

**EXHIBIT C**  
**MULTIPLE UNIT FRANCHISE AGREEMENT**

**BATTERIES PLUS®  
MULTIPLE UNIT FRANCHISE AGREEMENT**

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FRANCHISEE

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DATE OF AGREEMENT

Batteries Plus, L.L.C.  
STD 20042005 MFA

**BATTERIES PLUS®  
MULTIPLE UNIT FRANCHISE AGREEMENT**

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**BATTERIES PLUS®  
MULTIPLE UNIT FRANCHISE AGREEMENT**

THIS MULTIPLE UNIT FRANCHISE AGREEMENT (this "Agreement") is made this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_, between Batteries Plus, L.L.C., a Wisconsin limited liability company, having its principal place of business at 925 Walnut Ridge Drive, Suite 100, Hartland, Wisconsin 53029 ("Franchisor"), and \_\_\_\_\_, a \_\_\_\_\_ formed and operating under the laws of the state of \_\_\_\_\_, or \_\_\_\_\_, an individual, and having its principal place of business at \_\_\_\_\_ ("Multiple Unit Franchisee").

INTRODUCTION

A. Franchisor has developed and owns a system (the "System") relating to the establishment, development and operation of retail stores selling batteries and battery-related items for the individual retail and commercial consumer.

B. Franchisor is the owner of the Batteries Plus® trademark and other trademarks, domain names, service marks, logos and commercial symbols (the "Licensed Marks") used in operating the System.

C. Franchisor grants to qualified persons the right to establish, own and operate more than one Batteries Plus® store within a defined geographic area pursuant to a development schedule.

D. Multiple Unit Franchisee desires to obtain the right to develop and operate Batteries Plus® stores using the System within a defined geographic area.

AGREEMENTS

In consideration of the mutual covenants and agreements stated below, the parties agree as follows:

1. REFERENCES AND DEFINITIONS

A. Confidential Information. "Confidential Information" means the methods, techniques, formats, marketing and promotional techniques and procedures, specifications, information, systems and knowledge of and experience in the operation and franchising of Batteries Plus® stores that Franchisor communicates to Multiple Unit Franchisee or that Multiple Unit Franchisee otherwise acquires in operating Stores under the System. Confidential Information does not include information, processes or techniques which are generally known to the public, other than through disclosure (whether deliberate or inadvertent) by Multiple Unit Franchisee.

B. Designated Area. "Designated Area" means the geographic area described in Exhibit A.

C. Development Schedule. "Development Schedule" means the period of time and cumulative number of Stores Multiple Unit Franchisee must open and operate as established in the Store Development Schedule (Exhibit B to this Agreement).

D. Franchise Agreement. "Franchise Agreement" means the then-current form of agreements (including franchise agreement and any exhibits, and other documents referenced therein), Franchisor customarily uses in granting franchises to own and operate a Store. Multiple Unit Franchisee acknowledges that the Franchise Agreement attached as Exhibit D is the current form of Franchise Agreement and Franchisor, at its discretion but subject to express provisions contained herein, may modify the standard form of Franchise Agreement customarily used in granting a Batteries Plus® franchise. Franchisor and Multiple Unit Franchisee agree that Multiple Unit Franchisee will sign the then-current form of the Franchise Agreement for Stores to be opened by Multiple Unit Franchisee under this agreement; provided, that the initial franchise fee and royalty and service fees will remain at the same rate as provided in the Franchise Agreement attached as Exhibit D.

E. Operating Manager. "Operating Manager" means any manager selected by Multiple Unit Franchisee and approved by Franchisor to manage Multiple Unit Franchisee's development of Stores pursuant to this Agreement.

F. Principal Owner. "Principal Owner" means any person or entity who directly or indirectly owns a ten percent (10%) or greater interest in Multiple Unit Franchisee. If any corporation or other entity other than a partnership is a Principal Owner, a "Principal Owner" also will mean each shareholder or owner of a ten percent (10%) or greater interest in such corporation or other entity. If a partnership is a Principal Owner, a "Principal Owner" also will mean each general partner of such partnership and, if such general partner is an entity, each owner of a ten percent (10%) or greater interest in such general partner. If the Multiple Unit Franchisee is one or more individuals, each individual will be deemed a Principal Owner of Multiple Unit Franchisee.

G. Store. "Store" means a Batteries Plus® store offering a full line of batteries and battery-related products and services that Multiple Unit Franchisee has developed and operates or will develop and operate under a Franchise Agreement.

## 2. USE OF SYSTEM

Multiple Unit Franchisee acknowledges, and does not contest, Franchisor's exclusive ownership and rights to each and every aspect of the System, as Franchisor may, in the future, modify or further develop. Multiple Unit Franchisee's right to use the System is specifically limited to the provisions of this Agreement and the Franchise Agreements for individual Stores executed by the parties hereto, and is subject to the supervision and control of Franchisor. This right terminates upon the expiration or termination of this Agreement.

## 3. DEVELOPMENT RIGHTS AND OBLIGATIONS

A. Term of Agreement/Reservation of Rights. Subject to the provisions contained in this Agreement, this Agreement is for a term commencing on the date executed and expiring on the last day of the last Development Period as stated in the Development Schedule. Franchisor (for itself and its affiliates) retains the right: (1) to itself own and operate, or to grant other persons the right to own and operate, Batteries Plus® stores at locations outside the Designated Area, who may offer products and services within the Designated Area, and on conditions as Franchisor deems appropriate; and (2) to sell within and outside the Designated Area the products and services authorized for sale at Batteries Plus® stores under the Licensed Marks or other trademarks and service marks through similar or dissimilar channels of distribution and pursuant to conditions Franchisor deems appropriate, including by electronic means such as the Internet and by websites established by Franchisor.

B. Rights During Development Periods. If Multiple Unit Franchisee: (1) is in full compliance with the conditions contained in this Agreement, including the satisfaction of all development obligations as stated in Exhibit B; and (2) is in full compliance with all obligations under franchise agreements entered into between Franchisor and Multiple Unit Franchisee for individual Stores; then, during the Development Schedule, Franchisor will: (i) grant franchises to Multiple Unit Franchisee to own and operate Stores located within the Designated Area; and (ii) not operate (directly or through an affiliate), nor grant a franchise for the location of, any full-service Batteries Plus® Store within the Designated Area, except franchises granted to Multiple Unit Franchisee. If Multiple Unit Franchisee fails to comply with the Development Schedule, Franchisor may terminate this Agreement under Section 13 below or grant individual or multiple unit franchises within the Designated Area to third parties.

C. Development Obligations. Multiple Unit Franchisee agrees that, during the term of this Agreement, it will honestly and diligently perform its obligations and continuously exert its best efforts to promote and enhance the development of Stores within the Designated Area. Multiple Unit Franchisee agrees to open and operate the cumulative number of Stores at the end of each Development Period as stated in the Development Schedule.

D. Extension Fee. If Multiple Unit Franchisee cannot comply with the Development Schedule, Multiple Unit Franchisee may request in writing that Franchisor approve a six (6) month extension of the time in which Multiple Unit Franchisee must open a Store. Multiple Unit Franchisee must pay Franchisor an extension fee of Two Thousand Five Hundred Dollars (\$2,500) when Multiple Unit Franchisee requests in writing the six (6) month extension to the Development Schedule for any Store. If Franchisor grants an extension pursuant to a request, the extension will be limited to six (6) months. Multiple Unit Franchisee will not receive more than one (1) extension per Store (whether under this Agreement or the Franchise Agreement governing the Store). The extension fee(s) will be credited to the franchise fee for the applicable Store if Multiple Unit Franchisee opens the Store in compliance with the extension to the Development Schedule. Otherwise, any extension fee paid is nonrefundable.

#### 4. STORE CLOSINGS

A Store which is permanently closed with the approval of Franchisor after having been open is deemed open and in operation for purposes of the Development Schedule if a substitute Store is open and in operation within six (6) months from the date of closing. A replacement Store does not otherwise count toward quotas.

#### 5. GRANT OF FRANCHISES TO MULTIPLE UNIT FRANCHISEE

Subject to the provisions of Sections 3 and 4 of this Agreement, Franchisor agrees to grant franchises to Multiple Unit Franchisee to operate Stores located in the Designated Area, subject to the following:

A. Site Report. Multiple Unit Franchisee delivers to Franchisor a complete site report (containing demographic, commercial, and other information and photographs as Franchisor reasonably requires) for each site at which Multiple Unit Franchisee proposes to establish and operate a Store and which Multiple Unit Franchisee reasonably believes to comply with site selection criteria established by Franchisor. The proposed site is subject to Franchisor's prior written approval, which will not be unreasonably withheld. In approving or disapproving any proposed site, Franchisor will consider demographic characteristics of the proposed site, traffic patterns, parking, the predominant character of the neighborhood, competition from auto parts and auto service stores, the proximity to other businesses (including other Batteries Plus® stores), the nature of other businesses in proximity to the site, and other

commercial characteristics and the size of premises, appearance, and other physical characteristics. Multiple Unit Franchisee must obtain Franchisor's approval of a site for the first Store within one hundred eighty (180) days from the date of this Agreement.

B. Financial Capability Criteria. Multiple Unit Franchisee meets the standard financial capability criteria developed by Franchisor. To this end, Multiple Unit Franchisee must furnish to Franchisor financial statements and other information regarding Multiple Unit Franchisee and the development and operation of the proposed Store (including pro forma statements and investment and financing plans for the proposed Store) as Franchisor reasonably requires.

C. Store Site Approval. Franchisor will approve or disapprove Store sites proposed by Multiple Unit Franchisee by delivery of written notice to Multiple Unit Franchisee. Franchisor will exert its best efforts to deliver notification to Multiple Unit Franchisee within thirty (30) days of Franchisor's receipt of the complete site reports and the financial statements and other materials and information requested by Franchisor. If Multiple Unit Franchisee fails to obtain lawful possession of an approved site (through acquisition or leasing) within one hundred eighty (180) days after delivery of Franchisor's approval, Franchisor may withdraw approval of the site.

D. Franchise Agreement; Initial Franchise Fee. Multiple Unit Franchisee (and its Principal Owners (if any)), agree to sign the Franchise Agreement and return it to Franchisor within fifteen (15) days of Franchisor's delivery of the Franchise Agreement, together with payment of the initial franchise fee required.

#### 6. MULTIPLE UNIT FRANCHISE FEE

Upon execution of this Agreement, Multiple Unit Franchisee must pay to Franchisor, as a nonrefundable "Territory Fee," the sum of Nine Thousand Dollars (\$9,000) for each Store that Multiple Unit Franchisee agrees to establish pursuant to the Development Schedule. The Territory Fee is deemed fully earned by Franchisor upon execution of this Agreement and is nonrefundable. The Territory Fee for each Store is credited against any applicable initial franchise fee ~~for the Store (currently Thirty Thousand Dollars (\$30,000)) for the Store. If Multiple Unit Franchisee commits to opening three (3) or more Stores pursuant to this Agreement, the Territory Fee for each Store will remain at Nine Thousand Dollars (\$9,000), but the initial franchise fee for the second and any subsequent Store will be reduced to Twenty Thousand Dollars (\$20,000).~~

#### 7. SUPERIORITY OF INDIVIDUAL FRANCHISE AGREEMENT

All individual Franchise Agreements that Franchisor and Multiple Unit Franchisee sign for Stores within the Designated Area are independent of this Agreement. The continued effectiveness of any individual Franchise Agreement does not depend on the continued effectiveness of this Agreement. If any conflict arises between this Agreement and any individual Franchise Agreement, the latter will control.

#### 8. CONFIDENTIAL INFORMATION

A. Ownership and Use of Confidential Information. Multiple Unit Franchisee acknowledges and agrees that it does not acquire any interest in the Confidential Information, other than the right to use it in developing and operating Stores pursuant to this Agreement, and that the use or duplication of the Confidential Information in any other business constitutes an unfair method of competition. Multiple Unit Franchisee acknowledges and agrees that the Confidential Information is proprietary and is a trade secret of Franchisor and is disclosed to Multiple Unit Franchisee solely on the condition that Multiple

Unit Franchisee agrees that it: (i) will not use the Confidential Information in any other business or capacity; (ii) will maintain the absolute confidentiality of the Confidential Information during and after the term of this Agreement; (iii) will not make unauthorized copies of any portion of the Confidential Information disclosed in written form; and (iv) will adopt and implement all reasonable procedures Franchisor directs to prevent unauthorized use or disclosure of the Confidential Information, including restrictions on disclosure to Store employees. Multiple Unit Franchisee will require each of its employees, agents and contractors with access to Confidential Information to sign a non-disclosure agreement in a form approved by Franchisor.

The restrictions on Multiple Unit Franchisee's disclosure and use of the Confidential Information will not apply to disclosure of Confidential Information in judicial or administrative proceedings to the extent Multiple Unit Franchisee is legally compelled to disclose this information, if Multiple Unit Franchisee uses its best efforts, and provides Franchisor the opportunity, to obtain an appropriate protective order or other assurance satisfactory to Franchisor of confidential treatment for the information required to be so disclosed. Notwithstanding the foregoing, Franchisor and Multiple Unit Franchisee agree that, respecting each Store, each will own the "Customer Data" relating to that Store (as defined in and subject to the limits described in the Franchise Agreement for that Store).

B. Concepts Developed By Multiple Unit Franchisee. Multiple Unit Franchisee agrees that Franchisor has the right to use and authorize other Batteries Plus® stores to use, and Multiple Unit Franchisee must fully and promptly disclose to Franchisor, all ideas, concepts, methods and techniques that Multiple Unit Franchisee or its employees conceive or develop during the term of this Agreement relating to the development or operation of a battery store or similar store.

## 9. LICENSED MARKS

A. Ownership of Licensed Marks. Multiple Unit Franchisee acknowledges that he has no interest in or to the Licensed Marks and Multiple Unit Franchisee's right to use the Licensed Marks is derived solely from the individual Franchise Agreements entered into between Multiple Unit Franchisee and Franchisor. Multiple Unit Franchisee agrees that all use of the Licensed Marks by him and any goodwill established exclusively benefits Franchisor. Multiple Unit Franchisee agrees that after termination or expiration of this Agreement, he will not, except with respect to Stores operated by Multiple Unit Franchisee under individual Franchise Agreements, directly or indirectly, identify himself or any business as a franchisee or former franchisee of, or otherwise associated with, Franchisor or use in any manner any Licensed Mark or trade dress of a Store or any colorable imitation thereof.

B. Use of Licensed Marks. Multiple Unit Franchisee must not use any Licensed Mark as part of any corporate or trade name in any modified form, or in any other manner not explicitly authorized in writing by Franchisor. Multiple Unit Franchisee cannot use any Licensed Mark in any business or activity, other than the business conducted by Multiple Unit Franchisee pursuant to individual Franchise Agreements.

C. Litigation. Multiple Unit Franchisee must immediately notify Franchisor in writing of any apparent infringement of or challenge to Multiple Unit Franchisee's use of any Licensed Mark, or claim by any person of any rights in any Licensed Mark or similar trade name, trademark, or service mark of which Multiple Unit Franchisee becomes aware. Multiple Unit Franchisee must not communicate with any person other than Franchisor and its counsel regarding any infringement, challenge or claim. Franchisor may take any action it deems appropriate and the right to exclusively control any litigation or other proceeding arising out of any infringement, challenge or claim relating to any Licensed Mark.



D. Use of Licensed Marks on Internet. Franchisor retains the sole right to advertise the System on the Internet and to create, operate, maintain and modify, or discontinue the use of a website using the Licensed Marks. Multiple Unit Franchisee has the right to access Franchisor's website. Except as Franchisor may authorize in writing, however, Multiple Unit Franchisee will not: (a) link or frame Franchisor's website; (b) conduct any business or offer to sell or advertise any products or services on the Internet (or any other existing or future form of electronic communication); and (c) create or register any Internet domain name in connection with Multiple Unit Franchisee's business. Multiple Unit Franchisee will not register, as Internet domain names any of the Licensed Marks now or hereafter owned by Franchisor or any abbreviation, acronym or variation of the Licensed Marks, or any other name that could be deemed confusingly similar.

#### 10. MANAGEMENT OF BUSINESS

Multiple Unit Franchisee (or a Principal Owner or Operating Manager) must exert full-time efforts to his obligations and must not engage in any other business or other activity, directly or indirectly, that requires any significant management responsibility or time commitments. Multiple Unit Franchisee (or the Principal Owner or Operating Manager) must supervise the development and operation of Stores and must be engaged in the day-to-day operations of any Store. If Multiple Unit Franchisee desires to designate an Operating Manager, Multiple Unit Franchisee must provide Franchisor with all relevant information available to Multiple Unit Franchisee concerning the financial background, employment history and experience of the designated manager not later than fifteen (15) days before the date upon which the designated manager assumes responsibility as "Operating Manager." Multiple Unit Franchisee will obtain Franchisor's written consent to any Operating Manager. The Operating Manager will devote full time, energy and effort to the management and operation of Multiple Unit Franchisee's business and will attend Franchisor's initial training program.

#### 11. MULTIPLE UNIT FRANCHISEE'S RECORDS AND REPORTS

Multiple Unit Franchisee must furnish to Franchisor monthly written reports regarding its progress on the development of Stores. In addition, Multiple Unit Franchisee must keep accurate records relating to the development and operation of Stores in the Designated Area. Franchisor may at all reasonable hours examine and make photocopies of all such records. All records must be kept available for at least three (3) years after preparation.

#### 12. RELATIONSHIP OF THE PARTIES.

Franchisor and Multiple Unit Franchisee are independent contractors. Neither party is the agent, legal representative, partner, subsidiary, joint venturer or employee of the other. Neither party will obligate the other or represent any right to do so. This Agreement does not reflect or create a fiduciary relationship or a relationship of special trust or confidence.

#### 13. TERMINATION BY FRANCHISOR

A. Multiple Unit Franchisee Defaults – Curable. Multiple Unit Franchisee will be in default and Franchisor may terminate this Agreement, effective thirty (30) days following Multiple Unit Franchisee's receipt of written notice of termination, if any of the following breaches occur and Multiple Unit Franchisee fails to cure such breach by the expiration of the notice period:

1. Multiple Unit Franchisee fails to meet its development requirements described in the Development Schedule;

2. Multiple Unit Franchisee fails to comply with any other provision of this Agreement;

3. Multiple Unit Franchisee fails to comply with the provisions of any Franchise Agreement for the operation of a Store or terminates a Franchise Agreement without cause; or

4. Multiple Unit Franchisee fails to pay any amounts due Franchisor or its affiliates, including amounts due Franchisor for continuing services and royalty fees.

B. Multiple Unit Franchisee Defaults – Non-curable. In addition to the rights of termination described in Section 13(A) above, Franchisor may terminate this Agreement without granting Multiple Unit Franchisee any opportunity to cure the default, effective immediately upon written notice to Multiple Unit Franchisee, if any of the following occur:

1. If Multiple Unit Franchisee (or any Principal Owner or Operating Manager) fails on three (3) separate occasions within any period of twelve (12) consecutive months to comply with any provision of this Agreement, whether or not the failure to comply is corrected after notice is delivered to Multiple Unit Franchisee;

2. Multiple Unit Franchisee (or any Principal Owner) makes an unauthorized assignment or transfer of this Agreement or an ownership interest in Multiple Unit Franchisee;

3. Multiple Unit Franchisee (or any Principal Owner) makes any material misrepresentation or omission in its application for the development rights conferred by this Agreement;

4. Multiple Unit Franchisee (or any Principal Owner or Operating Manager) is convicted of or pleads no contest to a felony or other crime or offense that is likely to materially adversely affect Multiple Unit Franchisee's reputation or any Store;

5. Multiple Unit Franchisee (or any Principal Owner or Operating Manager) makes any unauthorized use, disclosure or duplication of any portion of the Confidential Operations Manual or any other Confidential Information provided Multiple Unit Franchisee by Franchisor;

6. Multiple Unit Franchisee becomes insolvent because it cannot pay its debts as they mature or makes an assignment for the benefit of creditors or admits that it cannot pay Multiple Unit Franchisee's obligations as they become due;

7. Multiple Unit Franchisee (or any Principal Owner or Operating Manager) materially misuses or makes an unauthorized use of any Licensed Marks or commits any act which can reasonably be expected to materially impair the goodwill associated with any Licensed Marks;

8. Multiple Unit Franchisee violates a provision of this Agreement which is not curable; or

9. If an immediate threat or danger to public health or safety results from the construction, maintenance or operation of a Store.

C. Rights to Development Stores on Termination. Upon termination of this Agreement, Multiple Unit Franchisee has no right to establish or operate any individual Store for which an individual Franchise Agreement has not been executed by Franchisor and delivered to Multiple Unit Franchisee at the time of termination. Franchisor may establish, and to license others to establish, Batteries Plus®

stores in the Designated Area, except as may be otherwise provided under any other agreement which has been executed between Multiple Unit Franchisee and Franchisor.

D. Effect of Other Laws. The provisions of any valid, applicable law or regulation requiring permissible grounds, cure rights or minimum periods of notice for termination of this franchise will supersede any provision of this Agreement that is less favorable to Multiple Unit Franchisee than such law or regulation.

#### 14. EFFECT OF TERMINATION AND EXPIRATION

All obligations of Franchisor and Multiple Unit Franchisee under this Agreement which expressly or by their nature survive the expiration or termination of this Agreement will continue in full force and effect after the expiration or termination of this Agreement and until they are satisfied in full or by their nature expire.

#### 15. COVENANTS

##### A. In-Term Covenants. During the term of this Agreement:

1. Multiple Unit Franchisee acknowledges that Franchisor has granted the development rights hereunder to Multiple Unit Franchisee in consideration of, and in reliance upon, Multiple Unit Franchisee's agreement to deal exclusively with Franchisor. Therefore, during the term of this Agreement, neither Multiple Unit Franchisee, any Principal Owner nor any Operating Manager, will have any interest as an owner, investor, partner, director, officer, employee, consultant, representative or agent, in any battery store or similar store, except for Stores operated under Franchise Agreements granted by Franchisor and the ownership of securities listed on a stock exchange or traded on the over-the-counter market that represent one percent (1%) or less of that class of securities.

2. Multiple Unit Franchisee will not directly or indirectly divert or attempt to divert any business of or any customers of Stores to any other competitive establishment, by direct or indirect inducement or otherwise. During the term of this Agreement, and for a period of two (2) years thereafter, Multiple Unit Franchisee must not employ or seek to employ any person employed by Franchisor, or any other person who is at that time operating or employed by or at any other Store or otherwise directly or indirectly induce persons to leave their employment.

B. Post-Term Covenant Not to Compete. For a period of two (2) years from the date of the termination or expiration of this Agreement, Multiple Unit Franchisee will not directly or indirectly, itself, or on behalf of or in conjunction with any other person, partnership or corporation, purchase, construct, own, engage in any business that offers, sells or otherwise distributes, at wholesale or retail, batteries or battery-related products within a radius of fifteen (15) miles of the location of any Store in the Designated Area, except as a licensed Batteries Plus® franchisee under a separate individual Franchise Agreement, or outside the Designated Area within a fifteen (15) mile radius of any existing Batteries Plus® store; provided the restrictions stated in this Section 15(B) will not apply to the ownership of securities listed on a stock exchange or traded on the over-the-counter market that represent one percent (1%) or less of the class of securities. For purposes of this Section, any form of e-commerce business or website (other than one authorized by Franchisor and operated pursuant to a separate individual Franchise Agreement) that distributes, sells or otherwise deals in, at wholesale or retail, any battery or battery-related products, or any other related business that is competitive with or similar to a Batteries Plus® Store, will be in violation of this provision if such e-commerce business or website

offers, sells or otherwise makes its products or services available to individuals residing within or businesses located within fifteen (15) mile radius of any then-existing Batteries Plus® Store.

## 16. ASSIGNMENT

A. By Franchisor. This Agreement is fully assignable by Franchisor and benefits any assignee or other legal successor to the interests of Franchisor. Any such assignment will require the assignee to fulfill Franchisor's obligations under this Agreement.

B. Multiple Unit Franchisee Assignment Requiring Consent of Franchisor. Multiple Unit Franchisee understands and acknowledges that the rights and duties created by this Agreement are personal to Multiple Unit Franchisee and that Franchisor has granted this Agreement in reliance upon Multiple Unit Franchisee's individual or collective character, skill, aptitude, attitude, business ability, and financial capacity (or its Principal Owners). Neither this Agreement (or any interest), nor any part or all of Multiple Unit Franchisee's ownership may be voluntarily, involuntarily, directly or indirectly, assigned, sold, subfranchised, or otherwise transferred by Multiple Unit Franchisee or its Principal Owners without the Franchisor's prior written consent. Franchisor may impose conditions to any proposed transfer or assignment, including the following:

1. Multiple Unit Franchisee is in complete compliance with the terms of this Agreement and all other agreements between the parties;
2. The proposed transferee has been approved by Franchisor as meeting Franchisor's then-current standards for multiple unit franchisees;
3. The proposed transferee has completed Franchisor's training program; and
4. Multiple Unit Franchisee pays Franchisor a transfer fee of One Thousand Dollars (\$1,000).

Any assignment or transfer without Franchisor's prior written consent constitutes a breach and conveys no rights to or interests in this Agreement to an assignee.

### C. Public or Private Offerings.

Subject to Section 16(B) above, if Multiple Unit Franchisee (or any of its Principal Owners) desires to raise or secure funds by the sale of securities (including common or preferred stock, bonds, debentures or general or limited partnership interests) in Multiple Unit Franchisee or any affiliate of Multiple Unit Franchisee, Multiple Unit Franchisee agrees to submit any written information to Franchisor before its inclusion in any registration statement, prospectus or similar offering circular or memorandum and must obtain the written consent of Franchisor to the method of financing before any offering or sale of securities. The written consent of Franchisor will not imply or represent Franchisor's approval respecting the method of financing, the offering literature submitted to Franchisor or any other aspect of the offering. No information respecting Franchisor or any of its affiliates will be included in any securities disclosure document, unless Franchisor furnishes the information in writing in response to Multiple Unit Franchisee's written request, which request will state the specific purposes for which the information is to be used. Should Franchisor, in its discretion, object to any reference to Franchisor or any of its affiliates in the offering literature or a prospectus, the literature or prospectus will not be used unless and until the objections of Franchisor are withdrawn. Franchisor assumes no responsibility for the offering.

The prospectus or other literature utilized in any offering must contain the following language in bold-face type on the first textual page:

“NEITHER BATTERIES PLUS, L.L.C. NOR ANY OF ITS AFFILIATES IS DIRECTLY OR INDIRECTLY THE ISSUER OF THE SECURITIES OFFERED. NEITHER BATTERIES PLUS, L.L.C. NOR ANY OF ITS AFFILIATES ASSUMES ANY RESPONSIBILITY RESPECTING THIS OFFERING AND/OR THE ADEQUACY OR ACCURACY OF THE INFORMATION CONTAINED HEREIN. NEITHER BATTERIES PLUS, L.L.C. NOR ANY OF ITS AFFILIATES ENDORSES OR MAKES ANY RECOMMENDATION RESPECTING THE INVESTMENT CONTEMPLATED BY THIS OFFERING.”

D. Multiple Unit Franchisee Assignment Permitted Without Franchisor Consent. Notwithstanding Section 16(B) above, upon thirty (30) days' prior written notice to Franchisor, Multiple Unit Franchisee may, without first obtaining Franchisor's consent and without the payment of any assignment fee, assign this Agreement to a corporation or limited liability company that conducts no business other than the operation of Stores under franchise agreements granted by Franchisor, provided Multiple Unit Franchisee actively manages the corporation and Multiple Unit Franchisee owns and controls at least seventy percent (70%) of the shares and voting power of the issued and outstanding capital stock of the corporation or must maintain seventy percent (70%) ownership interest in a limited liability company. The assignment does not relieve Multiple Unit Franchisee of obligations under this Agreement, and Multiple Unit Franchisee remains jointly and severally liable for all obligations.

E. Guaranty. All Principal Owners of a Multiple Unit Franchisee which is a corporation, partnership or other entity, and any Operating Manager, will sign the Guaranty and Assumption of Obligations agreement in the form attached to this Agreement as Exhibit C. Any person or entity that at any time after the date of this Agreement becomes an Operating Manager or a Principal Owner of Multiple Unit Franchisee under the provisions of this Section 16 or otherwise will, as a condition of becoming a Principal Owner, sign the Guaranty Agreement. Multiple Unit Franchisee must furnish to Franchisor at any time upon reasonable request a certified copy of the Articles of Incorporation or Articles of Organization and a list, in a form Franchisor reasonably requires, of all shareholders or members of record and all persons having a beneficial interest in any corporation or other entity that is or becomes a Multiple Unit Franchisee.

## 17. DISPUTE RESOLUTION

A. Mediation. Except as otherwise stated in this Section 17(A), the parties agree to submit any claim, controversy or dispute arising out of or relating to this Agreement (and attachments) or the relationship created by this Agreement to non-binding mediation before bringing such claim, controversy or dispute to arbitration or to a court. The mediation will be conducted either through an individual mediator or a mediator appointed by a mediation services organization, experienced in the mediation of disputes between franchisors and franchisees, agreed upon by the parties. If the parties do not agree upon a mediator or mediation services organization within fifteen (15) days after either party has notified the other of its desire to seek mediation, the dispute will be mediated by the American Arbitration Association pursuant to its rules governing mediation, at Franchisor's corporate headquarters in Hartland, Wisconsin. The costs and expenses of mediation, including compensation of the mediator, will be borne equally by the parties. If the parties cannot resolve the claim, controversy or dispute within ninety (90) days after conferring with the mediator, either party may submit such claim, controversy or dispute to arbitration under Section 17(B) below. Either party may bring an action under the applicable provisions of this Section 17 without first submitting the action to mediation under this Section 17(A): (i)

for monies owed, (ii) for injunctive relief, or (iii) involving the possession or disposition of, or other relief relating to, real property.

B. Arbitration. Except to the extent Franchisor elects to enforce the provisions of this Agreement by injunction as provided in Section 17(D) below, all disputes, claims and controversies between the parties arising under or in connection with this Agreement or the making, performance or interpretation thereof (including claims of fraud in the inducement and other claims of fraud in the arbitrability of any matter) that have not been settled by or are not otherwise subject to mediation as described in Section 17(A) above will be settled by arbitration under the authority of the Federal Arbitration Act in Milwaukee, Wisconsin. The arbitrator(s) will have a minimum of five (5) years experience in franchising or distribution law and will have the right to award specific performance of this Agreement. The proceedings will be conducted under the commercial arbitration rules of the American Arbitration Association, to the extent such rules are not inconsistent with the provisions of this arbitration provision. The decision of the arbitrator(s) will be final and binding on all parties; provided, however, the arbitrator(s) may not under any circumstances: (i) stay the effectiveness of any pending termination of this Agreement; (ii) assess punitive or exemplary damages; or (iii) make any award which extends, modifies or suspends any lawful term of this Agreement or any reasonable standard of business performance set by Franchisor. This Section 17 will survive termination or nonrenewal of this Agreement under any circumstances. Judgment upon the award of the arbitrator(s) may be entered in any court having jurisdiction thereof. During any arbitration proceeding, Franchisor and Multiple Unit Franchisee will fully perform their respective obligations under this Agreement.

C. Additional Proceedings. If, after Franchisor or Multiple Unit Franchisee commences an arbitration proceeding, one or the other asserts a claim, counterclaim or defense, the subject matter of which, under statute or current judicial decision, is nonarbitrable for public policy reasons, the party against whom the claim, counterclaim or defense is asserted may elect to proceed with the arbitration of arbitrable claims, counterclaims or defenses or to proceed to litigate all claims, counterclaims or defenses in a court having competent jurisdiction.

D. Injunctive Relief. Notwithstanding Sections 17(A) and (B) above, Multiple Unit Franchisee recognizes that a single multiple unit franchisee's failure to comply with the terms of its agreement could cause irreparable damage to Franchisor and/or to some or all other Batteries Plus® franchisees and multiple unit franchisees. Therefore, if Multiple Unit Franchisee breaches or threatens to breach any of the terms of this Agreement, Franchisor will be entitled to an injunction restraining such breach and/or a decree of specific performance, without showing or proving any actual damage, together with recovery of reasonable attorneys' fees and other costs incurred in obtaining such equitable relief, until such time as a final and binding determination is made by the arbitrators.

E. Attorneys' Fees. The nonprevailing party will pay all costs and expenses, including reasonable attorneys' fees, the prevailing party incurs in any action brought to enforce any provision of this Agreement or to enjoin any violation of this Agreement.

## 18. ENFORCEMENT

A. Severability. If any applicable and binding law or rule of any jurisdiction requires a greater prior notice of the termination of or non-renewal of this Agreement than is required, or the undertaking of some other action not required, or if under any applicable and binding law or rule of any jurisdiction, any provision of this Agreement or any specification, standard or operating procedure prescribed by Franchisor is invalid or unenforceable, the prior notice and/or other action required by law or rule will be substituted for the comparable provisions.

B. Waiver of Obligations. Franchisor's waiver of any breach by Multiple Unit Franchisee, or Franchisor's delay or failure to enforce any provision of this Agreement, will not be deemed to be a waiver of any other or subsequent breach or be deemed an estoppel to enforce Franchisor's rights respecting that or any other breach.

C. Rights of Parties are Cumulative. The rights of Franchisor and Multiple Unit Franchisee are cumulative and no exercise or enforcement by either party of any right or remedy precludes the exercise or enforcement by such party of any other right or remedy to which such party is entitled by law or equity to enforce.

D. Venue. Any claims, controversies or disputes arising out of or related to this Agreement which are not subject to arbitration as provided above, will be brought in the Federal District Court for the Eastern District of Wisconsin or in Waukesha County District Court in Waukesha, Wisconsin. Both parties hereto irrevocably consent to the jurisdiction of such courts. The provisions of this Section 18(D) will survive the termination of this Agreement.

E. Governing Law. Subject to Franchisor's rights under federal trademark laws and the parties' rights under the Federal Arbitration Act respecting Section 17 above, this Agreement will be governed by and construed under the laws of the state in which Multiple Unit Franchisee's principal business office, as identified in the first paragraph to this Agreement, is located, without regard to any conflict of laws principles of such state. Multiple Unit Franchisee waives, to the fullest extent permitted by law, the rights and protections that might be provided through any state franchise or business opportunity laws, other than those of the state in which Multiple Unit Franchisee's principal business office is located.

F. Binding Effect. This Agreement is binding upon the parties and their respective executors, administrators, heirs, assigns, and successors in interest, and will not be modified except by written agreement signed by both Multiple Unit Franchisee and Franchisor. Except as provided above, this Agreement is not intended, and will not be deemed, to confer any rights or remedies upon any person or legal entity not a party to this Agreement.

G. References. If Multiple Unit Franchisee consists of two or more individuals, such individuals will be jointly and severally liable, and references to Multiple Unit Franchisee in this Agreement will include all such individuals. Reference to Multiple Unit Franchisee as neuter or a male will also include a neuter, male or female Multiple Unit Franchisee as relevant in the context.

H. Interpretation of Rights and Obligations. The following provisions will apply to and govern the interpretation of this Agreement, the parties' rights under this Agreement and the relationship between the parties:

(1) Franchisor's Rights. Whenever this Agreement provides that Franchisor has a certain right, that right is absolute and the parties intend that Franchisor's exercise of that right will not be subject to any limitation or review. Franchisor has the right to operate, administrate, develop and change the System in any manner that is not specifically precluded by the provisions of this Agreement.

(2) Franchisor's Reasonable Business Judgment. Whenever Franchisor reserves discretion in a particular area or where Franchisor agrees or is required to exercise its rights reasonably or in good faith, Franchisor will satisfy its obligations whenever it exercises "reasonable business judgment" in making its decision or exercising its rights. A decision or action by Franchisor will be deemed to be the result of "reasonable business judgment", even if other reasonable or even arguably preferable alternatives are available, if Franchisor's decision or action is intended to promote or benefit

the System generally even if the decision or action also promotes a financial or other individual interest of Franchisor. Examples of items that will promote or benefit the System include enhancing the value of the Licensed Marks, improving customer service and satisfaction, improving product quality, improving uniformity, enhancing or encouraging modernization, and improving the competitive position of the System. Neither Multiple Unit Franchisee nor any third party (including a trier of fact), will substitute its judgment for Franchisor's reasonable business judgment.

I. Waiver of Punitive Damages. Multiple Unit Franchisee and Franchisor and their affiliates agree to waive, to the fullest extent permitted by law, the right to or a claim for any punitive or exemplary damages against the other and agree that in the event of any dispute between them, each will be limited to the recovery of actual damages sustained by it.

J. Force Majeure. If any party fails to perform any obligation under this Agreement due to a cause beyond the control of and without the negligence of such party, such failure will not be deemed a breach of this Agreement, provided such party uses reasonable best efforts to perform such obligations as soon as possible under the circumstances. Such causes include strikes, wars, riots, civil commotion, and acts of government, except as may be specifically be provided for elsewhere in this Agreement.

K. Notice of Potential Franchisor Profit. Franchisor advises Multiple Unit Franchisee that Franchisor and/or Franchisor's affiliates periodically may make available to Multiple Unit Franchisee goods, products and/or services for use in Multiple Unit Franchisee's Stores on the sale of which Franchisor and/or its affiliates may make a profit. Franchisor further advises Multiple Unit Franchisee that Franchisor and its affiliates periodically may receive consideration from suppliers and manufacturers respecting sales of goods, products or services to Multiple Unit Franchisee or in consideration for services provided or rights license to such persons. Multiple Unit Franchisee agrees that Franchisor and its affiliates will be entitled to such profits and consideration.

L. Entire Agreement. The "Introduction" section and exhibit(s) are a part of this Agreement, which represents the entire agreement of the parties, and there are no other oral or written understandings or agreements between Franchisor and Multiple Unit Franchisee relating to the subject matter of this Agreement.

## 19. INDEMNIFICATION

Franchisor has no liability for any sales, use, excise, income, gross receipts, property, or other taxes levied upon Multiple Unit Franchisee or its assets or upon Franchisor in connection with the business conducted by Multiple Unit Franchisee, or any payments made by Multiple Unit Franchisee to Franchisor under this Agreement or any Franchise Agreement. Multiple Unit Franchisee agrees to indemnify Franchisor and its subsidiaries, affiliates, stockholders, members, directors, officers, employees, agents and assignees against and to reimburse them for all obligations, damages, and taxes for which they are held liable and for all costs reasonably incurred by them in the defense of any claim brought against them or in any action in which they are named as a party, including reasonable attorneys' fees, costs of investigation and proof of facts, court costs, other litigation expenses, and travel and living expenses. Franchisor has the right to defend any claim against it. The indemnities and assumptions of liabilities and obligations continue in full force and effect after the expiration or termination of this Agreement.

## 20. ACKNOWLEDGEMENTS

A. Success of Franchised Business. The success of the business venture Multiple Unit Franchisee intends to undertake under this Agreement is speculative and depends, to a large extent, upon



Multiple Unit Franchisee's (or the Principal Owner's) ability as an independent businessman, and Multiple Unit Franchisee's active participation in the daily affairs of the business as well as other factors. Franchisor does not make any representation or warranty, express or implied, as to the potential success of the business venture.

B. Independent Investigation. Multiple Unit Franchisee acknowledges that it has entered into this Agreement after making an independent investigation of Franchisor's operations and not upon any representation as to gross revenues, volume, potential earnings or profits which Multiple Unit Franchisee might be expected to realize, nor has anyone made any other representation, which is not expressly stated herein, to induce Multiple Unit Franchisee to accept this franchise and execute this Agreement.

C. Receipt of Documents. Multiple Unit Franchisee represents and acknowledges that he has received Franchisor's Uniform Franchise Offering Circular at least ten (10) business days before the date of the execution of this Agreement, and that a copy of this Agreement with all blanks filled was received from Franchisor at least five (5) business days before the date of execution of this Agreement. Multiple Unit Franchisee represents that he has read this Agreement in its entirety and that he has been given the opportunity to clarify any provisions that Multiple Unit Franchisee did not understand and to consult with any attorney or other professional advisor. Multiple Unit Franchisee further represents that he understands the provisions of this Agreement and agrees to be bound.

D. Other Franchises. Multiple Unit Franchisee acknowledges that other multiple unit franchisees of Franchisor have or will be granted franchises at different times and in different situations, and further acknowledges that the provisions of such franchises may vary substantially from those contained in this Agreement.

21. NOTICES

All written notices and reports permitted or required to be delivered by the provisions of this Agreement are deemed so delivered at the time delivered by hand, one (1) business day after sent by a recognized overnight delivery service which requires a written receipt, or three (3) business days after placed in the U.S. Mail by registered or certified mail, return receipt requested, postage prepaid and addressed to the party to be notified at the address stated herein or at such other address as may have been designated in writing to the other party.

~~IN WITNESS WHEREOF, the~~The parties have signed this Agreement on the date stated in the first paragraph.

FRANCHISOR:  
BATTERIES PLUS, L.L.C.,  
a Wisconsin limited liability company

MULTIPLE UNIT FRANCHISEE:  
(If Multiple Unit Franchisee is a corporation)

\_\_\_\_\_  
Name of Corporation

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

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

(If Multiple Unit Franchisee is an individual owner, Multiple Unit Franchisee must sign below; if a partnership, all partners must sign

below)

\_\_\_\_\_  
Multiple Unit Franchisee

\_\_\_\_\_  
Multiple Unit Franchisee

\_\_\_\_\_  
Multiple Unit Franchisee

\_\_\_\_\_  
Multiple Unit Franchisee

(If Multiple Unit Franchisee is a limited liability company)

\_\_\_\_\_  
Name of Limited Liability Company

By: \_\_\_\_\_

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

**EXHIBIT A**  
**TO MULTIPLE UNIT FRANCHISE AGREEMENT**

**DESIGNATED AREA**

This Exhibit is attached to and is an integral part of the Batteries Plus® Multiple Unit Franchise Agreement dated \_\_\_\_\_, 200\_\_, between Franchisor and Multiple Unit Franchisee.

The development rights and obligations of Franchisee, \_\_\_\_\_, to timely develop and open Stores will be within the following described area:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**APPROVED:**

**FRANCHISOR:**

**BATTERIES PLUS, L.L.C.,**  
a Wisconsin limited liability company

**MULTIPLE UNIT FRANCHISEE:**

(If Multiple Unit Franchisee is a corporation or limited liability company)

\_\_\_\_\_  
Name of Corporation or limited liability Company

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

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

(If Multiple Unit Franchisee is an individual owner, Multiple Unit Franchisee must sign below; if a partnership, all partners must sign below)

\_\_\_\_\_  
Multiple Unit Franchisee

\_\_\_\_\_  
Multiple Unit Franchisee

\_\_\_\_\_  
Multiple Unit Franchisee

\_\_\_\_\_  
Multiple Unit Franchisee

**EXHIBIT B**  
**TO MULTIPLE UNIT FRANCHISE AGREEMENT**

**STORE DEVELOPMENT SCHEDULE**

This Exhibit is attached to and is an integral part of the Batteries Plus® Multiple Unit Franchise Agreement dated \_\_\_\_\_, 200\_\_, between Franchisor and Multiple Unit Franchisee.

1. Development Schedule.

Multiple Unit Franchisee, \_\_\_\_\_, agrees to timely open Stores in compliance with the following development schedule.

<b>STORE #</b>	<b>DATE OF STORE OPENING</b>	<b>CUMULATIVE NUMBER OF STORES TO BE OPENED</b>

APPROVED:

FRANCHISOR:

BATTERIES PLUS, L.L.C.,  
a Wisconsin limited liability company

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

MULTIPLE UNIT FRANCHISEE:

(If Multiple Unit Franchisee is a corporation or  
limited liability Company)

\_\_\_\_\_  
Name of Corporation

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

(If Multiple Unit Franchisee is an individual  
owner, Multiple Unit Franchisee must sign  
below; if a partnership, all partners must sign  
below)

\_\_\_\_\_  
Multiple Unit Franchisee

\_\_\_\_\_  
Multiple Unit Franchisee

\_\_\_\_\_  
Multiple Unit Franchisee

\_\_\_\_\_  
Multiple Unit Franchisee

**EXHIBIT C**  
**TO MULTIPLE UNIT FRANCHISE AGREEMENT**

**GUARANTY AND ASSUMPTION OF OBLIGATIONS**

In consideration of the execution of that certain Multiple Unit Franchise Agreement of even date (the "Agreement") by Batteries Plus, L.L.C. (the "Franchisor"), each of the undersigned (a "Guarantor") personally and unconditionally guarantees to Franchisor, and its successors and assigns, for the term of the Agreement and thereafter as provided in the Agreement that \_\_\_\_\_ (the "Multiple Unit Franchisee") will timely pay and perform each and every undertaking, agreement and covenant stated in the Agreement; and agrees to be personally bound by, and personally liable for the breach of, each and every provision in the Agreement.

Each of the undersigned waives: (1) acceptance and notice of acceptance by Franchisor of the foregoing undertaking; (2) notice of demand for payment of any indebtedness; (3) protest and notice of default to any party respecting the indebtedness; (4) any right he may have to require that an action be brought against Multiple Unit Franchisee or any other person as a condition of liability.

Each Guarantor consents and agrees that:

(1) Guarantor's liability under this undertaking will be direct and independent of the liability of, and will be joint and several with, Multiple Unit Franchisee and the other Guarantors of Multiple Unit Franchisee;

(2) Guarantor will make any payment or perform any obligation required under the Agreement upon demand if Multiple Unit Franchisee fails to do so;

(3) Guarantor's liability hereunder will not be diminished or relieved by bankruptcy, insolvency or reorganization of Multiple Unit Franchisee or any assignee or successor;

(4) Guarantor's liability will not be diminished, relieved or otherwise affected by any extension of time or credit which Franchisor may grant to Multiple Unit Franchisee, including the acceptance of any partial payment or performance, or the compromise or release of any claims;

(5) Franchisor may proceed against Guarantor and Multiple Unit Franchisee jointly and severally, or Franchisor may, at its option, proceed against Guarantor, without having commenced any action, or having obtained any judgment against Multiple Unit Franchisee or any other Guarantor; and

(6) Guarantor will pay all reasonable attorneys' fees and all costs and other expenses Franchisor incurs in enforcing this Guaranty against Guarantor or any negotiations relative to the obligations hereby guaranteed.

IN WITNESS WHEREOF, each of the undersigned has signed this Guaranty as of the same day and year as the Agreement was executed.

GUARANTOR(S)

PERCENTAGE OWNERSHIP IN MULTIPLE  
UNIT FRANCHISEE

\_\_\_\_\_  
\_\_\_\_\_

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\_\_\_\_\_

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**EXHIBIT D**  
**TO MULTIPLE UNIT FRANCHISE AGREEMENT**  
**BATTERIES PLUS® FRANCHISE AGREEMENT**  
**(Current Form)**