

Timothy Montileone, et al.

-vs-

AAMCO Transmissions, Inc., et al.

Complaint

EXHIBIT 6

---

## AAMCO FRANCHISE Contract

## TABLE OF CONTENTS

Section 1.	Grant of Franchise.....	1
Section 2.	Initial License Fee and Deposit.....	2
Section 3.	Term.....	2
Section 4.	Location and Lease .....	3
Section 5.	Training, Security Deposit and Commencement of Business.....	4
Section 6.	Services Rendered by AAMCO .....	6
Section 7.	Operator's Manual .....	7
Section 8.	Certain Obligations of Franchisee.....	7
Section 9.	Equipment, Inventory, Supplies and Signs .....	10
Section 10.	Franchise Fees and Business Reports .....	10
Section 11.	Advertising .....	12
Section 12.	Insurance .....	14
Section 13.	AAMCO Names, Marks and Trade Secrets; Protection of the System.....	15
Section 14.	Warranty Program .....	17
Section 15.	Telephone Service.....	17
Section 16.	National Fleet Accounts Program .....	17
Section 17.	Defaults in Payment and Expenses .....	18
Section 18.	Restrictions on Change of Ownership.....	18
Section 19.	Termination .....	22
Section 20.	Covenant Not-to-Compete.....	25
Section 21.	No Waiver .....	26
Section 22.	Successors.....	26
Section 23.	Notice.....	26
Section 24.	Risk of Operations .....	27
Section 25.	Severability.....	27
Section 26.	Jurisdiction, Venue and Controlling Law.....	27
Section 27.	JURY WAIVER.....	28
Section 28.	Mediation and Arbitration.....	28
Section 29.	Entire Agreement .....	28

other trade names, trademarks, service marks and logos ("AAMCO names and marks") presently used, or which may hereafter be used in the System.

1.2 Franchisee's Center shall be located as follows: \_\_\_\_\_ Metropolitan Statistical Area/Micropolitan Statistical Area (collectively "Statistical Area")  
Address: MORGAN HILL,  
CALIFORNIA

Franchisee agrees to operate the Center at no other address. Franchisee agrees not to move or relocate the Center without the express prior written approval of AAMCO, which approval shall not be unreasonably withheld.

(a) AAMCO expressly reserves the right to grant additional franchises or establish other Centers in the same Statistical Area. The number of Centers will be based upon then current motor vehicle registrations and the marketing program of AAMCO, and shall be limited to a maximum of one Center for each 100,000 motor vehicle registrations. Notwithstanding this motor vehicle registration limit, Franchisee agrees that he does not have and is not being granted a protected trading area, specifically without limitation, in regard to the placement of other AAMCO Centers.

(b) AAMCO or its affiliates may acquire or develop businesses or franchise systems that are in competition with the Center, including locations near the Center. Franchisee agrees that AAMCO is under no obligation to compensate Franchisee for services performed by such businesses or franchise systems that are in proximity to the Center.

## 2. Initial License Fee and Deposit.

(a) Franchisee agrees to pay the sum of \$39,500 as an initial license fee. AAMCO acknowledges payment by Franchisee of a deposit of \$20,000 to be applied to the initial license fee. This deposit does not permit Franchisee to use the AAMCO names and marks or to operate a Center without compliance with other provisions of this Agreement. An additional \$19,500 is due at the start of AAMCO's operator training school.

(b) Franchisee acknowledges that AAMCO shall incur expenses upon execution of this Agreement. In the event of any termination, cancellation or rescission of this Agreement for any reason whatsoever, AAMCO will suffer damages not able to be determined; therefore, AAMCO, in addition to any other rights or remedies it may have, shall be entitled to retain any payments towards the initial license fee as liquidated damages.

## 3. Term.

This Agreement shall begin as of the date set forth above and shall continue for a term of fifteen (15) years. Unless either party gives written notice of its intention not to renew at least 180 days prior to the expiration of the fifteen-year term, Franchisee shall have the right to renew this franchise at the end of the term provided he is not then in default under the Agreement. In connection with any renewal, Franchisee agrees to execute a franchise agreement of the type then currently being used by AAMCO, at least ninety (90) days, but not more than one (1) year, prior to the expiration of the term. If, at least ninety (90) days prior to the expiration of the term of this franchise, Franchisee has not executed AAMCO's then current franchise agreement, this Agreement shall automatically terminate at the end of the term without

(f) Except as otherwise provided in this Agreement, Franchisee agrees not to assign its lease or sublet the Center, or any portion of the premises containing the Center.

(g) If Franchisee chooses to design and construct his Center, Franchisee agrees to engage AAMCO's designated design and construction professional or, alternatively, to procure design and construction services from another source approved by AAMCO in writing.

(h) Franchisee agrees not to make any material change to the Center premises or adjacent areas without the prior written consent of AAMCO.

**5.**

**5.1 Training, Security Deposit and Commencement of Business.**

(a) Prior to opening the Center for business, Franchisee must attend and successfully complete to AAMCO's satisfaction, AAMCO's operator's training school, which includes instruction, training and education in the operation of the Center. All expenses of travel, lodging, meals and any other expenses relating to attendance at such school shall be borne and paid by Franchisee. If Franchisee fails to complete training to AAMCO's satisfaction, AAMCO, in its sole discretion, may terminate this Agreement immediately, and this Agreement shall be of no further force and effect, and neither AAMCO nor Franchisee shall have any further liability or obligation to the other; provided, however, that the provisions of section 20 shall not be affected by any such termination.

(b) This paragraph applies to an OPERATOR who has signed a New License Agreement. Upon receipt of the Grand Opening Operations Development (GOOD) Training Fee, AAMCO shall provide a five (5) week on site Training program for OPERATOR and OPERATOR's staff during the first quarter of your Center operations. The Training will be held at OPERATOR's Center and be conducted during normal business hours.

(c) Franchisee agrees to attend such additional training or meetings at such locations as AAMCO may, from time to time, direct. All expenses incurred in connection with such attendance at training sessions or meetings shall be borne solely by Franchisee.

**5.2** (a) Franchisee agrees to maintain at all times during the term of this Agreement a staff of trained employees sufficient to operate the Center in accordance with this Agreement. Franchisee agrees that all personnel whom Franchisee employs shall conform to the experience or skill standards which AAMCO may prescribe. Franchisee agrees to direct any of its employees to attend such meetings and training sessions as AAMCO may require, including directing the Center's technicians to obtain technical certification, as AAMCO may require, pursuant to AAMCO's technical certification program or a comparable technical certification program approved by AAMCO. All expenses of travel, lodging, meals and any other expenses shall be borne and paid by Franchisee or the Center's employees. Franchisee agrees not to employ any person who may be required by AAMCO to complete a training program or otherwise meet training requirements, but who fails to do so for any reason whatsoever.

(b) Franchisee acknowledges and agrees that the training of the Center's technical employees is essential to the successful operation of the Center. Franchisee, therefore, agrees to participate in, pay for and buy all materials for the AAMCO Tech Video/DVD

pays a new security deposit with AAMCO. In all other situations when this Agreement terminates, expires or is rescinded, AAMCO may use the security deposit to cover the costs of warranty work arising from warranties issued by the Center prior to the termination, expiration or rescission of this Agreement; and AAMCO may retain the deposit for a period of three (3) years from the date of termination, at which time any remaining balance will be returned to Franchisee provided Franchisee has complied in full with sections 19 and 20 of this Agreement. All warranty repairs charged under this subsection shall be performed at and in accordance with AAMCO's then current Intershop Warranty rate and policies and procedures.

**6.1 Services Rendered by AAMCO. AAMCO agrees to:**

- (a) assist Franchisee in obtaining a location and negotiating a lease;
- (b) assist Franchisee with the layout of the Center and the installation of equipment;
- (c) assist Franchisee in finding and evaluating personnel;
- (d) furnish to Franchisee the Operator's Manual described in section 7, parts catalogues, and Instructional and training materials for the purpose of providing guidance in the methods, procedures and techniques of operating a Center;
- (e) furnish, from time to time, such business information, literature and materials as AAMCO determines may be helpful in improving the operations of the Center;
- (f) advise and consult with Franchisee during usual business hours on matters relating to the operation of the Center;
- (g) advise Franchisee of any new developments or improvements in the System;
- (h) assist Franchisee by providing Technical Consulting services for use by all franchisees. These services will include Technical Hot Line Department, Publication of Technical Advisory bulletins, Publication of Technical Bench tips, Publication of Technical Bench notes, Publication of Technical columns in the Twin Post, Production of video training films, the availability of the Rebuilders Academy and additional in-house only training seminars. AAMCO further agrees that the ratio of the Technical Department's expenditures to franchise fee revenue for the provision of these services will be the minimum ratio maintained for the provision of these services.
- (i) provide initial training, the GOOD training and other additional training programs, sessions and meetings as AAMCO may determine;
- (j) assist in the design of advertising promoting the business of AAMCO franchisees and the services they sell; and make available to Franchisee its experience, know-how, guidance, and counseling with respect to national, regional, and/or local advertising, and combinations thereof, including the selection of particular media and advertising content, as well as the choice of agencies for the purchase and use of these advertising techniques; and
- (k) continue to protect the good will and reputation associated with the AAMCO name and marks and other distinguishing aspects of the System.

(c) honor and comply with the terms of all advertising placed by or at the direction of AAMCO or Franchisee;

(d) devote his/her best efforts to the day-to-day operations and development of the business of the Center;

(e) operate the Center exclusively as an automotive repair and servicing business and not engage in any other business at the Center, except as otherwise approved in writing by AAMCO;

(f) keep the Center open for business the minimum number of days per week and hours per day as may be prescribed by AAMCO in the Operator's Manual from time to time;

(g) design, keep and maintain the Center and its appearance in an attractive, clean, safe and orderly manner consistent with the operation of a first class automotive business and any directives of AAMCO deemed by it to be necessary to protect the standards of quality and uniformity of the Centers and the System, including (1) interior and exterior painting and décor, (2) shop and sales office layout and character of interior furnishings, and (3) use and display of such signs, emblems, logos, lettering and pictorial materials as required or approved by AAMCO;

(h) operate the Center in accordance with the methods, policies and procedures, and techniques included in the Operator's Manual and other training manuals and materials, as modified and/or updated from time to time as determined by AAMCO in its sole discretion, or otherwise approved by AAMCO;

(i) conduct business at the Center in a manner so that it will not detract from nor bring into disrepute the AAMCO name and marks;

(j) comply at all times with all federal, state, provincial, county, city, municipal and other local laws, regulations and ordinances applicable to Franchisee's business;

(k) maintain at all times (except when fire or other casualty so prevents) sufficient supplies and personnel to operate the Center at maximum capacity and efficiency, including a full time Customer Service Manager (other than Franchisee) who is primarily responsible for customer contact within the Center, and who has successfully completed AAMCO's CSM training program;

(l) operate the Center under the name AAMCO and under no other name unless directed in writing by AAMCO, and use and display the AAMCO name and marks prominently in such manner as may from time to time be directed in writing by AAMCO and not use or prominently display any other trade name, trademark, service mark or other designation during the term of this Agreement;

(m) permit AAMCO during business hours to inspect the premises of the Center, confer with Franchisee and Franchisee's employees and customers, check equipment and inventories, methods, books and records, and perform any other inspection deemed by AAMCO to be necessary to determine the nature, quality and uniformity of service rendered at the Center in order to protect the System and to determine Franchisee's performance under this

years during the term nor shall the aggregate cost of all upgrades or remodeling required by AAMCO during the term of this Agreement exceed \$25,000.

## **9. Equipment, Inventory, Supplies and Signs.**

**9.1 Standards and Specifications.** AAMCO shall fix and determine all standards, specifications and requirements for the equipment, including diagnostic and technical equipment, supplies, parts, and assembly sets used by Franchisee in the Center. Franchisee may purchase these items from any source, so long as they conform to these standards and specifications. AAMCO agrees to furnish these standards and specifications to Franchisee, or to a vendor or manufacturer, without charge. Franchisee acknowledges that AAMCO may change such standards, specifications and requirements from time-to-time, and agrees to make any additional purchases of equipment and/or supplies needed to comply with such updated requirements.

**9.2 Original Equipment, Supplies and Inventory.** Franchisee agrees that, prior to the opening of the Center, Franchisee will purchase the equipment, supplies and inventory listed at Appendix A of this Agreement. Franchisee agrees to submit to AAMCO receipted invoices from the suppliers for any of these items which AAMCO may request and shall certify to AAMCO, if requested, that the items comply with the standards and specifications of AAMCO. If Franchisee requests to purchase equipment and supplies from or through AAMCO, AAMCO agrees to supply them at the price then in effect; provided, that if prior to delivery the price to AAMCO shall increase, then AAMCO may proportionately increase the price to Franchisee. If any item is not available at the time of request, then AAMCO may substitute merchandise of a similar quality, and adjust the price, after notice to Franchisee.

**9.3 Operating Inventory.** Franchisee acknowledges that the consumer acceptance, quality, and standardization of parts and assembly sets used by AAMCO Centers, and agrees that the use exclusively of parts and assembly sets which comply with AAMCO's specifications are essential conditions of the performance of this Agreement. Franchisee agrees to purchase and use parts and assembly sets which comply with AAMCO's specifications. At the request of AAMCO, Franchisee will submit a certification that Franchisee uses parts and assembly sets which comply with AAMCO's specifications.

**9.4 Product Warranties.** There are no warranties, express or implied, made by AAMCO under this Agreement for the products purchased by Franchisee, including the implied warranty of MERCHANTABILITY.

**9.5 Signs.** Franchisee agrees to erect outside and inside the Center signs of such size and construction as approved by AAMCO. No other signs may be erected or used. Franchisee acknowledges and agrees that AAMCO shall have exclusive control of the use and display of all sign faces bearing the AAMCO name or marks.

## **10. Franchise Fees and Business Reports.**

(a) During the term of this Agreement, Franchisee agrees to pay to AAMCO a franchise fee (the "franchise fee") equal to seven and one-half percent (7½%) of the gross receipts of all business transacted by Franchisee. "Gross receipts" shall mean all forms of consideration received by the Center for all work, sale of parts, supplies or accessories or services, sold, completed and delivered to customers of the Center, exclusive of sales tax. Franchisee agrees that the franchise fee shall be paid weekly on each Tuesday based upon



AAMCO shall be entitled to additional funds by EFT from Franchisee's designated account(s) for the difference or (2) that the actual amount of the franchise fee due was less than the amount of the EFT by AAMCO, then AAMCO shall credit the excess amount to the payment of Franchisee's future franchise fee.

(f) Franchisee agrees that, upon written notice from AAMCO, he may be required to pay any amount(s) due under this Agreement directly to AAMCO by check or other non-electronic means, instead of by EFT, solely at AAMCO's discretion.

## **11. Advertising.**

**11.1 National Creative Advertising Fee.** Franchisee agrees to pay a "National Creative Advertising Fee" in accordance with the formulas which will be provided by the National Creative Committee and administered by AAMCO. Payment of this National Creative Advertising Fee shall be made to AAMCO in accordance with its instructions, including compliance with section 10(c) providing for payment by EFT.

### **11.2 Local Advertising.**

(a) Franchisee acknowledges and agrees that all advertising must be approved by AAMCO in advance of its use and Franchisee agrees not to use any advertising unless and until such has been approved in writing by AAMCO. Franchisee specifically agrees to participate in the national Yellow Pages program of AAMCO, to place and pay for Yellow Pages advertising through this program, and agrees not to place Yellow Pages advertising in any other manner. Franchisee further agrees to use, display or distribute in or about the Center any advertising, promotional or informational materials that AAMCO may provide from time to time and to follow AAMCO's instructions regarding such materials.

(b) Franchisee acknowledges that, in addition to Yellow Pages advertising, it is mandatory to employ advertising at the local level and to participate in and pay for advertising programs and promotional activities at the local level. Franchisee agrees to share local advertising expenses with other franchisees in the Designated Market Area (DMA) as defined by A.C. Nielsen Company which may change from time-to-time and to execute all local ad pool documents as may be required and approved by AAMCO.

(c) If Franchisee's AAMCO Center is not part of a DMA, is the only AAMCO Center in a DMA, or in the event a majority of the Centers in the DMA vote not to implement a local advertising buy and budget, or not to have a locally administered advertising pool, then, unless Franchisee documents expenditures for local advertising pursuant to this section, Franchisee shall pay to AAMCO a weekly continuing advertising fee (the "continuing advertising fee") of either (i) for those Centers located in one of the top 20 DMAs based on population as determined by A. C. Nielsen Company, the greater of five percent (5%) of the gross receipts of the Center or \$500 or (ii) for Centers located in all other DMAs, the greater of four percent (4%) of the gross receipts or \$400, which shall be payable weekly, at the same time and in the same manner as set forth in section 10 of this Agreement; provided, however, if National or Regional Advertising is implemented pursuant to section 11.3, AAMCO may proportionally reduce this continuing advertising fee. If the local ad pool assessment is less than the continuing advertising fee, then Franchisee shall remit to AAMCO on a weekly basis the difference between the local ad pool assessment and the continuing advertising fee. If Franchisee documents, in a form directed by AAMCO, expenditures with an approved advertising agency or directly with an advertising vendor or vendors in amounts prescribed by

HTML or other link between any web site created, maintained or used by Franchisee and AAMCO's home page(s) or other part of its web site(s) without AAMCO's prior written approval.

### **11.3 National or Regional Advertising.**

(a) Franchisee agrees to participate in advertising programs at the national and/or regional levels if and when established or directed by AAMCO by paying to AAMCO a National or Regional Advertising Fee. Franchisee agrees to pay this National or Regional Advertising Fee in accordance with reasonable formulas provided by AAMCO. Payment of such National or Regional Advertising Fee shall be made in accordance with AAMCO's instructions.

(b) Franchisee agrees that AAMCO may, from time to time, designate an AAMCO web site for the purpose of advertising the AAMCO names and marks and services associated with the System as well as individual Centers. Franchisee acknowledges and agrees that all parts of the designated web site, including any web page(s) dedicated to the Center, are the property of AAMCO and that AAMCO has sole and exclusive right and authority to change or terminate the web site in total or in part, as AAMCO deems appropriate.

## **12.**

### **12.1 Insurance.**

(a) Franchisee agrees to purchase and, at all times during the term of this Agreement, maintain in full force and effect policies of insurance as follows: (i) Worker's Compensation insurance, in amounts prescribed by law; (ii) insurance against all types of public liability including employer's liability insurance, liability insurance under a comprehensive general liability policy, with bodily injury and property damage liability insurance, garage liability, garage keeper's legal liability and direct primary coverage, products liability or completed operations liability insurance, automobile liability insurance, including owned and non-owned hired motor vehicles, and customer automobile liability insurance; and (iii) such additional insurance as may be required by the terms of any lease for the premises of the Center.

(b) Franchisee agrees that all policies of insurance required under this section shall be in form with companies reasonably satisfactory to AAMCO and in such amounts as AAMCO shall reasonably determine, which amounts, in no event, shall be less than \$1,000,000 per occurrence, bodily injury and property damage combined. Franchisee acknowledges and agrees that AAMCO reserves the right to increase the amounts of insurance required by this section and further agrees to comply with such increased amounts after notice from AAMCO. AAMCO agrees to act reasonably in determining such increased amounts. Franchisee agrees that such policies shall protect, as named insureds, Franchisee, AAMCO and any other party designated by AAMCO and that such policies shall contain an endorsement which provides that only actual notice to insured, if an individual, or to any executive officer of insured, if a corporation, shall constitute knowledge of the insured. Franchisee agrees to furnish to AAMCO, any other named insured, and all other persons designated by AAMCO, certificates issued by each of Franchisee's insurers indicating that all required insurance is in full force and effect and will not be terminated or changed without at least thirty (30) days prior written notice from the insurer to each certificate holder. New certificates evidencing renewal of such insurance shall be furnished at least thirty (30) days prior to the date of expiration of each such policy. Within five (5) days of any request by AAMCO, Franchisee agrees to deliver the original of all such insurance policies to AAMCO for examination.

Franchisee agrees that he will use the AAMCO names and marks only in full compliance with specifications prescribed from time to time by AAMCO and that all such usage and the goodwill established thereby shall inure to the exclusive benefit of AAMCO. Except as expressly granted in this Agreement, Franchisee acknowledges and agrees that nothing contained in this Agreement shall be construed as giving to Franchisee or to any other person or entity, any right or interest in the AAMCO names and marks, trade secrets, methods, procedures or techniques developed by AAMCO and used in the System. Further, except as provided for herein, nothing contained herein shall be construed as limiting AAMCO's right, title or interest in the AAMCO names and marks, trade secrets, methods, procedures and techniques which are a part of the System or AAMCO's sole and exclusive right to register, to use and to license others to use such names and marks, trade secrets, methods, procedures and techniques.

(b) Franchisee represents, warrants and agrees that:

(1) Franchisee will not contest, directly or indirectly, AAMCO's ownership, title, right or interest in the AAMCO names and marks, trade secrets, methods, procedures and techniques which are a part of the System or contest AAMCO's sole right to register, to use, and to license others to use such AAMCO names and marks, trade secrets, methods, procedures and techniques and any other mark or name which incorporates the word "AAMCO"; and

(2) with the exception of the use of the names and marks in the manner expressly specified and authorized under this Agreement and the registration of a fictitious name solely in connection with the operation of the Center, Franchisee will not use or register or attempt to use or register in Franchisee's name or in the name of any other person or entity any name or mark, corporate name or any designation of any kind using the AAMCO names and marks, or any other materials or electronically transmitted information used in the System.

**13.2 Non-Disclosure.** Franchisee agrees that, except in the ordinary course of business of the operation of his Center, Franchisee will not disclose or furnish to any person or entity any information or data concerning AAMCO's service program, training, diagnostic and technical materials, operations techniques, advertising or promotion ideas, or concerning the financial status of AAMCO, and that Franchisee will keep and maintain such data, information and materials as trade secrets of AAMCO. Franchisee acknowledges and agrees that AAMCO is the sole owner of all rights to the AAMCO service program, and of all books, manuals or documents provided to Franchisee for the operation of his Center. Franchisee recognizes that AAMCO has expended substantial funds and effort in the development of its service program, training, diagnostic and technical materials, and operating techniques, and he specifically agrees not to disclose or use AAMCO training or policy manuals, catalogues, lists, forms or aids provided by AAMCO for any purpose other than those permitted by this Agreement.

### **13.3 Protection of System.**

If Franchisee learns of any actual or threatened infringement or piracy of the AAMCO names and marks, trade secrets, methods, procedures or techniques used in the System (the "Infringement") or of any infringement or piracy claim made against Franchisee by a party other than AAMCO ("Third Party Claim"), Franchisee agrees to immediately notify AAMCO in writing of the Infringement or Third Party Claim. AAMCO shall have the right to determine what action, if any, to take with respect to such Infringement or Third Party Claim and shall bear the expense of any such action. Franchisee agrees to give his full cooperation in such action if

AAMCO, as part of the System, maintains a national fleet accounts program by which transmissions and other automotive repairs are provided to national or regional fleet accounts at designated AAMCO Centers, at agreed prices and processed through a centralized billing system ("national fleet accounts program"). If Franchisee decides to participate in AAMCO's national fleet accounts program, then Franchisee specifically agrees to accept and perform any automotive repair work that the vehicle may require in accordance with AAMCO's service standards, offer and honor such warranties as are required under AAMCO's agreement with the fleet account, charge and accept payment for all repairs in accordance with the price agreed between AAMCO and the fleet account for the particular type of repair, complete and provide such data, reports and/or documentation as AAMCO may require in administering the national fleet accounts program, and purchase and/or subscribe to any necessary hardware or software to interface with AAMCO's centralized billing system. Franchisee agrees that AAMCO retains all rights to the software used in connection with the national fleet accounts program.

**17. Defaults in Payment and Expenses.**

(a) Franchisee agrees to pay all third party costs (and in-house attorneys fees if a legal proceeding is instituted) incurred by AAMCO in collecting franchise fees, advertising fees and all other payments due under this Agreement and in enforcing the provisions of this Agreement.

(b) Franchisee agrees to pay AAMCO a late charge upon all amounts due and owing to AAMCO in an amount equal to one and one-half percent (1-1/2%) of the average unpaid balance per month. If a court of competent jurisdiction determines that the late charge violates any usury or similar law, then the late charge will, instead, be the maximum amount allowed under applicable law. In addition, for each gross weekly business report not received by AAMCO within two (2) weeks from the date on which it was due, Franchisee agrees to pay AAMCO a late charge of ten dollars (\$10.00) per report, per week. The payment of any such late charge will not be deemed to allow or excuse delay in the timely submission of reports or in payment of sums due.

(c) Franchisee agrees that he is responsible for paying all service charges and other fees resulting from Franchisee's financial institution in connection with EFT including, without limitation, any and all service charges and other fees arising in connection with any EFT by AAMCO that is not honored or processed by Franchisee's financial institution for any reason. Further, Franchisee shall pay AAMCO a fifty dollar (\$50.00) charge for reprocessing any EFT not originally honored or processed by Franchisee's financial institution.

(d) If a local advertising group or pool becomes entitled to recover amounts from Franchisee by virtue of such an action pursuant to section 11 of this Agreement, then Franchisee acknowledges that such group or pool shall be entitled to recover, in addition to any judgment or award, an amount equal to the costs and reasonable attorneys' fees therefor.

(e) If Franchisee fails to pay the National Creative Advertising Fee and/or for Yellow Pages advertising, then Franchisee acknowledges and agrees that AAMCO has the right (1) to direct any publisher of a Yellow Pages advertising directory to omit Franchisee's listing from such directory and (2) to withhold all television and radio tapes from Franchisee, until all sums owed plus interest and any costs of collection, including attorneys' fees, have been paid in full.

**18.**

(c) If Franchisee organizes or has organized a corporation, partnership or limited liability company in connection with the operation of the Center, the shares of stock, partnership interests or membership units shall not be sold, assigned, pledged, mortgaged or transferred without the prior written consent of AAMCO. There may be a sale of all of the shares of stock, partnership interests or membership units of the entity subject to the same conditions listed in subparagraph (b) above to a purchaser, as though the person acquiring were a purchaser under section 18.2 of this Agreement. All ownership certificates shall have endorsed upon them the following:

The transfer of this stock (or membership unit) is subject to the terms and conditions of a Franchise

Agreement dated <sup>August 8</sup> 2008, between AAMCO Transmissions, Inc. and KEVIN BLADOW

(d) Franchisee agrees that this Agreement may not be transferred by a corporation, partnership or limited liability company by transfer of stock, partnership interests, membership units or by any other means.

#### 18.2 Sale, Assignment or Transfer.

(a) If Franchisee, or Franchisee's personal representative in case of Franchisee's death or incapacity, desires to sell the Center and receives from a third-party a bona fide written offer to purchase the Center, and obtain a transfer of the franchise under this Agreement, or if Franchisee desires to sell the stock, interests or units of any entity to which the Center has been transferred pursuant to this Agreement, Franchisee agrees to give AAMCO written notice and a copy of such offer and AAMCO shall have the option, exercisable within thirty (30) days after receipt of such notice, to purchase such Center, or stock, interests or units, including the lease, on the same terms and conditions as offered by the third party provided that AAMCO may substitute equivalent cash for any form of payment offered by the third party; provided, however, that this option shall not be available to AAMCO if the offer to purchase is from Franchisee's partner or immediate family member, or a Center employee. If AAMCO does not exercise its option and if such third party is of good character, reputation and financial condition and acceptable to AAMCO, Franchisee shall have the right for a period of ninety (90) days after the expiration of AAMCO's option period to accept the offer and to sell the Center to such third party, subject to the provisions of section 18.2(c) below;

(b) If Franchisee dies and his personal representative does not desire to sell the Center, and if under controlling local law, the deceased Franchisee's interests in the Center, and this Agreement are distributable to heirs or legatees who are members of his immediate family and who otherwise would qualify as assignees under the terms of this section, then such attempted assignment by operation of law shall not be deemed in violation of this Agreement, provided that such heirs or legatees accept and fulfill the conditions imposed in section 18.2(c).

(c) If Franchisee desires to sell the Center, Franchisee may do so provided that the purchaser is first approved by AAMCO. AAMCO agrees to approve such prospective purchaser if the purchaser has satisfactory credit ratings, has good moral character and has a reputation and business qualifications satisfactory to AAMCO, and provided further that:

responsibilities of this Agreement, including money owed, despite any such attempted and/or unauthorized sale, assignment or transfer of Franchisee's AAMCO Center.

19.

19.1 Termination.

(a) AAMCO, at its option, and without prejudice to any other rights or remedies which it may have under this Agreement, at law or in equity, may terminate this Agreement by giving written notice to Franchisee upon the occurrence of any of the following:

(1) if Franchisee fails to complete the initial training program to AAMCO's satisfaction, this Agreement will be terminated immediately; or

(2) if Franchisee is delinquent in the payment of the franchise fee or any advertising fee or sum, or any other payment due AAMCO or under this Agreement;

(3) if Franchisee shall be adjudicated a bankrupt or declared insolvent; if a temporary or permanent receiver of Franchisee's property or any part thereof is appointed by a court of competent authority; if Franchisee makes a general assignment for the benefit of Franchisee's creditors; if execution is levied against Franchisee's business or property; if Franchisee abandons the Center or ceases its operation for a period of more than five (5) consecutive business days;

(4) if Franchisee sells or attempts to sell, transfer or assign rights in the Center and/or under this Agreement without the approval of AAMCO as required by this Agreement;

(5) if Franchisee terminates or attempts to terminate or rescind this Agreement for any reason;

(6) if Franchisee fails to make any payments to an advertising agency and/or a local advertising group or pool or to make any other advertising payment required by section 11 of this Agreement;

(7) if Franchisee defaults in the performance of any of the other terms, conditions and obligations of this Agreement or of his lease for the premises at which the Center is located.

(8) if Franchisee breaches paragraph 8(a) or 8(c).

(b) Upon receipt of notice pursuant to section 19.1(a), Franchisee shall have ten (10) days within which to cure completely any default based on a failure to make any payment required under any provision of this Agreement or based on ceasing to operate the Center for a period of five (5) consecutive business days. For any other default, except as set forth below in sections 19.1(c) and (d), Franchisee shall have thirty (30) days within which to cure completely any such default. Failure of Franchisee to effect such cure within the cure period shall result in the immediate termination. It shall be Franchisee's responsibility to advise AAMCO of attempts to cure any default.

(c) Notwithstanding anything contained herein to the contrary, AAMCO shall not be required to give Franchisee notice in the case of a default under this Agreement or

(b) Upon termination or expiration, AAMCO shall have the option to purchase all of Franchisee's right, title and interest in the Center and all equipment contained therein. If AAMCO intends to exercise its option, AAMCO shall notify Franchisee of such intention within ten (10) days of the time of termination or in the case of expiration, within ten (10) days prior to the expiration of the current term of this Agreement. The full purchase price of the Center shall be:

(1) in the case of expiration, the fair market value of the equipment and parts then located at the Center less all outstanding liabilities of the Center;

(2) in the case of all other terminations, the lesser of the fair market value of the equipment and parts then located at the Center or Franchisee's cost, less depreciation on the equipment computed on a fifteen (15) year straight line basis, less all outstanding liabilities of the Center. AAMCO shall have the right to withhold from the purchase price funds sufficient to pay all outstanding debts and liabilities of the Center and to pay such debts and liabilities from such funds. If such liabilities exceed the purchase price of the equipment and parts, AAMCO shall apply the purchase price in such manner as AAMCO, in its sole discretion, shall determine. In no event, however, shall AAMCO become liable for any of the debts and liabilities of Franchisee or the Center and Franchisee shall remain responsible for all outstanding debts and liabilities of the Center which remain unsatisfied subsequent to the distribution by AAMCO of the purchase price funds;

(3) "Fair Market Value" as used in this section 19.2, shall be determined by an appraisal from an independent third party acceptable to both AAMCO and Franchisee, the costs of which shall be borne equally by AAMCO and Franchisee.

(c) If, within five (5) days after termination or expiration, Franchisee fails to remove all displays of the AAMCO names and marks and any other materials of any kind from the Center which are identified or associated with the System or AAMCO, AAMCO may enter the Center or premises to effect such removal. In such event, AAMCO shall have no liability to Franchisee therefor, nor shall AAMCO be accountable or required to pay for such displays or materials.

(d) If, within three (3) days after termination or expiration, Franchisee has not taken all steps necessary to amend, transfer or terminate telephone listings and service, any registration or filing of any fictitious name or any other registration or filing containing the AAMCO names and marks, Franchisee hereby irrevocably nominates, constitutes and appoints AAMCO or any prothonotary, clerk of court, or attorney of any court of record as his true and lawful attorney for him and in his name and on his behalf to take all such action as may be necessary to amend, transfer or terminate all such telephone listings and service, registrations and filings of such fictitious name or any other registration or filing containing the AAMCO names and marks, without liability to Franchisee for so doing. If any action is required to be taken by or on behalf of AAMCO pursuant to this subsection 19.2(d), the telephone company and all listing agencies and publishers, without liability to Franchisee, may accept this Agreement and the directions by or on behalf of AAMCO as conclusive of the exclusive rights of AAMCO in such telephone numbers and directory listings and its authority to direct their amendment, termination or transfer and Franchisee hereby releases and waives any claim of any kind that he may have against any telephone company, publisher or listing agency as a result of their implementing the transfer, amendment or termination set forth herein.

(i) the request of any present or future supplier, customer or operator of a Center to curtail or cancel its business relationship with any Center, AAMCO or the System, (ii) the disclosure of the identity of any past, present or future customer, supplier or operator of any Center, and (iii) the solicitation, canvassing or the authorization of any other person to solicit or canvass any past, present or future customer, supplier or operator of a Center. As used in this section 20(c)(2), "future supplier, customer or operator" shall mean a supplier, customer, or operator who will have had a business relationship with a Center, AAMCO or the System during the term of this Agreement or during a period of one (1) year following the termination of this Agreement.

(d) Franchisee acknowledges that, in view of the nature of the System, the business of AAMCO, and the strength of the AAMCO names and marks, the restrictions contained in this section 20 are reasonable and necessary to protect the legitimate interests of the System and AAMCO and that any violation of such restrictions will result in irreparable injury to the System or AAMCO. Therefore, Franchisee acknowledges that, in the event of such violation, AAMCO shall be entitled to preliminary and permanent injunctive relief and damages as well as an equitable accounting of all earnings, profits, and other benefits arising from such violation, which remedies shall be cumulative and in addition to any other rights or remedies to which AAMCO shall be entitled, and the arbitration provision of section 28 shall not apply to any equitable proceeding seeking enforcement of the provisions of this section 20. If Franchisee violates any restriction contained in this section 20, and it is necessary for AAMCO to seek equitable relief, the restrictions contained herein shall remain in effect until two (2) years after such relief is granted.

(e) Franchisee agrees that the provisions of this covenant not-to-compete are reasonable. If, however, any court should hold that the duration or geographical limits of any restriction contained in this section 20 are unreasonable, the parties agree that such determination shall not render the restriction invalid or unenforceable, but that such restriction shall remain in full force and effect for such duration and within such geographical limits as the court shall consider reasonable.

#### **21. No Waiver.**

Waiver by AAMCO or Franchisee of any violation or default under this Agreement shall not alter or impair either party's right with respect to any subsequent violation or default nor shall any delay or omission on the part of either party to exercise any right arising from such violation or default alter or impair such party's rights as to the same or any future violation or default. An acceptance by AAMCO of any payment from Franchisee after the date on which such payment is due shall not operate as a waiver of Franchisee's default or violation hereunder nor alter or impair AAMCO's rights with respect to such violation or default.

#### **22. Successors.**

Except as otherwise specifically set forth in this Agreement, this Agreement shall inure to and be binding upon the parties hereto, their respective heirs, executors, administrators, successors and assigns. AAMCO shall have the right to assign its rights, interests and obligations under this Agreement, provided that the assignee shall agree in writing to assume all obligations undertaken by AAMCO under this Agreement.

#### **23. Notice.**



26.3 In any court proceeding brought by either party arising out of or based upon this Agreement or its performance, the prevailing party shall recover all court costs, attorneys' fees and other expenses relating to such proceeding from the non-prevailing party.

**27. JURY WAIVER.**

FRANCHISEE AND AAMCO HEREBY AGREE THAT THEY SHALL AND HEREBY DO WAIVE TRIAL BY JURY IN ANY ACTION, PROCEEDING OR COUNTERCLAIM, WHETHER AT LAW OR IN EQUITY, BROUGHT BY EITHER OF THEM, OR IN ANY MATTER WHATSOEVER WHICH ARISES OUT OF OR IS CONNECTED IN ANY WAY WITH THIS AGREEMENT OR ITS PERFORMANCE.

**28. Mediation and Arbitration.**

(a) Non-binding mediation of disputes, controversies or claims arising out of or related to this Agreement shall be conducted, solely at Franchisee's option, in Philadelphia, Pennsylvania, Chicago, Illinois or Bethesda, Maryland in accordance with established procedures.

(b) All disputes, controversies or claims arising out of or relating to this Agreement shall be settled by binding arbitration in accordance with the Commercial Arbitration Rules of the American Arbitration Association or its successor, except for termination by AAMCO which is based, in whole or in part, upon the fraudulent acts of Franchisee or Franchisee's failure to deal honestly and fairly with any customer of the Center or Franchisee's failure to accurately report his gross receipts to AAMCO or actions for equitable relief related to the uncured misuse of proprietary marks, confidential information or other intellectual property of AAMCO or Franchisee's non-compliance with the covenant not-to-compete. Arbitration shall be conducted in Philadelphia, Pennsylvania, unless otherwise agreed to by the parties. The decision of the Arbitrator shall be final and binding on the parties and judgment upon the award may be entered in any court having jurisdiction. Each party shall be responsible for the payment of its legal expenses and the fees and expenses of arbitration except that the fee of the Arbitrator shall be paid by the non-prevailing party. The Arbitrator shall have no authority to alter or modify any provision of this Agreement or to render an award which by its terms results in such an alteration or modification. The parties specifically acknowledge and agree that no class action and multiparty claims shall be filed in any such arbitration proceeding pursuant to the terms of this Agreement.

**29. Entire Agreement.**

This Agreement contains the entire agreement of the parties, and supersedes, cancels, and revokes any and all other agreements between the parties relating to the subject matter of this Agreement. There are no representations, warranties, promises or inducements, either oral or written, except those contained in this Agreement. However, nothing in this Agreement, the exhibits or any related agreement or document is intended to disclaim representations which AAMCO has made in AAMCO's Franchise Disclosure Document which Franchisee acknowledges has been furnished to Franchisee. Franchisee acknowledges that Franchisee is entering into this Agreement as a result of its independent investigation of the franchise opportunity and not as a result of any representations about AAMCO made by any of AAMCO's officers, directors, shareholders, employees, agents, representatives, independent contractors, or franchisees that are contrary to the terms set forth in this Agreement or in any disclosure document, prospectus, or other similar document required or permitted to be given to

## Addendum to AAMCO Franchise Agreement

This addendum to the AAMCO Franchise Agreement (the "Franchise Agreement") dated August 8, 2008, by and between AAMCO Transmissions, Inc. (AAMCO) and Kevin and Jacqueline Bladow ("Franchisee") is effective as of August 7, 2008.

AAMCO and Franchisee hereby agree as follows:

- a. Provided that AAMCO receives the executed AAMCO Franchise Agreement and the Initial Franchise Fee deposit of \$20,000 from Franchisee within thirty (30) days of Franchisee receiving the AAMCO Franchise brochure and FDD or within ten (10) days of July 23, 2008, whichever later occurs, then Franchisee shall receive the following, upon the opening of the AAMCO Center for business:
  - i. A \$7,000.00 credit towards the purchase of exterior signage made through AAMCO's Equipment Division for use at the new center. The exterior signage must be purchased through AAMCO to apply for the credit. In the event the exterior signage is less than \$7,000.00, Franchisee shall receive a credit for the actual cost of the signage, but, no further credit above the actual cost; and
  - ii. An \$8,000.00 credit towards the purchase of any of the specific equipment listed in paragraph a.ii.1. below ("Eligible Equipment") made through AAMCO's Equipment Division prior to the opening of the new center. In the event the amount of Eligible Equipment is less than \$8,000.00, Franchisee shall receive the actual cost of the Eligible Equipment, but, no further credit above the actual cost

Oil System	1	\$ 2,209.75
AC Recovery unit system	1	\$ 4,995.65
Refrigerant Identifier System	1	\$ 1,607.45
Fuel Induction Cleaning System.	1	\$ 990.00
Smoke machine Redline / evap	1	\$ 954.00
Heater MX250	1	\$ 3,760.30
Tank Stand For Heated CHIMNEY	1	\$ 591.90
Chimney Roof 8'	1	\$ 515.90
Power Pusher HD	1	\$ 3,995.00
SOLX 2000	1	\$ 6,995.00
1. Special Tool for Builder	1	\$ 3,132.44

IN WITNESS WHEREOF, the parties intending to be legally bound, execute this addendum on the date set forth above.

ATTEST:

AAMCO Transmissions, Inc.

By:

Todd P. Loff, President

Marc Graham, President

Franchisee

ATTEST:

**AMENDMENT TO BAY AREA AAMCO COOPERATIVE DEALERS  
ASSOCIATION BYLAWS**

WHEREAS, the BAY AREA AAMCO COOPERATIVE DEALER ASSOCIATION ("Corporation") is authorized to amend the Bylaws unless prohibited from doing so by the Corporation's Articles of Incorporation or by the Bylaws;

WHEREAS, the Corporation's members have deemed that it would be in the best interests of the Corporation to amend and include in the Bylaws a requirement for all association members to remit weekly advertising assessment as provided for in Article VI of the Corporation Bylaws by ELECTRONIC FUNDS TRANSFER (EFT).

NOW, THEREFORE, BE IT RESOLVED that the Corporation approved amending Article VI of the Corporation Bylaws to include the following:

1. Paragraph 3 of ARTICLE VI – MEMBER ASSESSMENTS is hereby added to read as follows:

C. Payment of Assessment

The corporation will initiate a cash transfer of the weekly advertising assessment from the MEMBER BANK ACCOUNT to the CORPORATION'S DEPOSITORY ACCOUNT by ELECTRONIC FUNDS TRANSFER at specified date and time as determined by the Corporation. Association members are required to provide all necessary information and authorizations requested by Corporation and Corporation's depository account to ensure proper and timely electronic funds transfer. Each NEW (new franchisee) association member will be required to provide the required franchise Bank Account information and authorization for ELECTRON FUNDS TRANSFER as a condition for admission to the Corporation. Should any member close or change bank accounts it is the member's responsibility to notify the association of such change by submitting updated information and authorization to the Corporation's Depositor Account prior to the effective date of change in bank accounts. Any cost associated with enforcement of collection of advertising assessments shall be born entirely by the member.

BE IT FURTHER RESOLVED that the Secretary of this Corporation be, and hereby is, authorized and directed to certify copies of the amended Bylaws and to insert one copy in the minute book of this Corporation and to keep another certified copy at the Corporation's principal executive office where it shall be open to inspection by the members at all reasonable times during office hours.

Date:

BAY AREA AAMCO  
COOPERATIVE DEALERS  
ASSOCIATION

BY: Will Bucquoy/s/  
Chairman

BY: Terry Griffith/s/  
Secretary/Treasure

NOW, THEREFORE, Member, in recognition of these facts and of the mutual covenants contained herein, and in exchange for the promise of each other member, and intending to be legally bound hereby and to be legally bound under the Bylaws of BAACDA, covenants, agrees and promises as follows:

1. Advertising:

Member has heretofore acknowledged, and does hereby acknowledge, that advertising is essential to the successful operation of Member's business as an AAMCO franchisee and does hereby agree to endorse, participate in and cooperate in advertising programs established by BAACDA and approved by AAMCO Transmissions, Inc., through payment of advertising assessments pursuant to the terms of the Bylaws of BAACDA as such Bylaws may from time to time be amended.

Member further agrees as follows:

(a) To regularly pay his advertising assessments, such advertising assessments to be determined in accordance with the Bylaws of BAACDA and the majority vote of all members in accordance with the terms and provisions of such Bylaws.

(b) To pay directly to BAACDA or to the Agent designated by BAACDA, Member's regular advertising assessment contribution upon such days, dates or times and to such address as may be designated by the duly elected members of the Advertising Committee of BAACDA.

(c) To be bound by the majority vote of all members in accordance with the Bylaws, or by such other percentage vote as may from time to time be promulgated in the Bylaws as such vote relates to the advertising assessment formula and amounts to be paid by members.

(d) To continue to pay Member's advertising assessments required to be paid pursuant to this Agreement regardless of any unilateral action by Member with respect to advertising contributions, advertising media purchases or use of advertising materials.

(e) Member acknowledges that the duly elected members of the Advertising Committee of BAACDA are the representatives of BAACDA and Member agrees to abide by and be bound by the decisions of the Advertising Committee as such decisions relate to the administration of advertising within the geographical area designated in the Bylaws and the collection of the advertising assessments from each member in accordance with the vote of the members as provided in the Bylaws.

(f) Member further agrees that in the event that Member shall voluntarily or involuntarily cease to be an authorized AAMCO Transmissions, Inc. franchised dealer, any and all advertising assessments made by Member to the BAACDA, whether or not such advertising assessments have been expended, shall belong to BAACDA to be used for the purposes hereinabove stated and Member shall have no right to any claim of reimbursement of any such advertising assessments.

4. Equitable Relief:

Member acknowledges and agrees that the damages to be suffered by BAACDA, and each and every member of BAACDA, in the event of a default on the part of Member in the payment of the advertising assessments according to the terms hereof, will be an immeasurable amount and that BAACDA has no adequate remedy at law. Accordingly, Member agrees that, in addition to any other damages or relief that BAACDA shall be entitled to receive pursuant to the terms hereof, BAACDA shall be entitled to:

(a) appropriate injunctive and other equitable relief and to specific performance of all of the terms and provisions of this Agreement, including but not limited to an order restraining Member from:

(i) Operating a transmission repair and rebuilding facility under the trade name "AAMCO" or "AAMCO Transmissions";

(ii) Displaying "AAMCO" or "AAMCO Transmissions" signs;

(iii) Using AAMCO Transmissions, Inc. business and operating forms;

(iv) Displaying AAMCO Transmissions, Inc. insignia on Member's premises or on the uniforms of Member or Member's employees;

(v) Using any telephone number listed in any telephone directory or advertising of any manner as a telephone number of or for "AAMCO" or "AAMCO Transmissions".

(vi) Member agrees that no bond shall be required of BAACDA for the purpose of enforcing this Paragraph. Member hereby waives any right he may have to require the posting of a bond by BAACDA in order for it to maintain an action against Member for specific performance of Member's obligation or for any other form of equitable relief.

(b) Appointment of a Keeper/Receiver to control operation of Member's transmission repair and rebuilding facility for the purpose of collecting such sums as are necessary to pay any past due and currently due weekly advertising assessments, attorney's fees, any other sums due pursuant to the terms of this Agreement, and all fees and expenses of the keeper/receiver;

(c) An order for a telephone intercept transferring all calls for Member's telephone numbers listed in any telephone directory or advertised in any manner as or for "AAMCO" or "AAMCO Transmissions" to such other pool members as BAACDA shall direct.

5. Enforceability:

(a) Member does hereby acknowledge and agree that this Agreement is made and entered into by BAACDA for and on behalf of all its members and that all such members are third party direct beneficiaries of this Agreement.

9. Venue:


Member acknowledges and agrees that any action commenced for the purpose of enforcing the terms or provisions hereof may be commenced in San Francisco County, in the place where the performance of this Agreement is to take place, where the breach of this Agreement occurs, or in the Judicial District wherein the Member has his AAMCO Transmission repair shop, at the election of BAACDA.

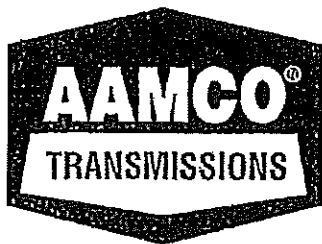
Bay Area AAMCO Cooperative Dealers  
Association, Incorporated

Dated: \_\_\_\_\_

By: \_\_\_\_\_  
Chairman of the Advertising  
Committee or other authorized  
signature

Dated: August 8, 2008

  
\_\_\_\_\_  
Kevin Bladow



## KWIKTEST-PLUS HARNESS SUBSCRIPTION PROGRAM

# ENROLLMENT FORM

I would like to enroll in AAMCO's Kwiktest-Plus Harness™ Subscription Program. I understand that by enrolling in the program, any new harness will be shipped directly to my center. I also agree to pay for each harness I keep within 30 days of delivery. The charge will appear on my parts statement.

In the event that I do not want to keep a certain harness, I may return the unused harness within 30 days for a full refund on my parts statement. If a harness is priced above \$150, I will be notified in advance and this will be shipped to me only after I have given my approval.

This subscription agreement will remain in effect for as long as I keep my franchise, unless I choose to purchase harnesses from another vendor. Should I choose to do so, the harnesses will need to meet AAMCO's specifications. This contract will then be terminated.

Center Location: 235 Tennant Avenue #1, Morgan Hill, CA 95037 Center Number: 15980

Dealer Signature: \_\_\_\_\_

Franchisee - Kevin Bladow

Date: 8/8/08

## AAMCO FOCUS GOLD™ USER LICENSE AGREEMENT

THIS LICENSE AGREEMENT (the "Agreement") is entered into as of the Effective Date (as defined on the signature page hereto) by and between AAMCO TRANSMISSIONS, INC. ("ATI"), and:

Franchisee: Kevin Bladow Center #/City & State: 15980/Morgan Hill, CA

WHEREAS, Franchisee desires delivery of an AAMCO FOCUS GOLD™ System (the "System") consisting of textual works and computer programs recorded on one or more CD-ROM discs. The System will, among other things, permit Franchisee to print repair orders, calculate, print and transmit weekly business reports, market to customers and prepare reports analyzing the operation of his business under the conditions set forth in this Agreement.

NOW, THEREFORE, for valuable consideration, receipt of which is hereby acknowledged, the parties agree as follows:

1. **Term.** The term of this Agreement shall commence upon the Effective Date and shall remain in full force and effect indefinitely unless terminated in accordance with this Agreement. Termination of this Agreement shall not terminate Franchisee's obligations under the provisions of this Agreement.

2. **License.** Subject to the terms and conditions of this Agreement, ATI grants to Franchisee a nonexclusive and nontransferable license to use the System. ATI shall retain title at all times to the System, and Franchisee shall have no rights therein except to use the System as set forth herein. The System may be used solely (i) by Franchisee, (ii) for the operation of his AAMCO center (iii) at the location listed above.

3. **Sole User.** Franchisee may not sell, market or in any other manner distribute System to any third party, or to any location, except in connection with an approved AAMCO Center Resale.

4. **Updates.** ATI may update the content of the System data ("Data Updates") from time to time during each year and may also release major base system enhancements. Franchisee shall not be charged any amount for the Data Updates or major base system enhancements over and above the Maintenance and Support Subscription Fee.

5. **Price and Payment Terms.** In consideration of the license granted herein, Franchisee shall pay to ATI the License Fee and the annual Maintenance and Support Subscription Fee set forth on the User Price Schedule below. The prices do not include shipping, sales, use, excise, or other similar taxes, all of which are the obligation of Franchisee. The Maintenance and Support Subscription Fees may be changed annually, but will not change by more than 10% in any 2 year period.

### USER PRICE SCHEDULE (US\$)

License Fee Base Price.....	\$2,499.00
License Fee for Competitive Upgrade.	\$ 0.00
* Annual Subscription Support and Maintenance Fee .....	\$ 719.95

Franchisee agrees that he will continue to mail ATI the weekly business report data until instructed otherwise.

6. **Maintenance of Equipment and Software.** Franchisee, and not ATI, shall bear sole responsibility to obtain, maintain and operate, or cause to be obtained, maintain and operated at its own expense, all equipment and non-AAMCO software that may be used in conjunction with the System.

7. **Confidentiality.** Franchisee acknowledges that the System comprises information which constitutes a trade secret of ATI in which ATI has a proprietary interest. Franchisee therefore agrees that no portion of the information constituting the System may be disclosed to others, copied, reproduced, compiled or used for any purpose or purposes other than as specifically contemplated by this Agreement in paragraph 2 above. Franchisee shall exercise its best efforts to protect the System and to prevent its dissemination to unauthorized persons. Furthermore, Franchisee shall not assign, pledge, sublicense or permit any other use of the System except in connection with an approved AAMCO Center resale.

8. **AAMCO System Modification.** For all presently foreseeable future updates and enhancements, the System will operate effectively on a Pentium 166 MHz or better PC with 32MB or more memory. However, ATI reserves the right to make changes in rules of operation, security measures, accessibility, procedures, types of terminal equipment, types of system equipment, system programming languages and any other matters relating to the System and its use, without prior notice.



## AAMCO DirecTech PRO® USER LICENSE AGREEMENT

THIS LICENSE AGREEMENT (the "Agreement") is entered into as of the Effective Date (as defined on the signature page hereto) by and between AAMCO TRANSMISSIONS, INC. ("ATI"), and:

Franchisee: Kevin Bladow

Center #: 15980

Address: 235 Tennant Avenue #1

City/State/Zip: Morgan Hill, CA 95037

WHEREAS, "Franchisee" means all individuals and entities listed above collectively, jointly, and severally.

WHEREAS, Franchisee desires delivery of an AAMCO DirecTech PRO® System (the "System") consisting of textual works and computer programs provided via electronic media. The System, in combination with an ALLDATA, LLC ("ALLDATA") monthly Service Agreement, provides Franchisee access to service and repair procedures, specifications, schematics, and illustrations for the repair of automotive transmissions.

NOW, THEREFORE, for valuable consideration, receipt of which is hereby acknowledged, the parties agree as follows:

1. **Term.** The term of this Agreement shall commence upon the effective date and shall remain in full force and effect indefinitely unless terminated in accordance with this Agreement. Termination of this Agreement shall not terminate Franchisee's obligations under the provisions of this Agreement.

2. **License.** Subject to the terms and conditions of this Agreement, ATI grants to Franchisee a nonexclusive and nontransferable license (the "License") to use the System to access mechanical service and repair for mechanical repairs. ATI, and its vendor, ALLDATA shall retain title at all times to the System, and Franchisee shall have no rights therein except to use the System as set forth herein. The System may be used solely (i) by Franchisee, (ii) for the purpose of accessing mechanical service and repair data on the System (iii) at the location listed above.

3. **Sole User.** Franchisee may not sell, market or in any other manner distribute to any third party, or to any location, the System or any information contained in or derived from the System except in connection with an approved AAMCO Center resale; provided, however, the purchaser of such resale shall be required to sign all applicable documents pertaining to ALLDATA's Monthly Subscription in order for such transfer of the System to be effective. Franchisee may not download the System, in whole or in part, to another computer, or transmit the System, in whole or in part, electronically to another computer or terminal, without written authorization from ATI, and ALLDATA.

4. **Updates.** ALLDATA, per the terms of its monthly Service Agreement and Terms and Conditions of Use, will update all DirecTech PRO content on the System ("Data Update(s)") based upon the reasonable availability of ALLDATA data.

5. **Price and Payment Terms.** In consideration of the license granted herein, Franchisee shall pay to ATI a one-time License Fee and to ALLDATA a monthly service fee as set forth on the User Price Schedule below. The prices do not include sales, use, excise, or other similar taxes, all of which are the obligation of Franchisee.

The Annual Support Fee and the Data Update Fee are subject to change annually. Major base system enhancements may be priced separately.

### USER PRICE SCHEDULE:

- |  |            |
|--|------------|
| 1: <input checked="" type="checkbox"/> New AAMCO Licensee          |            |
| * License Fee Base Price .....                                     | \$1,695.00 |
| * Monthly Subscription Fee paid to ALLDATA                         | \$99.00    |
| 2: <input type="checkbox"/> Resale/Conversion/Other AAMCO Licensee |            |
| * License Fee Base Price .....                                     | no charge  |
| * Monthly Subscription Fee paid to ALLDATA                         | \$99.00    |

6. **Maintenance of Equipment and Software.** Franchisee, and not ATI or ALLDATA, shall bear sole responsibility to obtain, maintain and operate, or cause to be obtained, maintained and operated at its own expense, all equipment and non-AAMCO software that may be used in conjunction with the System.

12. General Provisions.

12.1 ALLDATA. Franchisee agrees to execute the ALLDATA Service Agreement and Terms and Conditions of Use, which are incorporated herein and made a part hereof by reference.

12.2 Entire Agreement. This Agreement, including the incorporated AAMCO Franchise Agreement and ALLDATA Service Agreement and Terms and Conditions of Use, sets forth the entire agreement and understanding between the parties as to the subject matter hereof and supersedes all prior discussions between them.

12.3 Attorneys' Fees. If any action or proceeding is brought in connection with this agreement, the prevailing party shall be entitled to its attorneys' fees and other costs and expenses incurred in such action or proceeding, including any appeals or petitions therefor.


12.4 Assignment. Except in connection with an approved AAMCO Center resale, Franchisee may not assign its rights or delegate its duties hereunder without first securing written permission to do so from ATI, which permission may be withheld at the sole discretion of ATI. Any such attempted conveyance shall be void and shall constitute a default entitling ATI to terminate this Agreement. ATI may freely assign its rights without securing Franchisee's permission to do so.

12.5 ARBITRATION. All disputes, controversies or claims arising out of or relating to this Agreement shall be settled by binding arbitration in accordance with the commercial arbitration rules of the American Arbitration Association, or its successor. Arbitration shall be conducted in Philadelphia, Pennsylvania, unless otherwise agreed to by the parties in writing. A judgment upon the award may be entered in any Court having jurisdiction thereof.

12.6 Choice of Law and Forum. This Agreement has been entered into under the laws of the Commonwealth of Pennsylvania, the parties hereto agree that it shall be interpreted, and all disputes arising hereunder shall be resolved, in accordance with its laws, and consent to jurisdiction in its courts.

12.7 Waiver. Failure of either party hereto to enforce at any time any term of this Agreement shall not be a waiver of that party's right thereafter to enforce each and every term of this Agreement.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the respective dates indicated below.

Franchisee Signature: 

Printed Name: Kevin Bladow

Date: 8/8/08

Accepted by: AAMCO TRANSMISSIONS, INC

By: 

Marc Graham President

Effective Date