

# PURCHASE AND SALE AGREEMENT

This Equipment Purchase and Sale Agreement (the “**Agreement**”) is dated as of October 21, 2023 (the “**Effective Date**”), by and between ABC, Inc., a Delaware corporation whose address is 1121 Avenue of the Americas, New York, New York 10020 (“**Seller**”) and XYZ Corp, whose address is 300 Cobra Street, Hamilton HM 11, Bermuda (“**Buyer**”).

WHEREAS, Buyer wants to purchase certain printers from Seller and Seller wishes to sell certain printers to Buyer;

NOW THEREFORE, in consideration of the mutual promises and covenants set forth in the Agreement, the parties agree as follows:

**1. Purchase and Sale of Equipment.** At the Closing (as defined in paragraph 2) Seller shall sell, transfer, convey, assign, and deliver to Buyer, and Buyer shall purchase, accept, and pay for all right, title, and interest in and to ten (10) laser printers known as SL PainFree Printers (the “**Equipment**”), and Buyer shall pay Seller Ten Thousand and 00/100 dollars (\$10,000.00) (the “**Purchase Price**”).

**2. Closing.** The closing shall take place by exchange of executed copies of the Agreement including the attached Bill of Sale labeled Exhibit A on or before November 10, 2020, and mutual exchange and delivery of the original signed agreements via FedEx the next business day, or on such other date as the parties may mutually determine in writing.

**3. Representations and Warranties of Seller.** Seller represents and warrants to Buyer that (a) it is a Delaware corporation, duly organized and in good standing in the State of Delaware; (b) that it has full power and authority, including full corporate power and authority, to execute and deliver this Agreement and to perform Seller’s obligations hereunder; (c) that this Agreement constitutes the valid and legally binding obligation of Seller, enforceable in accordance with its terms and conditions; and (d) that Seller has good and marketable title to the Equipment, free and clear of all security interests, liens and encumbrances. Other than as expressly set forth herein, the Equipment is being sold “as-is” “where-is” with no representations or warranties of any kind.

**4. Representations and Warranties of Buyer.** Buyer represents and warrants to Seller that the statements contained in this Section 4 are true, correct and complete as of the Effective Date and will be true, correct and complete as of the Closing Date.

4.1. Organization of the Buyer and Authorization of Transaction. Buyer has full power and authority, including full corporate power and authority, to execute and deliver this Agreement and to perform and consummate, its obligations hereunder. This Agreement constitutes the valid and legally binding obligation of Buyer, enforceable in accordance with its terms and conditions.

4.2. Noncontravention. Neither the execution and the delivery of this Agreement, nor the consummation of the transactions contemplated hereby, will, immediately or with the passage of time: (A) violate any constitution, statute, regulation, rule, injunction, judgment, order, decree, ruling, charge, or other restriction of any

government, governmental agency, or court to which Buyer is subject; or (B) conflict with, result in a breach of, constitute a default under, result in the acceleration of, create in any party the right to accelerate, terminate, modify, or cancel, or require any notice under any agreement, contract, lease, license, instrument, or other arrangement to which Buyer is a party or by which it is bound.

- 4.3. Consents. No approval, consent, waiver, or authorization of or filing or registration with any governmental authority or third party is required for the execution, delivery, or performance by Buyer of the transactions contemplated by this Agreement.
- 4.4. Litigation. Buyer is not: (A) subject to any outstanding injunction, judgment, order, decree, ruling, or charge that would limit, restrict or prevent consummation of the transactions contemplated hereby; or (B) a party, or, to the knowledge of Buyer's officers, threatened to be made a party, to any action, suit, proceeding, hearing, or investigation of, in, or before any court or quasi-judicial or administrative agency of any federal, state, local, or foreign jurisdiction or before any arbitrator that would, if determined adversely to Buyer: (1) limit, restrict or prevent consummation of the transactions contemplated hereby; or (2) cause any representation or warranty of Seller herein to be not true.
- 4.5. Brokers' Fees. Buyer has no liability or obligation to pay any fees or commissions to any broker, finder, or agent with respect to the transactions contemplated by this Agreement for which the Seller could become liable or obligated.
- 4.6. Disclosure. The representations and warranties contained in this Section 4 do not contain any untrue statement of a fact or omit to state any fact necessary in order to make the statements and information contained in this Section 4 not misleading.

**5. Pre-Closing.** Each of the parties will use its reasonable best efforts to take all actions and to do all things necessary, proper, or advisable in order to consummate and make effective the transactions contemplated by this Agreement.

**6. Post Purchase Covenants.** In case at any time after the Closing any further action is necessary or desirable to carry out the purposes of this Agreement, each of the parties will take such further action (including the execution and delivery of such further instruments and documents) as any other party may request, at the sole cost and expense of the requesting party (unless the requesting party is entitled to indemnification therefore under Section 10 below). Without limiting the foregoing, Seller shall from time to time at the request of Buyer and without further consideration, execute and deliver such instruments of transfer, conveyance, and assignment in addition to those delivered hereunder, and will take such other actions as Buyer may request from time to time, to more effectively transfer, convey, and assign to and vest in Buyer, and to put Buyer in possession of, all or any portion of the Equipment.

**7. Conditions to Obligation to Close.**

- 7.1. Conditions to Obligation of the Buyer. The obligation of the Buyer to perform this Agreement is subject to the condition that the representations and warranties

of Seller set forth in Section 3 shall be true and correct in all material respects at and as of the Closing Date.

- 7.2. Conditions to Obligation of Seller. The obligation of Seller to consummate the transactions to be performed by it in connection with the Closing is subject to satisfaction of the following conditions: (A) the representations and warranties of Buyer set forth in Section 3 shall be true and correct in all material respects at and as of the Closing Date; (B) no action, suit, or proceeding shall be pending or threatened before any court or quasi-judicial or administrative agency of any federal, state, local, or foreign jurisdiction or before any arbitrator wherein an unfavorable injunction, judgment, order, decree, ruling, or charge would: (1) prevent consummation of any of the transactions contemplated by this Agreement, (2) cause any of the transactions contemplated by this Agreement to be rescinded following consummation, or (3) make any of the representations or warranties set forth in Section 3, not true or not correct; and (C) all actions to be taken by Buyer in connection with consummation of the transactions contemplated hereby and all certificates, instruments, and other documents required to effect the transactions contemplated hereby will be reasonably satisfactory in form and substance to Seller. Seller may waive any condition specified in this Section 7.2 if it executes a writing so stating at or prior to the Closing.

**8. Items to be Delivered.** At the Closing: (A) Seller shall: (1) deliver to Buyer a bill of sale substantially in the form attached hereto as Exhibit A (the “**Bill of Sale**”) to transfer and vest in Buyer good and marketable title to the Equipment, free and clear of all liens and encumbrances; and (2) make the Equipment available to the Buyer at Seller’s location up to \_\_\_\_\_ [insert date]; and (B) Buyer shall deliver to Seller the 10% of the Purchase Price, by wire transfer in accordance with Seller’s written instructions then the remaining 90% of the Purchase Price by the \_\_\_th [insert day] of \_\_\_\_\_ [insert month] 2020. Buyer shall arrange promptly take possession of the Equipment.

**9. Termination.** Either party may terminate the Agreement by giving written notice to the other party at any time prior to the Closing in the event that other party has breached any material representation, warranty, or covenant contained in this Agreement in any material respect and the terminating party has provided the other party with ten (10) business days written notice of the such breach and that other party has not cured its breach within the notice period. If a party terminates this Agreement pursuant to this section 9, all rights and obligations of the parties hereunder shall terminate without any liability of any party to the other party, except for any liability of a party then in breach.

**10. Indemnification.** Buyer shall indemnify and hold Seller harmless from any and all Damages that are suffered or incurred by Seller, in whole or in part, from time to time, and arise as a result of: (A) any breach of the covenants, warranties or representations of this Agreement or the Bill of Sale by Buyer; or (B) Buyer’s ownership and utilization of the Equipment on and after the Closing Date.

**11. No Third-party Beneficiaries.** This Agreement shall not confer any rights or remedies upon any person other than the parties and their respective successors and permitted assigns.

**12. Entire Agreement, Waiver and Modification.** This Agreement sets forth the entire understanding of the parties concerning the subject matter hereof and incorporates all prior negotiations and understandings. There are no promises, agreements, conditions or understandings, either oral or written, between them relating to the subject matter of this Agreement other than those in this Agreement. No amendment or change to this Agreement shall be binding unless it is in writing and signed by both parties.

**13. Notices.** Any consent, waiver, notice, demand, or request permitted under this Agreement shall be in writing and deemed to have been properly given at the earlier of: (A) actual delivery, when delivered in person or (B) three (3) business days after being sent by certified United States mail, return receipt requested, postage prepaid, to the party's address first set forth above.

**14. Captions.** The captions and paragraph numbers appearing in this Agreement are inserted only as a matter of convenience. They do not define, limit, construe or describe the scope or intent of the provisions of this Agreement.

**15. Applicable Law, Venue and Jurisdiction.** This Agreement shall be construed and governed under and by the laws of the State of New York for contracts entered and to be performed within New York. The parties agree that exclusive venue for any legal action authorized hereunder shall be in the borough of Manhattan, in the State of New York and jurisdiction shall be vested in the courts in that borough.

**16. WAIVER OF JURY TRIAL.** THE PARTIES KNOWINGLY AND VOLUNTARILY WAIVE ALL OF THEIR RIGHTS TO A TRIAL BY JURY ON ANY AND ALL ISSUES PERTAINING TO OR ARISING OUT OF THIS AGREEMENT AND EQUIPMENT.

**17. Construction.** The parties have participated jointly in the negotiation and drafting of this Agreement. In the event an ambiguity arises, this Agreement shall be construed as if drafted jointly by the parties.

**18. Attorney's Fees.** In the event any litigation, mediation, arbitration, or controversy between the parties hereto arises out of or relates to this Agreement, the prevailing party shall be entitled to recover from the other party its reasonable attorneys' fees, expenses and suit costs, including those associated with any appellate proceedings or any post-judgment collection proceedings.

**19. Counterparts.** This Agreement may be executed in one or more counterparts, each of which shall be deemed an original but all of which together will constitute one and the same Agreement.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the date first above written.

Seller:

\_\_\_\_\_  
Mike Schmidt  
President ABC, Inc.

Buyer:

\_\_\_\_\_  
Greg Luzinski  
Vice President, Purchasing  
XYZ Corp.

**Exhibit A**  
**Bill of Sale**

KNOW ALL MEN BY THESE PRESENTS THAT FOR GOOD AND VALUABLE CONSIDERATION, the receipt and sufficiency of which is hereby acknowledged, ABC, Inc. (“**Seller**”), hereby grants, bargains, sells, conveys, transfers and delivers unto XYZ Corp, whose address is 300 Cobra Street, Hamilton HM 11, Bermuda (“**Buyer**”), to have and to hold forever, all right, title, and interest in and to ten (10) laser printers known as SL PainFree Printers serial numbers 100200304 through 100200314 (the “**Assets**”).

Seller: (A) warrants and represents that:

- (1) it is the lawful owner in all respects of all of the Assets; and
- (2) the Assets are free and clear of any and all liens, security agreements, encumbrances, claims, demands and charges of every kind and character whatsoever; and

(B) covenants and agrees at all times and from time to time hereafter, at its expense, to:

- (1) warrant and defend the title to all of the Assets unto the Buyer, its successors and assigns, forever against every person whomsoever makes any claim against or for such herein described property and the Assets or any part thereof; and
- (2) execute and deliver to Buyer such further instruments, documents, consents and assurances as Buyer may reasonably request to fully and effectively sell, convey and transfer the Assets to Buyer.

IN WITNESS WHEREOF, this Bill of Sale shall has been executed and delivered, and shall be effective to transfer all of the Assets, as of this \_\_\_th day of \_\_\_\_\_ [insert month], 2020.

**Seller:** ABC, Inc.

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Mike Schmidt, President