

# SunRotor® Dealer Contract

Upon execution, this Dealer Application (hereafter, the “Application”) will constitute a binding contract (an “Agreement”) between the “Applicant” and SunRotor® Solar Products, a division of Solar Power & Pump Company, LLC (“SunRotor”). By its execution of the Agreement, Applicant agrees to the terms and conditions contained herein. Applicant must submit completed Application with signed Agreement to commence application process.

## Terms & Conditions

1. These terms and conditions govern the sale of SunRotor brand pumps and accessories (“Products”) by SunRotor via telephone, facsimile, e-mail, or other means to Dealers and Value-Added Resellers.
2. **“Dealer”** shall mean any person or business entity engaged in the wholesale or retail sale, or installation of SunRotor Products, including but not limited to the Products. This does not include reselling SunRotor goods online; Online Resellers will need to obtain the SunRotor Online Reseller Contract.
3. **Applicant Status.** SunRotor reserves the right, in its sole discretion, to determine whether an applicant hereunder is qualified as a Dealer; and SunRotor reserves the right, in its sole discretion, to change the status of and/or to terminate a Dealer.
4. **Initial Order Minimum.** Dealer agrees that its first order under this Agreement will be for Products in a sum of no less than \$5,000.00, exclusive of shipping charges. SunRotor reserves the right, in its sole discretion, to offer an interim price level, which will be assigned until such time as the Initial Order Minimum has been met. If offered, the Dealer will have six (6) months to reach this minimum, which will begin on the date of first purchase. Once fulfilled, Dealer will receive premium pricing until termination or closure of account. SunRotor reserves the right to modify the Initial Order Minimum upon Dealer request and at its sole discretion.
5. **Product Technical Support.** By entering into this Agreement, Dealer recognizes and accepts its obligation to provide both pre-sale and post-sale Product Technical Support. This includes, but is not limited to, proper pump sizing per application and general troubleshooting. Dealer’s failure to provide Product Technical Support constitutes a material breach of this Agreement and grounds for termination thereof at the discretion of SunRotor.
6. **Warranty Claims.** Dealer is responsible for facilitating the return of their customers’ potentially defective products for warranty inspection, and as such, accepts that SunRotor will require Dealer’s customers to contact Dealer if SunRotor is contacted directly.
7. **Non-exclusivity.** Nothing express or implied in this Agreement shall restrict Dealer’s right to offer for sale any product manufactured and distributed by any entity other than those Products offered by SunRotor.
8. **Product Labels.** Dealer and/or the Dealer’s customers will not, in part or whole, obstruct, destruct, alter, cover, or tamper with, in any manner, the integrity of the label(s) affixed to Products at time of shipment. Violation of this restriction by Dealer and/or the Dealer’s customers constitutes both a material breach of this Agreement and shall void any expressed and/or implied Product warranty by SunRotor, its sub-contractors and/or material suppliers.
9. **Dealer Use of Trade Names.** A Dealer may employ the following SunRotor trade names (the “Trade Names”) in its hard copy or electronic marketing materials: SunRotor® SR (including all of the current SR series—4, 6, 10, 12, 16, 26—and any future model), and SunRotor® XR, but must do so in a manner in which the phrase “SunRotor® Solar Products” and the SunRotor Logo (as shown in “Exhibit A” below) also appear prominently in the materials in such proximity that a viewer of said materials would reasonably understand that SunRotor is the manufacturer of the Products represented by the Trade Names. Any use of the Trade Names in a manner deemed, in SunRotor’s sole discretion, to intentionally deceive customers, potential customers, and the general public, as to the maker of Products, will result in the termination of this Agreement by SunRotor.

## Exhibit A:



This version of the SunRotor Logo will be electronically transmitted to the Applicant after the Dealer Agreement has been signed, submitted, and approved, but only after a SunRotor Dealer account has been established, and by request of Dealer.

*No alteration of the logo, with the exception of dimension or resolution changes, is permitted.*

### 10. Order Procedure.

- a. Dealer purchase orders will include SunRotor item numbers or a complete description of the Products, as well as quantities, delivery dates, shipping methods, and locations.
- b. All orders placed by Dealer will be binding on Dealer even if SunRotor does not provide an express written order confirmation.
- c. SunRotor reserves the right in its sole discretion to charge a cancellation fee of up to twenty percent (20%) for orders that:
  - i. Dealer changes more than 48 hours after placing the order with SunRotor; or,
  - ii. Products have already been shipped.
- d. SunRotor reserves the right in its sole discretion to require a 50% *non-refundable* down payment for orders deemed specialty orders due to the quantity or custom nature, and have already been placed with the SunRotor's part suppliers.

11. **Sales Tax.** Applicable sales taxes will be charged on all orders until a valid resale certificate is on file. Charges for sales taxes will not be refunded on any orders placed prior to receipt of Dealer's resale certificate.

### 12. Payment and Credit Policy.

- a. All Products must be paid for ("Payment") prior to shipment (unless agreed otherwise, specifically and in writing).
- b. Acceptable forms of Payment:
  - i. Automatic Clearing House ("ACH") payments made via an ACH network operating in accordance with the rules and regulations established by the NACHA – The Electronic Payments Association and the Federal Reserve System;
  - ii. Standard company checks written on the Dealer account;
  - iii. VISA, MasterCard, or American Express; or
  - iv. Wire transfer.
- c. Any fees incurred by SunRotor in the processing of any Payment will be charged to the Dealer.
- d. Where SunRotor has specifically agreed to extend credit to a Dealer, the following terms apply:
  - i. No credit order in excess of credit limit will be honored;
  - ii. SunRotor reserves the right to amend or withdraw credit terms in its sole discretion;
  - iii. A late payment charge of 2% per month will be assessed on all delinquent or past due orders;
  - iv. SunRotor reserves the right to place a credit hold on all delinquent or defaulted accounts;
  - v. Dealer agrees to pay reasonable attorney fees incurred in collection of delinquent accounts; and
  - vi. SunRotor's acceptance of a partial payment does not constitute an accord and satisfaction on any account, regardless of any notation on the instrument used to affect payment.
- e. All orders in excess of \$15,000 will require a 50% down-payment no matter the credit limits and may have a 4-6 week lead time, unless otherwise agreed upon, specifically and in writing.

13. **Shipping and Handling Fees.** Unless otherwise agreed, all Product shipments to locations within the contiguous United States will be shipped FOB point of origin, with costs and handling fees charged to Dealer.

14. **Dealer Receipt and Acceptance of Products.** If in direct receipt of Products from SunRotor, Dealer shall inspect, and accept or reject, each shipment upon receipt. Such acceptance or rejection shall only apply to:
- a. The completeness of the shipment, and/or
  - b. Reasonably apparent visible damage to the Products (or the packaging for such Products).
- Dealer must notify the shipping carrier as soon as possible of any reasonably apparent problems with the shipment or Products, and notify SunRotor in writing of nonconforming shipments or Products within 72 hours of receipt. Pictures will be required.
  - Failure to notify both the shipper and SunRotor shall be deemed an unqualified acceptance of the contents and condition of the shipment.
15. **International Orders.** Orders for Products to be shipped outside of the United States must be paid for in United States currency prior to shipment, including any and all applicable fees. Shipping method may vary and will be at the discretion of SunRotor. Dealer may be required to use a freight forwarder, and all duties will be paid by Dealer.
16. **Disclaimer of Territorial Exclusivity.** Nothing in this Agreement constitutes an explicit or implied restriction on SunRotor's right to reach Dealer Agreements with other dealers, regardless of their geographic proximity to Dealer. Furthermore, SunRotor reserves the right to direct customer orders, requests or other inquiries to any SunRotor Dealer, regardless of that dealer's geographical proximity to Dealer.
17. **Statute of Limitations.** No action by Dealer may be brought at any time more than twelve (12) months after the facts occurred, upon which the cause of action arose.
18. **Limitations of Liability.** The liability of SunRotor hereunder for any and all claims arising from this Agreement shall not exceed the sum of Dealer's payments for the Products that are the subject of the dispute. SunRotor shall not be liable for the consequential damages, anticipated or lost profits, incidental damages, loss of time, or other losses incurred by Dealer or any third-party in connection with this agreement or products sold hereunder.
19. **Governing Law; Venue.** The construction, interpretation and performance of this Agreement and all transactions under it shall be governed by the laws of the State of Oklahoma. The parties hereto agree that any suits, actions or proceedings arising out of this Agreement that may be instituted by any party hereto shall be instituted only in the state or federal courts serving the city of Elk City, Oklahoma, and the parties hereto do hereby consent to the jurisdiction of those courts and waive any objection which they may now or hereafter have to venue of those suits, actions or proceedings.
20. **Force Majeure.** Except for the payment of amounts due, neither party shall be held responsible for any delay or failure in performance of any part of this Agreement to the extent that delay or failure is caused by circumstances beyond its control (a "Force Majeure"), including, but not limited to, fire, flood, explosion, war, strike, embargo, government requirement, civil or military authority, act of God, act or omission of carriers or other similar causes. If any Force Majeure occurs, the party delayed or unable to perform (the "Delayed Party") shall give immediate notice to the other party (the "Affected Party"), and the Affected Party, upon giving prompt notice to the Delayed Party, shall be excused from performance under this Agreement for the duration of the Force Majeure; provided, however, that the Affected Party shall take all reasonable steps and cooperate with the Delayed Party to avoid or remove the cause of nonperformance and shall promptly resume performance hereunder when the Delayed Party resumes performance. If the Delayed Party cannot remove the cause of non-performance within sixty (60) days, the Affected Party may terminate this Agreement.
21. **Non-Waiver.** No course of dealing or failure of either party to strictly enforce any term, right or condition of this Agreement shall be construed as a waiver of that term, right or condition.

22. **Order of Precedence.** This Agreement supersedes any additional or different terms and conditions asserted or provided by Dealer, including but not limited to different terms and conditions in Dealer's form of purchase order.
- SunRotor's acceptance of purchase orders is conditioned upon Dealer's acceptance of these terms and conditions, irrespective of whether Dealer accepts these terms and conditions by a written acknowledgment, by implication, or acceptance and payment of goods ordered hereunder.
  - SunRotor's failure to object to provisions contained in any communication from Dealer varying the terms herein shall not be deemed a waiver of the provisions herein.
  - Neither SunRotor's commencement of performance nor delivery shall be deemed or constituted as acceptance of any additional or different terms and conditions of Dealer.
  - SunRotor reserves the right to modify any aspect of this Agreement in its sole discretion, provided that orders placed with SunRotor will be governed by the Agreement as it existed at the time that such order was placed.
23. **Annual Review.** Accounts will be reviewed on an annual basis. SunRotor reserves the right in its sole discretion to cancel or revoke Dealer status on accounts with no activity for more than twelve (12) months.
24. **Entire Agreement.** This Agreement, including the SunRotor documents and policies incorporated herein by reference, shall constitute the entire Agreement between the parties with respect to the subject matter of this Agreement and shall not be modified or rescinded. The provisions of this Agreement supersede all prior oral and written quotations, communications, agreements, and understandings of the parties with respect to the subject matter of this Agreement.

**PLEASE SIGN AND FAX THIS PAGE, APPLICATION, & BANK AUTHORIZATION  
FORMS TO: 866-439-4139 OR EMAIL TO: [CONTACT@SUNROTOR.COM](mailto:CONTACT@SUNROTOR.COM)**

Applicant Company Name: \_\_\_\_\_

Signed: \_\_\_\_\_

Print Name: \_\_\_\_\_

Title: \_\_\_\_\_

Phone: \_\_\_\_\_

Date: \_\_\_\_\_

**SunRotor® Solar Products, a division of Solar Power & Pump Company, LLC**

Signed: \_\_\_\_\_

*Nathan Smith, Manager*

Agreement Execution Date: \_\_\_\_\_