**University of Oregon**

TRADEMARK LICENSE AGREEMENT

This agreement is made by and between THE STATE BOARD OF HIGHER EDUCATION ON BEHALF OF THE UNIVERSITY OF OREGON (hereinafter referred to as "UO") and

Company Name:

Business Address:

(hereinafter referred to as "Licensee").

RECTIALS

WHEREAS, UO has established and desires to preserve, protect, enhance, and promote the reputation and prestige of the University of Oregon as a public institution of higher education, research, public service and intercollegiate sports and Licensee acknowledges and recognizes this reputation and prestige; and

WHEREAS, UO is the owner of all rights, title and interest in and to certain designations comprising designs, trade names, trademarks, and service marks, including, without limitation, designs, seals, and symbols, which have come to be associated with the University of Oregon (hereinafter collectively referred to as “UO Marks”); and

WHEREAS, in its education, research, public service and sports activities UO owns and uses the UO Marks associated with the campus and other facilities operated by UO; and

WHEREAS , UO issued a Request for Proposals (RFP), PCS # 500100-0008-RFP, for an Apparel License Program, which closed on June 21,2013.

WHEREAS, Licensee submitted a proposal in response to the RFP, and after completing the evaluation of all proposals, UO determined that Licensee was the successful proposer.

WHEREAS, UO and Licensee desire to enter into an agreement whereby Licensee will operate and administer an Apparel License Program as set forth in this Trademark License Agreement (“Agreement”).

NOW, THEREFORE, for and in consideration of the above Recitals, which are incorporated into this Agreement, the mutual covenants and undertakings contained in this Contract and for other good and valuable consideration, the receipt and sufficiency of which is acknowledged by both Parties, the parties agree as follows:

1.0 DEFINITIONS

1.1 The term "UO Marks" shall mean any copyright, trademark, service mark, logo, insignia, seal,

design, or any other symbol or device used by UO and associated with or referring to the University of Oregon or any of its facilities. The Licensee is hereby advised that the University of Oregon sports mascot, Oregon Duck, is copyrighted solely by Disney Enterprises, Inc. and this license does not grant the Licensee permission to use that logo.

1.2 The term "Licensed Products" shall mean any product, service, or part thereof bearing a UO Mark

and identified in Schedule A.

1.3 The term "Included Territory" shall mean the United States and its territories.

1.4 The term "Parties" and/or "Party" shall mean UO and/or Licensee.

1.5 The term “Net Sales” shall mean the gross amount of sales of Licensed Products at the invoiced

selling price, net i) normal and reasonable volume discounts not to exceed 10% of sales in any reporting period; ii) actual returns for credits not to exceed 5% of sales in any reporting period; iii) sales taxes paid by the Licensee to the applicable taxing authorities; and iv) actual shipping costs if charged by the Licensee to its customers as a separate line item on the invoice. No deductions shall be made by the Licensee for uncollectible accounts, cash discounts, or for costs incurred in the manufacturing, selling (including commissions, markdowns, new store allowances), distribution, or advertising (including cooperative advertising). A sale shall be deemed to have been made for the purpose of determining the Royalty, at the time of invoicing or billing of such sale or when the Licensed Products are shipped, paid for or when title passes to the buyer, whichever occurs earliest.

1.6 The term "Agreement" shall mean this License Agreement between UO and Licensee.

1.7 The term "Term" shall mean a period of time from the date the Agreement is signed by UO representative until the renewal date of the license. The Term is designated on Schedule A.

1.8 The term “Trademark Assignment Agreement” shall mean UO’s trademark assignment document, attached to this License and incorporated through this reference.

1.9 The term “Minimum Guarantee” shall mean the amount set forth in Schedule A.

1.10 The term “Sales Year” shall mean the time periods set forth in Schedule A, where such time periods define the timing for Minimum Guarantee obligations.

1.11 The term “Distribution Channel” shall mean the trade channels through which Licensee may sell the Licensed Products as set forth in Schedule A.

2.0 GRANTS

2.1 Subject to the terms of the Agreement, UO hereby grants the Licensee a revocable License to use UO Marks, on the Licensed Products, inside the Included Territory and via the Distribution Channels all as set forth in Schedule A.

2.2 No License, express or implied, is granted to Licensee to export Licensed Products or to otherwise use UO Marks outside the Included Territory, and any such right is expressly withheld from this Agreement.

2.3 No right, express or implied is granted to Licensee to sublicense or otherwise transfer the right to use the UO Marks to third parties, and any such right is expressly withheld from this Agreement. All Licensed Products must be manufactured or otherwise produced directly by the Licensee, or by a sub-contractor or affiliated company approved in writing by UO and listed in the Trademark Licensee Disclosure Information form, attached hereto and incorporated through this reference, provided that all provisions of this agreement are made applicable to said sub-contractor or affiliated company.

2.4 Without prior written approval, no License is granted to Licensee hereunder for the manufacture, sale or distribution of Licensed Products to be used as premiums, for publicity purposes, for fund-raising, as giveaways, in combination sales, or to be disposed of under similar methods of merchandising. Licensee may not use any the UO Marks in connection with any sweepstakes, lottery, game of chance, or similar promotional or sales device, scheme or program.

2.5 Licensee recognizes that any UO student who has athletic eligibility cannot have his or her name or facsimile utilized on any commercial product. Therefore in conducting Licensed activity under this Agreement, Licensee shall neither encourage nor participate in any activity that would cause an athlete or the University to violate any rule of the National Collegiate Athletic Association or the Pacific-10 Conference.

2.6 Nothing in this Agreement shall restrict UO’s right to use the UO Marks in any way unless Schedule A expressly so provides, and in the event Schedule A provides any exclusive rights to the Licensee with respect to a Licensed Product, Territory or otherwise, the terms and conditions contained in this Agreement shall fully apply to the extent not expressly inconsistent with Schedule A, which shall be strictly limited to its terms.

2.7 The Licensee recognizes that UO may already have entered into, and may, in the future, enter into license agreements with respect to the UO Marks for products that are similar to or fall into the same general product category as one or more of the Licensed Products. The Licensee expressly concedes that the existence of such licenses does not and shall not constitute a breach of this Agreement.

2.8 The Licensed Products shall be sold to the public only in the manner in which merchandise of the same general description is customarily sold to the public. No such sales shall be on an approval, consignment, guaranteed or return sales basis.

2.9 The Licensee agrees that it will provide preferred pricing at least as favorable as wholesale to UO (including, but not limited to, any internal departments of the University of Oregon) for such departmental purchases of Licensed Products. Notwithstanding the foregoing, UO shall have and retain the sole and exclusive right to use or license third parties to use any of the Licensed Products in connection with, but not limited to, any premium, give-away, mail-order, in-theater sales, promotional arrangement or booster club. UO may exercise this right concurrently with the rights licensed to the Licensee hereunder.

2.10 Intentionally omitted.

2.11 The Licensee shall not, without prior written approval from UO, advertise, sell or otherwise market a Licensed Product through direct mail or catalogue sales to a list of students, parents of students, faculty, staff, alumni, contributors or similar group maintained or compiled by UO.

2.12 All rights not specifically granted to the Licensee under this Agreement are hereby reserved to

UO.

3.0 QUALITY ASSURANCE

3.1 Licensee acknowledges that the maintenance of the high quality of the Licensed Products and the control by UO over the nature, quality and manner of distribution of all the Licensed Products are material conditions of this Agreement.

3.2 All matters requiring the approval of UO or the exercise of its discretion shall be at the sole subjective discretion of UO. A submission for approval shall be deemed disapproved unless UO delivers a notice of approval within twenty (20) days after transmittal by Licensee.

3.3 Licensee agrees to submit, at Licensee's expense, artwork concepts or pre-production samples of proposed Licensed Products to UO prior to any use. Licensee further agrees to withhold from or instruct its suppliers to withhold from the manufacture of any proposed Licensed Product without UO's written approval of the pre-production concept.

3.4 One production sample of each Licensed Product, from the initial production run, must be submitted at Licensee's expense, to UO for final approval prior to any use, sale, or other distribution of such proposed Licensed Products. Sample should include all related packaging, tags, labels, and advertising/promotional materials.

3.5 Licensee agrees that any new design, new product or proposed change to a Licensed Product involving any alteration in the structure, design or quality of the Licensed Product shall be submitted to UO for written approval prior to any use, sale, or other distribution to the public. One production sample from the initial production run of items bearing new designs must be submitted to UO for approval.

3.6 Intentionally omitted.

3.7 Licensee agrees for itself and its suppliers that UO's representatives may from time to time inspect the manufacturing premises and Licensed Products of Licensee during any reasonable hours of operation during the term of this Agreement to assure that Licensed Products are being produced in accordance with this Agreement.

3.8 Notwithstanding anything to the contrary herein, in the event Licensee sells Licensed Products that have not been approved under the License Agreement or sells Licensed Products outside the Territory or Distribution Channels, Licensee shall pay a Royalty of forty percent (40 %) on such unauthorized Licensed Products sales. Such Royalty payments shall not be credited against the Minimum Guarantee requirements under the License Agreement. Licensee acknowledges and agrees that any unauthorized sale of Licensed Products as described herein shall be subject to the indemnification and termination provisions of the License Agreement, respectively. For the avoidance of doubt, UO’s acceptance of Licensee’s Royalty payments on unauthorized sale of Licensed Products shall in no way limit or waive UO’s rights and remedies under the License Agreement, all of which are expressly reserved.

3.9 Every individual Licensed Product must display the Licensee’s name. It is sufficient for the Licensee to display its name on a garment label, hanging tag, or stick-on label. Every individual Licensed Product must bear labels in accordance with the Collegiate Licensed Properties Association (CLPA) as directed by UO. If the Licensee fails to display its name on every Licensed Product, UO or its designee may seize any and all noncompliant Licensed Products, and UO shall have no liability for doing so. In addition, UO may terminate this Agreement by giving the Licensee written notice of its intent to do so. All Licensed Products that bear the UO Marks also shall bear the appropriate legends, markings and notices as required by UO. These may include, without limitation, the encircled “R” trademark designation to serve notice of UO’s federally registered trademarks or the “TM” designation for all other trademarks owned and licensed by UO.

3.10 For the duration of this Agreement and any Sell-Off Period (as such term is defined herein and/or in Schedule A), the Licensee will not i) sell factory seconds or damaged Licensed Products; or ii) sell Licensed Products at prices less than seventy- five percent (75%) of the highest sales price with respect to the Licensed Products (provided, however, that nothing contained herein shall be deemed to restrict the Licensee’s ability to set prices at its own unfettered discretion), without the prior written consent of UO. Further, for the duration of any Sell-Off Period, the Licensee will not sell Licensed Products at volume levels significantly above the Licensee’s prior sales practices with respect to the Licensed Products, without the prior written consent of UO. If UO approves such sales in any of the aforementioned scenarios, a Royalty obligation shall be due on these sales in accordance with the Agreement. However, these sales will not apply toward the Licensee’s Minimum Guarantee. In the event the Licensee proceeds with such prohibited sales without UO’s prior written consent, the penalty for non- compliance will be liquidated damages in the amount of $20,000 per event or the net proceeds from such sale of the Licensed Products, whichever is greater. Licensee acknowledges and agrees that any unauthorized sale of Licensed Products as described herein shall be subject to the indemnification and termination provisions of the License Agreement, respectively. For the avoidance of doubt, UO’s acceptance of Licensee’s Royalty payments on unauthorized sale of Licensed Products shall in no way limit or waive UO’s rights and remedies under the License Agreement, all of which are expressly reserved.

3.11 If UO determines that the Licensee has failed to meet or maintain the requisite quality standards as to production, promotion, distribution or sale of any Licensed Products, then UO may send the Licensee written notice to discontinue. Upon receipt of this notice, the Licensee shall immediately discontinue any and all production, promotion, distribution or sale that UO identified as substandard at the Licensee’s sole expense.

3.12 No later than sixty (60) days after execution of this Agreement, the Licensee shall submit a list of all third party manufacturers of the Licensed Products, including the factory address, and the name, phone number and email address of the primary contact (and shall immediately notify UO of any changes in the manufacturer or country of manufacture). The Licensee shall inform its manufacturers of all terms and conditions of this Agreement, and shall be responsible for their compliance therewith. The Licensee shall remain primarily responsible to UO for the acts and omissions of its subcontractors and others with whom the Licensee is in contractual or other privities with respect to the Licensed Products and the Licensed Marks, as if same had been committed or omitted by the Licensee. The Licensee shall, upon written demand by UO, terminate any subcontractor or other contractor whose act or omission which, if taken by the Licensee would constitute a breach of this Agreement.

3.13 In the event that any Licensed Products become subject to any order of recall, or the Licensee is otherwise notified of safety or health hazards to the public and/or anyone in the chain of production, promotion, distribution or sale of the Licensed Products, the Licensee immediately shall notify UO, discontinue production of the offending product, seek to recover all such product from distributors and safely destroy all such product recovered or existing in inventory, unless permission to otherwise dispose of the same is obtained in writing from UO. Approval of affected Licensed Product shall be void automatically upon such notice of hazard or recall. The Licensee agrees to comply with requirements of all applicable legally empowered governmental authorities with regard to such hazards or recall.

3.14 The Licensee will be responsible and liable for all advertising claims made by the Licensee regarding the Licensed Product and/or related materials and will immediately report to UO any allegations of false or misleading advertising, unfair competition, misrepresentation or any other threatened actions of third parties, including governmental agencies, with respect to such advertising claims. The Licensee shall provide UO with the Licensee’s advertising claims for the Licensed Products, whether on the Licensed Products or within the advertising materials, in advance of publication or distribution by the Licensee, for UO’s review. UO will have the right, but not the obligation, to prohibit the Licensee from publishing or distributing Licensed Products and/or advertising materials which UO finds objectionable. UO will have the right, but not the obligation, in its sole discretion, to require the Licensee to provide a complete copy of the substantiation supporting each express and implied advertising claim. The Licensee will keep records of such substantiation during the term of this Agreement and for one (1) year thereafter. UO’s review or failure to prohibit the Licensee’s use of any advertising claim pursuant to this Section is not, nor should be construed by the Licensee as, an expressed or implied approval and/or endorsement of the Licensee’s advertising claims. The Licensee should seek review by qualified legal counsel of all advertising claims for the Licensed Products, whether on the Licensed Products or within the advertising materials. The Licensee shall be solely responsible for and indemnify and hold UO harmless against all costs, losses, damages, demands or other liability including attorney fees and any corrective advertising, arising out of, related to, or connected with any third party claim, suit action or demand, including without limitation those of governmental agencies, with respect to the Licensee’s use of any advertising claims for the Licensed Products, whether on the Licensed Products or within advertising materials.

4.0 TRADEMARK USE AND OWNERSHIP

4.1 Licensee agrees to use UO Marks only in the form and manner and with appropriate legends as prescribed from time to time by UO, and not to use any other copyrighted material, logo, brand name, service mark or trademark in combination with any of UO Marks, without the prior written approval of UO. Licensee agrees it will not alter, modify, dilute or otherwise misuse UO Marks.

4.2 Licensee agrees that it shall cause to appear on or within each Licensed Product, by means of a tag, label, imprint, or other appropriate device, such copyright, trademark or service mark notices as UO may designate.

4.3 Licensee agrees to submit to UO, for approval, samples of all tags, labels and packaging to be used in connection with any Licensed Product, and to remove therefrom or add thereto any element UO may from time to time designate.

4.4 Licensee agrees to submit to UO copies of any advertisements or promotional materials containing UO Marks for UO's written approval prior to any use thereof, and to remove material which is objectionable to UO. The Licensee’s use of the UO Marks in advertising is limited to the sales promotion of Licensed Products only. The UO Marks used must conform to the standards set forth herein and is subject to the on-going approval of UO. The Licensee shall not use the UO Marks in any advertising or promotional display in any manner that might conflict or interfere with the best interests of UO. UO reserves the right to disapprove any advertisement or promotion and the Licensee agrees to discontinue or cancel the same at UO’s request.

4.5 Licensee acknowledges the sole and exclusive owner of UO Marks is UO. Licensee agrees that it will do nothing inconsistent with such ownership, and that use of the UO Marks by Licensee shall be to the benefit of UO. Nothing in this Agreement shall be construed as an assignment to the Licensee of any such ownership. Licensee agrees that it shall not apply for registration or otherwise seek to obtain ownership of any UO Mark in any country. Licensee shall provide, at reasonable cost to be borne by UO, any evidence, documents and testimony concerning use by Licensee of any one or more of the UO Marks, which UO may request for use in obtaining or defending the registration of UO Marks.

4.6 Licensee agrees that in the exercise of this License Agreement, it will neither state nor imply that the Licensee, or its activities other than pursuant to exercise of the license herein, are supported, endorsed, or sponsored by UO, and, upon the direction of UO shall issue express disclaimers to that effect.

4.7 The Licensee shall not use the UO Marks other than as permitted in this License Agreement. In particular, the Licensee shall not incorporate UO’s name or UO Marks in the Licensee’s corporate or business name in any manner whatsoever.

4.8 The Licensee shall not use or authorize the use of, either during or after the Term of this Agreement, any configuration, trademark, trade name, or other designation confusingly similar to UO’s Name or UO Marks.

4.9 During the Term of this Agreement and thereafter, the Licensee shall not contest or otherwise challenge or attack UO’s rights in the UO Marks or the validity of the License granted herein and agrees to execute assignments or other documents necessary to perfect UO’s rights hereunder.

4.10 Licensee acknowledges UO’s trademark manufacturing disclosure requirements hereto attached and incorporated. Licensee agrees to comply with the University of Oregon disclosure for Trademark Licensees pertaining to the manufacture and distribution of Licensed Products and all amendments thereto which UO may from time to time, upon reasonable notice, designate.

4.11 All artwork, notwithstanding its creation, development or use by the Licensee, shall be considered “work made for hire” within the meaning of the copyright laws of the United States and any foreign jurisdiction recognizing such right of authorship and remain the property of UO. The Licensee represents and warrants that all of its employees and/or contractors have signed, or will sign, a work for hire agreement. The Licensee agrees to indemnify and hold harmless UO from all loss resulting from a breach of this warranty. Notwithstanding the foregoing, the Licensee shall retain ownership of its pre-existing trademarks and trade names which may appear on the

Licensed Products and that portion of the Licensee’s displays, catalogs, promotional materials and the like that do not contain UO Marks or reference to the UO Marks. To the extent that such

work is not deemed to be work made for hire, the Licensee hereby assigns to UO all right, title, and interest to the rights to such work free from any claims. At any time and upon UO’s request,

the Licensee shall execute an assignment of copyright in a form reasonably acceptable to UO evidencing the foregoing transfer, or in the event the Licensee fails to so execute such documents within thirty (30) days after UO’s request, then thereafter the Licensee hereby authorizes and

appoints UO as the Licensee’s attorney-in-fact, coupled with an interest to prepare and sign all documents on the Licensee’s behalf which may be required to obtain full copyright, trademark or

other legal benefits, including, but not limited to, registrations, extensions and renewals. UO shall have the right to register with the appropriate registration authority in the Territory, all or any part of this Agreement in excised form, the UO Marks, and any assignment thereto in UO’s name as the owner thereof. The Licensee agrees that it will not at any time assert any right in any such copyright or trademark registered or assigned to UO. Further, to the maximum extent permitted by law, the Licensee waives any moral rights, including the rights of integrity and paternity, that exist now or that may be created in the future with regard to such artwork or the UO Marks.

5.0 ROYALTIES

5.1 Licensee agrees to pay UO a royalty in the amount recited in Schedule A calculated on total Net Sales for all Licensed Products sold by Licensee (the “Royalty”). Licensed Products shall be deemed to have been sold when invoiced, or if not invoiced, then when delivered, shipped or paid for, whichever is first.

5.2 Royalty payment shall be made quarterly, payable no later than thirty (30) days following the end of each calendar quarter. All Royalties shall be paid in U.S. dollars (calculated at the rate of exchange published in the *Wall Street Journal* on the date the payment is due). Checks are to be made payable to the University of Oregon.

5.3 Upon signing this Agreement, Licensee shall pay a non-refundable advance in the amount set forth in Schedule A attached hereto. This advance shall be applied against Royalties and Minimum Guarantees as they become due. If Royalties for a Sales Year is less than the Minimum Guarantee, then within thirty (30) days after the end of such Sales Year Licensee shall pay UO an amount equal to the difference between the Minimum Guarantee amount and the Royalty paid for such Sales Year. In the event that Royalty payments in any Sales Year during the Term exceed the applicable Minimum Guarantee for such Sales Year, such excess payments will be not be credited or carried forward for subsequent Sales Years.

5.4 UO recognizes that Licensee may be party to other licensing agreements which together with this Agreement would subject the Licensed Products to one or more additional royalty payments above and beyond the Royalties charged by UO. No reduction of UO royalty rate may be made for items subject to two or more licensing agreements unless approved in writing by UO prior to production.

5.5 In the event the royalty payment is not received by UO when due, Licensee agrees to pay UO interest charges at an annual rate of one and one half percent (1 1/2%) per month, compounded on a monthly basis, or the maximum rate permitted by law, whichever is less, calculated from the date payment was due until actually received by UO. Such interest shall be in addition to any other remedies available to UO. UO’s acceptance of any of the Licensee’s statements or payments of Royalty shall not preclude UO from questioning its accuracy and the Licensee, upon request from UO, immediately shall rectify inaccurate statements or payments.

5.6 Unless otherwise waived in writing by UO, the Royalty as specified in Schedule A is payable by the Licensee even if it does not charge the buyer for the Licensed Products or sells the Licensed Products at preferred pricing, as set forth herein, to UO and/or UO’s internal departments. The Royalty shall be based on the usual price charged for the same or similar Licensed Products to other buyers in the same or nearest locality.

6.0 ACCOUNTING AND REPORTING

6.1 Simultaneous with its payments as set forth above in Section 5, Licensee shall submit to UO quarterly reports of all its Net Sales of Licensed Products. These reports shall be prepared in a format agreeable to UO. Reports of sales in each fiscal quarter shall be submitted within thirty (30) days following the end of each calendar quarter. A statement shall accompany each quarterly report from the chief financial officer of Licensee certifying that the report is in accordance with, and in compliance with this Agreement. If no sales or other uses of the Licensed Products are made during any reporting period, a statement to that effect shall be provided to UO as the quarterly report.

6.2 Licensee shall keep account books, records and duplicates of all invoices to customers showing the sales or other distribution of Licensed Products. Said books, records and invoices shall be maintained for a period of at least three (3) years after the payment of the corresponding Royalty and shall be available for inspection and copying by duly authorized representatives of UO during regular business hours upon reasonable notice. Licensee shall cooperate fully with UO in making the inspection. The requirements of this sub-paragraph will survive termination of this Agreement.

6.3 Once during each fiscal year in which this Agreement is in effect, and up to three times after expiration or termination of this Agreement, UO shall be entitled to an independent audit of Licensee's account books, records, invoices and other pertinent data, to determine Licensee's sales of Licensed Products, by an auditor to be designated by UO. The audit shall be conducted at Licensee's place of business during normal business hours. The cost of the audit will be paid by UO unless the audit shows that Licensee understated sales of Licensed Products by more than five percent (5%), in which case Licensee shall pay all of UO's costs of the audit. In the event the audit reveals that the Licensee has underpaid, the Licensee shall immediately remit payment of that deficiency to UO, plus interest calculated at the rate of one and one-half percent (1 ½%) per month from the date such payment(s) was actually due until the date when such payment(s) is actually received by UO.

7.0 TERMINATION

7.1 UO shall have the right to terminate this Agreement at any time upon ninety (90) days written notice to Licensee; provided however, that such termination shall not impair or affect any accrued rights and Royalties to UO.

7.2 It is expressly agreed that, notwithstanding any other provisions of this Agreement, UO shall have the right to terminate this Agreement, without further cause at any time upon written notice to Licensee in the event that the Licensee does any of the following:

(1) fails to commence or fails to have its supplier commence production of Licensed Products within 120 days from the execution of this agreement; or

(2) fails to commence selling of Licensed Products within 180 days from the execution of this agreement; or

(3) fails to obtain or maintain insurance in the amount and of the type provided for herein; or

(4) is late in making its Royalty payments or providing its Royalty reports more than once during any one calendar year; or

(5) ceases to operate as a business; or

(6) manufactures, sells, promotes, distributes and/or uses, in any way, any Licensed Product without having UO’s prior written approval as provided in this Agreement, or continues to manufacture, sell promote, distribute and/or use, in any way, any Licensed Product after the Licensee receives notice from UO disapproving or withdrawing its approval in accordance with the terms of this Agreement; or

(7) is or will be the subject of adverse publicity, including, without limitation, adulteration or contamination of the Licensed Products or of any Licensee line item, unsuitability of the Licensed Products or of any Licensee line item for consumer use or consumption, voluntary or involuntary market withdrawal or recall of any Licensee line item, all of which in UO’s sole judgment is or is reasonably likely to be detrimental to the goodwill associated with

UO Marks or UO; or

(8) breaches (either directly or through any third party manufacturer of the Licensed Products) any law, rule, regulation, or other obligation relating to labor or health and safety practices; or

(9) makes an assignment for the benefit of creditors or if the Licensee discontinues its business or a receiver is appointed for the Licensee or for the Licensee’s business and such receiver is not discharged within thirty (30) days (in such event, the Licensee, its receivers, trustees, assignees or other representatives shall have no right to sell, exploit or in any way use the Licensed Products or related materials except with the special written consent and instructions of UO).

7.3 Upon a material breach of this Agreement by Licensee, UO shall provide written notice of the default and provide Licensee with thirty (30) days in which to cure such default. If such default is not cured within such thirty (30) day period, this Agreement shall terminate without further notice to Licensee upon the expiration of such thirty (30) day period.

7.4 Licensee acknowledges that money damages alone are inadequate to compensate UO for any breach by Licensee of this Agreement. UO may, in addition to all other remedies, immediately obtain and enforce injunctive relief prohibiting the breach or compelling specific performance.

8.0 EFFECT OF TERMINATION

8.1 Upon termination or expiration of this Agreement, notwithstanding anything to the contrary herein, all Royalties outstanding on sales, shipments, and/or distributions shall become immediately due and payable.

8.2 If this Agreement is terminated under Sections 7.2, 7.3, 12 or 17, the Licensee and its receivers, representatives, trustees, agents, administrators, successors or permitted assigns, shall have no further right to manufacture, sell, promote or distribute Licensed Products. The Licensee further agrees that continued production, promotion, distribution and sale will result in immediate and irreparable damage to UO, making injunctive relief appropriate.

8.3 Upon expiration or termination of this Agreement under any provision other than Sections 7.2,

7.3, 12 or 17, the Licensee may dispose of Licensed Products which are on hand or are in the process of manufacture at the time it receives the notice of termination or the Term expires for the

period of time set forth in Schedule A (the “Sell-Off Period”); provided, however, that i) the

Licensee complies with all the terms and conditions of this Agreement, including, without limitation, the Licensee’s obligation to make Royalty payments on and to account to UO for such

sales; ii) the Licensee has not manufactured Licensed Products solely or principally for sale

during the Sell-Off Period; and iii) all sales of the Licensed Products made during such Sell-Off

Period shall be at the Licensee’s regular selling price unless otherwise authorized by UO. During the Sell-Off Period, UO may use or license the use of the UO Marks in any manner, anytime, anywhere in the world.

8.4 After this Agreement terminates or expires, all rights granted to the Licensee shall forthwith revert to UO, either directly or indirectly, in connection with the manufacture, sale, promotion, or distribution of the Licensed Products. The Licensee shall, at UO’s request, turn over to UO all art molds and the like used to manufacture the Licensed Products.

8.5 Within thirty (30) days after termination or expiration of this Agreement or the Sell-Off Period, if applicable, the Licensee shall deliver to UO a statement of the number and description of the Licensed Products remaining on hand (and UO may conduct a physical inventory at any reasonable time in order to ascertain or verify such statement), and UO shall have a sixty (60) day option to purchase, at the Licensee’s production cost, all or any portion of such inventory. UO shall be free to dispose of any Licensed Products it purchases in its sole discretion. The Licensee shall either destroy or donate the entire remaining inventory to a charity designated by UO, at UO’s sole discretion, and shall provide written certification of such destruction or donation.

9.0 INFRINGEMENT

9.1 The Licensee agrees to cooperate with UO in protecting and defending the UO Marks. In the event that any claim or problem arises with respect to the protection of the UO Marks, the Licensee shall promptly advise UO in writing of the nature and extent of the problem. Licensee agrees to notify UO promptly of any known use of UO Marks by others not duly authorized by UO. Notification of such infringement shall include all details known by Licensee that would enable or aid UO to investigate such infringement. UO will endeavor to investigate unauthorized use by others of the UO Marks brought to its attention by Licensee. However, nothing in this Agreement shall require UO to bring suit for infringement of any of the UO Marks. The Licensee shall take no action for enforcement of any UO Marks subject to this Agreement, or for any purpose whatsoever without prior written approval of UO.

9.2 UO shall not be liable as the result of activities by Licensee under this Agreement for infringement of any patent, copyright, or trademark belonging to any third party, or for damage or costs

involved in any proceeding based upon any such infringement, or for any royalty or obligation incurred by Licensee because of any patent, copyright or trademark held by a third party.

10.0 INDEMNIFICATION

10.1 The Licensee hereby agrees to defend, indemnify, and hold harmless UO, the State Board of Higher Education, officers, employees, agents, and/or any of its related entities against any and all expenses, claims, demands, notices, causes of action, penalties, fines, liabilities, losses and judgments arising out of the Licensee’s design, manufacture, distribution, promotion, or sale of the Licensed Products, including recall costs, other corrective action plan costs, attorney fees, expert fees, investigator fees, judgments and settlements arising out of, relating to, or in connection with any act, failure to act or omission of the Licensee in connection with this Agreement including without limitation: i) the breach or alleged breach of any of the representations, warranties, covenants or obligations contained in this Agreement by the Licensee, its employees, agents or subcontractors; ii) any alleged unapproved, unauthorized, or non-conforming use of the UO Marks by the Licensee, its employees, agents or subcontractors; iii) any alleged noncompliance with any laws, directives, ordinances, policies or regulations by the Licensed Products, the Licensee, its employees, agents or subcontractors including, without limitation, the quality and safety of any Licensed Product, any infringement or misappropriation of any copyright, trademark, patent, trade secret or other proprietary right of any third party; iv) any alleged defect in the design, material, workmanship, manufacture, packaging, warnings or instructions, distribution, sale, advertising or use of any Licensed Product; or v) any alleged injury to end-users or their property, or damage caused by scandal, libel, obscenity, invasion of privacy or otherwise unlawful or tortious action or failure to act by the Licensee. The Licensee agrees to defend and hold harmless UO, its Board of Trustees, officers, employees, agents, and/or related entities at no cost or expense to them whatsoever including, but not limited to, paying their attorney fees and court costs. UO shall have the right to approve the counsel chosen to defend UO. UO shall also have the right approve any settlement.

10.2 Oregon law prohibits reciprocal indemnification by UO. The Licensee hereby concedes to the unilateral nature of this indemnification provision.

11.0 INSURANCE

11.1 During the term of this Agreement and for a period of two (2) years thereafter, Licensee shall maintain in effect comprehensive general liability insurance with a broad form CGL endorsement or broad form commercial general liability insurance covering bodily injury, advertising injury, and property damage, with a minimum limit of $5,000,000 per occurrence. If Licensee will be driving on campus, Licensee shall secure at its own expense and keep in effect during the term of this Agreement a Commercial Auto Liability insurance policy with a minimum limit of $1,000,000 per occurrence with an aggregate amount of $2,000,000. Insurance policies are to be issued by an insurance company authorized to do business in the State of Oregon with a minimum financial rating of AM Best rating of A- or higher. All liability insurance will be arranged on an “occurrence” basis. No insurance will be allowed on a “claims made” basis. Such insurance must cover against any claims, demands, or causes of action or damages, including reasonable attorney's fees, arising out of any action or damage (and which shall oblige the insurer to defend same) arising out of any alleged defects in the Licensed Product, negligence in their design, manufacturer, accompanying instructions or directions, and packaging, or in the use thereof. The policies must be primary over any other collectible insurance and the deductibles shall be no greater than five thousand dollars ($5,000), unless UO agrees otherwise in writing. Self-insured retentions may be acceptable in lieu of the above requirements. Any self-insured retentions must be declared to and approved by UO. UO may require Licensee to provide proof of ability to pay losses and related investigations, claim administration, and defense expenses within the retention. Any waiver of subrogation provided by UO under this Agreement is subject to the terms and conditions of UO’s current insurance policies.

11.2 Before Licensee commences work under this Agreement, Licensee shall furnish to UO contract officer Certificate(s) of Insurance from the insuring company evidencing insurance coverages required by this Agreement.  The “Description of Operations” must include (using the following exact language) the **“State Board of Higher Education acting by and through the University of Oregon, their officers and employees”** as additional insured.

Upon request by UO, Licensee will provide to UO an endorsement from the insuring company, naming (using the following exact language) the “**State Board of Higher Education acting by and through the University of Oregon, their officers and employees”** as additional insured.

UO shall have the right to inspect the original policies of such insurance. Licensee shall not commence performance under this Agreement until certificates of insurance have been submitted and notice of approval from UO has been received.

12.0 BANKRUPTCY

12.1 If the Licensee files a petition in bankruptcy or is adjudicated as bankrupt, or if a petition in bankruptcy is filed against the Licensee and any order for relief under the United States Bankruptcy Code is entered, the Licensee must assume or reject this Agreement within sixty (60) days after such order for relief is entered. If the Licensee does not assume this Agreement within such sixty (60) day period, UO may, at its sole option, terminate this Agreement effective immediately upon notice to the Licensee, without further obligation or liability of UO under this Agreement.

12.2 The Licensee shall furnish to UO such financial statements and other financial information as UO may from time to time reasonably request. All such financial statements shall show all material contingent liabilities and shall accurately and fairly present the results of operations and the financial condition of the Licensee at the dates and for the period indicated. Should UO at any time determine or suspect that the Licensee's financial condition may cause the Licensee to be unable to adequately exploit the Licensed Products or perform any of its other obligations under this Agreement, UO may request, and the Licensee shall provide, any and all other evidence of

the Licensee's financial viability and ability to perform. Failure to provide any such evidence or to otherwise adequately persuade UO, in its sole judgment, of the Licensee's ability to adequately perform its obligations under this Agreement shall be a breach of this Agreement and shall entitle UO to terminate this Agreement effective immediately upon notice to the Licensee.

13.0 SEVERABILITY

13.1 Should any provision of this Agreement be held unenforceable or in conflict with the law of any jurisdiction, then the validity of the remaining provisions shall not be affected by such a holding.

14.0 MODIFICATIONS

14.1 The Parties agree that Schedule A of this Agreement may be modified from time to time in writing signed by both Parties for the purpose of adding or deleting items therefrom.

14.2 It is agreed that no waiver by either Party of any breach or default of any of the provisions of this Agreement shall be deemed a waiver as to any subsequent and/or similar breach or default. UO’s failure to enforce any provision of this Agreement or to exercise any of its rights or remedies shall not constitute a waiver of any of UO’s other rights or any of the Licensee’s obligations.

14.3 If UO resorts to any remedy or remedies, such resort shall not limit UO’s right to resort to any and all other legal and equitable remedies that are available to it.

15.0 LICENSE RESTRICTIONS

15.1 It is agreed that the rights and privileges granted to Licensee are each and all expressly conditioned upon the faithful performance on the part of Licensee of every provision of the Agreement and that each of such conditions and requirements are specific License restrictions.

16.0 INDEPENDENT CONTRACTOR

16.1 Licensee is an independent contractor. Nothing contained herein shall be deemed to create an agency, joint venture, franchise or partnership relation between the Parties and neither Party shall so hold itself out. Licensee shall have no right to obligate or bind UO in any manner whatsoever, and nothing contained in this Agreement shall give or is intended to give any rights of any kind to third persons.

17.0 ASSIGNABILITY

17.1 This Agreement is personal to the Licensee. Neither this Agreement, nor any of the Licensee’s rights or obligations hereunder shall be sublicensed, sold, transferred or assigned by the Licensee, without UO’s prior written approval, at UO’s sole discretion, and no rights shall devolve or be transferred by operation of law or otherwise upon or to any assignee, receiver, liquidator, trustee or other party. The term “transfer” includes any merger involving the Licensee, any sale or transfer of all or substantially all of the Licensee’s assets, any public offering, and any acquisition or series of acquisitions by any third-party entity whereby the cumulative total of twenty percent (20%) or more of the voting stock or beneficial interest of the Licensee is transferred. Any purported transfer or sublicense to the contrary shall be deemed null and void and shall constitute a material breach of this Agreement for which UO shall have the right to immediately terminate this Agreement. Subject to the foregoing, this Agreement shall be binding upon any approved assignee or successor of the Licensee. UO shall, however, have the unrestricted right to assign its rights and obligations under the Agreement and the Agreement shall inure to the benefit of UO,

its successors and assigns.

18.0 LICENSEE WARRANTIES AND OBLIGATIONS

18.1 Licensee warrants and represents that has the authority to execute, deliver and perform its obligations under this Agreement, and is duly organized or formed and validly existing in good standing under the laws of the state of its incorporation or formation; that the entering into and performance of this Agreement by the Licensee does not and will not violate, conflict with or result in a default under any other contract, agreement, indenture, decree, judgment, undertaking, conveyance, lien or encumbrance to which the Licensee or any of its affiliates is a party or by which it or any of its property is or may become subject or bound; that with respect to any materials, including all advertising materials, supplied by the Licensee in connection with the Licensed Products, such materials do not and shall not infringe upon or misappropriate any copyright, trademark, patent, trade secret or other proprietary right of any third party and do not and will not contain any matter which is injurious to end-users or their property, and will not contain any matter which is scandalous, libelous, obscene, an invasion of privacy or otherwise unlawful or tortuous; that is not involved in current litigation, arbitration or any other claim and knows of no pending litigation, arbitration, other claim, or fact which may be the basis of any claim which would prevent the Licensee from making the representations set forth in this Agreement; and that no injurious, deleterious, or toxic substances will be used in or on the Licensed Products; that the Licensed Products will be suitable for the purpose for which they are intended to be used and will not cause harm either in their production or in their end-use as instructed and with ordinary care for their intended purpose; and that the Licensed Products will be produced, promoted, distributed and sold in strict compliance with all applicable federal, state and local laws, ordinances, rules and regulations, including, without limitation, any and all applicable labor standards guidelines.

18.2 Licensee shall use its best efforts to develop Licensed Products and exploit the license throughout the Licensed Territory, including selling commercial quantities of the Licensed Products; offering for sale the Licensed Products so they may be sold to the consumer on a timely basis; and maintaining a sales force sufficient to provide effective distribution throughout the Licensed Territory. The Licensee agrees that its failure to produce, promote, distribute and sell the Licensed Products or otherwise fulfill the Licensee’s obligations hereunder will result in immediate and irreparable damages to UO and that UO will have no adequate remedy at law.

18.3 Intentionally omitted.

18.4 Licensee shall use its best efforts to prevent counterfeiting. Licensee agrees to use any anti- counterfeiting system designated by UO.

18.5 Licensee agrees that upon the request of UO, it shall submit a reasonable number of Licensed

Products to UO and its other Licensees at no cost for advertising and promotional purposes.

18.6 Licensee acknowledges the value of the goodwill associated with the UO Marks and that the UO Marks and all accompanying rights and goodwill belong exclusively to UO.

18.7 The Licensee further acknowledges that UO is entering into this Agreement not only in consideration of the royalties to be paid, but also for the promotional value of the Licensee’s manufacture, sale, promotion and distribution of the Licensed Product. Accordingly, the Licensee acknowledges that its failure to fulfill its obligations as to quality and otherwise under this Agreement will result in immediate and irreparable damages to UO in connection with promotion of UO Marks, and that UO will have no adequate remedy at law.

18.8 The Licensee shall begin active and good faith marketing of the Licensed Products throughout Territory on or before the Product Marketing Date and begin shipment of Licensed Products in all countries in the Territory on or before the Product On-Shelf Date, both as set forth in Schedule A. The Licensee shall promptly, but no later than thirty (30) days after the dates noted in Schedule

A report to UO regarding its achievement of the obligations noted herein. The Licensee shall meet the Sales Target for the sale of Licensed Products as set forth in Schedule A.

18.9 For the duration of this Agreement, the Licensee shall allocate the Advertising Commitment, if any, set forth on Schedule A for the advertising, promotion and marketing of the Licensed Products, including, but not limited to, tradeshows, public relations, advertising, signage,marketing collateral and other promotional activities for the Licensed Products. Licensee agrees to prominently feature UO licensed products in all advertising, subject to UO’s approval, and at tradeshows where Licensee is featuring other licensed products. On a quarterly basis, the Licensee shall report to UO an accounting of the Advertising Commitment, along with documented proof of expenditures, and the same shall be submitted with the Licensee’s Royalty statements and payments within thirty (30) days after the end of each quarter.

18.10 This Agreement shall be construed in accordance with the laws of the State of Oregon. The Parties hereto consent to state court jurisdiction in Lane County, Oregon and the jurisdiction of any federal court situated in the State of Oregon, for the bringing of any action hereunder.

19.0 UO’S WARRANTIES AND OBLIGATIONS

19.1 UO warrants and represents UO has the authority to execute, deliver and perform its obligations under this Agreement, and is duly organized or formed and validly existing in good standing under the laws of the state of its incorporation or formation; and that the entering into and performance of this Agreement by UO does not and will not violate, conflict with or result in a default under any other contract, agreement, indenture, decree, judgment, undertaking, conveyance, lien or encumbrance to which the Licensee or any of its affiliates is a party or by which it or any of its property is or may become subject or bound; that it has the right to grant the rights granted to the Licensee hereunder;

19.2 UO makes no representations or warranties and explicitly disclaims any representations and warranties with respect to the Licensed Products produced, promoted, distributed and sold by the Licensee and disclaims any liability arising therefrom. UO additionally makes no warranty, express or implied, and explicitly disclaims any warranty that the Licensed Products will be commercially successful.

20.0 EFFECTIVE DATE

20.1 IN WITNESS WHEREOF, the Parties have caused this Agreement to be executed by their duly authorized representatives and to become effective as of the day and year signed by UO representative.

21.0 CAPTIONS

21.1 The paragraph captions are for reference only and shall not be deemed to govern, limit, modify or in any other manner affect the scope, meaning or intent of the provisions themselves.

22.0 SURVIVAL OF RIGHTS

22.1 Notwithstanding anything to the contrary, all of the Licensee’s obligations shall remain in full force and effect, even after this Agreement’s termination or expiration, until discharged by performance. Any accompanying rights shall remain in force until their expiration.

23.0 FORCE MAJEURE

23.1 Neither party to this Agreement shall be deemed in default or otherwise liable hereunder due to its inability to perform by reason of any fire, natural disaster, epidemic, accident, explosion, casualty, strike, lockout, labor controversy, riot, civil disturbance, act of God, or any municipal, county, state, national or international ordinance or law or any executive, administrative, judicial or similar order (which order is not the result of any act or omission to act which would constitute a default under this Agreement), or any failure or delay of any transportation, power, or other essential thing required, or similar causes beyond the party’s control. Any delay in performance shall be no greater than the event of force majeure causing the delay. If an event of force majeure continues uninterrupted for a period exceeding six (6) calendar months, either party may elect to terminate this Agreement upon notice to the other, but such right of termination, if not exercised, shall expire immediately upon the discontinuance of the event of force majeure.

24.0 CONFIDENTIALITY

24.1 Subject to the terms of the State of Oregon Public Records laws, during the Term of this Agreement and for a period of three (3) years from the expiration or earlier termination of this Agreement, both Parties will regard and preserve as strictly confidential all information and material, including, but not limited to, the terms and conditions of this Agreement, specifications, notices, marketing information, manufacturing information, and customer or client information, and any other business information provided to each other (hereinafter "Confidential Information"); provided, however, the Parties hereby acknowledge and agree that neither Party will have any obligation in connection with specific Confidential Information of the other Party to the extent, but only to the extent, that such information (a) is in the public domain through no act or failure to act on the part of the receiving Party; (b) was rightfully in the receiving Party’s possession prior to disclosure by the disclosing Party; (c) is approved by the disclosing Party for disclosure without restriction, in a written document that is signed by a duly authorized officer thereof; (d) is independently developed by the receiving Party by persons without access to Confidential Information of the disclosing Party; or (e) is required to be disclosed by a court or law, provided that the receiving Party must provide written notice and assistance in obtaining a protective order to the disclosing Party, and shall only disclose such information to the extent necessary.

25.0 SMOKE AND TABACCO FREE CAMPUS. Licensee acknowledges and agrees UO’s grounds and

premises are smoke and tobacco free. Licensee and Licensee’s employees, agents and subcontractors, if any, agree not to smoke or use tobacco products while on UO property.

26.0 AMBIGUITIES. Each Party has participated fully in the review and revision of this Agreement and neither

Party shall be considered the “drafter” for the purposes of any rule of construction that might cause any provision to be construed against the drafter of the Agreement.

27.0 RECYCLED PRODUCTS. Unless expressly otherwise provided for in this Contract, all paper products

will be sourced from mills using elemental chlorine-free processes and contain a minimum of 30% post- consumer waste.

28.0 ATTACHMENTS. All attachments, addenda, schedules and exhibits which are referred to in this Agreement are incorporated in this Agreement.

29.0 NOTICES. Except as otherwise expressly provided in this Agreement, any communications between the Parties or notices to be given under this Agreement will be given in writing by personal delivery, facsimile, or mailing the same, postage prepaid, to Licensee or UO at the address or number set forth on the signature page of this Agreement, or to such other addresses or numbers as the Parties may from time to time direct in writing. Any communication or notice so addressed and mailed will be deemed to be given five days after mailing. Any communication or notice delivered by facsimile will be deemed to be given when receipt of the transmission is generated by the transmitting machine. To be effective against UO, such facsimile transmission must be confirmed by telephone notice to UO's supervising representative.

Any communication or notice by personal delivery will be deemed given when actually delivered.

30.0 MERGER CLAUSE THIS AGREEMENT, INCLUDING SCHEDULE A AND ANY ATTACHMENTS REFERENCED IN THIS AGREEMENT, CONSTITUTES THE ENTIRE AGREEMENT BETWEEN THE PARTIES. THERE ARE NO UNDERSTANDINGS, AGREEMENTS, OR REPRESENTATIONS, ORAL OR WRITTEN, NOT SPECIFIED HEREIN REGARDING THIS AGREEMENT. NO AMENDMENT, CONSENT, OR WAIVER OF TERMS OF THIS AGREEMENT SHALL BIND EITHER PARTY UNLESS IN WRITING AND SIGNED BY ALL PARTIES. ANY SUCH AMENDMENT, CONSENT, OR WAIVER SHALL BE EFFECTIVE ONLY IN THE SPECIFIC INSTANCE AND FOR THE SPECIFIC PURPOSE GIVEN. THE PARTIES, BY THE SIGNATURE BELOW OF THEIR AUTHORIZED REPRESENTATIVES, ACKNOWLEDGE HAVING READ AND UNDERSTOOD THE AGREEMENT AND TO BE BOUND BY ITS TERMS AND CONDITIONS.

[THE NEXT PAGE IS THE SIGNATURE PAGE]

Licensee: University of Oregon

(type or print company name and address) Office of Marketing and Brand Management

5286 University of Oregon

Eugene, OR 97403-5286

Phone: Phone: 541/346-6035

Fax: 541/346-6129

Email: Email: [artwork@uoregon.edu](mailto:artwork@uoregon.edu)

Web: uomarketing.com

By:

By:

Signature

Printed Name: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ Printed Name: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Title: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ Title: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Date: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ Date: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

***Deliveries –FedEx/UPS***

***University of Oregon***

***Marketing & Brand Mgmt***

***360 E. 10th Ave. Suite 202***

***Eugene, Oregon 97401***