



**CLIMAX PORTABLE MACHINE TOOLS, INC.  
MASTER TRAINING SERVICES AGREEMENT**

**Effective Date:**

The "Parties"	
"Customer"	"Climax"
<b>Customer:</b>	<b>CLIMAX PORTABLE MACHINE TOOLS, INC.</b>
<b>Billing Address:</b>	<b>2712 East Second Street</b>
	<b>Newberg, OR 97132</b>
<b>Contact:</b>	<b>Contact:</b>
<b>Phone:</b>	<b>Phone: (800) 333-8311</b>
<b>Email:</b>	<b>Email:</b>

**1. Background.** Climax is the leading strategic provider of comprehensive on-site machining solutions. Customer has purchased or will from time to time in the future purchase machinery and equipment from Climax (the "**Products**"). The Parties anticipate that Customer may from time to time ask Climax to provide training services (the "**Services**") to certain Customer's personnel (the "**Participants**") regarding the installation, operation, maintenance and/or servicing of the Products as more specifically described in a written purchase order that has been accepted by Climax (each, and "**Order**"). Climax is willing to provide the Services subject to this Master Training Services Agreement and the attached terms and conditions (the "**Terms and Conditions**").

**2. Entire Agreement.** This Master Training Services Agreement and the Terms and Conditions are incorporated in each Order, and together with each Order will be referred to as "this Agreement". By submitting an Order, Customer agrees that the terms of this Master Training Services Agreement and the Terms and Conditions will apply to that Order whether or not the Order expressly refers to this Master Training Services Agreement. Inconsistent, additional, or different terms in any Order or any other agreement, written or oral, including in any prior, contemporaneous, or subsequent proposal, bid, purchase order, invoice, acknowledgement, confirmation or other document, will not have any force or effect unless and until those terms have been executed by the Parties in accordance with Section 12 of the Terms and Conditions. This Agreement replaces and supersedes all prior and contemporaneous proposals, understandings and agreements, written, electronic or oral, as well as all other communications between Customer and Climax concerning the Services.

**3. Counterparts and Delivery.** This Agreement may be executed in counterparts. Each counterpart will be considered an original, and all of them, taken together, will constitute a single agreement. Facsimile signatures will be deemed original signatures for all purposes under this Agreement. Neither this Agreement nor any amendment or modification of this Agreement may be executed by means of an electronic signature. When properly signed, this Agreement may be delivered by facsimile or electronically, and any such delivery will have the same effect as physical delivery of a signed original.

<b>CUSTOMER:</b>	<b>CLIMAX:</b>
	<b>CLIMAX PORTABLE MACHINE TOOLS, INC.</b>
<b>By:</b> _____	<b>By:</b> _____
<b>Printed Name:</b>	<b>Printed Name:</b>
<b>Title:</b>	<b>Title:</b>



## STANDARD TERMS AND CONDITIONS

- 1. Fees; Payment Terms.** Unless expressly provided otherwise on the invoice customer will pay Climax the amount set forth in each Order (the "Fee") within 30 days after the date of Climax's invoice. All amounts are in US dollars and do not include any travel costs or any sales, use, value added or excise taxes. Any sums not paid when due will be subject to a late fee of 1.5% per month.
- 2. Travel Costs.** If the Order specifies that Climax will provide the Services at Customer's location, Customer will pay Climax's reasonable travel costs. If the Order specifies that Climax will provide the Services at Climax's location, Customer will be responsible for the Participants' travel costs. In either case, Customer will pay the Participants' compensation related to the Services.
- 3. Ownership; Limited License.** Climax will own all intellectual property rights related to the Services and any materials that Climax may deliver to Customer in connection with the Services; however, Climax grants the Participants a perpetual, fully paid-up, non-exclusive, nontransferable license to copy and use those materials in connection with the Products.
- 4. Guidelines and Policies.** While providing Services at Customer's facilities, Climax will comply with the health, safety and security guidelines that Customer provides to Climax. While receiving Services at Climax's facilities, the Participants will comply with the health, safety and security guidelines that Climax provides to Customer. Both Parties will at all times comply with applicable law. Training time will not exceed 8 hours per day or 40 hours per week unless approved by Climax management.
- 5. Warranty; Disclaimer; Limited Liability.** Climax warrants that the Services will be provided in a timely manner. In all other respects, the Services are provided **AS IS**. Climax disclaims all express and implied warranties, including the implied warranties of merchantability, fitness for a particular purpose, title and noninfringement. In no event will Climax's total liability to Customer in connection with the Services under all Orders exceed the sum of \$1,000.
- 6. Customer's Obligations.** Customer will select the people that will participate in the Services. Customer will select people who have the appropriate experience, skills and intelligence, who have a desire to learn and who are likely to benefit from the Services. Climax cannot control whether Participants learn, retain and/or apply the information presented by Climax; therefore, Climax cannot guarantee any particular outcomes. While Climax may issue certificates of attendance to the Participants, the issuance of a certificate to a Participant does not constitute Climax's endorsement of that Participant or Climax's conclusion that Participant is qualified to install, operate or service the Products. Customer is responsible for evaluating each Participant's abilities and assigning Customer's personnel appropriately. Customer will ensure that anyone that uses the Product has read and complies with all safety instructions, owners' manuals and operating instructions for the Products. Climax will not be liable to Customer for any direct, indirect, special, incidental or consequential damages related to the Services or this Agreement, and Customer will defend at its expense any suit brought against Climax by any Participant or any other person under or related to this Agreement or the Services, and Customer will pay all legal fees, costs and damages finally awarded in that suit, including damages arising from (a) Customer's breach of this Agreement or any other agreement between Customer and Climax; (b) Customer's negligent or wrongful acts or omissions; (c) Customer's modification or misuse of the Products; and (d) Climax's provisions of the Services, except that subsection (d) will not apply if and the extent the damages were caused solely by Climax' gross negligence or willful misconduct. TO THE EXTENT NECESSARY TO INDEMNIFY AND HOLD CLIMAX HARMLESS FROM ANY CLAIMS BY ANY OF CUSTOMER'S EMPLOYEES AND TO THE EXTENT PERMITTED BY LAW, CUSTOMER EXPRESSLY WAIVES ANY IMMUNITY OR EXEMPTION FROM LIABILITY FOR THE PERSONAL INJURY OR DEATH OF CUSTOMER'S EMPLOYEES THAT MAY EXIST UNDER, OR ANY RIGHT TO RECEIVE CONTRIBUTION FROM CLIMAX, CREATED BY THE WORKERS' COMPENSATION LAWS OF THE STATE WHERE THE INJURY OCCURS OR THE EMPLOYEE IS LOCATED.
- 7. Confidentiality.** Neither Party will use the confidential information of the other Party or disclose it to any other person except as expressly authorized by this Agreement or as necessary to perform its obligations or exercise its rights under this Agreement. Each Party will protect the other Party's confidential information using the same degree of care that it uses with respect to its own proprietary information but in no event with safeguards less than a reasonably prudent business would exercise under similar circumstances.

**8. Nonsolicitation.** During the term of this Agreement and for a period of one year after its expiration or earlier termination for any reason, neither Party will directly or indirectly approach, solicit or hire any employee, consultant or contractor of the other Party. Placing a general "help wanted ad" will not constitute a breach of the duty not to approach or solicit an employee.

**9. No Commitment.** This Agreement does not obligate Customer to place any Orders or obligate Climax to accept any Orders.

**10. Force Majeure.** Climax will not be liable for any failure to perform or delay in performing the Services for any cause beyond Climax's reasonable control.

**11. Independent Contractor.** Climax is an independent contractor of Customer, and nothing in this Agreement will create a joint venture or partnership, establish a relationship of principal and agent, establish a relationship of employer and employee, or any other relationship of a similar nature between the parties.

**12. Miscellaneous Provisions.** This Agreement will be interpreted under, and any disputes arising out of this Agreement will be governed by, the laws of the State of Oregon without reference to its conflicts of law principles. Customer irrevocably consents to the jurisdiction of the state and federal courts located in the State of Oregon in connection with all actions arising out of or in connection with the Services or this Agreement; waives any objections that venue is an inconvenient forum; and agrees that it will not initiate any action against Climax in any other jurisdiction. This Agreement may not be amended orally; it may only be amended by a written document signed by authorized representatives of both parties. Any waiver by either party of any breach or right under this Agreement must be in writing and that waiver will not constitute a waiver of any other or subsequent breach or right. If any provision of this Agreement is found to be invalid or unenforceable by a court of competent jurisdiction, that provision will be disregarded and the remainder of this Agreement will remain in full force and effect. The paragraph headings in this Agreement are for convenience of reference and will not limit or otherwise affect the interpretation of any provision of this Agreement. The following will survive and continue in full force and effect after this Agreement expires or is earlier terminated: Sections 3, 5, 6, 7, 8, 12; each other provision of this Agreement and any Order that expressly or by its nature provides for rights, obligations or remedies that extend beyond the expiration or earlier termination of this Agreement or that Order; and all claims that arose before the expiration or earlier termination of this Agreement or that Order.

**13. Insurance.** Climax will procure and maintain at its own expense the following insurance:

- Workers' Compensation Insurance with statutory limits, and employer's liability insurance, if and as required by the laws of the state(s) where the Work will be performed.
- Commercial General Liability insurance with endorsements as necessary to cover liability arising from broad form property damage, personal injury, and contractual liability, with a limit of not less than five hundred thousand US dollars (\$500,000) each occurrence and one million US dollars (\$1,000,000) aggregate.
- Business Automobile Liability Insurance for any auto, including owned, non-owned and hired autos, with a limit of not less than two hundred fifty thousand US dollars (\$250,000) per occurrence and five hundred thousand US (\$500,000) each accident and property damages limits of not less than two hundred fifty thousand US dollars (\$250,000) each accident.

**Customer will procure and maintain at its own expense the following insurance:**

- Workers' Compensation Insurance* with statutory limits, and employer's liability with limits of not less than \$1,000,000, if and as required by the laws of the state (s) where the Work is performed. Customer will procure from their workers compensation carrier a "waiver of subrogation" endorsement in favor of Climax.
- Commercial General Liability Insurance* with endorsements as necessary to cover liability arising from bodily injury, property damage, personal injury and contractual liability with limits of not less than five hundred thousand US dollars (\$500,000) each occurrence and one million US dollars (\$1,000,000) aggregate. Customers Commercial General Liability insurance shall be primary as to any claim brought and Climax commercial general liability shall be non-contributory with that of the customer. This insurance will name Climax as an additional insured.
- Business Automobile Liability Insurance* for any auto, including owned, non-owned and hired autos, with a limit of not less than two hundred fifty thousand US dollars (\$250,000) per occurrence and five hundred thousand US dollars (\$500,000) each accident and property damages limits of not less than two hundred fifty thousand US dollars (\$250,000) each accident. Any limits specified in this Section may be achieved through a combination of primary and umbrella or excess liability policies. **We hereby request copies of certificates of insurance for each required policy to be delivered to Climax at the address set forth above.**