



LICENSE AGREEMENT

**Member Information:**

Name: _____ Address _____

City: _____ State: _____ Zip: _____

Phone: _____ Fax: _____ e-mail: _____

Federal ID# _____ County: _____

This Trademark License Agreement (the "Agreement") is made by and between Alliance Flooring, Inc., a Tennessee Corporation (the "Licensor"), and _____ ("Licensee"), and shall be deemed entered into in Hamilton County, Tennessee, and effective as of _____ ("Effective Date").

WITNESSETH:

WHEREAS, licensor is the owner of all right, title and interest in and to the valuable and well-known service marks, and all good will associated therewith, identified on Schedule A attached hereto (hereinafter collectively referred to as the "LICENSED MARK"); and

WHEREAS, Licensee wishes to acquire a non-exclusive, non-assignable, non-transferable, revocable license to use the LICENSED MARK only on and in connection with the operation, promotion, advertising and retail sale at certain specific and agreed-upon floor covering store(s) (hereinafter collectively referred to as the "LICENSED STORE"), subject to the terms, provisions and conditions set forth in this Agreement; and

WHEREAS, Licensor is willing to grant Licensee, and Licensee is willing to accept from Licensor, such a license, subject to the terms, provisions and conditions set forth in this Agreement; and

WHEREAS, Licensee earns rebates payable semi-annually from Licensor as a result of its participation in the Licensor's rebate program with Licensor's Vendors.

NOW, THEREFORE in consideration of the mutual premises, promises, covenants and obligations of the parties set forth herein, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties intending to be legally bound, hereby agree as follows:



LICENSE AGREEMENT



I. LICENSE

A. **License.** Licensor hereby grants to Licensee, and Licensee hereby accepts from Licensor, for the term of this Agreement, and any successive terms, or until this Agreement is sooner terminated, without the right of

Licensee to alienate, assign, convey, or otherwise transfer all or any part of the rights so granted, a limited, revocable, non-exclusive, non-assignable, non-transferable license to use the LICENSED MARK, and the goodwill associated therewith, only on and in connection with the lawful operation, promotion, marketing, advertising and retail sale of floor covering products or services at the LICENSED STORE(S) set forth as Licensee in this agreement, and nowhere else, subject to the terms, provisions and conditions of this Agreement, and for no other purpose. This license is strictly limited to the terms, and for the purposes, set forth herein, and does not include the right to use any other service marks, or other intellectual property owned by the Licensor other than the LICENSED MARK.

B. **License Fee.** In partial consideration of the license granted herein, Licensee shall pay to Licensor for each Licensed Store operated by Licensee using the LICENSED MARK pursuant to this Agreement, the following:

1. Licensee shall pay no initial fee during the first four months (the "Initial Period") following the Effective Date.

2. On the first day following the expiration of the Initial Period, monthly payments of Four Hundred Dollars and 00/100 (\$400.00) for the first LICENSED STORE and Two Hundred Dollars and 00/100 (\$200.00) for each additional LICENSED STORE shall accrue, along with all other charges, fees and sums due from Licensee to Licensor. If the first day following the expiration of the Initial Period does not fall on the first day of the month, such initial monthly payment shall be prorated to the remainder of the month so that all monthly payments thereafter shall accrue as of the first day of the month. Licensee will be billed quarterly for licensing fees.

II. QUALITY CONTROL.

A. **Protection of Goodwill.** Licensee has represented to Licensor and Licensor agrees to license Licensee on the belief that Licensee is fully capable of properly and competently operating in accordance with and subject to the required standards to protect the goodwill connected with the LICENSED MARK.



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B. **No Alteration.** Licensee shall not alter or change the LICENSED MARK used in or in connection with any LICENSED STORE permitted under this Agreement unless Licensor first approves any such proposed changes in writing signed by the Licensor.

C. **Preventing Confusion of LICENSED MARKS with other Marks.** During and after the term of this Agreement, Licensee will not display or use any other word, device, symbol, logo, mark, or name in conjunction with the LICENSED MARK, or any variations or portions thereof, so as to create a likelihood of anyone being confused or misled: (i) as to the fact that Licensor owns the LICENSED MARK and any registrations therefore; or (ii) as to the fact that the LICENSED MARK by themselves are marks; or (iii) into thinking that any of the LICENSED MARK are part of another mark or trade name.

D. **Samples and Written Reports.** Licensor may at reasonable times request from Licensee (a) samples of any and all materials exhibiting, indicating or otherwise showing how the LICENSED MARK is being used by Licensee, and (b) written reports describing in detail how the LICENSED MARK is being used by Licensee. Licensee shall supply said samples and responses to Licensor within fifteen (15) business days after Licensee has received Licensor's written request. Licensee further understands and agrees that Licensor may send its agents and representatives, at reasonable times and without prior notice, to Licensee's premises in order for Licensor's inspectors and auditors to inspect Licensee's: (i) premises, facilities, accommodations, procedures, and business records related to the LICENSED MARK; and (ii) compliance with the terms, provisions and conditions of this Agreement including, but not limited to, the Licensor's required quality control standards and levels.

E. **Use of LICENSED MARK.** Licensee agrees to use the LICENSED MARK at each of its LICENSED STORES, on and in connection with the operation, promotion, advertising and marketing of floor covering product and services under this Agreement pursuant to Licensor's standards, rules and procedures.

F. **Standards to Protect LICENSED MARK; Compliance with Laws.** Licensee agrees that it will: (i) maintain, or cause to be maintained, high standards in the operation, promotion, marketing and advertising of its business in which the LICENSED MARK is used and (ii) comply with any and all local, state, and federal laws pertaining to the operation of each such business using the LICENSED MARK.

G. **No Actions Detrimental to LICENSED MARK.** Licensee acknowledges, understands and agrees that it shall not perform, do, or cause any act to be done, or fail to take any action, during or after the term of this Agreement, or any sooner termination thereof, and for ten (10) years thereafter, which would in any way or manner be detrimental to, injure or impair in any way or to any degree: (i) the LICENSED MARK; (ii) any applications for registration and/or registrations therefore; (iii) the respective goodwill related to the LICENSED MARK; (iv) Licensor's federal, state and/or common law and other rights in or to the LICENSED MARK; (v) Licensor's right, title, interest, and ownership in and to the LICENSED MARK; and (vi) the validity and enforceability of any of the foregoing.

H. **Compliance with Agreement; Prompt Remedy of Any Noncompliance.** Licensee acknowledges and understands the value of the LICENSED MARK, and the respective goodwill, and further understands and agrees that pursuant to this Agreement, Licensor shall provide Licensee with written notice of Licensee's violation of and/or



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failure to materially comply with any provision of this Agreement (other than failure to timely pay Licensee any fee due under this Agreement), and if such failure and/or noncompliance is not remedied or a plan to remedy such material noncompliance, acceptable to Licensor in its sole reasonable and exclusive discretion, is not submitted to Licensor within twenty (20) business days after Licensee is given such written notice, Licensor may terminate this Agreement in accordance with the terms of this Agreement.

I. **No Disparagement.** During and after the term of this Agreement, Licensee will not take any action or fail to take any action including adopting, using, or registering or attempting to adopt, use, or register, any word, symbol, device, logo, mark, or name that: (i) may lead to confusion as to the source of origin of services or services with which the LICENSED MARK is used; or (ii) may disparage, bring into disrepute, or otherwise injure the LICENSED MARK, or the goodwill associated therewith, or any registrations therefore.

J. **LICENSED MARK Owned Solely by Licensor.** All use of the LICENSED MARK anywhere shall inure solely to the benefit of Licensor and to no one else. All goodwill accrued by, and due to, Licensee's use of the LICENSED MARK anywhere shall be the sole and exclusive property of Licensor. By executing this Agreement, Licensee acknowledges that Licensor has all right, title and interest in, and to, the LICENSED MARK, and Licensee covenants that Licensee will take no direct or indirect action or assist any other person to challenge or in any way injure Licensor's claims with respect to the LICENSED MARK.

K. **Survival.** Licensee's duties and obligations under this Agreement shall survive the expiration and/or termination of this Agreement.

III. **TERM/EXPIRATION/TERMINATION.**

A. **Term.** This Agreement shall be in effect, enforceable, and continue from the "Effective Date" until the earlier of (i) the last day of the calendar year in which the first anniversary of the Effective Date occurs or (ii) termination as hereinafter provided. The term of this Agreement shall automatically renew for successive one (1) year periods unless written notice of termination is given by either party at least thirty (30) days prior to the expiration of any term.

B. **Termination by Licensor.** At Licensor's option, this Agreement shall immediately terminate and cease, without the need for any additional action or notice, in the following cases:

1. If Licensee violates any provision of Section II above, and all such violations are not cured within twenty (20) days after Licensor has delivered written notice to Licensee of such violation(s); or

2. If Licensee directly or indirectly attempts to alienate, assign, convey, or otherwise transfer this Agreement or all or any part of the rights granted to Licensee hereunder in violation of this Agreement such action being deemed to be a material breach of this Agreement; or

3. If Licensee directly or indirectly, in any forum: (i) attacks, challenges, or otherwise calls into question the validity or enforceability of the LICENSED MARK, or Licensor's sole and exclusive ownership of all right,

title, and interest in and to the LICENSED MARK; (ii) disparages, injures, brings into disrepute, or otherwise damages the LICENSED MARK and/or the goodwill associated with the LICENSED MARK whether intentionally or inadvertently (iii) attempts to do any of the foregoing or (iv) encourages or aids any others to do any of the foregoing; or has not cured such violation of this Agreement within twenty (20) days, if such violation is indeed curable; or

4. If Licensee fails to make any payment required under this Agreement, or any other payment due to Licensor without curing such default within ten (10) days after notice is given by Licensor. If the Licensor elects not to send notice of termination within 45 days of the due date of any payment then such default shall be deemed waived for the purpose of termination but not for payments plus late charges. However, waiver of any past defaults shall not be deemed a waiver of any subsequent defaults; or

5. If Licensee participates in any other buying group for flooring retailers for any LICENSED STORE in such a manner as to cause, in Licensor's sole discretion, confusion with respect to the LICENSED MARK; or

6. If Licensee voluntarily closes, sells, transfers or assigns a LICENSED STORE in any manner inconsistent with the provisions of this Agreement without the prior written consent of Licensor, or

7. If Licensee fails to cure any breach of this Agreement, not enumerated above, within twenty (20) days after written notice of such breach is given by Licensor unless a shorter period is set forth elsewhere in this Agreement in which case such shorter period shall apply.

C. **Termination by Licensee.** This Agreement may be terminated by Licensee tendering ninety (90) days prior written notice to Licensor.

D. **Termination of Rights.** Upon the expiration or termination of this Agreement all rights of Licensee granted hereunder shall immediately cease and revert to Licensor without assignment, notice, or any other action on the part of Licensee, any transferee, and/or Licensor.

E. **Discontinue Use of LICENSED MARK.** Upon the expiration or earlier termination of this Agreement, Licensee will discontinue any and all use of the LICENSED MARK within twenty (20) days, and Licensee shall not have any further right to use the LICENSED MARK anywhere, in any way, or for any purpose, whatsoever.

F. **Removal of Signs Containing LICENSED MARK.** Upon the termination of this Agreement, Licensee will promptly destroy, obliterate, delete, and otherwise remove the LICENSED MARK from any and all materials in its possession and/or control including, without limitation, removal from any and all signs, corporate and business documents, materials, equipment, brochures, marketing materials, buildings, structures, promotional materials, broadcasts, advertisements, banners, and all other documents or things that are used, marketed, promoted, advertised, offered for sale, displayed, broadcast, transmitted, or in any other way shown or disseminated by or on behalf of Licensee.



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IV. **INDEPENDENT CONTRACTOR**. The Licensee is, and at all times shall be, an independent contractor. Nothing contained in this Agreement shall be construed as constituting the Licensee as an employee, partner, agent, or legal representative of the Licensor or as authorizing the Licensee to create or assume any obligations or liability in the name of the Licensor or to subject the Licensor to any obligation or liability.

V. **SALE OF STORES**. Subject to the written approval of Licensor, which approval shall not be unreasonably withheld provided that the proposed purchaser meets Licensor's quality control, and credit requirements which are to be determined by Licensor in its sole discretion, Licensee may sell any or all of its LICENSED STORES. In such case Licensor will permit the purchaser to use the LICENSED MARK in connection with the LICENSED STORE upon such purchaser entering into Licensor's then standard license agreement containing those terms and conditions then offered by Licensor to new licensees.

VI. **AGREEMENT VOID**. It is the intent of Licensor and Licensee that this Agreement be a true license agreement and not a franchise agreement. Accordingly, if any of the terms and conditions of this Agreement create an obligation of the Licensor to provide a disclosure statement to the Licensee, pursuant to either federal or state law, this agreement shall be void ab initio, the right of the Licensee to use the Licensed Marks shall terminate immediately.

VII. **PROPERTY RIGHTS**.

A. **Licensor Exclusive Owner of LICENSED MARK**. Licensee acknowledges and agrees that the Licensor is the sole and exclusive owner of all right, title, and interest in and to the LICENSED MARK, all applications and registrations therefore, all common law rights, all associated goodwill, and that the LICENSED MARK, all applications and registrations therefore, and all common law rights related thereto, are valid and enforceable.

B. **No Transfer of LICENSED MARK Intended**. Nothing contained herein shall operate as or be construed as an assignment, grant, or other transfer of any kind of any right, title, or interest in or to the LICENSED MARK, any of their registrations, any common law rights, or any associated goodwill, other than the limited license granted in this Agreement.

C. **Licensee Shall Cooperate to Protect LICENSED MARK**. Licensee will promptly execute all papers when reasonably requested by Licensor to effect further registration, maintenance, or renewal of the LICENSED MARK anywhere, and, where applicable, to record Licensee as a licensed user of the LICENSED MARK.

VIII. **GOVERNING LAW**. This Agreement shall be governed by and constructed pursuant to the laws of the State of Tennessee, and any controversy or claim arising out of, or relating to, this Agreement, or the breach thereof, shall be settled by the courts of the State of Tennessee, located in Hamilton County, Tennessee, without giving effect to the principles of conflicts of law.



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IX. **SEVERABILITY.**

A. If any part, term, or provision of this Agreement shall for any reason be found invalid, illegal, unenforceable, or in conflict with any valid controlling law, such term or provision shall be separated from this Agreement and such invalidity, illegality, unenforceability, or conflict shall not affect any other term or provision hereof and this Agreement shall be interpreted and construed as if such term or provision, to the extent the same shall have been held invalid, illegal, unenforceable or in conflict, had never been contained herein.

B. In the event the legality of any provision of this Agreement is brought into question because of a decision by a court or other tribunal of competent jurisdiction, Licensor, by written notice to Licensee, may revise the provision in question or may delete it entirely so as to comply with the decision of said court or other tribunal.

X. **WAIVER.** Except as provided in Paragraph III.B.4, the waiver of a breach hereunder may be effected only by a writing signed by the waiving party and shall not constitute, or be held to be, a waiver of any other or subsequent breach, or to affect in any way the effectiveness of such provision or to affect Licensor's right to terminate or the automatic termination of this Agreement. Failure by Licensor to object to a breach shall not constitute or be held to be a waiver of Licensor's right to later object to, or to terminate this Agreement, due to any other breach or subsequent breach.

XI. **ENTIRE AGREEMENT.** This Agreement constitutes the entire understanding and agreement between the parties with respect to the subject matter hereof and supercedes all prior negotiations, understandings and agreements, both written and oral, between the parties with respect to the subject matter hereof. Any modification or amendment of this Agreement shall be effective only if made in writing and signed by both parties.

XII. **NOTICES.** Any demand, notice, request, or other communication required or permitted to be given under this Agreement shall be in writing, and unless otherwise provided herein, shall be deemed sufficiently given when delivered in person, or when transmitted by facsimile transmission, or when mailed by Overnight Mail with sufficient postage thereon to reach its destination, directed as follows:

If addressed to Licensor:

Alliance Flooring, Inc.
6485-B Shiloh Road, Suite 800
Alpharetta, GA 30005

Telephone (770) 528-0222
Facsimile (770) 528-0221

Alliance Flooring, Inc.
1210 Premier Drive, Suite 130
Chattanooga, Tennessee 37421

Telephone (423) 954-1133
Facsimile (423) 954-1757



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If addressed to Licensee:

or to such other addresses and/or facsimile numbers as may be specified from time to time in a written notice given by such party. The parties agree to acknowledge in writing the receipt of any such written notice delivered in person.

Licensor:

Licensee:

Alliance Flooring, Inc.

By: _____

By: _____

Title: _____

Title: _____

Date: _____

Date: _____

SCHEDULE A LICENSED MARKS

U.S. COLOR TILE TRADEMARKS

TRADEMARK	REG. NO.
COLOR TILE	1,754,735
COLOR TILE	1,044,430
COLOR TILE OUTLET	2,428,676
COLOR TILE & CARPET	1,911,937
COLOR TILE & Design	2,262,892
COLOR TILE & Design	2,262,891
COLOR TILE & Design	725,848
COLOR TILE & Design	1,249,382
COLOR TILE & Design	946,570
COLOR TILE (Stylized Letters)	SR 775,966
GOOF-PROOF	1,551,250

U.S. CARPETSPLUS TRADEMARKS

TRADEMARK	REG. NO.
CARPETSPLUS OF AMERICA & Design	2,250,784
CarpetsPlus Color Tile America's Floor Store & Design	2,428,676

APPROVED ALLIANCE FLOORING SIGNAGE

