

**NEW MILLENNIUM CONCEPTS, LTD.
DEALER AGREEMENT**

This Dealer Agreement ("Agreement") is entered into as of the date specified below between New Millennium Concepts, Ltd ("NMCL"), a Texas Corporation with a business address at P.O.Box 201411, Arlington, Texas, 76006

and _____ ("Dealer")
(Company Name)

having a business address at:

(Street Address)

(City/District)

(State/Province/Region)

(Country)

(Postal/Zip Code)

NMCL and the Dealer are collectively referred to herein as the Parties.

WHEREAS, NMCL manufactures and/or markets certain Authorized Products under the "Berkey[®]" trademark and other proprietary brand names and desires to authorize Dealer to sell these Authorized Products to end user consumers.

WHEREAS, Dealer is willing to undertake sales of Authorized Products, according to the terms as defined below.

NOW THEREFORE, the Parties agree as follows:

1. **Scope.** This Agreement defines the terms and conditions under which the Dealer may sell, redistribute market and otherwise use NMCL's products. The detailed Terms and Conditions are further defined herein and in **Exhibit A**. The terms of Exhibit A are fully incorporated into this Agreement by reference. NMCL will provide Dealer with Authorized Products at wholesale price that the Dealer may resell according to the terms contained herein, at retail prices.
2. **Definitions.**
 - a. "Business Day" - Monday through Friday, excluding market holidays.
 - b. "Authorized Products" - products manufactured or sold by NMCL or any other of its affiliated or related companies as defined herein.

- c. "NMCL Content" - all information, tools, materials and services available on NMCL websites, as amended from time to time.
 - d. "NMCL Websites" - NMCL maintained and supported websites which currently include the following:
 - a. www.berkeywater.com
 - b. www.berkeywaterkb.com
 - c. www.britishberkefeld.com
 - e. "Protected Materials" - NMCL's trademarks, brand names, service marks, trade names, patents, other copyrighted materials, pictures, and copy from literature, website(s), and/or advertising material including the Berkey® names or any other trademark or trade names used or claimed by NMCL.
3. **Entire Agreement.** This Agreement supersedes and nullifies any previous Dealer Agreements between NMCL and Dealer. This Agreement constitutes the entire understanding and agreement of the parties hereto with respect to the subject matter hereof and supersedes all prior and contemporaneous agreements, representations and understandings between the parties regarding the subject matter hereof. Where there is a conflict between this Agreement and any other oral or written agreement, the terms contained in this Agreement will take precedence.
4. **Amendment.** This Agreement cannot be amended by any oral agreement or understanding or by any past practice or course of dealing. No sales representative or non-authorized employee of the Dealer has any authority, express or implied, to amend, alter or change this Agreement. NMCL reserves the right to modify or amend any terms and conditions contained in this Agreement at any time with thirty (30) days written notice to the Dealer. The most current version of the Agreement is accessible on NMCL's official website www.berkeywater.com. Dealer's account activity after notice of an amendment constitutes the Dealer's agreement to be bound by such amendment, regardless of whether Dealer has actually reviewed its contents. By this Agreement, the Dealer agrees to market the Authorized Products offered by NMCL according to NMCL's policies, rules and regulations set forth below or otherwise issued to the Dealer. The Dealer accepts sole responsibility for keeping NMCL informed of any change of contact information. The Dealer further accepts responsibility to remain aware of and review all NMCL policies, guidelines, rules and regulations as it relates to the marketing and re-sale of the Authorized Products.
5. **Authorized Sales Channels and Exclusivity.** Pursuant to this Agreement, Dealer is authorized to market, advertise, offer to sell, sell and/or fulfill orders for the Authorized Products via the Authorized Sales Channel(s) listed in **Exhibit B only**. Dealer shall not market, advertise, and offer to sell, sell and/or fulfill orders for the Authorized Products through any other channel or via any other electronic or physical location without NMCL's prior written consent. Dealer shall at all times be a nonexclusive Dealer of the Authorized Products. No exclusive territory is granted by this Agreement.

6. **Non Exclusive License to Trademarks.** NMCL hereby grants Dealer, for the term of the Agreement, the non-exclusive, non-transferable, non-assignable, revocable right to market and distribute the Authorized Products to end user consumers. Dealer acknowledges that NMCL's trademarks, brand names, service marks, trade names, patents, other copyrighted materials, pictures, and copy from literature, website(s), and/or advertising material including the Berkey® names or any other trademark or trade names used or claimed by NMCL (the "Protected Materials") are proprietary. Protected Materials are solely owned by or licensed to NMCL, and use of such Protected Materials by Dealer must be in compliance with NMCL's written policies, which may be amended by NMCL from time to time. Dealer understands and acknowledges that it cannot grant the use of the Protected Materials to other third parties. Dealer shall not register or use the Protected Materials in connection with any business conducted by the Dealer other than that contemplated by this Agreement and only as necessary in selling the Authorized Products.

Dealer may not modify, translate, reverse engineer, decompile, disassemble and otherwise attempt to remove any notices, labels or Protected Materials on or in any copy of the Authorized Products. Dealer shall include and shall not alter, obscure or remove any Protected Materials used or claimed by NMCL or any markings, colors or other insignia which are contained on or in or affixed to the Authorized Products at the time of shipment from NMCL's facilities or suppliers. Dealer agrees that its use of the Protected Materials shall not create in its favor any right, title, or interest therein, and acknowledges NMCL's exclusive right, title and interest in the Protected Materials. In the event that NMCL seeks to secure or maintain or initiate any infringement action regarding such rights, the Dealer agrees to cooperate with NMCL in any reasonable way requested.

7. **Cessation of Advertising and Use of Trademarks.** Upon termination of Agreement, Dealer agrees to remove any and all information regarding Protected Materials, including but not limited to, all pictures, trademarks, brand names and copy from literature, website(s), and/or advertising material. This includes any and all website domain names which may incorporate any of NMCL's trademarks or Protected Materials. NMCL reserves the right to purchase website domain name(s) or any online related platform that contains any Protected Material for a price of no more than \$20.00 per year if Dealer has paid for future licensing use of the domain name(s) or internet platforms which contain any Protected Material in the title or domain of any internet medium used to resell the Authorized Products. Upon request, Dealer shall deliver proof to NMCL of the amount spent and length of current licensing for such domain name(s). Dealer agrees that NMCL is entitled to emergency injunctive relief at Dealer's expense, including NMCL reasonable attorneys' fees, should Dealer fail to immediately suspend all advertising of the Authorized Products and all use of the Protected Material from the Authorized Dealer Websites and any referring search engines, social media websites or other Dealer websites upon termination of this Agreement. Dealer acknowledges and agrees that this specific enforcement is reasonable and that it will not be necessary for NMCL to post a bond or any other security in order to obtain an injunction prohibiting Dealer from a breach of its agreements under this

Agreement. Dealer further understands and accepts that it will be the responsibility of Dealer to bear or reimburse all costs of any expense necessary for NMCL to enforce NMCL's right to its Protected Materials.

8. **Retail Sales Only.** Dealer shall only engage in retail sales of the Authorized Products to end users. Any sales by Dealer of the Authorized Products to sub-Dealers, distributors, non-end users, or any other party that ultimately resells the Authorized Products is strictly prohibited, unless agreed upon in writing by NMCL. If there is a question as to whether a particular Dealer falls within any of the categories (wholesaler, etc.) specified herein, NMCL's determination shall be binding and final.
9. **Independent Entities.** Nothing contained herein shall affect, modify or change the fact that NMCL and Dealer are separate legal entities and are not representatives or agents of each other. This Agreement does not create a joint venture, partnership and/or agency relationship. NMCL shall bear no responsibility, directly or indirectly, for the Dealer websites or for the transactions made through said Dealer websites. Dealer agrees that it will not represent itself, its business, or its employees as being an agent, employee or representative of NMCL or any of its subsidiaries or affiliates.
10. **Policies, Procedures, Website Terms and Conditions.** Dealer agrees to be subject to and abide by all Policies and Procedures, Terms and Conditions of NMCL posted on NMCL Websites. This includes but is not limited to payment, shipping, advertising, returns, refunds, Dealer website content, NMCL terms of use, privacy policy, all marketing content and things of the like. NMCL reserves the right to modify or amend Policies, Procedures, Website Terms and Conditions at any time. The current version of the Policies, Procedures, Website Terms and Conditions can be found on the NMCL Websites. Dealer agrees to review the NMCL Websites on a periodic basis for changes to policies and procedures.
11. **Advertising.** NMCL has the right but not the obligation to review and approve any original advertising. This includes but is not limited to any printed materials, websites, social media and online storefront marketplaces related to NMCL's water filtration/purification products, prior to use to ensure compliance with NMCL's policies. Further, NMCL has the right to demand that incorrect information relating to NMCL's product line be corrected to NMCL's standards within 3 business days of incorrect information being reported to Dealer. Failure to correct information may subject Dealer to possible suspension or revocation of Agreement. NMCL Websites content is pre-approved. Information on NMCL Websites are subject to change. It is the Dealer's responsibility to periodically review NMCL Websites content and change their website/material accordingly. Dealer shall make no statements, representations, or claims, including without limitation, performance and health claims, in selling NMCL's Authorized Products, other than what is expressly stated in NMCL's materials. Although NMCL strives to ensure accuracy, NMCL cannot be responsible for typographical errors on NMCL's Websites or any printed literature. Any advertising or promotional literature or announcements to the press by Dealer regarding its relationship

with NMCL or otherwise utilizing NMCL's Protected Materials must be approved by an officer of NMCL in writing.

12. **Communication.** Dealer shall keep all current contact information, including Dealer's most current email address on file with NMCL at all times. Dealer agrees that the ultimate responsibility for staying informed of all amendments to policies, procedures, agreements, terms and conditions is the Dealers alone. All current versions of these items can be found on the NMCL Website(s). Every Dealer can access a downloadable and printable copy of the most recent version of this Agreement on the Dealer Center on NMCL's website at www.berkeywater.com.
13. **Term and Termination.** This Agreement shall remain in force and effect until terminated by either party as stated in this Paragraph. NMCL reserves the right to terminate this Agreement immediately, upon written notice, for breach of this Agreement or upon 30 days prior written notice for any reason. Upon termination of this Agreement, NMCL has the right, but not the obligation to repurchase from Dealer all remaining Authorized Products in Dealer's inventory after all existing orders have been fulfilled. Dealer shall have the right to resell only those Authorized Products in its inventory and any additional Authorized Products that may previously have been ordered by Dealer, which NMCL elects to deliver after termination. Dealer will be given 30 days to liquidate their inventory and fulfill all existing orders. Should NMCL exercise their right to repurchase existing inventory, Dealer agrees to provide, upon request, a list of all existing inventory and all non-fulfilled orders within 2 days of NMCL's request.
14. **No Waiver.** A Party's failure to exercise or delay in exercising any right, power or privilege under this Agreement shall not operate as a waiver; nor shall any single or partial exercise of any right, power or privilege preclude any other or further exercise thereof. Should any portion of this Agreement be adjudged to be unenforceable, that shall not affect the enforceability of other provisions of this Agreement.
15. **Applicable Law.** This Agreement is governed by the laws of the State of Texas without reference to its conflict of law rules. Any legal action concerning this Agreement shall be brought in the state and federal courts located in Dallas, Texas.
16. **Limitation of Liability and Liability Waiver.** Dealer agrees to indemnify and hold harmless NMCL, its subsidiaries, affiliates, and their shareholders, partners, officers, agents, employees, and directors, from and against any claim demand, liability, loss, cost, or expense, including but not limited to, court costs or attorney's fees, asserted against or suffered or incurred by any of them by reason of, directly or indirectly, arising out of or in any way related to or connected with, allegedly or otherwise, Dealer's: (1) activities as an NMCL Dealer including, without limitation, any unauthorized representations made by Dealer, (2) breach of the terms of this Agreement, (3) violation of or failure to comply with any applicable federal, state, or local law or regulation, (4) failure to comply with the proper use of NMCL's Authorized Products and Protected Materials according to product instructions,

(5) failure to comply with NMCL's stated policies. Dealer accepts that NMCL shall not accept any liability for actions taken by the Dealer in violation of NMCL's policies and procedures and will not assist in the defense of any litigation that may be filed against the Dealer for its independent actions.

17. **Electronic Signatures.** Dealer's use of electronic signatures to sign NMCL documents legally binds the Dealer in the same manner as if Dealer had manually signed. The use of an electronic version of these documents fully satisfies any requirement that they be provided to Dealer in writing. If Dealer signs electronically, Dealer represents that Dealer has the ability to access and retain a record of the documents. Dealer is responsible for understanding these documents and agrees to conduct business with NMCL by electronic means. Dealer is obliged to review periodically the websites for changes and modifications.

18. **Authority to Sign.** Each of the Parties herein represents and warrants that the execution, delivery, and performance of this Agreement has been duly authorized and signed by a person who meets statutory or other binding approval to sign on behalf of its business organization as named in this Agreement.

EXHIBIT A
Terms and Conditions

- a. This Agreement shall not be transferred or assigned by the Dealer without the prior written approval of NMCL.
- b. Any authorized agent who signs this Agreement binds the Dealer indefinitely to the terms set forth in this Agreement, regardless of any employment change of the Dealer.
- c. Dealer shall abide by all federal, state and local laws and regulations and the terms of this Agreement.
- d. Dealer agrees to provide appropriate state retail sales tax license information, which is required to process Dealer application, unless state retail sales tax licenses are not required in the state in which the Dealer's does business. If the Dealer has store locations in multiple states, NMCL will need a sales tax permit or license for each state in which the Dealer does business. Dealer agrees to keep tax and business information up-to-date with NMCL. Failure to provide updated state sales tax or business information will result in the termination of this Agreement by NMCL.
- e. Dealer is responsible for collection and remittance of all applicable sales taxes and is responsible for the payment of all other federal and state taxes related to Dealer's business.
- f. NMCL is not responsible for any reimbursement of promotional, marketing, or operational expenses or fees incurred by Dealer in the course of doing business or promoting Berkey® products with NMCL.
- g. Dealer understands that certain filtration and purification systems are not to be sold in the states of California and/or Iowa until further notice. Dealer agrees to read, review, understand and abide by the NMCL Policy on Berkey® Sales to California and Iowa available on NMCL websites.
 - i. It is the sole responsibility of each authorized Berkey® Dealer to ensure that no Multi-use systems are sold to California residents either through their own website or through any marketplace platforms such as Amazon or EBay.
 - ii. Dealer understands that no Berkey® systems are to be sold to Iowa residents through company websites or through any marketplace platforms such as Amazon or EBay. The only products that may be sold in Iowa are accessories, replacement items, and disaster preparedness items.
 - iii. Dealer understands that new filtration/purification products will be offered from time to time and agrees to abide by any regulatory restrictions with respect to sales and advertising as laid forth in this Agreement.
- h. Dealer agrees to read, review, understand and abide by NMCL's [Marketplace Platform Policy](#) available on NMCL websites.

- i. Dealer understands that products and prices are subject to change at any time at NMCL's discretion.
- j. Dealer agrees to read, understand and abide by NMCL's [Shipping Policy](#) available on NMCL websites. Dealer understands that these Shipping Policies may change from time to time and Dealer agrees to keep abreast of and abide by these changes at all times.
- k. Dealer agrees to read, review, understand, and abide by the [NMCL Policy Regarding Counterfeit Berkey Products](#) available on NMCL websites. This policy is designed to protect the business of all Berkey® Dealers as well the integrity of the Berkey® brand. Violation of the Counterfeit Berkey® Products Policy is a direct violation of the Berkey® Dealer Agreement and will result in immediate termination of Berkey® dealership. Violation of this policy includes but is not limited to:
 - i. Dealer introducing counterfeit Berkey® products or components into the marketplace
 - ii. Dealer attempting to locate or otherwise contact any of NMCL's suppliers or raw materials sources.
- l. Dealer agrees to read, review, understand and abide by NMCL's [Minimum Advertised Price Policy](#) available on NMCL websites. This policy is updated from time to time and is designed to protect the goodwill associated with the Authorized Products and the economic opportunities available to distributors of the Authorized Products.
 - i. Although Dealer may not advertise the Authorized Products below the established Minimum Advertised price, it may establish a higher advertised price. Pricing of Authorized Products must be in accordance with NMCL's established Minimum Advertised Price policies.
 - ii. Dealer acknowledges that NMCL may, at its sole discretion, change or revise its Minimum Advertised Price lists. It is thus the Dealer's responsibility to obtain and strictly follow NMCL's most recent Minimum Advertised Price policies, lists, and any updates thereto. This can be found on NMCL websites.
 - iii. Dealer agrees that NMCL's Minimum Advertised Price policies apply to all advertisement in media, including, without limitation, flyers, coupons, mailers, inserts, newspapers, magazines, catalogs, television, radio, public signage, books, seminars, all internet web pages and websites, (including without limitation to Facebook,

- Twitter, YouTube, Google Plus, EBay, Amazon, Linked In, Instagram ,etc.), or any other type of media.
- iv. Violations of Minimum Advertised Price policies by Dealer will constitute a material breach of this agreement.

EXHIBIT B

It is required that you list all *URL and web addresses* (Social Media, EBay, Website, etc.)

***As per our Marketplace Platform Policy, we do not allow new dealers to list on Amazon for at least one year from the date they place their first order. Adding Amazon to this list will result in a denial of the Dealer Agreement.**

- 1.
- 2.
- 3.
- 4.
- 5.
- 6.
- 7.
- 8.

List all *Brick and Mortar* physical addresses

- 1.
- 2.
- 3.
- 4.
- 5.
- 6.

List all *“other”* (Radio, Television, Expos, Gun Shows, State Fairs, etc.)

- 1.
- 2.
- 3.
- 4.
- 5.

By signing this Agreement below, you are acknowledging that you have read and agree to the Terms and Conditions of this Agreement and that the individual signing below hereby represents and warrants that she/he is duly authorized to execute and deliver this Agreement on behalf of Dealer and that this agreement is binding upon Dealer in accordance with its terms.

Accepted and agreed to on this _____ day of _____, 20 _____.

By: Dealer

(Signature)

(Print Name)

(Company Name)

(Account Manager)

(Phone Number)

Official Use Only

By: Approving Authority

(Signature)

(Print Name)

(Company Name)