



## Independent Sales Representative Agreement

**THIS INDEPENDENT SALES REPRESENTATIVE (ISR) AGREEMENT (“Agreement”)** shall be effective (“**Effective Date**”) as of the date of submission of the “**ISR Registration**” placed on the **PopStops® Web Site** by and between **PopStops Marketing, Inc. (“PMI”)** with a principal place of business at 111 Second Avenue Northeast, Suite 1201, St. Petersburg, FL 33701 US and the **PMI ISR** registered herein. This Agreement states the terms and conditions that govern the relationship between the **ISR** and **PMI**, including any and all transactions and/or purchase orders that arise out of the use of [www.popstops.com](http://www.popstops.com) or the placing of orders directly to **PMI** as an **ISR**.

Acceptance of this Agreement by **PMI** shall occur upon activation of the **ISR**’s account on [www.popstops.com](http://www.popstops.com) and once **PMI** receives a copy of the **ISR**’S signed agreement or on-line acceptance. **PMI** and **ISR** hereby agree to be bound by the terms of this agreement as provided herein. If you do not accept this agreement, you are not permitted to, and you must not, access or use the services or purchase products from **PMI** as an **ISR**.

**WHEREAS**, **PMI** is the exclusive distributor of all **PopStops®** branded products and related accessories (“**Products**”), and desires to market its products in the United States, U.S. Territories, Puerto Rico and Canada.

**WHEREAS**, **ISR** has expressed its willingness to become an authorized **PMI Sales Rep** for **PopStops®** branded products, in accordance with the terms and conditions set forth in this Agreement.

**NOW THEREFORE**, in consideration of representations, warranties, covenants, and agreements hereinafter contained and for other good and valuable consideration (*the receipt and sufficiency of which are hereby the parties acknowledged*), it is agreed by and between **PMI** and **ISR** as follows:

## 1.0 APPOINTMENT.

**1.1 Appointment.** For and during the term of this Agreement, **PMI** hereby appoints **Sales Rep** as an Independent Sales Representative (**ISR**) with the non-exclusive right to promote, sell, distribute, market, buy and resell (*collectively referred to herein as to “sell”*) the Products only to Customers in the Territory (*with the understanding that **ISR** has no right to sell the Products outside of the Territory*), and **ISR** hereby accepts such appointment, subject to the terms and conditions hereof. **ISR** covenants and warrants that it’s entering into this Agreement and performing its duties hereunder is not and will not be in violation of any agreement or other obligation to which **ISR** is subject or by which **ISR** is bound. **ISR** acknowledges that **PMI** retains the right to promote, sell, distribute and market Products in the Territory in its own right and through other distributors, dealers and sales representatives. **ISR** will have full access to the [www.popstops.com](http://www.popstops.com) web site with special **ISR** credentials that will allow the **ISR** to perform a variety of functions, including the ability to “add new customers” and to “place orders” for **PMI**’s products.

**1.2 Territory.** The appointment of **ISR** hereunder is strictly limited to the distribution of the Products to customers in the United States of America, U.S. Territories, Puerto Rico and Canada only (“**Territory**”). **ISR** covenants and agrees that it will not directly or indirectly distribute, ship, sell for trans-shipment, solicit the sale of, take orders (*whether by telephone or otherwise*) for, establish a branch, maintain any distribution depot for, sell, lease or otherwise distribute the Products from or to any customers or locations outside the Territory. In the event **ISR** receives an inquiry, an offer to purchase, or a request for quotation regarding the Products from outside the Territory, **ISR** agrees to promptly, and without compensation of any kind, forward all information regarding such matter to the **PMI**.

**1.3 Internet Sales.** **ISR** is further prohibited from engaging in any promotion, advertising or sales using internet-based applications (“**E-Commerce**”), including, but not limited to promotion, advertising or sales on major Websites (*such as Amazon.com*), Social Media, and Mobile Applications or otherwise *without* advanced written consent of **PMI**.

**1.4 Products.** **ISR** shall not manufacture, duplicate, modify, add to, or alter the Products or the Product warranties (*or obliterate, alter, modify, change, or add to any packaging, promotional material or labels accompanying same or affixed thereto*), except as may be authorized, in writing, by **PMI** from time to time. **PMI** reserves the immediate right, without prior notice and without liability, to modify, alter, improve, or change the design and/or specifications of, or discontinue the sale of and/or the manufacture of any particular model of any Product. If any such alteration, improvement, modification, or change is made, there will be no obligation on the part of **PMI** to: **(a)** repurchase or replace any such Products previously sold to **ISR**; **(b)** make such modification, alteration, improvement, or change on any Products to be shipped or sold to **ISR**; **(c)** make or offer a similar modification, alteration, improvement, or change on any Product or parts previously shipped to **ISR**; or **(d)** install or furnish any other or different parts than were on Products when shipment was made.

## **2.0 RELATIONSHIPS.**

**2.1 Relationship of Parties.** **ISR** represents and warrants that it has the necessary business and financial resources to fulfill its obligations hereunder. **ISR** further agrees to exert its best efforts to distribute the Products in accordance with the provisions hereof. Based in part on the foregoing representations and warranties of **ISR**, **PMI** is entering into this Agreement. It is expressly agreed between the parties hereto that the relationship hereby established is solely one of independent seller and buyer. **ISR** shall have sole control over the manner and means of conducting its business subject always to **ISR's** compliance herewith. No fiduciary, special, trust or family relationship is established hereby, nor is any such relationship intended by the parties to result from operation hereof, it being intended and agreed that the relationship created hereby is and shall at all times continue to be one of independent contractors whose relationship is governed solely by this Agreement. Nothing in this Agreement shall be construed as constituting **ISR** as a franchisee, attorney-in-fact, or legal representative of the **PMI** for any reason whatsoever. Neither **ISR** nor any director, officer, agent, or employee of **ISR** shall be, or be considered, an agent or employee of **PMI**.

Neither **ISR**, nor any director, officer, agent, or employee of **ISR** shall be entitled to any of the benefits provided to employees of **PMI**. **ISR** shall have the sole right to hire and fire its own employees and agents and, further, **ISR** shall be solely responsible for its acts and failures to act and the acts and failures to act of its employees and agents.

**2.2 No Agency, Joint Venture or Partnership.** Neither the making of this Agreement nor the performance of any part of this Agreement shall be construed in any circumstance to constitute **ISR** as an agent of **PMI** for any purpose, nor shall this Agreement be deemed to establish a joint venture or partnership between the parties hereto.

**2.3 Investment and Expenses.** The parties acknowledge that the operation of **ISR's** business, whether related hereto or otherwise, is subject to the sole control and management of **ISR**. **ISR** agrees that it has been and shall continue to be solely responsible for all expenditures and expenses connected with or related to **ISR's** investment in and operation of its business in the Territory, all of which shall be made at the sole discretion of **ISR**. Such expenditures include, but are not limited to, those amounts expended in connection with: hiring, training and maintenance of sales, management, technical, repair, delivery, administrative, or other personnel; equipment or facilities; salaries; commissions; insurance; rent; inventory; advertising and promotional costs; and taxes. **ISR** agrees that any and all amounts that may be expended or invested by **ISR** that in any way relate to the performance of this Agreement, shall be incurred and spent voluntarily by **ISR** based on its best business judgment. All decisions with respect to investment in and operation of **ISR's** business shall be made solely and exclusively by **ISR** and any suggestions that may be made by **PMI's** personnel shall not be prescriptive or requirements of this Agreement, but shall be construed as advisory opinion only. The sole compensation of **ISR** in relation to this Agreement, its formation, performance and termination, shall be its commissions on the sale of the Products to Customers within the Territory.

**2.4 No Authority to Commit.** **ISR** is not authorized to, and shall not, create, enter into, or execute any contract, obligation, order, or other commitment, whether express or implied, which in any way obligates **PMI** in any manner to any third party, nor shall **ISR** take any action that has the effect of creating the appearance of **ISR** having such authority.

### **3.0 DEALER OBLIGATIONS.**

**3.1 Initial Order.** In order to qualify for a specific **ISR** status level, the **ISR** must place an order for the minimum amount of inventory that is in force for that level at the time of their sign up. The current **ISR Terms** may change over time at **PMI's** sole discretion.

### **4.0 ORDERS.**

**4.1 Order Acceptance or Rejection.** **ISR** shall, from time to time, submit to **PMI** purchase orders in accordance herewith for the Products. All orders placed by **ISR** shall be subject to acceptance or rejection by **PMI**. Notwithstanding any terms and conditions that may be a part of **ISR's** purchase order to **PMI**, all sales of Products made by **PMI** to **ISR** shall be governed solely and exclusively by the terms of this Agreement and **PMI's** standard terms and conditions, including those terms and conditions set out in **Schedule "A"** hereto.

**4.2 Pricing.** The commissions provided to **ISRs** for the Products covered by this Agreement, **FOB** one of **PMI's** facilities in either **St. Petersburg, FL, Tampa, FL or Carson City, NV** is a twenty **(20%)** percent commission calculated against the current "**net sales price**" of each product. **PMI** reserves the right to, and may change its prices, discounts, or terms of sale at any time and from time to time upon thirty **(30)** days' prior written notice to the **ISR**. Products that are sold to **ISRs** customers by **PMI** under the terms of this Agreement shall be sold to customers at the prices that shall be established by **PMI** and in effect at the time of the order. All deliveries of Products covered by this Agreement will be on the credit of the customer or **ISR** and will constitute sales made directly to customer. **PMI** reserves the right to offer volume or other discounts to the customer, whether they are other distributors, dealers or agents, or to end user customers.

**4.3 Payment and Shipping.** Payment for the Products ordered by **ISR** shall be made as follows:

**(a)** For all orders, **100%** of the invoice amount shall be paid by **ISR** or **ISR's** customer to **PMI** by credit card (*MasterCard, VISA, American Express or Discover*) or by **ACH Draft** of **ISR's** bank account. Qualifying customers will be billed "**Net 30 Days Terms,**" upon completion of an approved **PMI Credit Application**. All initial orders are C.O.D. or via credit card.

**(b)** Customers shall be responsible for paying for all shipping, insurance, brokerage and other similar costs relating to the delivery of Products from the **PMI** to the customer.

**(c)** **PMI** will use its best efforts to ship all accepted orders within fifteen **(15)** business days of the receipt of the applicable payment specified in **Section 4.3(a) and 4.3(b)** subject to the volume of orders and production schedules of the **PMI** at any particular time, which may delay such timing.

**4.4 Warranties; Exclusive Remedy.** Products sold by **ISR** from **PMI** shall be subject solely to the foregoing and **PMI's** standard warranty and the exclusive remedies. **PMI** reserves the right to change the terms of the warranty. **ISR** agrees to either include the warranty or include the language of the warranty in any sales contract, invoice, or other acknowledgement for the sale of Products made by **ISR**. **ISR** further agrees that it will not make any statement to any Customer, purchaser or user of any Product that could be construed as altering, extending, or expanding **PMI's** warranty or limitation of liability covering the Products, provided however that **ISR** may extend the Product warranty at its own cost and provided that such warranty extension results in no liability to the **PMI**.

**ISR** may not extend **PMI's** warranty in connection with the sale of Products if such Products have in any way been altered or modified by **ISR**, or if such Products are not to be used in strict conformity with **PMI's** specifications. **ISR** shall not in any way alter or modify Products (*or the parts or components thereof*) without the prior written authorization of **PMI**. Any warranty given by **ISR** with respect to Products that have been altered or modified by **ISR** or on behalf of **ISR** or any such additional warranty or representation made by **ISR** shall be void with respect to **PMI** and shall be the sole responsibility of **ISR**.

**4.5 Exclusion of Consequential Damages; Limitation of Liability.** IN NO EVENT SHALL **PMI** BE LIABLE FOR ANY PENALTIES (INCLUDING, WITHOUT LIMITATION, ADMINISTRATIVE PENALTIES), SPECIAL, PUNITIVE, INDIRECT, INCIDENTAL, OR CONSEQUENTIAL DAMAGES, HOWEVER OCCURRING, INCLUDING BUT NOT LIMITED TO, DAMAGES FOR ECONOMIC LOSS, LOSS OF GOODWILL, LABOR COSTS, LOSS OF PROFITS OR REVENUES, OR CLAIMS RESULTING FROM CONTRACTS BETWEEN DEALER, ITS CUSTOMERS, END-USERS AND/OR SUPPLIERS, REGARDLESS OF WHETHER ANY OF THE FOREGOING ARISES FROM THIS DOCUMENT OR **PMI'S** PERFORMANCE HEREUNDER OR IN CONNECTION WITH THE USE OF, OR INABILITY TO USE, THE PRODUCTS FOR ANY PURPOSE WHATSOEVER. Subject always to the foregoing sentence, the total liability of **PMI** for any other kind of damages arising from any cause of action or claim whatsoever, whether: **(a)** in contract; **(b)** in tort (*including negligence, whether sole, joint, contributory, concurrent, or otherwise, but not including intentional, reckless, or wanton tort*); **(c)** under strict liability; **(d)** arising out of any representation or instruction, or under any warranty; or **(e)** otherwise arising out of, connected with, or resulting from the design, manufacture, sale, resale, delivery, repair, replacement, use or misuse of any Products or the furnishing of any service shall in no event exceed the price allocable to and paid to **PMI** for the individual unit of Products or service or part thereof which gives rise to the cause of action or claim. **PMI** and **ISR** acknowledge and agree that the exclusions of remedies and limitations of liability and damages herein reflect a bargained-for allocation and limitation of risk, liability, and damages. This Section shall apply notwithstanding any other provision of this Agreement.

**4.6 All Sales Final.** All sales to the **ISR's** customers are final. No products may be returned without prior written authorization from **PMI**.

**4.7 Sales Promotion; Actions by ISR.** ISR agrees that it will use its best efforts to sell and actively promote, in all lawful ways, the sale and distribution of the Products in the Territory. ISR shall not make any representation or statement to prospective purchasers, Customers or end-users of Products in connection with the manufacture, installation, repair, replacement, use, selection of materials, or operation of the Products or other terms or conditions of the sale thereof, except as specifically authorized by PMI. ISR agrees not to recommend Products for unsuitable applications or any application not recommended by PMI. ISR agrees to not publish and to not permit to be published, any testimonials, photographs, or statements of any person concerning PMI or the Products without first obtaining the written consent of PMI. ISR shall not engage in any activity that would in any way diminish or detract from the sales potential of the Products or their attractiveness to potential buyers or users thereof.

ISR agrees to promptly advise PMI of any complaints with respect to Products. ISR shall make clear with customers and prospective customers that it is acting as an ISR of the Products and not as agent of the PMI. Accordingly, the ISR shall: (a) not pledge the credit of PMI or give any condition or warranty or make any representation on behalf of the PMI or commit the PMI to any contracts nor, without the prior written consent of PMI, make any promises or guarantees with reference to the Products beyond those contained in the promotional material supplied by PMI or otherwise incur any liability on behalf of the PMI.

**4.8 ISR's Business.** ISR warrants and represents to PMI that ISR has, and agrees that it will maintain during the term of this Agreement, all resources (*may include equipment, facilities, materials, and knowledgeable personnel*) necessary to actively promote the Products. ISR shall inform PMI immediately of any changes which might affect the performance of its obligations hereunder.

## **5.0 PMI OBLIGATIONS.**

**5.1 Sale of Products.** PMI agrees that ISR's sole compensation under the terms of this agreement shall be a commission of twenty (20%) percent of the net amount of the sales transaction to each customer for which they are the acting ISR for PopStops® sales transactions during the month.

**5.2 Basis of Commission.** Commission shall be computed on the "Net Sales Amount" invoiced by PMI to the ISR, or its customer, provided no commission shall be paid with respect to charges for handling, freight, taxes, C.O.D. charges, insurance, tariffs and duties, cash and trade discounts, rebates, amounts allowed or credited for returns, uncollected or uncollectible amounts, services, and the like. These include discounts or promotional pricing that are provided directly to customers.

**5.3 Time of Payment.** The Commission for a given order shall be "earned" by ISR when payment for Orders from the ISR, or their customer, is received by PMI. The Commission on a given Order shall be due and payable on the tenth (10th) day after the end of the calendar month in which PMI ships that Order.

**5.4 Commission Charge-Back.** PMI shall have the right, while this Agreement is in effect, to write-off as bad debts such amounts overdue from the **ISR** 's customers as it deems advisable after notifying the **ISR** and providing the **ISR** the opportunity to attempt to induce payment. In each such case, **PMI** may charge back to **ISR**'s account only any amounts previously paid to **ISR**. If such accounts are paid at any time during the term of this agreement, **ISR** shall be entitled to the applicable commissions.

**5.5 Monthly Statements and Payments.** PMI shall submit to **ISR** monthly statements of commissions due and payable to **ISR** under the terms of this Agreement, with reference to the specific orders on invoices on which commissions are being paid. **PMI** will generate a **“Commission Payment”** via check by mail for all commissions due from the prior month's sales activities. **ISR** must provide either a Federal ID # or a Social Security Number so that **PMI** can issue **1099s** at the end of each calendar year for all commissions earned. All questions and/or disputes may be e-mailed to **PMI** to [info@popstops.com](mailto:info@popstops.com).

**5.6 No Commission in Certain Circumstances.** PMI will not be required to pay the **ISR** a commission in any of the following circumstances:

- if an order does not contain the Sales Rep ID Number.
- on any sales outside the territory.
- on any sale to any customer that is already directly or indirectly a customer of **PMI**.

**5.7 Consultation.** PMI agrees, at reasonable times during business hours, to make itself available for technical advice and consultation in connection with the sale of the Products. Such assistance shall be without charge to **ISR**, except as may be otherwise mutually agreed.

## **6.0 INTELLECTUAL PROPERTY RIGHTS.**

**6.1 Intellectual Property Ownership.** **ISR** recognizes and agrees that all intellectual property rights relating to the Products, **PMI**, and/or to this Agreement, including but not limited to all trademarks, service marks, copyrights, patents, trade names, trade secrets, logotypes, advertising and other commercial symbols, and goodwill (**collectively, “Intellectual Property”**), whether registered or not, used on or related to the Products or **PMI**, are and shall remain the sole property of **Mascot Marketing Inc**, which is marketed exclusively by **PopStops Marketing, Inc**. Nothing in this Agreement shall be deemed to confer upon or transfer to **ISR** any right, title, interest, or license, whether express or implied, in or to any of **PMI's** Intellectual Property. **ISR** further agrees to immediately report to **PMI** any illegal use or infringement of **PMI's** Intellectual Property.

**6.2 Use of Marks and Names.** **ISR** covenants and agrees that it will not during the term hereof or at any time thereafter, adopt or use **PMI's** Intellectual Property, without prior written approval of **PMI**. **ISR** covenants and agrees not to remove, alter, deface, conceal, or add to any trademark, trade name, service mark, label, marking, logo, decal, type, or serial number that may be affixed to or marked on the Products, and **ISR** shall take all reasonable steps to ensure that any trademark, trade name, service mark, label, marking, logo, decal, type, or serial number affixed to or marked on the Products is not removed, altered, or defaced by others.

**ISR** will not use the corporate name of **PMI** or any trademark, service mark, trade name or other Intellectual Property of **PMI**, in or on any of its telephone directory listings, letterheads, business cards, or other office or business supplies in a manner or form without the prior written approval of **PMI**. **ISR** shall not use the Intellectual Property in any way which would tend to allow any of it to become generic, lose its respective distinctiveness, become liable to mislead the public or be materially detrimental to, or inconsistent with, the good name, goodwill, reputation and image of **PMI**. The **ISR** shall immediately report to **PMI** any potential infringement in the Territory of **PMI's** Intellectual Property and shall assist **PMI** in protecting its right, title and interest therein. The **ISR** shall immediately report any imitation of the Products to **PMI**.

**6.3 Confidentiality.** **ISR** agrees that all know-how, drawings, blueprints, manuals, letters, notes, notebooks, reports, sketches, formulae, memoranda, dealer pricing, sales and technical bulletins, service manuals, customer lists, and all other material and specifications furnished by **PMI** to **ISR** pursuant to or in connection with this Agreement that in any way relate to the Products and/or **PMI's** business (**collectively, "Confidential Information"**) shall be and remain the sole and exclusive property of **PMI**. **ISR** acknowledges and agrees that Confidential Information is and will be comprised of valuable trade secrets of, and is proprietary to, **PMI**, and shall be used only as directed by **PMI** in writing and then only to the extent necessary to acquaint potential purchasers of Products with the use thereof. **ISR** covenants and agrees that it will not at any time during the term hereof or at any time thereafter use such Confidential Information for its own benefit or disclose or allow to be disclosed any such Confidential Information to any third party, including prospective purchasers, except in accordance herewith. The foregoing obligations shall not extend to information that is or becomes public through no fault of **ISR**, its agents, owners, officers, directors, or principals. **PMI** may notify anyone doing business with **ISR** or evidencing an intention to do business with **Dealer** as to the existence and provisions of this Section.

## **7.0 TERM.**

**7.1 Term.** This Agreement shall continue in full force and effect for a period of one year from the date of the Effective Date of this Agreement ("**Term**"), unless terminated earlier under the provisions of this Agreement. Thereafter, this Agreement shall be renewed automatically for successive additional one (1) year terms under the same terms and conditions unless either party chooses not to continue the relationship and provides written notice thirty (30) days prior to the natural expiration of the existing one (1) year term.

**7.2 Access.** Upon termination of this Agreement, **ISR** will no longer have access to [www.popstops.com](http://www.popstops.com) with "**ISR**" credentials.

**7.3 Return of Materials.** All Confidential Information and other property belonging to **PMI** shall remain the property of **PMI** and will be returned by **ISR** upon termination. **ISR** shall not make any copies of any Confidential Information that may have been entrusted to it.



## **8.0 NON-COMPETITION/SOLICITATION.**

**8.1 Sale of Conflicting Products.** **ISR** agrees that it will not at any time during the term of this Agreement market, distribute, offer for sale or sell any competitors' product(s).

**8.2 Non-Solicitation of Respective Customers.** During the term of this Agreement and for a period of two (2) years following the termination of this Agreement, **ISR** agrees not to directly or indirectly solicit, contact or otherwise seek business from any client or customer of **PMI** whose identity may have been discovered during the Term of this Agreement. The provisions of this **Section 8.2** shall remain in full force and effect after the termination of this Agreement.

**8.3 Non-Solicitation of Respective Employees.** During the term of this Agreement and for a period of two (2) years following the termination of this Agreement, **PMI** and **ISR** mutually agree not to directly or indirectly solicit, contact or otherwise induce or attempt to induce any officer, director, or employee to leave the other party. The provisions of this **Section 8.3** shall remain in full force and effect after the termination of this Agreement.

**8.4 Non-Disparagement.** **ISR** agrees that he or she, it's agents, officers, directors and owners will not, in any communication with the press or other media (*including but not limited to the internet and social media*) or any customer, Account, client or supplier of **PMI**, or any of **PMI's** successors, subsidiaries, divisions, alter egos, affiliated corporations and related entities, criticize, ridicule or make any statement which disparages or is derogatory of **PMI** or its successors, subsidiaries, divisions, products, alter egos, affiliated corporations and related entities, or any of their respective directors, officers or employees. The provisions of this **Section 8.4** shall remain in full force and effect after the termination of this Agreement.

## **9.0 MISCELLANEOUS.**

**9.1 Representations.** **ISR** represents and warrants that it has full power and authority to enter into and perform its obligations under this Agreement, and that the execution and delivery of this Agreement and the occurrence of the terms, provisions and obligations herein do not constitute a breach or violation under any instrument by which it is bound, or a breach of violation of or a default under any order, statute, rule, regulation, or code of professional conduct or ethics to which it is or may be a party, or to which it is or may be subject.

**9.2 Assignment or Transfer Prohibited.** This Agreement and the rights and duties of **ISR** hereunder are not assignable, transferable, or subject to delegation by **ISR** without the prior written consent of **PMI**, which consent may be unreasonably withheld or delayed, and any attempted assignment, transfer, or delegation without such written consent shall be null and void.

**9.3 Severability.** If any one or more provisions of this Agreement shall be unenforceable, such unenforceability shall not affect the other provisions of this Agreement. To the extent permitted by applicable law, the parties hereto waive any provision of law that renders any term or provision hereof unenforceable in any respect.

**9.4 Amendment Waiver.** Any amendment or modification to this Agreement shall not be binding upon either party unless agreed to in writing by authorized representatives of each party. No delay or omission on the part of either party in exercising any right hereunder will operate or be construed as a waiver of that right or of any other right hereunder, nor will any delay or omission operate as an estoppel to the future exercise of that right, nor will any delay, omission, or waiver on any one or more occasion be deemed a waiver of that right, or any other right on any future occasion.

**9.5 Notices.** Any notice required to be given by this Agreement or otherwise by either party, shall be considered properly and timely given when sent by prepaid courier, e-mail, first class, registered, or certified mail, return receipt requested, and addressed to the other party at the address set forth at the beginning of this Agreement or to such other address as may be designated by either party from time to time. Any such notice will be deemed to be delivered upon actual receipt by the recipient.

**9.6 Entire Agreement.** This Agreement sets forth the entire agreement and understanding between the parties regarding the subject matter hereof, and merges all prior discussions and negotiations, verbal or written, between them. Neither of the parties shall be bound by any conditions, definitions, representations, or warranties, verbal nor written, with respect to the subject matter of this Agreement other than as expressly provided herein. This Agreement supersedes and is in lieu of all existing agreements or arrangements between the parties hereto relating to the subject matter hereof. No course of dealing between the parties, no usage of trade, and no parole or extrinsic evidence of any nature shall be used to supplement or modify any of the terms or conditions of this Agreement or shall be construed as creating a new contract.

**9.7 Counterparts; Section Headings.** This Agreement may be executed, accepted, and delivered in any number of counterparts, electronic signature, and by facsimile transmission, each of which shall be an original, but such counterparts together constitute but one and the same instrument. The section headings are inserted for convenience only and are not to be construed as part of this Agreement.

**9.8 Governing Law.** This Agreement shall be deemed to have been negotiated, executed, delivered, and entered into in the State of Florida, and this Agreement, and its formation, operation, and performance shall be governed, construed, interpreted and enforced solely and exclusively in accordance with the laws and courts of the State of Florida, without giving effect or consideration to the conflicts of laws or rules thereof and the parties hereby attorn to the exclusive jurisdiction of the courts located in Pinellas and Hillsborough County, Florida.

**9.9 Arbitration.** Any controversy or claim arising out of or relating this Agreement, or the breach thereof, shall be settled by arbitration administered by the **American Arbitration Association** in accordance with its **Commercial Arbitration Rules**. The arbitrator hearing shall take place in Pinellas County, Florida before a single arbitrator. Judgment on the award rendered by the arbitrator may be entered in any court having jurisdiction thereof.

Notwithstanding the foregoing, either party may immediately bring a proceeding seeking preliminary injunctive relief in a court having jurisdiction thereof which shall remain in effect until a final award is made in the arbitration.

**9.10 Survival.** The parties' obligations under section **5, 6, 8, 9.1, 9.4, 9.5, 9.6, 9.7, 9.8, 9.9, 9.10,** and **9.12** shall survive the termination of this Agreement.

**9.11 Taxes.** All amounts required to be paid by **PMI** to **ISR** under this Agreement are exclusive of any and all duties and taxes, however designated, levied or based on this Agreement or the services provided hereunder, including, without limitation, any personal property, retail sales, goods and services, use or value added taxes and whether such taxes are now in force or subsequently levied. **ISR** shall pay and be responsible for all such taxes in the event of a levy or lien due to non-payment of taxes. The failure to pay taxes in accordance with law resulting in penalties, liens, or levies, shall constitute a breach of this Agreement. **PMI** shall not be responsible for any federal, state, local or foreign tax on, or measured by, the net income of **ISR**, or any fines, penalties, or interest imposed as a result of the misconduct or negligence of **ISR**. **PMI** shall not be liable for and shall not be obligated to withhold any federal, state or local income tax, or FICA, FUTA, or SUI contributions on behalf of any individual assigned by **ISR** who provides the Services or sells goods hereunder.

**9.12 Binding on Successors.** This Agreement shall be binding on, and inure to the benefit of, the Parties to it and their respective heirs, legal representatives and successors.

**9.13 Time of the Essence.** Time shall be of the essence herein.

**9.14 Force Majeure.** No party shall be liable for any failure to perform its obligations herein (*except the obligation to make timely payment*) if such failure results from any act of God, riot, civil unrest, flood, earthquake, or other cause beyond such party's reasonable control, including without limitation any mechanical, electronic or communications failure, strike, work disruption, sickness, disruption of the supply of utilities or failure of suppliers to make timely deliveries.

## **EXHIBIT “A”**

### **PMI'S STANDARD ORDERING PROCEDURES FOR ISRs**

**PMI** will allow the **ISR** to use the **PopStops® Website** ([www.popstops.com](http://www.popstops.com)) to place orders on behalf of their customers directly. This process would allow them to “**Add New Customers**” as if the end user was placing the order themselves. They could then complete the order process by entering all of the **PopStops®** items into the shopping cart that their customer wants to purchase from **PopStops®**. No discounts can be provided during this shopping cart methodology.

At checkout, the **ISR** would enter the consumer’s credit card information as the payment method. During this checkout process, the **ISR** will be prompted to enter either their “**Referral ID #**” or other method of identification in which they will be assigned a “**unique number**” exclusively for the **ISR**.

The **ISR** will enter this code/number at this point to insure that they are properly identified with the transaction. The order will ship directly from **PopStops®** to the consumer or the **ISR** to the address defined during the shopping cart process.

On the **10th** day of the following month, the **ISR** will receive their **ISR** margins they are entitled to for the transaction. A check will be issued, along with a commission report, for all transactions that are eligible for payment during the prior month’s sales cycle that were collected for payment.

If the **ISR** wants to get their discount immediately upon login, then they need to use their **ISR ID #** at the time of login and purchase the products directly from **PopStops®** using their own credit terms and/or payment method. They will receive their discounts immediately and they will then be responsible for collecting the funds and sales tax directly from their consumer.

This option just provides the **ISR** an alternative method of performing a sales transaction when they may be in the field at a trade show, special event or if they find it just more convenient.

#### **Marketing Materials**

**PMI** will provide printed brochures and other marketing materials with all shipments of Products, as requested by the **ISR** for each shipment. **PMI** may at any time specify cost sharing arrangements regarding any brochures and other marketing materials.