

STATE OF TEXAS §
§
COUNTY OF FORT BEND §

ADDENDUM TO EVERBRIGHT DISPLAY PRODUCT SALES AGREEMENT

THIS ADDENDUM ("Addendum") is entered into by and between Fort Bend County, ("County"), a body corporate and politic under the laws of the State of Texas, and Hero Design LLC, ("Hero"), a company authorized to conduct business in the State of Texas.

WHEREAS, the parties have executed and accepted that certain Product Sales Agreement for Everbright Classic Displays, (“Agreement”), attached hereto as “Exhibit A” and incorporated by reference; and

WHEREAS, the following changes are incorporated as if a part of the Agreement:

1. **Payment.** Payment shall be made by County within thirty (30) days of receipt of invoice.
2. **Non-appropriation.** It is specifically understood and agreed that in the event no funds or insufficient funds are appropriated by Fort Bend County under this Agreement, Fort Bend County shall notify all necessary parties that this Agreement shall thereafter terminate and be null and void on the last day of the fiscal period for which appropriations were made without penalty, liability or expense to Fort Bend County.
3. **Taxes.** County is a body corporate and politic under the laws of the State of Texas and claims exemption from sales and use taxes. A copy of a tax-exempt certificate will be furnished upon request.
4. **Confidential Information.** Hero expressly acknowledges that County is subject to the Texas Public Information Act, Tex. Gov't. Code Ann. §§ 552.001 *et seq.*, as amended, and notwithstanding any provision in the Agreement to the contrary, County will make any information related to the Agreement, or otherwise, available to third parties in accordance with the Texas Public Information Act. Any proprietary or confidential information marked as such provided to County by Hero shall not be disclosed to any third party, except as directed by the Texas Attorney General in response to a request for such under the Texas Public Information Act, which provides for notice to the owner of such marked information and the opportunity for the owner of such information to notify the Attorney General of the reasons why such information should not be disclosed.
5. **Indemnity.** The parties agree that under the Constitution and laws of the State of Texas, County cannot enter into an agreement whereby County agrees to indemnify or hold harmless another party; therefore, all references of any kind to County defending, indemnifying, holding or saving harmless Hero for any reason are hereby deleted.
6. **Attorney Fees.** County does not agree to pay any and/or all attorney fees incurred by Hero in any way associated with the Agreement.
7. **Arbitration.** County does not agree to submit disputes arising out of the Agreement to binding arbitration. Therefore, any references to binding arbitration or the waiver of a right to litigate a dispute are hereby deleted.
8. **Applicable Law.** The laws of the State of Texas govern all disputes arising out of or relating to this Agreement. The parties hereto acknowledge that venue is proper in Fort Bend County, Texas, for all legal actions or proceedings arising out of or relating to this Agreement and waive the right to sue or be sued elsewhere. Nothing in the Agreement shall be construed to waive the County's sovereign immunity. By signature below, Hero represents pursuant to

Section 2252.152 of the Texas Government Code, that Hero is not listed on the website of the Comptroller of the State of Texas concerning the listing of companies that are identified under Section 806.051, Section 807.051 or Section 2253.153. As required by Chapter 2270, Government Code, Hero hereby verifies that it does not boycott Israel and will not boycott Israel through the term of this Agreement. For purposes of this verification, "boycott Israel" means refusing to deal with, terminating business activities with, or otherwise taking any action that is intended to penalize, inflict economic harm on, or limit commercial relations specifically with Israel, or with a person or entity doing business in Israel or in an Israeli-controlled territory, but does not include an action made for ordinary business purposes.

9. **Conflict.** In the event there is a conflict between this Addendum and the Agreement, this Addendum controls.
10. **Understanding, Fair Construction.** By execution of this Agreement, the parties acknowledge that they have read and understood each provision, term and obligation contained in this Agreement. This Agreement, although drawn by one party, shall be construed fairly and reasonably and not more strictly against the drafting party than the nondrafting party.
11. **Electronic and Digital Signatures.** The parties to this Agreement agree that the electronic and/or digital signatures of the parties included in this Agreement are intended to authenticate this writing and to have the same force and effect as the use of manual signatures.

IN WITNESS WHEREOF, this Addendum is signed, accepted, and agreed to by all parties by and through the parties or their agents or authorized representatives. All parties hereby acknowledge that they have read and understood this Addendum and the attachments and exhibits hereto. All parties further acknowledge that they have executed this legal document voluntarily and of their own free will.

FORT BEND COUNTY

HERO DESIGN LLC

Robert Hebert, County Judge

Kelly Parkison, Managing Partner

Date

Date

ATTEST:

Laura Richard, County Clerk

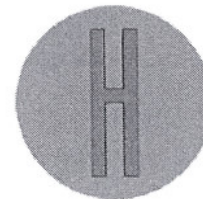
AUDITOR'S CERTIFICATE

I hereby certify that funds in the amount of \$_____ are available to pay the obligation of Fort Bend County within the foregoing Agreement.

Robert Ed Sturdivant, County Auditor

Exhibit A

Hero Design LLC
2421 Peralta Street
Oakland, CA 94607 US
415-323-5928
kp@hero-design.com
http://hero-design.com



ESTIMATE

ADDRESS

Fort Bend County Libraries
1003 Golfview
Richmond, TX 77469

SHIP TO

Missouri City Branch Library
1530 Texas Parkway
Missouri City, Texas 77489

ESTIMATE # 1044**DATE 03/19/2018****SHIP DATE**
09/28/2018**SHIP VIA**
freight with inside delivery \$15,000**DEPOSIT REQUEST****EST. LEAD TIME**
16 weeks

ACTIVITY	QTY	RATE	AMOUNT
Everbright Classic 476 color dials, can run dynamic animations. Dimensions of 94" long, 48" high, and 5.25" deep, weight of approximately 185 lbs.	1	25,000.00	25,000.00
Shipping Door-to-Door Shipping with inside delivery from Oakland to Missouri City, TX via common carrier who specializes in moving sensitive, high-end electronics internationally.	1	1,325.00	1,325.00
Large Crate Custom plywood shipping crate with dimensions of 100"x34"x58"	1	452.00	452.00
Transit insurance Transit insurance during shipping	1	187.50	187.50

Each Everbright is made to order. To secure your position in our production queue and place your order, we request a signed purchase agreement and 60% deposit on the purchase price of the Everbright. The remainder plus shipping is invoiced and due at the time the board is complete and ready to ship.

TOTAL**\$26,964.50**

Accepted By

Accepted Date



EVERBRIGHT PURCHASE AGREEMENT

PRODUCT SALES AGREEMENT

This Product Sales Agreement (this "Agreement") is made as of the 19th of March, 2018, by and between Hero Design LLC, a California limited liability company ("Seller"), with an address of 2421 Peralta Street, Oakland, CA 94607, and Fort Bend County Libraries ("Customer"), with a billing address of 1003 Golfview Richmond, TX 77469.

A. Item purchased. Seller shall sell to Customer, and Customer shall purchase from Seller, one Everbright Classic board ("Product"), which is an interactive light board composed of 476 endlessly rotating LED pixels capable of turning in either direction to produce every color of the rainbow. The Everbright Classic measures 94 inches long, 48 inches high, and 5.25 inches deep.

B. Custom Fabrication: The Everbright is individually fabricated upon receipt of Customer's deposit. Seller agrees to exercise commercially reasonable best efforts to supply Product to Customer in a timely fashion. The current lead time is 16 weeks, although the actual ship date depends on such variables as the date of the order and the availability of custom materials, among others.

C. Payment and Payment Terms. The total purchase price is \$25,000 USD, plus shipping in the amount of \$1,954.50 USD (\$452 for custom plywood shipping crate measuring 100"x34"x58", \$187.50 for transit insurance, and \$1,325 for door-to-door shipping with inside delivery to Houston, Texas via common carrier). Payment shall be made via ACH or wire transfer to Hero Design LLC, 2421 Peralta Street, Oakland, California 94607, as follows: Initial non-refundable 60% deposit of \$15,000 USD at time of order; balance of \$10,000 USD plus \$1,325 for shipping due within 5 business days of notification by Seller that Product is complete and ready to ship. If Customer fails to make payment when due, Seller has the option, in addition to any other remedy provided by law, to treat such failure to pay as a material breach of this Contract, and may cancel this agreement and/or seek legal remedies. If Seller fails to complete the product, the Customer is entitled to receive a full refund.

D. Product design modifications. Customer acknowledges that Seller may make changes to the Product specifications at any time for various reasons, such as to improve quality, comply with applicable law, or to adopt changes in materials or component sourcing. Buyer agrees that any such changes that do not materially change the function of the Product do not constitute a breach of or otherwise interfere with this Agreement.

E. Delivery. Seller will notify Customer when Product is complete and ready to ship.

F. Terms and Conditions. The Terms and Conditions of Sale attached hereto as Exhibits "A" and "B" are incorporated into this Agreement by reference as if fully set forth herein.

IN WITNESS WHEREOF, the undersigned has caused this Agreement to be executed as of the date first set forth above.

SELLER:

By: 

Name: Kelly Parkinson

Title: Managing Partner

Company: Hero Design LLC

CUSTOMER:

By: _____

Name:

Title:

Organization:

EXHIBIT A

TERMS AND CONDITIONS OF SALE

1. Terms and Conditions. These Terms and Conditions of Sale ("Terms") apply to the sale and delivery by Seller to Customer of the Product as set forth in the Agreement to which these Terms are attached. These Terms are incorporated into the Agreement and, in combination therewith, constitute the entire agreement between the parties with respect to the sale and delivery of the Product. The Agreement is expressly limited to these Terms, and any and all terms or provisions submitted by Customer which add to, conflict with, or otherwise modify these Terms or the Agreement are expressly rejected.

2. Price. The price for the Product shall be as set forth in the Agreement (the "Price"). Unless otherwise stated, the Price does not include delivery by the appropriate shipper or courier service, additional taxes, customs, duties or insurance. Any and all current or future taxes, fees, or governmental charges applicable to the sale, delivery or shipment of the Product that Seller is required to pay or collect shall be payable by Customer either directly or if paid by Seller, paid by Customer within ten (10) days of the date of invoice from Seller of such additional costs and not subject to any off set or reduction for any reason.

3. Risk of Loss & Title. Title to the Product shall pass to Customer at such time as Seller has received payment in full for the invoiced amount for the Product, and payment of all other monies then due or owing to Seller. Risk of loss of the Product shall transfer to Customer upon delivery of the Product to the Customer.

4. Invoices; Payment. Customer shall be responsible for and pay, if applicable, all fees and expenses incurred by Seller in connection with the installation of Product. Product will not be shipped until payment is made in full. All amounts referenced in this Agreement are denominated and shall be paid in United States Dollars.

5. Warranty. Exhibit B hereto sets forth the terms of the limited warranty offered with the Product. No other warranty, express or implied, shall apply.

6. Consequential Damages; Limitation of Liability. Notwithstanding anything to the contrary contained in this Agreement, Seller and Customer waive all claims against each other (and against each other's parent company, affiliates, contractors, subcontractors, consultants, agents and vendors) for any consequential, incidental, indirect, special, exemplary or punitive damages arising out of this Agreement (including but not limited to, loss of actual or anticipated profits, revenues or product; or loss of use), and regardless of whether any such claim arises out of breach of contract, tort, product liability, indemnity, contribution, strict liability or any other legal theory. IN NO EVENT, REGARDLESS OF THE FORM OF THE CLAIM OR CAUSE OF ACTION (WHETHER BASED IN CONTRACT, INFRINGEMENT, NEGLIGENCE, STRICT LIABILITY, OTHER TORT OR OTHERWISE), SHALL SELLER'S CUMULATIVE LIABILITY TO CUSTOMER EXCEED THE PRICE FOR THE PRODUCT GIVING RISE TO THE CLAIM OR CAUSE OF ACTION.

7. Delivery. Seller's delivery dates are estimates only and Seller is not liable for delays in delivery or for failure to perform due to causes beyond the reasonable control of the Seller, nor shall the carrier be deemed an agent of the Seller. A delayed delivery of any part of an order does not entitle Buyer to cancel other deliveries.

8. Intellectual Property. The Product, including software or other intellectual property components, is subject to any applicable rights of third parties, such as patents, copyrights and/or user licenses.

9. **Termination and Cancellation.** Any order or delivery may be terminated or suspended, (a) by either party if any proceeding under bankruptcy is brought by or against the party, (b) by a party if the other party defaults in its material obligations and such default is not cured within a reasonable time if such default is curable, or (c) by Seller if it has reason to doubt the ability or willingness of Buyer to pay for the Product. The Agreement is not otherwise subject to cancellation except by mutual written agreement of the parties.

10. **Inspection And Notification:** Buyer shall inspect and test the Product for damage or defect immediately upon receipt, and provide Seller notice of any such damage, defect or shortage within ten (10) days of receipt. All claims for any cause whatsoever, whether based in contract, negligence or other tort, strict liability, breach of warranty or otherwise, shall be deemed waived unconditionally and absolutely unless Seller receives written notice of such claim not later than ten (10) days after Buyer's receipt of the Product as to which such claim is made.

11. **Notices.** All notices required hereunder shall be in writing and shall be deemed properly served if delivered in person or by reputable overnight courier service, or if sent by registered or certified mail, with postage prepaid and return receipt requested, to the addresses in the Agreement or to such addresses as a party may designate from time to time pursuant to this Section 12. All notices shall be deemed received on the date of delivery or attempted delivery, if delivered in person, or if mailed, on the date which is two (2) days after the date such notice is deposited in the mail.

12. **No Waiver.** No course of dealing or failure of Seller or Customer to strictly enforce any term, right or conditions of this Agreement shall be construed as a waiver of such term, right or condition. No express waiver of any term, right or condition of this Agreement shall operate as a waiver of any other term, right or condition.

13. **Compliance with Laws and Regulations.** Customer is responsible for complying with any and all applicable federal, state and local laws, codes, ordinances, rules, regulations, and administrative orders, including, without limitation, export and import laws, rules and regulations and any and all other product safety laws, rules and regulations.

14. **Modification.** Notwithstanding anything contained herein, these Terms may be modified or changed only by a written amendment to the Agreement signed by Seller and Customer.

15. **Use of Name.** Customer agrees to obtain prior written consent of Seller before using the names Hero Design or Everbright in any advertisement, publications, or promotional materials. Customer shall not rename the product, or refer to it by another name or title. In cases when using the term "Everbright" does not seem ideal, or when the customer would prefer to use a generic description to reference the product, the terms "interactive light wall" or "pixel art" may be used interchangeably, as general descriptions of the product, without gaining prior consent from the Seller.

16. **Entire contract.** This Contract contains the entire agreement of the parties regarding the subject matter of this Contract, and there are no other promises or conditions in any other agreement whether oral or written. This Contract supersedes any prior written or oral agreements between the parties.

17. **Applicable law.** This Contract shall be governed by the laws of the State of California.

EXHIBIT B

Limited Warranty

The warranty obligations of Hero Design ("Hero Design") for this product are limited to the terms set forth below:

What Is Covered

This limited warranty covers physical defects in the individual LED boards within each pixel, the onboard CPU, the pixel housings, and the DC power supplies.

What Is Not Covered

This limited warranty does not cover any damage, deterioration or malfunction resulting from any alteration, modification, improper or unreasonable use or maintenance, misuse, abuse, accident, neglect, exposure to excess moisture, foreign objects, fire, improper packing and shipping damage (such claims must be presented to the carrier), lightning, power surges, or other acts of nature. This limited warranty does not cover any damage, deterioration or malfunction resulting from the installation or removal of this product from any installation, any unauthorized tampering with this product, any repairs attempted by anyone unauthorized by Hero Design to make such repairs, or any other cause which does not relate directly to a defect in materials and/or workmanship of this product. Without limiting any other exclusion herein, Hero Design does not warrant that the product covered hereby, including, without limitation, the technology and/or integrated circuit(s) included in the product, will not become obsolete or that such items are or will remain compatible with any other product or technology with which the product may be used.

How Long Does This Coverage Last?

The lifetime technical support lasts for as long as the original Customer owns the Everbright. In addition, Everbright has a one (1) year limited warranty for all specified parts and any labor associated with the fabrication of these parts. Coverage begins upon delivery to the Customer.

Who Is Covered

The Product is being purchased by the Customer, who will be considered the original Purchaser and Owner for the purpose of Warranty coverage. The limited warranty, and technical support, will not be transferable to subsequent purchasers or owners of this product.

What Hero Design Will Do

Hero Design will, at its sole option, provide one of the following three remedies to whatever extent it shall deem necessary to satisfy a proper claim under this limited warranty:

1. Elect to replace, repair or facilitate the repair of any defective parts within a reasonable period of time, free of any charge for the necessary parts to complete the repair and restore this product to its proper operating condition. Hero Design will cover the shipping costs necessary to supply the required parts. Customer will be responsible for all labor associated with all aspects of replacing any defective parts with working parts provided by Hero Design.
2. Replace this product with a direct replacement or with a similar product deemed by Hero Design to perform substantially the same function as the original product. Customer is

responsible for packaging the product as specified by Hero Design. Customer is responsible for all shipping costs, including insurance.

3. Provide live video, email, or phone technical support and detailed visual documentation for any needed repairs or replacements.

What Hero Design Will Not Do Under This Limited Warranty

If any parts are returned to Hero Design for repair, they must be insured during shipment, with the insurance, packaging, and shipping charges prepaid by the Customer. All parts must be packaged and shipped in accordance with Hero Design's specifications. If parts are returned uninsured, the Customer assumes all risks of loss or damage during shipment. Hero Design will not be responsible for any costs related to the removal or re-installation of this product from or into any location. Hero Design will not be responsible for any costs related to the installation of this product.

How to Obtain a Remedy Under This Limited Warranty

To obtain a remedy under this limited warranty, contact Hero Design in writing at support@hero-design.com.

Limitation On Liability

THE MAXIMUM LIABILITY OF HERO DESIGN UNDER THIS LIMITED WARRANTY SHALL NOT EXCEED THE ACTUAL PURCHASE PRICE PAID FOR THE PRODUCT. TO THE MAXIMUM EXTENT PERMITTED BY LAW, HERO DESIGN IS NOT RESPONSIBLE FOR DIRECT, SPECIAL, INCIDENTAL OR CONSEQUENTIAL DAMAGES RESULTING FROM ANY BREACH OF WARRANTY OR CONDITION, OR UNDER ANY OTHER LEGAL THEORY. Some countries, districts or states do not allow the exclusion or limitation of relief, special, incidental, consequential or indirect damages, or the limitation of liability to specified amounts, so the above limitations or exclusions may not apply to you.

Exclusive Remedy

TO THE MAXIMUM EXTENT PERMITTED BY LAW, THIS LIMITED WARRANTY AND THE REMEDIES SET FORTH ABOVE ARE EXCLUSIVE AND IN LIEU OF ALL OTHER WARRANTIES, REMEDIES AND CONDITIONS, WHETHER ORAL OR WRITTEN, EXPRESS OR IMPLIED. TO THE MAXIMUM EXTENT PERMITTED BY LAW, HERO DESIGN SPECIFICALLY DISCLAIMS ANY AND ALL IMPLIED WARRANTIES, INCLUDING, WITHOUT LIMITATION, WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE. IF HERO DESIGN CANNOT LAWFULLY DISCLAIM OR EXCLUDE IMPLIED WARRANTIES UNDER APPLICABLE LAW, THEN ALL IMPLIED WARRANTIES COVERING THIS PRODUCT, INCLUDING WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE, SHALL APPLY TO THIS PRODUCT AS PROVIDED UNDER APPLICABLE LAW. IF ANY PRODUCT TO WHICH THIS LIMITED WARRANTY APPLIES IS A "CONSUMER PRODUCT" UNDER THE MAGNUSON-MOSS WARRANTY ACT (15 U.S.C.A. §2301, ET SEQ.) OR OTHER APPLICABLE LAW, THE FOREGOING DISCLAIMER OF IMPLIED WARRANTIES SHALL NOT APPLY TO YOU, AND ALL IMPLIED WARRANTIES ON THIS PRODUCT, INCLUDING WARRANTIES OF MERCHANTABILITY AND FITNESS FOR THE PARTICULAR PURPOSE, SHALL APPLY AS PROVIDED UNDER APPLICABLE LAW.

Other Conditions

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

Thank you for purchasing the Everbright. We hope it prompts years of endless creativity for your community.

SELLERS REFERENCE ONLY

Purchase Date _____

Deposit Date _____

Final Balance _____

Shipping Date _____

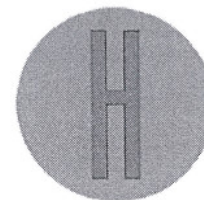
Check # _____

Check # _____

Tracking # _____

Carrier _____

Hero Design LLC
2421 Peralta Street
Oakland, CA 94607 US
415-323-5928
kp@hero-design.com
http://hero-design.com



ESTIMATE

ADDRESS

Fort Bend County Libraries
1003 Golfview
Richmond, TX 77469

SHIP TO

Mission Bend Branch Library
8421 Addicks Clodine Rd.
Houston, TX 77083

ESTIMATE # 1043**DATE 03/19/2018****SHIP DATE**
07/31/2018**SHIP VIA**
freight with inside delivery \$15,000**DEPOSIT REQUEST****EST. LEAD TIME**
16 weeks

ACTIVITY	QTY	RATE	AMOUNT
Everbright Classic 476 color dials, can run dynamic animations. Dimensions of 94" long, 48" high, and 5.25" deep, weight of approximately 185 lbs.	1	25,000.00	25,000.00
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TOTAL**\$26,964.50**

Accepted By

Accepted Date



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D. Product design modifications. Customer acknowledges that Seller may make changes to the Product specifications at any time for various reasons, such as to improve quality, comply with applicable law, or to adopt changes in materials or component sourcing. Buyer agrees that any such changes that do not materially change the function of the Product do not constitute a breach of or otherwise interfere with this Agreement.

E. Delivery. Seller will notify Customer when Product is complete and ready to ship.

F. Terms and Conditions. The Terms and Conditions of Sale attached hereto as Exhibits "A" and "B" are incorporated into this Agreement by reference as if fully set forth herein.

IN WITNESS WHEREOF, the undersigned has caused this Agreement to be executed as of the date first set forth above.

SELLER:

By: 

Name: Kelly Parkinson

Title: Managing Partner

Company: Hero Design LLC

CUSTOMER:

By: _____

Name:

Title:

Organization:

EXHIBIT A

TERMS AND CONDITIONS OF SALE

1. **Terms and Conditions.** These Terms and Conditions of Sale ("Terms") apply to the sale and delivery by Seller to Customer of the Product as set forth in the Agreement to which these Terms are attached. These Terms are incorporated into the Agreement and, in combination therewith, constitute the entire agreement between the parties with respect to the sale and delivery of the Product. The Agreement is expressly limited to these Terms, and any and all terms or provisions submitted by Customer which add to, conflict with, or otherwise modify these Terms or the Agreement are expressly rejected.

2. **Price.** The price for the Product shall be as set forth in the Agreement (the "Price"). Unless otherwise stated, the Price does not include delivery by the appropriate shipper or courier service, additional taxes, customs, duties or insurance. Any and all current or future taxes, fees, or governmental charges applicable to the sale, delivery or shipment of the Product that Seller is required to pay or collect shall be payable by Customer either directly or if paid by Seller, paid by Customer within ten (10) days of the date of invoice from Seller of such additional costs and not subject to any off set or reduction for any reason.

3. **Risk of Loss & Title.** Title to the Product shall pass to Customer at such time as Seller has received payment in full for the invoiced amount for the Product, and payment of all other monies then due or owing to Seller. Risk of loss of the Product shall transfer to Customer upon delivery of the Product to the Customer.

4. **Invoices; Payment.** Customer shall be responsible for and pay, if applicable, all fees and expenses incurred by Seller in connection with the installation of Product. Product will not be shipped until payment is made in full. All amounts referenced in this Agreement are denominated and shall be paid in United States Dollars.

5. **Warranty.** Exhibit B hereto sets forth the terms of the limited warranty offered with the Product. No other warranty, express or implied, shall apply.

6. **Consequential Damages; Limitation of Liability.** Notwithstanding anything to the contrary contained in this Agreement, Seller and Customer waive all claims against each other (and against each other's parent company, affiliates, contractors, subcontractors, consultants, agents and vendors) for any consequential, incidental, indirect, special, exemplary or punitive damages arising out of this Agreement (including but not limited to, loss of actual or anticipated profits, revenues or product; or loss of use), and regardless of whether any such claim arises out of breach of contract, tort, product liability, indemnity, contribution, strict liability or any other legal theory. IN NO EVENT, REGARDLESS OF THE FORM OF THE CLAIM OR CAUSE OF ACTION (WHETHER BASED IN CONTRACT, INFRINGEMENT, NEGLIGENCE, STRICT LIABILITY, OTHER TORT OR OTHERWISE), SHALL SELLER'S CUMULATIVE LIABILITY TO CUSTOMER EXCEED THE PRICE FOR THE PRODUCT GIVING RISE TO THE CLAIM OR CAUSE OF ACTION.

7. **Delivery.** Seller's delivery dates are estimates only and Seller is not liable for delays in delivery or for failure to perform due to causes beyond the reasonable control of the Seller, nor shall the carrier be deemed an agent of the Seller. A delayed delivery of any part of an order does not entitle Buyer to cancel other deliveries.

8. **Intellectual Property.** The Product, including software or other intellectual property components, is subject to any applicable rights of third parties, such as patents, copyrights and/or user licenses.

9. Termination and Cancellation. Any order or delivery may be terminated or suspended, (a) by either party if any proceeding under bankruptcy is brought by or against the party, (b) by a party if the other party defaults in its material obligations and such default is not cured within a reasonable time if such default is curable, or (c) by Seller if it has reason to doubt the ability or willingness of Buyer to pay for the Product. The Agreement is not otherwise subject to cancellation except by mutual written agreement of the parties.

10. Inspection And Notification: Buyer shall inspect and test the Product for damage or defect immediately upon receipt, and provide Seller notice of any such damage, defect or shortage within ten (10) days of receipt. All claims for any cause whatsoever, whether based in contract, negligence or other tort, strict liability, breach of warranty or otherwise, shall be deemed waived unconditionally and absolutely unless Seller receives written notice of such claim not later than ten (10) days after Buyer's receipt of the Product as to which such claim is made.

11. Notices. All notices required hereunder shall be in writing and shall be deemed properly served if delivered in person or by reputable overnight courier service, or if sent by registered or certified mail, with postage prepaid and return receipt requested, to the addresses in the Agreement or to such addresses as a party may designate from time to time pursuant to this Section 12. All notices shall be deemed received on the date of delivery or attempted delivery, if delivered in person, or if mailed, on the date which is two (2) days after the date such notice is deposited in the mail.

12. No Waiver. No course of dealing or failure of Seller or Customer to strictly enforce any term, right or conditions of this Agreement shall be construed as a waiver of such term, right or condition. No express waiver of any term, right or condition of this Agreement shall operate as a waiver of any other term, right or condition.

13. Compliance with Laws and Regulations. Customer is responsible for complying with any and all applicable federal, state and local laws, codes, ordinances, rules, regulations, and administrative orders, including, without limitation, export and import laws, rules and regulations and any and all other product safety laws, rules and regulations.

14. Modification. Notwithstanding anything contained herein, these Terms may be modified or changed only by a written amendment to the Agreement signed by Seller and Customer.

15. Use of Name. Customer agrees to obtain prior written consent of Seller before using the names Hero Design or Everbright in any advertisement, publications, or promotional materials. Customer shall not rename the product, or refer to it by another name or title. In cases when using the term "Everbright" does not seem ideal, or when the customer would prefer to use a generic description to reference the product, the terms "interactive light wall" or "pixel art" may be used interchangeably, as general descriptions of the product, without gaining prior consent from the Seller.

16. Entire contract. This Contract contains the entire agreement of the parties regarding the subject matter of this Contract, and there are no other promises or conditions in any other agreement whether oral or written. This Contract supersedes any prior written or oral agreements between the parties.

17. Applicable law. This Contract shall be governed by the laws of the State of California.

EXHIBIT B

Limited Warranty

The warranty obligations of Hero Design ("Hero Design") for this product are limited to the terms set forth below:

What Is Covered

This limited warranty covers physical defects in the individual LED boards within each pixel, the onboard CPU, the pixel housings, and the DC power supplies.

What Is Not Covered

This limited warranty does not cover any damage, deterioration or malfunction resulting from any alteration, modification, improper or unreasonable use or maintenance, misuse, abuse, accident, neglect, exposure to excess moisture, foreign objects, fire, improper packing and shipping damage (such claims must be presented to the carrier), lightning, power surges, or other acts of nature. This limited warranty does not cover any damage, deterioration or malfunction resulting from the installation or removal of this product from any installation, any unauthorized tampering with this product, any repairs attempted by anyone unauthorized by Hero Design to make such repairs, or any other cause which does not relate directly to a defect in materials and/or workmanship of this product. Without limiting any other exclusion herein, Hero Design does not warrant that the product covered hereby, including, without limitation, the technology and/or integrated circuit(s) included in the product, will not become obsolete or that such items are or will remain compatible with any other product or technology with which the product may be used.

How Long Does This Coverage Last?

The lifetime technical support lasts for as long as the original Customer owns the Everbright. In addition, Everbright has a one (1) year limited warranty for all specified parts and any labor associated with the fabrication of these parts. Coverage begins upon delivery to the Customer.

Who Is Covered

The Product is being purchased by the Customer, who will be considered the original Purchaser and Owner for the purpose of Warranty coverage. The limited warranty, and technical support, will not be transferable to subsequent purchasers or owners of this product.

What Hero Design Will Do

Hero Design will, at its sole option, provide one of the following three remedies to whatever extent it shall deem necessary to satisfy a proper claim under this limited warranty:

1. Elect to replace, repair or facilitate the repair of any defective parts within a reasonable period of time, free of any charge for the necessary parts to complete the repair and restore this product to its proper operating condition. Hero Design will cover the shipping costs necessary to supply the required parts. Customer will be responsible for all labor associated with all aspects of replacing any defective parts with working parts provided by Hero Design.
2. Replace this product with a direct replacement or with a similar product deemed by Hero Design to perform substantially the same function as the original product. Customer is

responsible for packaging the product as specified by Hero Design. Customer is responsible for all shipping costs, including insurance.

3. Provide live video, email, or phone technical support and detailed visual documentation for any needed repairs or replacements.

What Hero Design Will Not Do Under This Limited Warranty

If any parts are returned to Hero Design for repair, they must be insured during shipment, with the insurance, packaging, and shipping charges prepaid by the Customer. All parts must be packaged and shipped in accordance with Hero Design's specifications. If parts are returned uninsured, the Customer assumes all risks of loss or damage during shipment. Hero Design will not be responsible for any costs related to the removal or re-installation of this product from or into any location. Hero Design will not be responsible for any costs related to the installation of this product.

How to Obtain a Remedy Under This Limited Warranty

To obtain a remedy under this limited warranty, contact Hero Design in writing at support@hero-design.com.

Limitation On Liability

THE MAXIMUM LIABILITY OF HERO DESIGN UNDER THIS LIMITED WARRANTY SHALL NOT EXCEED THE ACTUAL PURCHASE PRICE PAID FOR THE PRODUCT. TO THE MAXIMUM EXTENT PERMITTED BY LAW, HERO DESIGN IS NOT RESPONSIBLE FOR DIRECT, SPECIAL, INCIDENTAL OR CONSEQUENTIAL DAMAGES RESULTING FROM ANY BREACH OF WARRANTY OR CONDITION, OR UNDER ANY OTHER LEGAL THEORY. Some countries, districts or states do not allow the exclusion or limitation of relief, special, incidental, consequential or indirect damages, or the limitation of liability to specified amounts, so the above limitations or exclusions may not apply to you.

Exclusive Remedy

TO THE MAXIMUM EXTENT PERMITTED BY LAW, THIS LIMITED WARRANTY AND THE REMEDIES SET FORTH ABOVE ARE EXCLUSIVE AND IN LIEU OF ALL OTHER WARRANTIES, REMEDIES AND CONDITIONS, WHETHER ORAL OR WRITTEN, EXPRESS OR IMPLIED. TO THE MAXIMUM EXTENT PERMITTED BY LAW, HERO DESIGN SPECIFICALLY DISCLAIMS ANY AND ALL IMPLIED WARRANTIES, INCLUDING, WITHOUT LIMITATION, WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE. IF HERO DESIGN CANNOT LAWFULLY DISCLAIM OR EXCLUDE IMPLIED WARRANTIES UNDER APPLICABLE LAW, THEN ALL IMPLIED WARRANTIES COVERING THIS PRODUCT, INCLUDING WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE, SHALL APPLY TO THIS PRODUCT AS PROVIDED UNDER APPLICABLE LAW. IF ANY PRODUCT TO WHICH THIS LIMITED WARRANTY APPLIES IS A "CONSUMER PRODUCT" UNDER THE MAGNUSON-MOSS WARRANTY ACT (15 U.S.C.A. §2301, ET SEQ.) OR OTHER APPLICABLE LAW, THE FOREGOING DISCLAIMER OF IMPLIED WARRANTIES SHALL NOT APPLY TO YOU, AND ALL IMPLIED WARRANTIES ON THIS PRODUCT, INCLUDING WARRANTIES OF MERCHANTABILITY AND FITNESS FOR THE PARTICULAR PURPOSE, SHALL APPLY AS PROVIDED UNDER APPLICABLE LAW.

Other Conditions

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

Thank you for purchasing the Everbright. We hope it prompts years of endless creativity for your community.

SELLERS REFERENCE ONLY

Purchase Date _____	Check # _____
Deposit Date _____	Check # _____
Final Balance _____	Tracking # _____
Shipping Date _____	Carrier _____