



F.M. BROWN'S SONS INC. ONLINE AMAZON AGREEMENT

March 2025

This **NON-EXCLUSIVE AUTHORIZED RESELLER DISTRIBUTOR- AGREEMENT** (the

"Agreement") is made as of _____ (the **"Effective Date"**), by and between

F.M. Brown's Sons, Inc, (**"FMBS" or "Supplier"**). Having a principal address of

P.O Box 2116, 205 Woodrow Avenue Sinking Spring, PA 19608 and

(reseller) _____

with the Amazon Seller ID:

(Amazon Seller ID) _____

having a principal address of

(address)

(the **"Reseller" together with the Supplier, the "Parties"**). This Agreement sets forth the terms by which the Parties agree that the Reseller shall market, promote, and sell the Supplier's products (the **"Products"**) on a non-exclusive basis in the Territory via the Authorized Sales Channels (*defined herein*).

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NOW, THEREFORE, considering the mutual covenants, terms, and conditions set out herein. For other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

1. Definitions

1.1. **"Territory"** shall mean the country of *North America – the United States & Canada*.

1.2. **"Products"** shall mean **All Encore, Extreme!, Brown's, and Tropical Carnival Products manufactured and/or supplied by the Supplier, as listed in Exhibit A attached hereto and made a part hereof.**



2. Appointment and License

2.1. Appointment: The Supplier hereby appoints the Reseller as a non-exclusive reseller and distributor of the Products in the Territory, and the Reseller accepts such appointment.

2.2. License: The Supplier grants the Reseller a non-exclusive, non-transferable license to use the Supplier's trademarks, logos, and other intellectual property (the "IP") solely in connection with the marketing, sale, and distribution of the Products in the Territory, subject to the terms and conditions of this Agreement.

3. Obligations of Reseller

3.1. Compliance: The Reseller shall comply with all applicable laws, regulations, and standards in the Territory, including, but not limited to, consumer protection, data protection, and product safety laws. The Reseller is responsible for obtaining and maintaining all necessary permits, licenses, and certifications required to import, distribute, and sell the Products. Upon request, the Reseller shall provide the Supplier with documentation evidencing compliance with these laws and regulations.

3.2. Marketing and Promotion: The Reseller shall use its best efforts to market, promote, and sell the Products in the Territory. This includes but is not limited to, conducting market research, developing marketing strategies, creating promotional materials, participating in trade shows, and advertising in relevant media. All marketing materials must adhere to the Supplier's brand guidelines and must be approved by the Supplier in advance.

3.3. Reporting: The Reseller shall provide the Supplier with regular reports on sales activities, market conditions, and any relevant regulatory changes in the Territory. Reports shall be submitted quarterly and shall include detailed information on sales volumes, pricing, customer feedback, and any issues encountered in the market.



3.4. Warranty and Support: The manufacturer will provide warranty support for all products stored and sold according to this agreement. The Reseller shall handle customer support, returns, and warranty claims. The Reseller shall maintain a dedicated customer service team to address any customer inquiries or complaints. It shall provide regular training to ensure the team is knowledgeable about the Products and the Supplier's policies. The Reseller shares and communicates all customer support issues in a timely manner on all product quality issues that may arise.

3.5. Pricing Policy - MSRP: The Reseller agrees to adhere to the Supplier's Minimum Advertising Pricing Policy. The Reseller may consider the Products at the MSRP specified by the Supplier. The Reseller shall monitor market prices to ensure compliance with the Minimum Advertising Pricing Policy and shall report to the Supplier immediately.

3.6. Internet Restrictions: The Reseller shall not sell the Products on open marketplaces such as Amazon, Walmart, eBay, but not limited to, without the prior written consent of the Supplier. The Reseller shall ensure that all online sales channels comply with the Supplier's brand guidelines and pricing policies.

3.7. Product Quality and Handling:

The Reseller shall maintain product quality by adhering to the following standards:

3.7.a. Inventory Management:

- Maintain adequate inventory levels to meet customer demand.
- Implement inventory management systems to monitor stock levels, forecast demand, and minimize stockouts or overstock situations.
- Provide the Supplier with regular inventory reports and promptly notify the Supplier of any significant changes in inventory levels.
- Implement a product rotation program to ensure freshness and conduct regular inspections to verify product integrity.



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3.7.b. Sanitation Procedures:

- Establish pest control and sanitization protocols to prevent contamination or mishandling during product handling and storage.
- Maintain clear and documented sanitation procedures, including proof of pest control measures.

3.7.c. Inspection Records:

- Upon request, provide documentation of pest control, sanitization, and property inspection procedures.
- Ensure compliance with these measures through quarterly reviews and an annual audit.

3.7.d. Warehouse Storage Requirements:

- Store products in facilities with food-grade certifications (e.g., FDA-approved or other applicable certifications).
- Ensure facilities meet the requirements for an on-site walk-through, including:
 - Protection from external contaminants (no use of garages or sheds unless adequately protected).
 - Temperature-controlled environments.
 - Adherence to food-grade storage standards.

3.7.e. Facility Maintenance:

- Ensure the facility complies with all local, county, and state laws and regulations.
- Regularly maintain the facility to meet cleanliness and safety standards.



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3.8. Amazon Transparency Program Compliance:

Resellers utilizing Fulfillment by Amazon (FBA) or storing products in Amazon warehouses must enroll in and comply with the Amazon Transparency Program. This requirement ensures:

- Product Authenticity
- Protection against unauthorized or counterfeit merchandise.

Compliance with this program includes adhering to all relevant Amazon policies and procedures to maintain the integrity of the products and brand reputation.

3.9. Restrictions on Product Modification:

The Reseller is strictly prohibited from:

- Repackaging
- White labeling
- Rebranding
- Altering in any way the packaging, branding, or labeling of the Products without the prior express written authorization of FMBS.

Any such unauthorized activity shall be deemed a material breach of this Agreement and may result in immediate termination of reseller rights under this Agreement. Additionally, the Reseller agrees to indemnify and hold FMBS harmless from any claims, damages, or losses resulting from such activities.

4. Obligations of Supplier

4.1. Supply of Products:

The Supplier shall use its best efforts to supply the Products to the Reseller in the quantities ordered and within the agreed delivery schedules. To ensure clear communication and planning, the Supplier will provide regular updates on production schedules, lead times, and any potential delays or issues that may affect the supply of Products.

For extra-large orders (e.g., multiple full truck quantities), the Reseller must provide a forecast at least 30 days prior to the order date to allow for proper preparation and scheduling.

FMB retains the right to limit order quantities as necessary to ensure fair distribution and operational efficiency.



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4.2. Support: The Supplier shall provide the Reseller with the necessary training, digital marketing materials, and technical support to assist in marketing, selling, and distributing the Products. This includes, but is not limited to, product training sessions, marketing collateral, technical documentation, and access to the Supplier's support team for assistance with any product-related issues.

4.3. IP Protection: The Supplier shall take reasonable steps to protect its IP in the Territory and shall assist the Reseller in addressing any IP infringements. This includes monitoring the market for potential infringements, taking legal action against infringers, and providing the Reseller with guidelines and resources for protecting the Supplier's IP.

5. Restrictions

5.1. Authorized Sales Channels shall exclude any open e-commerce marketplaces, including, but not limited to, Amazon.com, Buy.com, Craigslist.org, eBay.com, Jet.com, Newegg.com, Overstock.com, Rakuten.com, and Walmart.com. Also excluded are any open e-commerce marketplaces operating from country domain extensions belonging to other countries/territories in the Territory (e.g., Amazon.ca, Amazon.mx).

5.2. The Reseller is strictly prohibited from selling, offering to sell, or advertising the Products outside the Territory or Authorized Sales Channels as defined in Section 1.1 ("The Territory"). Additionally, the Reseller shall not sell or offer to sell the Products to affiliates or third parties that sell or advertise the Products outside the Authorized Territory or on non-approved Online Sales Channels.

This restriction shall remain in effect even after the termination of this Agreement for any Products purchased from the Supplier, ensuring compliance and protection of the Supplier's distribution strategy.

5.3. Suppose the Reseller becomes aware that Products are being sold, offered for sale, or advertised outside the Territory or Authorized Sales Channels. In that case, the Reseller shall promptly inform the Supplier of the relevant information. Additionally, upon request of the Supplier, the Reseller shall promptly notify the Supplier of information concerning sales of Products outside of the Territory or Authorized Sales Channels to the extent that the Reseller has such information or can obtain such information easier than the Supplier.



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5.4. Any Manufacturer's and Supplier's warranties and representations are null and void for sales of Products outside of the Territory or the Authorized Sales Channels. To the extent permitted by law, the Supplier shall have no liability for any claims or injuries arising from sales of Products made outside the Territory or Authorized Sales Channels, including but not limited to liability for Product defects and intellectual property infringement. This Section shall survive the termination of this Agreement.

5.5. Suppose the Reseller violates this Agreement concerning sales outside the Territory or Authorized Sales Channels. In that case, the Supplier shall have the option to suspend the Reseller's eligibility to purchase Products and to terminate this Agreement. Additionally, in the event of such violation, the Reseller, at the Reseller's own cost, shall obtain all Products resold, redistributed, transferred, consigned, or otherwise provided directly or indirectly to any other retailer, distributor, seller, or wholesaler and return same to Supplier as soon as possible.

5.6 Authorized Amazon Seller: Permission to sell products on the Amazon platform is contingent upon compliance with FMBS policies and, where applicable, the Amazon Transparency Program.

Suppose the Amazon Transparency Program is not utilized. In that case, the Reseller must still adhere to all FMBS policies and any alternative measures implemented by FMBS to ensure product authenticity and compliance with Amazon's standards. This designation is subject to review and may be revoked for non-compliance.

6. Intellectual Property

6.1. Ownership: All IP rights, including but not limited to trademarks, logos, images, domain names, and any other related materials, are and shall remain the exclusive property of FMBS. *See Exhibit E.* The Reseller acknowledges that it has no rights, title, or interest in the IP except as expressly granted under this Agreement.

6.2. Use of IP: The Reseller is granted a limited, non-exclusive, non-transferable, and revocable license to use the IP solely for the purpose of marketing, selling, and distributing the Products within the Territory. This license is granted at the sole discretion of FMBS and may be revoked at any time. The Reseller shall use the IP in accordance with the Supplier's brand guidelines and shall not alter, modify, or misuse the IP in any way.



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6.3. Transfer of IP: Upon termination or expiration of this Agreement, the Reseller shall immediately cease all use of the IP and transfer all related materials, including but not limited to marketing materials, domain names, and any other items containing the IP, to FMBS. The Reseller shall take all necessary actions to ensure that FMBS retains full ownership and control over the IP. The Reseller shall execute any documents or agreements necessary to effectuate the transfer of the IP to FMBS.

6.4. IP Infringement: The Reseller shall promptly notify FMBS of any suspected or actual infringement of the IP within the Territory. FMBS shall have the sole right to determine the appropriate course of action to address any such infringement, including the right to initiate legal proceedings. The Reseller shall cooperate fully with FMBS in any actions taken to protect the IP and shall provide any assistance or information requested by FMBS.

6.5. IP Security: The Reseller shall implement appropriate security measures to protect the IP from unauthorized use, access, or disclosure. This includes maintaining secure systems for storing and managing the IP, restricting access to authorized personnel only, and conducting regular audits to ensure compliance with security protocols.

7. Cost of Goods and Payment

7.1. Costs: The cost for the Products shall be as set forth in a separate price list, and the Supplier may amend the cost (up or down) with at least 30 days' prior written notice to the Reseller. The Reseller shall be responsible for any applicable taxes, duties, or other charges related to the purchase and resale of the Products. The Reseller is responsible for all import charges, duties, taxes, and any other fees associated with importing the products in accordance with the ex-works or FOB terms from the factory in *Sinking Spring, PA, USA*

7.2. Payment Terms: All invoices are due NET 30.



8. Compliance with Laws

8.1. General Compliance: Both parties shall comply with all applicable laws, regulations, and standards in the Territory and any other relevant regulations pertaining to the import, sale, distribution, and marketing of the Products. The Reseller shall ensure that all marketing, sale, and distribution activities comply with these laws and regulations.

9. Term and Termination

9.1. Term: This Agreement begins on the Effective Date and automatically renews annually unless either party provides written notice of termination at least 30 days before the renewal.

9.2. Termination: Either party may terminate this Agreement with 30 days written notice based on performance, compliance, or strategic business decisions.

9.3. Leftover Inventory: The Reseller must contact the Supplier to determine the appropriate handling of remaining inventory. Options include return, liquidation, or other mutually agreed arrangements, with written approval from the Supplier.

9.4. Survival: Provisions necessary to resolve outstanding obligations or protect intellectual property will survive termination.

10. Dispute Resolution

10.1. Governing Law: This Agreement shall be governed by and construed in accordance with the laws of the State of Pennsylvania, USA.

10.2. Arbitration: Any disputes arising out of or in connection with this Agreement shall be resolved through arbitration in Reading, Berks County, PA, USA, in accordance with the rules of a mutually agreed-upon arbitration institution. The arbitration shall be conducted by a single arbitrator appointed by mutual agreement of the parties or, failing such agreement, by the selected arbitration institution. The arbitrator's decision shall be final and binding on the parties, and judgment upon the award rendered by the arbitrator may be entered in any court having jurisdiction.



10.3. Mediation: Prior to initiating arbitration, the parties shall attempt to resolve any disputes through mediation in Reading, Pennsylvania, with the assistance of a mediator appointed by mutual agreement of the parties or, failing such agreement, by the [Mediation Association/Institution]. The costs of mediation shall be shared equally by the parties.

10.4. Injunctive Relief: Notwithstanding the foregoing, either party may seek injunctive relief or other equitable remedies in any court of competent jurisdiction to prevent or stop any actual or threatened breach of this Agreement, including but not limited to breaches related to intellectual property or confidentiality obligations.

11. Miscellaneous

11.1. Entire Agreement: This Agreement constitutes the entire agreement between the parties and supersedes all prior agreements or understandings, whether written or oral, relating to the subject matter hereof. Any amendments or modifications to this Agreement must be in writing and signed by both parties.

11.2. Severability: If a court of competent jurisdiction holds any provision of this Agreement to be invalid or unenforceable, that provision shall be deemed modified to the extent necessary to make it valid and enforceable, and the remaining provisions of this Agreement shall continue in full force and effect.

11.3. Waiver: Either party's failure to enforce any provision of this Agreement shall not be construed as a waiver of such provision or the right to enforce it at a later time. Any waiver must be in writing and signed by the party granting the waiver.

11.4. Force Majeure: Neither party shall be liable for any failure or delay in performing its obligations under this Agreement if such failure or delay is caused by events beyond its reasonable control, including but not limited to natural disasters, acts of war or terrorism, labor disputes, or government actions. In such event, the affected party shall promptly notify the other party and use its best efforts to resume performance as soon as practicable.



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11.5. Assignment: The Reseller shall not assign or transfer any of its rights or obligations under this Agreement without the Supplier's prior written consent. Any attempted assignment or transfer without such consent shall be null and void. The Supplier may assign or transfer its rights and obligations under this Agreement to any affiliated entity or successor in interest without the consent of the Reseller.

11.6. Notices: Any notice required or permitted to be given under this Agreement shall be in writing and shall be deemed to have been given when delivered by hand, sent by email, or mailed by registered or certified mail, return receipt requested, to the addresses set forth above. Either party may change its address for notice purposes by providing written notice to the other party in accordance with this Section.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the Effective Date.

Supplier:

By: _____

Name: _____

Title: _____

Reseller:

By: _____

Name: _____

Title: _____

Amazon Seller ID: _____

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LIST OF EXHIBITS

Exhibit A – Products

This exhibit includes a detailed list of all Products covered under the Agreement, including descriptions, SKU numbers, and other identifying information.

Exhibit B – Warranty

This exhibit outlines the Supplier's warranty policy, including the duration, conditions for warranty claims, and the Reseller's responsibilities for providing customer support in compliance with the agreed terms.

Exhibit C – Pricing

This exhibit specifies the Manufacturer's Suggested Retail Prices Policy (MSRPP) and Unilateral Minimum Advertised Pricing Policy (UMAPP).

Exhibit D – Payments

This exhibit provides payment terms, which are NET 30 unless otherwise stated.

Exhibit E – Authorization

This exhibit contains a formal Letter of Authorization from FMBS confirming that the Reseller is authorized to market and sell FMBS Products in the specified Territory under the terms of this Agreement.

Glossary of Terms

This glossary defines key terms used throughout the Agreement to ensure clarity and shared understanding between the Parties.