



PRODUCT RESELLER AGREEMENT

This Product Reseller Agreement (the "**Agreement**"), is entered into by Oregon's Wild Harvest, Inc., an Oregon corporation at 1601 NE Hemlock, Portland, OR 97756 and ("**OWH**") and _____, located at

("Reseller", and together with OWH, the "**Parties**", and each, a "**Party**"). The effective date of the Agreement is _____ ("**Effective Date**").

RECITALS

- A. OWH is in the business of manufacturing and selling the Products described and identified on the attached **Schedule A ("Products")**;
- B. Reseller is in the business of marketing and reselling products that are similar in kind and quality to the Products and Reseller wishes to purchase the Products from OWH and resell these Products to Customers (as defined below), subject to the terms and conditions of this Agreement.

1. Appointment of Reseller.

OWH appoints Reseller, and Reseller accepts the appointment, to act as a non-exclusive reseller of Products to final purchasers that acquire Product from Reseller for its own use and not for resale ("**End User**") and purchasers that acquire Product from Reseller for resale or distribution ("**Sub-Reseller**") (together "**Customers**") located anywhere the World during the Term and the Post-term Resale Period solely in accordance with the terms and conditions of this Agreement. OWH may in its sole discretion sell the Products to any other Customer. This Agreement does not preclude either party from entering into an agreement with any other Customer related to the sale, resale or distribution of other goods or products, including those that are similar to or competitive with the Products.

2. No Franchise or Business Opportunity Agreement.

The Parties to this Agreement are independent contractors and nothing in this Agreement shall be deemed or construed as creating a joint venture, partnership, agency relationship, franchise, or business opportunity between OWH and Reseller. Neither Party will have any right, power, or authority to act or create an obligation, express or implied, on behalf of the other Party. Each Party assumes responsibility for the actions of their Personnel and will be solely responsible for their supervision, daily direction and control, wage rates, withholding income taxes, disability benefits, or the manner and means through which the work under this Agreement will be accomplished. The relationship created by this Agreement between the parties is solely that of supplier and reseller. If any provision of this Agreement is deemed to create a franchise relationship between the parties, then OWH may immediately terminate this Agreement.

3. Prevailing Agreement.

This Agreement is expressly limited to the terms of this Agreement and the terms in any applicable Purchase Order. The terms of this Agreement prevail over any terms or conditions contained in any other documentation related to the Products and expressly exclude any of Reseller's general terms and conditions contained in any Purchase Order or other document issued by Reseller.

4. Reseller Performance Obligations.

a. Reseller Obligations. Reseller shall, in good faith and at its own expense:

- i. market, advertise, promote, and resell the Products to Customers consistent with Reseller's best business practices;
- ii. have sufficient knowledge of each Product (including specifications, features and benefits) so as to be able to explain information on standard protocols and features of each Product to Customers;
- iii. observe all directions and instructions given to it by OWH in relation to the marketing, advertisement, and promotion of the Products including OWH's sales, marketing, merchandising and MAP Policies as they currently exist or as they may hereafter be changed by OWH, to the extent that these marketing materials and policies refer to the Products or otherwise use OWH's Trademarks;
- iv. require that its Sub-Resellers observe all directions, instructions, and policies given to Reseller, by OWH, including (but not limited to) OWH's sales, marketing, merchandising and MAP Policies;
- v. market, advertise, promote and resell Products and conduct business in a manner that reflects favorably at all times on Products and the good name, goodwill, and reputation of OWH;
- vi. promptly notify OWH of any complaint or adverse claim about any Product or its use of which Reseller becomes aware;
- vii. upon reasonable request by OWH, provide OWH with a current and accurate list of all of its retail selling locations or outlets and Sub-Resellers; and
- viii. obtain and maintain required certifications, credentials, licenses, and permits necessary to conduct business in accordance with this Agreement.

b. Prohibited Act. Notwithstanding anything to the contrary in this Agreement, Reseller and its agents, employees, subcontractors ("**Personnel**") and Sub-Resellers shall not:

- i. make any representations, warranties, guarantees, indemnities, similar claims, or other commitments: (a) actually, apparently, or ostensibly on behalf of OWH, or (b) to any Customer regarding the Products, which representations, warranties, guarantees, indemnities, similar claims, or other commitments are additional to or inconsistent with any then-existing representations, warranties, guarantees, indemnities, similar claims, or other commitments in this Agreement or any written documentation provided by OWH to Reseller;
- ii. engage in any unfair, competitive, misleading, or deceptive practices respecting OWH, OWH's Trademarks or the Products, including any product disparagement or "bait-and-switch" practices;
- iii. modify the Products or documentation or packaging of or related to the Products, without first obtaining OWH's written consent;
- iv. sell or offer to sell any of the Products or other OWH-branded products, other than the Products purchased by Reseller from OWH or from a distributor authorized by OWH to sell the same to Reseller;

- v. violate any directions, instructions or policies given to Reseller, by OWH, including (but not limited to) OWH's sales, marketing, merchandising and MAP Policies; or
- vi. promote, market, sell, or distribute Products using promotional information and material without first obtaining OWH's written consent unless the promotional information or material was provided by OWH to Reseller.

5. OWH Performance Obligations.

During the Term and the Post-term Resale Period, OWH shall: (i) provide any information and support that may be reasonably requested by Reseller regarding the marketing, advertising, promotion, and sale of Products; (ii) allow Reseller to participate, at its own expense, in any marketing, advertising, promotion, and sales programs or events that OWH may make generally available to its authorized resellers of Products, provided that OWH may alter or eliminate any program at any time; and (iii) approve or reject, in its reasonable discretion, any promotional information or material submitted by Reseller for OWH's approval within a reasonable amount of time.

6. Agreement to Purchase and Sell the Products.

OWH shall sell Products to Reseller at the Prices and on the terms and conditions set forth in this Agreement. OWH may, in its sole discretion, without notice to Reseller, discontinue manufacturing or selling, and make changes to any Product, in each case, without obligation to modify or change any Products previously delivered or to supply new Products meeting earlier specifications.

7. Shipment and Delivery

a. Shipment. Unless expressly agreed to by the Parties in writing, OWH shall select the method of shipment of and the carrier for the Products. OWH may, in its sole discretion, without liability or penalty, make partial shipments of Products to Reseller. Each shipment constitutes a separate sale, and Reseller shall pay for the units shipped, whether the shipment is in whole or partial fulfillment of a Purchase Order.

b. Delivery. Unless expressly agreed to by the Parties, OWH shall deliver the Products to the Delivery Point, using OWH's or manufacturer's standard methods for packaging and shipping the Products.

c. Late Delivery. Any time quoted for delivery is an estimate only; provided, however, that OWH shall use commercially reasonable efforts to deliver all Products on or before the requested delivery date. OWH is not liable for any loss or damage arising from any delay in filling any order, failure to deliver or delay in delivery. However, if OWH delays shipment of all or any Products for more than 14 days after the estimated delivery date (the "**Delayed Shipment Date**"), then Reseller may, as its sole remedy, cancel the applicable Purchase Order by giving OWH Notice within 3 days of the Delayed Shipment Date. Subject to Reseller's rights under this Section, no delay in the shipment or delivery of any Product relieves Reseller of its obligations under this Agreement, including accepting delivery of any remaining installment or other orders of Products.

d. Inspection. Reseller shall inspect Products received under this Agreement within 3 days of receipt (the "**Inspection Period**") of the Products and either accept the Product or reject the Product if any Product: (i) does not conform to the SKU or other product identifier listed in the applicable Purchase Order; (ii) on visual inspection Reseller reasonably determines do not conform to the Limited Warranties in **Section 14 b** ("**Defective Goods**"); or (iii) exceeds the quantity of Products order (together

“**Nonconforming Goods**”). Reseller will be deemed to have accepted the Products unless it notifies OWH in writing of any Nonconforming Goods during the Inspection Period and furnishes written evidence or other documentation as reasonably required by OWH. If Reseller timely Notifies OWH of any Nonconforming Goods, OWH shall investigate and if OWH determines that the Products are Nonconforming Goods, it shall either: (y) replace the Nonconforming Goods with conforming Products; or (z) refund the Price for the Nonconforming Goods, together with all shipping expenses incurred by Reseller in connection therewith. Subject to Reseller’s rights under **Section 14 d (Extent of Liability)** the remedies in this Section are Reseller’s exclusive remedies for the delivery of Nonconforming Goods for which Reseller has accepted delivery.

e. Title and Risk of Loss. Title to Products shipped under any Purchase Order passes to Reseller on OWH's delivery of such Products to the carrier at the Delivery Point.

8. Price and Payment

a. Price. Reseller shall purchase the Products from OWH at the prices set out in OWH's reseller price list in effect when the OWH accepts the applicable Purchase Order ("**Prices**").

b. Shipping Charges, Insurance and Taxes. OWH or Reseller shall pay for shipping charges and insurance costs in accordance with the commercial terms selected by the Parties. All Prices are exclusive of all sales, use, and excise taxes, and any other similar taxes, duties, and charges of any kind imposed by any Governmental Authority on any amounts payable by Reseller under this Agreement. Reseller is responsible for all charges, costs, and taxes; provided, that, Reseller is not responsible for any taxes imposed on, or regarding, OWH's income, revenues, gross receipts, personnel, or real or personal property or other assets.

c. Payment Terms. OWH shall issue periodic invoices to Reseller and Reseller shall pay all invoiced amounts due to OWH within the terms stated in the invoice, except for any amounts disputed by Reseller in good faith. Reseller shall make all payments in US dollars.

d. Unsatisfactory Credit Status. Each issuance of a Purchase Order to OWH constitutes Reseller's representation and warranty that Reseller can pay for the Products identified in the Purchase Order in accordance with the terms of this Agreement. Reseller shall furnish OWH with such statements accurately and fairly evidencing Reseller's financial condition as OWH may, from time to time, reasonably request. Throughout the term, Reseller shall be in compliance with all loan covenants and other obligations to its lenders. Reseller shall notify OWH immediately of any and all events that have had or may have a material adverse effect on Reseller's business or financial condition, including any change in management, sale, lease or exchange of a material portion of Reseller's assets, a change of Control or ownership, or breach of any loan covenants or other material obligations of Reseller to its lenders. If, at any time, OWH determines in its sole discretion that Reseller's financial condition or creditworthiness is inadequate or unsatisfactory, then in addition to OWH's other rights under this Agreement, at law or in equity, OWH may without liability or penalty, take any of the following actions: (i) modify the payment terms specified in this Agreement or any Purchase Order for outstanding and future purchases, including requiring Reseller to pay cash in advance or cash on delivery; (ii) reject any Purchase Order received from Reseller; (iii) cancel any previously accepted Purchase Orders; (iv) delay any further shipment of Products to Reseller; (v) stop delivery of any Products in transit in the possession of a common carrier or bailee and cause the Products in transit to be returned to OWH; (vi) immediately terminate this Agreement; or (vii) accelerate the due date of all amounts owing by Reseller to OWH. No actions taken by OWH under this **Section 9 d** (nor any failure of OWH to act) constitute a waiver by OWH of any of its rights to enforce

Reseller's obligations under this Agreement including the obligation of Reseller to make payments as required under this Agreement.

e. Invoice Disputes. Reseller shall notify OWH in writing of any dispute with any invoice (along with a reasonably detailed dispute description) within 3 days from the Reseller's receipt of the invoice. Reseller will be deemed to have accepted all invoices for which OWH does not receive timely Notice of disputes, and shall pay all undisputed amounts due under the invoice within the time stated. The Parties shall seek to resolve all disputes expeditiously and in good faith. Notwithstanding anything to the contrary, Reseller shall continue performing its obligations under this Agreement during any dispute, including, without limitation, Reseller's obligation to pay all due and undisputed invoice amounts in accordance with the terms and conditions of this Agreement.

f. Late Payments. Except for invoiced payments that Reseller has successfully disputed, Reseller shall pay interest on all late payments, calculated daily and compounded monthly at the lesser of the rate of 18% per month or the highest rate permissible under applicable Law. Reseller shall also reimburse OWH for all costs reasonably incurred in collecting any late payments, including attorneys' fees. In addition to all other remedies available under this Agreement or at law OWH may: (i) suspend the delivery of any Products if Reseller fails to pay any amounts when due under this Agreement; and (ii) terminate this Agreement.

g. No Set-off. Reseller shall perform its obligations under this Agreement without setoff, deduction, recoupment, or withholding of any kind for amounts owed or payable by OWH whether under this Agreement, applicable law, or otherwise and whether relating to OWH's breach, bankruptcy, or otherwise.

h. Security Interest. To secure Reseller's prompt and complete payment and performance of any and all present and future indebtedness, obligations, and liabilities of Reseller to OWH under this Agreement, Reseller hereby grants OWH a security interest in all inventory of products purchased under this Agreement (including Nonconforming Goods), wherever located, and whether now existing or hereafter arising or acquired from time to time, and in all accessions thereto and replacements or modifications thereof, as well as all proceeds (including insurance proceeds) of the foregoing. Reseller acknowledges that the security interest granted under this **Section 9 h** is a purchase-money security interest under Oregon law. OWH may file a financing statement for the security interest and Reseller shall execute any statements or other documentation necessary to perfect OWH's security interest in the products. Reseller also authorizes OWH to execute, on Reseller's behalf, statements or other documentation necessary to perfect OWH's security interest in the products. OWH is entitled to all applicable rights and remedies of a secured party under applicable Law.

9. Resale of the Products

a. Minimum Advertised Pricing. The minimum advertised pricing ("**MAP**") of the Products shall not be greater than 25% off the published list price provided to Reseller, by OWH, which may be updated, at OWH's sole discretion, from time-to-time (OWH's "**MAP Policy**"). The MAP Policy applies to the sale, marketing, merchandising, promotion and advertising of Products in any media including (but not limited to) flyers, posters, coupons, mailers, inserts, newspapers, magazines, catalogs, mail order catalogs, email newsletters, email solicitations, internet (including internet auctions) or similar electronic media, television, radio, and public signage ("**Advertising**").

b. Exclusions. The MAP Policy does not apply to: (i) any in-store advertising that is displayed only in the store and not distributed to any Customer(s); or (ii) the price at which the products are actually sold or offered for sale to an End User within Reseller's retail location or over the telephone. The MAP Policy does not limit advertisement claims that Reseller "has the lowest prices" or "will meet or beat any competitor's price" or that consumers should "call for a price" so long as long as the price advertised or listed for the products complies with the MAP Policy.

c. Prohibited Act. Any of the following is a violation of the MAP Policy: (i) Advertising any Product in violation of the MAP Policy; (ii) Including any Product in Advertising with other free or heavily discounted products; or (iii) If pricing is displayed, any strike-through or other alteration of the Minimum Advertised Price is prohibited.

d. Violations. Upon Reseller's violations of this Section, in addition to OWH's other rights under this Agreement, at law or in equity, OWH may without liability or penalty, take any of the following actions: (i) reject any Purchase Order received from Reseller; (ii) cancel any previously accepted Purchase Orders; (iii) delay any further shipment of Products to Reseller; (iv) stop delivery of any Products in transit in the possession of a common carrier or bailee and cause the Products in transit to be returned to OWH; (v) immediately terminate this Agreement; or (vi) accelerate the due date of all amounts owing by Reseller to OWH.

10. Intellectual Property Rights

a. Ownership. Subject to the express rights and licenses granted by OWH in this Agreement, Reseller acknowledges and agrees that:

- i. all of OWH's patent rights, copyrights, trademarks, trade secret rights, rights of publicity, and other intellectual property rights ("**OWH's Intellectual Property Rights**") are the sole and exclusive property of OWH or its licensors;
- ii. Reseller shall not acquire any ownership interest in any of OWH's Intellectual Property Rights under this Agreement;
- iii. any goodwill derived from the use by Reseller of OWH's Intellectual Property Rights inures to the benefit of OWH or its licensors, as the case may be;
- iv. if Reseller acquires any Intellectual Property Rights in or relating to any product (including any Product) purchased under this Agreement (including any rights in any Trademarks, derivative works or patent improvements relating thereto), by operation of law, or otherwise, these rights are deemed and are hereby irrevocably assigned to OWH or its licensors, as the case may be, without further action by either Party; and
- v. Reseller shall use OWH's Intellectual Property Rights solely for the purposes of performing its obligations under this Agreement and only in accordance with this Agreement and the instructions of OWH.

b. OWH's Trademark License Grant. This Agreement does not grant either Party the right to use the other Party's trademarks except as set out under this Section. OWH hereby grants to Reseller a non-exclusive, non-transferable, and non-sublicensable license to use OWH's trademarks (including 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) identified on the attached **Schedule B ("OWH Trademarks")** during the Term and the Post-term Resale Period solely on or in connection with the promotion, advertising, and resale of the Products in accordance with the terms and conditions of this Agreement. Reseller will promptly discontinue the display or use of any Trademark to change the manner

in which a Trademark is displayed or used with regard to the Products when requested by OWH. Other than the express licenses granted by this Agreement, OWH grants no right or license to Reseller, by implication, estoppel, or otherwise, to the Products or any OWH Intellectual Property Rights.

c. Translation Rights. To the extent that Reseller translates or causes to be translated, any of OWH's marketing materials, user manuals, or other documentation, Reseller hereby irrevocably assigns all copyrights in these translations to OWH, subject to a non-exclusive, non-transferable, and non-sublicensable license to Reseller, hereby granted by OWH, to use the translations during the Term and the Post-term Resale Period solely on or in connection with the promotion, advertising, resale, or use of the Products permitted under this Agreement.

d. Prohibited Acts. Reseller shall not:

- i. take any action that may interfere with any of OWH's rights in or to OWH's Intellectual Property Rights, including OWH's ownership or exercise thereof;
- ii. challenge any right, title, or interest of OWH in or to OWH's Intellectual Property Rights;
- iii. make any claim or take any action adverse to OWH's ownership of OWH's Intellectual Property Rights;
- iv. register or apply for registrations, anywhere in the world, for OWH's Trademarks or any other trademark that is similar to OWH's Trademarks or that incorporates OWH's Trademarks in whole or in confusingly similar part;
- v. use any mark, anywhere, that is confusingly similar to OWH's Trademarks;
- vi. engage in any action that tends to disparage, dilute the value of, or reflect negatively on the products purchased under this Agreement (including Products) or any OWH Trademark;
- vii. misappropriate any of OWH's Trademarks for use as a domain name without prior written consent from OWH; and
- viii. alter, obscure, or remove any of OWH's Trademarks or trademark or copyright notices or any other proprietary rights notices placed on the products purchased under this Agreement (including Products), marketing materials, or other materials that OWH may provide.

e. OWH's Trademark Notices. Reseller shall ensure that all Products sold by Reseller and all related quotations, specifications, and descriptive literature, and all other materials carrying OWH's Trademark, are marked with the appropriate trademark notices in accordance with OWH's instructions.

f. No Continuing Rights. On expiration or earlier termination of this Agreement, subject to Reseller's rights under the Post-term Resale Period, Reseller shall immediately cease all display, advertising, promotion, and use of all of OWH's Trademarks and shall not thereafter use, advertise, promote, or display any trademark, trade name, or product designation or any part thereof that is similar to or confusing with OWH's Trademarks or with any trademark, trade name, or product designation associated with OWH or any Product.

11. Term & Termination

a. Term. The term of this Agreement commences on the Effective Date and continues until terminated as provided under this Agreement or applicable law (the "**Term**").

b. OWH's Right to Terminate. OWH may terminate this Agreement by providing written notice to Reseller for any of the following reasons:

- i. For any or no reason by providing written notice to Reseller at least 60 days before date of termination;
- ii. if Reseller is in material breach of, or threatens to breach, any representation, warranty or covenant of Reseller under this Agreement and either the breach cannot be cured or, if the breach can be cured, it is not cured by Reseller within a commercially reasonable period of time under the circumstances, in no case exceeding 30 days following Reseller's receipt of written notice of such breach;
- iii. if Reseller repudiates, or threatens to repudiate, any of its obligations under this Agreement;
- iv. if Reseller: (i) becomes insolvent or is generally unable to pay, or fails 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; (iv) ceases doing business; or (v) 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;
- v. If OWH reasonably determines that all Product is infringing or the sale of the Product would otherwise violate law;
- vi. if Reseller fails to provide OWH, within a commercially reasonable time after OWH's request (but in no case exceeding 30 days after such request) with adequate and reasonable assurance of Reseller's financial and operational capability to perform timely any of Reseller's obligations under this Agreement; or
- vii. upon the occurrence of any other event constituting grounds for termination set forth in any other section of this Agreement.

Any termination under this **Section 12 b** will be effective on Reseller's receipt of OWH's written notice of termination or such later date (if any) set forth in the termination notice.

c. Reseller's Right to Terminate. Reseller may terminate this Agreement by providing written notice to OWH for any of the following reasons:

- i. For any or no reason by providing written notice to OWH at least 60 days before date of termination;
- ii. if OWH is in material breach of, or threatens to breach, any representation, warranty or covenant of OWH under this Agreement and either the breach cannot be cured or, if the breach can be cured, it is not cured by OWH within a commercially reasonable period of time under the circumstances, in no case exceeding 30 days following OWH's receipt of written notice of such breach; or
- iii. if OWH: (i) becomes insolvent or is generally unable to pay, or fails 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; (iv) ceases doing business; or (v) 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.

Any termination under this **Section 12 c** will be effective on OWH's receipt of Reseller's written notice of termination or such later date (if any) set forth in the termination notice.

d. Effect of Termination. Upon effective notice of termination:

- i. Any Notice of termination under this Agreement automatically operates as a cancellation of any deliveries of Products to Reseller that are scheduled to be made after the effective date of termination, whether or not any orders for the Products had been accepted by OWH. Regarding any Products that are still in transit on termination of this Agreement, OWH may require, in its sole and absolute discretion, that all sales and deliveries of the Products be made on either a cash-only or certified check basis.
- ii. Subject to any Post Term Resale Period, Reseller shall promptly cease reselling the Product and cease representing itself as OWH's authorized reseller regarding the Products, and shall otherwise desist from all conduct or representations that might lead the public to believe that Reseller is authorized by OWH to sell the Products.
- iii. Within 3 days following termination, Reseller shall Notify OWH in writing of the SKU and other identifying information and quantity of all Products in Reseller's remaining inventory. In the notice, the Reseller shall separately identify which of those Products Reseller is then contractually obligated to resell to one or more Customer ("**Committed Products**"). On or before the 7th day after OWH receives the notice, OWH may, in its sole discretion, offer to purchase all or a portion of any remaining inventory (other than Committed Products) free of all liens, claims, or encumbrances, at a price equal to the lesser of Reseller's cost therefor and OWH's then prevailing reseller price. Reseller must accept OWH's offer and promptly deliver, at OWH's expense, the ordered Products to OWH's designated carrier for delivery to OWH. Repurchased Products must be returned in their original packaging, unopened and undamaged. OWH shall pay the repurchase price to Reseller either by the issuance of a credit against any indebtedness of Reseller to OWH or if the repurchase price exceeds the indebtedness, by payment of the excess to Reseller;
- iv. If either Party terminates this Agreement without cause (**Section 12 b i** or **Section 12 c i**), Reseller may, in accordance with the applicable terms and conditions of this Agreement, sell off its existing inventories of Products (the "**Post-term Resale Period**").
- v. If OWH terminates this Agreement for cause (**Sections 12 b i** through **12 b vii**) and Seller declines to repurchase Reseller's remaining inventory (**Section 12 d iii**), then Seller shall immediately destroy all Product and send assurances of the same to OWH.

12. Confidentiality

a. Scope of Confidential Information. From time to time during the Term, either Party] (as "**Disclosing Party**") may disclose or make available to the other Party] (as "**Receiving Party**") information about its business affairs, goods and services, forecasts, confidential information, and materials comprising or relating to intellectual property rights, trade secrets, third-party confidential information, and other sensitive or proprietary information; such 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" constitutes "**Confidential Information**" hereunder. Confidential Information excludes information that, at the time of disclosure (and as established by documentary evidence): (i) is or becomes generally available to and known by the public other than as a result of, directly or indirectly, any breach of this **Section 13** by Receiving Party or any of its Representatives; (ii) is or becomes available to Receiving Party on a non-confidential basis from a third-party source, provided that such third party is not and was not prohibited from disclosing such Confidential Information; (iii) was known by or in the possession of Receiving Party or its Representatives before being disclosed by or on

behalf of Disclosing Party; (iv) was or is independently developed by Receiving Party without reference to or use of, in whole or in part, any of Disclosing Party's Confidential Information; or (v) must be disclosed under applicable Law.

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

13. Representations and Warranties

a. Mutual Representations and Warranties. Each party represents and warrants to the other that: (i) it is an entity duly organized, validly existing and in good standing under the laws of the state or country of its organization; (ii) it has all requisite power and authority to enter into this Agreement; and (iii) the execution, delivery and performance of and compliance with this Agreement does not and will not conflict with in any material respect, any term or provision of any mortgage, contract, judgment or decree, or to the best of its knowledge, any order, statute, rule or regulation applicable to such party, the violation of which would have a material adverse effect on its business or properties.

b. Limited Product Warranty. OWH shall make certain limited warranties regarding the Products ("**Limited Warranties**") solely to and for the End User's benefit, which will either be included a written warranty statement with the Product or OWH's standard limited warranty in force when the Product is delivered by Reseller to End User. No warranty is extended to Reseller under this Agreement. Reseller shall not provide any warranty regarding any Product other than the OWH warranty described in this Section.

c. Warranty Limitations. Limited Warranties do not apply where the Product: (i) has been subjected to abuse, misuse, neglect, negligence, accident, improper storage, improper handling, abnormal physical stress, abnormal environmental conditions, or use contrary to any instructions issued by OWH; (ii) has been altered by persons other than OWH or its authorized representative; (iii) or has been used with any third-party product that has not been previously approved in writing by OWH.

d. Extent of Liability. During any warranty period stated in any written warranty statement and regarding any Defective Goods: (i) notwithstanding anything in this Agreement to the contrary, OWH's liability under any Limited Warranty is discharged, in OWH's sole discretion and at its expense, by repairing or replacing the Defective Goods or crediting or refunding the price of the Defective Goods, less any applicable discounts, rebates, or credits; (ii) OWH is responsible for all costs and risk of loss associated with the delivery of repaired or replaced products to Reseller; and Reseller is responsible for all costs and risk of loss associated with the delivery and return of the repaired or replaced Products to End User. All claims for breach of a Limited Warranty must be received by OWH no later than 3 days after the expiration of the limited warranty period of the Product. Reseller has no right to return for repair, replacement, credit, or refund any Product except as set out in this Section (or if otherwise applicable **Section 8 d (Inspection)**). Reseller shall not reconstruct, repair, alter, or replace any Product, in whole or in part, either itself or by or through any third party.

THIS SECTION 14 d SETS FORTH RESELLER'S SOLE REMEDY AND OWH'S ENTIRE LIABILITY FOR ANY BREACH OF ANY WARRANTY RELATING TO THE PRODUCTS.

Except as explicitly authorized in this Agreement or in a separate written agreement with OWH, Reseller shall not modify, alter, replace, reverse engineer, or otherwise change the Products it sells to End Users.

e. Warranties Disclaimer; Non-reliance. EXCEPT FOR THE LIMITED EXPRESS WARRANTIES DESCRIBED IN SECTION 14 a AND SECTION 14 b, (A) NEITHER OWH NOR ANY PERSON ON OWH'S BEHALF HAS MADE OR MAKES ANY EXPRESS OR IMPLIED REPRESENTATION OR WARRANTY WHATSOEVER, INCLUDING ANY WARRANTIES OF: (i) MERCHANTABILITY; (ii) FITNESS FOR A PARTICULAR PURPOSE; (iii) TITLE; (iv) NON-INFRINGEMENT; OR (v) PERFORMANCE OF PRODUCTS TO STANDARDS SPECIFIC TO THE COUNTRY OF IMPORT, WHETHER ARISING BY LAW, COURSE OF DEALING, COURSE OF PERFORMANCE, USAGE OF TRADE OR OTHERWISE, ALL OF WHICH ARE EXPRESSLY DISCLAIMED AND (B) RESELLER ACKNOWLEDGES THAT IT HAS NOT RELIED ON ANY REPRESENTATION OR WARRANTY MADE BY OWH, OR ANY OTHER PERSON ON OWH'S BEHALF, EXCEPT AS SPECIFICALLY DESCRIBED IN SECTION 14 b OF THIS AGREEMENT.

14. Indemnification

a. Mutual General Indemnification. Each Party (as "**Indemnifying Party**") shall indemnify, hold harmless, and defend the other and its parent, officers, directors, partners, members, shareholders, employees, agents, 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 reasonable 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**"), arising out of or relating to any claim or action of a third party: (i) relating to a material breach or non-fulfillment of any representation, warranty, or covenant under this Agreement by Indemnifying Party or its Personnel; (ii) alleging or relating to any fraudulent or grossly negligent 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; (iii) alleging or relating to any bodily injury, death of any Person or damage to real or tangible personal property caused by the grossly negligent acts or omissions of Indemnifying Party or its Personnel; or (iv) relating to any failure by Indemnifying Party or its Personnel to comply with any applicable Laws.

b. OWH Intellectual Property Indemnification. Without limiting OWH's indemnification obligations under Section 15 a, OWH shall indemnify, defend, and hold harmless Reseller and its officers, directors, employees, agents, successors, and permitted assigns ("**Reseller Indemnified Party**") from and against all Losses awarded against any Reseller Indemnified Party in a final, non-appealable judgment arising out of any Claim of a third party alleging that any of the Products infringes any Intellectual Property Right of a third party arising under United States Laws. If a Product, or any part of a Product, becomes, or in OWH's opinion is likely to become, subject to a third-party Claim that qualifies for intellectual property indemnification coverage under this Section, OWH shall, at its sole option and expense, notify Reseller in writing to cease using, reselling, marketing, advertising, or promoting all or a part of the Product, in which case Reseller shall immediately cease all use, resale, marketing, advertising and promoting the Product on receipt of OWH's Notice. Reseller shall notify OWH of third-party Claims against Reseller and cooperate in the investigation, settlement, and defense of such Claims. Notwithstanding anything to the contrary in this Agreement, OWH is not obligated to indemnify or defend Reseller against any claim (whether direct

or indirect) under this Section if the claim or corresponding Losses arise out of or result from, in whole or in part: (i) Reseller's marketing, advertising, promotion, or sale of a product purchased under this Agreement (including any Product) in any manner not otherwise authorized under this Agreement; (ii) use of a product purchased under this Agreement (including any Product) in combination with any products, materials, or equipment supplied to the Customer by a Person other than OWH, Reseller, or either of their authorized Representatives, if the infringement would have been avoided by the use of the products not so combined; or (iii) any modifications or changes made to the Product by or on behalf of any person other than OWH or its Representatives, if the infringement would have been avoided without the modification or change.

15. Limitation of Liability

IN NO EVENT IS OWH OR ITS REPRESENTATIVES 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, REGARDLESS OF: (A) WHETHER THE DAMAGES WERE FORESEEABLE; (B) WHETHER OR NOT OWH WAS ADVISED OF THE POSSIBILITY OF THE DAMAGES; AND (C) THE LEGAL OR EQUITABLE THEORY (CONTRACT, TORT OR OTHERWISE) ON WHICH THE CLAIM IS BASED, AND NOTWITHSTANDING THE FAILURE OF ANY AGREED OR OTHER REMEDY OF ITS ESSENTIAL PURPOSE.

16. Miscellaneous

a. Disputes. The rights and liabilities of the parties arising out of or relating to this agreement will be governed by the laws of the State of Oregon, exclusive of choice of law remedies. Any litigation between the parties will be conducted exclusively in state or federal courts in Oregon. The prevailing party in any litigation arising out of or relating to this agreement will be entitled to recover all reasonable attorneys' fees and other expenses (in addition to statutory "costs" of litigation), including attorneys' fees and expenses in connection with any trial, appeal, or petition for review.

b. Notices. All notices under this Agreement will be in writing. Each notice will be deemed to have been received by the party to which it was addressed: (i) when delivered if delivered personally, (ii) when received by the addressee if sent by overnight courier, (iii) on the fifth business day after the date of mailing if sent by certified mail, or (iv) on the date sent by email if sent during normal business hours of the recipient, and on the next business day if sent after normal business hours of the recipient.

c. Assignment; Binding Effect; Severability. This Agreement may not be assigned or otherwise transferred by either party without the prior written consent of the other, which will not be unreasonably withheld; provided, however, that either party may assign in connection with a merger or sale of all or substantially all of its assets or to a company controlling, controlled by, or under common control with it. If any term or provision of this Agreement is deemed invalid or unenforceable, the remainder of this Agreement will be valid and enforced to the fullest extent permitted by law.

d. Entire Agreement; Amendment; Waiver. This Agreement including all Work Orders and exhibits, constitutes the entire understanding of the parties with respect to its subject matter and supersedes all prior agreements and understandings of the parties. No modification, change, amendment, or any waiver of rights with respect to this agreement will be binding unless in writing signed by both parties. No waiver of any violation or nonperformance of this agreement in one instance will be deemed to be a waiver of any subsequent violation or nonperformance. In the case of any conflict between this

Agreement and any Work Order, the terms of the Work Order will control, but only with respect to that particular Work Order and only if the Work Order references the provision of this Agreement that the Work Order intends to supersede.

The parties are signing this Agreement on the date stated in the introductory clause.

Oregon's Wild Harvest, Inc.

[Reseller]

By: _____

By: _____

Name: _____

Name: _____

Title: _____

Title: _____

**SCHEDULE A
PRODUCTS**

**SCHEDULE B
TRADEMARKS**