

## DEALER AGREEMENT

This Dealer Agreement ("Agreement") is made and entered into by and between Paragon International, Inc., an Iowa corporation ("Company") and \_\_\_\_\_ ("Dealer") dated effective as of the \_\_\_\_ day of \_\_\_\_\_, 200\_\_.

**WHEREAS**, Company desires to appoint Dealer as its independent agent to market and promote the sale of those products produced or marketed, from time to time, by Company (the "Products"), and Dealer desires to accept such appointment, all upon the terms and conditions set forth herein.

**NOW, THEREFORE**, in consideration of the foregoing and the mutual covenants hereinafter set forth, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

1. **Appointment.** Company hereby appoints Dealer as an authorized wholesale dealer of the products of the Company subject to the terms of this Agreement. The appointment by Company granted to Dealer shall be the right to purchase, promote and resell the Products in accordance with this Agreement.

2. **Non-exclusive Rights of Dealer.** The Company appoints the Dealer as a non-exclusive dealer of the Products for the term of this Agreement.

3. **Terms of Sale; Delivery of Product.** All sales pursuant to this Agreement shall be made by the Company to the Dealer at such prices and on such terms as the Company shall establish from time to time. The Company will make deliveries to the Dealer in accordance with the terms of a purchase order presented by the Dealer and accepted by the Company. The Dealer shall make payment in accordance with the terms of a purchase order presented by the Dealer and accepted by the Company. The Dealer shall pay a late charge on any delinquent amount compounded and computed daily at the lesser of (i) 1.5% per month, or (ii) the highest rate permitted by law whichever is greater. Title to the Products shall be deemed to transfer from Company to Dealer, and all risks of loss associated with ownership of the Products shall transfer to the Dealer, when Company places the Products in the possession of a third party for delivery to Dealer.

4. **Sales Efforts by Dealer; Duties of Dealer.** Dealer will diligently develop and promote the sales of the Products covered by this Agreement to the satisfaction of the Company. Dealer shall have the authority to sell the Products at any price which Dealer believes will be accepted by the market for the Products without regard to the Company's suggested retail price or minimum advertised price. The Dealer agrees that Dealer's advertising of Products must comply with policies of the Company, and agrees to discontinue any advertising that is disapproved by the Company. The Dealer will provide an adequate sales staff and customer relations organization trained to instruct customers in the use of the Products.

Dealer shall make no promises, representations or commitments which are not within the authority granted to Dealer hereunder, including, without limitation, accepting the return of or making any allowance with respect to any Products without the prior written approval of the Company, and make no warranties or promises to customers with respect to the condition, quality, composition, capabilities or otherwise of any Products which are not specifically made or given in writing by the Company (if any) to customers.

Dealer shall recognize, both during and after the term of this Agreement, and without limiting Paragraph 6 below, the exclusive right and ownership of the Company in and to all names, trade names, trade or service marks, patents, copyrights and all other intellectual property used by the Company in connection with the Products and Company's business, and to market and sell the Products only under the trade or service marks and trade names regularly applied to them by the Company and otherwise in accordance with Paragraph 6 below.

5. **Duties of the Company.** The Company agrees to:

(a) Provide sales and technical assistance to Dealer similar to that provided by the Company to its other independent sales agents, if any.

(b) Furnish Dealer with a reasonable amount of such promotional and sales materials (in the English language) as the Company, in its sole discretion, generally prepares in regard to the Products.

(c) Identify Dealer in such of the Company's promotional materials as the Company may, in its sole discretion, deem appropriate.

(d) Sell Products to Dealer as provided herein; provided, however, that the Company shall not be liable for any loss or damage caused by its nonacceptance or delay in acceptance of orders submitted by a Dealer which are not in compliance with all applicable procedures, policies, rules and regulations of the Company, nor for failure or delay in meeting any order of Dealer or in performing any other duty or obligation hereunder arising from or to any capacity or production limitations affecting the Company or any failures or delays (for whatever reason) by any vendors or suppliers of the Company, with the Company reserving the right to allocate its Products and services in such amounts and manner as it deems appropriate, in its discretion.

6. **Trademarks for the Company.** Dealer is hereby granted a limited, nonassignable and nontransferable right to use the Company's trade or service marks and trade names in distributing, advertising and promoting the sale of the Products, but only in strict accordance with the Company's policies regarding the use of its trade or service marks and trade names. The rights conferred herein shall cease and terminate immediately upon notice to cease such use provided by Company or, without notice, upon the termination of this Agreement, and Dealer agrees to take, at its sole cost and expense, all such steps as are necessary or appropriate to cease all use of the Company's trade or service marks and trade names in such event. Notwithstanding anything herein or otherwise which may appear to be to the contrary, the Company's trade or service marks and trade names shall at all times be and remain the sole and exclusive property of the Company, and the Company reserves all rights in and to the same. Dealer agrees to use its best efforts to notify the Company of any and all infringements of the Company's trade or service marks or trade names pertaining to the Products which may come to the Dealer's attention during the term hereof and to assist the Company in taking such action against said infringement as the Company, in its sole discretion, may decide.

7. **Proprietary and Confidential Information.**

(a) Dealer acknowledges and agrees that it is necessary for Company to prevent the unauthorized use and disclosure of Proprietary and Confidential Information, as hereinafter defined, regarding Company and the Products. Accordingly, Dealer covenants and agrees that it will not, during the term of this Agreement or at any time following the termination of this Agreement, for whatever reason (whether this Agreement is terminated by Company, by Dealer or by mutual consent), directly or indirectly, engage in or refrain from taking any action which may in any way lead to the disclosure of any Proprietary and Confidential Information regarding Company or the Products to any third party, nor use any Proprietary and Confidential Information for its own benefit.

(b) For purpose of this Agreement, the term "Proprietary and Confidential Information" shall be deemed to include all confidential and proprietary information relating to the Products or Company, including, but not limited to, (i) corporate and business information, including contractual arrangements (including the terms of this Agreement), plans, strategies, tactics, policies and resolutions; (ii) any negotiations; (iii) marketing information, including price and discount lists, sales or product plans, strategies or methods; (iv) customers, customer lists, prospects or market research data, including any lists or data developed or prepared by Company or Dealer in performing hereunder; (v) operational information, including trade secrets, control and inspection practices, suppliers and vendors, all

information related to the Products, inventions, technical and non-technical data, techniques, methods of manufacture, machines, equipment, apparatus, molds, tools, dies, drawings, blueprints, experimental or developmental work, photographs, slides, motion pictures, video tapes, compositions, formulas, formulations, processes, and know how; (vi) all copyrights, patents, trademarks, service marks, trade secrets or other intellectual properties utilized by the Company; (vii) personnel information, including personnel lists, resumes, personal data, organizational structure and performance evaluations; and (viii) information provided to or obtained in any way by the Company regarding another person, corporation or other form of entity which owns in whole or in part the Company or which is owned or controlled by the Company or under common control with Company (collectively, the "Affiliates"), and which information is proprietary and confidential to the Affiliates which information is hereby deemed to include, without limitation, all of the types of information described in this subparagraph (b).

8. **Disclaimer of Warranties; Statute of Limitations.** THE COMPANY MAKES NO EXPRESS WARRANTIES, AND HEREBY EXCLUDES AND DISCLAIMS IN ENTIRETY ALL IMPLIED WARRANTIES, INCLUDING, WITHOUT LIMITATION, THE IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE, WITH RESPECT TO ANY PRODUCTS PROVIDED BY THE COMPANY. IN NO EVENT SHALL THE COMPANY BE LIABLE FOR ANY LOST PROFITS, EXEMPLARY, SPECIAL, INCIDENTAL OR CONSEQUENTIAL DAMAGES WHATSOEVER ARISING OUT OF THIS AGREEMENT (EVEN IF THE COMPANY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES), OR ARISING OUT OF THE USE OF OR INABILITY TO USE THE PRODUCTS OR ANY OTHER GOODS OR PRODUCTS FOR ANY REASON AND FOR ANY PURPOSE WHATSOEVER EVEN IF COMPANY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. ANY ACTION FOR BREACH OF ANY TERM OF THIS AGREEMENT MUST BE COMMENCED WITHIN ONE (1) YEAR AFTER THE DATE THE CAUSE OF ACTION ACCRUES.

9. **Nature of Relationship; Authority of Parties.** The relationship between the parties shall be that of buyer and seller. Nothing contained in this Agreement, and no action taken by Company or Dealer pursuant hereto, shall be deemed to constitute the Company and Dealer a partnership, an association, joint venture or other entity, nor shall this Agreement be construed to constitute Dealer as an employee or agent of Company or cause Company to be responsible in any way for the debts or obligations of Dealer, nor shall either Company or Dealer have the authority to bind the other in any respect whatsoever, it being understood and agreed by the parties hereto that Dealer shall be acting as an independent contractor not as an agent, representative, partner, or employee of Company for any purpose whatsoever. Dealer shall be solely responsible for discharging all obligations arising in connection with the operation of Dealer's' business, including, without limitation, compliance with all laws, rules and regulations relating to income tax, sales tax, social security, unemployment compensation and worker's compensation.

10. **Term and Termination.**

(a) The term of this Agreement shall be for a period of one (1) year from the date hereof, and shall be automatically renewed thereafter for successive one year periods, unless either party provides written notice to the other of its intention not to renew this Agreement, for whatever reason, with or without cause, at least sixty (30) days prior to the termination date of the one year term then in effect, or this Agreement is earlier terminated pursuant to any other provision of this Agreement.

(b) This Agreement may be terminated by either party in the event of any breach or nonfulfillment of or default under any term or condition of this Agreement by the other party, which breach, nonfulfillment or default is not fully cured by the applicable party (if capable of cure) within thirty (30) days following the giving of written notice thereof by the other party; provided, however, that this Agreement shall terminate immediately and without opportunity for cure by Dealer (i) upon receipt by Dealer of notice of termination from the Company in the event of a breach or nonfulfillment of or

default by Dealer under Paragraphs 6 or 7 hereof; or (ii) upon the death of, dissolution or liquidation of, termination of existence of, insolvency of, business failure of, appointment of receiver of any part of the property of, assignment for the benefit of creditors by, or the commencement of any proceeding (whether voluntary or involuntary) under any bankruptcy, insolvency, debtor-creditor, receivership or similar or related law by or against, Dealer. Notwithstanding anything herein or otherwise which may appear to be to the contrary, the termination of this Agreement shall not affect any liability or obligation of the parties hereunder which shall accrue prior to such termination, including, but not limited to, any liability for loss or damage or on account of breach, nor shall the termination of this Agreement (by either party and for whatever reason) affect the terms or provisions hereof which contemplate performance by or continuing obligations of a party beyond the termination hereof, including, without limitation, the obligations of Dealer under Paragraphs 6, 7, 9 and 11 hereof, all which shall continue in effect notwithstanding any termination hereof.

11. **Indemnification.** Dealer agrees to defend, indemnify and hold Company harmless from and against any and all loss, liability, damage, cost or expense (including, but not limited to, attorneys' fees, legal expense and court costs) arising in connection with or resulting from any breach of warranty, misrepresentation or non-fulfillment of any agreement on the part of Dealer under this Agreement or which are incurred by Company in enforcing its rights under this Agreement.

12. **Force Majeure.** If the performance of any part of this Agreement by either parties is prevented, hindered, delayed or otherwise made impracticable by reason of any flood, riot, fire, judicial or government action, labor disputes, civil unrest, or any other cause beyond the control of either Company or Dealer, the parties obligated to perform shall be excused from such extent that it is prevented, hindered or delayed by such causes.

13. **Miscellaneous.** This Agreement shall be construed in accordance with and governed by the laws of the State of Iowa. This Agreement may be assigned, in whole or in part, by the Company without the prior written consent of Dealer. This Agreement may not be assigned, voluntarily or involuntarily or by operation of law or otherwise, by Dealer without the express prior written consent of the Company, which consent may be withheld in the Company's sole discretion. This Agreement constitutes the entire agreement among the parties hereto with respect to the subject matters hereof and may be amended only by a writing executed by all parties. This agreement supersedes and replaces any prior agreement between Company and Dealer. Words and phrases herein shall be construed as in the singular or plural number and as masculine, feminine or neuter gender, according to the context. The use of the words "herein", "hereof", "hereunder" and other similar compounds of the word "here" refer to this entire Agreement and not to any particular section, paragraph or provision. This Agreement and the representations, warranties, acknowledgements and agreements contained herein shall be binding upon the heirs, legal representatives, successors and assigns of Dealer. ***EACH OF THE PARTIES HEREBY UNCONDITIONALLY WAIVES ANY RIGHT TO A JURY TRIAL WITH RESPECT TO AND IN ANY ACTION, PROCEEDING, CLAIM, COUNTERCLAIM, DEMAND, DISPUTE OR OTHER MATTER WHATSOEVER ARISING OUT OF THIS AGREEMENT.***

**IN WITNESS WHEREOF**, the parties have executed this Agreement as of the date and year first above written.

**PARAGON INTERNATIONAL, INC.**

**DEALER**

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_