

CE DEALER AGREEMENT

This agreement is made this ____ day of _____, 20 ____ between Furman, a Division of Panamax Inc. ("Furman"), a California corporation located at 1690 Corporate Circle, Petaluma, CA 94954 and _____ ("CE Dealer"), d/b/a _____ a (circle one) Corporation, Partnership or Sole Proprietorship located at: _____.

IN CONSIDERATION OF THE MUTUAL PROMISES HEREIN CONTAINED, THE PARTIES AGREE AS FOLLOWS:**1. Appointment and Acceptance.**

A. Appointment. Dealer is hereby appointed as an Authorized Dealer for the sale of products manufactured and/or distributed by Furman C E products and selected Pro or PF Power products. This appointment is limited to only those categories of products as Furman shall from time to time, in its sole discretion, authorize Dealer to purchase from Furman (hereafter referred to as the "Products.") Furman's current schedule of product categories are set forth in Furman CE price lists which are updated periodically. Dealer shall be an independent contractor under this agreement, and shall have no authority to assume or create any obligation on behalf of Furman.

B. Non-Exclusivity. Dealer's appointment hereunder shall be non-exclusive.

C. Acceptance. Dealer hereby accepts its appointment and agrees to satisfy each of the obligations hereunder.

2. Dealer's Responsibilities.

A. Sales Program and Environment. Dealer agrees to sell the Products to retail and custom installation customers through a sales program intended to promote the unique design and technical qualities of the Products. Dealer shall promote and sell the Products in accordance with the sales and advertising plans and policies of Furman as announced from time to time and shall make use of all promotional materials supplied by Furman. Dealer shall use its best efforts, at all time, to display a representative number of Products in an attractive environment conducive to the display, demonstration and sale of such Products.

B. Minimum Annual Purchases. Dealer shall make purchases of Products from Furman in the minimum amount of ten thousand dollars (\$10,000.00) per calendar year, per outlet.

C. Retail Sales Only. Dealer shall not sell the Products directly or indirectly to any person other than a retail or custom installation customer. Dealer shall not transship the Products or sell the Products to other retailers, "one-stops," wholesalers or distributors in the trade. Channel authorization is granted via the "Dealer Agreement Rider". Furman also prohibits dealer from selling Products on the **Internet/World-Wide-Web or by Mail Order without prior approval.**

D. Compliance with Laws. Dealer shall conduct its business at all times in strict compliance with all applicable federal, state and local laws and regulations. Dealer shall at no time engage in any unfair or unethical trade practice, such as "bait and switch" advertising and shall make no false or misleading representations with regard to Furman or the Products. Dealer shall make no warranties or representations to customers or to the trade with respect to the Products except as may be approved in writing by Furman.

E. Dealer Location. Dealer shall maintain a retail store(s), showroom(s), or systems integrator facilities at the location(s) specified in the "Dealer Agreement Rider" attached hereto as Appendix A for the sale of Products, and shall not offer Products for sale at any other location(s) without the express written consent of Furman.

F. Furman Policies. Dealer shall comply with all marketing, advertising and sales policies and plans as announced by Furman and/or included in this agreement and/or attachments hereto.

3. Term.

A. Term. This Agreement shall be effective from the date of its execution continuously until terminated by either party as described in section 3.B. below.

B. Termination. This Agreement may be terminated by either party hereto, without cause, upon giving thirty (30) days written notice. Furman shall additionally have the right to terminate this Agreement for cause upon ten (10) days prior

written notice. The term "for cause" shall include, but not be limited to, the nonperformance of any of Dealer's obligations hereunder, Furman's disapproval of any matters subject to Furman's consent or approval hereunder, or any other action or omissions by Dealer which in Furman's sole judgment adversely affects the interest of Furman in promoting or marketing of any of its Products. Upon termination or expiration of this Agreement, Dealer shall return to Furman, if requested, any and all Furman literature, displays and other promotional materials provided to Dealer.

4. **Exclusions of Implied Warranties and Damages for Defects:** Furman's sole obligations concerning any of its Products shall be limited to those stated in its written warranty. Any and all implied warranties with respect to Products sold by Furman to Dealer INCLUDING BUT NOT LIMITED TO, IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE, HEREBY ARE EXCLUDED. Unless otherwise provided by applicable law, Furman's liability, if any, to Dealer for any allegedly defective Products shall, under any legal or equitable theory be limited to repair or replacement of the Products or parts at Furman's option, and Furman SHALL NOT BE LIABLE TO DEALER FOR ANY DAMAGES, WHETHER INCIDENTAL, CONSEQUENTIAL OR OTHERWISE, BECAUSE OF PRODUCT OR PARTS DEFECTS.

5. **Product Price/Cost.**

A. Price. Furman shall inform and advise Dealer as to the current prices for Products. Such prices shall be determined in the sole discretion of Furman. Furman may change its prices to Dealer, from time to time, without prior notice, and the changes herein shall apply to any orders that have not been shipped prior to such change.

B. Prepaid Freight. Furman will allow prepaid freight costs to the Dealer on all orders for \$1,000 or more, as long as, the Dealer consistently pays their account with Furman within payment terms. Furman reserves the right to terminate this prepaid freight benefit if the dealer becomes delinquent on their account with Furman.

6. **Credit and Financial Requirements.**

A. Financial Representations. Dealer represents and warrants to Furman that Dealer is in good and substantial financial condition and is able to pay all bills when due. Dealer shall from time to time furnish any financial statements or additional information as may be requested by Furman to enable Furman to determine Dealer's financial condition. Furman may at its option refuse any order placed by Dealer if in the sole discretion of Furman; Dealer's credit has become impaired.

B. Credit and Payment / Terms of Sale. Terms of sale will be offered by Furman ranging from C.O.D. to open account credit, solely at the option of Furman. Furman reserves the right, at all times, to modify credit or payment terms with respect to any pending or future shipments, notwithstanding any previous terms with Dealer. Acceptable forms of payment for accounts with open payment terms include: check, wire transfer or electronic funds transfer.

6. **Trademarks and Trade Names:** During the term of this Agreement, Dealer is authorized by Furman to use, subject to the provisions of this Agreement, the Furman service mark, trademark or trade style, and any service marks, trademarks or trade styles owned or used by Furman with respect to the Products, only in connection with Dealer's sales, advertisement and promotion of Products within the product categories authorized for Dealer hereunder. Dealer is further authorized, during the term of this Agreement, to represent itself as an "Authorized Furman Dealer."

7. **Orders and Risks of Shipment.**

A. Acceptance of Orders. Each order submitted by Dealer is subject to Furman's acceptance.

B. Risk of Loss. Regardless of whether Dealer or Furman pays or advances freight or insurance charges, all risk of loss or damage to the Products in transit shall be borne by Dealer, commencing with the placement of Products in the custody of a carrier or shipping agent. Furman shall use reasonable efforts to assist in the coverage or recovery of Products lost or damaged, including obtaining proof of delivery and tracing lost Products.

C. Exclusion of Damages. Furman shall endeavor to ship the Products within a reasonable time. HOWEVER, Furman SHALL NOT BE LIABLE TO DEALER FOR ANY DAMAGES, WHETHER INCIDENTAL, CONSEQUENTIAL OR OTHERWISE, FOR FAILURE TO FILL ORDERS, DELAYS IN SHIPMENT OR DELIVERY OR ERROR IN THE FILLING OF ORDERS, FOR ANY REASON WHATSOEVER.

8. **Non-Assignability:** Dealer has been appointed as an Authorized Dealer for the Products because of Furman's confidence in Dealer, which confidence is personal in nature. Dealer may not assign, transfer or sell all or any of its rights under this Agreement (or delegate all of any of its obligations hereunder) without the advance written consent of Furman.

9. General Provisions:

- A. Indemnification.** Dealer shall indemnify and hold Furman harmless from all liability, claims, actions, damages and/or costs, including attorneys’ fees, arising from or connected with any default by Dealer of any of Dealer’s responsibilities herein, any unauthorized representation by Dealer or its agents as to the Products, or any installation, modification, customization or alteration of any Products by Dealer.
- B. Severability.** In the event any provision, interpretation, or application of this Agreement shall be deemed to be invalid, inoperable or unenforceable for any reason, the parties hereby declare their desire that only such invalid, inoperable or unenforceable provision, interpretation or application be thereby rendered invalid, inoperable or unenforceable and that the remaining provisions, interpretations and applications shall be effective and enforceable.
- C. Entire Agreement.** The parties hereto declare and represent that no promise, inducement or agreement not herein expressed has been made to them, that this document embodies and sets forth the entire agreement and understanding between them relating to the subject matter hereof, and that it merges and supersedes all prior discussions, agreements, understandings, representations, conditions, warranties and covenants between them on said subject matter.
- D. Time is of the Essence.** Where any act is to be performed by either party hereto under the terms of this Agreement, time shall be deemed of the essence in the performance thereof.
- E. Governing Law.** This Agreement, and the rights and obligations created or allowed hereunder, shall be interpreted under and enforced in accordance with the laws of the State of California.
- F. Attorneys’ Fees.** In the event any arbitration, legal action or proceeding is instituted to construe, interpret, enforce or avoid the terms of this Agreement, the prevailing party shall be entitled to recover, in addition to all other available remedies, all costs and reasonable attorneys’ fees which may be determined in the principal action or in a later action brought for that purpose.
- G. Notices.** All notices or other communications required or permitted herein shall be given or made when sent by registered or certified mail , postage prepaid, addressed to the party to whom the notice is being given, at the address for such party set forth herein or at such address as either party may communicate with the other party.

IN WITNESS HEREOF, THE UNDERSIGNED HAVE FINALLY EXECUTED THIS AGREEMENT EFFECTIVE AS OF THE DATE FIRST WRITTEN ABOVE.

FULL LEGAL NAME OF CE DEALER

D/B/A (IF DIFFERENT FROM LEGAL NAME)

NAME (TYPE OR PRINT)

SIGNATURE

TITLE

DATE

FURMAN, a Division of Panamax Inc.

NAME (TYPE OR PRINT)

SIGNATURE

TITLE

DATE

**CE AUTHORIZED DEALER LOCATION LISTING
(CE Dealer Agreement — Appendix A)**

Pursuant to the Furman Authorized CE Dealer Agreement attached hereto _____ (CE Dealer) at _____ (location) is authorized to display, demonstrate and sell Furman or PF Power products from the following locations:

STORE FRONT LOCATION OR NAME	ADDRESS	TELEPHONE

For additional locations, this document may be amended by attaching a list of locations approved by designated Furman staff.

CE DEALER SIGNATURE: _____ **DATE:** _____