

MERCHANISE WHOLESALE AGREEMENT

Please print & complete the form below. Once signed, please email to **wholesale@etekcity.com**. “Wholesale Applications” will not be processed until this form has been received.

All sales made by Etekc City Corporation ("Seller") to you ("Customer") are governed by these Terms and Conditions of Sale unless otherwise indicated by Etekc City Corporation in writing. Please read these Terms and Conditions thoroughly before submitting an application for wholesale pricing. Do not submit the Wholesale Application unless you understand these Terms and Conditions and agree to abide by them. The Seller reserves the right to amend or modify these Terms and Conditions of sale at any time at its sole discretion. Seller shall not accept Customer's purchase orders unless and until Customer consents to these Terms and Conditions of Sale and completes the Wholesale Application. These Terms and Conditions of Sale as set forth in this document will govern all transactions between Customer and Seller. These Terms and Conditions of Sale also apply to all future transactions unless modified in writing signed by Seller and Customer.

1. **DISTRIBUTION GRANT**

- 1.1 Etekc City Corporation hereby grants to Customer and Customer hereby accepts from Etekc City Corporation the non-exclusive right to distribute Etekc City Corporation products subject to all terms and conditions set forth in this Agreement. Customer agrees to not sell, distribute, directly or indirectly, Etekc City products online, as it is solely offline retail exclusive.
- 1.2 Customer shall not, directly or indirectly, including through any agents, distribute, market, sell or solicit orders for any Etekc City Corporation products on any of the Amazon selling platform, including, but not limited to, Amazon.com, Amazon.ca, Amazon.jp and Amazon.co.uk. Customer further covenants and agrees not to distribute, market or sell Etekc City Corporation products to any person if the Customer knows or has any reason to believe that such Etekc City Corporation products will be resold by such person, directly or indirectly, on any of the Amazon selling platforms. If Etekc City Corporation becomes aware of any Customer, directly or indirectly, including through any agents, distribute, market, sell or solicit orders for any Etekc City Corporation products on any of the Amazon selling platform, Etekc City Corporation will immediately file a claim to close down that Amazon Account, with no exceptions. If Customer becomes aware that any person to whom Customer supplies any Etekc City Corporation products is marketing or selling, or is planning to market or sell, any Etekc City Corporation products on any of the Amazon selling platforms, Customer shall

immediately notify Seller and shall cease forth with to supply such person with Etekcity Corporation products.

2. PRICING

- 2.1 Etekcity Corporation agrees to sell, and Customer agrees to purchase, the merchandise in accordance with the Pricing and Volume Discount Prices set forth in separate disclosures. Such Pricing shall be adjusted at any time, provided that Etekcity Corporation provides Customer with prior written notice of any such increase. Any such change shall not apply for any order(s) accepted prior to the effective date of the increase. Etekcity Corporation reserves the right, at its sole discretion, to change packaging and any included documentation.

3. RESALE OF THE MERCHANDISE

- 3.1 Customer is forbidden to resale Etekcity Corporation merchandise to other distributors and sellers on Amazon, Walmart, eBay and other competing e-commerce platforms.
- 3.2 Customer shall be free to resell the merchandise for such terms and conditions as Customer may see fit in its sole discretion, provided that the Customer follows the Minimum Advertised Price (MAP) based on the six-month average price of the merchandise on Amazon.com.
- 3.3 The Customer is also required to disclose to Etekcity Corporation information regarding unit sold at specific retailers on a monthly basis.

4. PURCHASE ORDERS, PAYMENT AND REFUND

- 4.1 Customer must submit written or digital purchase orders for the merchandise no later than ten (10) business days prior to the requested delivery date, setting forth quantity, type, and requested delivery date of merchandise. Purchase orders received fewer than ten (10) business days prior to the requested delivery date shall be filled at Seller's discretion and subject to express shipping charges (to be paid by Customer). All orders are processed subject to availability.
- 4.2 Customer will be invoiced for Merchandise orders and payment is due within ten (10) days of invoice date. Late payments incur a finance charge of two percent (2%) of the unpaid invoice balance per month, starting Time when finance charge/late fee kicks in ten (10) days after the due date. Etekcity Corporation may

withhold fulfillment of Customer's additional purchase orders until past due payments, including any finance charges, are received in full.

- 4.3 Only with prior request from the Customer and subsequent approval by Etekc City Corporation, Customer may return merchandise item in original condition to Seller for a full refund of the invoice price net of any subsequent price adjustments by Etekc City Corporation. Customer shall bear the cost of shipping, handling and insurance for returned Merchandise.

5. NOTICE OF DEFECTS

- 5.1 Customer is responsible for inspecting the merchandise upon receipt. Any merchandise with visible damage must be noted to the delivery service upon receipt in the Customer's warehouse. Customer shall notify Seller in writing within five days of customer's receipt of the merchandise of any claims for damages resulting from any defect in the merchandise discovered by Customer, including, without limitation, claims related to shortages, quality, or specification. Seller shall not be responsible for shortages when shipments are directed to a third party other than Customer.

6. ACCEPTANCE OF LATE OR DEFECTIVE MERCHANDISE

- 6.1 Customer's failure to provide written notice of a claim, as set forth in these Terms and Conditions of Sale, shall constitute a waiver of any claim Customer may have for damages resulting from such defects, including late delivery.

7. DISCLAIMER OF WARRANTIES

- 7.1 Etekc City Corporation hereby disclaims all express and implied warranties, including, without limitation, implies warranties of merchantability and fitness for particular purpose. All such warranties are hereby disclaimed and excluded from any and all transactions between Customer and Etekc City Corporation and shall not apply to products sold by Etekc City Corporation.

8. LIMITATION OF LIABILITY

- 8.1 Customer acknowledges that Etekc City Corporation shall not be liable for any direct, indirect, incidental, special, consequential or exemplary damages, including but not limited to, damages for loss of profits, goodwill, or other intangible losses (even if Etekc City Corporation has been advised of the possibility of such damages), or personal injuries or death resulting from use or sale of Etekc City Corporation merchandise

- 8.2 Etekc City Corporation shall not be liable for any work performed by any third-party vendor referred by Etekc City Corporation and hereby waives any right to assert any claim against Etekc City Corporation for work performed by any other third party or vendor, including but not limited to claims for negligent referral, agency, or respondent superior.

9. USE OF MATERIALS

- 9.1 All materials published on the Etekc City Corporation website, packaging and promotional materials (including but not limited to articles, photographs, images, illustrations, audio clips and video clips) are protected by copyrights which are owned and controlled by Etekc City Corporation or the party credited as the provider of the material. The entire contents of these documents are also copyrighted as a collective work under the United States copyright laws, and the selection, coordination, arrangement and enhancement of such content are protected by copyright. No material from this website or any website owned, operated, licensed, or controlled by Etekc City Corporation, product packaging, or other promotional documentation may be copied, reproduced, republished, uploaded, posted, transmitted, or distributed in any way. You acknowledge that you do not acquire any ownership rights by downloading, printing or reproducing and copyrighted material. The use of any such material on any other website or networked computer environment is prohibited. All trademarks, service marks, and trade names are proprietary to Etekc City Corporation or the other designated owner of a posted mark.

10. CONFIDENTIAL & PROPRIETARY INFORMATION

- 10.1 As used herein, the term “Proprietary Information” means any information, technical data, or know-how (including, but not limited to, information relating to products, software, services, development, inventions, processes, techniques, customers, pricing, internal procedures, business and marketing plans or strategies, finances, employees and business opportunities) disclosed by one Party (the “Disclosing Party”) to the other (the “Recipient Party”) either directly or indirectly in any form whatsoever, including, but not limited to, in writing, in machine readable or other tangible form, orally or visually.
- 10.2 Unless otherwise expressly authorized by the Disclosing Party, the Recipient Party agrees that it and any of its personnel receiving Proprietary Information under this Agreement shall treat such Proprietary Information in strict confidence with the same degree of care applied to its own Proprietary Information of like importance, which it does not wish to disclose, publish, or disseminate to third parties.

- 10.3 In no event will the Recipient Party divulge, in whole or in part, such information to any third party without the prior written consent of the Disclosing Party; provided, further, that any third party must also agree in writing to restrictions comparable to those provided in this Section 6. The Recipient Party may disclose the Proprietary Information to the extent required by a valid order by a court or other governmental body or by applicable law; provided, however, that the Recipient Party will use all reasonable efforts to notify Disclosing Party of the obligation to make such disclosure in advance of the disclosure so that Disclosing Party will have a reasonable opportunity to object to such disclosure.
- 10.4 Notwithstanding any other provisions of this Agreement, each party acknowledges that Proprietary Information shall not include any information that: (i) is already known to the Recipient Party at the time of disclosure, or becomes publicly known through no wrongful act of the Recipient Party's part; (ii) is rightfully received by the Recipient Party from a third party without breach of this Agreement; (iii) is independently developed by the Recipient Party without benefit of information received under this Agreement; (iv) is furnished to a third party by the Disclosing Party without a restriction on the third party's right to disclose it; or (v) is explicitly approved for release by written authorization by the Disclosing Party.
- 10.5. It is understood that all Proprietary Information disclosed under this Agreement, is, and shall remain, the property of the Disclosing Party. Upon completion of this Agreement, or upon written notice from the Disclosing Party, the Recipient Party agrees to return all Proprietary Information in its possession.
- 10.6 The Recipient Party acknowledges that the Disclosing Party, because of the unique nature of the Proprietary Information, would suffer irreparable harm in the event that the Recipient Party breaches its obligation under this Agreement and that monetary damages would be inadequate to compensate the Disclosing Party for such a breach. The Parties agree that, in such a circumstance, the Disclosing Party shall be entitled, in addition to such monetary relief as may be applicable, to injunctive relief as may be necessary to restrain any continuing or further breach by the Recipient Party, without showing or proving any actual damages sustained by the Disclosing Party.

11. DURATION & TERMINATION

- 11.1 This Agreement shall become effective on the date first written above and shall continue in effect for six (6) months.
- 11.2 Etekcity Distributor shall have the option to renew this Agreement every six (6) months. for an unlimited additional year period by providing prior written notice to Customer at the end of this Agreement.

- 11.3 Either Party may terminate this Agreement prior to its expiration upon the occurrence of either of the following: (i) the other Party becomes insolvent, or institutes (or there is instituted against it) proceedings in bankruptcy, insolvency, reorganization or dissolution, makes an assignment for the benefit of creditors or becomes nationalized or has any of its material assets confiscated or expropriated; or (ii) the other Party (in this case, the “breaching Party”) fails to perform any of its obligations hereunder and fails to correct such failure within ten (10) days after receiving written demand therefore from the non-breaching Party, specifying the failure in sufficient detail for the breaching Party to correct such failure; provided, however, that upon a second breach of the same obligation by such Party, the other Party may forthwith terminate this Agreement upon notice to the breaching Party.

12. RIGHTS OF PARTIES AT TERMINATION

- 12.1 In the event that this Agreement is terminated or expires on its own terms, Etekcity Corporation shall have no further responsibilities to Customer except that in the event the Agreement terminates for any reason other than a breach hereof by Customer, Etekcity Corporation shall be obligated to process orders accepted prior to the effective date of such termination or expiration or within ten (10) days thereafter.
- 12.2 Notwithstanding anything to the contrary set forth herein, no termination of this Agreement shall relieve any Party from any obligations hereunder which are outstanding on or relate to matters or claims occurring or arising prior to, the date of such termination or which survive such termination by their own terms or nature.

13. GENERAL PROVISIONS

- 13.1 This Agreement may be amended only by a writing signed by each of the Parties, and any such amendment shall be effective only to the extent specifically set forth in such writing.
- 13.2 This Agreement is a contract under the laws of the State of California and for all purposes shall be governed by and construed in accordance with the substantive laws of the State of California, without regard to its principles of conflicts of law and provisions.
- 13.3 The Parties shall seek to resolve any dispute, controversy or claim arising out of or in connection with this Agreement, including without limitation, any dispute regarding the enforceability of any provision, through good faith negotiations between them within ten (10) days of any notice of dispute being served or such longer period of time as may be mutually agreed between the Parties. If the Parties are unable to resolve

the dispute within this timeframe, and one or both parties one or both parties desire to pursue the dispute, the complaining party must submit the dispute to binding arbitration in accordance with the rules and regulations of the American Arbitration Association. The Parties will share equally the cost of arbitrating such dispute. The arbitrator(s) shall not be empowered to award punitive or other damages in excess of compensatory damages, and both parties irrevocably waive the right to any such damages. Judgment on the award rendered by the arbitrator(s) may be entered by any court having jurisdiction over the dispute. In the event that the parties cannot agree upon an arbitrator within a ten (10) day period, each party shall designate an arbitrator and those two arbitrators shall choose a third arbitrator, with that third arbitrator serving as the sole arbitrator of the dispute.

- 13.4 Neither Party shall assign, pledge or otherwise transfer any of its rights, interest or obligations hereunder, whether by operation of law or otherwise, without the prior express written consent of the other Party.
- 13.5 The rights and remedies of the Parties hereunder are cumulative and not exclusive of any rights or remedies which the Parties would otherwise have. No single or partial exercise of any such right or remedy by a Party, and no discontinuance of steps to enforce any such right or remedy, shall preclude any further exercise thereof or of any other right or remedy of such Party.
- 13.6 This Agreement contains the entire agreement of the Parties with respect to the transactions contemplated hereby and supersedes all prior written and oral agreements, and all contemporaneous oral agreements, relating to such transactions.
- 13.7 Any provision of this Agreement which is prohibited or unenforceable in any jurisdiction shall, as to such jurisdiction, be ineffective to the extent of such prohibition or unenforceability without invalidating the remaining portions hereof or affecting the validity or enforceability of such provision in any other jurisdiction.
- 13.8 This Agreement shall be binding upon and shall inure to the benefit of each of the Parties and their respective successors and permitted assigns.



ACCEPTANCE OF WHOLESALE AGREEMENT

Your signature below indicates acceptance of the wholesale agreement outlined above.

Name _____

Signature _____

Title _____

Date _____

Name _____

Signature _____

Title _____

Date _____

Name _____

Signature _____

Title _____

Date _____

Please fill out your business information on the next page

BUSINESS INFORMATION

Company name		<input type="checkbox"/> Sole proprietorship <input type="checkbox"/> Partnership <input type="checkbox"/> Corporation <input type="checkbox"/> Other _____	Business
Company Address:			<input type="checkbox"/> Distributor
City, State, Zip:			<input type="checkbox"/> Wholesaler
Federal Tax ID No.			<input type="checkbox"/> Online Retailer Please specify: _____
Phone Fax		This purchase is for:	<input type="checkbox"/> Offline Retailer
E-mail		<input type="checkbox"/> Re-sell	<input type="checkbox"/> Other
*Company Website:		<input type="checkbox"/> Company-use	_____

CONTACT INFO

Contact:		Shipping Address	
E-mail		City, State ZIP Code	
Fax		Phone	
Phone		<input type="checkbox"/> Same as Company Address	

PRODUCT OF INTEREST

Estimated Purchasing Qty for the first order	<input type="checkbox"/> 50-100 <input type="checkbox"/> 100-300 <input type="checkbox"/> 300-500 <input type="checkbox"/> 500-1000 <input type="checkbox"/> 1000-5000	
Product Category:	<input type="checkbox"/> Body Weight Scales	<input type="checkbox"/> Thermometers
	<input type="checkbox"/> Kitchen Scales	<input type="checkbox"/> Bluetooth Speakers
	<input type="checkbox"/> Remote/Wi-Fi Outlets	<input type="checkbox"/> Multimeters
	<input type="checkbox"/> Camping	<input type="checkbox"/> Other
Product URL:		