E-COMMERCE AGREEMENT

THIS E-COMMERCE AGREEMENT ("Agreement") is entered into as of March 22, 2000 (the "Effective Date") by and between EQUIPP.COM, INC. ("EQUIPP"), a Delaware corporation, located at 9920 Pacific Heights Blvd., #225, San Diego, CA 92121 and the AMERICAN MACHINE TOOL DISTRIBUTORS' ASSOCIATION ("AMTDA"), a non-profit trade association, located at 1445 Research Blvd., #450, Rockville, MD 20850.

BACKGROUND

EQUIPP operates the web site located at www.EQUIPP.com ("EQUIPP Site"). The EQUIPP Site provides a secured marketplace that connects buyers and sellers of new and used machine tools and accessories. AMTDA is a trade association dedicated to advancing the marketing of machine tools in the United States through distribution and has over 500 members. AMTDA and EQUIPP desire to form a strategic relationship whereby the Parties will establish an exclusive trade-in system, a used machine tool market price report and a Value Added Service program. Through this arrangement, EQUIPP wishes to provide financial support for AMTDA and new revenue opportunities for AMTDA Members, including developing and supporting new e-commerce programs.

AGREEMENT

NOW, THEREFORE, in consideration of the above and the mutual promises set forth in this Agreement, the Parties hereto agree as follows:

1. DEFINITIONS.

In addition to the definitions identified in the preceding paragraphs, and unless otherwise defined in this Agreement, defined terms used throughout this Agreement are defined below:

1.1 "AMTDA Member" or "Member" means individuals or entities that are registered Members of AMTDA.

1.2 "AMTDA Member Customer" means any customer of an AMTDA Member.

1.3 "EQUIPP.com Escrow" means the escrow account service provided by EQUIPP and utilized for transactions on the EQUIPP Site.

1.4 "Site" means a Home Page and the Pages associated with such Home Page as a unified Site that are accessible through the use of the Internet at a single URL.

1.5 "Term" means the Initial Term and any subsequent renewal term (if this Agreement has been renewed) and any additional period of time for which this Agreement has been extended by the mutual agreement of the Parties.
1.6 "Trade-In Program" means the program established by the Parties through which Members can sell used machine tools via the EQUIPP Site using various Trade-In options.

1.7 "User" means a user of the specified Site or service.

1.8 "Value Added Services" or "VAS" means the services program established by the Parties granting benefits to AMTDA Members and their Customers.

2. DUTIES AND RESPONSIBILITIES.

2.1 AMTDA Marketing Commitment.

(a) AMTDA shall use commercially reasonable efforts to actively promote the EQUIPP Site and related services to AMTDA’s existing and future Members. AMTDA shall include information about AMTDA’s relationship with EQUIPP in presentations to prospective Members, and identify the relationship and the EQUIPP Site as value-added features of AMTDA membership.

(b) AMTDA shall promote the Trade-in and Value Added Services Programs Programs ("VAS") to its Members and encourage their participation.

(c) AMTDA shall accept EQUIPP advertising in its Member directory at a twenty percent (20%) discount from its usual rates. EQUIPP shall have the right of first refusal over other advertisers for advertisement position placement with the exception of placement for the inside back cover. For the inside back cover advertisement, EQUIPP will receive secondary consideration.

(d) AMTDA will accept EQUIPP as a marketing associate member if and when the AMTDA by-laws are changed to permit membership. All the usual obligations and rights that AMTDA provides to marketing associate members will be extended to EQUIPP.

(e) AMTDA will share its Internet database with EQUIPP to allow direct promotion of the Trade-In and VAS Programs.

2.2 EQUIPP Marketing Commitment. EQUIPP shall use commercially reasonable efforts to actively promote the AMTDA relationship.

(a) EQUIPP will promote AMTDA by branding all Member-listed equipment and services with the AMTDA logo, subject to AMTDA approval.

(b) EQUIPP will conduct seminars at national and regional meetings as requested by AMTDA to orient Members to the AMTDA/EQUIPP Trade-in Program. These seminars will communicate the benefits and procedures of these programs to AMTDA Members. Special educational materials will be developed jointly by the Parties to support these training seminars.
(c) EQUIPP will develop special promotional materials for the AMTDA/EQUIPP Trade-in and VAS Programs for use with Member’s Customers. AMTDA will have the right of prior approval for all such materials.

(d) EQUIPP will establish Rewards Programs that will provide incentives for the individual sales professionals.

2.3 Joint Marketing Commitments.

(a) The Parties agree to cooperate with each other in placing advertisements in agreed-upon trade journals. Each Party agrees to submit to the other Party, for that Party’s reasonable review and approval, any marketing items containing material that references the other Party. No such marketing material shall be disseminated by either Party unless such material has been approved by both Parties prior to dissemination, which approval shall not be unreasonably withheld. The Parties shall work together to develop a mutually agreed joint marketing budget that will be applied to the joint marketing activities described herein.

(b) Press Releases. Both parties will mutually approve press releases that publicize the AMTDA/EQUIPP e-commerce relationship and activities pursuant thereto.

2.4 Resources. Each Party shall use commercially reasonable efforts to provide the resources (including staff and equipment) necessary to fulfill the Party’s duties under this Agreement.

2.5 Trade-In Program. EQUIPP will establish an exclusive AMTDA/EQUIPP Trade-In Program for AMTDA Members via the EQUIPP Site which shall consist of the options described below. All users of the EQUIPP Site, including AMTDA Members, must register on the EQUIPP Site and abide by the terms of the User Agreement and the Default Conditions of Sale which are set forth on the Site. As detailed in the User Agreement, each seller is responsible for any applicable escrow fees.

(a) Option 1 – Customer retains title.

This option shall be used when the Customer and AMTDA Member agree that, as a part of a deal for a new machine, they will sell the trade-in machine through the EQUIPP Site. The Member and the Customer will sign a joint listing agreement and EQUIPP will sell the trade-in on the EQUIPP Site. The sales value of the trade-in will be credited toward the purchase of the new machine. EQUIPP.com Escrow will transfer the funds from the trade-in buyer as directed by Member and Customer, when payment is received by EQUIPP.com Escrow.

(b) Option 2 – Distributor takes title.

This option shall be used when the AMTDA Member desires to accept the Customer’s equipment as part of a trade-in deal. The Member will present the equipment for sale on the EQUIPP Site. When the machine is sold and payment is received, EQUIPP.com Escrow will transfer funds from the trade-in buyer directly to the AMTDA Member.
(c) Option 3 – Quick Trade.

This option will be used whenever the first two options are not expeditious enough for the required transaction. With this option, EQUIPP will provide the opportunity to conclude transactions in a few days. EQUIPP will establish a registered list of used equipment buyers that will receive information on potential trade-in machines from AMTDA Members through the EQUIPP Site. ATMADA Members and sellers pre-qualified by EQUIPP are eligible for inclusion on the registered buyers list. The AMTDA Member will transmit to EQUIPP the information on the potential trade-in machine which EQUIPP will present to the registered list of buyers. The registered buyers will have forty-eight (48) hours to return bids for immediate purchase of the machine. The highest bid will be presented to the AMTDA Member and AMTDA Member Customer. It is then the responsibility of the AMTDA Member and AMTDA Member Customer to finalize their negotiations and complete the transaction for the trade-in.

(d) Option 4 – Direct Sale By Customer.

An AMTDA Member may assist a Customer to list and sell machines directly through the EQUIPP Site.

2.6 Used Machine Tool Market Price Report. EQUIPP and AMTDA will jointly develop a market price report, similar to the "blue book" used in the auto industry, based on sales information obtained from the EQUIPP Site and other sources. AMTDA members will have free access to the joint report for as long as EQUIPP continues to collect data. If the Parties agree that the United States Machine Tool Consumption report system can be utilized, the Parties will share the costs of implementing and maintaining such system.

2.7 Training Programs. The Parties will share the costs and the curriculum guidance for AMTDA educational and Certification programs that promote the EQUIPP Site. These programs will include, but not be limited to, the issues of Internet use, new technologies, and on-line marketing opportunities. EQUIPP will also create and routinely distribute a "state of the Internet" report detailing up-to-date developments in Internet/e-commerce for manufacturing. These reports may be used to supplement and update training. AMTDA and EQUIPP will pursue opportunities to develop training programs for end user manufacturing companies.

2.8 Web Links. The EQUIPP Site will prominently display a web link to AMTDA’s Site. The AMTDA Site will prominently display a web link to the EQUIPP Site.

2.9 AMTDA Annual Meetings. EQUIPP will support AMTDA annual meetings by offsetting portions of the cost for specific functions, upon terms mutually agreed to by the Parties. The Parties will consider including a keynote speaker addressing e-commerce.

2.10 Value Added Services Program. EQUIPP will implement an exclusive AMTDA/EQUIPP VAS that will provide an opportunity for AMTDA Members to offers VAS to EQUIPP customers. AMTDA Members will register for the specialized services, regions and brands serviced. EQUIPP will promote the availability of services and prospective customers will be offered all available VAS that match their needs. This program will promote registered
AMTDA Members’ services for turnkeys, installations, inspections, appraisals and machine repairs. EQUIPP will receive a ten percent (10%) transaction fee for all value added services sold by AMTDA Members through EQUIPP.

3. **EXCLUSIVITY.**

3.1 **AMTDA Exclusivity.** During the term of this Agreement,

(a) AMTDA will not enter into an agreement i) with any other company for a Trade-In and/or VAS program; or ii) to endorse the services of any other company or entity that furnishes some or all of the services to be provided by EQUIPP under this Agreement.

(b) AMTDA shall use its best efforts to cause AMTDA Members and their Customers to conduct as much of their machine tool supply and equipment procurement activity as possible through the EQUIPP Site.

3.2 **EQUIPP Exclusivity.** EQUIPP will not enter into an agreement with any other machine tool related trade association or professional society for a Trade-in and/or VAS program for the term of this Agreement.

3.3 **New Machine Tools.** The sales of new machines and all other new products are excluded from this Agreement. Both parties agree to discuss the inclusion of new machine tools as future marketing opportunities develop and to offer the other Party the right of first refusal on the same or substantially similar terms for new machine e-commerce programs.

3.4 **AMTDA Marketing Associate Members.** This agreement will apply to all AMTDA marketing associate Members. Internet companies that become AMTDA Marketing Associate Members will be considered for inclusion on an individual basis at EQUIPP’s sole discretion.

4. **PAYMENTS AND FEES.**

4.1 **Transaction Fees.** EQUIPP shall not charge any fees for listing equipment on the EQUIPP Site. EQUIPP shall only receive a transaction fee if and when an item is sold. As of the Effective Date, EQUIPP’s standard sales transaction fee for sellers is seven percent (7%) of the net sale price for the item sold. Should EQUIPP raise or lower the standard transaction fee, AMTDA Member discounts and rebates will be adjusted proportionately. Pursuant to this Agreement, EQUIPP will offer the following transaction rate schedule for AMTDA Members:

- For sale of equipment listed by AMTDA Members, the transaction fee will be 5% of the sale price.
- For sale of equipment listed jointly by an AMTDA Member and Customer, the transaction fee will be 5% of the sale price.
- For sale of AMTDA Member’s Customer equipment, when no trade-in is involved, and the Customer is registered by an AMTDA Member to the EQUIPP Site, the seller’s
standard fee of 7% will be earned on the sale by EQUIPP and a 2% rebate will be returned to the AMTDA Member, after payment is received by EQUIPP.

- For all VAS provided by AMTDA Members and contracted through EQUIPP, a transaction fee of 10% will be earned by EQUIPP on the total value of the VAS billed to the Customer.

4.2 Royalty. In exchange for the exclusive rights to use AMTDA’s Marks and other intangible property in connection with the services provided under this Agreement, EQUIPP will pay to AMTDA an annual royalty of $100,000. $50,000 of the royalty shall be paid in advance annually for the term of the Agreement and the remaining $50,000 shall be paid quarterly in equal installments of $12,500 at the beginning of each quarter.

4.3 Revenue Share Terms. In exchange for AMTDA’s marketing and promotional assistance, once the revenue EQUIPP receives for the sale of used machine tools, attachments and accessories, and VAS sold by AMTDA Members through EQUIPP reaches an annual threshold level of $500,000, EQUIPP will pay to AMTDA ten percent (10%) of the annual revenue over such $500,000 threshold.

4.4 Most Favored Terms. For the term of this agreement, EQUIPP will offer AMTDA Members transaction fees lower than those offered to any other machine trade association, industry group or individual AMTDA Member. For the term of the agreement, EQUIPP will offer AMTDA a revenue sharing plan, as described in Section 4.3, the terms of which are more favorable than the terms offered to any other machine tool trade association or machine tool industry group.

4.5 Records and Audit Rights. Each Party shall keep for three (3) years proper records and books of account relating to its activities under this Agreement. Once every twelve (12) months, the other Party or its designee may inspect such records to verify reports and payments hereunder; provided, however, that access to any such records shall be limited to access to only such materials and information as is relevant to determining the accuracy of a particular report or reports. Any such inspection shall be conducted in a manner that does not unreasonably interfere with the inspected Party’s business activities. Any overdue payments disclosed by the audit, plus reasonable interest, must be paid immediately. Such inspection shall be at the inspecting Party’s expense; however, if the audit reveals overdue payments in excess of five percent (5%) of the total payments made for any twelve (12) month period, the inspected Party shall immediately pay the cost of such audit, and the inspecting Party may conduct another audit during the same twelve (12) month period.

5. BOARD OF ADVISORS POSITION.

For the term of this agreement the AMTDA president will be invited to attend and participate in EQUIPP Board of Advisors meetings. Two to four meetings will be held annually, at AMTDA’s option. No compensation will be provided for Board of Advisors participation.

6. WARRANTS.
As an additional royalty, upon execution of this Agreement, EQUIPP will provide warrants for 20,000 shares of EQUIPP common stock, the exercise price of which shall be the fair market value at the date of issuance of the warrant. The warrant shall be valid for a period of two (2) years from issuance thereof.

7. **TAXES.**

Each Party shall be solely responsible for payment of all of its own taxes, including without limitation sales and use taxes, or fees incurred in connection with that Party's activities under this Agreement. Each Party shall reasonably cooperate with the other Party in helping such Party acquire such resale certificates, licenses, tax identification numbers, or other documentation that may be necessary to ensure that applicable sales and use taxes are properly allocated.

8. **CONFIDENTIAL INFORMATION.**

This Agreement creates a confidential relationship between ATMDA and EQUIPP. Each party acknowledges and agrees that the terms of this Agreement and any information conveyed to or obtained by such party by the other party in connection with this Agreement, including without limitation, information regarding the business plans and operations, information or lists regarding customers, any process, system, proprietary technical data or other business-information is confidential and proprietary to the disclosing party (the "Confidential Information"). The receiving party agrees that in no event shall it disclose, transfer, copy, duplicate, or publish any Confidential Information to any third party without the prior written consent of the disclosing party, which consent may be withheld in the disclosing party's sole discretion. The receiving party further agrees that it shall not utilize any Confidential Information for any purpose whatsoever other than for the purpose of performing its obligations under this Agreement. The receiving party shall only make available the Confidential Information to its employees, agents and permitted subcontractors on a need-to-know basis and shall advise such employees of the restriction set forth with respect to the use of such Confidential Information. The receiving party shall be responsible for the unauthorized disclosure of any Confidential Information by its employees, agents or subcontractors. Upon the termination or expiration of this Agreement or upon the earlier written request of the disclosing party, the receiving party will return all documents and other materials in the receiving party's control that contain or relate to Confidential Information. Upon the written request of the disclosing party, the receiving party shall provide a written certification to the disclosing party that it has returned to the disclosing party or destroyed, at the disclosing party's option, all such Confidential Information, documents, reports, proposals or other materials.

(a) Confidential Information does not include information that the receiving party can demonstrate by written documentation:

(i) is rightfully known to the receiving party prior to negotiations leading to this Agreement; or

(ii) is independently developed by the receiving party without any reliance on Proprietary Information; or
(iii) is or later becomes part of the public domain or is lawfully obtained by the receiving party from a third party who the receiving party reasonably believes is not bound by any non-disclosure restriction; or

(iv) if such disclosure is required by law (including disclosures necessary or appropriate in filings with the Securities Exchange Commission or any other governmental body) or by the order of a court or similar judicial or administrative body; provided however that the receiving party shall notify the disclosing party of such requirement immediately and in writing, and shall cooperate reasonably with the disclosing party, at the disclosing party’s expense, in the obtaining of a protective or similar order with respect thereto.

(b) Both parties acknowledge that the Confidential Information is a valuable asset of the other party and that the breach of this Section 8 would cause the disclosing party irreparable harm for which there is no adequate remedy at law. Accordingly, in the event of a breach or alleged breach of this Section 8, the disclosing party shall be allowed injunctive relief and any other equitable remedies in addition to remedies afforded by law. The obligations of the parties pursuant to this Section 8 shall survive the termination of this Agreement.

9. TRADEMARK AND CONTENT LICENSES.

9.1 Each Party hereby grants to the other a non-exclusive, worldwide, nonsublicensable license to use that Party’s identified trademarks, service marks, tradenames, and logos (“Marks”) in connection with the EQUIPP Site or the AMTDA Site and other marketing activities as set forth herein. Title to and ownership of the owner’s Marks shall remain with the owner. The licensee shall use the Marks exactly in the form provided and in conformance with any trademark usage policies. The licensee shall not form any combination marks with the other Party’s Marks. The licensee shall not take any action inconsistent with the owner’s ownership of the Marks and any benefits accruing from use of such trademarks shall automatically vest in the owner. Prior to using the Marks for any activity hereunder, each party shall obtain approval of the form of such use from the Marks owner. Each Party represents, warrants, and covenants that its Marks do not and shall not infringe the intellectual property rights of any third party.

9.2 During the Term, each Party grants to the other the non-exclusive, worldwide, royalty-free and non-sublicensable right to reproduce any copyrightable content supplied to the other for inclusion on the EQUIPP Site or AMTDA Site pursuant to this Agreement, and modify such content only to the extent necessary, and to perform and display such content on and from server(s) controlled by the licensee in furtherance of the purposes of this Agreement. Any rights not expressly granted hereunder are reserved, and all implied licenses are disclaimed. Neither Party shall exceed the scope of the licenses granted hereunder. Each Party warrants and represents that any such content shall not infringe the intellectual property rights of any third party.

10. DISCLAIMER OF WARRANTIES.

10.1 EXCEPT AS EXPRESSLY SET FORTH HEREIN, EQUIPP DISCLAIMS ALL WARRANTIES AND CONDITIONS, EXPRESS OR IMPLIED, INCLUDING WITHOUT
LIMITATION THE IMPLIED WARRANTIES OF TITLE, NON-INFRINGEMENT, MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE.

10.2 EQUIPP PROVIDES ITS SERVICE "AS IS." EQUIPP DOES NOT GUARANTEE ERROR-FREE, CONTINUOUS, UNINTERRUPTED OR SECURE ACCESS TO THE EQUIPP SITE AND SERVICES.

10.3 Each Party acknowledges that it has not entered into this Agreement in reliance upon any warranty or representation except those specifically set forth herein.

11. LIMITATION OF LIABILITY.

NEITHER PARTY SHALL BE LIABLE FOR SPECIAL, INDIRECT, INCIDENTAL OR CONSEQUENTIAL DAMAGES OR LOST PROFITS (HOWEVER ARISING, INCLUDING NEGLIGENCE) ARISING OUT OF OR RELATED TO THIS AGREEMENT, EVEN IF A PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. EXCEPT FOR THE INDEMNIFICATION OBLIGATIONS IN SECTION 12, IN NO EVENT SHALL A PARTY'S LIABILITY EXCEED THE AGGREGATE AMOUNT PAID AND DUE SUCH PARTY UNDER THIS AGREEMENT.

12. INDEMNITY.

Each Party (the "Indemnifying Party") shall indemnify and hold the other Party (the "Indemnified Party") harmless against any and all liabilities, claims, damages, amounts paid in settlement, losses, costs and expenses, including reasonable attorneys' fees and court or arbitration costs (collectively, "Losses"), which the Indemnified Party may incur as a result of claims in any form by third parties arising from or related to activities of the Indemnifying Party under this Agreement, including, without limitation, any infringement by the Indemnifying Party of any patent, copyright, trademark, or other intellectual property or proprietary right of such third parties. The Indemnified Party shall (i) give the Indemnifying Party notice of the relevant claim (except that failure or delay to give such notice shall not relieve the Indemnifying Party of any liability hereunder except to the extent such failure or delay causes actual material prejudice to the Indemnifying Party), (ii) cooperate with the Indemnifying Party, at the Indemnifying Party's expense, in the defense of such claim, and (iii) give the Indemnifying Party the right to control the defense and settlement of any such claim, except that the Indemnifying Party shall not enter into any settlement that affects the Indemnified Party's rights or interest without the Indemnified Party's prior written approval. The Indemnified Party shall have the right to participate in the defense at its expense.

13. TERM; TERMINATION.

13.1 Term. This Agreement shall begin on the Effective Date, and shall continue until March 31, 2002, unless terminated earlier as provided herein. Thereafter, this agreement may be renewed by mutual consent of both parties for an additional period of two to four years.
13.2 Early Termination by Either Party. Either Party may terminate this Agreement upon the occurrence of any of the following events:

(a) A material breach of this Agreement by the other Party, if the breaching Party does not cure such breach within thirty (30) days of receiving written notice thereof from the non-breaching Party. A payment default shall be considered a material breach.

(b) A receiver is appointed for the other Party or its business.

13.3 Automatic Termination. This Agreement shall automatically terminate immediately upon the occurrence of any of the following events:

(a) A petition in bankruptcy is filed against a Party and such petition is not dismissed within ninety (90) calendar days.

(b) A Party becomes insolvent or makes an assignment for the benefit of its creditors or an arrangement for its creditors pursuant to any bankruptcy law.

(c) A Party engages in an activity which, in the other Party’s reasonable view, damages its reputation with its Members or the public.

13.4 Effect of Termination.

(a) Termination of this Agreement by either Party shall not act as a waiver of any breach of this Agreement and shall not act as a release of either Party hereto from any liability for breach of such Party's obligations under this Agreement.

(b) Within forty-five (45) calendar days following the expiration or termination of this Agreement, each Party shall pay to the other Party all sums, if any, due and owing as of the date of expiration or termination.

(c) Upon termination of this Agreement, all licenses and exclusivity grants hereunder shall terminate. In addition, upon the termination of this Agreement each Party (i) shall promptly remove from such Party’s sites all copies of all the other Party’s trademarks; (ii) shall promptly cease all other uses of the other Party’s trademarks; and (iii) shall cease using all marketing information developed under this Agreement that contains references to the other Party, and shall destroy any such marketing information in their possession.

(d) In the event that EQUIPP terminates this Agreement without cause, EQUIPP shall still be required to pay the royalty fees in full. In the event that AMTDA terminates this Agreement without cause the quarterly royalties will be prorated to the termination date and a partial refund made if applicable.

13.5 Survival. All payment obligations, which have accrued prior to termination, and Sections 7, 8, 10, 2, and 13 shall survive termination.
14. **Dispute Resolution.**

The Parties agree that any and all disputes, claims or controversies arising out of or relating to this Agreement shall be submitted to the American Arbitration Association ("AAA"), or its successor, for mediation, and if the matter is not resolved through mediation, then it shall be submitted to the AAA, or its successor, for final and binding arbitration. The dispute resolution proceeding shall be conducted in Bethesda, Maryland or such other location as may be agreed by the Parties. Either Party may commence mediation by providing to the AAA and the other Party a written request for mediation, setting forth the subject of the dispute and the relief requested. The mediation shall be conducted in accordance with the AAA’s rules and procedures in effect at the time of filing of the demand for arbitration. The Parties shall cooperate with the AAA and with one another in selecting a mediator from the AAA’s panel of neutrals, and in scheduling the mediation proceedings. The Parties covenant that they shall participate in the mediation in good faith, and that they shall share equally in its costs. All offers, promises, conduct and statements, whether oral or written, made in the course of the mediation by any of the Parties, their agents, employees, experts and attorneys, and by the mediator or any employees of the AAA, are confidential, privileged and inadmissible for any purpose, including impeachment, in any arbitration or other proceeding involving the Parties, provided that evidence that is otherwise admissible or discoverable shall not be rendered inadmissible or non-discoverable as a result of its use in the mediation. Either Party may initiate arbitration with respect to the matters submitted to mediation by filing a written demand for arbitration at any time following the initial mediation session or forty-five (45) days after the date of filing the written request for mediation, whichever occurs first. The mediation may continue after the commencement of arbitration if the Parties so desire. Unless otherwise agreed by the Parties, the mediator shall be disqualified from serving as arbitrator in the case. The provisions of this Section may be enforced by any court of competent jurisdiction, and the Party seeking enforcement shall be entitled to an award of all costs, fees and expenses, including attorneys fees, to be paid by the Party against whom enforcement is ordered.

15. **Mutual Representations and Warranties.**

15.1 Each Party represents to the other that:

(a) It has all the necessary power and authority (i) to conduct its business in the manner in which its business is currently being conducted, (ii) to own and use its assets in the manner in which its assets are currently owned and used, and (iii) to enter into this Agreement and perform its obligations under this Agreement; and

(b) (i) the person signing below has actual authority to bind their principal in this transaction; (ii) the execution and performance of this Agreement does not violate or cause a default in any agreement to which the Party so signing is bound; (iii) the execution and performance of this Agreement has been duly authorized by the Party; (iv) such Party has evaluated and taken reasonable steps to ensure that its computer operating systems' hardware and software for information processing, manufacturing, sales and distribution systems, communications, buildings and plant facilities, support services, and other critical applications
(the "Systems") are Year 2000 Compliant; and (v) that the copying, distribution, display and other use of product information, software programs, databases and database schema, data and other material provided by a Party, if used in accordance with all written instructions, limitations, licenses, usage policies or other requirements, shall not violate any copyright, patent, trade secret, trademark or other proprietary right of any third party recognized in the United States. In this Agreement, "Year 2000 Compliant" means that the Systems or products can accurately process, provide and/or receive date data between the 20th and 21st centuries, including the years 1999 and 2000, and leap year calculations.

16. **GENERAL PROVISIONS.**

16.1 **Governing Law.** This Agreement shall be governed and construed in accordance with the laws of the State of California without giving effect to conflict of laws principles. Both Parties submit to jurisdiction in California.

16.2 **Expenses.** Except as expressly provided herein, each Party shall bear all expenses that it may incur in connection with its obligations and efforts under this Agreement.

16.3 **Severability; Headings.** If any provision herein is held to be invalid or unenforceable for any reason, the remaining provisions shall continue in full force without being impaired or invalidated in any way. Headings are for reference purposes only and in no way define, limit, construe or describe the scope or extent of such section.

16.4 **Force Majeure.** If performance (other than the mere payment of money) hereunder is prevented, restricted or interfered with by any act or condition whatsoever beyond the reasonable control of a Party, the Party so affected, upon giving prompt notice to the other Party, shall be excused from such performance to the extent of such prevention, restriction or interference.

16.5 **Independent Contractors.** The Parties are independent contractors, and no agency, partnership, or joint venture relationship is intended or created by this Agreement. Neither Party shall have the power to bind the other Party or make any warranties or representations on behalf of the other Party.

16.6 **Compliance with Laws.** At its own expense, each Party shall comply with all applicable laws, regulations, rules, ordinances and orders regarding its activities related to this Agreement, including without limitation those applicable to the marketing or sale of the services offered from the EQUIPP Site.

16.7 **Notice.** Any notices hereunder shall be given to the appropriate Party at the address specified on the signature page of this Agreement or at such other address as the Party shall specify in writing. Notice shall be deemed given: upon personal delivery; if sent by fax, upon confirmation of receipt; or if sent by certified or registered mail, postage prepaid, five (5) days after the date of mailing.
16.8 Assignment. This Agreement may not be assigned by either Party to any third party without the express written consent of both Parties, which consent shall not be unreasonably withheld. Any assignment that does not comply with this provision is null and void.

16.9 Partial Invalidity. Should any part of this Agreement, for any reason, be declared invalid, such decision shall not affect the validity of any remaining portion of this Agreement.

16.10 Entire Agreement; Waiver. This Agreement sets forth the entire understanding and agreement of the Parties, and supersedes any and all prior and contemporaneous oral or written agreements or understandings between the Parties, as to the subject matter of this Agreement. It may be changed only by a writing signed by both Parties. The waiver of a breach of any provision of this Agreement shall not operate or be interpreted as a waiver of any other or subsequent breach.

IN WITNESS WHEREOF, each of the Parties has caused this Agreement to be executed as of the Effective Date by it’s duly authorized representative below.

EQUIPP.COM, INC.:  

By: [Signature]
Name: Donald L Frye
Title: Executive Vice President

AMERICAN MACHINE TOOL DISTRIBUTORS’ ASSOCIATION:

By: [Signature]
Name: Ralph Nappi
Title: President