**SALE OF GOODS AGREEMENT**

This Sale of Goods Agreement (referred to as the "**Agreement**") takes effect on [DATE] (the "**Effective Date**"), by and between [SELLER NAME], a [corporation/LLC/[OTHER ENTITY TYPE]] organized under the laws of [JURISDICTION OF ORGANIZATION], with its main office at [ADDRESS] **("Seller"),** and [BUYER NAME], a [corporation/LLC/[OTHER ENTITY TYPE]] formed in [JURISDICTION OF ORGANIZATION] with its headquarters at [ADDRESS] ("**Buyer"**). In this Agreement, the Seller and the Buyer are individually referred to as a "**Party**" and collectively as the "**Parties**".

The Seller is in the business of selling [INSERT DESCRIPTION OF GOODS]. The Buyer is in the business of [DESCRIPTION OF BUSINESS]. The Buyer wishes to purchase from the Seller, and the Seller wishes to sell to the Buyer, the Goods, as defined below.

In consideration of the mutual promises and commitments contained in this Agreement, along with other valuable consideration acknowledged by both Parties, the Parties hereby agree as follows.

1. **SALE OF GOODS**

The Seller shall sell, and the Buyer shall purchase, the goods specified in Exhibit A (the "**Goods**") in the quantities and at the prices stated therein (the "**Prices**"), subject to the terms and conditions of this Agreement.

1. **DELIVERY OF GOODS**
	1. Unless otherwise agreed in writing by the Parties, the Seller shall deliver the Goods to [SELLER LOCATION] (the "**Delivery Location**") using packaging and shipping methods selected at the Seller’s sole discretion. The Buyer shall take delivery of the Goods within [NUMBER] days of the Seller’s written notice confirming delivery to the Delivery Location (the "**Delivery Date**").
	2. The Seller may, at its sole discretion and without liability or penalty, deliver the Goods to the Buyer in partial shipments to fulfill the quantity purchased under this Agreement. The Buyer shall make payment for any Goods delivered, whether in whole or in part, in accordance with Section 5 of this Agreement.
	3. If the Buyer fails to accept delivery of any Goods by the Delivery Date, or if the Seller is unable to complete delivery at the Delivery Location due to any act or omission by the Buyer or its representatives, including but not limited to failure to provide necessary instructions, documents, licenses, or authorizations:
		1. the Buyer shall bear the risk of loss for the Goods;
		2. the Goods shall be deemed delivered; and
		3. the Seller may, at its option, store the Goods until the Buyer retrieves them, with the Buyer responsible for all associated costs and expenses, including but not limited to storage and insurance.
	4. If the Seller delivers a quantity of Goods up to [NUMBER]% more or less than the amount specified in Exhibit A in full fulfillment of the quantity purchased under this Agreement, the Buyer shall not object to or reject the Goods, in whole or in part, due to such surplus or shortfall. The Buyer shall pay the Prices for the delivered Goods, adjusted on a pro rata basis.
	5. Title to and risk of loss for the Goods shall pass to the Buyer upon [tender of/Buyer taking] delivery at the Delivery Location.
2. **INSPECTION AND REJECTION OF NON-CONFORMING GOODS**
	1. The Buyer shall inspect the Goods within [NUMBER] days after taking delivery (the "**Inspection Period**"). If the Buyer does not provide written notice of any Nonconforming Goods within the Inspection Period, the Goods will be deemed accepted. To reject any Goods as nonconforming, the Buyer must notify the Seller in writing within the Inspection Period and provide reasonable supporting documentation. For purposes of this Agreement, "**Nonconforming Goods**" are limited to:
		1. Goods that materially deviate from those specified in this Agreement; or
		2. Goods labeled or packaged incorrectly, misidentifying their contents.
	2. If the Buyer properly notifies the Seller of Nonconforming Goods, the Seller may, at its sole discretion:
		1. replace the Nonconforming Goods with conforming Goods; or
		2. provide a refund or credit for the affected Goods.
	3. The Buyer shall return the Nonconforming Goods to the Seller’s designated facility at [LOCATION] within [NUMBER] days of providing notice, with all costs and risks of return shipment borne by the Buyer. If the Seller opts to replace the Goods, it shall ship the replacements to the Buyer within a commercially reasonable time, with delivery occurring at the Buyer’s expense and risk of loss.
	4. The Buyer acknowledges that the remedies in Section 3.2 are its sole and exclusive recourse for Nonconforming Goods. Other than as stated in this Section, the Buyer shall have no right to return Goods to the Seller.
3. **PAYMENT OF TAXES**

All Prices exclude sales tax, use tax, excise tax, and any other applicable duties, fees, or government-imposed charges related to the transaction. The Buyer shall be solely responsible for all such taxes and costs associated with the purchase, except for any taxes levied directly on the Seller’s income, revenue, gross receipts, personnel, real or personal property, or other assets.

1. **PAYMENT**
	1. The Seller shall issue an invoice to the Buyer upon [tender/completion] of delivery of the Goods, whether fulfilling the order in whole or in part. The Buyer shall pay all invoiced amounts [upon receipt/within [NUMBER] days] from the invoice date. Payments shall be made via wire transfer in immediately available U.S. funds, using the instructions specified in Exhibit B.
	2. If the Buyer fails to make timely payment, any outstanding balance shall accrue interest at the lower of [1.5%/[OTHER PERCENTAGE]] per month or the maximum rate allowed by applicable law, compounded monthly. The Buyer shall also be responsible for reimbursing the Seller for any reasonable costs associated with collecting overdue amounts, including but not limited to attorneys' fees.
	3. In addition to any other rights available under this Agreement or applicable law, if the Buyer fails to pay any amount due within [NUMBER] days after receiving written notice of nonpayment, the Seller may suspend further deliveries until payment is received.
	4. The Buyer shall fulfill its payment obligations under this Agreement without any setoff, deduction, recoupment, or withholding of any kind against amounts owed or payable to the Seller [or the Seller’s affiliates]. This applies regardless of any claims the Buyer may have against the Seller [or its affiliates], including but not limited to claims arising from breach, insolvency, or any other circumstance under this Agreement or applicable law.
2. **WARRANTIES**
	1. The Seller warrants that for a period of [NUMBER] months following [delivery/tender of delivery] (the "**Warranty Period**"), the Goods shall [substantially conform to the specifications outlined in Exhibit A or the Seller’s applicable published specifications at the time of this Agreement] and be free from [significant] defects in material and workmanship.
	2. EXCEPT FOR THE WARRANTY EXPRESSLY PROVIDED IN SECTION 6.1, THE SELLER DISCLAIMS ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, INCLUDING BUT NOT LIMITED TO:
		1. ANY IMPLIED WARRANTY OF MERCHANTABILITY;
		2. ANY IMPLIED WARRANTY OF FITNESS FOR A PARTICULAR PURPOSE;
		3. ANY WARRANTY OF TITLE; AND
		4. ANY WARRANTY AGAINST THIRD-PARTY INTELLECTUAL PROPERTY INFRINGEMENT. THESE DISCLAIMERS APPLY REGARDLESS OF WHETHER ARISING UNDER STATUTE, COURSE OF DEALING, INDUSTRY PRACTICE, OR OTHERWISE.
	3. Any components, parts, or products that are manufactured by a third party and incorporated into, packaged with, or sold alongside the Goods (“**Third-Party Products**”) are not covered by the Seller’s warranty in Section 6.1. FOR CLARITY, THE SELLER MAKES NO WARRANTIES OR REPRESENTATIONS REGARDING THIRD-PARTY PRODUCTS, INCLUDING BUT NOT LIMITED TO:
		1. IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE;
		2. WARRANTIES OF TITLE; OR
		3. WARRANTIES AGAINST INTELLECTUAL PROPERTY INFRINGEMENT.
	4. The Seller shall not have any liability for breach of the warranty set forth in Section 6.1 unless the Buyer:
		1. notifies the Seller in writing within [NUMBER] days after discovering, or when it should have reasonably discovered, the alleged defect;
		2. provides the Seller with an opportunity to examine the Goods, including, if requested, returning the affected Goods to the Seller’s designated location at the Seller’s expense; and
		3. demonstrates that the Goods in question are nonconforming.
	5. The warranty in Section 6.1 shall be void if:
		1. the Buyer continues to use the Goods after giving notice of a defect;
		2. the defect results from improper storage, installation, maintenance, or use contrary to the Seller’s guidelines; or
		3. the Buyer modifies or repairs the Goods without the Seller’s prior written approval.
	6. If a defect arises during the Warranty Period and meets the conditions set forth in Section 6.4 and Section 6.5, the Seller shall, at its discretion:
		1. repair or replace the affected Goods (or component thereof); or
		2. provide the Buyer with a refund or credit for the affected Goods at a pro rata contract rate, provided that, at the Seller’s request, the Buyer returns the Goods at the Seller’s expense.
	7. THE REMEDIES IN SECTION 6.6 SHALL BE THE BUYER’S EXCLUSIVE REMEDY FOR ANY WARRANTY CLAIM, AND THE SELLER’S TOTAL LIABILITY FOR DEFECTIVE GOODS SHALL BE LIMITED TO THE REMEDIES EXPRESSLY STATED HEREIN.
3. **LIMITATION OF LIABILITY**
	1. UNDER NO CIRCUMSTANCES SHALL THE SELLER BE LIABLE FOR ANY CONSEQUENTIAL, INDIRECT, INCIDENTAL, SPECIAL, EXEMPLARY, PUNITIVE, OR ENHANCED DAMAGES, INCLUDING BUT NOT LIMITED TO LOST PROFITS, LOST REVENUE, OR REDUCED VALUE, ARISING FROM OR RELATING TO THIS AGREEMENT. THIS LIMITATION APPLIES REGARDLESS OF:
		1. WHETHER SUCH DAMAGES WERE FORESEEABLE;
		2. WHETHER OR NOT THE SELLER HAD BEEN INFORMED OF THE POSSIBILITY OF SUCH DAMAGES;
		3. THE LEGAL OR EQUITABLE THEORY (CONTRACT, TORT, OR OTHERWISE) UPON WHICH THE CLAIM IS BASED; AND
		4. THE FAILURE OF ANY AGREED OR OTHER REMEDY OF ITS ESSENTIAL PURPOSE.
	2. THE SELLER’S TOTAL LIABILITY UNDER THIS AGREEMENT, WHETHER BASED ON BREACH OF CONTRACT, NEGLIGENCE, OR ANY OTHER LEGAL THEORY, SHALL NOT EXCEED THE GREATER OF:
		1. [NUMBER] TIMES THE TOTAL AMOUNT PAID BY THE BUYER FOR THE GOODS COVERED UNDER THIS AGREEMENT; OR
		2. $[AMOUNT], WHICHEVER IS LOWER.
4. **COMPLIANCE**

The Buyer represents that it is, and shall remain, in full compliance with all applicable laws, regulations, and governmental requirements. The Buyer shall obtain, maintain, and keep current all necessary licenses, permits, authorizations, and approvals required to fulfill its obligations under this Agreement.

1. **TERMINATION**
	1. In addition to any other remedies available under this Agreement, the Seller may terminate this Agreement immediately upon providing written notice to the Buyer if:
		1. the Buyer fails to make any payment when due under this Agreement [and does not cure such failure within [NUMBER] days of receiving written notice of nonpayment];
		2. the Buyer materially breaches or otherwise fails to fulfill any of its obligations under this Agreement, whether in whole or in part; or
		3. the Buyer becomes insolvent, is unable to meet its financial obligations as they become due, files for bankruptcy, or becomes subject to bankruptcy, receivership, reorganization, or similar proceedings.
2. **CONFIDENTIALITY**
	1. From time to time during the duration of this Agreement, either Party (as the "**Discloser**") may disclose or make available to the other Party (as the "**Recipient**"), non-public, proprietary, and confidential information of Discloser [whether or not marked or labeled as "confidential"/that, if disclosed in writing or other tangible form is clearly labeled as "confidential," or if disclosed orally, is identified as confidential when disclosed and within [NUMBER] days thereafter, is summarized in writing and confirmed as confidential] ("**Confidential Information**"); provided, however, that Confidential Information does not include any information that: (i) is or becomes generally available to the public other than as a result of the Recipient's breach of this Section 10; (ii) is or becomes available to the Recipient on a non-confidential basis from a third-party source, provided that such third-party is not and was not prohibited from disclosing such Confidential Information after due inquiry; (iii) was in the Recipient's possession prior to the Discloser's disclosure hereunder; or (iv) was or is independently developed by the Recipient without using any Confidential Information.
	2. The Recipient shall: (i) protect and safeguard the confidentiality of the Discloser's Confidential Information with at least the same degree of care as the Recipient would protect its own Confidential Information, but in no event with less than a commercially reasonable degree of care; (ii) not use the Discloser's Confidential Information, or permit it to be accessed or used, for any purpose other than to exercise its rights or perform its obligations under this Agreement; and (iii) not disclose any such Confidential Information to any person or entity, except to members of the Recipient's Group who need to know the Confidential Information to assist the Recipient, or act on its behalf, to exercise its rights or perform its obligations under this Agreement. For purposes of this Section 10, "**Recipient's Group**" means the Recipient's affiliates and its or their employees, officers, directors, shareholders, partners, members, managers, agents, independent contractors, consultants, sublicensees, subcontractors, attorneys, accountants, and financial advisors.
	3. If the Recipient is required by applicable law or legal process to disclose any Confidential Information, it shall, prior to making such disclosure, use commercially reasonable efforts to notify the Discloser of such requirements to afford the Discloser the opportunity to seek, at the Discloser's sole cost and expense, a protective order or other remedy.
	4. The Recipient shall be responsible for any breach of the foregoing obligations by any member of the Recipient’s Group.
3. **NOTICES**
	1. Any notice or other communication given under or in connection with this Agreement will be in writing, in the English language (or any other language expressly agreed between the Parties), marked for the attention of the specified representative of the Party to be given notice, and must be: (i) sent to that Party’s address by pre-paid mail delivery service providing guaranteed next Business Day delivery and proof of delivery; or (ii) sent by email to that Party’s email address. For the purposes of this Agreement, “**Business Day**” means a day that is not a Saturday, Sunday or public holiday in [INSERT].
	2. The address, email address and representative for each Party are set out below and may be changed by that Party giving at least thirty (30) calendar days’ notice in accordance with this Section 11:

|  |  |
| --- | --- |
|  **For [INSERT PARTY]:** |  |
|  Address: | [INSERT] |
|  Email addresses: | [INSERT] |
|  For the attention of: | [INSERT] |
|  |  |
|  **For [INSERT PARTY]:** |  |
|  Address: | [INSERT] |
|  Email address: | [INSERT] |
|  For the attention of:  | [INSERT] |

* 1. Any notice given in accordance with Section 11.1 will be deemed to have been served: (i) if given as set out in Section 11.1(i), at 9.00am on the second Business Day after the date of posting; and (ii) if given as set out in Section 11.1(ii), at the time of sending the email (except that if an automatic electronic notification is received by the sender within four (4) hours after sending the email informing the sender that the email has not been delivered to the recipient or that the recipient is out of the office, the email will be deemed not to have been served), provided that if notice is served before 9.00am on a Business Day, it will be deemed to be served at 9.00am on that Business Day and if it is served on a day which is not a Business Day or after 5.00pm on a Business Day, it will be deemed to be served at 9.00am on the immediately following Business Day.
	2. For the purposes of this Section 11, references to time of day are to the time of day at the address of the recipient Party as referred to in Section 11.2 and references to Business Days are to normal working days in the territory in which such address is situated.
	3. To provide service of a notice it will be sufficient to prove that the provisions of this Section 11 were complied with.
1. **ENTIRE AGREEMENT**

This Agreement represents the entire understanding between the Parties concerning its subject matter and supersedes all prior and contemporaneous agreements, representations, and warranties, whether written or oral.

1. **AMENDMENT**

Any modification, amendment, or supplementation to this Agreement must be in writing and signed by both Parties.

1. **SEVERABILITY**

If any provision of this Agreement is found to be invalid, illegal, or unenforceable in any jurisdiction, such invalidity shall not affect any other provision of the Agreement, nor shall it invalidate or render unenforceable that provision in any other jurisdiction.

1. **COUNTERPARTS**

This Agreement may be executed in counterparts, each of which shall be considered an original, and all of which together shall constitute one and the same document.

1. **RIGHTS OF THIRD PARTIES**

No person other than the Seller and the Buyer shall have any rights under this Agreement. The terms of this Agreement or any part of it may be varied, amended, or modified, or this Agreement may be suspended, canceled, or terminated by a written Agreement between the Parties, or this Agreement may be rescinded (in each case) without the consent of any third party.

1. **WAIVER**

No waiver of any provision of this Agreement shall be effective unless made in writing and signed by the waiving Party. Any waiver shall not be deemed a waiver of any other failure, breach, or default not expressly identified. A Party's failure to exercise, or delay in exercising, any right under this Agreement does not constitute a waiver of that right, nor does any partial exercise of a right preclude further exercise of that right or any other rights.

1. **GOVERNING LAW AND JURISDICTION**

This Agreement shall be governed by and interpreted in accordance with the internal laws of the State of Hawaii, without regard to any principles of conflict of laws. Any legal action, suit, or proceeding arising out of or related to this Agreement shall be brought exclusively in the courts of the State of Hawaii, and each Party irrevocably consents to the exclusive jurisdiction of such courts. The Parties waive any objections related to improper venue or the doctrine of forum non conveniens.

[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, the Parties have executed this Agreement to be effective as of the Effective Date.

 [NAME OF PARTY]

 By:

 Name:

 Title:

 [NAME OF PARTY]

 By:

 Name:

 Title:

**EXHIBIT A**

[DESCRIPTION OF GOODS]

[PRICE]

[QUANTITY]

[[SPECIFICATIONS PER LIMITED EXPRESS WARRANTY, IF ANY]]

**EXHIBIT B**

* Bank:
* Address:
* ABA #:
* Swift Code:
* Account #:
* Account Name:
* Ref: