

DATED << >>

(1) << >>

(2) << >>

TRADE MARK ROYALTY AGREEMENT

THIS AGREEMENT is made the <<insert day>> day of <<insert month>> <<insert year>>

BETWEEN:

- (1) <<Name of Licensor>> [a company registered in <<Country of Registration>> under number <<Company Registration Number>> whose registered office is at] **OR** [of] <<Address>> ("the Licensor") and
- (2) <<Name of Licensee>> [a company registered in <<Country of Registration>> under number <<Company Registration Number>> whose registered office is at] **OR** [of] <<Address>> ("the Licensee")

WHEREAS:

- (1) The Licensor is the [registered] owner of the Trade Mark(s) detailed in Schedule 1.
- (2) The Licensee wishes to use the Trade Mark(s) listed in Schedule 1 for the Stated Purposes detailed in Schedule 2.
- (3) The Licensor wishes to grant a licence to the Licensee to use the Trade Mark(s) listed in Schedule 1 in accordance with the terms and conditions of this Agreement.

IT IS AGREED as follows:

1. Definitions and Interpretation

1.1 In this Agreement, unless the context otherwise requires, the following expressions have the following meanings:

"Confidential Information"	means information relating to this Agreement, any business information relating to either Party, and any other information which either Party may designate confidential;
"Effective Date"	means [the date of this Agreement] OR [<<insert date>>];
"Gross Receipts"	means all sums arising from the sale and provision of goods and/or services under the Stated Purposes before any deductions are made;
"Net Receipts"	means the Gross Receipts from the Stated Purposes subject to deductions for value added tax, other sales tax, packaging, transportation, insurance [and any other industry-specific normally deductible costs];
"Quarter"	means a three month period which shall end on 31 st March, 30 th June, 30 th September and 31 st December respectively. The first quarter shall begin on the Effective Date and the final quarter shall end on the date of termination or expiry of this Agreement;
"Royalty / Royalties"	means the payments due in consideration of the licence granted by this Agreement as set out in Clause 6;

“Stated Purposes”	means	Mark(s) in relation to the
	Goods	in Schedule 2;
“Term”	means	ement as set out in
	Clause	
“Territory”	means	territory>>.

- 1.2 Unless the context otherwise requires, the following definitions apply in this Agreement to:
- 1.2.1 “writing”, and any other form of communication effecting a facsimile transmission or similar means;
 - 1.2.2 a statute or a provision of law, or a provision as amended or otherwise in force at the relevant time;
 - 1.2.3 “this Agreement” is the Agreement and each of the Schedules as amended or otherwise in force at the relevant time;
 - 1.2.4 a Schedule is a schedule of this Agreement;
 - 1.2.5 a Clause or paragraph is a Clause or paragraph of this Agreement (other than the Schedules) and of the relevant Schedule; and
 - 1.2.6 a “Party” or the “Parties” are the parties to this Agreement.
- 1.3 The headings used in this Agreement shall have no effect upon the interpretation of the provisions of this Agreement.
- 1.4 Words imparting the singular shall include the plural and vice versa.

2. Grant of Rights

The Licensor hereby grants to the Licensee a [non-]exclusive licence (the “Licence”) within the Territory and for the Stated Purposes.

3. Scope of Licence

- 3.1 The Licensee may not:
- 3.1.1 use the Trade Mark(s) for purposes other than the Stated Purposes;
 - 3.1.2 use the Trade Mark(s) outside the Territory;
 - 3.1.3 use any part of the Trade Mark(s) or other trade marks belonging to the Licensor that is identical or similar to the Trade Mark(s);
 - 3.1.4 use any other trade mark, registered or unregistered and irrespective of ownership, for the Stated Purposes without the express written consent of the Licensor;
 - 3.1.5 use any other trade mark, registered or unregistered and irrespective of ownership, for the Stated Purposes or otherwise, which are identical or similar to the Trade Mark(s);
 - 3.1.6 claim or make any representation that it has any rights, title or interest in or to the Trade Mark(s) or that it is authorized to use the Trade Mark(s) under this Agreement; and

3.1.7 take or permit any action which is detrimental in any way to the Trade Mark(s). Such action shall not be limited to, that which may impair, damage or be detrimental to the reputation, goodwill, validity, value or distinctiveness of the Trade Mark(s).

3.2 Notwithstanding the provisions of this Agreement, the Licensee may accept and process orders for the Trade Mark(s) for under the Stated Purposes from outside the Territory.

3.3 The Licensee shall [not] be permitted to sub-license, sub-contract or otherwise transfer the benefit of the License to any third party [without the prior written consent of the Licensor, such consent not to be unreasonably withheld].

3.4 The Licensee hereby acknowledges that the Trade Mark(s) are the sole property of the Licensor and that no use of the Trade Mark(s) by the Licensee shall create any right or interest in or to the Trade Mark(s) by the Licensee by this Agreement.

3.5 The Licensee hereby acknowledges that all goodwill arising from its use of the Trade Mark(s) in connection with the Stated Purposes or otherwise, shall accrue for the sole benefit of the Licensor.

4. Licensor's Rights and Obligations

4.1 During the Term and within the scope of the Licence, the Licensor shall register the Trade Mark(s) [Where the Licence is a non-exclusive licence, the Licensor shall use its reasonable endeavours to inform the Licensee of any additional licences granted by the Licensor.]

4.2 Nothing in this Agreement shall restrict the Licensor's freedom to use the Trade Mark(s) itself.

4.3 The Licensor shall pay any and all costs and all action required to ensure the registration (where applicable) and renewal of the Trade Mark(s) and shall submit a copy of the receipt of the same upon request to the Licensee.

4.4 [Notwithstanding the provisions of this Agreement, the Licensor shall not be obliged to comply with that request if, in its sole opinion, the costs or benefits of taking such action are not justified. The Licensor shall inform the Licensee of its decision in writing >> prior to the date on which it is required to take such action. The Licensee shall have the option of an assignment of the Trade Mark(s) to the Licensee to be agreed between the Parties at the time. In the event the Licensee declines the offer or does not reply within <<insert period>> of the date of the offer, the registration(s) shall lapse and the Licensor shall have no obligation to the Licensee under this Clause 4.]

5. Licensee's Rights and Obligations

5.1 The Licensee shall be fully responsible for the use of the Trade Mark(s) and for ensuring that such use is limited to the Stated Purposes.

5.2 The Licensee shall, subject to the provisions of this Agreement, be the sole owner of the Trade Mark(s) in respect of which it has entered with third parties, be the sole owner of the Trade Mark(s) from the Stated Purposes

SAMPLE

5.3 The Licensee shall be responsible for the cost and expense, to record its interest in the property with the county body / office>> and to cancel the same upon completion of the Agreement.

5.4 In the event that the Licensee may be suitable for use in the Licensee of the same, giving trade mark(s). If the Licensee be assigned to it at its sole shall licence the same but otherwise] under the terms mark(s) shall become part of

5.5 The Licensee may only use the Trade Mark(s) in accordance with the requirements set out in Schedule 1. No variation to the requirements set out in Schedule 1 shall be permitted without the express written consent of the Licensor. The Licensee shall not be unreasonably withheld or delayed in its consent not to be unreasonably withheld or delayed in its consent to vary the Trade Mark(s), the requirements set out in Schedule 1, or the approval of the Licensor for the Licensee to use the Trade Mark(s) in accordance with the requirements set out in Schedule 1.

5.6 The Licensee shall use its Purposes are carried out to practice in the relevant industry standards, codes of practice and further related matters agreed (provided that such matters are representatives of both Parties).

5.7 In the event that the Lic materials or literature or oth of the Licensee's premises with the provisions of sub- required upon receipt of a w

5.8 In the event that the Licensor determines that the Licensee's Purposes, it shall submit details of the proposed changes to the Licensor and shall not proceed with such changes until the Licensor has approved the same. The Licensor shall not be bound to approve the Licensee's proposed changes to the same, which

5.9 The Licensee shall submit incorporating the Trade M Licensors. Within <<insert Licensors shall submit either details of required revisions

5.10 At the Licensor's request and with the Licensor's reasonable assistance which the Licensee shall provide, the Licensee shall fulfill its obligations under Clause 4.3.

6. Payment, Royalties and Records

6.1 [On the Effective Date, the L

6.1.1 the sum of £<<insert>> the Licence under th

tion required, at its sole
with the <<insert name of
termination or expiry of this

any trade mark(s) which
 purposes, it shall notify the
 of an assignment of those
 n, the trade mark(s) shall
 onable consideration and
 a royalty-free basis but
 eupon the assigned trade

as it/they appear(s) in Trade Mark(s) shall be the Licensor, such consent shall constitute the Licensor's consent to the Licensee, no further required to obtain the

to ensure that the Stated
is commensurate with best
with any and all relevant
of any nature and any
Parties from time to time
ng, signed by authorised

of products, marketing not limited to, inspections of the Licensee's compliance. The Licensee shall take any action required by the Licensor.

by changes to the Stated
the Licensor and shall not
written agreement of the
ly withheld.

of any and all material
for the approval of the
any such material, the
Licensee or shall submit

we shall provide any and all
censor to comply with its

Licensors:

ment”) in consideration for

- 6.1.2 an advance against Licensee's net receipts from the State <<insert percentage>> (the "Advance").]
- 6.2 [Following the complete receipt of the net receipts from Net Receipts, the Licensee shall pay to the Licensor <<insert percentage>>% of the net receipts from the State <<insert percentage>>% of the net receipts from the State in accordance with sub-Clause 6.3.]

OR

- The Licensee shall pay to the Licensor <<insert percentage>>% of the Net Receipts from the State in accordance with sub-Clause 6.2.
- 6.3 Within <<insert period>> of the end of each quarter, the Licensee shall submit to the Licensor a written statement of the Gross Receipts and Net Receipts from the Stated Purposes carried out by the Licensee and the Royalties due therefor.
- 6.4 The Royalties payable for each quarter shall be paid within <<insert period>> of the end of that Quarter.
- 6.5 The Licensee shall be required to maintain books of account detailing all information required for the calculation of the Royalties payable under this Agreement.
- 6.6 The Licensor shall have the right, upon written notice, and during normal working hours, to inspect and verify the books of account kept by the Licensee under sub-Clause 6.5. Any discrepancy in the Royalties paid. Any such inspection shall be conducted only in the event of an underpayment of Royalties by the Licensee. If such inspection shall be borne by the Licensee.
- 6.7 In the event that a shortfall in Royalties is identified by an inspection carried out by the Licensor under sub-Clause 6.6, the Licensee shall immediately pay to the Licensor the amount of the shortfall.

7. Licensor's Warranties

- 7.1 The Licensor hereby warrants that:
- 7.1.1 it has the right to enter into the Agreement;
- 7.1.2 the Trade Mark(s) is/are validly owned by the Licensor and the Licensee;
- 7.1.3 no third party has any right or claim to the Trade Mark(s) nor has claimed the same at any time;
- 7.1.4 to the best of its current knowledge, the Trade Mark(s) is/are not infringed (nor threatened to be so) by any third party;
- 7.1.5 to the best of its current knowledge, no third party is currently bringing (or threatening to bring) proceedings with respect to the Trade Mark(s) at any time;
- 7.1.6 to the best of its current knowledge, no third party is currently bringing (or threatening to bring) proceedings with respect to the Trade Mark(s) at any time.

to the Trade Mark(s) in opposition, cancellation or

ed to, those pertaining to opposition; and

7.1.7 nothing in the Trade Mark(s) is dishonest, untruthful or misleading. The Trade Mark(s) will in no way be used in a way that is likely to harm the reputation of the third party.

indecent, obscene, illegal, defamatory, and nothing in the Trade Mark(s) shall infringe or statutory rights of any third party.

7.2 The Licensors give neither any representation with respect to the validity, utility nor enforceability of the Trade Mark(s).

any representation with respect to the validity, utility or enforceability of the Trade Mark(s).

8. Licensee's Warranties

The Licensee hereby warrants and

8.1 it has the right to enter into this Agreement;

8.2 it shall pay all sums due under this Agreement in accordance with Clause 6; and

8.3 it shall not exceed the rights granted to it by the Licensors.

accordance with Clause 6;

ent.

9. Indemnity

9.1 The Licensee shall indemnify the Licensors against any claim, loss, damage, proceedings or expenses howsoever arising, directly or indirectly, in connection with or non-performance by the Licensee of any of its obligations or warranties as set out in this Agreement.

the Licensors against any claim, loss, damage, proceedings or expenses howsoever arising, directly or indirectly, in connection with or non-performance by the Licensee of any of its obligations or warranties as set out in this Agreement.

9.2 The Licensors shall indemnify the Licensee against any claim, loss, damage, proceedings or expenses howsoever arising, directly or indirectly, in connection with or non-performance by the Licensors of any of its obligations or warranties as set out in this Agreement.

the Licensee against any claim, loss, damage, proceedings or expenses howsoever arising, directly or indirectly, in connection with or non-performance by the Licensors of any of its obligations or warranties as set out in this Agreement.

9.3 The indemnities set out in sub-Clauses 9.1 and 9.2 shall apply provided that in all cases the indemnified Party shall

shall apply provided that in all cases the indemnified Party shall

9.3.1 notify the indemnifying Party as soon as reasonably possible of any claim, loss or damage suffered;

reasonably possible of any claim, loss or damage suffered;

9.3.2 consult the indemnifying Party in connection with any such matter;

tion to be taken in dealing with any such matter;

9.3.3 make no agreement or arrangement for the payment of any sum without the prior agreement of the indemnifying Party, such agreement not to be unreasonable.

the payment of any sum without the prior agreement of the indemnifying Party, such agreement not to be unreasonable.

10. Limitation of Liability

10.1 Without prejudice to the provisions of sub-Clause 10.3, the Licensors shall not be liable to the Licensee with respect to any loss of revenue, anticipated savings, goodwill, business, opportunity, or consequential loss or damage, foreseeable, known or

and subject to sub-Clause 10.3, the Licensors shall not be liable to the Licensee with respect to any loss of revenue, anticipated savings, goodwill, business, opportunity, or consequential loss or damage, foreseeable, known or

- otherwise) which may arise [or any other contractual [or non-contractual] matters arising in connection with the License Agreement] and all liability whether arising in contract, tort (including negligence) or otherwise.
- 10.2 The provisions of this Clause 10 shall exclude the Licensor's liability for death or personal injury caused by or arising from the Licensee's own negligence, nor shall it exclude the Licensor's liability for any other matters for which the Licensor may not exclude liability under applicable law.
- 10.3 Nothing in this Clause 10 shall

11. Proceedings

- 11.1 The Licensee shall inform the Licensor if it becomes aware of any:
- 11.1.1 infringement, actual or potential, of the Trade Mark(s);
 - 11.1.2 challenge, claim or dispute in relation to the Trade Mark(s) including, but not limited to, opposition, cancellation, revocation or invalidation proceedings, or proceedings relating to opposition, cancellation, revocation or invalidation of the Trade Mark(s);
 - 11.1.3 claims that the Trade Mark(s) infringe the rights of any third party.
- 11.2 In the event of any infringement or dispute referred to in sub-Clause 11.1:
- 11.2.1 the Licensor shall determine the appropriate action to be taken;
 - 11.2.2 the Licensor shall be responsible for the conduct of any claims or proceedings;
 - 11.2.3 the Licensee shall provide the Licensor with the assistance that may be reasonably required to conduct any claims or proceedings;
 - 11.2.4 the Licensor shall reimburse the Licensee for any reasonable costs or expenses (including legal fees) incurred by the Licensee in rendering assistance under sub-Clause 11.2.3;
 - 11.2.5 the Licensor shall be responsible for the costs of any claims or proceedings and shall be solely entitled to any damages or compensation recovered from a third party in connection with such claims or proceedings.

12. Confidentiality

- 12.1 Both the Licensor and the Licensee shall keep Confidential Information confidential and shall not disclose it to any third party, except as may be required in writing by the other, at all times during the continuance of the License Agreement and [for <<insert period>> years] after its termination:
- 12.1.1 keep confidential all Confidential Information;
 - 12.1.2 not disclose any Confidential Information to any other party;
 - 12.1.3 not use any Confidential Information for any purpose other than as contemplated by this License Agreement;
 - 12.1.4 not make any copies of or part with possession of any Confidential Information.

- 12.1.5 ensure that (as applicable) directors, officers, employees, agents or advisers do not do anything that they know or ought to know by that Party, would be a breach of the provisions of sub-Clauses 12.1.1 to 12.1.4.
- 12.2 Subject to sub-Clause 12.1, the disclosing Party shall not disclose any Confidential Information to:
- 12.2.1 any of their sub-contractors;
- 12.2.2 any governmental or regulatory body; or
- 12.2.3 any of their employees or agents, or any party described in sub-Clauses 12.2.1 or 12.2.2.
- 12.3 Disclosure under sub-Clause 12.2 is permitted only to the extent that is necessary for the purposes of the Agreement, or as required by law. In each case the disclosing Party must inform the recipient that the Confidential Information is disclosed and that the recipient is a body described in sub-Clause 12.2. If the recipient is an employee or officer of such a body, the disclosing Party must also submit to the other Party a written undertaking from that employee or officer not to disclose the Confidential Information or for which the disclosure is made.
- 12.4 Either Party may use any Confidential Information for any purpose, or disclose it to any other party, where the Confidential Information is or becomes public knowledge through no fault of the disclosing Party.
- 12.5 When using or disclosing Confidential Information under sub-Clause 12.4, the disclosing Party must ensure that it does not disclose any part of that Confidential Information which is not necessary for the purpose.
- 12.6 The provisions of this Clause shall be in force in accordance with their terms, notwithstanding any termination or expiry of the Agreement for any reason.

13. Term and Termination

- 13.1 This Agreement shall come into force on the Effective Date and shall continue in force for a period of (the "Term") unless otherwise terminated in accordance with Clause 13.3.
- 13.2 The Term may be renewed for successive periods of up to 12 months upon the agreement of both Parties.
- 13.3 Either Party has the right to terminate the Agreement immediately by written notice if the other:
- 13.3.1 has committed a material breach of the Agreement, unless such breach is capable of being remedied and the Party has failed to remedy the breach within <2> 30 days of written notice to do so;
- 13.3.2 has an encumbrance or charge over its assets (being a company) has a receiver appointed over its assets;
- 13.3.3 holds a meeting of creditors or enters into any arrangement, moratorium or similar arrangement for the benefit of the same (including an arrangement under the Insolvency Act 1986 or a similar law), or becomes subject to an administration order or similar arrangement under the Insolvency Act 1986);

- 13.3.4 has (being an individual or (being a company) in connection with the amalgamation or reorganisation of the company resulting in the company assuming the obligations of the company under this Agreement); or
- 13.3.5 ceases, or threatens to cease, its business.
- 13.4 Sub-Clause 13.3 shall also apply to anything analogous to any of the provisions of that sub-clause under the law of any jurisdiction.
- 13.5 Any and all obligations of the Licensee shall survive termination and expiration of this Agreement

14. Post Termination

- 14.1 Upon the termination of this Agreement, the Licensee shall:
- 14.1.1 subject to the provisions of the Trade Mark(s) (save for any use which remains in force);
- 14.1.2 subject to the provisions of any trade marks which remain in force (save for any use which remains in force);
- 14.1.3 return any and all material under this Agreement including
- 14.1.4 provide to the Licensor as under sub-Clause 6.3) of Royalties due from the Licensor which have occurred since the end of the preceding period or outstanding statements also due under Clause
- 14.1.5 pay any and all outstanding amounts set out in any statement on termination, shall be due within <<insert period>> of the date of termination
- 14.2 Subject to the provisions of this Agreement, the Licensee shall be free to sell any remaining stocks of goods (together with the Trade Mark(s) and/or continuing use of the Trade Mark(s) (where the goods were entered into prior to the termination of this Agreement) for a period of <<insert period>> or until the goods are sold (whichever is earlier).
- 14.3 In the event that any stock of goods (together with the Trade Mark(s) remaining under Clause 14.2, the Licensee shall deliver the same up to the Licensor's option. [The Licensee shall have the right to request the Licensor to complete the sale of such goods, the granting and disposal of which shall be at the Licensor's sole discretion.]
- 14.4 The Licensee shall continue to provide services in accordance with the provisions of Clause 6 for a period of <<insert period>> for services rendered during the

periods provided for under the

15. **Non-Assignment of Agreement**

Neither Party shall assign, transfer or otherwise make over to any third party the benefit and/or the right to enforce the Agreement without the prior written consent of the other, such consent

in any other manner make over to any third party the benefit and/or the right to enforce the Agreement without the prior written consent of the other, such consent withheld.

16. **Notices**

16.1 All notices under this Agreement shall be deemed duly given if signed by the Party giving notice and delivered by hand or by registered mail, as appropriate.

and be deemed duly given if signed by the authorised officer thereof,

16.2 Notices shall be deemed to have been delivered:

16.2.1 when delivered, if delivered by hand or by registered mail) during business hours of the recipient; or

by hand or by registered mail) during business hours of the recipient; or

16.2.2 when sent, if transmitted by e-mail and a successful transmission report is received; or

by e-mail and a successful transmission report is received; or

16.2.3 on the fifth business day after mailing, if mailed by national ordinary mail, postage paid; or

by national ordinary mail, postage paid; or

16.2.4 on the tenth business day after mailing, if mailed by airmail, postage prepaid.

by airmail, postage prepaid.

16.3 All notices under this Agreement shall be deemed to have been delivered to the most recent address, e-mail address, or telephone number of the other Party.

to the most recent address, e-mail address, or telephone number of the other Party.

17. **Force Majeure**

Neither Party to this Agreement shall be liable for failure to perform its obligations where such failure is caused by an event that is beyond the control of that Party. Such events are not limited to: power outage, Internet Service Provider failure, storms, earthquakes, acts of terrorism, war, civil unrest, fire, flood, or any other event that is beyond the control of that Party.

failure or delay in performing its obligations where such failure is caused by an event that is beyond the control of that Party. Such events are not limited to: power outage, Internet Service Provider failure, storms, earthquakes, acts of terrorism, war, civil unrest, fire, flood, or any other event that is beyond the control of that Party.

18. **No Waiver**

The Parties agree that no failure to perform any provision in this Agreement shall constitute a continuing waiver. Such failure shall not constitute a continuing waiver.

the performance of any provision in this Agreement shall constitute a continuing waiver. Such failure shall not constitute a continuing waiver.

19. **Severance**

The Parties agree that, in the event any provision of this Agreement is found to be unlawful or unenforceable, that / those provisions shall be deemed severed and the remaining provisions shall remain in full force and effect.

of the provisions of this Agreement is found to be unlawful or unenforceable, that / those provisions shall be deemed severed and the remaining provisions shall remain in full force and effect.

remainder of this Agreement shall be

20. Law and Jurisdiction

20.1 This Agreement (including all amendments and variations thereto) shall be governed by, and construed in accordance with, the laws of

20.2 Any dispute, controversy, or claim arising out of or in connection with this Agreement (including all amendments and variations thereto) shall be referred to the courts of England and Wales.

IN WITNESS WHEREOF this Agreement has been made the day and year first before written

SIGNED by
<<Name and Title of person signing for Licensor>>
for and on behalf of <<Licensor's Name>>

In the presence of
<<Name & Address of Witness>>

SIGNED by

<<Name and Title of person signing for Licensee>>
for and on behalf of <<Licensee's Name>>

In the presence of
<<Name & Address of Witness>>

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The Trade Mark(s)

<<insert a complete specification of the Trade Mark(s) used under this Agreement
including (where relevant) details of registration

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The Stated Purposes

<insert a detailed description of the purposes for which the mark(s) will be used>>

[Goods

<<insert details of any goods for which the mark(s) will be used>>]

[Services

<<insert details of any services for which the mark(s) will be used>>]

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