



DEALER AGREEMENT

1. DEALER APPOINTMENT. This Dealer Agreement (“**Agreement**”) is between Best Bath Systems, Inc. (“**BBS**”) and the person or entity signing below as a “**Dealer**.” This Agreement appoints Dealer as a nonexclusive BBS-authorized retail dealer and product reseller to advertise, promote, display, market, install, and sell BBS’s Products to purchasers acquiring them for their own use (not resale) (“**Customers**”), pursuant to the terms and conditions below. The term “**Products**” includes all new and existing products that BBS manufactures and sells, which products BBS may, in BBS’ sole discretion, discontinue or modify at any time, as well as any alterations or improvements to the Products. This Agreement does not authorize Dealer to sell Products online, unless BBS authorized Dealer to become an “**Internet Dealer**” pursuant to a written Internet Dealer Authorization Addendum to this Agreement, which terms, upon execution, shall be incorporated into this Agreement.

2. TERM. The term of this Agreement begins on the “**Effective Date**” identified below. It may be terminated upon written notice by either party to the other provided at least 60 days’ in advance of a termination date identified by the notice. Additionally, (i) either party may immediately terminate this Agreement upon written notice to the other in the event of (A) the other party’s breach of this Agreement or (B) the other party’s insolvency, and (ii) BBS may immediately terminate this Agreement upon written notice to Dealer if (Y) Dealer does not have at least \$15,000 in BBS revenue (and at least \$150,000 in BBS revenue if Dealer is an Internet Dealer) per year as determined by an annual audit conducted by BBS; or (Z) in BBS’s sole discretion, it is in BBS’s best interest.

3. PROCESS FOR ORDERING. All Product orders from Dealer must be made in a written purchase order (“**Purchase Order**”) specifying the Products and location for shipment within the United States or Canada. BBS may, in its sole discretion, accept or reject any Purchase Order. If BBS does not affirmatively confirm a Purchase Order, it is deemed rejected unless BBS ships the Product. No orders may be canceled after they are submitted to BBS, except with BBS’s written agreement to do so.

4. GOVERNING TERMS. All sales of Products to Dealer are subject to the terms of this Agreement, and not Dealer’s own terms and conditions or any other terms, whether written or verbal, unless BBS consents in writing to alternate terms by signing a written amendment to this Agreement.

5. SHIPPING, RISK OF LOSS, AND TITLE.

(a) Shipping, Risk of Loss and Title. BBS shall use commercially reasonable efforts to deliver all Products on or before the requested delivery date and to the delivery location identified in the Purchase Order. BBS shall pay for standard shipping on all Product order values exceeding USD \$250.00, and Dealer shall pay a handling fee of USD \$25.00 on orders under this amount. Dealer shall pay all charges for expedited shipping. BBS shall select the means, methods and carriers for shipping. BBS shall determine the method for packaging the Products, unless agreed in writing otherwise. Title, risk of loss, and risk of delay of the Products shall pass to Dealer and be F.O.B. upon BBS’s delivery of the Products to the shipper/carrier. BBS may, in its sole discretion, make partial shipments of Products. Shipment of any Products may be delayed for a period of time sufficient to allow BBS to manufacture and assemble or otherwise acquire the Products for Dealer. BBS shall not be liable to Dealer or any other party for any delay in shipment.

(b) Receipt of Products and Nonconforming Goods. Dealer shall inspect the Products upon receipt and shall be deemed to accept the Products unless within 2 business days of receipt Dealer rejects the Products by (i) timely notifying the freight carrier in compliance with the freight carrier’s notice requirements, (ii) notifying BBS that any Products fail to conform to the Purchase Order, and (iii) providing documentation as required by BBS. Products must be held intact at destination until inspection and settlement. BBS shall determine, in its sole discretion, whether the Products do not conform to their specifications, in which case they shall be deemed “**Nonconforming Goods**.” BBS shall determine, in its sole discretion, whether to (i) replace or repair the Nonconforming Goods, or (ii) refund the Contract Price (defined below) for the Nonconforming Goods. Upon request by BBS, Dealer shall ship, at BBS’ expense and risk of loss, all

Nonconforming Goods to the location identified by BBS. If BBS exercises its option to replace Nonconforming Goods, BBS shall, after receiving Dealer's shipment of Nonconforming Goods, ship to Dealer at the location identified by Dealer the replacement Products. The remedies set forth in this Section are Dealer's exclusive remedy for Nonconforming Goods.

(c) Resale Certificate. Upon acceptance of the Products, Dealer shall submit to BBS a resale certificate or any other document or information necessary, under the laws of the applicable state, for BBS to document that Products sold to Dealer will be resold and are not subject to payment by BBS of sales tax.

6. PRICE AND PAYMENT.

(a) Pricing for Products and Discounts. During the Term, Dealer will purchase all Products directly from BBS at the prices listed in BBS' dealer price list in effect when BBS accepts a Purchase Order from Dealer ("**Contract Price**"). BBS will determine the discounts, if any, allowed to Dealer, and Dealer may become eligible for BBS's marketing, advertising, and promotion programs in effect from time to time, at BBS's discretion. BBS may prospectively increase or decrease the Contract Prices or reduce, alter, or eliminate the discounts allowed to Dealer at any time.

(b) Commercial Business Opportunities. If a Purchase Order is received by BBS from Dealer for a commercial compliant Product or commercial quantities (five (5) or more), BBS will request the project name and architect. If the requested project information is not provided by Dealer, BBS may reject the Purchase Order. No Dealer discount will apply to commercial compliant Product or commercial quantities orders except as determined in the discretion of BBS.

(c) Errors. BBS may correct at any time all price and extension errors on an order, acknowledgement or invoice.

(d) Payment. Payment in cash of the full amount is due at the time Dealer places an order, unless BBS, in its sole discretion, has granted (i) credit to Dealer after Dealer's submission and BBS' acceptance of Dealer's credit application, or (ii) a special payment arrangement agreed to in writing by BBS' Credit Department, or (iii) payment by credit card, in jurisdictions where such payment is permissible and subject to a processing fee determined by BBS.

(e) Sales Tax, Taxes, and Fees. Dealer shall be responsible for the collection and payment of all national, federal, state, local, or other taxes, assessments, and fees of any jurisdiction, including without limitation, sales tax, VAT, excise tax, import or export taxes, withholding, and amounts levied in lieu thereof, based on the Products and the distribution or licensing associated with the business of selling the Products and any payments made, received, or to be made or received in connection with this Agreement and Dealer's business operations.

7. INTELLECTUAL PROPERTY; USE OF BBS LOGO, IMAGES, AND NAME; DISPLAYS

(a) General and Prohibited Acts. Dealer may represent itself as an "authorized dealer" of BBS, and may use BBS' name and Product-related trademarks on signs or other advertising or promotional material consistent with this Agreement and specifically, this Section 7. Notwithstanding the rights granted to Dealer below, Dealer shall not: (i) sell Products online unless BBS authorizes Dealer to become a BBS Internet Dealer; (ii) use any variation of BBS's name in any domain name, ULR, or in Dealer's own business name; (iii) sell Products through any third party platform such as Amazon or Walmart; (iv) use any non-current logo of BBS in any of its advertising materials; (v) display Product images that are not current; (vi) advertise or otherwise represent Dealer in a manner that deceives third parties by suggesting Dealer is an employee or part of BBS's business, except through a dealer relationship; (vii) use any form of pay-per-click advertising, unless Dealer becomes a BBS Internet Dealer and does so in compliance with an Internet Dealer Authorization Addendum; or (viii) alter or edit any BBS documentation or specifications, including, without limitation, BBS cut sheets.

(b) BBS Intellectual Property. During the Term of this Agreement, BBS grants to Dealer a revocable, non-transferable, non-exclusive, limited license to use BBS's logos, trademarks, and trade names (collectively the "**BBS Marks**"), solely in connection with the marketing, advertisement and sale of the Products. Such license shall immediately terminate upon the expiration or termination of this Agreement. Dealer shall strictly comply with all standards of use for the BBS Marks and must at all times display appropriate trademark and copyright notices as instructed by BBS. Dealer acknowledges and agrees that the BBS Marks and other intellectual property provided to Dealer by BBS, if any, are the sole and exclusive property of BBS. Dealer shall not acquire any right, title or interest under this Agreement in any patent, copyright, BBS Mark or other intellectual property right of any kind of BBS. No implied license, patent, copyright or other intellectual property right of BBS is granted under this Agreement or otherwise. During the term of this Agreement and thereafter, Dealer shall not do anything that will in any manner infringe, impeach, dilute or lessen the value of the BBS Marks, patents, copyrights or other intellectual property of BBS or the goodwill associated therewith or that will tend to prejudice the reputation of the BBS or the sale of any BBS products.

(c) Dealer Marks. During the Term of this Agreement Dealer hereby grants BBS a non-exclusive, royalty-free license to use Dealer's logos, trademarks, and trade names on BBS's websites and marketing materials, as well as any images or posts created or captured and displayed by Dealer in any online forum or platform involving the Products or BBS.

(d) Showroom Displays. If Dealer displays Products in a showroom display, all Products must be kept in proper display condition, free of dust, debris, scuffs, or abrasions. Products used as showroom displays may not be sold to Customers without BBS's prior written authorization.

(e) No Use of BBS Information or Content for Other Purposes. Dealer shall not, under any circumstances, use any BBS Products, BBS images, BBS logos, BBS website or written content, BBS Product specification sheets, BBS social media content, or any of BBS Intellectual Property for use in advertising, promoting, or selling any products other than the BBS Products.

8. DISCLAIMER AND LIMITATION OF WARRANTIES AND REMEDIES.

(a) Limited Warranties for Dealer. The Products are sold to Dealer "AS IS WITH ALL DEFECTS," except as set forth in this Section. BBS makes no representations or warranties either express or implied regarding title, quality or conformity of the goods, including no representation or warranty of merchantability or fitness for a particular purpose, except the following "**Limited Warranty**": (i) the Products sold to Dealer will be free of any security interest, lien or encumbrance at delivery (unless created by Dealer), (ii) title conveyed is good, (iii) the Products shipped will conform to the description of the Products invoiced. Products manufactured by a third party that are incorporated into the Products are not covered by this Limited Warranty. THE LIMITED WARRANTY REFERRED TO IN THIS SECTION IS THE ONLY WARRANTY, EXPRESS OR IMPLIED, THAT BBS MAKES WITH RESPECT TO THE PRODUCTS. BBS SPECIFICALLY DISCLAIMS ALL OTHER IMPLIED WARRANTIES INCLUDING, WITHOUT LIMITATION, THE IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE AND NON-INFRINGEMENT.

(b) Limited Remedies for Dealer. Dealer's exclusive remedy for breach of the Limited Warranty is to return the goods for refund of the Contract Price, or repair and replacement of any Nonconforming Goods. BBS has the exclusive right to select the remedy. IN NO EVENT SHALL BBS BE LIABLE TO DEALER FOR ANY INCIDENTAL, CONSEQUENTIAL, INDIRECT, STATUTORY, SPECIAL, OR PUNITIVE DAMAGES, INCLUDING BUT NOT LIMITED TO, LOST PROFITS, LOSS OF USE, LOSS OF TIME, INCONVENIENT, LOST BUSINESS OPPORTUNITIES, DAMAGE TO GOODWILL OR REPUTATION, OR LOSS OF DATA, REGARDLESS OF WHETHER BASED ON BREACH OF CONTRACT, TORT, STRICT LIABILITY, OR OTHERWISE, AND EVEN IF ADVISED OF THE POSSIBILITY OF SUCH DAMAGES OR THAT SUCH DAMAGES COULD HAVE BEEN REASONABLY FORSEEN.

(c) Use or Installation. BBS is not responsible for, and makes no representations regarding, the use or installation of the Products. BBS is not responsible for the acts or omissions of the owner, contractor, subcontractor, design professional or installers.

(d) BBS Remedies. BBS shall be entitled to any rights and remedies available to it in this Agreement or in law or in equity. Without limiting the foregoing, in the event of any breach of this Agreement by Dealer, BBS may, in its sole discretion, elect to modify any of Dealer's potential future reimbursements, discounts, or the list of Products Dealer is eligible to sell.

(e) Customer's Limited Warranties and Remedies. BBS issues a separate limited warranty and remedies to Customers that is different from the Limited Warranty issued to Dealer. BBS' limited warranty to Customers is enclosed with the Product and available on BBS' website at www.best-bath.com. BBS may modify the Customer limited warranty at any time.

9. DATA PRIVACY AND SECURITY. Dealer shall implement administrative, physical, and technical safeguards to protect the data and information owned by BBS and any information about an identifiable person ("**Personal Information**"), including Customers, and shall comply with all applicable laws, regulations, and industry standards related to data privacy and security. Dealer shall use any information owned by BBS or Personal Information received from BBS solely for the purpose of fulfilling Dealer's obligations under the Agreement. Dealer agrees to provide BBS with access to information concerning Customers that is reasonably necessary (but no more Personal Information than is reasonably necessary) for BBS's development, improvement and marketing of Products to the extent permissible under applicable law. Prior to providing BBS with access to any Customer information, Dealer shall obtain Customer's express consent to the extent required and in accordance with applicable law, including without limitation Canada Anti-Spam Law.

10. EFFECT OF TERMINATION.

(a) Duties. Upon termination of the Agreement for any reason, (i) all sums owed by either party to the other shall immediately become due and payable, (ii) all deliveries of Products to Dealer or Customer that are scheduled to be

shipped after the effective date of termination may be cancelled at the election of BBS, (iii) all deliveries of Products in transit shall be paid by cash immediately; (iv) Dealer shall cease representing itself by word or conduct as a BBS authorized Dealer and shall also remove all online postings or ads that suggest otherwise, (v) Dealer shall ship to BBS all samples, advertising material, promotion material and other material related to the Products and not intended for resale ("**Promotional Material**") at Dealer's cost, (vi) each party shall return all Confidential Information (defined below) of the other party to the other party; and (vii) Dealer shall permanently erase all of BBS' Confidential Information from Dealer's computer systems or online storage sites.

(b) Survival upon Termination. The following obligations shall survive termination for any reason of the Agreement: (i) payment obligations in Section 6; (ii) the warranty provisions in Section 8; (iii) intellectual property obligations in Section 7; (iv) indemnification and insurance provisions in Section 11; (v) confidentiality obligations in Section 12; (vi) limitation of liability and limitation of remedies in Section 14; (vii) nondisparagement provisions in Section 16; and (viii) miscellaneous provisions in Section 17.

11. INDEMNIFICATION AND INSURANCE.

(a) BBS Indemnification. BBS shall indemnify, defend and hold harmless Dealer, its affiliates and subsidiaries, and the officers, directors and employees of each of them, for all damages, losses, expenses, costs, claims, judgments, liabilities and attorney's fees incurred by Dealer (unless caused in any way by the acts or omissions of Dealer) arising from (i) third party claims to the extent caused by any actual or alleged defect in any Products which BBS has designed or manufactured or which were designed or manufactured according to BBS' specifications, or (ii) any infringement of the Products by any patent, copyright, trademark or other intellectual property claim.

(b) Dealer Indemnification. Dealer shall indemnify, defend, and hold harmless BBS, its affiliates and subsidiaries, and the officers, directors and employees of each of them, for all damages, losses, expenses, costs, claims, judgments, liabilities and attorney's fees incurred by BBS (unless caused by the negligence or wrongful acts or omissions of BBS) arising from (i) any negligent or wrongful act or omission by Dealer or any act by Dealer that breaches any provision of this Agreement or, if applicable, the terms of any applicable written authorization to become an Internet Dealer; (ii) any representations, statements, warranties or other statements made by Dealer about the Product that were not authorized in writing by BBS; (iii) Dealer's installation of the Products or any service, repair, modification, alteration, or replacement of the Products performed in connection with such installation; and (iv) any service, repair, modification, alteration, or replacement of the Products that was not authorized in writing by BBS.

(c) Insurance. Dealer shall maintain, during the Term and for 3 years after the termination of the Agreement, commercial general liability insurance providing coverage for Dealer's activities under the Agreement with minimum annual limits of \$1,000,000 per occurrence and \$2,000,000 in the aggregate. On BBS' request, Dealer shall provide BBS with a certificate of insurance from Dealer's insurer (i) evidencing the insurance coverage specified in this Section, (ii) naming BBS as an additional insured, (iii) providing BBS with 30 days advance notice cancellation or material change in its insurance policy, and (iv) waiving all rights of subrogation against BBS and its insurers.

12. CONFIDENTIALITY. The parties shall (i) use the other party's Confidential Information solely for the purpose of fulfilling each party's obligations under the Agreement, (ii) not disclose the Confidential Information to a third party without the prior written consent of the other party, and (iii) take all commercially reasonable precautions to safeguard the confidential nature of such information as each party would safeguard its own Confidential Information. "**Confidential Information**" includes any information, whether provided by the disclosing party or prepared by receiving party or some third party, relating to Dealer pricing and discount programs of BBS, personnel data, marketing philosophy, project plans, business strategy and plans, processes, competitive advantages and disadvantages, financial results, audit reports and materials, customer lists, vendor lists, product development, future advertising or sales programs, sales forecasts, proprietary information, and any other information which would give a competitor an opportunity to obtain a commercial advantage or which the receiving party is ethically obligated to protect. Confidential Information does not include information that is in the public domain at the time receiving party receives such information.

13. QUALIFICATIONS. Dealer shall ensure that an adequate number of trained, capable and qualified personnel with sufficient knowledge of the Products are available to assist Customers. All Dealer personnel are encouraged to complete and pass the initial online education and training regarding the Products, and at a minimum, (i) at least one individual for Dealer is required to complete and pass BBS's initial training and assessment program; and (ii) all installers must complete and pass initial Product installation training. All initial training must be completed and passed within 60 days of becoming a BBS authorized dealer.

14. DISPUTES.

(a) Limitation of Liability and Remedy. Dealer's exclusive remedies for breach of the Agreement is for Dealer to (i) terminate the Agreement pursuant to Section 2; (ii) return Nonconforming Goods for a refund, repair or replacement pursuant to Section 5(b); or (iii) make a warranty claim pursuant to Section 8(a). This limitation on liability and remedies applies regardless of (x) whether the liability or damages were foreseeable, (y) the legal or equitable theory (contract, tort or otherwise) on which the claim is based, or (z) the failure of the agreed remedy of its essential purpose. IN NO EVENT SHALL BBS BE LIABLE TO DEALER FOR ANY INCIDENTAL, CONSEQUENTIAL, INDIRECT, STATUTORY, SPECIAL, OR PUNITIVE DAMAGES, INCLUDING BUT NOT LIMITED TO, LOST PROFITS, LOSS OF USE, LOSS OF TIME, INCONVENIENT, LOST BUSINESS OPPORTUNITIES, DAMAGE TO GOODWILL OR REPUTATION, OR LOSS OF DATA, REGARDLESS OF WHETHER BASED ON BREACH OF CONTRACT, TORT, STRICT LIABILITY, OR OTHERWISE, AND EVEN IF ADVISED OF THE POSSIBILITY OF SUCH DAMAGES OR THAT SUCH DAMAGES COULD HAVE BEEN REASONABLY FORSEEN.

(b) Dispute Resolution. Any dispute arising out of or relating to this Agreement shall be settled by arbitration in accordance with the rules of the American Arbitration Association in accordance with its commercial arbitration rules, and judgment on the award rendered may be entered in any court having jurisdiction. The arbitration shall take place before a mutually-agreed to arbitrator sitting in Ada County, Idaho. The language of the arbitration shall be English. The arbitrator will be bound to adjudicate all disputes in accordance with the laws of the State of Idaho. The decision of the arbitrator shall be in writing with written findings of fact and shall be final and binding on the parties. The prevailing party shall be entitled to an award of attorney fees and costs. This section provides the sole recourse for the settlement of any disputes arising out of, in connection with, or related to this Agreement.

15. COMPLIANCE WITH LAWS.

(a) Compliance With Laws; Notification. Dealer is solely responsible to comply with all laws, qualifications to do business, licensing requirements, and any other regulations applicable to Dealer. Dealer will not sell Products to Customers located outside of the United States and Canada. Dealer represents, warrants and covenants that it shall comply with all applicable international, nation, state, regional and local laws and regulations, including, without limitation, the United States Foreign Corrupt Practices Act of 1977 and the Export Control Act, as may be amended from time to time, in performing its duties hereunder and in any of its dealings with respect to the Products. Dealer shall promptly notify BBS in the event Dealer knows or has reason to believe that any act or refrainment from acting required by or contemplated by this Agreement violates any applicable law, rule or regulation (whether criminal or non-criminal) or if it becomes aware that any Products contain a defect which could create a product hazard or risk of serious injury or death.

(b) Compliance with U.S. Export Laws. Dealer acknowledges and understands that the Products may be subject to restrictions upon export from the United States and upon resale after export. Dealer therefore represents and warrants that it shall comply fully with all relevant regulations of the U.S. Department of Commerce, with the U.S. Export Administration Act, and with any other import and/or export control laws or regulations of the United States and Canada. Dealer, upon the request of BBS, shall execute and deliver to BBS a letter of written assurance concerning technical data and U.S. Export Administration Regulations.

16. NONDISPARAGEMENT. Dealer shall not in any way disparage BBS or its Products by making verbal or written comments that would could reasonably be construed to cast BBS or its Products in a negative light.

17. NONEXCLUSIVE ARRANGEMENT. Dealer's appointment is nonexclusive. Nothing in this Agreement shall be deemed to grant to Dealer any type of exclusive arrangement or territory or right to prevent BBS or any other third party from selling or offering to sell the same or similar BBS products in any particular territory or online using any methods whatsoever.

18. MISCELLANEOUS.

(a) Notice. All notices and other communications ("**Notices**") shall be in writing and may be delivered (i) in person, with the date of notice being the date of personal delivery, (ii) by United States Mail, postage prepaid for certified or registered mail, return receipt requested, with the date of notice being the date of the postmark on the return receipt, (iii) by e-mail, with confirmation of sending of the e-mail and a copy of the e-mail deposited on the same day in the United States Mail, with the date of notice being the date of the e-mail, or (iv) by nationally recognized delivery service such as Federal Express, with the date of notice being the date of delivery as shown on the confirmation provided by the delivery service. Notices shall be addressed to the addresses provided next to the party's signature to the Agreement, or such other address as one party shall provide the other.

(b) Assignment. Neither party may (i) assign, subcontract, delegate or otherwise transfer the Agreement or any of its rights or obligations, or (ii) contract with third parties to perform any of the party's obligations, except as contemplated in the Agreement, without the other party's prior written consent.

(c) Third Party Beneficiaries. There are no intended or incidental third party beneficiaries of the Agreement.

(d) Severability. If any part of this Agreement shall be determined to be invalid or unenforceable, then (i) such part shall be reformed, if possible, to conform to the law and (ii) the remaining parts of this Agreement shall be fully effective to the extent reasonably possible.

(e) Independent Contractor. BBS and Dealer are independent businesses, and Dealer is an independent contractor. The Agreement does not create the relationship of employer and employee, franchiser and franchisee, master and servant, principal and agent, partnership, or joint venture.

(f) Force Majeure. Best Bath is not liable for any failure or delay in Best Bath's performance due to any cause beyond Best Bath's reasonable control, including acts of war, acts of God, earthquakes, floods, embargos, riots, sabotage, labor disputes, governmental acts, interference with transportation methods or routes, or internet failure ("**Force Majeure**").

(g) Entire Agreement. This Agreement constitutes the entire agreement between the parties and supersede all prior oral and written agreements and understandings between the parties. The Agreement cannot be modified or amended, except in writing signed by all parties.

(h) Governing Law. The Agreement shall be governed by the law of Idaho, United States of America, without consideration of conflict of laws principles. The UN Convention on Contracts for the International Sale of Goods shall not apply to this Agreement.

(i) No Strict Construction. This Agreement shall not be construed more strongly against either party regardless of which party is more responsible for its preparation.

(j) Waiver. The failure of either party at any time to require performance by the other party of any provision of this Agreement shall not affect in any way the right to require such performance at any subsequent time, nor shall the waiver by either party of a breach of any provision of this Agreement be taken or held to be a waiver of the provision itself.

(k) Counterparts. This Agreement may be executed in one or more counterparts, each of which will be deemed to be an original, but together will constitute one and the same instrument.

(l) Effect on Prior Agreements. This Agreement amends and supersedes any prior dealer agreement(s) or terms and conditions between the Parties.

The Effective Date of this Agreement is

DEALER NAME: _____

BEST BATH SYSTEMS, INC., an Idaho corporation

Signature: _____

Signature:  _____

Print Name: _____

Print Name: Jason Williams _____

Title: _____

Title: National Sales Manager _____

Address: _____

723 Garber Street
Caldwell, Idaho 83605
Attn: National Sales Manager
