

# CLICGEAR USA ACCOUNT AGREEMENT



**FOR YOUR CONVENIENCE, THIS FORM MAY BE COMPLETED ELECTRONICALLY WITH ADOBE ACROBAT READER. REMEMBER TO SAVE BEFORE SUBMITTING.**

Whereas Pacific Rim Ventures, Inc., dba under the name ProActive Sports, Inc. and/or Clicgear USA (the "Company") is the distributor of Clicgear products and has the right to use the trademark of Clicgear and grant license to sell and promote the sale of Clicgear products, and whereas the undersigned Retailer desires a license to sell and promote the sale of Company's products. Now, therefore, the parties agree as follows:

## **1. Licenses:**

Company hereby grants to the Retailer the non-transferable right and license to market and sell at retail, Company's products bearing the Clicgear trademark at the locations set forth in the credit application. Retailer shall have no right to grant sublicenses. Retailer shall have no right to transship Company's products outside the United States.

## **2. Non-Exclusivity:**

The Retailer's appointment is not a grant of exclusivity for any specific territory or geographic region. The Company reserves the absolute right to increase or decrease the number of authorized retailers in the vicinity of the Retailer's store(s) at any time without notice to the Retailer.

## **3. Obligations of Retailer:**

The Retailer shall:

- Use its best efforts to market and sell at retail Company's products in all stores authorized by Company and owned by Retailer.
- Maintain an inventory of Company's products at all times adequate to satisfy for a period of 30 days the demand for Company's products at the Retailer's discretion.
- Pay promptly for Company's products and in accordance with the approved credit terms as set forth in the Credit Application.
- Pay interest at a rate of 1.5% per month on all past due balances, and pay all costs in connection with collection of past due balances or returned checks.
- Maintain a valid resale certificate issued by the states in which the Retailer does business.
- Only sell products from authorized locations in which it sells Company's products.
- Refrain from selling the Company's products on any auction websites, or any e-commerce site that is not the Retailer's proprietary site.
- Provide all information required by regulatory and government agencies to allow Company to be in compliance with regulatory or governmental requirements.
- Agree not to sell to exporters who will transship Company's products outside the United States.
- Agree not to sell Company's products to other retailers or divert Company's product to any location not owned, leased or rented by Retailer.

## **4. Obligations of Company:**

The Company shall:

- Maintain in full force and effect federal and state registrations of its trade name and trademark, and at its discretion shall exercise its common law and statutory rights against any infringements of its trade name, trademark, labels, and patents and copyrights.
- Provide retailers with its current Minimum Advertised Price (MAP) Policy (receipt by Retailer is hereby acknowledged).
- Provide current product and price list to the Retailer, which shall include the MAP and MSRP prices. (receipt by Retailer is hereby acknowledged.)  
Prices are subject to change without notice at Company's discretion.
- Use its best efforts to promote the sale of its products under the Clicgear trade name and trademark.
- Shall supply Retailer with products equal in quality to the products manufactured and sold to any Retailer under the Clicgear trade name and trademark.
- Reserve the right to suspend the acceptance of orders from Retailer without terminating this Agreement if past due balances are not paid upon notice.

## **5. Limited Warranty:**

The Company provides a limited warranty on its golf products for manufacturing and workmanship for a period of 12-months from the date of purchase. Any defects occurring during this period as a result of normal use will be repaired or replaced at the expense of the Company. Shipping charges incurred in the return of the damaged product will be the responsibility of the consumer. Return shipments require a Return Authorization Number (RAP) which is requisite by contacting a Company customer service representative. The following conditions apply to this warranty: 1) the cart must have been purchased from an authorized Clicgear USA dealer; 2) the consumer must present proof of purchase from an authorized dealer; 3) the Company reserves the right to inspect the cart to determine if the cart has been altered, mistreated, defaced, misused, or otherwise damaged through the actions of neglect of the consumer. Any findings supporting the mistreatment of the cart will result in a forfeit of the warranty; 4) this warranty applies only to the original cart, meaning the replaced product will keep the original purchase date as the start date of the warranty; 5) any alteration made to the cart by any party other a Company employee or bonafide contractor will result in a forfeit of the warranty; and 6) no persons besides Company management has the power to make changes to the terms of this warranty

## **6. Return Policy:**

All sales to Retailer are final and are not subject to return or exchange. Order entry or shipping errors must be identified and claimed within 15 days of receipt of shipment by contacting Clicgear USA Customer Service. Order fulfillment errors will only be acknowledged and rectified if they are supported by a written and signed order from the Retailer. The Retailer will bear the risk for all verbal orders. All returns must have the Return Authorization Number clearly identified on the package or the shipment will be refused. All products must be in re-saleable condition or product will be returned to the Retailer as an unacceptable return.

## **7. Term:**

This agreement shall begin on the date of execution and shall continue until termination by either party as provided herein. If Retailer fails to satisfy its obligations as required under paragraph 3, including without limitation, failure to make payment to the Company when due, is bankrupt or insolvent or enters into a composition with its creditors, or if a receiver is appointed to it, or if a majority of its voting stock is transferred, or if ownership or control is substantially changed, such event will constitute a default and the Company may terminate this agreement immediately. At such time this agreement shall be null and void, but without prejudice to the rights of either party to monies due or to become due under this agreement.

- Upon termination of this agreement for any reason, the Retailer shall discontinue the use of Clicgear trade name, trademark, labels, copyrights and other advertising materials, and shall remove all signs and displays relating to Clicgear. In the event the Retailer fails to do so, the Company itself may remove such articles at the Retailer's expense.
- This agreement may be terminated at any time by either party upon 30 days advance written notice to the other party. Upon termination of this agreement, Retailer shall have the obligations set forth in this paragraph 7 and Company shall retain all rights set forth in this paragraph 7.

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**THE PROACTIVE SPORTS GROUP™**



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- Upon termination of this agreement for any reason, the Company retains the option to repurchase Clicgear products then in possession and available for sale by the Retailer at the prices originally billed to and paid for by the Retailer. If any product is unpaid for by Retailer, Company shall have no obligation to repurchase such products but at the Option of Company, such products shall be returned to Company by Retailer at Retailer's expense, or, at Company's election, any Clicgear products not repurchased by or required to be returned to the Company will be available to the Retailer for sale during regular course of business subject to the terms of this agreement. Retailer will remain responsible for all outstanding payment obligations owing to Company notwithstanding Company's election to allow Retailer to continue to sell Clicgear products in Retailer's possession.

**8. Assignment:**

This agreement may be assigned by Company, and the performance of its duties hereunder delegated. This agreement shall not be assigned by Retailer, and the performance of its duties shall not be delegated.

**9. Governing Law/Venue:**

This agreement shall be construed by the laws of the State of Oregon. The Retailer understands and agrees that in the event of a suit or action, Clackamas County, Oregon, will be the sole venue for litigation.

**10. Guaranty:**

Retailer understands and agrees that as a condition for Company to enter into this agreement, the Company requires that each of the parties identified below as a Guarantor ("Guarantors") personally guarantee payment of all amounts due to Company under this agreement and will cause to be executed or execute, as applicable, a separate unlimited and irrevocable personal guaranty agreement guarantying all obligations of Retailer to Company under this agreement "Personal Guaranty Agreement").

AS OWNER, OFFICER, OR AGENT, I AM DULY AUTHORIZED TO LEGALLY BIND THE APPLICANT AND HEREBY AUTHORIZE THE RELEASE OF FINANCIAL AND CREDIT INFORMATION OF APPLICANT TO COMPANY AS REQUESTED IN ORDER TO PROCESS THIS CREDIT APPLICATION. GUARANTORS ALSO HEREBY AGREE TO THE TERMS SET FORTH HEREIN. FURTHER, THE GUARANTORS PERSONALLY GUARANTEE PAYMENT OF ALL AMOUNTS DUE FROM RETAILER TO COMPANY AND WILL EXECUTE THE PERSONAL GUARANTY AGREEMENT REFLECTING SUCH GUARANTY IN FAVOR OF COMPANY.

**APPLICANT:**

\_\_\_\_\_  
Name of Business

\_\_\_\_\_  
Signature / Digital Signature

\_\_\_\_\_  
Title

\_\_\_\_\_  
Date

**GUARANTOR(S):**

\_\_\_\_\_  
Name (Printed)

\_\_\_\_\_  
Signature / Digital Signature

\_\_\_\_\_  
SSN#

\_\_\_\_\_  
Date

\_\_\_\_\_  
Name (Printed)

\_\_\_\_\_  
Signature / Digital Signature

\_\_\_\_\_  
SSN#

\_\_\_\_\_  
Date

The ProActive Sports Group™  
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TEL (503) 263-8583 • FAX (503) 263-8579  
WEBORDERS@PROACTIVESPORTS.COM

**CUSTOMER SERVICE**  
**1-800-369-8642**

APPROVAL <input type="checkbox"/>	DATE
CSR	



Pacific Rim Ventures, Inc. dba ProActive Sports, Inc., and/or Clicgear USA, ("Clicgear") appreciates the strong and loyal network of distributors and retailers of its Clicgear Cart. To ensure the strength of this network, and to maintain the integrity of our product line and promote equal competition, the Company has adopted a Minimum Advertised Price policy ("MAP").

**Effective Date:**

This MAP policy for the Clicgear branded push carts and Rovic branded push carts will go into effect 5/11/20.

**Covered Product:**

The products covered by this MAP policy are the Clicgear Model 4.0, Clicgear Model 8+, and Rovic RV1S carts.

**Policy Guidelines:**

Effective 5/11/20 all advertisements for Clicgear and Rovic products must be at or above the following:

Clicgear Model 4.0: \$259.00

Clicgear Model 8+: \$299.00

Rovic RV1S: \$219.00

**Covered Parties:**

This policy applies to advertising by all domestic resellers of Clicgear and Rovic Carts, including but not limited to dealers, distributors and retailers.

**Covered Advertising:**

This MAP policy applies to all forms of print advertising, including magazines, newspapers, catalogs and direct mail pieces; broadcast advertising, including radio and television advertising; electronic advertising, including e-mails; and internet advertising, including banners, pop-up and pop-under ads.

**Internet Advertising:**

As noted above, this MAP policy specifically applies to internet advertising. Any advertising of covered products on the internet must be at or above the prices referenced above, and any such advertising must be on the website of a distributor or retailer. There should be no advertising of covered products on any third-party website, or on any auction site unless authorized in advance. Such advertising should not infer or create the impression, either directly or indirectly, that a covered product might be sold at a lower price. Website features such as "click for price," "price too low to quote," "add to cart to see price", "retail price strike-through" or any pre-formatted e-mail responses, automatic price displays, and all similar features existing prior to an item being placed in a buyer's cart are considered to be communications initiated by a reseller, and thus constitutes "advertising" under this MAP policy.

**Resale Prices:**

This MAP policy applies only to advertised price standards for Clicgear and Rovic Carts. It does not impact or affect the actual resale price that is charged. **Each reseller is free to unilaterally and independently set its resale price.**

**Violations of Policy:**

This MAP policy is not the result of any agreement between Clicgear USA or any of its resellers. Rather, it is a policy that has been unilaterally and independently implemented and maintained by Clicgear USA.

This MAP policy will be enforced solely and unilaterally by Clicgear USA. Should Clicgear USA independently determine that a reseller has violated this MAP policy, then Clicgear USA reserves the right to suspend further shipments or to cancel pending orders, in its sole discretion.

**Policy Amendments:**

Clicgear USA reserves the right to implement promotional pricing campaigns, and in such event may notify its resellers that it may be modifying the MAP policy accordingly.

Clicgear USA also reserves the right to otherwise update, revise, modify or suspend this policy at any time, without any consultation or approval from its resellers.

***Any questions regarding this MAP policy should be directed to:***

Jerry Corcoran | 503-678-9323