

## **RETAIL DEALER AGREEMENT**

This *RETAIL DEALER AGREEMENT* (the “Agreement”) is entered into and effective, at Laguna Beach, CA, as of the date set forth below, by and between GORJANA & GRIFFIN, INC., a California corporation (“SELLER”), and you, the retail dealer whose name and signature appear below (“you” or “BUYER”).

You have expressed an interest in purchasing product or continuing to purchase genuine **GORJANA®** product from SELLER. As a material term and express condition of any commercial or contractual relationship between you and SELLER, you agree at all times to be bound by the following specific terms and conditions, which, by agreeing to, you agree shall be, and hereby are, integrated, included and made a part of any purchase order or contract for the purchase of goods from SELLER (each an “Order”) now pending or placed hereafter by you.

FOR GOOD AND VALUABLE CONSIDERATION, THE RECEIPT OF WHICH IS HEREBY ACKNOWLEDGED, BUYER EXPRESSLY CONSENTS TO THE FOLLOWING SPECIFIC ADDITIONAL TERMS OF SALE:

**APPROVED SELLING LOCATION[S]:** Each retail location of BUYER must be approved by SELLER in writing, prior to the offering for sale (and prior to the actual sale) of any SELLER product. BUYER is hereby granted the limited right to sell the SELLER products ordered hereunder or hereinafter only at the following specifically approved retail location[s] listed within your gorjana new account application. Additional locations may be submitted for approval through your gorjana sales representative only.

**TERMINATION OF RELATIONSHIP:** Nothing herein shall give rise to an obligation on the part of SELLER to continue to sell product to BUYER, and BUYER acknowledges and agrees that either party may terminate its relationship with the other party at any time, with or without cause, and with or without advance notice. Any such termination shall not affect the obligations of BUYER, whether hereunder set forth or otherwise existing, with regard to any Orders previously shipped or then pending.

**INTELLECTUAL PROPERTY:** SELLER owns all designs and intellectual property contained in or on the goods ordered by or shipped to BUYER, including all designs, prints, artwork, silhouettes, patterns, SELLER trademarks, logos, trade dress, copyrights, design patents and the like, and any use of such rights by BUYER inures to the sole benefit of SELLER.

**MARKETING:** BUYER is prohibited from featuring or otherwise utilizing any SELLER products, brand names, trademarks, product pictures, imagery, product descriptions, buttons, social media postings or other SELLER content, of any type or nature, in any advertising or postings made by BUYER, in any medium (including, without limitation, online, mobile and social media), without the prior written approval of SELLER. Samples of proposed advertising shall be submitted to SELLER for approval as early in the concept/design process as possible, but in all cases no later than fifteen (5) business days prior to BUYER’s intended use thereof. Any advertising approval granted by SELLER shall be revocable and restricted to use by BUYER only at the approved retail location[s] listed above. BUYER acknowledges that its breach of the provisions contained in this paragraph would cause irreparable injury to SELLER, that monetary damages, as a matter of law, would be inadequate to remedy such injury, and that SELLER, in addition to any other remedies available, shall be entitled to seek and obtain injunctive relief.

**RETAIL PRICING:** **GORJANA®** is positioned as a premium brand within the market. As such, tremendous efforts and significant expenditures are made by the SELLER to maintain this premium image of high quality, high value, and high price points relative to other similar products on the market. Authorized retail dealers are strongly encouraged to adhere to SELLER issued MSRP and MAP pricing and advertised pricing guidelines as are promulgated from time to time. Failure to adhere may result in the refusal of future wholesale purchases and/or termination of authorized dealer status.

**SALES AND DISTRIBUTION LIMITATIONS; INTERNET SALES PROHIBITION:** BUYER is expressly prohibited from offering for sale, selling, diverting, distributing or otherwise disposing of the SELLER products: (i) other than through in-store retail sales at the approved brick & mortar retail store location[s] of BUYER listed above; (ii) outside of the United States and (iii) via mail order, catalogue, Ebay, Amazon, auction or Internet sales, from any

site or web page, including BUYER's own or affiliate eCommerce site[s], without the prior written consent of SELLER, in its sole subjective discretion. Additionally, BUYER is prohibited from creating sub-affiliate accounts to sell any SELLER product. In addition to its other rights and remedies, BUYER agrees that if it is reasonably found to be in breach of this paragraph prohibiting transshipping of SELLER product, it will be subject to a \$50,000.00 (USD) fine per offense, which amount BUYER acknowledges is not meant or intended as a penalty but as a reasonable assessment of the damages done to SELLER in such event, which BUYER recognizes are otherwise difficult to calculate.

**CREDIT APPLICATIONS AND AUTHORIZATION:** To qualify for terms of sale and credit limits, BUYER must submit a written credit application to SELLER. BUYER agrees to update its financial information and credit application promptly upon SELLER's reasonable request. SELLER will offer BUYER such terms as it deems appropriate in its sole and absolute discretion. Should a BUYER be granted a credit limit and payment terms, said credit limit and payment terms shall be subject to change or reduction at any time by SELLER in its sole discretion upon notice to BUYER. Upon any delinquent payment by BUYER, all outstanding invoices shall immediately become due and payable. Past due amounts will be considered and payable upon demand. Notwithstanding the foregoing, all past-due term accounts will incur a finance charge of one percent (1%) interest per month on the unpaid balance, until the owing amount is paid in full. A past-due account may cause any or all of BUYER's accounts to be placed on credit hold and may prevent BUYER from receiving pre-booked and/or other merchandise. Returned checks (N.S.F., account closed, uncollected funds, etc.) are charged a minimum \$25 handling fee for each item returned. If it becomes necessary for SELLER to collect on any delinquent amount from BUYER, whether itself or through a collection agency or attorney, BUYER agrees to pay all costs of collection, including court costs and all attorney fees.

**RETURNS:** All returns must be approved by in writing with a proper return authorization issued by the Returns Department of SELLER. No request for return of an order shall be effective unless it is submitted in writing to the SELLER sales representative assigned to BUYER with a copy to SELLER. A return of merchandise, which is defective, must be made within a reasonable time, and only with proper authorization from SELLER.

**CHARGE-BACKS & CANCELLATIONS:** ALL SALES ARE FINAL. No request for cancellation of an Order shall be effective unless: (i) it is submitted in writing to SELLER at least thirty (30) days prior to the "start ship" date and (ii) approved by SELLER in writing. BUYER acknowledges that all goods ordered by BUYER are manufactured directly for BUYER, and that SELLER detrimentally relies upon BUYER's order in its production of goods. Once an Order has been confirmed in writing or via online order confirmation, any and all cancellations or refused Orders will additionally impose upon BUYER a minimum twenty percent (20%) restocking fee, as well as a refund by BUYER to SELLER of any shipping and handling charges. All cancellation and/or restocking fees are due immediately. Please note that SELLER does not, and will not, accept charge-backs of any kind.

**PRODUCT CHANGES:** Upon receipt of your Order, SELLER will make every possible effort to ship your complete Order. Notwithstanding the foregoing, SELLER, without notice and without incurring any liability whatsoever to BUYER, retains the right to ship any product in the Order when ready. SELLER further reserves the right to discontinue the manufacturing or sale of any product or item. SELLER additionally reserves the right, without notice and without incurring any liability whatsoever to BUYER, to modify or change fabric content, labels, graphics, color variations, and/or construction of the merchandise ordered by BUYER, as well as the price for such, due to market conditions and/or material availability, which may or may not be beyond the control of SELLER, or done in order to correct defects.

**OTHER COVENANTS:** To ensure efficient and proper distribution of its products, consistent with company and/or brand image, SELLER reserves the right to limit the brands, styles and colors of its products which may be offered to the BUYER for resale at each approved retail selling location. BUYER further agrees it shall not purchase SELLER products from any source other than SELLER. BUYER shall provide SELLER with information pertaining to the sell-through of SELLER products as requested by SELLER from time to time. BUYER acknowledges that its breach of any of the provisions contained in this Agreement would cause irreparable injury to SELLER, that monetary damages, as a matter of law, would be inadequate to remedy such injury, and that SELLER, in addition to any other remedies available, shall be entitled to seek and obtain injunctive relief.

**LIMIT OF LIABILITY:** In no event will SELLER be liable to BUYER, whether in contract, tort or otherwise, for any  
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lost profits or any indirect, consequential, special, exemplary or incidental damages, arising from or relating to: (i) this Agreement, (ii) the subject matter of this Agreement, or (iii) the relationship between SELLER and BUYER.

**MISCELLANEOUS:** In the event either party hereto shall institute an action to enforce any rights hereunder, including any action for collection instituted by SELLER or its assignees, the prevailing party in such action shall be entitled to seek and collect its attorneys' fees and litigation expenses. BUYER submits and consents to the exclusive jurisdiction and exclusive venue of the state courts of the County of Orange, State of California or, as applicable, the United States District Court for the Central District of California in any action arising out of this transaction or BUYER's commercial relationship with SELLER. This Agreement and the entire commercial relationship between SELLER and BUYER is to be governed according to the laws of the State of California, without regard to conflicts of laws principles. This Agreement may be amended, modified or altered by SELLER at any time upon notice to BUYER. In the event of any discrepancy between this Agreement and the specific term[s] of any Order or document generated by BUYER, this Agreement shall be controlling with regard to such disputed term[s]. This Agreement shall be binding upon and inure to the benefit of the parties hereto, and their respective heirs, assigns, and successors-in-interest. The waiver by SELLER of a breach of any term or condition of this Agreement shall not be deemed to constitute the waiver of any further breach of such or any other term or condition of this Agreement. This Agreement supersedes all prior or contemporaneous written or oral agreements between the parties.