



**FINORICLLC  
SALE OF GOODS AGREEMENT**

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**FINORICLLC  
SALE OF GOODS AGREEMENT**

Sale of Goods Agreement

between

FINORIC, LLC

and

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dated as of

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Date



# FINORICLLC SALE OF GOODS AGREEMENT

## Sale of Goods Agreement

This Sale of Goods Agreement, dated as of the execution date hereinbelow (this "**Agreement**" or "SGA"), is entered into between Finoric, LLC, a Texas limited liability company ("**Seller**"), and the Buyers signatories in the Credit Application attached as Exhibit B, which shall be incorporated herein ("**Buyer**", and together with Seller, the "**Parties**", and each, a "**Party**").

### Recitals

WHEREAS Seller is in the business of selling chemicals products;

WHEREAS Buyer is in the business of Oil & Gas drilling, completion, production, and/or other industrial operations; and

WHEREAS Buyer desires to purchase from Seller, and Seller desires to sell to Buyer the Goods.

NOW, THEREFORE, in consideration of the mutual covenants and agreements hereinafter set forth and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

### ARTICLE I DEFINITIONS

Capitalized terms have the meanings set forth or referred to in this Article ARTICLE I.

"**Action**" means any claim, action, cause of action, demand, lawsuit, arbitration, inquiry, audit, notice of violation, proceeding, litigation, citation, summons, subpoena, or investigation of any nature, civil, criminal, administrative, regulatory, or otherwise, whether at law, in equity or otherwise.

"**Affiliate**" of a Person means any other Person that directly or indirectly, through one or more intermediaries, controls, is controlled by, or is under common control with, such Person. The term "control" (including the terms "controlled by" and "under common control with") means the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of a Person, whether through the ownership of voting securities, by contract, or otherwise.

"**Agreement**" has the meaning set forth in the preamble.

"**Basic Purchase Order Terms**" means, collectively, any one or more of the following terms specified by Buyer in a Purchase Order pursuant to Section 5.01: (a) a list of the Goods to be purchased; (b) the quantity of each of the Goods ordered; (c) the requested delivery date; (d) the unit Price for each of the Goods to be purchased; (e) the billing address; and (f) the Delivery Location. For the avoidance of doubt, the term "Basic Purchase Order Terms" does not include any general terms or conditions of any Purchase Order.



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**"Business Day"** means any day except Saturday, Sunday or any other day on which commercial banks located in Houston, Texas are authorized or required by Law to be closed for business.

**"Claim"** means any Action brought against a Person entitled to indemnification under Article ARTICLE XV.

**"Confidential Information"** has the meaning set forth in Article ARTICLE XII.

**"Control"** (and with correlative meanings, the terms "Controlled by" and "under common Control with") means, with respect to any Person, the possession, directly or indirectly, of the power to direct or cause the direction of the management or policies of another Person, whether through the ownership of voting securities, by contract, or otherwise.

**"Defective"** means not conforming to the warranties in Section Section 14.01.

**"Defective Goods"** means goods shipped by Seller to Buyer pursuant to this Agreement that are Defective.

**"Delayed Shipment Date"** has the meaning set forth in Section Section 6.03.

**"Delivery Location"** means the street address specified in the applicable Purchase Order.

**"Disclosing Party"** has the meaning set forth in Article ARTICLE XII.

**"Excess Goods"** means any goods received by Buyer from Seller pursuant to a Purchase Order that materially exceed the quantity of Goods ordered by Buyer pursuant to this Agreement or any Purchase Order. Where the context requires, Excess Goods are deemed to be Goods for purposes of this Agreement.

**"Force Majeure Event"** has the meaning set forth in Section Section 18.19.

**"Forecast"** means, with respect to any six month period, a good faith forecast of Buyer's demand for each calendar month during the period, of Goods, which approximates, as nearly as possible, based on information available at the time to Buyer, the Purchase Orders subsequently to be placed by Buyer for each such calendar month.

**"Goods"** means the goods set forth in Schedule 1, as Seller may amend in its sole discretion from time to time.

**"Governmental Authority"** means any federal, state, local, or foreign government or political subdivision thereof, or any agency or instrumentality of such government or political subdivision, or any self-regulated organization or other non-governmental regulatory authority or quasi-governmental authority (to the extent that the rules, regulations, or orders of such organization or authority have the force of Law), or any arbitrator, court, or tribunal of competent jurisdiction.



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**"Governmental Order"** means any order, writ, judgment, injunction, decree, stipulation, award or determination entered by or with any Governmental Authority.

**"Indemnified Party"** has the meaning set forth in Section Section 15.01.

**"Indemnifying Party"** has the meaning set forth in Section Section 15.01.

**"Individual Transaction"** means any Purchase Order that has been accepted by Seller pursuant to Section Section 5.02.

**"Initial Term"** has the meaning set forth in Section Section 11.01.

**"Inspection Period"** has the meaning set forth in Section Section 6.05.

**"Intellectual Property Rights"** means all industrial and other intellectual property rights comprising or relating to (i) Patents; (ii) Trademarks; (iii) internet domain names, whether or not Trademarks, registered by any authorized private registrar or Governmental Authority, web addresses, web pages, websites, and URLs; (iv) works of authorship, expressions, designs, and design registrations, whether or not copyrightable, including copyrights and copyrightable works, software, and firmware, data, data files, and databases and other specifications and documentation; (v) Trade Secrets; (vi) all industrial and other intellectual property rights, and all rights, interests, and protections that are associated with, equivalent or similar to, or required for the exercise of, any of the foregoing, however arising, in each case whether registered or unregistered and including all registrations and applications for, and renewals or extensions of, such rights or forms of protection pursuant to the Laws of any jurisdiction throughout in any part of the world.

**"Law"** means any statute, law, ordinance, regulation, rule, code, constitution, treaty, common law, Governmental Order, or other requirement or rule of law of any Governmental Authority.

**"Losses"** has the meaning set forth in Section Section 15.01.

**"Nonconforming Goods"** means any goods received by Buyer from Seller pursuant to a Purchase Order that: (i) do not conform to the Item listed in the applicable Purchase Order; (ii) do not significantly conform to the Specifications; or (iii) materially exceed the quantity of Goods ordered by Buyer pursuant to this Agreement or any Purchase Order. Where the context requires, Nonconforming Goods are deemed to be Goods for purposes of this Agreement.

**"Notice"** has the meaning set forth in Section Section 18.04.

**"Party"** has the meaning set forth in the preamble to this Agreement.

**"Patents"** means all patents (including all reissues, divisionals, provisionals, continuations and continuations-in-part, re-examinations, renewals, substitutions, and extensions thereof), patent applications, and other patent rights and any other Governmental Authority-issued indicia of invention ownership (including inventor's certificates, petty patents, and patent utility models).



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**"Payment Failure"** has the meaning set forth in Section Section 11.03(a).

**"Person"** means any individual, partnership, corporation, trust, limited liability entity, unincorporated organization, association, Governmental Authority, or any other entity.

**"Personnel"** means agents, employees, or subcontractors engaged or appointed by Seller or Buyer.

**"Price"** has the meaning set forth in Section Section 8.01.

**"Purchase Order"** means Buyer's purchase order issued to Seller hereunder, including all terms and conditions attached to, or incorporated into, such purchase order.

**"Receiving Party"** has the meaning set forth in Article ARTICLE XII.

**"Renewal Term"** has the meaning set forth in Section Section 11.02.

**"Representatives"** means a Party's Affiliates, employees, officers, directors, partners, shareholders, agents, attorneys, third-party advisors, successors, and permitted assigns.

**"Seller's Intellectual Property Rights"** means all Intellectual Property Rights owned by or licensed to Seller.

**"Seller's Trademarks"** means all Trademarks owned or licensed by Seller.

**"Specifications"** means the specifications for the Goods attached hereto as Exhibit A.

**"Survival Period"** has the meaning set forth in Section Section 18.03.

**"Term"** has the meaning set forth in Section Section 11.02.

**"Third-Party Product"** has the meaning set forth in Section Section 14.04.

**"Trademarks"** means all rights in and to US and foreign trademarks, service marks, trade dress, trade names, brand names, logos, trade dress, corporate names, and domain names, and other similar designations of source, sponsorship, association or origin, together with the goodwill symbolized by any of the foregoing, in each case whether registered or unregistered and including all registrations and applications for, and renewals and extensions of, such rights and all similar or equivalent rights or forms of protection in any part of the world.

**"Trade Secrets"** means all inventions, discoveries, trade secrets, business and technical information, and know-how, databases, data collections, patent disclosures, and other confidential and proprietary information and all rights therein.

**"Warranty Period"** has the meaning set forth in Section Section 14.01.





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## ARTICLE II AGREEMENT TO PURCHASE AND SELL GOODS

**Section 2.01 Purchase and Sale.** Subject to the terms and conditions of this Agreement, during the Term, Seller shall, on a non-exclusive basis, sell to Buyer, and Buyer shall, on a non-exclusive basis, purchase from Seller, the Goods.

**Section 2.02 No Annual Minimum Quantities.** The Parties agree that notwithstanding any Forecasts:

(a) Buyer is not obligated to purchase any annual minimum quantities from Seller under this Agreement; and

(b) Seller is not obligated to sell any annual minimum quantities to Buyer under this Agreement.

## ARTICLE III TERMS OF AGREEMENT PREVAIL OVER BUYER'S PURCHASE ORDER

This Agreement is expressly limited to the terms of this Agreement and the Basic Purchase Order Terms contained in the applicable Purchase Order. The terms of this Agreement prevail over any terms or conditions contained in any other documentation and expressly exclude any of Buyer's general terms and conditions contained in any Purchase Order or other document issued by Buyer. In the event of any conflict between the terms of this Agreement and the terms of any Purchase Order or any other document issued by Buyer, the terms of this Agreement prevail.

## ARTICLE IV NON-BINDING FORECASTS

**Section 4.01 Provision of Forecasts.** From time-to-time, Buyer may, but shall not be required to, provide Seller with Forecasts.

**Section 4.02 Forecasts Are Non-binding.** The Forecasts are for information purposes only and do not create any binding obligations on behalf of either Party. Neither Seller's nor Buyer's failure to comply with any Forecast is a breach of this Agreement.

## ARTICLE V ORDER PROCEDURE

**Section 5.01 Purchase Orders.** Buyer shall initiate all Purchase Orders in written form via facsimile, e-mail, or US mail, and cause all Purchase Orders to contain the Basic Purchase Order Terms. By placing a Purchase Order, Buyer makes an offer to purchase the Goods pursuant to the terms and conditions of this Agreement, including the Basic Purchase Order Terms, and on no other terms. Except with respect to the Basic Purchase Order Terms, any variations made to the terms and conditions of this Agreement by Buyer in any Purchase Order are void and have no effect.



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**Section 5.02 Seller's Right to Accept or Reject Purchase Order.** Seller has the right, in its sole discretion, to accept or reject any Purchase Order. Seller may accept any Purchase Order by confirming the order (whether by written confirmation, invoice or otherwise) or by delivering such Goods, whichever occurs first. No Purchase Order is binding on Seller unless accepted by Seller as provided in this Agreement.

### **Section 5.03 Cancellation of Individual Transactions.**

(a) Seller may, in its sole discretion, without liability or penalty, cancel any Individual Transaction:

(i) if Seller determines that Buyer is in violation of its payment obligations or has breached or is in breach of this Agreement; or

(ii) pursuant to Seller's rights under Section Section 8.04.

(b) With the exception of Buyer's right to cancel any Purchase Order pursuant to Section Section 6.03, Buyer shall have no right to cancel or amend any Purchase Order submitted by it.

## ARTICLE VI SHIPMENT AND DELIVERY

**Section 6.01 Shipment.** Unless expressly agreed to by the Parties in writing, Seller shall select the method of shipment of, and the carrier for, the Goods. Seller may, in its sole discretion, without liability or penalty, make partial shipments of Goods to Buyer. Each shipment will constitute a separate sale, and Buyer shall pay for the units shipped whether such shipment is in whole or partial fulfillment of a Purchase Order.

**Section 6.02 Delivery.** Unless expressly agreed to by the Parties in any Individual Transaction, Seller shall deliver the Goods to the Delivery Location, using Seller's (or manufacturer's, as the case may be) standard methods for packaging and shipping such Goods. All prices are EXW Seller's facility.

**Section 6.03 Late Delivery.** Any time quoted by Seller for delivery is an estimate only. Seller is not liable for or in respect of any loss or damage arising from any delay in filling any order, failure to deliver or delay in delivery. However, if Seller delays shipment of all or any Goods for more than 14 days after the estimated delivery date (the "**Delayed Shipment Date**"), then Buyer may, as its sole remedy therefor, cancel the related Purchase Order with respect to the delayed Goods by giving Seller Notice within 3 days of the Delayed Shipment Date. No delay in the shipment or delivery of any Goods relieves Buyer of its obligations under this Agreement, including without limitation accepting delivery of any remaining installment(s) of Goods.

**Section 6.04 Packaging and Labeling.** Seller shall properly pack, mark, and ship Goods with its minimum packing standard for the method of transportation selected; and provide Buyer with shipment documentation showing the Purchase Order number, Seller's identification number for the subject Goods, the quantity of pieces in shipment, the number of cartons or



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containers in shipment, Seller's name, the bill of lading number, and the country of origin. Buyer warrants and represents that it will take all steps necessary to abide by the EPA and following the label on the package. Buyer further represents and warrants that it will notify the Seller in writing and its Purchase Order whether it is seeking registered or unregistered goods, and any other legal requirements for such products. Seller will not presume the intended use of the products. Buyer is responsible for expressly requesting the specific goods required for each project and order. Buyer acknowledges and understands that a request for registered goods will require pre-planning and will likely take additional time to make available for the Buyer.

**Section 6.05 Inspection.** Buyer shall inspect the Goods within 5 days of receipt ("**Inspection Period**") of the Goods and either accept or, if such Goods are Nonconforming Goods or Excess Goods, reject such Goods. Buyer will be deemed to have accepted the Goods unless it notifies Seller in writing of any Nonconforming Goods or Excess Goods during the Inspection Period and furnishes such written evidence or other documentation as required by Seller. If Buyer timely notifies Seller of any Nonconforming Goods or Excess Goods, Seller shall determine, in its sole discretion, whether the Goods are Nonconforming Goods or Excess Goods. If Seller determines that the Goods are Nonconforming Goods or Excess Goods, it shall, in its sole discretion:

- (a) if such Goods are Nonconforming Goods, (i) replace such Nonconforming Goods with conforming Goods, or (ii) refund the Price for such Nonconforming Goods, together with all shipping and handling expenses incurred by Buyer in connection therewith; or
- (b) if such Goods are Excess Goods, refund the Price for such Excess Goods, together with all shipping and handling expenses incurred by Buyer in connection therewith.

Buyer shall ship, at its expense and risk of loss, the Nonconforming Goods or Excess Goods to Seller's facility located at 8115 TX-540 Beasley, TX 77417. If Seller exercises its option to replace Nonconforming Goods, Seller shall, after receiving Buyer's shipment of Nonconforming Goods, ship to Buyer, at Buyer's expense and risk of loss, the replaced Goods to the Delivery Location.

BUYER ACKNOWLEDGES AND AGREES THAT THE REMEDIES SET FORTH IN Section Section 6.05(a) AND Section Section 6.05(b) OF THIS SECTION 6.5 ARE BUYER'S EXCLUSIVE REMEDIES FOR THE DELIVERY OF NONCONFORMING GOODS OR EXCESS GOODS, SUBJECT TO BUYER'S RIGHTS UNDER Section Section 14.03 WITH RESPECT TO ANY NONCONFORMING GOODS OR EXCESS GOODS FOR WHICH BUYER HAS ACCEPTED DELIVERY UNDER THIS SECTION 6.5.

**Section 6.06 Limited Right of Return.** Except as provided under Section Section 6.05 and Section Section 14.03, Buyer has no right to return Goods purchased under this Agreement to Seller.



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## ARTICLE VII TITLE AND RISK OF LOSS

**Section 7.01 Title.** Title to Goods ordered under any Individual Transaction passes to Buyer upon delivery of such Goods to the Delivery Location.

**Section 7.02 Risk of Loss.** Risk of loss to all Goods ordered under any Purchase Order passes to Buyer upon Seller's tender of such units to the carrier at Seller's designated operating facility.

## ARTICLE VIII PRICE AND PAYMENT

**Section 8.01 Price.** Buyer shall purchase the Goods from Seller at the prices set forth in Seller's price list in effect at the time that Seller accepts the related Purchase Order ("**Prices**").

**Section 8.02 Shipping Charges, Insurance, and Taxes.** Buyer shall pay for, and shall hold Seller harmless from, all shipping charges and insurance costs. In addition, all Prices are exclusive of, and Buyer is solely responsible for and shall pay, and shall hold Seller harmless from, all Taxes, with respect to, or measured by, the manufacture, sale, shipment, use or Price of the Goods (including interest and penalties thereon).

**Section 8.03 Payment Terms.** Seller shall issue an invoice for each Individual Transaction. Buyer shall pay all invoiced amounts due to Seller within 30 days from the Bill of Lading date, except for any amounts disputed by Buyer in good faith within five (5) consecutive days from receipt of such goods, which shall be made in writing and sent in accordance with the notice procedures described herein. Buyer unconditionally and irrevocably waives raising any and all objections or issues with the goods after the fifth consecutive day from receipt unless Buyer expressly notifies the Seller within the five-day period, in writing, that additional time is required to inspect the goods and Seller approves. If Buyer requests additional time for inspection, Seller may allow additional time at its discretion. Buyer shall make all payments in US dollars by check or wire transfer in accordance with the following wire instructions:

ACH Wire Instructions
Beneficiary Name: Finoric LLC Beneficiary Address: 8115 Loop 540, Beasley, TX 77417 Beneficiary Account No.: 0009753 Beneficiary Bank ABA: 113111983 Beneficiary Bank Name: Community Bank of Texas, N.A. Beneficiary Bank Address: 5999 Delaware, Beaumont, TX 77706 Attention: Jital Kamdar, Accounts Manager



## FINORIC LLC SALE OF GOODS AGREEMENT

<b>Check Instructions</b>
Payee: Finoric LLC Payee Address: 8115 Loop 540, Beasley, TX 77417

All payments shall be accompanied with an email notification to ap@Finoric.com with payment details. Payments made by credit card may be subject to a minimum 4% fee.

**Section 8.04 Unsatisfactory Credit Status.** Buyer shall furnish Seller with statements evidencing Buyer's financial condition as Seller may, from time to time, reasonably request, and shall notify Seller immediately of any and all events that may have a material adverse effect on Buyer's business or financial condition. If Seller determines in its sole discretion that Buyer's financial condition or creditworthiness is inadequate or unsatisfactory, then in addition to Seller's other rights, Seller may without liability or penalty take any of the following actions:

- (a) accelerate all amounts owed by Buyer to Seller under this Agreement and any Individual Transaction;
- (b) on written Notice, modify the payment terms specified in Section Section 8.03 for outstanding and future Individual Transactions, including requiring Buyer to pay cash in advance;
- (c) cancel any previously accepted Purchase Orders;
- (d) delay any further shipment of Goods to Buyer;
- (e) on written notice, terminate this Agreement; or
- (f) any combination of the above.

No actions taken by Seller under this Section Section 8.04 (nor any failure of Seller to act under this Section) constitute a waiver by Seller of any of its rights to enforce Buyer's obligations under this Agreement including, but not limited to, the obligation of Buyer to make payments as required under this Agreement.

**Section 8.05 Invoice Disputes.** Buyer shall notify Seller in writing of any dispute with any invoice (along with substantiating documentation and a reasonably detailed description of the dispute) within 5 days from the Buyer's receipt of such invoice. Buyer will be deemed to have accepted all invoices for which Seller does not receive timely notification of disputes and shall pay all undisputed amounts due under such invoices within the period set forth in Section Section 8.03. The Parties shall seek to resolve all such disputes expeditiously and in good faith. Notwithstanding anything to the contrary, Buyer shall continue performing its obligations under this Agreement during any such dispute, including, without limitation, Buyer's obligation to pay all due and undisputed invoice amounts.



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**Section 8.06 Late Payments.** Except for invoiced payments that Buyer has successfully disputed, Buyer shall pay interest on all late payments, calculated daily and compounded monthly at the lesser of the rate of 1.5% per month or the highest rate permissible under applicable Law, calculated daily and compounded monthly. Buyer shall also reimburse Seller for all costs incurred in collecting any late payments, including, without limitation, attorneys' fees. In addition to all other remedies available under this Agreement or at Law (which Seller does not waive by the exercise of any rights under this Agreement), if Buyer fails to pay any amounts when due under this Agreement, Seller may (a) suspend the delivery of any Goods, (b) reject Buyer's Purchase Orders pursuant to the terms of Section Section 5.02, (c) cancel accepted Purchase Orders pursuant to the terms of Section Section 5.03, or (d) terminate this Agreement pursuant to the terms of Section Section 11.03(a).

**Section 8.07 Purchase Money Security Interest.** Buyer hereby grants Seller a security interest in all Goods purchased hereunder (including Goods, Nonconforming Goods, and Excess Goods) and the proceeds therefrom to secure Buyer's payment obligations under this Agreement. Buyer acknowledges that the security interest granted under this Section 8.7 is a purchase money security interest under Texas law. Seller may file a financing statement for such security interest and Buyer shall execute any such statements or other documentation necessary to perfect Seller's security interest in such Goods.

**Section 8.08 No Set-off Right.** Buyer shall not, and acknowledges that it will have no right, under this Agreement, any Purchase Order, any other agreement, document or Law, to withhold, offset, recoup or debit any amounts owed (or to become due and owing ) to Seller or any of its Affiliates, whether under this Agreement or otherwise, against any other amount owed (or to become due and owing) to it by Seller or Seller's Affiliates, whether relating to Seller's or its Affiliates' breach or non-performance of this Agreement, any Purchase Order, any other agreement between (a) Buyer or any of its Affiliates and (b) Seller or any of its Affiliates, or otherwise.

### ARTICLE IX COMPLIANCE WITH LAWS

**Section 9.01 General Compliance With Laws Covenant.** Buyer shall at all times comply with all Laws applicable to this Agreement, Buyer's performance of its obligations hereunder and Buyer's use or sale of the Goods. Without limiting the generality of the foregoing, Buyer shall (a) at its own expense, maintain all certifications, credentials, licenses, and permits necessary to conduct its business relating to the purchase or use of the Goods and (b) not engage in any activity or transaction involving the Goods, by way of shipment, use or otherwise, that violates any Law.

### ARTICLE X INTELLECTUAL PROPERTY RIGHTS

**Section 10.01 Ownership.** Buyer acknowledges and agrees that:

- (a) any and all Seller's Intellectual Property Rights are the sole and exclusive property of Seller or its licensors;



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- (b) Buyer shall not acquire any ownership interest in any of Seller's Intellectual Property Rights under this Agreement;
- (c) any goodwill derived from the use by Buyer of Seller's Intellectual Property Rights inures to the benefit of Seller or its licensors, as the case may be;
- (d) if Buyer acquires any Intellectual Property Rights, rights in or relating to any Goods (including any rights in any Trademarks, derivative works, or patent improvements relating thereto) by operation of Law, or otherwise, such rights are deemed and are hereby irrevocably assigned to Seller or its licensors, as the case may be, without further action by either of the Parties; and
- (e) Buyer shall use Seller's Intellectual Property Rights solely for purposes of using the Goods under this Agreement and only in accordance with this Agreement and the instructions of Seller.

### **Section 10.02 Prohibited Acts.** Buyer shall not:

- (a) take any action that might interfere with any of Seller's rights in or to Seller's Intellectual Property Rights, including Seller's ownership or exercise thereof;
- (b) challenge any right, title, or interest of Seller in or to Seller's Intellectual Property Rights;
- (c) make any claim or take any action adverse to Seller's ownership of Seller's Intellectual Property Rights;
- (d) register or apply for registrations, anywhere in the world, for Seller's Trademarks or any other Trademark that is similar to Seller's Trademarks or that incorporates Seller's Trademarks in whole or in confusingly similar part;
- (e) use any mark, anywhere that is confusingly similar to Seller's Trademarks in whole or in confusingly similar part;
- (f) engage in any action that tends to disparage, dilute the value of, or reflect negatively on the Goods or any Seller's Trademarks;
- (g) misappropriate any of Seller's Trademarks for use as a domain name without prior written consent from Seller; or
- (h) alter, obscure or remove any Seller's Trademarks, or Trademark or copyright notices or any other proprietary rights notices placed on the Goods, marketing materials or other materials that Seller may provide.





# FINORICLLC SALE OF GOODS AGREEMENT

## ARTICLE XI TERM; TERMINATION

**Section 11.01 Term.** The term of this Agreement commences on the Effective Date and continues for a period of 3 years, unless and until earlier terminated as provided under this Agreement (the **Term**).

**Section 11.02 Renewal Term.** Upon expiration of the Initial Term, this Agreement automatically renews for additional successive 1 year terms unless and until Seller provides written notice of nonrenewal at least 30 days prior to the end of the then-current term, or unless and until earlier terminated as provided under this Agreement (each a **"Renewal Term"** and together with the Initial Term, the **"Term"**). If the Term is renewed for any Renewal Term(s) pursuant to this Section, the terms and conditions of this Agreement during each such Renewal Term are the same as the terms in effect immediately prior to such renewal, subject to any change in Prices payable for the Goods and payment terms during the applicable Renewal Term. In the event Seller provides timely Notice of its intent not to renew this Agreement, then, unless earlier terminated in accordance with its terms, this Agreement terminates on the expiration of the then-current Term.

### **Section 11.03 Seller's Right to Terminate.**

Seller may terminate this Agreement upon written notice to Buyer:

- (a) if Buyer fails to pay any amount when due under this Agreement (**"Payment Failure"**) and such failure continues for 30 days after Buyer's receipt of written notice of nonpayment;
- (b) if within any 1 month period, **1** or more Payment Failures occur;
- (c) if Buyer breaches any provision of this Agreement or any Individual Transaction (other than a Payment Failure), and either the breach cannot be cured or, if the breach can be cured, it is not cured by Buyer within 14 days after Buyer's receipt of written notice of such breach;
- (d) if Buyer (i) becomes insolvent or is generally unable to pay its debts as they become due, (ii) files or has filed against it, a petition for voluntary or involuntary bankruptcy or otherwise becomes subject, voluntarily or involuntarily, to any proceeding under any domestic or foreign bankruptcy or insolvency Law, (iii) makes or seeks to make a general assignment for the benefit of its creditors, or (iv) applies for or has appointed a receiver, trustee, custodian, or similar agent appointed by order of any court of competent jurisdiction to take charge of or sell any material portion of its property or business;
- (e) if Seller terminates any other agreement between (i) Seller and (ii) Buyer or Buyer's Affiliates, due to Buyer's or Buyer's Affiliates' breach or non-performance thereof; or





## **FINORICLLC SALE OF GOODS AGREEMENT**

(f) if (i) Buyer sells, leases or exchanges a material portion of Buyer's assets, (ii) Buyer merges or consolidates with or into another Person, or a change in "**Control**" of Buyer occurs, in any case, without Seller's prior written consent.

### **Section 11.04 Effect of Termination.**

(a) Expiration or termination of the Term will not affect any rights or obligations of the Parties that:

(i) come into effect upon or after expiration or termination of this Agreement; or

(ii) otherwise survive the expiration or earlier termination of this Agreement pursuant to Section Section 18.03 and were incurred by the Parties prior to such expiration or earlier termination.

(b) Any Notice of termination under this Agreement automatically operates as a cancellation of any deliveries of Goods to Buyer that are scheduled to be made subsequent to the effective date of termination, whether or not any orders for such Goods had been accepted by Seller. With respect to any Goods that are still in transit upon termination of this Agreement, Seller may require, in its sole and absolute discretion, that all sales and deliveries of such Goods be made on either a cash-only or certified check basis.

(c) Upon the expiration or earlier termination of this Agreement, Buyer shall promptly:

(i) return to Seller/destroy all documents and tangible materials (and any copies) containing, reflecting, incorporating or based on Seller's Confidential Information;

(ii) permanently erase all of Seller's Confidential Information from its computer systems; and

(iii) certify in writing to Seller that it has complied with the requirements of this clause.

(d) Subject to Section Section 11.04(a), the Party terminating this Agreement, or in the case of the expiration of this Agreement, each Party, shall not be liable to the other Party for any damage of any kind (whether direct or indirect) incurred by the other Party by reason of the expiration or earlier termination of this Agreement. Termination of this Agreement will not constitute a waiver of any of the terminating Party's rights or remedies under this Agreement, at law, in equity, or otherwise.



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## ARTICLE XII CONFIDENTIALITY

**Section 12.01 Scope of Confidential Information.** From time to time during the Term, Seller (as the "**Disclosing Party**") may disclose or make available to Buyer (as the "**Receiving Party**") information about its business affairs, goods and services, confidential information and materials comprising or relating to Intellectual Property Rights, trade secrets, third-party confidential information, and other sensitive or proprietary information, as well as the terms of this Agreement, whether orally or in written, electronic or other form or media, and whether or not marked, designated or otherwise identified as "confidential" (collectively, "**Confidential Information**"). Confidential Information does not include information that at the time of disclosure:

- (a) is or becomes generally available to and known by the public other than as a result of, directly or indirectly, any breach of this Article ARTICLE XII by the Receiving Party or any of its Representatives;
- (b) is or becomes available to the Receiving Party on a non-confidential basis from a third-party source, provided that such third party was legally entitled to be in possession of such Confidential Information and/or was not prohibited from disclosing such Confidential Information;
- (c) was known by or in the possession of the Receiving Party or its Representatives prior to being disclosed by or on behalf of the Disclosing Party;
- (d) was or is independently developed by the Receiving Party without reference to or use of, in whole or in part, any of the Disclosing Party's Confidential Information; or
- (e) is required to be disclosed pursuant to applicable Law.

**Section 12.02 Protection of Confidential Information.** The Receiving Party shall, for 2 years from disclosure of such Confidential Information:

- (a) protect and safeguard the confidentiality of the Disclosing Party's Confidential Information with at least the same degree of care as the Receiving Party would protect its own Confidential Information, but in no event with less than a commercially reasonable degree of care;
- (b) not use the Disclosing Party'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
- (c) not disclose any such Confidential Information to any Person, except to the Receiving Party's Representatives who need to know the Confidential Information to assist the Receiving Party, or act on its behalf, to exercise its rights or perform its obligations under this Agreement.



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The Receiving Party shall be responsible for any breach of this Article ARTICLE XII caused by any of its Representatives. On the expiration or earlier termination of this Agreement, the Receiving Party and its Representatives shall, pursuant to Section Section 11.04(c), promptly return all Confidential Information and copies thereof that it has received under this Agreement.

### ARTICLE XIII REPRESENTATIONS AND WARRANTIES

**Section 13.01 Buyer's Representations and Warranties.** Buyer represents and warrants to Seller that:

- (a) it is a corporation or limited liability company duly organized, validly existing, and in good standing in the jurisdiction of its formation;
- (b) it is duly qualified to do business and is in good standing in every jurisdiction in which such qualification is required for purposes of this Agreement;
- (c) it has the full right, power and authority to enter into this Agreement, to grant the rights and licenses granted under this Agreement and to perform its obligations under this Agreement;
- (d) the execution of this Agreement by its Representative whose signature is set forth at the end hereof has been duly authorized by all necessary corporate action of the Party;
- (e) when executed and delivered by each of Seller and Buyer, this Agreement will constitute the legal, valid and binding obligation of Buyer, enforceable against Buyer in accordance with its terms;
- (f) it is in compliance with all applicable Laws relating to this Agreement, the Goods and the operation of its business;
- (g) it is not insolvent and is paying all of its debts as they become due; and
- (h) all financial information that it has provided to Seller is true and accurate and fairly represents Buyer's financial condition;
- (i) it will follow the labeling on all goods and will create policies and procedures for its representatives to do the same;
- (j) it will follow the EPA guidelines and will obtain express written verification from the Seller prior to its purchase if such compliance is required for Buyer's purposes. Buyer understand the time, pricing, and availability may change; and
- (k) it will cooperate in timely manner with the Seller to provide any and all information, and extensions, to any statutory deadlines passed in favor of securing the appropriate liens pursuant to the Texas Property Code. Furthermore, Buyer and



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Guarantor represent and warrant they shall cooperate in a timely manner in providing any and all financial and banking information for garnishment.

### ARTICLE XIV PRODUCT WARRANTIES

**Section 14.01 Limited Warranty.** Seller warrants to Buyer that:

- (a) no Goods will be Nonconforming Goods.
- (b) for a period of 30 days from the date of shipment of the Goods (the "**Warranty Period**"), that such Goods will materially conform to the specifications set forth in Seller's published specifications, or as otherwise agreed-to **in** writing between the Parties, **in** effect as of the date of shipment under the corresponding Individual Transaction.

**Section 14.02 Warranty Limitations.** The warranties under Section Section 14.01 do not apply where the Goods have:

- (a) been subjected to abuse, misuse, neglect, negligence, accident, improper testing, improper installation, improper storage, improper handling, abnormal physical stress, abnormal environmental conditions or use contrary to any instructions issued by Seller;
- (b) been reconstructed, repaired, or altered by Persons other than Seller or its authorized Representative;
- (c) been used with any third-party product, hardware or product that has not been previously approved in writing by Seller;
- (d) been used against the label on such goods;
- (e) wrongfully used with the wrong solutions or solvents;

**Section 14.03 Buyer's Exclusive Remedy for Defective Goods.** Notwithstanding any other provision of this Agreement (except for Section Section 14.06), this Section Section 14.03 contains Buyer's exclusive remedy for Defective Goods. Buyer's remedy under this Section Section 14.03 is conditioned upon Buyer's compliance with its obligations under Section Section 14.03(a) and Section Section 14.03(b) below. During the Warranty Period, with respect to any allegedly Defective Goods:

- (a) Buyer shall notify Seller, in writing, of any alleged claim or defect within 5 Business Days from the date Buyer discovers, or upon reasonable inspection should have discovered, such alleged claim or defect (but in any event before the expiration of the applicable Warranty Period);



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(b) Buyer shall ship, at its expense and risk of loss, such allegedly Defective Goods to Seller's facility located at 8115 TX-540 Beasley, TX 77417 for inspection and testing by Seller;

(c) If Seller's inspection and testing reveals, to Seller's reasonable satisfaction, that such Goods are Defective and any such defect has not been caused or contributed to by any of the factors described under Section Section 14.02, Seller shall in its sole discretion, and at its expense (subject to Section Section 14.03(b) and Section Section 14.03(d)), (i) repair or replace such Defective Goods, or (ii) credit or refund the Price of such Defective Goods less any applicable discounts, rebates or credits;

(d) If Seller exercises its option to repair or replace, Seller shall, after receiving Buyer's shipment of such Defective Goods, ship to Buyer, at Seller's expense, the repaired or replaced Goods to a location designated by Seller.

Buyer has no right to return for repair, replacement, credit, or refund any Goods except as set forth in this Section Section 14.03 (or if otherwise applicable, Section Section 6.05). In no event shall Buyer reconstruct, repair, alter, or replace any Goods, in whole or in part, either itself or by or through any third party.

THIS Section Section 14.03 SETS FORTH THE BUYER'S SOLE AND EXCLUSIVE REMEDY AND SELLER'S ENTIRE LIABILITY FOR ANY BREACH OF THE LIMITED WARRANTY SET FORTH IN Section Section 14.01.

**Section 14.04 Third-Party Products.** Products manufactured by a third party ("**Third Party Product**") may contain, be contained in, incorporated into, attached to or packaged together with the Goods. Third-Party Products are not covered by the warranty in Section Section 14.01. For the avoidance of doubt, Seller makes no representations or warranties with respect to any Third-Party Product.

**Section 14.05 Disclaimer.** EXCEPT FOR THE EXPRESS WARRANTIES SET FORTH IN Section Section 14.01, SELLER MAKES NO WARRANTY WHATSOEVER WITH RESPECT TO THE GOODS, INCLUDING ANY (a) WARRANTY OF MERCHANTABILITY; (b) WARRANTY OF FITNESS FOR A PARTICULAR PURPOSE; (c) WARRANTY OF TITLE; OR (d) WARRANTY AGAINST INFRINGEMENT OF INTELLECTUAL PROPERTY RIGHTS OF A THIRD PARTY; WHETHER ARISING BY LAW, COURSE OF DEALING, COURSE OF PERFORMANCE, USAGE OF TRADE, OR OTHERWISE. BUYER ACKNOWLEDGES THAT IT HAS NOT RELIED UPON ANY REPRESENTATION OR WARRANTY MADE BY SELLER, OR ANY OTHER PERSON ON SELLER'S BEHALF, EXCEPT AS SPECIFICALLY PROVIDED IN Section Section 14.01 OF THIS AGREEMENT.

**Section 14.06 Withdrawal of Goods.** If Seller determines that any Goods sold to Buyer may be Defective, at Seller's request, Buyer shall withdraw all similar Goods from sale and, at Seller's option, either return such Goods to Seller (pursuant to the terms of Section Section 14.03(b)) or destroy the Goods and provide Seller with written certification of such destruction. Notwithstanding the limitations of Section Section 14.03, if Buyer returns all withdrawn Goods



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or destroys all withdrawn Goods and provides Seller with written certification of such destruction within 7 days following Seller's withdrawal request, in either case consistent with Seller's instructions, Seller shall (a) repair or replace all such returned Goods or (b) replace such destroyed Goods, in either case pursuant to the terms of Section Section 14.03(d). , Buyer's remedy hereunder is not available if any such defect has been caused or contributed to by any of the factors described under Section Section 14.02. THIS SECTION 14.06 SETS FORTH BUYER'S SOLE REMEDY AND SELLER'S ENTIRE LIABILITY FOR ANY GOODS THAT ARE WITHDRAWN PURSUANT TO THIS SECTION 14.06.

### ARTICLE XV INDEMNIFICATION

**Section J5.0J Buyer Indemnification.** Subject to the terms and conditions of this Agreement, including those set forth in Section Section 15.02, Buyer (as "**Indemnifying Party**") shall indemnify, defend and hold harmless Seller and its Representatives, officers, directors, employees, agents, affiliates, successors and permitted assigns (collectively, "**Indemnified Party**") against any and all losses, damages, liabilities, deficiencies, claims, actions, judgments, settlements, interest, awards, penalties, fines, costs, or expenses of whatever kind, including attorneys' fees, fees and the costs of enforcing any right to indemnification under this Agreement and the cost of pursuing any insurance providers, incurred by Indemnified Party (collectively, "**Losses**"), relating to any Claim of a third party or Party alleging:

- (a) breach or non-fulfillment of any representation, warranty, or covenant under this Agreement by Indemnifying Party or Indemnifying Party's Personnel;
- (b) any negligent or more culpable act or omission of Indemnifying Party or its Personnel (including any recklessness or willful misconduct) in connection with the performance of its obligations under this Agreement; or
- (c) any bodily injury, death of any Person or damage to real or tangible personal property caused by the willful or negligent acts or omissions of Indemnifying Party or its Personnel; or
- (d) any failure by Indemnifying Party or its Personnel to comply with any applicable Laws.

Notwithstanding anything to the contrary in this Agreement, this Section does not apply to any claim (direct or indirect) for which a sole or exclusive remedy is provided for under another section of this Agreement.

**Section 15.02 Exceptions and Limitations on Indemnification.** Notwithstanding anything to the contrary in this Agreement, Indemnifying Party is not obligated to indemnify or defend Indemnified Party against any claim (direct or indirect) if such claim or corresponding Losses arise out of or result from, in whole or in part, Indemnified Party's or its Personnel's:

- (a) gross negligence or more culpable act or omission (including recklessness or willful misconduct); or



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(b) bad faith failure to materially comply with any of its material obligations set forth in this Agreement.

### ARTICLE XVI LIMITATION OF SELLER'S LIABILITY

**Section 16.01 No Liability for Consequential or Indirect Damages.** NEITHER SELLER NOR ITS REPRESENTATIVES IS LIABLE FOR CONSEQUENTIAL, INDIRECT, INCIDENTAL, SPECIAL, EXEMPLARY, PUNITIVE OR ENHANCED DAMAGES, LOST PROFITS OR REVENUES OR DIMINUTION IN VALUE, ARISING OUT OF OR RELATING TO ANY BREACH OF THIS AGREEMENT OR AN INDIVIDUAL TRANSACTION, REGARDLESS OF (A) WHETHER SUCH DAMAGES WERE FORESEEABLE, (B) WHETHER OR NOT SELLER WAS ADVISED OF THE POSSIBILITY OF SUCH DAMAGES AND (C) THE LEGAL OR EQUITABLE THEORY (CONTRACT, TORT, OR OTHERWISE) UPON WHICH THE CLAIM IS BASED, AND NOTWITHSTANDING THE FAILURE OF ANY AGREED OR OTHER REMEDY OF ITS ESSENTIAL PURPOSE.

**Section 16.02 Maximum Liability.** SELLER'S AGGREGATE LIABILITY ARISING OUT OF OR RELATED TO THIS AGREEMENT OR AN INDIVIDUAL TRANSACTION, WHETHER ARISING OUT OF OR RELATED TO BREACH OF CONTRACT, TORT (INCLUDING NEGLIGENCE) OR OTHERWISE, SHALL NOT EXCEED THE TOTAL OF THE AMOUNTS PAID TO SELLER PURSUANT TO THE CORRESPONDING INDIVIDUAL TRANSACTION OR \$500, WHICHEVER IS LESS.

**Section 16.03 ASSUMPTION OF RISK.** WITHOUT LIMITING THE GENERALITY OF THE FOREGOING, BUYER ASSUMES ALL RISK AND LIABILITY FOR THE RESULTS OBTAINED BY THE USE OF ANY GOODS IN THE PRACTICE OF ANY PROCESS, WHETHER IN TERMS OF OPERATING COSTS, GENERAL EFFECTIVENESS, SUCCESS OR FAILURE, AND REGARDLESS OF ANY ORAL OR WRITTEN STATEMENTS MADE BY SELLER, BYWAY OF TECHNICAL ADVICE OR OTHERWISE, RELATED TO THE USE OF THE GOODS.

### ARTICLE XVII BUYER INSURANCE OBLIGATIONS

**Section 17.01 INSURANCE OBLIGATIONS.** During the Term and for a period of 24 months thereafter, Buyer shall, at its own expense, maintain and carry in full force and effect, subject to appropriate levels of self-insurance, commercial general liability (including product liability) in a sum no less than Two-Million Dollars (\$2,000,000) with financially sound and reputable insurers, and upon Seller's request, shall provide Seller with a certificate of insurance evidencing the insurance coverage specified in this Section. The certificate of insurance shall name Seller as an additional insured. Buyer shall provide Seller with 14 days' advance written notice in the event of a cancellation or material change in such insurance policy. Furthermore, Buyer must obtain insurance to cover damages associated with Buyer's indemnification obligations under Section 15.01; third-party claims resulting from the use of the goods or the





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incorporation of the goods into other products; the Buyer's advertising, marketing, or promotional activities; use, packaging or shipping of goods from the Buyer to its customers.

### ARTICLE XVIII MISCELLANEOUS

**Section 18.01 Further Assurances.** Upon Seller's reasonable request, Buyer shall, at its sole cost and expense, execute and deliver all such further documents and instruments, and take all such further acts, necessary to give full effect to this Agreement.

#### **Section 18.02 Entire Agreement.**

(a) Subject to Article ARTICLE III, this Agreement, including all related exhibits, schedules, attachments and appendices, together with the Basic Purchase Order Terms, constitutes the sole and entire agreement of the Parties with respect to the subject matter contained herein and therein, and supersedes all prior and contemporaneous understandings, agreements, representations and warranties, both written and oral, with respect to such subject matter.

(b) Without limitation of anything contained in Section Section 18.02(a), Buyer acknowledges that except for the limited product warranty contained in Section Section 14.01, neither Seller nor any other Person has made or makes any express or implied representation or warranty, either written or oral, on behalf of Seller, including any representation or warranty arising from statute or otherwise in law.

**Section 18.03 Survival; Statute of Limitations.** Subject to the limitations and other provisions of this Agreement: (a) the representations and warranties of the Parties contained herein shall survive the expiration or earlier termination of this Agreement for a period of 12 months after such expiration or termination; and (b) Articles 15 -17 of this Agreement, as well as any other provision that, in order to give proper effect to its intent, should survive such expiration or termination, shall survive the expiration or earlier termination of this Agreement for the period specified therein, or if nothing is specified for a period of 12 months after such expiration or termination. All other provisions of this Agreement shall not survive the expiration or earlier termination of this Agreement. Notwithstanding any right under any applicable statute of limitations to bring a claim, no Action based upon or arising in any way out of this Agreement may be brought by either Party after the expiration of the applicable survival or other period set forth in this Section Section 18.03 and the Parties waive the right to file any such Action after the expiration of the applicable survival or other period; provided, however, that the foregoing waiver and limitation do not apply to the collection of any amounts due to Seller under this Agreement.

**Section 18.04 Notices.** All notices, requests, consents, claims, demands, waivers, and other communications under this Agreement (each, a "**Notice**") must be in writing and addressed to the other Party at its address set forth below (or to such other address that the receiving Party may designate from time to **time** in accordance with this Section). All Notices must be delivered by personal delivery, nationally recognized overnight courier or certified or registered mail (in each case, return receipt requested, postage prepaid). Except as otherwise provided in this





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Agreement, a Notice is effective only (a) on receipt by the receiving Party, and (b) if the Party giving the Notice has complied with the requirements of this Section.

Notice to Seller:

Finoric LLC

E-mail: ambrish@Finoric.com;  
Jital@Finoric.com; ap@Finoric.com

Website: www.Finoric.com

Attention: Ambrish Kamdar

Notice to Buyer:

See Credit Application (Exhibit B)

**Section 18.05 Interpretation.** For purposes of this Agreement, (a) the words "include," "includes," and "including" are deemed to be followed by the words "without limitation"; (b) the word "or" is not exclusive; (c) the words "herein," "hereof," "hereby," "hereto" and "hereunder" refer to this Agreement as a whole; (d) words denoting the singular have a comparable meaning when used in the plural, and vice-versa; and (e) words denoting any gender include all genders. Unless the context otherwise requires, references in this Agreement: (x) to sections, exhibits, schedules, attachments, and appendices mean the sections of, and exhibits, schedules, attachments, and appendices attached to, this Agreement; (y) to an agreement, instrument, or other document means such agreement, instrument, or other document as amended, supplemented and modified from time to time to the extent permitted by the provisions thereof; and (z) to a statute means such statute as amended from time to time and includes any successor legislation thereto and any regulations promulgated thereunder. The Parties drafted this Agreement without regard to any presumption or rule requiring construction or interpretation against the Party drafting an instrument or causing any instrument to be drafted. The exhibits, schedules, attachments, and appendices referred to herein are an integral part of this Agreement to the same extent as if they were set forth verbatim herein.

**Section 18.06 Headings.** The headings in this Agreement are for reference only and do not affect the interpretation of this Agreement.

**Section 18.07 Severability.** If any term or provision of this Agreement is invalid, illegal, or unenforceable in any jurisdiction, such invalidity, illegality or unenforceability shall not affect any other term or provision of this Agreement or invalidate or render unenforceable such term or provision in any other jurisdiction.

**Section 18.08 Amendment and Modification.** No amendment to or modification of or rescission, termination, or discharge of this Agreement is effective unless it is in writing, identified as an amendment to or rescission, termination, or discharge of this Agreement and signed by an authorized Representative of each Party.

**Section 18.09 Waiver.**



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(a) No waiver under this Agreement is effective unless it is in writing, identified as a waiver to this Agreement and signed by an authorized representative of the Party waiving its right.

(b) Any waiver authorized on one occasion is effective only in that instance and only for the purpose stated, and does not operate as a waiver on any future occasion.

(c) None of the following constitutes a waiver or estoppel of any right, remedy, power, privilege, or condition arising from this Agreement:

(i) any failure or delay in exercising any right, remedy, power, or privilege or in enforcing any condition under this Agreement; or

(ii) any act, omission, or course of dealing between the Parties.

**Section 18.10 Cumulative Remedies.** All rights and remedies provided in this Agreement are cumulative and not exclusive, and the exercise by either Party of any right or remedy does not preclude the exercise of any other rights or remedies that may now or subsequently be available at law, in equity, by statute, in any other agreement between the Parties or otherwise. Notwithstanding the previous sentence, the Parties intend that Buyer's right under Section Section 6.05, Section Section 14.03 and Article ARTICLE XV are Buyer's exclusive remedies for the events specified therein.

**Section 18.11 Equitable Remedies.** Buyer acknowledges and agrees that (a) a breach or threatened breach by Buyer of any of its obligations under Article ARTICLE XII would give rise to irreparable harm to the other Party for which monetary damages would not be an adequate remedy and (b) in the event of a breach or a threatened breach by Buyer of any such obligations, Seller shall, in addition to any and all other rights and remedies that may be available to Seller at law, at equity, or otherwise in respect of such breach, be entitled to equitable relief, including a temporary restraining order, an injunction, specific performance, and any other relief that may be available from a court of competent jurisdiction, without any requirement to post a bond or other security, and without any requirement to prove actual damages or that monetary damages will not afford an adequate remedy. Buyer agrees that Buyer will not oppose or otherwise challenge the appropriateness of equitable relief or the entry by a court of competent jurisdiction of an order granting equitable relief, in either case, consistent with the terms of this Section Section 18.11.

**Section 18.12 Assignment.** Buyer may not assign any of its rights or delegate any of its obligations under this Agreement without the prior written consent of Seller. Seller may assign any of its rights or delegate any of its obligations to any Person, affiliate, or entity. Any purported assignment or delegation in violation of this Section is null and void. No assignment or delegation relieves the assigning or delegating Party of any of its obligations under this Agreement.

**Section 18.13 Successors and Assigns.** This Agreement is binding on and inures to the benefit of the Parties to this Agreement and their respective permitted successors and permitted assigns.



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### **Section 18.14 No Third-Party Beneficiaries.**

(a) Subject to Section Section 18.14(b), this Agreement benefits solely the Parties to this Agreement and their respective permitted successors and assigns and nothing in this Agreement, express or implied, confers on any other Person any legal or equitable right, benefit, or remedy of any nature whatsoever under or by reason of this Agreement.

(b) The Parties hereby designate Seller's officers, directors, employees, agents, affiliates, successors and permitted assigns as third-party beneficiaries of Article ARTICLE XV having the right to enforce Article ARTICLE XV.

**Section 18.15 Choice of Law.** This Agreement, including all Individual Transaction documents and exhibits, schedules, attachments and appendices attached to this Agreement and thereto, and all matters arising out of or relating to this Agreement, are governed by, and construed in accordance with, the Laws of the State of Texas, United States of America, without regard to the conflict of laws provisions thereof to the extent such principles or rules would require or permit the application of the Laws of any jurisdiction other than those of the State of Texas. The parties agree that the United Nations Convention on Contracts for the International Sale of Goods does not apply to this Agreement.

**Section 18.16 Choice of Forum.** Each Party irrevocably and unconditionally agrees that it will not commence any action, litigation or proceeding of any kind whatsoever against the other Party in any way arising from or relating to this Agreement, including all Individual Transaction Documents and exhibits, schedules, attachments and appendices attached to this Agreement and thereto, and all contemplated transactions, including contract, equity, tort, fraud, and statutory claims, in any forum other than Harris County District Court or, if such court does not have subject matter jurisdiction, the courts of the State of Texas sitting in Houston, Harris County, and any appellate court from any thereof. Each Party irrevocably and unconditionally submits to the exclusive jurisdiction of such courts and agrees to bring any such action, litigation, or proceeding only in Harris County District Court or, if such court does not have subject matter jurisdiction, the courts of the State of Texas sitting in Houston, Harris County. Each Party agrees that a final judgment in any such action, litigation, or proceeding is conclusive and may be enforced in other jurisdictions by suit on the judgment or in any other manner provided by Law.

**Section 18.17 Waiver of Jury Trial.** Each Party acknowledges and agrees that any controversy that may arise under this Agreement, including any Individual Transaction Documents or exhibits, schedules, attachments and appendices attached to this Agreement, is likely to involve complicated and difficult issues and, therefore, each such Party irrevocably and unconditionally waives any right it may have to a trial by jury in respect of any legal action arising out of or relating to this Agreement, including any Individual Transaction documents, exhibits, schedules, attachments or appendices attached to this Agreement, or the transactions contemplated hereby. Each Party certifies and acknowledges that (a) no Representative of the other Party has represented, expressly or otherwise, that such other Party would not seek to enforce the foregoing waiver in the event of a legal action, (b) such Party has considered the implications of this waiver, (c) such Party makes this waiver voluntarily, and (d) such Party has



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been induced to enter into this Agreement by, among other things, the mutual waivers and certifications in this Section.

**Section 18.18 Counterparts.** This Agreement may be executed in counterparts, each of which is deemed an original, but all of which together are deemed to be one and the same agreement. A signed copy of this Agreement delivered by facsimile, e-mail or other means of electronic transmission is deemed to have the same legal effect as delivery of an original signed copy of this Agreement.

### **Section 18.19 Force Majeure.**

(a) Neither Party shall be liable or responsible to the other Party, nor be deemed to have defaulted under or breached this Agreement, for any failure or delay in fulfilling or performing any term of this Agreement (except for any obligations of the BUYER to make payments to SELLER, when and to the extent such failure or delay is caused by or results from acts beyond the control of the impacted Party's ("Impacted Party"), including, without limitation, the following force majeure events ("Force Majeure Event(s)"): (a) acts of God; (b) flood, fire, earthquake, or explosion; (c) war, invasion, hostilities (whether war is declared or not), terrorist threats or acts, riot or other civil unrest; (d) government order, law, or actions; (e) embargoes or blockades in effect on or after the date of this Agreement; (f) national or regional emergency; (g) strikes, labor stoppages or slowdowns, or other industrial disturbances; and (h) shortage of adequate power or transportation facilities.

(b) The Impacted Party shall give notice within 5 days of the Force Majeure Event to the other Party, stating the period of time the occurrence is expected to continue. The Impacted Party shall use diligent efforts to end the failure or delay and ensure the effects of such Force Majeure Event are minimized. The Impacted Party shall resume the performance of its obligations as soon as reasonably practicable after the removal of the cause.

**Section 18.20 Relationship of Parties.** Nothing in this Agreement creates any agency, joint venture, partnership or other form of joint enterprise, employment or fiduciary relationship between the Parties. Buyer is an independent contractor pursuant to this Agreement. Neither Party has any express or implied right or authority to assume or create any obligations on behalf of or in the name of the other Party or to bind the other Party to any contract, agreement, or undertaking with any third party.

**Section 18.21 No Public Announcements.** Buyer shall not make any statement (whether oral or in writing) in any press release, external advertising, marketing or promotion materials regarding Seller or its business unless: (a) it has received the express written consent of Seller; or (b) it is required to do so by Law.

[SIGNATURE PAGE FOLLOWS]



**FINORICLLC  
SALE OF GOODS AGREEMENT**

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed as of the date first written above by their respective officers thereunto duly authorized.

Seller: FINORIC LLC

By \_\_\_\_\_

Name:

Title:

Buyer: \_\_\_\_\_

By \_\_\_\_\_

Name:

Title:

Buyer: \_\_\_\_\_

By \_\_\_\_\_

Name:

Title:



**FINORICLLC  
SALE OF GOODS AGREEMENT**

EXHIBIT A

DESCRIPTION OF GOODS/SPECIFICATIONS



**FINORICLLC  
SALE OF GOODS AGREEMENT**

**EXHIBITB  
CREDIT APPLICATION**



**Please complete all areas of the form to expedite the process!**

Billing		Physical	
Company Name		Company Name	
Attention		Attention	
Street Address		Street Address	
City, State, Zip		City, State, Zip	
Telephone		Telephone	
Email		Email	

**General Information**

Company Composition:	Individual		Partnership		LLC	
	Corporation		Sub-Chapter S Corp		Corporation State of:	
Federal Tax ID No.				Dun & Bradstreet No.		
Is business a subsidiary or franchise?	Yes		No		Name of parent / franchise:	
Parent / Franchisor Address						

**Trade References**

Name:		Phone:		Fax:	
Contact Name:		E-mail:			
Address (Including Zip Code):					
Name:		Phone:		Fax:	
Contact Name:		E-mail:			
Address (Including Zip Code):					
Name:		Phone:		Fax:	
Contact Name:		E-mail:			
Address (Including Zip Code):					

**Banking**

Bank Name		Bank Contact Officer		Phone No.	
Type of Account		Account No.		Fax No.	

**Shipping Information:**

**Shipping Info 2:**

Facility Name:		Facility Name:	
Ship to Name:		Ship to Name:	
Address		Address	
Site Contact Name:		Site Contact Name:	
Site Contact No.:		Site Contact No.:	

**Purchasing Information**

The person authorized to place orders and/or answer questions

Purchasing Contact Name / Title:	
Phone:	
Fax:	
E-mail:	





### Terms and Conditions

The following terms and conditions govern all quotations of prices of Finoric LLC. (“Seller”) for its products, services and materials, whether made pursuant to oral or written orders; and shall control all matters and dealings between Seller and the named Buyer.

**1. TERMS AND CONDITIONS TO GOVERN:** The terms and conditions herein and in that certain Sale of Goods Agreement located at <https://finoric.us/> (“SGA”) shall make up the full and detailed agreement (collectively the “Agreement”). In the event of any conflicting provisions, the SGA shall govern and apply. Subject to the Agreement, during the Term, Seller shall, on a non-exclusive basis, sell to Buyer, and Buyer shall, on a non-exclusive basis, purchase from Seller, the Goods. If any term, clause or provision contained herein is declared or held invalid by a court of competent jurisdiction, such declaration or holding shall not affect or dismiss the validity of any other term, clause or provision herein contained. The Parties agree that notwithstanding any Forecasts: (a) Buyer is not obligated to purchase any annual minimum quantities from Seller under this Agreement; and (b) Seller is not obligated to sell any annual minimum quantities to Buyer under this Agreement.

**2. ACCEPTANCE OF ORDERS:** This Agreement is expressly limited to the terms of this Agreement and the Basic Purchase Order Terms contained in the applicable Purchase Order. The terms of this Agreement prevail over any terms or conditions contained in any other documentation and expressly exclude any of Buyer's general terms and conditions contained in any Purchase Order or other document issued by Buyer. In the event of any conflict between the terms of this Agreement and the terms of any Purchase Order or any other document issued by Buyer, the terms of this Agreement prevail.

**3. PRICE:** Buyer shall purchase the Goods from Seller at the prices set forth in Seller's price list in effect, or as has otherwise been quoted by Seller to Buyer, at the time that Seller accepts the related Purchase Order (“Prices”). Buyer shall pay for, and shall hold Seller harmless from, all shipping charges and insurance costs. In addition, all Prices are exclusive of, and Buyer is solely responsible for and shall pay, and shall hold Seller harmless from, all Taxes, with respect to, or measured by, the manufacture, sale, shipment, use or Price of the Goods (including interest and penalties thereon). FINORIC reserves the right to cancel orders in the event selling prices are inconsistent with prices established by government regulations.

**4. TRANSPORTATION:** Unless expressly agreed to by the Parties in writing, Seller shall select the method of shipment of, and the carrier for, the Goods. Seller is not liable for or in respect of any loss or damage arising from any delay in filling any order, failure to deliver or delay in delivery.

**5. PACKING:** Seller shall properly pack, mark, and ship Goods with its minimum packing standard for the method of transportation selected; and provide Buyer with shipment documentation showing the Purchase Order number, Seller's identification number for the subject Goods, the quantity of pieces in shipment, the number of cartons or containers in shipment, Seller's name, the bill of lading number, and the country of origin. Buyer warrants and represents that it will take all steps necessary to abide by the EPA and following the label on the package. Buyer further represents and warrants that it will notify the Seller in writing and in the Purchase Order whether it is seeking registered or unregistered goods, and any other legal requirements for such products.

**6. PAYMENT TERMS:** Seller shall issue an invoice for each portion of the Individual Transaction that is shipped. Buyer shall pay all invoiced amounts due to Seller within 30 days from the Bill of Lading date, except for any amounts disputed by Buyer in good faith within five (5) consecutive days from receipt of such goods, which shall be made in writing and sent in accordance with the notice procedures described herein. Buyer unconditionally and irrevocably waives raising any and all objections or issues with the Goods after the fifth consecutive day from receipt unless Buyer expressly notifies the Seller within the five-day period, in writing, that additional time is required to inspect the Goods and Seller approves. If Buyer requests additional time for inspection, Seller may allow additional time at its discretion. Payments made by credit card may be subject to a minimum 4% fee. Except for invoiced payments that Buyer has successfully disputed, Buyer shall pay interest on all late payments, calculated daily and compounded monthly at the lesser of the rate of 1.5% per month or the highest rate permissible under applicable Law, calculated daily and compounded monthly. Buyer hereby grants Seller a security interest in all Goods purchased hereunder (including Goods, Nonconforming Goods, and Excess Goods) and the proceeds therefrom to secure Buyer's payment obligations under this Agreement. Buyer acknowledges that the security interest granted is a purchase money security interest under Texas law.

**7. TAXES:** All Prices are exclusive of, and Buyer is solely responsible for and shall pay, and shall hold Seller harmless from, all Taxes, with respect to, or measured by, the manufacture, sale, shipment, use or Price of the Goods (including interest and penalties thereon).



**8. TITLE AND RISK OF LOSS:** Title to Goods ordered under any Individual Transaction passes to Buyer upon delivery of such Goods at location address specified in the relevant Purchase Order (“Delivery Location”). Risk of loss to all Goods ordered under any Purchase Order passes to Buyer upon Seller's tender of such units to the carrier at Seller’s designated operating facility (“Loading Location”).

**9. ATTORNEYS FEES:** Buyer shall also reimburse Seller for all costs incurred in collecting any late payments, including, without limitation, attorneys' fees.

**10. LIABILITY:** Seller, its officers, directors, shareholders or properties, shall not be responsible, obligated, or liable for any injury or damage resulting from an application or use of its products, either singly or in combination with other products, arising out of acceptance of Buyers orders.

**11. REMEDIES AND LIMITATION OF LIABILITY:** Seller shall not be liable for incidental or consequential losses, damages, or expenses arising directly or indirectly from the sale, handling or use of the goods or from any other cause relating thereto. Seller’s liability in any other case, including for claims of breaches of warranty or negligence is exclusively limited. Seller's aggregate liability arising out of or related to this agreement or an individual transaction, whether arising out of or related to breach of contract, tort (including negligence) or otherwise, shall not exceed the total of the amounts paid to Seller pursuant to the corresponding individual transaction or \$500, whichever is less. Without limiting the generality of the foregoing, Buyer assumes all risk and liability for the results obtained by the use of any Goods in the practice of any process, whether in terms of operating costs, general effectiveness, success or failure, and regardless of any oral or written statements made by Seller, by way of technical advice or otherwise, related to the use of the Goods.

**12. CHOICE OF LAW:** This Agreement and matters connected with the performance thereof shall be construed in accordance with, and governed by the law of the State of Texas as if it were executed and performed entirely in Houston, Harris County, Texas. Further, it shall be construed to be between merchants.

**13. NO RELIANCE & OPPORTUNITY TO REVIEW.** Buyer hereby warrants and represents that it is not relying upon any brochure, rendering, information, representation or promise of the Seller, or Seller’s directors, officers, employees, brokers or agents, if any, except as may be expressly set forth in this Agreement. Before entering into this Agreement, Buyer represents that he has reviewed or has had sufficient opportunity to review, or seek counsel to understand, all terms, content, conditions and effects of all provisions of this Agreement and the terms that govern the purchase and sale of goods from Seller.

The Buyer authorizes Seller to inquire into and obtain from any bank, lending institution, credit reference or credit reporting agency, whether listed on the credit application or not, any and all information relating to the customer’s creditworthiness or financial condition.

### Acceptance and Approval

**Signing this agreement indicates your acceptance of the terms and conditions as stated herein and the SGA located at: <https://finoric.us/> collectively making up the Agreement. Signing this Agreement further indicates your acceptance of the Agreement in your individual capacity as Guarantor subject to the terms and conditions in the Guaranty available at: <https://finoric.us/> along with your company. By signing below, you accept and approve the terms and conditions in this Agreement, the SGA, and the Personal Guaranty (“Terms”). If you have not reviewed the terms and conditions available at the provided links, you must stop and do so before signing.**

I have reviewed all of the Terms and expressly agree by attaching my signature hereinbelow.

Printed Name of Authorized Officer, and as an Individual Guarantor		Printed Title			
Signature of Authorized Officer		Phone:		Date:	