



MUD PIE RETAILER LICENSE AGREEMENT

THIS RETAILER LICENSE AGREEMENT (the "Agreement") is made by and between Mud Pie, LLC, having its principal place of business at 4893 Lewis Road, Suite A, Stone Mountain, GA 30083 ("Mud Pie") and _____, the Retailer; Cust. ID # _____, ("Retailer," "You," or "Your").

RETAIL OUTLET(S)

- Physical store – Store having a physical presence, i.e. a "Brick and Mortar" store
- Direct Online Store – Internet website branded by You and not promulgated through a third party's website, e.g. "yourstore.com" and not Google (R), amazon.com, Facebook, ebay.com, zullily.com, etc. Please list the web site domain name: _____
- Indirect Online Store – Storefront established and promulgated through a third party's website such as a virtual storefront established on Google (R), amazon.com, Facebook, ebay.com, zullily.com, etsy.com, etc. (***Indirect Online Store is only an option if Direct Online Store is also selected***)

List all brand or company names you use in any and all Indirect Online Stores: _____

Please list all third party marketplace website that You participate in:

- OTHER _____

My writing my email below, I am indicating that I have read and fully understand the License Agreement (below).

ARTICLE I. LICENSE GRANT

As a consideration for a Wholesale Price on Mud Pie Merchandise, upon Your purchase or promise to purchase the Mud Pie Merchandise at the Wholesale Price, Mud Pie grants you a royalty free, worldwide, non-exclusive license to the Mud Pie Trademarks to market and sell the Mud Pie Merchandise only in the Retail Outlet(s) designated above.

You may not use an alternate form of any Mud Pie Trademarks.

You agree not to modify any Mud Pie Merchandise unless Mud Pie has had an opportunity to review and approve the modification in writing.

If you select the Indirect Online Store as a Retail Outlet, you agree to provide Mud Pie the brand or company name You use in the Indirect Online Store prior to placing Mud Pie Merchandise in the Indirect Online Store for purchase.

ARTICLE II. PRODUCT PRICING

As additional consideration for a Wholesale Price on Mud Pie Merchandise, You agree to adhere to the current Mud Pie Minimum Advertised Price (“MAP”) policy. You must obtain the prior written consent of Mud Pie if You want to deviate from the MAP policy.

ARTICLE III. PURCHASE OF PRODUCTS

You understand that, unless otherwise agreed to in writing, Mud Pie is under no obligation to sell Mud Pie Merchandise to You. Standard shipping terms apply to the purchase of the Mud Pie Merchandise.

ARTICLE IV. DELIVERY OF PRODUCTS AND RISK OF LOSS

Title to the Mud Pie Merchandise and its risk of loss or destruction shall pass from Mud Pie to You upon delivery of the Mud Pie Merchandise to the address designated by You. Mud Pie shall insure that Mud Pie Merchandise is properly packaged, palletized and prepared for shipment in accordance with industry standards.

ARTICLE V. NOTICE OF INFRINGEMENT

You shall promptly notify Mud Pie, in writing, of any and all infringements of the Mud Pie Trademarks pertaining to the Mud Pie Merchandise that may come to Your attention. You agree to assist Mud Pie in taking action against the infringements as Mud Pie, in its sole discretion, may decide. All expenses and costs of protecting the Mud Pie Trademarks shall be paid by Mud Pie.

ARTICLE VI. TERM AND TERMINATION

This Agreement applies to each Mud Pie Merchandise. This Agreement shall become effective upon Your purchase of, or promise to purchase, each Mud Pie Merchandise and shall be in effect until the Mud Pie Merchandise is sold by You or the Mud Pie Merchandise is returned according to Mud Pie’s Return Policy in effect at the time (collectively, the “Term”), unless terminated earlier in accordance with this Agreement. You agree that your right to terminate this Agreement prior to the sale of particular Mud Pie Merchandise is limited to returning the Mud Pie Merchandise according to Mud Pie’s Return Policy in effect at the time. Mud Pie may terminate this Agreement immediately if You breach this Agreement.

ARTICLE VII. AUDIT AND INSPECTION RIGHTS

During the Term and for a period of at least two years following the termination of this Agreement, You shall maintain books and records (collectively, "Records") in accordance with generally accepted accounting principles as are necessary to substantiate at least that:

- 1) The Mud Pie Merchandise was only sold in the approved Retail Outlet;
- 2) The Mud Pie Merchandise was sold in accordance with the current Mud Pie MAP policy; and
- 3) You have conformed to the provisions of this Agreement.

Mud Pie reserves the right, at any time, to request from You an itemized spreadsheet that identifies You and lists the Mud Pie Merchandise purchased by you at a Wholesale Price, the quantities of each Mud Pie Merchandise sold to consumers, the Retail Outlet through which the Mud Pie Merchandise was sold, and the high and low prices at which the Mud Pie Merchandise was sold.

Mud Pie has the right at any time during normal business hours, upon five business days' notice, to audit Your Records in a manner which does not unreasonably disrupt Your normal course of business. Along with other remedies provided herein, if an audit by Mud Pie indicates that You have sold the Mud Pie Merchandise below a price permitted by the current Mud Pie MAP policy or have sold Mud Pie Merchandise in a Retail Outlet than the Retail Outlet indicated above, You agree that You will pay for the associated costs of the Audit and any remedies pursuant to the Audit, as discussed below.

ARTICLE VIII. CORPORATE EXISTENCE

You agree to maintain Your corporate existence during the Term of this Agreement, and will do, or cause to be done, all things necessary to preserve and keep in full force and effect all rights (charter and statutory), licenses and franchises necessary for You to perform Your obligations hereunder.

ARTICLE IX. CONFIDENTIALITY

Mud Pie may provide You pricing information, or other information, that is personal to You ("Confidential Information"). You agree not to disclose any Confidential Information to any third party. You also agree to not accept or otherwise entice the disclosure of Confidential Information from other resellers. These secrecy obligations with respect to the Confidential Information shall survive the termination or expiration of this Agreement.

ARTICLE X. REPRESENTATIONS, WARRANTIES, AND COVENANTS BY YOU

You represent, warrant, and covenant to Mud Pie as follows:

You are a corporation duly organized, validly existing and in good standing under the laws of Your state of incorporation or organization, have full corporate or other power and authority to carry on Your business as now conducted and as currently proposed to be conducted, and to execute, deliver and carry out the terms of this Agreement.

This Agreement and all related documents have been duly authorized, executed and delivered by You and constitute legal, valid and binding agreements or obligations of You enforceable against it in accordance with their terms, subject to applicable bankruptcy, insolvency, and similar laws affecting the

enforcement of creditors' rights generally. Neither the execution and delivery nor the performance by You of this Agreement will contravene any law or governmental rule or regulation, or any judgment or order, applicable to or binding on You, or Your charter documents, or result in any breach of or constitute any default under, or result in the creation of any lien upon any property of You under, any indenture, mortgage or other agreement or instrument to which You are a party or by which it, or any of Your properties may be bound or affected.

Neither the execution and delivery nor the performance by You of this Agreement requires any consent or approval of, giving notice to, registration with, or taking of any other action in respect of, any federal or state governmental authority or agency which has not been obtained prior to the date hereof.

ARTICLE XI. [Reserved]

ARTICLE XII. ASSIGNMENT

This Agreement will be binding upon, and will inure to the benefit of, the parties hereto and their respective successors and permitted assigns. You may not assign this Agreement without the prior written consent of Mud Pie.

ARTICLE XIII. LIMITATION OF LIABILITY

TO THE MAXIMUM EXTENT PROVIDED BY LAW, MUD PIE IS NOT LIABLE TO YOU FOR INJURY OR DAMAGE TO BUSINESS, PROFITS, REVENUES OR GOODWILL OF VENDOR OR FOR ANY CONSEQUENTIAL OR INCIDENTAL DAMAGES, HOWEVER CAUSED, WHETHER FOR BREACH OF WARRANTY, BREACH OF CONTRACT, REPUDIATION OF CONTRACT, TERMINATION, NEGLIGENCE, OR OTHERWISE, EVEN IF IT HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

ARTICLE XIV. DISCLAIMER OF WARRANTY

TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, MUD PIE MERCHANDISE IS PROVIDED "AS IS" WITHOUT WARRANTIES, CONDITIONS, REPRESENTATIONS OR GUARANTIES OF ANY KIND, EITHER EXPRESSED, IMPLIED, STATUTORY OR OTHERWISE, INCLUDING BUT NOT LIMITED TO, ANY IMPLIED WARRANTIES OR CONDITIONS OF MERCHANTABILITY, SATISFACTORY QUALITY, TITLE, NONINFRINGEMENT OR FITNESS FOR A PARTICULAR PURPOSE. NO ORAL OR WRITTEN INFORMATION OR ADVICE GIVEN BY MUD PIE SHALL CREATE A WARRANTY. THIS DISCLAIMER OF WARRANTY CONSTITUTES AN ESSENTIAL PART OF THE LICENSE AGREEMENT.

ARTICLE XV. NOTICES

All notices to Mud Pie required or permitted hereunder shall be in writing and shall be deemed duly given if personally delivered, sent by electronic facsimile or sent by overnight courier service or certified mail, return receipt requested, addressed to Mud Pie as follows:

Mud Pie, LLC
C/O Retailer Relationship Coordinator
4893 Lewis Road, Suite A

Stone Mountain, GA 30083

or to such other address, facsimile number or attention as either party shall provide to the other in accordance herewith. Notices delivered in person, by overnight courier or by facsimile shall be effective when received. Notices given by certified mail shall be effective on the third business day after mailing unless sooner received, in which case they shall be effective upon receipt.

ARTICLE XVI. MISCELLANEOUS

1. Nothing in this Agreement shall be interpreted as creating a partnership, employee-employer relationship, principle-agent relationship, or joint venture between You and Mud Pie.
2. Any controversies or disputes arising out of, or relating to, this Agreement, its interpretation, or a breach will, in Mud Pie's sole discretion, be settled by arbitration by an arbitration service of Mud Pie's choice, in accordance with the laws of the State of Georgia governing voluntary arbitrations. All arbitration hearings will be conducted in Atlanta, Georgia. Each party will bear its own costs, fees, and expenses associated with any arbitration, except that the parties agree to split equally the costs and expenses of the arbitrator.
3. This Agreement shall be interpreted according to the laws of the State of Georgia, without regard to Georgia's choice of law principles. In the event Mud Pie does not elect to submit a dispute to arbitration, the parties agree that the exclusive forum and venue for a civil action to decide the dispute will be brought in the United States District Court for the Northern District of Georgia, Atlanta division, unless neither subject matter nor diversity jurisdiction exists, then the exclusive forum and venue will be the courts of the State of Georgia located in Fulton County. Additionally, the parties agree that the United Nations Convention on Contracts for the International Sale of Goods, and any subsequent revisions, do not apply to the Agreement.
4. If any provision of this Agreement shall be determined to be illegal and unenforceable by any court of law or any competent governmental or other authority, the remaining provisions shall be severable and enforceable in accordance with their terms so long as this Agreement without such terms or provisions does not fail in its essential commercial purpose or purposes. The parties will negotiate in good faith to replace any such illegal or unenforceable provision or provisions with suitable substitute provisions that will maintain the economic purposes and intentions of this Agreement.
5. Failure by either party to insist on strict performance by the other of any term, condition or obligation set forth in this Agreement shall not be deemed a waiver of the same or any similar breach, and no waiver of any provision hereof shall be effective unless in writing, specifying the provision to be waived.
6. This Agreement constitutes the entire agreement between the parties with respect to the subject matter hereof and supersedes all prior or contemporaneous agreements in regard thereto. This Agreement cannot be altered or modified except by an agreement in writing signed by authorized representatives of both parties and specifically referring to this Agreement. The section headings are inserted for convenience only and are in no way intended to define or limit the scope, extent or intent of any provision of this Agreement.
7. Nothing in this Agreement, express or implied, is intended or shall be construed to give any

Person other than the parties to this Agreement any legal or equitable right, remedy or claim under or in respect of any agreement or any provision contained herein.