, images, and other materials (collectively, "**Output**") in response to Customer Materials (defined below) that you submit to the Services ("**Input**"). Both Input and Output are considered Customer Materials under these Terms, and as between you and Company, you own all right, title, and interest in and to any Input and Output, to the extent protectable under applicable law. The AI Tools may include artificial intelligence and other tools and technologies provided by third parties, and you acknowledge and agree that (A) your use of the AI Tools may involve access to your Inputs and Outputs by Company and/or such third parties and that such access may be occur pursuant to agreements you enter into with those third parties, rather than or in addition to these Terms, (B) such tools and technologies are Third-Party Services and the providers thereof are Third-Party Service Providers and, as such, are subject to the terms and disclaimers in Section 7, and (C) you consent and authorize Company to share any information you provide it with such third parties. Without limiting the foregoing, you acknowledge and agree that the Services currently use, among other Third-Party Services, OpenAI and you agree to be bound by OpenAI's usage policies available at <https://openai.com/policies/usage-policies/>.

- 1.6.2** You understand that due to the nature of the AI Tools, Output you generate may not be unique, and it is possible that the AI Tools may generate the same or similar Output for other users if the Inputs are similar. You acknowledge that the use of such AI Tools may affect your ability to obtain or enforce any intellectual property rights in or to the Output.
- 1.6.3** YOU ACKNOWLEDGE THAT ARTIFICIAL INTELLIGENCE AND MACHINE LEARNING TECHNOLOGIES ARE RAPIDLY EVOLVING AND MAY PRODUCE OUTPUT THAT IS INACCURATE, UNRELIABLE, INAPPROPRIATE, INFRINGING, OR OTHERWISE UNSUITABLE OR THAT DOES NOT MEET YOUR EXPECTATIONS.
- 1.6.4** Without limiting the other restrictions or provisions of these Terms, you agree not to use the AI Tools or resulting Output in a manner that may infringe upon or violate the rights of any third party or violate any applicable laws, rules, or regulations, and you acknowledge and agree that (A) you are solely responsible for vetting and evaluating the accuracy, appropriateness, legality, and suitability for your use of any Output before using it, including evaluating whether such use will infringe upon or violate the rights of others, (B) you assume all risk associated with your use of the AI Tools and the resulting Output, and (C) Company will have no liability for such use.
- 1.6.5** Omneky will only use and share your Input, Output or other Customer Materials as necessary to provide the Services to you. You will have the ability to choose via the Platform which Third-Party Servicers or AI Tools that you utilize, as well as the extent of such use. Omneky will not use your Input, Output, or other Customer Materials to train, improve or develop its Services. However, you acknowledge and agree that any Third-Party Service Providers or AI Tools that are selected by you will receive your Input, Output and/or other Customer Materials as needed for the provision of such Third-Party Services, and they may use your Input, Output or and/or other Customer Materials as set forth in their applicable terms and conditions, including, if applicable, to potentially train, improve or develop such technologies in accordance with their terms. If you do not wish to allow such usage, you may select Third-Party Services or AI Tools that do not engage in such use, and work with Omneky to modify your usage of the Platform or Services.

2. Fees and Payment

2.1. Fees.

Customer will pay Company the then applicable fees for the selected Services Tier as described in Exhibit A or on the Platform (the "Fees.") The Fees include a standard monthly fee (the "Subscription Fee") and a percentage of monthly ad spend as set forth herein and/or in Exhibit A or otherwise on the Platform (the "Overage Percentage Fee"). The Monthly Subscription Fee shall be paid monthly. The Overage Percentage Fee will be billed monthly through an invoice and will consist of a certain percentage of ad spend spent for the previous month after specified threshold amounts of ad spend, less actual refunds and credits (including the Subscription Fee, which functions as a base retainer). The Overage Percentage Fee percentages and thresholds vary depending on the Service Tier, and are set forth in Exhibit A or on the Platform. For clarity, the Subscription Fee shall function as a base retainer, and any overages in addition to the amount of such retainer shall be charged as part of the invoiced Overage Percentage Fee. Omneky reserves the right to change the Fees or applicable charges and to institute new charges and Fees at the end of the Initial Term (as defined below) or the current renewal term, upon thirty (30) days prior notice to Customer (which may be sent by email). If Customer believes that Company has billed Customer incorrectly, Customer must contact Company no later than 60 days after the closing date on the first billing statement in which the error or problem appeared, in order to receive an

adjustment or credit. Inquiries should be directed to Company's customer support department by emailing hi@omneky.com.

2.2. Payment.

Company may choose to bill through an invoice, in which case, full payment for invoices issued in any given month must be received by Company thirty (30) days after the mailing date of the invoice. Unpaid amounts are subject to a finance charge of 1.5% per month on any outstanding balance, or the maximum permitted by law, whichever is lower, plus all expenses of collection and may result in immediate of Service ("Late Fees"). You agree that Omneky may bill your credit card or other payment method for renewals, Late Fees and unpaid Fees, as applicable.

2.3. Taxes.

Each party is responsible for identifying and paying all taxes and other governmental fees and charges that are imposed on that party by applicable law with respect to the transactions and payments under this Agreement.

3. Term and Termination

3.1. Term.

Annual contract with 30-day cancellation period.

3.2. Termination.

In addition to any other remedies it may have, either party may also terminate this Agreement, in the event the other party materially breaches the terms of this Agreement, immediately. Omneky may terminate this Agreement immediately without notice in the event of nonpayment more than 14 working days after providing written notice to Customer of the overdue balance.

3.3. Effect of Termination.

Upon termination, Omneky will return or, at Customer's election, destroy all Customer Materials in its possession. All sections of this Agreement which by their nature should survive termination will survive termination, including, without limitation, accrued rights to payment, confidentiality obligations, warranty disclaimers, indemnification obligations and limitations of liability.

4. Intellectual Property

4.1 Customer Materials.

As between the parties, and to the extent permitted by applicable law, Customer shall retain ownership of all materials, any content, trademarks, copyrights and logos provided to Omneky by or on behalf of Customer to facilitate the provision of the Services ("Customer Materials"). Customer hereby grants Omneky a royalty free, worldwide, sublicensable right to use, display, copy and reproduce all Customer Materials to perform the Services. Omneky shall not be responsible for any fines, judgments, losses or other damages caused by Omneky's use of the Customer Materials as directed by Customer in any campaign or advertisement produced in provision of the Services. Customer agrees that additional terms may apply with respect to Third-Party Services.

4.2. Work Product.

As between the parties, and to the extent permitted by applicable law, Customer shall own all right, title and interest in and to all work product created by Customer through Customer's use of the Services, or otherwise created by Omneky as specifically for or on behalf of Customer by Omneky under this Agreement, including without limitation any advertisements and creatives (collectively, the "Work Product"). Work Product is not part of and is distinct from the Platform. Omneky hereby assigns to Customer all of its right, title and interest, if any, to the Work Product.

4.3 Data Security.

Omneky is SOC2 Certified and will maintain a security program materially in accordance with industry standards that is designed to (i) ensure the security and integrity of Customer data

uploaded by or on behalf of Customer to the Platform (“Customer Data”); (ii) protect against threats or hazards to the security or integrity of Customer Data; and (iii) prevent unauthorized access to Customer Data. Omneky shall promptly notify Customer of any breach of the security and integrity of its system, including any unauthorized access, virus, or malware of which it becomes aware.

4.4. Services and Platform.

Omneky is the owner of the Services and Platform, including any templates created by Omneky.

5. Confidentiality

5.1. Confidential Information.

Each party (the “Receiving Party”) understands that the other party (the “Disclosing Party”) has disclosed or may disclose business, technical or financial information relating to the Disclosing Party’s business (hereinafter referred to as “Proprietary Information” of the Disclosing Party). The Receiving Party agrees: (i) to take strict precautions to protect such Proprietary Information, and (ii) not to use (except in performance of the Services or as otherwise permitted herein) or divulge to any third person any such Proprietary Information. The Disclosing Party agrees that the foregoing will not apply with respect to any information that the Receiving Party can document (a) is or becomes generally available to the public, or (b) was in its possession or known by it prior to receipt from the Disclosing Party, as can be evidenced by appropriate written documentation, or (c) was rightfully disclosed to it without restriction by a third party, or (d) was independently developed without use of any Proprietary Information of the Disclosing Party, as can be evidenced by appropriate written documentation. Each party may also disclose Proprietary Information in response to a valid order of a court or other governmental body or as otherwise required by law to be disclosed; provided that, the responding Party gives sufficient notice to the disclosing party to enable the disclosing party to take protective measures, and/or in any event only disclose the exact Proprietary Information, or portion thereof, specifically requested.

6. Publicity; Non-Solicitation

6.1. Publicity.

Omneky may publicly identify Customer in any public announcement, press release, promotional, or other material and may use any names, URLs, domain names, trademarks, service marks, logos, slogans or other words or phrases identifying Customer (“Customer Identifiers”) on its website and in any promotional or other materials including a published case study with Customer’s written consent (a “Omneky Marketing Use.”)

6.2 Non-Solicitation,

Each Party agrees not to interfere in any employment relationships between the other Party and its employees. Each Party agrees that during the term of this Agreement and for one (1) year after the termination of this Agreement not to hire, solicit or otherwise engage any employee of the other Party whether as an employee or independent contractor. The Parties further agree not to solicit or encourage any employee of the other Party to terminate, alter or modify their employment with the other Party. The provisions of this Section 6 shall not apply with respect to a Party’s employees who seek employment from the other Party on their own initiative, such as, but not limited to, in response to a general solicitation, announcement or advertisement for employment with such Party.

7. Third-Party Services.

7.1. Third-Party Services.

The Services rely on, interoperate with, or otherwise utilize or leverage third-party products or services (such services, "**Third-Party Services**" and the providers of such Third-Party Services, "**Third-Party Service Providers**"). These Third-Party Services are beyond our control, but their operation may impact, or be impacted by, the use and reliability of the Services. You acknowledge that (i) the use and availability of the Services is dependent on Third-Party Service Providers and (ii) these Third-Party Services may not operate reliably 100% of the time, which may impact the way that the Services operate. Company does not make any warranties or guarantees with respect to Third-Party Services, including, without limitation, the performance or continued availability of Third-Party Services and Company may (either itself or as required by the Third-Party Service Provider) limit or cease providing interoperation with any or all Third-Party Services (and, as a consequence, certain or all features of the Services may be limited or ceased) without entitling you to any refund, credit, or other compensation if, for example and without limitation, the Third-Party Service Provider ceases to make the Third-Party Service available for interoperation or use with the Services in a manner acceptable to us. COMPANY WILL NOT BE LIABLE FOR, AND COMPANY EXPRESSLY DISCLAIMS, ANY LIABILITY FOR LOSSES, COSTS, OR EXPENSES TO THE EXTENT CAUSED BY ANY THIRD-PARTY SERVICES OR THIRD-PARTY SERVICE PROVIDERS OR FOR YOUR COMPLIANCE (OR NON-COMPLIANCE) WITH ANY APPLICABLE THIRD-PARTY TERMS (as defined below), EACH OF WHICH ARE YOUR EXCLUSIVE RESPONSIBILITY AND LIABILITY.

7.2 Additional Terms.

Your access to and use of the Services may subject you to additional terms, conditions, and policies applicable to Third-Party Services (including terms of service or privacy policies of the applicable Third-Party Service Providers) ("**Third-Party Terms**"). You are responsible for complying with all Third-Party Terms and Company is not, and will not be deemed to be, a party to any Third-Party Terms, all of which are exclusively between you and the applicable Third-Party Service Provider(s). Additionally, you are responsible for obtaining and maintaining any computer hardware, equipment, network services and connectivity, telecommunications services, and other products and services necessary to access and use the Services.

8. Representations and Warranties

8.1. Representation and Warranties.

Each Party represents and warrants that (a) it has the full power and authority to enter into this Agreement; (b) this Agreement has been executed by a duly authorized representative of such Party and contains the valid and binding obligations and agreements of such Party, enforceable against such Party, in accordance with all of the terms contained herein, subject to applicable bankruptcy, insolvency, reorganization and other laws of general applicability relating to or affecting creditors' rights; (c) all obligations to be performed hereunder will be performed with all reasonable care, skill and diligence; (d) it has all necessary and appropriate rights to fulfill its obligations hereunder; (e) it will comply with all applicable laws and regulations of any jurisdiction in which the Party acts; and (f) its employees and agents will use reasonable efforts to comply with all applicable policies and standards of the other Party related to the applicable Services.

8.2. Disclaimer of Warranty.

EXCEPT AS SET FORTH IN THIS SECTION 7 (REPRESENTATIONS AND WARRANTIES), THE SERVICES AND THE DELIVERABLES ARE PROVIDED "AS IS." TO THE MAXIMUM EXTENT PERMITTED BY LAW, OMNEKY DISCLAIMS ANY AND ALL OTHER WARRANTIES, WHETHER EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, ANY IMPLIED WARRANTIES OF MERCHANTABILITY, OR

FITNESS FOR A PARTICULAR PURPOSE, WHETHER ARISING BY A COURSE OF DEALING, USAGE OR TRADE PRACTICE OR COURSE OF PERFORMANCE

9. Indemnification

9.1. Indemnification:

Customer shall indemnify, defend, and hold Omneky harmless from and against all liability, demands, claims, suits, causes of action, proceedings, costs, losses, damages, recoveries, settlements, assessments, fines, penalties, and expenses (including interest, attorney fees, accounting fees, expert fees) ("Claims") arising from (a) any third party claim that Customer Materials infringe a third party's intellectual property or publicity rights except to the extent such Claim is solely related to alterations of the Customer Materials made by Omneky without Customer's prior approval or not at Customer's direction, or (b) Customer's breach of applicable law or regulation, gross negligence or willful misconduct.

9.3. Indemnification Procedure.

The indemnities in this Section 9 are contingent upon: (a) Omneky promptly notifying Customer in writing of any claim which may give rise to a claim for indemnification hereunder; (b) Customer being allowed to control the defense and settlement of such claim, provided that Customer shall not make any settlement of any claims that may give rise to liability of Omneky without the prior written consent of Omneky; and (c) Omneky cooperating with all reasonable requests of Customer (at Customer's expense) in defending or settling a claim. Omneky will have the right, at its option and expense, to participate in the defense of any suit or proceeding through a counsel of its own choosing.

9.4 Insurance.

Omneky shall carry industry standard insurance for the term of the Agreement.

10. Limitation of Liability

IN NO EVENT WILL EITHER PARTY BE LIABLE TO THE OTHER PARTY FOR ANY CONSEQUENTIAL, SPECIAL, INCIDENTAL, PUNITIVE OR INDIRECT LOSS, DAMAGE OR EXPENSE, WHETHER BASED ON BREACH OF CONTRACT, TORT (INCLUDING NEGLIGENCE), OR ANY OTHER LEGAL THEORY EVEN IF IT HAS BEEN ADVISED OF THEIR POSSIBLE EXISTENCE. THE MAXIMUM LIABILITY OF OMNEKY ARISING OUT OF OR IN ANY WAY CONNECTED TO THIS AGREEMENT (REGARDLESS OF FORM OF ACTION, WHETHER IN CONTRACT, NEGLIGENCE OR OTHERWISE) WILL BE LIMITED TO THE FEES PAID OR PAYABLE BY CUSTOMER TO OMNEKY DURING THE TWELVE (12) MONTH PERIOD IMMEDIATELY PRECEDING THE EVENT GIVING RISE TO THE CLAIM.

11. Notices

Any notices or communications regarding this Agreement from one Party to the other shall be in writing and will be effective when (a) personally hand-delivered to the Party for whom intended (b) upon confirmation of receipt when sent by overnight courier, signature requested; (c) after five (5) days following deposit of the same into the United States mail (certified mail, postage prepaid and return receipt requested) when addressed to such other Party at the address specified in the opening paragraph or such other address as either Party may from time to time designate in writing to the other Party, or (d) upon confirmation of receipt by email.

12. General Provisions

12.1. Force Majeure.

In the event that either Party is prevented from performing, or is unable to perform, any of its obligations under this Agreement due to any cause beyond the reasonable control of the Party

invoking this provision, including but not limited to acts of god, acts of war or breaches of the peace, acts of terrorism or threatened acts of terrorism, riots, civil disturbances, labor disturbances, strikes, lockouts, failure of a telecommunications or power carrier to provide adequate service, inadequacy or failure of a carrier or shipper, governmental regulations or interference, or any similar or dissimilar causes beyond the reasonable control of a party, the Party affected in its performance will be excused and the time for performance will be extended for the period of delay or inability to perform due to such occurrence. However, should the affected Party's inability to perform continue for a period of thirty (30) days or more, the other Party may terminate this Agreement by providing ten (10) days' prior written notice to the affected Party.

12.2. Waiver and Severability.

The waiver by either Party of a breach or a default of any provision of this Agreement by the other Party will not be construed as a waiver of any succeeding breach of the same or any other provision, nor will any delay or omission on the part of either Party to exercise or avail itself of any right, power or privilege that it has, or may have hereunder, operate as a waiver of any right, power or privilege by such Party. The rights and remedies of the parties set forth in this Agreement are in addition to any rights or remedies the parties may otherwise have at law or equity. If any term or provision of this Agreement shall be found by a mediator, arbitrator, or court of competent jurisdiction to be invalid, illegal or otherwise unenforceable, the same will not affect the other terms or provisions hereof or the whole of this Agreement, but such provision will be deemed modified to the extent necessary in the court's opinion to render such term or provision enforceable, and the rights and obligations of the Parties will be construed and enforced accordingly, preserving to the fullest extent possible the intent and agreements of the Parties set forth herein.

12.3. Assignment.

This Agreement, and the rights and obligations hereunder, may not be assigned, transferred and/or delegated in whole or in part by either Party, except to a successor to the whole of either Party's business in a change of control event, without the prior written consent of the other Party. In the case of any permitted assignment or transfer of or under this Agreement, this Agreement or the relevant provisions will be binding upon, and inure to the benefit of, the successors, executors, heirs, representatives, administrators and assigns of the Parties hereto.

12.4. Entire Agreement.

This Agreement and the Order Form (if any) constitute the entire and final agreement between the Parties with regard to the subject matter hereof. No waiver, consent, modification or change of terms of this Agreement will bind either Party unless agreed upon in writing and signed by both Parties, and then such waiver, consent, modification or change will be effective only in the specific instance and for the specific purpose given.

12.5. Governing Law; Arbitration.

This Agreement and any claim or dispute arising out of, relating to or in connection with this Agreement shall be governed by and construed in accordance with the laws of the State of California without giving effect to its conflicts of law principles. Both parties undertake to mediate at least once in order to resolve a dispute. ANY CLAIM OR CONTROVERSY ARISING OUT OF OR IN ANY WAY RELATING TO THIS AGREEMENT OR ANY BREACH THEREOF BETWEEN THE PARTIES SHALL BE SUBMITTED TO FINAL AND BINDING ARBITRATION BEFORE BY THE AMERICAN ARBITRATION ASSOCIATION UNDER ITS COMMERCIAL ARBITRATION RULES, AS AMENDED BY THIS AGREEMENT. THE ARBITRATOR WILL CONDUCT HEARINGS, IF ANY, BY TELECONFERENCE OR VIDEOCONFERENCE, RATHER THAN BY PERSONAL APPEARANCES, UNLESS THE ARBITRATOR DETERMINES UPON REQUEST BY YOU OR BY US THAT AN IN-PERSON HEARING IS APPROPRIATE. THE ARBITRATOR'S DECISION WILL FOLLOW THE TERMS OF THIS AGREEMENT AND WILL BE

FINAL AND BINDING. THE ARBITRATOR WILL HAVE AUTHORITY TO AWARD TEMPORARY, INTERIM OR PERMANENT INJUNCTIVE RELIEF OR RELIEF PROVIDING FOR SPECIFIC PERFORMANCE OF THIS AGREEMENT, BUT ONLY TO THE EXTENT NECESSARY TO PROVIDE RELIEF WARRANTED BY THE INDIVIDUAL CLAIM BEFORE THE ARBITRATOR. THE AWARD RENDERED BY THE ARBITRATOR MAY BE CONFIRMED AND ENFORCED IN ANY COURT HAVING JURISDICTION THEREOF AND THE PARTIES EXPRESSLY AGREE TO SUBMIT TO THE JURISDICTION OF SUCH COURT FOR SUCH A PURPOSE. THE PARTIES UNDERSTAND THAT BY AGREEMENT TO BINDING ARBITRATION THEY ARE GIVING UP THE RIGHTS THEY MAY OTHERWISE HAVE TO TRIAL BY A COURT OR A JURY AND ALL RIGHTS OF APPEAL, AND TO AN AWARD OF PUNITIVE OR EXEMPLARY DAMAGES.

12.6. Independent Contractor Status of the Parties.

The Parties and their respective personnel are and shall continue to be independent contractors with respect to each other. By virtue of this Agreement, neither party or its personnel, agents and/or contractors shall become, and under no circumstances shall be construed as being, an employee, agent, joint venture, partner or affiliate of the other Party or as standing in any relationship with respect to the other Party that would impose liability on the other Party for the actions or omissions of such Party, its personnel or its contractors.