

DISTRIBUTOR AGREEMENT

THIS AGREEMENT entered into as of the _____ day of _____, 19____ by and between _____, a _____ located in _____, _____ (the "Distributor") and Hearthstone Inc., a Tennessee corporation (the "Manufacturer").

WITNESSETH:

WHEREAS, the Manufacturer is a manufacturer of Hearthstone trademarked log, timber frame, and foam core panel building systems (the "Systems"), and the Distributor desires to purchase and resell the Manufacturer's Hearthstone Systems; and **WHEREAS**, subject to the terms and conditions stated here, the Manufacturer is willing to provide the Systems, and the Distributor desires to obtain the Systems from the Manufacturer; and **WHEREAS**, the Manufacturer is willing to assign certain markets (the "Market(s)") to the Distributor, and the Distributor is willing to provide marketing, services, and sales in those markets. **NOW THEREFORE**, in consideration of the mutual agreements contained here, the mutuality and sufficiency of which are acknowledged, the Distributor and the Manufacturer agree as follows:

ARTICLE I The Markets

Section 1.1. Each year, according to Manufacturer's policy, the Distributor will define and request, by way of a Market Development Plan ("MDP"), the assignment of specific Markets. The Distributor, according to applicable policies of the Manufacturer, would then provide marketing, services, and sales in those Markets assigned by the Manufacturer. In those Markets assigned by the Manufacturer, the Manufacturer grants to the Distributor the exclusive right to promote and advertise the Systems through advertising and promotional media (the "Market Media") that originate within the Markets, and which substantially serve only an area wholly within the Markets. The rights of the Distributor and others to utilize promotional media that originates outside the Markets, or substantially serves an area outside the Markets shall be governed by policy set by the Manufacturer. This exclusive right does NOT prevent the sale of Systems by others, including the Manufacturer, who are not advertising and promoting in the Market Media.

Section 1.2. In exchange for the exclusive assignment of the Market Media, the Distributor agrees not to sell, promote, or contract to sell or promote any other competing System without written permission from the Manufacturer (see also Section 6.2).

ARTICLE II Pricing

Section 2.1. The Manufacturer will sell Packages to the Distributor at a wholesale price, which the Distributor will then resell at a price determined by the Distributor. These wholesale prices are subject to change at any time.

ARTICLE III Trademark License

Section 3.1. The Manufacturer grants to the Distributor the right to use the Hearthstone trademarks (hereafter referred to as the "Trademarks") within the Markets to promote the Manufacturer's building systems. The Manufacturer retains the unrestricted right to use the trademark for all purposes other than Market media that originate within the Markets and which substantially serve only an area wholly within the Markets. The Manufacturer also retains the unrestricted right to use the trademark anywhere for purposes other than the Systems.

Section 3.2. The Distributor hereby acknowledges that the Manufacturer is the sole owner of the Trademarks and all goodwill associated with them. The Distributor agrees that:

- a. The Trademarks and associated goodwill are of substantial value to the Manufacturer, and that value shall inure solely to the benefit of the Manufacturer.
- b. The Distributor will not do anything that will in any way impair the Manufacturer's rights to the Trademarks and associated goodwill, or which will diminish the value of the Trademark or the Manufacturer's reputation.
- c. The Distributor shall not use the Trademarks in any manner not expressly authorized by the Manufacturer.
- d. The Trademarks will be displayed prominently in the marketing of the Systems, and in the general conduct of the Distributors' business, as directed by the Manufacturer.

ARTICLE IV

Quality and Performance Standards

Section 4.1. The Manufacturer assures the Distributor of the following:

- a. The design, estimating, engineering, manufacture, and delivery of building systems of high quality and workmanship, consistent with the Manufacturer's published, advertised, and displayed standards. Prices, specifications, terms, and conditions for the Systems shall be specified in the Purchase Agreement for each individual sale.
- b. The provision of a warranty program for the Systems as provided in the Purchase Agreements between Hearthstone and the Distributor for each individual sale.

Section 4.2. The Distributor assures the Manufacturer of the following:

- a. Services in each Market assigned, including:
 - (1) Construction services (either directly, or through referral).
 - (2) Mortgage/construction financial services (either directly, or through referral).
 - (3) A model home/office for public services, display, and inspection.
 - (4) The Manufacturer reserves the right to approve, or disapprove, of the quality and/or sufficiency of the services listed above. However, it is not the obligation of the Manufacturer to insure and/or inspect the quality of these services. Under no circumstances shall the Distributor represent that these services have been approved, or qualified by the Manufacturer.
- b. For each Market assigned, the annual development and implementation of a Market Development Plan ("MDP") to be approved by the Manufacturer. This MDP will establish minimum sales, promotional, and service efforts.
- c. The conduct of business according to the Manufacturer's published policies, and according to a high level of professional and ethical competence.
- d. The provision of a warranty program, approved by the Manufacturer, to all clients to whom the Distributor sells the Manufacturer's Systems.
- e. Any conduct of business through dealers or other resellers is according to the Manufacturer's published policies, and copies of dealer or other reseller agreements are to be provided to the Manufacturer.

ARTICLE V

Indemnification

Section 5.1. The Manufacturer shall indemnify and hold harmless the Distributor from any and all liability arising directly or indirectly from:

- a. Any breach of the Manufacturer's warranty in the applicable Purchase Agreement for that sale.
- b. Any claim that the Manufacturer's Trademarks infringe on any other trademark.

Section 5.2. The Distributor shall indemnify and hold harmless the Manufacturer from any and all liability arising directly or indirectly from:

- a. Any violation by the Distributor of any law or regulation.
- b. Any claim brought from a customer to whom the Distributor, or a dealer associated with the Distributor, resold one of the Manufacturer's Systems. The Distributor shall be considered a self-employed, independent business. This agreement does not in any way create the relationship of employer and employee, or principal and agent between the Manufacturer and Distributor. The Distributor shall not act or represent him or herself as an agent or employee of the Manufacturer, nor in any manner assume or create any obligation on behalf of the Manufacturer. Any contract entered into by the Distributor for the resale of a System, or for any service related to the resale of a System shall be on a form approved by the Manufacturer, and shall be an independent relationship by the Distributor, **AND SHALL SPECIFY THAT THE DISTRIBUTOR IS NOT AN AGENT OF THE MANUFACTURER.**

This section should not be construed to prevent the Distributor from taking such action to which it is entitled hereunder to enforce the terms of this Agreement, or any Purchase Agreement between the Distributor or the Manufacturer, but the Distributor shall indemnify the Manufacturer for any and all claims, actions, complaints or proceedings brought directly against the Manufacturer by a customer of the Distributor or of any of its dealers, agents, contractors, or employees.

Section 5.3. The Distributor shall purchase and maintain comprehensive general liability insurance suitable to the Manufacturer, and the Manufacturer must be named as an additional insured party.

Section 5.4. In the event that the Distributorship is an entity, partnership, or corporation, the principals of said entity, partnership, or corporation do jointly and severally personally guarantee the performance of this Agreement by executing the same.

ARTICLE VI

Confidentiality and Non-Compete

Section 6.1. The Manufacturer will be supplying to the Distributor confidential information, including sales leads, pricing, policy, engineering, manufacturing systems, building systems, and sales and business management systems. All communication; literature (except that literature expressly designed for resale); training materials; policy materials; and construction, manufacturing, design, and engineering materials and standards are considered to be confidential. The Distributor hereby agrees to take all commercially reasonable steps to ensure the confidentiality of this type of information. Upon the expiration or earlier termination of this Agreement, the Distributor agrees to return or destroy (according to instructions by the Manufacturer) this confidential information.

Section 6.2. The Distributor will not, without prior written consent, directly or indirectly engage in the design, development, advertisement, promotion, or sale of any other System during the course of this Agreement.

ARTICLE VII

Term and Termination

Section 7.1. The initial term of this Agreement shall begin on this date and, unless earlier terminated as provided herein, shall end on the third December 31 following the date of this Agreement.

Section 7.2. Unless earlier terminated as provided herein, this Agreement shall automatically renew for successive one year terms, unless either party gives written notice of its intention not to renew this Agreement to the other party at least 60 days prior to the expiration of the renewal term.

Section 7.3. Notwithstanding any other provision of this Agreement, the Manufacturer may terminate this Agreement at any time upon written notice to the Distributor if:

- a. Any other provision of this Agreement is violated.
- b. The Distributor fails to make any payment, or perform any other responsibility, according to the provisions of a Purchase Agreement applicable to the sale of a System or any other product or service of the Manufacturer.
- c. The Distributor terminates or suspends its business or operations; or files a petition in bankruptcy or an involuntary petition in bankruptcy is filed against it; or becomes insolvent or makes general assignment for the benefit of creditors.

Section 7.4. Notwithstanding any other provision of this agreement, the Distributor may terminate this agreement at any time, for any reason, upon written notice to the Manufacturer. However, if the Distributor terminates this agreement in order to market a competing System, the Distributor agrees to notify the Manufacturer in writing of that intent **prior to ANY** sales, promotional, or general business management efforts relating to, and/or supporting, the competing System.

Section 7.5. The provisions of Article V regarding indemnification and Article VI regarding confidentiality shall survive any termination of this Agreement.

ARTICLE VIII
General Provisions

Section 8.1. All notices and other communications given hereunder shall be in writing and shall be deemed to have been duly given and received when personally delivered; or when mailed by certified mail, postage prepaid and return receipt requested; or by reputable overnight delivery service:

- a. If to the Manufacturer, to Hearthstone, Inc., 1630 E. Highway 25-70, Dandridge, TN 37725. Attention: General Manager
- b. If to the Distributor, to _____

_____.

Section 8.2. Neither party shall be responsible for delays or failures in performance resulting from acts beyond their control. Such acts shall include, but not be limited to, acts of God, strikes, lockouts, riots, acts of war, epidemics, governmental regulations superimposed after the fact, fire, power failures, earthquakes, hurricanes, or other disasters.

Section 8.3. This Agreement shall be binding on and shall inure to the benefit of each of the parties hereto and their respective successors or assigns.

Section 8.4. This Agreement constitutes the entire agreement between the parties hereto.

Section 8.5. This Agreement shall not be amended or modified except in writing executed by each of the parties hereto.

Section 8.6. The invalidity or unenforceability of any provision of this Agreement shall not affect the validity or enforceability of any other provision.

Section 8.7. The section headings herein are for convenience only and shall not affect the interpretation of this document. Gender and pronouns, and singular and plural references used herein shall be interchangeable as appropriate.

Section 8.8. This Agreement shall be construed under and governed by the laws of the State of Tennessee. The parties agree that any dispute shall be litigated in the Circuit Court for Jefferson County, Tennessee. The parties consent to the jurisdiction of the Circuit Court of Jefferson County, Tennessee, and agree that any service of process may be served outside of the State of Tennessee by registered or certified mail or personal service.

Section 8.9. In the event of any dispute between the parties, the prevailing or substantially prevailing party shall be awarded all reasonable fees connected with such dispute, including reasonable attorneys' fees.

ARTICLE IX
Acceptance

Section 9.1. This Agreement accepted on the date first stated above by both the Distributor and the Manufacturer.

Distributor: _____

Manufacturer: Hearthstone, Inc.

by: _____