EX-10.8 20 file014.htm RESELLER AGREEMENT

EXHIBIT 10.8

Confidential treatment requested

Confidential portions indicated by "[\*\*\*]" have been omitted and filed

separately with the Securities and Exchange Commission.

[GRAPHIC OMITTED]

Lip LIPMAN U.S.A., INC.

RE-SELLER AGREEMENT

This Agreement is between (RE-SELLER) TASQ TECHNOLOGY, INC. with an office at

660 MENLO DR., ROCKLIN, CA 95767 and Lipman USA, a New York corporation, with

its principal piece of business at 60 Gordon Dr., Syosset, NY 11791 and is

effective on this 26 day of Nov 1999 (Effective Date).

PURPOSE:

Lipman manufactures and distributes products listed below in the quantity and

pricing schedule which RE-SELLER wants to purchase and re-sell. Lipman is

willing to sell these products to the RE-SELLER under the terms and conditions

of this agreement.

TERMS OF AGREEMENT:

This Agreement shall take effect on the above noted Effective Date. This

Agreement shall have a term of one (1) year, unless terminated at an earlier

date in accordance with the terms of this Agreement.

QUANTITY AND PRICE:

The RE-SELLER shall purchase the products at the pricing schedule listed

below. The below pricing schedule is based on the following deliveries:

TO BE SCHEDULED

--------------------------------------------------------------------------------------------------------------

Month 1 Month 2 Month 3 Month 4 Month 5 Month 6 Month 7

--------------------------------------------------------------------------------------------------------------

--------------------------------------------------------------------------------

Month 8 Month 9 Month 10 Month 11 Month 12

--------------------------------------------------------------------------------

------------------------------------------------------------------------------------------------

Model

Name

------------------------------------------------------------------------------------------------

Annual

Quantity

------------------------------------------------------------------------------------------------

Pricing

------------------------------------------------------------------------------------------------

These prices presume minimum annual commitment based on a blanket purchase order

submitted by the RE-SELLER.

DELIVERY, TITLE, AND RISK OF LOSS:

Lipman will ship products under this agreement by RE-SELLER to RE-SELLER or to a

location specified by RE-SELLER, FOB Syosset, New York. Lipman will arrange and

pay for shipping as designated by RE-SELLER and bill RE-SELLER for the cost.

Title and risk of loss and damage shall pass from Lipman to RE-SELLER upon

receipt at TASQ of products to the RE-SELLER. All purchase orders are subject to

a written approval by Lipman.

a. If a product is damage in transit, the RE-SELLER shall within

ninety-six (96) hours after receipt of the product give written notice of

the damage to Lipman, at its principal office, to substantiate a formal

claim, when and if presented.

b: If the quantity of products received by the RE-SELLER is less than the

quantity shown on the sales order, the RE-SELLER shall within 7 days after

receipt of the products give written notice of the shortage to Lipman to

substantiate a formal claim, when and if presented.

c. RE-SELLER shall be responsible for inspection of the products

immediately upon receipt. All such inspections shall be conclusive with

respect to the absence of defects and imperfections in the products.

Failure of RE-SELLER to notify Lipman, in writing, of any defects and

imperfections within fifteen (15) days of receipt of the products shall

be an immediate and automatic release of any and all claims of RE-SELLER.

Any product claimed by the RE-SELLER to be defective shall be returned to

Lipman only upon express written authorization by Lipman. The RE-SELLER

agrees to comply with Lipman's instructions with respect to disposition

of the product.

TAXES:

RE-SELLER shall be responsible and pay all federal, state, sales, use, excise or

similar taxes, duties, assessments or charges assessed or levied against the

products or these transactions.

TERMS OF PAYMENT:

Invoices may be sent by Lipmen no earlier than the date of shipment of products

listed in such invoice. Payment shall be made in full thirty (30) days from the

date of the invoice. If Lipman decides at its own discretion not to extend

credit terms to RE-SELLER, then RE-SELLER must pay upon delivery of product(s).

A service charge of 1.5% per month will be imposed on accounts past due unless

applicable laws require a lesser charge. If an account is turned over for

collection, RE-SELLER shall pay a reasonable attorney's fee or collection fee in

addition to any accrued interest.

WARRANTIES AND LIMITATION OF LIABILITY:

a. Lipman warrants all its products to be free from defects in material and

workmanship for a period of one year from the date of shipment. Lipman's

obligations under this warranty shall be limited to the repair or exchange

or giving credit for, at Lipman's option, any product which may thus prove

defective in accordance with evidence satisfactory to Lipman. Any repair or

replacement of products by Lipman shall not extend the original warranty

period.

b. This warranty shall not apply to any product which has been subject to

accident, negligence, unauthorized alteration or repair, abuse or misuse,

or unusual stress.

c. Lipman expressly disclaims all other warranties, including but not

limited to any warranties or merchantability or fitness for a particular

purpose.

d. LIPMAN SHALL IN NO EVENT BE LIABLE FOR ANY SPECIAL, INDIRECT,

INCIDENTAL, CONSEQUENTIAL OR PUNITIVE DAMAGES OR FOR LOSS, DAMAGE, OR

EXPENSE, INCLUDING LOSS OF USE, PROFITS, REVENUE, OR GOODWILL, DIRECTLY OR

INDIRECTLY ARISING FROM RESELLER'S USE OR INABILITY TO USE THE PRODUCTS, OR

FOR LOSS OR DESTRUCTION OF OTHER PROPERTY OR FROM ANY OTHER CAUSE, EVEN IF

LIPMAN HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGE.

e. Lipman's liability shall in no event exceed an amount equivalent to the

purchase price paid by RE-SELLER.

TRADEMARKS AND TRADENAMES:

RE-SELLER is authorized to use Lipman's trademarks and tradenames in connection

with RE-SELLER's sale, advertisement and promotion of Lipman's products and

may not place its own trademarks and tradenames on the products. RE-SELLER

shall be required to use Lipman's trademarks and tradenames and to acknowledge

to its customers that Lipman manufactures the products. RE-SELLER acknowledges

that Lipman's trademark and tradenames are the exclusive property of Lipman,

and nothing in this Agreement shall give the RE-SELLER any interest in the

names, except the right to use them in connection with the sale of the products.

Upon termination of this Agreement, for whatever reason, RE-SELLER shall

abandon at once all use of the names, except as necessary to allow the RE-SELLER

to sell off its remaining inventory.

FORCE MAJEURE:

In addition to any excuse provided by applicable law, Lipman shall be excused

from liability for non-delivery or delay in delivery arising from any event

beyond Lipmen's control, whether or not forseeable by either party, including

but not limited to, labor disturbance, war, acts of terrorism, fire,

governmental act or regulation, or any other causes beyond Lipman's control.

If delivery is delayed for more than ninety (90) days for any of the above

reasons, RE-SELLER shall have the option of cancelling the order by a written

notice to Lipman at its principle office.

DEFAULT AND TERMINATION:

If either party defaults in performance of any material obligation under this

Agreement and such default is not cured within thirty (30) days after receipt

of Written Notice from the non-defaulting party, the non-defaulting party

shall have the right to immediately terminate this Agreement by Notice to

the defaulting party. If any of RE-SELLER's payments to Lipman are not promptly

made when due, RE-SELLER shall be in default hereunder and all unpaid amounts

shall become immediately due and payable. Any default by RE-SELLER shall also

constitute a basis for cancellation or postponement of delivery by Lipman of

any order placed by RE-SELLER even if such order has already been approved by

Lipman.

PERSONAL GUARANTY:

[ ]

ASSIGNMENT:

Neither party may assign any of the rights, interests or duties under this

Agreement without the prior written consent of the other party, which

consent shall not be unreasonably withheld.

APPLICABLE LAW AND VENUE:

All claims and disputes arising under and in connection with this agreement

shall be construed and determined pursuant to the laws of the State of New

York, and the parties agree to submit to the jurisdiction of the Courts

of New York City, State of New York, which shall have the exclusive

jurisdiction with respect to any claim or dispute arising under and in

connection with this agreement. The parties expressly waive trial by jury.

In the event that any provision of this sale order is held invalid by

count of competant jurisdiction, the remaining provision shall nonetheless be

enforceable according to their terms.

CANCELLATION:

An order placed by RE-SELLER and accepted by Lipman may not thereafter be

cancelled by RE-SELLER without Lipman's written consent, and such consent may

require indemnification for any loss suffered by Lipman.

WAIVER:

The forbearance or failure of Lipman to enforce any of the terms and conditions

hereunder or to exercise any right accruing from any default of RE-SELLER shall

not affect or impair Lipman's rights in the event such default continues or in

the event of any subsequent default of RE-SELLER and such forbearance or

failure shall not constitute a waiver of other future defaults of RE-SELLER.

NOTICES:

Any notice shall be deemed to be delivered to the other party within three

business days if delivered by certified or registered mail, return receipt

requested, to the recipient's address as stated above or to such other address

as requested by either party by notice delivered in accordance with this

provision.

ENTIRE AGREEMENT:

This Agreement, together with any attached amendments, constitutes the complete

and final agreement between the parties with respect to the subject matter of

this Agreement. This Agreement supercedes all prior discussions and writing with

respect thereto. No agreement purporting to modify, add to, terminate, waive or

change any term or condition of this agreement shall be binding unless it is in

writing and signed by authorized representatives of both parties.

RE-SELLER warrants that the below signer can legally sign on behalf of the

RESELLER:

RESELLER LIPMAN USA, INC

BY: /s/ David Mitchell BY: /s/ Mony Zenou

------------------------------------- -----------------------------

Title: CFO Title: president

---------------------------------- --------------------------

Date: 1/15/00 Date: 1/17/00

---------------------------------- ---------------------------

Personal Guarantor:

Name: N/A

-------------------------------------

Signature:

--------------------------------------------

Address:

---------------------------------------------

Telephone:

--------------------------------

ADDENDUM NO. 4 TO

LIPMAN U.S.A. RESELLER AGREEMENT

This Addendum No. 4 ("Addendum") dated December 18, 2002 (the "Effective

Date") to amend the Lipman U.S.A., Inc. Reseller Agreemnt (the "Agreement")

entered into between Lipman U.S.A., Inc, a New York corporation, with offices at

50 Gordon Drive, Syosset, NY 11791), or its assignees ("Lipman") and TASQ

Technology, Inc. ("Distributor"). This Addendum is incorporated into and made

part of the Agreement, which shall continue as modified hereby. In the event of

any inconsistency between the provisions in this Addendum and the Agreement, the

provisions of this Addendum shall govern and be binding.

1. As of the Effective Date, this Addendum supercedes and replaces Addendum

No. 3 entered into by the parties as of January 10, 2001.

2. Commencing on January 1, 2003 (the "Renewal Date"), the Agreement shall

continue for a term of sixteen (16) months (the "Renewal Term").

3. Distributor [\*\*\*] purchase, over the course of the Renewal Term not less

than [\*\*\*] ([\*\*\*]) Lipman Nurit (registered symbol) point-of-sale transaction

processing terminals ("Terminals"), [\*\*\*].

4. The prices for the products to be sold during the Renewal Term hereunder

are set forth on Schedule A hereto; provided that Lipman may increase such

prices by the amounts specified in Section 6 under Schedule A, in the event

Distributor fails to meet the [\*\*\*] during the Renewal Term. Any such price

increases shall have retroactive effect back to the Renewal Date.

5. Within fifteen (15) days after the date hereof, Distributor shall provide

Lipman with a 90 day rolling forecast. Such forecasts shall be considered

binding firm monthly commitments, unless at least forty five (45) days prior to

a month, Reseller notifies Lipman of an updated order quantity; provided that

(a) such updated quantity may not vary from the quantity forecast for any model

of Lipman products for such month by more than twenty percent (20%) and (b) such

update may not result in the quantity of any Lipman product purchased hereunder

varying by more than ten percent (10%) for three consecutive months firm the

quantity forecast. Lipman may drop-ship from Israel directly to Distributor

provided that Distributor is not subject to any costs or handling requirements

above and beyond shipment FOB Syosset, New York. Payment terms on all undisputed

amounts are net 45 days from receipt of invoice and all freight charges and

applicable taxes will be added to each invoice.

6. Distributor customers will be entitled to participate in Lipman's Nurit VIP

incentive program. In addition, merchants purchasing Terminals from TASQ

("Covered Terminals") shall be eligible to purchase an extended warranty for

such Terminals from Lipman via Lipman's MyNurit.com website. Lipman will pay

Distributor a commission of [\*\*\*] ([\*\*\*]%) of the extended warranty price in

respect of all Covered Terminals for which warranties having a cost of at least

[\*\*\*] dollars ($[\*\*\*]) are purchased. Monitoring and commissions of all merchant

related service shall be done thorough Lipman MyNurit.com web site. This

provision shall survive termination of the Agreement or this Addendum.

7. Distributor shall provide an increased support level for, and promotion of,

the Lipman deployment business. For proposes of this provision, "increased

support level" means providing inventory management services to any customer

which requests it, including customer service, deployment, encryption, download,

etc., at Distributor's customary fees.

8. Lipman and Distributor shall co-market Terminals to larger clients, including

banks and hosts. The marketing programs shall be agreed upon by both the parties

and shall include a joint sales effort.

9. Distributor will consider adapting Lipman's platform for future OEM products

and Lipman will develop the hardware requirements.

10. Distributor may feature Terminals on all its advertisements for POS

products, unless those advertisements are paid for by Lipman's competitors.

11. Distributor is authorized to directly perform general repairs or maintenance

of Terminals during the warranty period and thereafter, without obtaining

Lipman's prior consent. Lipman will compensate Distributor for warranty repairs

made during the term of the Agreement by Distributor at \_\_\_\_ $[\*\*\*] per repair,

upon submission by Distributor of supporting documentation. However, Distributor

shall not allow any other party to repair or maintain Terminals unless

authorized by Lipman in writing. Any defective board under warranty that is

replaced by Distributor shall be returned to Lipman and, upon Lipman's

verification that the board is defective, Lipman shall ship a repaired or

replacement board to Distributor.

12. Distributor shall provide Lipman with sales reports of Lipman products in a

format that is consistent with monthly reports currently provided to Lipman.

Lipman reserves the right to request that such reports be certified by

Distributor's CFO.

13. In the event Lipman reduces the prices for Terminals referred to in Schedule

A hereof by more than [\*\*\*]%, Lipman shall credit Distributor with an amount

equal to the difference between any amounts actually paid by Distributor for

such Terminals less than the reduced new price for the equivalent number of such

Terminals. This credit shall only apply to Terminals belonging to the specific

line subject to the price reduction, which were delivered not more than sixty

(60) days prior to the date of the price reduction. The credit under this

section shall not include price changes for new models of the same line of

terminals.

14. Distributor shall have the right to purchase and distribute all products in

Lipman's POS product line, including new product releases, except for (i)

terminals which are custom made for a specific customer, sold directly to

merchants and differ from Lipman's standard product offering referenced in

Schedule A or (ii) products that are being developed under existing agreements.

In WITNESS WHEREOF, the Parties hereto have caused their duly authorized

officers to execute this Addendum as of the date set forth above.

LIPMAN USA, INC. TASQ TECHNOLOGY, INC.

BY: /S/ Mony Zenou BY: /s/ Ron Chaisson

------------------------------------- -----------------------------

Name: Mony Zenou Name: Ron Chaisson

---------------------------------- --------------------------

Title: President & CEO Title: President

---------------------------------- --------------------------

Date: 12/20/02 Date: 12/18/02

---------------------------------- ---------------------------

Schedule A

LIPMAN U.S.A., INC. PRICE LIST FOR TASQ TECHNOLOGY, INC.

(Effective January 1, 2003)

-------------------------------------------------------------------------------------------------------

[\*\*\*]K [\*\*\*]K [\*\*\*]K

Terminals Terminals Terminals

Delivered and Delivered and Delivered and

Paid for Paid for Paid for

in Term in Term in Term

-------------------------------------------------------------------------------------------------------

Terminals:

-------------------------------------------------------------------------------------------------------

NURIT 2080+ (current production version) [\*\*\*] [\*\*\*] [\*\*\*]

-------------------------------------------------------------------------------------------------------

NURIT 2085 (current production version) [\*\*\*] [\*\*\*] [\*\*\*]

-------------------------------------------------------------------------------------------------------

NURIT 2085+ (current production version) [\*\*\*] [\*\*\*] [\*\*\*]

-------------------------------------------------------------------------------------------------------

NURIT 3010 (current production version) [\*\*\*] [\*\*\*] [\*\*\*]

-------------------------------------------------------------------------------------------------------

NURIT 3020 LAND LINE with 14.4 modem and

2MB RAM, Built in PIN pad [\*\*\*] [\*\*\*] [\*\*\*]

-------------------------------------------------------------------------------------------------------

NURIT 3020 OEM with smart card reader [\*\*\*] [\*\*\*] [\*\*\*]

-------------------------------------------------------------------------------------------------------

[\*\*\*] [\*\*\*] [\*\*\*] [\*\*\*]

-------------------------------------------------------------------------------------------------------

NURIT 8000 Landline Wireless OEM [\*\*\*] [\*\*\*] [\*\*\*]

-------------------------------------------------------------------------------------------------------

Peripherals:

-------------------------------------------------------------------------------------------------------

Mouse modem for 8000 [\*\*\*] [\*\*\*] [\*\*\*]

-------------------------------------------------------------------------------------------------------

NUTRIT Signature Capture Pad (OEM) [\*\*\*] [\*\*\*] [\*\*\*]

-------------------------------------------------------------------------------------------------------

Parts:

-------------------------------------------------------------------------------------------------------

-------------------------------------------------------------------------------------------------------

-------------------------------------------------------------------------------------------------------

-------------------------------------------------------------------------------------------------------

-------------------------------------------------------------------------------------------------------

Other Materials:

-------------------------------------------------------------------------------------------------------

Product Brochures for Terminals (STANDARD) [\*\*\*] [\*\*\*] [\*\*\*]

-------------------------------------------------------------------------------------------------------

Product Brochures for Terminals (CUSTOMIZED

WITH DISTRIBUTOR LOGO)\*\* [\*\*\*] [\*\*\*] [\*\*\*]

-------------------------------------------------------------------------------------------------------

6. The prices above are based upon Distribor meeting its annual estimated

commitment level set forth in Section 3 of this Addendum. If Distributor

fails to meet the estimated commitment level specified therein, and achieves

one of the levels specified below, Lipman shall invoice Distributor within

sixty (60) days of the close of the Renewal Term, the per-unit price difference

for the actual level achieved, multiplied by the number of terminals shipped

during the aforementioned period.

Schedule A

Quantity Tiers of Actual Shipped Add to Actual Quantity Shipped

[\*\*\*] [\*\*\*]

[\*\*\*] [\*\*\*]

[\*\*\*] [\*\*\*]