

QS WHOLESALE, INC.

New Account Application

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QS WHOLESALE, INC.
AUTHORIZED DEALER AGREEMENT

This Authorized Dealer Agreement ("Agreement") is entered into this _____ day of _____, 20____, by and between QS Wholesale, Inc., a California corporation ("QS"), and

("Dealer"), a _____.

RECITALS

QS designs, manufactures, and markets various products upon which the various logos and trademarks associated with the above-listed brands appear ("Products").

Dealer is a retail seller of consumer goods, and desires to purchase Products from QS at wholesale, on the terms and conditions contained herein, and resell such Products at retail to its Retail Consumers, as hereafter defined, and for that purpose has submitted to QS an New Account and Credit Application, attached hereto as Exhibit "A" (the "NACA"). For purposes of this agreement, "Retail Consumer" means a customer who purchases Products with no intent to resell such products.

The parties, in consideration of the mutual promises set forth herein and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, and intending to be legally bound, agree as follows:

AGREEMENT

1. **AUTHORIZED DEALER.** In reliance on the information provided to QS by Dealer in the NACA, QS hereby accepts Dealer as an authorized QS dealer and grants Dealer the non-exclusive right to sell Products to Retail Consumers from the retail selling space at location(s) approved in writing by QS. For purposes of this Agreement, the retail selling space at the location(s) listed on Exhibit "A" is (are) approved. The foregoing notwithstanding, however, QS may at any time, in its sole discretion, revoke the approved status of any retail location.

2. RESTRICTIONS.

2.1 This Agreement does not give Dealer the right to sell Products over the Internet, or through mail order or catalogs. Any such right must be the subject of a separate written agreement between the parties.

2.2 Sales at any locations other than approved locations, or to persons or entities located in a country other than the county in which Dealer is located, or who are likely to engage in transshipping or re-wholesaling, are expressly prohibited unless approved in writing by QS, which approval may be withheld at QS's sole discretion.

3. **TERM.** This Agreement commences on the date first written above, and expires on December 31 of the following year. If Dealer is not in breach of the terms of this Agreement or any other obligations with respect to QS at the expiration date, this Agreement will automatically be extended for successive one-year periods, unless otherwise terminated pursuant to Article 16.

4. DEALER OBLIGATIONS

4.1. Dealer will use its best efforts to promote sales of Products so as to create the largest volume of profitable business commensurate with the opportunities therefor within the framework of this Agreement, and will maintain adequate facilities, inventory, and sales personnel to achieve the maximum sales potential of Products.

4.2. Dealer will at all times maintain its retail establishment(s) (including, but not limited to, the image of such establishment(s)) and its display of Products in a manner satisfactory to QS in its subjective discretion. QS or its agents or representatives will have the right during business hours to inspect Dealer's retail establishment. Dealer will at all times comply with QS's reasonable requests regarding the sales, promotion, display, and merchandising of Products and the maintenance and promotion of the image of the QS brand.

4.3. Dealer will pay for Products pursuant to the terms agreed by the parties. Dealer must pay for all orders prior to shipment unless QS, in its sole discretion, has extended credit terms. If QS extends credit terms to Dealer on open account, Dealer will timely pay the entire amount of QS's invoice according to such terms. If Dealer fails to pay QS's entire invoice when due, Dealer will pay interest on any delinquent unpaid balance at one and one-half percent (1 ½ %) per month simple interest. Dealer will continually comply with all of the specific credit terms in effect for Dealer, as well as all general terms in QS's shipping, sales and credit documents.

4.4. From time to time, upon QS's request, Dealer will promptly provide to QS supporting documentation for information supplied by Dealer on Dealer's NACA, and updated financial and credit information.

4.5. Dealer will notify QS in writing immediately upon a change in the ownership or control of Dealer. For purposes of this Agreement, a change in ownership or control of Dealer will be deemed to have occurred upon the change in ownership or control of a thirty percent (30%) or greater interest in Dealer.

4.6. Upon QS's request, Dealer will provide QS with such written personal guarantees or other security as QS may require. A guarantor will remain obligated on a guarantee until released by QS in writing.

4.7. If any information supplied by Dealer on Dealer's NACA should materially change while this Agreement is in effect, Dealer will promptly provide QS with such changed information.

4.8. Dealer will not alter or remove from any Products any labels, informational tags, hang tags, or other informative or identifying material attached to and/or shipped with the Products.

4.9. If any guarantor of Dealer's obligations pursuant to this Agreement should die, or file or have filed against it a proceeding in bankruptcy, or have a receiver appointed, Dealer must immediately notify QS and pay all of Dealer's outstanding indebtedness to QS or, at QS's option, substitute a guarantor satisfactory to QS.

4.10 If paying for Products by credit card, Dealer will pay the Credit Card Handling Fee imposed by QS as that fee may exist from time to time.

5. **QS'S OBLIGATIONS.** QS will use commercially reasonable efforts to fill all orders accepted by QS, subject to delays caused by manufacturing delays, governmental restrictions, war, civil commotion, riot, strike, lockout, typhoon, flood, fire, Acts of God, or any other similar causes that are beyond the control of QS. In the event QS is unable to fill any accepted order within a reasonable time after delivery was promised, Dealer's sole remedy will be to cancel the order upon written notice to QS, which notice must be received by QS prior to shipment of the Products that are the subject of the order.

6. **PRICES.** QS will sell Products to Dealer at the prices set forth in its then current Dealer price schedule. All prices are FOB QS's warehouse in Huntington Beach, California, or other reasonable locations specified by QS. QS reserves the right to change such prices at any time and from time to time without notice. Orders confirmed before any price change will be honored at the confirmed price.

7. ORDERS

7.1. **Purchase Orders.** Purchases of Products hereunder will be made by delivery to QS of Dealer's written or oral purchase orders specifying in reasonable detail the types, quantities and delivery dates of Products ordered. No purchase order will be binding upon QS until accepted in writing by virtue of QS's issuing an Order Confirmation. Within ten (10) days' after receipt of QS's Order Confirmation, Dealer must notify QS of any errors in the Order Confirmation, otherwise, the terms of the Order Confirmation will be deemed to reflect accurately Dealer's order. Nothing in this Agreement is intended to create any duty on the part of QS to accept any order, it being expressly understood that the acceptance or rejection of any order is at the sole discretion of QS. QS reserves the right, in its sole discretion, to cancel any order if: (a) QS determines that it has not received enough pre-booked orders to warrant manufacturing an item; (b) Dealer has not complied with all of the terms of this Agreement, including, but not limited to, the timely payment of QS's invoices; (c) QS has reason to question Dealer's creditworthiness; or (d) in QS's opinion, the size of Dealer's order does not appear to be consistent with Dealer's capacity to re-sell to Retail Consumers.

7.2. **Terms of Purchase.** All purchases of Products by Dealer during the Term will be subject to the terms and conditions contained herein and to QS's Trade Policies in effect at the time of such purchases; provided, however, that in the event of any conflict between the terms of this Agreement and the Trade Policies then in effect, this Agreement will be controlling. Nothing contained in Dealer's purchase order or other documents will in any way modify the terms of purchase contained in this Agreement or QS's Trade Policies or add any additional terms or conditions unless mutually agreed upon. **NOTE: ORDERS ARE NOT CANCELABLE UNDER ANY CIRCUMSTANCES WITHOUT WRITTEN AUTHORIZATION FROM QS.**

8. SHIPMENT

8.1. Shipment of Products will be by Federal Express or such other carrier as may be agreed between the parties. Dealer is responsible for all shipping charges and insuring the goods. QS may, in its sole discretion, prepay the cost of shipping and insurance and add such costs to Dealer's invoice for reimbursement by Dealer. Upon delivery of the Products to a common carrier for delivery to Dealer, such common carrier will be deemed to be the agent of Dealer.

8.2. QS may, in its sole discretion, make partial shipments of any orders. Dealer will pay for such partial shipment in accordance with the standard payment terms agreed by the parties. Partial shipment of an order will not relieve Dealer from its obligation to accept future shipments to fill the balance of the order.

9. **RETURNS.** Please refer to QS's Merchandise Return Policy and Procedures, attached hereto and the terms of which are incorporated herein by this reference.

10. **DEALER'S REPRESENTATIONS AND WARRANTIES.** Dealer represents and warrants to QS that all information provided to QS in the NACA is true and correct as of the date of the NACA. Dealer further represents and warrants that it has not sold and will not sell Products to persons or entities located outside of the country in which Dealer is located or that are likely to engage in transshipping or re-wholesaling, either within or without the country in which Dealer is located.

11. NON-DIVERSION; LIQUIDATED DAMAGES. Dealer acknowledges that QS's relationships with its dealers, distributors and licensee throughout the world are valuable to QS, and that QS's ability to control the distribution of Products is essential to the continued viability of the QS brand and QS as a business enterprise. Therefore, in consideration of QS's willingness to appoint Dealer as an authorized QS dealer or to continue Dealer's status as an authorized QS dealer, Dealer acknowledges that if QS determines that any Products sold to Dealer at any time, either prior to or after the date of this Agreement, have been resold or otherwise transferred by Dealer without QS's consent to any other dealer, wholesaler, intermediary, or agent of any other person or entity, foreign or domestic, that Dealer knew or should have known had the intent to resell the Products: (a) Dealer's Authorized QS Dealer status may be terminated immediately; and (b) Dealer agrees to pay to QS the sum of \$50,000 to compensate QS for the damage to its reputation and business relationships with its other dealers, distributors and licensees. Dealer further acknowledges that (x) the above-referenced payment will be for liquidated damages and not a penalty, and is reasonable under the circumstances existing at the time this Agreement was executed; (y) from the nature of the case, it would be impracticable or extremely difficult to fix the actual damage; and (z) the sum of \$50,000 is a fair approximation of the actual damages QS will suffer.

12. **RELATIONSHIP OF THE PARTIES.** Dealer agrees that it will not represent itself as having any relationship to QS other than that of an independent dealer. Dealer will neither have, nor hold itself out as having, the power to make contracts in the name of or binding on QS, nor will it have the power to pledge credit or extend credit in the name of QS. Dealer may identify itself as an authorized QS dealer solely for the purposes stated in this Agreement.

13. **WARRANTY.** QS warrants the Products to be first quality merchandise, unless otherwise agreed by the parties. Dealer's sole remedy if any of the Products do not meet this standard is to return the goods in accordance with the procedure set forth in Paragraph 9. In the event QS concurs that any of the Products delivered to Dealer do not meet this quality standard, QS will, at its option, repair or replace the merchandise, or issue a credit to Dealer's account. The warranty contained herein is in lieu of any and all other warranties and remedies.

EXCEPT AS OTHERWISE SPECIFIED HEREIN, QS MAKES NO OTHER REPRESENTATIONS OR WARRANTIES OF ANY NATURE, DIRECTLY OR INDIRECTLY, EXPRESS OR IMPLIED, AS TO THE SUITABILITY, DURABILITY, FITNESS FOR A PARTICULAR PURPOSE, MERCHANTABILITY, CONDITION OR QUALITY OF THE PRODUCTS. EXCEPT FOR THE RIGHTS OTHERWISE SPECIFIED HEREIN, DEALER SPECIFICALLY WAIVES ALL RIGHTS TO MAKE CLAIMS AGAINST QS AND ITS ASSIGNEES FOR BREACH OF ANY WARRANTY OF ANY KIND WHATSOEVER. QS AND ITS ASSIGNEES WILL NOT BE LIABLE TO DEALER FOR ANY LOSS, DAMAGE OR EXPENSE OF ANY KIND OR HARM, INCLUDING, BUT NOT LIMITED TO, CONSEQUENTIAL, INCIDENTAL, SPECIAL OR EXEMPLARY DAMAGES, CAUSED DIRECTLY OR INDIRECTLY BY PRODUCTS OR THE USE THEREOF, OR ANY LOSS OF BUSINESS OR DAMAGE WHATSOEVER AND HOWSOEVER CAUSED, EVEN IF QS HAS BEEN APPRISED OF THE LIKELIHOOD OF SUCH DAMAGES OCCURRING. IN NO EVENT WILL QS'S LIABILITY WITH RESPECT TO ANY ORDER EXCEED THE AMOUNT ACTUALLY PAID BY DEALER WITH RESPECT TO SUCH ORDER. DEALER HEREBY REPRESENTS AND WARRANTS THAT IT WILL NOT RELY ON ANY VERBAL STATEMENT BY ANY QS REPRESENTATIVE TO ALTER OR AMEND THE WARRANTIES AND LIMITATIONS THERETO STATED HEREIN.

14. INTELLECTUAL PROPERTY RIGHTS

14.1. Dealer acknowledges and agrees that QS is the exclusive owner of various trademarks, logos and copyrights ("Intellectual Property") used in connection with the Products, and that Dealer will not acquire any right or interest in or to any good will or the Intellectual Property other than as set forth in this Agreement. Dealer may not use such Intellectual Property in any manner without the express written consent of QS.

14.2. Upon termination of this Agreement, Dealer will discontinue use of the QS name and Intellectual Property in any advertising and thereafter will not use the QS name or Intellectual Property directly or indirectly in connection with Dealer's business, or use any other name, title or expression so nearly resembling QS's name or Intellectual Property as would be likely to lead to confusion or uncertainty or to deceive the public.

15. TERMINATION

15.1. Either party on sixty (60) days' written notice to the other may terminate this Agreement for any reason, but without prejudice to any rights of either party to moneys due or to become due under this Agreement.

15.2. Upon the termination of this Agreement for any reason, Dealer will discontinue the use of QS name and Intellectual Property and will remove all signs and displays relating thereto from its premises. In the event Dealer fails to do so, QS may itself remove such articles at Dealer's expense.

15.3. Upon the termination of this Agreement for any reason, QS will have the option to repurchase the Products then in the possession of Dealer, at prices originally billed to Dealer and with deductions for damaged merchandise and moneys due or to become due to QS under this Agreement. As to any of the Products not repurchased by QS, Dealer will have the right to dispose of them in the regular course of its business, and for this purpose the restrictions of the preceding subparagraph will be deferred until 12 months after the termination of this agreement or until all such Products are sold, whichever is earlier.

15.4. Without limiting any of its other rights or remedies, QS may terminate Dealer's status as an authorized QS dealer and this Agreement upon ten (10) days' written notice if Dealer breaches any of the terms of this Agreement. If Dealer cures such breach within such ten (10) day period, QS may, in its sole discretion, elect to continue the Agreement in effect and will so notify Dealer in writing.

15.5. QS may, in its sole discretion, without limiting any of its other rights or remedies, terminate this Agreement immediately upon the occurrence of any of the following:

15.5.1. Dealer becomes insolvent, a petition for voluntary or involuntary bankruptcy is filed by or against Dealer, a receiver is appointed, or Dealer makes an assignment for the benefit of its creditors;

15.5.2. an assignment or attempted assignment by Dealer of any interest in this Agreement without QS's written consent;

15.5.3. any change in ownership or control of Dealer;

15.5.4. the death or incapacity of Dealer's principals; or

15.5.5. Dealer breaches any of its representations or warranties contained herein.

Dealer will advise or cause QS to be advised immediately in writing if any of the above-specified events occurs. Termination of this Agreement will not prejudice any rights or remedies that either party may otherwise have against the other.

16. MISCELLANEOUS

16.1. Binding Effect. This Agreement will be binding only when accepted and executed by an authorized representative of QS at QS's corporate offices in Huntington Beach, California. This Agreement will be deemed to have been entered into in California, and will be governed by California law.

16.2. Assignment. The rights and duties of Dealer under this Agreement may not be assigned or delegated in whole or in part by operation of law or otherwise without the prior express written consent of QS. It is expressly understood that any material change (i.e., a change of thirty percent (30%) or more) in the direct or indirect ownership or control of Dealer, any merger or consolidation directly or indirectly involving Dealer, any acquisition by or of Dealer or any other substantial change in Dealer's organization would be an assignment within the meaning of this provision. Subject to the foregoing, this Agreement will bind and inure to the benefit of the respective parties hereto and their heirs, personal representatives, successors and assigns.

16.3. Enforcement of Terms. Failure by either party to this Agreement at any time or from time to time to enforce any of the provisions of this Agreement will not be construed to be a waiver of such provision or of such party's right to thereafter enforce each and every provision hereof.

16.4. Taxes. Dealer will solely be responsible for any and all sales, excise, use, property or other tax, tariff, duty or assessment levied by any governmental body or agency, arising out of or relating to any transaction contemplated by this Agreement.

16.5. Titles and Subtitles. The titles and subtitles used in this Agreement are for convenience only and are not a part of this Agreement and do not in any way limit or amplify the terms and provisions of this Agreement.

16.6. Counterparts. This Agreement may be executed in two or more counterparts, each of which will be deemed an original, but all of which together will constitute one and the same instrument.

16.7. Expenses of Suit. The prevailing party in any legal action brought by one party against the other to enforce any provision of this Agreement will be entitled, in addition, to any other rights and remedies it may have, to reimbursement for its expenses incurred thereby, including court costs and reasonable attorneys' fees.

16.8. Modification; Waiver. No modification, change or amendment to this Agreement, or any waiver of any rights in respect hereto, will be effective unless in writing, signed by a duly authorized representative of each party. The waiver of one breach or default hereunder will not constitute the waiver of any subsequent breach or default.

16.9. Severability. If for any reason any provision of this Agreement, including, but not limited to, any provision relating to termination of this Agreement, will be deemed by a court of competent jurisdiction to be legally invalid or unenforceable in any jurisdiction to which it applies, the validity of the remainder of the Agreement will not be affected and such provision will be deemed modified to the minimum extent necessary to make such provision consistent with applicable law, and, in its modified form, such provision will then be enforceable and enforced.

16.10. Survival. All terms and conditions of this Agreement that are intended to be observed and performed after the expiration or termination of this Agreement will survive such expiration or termination, and will continue thereafter in full force and effect.

16.11. Terms. Whenever from the context it appears appropriate, each term stated in either the singular or the plural will include the singular and the plural, and pronouns stated in the masculine, the feminine or the neuter gender will include the masculine, the feminine or the neuter.

16.12. Entire Agreement. This Agreement embodies the entire agreement and understanding of the parties hereto with respect to the subject matter of this Agreement and supersedes all prior agreements, whether written or oral, with respect thereto.

16.13. Jurisdiction. Dealer agrees that any legal action or proceeding with respect to this Agreement, or any action or proceeding to execute or otherwise enforce any judgment obtained against Dealer or any of its properties, must be brought in the courts of the State of California or in the federal courts of the United States for the Central District of California, and by executing and delivering this Agreement, Dealer irrevocably submits to each such jurisdiction. Dealer irrevocably waives any objection which it may now or hereafter have to the venue of any suit, action or proceeding, arising out of or relating in any manner to this Agreement brought in the courts of the State of California or in the federal courts of the United States for the Central District of California, and hereby further irrevocably waives any claim that any such suit, action or proceeding brought in any such court has been brought in an inconvenient forum.

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

QS WHOLESALE, INC.

By: _____

Printed Name: _____

Title: _____

DEALER

By: _____

Printed Name: _____

Title: _____

CONTINUING GUARANTY

THIS GUARANTY is made as of

_____, 20_____, by
_____, a

_____, ("Guarantor"), in favor of QS
WHOLESALE, INC., a California Corporation ("Lender"), its successors and
assigns, to guarantee certain obligations of

_____, a
_____, ("Borrower").

1. **Obligations Guaranteed.** Guarantor hereby irrevocably and unconditionally guarantees the payment and performance, when due, of all indebtedness and obligations of Borrower to Lender under that certain QS Wholesale Authorized Dealer Agreement dated _____, plus any and all other indebtedness of Borrower to Lender (collectively, the "Obligations"). The word "indebtedness" is used herein in its most comprehensive sense and includes any and all advances, debts, obligations and liabilities of Borrower (or any one or more of them if more than one entity comprises Borrower) previously incurred, now existing or hereafter made, incurred or created, whether voluntary or involuntary and however arising, whether direct or acquired by assignment or succession, whether due or not due, absolute or contingent, liquidated or unliquidated, determined or undetermined, and whether Borrower may be liable individually or jointly with others, or whether recovery upon such indebtedness may be or hereafter becomes barred by any statute of limitations, or whether such indebtedness may be or hereafter become otherwise unenforceable.

2. **Continuing.** This Guaranty is a continuing guaranty applicable to all Obligations now or hereafter owed to Lender by Borrower or by any assignee or successor-in-interest for Borrower. This Guaranty is applicable to the initial term of the Obligations and to all renewal or extended terms and to all modifications and amendments to the Obligations.

3. **Alteration of Obligations.** In such manner, upon such terms and at such times as Lender deems best, and without notice to Guarantor, Lender may alter, compromise, accelerate, extend or change the time or manner for the payment or performance of any Obligations hereby guaranteed, increase or reduce the rate of interest of Borrower's indebtedness, release Borrower, by acceptance of a deed in lieu of foreclosure or otherwise, as to all or any portion of the Obligations hereby guaranteed, release, substitute or add any one or more guarantors or endorsers, accept additional or substitute security therefor, or release or subordinate any security therefor. No exercise or non-exercise of any right hereby given to Lender, no dealing by Lender with Guarantor or any other guarantor, endorser of any note or any other person, and no change, impairment or release of all or any portion of the indebtedness of Borrower or suspension of any right or remedy of Lender against any person, including without limitation Borrower or any other such guarantor, endorser or other person, shall in any way affect any of the obligations of Guarantor hereunder or any security furnished by Guarantor or give Guarantor any recourse against Lender. If Lender has exculpated or hereafter exculpates Borrower from personal liability in whole or in part, or has agreed or hereafter agrees to look solely to any property encumbered by a deed of trust or any other property for the satisfaction of Borrower's indebtedness, said exculpation and agreement shall not affect the obligations of Guarantor hereunder. Guarantor further acknowledges that if any such exculpation or agreement has been given or is hereafter given to Borrower, Lender has done so or shall be entitled to do so in reliance upon the covenants of Guarantor contained herein.

4. **Waiver.** Guarantor hereby waives and relinquishes all rights and remedies accorded by applicable law to sureties or guarantors and agrees not to assert or take advantage of any such rights or remedies, including without limitation (a) any right to require Lender to proceed against Borrower or any other person or to proceed against or exhaust any security held by Lender at any time or to pursue any other remedy in Lender's power before proceeding against Guarantor, (b) the defense of the statute of limitations in any action hereunder or in any action for the collection or performance of any Obligations hereby guaranteed, (c) any defense that may arise by reason of the incapacity, lack of authority, death or disability of any other person or the failure of Lender to file or enforce a claim against the estate (in administration, bankruptcy or any other proceeding) of any other person, (d) demand, presentment, protest and notice of any kind, including without limitation notice of the existence, creation or incurring of any new or additional indebtedness or obligation or of any action or non-action on the part of Borrower, Lender, any endorser or creditor of Borrower or Guarantor or on the part of any other person under this or any other instrument in connection with any obligation or evidence of indebtedness held by Lender as collateral or in connection with any Obligations hereby guaranteed, (e) any defense based upon an election of remedies by Lender, including without limitation an election to proceed by non-judicial rather than judicial foreclosure, which destroys or otherwise impairs the subrogation rights of Guarantor, the right of Guarantor to proceed against Borrower for reimbursement, or both, (f) any defense based upon any statute or rule of law which provides that

the obligation of a surety must be neither larger in amount nor in other respects more burdensome than that of the principal, (g) any duty on the part of Lender to disclose to Guarantor any facts Lender may now or hereafter know about Borrower, regardless of whether Lender has reason to believe that any such facts materially increase the risk beyond that which Guarantor intends to assume, or has reason to believe that such facts are unknown to Guarantor, or has a reasonable opportunity to communicate such facts to Guarantor, since Guarantor acknowledges that Guarantor is fully responsible for being and keeping informed of the financial condition of Borrower and of all circumstances bearing on the risk of non-payment of any Obligations hereby guaranteed, (h) any defense arising because of Lender's election, in any proceeding instituted under the Federal Bankruptcy Code, of the application of Section 1111(b)(2) of the Federal Bankruptcy Code, and (i) any defense based upon any borrowing or grant of a security interest under Section 364 of the Federal Bankruptcy Code. Without limiting the generality of the foregoing, Guarantor hereby expressly waives any and all benefits which might otherwise be available to Guarantor under California Civil Code Sections 2809, 2810, 2819, 2839, 2845 through 2847, 2849, 2850, 2899 and 3433, and California Code of Civil Procedure Sections 580(a), 580(b), 580(d) and 726, or any similar or related legislation.

Guarantor hereby further waives all rights of subrogation, reimbursement, indemnity, and contribution, all rights to enforce any remedy that Lender may have against Borrower, and all rights to participate in any security held by Lender for the Obligations, including any such right or any other right set forth in either of Sections 2848 and 2849 of the California Civil Code, as well as any defense based upon the impairment of any subrogation, reimbursement, indemnity, or contribution rights, or of any of the other foregoing rights, that Guarantor might have absent the foregoing waiver; and agrees (i) not to seek to enforce or to obtain any such right, or to accept any payment from any other person, in violation of the foregoing waiver, and (ii) that any agreement or other understanding at any time entered into with any person granting any such right to Guarantor shall be null and void.

5. **Subordination.** Except as otherwise specifically provided in this Guaranty, all existing and future indebtedness of Borrower to Guarantor and, if Borrower is a corporation, partnership or joint venture, the right of Guarantor to withdraw any capital invested by Guarantor in Borrower, is hereby subordinated to all Obligations hereby guaranteed. Without the prior written consent of Lender, such subordinated indebtedness shall not be paid or withdrawn in whole or in part, nor shall Guarantor accept any payment of or on account of any such indebtedness or as a withdrawal of capital while this Guaranty is in effect. At Lender's request, Guarantor shall cause Borrower to pay to Lender all or any part of such subordinated indebtedness and any capital that Guarantor is entitled to withdraw. Any such payment by Borrower in violation of this Guaranty shall be received by Guarantor in trust for Lender, and Guarantor shall cause the same to be paid to Lender immediately upon demand by Lender on account of Borrower's Obligations hereby guaranteed.

6. Bankruptcy.

a. So long as any Obligations are owed to Lender, Guarantor shall not, without the prior written consent of Lender, commence, or join with any other person in commencing, any bankruptcy, reorganization, or insolvency proceeding against Borrower. The obligations of Guarantor under this Guaranty shall not be altered, limited or affected by any proceeding, voluntary or involuntary, involving the bankruptcy, reorganization, insolvency, receivership, liquidation or arrangement of Borrower, or by any defense which Borrower may have by reason of any order, decree or decision of any court or administrative body resulting from any such proceeding.

b. Guarantor shall file, in any bankruptcy or other proceeding in which the filing of claims is required or permitted by law, all claims that Guarantor may have against Borrower relating to any indebtedness of Borrower to Guarantor, and hereby assigns to Lender all rights of Guarantor thereunder. If Guarantor does not file any such claim, Lender, as attorney-in-fact for Guarantor, is hereby authorized to do so in the name of Guarantor or, in Lender's discretion, to assign the claim to a nominee and to cause proofs of claim to be filed in the name of Lender's nominee. The foregoing power of attorney is coupled with an interest and cannot be revoked. Lender or its nominee shall have the sole right to accept or reject any plan proposed in any such proceeding and to take any other action, which a party filing a claim is entitled to take. In all such cases, whether in administration, bankruptcy or otherwise, the person authorized to pay such a claim shall pay the same to Lender, and, to the full extent necessary for that purpose, Guarantor hereby assigns to Lender all of Guarantor's rights to all such payments or distributions to which Guarantor would otherwise be entitled; provided, however, that Guarantor's Obligations hereunder shall not be satisfied except to the extent that Lender receives cash by reason of any such payment or distribution. If Lender receives anything hereunder other than cash, the same shall be held as collateral for amounts due under this Guaranty.

7. Interest, Costs and Attorneys' Fees.

a. If Borrower or Guarantor fails to pay upon demand by Lender all or any portion of the Obligations hereby guaranteed, the amount of such Obligations and all other sums payable by Guarantor to Lender hereunder shall bear interest from the date of demand at the rate applicable to the principal balance of the Obligation as set forth in any documents evidencing the same, or, if such Obligation has been fully repaid, at the rate that would be applicable if such Obligation had not been fully repaid.

b. If Lender refers any of the Obligations or this Guaranty to an attorney to enforce, construe or defend any provision thereof, or as a consequence of any default or

Event of Default thereunder, with or without the filing of any legal action or proceeding, Guarantor shall pay to Lender upon demand the amount of all attorneys' fees, costs and other expenses incurred by Lender in connection therewith, together with interest thereon from the date of demand at the rate applicable to the principal balance of the Obligation as set forth in any documents evidencing the same, or, if such Obligation has been fully repaid, at the rate that would be applicable if such Obligation had not been fully repaid. The reference to "attorneys' fees" in this paragraph and in all other places in this Guaranty shall include without limitation such amounts as may then be charged by Lender for legal services furnished by attorneys in the employ of Lender, at rates not exceeding those that would be charged by outside attorneys for comparable services. Such attorneys' fees, costs and expenses shall include without limitation those incurred in connection with any bankruptcy, reorganization, insolvency, receivership, liquidation, arrangement or other similar proceedings involving Guarantor which in any way affect the exercise by Lender of its rights and remedies hereunder.

8. Cumulative Rights. All rights, powers and remedies of Lender hereunder and under any other agreement now or at any time hereafter in force between Lender and Guarantor, including without limitation any other guaranty executed by Guarantor relating to any indebtedness of Borrower to Lender, shall be cumulative and not alternative, and such rights, powers and remedies shall be in addition to all rights, powers and remedies given to Lender by law. This Guaranty is in addition to and independent of the guaranty of any other guarantor of any Obligations or other indebtedness of Borrower to Lender.

9. Independent Obligations. The obligations of Guarantor hereunder are independent of the Obligations of Borrower, and, in the event of any default hereunder, a separate action or actions may be brought and prosecuted against Guarantor, whether or not Borrower is joined therein or a separate action or actions are brought against Borrower. Lender's rights hereunder shall not be exhausted by its exercise of any of its rights or remedies or by any such action or by any number of successive actions unless and until all Obligations hereby guaranteed have been paid and fully performed.

10. Application of Payments or Recoveries. With or without notice to Guarantor, Lender, in Lender's sole discretion, at any time and from time to time, and in such manner and upon such terms as Lender deems fit, may (a) apply any or all payments or recoveries from Borrower or from any other guarantor or endorser under any other instrument or realized from any security, in such manner and order of priority as Lender may determine, to any Obligations of Borrower to Lender, whether or not such indebtedness is guaranteed hereby or is otherwise secured or is due at the time of such application, and (b) refund to Borrower any payment received by Lender upon any Obligations hereby guaranteed, and payment of the amount refunded shall be fully guaranteed hereby.

11. Financial Statements. Guarantor hereby represents and warrants that the most recent financial statements of Guarantor heretofore delivered to Lender are true and correct in all respects, fairly represent the financial condition of Guarantor as of the respective dates thereof and for the periods covered thereby, and no material adverse change has occurred in the financial condition or prospects of Guarantor since the respective dates thereof

12. Notices. Whenever Guarantor or Lender shall desire to give or serve any notice, demand, request or other communication with respect to this Guaranty, each such notice shall be in writing and shall be effective only if the same is delivered by personal service, by telegram, or mailed by registered or certified mail, postage prepaid, return receipt requested, addressed as follows:

To Lender:

QS Wholesale, Inc.
15202 Graham St.
Huntington Beach, CA 92649
Attn. _____
Fax: _____

To Guarantor:

Any such notice delivered personally or by facsimile shall be deemed to have been received upon delivery. Any such notice sent by telegram shall be presumed to have been received by the addressee one business day after its acceptance for sending by an authorized carrier thereof. Any such notice sent by mail shall be presumed to have been received by the addressee three business days after posting in the United States mail. Guarantor or Lender may change its address by giving the other written notice of the new address as herein provided.

13. Successors and Assigns. This Guaranty shall inure to the benefit of Lender, its successors and assigns, including the assignees of any Obligations hereby

guaranteed, and shall bind the heirs, executors, administrators, personal representatives, successors and assigns of Guarantor. This Guaranty may be assigned by Lender with respect to all or any portion of the Obligations hereby guaranteed, and when so assigned Guarantor shall be liable to the assignees under this Guaranty without in any manner affecting the liability of Guarantor hereunder with respect to any Obligations retained by Lender.

14. Miscellaneous Provisions.

a. This Guaranty shall be governed by and construed in accordance with the laws of the State of California. Guarantor hereby consents to the jurisdiction of the courts of the State of California and consents to service of process by any means authorized by California law in any action brought under or arising from this Guaranty.

b. Except as provided in any other written agreement now or at any time hereafter in force between Guarantor and Lender, this Guaranty shall constitute the entire agreement of Guarantor with Lender with respect to the subject matter hereof, and no representation, understanding, promise or condition concerning the subject matter hereof shall be binding upon Lender unless expressed herein.

c. Until all Obligations of Borrower to Lender have been paid and performed in full, Guarantor shall have no right of subrogation, and hereby waives any right to enforce any remedy which Lender now has or may hereafter have against Borrower and any benefit of or any right to participate in any security now or hereafter held by Lender.

d. Should any term, covenant, condition or provisions of this Guaranty be determined to be illegal or unenforceable, all other terms, covenants, conditions and provisions hereof shall nevertheless remain in full force and effect.

e. Time is of the essence to this Guaranty and each of its provisions.

f. If more than one person executes this Guaranty as a Guarantor, the obligations of such persons will be joint and several.

g. When the context and construction so require, all words used in the singular herein shall be deemed to include the plural, the masculine shall include the feminine and neuter, and vice versa.

h. The word "person" as used herein shall include any individual, company, firm, association, partnership, joint venture, corporation, trust or other legal entity of any kind whatsoever.

i. No provision of this Guaranty or right granted to Lender hereunder can be waived in whole or in part, nor can Guarantor be released from Guarantor's obligations hereunder, except by a writing duly executed by an authorized officer of Lender.

j. Lender need not inquire into the power of Borrower or the authority of its partners, officers or agents acting or purporting to act on its behalf.

k. The headings of this Guaranty are inserted for convenience only and shall have no effect upon the construction or interpretation hereof.

l. This Guaranty may be executed in counterparts.

IN WITNESS WHEREOF, the undersigned have executed this Guaranty as of the date first above written.

GUARANTOR:

Signature

Printed Name

Title

Date: _____
 Sales Rep Code: _____
 Sales Rep's Approval: _____
 Sales Dept's Approval: _____

New Account and Credit Application

Please complete all of the following information in order to expedite the opening of your account.

<table border="1" style="width:100%; border-collapse: collapse;"> <tr><td>Bill To</td></tr> <tr><td>Business Name</td></tr> <tr><td>Street or P.O. Box</td></tr> <tr><td>City, State, Zip</td></tr> <tr><td>Phone # Fax #</td></tr> <tr><td>Email Address</td></tr> </table>	Bill To	Business Name	Street or P.O. Box	City, State, Zip	Phone # Fax #	Email Address	<table border="1" style="width:100%; border-collapse: collapse;"> <tr><td>Ship To</td></tr> <tr><td>Business Name</td></tr> <tr><td>Street or P.O. Box</td></tr> <tr><td>City, State, Zip</td></tr> <tr><td>Phone # Fax #</td></tr> <tr><td>Email Address</td></tr> </table>	Ship To	Business Name	Street or P.O. Box	City, State, Zip	Phone # Fax #	Email Address
Bill To													
Business Name													
Street or P.O. Box													
City, State, Zip													
Phone # Fax #													
Email Address													
Ship To													
Business Name													
Street or P.O. Box													
City, State, Zip													
Phone # Fax #													
Email Address													

Number of years in business	If Subsidiary, name parent company
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Form of Business: Proprietorship Partnership Corporation

Proprietor, Partners, or Corporate Officers(Please provide an alternate address where we may reach you.)

Name(1)	(2)	(3)
Title		
Home Address		
Street		
City, State, Zip		
Home Phone#		
Social Security #		

If Corporation, incorporated in what state:	Federal Tax ID #
Resale # (FILL OUT ATTACHED CERTIFICATE WHERE APPLICABLE).	

Have you ever filed Bankruptcy? <input type="checkbox"/> Yes <input type="checkbox"/> No (If yes, please explain.)
In the past 5 years have you operated under other names? <input type="checkbox"/> Yes <input type="checkbox"/> No If yes, list name(s) and location(s):

Estimated yearly purchases with QS Wholesale, Inc.: \$ _____
 We expect our monthly credit requirements to be approximately: \$ _____

Dun & Bradstreet #:	TRW #
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Please attach a copy of your most recent financial statement.

Bank Information

Bank	Bank Account #	Bank Contact Person
Street	City	
State	Zip	Phone

References

Firm Name(1)	(2)	(3)
Account#		
Street		
City, State, Zip		
Phone# Fax #		
Email Address		

EXHIBIT "A"

Date: _____

Sales Rep Code: _____

Sales Rep's Approval: _____

Sales Dept's Approval: _____

Permission is hereby granted to QS Wholesale, Inc., to obtain credit information from all listed references, including my bank. All financial information submitted in support of this new account and credit application is true and complete in all respects. My account is subject to a late charge of 1.5% per month (18% per annum) or the maximum legal rate, whichever is lower, on all past due items. Furthermore I understand that my orders will not be shipped if my account is past due. I will bear any collection fees (including attorney fees) and related costs if my account becomes delinquent. I assume personal and individual responsibility and liability, and guarantee payment of all charges due and payable to QS Wholesale, Inc., by the company or corporation listed herein.

Signature of Proprietor, Partner, or Corporate Officer

Date

Printed Name

Title

QS WHOLESALE, INC., TRADE POLICIES

1. Payment terms will be established upon new account application approval. **Remit payments to QS Wholesale Inc., (“QS”) at P. O. Box 514350 LOS ANGELES CA 90051-4350.** A charge of \$20.00 will apply to all returned checks.
2. Freight terms are F.O.B. QS (Huntington Beach).
3. Title passes to customer at QS’s dock. Shipper’s responsibility is limited to proof of delivery to carrier.
4. All claims must be in writing and made within 5 days of customer’s receipt of goods. QS will issue credit only when discrepancies are supported by documentation that verifies such claims.
5. Returns for any reason will not be accepted without QS’s written consent. Supporting documentation must accompany claims for style/color/size substitutions, overages, etc.
6. Returned merchandise received without an RA number will be refused and returned to customer at customer’s expense. Merchandise more than six months old is not acceptable for return. Regardless of the reason for the return, QS will not pay any handling/processing/service charges. Freight charges for unauthorized returns will be billed to the customer. See QS’s Merchandise Return Policy and Procedures.
7. QS will not accept chargebacks for handling, administrative fees, service fees, or penalties for “PO Violations” or “Shipping Errors.”
8. QS requires at least a 30-day shipping window based on “start ship” and “stop ship” dates. QS does not recognize “Received By” or “In House By” dates.
9. Proof of Deliveries must be requested within 30 days after the invoice date. There will be a \$10.00 fee for every valid P. O. D.
10. QS does not allow discounts and/or anticipation.
11. QS reserves the right to back order/split ship on a purchase order if necessary.
12. QS does not accept order cancellations.
13. Customer acknowledges that QS’s relationships with its dealers, distributors, and licensees throughout the world are valuable to QS, and that QS’s ability to control the distribution of QS Products is essential to the continued viability of the QS brand and QS as a business enterprise. Therefore, in consideration of QS’s willingness to appoint customer as an authorized QS dealer or to continue Customer’s status as an authorized QS dealer, Customer acknowledges that if QS determines that any QS Products sold to Customer at any time, have been resold or otherwise transferred by Customer to any other dealer, wholesaler, intermediary, or agent of any other person or entity, foreign or domestic, without QS’s written consent, that Customer knew or should have known had the intent to resell the QS Products: (a) Customer’s Authorized Dealer status may be terminated immediately; and (b) Customer agrees to pay to QS the sum of \$50,000 to compensate QS for the damage to its reputation and business relationships with its other dealers, distributors and licensees. Customer further acknowledges that (x) the above-referenced payment will be for liquidated damages and not a penalty, and is reasonable under the circumstances existing at the time this Agreement was executed; (y) from the nature of the case, it would be impracticable or extremely difficult to fix the actual damage; and (z) the sum of \$50,000 is a fair approximation of the actual damages QS will suffer.
14. Sales or advertising of the QS Products via the online market, including the internet, commercial online services such as America Online, CompuServe, Prodigy, Microsoft Network, AT&T Interchange, broad band online services and related areas, are prohibited absent the written consent of QS Wholesale, Inc.
14. QS goods can be placed in authorized locations only.
15. The use of QS name, trademarks, and/or logo is prohibited without QS’s written consent.
16. Amounts past due are subject to a late payment charge of up to 1.5% per month (18% per annum).

ANY VARIANCE OF THE ABOVE POLICIES MAY RESULT IN AN INTERRUPTION OF SHIPMENTS AND MAY LEAD TO THE TERMINATION OF OUR BUSINESS RELATIONSHIP. ALL SALES ARE SUBJECT TO THE TERMS AND CONDITIONS OF QS WHOLESALE, INC.’S TRADE POLICIES AND AUTHORIZED DEALER AGREEMENT. THIS AGREEMENT IS AVAILABLE THROUGH OUR CUSTOMER SERVICE DEPARTMENT AT (800) 576-4004

THANK YOU FOR YOUR COOPERATION AND SUPPORT

Signature _____	Title _____
Print Name _____	Date _____

QS WHOLESALE, INC.

MERCHANDISE RETURN POLICY AND PROCEDURES

So that we may better serve you, we request your compliance with the following policy and procedures for merchandise returns. This policy applies to any and all returns (defective or otherwise) of QS Wholesale, Inc. merchandise.

1. A written return authorization request should be submitted to QS Wholesale within six (6) months of the date of shipment to receive full credit for returned merchandise, and should include the following:
 - Reason for return
 - Style number(s)
 - Color
 - Quantity
 - Invoice number and date
 - Purchase Order number

2. Requests for return authorization should be forwarded to:

QS Wholesale, Inc.
Attn: Return Authorization
5600 Argosy Circle
Suite 300
Huntington Beach, CA 92649
Fax: 714- 893-5576 Phone: 1-800-576-4004
e-mail: returnauth@quiksilver.com

3. Upon approval of return request, a return authorization (RA) number will be issued via fax, e-mail or telephone, and should appear on all shipping documents, cartons and claims.

4. Authorized merchandise should be returned, and received by QS Wholesale, within 45 days of approval at:

QS Wholesale, Inc., Returns Department
5559 McFadden Avenue
Huntington Beach, CA 92649

Merchandise returned without valid authorization cannot be accepted and will be sent back to you. Any storage and/or other fees resulting from these refusals will be at your expense. Merchandise returned in excess of authorized quantities will receive credit of 50% of the invoiced price.

5. Please send authorized returns in cartons, with security devices removed. A master packing document referencing the total carton count, RA number and accurate weight should be enclosed in a packing slip envelope and affixed to the lead carton of your shipment. Each carton should contain a debit memo claim/packing slip referencing the RA number, style number(s), size(s), color(s) and quantities. Shipments not meeting these requirements cannot be accepted and will be returned to you, at your expense.

6. Authorized returns of non-defective merchandise should be sent freight prepaid. QS Wholesale will pay freight for authorized returns of defective merchandise if sent in accordance with the following routing instructions:

1-150 lbs COLLECT "VIA" (Fed Ex)
151- 500 lbs COLLECT "VIA" (Call QS Wholesale Traffic, 714-889-4272)

Failure to use the designated carriers will result in a "full freight" chargeback plus \$250.00 handling fee charged to the shipper.

7. Merchandise return chargebacks should not be taken prior to return of merchandise.
8. If you inadvertently return merchandise not manufactured by QS Wholesale, a letter will be sent instructing you to issue a Fed Ex call tag for return of the merchandise. A response to this letter is required within 10 days of receipt of letter. If your company fails to respond, a second letter will be sent indicating that the merchandise has been destroyed and all chargebacks taken must be repaid to QS Wholesale, Inc.

If you have any questions regarding this policy please contact your respective Divisional Business Manager.

UNIFORM SALES & USE TAX CERTIFICATE---MULTIJURISDICTION

The below-listed states have indicated that this form of certificate is acceptable, subject to the notes on pages 2 – 4. The issuer and the recipient have the responsibility of determining the proper use of this certificate under applicable laws in each state, as these may change from time to time.

Issued to Seller: _____
 Address: _____

I certify that: _____ is engaged as a registered

Name of Firm (Buyer): _____	Wholesaler _____
Address _____	Retailer _____
_____	Manufacturer _____
_____	Seller (CA) _____
_____	Lessor _____
	Other (Specify) _____

and is registered with the below listed states and cities within which your firm would deliver purchases to us and that any such purchases are for wholesale, resale, ingredients or components of a new product or service to be resold, leased, or rented in the normal course of business. We are in the business of wholesaling, retailing, manufacturing, leasing (renting) the following:

Description of Business: _____

General description of tangible property or taxable services to be purchased from the seller: _____

State	State Registration, Seller's Permit, or Id Number of Purchaser	State	State Registration, Seller's Permit, or Id Number of Purchaser
AL	_____	MO	_____
AR	_____	NE	_____
AZ	_____	NV	_____
CA	_____	NJ	_____
CO	_____	NM	_____
CT	_____	NC	_____
DC	_____	ND	_____
FL	_____	OH	_____
GA	_____	OK	_____
HI	_____	PA	_____
ID	_____	RI	_____
IL	_____	SC	_____
IA	_____	SD	_____
KS	_____	TN	_____
KY	_____	TX	_____
ME	_____	UT	_____
MD	_____	VT	_____
MI	_____	WA	_____
MN	_____	WI	_____

I certify that if any property or service so purchased tax free is used or consumed by the firm as to make it subject to a Sales or Use Tax we will pay the tax due directly to the proper taxing authority when state law so provides or inform the seller for added tax billing. This certificate shall be a part of each order which we may hereafter give to you, unless otherwise specified, and shall be valid until canceled by us in writing or revoked by the city or state.

Under penalties of perjury, I swear or affirm that the information on this form is true and correct as to every material matter.

Authorized Signature: _____
 (Owner, Partner or Corporate Officer)
 Title: _____
 Date: _____