



## **Boogey Lights® OEM Program and Agreement**

We're pleased to welcome you to our growing network of Boogey Lights® Original Equipment Manufacturers (OEM). Once your application has been approved, you will receive an OEM login for our online ordering system. Please read the following information as it details your relationship with Boogey Lights® and the administration of our OEM program. You will need to sign the agreement and return it to us along with the completed RESALE CERTIFICATE contained in this document.

### Boogey Lights® OEM Program

Boogey Lights® manufactures high performance LED accent lighting solutions. While we offer some functional lighting solutions, we are best known for our accent lighting solutions. Our OEM program is intended for manufacturers who wish to incorporate genuine Boogey Lights® LED lighting solutions in their own product builds. Our OEM program allows manufacturers to purchase directly from Boogey Lights® at a discount and to use the Boogey Lights® name in their product branding/marketing if desired. Customers of authorized OEMs will receive Boogey Lights® warranty support for all OEM product builds provided Boogey Lights® installation standards are met for the products purchased. Authorized OEMs are different than Boogey Lights® Dealers however in that OEMs are not permitted to market or resell Boogey Lights® products as stand-alone products to the public. The intention and purpose of the OEM program is for Boogey Lights® products to be incorporated into the product builds of the OEM. Some of the most common examples include food trucks, food trailers, travel trailers, cargo trailers, boat trailers and the like.

### Minimum Initial Order / Annual Commitment

- There is no minimum first order amount and no annual commitment. The OEM discount is 30% off kits and components and 20% off supplies. We offer higher discount levels for those OEMs who wish to make a larger initial purchase with a larger annual purchase commitment.
- We provide free ground shipping to locations in the continental US with OEM orders of \$250 or more.
- Approved OEMs whose account is inactive for 365 days may lose authorized OEM status and the account set to retail pricing. Inactive OEM accounts may request to have their OEM account reactivated by contacting our program manager.

### Ordering Instructions

- OEMs are encouraged to Boogey Lights® online system to place orders. While we will accept phone orders, the online ordering system is the most efficient. If placing an OEM order over the phone, OEM accepts responsibility for any inaccuracies with said order. All Boogey Lights® orders are confirmed with an order confirmation email. It is the OEM's responsibility to review that order confirmation email carefully for accuracy. If for any reason the order isn't correct, OEM must notify Boogey Lights® immediately to correct the order. If the order has already been built and/or shipped, OEM agrees to pay for return shipping charges and any restocking fees that may apply in accordance with Boogey Lights® return policy.
- Once OEM application has been approved you will be provided with a login that will automatically apply your OEM discount. When logged into the online system you will see OEM pricing. When you logout you will see retail pricing. OEMs are not charged sales tax but have to be logged in for the system to recognize their account as tax exempt.
- With the online ordering system you can pay via major credit card, Paypal, Venmo, Klarna or use a purchase order with approved credit. We will also accept bank wires.
- Our website is updated daily with anticipated shipping time frames for all products.

### Warranty Registration

- OEMs who install Boogey Lights® products into their builds are required to provide the end-user with a copy of the Boogey Lights® warranty and direct them to the Boogey Lights® website to register their purchase (or, do the registration on behalf of the customer).
- To validate the Boogey Lights® warranty, customers are required to provide a copy of the original bill of sale for any Boogey Lights® products included in an OEM build. The warranty is null and void without this bill of sale.

### OEM Customer Warranty Support

- Boogey Lights® will provide warranty support to OEM customers in accordance with Boogey Lights® standard warranty terms found on the Boogey Lights® website.
- To obtain Boogey Lights® warranty support, OEM customers will need to provide Boogey Lights® with proof of sale which must include a description of the Boogey Lights® product and bill of sale.
- OEM understands that in order to qualify for Boogey Lights® warranty support, the Boogey Lights® product installed by OEM has to be installed in accordance with Boogey Lights® installation documentation. Boogey Lights® warranty is void for products that are not installed in accordance the documentation.

### Reselling Boogey Lights® Stand-Alone Products & Kits

- OEMs may not offer Boogey Lights® stand-alone products for sale to consumers directly. Boogey Lights® products must be incorporated into the OEMs own product for resale.

## Returns

- OEM purchases may be returned in accordance with Boogey Lights® standard return policy found on the Boogey Lights® website. Returned merchandise must be accompanied by Return Authorization. Authorized returns may be subject to a restocking charge. See return policy.

## **OEM Program Terms & Agreement**

The undersigned (“OEM”) represents it is a manufacturer offering a product for sale to end-users in which OEM will be using Boogey Lights® LED lighting products in their product build. In recognition of OEM’s responsibilities to its customers and its commitment to maintaining the superior quality image of the Boogey Lights® product line, OEM makes the following covenants, representations, warranties and agreements set forth below:

1. Non-Exclusive Appointment. OEM is hereby appointed as a non-exclusive OEM purchaser of Boogey Lights® products solely in accordance with the terms and conditions of this Agreement. Boogey may, in its sole discretion, sell Boogey Lights® Products to any other person, including resellers, distributors, retailers, customers, and end-user customers. OEM agrees to conform to all quality standards established by Boogey.
2. Products Acquired for OEM Products. OEM will acquire Boogey Lights® products solely for installation and/or inclusion in their own OEM brand of products. OEM is not acquiring Boogey Lights® stand alone LED lighting products for sale to any other entity or to any person who OEM knows or has reason to believe intends to resell such Boogey Lights® products.
3. Product Information. OEM agrees it will furnish to each customer that purchases OEM’s products which includes Boogey Lights® products all product and safety information provided with said Boogey Lights® products; and will not make any claim about the features or safety of the Boogey Lights® Products not expressly set forth in the information furnished with such products.
4. Sales & Installation Personnel. OEM agrees to hire, contract or otherwise use capable sales and installation personnel who are both knowledgeable about Boogey Lights® Products and able to assist customers with selecting the proper accessories for their intended application. The OEM agrees it will advise its personnel to be informed of Boogey Lights® Product installation and fitment according to installation instructions and fitment information as described on Boogey Lights® website or supplied installation instructions to ensure all personnel are trained and qualified to install and/or provide product and/or installation advice about Boogey Lights® Products.
5. Authority to Perform. OEM shall, at its own expense, obtain and maintain required certifications, credentials, licenses and permits necessary to conduct business in accordance with this Agreement.
6. Title and Risk of Loss. Title and risk of loss with respect to the Boogey Lights® Products passes to OEM upon shipment from Boogey to OEM.
7. Labeling. OEM acknowledges that the labeling on Boogey Lights® Products is important to Boogey both as a matter of law and to preserve its proprietary rights in its designs and products.

Accordingly, OEM will not alter or remove any labeling or stickers, and will not replace the Boogey Lights® name and/or logos.

8. Boogey Lights® Trademarks. Subject to the terms and conditions of this Agreement, Boogey grants to OEM a non-exclusive, non-transferable and non-sublicensable license to use Boogey trademarks. OEM understands the value of Boogey's trademarks and agrees that it will use such trademarks solely in and for the responsible advertising and sale of Boogey Lights® Products. OEM's advertising will appropriately depict all Boogey trademarks, images and product descriptions in the formats that are provided by Boogey Lights. OEM further understands and acknowledges receiving a copy of the Minimum Advertised Price and Online Marketplace policies and agrees to abide by said terms. On termination of this Agreement or upon Boogey's request, OEM shall promptly discontinue the use of any Boogey trademark and OEM's rights under this Section shall cease immediately. Other than the express licenses granted by this Section, Boogey grants no right or license to OEM to the intellectual property rights of Boogey.
9. Confidential Information. All non-public, confidential or proprietary information of Boogey, including but not limited to specifications, designs, customer lists or pricing, disclosed to OEM in connection with this Agreement is confidential, solely for the use of performing this Agreement and may not be disclosed or copied unless authorized by Boogey Lights® in writing. Upon Boogey's request, OEM shall promptly return all documents and other materials received from Boogey. Boogey shall be entitled to injunctive relief for any violation of this Section.
10. Advertising Standards. OEM's advertising must be consistent with the high quality of Boogey Lights® Products and must provide complete and accurate descriptions of Boogey Lights® Products. OEM's advertising must use photographs or artwork of Boogey Lights® Products that are either supplied by Boogey or obtained from Boogey Lights® website. All other photographs or artwork must be approved by Boogey in writing prior to use. OEM's advertising may not contain any false, misleading, or inappropriate statements, photographs, artwork, descriptions or other information about Boogey Lights® Products. OEM's advertising must clearly and conspicuously identify the name, address and contact information for OEM. OEM shall market, advertise, promote and sell the Boogey Lights® Products in a manner that reflects favorably at all times on the Boogey Lights® Products and the good name, goodwill and reputation of Boogey and consistent with good business practice, using its best efforts to maximize the sales volume of the Boogey Lights® Products.
11. Relationship. The OEM operates as an independent contractor and is not in partnership with Boogey Lights®. No right has been given to the OEM to enter into any agreement or commitment in the name or behalf of Boogey Lights® or to bind Boogey Lights® in any respect whatsoever. Neither shall anything contained herein or done in pursuance hereof, constitute the parties as legal representatives of the other for any purpose whatsoever. There exists no employer-employee relationship between Boogey Lights® and the OEM. Hence the OEM, its agents and employees shall under no circumstances be considered as employees, agents, and representatives, of Boogey Lights®.
12. Termination. This Agreement is non-assignable, non-transferable and can be terminated by either party with thirty (30) days from date of receipt of written notice to the other party. Boogey may immediately and unilaterally terminate this Agreement and resulting business relationship if the OEM violates any of the terms and conditions of this Agreement, changes the

ownership or management of its business, engages in any unfair or unethical trade practices, or commits any fraudulent act. Upon termination of this Agreement, the OEM ceases immediately to represent, display, advertise, or promote any association with Boogey or its products.

13. Term & Renewal. This Agreement and the terms herein shall be valid for the current calendar year in which the Agreement is signed. From that point forward this Agreement shall be automatically renewed for a period of one (1) year at the end of the term by mutual consent of both parties on an annual basis under the same terms and conditions set forth in this Agreement unless otherwise amended and agreed upon by either party in writing, providing ten (10) days' notice. The only exception to automatic renewal is if OEM failed to meet the minimum purchase requirements set forth in this agreement. In such instances this agreement may not be renewed without notice to the OEM at the sole discretion of Boogey.
14. DISCLAIMER. EXCEPT FOR THE WARRANTIES EXPRESSLY SET FORTH IN THIS AGREEMENT, NEITHER BOOGHEY NOR ANY PERSON ON BOOGHEY'S BEHALF HAS MADE OR MAKES FOR OEM'S BENEFIT ANY EXPRESS OR IMPLIED REPRESENTATION OR WARRANTY WHATSOEVER, INCLUDING ANY WARRANTIES OF: (i) MERCHANTABILITY; (ii) FITNESS FOR A PARTICULAR PURPOSE; (iii) TITLE; OR (iv) NON-INFRINGEMENT; WHETHER ARISING BY LAW, COURSE OF DEALING, COURSE OF PERFORMANCE, USAGE OF TRADE OR OTHERWISE, ALL OF WHICH ARE EXPRESSLY DISCLAIMED. OEM ACKNOWLEDGES THAT IT HAS NOT RELIED ON ANY REPRESENTATION OR WARRANTY MADE BY BOOGHEY, OR ANY OTHER PERSON ON BOOGHEY'S BEHALF.
15. Indemnification. Subject to the terms and conditions of this Agreement, OEM shall indemnify, hold harmless, and defend Boogey and its officers, directors, shareholders, employees, agents, affiliates, successors and permitted assigns (collectively, "Indemnified Party") against any and all losses, damages, liabilities, deficiencies, claims, actions, judgments, settlements, interest, awards, penalties, fines, costs, or expenses of whatever kind, including attorneys' fees, relating to any claim of a third party or Boogey arising out of or occurring in connection with OEM's acts or omissions relating to this Agreement, any failure by OEM to comply with any applicable laws, or allegations that OEM breached its agreement with a third party as a result of or in connection with this Agreement.
16. LIMITATION OF LIABILITY. IN NO EVENT: (a) IS BOOGHEY OR ANY BOOGHEY REPRESENTATIVE LIABLE FOR CONSEQUENTIAL, INDIRECT, INCIDENTAL, SPECIAL, EXEMPLARY, PUNITIVE OR ENHANCED DAMAGES, LOST PROFITS OR REVENUES OR DIMINUTION IN VALUE, ARISING OUT OF OR RELATING TO ANY BREACH OF THIS AGREEMENT, REGARDLESS OF WHETHER THE DAMAGES WERE FORESEEABLE; WHETHER OR NOT BOOGHEY WAS ADVISED OF THE POSSIBILITY OF THE DAMAGES; AND THE LEGAL OR EQUITABLE THEORY (CONTRACT, TORT OR OTHERWISE) ON WHICH THE CLAIM IS BASED; OR (b) SHALL BOOGHEY'S LIABILITY ARISING OUT OF OR RELATED TO THIS AGREEMENT, WHETHER ARISING OUT OF OR RELATED TO BREACH OF CONTRACT, TORT (INCLUDING NEGLIGENCE) OR OTHERWISE, EXCEED THE TOTAL AMOUNT OF THE APPLICABLE ORDER OF BOOGHEY LIGHTS® PRODUCTS PURSUANT TO WHICH SUCH CLAIM IS BASED.
17. Amendment. Terms, pricing, product offerings and services may be amended without prior notice to the OEM at the discretion of Boogey due to production costs, market conditions, or other industry related influences. Any other amendment, alteration or modification of this Agreement shall be made known to the OEM within ten (10) business days and will remain valid

and binding unless and until the OEM rejects or terminates the amended Agreement in writing.

18. Entire Agreement. This Agreement, including and together with any related exhibits, schedules, attachments and appendices, constitutes the sole and entire agreement of the parties with respect to the subject matter contained herein, and supersedes all prior and contemporaneous understandings, agreements, representations and warranties, both written and oral, regarding such subject matter. This Agreement is binding on and inures to the benefit of the parties to this Agreement and their respective permitted successors and permitted assigns.
19. Assignment. OEM shall not assign, transfer, delegate or subcontract any of its rights or obligations under this Agreement without the prior written consent of Boogey. Any purported assignment or delegation in violation of this Section shall be null and void. No assignment or delegation shall relieve OEM of any of its obligations hereunder.
20. No Third-Party Beneficiaries. This Agreement benefits solely the parties to this Agreement and their respective permitted successors and assigns and nothing in this Agreement, express or implied, confers on any other person (including any end-user) any legal or equitable right, benefit or remedy of any nature whatsoever under or by reason of this Agreement.
21. Governing Law, Jurisdiction and Venue. This Agreement shall be governed by and construed in accordance with the laws of the Commonwealth of Kentucky without giving effect to any choice or conflict of law provision or rule (whether of the Commonwealth of Kentucky or any other jurisdiction). Jurisdiction and venue for any suit, action or proceeding arising out of or based upon this Agreement or the transactions contemplated by this Agreement shall be in Boone County, and each party irrevocably submits to the exclusive jurisdiction of such court in any such suit, action or proceeding.
22. Counterparts and Email Signatures. This Agreement and any and all other documents or instruments referred to herein may be executed with counterparts signatures all of which taken together shall constitute an original without the necessity of all parties signing each documents. This Agreement may also be executed by signatures to email transmittal documents in lieu of original or machine generated or copied documents.
23. Force Majeure. No party shall be liable or responsible to the other party, nor be deemed to have defaulted under or breached this Agreement, for any failure or delay in fulfilling or performing any term of this Agreement (except for any obligations to make payments to the other party under this Agreement), when and to the extent the failure or delay is caused by or results from acts beyond the impacted party's control (which events may include natural disasters, embargoes, explosions, riots, wars or acts of invasion or terrorism, requirements of law, national or regional emergency, strikes, labor stoppages or slowdowns) (each, a "Force Majeure Event"). A party shall give the other party prompt written notice of any event or circumstance that is reasonably likely to result in a Force Majeure Event, and the anticipated duration of such Force Majeure Event. An affected party shall use all diligent efforts to end the Force Majeure Event, ensure that the effects of any Force Majeure Event are minimized and resume full performance under this Agreement.

## **BOOGEY LIGHTS® OEM AGREEMENT SIGNATURE PAGE**

### **ON BEHALF OF OEM**

I hereby agree to the Boogey Lights® OEM program terms and conditions as detailed herein.

OEM Manufacturer Company Name: \_\_\_\_\_

Officer/Authorized Agent Name: \_\_\_\_\_

Officer/Authorize Agent Signature: \_\_\_\_\_

Title: \_\_\_\_\_

Date Signed: \_\_\_\_\_

### **ON BEHALF OF BOOGEY INC. DBA BOOGEY LIGHTS®**

OEM application is accepted and APPROVED by Boogey Lights® this date.

By: \_\_\_\_\_

Brad Butler Jr, / President/CEO Boogey Inc.

Date: \_\_\_\_\_

## RESALE CERTIFICATE VERIFICATION

I HEREBY CERTIFY that the company listed below is engaged in the business of:

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And that the tangible personal property described herein which said company shall purchase from BOOGEY LIGHTS® as set forth in the BOOGEY LIGHTS® OEM AGREEMENT will be resold by said company in the form of tangible personal property. In the event the state or jurisdiction in which said company is operating requires the reporting and/or withholding of sales tax of said resale transactions, said company is solely responsible for doing so.

Company Name: \_\_\_\_\_

Address: \_\_\_\_\_

City, State, Zip: \_\_\_\_\_

Signature: \_\_\_\_\_ Date: \_\_\_\_\_

Printed Name: \_\_\_\_\_

Title : \_\_\_\_\_