

TRADEMARK LICENSING AGREEMENT

(Preamble: Who are the parties and what brings them together? Parties must be properly identified by their legal names and addresses. Additional information may be what the parties have and are trying to get out of this agreement.)

This Trademark Licensing Agreement, made this _____ day of _____, 20__, between _____ of _____ (address) (hereinafter "Licensor") and _____ of _____ (hereinafter "Licensee"), is as follows:

1. Definitions

(Determine which terms in the Agreement need to be defined, with as much detail as necessary, so that there is a "meeting of the minds". Any term not defined may be subject to litigation with its dictionary meaning being applicable.)

a) "Licensed Trademark" means

b) "Licensed Product" means

c) "License Year" means

d) "Territory" means (geographic area. Limited areas within the Territory? Limited trade channels? Any other licensees with rights to sell in the territory – if so, they should be acknowledged and rights may need to be coordinated).

....

(Determine which clauses are appropriate for your Agreement. Tailor them to your specific situation. Clauses need to be consistent with each other.)

2. (Sample Grant Clauses)

Licensor hereby grants to Licensee, and Licensee accepts a royalty free, non-assignable and non-transferable and non-exclusive right and license to use _____ in the Territory solely in connection with _____. The license granted herein does not include any right for Licensee to grant sublicenses.

Subject to the terms and conditions of this License, Licensor hereby grants to Licensee, and Licensee hereby accepts, a non-exclusive license to use the _____ trademark in connection with _____, under trademark application Serial No. _____, and any United States registration resulting therefrom.

Licensor hereby grants Licensee the non-exclusive, non-assignable, non-sublicensable, non-indemnified right to use the licensed marks solely in connection with the manufacture, sale and distribution of the licensed products throughout the licensed territory through established retail channels. No License is granted hereunder to Licensee (or any affiliated business) for mail order sales, premium or promotional sales, or any direct sales other than through normal retail channels. Licensee may not, either directly or indirectly, distribute or sell the Licensed Products to any flea market vendors or to any person who intends to or is likely to resell them to flea market vendors. Nor right, express or implied, is granted to Licensee to allow anyone other than Licensee to manufacture or otherwise produce Licensed Products, or subcontract the manufacture or printing of the Licensed Products to third parties without the prior express written approval of Licensor.

Subject to the terms of this Agreement, Licensor hereby grants Licensee a non-exclusive license to use the Licensed Trademarks on the Licensed Products in the Territory. No license, express or implied, is granted to Licensee to export Licensed Products or to otherwise use the Licensed Trademarks outside the Territory, and any such right is expressly withheld from this Agreement. No right, express or implied, is granted to Licensee to sub-license or otherwise transfer the right to use the Licensed Trademarks to their parties, and any such right is expressly withheld from this Agreement. No license, express or implied, is granted to Licensee to allow anyone other than Licensee to manufacture or otherwise produce Licensed Products. All Licensed Products must be manufactured or otherwise produced directly by Licensee. Licensor retains all rights to Licensed Trademarks except as otherwise granted herein.

Licensor hereby grants to Licensee an exclusive (except as to Licensor) license, with the right to sublicense, subject to the reservations contained in Section _____, and all of the terms contained in this Agreement, to use the Licensed Marks listed in Schedule __ hereto, during the License Period, in the Territory as defined in Section _____, in connection with the manufacture, sale, distribution, advertising, and promotion of Licensed Products in the manner provided by this Agreement. The License excludes the right to sell, distribute, advertise and promote Licensed Products outside the Territory via E-commerce. Licensee shall have the right to import into the Territory Licensed Products manufactured outside the Territory, provided, however, that Licensee takes reasonable precautions to prevent all labels, tags, packaging material, business supplies and advertising and promotional materials and all other forms of identification bearing one or more of the Licensed Marks from being used otherwise than in connection with the distribution and sale of Licensed Products within the Territory. Licensee shall neither export Licensed Products from the Territory, nor sell Licensed Products to any entity which it knows or has any reason to believe intends to export Licensed Products from the Territory.

3. (Sample Design Clauses)

(What is the procedure for designing and obtaining approval for the product? How will responsibility be divided? Dedicated designers? Licensee's in-house staff? Etc.)

Licensee reserves the right, in its sole and absolute discretion, to design the Licensed Products, as well as all labels, hang-tags, and packaging associated therewith. In furtherance of

this right, Licensee reserves the right to, from time to time, modify and/or add styles to the Licensed Products upon reasonable advance notice.

Licensee acknowledges that Licensor shall have the right of approval of the appearance, quality, design of all materials which Licensee applies the Licensed Trademarks. The Licensee further agrees and undertakes that as soon as reasonably possible, following the signing of this Agreement the Licensee shall forward to Licensor for approval rough visual designs of all packaging, advertising, publicity material or the like of whatsoever kind on which Licensee intends to use the Licensed Trademarks.

4. (Sample Manufacturing Clause)

All manufacturers, wherever located, that Licensee desires to use in connection with the manufacture of products under this Agreement, are subject to the prior written approval of Licensor. In order to maintain Licensor's high standard of quality control and to insure that appropriate measures are taken against counterfeiting, Licensee shall provide Licensor with the following information: (i) name and address of each proposed manufacturer; (ii) type of Products to be manufactured; (iii) quantity of Products to be manufactured; and (iv) any other relevant information so requested by Licensor. Licensee shall obtain the signature of an authorized representative from each approved manufacturer used by Licensee on an agreement, as agreed to by Licensor and Licensee. Licensee shall not knowingly engage any manufacturer that has breached a similar agreement with Licensor or, to Licensee's knowledge, any third party. Licensee acknowledges that it shall remain primarily liable and completely obligated under all of the provisions of this Agreement with respect to such manufacturing arrangements. Licensee will require all of its manufacturers (by means of agreements therewith) to comply with all of the provisions of this Agreement relating to quality standards, confidentiality and trademark protection, and with all customs, quota or other laws, rules and regulations, and with all workers' rights (including child labor), environmental safety, and similar or related laws, rules and regulations. No manufacturer will have any right to sell Licensed Products to any person, firm, corporation or entity other than Licensee or to ship Licensed Products to any location other than to Licensee's facilities or Licensee's customers within the Territory. Licensee will monitor all manufacturers hereunder to ensure compliance herewith. Licensee will be fully responsible and liable to Licensor for the actions of its manufacturers, and any violation by any manufacturer of the terms of this Agreement will be deemed a default by Licensee hereunder, and further, in the event of any breach or default by a manufacturer, Licensee will promptly take all steps to cease operations with any such manufacturer, and all reasonable commercial steps to ameliorate and mitigate the effect of any breach (including repurchase of unlawfully shipped goods, for example).

5. (Sample Royalty Clauses)

(May be different percentages for different sales. Venues [*e.g.*, 5% on sales to department stores; 3% on sale to discount stores]. Products [*e.g.*, 8% for clothing; 5% for toys]).

Licensee shall pay Licensor an initial licensing fee of _____ U.S. Dollars (US \$ _____) upon execution of this Agreement, which fee shall be non-refundable and shall be credited against the Guaranteed Minimum Royalties payable for License

Year 1 under this Agreement. In addition, in each License Year during the Term, Licensee shall pay to Licensor as a continuing royalty an amount equal to _____ percent (___%) of the Net Price of Licensed Products sold or otherwise disposed of (excluding sales or other dispositions to Licensor under this Agreement) during such Contract Year. Such royalties shall accrue when the Licensed Products are sold, shipped, distributed, billed or paid for, whichever occurs earliest. Licensee shall provide Licensor on a quarterly basis for each License Year, a detailed written accounting of Licensed Products sold or otherwise disposed of during such quarter in each country included in the Territory, together with the amount of royalties due for such quarter to Licensor hereunder. For the second and each subsequent quarter (or partial quarter) included in the Term, such Accounting shall contain not only the required information for the most recently concluded quarter (or partial quarter), but also a "recap" covering the entire year to date. The Accounting shall be due not later than thirty (30) days after the end of each such quarter and shall be accompanied by payment to Licensor of the amount due for such quarter. Licensee shall pay Licensor Guaranteed Minimum Royalties on Licensed Products as set forth above, but in no event shall the amount of such royalties actually paid to Licensor during any License Year be less than the Guaranteed Minimum Royalty amount agreed to by the parties under this Agreement for such License Year. The Guaranteed Minimum Royalties for each License Year included in the Term is set forth in Schedule ____ hereto. Such Guaranteed Minimum Royalties payments shall be credited against actual royalty payments due for such License Year as set forth above. Actual royalties paid in excess of Guaranteed Minimum Royalties shall not accrue toward Guaranteed Minimum Royalties which pertain to any subsequent License Year. Annual Guaranteed Minimum Royalties under this section shall be payable in full for each License Year included in the Term and shall not be prorated or refunded with respect to any partial License Year remaining at the time of expiration or termination of this Agreement.

Licensee agrees to pay to Licensor a Minimum Annual Royalty as designated on Schedule ____ hereto to be paid on the signing hereof. For subsequent License Years, the Minimum as designated on Schedule ____ attached hereto, shall be paid on the 1st day of the License Year. In no event shall any part of any Minimum Royalty Payment be refundable to Licensee.

All Licensed Products sold by Licensee require the payment of royalties by Licensee to Licensor as set forth in Section _____. For each year during the Term of this Agreement, Licensee shall pay to Licensor the Guaranteed Minimum Royalty set forth in Schedule ____ hereto, as follows: Licensee will pay one-half (1/2) of the Guaranteed Minimum Royalty for the first license year upon execution of this Agreement; the remaining one-half (1/2) of the Guaranteed Minimum Royalty for the first License Year shall be due and paid by _____. Thereafter, Guaranteed Minimum Royalty payments for subsequent years shall be paid as follows: one-half (1/2) of the annual Guaranteed Minimum Royalty by _____; and the remaining one-half (1/2) of the annual Guaranteed Minimum Royalty by the last day of the sixth month of each License Year. In addition to the Guaranteed Minimum Royalty payment set forth in Schedule _____, for any License Year in which Licensee's wholesale gross sales are greater than \$_____, Licensee shall pay Licensor percentage royalties in the amount of _____ percent (___%) of the Gross Sales greater than \$_____ for that License Year.

6. (Sample Records Clauses)

Record Retention. Licensee agrees to keep or cause to be kept accurate financial records and books in accordance with good accounting practices, showing the information required to permit calculation of Gross Sales, Net Sales, and Royalties. These books and records shall be preserved for at least three (3) years from the date of the royalty payments to which they pertain.

Record Retention. Licensee shall keep complete and accurate records in sufficient detail to permit Licensor to confirm the accuracy of calculations of all payments hereunder. Such records shall be retained by Licensee for no less than a four (4) year period following the year in which any such payments were made hereunder.

Reports. On or before the 45th day of each calendar quarter during the Term, Licensee shall prepare and send to Licensor royalty reports for the previous quarter. Said reports shall indicate Gross Sales and Net Sales per country under this Agreement for the previous quarter, per Licensed Product, and shall show the amount of royalty due with sufficient information to enable confirmation by Licensor, and Licensee shall include payment of the amount of royalties shown to be due with such report.

Royalty Audit. Upon ten (10) days written notice and not more than once per calendar year, Licensee agrees to permit one or more Certified Public Accountant(s) appointed by Licensor (except one to which Licensee has a reasonable objection), to enter upon the premises of Licensee during all usual business hours of Licensee at any time following the 60th day of any calendar quarter in order to inspect files and records pertaining to Sales and Royalties under this Agreement, and to make on Licensee's premises and retain copies of any and all parts of the records and accounts kept by Licensee pursuant to this Section, including without limitation, invoices which are relevant to any report required to be rendered by Licensee.

Said copies shall be provided to the CPA at no expense to Licensor. Said CPA shall keep all information received from Licensee confidential; however, it will provide Licensor with the Gross and Net Sales per country, for each type of License Product, specifying the sales and the application of the appropriate royalty rate so that royalties due Licensor may be calculated. Any and all copies of such records which have been removed from Licensee's premises, shall be returned to Licensee upon completion of the audit. Licensor agrees to furnish Licensee with copies of all audits prepared pursuant to the provision of this Section. The information obtained by the CPA shall be retained for a period of three (3) years from the date of the royalty payment to which it relates, or two (2) years from the date of receipt by the CPA, whichever is longer.

In the event any audit results in a change upward in any royalty payment of seven percent (7%) or more for any annual period, Licensee shall pay the costs of such audit for such annual period, otherwise such audit shall be at Licensor's expense.

Royalty Audit. On reasonable notice and during regular business hours, Licensor or its authorized representative shall each have the right to inspect and copy the books, accounts, records and other relevant documentation of Licensee or of any Affiliate and the sublicensees of Licensee and any Affiliate insofar as they relate to the production, marketing and sale of the

Licensed Products, in order to ascertain and verify the amount of royalties and other payments due to Licensor hereunder, and the accuracy of the information provided to Licensor in the aforementioned reports. Licensor shall also have the right, not more than once each calendar year, to audit Licensee's books and financial records for the purpose of verifying full payment by Licensee of its royalty obligations hereunder. Such audits shall be conducted during normal business hours and shall not unreasonably interfere with Licensee's conduct of its business. Each such audit shall be at Licensor's expense, unless a particular audit reveals an underpayment of ten percent (10%) or more of the amount that should have been paid to Licensor for the period audited, in which case Licensee shall bear the expense of such audit. In the event of any underpayment of royalties, Licensee shall promptly remit to Licensor all amounts due plus interest pursuant to Section (Late Payment Provision).

Royalty Audit. Once per calendar year, Licensor shall have the option to engage at its own expense, an independent certified public accountant reasonably acceptable to Licensee, to examine, confidentially, such Licensee records as may be necessary to determine, with respect to any calendar year, the correctness of any payment of Royalties hereunder. The report of such accountant shall be limited to a certificate verifying any report made or payment submitted by Licensee during such period but may include, in the event the accountant shall be unable to verify the correctness of any such payment, information relating to why such payment is unverifiable. All information contained in any such certificate shall be deemed to be Licensee's Confidential Information hereunder. If any audit performed under this Section shall indicate that any payment due hereunder was underpaid, Licensee shall pay to Licensor the amount of any underpayment promptly. If any audit performed under this Section shall indicate that any payment hereunder was in error to Licensor's detriment by more than five percent (5%), Licensee shall pay the cost of the audit.

7. (Sample Quality Control Clauses)

Licensor has reviewed the Goods heretofore sold by Licensee and agrees that they meet Licensor's quality control standards. Such approval shall continue so long as the Goods sold by Licensee continue to be of substantially the same quality as those Goods heretofore sold by Licensee, or are of at least substantially the same quality as the Goods now or heretofore sold by Licensor. Licensor may, not more frequently than once each year during the Term, request specimens or facsimiles of the Goods sold by Licensee under the Licensed Trademark for the purpose of reviewing the quality thereof. In the event that there is a substantial change in the quality of the Goods sold by Licensee under the licensed trademark, Licensor and Licensee will confer in an effort to resolve such dispute, and until such time as the dispute is resolved, Licensee agrees to stop manufacturing, distributing and/or selling Goods under the Licensed Trademark.

Licensee agrees that the quality of the Licensed Products will remain consistent with the high quality products currently offered by Licensee and will not adversely reflect upon or damage the goodwill or reputation of the Licensed Mark or Licensor. All Licensed Products shall be rendered and sold in complete compliance with all applicable standards of Federal, State and local laws and regulations. Licensor shall have a right of sufficient access at reasonable times to Licensee's facilities to permit Licensor or its representative to ensure that the quality of

the Licensed Products is in accordance with these standards. Licensee further agrees that upon request, it will make available to Licensor or its designee, for legal review, comment and approval, representative samples of Licensed Products as well as advertising and promotional material, packaging material, and other materials for public dissemination, which display the Licensed Mark. Licensee agrees that, if required by Licensor, it will make appropriate changes to such materials in order to insure proper protection of the Licensed Mark.

Licensee acknowledges that the maintenance of the high quality of the Licensed Products, and the control by Licensor over the nature, quality and manner of distribution of all the Licensed Products, are material conditions of this Agreement. Prior to the distribution or sale of any Licensed Product, Licensee shall, at its own cost and expense, submit to Licensor for approval all final designs, specifications and fabrications and color details for the Licensed Products, and all tags, labels and packaging to be used in association therewith (the "Packaging"). Prior to any sale or distribution to the public, Licensee shall, at its own cost and expense, submit to Licensor for approval a production sample of each Licensed Product and all final Packaging. At least once per year during the Term of this Agreement, Licensee shall, at its own cost and expense, submit to Licensor for approval, a sample of each Licensed Product and all Packaging. Licensee shall, at its own cost and expense, submit to Licensor for approval copies of all advertisements or promotional materials containing the Licensed Marks prior to any use thereof. All matters requiring the approval of Licensor or the exercise of its discretion shall be the sole subjective discretion of Licensor. A submission for approval shall be deemed disapproved unless Licensor specifically provides written approval.

Licensee shall maintain the distinctiveness of the Licensed Mark, the image of the brand, and the image and high quality of the goods and merchandise bearing the Licensed Mark presently manufactured and sold by Licensor and its other licensees. Licensee agrees that all products bearing the Licensed Mark manufactured or sold by it will be of high quality as to workmanship, fit, design and materials, and shall be at least equal in quality, workmanship, fit, design and materials to the samples submitted by the Licensee and approved by Licensor as set forth herein. Before Licensee shall sell or distribute any product bearing the Licensed Mark, Licensee shall submit samples of each proposed product to Licensor for its prior written approval. Such samples shall be submitted sufficiently far in advance to permit Licensee time to make changes as Licensor deems necessary. Licensor shall make available to Licensee the creative concepts and fashion direction as to the Licensed Products including recommendations as to color, material, design and styling of such products and such additional design assistance as it determines in its sole discretion. Licensee will utilize substantially all of the designs, fabrics, trim submitted or approved for Licensor's review and approval. Once samples have been approved, Licensee will manufacture only in accordance with such approved samples and will not make any changes without Licensor's prior written approval. No products bearing the Licensed Mark (including samples) shall be distributed and/or sold by Licensee unless such products are in substantial conformity with, and at least equal in quality to, the samples previously approved by Licensor in accordance with the provisions of this paragraph. Upon Licensor's request, Licensee shall supply Licensor with a reasonable quantity of production samples in order for Licensor to assess the conformity of production with the approval samples. All samples submitted to Licensor pursuant to this paragraph shall be provided at Licensee's sole cost and expense.

8. (Sample Ownership Clauses)

(Should specify who owns what with respect to product designs – will licensee be able to produce same products under different trademark after license ends? Should specify ownership of copyrights in packaging, advertising and promotional materials. Who pays for filing and who owns new marks or slogans?)

Licensee acknowledges that Licensor is the sole and exclusive owner of all right, title and interest in and to the Licensed Mark in the Territory, as well as to all combinations, forms and derivatives thereof which may hereafter be approved by Licensor for use by Licensee hereunder in the Territory. Licensee acknowledges the substantial value and eminent goodwill associated with the Licensed Mark, and the exclusive ownership thereof by Licensor, and agrees not to, at any time (either during the Term of this License or thereafter), directly or indirectly, do or suffer to be done any act or thing that might in any way adversely affect any rights of Licensor in and to any of such marks, any registrations thereof or any applications for registration thereof, or which might reduce the value thereof or detract from their reputation, image or prestige or that of Licensor or the Licensed Mark. Sales by Licensee (and if applicable, any distributors and sublicensees) will be deemed to have been made by Licensor for purposes of trademark registration and all uses of the Licensed Mark by Licensee (and if applicable, any distributors and sublicensees) and any and all goodwill generated by use of the Licensed Mark will inure to the benefit of Licensor.

Licensee acknowledges that Licensor owns all right, title and interest in and to the Licensed Trademarks (including, without limitation, all registrations and applications therefor). Licensee further acknowledges, represents and warrants that it has not acquired, and shall not acquire (whether by operation of law, by this Agreement or otherwise), any right, title, interest or ownership (collectively, "Ownership Rights") in or to the Licensed Trademarks or any part thereof. Should any such Ownership Rights become vested in Licensee, Licensee agrees to assign, and hereby assigns, all such Ownership Rights to Licensor free of additional consideration. Licensee shall provide and execute all documents reasonably requested by Licensor to effectuate and record each such assignment to Licensor. Licensee recognizes the value of the goodwill associated with the Licensed Trademarks and acknowledges that all rights therein belong exclusively to Licensor or its Affiliates and further acknowledges that the Licensed Trademarks have acquired secondary meaning in the mind of the public. All use of the Licensed Trademarks and all goodwill and benefit arising from such use shall inure to the sole and exclusive benefit of Licensor. Licensee shall not, during the Term or at any time thereafter, do anything which, in Licensor's sole judgment, could in any way damage, injure or impair the validity and subsistence of the Licensed Trademarks. Licensee shall not attack, dispute or challenge Licensor's Ownership Rights in or to the Licensed Trademarks or the validity of this Agreement, nor shall Licensee assist others in so doing.

Licensee agrees to cooperate fully and in good faith with Licensor for the purpose of securing and preserving Licensor's rights in and to the Licensed Marks. Nothing contained in this Agreement shall be construed as an assignment or grant to Licensee of any right, title or interest in or to the Licensed Marks, or any registration or application therefore, it being understood that all rights relating thereto are reserved by Licensor except for Licensee's right to

use the Licensed Marks as expressly provided in this Agreement. Licensee shall comply with reasonable requests to execute instruments presented to it by Licensor to accomplish or confirm the foregoing. Any such assignment, transfer or conveyance shall be without other consideration, other than the mutual covenants set forth in this Agreement. Licensee hereby agrees that it shall not at any time acquire any rights in the Licensed Marks by virtue of any use it may make of the Licensed Marks.

9. (Sample Infringement Clauses)

Licensee shall promptly notify Licensor in writing of any infringement or imitation of the Licensed Mark or the use by any person of any trademarks, logos or trade names that may be confusingly similar to the Licensed Mark which comes to the attention of Licensee. Licensor will thereupon take such action as it deems advisable for the protection of the Licensed Mark and its rights therein, and Licensee shall assist Licensor in the prosecution of any such suit, as Licensor may reasonably request. Except to the extent required by law, but only to such extent, Licensor shall not be required to take any action if it deems it inadvisable to do so, and Licensee will have no right to take any action with respect to the Licensed Mark without the prior written consent of Licensor. Sublicensees will have no right to take any action with respect to the Licensed Mark. In the event a third party infringes the use of the Licensed Mark in the Territory on items the same as or similar to the products manufactured under the License, Licensor shall take all advisable and necessary measures to protect the Licensed Mark and Licensee agrees that, at Licensor's request, it will pay the costs incurred therefore, including judicial expenses and legal fees.

Licensee shall inform Licensor forthwith if Licensee learns of any goods or activities which infringe (or may infringe) the Licensed Products, or learns of any other infringement of the Licensed Trademarks or of any other Intellectual Property Rights now or hereafter owned by Licensor. Licensee shall provide, at Licensee's expense, complete information, cooperation, and assistance to Licensor concerning each such infringement (including, without limitation, cooperation and assistance in any further investigation or legal action); provided, however, that Licensor shall reimburse Licensee for Licensee's reasonable out-of-pocket expenses incurred in connection with providing any such cooperation to Licensor so long as Licensor shall have requested that Licensee provide such cooperation. Upon learning of such infringement, Licensor shall have the right, but not the obligation, at its sole discretion and expense, to take such action as Licensor considers necessary or appropriate to enforce Licensor's rights, including, without limitation, legal action to suppress or eliminate such infringement or to settle any such dispute or action. Licensor shall also be entitled to seek and recover all costs, expenses, and damages resulting from such infringement, including, without limitation, sums which might otherwise be due to Licensee by operation of law or otherwise, and Licensee shall have no right to share in any amounts recovered by Licensor. Licensee shall have no authority to enforce the rights of Licensor, nor shall Licensee have any right to demand or control action by Licensor to enforce such rights. In the event Licensor sues or counterclaims for infringement of any of the Licensed Trademarks for use in products that, if made or sold by Licensee would be Licensed Products, Licensee shall have the right, but not the obligation to join with Licensor as a party to such litigation. Should Licensee exercise this option to participate, it shall be responsible for its own

attorney's fees unless Licensor's attorneys agree to represent both parties. In any event, Licensor shall have the right to control any such litigation.

Licensee agrees to assist Licensor to the extent reasonably necessary to protect the Licensed Trademarks licensed hereunder. Licensor agrees to reimburse Licensee for its reasonable costs in providing such assistance. For these purposes, Licensor may, if it so desires, but at Licensor's cost, commence and prosecute any infringement suits or other litigation in its own name or in the name of the Licensee or join the Licensee as a party thereto. The Licensee shall promptly notify Licensor of any infringements of the Licensed Trademarks which may come to the Licensee's attention, and Licensor shall have the right to determine whether or not any litigation shall be instituted in connection therewith. The Licensee shall not institute any suit or take any action relative to any such infringements or imitations without first obtaining the written consent of Licensor to do so. In the event Licensor elects not to pursue litigation or other resolution of an accused infringement brought to its attention by Licensee, Licensee may pursue an action against such accused infringer 30 days after notice to Licensor, at Licensee's own expense. In that event Licensee shall be entitled to retain any damages awarded in such an action. In addition, should Licensee pursue an accused infringement pursuant to this paragraph, Licensor agrees to assist Licensee to the extent reasonably necessary and Licensee agrees to reimburse Licensor for its reasonable costs in providing such assistance.

10. (Sample Termination Clauses)

Either party may terminate this Agreement provided the other party to the Agreement is given at least six (6) months notice of such intention to terminate, which notice shall be in writing. However, Licensor agrees not to seek to terminate the Agreement unless one or more of the following occurs: (a) Licensee files a petition for bankruptcy; (b) Licensee is adjudicated as bankrupt or insolvent under applicable law; (c) a petition is bankruptcy is filed against Licensee and such proceeding is not terminated within seventy-five (75) days after being instituted; (d) Licensee makes a general assignment for the benefit of its creditors; (e) Licensee applies for or consents to the appointment of a receiver, trustee, custodian or similar official for itself or substantially all of its assets or properties; (f) Licensee begins negotiations with or enters into a business arrangement with an entity or organization whose principal business is in direct competition with Licensor, which negotiations or arrangement Licensor, in its sole discretion, believes to be detrimental to Licensor's business; (g) Licensee is acquired in whole or in part by a competitor of Licensor; or (h) Licensee or a representative thereof commits any act or becomes involved in any situation which, in the opinion of Licensor, brings Licensee, and thus by virtue of this License, Licensor, into public disrepute, scandal, or ridicule, or reflects unfavorably upon Licensor or any of its products or services.

Licensor shall have the immediate right to terminate this Agreement and any other rights granted to Licensee hereunder, by written notice, upon the occurrence of any of the following: (i) underpayment of royalties of ___% or more by Licensee with respect to any annual period; (ii) Licensee institutes for its protection, or is made a defendant, in any proceeding under bankruptcy, insolvency, reorganization or receivership law, or Licensee is placed in receivership or makes an assignment for benefit of creditors or is, or states that it is, unable to meet its debts in the regular course of business; (iii) failure by Licensee to perform or observe any term or

covenant or agreement contained in this Agreement relating to quality control, or use of the Licensed Mark; (iv) Licensee uses the Licensed Mark in an unauthorized or improper manner; (v) Licensee ceases, or takes steps to cease, its business; (vi) Licensee sells, transfers, leases, pledges, encumbers, subleases or assigns, by operation of law or otherwise all or substantially all of its assets of 50% or more, in the aggregate, of the ownership interests in Licensee directly or indirectly to a direct competitor of Licensor; or (vii) the entry of a final judgment against Licensee, or the occurrence of any other event, which individually or in the aggregate, would have a materially adverse effect on the business condition (financial or otherwise), operations, performance, properties or prospects of Licensee or its ability to perform its obligations under this Agreement.

In the event of the failure by Licensee to perform or observe any term or covenant or agreement contained in this Agreement, other than those for which Licensor has an immediate right to terminate this Agreement pursuant to Section ____, Licensor may terminate the License and the other rights granted to Licensee under this Agreement by giving notice of termination to Licensee, which termination shall become effective automatically unless Licensee completely cures the breach within ____ days of the giving of said notice. If the Licensor's notice of termination relates to royalties or to product quality, pending cure, Licensee agrees that it will ship no Licensed Products; if Licensee does ship, it shall automatically forfeit its right to cure and the License shall be terminated.

11. (Sample Rights on Termination Clauses)

Upon non-renewal or termination of this Agreement, Licensee shall cease and desist, within a reasonable time to be agreed upon by Licensee and Licensor, from all further use of the Licensed Mark; any other trademark owned by Licensor and which may during the course of this Agreement be authorized by Licensor to be used by Licensee in connection with the Licensed Services; or any trademark or service mark that is confusingly similar to the Licensed Mark or any other mark owned by Licensor. Licensee further agrees that upon non-renewal or termination of this Agreement, Licensee will not thereafter use any mark that incorporates the Licensed Mark, or any mark that is confusingly similar to the Licensed Mark, nor will Licensee challenge the ownership or validity of, or seek to cancel, the Licensed Mark or any other trademark of Licensor.

Upon the expiration of the License Term, or upon termination of the License for any reason whatsoever, Licensee shall immediately deliver to Licensor a complete and accurate inventory of Licensed Products as of the close of business on the date of such expiration or termination. Licensee may dispose of the Licensed Products during any Disposal Period agreed upon by the parties under this Agreement, provided however, that such disposition shall continue to be subject to Licensee's obligations hereunder, including, without limitation, with respect to the payment of royalties and the approval of advertising. At the end of the Disposal Period, or if none, upon termination, any Licensed Products remaining in Licensee's possession or control shall, at the request of Licensor, and at Licensee's expense, be destroyed. Licensor shall have the right at any time to conduct a physical inventory of the Licensed Products then in Licensee's possession or control.

Licensee hereby agrees that upon the termination or expiration of this Agreement, Licensee will be deemed to have assigned, transferred and conveyed to Licensor any trade rights, equities, goodwill, titles or other rights in and to the Licensed Trademarks, the domain name and any assumed business name incorporating the Licensed Trademarks which may have been obtained by Licensee or which may have vested in Licensee in pursuance of any endeavors covered hereby, and that Licensee shall execute any instrument requested by Licensor to accomplish or confirm the foregoing. Any such assignment, transfer or conveyance shall be without consideration other than the mutual covenants and considerations of this Agreement.

12. (Sample Bankruptcy Clause)

Notwithstanding the other provisions of this Agreement, in the event that, pursuant to the applicable bankruptcy law, a third party is permitted to assume this Agreement, such third party must notify Licensor in writing of its interest in assuming this Agreement and of its proposed terms for doing so. Upon receipt of such notice, Licensor shall have fifteen (15) days to approve the assumption and the terms therefore. If Licensor fails to approve the assumption within said 15 days, the third party may complete the assignment referred to in its notice upon the terms specified therein. Nothing contained herein shall be deemed to preclude or impair any rights which Licensor may have as a creditor in any bankruptcy proceeding.

13. (Sample Indemnification and Insurance Clauses)

Licensee hereby indemnifies Licensor, its officers, employees and agents, for any claims (including but not limited to product liability, wrongful death, and negligence claims), suits, losses, expenses, damages, or other liability including attorneys' fees and related costs arising from, caused by, relating to, or incident to the manufacture, packaging, advertising, sale and use of the Licensed Products including (i) any unauthorized use of or infringement of any trademark or other proprietary right by Licensee, and (ii) libel or slander against, or invasion of the right of privacy, publicity or property of, or violation or misappropriation of any other rights of any third party. This indemnification shall survive the expiration or termination of this Agreement. Licensee agrees to carry insurance with a company acceptable to Licensor for the benefit of Licensor including products and completed operations liability, foreign liability, personal and bodily injury, property damage and advertising coverage to protect against any such claims, damages, attorneys' fees and costs. Said insurance shall provide such coverage in the amounts of not less than _____ dollars (\$_____) Combined Single Limit for bodily injury, personal injuries and property damage arising out of each occurrence or such larger amount if required by Licensor. Licensor must be named as an additional insured. Licensee shall furnish said Licensor with a certificate of such insurance, and shall notify said Licensor at least thirty (30) days prior to modification, expiration or cancellation of any applicable policies.

Licensee shall defend, indemnify, and hold harmless Licensor, its officers, employees, and agents from and against any losses and expenses (including attorneys' fees), claims, suits, or other liability, including product liability, resulting from injury to or death of any person or damage to property arising out of or in any way connected with the exercise of the license granted by this License Agreement, provided such injuries to persons or damage to property are

due to the acts of commission or omission of Licensee, its officers, employees or agents, or the products manufactured or sold by them. Licensee shall, throughout the term of this Agreement, obtain and maintain at its own cost and expense from insurance company acceptable to Licensor, insurance coverage for both bodily injury and property damage liability, including products and complete operations liability, foreign liability (where applicable), personal injury and advertising coverage. This policy shall name Licensor as an additional insured insofar as this Agreement is concerned. To the extent permitted by federal, state and local law, such policy shall provide protection against any and all claims, demands and causes of action arising out of any defects or failure to perform, alleged or otherwise, of the Licensed Products or any material used in connection therewith or any use of advertising thereof. The amount of coverage and other insurance requirements shall be _____ dollars (\$_____). The policy shall provide for thirty (30) days notice to Licensor from the insurer by registered or certified mail, return receipt requested, in the event of any modification, cancellation or termination thereof. Licensee agrees to furnish Licensor an original certificate of insurance with the original authorizing signature of the Licensee's insurance agent evidencing same within thirty (30) days after execution of this Agreement, and, in no event, shall Licensee manufacture, distribute or sell the Licensed Products prior to receipt by Licensor of such evidence of insurance.

14. (Sample Amendment Clauses)

No variation of amendment of this License Agreement shall be effective unless it is in writing and signed by an authorized representative of the parties.

This Agreement constitutes the entire understanding of the parties relating to the subject matter hereof, and supersedes all other agreements and understanding whether written or oral. This Agreement may be amended or modified only in writing by the duly authorized representatives of the respective parties.

15. (Sample Waiver Clauses)

No waiver of any term, provision or condition of this License Agreement shall be effective unless it is in writing and signed by an authorized representative of the waiving party. No failure to exercise nor any delay in exercising any right or remedy hereunder shall operate as a waiver therefore of any other right or remedy hereunder, nor shall any single or partial exercise of any right or remedy prevent any further or other exercise thereof or the exercise of any other right or remedy.

Waiver or non-enforcement by either Party of a term or condition of this Agreement shall not be constituted (a) a waiver or non-enforcement of said term or condition, (b) a waiver or non-enforcement of any other term or condition, or (c) a waiver of any subsequent breach of the same or similar term or condition.

16. (Sample Severability Clauses)

Should any provision of this Agreement be held unenforceable, then the validity of the remaining provisions shall not be affected by such a holding, and the parties shall negotiate in

good faith and agree to a reasonable provision which is intended to replace the provision held to be unenforceable.

This Agreement is intended to be valid and effective throughout the Territory and, to the extent permissible under applicable law, shall be construed in a manner to avoid violation of or invalidity under any applicable law. Should any provision hereof nevertheless be or become invalid, illegal or unenforceable under any applicable law, the other provisions hereof shall not be affected, and to the extent permissible under applicable law, the parties shall agree upon a new provision which will accomplish as nearly as possible the primary purpose or purposes of the provision held invalid, illegal or unenforceable.

17. (Sample Governing Law Clauses)

This Agreement and all disputes hereunder shall be governed by the laws of the State of New York, except to the extent that New York State's conflict of laws provisions may result in another state's laws being applicable. Licensee hereby consents to the jurisdiction of any court of competent jurisdiction, federal or state, situated in the State of New York for any and all actions arising out of this Agreement, waives any defense which it might otherwise have based on jurisdiction and/or venue, and agrees to accept service of process by mail.

This Agreement shall be governed by and construed in accordance with the internal substantive laws of the State of New York applicable to agreements made and to be performed entirely therein. Licensee hereby consents to the exclusive jurisdiction of the courts of the State of New York and of the United States District Court for the _____ District of New York for resolution of all claims, differences and disputes which the parties may have regarding this Agreement.

18. (Sample Assignment Clauses)

This Agreement shall inure to the benefit Licensor, its successors and assigns, but will be personal to Licensee and shall be assignable by Licensee only with the prior written consent of Licensor, which may be withheld for any reason. Licensor shall have the absolute, unfettered right to transfer this Agreement and its rights and obligations thereunder to any third party upon written notice to Licensee.

This Agreement shall not be assigned or transferred by either party without the prior written consent of the other party, except to a successor in ownership of all or substantially all the assets of the assigning or transferring party, which successor shall expressly assure in writing the performance of all the terms and conditions of this Agreement to be performed by the assigning or transferring party as if it were named herein in the place of the assigning party.

19. (Sample Agency Clauses)

Neither party shall represent or hold itself out as an agent, legal representative, partner, subsidiary, joint venture, or employee of the other. Neither party shall have the right or power to

bind or obligate the other, in any way, manner or thing whatsoever, nor represent that is has any right to do so.

Neither party hereto shall be construed to be the agent of the other in any respect. The parties have entered into this Agreement as independent contractors only, and nothing herein shall be construed to place the parties in the relationship of partners, joint venturers, agency or other legal representation. Neither party shall have the authority to obligate or bind the other in any manner as to any third party.

20. (Sample Notice Clause)

Unless specifically set forth in any Clause, Notice under any Clause may be given by either Party in writing to the other Party by _____mail / personal service / fax/
to

Signature line for Licensor

Signature line for Licensee