

Licensing Agreement

Agreement ("Agreement") made and effective this day of July, 2011 by and between Licensee, a California limited liability company with principal offices at _____ ("Licensee"), Licensor, ("Licensor") a California limited liability company, with principal offices at _____.

WHEREAS, Licensor markets Products ("Products"), including but not limited to those described on Schedule A attached hereto, under the trademark "Product" (the "Mark") that are intended to _____;

WHEREAS, Licensor developed the initial products manufactured and marketed under the Mark;

WHEREAS, the on-going participation of Licensor in the marketing campaigns of the Products is of substantial value;

WHEREAS Licensor is the registered owner of the Mark in the United States for use in connection with products;

WHEREAS, Licensee and its affiliates are in the business of marketing and promoting products in print and electronic media, on the internet and by direct mail advertising;

WHEREAS, Licensor wishes to appoint Licensee its exclusive representative and licensee to manufacture, market and distribute Products throughout the world, and Licensee desires to accept such appointment;

NOW, THEREFORE, in consideration of the premises set forth above and other good and valuable consideration, the receipt and sufficiency of which are hereby severally acknowledged, and intending to be legally bound, the parties hereto expressly agree as follows:

1. DEFINITIONS. Capitalized terms used in this Agreement shall have the meanings given below or in the context in which the term is used, as the case may be.

A. "Affiliate" shall mean, with respect to a party to this Agreement, any entity that directly or indirectly controls, or is under common control with, or is controlled by, such party. As used above, "control" (including, with its correlative meanings, "controlled by" and "under common control with") means possession, directly or indirectly, of the power to direct or cause the direction of management or policies (whether through ownership of securities or partnership or other ownership interests, by contract or otherwise).

B. "Confidential Information" shall mean any and all non-public information or Trade Secrets pertaining to the business of a party or which relates to past, present or future research, development, improvements, inventions, processes, software, techniques, designs or other technical data, contact lists or other compilations for marketing or development, or regarding administrative, management, financial or marketing activities of any of the other parties hereto, or other third parties which have provided information to one of the parties hereto, whether (i) identified in written, graphic electronic or oral format by the Disclosing Party as confidential, trade secret or proprietary information, (ii) or by its nature or the circumstances surrounding its disclosure should reasonably be regarded as confidential information. In clarification but not limitation of the foregoing, the term 'confidential information' means all information pertaining to the business of Licensee is deemed to include the list of actual and potential customers, identity of sales agents and representatives.

C. "Licensed Assets" shall mean all rights to the Product(s), all of Licensor's Confidential Information, the Mark, all rights (but not obligations) under contracts with Licensee,

all Licensed Intellectual Property Rights in and relating to such Licensed Assets, and all Improvements hereinafter developed.

D. "Licensed Documentation" shall mean any and all documentation relating to or associated with the Product that Licensor owns on the Effective Date.

E. "Licensed Intellectual Property Rights" shall mean all of the following as they relate to the Licensed Assets:

(1) All right, title and interest, under the laws of any country, in patents and applications for patents, patent claims, all rights to prepare derivative works, all goodwill and all other rights, and any other government-issued indicia of invention ownership;

(2) All right, title and interest in all trade secret rights arising under the laws of any country, including manufacturing methods;

(3) All right and interest in to register and operate the Website;

(4) All rights of copyright and all other literary property and author rights (including moral rights) whether or not copyrightable, under the laws of any country, and all right, title and interest in all copyright registrations or applications for copyright registration, and all raw video footage and completed TV spots that feature, contain or were prepared for the marketing of the Product(s);

(5) All right, title and interest in all technical data relating to the Product(s), whether or not protectable by patent, copyright or trade secret laws; and

(6) All right, title and interest in all causes of action arising under the patent, copyright, trade secret or other laws of any jurisdiction, which causes of action have not been asserted as of the Effective Date; and

F. "Improvements" shall mean all any and all innovations, inventions, designs, formulae, know-how, tests, performance data, processes, production methods, improvements and all recorded material, whenever made, related to the Licensed Assets, whether written or not, regardless of the media on which stored (or if not stored) and whether patentable, copyrightable or subject to trademark, or not, that may be developed by or for Licensor.

G. "License" shall mean the rights granted Licensee in this Agreement.

H. "Royalties" shall mean **One Dollar (\$1.00) times the Net Number of Sales in a period, provided however that Royalties shall be increased to One and 50/100 Dollars for the Net Number of Sales placed as recurring monthly shipments.**

I. "Net Number of Sales" shall be the number of Sales, net of the number of Sales that are subject to refunds and chargebacks.

J. "Sale" and "Transfer" shall each mean the sale, shipment of the Product(s), or the first of a series of shipments placed as a recurring order, arising from a retail sale transaction of that (or those) Product(s) for which Licensee or any Affiliate or sub-licensee of Licensee has been paid in full.

K. "Term" shall mean the Initial Term as herein defined in Section ___ plus the length of any Additional Term activated pursuant to Section ___.

L. "Trade Secrets" of a party means any information or data, whether technical or non-technical, including without limitation any formula, pattern, compilation, program,

method, technique, device, drawing or pattern of such party or relating to its business which derives actual or potential economic value and which is not generally known by or available to the public.

M. "Website" shall mean internet site and all other internet pages controlled or operated by Licensor containing the Marks and/or relating or referring to the sale of the Mark.

2. GRANT OF LICENSE. Subject to the terms and conditions set forth in this Agreement, Licensor hereby grants to Licensee an exclusive, fully paid, world-wide license, including the right to grant sublicenses, to make, manufacture, have made, use, market, distribute, sell and offer for sale the Products.

3. ROYALTY ACCOUNTING AND PAYMENTS.

3.1 Licensee shall pay Licensor Royalties within 15 days after the end of each calendar month with respect to all Sales during such calendar month. Each monthly payment shall be accompanied by a written statement setting forth the calculation of Royalties payable by Licensee during such prior calendar month ("Sales Statements"). Such written statements shall show the number of units of Product Sold by Licensee during such calendar month and the resulting Sales during such calendar quarter and the amount of Royalties payable based thereon. If at the end of any month the Net Number of Sales is negative, Licensor shall be liable for, and shall promptly pay upon receipt of any invoice from Licensee for, the Royalties on the negative number of Sales. The Sales Statements shall be prepared in good faith by Licensee's Manager or chief financial officer and shall be calculated in accordance with the terms hereof. Licensor's receipt or acceptance of any Sales Statement or other information furnished pursuant to this Agreement and/or of any Royalties paid hereunder shall not preclude Licensor from questioning the accuracy thereof at any time until audited and accepted or resolved in accordance with Section 3.4 hereof.

3.2 Notwithstanding the provisions of Section 3.1, Licensee shall be obligated and shall pay to Licensor minimum royalties of:

(a) no less than _____ dollars (\$____,000.00) for the first four calendar quarters commencing after September 30, 2011;

(b) no less than _____ dollars (\$____00,000) for the calendar year _____; and each year thereafter;

failing which, each of Licensor and Licensee shall have the right to terminate this agreement as herein provided.

3.3 If any payment due hereunder is not made when due, such amount which is overdue, and only such amount, shall accrue interest at the rate of twelve percent (12%) per annum. Said interest and the payment and acceptance thereof shall not negate or waive the right of Licensor to any other remedy, legal or equitable, to which it may be entitled because of the delinquency of the payment.

3.4 During the Term, Licensee shall keep full, complete and accurate books, records and accounts of the sales transactions of the Products. Licensee shall preserve each such book, record and account for at least two (2) years after the creation or preparation thereof.

(a) Licensor shall have the right, during the Term and for a period of six months thereafter, upon the delivery by Licensor to Licensee of reasonable prior notices to inspect and examine or to cause Licensor's designees to inspect and examine at the expense of Licensor at the place of business of Licensee, during regular business hours, all books, records and accounts of Licensee pertaining to the sales by Licensee of the Products, provided however that such audits may not be conducted more often than once during each year. The completion of any audit with respect to any period shall close that period from further audits thereafter. If it is determined at any time that the Royalties paid by the Licensee was incorrect, then the Licensee shall immediately pay to the Licensor the amount of any shortfall in Royalties paid, together with interest on such amount accrued at a simple rate of interest equal to one percent (1%) per month, and Licensor shall immediately pay to the Licensee the amount of any excess Royalties paid.

(b) Licensor must give the other party at least ten (10) days' advance notice of each audit, and the party being audited shall have one (1) opportunity to reschedule such audit based on business needs, provided that the rescheduled time is within five (5) days of the audit date selected by Licensor, (c) any such audit must be conducted at a time convenient to the party being audited, and (d) Licensor will adhere to the other party's reasonable and non-interfering security policies and procedures during any such audit. Licensor's representative conducting any inspection or audit shall maintain in confidence, and shall not disclose to Licensor, any information concerning Licensee or its operations or properties other than information directly relating to the correctness of the reports and payments provided by Licensee. Information concerning Licensee and its operations received by Licensor from such audits shall be considered the confidential and proprietary information of Licensee, use and disclosure of which are strictly prohibited except for the express purposes set forth in this Section and in connection with any litigation between the parties with respect to this Agreement.

The remedies set forth herein for underpayment or overpayment of Royalties shall be each party's exclusive remedy for any such breach hereof.

4. ADDITIONAL OBLIGATIONS OF LICENSEE.

4.1 Licensee agrees to test direct mail, TV and/or roll out a full direct mail advertising campaigns for the Product. Licensee will use commercially reasonable efforts to promote the Products in various distribution channels, including the Website and marketing in its emails, newsletters and the like. Licensee acknowledges its intent to concentrate its marketing efforts in the primary channels of distribution, including, but not limited to direct response mail.

4.2 Licensee will operate and maintain the Website for the purpose of selling the Products and related activities.

4.3 Licensee shall at all times maintain commercially adequate. At Licensee's request, Licensor shall promptly assign to Licensee (or any of its Affiliates) of all manufacturing arrangements Licensor has in order to maintain those relationships for the purposes of manufacturing the Product. If Licensee seeks alternate manufacturers, Licensee shall search for and utilize the highest quality materials available and the quality manufacturers in good standing who can manufacturer the product.

5. ADDITIONAL OBLIGATIONS OF LICENSOR. Licensor severally agree as follows:

5.1 Licensor shall deliver to Licensee a complete set of all complete and partial copies of the Licensed Assets in all forms (including, without limitation, customer lists, current orders, manufacturing contracts and schedules, all physical assets containing or bearing any Licensed Intellectual Property).

5.2 Licensor has the right, and the sole and exclusive right, to supply the services of Licensor to perform his obligations hereunder, which include appearing for and in for infomercials, direct mail pieces and any other marketing channels we want to use.

5.3. From time to time, and at such time and times as reasonably specified by Licensee, Licensor will:

(a) Promptly review and approve all marketing materials prepared with respect to the Product concerning the Product(s) for accuracy. Such approval or any corrections must be in writing signed by Licensor, and any approved copy must bear the legend that it is "correct and approved for publication" without qualification. Such phrase shall constitute the Licensor's full approval, regardless of any words of qualification or limitation.

(b) Endorse the Products set forth in Schedule A hereto;

(c) Endorse such Products proposed to be marketed and sold bearing the Mark or in connection with Mark as proposed by Licensee, if [reasonable] after review by Licensor. Once approved, any new Products shall be added to Schedule A.

5.4 Licensor hereby gives, grants, conveys and licenses to Licensee the exclusive right to use the name, likeness, image, appearance, personality and signature of Licensor in connection with the marketing of and any publicity concerning the Product(s).

6. OWNERSHIP AND INFRINGEMENT

6.1 Licensors represent and warrant to, and agree with Licensee, that it is the exclusive owner of all right, title and interest in and to all of the Licensed Assets, including, but not limited to the Product(s), Licensed Intellectual Property, all of the formulas, Marks and other Licensed Assets.

6.2 Licensors have not transferred ownership of, let lapse or enter into the public domain or granted any license of or right to use, or authorized the retention of any exclusive rights to use or joint ownership of any of the Licensed Assets to any other person. Without limiting the generality of the foregoing, the Licensed Assets are assignable to Licensee free and clear of any and all liens, encumbrances, charges, claims, restrictions, pledges, security interests or impositions of any kind suffered by Licensors. No person has ownership rights or license rights granted by Licensors to any improvement or derivative works made by or for Licensors in any of the Licensed Assets. There are no contracts, licenses or agreements to which Licensors is a party or is subject with respect to any Licensed Assets other than the grant of such Licensed Assets to Licensors. Neither the execution by Licensors of this Agreement, nor compliance by Licensors with its terms and conditions will (a) conflict with, or result in a breach or violation of any provision in the documents under which Licensors is incorporated, any award of any arbitrator in a matter as to which Licensors is a party, or any other agreement or U.S. Government regulations relating to prohibitions on transfer or export of technology to which Licensors is subject, or (b) result in the creation of any lien upon the Licensed Assets. Licensors warrant and represents that Licensee's use or possession of the Licensed Assets, or the license granted hereunder, does not and will not infringe or violate the copyright, trade secret or other proprietary right of any third party.

6.3 Each party shall promptly inform the other of any suspected infringement of any claims in the Licensed Intellectual Property or misuse, misappropriation, theft or breach of confidence of other proprietary rights in the Product by a third party, and with respect to such activities as are suspected, Licensee shall have the right, but not the obligation, to institute an action for infringement, misuse, misappropriation, theft or breach of confidence of the proprietary rights against such third party if such infringement arises within the Licensed Field. Before Licensee commences any such infringement action, Licensee shall notify Licensors of such commencement and give careful consideration to any views of Licensors in making its decision whether or not to sue. Licensee shall bear all expenses of any suit brought by it. No settlement, consent, judgment or other voluntary final disposition of the suit which, in the opinion of Licensors's counsel, would adversely affect the enforceability or validity of the Licensed Intellectual Property may be entered into by Licensee without the prior consent of Licensors. If Licensee fails to bring such an action or proceeding within a period of one (1) month after receiving notice or otherwise having knowledge of such infringement, then Licensors shall have the right, but not the obligation, to prosecute at its own expense any such claim. Any amount recovered by Licensee or Licensors as a result of any action taken by such party hereunder shall be first applied to reimbursing the acting party for its out-of-pocket expenses incurred in connection therewith and the remainder, if any, shall be divided appropriately between Licensee and Licensors with reference to the relative monetary injury suffered by each of them by reason of the infringement for which said amounts are recovered.

6.4 All rights of ownership to and all ownership interests in any Licensed Intellectual Property shall remain vested solely in Licensors, and no right of ownership or any ownership interest therein is transferred or granted to Licensee by this Agreement.

6.5 Licensee represents, warrants and agrees with Licensor: (i) it shall not maintain any claim of dilution or other rights to any Mark originating with the other by reason of the appearance of the Marks in combination on any material; (iv) it will not modify, alter or obfuscate the Marks or use the Marks in a manner that disparages Licensor or its products or services, or portrays Licensor or its products or services in a false, competitively adverse or poor light, and (iii) all materials containing the Marks shall contain such indications of ownership and registration as are reasonably requested by the owner thereof.

7. INDEMNITY.

7.1 Licensee shall defend, indemnify and hold harmless Licensor from and against any and all third party claims and related legal proceedings, demands, damages, judgments, settlements, costs and reasonable attorneys' fees, arising from or related to (i) any alleged or actual violation by or on behalf of Licensee of applicable laws or regulations in connection with the marketing or distribution of the Products, (ii) any misrepresentations in relation to the Products made by or on behalf of Licensee (other than those approved by Licensor or made in reliance on materials delivered by Licensor), or any misleading or deceptive trade practices of Licensee in connection with its exercise of its licenses granted hereunder; (iii) any claim made by any purchaser of Products against Licensor, including without limitation for any death or personal injury arising in connection with use of the Products.

7.2 Licensor shall defend, indemnify and hold harmless Licensee from and against any and all third party claims and related legal proceedings, demands, damages, judgments, settlements, costs and reasonable attorneys' fees, arising from or related to (i) any alleged or actual violation by or on behalf of Licensor of applicable laws or regulations in connection with the development, marketing or distribution of the Products, (ii) any misrepresentations in relation to the Products made by or on behalf of, or approved by Licensor, (iii) any misleading or deceptive trade practices of Licensor in connection with its grant of the license granted hereunder, (iv) any breach of its representation of non-infringement in Section 6.1 and 6.2 above; (v) any claim made by any purchaser of Products against Licensor, including without limitation for any death or personal injury arising in connection with use of the Products; or (iv) any alleged or actual violation of third party patent, copyright or other intellectual property rights in connection with this Agreement.

7.3 In the event of an indemnified claim hereunder, the indemnified party shall give the indemnifying party prompt notice in writing of the claim and the indemnifying party shall have sole control over its defense or settlement, except that the indemnifying party shall not settle or compromise any such matter without obtaining the indemnified party's written consent, which shall not be unreasonably withheld; however, such consent shall not be required where the settlement results in the full and unconditional release of all claims against and obligations of the indemnified party without any form of acknowledgement of responsibility or wrong-doing. The indemnified party shall have the right at its own cost and expense to employ separate counsel and participate in the defense of any claim or action.

8. NON-COMPETITION AND NONDISCLOSURE.

8.1 Non-competition. Licensor severally agrees that during the Term hereof *and for a term of ___ years thereafter*, neither will engage in the sale of any product that competes with the Product or with any product developed or manufactured for sale or license by Licensee, whether or not marked under the Mark or any derivative thereof.

8.2 Nondisclosure.

(a) Each party acknowledges that it may be furnished with or may otherwise receive or have access to the other's Confidential Information. Without limiting the generality of the foregoing, Confidential Information shall be deemed to include the terms and conditions of this Agreement. Where applicable, the Receiving Party shall be the party to which rights have been granted by the other(s), and the Disclosing Party is a party that has transferred rights to such Confidential Information, except as to such rights specifically retained; provided however that all information containing the name, email addresses, post office addresses, phone numbers and any "non-public personal identifiable information" of any customer, or any visitor or user of the Website shall be and remain in the exclusive control of Licensee, and for purposes hereof shall be considered to be Licensee's Confidential Information.

(b) All Confidential Information shall remain the property of and be deemed proprietary and confidential to the Disclosing Party. Without limiting the foregoing, any Receiving Party agrees: (i) to the extent permitted by applicable law, to hold such Confidential Information in strict confidence and in trust for the Disclosing Party; (ii) to use the same degree of care in protecting the Confidential Information for which it protects its own such confidential information of like nature, but in no instance with less than reasonable care to protect such Confidential Information against unauthorized use or disclosure; and (iii) to restrict disclosure of such Confidential Information to its employees who (A) are directly participating in the performance of this Agreement; (B) have a need to know such Confidential Information.

(c) The Receiving Party shall not reproduce, disclose or use Confidential Information, except as it relates to exercising its right and performing its obligations under this Agreement or in accordance with applicable law.

(d) The limitations on reproduction, disclosure or use of Confidential Information shall not apply to, and neither party shall be liable for, reproduction, disclosure, or use of any particular Confidential Information of another that:

(i) was developed independently by the Receiving Party and is not otherwise the property of a Disclosing Party, as evidenced by written documents prepared or received by such party prior to the receipt of any Confidential Information under this Agreement;

(ii) was received without any obligation of confidentiality from a third party that was rightfully in possession of such information and had the right to disclose it to the Receiving Party without an obligation of confidentiality, and is not otherwise the property of a Disclosing Party;

(iii) has been published or otherwise publicly disclosed to others by the Disclosing Party without restrictions, or has come within the public knowledge or become generally known to the public without breach of this Agreement;

(iv) is legally required to be disclosed pursuant to a judicial order (provided that, prior to such disclosure, the party ordered to make such a disclosure promptly informs the other of the order).

The party seeking the protection of any of items (i) through (iv) above shall bear the burden of proof with respect to any such exception. Immediately upon receipt by the Receiving Party of any request to release, disclose or use Confidential Information, where such release, disclosure or use is required by applicable law and is otherwise in contravention to the terms and conditions of this Agreement, Receiving Party shall provide Disclosing Party written notice of such request. Such notice shall be calculated to be sufficiently descriptive and in advance of any such release, disclosure or use so as to allow Disclosing Party the opportunity to raise any appropriate objections. Disclosing Party shall be solely responsible for raising such objections and shall bear all costs, including legal costs, associated with such objections. Confidential Information may be

disclosed on a need to know basis to the accountants and attorneys of the Receiving Party without the consent of the Disclosing Party.

(e) Should the Receiving Party receive information with uncertain status, the Receiving Party agrees to treat such information as Confidential Information until it receives written verification from the Disclosing Party that such information is not Confidential Information.

(f) Except as otherwise set forth in this Agreement, upon termination or expiration of this Agreement for any reason, the Receiving Party shall, at the Disclosing Party's option, either return or destroy all Confidential Information, and shall destroy all analyses, compilations, forecasts, studies and other documents based upon or derived from such Confidential Information, and in each case shall retain no copies and shall cause an officer of the Receiving Party to certify in writing that it has complied fully with its obligations under this Section 8.2(f).

(g) With regard to Confidential Information which any party has received or itself generated, in the event either party becomes aware of any release, disclosure or use of such Confidential Information which has not been authorized by this Agreement, it will promptly, at its sole expense, (i) notify the Disclosing Party in writing; (ii) take such actions as may be necessary or reasonably requested by the Disclosing Party to minimize such unauthorized release, distribution or use and any damage to the Disclosing Party resulting therefrom; and (iii) to the extent permitted by applicable law, cooperate in all reasonable respects with the Disclosing Party to minimize any such release, distribution, use and damage.

8.3 **Injunctive Relief.** Each party acknowledges and agrees that each of the restrictive covenants contained in this Agreement are reasonable and necessary to protect the legitimate interests of the other party, including, among other reasons, to protect against disclosure of the owner's trade secrets, business and confidential information, and that any violation or breach thereof by the other party will result in immediate and irreparable harm to the owner of such information or rights, the amount of which will be extremely difficult to ascertain, and that the owner could not be reasonably or adequately compensated by damages in an action at law. For these reasons, (i) each party hereby irrevocably waives any right to challenge or otherwise attempt to invalidate any of the restrictive covenants that such party is subject to, or any part(s) thereof; (ii) the non-breaching party shall have the right to seek a preliminary, temporary, or permanent mandatory or restraining injunctions, orders or decrees as may be necessary to protect the owner against or on account of any breach by the other party of the provisions of the restrictive provision hereof, and an equitable accounting of all earnings, profits and other benefits arising from such violation, which rights shall be cumulative and in addition to any other rights or remedies to which such other party may be entitled at law or in equity.

8.4 The period of the restrictive covenants set forth in this section shall be tolled and suspended during and for so long as any period in which Licensor is in violation of any provision thereof.

9. SUBLICENSES

9.1 Licensee shall be responsible for and pay royalties on all Sales of Products by its sub-licensees as though made by Licensee. All sublicenses granted by Licensee of its rights under the License shall be under terms consistent with the terms of this Agreement and shall provide for the payment of royalties to Licensee at least to the levels specified for payment by Licensee to Licensor stated in this Agreement. Licensee shall be responsible for its sublicensees and shall not grant any rights which are inconsistent with the rights granted to and obligations of Licensee hereunder.

9.2 Each sublicense agreement granted by Licensee shall include an audit right by Licensor of the same scope as provided in this Agreement with respect to Licensee and shall further provide that upon termination of the License, all royalties and other amounts payable by such third party licensee on account of the sublicense shall thereafter be paid to Licensor. No sublicensee shall be granted the right to grant further sublicenses.

9.3 Licensee shall give Licensor prompt notification of the identity and address of each sublicensee with whom it concludes a sublicense agreement and shall supply Licensor with a copy of each such sublicense agreement.

10. LIMITATION OF LIABILITY. EXCEPT AS SET FORTH ABOVE, NEITHER PARTY MAKES ANY WARRANTIES OF ANY KIND, EITHER EXPRESS OR IMPLIED, AS TO ANY MATTER INCLUDING, BUT NOT LIMITED TO, A WARRANTY OF FITNESS FOR PURPOSE OR OF MERCHANTABILITY. NEITHER PARTY WILL BE LIABLE FOR ANY SPECIAL, INDIRECT, INCIDENTAL, OR CONSEQUENTIAL DAMAGES (INCLUDING BUT NOT LIMITED TO SUCH DAMAGES ARISING FROM BREACH OF CONTRACT OR WARRANTY OR FROM NEGLIGENCE OR STRICT LIABILITY), EVEN IF SUCH PARTY HAS BEEN ADVISED OF (OR KNOWS OR SHOULD KNOW OF) THE POSSIBILITY OF SUCH DAMAGES.

11. REPRESENTATIONS AND WARRANTIES BY PARTIES. Each party hereto represents and warrants to the others, as of the date hereof, as follows:

11.1 Licensor and Licensee are entities duly organized and validly existing under the laws of California. The execution of this Agreement and the transactions contemplated by this Agreement have been authorized by all necessary corporate action on the part of each and neither the execution of this Agreement, nor the transactions contemplated by this Agreement, nor compliance by Licensor and Licensee with any of its provisions, violates any judgment or order of any court, arbitrator, or administrative agency applicable to it or any of its properties or assets.

11.2 There are no suits, proceedings or investigations pending or threatened against Licensor or Licensee before any court, arbitrator or agency based upon or challenging the ownership or use of the Licensed Assets, including claims for breach of warranty or products liability. There is no judgment or order entered against Licensor which might have a material adverse effect on the value of the Licensed Assets to Licensee.

12. INSURANCE.

12.1 Beginning at the time as any product, process or service made, used or sold pursuant to any right or license granted under this Agreement is being commercially distributed or sold by Licensee, Licensee shall, at its sole cost and expense, procure and maintain:

(a) comprehensive general liability insurance in amounts generally maintained by entities of similar size and purpose or non-conventional insurance such as self-insurance (subject to Licensor's prior written approval, which approval shall not be unreasonably withheld); and

(b) liability insurance in an amount of no less than \$2,000,000.00 per occurrence; naming Licensor as an additional named insured with respect to each. The minimum amounts of insurance coverage hereunder shall not be construed to create a limit of Licensee's liability with respect to its indemnification under this Agreement.

12.2 Licensee shall provide to Licensor, upon request, certificates of insurance evidencing the satisfaction of the insurance requirements set forth herein.

13. TERM AND TERMINATION

13.1 The "Initial Term" of this License shall be three (3) years commencing on the beginning with the first day the Licensor's test advertising appears, and the Term shall automatically renew for three successive one (1) year terms as of each anniversary of the date hereof (each a "Renewal Term"), unless Licensee provides sixty (60) days prior notice of its decision not to renew the Agreement. For purposes of this Agreement, the Initial Term and any/all subsequent Renewal Terms shall collectively referred to as the "Term".

13.2 Notwithstanding the provisions of Section 13.1 hereof to the contrary:

(a) Licensee shall have the right to terminate this Agreement upon the breach of Licensor of any term or provision hereof which breach is not cured within sixty (60) days after the receipt by Licensor of written notice from Licensee stating with reasonable particularity the basis and claim of such breach. All amounts owing by Licensee to Licensor, including all Royalties shall become immediately due and payable. Upon a termination under this Section 13.2(a), after termination Licensee shall continue to have the right to maintain and continue the exploitation and use of the Licensed Assets (including but not limited to, Website, the brand names associated with the Products, and the marketing materials it promotes and establishes through its advertising efforts). However, no new materials shall be prepared using Licensor's name after termination;

(b) Licensor shall have the right to terminate this Agreement upon the breach by Licensee of any term or provision hereof which breach is not cured within sixty (60) days after the receipt of Licensee of written notice from Licensor stating with reasonably particularity the basis and claim of such breach. Licensor agrees to give Licensee six (6) months written notice of termination if any breach is not cured within 60 days. If such breach is not cured, Licensee shall cease to use the Mark, name or likeness to any advertising after the termination period expires; and

(c) This Agreement may be terminated at any time by the mutual consent of the Licensee and Licensor.

13.3 Notwithstanding the provisions of Section 13.1 hereof to the contrary, the License may be terminated to the extent permitted by law, immediately by either party upon entry of an order for relief under the United States Bankruptcy Code on behalf of the other as debtor, or if the other shall be declared bankrupt or insolvent or shall make an assignment for the benefit of its creditors, or if a receiver shall be appointed for its property, or if any proceedings are commenced by or against it under any bankruptcy or similar law, and, in any such case within ninety (90) days of the entry of such order or of such declaration, assignment, appointment, or commencement, such order, declaration or assignment shall not have been rescinded or revoked, or such receiver has not been dismissed or such proceedings have not been dismissed (each, a "Bankruptcy Event"). Notwithstanding the provisions hereof to the contrary, the New Technology Grant shall remain in full force and effect as of the end of each month with respect to improvements or inventions or the like occurring during the prior month.

13.4 No termination of the license granted hereunder shall constitute a termination or a waiver of any rights of either party against the other party accruing at or prior to the time of such termination. Both parties shall be liable to the other because of such termination, and, if such occurs without just cause. This liability shall only extend to actual losses.

13.5 The Licensee shall have the option to extend the Agreement for an additional one year if both the Licensor and Licensee feel that a continuation would be beneficial to both parties. Options shall be exercised by written notice within thirty (30) days prior to the termination of the referenced period.

14. MISCELLANEOUS.

14.1 Governing Law. This Agreement shall be deemed to be subject to, and have been made under, and shall be construed and interpreted in accordance with the laws of the State of _____ without regard to conflicts of law provisions.

14.2 Headings. All section headings contained in this Agreement are for convenience of reference only and shall not affect the meaning or interpretation of this Agreement.

14.3 Entire Agreement. This Agreement is intended to define the full extent of the legally enforceable undertakings and representations of the parties hereto, and no promise or representation, written or oral, which is not set forth explicitly in such Agreements is intended by either party to be legally binding. The terms and conditions herein constitute the entire agreement between the parties and shall supersede all previous agreements, either oral or written, between the parties hereto with respect to the subject matter hereof. Each of the parties acknowledge that in deciding to enter into this Agreement and to consummate the transaction contemplated hereby none of them has relied upon any statements or representations, written or oral, other than those explicitly set forth herein.

14.4 Amendment. This Agreement may not be amended, supplemented or otherwise modified except by an instrument in writing signed by all parties that specifically refers to this Agreement and clearly expressing such intent.

14.5 Notices. Any notice required or permitted under this Agreement shall be sent by certified mail, return receipt requested or courier service, charges prepaid, or by facsimile transmission, to the address or facsimile number specified at the signature of each party.

14.6 Assignability. This Agreement shall be binding upon and shall inure to the benefit of the parties, their permitted assigns and successors in interest, and shall be binding upon and shall inure to the benefit of each party and the successor to all or substantially all of its assets or business to which this Agreement relates, but shall not otherwise be assignable or assigned by one party without the prior written approval of the other party being first obtained, provided, however, that either party may assign this Agreement without the consent of the other party to any of its Affiliates or successors in interest. Notwithstanding the forgoing, the obligations of Licensee represent a personal services agreement which may not be assigned or delegated at any time. No assignment shall relieve the assigning party of its obligations hereunder.

14.7 Counterparts. This Agreement may be executed in two or more counterparts, each of which shall be an original as against any party whose signature appears thereon but all of which together shall constitute one and the same instrument. The Agreement may be executed and delivered by electronic submission and/or facsimile and the parties agree that

such electronic or facsimile execution and delivery will have the same force and effect as delivery of an original document with original signatures.

14.8 Good Faith. Each party will act in good faith in its performance of this Agreement and will not unreasonably delay or withhold the giving of any consent, decision or approval that is either requested by the other party or is reasonably required by the other party in order to perform its responsibilities in accordance with this Agreement.

14.9 Third Party Beneficiaries. There are no intended third party beneficiaries of any provision of this Agreement.

14.10 Severability. If any provision of this Agreement is adjudged by any court, tribunal or arbitration board of competent jurisdiction to be invalid or unenforceable under any law or regulation, then it is the parties' intent that the scope of such provision shall be modified by such court, tribunal or board to the extent necessary to comply with the requirements of law and remain enforceable consistent with the original intentions of the parties, and the validity or enforceability of the remaining provisions shall not in any way be affected or impaired thereby.

14.11 Judicial Interpretation. If a provision in this Agreement requires judicial interpretation, the judicial body interpreting or construing the same shall not apply the assumption that the terms hereof shall be more strictly construed against one party by reason of the rule of construction that an instrument must be construed more strictly against the party which itself or through its agents prepared the same, the parties hereby agreeing that all parties and their agents have participated in preparation hereof equally.

14.12 Waiver. No failure or delay by either party in exercising any right, power or remedy will operate as a waiver of such right, power or remedy, and no waiver will be effective unless it is in writing and signed by the waiving party. If either party waives any right, power or remedy, such waiver will not waive any successive or other right, power or remedy the party may have under this Agreement.

14.13 Survival of Representations, Warranties and Covenants. All representations, warranties and covenants made in this Agreement are cumulative, are in addition to those imposed by law or equity, and any provisions of this Agreement that by their sense and context contemplate continued performance or observance by one or both parties following the expiration or termination for any reason of this Agreement will survive any such expiration or termination.

14.14 Independent Contractors. The parties hereby acknowledge and agree that each is an independent contractor and that neither party shall be considered to be the agent, representative, master or servant of the other party for any purpose whatsoever, and that neither party has any authority to enter into a contract, to assume any obligation or to give warranties or representations on behalf of the other party. Nothing in this relationship shall be construed to create a relationship of joint venture, partnership, fiduciary or other similar relationship between the parties. Neither party shall incur any liability for any act or failure to act by employees of the other party.

14.15 Force Majeure. Neither party shall be held in default due to any failure to perform under this Agreement if the failure arises from events beyond such party's control, absent negligence or fault of such party. These events include governmental action, war, strike, terrorist attack, natural disaster, failure or interruption of telecommunications services and the like.

14.16 **Authority.** Each party hereto, and each signatory on behalf of a party hereto, represents and warrants that is has all necessary power and authority, and is duly authorized, to execute and deliver this agreement on behalf of his, her or its respective party hereto.

IN WITNESS WHEREOF, the parties hereto executed this Agreement, under seal and delivered this Agreement in multiple originals by their duly authorized officers and representatives as of the date first above written.

By: _____

By: _____

SAMPLE