



# 1-800-Mattress.

**1-800 MATTRESS CORPORATION**  
**UNIFORM FRANCHISE OFFERING CIRCULAR**

31-10 48th Avenue  
Queens, New York 11101  
(718) 472-1200

**INFORMATION FOR PROSPECTIVE FRANCHISEES  
REQUIRED BY THE FEDERAL TRADE COMMISSION**

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To protect you, we've required your franchisor to give you this information. We haven't checked it and don't know if it's correct.

It should help you make up your mind. Study it carefully. While it includes some information about your contract, don't rely on it alone to understand your contract. Read all of your contract carefully. Buying a franchise is a complicated investment. Take your time to decide. If possible, show your contract and this information to an advisor like a lawyer or an accountant. If you find anything you think may be wrong or anything important that's been left out, you should let us know about it. It may be against the law.

There may also be laws on franchising in your state. Ask your state agencies about them.

Federal Trade Commission  
Washington, D.C. 20580

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

The effective dates of this Offering Circular in the states of California, Hawaii, Illinois, Indiana, Maryland, Minnesota, New York, North Dakota, Rhode Island, South Dakota, Virginia, Washington and Wisconsin are set forth on these states' respective receipts.

For use in all states and the District of Columbia



## FRANCHISE OFFERING CIRCULAR

**1-800 MATTRESS CORPORATION**  
A Delaware Corporation  
31-10 48th Avenue  
Queens, New York 11101  
(718) 472-1200

You will acquire, display, warehouse, sell and deliver bedding products, while we or our affiliates will process telephone, Internet and catalog orders for you. We offer two types of licenses: (1) a license to operate a 1-800 MATTRES® Business either independently or as an adjunct to an existing retail bedding business, and (2) a license to convert your entire retail bedding business to a 1-800 MATTRES® Business.

We will calculate your initial license fee by multiplying the total population within your territory by \$0.30. The initial license fee for a minimum territory with approximately 100,000 people is \$30,000. The initial license fee and all other fees and requirements under the License Agreement are negotiable.

Operating a Mobile Showroom is optional, but if you wish to obtain a Mobile Showroom before your 1-800 MATTRES® Business opens, you must lease or purchase it from us or our designee. If you lease the Mobile Showroom, the cost will be \$1,500 per month for one year (for a total of \$18,000), but we will transfer title to the Mobile Showroom to you at the end of the year. Or, you can purchase the Mobile Showroom from us or our designee for \$15,000.

The estimated initial investment is from \$273,500 to \$466,000 (from \$198,500 to \$411,000 for a conversion licensee). These estimates are based on an initial license fee of \$30,000 for a minimum territory with approximately 100,000 people and do not include real property.

We do business under the name "1-800 MATTRES®".

### SPECIAL RISK FACTORS:

1. THE LICENSE AGREEMENT PERMITS YOU TO SUE ONLY IN NEW YORK. OUT OF STATE LITIGATION MAY FORCE YOU TO ACCEPT A LESS FAVORABLE SETTLEMENT FOR DISPUTES. IT MAY ALSO COST MORE TO SUE IN NEW YORK THAN IN YOUR HOME STATE. YOUR STATE LAW MAY SUPERSEDE THIS PROVISION AND IT MAY NOT BE ENFORCEABLE IN YOUR STATE. SEE SPECIAL STATE DISCLOSURES IN THE STATE ADDENDA TO THE OFFERING CIRCULAR (EXHIBIT 5) AND THE STATE ADDENDA TO THE LICENSE AGREEMENT.
2. THE LICENSE AGREEMENT STATES THAT NEW YORK LAW GOVERNS THE AGREEMENT. THIS LAW MAY NOT PROVIDE THE SAME PROTECTIONS AND BENEFITS AS YOUR STATE'S LAW. YOU MAY WANT TO COMPARE THESE LAWS. YOUR STATE LAW MAY SUPERSEDE THIS PROVISION AND IT MAY NOT BE ENFORCEABLE IN YOUR STATE. SEE SPECIAL STATE DISCLOSURES IN THE STATE ADDENDA TO THE OFFERING CIRCULAR (EXHIBIT 5) AND THE STATE ADDENDA TO THE LICENSE AGREEMENT.
3. IF YOUR SALES FOR THE PRECEDING 12 MONTHS DO NOT REACH THE TARGET AMOUNT BY THE THIRD ANNIVERSARY OF THE OPENING OF YOUR BUSINESS, YOU WILL CEASE TO OWE ANY UNPAID BALANCE OF THE INITIAL LICENSE FEE AND WE WILL CANCEL THE PROMISSORY NOTE. HOWEVER, YOU WILL RECEIVE NO REFUND OF THE INITIAL

LICENSE FEE PAYMENTS YOU ALREADY MADE. IN ADDITION, YOU OR WE CAN TERMINATE THE LICENSE AGREEMENT. SEE ITEMS 5 AND 12 FOR DETAILS.

4. ALTHOUGH OUR CHIEF EXECUTIVE OFFICER FOUNDED THE DIAL-A-MATTRESS® BEDDING TELEMARKETING SYSTEM IN THE 1970'S, OUR AFFILIATE, DIAL OPERATING, HAS OPERATED A DIAL-A-MATTRESS® BEDDING TELEMARKETING BUSINESS SINCE 1983, AND ANOTHER AFFILIATE, DIAL INTERNATIONAL, HAS OPERATED A DIAL-A-MATTRESS® BEDDING TELEMARKETING BUSINESS SINCE 1991, WE – 1=800 MATTRESS CORPORATION – HAVE BEEN IN EXISTENCE FOR A SHORT PERIOD OF TIME (SINCE NOVEMBER, 2003) AND HAVE NOT PREVIOUSLY OFFERED LICENSES OR FRANCHISES. THEREFORE, THERE IS ONLY A BRIEF OPERATING HISTORY TO ASSIST YOU IN JUDGING WHETHER OR NOT TO MAKE THIS INVESTMENT.

5. THERE MAY BE OTHER RISKS CONCERNING THIS LICENSE.

SPECIAL RISK FACTORS – NEW YORK:

1. THE FRANCHISOR HAS BEEN IN EXISTENCE FOR A SHORT PERIOD OF TIME, SINCE NOVEMBER, 2003. THEREFORE, THERE IS ONLY A BRIEF OPERATING HISTORY TO ASSIST YOU IN JUDGING WHETHER OR NOT TO MAKE THIS INVESTMENT.

2. THE FRANCHISEE WILL BE REQUIRED TO MAKE AN ESTIMATED INITIAL INVESTMENT RANGING FROM \$273,500 TO \$466,000 (FROM \$198,500 TO \$411,000 FOR A CONVERSION LICENSEE). THIS AMOUNT EXCEEDS THE FRANCHISOR'S STOCKHOLDER'S EQUITY AS OF DECEMBER 31, 2003, WHICH IS \$158,905.

**INFORMATION ABOUT COMPARISONS OF FRANCHISORS AND LICENSORS IS AVAILABLE. CALL THE STATE ADMINISTRATORS LISTED IN EXHIBIT 3 OR YOUR PUBLIC LIBRARY FOR SOURCES OF INFORMATION.**

**REGISTRATION OF THIS LICENSE WITH THE STATE DOES NOT MEAN THAT THE STATE RECOMMENDS IT OR HAS VERIFIED THE INFORMATION IN THIS OFFERING CIRCULAR. IF YOU LEARN THAT ANYTHING IN THE OFFERING CIRCULAR IS UNTRUE, CONTACT THE FEDERAL TRADE COMMISSION AND THE STATE ADMINISTRATOR LISTED ON EXHIBIT 3.**

The effective dates of this Offering Circular in the states of California, Hawaii, Illinois, Indiana, Maryland, Minnesota, New York, North Dakota, Rhode Island, South Dakota, Virginia, Washington and Wisconsin are set forth on these states' respective receipts.

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### EXHIBITS

- EXHIBIT 1    LICENSE AGREEMENTS AND RELATED MATERIALS  
                   TELEMARKETING, SHOWROOM AND ELECTRONIC  
                   COMMERCE LICENSE AGREEMENT  
                   CONVERSION LICENSE AGREEMENT  
                   STATE ADDENDA TO LICENSE AGREEMENTS

**EXHIBITS TO LICENSE AGREEMENTS:**

- EXHIBIT A - LICENSED TERRITORY; OFFICE; WAREHOUSE; POPULATION OF TERRITORY; AND, NUMBER OF SHOWROOMS OR SUPERSTORES TO BE OPENED BY LICENSEE**
- EXHIBIT B - DEVELOPMENT SCHEDULE**
- EXHIBIT C - CONFIDENTIALITY/NON-COMPETITION AGREEMENT**
- EXHIBIT D - GUARANTEE**
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- EXHIBIT H - SAMPLE BYLAWS OF REGIONAL ADVERTISING COOPERATIVE**
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- MOBILE SHOWROOM LEASE/PURCHASE AGREEMENT**
- EXHIBIT 2 FINANCIAL STATEMENTS**
- EXHIBIT 3 STATE ADMINISTRATORS**
- EXHIBIT 4 AGENTS FOR SERVICE OF PROCESS**
- EXHIBIT 5 STATE ADDENDA TO OFFERING CIRCULAR**
- EXHIBIT 6 RECEIPT**

## ITEM 1

### THE LICENSOR, ITS PREDECESSORS AND AFFILIATES

#### We and Our Affiliates

To simplify the language in this offering circular, "we" and "us" means 1-800 Mattress Corporation, the licensor. "You" means the individual, corporation or partnership who acquires the license. If the license will operate through a corporation or partnership, "you" also includes the licensee's owners or partners. Our agent for service of process in the states whose laws require us to name a state agency as agent for service is shown on Exhibit 4.

We are a Delaware corporation incorporated under the name "1-800-Mattress Corp." on November 3, 2003. On February 24, 2004, we changed our name to "1-800 Mattress Corporation" to correct a clerical error. We do business under the name "1-800 MATTRESS®". Our principal business address is 31-10 48th Avenue, Queens, New York 11101, and our telephone number is (718) 472-1200. We have no predecessors.

We have offered licenses since February, 2004. We offer two types of licenses:

- A license to operate a 1-800 MATTRESS® Business – either independently or as an adjunct to your existing retail bedding business – under which you acquire, display, warehouse, sell and deliver bedding products, while we or our affiliates process telephone, Internet, catalog and other orders for you, or
- A license to do all of the above, plus operate your entire existing retail bedding business under the A+™ 1-800 MATTRESS® name and mark (a conversion license).

We have not previously conducted a business of the type described in this offering circular, but our affiliate, Dial-A-Mattress International Ltd. ("Dial International"), which was incorporated on February 26, 1991, has sold bedding and related products at retail by means of telemarketing since 1991. Dial International is a Delaware corporation. Its principal business address is 31-10 48th Avenue, Queens, New York 11101, and its telephone number is (718) 472-1200. Dial International granted several franchises of the type offered by this Offering Circular between May, 1992 and March, 1993, but has not offered franchises since then. In addition, ~~our an~~ affiliate, 1-(888) Mattress Franchise Corporation ("1-(888) Mattress"), which was a Delaware corporation incorporated on February 10, 1999, offered franchises of the type offered by this Offering Circular between 1999 and 2001 and granted a franchise in 1999 which has since been terminated. Having not offered franchises since 2001, 1-(888) Mattress Franchise Corp. was merged into Dial International as of December 31, 2004. It has not offered franchises since 2001. 1-(888) Mattress is a Delaware corporation incorporated in February, 1999. Its principal business address is 31-10 48th Avenue, Queens, New York 11101, and our telephone number is (718) 472-1200.

Another affiliate, Dial-A-Mattress Operating Corporation ("Dial Operating"), is a New York corporation incorporated on September 20, 1983 under the name "Dial A Mattress Franchise Corporation" which changed its name to "Dial-A-Mattress Operating Corporation" on December 22, 1990. Dial Operating owns the "DIAL-A-MATTRESS®" marks and operates the DIAL-A-MATTRESS system in the New York metropolitan area. Dial Operating's principal business address is 31-10 48th Avenue, Queens, New York 11101, and its telephone number is (718) 472-1200. Dial Operating licenses Dial to use and license the "DIAL-A-MATTRESS®" and 1-800-MATTRESS® marks.

Our affiliates operate an Internet-World Wide Web site – MATTRESS.COM – through which our licensees will receive orders as described in this Offering Circular.

We, Dial Operating, Dial International and 1-(888) Mattress (now merged with Dial International) have

signed a cross-license agreement granting us a non-exclusive license to Dial Operating's and Dial International's Proprietary Marks (defined in Item 13), the 1-800 MATTRES® telephone numbers, business system and know-how, and the right to license these rights to others.

Except as described above, neither we nor our affiliates have offered licenses or franchises for any other type of business. As Item 12 describes, if you are not in default under the License Agreement and all other agreements related to it, and except as Item 12 otherwise describes, we, Dial Operating, Dial International and 1-888-Mattress and Licensor's other affiliates, subsidiaries and designees will not compete with you in your Territory by fulfilling any customer orders placed over your "1-800-MATTRESS®" Telephone Number, our computer network "web" site(s) or our catalogs (if any) that call for the delivery of bedding or related products and accessories in your Territory.

### The License

The license offered by this offering circular is for a 1-800 MATTRES® Business. You will either operate your 1-800 MATTRES® Business independently or, if you have an existing retail bedding business (an "existing retail bedding business") as an adjunct to your existing retail bedding business. Under the conversion license, you will also convert your entire existing retail bedding business to a 1-800 MATTRES® Business. Unless we specify otherwise, references to the "License Agreement" in this Offering Circular refer to both the standard License Agreement and the conversion License Agreement.

In response to your and our advertising and marketing, customers will call our 1-800-MATTRES® telephone number with orders for bedding and related products and accessories (or place orders through the Internet or through catalogs) for delivery by you within your territory (described in Item 12). Customers may also place orders for delivery by you within your territory after viewing bedding and related products at your Showrooms or Galleries (defined below) or at our or your 1-800-MATTRES® merchandise displays.

Our Bedding Consultants<sup>7</sup>Sleep Consultants® will:

- Intake, process and finalize telephone orders and Internet orders (and any other electronic and/or catalog orders) within the parameters for inventory, pricing and delivery which you communicated to us;
- Process customers' credit card information;
- Consummate the sales transactions; and,
- Communicate the orders to you.

You will then fulfill the orders from your inventory, delivering the products to the customer and installing them as the customer requests and following our guidelines. (Our Bedding Consultants<sup>7</sup>Sleep Consultants® may be our employees or independent contractors, employees or independent contractors of our affiliates or employees of independent third parties with whom we or our affiliates contract.)

If you are not a conversion licensee and you have an existing retail bedding business, then you may, if you wish, use our mark "1-800 MATTRES®" as a secondary identifier for your existing retail bedding business. If you are using "1-800-MATTRES" as a secondary identifier for your existing retail bedding business in addition to your other business name(s), then your advertising and signs on the Stores operated by the existing retail bedding business must follow our requirements for the use of the "1-800 MATTRES®" mark and for the size of the mark compared to that of your other business name(s). Your "Stores" are the retail bedding stores within the Territory which your existing retail bedding business operates, currently or in the future.



If you are a conversion licensee, then you will convert your existing retail bedding business and Stores to a 1-800-MATTRES® Business. As for non-conversion licensees, your "Stores" are defined as the retail bedding stores within the Territory which your existing retail bedding business operates, currently or in the future.

Whichever type of license we grant you, you must open and operate the number of Showrooms or Superstores in your Territory shown on your Development Schedule (which will be Exhibit – to your License Agreement). A "Showroom" is a public facility located within your Territory at a site other than your existing retail bedding business for the display and sale of mattresses and other bedding-related products. A "Superstore" is a retail store with at least 10,000 square feet devoted to the sale of mattresses and other bedding-related products. If it meets our criteria for a Superstore, your existing retail bedding business Store can count as one of the required Superstores. Your Showrooms or Superstores must be in the counties or other geographic areas in your Territory shown on your Development Schedule. Because neither we or our affiliates have granted any licenses under a form of License Agreement that requires any Showrooms or Superstores, we cannot estimate the "typical" number of Showrooms or Superstores our licensees must open. However, since we require you to have either one Showroom for each 100,000 persons within your Territory or one Superstore for each 1,000,000 persons within your Territory, the greater the population of the Territory we grant you, the more Showrooms or Superstores you must open and operate.

We also recommend that you operate one Mobile Showroom for each 100,000 persons within your Territory, but we do not require you to operate any Mobile Showrooms. A "Mobile Showroom" is a specially outfitted bus or truck for the display and sale of bedding and related products and accessories. You must lease or purchase any Mobile Showrooms you operate from us or our designee.

If you have an existing retail bedding business and you are not a conversion licensee, then instead of opening and operating any of the required Showrooms or Superstores, you may instead open and operate a Gallery at one of your Stores. A "Gallery" is a facility on the premises of one of your Stores for the display and sale of mattresses and other bedding-related products.

If you first obtain our written approval, you may operate one or more "Satellites" in your Territory. There is no time period within which we must approve or disapprove your proposed Satellite. A "Satellite" means a location other than your Office, Warehouse, Showroom, Superstore, Mobile Showroom or Gallery at which, with our permission, you may engage in some of the business activities contemplated by the License Agreement. We can prohibit other activities at a Satellite. If you are operating an Existing Retail Bedding Business, you may not also utilize your Satellite for the Existing Retail Bedding Business without our written approval.

You may only sell "System Products" from or at your 1-800 MATTRES® Business. The "System Products" are those bedding and related products and accessories which we designate from suppliers we designate. These suppliers place the 1-800 MATTRES® label on certain of our designated models of mattresses, bedding products and accessories.

### **The Market, Competition and Applicable Laws**

The market for your services is the consuming public. The market is extremely competitive. You will compete primarily with bedding retailers, which generally consist of specialty bedding stores and chains, furniture stores and department stores. You will also compete with other bedding telemarketers, Internet marketers, catalogs, warehouse clubs, infomercial vendors and direct marketers that sell bedding and related products and accessories. While the 1-800 MATTRES® System is no longer the only system selling bedding through telemarketing using "800" telephone numbers and trained Bedding Consultants<sup>7</sup> Sleep Consultants®, we believe that our System was the first to do so. We also have the advantage of our easy-to-remember toll-free number, "1-800-MATTRES®".

You must comply with any applicable laws and regulations concerning the removal and disposal of bedding and related products. In addition, the laws, rules and regulations which apply to businesses in general will affect you. Consult your lawyer about them.

## ITEM 2

### BUSINESS EXPERIENCE

#### **Chairman of the Board and Chief Executive Officer: Napoleon Barragan**

Mr. Barragan has been our Chairman of the Board of Directors and Chief Executive Officer since our incorporation in November, 2003. Mr. Barragan has also been Chairman of the Board of Directors and Chief Executive Officer of 1-(888) Mattress since between February, 1999 (an office he continues to hold) and the merger of 1-(888) Mattress into Dial International as of December 31, 2004 and served as President of 1-(888) Mattress between February, 1999 and October, 2002. In addition, Mr. Barragan has been and continues to serve as Chairman of the Board of Directors and Chief Executive Officer of Dial International and Dial Operating since their incorporation in February, 1991 and September, 1983, respectively. Mr. Barragan also served as President of those companies between their incorporation and October, 2002. Mr. Barragan founded the DIAL-A-MATTRESS® bedding telemarketing System in the 1970's.

#### **President and Secretary: Luis Barragan**

Mr. Barragan has served as our President since our incorporation in November, 2003. Mr. Barragan has also served as President of 1-(888) Mattress since between November, 2002 and the merger of 1-(888) Mattress into Dial International as of December 31, 2004 (an office he continues to hold); served as one of its Vice Presidents between February, 1999 and October, 2002, and served and continues to serve as its Secretary since February, 1999. Mr. Barragan has held various positions with Dial Operating since 1988 and Dial International since February, 1991, the latest being President and Secretary, offices he continues to hold.

#### **Executive Vice President: Jose R. Vicens**

Mr. Vicens has been our Executive Vice President since our incorporation in November, 2003. Mr. Vicens has also been Executive Vice President of 1-(888) Mattress since between November, 2002 and the merger of 1-(888) Mattress into Dial International as of December 31, 2004, an office he continues to hold. He also served as its General Manager and as one of its Vice Presidents between February, 1999 and October, 2002. Mr. Vicens has held various positions with Dial Operating and Dial International since February, 1991, the latest being Executive Vice President and General Manager, offices he continues to hold.

#### **Vice President, Assistant Secretary and General Counsel: Michael S. Stern**

Mr. Stern has been our Vice President, Assistant Secretary and General Counsel since our incorporation in November, 2003. Mr. Stern has also been served as Vice President, Assistant Secretary and General Counsel of 1-(888) Mattress since between February, 1999 and the merger of 1-(888) Mattress into Dial International as of December 31, 2004, offices he continues to hold. Mr. Stern has been Dial Operating's and Dial International's General Counsel since August, 1993, an office he continues to hold.

**Vice President - Finance and Chief Financial Officer: William A. Johnson, Jr.**

Mr. Johnson, a certified public accountant, has served as our Vice President - Finance and Chief Financial Officer since our incorporation in November, 2003. Mr. Johnson has also served as Vice President - Finance and Chief Financial Officer of 1-(888) Mattress since between April, 2002 and the merger of 1-(888) Mattress into Dial International as of December 31, 2004, offices he continues to hold. He has also held that position in Dial Operating and Dial International since then and continues to hold those offices. Mr. Johnson served as Senior Vice President, Chief Financial Officer and Treasurer of Toymax International Inc. from February, 1997 to November, 2001, in Plainview, New York. Between July, 1987 and January, 1997, Mr. Johnson held the position of Vice President, Chief Financial Officer and Secretary of Noodle Kidoodle, Inc. (formerly Greenman Bros. Inc.) in Farmingdale, New York.

**Vice President- Telemarketing Sales: Gregory Nooney**

Mr. Nooney has been our Vice President- Telemarketing Sales since our incorporation in November, 2003. Mr. Nooney has also been Vice President- Telemarketing Sales of 1-(888) Mattress since between February, 1999 and the merger of 1-(888) Mattress into Dial International as of December 31, 2004 (an office he continues to hold) and has held various positions with Dial Operating since 1988 and Dial International since February, 1991, the latest being Vice President-Sales, an office he continues to hold.

**Vice President - Merchandising: Steve Simon**

Mr. Simon has served as our Vice President - Merchandising since our incorporation in November, 2003. Mr. Simon has also served as Vice President - Merchandising of Dial International and Dial Operating since February, 2000 (offices he continues to hold) and of 1-(888) Mattress between February, 2000 and the merger of 1-(888) Mattress into Dial International as of December 31, 2004; Dial International and Dial Operating since February, 2000 offices he continues to hold. Between April, 1999 and January, 2000, Mr. Simon served as a consultant for various mattress companies, and was based in North Woodmere, New York. From April, 1993 to March, 1999, Mr. Simon served as President and Chief Executive Officer of Restonic Sleep Products (a franchisee of Restonic Corporation), located in Brooklyn, New York.

**Vice President - Retail Store Sales: John O'Connell**

Mr. O'Connell has served as our Vice President - Retail Store Sales since our incorporation in November, 2003. Mr. O'Connell has also served as Vice President - Retail Store Sales of Dial International and Dial Operating since June, 2003 (offices he continues to hold) and of 1-(888) Mattress between February, 2000 and the merger of 1-(888) Mattress into Dial International as of December 31, 2004. Dial International and Dial Operating since June, 2003 offices he continues to hold. Between April, 2002 and May, 2003, Mr. O'Connell served as Director of Retail Operations for Bally No America Inc. ("Bally") in New York, New York. From January, 2000 to April, 2002, Mr. O'Connell served as Bally's Director of Stores, Outlet Division. Between April, 1998 and December, 1999, he served one of Bally's Regional Sales Managers. Between July, 1994 and April, 1998, Mr. O'Connell served District Sales Manager for Kinney Shoe Corporation for the states of New York, New Jersey, Connecticut and Pennsylvania, based in New York, New York.

**Vice President - Human Resources and Quality Control: Kathy Desmond**

Ms. Desmond has been our Vice President - Human Resources and Quality Control since incorporation in November, 2003. Ms. Desmond has also served as Vice President - Human Resources and Quality Control of 1-(888) Mattress since between June, 2002 between February and the merger of 1-(888) Mattress into Dial International as of December 31, 2004 (an office he continues to hold) and served as its Director of Human Resources from February, 1999 to Jun

She has also held various positions with Dial Operating and Dial International since March, 1994, the latest being Vice President - Human Resources and Quality Control, offices she continues to hold.

**ITEM 3  
LITIGATION**

Other than the following separate action and the subsequent group of three related actions, there is no litigation that must be disclosed in this offering circular.

People of the State of New York v. Napoleon Barragan, Supreme Court of New York, Case No. 8895-94

In 1993, the Attorney General of the State of New York - who has registered this Offering Circular as authorized by the New York Franchise Act - instituted criminal charges against Mr. Napoleon Barragan, our President and Chief Executive Officer and President and Chief Executive Officer of Dial International and Dial Operating, alleging that Mr. Barragan underreported Dial Operating's sales and the sales tax that it collected, and that he evaded income tax laws by paying his employees and himself in cash. On September 20, 1994, Mr. Barragan pleaded guilty to evading payment of over \$300,000 in sales tax, a second-degree grand larceny under New York law, and agreed to pay restitution of \$1,000,000. On November 28, 1994, the court sentenced Mr. Barragan to pay the \$1,000,000 restitution and to one year of confinement, all except 36 hours of which Mr. Barragan was permitted to serve in the form of individualized monitoring.

Tri-State Bedding, Inc. v. Luis Barragan and Dial-A-Mattress Operating Corporation, Commercial Arbitration before the American Arbitration Association, AAA File No. 13 133 00260 95 (commenced April 5, 1995).

Under a one-year agreement between Tri-State Bedding, Inc. ("Tri-State") and Dial Operating dated October 11, 1991, Tri-State sold and delivered bedding products on behalf of Dial Operating in a designated area. This agreement gave Tri-State a right of first refusal, upon the expiration of the one-year term of the agreement and thereafter, to purchase a Dial-A-Mattress franchise within the same area, provided Tri-State exercised the right in writing within 20 days after Dial Operating tendered to Tri-State a written bona fide offer to buy a franchise for that area from a third party. In 1994, Dial Operating tendered a bona fide third-party offer to Tri-State, but Tri-State failed to exercise its right within 20 days as required by the agreement. In April, 1995, Tri-State commenced an arbitration proceeding before the American Arbitration Association against Dial Operating and Luis Barragan (who had signed the agreement on behalf of Dial Operating), claiming, among other things, that Dial Operating had denied it a franchise which Tri-State was entitled to and that Dial Operating wrongfully refused to provide it with a franchise prospectus and failed to register its franchise offering for sale with the State of New York. Dial Operating and Mr. Barragan filed an Answering Statement stating that Tri-State failed to exercise its right of first refusal within 20 days as required by the agreement, so that any franchise which Dial paid for on Tri-State's behalf and which Tri-State was obligated to pay for under the agreement, and \$9,200 representing the unpaid balance due to Dial as its percentage of sales by Tri-State under the agreement. In November, 1996, the arbitrators denied Tri-State's claim in entirety and awarded Dial \$14,429 with interest.

Bedding Operating Corp. v. Dial-A-Mattress International Ltd., United States District Court for the District of Maryland, Civil Action No. DKC-95-738 (commenced March 14, 1995).

Bedding Operating Co. v. Dial-A-Mattress International Ltd., Commercial Arbitration before the

American Arbitration Association, AAA File No. 13 114 00685 95 (commenced August 28, 1995).

In re Atlantic & Pacific Mattress Company, Inc.; Atlantic & Pacific Mattress Co., Inc. v. Dial-A-Mattress International Ltd., United States Bankruptcy Court for the District of Maryland, Case No. 96-5-3744JS; Adv. Pro. No. 96-5-372 (commenced July, 1996).

This group of three related actions arose from a dispute between Dial International and one of its DIAL-A-MATTRESS franchisees, Have I Got A Bed For You, Inc. ("HIGABFY"). HIGABFY subsequently assigned its interest in its franchise agreement to J&W Bedding Operating Corp., which then changed its name to Atlantic & Pacific Mattress Company, Inc. The franchisee commenced an action in Federal District Court in Maryland. This action was stayed and referred to arbitration. The franchisee then commenced an arbitration proceeding before the American Arbitration Association. While this arbitration proceeding was pending, the franchisee (as well as its assignees and principal) filed a voluntary petition for reorganization under the United States Bankruptcy Code. After that, the parties reasserted their claims in the context of adversary proceedings under the Bankruptcy Code before the United States Bankruptcy Court for the District of Maryland.

In all these related actions, the franchisee alleged breach of contract and fraud against Dial International, and Dial International counterclaimed for breach of contract and fraud against the franchisee. The parties settled these actions in a global Settlement Agreement filed with and approved by the Bankruptcy Court on September 30, 1997. Under the settlement, the franchisee paid Dial International \$75,000; the franchisee continued as a DIAL-A-MATTRESS franchisee; the franchisee agreed to pay additional past due telephone charges; and, the parties agreed to make certain modifications to the their franchise agreement.

#### ITEM 4

#### BANKRUPTCY

No person identified in Item 1 or 2 of this offering circular has been involved as a debtor in proceedings under the U.S. Bankruptcy Code which must be disclosed in this Item.

#### ITEM 5

#### INITIAL LICENSE FEE

We will calculate your initial license fee by multiplying the total population within your territory by \$0.30. The initial license fee for a minimum territory of approximately 100,000 people is \$30,000. We will determine the total population in your Territory using the latest statistics available at the date of signing of the License Agreement from the U.S. Census Bureau or the Pinstripe Business Control Atlas (a reference work for business and marketing) published by Hagstrom, at our option.

The initial license fee will be payable as follows:

- Up to 100% (but at least 10%) when you sign the License Agreement (unless you are a Maryland licensee, in which case you need not pay this first installment until the date your licensed Business commences operations), and
- The balance (if any) over ten years, in 120 equal monthly installments, each due and payable on the first day of each month following your signing of the License Agreement (or, if you are a Maryland licensee, the first day of each month following the date your

licensed Business commences operations). When you sign the License Agreement, you must sign an interest-free promissory note for the balance (see Exhibit G). See Item 10.

In 2004, we sold one franchise under special terms because the purchaser was an employee of ours. The initial license fee was \$300,000, payable as follows: year 1: \$1,250.00 per month; years 2 and 3: \$1,666.67 per month; year 4: \$2,083.33 per month; year 5: \$1,916.67 per month; and, succeeding years: \$1,916.67 per month, until the balance has been paid.

The initial license fee and all other fees and requirements under the License Agreement are negotiable. We use the proceeds from Initial License Fees to defray a portion of our expenses in connection with the sale and establishment of franchises.

If, on the third anniversary of the opening of your Business (the "Third Anniversary"), your total 1-800-MATTRES® Telemarketing Sales and 1-800-MATTRES® Showroom/Superstore/Gallery Sales (Store/Superstore/Showroom Sales for conversion licensees) for the preceding 12 months are not at least equal to the product of \$3.00 times the population shown on Exhibit A to your License Agreement (the "Target Amount"), then you will cease to owe any unpaid balance of the Initial License Fee as of the Third Anniversary and we will cancel the Promissory Note. However, you will receive no refund of the Initial License Fee payments you already made. In addition, if your Business does not achieve the Target Amount by the Third Anniversary, then either you or we can terminate the License Agreement by complying with the requirements described in Item 12. Otherwise, the License Agreement will remain in effect.

For a minimum territory with a population of 100,000 people, the Target Amount would be \$300,000.

**IMPORTANT NOTE:** we do not represent or promise that your Business will achieve its Target Amount during the 12 months preceding the Third Anniversary or during any period, or that your Business will achieve any other level of sales at any time. See Item 19.

We will not refund any of the Initial License Fee except as described above and under the following other circumstances:

- If you or your Business Manager fails to successfully complete our Initial Training Program, the person who failed can re-enroll in our next scheduled Initial Training Program at no additional charge. We can terminate the License Agreement if the person fails to successfully complete the Initial Training Program again. If we terminate the License Agreement, then we will refund 50% of the Initial License Fee you paid, cancel the Promissory note and forgive the unpaid balance of the Initial License Fee.
- If you fail to comply with the time limits and procedures in Article 7 of the License Agreement in securing your Office and/or Warehouse, then we can terminate the License Agreement. If it does, we will refund 75% of the Initial License Fee you paid (or 50% if we have furnished our Initial Training Program to you), cancel the Promissory note and forgive the unpaid balance of the Initial License Fee.
- If you do not have existing office or warehouse space when you sign the License Agreement, and we cannot agree on a site for your Office or Warehouse within 3 months after the date we sign the License Agreement, then we will terminate the License Agreement and refund 85% of the Initial License Fee you have paid, cancel the Promissory note and forgive the unpaid balance of the Initial License Fee.

If you wish to acquire a Mobile Showroom – a specially outfitted bus or truck for displaying and selling bedding and related products and accessories – before your Business opens, you must acquire the Mobile Showroom from us or our designee. If you lease the Mobile Showroom, the cost will be \$1,500

per month for one year (for a total of \$18,000), but we will transfer title to the Mobile Showroom to you at the end of the year so that you will own the Mobile Showroom from then on (see Mobile Showroom Lease/Purchase Agreement in Exhibit 1). Or, you can purchase the Mobile Showroom from us or our designee for \$15,000 before you begin operating your licensed Business.

You pay us no other fees or payments for services or goods before your Business opens.

### ITEM 6

#### OTHER FEES

Name of Fee	Amount	Due Date	Remarks
1-800-MATTRES® Fee	12.5% of 1-800-MATTRES® Telemarketing Sales, plus 5% of 1-800-MATTRES® Showroom/Superstore/Gallery Sales (or of 1-800-MATTRES® Store/Showroom/Superstore Sales for conversion licensees) for preceding month	Monthly on the 10th day of the next month	The 1-800-MATTRES® Fee and all other fees and requirements under the License Agreement are negotiable, but as of the date of this Offering Circular, we have not negotiated any lower fees. See definitions in Note 1. The 1-800 MATTRES® Fee percentages will not change during term of License Agreement. You must make all payments through an electronic transfer process – see Note 1.
Required Minimum Expenditure for Local Advertising/System Advertising Contribution	\$2,000 per month from one month before scheduled opening to one month after opening. During first 6 month period starting with second month after opening, \$0.10 times total population of Territory. Each month after that, 10% of total 1-800-MATTRES® Telemarketing Sales and Showroom/ Superstore/ Gallery Sales (Store/ Superstore/Showroom Sales for conversion licensees) for preceding month, but not less than 1/6th amount required for first 6 month period following opening.	Contribution due monthly on the 10th day of the next month	You must pay 50% of these amounts to us in equal monthly installments as your System Advertising Contribution (see Item 11), and you must spend the other 50% in equal monthly installments on local advertising and promotion exclusively for your 1-800-MATTRES® Business. See the first three paragraphs of Note 1 and Note 2. Formula in Note 2 will not change during term of License Agreement.
Advertising Cooperative	When cooperative formed: Minimum - 1% of Gross Revenues. Maximum - 2% of Gross Revenues.	Established by cooperative	We may form advertising cooperatives and establish fees. See Item 11. A company owned Business will have a vote if it joins. Percentage may change within 1%-2% range and may only be more than 2% if the Cooperative changes the maximum under its By-Laws.
Mobile Showrooms (optional)	Mobile Showroom: if leased, \$1,500 per month for one year, but title transferred to you at the end of the year; if purchased, \$15,000. See Note 3.	See Note 3.	Mobile Showrooms are optional but you must purchase or lease any Mobile Showrooms from us or our designee. See Note 3 and Items 5, 7 and 8.

Name of Fee	Amount	Due Date	Remarks
Other Proprietary Products		See Note 3.	You must purchase or lease any proprietary products and services from us or our designee. See Note 3 and Items 5, 7 and 8.
Initial Training	Additional trainee charge: \$1,000 per person. Subsequent trainee charge: no more than \$2,000 per person for first year, then increased by CPI – see remarks. You pay all living and transportation expenses for all your trainees.	Fee for additional or subsequent trainees due before beginning of training; expenses as incurred	We train 5 people free – see Item 11. You must pay the additional trainee charge if you want us to train additional people. All Business Managers appointed later must also pass the Initial Training Program. You must pay the subsequent trainee charge for them. The subsequent trainee charge will be no greater than \$2,000 per person during the first calendar year during which your Business is in operation. This training charge will be increased on January 1 of each year by the percentage of increase in CPI during the preceding 12 months.
On-Going Training	Expenses only – see remarks	As incurred.	If hold an annual conference, convention or training session, your Business Manager must attend. No training charge, but you pay all living and transportation expenses.
Supplemental Training	Your proportionate share of our costs in providing the training. Your cost may range from \$500 to \$10,000, depending on the nature of the training and the number of franchisees trained.	When we bill you.	We may provide supplemental training by telephone, the Internet or other electronic means.
Expenses of Testing Suppliers You Propose	Our actual expenses if we test a product or services you propose; these may range from \$1,000 to \$5,000, depending on the nature and complexity of the testing necessary for the product or service.	When we request	If you name a supplier for a product or service and you propose a different supplier, then you must follow the procedures described in Item 8 to obtain our written approval. We have the right to test, at your expense, the product or service of any supplier you propose, whether or not the supplier is then approved by us.
Consulting Fee	Up to \$1,000 per day (optional).	When we request	We may offer you consultation services beyond the field support services under Section 8.4 of the License Agreement.
Optional Materials and Services We May Offer	Optional programs - fees not established except for media buying services. See Note 4.	Optional programs - not established	If we offer you the materials or services and you agree to purchase them from us, we can charge you for them. See Note 4 for examples of these optional materials and services which we may offer.
Telephone Bills	May range from 10 to 25 cents per minute or more, depending on charges imposed by telephone company. See Note 5.	See Note 5.	You must reimburse us for all calls from your Territory to 1-800-MATTRES® and our other telephone numbers. The estimates for telephone charges may be higher than the range shown if telephone companies increase their fees See Note 5.
Software Costs	Program included in Initial License Fee. You pay for updates. The cost of updates may range from \$100 to \$2,500.		You must use our proprietary software. We will initially furnish proprietary software to you at our expense. You must purchase any new, upgraded or substitute proprietary software programs from us or our designee at the price we or our designee charges at the time.
Late Charge	Maximum law allows, or if no legal maximum, then 4% above prime rate.	When we request	Late charge on any past due amounts owed to us. We will not increase charge beyond formula in column 2 during term of License Agreement.



Name of Fee	Amount	Due Date	Remarks
Audit Expenses	If you must pay the cost of the audit, it may range from \$500 to \$3,000. See Note 6.	See Note 6.	
Insurance	Estimated annual premium - \$5,000- \$10,000.	As insurance agent requires	Premiums set by insurance company. Your premiums depend in part on your claims experience. Companies may raise premiums by inflation in insurance industry and any increases in their costs above inflation (due to material shortages, natural disasters, strikes, Acts of God, etc.). See Note 7.
Revenue Commingling/Non-Deposit Fee (Not applicable to conversion licensees)	\$10,000	Immediately upon demand by us	If you are not a conversion licensee and you commingle any revenues of the licensed Business with those of your existing retail bedding business or any other business, or fail to deposit any revenues of the licensed Business in the separate account bank account you must maintain, you must pay us \$10,000. If you have done either once, and you commingle revenues or fail to deposit any revenues of the licensed Business in the bank account, then we can terminate the License Agreement. See Item 17.
Securities Registration Fee	\$25,000	At least 45 days before proposed registration	Equity Interests (defined in Note 7) in the licensee which require registration under any federal or state securities law are assignable through a public offering if you meet requirements and pay Securities Registration Fee and our expenses. See Note 8.
Extraterritorial Sale Fees	See remarks.	Within ten days of your receipt of funds	See Note 9.
Taxes		Promptly when due	You must pay us all taxes we pay on account of services or goods we furnish to you or fees you pay us.
Advances		When we request	You must pay us all amounts we advance to third parties for you. For example, if you do not pay your telephone bill on time, we might conceivably pay the bill for you, but we will have no obligation to do so. If we advance any amounts for you, then you must immediately repay us.
Transfer Fee	5% of the Total Sales Price (as defined in the License Agreement)	Before we approve transfer.	See Item 17.
Renewal Fee	10% of the then-current Initial License Fee (or, if we are not actively franchising at the time of renewal, 10% of the amount of the latest Initial License Fee we charged)	Before we sign renewal agreement.	See Item 17.

Name of Fee	Amount	Due Date	Remarks
Management Fee (on death or disability)	The greater of (a) two times the salary paid to the individual(s) we assign to operate the Business, or (b) 10% of the Business's weekly 1-800-MATTRES® Telemarketing Sales. (See above and Note 1 for information concerning 1-800-MATTRES® Fees and System Advertising Contributions.)	See remarks.	On the death or disability of your last surviving principal, partner or shareholder, the person's rights pass to your "Estate", which may continue operating if it provides an acceptable Business Manager (see Item 17) . Until Business Manager assumes full-time control, we can operate your Business (see Item 6), but we need not do so. If we do so, we will deduct our expenses for travel, lodging, meals, and all other expenses and fees from the Business's 1-800-MATTRES® Telemarketing Sales (defined in Note 1), and a management fee. This management fee will be in addition to the 1-800-MATTRES® Fees and System Advertising Contributions due us. We will remit any remaining funds to the Estate.
Indemnification			You indemnify us from certain losses and expenses. See License Agreement.
Attorneys' Fees			See Note 10.
Application of Funds			We can apply your payments to the oldest obligation due.

#### NOTES

- [1] "1-800-MATTRES® Telemarketing Sales" means the retail price of all products (and any services) which are the subject of customer orders which our telemarketing, Internet, electronic and/or catalog marketing facilities receive, we process and you fulfill. If you are not a conversion licensee, "1-800-MATTRES® Showroom/Superstore/Gallery Sales" means the retail price of all products (and any services) which are the subject of customer orders received by your 1-800-MATTRES® Showrooms, Superstores, Galleries and/or Mobile Showrooms or procured through your or our merchandise displays, and which you fulfill. If you are a conversion licensee, then "1-800-MATTRES® Store/Showroom/Superstore Sales" means the retail price of all products (and any services) which are the subject of customer orders received by your 1-800-MATTRES® Stores, Showrooms, Superstores and/or Mobile Showrooms or procured through your or our merchandise displays, and which you fulfill.

Section 5.2 of the License Agreement defines "1-800-MATTRES® Telemarketing Sales" and "1-800-MATTRES® Showroom/Superstore/Gallery Sales" in full. Section 5.2 of the Conversion License Agreement defines "1-800-MATTRES® Telemarketing Sales" and "1-800-MATTRES® Store/Showroom/Superstore Sales" in full.

You must make all payments to us and our affiliates by electronic funds transfer. Until the electronic system is functional, or if the electronic system is not functioning at any time for any reason, you must ensure that we receive payment by the date due in the form of a check, other type of electronic transfer, money order or other form acceptable to us.

We can request the financial institutions processing customer credit or debit card transactions for your 1-800-MATTRES® Telemarketing and/or Showroom/Superstore/Gallery Sales (or, if you are a conversion licensee, your Store/Showroom/Superstore Sales) to pay your 1-800-MATTRES® Fee directly to us via electronic transfer immediately upon clearance of each transaction.

- [2] Beginning one month before the scheduled opening of the Business and continuing for one month after the opening, you must spend \$2,000 per month on local advertising and promotion

(defined below). After that, you must spend on local advertising and promotion and as your contribution to the 1-800-MATTRES® System Advertising Fund the following total amounts: during the first six month period following opening, a total amount equal to \$0.10 multiplied by the total population of your Territory, as we determine from the Pinstripe Business Control Atlas published by Hagstrom; and each month after that, 10% of your total 1-800-MATTRES® Telemarketing Sales and Showroom/Superstore/Gallery Sales (Store/Showroom/Superstore Sales for conversion licensees) for the preceding month, but not less than an amount equal to one-sixth of the amount required for the first six month period following opening. You must pay 50% of the above amounts to us in equal monthly installments as your System Advertising Contribution (see Item 11), and you must spend the other 50% in equal monthly installments on local advertising and promotion (as defined below), exclusively for your 1-800-MATTRES® Business.

For the purposes of these requirements only, "local advertising and promotion" means the local or regional advertising and promotional activities which we specify in terms of media, format, content, signage, display of Proprietary Marks and otherwise, or which we approve in advance (see Item 11). Our specifications for advertising content will be subject to the pricing provisions described in Item 11.

You must allocate your required minimum local advertising and promotion expenditures (and any rebates of System Advertising Contribution that you receive) in all "Areas of Dominant Influence" ("ADIs") and markets served by your licensed Business on a basis reasonably acceptable to us.

- [3] The operation of one or more of our proprietary Mobile Showrooms is optional, but if you wish to operate any Mobile Showrooms, you must purchase or lease them from us or our designees because their design is proprietary.

You must purchase any proprietary bedding products and/or related products and accessories from us or our designees. Currently, we have no proprietary bedding products, related products or accessories, but we may add them in the future. (However, your 1-800 MATTRES® Business may only sell "System Products," that is, the bedding and related products and accessories which we designate, from suppliers we designate. These suppliers place the 1-800 MATTRES® label on certain of our designated models of mattresses, bedding products and accessories. (See Item 8)

We or our designee will sell or lease (as applicable) Mobile Showrooms and any other proprietary products and services to you at the same price as we or our designee sells them to licensees who are similarly situated and who buy similar quantities. We and our designee will be able to change the prices for Mobile Showrooms and any other proprietary products. However, we do not expect that the prices will increase beyond inflation in the applicable industry segment unless our or our designee's costs increase due to shortages, catastrophes, strikes, Acts of God, or other causes beyond our or its control. We or our designee will be able to require payment in full for Mobile Showrooms and other products, and estimated shipping charges when you place an order.

We and our designee will have no responsibility to ship Mobile Showrooms and other proprietary products to you. We or our designee will sell you Mobile Showrooms and any other proprietary products F.O.B. their place of manufacture or other locations that we or our designee may designate. We or our designee may, but need not, arrange shipment to you for your convenience. We and our designee will have no responsibility for the selection or actions of a carrier. You waive any claim against us or our designees related to shipment or the selection of a carrier. Your only remedy and our and our designee's only liability for claims concerning delivered Mobile Showrooms or other products, for delayed delivery or for non-

delivery, will be the purchase price of the Mobile Showroom or other products plus any shipping costs you paid or, if we or our designee wishes, the replacement of the products at your destination. Neither party will be liable for special, incidental, indirect or consequential damages, whether or not from the party's negligence.

We warrant that the Mobile Showrooms and any other proprietary products you purchase from us or our designee meet our specifications. We and our designee make no other warranties, express or implied, for Mobile Showrooms and any other proprietary products. We and our designee disclaim all implied warranties of merchantability and fitness for a particular purpose for Mobile Showrooms and any other proprietary products. If you are in default under the License Agreement, we and designee will have no obligation to sell any Mobile Showrooms or other products to you.

- [4] If we determine to offer to sell to you any optional materials and services (directly, or through an affiliate), and you decide to purchase any of them, then you pay us or our affiliate the prices it sets. We will inform you of these prices at the time of offer or sale, in our Standards or otherwise (except for media buying services, where the fee is described below). All these prices except for media buying services are subject to change at any time. We have no obligation to offer you any of these materials or services, and you have no obligation to purchase any of them from us. For example, these optional materials and services may include:
- Forms for your Business.
  - Local advertising and promotional materials (such as advertising programs, displays, direct mail materials, promotions, brochures, catalogs, printed materials, contests, premiums, incentive prizes, gifts, ad specialties, posters, billboards and/or other merchandising techniques).
  - Media buying services – purchasing local media time and/or print space and placing commercials or advertisements. If we offer these services and you decide to use them, then you pay us our documented costs of placing the advertising (which may include compensation to an agency we retain to perform these activities), plus 15% of the documented placement costs or, if you directly pay the documented placement costs to an agency which we retain to perform these activities, then you pay us 15% of the documented placement costs alone.
  - Direct mail marketing materials and/or the service of mailing these materials to the individuals, groups, entities and other addressees that you specify.
  - Camera-ready advertising for you to use for placement in classified telephone directories.
  - The services of our classified telephone directory advertising agency and/or the services of our personnel devoted to classified telephone directory advertising.
- [5] We will bill you for these calls. We can also bill you for telephone calls we place to telephone numbers with an area code and exchange within your Territory in connection with your license. We will send you copies of statements or invoices from our telephone service providers documenting these expenses. You must reimburse us for these telephone expenses promptly after you receive each bill from us.
- [6] If we audit your Business, and you understated the 1-800-MATTRES® Telemarketing Sales on the monthly statements you submitted to us by 2% percent or more for any month or for the entire period, when compared with your actual 1-800-MATTRES® Telemarketing Sales, then you must immediately pay us the cost of the audit and the additional amounts owing, plus interest at the highest legal rate or, if there is no maximum legal rate, then 4% percent above the prime rate of interest as published in The Wall Street Journal on or nearest to the date of the audit (or, if The Wall Street Journal is not published on the date of the audit, at the prime rate published by The New York Times on that date, and if neither is published, the prime rate

charged by Citibank, N.A. in New York City on that date). Otherwise we must pay the cost of the audit. If you understated your 1-800-MATTRES® Telemarketing Sales by 8% or more for any month or for the entire period, We can terminate the License Agreement and you must pay the amount due, plus interest and the cost of the audit. If you understated your 1-800-MATTRES® Telemarketing Sales by less than 2% percent for any month or for the entire period, you must immediately pay us the amount due, plus interest, but we will pay the cost of the audit. The percentages described in this footnote are fixed and will not change during the term of the License Agreement.

[7] You must maintain the following insurance for your Business:

1. Broad form comprehensive general liability coverage, broad form contractual liability, property damage and personal injury coverage (including products liability and completed operations coverage) of at least \$10,000,000 aggregate. This insurance may not have a deductible or self-insured retention of more than \$5,000.
2. Fire and Hazard "All Risk" Insurance on your Office, Warehouse, any Showrooms, any Superstores, any Galleries, any Satellites and your property in an amount adequate to replace them and all improvements to them in the event of an insured loss (except that if any of these facilities is leased, only your improvements need be insured).
3. Business Interruption Insurance in sufficient amounts to cover the rental of the Office and Warehouse, delivery vehicles, any Showrooms, Superstore, Galleries and Satellites, the Mobile Showrooms (if leased), your Stores (if you are a conversion licensee), previous profit margins, maintenance of competent personnel and other fixed expenses (including insurance against rental or income loss during a period of repair or restoration of at least one year).
4. Motor vehicle liability coverage, including coverage of owned, non-owned and hired vehicles, on all delivery vehicles, Mobile Showrooms or other vehicles used in the operation of the Business with coverage of at least \$10,000,000 combined single limit.
5. Worker's Compensation and Employer's Liability Insurance (in statutory amounts), Unemployment Insurance and State Disability Insurance (as governing law requires), for your employees.

We can change the required insurance coverages and amounts. If you fail to purchase the required insurance, we can obtain the insurance for you, but we have no duty do so. If we obtain insurance for you, you must pay the premiums or reimburse us for them.

[8] If you are an entity, Equity Interests (as defined below) in you which require registration under any federal or state securities law are assignable through a public offering, so long as: (a) at least 45 days before the proposed registration, you submit a request for our consent accompanied by a non-refundable Securities Registration Fee of \$25,000; (b) you reimburse us for any expenses in excess of the Securities Registration Fee incurred in connection with the review of the materials concerning the proposed registration, including our attorneys' fees and travel expenses; (c) you submit to us for review the materials concerning the proposed registration at least 20 days before submission or dissemination of the materials; and, (d) we have the right to approve any description in the registration materials of the License Agreement or of your relationship with us, or any use of the Proprietary Marks.

Publicly-traded Equity Interests (defined below) may be assigned without our consent if the assignment is exempt from registration under federal securities laws and if immediately before and after the assignment, the assignor and assignee respectively each own less than 25% of

the Equity Interests in you.

An "Equity Interest" means any direct or indirect beneficial interest in you; any stock, membership or partnership interest in you; or, any stock, membership or partnership interest in any legal entity which is a partner, member or stockholder of you. A "publicly-traded Equity Interest" is an Equity Interest traded on any securities exchange or quoted in any publication or electronic reporting service maintained by the National Association of Securities Dealers, Inc. or any of its successors. In case of any dispute in computing changes of Equity Interests, our judgment will be final.

[9] The following definitions apply to this footnote:

- "Extraterritorial Sale" means any sale you make of bedding or bedding-related products or accessories or related services where the delivery location is outside your Territory.
- "Occupied Territory" means any territory in which there is a licensed or company-owned 1-800 MATTRES® Business.
- "Occupied Territory Business" means any licensed or company-owned 1-800 MATTRES® Business in an Occupied Territory.
- An "Extraterritorial Showroom Order" means any customer order you procure for an Extraterritorial Sale contemplating delivery in another Occupied Territory as a direct consequence of a visit of the customer to your Showroom, Mobile Showroom, Superstore or Gallery, or, if you are a conversion licensee, to your Store or Superstore.
- An "Extraterritorial Licensee Call Center Order" is an order for delivery in your Territory procured by an existing 1-800-MATTRES® licensee that maintains a call center for the receipt of 1-800-MATTRES® orders (under authorization granted by that licensee's License Agreement). Note: under your License Agreement, you have no authorization to maintain a call center.
- "Extraterritorial Order Revenues" means the retail price of all products (and any services) which are the subject of an Extraterritorial Order or an Extraterritorial Licensee Call Center Order fulfilled by a 1-800-MATTRES® Business (if the Business receives payment). There will be deducted from Extraterritorial Order Revenues for this computation (but only to the extent they have been included): (a) the amount of all sales tax receipts or similar tax receipts which, by law, are chargeable to customers, if the taxes are separately stated when the customer is charged and paid on time to the appropriate taxing authority, and (b) the amount of any refunds, chargebacks, credits and allowances given in good faith to the customer by the 1-800-MATTRES® Business fulfilling the Order.

If you fulfill an Extraterritorial Showroom Order for delivery in your Territory which an Occupied Territory Business procured, you must pay the Occupied Territory Business 10% of the Extraterritorial Order Revenues you receive. If you procure an Extraterritorial Showroom Order for delivery in the Territory of an Occupied Territory Business, but the Occupied Territory Business does not want to or cannot fulfill the Order, and you do, you must pay the Occupied Territory Business 10% of the Extraterritorial Order Revenues you receive. If another licensee, which operates a call center under its license agreement, procures an Extraterritorial Licensee Call Center Order for delivery in your Territory and you fulfill the Order, then you must pay the licensee who relayed the Order 5% of the Extraterritorial Order Revenues you receive. See Item 12 for more information and definition of terms.

[10] If we become a party to a proceeding concerning an agreement between us and you, and we win, or if we become a party to litigation or insolvency proceedings regarding your license, then you will be liable for our reasonable attorneys' fees and court costs. If we terminate the License

Agreement for your default, you must pay us all our expenses from your default, including reasonable attorneys' and experts' fees.

**ITEM 7**  
**INITIAL INVESTMENT**

CATEGORY OF INVESTMENT	AMOUNT		METHOD OF PAYMENT	WHEN DUE	TO WHOM PAID
	Licensee	Conversion Licensee			
Initial License Fee – See Note 1. Fee shown is for a minimum territory with approximately 100,000 people.	\$30,000 (minimum)	\$30,000 (minimum)	Installments	See Note 1	Us
Real Property See Note 2					
Construction/Leasehold Improvements See Note 2	0 - \$50,000	0 - \$25,000	See Note 2	As seller or landlord requires	Seller or landlord
Office Equipment & Supplies, Decor, Fixtures & Furnishings - See Note 2	0 - \$10,000	0 - \$10,000	As seller requires	As seller requires	Seller
One Showroom - Construction/Leasehold Improvements; Office Equipment & Supplies; Decor, Fixtures & Furnishings (not including real property) – See Note 2.	0- \$25,000	0 - \$25,000	As sellers or landlord requires	As sellers or landlord requires	Sellers or landlord
One Superstore - Construction/Leasehold Improvements; Office Equipment & Supplies; Decor, Fixtures & Furnishings (not including real property) – See Note 2.	0 - \$50,000	0 - \$50,000	As sellers or landlord requires	As sellers or landlord requires	Sellers or landlord
One Mobile Showroom - See Note 3 (optional)	\$4,500 (3 months= rent) - \$15,000 (purchase)	\$4,500 (3 months= rent) - \$15,000 (purchase)	Monthly, if leased; lump sum, if purchased	Monthly, if leased; before opening, if purchased	Us
Opening Inventory See Note 4	\$100,000	\$100,000	As sellers require	As sellers require	Our Designated Sellers
Computer Hardware and Software See Note 5	\$5,000	\$5,000	As seller requires	As seller requires	Seller
Delivery Vehicles See Note 6	0 - \$15,000	0 - \$15,000	As seller or lessor requires	As seller or lessor requires	Seller or lessor
Signs See Note 7	\$10,000	\$10,000	As seller requires	As seller requires	Seller
Organizational Expense See Note 8	\$10,000	\$10,000	As you agree with accountant or attorney	As you agree with accountant or attorney	Accountant/ Attorney
Permits and Licenses See Note 9	0- \$2,000	0- \$2,000	As agency requires	As agency requires	Agency
Insurance See Note 10	\$5,000- \$10,000	\$5,000- \$10,000	As agent requires	Before opening	Agent
Transportation/lodging during training See Note 11	\$5,000	\$5,000	As airline, hotel, restaurants require	As airline, hotel, restaurants require	Airline, hotel, restaurants require
Grand Opening Advertising See Note 12	\$4,000	\$4,000			

CATEGORY OF INVESTMENT	AMOUNT		METHOD OF PAYMENT	WHEN DUE	TO WHOM PAID
	Licensee	Conversion Licensee			
Required Advertising for 3 months See Note 13	\$25,000- \$50,000	\$25,000- \$50,000	As sellers require	As sellers require	Sellers
Additional Funds for 3 months See Note 14	\$75,000	0 - \$35,000	As expenses occur	Payroll weekly, other purchases as agreed	Employees, sellers
<b>Totals</b> (Based on initial license fee for minimum territory with approximately 100,000 people. Total does not include real property) See Note 15	<b>\$273,500- \$466,000</b>	<b>\$198,500- \$411,000</b>			

### NOTES

[1] We will calculate your initial license fee by multiplying the total population within your territory by \$0.30. The initial license fee will be payable as follows: (a) up to 100% (but no less than 10%) when you sign the License Agreement, and (b) the balance (if any), with interest, in 120 equal monthly installments. The initial license fee and all other fees and requirements under the License Agreement are negotiable. See Items 5 and 10.

[2] You must maintain an Office and Warehouse. If you already have an existing retail bedding business, it is unlikely that you will need any additional Office or Warehouse; you will already have enough office supplies and equipment, decor, fixtures and furnishings; and, you will probably need to provide no additional security deposits for utilities or rent.

If you do not already have an existing retail bedding business, you may already have an appropriate Office and/or Warehouse. If not, you will have to lease at least 1,000 square feet in a suitable building for an Office and at least 10,000 square feet in a suitable building for a Warehouse. Since real estate values vary dramatically from region to region, we cannot accurately estimate your rent, but monthly rental costs range from approximately \$500 to \$1,000 or more per month for an Office and from approximately \$2,000 to \$5,000 or more per month for a Warehouse. To estimate the rental expense for your office and/or warehouse, apply the above square footage requirements to the local real estate rental costs in the area in your Territory where there are suitable buildings.

If you do not already have an existing retail bedding business, and you do not have an appropriate Office and/or Warehouse, your cost of construction or leasehold improvement for your Office and/or Warehouse may be minimal. The cost of construction or leasehold improvements will vary depending on your construction and renovation costs and how many of those costs the landlord will pay (if any). If you do not already have an existing retail bedding business, you will need to acquire equipment and supplies, decor, fixtures and furnishings for your Office. The amount estimated includes office decor, fixtures and furnishings, desks, chairs, copying machine, typewriter, file cabinets, telephone system, waste baskets and other equipment and supplies.

You must open and operate the number of Showrooms or Superstores in your Territory shown on your Development Schedule (you may open one or more Galleries at your existing Stores instead, unless you are a conversion licensee). You must have either one Showroom for each 100,000 persons within your Territory or one Superstore for each 1,000,000 persons within your Territory. A "Showroom" is a public facility located within your Territory at a site other than your existing retail bedding business for the display and sale of mattresses and other bedding-



related products. The minimum size for a Showroom is approximately 2,000 square feet. A "Superstore" is a retail store with at least 10,000 square feet devoted to the sale of mattresses and other bedding-related products. If it meets our criteria for a Superstore, your existing retail bedding business Store can count as one of the required Superstores. Since real estate values vary dramatically from region to region, we cannot accurately estimate your rent for Showrooms or Superstores. Expenses for your construction, leasehold improvements, decor, fixtures and furnishings for a Showroom or Superstore will also vary widely depending on your area and the condition of the space you lease. See chart above.

If you do already have an existing retail bedding business, you are not a conversion licensee and you use space in one of your Stores for a Gallery instead of opening a Showroom or Superstore, your expenses should be much less, since you will have to pay no additional rent – we estimate that the cost of remodeling, decor, fixtures and furnishings for a Gallery may range from \$5,000 to \$15,000.

If you first obtain our written approval, you may operate one or more Satellites in your Territory (see Items 1 and 12). Your operation of Satellites is completely voluntary so long as we first approve each Satellite in writing. Since Satellites may vary widely in their functions and size, it is impossible to estimate their cost.

- [3] Operating a Mobile Showroom is optional. If you lease a Mobile Showroom, the cost for each will be \$1,500 per month for one year, but we will transfer title to the Mobile Showroom to you at the end of the year so that you will own the Mobile Showroom from then on (see Mobile Showroom Lease/Purchase Agreement in Exhibit 1). If you purchase a Mobile Showroom from us or our designee, the cost is \$15,000 apiece.
- [4] We will designate the opening inventory of bedding and related products and accessories you must purchase. You must purchase the opening inventory of System Products we designate from suppliers we designate before you open the licensed Business.
- [5] Before you open, you must install the required computer hardware and software. See Items 8 and 11.
- [6] You must already possess or purchase or lease the number and type of delivery vehicles that you reasonably determine is required to adequately fulfill your obligations under the License Agreement. You may also engage a third-party independent contractor to provide delivery services if the contractor meets requirements. See Item 8.
- [7] Depending on location, type and size of sign. Your existing retail bedding business (if any) and the Office, Warehouse, delivery vehicles, and any Showrooms, Superstores, Mobile Showrooms, Galleries, Satellites or Stores used by your licensed Business or the existing retail bedding business (if any) must bear signs conforming to our sign specifications as to type, color, size, design and location. We must approve all signs ~~must be approved in writing~~ before installation or display.
- [8] Actual costs dependent on work done by accountant and attorney, and standard regional rates.
- [9] You may ~~not~~ need ~~no~~ any additional permits or licenses to operate your Business. If you do, it will be as states and localities require.
- [10] Annual premium for required insurance coverage – see Item 6.
- [11] Travel expenses depend on where your home base is located, whether you and your trainees can commute by car to our training base, and the number of people you wish to receive Initial

Training. Lodging and food expenses depend on number of people being trained. You pay all these expenses.

- [12] You must spend \$2,000 per month from one month before the scheduled opening of your Business to one month after the opening of your Business on grand opening advertising and promotion
- [13] During the first six months following the opening of your Business you must spend 0.5% of the prior calendar year's sale of bedding within the Territory by all sellers, as we determine from the Pinstripe Business Control Atlas published by Hagstrom. The estimate shown is for the first three months after your Business opens. After that, you must spend the amount required by the applicable formula described in Item 6 above.
- [14] The estimate of additional funds for the initial phase of your Business is based on your staff salaries and operating expenses for the first three months of operation. The additional funds required will vary with the capacities of your existing retail bedding business, if any; your area; how much you follow our methods and procedures; your management skill, experience and business acumen; the relative effectiveness of your staff; local economic conditions; the local market for bedding-related products and services; the prevailing wage rate; competition; and, the sales of bedding-related products in your area during the initial period.
- [15] We and our affiliates do not finance your initial investment. In compiling these estimates we rely on our management and affiliates' years of experience in operating and franchising bedding telemarketing businesses. You should review these figures carefully with a business advisor before making any decision to purchase the license.

### ITEM 8

#### RESTRICTIONS ON SOURCES OF PRODUCTS AND SERVICES

You may only sell "System Products" from or at your 1-800 MATTRES® Business. The "System Products" are those bedding and related products and accessories which we designate from suppliers we designate. These suppliers place the 1-800 MATTRES® label on certain of our designated models of mattresses, bedding products and accessories.

Operation of a Mobile Showroom is optional, but you must purchase or lease (as applicable) any Mobile Showroom from us or our designees, and if you do so, we will derive income from your purchases or leases of the Mobile Showroom. You must also purchase from us or our designees any proprietary bedding products and related products and accessories. Currently, the Mobile Showrooms are the only products for which we or our affiliates are the only approved suppliers. Currently, we have no proprietary bedding, related products or accessories, but we may add them in the future and if we do so, we will derive income from any purchases you make from us. See Items 1, 5, 6 and 7 for more information about your purchases of Mobile Showrooms and any other proprietary products. At the date of this Offering Circular, we have one licensee. We have received no income from leasing or selling any Mobile Showrooms or proprietary products to this licensee.

You must obtain the required insurance described in Item 6.

You must use our proprietary computer software. See Items 6 and 11. The Initial License Fee includes the purchase price. You pay for any future updates or revisions. We have not yet received any income from licensees from sales of software updates and revisions but we expect to do so in the future. You must purchase and install the computer hardware and software that meet our requirements, as described in Item 11.

We may designate the opening inventory of bedding and bedding-related products you must purchase before opening (see Items 5 and 7). You must then maintain the amount and nature of inventories of all 1-800 MATTRES® System products we specify (in our Standards or otherwise). We may vary our inventory specifications periodically and from licensee to licensee.

We may, if we choose, enter into agreements with vendors of bedding or bedding-related products or accessories, permitting us to make bulk purchases of products on behalf of licensees or allowing licensees to purchase products at the same price as we do. If we enter into a purchasing agreement of this type, we will offer you the opportunity to participate in the purchases or to enter into arrangements with the vendor to enable you to obtain the benefits of the agreement. We have no obligation to negotiate any of these arrangements and make no representation that we will negotiate any of these arrangements.

We do not expect the prices you pay for purchases from third party suppliers to increase beyond inflation in the applicable industry segment unless the supplier's costs increase due to shortages, catastrophes, strikes, Acts of God, or other causes beyond its control. There are no purchasing or distribution cooperatives. We provide you with no material benefits (such as renewal or granting additional licenses) based on your use of designated or approved sources. We and our affiliates receive no payments from any supplier because of licensee purchases, nor do we or our affiliates receive any special discount on purchases from any supplier for ourselves because of licensee purchases.

We do not maintain written criteria for approving bedding manufacturers or other suppliers, and thus these criteria are not available to you or your proposed supplier. If you name a supplier for a product or service and you propose a different supplier, then to obtain our written approval:

1. You must submit a written request to us for approval of the supplier.
2. The supplier must meet our specifications to our reasonable satisfaction.
3. The supplier must demonstrate to our reasonable satisfaction that it is in good standing in the business community for financial soundness and reliability of its product or service.

We have the right to test, at your expense, the product or service of any supplier you propose, whether or not the supplier is then approved by us. We will give you notice of our approval or disapproval within a reasonable time, generally within 60 days at the latest, and often sooner – the time involved depends on the type of product or service you propose, the kind of testing, if any, that is necessary for us to evaluate the product or service, and the speed of your proposed supplier's response with our inquiries. If we revoke approval of any supplier, we will give you written notice (in our Standards or otherwise).

We may suggest that you sell one or more categories or items of non-bedding -related merchandise (the "Optional Merchandise") – for example, big screen television sets or home exercise equipment. It will be up to you whether to sell the Optional Merchandise in question. If you agree sell the Optional Merchandise from your licensed 1-800 MATTRES® Business, then these sales will be subject to a royalty to be agreed upon by Licensor and Licensee.

You must maintain the interior and exterior of all your 1-800-MATTRES® facilities, and keep and maintain their equipment, furniture, decorating, signs and appurtenances in the highest degree of cleanliness, maintenance, condition and repair. However, you will not be required to expend any amount of money which is unreasonably excessive to comply with these requirements. We and our affiliates do not provide maintenance or repair services or products. You will use and pay suppliers unaffiliated with us that you select. The costs of maintenance and repair vary widely, depending on the number, size and location of your facilities and the local costs in your area. We estimate that your

maintenance and repair costs can vary from \$3,000 to \$25,000 per year.

You must upgrade your facilities and equipment as a condition to renewal. We cannot estimate these future costs at this time but they will be reasonable. We assume that we and our affiliates will not provide any of these services and products and that you will use and pay suppliers unaffiliated with us.

We estimate that the required purchases described above are 54% to 64% of the cost to establish a licensed Business and approximately 50% of on-going operating expenses.

## ITEM 9

### LICENSEE'S OBLIGATIONS

THIS TABLE LISTS YOUR PRINCIPAL OBLIGATIONS UNDER THE LICENSE AND OTHER AGREEMENTS. IT WILL HELP YOU FIND MORE DETAILED INFORMATION ABOUT YOUR OBLIGATIONS IN THESE AGREEMENTS AND IN OTHER ITEMS OF THIS OFFERING CIRCULAR.

Obligation	Article or Section in License Agreement	Item in Offering Circular
a. Site selection and acquisition/lease	Article 7	
b. Pre-opening purchases/leases	Sections 6.2 (C), 9.8, 9.9	Items 6, 8 and 11
c. Site development and other pre-opening requirements	Sections 7.5, 9.8, 9.10	Item 7
d. Initial and ongoing training	Section 8.2, 8.3	Item 11
e. Opening	Section 9.1	Item 11
f. Fees	Article 5, Sections 10.1, 15.2 (8), 16.4 (A) (13)	Items 5, 6
g. Compliance with standards and policies/Operating Standards	Sections 8.1, 9.2, 9.3 (and throughout Agreement)	Items 8, 11, 15 and 16
h. Trademarks and proprietary information	Articles 6 and 13	Items 13, 14
i. Restrictions on products/services offered	Sections 3.3, 3.4, 3.5, 9.8, 9.16	Item 16
j. Warranty and customer service requirements	Section 8.6, 9.9, 9.16	Item 16
k. Territorial development and sales quotas	Article 3, Sections 7.1, 7.4, 9.16	Item 12
l. Ongoing product/service purchases	Section 9.8	Items 6, 8
m. Maintenance, appearance and remodeling requirements	Section 9.5	Item 11
n. Insurance	Article 12	Item 6
o. Advertising	Article 11, Section 6.2 (B)	Item 11
p. Indemnification	Section 9.15, 16.4 (D)	Item 6
q. Owner's participation/management/staffing	Section 9.6	Item 15
r. Records and reports	Article 10	Item 6
s. Inspections and audits	Section 9.17, 10.4	Item 6

Obligation	Article or Section in License Agreement	Item in Offering Circular
a. Site selection and acquisition/lease	Article 7	
t. Transfer	Article 16	Item 17
u. Renewal	Article 15, Section 4.2	Item 17
v. Post-termination obligations	Article 19	Item 17
w. Non-competition covenants	Article 14	Item 17
x. Dispute resolution	Articles 21, 22, 24, 25, 26, Section 14.3	Item 17

## ITEM 10

### FINANCING

The initial licensee fee will be payable as follows:

- Up to 100% (but at least 10%) when you sign the License Agreement, and
- The balance (if any), in 120 equal monthly installments, each due and payable on the first day of each month following your signing of the License Agreement. The terms will be governed by the Promissory Note attached to the License Agreement as Exhibit G, which you must sign when you sign the License Agreement.

There will be no interest charge under the Promissory Note. You can prepay the note without penalty at any time. If you do not pay on time, we can call the loan and demand immediate payment of the full outstanding balance and obtain all costs of collection, court costs and attorney's fees. The only security we require is that your principals and/or owners sign a personal Guarantee (Exhibit D to the License Agreement) if you are an entity. If you default on the Promissory Note, we can terminate the License Agreement and we can call the loan and demand immediate payment of the full outstanding balance and obtain all costs of collection, court costs and attorney's fees. In addition, if you do not make any Initial License Fee payments on time, we can remove or suspend you from the 1-800 MATTRES® Marketing System immediately upon notice to you (see Item 11).

If, on the third anniversary of the opening of your Business (the "Third Anniversary"), your total 1-800-MATTRES® Telemarketing Sales and 1-800-MATTRES® Showroom/ Superstore /Gallery Sales (Store/ Superstore/Showroom Sales for conversion licensees) for the preceding 12 months are not at least equal to the product of \$3.00 times the population shown on Exhibit A to your License Agreement (the "Target Amount"), then you will cease to owe any unpaid balance of the Initial License Fee as of the Third Anniversary and we will cancel the Promissory Note. However, you will receive no refund of the Initial License Fee payments you already made. In addition, if your Business does not achieve the Target Amount by the Third Anniversary, then either you or we can terminate the License Agreement by complying with the requirements described in Item 12. Otherwise, the License Agreement will remain in effect.

We do not represent or promise that your Business will achieve its Target Amount during the 12 months preceding the Third Anniversary or during any period, or that your Business will achieve any other level of sales at any time. See Items 5 and 19.

Operating a Mobile Showroom is optional, but if you wish to do so you must lease or purchase the Mobile Showroom from us or our designee. If you lease the Mobile Showroom, the cost will be \$1,500

per month for one year for a total of \$18,000, but we will transfer title to the Mobile Showroom to you at the end of the year so that you will own the Mobile Showroom from then on. Or, you can purchase the Mobile Showroom from us or our designee for \$15,000. The Mobile Showroom Lease/Purchase Agreement is in Exhibit 1 of this Offering Circular.

Except as described above, we do not offer direct or indirect financing. We do not guarantee your note, lease or obligation. We and our affiliates have no past practice or future intent of selling, assigning or discounting licensees' financing arrangements to a third party. We and our affiliates do not receive any direct or indirect payments from any person for the placement of financing.

## ITEM 11

### LICENSOR'S OBLIGATIONS

Except as listed below, we need not provide any assistance to you (references to the "License Agreement" in this Item apply to both the standard License Agreement and the conversion License Agreement).

#### **Before your Business opens, we will:**

(1) Designate your Territory. (License Agreement, Section 3.1) We do not select or approve any sites for your offices, warehouses or other facilities. If you and we cannot agree on a site for your Office or Warehouse, then we will terminate the License Agreement, refund 75% of the portion of the Initial License Fee you have paid, and forgive you of the obligation to pay us the remainder. If you have an existing retail bedding business, it is unlikely that you will need any additional office or warehouse space beyond that you already have for your existing retail bedding business, which you will also use for your Business. We consider the following factors in approving sites: the general location and neighborhood; the availability of locations and necessary zoning; and, expected overhead.

If you do not have existing office or warehouse space when you sign the License Agreement, and we cannot agree on a site for your Office or Warehouse within 3 months after the date we sign the License Agreement, then we will terminate the License Agreement and refund 85% of the Initial License Fee you have paid, cancel the Promissory note and forgive the unpaid balance of the Initial License Fee.. We consider the following factors in approving sites for an Office and Warehouse: the size of your Territory; the market potential and estimated volume of your Business; the general location and neighborhood; traffic patterns; co-tenant attractiveness; size of the space; the suitability, age and condition of the building in which the proposed Office or Warehouse is situated; ingress and egress; the availability of locations and necessary zoning; and, expected overhead.

There is no time period within which we must approve or disapprove Showrooms or Superstores you propose in addition to those you must open.

(2) Approve or disapprove the leases for the Office and Warehouse within 20 business days after we receive them. If we fail to communicate our approval or disapproval to you in that time, the agreement is approved. (License Agreement, Section 7.2)

(3) Approve or disapprove all signs, posters and displays in writing before installation or display. (License Agreement, Section 6.2 (C))

(4) Lend you a copy of the confidential standards (the "Standards"). You must strictly comply with the Standards in operating your Business. We can change the Standards, and you must comply with these changes when you receive them, but they will not materially alter your rights and obligations under the License Agreement. (License Agreement, Section 8.1) You will have the opportunity to view

the Standards before signing the License Agreement.

- (5) Offer you the opportunity to participate in purchases or to make arrangements with vendors, if we enter into any agreements with bedding product vendors which permit us to make bulk purchases for its licensees, or which allow its licensees to purchase bedding products at the same price as we do. See Item 8. (License Agreement, Section 9.8 (C))
- (6) Lease or sell you (or have our designee lease or sell you) Mobile Showrooms and sell you (or have our designee sell you) any other proprietary products. See below in this Item 11, and Items 6, 8 and 10. (License Agreement, Section 9.8 (A), Mobile Showroom Lease Purchase Agreement)
- (7) Approve or disapprove any advertising, direct mail, identification and promotional materials and programs you propose and your proposed advertising methods and media within 10 business days of receipt. If we do not respond in 10 business days, the material is approved. (License Agreement, Section 11.2)
- (8) Periodically, either establish maximum prices above which your Business may not sell, or suggest prices. We will not, however, establish or advertise any minimum prices below which you may not sell products or services. (License Agreement, Section 8.11)

### Training

We conduct the Initial Training Program as frequently as needed at our headquarters in Queens, New York, as follows:

WHEN CONDUCTED	SUBJECT	HOURS OF CLASSROOM TRAINING
Days 1-3	Mattress Brand A	3.5 per day
	Mattress Brand B	3.5 per day
Days 4-6	Mattress Brand C	3.5 per day
	Mattress Brand D	3.5 per day
Day 7	In-house Brand	1
	Other Brand Mattresses	4
Day 8	Mattress Brand E	2
	Frames	3
Day 9	Mattress Brand E	3
	Upgrade Frames	3
Day 10	Other Products	2
	Factory Tour	All day
Days 11-13	Cross Training	2 per day
	Sales	3 per day
Day 14	Customer Service	2 per day
	Mattress Pads, Pillows	2

WHEN CONDUCTED	SUBJECT	HOURS OF CLASSROOM TRAINING
	Sales	3
	Customer Service	2
Day 15	Foam Mattresses, Air Mattresses	2
	Sales	3
	Customer Service	2
Days 16-20	Computer Training	3 per day
	Call Center Policies and Procedures	3 per day
	Customer Service	1 per day
Days 21-23	Upscale Mattress, Mattress Brand F	2 per day
	Review and Questions	5 per day
Days 24-25	National Advertising	5 per day
	Marketing	2 per day
Day 26	Regional Advertising	5
	Meeting Company	2
Day 27	Regional Advertising	5

Our Initial Training Program currently includes approximately 27 days of training. Kathy Desmond, our Vice President – Human Resources and Quality Control, is in charge of the Initial Training Program (see Item 2). The minimum experience of the instructors that is relevant to the subject taught and our operations is from 1 to 3 years. The instruction materials include videotapes, handouts, computer software demonstrations and Power Point presentations.

The Initial License Fee includes the cost of the Initial Training Program for you and your Business Manager, who must attend the training, and for a total of five people (including you and your Business Manager). If you want us to train additional people, you must pay the additional trainee charge of \$1,000 per person. All Business Managers appointed later must also pass the Initial Training Program. You must pay the subsequent trainee charge for them. The subsequent trainee charge will be no greater than \$2,000 per person during the first calendar year during which your Business is in operation. This training charge will be increased on January 1 of each year by the percentage of increase in CPI during the preceding 12 months. You must always pay all transportation costs, meals, lodging and other living expenses for all your trainees.

If you or your Business Manager fails to successfully complete the Initial Training Program, the person who failed can re-enroll in our next scheduled Initial Training Program at no additional charge. We can terminate the License Agreement if the person fails to successfully complete the Initial Training Program again. If we terminate the License Agreement, then we will refund 50% of the Initial License Fee you paid.

We will pay no compensation for any incidental services your trainees perform during training. We can determine the length and subject-matter of our training programs, and we can train any number of individuals from any number of Businesses at the same time. (License Agreement, Section 8.2)

We may conduct conferences, conventions or training sessions. We will determine the duration,



curriculum and location of these. Your Business Manager must attend each conference, convention or training session. You pay all related expenses of trainees, for example transportation costs, meals, lodging and living expenses. (License Agreement, Section 8.3)

We may also provide supplemental training by telephone, the Internet or other electronic means. If we do, the persons we designate must participate and you must pay your proportionate share of our costs in providing the training. (License Agreement, Section 8.3)

**During the operation of the licensed business, we will:**

(1) Provide you with telemarketing services (directly, or through our affiliates) maintain our www.mattress.com Web site and procure customer orders through the Internet/World Wide Web. We or our affiliates may also procure customer orders by various other electronic means or through customer catalogs distributed nationally, regionally or locally. We and our affiliates have no obligation to engage in affirmative telemarketing (for example, by placing "cold" sales calls to customers). (License Agreement, Section 8.6) Our ~~Bedding Consultants~~ Sleep Consultants® will intake, process and finalize these customer orders; process customers' credit card information; consummate the sales transactions; and, communicate the orders to you for fulfillment. We will make our ~~Bedding Consultants~~ Sleep Consultants® available to receive and process customer communications, and to intake and finalize customer orders, for 24 hours per day every day of the year. We will provide sufficient ~~Bedding Consultants~~ Sleep Consultants® to process the volume of communications, inquiries and orders coming from your Territory. Our ~~Bedding Consultants~~ Sleep Consultants® can serve any number of 1-800-MATTRES® Businesses (including Company-owned and licensed Businesses) at the same time and non-exclusively. We will train and supervise our ~~Bedding Consultants~~ Sleep Consultants® so that they perform these services in accordance with our procedures, techniques and systems. All our ~~Bedding Consultants~~ Sleep Consultants® will know your prices (so long as you have notified us of them), and will process orders only according to your prices.

While our sales force of ~~Bedding Consultants~~ Sleep Consultants® will be acting for you, neither they nor we will be your "agents" or "employees" or anything other than your "independent contractors".

Except as otherwise described in Item 12, we or our affiliates will communicate to you all telephone, electronic and catalog customer sales transactions contemplating the delivery of products and/or the provision of services in your Territory. After that, you will be responsible for fulfilling the customer orders and requests.

All complaint, warranty, substitution or other follow up calls from your customers should go to you and not to us, but if we receive a customer complaint, warranty or other "follow-up" call, we will notify you, and you must promptly attend to it.

Except as otherwise described in Item 12, customers who order products or services for delivery or provision within your Territory are your customers and not ours. We (or our affiliates) are merely processing orders for you as an independent contractor. You bear all risk of loss if any customer fails to pay; changes his or her mind; claims that the products or services you provided or your prices differ from those communicated by our ~~Bedding Consultants~~ Sleep Consultants® (unless you or the customer can demonstrate that this is true); makes "crank" or "phony" sales transactions, and from other elements of the sales transaction. Our sole responsibility will be to process customer sales transactions and respond to customer inquiries, based on the information, data and desires expressed by customers over the telephone, Internet and other electronic communication channels. We have no responsibility to verify the truthfulness of communications from customers or from you.

In the case of customer credit card transactions, our ~~Bedding Consultants~~ Sleep Consultants® will electronically communicate with your credit card clearing house for the requisite verifications and authorizations for customer sales transactions by credit card. You bear the sole risk of loss associated

with ultimate non-payment by credit card customers. All payments by your customers will go to you, and the invoices you use must state this. we will not accept payments from any of your customers (by check, credit card or otherwise).

An "Unassigned Adjacent Area" means an area outside the boundaries of your Territory which we have not assigned as the territory of another 1-800-MATTRES® Business. When you sign the License Agreement, you will notify us whether you are willing to service telephone, Internet, electronic, merchandise display and catalog orders calling for delivery beyond 50 miles from the boundaries of your Territory and within an "Unassigned Adjacent Area". If you advised us that you will service these orders, and we receive an order of this type, then we may, but will not be obligated to, refer the order to you. If we do refer the order to you, then you must fulfill the order or render the services. The order will be treated as an order for a product or service within your Territory.

If we receive a telephone, Internet, electronic, merchandise display or catalog order for bedding and/or related products and accessories calling for delivery within 50 miles of the boundaries of your Territory and within an Unassigned Adjacent Area, you must fulfill the order or render the services. The order will be treated as an order for a product or service within your Territory.

If you do not make any Initial License Fee payments on time or you do not pay us any 1-800-MATTRES® Fees, System Advertising Contributions or any other payments you owe us or our affiliates on time, or if you default in any other way, then we can remove or suspend you from the 1-800-MATTRES® telemarketing, electronic/Internet, catalogue marketing and merchandise display system (the "1-800 MATTRES® Marketing System") immediately upon notice to you. You must cure the non-payment or default by the date we specify in the notice. When we send you the notice, we can suspend you from the 1-800 MATTRES® Marketing System right away. During your suspension, we can fulfill or refer to another licensee all telephone, electronic/Internet and catalog customer sales transactions for your Territory and all responses to our or other licensees' merchandise display marketing for your Territory. If you cure the non-payment or default within the time provided in our notice, we will restore you to the 1-800 MATTRES® Marketing System. But we will not be required to redirect to you any previous telephone, electronic/Internet and catalog customer sales transactions or responses to merchandise display marketing efforts which we fulfilled or diverted to other licensees while you were suspended, and you will be entitled to no payment in connection with them. If we suspend or remove you from the 1-800 MATTRES® Marketing System, this does not mean we are waiving any breach of the License Agreement, our right to terminate this Agreement, or any other term, covenant or condition of the License Agreement.

(2) Continue to give you the opportunity to participate in or benefit from any joint purchasing arrangements. See above in this Item 11 and the full description in Item 8. (License Agreement, Section 9.8)

(3) Continue to offer to lease or sell you (or have our designee lease or sell you) Mobile Showrooms and to sell you (or have our designee sell you) any other proprietary products. See Items 6 and 8. (License Agreement, Section 9.8 (A))

We will exert our best efforts to fulfill (or to have our designees fulfill) your orders for any proprietary products pursuant to this Agreement on a timely basis. If we, our designees, or their suppliers are unable to supply our clientele (including you and other licensees) with the quantity and type of proprietary products which they request, as a result of causes beyond our or their control, then we will (or cause our designee to) try to allocate the available products on an equitable basis. If you do not receive any proprietary products for this reason, we will not be in breach of the License Agreement and we and our designee will not be liable to you. (License Agreement, Section 8.8)

(4) Continue to approve or disapprove any advertising, direct mail, identification and promotional materials and programs you propose and your proposed advertising methods and media within 10

business days of receipt. If we do not respond in 10 business days, the material is approved. (License Agreement, Section 11.2)

## Advertising

**Advertising Fund.** As Item 6 describes, you must pay us a System Advertising Contribution every month. We will combine the System Advertising Contributions of 1-800-MATTRES® licensees to create a system advertising fund, which will administer as follows:

We will direct all advertising programs and control the creative concepts, materials and media used, media placement and allocation. We need not make expenditures for you which are equivalent or proportionate to your contributions. We need not ensure that any particular licensee benefits directly or proportionately from fund advertising. We have no obligation in administering the fund to make expenditures for you which are equivalent or proportionate to your contributions, or to ensure that any particular licensee benefits directly or proportionately from the placement of advertising, or to insure that any advertising impacts or penetrates your territory. The fund is not a trust and we are not a fiduciary.

The fund may be used to meet all costs of administering, directing, preparing, placing and paying for national, regional or local advertising. This includes the cost of preparing and conducting television, radio, magazine and newspaper advertising campaigns and other public relations activities; the cost of employing advertising agencies; and the cost of acquiring the rights to establish and maintain 1-800-MATTRES® merchandise displays on the premises of third parties (which will not themselves engage in the sale of 1-800-MATTRES® products or services); all customer orders emanating from these displays which call for delivery within your Territory will be routed to you. We can use any media, create any programs and allocate advertising funds to any regions or localities as we consider appropriate.

We need not maintain the money paid by licensees to the fund and income earned by the fund in a separate account. But we may not use this money for any purposes other than those provided for in the License Agreement. We can spend up to 10% of the fund for its reasonable administrative costs and overhead for activities reasonably related to the administration of the fund and advertising programs for licensees. This 10% charge does not include any advertising agency fees which the fund must expend to secure the services of an advertising agency or to have print or broadcast advertising placed by an agency or service. The fund will not be used to solicit the sale of franchises.

We must distribute an audited statement detailing advertising fund income and expenses for the fiscal year to all 1-800-MATTRES® licensees within 120 days after the end of the fiscal year. The fund will pay for the audit.

We will spend most contributions to the fund for advertising purposes during the fiscal year in which the contributions are made. If we spend more than the amount in the fund in any fiscal year (in addition to any money we have to spend because we did not spend all the money in the fund during the year before), then we can reimburse ourselves from the fund during the next fiscal year for all excess expenditures during the preceding fiscal year. If we spend less than the total in the fund during any fiscal year, we can either spend the unused money during the next fiscal year or rebate all or a portion of the unused money to licensees on a proportionate basis (as described below).

If we spend less than the total in the fund during any fiscal year, or if we determine that advertising contributions collected from all 1-800-MATTRES® licensees are insufficient for a meaningful regional or national advertising campaign, then we may rebate all or some of the contributions to licensees on a proportionate basis. You must spend any rebate you receive on the types of local advertising and media that we specify. You must document all rebate advertising expenditures to us on a monthly form.

Although we intend the fund to be perpetual, we have the right to terminate the fund. We will not

terminate the fund until we have spent all money in the fund for advertising and promotional purposes. No 1-800-MATTRES® Business owned and operated by us (or our affiliates) must participate in or contribute to the advertising fund.

### **Advertising Cooperatives**

The License Agreement gives us the power to form, change and dissolve advertising cooperatives. If we form a regional Advertising Cooperative for your area, we will notify you in writing of the starting date and amount of your advertising cooperative contributions. Your contributions will be at least 1% but no more than 2% of your 1-800-MATTRES® Telemarketing and Showroom/ Superstore/Gallery Sales (Store/Showroom/Superstore Sales for conversion licensees), unless the Cooperative changes the maximum contribution under its By-Laws (see License Agreement, Section 11.5 and Sample By-Laws, Exhibit H to the License Agreement). Expenditures by the Regional Advertising Cooperative need not be in proportion to the contributions you make (or any other franchisee makes).

A Regional Advertising Cooperative may spend funds for: (a) developing advertising ideas and concepts; (b) developing market research and merchandising programs; (c) preparing advertising campaigns; (d) developing promotional ideas and strategies; (e) preparing collateral creative materials; (f) preparing advertisements (including writing, filming, editing, etc.); (g) planning, negotiating, contracting and trafficking media programs; (h) technical and professional advice for programs; (i) public relations; and, (j) administration of the Cooperative, including legal and accounting services.

The Regional Advertising Cooperative will order an audit following the end of each fiscal year. The auditors will present their audit report to the Board of the Cooperative as soon as practicable, and the Board will then present the report to you and the other members of the Cooperative at the next regular meeting or at a special meeting. (See Section 11.2 of the Sample By-Laws, Exhibit E to the License Agreement.)

**Your Advertising Activities.** All advertising, identifications, promotional materials and signs you use for the licensed Business and your existing retail bedding business (if any) must include our required text and logos, in our prescribed size and style.

You may develop advertising materials for your own use, at your own cost. As stated above, we must approve these advertising materials and your advertising methods and media in advance and in writing, but if we do not respond within ten business days after receiving your proposed advertising material, the material is approved.

You may not maintain a World Wide Web page or maintain a presence or advertise on the Internet or any other public computer network in connection with your Business or your existing retail bedding business (if any) without first obtaining our written approval. We can withhold this approval for any reason or no reason. You must submit printouts of all Web pages to us for approval before you use them. You may only use material which we have approved. Your Web site must conform to all our Web site requirements. You must provide all hyperlinks or other links we require. If we grant approval for a Web site, you may not use any of the Proprietary Marks at the site except as we expressly permit. You may not post any of our proprietary, confidential or copyrighted material or information on your Web site. If you wish to modify your approved Web site, all proposed modifications must also receive our prior written approval. You must list on your Web site any Web site which we maintain, and any other information we require in the manner we require. You must obtain our written approval before using or adopting any Internet domain name and/or home page address. The requirements for our approval of advertising described above in this Item 11 apply to all activities on the Internet or other communications network you conduct, except that you may maintain one or more E-mail addresses and may conduct individual E-mail communications without our prior written approval. You must obtain our prior approval if you propose to send advertising to multiple addresses via E-mail. If we do not respond within ten business days after receiving your proposed material, the material is approved.

### **Other Advertising Information.**

We currently advertise using print, radio and television, with local, regional and national coverage. We currently employ both an in-house advertising department and national or regional advertising agencies.

### **Computer Hardware and Software**

You must purchase a computer system that conforms to our then-current hardware and software specifications. As of the date of this Offering Circular, our current specifications are as follows: a Pentium 4 processor with a minimum speed of 2.6 GHz; 512 Mg. of RAM; an 80 Gb. hard drive; a CD-Rom drive; either a cable or DSL modem if available in your area, and if neither a cable or DSL modem is available, a 56K modem; a monitor; a line printer (for invoices); a laser printer (for correspondence); and, either Windows XP Professional or Windows 2000 Professional.

You must provide any assistance we required to bring your computer system on-line with our headquarters computer at the earliest possible time. We will have right to transmit and retrieve whatever data and information to and from your computer system that we consider necessary, desirable or appropriate. We will pay the telephone costs of retrieval, while you must pay the telephone costs of transmittal. You must input and maintain in your computer system all data and information which we prescribe. You must keep your computer system in good repair.

You must use the proprietary software developed for us. At the same time you sign the License Agreement, you must sign our Software License Agreement (Exhibit I). We will initially furnish our proprietary software programs and associated manuals and materials to you at our expense. You must purchase from us or our designee any new, upgraded or substitute proprietary software programs.

The required computer system and software will be used in your Business to track sales, purchases, inventory and deliveries. We may transmit orders electronically to your computer.

If we run tests and determine that the installation will benefit you and us, you must install (at your own expense) whatever additions, changes, substitutions and replacements to your computer hardware, software, telephone and power lines, etc. we direct. You must install these items when we direct. You will pay for these items at the time and upon the terms that the sellers specify. There is no contractual limit on our right to require you to upgrade and replace computer hardware, software and equipment.

### **Time to Open**

You must open your Business within 120 days after you sign your License Agreement. We estimate that the typical length of time between the signing of the License Agreement and the opening of your Business is 90 days. Factors affecting time to open include whether you have an existing retail bedding business; hiring any additional staff you may need; complying with local ordinances; completing delivery and installation of equipment and signs; procuring any Mobile Showrooms you wish to operate; procuring any additional delivery vehicles you may need or engaging a third-party independent contractor we have approved to perform deliveries for the licensed Business; and, procuring inventory. We can terminate your License Agreement if you do not open your Business within 120 days after you sign your License Agreement.

## ITEM 12

### TERRITORY

We will grant you a geographic area (the "Territory"). The minimum Territory we grant you will contain approximately 100,000 people, but your Territory may be larger.

#### Facilities

You must maintain an Office and Warehouse in your Territory. In addition, you must open and operate the number of "Showrooms" or "Superstores" (defined below) on the Development Schedule to your License Agreement. You and we will negotiate the Development Schedule just before you sign the License Agreement. The Development Schedule will vary from licensee to licensee to reflect differences in market demographics, competition, advertising costs, consumer trends and the extent and nature of the licensee's existing retail bedding business, if any.

A "Showroom" is a public facility located within the Territory at a site other than your existing retail bedding business (if any) for the display and sale of mattresses and other bedding-related products which meets our Showroom requirements. A "Superstore" is a retail store with at least 10,000 square feet devoted to the sale of mattresses and other bedding-related products. If it meets our criteria for a Superstore, your existing retail bedding business can count as one of the required Superstores. You must obtain our prior written approval for the site and lease for each Showroom or Superstore.

If you are operating an existing retail bedding business and you are not a conversion licensee, then instead of opening and operating a required Showroom, you may instead open and operate one or more "Galleries". A "Gallery" is a facility on the premises of your Store for the display and sale of mattresses and related products. The facility must meet our Gallery requirements.

You must operate all Showrooms, Superstores and Galleries according to our procedures and requirements. If you are not a conversion licensee, you may not utilize your Showroom(s) or Gallery(ies) for the operation of your existing retail bedding business (if any).

You must open and operate either one Showroom for each 100,000 persons within your Territory or one Superstore for each 1,000,000 persons within your Territory. The number of Showrooms or Superstores which you must open and operate will be shown on the Development Schedule attached to your License Agreement. We also recommend that you operate one Mobile Showroom for each 100,000 persons within your Territory. You must buy or lease any Mobile Showrooms from us or our designee.

You may, with our prior written approval for the site and lease, open and operate additional Showrooms or Superstores in the Territory and (if you are not a conversion licensee) additional Galleries at any other Stores you operate in the Territory.

In addition, you may, with our prior written approval, open and operate one or more "Satellites" in the Territory. A "Satellite" means a location other than your Office, Warehouse, Showroom, Superstore or Gallery at which, with our permission, you may engage in certain of the business activities contemplated by the License Agreement. We can expressly prohibit certain activities contemplated by the License Agreement from being engaged in, performed at or discharged from a Satellite. You must operate any Satellites pursuant to our specifications for Satellites.

If you are operating an existing retail bedding business and you are not a conversion licensee, you may not use a Satellite for the operation of the existing retail bedding business without our prior written approval. We will grant or deny approval in our sole judgment, depending on the functions to be performed at the Satellite.

## Territorial Rights

While the License Agreement is in effect and you are not in default, we will not fulfill, or authorize any one else to fulfill, customer orders placed over our "1-800-MATTRESS®" Telephone Number, our (or our affiliates') computer network "web" site(s) or our catalogs (if any) calling for the delivery of bedding and/or related products and accessories within your Territory.

We have not yet established any other licenses, company-owned outlets or other distribution channels offering similar products and services under a different trademark in the United States, but we plan to do so in the future. While Dial International currently has two operational licensees under the same marks as you will use (see Item 20), Dial International has not offered licenses or franchises since 1993. We intend to grant no licenses for Territories which overlap with the territories of Dial International's licensees.

We and our affiliates have the following rights:

- To fulfill, or authorize any other individual or entity to fulfill, customer orders placed over our "1-800 MATTRES®" Telephone Number or web site(s) (or our catalogs, if any) and calling for the delivery of bedding and/or related products and accessories now or in the future anywhere outside your Territory (including proximate or adjacent to your Territory).
- To fulfill, or authorize any other individual or entity to fulfill, customer orders calling for delivery within your Territory of products and services which do not comprise a part of the 1-800 MATTRES® System, and to grant franchises and licenses for the offer and sale of these products and services; through any distribution method (including through the use of A "1-800" telephone numbers other than 1-800 MATTRES® and any web sites other than those dedicated to 1-800 MATTRES®) and, to exploit our Proprietary Marks, name, reputation and know-how in doing so.
- Following the termination or expiration of the License Agreement, to fulfill, or authorize any other individual or entity to fulfill, customer orders calling for delivery within your Territory of the products and services you sell under the License Agreement.
- To purchase, merge, acquire or affiliate with an existing bedding telemarketer, bedding retailing chain or any other business (each, a "chain") regardless of the location of the chain's facilities and convert the chain so that it operates under the Proprietary Marks. While we will not permit any units of the chain in your Territory to operate under the Proprietary Marks until the termination or expiration of your License Agreement, we will permit them to operate under any other name or mark and to directly compete with you (including through telemarketing efforts under names and marks other than the Proprietary Marks). We may establish or license an unlimited number of additional units of the chain, so identified, within your Territory. Under the terms of the License Agreement, you waive any claims, demands or damages arising from or related to these activities including any claim of divided loyalty, breach of fiduciary duty, fraud, breach of contract or breach of the implied covenant of good faith and fair dealing.
- To operate (or license another entity or individual to operate) within your Territory one or more virtually identical businesses offering and selling different products from those you sell under the License Agreement (furniture or appliances, for example) using "1-800" telephone number(s) other than the "1-800 MATTRES®" Telephone Numbers and web sites other than those dedicated to 1-800 MATTRES®, so long as the other businesses do not operate under or use the Proprietary Marks. These businesses may be served by the same call centers, personnel and resources as serve 1-800 MATTRES® Businesses (including your Business). Under the terms of the License Agreement, you waive any claims, demands or damages arising from or related to these activities including, for example, any claim of divided loyalty, breach of

fiduciary duty, fraud, breach of contract or breach of the implied covenant of good faith and fair dealing.

- To continue to permit our "Existing Sales Agents" to operate one or more similar or competitive businesses in conjunction with the 1-800 MATTRES® Telephone Numbers and web site(s) and within and/or proximate to your Territory, but only until the expiration of the "Current Contract". "Existing Sales Agents" are bedding retailers who are sales agents of us or our affiliates on the date we sign the License Agreement. The "Current Contract" of an Existing Sales Agent is the contract between the Existing Sales Agent and us or our affiliates on the date we sign the License Agreement. Before you sign the License Agreement, we will identify for you any Existing Sales Agents within or proximate to your Territory and the expiration date of each Current Contract.

"National/Regional and Institutional Accounts" are organizational or institutional customers whose presence is not confined to your Territory, including, for example: hotel/motel chains; extended stay residential facilities, chains or apartment complexes; real estate brokerage chains; hospital chains; nursing home chains; the military; the Veteran's Administration; federal, state and local governmental and quasi-governmental agencies, branches or facilities; dormitory authorities; and, any other customer not confined to your Territory. We will give you the opportunity to service the locations of National/Regional and Institutional Accounts in your Territory at the contractual price which we and the National/Regional/Institutional Account agree on. If you do not wish to service, or are incapable of servicing, a National/Regional/Institutional Account for any reason, then we (or any other of our licensees) can service the account in your Territory.

#### **Customer Referrals and Extraterritorial Sales Restrictions**

Except as otherwise described above, we will refer to you all telephone orders through our 1-800-MATTRES® telephone number (and all 1-800-MATTRES® Internet orders and any other electronic and catalog orders we or our affiliates receive) requesting delivery of bedding-related products and/or provision of bedding-related services in your Territory. If an order originates in your Territory for delivery in another Occupied Territory (defined below), then we will refer the order to the 1-800 MATTRES® Business in whose Territory delivery is to occur. However, described below under "Extraterritorial Sales Restrictions", the Occupied Territory Business will pay you a forwarding fee. "Occupied Territory" means any territory in which there is a licensed or company-owned 1-800 MATTRES® Business.

When you sign the License Agreement, you will notify us whether you are willing to service telephone, electronic, merchandise display and catalog orders calling for delivery beyond 50 miles from the boundaries of your Territory and within an "Unassigned Adjacent Area". An "Unassigned Adjacent Area" is an area outside the boundaries of your Territory which we have not assigned as the territory of another 1-800-MATTRES® Business. If you advised us that you will service these orders, and we receive an order of this type, then we may, but will not be obligated to, refer the order to you. If we do refer the order to you, then you must fulfill the order or render the services. The order will be treated as an order for a product or service within your Territory.

You may engage in Extraterritorial Sales only in accordance with those restrictions and limitations described below. The following definitions apply:

- "Extraterritorial Sale" means any sale you make of bedding or bedding-related products or accessories or related services where the delivery location is outside your Territory.
- "Occupied Territory" means any territory in which there is a licensed or company-owned 1-800 MATTRES® Business.
- "Occupied Territory Business" means any licensed or company-owned 1-800 MATTRES® Business in an Occupied Territory.



- An "Extraterritorial Showroom Order" means any customer order you procure for an Extraterritorial Sale contemplating delivery in another Occupied Territory as a direct consequence of a visit of the customer to your Showroom, Superstore, Mobile Showroom or Gallery, or, if you are a conversion licensee, to your Store.
- An "Extraterritorial Licensee Call Center Order" is an order for delivery in your Territory procured by an existing 1-800-MATTRES® licensee that maintains a call center for the receipt of 1-800-MATTRES® orders (under authorization granted by that licensee's License Agreement). Note: under your License Agreement, you have no authorization to maintain a call center.
- "Extraterritorial Order Revenues" means the retail price of all products (and any services) which are the subject of an Extraterritorial Order or an Extraterritorial Licensee Call Center Order fulfilled by a 1-800-MATTRES® Business (if the Business receives payment). There will be deducted from Extraterritorial Order Revenues for this computation (but only to the extent they have been included): (a) the amount of all sales tax receipts or similar tax receipts which, by law, are chargeable to customers, if the taxes are separately stated when the customer is charged and paid on time to the appropriate taxing authority, and (b) the amount of any refunds, chargebacks, credits and allowances given in good faith to the customer by the 1-800-MATTRES® Business fulfilling the Order.

Whenever you procure an Extraterritorial Showroom Order, you must communicate to us (and, if we so direct, to the affected Occupied Territory Business), enough information about the order to enable the owner of the Occupied Territory Business to fulfill the order according to its terms. Whenever we receive an Extraterritorial Showroom Order originating in your Territory for delivery in another Occupied Territory, then we will refer the order to the 1-800 MATTRES® Business in whose Territory delivery is to occur. If the customer wishes to pay for the order by credit card, then we will process the customer's credit card information.

If the Occupied Territory Business will fulfill the Extraterritorial Showroom Order, then it will pay you 10% of the Extraterritorial Order Revenues it received from the forwarded Order (the "Extraterritorial Showroom Order Forwarding Fee") within ten days of its receipt of funds.

If the Occupied Territory Business does not want to fill the Order or is incapable of filling the Order, then you can fill the Order, so long as you pay the Occupied Territory Business 10% of the Extraterritorial Order Revenues you receive from the Extraterritorial Sale within ten days of your receipt of the funds.

If a 1-800-MATTRES® licensee that operates a call center procures an Extraterritorial Licensee Call Center Order for delivery in your Territory, then it will immediately relay the Order to us. You must pay the licensee who relayed the Order 5% of the Extraterritorial Order Revenues you receive from the Order (the "Licensee Call Center Forwarding Fee") within ten days of your receipt of funds. The Forwarding Fee will be in addition to other amounts due us under the License Agreement. (Again, you have no authorization to maintain a call center under your License Agreement.)

To accomplish the above goals, you agree to the Forwarding Fee arrangements specified above; appoint every other 1-800 MATTRES® Business as your agent to procure and forward Extraterritorial Showroom Orders; and, appoint every 1-800-MATTRES® Licensee with a call center your agent to procure and forward Extraterritorial Licensee Call Center Orders to us and/or you for you, subject to your acceptance of the Order.

If we receive an order through our 1-800-MATTRES® call center originating in your Territory for delivery in another Occupied Territory, then we will refer the order to the 1-800-MATTRES® Business in whose Territory delivery is to occur, and you will be entitled to no "forwarding fee" or other compensation in connection with the order.

## Target Amount

If, on the third anniversary of the opening of your Business (the "Third Anniversary"), your total 1-800-MATTRES® Telemarketing Sales and 1-800-MATTRES® Showroom/Superstore/Gallery Sales (Store/Superstore/Showroom Sales for conversion licensees) for the preceding 12 months are not at least equal to the product of \$3.00 times the population shown on Exhibit A to your License Agreement (the "Target Amount"), then you will cease to owe any unpaid balance of the Initial License Fee as of the Third Anniversary and we will cancel the Promissory Note. However, you will receive no refund of the Initial License Fee payments you already made. In addition, if your Business does not achieve the Target Amount by the Third Anniversary, then either you or we can terminate the License Agreement by sending the other written notice (a "Third Anniversary Notice of Termination") no later than 90 days after the Third Anniversary. The Notice must comply with the notice provisions of the License Agreement and must name an effective date for the termination no sooner than 90 days, and no later than 120 days, after the date of the Notice. If neither party sends a Third Anniversary Notice of Termination, or if a Notice does not comply with any of these requirements, then the License Agreement will remain in effect.

For a minimum territory with a population of 100,000 people, the Target Amount would be \$300,000.

**IMPORTANT NOTE:** we do not represent or promise that your Business will achieve its Target Amount during the 12 months preceding the Third Anniversary or during any period, or that your Business will achieve any other level of sales at any time. See Item 19.

## General

There are no performance requirements or minimum sales quotas. You maintain rights to your Territory during the term of your License Agreement even though the population increases.

## ITEM 13

### TRADEMARKS

The principal 1-800 MATTRES® commercial symbol which we will license to you appears on the cover of this offering circular. "Proprietary Mark" means Dial Operating's service mark "1-800 MATTRES®". Dial International is the owner of the 1-800 MATTRES® telephone numbers. We, Dial Operating, Dial International and 1-(888) Mattress (now merged with Dial International) have signed a cross-license agreement dated as of the 18th day of November, 2003 granting us a non-exclusive license to Dial Operating's and Dial International's Proprietary Marks, the 1-800 MATTRES® telephone numbers, business system and know-how, and the right to license these rights to others. The initial term of this cross-license agreement is 25 years, and we have the right to renew for two additional consecutive terms of 25 years each, so long as we are not in default. The territorial rights reserved by Dial Operating, and Dial International and 1-(888) Mattress correspond to the rights they have as our affiliates under your License Agreement (see Item 12).

The following is a description of the principal Proprietary Marks which Dial Operating owns and which we will license to you.

REGISTRATION NUMBER	DESCRIPTION OF MARK	PRINCIPAL OR SUPPLEMENTAL REGISTER	REGISTRATION DATE
1,589,453	[ANY AREA CODE] M-A-T-T-R-E-S	Principal	3/27/90
2,915,478	1-800-Mattress	Principal	January 4, 2005

The term "Proprietary Marks" refers to the Proprietary Mark "1-800 MATTRES®" and to related emblems, designs, labels, signs and symbols, various copyrighted materials, and any other intellectual property which we license to you under the License Agreement.

There are presently no effective determinations of the U.S. Patent and Trademark Office, any trademark trial and appeal board, the Trademark Administrator of any state or any court, any pending interference, opposition, or cancellation proceeding, or any pending material litigation involving any of the above-referenced Proprietary Marks which is relevant to your use. There are no agreements which significantly limit our rights to use or license the Proprietary Marks, other than the cross-license agreement described above. There are no infringing uses or superior prior rights known to us that can materially affect your use of the Proprietary Marks in this state or any other state in which the licensed Business is to be located.

Your licensed Business must do business under the assumed business name "1-800-MATTRES®". If you are a conversion licensee, then you must use "1-800-MATTRES®" as the primary identifier for your licensed Business, including your Existing Retail Businesses, and all your advertising must include the Proprietary Mark "1-800-MATTRES®" and our minimum required text and logos, in the size and style we prescribe. If you are not a conversion licensee and you have an Existing Retail Businesses, then you may, if your wish, use "1-800-MATTRES®" as a secondary identifier for your Existing Retail Businesses. If you are using "1-800-MATTRES" as a secondary identifier for your Existing Retail Businesses in addition to your other business name(s), then your advertising and signs on your Stores must follow our requirements for the use of the "1-800-MATTRES®" mark and for the size of the mark compared to that of your other business name(s).

We are also the owner or licensee of proprietary rights to the 1-800-MATTRES® telephone numbers. The "1-800-MATTRES®" telephone numbers (which we also refer to as the A Telephone Numbers 1-800-MATTRES®) mean "1-800-MATTRES®", "1-800-MATTRESS", "1-800-MATRESS", "1-800-DIAL-A-MATTRES", "1-800-DIAL-A-MATTRESS", "1-800-EASYMAT", and "1-888" followed by any of the foregoing telephone numbers. All references to the "1-800-MATTRES®" telephone number – except for those pertaining to its use as fictitious business names (or "d/b/a's 1-800-MATTRES®) – include all the above toll-free telephone numbers.

If you learn of any claim against you for alleged infringement, unfair competition, or similar claims about the Proprietary Marks or the Telephone Numbers, you must promptly notify us. We will promptly take the action we consider necessary to defend you. We will indemnify you for any action against you by a third party based solely on alleged infringement, unfair competition, or similar claims about the Proprietary Marks or Telephone Numbers. You may not settle or compromise any of these claims without our previous written consent. We will have the right to defend and settle any claim at its sole expense, using its own counsel. You must cooperate with us in the defense. Under the License Agreement, you irrevocably grant us authority to defend or settle these claims. You may participate at your own expense, but our decisions with regard to the defense or settlement will be final. We will have no obligation to defend or indemnify you if the claim against you relates to your use of the Proprietary Marks or Telephone Numbers in violation of the License Agreement.

If you learn that any third party whom you believe is not authorized to use the Proprietary Marks or Telephone Numbers is using the Mark, any variant of the Marks or the Telephone Numbers, you must promptly notify us. We will determine whether or not we wish to take any action against the third party.

You will have no right to make any demand or to prosecute any claim against the alleged infringer for the infringement.

You must comply with any instruction by us to modify or discontinue use of any Proprietary Marks or Telephone Number, or to adopt or use additional or substituted Proprietary Marks or Telephone Numbers. If this happens, we will reimburse you for your documented expenses of complying (for example, changing signs, stationery, etc.). You waive any other claim for changes and substitutions. Except for reimbursing your documented expenses of complying, we will not be liable to you for any resulting expenses. You promise in the License Agreement not to start or join any proceeding against us for any resulting expenses.

#### ITEM 14

### PATENTS, COPYRIGHTS AND PROPRIETARY INFORMATION

We hold no patents. We claim copyrights on certain software, forms, advertisements, promotional materials and other written materials. We also claim copyrights and other proprietary rights in the 1-800 MATTRES® Standards.

There are no agreements currently in effect which significantly limit your right to use any of our copyrights, other than the cross-license agreement described above. Also, there are no currently effective determinations of the U.S. Patent and Trademark Office, Copyright Office (Library of Congress) or any court pertaining to or affecting any of our copyrights discussed above. Finally, as of the date of this offering circular, we are unaware of any infringing uses of or superior prior rights to any of its copyrights which could materially affect your use of them in this state or in the state in which the licensed 1-800 MATTRES® Business will be located.

Your obligations and our obligations protect your rights to use our copyrights are the same as the obligations for Proprietary Marks described in Item 13 of this offering circular.

You may never – during the Initial Term, any Renewal Term, or after the License Agreement expires or is terminated – reveal any of our confidential information to another person or use it for any other person or business. You may not copy any of our confidential information or give it to a third party except as we authorize. All persons affiliated with you must sign our confidentiality/non-competition agreement (Exhibit – to the License Agreement).

Our confidential information will include products, services, equipment, technologies and procedures include services, equipment, technologies and procedures we employ in the course of carrying out our telemarketing and Internet marketing activities (and any other electronic and catalog marketing activities); bedding delivery paradigms; pricing paradigms; sources (or prospective sources) of supply, and all information pertaining to them; the methods employed by our telemarketing call center and Bedding Consultants7Sleep Consultants®; the computer hardware and software used by our call center and Bedding Consultants7Sleep Consultants®; methods and procedures for the provision of bedding delivery services; the design of Mobile Showrooms; our Confidential Operating Standards; and, other matters.

You must irrevocably license to us all bedding products, equipment, services and/or programs you develop (including any computer software). We will not be liable to you in any way because of this license.

## ITEM 15

### OBLIGATION TO PARTICIPATE IN THE ACTUAL OPERATION OF THE LICENSE BUSINESS

You must personally supervise the operation of the licensed Business, unless we otherwise permit in writing. You must devote the necessary time and your best efforts for the proper and effective operation of the Business. If we license you to operate more than one 1-800 MATTRES® Business, you must devote the time necessary for the proper and effective operation of all your Businesses.

If you are an individual, you must either serve as or designate a Business Manager. If you are an entity, then you must designate a Business Manager. The Business Manager will have day-to-day management responsibility for your 1-800 MATTRES® Business and exercise on-premises supervision and personally participate in the direct operation of the Business. Each Business Manager must receive our prior written approval. The duties and hours of the Business Manager are in our Standards. You must inform us in writing of your Business Managers and any successors. Your Business Managers must complete the Initial Training Program to our satisfaction. After a Business Manager's death, disability or termination of employment, you must immediately notify us, and you must designate a successor or acting Business Manager within 10 days.

If you are a business entity, the Business Manager need not have any equity interest in the licensee entity. If you are an entity, then each of your principals and owners must sign our standard form Guarantee (Exhibit D to the License Agreement), under which these individuals guarantee all your obligations and duties.

The following persons affiliated with you must sign our confidentiality/non-competition agreement (Exhibit – to the License Agreement) and keep our confidential or proprietary information confidential (see Item 14):

- Before employment or any promotion, all your Business Managers, any personnel who have received or will receive training from you or us, and all your other supervisory employees.
- If you are a corporation, all your officers, directors and shareholders and those of any corporation directly or indirectly controlling you, at the same time as the signing of the License Agreement (or when they assume this status, if later).
- If you are a partnership, all your partners, at the same time as the signing of the License Agreement (or when they assume this status, if later).
- If you are a proprietorship, all owners of a proprietorship interest in you, at the same time as the signing of the License Agreement (or when they assume this status, if later).

## ITEM 16

### RESTRICTIONS ON WHAT THE LICENSEE MAY SELL

You may only sell "System Products" from or at your 1-800 MATTRES® Business. The "System Products" are those bedding and related products and accessories which we designate from suppliers we designate. These suppliers place the 1-800 MATTRES® label on certain of our designated models of mattresses, bedding products and accessories.

You must offer and sell all System Products, all programs and services which are a part of the 1-800-MATTRES® System, and all other products and services which may in the future be incorporated into the 1-800-MATTRES® System. You may not offer or sell at or from the licensed Business any product

or service which is not a part of the 1-800-MATTRES® System (including products and services which are a part of the System now or later, but which we subsequently drop from the System).

You may not use the 1-800 MATTRES® name, the Proprietary Marks or your association with them for the benefit of any business other than the licensed Business and, as and to the extent provided in the License Agreement, your existing retail bedding business. If you are a non-conversion licensee with an existing retail bedding business, your existing retail bedding business may benefit from this association so long as you segregate all revenues of the licensed Business from those of your existing retail bedding business as described below in this Item 16.

You may not conduct (or permit the conducting of) any other business from your Office, Warehouse, or delivery vehicles, and any Showrooms, Superstores, Mobile Showrooms, Galleries or Satellites – or from your Stores, if you are a conversion licensee – without first obtaining our written consent (which we can withhold for any reason or for no reason).

You may not engage in the wholesale sale or distribution of any 1-800-MATTRES® product, service, equipment or other component.

We may add to, delete from or modify the products, programs and services which you can and must offer. You must abide by any additions, deletions and modifications, but only if the changes do not materially and unreasonably increase your obligations under the License Agreement. Under the License Agreement total expenses of \$50,000 or less during the Initial Term are not material or unreasonable. The \$50,000 figure includes any expenses you incur if we change the components of the 1-800-MATTRES® System, including (for example) altering the products, programs, services, methods, standards, forms, policies and procedures of the System; adding to, deleting from or modifying the products, programs and services which we authorize and require your Business to offer; and, changing, improving or modifying the Proprietary Marks.

Immediately after you receive an order for delivery of bedding or related products through us, you must make the requested delivery to the customer at the time and place the customer requested within our delivery scheduling parameters. You and your employees must comply with all order-taking, pick up, delivery timeframes and all other delivery procedures, systems and standards. Following each delivery, your employees must remove and dispose of all bedding and related products which the customer requests to be removed, following our procedures. Your employees must dispose of these products in accordance with all applicable federal, state and/or local laws, rules and regulations. If a customer wishes to return any 1-800 MATTRES® merchandise, you must pick it up so long as the return conforms with our requirements and procedures.

You must comply with all applicable laws, rules and regulations; file all necessary tax returns; pay all taxes; and, obtain and keep all necessary licenses, permits and governmental approvals. You will be responsible for compliance with all applicable laws, rules and regulations, including the Americans with Disabilities Act. You must operate on required days and during required hours. The current required minimum hours are 24 hours a day, 7 days a week.

If we designate the opening inventory of bedding and related products and accessories, you must purchase the opening inventory from suppliers we approve before you open the licensed Business. After your Business opens, you must maintain the amount and nature of inventories of all 1-800-MATTRES® System bedding and bedding-related products and merchandise that we specify. We may vary inventory specifications from time to time and from licensee to licensee.

See Item 12 for a description of customer referral provisions and extraterritorial sales limitations.

So that we can provide you with telemarketing and Internet-electronic marketing services, you must inform us of all prices charged for products and services sold by your 1-800 MATTRES® Business, and

inform us of any new prices you wish to establish at least two business days before the effective date of the change, to enable us to effectuate such changes in our computer system and inform our Bedding Consultants7Sleep Consultants@. You must communicate pricing and price change information to us electronically by modem connection to our headquarters computer following our requirements. You must communicate all changes to this information to us electronically via computer modem before they become effective. Any price change you seek will become effective on the second business day following the day on which we receive your communication of the requested change (excluding the date of our receipt of the communication), unless you specify a later effective date. If for any reason you are temporarily unable to communicate information to us electronically by computer modem, you must communicate the information by fax received which we receive at least two days before the information becomes effective (excluding the date of our receipt of the fax), unless you specify a later effective date. You must ensure that we receive all pricing information and all changes. You will bear all responsibility and risk of loss if we fail to receive notice of any pricing information or changes, and thus makes sales for you based on old or otherwise incorrect information concerning your prices.

If you have an existing retail bedding business and you are not a conversion licensee, you must completely segregate the revenues of the licensed Business from the revenues of your existing retail bedding business. You may never commingle the revenues of the licensed Business with the revenues of your existing retail bedding business or of any other business.

Whatever type of license we grant you, you must deposit all licensed Business revenues (including revenues from the existing retail bedding business if you are a conversion licensee) in a segregated bank account (the "Bank Account"), subject to inspection at any time by us without notice.

If you are not a conversion licensee and you commingle any revenues of the licensed Business with those of your existing retail bedding business or of any other business, or you fail at any time to deposit any revenues of the licensed Business in the Bank Account, you must pay us \$10,000 immediately upon demand. If you are not a conversion licensee and you commingled revenues of the licensed Business with those of your existing retail bedding business or of any other business or failed to deposit revenues in the Bank Account once, and then you commingle revenues or fail to deposit any revenues of the licensed Business in the Bank Account, then we can terminate the License Agreement.

If you are a conversion licensee, your existing retail bedding business will become part of the licensed Business, so you will have no obligation to – and may not – segregate the revenues of the existing retail bedding business from the revenues of the licensed Business in a separate bank account. However, if you fail to deposit any revenues of the licensed Business (including your existing retail bedding business) in the Bank Account, then we can terminate the License Agreement.

We may start a sales recovery program, under which we or you attempt to convince potential customers who have called or otherwise communicated with us or you but not purchased any products to do so. If we start this program, then after you receive notice from us, you must comply with our sales recovery program requirements.

You must operate the Business (and any Showrooms, Superstores, Mobile Showrooms, Galleries and Satellites) 24 hours a day, seven days a week. We can change the required hours and days.

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ITEM 17

**RENEWAL, TERMINATION, TRANSFER AND DISPUTE RESOLUTION**

THIS TABLE LISTS CERTAIN IMPORTANT PROVISIONS OF THE LICENSE AND RELATED AGREEMENTS PERTAINING TO RENEWAL, TRANSFER AND DISPUTE RESOLUTION. YOU SHOULD READ THESE PROVISIONS IN THE AGREEMENTS ATTACHED TO THIS OFFERING CIRCULAR.

Provisions	Section in License Agreement	Summary
a. Term of the license	Section 4.1	Initial Term – 10 years.
b. Renewal or extension of the term	Article 16, Section 4.2	You can renew for terms of 10 years if we are licensing in this state and you notify us between 180 and 240 days before expiration and follow required notice procedures. The Renewal Agreement will be our then-current License Agreement, and the terms of the Renewal Agreement may differ from the terms of the License Agreement in this Offering Circular, except that: (a) the boundaries of your Territory will remain the same; (b) the 1-800 MATTRES® Fee and System Advertising Contribution upon renewal will not be greater than the 1-800 MATTRES® Fee paid by similarly situated renewing licensees; and, (c) your required minimum expenditure for local advertising and promotion will not be greater than the requirements imposed upon similarly situated renewing licensees.
c. Requirements for you to renew or extend	Section 15.2	(1) You must have complied with the License Agreement and Standards. (2) You must not have received 3 or more Notices of Default within 2 years of the expiration date. (3) Satisfy all monetary obligations to us or our affiliates, and you must have met these obligations on time throughout the Initial Term. (4) Refurbish, reconstruct, reconfigure, redesign and/or remodel your Office, Warehouse, or delivery vehicles, and any Mobile Showrooms, Showrooms, Superstores, Galleries and Satellites, (and, if you are a conversion licensee, your Stores), and upgrade and/or replaced computer hardware, software and equipment. (5) Renew your leases on terms acceptable to you and us, or lease an acceptable new Office and Warehouse in your Territory to avoid interruption of business. (6) Execute a General Release. (7) Comply with then-current qualification and training requirements; we may require you and your Business Manager(s) to attend and successfully complete the Initial Training Program and other training program(s) we reasonably specify. (8) Pay Renewal Fee of 10% of our then-current Initial License Fee (or, if we are not actively franchising at time of renewal, 10% of the last Initial License Fee we charged).
d. Termination by you	Sections 9.4, 18.2, 18.4	(1) If you are unable to obtain all governmental approvals, consents and licenses required for you to lawfully open and operate the Business by the scheduled opening date, you and we each have the right to terminate the License Agreement on notice to the other. (2) You may terminate the License Agreement if you and we agree in writing. (3) Your failure to pay the 1-800 MATTRES® Fee or other money after you receive notice of the default granting an opportunity to cure, will mean that you are willfully and wrongful breaching the License Agreement and that you have decided to reject and terminate the License Agreement and all agreements between you and us (or our affiliates) related to the License Agreement.
e. Termination by us without cause	None.	
f. Termination by us with cause	Article 18	We can terminate only if you default. The License Agreement describes defaults throughout – please read it carefully.
g. "Cause" defined – defaults which can be cured	Section 18.3	You have 15 days to cure if you: (1) Fail to pay promptly money you owe us (or our affiliates), fail to submit required reports or make a false statement in a report. (2) Fail to maintain standards or follow required procedures. (3) Fail to comply with any other lawful provision, Agreement requirement or other requirement of ours.



Provisions	Section in License Agreement	Summary
h. "Cause" defined – defaults which cannot be cured	Sections 18.1, 18.2	Automatic, without notice: bankruptcy, insolvency, receivership, dissolution or levy. On notice to you: (1) You fail to open the licensed Business within 120 days following our signing of the License Agreement or cease to operate the Business, or abandon the license by failing to operate the Business for 5 consecutive days when we require you to operate it, unless due to causes beyond your control. (2) You fail to secure an Office and/or Warehouse within the required time limits and procedures, or you lose the right to possession. But if the loss is due to eminent domain, or if, through no fault of yours, the premises are damaged or destroyed, you have 30 days to apply for our approval to relocate and reconstruct. We may not unreasonably withhold approval. It will be reasonable for us to withhold approval if the Office and/or Warehouse will not re-open in the number of days specified in your License Agreement. (3) Before you open, we determine that you or your Business Manager failed to attend or successfully complete the Initial Training Program. (4) You and we agree in writing to terminate. (5) You (or any principal of a corporation, partnership or proprietorship licensee) are convicted of a felony, fraud, etc. (6) If you are not a conversion licensee, having commingled any revenues of the licensed Business with those of your existing retail bedding business or any other business or having failed to deposit any revenues of the licensed Business in the Bank Account (see Item 16), you then commingle revenues or fail to deposit revenues of the licensed Business in the Bank Account. If you are a conversion licensee, you failed to deposit any revenues of the licensed Business (including your existing retail bedding business) in the Bank Account. (7) A threat or danger to public health or safety results from your continued operation of the Business. (8) You make an unauthorized transfer. (9) You fail to comply with the in-term covenant not to compete, violate restrictions on use of confidential information, or fail to obtain the required additional covenants. (10) You divert any business from the licensed Business to any other business or entity, including your exiting retail bedding business. (11) You fail to maintain separate books and records for the licensed Business or fail to maintain the required financial records. (12) You conceal revenues, knowingly maintain false books or records, or submit any false report to us. (13) An audit shows that you understated Business revenues on your monthly reports by 8% or more. (14) You refuse us permission to inspect or audit. (15) You make any unauthorized use of the Proprietary Marks or fail to cure a default which materially impairs the goodwill associated with the Proprietary Marks following delivery of written notice to cure at least 72 hours in advance. (16) You fail for 10 days after notice to comply with any law or regulation applicable to the Business. (17) You repeatedly fail to comply with one or more requirements of the License Agreement, whether or not you correct after notice. (18) You fail to pay the 1-800 MATTRES® Fee, System Advertising Contribution or any other amounts due to us, our affiliates, etc., in 10 days following written notice. (19) You sell as part of or from your licensed Business any product, service or program at retail or at wholesale; fail to continue warehousing and delivering all required products and providing all required services and programs which are part of the System; sell any unapproved program, service or product; or, fail to use all materials, notices and procedures we specify. (20) You use or duplicate our System, services, programs or products in an unauthorized way. (21) You fail to purchase or maintain required insurance or to reimburse us for purchasing insurance for you. Also, as Items 5 and 12 describe, if you do not meet the Target Amount on the Third Anniversary, either you or we can terminate the License Agreement by complying with the requirements described in Item 12.
i. Your obligations on termination/ non-renewal	Article 19	(1) Immediately pay all sums owing to us or our affiliates, and third parties. (2) Stop using our Proprietary Marks, confidential information, trade secrets and Standards. (3) Cancel assumed name or equivalent registration which contains "1-800 MATTRES®", or any other Proprietary Mark of our, or any variant, in 15 days. (4) If we terminate the License Agreement for your default or if you terminate through failure to pay following notice to cure, pay us all expenses incurred as a result of your default. (5) Immediately deliver to us all training or other manuals (including the Standards), all computer software and database material, customer lists, records and files, forms, advertising and promotional material, signs and related items which bear our Proprietary Marks. (6) Immediately sign agreements necessary for termination. (7) In 15 days, arrange with us for an inventory by

Provisions	Section in License Agreement	Summary
i. Your obligations on termination/ non-renewal, continued		us, at our cost, of personal property, fixtures, equipment, inventory and supplies. We will have the option for 30 days after termination or expiration to buy these at fair market value. "Fair market value" means depreciated book value or actual fair market value, whichever is less. (8) Strictly comply with post-termination/post-expiration covenants not to compete and abide by restrictions on the use of our confidential information, trade secrets and know-how. (9) Assign all accounts receivable to us for collection and do not engage in collection activities. (10) Immediately stop all contacts with 1-800 MATTRES® customers. (11) Immediately give us all computer software, disks or tapes, printouts, and other computer information. (12) Redecorate and remodel Office, Warehouse and delivery vehicles, and any Showrooms, Superstores, Galleries and Satellites, your Stores (if you are a conversion licensee) and any Mobile Showrooms you own to distinguish from 1-800 MATTRES® Business facilities/delivery vehicles. (13) Return any Mobile Showrooms you are leasing to us.
j. Assignment of contract by us	Section 16.1	We will have the right to assign if the assignee is financially responsible and economically capable of performing our obligations under the License Agreement, and agrees to perform these obligations. We may sell our assets, Proprietary Marks or System; go public, etc. (see License Agreement).
k. "Transfer" by you - definition	Section 16.2	The transfer or redemption of: more than 25% of the stock or voting power of a corporate licensee; more than 25% of a partnership or proprietorship interest in a partnership or proprietorship licensee; or, more than 25% of a general partner's interest in a limited partnership licensee, to any person not (i) already a shareholder, partner or proprietor, (ii) the spouse of any of those persons, etc. (see License Agreement). You must immediately report to us all transfers of ownership, even if less than 25%.
l. Our approval of transfer by you	Section 16.2	No transfer without our consent except transfer to a corporation you form as provided in Agreement.
m. Conditions for our approval of transfer	Section 16.3, 16.6	(1) You must comply with our right of first refusal. (2) You must have commenced operation of the Business at least three years before proposed effective date of the transfer. (3) The person to whom you propose to transfer (the "transferee") must apply to us for acceptance. (4) Transferee must come to a personal interview. (5) Transferee (or officers, shareholders and directors, if a corporation) must be a U.S. citizen or lawful resident alien of the U.S. and must demonstrate the qualifications, ethics, economic resources, etc. necessary, in our reasonable judgment, to conduct the business and to fulfill obligations to you. (6) Transferee and proposed Business Manager(s) must attend and successfully complete Initial Training Program before assignment (and other training if we wish), at transferee's expense. (7) Landlords must consent in writing to the assignment of leases. (8) You must fully comply with all obligations to us and satisfy your outstanding monetary obligations to third parties, including trade debts. (9) Transferee must sign new License Agreement (but the 1-800 MATTRES® Fee and System Advertising Contribution will be the same). The term of new License Agreement will expire on the date of expiration of the License Agreement. (10) Total Sales Price (defined in License Agreement) must not jeopardize continued economic viability and future operations of the license. (11) If transferee is purchasing an interest in an entity licensee, he must sign a guarantee and confidentiality/non-competition agreement. (12) You must sign a general release. (13) You must pay a transfer fee of 5% of the Total Sales Price (defined in License Agreement)]. (14) If transferee is a corporation, partnership or proprietorship, there are various requirements, including guarantees by shareholders. (15) You must give us a copy of the signed assignment contract. (16) You must give us all documents reasonably requested showing compliance with applicable laws about the transfer of ongoing businesses and bulk transfers. (17) Transferee must upgrade Office, Warehouse and delivery vehicles to conform to then-current standards. (18) You must remain liable for all License Agreement obligations to us before the effective date of the transfer, and sign all documents us reasonably requests to demonstrate this liability. (19) You must comply with the post-term covenant not to compete (see below). Equity Interests (defined in Note 8 to Item 6) in the licensee which require registration under any federal or state securities law are assignable through a public offering if you meet requirements and pay Securities Registration Fee and our expenses. See Note 8 to Item 6.

Provisions	Section in License Agreement	Summary
n. Our right of first refusal to purchase your business	Section 16.6	We can match any offer for your Business.
o. Our option to purchase your business	None.	
p. Your death or disability	Section 16.5	On your death or permanent incapacity your rights pass to your "Estate", which may continue operating if it provides an acceptable Business Manager. Business Manager must successfully complete next Initial Training Program and assume full-time operation of the license within 1 month of your death or disability. From date of your death or disability until Business Manager assumes full-time control, we can operate your Business, but need not do so. If we do so, we will retain our expenses and a management fee (see Item 6).
q. Non-competition covenants during the term of the license	Section 14.1	No involvement anywhere in U.S. in any competing business other than your existing retail bedding business, if any.
r. Non-competition covenants after the license is terminated or expires	Section 14.1	No involvement in any competing business other than existing retail bedding business for 2 years within your Territory, within 100 miles of the perimeter of your Territory, or within 50 miles of the perimeter of (or within) any 1-800 MATTRES® Business Territory.
s. Modification of the agreement	Article 23	No oral modifications generally, but we can change the Standards. Any Standards change will not unreasonably increase your obligations in the License Agreement.
t. Integration/merger clause	Section 23.1	Only the terms of the License Agreement and all agreements signed with it are enforceable (subject to state law). Any other promises may not be enforceable. Our integration/merger clause does not disclaim the representations in this Offering Circular.
u. Dispute resolution by arbitration or mediation	None	No provision for arbitration.
v. Choice of forum	Section 26.4	Litigation must be at New York, New York. Your state law may supersede this provision and it may not be enforceable in your state. See special state disclosures in the state addenda to the franchise agreement and offering circular.
w. Choice of law	Section 26.3	New York law applies. Your state law may supersede this provision and it may not be enforceable in your state. See special state disclosures in the state addenda to the franchise agreement and offering circular.

These states have statutes which may supersede the License Agreement in your relationship with us including the areas of termination and renewal of your license: ARKANSAS [Stat. Section 70-807], CALIFORNIA [Bus. & Prof. Code Sections 20000-20043], CONNECTICUT [Gen. Stat. Section 42-133e et seq.], DELAWARE [Code, Tit. 6, Ch. 25, Sections 2551 et seq.], HAWAII [Rev. Stat. Section 482E-1], ILLINOIS [815 ILCS 705/19 AND 705/20], INDIANA [Stat. Section 23-2-2.7], IOWA [Code Sections 523H.1-523H.17], MICHIGAN [Stat. Section 19.854(27)], MINNESOTA [Stat. Section 80C.14], MISSISSIPPI [Code Section 75-24-51], MISSOURI [Stat. Section 407.400], NEBRASKA [Rev. Stat. Section 87-401], NEW JERSEY [Stat. Section 56:10-1], SOUTH DAKOTA [Codified Laws Section 37-5A-51], VIRGINIA [Code 13.1-557-574-13.1-564], WASHINGTON [Code Section 19.100.180] and WISCONSIN [Stat. Section 135.03]. These and other states may have court decisions which may supersede the License Agreement in your relationship with us including the areas of termination and renewal of your license.

See the state addenda to the Offering Circular and License Agreement for special state disclosures.

**ITEM 18**

**PUBLIC FIGURES**

We do not use any public figure to promote our licenses.

**ITEM 19**

**EARNINGS CLAIMS**

We do not furnish, or authorize its salespersons or anyone else to furnish any oral or written information concerning the actual or potential sales, costs, income or profits of a licensed 1-800 MATTRES® Business. Actual results vary from unit to unit and we cannot estimate the results of any particular license.

**ITEM 20**

**LIST OF OUTLETS**

As of the date of this Offering Circular, we have granted ~~no one~~ licenses. Therefore ~~w~~We have not terminated, canceled, refused to renew or reacquired the license of any licensee in any state; no licensees have transferred ownership; there is no licensee in any state who has otherwise voluntarily or involuntarily ceased to do business under a License Agreement; and, there is no licensee in any state who has not communicated with us within 10 weeks of the application date of this offering circular.

During the period between January 1, 2004 and the date of this Offering Circular, neither Dial International nor 1-(888) Mattress (before its merger into Dial International as of December 31, 2004) has terminated, canceled or not renewed the license of any licensee in any state. During that period, there was no licensee in any state who otherwise voluntarily or involuntarily ceased to do business under a License Agreement with Dial International or 1-(888) Mattress (before its merger into Dial International as of December 31, 2004) during that period. There is no licensee in any state who has not communicated with Dial International or 1-(888) Mattress (before its merger into Dial International as of December 31, 2004) within 10 weeks of the application date of this Offering Circular.

Dial International granted several licenses for bedding telemarketing businesses many years ago under significantly different terms and conditions than the licenses offered under this Offering Circular. The following table refers to our single licensed business (in Pennsylvania), Dial International's franchised licensed businesses, and the one former licensed Business that formerly operated under a License Agreement with 1-(888) Mattress (now merged into Dial International).

**LICENSED BUSINESS STATUS SUMMARY  
FOR YEARS 2004/2003/2002\***

STATE	TRANSFERS	CANCELED OR TERMINATED	NOT RENEWED	REACQUIRED BY DIAL	LEFT THE SYSTEM (OTHER)	TOTAL FROM LEFT COLUMNS*	LICENSES OPERATING AT YEAR END
Florida	0/0/1/0	0/0/0	0/0/0	0/0/0	0/0/0	0/0/1/0	1/1/1
Illinois	0/0/0	0/0/1/0	0/0/0	0/0/0	0/0/0	0/1/0/0	0/0/0/1
Massachusetts	0/0/0	0/0/0	0/0/0	0/0/0	0/0/0	0/0/0	1/1/1
Pennsylvania	0/0/0	0/0/0	0/0/0	0/0/0	0/0/0	0/0/0	1/0/0
Single franchise for N.C., S.C., Ga, and Jacksonville, Fla.	0/0/0	0/0/1/0	0/0/0	0/0/0	0/0/0	0/0/1/0	0/0/0/1
All Other States	0/0/0	0/0/0	0/0/0	0/0/0	0/0/0	0/0/0	0/0/0
TOTALS:	0/1/0	0/2/0	0/0/0	0/0/0	0/0/0	0/3/0	3/2/2/4

**STATUS OF DIAL INTERNATIONAL'S AND DIAL OPERATING'S  
COMPANY OWNED BUSINESSES FOR YEARS 2004/2003/2002\***

STATE	BUSINESSES CLOSED DURING YEAR	BUSINESSES OPENED DURING YEAR	TOTAL BUSINESSES OPERATING AT YEAR END
CALIFORNIA	0/0/0	0/0/1	1/1/1
CONNECTICUT	0/0/0	0/0/1	1/1/1
MARYLAND (owned by an affiliate of Dial International)	0/0/0	0/0/0	1/1/1
NEW YORK	0/0/0	0/0/0	1/1/1
ALL OTHER STATES	0/0/0	0/0/0	0/0/0
TOTALS:	0/0/0	0/1/0	3/3/3

\* All numbers are as of December 31 for each year. The numbers in the "Total" column may exceed the number of businesses affected because several events may have affected the same business. For example, the same business may have had multiple owners.

\* All numbers are as of December 31 for each year.

**OUR PROJECTED OPENINGS  
AS OF DECEMBER 31, 2004**

STATE	LICENSE AGREEMENT SIGNED BUT LICENSED BUSINESS NOT OPENED AS OF 12/31/3	PROJECTED NEW LICENSED BUSINESSES IN 2004	PROJECTED NEW COMPANY-OWNED BUSINESSES IN 2004
TEXAS	0	1	0
ALL OTHER STATES	0	0	0
TOTALS:	0	1	0

The following is the name, address and telephone number of the one operational franchise under a License Agreement with us as of the date of this offering circular:

**PENNSYLVANIA**

Luna Mattress Co.  
Contact: Veronica Rodas  
RR2 Box 2589-A  
Gouldsboro, PA 18424  
(718) 326-4015

The following is the name, address and telephone number of the two operational franchises under a License Agreement with Dial International as of the date of this offering circular:

**FLORIDA**

Amalgamated Mattress Company Inc.  
Contact: Geoffrey Chasin  
180 Campanelli Pkwy.  
Box 840  
Stoughton, Massachusetts 02073  
(781) 297-7610

**MASSACHUSETTS**

Consolidated Mattress Co. Inc.  
Contact: Geoffrey Chasin  
180 Campanelli Pkwy.  
Box 840  
Stoughton, Massachusetts 02073  
(781) 297-7610

**ITEM 21**

**FINANCIAL STATEMENTS**

We were incorporated on November 3, 2003. Our audited financial statements for the fiscal years ended December 31, 2004 and December 31, 2003 are in Exhibit 2.

**ITEM 22**

**CONTRACTS**

Copies of our License Agreement and all exhibits to it (Licensed Territory, Office, Warehouse, Population of Territory and Number of Showrooms or Superstores to Be Opened by Licensee; Development Schedule; Confidentiality Agreement/Non-Competition Agreement; Guarantee; General Release - Renewal; General Release - Assignment; Promissory Note; Sample Bylaws of Regional Advertising Cooperative; Mobile Showroom Lease/Purchase Agreement; and, Software License Agreement) are included in Exhibit 1.

**ITEM 23**

**RECEIPT**

Copies of a detachable receipt are in Exhibit 6.

