



Authorized Dealer Agreement

This Dealer Agreement ("Agreement") is entered into as of the date this Agreement is duly executed by both parties (the "Effective Date") between Adamo Island Saddles, LLC ("Adamo"), a Florida limited liability company located at 1909 Foggy Ridge Parkway, Lutz, FL 33559, and ISM Saddles, LLC ("ISM Saddles"), a Florida limited liability company located at 1909 Foggy Ridge Parkway, Lutz, FL 33559 (Adamo and ISM Saddles collectively referenced herein as "ISM"), and Dealer (as defined on the signature page ("Dealer")).

WHEREAS, Dealer desires to be an authorized dealer of certain ISM products for sale to the ultimate commercial or private bona fide end consumer for whom such products are intended ("End Users"); and

WHEREAS, ISM is willing to grant such Dealer authorization pursuant to the terms and conditions set forth herein.

NOW THEREFORE, in consideration of the mutual covenants and agreements contained herein, the parties agree as follows:

1. **GRANT OF DEALER AUTHORIZATION:** : Subject to the terms of this Agreement, ISM grants to Dealer throughout the Term, the non-exclusive, non-transferable right to promote, market and sell those ISM products that ISM chooses to make available to Dealer in its sole discretion ("Products"), from Dealer's authorized fixed retail locations directly to End Users at retail and not for resale. ISM may also elect, in its sole discretion, to cease shipping or sale of any or all Products to Dealer at any time. ISM reserves the right to advertise, promote, sell, and support the Products and other products, either directly or indirectly, through itself as well as through other distributors, dealers or internet channels without limitation, restriction, notice, or liability.
2. **TERM AND RENEWAL:** This Agreement shall commence on the Effective Date and, unless terminated earlier as provided herein, shall continue for a period of one (1) year (the "Initial Term"). This Agreement shall thereafter automatically continue for additional renewal terms of one (1) year each ("Renewal Term"), unless either party provides the other with notice of non-renewal at least thirty (30) days prior to the expiration of the then current Term or Renewal Term, or unless earlier terminated in accordance with this Agreement. All references in this Agreement to "Term" shall be deemed to include both the Initial Term, as well as any Renewal Terms hereunder. Notwithstanding the foregoing, this Agreement shall automatically renew only if Dealer is in substantial compliance with this Agreement throughout the Term.
3. **DEALER OBLIGATIONS:**
Dealer agrees to and shall:
 - a) actively promote, market, position and sell the Products as premium products of the highest quality in furtherance of ISM's brand image;
 - b) conduct business in a manner that reflects favorably at all times on the Products and the good name, goodwill and reputation of ISM;
 - c) avoid deceptive, misleading or unethical practices that are or might be detrimental to ISM or the Products;
 - d) not promote, market, display or sell any product that constitutes a counterfeit or imitation of a Product or the ISM name or ISM Marks.
 - e) not make any false or misleading representations whether in advertising or otherwise, with regard to ISM or the Products;
 - f) correctly represent Product features, specifications, performance and warranties in accordance with Product literature and information provided by ISM or its authorized distributor;
 - g) not make any alterations to the Products or their packaging, including without limitation, alteration to serial numbers, Product casing or ISM's limited warranty, without the express written consent of ISM, and Dealer further acknowledges that unless specifically agreed in writing by ISM, any such alterations shall invalidate ISM's limited warranty;
 - h) only purchase Products from ISM or its designated authorized distributor;
 - i) only ship the Products to End Users with addresses located within the 50 states of the United States and the District of Columbia;

- j) abide by any ISM trademark, sales and/or marketing policies and directives that may be instituted from time to time throughout the Term by ISM;
- k) allow and cooperate with ISM's exercise of its right to perform a sales review and audit of Dealer's sales of Products and compliance with this Agreement upon reasonable notice to Dealer; and
- l) comply with all applicable local, state and federal laws and regulations pertaining to the operation of its business and the marketing and sale of Products.

4. **PRICES, TERMS AND CONDITIONS OF SALE:** ISM's initial pricing of any Products sold to Dealer along with ISM's non-binding Manufacturer's Suggested Retail Price ("MSRP") list for such Products to assist Dealer in its independent determination of its retail pricing decisions are provided at Exhibit A of this Agreement. ISM may unilaterally change its MSRP and/or price(s) for any of the Products in its sole discretion at any time. All such changes shall be effective immediately upon announcement, including with respect to any ordered but unshipped Products. Dealer is required to make full payment for such Products to ISM (or ISM's designated authorized distributor) before shipment. No Products will be shipped until paid for in full. Dealer shall purchase all Products at then-current prices as announced by ISM from time to time, F.O.B. Origin (ISM or ISM's designated authorized distributor). No terms and conditions contained in Dealer's purchase orders or other purchase documentation shall be effective as against ISM, and such terms and conditions are rejected and shall not supplement, amend, or vary this Agreement or ISM's invoices.

5. **AUTHORIZED SALES LOCATIONS; PROHIBITIONS:** Dealer is authorized and permitted to resell Products to End Users solely through the following locations:

- 5.1. The physical retail store(s), each of which Dealer represents and warrants is its sole occupant commercial store and not a residence or multi-tenant or co-op facility, are set forth on the signature page. :
- 5.2. The website, which Dealer represents and warrants is its own proprietary website used solely for purposes of promoting and effecting Dealer's own business and sales, is set forth on the signature page.

This Agreement prohibits Dealer from selling or offering any of the Products for sale over, through or by means of any auction website or other third party website or e-commerce platform (*e.g.*, Amazon, eBay), or otherwise through the internet or any website other than directly from Dealer's own website identified in this section.

6. **CHANNEL MAINTENANCE:**

- 6.1. **Sales and Export Restriction:** Dealer shall not misrepresent the extent of Dealer's authority granted pursuant to this Agreement. Dealer recognizes the importance of ISM's channels for Product distribution, and as such Dealer agrees it will sell, license or otherwise ship Products only at retail to End Users within the 50 states of the United States and the District of Columbia, and not to any entities or persons for resale or outside the foregoing territory. Dealer shall not sell Products to any party if it has reason to believe, or if Dealer is advised that ISM believes, that such party resells Products or may be a source of Products sold outside the foregoing territory.
- 6.2. **Export Control:** Dealer acknowledges that Products and technical data provided by ISM are subject to United States export control regulations. Exportation, re-exportation or diversion contrary to U.S. law is prohibited, and exports by Dealer, either directly or indirectly, may not occur without ISM's express written authorization. Notwithstanding the foregoing, Dealer shall not sell, license or otherwise provide or ship Products for export or re-export outside of the United States.

7. **TRADEMARKS:**

- 7.1. **Ownership:** Dealer acknowledges and agrees that all inventions, designs, patent applications, trademarks, trade names, logos, copyrights, patent licenses, service marks, mask works, design rights, know-how, trade secrets, and other Intellectual Property Rights involved or arising from the development and manufacture of the Products, including without limitation, ISM's logos, trademarks, and trade names (collectively the "ISM

Marks"), and ISM's Product model names are owned exclusively by ISM or its affiliates, free and clear of all rights, title, interest, liens and encumbrances of any third party. For purposes of this Agreement, "Intellectual Property Rights" mean any and all tangible and intangible and now known or hereafter existing (i) rights associated with works of authorship throughout the universe, including, without limitation, all exclusive exploitation rights, copyrights, neighboring rights, moral rights, and mask-works, (ii) trademark, trade dress, and trade name rights and similar rights, (iii) trade secret rights, (iv) patents, designs, algorithms, and other industrial property rights, (v) all other intellectual and industrial property and proprietary rights, whether arising by operation of law, contract, license, or otherwise, and (vi) all registrations, applications, renewals, extensions, continuations, divisions, or reissues thereof now or hereafter in force throughout the universe.

7.2. **Use of ISM Marks:** ISM grants Dealer a limited non-exclusive, non-transferrable license during the Term to use the ISM Marks for the limited purpose of promoting, marketing and selling Products pursuant to this Agreement. Use of the ISM Marks shall be in accordance with this Agreement and any applicable guidelines provided by ISM. Dealer shall not use any ISM Marks, including the term "ISM" or any term confusingly similar thereto, (i) in its corporate, business or trade name; (ii) as a designation for any product or services other than the Products; (iii) in an internet domain name or in an email address; (iv) in any manner indicating a claim of proprietary rights; or (v) in conflict with ISM's rights or those rights of any affiliate or licensor of ISM.

7.3. **Goodwill:** Dealer recognizes ISM's ownership and title to the ISM Marks and agrees that any goodwill that accrues from Dealer's use of the ISM Marks will vest in and be the property of ISM. Dealer agrees that it shall not, at any time during or after the Term, (i) do anything that may adversely affect the validity or enforceability of any Intellectual Property Right belonging to or licensed to ISM (including any act, or assistance to any act, that may infringe or lead to the infringement of any Intellectual Property Right in any product or service of ISM), or (ii) exercise, or attempt to exercise, any Intellectual Property Right in any product or service of ISM, other than as expressly set forth herein and in any other written agreement that may be entered into between the parties.

8. **INSURANCE:** Dealer shall maintain comprehensive general liability insurance, including "broad form" liability coverage and "completed operations" coverage in a minimum amount of \$1,000,000 during the Term of this Agreement and for three years thereafter. Each policy shall name "ISM Saddles, LLC" and "Adamo Island Saddles, LLC" as additional insureds and shall include a waiver of subrogation in favor of each of ISM Saddles and Adamo. Dealer shall deliver to ISM certificates of insurance and policy endorsements covering each policy period and confirming the amount of coverage and designation of the foregoing entity as an additional insured. All such certificates and endorsements shall further provide that the insurance policy shall not be cancelled or modified without at least thirty days' advance written notice to ISM.

9. **INDEMNIFICATION:** Dealer hereby agrees to indemnify, defend and hold harmless ISM, its affiliated entities and licensees and their respective shareholders, directors, officers, employees and agents, from any and all third party claims, actions, or proceedings of any kind and from any and all damages, liabilities, costs and expenses (including reasonable legal fees) relating to or arising out of (i) any breach of any warranties, representations, covenants or agreements of Dealer hereunder; (ii) any misrepresentations by Dealer or its employees and agents with respect to the Products or its relationship to ISM, or (iii) any negligent, wrongful or intentional acts or omissions of Dealer.

10. **LIMITATIONS OF LIABILITY:**

All Products are sold subject to ISM's limited warranty then in effect, which warranty is subject to change from time to time. Such warranty is ISM's sole warranty of the Products. EXCEPT AS SET FORTH IN ISM'S LIMITED WARRANTY, THERE ARE NO OTHER WARRANTIES FROM ISM OF ANY KIND, EXPRESSED OR IMPLIED, INCLUDING ANY IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE. DEALER'S AND ITS CUSTOMERS' SOLE AND EXCLUSIVE REMEDY FOR BREACH OF SUCH LIMITED WARRANTY SHALL BE REPAIR OR REPLACEMENT OF DEFECTIVE PRODUCTS. UNDER NO CIRCUMSTANCE SHALL ISM'S LIABILITY TO DEALER OR ANY CUSTOMER FOR BREACH OF SUCH WARRANTY EXCEED THE REFUND OF THE PURCHASE PRICE OF ANY DEFECTIVE GOODS.

IN NO EVENT SHALL ISM BE LIABLE UNDER ANY THEORY OF LIABILITY FOR ANY INDIRECT, INCIDENTAL, SPECIAL, OR CONSEQUENTIAL DAMAGES OF ANY KIND (INCLUDING, WITHOUT LIMITATION, ANY SUCH DAMAGES ARISING FROM BREACH OF CONTRACT OR WARRANTY OR FROM NEGLIGENCE OR STRICT LIABILITY), INCLUDING, WITHOUT LIMITATION, LOSS OF PROFITS, REVENUE, DATA, OR USE, OR FOR INTERRUPTED COMMUNICATIONS, OR FROM ANY DEFECT, ERROR, OR MALFUNCTION OF THE PRODUCTS, EVEN IF ISM HAS BEEN ADVISED OR SHOULD KNOW OF THE POSSIBILITY OF SUCH DAMAGES. Dealer acknowledges and agrees that ISM has no obligation to compensate and is not otherwise liable to Dealer with regard to activities of third parties (*i.e.*, parties other than Dealer or ISM) that market, sell and/or purchase Products or any other goods.

11. **CONFIDENTIAL INFORMATION:** Each party shall hold in confidence information received from the other party that is designated confidential or proprietary or that a reasonable person would treat as confidential based upon the nature of the information disclosed or the circumstances of the disclosure ("Confidential Information") for the Term and a period of two years thereafter including, without limitation the terms of this Agreement and information relating to the disclosing party's products, technology, business affairs, policies and marketing or sales plans.

12. **TERMINATION:**

12.1 **Termination.** Either party may terminate this Agreement at any time without cause by providing written notice to the other party upon sixty (60) days' notice. ISM may terminate this Agreement for cause immediately upon notice to Dealer if ISM determines, in its sole discretion, that Dealer is in material breach of this Agreement, including but not limited to violation of any sale of Products restriction or a failure to pay any amount due to ISM.

12.2 **Obligations upon Non-Renewal or Termination.** Upon non-renewal or termination of this Agreement, Dealer shall, at its own expense, immediately (i) cease referring to itself as an authorized ISM dealer; (ii) cease using any of the ISM Marks except on Products that remain in possession of Dealer; and (iii) return or destroy all materials, documents, data, catalogues, price lists, brochures, designs, and drawings provided by ISM or its affiliates (including any copies in whole or in part made by Dealer), any documents or data prepared by Dealer reflecting such items, and any property of ISM then in Dealer's possession, except those reasonably required to fulfill any Dealer's warranty service obligations. Further, Dealer shall resell at its original purchase price and deliver to ISM, if demanded, any requested Products in Dealer's inventory in the original factory cartons, free and clear of all liens and encumbrances.

13. **RELATIONSHIP OF THE PARTIES:** ISM and Dealer are and shall be independent contractors. Neither this Agreement nor the dealings of the Parties pursuant to this Agreement shall create any fiduciary relationship or any other relationship of trust or confidence. The relationship between the Parties hereto is entirely contractual, and this Agreement and the relationship of the Parties hereunder shall not be deemed to create a franchise or any other interest.

Nothing contained in this Agreement, or arising from the conduct of the Parties hereunder, is intended to make either Party a general or special agent, joint venture, partner or employee of the other for any purpose whatsoever. Neither party may make any express or implied agreements, warranties, guarantees or representations or incur any debt in the other party's name or behalf or represent that the relationship of the Parties hereto is anything other than that of independent contractors. The Parties will not be obligated by or have any liability under any agreements made by the other party with any third party or for any representations made by such party to any third party. Neither party will be obligated for any damages to any person or property arising directly or indirectly out of the operation of the other's business hereunder.

14. **ISM POLICIES:** Dealer acknowledges that it has been informed of and has received certain ISM unilateral policies concerning the marketing, advertising or sale of Products. It is understood, that such unilateral policies are provided for information purposes only and are not incorporated by reference into this Agreement or any other agreement between Dealer and ISM.

15. **MISCELLANEOUS:**

- 15.1 **Notices:** All notices and other communications required by this Agreement will be in writing, and such notice will be deemed given: (a) when personally delivered to the receiving party; (b) two days after being sent to the receiving party by commercial overnight courier; (c) five days after being sent by postage prepaid registered or certified U.S. mail; or (d) upon receipt of email by the receiving party at the email indicated by that party herein.
- 15.2 **Governing Law and Costs:** This Agreement shall be governed by the laws of the state of Florida (without regard to conflict of law provisions) applicable to agreements made and to be wholly performed within such State, and the United Nations Convention on Contracts for the International Sale of Goods is hereby excluded. Any litigation or other legal proceeding ("Dispute") arising from or related to this Agreement shall be maintained and adjudicated in the federal or state courts of the State of Florida, to which the Parties respectively agree and provide irrevocable consent to the personal jurisdiction and venue of such courts. In the event of any Dispute arising out of or related to this Agreement or any claimed breach thereof, the prevailing party in such Dispute shall be entitled to recover, in addition to other damages or remedies, its reasonable attorneys' fees, court costs, and other costs and expenses reasonably incurred in connection therewith, including but not limited to any reasonable attorneys' fees, court costs and other costs and expenses incurred in connection with any appeal of such litigation or other legal proceeding and/or seeking to recover the attorneys' fees, court costs and other costs and expenses of enforcement provided for by this Section.
- 15.3 **Assignment:** The rights and duties created by this Agreement are personal to Dealer or, if Dealer is a business corporation, partnership, limited liability company or other legal entity, Dealer's owners. Accordingly, neither Dealer nor any of Dealer's owners may assign or transfer this all or any part of this Agreement or the dealership rights without ISM's prior written approval and without complying with all of the provisions of this Agreement. Any transfer without such approval or compliance constitutes a breach of this Agreement and is void and of no force or effect.
- 15.4 **Waiver:** Neither party will be deemed, by any act or omission, to have waived any of its right or remedies hereunder unless such waiver is in writing and signed by the waiving party, and then only to the extent specifically set forth in such writing. A waiver with reference to one event will not be construed as continuing or as a bar to or waiver of any other right or remedy, or as to a subsequent event.
- 15.5 **Counterparts and Electronic Signature:** This Agreement may be executed in one or more counterparts, each of which shall be deemed an original but all of which together will constitute one and the same instrument. Facsimile, .pdf, photocopied or other electronic signatures shall be given the same effect as original signatures.
- 15.6 **No Third Party Beneficiaries:** Notwithstanding anything to the contrary contained or implied in this Agreement, there are no third party beneficiaries to this Agreement.
- 15.7 **Entire Agreement:** This Agreement contains the entire understanding between the Parties with respect to the subject matter hereof, supersedes all prior agreements, negotiations and oral understandings, if any, and may not be amended, supplemented, or modified in any way, except by an amendment in writing and signed by authorized representatives of the Parties. This Agreement shall inure to the benefit of and be binding upon each of the Parties and their respective successors, assigns, heirs, executors, administrators, trustees and legal representatives.
- 15.8 **Headings:** Headings used in this Agreement are for the purposes of convenience only and shall not affect the legal interpretation of this Agreement.
- 15.9 **Survival:** The expiration or termination of this Agreement shall not terminate vested rights of either party from any liabilities or obligations incurred under this Agreement prior to or which by their nature are intended to survive expiration or termination, including but not limited to provisions relating to confidentiality, indemnification, and proprietary rights.

If you are interested in being an Authorized Dealer of ISM Saddles and Adamo Island Saddles, please contact lindsay@ismseat.com for the complete agreement.