


Trademark License Agreement

- 🔊 This is a formal trademark licensing agreement where you are licensing your trademark to another company in return for a royalty payment. (It can easily be reversed if you are licensing the trademark from the other company.)
- 🔊 See also the “Material Usage License” agreement for a simpler license – it’s akin to a glorified “Permission to Reprint” agreement

Date: **[Date]**

To: **[Name of other party]**

From:  **[Owner/Founder]**
[Company]

Subject: **Trademark License Agreement**

Attached is a “Trademark Licensing” Agreement in order is to clearly establish the terms and conditions by which you may use [Company]’s trademark(s) to further our mutual business purposes.

I believe that it embodies everything we discussed.

Please read the agreement carefully.

We recommend that you also have it reviewed by your own qualified legal counsel.

Time is of the essence.

Please sign and return it to me asap.

Thank you very much!


From JIAN

NOTICE:

We wish we could provide an agreement that was tailored *exactly* to your business. While this is not always possible, we feel that we've come very close and that this document provides you with the head-start that you need to get your deal moving. Nevertheless, we must make this disclaimer:

- 🚫 **Do Not Use This Agreement 'As-Is.'**
- 🚫 **This Agreement Is Not Legal Advice.**
- 🚫 **Read it Thoroughly and Make All Appropriate Changes to Fit Your Requirements.**
- 🚫 **You Should Have this Agreement Reviewed and Approved by a Qualified Attorney at Law Before Using It.**
- 🚫 **JIAN Accepts No Liability for the Effectiveness of This Document For Your Purposes.**

Free Access to Attorneys, Accountants & Consultants in Your Area

We're building a network of  business experts who are eager to help you when you need it. They can review your work, make suggestions, handle unique situations and introduce you to influential people. On our website you can search by expertise and location, then e-mail or jump straight to their website. Although they are professionals and charge for their services, most offer an initial consultation free of charge. They're in your area and you can contact them directly.


- Please visit our website under [Expert Referral Network](#).

Ongoing Update Service Keeps You Current


Things change, laws change, the world changes... new ideas come along all the time. When you register, you can access our website to get updates and changes... like new and improved spreadsheets and documents. They can be downloaded directly to your computer.

- Please visit our website under [Updates](#).
- Remember to bookmark our website: www.JIAN.com

Editing Your Sample Contract

Since this entire agreement is formatted in Word, you can edit it like any other Word document. You can jump from variable to variable by clicking the above  green arrows (JIAN Menu) which will take you forward / backward and highlight the entire sample text identified within the “[]” brackets – simply edit / type-over with your information.

To make sure you have filled in all the variables, use Word's 'FIND' function to locate any “[]” which may contain an unedited variable.

- Click the  icon in the JIAN menu above to turn the expert comments on/off.
- Upon completion, delete any unnecessary blank lines that remain.
- You may format this document any way you like.
- Delete this page.

Trademark License Agreement

- 🔊 This is a standard introductory paragraph that lists the parties to the Agreement and the date the Agreement is being entered into. You need to enter the date of the Agreement, the names of the parties, the specific type of organization, and their addresses.
- 🔊 Not knowing which party you will be in this deal, we have inserted the variables as if you are the licensor – to reverse this position, simply reverse the data in this top section.

Project Title **[Trademark Name]**

Effective Date **[Date]**



BETWEEN **[Company Legal Name]** (“[Company]” or “Licensor”)

a [Corporation / Partnership / Sole Proprietorship / Individual]

Located at [Address]

[City], [State] [Zip Code]

(“Licensor”)

AND **[Licensee]**, (“Licensee”)

a [Corporation / Partnership / Sole Proprietorship / Individual]

Located at [Licensee Address]

[City, State Zip Code]

Summary

The Licensor is the owner of all right, title and interest in and to the trademarks and the trade dress, labels and designs associated with the trademarks, that are described and listed in Exhibit A (the “Licensed Marks”), together with the goodwill of the [product / business] symbolized thereby in connection with the Products (defined below) in the Territory.

- 🔊 Will the License be exclusive, meaning that the Licensee will be the only entity entitled to use the Licensed Marks in the Territory, or will the License be non-exclusive?

The Licensee desires to license from the Licensor, and the Licensor is willing to license to the Licensee, a (non-)exclusive license in the Territory for use of the Licensed Marks.

In consideration for the mutual promises, covenants, and agreements made below, the parties, intending to be legally bound, agree as follows:

Definitions

For purposes of this Agreement, the following terms will have the indicated definitions:

- **“Agreement”** This Agreement is by and between the Licensor and the Licensee.
- **“License Fees”** The gross License Fees billed by the Licensee (or any of its affiliates or sub-licensees) to customers for the Products, less trade discounts and allowances, returns, and any other deductions generally allowed by its customers, as normally deducted from license fee revenues. The amount of License Fees for any period is determined on the basis of transactions actually completed and recorded on the books and records of the Licensee (or any of its affiliates or sub-licensees) during such period consistent with past practice, without reference to the effects of any subsequent audit adjustments that result in any of such transactions being recognized by the Licensee (or any of its affiliates or sub-licensees) in another period.

☞ For both inserts in the paragraph below, enter the category of products, for example software or hardware.

- **“Products”** All of the (Enter category) products described in Exhibit B. The list comprising these Products is expected to expand during the term of this Agreement to include additional [Enter category] products that represent an extension of the line of items constituting the Products, but any such expansion will not take place without the written consent of both the Licensor and the Licensee.

☞ Define the area where the License will be granted, for example, the United States and its territories and possessions.

- **“Territory”** [Worldwide /  e Territory].

☞ The Licensee can pretty much do anything with the Products in the Territory. While it may sell the Products outside the Territory, it can not sell or distribute them there.

1. Grant of License. For the term of this Agreement, the Licensor hereby grants to the Licensee a (non-)exclusive license (the “License”) to use and sublicense the Licensed Marks for and in connection with all activities relating to the packaging, marketing, distribution, selling, and licensing of the Products in the Territory.

☞ Section 2 sets forth the standards required of the Licensee and its sub-licensees regarding the Licensed Marks. Those standards and specifications are specifically set forth in Exhibit C that should be completed.

2. Quality Standards

2.1 Maintenance of Quality. The Licensee will maintain, and require its sub-licensees to maintain, the standards of quality and technical specifications, including packaging standards described in Exhibit C (“Standards and Specifications”), or such other standards or specifications that the Licensor may adopt or approve during the term of this Agreement. If the Licensee sublicenses or otherwise authorizes use of any of the Licensed Marks, it will require those entities to maintain and adhere to the Standards and Specifications.

☞ Insert the period after which acceptance of any New Standards and Specifications will be deemed given (if no response).

2.2 Changes & Additions. Before adding a new item to the Products or changing the Standards and Specifications to an existing product, the Licensee agrees to provide the Licensor with the proposed Standards and Specifications and, if approved and adopted by the Licensor, such Standards and Specifications will become effective (the “New Standards and Specifications”). The Licensor will be deemed to have approved and adopted the New Standards and Specifications unless it advises the Licensee in the writing of its objections to such New Standards and Specifications within (Fifteen) days of their receipt.

☞ The Licensor is agreeing to treat all Standards and Specifications as confidential for the term of this Agreement and for the bracketed period of time thereafter (generally 10 years).

2.3 Procedure for Disclosure of New Standards & Specifications. The Licensee's disclosure of the New Standards and Specifications is solely for the purpose of enabling the Licensor to establish, enforce, and maintain quality standards and technical specifications respecting the Products. The Licensor acknowledges that the New Standards and Specifications, as well as the Standards and Specifications, are proprietary information constituting trade secrets owned by the Licensee, or disclosed to the Licensee in confidence by its sub-licensees. The Licensor agrees to treat all Standards and Specifications (including the New Standards and Specifications) as confidential during the term of this Agreement and for (Enter time) subsequent to its termination. Except as permitted by this Agreement, the Licensor will not disclose the Standards and Specifications (including any New Standards and Specifications) except in circumstances when disclosure is necessary for quality control purposes. Such restriction against disclosure will not apply to (1) any disclosure of information that is generally known in the trade or (2) any disclosures required by law or judicial or governmental order after notice by the Licensor to Licensee informing of the required disclosure and providing the Licensee the right to object.

☞ The Licensor may inspect the Licensee's and any sub-licensee's facilities to make sure they are complying with the Standards and Specifications set forth above.

2.4 Rights of Inspection. With prior notice to the Licensee or its sub-licensee, the Licensor and its authorized agents and representatives may enter the offices and facilities of the Licensee and its sub-licensees at all reasonable times to inspect reasonable samples of the Products and to inspect the books and records, as they relate to compliance with the Standards and Specifications.

2.5 Submission or Selection of Samples. At the Licensor's request, the Licensee will furnish, or cause each sub-licensee to furnish, in either case without cost to the Licensor, a reasonable number of samples of the Products; the Licensor may either select these samples at random or pursuant to a reasonable sampling procedure established by it.

3. Term & Termination

3.1 Term. The term of this Agreement will commence on the date stated above and will continue until terminated as provided below.

☞ Obviously, it is much easier for the Licensee to terminate the Agreement than the Licensor. You should carefully review these termination provisions deleting and / or adding where appropriate. Most of the following sections are not commented on, as they are fairly straightforward.

☞ Insert the termination notice required by the Licensee, generally 30 days.

3.2 Termination. This Agreement may be terminated by the Licensee at any time upon (Insert time period) prior notice to the Licensor, and by the Licensor:

3.2.1 Upon any material breach of this Agreement by the Licensee that is not remedied within 30 days after the Licensee's receipt of notice of such breach;

3.2.2 If the Licensor does not receive payment of the Minimum Royalty Installment as defined in 4.1

☞ Insert the date on or before that the Licensee must ship Products to its customers.

3.2.3 If the Licensee does not ship the Products to its customers on or before (Enter date);

☞ Insert a time frame, for example, during 1996.

3.2.4 The Licensee notifies the Licensor of its intent not to manufacture Products during (Enter time frame);

☞ Insert the time period, for example 12 months. If the Licensee doesn't manufacture or sell during this period, then the Licensor can terminate the Agreement.

3.2.5 If the Licensee does not manufacture and sell the Products for any consecutive (Enter time) period;

or

3.2.6 If the Licensee files a petition in bankruptcy, is adjudicated a bankrupt, becomes insolvent, makes an arrangement or assignment for the benefit of creditors, or discontinues its business, or if a receiver or custodian is appointed for the Licensee or its business, or if a petition in bankruptcy is filed against the Licensee that is not dismissed within 60 days after the date of such filing.

☞ These termination provisions are fairly routine. Rather than comment all of the time periods, we have inputted standards for you; of course you can change them if you so desire. Basically, they all relate to when money is due the Licensor by Licensee; depending on the nature of those moneys, the due times will vary.

3.3 Effect of Termination. Upon termination of this Agreement by either party:

☞ Upon termination the Licensee gets 120 days to sell its existing inventory; after that all rights revert to the Licensor.

3.3.1 All rights granted to the Licensee hereunder will revert to the Licensor free and clear of any lien, security interest or other encumbrance, and the Licensee and its affiliates and subsidiaries will as soon as practicable cease the manufacture, distribution, sale, promotion, advertising and marketing of Products; provided, however, that for a period of 120 days after termination of this Agreement the Licensee and its affiliates and subsidiaries may complete any work in process and sell their existing inventories of Products;

3.3.2 All of the Advance Against Royalties described in section 4.2 that have not been paid will be immediately due and payable;

3.3.3 All royalty payments due pursuant to Section 4 (other than royalty payments, if any, for the 120 day period during which time the Licensee and its Affiliates and Subsidiaries may complete their work in process and sell their existing inventories of Products) will be paid to the Licensor within 30 days after the date this Agreement is terminated;

3.3.4 All other amounts due under this Agreement from either party to the other (except for amounts due from the Licensee's sub-licensees that will continue to be collected by the Licensee and paid to the Licensor in accordance with Sections 5) will be paid within 150 days after the date this Agreement is terminated, at that time the Licensee will submit to the Licensor a final account statement in accordance with Section 5.1.

4. License Fee

☞ Section 4.1 sets forth a Royalty Payment that is the greater of the Minimum Royalty Installment provided in Exhibit D or the sum of the License Fees for the Royalty Bearing Products multiplied by the Royalty Rate set forth in Exhibit D.

4.1 Royalty Rate and Payment Requirements. Thirty (30) days following the end of each fiscal quarterly period, the Licensee will pay the Licensor a “Net License Fees Royalty Payment” that will be equal to the greater of (1) the amount set forth as the “Minimum Royalty Installment” in Exhibit D for the immediately preceding fiscal quarterly period; and (2) an amount equal to the sum of the respective License Fees for each of the Products distributed under the Licensed Marks in the Territory, for the immediately preceding fiscal quarterly period (the Products referred to in this Section are referred to as “Royalty Bearing Products”), multiplied by, the royalty rate set forth under the heading “Net License Fees Royalty Payment” in Exhibit D. If the Net License Fees Royalty Payment is to be calculated for a period consisting of less than a full fiscal quarter, the Net License Fees Royalty Payment will be equal to the amount calculated in accordance with clause (2) of the immediately preceding sentence (that is, the Net License Fees Royalty Payment will be determined without reference to the Minimum Royalty Installment).

☞ Insert the advance payment, if any, to be paid to Licensor, along with a schedule of payments.

4.2 Advance Against Royalties. The Licensee will pay to the Licensor the sum of \$(enter amount) as a non-refundable advance against royalties from the sale of Products in accordance with the following schedule: (Insert schedule of payments).

☞ While Licensee is agreeing on behalf of itself and its sub-licensees to use its best efforts to promote the Products and generate royalties, it reserves the right to discontinue the distribution of certain categories of the Products so long as it continues to sell at least the bracketed number of categories or products.

4.3 Best Efforts Commitment. The Licensee acknowledges that the Licensor expects to receive royalty payments pursuant to this Agreement and that this expectancy constitutes a material inducement to the Licensor to enter into this Agreement. As such, the Licensee will employ its reasonable efforts to promote the distribution of the Products under the Licensed Marks. The Licensee (for itself and its sub-licensees) expressly reserves the right to discontinue the distribution of any of the categories of products included within the Products as long as the Licensee (or one or more sub-licensees) continues to sell under the Licensed Marks at least (Enter number) of the categories of products constituting the Products.

4.4 Access to Books & Records. The Licensee will keep complete and accurate books and records with respect to the manufacture, distribution and sale of Products. The Licensor will have the right, through an independent accountant retained by the Licensor, to inspect the Licensee's books and records relating to the subject matter of this Agreement once per year during the term of this Agreement and for a period of two years thereafter on reasonable notice to the Licensee, during regular business hours at the place where such books and records are normally kept and to the extent reasonably necessary to determine the accuracy of any royalty payments to be made under this Agreement.

The Licensee will be entitled to rely on the financial reports submitted to it by its sub-licensees' and the Licensee will not be required to verify such reports by actual inspection of its sub-licensees, books and records. However, the Licensee will require its sub-licensees to keep complete and accurate books and records with respect to the manufacture, distribution and sale of Products. The Licensee will make available to the Licensor the results of any audit it conducts of its sub-licensees. Any and all information obtained by the Licensor in such inspections and in the royalty reports provided under Section 4.1 will be considered strictly confidential and will not be released or disclosed to any person, except in connection with any action to enforce the rights of the Licensor under this Agreement.

5. Representations & Warranties; Indemnification

☞ Section 5 contains a number of fairly typical representations and warranties by both parties, along with standard indemnification provisions in the event of a breach of warranty or misrepresentation.

5.1 The Licensor represents and warrants to the Licensee that: (1) it is the owner of the Products and the Licensed Marks and has the power to grant the License to the Licensee; (2) it has not granted to any other person a license to manufacture, distribute or sell the Products in the Territory; and (3) to the best of its knowledge, the Products and the Licensed Marks do not infringe any patent, copyright, trademark, or other proprietary right of any third party.


☞ In the event that the Licensor breaches any of the warranties contained in 5.1 to the Licensee, it will indemnify the Licensee, i.e., it will pay any and all damages and expenses resulting from that breach. In the event of such a claim, the Licensor can suspend payment of royalties.

5.2 The Licensor will indemnify and hold the Licensee harmless from and against any and all damages, liabilities, costs and expenses incurred by the Licensee in connection with any final judgment arising out of or resulting from any breach by the Licensor of its representations and warranties contained in 5.1 to the extent any such claim, proceeding or judgment relates to aspects of Products or Licensed Marks as originated by the Licensor; provided, however, that the Licensor's total liability pursuant to this paragraph

will be limited to the aggregate amount of royalties paid to the Licensor under this Agreement during the term of this Agreement.

In the event such a claim is asserted against the Licensee, the Licensee may suspend payment of the royalties due to the Licensor hereunder and apply such royalties toward the reasonable costs and legal expenses of defending such claim and the payment of any ensuing settlement or judgment. Within 30 days after the resolution of any such claim, the Licensee will remit to the Licensor the amount, if any, of royalties withheld from the Licensor and not applied to the defense or payment of such claim, together with a statement setting forth all costs and legal expenses to which such royalties were applied. The provisions of this paragraph will survive the termination of this Agreement. Such indemnification will be in addition to any other remedies available to the Licensee.


5.3 The Licensee represents and warrants to the Licensor that this Agreement constitutes the legal, valid and binding obligation of the Licensee enforceable against the Licensee in accordance with its terms.

 In the event that the Licensee breaches its warranties, uses the Products in an unauthorized manner, or manufactures the Products incorrectly, it will indemnify the Licensor, i.e., it will pay any and all damages and expenses resulting from that breach.

5.4 The Licensee will indemnify and hold the Licensor harmless from and against any and all damages, liabilities, costs, and expenses incurred by the Licensor in connection with any final judgment arising out of or resulting from:

- (1) the breach by the Licensee of its representations and warranties contained in 5.3;
- (2) the manufacture, distribution or sale of Products (except insofar as such claims relate to the Licensor's representations and warranties contained 5.1);
- (3) any unauthorized use by the Licensee or any affiliate, subsidiary or sub-licensee of the Products or the Licensed Marks;
- (4) any unfair or fraudulent advertising claims pertaining to the Products;
- (5) any claims for unauthorized use or misuse of any patent, trademark, copyright or other proprietary right owned, used or controlled by any third party pertaining to the production, distribution, licensing, or marketing of the Products and
- (6) any defects (design or otherwise) or inherent dangers in the Products caused by the Licensee.

The provisions of this paragraph will survive the termination of this Agreement. Such indemnification will be in addition to any other remedy available to the Licensor.

 The Licensor can license the Products outside the Territory so long as the third party has no rights within the Licensee's Territory.

6. Licensing Outside Territory. The Licensor intends to license the Products and the Licensed Marks to third parties for use outside the Territory. Each such license will specifically limit such third party's right to use the Licensed Marks and sell the Products and any products derived therefrom to the territory specified in such license, which in no event will include any part of the Licensee's Territory. The Licensor will cooperate with the Licensee to the extent reasonably necessary to prevent any such third party from manufacturing, distributing or selling the Products and any products derived therefrom in the Territory.

7. Infringement

7.1 The Licensee and the Licensor agree to promptly notify each other of any suspected infringement of their respective interests in and to the Licensed Marks by any third party, as well as any petition to cancel any registration of any of the Licensed Marks, or any attempted use or any application to register any

mark confusingly similar to, or a colorable imitation of, any of the Licensed Marks within the Territory of which they become aware. In the event that any legal action against any third party is deemed necessary by either party for the protection of their respective interests, they agree to cooperate with each other and render all reasonably necessary assistance in connection with any such legal action.

☞ If there is an infringement and the Licensor chooses to file an infringement suit, then it will keep the first bracketed percentage of any proceeds and give the Licensee the second bracketed percent, less its costs. If the Licensor elects not to pursue an action, the Licensee may. In that event, the Licensee keeps the third bracketed percentage of the proceeds plus its costs, with the final bracketed percentage going to the Licensor.

7.2 In the event Licensor does not institute and prosecute any action for infringement of the Licensed Marks within the Territory, defend any petition to cancel any registration of any of the Licensed Marks, or oppose any attempted use of or any application to register any mark confusingly similar to, or a colorable imitation of, any of the Licensed Marks within the Territory within 30 days after notice from the Licensee of a suspected infringement, Licensee will have the right to do so, but will not be obligated to, either in its own name or in the name of Licensor. If the Licensor elects to prosecute such a suit, it may select legal counsel and will bear all legal fees and other costs and expenses incurred in connection therewith. Any money recovered after such costs and expenses are reimbursed will be shared as follows: [enter percentage]% to the Licensor; and [enter percentage]% to the Licensee. If the Licensor chooses not to prosecute any such suit for infringement, then the Licensee may do so after notice to the Licensor, and the Licensee may select legal counsel and will bear all legal fees and other costs and expenses incurred in connection therewith. Any money recovered after such costs and expenses are reimbursed will be shared as follows: [enter percentage]% to the Licensor; and [enter percentage]% to the Licensee.

8. Undertakings of Licensor Respecting the Licensed Marks

8.1 Ownership and Right to License. The Licensor owns all rights with respect to the Licensed Marks and has the full right to grant to the Licensee the license rights set forth herein.

☞ This section only applies to Exclusive licenses. If this is a non-exclusive license, then delete it.

8.2 No Licensor Use of Marks. The Licensor agrees not to use or license others to use the Licensed Marks in the Territory during the term of this Agreement except for such use as may be required in connection with the performance by the Licensor of this Agreement. The Licensor reserves all rights with respect to all trademarks or service marks that may be owned by it or licensed to it that are not subject to this Agreement.

9. Ownership of the Licensed Marks; Modifications

☞ This is a routine section. Basically, the Licensee has no ownership rights nor will it acquire any ownership rights to the Licensed Marks.

9.1 Licensor's Ownership Rights. The Licensee acknowledges the Licensor's exclusive right, title, and interest in and to the Licensed Marks and further acknowledges that except as expressly provided, nothing in this Agreement grants the Licensee any rights in any of the Licensed Marks. The Licensee acknowledges that its use of the Licensed Marks will not give it any right, title, or interest in the Licensed Marks and that its use of the Licensed Marks in the Territory and the goodwill generated inures to the benefit of the Licensor. The Licensee warrants and represents with respect as follows:

9.1.1 The Licensee will not challenge the Licensor's right, title, or interest in the Licensed Marks or their validity or any registration;

9.1.2 The Licensee will not do or cause to be done or omit to do anything that would contest or in any way impair the Licensor's rights in the Licensed Marks;

9.1.3 The Licensee will not represent that it has any ownership in or rights to the Licensed Marks in the Territory other than the rights conferred by this Agreement; and

9.1.4 Either during or subsequent to the term of this Agreement, the Licensee will not use any trademark, service mark, trade name, insignia or logo that is similar to or a colorable imitation of any of the Licensed Marks.

🔊 The Licensor may make changes to the Licensed Marks; once such changes are made, the Licensed Marks, as modified, are to be treated in the same way as the Licensed Marks.

9.2 Changes and Modifications to the Licensed Marks. The Licensor expressly reserves the right to modify and change the Licensed Marks. As modified, the Licensed Marks are deemed to be the Licensed Marks referred to in this Agreement. All such modifications or changes developed or adopted by the Licensor will be the sole property of the Licensor, and the Licensor may incorporate them in the Licensed Marks and will have the exclusive right to register in the Territory such modified or changed marks as trademarks and / or service marks. The Licensee may propose changes to the Licensed Marks for adoption and approval by the Licensor.

🔊 Section 10 sets forth numerous requirements that the Licensee must satisfy in its use of the Licensed Marks.

10. Undertakings of Licensee Respecting the Licensed Marks

10.1 Marking; Compliance with Trademark Laws. The Licensee will, and will require each of its sub-licensees to (1) cause the appropriate designation "TM" or the registration symbol "®" to be placed adjacent to the Licensed Marks in connection with each use or display of the Licensed Marks and to indicate such additional information as the Licensor will reasonably specify concerning the license rights; and (2) comply with all laws pertaining to trademarks in force.

10.2 Display of the Marks. The Licensee will, and will require each of its sub-licensees to, display, in a manner consistent with the Licensor's standards, the Licensed Marks on packaging for each of the Products, visual displays on initial computer screens, and in marketing activities respecting the Products.

10.3 No Use Objectionable to Licensor. The Licensee will not, and the Licensee will not permit its sub-licensees to, use the Licensed Marks on or in connection with any screen display, packaging, or marketing material to which the Licensor objects.

10.4 Maintenance of Registrations. The Licensee will pay any continuing maintenance or filing fees respecting state or federal registrations of the Licensed Marks.

11. General Provisions

🔊 The General Provisions that follow are fairly standard. These provisions enhance the balance of the Agreement by explaining issues such as notice, assignment, legal remedies, waiver, and attorney fees.

11.1 Independent Contractors. The relationship between both parties established by this Agreement is that of independent contractors, and nothing contained in this Agreement shall be construed to give either party the power to direct and control the day-to-day activities of the other. Neither party is an agent, representative or partner of the other party. Neither party shall have any right, power or authority to enter into any agreement for, or on behalf of, or incur any obligation or liability of, or to otherwise bind, the other party. This Agreement shall not be interpreted or construed to create an association, agency, joint venture or partnership between the parties or to impose any liability attributable to such relationship upon either party.

🔊 You must decide which state governs this Agreement and where any legal action would be taken. Generally, it is your (company's) state of residence.

11.2 Governing Law & Jurisdiction. This agreement and the parties' actions under this Agreement shall be governed by and construed under the laws of the state of [State], without reference to conflict of law principles. The parties hereby expressly consent to the jurisdiction and venue of the federal and state courts within the state of [State]. Each party hereby irrevocably consents to the service of process in any such action or proceeding by the mailing of copies thereof by registered or certified mail, postage prepaid, to such party at its address set forth in the preamble of this Agreement, such service to become effective thirty (30) days after such mailing.

☞ This Agreement is intended to be the only Agreement, and that no other documents or communications are binding. Therefore, it is very important to make sure that everything [Company] and [Client] have agreed to be included in this Agreement. Otherwise, it is as if it was not agreed to.

11.3 Entire Agreement. This Agreement, including the attached exhibits, constitutes the entire Agreement between both parties concerning this transaction, and replaces all previous communications, representations, understandings, and Agreements, whether verbal or written between the parties to this Agreement or their representatives. No representations or statements of any kind made by either party, which are not expressly stated in this Agreement, shall be binding on such parties.

☞ Any changes to this Agreement must be in writing and signed by the party against whom that writing is to be used.

11.4 All Amendments in Writing. No waiver, amendment or modification of any provisions of this Agreement shall be effective unless in writing and signed by a duly authorized representative of the party against whom such waiver, amendment or modification is sought to be enforced. Furthermore, no provisions in either party's purchase orders, or in any other business forms employed by either party will supersede the terms and conditions of this Agreement.

☞ All notices between the parties must be in writing and either delivered in person or by certified or registered mail, return receipt requested.

11.5 Notices. Any notice required or permitted by this Agreement shall be deemed given if sent by registered mail, postage prepaid with return receipt requested, addressed to the other party at the address set forth in the preamble of this Agreement or at such other address for which such party gives notice hereunder. Delivery shall be deemed effective three (3) days after deposit with postal authorities.

☞ In the event of a lawsuit or any legal proceeding involving this Agreement, the losing party will have to pay the winning party his or her costs and expenses, including reasonable attorney fees.

11.6 Costs of Legal Action. In the event any action is brought to enforce this Agreement, the prevailing party shall be entitled to recover its costs of enforcement including, without limitation, attorneys' fees and court costs.

☞ Legal remedies, i.e., money damages, may not be sufficient; therefore, both parties agree to equitable remedies such as an injunction where the breaching party would be required to do or not to do something.

11.7 Inadequate Legal Remedy. Both parties understand and acknowledge that violation of their respective covenants and Agreements may cause the other irreparable harm and damage, that may not be recovered at law, and each agrees that the other's remedies for breach may be in equity by way of injunctive relief, as well as for damages and any other relief available to the non-breaching party, whether in law or in equity.

☞ Assuming the parties wish to use Arbitration in the event of a dispute, the following section should be included. You take your chances with an arbitrator, but it keeps legal costs down and keeps you out of a drawn out legal process.

11.8. Arbitration. Any dispute relating to the interpretation or performance of this Agreement shall be

resolved at the request of either party through binding arbitration. Arbitration shall be conducted in [County], [State] in accordance with the then-existing rules of the American Arbitration Association. Judgment upon any award by the arbitrators may be entered by any state or federal court having jurisdiction. [Company] and [Client] intend that this Agreement to arbitrate be irrevocable.

☞ Merely delaying to bring an action that one party has a right to bring does not cause that party to lose or waive his right to pursue that action.

11.8 Delay is Not a Waiver. No failure or delay by either party in exercising any right, power or remedy under this Agreement, except as specifically provided in this Agreement, shall operate as a waiver of any such right, power or remedy.

☞ Neither party will be blamed if there is a problem resulting from something beyond its control, such as an earthquake, flood, war.

11.9 Force Majeure. In the event that either party is unable to perform any of its obligations under this Agreement or to enjoy any of its benefits because of any Act of God, strike, fire, flood, governmental acts, orders or restrictions, Internet system unavailability, system malfunctions or any other reason where failure to perform is beyond the reasonable control and not caused by the negligence of the non-performing party (a “Force Majeure Event”), the party who has been so affected shall give notice immediately to the other party. I shall use its reasonable best efforts to resume performance. Failure to meet due dates resulting from a Force Majeure Event shall extend such due dates for a reasonable period. However, if the period of nonperformance exceeds sixty (60) days from the receipt of notice of the Force Majeure Event, the party whose ability to perform has not been affected may, by giving written notice, terminate this Agreement effective immediately upon such notice or at such later date as is therein specified.

☞ This section limits the ability of either party to transfer any of its rights or delegate any of its duties to third parties.

☞ You want to make sure that you can sell your business along with all of the relationships you have developed along the way. (Often these relationships can add tremendous value to your business and you want to make sure that all of your agreements can be transferred to the new owners.) I wouldn't want to seek (let alone pay for) permission to sell my company.

☞ Generally, neither party may assign their respective rights to a third party; however, with the possible exception of assignment to a successor corporation or partnership, either party may transfer its rights or obligations under this Agreement without the approval of the other party. This Agreement would be binding on the 3rd party.

☞ However, you may want to limit each other's ability to pass along this deal to another possibly unknown and possibly unfriendly entity. The second paragraph prevents unauthorized transfer of responsibilities...

☞ CHOOSE one or the other of these two following paragraphs.

11.10 Assignability & Binding Effect. Except as expressly set forth within this Agreement, neither party may transfer or assign, directly or indirectly, this Agreement or its rights and obligations hereunder without the express written permission of the other party, not to be unreasonably withheld; provided, however, that both parties shall have the right to assign or otherwise transfer this Agreement to any parent, subsidiary, affiliated entity or pursuant to any merger, consolidation or reorganization, provided that all such assignees and transferees agree in writing to be bound by the terms of this Agreement prior to such assignment or transfer. Subject to the foregoing, this Agreement shall be binding upon and inure to the benefit of the parties hereto, their successors and assigns.

☞ This paragraph DOES NOT ALLOW either party to transfer its rights to a successor company without prior approval.

11.10 Non-Assignability & Binding Effect. Except as otherwise provided for within this Agreement, neither party may assign any of its rights or delegate any of its obligations under this Agreement to any third party without the express written permission of the other. Any such assignment is deemed null and void.

🔊 If any part of this Agreement is unenforceable or invalid, the balance of the Agreement should still be enforced. Basically, ignore any sections that are invalid.

11.11 Certain Sections Invalid. If any provisions of this Agreement are held by a court of competent jurisdiction to be invalid under any applicable statute or rule of law, they are to that extent to be deemed omitted and the remaining provisions of this Agreement shall remain in full force and effect.

🔊 The headings of the various sections are meant to explain or otherwise give meaning to those sections; they are for convenience only.

11.13 Headings. The titles and headings of the various sections and sections in this Agreement are intended solely for convenience of reference and are not intended for any other purpose whatsoever, or to explain, modify or place any construction upon or on any of the provisions of this Agreement.

🔊 Even after the termination of the Agreement, the parties may still have certain responsibilities such as keeping information confidential.

11.14 Survival of Certain Provisions. The warranties and the indemnification and confidentiality obligations set forth in the Agreement shall survive the termination of the Agreement by either party for any reason.

Understood, Agreed & Approved

We have carefully reviewed this contract and agree to and accept all of its terms and conditions. We are executing this Agreement as of the Effective Date above.

[Company]

[Licensee]

[Owner/Founder]

[Licensee Name]

Title

Title

Date

Date

Exhibit A

Licensed Marks

- Xxx
- Xxx
- xxx



Exhibit B

Products

- Xxx
- Xxx
- xxx



Exhibit C

Standards & Specifications

- [The color for the “[Company]” text shall be PMS 327]
- 🔊 (See Pantone Matching System for a reference to color codes.)
- Xxx
- xxx



Exhibit D

Minimum Royalty Installment & Royalty Rate

- Xxx
- Xxx
- xxx

