



**Studio Legale SMAF & Associates** [S.T.A. - S.A.S.]

**Società Multiprofessionale Avvocati Fiscalisti**

Roma - Milano - Bologna

*Law Firm in Italy*

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**ROMA  
MILANO  
BOLOGNA**

### **TRANSFER PRICING AGREEMENT**

This Transfer pricing Agreement (this "AGREEMENT") is entered into as of this 31st day of December ..... by and between XYZ, Inc. ("XYZ") and YYY Technologies, Inc. ("YYY").

#### **W I T N E S S E T H:**

WHEREAS, XYZ is in the business of assembling and marketing ..... (referred to herein sometimes as "PRODUCTS ....." or ".....") and electronic safes, manufactured to either stand alone or operate connected to the PRODUCTS ..... (the "PRODUCTS") (the PRODUCTS and PRODUCTS ..... are referred to herein sometimes as the "PRODUCTS"); and

WHEREAS, YYY owns all patent, copyright, trademark and other intellectual property rights in and to the hardware and software relating to the PRODUCTS ..... and the PRODUCTS (the "INTELLECTUAL PROPERTY RIGHTS"); and

WHEREAS, XYZ has a Marketing Research and Development Department (the "R&D DEPARTMENT"), established to development enhancements and improvements to the PRODUCTS ..... and PRODUCTS' hardware and software (the "INTELLECTUAL PROPERTY ENHANCEMENTS"); and

WHEREAS, pursuant to the terms of this Agreement, YYY shall retain actual and proprietary ownership in and to the Intellectual Property Rights and the Intellectual Property Enhancements; and

WHEREAS, XYZ specializes in the design, manufacture and assembly of automated ....., including the PRODUCTS ..... and PRODUCTS and has proprietary manufacturing and assembly procedures and protocols for such products; and

WHEREAS, XYZ has a small assembly facility and maintains manufacturing and vendor relationships that can be used to manufacture the products; and

WHEREAS, XYZ has a Field Service Department, that can be used to install and provide on-going maintenance on XYZ and YYY's installed PRODUCTS ..... and PRODUCTS (the "FIELD SERVICE DEPARTMENT"); and

WHEREAS, XYZ also has an accounting department, that can be used to provide certain accounting services, more specifically outlined in this Agreement (the "XYZ ACCOUNTING DEPARTMENT"); and

WHEREAS, YYY has a unique financing program and specializes in financing programs, designed and established to provide financing for the placement of the Products in the lodging industry on a lease or revenue sharing basis (the "YYY FINANCING PROGRAM"); and

WHEREAS, included in the YYY Financing program are financing options not available to other minibar companies similarly situated to XYZ; and

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WHEREAS, XYZ shall have the exclusive right to sell, domestically, the PRODUCTS ..... and PRODUCTS to YYY pursuant to the YYY Financing Program; and

NOW THEREFORE, in consideration of the monetary consideration herein recited, the mutual promises herein contained and subject to the fulfillment of the conditions set forth herein, the parties agree as follows:

ARTICLE I

PLACEMENT OF THE PRODUCTS ..... AND PRODUCTS

SECTION 1.1 PLACEMENT OF THE PRODUCTS ..... AND PRODUCTS. YYY shall market the Products on a sale, lease or revenue sharing basis. Upon receipt of an order for placement of the Products (sale, lease or revenue sharing) from a hotel or third party entity (the "CONTRACTING PARTY"), YYY shall complete a "Hotel Revenue Sharing Lease Agreement" (the "REVENUE SHARING AGREEMENT") or "Standard Lease Application" or "Customer Order--Purchase / Finance Options" (the Standard Lease Application and Customer Order--Purchase / Finance Option agreements are referred to herein collectively as the "LEASE/PURCHASE AGREEMENT") with the Contracting Party, in the forms attached hereto as Exhibit "A-1" - "A-3" and incorporated herein by reference. Upon execution of the Revenue Sharing Agreement or the Lease/Purchase Agreement with each Contracting Party, YYY shall do the following:

A. PURCHASE ORDER TO XYZ. YYY shall remit a purchase order (the "PO") to XYZ, which shall provide an order for the Products described in the PO and include the following information:

- Name and address of the Contracting Party;
- Number of the Products ordered (the "ORDERED PRODUCTS");
- Model number of the Products;
- Specifications relative to the Products, i.e. regular door or glass door, cabinet or without cabinet, etc.;
- Delivery time;
- Place of delivery and whether XYZ should deliver the Ordered Products directly to the Contracting Party, f.o.b., or whether the same should be delivered directly to YYY;
- Purchase price; and
- Any other information relevant to the Products described on the PO.

B. XYZ'S DUTIES UPON RECEIPT OF PO. Upon receipt of the PO, XYZ shall do the following:

- Acknowledge to YYY in writing of the receipt and acceptance of the PO;
- Order all parts necessary for the manufacture and assembly of the



Ordered Products;

- Notify the Field Service Department in writing, obtain clearance for installation and notify YYY, in writing of the proposed installation schedule;
- Confirm in writing to YYY the estimated date of completion and installation of the Ordered Products; and
- Provide, in conjunction with the XYZ Accounting Department, an accounting to YYY of the actual costs of the Ordered Products, including actual costs of

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parts, labor costs, sales commissions and estimated installation costs (the "FULLY BURDENED COST"). An approximate schedule of the Fully Burdened Costs is attached hereto as Exhibit "C" and incorporated herein by reference. Exhibit "C" may be amended and modified upon the written consent of the parties to this Agreement.

C. YYY'S PAYMENT TO XYZ OF THE ORDERED PRODUCTS. YYY shall pay XYZ the Fully Burdened Cost, plus an additional five percent (5%) thereon (the "COMPLETE PURCHASE PRICE") within one hundred and twenty (120) days of installation of the Ordered Products. Other than the Complete Purchase Price, YYY shall have no other financial or monetary obligation to XYZ pursuant to the PO or the Ordered Products.

D. RIGHT OF FIYYY REFUSAL. XYZ shall have a right of fiYYY refusal to manufacture any and all of YYY's other products, provided however that XYZ remits an estimate of costs to YYY within sixty (60) days of YYY's submission of product specifications to XYZ.

SECTION 1.2 XYZ'S MANUFACTURING EXCLUSIVITY. XYZ shall be YYY's exclusive manufacturer of the PRODUCTS ..... and the PRODUCTS, and all hardware and software attendant thereto, solely for the domestic (United States and Canada) hospitality industry. YYY may not enter into any agreement for manufacturing or any manufacturing program agreement with any of XYZ's competitors or any other third party or entity, without XYZ's express written consent.

SECTION 1.3 THE YYY FINANCING PROGRAM EXCLUSIVITY. XYZ and YYY agree that XYZ shall use the YYY Financing Program as its exclusive program for lease and revenue sharing financing for the Products placed pursuant to a Revenue Sharing Agreement.

SECTION 1.4 OWNERSHIP OF THE PRODUCTS. YYY shall retain ownership of any and all of the Products ordered from XYZ under this Agreement. Notwithstanding the foregoing, any and all of the Products manufactured pursuant to a PO from XYZ BRE, a wholly-owned subsidiary of YYY, shall be owned by XYZ BRE.

SECTION 1.5 MAINTENANCE AGREEMENT. As further consideration hereunder,

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YYY agrees to require, pursuant to the Revenue Sharing Agreement, that each Contracting Party, enter into a "Hotel Installation, Maintenance and License Agreement" (the "MAINTENANCE AGREEMENT") with XYZ, whereby XYZ shall provide after-sale maintenance during the term of the Revenue Sharing Agreement, a copy of the form is attached hereto as Exhibit "B" and incorporated herein by reference. Furthermore, upon a Contracting party entering into a Lease/Purchase Agreement, YYY will use its best efforts to ensure that such Contracting Part enters into a Maintenance Agreement with XYZ. The Maintenance Agreement shall provide for payment to XYZ of at least \$.08 per day, or as otherwise agreed to by the parties hereto, for each of the Products installed under this Agreement, for the length of the term of the relevant Revenue Sharing Agreement or Lease/Purchase Agreement (the "MAINTENANCE FEE").

A. COLLECTION AND REMITTANCE OF THE MAINTENANCE FEE. YYY agrees to act as XYZ's servicer with respect to the Maintenance Fee, in that YYY shall collect the Maintenance Fee from each Contracting Party monthly and remit the same to XYZ within fifteen (15) days of YYY's receipt thereof.

SECTION 1.6 TERM. The term of this Agreement shall be for seven (7) years, unless earlier terminated by the parties hereunder.

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## ARTICLE II

### PATENT AND INTELLECTUAL PROPERTY RIGHTS

SECTION 2.1 OWNERSHIP OF THE INTELLECTUAL PROPERTY RIGHTS. At all times hereunder, and at all times after the termination of this Agreement, YYY shall own any and all of the Intellectual Property Rights, relating to or associated with the PRODUCTS ....., the PRODUCTS and all software and hardware used in the operation thereof.

SECTION 2.2 OWNERSHIP OF THE INTELLECTUAL PROPERTY ENHANCEMENTS. At all times hereunder, and at all times after the termination of this Agreement, YYY shall own any and all of the Intellectual Property Enhancements, relating to or associated with the PRODUCTS ....., the PRODUCTS and all software and hardware used in the operation thereof.

SECTION 2.3 DUTY TO ENHANCE THE PRODUCTS. During the term of this Agreement, XYZ shall have an affirmative duty to support and finance the R&D Department's enhancement, modification and improvement of the Products, including all software used in connection with the Products.

## ARTICLE III

### REPRESENTATIONS AND WARRANTIES OF XYZ

SECTION 3.1 REPRESENTATIONS AND WARRANTIES OF XYZ. XYZ hereby represents and warrants as follows:

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A. ARMS LENGTH TRANSACTION. That the matters contained in this Agreement have been negotiated in an arms' length manner.

B. BINDING AGREEMENT. That upon execution and delivery hereof and at the execution of this Agreement and any agreements contemplated herein, all of such shall be legal, valid and binding obligations of XYZ and shall be enforceable against XYZ in accordance with their respective terms.

C. OTHER AGREEMENTS. That except as otherwise herein provided, the execution and delivery of this Agreement and the consummation of the transactions provided for herein will not result in a breach of any terms or provision of, or constitute a default under any other agreement or instrument to which XYZ is a party or by which XYZ is bound.

D. THIRD PARTY APPROVALS. Except as otherwise herein set forth, no consents or approvals of any third party or parties are required prior to the execution, delivery and performance of this Agreement and the other documents referred to herein.

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#### ARTICLE IV

##### REPRESENTATIONS AND WARRANTIES OF THE YYY

SECTION 4.1 REPRESENTATIONS AND WARRANTIES OF THE CORPORATION. YYY hereby represents and warrants as follows:

A. ARMS LENGTH TRANSACTION. That the matters contained in this Agreement have been negotiated in an arms' length manner.

B. BINDING AGREEMENT. That upon execution and delivery hereof and at the execution of this Agreement and any agreements contemplated herein, all of such shall be legal, valid and binding obligations of YYY and shall be enforceable against YYY in accordance with their respective terms.

C. OTHER AGREEMENTS. That except as otherwise herein provided, the execution and delivery of this Agreement and the consummation of the transactions provided for herein will not result in a breach of any terms or provision of, or constitute a default under any other agreement or instrument to which YYY is a party or by which YYY is bound.

D. THIRD PARTY APPROVALS. Except as otherwise herein set forth, no consents or approvals of any third party or parties are required prior to the execution, delivery and performance of this Agreement and the other documents referred to herein.

#### ARTICLE V

##### CONDUCT OF THE XYZ'S and YYY'S BUSINESS

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Section 5.1 CONDUCT OF BUSINESS. XYZ and YYY agree that, pending the execution of this Agreement and during term hereof, that the businesses of the XYZ and YYY shall be conducted only in the ordinary course and substantially in accordance with their prior business practices.

#### ARTICLE VI

##### DEFAULT

Either party shall be in default under this Agreement upon the happening of the following:

SECTION 6.1 DELINQUENT PAYMENT. A payment or any part of the subsequent costs hereunder is not made within thirty (30) days after the due date of such payments; or

SECTION 6.2 DEFAULT IN OTHER OBLIGATIONS. Any party defaults in the performance of any covenant that is contained in this or any document or instrument entered into by the parties hereto relating to this Agreement and such default is not cured within the lesser of any "cure" period that is prescribed in such document or instrument or thirty (30) days.

#### ARTICLE VII

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#### REMEDIES

SECTION 7.1 REMEDIES. Time is the essence of this Agreement. Upon the occurrence of any default hereunder, or under the documents and instruments described herein, and at any time thereafter while such default remains uncured, the non-defaulting party shall have the option, upon giving notice to the defaulting party, to declare all of the obligations immediately due and payable. Whether or not such party exercises such right of acceleration, the non-defaulting party shall have the following remedies.

A. GENERAL RIGHTS. Shall be entitled to exercise any and all rights and remedies available under applicable Nevada law, including injunctive relief.

B. NOTICE OF DEFAULT. The non-defaulting party shall give notice of default by the defaulting party by mailing such notice, postage prepaid, at least thirty (30) days before any event is to take place, to the address of the defaulting party that is set forth in this Agreement.

#### ARTICLE VIII

##### MISCELLANEOUS PROVISIONS

SECTION 8.1 MISCELLANEOUS PROVISIONS. The following miscellaneous provisions are an integral part of this Agreement.

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A. **BINDING OBLIGATION.** This Agreement shall inure to the benefit of and constitute a binding obligation upon the contracting parties, their respective heirs, legal representatives and permitted assigns.

B. **MODIFICATIONS.** This Agreement may not be modified except by an instrument in writing signed by the parties hereto.

C. **HEADINGS.** The headings used in the Agreement are inserted for reference purposes only and shall not be deemed to limit or affect in any way, the meaning or interpretation of any of the terms or provisions of this Agreement.

D. **SEVERABILITY.** The provisions of this Agreement are severable, and should any provision hereof be void, voidable, unenforceable, or invalid, such a void, voidable, unenforceable or invalid provision shall not affect any other portion or provision of this Agreement.

E. **WAIVER.** Any waiver by any party hereto of any breach of this Agreement of any kind or character whatsoever by the other party, whether such waiver is direct or implied, shall not be construed as a continuing waiver or consent to any subsequent breach of this Agreement on the part of the other party.

F. **APPLICABLE LAW.** This Agreement shall be interpreted, construed, and enforced according to the laws of the State of Nevada.

G. **ATTORNEYS' FEES.** In the event any action or proceeding is brought by any party under this Agreement, the prevailing party shall be entitled to recover attorneys' fees and costs of court in such an amount as such court may adjudge reasonable.

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H. **ASSIGNMENT.** This Agreement and the rights and obligations herein may not be assigned or assumed by any party hereto without the prior written consent of the other parties, which consent shall not be unreasonably withheld.

I. **ARBITRATION.** The parties agree that, in the event of a dispute between the parties relative to or arising out of this Agreement, the parties agree to offer such dispute to the American Arbitration Association for a binding resolution of such dispute(s).

J. **INTERPRETATION AND ENFORCEMENT.** Any notices, requests, demand or other communication required or permitted hereunder shall be deemed to be proper when deposited in the United States mail, postage prepaid or when deposited with a public telegram company for transmittal, charges prepaid each party's last known address

Entered into on the date fiYYY written above.

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**ROMA  
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XYZ, INC.

By: /s/ .....

-----

.....

Its: Chief Executive Officer

YYY TECHNOLOGIES, INC.

By: /s/ .....

-----

.....

Its: Secretary

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