

Fifteenth Intercollegiate Negotiation Competition Problem

(Nov/Oct. 727 Version)

1. Negoland is a constitutional monarchy with a population of about 200 million occupying some 500,000 square kilometers of land. It is a developed nation whose prosperity has been brought primarily by the auto, machinery and materials sectors, among others. Negoland's economic growth after 2007 was impacted by the global financial crisis triggered by the subprime mortgage crunch, in addition to the stronger currency. However, the prime minister of Negoland, who was newly appointed in 2012, rolled out a series of measures in an attempt to restore sustainable economic growth, including reductions, in phases, of effective tax rates for the corporate sector and relaxed visa requirements for foreigners entering the country. One stellar achievement of the new administration was massive monetary easing carried out by its central bank, which has resulted in a rapid drop in interest rates and the depreciation of the currency, which in turn stimulated the corporate sector, especially those businesses engaged in exports. Negoland's real GDP growth was negative in 2008 and 2009. After a few years of zero growth thereafter, its economy made a positive turnaround, experiencing slight growth of 1% to 2% annually since then. The population of Negoland peaked in 2010 and has been steadily declining. At the same time, a demographic shift is taking place, as evidenced by the 2015 data showing that the elderly (defined as people aged 65 and over) accounted for 25% of the entire population, one of the highest rates in the world, and the percentage is expected to creep up to 30% by 2025 and 35% by 2035. The rapidly shrinking, aging population is a critical social challenge facing Negoland, and potential demand for medical and elderly care services is growing.
  
2. Arbitria is a republic with a population of about 300 million and a land size of 10 million square kilometers. It is a developed nation supported by its key business sectors, including automobiles, finance and chemicals, among others. Like Negoland, Arbitria suffered negative economic growth in 2008 and 2009 in the wake of the global financial crisis. But it successfully resurrected its economy as early as 2010, while the global economy was still coping with the effect of the financial crisis, by turning to massive monetary easing including a zero interest-rate policy. It has consistently achieved 2% annual growth in real GDP since 2010. Arbitria's unemployment rate too has improved significantly from the high of 10+% it experienced at one point in 2008. It remained in the 5-to-6% range on a consistent basis throughout 2015. The stability of Arbitria's economic recovery allowed the Central Bank of Arbitria to do away with its monetary easing policy, which was in force for seven years, and to introduce gradual interest rate

hikes.

3. The official currency of both countries is US dollars. The time difference between the two countries is 14 hours (the time zone of Negoland is GMT+9 and Arbitria's time zone is GMT-5). In both countries, most companies adopt the five-day work week system (Saturday and Sunday are days off). However, in both Red Corporation and Blue Inc., which engage in retail sales and internet shopping business as described below, relevant departments are in business even on Saturday and Sunday. Neither country is a party to the Convention on International Sale of Goods.
4. Red Corp. is a listed company headquartered in Negotown, the capital of Negoland, and is engaged in apparel manufacturing/retailing and elderly care services. It was founded by Masami Red in 1966 as an apparel manufacturer and retailer for the general consumer segment. Masami Red always said that he wants to make people happy by making available good- quality, inexpensive clothes, and his belief has been incorporated into Red's corporate credo which still stands to this day. When Red went into business, the Negoland market was flooded with low-quality merchandise noted for poor-quality fabrics or sloppy workmanship. Red established its reputation as a reliable source of quality products, which owed much to Masami Red, who always instructed his employees to never produce low-quality products that could disappoint its customers. Its good name drove the company's business growth at a steady pace, and further growth was achieved by successful sales of products targeting the demographic segment aged 20 to 49, with an expanded network of brick-and-mortar shops located primarily in Negoland's metropolitan capital area and major cities.
5. In 2000, George Red, Masami's son, succeeded to the post of CEO at Red. After graduating from Negoland University, George received his MBA from Arbitria University, the most prestigious university in Arbitria and famous as one of the leading universities in economics and technology, and joined Red after his return to Negoland to assume a series of important posts, including department head and board director, with the expectation that he would someday take charge of the entire business. As soon as he became CEO, he embarked on a new business of mixed-brand boutiques to supplement the existing business of manufacturing and retailing Red's original apparel lines. For the mixed-brand "select shops", Red's employees go to various fashion trade shows and designer collections in Negoland and abroad to handpick and buy merchandise from outside sources that are consistent with Red's brand image, and sell them at its select shops. In 2004, Red also expanded into sales of accessories. These new business

lines turned out to be a success, and Red went public by listing its stock on the Negoland Stock Exchange in 2005.

6. George thought Red needed another core business to act as a safety net in the event of sluggish performance by its apparel division. He set up a project team in 2005 to explore the possibility of entering a new business field. Based on its research, Red launched an elderly care business in 2008. Currently, it operates about 900 fee-based nursing homes and about 600 serviced residential facilities for the elderly (assisted living rental residences for the elderly featuring a barrier-free design). Red decided to enter this field because Negoland's rapidly aging population suggested that elderly care services would grow in importance. Red also plans to launch in the near future home visit nursing services for the elderly requiring care. Red Corp. is outlined in Exhibit 1.
7. Blue is a listed company with headquarters in Abu-Abu, the capital of Arbitria. It traces its history back to 2000 when Kate Blue, then a student at Arbitria University, launched a website for fellow students to swap unwanted clothes. As a young girl, she was already into computers and machines, designing computer programs and making robots, and she has demonstrated a genius for these things. Upon college graduation in 2002, she launched a full online apparel retail business and named her site dedicated to garment sales "Blue Village." Targeting a broad range of audiences from the youth to the elderly, Blue Village enjoyed rapid sales growth. In 2011, Blue opened "Blue Village Negoland," a sister website targeting consumers in Negoland. Blue decided to expand into Negoland because, in its opinion, by using know-how it had obtained through Blue Village, there was good room for Blue to thrive in Negoland, where online shopping business had not taken hold compared to Arbitria, despite Negoland's status as an advanced economy like Arbitria and a sizable customer pool with great purchasing power, combined with well-developed transportation and distribution networks ideal for merchandise delivery.
8. At the Blue Village marketplace, local and overseas apparel vendors are offered two options: consignment or wholesale. Consignment involves Blue Village accepting goods from vendors on a consignment basis and selling them on behalf of vendors to retail customers. Vendors opting for this option are required to pay an initial start-up fee and are charged commission at a prescribed percentage of the price of the sold items. In a consignment, Blue is a seller to retail customers, but all profit and cost belong to the apparel vendors who consign the sale of their products. In the wholesale business, Blue buys goods directly from vendors and sells them on Blue Village. In this arrangement, Blue's take is 100% of the profits on the sales generated by the marketplace. As of

December 2015, about 800 vendors had signed up for Blue's consignment service and 30 vendors for the wholesale service. Note that Blue has a plan to discontinue its wholesale service at some point in the medium-to-far future to avoid the risk of carrying dead stock.

9. In 2013, Blue expanded into robotics. Kate had aspirations to create robots that assist and benefit humans. First, Kate developed a robot for internal use to transport and sort out goods in Blue's warehouses and to perform cleaning duties there. It was adapted for commercial use and debuted as a product in 2013. Subsequently, Blue developed wearable robots for care support that help caregivers perform caregiving tasks and wearable assistive robots that help humans execute work-related tasks, both of which successfully evolved into full-fledged commercial products. Blue's current lines of robots are geared for four key applications: transport robots, robots for cleaning tasks, wearable robots for care support, and assistive wearable robots for workplace task execution. As a brainchild of extremely gifted Kate, Blue's robots are known for high performance and are leased to hospitals, care facilities, and manufacturing plants. Blue's robotics business has not yet made a profit, as it incurred heavy start-up costs for R&D. However, the Arbitria government has given a subsidy for R&D of robots to Blue and Blue has been conducting joint research with the Department of Technology and the Medical School of Arbitria University. As of December 2015, about 750 wearable robots for care support and about 200 wearable assistive robots for workplace task execution were in service at hospitals and care facilities and manufacturing and construction sites, respectively, in Arbitria. Blue's business and operating results are outlined in Exhibit 2.
10. Red is engaged in apparel retail through two channels in Negoland and Arbitria: offline through physical stores and online. It has a network of about 600 physical stores in Negoland, which it directly manages, and about 30 physical stores in Arbitria, which are run by Red's Arbitria branch. Red entered the market in Arbitria because Red considered that companies producing good-quality, inexpensive clothes like Red were rather limited in number in Arbitria, and there was great room for growth there. Red's first physical store in Arbitria was set up in 2006, followed by more stores dotting the major cities in Arbitria.
11. As for online selling, Red has relied on Blue's Blue Village marketplace since 2008 for customers in Arbitria. The top page of Blue Village is as shown in Exhibit 3. Red tested the e-commerce waters in Arbitria first, rather than in Negoland, because Arbitria was the fastest growing smartphone market then with an expanding online market. Red has not sold its products in other countries other than Negoland and Arbitria.

12. Prior to the 2008 launch of online retailing in Arbitria, Red conducted research on several Arbitrian operators of online marketplaces with the hope of seeking out a platform dedicated to apparel products rather than a platform selling a broad range of products. Blue Village was shortlisted as the site run by a stable operator and frequented by a broad range of demographic groups. Swan, the head of Red's apparel business department, made a visit to Blue Inc. to discuss the matter with Diamond, the head of Blue's online business department. The following conversation took place between the two:

Swan: Specifically we're interested in selling t-shirts, polo shirts, suits and skirts, among other things, online. Arbitria is much larger than Negoland in terms of the market size, but we don't have many physical stores and it is our policy not to wholesale our products to other physical stores. So, we need to make that up by online sales. Compared to Negoland, online shopping is thriving in Arbitria, and our expansion into the online scene in Arbitria will contribute to our business growth.

Diamond: I am sure we can help you achieve your goal. Red's clothing line has been featured in fashion magazines here several times, generating considerable interest. But your clothes are hard to get here since you don't have lots of brick-and-mortar stores in our country. I am sure many shoppers will be thrilled to hear your clothing will be available online through our website, Blue Village. Would you go for consignment sales? By this, I mean we stock your merchandise while you still retain their ownership, and we will pass on the revenue to you for the merchandise sold. You will be required to pay the start-up fee upon the start of the consignment sales and a certain percentage of your sales as commission.

Swan: What is your fee for commission?

Diamond: 25%.

Swan: Is that negotiable?

Diamond: 25% is our standard fee for commission, and we ask all new clients to accept this. But we are willing to review the fee as our relationship deepens, depending on the amount of business your products generate.

Swan: I see.

Diamond: What do you expect your online sales will be?

Swan: We plan to hit the US\$1 million mark at least.

Diamond: I believe that with your fine products, you'll have little trouble reaching that figure.

The above discussion prompted Blue to sign up for the deal and the two parties signed a

contract based on the standard contract form drafted by Blue (shown in Exhibit 4). Prior to signing, Red did not request any modification of the contract.

13. Launched in 2008, Red's online sales through Blue Village sailed off to a good start as expected, quickly grossing US\$1 million in sales in Year 1. Red's sales through Blue Village remained firm in subsequent years. As online shopping finally caught on with the people in Negoland, Red launched online sales in Negoland in Fiscal 2011 in response to growing consumer interest in purchasing Red's products online. Pleased with the service provided by Blue for Blue Village in Arbitria as well as the sales Blue Village had generated, Red decided to enlist Blue again for the new online business for Negoland. Red's online sales between 2011 and 2015 through Blue Village and Blue Village Negoland are shown in Exhibit 1. [The content of the contract for Blue Village Negoland is the same as the contract for Blue Village.](#)

14. In September 2015, Blue began planning for the upcoming New Year sale. It has been a tradition at Blue to set a featured product for the New Year sales promotion and run a massive advertising campaign around it. The New Year sales promotion for Blue Village is often covered by fashion magazines, and the apparel trade always pays special attention to it each year. During an internal meeting at Blue, Red's New Year "lucky bag" caught the attention of the participants. The lucky bag, a business tradition of Negoland, is a mystery grab bag or box filled with an assortment of undisclosed goods and sold at a huge discount. The buyer cannot see the content in advance but this is largely compensated by the substantial discount – typically more than 50% off the listed prices of the goods inside. Because people like the price tag and also believe buying a lucky bag is an auspicious thing to do at the beginning of each year, lucky bags sell like hot cakes in Negoland, and department stores and online/offline stores there all gear up their efforts for this annual event. Red's New Year lucky bags are shoppers' favorite and are often mentioned on TV in Negoland. While many merchants fill their lucky bags with excess or unwanted products which they would love to unload, Red has established a reputation of offering lucky bags containing the latest, most popular products only and selling them at a steep 70% discount.

15. In October 2015, Ruby, a chief at Blue's online business department, made a visit to Red Corp. to discuss the lucky bag with Hawk, a manager at Red's apparel business department.

Ruby: We would like to sell your New Year lucky bags during Blue Village's New Year sale, as the specially featured product. As you may be aware

already, Blue Village's New Year sale is often covered by fashion magazines, and the apparel trade pays special attention to it each year. Blue puts special effort into it every year by presenting very special, eye-catching goods as featured products. Last year, for example, we picked sweaters by Charles Dominique, the French designer everyone is familiar with, as our featured product and they sold out in just one hour.

Hawk: Yes, I am aware of your New Year sale in Arbitria. Our New Year lucky bags are extremely popular. They are fast sellers at our physical stores. We are satisfied with the current level of lucky-bag sales through our offline store network in Negoland, so we've never sold lucky bags outside of Negoland or online.

Ruby: We urge you to accept the challenge of selling lucky bags on our website in our country too.

Hawk: Arbitria doesn't have the business tradition of offering lucky bags, correct?

Ruby: We don't have the custom of offering lucky bags, but the New Year sales extravaganza is our country's key selling event in Arbitria. If your lucky bags are successful in Arbitria, others may come up with their versions of lucky bags.

Hawk: I see. I will get back to you on this after I discuss it with my boss.

Ruby: What is your plan for the upcoming lucky bags?

Hawk: We plan to fill the bags with a combination of shirts, sweaters, scarfs, jackets and pants, among others, all of which are carefully selected from Red's original line of popular products. These items will be combined with t-shirts from our spring line. A bag will contain US\$1,000 worth of products (retail) and will be priced at US\$300. But please do keep the content a secret. They are mystery bags and contents are hush-hush.

Ruby: I understand. But your lucky bags sound almost like give-away bags.

Hawk: That's why we need to limit the number to 20,000 bags.

Ruby: I wonder how many can be reserved for our sale?

Hawk: How about 2,000 bags?

Ruby: Is that all you can set aside for us? How about 10,000 bags?

Hawk: Do you think your site can sell as many as 10,000 bags?

Ruby: I think so.

Hawk: We have not sold the lucky bags in our stores in Arbitria. Also during this time, in Arbitria we will sell the bags only through Blue Village. Please tell me any taboos that should be avoided for selling lucky bags in Arbitria. For instance, our lucky bags for the Negoland market never contain

inauspicious things like shirts having a snake logo, which we believe is not appropriate to the festive occasion of the New Year. Though we are going to raise the same question with the staff in our Arbitrian branch, because we are new to this topic in Arbitria, we appreciate your advice.

Ruby: A snake logo is OK in our country. I'll let you know if I think of anything.

Hawk: All right. I will discuss your suggestion with my boss right away. I'll let you know of our decision by e-mail.

16. Later on, a series of e-mails were exchanged between Red Corp. and Blue Inc. (shown in Exhibit 5). The document given in Exhibit 6 was a contract drafted by Blue and signed by Red Corp.

17. On December 1, Blue's Ruby visited Red Corp. Ruby was instructed by Diamond to carefully examine the content of New Year lucky bag which is a featured product for Blue Village's New Year sale. Ruby examined the sample of the New Year lucky bag. The sample contained the following (Retail price of each item is indicated):

1. Shirt: US\$150
2. Sweater: US\$200
3. Scarf: US\$200
4. Blouson: US\$350
5. T-shirt: US\$100

Ruby reviewed the sample and discussed it with Hawk.

Ruby: This is more than I hoped for!

Hawk: A shirt, a sweater, a blouson and a scarf are in the bag. They are very popular right at this moment. A t-shirt is also included, which is part of our latest spring line, with pinpoint embroidery featuring an animal. This t-shirts are made of first class materials and the embroideries are designed by a famous designer in Negoland, so the retail price is US\$100.

Ruby: I guess this is a bear.

Hawk: Yes. And there will be several other patterns of embroidery of animals.

Ruby: The package is also great.

Hawk: The boxes are sealed so that customers will not be able to open them before the purchase.

Ruby: How are the sizes?

Hawk: We are going to prepare M, L and LL sizes for men and S, M and L sizes for women.

Ruby: That is fine. Please prepare 1,000 of each size for men and 2,000 of S and



L and 3,000 of M size for women. Please make sure the bags will arrive before the delivery deadline

Ruby: I see.

18. In early December, a massive ad campaign for Blue Village's New Year sale was launched by Blue, which used the catchphrase "This sale is insane!" and prominently highlighted Red's New Year lucky bags as the featured product. The description sheet prepared by Red for the lucky bags is shown below. Blue's Ruby liked the wording and decided to use it without modification for the promotion on the Blue Village website.

*<Each lucky bag is filled with five 'mystery' items: four best-selling items from Red's current line plus a t-shirt from its newest line. You will find a shirt, a sweater, a scarf and a blouson from among Red's top-10 best-selling items in each category. The t-shirt from the newest line has pinpoint embroidery featuring an animal. A bag contains goods worth US\$1,000, if purchased separately, but you can grab one for US\$300. ONLY 10,000 LUCKY BAGS will be available. So come early for a mysterious treat! >*

19. On December 15, 2015, Blue took delivery of 10,000 Red's New Year lucky bags, each of which was packaged in a pretty box. Ruby of Blue picked up five boxes and circulated them to relevant persons in the company. All of them were satisfied. The embroidery of T-shirts in these five boxes were two bears and three rabbits. Blue transferred funds to Red's bank account.
20. On January 1, 2016, as soon as the New Year sale began on the Blue Village website, consumers anticipating Red's New Year lucky bags arrived in massive numbers, completely depleting the supply of 10,000 bags in one day (shipping costs for these 10,000 bags were paid by consumers). "10,000 bags were sold out in just a day," Ruby wrote in his e-mail to Hawk. "Faster than expected." In reply, Hawk expressed his relief and thanked Ruby for his hard work.
21. However, Blue Village began receiving complaints on January 3 from consumers who purchased Red's New Year lucky bags. They all complained about the dragon embroidered t-shirt they received in the bags. "What bad luck to receive a t-shirt with such an inauspicious animal at the start of the New Year!" they told Blue. "I must return it, and I want my money back!" Also, many complaints of the same content were entered in the customer review page of Blue Village's website (where customers may write their comments freely). On January 5, Ruby phoned Hawk.

Ruby: We got so many complaints about the dragon embroidered t-shirt from shoppers who bought your New Year lucky bags. In my country, dragons are considered taboo, as a harbinger of bad luck, and virtually no one dares put on any clothes having a dragon on it. I can imagine how upset they got when they opened the bag to find a bad-luck symbol at the beginning of the New Year! How come you filled some of the bags with a t-shirt with a dragon on it?

Hawk: I told you before that the t-shirts will come with animal embroidery in several variations. In my country, dragons are considered a good luck symbol, and the dragon logo is part of our newest line. In fact, the dragon t-shirts are selling very well in Negoland.

Ruby: A dragon is not an animal, and besides, it goes without saying that nothing inauspicious should be included in the New Year lucky bags. I am sure you folks at Red are well aware that dragons are avoided like the plague in Arbitria. You must have studied Arbitrian customs before hitting our market with your products, right? You yourself said you were going to ask about the customs to your staff in the Arbitrian Branch.

Hawk: Whether a dragon is an animal or not could be an issue. We didn't contact our Arbitrian Branch, but anyway, we are under no obligation to do prior market research. Besides, I did ask you for your advice on what should be avoided, when you approached us with your idea of selling lucky bags in Arbitria. And you mentioned nothing in particular. You should have told us then, not now.

Ruby: How many of the 10,000 bags contained the dragon tee?

Hawk: 5,000.

Ruby: In any event, we are forced to take them back from shoppers and refund money. I will bill you for the damage later.

Hawk: It's up to you to accept returns, but we are not responsible for them.

22. Finally, a total of 4,000 purchasers requested returns of the dragon t-shirts. The remaining 1,000 purchasers did not contact Blue. Blue has a Return Policy (shown in Exhibit 7) to handle requests for return of products from customers who purchased at Blue Village. This Return Policy has been publicized on the website of Blue Village (Blue had not made an explanation to Red about this Return Policy). Following this Return Policy, Blue accepted the returns and refunded US\$100 per return. Purchasers were responsible for the cost of return shipping to Blue. Blue incurred US\$5 as costs to handle each refund it executed. Of the 5,000 T-shirts which did not have embroideries of

a dragon, 3,000 had a rabbit and 2,000 had a bear.

23. Then, Red and Blue exchanged letters as shown in Exhibits 8-12. The dispute between the two parties on this issue has not been resolved to this day.

The above case is referred to as the “Lucky-bag Case.”

24. Another apparel-related dispute is pending between Red Corp. and Blue Inc. It centers on Red’s newest and extremely popular line of polo shirts known as the “Alpha Series.” Marketed as the ultimate polo shirt of great design, it offers a long list of advantages including:

- Made of sweat and wrinkle-resistant fabric requiring no ironing;
- Cool to the skin and does not restrict movement; and
- No deterioration in quality after repeated washing.

Red rolled out the Alpha Series in April 2016 for US\$100 per shirt. The Alpha Series polo shirts have the embroidery of “α” in the left section of the chest. Red enlisted Novak Chang and Venus Navratilova, two world-renowned tennis players, to endorse the line in commercials. As soon as the Alpha Series hit the shelves, it generated considerable buzz not only in Negoland but also in Arbitria.

25. While visiting Red Corp. to settle the lucky-bag case, Bob Orange, a chief of Blue’s online business department, learned of the upcoming release of the Alpha Series from Eagle, the deputy head of Red’s apparel business department who was responsible for the Alpha Series-related planning. Sensing that the Alpha Series would be a hot seller, Bob Orange wanted to sell it on the Blue Village website. He entertained Eagle and offered him gifts on several occasions in an attempt to get him to say yes. Having been bombarded with gifts and meals from Blue, Eagle, who was authorized to make decisions on marketing strategies for the Alpha Series, complied with Bob Orange’s request. Eagle agreed to make Blue Village the preferential destination for the Alpha Series. By this arrangement, Blue Village would receive supplies of the Alpha Series in consignment before other parties for a period of one month from the initial release date. Eagle hand-delivered a memo to Orange summarizing this arrangement (shown in Exhibit 13). Diamond, who learned of the deal from Orange, called Swan to express his thanks. Swan had already been informed by Eagle of the deal. Both Diamond and Swan knew that Orange and Eagle were close and that Orange had entertained Eagle. The following conversation took place over the phone:

Diamond: Thank you so much for giving us priority over others for the supply of the

Alpha Series.

Swan: We still need to settle the lucky-bag dispute, but setting that aside, we want to build a lasting relationship with you as other products of yours sell well on our Blue Village.

Diamond: We sure hope so.

Swan: We will supply the Alpha Series by placing top priority on orders placed by Blue Inc. for a period of one month, as the memo delivered to Mr. Orange states. Would it be all right to put a ceiling of 30,000 shirts?

Diamond: All right.

With respect to this arrangement, no written agreement, other than the memo shown in Exhibit 13 and the verbal agreement reached over the phone, was produced by the legal department or attorney of either party. The memo shown in Exhibit 13 was known to the relevant departments of Red and Blue.

26. On April 1, 2016, the Alpha Series was unveiled to the market. To prepare for the start of the sales of Alpha Series, Red had delivered 10,000 shirts to Blue in March (the order for these 10,000 shirts was made by Orange to Eagle over the phone). Blue wanted to start sales through Blue Village at the same time Red starts sales in Negoland. However, Red did not agree with this idea, arguing that Blue should not be allowed to start sales before Red's stores in Arbitria would start sales. As a result, it was April 1, 10 am (Arbitria time), that the sale of Alpha Series through Blue Village started (sales in Negoland started on April 1, 10 am (Negoland time)). As expected, it became an instant success in Negoland and Arbitria. Blue Village ran out of its initial stock of 10,000 shirts in the first two weeks. To replenish the supply, Orange phoned Eagle and requested a rush shipment of 5,000 shirts. Eagle gladly complied, delivering an additional 5,000 shirts in no time. As the second shipment of 5,000 shirts almost ran out on April 20, Orange called Eagle again at 23:30 on April 20, Arbitria time (at 13:30 on April 21, Negoland time). Unfortunately, Orange could not reach Eagle, who called in sick that day. Instead, Orange asked Peacock, a chief at Red's apparel business department and a subordinate of Eagle, to ship an additional 10,000 shirts of the Alpha Series. Peacock said to Orange that an order must be placed in writing according to the terms of the contract and requested that Orange forward a written order. Orange told Peacock that Eagle had accepted an earlier order by phone (in fact, besides the order for the Alpha Series, Eagle had accepted Orange's urgent orders for other products by phone 2 or 3 times in the previous year), but Peacock insisted on written orders regardless of how Eagle had previously handled matters. "I see," Orange replied and hung up the phone.

27. Orange hand-wrote the order sheet given in Exhibit 14 and e-mailed it to Red's apparel business department. That e-mail address is usually used when Blue places orders with Red. It was received by Duck, who was tasked with administrative duties in the apparel business department. He entered the order shown in Exhibit 14 into the corporate order management system. He keyed in:

Blue Inc.  
d Series  
10,000 units

The d Series, which was newly released in March 2016, denotes a line of jackets featuring an embroidered dragon – an auspicious symbol welcome in Negoland. It is priced at US\$100 apiece. At Red, all orders placed by e-mail are required to be entered into the order management system by a staff member and must be approved by a qualified officer (chief or above) after the officer compares the entered data and the e-mail describing the order, as a rule. Regarding the order data entered by Duck with respect to Blue's order placed by e-mail, Peacock compared the data and the order sheet given in Exhibit 14. Peacock, wondering why in the world Blue would place an order of such a large quantity of the d Series and not the Alpha Series, attempted to reach Orange over the phone to inquire about it at 23:30 on April 21 (Negoland time), but Orange was not in. Peacock left a message with Emerald, a subordinate of Orange, requesting a call from Orange. Because the message inadvertently slipped out of Emerald's mind, Orange never returned Peacock's call. Peacock approved the order as is, i.e., 10,000 units of the d Series before he left the office on April 22, because the order specified it was "urgent" and approval by the end of the day of April 22 was needed in order to start the necessary operations for dispatching the goods at the beginning of the following week, on April 25.

28. On April 30, 10,000 units of the d Series arrived at Blue. Orange was surprised with this delivery of d Series, not Alpha Series, and he called Eagle immediately. It was at 21:00, April 30, Arbitria time. Until then, Orange had not known of the existence of Red's d Series.

Orange: We just got a shipment of the d Series containing 10,000 units. We ordered the Alpha Series. Why did you ship the d Series instead of the Alpha Series?

Eagle: I will call you back as soon as I check our records.

One hour later, Eagle phoned Orange with the result.

Eagle: I checked the order sheet, which certainly states "d Series." In fact, Peacock who is on my team tried to reach you over the phone to make sure you wanted the d Series but you were out of the office. Peacock left

a message requesting your call but you never called him back.

Orange: The order sheet says “α Series.”

Eagle: No. this is “d.”

Orange: How in the world would we possibly request the d Series, which comes with dragons? As you well know, we just experienced a big problem with dragon embroideries a few months ago. Whoever on your team that handled our order should have noticed something was definitely odd with the order of the d Series coming from us.

Eagle: You may be right, but Peacock joined my team in March from another business location and is not familiar with the lucky-bag dispute.

Orange: But before mailing the order sheet to you, I did have a conversation with Mr. Peacock on the phone, and I definitely asked him for the Alpha Series. Mr. Peacock must have noticed that something was not right with that order.

Eagle: The d Series is also very popular, and Peacock thought clients are free to place any orders as they like – in any case, he thought it was more critical to fill the order as soon as he could; yours was a rush order. As for the order for the Alpha Series, Peacock thought a separate order sheet would be forwarded from you shortly.

Orange: Well, we definitely don’t need the d Series. We have to cancel the order. And please rush the Alpha Series to us ASAP.

Eagle: All right, then. Please return the d Series to us. It’s a popular line in Negoland and we’ll have no trouble selling the line in Negoland. We are happy to pay the cost of shipping for the return, so please arrange the transportation and send them back to us as soon as possible. As for the preferential treatment we give to you with respect to the Alpha Series, it’s May 1 here, and your privilege has already expired. We have received lots of orders from our physical stores which we must fill to meet growing demand and we are forced to honor their orders now. We are no longer able to honor your request before others, unfortunately.

Orange: We are treated as priority client for one month from the release, which means it expires on May 1. Even if we hypothetically assume that the period ends on April 30, it’s still April 30 in Arbitria, so it hasn’t expired yet. In any event, we will return the d Series to you.

29. Red Corp. refused to honor Blue’s order requesting an additional supply of the Alpha Series. And shortly afterward, Red changed its policy and decided to sell the Alpha

Series only through its physical stores, and no supply has been allocated to online venues including Blue Village to this day. Blue Inc. reacted by sending a letter to Red Corp (Exhibit 15). In the meantime, Blue Inc. arranged the return of the d Series by engaging Black, a forwarder in Arbitria, and handed over the d Series to Black. The contract signed by Blue and Black specified that the d series would be transported from Blue's headquarters to Arbitria Airport by land, then to Negoland Airport by air and to Red's warehouse by land again. While en route to Arbitria Airport, the truck loaded with the d Series was hit by an earthquake which destroyed the truck and the entire load of the d Series. Blue Inc. mailed the letter shown in Exhibit 16 to Red Corp. informing of the incident. In response, Red Corp. prepared the letter shown in Exhibit 17 and mailed it to Blue Inc. Both Red and Blue would have been able to get insurance that would have covered all losses in this incident, for a reasonable cost, if they had sought to do so; but neither Red nor Blue took out insurance to cover loss during transport. This dispute too has yet to be settled between Red and Blue. Before this incident, there was no case in which products delivered by Red Corp. to Blue Inc. had been returned to Red Corp. On May 1, 2016, Red held 30,000 shirts of Alpha Series in stock and the entire stock was sold out at Red's physical stores by the end of June.

The above case is referred to as the "Alpha Case."

30. There is another dispute between Red Corp. and Blue Inc. It concerns Blue's robotics business. In Negoland, Red owns a warehouse where merchandise is stored and shipped out to its physical stores to meet their stocking needs. Red's sales growth is accompanied by more packing, moving, shipping and rearranging activities at the warehouse. In the past, Red coped with the situation by hiring people at the warehouse, but it is increasingly difficult to hire appropriate personnel, and labor costs are on the rise. To ensure efficient inventory management and trouble-free delivery of goods to its stores, which are extremely vital to Red's business, its board of directors decided, during its meeting on May 2, 2016, to deploy robots for inventory management, stock handling and shipping operations, and directed its corporate management department to conduct an in-depth study.
31. The corporate management department concluded that the high-performance robots developed by Blue Inc. would be best suited to serve the needs of Red. Blue's robotic system comes with a robot management app. As long as the layout of the warehouse and a default travel path are entered on the app in advance, the robots navigate around the warehouse by following the default path, retrieve goods and carry them to a specified

place on a fully automated basis. The operator can also direct robots to store specified goods on a specified rack or move a specified quantity of goods to the goods issue zone at a specified time of the day by keying in instructions on the app in advance. Inventory management functionality of the app ensures that a certain quantity of goods is always in stock on the rack, alerting the operator if the stock falls below the preprogrammed level. The robot management app may be integrated with an order management system or other applications for the warehouse to achieve fully automated inventory management and stock handling on a seamless basis. The robots basically move following the instructions from the management app; they also are equipped with a collision prevention sensor which detects an obstruction to prevent a crash. Furthermore, Blue's robots are empowered with "deep learning" functionality, allowing them to determine the optimal traveling route all by themselves based on their study of the size, weight, and quantity, etc. of the merchandise.

32. On May 15, 2016, Sparrow, the head of Red's corporate management department, visited Blue Inc. to meet with Topaz, the head of Blue's robotics business department. The following conversation took place between Sparrow and Topaz:

Sparrow: We want to deploy a fleet of robots in our warehouse for inventory management and stock handling as soon as we can, and your robots seem to suit our needs.

Topaz: I'm glad you took interest in our robots. We have full confidence in the superb performance of our robots. We conducted a preliminary study based on the information you gave us earlier about your warehouse. For optimal inventory management and stock handling around the clock, your warehouse would need ten X-5 robots – our newest – given the size of your warehouse. Of course, we will supply a comprehensive robot management app good for up to 20 robots after configuring it to suit your warehouse.

Sparrow: Oh, that sounds great. When can you put the robots in service?

Topaz: We are known for speedy execution of client orders. Does August sound acceptable to you?

Sparrow: Yes. And how much would that cost?

Topaz: Two options are available: leasing and buying. Many clients opt for leasing, and in your case, you will be billed US\$12,000 per robot, or US\$120,000 for 10 robots, every year. For the management app that comes with the robots, we will have to configure the app to meet your specific requirements, so you will be charged \$20,000 for that up front,



plus US\$12,000 per year for maintenance.

Sparrow: We would go for the leasing option. But I wonder if you could work out a better pricing for us for the leasing charge. 10 robots require considerable outlay.

Topaz: How about an annual leasing charge of US\$100,000 for ten robots on a three-year term?

Sparrow: Deal!

Later on Red Corp. and Blue Inc. signed a leasing agreement for the robots, shown in Exhibit 18.

33. On July 15, 2016, Red took delivery of ten robots. The Instruction Manual, which has about 500 pages, was also delivered at the same time. ~~Two engineers and~~ Topaz and Blue's engineer Sapphire visited Red's site to teach Turkey, Red's person in charge, the members who had been tasked with robot operations at Red's corporate management department, how to use the robot management app and how to use and maintain the robots. During the visit, ~~Sapphire Blue's engineers~~ handed ~~out~~ an instruction sheet, shown in Exhibit 19, to Turkey. This instruction sheet is made for persons who are tasked to operate the robots and management app and summarizes important information, which is included in the instruction manual. ~~Sapphire The staff of Blue~~ told Turkey Red's members tasked with robot operations to read the sheet carefully and direct any questions to ~~them him~~ without hesitation. ~~"I see," replied the staff members tasked with the operation at Red, as they~~ Turkey received the instruction sheet and replied, "I see." ~~Turkey~~ They subsequently read the instruction sheet but never asked any questions to ~~Sapphire Blue~~ with respect to the details of the instruction sheet. Red did not follow up with any additional ~~questions about explanation on~~ the instruction sheet (Exhibit 19) prior to the signing of the contract shown in Exhibit 18. ~~Sapphire The staff of Blue~~ thought that it is basic knowledge regarding the deep-learning function that when the deep-learning function is active, there is a high probability the robots would choose routes different from those originally set by the users. On the other hand, ~~Turkey the persons in charge of Red~~ didn't possess any background information about deep-learning and thought it would be very rare that robots in deep-learning mode would run routes different from the default paths. From July 15 to July 31, the trial run of the robots was made. All was fine and no problem was found. During the trial run, the deep-learning function was off.
34. On August 1, 2016, the ten robots went live. Red paid Blue US\$20,000 for the Development Fee, US\$100,000 for the Annual Rent, and US\$12,000 for the Annual Maintenance Fee for the first year. They handled the tasks very well, greatly contributing

to Red's operational efficiency. On September 10, Red decided to change the locations of stocked goods to accommodate more merchandise in its warehouse. One of the racks was moved just 30 centimeters away from its original position as a result. ~~Turkey~~The person tasked with robot operations at Red entered the new locations of merchandise and the changes in merchandise on the management app, but forgot to enter the new location of the one rack that had been moved 30 centimeters away from its original position. For a while, the robots continued to navigate around without any trouble after the new data were entered, but on September 12, one robot, Robot "B", collided against a column of a rack, which collapsed on top of the robot. The robot was smashed underneath and a fire broke out, burning the robots and some inventory stored in the warehouse. Red lost merchandise worth US\$1 million in that fire. Although the warehouse was not completely burned down, Red had to pay US\$100,000 for repairs. And all 10 robots were reduced to ashes.

35. The data stored in the management app as well as inspections of the scene of the incident revealed the following facts:

- ① The relocation of the rack (30 cm. away from the original position) was not entered into the robot management app.
- ② On September 9, Robot "A" ~~hit Turkey, who was making inspection of goods in the warehouse~~ touched a rack, but there was no damage to the warehouse nor to the robot ~~and Turkey was not injured~~. ~~Turkey thought t~~The reason ~~for this accident might be~~was a malfunction of the collision prevention sensor ~~and called Sapphire~~. ~~Though no malfunction of the sensors of the other robots had been found by Red at this point, Red~~ Turkey explained that Robot "A" hit Turkey when ~~he stood and inspected goods in the warehouse and~~ requested Blue to inspect ~~all the robots on this occasion to check if there is anything wrong with the collision prevention sensors of the other robots.~~ ~~h~~However, ~~Sapphire~~Blue replied, "We are very busy and we will not be able to visit your warehouse until September 14 at the earliest. If no specific problem has occurred up till now, you may continue to use the other robots for ~~the next~~ 5 days until we visit your warehouse." ~~Turkey~~Red asked ~~Sapphire~~Blue to come as soon as possible and continued the use of the robots other than Robot "A". ~~However, if Sapphire had asked his colleagues, some staff of Blue would have been able to visit Red, inspect the robots and find errors in the robots, if any.~~
- ③ When ~~Turkey~~Red made the request to ~~Sapphire~~Blue as mentioned in ② above, ~~there was a~~they had the following phone conversation ~~between Red and Blue~~.

~~Sapphire~~Blue: Is there any other concern?

TurkeyRed: No. Except the incident with Robot “A”, things are fine.

SapphireBlue: By the way, are you using the deep-learning function?

TurkeyRed: No, because we don’t understand it very well.

SapphireBlue: With the deep-learning function, robots study the optimal travel path on an ongoing basis.

TurkeyRed: OK. We will give it a try.

SapphireBlue: Please give us your feedback.

TurkeyRed: I see.

In the morning of September 12, Turkeythe person in charge of Red decided to use the deep-learning function for one robot as a trial, and switched on thate function foref Robot “B”.

④ There was no improper use of the robots (such as riding on them, hitting them, throwing them down or knocking them over).

④⑤ If the collision prevention sensor of Robot “B” had worked properly, satisfying the specifications of the instruction manual, Robot “B” never would have collided with the rack. After this incident, it was found that there were frequent deficiencies (the wire disconnections after the use of several months) of the same type of collision prevention sensors as used for Robot “A” and Robot “B”, so Blue voluntarily replaced the sensors in the robots for which the same type of sensors were used.

⑤⑥ The rack with which Robot “B” collided was the one that had been moved 30 centimeters away.

⑥⑦ The deep-learning function of Robot “B” was active and Robot “B” collided head-on into the rack while it had been searching for the most efficient delivery route through the deep-learning function and chose to take the path blocked by the rack.

The head-on collision against the relocated rack would not have happened if the robot had taken the default path which Red’s personnel had entered on the app.

⑦⑧ Since two hours before the incident, the area surrounding the warehouse had been experiencing a power outage, which caused the air-conditioning system of the warehouse to shut down. The incident took place on a record hot day, and, according to Red’s records, the temperature inside the warehouse reached 45 degrees Celsius at about 10 minutes prior to the collision and would have reached 50 degrees Celsius when the collision occurred. However, as the Red’s thermometers in the warehouse were also damaged due to the incident, their temperature records are not sufficiently reliable. Red’s personnel were occupied to respond to the power outage and it was after the incident that they

found that the temperature inside the warehouse ~~might have had~~ exceeded 45 degrees Celsius.

~~8.9~~ The warehouse of Red is equipped with a standard fire extinguishing system. Neither Red nor Blue had insurance which would cover this incident. Thanks to the fire extinguishing system, the worst case scenario, in which the total destruction of the warehouse could occur, was avoided. However the fire was so intense that it was impossible to avoid the above damages to the inventory and the robots.

36. Red Corp. sent a letter (Exhibit 20) to Blue Inc. and Blue's reply was stated in its letter to Red Corp. (Exhibit 21). The two parties have remained far apart on this issue.

The above case is referred to as the "Robot Case."

36-37. Red Corp. and Blue Inc. agreed to bring the Lucky-bag Case, the Alpha Case and the Robot Case to arbitration. The arbitrator instructed the two parties to submit preliminary documents before the prescribed deadline, so that the issues stated in Exhibit 22 would be discussed on December 3, 2016 during oral proceedings. The two parties also agreed that the arbitration will be governed by the UNIDROIT Principles of International Commercial Contracts 2010 as the applicable substantive law.

<Round B>

37-38. The disputes between Red Corp. and Blue Inc. concerning the lucky bags, the Alpha Series, and the robots were settled through arbitration. As the year 2016 progressed, Red Corp. began its preparation to launch a website of its own in a move to insource online retailing in Negoland. Prior to that, Red chose not to have its own site for online retailing on account of Negoland's immature e-commerce environment. However, smartphone users drastically increased in the last two years in Negoland, to the extent that about two-thirds of people aged 20 to 49, the target demographic group of Red's products, have switched to smartphones. In a parallel move, the e-commerce market grew in size from US\$150 billion in 2010 to US\$300 billion in 2015. Because Red currently relies on outside online platforms for retailing, specifically, Blue's Blue Village and Blue Village Negoland, Red has to put up with a great disadvantage of not being able to collect personal data (e.g., gender, age, purchasing history) of shoppers who have purchased Red's products through Blue's venues, as they are considered customers of Blue's and not Red's. Also, there are some additional functions which would strengthen the collaboration between real shops and online retail channels, but would be effectively

achieved only by Red setting up its own original website, such as the functions of providing information about the inventories of shops on the website and accepting reservations by customers to try on clothes at real shops. Red is in urgent need of building its own online retail channel for the Negoland market, especially in light of the fact that some of its competitors have already done so.

38-39. Meanwhile, Blue's business, which previously enjoyed consistent growth buoyed by its overwhelming share of the Arbitria market, is reaching a plateau due to the increasingly saturated state of the domestic market. This situation has prompted Blue to turn its eye to overseas business for growth opportunities, especially in developed countries with well-developed online and logistics environments. While Blue is the clear runaway leader in Arbitria, it is little known elsewhere. Its marginal presence outside Arbitria explains Red's lackluster sales of its products through Blue Village Negoland, compared to its sales through Blue Village. In a parallel move, Blue is shifting its focus and resources to e-commerce site development support business services. The business primarily consists of two key services. The e-commerce site development service is for clients in the apparel trade wishing to build their own e-commerce sites for retailing. Blue develops and custom designs e-commerce sites for clients by leveraging its existing systems and logistical infrastructure that have served as the backbones of Blue Village. The other service, namely the ongoing support service for e-commerce, allows clients to contract out to Blue all aspects of e-commerce operations including maintenance and operation of the developed e-commerce sites, logistics, online payment and delivery. For the e-commerce site development service, Blue charges a lump-sum fee for building a customized e-commerce site. For the ongoing support service for e-commerce, its fee in the form of commission is calculated as a percentage of the sales generated through the client's site. Blue has clients for its e-commerce site development service in Japan, Australia, Hong Kong and Singapore (one client in each country), but has never worked for a client in Negoland.

39-40. In late September 2016, Blue heard for the first time of Red's decision to launch its own e-commerce website to engage in online retailing in Negoland. Red's superb product development capabilities are well-known in the trade, and it is by far the most popular apparel brand in Negoland. For Blue, Red has been a loyal vendor at Blue Village and Blue Village Negoland. Very eager to win Red's e-commerce site development project which, in its opinion, should open up more business opportunities in Negoland, Blue approached Red with its e-commerce site development service. In October 2016, a representative of Blue made a visit to Red's branch in Arbitria to inform

Red of its interest in helping Red launch its own e-commerce site. Red has an extremely high regard for Blue Village's ability to attract shoppers. Hoping that Red's upcoming e-commerce site will be as effective as Blue Village, Red is willing to discuss Blue's proposal.

40-41. The three key points presented in Blue's proposal regarding the e-commerce site development project for Red are given below:

- ① Blue desires to offer to Red the e-commerce site development service and, subsequently, the ongoing support service for e-commerce;
- ② Blue desires that the term of the ongoing support service for e-commerce, which will take effect after the completion of the e-commerce site, should be five years, minimum; and
- ③ Blue desires US\$20 million for the development of the e-commerce site for Red, payable upon the completion of the e-commerce site, and commission equivalent to 30% of sales generated by the e-commerce site for the ongoing support service for e-commerce, payable monthly.

Red made a set of requests as outlined below:

- ① The e-commerce site must be completed before the end of August 2017 (Online retail service will start on September 1, 2017 (tentative));
- ② Red does not mind signing up for Blue's ongoing support service for e-commerce after Red's site goes live, but the term of the contract should be one year;
- ③ The e-commerce site should not be developed as a conventional e-commerce site where a transaction begins and ends within the confines of the e-commerce site platform; rather, the site should allow coordination with Red's offline channel (i.e., physical stores operated by Red in Negoland); and
- ④ Red is willing to pay US\$10 million for the e-commerce site development service and 20% of sales generated from the e-commerce site for the ongoing support service for e-commerce.

Blue agreed that it would complete the e-commerce site before the end of August 2017 (the start of the online retail service is scheduled on September 1, 2017); the negotiations between the parties on other issues is continuing.

41-42. With respect to ③ above, Red plans to build its entire business on an "omni-channel strategy," rather than building a conventional e-commerce site where customers complete transactions in one channel. An extension of traditional e-commerce marketing, omni-channel marketing aims at an integrated marketing platform that makes transfers between physical (brick-and-mortar) stores and online channels seamless by

orchestrating and gearing all aspects of sales operations including product and service planning, sales, delivery, and production for that purpose. Omni-channel marketing allows customers to order a product online and pick it up at a physical store later. After ordering online, customers may visit physical stores to check the color or the size of the ordered product. If unsatisfied with the item ordered online and already delivered, he can bring the item to a physical store for return or exchange. From the seller's point of view, omni-channel marketing has the advantage of creating opportunities to encourage customers to walk into physical stores. Thanks to the synergies created by online and offline channels, the seller may reap additional sales. Red wants to link and coordinate its online retail business with physical stores in a variety of ways.

42-43. Blue Corp. made the following reply to Red:

- ① Blue has no problem making Red's e-commerce site ready for retail selling by August 2017.
- ② The coordination with physical stores will be introduced in phases, without setting deadlines. The service allowing customers to order an item online and pick it up at a physical store later does not require much time to develop, and therefore, it should be ready by the end of August 2017.

43-44. Aside from the proposal directed to Red concerning the e-commerce site, Blue was contemplating having its robot technology made available for the fee-based nursing homes and assisted-living residences for the elderly run by Red. Although Blue's current line of nursing care robots is limited to care support type robots that are wearable by those who provide nursing care at hospitals and nursing homes, such as moving and lifting, bathing, assisting with toilet use, and the like, for patients and nursing home residents, Blue is putting increasing resources into the development of "independence support" robots that support self-help by those who need nursing care through walking, rehabilitation, dining and so on, and "communication and security type" robots that are capable of communicating with humans, easing loneliness and/or monitoring the safety and security of the target humans. In Blue's opinion, if it succeeds in creating such independence support and "communication and security type robots, they will brighten up and enrich the lives of the elderly. Red Corp. is also searching for solutions for the caregiver shortage and the problem of senior isolation, and Red thought the availability of care support type robots and communicative robots capable of interacting with humans could ease these problems.

45. As a result of discussions between Red and Blue, they reached a consensus to examine

the feasibility of joint development of robots. Thus far, the two parties have agreed on the following five points.

- ① The initial development period ~~should be~~ two years, after which they will decide, in light of the progress made, whether to extend the development period.
- ② In principle, the cost for development of the robots should be paid by Blue.
- ③ For the development of the robots, Red will cooperate with Blue, for example by making demonstration experiments in its nursing care facilities and giving the feedback to Blue.
- ④ In the event that the robots developed by the parties are commercialized, the production and sales of the robots will be made by a special purpose company that will be established by Red and Blue in Arbitria (the share holding ratio should be 80% by Blue and 20% by Red). The only business of this company will be production and sales of the robots, and it will not hold or manage intellectual properties. Blue will receive 80% of the profit from the sales and lease of the robots and Red will receive 20%.
- ⑤ In case Red purchases or leases the robots that are jointly developed, Red will pay half of the standard price and/or rent.

—The report on the demand forecast for nursing care robots issued by a reliable research institute is as shown in Exhibit 23. Red considers that they should develop the care support type robots, because the demand for such robots is expected to increase in Red's care business, and proposes to develop more high performance care support robots than the robots currently sold by Blue, and moreover, to develop robots which will do nursing care activities instead of human staff. On the other hand, Blue wants to hurry the development of independence support type and communication and security type robots which are not yet commercialized by Blue, and wants to give priority to the development and commercialization of communication and security type robots.

44.46. The key issues in this negotiation are as follows:

- ① Type of robots to be jointly developed;
  - ② Ownership of intellectual property rights in and to the robots to be developed; and
  - ③ Setting the period during which Red may use the robots exclusively in Negoland
- In relation to ①, the parties need to decide which type of robots should be developed first, care support type, independence support type or communication and security type. ② is an issue the parties will discuss for the first time. In relation to ③, Red requests to set the period during which only Red will use the robots exclusively in Negoland, because Red would not be able to enjoy competitive advantage if competitors in Negoland may use



the jointly developed robots.

45-47. The two parties will discuss the pending matters on December 4, 2016 at Red's branch in Arbitria. In the negotiation, from Red. Vice President, Director in charge of Apparel Business, General Manager of Care Business Department, General Manager of Legal Department, and General Manager of Treasury Department are expected to participate. From Blue, Vice President, Director in charge of EC Business, General Manager of Robot R&D Department, General Manager of Legal Department, and General Manager of Treasury Department are expected to participate. The two parties must be thoroughly prepared to negotiate the following matters. Note that any other matters may be discussed during the meeting, provided that such matters will contribute to future business growth of the two parties. You do not need to account for the time value of money in your decision making. Also, you do not need to consider the competition laws of any relevant countries.

- ① Development of the e-commerce site for Red
  - Charge for the development of the e-commerce site, and fee (expressed in % of sales) for ongoing support service for e-commerce;
  - Duration of the ongoing support service for e-commerce; and
  - Specific details regarding the coordination between Red's physical stores in Negoland and its e-commerce site (omni-channel strategy)
- ② Development of robots for the elderly
  - Type of robots to be jointly developed;
  - Ownership of intellectual property rights in and to the developed robots; and
  - Setting the period during which Red may use the robots exclusively in Negoland.

END

## Red Corp. At a Glance

Corporate Name: Red Corp.

Headquarters: Negotown, Negoland

Shares: Listed on Negoland Securities Exchange

Book Closing: December; prepared in accordance with the Negoland Accounting Standards, which are identical with Japanese generally accepted accounting principles

CEO: George Red

1. Consolidated Statement of Income

(US\$ Millions)	FY2011	FY2012	FY2013	FY2014	FY2015
Apparel Business	5,100	5,800	6,400	6,600	7,000
Elderly Care Business	1,900	2,100	3,500	3,700	3,800
<b>Total Sales</b>	<b>7,000</b>	<b>7,900</b>	<b>9,900</b>	<b>10,300</b>	<b>10,800</b>
Apparel Business	500	600	700	600	600
Elderly Care Business	200	100	300	200	200
<b>Operating Income</b>	<b>700</b>	<b>700</b>	<b>1,000</b>	<b>800</b>	<b>800</b>
Apparel Business	500	600	700	600	600
Elderly Care Business	300	200	300	300	300
<b>Ordinary Income</b>	<b>800</b>	<b>800</b>	<b>1,000</b>	<b>900</b>	<b>900</b>
<b>Net Income</b>	<b>500</b>	<b>500</b>	<b>600</b>	<b>500</b>	<b>500</b>

## 2. Apparel Business

### Statement of Income

(US\$ Millions)	FY2011	FY2012	FY2013	FY2014	FY2015
Sales	5,100	5,800	6,400	6,600	7,000
Cost of Goods Sold	2,300	2,600	3,000	3,100	3,500
Gross Profit	2,800	3,100	3,400	3,400	3,600
Advertising/promotions	200	100	100	100	100
Labor	800	900	1,000	1,000	1,100
Lease expenses	600	700	800	900	900
Depreciation/Amortization	100	100	100	100	100
Other	600	700	700	700	800
Selling, General and Administrative (SG&A)	2,300	2,500	2,700	2,800	3,000
Operating Income	500	600	700	600	600
Ordinary Income	500	600	700	600	600
Net Income	300	400	400	300	300

### Sales by sales channel

(US\$ Millions)	FY2011	FY2012	FY2013	FY2014	FY2015
Physical stores	4,600	5,200	5,800	5,800	6,200
Online retailing	500	600	600	800	800
(Online retailing through Blue Village)	450	540	540	750	750
(Online retailing through Blue Village Negoland)	50	60	60	50	50
Sales	5,100	5,800	6,400	6,600	7,000

\* Red Corp. pays Blue Inc. consignment commission equivalent to 25% of its sales generated by Blue Village. (The consignment commission is accounted for in the "other" category under SG&A in Red's statement of income.)

### Sales by product category

(US\$ Millions)	FY2011	FY2012	FY2013	FY2014	FY2015
Men's	2,000	2,200	2,300	2,400	2,500
Women's	2,600	3,000	3,400	3,400	3,600
Accessories	500	600	700	800	900
Total Sales	5,100	5,800	6,400	6,600	7,000

### Other information

	End of 2011	End of 2012	End of 2013	End of 2014	End of 2015
Selling area (m <sup>2</sup> )	204,000	225,000	246,000	254,000	277,000
Number of employees	14,300	15,500	17,000	17,600	18,500

### 3. Elderly Care Business

#### Statement of Income

(US\$ Millions)	FY2011	FY2012	FY2013	FY2014	FY2015
Fee-based nursing homes	1,600	1,800	1,800	1,800	1,800
Assisted-living rental residences for the elderly	300	300	1,700	1,900	2,000
Sales	1,900	2,100	3,500	3,700	3,800
Fee-based nursing homes	200	200	300	200	100
Assisted-living rental residences for the elderly	0	-100	0	0	100
Operating Income	200	100	300	200	200
Ordinary Income	300	200	300	300	300
Net Income	200	100	200	200	200

#### Numbers of nursing homes and residences

	End of 2011	End of 2012	End of 2013	End of 2014	End of 2015
Fee-based nursing homes	1,040	930	930	930	930
Assisted-living rental residences for the elderly	150	370	510	590	610

#### Maximum Occupancy

	End of 2011	End of 2012	End of 2013	End of 2014	End of 2015
Fee-based nursing homes	45,700	49,200	49,400	49,400	49,200
Assisted-living rental residences for the elderly	11,700	22,300	30,000	34,600	35,600

#### Occupancy Rate (as of year-end)

	End of 2011	End of 2012	End of 2013	End of 2014	End of 2015
Fee-based nursing homes	80%	81%	97%	97%	88%
Assisted-living rental residences for the elderly	87%	68%	82%	89%	84%

## Blue At a Glance

Corporate Name: Blue Inc.

Headquarters: Abu-Abu, Arbitria

Shares: Listed on Arbitria Stock Exchange

Book-closing: December; Results are prepared in accordance with the Arbitria Accounting Standards, which are identical with Japanese generally accepted accounting principles

[CEO: Kate Blue](#)

### 1. Consolidated Statement of Income

(US\$ Millions)	FY2011	FY2012	FY2013	FY2014	FY2015
Apparel Business	1,720	1,760	1,930	2,060	2,720
Robotics Business	-	-	20	30	60
Sales	1,720	1,760	1,950	2,090	2,780
Apparel Business	380	430	620	760	890
Robotics Business	-	-	-30	-50	-40
Ordinary Income	380	430	590	710	850
Net Income	230	270	360	400	560

### 2. Apparel Business

#### Statement of Income

(US\$ Millions)	FY2011	FY2012	FY2013	FY2014	FY2015
Consignment service	980	1,050	1,270	1,490	1,970
Wholesale service	510	410	270	40	30
e-commerce support for clients	230	300	390	530	720
Total Sales	1,720	1,760	1,930	2,060	2,720
Costs of Goods Sold	380	340	260	120	220
Gross Profit	1,340	1,420	1,670	1,940	2,500
Selling, General and Administrative (SG&A)	830	980	1,050	1,180	1,620
Operating Income	510	440	620	760	880
Ordinary Income	380	430	620	760	890
Net Income	230	270	390	450	600

### Sales Volume

(US\$ Millions)	FY2011	FY2012	FY2013	FY2014	FY2015
Sales of goods on behalf of vendors on consignment terms	3,300	3,500	4,200	5,000	6,600
Re-sales of goods purchased from "wholesale" vendors	510	410	270	40	30
e-commerce support for clients	920	1,200	1,560	2,120	2,880
<b>Total sales volume</b>	<b>4,730</b>	<b>5,110</b>	<b>6,030</b>	<b>7,160</b>	<b>9,510</b>

### Number of Vendors on Blue Village

	End of 2011	End of 2012	End of 2013	End of 2014	End of 2015
Vendors on consignment terms	1,740	2,260	3,030	3,280	4,220
"Wholesale" vendors	210	200	80	150	120

### Number of Members

(000s)	End of 2011	End of 2012	End of 2013	End of 2014	End of 2015
Active members	7,900	8,900	10,200	11,700	13,400
Guest shoppers	1,900	3,600	5,900	6,100	9,000

Active members are registered members of Blue Village who purchased at least once on the site in the given year. Guest shoppers are those who purchase goods through Blue Village without signing up for membership.

### PC and Smartphone Shipments (as % of total device shipments)

	FY2011	FY2012	FY2013	FY2014	FY2015
PC	72%	56%	46%	40%	31%
Smartphone	28%	44%	54%	60%	69%

### 3. Robotics Business

#### Statement of Income

(US\$ Millions)	FY2011	FY2012	FY2013	FY2014	FY2015
Sales	-	-	20	30	60
Cost of Goods Sold	-	-	10	20	40
Gross Profit	-	-	10	10	20
R&D	-	-	40	50	50
Other	-	-	30	50	60
SG&A	-	-	70	100	110
Operating Income	-	-	-60	-90	-90
Grants received	-	-	30	40	40
Other	-	-	10	10	20
Non-operating Income	-	-	40	50	60
Non-operating Expenses	-	-	10	10	10
Ordinary Income	-	-	-30	-50	-40
Net Income	-	-	-30	-50	-40

\*The robotics business was launched in 2013; hence no data for prior years are available.

Top page (for PC) of Blue Village (for illustration only)

\*The website for smart phones has similar content.





# *Blue Inc.*

1-1-1, Abu-Abu, Arbitria

To: Red Corporation

1-1-1, Nego-town, Negoland

## VENDOR CONTRACT

This VENDOR CONTRACT (“Agreement”) is to confirm our agreement between Red Corporation, a Negoland corporation (“Vendor”), and Blue Inc., an Arbitria corporation (“Blue”) (collectively hereinafter referred to as the “Parties”).

### **1. DEFINITIONS**

- 1.1 “Buyer” or “Buyers” shall mean the purchaser(s) or potential purchaser(s) of the Products through the Vendor Sales Facility.
- 1.2 “Product” or “Products” shall mean Vendor’s item(s)s offered for sale by Blue through the Vendor Sales Facility in accordance with this Agreement.
- 1.3 “Sales Price” shall mean the price for the Product sold to the Buyer.
- 1.4 “Store” shall mean the online sales facility operated by Blue on its website WWW.BLUEVILLAGE. . . .
- 1.5 “Store Information System” shall mean Blue’s system where all the necessary information for purchase and sales of the Products is stored.
- 1.6 “Vendor Sales Facility” shall mean the online sales facility given to Vendor within the Store.

### **2. RIGHTS AND OBLIGATIONS OF THE VENDOR**

- 2.1 Vendor has the right:
  - 2.1.1 To offer the Products to the Buyers through the Vendor Sales Facility pursuant to the terms and conditions provided herein.
  - 2.1.2 To change the Products provided that:
    - a) advance warning of five working days is given to Blue, by e-mail or fax;
    - b) all necessary information about substitute products is provided to Blue at the same time.
  - 2.1.3 To provide photographs and descriptive materials of the Products being offered for sale

through the Vendor Sales Facility.

2.2 Vendor is obliged:

- 2.2.1 Prior to displaying the Products on the Vendor Sales Facility, to be fully acquainted with all conditions relating to the Vendor Sales Facility, including ordering, payment, shipment, delivery, notifications and returns
- 2.2.2 To communicate accurate information required by Blue for shipping and delivery to be posted alongside the Products offered through the Vendor Sales Facility.
- 2.2.3 To provide Blue with complete and adequate information for purposes of payment.
- 2.2.4 To provide information regarding any changes in payment information in a timely manner.
- 2.2.5 To provide true information regarding the Products, which is stored in the Store Information System.
- 2.2.6 To ship or deliver the Products ordered once the order has been communicated by Blue, in accordance with shipping and delivery conditions as stipulated in this Agreement.

**3. RIGHTS AND OBLIGATIONS OF BLUE**

3.1 Blue has the right:

- 3.1.1 To change the conditions governing the operations and use of the Store, including payment conditions, commissions, delivery and shipment requirements, according to the needs of the business.
- 3.1.2 To alter the photographs and/or descriptive text of Products which do not meet the Store standards of clarity and legibility; provided that Vendor is notified of said changes with an explanation of the reasons for the changes.
- 3.1.3 To terminate, permanently or temporarily, Vendor's use of the Store in case it fails to meet any of the conditions of this Agreement or in any other way behaves in a way that is detrimental to the Store.
- 3.1.4 To withhold payment to Vendor in case it fails to meet the obligations under this Agreement.
- 3.1.5 To return the Products to Vendor in case Blue reasonably determines that there is an excess stock, provided that the Products are in good condition and may be commercially sold by Vendor. Blue shall pay necessary cost for such return.

3.2 Blue is obliged:

- 3.2.1 To operate the Vendor Sales Facility according to the terms of this Agreement.
- 3.2.2 To pay Vendor without delay for the Sales Price of the Products once a sale to a Buyer is completed and payment by the Buyer has been received by Blue, and to inform Vendor that payment has been made. Vendor shall receive payment covering both the Products and

shipping.

- 3.2.3 To notify Vendor of any problems arising with payment from the Buyer in a timely fashion.
  - 3.2.4 To notify Vendor of any problems with shipment or delivery that may originate with Vendor.
  - 3.2.5 To keep and maintain the Products delivered by Vendor in good condition.
  - 3.2.6 To notify Vendor of any claims or disputes from Buyers concerning the Products in order to resolve said matter.
  - 3.2.7 To immediately inform Vendor of any defective Product provided by Vendor to give Vendor the possibility to replace said Product.
  - 3.2.8 Not to disclose or to use any confidential information provided by Vendor, except as required by applicable legislation.
- 3.3 Blue is NOT obliged:
- 3.3.1 To provide any information of the Buyer to Vendor.

#### **4. ORDERING AND SHIPPING**

- 4.1 Blue shall manage inventory stock within Vendor Sales Facility, and shall issue a firm written purchase order for the respective Product on or before eight calendar days prior to the date Blue requests it to be delivered.
- 4.2 Vendor shall, upon its receipt of such purchase order, deliver the corresponding Product.
- 4.3 Trade terms shall be CPT (Incoterms 2010 Edition).

#### **5. PRICES AND COMMISSIONS**

- 5.1 Vendor sets the Sales Price of the Products or Services offered for sale through the Store.
- 5.2 As a consideration for the use of Vendor Sales Facility by Vendor, Vendor shall pay Blue the following amounts:
  - Initial fee: US\$10,000,000.00
  - Commission fee: twenty five (25%) of the Sales Price of the Products which have been sold from Blue to Buyers through Vendor Sales Facility.
- 5.3 Payment is to be made monthly by secure web-based payment methods or by bank transfer.

#### **6. LIABILITIES**

In the event a Product provided by Vendor is defective, does not meet the information displayed on Vendor Sales Facility, or does not meet the corresponding purchase order, Blue may cancel such purchase order and return the Product to Vendor.

**7. TERM AND TERMINATION**

- 7.1 This Agreement shall come into force as of the date last signed below.
- 7.2 This Agreement may be terminated if both Parties reach an agreement to do so.

**8. OTHER CONDITIONS**

- 8.1 This Agreement shall be governed by and construed in accordance with UNIDROIT Principles of International Commercial Contracts 2010.
- 8.2 All disputes arising out of or related to this Agreement shall be settled, if possible, by means of negotiation. All unresolved disputes shall be settled by arbitration in Tokyo, Japan pursuant to the UNCITRAL Arbitration Rules.

January 15, 2008

Sincerely,

Blue Inc.

By <Signed>

-----

Agreed and Confirmed on January 25, 2008

Red Corporation

By: <Signed>

| NOTE: Articles 4.3 and 8.1 were amended in 2011.

From: Jack Ruby  
Sent: Friday, October 20, 2015 10:23 AM  
To: Bill Hawk  
Subject: Re: Lucky Bags

Dear Mr. Hawk,  
I am pleased to inform you that the price of US\$250 has been approved.  
We will draft an agreement and send it to you shortly.

Best regards,  
Ruby

-----Original Message-----

From: Bill Hawk  
Sent: Wednesday, October 19, 2015 5:51 PM  
To: Jack Ruby  
Subject: Re: Lucky Bags

Dear Mr. Ruby,  
Thank you for your email. We are so excited to hear that you agreed to the wholesale deal.  
However, we wonder if US\$250 is acceptable, as your offer of US\$230 is too low.  
I thank you in advance for your considering our proposed price.

Best regards,  
Hawk

-----Original Message-----

From: Jack Ruby  
Sent: Friday, October 14, 2015 2:51 PM  
To: Bill Hawk  
Subject: Re: Lucky Bags

Dear Mr. Hawk,  
Thank you for your email. And I thank you for agreeing with the sale of your New Year lucky

bags through Blue Village. Our standard practice is to accept merchandise on a consignment basis but we decided to make an exception this time for your New Year lucky bags. We are willing to go ahead with the deal if you agree to lower the price to US\$230 per bag. If this wholesale price is acceptable to you, we will buy 10,000 bags.

Best regards,  
Ruby

-----Original Message-----

From: Bill Hawk

Sent: Wednesday, October 12, 2015 9:05 AM

To: Jack Ruby

Subject: Lucky Bags

Dear Mr. Ruby,

I thank you again for your visit to our office the other day. I discussed your proposal concerning the sale of our New Year lucky bags through Blue Village with my boss, and I am pleased to inform you that your proposal has been approved. However, we would like to request that you buy the lucky bags outright, instead of making them available on Blue Village on a consignment basis. We are setting aside some of the lucky bags for your platform by assuming the risk of not being able to sell out, on your platform, the entire supply of the allocated lucky bags, which would, without a doubt, otherwise be sold out quickly in Negoland. If this wholesale arrangement is acceptable to you, we will supply you with 10,000 New Year lucky bags at a wholesale price of US\$270 a bag.

Best Regards,

Hawk

Agreement

Whereas, Red Corporation (“Seller”) and Blue Inc. (“Buyer”) are the parties to the Vendor Contract dated on January 25, 2008 (“Vendor Contract”);

Whereas, the Buyer wishes to purchase the New Year Lucky Bag produced by the Seller for the New Year of 2016 (“Goods”) from the Seller and sell at Blue Village operated by the Buyer as a core product for the New Year Sale of 2016; and

Whereas, the Seller also wishes the Buyer to resell the Goods in Arbitria through Blue Village,

Now, THEREFORE, on October 27, 2015, the Seller and Buyer agree as follows

**Article 1 GOODS**

1. The Seller shall sell and deliver to the Buyer, and the Buyer shall purchase from the Seller, 10,000 sets of the Goods.
2. The Seller shall give the Buyer an opportunity to check the sample of the Goods when the Buyer requests.

**Article 2 PAYMENT**

The Buyer shall pay to the Seller US\$2,500,000. for the Goods upon the completion of the delivery, by wire transfer to the Seller’s bank account.

**Article 3 TRADE TERMS AND SHIPPING**

Shipping shall be made by the Seller by December 10, 2015, at Nego Airport.

**Article 4 THE PARTIES’SELLER’S OBLIGATIONS**

1. The Seller shall send the descriptive text for the Goods and provide the Buyer with necessary information as required in accordance with the Vendor Contract.
2. The Buyer shall not resell the Goods in territories other than Arbitria.

**Article 5 FORCE MAJEURE**

Neither party shall be liable for failure to perform or delay in performing any obligation hereunder to the extent that such failure or delay is attributable to force majeure. The term force majeure shall mean such acts, happenings, causes or circumstances as, including, but not limited to, war, civil disturbance, labor difficulties or direction of a governmental authority, which are beyond the reasonable control of the party affected.

**Article 6 GOVERNING LAW**

This contract shall be construed in accordance with and governed by UNIDROIT Principles of International Commercial Contracts 2010.

**Article 7 ARBITRATION**

Any dispute arising out of or under this contract shall be settled by arbitration in accordance with UNCITRAL Arbitration Rules, in Tokyo, Japan.

Red Corporation

By \_\_\_\_\_ <Signed>

Blue Inc.

By \_\_\_\_\_ <Signed>



## RETURN POLICY

If something isn't right or you just change your mind, we are happy to accept a return. Please read below for all of the details you need to know.

### HOW TO RETURN AN ONLINE ORDER VIA POST

Head to "<http://returns.blue.village.com>" and fill in your details. Then print out a postage label. Complete the return form that would have come with your order, pack the item(s) for return with the return form in a box or satchel, attach the postage label and head to your local post office. Once we receive the package and confirm that it meets our returns policy, we'll process your refund and send an email to you. The refund will appear in your bank account in about 3-5 days after you hear from us. If there are any issues or your return doesn't meet our policy, we'll contact you and we can send your parcel back to you.

### IMPORTANT NOTICE:

We will accept a return under the following conditions:

- Item(s) must be returned within 30 days of purchase, together with proof of purchase.
- Item(s) must be unworn, unwashed, or otherwise unused with all original tags/labels attached.
- If you request a refund, the purchase price (excluding delivery charges for online orders) will be refunded to you using the original payment method, once we have received the returned item back and confirmed that it meets conditions above, so make sure you post it back to us in good time.
- You are responsible for any costs associated with returning the item to us including any currency conversion and/or local or international taxes, but this is quite rare.

February 10, 2016

Mr. Swan  
Director of Apparel Business  
Red Corp.

Dear Mr. Swan,

With regard to your t-shirts, a total of 4,000 shoppers requested a refund. After a careful review, we have decided to refund US\$100 per shirt to shoppers wishing to return their t-shirts in accordance with our Return Policy. We think US\$100 is an appropriate amount of refund in light of the price of the lucky bag (US\$300) and the unpleasantness the dragon caused. Shoppers are responsible for return shipping charges. We incurred US\$5 per refund as costs for refund processing.

As a result of the above, we incurred damages amounting to US\$420,000 in total. These were caused by your breach of the contract and by your filling some lucky bags with dragon-embroidered t-shirts. Therefore, we hereby request your prompt payment of US\$420,000.

Best regards,  
Diamond  
Director of Online Business  
Blue Inc.

February 15, 2016

Mr. Diamond  
Director of Online Business  
Blue Inc.

Dear Mr. Diamond,

Thank you for contacting me.

We delivered the New Year lucky bags in accordance with the terms of the agreement we signed with you, and we were never in breach of the agreement in any way. Therefore we have no obligation to compensate you for the damages you incurred.

As for the t-shirts, please send them back to us, if you do not need them. We will pay you US\$60 per returned t-shirt. We will bear the cost of shipping to us.

Best regards,  
Swan  
Director of Apparel Business  
Red Corp.

February 20, 2016

Mr. Swan  
Director of Apparel Business  
Red Corp.

Dear Mr. Swan,

Thank you for contacting me.

We are in total disagreement with the allegations you made. Please pay US\$420,000 as damages.

As for the returned t-shirts, because they were considered unsalable in Arbitria any more, in early February we have donated all t-shirts to the Support Program managed by the Arbitrian Ministry of Foreign Affairs, which donates clothes to developing countries. We received a letter of appreciation from the Ministry.

Best regards,  
Diamond  
Director of Online Business  
Blue Inc.

[NOTE: You do not need to consider tax issues relating to the donation.](#)

February 24, 2016

Mr. Diamond  
Director of Online Business  
Blue Inc.

Dear Mr. Diamond,

It is certain that, if you had returned the t-shirts to us, we would have been able to sell the t-shirts for US\$100 retail price in Negoland. As we indicated in our previous e-mail, we could have paid your company US\$60 per t-shirt if you had delivered the t-shirts to us. With this payment, you could have reduced your loss for the refund, but your company gave up the opportunity by yourself. Therefore, even if we might have some obligation to compensate you for damages for some reason, this constitutes breach of your obligation to mitigate your loss.

Best regards,  
Swan  
Director of Apparel Business  
Red Corp.

NOTE: There is no dispute that Blue would have been able to receive US\$60.00 per t-shirt if Blue had delivered the t-shirts to Red.

February 28, 2016

Mr. Swan  
Director of Apparel Business  
Red Corp.

Dear Mr. Swan,

We did not know that your company would purchase the t-shirts. We think we used the t-shirts effectively to contribute to society by donating them. We did what we should have done and there is no breach of duty to mitigate our harm.

Best regards,  
Diamond  
Director of Online Business  
Blue Inc.

*Red Corporation  
Negoland*

*To: Mr. Orange  
Blue Inc.*

*Memo*

*Red shall give Blue the right to order and purchase the Alpha Series in precedence to other prospective purchasers during the first one month period from the release of the Alpha Series.*

*March 15, 2016  
Eagle  
Red Corporation*

From: Bob Orange  
Sent: Thursday, April 21, 2016 0:51 AM  
To: Apparel Business Department, Red Corporation  
RE: Urgent Order  
[Message]

Please see attached.

Bob Orange, Blue Inc.

[Attachment]

April 21, 2016

To Red Corporation

Order Form

Products: *d Series*

Unit Price: *US\$ 100.<sup>00</sup>*

Quantity: *10,000.-*

Total Amount: *US\$ 1,000,000.-*

Contract:

Blue Inc.  
*Bob Orange*

NOTE: The column for "Contract" is to describe the relevant contract, but the column is left blank. The time in the head of the e-mail shows Arbitria time.



Exhibit 15

May 25, 2016

To Red Corp.

From Blue Inc.

On April 21 and April 30, 2016, we placed an order for the Alpha Series (quantity: 10,000), but you failed to ship them to us. Without a doubt, we could have sold out the entire shipment, if you had shipped them to us. As a result of your failure to deliver the goods, we incurred US\$250,000 in damages (US\$100 x 25% x 10,000).

Please pay US\$250,000 in damages to us.

NOTE: There is no dispute over the fact that the shipment would have sold out, if Blue had received the Alpha Series.

NOTE: Costs and other factors Blue would have incurred in selling the Alpha Series need not be considered in assessing the harm incurred by Blue.

Exhibit 16

May 27, 2016

To Red Corp.

From Blue Inc.

As per our discussion with you, we arranged for the transport of 10,000 units of the d Series to you. While the t-shirts were in transit, an earthquake broke out and damaged the entire load of the t-shirts. The damage was so severe that the goods became no longer fit for selling; therefore, they had to be discarded.

Our contract with the freighter stated that the freighter was not liable for damages on goods caused by an earthquake. And none of the insurance we have covers the case in question.

Regrettably, there is nothing we could do about it, since it was attributable to an earthquake, an act of God. I appreciate your understanding in this matter.

Exhibit 17

June 1, 2016

To Blue Inc.

From Red Corp.

I have read your letters dated May 25 and May 27.

Regarding the Alpha Series, no order was placed by you on April 21. In addition, there was no order placed by you on or before April 30, the last day of the period over which Red gave priority to your orders of the Alpha Series. Therefore, we did not commit any contractual breach.

As for the d Series, you were responsible for the completion of the return, including the arrival of the goods at our location, and any incident that took place while the goods were in transport was under your responsibility, and you should have taken out insurance to cover any risks associated with goods in transit. We could have sold them at US\$100 per jacket, had the d Series been returned to us. Hence, we seek US\$1,000,000 in damages from you.

NOTE: There is no dispute over the assertion that Red would have sold the jackets for US\$100 per jacket had the d Series been returned, and that all jackets would have sold out at that price. The cost for d Series jackets is US\$70 per jacket.

### **Equipment Lease Agreement**

This Equipment Lease Agreement (this “Agreement”), made and entered into as of May 27, 2016, by and between Red Corporation (“Red”), a corporation organized and existing under and by virtue of the laws of Negoland, and Blue Inc. (“Blue”), a corporation organized and existing under and by virtue of the laws of Arbitria (Red and Blue are collectively, the “Parties”, and respectively, a “Party”).

#### **WITNESSETH:**

**WHEREAS**, Blue has designed, developed and owns certain robot products; and

**WHEREAS**, Red desires to lease from Blue such products pursuant to the terms and conditions herein and Blue desires to accept such lease.

**NOW, THEREFORE**, in consideration of the mutual premises and covenants hereinafter set forth, the Parties hereto agree as follows:

#### **1. LOAN AND USE OF EQUIPMENT**

(1) Blue will, at its cost and expense, deliver the following products (“Equipment”) to the place separately designated by Red, by July 15, 2016.

Description	Quantity
Handling robot “X-5”	10
Management application software for X-5 (with customization for Red)	1
Instruction manual for X-5	1

(2) Red may use the Equipment solely for the purpose of its internal inventory control and shipping preparation operation at Red’s warehouse.

(3) Red acknowledges and agrees that Red shall use the Equipment in a careful and proper manner.

(4) Red shall maintain the Equipment in the same condition that such Equipment is received from Blue, and subject to reasonable wear and tear, return the Equipment to Blue in the same condition as in which the Equipment was received.

(5) Red shall follow any and all instructions from Blue related to maintenance, usage or place of use of the Equipment.

(6) Red shall not make any copies, reproductions, alterations, additions or modifications to Equipment in any manner without Blue’s prior written consent.

#### **2. FEES**

In consideration of the lease of the Equipment hereunder, Red shall pay the following rents and fees

pursuant to the manner separately agreed between the Parties:

- Annual rents: One Hundred Thousand United States dollars (US\$ 100,000)
- Annual maintenance fees: Twelve Thousand United States dollars (US\$12,000)
- One-time development fees: Twenty Thousand United States dollars (US\$ 20,000)

Notwithstanding the foregoing, Red may use the Equipment during the period of trial operation from July 15 to 31, 2016 without incurring additional fees.

### **3. OWNERSHIP**

Both Parties acknowledge and agree that Blue shall retain any and all right, title, ownership and interest in and to the Equipment, and Red shall not create any lien or encumbrance on the Equipment.

### **4. WARRANTY AND INDEMNIFICATION**

(1) Blue hereby warrants to Red that the Equipment conforms to the specification as specified in the instruction manual provided by Blue. Blue further warrants to Red that the Equipment does not contain errors, flaws and/or deficiencies which would materially interrupt or disable Red's use of the Equipment.

(2) In case any errors, flaws and/or deficiencies are found in the Equipment during the period of one year from the delivery of the Equipment, Blue shall cure such errors, flaws and/or deficiencies for free upon Red's request to Blue unless such errors, flaws and/or deficiencies are caused by Red's fault.

(3) Each Party shall defend, indemnify and hold the other Party harmless from and against any and all losses, costs, damages, expenses or liabilities (including attorney's and similar fees and expenses) arising from its breach of any of the terms and conditions set forth in this Agreement.

### **5. TERM AND TERMINATION**

(1) This Agreement shall become effective as of the Effective Date, and unless sooner terminated in accordance with Section 5 (2), shall continue in full force and effect until July 31, 2019.

(2) This Agreement may also be terminated by Blue immediately by sending a written notice to Red should:

(i) Red materially breach any provision of this Agreement and should Blue notify Red in writing, stating in such notice the obligations which Red has failed to perform, and should Red within thirty (30) days after Blue's giving Red such notice, fail to remedy such breach;

.....; or

(iv) the Robot be lost or damaged to the extent it cannot be restored to a state equivalent to when it was delivered to Red.

(3) Upon any expiration or termination of this Agreement, Red shall promptly return any and all portions of the Equipment, pursuant to any and all instructions given by Blue. In case Red is not able to return the Robot in a condition functionally equivalent to when it was delivered to Red, Red shall

pay to Blue Fifty Thousand United States dollars (US\$50,000) per each such Robot which Red is not able to return to Blue.

(4) The provisions set forth in Sections 3, 4, 5(3), 5(4) and 6 shall survive the termination or expiration of this Agreement.

**6. MISCELLANEOUS**

(Omitted)

(8) This Agreement and any disputes related to or arising out of this Agreement shall be governed in all respects by UNIDROIT Principles of International Commercial Contracts 2010.

(9) Any controversy or claim arising out of or relating to this Agreement shall be settled by arbitration in Tokyo, Japan. Such arbitration shall be conducted in accordance with UNCITRAL Arbitration Rules.

(10) This Agreement constitutes the entire agreement between the Parties with respect to the subject matter of this Agreement, and supersedes and replaces all prior or contemporaneous communications, discussions, understandings or agreements, written or oral, regarding the subject matter hereof. No amendment or supplement to or modification of this Agreement shall be binding unless made in writing and signed by a duly authorized representative of each of the Parties.

**IN WITNESS WHEREOF**, the Parties by their duly authorized representatives have executed this Agreement upon the date first set forth above.

Red Corporation

Blue Inc.

By           <Signed>          

By           <Signed>

## INFORMATION SHEET

Be sure to read the notes below:

(Skipped)

Prior to use, enter accurate information about the shape of the warehouse using the management app.

In the event of a change in the shape of the warehouse, the kind of products, the location of products in storage, the racks, or the default travel path, such new information must be entered using the management app.

(Skipped)

Deep learning function of the robots allows them to study the optimal travel path on an ongoing basis. In the process of the study, the robots would explore various routes and actually try such routes, so the robots would run routes different from the default paths. If you do not want the robots' running routes different from the default paths, please keep the deep learning function off. The user is responsible to confirm that the optimal travel path so chosen is in conformity with the needs of the user.

(Skipped)

The collision prevention sensor will work by identifying obstacles within 1 meter ahead.

(Skipped)

The robots are designed to function properly between the temperatures of -10 degrees and +45 degrees Celsius. If the temperature drops too low or becomes too high, the robots may malfunction.

September 25, 2016

To Blue Inc.

From Red Corp.

On September 12, 2016, a fire broke out in our warehouse, caused by a collision of your robot against a storage rack. Fortunately the damage to the warehouse was not so extensive – about US\$100,000 in monetary terms, but we lost inventory worth US\$1 million in the fire. As a result we incurred US\$1.1 million in damages.

The robot's collision against the storage rack was attributable to the malfunctioning of your robot, and this could have been avoided had your robot functioned properly. Under the leasing agreement, Blue Inc. guarantees that the robots will function properly.

We hereby request US\$1.1 million in damages from you on account of the non-fulfillment of your obligation under the leasing agreement.



September 27, 2016

To Red Corp.

From Blue Inc.

I have read your letter dated September 25.

The incident was attributable to the fact that your people forgot to enter the change in the location of the merchandise rack on the app, and the fact that the temperature inside the warehouse rose to a level close to 50 degrees - this was not attributable to the malfunctioning of our robots. Therefore, we are under no obligation to compensate for the damages incurred by you.

The leasing agreement states the agreement may be terminated by Blue and payment of US\$50,000 per robot shall be due from you, if the robots are lost or damaged to such an extent that they may not be returned to us.

You informed us that all robots were lost, therefore, we terminate the leasing agreement concerning the robots. We hereby further request your immediate payment to us of the total of US\$500,000.

[NOTE: In this arbitration, Blue's only claim is US\\$500,000, as stated above, and you do not need to consider other possible claims.](#)

<Lucky Bag Case>

Claim by Blue Inc.

Red shall pay US\$420,000 to Blue.

Points at issue:

- ① Did Red breach its obligation in relation to its provision of the New Year lucky bags to Blue?
- ② If Red indeed breached its obligation described in ① above, is the amount of damages to be paid by Red to Blue US\$420,000?

<Alpha Case>

Claim by Blue Inc.

Red shall pay US\$250,000 to Blue.

Counterclaim by Red Corp.

Blue shall pay US\$1,000,000 to Red.

Points at issue:

- ① Is Red under the obligation to pay to Blue US\$250,000 for its breach of ~~Did Red owe~~ the legal obligation to deliver 10,000 of Alpha Series to Blue?
- ~~② If Red indeed owed the legal obligation described in ① above, is the amount of damages to be paid by Red to Blue US\$250,000?~~
- ~~③~~② Is Blue under the obligation to pay to Red US\$1,000,000 for ~~Did Blue~~ breach of its obligation in relation to the return of the d Series to Red?  
~~If Blue indeed breached its obligation described in ③ above, is the amount of damages payable by Blue to Red US\$1,000,000?~~

<Robot Case>

Claim by Red Corp.

Blue shall pay US\$1,100,000 to Red.

Counterclaim by Blue Inc.

Red shall pay US\$500,000 to Blue.

Points at issue:

- ① Did Blue breach its obligation in relation to the agreement shown in Exhibit 18?
- ② If Blue indeed breached its obligation described in ① above, is the amount to be paid by Blue to Red US\$1,100,000?
- ③ Under the terms of the agreement shown in Exhibit 18, is Red under obligation to pay US\$500,000 to Blue on account of the loss of the robots?

NOTE: In Round A, For issues you do not need to dispute the amount of damages, if there is no good ground to argue regarding the amount of damages. regarding the amount of damages to be awarded, in this hearing Also, it is sufficient to argue the reason why the amount should be reduced without arguing for a specific amount of damages, if there is good ground to argue for reducing the amount of damages but no facts are mentioned in the Problem that could underpin assertion of some specific amount.

Demand forecast for nursing care robots

**1. Market environment in Negoland**

The nursing care industry in Negoland is expected to keep growing because the demand for nursing care will expand as the number of those who need nursing care increases due to the super-aging society.

However, it is difficult to provide sufficient number of caregivers in order to meet the increasing demand, because the wage level of caregivers is low and the job of caregiver tends to be tough both physically and mentally. Therefore, it is an urgent need in Negoland to introduce robots that support the work of caregivers and to improve their working environment. Negoland is a super-aging society and the development of devices and robots that support human workers in the livelihood support industry and the medical industry as well as the nursing care industry is rapidly advancing. We expect that the increase of elderly population will expand the market size for nursing care robots in total.

**2. Forecast of the market scale for nursing care robots in Negoland**

Year	2015	2020	2025	2035
Care support type *1	200	700	2,100	5,100
Independence support type *2	700	1,000	2,100	4,000
Communication/security type *3	20	100	200	1,700

(US\$ 1million)

\*1: robots that support nursing care jobs such as moving and lifting, bathing, assisting with toilet use, and so on

\*2: robots that support self-help of those who need nursing care through walking, rehabilitation, dining and so on

\*3: robots that ease loneliness and/or monitor safety and security of target humans

**3. Market environment in Arbitria**

While aging society is a serious issue in Arbitria, the speed of aging in Arbitria is not so fast as in Negoland. In addition, elderly people tend to hope to continue living at home and the use of nursing care facilities is limited compared to Negoland. It is expected that this trend will continue in the future. Thus we expect that the main demand for nursing care robots will be independence support type and communication/security type, rather than care support type.

#### **4. Forecast of the market scale for nursing care robots in Arbitria**

Year	2015	2020	2025	2035
Care support type	100	700	1,500	2,100
Independence support type	500	1,100	2,200	3,500
Communication/security type	30	500	1,000	2,000

(US\$ 1million)