

**IN THE UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF OHIO  
EASTERN DIVISION**

BEUMER CORPORATION,	)	CASE NO. 1:13-cv-01513
	)	
Plaintiff,	)	JUDGE LESLEY WELLS
	)	
v.	)	MAGISTRATE JUDGE KENNETH S.
	)	MCHARGH
THE BLOOM LAKE IRON ORE MINE	)	
LIMITED PARTNERSHIP,	)	<b><u>(JURY DEMAND ENDORSED</u></b>
	)	<b><u>HEREON)</u></b>
Defendant.	)	

**DEFENDANT THE BLOOM LAKE IRON ORE MINE LIMITED  
PARTNERSHIP’S ANSWER AND COUNTERCLAIMS FOR BREACH OF  
CONTRACT AND DECLARATORY JUDGMENT**

Defendant, The Bloom Lake Iron Ore Mine Limited Partnership (“Bloom Lake”), for its Answer to Plaintiff Beumer Corporation’s (“Beumer”) First Amended Complaint (the “Complaint”) and Counterclaims for Breach of Contract and Declaratory Judgment against Beumer, hereby states as follows:

**PARTIES**

1. In response to Paragraph 1 of the Complaint, Bloom Lake admits that Beumer is a corporation organized under the laws of Delaware. Bloom Lake lacks knowledge or information sufficient to form a belief about the truth of the remaining allegations in Paragraph 1 of the Complaint and therefore, denies these allegations.

2. Bloom Lake admits the allegations contained in Paragraph 2 of the Complaint.

**ALLEGED JURISDICTION AND VENUE**

3. Bloom Lake admits the allegations contained in Paragraph 3 of the Complaint.

4. In response to Paragraph 4 of the Complaint, Bloom Lake admits that the parties have contractually agreed and consented to personal jurisdiction and venue in this Court. Further answering, Bloom Lake admits that the contracts between the parties speak for themselves and are the best evidence of their contents. Bloom Lake denies the remaining allegations contained in Paragraph 4 of the Complaint to the extent inconsistent with the foregoing.

**FACTUAL ALLEGATIONS COMMON TO ALL COUNTS**

5. In response to Paragraph 5 of the Complaint, Bloom Lake admits that the parties entered into a contract attached to the Complaint as Exhibit A. Further answering, Bloom Lake admits that this contract between the parties speaks for itself and is the best evidence of its contents. Bloom Lake denies the remaining allegations contained in Paragraph 5 of the Complaint to the extent inconsistent with the foregoing.

6. In response to Paragraph 6 of the Complaint, Bloom Lake admits that the parties entered into a contract attached to the Complaint as Exhibit B. Further answering, Bloom Lake admits that this contract between the parties speaks for itself and is the best evidence of its contents. Bloom Lake denies the remaining allegations contained in Paragraph 6 of the Complaint to the extent inconsistent with the foregoing.

7. In response to Paragraph 7 of the Complaint, Bloom Lake admits that these disputes between the parties shall be adjudicated in the local, state, or federal

courts of Cleveland, Ohio, and that the contracts between the parties shall be interpreted in accordance with the laws of the State of Ohio and for all purposes will be governed by and construed and enforced in accordance with the laws of the State of Ohio. Further answering, Bloom Lake admits that the contracts between the parties speak for themselves and are the best evidence of their contents. Bloom Lake denies the remaining allegations contained in Paragraph 7 of the Complaint to the extent inconsistent with the foregoing.

8. In response to Paragraph 8 of the Complaint, Bloom Lake admits that the contracts between the parties speak for themselves and are the best evidence of their contents. Bloom Lake denies the remaining allegations contained in Paragraph 8 of the Complaint to the extent inconsistent with the foregoing.

9. In response to Paragraph 9 of the Complaint, Bloom Lake admits that the contracts between the parties speak for themselves and are the best evidence of their contents. Bloom Lake denies the remaining allegations contained in Paragraph 9 of the Complaint to the extent inconsistent with the foregoing.

10. In response to Paragraph 10 of the Complaint, Bloom Lake admits that the contracts between the parties speak for themselves and are the best evidence of their contents. Bloom Lake denies the remaining allegations contained in Paragraph 10 of the Complaint to the extent inconsistent with the foregoing.

11. In response to Paragraph 11 of the Complaint, Bloom Lake admits that the contracts contain provisions regarding Beumer's responsibility for designing and fabricating certain structural steel components and the furnishing of certain conveyor equipment, among other things. Further answering, Bloom Lake admits that the contracts between the parties speak for themselves and are the best evidence of their

contents. Bloom Lake denies the remaining allegations contained in Paragraph 11 of the Complaint, if any, to the extent inconsistent with the foregoing.

12. In response to Paragraph 12 of the Complaint, Bloom Lake admits that the contracts contained obligations and responsibilities of Bloom Lake. Further answering, Bloom Lake admits that the contracts between the parties speak for themselves and are the best evidence of their contents. Bloom Lake denies the remaining allegations contained in Paragraph 12 of the Complaint to the extent inconsistent with the foregoing.

13. Bloom Lake denies the allegations contained in Paragraph 13 of the Complaint.

14. Bloom Lake lacks knowledge or information sufficient to form a belief about the truth of the allegations contained in Paragraph 14 of the Complaint and therefore, denies these allegations.

15. In response to Paragraph 15 of the Complaint, Bloom Lake admits that the parties discussed accomplishing Beumer's work. Bloom Lake lacks knowledge or information sufficient to form a belief about the truth of the allegations regarding whether NAFCO was Beumer's sole fabrication subcontractor and therefore, denies these allegations. Bloom Lake denies the remaining allegations contained in Paragraph 15 of the Complaint.

16. In response to Paragraph 16 of the Complaint, Bloom Lake admits that the project included cold weather steel. Bloom Lake denies the remaining allegations contained in Paragraph 16 of the Complaint.

17. Bloom Lake denies the allegations contained in Paragraph 17 of the Complaint.

18. In response to Paragraph 18 of the Complaint, Bloom Lake admits that the contracts between the parties speak for themselves and are the best evidence of their contents. Bloom Lake denies the remaining allegations contained in Paragraph 18 of the Complaint to the extent inconsistent with the foregoing.

19. In response to Paragraph 19 of the Complaint, Bloom Lake admits that the contracts between the parties speak for themselves and are the best evidence of their contents. Bloom Lake denies the remaining allegations contained in Paragraph 19 of the Complaint to the extent inconsistent with the foregoing.

20. In response to Paragraph 20 of the Complaint, Bloom Lake admits that the contracts between the parties speak for themselves and are the best evidence of their contents. Bloom Lake denies the remaining allegations contained in Paragraph 20 of the Complaint to the extent inconsistent with the foregoing.

21. Bloom Lake lacks knowledge or information sufficient to form a belief about the truth of the allegations contained in Paragraph 21 of the Complaint and therefore, denies these allegations.

22. In response to Paragraph 22 of the Complaint, Bloom Lake admits that the contracts between the parties speak for themselves and are the best evidence of their contents. Bloom Lake denies the remaining allegations contained in Paragraph 22 of the Complaint.

23. In response to Paragraph 23 of the Complaint, Bloom Lake admits that the contracts between the parties speak for themselves and are the best evidence of their contents. Bloom Lake denies the remaining allegations contained in Paragraph 23 of the Complaint.

24. Bloom Lake denies the allegations contained in Paragraph 24 of the Complaint.

25. In response to Paragraph 25 of the Complaint, Bloom Lake admits that it had responsibilities in connection with those responsible for transportation and preassembly. Bloom Lake denies the remaining allegations contained in Paragraph 25 of the Complaint to the extent inconsistent with the foregoing.

26. Bloom Lake denies the allegations contained in Paragraph 26 of the Complaint.

27. Bloom Lake denies the allegations contained in Paragraph 27 of the Complaint.

28. Bloom Lake denies the allegations contained in Paragraph 28 of the Complaint.

29. Bloom Lake denies the allegations contained in Paragraph 29 of the Complaint.

30. In response to Paragraph 30 of the Complaint, Bloom Lake admits that the contracts between the parties speak for themselves and are the best evidence of their contents. Bloom Lake denies the remaining allegations contained in Paragraph 30 of the Complaint.

31. Bloom Lake denies the allegations contained in Paragraph 31 of the Complaint.

32. In response to Paragraph 32 of the Complaint, Bloom Lake admits that the contracts between the parties speak for themselves and are the best evidence of their contents. Bloom Lake denies the remaining allegations contained in Paragraph 32 of the Complaint to the extent inconsistent with the foregoing.

33. Bloom Lake denies the allegations contained in Paragraph 33 of the Complaint.

34. Bloom Lake denies the allegations contained in Paragraph 34 of the Complaint.

35. Bloom Lake denies the allegations contained in Paragraph 35 of the Complaint.

36. Bloom Lake denies the allegations contained in Paragraph 36 of the Complaint.

37. Bloom Lake denies the allegations contained in Paragraph 37 of the Complaint.

38. Bloom Lake denies the allegations contained in Paragraph 38 of the Complaint.

39. Bloom Lake denies the allegations contained in Paragraph 39 of the Complaint.

40. Bloom Lake denies the allegations contained in Paragraph 40 of the Complaint.

41. Bloom Lake denies the allegations contained in Paragraph 41 of the Complaint.

42. Bloom Lake denies the allegations contained in Paragraph 42 of the Complaint.

43. Bloom Lake denies the allegations contained in Paragraph 43 of the Complaint.

44. Bloom Lake denies the allegations contained in Paragraph 44 of the Complaint.

45. Bloom Lake denies the allegations contained in Paragraph 45 of the Complaint.

46. Bloom Lake denies the allegations contained in Paragraph 46 of the Complaint.

47. Bloom Lake denies the allegations contained in Paragraph 47 of the Complaint.

48. In response to Paragraph 48 of the Complaint, Bloom Lake admits that a copy of a December 28, 2011 letter from Beumer is attached to the Complaint as Exhibit C. Further answering, Bloom Lake states that the letter speaks for itself and is the best evidence of its contents. Bloom Lake denies the remaining allegations contained in Paragraph 48 of the Complaint and those allegations contained in Exhibit C.

49. In response to Paragraph 49 of the Complaint, Bloom Lake admits that the letter speaks for itself and is the best evidence of its contents. Bloom Lake denies the remaining allegations contained in Paragraph 49 of the Complaint to the extent inconsistent with the foregoing.

50. Bloom Lake denies the allegations contained in Paragraph 50 of the Complaint.

51. Bloom Lake denies the allegations contained in Paragraph 51 of the Complaint.

52. Bloom Lake denies the allegations contained in Paragraph 52 of the Complaint.

53. Bloom Lake denies the allegations contained in Paragraph 53 of the Complaint.



54. Bloom Lake denies the allegations contained in Paragraph 54 of the Complaint.

55. In response to Paragraph 55 of the Complaint, Bloom Lake admits that a copy of a July 14, 2012 email from Beumer is attached to the Complaint as Exhibit D. Further answering, Bloom Lake states that the email speaks for itself and is the best evidence of its contents. Bloom Lake denies the remaining allegations contained in Paragraph 55 of the Complaint and those allegations contained in Exhibit D.

56. In response to Paragraph 56 of the Complaint, Bloom Lake admits that the letter speaks for itself and is the best evidence of its contents. Bloom Lake denies the remaining allegations contained in Paragraph 56 of the Complaint to the extent inconsistent with the foregoing.

57. Bloom Lake denies the allegations contained in Paragraph 57 of the Complaint.

58. Bloom Lake denies the allegations contained in Paragraph 58 of the Complaint.

59. In response to Paragraph 59 of the Complaint, Bloom Lake admits that a copy of a January 4, 2013 letter from Beumer is attached to the Complaint as Exhibit E. Further answering, Bloom Lake states that the letter speaks for itself and is the best evidence of its contents. Bloom Lake denies the remaining allegations contained in Paragraph 59 of the Complaint and those allegations contained in Exhibit E.

60. In response to Paragraph 60 of the Complaint, Bloom Lake admits that it has denied Beumer's claims. Bloom Lake denies the remaining allegations contained in Paragraph 60 of the Complaint.

61. In response to Paragraph 61 of the Complaint, Bloom Lake admits that Robert Allard of Global Partner Solutions, Inc. provided certain services to Bloom Lake. Bloom Lake denies the remaining allegations contained in Paragraph 61 of the Complaint.

62. In response to Paragraph 62 of the Complaint, Bloom Lake admits that a copy of an email exchange is attached to the Complaint as Exhibit F. Further answering, Bloom Lake states that the email exchange speaks for itself and is the best evidence of its contents. Bloom Lake denies the remaining allegations contained in Paragraph 62 of the Complaint and those allegations contained in Exhibit F.

63. Bloom Lake denies the allegations contained in Paragraph 63 of the Complaint.

64. Bloom Lake denies the allegations contained in Paragraph 64 of the Complaint.

65. In response to Paragraph 65 of the Complaint, Bloom Lake admits that a copy of an email exchange is attached to the Complaint as Exhibit G. Further answering, Bloom Lake states that the email exchange speaks for itself and is the best evidence of its contents. Bloom Lake denies the remaining allegations contained in Paragraph 65 of the Complaint and those allegations contained in Exhibit G.

66. Bloom Lake denies the allegations contained in Paragraph 66 of the Complaint.

67. Bloom Lake denies the allegations contained in Paragraph 67 of the Complaint.

68. In response to Paragraph 68 of the Complaint, Bloom Lake admits that a copy of an August 17, 2012 email exchange is attached to the Complaint as Exhibit H.

Further answering, Bloom Lake states that the email exchange speaks for itself and is the best evidence of its contents. Bloom Lake denies the remaining allegations contained in Paragraph 68 of the Complaint and those allegations contained in Exhibit H.

69. Bloom Lake denies the allegations contained in Paragraph 69 of the Complaint.

70. In response to Paragraph 70 of the Complaint, Bloom Lake admits that it has denied Beumer's claims and has asserted a claim for \$12,354,929.50 related to Beumer's defective performance. Bloom Lake denies the remaining allegations contained in Paragraph 70 of the Complaint.

71. Bloom Lake denies the allegations contained in Paragraph 71 of the Complaint.

72. Bloom Lake denies that allegations contained in Paragraph 72 of the Complaint.

73. Bloom Lake denies the allegations contained in Paragraph 73 of the Complaint.

74. In response to Paragraph 74 of the Complaint, Bloom Lake admits that, at one point, Bloom Lake notified Beumer that certain commissioning was scheduled to occur in September 2013. Bloom Lake denies the remaining allegations contained in Paragraph 74 of the Complaint to the extent consistent with the foregoing.

75. Bloom Lake denies the allegations contained in Paragraph 75 of the Complaint.

76. In response to Paragraph 76 of the Complaint, Bloom Lake admits that the contracts between the parties speak for themselves and are the best evidence of their

contents. Bloom Lake denies the remaining allegations contained in Paragraph 76 of the Complaint to the extent inconsistent with the foregoing.

77. Bloom Lake denies the allegations contained in Paragraph 77 of the Complaint.

78. In response to Paragraph 78 of the Complaint, Bloom Lake admits that Beumer has made certain demands for alleged payment. Bloom Lake denies the remaining allegations contained in Paragraph 78 of the Complaint.

79. In response to Paragraph 79 of the Complaint, Bloom Lake admits that Beumer has made certain demands for alleged payment. Bloom Lake denies the remaining allegations contained in Paragraph 79 of the Complaint.

80. In response to Paragraph 80 of the Complaint, Bloom Lake admits that a copy of an April 5, 2013 letter from Beumer is attached to the Complaint as Exhibit I. Further answering, Bloom Lake states that the letter speaks for itself and is the best evidence of its contents. Bloom Lake denies the remaining allegations contained in Paragraph 80 of the Complaint and those allegations contained in Exhibit I.

81. Bloom Lake denies the allegations contained in Paragraph 81 of the Complaint.

82. Bloom Lake denies the allegations contained in Paragraph 82 of the Complaint.

83. Bloom Lake denies the allegations contained in Paragraph 83 of the Complaint.

84. In response to Paragraph 84 of the Complaint, Bloom Lake admits that the contracts between the parties speak for themselves and are the best evidence of their

contents. Bloom Lake denies the remaining allegations contained in Paragraph 84 of the Complaint to the extent inconsistent with the foregoing.

85. Bloom Lake denies the allegations contained in Paragraph 85 of the Complaint.

86. Bloom Lake denies the allegations contained in Paragraph 86 of the Complaint.

87. In response to Paragraph 87 of the Complaint, Bloom Lake admits that a copy of a purported escrow agreement between the parties signed by Bloom Lake is attached to the Complaint as Exhibit J. Further answering, Bloom Lake admits that the escrow agreement speaks for itself and is the best evidence of its contents. Bloom Lake denies the remaining allegations contained in Paragraph 87 of the Complaint to the extent inconsistent with the foregoing.

88. Bloom Lake denies the allegations contained in Paragraph 88 of the Complaint.

89. Bloom Lake denies the allegations contained in Paragraph 89 of the Complaint.

90. Bloom Lake denies the allegations contained in Paragraph 90 of the Complaint.

**COUNT ONE**  
**Alleged Referral to Arbitration**

91. Bloom Lake incorporates its preceding answers and denials as if fully re-written herein.

92. In response to Paragraph 92 of the Complaint, Bloom Lake states that the allegations contained in this paragraph have been rendered moot in light of the Court's

June 12, 2014 Opinion and Order. To the extent a response to the allegations is necessary, Bloom Lake denies the allegations contained in Paragraph 92 of the Complaint.

93. In response to Paragraph 93 of the Complaint, Bloom Lake states that the allegations contained in this paragraph have been rendered moot in light of the Court's June 12, 2014 Opinion and Order. To the extent a response to the allegations is necessary, Bloom Lake denies the allegations contained in Paragraph 93 of the Complaint.

**COUNT TWO**  
**Alleged Breach of Contract**

94. Bloom Lake incorporates its preceding answers and denials as if fully re-written herein.

95. In response to Paragraph 95 of the Complaint, Bloom Lake admits that Beumer was responsible for designing, fabricating, and supplying materials and equipment for certain conveyor systems and an ore storage shed, among other things. Further answering, Bloom Lake admits that the contracts between the parties speak for themselves and are the best evidence of their contents. Bloom Lake denies the remaining allegations contained in Paragraph 95 of the Complaint to the extent inconsistent with the foregoing.

96. Bloom Lake denies the allegations contained in Paragraph 96 of the Complaint.

97. Bloom Lake denies the allegations contained in Paragraph 97 of the Complaint.

98. Bloom Lake denies the allegations contained in Paragraph 98 of the Complaint.

99. Bloom Lake denies the allegations contained in Paragraph 99 of the Complaint.

100. Bloom Lake denies the allegations contained in Paragraph 100 of the Complaint.

**COUNT THREE**  
**Alleged Fraud in the Inducement/Fraudulent  
Misrepresentation/Promissory Estoppel**

101. Bloom Lake incorporates its preceding answers and denials as if fully re-written herein.

102. In response to Paragraph 102 of the Complaint, Bloom Lake states that the allegations contained in this paragraph have been rendered moot in light of the Beumer's October 13, 2014 dismissal of Count Three of the Complaint. To the extent a response to the allegations is necessary, Bloom Lake denies the allegations contained in Paragraph 102 of the Complaint.

103. In response to Paragraph 103 of the Complaint, Bloom Lake states that the allegations contained in this paragraph have been rendered moot in light of the Beumer's October 13, 2014 dismissal of Count Three of the Complaint. To the extent a response to the allegations is necessary, Bloom Lake denies the allegations contained in Paragraph 103 of the Complaint.

104. In response to Paragraph 104 of the Complaint, Bloom Lake states that the allegations contained in this paragraph have been rendered moot in light of the Beumer's October 13, 2014 dismissal of Count Three of the Complaint. To the extent a

response to the allegations are necessary, Bloom Lake denies the allegations contained in Paragraph 104 of the Complaint.

105. In response to Paragraph 105 of the Complaint, Bloom Lake states that the allegations contained in this paragraph have been rendered moot in light of the Beumer's October 13, 2014 dismissal of Count Three of the Complaint. To the extent a response to the allegations is necessary, Bloom Lake denies the allegations contained in Paragraph 105 of the Complaint.

106. In response to Paragraph 106 of the Complaint, Bloom Lake states that the allegations contained in this paragraph have been rendered moot in light of the Beumer's October 13, 2014 dismissal of Count Three of the Complaint. To the extent a response to the allegations is necessary, Bloom Lake denies the allegations contained in Paragraph 106 of the Complaint.

107. In response to Paragraph 107 of the Complaint, Bloom Lake states that the allegations contained in this paragraph have been rendered moot in light of the Beumer's October 13, 2014 dismissal of Count Three of the Complaint. To the extent a response to the allegations is necessary, Bloom Lake denies the allegations contained in Paragraph 107 of the Complaint.

108. In response to Paragraph 108 of the Complaint, Bloom Lake states that the allegations contained in this paragraph have been rendered moot in light of the Beumer's October 13, 2014 dismissal of Count Three of the Complaint. To the extent a response to the allegations is necessary, Bloom Lake denies the allegations contained in Paragraph 108 of the Complaint.

109. In response to Paragraph 109 of the Complaint, Bloom Lake states that the allegations contained in this paragraph have been rendered moot in light of the



Beumer's October 13, 2014 dismissal of Count Three of the Complaint. To the extent a response to the allegations is necessary, Bloom Lake denies the allegations contained in Paragraph 109 of the Complaint.

110. In response to Paragraph 110 of the Complaint, Bloom Lake states that the allegations contained in this paragraph have been rendered moot in light of the Beumer's October 13, 2014 dismissal of Count Three of the Complaint. To the extent a response to the allegations is necessary, Bloom Lake denies the allegations contained in Paragraph 110 of the Complaint.

**COUNT FOUR**  
**Alleged Unjust Enrichment/Quantum Meruit**

111. Bloom Lake incorporates its preceding answers and denials as if fully re-written herein.

112. In response to Paragraph 112 of the Complaint, Bloom Lake states that the allegations contained in this paragraph have been rendered moot in light of the Beumer's October 13, 2014 dismissal of Count Four of the Complaint. To the extent a response to the allegations is necessary, Bloom Lake denies the allegations contained in Paragraph 112 of the Complaint.

113. In response to Paragraph 113 of the Complaint, Bloom Lake states that the allegations contained in this paragraph have been rendered moot in light of the Beumer's October 13, 2014 dismissal of Count Four of the Complaint. To the extent a response to the allegations is necessary, Bloom Lake denies the allegations contained in Paragraph 113 of the Complaint.

114. In response to Paragraph 114 of the Complaint, Bloom Lake states that the allegations contained in this paragraph have been rendered moot in light of the

Beumer's October 13, 2014 dismissal of Count Four of the Complaint. To the extent a response to the allegations is necessary, Bloom Lake denies the allegations contained in Paragraph 114 of the Complaint.

115. In response to Paragraph 115 of the Complaint, Bloom Lake states that the allegations contained in this paragraph have been rendered moot in light of the Beumer's October 13, 2014 dismissal of Count Four of the Complaint. To the extent a response to the allegations is necessary, Bloom Lake denies the allegations contained in Paragraph 115 of the Complaint.

116. Bloom Lake denies each and every allegation contained in the Complaint not specifically admitted herein.

#### **AFFIRMATIVE DEFENSES**

Unless the substantive law so provides, Bloom Lake does not assume the burden of proof on any of the following defenses:

1. Plaintiff's Complaint fails to state a claim against Bloom Lake upon which relief can be granted.
2. Plaintiff's Complaint is or may be barred, in whole or in part, by the doctrine of waiver.
3. Plaintiff's Complaint is or may be barred, in whole or in part, by the doctrine of estoppel.
4. Plaintiff's Complaint is or may be barred, in whole or in part, by the doctrine of laches.
5. Plaintiff's Complaint is or may be barred, in whole or in part, by the doctrine of *in pari delicto*.

6. Plaintiff's Complaint is or may be barred, in whole or in part, by the doctrine of unclean hands.

7. Plaintiff's Complaint is or may be barred, in whole or in part, by release.

8. Plaintiff's Complaint is or may be barred, in whole or in part, by payment.

9. Plaintiff's Complaint is or may be barred, in whole or in part, by accord and satisfaction.

10. Plaintiff's Complaint is or may be barred, in whole or in part, by novation.

11. Plaintiff's Complaint is or may be barred, in whole or in part, by modification of contract(s).

12. Plaintiff failed to join necessary and/or indispensable parties.

13. Plaintiff's damages, if any, were or may be the direct and proximate result of its own intervening and/or superseding acts or omissions.

14. Plaintiff's damages, if any, were or may be the direct and proximate result of intervening and/or superseding acts or omissions of third parties over which Bloom Lake has neither control nor duty.

15. Plaintiff failed to mitigate its damages, if any.

16. Plaintiff's Complaint is or may be barred, in whole or in part, by set-off.

17. Plaintiff's Complaint is or may be barred, in whole or in part, by recoupment.

18. Plaintiff's Complaint is or may be barred due to breaches of contracts by Plaintiff.

19. Plaintiff's claims are or may be barred because work performed by Plaintiff was not in accordance with workmanlike and industry standards.

20. Plaintiff's claims are or may be barred because any injuries or damages of which Plaintiff complains were the direct and proximate result of intervening forces and/or superseding causes over which Bloom Lake had no control.

21. Plaintiff's claims are or may not be ripe.

22. Plaintiff failed to follow the conditions precedent to asserting its claims under the contracts, including, but not limited to, failing to provide notice of disagreements and/or using best efforts to settle disagreements amicably.

23. Bloom Lake's actions were justified under applicable law and/or contract(s).

24. Plaintiff may be precluded under the contracts from seeking all or some of its alleged damages, if any.

25. Bloom Lake expressly reserves the right to assert additional affirmative and/or other defenses as may become known or available through the course of discovery in this action.

### **BLOOM LAKE'S COUNTERCLAIMS**

For its Counterclaims (the "Counterclaims") against Beumer, Bloom Lake states as follows:

#### **PARTIES**

1. Bloom Lake is a limited partnership organized and existing under the laws of the Province of Ontario and has its principal place of business in Montreal, Quebec, Canada. Bloom Lake's partners are Cliffs Quebec Iron Mining Limited and WuGang Canada Resources Investment Limited. Cliffs Quebec Iron Mining Limited is a corporation organized and existing under the laws of the Province of British Columbia and has its principal place of business in Montreal, Quebec, Canada. WuGang Canada

Resources Investment Limited is a corporation organized and existing under the laws of the Province of British Columbia and has its principal place of business in Vancouver, British Columbia, Canada.

2. Bloom Lake is an entity affiliated with Cliffs Natural Resources Inc. (“Cliffs”). Cliffs is an international mining and natural resources company headquartered in Cleveland, Ohio.

3. Beumer is a corporation organized and existing under the laws of the State of Delaware. Upon information and belief, Beumer has a principal place of business at 783 Main Street, Bridgewater, New Jersey 08807, and another corporate office located at 4435 Main Street, Suite 600, Kansas City, Missouri 64111.

#### **JURISDICTION AND VENUE**

4. This Court has original diversity jurisdiction over this action under 28 U.S.C. § 1332(a)(2) because this action is between diverse citizens and the amount in controversy exceeds Seventy-Five Thousand Dollars (\$75,000), exclusive of interest and costs.

5. Pursuant to two purchase agreements executed between Bloom Lake and Beumer and more fully described below, the parties have agreed that “[a]ny disputes arising out of or in conjunction with [the purchase agreements] shall be adjudicated in the local, state or federal courts of Cleveland, Ohio . . . .”

#### **FACTS COMMON TO ALL CLAIMS FOR RELIEF**

##### **I. Phase II of the Bloom Lake Project.**

6. Bloom Lake operates an iron ore mine in Fermont, Quebec, Canada.

7. This dispute relates to the construction of Phase II of the Bloom Lake Project (the “Project”).

8. For the Project, Bloom Lake planned to construct a conveyor system and storage building designed to transport iron ore over long distances, and these transportation enhancements were ultimately designed to increase its iron ore production capacity at the mine.

9. On or about April 29, 2011, Bloom Lake invited Beumer to submit a proposal for the supply and pre-assembly of the conveyor system and storage building, among other things.

10. On or about May 18, 2011, Beumer provided Bloom Lake with its proposal, and the parties subsequently agreed to execute two separate agreements for Beumer's piece of the Project.

11. Bloom Lake also contracted with other contractors to install the conveyor system and storage building at the Project site and perform other services.

**II. Purchase of the Overland Conveyor and Sacrificial Conveyor from Beumer.**

12. On or about October 1, 2011, Bloom Lake entered into a purchase agreement with Beumer ("Purchase Agreement I") under which Beumer agreed, among other things, to supply and pre-assemble an upstream sacrificial conveyor and overland conveyor (the "OLC").

13. The upstream sacrificial conveyor is an intermediary conveyor used to control the flow of iron ore from crushed iron ore depository feeder to the OLC.

14. The OLC transports the crushed iron ore from the depository to the ore storage shed (the "OSS") located approximately 2.2 miles away.

**III. Purchase of the Cover Tripper Conveyor and the OSS from Beumer.**

15. On or about October 1, 2011, Bloom Lake entered into another purchase agreement with Beumer (“Purchase Agreement II”) under which Beumer also agreed, among other things, to supply and pre-assemble a cover tripper conveyor and the OSS. Purchase Agreement I and Purchase Agreement II are collectively referred to in these Counterclaims as the “Purchase Agreements.”

16. The cover tripper conveyor is another intermediary conveyor that moves the crushed iron ore off the OLD and into the OSS.

17. The OSS is a massive structure, and as its name suggests, stores crushed iron ore for future production.

**IV. Beumer’s Breach of Purchase Agreement I with Respect to the OLC.**

**A. Bloom Lake Encounters Disastrous Technical Problems in Installing the OLC.**

18. In general, Beumer’s design and/or fabrication of the OLC was defective and included a multitude of technical problems, all of which caused Bloom Lake to incur substantial additional costs.

19. First, Beumer failed to provide alignment procedures for the OLC in violation of Purchase Agreement I, leaving Bloom Lake’s installation contractor without alignment procedures.

20. Second, Beumer provided defective design and fabrication for many of the components of the OLC. As a result, the components of the OLC failed to properly align, and included, among other things:

- a) missing slots for idlers (the pulleys for the conveyor);

- b) interference of return idlers with the frames of throughing idlers;
- c) inconsistent heights of idlers on transition sections;
- d) deck trusses that prevented the requisite conveyor alignment;
- e) errors in alignment/banking drawings that required Bloom Lake's installation contractor to remobilize and make corrections;
- f) interferences between the upper cross member and the return belt path; and
- g) incorrect orientation of certain idlers.

21. Third, without advising Bloom Lake, Beumer unilaterally changed the configuration of throughing idlers, and upon receipt of these changes, Bloom Lake's installation contractor was required to perform corrective work.

22. Fourth, Beumer failed to provide complete erection drawings or any erection procedures, which caused Bloom Lake to incur additional cost during the installation of the OLC.

23. Fifth, Beumer failed to supply certain parts and in some cases supplied defective parts for the OLC, which included, among other things:

- a) Beumer's failure to provide pre-assembled bolts, washers, and nuts;
- b) Beumer's delivery of defective bolts that broke and cracked; and
- c) Beumer's failure to provide a complete set of bolts (i.e., missing bolts).

24. Sixth, Beumer provided components that did not appropriately fit with other components for the OLC, and examples of Beumer's failures included, among other things:

- a) bolt patterns between components that did not correspond;



- b) gusset plates installed at the wrong location;
- c) structural elements not fabricated in accordance with the drawings;
- d) misfits between mechanical components; and
- e) a defective design for the OLC feed chute.

**B. Beumer's Deficiencies Carry Over to Transfer Tower 2.**

25. The OLC was connected to various other appurtenances, including Transfer Tower 2.

26. Specifically, Transfer Tower 2 was located between the OLC and the OSS. It is where the ore is transferred from the OLC to the tripper conveyor, and from the tripper conveyor, the ore is, in turn, transferred to the OSS.

27. As with the OLC, Bloom Lake encountered severe problems with Beumer's design and fabrication.

28. The problems included, among other things:

- a) bolt patterns between components that did not correspond;
- b) gusset plates that were fabricated by Beumer in the wrong location;
- c) the structural elements of the tower that were not fabricated in accordance with design drawings;
- d) the bolt patterns for certain parts were not compatible with the larger structural elements of the tower;
- e) certain bolts that were the wrong dimensions;
- f) pulley frames with stiffeners that were only tack welded;
- g) the mechanical components for conveyors 205 and 206 did not align with the corresponding support brackets on the conveyor frame;

- h) pulleys located at different elevations along the tower did not align with the corresponding support structure; and
- i) major discrepancies in the connection of consecutive chute sections.

29. Moreover, Beumer delivered components out of sequence, and in this case, delivered a number of large components for the OLC after the erection of Transfer Tower 2 forcing Bloom Lake's installation contractor to dismantle certain elements of the tower and then re-install the same.

30. Finally, all of the chutes in Transfer Tower 1 and Transfer Tower 2, as well as the tripper car, were designed and delivered by Beumer without lip liners — an essential component to these items.

**C. Beumer's Defective Design and Fabrication Also Affected Conveyor Hoods.**

31. The conveyor system included certain protective equipment, including "hoods" which refer to the covers installed over the OLC.

32. The hoods, along with other equipment, are intended to prevent ore dust from spreading, provide safety guarding for the conveyor, and prevent snow accumulation and ice buildup on the conveyor belt and idler.

33. Beumer's design and fabrication for the hoods was defective, and examples of Beumer's defective services included, among other things:

- a) the failure to provide any design drawings for the conveyor hoods;
- b) the weight of the hoods was excessive; and
- c) the number of metal screws for the hoods was also excessive and were not easily accessible from the walkway.

34. In light of these issues,, Bloom Lake procured and installed replacement hoods in an effort to mitigate its damages.

35. Beumer also failed to provide the hoods and related equipment (e.g., the rings) by the required scheduled date.

36. Further, Beumer's defective design and fabrication caused Bloom Lake to incur additional costs for equipment such as additional boom tracks to install the equipment.

37. As a result the deficiencies identified above, Bloom Lake incurred significant damages, including, but not limited to, additional costs to compensate third parties contracted by Bloom Lake to perform installation work.

**D. Beumer Delivered Components of the OLC Out of Sequence.**

38. In addition to the instances above of Beumer delivering components out of sequence, there were numerous other problems with Beumer's delivery of certain components, including instances where Beumer delivered components out of sequence. This caused Bloom Lake to incur significant additional costs.

39. First, Bloom Lake experienced significant problems with respect to Beumer's delivery of components for the tower and bent erection for the OLC causing Bloom Lake's installation contractor to expend further time and effort. Bloom Lake's problems included, among other things:

- a) Beumer shipped the components that make up the bents by component type rather than number, making it difficult to identify the correct component and forcing onsite measurement;
- b) Beumer failed to provide a parts list or drawings for the assembly of the bents; and
- c) Bloom Lake and its installation contractor also identified missing components, such as braces.

40. Second, Bloom Lake experienced significant problems with Beumer's out of sequence delivery of components for the gallery and deck truss erection, which included, among other things:

- a) Beumer failed to deliver the first gallery from Transfer Tower 2 to Tower 5 on time, and thus, the gallery erection from Transfer Tower 2 could not begin; and
- b) Beumer also failed to timely deliver all components for Tower 5.

41. Third, Beumer failed to provide timely notice for the availability of the conveyor belt and failed to provide appropriate information that would have allowed Bloom Lake to make appropriate arrangements for transportation — causing Bloom Lake to incur additional freight costs.

42. Fourth, Beumer's out of sequence delivery and other issues forced Bloom Lake to use additional personnel and re-assign personnel from other contractors onsite to keep the installation of the OLC on schedule.

**E. Beumer's Deficiencies Caused an Project Delays.**

43. Beumer's deficiencies forced Bloom Lake to incur significant costs.

44. In addition to the items discussed above, Bloom Lake was also required to divert the delivery of the OLC's structural components to its installation contractor's shop to sort the components prior to delivery onsite.

45. All told, Beumer's numerous deficiencies required Bloom Lake to compensate its installation contractor for an additional four months of work to address the same, among other things.

**V. Beumer Breaches Purchase Agreement II Related to the OSS.**

**A. Beumer Provided Defective Design and Fabrication for the OSS.**

46. Beumer's design and fabrication of the OSS was also defective.

47. First, Beumer failed to provide an erection plan for the OSS and performed deficient design, including, but not limited to, utilizing sheeting as a structural component, which ultimately led to a dangerous condition.

48. Second, Beumer's design and fabrication included numerous instances of misalignment of structural components, including, among other things:

- a) Beumer failed to provide bolts and assembly plates for the A-frame;
- b) Beumer's design and fabrication caused a misalignment in the holes required to bolt the A-frame of the building;
- c) Beumer's design and fabrication caused a misalignment in certain bracing for the truss of the building; and
- d) Beumer incorrectly welded in the wrong orientation for the main trusses causing braces for the building to buckle under tension;

49. Third, Beumer's design and fabrication caused significant sagging or deflection on the main trusses that was so severe that a truss could not be released from the crane without compromising the structural integrity of the building.

50. Fourth, Beumer failed to take into account dust accumulation in its design forcing Bloom Lake to incur costs to address the same.

**B. Beumer Also Delivered Components of the OSS Out of Sequence.**

51. As was the case on other parts of the Project, Beumer again failed to deliver structural elements of the OSS in the correct sequence.

52. Specifically, Beumer often failed to deliver small essential parts that were required for assembly, and therefore, even if Beumer delivered larger parts to the site, no assembly could take place without these smaller components.

53. Moreover, Bloom Lake's installation contractor encountered problems in sorting and identifying elements because Beumer delivered pieces for the OSS in the same shipment as pieces for the OLC.

54. Finally, Beumer delivered components required at the end of the erection of the OSS in the beginning of the Project and mixed these parts with other components in direct violation of the parties' agreements.

**C. Beumer's Deficiencies on the OSS Caused Project Delays.**

55. Overall, Beumer failed to timely deliver components for the OSS and provided design and fabrication errors.

56. As a result, Bloom Lake incurred significant costs in compensating its contractors to address Beumer's deficiencies, among other things, and in particular, these contractors performed work over a longer period of time than Bloom Lake originally anticipated and during the harsh winter months.

**FIRST CLAIM FOR RELIEF**  
**BREACH OF CONTRACT**

57. Bloom Lake hereby incorporates by reference the allegations set forth in Paragraphs 1 through 56 of its Counterclaims as if fully restated herein.

58. The Purchase Agreements are valid and binding contracts between Bloom Lake and Beumer.

59. As set forth in paragraphs 18-56 above, Beumer failed to appropriately design, fabricate, and supply components and/or equipment related to the OLC and OSS (collectively, the “Beumer Defects”).

60. The Beumer Defects constitute material breaches of the Purchase Agreements, and Bloom Lake has incurred substantial costs in connection with same.

61. Bloom Lake has fully satisfied its obligations under the Purchase Agreements.

62. As a result of the Beumer Defects, Bloom Lake has been damaged in an amount in excess of \$12,354,929.50, to be proven at trial, including pre- and post-judgment interest thereon.

**SECOND CLAIM FOR RELIEF**  
**DECLARATORY JUDGMENT - 28 U.S.C. § 2201(a)**

63. Bloom Lake hereby incorporates by reference the allegations set forth in Paragraphs 1 through 62 of its Counterclaims as if fully restated herein.

64. Pursuant to 28 U.S.C. § 2201(a), an actual and justiciable controversy exists between Bloom Lake and Beumer.

65. Beumer has breached the Purchase Agreements.

66. As a result, Bloom Lake has incurred significant additional costs, and thus, has withheld amounts from Beumer.

67. Further, the parties have placed certain amounts into escrow related to the Project, and have executed an escrow agreement to govern the retention and release of the escrowed amounts.

68. The escrow agreement provides, in relevant part, that the escrow agent cannot release escrowed funds (or any portion thereof) unless it receives a written

agreement executed by both parties or a final non-appealable order of a court of competent jurisdiction or arbitration decision directing delivery of the Escrowed Funds.

69. A judgment should be rendered in favor of Bloom Lake declaring that (1) Beumer is liable to Bloom Lake in an amount in excess of \$12,354,929.50, to be proven at trial, together with costs and pre- and post-judgment interest; (2) Bloom Lake is entitled under law to deduct and otherwise recover its damages from Beumer; and (3) Bloom Lake is entitled to all funds escrowed under the parties' escrow agreement.

### **DEMAND FOR JUDGMENT**

WHEREFORE, Bloom Lake respectfully requests that the Court enter judgment in its favor and against Beumer, as follows:

1. That the Court dismiss Beumer's Complaint with prejudice;
2. That the Court enter judgment in favor of Bloom Lake and against Beumer on all claims for relief and/or counts set forth in the Complaint.
3. On Bloom Lake's First Claim for Relief in its Counterclaims, that the Court enter judgment against Beumer in an amount in excess of \$12,354,929.50, to be proven at trial, together with pre- and post-judgment interest;
4. On Bloom Lake's Second Claim for Relief in its Counterclaims, that the Court declare that (1) Bloom Lake is entitled to damages from Beumer in an amount in excess of \$12,354,929.50, to be proven at trial, together with pre- and post-judgment interest; (2) Bloom Lake is entitled under law to deduct and otherwise recover its damages from Beumer; and (3) Bloom Lake is entitled to all funds escrowed under the parties' escrow agreement; and
5. That the Court award Bloom Lake such other and further legal or equitable relief, including its attorneys' fees and costs, as the Court deems just and proper.



OF COUNSEL:

HAHN LOESER & PARKS LLP

Respectfully submitted,

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*Attorneys for Plaintiff, The Bloom Lake  
Iron Ore Mine Limited Partnership*

**JURY DEMAND**

Plaintiff, The Bloom Lake Iron Ore Mine Limited Partnership, hereby demands a trial by jury on all issues so triable.

s/ Royce R. Remington  
*One of the Attorneys for Plaintiff,  
The Bloom Lake Iron Ore Mine  
Limited Partnership*

**CERTIFICATE OF SERVICE**

I hereby certify that on the 15th day of December, 2014, a copy of the foregoing *Defendant The Bloom Lake Iron Ore Mine Limited Partnership's Answer and Counterclaims for Breach of Contract and Declaratory Relief* was filed electronically. Notice of this filing will be sent by operation of the Court's electronic filing system to all parties indicated on the electronic filing receipt. Parties may access this filing through the Court's system.

s/ Royce R. Remington  
*One of the Attorneys for Defendant  
The Bloom Lake Iron Ore Mine Limited  
Partnership*