



**AUTHORIZED RETAILER AGREEMENT**

This Authorized Retailer Agreement (this “*Agreement*”), effective \_\_\_\_\_ (the “*Effective Date*”), between Elevate Outdoor Collective, LLC, an Indiana Limited Liability Company with a principal place of business at 3305 160th Ave SE, Bellevue, WA 98008 (“*EOC*”), and the authorized retailer identified below (the “*Retailer*”), governs the relationship by which, on a non-exclusive basis EOC will provide to the Retailer, and the Retailer will make available to Customers (defined below) the EOC brand products selected in Exhibit A (the “*EOC Products*”) in accordance with (i) the EOC Authorized Retailer Terms and Conditions attached to this Agreement as Exhibit B and as revised from time to time (as amended, the “*Terms*”), (ii) the EOC Retailer Internet Addendum attached to this Agreement as Exhibit C and as revised from time to time (as amended, the “*Internet Addendum*”), and (iii) the applicable EOC Product prices and terms supplied to Retailer by EOC and as revised from time to time (as amended, the “*Pricing Addendum*” and any terms contained therein, the “*Pricing Terms*”), all of which are incorporated herein by this reference.

**Locations\* (the “*Authorized Locations*”):**

Location: \_\_\_\_\_ Street Address: \_\_\_\_\_  
Location: \_\_\_\_\_ Street Address: \_\_\_\_\_  
Location: \_\_\_\_\_ Street Address: \_\_\_\_\_

*\* Identify the street address of each retail location where EOC Products will be sold. If more room is needed, please insert “See Attached List,” and attach the same.*

**Websites\* (the “*Authorized Websites*”):**

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

*\* Identify the websites where EOC Products will be sold. If more room is needed, please insert “See Attached List,” and attach the same.*

**Special Terms (if any):**

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

*\*Any special terms will take priority over the Terms, to the extent they conflict in whole or in part.*

[SIGNATURE PAGE FOLLOWS]



This Agreement is entered into by the undersigned by their authorized representative as of the Effective Date.

**Elevate Outdoor Collective, LLC**

**Retailer:** \_\_\_\_\_  
*(full legal name)*

Signature:

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

\_\_\_\_\_

Signature:

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_









Address:


\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Exhibit A  
EOC PRODUCTS

	<p><b>K2 Skis Products:</b></p> <p><input type="checkbox"/> Skis      <input type="checkbox"/> Poles      <input type="checkbox"/> Accessories</p> <p><input type="checkbox"/> Ski Boots   <input type="checkbox"/> Other _____</p>
	<p><b>K2 Snowboarding Products:</b></p> <p><input type="checkbox"/> Snowboards      <input type="checkbox"/> Accessories</p> <p><input type="checkbox"/> Snowboard Boots   <input type="checkbox"/> Other _____</p>
	<p><b>Völkl Products:</b></p> <p><input type="checkbox"/> Alpine Skis      <input type="checkbox"/> Rental Skis      <input type="checkbox"/> Accessories</p> <p><input type="checkbox"/> Other _____</p>
	<p><b>Marker Products:</b></p> <p><input type="checkbox"/> Bindings      <input type="checkbox"/> Rental Bindings   <input type="checkbox"/> Protective Snow Equipment</p> <p><input type="checkbox"/> Rental Helmets   <input type="checkbox"/> Accessories      <input type="checkbox"/> Other _____</p>
	<p><b>Ride Products:</b></p> <p><input type="checkbox"/> Snowboards      <input type="checkbox"/> Accessories</p> <p><input type="checkbox"/> Snowboard Boots   <input type="checkbox"/> Other _____</p>
	<p><b>Line Products:</b></p> <p><input type="checkbox"/> Skis      <input type="checkbox"/> Accessories</p> <p><input type="checkbox"/> Other _____</p>
	<p><b>Backcountry Access Products:</b></p> <p><input type="checkbox"/> Beacons      <input type="checkbox"/> Radios      <input type="checkbox"/> Shovels</p> <p><input type="checkbox"/> Float Packs   <input type="checkbox"/> Packs      <input type="checkbox"/> Tools and Accessories</p> <p><input type="checkbox"/> Probes      <input type="checkbox"/> Helmets      <input type="checkbox"/> Other _____</p>
	<p><b>Madshus Products:</b></p>

	<input type="checkbox"/> Skis <input type="checkbox"/> Poles <input type="checkbox"/> Accessories  <input type="checkbox"/> Ski Boots <input type="checkbox"/> Other _____
	<p><b>Dalbello Products:</b></p> <input type="checkbox"/> Ski Boots <input type="checkbox"/> Rental Ski Boots <input type="checkbox"/> Accessories  <input type="checkbox"/> Other _____
<p><b>EOC OUTDOOR</b></p>	<p><b>Outdoor Products:</b></p> <input type="checkbox"/> Atlas Snowshoes <input type="checkbox"/> K2 Skates <input type="checkbox"/> Accessories  <input type="checkbox"/> Tubbs Snowshoes <input type="checkbox"/> Poles <input type="checkbox"/> Other _____



## **Exhibit B**

### **EOC AUTHORIZED RETAILER TERMS & CONDITIONS**

**1. Orders.** During the Term (as defined below), EOC agrees to sell to the Retailer, and Retailer agrees to purchase from EOC, the EOC Products agreed by EOC and Retailer pursuant to each purchase order substantially in the form of the purchase order attached hereto as Exhibit E (each an “**Order Form**”).

**2. Order Modification and Cancellation.** EOC reserves the right to refuse or reduce any order, cancel any current orders or refuse, delay or withhold delivery of current or future orders due to lack of inventory or production capacity, as determined in EOC’s sole discretion. Retailer expressly agrees and acknowledges that all preseason orders are firm and will only be canceled by Retailer with EOC’s express prior written consent. All orders for EOC Products that are not preseason orders may be modified or cancelled by Retailer for any reason not later than four (4) weeks prior to the scheduled ship date so long as, prior to cancellation, Retailer pays to EOC a cancellation fee equal to fifteen percent (15%) of the value of the cancelled orders (the “**Cancellation Fee**”). The parties intend the Cancellation Fee to be liquidated damages constituting compensation, and not a penalty. The parties acknowledge and agree that damages resulting from cancellation pursuant to this Section would be impossible or very difficult to accurately estimate, and that the Cancellation Fee is a reasonable estimate of the anticipated or actual harm that may arise from such termination.

**3. Delivery, Title, and Risk of Loss.** All EOC Products will be shipped by freight unless otherwise stated on an Order Form. EOC reserves the right to make partial shipments and to determine shipping carriers in its own discretion. Title to, and all risk of loss in, the EOC Products passes from EOC to the Retailer upon shipment, FOB at EOC’s warehouse unless otherwise stated on an Order Form.

**4. Rejections of Shipments.** The EOC Products will be subject to inspection by the Retailer for two (2) business days from delivery of such products. If no rejection claim is made by the Retailer during such time period, (a) the Retailer will be deemed to have accepted the EOC Products, and (b) EOC will have the right to reject returns and/or requests for payment of claims. This Section 4 constitutes EOC’s sole obligation as to nonconforming EOC Products as of the time of delivery, and the Retailer acknowledges that this Section 4 sets forth the exclusive remedy of the Retailer for any breach of warranty or other duty related to the EOC Products or quality thereof.

**5. Retailer Obligations.** The Retailer represents that it will abide by (i) the Terms, (ii) the Internet Addendum, (iii) Pricing Terms, and (iv) if Retailer is authorized pursuant to this Agreement as an authorized retailer of \_\_\_\_\_ and/or rental \_\_\_\_\_ (collectively, “**RETAIL PRODUCT**”), the current published edition of the PRODUCT Technical Manual found at WEBSITE (including any amendments or updates issued from time to time by EOC, the “**Manual**”) in connection with the EOC Products. The Retailer represents that it has obtained a sales and use tax exemption, if sales tax is applicable in the state of sale, and agrees to provide EOC with evidence of such exemption if requested. Further, the Retailer agrees:

- a. Except as otherwise authorized by EOC in writing, to only purchase EOC Products from EOC or its authorized designees;
- b. To comply with all applicable laws concerning the sale, storage, transport or marketing of EOC Products;
- c. To maintain facilities and staff at the Retailer’s Authorized Location(s) for the promotion, marketing, sale, fitting and service of the EOC Products, all as required to effectively promote, sell, fit and service the EOC Products in a professional manner, and to maintain the high-quality reputation of EOC and the EOC Products;
- d. To deal only directly and personally with consumers who are the prospective or actual end users of the EOC Products (“**Customers**”) and not to offer for sale or sell any EOC Products through any means other than through direct personal contact at the Authorized

Location (except if the Retailer is permitted to sell in any other manner as agreed in writing by EOC);

- e. That no exclusive rights are conferred to Retailer by this Agreement;
- f. To not extend any warranty of EOC Products, on its or EOC's behalf, other than any applicable standard EOC Product warranty, as issued by EOC from time to time;
- g. To assist EOC in preventing any unauthorized distribution or sale of EOC Products;
- h. To maintain a reasonable inventory of all items in the EOC Products during the Term and maintain and update, as required, the equipment and expertise required to provide consumers with the proper selection and service of EOC Products;
- i. If any EOC Products are not fit for sale to consumers because they are damaged or otherwise not in conformity with EOC standards, to not sell or transfer those EOC Products;
- j. To cooperate with EOC to coordinate all returns of EOC Products affected by a recall and to remediate the defect causing the recall. EOC will have sole control over the decision to initiate and conduct recalls of any EOC Products;
- k. To maintain EOC Products in attractive surroundings and in a manner to maximize sales; and
- l. To comply with the terms and adhere to the guidelines of the current version of any applicable technical manual issued by EOC with respect to the EOC Products, including to the extent the Retailer is authorized pursuant to this Agreement as an authorized retailer of RETAIL PRODUCT, the Manual.

**6. Advertising.** The Retailer will promptly comply with any request by EOC to review and comment on the Retailer's advertising content from time to time. EOC may approve or reject such content in EOC's reasonable discretion.

**7. Invoicing; Payment.** EOC will invoice the Retailer upon shipment of the EOC Products or when the EOC Products leave the applicable EOC warehouse. The Retailer will pay all invoices from EOC within thirty (30) days of the date of the invoice. Any and all amounts not paid when due will lose all applicable discounts and will remain payable along with interest rate of one and one-half percent (1.5%) per month or any part thereof, or the maximum rate allowed by law, whichever is less, commencing from the date such payment is due. The Retailer agrees to pay all costs of collection, including reasonable attorneys' fees incurred by EOC as a result of the failure of the Retailer to make payments to EOC when due. EOC has the right to obtain, and the Retailer will execute upon request, sufficient security agreements and financing statements on inventory and equipment of the Retailer in order to protect EOC's interests. All amounts payable at any time to EOC by the Retailer will, at the option of EOC and upon written notification to the Retailer, become immediately due and payable in the event of: insolvency or commencement of a proceeding in bankruptcy or reorganization by or against the Retailer; assignment of any assets for the benefit of creditors by the Retailer; any statement or representation made to EOC by the Retailer pertinent to its financial condition which is determined by EOC to be false or misleading; or Retailer is past due in any payments.

**8. Credit.** EOC's obligations and the Retailer's rights under this Agreement are hereby expressly made subject to the complete and continued compliance by the Retailer with all credit terms as reflected in EOC's shipping and sales documents and as otherwise agreed by the parties. Such compliance will be reviewed by EOC prior to filling each order submitted by the Retailer and no such order will be filled unless EOC is satisfied, in its sole discretion, as to such compliance.

**9. Term and Termination.**

- a. **Term.** This Agreement has an initial term (the "*Initial Term*") commencing on the Effective Date and will, unless earlier terminated as provided in Section 9(b) below, continue until March 31 the following calendar year. Thereafter, this Agreement will

automatically renew for additional terms of one-year (“**Renewal Term**”), unless earlier terminated in accordance with Section 9(b) or to the extent a party gives the other party notice of its intent not to renew at least thirty (30) days prior to the end of the then current Initial Term or Renewal Term. For purposes of this Agreement, the Initial Term together with any Renewal Terms are collectively referred to as the “**Term**”.

- b. Termination.** Either party may terminate this Agreement for convenience on thirty (30) days written notice to the other party, provided, however, this Agreement may be terminated by either party immediately upon notice if the other party: (i) materially breaches this Agreement (other than the confidentiality obligations in Section 10) and fails to cure that breach within 30 days after receiving notice; or (ii) materially breaches the confidentiality obligations in Section 10. In the event of termination by either party for any reason, EOC may immediately cancel any orders that have been placed by the Retailer. In addition, the Retailer (x) must immediately discontinue and abandon the use of all EOC Trademarks, (y) must immediately cease to advertise or represent itself as an authorized retailer or seller of EOC Products, and (z) may not sell or otherwise deal in any way with any EOC Products (including without limitation, any EOC Products). In addition, the Retailer will no longer be authorized to accept returns of any EOC Products for any reason, including without limitation, pursuant to a warranty claim. In the event a consumer attempts to return an EOC Product to the Retailer after termination, the Retailer will direct such consumer to a duly authorized EOC retailer. EOC may, in its sole discretion, require that the Retailer return all or any portion of such inventory at any time following termination. Upon such return, EOC will reimburse the Retailer the Retailer’s cost for such inventory (net of any discounts or other allowances) less fifteen percent (15%) to cover restocking charges. Notwithstanding the foregoing, with the prior written consent of EOC, the Retailer may be permitted to sell off existing inventory of the EOC Products. As consideration for the right to terminate this Agreement convenience, Retail Dealer shall, upon furnishing notice of termination, pay to EOC a termination fee in an amount equal to the value of all outstanding orders (“**Termination Fee**”). The parties intend the Termination Fee to be liquidated damages constituting compensation, and not a penalty. The parties acknowledge and agree that damages resulting from termination for convenience by the Retail Dealer would be impossible or very difficult to accurately estimate, and that the Termination Fee is a reasonable estimate of the anticipated or actual harm that may arise from such termination.
- c. Survival.** The following sections will survive the termination of this Agreement for any reason: Section 7 (Invoicing; Payment), Section 9(c) (Survival), Section 10 (Confidentiality), Section 11 (Intellectual Property) Section 13 (Indemnification), 14 (Limitation on Liability) and Section 17 (Miscellaneous).

## **10. Confidentiality.**

- a. In the performance of this Agreement, a party (the “**Discloser**”) may disclose to the other party (the “**Recipient**”) certain information that that (x) is designated by the Discloser to be confidential or (y) should reasonably be understood to be confidential given the nature of the information or the circumstances surrounding its disclosure (“**Confidential Information**”). In such event, the Recipient will protect such Confidential Information of the Discloser against any unauthorized use or distribution to the same extent that the Recipient protects its own Confidential Information of a similar nature against unauthorized use or distribution (but in no event using less than commercially reasonable efforts to protect the Confidential Information). Without limiting the foregoing:
- i. the Recipient will use such Confidential Information solely for the purposes for

- which it has been disclosed by the Discloser;
- ii. the Recipient will disclose such Confidential Information only to those of its employees, agents, consultants and other representatives who have a need to know the same for the purposes described in (i) above, and who understand and acknowledge their obligation and willingness to preserve and hold such Confidential Information in strict confidence;
  - iii. the Recipient will not copy or authorize the copying of any Confidential Information, except as required for the purposes described in (i) above or otherwise authorized by the Discloser in writing; and
  - iv. any copy of any Confidential Information that is made or authorized by the Recipient will contain all copyright, confidentiality or other proprietary notices contained on such document as delivered by the Discloser.
- b. The obligations in this Section 10 will not apply to any Confidential Information that: (i) was known to the Recipient prior to receiving the same from the Discloser in connection with this Agreement; (ii) is independently developed by the Recipient; (iii) is acquired by the Recipient from another source without restriction as to use or disclosure; (iv) is or becomes part of the public domain through no fault or action of the Recipient; or (v) is required to be disclosed by applicable law (e.g., pursuant to applicable securities laws or legal process), provided that the Recipient uses reasonable efforts to give the Discloser reasonable advance notice thereof and to limit the extent the Confidential Information is disclosed.

## **11. Intellectual Property.**

- a. **Trademarks.** EOC is the owner of various trademarks, logos and designs used from time to time in connection with the development, manufacture, marketing and sale of EOC Products, and the goodwill associated therewith (“*EOC Trademarks*”). Retailer will not contest the validity or EOC’s ownership of the EOC Trademarks or any applications or registrations therefor, and shall not at any time apply for or obtain the registration of any EOC Trademarks or do anything or allow anything to be done which might in any way impair EOC’s rights in and to the EOC Trademarks or any trademarks, service marks or trade names which are confusingly similar to the EOC Trademarks or adversely affect the validity of the EOC Trademarks. Retailer will not impugn or otherwise disparage the quality or reputation of EOC or the EOC Products, or engage in any misleading, deceptive, statements, actions or advertising or promotion concerning EOC or the EOC Products and will only use EOC and the EOC Product trademarks and imagery in a manner consistent with any written guidelines issued by EOC from time-to-time, and in a manner otherwise consistent with the high quality reputation of EOC and the EOC Products. Retailer will modify or discontinue its use of EOC Trademarks immediately upon request by EOC. Retailer will immediately notify EOC if it becomes aware of any potential infringement of any EOC Trademark.
- b. **Other Intellectual Property; Reservation of Rights.** EOC owns all rights in the EOC Products, and any software, tools, content, materials, specifications, guidelines, and instructions provided by EOC to the Retailer in connection therewith. EOC reserves all rights not expressly granted or waived in this Agreement.

**12. Data Privacy and Security.** EOC and the Retailer may, in the ordinary course of maintaining the business relationship with the other party, come to possess names, mailing addresses, email addresses and/or phone numbers in relation to the other party or its personnel (“*Business Contact Data*”). Each party will ensure that it is legally entitled to and has taken the necessary steps to enable it to: (a) provide the Business Contact Data to the other party; and (b) authorize the other party to process the Business Contact Data for the purposes of orders and transacting business with the other party.



### 13. Indemnification.

- a. **EOC's Limited Indemnification of Retailer.** If the Retailer is authorized above as an authorized retailer of the RETAIL PRODUCT, EOC will indemnify, defend, and hold harmless the Retailer from any and all claims, actions, costs, reasonable out of pocket attorneys' fees, reasonable out of pocket expenses and other liabilities (collectively, "**Claims**") arising related to RETAIL PRODUCT, solely as set forth in and subject to the conditions described in, Exhibit F attached hereto, as may be revised from time to time (the "**RETAIL PRODUCT Indemnification**"). The RETAIL PRODUCT Indemnification will not apply to any EOC Products other than the RETAIL PRODUCT. Additionally, under no circumstances will EOC be responsible or obligated to indemnify for any consequential, incidental, special, indirect, punitive or similar damages with respect to any Claim, whether or not such Claim relates to RETAIL PRODUCT. By signing this Agreement, Retailer accepts the RETAIL PRODUCT Indemnification and the terms of this Section 13(a) in lieu of any other relief or remedy obligations or rights that may otherwise be available at law or equity.
- b. **Retailer's Indemnification of EOC.** The Retailer will defend and indemnify EOC and its affiliates and its and their respective owners, officers, directors, agents and employees (collectively, the "**EOC Indemnitees**") from any and all Claims arising in whole or in part from: (i) any breach by Retailer (or any subcontractor or agent of Retailer or any of their respective personnel (collectively, "**Retailer Personnel**")) of this Agreement;(ii) any negligent act of Retailer or any Retailer Personnel or any personal injury, property damage or death to or of a third party, in or in connection with the sale, marketing, promotion, repair, maintenance or servicing of any EOC Products; (iii) Retailer's operation of or sales or Customer interactions made through, the Authorized Websites (if any); and (iv) any fraud, willful misconduct, gross negligence or negligence on the part of the Retailer or the Retailer Personnel.
- c. **Indemnification Procedure.** Except as otherwise set forth in Exhibit F,
  - i. The party seeking indemnification of a claim under this Section will give the other party: (x) prompt written notice of the claim; and (y) such assistance and information as the indemnifying party may reasonably request to help the indemnifying party defend the claim.
  - ii. The indemnifying party will not have any right to settle any such claim without the indemnified party's prior written consent (which consent will not be unreasonably withheld or delayed) if such settlement: (x) is part of any criminal action, suit or proceeding involving the indemnified party; (y) contains a stipulation to or admission or acknowledgment of any liability or wrongdoing on the part of the indemnified party; or (z) otherwise requires the indemnified party to take or refrain from taking any material action (such as the payment of fees not paid by the indemnifying party).

**14. Limitation on Liability. EXCEPT FOR OBLIGATIONS, DAMAGES OR LIABILITY ARISING OUT OF OR UNDER SECTION 5 (RETAILER OBLIGATIONS), SECTION 6 (ADVERTISING), SECTION 10 (CONFIDENTIALITY), SECTION 13 (INDEMNIFICATION), OR A PARTY'S WILLFUL MISCONDUCT, (A) NEITHER PARTY SHALL BE LIABLE FOR ANY INDIRECT, SPECIAL, INCIDENTAL, CONSEQUENTIAL, PUNITIVE OR EXEMPLARY DAMAGES OF ANY KIND (INCLUDING LOST PROFITS), REGARDLESS OF THE FORM OF ACTION, WHETHER IN CONTRACT, TORT (INCLUDING NEGLIGENCE), STRICT LIABILITY OR OTHERWISE, EVEN IF INFORMED OF THE POSSIBILITY OF SUCH DAMAGES IN ADVANCE AND (B) EACH PARTY'S TOTAL AGGREGATE LIABILITY TO THE OTHER PARTY HEREUNDER WILL NOT EXCEED THE AMOUNTS PAID BY THE RETAILER TO EOC IN THE**



**TWELVE (12) MONTHS IMMEDIATELY PRECEDING THE DATE OF THE FIRST EVENT THAT GAVE RISE TO THE LIABILITY.**

**15. Force Majeure.** EOC is not liable for delay, spoilage, or non-delivery of the EOC Products caused by acts of God or the elements, strikes, fires, terrorist attacks, accidents, delays in transit, pandemics, or any causes beyond EOC's control.

**16. Insurance.** During the Term and for a period continuing through the warranty period on all EOC Products sold pursuant hereto, the Retailer will maintain, at its expense, the following insurance policies: (a) workers' compensation in amounts meeting applicable statutory requirements; and (b) commercial general liability insurance (and/or excess/umbrella liability), written on an occurrence basis, with minimum policy limits of \$1,000,000 per occurrence, including, without limitation, premises liability, blanket contractual coverage, and products/completed operations liability. Promptly upon execution of this Agreement, the Retailer will provide certificate(s) of insurance that list EOC and its parents, affiliates and subsidiaries as additional insured parties (the "**EOC Insured Parties**"). The Retailer will provide EOC with thirty (30) days written notice prior to any material change in, or cancellation of, such insurance policies. Each of the Retailer's insurance policies required herein must contain provisions that the insurers shall have no right of recovery or subrogation against EOC Insured Parties or their insurers. These insurance terms will control over any provisions to the contrary contained in purchase orders or work orders or other related documents issued by the Retailer. All of the Retailer's insurance required herein will be primary to, and will receive no contribution from, any other insurance maintained by, on behalf of, or benefiting EOC. Evidence of such insurance will be provided during the term of this Agreement and through the expiration of the Retailer's warranty period for all EOC Products sold pursuant to this Agreement.

**17. Miscellaneous.**

- a. Clinics.** To the extent EOC holds any clinics where sales and service representatives of EOC present information for the purpose of developing and maintaining the expertise of the retailers with respect to the EOC Products, Retailer and its authorized personnel agree to attend all such clinics.
- b. Independent Contractor.** The Retailer will at all times during the Term be deemed a non-exclusive authorized retailer of EOC Products with the right to offer the EOC Products to end users in accordance with the terms of this Agreement, and as such, shall not be an agent, employee or representative of EOC or any of its affiliates, but rather shall be an independent contractor.
- c. Assignment.** This Agreement may not be assigned in whole or in part by the Retailer without the written approval of EOC. It is agreed by the parties that an assignment includes a change of ownership or change of control. EOC may assign this Agreement in whole or in part to an affiliate or to a third party who acquires all or substantially all of its assets without the consent of the Retailer.
- d. Governing Law.** This Agreement shall be construed in accordance with the laws of the State of Washington, without regard to any conflict of laws principles. The parties consent and hereby submit to the exclusive jurisdiction of the state and federal courts of Washington, for the determination of any and all issues between the parties related to this Agreement. The Retailer waives any right to a jury in any proceedings, and agrees to be subject to the Washington Long Arm Statute for service of process. The prevailing party in any action concerning this Agreement shall be entitled to an award of costs and reasonable attorneys' fees.
- e. Conflicts.** Notwithstanding anything to the contrary set forth in any other document, in the event of any conflict between the terms of this Agreement and the terms of (i) any purchase order or similar document, (ii) any addendum or to or exhibit this Agreement that may be entered into by the parties from time to time, or (iii) the Manual, the terms of this



Agreement will govern. EOC hereby expressly rejects any and all different, conflicting, or additional terms appearing on any other document provided by the Retailer, and such terms will have no force or effect.

- f. Amendment.** No amendment to or modification of this Agreement is effective unless it is in writing and signed by an authorized representative of each party. Past practice, course of dealings and any oral statements between the parties will not amend the terms of this Agreement.
- g. Waiver.** No waiver by any party of any of the provisions hereof will be effective unless explicitly set forth in writing and signed by the party so waiving. The failure of either party to require the performance of any term of this Agreement or the waiver by either party of any breach will not prevent a subsequent enforcement of such term, nor be deemed a waiver of any subsequent breach.
- h. Severability.** If any provision of this Agreement is invalid, illegal, or unenforceable in any jurisdiction, such invalidity, illegality, or unenforceability will not affect any other term or provision of this Agreement or invalidate or render unenforceable such term or provision in any other jurisdiction. Upon such determination that any term or other provision is invalid, illegal, or unenforceable, the parties shall negotiate in good faith to modify this Agreement so as to effect the original intent of the parties as closely as possible in a mutually acceptable manner.
- i. Notices.** Any notice or demand required or permitted to be given hereunder shall be in writing and shall be effective upon the personal delivery thereof, if delivered, or, if mailed, seventy-two (72) hours after having been deposited in the United States mail, postage prepaid, registered or certified, return receipt requested and addressed as follows, or by electronic transmission with confirmation of receipt: (i) if to EOC, to the address set forth at the top of this Agreement with a copy sent via certified mail to: Elevate Outdoor Collective, Attn: Legal Department, 3305 160th Ave SE, Bellevue, WA 9800 and (ii) if to the Retailer, to the address set forth at the top of this Agreement.
- j. Sole Agreement.** The terms of this Agreement shall supersede any and all other documents, agreements, representations, whether written or oral, including, without limitation, any set forth or referenced in any purchase orders or other documents issued by either party heretofore or from time to time. This Agreement shall constitute the entire understanding of the parties and supersedes any prior agreements, written or oral.
- k. Counterparts.** This Agreement may be executed in counterparts, each of which will be deemed an original and all of which together will constitute one instrument.

**EXHIBIT C**  
**INTERNET ADDENDUM**

- 1. Authorized Sales.** In addition to all terms of the Agreement, Retailer will comply with the following additional terms in respect of Internet sales:
- a. Retailer will maintain the proprietary Authorized Websites. Internet sales on third-party websites (e.g., eBay, Amazon, etc.) are strictly forbidden.
  - b. Retailer will sell EOC Products on the Internet only through the Authorized Websites or purchasers who are consumers or are end users of EOC Products. Retailer will not sell any EOC Products through online multi-brand retailers, distributors, outlets, classified listings (or similar, like Craigslist or Offerup) or liquidation services, or any “Associate Programs” or other “Front-end Internet stores” involving third parties, or any other third-party arrangement, without written approval from EOC.
  - c. Retailer will not sell any current EOC Products at auction either by Retailer or, with Retailer’s knowledge, by a commercial customer of Retailer, whether such auction is live, silent, in-person, online or otherwise.
  - d. Retailer will not sell or ship EOC Products outside of the U.S.A. and/or to freight forwarders within the U.S.A.
  - e. All EOC Products featured online will reflect correct and high quality product imagery, accurate and complete product descriptions and specifications, accurate inventory availability in a manner that is consistent with applicable laws. At minimum, Retailer will update inventory status and remove out of stock products from the Authorized Websites once daily.
  - f. Retailer will provide a product return policy and credit system which is reasonable and adequate for consumers to return purchased merchandise to Retailer and receive credit or refund for items purchased on the Authorized Websites.
  - g. Retailer will handle consumer warranty questions and issues through its Authorized Locations listed in the Agreement. If no Authorized Locations are listed in the Agreement, and the Retailer sells through the Authorized Websites only, then Retailer will handle all warranty questions and issues for the EOC Products directly with its Customers. EOC is not responsible for handling Retailer’s consumer warranty questions and issues.
  - h. Retailer will provide to EOC a preview of all EOC related advertising material prior to the advertising material appearing on the Authorized Websites or other social media accounts operated by Retailer. EOC will have the right to approve, reject or require modifications to all advertising material and other content.
  - i. Retailer warrants that all online credit transactions will be processed using secured, encrypted, online shopping basket technology meeting then current industry standards.
  - j. Retailer has received a copy of the then current “Affected Products” list for Safe Drinking Water and Toxic Enforcement Act of 1986 (“Prop 65”). Before offering any of the products listed as “Affected Products” by EOC for sale to California consumers, Retailer will label all Authorized Website pages containing “Affected Products” with statutorily compliant Prop 65 warnings.

**EXHIBIT D**  
**PRICING ADDENDUM**

As provided by an authorized representative of EOC to Retailer.

**EXHIBIT E**  
**ORDER FORM**

As available on EOC's B2B software platform or otherwise provided to Retailer by an authorized representative of EOC.

**EXHIBIT F**  
**INDEMNIFICATION OF RETAILER**

The terms set forth in this Exhibit F (this “**Retailer Indemnification**”) shall only apply if all conditions and requirements set forth herein shall be satisfied by Retailer.

- 1. Products Subject to Retailer Indemnification.** Retailer may seek indemnification hereunder only for those RETAIL PRODUCT (the “**Indemnified Products**”) that were: (i) originally sold by EOC to the Retailer pursuant to this Agreement during the Term and (ii) identified in the then-current edition of the Manual as a currently offered product as of the date of purchase by the Retailer; and (iii) were purchased by the Customer purely for personal use and not for rental or resale.
- 2. EOC Responsibilities.** Subject to the terms and conditions stated in this Agreement and in the Manual, EOC will indemnify and may defend a Retailer against a Claim against Retailer made by a Customer of the Retailer in connection with bodily injuries caused by the Customer’s proper use of an Indemnified Product sold, rented or serviced by the Retailer. The Retailer’s full cooperation with EOC is an absolute condition precedent to consideration for any defense, indemnity or other benefit.
- 3. Retailer Acknowledgment.** This Retailer Indemnification provides the sole remedy of the Retailer against EOC and all EOC affiliates and related individuals in the event of a Claim against the Retailer, its owners, agents or employees involving any Indemnified Product.
- 4. Conditions.** In the event of a threatened or actual Claim against a Retailer with respect to an Indemnified Product, Retailer will strictly comply with all of the following requirements and any requirements in the Manual; such requirements are absolute conditions precedent to consideration for any Retailer Indemnification:
  - a. Retailer will notify EOC of any potential, actual or threatened Claim related to an Indemnified Product in writing within ten (10) days of receipt of such Claim or of first learning of any such potential, actual or threatened Claim. Notification must include copies of all Claim notice documents (including any letters or legal papers), any Post Accident Ski Equipment Inspection Forms (see below), and any workshop tickets, rental agreements and other written materials pertaining to the Claim (see below). Retailer must notify its insurance company at the same time it provides notice to EOC.
  - b. Retailer will fully and completely cooperate with EOC, its attorneys and insurers, and must use legal counsel selected by EOC. Written notice must be sent to the addresses for notice set forth in the Terms.
  - c. Retailer will, at all times, strictly follow the procedure set forth in Section 6, below, of this Exhibit F, concerning the handling of potential, actual or threatened Claims related to Indemnified Products and information to provide when providing notice of Claims related to Indemnified Products.
- 5. Exclusions.** This Retailer Indemnification specifically excludes any defense, indemnity or other benefits in the event of any failure by the Retailer to meet its obligations and abide by the terms and conditions of this Agreement and/ or the Manual. Additionally:
  - a. EOC sales and technical representatives are not authorized to modify or interpret the terms of this Agreement, including, without limitation, this Retailer Indemnification, and any statement by such representatives shall not be binding on EOC.
  - b. If EOC grants indemnification and later learns of facts that would preclude it, EOC may withdraw any defense or indemnity upon written notice to the Retailer.
  - c. EOC will have full authority to control the defense of any indemnified claims, including settlement, trial and appeal. Under no circumstances will Retailer admit any liability on behalf of EOC without EOC’s prior written consent.
  - d. EOC’s obligation to the Retailer shall not exceed the limits of any insurance covering such obligations, as may be maintained by EOC.
  - e. The Indemnified Product that is the subject of the Claim must have been used solely for its intended use and manner and not for any other use or in any other manner.
  - f. RETAIL PRODUCT which are worn out or otherwise unsuitable for use, such as those which fail the inspections described in the Manual, will not be indemnified.
- 6. Instructions for Handling Claims.** Injuries are inherent in the sport of skiing, and legal claims often follow injuries. If the Retailer receives notice of an injury, complaint, claim or potential claim from a skier or someone



acting on behalf of a skier involving an Indemnified Product the Retailer must do each of the following:

- a. Be sympathetic and polite;
  - b. Not create a confrontation or apologize or express an opinion;
  - c. Not admit, allocate or discuss fault, wrongdoing or legal responsibility by Retailer, EOC, the Customer or any other party;
  - d. Not volunteer information;
  - e. If a skier, family member or representative asks for details or compensation related to a Claim, simply state that the Retailer is not authorized to discuss accidents or legal situations without first seeking professional advice. This is very important, as comments made without professional advice and before an investigation is completed may lead to misunderstandings.
  - f. Attempt to get as many details and documents as possible about the incident, complaint or Claim, including, but not limited to:
    - i. Full name and address of the injured skier;
    - ii. Date that the accident or injury occurred;
    - iii. Specific details of the accident or injury;
    - iv. At what resort the accident or injury occurred;
    - v. What ski equipment was involved, in as much detail as possible (binding, ski and boot model, boot sole type, etc.);
    - vi. All workshop tickets, rental agreements, test reports and other documents and information relating to the equipment.
    - vii. If you cannot locate a workshop form for this equipment and skier, try to obtain as much information about the skier as you can (height, weight, age, skier type and boot sole length, etc.) in order to recalculate the recommended binding visual indicator setting.
    - viii. If possible, inspect and collect the information on the Indemnified Product involved in the accident or injury giving rise to the Claim.
    - ix. Post-accident information instructions are available from EOC on request ("***Post Accident Information Instructions***"). Retailer must completely fill out the Post Accident Ski Equipment Inspection Form.
  - g. Advise the skier or his or her representative that the Retailer is sending the complaint to the Retailer's insurance company, as well as forwarding it to EOC. EOC and/or Retailer's insurance company will contact the skier or his or her representative and conduct an investigation.
  - h. Retain and properly secure any and all Indemnified Products or other products or materials subject or related to any Claim.
7. **Survival.** The terms of this Retailer Indemnification shall survive the expiration of this Agreement for the period of the stated warranty extended to the Retailer's customers by EOC on the relevant Indemnified Product. Notwithstanding the foregoing, this Retailer Indemnification shall not survive and shall terminate immediately upon the termination of this Agreement due to any breach of the terms of this Agreement by Retailer or the discontinuance of the Retailer Indemnification pursuant to Section 6(b), above, of this Exhibit F.