



AGREEMENT

Agreement made, effective as of August 1, 2006, by and between MASONRY HEATERS ASSOCIATION OF NORTH AMERICA, INC., a corporation duly organized and existing under the laws of the State of Delaware, with a place of business at Tucson, Arizona, hereinafter referred to as "MHA", and Richard Smith, hereinafter referred to as Dick Smith.

RECITALS

The parties recite and declare:

- A. MHA is an association of builders, manufacturers and retailers of masonry heaters, whose purpose is to promote the industry, sponsor research and development, shape regulations, standards and codes, inform and educate the public, and further the expertise and professionalism of its membership. MHA maintains its place of business at Tucson, Arizona.
- B. Dick Smith is qualified to serve as Executive Administrator of MHA.
- C. MHA has extended an offer to work as an independent contractor to Dick Smith, subject to the terms and conditions set forth in this agreement. Dick Smith accepts work as an independent contractor on the terms and conditions set forth below.

For the reasons set forth above, and in consideration of the mutual promises and agreements set forth in this agreement, MHA and Dick Smith agree as follows:

SECTION ONE INDEPENDENT CONTRACTOR

- A. MHA hereby hires Dick Smith as an independent contractor. Dick Smith will work as an Executive Administrator for MHA. Dick Smith's duties will include, but not be limited to, the coordination, formulation, expediting and support of the MHA Officers' ideas, plans and goals. This will include, but not be limited to, handling all administrative telephone calls, correspondence and communication with members from the administrative office, as well as include any other duties and responsibilities that the interest, needs, or business of MHA shall

require. Dick Smith agrees to such hiring, duties and responsibilities, subject to the advice and direction of MHA.

- B. MHA is hiring Dick Smith solely as an independent contractor. Dick Smith is not being hired by MHA as an employee. This agreement confers absolutely no employee rights, either express or implied, on Dick Smith, and MHA assumes absolutely no employer duties and responsibilities either express or implied, under this agreement.

SECTION TWO BEST EFFORTS OF INDEPENDENT CONTRACTORS

Dick Smith agrees that he/she will, at all times, faithfully, industriously, and to the best of his/her ability perform all of the duties that may be required of and from Dick Smith pursuant to the express and implicit terms of this agreement, to the satisfaction of MHA. Such duties shall be rendered at the offices of MHA in Tucson, Arizona, and at such other place or places as MHA shall require or as the interest, needs, business, or opportunity of MHA shall require.

SECTION THREE TERM OF AGREEMENT

The term of this agreement shall be a period of one year, commencing August 1, 2006, and terminating July 31, 2007, subject, however, to prior termination or extension or modification as provided in this agreement.

SECTION FOUR COMPENSATION

MHA shall pay Dick Smith and Dick Smith shall accept from MHA in full payment for his/her services under this agreement, compensation at the rate of \$18.00 per hour. MHA shall be billed monthly on the first of the month to receive payment for said compensation.

MHA shall have no obligation to provide any benefits to Dick Smith. Dick Smith is an independent contractor for MHA and is not an employee of MHA. Therefore, Dick Smith shall not be entitled to any benefits provided by MHA, including, but not limited to, the following: group health care, retirement benefits, life insurance, long term disability, vacation time, and sick time.

SECTION FIVE EXPENSES

MHA shall pay for the cost of telephone bills, postage, and printing necessary for the operation of the MHA Administrative Office. Dick Smith on behalf of MHA will incur no extraordinary expenses without the prior written consent of MHA. Dick Smith shall pay for office supplies.

SECTION SIX ANNUAL MEETING

Dick Smith shall be required to attend and participate in the Annual Meeting of MHA, regardless of where said meeting occurs. Dick Smith shall be paid \$500.00 for the aforementioned required attendance. MHA shall pay for Dick Smiths' travel expenses to and from said meeting, as well as for any necessary food and lodging while he/she attends said meeting.

SECTION SEVEN OFFICERS' MEETING

Dick Smith shall be required to attend and participate in the Officers' Meeting of MHA, regardless of where said meeting occurs. Dick Smith shall be paid for the aforementioned required attendance. MHA shall pay for Dick Smiths' travel expenses to and from said meeting, as well as for any necessary food and lodging while he/she attends said meeting.

SECTION EIGHT TERMINATION DUE TO DISCONTINUANCE OF BUSINESS

Notwithstanding anything contained in this agreement to the contrary, in the event that MHA shall discontinue operating its business at Tucson, Arizona then this agreement shall terminate as of the last day of the month in which MHA ceases operations at such location with the same force and effect as if such last day of the month were originally set as the termination date of this agreement.

SECTION NINE RECOMMENDATIONS FOR IMPROVING OPERATIONS

Dick Smith shall make available to MHA all information of which Dick Smith shall have any knowledge and shall make all suggestions and recommendations that will be of benefit to MHA.

SECTION TEN TRADE SECRETS

Dick Smith shall not at any time or in any manner, either directly or indirectly, divulge, disclose or communicate to any person, firm, corporation, or other entity in any manner whatsoever any information concerning any matters affecting or relating to the business of MHA, including without limitation, any of its customers, the prices it obtains or has obtained from the sale of, or at which it sells or has sold, its products, or any other information concerning the business of MHA, its manner of operation, its plans, processes, or other data without regard to whether all of the above-stated matters will be deemed confidential, material, or important, MHA and Dick Smith specifically and expressly stipulating

that as between them, such matters are important, material, and confidential and gravely affect the effective and successful conduct of the business of MHA, and MHA's good will, and that any breach of the terms of this section shall be a material breach of this agreement.

SECTION ELEVEN TRADE SECRETS AFTER TERMINATION OF AGREEMENT

All of the terms of Section Ten of this agreement shall remain in full force and effect for a period of five years after the termination of this agreement for any reason.

SECTION TWELVE INABILITY TO CONTRACT

Notwithstanding anything contained in this agreement to the contrary, Dick Smith shall not have the right to make any contracts or commitments for or on behalf of MHA without first obtaining the express written consent of MHA.

SECTION THIRTEEN AGREEMENTS OUTSIDE OF CONTRACT

This agreement contains the complete agreement concerning the arrangement between the parties and shall, as of the effective date hereof August 1, 2006, supersede all other agreements between the parties. The parties stipulate that neither of them has made any representation with respect to the subject matter of this agreement or any representations including the execution and delivery of this agreement except such representations as are specifically set forth in this agreement and each of the parties acknowledge that MHA and Dick Smith have relied on their own judgment in entering into this agreement. Both parties acknowledge that this agreement is a fair agreement, and is not the result of any fraud, duress or undue influence exercised by either party upon the other or by any other person or persons upon either, and they further agree that this agreement contains the entire understanding of the parties. Each party affirms that they have had ample time to consider the terms and conditions of this agreement and were not hurried or coerced in any manner whatsoever. Each party acknowledges that both first discussed the idea of this agreement prior to its signing.

SECTION FOURTEEN MODIFICATION OF AGREEMENT

Any modification of this agreement or additional obligation assumed by any party in connection with this agreement shall be binding only if evidenced in writing signed by each party or an authorized representative of each party.

SECTION FIFTEEN FIDELITY BOND

Dick Smith will make application for a fidelity or a surety bond, to any company designated by MHA, in such amount as may be specified by MHA. MHA shall pay the premium on such bond, and such bond shall continue in force in such amounts as MHA may from time to time require and in the event such bond is refused or is ever cancelled, except with the approval of MHA, this agreement may be terminated immediately and Dick Smith shall be entitled to compensation to the date of such termination only.

SECTION SIXTEEN TERMINATION

- A. MHA may terminate this agreement with or without cause. In the event that MHA terminates this agreement without cause, MHA shall provide Dick Smith with thirty (30) days written notice. Dick Smith shall be entitled to compensation only for the hours of work actually performed, after the mailing of said notice.
- B. In the event of any violation by Dick Smith of any of the terms of this agreement, MHA may terminate this agreement without notice and with compensation to Dick Smith only to the date of such termination.

SECTION SEVENTEEN RENEWAL OF AGREEMENT

The parties agree to discuss a new agreement no less than thirty (30) days before July 31, 2007. Unless otherwise extended or modified in writing prior to July 31, 2007 or terminated, as per Section Sixteen of this agreement, prior to July 31, 2007, this agreement shall be on a month-to-month basis after the original term ends. A month-to-month contract is terminable by either party by giving written notice to the other party thirty (30) days prior to the contemplated termination date. If this agreement becomes a month-to-month contract, all other provisions of this agreement will remain in full force and effect.

SECTION EIGHTEEN EFFECT OF PARTIAL INVALIDITY

The invalidity of any portion of this agreement will not and shall not be deemed to affect the validity of any other provision. In the event that any provision of this agreement is held to be invalid, the parties agree that the remaining provisions shall be deemed to be in full force and effect as if they had been executed by both parties subsequent to the expungement of the invalid provision.

SECTION NINETEEN CHOICE OF LAW

This agreement shall be governed by the laws of the State of Washington, D.C. to the exclusion of the law of any other forum, without regard to the jurisdiction in which any action or special proceeding may be instituted, and without giving effect to the choice of law provisions thereof or to the choice of law provisions of any other state. Both MHA and Dick Smith acknowledge and agree that in any action or proceeding in any jurisdiction or before any tribunal or arbitrator where this agreement, its enforceability, its lawfulness, the obligations and rights there under, the terms and conditions thereof, or the meaning thereof, is at issue or being considered or contested, they will request the court, arbitrator, or other tribunal to apply only the internal law of the State of Washington, D.C. and not to apply the choice of law provisions thereof nor the choice of law provisions of any other state, including the state of the jurisdiction where said action or proceeding is brought, nor any concept of [false conflicts]. Notwithstanding the foregoing, this Section shall not supersede the choice of forum provision in Section Nineteen.

SECTION TWENTY ARBITRATION OF DISPUTES

It is the intention of the parties to this agreement that any controversy or claim arising out of, or relating to this agreement, or its breach, shall be settled by arbitration in Washington, D.C., in accordance with the then governing rules of the American Arbitration Association. Judgment upon the award rendered may be entered and enforced in any court of competent jurisdiction.

SECTION TWENTY-ONE NO WAIVER

The failure of either party to this agreement to insist upon the performance of any of the terms and conditions of this agreement, or the waiver of any breach of any of the terms and conditions of this agreement, shall not be construed as thereafter waiving any such terms and conditions, but the same shall continue and remain in full force and effect as if no such forbearance or waiver has occurred.

SECTION TWENTY-TWO ATTORNEY FEES

In the event that any action, including one brought pursuant to Section Twenty, is filed in relation to this agreement, the unsuccessful party in the action shall pay to the successful party, in addition to all the sums that either party may be called on to pay, a reasonable sum for the successful party's attorney's fees.

Notwithstanding the foregoing, it is the intention of the parties that disputes between the parties, if any, be settled, pursuant to Section Twenty.

SECTION TWENTY-THREE NOTICE

Any notice required pursuant to this agreement shall be in writing, and sent by registered or certified mail. Notices to Dick Smith shall be sent to: Dick Smith, c/o Masonry Heaters Association of North America, Inc., 2180 S. Flying Q Lane, Tucson, Arizona 85713. Notices to MHA shall be sent to: Jerry Frisch, President of MHA, 111 Barbara Lane, Everett, WA 98203 or to the address of the current President of MHA. It shall be the responsibility of Dick Smith to ascertain the current name and address of the President of MHA for the purpose of sending notices, as per this agreement, if the President is someone other than the aforementioned Jerry Frisch or if Jerry Frisch's address changes from that listed in this agreement.

SECTION TWENTY-FOUR MODIFICATION

This agreement represents the entire agreement between MHA and Dick Smith. No modification of this agreement is valid unless it is in writing and signed by all parties.

SECTION TWENTY-FIVE ASSIGNABILITY

This agreement is not assignable.

SECTION TWENTY-SIX PARAGRAPH HEADINGS

The titles to the paragraphs of this agreement are solely for the convenience of the parties and shall not be used to explain, modify, simplify, or aid in the interpretation of the provisions of this agreement.

IN WITNESS WHEREOF, each party to this agreement has caused it to be executed on the date indicated below.

Witness

President / Date
Masonry Heaters of North America

Witness

Witness

Secretary / Date
Masonry Heaters of North America

Witness

Witness

New Administrator / Date

Witness