MERCHANDISING AND MARKETING AGREEMENT

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This Merchandising and Marketing Agreement (the “Agreement”) is effective [DATE],

**BETWEEN: [YOUR COMPANY NAME]** (the "Company"), a company organised and existing under the laws of the [PROVINCE/STATE] of [COUNRTY], with its head office located at:

 [YOUR COMPLETE ADDRESS]

**AND: [SECOND PARTY NAME]** (the "Merchandiser"), a company organised and existing under the laws of the [PROVINCE/STATE] of the [COUNTRY], with its head office located at:

 [COMPLETE ADDRESS]

WHEREAS for many years [YOUR COMPANY NAME] has carried on the business of selling [SPECIFY PRODUCTS BEING SOLD] and other products related thereto (the “Products”), at a number of retail stores generally known as [YOUR COMPANY NAME] Stores; and

WHEREAS the [YOUR COMPANY NAME] Stores and the trade names, trademarks and associated commercial logos and symbols (the “Names and Marks”) owned, used and/or established by [YOUR COMPANY NAME] and used in connection with the [YOUR COMPANY NAME] Stores have gained public acceptance and goodwill; and

WHEREAS to ensure the most effective operation of the [YOUR COMPANY NAME] Stores, [YOUR COMPANY NAME] desires to develop a comprehensive merchandising system (the “[YOUR COMPANY NAME] Merchandising System”), the essence of which is the overall uniformity of identification, design and merchandising of retail stores carrying on business under the name [YOUR COMPANY NAME] Stores; and

WHEREAS the Merchandiser acknowledges that the success of the [YOUR COMPANY NAME] Merchandising System is dependent upon the commitment of the Merchandiser to devote its attentions to the operations and affairs of the [YOUR COMPANY NAME] Stores;

WHEREAS the Merchandiser desires to enter into this Agreement to use the [YOUR COMPANY NAME] Merchandising System to operate the [YOUR COMPANY NAME] Stores at and from the stores located at:

[ADDRESS]

[ADDRESS]

[ADDRESS]

(The “Business Premises”); and

WHEREAS the Merchandiser acknowledges (i) that the marketing and merchandising policies and procedures, and standards of merchandising, products quality and service prescribed by the [YOUR COMPANY NAME] Merchandising System, and the Merchandiser’s adherence thereto and compliance therewith together constitute and are of the essence of this Agreement, in that such adherence and compliance, in conjunction with the Names and Marks, provides the basis for and is essential to the continuance of the existing valuable goodwill and public acceptance of the [YOUR COMPANY NAME] Merchandising System, and (ii) that in entering into this Agreement [YOUR COMPANY NAME] is acting expressly upon and *in re*liance on such acknowledgements by and of the Merchandiser to the extent that without such acknowledgements [YOUR COMPANY NAME] would not have entered into this Agreement;

NOW THEREFORE THIS AGREEMENT WITNESSETHthat for and in consideration of the premises and of the mutual covenants and agreements herein contained, the [YOUR COMPANY NAME] Stores covenants and agree as follows:

**1. GRANT AND TERM**

1.1 Subject to the terms and conditions of this Agreement and to the rights of termination set out in Article 10 and Article 17, [YOUR COMPANY NAME] hereby agrees with the Merchandiser that the Merchandiser shall have the right, licence and privilege to adopt and use the [YOUR COMPANY NAME] Merchandising System in connection with the operation of the [YOUR COMPANY NAME] Stores at and only at the Business Premises; and subject to the approval of the Merchandiser as a user by the Registrar of Trade Marks, to adopt and use, but only in connection with the [YOUR COMPANY NAME] Stores and only at and from the Business Premises, the Names and Marks (which term shall include such other trade names, marks and logos as may be designated from time to time by [YOUR COMPANY NAME]); in the event that the Merchandiser is not approved by the Registrar of Trade Marks as a user of the Names and Marks, either party may terminate this Agreement. Pending recording of the Merchandiser as a registered user of the names and marks, use thereof shall be subject to the continuing approval of [YOUR COMPANY NAME].

1.2 The Merchandiser hereby acknowledges that [YOUR COMPANY NAME] is in the course of developing a Merchandising and Marketing Manual and the Merchandiser hereby agrees to conduct the [YOUR COMPANY NAME] Stores under the [YOUR COMPANY NAME] Merchandising System in accordance with all of the provisions of this Agreement and as may be set forth from time to time in the Merchandising and Marketing Manual (as hereinafter defined).

**2. GENERAL SERVICES TO BE RENDERED BY [YOUR COMPANY NAME]**

2.1 [YOUR COMPANY NAME] shall provide initial advice, guidance and technical assistance to the Merchandiser to enable the Merchandiser to establish and operate the [YOUR COMPANY NAME] Stores in accordance with the [YOUR COMPANY NAME] Merchandising System, and [YOUR COMPANY NAME] shall periodically, and, at such other reasonable times as [YOUR COMPANY NAME] shall consider necessary or desirable, advise and consult with the Merchandiser in connection with the operation of the [YOUR COMPANY NAME] Stores.

2.2 [YOUR COMPANY NAME] shall make available to the Merchandiser all additional services, facilities, rights and privileges which [YOUR COMPANY NAME] makes generally available, and at prices charged by [YOUR COMPANY NAME] from time to time, to parties using the [YOUR COMPANY NAME] Merchandising System.

**3. MERCHANDISING AND MARKETING MANUAL**

3.1 [YOUR COMPANY NAME] shall provide the Merchandiser with the [YOUR COMPANY NAME] Merchandising and Marketing Manual (the “Merchandising and Marketing Manual”) which shall be developed by [YOUR COMPANY NAME] for use by operators of [YOUR COMPANY NAME] Stores generally and which shall contain detailed information relating to the merchandising and marketing operations of the [YOUR COMPANY NAME] Stores, including such matters as merchandising and distribution techniques, advertising and personnel training practices.

3.2 The Merchandiser shall adopt and use exclusively, and shall adhere to and comply with the methods, procedures and policies from time to time established, amended and prescribed by [YOUR COMPANY NAME] and stated in the Merchandising and Marketing Manual.

3.3 The Merchandiser acknowledges that [YOUR COMPANY NAME] is the owner of all proprietary rights in and to the [YOUR COMPANY NAME] Merchandising System and the Merchandising and Marketing Manual, that the information revealed in the Merchandising and Marketing Manual, in its entirety, constitutes confidential trade secrets and that the Merchandiser shall have the right to use the Merchandising and Marketing Manual only pursuant to the terms and conditions of this Agreement.

3.4 Without the prior written consent of [YOUR COMPANY NAME], the Merchandiser shall not disclose the contents of the Merchandising and Marketing Manuel to any person, except to employees of the Merchandiser for purposes related solely to the operation of the [YOUR COMPANY NAME] Stores, nor shall they reprint or reproduce the Merchandising and Marketing Manual in whole or part for any purposes except in connection with instruction of such employees in the operation of the [YOUR COMPANY NAME] Stores.

3.5 The Merchandising and Marketing Manual, as adopted by [YOUR COMPANY NAME] and modified from time to time, and the policies contained therein are incorporated herein by reference.

**4. ADVERTISING AND SIGNS**

4.1 The Merchandiser acknowledges the advantages to the [YOUR COMPANY NAME] Stores of a centrally administered advertising and promotion policy. [YOUR COMPANY NAME] may, from time to time, engage the services of advertising specialists to formulate advertising programmes for the [YOUR COMPANY NAME] Stores. For the purpose of assisting the Merchandiser in the promotion and sale of merchandise purchased from [YOUR COMPANY NAME] and/or approved suppliers of the [YOUR COMPANY NAME] Stores, [YOUR COMPANY NAME], at its option, will furnish or cause to be furnished such items as retail flyers, retail radio and television advertising, local newspaper advertising in accordance with the schedules established from time to time by [YOUR COMPANY NAME], retail display materials, national advertising and display materials, retail catalogues, wholesale catalogues, promotional aids and promotional material.

4.2 The Merchandiser acknowledges the importance of uniformity in the advertising and promotion of products and services offered by the [YOUR COMPANY NAME] Stores and agrees that any items furnished to the Merchandiser under section 4.1 shall be acquired and used by the Merchandiser. Such items may be supplied to the Merchandiser at no cost or at a shared cost with [YOUR COMPANY NAME] in accordance with the price and cost-sharing schedules established from time to time by [YOUR COMPANY NAME]. [YOUR COMPANY NAME] shall provide to the Merchandiser such advertising counsel and guidance in the operation of the [YOUR COMPANY NAME] Stores, as [YOUR COMPANY NAME] considers appropriate.

4.3 The Merchandiser shall erect and maintain, at its sole expense, the sign or signs in form and colours designated by [YOUR COMPANY NAME]. The Merchandiser shall not use any other sign or any words, logo or symbol on or in conjunction with the Business Premises, or do any other act or thing during the term of this Agreement which in any way indicates or from which it might reasonably be inferred that the [YOUR COMPANY NAME] Stores, which is independently operated by the Merchandiser at the Business Premises, is controlled, supervised, managed or operated by [YOUR COMPANY NAME].

4.4 The words “[YOUR COMPANY NAME] Dealer” together with the name of the Merchandiser shall be used by the Merchandiser in or in conjunction with the signs referred to in section 4.3, and in connection with the Merchandiser’s advertising relative to the [YOUR COMPANY NAME] Stores and in connection with any contracts or invoices of the Merchandiser in order to clearly establish that the [YOUR COMPANY NAME] Stores is owned and operated by the Merchandiser.

**5. INVENTORY - PURCHASING ARRANGEMENTS**

5.1 The Merchandiser shall purchase and maintain in inventory those produces identified on Schedule “A” to this Agreement in such quantities as are reasonable having regard to the market volumes in the area in which the [YOUR COMPANY NAME] Stores is located. The Merchandiser acknowledges that the products identified on Schedule “A” have been approved by Air Products in consultation with [YOUR COMPANY NAME] Merchandisers with regard to quality, marketability and supplier’s support.

5.2 The Merchandiser may be granted an exemption by [COMPANY NAME] from the provisions of paragraph 5.1 of this Agreement with respect to one or more of the products appearing on Schedule “A”, provided that the Merchandiser can establish to the satisfaction of [YOUR COMPANY NAME] that any such product identified on Schedule “A” is not marketable for reasons specific to the geographical location in which the [YOUR COMPANY NAME] Stores of the Merchandiser is located.

5.3 [YOUR COMPANY NAME] shall have the right in consultation with [YOUR COMPANY NAME] Merchandisers, to add products or to remove products from Schedule “A” from time to time provided that no such product shall be added to Schedule “A” unless and until [YOUR COMPANY NAME], in consultation with [YOUR COMPANY NAME] Merchandisers, is satisfied that such product meets the standards of [YOUR COMPANY NAME] with regard to quality, marketability and supplier’s support. The Merchandiser agrees not to remove or label over any labels appearing on the products identified on Schedule “A”.

5.4 The Merchandiser may carry any products in addition to the products appearing on Schedule “A”, without the consent of [YOUR COMPANY NAME], provided that the Merchandiser shall not carry any products which are competitive with those products identified on Schedule “A” unless such competitive products have been approved by [YOUR COMPANY NAME].

5.5 The Merchandiser understands and agrees that [YOUR COMPANY NAME] may receive advertising allowances, volume rebates and other forms of rebates from approved suppliers and may apply such rebates to the costs of providing certain services hereunder or may distribute such rebates to the Merchandiser in the manner established from time to time; however, [YOUR COMPANY NAME] shall have no obligation to disclose or account therefor to the Merchandiser.

5.6 Wherever this Agreement contemplates that [YOUR COMPANY NAME] shall consult with [YOUR COMPANY NAME] Merchandisers, [YOUR COMPANY NAME] shall consult with any one or more [COMPANY NAME] Merchandisers as [YOUR COMPANY NAME] shall, in its sole discretion, deem appropriate for the purposes of determining the views of [YOUR COMPANY NAME] Merchandisers generally.

**6. PRICES, PARTICIPATION IN PROMOTION**

6.1 Except as hereinafter provided, the Merchandiser shall have the sole right to determine the prices of any and all merchandise and products offered for sale by the [YOUR COMPANY NAME] Stores. Any submission to the Merchandiser of suggested prices is for guidance and does not impose upon the Merchandiser any obligation to charge any fixed minimum prices for any merchandise or products for sale by the [YOUR COMPANY NAME] Stores and the Merchandiser shall in no way suffer in its business relations with [YOUR COMPANY NAME] in the event that it shall not accept any suggested prices submitted to it.

6.2 The Merchandiser acknowledges that the uniformity of promotional activities contemplated by the [YOUR COMPANY NAME] Merchandising System will contribute to the effective development of the [YOUR COMPANY NAME] Stores. Therefore, the Merchandiser shall actively co-operate and participate in those advertising and sales promotion campaigns instituted by [YOUR COMPANY NAME] which involve the [YOUR COMPANY NAME] Stores, and throughout the duration of such campaigns the Merchandiser shall offer the merchandise and products which are the subject matter thereof at prices which do not exceed the prices suggested therefor by [YOUR COMPANY NAME].

**7. MERCHANDISING AND MARKETING STANDARDS**

7.1 [YOUR COMPANY NAME] shall have the right to inspect the [YOUR COMPANY NAME] Stores and the Business Premises at all reasonable times to ensure that the Merchandiser’s operations are in compliance with the standards and policies for the [YOUR COMPANY NAME] System.

7.2 The Merchandiser shall adhere to and fully comply with the prescriptions of the [YOUR COMPANY NAME] Merchandising System including, without limitation, the merchandising and marketing procedures relating to the operation of the business and maintenance of the Business Premises.

7.3 For the purpose of assisting the Merchandiser in the promotion and sale of merchandise purchased by the Merchandiser from [YOUR COMPANY NAME] and/or [YOUR COMPANY NAME]’s approved suppliers and for the purposes of maintaining the [YOUR COMPANY NAME] Merchandising System, [YOUR COMPANY NAME] may provide or cause to be provided standard printed order forms, sales invoice forms, catalogues and merchandising and marketing bulletins, and, if provided, the Merchandiser shall purchase and use such forms, catalogues and bulletins.

7.4 The Merchandiser shall secure and maintain in force all required licenses, permits and certificates and shall operate the [YOUR COMPANY NAME] Stores and the Business Premises in full compliance with all applicable law, ordinances and regulations, including without limitation all government regulations relating to occupational hazards and health, consumer protection, environmental protection, unfair and deceptive practices, trade regulation, worker’s compensation, unemployment insurance and withholding and payment of all taxes of whatsoever nature and kind.

7.5 The Merchandiser shall refrain from any practise that may be injurious to the [YOUR COMPANY NAME] Stores, or the goodwill associated with the Names and Marks or to other merchandisers of [YOUR COMPANY NAME] Stores.

7.6 If in the reasonable judgement  of [YOUR COMPANY NAME], the general state of repair or appearance of the Business Premises and the equipment used in the [YOUR COMPANY NAME] Stores does not meet with [YOUR COMPANY NAME]’s standards therefor, [YOUR COMPANY NAME] shall so notify the Merchandiser, specifying the action to be taken by the Merchandiser to correct such deficiency. If the Merchandiser fails to effect repairs, painting, decorating or housekeeping within [NUMBER IN LETTERS] ([NUMBER]) days after receipt of such notice, [YOUR COMPANY NAME] shall have the right, in addition to its rights under Article 7, to cause repairmen, painters and/or other tradesmen to effect such repairs, painting, decorating or housekeeping at the Merchandiser’s expense and the Merchandiser shall pay the entire costs thereof.

**8. BEST EFFORTS**

8.1 The Merchandiser shall diligently and fully exploit its rights in the [YOUR COMPANY NAME] Stores in every manner.

**9. MERCHANDISER NOT AN AGENT OF [YOUR COMPANY NAME]**

9.1 The Merchandiser shall have no authority, express or implied, to act as agent of [YOUR COMPANY NAME] or of any of its affiliates for any purpose. The Merchandiser is, and shall remain, an independent contractor responsible for all obligations and liabilities resulting from all loss or damage to the [YOUR COMPANY NAME] Stores and the Business Premises including any immovable property, vehicles, equipment, fixtures or immovable property connected therewith and for all claims or demands based on damage or destruction of property or based upon injury, illness or death of any person or persons, directly or indirectly, resulting from the operation of the [YOUR COMPANY NAME] Stores.

9.2 The Merchandiser may establish all operating procedures not provided for in this Agreement, including without limitation hours of operation, bookkeeping, accounting systems, staff training and inventory control procedures.

**10. TERMINATION**

10.1 Without prejudice to any of its other rights or remedies at law or in equity or under this Agreement, [YOUR COMPANY NAME], at its option, may terminate this Agreement immediately upon notice to the Merchandiser upon the happening of any of the following events:

(i) if the Merchandiser defaults in the performance of any of the terms and conditions of this Agreement, or if the Merchandiser fails to maintain and operate the [YOUR COMPANY NAME] Stores and the Business Premises in compliance with the standards prescribed by the [YOUR COMPANY NAME] System and fails to cure such default to the satisfaction of [YOUR COMPANY NAME] within [NUMBER IN LETTERS] ([NUMBER]) days of receipt of written notice from Air Products;

(ii) if the Merchandiser is adjudicated a bankrupt, becomes insolvent, or if a receiver, whether permanent or temporary, for all or substantially all of the Merchandiser’s property, is appointed by any Court of competent jurisdiction, or if the Merchandiser makes a general assignment for the benefit of its creditors, or makes a proposal under the Bankruptcy Act, or any proceedings to wind-up or liquidate or dissolve the Merchandiser or the [YOUR COMPANY NAME] Stores are commenced;

1. if there is a change in control, organisation or management of the Merchandiser which is unacceptable to Air Products or if all or substantially all of the assets of the Merchandiser are sold;

(iv) if the Merchandiser shall cease to distribute of products of [YOUR COMPANY NAME]; or

(v) in the event that a distributorship agreement between [YOUR COMPANY NAME] and the Merchandiser shall terminate.

**11. ALTERNATE REMEDIES**

11.1 In addition to and without prejudice to the rights and remedies of [YOUR COMPANY NAME] in Article 10 to terminate this Agreement, [YOUR COMPANY NAME] shall have the right to seek judicial enforcement of its rights and remedies including, without limitation, injunctive relief, damages or specific performance.

**12. EFFECT OF TERMINATION**

12.1 Upon termination of this Agreement, the Merchandiser agrees to immediately return to [YOUR COMPANY NAME] all Merchandising and Marketing Manuals that have been furnished to him by [YOUR COMPANY NAME] together with any copies or reproductions.

12.2 The Merchandiser further agrees that upon termination or expiration of this Agreement, it will take such action as may be required to cancel all trade name or equivalent registrations relating to the use of any Names and Marks and to notify the telephone company and all listing agencies of the termination or expiration of the Merchandiser’s right to use any telephone number and any classified and other directory listings associated with any Names and Marks or with the [YOUR COMPANY NAME] Stores and to authorise transfer thereof to [YOUR COMPANY NAME] or as it may direct, *in re*spect of which the Merchandiser hereby irrevocably authorises [YOUR COMPANY NAME] to assume any and all such telephone and other directory listings.

* 1. The Merchandiser agrees that after the termination or expiration of this Agreement, it will not directly or indirectly in any manner identify itself, the [YOUR COMPANY NAME] Stores Premises or any other premises, business or vehicles as a [YOUR COMPANY NAME] Stores or use in any manner or for any purpose, the Names and Marks or other *indicia* of [YOUR COMPANY NAME] and shall assist [YOUR COMPANY NAME], to the full extent required, in terminating any registered user agreements concerning the Names and Marks and to this end the Merchandiser shall offer to [YOUR COMPANY NAME] at its landed cost, all inventory labelled [YOUR COMPANY NAME].

**13. ASSIGNMENT**

13.1 This Agreement is fully assignable by [YOUR COMPANY NAME] and shall ensure to the benefit of any assignee or other legal successor to the interests of [YOUR COMPANY NAME] herein. Any assignment of this Agreement shall automatically release [YOUR COMPANY NAME] from its obligations hereunder except any obligations incurred prior to the effective date of such assignment.

13.2 This Agreement is personal to the Merchandiser and this Agreement may not be assigned or otherwise transferred by the Merchandiser without the prior written approval of [YOUR COMPANY NAME] which approval may be arbitrarily withheld.

**14. EFFECT OF WAIVERS**

14.1 No waiver by [YOUR COMPANY NAME] of any default in performance on the part of the Merchandiser, or a like waiver by [YOUR COMPANY NAME] of any breach or a series of breaches, shall constitute a waiver of any subsequent breach or default or a waiver of the terms of this Agreement.

**15. NOTICES**

15.1 Any notice required or permitted to be given hereunder shall be in writing and shall be given by telefax, personal service or by mailing by registered mail, with postage thereon fully paid, in a sealed envelope to be addressed to the Merchandiser at the Business Premises, or [YOUR COMPANY NAME] at:

[YOUR COMPANY NAME]

[YOUR COMPLETE ADDRESS]

EMAIL: [YOUR EMAIL ADDRESS]

Attention: [INDIVIDUAL NAME]

As the case may be, any party may be notice change the address to which notices must be sent.

Notice shall be deemed to have been given when served personally, or, if mailed, on the [NUMBER] business day following the mailing thereof as herein provided; or if sent by telefax on the day following the day of sending.

**16. INDEMNIFICATION**

16.1 The Merchandiser covenants and agrees that in the event [YOUR COMPANY NAME] shall become a party to any claim, demand or penalty or become a party to any suit or other judicial or administrative proceeding by reason of any act or omission of the Merchandiser, or those persons for whom the Merchandiser is responsible, or by reason of an omission with respect to the [YOUR COMPANY NAME] Stores or the Business Premises, the Merchandiser shall indemnify and hold [YOUR COMPANY NAME], its shareholders, directors, officers, employees and agents harmless against all judgments, settlements, penalties, costs and expenses, including attorney’s fees, court costs and other expenses of litigation or other judicial or administrative proceedings, incurred by or imposed upon [YOUR COMPANY NAME] in connection with the investigation or defence relating to such claim or litigation or administrative proceeding and, at the election of [YOUR COMPANY NAME], the Merchandiser shall also defend [YOUR COMPANY NAME] at the Merchandiser’s sole cost and expense.

**17. CONSTRUCTION AND SEVERABILITY**

17.1 All references in this Agreement to the singular shall include the plural where applicable and references to the masculine shall include the feminine and *vice versa*. Either reference shall include the neuter. If any part of this Agreement for any reason shall be declared invalid, such decision shall not affect the validity of the other provisions of this Agreement and this Agreement shall be construed as if this Agreement had been executed with the invalid portion eliminated. In the event that any material provision of this Agreement shall be stricken or declared invalid, Air Products reserves the right to terminate this Agreement.

17.2 This Agreement is in addition to and not in substitution of any distributor agreement which may have been entered into between [YOUR COMPANY NAME] and the Merchandiser with respect to the distribution of gas products and in the event of a conflict between the provisions of this Agreement and the provisions of the distributorship agreement the distributorship agreement shall prevail.

**18. ENTIRE AGREEMENT**

18.1 Subject to section 17.1, this Agreement (including any schedules, appendices and agreements supplemental hereto) together constitute the entire agreement between the [YOUR COMPANY NAME] hereto and supersede any and all other prior or contemporaneous negotiations, commitments, conditions, representations, warranties, undertakings and agreements, either oral or in writing, made between them with respect to the subject matter hereof with the exception of the licence Agreement entered into by the Partners as of the date of this Agreement (the “License Agreement”). In the event of a conflict between the provisions of this Agreement and those of the licence Agreement, the provisions of the licence Agreement shall prevail.

18.2 No interpretation, change, termination or waiver of any of the provisions hereof shall be binding upon [YOUR COMPANY NAME] or the Merchandiser unless in writing signed by a duly authorised officer of [YOUR COMPANY NAME]. No modification, waiver, termination, recession, discharge or cancellation or any of the provisions hereof shall affect the right of any party to enforce any claim hereunder whether or not liquidated, which accrued prior to date thereof.

**19. SUCCESSORS**

19.1 Subject to the provisions of Article 19, this Agreement shall bind and ensure to the benefit of the successors and assigns of [YOUR COMPANY NAME] and the successors and permitted assigns of the Merchandiser.

**20. FURTHER ASSURANCES**

20.1 The [YOUR COMPANY NAME] hereto shall execute and deliver such other and further documents and assurances or cause same to be executed and delivered in order to give full effect to the provisions hereof or to any change in trademark law *in re*spect of provisions of this Agreement.

**21. NO PARTNERSHIP OR JOINT VENTURE**

21.1 The parties hereby expressly acknowledge to be independent contractors and are not nor shall represent to be agents or employers of each other or to be related to each other.

21.2 [YOUR COMPANY NAME] shall have no control over the employees of the Merchandiser, including the terms and conditions of their employment. No employee engaged by the Merchandiser shall, under any circumstances, be deemed to be an employee of [YOUR COMPANY NAME], and all such employees shall be so notified by the Merchandiser.

**22. TIME OF THE ESSENCE**

22.1 Time shall be of the essence of this Agreement.

**23. GOVERNING LAW**

23.1 This Agreement shall be governed by and construed in accordance with the laws of or applicable to the [PROVINCE/STATE] of the [COUNTRY] and the parties shall submit to the jurisdiction of the courts of the [PROVINCE/STATE] of the [COUNTRY].

**24. ACKNOWLEDGEMENTS**

24.1 The Merchandiser acknowledges that:

(i) No representation has been made by [YOUR COMPANY NAME] as to the future profitability of the [YOUR COMPANY NAME] Stores;

(ii) [YOUR COMPANY NAME] is the sole owner of the Names and Marks and goodwill associated therewith, and the Merchandiser acquires no right, title or interest in the Names and Marks other than in the right to use them only in the manner and to the extent prescribed and approved by [YOUR COMPANY NAME].

**IN WITNESS WHEREOF**, each party to this agreement has caused it to be executed at [PLACE OF EXECUTION] on the date indicated above.

# FIRST PARTY SECOND PARTY

Authorised Signature Authorised Signature

Print Name and Title Print Name and Title