

FORM 1B.30 PROGRESS PAYMENT SECURITY AGREEMENT

Secured Party:
[name and address]

Debtor:
[name and address]

Vendor
[name and address]

Purchase Agreement Date _____
Equipment Purchase Price _____
Outside Delivery Date _____

Progress Payment Interest Rate

Amortization Period Interest Rate

Equipment Description—Attach Schedule of equipment.

Terms and Conditions:

1. Debtor and Vendor have entered into the above-identified Purchase Agreement (the PA) for the sale and purchase of the above-described Equipment (the Equipment). Debtor has requested Secured Party to make the payments required by the PA, including progress payments, on its behalf, and Secured Party has agreed to make such payments subject to the terms hereof. To secure the repayment of any funds so advanced, and the payment and performance of the obligations described below in paragraph 8, Debtor and Secured Party have entered into a Purchase Agreement Assignment (the PA Assignment) whereby Debtor has conveyed to Secured Party an assignment of its rights in the PA and Debtor hereby grants to Secured Party a security interest in the Equipment and, to the extent that Debtor has rights therein, the PA, along with all present and future attachments and accessories thereto and replacements and proceeds thereof, including amounts payable under any insurance policy (collectively the Collateral).
2. Debtor shall make the initial progress payment(s) in the amount of \$ _____. Secured Party shall make all additional progress payments. If, prior to the Outside Delivery Date, the entire Equipment has been physically delivered to and accepted by Debtor, as evidenced by Debtor’s duly authorized execution of a Delivery and Installation Certificate in the form annexed (the D & I Certificate), Secured Party will remit any unpaid balance of the purchase price to Vendor. All such payments shall be made in the amounts, and at the times, provided for in the PA. However, Debtor shall assert no claims or defenses against Secured Party by reason of its remittance of other amounts at other times, provided such action by Secured Party shall have been taken in good faith reliance upon Vendor’s claim that it is owed such amounts at such times. The “Principal Amount” of all loans hereunder shall be the aggregate of all such payments made from time to time by Secured Party.
3. Debtor shall pay interest on the Principal Amount from time to time outstanding at the Progress Payment Interest Rate until Commencement of the Amortization period. Such interest payments shall be made on the 10th day of each calendar month for the daily average Principal Amount outstanding during the preceding month, or for the fraction of the month prior to the Commencement of the Amortization Period, as the case may be. The Amortization Period shall commence on the date after all of the following conditions have occurred: (a) the entire Equipment has been delivered to Debtor, (b) Debtor has delivered to Secured Party the D & I Certificate and (c) Secured Party has remitted to Vendor all amounts due under the PA. The Amortization Period shall be the repayment term described in paragraph 6 below, and shall not commence if either or both of conditions (a) and (b) above, are not met prior to the Outside Delivery Date.
4. At any time prior to the Commencement of the Amortization Period (as defined in paragraph 3 above), Debtor may notify Secured Party in writing to make no further payments to Vendor, provided that Debtor concurrently with such notice tenders to Secured Party full repayment of the Principal Amount outstanding, plus all interest accrued to date of repayment, plus an amount equal to _____ percent of the Purchase Price. If the Debtor certifies that the PA has been cancelled and it is not acquiring the Equipment, the Debtor shall not be required to pay such purchase price percentage. Upon full payment by Debtor of such amounts, this Agreement and the PA Assignment shall terminate. Secured Party shall have no obligation to honor such notice to discontinue payments if such full repayment is not concurrently made, although at the option of Secured Party it may do so. The giving of such notice without concurrently making full repayment shall constitute an event of default hereunder.[es]
5. If, at the Outside Delivery Date, the entire Equipment has not been delivered to Debtor or Debtor has not delivered the D & I Certificate to Secured Party (conditions (a) and (b) of paragraph 3 above), then the Principal Amount then outstanding shall immediately be due and payable, and Debtor shall make full repayment of such Principal Amount, plus all interest accrued to date of repayment, plus an amount equal to _____ percent of the Purchase Price. Upon full payment by Debtor of such amounts, this Agreement and the PA Assignment shall terminate. Failure to make such full payment shall constitute an event of default hereunder.
6. Upon commencement of the Amortization Period, as provided in paragraph 3 above, the then outstanding Principal Amount shall be repaid to Secured Party by Debtor in _____ equal consecutive monthly installments of principal and interest combined, subject to the final monthly payment being in the exact amount of the then unpaid principal and interest. The interest rate shall be the Amortization Period Interest Rate. Such monthly payments shall commence

thirty days after the Commencement of the Amortization Period, as that term is defined in paragraph 3 above. All payments pursuant to this Agreement shall be at the address of Secured Party, or at such other place as Secured Party may designate from time to time.

7. Secured Party shall have no obligation to make any advances hereunder if Debtor is in default under this, or any other, agreement with Secured Party, or under the PA. After Commencement of the Amortization Period, Debtor will have no right of prepayment, provided however that it may prepay the entire then outstanding Principal Amount, plus interest accrued to date, at any time after 60 percent of the term of the Amortization Period has expired.
8. The Collateral shall secure not only the amounts which Debtor promises or is obligated to pay hereunder, but also all other present and future indebtedness or obligations of Debtor to Secured Party of every kind and nature whatsoever.
9. Debtor warrants and agrees that (a) the Collateral is to be used for business or commercial purposes, and not for agricultural, personal, family or household use, and (b) the collateral is to be located at: [address].

10. Late Charges

Any payment not made when due shall, at the option of Secured Party, bear late charges thereon calculated at the rate of 1½ percent per month, but in no event greater than the highest rate permitted by relevant law.

11. Location of Collateral

Debtor agrees that regardless of the manner of affixation, the Collateral shall remain personal property and not become part of the real estate. Debtor agrees to keep the Collateral at the location set forth in paragraph 9, and will notify Secured Party in writing of any change in the location of the Collateral within such state, but will not remove the Collateral from such state without the prior written consent of Secured Party (except that in the state of Pennsylvania, the Collateral will not be moved from the above location without such prior written consent).

12. Debtor's Warranties and Representations

Debtor warrants and represents:

- a. That Debtor is justly indebted to Secured Party for the full amount of the foregoing indebtedness;
- b. That except for the security interest granted hereby, the Collateral and PA are free from and will be kept free from all liens, claims, security interests, and encumbrances;
- c. That no financing statement covering the Collateral, the PA or any proceeds thereof, is on file in favor of any one other than Secured Party, but if such other financing statement is on file, it will be terminated or unconditionally subordinated;
- d. That all information supplied and statements made by Debtor pertaining to the PA or in any financial, credit, or accounting statement or application for credit prior to, contemporaneously with or subsequent to the execution of this Agreement with respect to this transaction are and shall be true, correct, valid, and genuine; and
- e. Debtor has full authority to enter into this Agreement and the PA Assignment and in doing so it is not violating its charter or bylaws, or any law or regulation or agreement with third parties, and it has taken all such action as may be necessary or appropriate to make this Agreement and the PA Assignment binding upon it.

13. Debtor's Agreements

Debtor agrees:

- a. To defend at Debtor's own cost any action, proceeding or claim affecting the Collateral or PA;
- b. To pay reasonable attorneys' fees and other expenses incurred by Secured Party in enforcing its rights hereunder;
- c. To pay promptly all taxes, assessments, license fees, and other public or private charges when levied or assessed against the Collateral or this Agreement, which obligation shall survive the termination of this Agreement;
- d. That if a certificate of title be required or permitted by law, Debtor shall obtain such certificate with respect to the Collateral, showing the security interest of Secured Party thereon and in any event do everything necessary or expedient to preserve or perfect the security interest of Secured Party;
- e. That Debtor will not misuse, fail to keep in good repair, secrete, or without the prior written consent of Secured Party and notwithstanding Secured Party's claim to proceeds, sell, rent, lend, encumber, or transfer any of the Collateral or the PA;
- f. That Secured Party may enter upon Debtor's premises or wherever the Collateral may be located at any reasonable time to inspect the Collateral and Debtor's books and records pertaining to the Collateral, and Debtor shall assist Secured Party in making such inspection; and
- g. That, except as provided in paragraphs 4 and 5 hereof, the security interest granted by Debtor to Secured Party shall continue effective irrespective of the payment of all amounts due hereunder so long as there are any obligations of any kind, including obligations under guaranties or assignments, owed by Debtor to Secured Party.

14. Insurance and Risk of Loss

All risk of loss, damage to or destruction of the collateral shall at all times be on Debtor. Debtor will procure forthwith and maintain at Debtor's expense insurance against all risks of loss or physical damage to the collateral for the full insurable value thereof for the life of this Security Agreement plus breach of warranty insurance and such other insurance thereon in amounts and against such risks as Secured Party may specify, and shall promptly deliver each policy to Secured Party with a standard long-form mortgagee endorsement attached thereto showing loss payable to Secured Party; and providing Secured Party with not less than 30 days written notice of cancellation; each such policy shall be in form, terms, and amount and with insurance carriers satisfactory to Secured Party; Secured Party's acceptance of policies in lesser amounts or risks shall not be a waiver of Debtor's foregoing obligations. As to Secured Party's interest in such policy, no act or omission of Debtor or any of its officers, agents, employees, or representatives shall affect the obligations of the insurer to pay the full amount of any loss.

Debtor hereby assigns to Secured Party any monies which may become payable under any such policy of insurance and irrevocably constitutes and appoints Secured Party as Debtor's attorney in fact (a) to hold each original insurance policy, (b) to make, settle, and adjust claims under each policy of insurance, (c) to make claims for any monies which may become payable under such and other insurance on the collateral including returned or unearned premiums, and (d) to endorse Debtor's name on any check, draft, or other instrument received in payment of claims or returned or unearned premiums under each policy and to apply the funds to the payment of the indebtedness owing to Secured Party; provided, however, Secured Party is under no obligation to do any of the foregoing.

Should Debtor fail to furnish such insurance policy to Secured Party, or to maintain such policy in full force, or to pay any premium in whole or in part relating thereto, then Secured Party, without waiving or releasing any default or obligation by Debtor, may (but shall be under no obligation to) obtain and maintain insurance and pay the premium (heretofore on behalf of Debtor and charge the premium to Debtor's indebtedness under this Security Agreement. The full amount of any such premium paid by Secured Party shall be payable by Debtor upon demand, and failure to pay same shall constitute an event of default under this Security Agreement.

15. Events of Default; Acceleration

A very important element of this Agreement is that the Debtor make all its payments promptly as agreed upon. Also essential is that the Collateral continue to be in good condition and adequate security for the indebtedness hereunder. The following are events of default (in addition to those in paragraph 4 and 5 hereof) under this Agreement which will allow Secured Party to take such action under this paragraph and under paragraph 16 as it deems necessary:

- a. Any of Debtor's obligations to Secured Party under any agreement with Secured Party is not paid or performed promptly when due;
- b. Debtor breaches any warranty or provision hereof, or of the PA, or of the PA Assignment, or of any note or of any other instrument or agreement delivered by Debtor to Secured Party in connection with this or any other transaction;
- c. Debtor dies, becomes insolvent, or ceases to do business as a going concern;
- d. Debtor has given Secured Party materially misleading information regarding its financial condition or the PA, as determined by the Secured Party;
- e. Any of the collateral is lost or destroyed, or the PA or PA Assignment are in any respect unenforceable against the Vendor;
- f. A complaint or petition in bankruptcy or for arrangement or reorganization or for any other relief be filed by or against Debtor under any Federal or State bankruptcy or insolvency law, or Debtor admits its inability to pay its debts as they mature;
- g. Property of Debtor be attached or a receiver be appointed for Debtor;
- h. Whenever Secured Party in good faith believes the prospect of payment or performance is impaired or in good faith believes the Collateral is insecure;
- i. Any guarantor, surety, or endorser for Debtor defaults in any obligation or liability to Secured Party or any guaranty obtained in connection with this transaction is terminated or breached.

If Debtor shall be in default hereunder, Secured Party shall have no obligation to make any further advances hereunder and the indebtedness herein described and all other debts then owing by Debtor to Secured Party under this or any other present or future agreement shall, if Secured Party so elects, become immediately due and payable. In no event shall the Debtor, upon demand by Secured Party for payment of the indebtedness, by acceleration of the maturity thereof or otherwise, be obligated to pay any interest in excess of the amount permitted by law. Any acceleration of indebtedness, if elected by Secured Party, shall be subject to all applicable laws, including laws relating to rebates and refunds of unearned charges.

16. Secured Party's Remedies After Default; Consent to Enter Premises

Upon Debtor's default and at any time thereafter, Secured Party shall have all the rights and remedies of a secured party under the Uniform Commercial Code and any other applicable laws, including the right to any deficiency remaining after disposition of the Collateral, for which Debtor hereby agrees to remain fully liable. Secured Party may exercise any and all rights granted it under the PA Assignment, including the right to pay Vendor such amount

as Vendor may require to complete manufacture of the Equipment and deliver it to Secured Party, which amounts shall constitute indebtedness hereunder. Debtor agrees that Secured Party, by itself or its agent, may without notice to any person and without judicial process of any kind, enter into any premises or upon any land owned, leased or otherwise under the real or apparent control of Debtor or any agent of Debtor where the Collateral may be or where Secured Party believes the Collateral may be, and disassemble, render unusable and/or repossess all or any item of the Collateral, disconnecting and separating all Collateral from any other property and using all force necessary. Debtor expressly waives all further rights to possession of the Collateral after default and all claims for injuries suffered through or loss caused by such entering and/or repossession Secured Party may require Debtor to assemble the Collateral and return it to Secured Party at a place to be designated by Secured Party which is reasonably convenient to both parties.

Secured Party will give Debtor reasonable notice of the time and place of any public sale of the Collateral or of the time after which any private sale or any intended disposition of the Collateral is to be made. Unless otherwise provided by law the requirement of reasonable notice shall be met if such notice is mailed, postage prepaid, to the address of Debtor shown herein at least ten days before the time of the sale or disposition. Such notice provisions shall similarly apply to the sale by Secured Party of its rights to the Equipment under the PA Assignment. Expenses of retaking, holding, preparing for sale, selling and the like shall include reasonable attorney fees (at least 15% of the unpaid balance if not prohibited by law) and other legal expenses. Debtor understands that Secured Party's rights are cumulative and not alternative.

17. Waiver of Defaults; Agreement Inclusive

Secured Party may in its sole discretion waive a default, or cure, at Debtor's expense, a default. Any such waiver in a particular instance or of a particular default shall not be a waiver of other defaults or the same kind of default at another time. No modification or change in this Security Agreement or any related note, instrument, or agreement shall bind Secured Party unless in writing by Secured party. No oral agreement shall be binding.

18. Financing Statements; Certain Expenses

If permitted by law, Debtor authorizes Secured Party to file a financing statement with respect to the Collateral and PA Assignment and/or to file copies of this Security Agreement or of a financing statement. Secured Party may file any financing statements, agreements, or documents, in form satisfactory to Secured Party which Secured Party may deem necessary or advisable to establish and maintain a perfected security interest in the collateral, and Debtor will pay the cost of filing or recording the same in all public offices deemed necessary or advisable by Secured Party. Debtor also agrees to pay all costs and expenses incurred by Secured Party in conducting UCC, tax, or other lien searches against the Debtor or the Collateral and such other fees as may be agreed.

19. Miscellaneous

Debtor waives all exemptions. Secured Party may correct patent errors herein and fill in such blanks as serial numbers, date of first payment and the like. Any provisions hereof contrary to, prohibited by or invalid under applicable laws or regulations shall be inapplicable and deemed omitted herefrom, but shall not invalidate the remaining provisions hereof. Debtor acknowledges receipt of a true copy and waives acceptance hereof. If Debtor is a corporation, this Security Agreement is executed pursuant to authority of its Board of Directors. Except where the context otherwise requires, "Debtor" and "Secured Party" include the heirs, executors, or administrators, successors, or assigns to those parties; provided Debtor shall not assign any of its rights hereunder without the prior written consent of Secured Party. If more than one Debtor executes this Security Agreement, their obligations under this Security Agreement shall be joint and several.

20. Special Provisions

[Any applicable state specific provisions.]

Dated
Secured Party:
[name]
By: [signature] [title]

Debtor:

[name of individual, corporation, or partnership]
By: [If corporation, have signed by President, Vice President or Treasurer, and give official title. If owner or partner, state which]
[Title]
[address]

[address]

If Debtor is a partnership, enter [schedule of partners' names and home addresses]

NOTICE: Do not use this form for transactions for personal, family or household purposes. For agricultural and other transactions subject to Federal or State regulations, consult legal counsel to determine documentation requirements.

Agricultural purposes generally means farming, including dairy farming, but it also includes the transportation, harvesting and processing of farm, dairy, or forest products if what is transported, harvested, or processed is farm, dairy, or forest products grown or bred by the user of the equipment itself. It does not apply, for instance, to a logger who harvests someone else's forest, or a contractor who prepares land or harvests products on someone else's farm.

VENDOR CONSENT AND AGREEMENT

To:
[name of vendor]
[address]

From:
[name of customer (assignor)]
[address]

Re: Purchase Agreement Order No. _____ dated _____

1. We have assigned our above-referenced Purchase Agreement to [name of secured party] (Bank). Copies of this Purchase Agreement and Assignment are attached hereto.
2. You are hereby irrevocably instructed to accept payment from Bank and, upon notice from Bank, to deliver the equipment covered by our Purchase Agreement to Bank, and to otherwise treat Bank as our assignee and successor. We shall indemnify you and hold you harmless from any and all claims that may be asserted against you by reason of your complying with these instructions.
3. Until you receive notice from Bank to the contrary, you are to deal with us as if the Purchase Agreement had not been assigned. We shall in all events remain obligated to you under the Purchase Agreement, and Bank assumes no obligations thereunder, it being successor to our rights but not our obligations.
4. We request that you confirm to Bank, by signing and returning to them a duplicate original of this Consent and Agreement, that the attached Purchase Agreement is complete and accurate and that you consent to the Assignment, subject to its terms and conditions.
5. Location of your facilities at which equipment is to be manufactured:

Customer:
[name]
By: [signature] [title]
[date]
Executed copy to:
[address]

[address]
Vendor:
[name]
By: [signature] [title]
[date]