

RETAILER/INSTALLER AGREEMENT

This Agreement ("Agreement") is made and entered on the Effective Date (defined below) by and between Vortex Fluid Optimizer Corp., a Mississippi corporation, whose address is 1161 James Street, Hattiesburg, MS 39401 ("us," "we," "our," or "Vortex") and the undersigned party whose name and address is set forth on the signature page hereof ("you," "your," or "Undersigned").

WITNESSETH

WHEREAS, Vortex is the owner of certain Licensed Technology (defined below) that it manufactures and sells in various product forms under specified licensed arrangements, and the Undersigned desires to sell and install one or more of such product(s) under such arrangements as provided herein,

NOW THEREFORE, for and in consideration of the mutual terms, covenants and conditions herein, the parties do hereby agree as follows:

I **DEFINITIONS**

As used herein, capitalized terms will have the meanings set forth below. Any reference to the singular includes the plural and visa versa.

Effective Date shall mean the date set forth on the signature page hereof.

Licensed Technology means any Vortex patent and patent applications (inclusive of substitutions, extensions, reissues, renewals, divisions, and continuations), know-how, inventions, practices, methods, knowledge, skill, experience, test data and cost, sales and manufacturing data relating to the Licensed Product.

Licensed Marks means any Vortex name, logo, mark, name, trademark, trade name, trade dress, service marks or other commercial symbols of or relating to Vortex or the Licensed Products.

Licensed Product means the Vortex products identified as such on Schedule A hereof.

II **TERM OF AGREEMENT**

Unless sooner terminated as provided herein, the term of this agreement is one (1) year commencing on the Effective Date, provided that, the term may be extended automatically for successive one (1) year periods. Either party may terminate this Agreement by providing the other party with forty five (45) days prior written notification.

III **APPOINTMENT AND** **GRANT AND ACCEPTANCE OF RIGHTS**

3.01. Subject to the other terms and conditions herein, we hereby grant you and you accept the following:

- (i). a non-transferable, non-exclusive, limited license to market and sell the Licensed Product purchased from us to third parties, and
- (ii). a non-transferable, non-exclusive, limited right to use the Licensed Marks in connection with such sale or attempts to sell the Licensed Product.

No other rights or privileges are granted or conferred to you by us. All rights granted herein are limited to the United States.

3.02. You agree to install the Licensed Product in accordance with our current Installation Manual and installation sheets which we may amend, modify or alter from time to time.

3.03. Concurrent with the execution hereof, you will have made the initial purchase of the Licensed Product as provided in Article II of Schedule A.

IV **RIGHTS TO LICENSED TECHNOLOGY** **AND LICENSED MARKS**

Any and all Licensed Products and Licensed Technology constitute our patented and/or our other proprietary rights and information, in which you do not have and will not have any rights or interests of any kind or nature not expressly granted by this Agreement. All improvements, alterations, and changes of any nature to the Licensed Products, Licensed Technology, or Licensed Marks will become our absolute property irrespective of whether such improvements were developed wholly or partially by you, your employees, your consultants or your representatives. You are not authorized to include the Licensed Marks, or any derivation of them, in your corporate name, partnership name or other entity or business name.

V **ORDERS.**

5.01. All orders by you to us for Licensed Products shall be made on Vortex purchase order forms and shall include such information as we may reasonably require. We may accept or reject orders for any reason deemed reasonable by us, including your credit issues.

5.02. The terms of an order shall govern the sale of the Licensed Product covered by the order, to the extent that such terms are consistent with the terms of this Agreement. You shall not include any terms, conditions or other provisions in an order that are not approved by us and any such terms added by you to an order shall be void and of no effect. The provisions of your purchase order form or other business forms will not apply to any order notwithstanding our acknowledgment or acceptance of such order. In the event of a conflict between the terms of this Agreement and the terms of any order or order form, the terms of this Agreement shall prevail.

5.03. We will in good faith endeavor to meet all shipment and delivery dates in accepted orders, but such dates are estimates only, and we will not be responsible for any delays or other failure to meet shipping or delivery dates.

VI **PRICES AND PAYMENT**

6.01. Prices for the Licensed Product purchased by you shall be in accordance with our Pricing Schedule and Policy described on Schedule A hereto. All prices on each Schedule A exclude shipping costs, installation costs, and sales tax. We shall have the right to change the pricing of the Licensed Product, in which event we will give you 30 days' prior written notice of price adjustments.

6.02. Payment for Licensed Product purchased by you will be paid as follows; fifty percent (50%) will be due on order placement, with the balance paid within fifteen (15) days from order shipment. We may revoke such

account terms should you fail to make payments according to the terms set out above. No subsequent order(s) will be shipped unless the invoice for the prior shipment has been paid.

6.03. All of our prices for Licensed Product are f.o.b. at our designated manufacturing or shipping place in the United States. You will be responsible to pay all shipping costs. Risk of loss shall pass to you upon the placement of Licensed Product with a carrier for shipment. Unless you provide specific shipping instructions at the time of order, we will ship to your address set forth in this Agreement. Throughout the Term, you will open and maintain in good standing a shipping account with United Parcel Service. In certain instances we, at our discretion, may ship through another carrier, but at all times at your expense. All arrangements for transportation and insurance will be made by us for your account. We may refuse shipment if your account is not in good standing or we are charged for prior shipments to you that have not been paid by you.

VII

YOUR COVENANTS AND AGREEMENTS

As consideration for entering into this Agreement, during the Term, you covenant and agree as follows:

- (i). You agree to conduct your business in a manner that will not commercially injure or disparage us, the Licensed Product, the Licensed Technology or our business.
- (ii). You will adhere to our Policies and Procedures Guide, which we may amend, modify or alter from time to time.
- (iii). You will collect and pay all required sales and other taxes to each governmental agency as required under the governing laws and regulations.
- (iv). You will not use the internet in any way, including through such sites as Ebay and Craig's List, to sell the Licensed Products, except that you may maintain a website for your business but you may not effect sales through the website or list prices of the Licensed Product.

VIII

SPECIFIC MARKET LIMITATION

Each of our products is or will be sold to a specified market which we have determined in our sole discretion. The applicable Schedule A, which you are subject to, identifies the Licensed Product and the corresponding specified market. In this regard, you hereby covenant and agree as follows;

- (i). you will sell and/or market the Licensed Product only to the corresponding specified market on the applicable Schedule A,
- (ii). you will not, directly or indirectly through others, sell and/or market a Licensed Product outside of the corresponding specified market on the applicable Schedule A, and
- (iii). you will not, directly or indirectly through others, assist in or knowingly facilitate the use of Licensed Product for a market other than its corresponding specified market on the applicable Schedule A.

IX

GUARANTY RETURNS

On the Licensed Product, we provide a 90 day money back guaranty. If any purchaser of a Licensed Product is paid a refund by us and you received a discount on such product, then we will bill you for, the difference between the price you paid us for the product and the price you charged the customer for such product (inclusive of any sales tax). This will be due immediately upon your receipt of our invoice. If you fail to pay such amount, we may, among other rights herein, offset other amounts or discounts due you on future product shipments or terminate further shipments to you.

X
TERMINATION

Upon termination of this Agreement for any reason;

- (i). You will immediately cease and abandon conducting any business relating to this Agreement, including the use of any material containing the Licensed Marks and surrender to us all business cards, stationery, letterhead, and other promotional material relating to the business containing the Licensed Marks, and
- (ii). You will immediately pay us any amounts which you owe us under this Agreement.

XI
INDEMNIFICATION AND
FURTHER COVENANTS

11.01. Indemnification. You hereby indemnify and hold us (and our officers, directors, members, representatives, and employees) harmless and their respective heirs, transferees and assigns from any and all claims, causes of actions, proceedings, investigations, judgments, damages, and settlements, including legal fees and other expenses, arising out of or in any way connected with (i) the activities of your business, (ii) the prior activities of your business, and (iii) the breach by you of any representation, warranty, term, agreement, covenant or condition herein.

11.02. Additional Covenants.

- (i). You hereby acknowledge that the Confidential Information constitutes special, unique and valuable property of Vortex. Therefore, as additional consideration for the rights which we have granted you herein, you hereby covenant and agree that during the Term and at all times thereafter, you will not directly or indirectly through any third party in any way; (x) use, sell, transfer, or make available the Licensed Technology for any purpose or application except as authorized in this Agreement, (y) circumvent or attempt to circumvent any of our patents, (z) manufacture, replicate, or reverse engineer or attempt to manufacture, replicate, or reverse engineer the Licensed Product or any product similar in nature to the Licensed Product.
- (ii). Except as required in the operation of your business, you covenant and agree that, at all times during and after this agreement, you will not reveal or otherwise disclose to any person, firm, corporation, association or other entity any of the Confidential Information.

The above covenants apply to any of your affiliates, partners, stockholders, directors, officers, principals, contractors, sub-contractors, brokers, agents, employees, or consultants and any member of your immediate family, household, estate, personal representatives and/or heirs. You acknowledge that if the covenants of the Section 11.02 are breached by you the remedy at law may be inadequate, and therefore an injunction, specific performance or other forms of equitable relief or money damages or any combination thereof shall be available. All rights, claims, and remedies shall be cumulative and not exclusive of any rights, power and remedies at law or equity.

11.03. Additional Consideration. The agreements and covenants of Sections 11.02 each constitute separate agreements independently supported by good and adequate consideration, and each shall survive this Agreement. Any claim by you against us for any reason, whether predicated on this Agreement or otherwise, shall not constitute a defense to the enforcement of the covenants. If any part of these covenants are held to be illegal, invalid or unenforceable under any present or future law or by a court of competent jurisdiction, it is the intent of the parties that the scope of the non-compete covenant shall be reduced to conform to the requirements of the law.

XII **NOTICES**

Any notice, demand, request, instruction, or correspondence required or permitted to be given hereunder by any party to the other shall be in writing and delivered by a nationally recognized overnight courier service requiring acknowledgment of receipt of delivery (including USPS Express Mail), or by United States certified mail, postage prepaid and return receipt requested, to such party at the address below:

If to the Undersigned:

At the address set for the on the signature page hereof

If to Vortex

P.O. Box 506

W. Long Branch, NJ 07764

or at any such other address as the party may designate by notice in writing to the other party as provided herein. Notice shall be deemed given, received, and effective on: (i) if given by courier service, the date of actual receipt by the receiving party, or if delivery is refused on the date delivery was first attempted; or (ii) if given by certified mail, the earlier of: the date received, or the third day after being posted with the United States Postal Service. Any person entitled to notice or a copy of notice may change any address to which notice or a copy of notice is to be given to it by giving notice of such change of address as provided in this Section. The inability to deliver notice because of changed address for which no notice was given shall be deemed to be receipt of the notice as of the date such attempt was first made.

XIII **MISCELLANEOUS**

13.01. **Entire Agreement.** This Agreement constitutes the entire agreement between the parties hereto pertaining to the subject matter herein and supersedes all prior and contemporaneous agreements, understandings, negotiations and discussions among the parties, written or otherwise. No supplement, modification or waiver or termination of this Agreement shall be binding unless executed in writing by the party to be bound thereby.

13.02. **Incorporation By Reference.** All exhibits, schedules (including Schedule A), and documents referred to in this Agreement are incorporated herein for all purposes. Moreover, the recitals set forth above are likewise incorporated herein for all purposes.

13.03. **Severability.** If any provision of this Agreement is held to be illegal, invalid or unenforceable under any present or future law or by a court of competent jurisdiction, such provision shall be fully severable from the Agreement and this Agreement shall be construed and enforced as if such provision never comprised a part hereof and the remaining provisions of this Agreement shall be in full force and effect. Furthermore, in lieu of such illegal, invalid or unenforceable provision, there shall be added automatically as part of this Agreement, a provision as similar in terms to such illegal, invalid or unenforceable provision as may be possible as, ensuring, however, that such provision is legal, valid and enforceable.

13.04. **Assignment.** You may not assign in whole or in part the rights and privileges hereunder without written permission from us, which consent may not be unreasonably withheld. This Agreement may be assigned in whole or in part by Vortex.

13.05. **Governing Law.** This Agreement will be governed and construed in accordance with the laws of the State of Mississippi, with jurisdiction residing in the federal or state courts of Forrest County, Mississippi. Each party

hereby irrevocably waives personal service of process and consents to process being served in any suit, action or proceeding by mailing a copy thereof via registered or certified mail or overnight delivery (with evidence of delivery) to such party at the address in effect for notices to it under this Agreement and agrees that such service shall constitute good and sufficient service of process and notice thereof. Nothing contained herein shall be deemed to limit in any way any right to serve process in any manner permitted by law. If we are required to initiate legal or equitable action against you for any breach of any term, provision, covenant, representation, or warranty, you will be liable for all of our costs and expenses, including reasonable accounting and legal fees and court costs, related to such action.

13.06. Independent Contractor. In performing the services provided herein, you shall be deemed an independent contractor for all purposes including but not limited to the Federal Insurance Contribution Act, the Social Security Act, the Federal Unemployment Act and income withholding at the source. You shall not be construed to be an employee of Vortex. You shall be solely responsible for the payment of all self employment and federal and state income taxes and the filing of required estimated and informational returns relating to compensation received hereunder. No partnership, joint venture or other relationship is formed hereby. Neither you nor we shall make any express or implied agreements, warranties or representations, or incur any debt in the name of or on behalf of the other party. We shall have no liability to you other than as stated in this agreement.

13.07. Limitation of Liability. NEITHER PARTY WILL BE LIABLE TO THE OTHER PARTY FOR ANY SPECIAL, INCIDENTAL, OR CONSEQUENTIAL DAMAGES SUFFERED BY THE OTHER PARTY (INCLUDING SUCH PARTY'S AFFILIATES, EMPLOYEES, CONSULTANTS, OFFICERS, AGENTS, CUSTOMERS OR OTHER PARTY) ARISING OUT OF OR IN CONNECTION WITH THE PERFORMANCE OF THIS AGREEMENT OR ANY INCIDENT RELATED TO IN ANY WAY THE INSTALLATION OR USE OF THE LICENSED PRODUCT.

13.08. Interest on Past Due Amounts. All amounts past due under this Agreement bear interest at 12% per annum until paid.

IN WITNESS WHEREOF, the parties have executed this Agreement on this

the ____ day of _____, 2008.

Vortex Fluid Optimizer Corp.

By: _____
Louis H. Elwell, III
Chairman

Undersigned

Signature

Print Title (if any)

Print Name

Print SSN or EIN

Print Address

Company Name or D/B/A

Print Address

Print Address

Print Name of Vortex Independent Sales Representative

SCHEDULE A

[This Schedule A is attached to and made a part of an Retailer/Installer Agreement by and between the undersigned and Vortex Fluid Optimizer Corp (“Agreement”)]

I

LICENSED PRODUCT AND SPECIFIED MARKET

Licensed Product

Vortex Fuel Saver includes Individual Injection Line Modules

Specified Market*

Automobiles
Light trucks and vans

*For purposes of the Specified Market;

Automobiles includes passenger vans and SUVs, and

Light trucks and vans includes pick-up trucks, commercial vans, and commercial step-in vans (i.e. UPS type van) but excludes straight trucks, farm equipment, tractor trailers or similar type vehicles or equipment. Unless you receive prior written consent from us, Specified Market specifically excludes accounts with fleets in excess of 100 vehicles, and all governmental accounts.

We reserve the right to clarify, alter or change the Specified Market by providing written notice to you, after which this Agreement will be subject to the new Specified Market.

II

INITIAL PURCHASE

Upon execution of this agreement, you will purchase from us six Vortex Fuel Savers at the Retail Outlet Price (or wholesale price) set forth in Section IV below.

III

PRICING AND PRICING POLICY

Licensed Product

Vortex Fuel Saver	\$250.00
Vortex Diesel Fuel Saver	\$400.00
Vortex Transmission Optimizer	\$250.00
Individual Injection Line Module*	\$20.00 per line

*Can only be sold with a Vortex Diesel Fuel Saver.

Vortex Fluid Optimizer Corp.

By: _____
Louis H. Elwell, III
Chairman

Undersigned

Signature

Print Title (if any)

Date: _____