

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

LOCKPORT TOWNSHIP FIRE
PROTECTION DISTRICT,

Plaintiff,

v.

SEAGRAVE FIRE APPARATUS, LLC,

Defendant.

Case No. 1:22-cv-5174

COMPLAINT

NOW COMES Plaintiff, LOCKPORT TOWNSHIP FIRE PROTECTION DISTRICT, through undersigned counsel, complaining of Defendant, SEAGRAVE FIRE APPARATUS, LLC, as follows:

PARTIES

1. LOCKPORT TOWNSHIP FIRE PROTECTION DISTRICT (“LTFPD”) is a unit of local government in Will County, Illinois, 35 miles southwest of Chicago.
2. LTFPD was established in April of 1956.
3. LTFPD serves a population of about 85,000 residents within 46 square miles.
4. LTFPD provides a number of services including fire suppression, advanced life support ambulance service, fire inspection, fire investigation, technical rescue, water rescue and recovery, hazardous materials, and aircraft rescue to the cities of Lockport, Crest Hill, portions of the Village of Romeoville and New Lenox, along with areas of Du Page, Homer, Joliet, Plainfield, Troy and New Lenox Townships.

5. LTFPD currently has 98 sworn and 10 civilian personnel staffing six fire stations.
6. In 2021, LTFPD responded to 10,636 calls for assistance.
7. LTFPD is a citizen of the State of Illinois.
8. SEAGRAVE FIRE APPARATUS, LLC (“Seagrave”) is a limited liability company organized and existing under the laws of the State of Delaware. Seagrave produces a comprehensive range of custom fire apparatus. Manufactured products include aerial ladders, telescopic boom platforms, custom chassis and custom bodies.
9. Seagrave maintains its principal place of business in Clintonville, Wisconsin.
10. Seagrave’s two members are Ulisses Parmeziani and Therese Sell.
11. Ulisses Parmeziani is a natural person domiciled in the State of Wisconsin.
12. Therese Sell is a natural person domiciled in the State of Wisconsin.
13. Seagrave is a citizen of the State of Wisconsin.

JURISDICTION AND VENUE

14. Federal diversity jurisdiction exists under 28 U.S.C. § 1332 because (1) complete diversity of citizenship exists, and (2) the amount in controversy exceeds the sum or value of \$75,000.00.
15. Venue in the Northern District of Illinois is proper under 28 U.S.C. § 1391(b)(2) because the contract contemplated performance in Illinois. See *Moran Ind., Inc., v. Higdon*, 2008 U.S. Dist. LEXIS 51430, 2008 WL 4874114, at *5 (N.D. Ill. June 26, 2008) (considering where performance under the contract was to take place in determining venue under § 1391(b)(2)).

FACTUAL ALLEGATIONS

16. Seagrave was selected through a competitive bid process to furnish one (1) Seagrave model TB70CA, Marauder Pumper (hereinafter, referred to as “pumper”) and one (1) Seagrave model TP7KCT, Marauder 105’ Apollo Quint Rear Mount Platform (hereinafter, collectively referred to as “Apollo platform”) through the H-GAC Cooperative Purchasing Program.

17. The parties entered a contract in 2020 for a purchase price of \$1,969,131.00: \$599,911.00 for the pumper and \$1,369,220.00 for the Apollo platform (hereinafter, referred to as “Contract”). Attached hereto as Exhibit A is a true, correct, and complete copy of the Contract.

18. The Contract provided, in part:

2. The Seller guarantees that all material and workmanship in and about the Apparatus and Equipment shall comply with the mutually agreed specifications and change orders. *** The standard Seagrave Limited Warranty will apply as provided for in the mutually agreed specifications and change orders.

19. Seagrave provides a 2 years “parts and labor” manufacture’s limited warranty.

20. Per the Contract, the pumper and Apollo platform were to be paid for in full prior to being placed in fire service.

21. LTFPD paid the full \$1,969,131.00 to Seagrave.

22. In March of 2022, the Apollo platform was delivered to LTFPD.

23. On April 5th, 6th, and 7th, Seagrave provided training to LTFPD.

24. Soon thereafter, LTFPD began to experience issues with the Apollo platform.

25. On April 10, 2022, the ladder failed to be stowed properly. Additionally, the raise and lower valve handle failed.

26. The following day, after setup, an outrigger drifted, twisting the pin—causing 360° rotation at approximately 70' ladder extension, 50° incline, with two men in the air. LTFPD immediately suspended training.

27. On April 14, 2022, LTFPD held conference call with Seagrave to discuss issues. Seagrave blamed hydraulic issues—correctible with programming.

28. One week later, Emergency Vehicle Technician and Fleet Mechanic Brian Fisher (“Fisher”) and Seagrave identified sensor issues and adjusted the programming. However, they were unsuccessful in recreating April 11, 2022 drift issue.

29. On April 22, 2022, training resumed.

30. The following day, while operating the lift from side to side, the "green" light that indicates that the outrigger is planted would not illuminate. Upon further testing and inspection, Fisher thought the problem was resolved; however, he quickly noticed puddle(s) of hydraulic fluid on the garage floor apron.

31. On April 27, 2022, the Apollo platform was returned to Seagrave to be inspected.

32. On April 28, 2022, Fisher sent list of issues requiring Seagrave’s attention:

33. These issues include, but are not limited to:

A. The right rear outrigger wore at the upper portion of the extension beam by the upper shim. The wear was so bad that

material started to be ground off the beam. The wear pad broke inside the inner jack assembly and the broken metal pieces caused the gouges. It was determined that several pads were loose and installed upside down. Seagrave removed the jack assembly, replaced the wear pads, and repainted the beam.

- B. The rear outriggers had several spots where the bolts that hold the shims in place punctured into the upper portion of the extension beam. It was determined that the bolts were installed without the correct washers causing them to be too long. Seagrave installed the correct washers and repainted the out-jack beams that were damaged.
- C. The left rear down jack had two deep gouges where the wear pad bolts wore through the metal. The right rear down jack had the same issue, but not as severe. It was determined that the bolts were installed without the correct washers causing them to be too long. Seagrave installed the correct washers and repainted the down jack assemblies.
- D. The LED light strip on the right side started to peel away from the ladder at the turntable. It was determined that the metal was not prepped correctly causing the tape to come off.
- E. The LED light strip failed to light. It was determined that the connection at the basket end was loose. LTFPD repaired.
- F. The LED light strip on the left side of the third section of the ladder had a foot long section that was not lighting up and had started to peel away from the ladder. Seagrave replaced the LED light strip and cleaned the metal so that the tape adhered better.
- G. The Proximity sensors at the cradle came loose during a routine set up causing the crew not to be able to bed the ladder. It was determined that both sensors were loose with the left side completely out of socket. Seagrave instructed LTFPD where to put the sensors for correct operation; however, that position caused the ladder to put too much down pressure on the cradle when stowing. LTFPD continued adjusting it until they were able to get it in position in which the ladder would stow correctly.

- H. The vent on the right side hydraulic tank leaks from the vent. It was determined that the wrong vent was installed. Seagrave replaced the original vent routing with a completely different system. The vent still leaks and Seagrave has suggested that LTFPD increase the diameter of the vent hose to prevent any possible suction effect.
- I. The steering wheel is off by 10 to 15 degrees to the right while driving. Seagrave straightened the steering wheel; however, the problem came back, this time 10 degrees to the left.
- J. The front right outrigger beam has paint that is starting to delaminate. The beam has since been repainted.
- K. The rotation motor on the right side has an extreme amount of rust that was already repainted at final inspection, but has rusted through the paint while in use. Seagrave repainted the motor and resealed the base.
- L. Occasionally get outrigger jack pressures that are not consistent with what should be perceived. Seagrave changed the programming so that it will accurately read the sensors. However, LTFPD still occasionally gets erroneous readings from the outrigger sensors.
- M. The rotation motor had a lot of play in it. It was determined that the bolts on the left motor were finger tight. LTFPD torqued the bolts to 160 ft/lbs. Upon inspection, it was also determined that the right motor was under torqued as well. LTFPD torqued those bolts to 160 ft/lbs.
- N. During a routine inspection, LTFPD found the bolts at the basket pivot pin retainers loose. LTFPD checked all bolts at the basket and retorqued.
- O. During a routine setup LTFPD heard a loud scraping sound coming from the right rear outrigger area. LTFPD found debris inside the right side extension jack floor. Seagrave advised LTFPD to remove the shims and pads and lower the jack floor. LTFPD discovered broken wear pad and bolt that was bent at 90-degree angle. The debris was removed and the beam was inspected for the correct wear pad replacement. After verifying that all inner pads and shims were in place, the outer pads were reinstalled and the

outrigger was cycled several times to make sure everything operated correctly. The underside of the out beam has several gouges where the paint was removed from the bolt and needs to be repainted.

- P. During routine setups, the left rear outrigger will not show “green” light at the outrigger controls. Putting more down pressure on the outrigger did not resolve the problem. LTFPD used override controls and the ladder was stowed and the outriggers were put away. Found that the outrigger sensor was getting jammed against the down jack causing it to become cocked and struck in the outward position, preventing the light from coming on and the computer not seeing that the jack was set correctly. LTFPD installed shims to back the sensor from the down jack.
- Q. The basket cannot be raised in the “fast” speed setting and has to be raised using either “medium” or “creed” speed settings. Seagrave changed this at the factory and was supposed to come down to reprogram.
- R. The handrails at the basket were rusted upon delivery. Seagrave replaced the handrails with the proper stainless steel ones.
- S. During a routine setup it was noticed that the left front outrigger safety pin was bent when the crew was putting the ladder away. A drift test did not reproduce the issue. Seagrave determined that debris was stuck in the holding valve causing the cylinder to bleed down.

34. After two weeks, repairs were made and the Apollo platform was returned.

35. On May 16, 2022, Fisher advised LTFPD repairs were done and the training continued.

36. On June 2, 2022, the Apollo platform went into full service.

37. On June 8, 2022, LTFPD found broken wear pads and old bolts that were left in outrigger channel(s).

38. On June 14, 2022, Fisher, who was replacing faulty sensors, found motor bolts to be “hand-tight.” LTFPD cut off the Apollo platform from service indefinitely.

39. On June 17, 2022, Fire Chief John O’ Connor (“O’Connor”) mailed written correspondence to Seagrave, citing issues with Apollo platform, history of repairs, how the issues/defects remain and how additional issues/defects are being found daily. O’Connor called the Apollo platform “unsafe and inoperable for use” and stated LTFPD’s intent to reject the Apollo platform and demand refund of \$1,369,220.00 for the Apollo platform.

40. On July 5, 2022, President and CEO Ulisses D. Parmeziani (“Parmeziani”) mailed written correspondence to LTFPD, indicating a willingness to resolve any issues; however, refusing to accept return of LTFPD’s apparatus. Parmeziani rejected O’Connor’s assertion that the Apollo platform was unsafe or inoperable; however, offered to purchase the Apollo platform back from LTFPD at “fair market value.”

41. On August 10, 2022, counsel for LTFPD emailed counsel for Seagrave demanding that Seagrave: (1) accept return of Apollo platform and refund \$1,369,220.00 for the Apollo platform; or (2) deliver Apollo platform to an agreed upon qualified third-party inspector to be paid at Seagrave’s expense; agreed to pay the repair bills/costs to be completed by an independent vendor; return Apollo platform to LTFPD at Seagrave’s expense; extend Seagrave Limited Warranty three (3) years from date all issues are resolved; reimburse LTFPD for their legal bills incurred.

42. LTFPD received no response.

CLAIMS FOR RELIEF

**COUNT I:
Breach of Contract**

43. All paragraphs of this Complaint are expressly adopted and incorporated herein as though fully set forth herein.

44. “To establish a breach of contract, the plaintiff must show the existence of a valid and enforceable contract, performance of the contract by the plaintiff, breach of the contract by the defendant, and resulting injury to the plaintiff.” *Sherman v. Ryan*, 392 Ill. App. 3d 712, 732, 911 N.E.2d 378, 331 Ill. Dec. 557 (2009).

45. The Contract is a valid and enforceable contract.

46. Per the Contract, LTFPD’s sole obligation was to pay for the pumper and the Apollo platform.

47. LTFPD performed under the contract by paying for the pumper and Apollo platform.

48. Seagrave breached the Contract by failing to furnish the Apollo platform in a workmanlike manner and without material defects.

49. As a result of Seagrave’s breach, LTFPD has not had the Apollo platform “in-service” for more than two weeks since delivery as it cannot be safely operated.

50. As a result of Seagrave’s breach, LTFPD has sustained damages in the amount of \$1,369,220.00.

WHEREFORE, Plaintiff, LOCKPORT TOWNSHIP FIRE PROTECTION DISTRICT, respectfully requests that the Court enter judgment in their favor and against Defendant, SEAGRAVE FIRE APPARATUS, LLC, as follows:

- A. For an award of actual damages and compensatory damages, in an amount to be determined; and
- B. For an award of such other relief as the Court deems just and proper.

**COUNT II:
Breach of Express Warranty (810 ILCS 5/2-313)**

52. All paragraphs of this Complaint are expressly adopted and incorporated herein as though fully set forth herein.

53. Under Illinois law, a description of goods can create an express warranty: “Any description of the goods which is made part of the basis of the bargain creates an express warranty that the goods shall conform to the description.” 810 ILCS 5/2-313.

54. With this statutory overlay, the express warranty is a “creature of contract.” *Collins Co. v. Carboline Co.*, 125 Ill.2d 498, 532 N.E.2d 834, 127 Ill. Dec. 5 (1988).

55. To adequately plead a breach of express warranty, a plaintiff must allege: “(1) the terms of the warranty; (2) a breach or failure of the warranty; (3) a demand upon the defendant to perform under the terms of the warranty; (4) a failure by the defendant to do so; (5) compliance with the terms of the warranty by the plaintiff; and (6) damages measured by the terms of the warranty.” *Lambert v. Dollar Gen. Corp.*, 2017 U.S. Dist. LEXIS 92756, 2017 WL 2619142, at *2 (N.D. Ill. June 16, 2017).

56. As stated supra, the Contract provided, in part:

2. The Seller guarantees that all material and workmanship in and about the Apparatus and Equipment shall comply with the mutually agreed specifications and change orders. *** The standard Seagrave Limited Warranty will apply as provided for in the mutually agreed specifications and change orders.

57. Seagrave's guarantee that all material and workmanship in and about the Apparatus and Equipment shall comply with the mutually agreed specifications and change orders became part of the basis of the bargain between themselves and LTFPD.

58. LTFPD purchased the Apollo platform.

59. Seagrave failed to repair or replace the affected components in accordance with the warranty.

60. On numerous occasions, LTFPD demanded Seagrave perform under the terms of the warranty.

61. Regrettably, Seagrave failed to do so.

62. As a result of Seagrave's breach, LTFPD has sustained damages in the amount of \$1,369,220.00.

WHEREFORE, Plaintiff, LOCKPORT TOWNSHIP FIRE PROTECTION DISTRICT, respectfully requests that the Court enter judgment in their favor and against Defendant, SEAGRAVE FIRE APPARATUS, LLC, as follows:

- A. For an award of actual damages and compensatory damages, in an amount to be determined; and
- B. For an award of such other relief as the Court deems just and proper.

**COUNT III:
Breach of Express Warranty**

63. All paragraphs of this Complaint are expressly adopted and incorporated herein as though fully set forth herein.

64. "To state a claim for breach of express warranty, plaintiffs must allege that (1) the seller made an affirmation of fact or promise; (2) relating to the goods; (3) which

was the basis of the bargain; and (4) seller guaranteed that the goods would conform to the affirmation or promise.” *Baldwin v. Star Scientific, Inc.*, 78 F. Supp. 3d 724, 739 (N.D. Ill. 2015) (quoting *Indus. Hard Chrome, Ltd. v. Hetran, Inc.*, 64 F. Supp. 2d 741, 747 (N.D. Ill. 1999)).

65. A claim for breach of express warranty requires that the plaintiff be in privity of contract with the defendant. *Id.*

66. LTFPD provided specifications for Seagrave to bid on a contract to provide LTFPD with the Apollo platform

67. Seagrave subsequently provided LTFPD with a proposal for the Apollo platform that met LTFPD’s specifications.

68. LTFPD issued a purchase order subject to its own terms and conditions based on Seagrave’s proposal.

69. Seagrave accepted the order and began production.

70. The Contract contained an express warranty by Seagrave that provided, among other things that all material and workmanship in and about the Apollo platform shall comply with the mutually agreed specifications and change orders.

71. Several deficiencies were discovered after the Apollo platform was delivered in March of 2022, as stated *supra*.

72. The material and workmanship in and about the Apollo platform received failed to comply with the mutually agreed specifications and change orders.

WHEREFORE, Plaintiff, LOCKPORT TOWNSHIP FIRE PROTECTION DISTRICT, respectfully requests that the Court enter judgment in their favor and against Defendant, SEAGRAVE FIRE APPARATUS, LLC, as follows:

- A. For an award of actual damages and compensatory damages, in an amount to be determined; and
- B. For an award of such other relief as the Court deems just and proper.

**COUNT IV:
New Vehicle Buyer Protection Act (815 ILCS 380)**

73. All paragraphs of this Complaint are expressly adopted and incorporated herein as though fully set forth herein.

74. LTFFPD is a “consumer” as defined by 815 ILCS 380/2(a).¹

75. The Apollo platform is a “new vehicle” as defined by 815 ILCS 380/2(c).²

76. Seagrave is a “seller” as defined by 815 ILCS 380/2(e).³

¹ “Consumer” means an individual who purchases or leases for a period of at least one year a new vehicle from the seller for the purposes of transporting himself and others, as well as their personal property, for primarily personal, household or family purposes or **a fire department, fire protection district, or township fire department that purchases or leases for a period of at least one year a new vehicle from the seller**. 815 ILCS 380/2(a). (emphasis added).

² “New vehicle” means a passenger car, as defined in Section 1-157 of the Illinois Vehicle Code, a motor vehicle of the Second Division having a weight of under 8,000 pounds, as defined in Section 1-146 of that Code, or **a vehicle purchased by a fire department, a fire protection district, or a township fire department**, and a recreational vehicle, except for a camping trailer or travel trailer that does not qualify under the definition of a used motor vehicle, as set forth in Section 1-216 of that Code. 815 ILCS 380/2(c). (emphasis added).

³ “Seller” means **the manufacturer of a new vehicle, that manufacturer’s agent or distributor or that manufacturer’s authorized dealer**. “Seller” also means, with respect to a new vehicle which is also a modified vehicle, as defined in Section 1-144.1 of the Illinois Vehicle Code, as now or hereafter amended, the person who modified the vehicle and that person’s agent or distributor or that person’s authorized dealer. “Seller” also means, with respect to leased new vehicles, the manufacturer, that manufacturer’s agent or distributor or that manufacturer’s dealer, who transfers the right to possession and use of goods under a lease. 815 ILCS 380/2(e). (emphasis added).

77. Under the New Vehicle Buyer Protection Act, if a seller fails “to conform the new vehicle to any of its applicable express warranties,” the manufacturer must replace the vehicle or accept return of the vehicle. 815 ILCS 380/3(a).

78. LTFPD took delivery of the Apollo platform in March of 2022.

79. The Apollo platform has been out of service by reason of repair of nonconformities for a total of 30 or more business days during the statutory warranty period.⁴

80. As alleged *supra*, A reasonable number of attempts have been undertaken to conform the Apollo platform to its express warranties.

81. On several instances, LTFPD sought to resolve the dispute through informal measures.

82. Seagrave is unable to conform the Apollo platform to any of its applicable express warranties.

83. As a result, LTFPD is without the reasonable value of the Apollo platform.

84. As a result, LTFPD has suffered and continues to suffer harm.

WHEREFORE, Plaintiff, LOCKPORT TOWNSHIP FIRE PROTECTION DISTRICT, respectfully requests that the Court enter judgment in their favor and against Defendant, SEAGRAVE FIRE APPARATUS, LLC, as follows:

A. For an order to provide LTFPD with a new Apparatus and Equipment of like model line, if available, or otherwise a comparable Apparatus and Equipment as a replacement, or to accept the return of the Apparatus and

⁴ “Statutory warranty period” means the period of one year or 12,000 miles, whichever occurs first after the date of the delivery of a new vehicle to the consumer who purchased or leased it. 815 ILCS 380/2(f).

Equipment from LTFPD and refund to LTFPD the full purchase price, including all collateral charges (i.e., reasonable attorney's fees and costs), less a reasonable allowance for LTFPD's use of the Apparatus and Equipment; and

B. For an award of such other relief as the Court deems just and proper.

DEMAND FOR JURY TRIAL

Pursuant to Fed. R. Civ. P. 38(b), Plaintiff, LOCKPORT TOWNSHIP FIRE PROTECTION DISTRICT, demands a trial by jury of any and all issues in this action so triable of right.

DATED: September 22, 2022

Respectfully submitted,

**LOCKPORT TOWNSHIP FIRE
PROTECTION DISTRICT**

By: /s/ Stephen H. DiNolfo

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APR 6 2020

CONTRACT

THIS AGREEMENT; made by and between **Seagrave Fire Apparatus, LLC** of Clintonville, Wisconsin, hereinafter referred to as the "Seller", and **Lockport Township Fire Protection District, Lockport, IL**, by its authorized representative, hereinafter referred to as the "Purchaser".

1. The Seller hereby agrees to furnish **one (1) unit of Seagrave model TB70CA, Marauder Pumper and one (1) unit of Seagrave model TP7KCT, Marauder 105 ft Apollo Quint Rear Mount Platform**, hereinafter referred to as "Apparatus and Equipment", according to the mutually agreed specifications and change order documents hereto attached and made a part of this contract, and to deliver the same as hereinafter provided.
2. The Seller guarantees that all material and workmanship in and about the Apparatus and Equipment shall comply with the mutually agreed specifications and change orders. In the event there is any conflict between the City Bid Specifications and the Seagrave Bid Proposal, the mutually agreed specifications and change orders will prevail. The standard Seagrave Limited Warranty will apply as provided for in the mutually agreed specifications and change orders. Minor details of materials and construction, not otherwise specified, shall be left to the decision of the Seller who shall be solely responsible for the design, engineering and construction of all features of the apparatus. Any changes to the contract or purchase order must be approved in advance through the issuance of a written change order by the Seller. The Seller will not assume responsibility for performing any change requested but not approved by the Purchaser within five (5) days of the change order submission for approval.
3. The Apparatus and Equipment shall be ready for delivery from Clintonville, Wisconsin, within **300 calendar days for the pumper and 365 calendar days for the Apollo platform**, after the receipt of the (i) mutually agreed specifications, (ii) change order documents and (iii) approval drawing signed by the authorized representative of the Purchaser. The mutually agreed specifications and change order documents and approval drawing shall be delivered to the Purchaser for their signature in not more than 31 days from contract receipt at Seagrave or not more than five days from pre-construction meeting, if so provided. Delays due to change orders, strikes, failures to obtain materials, or other causes beyond Seagrave's control will be just cause for delay in delivery. The completed Apparatus and Equipment shall be delivered to the Purchaser at:

**Lockport Township Fire Protection District
19623 Renwick Road
Lockport, IL 60441**

4. A competent representative shall, upon request, be furnished by the Seller to demonstrate said Apparatus and Equipment for the Purchaser and to familiarize the Purchaser's employees in the operation and handling of the Apparatus and Equipment.
5. The Purchaser purchases and agrees to pay for said Apparatus and Equipment, the sum of **One Million, Nine Hundred Sixty-Nine Thousand, One Hundred Thirty-One Dollars (\$1,969,131.00): Five Hundred Ninety-Nine Thousand, Nine Hundred Eleven Dollars (\$599,911.00) for the pumper and One Million, Three Hundred Sixty-Nine Thousand, Two Hundred Twenty Dollars (\$1,369,220.00) for the Apollo platform**, state, federal, FET, or local taxes not included. Payment of any such taxes are the responsibility of the Purchaser. **Terms are net, payment in full upon delivery of the apparatus to the customer. If the contract includes Dealer Furnished Equipment and services, the apparatus will be delivered to the customer and payment made, less five (5) percent of the Contract Price that is held by the fire department until all items and services are provided by the Dealer. The 5% Final Payment and Acceptance will be made once the terms of the contract are satisfied by the Dealer.**

5.1 All payments shall be made payable to Seagrave Fire Apparatus, LLC and shall be mailed directly to:

*Seagrave Fire Apparatus, LLC
7285 Solutions Center
Chicago, IL 60677-7002*

5.2 The Apparatus and Equipment must be paid in full prior to being placed in fire service.

5.3 If more than one piece of Apparatus and Equipment is covered by this Contract, the above terms of payment shall apply to each piece, and an invoice covering each piece shall be rendered in the proper amount.

6. In the case that no final inspection is made by the Purchaser at the factory prior to shipment and the Purchaser desires to test the Apparatus and Equipment upon receipt, such test shall be made within three (3) days after arrival at the delivery destination specified above. A written report of such test shall be delivered forthwith to the Seller at its principal office at Clintonville, Wisconsin. If no such test be made, or if no such report be made by the Purchaser within three (3) days after arrival, then the Apparatus and Equipment shall be considered as fully complying with the contract specifications.
7. It is agreed that the Apparatus and Equipment covered by this contract shall remain the property of the Seller until the Apparatus and Equipment is delivered and accepted by the Purchaser, such acceptance shall not be unreasonably withheld or delayed. In case of any default in payment the Seller may take full possession of the Apparatus and Equipment, or of the piece or pieces upon which default has been made, and any payments that have been made shall be applied as rent in full for the use of the Apparatus and Equipment up to date of taking possession.
8. In the event that any applicable Federal or State Regulations (DOT, FMVSS, EPA, etc.), National Fire Protection Association Standards or import tariffs which are enacted during the course of this contract, and which requires a change in the contract specifications and purchase price in order for the Apparatus and Equipment to comply with such regulation, the parties will execute a change order describing the change in the specifications and increasing the purchase price by an amount equal to the increase in the costs of producing the Apparatus and Equipment.
9. This Agreement shall be governed by and construed in accordance with the laws of the State of **Illinois** without regard to principles of conflict of laws. Each party hereby consents that the exclusive venue for any dispute of claim relating to this Agreement shall be **Will County, Illinois**. **All actions shall be commenced in a Federal Court.**
10. **Seller and Purchaser Indemnifications:**
 - 10.1 **Seller Indemnification - Seller herein agrees to indemnify and hold Purchaser, its elected officials, employees, agents and volunteers free and harmless from any liability for losses, claims, injury to or death of any person resulting from the negligent acts or omissions in the design, engineering and manufacture/assembly of the Apparatus and Equipment.**
 - 10.2 **Purchaser Indemnification - Purchaser herein agrees to indemnify and hold the Seller, its officers, employees, directors, shareholders, agents and lenders free and harmless from any liability for losses, claims, injury to or death of any person arising out of or resulting from the Purchaser's, its elected officials', employees', agents' and volunteers' use, operation or possession of the Apparatus and Equipment, but only to the extent caused by the negligent acts or omissions of the Purchaser, its elected officials, employees, agents and volunteers .**

10.3 Mutual Indemnification Survival Provision - The indemnification provisions provided in this Section 10 shall survive the performance of this Agreement including delivery of the Apparatus and Equipment by the Seller and payment by the Purchaser.

11. Risk of loss shall pass to the Purchaser upon delivery and acceptance of the Apparatus and Equipment.
12. To be binding the contract must be signed and approved by an Officer of Seagrave Fire Apparatus, LLC. This contract and mutually agreed specifications and change order documents take precedence over all previous negotiations, and no representations are considered as entering into this contract except as are contained herein or in the mutually agreed specifications and change order documents included herein.

IN WITNESS WHEREOF, the said parties have caused these presents to be executed and the Purchaser has caused its corporate seal to be hereunto affixed, and attested by its authorized representatives, on this

31 day of MARCH 2020.

Lockport Township Fire Protection District, Lockport, IL ("Purchaser")

By [Signature]
Title FIRE CHIEF
Purchaser

By [Signature]
Title President of Trustees
Purchaser

SEAGRAVE FIRE APPARATUS, LLC ("Seller")

By [Signature]
Ulisses D. Parmeziani

Title: **President and CEO**
Seller

Date of Acceptance: 04/07/2020

The ILND 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (See instructions on next page of this form.)

I. (a) PLAINTIFFS

(b) County of Residence of First Listed Plaintiff (Except in U.S. plaintiff cases)

(c) Attorneys (firm name, address, and telephone number)

DEFENDANTS

County of Residence of First Listed Defendant (In U.S. plaintiff cases only)

Note: In land condemnation cases, use the location of the tract of land involved.

Attorneys (If Known)

II. BASIS OF JURISDICTION (Check one box, only.)

- 1 U.S. Government Plaintiff, 2 U.S. Government Defendant, 3 Federal Question, 4 Diversity

III. CITIZENSHIP OF PRINCIPAL PARTIES (For Diversity Cases Only.)

Table with columns for Plaintiff (PTF) and Defendant (DEF) citizenship and incorporation status.

IV. NATURE OF SUIT (Check one box, only.)

Large table with categories: CONTRACT, REAL PROPERTY, CIVIL RIGHTS, TORTS, BANKRUPTCY, IMMIGRATION, PRISONER PETITIONS, FORFEITURE/PENALTY, LABOR, SOCIAL SECURITY, FEDERAL TAXES, OTHER STATUTES.

V. ORIGIN (Check one box, only.)

- 1 Original Proceeding, 2 Removed from State Court, 3 Remanded from Appellate Court, 4 Reinstated or Reopened, 5 Transferred from Another District, 6 Multidistrict Litigation - Transfer, 8 Multidistrict Litigation - Direct File

VI. CAUSE OF ACTION (Enter U.S. Civil Statute under which you are filing and write a brief statement of cause.)

VII. PREVIOUS BANKRUPTCY MATTERS (For nature of suit 422 and 423, enter the case number and judge for any associated bankruptcy matter previously adjudicated by a judge of this Court. Use a separate attachment if necessary.)

VIII. REQUESTED IN COMPLAINT:

Check if this is a class action under Rule 23, F.R.C.V.P.

Demand \$

CHECK Yes only if demanded in complaint:

Jury Demand: Yes No

IX. RELATED CASE(S) IF ANY (See instructions):

Judge Case Number

X. Is this a previously dismissed or remanded case?

Yes No If yes, Case #

Name of Judge

Date:

Signature of Attorney of Record

Authority for Civil Cover Sheet

The ILND 44 civil cover sheet and the information contained herein neither replaces nor supplements the filings and service of pleading or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. Consequently, a civil cover sheet is submitted to the Clerk of Court for each civil complaint filed. The attorney filing a case should complete the form as follows:

- I.(a) Plaintiffs-Defendants.** Enter names (last, first, middle initial) of plaintiff and defendant. If the plaintiff or defendant is a government agency, use
- (b) County of Residence.** For each civil case filed, except U.S. plaintiff cases, enter the name of the county where the first listed plaintiff resides at the
- (c) Attorneys.** Enter the firm name, address, telephone number, and attorney of record. If there are several attorneys, list them on an attachment, noting in this section "(see attachment)".
- II. Jurisdiction.** The basis of jurisdiction is set forth under Rule 8(a), F.R.Cv.P., which requires that jurisdictions be shown in pleadings. Place an "X" United States plaintiff. (1) Jurisdiction based on 28 U.S.C. 1345 and 1348. Suits by agencies and officers of the United States are included here. United States defendant. (2) When the plaintiff is suing the United States, its officers or agencies, place an "X" in this box. Federal question. (3) This refers to suits under 28 U.S.C. 1331, where jurisdiction arises under the Constitution of the United States, an amendment Diversity of citizenship. (4) This refers to suits under 28 U.S.C. 1332, where parties are citizens of different states. When Box 4 is checked, the citizenship of the different parties must be checked. (See Section III below; **NOTE: federal question actions take precedence over diversity cases.**)
- III. Residence (citizenship) of Principal Parties.** This section of the JS 44 is to be completed if diversity of citizenship was indicated above. Mark this section for each principal party.
- IV. Nature of Suit.** Place an "X" in the appropriate box. If there are multiple nature of suit codes associated with the case, pick the nature of suit code that is most applicable. Click here for: [Nature of Suit Code Descriptions](#).
- V. Origin.** Place an "X" in one of the seven boxes.
- Original Proceedings. (1) Cases which originate in the United States district courts.
- Removed from State Court. (2) Proceedings initiated in state courts may be removed to the district courts under Title 28 U.S.C., Section 1441.
- Remanded from Appellate Court. (3) Check this box for cases remanded to the district court for further action. Use the date of remand as the filing date.
- Reinstated or Reopened. (4) Check this box for cases reinstated or reopened in the district court. Use the reopening date as the filing date.
- Transferred from Another District. (5) For cases transferred under Title 28 U.S.C. Section 1404(a). Do not use this for within district transfers or multidistrict litigation transfers.
- Multidistrict Litigation – Transfer. (6) Check this box when a multidistrict case is transferred into the district under authority of Title 28 U.S.C.
- Multidistrict Litigation – Direct File. (8) Check this box when a multidistrict case is filed in the same district as the Master MDL docket.
- PLEASE NOTE THAT THERE IS NOT AN ORIGIN CODE 7.** Origin Code 7 was used for historical records and is no longer relevant due to changes in statute.
- VI. Cause of Action.** Report the civil statute directly related to the cause of action and give a brief description of the cause. **Do not cite jurisdictional statutes unless diversity.** Example: U.S. Civil Statute: 47 USC 553 Brief Description: Unauthorized reception of cable service
- VII. Requested in Complaint.** Class Action. Place an "X" in this box if you are filing a class action under Rule 23, F.R.Cv.P.
- Demand. In this space enter the actual dollar amount being demanded or indicate other demand, such as a preliminary injunction.
- Jury Demand. Check the appropriate box to indicate whether or not a jury is being demanded.
- VIII. Related Cases.** This section of the JS 44 is used to reference related pending cases, if any. If there are related pending cases, insert the docket numbers and the corresponding judge names for such cases.

Date and Attorney Signature. Date and sign the civil cover sheet.