

## AUTHORIZED DISTRIBUTOR AGREEMENT

Nite Ize, Inc. ("NI") and Distributor (some terms defined below) agree Distributor is appointed as a Nonexclusive Authorized Distributor during the Term subject to the following (the Parties likely would rather shake hands on this, but at the behest of lawyers they are agreeing to some brief ground rules):

### **1. Purchase From NI Only, Sell to Authorized Dealers or End Users Only.**

Distributor (a) must purchase Products only from NI and (b) may only sell Products to Authorized Dealers and end users. All of Distributor's customers selling Product must apply and be approved by NI as Authorized Dealers. Distributor cannot sell Products outside of the U.S. or Canada without specific authorization.

### **2. Sale Through Approved Channels Only.**

For retail sales, Distributor may sell the Products solely at or through each location approved by NI (brick and mortar and online as authorized) and may not sell the Products through any third-party website(s) or platform(s) not approved by NI (including, but not limited to, Amazon, eBay, Craigslist and Facebook).

### **3. Do-Not-Sell List.**

Immediately upon receipt of any Do-Not-Sell List (by notice or posting), Distributor must cancel any pending orders from each individual or entity identified in the Do-Not-Sell List and refuse to sell to any identified individual(s), entity or entities: (a) all Products in the event that Dealer is completely unauthorized or (b) the specific Product or Products for which Dealer is not authorized.

### **4. Use and Protection of NI Intellectual Property.**

Distributor may use NI IP as permitted by NI and will refrain from challenging the rights claimed by NI in the NI IP or assisting others in doing so.

### **5. Compliance with Laws and NI Policies.**

Distributor must comply with (a) all laws and all NI Policies (except where mandatory compliance is not required) and (b) NI requests relating to any law, regulation or recall of the Products. Distributor will not take any action detrimental to the reputation or integrity of NI or the Products. Distributor acknowledges that it has reviewed and understands the NI unilateral minimum advertised price policy ("MAP Policy").

### **6. Modification of NI Policies and Approvals.**

At any time and without prior notice, NI may modify any of the NI Policies and rescind any of the approvals provided by NI, with each such modification or rescission becoming effective immediately or as designated by NI.

### **7. Distributor Enterprise.**

For sales to end users (or if Distributor is a buying group, co-op, or operates retail locations, etc.), NI appoints the Enterprise(s) designated by Distributor (under the approved name(s) and using approved website(s)) as an Authorized Dealer. Distributor agrees that each Enterprise shall be an Authorized Dealer for Products unless the Agreement is terminated or authorization of the Enterprise(s) is rescinded. Distributor will be liable to NI for any obligations of the Enterprise unless Distributor lacks control over the Enterprise. Orders submitted to NI by the Enterprise will be treated as if submitted by the Distributor. An Enterprise must purchase Products only from Distributor and may not sell Products to anyone for resale. An Enterprise must comply with sections 2, and 4-11 of this Agreement.

### **8. Termination of Agreement.**

Either Distributor or NI may terminate this Agreement, with or without cause, effective thirty (30) days after receipt of notice or, in the case of a material breach, effective the date designated in such notice, but no sooner than the date of such receipt. Upon termination, Distributor shall cease use of all NI IP, except as necessary to sell Distributor's then-current inventory of the Products.

### **9. Buyback of Inventory.**

After notice of termination, Distributor, if requested by NI, will (a) sell to NI all of Distributor's (and any requested Enterprise's or Affiliate's) saleable and encumbrance-free inventory of the Products chosen by NI at the actual price paid or in lieu of any amount due and (b) ship such inventory as directed by NI at NI's expense.

### **10. Miscellaneous Items (that the lawyers are making us include).**

Assignment of this Agreement by Distributor without the prior written consent of NI is void. The relationship between the Parties is that of independent contractors, and Distributor shall have no authority to bind NI. The NI Documents shall be governed by and interpreted under Colorado law without regard to that state's conflicts of laws provisions, and all disputes shall be litigated as a bench trial in federal court in Denver, Colorado or state court in Boulder, Colorado. Sections 1 through 11 of this Agreement survive its termination. The NI Documents, as modified from time to time, constitute the entire understanding of the Parties and supersede all agreements and representations between the Parties, either oral or written, and are not subject to any rule of strict construction. In the event of any conflict between the NI Policies and this Agreement, the NI Policies will control. NI's interpretation of the NI Documents governs. No failure by NI to exercise any right(s) under the NI Documents will constitute a waiver or limit any enforcement. Distributor agrees that NI may without liability cancel any pending orders (even if accepted) from Distributor and refuse to accept any new orders from Distributor. Each notice described in this Agreement must be in writing and is considered effective when received or refused (whether posted on an NI website or sent via mail, email, courier, fax, bike messenger, or otherwise), and notice to a Distributor is effective to related Enterprises. Purchase order or other provisions from Distributor inconsistent with the NI Documents are deemed stricken, unless expressly adopted in a written supplement signed by the Parties.

### **11. Definitions (because legal agreements don't make us sleepy enough already).**

For purposes of this Agreement: (a) "Authorized Dealers" means resellers authorized to sell to end users; (b) the "NI Documents" means this Agreement and the NI Policies; (c) "NI IP" means any or all of the patents, designs, trademarks, service marks, trade names, commercial symbols, copyrights, data, data bases, market information, trade secrets and confidential information in which NI claims rights; (d) "NI Policies" means collectively the then-current versions of the announcements issued or made available electronically or otherwise by NI and labeled as

policies, price lists or terms of sale or otherwise designated as policies by NI; (e) "Nonexclusive Authorized Distributor" means that Distributor is authorized to buy and sell the Products under the terms of the NI Documents; (f) the "Parties" means the Distributor and NI; (g) the "Products" means those NI products made available to Distributor by NI; (h) the "Term" means the period from the Effective Date until this Agreement is terminated; (i) "Do-Not-Sell List" means NI notice which indicates that certain individuals or entities are not authorized by NI to resell certain Products or all Products; (j) "Authorized Dealer" means each reseller designated by NI as authorized to sell Products, but only if such reseller is not on the then-current Do-Not-Sell List; (k) "Enterprise" means an enterprise that sells to end users either directly by the Distributor or through any entity owned or operated by (A) the Distributor, (B) one or more Affiliate(s) of the Distributor and (C), if the Distributor is a cooperative or buying group, one or more of the member(s); and (l) "Affiliate(s)" means any individuals and entities directly or indirectly controlling, controlled by or under common control with the Distributor or Enterprise.

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