

NON-EXCLUSIVE SALES REPRESENTATIVE AGREEMENT

This Non-Exclusive Sales Representative Agreement (the “Agreement”) is made and effective as of _____, 20____ (“Effective Date”) by and between _____, [an individual] [corporation] [etc.] (the “Representative”) and Elemental Research, Inc., an Idaho corporation (the “Company”). The Representative and the Company may be referred to individually as a “Party” or collectively as the “Parties.”

RECITALS

WHEREAS, the Company is engaged in the marketing and sale of the Products (as defined below and listed in Exhibit A to this Agreement); and

WHEREAS, the Company wishes to engage the Representative as an independent non-exclusive sales representative of the Products for the Company on the terms and conditions set forth below; and

WHEREAS, the Representative wishes to market and sell the Products in accordance with the terms of this Agreement; and

WHEREAS, each Party is duly authorized and capable of entering into this Agreement.

NOW THEREFORE, in consideration of the above recitals and the mutual promises and benefits contained herein, the Parties hereby agree as follows:

1. PURPOSE AND APPOINTMENT.

The Company hereby appoints the Representative as a non-exclusive sales representative to sell and promote the Company’s products or services, including those products or services listed in Exhibit A (the “Products”) hereto, in the Territory (as defined in Section 4). The Representative acknowledges that this is a non-exclusive appointment and that the Company retains the right to appoint additional representatives, without liability or obligation to the Representative, and the Representative hereby accepts the appointment and agrees to represent and promote the sale of the Products on a non-exclusive basis.

2. CONFIDENTIAL INFORMATION.

The Representative agrees, during the Term and thereafter, to hold in strictest confidence, and not to use, except for the benefit of the Company, or to disclose to any person, firm, or corporation without the prior written authorization of the Company, any Confidential Information of the Company. “Confidential Information” means any of the Company’s proprietary information, technical data, trade secrets, or know-how, including, but not limited to, research, product plans, products, services, customer lists, markets, software, developments, inventions, processes, formulas, technology, designs, drawings,

engineering, hardware configuration information, marketing, finances, or other business information disclosed to the Representative by the Company, either directly or indirectly. The Representative may use the Confidential Information to the extent necessary for negotiations, discussions, and consultations with Company personnel or authorized representatives or for any other purpose Company may hereafter authorize in writing.

3. NATURE OF RELATIONSHIP.

Nothing in this Agreement shall be construed as creating a joint venture, partnership, agency, employer/employee, or similar relationship between the Parties, or as authorizing either Party to act as the agent of the other. The Representative's relationship to the Company is that of an independent contractor. The Representative shall have no authority to bind the Company to any contractual terms. Nothing in this Agreement shall create any obligation between either Party and a third party.

4. TERRITORY.

The Representative shall not be given any geographical area as an exclusive territory under this Agreement.

5. SALE PRICE OF PRODUCTS.

The Company shall determine all prices and terms of sale for the Products. The Company will notify the Representative of any price changes for the Products.

6. COMPENSATION.

(a) Commissions. The Representative shall be entitled to receive a commission on sales of the Products, which sales were made substantially through the efforts of the Representative during the Term (or any extension of the Term). Commissions shall be payable as follows:

- i. 10 % of the Net Amount (as defined below) charged by the Company for orders of the Products placed through the Representative for a new Customer; and
- ii. 7 % of the Net Amount (as defined below) charged by the Company for orders of the Products placed through the Representative for an Existing Customer.

"Existing Customer" is a customer who has placed an order, either directly or through a Representative, within the past 365 days.

"Net Amount" is the sales price of the sold product as listed on the invoice, less charges for handling, freight, sales, use, value added, or similar taxes, import or export taxes or levies taxes, C.O.D. charges,

insurance, customs duties, trade discounts, and/or any other governmental or administrative fees or charges.

- (b) Timing of Payment. Commissions will be forwarded to the Representative within fifteen (15) days of the Company's receipt of payment from the customer, and shall be based on the amounts received. For example, if payments from a customer to the Company will be made in installments, payments to the Representative by the Company will also be made in installments.
- (c) Offsets and Charge-Backs. In calculating the commission that is due to the Representative, the Company may offset any credits, cancellations, refunds, allowances, and returns to or by customers of revenues on which Representative has already been paid commissions under this Agreement; provided, however, that in no event shall the offset for any customer exceed the sales price of that customer's returned, cancelled, or otherwise credited products.
- (d) No Commissions in Certain Circumstances. Notwithstanding the foregoing, no commission shall be payable to the Representative under any of the following circumstances:
- (i) if prohibited under applicable government law, regulation, or policy;
 - (ii) if the Representative did not directly facilitate the sale of the Products to a customer;
 - (iii) on any sale to customers that are directly or indirectly owned by or under common ownership with the Representative; or
 - (iv) on any sale of Products to a customer occurring after the expiration or termination of the Term (or any extension of the Term) unless:
 - a. the sale takes place within thirty (30) days after the termination or expiration of this Agreement; and
 - b. the sale is the direct result of the Representative's sales efforts before such termination or expiration.
- (e) No Other Compensation. The compensation set out above shall be the Representative's sole compensation under this Agreement.

- (f) Expenses. Any expenses incurred by the Representative in the performance of this Agreement shall be the Representative's sole responsibility.
- (g) Taxes. The Representative is solely responsible for payment of all income, social security, employment-related, or other taxes incurred as a result of the performance of services by the Representative under this Agreement and for all obligations, reports, and timely notifications relating to such taxes. The Company shall have no obligation to pay or withhold any sums for such taxes.

7. NO CONFLICT OF INTEREST.

The Representative hereby warrants to the Company that the Representative does not currently represent or promote any lines or products that compete with the Products. During the Term (as defined below), the Representative shall not represent, promote, or otherwise try to sell in the Territory any lines or products that, in the Company's judgment, compete with the Products. The Representative shall provide the Company with a list of the companies and the products that it currently represents, and shall notify the Company in writing of any new companies or products at such time as its promotion of those new companies and products commences.

8. REPRESENTATIVE'S REPRESENTATIONS AND WARRANTIES.

The Representative agrees to:

- (a) devote such time, energy, and skill on a regular and consistent basis as is necessary to sell and promote the sale of the Company's Products and services during the Term of this Agreement;
- (b) assist in finalizing agreements and purchase orders with each customer, in form and substance satisfactory to the Company, for such customer's purchase of the Products;
- (c) accurately represent and state Company policies to all potential and present customers;
- (d) promptly inform the Company of all sales and orders;
- (e) maintain contact with the Company via telephone, e-mail, or other agreed on means of communication with reasonable frequency to discuss sales activity;
- (f) disclose any problems concerning customers (including Existing Customers) to the Company; and

- (g) perform such other sales-related services with respect to the customers as the Company may reasonably require.

9. COMPANY'S REPRESENTATIONS AND WARRANTIES.

The Company hereby represents and warrants as follows:

- (a) That it will provide the Representative, at no cost, materials relating to the Products for use in selling and marketing the Products;
- (b) That it will provide the Representative with current information as to improvements, upgrades, or other changes in the Products; and
- (c) That it will make timely payments of commissions earned under this Agreement.

10. TERM.

This Agreement is effective as of the Effective Date, and shall continue in force, unless otherwise terminated, for a period of one (1) year[s] (the "Term"). The Agreement may be renewed only pursuant to a separate written agreement signed by both Parties, or by the mutual agreement of the Parties to extend this Agreement by one (1) year[s] [; provided, however, that in no event shall this Agreement remain effective for longer than two (2) years].

11. TERMINATION.

This Agreement may be terminated:

- (a) By either Party on provision of thirty (30) days written notice to the other Party; or
- (b) By either Party, effective immediately on receipt of written notice of termination, if any of the following events occur:
 - i. Either Party becomes the subject of a proceeding under bankruptcy, receivership, insolvency, or similar law, which is not dismissed within fifteen (15) days after being instituted;
 - ii. Breach of Section 2 or Section 8 of this Agreement;
 - iii. The other Party fails to cure a material breach of this Agreement, other than a breach of Section 2 within five (5) days after receipt of written notice of such breach and opportunity to cure;

- iv. This Agreement, or the actions of either Party, is found to be in violation of any law, other than a technical violation that is curable and cured within three (3) days after receipt of written notice of such violation from the non-violating Party.

12. RETURN OF PROPERTY.

Within ten (10) days of the termination of this Agreement, whether by expiration or otherwise, the Representative agrees to return to the Company, all Products, samples, or models, and all documents, retaining no copies or notes, relating to the Company's business including, but not limited to, reports, abstracts, lists, correspondence, information, computer files, computer disks, and all other materials and all copies of such material, obtained by the Representative during its representation of the Company.

13. INDEMNIFICATION.

(a) Of Company by Representative

The Representative shall indemnify and hold the Company harmless of and from any and all claims, damages, or lawsuits (including reasonable attorneys' fees) arising as a result of negligent, intentional, or other acts of the Representative, its employees, or its agents.

(b) Of Representative by Company

The Company shall indemnify and hold the Representative free and harmless of and from any and claims, damages, or lawsuits (including reasonable attorneys' fees) arising as a result of negligent, intentional, or other acts of the Company or its employees, defects in the Products caused by the Company, or the failure of the Company to provide any products to a customer that has properly ordered through the Representative.

14. USE OF TRADEMARKS.

The Representative recognizes the Company's right, title, and interest in and to all service marks, trademarks, and trade names used by the Company and agrees not to engage in any activities or commit any acts, directly or indirectly, that may contest, dispute, or otherwise impair the Company's right, title, and interest therein, nor shall the Representative cause diminishment of value of said trademarks or trade names through any act or representation. The Representative shall not apply for, acquire, or claim any right, title, or interest in or to any such service marks, trademarks, or trade names, or others that may be confusingly similar to any of them, through advertising or otherwise. Effective as of the termination of this Agreement, the Representative shall cease to use all of the Company's trademarks, marks, and trade names.

15. ASSIGNMENT.

The rights and the duties of the Representative under this Agreement are personal, and may not be assigned or delegated without the prior written consent of the Company. The Company may assign its rights and duties under this Agreement with the prior written consent of the Representative.

16. SUCCESSORS AND ASSIGNS.

All references in this Agreement to the Parties shall be deemed to include, as applicable, a reference to their respective successors and assigns. The provisions of this Agreement shall be binding on and shall inure to the benefit of the successors and assigns of the Parties.

17. NO IMPLIED WAIVER.

The failure of either Party to insist on strict performance of any covenant or obligation under this Agreement, regardless of the length of time for which such failure continues, shall not be deemed a waiver of such Party's right to demand strict compliance in the future. No consent or waiver, express or implied, to or of any breach or default in the performance of any obligation under this Agreement shall constitute a consent or waiver to or of any other breach or default in the performance of the same or any other obligation.

18. NOTICE.

Any notice or other communication provided for herein or given hereunder to a party hereto shall be in writing and shall be given in person, by overnight courier, or by mail (registered or certified mail, postage prepaid, return receipt requested) to the respective party as follows:

If to the Company:
Elemental Research Inc
4353 E Poleline Avenue
Post Falls, ID 83854

If to the Representative:

19. GOVERNING LAW.

This Agreement shall be governed by the laws of the state of Idaho. In the event that litigation results from or arises out of this Agreement or the performance thereof, the Parties agree to reimburse the prevailing party's reasonable attorneys' fees, court costs,

and all other expenses, whether or not taxable by the court as costs, in addition to any other relief to which the prevailing party may be entitled.

20. COUNTERPARTS/ELECTRONIC SIGNATURES.

This Agreement may be executed in one or more counterparts, each of which shall be deemed an original but all of which shall constitute one and the same instrument. For purposes of this Agreement, use of a facsimile, e-mail, or other electronic medium shall have the same force and effect as an original signature.

21. SEVERABILITY.

Whenever possible, each provision of this Agreement, will be interpreted in such manner as to be effective and valid under applicable law, but if any provision of this Agreement is held to be invalid, illegal, or unenforceable in any respect under any applicable law or rule in any jurisdiction, such invalidity, illegality, or unenforceability will not affect any other provision or any other jurisdiction, but this Agreement will be reformed, construed, and enforced in such jurisdiction as if such invalid, illegal, or unenforceable provisions had never been contained herein.

22. ENTIRE AGREEMENT.

This Agreement, constitutes the final, complete, and exclusive statement of the agreement of the Parties with respect to the subject matter hereof, and supersedes any and all other prior and contemporaneous agreements and understandings, both written and oral, between the Parties.

23. HEADINGS.

Headings used in this Agreement are provided for convenience only and shall not be used to construe meaning or intent.

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

[SIGNATURE PAGE FOLLOWS]

COMPANY

ELEMENTAL RESEARCH, INC.

By: _____

Name:

Title:

REPRESENTATIVE

[REPRESENTATIVE NAME]

By: _____

Name:

Title:

EXHIBIT A

PRODUCTS

(Here should be the product price list and explanation of levels)