

DISTRIBUTOR AGREEMENT

This Agreement is made and entered this 1st day of November, 1984 by and between the PLIBRICO COMPANY, a Delaware corporation, having its principal place of business at 1800 North Kingsbury Street, Chicago, Illinois (hereinafter termed the Company) and Richard L. Schaefer of Dayton, Ohio (hereinafter termed the Distributor); having his principal place of business at 1500 Humphrey Avenue, Dayton, Ohio.

WITNESSETH:

THAT, WHEREAS, the Company is engaged in manufacturing and selling, through distributors, a line of refractory products to which the Company has given distinctive, nationally-advertised trade names, registered at the United States Patent and Trademark Office; and

WHEREAS, the Distributor is willing to establish a marketing organization and market such products in the territory hereinafter described;

NOW, THEREFORE, it is mutually agreed by and between the parties hereto as follows:

1. The Company will sell during the term of this Agreement, its refractory products (hereinafter collectively referred to as the "Company's products") to the Distributor under the terms and conditions set forth herein.
2. Distributor shall devote his best efforts to the sale and distribution of the Company's products throughout the area of primary responsibility described below.
3. The Distributor's place or places of business shall be located in the area of primary responsibility as hereinafter described. It is understood that this territory is granted so

that Distributor can concentrate his sales activity and fully develop sales of the Company's products in the following area and provide, in that area, adequate post-sales service for customers:

The following counties in the State of Ohio:

Adams, Allen, Auglaise, Brown, Butler, Champaign, Clark, Clermont, Clinton, Coshocton, Darke, Defiance, Delaware, Fairfield, Fayette, Franklin, Fulton, Greene, Hamilton, Hancock, Hardin, Henry, Highland, Kn^ox, Lawrence, Licking, Logan, Lucas, Madison, Mercer, Miami, Marion, Montgomery, Morrow, Muskingum, Ottawa, Paulding, Perry, Pickaway, Pike, Preble, Putman, Ross, Sandusky, Scioto, Seneca, Shelby, Union, Van Wert, Warren, Williams, Wood, Wyandot.

The following counties in the State of Kentucky:

Adair, Allen, Anderson, Barren, Boone, Bourbon, Boyd, Boyle, Bracken, Breckenridge, Bullitt, Butler, Campbell, Carroll, Carter, Casey, Christian, Clark, Daviess, Edmonson, Fayette, Fleming, Franklin, Gallitin, Garrard, Grant, Grayson, Green, Greenup, Hancock, Hart, Hardin, Harrison, Henderson, Henry, Hopkins, Jefferson, Jessamine, Kenton, Larue, Lewis, Lincoln, Logan, Madison, Marion, Mason, Mclean, Meade, Mercer, Metcalfe, Monroe, Muhlenberg, Nelson, Nicholas, Oldham, Ohio, Owen, Pendleton, Robertson, Scott, Shelby, Simpson, Spencer, Taylor, Todd, Trimble, Warren, Washington, Webster, Woodford.

The following counties in the State of Indiana:

Clark, Crawford, Dearborn, Dubois, Fayette, Floyd, Franklin, Gibson, Harrison, Jefferson, Ohio, Orange, Perry, Pike, Posey, Randolph, Ripley, Scott, Spencer, Switzerland, Union, Vanderburgh, Warrick, Washington, Wayne.

The following counties in the State of Michigan:

Lenawee, Monroe.

The following individual accounts are excluded from Distributor's primary area of responsibility:

Edgerton Metal Products (Williams County); Ken-Dec, Inc. and Ohio Decorative Products (Allen County) and Chrysler Corp. (Van Wert County).

The Distributor undertakes and agrees not to locate a place of business outside his area of primary responsibility. Nothing herein contained shall require or obligate the Company to ship Company products to any location outside the Distributor's area of primary responsibility as set forth above. The Company undertakes and agrees not to appoint another distributor with a place of business in Distributor's area of primary responsibility for the term of this Agreement. ~~The Company expressly reserves the right to~~ sell directly or through a wholly-owned subsidiary in the Distributor's area of primary responsibility pursuant to any Company policy, whether written or not, uniformly applicable to all Distributors.

4. The Distributor admits the value and validity of the several trademarks owned by the Company and agrees to sell the Company's products only under such names and marks as are designated by the Company in the Company's literature and advertising matter. The Company reserves the right to specify the form or method of Distributor's publishing or displaying its tradename or trade-names, and shall have the right to modify the same from time to time upon reasonable written notice to Distributor. Distributor agrees not to remove, change or obliterate the tradename or trademarks of the Company as they appear on any of the Company's products.

5. The Distributor's ~~business with respect to the Company's~~ products shall be conducted under the trade name "Plibrico Sales & Service Co." but that trade name shall not be used by the Distributor in any manner outside the area of primary responsibility. The Company hereby grants to the Distributor permission to use the registered trade name "Plibrico" for the term of this Agreement with respect to sales and installation by the Distributor of the Company's products in the area of primary responsibility. The Distributor agrees that, while this Agreement is in force, Distributor will not sell, distribute or install any products which, in the reasonable opinion of the Company, compete with those manufactured and sold by the Company, without the prior written consent of the Company.

6. The Distributor will, during the time this Agreement is in force, list, or cause to be listed, his business telephone number under appropriate headings in the "yellow page" section of the official telephone directory published in each principal market in his area of primary responsibility using the name "Plibrico Sales & Service Co." and Distributor will use or cause to be used said trade name in the solicitation and transaction of Distributor's business insofar as it involves the sale of the Company's products. The privilege of using the aforementioned name, or its use, shall not vest in the Distributor or his business any rights therein, except those expressly conferred and restricted hereby. Upon the termination of this Agreement, the Distributor and his business will immediately discontinue the use of the name "Plibrico" and "Plibrico Sales & Service Co." and will not thereafter use any stationery, document, paper or object bearing, alone or with other words, the name "Plibrico." Upon termination of this Agreement, Distributor and his business shall abandon the use of said telephone listings. Distributor hereby irrevocably appoints the Company as Distributor's Attorney-in-fact to cancel, upon termination of this Agreement, any listings or advertisement, of any kind, nature or description which may appear in any directory or other publication which refers to Distributor, by name, phone listing, or address as a distributor of the Company's products or which utilizes any trademarks or tradenames of the Company. The Distributor acknowledges that during the term of this Agreement other Distributors of the Company's products in other territories will operate their business under the name "Plibrico Sales & Service Co." and that the use of said name is not exclusive in him, except as provided herein.

7. The Distributor shall instruct his customers in the proper use and installation of the Company's products so as to secure satisfactory results therefrom, providing such installation supervision as he deems necessary to insure maximum service and satisfaction from the Company's products.

8. The Distributor agrees to conduct his business in all respects in compliance with all applicable local ordinances, and state and local statutes, and to keep in force at all times insurance with adequate limits against liability to his employees, and against liability for injury and damage to the persons and property of others caused by the Distributor's operations and vehicles. The Distributor agrees to pay and discharge all his legal obligations to his employees, and others, and to pay any and all taxes imposed upon the property, sales, receipts, use, income or operations of his business. The Distributor will bear and pay all expenses incurred by him or by his agents, including all travel and office expenses, all rent, freight, warehouse, taxes, insurance, employee compensation and benefits and any and all other charges and expenses incurred in connection with or arising out of the sale, distribution and installation of the Company's products. ~~The Company will not be liable to the Distributor or his business in connection with the sale, distribution or installation of the Company's products.~~

9. The Distributor will pay the Company, at the invoiced price, for any and all items and materials purchased by the Distributor or his business from the Company and for all such products shipped on his order. Payment due the Company from Distributor shall be made in accordance of open account terms net 75 days. The Company may change, amend, or modify the terms of sale upon reasonable notice to Distributor. The Company may, at its option, refuse to ship or sell its products to Distributor if the Company has reasonable doubts that payment will be made in accordance with the then current terms.

10. All deliveries by the Company under this Agreement are subject to strikes, fires, embargoes or contingencies beyond the control of the Company, and any failure to make deliveries as a result thereof shall not constitute a default under this Agreement, nor shall such delays entitle Distributor to any damages including but not limited to special, incidental or consequential damages.

11. Neither the Distributor or his business will grant any security interest to any third party in, or allow a lien, voluntary or involuntary, to exist against his accounts receivables without express written approval of the Company.

12. The Distributor acknowledges that he has been furnished herewith a copy of the material describing "Company Policy" governing the relations and operations between the Company and each of its Distributors. The Distributor agrees that he and his business will be bound by such policies, and by such changes thereof applicable to all Distributors when communicated to him by the Company from time to time hereafter.

13. Distributor acknowledges that, from time to time, ~~the~~ Company may provide confidential information ~~and trade secrets~~ known to it to assist ~~distributor in sales of Company products~~. Distributor agrees not to divulge, at any time, either prior to or after the termination of this Agreement any trade secret or confidential information so designated by the Company or to make known to any person or persons the names of the Company's customers or prospective customers without the prior written consent of the Company.

14. The Company shall have the sole right to determine the nature and extent of its product line and shall not be liable, in any way to Distributor for adding, subtracting or modifying the Company's product line.

15. This Agreement, and the Distributor's rights hereunder, may be terminated by the Company upon ninety (90) days written notice to the Distributor or by the Distributor at any time upon written notice to the Company, in each case mailed to the appropriate party at his or its business address last known to the party giving such notice.

16. Upon termination of this Agreement, the Distributor shall promptly return to the Company all documents containing trade

secrets or confidential information, sales manuals, installation bulletins, technical data, sales records and mailing lists belonging to and furnished by the Company to the Distributor.

17. The parties hereby declare that it is impossible to measure in money the damages which will accrue to the Company by reason of the failure of Distributor or his business to perform his obligations under paragraphs 6 and 16 of this Agreement upon termination of this Agreement. Therefore, in the event of any controversy concerning such obligations, Distributor's obligations under such paragraphs in the event of termination of this Agreement shall be enforceable in court of equity by injunctive relief. Such remedy, however, shall be cumulative and not exclusive, and shall be in addition to any other remedy which the Company may have available.

18. Nothing in this Agreement, or in the relations created and established hereby, shall constitute the Distributor, or any of his employees, an agent or employee of the Company or authorize the Distributor or his business to enter into any contract, obligation or agreement for, or in the name of, or on behalf of the Company or purporting to bind the Company, or to sign the name of the Company to any check, note, draft, bill of exchange, trade acceptance or other commercial paper, contract, purchase order or other written instrument, or to contract any debt or obligation purporting to bind the Company to the payment of money or otherwise. No act of the Company in apparent affirmance of any such action by the Distributor or his business shall operate as a waiver of this provision in relation to other or subsequent acts of the Distributor or his business. The relationship hereby established between the Company and Distributor is that of Buyer and Seller.

19. Distributor agrees that the Company shall have the right to review and approve all of Distributor's advertising concerning the Company's products.

20. The Distributor will provide the Company with a monthly report listing the sales of Company products in the appropriate designated market category.

21. Any action of Distributor relating to any Company products or from any cause whatsoever, including without limitation, any defective or damaged goods, shall be deemed waived unless commenced within one year after delivery of the Company products to Distributor. Distributor's exclusive remedies shall be for damages. Distributor further agrees that the Company's limit of liability for any and all losses or damages shall in no event exceed the purchase price of the particular delivery or part thereof with respect to which losses or damages are claimed, plus any transportation charges paid by Distributor, or, at the election of the Company, following delivery of any Company products, the repair or replacement of any such defective or damaged products, actual or alleged. IN NO EVENT SHALL THE COMPANY BE LIABLE FOR INCIDENTAL, SPECIAL OR CONSEQUENTIAL DAMAGES.

Distributor further agrees that any action must be brought in a court located in Cook County, Illinois.

22. This Agreement, together with any Addenda, duly executed by each of the parties contains the entire Agreement of the parties and supersedes all previous contracts that may have been entered into by the parties herein with respect to the subject matter hereof, and shall be construed and interpreted according to the laws of the State of Illinois applicable to contracts made and to be performed in that State.

23. Distributor's rights hereunder are not assignable or otherwise transferable without the Company's prior written consent.

24. In the event that any part of this Agreement shall be found to be illegal or violative of public policy, or for any other reason unenforceable, such finding shall in no way invalidate the other parts of this Agreement.

25. Any notices required or allowed to be given hereunder shall be in writing and be sent to the address of the appropriate party stated in the recitals of this Agreement or to such other address

as may, from time to time have been provided to the other party,
first class mail, postage prepaid.

26. Exercise of or omission to exercise any right of the Company
shall not affect any other subsequent right of the Company to
exercise the same, and no default shall be waived by the Company
except in writing and no waiver of any other default or of the
same default on a future occasion.

IN WITNESS WHEREOF, this Agreement has been executed on
behalf of the Company, by a duly authorized officer, and by the
Distributor, all as of the day and year first above written.

PLIBRICO COMPANY

By: Robert E. Allen

Richard W. Schaefer (seal)
Distributor

Name of Distributor's Business:

Frank W. Schaefer, Inc.