

## **SALES AGREEMENT**

**THIS AGREEMENT** is made on this \_\_ day of \_\_, 2017 by and between DEF US Inc., a corporation duly formed and existing under the laws of the State of New York and having its principal office at \_\_\_\_\_ (the “Seller”) and ABC Japan Corporation, a corporation duly formed and existing under the laws of Japan and having its head office at \_\_\_\_, Japan (the “Buyer”).

### **RECITALS:**

**WHEREAS**, the Seller has agreed to sell \_\_\_\_ as more specifically described in Appendix A of this Agreement (the “Product”) to the Buyer on and subject to the terms and conditions of this Agreement; and

**WHEREAS**, the Buyer has agreed to purchase the Product on and subject to the terms and conditions of this Agreement.

**NOW THEREFORE**, in consideration of the mutual covenants contained herein, the parties hereto agree as follows:

#### **1. AGREEMENT TO PURCHASE AND SELL**

On the terms and conditions set forth in this Agreement, the Seller agrees to sell and the Buyer agrees to purchase the Product.

#### **2. DELIVERY**

The Seller shall deliver the Product to the Buyer on the basis of FOB (INCOTERMS®2010) at the port of \_\_\_\_.

#### **3. PRICE**

The price of the Product (the “Price”) to be paid by the Buyer to the Seller shall be specified in Appendix B to this Agreement.

#### **4. PAYMENT**

Payment of the Product shall be made by means of TT remittance to the bank account specified by the Seller which shall be made by the Buyer on and prior to 60 days after the

B/L date. In case of non-payment by the Buyer, in addition to any other remedies available to the Seller, the Buyer shall be liable for any loss or damages which the Seller may suffer, including but not limited to, overdue interest, which is fifteen (15) percent per annum. The overdue interest shall be calculated on the basis of the actual days elapsed after due date.

#### 5. INSPECTION

The Seller shall allow the Buyer or its authorized agent to inspect the Product at the Buyer's sole expense provided that any such inspection shall be carried out prior to shipment and before packing the Product.

#### 6. WARRANTIES

The Seller shall warrant that the Product meets the specification for thirteen (13) months after the date of B/L. In the event that the Product is found to be defective, the Buyer shall provide notice in writing to the Seller of such defect. If such notice is received by the Seller within the warranty period stated above, the Seller shall, at its sole discretion, replace the defective parts with new parts, replace the defective Product with a new Product, or refund the purchase money of the Product, as the Seller's sole responsibility and obligation under this warranty clause. THE FOREGOING WARRANTY IS IN LIEU OF ALL OTHER WARRANTIES EXPRESS OR IMPLIED, INCLUDING BUT NOT LIMITED TO WARRANTY OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE.

#### 7. LIMITATION OF SELLER'S LIABILITY

Notwithstanding anything contrary which may be contained in this Agreement, the Seller shall be under no liability to the Buyer exceeding the purchase price set forth in this Agreement and in no event shall the Seller be liable for any indirect, special, incidental or consequential damages and the Buyer expressly waives any right to receive such damages.

#### 8. TERMINATION

In case the Buyer (a) becomes insolvent, (b) files against the Buyer a petition in bankruptcy or for reorganization, (c) fails to pay in full any amounts due under this Agreement when due, or (d) makes an assignment for the benefit of the Buyer's creditors, the Seller shall have the right to terminate this Agreement by providing written notice of termination to the Buyer.

9. MISCELLANEOUS CLAUSES

1) Assignment

The parties to this Agreement shall not assign whole or in part, its respective duties or obligations under this Agreement without the prior written consent of the other party.

2) Entire Agreement

This Agreement contains the entire agreement between the parties with respect to the subject matter hereof and supersedes all prior agreements, understandings and representations.

3) Waiver

The failure, delay or omission of either party to perform any right or remedy provided in this Agreement shall not be a waiver.

4) Notice

Any notice required or permitted to be given under this Agreement shall be in writing and shall be deemed to have been given upon personal delivery or mailing to the address hereinabove.

5) Applicable Law and Venue

This Agreement shall be governed by [ ] law. The parties to this Agreement agrees that the [ ] courts shall have non-exclusive jurisdiction in relation to any dispute arising out of or in respect of this Agreement.

IN WITNESS WHEREOF, the Seller and the Buyer have executed these presents on the day and year first above written.

DEF US Inc.

ABC Japan Corporation

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