

SALES AGREEMENT FOR MYCONTROL BATHING SYSTEM

Accessible Bath Technologies, LLC hereby sells and _____ buys for the price and on the terms and conditions set forth below and on the reverse hereof (or sales invoice/receipt) the following described products.

(QTY) _____ MyControl Bathing System with touch screen technologies.

The sales information is the same listed in the attached sales invoice (your sales receipt)

THE TERMS AND CONDITIONS STATED ON THE REVERSE HEREOF AND/OR LISTED IN THE ATTACHED SALES INVOICE ARE PART OF THIS AGREEMENT.

**ABT INDEPENDENT PRODUCT SALES
REPRESENTATIVE** (not an employee of ABT, LLC)

BUYER

By: _____

Name:

Title:

By: _____

Name:

Address:

Delivery Address (if different than Buyer address):

NCIL Member _____ NCIL Referred _____ CIL Referred _____

TERMS AND CONDITIONS

1. Shipment and Delivery. ABT or Independent Product Sales Representative will package and ship the products in accordance with standard commercial practices. The products will be shipped F.O.B. ABT's manufacturing plant to Buyer's or ABT Product Sales Representative's location specified in this Agreement, by a mode of shipment selected by ABT and then by Independent Product Sales Representative. Buyer acknowledges and agrees that the products will require professional installation, and that such services and related costs are Buyer's sole responsibility and are not included in or covered by this Agreement.

2. Inspection and Acceptance. ABT will use commercially reasonable efforts to deliver the products in an expedient manner to the Independent Product Sales Representative. ABT will not be liable to Buyer or to any other party for any delay in the delivery of the products. Buyer and/or Independent Product Sales Representative must provide ABT written notice within thirty (30) days of delivery if the delivered products are defective, and will return such defective products in accordance with instructions provided by ABT. If Buyer and/or Independent Product Sales Representative fails to give such notice to ABT in such thirty (30) day period, Buyer and/or Independent Product Sales Representative shall be deemed to have accepted the delivered products.

3. Right to Cure. ABT will not be required to accept any return of a defective product that is not covered by a warranty in this Agreement. If a defective product is eligible for return, the Buyer may return the defective product directly to ABT. All shipping costs in connection with a warranty return are the responsibility of Buyer. ABT shall have the right to cure within thirty (30) days of notification of the nonconformity of its intent to cure.

4. ABT Warranty

4.1 Limited Warranty. ABT warrants all MyControl Bathing Systems purchased under this Agreement against defects in materials and workmanship for _____ (_____) years from the date of purchase by Buyer. This warranty applies to the shell which is warranted against cracks or blisters in the acrylic surface, but does not extend to fading or normal wear of the acrylic or painted surfaces. Further, this Warranty shall not apply to in production repair to basin, the door, or hinge system, blemishes or minor variations in tint or contour design between the MyControl Bathing Systems purchased under this Agreement and any existing MyControl Bathing Systems that may have been used for demonstrations or otherwise. The whirlpool system, not including pump, is also warranted against defects in materials and workmanship which includes leaks or mechanical failure. The whirlpool pump and heater is covered by a separate manufacturer's warranty for a period designated by each manufacturer. Factory added options are warranted against defects in materials and workmanship. ABT warrants all electronic control boards, power supplies, and sensors against defects in materials and workmanship. The warranty does not include damage or defects caused by the shipper, installer or any other person who may handle the unit after it has left ABT's factory. In addition, the warranty does not cover defects caused by unauthorized or unreasonable use, improper care or cleaning, damages caused by the use of unapproved chemicals, or damage caused by additions or modifications not performed by ABT.

ABT reserves the right to inspect any component or part submitted for warranty consideration. ABT will repair or replace defective components or parts with a new or reconditioned item at their option. Repair or replacement of any component or parts is limited to one occurrence per bathing system purchase. ABT may at their option replace or repair any component or parts more than once. In doing so, this does not alter this warranty nor does it mean that any such good-will gesture will be repeated.

This warranty only applies to products that are installed for residential use. **NO WARRANTY IS GIVEN IF A RESIDENTIAL UNIT IS USED IN COMMERCIAL SITUATIONS.** In addition, this warranty only extends to the first consumer purchaser, and not to subsequent owners.

ABT WILL NOT BE RESPONSIBLE FOR INCIDENTAL OR CONSEQUENTIAL DAMAGES THAT MAY ARISE FROM ANY DEFECT IN THE PRODUCT INCLUDING BUT NOT LIMITED TO DAMAGE TO CARPET, CEILING, WALLS, LOSS OF USE, OR DAMAGE CAUSED BY INSTALLATION OR REMOVAL, PERSONAL INJURIES AMONG OTHER REASONABLE NATURAL OR MAN-MADE CONDITIONS OR EVENTS.

The MyControl Bathing System **MUST NOT BE INSTALLED WHERE IT WILL RECEIVE DIRECT SUNLIGHT.** Direct sunlight may interfere with the product's operation. Additionally, acrylic manufacturers recommend that their products be placed out of direct sunlight to extend the life span of the material.

In the event of any defect or problem that is covered under this warranty, ABT will repair or replace, at its discretion, the defective part or unit. The warranty on all components covers parts and materials, but does not include labor, cost of removal, transportation, reinstallation, or any costs incurred, or any profits lost during repair period. No person or company not legally affiliated with ABT is authorized to perform warranty work on any item covered by ABT. Buyer must accept that this device may send or receive interference signals, radio frequencies and/or light. And that such interference might affect device's operation.

The MyControl Bathing System warranty does not extend to or cover the limited thank you gift pillow or door edge cushion. The pillow and door edge cushion is warranted against manufacture defects for a period of thirty (30) days from delivery, and such warranty does not include variations in material color. If a problem exists with the pillow or door edge cushion that is not a result of misuse, ABT will repair or replace the pillow or cushion without charge as covered in the terms of this warranty. Shipping and handling, removal and installation charges are not covered by this warranty.

This warranty is limited to the remedy herein and does not cover or extend to damage or damages resulting from the defect or use of the product(s). A claim for product defect must be made by calling or writing ABT at the telephone number and address listed on the ABT web site contact page.

This warranty only applies to MyControl Bathing Systems sold in the United States of America. ABT reserves the right, without limitation, to modify or change this warranty without giving

notice. This warranty gives you specific legal rights, and you may have other rights that vary from state to state.

4.2 Compliance with Health and Safety Laws. ABT warrants that the products specified in this Agreement are built in compliance with Section 4.20 of the American Disability Act Standards for Accessibility Design (28 CFR Part 36) and any comparable health and safety laws for the state in which the products covered under this Agreement were sold.

4.3 Disclaimer of Warranty. BUYER EXPRESSLY UNDERSTANDS THAT, EXCEPT AS SET FORTH IN THIS SECTION 4, THE PRODUCTS SOLD UNDER THIS AGREEMENT ARE SOLD, “AS IS” AND “WITH ALL FAULTS”. EXCEPT AS EXPRESSLY SET FORTH IN THIS SECTION 4, ABT MAKES NO WARRANTIES WITH RESPECT TO THE PRODUCTS. ABT EXPRESSLY DISCLAIMS ALL OTHER WARRANTIES, EXPRESS, IMPLIED, OR STATUTORY, INCLUDING WITHOUT LIMITATION ALL WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE.

5. Buyer Representations. Buyer represents and warrants that Buyer has the legal power and authority to enter into and fully perform Buyer’s obligations under this Agreement, and that this Agreement is a legal, valid and binding obligation of Buyer enforceable against Buyer in accordance with its terms.

6. Refunds and Cancellations.

6.1 Three Day “Cooling Off” Period. **Buyer may cancel this transaction at any time prior to midnight of the third business day (including Saturdays but excluding Sundays and bank holidays) following the date of this transaction. See the attached notice of cancellation form for an explanation of this right.** Buyer understands and accepts that such “cooling off” period will be added to the overall product delivery time, unless such “cooling off” period is expressly waived in writing.

6.2 No Right of Rescission. Buyer acknowledges and is aware that every MyControl Bathing System is custom manufactured to Buyer’s specifications. Except as provided in Section 6.1, the cash deposit or any purchase price amount paid to ABT may be retained by ABT as if all sales terms have been met to offset ABT damages or loss. If Buyer refuses to complete this purchase, Buyer may be responsible for any other damages which ABT incurs as a result of Buyer’s failure to perform obligations under the terms of this Agreement. Under no circumstances shall a cancellation of payment release Buyer from any obligations under this Agreement.

7. Price Changes. The total amount due as shown in this Agreement is the final contract price to which Buyer and ABT have agreed, and no additional fee or charge will be imposed or collected due to changes in ABT’s list or wholesale price, or changes in the cost of delivery. Likewise, a reduction in ABT’s list or wholesale price after mutual acceptance of this Agreement, regardless of reason, does not entitle Buyer to any such reduction or difference in contract price. Buyer agrees to pay the total amount due as shown in this Agreement.

8. Form of Payment. Buyer and/or Independent Product Sales Representative shall pay the total amount due either in cash, cashier's check or any credit card ABT is authorized to accept as payment.

9. Change of Design. Buyer understands that ABT and its suppliers reserve the right to change the design of the MyControl Bathing System or any related product, accessories or parts at any time without notice to Buyer. In the event of such change ABT shall have no duty to Buyer other than as provided in this Agreement.

10. Indemnity Obligations; Limitation of Liability.

10.1 Exclusion of Damages. IN NO EVENT WILL ABT, ITS OFFICERS, DIRECTORS, EMPLOYEES OR AGENTS BE LIABLE TO BUYER OR TO ANY THIRD PARTY FOR ANY INDIRECT, INCIDENTAL, EXEMPLARY, PUNITIVE, SPECIAL OR CONSEQUENTIAL DAMAGES OR LOSSES ARISING OUT OF OR IN CONNECTION WITH THIS AGREEMENT OR THE USE OR PERFORMANCE OF ANY OF THE PRODUCTS, WHETHER SUCH LIABILITY ARISES FROM ANY CLAIM BASED UPON CONTRACT, WARRANTY, TORT (INCLUDING NEGLIGENCE), PRODUCT LIABILITY OR OTHERWISE, EVEN IF ADVISED IN ADVANCE OR AWARE OF THE POSSIBILITY OF ANY SUCH LOSS OR DAMAGE.

10.2 Total Liability. EXCLUDING ANY INDEMNITY PROVISIONS AS REQUIRED BY LAW, IN NO EVENT WILL ABT'S AGGREGATE LIABILITY TO THE BUYER OR ANY OTHER PARTY, FROM ALL CAUSES OF ACTION AND THEORIES OF LIABILITY, EXCEED THE ACTUAL AMOUNT PAID BY BUYER TO ABT FOR PRODUCTS UNDER THIS AGREEMENT IN THE TWELVE MONTH PERIOD PRECEDING THE DATE THAT GAVE RISE TO SUCH LIABILITY. BUYER AGREES THAT THE FOREGOING LIMITATIONS OF LIABILITY IN SECTIONS 10.1 AND 10.2 CONSTITUTE A MATERIAL INDUCEMENT FOR ABT TO ENTER INTO THIS AGREEMENT, AND THAT THE PURCHASE PRICE AND FEES CHARGED TO BUYER WOULD BE SUBSTANTIALLY HIGHER WITHOUT SUCH LIMITATIONS OF LIABILITY.

11. Miscellaneous.

11.1 Governing Law; Attorney's Fees. This Agreement will be governed by and construed in accordance with the laws of the State of New York, excluding that body of law pertaining to conflict of laws. Any dispute or claim arising out of or in any way relating to this Agreement or the transaction referred to herein will be finally settled by binding arbitration in Albany, New York, under the Commercial Arbitration Rules of the American Arbitration Association ("AAA") by one (1) arbitrator appointed in accordance with said rules. Judgment on the award rendered by the arbitrator may be entered in any court having jurisdiction thereof. The parties agree that the decision of the arbitrator shall be final and binding and that such decision shall be immediately delivered to the parties to the arbitration. The non-prevailing party shall pay for all fees and charges by the AAA. Additionally, the prevailing party in any legal action

arising out of this Agreement shall be entitled, in addition to any other rights and remedies it may have, to reimbursement for its expenses, including reasonable attorneys' fees.

11.2 No Assignment. Buyer may not assign its rights or delegate its duties under this Agreement to any other party, either in whole or in part, without the prior written consent of ABT, and any attempted assignment or delegation without such consent will be void.

11.3 Severability. If any one or more of the provisions contained herein should, for any reason, be held to be unenforceable in any respect, such unenforceability shall not affect any other provisions herein contained; instead this Agreement shall be construed as if such unenforceable provision had not been contained herein.

11.4 Waiver. The failure by either party to enforce any provision of this Agreement will not constitute a waiver of future enforcement of that or any other provision. Neither party will be deemed to have waived any rights or remedies hereunder unless such waiver is in writing and signed by a duly authorized representative of the party against which such waiver is asserted.

11.5 Notices. Any notice or other communication required or permitted by this Agreement shall be in writing and shall be deemed delivered and effective (a) immediately if delivered personally or sent by e-mail or facsimile transmission provided that the giver of notice obtains confirmation of receipt; (b) on the first business day following delivery by a nationally recognized overnight courier; (c) or five days after deposit with the United States Post Office for mailing by first class certified mail, postage paid. Notices to Buyer shall be sent to the address specified on the Cover Page hereto and to ABT, to the address specified on the Cover Page hereto, or such new address as a party specifies to the other in writing.

11.6 Entire Agreement; Modifications. This Agreement, including any Exhibits attached hereto and made a part hereof, contains the entire agreement of the parties with respect to the subject matter hereof, and supersedes all prior agreements between the parties with respect to such subject matter, and any warranty, representation, promise or condition not incorporated herein shall not be binding upon either party. No modifications, renewal, extension, or waiver of this Agreement or any of its provisions shall be binding unless in writing and signed by both parties.

11.7 Counterparts. This Agreement may be executed in counterparts, each of which will be deemed an original, but all of which together will constitute one and the same instrument.

11.8 Headings. The section and paragraph headings of this Agreement are for convenience only, and shall not be considered part of, or affecting the interpretation of, any provisions of this Agreement.

11.9 Force Majeure. ABT shall not be liable for damages or shall be considered in breach for any delay or default in performing hereunder (except for the payment of money) if such delay or default is caused by conditions beyond its control including but not limited to acts

of God, government restrictions, wars or insurrections, terrorist attacks, strikes, fires, floods, work stoppages, and lack of material.

Notice of Cancellation

Entered into as of: _____, 20____

Buyer may CANCEL this transaction, without any penalty or obligation, within THREE BUSINESS DAYS from the above date.

If Buyer cancels, any property traded in, any payments made by Buyer under the Agreement, and any negotiable instrument executed by Buyer will be returned within TEN BUSINESS DAYS following receipt by ABT of this Notice of Cancellation, and any security interest arising out of the transaction will be cancelled.

To cancel this transaction, mail or deliver a signed and dated copy of this Notice of Cancellation (and retain one copy for your records) or any other written notice, or send a telegram, to Accessible Bath Technologies, Inc., at Accessible Bath Technologies, LLC, Robert J. Yorio, 120 Constitution Drive, Menlo Park, CA 94025 NOT LATER THAN MIDNIGHT OF THE THIRD BUSINESS DAY FOLLOWING THE ABOVE DATE.

I HEREBY CANCEL THIS TRANSACTION.

Buyer's Signature: _____

Date: _____

Notice of Cancellation

Entered into as of: _____, 20____

Buyer may CANCEL this transaction, without any penalty or obligation, within THREE BUSINESS DAYS from the above date.

If Buyer cancels, any property traded in, any payments made by Buyer under the Agreement, and any negotiable instrument executed by Buyer will be returned within TEN BUSINESS DAYS following receipt by ABT of this Notice of Cancellation, and any security interest arising out of the transaction will be cancelled.

To cancel this transaction, mail or deliver a signed and dated copy of this Notice of Cancellation (and retain one copy for your records) or any other written notice, or send a telegram, to Accessible Bath Technologies, Inc., at Accessible Bath Technologies, LLC, Robert J. Yorio, 120 Constitution Drive, Menlo Park, CA 94025 NOT LATER THAN MIDNIGHT OF THE THIRD BUSINESS DAY FOLLOWING THE ABOVE DATE.

I HEREBY CANCEL THIS TRANSACTION.

Buyer's Signature: _____

Date: _____