**EXCLUSIVE TERRITORIAL DISTRIBUTION AGREEMENT**

This **EXCLUSIVE TERRITORIAL DISTRIBUTION AGREEMENT** is dated as of \_\_\_\_\_\_\_\_\_\_\_\_ (the “Agreement”), between Elite Wheel Distributors, Inc., d/b/a Elite Wheel & Tire Warehouse, a corporation organized under the laws of the State of Florida, United States of America, and having a principal place of business at 3901 Riga Boulevard, Tampa, FL 33619 (“Supplier”), and \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, a corporation organized under the laws of \_\_\_\_\_\_\_\_\_, having its principal place of business at \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (“Distributor”). Owner and Distributor are referred to herein collectively as “Parties” and each individually as a “Party.”

**WITNESSETH:**

WHEREAS Supplier is the owner of certain products (the “Products”), trademarks, and service marks identified in the schedule attached and incorporated hereto as Schedule A, and has applied for and registered such trademarks and service marks in the United States (such trademarks and service marks, and such registrations and applications, together with any and all common law rights pertaining thereto, are referred to collectively as the “Licensed Marks”) for use in Supplier’s business;

WHEREAS, Supplier and Distributor desire to enjoy, have enjoyed, and continue to enjoy a mutually beneficial distribution-level buyer-seller relationship as to Supplier’s Products, and desire to formalize this relationship, including to provide Distributor the exclusive right to sell the Products in \_\_\_\_\_\_\_ (the “Territory”), subject to the terms and conditions set forth herein;

WHEREAS, Distributor desires to use, and Supplier is willing to license Distributor to use, the Licensed Marks solely in connection with Distributor’s sale of purchased Products in the Territory, under the terms and conditions set forth herein;

WHEREAS, Distributor’s owner(s)/member(s), \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (the “Guarantor”) desires to guarantee Distributor’s obligations under the Agreement via the attached Guaranty, which the Parties and the Guarantor acknowledge and agree is a material inducement for Supplier to enter into the Agreement;

NOW, THEREFORE, for good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, the Parties agree as follows:

**AGREEMENT**

Appointment.

* 1. Appointment of Distributor, Territory. Supplier hereby appoints Distributor as its exclusive distributor for the term of this Agreement for the sale and distribution of the Products (see Schedule A, incorporated hereto) in and throughout the Territory, subject to the following exception(s): \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_. Distributor shall not sell or distribute the Products anywhere outside the Territory,
  2. Best Efforts; Quality of Products. Distributor shall use its best efforts to promote the sale and distribution of the Products in the Territory, including by maintaining or causing to be maintained a dedicated sales staff for the distribution of Products in the Territory. SUPPLIER represents and warrants that all sales of the Products under this Agreement shall be of first quality, suitable to be used in the United States of America, and packaged in conformity with applicable laws, regulations, and requirements in effect within the Territory.
  3. Grant of Trademark License. Subject to the terms and conditions contained herein (including in the incorporated Schedule A), Supplier hereby grants to Distributor and Distributor hereby accepts, a Territory-exclusive, non-assignable license to use the Licensed Marks, solely in the Territory, for and in connection with Distributor’s marketing, promotion, advertisement, distribution, and sale of Products associated with individual Licensed Marks and purchased by Distributor from Supplier.

1.4. Restrictions on Use.

(a) Distributor shall not change or modify the Products or Licensed Marks, or create any design variation of the Products or Licensed Marks, without the prior written consent of Supplier.

(b) Distributor shall not join any name, mark, or logo with the Licensed Marks so as to form a composite trade name or mark, without obtaining the prior written consent of Supplier.

(c) Distributor shall not use or market or sell any other product, name, or mark that is confusingly similar to the Products or Licensed Marks.

(d) Distributor shall not market, promote, advertise, distribute, and/or sell any products under the Licensed Marks besides the associated Products.

(e) Distributor shall undertake diligent efforts to ensure that any entity or person with which it is associated by shared ownership or control, including the Guarantor, complies by these use restrictions set forth in and across this Section 1.3.

1.5. Changes in Licensed Marks. Upon written notice to Distributor, Supplier may, from time to time, in its sole discretion, elect to (a) discontinue any Licensed Marks and/or (b) replace any Licensed Marks with, or use new or different, trademarks or service marks (“New Marks”) with respect to the Products. Upon such election, any such New Marks may be designated Licensed Marks by Supplier and if designated as such shall be subject to the terms of this Agreement, and Schedule A shall be deemed amended automatically to include such New Marks. In the event Supplier discontinues any Products or Licensed Marks or introduces a New Mark, Distributor shall have a reasonable period of time, not to exceed three (3) months, to cease use of such discontinued Products or Licensed Marks, or begin use of such New Mark.

1.6. Sublicenses. Distributor may not grant a sublicense of its rights hereunder without (1) the prior written consent of Supplier, and (2) a written and signed – by Supplier, Distributor, and the proposed sub-distributor – addendum to this Agreement addressing and setting forth the terms and conditions of such a proposed sublicensing arrangement.

2. Quality Standards and Control; Pricing.

2.1. Quality Control. At all times, Distributor shall use the Products and/or Licensed Marks only in accordance with such quality standards and specifications as may be established by Supplier and communicated to Distributor in writing from time to time (the “Quality Standards”).

2.2. Use of the Licensed Marks. All use of the Licensed Marks made hereunder shall faithfully reproduce the design and appearance of the Licensed Marks as reflected in the attached links at Schedule A.

2.3. Inspection and Approval. Supplier or its designated representative shall have the right at any time during normal business hours to inspect and approve, which approval shall not be unreasonably withheld, any and all uses of the Products and Licensed Marks to confirm that such use is in conformance with the terms of this Agreement. From time to time, upon Supplier’s reasonable request in writing, Distributor shall, at Distributor’s expense, (a) provide Supplier with representative samples of the ways in which the Products and/or Licensed Marks are then being used (or photographs depicting the same), and (b) permit Supplier to inspect Distributor’s places of business where the Products are sold and/or Licensed Marks are used, in each case for Supplier’s inspection and approval of such uses.

2.4. Deficiencies. If Supplier reasonably believes that the Distributor’s use of the Products and/or Licensed Marks is not being conducted in compliance with Supplier’s Quality Standards, then Supplier shall promptly provide Distributor with written notice of such defects or violations, and shall allow Distributor thirty (30) days from the date of such notice in which to cure such defects or violations. Should the defects or violations not be remedied within such thirty (30) days, Supplier may, in its reasonable discretion, terminate this Agreement or bring an action at law, including to require specific performance.

2.5 Pricing, Orders. Supplier will fill promptly and to the best of its ability all orders for the Products received from Distributor. Supplier and Distributor shall agree to the Product prices contemporaneous to execution of this Agreement via a Pricing List, incorporated hereto as Schedule B. Supplier shall bill Distributor for the freight charges for all Product orders from Distributor below 25 sets. Supplier shall inform Distributor of any price increases for the Products at least 60 days prior to the effective date of any such increase. Distributor agrees to thirty (30) day payment terms.

2.6. Minimum Purchase Requirements. Supplier and Distributor agree that Distributor’s minimum monthly Product purchase requirements under this Agreement are: 300-400 pieces, per month with a one (1) container per quarter minimum. If Distributor fails to meet this minimum monthly Product purchase requirement for two (2) consecutive months, Distributor’s right to exclusively market and sell the Products in the Territory shall cease, and Supplier may immediately terminate this Agreement at any time thereafter.

3. Compliance with Law. Distributor shall use the Property and Licensed Marks only in such manner as will comply with the provisions of applicable laws and regulations relating to the Property and Licensed Marks. Distributor shall affix to all materials that bear a Licensed Mark, including, but not limited to, all labels, packaging, advertising and promotional materials, manuals, invoices, and all other printed materials, (a) notices in compliance with applicable trademark laws and (b) such legend as Supplier may reasonably designate by written notice and is required or otherwise reasonably necessary to allow adequate protection of the Licensed Marks and the benefits thereof under applicable trademark laws from time to time.

4. Ownership and Maintenance.

4.1. Ownership. (a) Distributor acknowledges and admits the validity of the Licensed Marks and Products designs, and agrees that it will not, directly or indirectly, challenge the validity of the Licensed Marks and Products designs, or any registrations thereof and/or applications therefor in any jurisdiction, or the right, title, and interest of Supplier therein and thereto, nor will it claim any ownership or other interest in the Licensed Marks and Products designs in any jurisdiction, other than the rights expressly granted hereunder.

(b) Distributor acknowledges that (i) the Licensed Marks and the goodwill associated therewith are and will remain the exclusive property of Supplier, and (ii) Distributor has no right, title, or interest in any other trademarks, services marks, trade names, or domain names belonging to Supplier. Distributor shall not at any time do or suffer to be done any act or thing that will in any way impair the rights of Supplier in and to the Licensed Marks or Products designs. Nothing in this Agreement grants, nor shall Distributor acquire hereby, any right, title, or interest in or to the Licensed Marks or any goodwill associated therewith, other than those rights expressly granted hereunder. This Agreement shall not affect Supplier’s right to enjoin or obtain relief against any acts by third parties of trademark infringement or unfair competition.

(c) Distributor shall not at any time, without the prior written consent of Supplier, acquire a registration or file and prosecute a trademark application or applications to register the Licensed Marks, or any component, variation, or derivation thereof, or any name or mark confusingly similar thereto, for any goods or services anywhere in the world. If Distributor at any time, without the prior written consent of Supplier, files or causes to be filed, in its own name or otherwise on its behalf, an application to register or otherwise takes steps under applicable laws to obtain trademark or other protection of the Licensed Marks in any country, territory, or jurisdiction, Distributor shall, at the direction of Supplier, either (i) assign and transfer to Supplier, without further consideration, all right, title, and interest in or to the Licensed Marks in such country, territory, or jurisdiction, or (ii) surrender and abandon such registration or application for registration.

(d) Distributor will market and sell the Products, and utilize the Licensed Marks, only in the Territory. Distributor will not replicate, in whole or in substantial part, for its own use and manufacture, or the use and/or manufacture by third parties other than the Supplier working directly with Distributor, any Product and/or design and/or design molds created and/or owned and/or controlled by Supplier.

5. Infringement or Dilution. Distributor shall promptly notify Supplier upon becoming aware of any infringement or dilution of the Licensed Marks. Supplier has the exclusive right to take, and shall take, such steps to stop such infringement or dilution as may be reasonably necessary in its reasonable determination to protect the Licensed Marks. Distributor shall cooperate fully with Supplier to stop such infringement or dilution.

6. Indemnification.

6.1. Supplier does not, by virtue of this Agreement or of Distributor’s use of the Licensed Marks, assume any liability with respect to the business of Distributor or the conduct thereof by Distributor, and Distributor shall defend, indemnify, and hold harmless Supplier and its affiliates, successors, and assigns, and its and their respective officers, directors, employees, agents, attorneys, and representatives, from and against any and all claims, causes of action, suits, damages, losses, liabilities, costs, and expenses (including but not limited to reasonable attorneys’ fees and expenses) (collectively, “Losses”) resulting from or arising out of claims, actions, or proceedings brought by third parties against Supplier arising out of (a) Distributor’s breach of this Agreement; (b) any use by Distributor of the Products and/or Licensed Marks; (c) any misuse by Distributor of the Products and/or Licensed Marks, including but not limited to use of the Licensed Marks in false advertising; or (d) defects in the services offered by the Distributor in connection with the Products and/or Licensed Marks.

6.2. Distributor does not, by virtue of this Agreement or of Distributor’s use of the Products or Licensed Marks, assume any liability with respect to the business of Supplier or the conduct thereof by Supplier, and Supplier shall defend, indemnify, and hold harmless Distributor and its affiliates, successors, and assigns, and its and their respective officers, directors, employees, agents, attorneys, and representatives, from and against any and all Losses resulting from or arising out of claims, actions, or proceedings brought by third parties against Distributor arising out of Supplier’s breach of this Agreement.

7. Representations and Warranties. Each Party represents and warrants that it has executed this Agreement freely, fully intending to be bound by the terms and provisions contained herein; that it has full corporate power and authority to execute, deliver, and perform this Agreement; that the person signing this Agreement on behalf of such Party has properly been authorized and empowered to enter into this Agreement by and on behalf of such Party; that prior to the date of this Agreement, all corporate action of such Party necessary for the execution, delivery, and performance of this Agreement by such Party has been duly taken; and that this Agreement has been duly authorized and executed by such Party, is the legal, valid, and binding obligation of such Party, and is enforceable against such Party in accordance with its terms.

The Parties further represent and warrant that each has received all information from the other Party material to its decision to enter into the Agreement, including with respect to the Products and Licensed Marks, and including with respect to any contracts, agreements, lawsuits (instigated or defended by any Party), regulatory or criminal investigations or proceedings, or joint ventures relevant to the matters set forth herein.

8. Term; Renewal; Termination; Sale of Distributor.

8.1. Term. The term of this agreement shall become effective as of the date hereof, and shall continue in effect until either (1) terminated in accordance with the provisions of Section 8.3, or (2) renewed in accordance with the provisions of Section 8.2.

8.2 Renewal. This Agreement shall automatically renew every twelve (12) months from the effective date of the Agreement, unless a Party desiring to terminate the Agreement has provided the other Party a 30 day written notice of non-renewal, which may be served at any time, and which shall terminate the Agreement on the thirtieth (30th) day following the other Party’s receipt of written notice of non-renewal.

8.3. Termination.

(a) Either Party may terminate this Agreement at its sole discretion upon written notice to the other Party, if:

(i) There is a change in control of the non-terminating Party, including via sale of Distributor.

(ii) The non-terminating Party breaches any provision of this Agreement and fails to cure such breach within thirty (30) days after the date of the terminating Party’s written notice thereof.

(iii) The non-terminating Party files, or consents to the filing against it of, a petition for relief under any bankruptcy or insolvency laws, makes an assignment for the benefit of creditors, or consents to the appointment of a receiver, liquidator, assignee, custodian, trustee, sequestrator, or other official with similar powers over a substantial part of its property; or a court having jurisdiction over that Party or any of the property of that Party shall enter a decree or order for relief in respect thereof in an involuntary case under any bankruptcy or insolvency law, or shall appoint a receiver, liquidator, assignee, custodian, trustee, sequestrator, or official with similar powers over a substantial part of the property of that Party, or shall order the winding-up, liquidation, or rehabilitation of the affairs of that Party and such order or decree shall continue in effect for a period of thirty (30) consecutive days.

(b) Supplier may also terminate this Agreement at its sole discretion upon written notice to the Distributor if Distributor (i) fails to maintain in good standing all federal and state licenses and permits necessary for the proper conduct of its business, or (ii) falls thirty (30) days or more behind on any open invoice due to Supplier;

(c) Notwithstanding anything to the contrary contained herein, termination of this Agreement by either Party in whole or in part shall be without prejudice to any other remedy otherwise available hereunder, under law or at equity, to such Party or the other Party.

(d) Notwithstanding anything to the contrary contained in this Agreement, the rights and obligations of each Party pursuant to Sections 1-6, 9 survive indefinitely regardless of any cancellation, expiration, or termination of this Agreement.

8.4. Effects of Termination. Any termination of this Agreement in accordance with the terms hereof shall be final. Upon the termination of this Agreement:

(a) all rights in the Licensed Marks granted to Distributor hereunder shall automatically revert to Supplier, and Distributor shall have no further rights in, and shall immediately cease all use of, the Licensed Marks; and

(b) Distributor shall remove all references to the Products and/or Licensed Marks in the content on any websites owned or controlled by Distributor.

9. Miscellaneous.

9.1. Assignment. Distributor shall not assign or attempt to assign its rights or obligations hereunder without Supplier’s prior written consent. Any assignment or attempt to do so in violation of this Agreement shall be null and void. This Agreement shall be binding upon and inure to the benefit of the Parties and their respective heirs, successors, and permitted assigns.

9.2. Entire Agreement. This Agreement constitutes the entire agreement between Supplier and Distributor with respect to the subject matter hereof and supersedes and cancels all prior agreements and understandings between Supplier and Distributor, whether written and oral, with respect thereto.

9.3. Amendment; Waivers. This Agreement shall not be amended, supplemented, or modified except in a writing executed by authorized representatives of the Parties. Waiver by a Party of any breach of any provision of this Agreement by the other Party shall not operate, or be construed, as a waiver of any subsequent or other breach.

9.4. Further Assurances. Each of the Parties hereto agrees to execute all such further instruments and documents and to take all such further action as the other Party may reasonably require in order to effectuate the terms and purposes of this Agreement. The Parties shall act in good faith in the performance of their obligations under this Agreement.

9.5. Severability. If any provision of this Agreement is inoperative or unenforceable for any reason in any jurisdiction, such circumstances shall not have the effect of rendering the provision in question inoperative or unenforceable in any other case, circumstance, or jurisdiction, or of rendering any other provision or provisions herein contained invalid, inoperative, or unenforceable to any extent whatsoever. The invalidity of any one or more phrases, sentences, clauses, Sections, or subsections of this Agreement in any jurisdiction shall not affect the remaining portions of this Agreement in such jurisdiction or in any other jurisdiction.

9.6. Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the U.S. State of Florida without giving effect to its principles or rules of conflict of laws to the extent such principles or rules are not mandatorily applicable by statute and would require or permit the application of the laws of another jurisdiction. For purposes of any claim, suit, action, or proceedings arising out of or in connection with this Agreement, each Party hereby irrevocably submits to the exclusive jurisdiction, subject matter and personal, of the federal and state courts located in the County of Hillsborough in the State of Florida.

9.7. Equitable Relief. Distributor hereto acknowledges that Supplier will suffer irreparable harm as a result of the material breach by Distributor of any covenant or agreement to be performed or observed by Distributor under this Agreement, and acknowledges that Supplier shall be entitled to apply for and, if granted, receive from any court or administrative body of competent jurisdiction a temporary restraining order, preliminary injunction, and/or permanent injunction, without any necessity of proving damages or depositing a bond, enjoining Distributor from further breach of this Agreement or further infringement or impairment of the rights of Supplier.

9.8. Notices. All notices, requests, demands, and other communications made in connection with this Agreement shall be in writing and shall be deemed to have been duly given (a) if sent by first-class registered or certified mail, return receipt requested, postage prepaid, on the fifth day following the date of deposit in the mail, (b) if delivered personally, when received, or (c) if transmitted by facsimile or other telegraphic communications equipment, when confirmed, in each case addressed as follows:

**SUPPLIER:** Elite Wheel Distributors, Inc.

d/b/a/ Elite Wheel & Tire Warehouse

c/o Ed Milani

3901 Riga Blvd

Tampa, FL 33619

**DISTRIBUTOR**: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

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or, in each case, to such other address or facsimile number or to the attention of such other person as may be specified in writing by such Party to the other Party.

9.9. Counterparts. This Agreement may be executed in one or more counterparts, each of which shall be deemed an original and all of which when taken together shall be one and the same instrument.

9.10. Headings. The headings contained in this Agreement are for purposes of convenience only and shall not affect the meaning or interpretation of this Agreement.

9.11. Construction of this Agreement. In any construction of this Agreement, the Agreement shall not be construed against any Party based upon the identity of the drafter of the Agreement or any provision of it.

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

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| **SUPPLIER: Elite Wheel Distributors, Inc.**  **By:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_** |
| \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_  Print Name  Title:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**DISTRIBUTOR:**  **\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**    **By:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_  Print Name  Title:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ |

**SCHEDULE A**

**PRODUCTS/ LICENSED MARKS**

**SCHEDULE B**

**PRICING LIST**