

CROSBYSTORE DEALER PROGRAM AGREEMENT

THIS CROSBYSTORE DEALER PROGRAM AGREEMENT (the "Agreement") is made this ___ day of _____, 2015 (the "Effective Date") by and between **THE CROSBY GROUP, LLC**, an Oklahoma limited liability company with a principal business address of 2801 Dawson Rd, Tulsa, Oklahoma 74110 ("CROSBY"), and _____, a _____, with a principal business address _____ ("Dealer"). Except as otherwise provided to the contrary, all references herein to the "Agreement" shall mean and include any and all Exhibits and any other documents referenced herein or therein.

1. **Dealer Authorization.**

1.1 **Authorization.** CROSBY hereby accepts Dealer as an authorized dealer of Products (as hereinafter defined) under the "CrosbyStore Dealer Program" for sale to Crosby customers (the "Customers"), and Dealer hereby agrees to participate in the Program, subject to the terms and conditions of this Agreement. Dealer hereby agrees to use all commercially reasonable efforts to maximize sales of Products. As used herein, "Products" shall mean those products that CROSBY may make available from time to time to Dealer for sale hereunder. Dealer acknowledges that from time to time CROSBY may modify the Products that the Dealer is authorized to sell under this Agreement. During the term of this Agreement, Dealer agrees to sell the Products subject to the terms of this Agreement, including the CrosbyStore Dealer Program Guide attached hereto as Exhibit A.

1.2 **Terms of Program.** Subject to the terms and conditions of this Agreement, Dealer is authorized to sell Products purchased from CROSBY to Customers in such manner, at such prices and upon such terms as Dealer shall determine. As further provided in Section 3, Dealer is expressly authorized to pass through CROSBY's Products warranty to all Customers for Products sold by Dealer.

1.3 **Use of Marks.** During the Term, Dealer is authorized to use CROSBY's trade name or any trademarks relating to Products which CROSBY may designate from time to time (the "Marks"), but only in connection with its sales of Products to Customer and to identify itself as a "an authorized Crosby Dealer". Dealer shall not use the Marks as part of Dealer's trade, domain or business name, and Dealer shall not use the Marks in any other way which CROSBY considers misleading or objectionable. Upon Dealer's use of the Marks in any manner inconsistent with this Section 1.3, CROSBY may immediately terminate this Agreement and any other agreements between CROSBY and Dealer, and Dealer shall be liable to CROSBY for any damages and costs CROSBY incurs due to such use.

1.4 **CrosbyStore Displays.** CROSBY will provide Dealer with certain displays described on Exhibit [xx] (the "CrosbyStore Displays") to Dealer during the Term. Dealer understands and agrees that the CrosbyStore Displays will be installed by CROSBY's contractor, DGS Retail, Inc. Charges for CrosbyStore Displays and any annual membership fee shall be as set forth in Exhibit [xx], as may be modified by CROSBY from time to time. Notwithstanding the foregoing, Dealer (i) will be responsible for any damage to the CrosbyStore displays, ordinary wear and tear excepted, (ii) shall keep the CrosbyStore Displays free and clear of all liens, claims and encumbrances, (iii) shall at no time place any goods or products on the CrosbyStore Displays other than CROSBY's Products, (iv) be responsible and pay for all display upgrades as determined necessary and appropriate by CROSBY, and (v) shall hold CROSBY harmless from any

claim for damage occurring to Dealer's premises resulting from installing, maintaining and removing the CrosbyStore Displays from or at the premises. Following termination of this Agreement, Dealer may continue to use the CrosbyStore Displays; provided however that Dealer will immediately remove all CROSBY logos, Marks and other branding from the displays and may not use the displays for any CROSBY products.

2. **Price/Sales Procedure.**

2.1 **Prices.** Dealer, at its option, may use Product from its own inventory on the CrosbyStore Displays provided that Dealer continue to maintain minimum inventory levels (as shown on Exhibit D) on the CrosbyStore Displays. Dealer may purchase additional Products from CROSBY at CROSBY's Dealer List Prices indicated on Exhibit B to this Agreement. CROSBY reserves the right, at its discretion, to amend any List Price upon thirty (30) days written notice to Dealer.

2.2 **Standard Terms.** All Dealer orders shall be subject to CROSBY's Standard Terms in effect on the order date. "Standard Terms" shall mean the CROSBY Dealer Standard Terms attached hereto as Exhibit C. The Standard Terms, as supplemented by prices established pursuant to Section 2.1 above and by delivery dates and Product quantities agreed upon in each case, shall (in conjunction with this Agreement) constitute the entire agreement between the parties with respect to sales of Products to Dealer. No additional or different terms set forth in Dealer's purchase forms or other correspondence shall govern any sales of Products by CROSBY to Dealer. Dealer shall comply with all such Standard Terms, and any breach thereof shall also constitute a breach of this Agreement. In the event of any inconsistency between this Agreement and the applicable Standard Terms, this Agreement shall govern.

2.3 **Confidentiality.** Dealer shall not give, loan, exhibit, sell, transfer or disclose to any person or company competing with CROSBY any specifications, drawings, photographs, designs, price or customer lists, ideas or any other business or confidential information furnished by CROSBY to Dealer by virtue of the relationship established by this Agreement. Such information shall be and remain the exclusive property of CROSBY.

3. **Products Warranties.** All Products shall be covered by the standard warranties set forth in the Standard Terms, and Dealer is not authorized to extend to Customers any warranty other than that set forth in the Standard Terms. Dealer shall be responsible for any warranties, representations or statements not specifically authorized by CROSBY and agrees to indemnify and hold CROSBY harmless from any costs (including but not limited to reasonable legal or attorneys' fees), damages and liability resulting therefrom. Dealer shall indemnify CROSBY against any and all losses, liabilities, damages and expenses (including, without limitation, legal or attorneys' fees and other costs of defending any action) which CROSBY may incur as a result of any claim by Dealer, Customers or others arising out of or in connection with Products and/or services sold hereunder to the extent based on Product or service defects proven to have been caused by Dealer's negligence or misconduct, including any warranty made by Dealer which exceeds the warranty authorized by CROSBY.

4. **Term and Renewal.**

- 4.1 **Term.** This Agreement shall commence on the Effective Date and shall expire one (1) year thereafter (the "Term") unless earlier terminated as provided herein.
- 4.2 **Renewal.** This Agreement will automatically renew upon expiration of the initial and any successive Term for an additional successive renewal term of one (1) year (each, a "Renewal Term"), unless either party provides written notice to the other party of its decision not to renew not less than thirty (30) days prior to the end of such Term or Renewal Term. Either party may terminate this Agreement at any time upon not less than ninety (90) days written notice to the other.

5. **Termination.**

- 5.1 **Events of Default - No Cure.** The following conditions shall each constitute an event of default under this Agreement (an "Event of Default"):
- (a) If Dealer is a corporation or other business entity, the inability of Dealer to pay its debts as they fall due or upon the appointment of a trustee or receiver or the equivalent for the Dealer, or upon the institution of proceedings relating to dissolution, liquidation, winding up, bankruptcy, insolvency or the relief of creditors;
 - (c) Dealer's violation of Section 1.3 of this Agreement; and
 - (d) Sale by Dealer to any person or entity who resells Products to third parties, including, but not limited to sales to CROSBY dealers, other wagon jobbers or retailers of any kind.

Upon the occurrence of any Event of Default, all of Dealer's rights under this Agreement shall automatically terminate, without opportunity to cure, upon delivery of written notice thereof to Dealer.

- 5.2 **Breach of Agreement - Opportunity to Cure.** Upon any material breach of any term or condition of this Agreement, or any other agreement between CROSBY and Dealer (including, without limitation, any purchase order between CROSBY and Dealer) by either CROSBY or Dealer, other than an Event of Default set forth in Section 5.1, the party which breached said agreement (the "Breaching Party") will have thirty (30) days from the date that the other party (the "Non-Breaching Party") delivers written notice thereof, to cure the breach to the satisfaction of the Non-Breaching Party. Said notice shall contain the reasons for the alleged breach. If the breach is not cured within thirty (30) days after receipt of notice, the Non-Breaching Party shall have the right to terminate this Agreement, and any other agreement between CROSBY and Dealer, effective immediately after delivery of notice thereof to the Breaching Party. Notwithstanding the foregoing, if the breach is based on Dealer's nonpayment of amounts due, CROSBY shall have the right to terminate this Agreement upon notice if Dealer fails to cure such non-payment by Dealer within ten (10) days following receipt of notice thereof from CROSBY.
- 5.3 **Effect of Expiration, Non-renewal or Termination.** Upon expiration, non-renewal or termination of this Agreement by

either party, Dealer shall return all Crosby materials, including instruction sheets, advertising and promotional materials and all of CROSBY's supplies of every kind and character, and all other documents relating to the business of CROSBY which may be in the possession or under the control of Dealer. Dealer shall also immediately cease any use of the Marks. CROSBY shall have the right, upon delivery of written notice to Dealer, to purchase all resalable Products from Dealer at Dealer's cost thereof.

- 5.4 **Damages upon Termination.** Except as specified herein, neither party shall be entitled to any compensation or reimbursement for inability to recoup any investment made in connection with its performance under this Agreement, loss of prospective profits or anticipated sales or other losses occasioned by termination of this Agreement.

6. **Miscellaneous.**

- 6.1 **Entire Agreement.** This Agreement (including all Exhibits attached hereto) constitutes the entire agreement between Dealer and CROSBY, superseding all prior oral or written agreements, policies, understandings, representations, warranties and negotiations with respect to Dealer's rights under the CrosbyStore Dealer Program, and there are no conditions affecting this Agreement which are not expressed herein.
- 6.2 **Modification.** Except as otherwise provided herein, this Agreement may be modified only in writing and signed by both parties hereto.
- 6.3 **Audit; Inspection.** CROSBY, upon reasonable prior notice to Dealer and during Dealer's regular business hours, may enter Dealer's premises and conduct a commercially reasonable audit of Dealer's books and records and inspection of the CrosbyStore Displays to ascertain compliance with the terms and conditions of the Agreement. Dealer shall reasonably cooperate with CROSBY with respect to any such audit and inspection.
- 6.4 **Independent Contractor.** Dealer is an independent contractor, not an agent or employee of CROSBY. Dealer is not authorized to assume or create any obligation including but not limited to obligations based on warranties, guarantees or other contractual obligations on behalf or in the name of CROSBY. Dealer shall not misrepresent its status or authority.
- 6.5 **Choice of Law.** This Agreement and any purchase and sale transaction arising pursuant hereto shall be governed by and construed in accordance with the internal laws of the state of Oklahoma.
- 6.6 **Assignment.** This Agreement may not be assigned by Dealer, whether voluntarily or by operation of law, without the written consent of CROSBY. This Agreement or any of CROSBY's rights hereunder, may be assigned by CROSBY upon notice to Dealer.
- 6.7 **Limitation of Liability.** Except with respect to Dealer's indemnity obligations, neither party hereto shall be liable to the other party for loss of profit, for loss of contract or business opportunity, or for any indirect, consequential, special or exemplary damages of any kind or nature whatsoever, howsoever caused, incurred by the other party hereto or any third party, whether in an action in contract, tort or otherwise.
- 6.8 **Subcontractors.** Dealer shall not use any subcontractors to perform its obligations under this Agreement without the prior written consent of CROSBY.
- 6.9 **Change of Ownership or Control.** Dealer agrees to notify CROSBY of any change in the status, ownership or control of Dealer.

The parties hereto have executed this Agreement as of the date first above written.

Dealer Initials _____

CROSBY:
THE CROSBY GROUP LLC

DEALER:

By: _____

By: _____

Title: _____

Title: _____

Date: _____

Date: _____

CrosbyStore Name: _____

CrosbyStore Address: _____

CrosbyStore City: _____

CrosbyStore State: _____

CrosbyStore Zip: _____

CrosbyStore Country: _____

CrosbyStore Contact: _____

CrosbyStore Contact Phone Number: _____

CrosbyStore Contact Email: _____

Please supply email address that sales leads will go to: _____

Merchandising Displays Required:

Shackle Display: _____ qty

Misc. Display: _____ qty

Chain Display: _____ qty

Clamp Display: _____ qty

Block Cart: _____ qty

Ipad: _____ qty

CornerUnit: _____ qty

Dealer Initials _____

Exhibit A

CrosbyStore Dealer Program Guide

Dealer Initials _____.

Exhibit B

Dealer List Prices

Dealer Initials _____.

Exhibit C
Dealer Standard Terms

Dealer Initials _____.

Exhibit D

Minimum Inventory Levels for CrosbyStore Displays

CROSBY PRODUCT	INVENTORY LEVEL
Shackle Wall Display	50
Chain Wall Display	10
Clamp Wall Display	5
Miscellaneous Wall Display	10
Cart	10

Dealer Initials _____.