

# **Powrachute Dealer Contract**

## **Purpose of Agreement**

The purpose of this Agreement is to promote a relationship between Powrachute LLC, hereinafter referred to as “Factory”, and its Dealers, which encourages and facilitates cooperation and mutual effort to satisfy customers and permit Factory and its Dealers to fully realize their opportunities for business success. Factory has established a network of authorized Dealer operations at approved locations to effectively sell and service its Products and to build and maintain consumer confidence and satisfaction in Dealer and Factory. Consequently, Factory relies upon each Dealer to provide appropriate skill, capital, equipment, staff and facilities to properly sell, service, protect the reputation of Factory and Dealers, and satisfy the customer. At the same time, Dealer relies upon Factory to provide sales, service, training support, and enhance the quality and competitiveness of its products.

This mutual dependence requires a spirit of cooperation, trust and confidence between Factory and its Dealers. To attain cooperation, trust and confidence, Factory will seek Dealer’s advice regarding many decisions which affect Dealer’s business operations.

This agreement authorizes Dealer to sell and service Factory Products and represent itself as a Powrachute Dealer; states the term under which Dealer and Factory agree to do business together; states the responsibilities of Dealer and Factory to each other and to the customer; and reflects the mutual dependence of the parties in achieving their business objectives.

## **DEALER OPERATOR**

This is an Agreement, entered into in reliance on the qualifications of Dealer Operator and on Dealer’s assurance that Dealer Operator will provide personal service by exercising full managerial authority over Dealer Operations. A Dealer Operator must be a competent business person, an effective manager, must have demonstrated a caring attitude toward customers, and should have a successful record as a merchandiser of powered parachute products and service or otherwise have demonstrated the ability to manage a Dealership. A Dealer must have a rating of Authorized Flight Instructor, issued by the Federal Aviation Administration.

## **AUTHORIZED LOCATIONS**

DEALER NETWORK PLANNING- Because Factory distributes its Products through a network of authorized Dealers operating from approved locations, those Dealers must be appropriate in number, located properly, and have proper facilities to represent and service Factory Product competitively and to permit each Dealer the opportunity to achieve reasonable return on investment if it fulfills its obligations under its Dealer Agreement. Through such a Dealer network, the Factory can maximize the convenience of customers in purchasing Product, obtaining training, and having the Product serviced. As a result, customers, Dealers, and the Factory all benefit.

TERRITORY- Dealer is responsible for effectively selling, providing flight training, servicing and otherwise representing Factory's Products in an area designated in a Dealership Territory Notice, attached hereto as Exhibit A. Factory retains the right to revise a Dealer's Territory should Dealer fail to achieve the dealer network planning objectives. If Factory determines that Dealer has failed to achieve the dealer network planning objectives and marketing conditions warrant a change in Dealer's Territory, Factory will advise Dealer in writing of the proposed changes, the reason for them, and will consider any information the Dealer submits. Dealer must submit such information in writing within 30 days of receipt of notice of any proposed changes. If Factory thereafter decides the changes are warranted, it will issue a revised Dealership Territory Notice, and the revised Notice will be as effective as though initially attached hereto.

ESTABLISHMENT OF ADDITIONAL DEALERS- Factory reserves the right to appoint additional Dealers, but Factory will not exercise this right without first analyzing Factory network planning objectives.

CHANGE IN LOCATION OR USE OF PREMISES- If Dealer wants to make any change in location(s) or Premises, or in the uses previously approved for those Premises, Dealer will give the Factory written notice of the proposed change, together with the reasons for the proposal, for Factory evaluations and final decision in light of Dealer network planning considerations.

DEALERSHIP IMAGE AND DESIGN- The appearance of a Dealer's premises is important to the image of the Dealer and Factory, and can affect the way customers perceive Factory Products and its Dealers generally. Dealer therefore agrees that its premises will be properly equipped and maintained, and that the interior and exterior

environment will comply with any reasonable requirement Factory may establish to promote and preserve image of Factory and its Dealers.

### **DEALER'S RESPONSIBILITY TO PROMOTE, SELL, AND SERVICE PRODUCTS**

RESPONSIBILITY TO PROMOTE AND SELL- Dealer agrees to effectively, ethically and lawfully sell and promote the purchase and use of Products to consumers located in its Dealership Territory. To this end, Dealer will:

- (a) Explain to customers the items which make up the purchase price and provide purchasers with an itemized invoice.
- (b) Not charge customers for services, which Dealer is reimbursed by Factory.
- (c) Include in customer orders only equipment or accessories requested by customer and/or required by law.
- (d) Ensure that customer's purchase, flight training, and delivery experience are satisfactory.

If the Dealer modifies or sells modified new powered parachutes, or installs any equipment, accessory, or part not supplied by Factory, Dealer will disclose this fact on the invoice. Factory will conduct general advertising programs to promote the sale of Products for the mutual benefit of Factory and Dealer. Factory will make available to Dealer advertising and sales promotion materials, from time to time, and advise Dealer of any applicable charges.

RESPONSIBILITY TO SERVICE- Dealer agrees to maximize customer satisfaction by providing courteous, convenient, prompt, efficient and quality service to owners of Factory's powered parachutes, regardless of from whom they were purchased. Charges for parts and service must be reasonable and subject to Factory approval.

Dealer and Factory will each provide the other with such information and assistance as may reasonably be requested by the other to facilitate compliance with applicable laws, regulations, investigations and orders relating to Product. Factory will furnish Dealer with current parts price sheets. To build and maintain consumer confidence and satisfaction with Dealer and Factory, Dealer will comply with Factory procedures for the investigation and resolution of Product related complaints. Factory will make available to Dealer current service and parts manuals, bulletins, and technical data publications relating to powered parachutes. OVER CHARGING FOR PARTS OR SERVICE MAY RESULT IN THE TERMINATION OF THIS AGREEMENT.

CUSTOMERS SATISFACTION- Dealer and Factory recognize that appropriate care for customer satisfaction with Factory Products and its Dealers is critically important to our current and future business success. Dealer therefore agrees to conduct its operation in a manner, which will promote customer satisfaction with the purchase, flight training, and ownership experience. Factory agrees to provide Dealer with reasonable support to assist Dealer's attainment in the satisfaction of Dealer's customers.

BUSINESS PLANNING- To enable Dealer to most effectively meet its obligation under this Agreement, and to enable Factory to effectively support Dealer's efforts, Dealer agrees to develop and implement a Business Plan if such is required by Factory.

### **SALE OF PRODUCTS TO DEALER**

SALE OF POWERED PARACHUTES TO DEALER - Factory will endeavor to distribute new powered parachutes to its Dealers in a fair and equitable manner. Many factors affect the availability and distribution of powered parachutes to dealers, including component availability and production capacity, weather and transportation conditions, governmental regulations, and other conditions beyond the control of Factory. Factory reserves to itself discretion in accepting orders and distributing powered parachutes, and its judgments and decisions are final.

PRICES AND OTHER TERMS OF SALE - Prices, destination charges, and other terms of sale applicable to any powered parachute, parts, or accessories may be changed at any time. Such changes will not apply to any powered parachute parts, or accessories on order by Dealer, and accepted by Factory, prior to the effective date of the change. Dealer agrees to stock sufficient Parts and Accessories to meet customer demand.

### **SERVICE OF PRODUCTS**

NEW POWERED PARACHUTE PRE-DELIVERY INSPECTIONS AND ADJUSTMENTS- Because new powered parachute delivery condition is critical to customer's satisfaction, Dealer agrees to perform specified pre-delivery inspections and adjustments on each new powered parachute and verify completion of inspection.

REPRESENTATIONS AND DISCLOSURES AS TO PARTS AND ACCESSORIES- In servicing powered parachutes marketed by Factory, Dealer agrees to disclose the use of non-Factory parts and accessories.

TOOLS AND EQUIPMENT- Dealer agrees to provide essential service tools and equipment as necessary to fulfill its responsibilities to properly service Products and flight training.

### **TRAINING**

Properly trained personnel are essential to the success of Dealer and Factory, and to providing customers with a satisfactory sales, service and flight training experience. Factory will make such training available as practical circumstances permit. Factory will assist Dealer in determining flight-training requirements and periodically will require that Dealer have personnel attend specific courses. Dealer agrees to comply with any such reasonable training necessary to fulfill its responsibilities in the areas of sales, service, pilot training, parts accessories, and related subjects.

### **REVIEW OF DEALER'S SALES AND SERVICE PERFORMANCE**

Dealer's performance of its obligations is essential to the effective representation of Factory's Products, and to the reputation and goodwill of Dealer, Factory, and other Factory's Dealers. Periodically, Factory will review various aspects of Dealers sales and service performance. Factory and Dealer will use the review process to identify areas in which improvements or changes are necessary so Dealer can take prompt action to achieve acceptable performance.

### **BREACHES AND OPPORTUNITY TO REMEDY**

CERTAIN ACTS OR EVENTS- The following acts or events, which are in control of the Dealer or originate from action taken by Dealer, are material breaches of this Agreement. If Factory learns that any of the acts or events have occurred, it may notify the Dealer in writing. If notified, Dealer will be given the opportunity to respond in writing within 30 days. –

#### **ACTS OR EVENTS CONSIDERED MATERIAL BREACHES**

- SALE, TRANSFER, OR ASSIGNMENT OF RIGHTS - Any attempted or actual sale, transfer, or assignment by Dealer of this Agreement of any of the rights granted Dealer hereunder
- TRANSFER, ASSIGNMENT OR DELEGATION OF RESPONSIBILITIES - Any attempted or actual transfer, assignment or delegation by Dealer of any of the responsibilities assumed by it under this Agreement contrary to the terms of this Agreement

- FAILURE OF PERFORMANCE BY DEALER - If Factory determines that Dealer's Premises are not acceptable, or that Dealer has failed to adequately perform its sales, service, and pilot training responsibilities, including those responsibilities relating to customer satisfaction and training

As soon as practicable, Factory will notify Dealer in writing of the nature of Dealer's failure and of the period of time during which Dealer will have the opportunity to correct the failure. If Dealer corrects the failure by the expiration of the period, Factory will so advise the Dealer in writing. If, however, Dealer does not correct the failure by the expiration of the period, Factory may terminate this Agreement by giving Dealer 90 days advance written notice.

### **TERMINATION OF AGREEMENT**

BY DEALER - Dealer has the right to terminate this Agreement without cause at any time upon written notice to Factory. Termination will be effective 30 days after Factory's receipt of the notice, unless otherwise mutually agreed in writing.

FAILURE TO BE LICENSED OR COMPLY WITH ANY OTHER LEGAL REQUIREMENT-If Factory or Dealer fail to secure or maintain any license required for the performance of obligations under this Agreement, or such license is suspended or revoked, either party may immediately terminate this Agreement by giving the other party written notice.

INCAPACITY OF DEALER OPERATOR- Factory may terminate this Agreement by written notice to Dealer if Dealer Operator is so physically or mentally incapacitated that the Dealer Operator is unable to actively exercise full managerial authority. The effective date of termination will be stated in such written notice and will not be less than ninety days after receipt of such notice.

ACTS OR EVENTS- If Factory learns that any of the following has occurred, it may terminate this Agreement by giving Dealer written notice of termination. Termination will be effective on the date specified in the notice. Conviction in a court of original jurisdiction of Dealer of any felony, Insolvency of a Dealer, or filing by or against Dealer of a petition in bankruptcy, or filing of a proceeding for the appointment of a receiver or trustee for Dealer, provided such filing or appointment is not dismissed or vacated within 30 days, or execution by Dealer of an

assignment for the benefit of creditors or any foreclosure or other due process of law whereby third party acquires rights to the operation, ownership, or assets of Dealer.

TRANSACTION AFTER TERMINATION- Termination of this Agreement will not release Dealer or Factory from the obligation to pay any amounts owing the other.

### **GENERAL PROVISIONS**

NO AGENT OR LEGAL REPRESENTATION STATUS- This Agreement does not make either party the agent or legal representative of the other for any purpose nor does it grant either party authority to assume or create any obligation on behalf of or in the name of the other. No fiduciary obligations are created by this Agreement.

RESPONSIBILITY FOR OPERATIONS- Except as provided in this Agreement, Dealer is solely responsible for all expenditures, liabilities and obligations incurred or assumed by Dealer for the establishment and conduct of its operations.

TAXES- Dealer is responsible for all local, state, federal, of other applicable taxes and tax returns related to its Dealership and will hold Factory harmless from any related claims or demands by any taxing authority.

TRADEMARKS AND SERVICE MARKS- Factory is the exclusive owner or licensee of various trademarks, service marks names and designs (Marks used in connection with) Products and services.

Dealer is granted the non-exclusive right to display (Marks) in the form and manner approved by Factory in the conduct of its Dealership business. Dealer agrees to permit any designated representative of Factory upon the premises during regular business hours to inspect Products or services in connection with Marks.

Dealer will not apply to register any Marks either alone or as part of another mark, and will not take any action, which may adversely affect the validity of the Marks or the goodwill associated with them. Mark's may be used as part of the Dealer's name with Factory's written approval.

ASSIGNMENT OF RIGHTS OR DELEGATION OF DUTIES- Dealer has not paid any fee for this Agreement. Neither this Agreement nor the rights or obligations of Dealer may be sold, assigned, delegated or otherwise transferred.

Factory may assign this Agreement and any rights, or delegate any obligations, under this Agreement to any affiliated or successor company, and will provide Dealer written notice of such assignment or delegation. Such assignment or delegation shall not relieve Factory of liability for the performance of its obligations under this Agreement.

NO THIRD PARTY BENEFIT INTENDED- This Agreement is not enforceable by any third party and is not intended to convey any rights or benefits to anyone who is not a party to this Agreement.

ACCOUNTS PAYABLE- All monies or accounts due Dealer are net of Dealer's indebtedness to Factory. In addition, Factory may deduct any amounts due or to become due from Dealer to Factory from any sums or accounts due or to become due to Dealer.

SOLE AGREEMENT OF PARTIES- Except as provided in this Agreement, Factory has made no promises to Dealer, and there are no other Agreements or understandings, either oral or written, between the parties affecting this Agreement or relating to any other subject matters covered by this Agreement. Except as otherwise provided herein, this Agreement cancels and supersedes all previous Agreements between the parties that relate to any matters covered herein.

APPLICABLE LAW- This Agreement is governed by the laws of the State of Michigan. However, if performance under this Agreement is illegal under a valid law of any jurisdiction where such performance is to take place, performance will be modified to the minimum extent necessary to comply with such law if it was effective as of the effective date of this Agreement.

FACTORY: Powrachute LLC

ADDRESS:3001 W Airport Road  
Hastings, MI 49058

DEALER: \_\_\_\_\_

ADDRESS: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Each Party acknowledges that it has read this Agreement, fully understands it, agrees to be bound by its terms, and further agrees that it is the complete and exclusive statement of the Agreement between the parties, which



supersedes and merges all prior proposals, understandings, and all other agreements oral and written, between the parties related to the subject matter of this Agreement. THIS AGREEMENT CANNOT BE MODIFIED OR ALTERED EXCEPT BY A WRITTEN INSTRUMENT EXECUTED BY BOTH PARTIES.

Factory: Powrachute LLC

DEALER: \_\_\_\_\_

Signed: \_\_\_\_\_

Signed: \_\_\_\_\_

Name: Galen Geigley

Name: \_\_\_\_\_

Its: Director Sales and Marketing

Its: \_\_\_\_\_

Date: \_\_\_\_\_

Date: \_\_\_\_\_