



COMMERCIAL SALES AGREEMENT

This Commercial Sales Agreement ("Sale Agreement") dated ****/**/****** is entered into by and between **Aries Building Systems, LLC**, a Texas limited liability company located at 12600 N. Featherwood Dr., Ste. 450, Houston, TX 77034, as seller (the "Seller") and **[Buyer Name], a [State of Organization][Business Organization Entity]** as buyer ("Buyer") whose address is **[Street Number and Street Name, City, State, Zip Code]**, (each individually, "Party" and collectively, the "Parties"), hereby agree to this Sale Agreement and the terms and conditions set forth herein. The individual signing this Sale Agreement affirms that he/she is duly authorized to execute and commit to this Sale Agreement for the above-named Buyer.

Pursuant to the mutual covenants and agreements set forth herein and for other good and valuable consideration, the Buyer and Seller covenant and agree to be bound as set forth below.

Buyer agrees to purchase from Seller one or more modular and/or prefabricated structures ("Building(s)" also referred to herein as the "Equipment") and to have the Building(s) set-up and installed ("Work") as detailed more particularly as follows:

PROJECT DESCRIPTION

Project Name:	
Project Address:	
Referenced Attachments:	

BUILDING INFORMATION

Description including (quantity, type, size & serial numbers)	
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COSTS AND FEES

Building(s)	
Delivery / Freight	
Set-Up / Installation	
Others / Miscellaneous	
Others / Miscellaneous	
Total Contract Price (Does not include applicable State and Local Taxes)	

Buyer acknowledges that Seller's Proposal and any other Seller documents referenced therein are incorporated by reference into the Sale Agreement and become a part of the Sale Agreement.

The Building(s) will be located at the above referenced project address ("Location") for the purchase price and on the payment, terms contained herein, subject to the additional terms and conditions set forth on the subsequent pages of this Sale Agreement.



Contract Price and Payment Terms: In consideration of Seller furnishing the Building and performing the Work, Buyer will pay Seller the referenced Contract Price, subject to such additions or deductions relative to the changes which may hereinafter be agreed upon between the Parties in writing by Change Order described in and made pursuant to the Sale Agreement Additional Terms and Conditions. Buyer will pay Seller the full Contract Price according to the payment terms set forth below. In the event that delivery of the Building(s) requires more than one shipment, Seller may, at its option, render separate invoices for each shipment, which the Buyer agrees to satisfy.

CONTRACT TIME:

- (a) The Work will commence on _____ (the "Commencement Date") and be substantially completed _____ Days following the Buyer's approval of final drawings (the "Contract Time"), with all "punch list" work completed within sixty (60) days following the date of substantial completion. The Work is deemed Substantially Complete when (i) all Work, excepting only minor punch list items, is complete, and (ii) the Building is capable of being beneficially used as intended ("Substantially Complete" or "Substantial Completion").
- (b) If Seller is delayed at any time in progress of the Work by changes ordered to the Building(s) or to the Work, by labor disputes, fire, unusual delay in deliveries, abnormal adverse weather conditions not reasonably anticipatable, unavoidable casualties or any causes beyond the Seller's control, then the Contract Time will be extended by Change Order, as defined in this Sale Agreement, for such reasonable time as determined by both Parties.

Payments will be made to Seller as follows:

- **** % Due Upon Execution of this Sale Agreement
- **** % Due Upon Delivery of the Building(s)
- **** % Due Upon Substantial Completion of the Work

Additional Terms and Conditions: The Parties acknowledge the Sale Agreement Additional Terms and Conditions attached hereto are incorporated by reference herein and form part of this Sale Agreement.

IN WITNESS WHEREOF, the parties, by their duly authorized officers, have signed, sealed and delivered this Sale Agreement on the date noted above and below:

Seller: **Aries Building Systems, LLC**

Buyer:

Signature:

Signature:

Name:

Name:

Title:

Title:

Date:

Date:

NOTE: Aries Building Systems, LLC is now issuing paperless invoices via email as an efficient, convenient, and environmentally friendly process.

AP Email: _____



Sale Agreement Additional Terms and Conditions

The parties hereto, **Aries Building Systems, LLC**, as seller (the "Seller") and the entity listed on the foregoing Sales Agreement as buyer ("Buyer"), (each individually, "Party" and collectively, the "Parties"), hereby agree to this Sale Agreement and the terms and conditions set forth herein. The individual signing this Sale Agreement affirms that he/she is duly authorized to execute and commit to this Sale Agreement for the above-named Buyer.

1. SALE. Seller sells to Buyer, and Buyer purchases from Seller, the goods ("Equipment" also referred to herein as the "Building") and services listed on each respective Sales Agreement, Equipment Schedule, Purchase Order, or Signed Sales Proposal as applicable (the "Order") attached hereto on the terms and conditions set forth herein. Each such Order shall constitute a separate and independent sale agreement (a "Sale Agreement") of the Equipment and services listed therein.

2. TIME AND PLACE OF DELIVERY.

2.1 Deliver. Seller agrees to deliver the Equipment to (Refer to Project Address as set forth in Order). Buyer shall own such site and/or have express legal authorization to place the Equipment upon that same site. If Buyer fails to provide such a site, then Buyer shall pay for any resulting additional delivery, installation, and knock down and return charges, including, but not limited to, storage related charges attributable to delayed delivery and/or installation of the Equipment required and/or requested by Buyer.

2.2 Site Conditions. Seller agrees to deliver the Equipment to the site location listed in 2.1 above (the "Site"). Buyer shall ensure that a level compact, truck accessible site is available for placement of the Equipment. Tires used to deliver the Equipment will be removed and returned to Seller. Buyer warrants that the Site will have safe access, free from encumbrances, a level pad with no more than 3 inches of variance in 30 feet, and adequate soil bearing pressure of not less than 2,500 psf. Following delivery, Seller will remove all Seller-owned equipment such as plywood, tools, etc. prior to or at the time of Equipment acceptance. Buyer is responsible for securing all necessary permits, utility hookups, pilot cars, and Site preparation.

2.3 Building Codes, Licenses and Permits. The Buyer is solely responsible for compliance with applicable building codes and/or for obtaining any type of building permits and licenses required for the Equipment. Buyer further warrants that the placement of the Equipment on the Site as well as any Work performed at the Site will not violate zoning restrictions or other land use laws, and Buyer agrees to indemnify and hold Seller harmless from all loss or damage or liability which may result from any such violations. Buyer will provide to Seller any and all zoning verification required for the Equipment. Seller may reasonably rely on such information, warranties, and verifications from the Buyer. Seller is responsible for providing any permits necessary for the transportation of the Equipment.

2.4 Excusable Delay. Seller shall not be liable for any delay in delivering the Equipment or related services as applicable, resulting from but not restricted to: acts of Buyer or his representatives, fires, strikes, labor disputes, war, civil commotion, shortages of labor or material, acts or restrictions of any government, or other causes beyond the control of Seller. The existence of such causes of delay shall justify the suspension of delivery and/or the rendering of services by Seller and shall extend the Seller's time of performance until such cause of delay has been removed. Seller shall give written notice to Buyer of details concerning the delay as soon as practicable after its occurrence. The Total Contract Price and/or the time to perform shall be subject to amendment, documented via a written Change Order in accordance with this Sale Agreement.

3. TITLE RETENTION.

3.1 Title Retention. Title to the Equipment shall not pass to Buyer before the entire contract price has been paid to Seller in accordance with this Agreement, even though the Equipment may become affixed to, embedded in, or be permanently resting upon real property. Upon Seller's receipt of payment in full of the total contract price, title to the Equipment shall transfer to Buyer, free and clear of all encumbrances arising by or through Seller. All payments due from Buyer pursuant to the terms of the Sale Agreement shall be made without any abatement or set off of any kind, arising from any cause.



4. INSPECTION and WARRANTY.

4.1 Inspection. Following delivery and setup of the Equipment, Buyer shall inspect the Equipment within forty-eight (48) hours of Substantial Completion and provide immediate written notice to Seller specifying defects, if any, which Buyer observes. If Buyer fails to provide such notice within two (2) days following Substantial Completion of the Work, it shall be conclusively presumed between Buyer and Seller that Buyer has inspected the Equipment and that all Equipment is in conformance with the Sale Agreement and has been accepted by Buyer. Acceptance is final.

4.2 Warranty. There shall be no warranty by Seller in respect of the Equipment except as set out in the formal Warranty Certificate supplied by Seller to the Buyer and subject to the terms of such Warranty Certificate.

5. RISK OF LOSS. Upon Substantial Completion of the Equipment, all risk of loss or damage to the Equipment passes from Seller to Buyer. In addition, Buyer hereby indemnifies to the extent allowable by law, Seller and agrees to save, defend and hold Seller harmless and waives rights of subrogation in favor of Seller against all losses, damages, liability, costs and expenses (including attorneys' fees), as a result of any actions, claims, or demands made arising from events occurring following Substantial Completion, except to the extent caused by Seller's negligence.

6. WAIVER OF CLAIMS. Buyer hereby waives and releases all claims against Seller for (i) loss or damage to all property, goods, wares and merchandise in, upon or about the Equipment and (ii) injuries to Buyer, Buyer's agents and third persons. Seller shall not be liable for any consequential, incidental, or special damages of any kind (including, but not limited to damages for loss of use or of profit by Buyer or any other party), whether or not caused or continued by Seller's negligence or delay, which may result from or arise in connection with the manufacture, delivery, installation, checkout or use of the Equipment or in connection with the services rendered by Seller hereunder.

7. TERMINATION FOLLOWING BREACH. In the event (a) of bankruptcy or insolvency of Buyer, or in the event any proceeding is brought by or against Buyer voluntarily or involuntarily, under the provisions of the Bankruptcy Code of the United States, for the appointment of a receiver or trustee or any assignment for the benefit of creditors of Buyer; or (b) Buyer fails to make timely payments, or perform any of its other obligations under the Sale Agreement, and such failure or default is not cured within ten (10) days after written notice of such failure or default is provided by Seller, the Sale Agreement automatically shall be terminated in the case of any event described in clause (a) above; and may be terminated by Seller in the case of any event described in clause (b) above and, upon such termination, full payment pursuant to the terms of the Sale Agreement shall become immediately due and payable from Buyer. In the event of any such breach or termination, Seller shall have all rights provided by law and under the terms and conditions of the Sale Agreement, including but not limited to: repossession and disposal of the Equipment (and, if any personal property shall remain located in the Equipment at such time, Buyer consents to Seller's possession and disposal or destruction of such personal property without notice or accounting to Buyer) and recovery of attorney's fees and other reasonable costs and expenses associated with any breach or termination (including any such disposal or destruction), shall be reimbursed by Buyer on demand of Seller.

8. GOVERNING LAW AND JURISDICTION. Buyer and Seller agree that the Sales Agreement shall be governed in all respects by and interpreted in accordance with the laws of the State of Texas, without regard to its conflict of laws provisions, with jurisdiction and venue in a court having jurisdiction in Harris County, Texas. Subject to Section 6, the prevailing party shall be entitled to recover reasonable attorneys' fees and court costs, whether or not the action proceeds to judgment. Buyer hereby waives any and all rights to or claims of sovereign immunity. Both Parties hereby waive all right to trial by jury of all claims, defenses, counterclaims and suits of any kind arising from or relating to the Sales Agreement.

9. SELLER'S EXPENSES. In the event Seller incurs expenses in the exercise or enforcement of the terms and conditions of this Agreement, Buyer shall pay Seller all such costs and expenses, including attorney fees.

10. LICENSE AND TRANSFER FEE(S). If so, listed on the Order, the Contract Price includes license and/or transfer fees.

11. MISCELLANEOUS.

11.1 BUYER SOLVENCY. Buyer hereby represents and warrants that the fair value of the assets of Buyer exceed its liabilities; Buyer is able to pay its debts and liabilities as they become due; and Buyer does not have an



unreasonably small amount of capital with which to conduct the business in which it is engaged, as such business is now conducted and is proposed to be conducted.

11.2 MODIFICATIONS AND AMENDMENTS. Representations and warranties made by any person, including agents and representatives of Seller, which are inconsistent or conflict with the terms of the warranty contained in the Warranty Certificate provided by Seller (including but not limited to the liability of Seller as set forth above) shall not be binding upon Seller unless reduced to writing and approved by an officer of Seller. No amendment, supplement or modification to the terms of the Sale Agreement shall be valid unless made in a writing ("Change Order") signed by both Parties, and no waiver of any provision of the Sale Agreement shall be valid unless made in a writing signed by the waiving party. The Change Order shall include the changes in the Work, the adjustments to the price and any revisions to the performance dates. Notwithstanding the foregoing, from time to time, Buyer may request modifications to the Equipment or the Work hereunder, such changes may be accepted at Seller's sole option and may alter the final price stipulated herein as well as the time frames for performance. These changes in scope will be deemed approved by Buyer when evidence of work performance is presented by Seller. Any changes or modifications issued pursuant to this Sale Agreement shall remain subject to the terms and conditions of the Sale Agreement.

11.3 NO WAIVER. Failure of Seller to enforce any term or condition of the Sale Agreement shall not constitute waiver of any rights whether or not stipulated herein, nor shall it in any manner affect the rights of Seller to enforce any of the provisions stated herein. Waiver by Seller of any provision of the Sale Agreement shall be valid only as provided in writing and only with respect to the specific matter to which such waiver relates.

11.4 NOTICES. Any notices to the other party shall be in writing and may be mailed by prepaid registered post to the other party at the address shown above or at other address as may be substituted from time to time by the Parties and such notice shall be deemed to be received by the addressee on the third business day following the day such notice was mailed. A courtesy copy of notices may be sent via email.

11.5 ASSIGNMENT. Buyer will not assign any of its rights or obligations hereunder without the prior written consent of Seller, which Seller may grant or withhold at its sole discretion and any such assignee shall be subject to credit approval by Seller. To the extent not prohibited hereunder, the covenants, terms, provisions, and conditions herein contained will apply to, bind and inure to the benefit of the respective successors and assigns of Buyer and Seller. Any attempted assignment in violation of this Sale Agreement is void from inception.

11.6 Time is of the essence with respect to the performance of the Sale Agreement.

12. ENTIRE AGREEMENT. The Sale Agreement along with documents which have been incorporated herein constitute the entire agreement between Seller and Buyer regarding the subject matter hereof. If any part of the Sale Agreement is found to be invalid or illegal, Buyer and Seller agree that only the invalid or illegal portion of the Sale Agreement will be eliminated.