**Exclusivity Agreement**

This Exclusivity Agreement (this "Agreement") is made effective as of [Insert Date Here], between [Insert Company Name Here], of [Insert Company Address Here] ("Seller"), and [Insert Company Name Here], of [Insert Company Address Here] ("Buyer").

Whereas, Buyer and Seller desire to enter into an exclusive agreement with regard to the purchase and sale of [List Description, Quantity, Unit Price of Items Being Purchased Here], hereinafter called Product; and

Whereas, Buyer and the Seller are entering into this Agreement in good faith and are relying on its terms;

Now, therefore, for and in consideration of the mutual covenants contained in this agreement, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties agree as follows:

### EXCLUSIVITY.

Exclusivity Period shall mean the period starting at [Insert Start Date] and ending on [Insert End Date]. During the Exclusivity Period, the Buyer will not directly or indirectly, through any employee, agent, or otherwise, and will not permit any of its agents to solicit, initiate or encourage, any offers or proposals relating to the purchase of the above-mentioned Product. Buyer and Seller agree that during the Exclusivity Period, Buyer shall purchase Product exclusively from Seller and not from any other vendor. The Seller hereby gives the Buyer the exclusive right to sell the product upon the terms as set forth below.

### ITEMS PURCHASED AND PRICE.

Seller agrees to exclusively sell, and Buyer agrees to exclusively buy, the following products (the "Goods") in accordance with the terms and conditions of this Agreement:

### RESALE PRICE.

The Seller hereby gives the Buyer the exclusive right to sell the product at the Purchase price stated in Section 2 or at any price and upon such different terms as may be accepted by the Seller.

*Description / Quantity / Unit Price / Total Price*

[List Description, Quantity, Unit Price of Items Being Purchased Here]

TOTAL: $[Insert Total Amount Here]

### PAYMENT.

Payment shall be made to [Insert Company Address Here], in the amount of $[Insert Amount Here] upon delivery of all Goods described in this Agreement.

In addition to any other right or remedy provided by law, if Buyer fails to pay for the Goods when due, Seller has the option to treat such failure to pay as a material breach of this Agreement and may cancel this Agreement and/or seek legal remedies.

### DELIVERY.

Time is of the essence in the performance of this Agreement. The Seller will arrange for delivery by the carrier chosen by the Seller. Delivery shall be completed by [Insert Date Here].

[Insert Delivery Arrangements Here]

### PAYMENT OF TAXES.

Buyer agrees to pay all taxes of every description, federal, state, and municipal, that arise as a result of this sale, excluding income taxes.

### WARRANTIES.

Seller warrants that the Goods shall be free of substantive defects in material and workmanship.

SELLER SHALL IN NO EVENT BE LIABLE FOR ANY INCIDENTAL, SPECIAL, OR CONSEQUENTIAL DAMAGES OF ANY NATURE, EVEN IF SELLER HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

### INSPECTION.

Buyer, upon receiving possession of the Goods, shall have a reasonable opportunity to inspect the Goods to determine if the Goods conform to the requirements of this Agreement. If Buyer, in good faith, determines that all or a portion of the Goods are non-conforming, Buyer may return the Goods to Seller at Seller's expense. Buyer must provide written notice to Seller of the reason for rejecting the Goods. Seller will have [Insert Number of Days Here] days from the return of the Goods to remedy such defects under the terms of this Agreement.

### DEFAULT.

The occurrence of any of the following shall constitute a material default under this Agreement:

a. The failure to make a required payment when due.

b. The insolvency or bankruptcy of either party.

c. The subjection of any of either party's property to any levy, seizure, general assignment for the benefit of creditors, application or sale for or by any creditor or government agency.

d. The failure to make available or deliver the Goods in the time and manner provided for in this Agreement.

### FORCE MAJEURE.

If the performance of this Agreement or any obligation under this Agreement is prevented, restricted, or interfered with by causes beyond either party's reasonable control ("Force Majeure"), and if the party unable to carry out its obligations gives the other party prompt written notice of such event, then the obligations of the party invoking this provision shall be suspended to the extent necessary by such event. The term Force Majeure shall include, without limitation, acts of God, fire, explosion, vandalism, storm or other similar occurrence, orders or acts of military or civil authority, or by national emergencies, insurrections, riots, or wars, or strikes, lock-outs, work stoppages, or other labor disputes, or supplier failures.

The excused party shall use reasonable efforts under the circumstances to avoid or remove such causes of non-performance and shall proceed to perform with reasonable dispatch whenever such causes are removed or ceased. An act or omission shall be deemed within the reasonable control of a party if committed, omitted, or caused by such party, or its employees, officers, agents, or affiliates.

### CONFIDENTIALITY.

Both parties acknowledge that during the course of this Agreement, each may obtain confidential information regarding the other party's business. Both parties agree to treat all such information and the terms of this Agreement as confidential and to take all reasonable precautions against disclosure of such information to unauthorized third parties during and after the term of this Agreement. Upon request by an owner, all documents relating to the confidential information will be returned to such owner.

### NON-DISPARAGEMENT.

Buyer agrees that it will not, during the Exclusivity Period plus one year immediately following the Exclusivity Period, make comments, whether oral or in writing, that tend to disparage or otherwise injure the Seller or any person associated with or representing the Seller, unless ordered to do so by a court of competent jurisdiction or otherwise required by law. This clause shall include, but not be limited to, any third-party media outlet, website, or forum. Any and each violation of this non-disparagement provision shall constitute a breach of the Agreement by Buyer and entitle the Seller to bring a legal action for appropriate relief in equity, including damages.

### NOTICES.

Any notice or communication required or permitted under this Agreement shall be sufficiently given if delivered in person or by certified mail, return receipt requested, to the addresses listed above or to such other address as one party may have furnished to the other in writing. The notice shall be deemed received when delivered or signed for, or on the third day after mailing if not signed for.

### REMEDIES ON DEFAULT.

The parties acknowledge and agree that Seller is entitled to equitable remedies including injunction and specific performance for the breach of any provisions of this agreement. In addition to any and all other rights available according to law, if either party defaults by failing to substantially perform any material provision, term, or condition of this Agreement (including without limitation the failure to make a monetary payment when due), the other party may elect to cancel this Agreement if the default is not cured within [Insert Number of Days Here] days after providing written notice to the defaulting party. The notice shall describe with sufficient detail the nature of the default.

The parties acknowledge and further agree that Seller is entitled to equitable remedies including injunction and specific performance for the breach of any provisions of this agreement.

### LIMITATION OF LIABILITY.

Notwithstanding the above remedies, the parties have discussed the risks and rewards associated with this Agreement and agree to allocate certain of the risks so that one contracting party's total aggregate liability to the other contracting party will not exceed the "Total Price" value of this contract listed above, $[Insert Amount Here] for any and all injuries, damages, claims, losses, expenses or claimed expenses (including attorneys' and expert witnesses' fees) arising out of this Agreement from any cause or causes, regardless of any warranties or indemnifications to the contrary in this Agreement. Such causes include, but are not limited to, either contracting parties negligence, errors, omissions, strict liability, breach of contract, or breach of warranty.

### ENTIRE AGREEMENT.

This Agreement contains the entire agreement of the parties regarding the subject matter of this Agreement, and there are no other promises or conditions in any other agreement whether oral or written. This Agreement supersedes any prior written or oral agreements between the parties.

### AMENDMENT.

This Agreement may be modified or amended if the amendment is made in writing and signed by both parties.

### SEVERABILITY.

If any provision of this Agreement shall be held to be invalid or unenforceable for any reason, the remaining provisions shall continue to be valid and enforceable. If a court finds that any provision of this Agreement is invalid or unenforceable, but that by limiting such provision it would become valid and enforceable, then such provision shall be deemed to be written, construed, and enforced as so limited.

### ASSIGNMENT OF RIGHTS.

The rights of each party under this Agreement are personal to that party and may not be assigned or transferred to any other person, firm, corporation, or other entity without the prior, express, and written consent of the other party.

### WAIVER OF CONTRACTUAL RIGHT.

The failure of either party to enforce any provision of this Agreement shall not be construed as a waiver or limitation of that party's right to subsequently enforce and compel strict compliance with every provision of this Agreement.

### APPLICABLE LAW.

This Agreement shall be governed by the laws of the State of [Insert State Here].

### ATTORNEY'S FEES.

In the event that any lawsuit is filed in relation to this Agreement, the unsuccessful party in the action shall pay to the successful party, in addition to any other remedy or compensation, the successful parties attorney's fees and costs, including fees of expert witnesses. The awarding of attorney's fees or expert witnesses fees may not cause any award to exceed the Limitation of Liability value set above.

### SIGNATURES.

This Agreement shall be executed on behalf of [Insert Company Name Here] by [Insert Name Here], and on behalf of [Insert Company Name Here] by [Insert Name Here].

**Buyer:**

[Insert Company Name Here]

By: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ Date: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_
[Insert Name Here]

**Seller:**

[Insert Company Name Here]

By: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ Date: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_
[Insert Name Here]