

BAI MEMBER ACCOUNT AGREEMENT

THIS AGREEMENT is made and entered into this the _____ day of _____, _____, by and between _____ "Member" and BATTERY ALLIANCE ("BAI") and shall become effective on the date of the last signature affixed below.

PURPOSE

It is the desire of Member to purchase miscellaneous batteries and other products from BAI. BAI is agreeable to selling or causing to be sold to Member such goods subject to all of the terms, conditions and provisions set forth below.

TERMS AND CONDITIONS

1. Member shall pay to BAI at such times and place as designated by BAI all amounts and obligations due in accordance with the terms set out in this Agreement. Payments for purchases made on a deferred payment basis are due thirty (30) days from the invoice date. Thereafter payments shall be considered delinquent. Burden of proof regarding all payments due hereunder is on Member. Payments shall be applied first to unpaid finance charges and then to the oldest unpaid purchases as reflected in statements forwarded to Member. BAI shall have the sole and exclusive right to determine the manner in which to apply credits due to Member on account if Member does not indicate how such credits should be applied within the six (6) months of the date any such credits are issued. Credits not applied within one (1) year from the date of issue shall expire.
2. All amounts advanced or credit extended by BAI to Member shall carry a finance charge of 1-1/2% per month, equal to 18% per annum, or such lesser rate as may be required to ensure that the rate does not exceed the maximum rate of such finance charges permitted under the laws of the State of Tennessee, from the date any such amount is due until repaid in full.
3. Member acknowledges and agrees that for any purchases made by Member through BAI with the use of a credit card, all fees, transactions, costs and other expenses incurred by BAI as a result of such credit card purchases will be billed to Member.
4. In order to secure prompt payment and performance of the obligations referred to herein, Member does hereby pledge, transfer, and grant to BAI a first priority security interest in all goods purchased by Member, whether currently owned or subsequently acquired, together with any and all proceeds thereof. Member hereby authorizes BAI to execute and file any financing statements or other documents necessary to reflect and perfect the security interest granted hereunder pursuant to the Uniform Commercial Code or any other applicable law.

5. Upon the occurrence of a default by Member in any of the terms, conditions or provisions hereunder, BAI shall have available to it all rights and remedies under the terms of this Agreement, at law or in equity without limitation. The election of BAI to pursue a particular right or remedy does not preclude the pursuit of any other rights or remedies which may be available to it, all such rights and remedies being cumulative. Any delay on the part of BAI in exercising any right or remedy it may have hereunder or may otherwise have at law or in equity shall not operate as a waiver of such right or preclude the exercise of any other right or remedy it may have.
6. BAI MAKES NO WARRANTIES OR GUARANTEES, EITHER EXPRESS OR IMPLIED, INCLUDING WARRANTY OF MERCHANTABILITY AND WARRANTY OF FITNESS FOR PARTICULAR PURPOSE WITH RESPECT TO ANY GOODS PURCHASED, ALL OF WHICH ARE SOLD BY BAI ON AN 'AS IS' BASIS. The sole and exclusive warranties for the goods, if any, shall arise from the manufacturer in accordance with, and subject to all limitations applicable thereto. BAI shall in no event be liable for direct, indirect, incidental, or consequential damages, or other damages of any kind, whether to person or property, resulting from any defects in such goods.
7. Each of our vendors has its own policies regarding cancellations and BAI is bound by such policies. Once an order is deemed non-cancellable by a vendor, Member's "cancellation" is ineffective and Member is responsible to BAI for all charges, fees, expenses, etc., of any nature, including restocking charges, incurred by BAI relating to such orders. In addition, BAI assesses a charge equal to 1% of the total order amount, exclusive of applicable taxes.
8. No credits or adjustments shall be applied or set-offs allowed to Member's account for a claim relating to defective batteries (or other goods) or warranty claims until such time as BAI receives from the manufacturer of said batteries (or other goods) written approval of such claims and issuance of such credits and/or adjustments or authorizes BAI to issue such credits and/or adjustments.
9. The willingness of BAI to sell goods and products on a deferred payment basis pursuant to the terms of this Agreement shall in no way obligate BAI to do so for any specific period of time and BAI, in its sole and exclusive discretion, may terminate the sale of goods and products to Member at any time upon giving Member notice of such intention without liability of any kind whatsoever to BAI, its officers, directors, employees, affiliates, representatives or successors in interest. Notice may be given by First Class U.S. Mail, postage prepaid, addressed to Member, facsimile transmission, electronic transmission, hand delivery or courier service.
10. Member understands, covenants and agrees to hold harmless and indemnify BAI for any and all taxes, assessments, costs, fees, penalties, attorneys' fees and any other expenses of any kind for which BAI maybe come liable as a result of

Member's failure to obtain a current, proper Resale Certificate or legal equivalent. "Costs" "Expenses" shall include but not be limited to fees, attorneys' fees and court and/or fees of regulatory bodies.

11. Member agrees and covenants that it shall keep the terms of this Agreement, as well as the pricing of any goods purchased, confidential and will not disclose such information to any third party, except as may be required by law.
12. In the event Member obtains any goods containing or bearing names, marks, symbols, logos, graphics, or other identifying imagery belonging to BAI (the "Marks"), Member agrees that all of the Marks shall be and remain the property of BAI. BAI shall have the right to periodically review and inspect any signage and materials utilizing the Marks, and upon the termination of BAI relationship with Member for any reason, BAI shall have the right to remove any signage and materials utilizing the Marks at Member's premises at the sole expense of Member.
13. This Agreement represents the entire understanding between the parties with regard to the subject matter hereof, and there are no representations, Agreements or undertakings other than those expressly set forth herein. Further, this Agreement supersedes any and all prior Agreements and understandings between BAI and Member regarding payment for purchases of goods and products. This Agreement cannot be modified, amended or changed in any way except by written authorization signed by the President or Chief Operating Officer of BAI and a duly authorized representative of Member.
14. This Agreement shall become effective and binding only upon the execution of same by the President or Chief Operating Officer of BAI at its home office in Collierville, Tennessee and a duly authorized representative of Member. The signature of any other representative of BAI shall not bind BAI, its subsidiaries or successors to any degree whatsoever.
15. If it should be held that one or more of the terms, conditions or provisions of this Agreement are in conflict with any applicable rule of law, any such term, condition or provision shall be modified to conform to the law to the extent possible and in a manner consistent with the intent of the parties as indicated in this Agreement. If such term, condition or provision cannot be so modified, same shall be considered severable and shall not affect any other term, condition or provision hereunder which shall remain in full force and effect.
16. The undersigned individual signing on behalf of Member represents and warrants that he or she has full power and authority to execute and deliver this Agreement and to consummate the transactions contemplated hereby on behalf of Member.
17. In the event BAI deems it necessary to take any action related to the construction or interpretation of terms or the enforcement or defense of this Agreement, through an attorney or otherwise, then BAI shall be entitled, in addition to all other

damages allowed by law or in equity, to recover all reasonable attorneys' fees and all other costs and expenses incurred in enforcing and/or defending such action, whether or not litigation actually ensues.

18. In the event BAI deems it necessary to employ a third party debt collector to collect any sums owed to BAI by Member pursuant to the terms of this Agreement, Member shall be liable to BAI for any fees, commissions and other charges imposed by such debt collectors and same shall not reduce or be a set off against the amount of funds owed to BAI by Member.
19. The parties to this Agreement expressly agree that the sole and exclusive venue and jurisdiction for any action at law, suit in equity or other judicial proceeding relating to this Agreement, including performance and breach, shall lie exclusively with the appropriate state court in the County of Shelby, State of Tennessee.
20. This Agreement is a Tennessee contract and all acts and transactions hereunder and all rights and obligations of Member and BAI, shall be governed as to validity, enforcement, construction, effect and in all other respects, by the laws of the State of Tennessee without consideration of any conflicts of law.
21. B.A.I. and Member agree and stipulate that each has had an opportunity to review this Agreement with counsel of their own choosing before signing same or has voluntarily chosen not to do so.
22. The parties agree and stipulate that, if any of the terms, conditions or provisions of this Agreement are held to be ambiguous, any such terms, conditions or provisions shall be construed without any consideration as to which Party or which Party's representative drafted such terms, conditions or provisions.
23. This Agreement shall be binding upon the parties and any successors and assigns. This Agreement may be assigned by BAI without notice to or approval of Member. This Agreement may not be assigned by Member.
24. This Agreement may be executed in multiple counter-parts, each one of which shall be deemed an original, but all of which shall be considered together as one and the same instrument.

IN WITNESS WHEREOF, THE PARTIES HERETO HAVE EXECUTED THIS AGREEMENT.

MEMBER (Full Name)

By:

Name _____
(Print)

Title _____

Signature _____

Date _____

BATTERY ALLIANCE, INC

By:

Name _____
(Print)

Title _____

Signature _____

Date _____