

# **Mulholland**

---

## **Positioning Systems Inc.**

**PLEASE TYPE**

### **DEALERSHIP AGREEMENT**

This Dealership Agreement is made and entered into as of this day of \_\_\_\_\_, 20\_\_, by and between MULHOLLAND POSITIONING SYSTEMS, INC. (hereafter referred to as "Company")

And \_\_\_\_\_, Thereafter referred to as "Dealer" *with* respect to the following

### **RECITALS**

1. Company designs, manufactures, produces, and distributes equipment and other apparatus to assist disabled individuals.
2. Dealer wishes to purchase equipment from Company for the purpose of selling to retail customers.
3. Company warrants each product sold to be free of defects in material and workmanship. Warranty statements for each product are available to Dealer upon request and accompany each new unit.
4. Company places a very high value on providing Dealer with positive support and encouragement. Company offers Certification Seminars for Dealer personnel on seating and positioning. Upon successful completion, participant qualifies as a "Certified Positioning Specialist".
5. The purpose of this Agreement is to set forth the terms and conditions under which Company will consent to sell its equipment to Dealer.

NOW, THEREFORE IT IS AGREED:

1. Company will sell and ship to Dealer the following Company products:

Please check (X) product lines you wish to distribute:

- Prone Standers ..... [ ]
- Walkabouts ..... [ ]
- Gait Masters ..... [ ]
- Growth Guidance Chair..... [ ]
- Adaptive Systems ..... [ ]
- Acrobat Chairs..... [ ]
  
- All Products ..... [ ]

## Dealership Agreement Page 2

2. Company reserves the right to change any or all of the terms of this Agreement by written notice to Dealer.
  
3. Dealer agrees to comply with the terms and conditions listed below:
  - A. **Freight charges:** F.O.B. factory, prepaid and billed, if shipped by D.H.L.; collect if by common carrier.
    - a. DHL. Blue and Air Freight only with prior authorization by Dealer.
    - b. On returns, freight to be prepaid by Dealer.
    - c. Damaged shipments are the responsibility of the carrier.
    - d. Claims *must* be filed with carrier upon receipt of merchandise.
    - e. Demo or Loaner equipment: Freight to be paid by dealer.
  
  - B. **Exchanges:** Company offers a 30 day exchange period with an RA # of any Mulholland subassembly that is not custom made.
  
  - C. **Returns:** All return shipments must be labeled with a Return Authorization Number, which can be obtained from our Customer Service Department. Returns may be subject to a 25% restocking charge depending on the condition of the product. Custom ordered items may not be returned. **NO EXCEPTIONS.**
  
  - D. **Warranty:** Mulholland Positioning Systems, Inc. warrants Mulholland Positioning System's equipment to be free of defects in material and workmanship for one year from date of shipment. Mulholland Positioning Systems, Inc. will repair or replace such part or assembly, which upon examination, is found by manufacturer to be defective under normal use and service. Since positioning results obtained with the use of our equipment depend on circumstances beyond our control, we cannot assume and we disclaim responsibility for expense, damage or injury of any kind associated with the use of the equipment sold and/or manufactured by Mulholland Positioning Systems, Inc. Misuse, negligence, accident and/or physical modification of Mulholland Positioning Systems, Inc. is not covered in this warranty. Mulholland Positioning Systems, Inc. is not obligated to bear the cost of transportation charges in connection with the replacement or repair of defective parts. In all cases, transportation charges to the factory must be prepaid. No other warranty, expressed or implied, is given Mulholland Positioning Systems, Inc. In relation to the product it manufactures.

## Dealership Agreement Page 3

E. **Discounts:** Are determined from current Suggested Retail Price List.

1. **Base Discount:**

All Products: 40%

2. **Secondary Discounts:**

- a) Secondary discounts will be given on payment of Invoices within 30 days of the Invoice Date, which is the date of shipment and **not** the date the Invoice is received.
- b) Secondary discounts will **not** be allowed on any invoices if there are invoices that are 60 days or more past due.
- c) Secondary discounts do not apply to Invoices for freight. Customers who take Secondary discounts on freight will have future freight invoices marked up accordingly.

F. **Demo Policy:**

1. Only outgoing freight will be billed on initial Invoice. Return freight is the responsibility of the dealer.
2. The loaner period is 45 days. If the unit must be kept longer, a request for an extension must be communicated to Mulholland Positioning Systems, Inc. Customer Service can be reached at 800-543-4769.
3. If a request for an extension is **not** received and the unit is out 60 days Mulholland Positioning Systems, Inc. will Invoice the unit at dealer cost.
4. Mulholland Positioning Systems, Inc. is not able to make custom parts for Demo/Trial units.
5. Demo/Trial units are sent upon availability.

G. **Payment Terms:**

Net thirty (30) days. Accounts sixty (60) days or more past due may be shipped C.O.D. until the account is current.

Accounts ninety (90) days or more of past due balances will be placed for collection if payment cannot be resolved.

**Dealership Agreement Page 4**

- H. Credit Limits:** Established by Company and based on information provided on New Account Application as well as payment experience. Should established credit limit be exceeded shipment will be either C.O.D. or on prior approval.
  - I. Collection Costs:** Dealer agrees to pay collection and/or reasonable attorney fees in addition to all court costs if collection action is instituted.
4. Mulholland Positioning Systems, Inc. is always striving to provide the best and most current designs therefore products may change without notice.
  5. This Agreement infers no exclusivity to Dealer, and Company retains the right to sell its equipment to any other person or organization.
  6. In drafting this Agreement, Marshall, Lowthorpei, Richards & Hull, a Professional Corporation, has represented Company and no other party.
  7. This Agreement shall be terminated upon the happening of any of the following conditions listed below:

    - A. Account consistently past due.
    - B. Reasonable evidence that Dealer is providing representation contrary to the best interests of Company.
    - C. Evidence that Dealer may be insolvent.
    - D. In addition, either party may terminate this Agreement by giving the other party sixty (60) days written notice.

**Dealership Agreement Page 5**

8. Notice shall be sent as follows:

**Mulholland Positioning Systems, Inc.**  
**839 Albion Ave**  
**P.O. Box 70**  
**Burley, ID 83318**  
**Ph 208-878-3840**  
**Fax: 208-878-3841**  
**Email: customer\_service@mulhollandinc.com**

Dealer:

Notice shall be deemed when actually received or five (5) days after mailing in the United States Mail with postage prepaid and addressed as provided above. Either party may change address where they are to receive notice by giving notice as provided herein.

9. This instrument contains the entire Agreement between the parties relating to the rights herein granted and the obligations herein assumed. Any oral representations or modification concerning this Agreement shall be of no force or effect. This Agreement shall be binding upon the Executors, Administrators, heirs, successors, and assigns of the parties hereto. In an alleged breach, an interpretation thereof, or a sum due Company from Dealer, the prevailing party shall be entitled to recover from the losing party reasonable expenses, attorney fees, expert witness fees, and costs.

10. This Agreement shall be governed by and construed in accordance with the laws of the State of California.

**Dealership Agreement Page 6**

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of this date and year first above set forth at Cassia County, Idaho.

**MULHOLLAND POSITIONING SYSTEMS, INC.**

Date: \_\_\_\_\_ By: \_\_\_\_\_  
Lawrence K. Mulholland  
President

**DEALER:**

Date: \_\_\_\_\_ By: \_\_\_\_\_  
Corporate Officer Signature

\_\_\_\_\_  
Corporate Officer Title

\_\_\_\_\_  
(Please Print Name of Signatory)

Corporate Seal  
Affixed Rev.03/07

**NEW ACCOUNT APPLICATION**

**PLEASE TYPE**

Company Name: \_\_\_\_\_ Telephone \_\_\_\_\_

Mailing Address: \_\_\_\_\_ Fax \_\_\_\_\_

Billing Address: \_\_\_\_\_

Shipping Address: \_\_\_\_\_

Resale Number: \_\_\_\_\_

Please check one: Corporation \_\_\_\_\_ Partnership \_\_\_\_\_ Individual \_\_\_\_\_

Years in Business: \_\_\_\_\_

Type of Business: \_\_\_\_\_

Names of Principals:

\_\_\_\_\_, President \_\_\_\_\_ Secretary

\_\_\_\_\_, Vice President \_\_\_\_\_ Treasurer

**COMPLETE THIS SECTION**

Customer/trade accounts where MULHOLLAND POSITIONING SYSTEMS, INC. products will be sold and which you service on a regular basis:

1. Facility \_\_\_\_\_ Phone \_\_\_\_\_

Address \_\_\_\_\_ Contact \_\_\_\_\_

2. Facility \_\_\_\_\_ Phone \_\_\_\_\_

Address \_\_\_\_\_ Contact \_\_\_\_\_

3. Facility \_\_\_\_\_ Phone \_\_\_\_\_

Address \_\_\_\_\_ Contact \_\_\_\_\_

Name(s) of person(s) in your firm who will handle MULHOLLAND POSITIONING SYSTEMS, INC., products for these accounts

\_\_\_\_\_

**New Account Application Page 2**

Credit References:

Please Note: The following companies **WILL NOT** provide us credit reference. **DO NOT** use these companies as references: Aftermarket Group, Bergen Brunswig, Crown Therapeutics, Everest & Jennings, Graham Field, Invacare, Jodee Inc., Lumex, Medline, Otto-Bock, Pride, Pride Health Care, Roho Inc., Sunrise Medical, Sunmed Services Inc.

1. Firm: \_\_\_\_\_ Phone: \_\_\_\_\_  
Account #: \_\_\_\_\_ Fax: \_\_\_\_\_  
Address: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

2. Firm: \_\_\_\_\_ Phone: \_\_\_\_\_  
Account #: \_\_\_\_\_ Fax: \_\_\_\_\_  
Address: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

3. Firm: \_\_\_\_\_ Phone: \_\_\_\_\_  
Account #: \_\_\_\_\_ Fax: \_\_\_\_\_  
Address: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

4. Firm: \_\_\_\_\_ Phone: \_\_\_\_\_  
Account #: \_\_\_\_\_ Fax: \_\_\_\_\_  
Address: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**Please supply us with a current year financial statement, signed by a company principal.**

Application complete: \_\_\_\_\_, 20\_\_\_\_, By: \_\_\_\_\_  
(Position or Title)

