



# BRAND PROTECTION POLICY FOR DEALERS

## MINIMUM RETAIL PRICE POLICY + ADVERTISING AND MARKETING POLICY

EFFECTIVE AS OF JULY 1, 2020

**1. Application.** This Policy (a) is issued by Young's Products, LLC, doing business as PopUp Towing Products, ("PopUp"), (b) is effective as of July 1, 2020 (the "Policy Effective Date"), (c) is applicable to each Dealer and (d) consists of (i) a policy regarding minimum retail price ("Minimum Retail Price Policy" or the "MRP Policy"), which establishes a price below which specified PopUp Products may not be offered or sold and (ii) a policy, which addresses how PopUp Products may be advertised and marketed ("Advertising and Marketing Policy" or the "A&M Policy"). The MRP Policy applies to certain PopUp Products, while the A&M Policy, unless otherwise noted, applies to all PopUp Products. Certain terms are defined in Section 10 of this Policy.

**2. Purpose.** The products sold by PopUp are of consistent high quality and are designed to make towing smooth and convenient. Not only does the company stand behind every product it sells with unsurpassed warranty coverage, but its focus on superior service also results in unshakable loyalty to PopUp brands. Some Dealers have taken or may take advantage of these facts by advertising or selling PopUp Products as loss leaders, promoting or applying unfair discounts or misusing intellectual property of PopUp or references to PopUp or its products. In an effort to help safeguard the reputation of PopUp, insure the long-term viability of each of its brands and protect the investment of those Dealers that provide valuable services, PopUp has adopted this Policy.

### **3. Minimum Retail Price Policy.**

**(a) The Covered Products.** The MRP Policy establishes a minimum retail price ("MRP" and referring to either the singular or the plural or both, "MRP(s)") for each of the PopUp Products specified by PopUp Notice (individually, a "Covered Product" and collectively, the "Covered Products"), including without limitation on the price list(s) or product list(s) provided or otherwise made available to Dealers by PopUp Notice (individually and collectively, the "Covered Products List"). Unless otherwise directed by PopUp, each time the same Covered Product is offered or sold by a Dealer in pairs or other groupings, the offer or selling price must be no less than the applicable MRP multiplied by the number of units in such offer or sale.

**(b) Application.** Each form of marketing using or containing Price Information regarding one or more of the Covered Products employed by or on behalf of a Dealer is subject to the MRP Policy. *When applied to websites, Price Information found outside the cart (or other container), in the cart (or other container) and at checkout is subject to the MRP Policy.* In addition, the MRP for a Covered Product may vary depending upon where the Price Information appears to which it applies.

**(c) Changes Relevant to the MRP Policy.** PopUp, at any time, may vary any or all of the MRP(s) for a Covered Product or add to or delete any or all of the Covered Products, which may, among other things, be based on whether such product(s) is or are offered or sold under or subject to one or more select PopUp program(s) or any other PopUp policy or in any other situation announced by PopUp from time to time. PopUp will endeavor to provide prior notice of each new MRP or such change in the Covered Products, generally not less than five (5) days in advance. While PopUp will communicate each MRP and such change by PopUp Notice (including without limitation through the Covered Products List), each Dealer is responsible for making sure that it is aware of each appropriate Covered Product and MRP in each circumstance.

**(d) Violations of the MRP Policy.** Although *each Dealer remains free to establish its own retail prices*, such Dealer violates the MRP Policy by (i) offering, selling or otherwise providing (whether doing so face-to-face, in-store, online, through a catalog or in any other manner) any or all of the Covered Products at a Net Adjusted Price less than the corresponding MRP(s) established by PopUp from time to time and communicated by PopUp Notice or (ii), as provided in the MRP Policy, being deemed to have violated it. The MRP(s) for offers and sales made to end users located in the USA will be in USA dollars, while those made to end users in Canada will be in Canadian dollars. For purposes of this Policy, "Net Adjusted Price" means the price at which a Covered Product is offered by or for the benefit of a Dealer to an end user or that actually paid to or for the benefit of a Dealer for a Covered Product by an end user after (A) applying all discounts and similar price reductions and (B) excluding certain taxes and shipment charges.

**(e) How Net Adjusted Price is Calculated.** Except as otherwise provided in the MRP Policy, Net Adjusted Price for each Dealer will be calculated by taking into account all discounts, deductions, rebates, allowances and the substantive equivalent offered or provided to an end user, regardless of source, whether given or taken at the time of offer, sale or otherwise and considered by PopUp to be part of such offer or sale.

**(f) Exclusions from Net Adjusted Price.** The following are excluded from the calculation of Net Adjusted Price for each Dealer:

(i) **Rebates/Coupons Initiated by PopUp:** Each offer or sale referring to or applying a Financial Incentive will not be considered part of Net Adjusted Price if such Financial Incentive is provided by PopUp or its designee(s): (A) directly to an end user or (B) to such Dealer for provision to and use by an end user;

(ii) **Gift Cards:** Each offer or sale referring to or applying one or more Gift Cards, as long as such use is in a transaction separate from the purchase or award of such card(s) (However, any or all Gift Cards offered or furnished with the purchase of one or more of the Covered Products will be considered a discount, except as otherwise provided in the MRP Policy.);

(iii) **Free/Reduced-Price Shipping and Other Services:** Any or all of free or reduced-price shipping, installation, removal and disposal may be offered or furnished by such Dealer without it being considered to be a discount when offered or furnished in connection with a potential or actual purchase that includes at least one of the Covered Products, provided that, as determined by PopUp: (A) such offer applies to all other products in each category in

which each such Covered Product resides, (B) the value thereof is reasonable and (C), in the case of each offer of free or reduced-price installation, removal or disposal, such offer is not made publicly; and

(iv) Excluding Taxes/Certain Charges: If to be paid or paid by an end user, all applicable taxes and all shipping, delivery and insurance charges are excluded (However, if such Dealer offers to pay or pays any or all of such taxes and such charges that otherwise would be paid by an end user, the amount so offered or paid by such Dealer will be considered a discount, except as otherwise provided in the MRP Policy.).

(g) Treatment of Bundles. A Dealer violates the MRP Policy if a Bundle is offered or sold that (i) does not originate from PopUp, (ii) has not been authorized on the price list(s) from PopUp prior to such offer or sale or (iii) otherwise has not been expressly approved by PopUp Notice to such Dealer in advance.

(h) The MRP Policy Exemptions. A Dealer does not violate the MRP Policy by offering or selling one or more of the Covered Products at a Net Adjusted Price that is less than the applicable MRP(s) if such offer or sale is made in accordance with one or more of the following exemptions (collectively, the *"MRP Policy Exemptions"*) and otherwise complies with this Policy:

(i) Returns: In the case of returns of any or all items of the Covered Products permitted by PopUp, each offer or sale thereof to PopUp or to any or all of the Distributors;

(ii) Special Programs: The offer or sale under one or more special programs (if any) designated by PopUp, as long as such Dealer complies with the terms and conditions of such program(s) specified or otherwise expressly approved by PopUp Notice in advance;

(iii) Multi-Item Discount: The offer or sale of one or more of the Covered Products subject to a discount that is triggered by reaching certain quantity or dollar levels in the cart (or other container) for a single proposed or actual purchase (a *"Multi-Item Discount"*), as long as: (A) such Dealer has received PopUp Notice expressly approving in advance the participation of each of the PopUp Products eligible for such discount (collectively, the *"MID-Eligible Products"*); (B) such Dealer complies with the terms and conditions of such approval; and (C), regardless whether consisting of one or more of the MID Eligible Products or one or more of the MID-Eligible Products combined with that or those of any other supplier(s), the amount of such discount when pro-rated among the products in such cart (or other container) based on their relative dollar value takes the Net Adjusted Price for each of the MID Eligible Products offered or sold to no less than ninety-five percent (95%) of its then-current MRP, unless PopUp has expressly approved in advance a larger deviation;

(iv) Storewide, Site-wide or Category-wide Promotions: A storewide, site-wide or category-wide promotion involving a Financial Incentive that would, after its application, result in offer or sales price(s) for any or all of the Covered Products below its or their respective MRP(s), as long as: (A) such Dealer has received PopUp Notice expressly approving in advance the participation of each of the PopUp Products eligible for such promotion (collectively, the *"Promotion-Eligible Products"*); (B) such Dealer complies with the terms and conditions of such approval; (C) such Financial Incentive may be applied to all or almost all of the products offered by such Dealer or, in the case of a category-wide sale (such as towing products), no fewer than two (2) brands in the category other than that or those of PopUp; and (D) such application takes the Net Adjusted Price for each of the Promotion Eligible Products to no less than the MRP supplied by PopUp specifically for such promotion;

(v) Card Benefit: A card benefit consisting of a Financial Incentive associated with the use of a designated credit or debit card (a *"Card Benefit"*) that would, after its application, result in offer or sale price(s) for any or all of the Covered Products below its or their respective MRP(s), as long as (A) such Dealer has received PopUp Notice expressly approving in advance the participation of each of the PopUp Products eligible for such Card Benefit; (B) such Dealer complies with the terms and conditions of such approval; (C) such Card Benefit may be applied to all or almost all of the products offered by such Dealer; and (D), unless expressly approved in advance by PopUp Notice, nothing promoting such Card Benefit mentions, uses, depicts or otherwise refers to or appears adjacent to or near any or all of (1) the Covered Products and (2) the PopUp Intellectual Property;

(vi) Loyalty Points: The accrual of "points" or other things of value (*"Loyalty Points"*) in connection with the purchase or receipt of any or all products and services from such Dealer and the subsequent application of Loyalty Points (but only in one or more transactions other than the one(s) in which they were earned), even if such application results in offer or sale price(s) for any or all of the Covered Products below its or their respective MRP(s), as long as: (A) such Dealer has received PopUp Notice expressly approving in advance the participation of each of the PopUp Products eligible for Loyalty Points (collectively, the *"Loyalty-Eligible Products"*); (B) such Dealer complies with the terms and conditions of such approval; (C) Loyalty Points may be accrued and applied to all or almost all of the products and services offered by such Dealer, (D), unless expressly approved in advance by PopUp Notice, the everyday accumulation rate for Loyalty Points applicable to the purchase of any or all of the Loyalty-Eligible Products is no more than that applicable to all or almost all other brands of products offered by such Dealer (as determined by PopUp regardless of category); and (E), unless expressly approved in advance by PopUp Notice, nothing promoting Loyalty Points mentions, uses, depicts or otherwise refers to or appears adjacent to or near any or all of (1) the Covered Products and (2) the PopUp Intellectual Property;

(vii) Used or Discontinued Products: The offer or sale of any or all items of the Covered Products that (A) cannot reasonably be considered new, including without limitation those which are display or demonstration units, as long as each such item is clearly and conspicuously described as "used" and, to the extent relevant, labeled as "used" or (B) are discontinued by PopUp effective (1) when such item(s) do(es) not appear on the then-current Covered Product List or the price list(s) or product list(s) issued by PopUp or (2) on the date(s) referred to in PopUp Notice of discontinuance; and

(viii) Employee Offers: The offer or sale of any or all of the Covered Products to a bona fide employee of such Dealer for his or her personal use (and not for resale), provided that such offer or sale is reasonable (as determined by PopUp) and not advertised or promoted publicly.

#### **4. Advertising and Marketing Policy.**

(a) Use of the PopUp Intellectual Property or References to PopUp Products. A Dealer violates the A&M Policy if any advertisement, promotion or other marketing vehicle (regardless of the medium used, whether Conventional Advertising, Electronic Content or otherwise) used or done by or on behalf of such Dealer (i) includes any or all of the PopUp Intellectual Property or mentions, uses, depicts or otherwise refers to any or all PopUp Products and (ii) does not conform to (A) the Usage Policies or (B) any or all of the following provided to such Dealer: (1) PopUp Notice that furnishes direction or express approval and (2) Disapproval Notice.

**(b) Other Ways to Violate the A&M Policy.** Except as expressly directed or approved in advance by PopUp Notice or otherwise allowed by this Policy, with respect to any or all items of PopUp Products, a Dealer violates the A&M Policy by knowingly or negligently, directly or indirectly:

(i) Prohibited Terms: Advertising, promoting or selling using (A) the terms “lowest price,” the “lowest prices,” “prices too low to show,” “make an offer,” “best offer,” “call for discount,” “email for discount,” “call for price,” “email for price,” “call for coupon code,” “email for coupon code” or “add to cart [or other container] for discount”; (B) any form of low-price guarantee or price matching; (C) any express or implied representation(s) that one or more prices below the MRP(s) are available; or (D) the substantive equivalent of any or all of these terms or concepts;

(ii) Out-of-Date Elements: In each advertising, promotional and other vehicle of any kind employed by or on behalf of such Dealer that uses or refers to any or all of the PopUp Intellectual Property, failing to use or refer to the then-current version(s) of such property (as designated by PopUp), including, but not necessarily limited to trademarks, trade names, service marks, trade dress, copyrights, logos, domains, images (product and otherwise), artwork, designs and copy;

(iii) Promotion and Sale: Advertising, promoting or selling in any or all of the following ways: (A) outside the USA and Canada (except to the extent any or all advertising and promotion efforts cannot be reasonably restricted geographically, but this exception does not apply to sales made to anyone located outside the USA and Canada), (B) using anything other than USA dollars for offers and sales to end users located in the USA or Canadian dollars for offers and sales to those located in Canada, (C) using any business name(s) or storefront(s) subject to Disapproval Notice provided to such Dealer; (D) except for the additional packaging reasonably necessary for shipping, in anything other the original packaging and without relabeling, repackaging (including without limitation the separation of combined products or multipacks or the creation of new combined products or multipacks), altering, obscuring or removing labels, serial or lot numbers, other written information accompanying such products or taking other similar or substantive equivalent action(s); and (E) combining any or all PopUp Products with one or more items other than PopUp Products with the intent or result of creating the impression that such item(s) are supplied by, endorsed by or otherwise associated with PopUp;

(iv) Resale: Selling in either or both of the following ways: (A) to anyone for resale (other than, in the case of returns of any or all items of PopUp Products permitted by PopUp, to PopUp or any or all of the Distributors) and (B) to anyone other than end users permitted by PopUp, including without limitation selling to the Special Accounts;

(v) Electronic Content: Employing Electronic Content (online, texting, social media or otherwise) in any fashion (A) contrary in whole or part to Disapproval Notice provided to such Dealer for any or all business names, storefronts, websites, marketplaces and platforms or (B) to offer or sell anonymously or while (1) failing to clearly and conspicuously indicate the full name, address and telephone and email contact(s) of such Dealer where feasible (as determined by PopUp) or (2) giving the impression (as determined by PopUp) that any or all of the websites or platforms used by such Dealer is or are operated by PopUp;

(vi) Responsibility. With respect to dealings by such Dealer with customers of such Dealer, failing to assume sole responsibility for and legal compliance with all privacy matters, terms of use, terms of sale, contractual obligations, fulfillment, taxes, returns, representations and product claims (except for those product claims regarding PopUp Products (A) originating from PopUp or expressly approved by PopUp for use by such Dealer and (B) unchanged by such Dealer);

(vii) ASINs/UPCs: For any or all PopUp Products, doing one or more of the following: (i) creating or assisting in or otherwise cooperating in the creation of new Amazon Standard Identification Numbers (“ASINs”), Universal Product Codes (“UPCs”) or the substantive equivalent and (ii) using one or more UPCs or the substantive equivalent for any or all PopUp Products other than that or those obtained and used by PopUp;

(viii) Deceptive Behavior: As determined by PopUp, engaging in (A) false, deceptive or misleading advertising, promotion or sales practices or (B) any conduct that is or could be detrimental to the reputation or integrity of any or all of such Dealer, the Distributors, PopUp and PopUp Products;

(ix) Domains: Using any or all of PopUp, its trademarks or other of the PopUp Intellectual Property (or any variant(s) thereof) as or as part of one or more domain names, subdomains, Uniform Resource Locators (URLs) or the substantive equivalent (individually and collectively, “Domains”) employed by or for the benefit of such Dealer, regardless whether such use is in connection with the offering or sale of any or all PopUp Products;

(x) Gun Jumping: Advertising, promoting or selling prior to the release or usage date(s) specified by PopUp for (A) a new product or (B) a product or product combination in a special promotion or with a special promotional price authorized by PopUp;

(xi) Compliance. Failing to comply promptly and in timely fashion with: (A) all applicable laws (including without limitation the U.S. Foreign Corrupt Trade Practices Act of 1977 as amended) and, except to the extent expressly excluded by PopUp from mandatory compliance therewith, all of the Dealer Policies; (B) whatever request may be made by PopUp relating to any law or expectation thereof or the modification or recall of any or all items of PopUp Products; and (C) the action(s) described in each Disapproval Notice and each PopUp Notice;

(xii) Questioning Rights: Questioning or challenging the rights claimed by PopUp or its designee(s) in or to the PopUp Intellectual Property or assisting in any way any other(s) in doing so;

(xiii) Certain Purchases: Purchasing any or all PopUp Products other than from PopUp, a Distributor or, in the case of bona fide returns only, an end user; and

(xiv) Modifications/Counterfeits: Offering or selling one or more products that are modified or counterfeit version(s) of any or all PopUp Products, unless, in the case of modifications only, each such modification is expressly approved in advance by PopUp Notice.

**5. The Grandfathered Conduct Exemption.** Provided that a Dealer otherwise complies with this Policy, such Dealer does not violate it by conduct that, as determined by PopUp, cannot reasonably be modified prior to the Policy Effective Date or the effective date of a change in the MRP(s), the Covered Products, the Usage Policies or this Policy until such time that it is reasonable to modify such conduct (as determined by PopUp) to be consistent with this Policy, as long as, if this Policy was in place at the time such conduct occurred, it complied with the then-current terms thereof (the “Grandfathered Conduct Exemption”).

**6. Additional Ways to Violate this Policy.** Except as expressly authorized or directed by PopUp Notice or otherwise permitted by this Policy or to the

extent limited to the Covered Products as provided herein, a Dealer (directly or through another party on behalf or for the benefit of such Dealer) engaging in any or all of the following conduct (or the substantive equivalent thereof) in connection (directly or indirectly) with the offering or sale of any or all PopUp Products will be deemed to be in violation of this Policy:

- (a) **MRP Descriptions:** In connection with the offer or sale of any or all of the Covered Products, stating or implying that it is or they are subject to the MRP Policy or any policy or practice affecting minimum advertised or minimum retail or resale price;
- (b) **Auctions:** Offering or selling any or all of the Covered Products in an auction environment, such as, but not limited to, on an online auction site (e.g., eBay) or any site using an auction, make-an-offer or best-offer format, except that such Dealer may offer or sell on such site as long as (i) it does so in that or those portion(s) other than the auction environment of such site and (ii) such site is not the subject of Disapproval Notice;
- (c) **Failure to Exclude:** Except as otherwise permitted by this Policy, the failure to expressly exclude each relevant Covered Product from each general offer or sale by such Dealer involving a Financial Incentive that takes or after application takes the Net Adjusted Price below the relevant MRP(s) (e.g., "Save 20% on all towing products");
- (d) **Sign-up Discounts:** Each offer of a Financial Incentive for (i) sign-up by an end user (whether email or text sign-up, new customer sign-up or lapsed customer sign-up), (ii) referral of an end user or (iii) the substantive equivalent of any or all of these terms or concepts;
- (e) **Strike Throughs:** In connection with the offering or sale of any or all of the Covered Products, showing a strike-through of any price(s) regardless whether one or more other prices are shown;
- (f) **Action Invitations:** Providing an invitation to click, rollover, call, email, visit a location (such as a website, store or showroom) or otherwise communicate to obtain a price, coupon code or the substantive equivalent for any or all of the Covered Products;
- (g) **Pick-up Discounts:** Offering or furnishing one or more pick-up discounts or the substantive equivalent, unless such offering or furnishing does not take Net Adjusted Price below the relevant MRP(s);
- (h) **Group Pricing:** With respect to the Covered Products, the offer or sale to group purchasers, except at price(s) no less than each applicable MRP;
- (i) **Trade-ins:** Advertising or promoting a trade-in offer or applying a trade-in Financial Incentive for one or more PopUp Products or any other product(s) in connection with or applicable to any or all of the Covered Products, regardless whether a specific trade-in price or value is advertised or promoted;
- (j) **Failure to Itemize:** On any and all proposals, quotations, contracts, invoices and receipts provided to or prepared for the benefit of any or all of such Dealer's potential and actual customers in connection with the offer or sale of any or all of the Covered Products (individually and collectively, "**Customer Communication**"), the failure of such Dealer to itemize the price charged for each of the products and services shown, referred to or otherwise included on or in such Customer Communication, regardless whether such Customer Communication contains any reference(s) to any of the Covered Products;
- (k) **Audit Compliance:** Failure to promptly provide information requested by PopUp or otherwise cooperate with PopUp in auditing compliance by such Dealer or others with the Dealer Policies or otherwise, which audit(s) may include without limitation one or more representatives of PopUp during normal business hours (i) appearing at the place(s) of business of such Dealer and examining books and records related to such compliance and (ii) interviewing relevant personnel; and
- (l) **Circumvention:** Each tactic which PopUp determines is intended to circumvent application or operation of this Policy.

**7. Consequences of Violating this Policy.** One or more of the following will occur following verification by PopUp to its satisfaction that a Dealer has violated this Policy (if, in the view of PopUp, the nature or severity of a violation is sufficient, the penalty for the Second, Third or Fourth Violation may be applied anytime):

<b>Violation</b>	<b>Consequences</b>
<b>First Violation</b>	PopUp will provide notice of the First Violation to such Dealer and may request that such Dealer remove or stop, or cause to be removed or stopped, such violation within the time period specified in such notice, which typically will be one of the following: (a) no later than forty-eight (48) hours (usually for a violation involving Electronic Content) or (b) by the conclusion of the period otherwise specified by PopUp (regardless whether any action need be taken, a violation has been accrued).
<b>Second Violation</b>	Effective as of the date specified in notice from PopUp to such Dealer and continuing for the next forty-five (45) days, the authorization of such Dealer to purchase any or all PopUp Products will be immediately revoked by PopUp, so that all pending orders (even if accepted) from such Dealer will be cancelled and no new orders will be accepted from such Dealer for each such product.
<b>Third Violation</b>	Effective as of the date specified in notice from PopUp to such Dealer and continuing for the next six (6) months, the authorization of such Dealer to purchase any or all PopUp Products will be immediately revoked by PopUp, so that all pending orders (even if accepted) from such Dealer will be cancelled and no new orders will be accepted from such Dealer for each such product. (If the forty-five (45) day period for the Second Violation of this Policy has not run when the Third Violation of this Policy occurs, the six (6) month period will begin after the forty-five (45) day period concludes.)
<b>Fourth Violation</b>	Effective as of the date specified in notice from PopUp to such Dealer and continuing until PopUp provides notice to such Dealer otherwise, if ever, the authorization of such Dealer to purchase any or all PopUp Products designated by PopUp (the " <b>Designated Products</b> ") will be immediately revoked by PopUp, so that all pending orders (even if accepted) from such Dealer will be cancelled and no new orders will be accepted from such Dealer for any or all of the Designated Products.
<b>Continued Violations</b>	If such Dealer fails to remove or stop, or cause to be removed or stopped, a violation within the time period specified by PopUp in the notice of such violation, such failure will be a subsequent violation of this Policy.

<b>Additional Violations after the Fourth</b>	In the event that, after the Fourth Violation of this Policy by such Dealer, either or both of the following are relevant: (a) the Designated Products do not include all PopUp Products or (b) PopUp provides notice to such Dealer that PopUp has re-authorized such Dealer to purchase any or all of the Designated Products, then each act or failure to act of such Dealer that constitutes a violation of this Policy (or is deemed by PopUp to be such a violation) will receive the same treatment as if a new Fourth Violation had then occurred.
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**8. Buyback.** In the event that a Dealer violates this Policy or otherwise, such Dealer, if so notified by PopUp, will be deemed to have sold to PopUp or its designee(s) each of the items in Dealer's Inventories (free of all liens, security interests, claims and encumbrances, other than that or those in favor of PopUp) which is acceptable (as determined by PopUp) at a price equal to the lower of (a) PopUp's applicable price to such Dealer or (b) the price actually paid or owed therefor, less in either case a restocking charge equal to the amount, if any, described in the Dealer Policies or by PopUp Notice. In addition, such Dealer will pay the freight and all related charges to ship such items (if and as directed to do so by PopUp). Such Dealer will make Dealer's Inventories available to PopUp or its designee(s) (promptly after PopUp requests such Dealer to do so) for inspection, repurchase and shipment. At the option of PopUp, such Dealer may be compensated for such items by credit to such Dealer's account in the amount paid or owed.

**9. Treatment of Violations/Do-Not-Sell List.** Each violation of this Policy is cumulative. Except as otherwise provided in this Policy, the consequences of each violation can take effect regardless whether the consequences for the preceding violation(s) are still running. The same act(s) or failure(s) to act may result in multiple violations. For each Dealer purchasing any or all PopUp Products from one or more of the Distributors, this Policy will be enforced through a Do-Not-Sell List.

**10. Certain Definitions.** For purposes of this Policy:

(a) **"Bundle"** (in the plural, **"Bundles"**) means a combination of one or more PopUp Products with one or more (i) other PopUp products, (ii) other products, (iii) services or (iv) benefits offered or sold together (as determined by PopUp);

(b) **"Conventional Advertising"** means newspapers, magazines, rotos, direct mail, catalogs, radio, television, signs and each other medium so designated by PopUp;

(c) **"Dealer"** (in the plural, **"Dealers"**) means an individual or entity located in either or both of the United States of America (**"USA"**) that (i) promotes and sells one or more products offered by PopUp regardless of brand (collectively, **"PopUp Products"**) to any or all actual or potential end user purchasers (collectively, **"end users"** and individually, an **"end user"**), whether doing so directly or through another party that does such things as advertise or fulfill orders on behalf of such individual or entity, or (ii) is a Distributor, but only to the extent, if any, that such Distributor performs as a Dealer as permitted by PopUp;

(d) the **"Dealer Policies"** means, taken together, each then-current version of the announcements and policies (whether in the form of correspondence, memoranda, notices or otherwise) expressly labeled as a policy or policies (or the substantive equivalent) and from time to time issued or modified by PopUp Notice from the Policy Administrator (or the designee(s) or successor(s) thereof) and intended by PopUp for a Dealer, including without limitation this Policy;

(e) **"Dealer's Inventories"** all inventories of any or all items of PopUp Products in a Dealer's possession or under a Dealer's control;

(f) **"Disapproval Notice"** means PopUp Notice that disapproves of one or more uses, certain conduct or otherwise;

(g) **"Distributor"** (in the plural, **"Distributors"**) means an individual or entity located in either or both of the USA and Canada designated as such by PopUp Notice that promotes, sells or otherwise supplies one or more PopUp Products to any or all actual or potential to Dealers (unless and until such notice is provided by PopUp, each individual and entity otherwise permitted by PopUp to promote, sell or otherwise supply one or more Dealers will be considered a Distributor);

(h) **"Do-Not-Sell List"** means PopUp Notice which indicates that (i) one or more individuals or entities are not authorized by PopUp to promote or sell PopUp Products or (ii) the authorization of a Dealer to promote and sell PopUp Products has been revoked in whole or part with respect to all such products or revoked only with respect to certain of such products.

(i) **"Electronic Content"** means information that (i) can be accessed by an internet browser or the substantive equivalent, including, but not limited to, (A) internet shopping sites, (B) marketplaces and (C) comparison search engines (CSEs) to which a Dealer supplies Price Information (*e.g.*, Google Shopping, Rakuten, eBay, Amazon and PriceGrabber); (ii) is provided by or through one or more applications (apps) for mobile devices (*e.g.*, tablets and smartphones), including, but not limited to, social media apps (*e.g.*, Twitter, Instagram and Facebook) and mobile gaming platforms; or (iii) is furnished by or through (A) electronic solicitations or other electronic communications (*e.g.*, robocalls, caller-on-hold and other audio recordings, messaging (such as SMS (text), MMS (multimedia) and IM (instant)), webcasts, email and online or other electronic chats), (B) electronic advertisements (such as email newsletters, pop-ups and banners) or (C) the substantive equivalent;

(j) **"Financial Incentive"** means a coupon, discount, credit, rebate or the substantive equivalent;

(k) **"Gift Cards"** means prepaid store value money cards, other forms of store credit or the substantive equivalent typically issued by a Dealer or a bank to be used as an alternative to cash for purchases;

(l) **"negligently"** means should have known (as determined by PopUp);

(m) **"offering"** and its variants means making available in any way, whether through advertising, promotion, proposal or otherwise and regardless of place or medium used and whether doing so face-to-face, in-store, online, through a catalog or in any other manner;

(n) **"Policy Administrator"** means that designated or indicated as such in one or more of the Dealer Policies or by PopUp Notice;

(o) the **"PopUp Intellectual Property"** means any or all trademarks, trade names, service marks, trade dress, copyrights, logotypes, Domains, images, artwork, designs, copy, data, data bases, marketing information, trade secrets, confidential information and anything else in which PopUp or its designee(s) claim(s) rights, regardless whether steps have been taken to register such rights with any government authority or private registrar;

(p) **“PopUp Notice”** means notice from PopUp to a Dealer provided or made available electronically or otherwise, such as, but not limited to, posting on one or more websites designated by PopUp;

(q) **“Price Information”** means information regarding price, whether express or implied, such as a discrete price, price formula, reference to price or anything related to price (e.g., representations or inferences regarding savings, discount(s) or value) and the substantive equivalent;

(r) the **“Special Accounts”** means, collectively, each individual or entity so designated by PopUp Notice;

(s) **“substantive equivalent”** means as determined by PopUp; and

(t) the **“Usage Policies”** means the Dealer Policies regarding (i) the use of the PopUp Intellectual Property and (ii) uses, depictions or other references of or to any or all PopUp Products (including without limitation those policies relating to format and content).

**11. Additional Provisions.** Effective as of the Policy Effective Date, this Policy supersedes and cancels each other policy applicable to each Dealer (but not each Distributor) from PopUp for any or all PopUp Products, if any, regarding minimum advertised price (MAP), minimum retail or resale price or, to the extent covered by this Policy, the advertising and marketing matters referred to herein. For any reason(s) deemed appropriate by PopUp (including without limitation based on the request of a Dealer for PopUp to consider such things as, but not necessarily restricted to, limited-time promotional offers for a Dealer event or otherwise), but in no case other than as the unilateral decision of PopUp, this Policy may be modified, extended, waived, suspended, discontinued or rescinded in whole or part by PopUp Notice at any time (including without limitation during any PopUp-designated promotional period(s)), with such action(s) effective immediately or as otherwise described by PopUp. If PopUp negotiates a price or prices with an end user that is or are less than the MRP(s) and provides a Dealer the opportunity to fulfill one or more orders at such price(s), acceptance by such Dealer of such opportunity will not constitute a violation of this Policy.

In the event that PopUp receives one or more orders (or similar or related documents) from a Dealer which PopUp deems contain one or more provisions which are inconsistent with or in addition to any or all provisions of the Dealer Policies: (a) each such order (or document) will be conclusively deemed to be governed by the Dealer Policies; (b) each such inconsistent or additional provision will be deemed stricken; and (c) no order submitted to PopUp by such Dealer will be deemed to be governed by any provision(s) other than that or those contained in the Dealer Policies, unless and until a written agreement is duly executed by PopUp and such Dealer which expressly adopts such provision(s). The availability of any or all items of PopUp Products may be changed by PopUp anytime, in which case, PopUp may without liability or penalty do either or both of the following: (i) cancel all pending orders (even if accepted) from a Dealer for such changed item(s) and (ii) refuse to accept any new orders from such Dealer for such item(s).

Unless PopUp designates otherwise, for purposes of compliance with this Policy, each business (regardless of the name(s) used and location(s)) directly or indirectly owned, operated or associated with a Dealer (as determined by PopUp) will be considered to part of such Dealer, so that each violation by any such business will be aggregated with that or those of each other such business and attributed to such Dealer. If the approval of PopUp under this Policy is sought by a Dealer, the failure to obtain it no later than seven (7) days after receipt by PopUp of such request will be deemed to be a disapproval of each thing for which such approval is sought.

Regardless whether expressly indicated in this Policy, each notice referred to herein (including without limitation PopUp Notice): (A) may, as determined by PopUp, be given in writing or electronically and (B) will be considered to be received as designated by PopUp. The Explanation (which also may be referred to as “Frequently Asked Questions,” “FAQs” or the substantive equivalent), if any, accompanying or associated with this Policy is intended to help answer questions in connection with it, but is not part of this Policy. In the event of any disagreement over the interpretation or enforcement of this Policy, the view of PopUp will control.

If PopUp determines that a Dealer does not qualify for or abused any or all of the MRP Policy Exemptions and the Grandfathered Conduct Exemption, such exemption(s) with respect to such Dealer will be deemed withdrawn by PopUp retroactive to the Policy Effective Date or such other date specified by PopUp. Except in extraordinary circumstances, PopUp will not consider any requests for other exemptions. The consequences of violating this Policy are non-exclusive and do not limit or waive in any way the legal, equitable and other remedies available to PopUp, particularly for conduct relating to the PopUp Intellectual Property. If applicable law contains any requirement or prohibition that is inconsistent with any or all of the Dealer Policies, PopUp may, effective as designated by PopUp, add or substitute such requirement, otherwise accommodate such prohibition or rescind such policy or policies in whole or part without liability.

PopUp will not discuss any conditions of acceptance related to this Policy. In addition, PopUp neither solicits, nor will it accept, any assurance of compliance with this Policy. Notwithstanding anything to the contrary which may be expressed or implied in or by one or more agreements between a Dealer and PopUp, a Dealer and a Distributor or otherwise, nothing therein shall constitute an agreement by such Dealer to comply with this Policy, as, among other things, this Policy is not and should not be construed to be one of the Dealer Policies (as such term or the substantive equivalent is or may be used in any or all of such agreements or otherwise) for which such compliance is mandatory.

**12. Questions, Additional Information or Information Regarding Potential Violations.** All questions or requests for additional information regarding this Policy and all information regarding potential violations of this Policy must be in writing and are to be addressed to the following person at PopUp responsible for this Policy:

*Policy Administrator, PopUp Towing Products, 4330 S. Johnson Road, Chanute, KS 66720 USA  
email: PolicyAdmin@popuphitch.com*

Only the Policy Administrator or the Policy Administrator’s designated representative(s) is or are authorized by PopUp to answer questions regarding this Policy, to comment on this Policy or to accept information regarding potential violations. Except for the Policy Administrator and such representative(s), no PopUp employee or independent sales representative has authority to comment upon or to take any action under this Policy.

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