

## 国际商标许可合同格式(附英文)

### 全文

本协议由\_\_\_\_\_公司（以下称为许可方）和\_\_\_\_\_（以下称为被许可方）于\_\_\_\_\_年\_\_\_\_月\_\_\_\_日签订。

鉴于许可方拥有具有一定价值并经注册的商标和服务标志，且拥有并可出售其他如附文第一节所述的许可方财产，其中包括“商标”。这一商标在广播或电视中经常使用，并出现在各种促销和广告业务中，得到公众的广泛认可，在公众印象中与许可方有密切关系；

鉴于被许可方意于在制造、出售、分销产品时使用这一商标；

因此考虑到双方的保证，达成如下协议：

### 一、授与许可

#### 1. 产品

根据以下规定的条款，许可方授与被许可方，被许可方接受单独使用这一商标的许可权力，且只在制造和出售、分销以下产品时使用。

（加入产品描述）

#### 2. 地域

许可协议只在\_\_\_\_\_地区有效。被许可方同意不在其他地区直接或间接使用或授权使用这一商标，且不在知情的情况下向有意或有可能在其他地区出售协议下产品的第三者销售该产品。

#### 3. 期限

许可协议自\_\_\_\_\_日生效，如未提前终止，至\_\_\_\_\_日期满。若满足协议条件，本协议期限每年自动续展，直至最后一次续展终止于\_\_\_\_\_年12月31日。始于\_\_\_\_\_年12月31日，本许可协议在每一期末自动续展一年，到下一年的12月31日止，除非一方在

协议到期前30天以前书面通知另一方终止协议的执行。

### 二、付款方式

#### 1. 比例

被许可方同意向许可方支付其或其附属公司、子公司等出售协议产品的净销售额的\_\_\_\_\_％作为使

用费。“净销售额”指总销售额减去数量折扣和利润，但不包括现金折扣和不可收帐目折扣。在制造、出售或利用产品时的费用均不可从被许可方应支付的使用费中折扣。被许可方同

意如向其他许可方支付更高的使用费或更高比例的许可使用费，将自动马上适用于本协议。

## 2. 最低限度使用费

被许可方同意向许可方支付最低限度使用费\_\_\_\_\_美元，作为对合同第一期应支付使用费的最低保证，上述最低限度使用费将在第一期的最后一天或此前支付。在协议签字时支付的预付款将不包括在内。此最低限度使用费在任何情况下都不会再归还给被许可方。

## 3. 定期报告

第一批协议产品装运后，被许可方应立即向许可方提供完整、精确的报告，说明被许可方在前一期售出的产品数量、概况、总销售额、详细列明的总销售额折扣、净销售额及前一期中的利润。被许可方将使用后附的，由许可方提供给其的报告样本。无论被许可方在前一期中是否销售了

产品，均应向许可方提供报告。

## 4. 使用费支付

除上述最低使用费以外的使用费需在销售期后\_\_\_\_\_日交付，同时提交的还有上述要求的报告。许可方接受被许可方按协议要求提供的报告和使用费（或兑现支付使用的支票）后，如发现报告或支付中有不一致或错误，可以在任何时间提出质疑，被许可方需及时改正、支付。支付

应用美元。在许可地内的应缴国内税由被许可方支付。

# 三、专有权

1. 除非许可方认可在协议有效期内不在协议有效区域内再授与别人销售第一节所述产品时使用这一商标，本协议不限制许可方授与其他人使用这一商标的权力。

2. 协议规定如果许可方向被许可方提出购买第一节所述产品，用于奖励、赠给或其他促销安排，被许可方有10天时间决定是否同意。如果被许可方在10天内未接受这一要求，许可方有权通过其他生产者进行奖励、赠给或其他促销安排。在这种情况下，当其他生产者的价格比许可

方向被许可方支付的高时，被许可方有3天时间去满足生产者生产此种产品的要求。被许可方保证在未得到许可方书面同意前，不把协议产品与其他产品或服务一起作为奖励，不与其他作为奖励的产品或服务一起出售协议产品。

#### 四、信誉

被许可方承认与该商标相关联的信誉的价值，确认这一商标、相关权力及与该商标相关联的信誉只属于许可方，这一商标在公众印象中有从属的含义。

#### 五、许可方的所有权及许可方权利的保护

1. 被许可方同意在协议有效期内及其后，不质疑许可方就该商标享有的所有权和其他权利，不质疑本协议的有效性。如果许可方能及时收到索赔和诉讼的通知，许可方保护被许可方，使其不受仅由本协议所授权的商标使用引起的索赔和诉讼的损害，许可方可选择就这样的诉讼进行辩

护。在未得到许可方的同意之前，不应就这样的索赔和诉讼达成解决办法。

2. 被许可方同意向许可方提供必要的帮助来保护许可方就该商标拥有的权利。许可方根据自己的意愿，可以自己的名义、被许可方的名义或双方的名义针对索赔和诉讼应诉。被许可方在可知范围内将书面告知许可方就协议产品的商标的侵权和仿制行为；只有许可方有权决定是否对这

样的侵权和仿制行为采取行动。若事先未得到许可方的书面同意，被许可方不应就侵权和仿制行为提出诉讼或采取任何行动。

#### 六、被许可方提供的保证及产品责任保险

被许可方负责为自己和 / 或许可方就其非经授权使用协议产品商标、专利、工艺、设计思想、方法引起的索赔、诉讼或损失，就其他行为或产品瑕疵导致的索赔、诉讼或损失进行辩护，并使许可方免受损失。

被许可方将自己负担费用，向一家在\_\_\_\_\_地区有经营资格的

保险公司承保产品责任险，为许可方（同时也为被许可方）因产品瑕疵导致的索赔、诉讼或损失提供合理的保护。被许可方将向许可方提交以许可方为被保险人的已付款保险单，在此基础上，许可方才能同意产品出售。如果对保险单有所改动，需事先得到许可方的同意。许可方有权要求被

许可方向其提供新的保险单。许可方一词包括其官员、董事、代理人、雇员、下属和附属机构，名字被许可使用的人，包装制造人，名字被许可使用的广播、电视节目制作人，节目转播台，节目主办者和其广告代理，及这些人的官员、董事、代理人和雇员。

## 七、商品质量

被许可方同意协议产品将符合高标准，其式样、外观和质量将能发挥其最好效益，将保护并加强商标名誉及其代表的信誉。同时协议产品的生产、出售、分销将遵守适用的联邦、州、地方法律，并不得影响许可方、其计划及商标本身的名声。为了达到这一目标，被许可方应在出售协议

产品之前，免费寄给许可方一定量的产品样品，其包装纸箱、集装箱和包装材料，以取得许可方的书面同意。协议产品及其纸箱、集装箱和包装材料的质量和式样需得到许可方的同意。向许可方提交的每份产品在得到其书面同意前不能视作通过。样品按本节所述得到同意后，被许可方在未

得到许可方的书面同意前不能做实质变动。而许可方除非提前 60 天书面通知被许可方，不能撤销其对样品的同意。在被许可方开始出售协议产品后，应许可方的要求，将免费向许可方提供不超过\_\_\_\_件的随机抽样样品及相关的纸箱、包装箱和包装材料。

## 八、标签

1. 被许可方同意在出售许可合同项下产品或在产品广告、促销和展示材料中将根据第一节附文中商标权第五、六条的规定标明“注册商标\_\_\_\_\_公司\_\_\_\_\_年”，或其他许可方要求的标志。如果产品、或其广告、促销、展示材料含有商标或服务标志，应标明注册的法律通知

及申请。如果产品在市场出售时其包装纸箱、集装箱或包装材料上带有商标，在上述物品上也应标明相应标志。被许可方在使用小牌、标签、标记或其他标志时，在广告、促销和展示材料中标明商标，需事先得到许可方的同意。许可方的同意不构成此协议下许可方权力和被许可方责任的放

弃。

2. 被许可方同意与许可方真诚合作，确保和维护许可方（或许可方的授与人）对商标拥有的权力。如果商标、产品、相关材料事先未注册，被许可方应许可方的要求，由许可方承担费用，以许可方的名义对版权、商标、服务标志进行恰当注册，或应许可方的要求，以被许可方自己的

名义注册。但是，双方确认本协议不能视作向被许可方转让了任何与商标有关的权利、所有权和利益。双方确认除根据本许可协议，被许可方享有严格按协议使用商标的权利外，其他相关权利都由许可方保留。

被许可方同意协议终止或期满时，将其已获得的或在执行协议项下行为而获得的

有关商标的一切权利、权益、信誉、所有权等交回给许可方。被许可方将采取一切许可方要求的方式来完成上述行为。此种交回的权利范围只能基于本协议或双方的契约而产生。

3. 被许可方同意其对商标的使用不损害许可方的利益, 而且不因为其使用该商标而取得关于商标的任何权利。

## 九、促销资料

1. 在任何情况下, 被许可方如果期望得到本协议产品的宣传材料, 那么生产该宣传材料的成本和时间由被许可方承担。所有涉及本协议商标或其复制品的宣传材料的产权应归被许可方所有, 尽管该宣传材料可能由被许可方发明或使用, 而许可方应有权使用或将其许可给其他方。

2. 许可方有权, 但没有义务使用本协议商标或被许可方的商标, 以使本协议商标、许可方或被许可方或其项目能够完满或卓越。许可方没有义务继续在电台或电视台节目中宣传本协议商标或其数字、符号或设计等。

3. 被许可方同意, 在没有得到许可方的事先书面批准的情况下, 不在电台或电视台作使用本协议商标的产品的宣传或广告。许可方可以自由决定同意批准或不批准。

## 十、分销

1. 被许可方同意将克尽勤勉, 并且持续制造、分销或销售本协议产品, 而且还将为此做出必要和适当的安排。

2. 被许可方在没有得到许可方的书面同意前, 不得将本协议产品销售给那些以获取佣金为目的的、有可能将本协议产品当作促销赠品的、以促进其搭售活动目的的及销售方式有问题的批发商、零售商、零售店及贸易商等。

## 十一、会计记录

被许可方同意建立和保留所有有关本协议项下交易活动的会计帐本和记录。许可方或其全权代表有权在任何合理的时间内查询该会计帐本或记录及其它所有与交易有关的、在被许可方控制之下的文件和资料。

许可方或其全权代表为上述目的可摘录其中的内容。应许可方的要求, 被许可

方应自行承担费用, 将其至许可方提出要求之日止的所有销售活动情况, 包括数量、规格、毛价格和净价格等以独立的、公开帐本方式, 向被许可方提供一份详细的会计报告申明。所有的会计帐本和记录应保留至本协议终止两年之后。

## 十二、破产、违约等

1. 如果被许可方在达成协议后 3 个月内未开始生产和销售一定量的第一节所述的产品, 或者 3 个月后的某个月未销售产品 (或类产品), 许可方在采取其他补偿措施以外, 可书面通知被许可方因其该月未生产销售协议产品 (或类产品) 而终止合同。通知自许可方寄出之日起生效。

2. 如果被许可方提出破产陈诉, 或被判破产, 或对被许可方提起破产诉状, 或被许可方无偿还能力, 或被许可方为其债权人的利益而转让, 或依照破产法做出安排, 或被许可方停止经营, 或有人接收其经营, 则此许可合同自动终止。除非得到许可方书面表示的同意意见, 被许可方、

其接收者、代表、受托人、代理人、管理人、继承人或被转让人无权出售、利用或以任何方式经营协议产品, 或相关的纸箱、集装箱、包装材料、广告、促销和陈列材料。这是必须遵守的。

3. 如果被许可方违反了本协议条款下的义务, 许可方在提前 10 天书面通知后有权终止合同, 除非被许可方在 10 天内对其违约行为做出全部补偿, 令许可方满意。

4. 根据第十二条所述条款, 终止许可合同将不影响许可方对被许可方拥有的其他权利。当协议终止时, 基于销售额的使用费即刻到期需马上支付, 不能缺交最低限度使用费, 且最低限度使用费将不返还。

## 十三、竞争产品

如果协议第一节所述的产品与目前、今后生产的使用该商标的产品, 或其下属、附属机构生产的使用该商标的产品相矛盾, 许可方有权终止协议。许可方书面通知被许可方后 30 天此通知生效。根据第十五条的条款, 被许可方在协议终止后有 60 天时间来处理手中的协议产品和在接到

终止协议通知前正在生产的产品。然而, 如果在 60 天期间, 对协议产品的终止有效, 被许可方应缴纳的实际使用费少于当年的预付保证金, 许可方将把签约当年已付的预付保证金与实际使用费之间的差额退还给被许可方。上句所述的退还条款仅适用于第十三条规定的协议终止情况, 而不

影响除表述相矛盾的条款外其它所有条款的适用性。

## 十四、最后报告

在协议期满前 60 天内, 或收到终止通知的 10 天以内, 或是在无需通知的协议终止情况下 10 天以内, 被许可方应向许可方出具一份报告以说明手中的和正在加工中的协议产品的数量和种类。许可方有权进行实地盘存以确认存货情况和报告的准确。若被许可方拒绝许可方的核查, 将

失去处理存货的权利。许可方保留其拥有的其他法律权利。

## 十五、存货处理

协议根据第十二条的条款终止后，在被许可方已支付预付款和使用费，并已按第二条要求提供报告的情况下，如协议中无另外规定，被许可方可以在收到终止协议通知后 60 天内处理其手中的和正在加工中的协议产品。合同到期后，或因被许可方未在产品，或其包装纸箱、集装箱、包

装材料和广告、促销、展示材料上加贴版权、商标和服务标志注册标签，或因被许可方生产的产品的质量、样式不符合第七条所述许可方的要求，而导致协议终止，被许可方不得再生产、出售、处理任何协议产品。

## 十六、协议终止或期满的效果

协议终止或期满后，授与被许可方的一切权利即刻返还许可方。许可方可自由地向他人转让在生产、出售、分销协议产品过程中使用该商标的权利。被许可方不得再使用该商标，或直接、间接地涉及该商标。除第十五条所述的情况外，被许可方不得在制造、出售、分销其自己的产品时

使用类似的商标。

## 十七、对许可方的补偿

1. 被许可方认识到（除另有规定外），如果其在协议生效后 3 个月内未开始生产、分销一定量的协议产品，或在协议期内未能持续地生产、分销、出售协议产品，将立即导致许可方的损失。

2. 被许可方认识到（除另有规定外），如果在协议终止或期满后，未能停止生产、出售、分销协议产品，将导致许可方不可弥补的损失，并损害后继被许可方的权利。被许可方认识到，对此没有恰当的法律补偿。被许可方同意在此情况下，许可方有权获得衡平法上的救济，对被许可

方实施暂时或永久禁令，或实施其他法庭认为公正、恰当的裁决。

3. 实施这些补偿措施，不影响许可方在协议中规定享有的其他权利和补偿。

## 十八、无法执行协议的原因

若由于政府法规的变化，或因国家紧急状态、战争状态和其他无法控制的原因，一方无法执行协议，书面通知对方原因和希望解除协议的意愿，则被许可方将被免除协议下的义务，本协议将终止，而基于销售额的使用费将立即到期应付，最低限度使用费将不会返还。

#### 十九、通知

除非有更改地址的书面通知，所有的通知、报告、声明及款项均应寄至协议记载的双方正式地址。邮寄日视作通知、报告等发出之日。

#### 二十、不允许合资企业

根据本协议，双方不应组成合伙人关系或合资企业。被许可方无权要求或限制许可方的行为。

#### 二十一、被许可方不得再行转让、许可

本协议和协议下被许可方的权利、义务，未经许可方书面同意，不得转让、抵押、再许可，不因法律的实施或被许可方的原因而受到阻碍。

许可方可以进行转让，但需向被许可方提供书面通知。

#### 二十二、无免责

除非有双方签字的书面契约，本协议的任何条款不得被放弃或修改。本协议以外的陈述、允诺、保证、契约或许诺都不能代表双方全部的共识。任一方不行使或延误行使其协议下的权利，将不被视作对协议权利的放弃或修改。任一方可在适用法律允许的时间内采取恰当的法律程序强制

行使权利。除了如第六条和第十二条的规定，被许可方和许可方以外的任何人、公司、集团（无论是否涉及该商标），都不因本协议而获得任何权利。

按契约规定时间执行协议的双方：

许可方 被许可方

签字人： 签字人：

职务： 职务：

### 5. TRADEMARK LICENSING AGREEMENT

Whole Doc.



Agreement made this \_\_\_\_\_ day of \_\_\_\_\_, between  
\_\_\_\_\_(hereinafter called "Licensor"), and \_\_\_\_\_(hereinafter  
called "Licensee");

WITNESSETH

Whereas Licensor owns certain valuable registered trademarks and  
service marks, and owns and has merchandising rights to various other  
Licensor properties as defined in paragraph 1 of the Rider attached hereto  
and hereby made a part hereof (hereinafter called "Name"), said Name  
having been used over the facilities of numerous stations in radio and/or  
television broadcasting in allied fields, and in promotional and  
advertising material in different businesses and being well Known and  
recognized by the general public and associated in the public mind with  
Licensor, and

Whereas Licensee desires to utilize the Name upon and in connection  
with the manufacture, sale and distribution of articles hereinafter  
described,

Now, Therefore, in consideration of the mutual promises herein  
contained, it is hereby agreed:

#### 1 Grant of License

##### (a) Articles

Upon the terms and conditions hereinafter set forth, Licensor hereby  
grants to Licensee as a related company, and Licensee hereby accepts the  
right, license and privilege of utilizing the Name solely and only upon  
and in connection with the manufacture, sale and distribution of the  
following articles.

(insert description)

##### (b) Territory

The license hereby granted extends only to \_\_\_\_\_. Licensee

agrees that it will not make, or authorize, any use, direct or indirect, of the Name in any other area, and that it will not knowingly sell articles covered by this agreement to persons who intend or are likely to resell them in any other area.

(c) Term

The term of the license hereby granted shall be effective on the \_\_\_\_\_ day of \_\_\_\_\_ and shall continue until the \_\_\_\_\_ day of \_\_\_\_\_, unless sooner terminated in accordance with the provisions hereof. The term of this license may be automatically renewed from year to year upon all the terms and conditions contained herein, with the final renewal to expire on December 31st, \_\_\_\_\_. At the end of each term, beginning with December 31st, \_\_\_\_\_, this license shall be automatically renewed for a one year term expiring December 31st of the following year, unless either party hereto shall be given written notice to the contrary at least thirty (30) days prior to the expiration date.

2 Terms of Payment

(a) Rate

Licensee agrees to pay to Licensors as royalty a sum equal to \_\_\_\_\_ percent of all net sales by Licensee or any of its affiliated, associated or subsidiary companies of the articles covered by this agreement. The term "net sales" shall mean gross sales less quantity discounts and returns, but no deduction shall be made for cash or other discounts or uncollectible accounts. No costs incurred in the manufacture, sale, distribution or exploitation of the articles shall be deducted from any royalty payable by Licensee. Licensee agrees that in the event it should pay any other Licensors a higher royalty or licensing rate or commission than that provided herein for the use of the Name, then said higher rate shall automatically and immediately apply to this contract.

(b) Minimum Royalties

Licensee agrees to pay to Licensor a minimum royalty of \_\_\_\_\_Dollars (\$\_\_\_\_\_) as a minimum guarantee against royalties to be paid to Licensor during the first contract term, said minimum royalty to be paid on or before the last day of the initial term hereof. The advance sum of \_\_\_\_\_ dollars (\$ \_\_\_\_\_) paid on the signing hereof shall be applied against such guarantee. No part of such minimum royalty shall in any event be repayable to Licensee.

(c) Periodic Statements

Within \_\_\_\_\_ days after the initial shipment of the articles covered by this agreement, and promptly on the \_\_\_\_\_ of each calendar \_\_\_\_\_ thereafter, Licensee shall furnish to Licensor complete and accurate statements certified to be accurate by Licensee showing the number, description and gross sales price, itemized deductions from gross sales price and net sales price of the articles covered by this agreement distributed and/or sold by Licensee during the preceding calendar \_\_\_\_\_, together with any returns made during the preceding calendar \_\_\_\_\_. For this purpose, Licensee shall use the statement form attached hereto, copies of which form may be obtained by Licensee from Licensor. Such statements shall be furnished to Licensor whether or not any of the articles have been sold during the preceding calendar \_\_\_\_\_.

(d) Royalty payments

Royalties in excess of the aforementioned minimum royalty shall be due on the \_\_\_\_\_ day of the \_\_\_\_\_ following the calendar \_\_\_\_\_ in which earned, and payment shall accompany the statements furnished as required above. The receipt or acceptance by Licensor of any of the statements furnished pursuant to this agreement or of any royalties paid hereunder (or the cashing of any royalty checks paid hereunder) shall not preclude Licensor from questioning the correctness thereof at any

time, and in the event that any inconsistencies or mistakes are discovered in such statements or payments, they shall immediately be rectified and the appropriate payment made by Licensee. Payment shall be in \_\_\_\_\_. Domestic taxes payable in the licensed territory shall be payable by Licensee.

### 3 Exclusivity

(a) Nothing in this agreement shall be construed to prevent Licensor from granting any other licenses for the use of the Name or from utilizing the Name in any manner whatsoever, except that Licensor agrees that except as provided herein it will grant no other licenses for the territory to which this license extends effective during the term of this agreement, for the use of the Name in connection with the sale of the articles described in paragraph 1.

(b) It is agreed that if Licensor should convey an offer to Licensee to purchase any of the articles listed in paragraph 1, in connection with a premium, giveaway or other promotional arrangement, Licensee shall have \_\_\_\_\_ days within which to accept or reject such an offer. In the event that Licensee fails to accept such offer within the specified \_\_\_\_\_ days, Licensor shall have the right to enter into the proposed premium, giveaway or promotional arrangement using the services of another manufacturer, provided, however, that in such event Licensee shall have a three (3) day period within which to meet the best offer of such manufacturer for the production of such articles if the price of such manufacturer is higher than the price offered to Licensee by Licensor. Licensee agrees that it shall not, without the prior written consent of Licensor, (i) offer the articles as a premium in connection with any other product or service, or (ii) sell or distribute the articles in connection with another product or service which product or service is a premium.

#### 4 Good Will

Licensee recognizes the great value of the good will associated with the Name, and acknowledges that the Name and all rights therein and good will pertaining thereto belong exclusively to Licensor, and that the Name has a secondary meaning in the mind of the public.

#### 5 Licensor's Title and Protection of Licensor's Rights

(a) Licensee agrees that it will not during the term of this agreement, or thereafter, attack the title or any rights of Licensor in and to the Name or attack the validity of this license. Licensor hereby indemnifies Licensee and undertakes to hold it harmless against any claims or suits arising solely out of the use by Licensee of the Name as authorized in this agreement, provided that prompt notice is given to Licensor of any such claim or suit and provided, further, that Licensor shall have the option to undertake and conduct the defense of any suit so brought and no settlement of any such claim or suit is made without the prior written consent of Licensor.

(b) Licensee agrees to assist Licensor to the extent necessary in the procurement of any protection or to protect any of Licensor's rights to the Name, and Licensor, if it so desires may commence or prosecute any claims or suits in its own name or in the name of licensee or join Licensee as a party thereto. Licensee shall notify Licensor in writing of any infringements or imitations by others in the Name on articles the same as or similar to those covered by this agreement which may come to Licensee's attention, and Licensor shall have the sole right to determine whether or not any action shall be taken on account of any such infringements or imitations. Licensee shall not institute any suit or take

any action on account of any such infringements or imitations without first obtaining the written consent of the Licensor so to do.

#### 6 Indemnification by Licensee and Product Liability Insurance

Licensee hereby indemnifies Licensor and undertakes to defend Licensee and/or Licensor against and hold Licensor harmless from any claims, suits, loss and damage arising out of any allegedly unauthorized use of any trademark, patent, process, idea, method or device by Licensee in connection with the articles covered by this agreement or any other alleged action by Licensee and also from any claims, suits, loss and damage arising out of alleged defects in the articles. Licensee agrees that it will obtain, at its own expense, product liability insurance from a recognized insurance company which has qualified to do business in \_\_\_\_\_, providing adequate protection (at least in the amount of \_\_\_\_\_) for Licensor (as well for Licensee) against any claims, suits, loss or damage arising out of any alleged defects in the articles. As proof of such insurance, a fully paid certificate of insurance naming Licensor as an insured party will be submitted to Licensor by Licensee for Licensor's prior approval before any article is distributed or sold, and at the latest within \_\_\_\_\_ days after the date first written above; any proposed change in certificates of insurance shall be submitted to Licensor for its prior approval. Licensor shall be entitled to a copy of the then prevailing certificate of insurance, which shall be furnished Licensor by Licensee. As Used in the first 2 sentences of this paragraph 6, "Licensor" shall also include the officers, directors, agents, and employees of the Licensor, or any of its subsidiaries or affiliates, any person(s) the use of whose name may be licensed hereunder, the package producer and the cast of the radio and/or television program whose name may be licensed hereunder, the stations over which the programs are

transmitted, any sponsor of said programs and its advertising agency, and their respective officers, directors, agents and employees.

## 7 Quality of Merchandise

Licensee agrees that the articles covered by this agreement shall be of high standard and of such style, appearance and quality as to be adequate and suited to their exploitation to the best advantage and to the protection and enhancement of the Name and the good will pertaining thereto, that such articles will be manufactured, sold and distributed in accordance with all applicable Federal, State and local laws, and that the same shall not reflect adversely upon the good name of Licensor or any of its programs or the Name. To this end Licensee shall, before selling or distributing any of the articles, furnish to Licensor free of cost, for its written approval, a reasonable number of samples of each article, its cartons, containers and packing and wrapping material. The quality and style of such articles as well as of any carton, container or packing or wrapping material shall be subject to the approval of Licensor. Any item submitted to Licensor shall not be deemed approved unless and until the same shall be approved by Licensor in writing. After samples have been approved pursuant to this paragraph, Licensee shall not depart therefrom in any material respect without Licensor's prior written consent, and Licensor shall not withdraw its approval of the approved samples except on \_\_\_\_\_ days' prior written notice to Licensee. From time to time after Licensee has commenced selling the articles and upon Licensor's written request, Licensee shall furnish without cost to Licensor not more than additional random samples of each article being manufactured and sold by Licensee hereunder, together with any cartons, containers and packing and wrapping material used in connection therewith.

## 8 Labeling

(a) Licensee agrees that it will cause to appear on or within each article sold by it under this license and on or within all advertising, promotional or display material bearing the Name the notice "Copyright(c) \_\_\_\_\_ (year)" in connection with Name properties (e) and (f) in Rider, paragraph 1, and any other notice desired by Licensor and, where such article or advertising, promotional or display material bears a trademark or service mark, appropriate statutory notice of registration or application for registration thereof. In the event that any article is marketed in a carton, container and/or packing or wrapping material bearing the Name, such notice shall also appear upon the said carton, container and/or packing or wrapping material. Each and every tag, label, imprint or other device containing any such notice and all advertising, promotional or display material bearing the Name shall be submitted by Licensor for its written approval prior to use by Licensee. Approval by Licensor shall not constitute waiver of Licensor's rights or Licensee's duties under any provision of this agreement.

(b) Licensee agrees to cooperate fully and in good faith with Licensor for the purpose of securing and preserving Licensor's (or any grantor of Licensor's) rights in and to the Name. In the event there has been no previous registration of the Name and/or articles and/or any material relating thereto, Licensee shall, at Licensor's request and expense, register such a copyright, trademark and/or service mark in the appropriate class in the name of Licensor or, if Licensor so requests, in Licensee's own name. However, it is agreed that nothing contained in this agreement shall be construed as an assignment or grant to the Licensee of any right, title or interest in or to the Name, it being understood that all rights relating thereto are reserved by Licensor, except for the



license hereunder to Licensee of the right to use and utilize the Name only as specifically and expressly provided in this agreement. Licensee hereby agrees that at the termination or expiration of this agreement Licensee will be deemed to have assigned, transferred and conveyed to Licensor any rights, equities, good will, titles or other rights in and to the Name which may have been obtained by Licensee or which may have vested in Licensee in pursuance of any endeavors covered hereby, and that Licensee will execute any instruments requested by Licensor to accomplish or confirm the foregoing. Any such assignment, transfer or conveyance shall be without other consideration than the mutual covenants and considerations of this agreement.

(c) Licensee hereby agrees that its every use of such name shall inure to the benefit of Licensor and that Licensee shall not at any time acquire any rights in such name by virtue of any use it may make of such name.

#### 9 Promotional Material

(a) In all cases where Licensee desires artwork involving articles which are the subject of this license to be executed, the cost of such artwork and the time for the production thereof shall be borne by Licensee. All artwork and designs involving the Name, or any reproduction thereof, shall, notwithstanding their invention or use by Licensee, be and remain the property of Licensor and Licensor shall be entitled to use the same and to license the use of the same by others.

(b) Licensor shall have the right, but shall not be under any obligation, to use the Name and/or the name of Licensee so as to give the Name, Licensee, Licensor and/or Licensor's programs full and favorable prominence and publicity. Licensor shall not be under any obligation whatsoever to continue broadcasting any radio or television program or use the Name or any person, character, symbol, design or likeness or visual

representation thereof in any radio or television program.

(c) Licensee agrees not to offer for sale or advertise or publicize any of the articles licensed hereunder on radio or television without the prior written approval of Licensor, which approval Licensor may grant or withhold in its unfettered discretion.

## 10 Distribution

(a) Licensee agrees that during the term of this license it will diligently and continuously manufacture, distribute and sell the articles covered by this agreement and that it will make and maintain adequate arrangement for the distribution of the articles.

(b) Licensee shall not, without prior written consent of Licensor, sell or distribute such articles to jobbers, wholesalers, distributors, retail stores or merchants whose sales or distribution are or will be made for publicity or promotional tie-in purposes, combination sales, premiums, giveaways, or similar methods of merchandising, or whose business methods are questionable.

(c) Licensee agrees to sell to Licensor such quantities of the articles at as low a rate and on as good terms as Licensee sells similar quantities of the articles to the general trade.

## 11 Records

Licensee agrees to keep accurate books of account and records covering all transactions relating to the license hereby granted, and Licensor and its duly authorized representatives shall have the right at all reasonable hours of the day to an examination of said books of account and records and of all other documents and materials in the possession or under the control of Licensee with respect to the subject matter and terms of this

agreement, and shall have free and full access thereto for said purposes and for the purpose of making extracts therefrom. Upon demand of Licensor, Licensee shall at its own expense furnish to Licensor a detailed statement by an independent certified public accountant showing the number, description, gross sales price, itemized deductions from gross sales price and net sale price of the articles covered by this agreement distributed and/or sold by Licensee to the date of Licensor's demand. All books of account and records shall be kept available for at least \_\_\_\_\_ years after the termination of this license.

#### 12 Bankruptcy, Violation, etc.

(a) If Licensee shall not have commenced in good faith to manufacture and distribute in substantial quantities all the articles listed in paragraph 1 within \_\_\_\_\_ months after the date of this agreement or if at any time thereafter in any calendar month Licensee fails to sell any of the articles (or any class or category of the articles), Licensor in addition to all other remedies available to it hereunder may terminate this license with respect to any articles or class or category thereof which have not been manufactured and distributed during such month, by giving written notice of termination to Licensee. Such notice shall be effective when mailed by Licensor.

(b) If Licensee files a petition in bankruptcy or is adjudicated a bankrupt or if a petition in bankruptcy is filed against Licensee or if it becomes insolvent, or makes an assignment for the benefit of its creditors or an arrangement pursuant to any bankruptcy law, or if Licensee discontinues its business or if a receiver is appointed for it or its business, the license hereby granted shall automatically terminate forthwith without any notice whatsoever being necessary. In the event this license is so terminated, Licensee, its receivers, representatives,

trustees, agents, administrator, successors and/or assigns shall have no right to sell, exploit or in any way deal with or in any articles covered by this agreement or any carton, container, packing or wrapping material, advertising, promotional or display material pertaining thereto, except with and under the special consent and instructions of Licensor in writing, which they shall be obligated to follow.

(c) If Licensee shall violate any of its other obligations under the terms of this agreement, Licensor shall have the right to terminate the license hereby granted upon \_\_\_\_\_ days' notice in writing, and such notice of termination shall become effective unless Licensee shall completely remedy the violation within the \_\_\_\_\_ day period and satisfy Licensor that such violation has been remedied.

(d) Termination of the license under the provisions of paragraph 12 shall be without prejudice to any rights which Licensor may otherwise have against Licensee. Upon the termination of this license, notwithstanding anything to the contrary herein, all royalties on sales theretofore made shall become immediately due and payable and no minimum royalties shall be repayable or avoidable.

### 13 Sponsorship by Competitive Product

In the event that any of the articles listed in paragraph 1 conflicts with any product of a present or future sponsor of a program on which the Name appears or is used, or with any product of a subsidiary or affiliate of such sponsor, then Licensor shall have the right to terminate this agreement as to such article or articles by written notice to Licensee effective not less than \_\_\_\_\_ days after the date such notice is given. In the event of such termination, Licensee shall have \_\_\_\_\_ days after the effective date of such termination to dispose of all of such articles on hand or in process of manufacture prior to such notice, in accordance

with the provisions of paragraph 15. However, in the event such termination is effective as to all the articles subject to this agreement and the advance guarantee for the then current year has not been fully accounted for by actual royalties by the end of the \_\_\_\_\_ disposal period, Licensor shall refund to Licensee the difference between the advance guarantee which has been paid for such contract year and the actual royalties. The refund provision contained in the preceding sentence pertains only to termination occurring pursuant to this paragraph 13, and shall not affect the applicability of any other paragraph to such termination except as expressly contradicted herein.

#### 14 Final Statement Upon Termination or Expiration

\_\_\_\_\_ days before the expiration of this license and, in the event of its termination, \_\_\_\_\_ days after receipt of notice of termination or the happening of the event which terminates this agreement where no notice is required, a statement showing the number and description of articles covered by this agreement on hand or in process shall be furnished by Licensee to Licensor. Licensor shall have the right to take a physical inventory to ascertain or verify such inventory and statement, and refusal by Licensee to submit to such physical inventory by Licensor shall forfeit Licensee's right to dispose of such inventory, Licensor retaining all other legal and equitable rights Licensor may have in the circumstances.

#### 15 Disposal of Stock Upon Termination or Expiration

After termination of the license under the provisions of paragraph 12, Licensee, except as otherwise provided in this agreement, may dispose of articles covered by this agreement which are on hand or in process at the time notice of termination is received for a period of \_\_\_\_\_ days after

notice of termination, provided advances and royalties with respect to that period are paid and statements are furnished for that period in accordance with paragraph 2. Notwithstanding anything to the contrary herein, Licensee shall not manufacture, sell or dispose of any articles covered by this license after its expiration or its termination based on the failure of Licensee to affix notice of copyright, trademark or service mark registration or any other notice to the articles, cartons, containers, or packing or wrapping material or advertising, promotional or display material, or because of the departure by Licensee from the quality and style approved by Licensor pursuant to paragraph 7.

#### 16 Effect of Termination or Expiration

Upon and after the expiration or termination of this license, all rights granted to Licensee hereunder shall forthwith revert to Licensor, who shall be free to license others to use the Name in connection with the manufacture, sale and distribution of the articles covered hereby and Licensee will refrain from further use of the Name or any further reference to it, direct or indirect, or anything deemed by Licensor to be similar to the Name in connection with the manufacture, sale or distribution of Licensee's products, except as provided in paragraph 15.

#### 17 Licensor's Remedies

(a) Licensee acknowledges that its failure (except as otherwise provided herein) to commence in good faith to manufacture and distribute in substantial quantities any one or more of the articles listed in paragraph 1 within \_\_\_\_\_ months after the date of this agreement and to continue during the term hereof to diligently and continuously manufacture, distribute and sell the articles covered by this agreement or

any class or category thereof will result in immediate damages to Licensors.

(b) Licensee acknowledges that its failure (except as otherwise provided herein) to cease the manufacture, sale or distribution of the articles covered by this agreement or any class or category thereof at the termination or expiration of this agreement will result in immediate and irremediable damage to Licensors and to the rights of any subsequent licensee. Licensee acknowledges and admits that there is no adequate remedy at law for such failure to cease manufacture, sale or distribution, and Licensee agrees that in the event of such failure Licensors shall be entitled to equitable relief by way of temporary and permanent injunctions and such other further relief as any court with jurisdiction may deem just and proper.

(c) Resort to any remedies referred to herein shall not be construed as a waiver of any other rights and remedies to which Licensors is entitled under this agreement or otherwise.

#### 18 Excuse For Nonperformance

Licensee shall be released from its obligations hereunder and this license shall terminate in the event that governmental regulations or other causes arising out of a state of national emergency or war or causes beyond the control of the parties render performance impossible and one party so informs the other in writing of such causes and its desire to be so released. In such events, all royalties on sales theretofore made shall become immediately due and payable and no minimum royalties shall be repayable.

#### 19 Notices

All notices and statements to be given, and all payments to be made hereunder, shall be given or made at the respective addresses of the parties as set forth above unless notification of a change of address is given in writing, and the date of mailing shall be deemed the date the notice or statement is given.

#### 20 No Joint Venture

Nothing herein contained shall be construed to place the parties in the relationship of partners or joint venturers, and Licensee shall have no power to obligate or bind Licensor in any manner whatsoever.

#### 21 No Assignment or Sublicense by Licensee

This agreement and all rights and duties hereunder are personal to Licensee and shall not, without the written consent of Licensor, be assigned, mortgaged, sublicensed or otherwise encumbered by Licensee or by operation of law.

Licensor may assign but shall furnish written notice of assignment.

#### 22 No Waiver, etc.

None of the terms of this agreement can be waived or modified except by an express agreement in writing signed by both parties. There are no representations, promises, warranties, covenants or undertakings other than those contained in this agreement, which represents the entire understanding of the parties. The failure of either party hereto to enforce, or the delay by either party in enforcing, any of its rights under this agreement shall not be deemed a continuing waiver or a modification thereof and either party may, within the time provided by applicable law, commence appropriate legal proceeding to enforce any or



all of such rights. No person, firm, group or corporation (whether included in the Name or otherwise) other than Licensee and Licensor shall be deemed to have acquired any rights by reason of anything contained in this agreement, except as provided in paragraphs 6 and 21.

In witness whereof, the parties have caused this instrument to be duly executed as of the day and year first above written.

\_\_\_\_\_, Licensor

By \_\_\_\_\_

Title:

\_\_\_\_\_, Licensee

By \_\_\_\_\_

Title: