

FRANCHISE AGREEMENT

THIS AGREEMENT made as of the ____ day of _____, _____

BETWEEN:

FRANCHISOR
of _____
(the "Franchisor")

OF THE FIRST PART

AND:

FRANCHISEE
of _____
(the "Franchisee")

OF THE SECOND PART

AND:

GUARANTOR
of _____
(the "Guarantor")

OF THE THIRD PART

WHEREAS:

- A. The Franchisor has used and owns or controls the use of various trade marks, trade names, trading styles and other trade indicia (collectively referred to herein as the "Trade Marks"), all associated with the services and the conduct of business as described herein. Trade Marks shall also include any new or altered trade marks, trade names, trading styles and other trade indicia approved for use by the Franchisor, from time to time. Without limiting the generality of the foregoing, Trade Marks includes the Trade Marks (registered or otherwise) identified in Schedule "A" attached hereto and includes any alterations, changes and additions as may be made to the Trade Marks, from time to time, by the Franchisor.
- B. The Franchisor has developed various marketing, management and advertising techniques to enable it to develop and efficiently market and to organize and establish a successful ongoing business of a retail merchandising of products, accessories and related items pertaining to _____ (collectively referred to herein as the "Franchise Business") and the Franchisor has been able to organize its marketing and sales such that it is able to provide these services in a competitive and profitable manner with significant goodwill and recognition based on the Trade marks. The Franchisor is and will continue to develop various new systems and services to develop various new products, systems and services to enhance and make more efficient the Franchise Business and the goodwill relating to it.
- C. The Franchisor has developed in conjunction with manufacturers and suppliers its own uniquely and exclusively and labeled line of products or special make-ups (hereinafter referred to as "Franchisor SMUs").
- D. The Franchisor has developed the required marketing skills and expertise to make available, in conjunction with certain manufacturers and suppliers, to the Franchisee specialized unique selling programs for such items as [franchisor's consumer goods and merchandise] (hereinafter collectively referred to as "Franchisor's Programs").
- E. The Franchisor desires to grant to qualified parties, a license to own and operate a Franchise Business utilizing the Trade Marks, marketing techniques, contract and other business forms,

methods, procedures, inventory controls, standards, sales promotion, ongoing research and certain management support furnished by the Franchisor from time to time; and further the Franchisor will extend to the Franchisee the ability to take advantage of the services and economics as will be occasioned by the use of Franchisor's SMUs and Franchisor's Programs, all pursuant to this Agreement.

- F. The Franchisee understands that the specifications and controls established and insisted upon by the Franchisor are for the purpose of:
- (a) establishing and maintaining standardization and uniformity among all Franchisor's franchisees belonging to the system;
 - (b) establishing, maintaining and discharging the Franchisor's obligation to all of its franchisees to maintain the high level of quality of the products and services marketed under the Trade Marks; and
 - (c) protecting the Franchisor's proprietary rights to the Trade Marks and goodwill, all for the benefit of the Franchisor and all of its franchisees.
- G. The Franchisee desires to be franchised to operate a Franchise Business pursuant to the terms hereof in the Franchise Territory hereinafter described.

NOW THEREFORE IN CONSIDERATION of these premises and the mutual promises and covenants contained herein, the receipt and sufficiency of which is hereby acknowledged, the parties hereto agree as follows:

1. TERM OF LICENSE AND FRANCHISE

1.1 The Franchisor hereby grants and the Franchisee hereby accepts, for a term of _____ years unless sooner terminated in accordance with the terms and conditions of this Agreement, commencing the first date hereof written, the exclusive right, license and franchise to:

- (a) operate a Franchise Business which includes without restriction (save and except as may be restricted herein) the sale, installation, maintenance (collectively referred to herein as the "Services") and provision of products, accessories and related items pertaining to [franchised products and merchandise] (collectively referred to herein as the "Products") under the trading name of "_____" as a franchisee of the Franchisor within the area (hereinafter referred to as the "Franchise Territory") as outlined in red on the map attached hereto as Schedule "B" and described as follows:

The Franchise Territory is defined as that area to include [list]

- (b) the use of the Trade Marks in the Franchise Territory and in all customer relations and sales promotions and advertising of the Franchise Business carried out pursuant to this Agreement; and
- (c) the use of all documents, Products, Services, procedures and methods of doing business as outlined and amended, from time to time by the Franchisor in writing.

1.2 The Franchisee accepts the above license from the Franchisor subject to the terms of this Agreement and agrees that it shall cause to establish, at an acceptable location, in a manner acceptable to the Franchisor acting reasonably, an enterprise for the carrying on of the Franchise Business within _____ days of the date of this Agreement, unless an extension of time is expressly authorized in writing by the Franchisor, and then for the duration of this Agreement operate the Franchise Business, in the Franchise Territory under the Franchisee's active and continuous management and up to the standards and quality provided for in this Agreement. The Franchisee expressly acknowledges and agrees, as between the parties hereto, that:

- (a) The Franchisor is the sole and exclusive owner of all rights, title and interest in and to the Trade Marks and the goodwill of the Franchisor in connection with the Trade Marks that will be used in the Franchise Territory. For greater certainty and without limiting the generality of the foregoing the Franchisee disclaims any right, title and interest in or to the goodwill of the Franchisor in the Franchise Territory, or anywhere else and agrees to not challenge, or be a participant, in any manner whatsoever (save as may be so construed pursuant to Court order) in any challenge to the ownership, use, title or benefits gained or held by the Franchisor in the Trade Marks, and goodwill;
- (b) the Trade Marks are valuable property and represent valuable property rights all of which are owned by the Franchisor;
- (c) the Trade Marks shall be used only in connection with the Franchise Business or in any other way that may be approved or specified by the Franchisor;
- (d) the Franchisee's right to the use of the Trade Marks is limited to the conduct of its business arising out of providing the Products and Services in the Franchise Territory, except with the express prior written consent of the Franchisor;
- (e) the Franchisee shall use no other trade marks of the Franchisor in the Franchise Business except with the express prior written consent of the Franchisor;
- (f) the Franchisee shall not use the words " _____ " or any Trade Marks of the Franchisor or design or name confusingly similar (as determined in the sole discretion of the Franchisor) as part of its corporate or business name unless first approved writing by the Franchisor, which approval may unreasonably withheld and, in any event, shall always use the Trade Marks clearly separated from any other words and without any other symbols or trademarks on all materials used to promote the Franchise Business. In the event the Franchisor approves the use of the words " _____ ", or the Trade Marks or any such design or name as described hereinabove as part of the Franchisee's corporate or business name, the Franchisee shall cause such name to be changed so as to eliminate those words and the Trade Marks from the name within _____ weeks after termination, for any reason, of this Agreement. Further, in the event of termination of this Agreement, the Franchisee shall cease use of the name " _____ " and the Trade Marks or any such signs or names as described hereinabove, and shall cause the same to be completely removed from all aspects of the Franchise Business including advertising, promotion, use of forms and documents, use of approved colour combinations and styles and all other various trade indicia and use of any tangible aspect of the Franchise Business, or its goodwill within _____ days after the termination of this Agreement, it being expressly agreed that this clause shall survive the termination of this Agreement;
- (g) the Franchisee shall adopt and follow diligently and in good faith the system, program and methods prescribed from time to time by the Franchisor acting reasonably, for the Franchise Business;
- (h) the Franchisee acknowledges that the Franchise Territory has been determined by the Franchisee to be of sufficient size to support the Franchise Business as an economically viable enterprise. Further, the Franchisee acknowledges that it shall have the right subject to the terms hereof to open more than one franchise business within the Franchise Territory, but only on the express prior written consent of and upon such terms as the Franchisor may, in its sole discretion, determine;
- (i) the Franchisee acknowledges that it is obliged to offer all of the Products and Services required of it by the Franchisor acting reasonably from time to time; the Franchisee also acknowledges that it shall offer for sale no other products or services other than those Products and Services of the Franchisor. The Franchisee further acknowledges that the Franchisor, or any company affiliated with the Franchisor, is in the business of distribution and/or importation and distribution of some, if not all, of the Products which would comprise the inventory of the Franchise Business and further, the Franchisee acknowledges that it shall purchase all of the Products offered for sale

in the Franchise Business from the Franchisor or a third party supplier designated in writing by the Franchisor.

Payment for any Products ordered from the Franchisor or designated third party supplier shall be payable within ____ days from the date of invoice. The Franchisor will use its best efforts to supply the Products, however, the Franchisee hereby expressly releases the Franchisor from any loss or damage arising from the failure of the Franchisor to fill any orders of the Franchisee for the Products. The Franchisor further reserves the right to substitute comparable products of equal or better quality in the event of a disruption to the supply of the Products to the Franchisor. The Franchisor, acting reasonably, may from time to time require the Franchisee to add new products and/or services. The Franchisee shall comply with any such addition within a reasonable time of receipt of the Franchisor's written notice thereof;

- (j) the Franchisee acknowledges that the Franchisor has the effective control over Franchisor's SMUs. The Franchisee shall be required to maintain a specific inventory of Franchisor's SMUs, at the time when such inventory is required for promotional reasons or advertising or marketing reasons at the reasonable discretion of the Franchisor. It is expressly understood and agreed that the Franchisor shall have the right to dispose of any stock that it has left over of the Franchisor's SMUs, at or towards the end of any given season, in any way it sees fit, save and except that it shall not offer these Franchisor SMUs for sale to any competing retail business in the Franchise Territory;
- (k) the Franchisee acknowledges that the Franchisor is prepared to offer a service based on the Franchisor's expertise and knowledge of the marketplace by way of providing to the Franchisee access to Franchisor's Programs that the Franchisor may from time to time put together with manufacturers and suppliers. While the Franchisee is not obligated to take part in any of the Franchisor's Programs, any Franchisee that does not participate in the Franchisor's Programs will not be identified in any advertising as a participating Franchisee, yet the said Franchisee will still be required to fulfill all of its advertising commitments as the goodwill generated by the advertising will benefit all members of the Franchise System;
- (l) it is expressly agreed to by the Franchisee that the Franchisee shall be required to maintain a specific inventory of the Products in terms of both quantity and variety as determined by the Franchisor from time to time, acting reasonably, so as to have an adequately stocked Franchise Business in the Franchise Territory.

THIS IS A 20-PAGE CONTRACT.