



This New Account Agreement (the "Agreement") incorporates by reference and adopts the accompanying Purchase Terms and Conditions and Multi-Jurisdiction Resale Certificate. By executing this Agreement, the Dealer understands and acknowledges that it is thereby adopting the Purchase Terms and Conditions (Annex A), governing the purchase and sale of merchandise hereunder and the Multi-Jurisdiction Resale Certificate (Annex B), warranting that all purchases made pursuant to this Agreement are being purchased for resale and that Dealer shall be responsible for ensuring the payment of sales tax obligations thereon.

**ACCOUNT/COMPANY NAME:** \_\_\_\_\_  
**DBA/TA (If Applicable):** \_\_\_\_\_  
**Street Address:** \_\_\_\_\_  
**City:** \_\_\_\_\_ **State:** \_\_\_\_\_ **Zip:** \_\_\_\_\_  
**Business Phone:** \_\_\_\_\_ **FED ID#** \_\_\_\_\_  
**Fax #:** \_\_\_\_\_  
**Email:** \_\_\_\_\_  
**Primary Contact Name:** \_\_\_\_\_ **Email:** \_\_\_\_\_  
**Accounting Invoice Contact:** \_\_\_\_\_ **Email:** \_\_\_\_\_

**Addresses of Ship to Locations (Attach Additional Sheets if Necessary)**

(1) \_\_\_\_\_  
(2) \_\_\_\_\_  
(3) \_\_\_\_\_

**Embroidery Approval Contact:**

**Name:** \_\_\_\_\_  
**Email:** \_\_\_\_\_  
**Street Address:** \_\_\_\_\_  
**City:** \_\_\_\_\_ **State:** \_\_\_\_\_ **Zip:** \_\_\_\_\_  
**Business Phone:** \_\_\_\_\_

**Type of Organization:**  Proprietorship  Partnership  Corporation  
**Type of Business:** \_\_\_\_\_ **Date Started:** \_\_\_\_\_  
**Name of Bank:** \_\_\_\_\_ **Phone:** \_\_\_\_\_  
**Checking Account #:** \_\_\_\_\_

**Principals (Name, Home Address, Home Phone):**

(1) \_\_\_\_\_  
(2) \_\_\_\_\_

**Trade References:**

(1) \_\_\_\_\_  
(2) \_\_\_\_\_

**Marketing / PR Contact:**

Same contact info as Bill To?  Y  N  
**Commercial Customer Name:** \_\_\_\_\_  
**Street Address:** \_\_\_\_\_  
**City:** \_\_\_\_\_ **State:** \_\_\_\_\_ **Zip:** \_\_\_\_\_  
**Phone:** \_\_\_\_\_

The undersigned certifies that this New Account Agreement is made on behalf of the Dealer indicated herein above, and that by way of the Dealer's signature, herein below, it agrees to the terms hereof, the Purchase Terms and Conditions, and the certification contained in the Multi-Jurisdictional Resale Certificate.

By executing this New Account Agreement, the Dealer also acknowledges that the information supplied by it herein will be relied on by the Company to assess whether it should extend credit to the Dealer. To this end, the Dealer also, hereby, agrees to cooperate with and give the Company, for the sole purpose of assessing the Dealer's credit worthiness and for no other purpose, among other things, access to the Dealer's bank and credit information, credit history, including credit card information, and information on current and past loans.

**IN WITNESS WHEREOF**, the undersigned has duly executed this Agreement and the Agreements incorporated by reference herein on this \_\_\_\_\_ of \_\_\_\_\_, \_\_\_\_\_.

**SIGNATURE OF DEALER'S DULY AUTHORIZED REPRESENTATIVE:**

\_\_\_\_\_  
**Name:** \_\_\_\_\_  
**Title:** \_\_\_\_\_

<b>REGIONAL SALES APPROVAL:</b> _____ <b>Title:</b> _____
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THIS AGREEMENT SHALL HAVE NO FORCE OR EFFECT UNTIL ACCEPTED BY THE COMPANY AT ITS HOME OFFICE BY EITHER ELECTRONIC CONFIRMATION OR ACCEPTANCE (ACKNOWLEDGMENT OF RECEIPT IS NOT ACCEPTANCE) OR BY SHIPMENT OF PRODUCT TO DEALER.

## **ANNEX A**

### **Purchase Terms and Conditions**

ANY OFFER TO SELL BY NORTH AMERICAN GOLF LLC, D/B/A ASHWORTH (HEREIN:"ASHWORTH") AS WELL AS ANY ACCEPTANCE BY ASHWORTH OF A DEALER'S ORDER IS EXPRESSLY MADE CONDITIONAL UPON DEALER'S ASSENT TO THESE TERMS AND CONDITIONS OF SALE AND NO OTHERS. DEALER'S TAKING DELIVERY OF ANY PRODUCT OR PAYMENT OF ANY INVOICE SHALL BE CONCLUSIVE EVIDENCE OF SUCH ASSENT.

**Orders:** All orders are subject to acceptance by an authorized official of Ashworth at Ashworth's Corporate Headquarters Office. Acceptance by Ashworth of an order shall be deemed to occur only upon the tendering of delivery of the products that are the subject of such order to the carrier for delivery to Dealer. Acceptance by Ashworth is limited to the terms stated herein and, in the Ashworth, New Account Agreement. Such terms and conditions shall control irrespective of any inconsistent, different, or additional terms and conditions, whether printed or otherwise, set forth in any communication from Dealer to Ashworth, including, without limitation, in any Dealer purchase order, confirmation, routing guide or manual revision and Ashworth hereby rejects any such inconsistent, different, or additional terms or conditions unless otherwise specifically agreed to in writing by Ashworth. Without limiting the foregoing, Ashworth further rejects terms and conditions inconsistent with, different from, or additional to, those contained herein, including inconsistent, different, or additional terms contained in any website of Dealer.

**Prices:** No employee, Ashworth sales representative, or any other party, other than an officer of Ashworth, is authorized to alter Ashworth's pricing and other terms and conditions of sale. All prices are subject to change without notice. Orders will be billed at prices prevailing at the time the order is received as reflected on Ashworth's then current price list. Ashworth will not recognize any terms not adopted by its standard programs except as specifically agreed in writing by Ashworth. The amount reflected in an Ashworth invoice will be deemed accepted and binding upon Dealer unless Dealer notifies Ashworth in writing of a dispute within thirty (30) days of the date of the invoice.

**Payment Term:** Unless otherwise stated on the invoice, terms of payment shall be net sixty (60) days from the invoice date. Dealer shall not set off against or deduct from any amounts due to Ashworth hereunder all or any part of any amounts owed or alleged to be owed by Ashworth to Dealer. Chargebacks will not be accepted by Ashworth unless agreed to in writing between Ashworth and Dealer. A service charge of 1.5% per month will be charged on all past due invoices plus costs of collection (including but not limited to actual attorneys' fees and disbursements). Customers having an overdue balance shall not be eligible for discounts. Each order placed by Dealer and accepted by Ashworth shall be considered an independent transaction, and payment therefor shall be due accordingly. If Ashworth, in its sole discretion, at any time is unsatisfied with Dealer's financial responsibility or credit worthiness, or if Ashworth feels it needs further assurance that Dealer will pay for outstanding orders, Ashworth shall be entitled to require Dealer to pay for its orders on a cash-in-advance basis. If Dealer is in default under any agreement with Ashworth or fails to comply with any written rule or policy of Ashworth, Ashworth shall have the right, without prejudice to any other legal remedy, of canceling all outstanding orders. Until payment of all obligations of Dealer to Ashworth is received in full, Ashworth shall retain its purchase money security interest in the goods covered by an order and the proceeds thereof, and Dealer shall cooperate with, and, hereby, authorizes Ashworth to file all and any documents and to give all and any notices which may be necessary or appropriate to protect and perfect and give priority to Ashworth's security interest therein.

**Delivery:** Ashworth reserves the right to make shipments in installments within the shipping window indicated on the purchase order. Ashworth will attempt to meet delivery schedules requested by Dealer. However, all delivery indications are estimates only. In no event will Ashworth assume any liability, consequential or otherwise, resulting from Ashworth's failure to deliver product in accordance with indicated delivery schedules. Delivery of part of an order does not obligate Ashworth to make further deliveries, and partial deliveries will be billed when made.

**Changes in Order:** Changes in orders will be considered if requested no later than sixty (60) days prior to the first shipment date indicated on the order. Orders may be cancelled by the Dealer only upon written authorization from Ashworth's Corporate Headquarters Office and only will be considered if requested no later than sixty (60) days prior to the first shipment date indicated on the applicable order.

**No Transshipments:** Ashworth sells only directly to selected retail outlets for resale by them only to end users at physical retail locations of the Dealer as approved by Ashworth. Proposed sale at any new retail outlet requires advance written approval from an authorized Ashworth official of Ashworth's Corporate Headquarters Office. Resale or transshipment of Ashworth merchandise to an unauthorized location or to another business is expressly prohibited, violates the terms and conditions of sale, and may result in cancellation of existing orders and/or termination of Dealer's business relationship with Ashworth. It is understood and agreed that said prohibition of transshipment includes without limitation sales via the Internet or other media, fulfillment of sales originating from electronic media, as well as sales through mail, direct order, or catalogues, unless expressly authorized in writing through a separate contractual agreement with Ashworth. Dealer acknowledges and agrees that Ashworth is the sole authorized distributor of Ashworth merchandise in the United States and Dealer will not purchase Ashworth merchandise from any source other than Ashworth.

**Change in Ownership:** The sale of, or a partial, majority, or total change in the ownership of a Dealer or any of Dealer's approved retail outlets, or all or a substantial portion of Dealer's assets, shall be deemed an assignment and shall require the written consent of Ashworth, in its sole discretion. As a condition precedent to any consent by Ashworth to such change in ownership or assignment, the new owner(s) must apply to Ashworth for approval as an authorized dealer and Dealer shall be prohibited from selling Ashworth merchandise until the application is approved in writing by Ashworth's Corporate Headquarters Office.

**Shortages:** All claims for lost or damaged shipments made by Ashworth in respect to accepted purchase orders must be made directly to the delivering carrier. Shortages due to packing errors must be reported to Dealer's Ashworth Account Service Representative in New York, New York within fifteen (15) days from receipt of Ashworth merchandise in the case of shortages in cartons and within thirty (30) days from receipt in the case of concealed shortages.

**Return Goods Policy:** All returns, including the product assortment and quantity to be included as a return, are subject to pre-authorization by Dealer's Ashworth Customer Service Representative. Defective and return-to-stock items must be authorized and returned separately. Upon approval by Ashworth, a Return Authorization Number and, if requested, Label, which must be clearly affixed to the outside of the carton, will be issued to the Dealer. Returns not carrying the Ashworth Return Authorization Number will be refused delivery by Ashworth and will be returned to the Dealer. Merchandise must be returned in the same salable condition as received. Credit will not be issued for any product items or quantities other than as specifically included in the pre-authorization. With defective merchandise, the Dealer's account will be credited at full value. First quality returns will be credited to the Dealer's account at full value less a fifteen percent (15%) restocking charge. Shipments refused by the Dealer will be credited at full value if the shipment error is by Ashworth. Shipments refused for reasons not attributable to Ashworth will be credited at full value less fifteen percent (15%) restocking charge.

**Limited Warranty:** The Company warrants to the Purchase that Ashworth merchandise will be free from defects in materials and workmanship at the time of shipment thereof (the "Limited Warranty"). The Company's sole obligation and Dealer's sole remedy in the event of a defect covered by this warranty will be, as provided for in these Purchase Terms and Conditions, including, but not limited to, the Return Goods Policy set forth above, at Company's option, to (a) replace the defective Product, or (b) refund to Distributor the purchase price paid by Distributor for such defective Product.

**Limitation of Liability:** ASHWORTH ASSUMES NO LIABILITY EXCEPT AS EXPRESSLY PROVIDED FOR IN THESE TERMS AND CONDITIONS AND IN NO EVENT SHALL BE LIABLE FOR LOSS OF PROFITS, INTERRUPTION OF BUSINESS, OTHER SPECIAL, PUNITIVE, EXEMPLARY, INDIRECT, INCIDENTAL, OR CONSEQUENTIAL DAMAGES, WHETHER ARISING IN CONTRACT, IN TORT, UNDER WARRANTY OR OTHERWISE.

**Force Majeure:** If a delivery date is specified, that date will be extended to the extent that delivery is delayed by reason of fire, flood, war, riot, strike, attack, natural disaster, pandemic, epidemic, supply chain disruption, or any other event beyond Ashworth's reasonable control and if, as a result of such a delay, the goods ordered are unavailable, Ashworth may substitute comparable goods; provided, however, that no event of Force Majeure shall excuse payment of any past-due invoice.

**General:** This contract shall be construed and enforced in accordance with the laws of New York, without reference to its conflicts of law rules that would apply the laws of any other jurisdiction. Any dispute arising under or concerning this Agreement shall be resolved by arbitration under the authority of the American Arbitration Association applying its applicable commercial rules. The arbitration shall be conducted by one arbitrator in the English language and take place in New York, New York. The arbitrator shall be afforded the authority to determine its own jurisdiction and the enforceability of this arbitration clause. The decision of the arbitrator shall be binding and conclusive on the parties and any award issued thereunder shall be enforceable in any court of competent jurisdiction. In selecting arbitration, both Ashworth and Dealer acknowledge that they, hereby, waive their respective rights to jury trial in any action between them. Any demand for arbitration based on breach of contract must be commenced within one (1) year from the date of the delivery of the goods in question. Dealer's rights under this contract may not be assigned, transferred, or sold by Dealer without the prior written consent of Ashworth, which may be withheld in Ashworth's sole discretion, and any attempted assignment in contravention of the foregoing shall be considered null and void. Ashworth may assign this contract to a parent, subsidiary, or affiliated firm, or to another entity in connection with the merger, sale, or transfer of all or substantially all of its assets. Subject to these restrictions the provisions of the contract shall be binding upon and inure to the benefit of the parties, their successors, and permitted assigns. Terms and conditions are subject to change by Ashworth without prior notice. The Ashworth New Account Agreement, these terms and conditions of purchase, and the Multi-Jurisdiction Resale Certificate constitute the entire agreement between the parties with respect to the subject matter hereof and supersede all previous agreements or understandings between the parties with respect thereto.

No additions to, deletion from, or modification of any of the provisions herein shall be binding upon Ashworth unless made in writing and signed by a duly authorized representative of Ashworth, the terms and conditions herein being final, complete, and an exclusive statement of the terms governing the relationship between Ashworth and Dealer.

## ANNEX B Multi-Jurisdictional Resale Certificate

DEALER: \_\_\_\_\_  
 Street Address: \_\_\_\_\_  
 City: \_\_\_\_\_  
 State: \_\_\_\_\_ Zip: \_\_\_\_\_  
 Phone: \_\_\_\_\_

CUSTOMER: \_\_\_\_\_  
 Street Address: \_\_\_\_\_  
 City: \_\_\_\_\_  
 State: \_\_\_\_\_ Zip: \_\_\_\_\_  
 Phone: \_\_\_\_\_

DEALER certifies and agrees under penalties of perjury and in accordance with the laws of states in which it conducts business:

1. That all purchases from DEALER are for RESALE: (CHECK ONE)

In Present Form       As Component of Finished Product       Other (explain) \_\_\_\_\_

2. That any tax due arising from the purchase of merchandise from COMPANY that is NOT FOR RESALE will be paid by DEALER to the proper tax jurisdiction.

3. DEALER shall indemnify, defend, and hold harmless the COMPANY with respect to any breach by the DEALER of this certification.

DEALER's primary business is \_\_\_\_\_.

Items purchased from COMPANY include: \_\_\_\_\_.

COMPANY shall exercise due care in the acceptance of this certificate.

DEALER: provide tax ID(s) below; then sign, date & return this form promptly.

STATE	SALES TAX ID	STATE	SALES TAX ID	STATE	SALES TAX ID
AL		KY		NY	
AK		LA		OH	
AR		MA		OK	
AZ		MD		OR	
CA		ME		PA	
CT		MI		RI	
CO		MN		SC	
DC		MO		SD	
DE		MS		TN	
FL		MT		TX	
GA		NC		UT	
HI		ND		VA	
IA		NE		VT	
ID		NH		WA	
IL		NJ		WI	
IN		NM		WV	
KS		NV		WY	