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Form PTO-1594

(Rev. 03/01)

OMB No. 0651-0027 (exp. 5/31/2002)

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U.S. DEPARTMENT OF COMMERCE  
U.S. Patent and Trademark Office

To the Honorable Commissioner of Patents and Trademarks: Please record the attached original documents or copy thereof.

## 1. Name of conveying party(ies):

Team Products International Inc.

- ☐ Individual(s)      ☐ Association  
☐ General Partnership      ☐ Limited Partnership  
☒ Corporation-State New Jersey  
☐ Other \_\_\_\_\_

Additional name(s) of conveying party(ies) attached? ☐ Yes ☒ No

## 3. Nature of conveyance:

- ☐ Assignment      ☐ Merger  
☒ Security Agreement      ☐ Change of Name  
☐ Other \_\_\_\_\_

Execution Date: January 17, 2003

## 2. Name and address of receiving party(ies)

Name: CapitalSource Finance LLC

Internal

Address: \_\_\_\_\_

Street Address: 4445 Willard Avenue, 12th Fl.

City: Chevy Chase State: MD Zip: 20815

- ☐ Individual(s) citizenship \_\_\_\_\_  
☐ Association \_\_\_\_\_  
☐ General Partnership \_\_\_\_\_  
☐ Limited Partnership \_\_\_\_\_  
☐ Corporation-State \_\_\_\_\_  
☒ Other Delaware limited liability

If assignee is not domiciled in the United States, a domestic representative designation is attached: ☐ Yes ☐ No  
 (Designations must be a separate document from assignment)  
 Additional name(s) & address(es) attached? ☐ Yes ☐ No

## 4. Application number(s) or registration number(s):

## A. Trademark Application No.(s)

75/737,379 76/390,238 76/260,755  
 76/392,285 76/290,047 76/260,757  
 75/512,539

Additional number(s) attached ☐ Yes ☒ No

## B. Trademark Registration No.(s)

1,873,629 2,442,296 2,430,297  
 2,036,334 2,597,665 2,609,430  
 2,613,518

## 5. Name and address of party to whom correspondence concerning document should be mailed:

Name: Paul C. Jorgensen

Internal Address: \_\_\_\_\_

Street Address: Patton Boggs, LLP

City: Washington State: DC Zip: 20037

## 6. Total number of applications and registrations involved: \_\_\_\_\_

14

7. Total fee (37 CFR 3.41).....\$ 365.00

- ☒ Enclosed  
☒ Authorized to be charged to deposit account

8. Deposit account number: 500-709

(Attach duplicate copy of this page if paying by deposit account)

DO NOT USE THIS SPACE

## 9. Statement and signature.

To the best of my knowledge and belief, the foregoing information is true and correct and any attached copy is a true copy of the original document.

Paul C. Jorgensen

Name of Person Signing

Signature

2/10/03

Date

218

Total number of pages including cover sheet, attachments, and document:

02/12/2003 6TOM11 00000062 75737379

01 FC:8521

40.00 00

02 FC:8522

325.00 00

Mail documents to be recorded with required cover sheet information to:  
 Commissioner of Patent & Trademarks, Box Assignments  
 Washington, D.C. 20231

TRADEMARK  
 REEL: 002668 FRAME: 0067

## **INTELLECTUAL PROPERTY SECURITY AGREEMENT**

This Intellectual Property Security Agreement (as amended, supplemented or otherwise modified from time to time, this "IP Security Agreement") is made and effective as of January 17, 2003, by TEAM PRODUCTS INTERNATIONAL INC., a New Jersey corporation (together with any successors or permitted assignees thereof, the "Grantor"), in favor of CAPITALSOURCE FINANCE LLC, a Delaware limited liability company, as agent for the Lenders (as defined in the Loan Agreement (as defined below)) (in such capacity, the "Agent"). Capitalized terms used in this IP Security Agreement and not otherwise defined shall have the respective meanings ascribed to such terms in the Loan Agreement.

### **RECITALS**

**WHEREAS**, pursuant to that certain Revolving Credit, Term Loan and Security Agreement, dated as of the date hereof, by and among the Grantor, the Agent and the Lenders (as amended, supplemented or otherwise modified from time to time, the "Loan Agreement"), the Lenders have agreed, subject to the terms and conditions set forth therein, to lend to the Grantor certain amounts pursuant to a revolving credit facility and a term loan (collectively, the "Loans"); and

**WHEREAS**, it is a condition precedent to the obligation of the Agent and the Lenders to execute and perform under the Loan Agreement that Grantor shall have executed and delivered this IP Security Agreement to the Agent, for the ratable benefit of the Lenders;

**NOW, THEREFORE**, in consideration of the willingness of the Agent and the Lenders to enter into the Loan Agreement and to agree, subject to the terms and conditions set forth therein, to make the Loans to the Grantor pursuant thereto, and for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, it is hereby agreed as follows:

1. Grant of Security Interest. To secure the Grantor's prompt, punctual and faithful payment of the Loans and the performance of all and each of the Grantor's obligations under the Loan Agreement, Grantor hereby grants to Agent, for the ratable benefit of the Lenders, a continuing security interest in all of the right, title and interest of Grantor in and to any and all of the following collateral, whether now owned or hereafter acquired (the "IP Collateral"):

(a) The U.S and foreign copyrights, associated copyright registrations and applications for copyright registration, and copyright licenses (to the extent permitted under the terms thereof) set forth on Schedule A attached hereto (collectively, the "Copyrights");

(b) The U.S. and foreign patents and patent applications, and patent licenses set forth on Schedule B attached hereto, including, without limitation, divisions, continuations, renewals, reissues, extensions and continuations-in-part of the same (collectively, the "Patents");

(c) The U.S., state and foreign trademark and service mark registrations, trademark and service mark applications, and trademark and service mark licenses (to the extent

permitted under the terms thereof) set forth on Schedule C attached hereto and all goodwill associated with the foregoing (collectively, the "Trademarks");

(d) The domain names and registrations set forth on Schedule D attached hereto and all goodwill associated with the foregoing (collectively, the "Domain Names");

(e) Any and all claims and causes of action for past, present or future infringement of any of the IP Collateral, with the right, but not the obligation, to sue for and collect damages for infringement of the IP Collateral;

(f) Any and all licenses or rights granted under any of the IP Collateral, and all license fees and royalties arising from such licenses or rights, in each case to the extent permitted by such licenses or rights;

(g) Any and all amendments, renewals, extensions, reissuances and replacements of any of the IP Collateral; and

(h) Any and all products and proceeds of any of the foregoing.

2. Requested Recordation. Grantor authorizes and requests that the Register of Copyrights and the Commissioner of Patents and Trademarks (and any state, foreign or other authority to which this IP Security Agreement is submitted) file and record this IP Security Agreement (and any corresponding or separate forms of such jurisdiction) in order to publicly reflect the interests of the Agent and the Lenders in the IP Collateral.

3. Assignment. Upon the occurrence and during the continuance of an Event of Default, Grantor shall execute and deliver to Agent an absolute assignment transferring its entire right, title, and interest in and to the IP Collateral to the Agent, for the ratable benefit of the Lenders.

4. Power of Attorney. Grantor hereby irrevocably grants to the Agent, for the ratable benefit of the Lenders, a power of attorney, to act as Grantor's attorney-in-fact, with full authority in the name, place and stead of Grantor, from time to time in the Agent's discretion, to take any action and to execute any instrument that the Agent may deem reasonably necessary or advisable to accomplish the purposes of this IP Security Agreement. This authority includes, without limitation, the following:

(a) To modify or amend (in the sole discretion of the Agent and the Lenders and without first obtaining Grantor's approval thereof or signature thereto) Schedule A, Schedule B, Schedule C, and/or Schedule D hereof, as appropriate, to include references to any registered intellectual property (or application or license therefor) acquired by Grantor after the execution hereof or to delete any reference to any IP Collateral in which Grantor no longer has or claims any right, title or interest;

(b) To execute, file and pursue (in the sole discretion of the Agent and the Lenders and without first obtaining Grantor's approval thereof or signature thereto, unless otherwise prohibited by applicable law) any application, form or other document

in order to perfect, maintain, continue or otherwise protect the Agent's interest or Grantor's rights in the IP Collateral, including, without limitation, executing and filing (i) any financing statement, any continuation statement or any amendment thereto, and (ii) any document in any proceeding before the United States Patent and Trademark Office, the United States Copyright Office or the relevant office of any state or foreign jurisdiction (including, without limitation, the filing of applications for renewal, affidavits of use, affidavits of incontestability and opposition, interference and cancellation proceedings) and to pay any fees and taxes in connection therewith or otherwise;

(c) To execute any document required to acknowledge, register or perfect the interest of the Agent and the Lenders in any part of the IP Collateral without the signature of Grantor unless prohibited by applicable law; and

(d) Upon the occurrence and during the continuation of an Event of Default, to (i) endorse Grantor's name on all applications, documents, papers and instruments necessary or desirable for Agent in the use of the IP Collateral, (ii) take any other actions with respect to the IP Collateral as Agent deems to be in the best interest of Agent, (iii) grant or issue any exclusive or non-exclusive license under the IP Collateral to anyone or (iv) assign, pledge, convey or otherwise transfer title in or dispose of the IP Collateral to anyone.

The foregoing power of attorney is coupled with an interest and is irrevocable until the obligations secured hereby have been unconditionally and indefeasibly paid or performed in full and the Loan Agreement has been terminated (except for any obligations designated under the Loan Agreement as continuing on an unsecured basis).

5. Release. Unless otherwise agreed in writing by the parties, the security interests granted herein will terminate (and all rights to the IP Collateral will revert to Grantor) upon satisfaction of the following conditions: (a) payment and performance in full of all the Obligations secured hereby (unconditionally and indefeasibly) and (b) the termination of the Loan Agreement (except for any obligations designated thereunder as continuing on an unsecured basis). Upon any such termination, the Agent (at the Grantor's request and sole expense) will promptly execute and deliver to the Grantor (without any representation, warranty or recourse of any kind whatsoever) such documents as the Grantor may reasonably request and as are provided to the Agent to evidence such termination.

6. Newly Registered Copyrights, Patents and Trademarks. Each Grantor hereby agrees to provide the Agent, for the ratable benefit of the Lenders, on a monthly basis, a schedule of newly registered Copyrights, Patents and Trademarks.

7. Miscellaneous.

(a) This IP Security Agreement has been entered into in conjunction with the provisions of and the security interest granted to the Agent, for the ratable benefit of the Lenders, under the Loan Agreement. The rights and remedies of the Grantor and the Agent with respect to the security interests granted herein are in addition and without

prejudice to those set forth in the Loan Agreement, all terms and provisions of which are hereby incorporated herein by reference. In the event that any provisions of this IP Security Agreement are deemed to conflict with the Loan Agreement or the other Loan Documents, the provisions of the Loan Agreement or the other Loan Documents shall govern.


(b) This IP Security Agreement may be executed in any number of counterparts with the same effect as if all the signatures on such counterparts appeared on one document. Each such counterpart will be deemed to be an original, but all counterparts together will constitute one and the same instrument.

***[Remainder of Page Intentionally Blank; Signature Pages Follow]***

**IN WITNESS WHEREOF**, the parties hereto have executed this IP Security Agreement as of the date first written above.

**GRANTOR:**

TEAM PRODUCTS INTERNATIONAL INC.

By:   
Name: STEPHEN H. LANE  
Title: Chairman

**AGENT:**

CAPITALSOURCE FINANCE LLC

By: \_\_\_\_\_  
Joseph Turitz  
Senior Counsel

**IN WITNESS WHEREOF**, the parties hereto have executed this IP Security Agreement as of the date first written above.

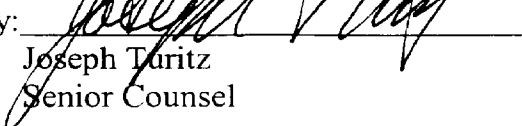
**GRANTOR:**

TEAM PRODUCTS INTERNATIONAL INC.

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

**AGENT:**

CAPITAL SOURCE FINANCE LLC

By:  \_\_\_\_\_  
Joseph Turitz  
Senior Counsel



## **SCHEDULE A**

### **COPYRIGHT COLLATERAL**

See Confidential Development, License, Supply and Services Agreement, dated as of May 23, 2002, by and between The Hartz Mountain Corporation and Grantor (attached to Schedule C to this Agreement).



## **SCHEDULE B**

### **PATENT COLLATERAL**

#### **ISSUED PATENTS**

<u>Title</u>	<u>Country</u>	<u>Pat. No.</u>
Interactive Blister Package	U.S.	6,311,839
Pen with Self-Contained Illumination	U.S.	6,164,856
Ultrasonic Pest Repeller (SB 600)	U.S.	D458,334
Method and Apparatus for Stabilizing and Brightening Pre-recorded TV Signals Encoded with Copy Protection	U.S.	5,661,801

#### **PATENTS PENDING**

<u>Title</u>	<u>App. No.</u>
Portable Light Board	09/863,890
Watertight Portable Auxiliary Power Source (PMJ 8660)	10/143,210
Spotlight with Map Light (PML 8020)	29/160,742
Bug Zapper (SB975)	29/161,153
Ultrasonic/Electromagnetic Pest Repeller with Digital Clock (SB310)	29/161,162

#### **Patent Licenses**

See attached.

See also Confidential Development, License, Supply and Services Agreement, dated as of May 23, 2002, by and between The Hartz Mountain Corporation and Grantor (attached to Schedule C to this Agreement).

LICENSE AGREEMENT

THIS AGREEMENT is entered into as of this *4th* day of *March* 1999 (the "Effective Date") by and between Recoton Corporation, a New York corporation located at 2950 Lake Emma Road, Lake Mary, FL 32746 (hereinafter referred to as "LICENSOR") and Team Products International, located at 85 Fulton Street, Boonton, N.J. 07005 (hereinafter referred to as "LICENSEE")(LICENSOR and LICENSEE are together referred to herein as the "Parties").

WITNESSETH

WHEREAS, LICENSEE is desirous of obtaining a license to all patents and patent applications that are continuations of the patent applications, serial number 665,772 filed on March 7, 1991 ('525 Patent issued), and serial number 822,598 filed on January 17, 1992; the January 17, 1992 patent application being a continuation-in-part of the March 7, 1991 patent application.

WHEREAS, LICENSOR is the sole owner of U.S. Patent No. 5, 272, 525 (the '525 Patent), U.S. Patent No. 5,410, 735 (the '735 Patent), and U. S. Patent No. 5,666,658 (the '658 Patent)(together referred to as the "Patents") as well as all currently pending applications and future patents issuing in connection with the subject matter of the listed patents;

NOW, THEREFORE, in consideration of the mutual covenants, duties,

obligations and promises hereinafter set forth, IT IS MUTUALLY COVENANTED  
AND AGREED AS FOLLOWS:

## ARTICLE I

### DEFINITIONS

1.1 "LICENSED PATENT(S)" means all patents and patent applications that are continuations of the patent applications, serial number 665,772 filed on March 7, 1991 ('525 Patent issued), and serial number 822,598 filed on January 17, 1992, except that if there are additional patent applications involving new technology that was not previously disclosed in the patent applications, serial numbers 665,772 and 822,598, this License shall not cover such new technology.

1.2 "LICENSED PRODUCT(S)" means any headphone made, used, or sold by or on behalf of the LICENSEE under the Emerson brand and covered by one or more claims of the LICENSED PATENTS. This license does not extend to speakers.

1.3 All currency amounts in this agreement shall be in United States dollars.

1.4 An Agreement Year shall be a year commencing on the first day of this Agreement.

1.5 Affiliated Corporation means any corporation sharing common ownership or having at least 50% common ownership with Licensee.

**ARTICLE II****GRANT OF LICENSE**

2.1 Subject to the royalty payments and the conditions imposed on LICENSEE, stated herein, LICENSOR hereby grants to LICENSEE a non-exclusive license under the LICENSED PATENTS, for so long as any of the LICENSED PATENTS shall be in force, to make, have made, use, offer for sale, or sell LICENSED PRODUCTS throughout the United States without a right to sublicense others.

**ARTICLE III****PAYMENTS AND ROYALTIES**

3.1 In consideration of this Agreement and of the licenses, rights and privileges granted hereunder, LICENSEE shall pay to LICENSOR, a royalty on each unit of LICENSED PRODUCT sold in the United States, commencing with the Effective Date of this Agreement through the duration of this Agreement. A royalty rate of three dollars (\$3.00) per unit shall apply to each sale of LICENSED PRODUCT up to 25,000 units sold. A royalty rate of two dollars and seventy-five cents (\$2.75) per unit shall apply to each sale of LICENSED PRODUCT between 25,000 and 50,000 units sold. A royalty rate of two dollars and fifty cents (\$2.50) per unit shall apply to each sale of LICENSED PRODUCT between 50,001

and 100,000 units sold. A royalty rate of two dollars and twenty-five cents (\$2.25) per unit shall apply to each sale of LICENSED PRODUCT over 100,000 units sold. The aforesaid royalty rates are summarized in chart form, as follows:

<u>UNITS SOLD</u>	<u>ROYALTY RATE PER UNIT</u>
Up to 25,000	\$3.00
25,000-50,000	\$2.75
50,001-100,000	\$2.50
Over 100,000	\$2.25

3.2 The royalty set forth in paragraph 3.1 shall be paid quarterly in U.S. currency.

3.3 LICENSEE shall pay to LICENSOR an advance royalty of twenty-five thousand dollars (\$25,000) due at the execution of this Agreement (the "Advance Royalty"). The Advance Royalty shall be credited against the first royalty payment due hereunder.

#### ARTICLE IV

4.1 During the term of this Agreement, within thirty (30) days following the end of each quarter LICENSEE shall furnish a Statement to LICENSOR certified by an officer of LICENSEE concerning LICENSED PRODUCTS made, disposed of or sold during each such period, showing model or style numbers of LICENSED PRODUCTS, the net sales price of the LICENSED PRODUCTS and the computation

of the total amounts of royalties payable pursuant to ARTICLE III. The LICENSEE shall be entitled to credit the Advance Royalty to the extent that it has been paid to LICENSOR against the royalties due under paragraph 3.1. Full payment of all royalties due for the period shall be made at the same time as the Statement is provided. If there have been no sales or disposal by LICENSEE of LICENSED PRODUCTS during the quarterly period covered by any Statement, such fact shall be shown on the Statement. All Statements furnished by LICENSEE and all payments provided for herein shall be addressed to LICENSOR at the address indicated in paragraph 5.1. The statements submitted from LICENSEE to LICENSOR shall comply with GAAP (Generally Accepted Accounting Principles). There shall be such regular quarterly reports even during the period when no royalties shall be due.

4.2 Similar Statements shall be rendered and royalty payments made to LICENSOR within one (1) month after the last date of sale following the termination of this Agreement and covering the period from the end of the period covered by the last preceding Statement to the date of such termination and including all LICENSED PRODUCTS made, disposed of, or sold during the term of the Agreement.

4.3 LICENSEE shall keep full, complete, and accurate books and records reflecting LICENSED PRODUCTS made, used, sold or otherwise disposed of by LICENSEE on which royalties are payable. LICENSEE agrees to permit such books and records to be reviewed by LICENSOR or its designated auditor, during the term

of this Agreement and only during usual business hours with reasonable notice to LICENSEE. LICENSOR shall bear the costs of the audit unless the review indicates that the LICENSEE's statements and/or royalty payment(s) should have been five percent (5%) or more greater than as reported or actually paid to LICENSOR, in which case LICENSEE bears all costs of the same. Additionally, in the event LICENSEE under-reports sales by five percent (5%) or more, LICENSEE shall pay a royalty of three times the amount of the underpayment in addition to bearing the costs of the audit.

4.4 To assist in the reports to be furnished herein, LICENSEE shall furnish to LICENSOR upon LICENSOR'S request, a copy of each Bill of Lading for each shipment of the LICENSED PRODUCT.

## ARTICLE V

### NOTICES

5.1 Any Statement, payment, notice, report, or communication required or permitted to be given hereunder shall be in writing and shall be deemed to be properly given when sent by registered mail, postage prepaid, addressed to the party to whom such notice is to be given as follows:

IF TO LICENSOR: Richard Miller  
and  
Stuart Mont  
Recoton Corporation  
2950 Lake Emma Road  
Lake Mary, FL 32746

With a copy to Peter L. Berger, Esq.  
Levisohn, Lerner, Berger & Langsam  
757 Third Avenue, Suite 2400  
New York, NY 10017  
(212) 486-7272  
Fax (212) 486-0323

IF TO LICENSEE: Ned Levine  
Team Products International  
85 Fulton Street  
Boonton, New Jersey 07005

With a copy to Roy E. Kunos  
Belsole & Kunos  
3 Prospect St.  
Morristown, New Jersey 07960

#### ARTICLE VI

#### SUCCESSORS AND ASSIGNS

6.1 Neither this Agreement nor any of its benefits nor any rights hereunder shall be directly or indirectly assigned, transferred, sublicensed, divided or shared by the LICENSEE to or with any individual, firm, corporation or association whatsoever without the prior written consent of the LICENSOR.

#### ARTICLE VII

#### TERMINATION

7.1 If one of the parties of this Agreement at any time during the term of this Agreement shall materially default in the performance of any of the terms of this

Agreement, the other party may terminate this Agreement by giving written notice to the defaulting party. Said termination shall become effective on the ninetieth (90) day after receipt of such notice if the defaulting party shall not, prior thereto, have cured such default or undertaken reasonable steps to cure such default to the reasonable satisfaction of the other party. If this Agreement is so terminated, all rights of the LICENSEE and licenses granted under this Agreement shall cease. LICENSEE shall have one (1) month to sell or destroy its remaining inventory following the termination of this Agreement and shall be required to pay royalties to LICENSOR with respect to such sales pursuant to the royalty rates set forth in paragraph 3.1.

7.2 If LICENSEE files a petition in bankruptcy, or is adjudicated a bankrupt, or if a petition in bankruptcy is filed against it, or if LICENSEE becomes insolvent, or makes an assignment for the benefit of its creditors or an arrangement pursuant to any bankruptcy law, or if it discontinues its business, then LICENSOR shall have the right to terminate the license upon ten (10) days written notice.

#### ARTICLE VIII

#### INDEMNIFICATION

8.1 LICENSEE agrees to defend, indemnify, and hold LICENSOR and its officers, directors, agents, and employees, harmless against all costs, expenses, and losses (including reasonable attorney fees and costs) incurred through claims of third parties against LICENSOR based on LICENSEE'S breach of any representations or

warranties contained herein or as a result of any of LICENSEE'S actions or inactions.

This indemnity shall survive the termination of this License Agreement.

8.2 LICENSOR shall defend, indemnify and hold LICENSEE and its officers, directors, agents and employees harmless against all costs, expenses and losses (including reasonable attorneys' fees and costs) incurred by LICENSEE through the claims of third parties against LICENSEE, that LICENSOR is not the owner of the '525 Patent, the '735 Patent and the '658 Patent. This indemnity shall survive the termination of this License Agreement.

#### ARTICLE IX

##### PATENT MARKING

9.1 LICENSEE shall mark the LICENSED PRODUCTS with the following legend: Licensed under some or all of U.S. Patents No. 5, 272, 525 (the '525 Patent), U.S. Patent No. 5,410, 735 (the '735 Patent), and U. S. Patent No. 5,666,658 (the '658 Patent)(together referred to as the "Patents"), as well as, all currently pending and future patents issuing from the above-mentioned patents. As additional patents are granted, the Patent Marking notices shall be changed as appropriate.

#### ARTICLE X

##### MISCELLANEOUS PROVISIONS

10.1 This Agreement shall be construed, governed, interpreted and applied in accordance with the laws of the State of New York.

10.2 The parties consent to Jurisdiction before the Federal and State Courts in the State of New York with respect to any disputes under this Agreement. All disputes under this Agreement shall be resolved by the state or federal courts of the State of New York, including the United States District Court for the Southern District of New York, and the parties agree to accept service of process by mail, and hereby waive any jurisdictional or venue defenses otherwise available to it.

10.3 If any term, clause, or provision hereof is held invalid or unenforceable by a court of competent jurisdiction, such invalidity shall not affect the validity or operation of any other term, clause, or provision and such invalid term, clause, or provision shall be deemed to be severed from the Agreement.

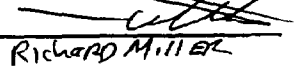
10.4 LICENSEE agrees to notify LICENSOR promptly in the event LICENSEE becomes aware of any infringements of the LICENSED PATENTS. LICENSOR shall have the right, in its sole discretion, to prosecute lawsuits against third parties for infringement of its rights in the LICENSED PATENTS. All costs and expenses associated with such lawsuits shall be borne by LICENSOR, which shall be entitled to any recovery received as a result thereof, whether by adjudication or settlement.

10.5 The License granted hereunder is conditioned upon LICENSEE's full and complete compliance with all applicable United States laws and regulations relating to the LICENSED PRODUCTS, including but not limited to, the FCC requirements and the marking provisions of all applicable trademark, patent and copyright laws.

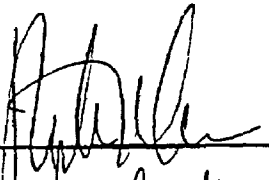
The LICENSED PRODUCTS, as well as all promotional, packaging, and advertising material relative thereto, shall include all appropriate legal notices and shall comply with all laws and regulations of the United States.

10.6 This Agreement constitutes the entire understanding of the parties, and revokes and supersedes all prior agreements between the parties. It shall not be modified or amended except in writing signed by the parties hereto and specifically referring to this Agreement.

**Recoton Corporation**

By:   
Richard Miller  
Title: VICE PRESIDENT COMPLIANCE  
Date: 11/10/99

**Team Products International**

By:   
Title: President  
Date: 11/9/99

10/11/2010 10:00:00 AM Recoton Corporation Licensee products per Terms and Conditions



## SCHEDULE C

### TRADEMARK COLLATERAL

#### TRADEMARK REGISTRATIONS

<u>Mark</u>	<u>Country</u>	<u>Reg. No.</u>
CLEARLINE	U.S.	1,873,629
NEOGLO	U.S.	2,442,296
YARD TEAM	U.S.	2,430,297
POWER2GO	U.S.	2,036,334
JELLY LIGHT	U.S.	2,597,665
GLO WAND	U.S.	2,609,430
RUB 'N WEAR	U.S.	2,613,518

#### PENDING TRADEMARK APPLICATIONS

<u>Mark</u>	<u>Country</u>	<u>Ser. No.</u>
MAXCHARGE	U.S.	75/737379
FOAMTIME	U.S.	76/390238
FLASH WEAR	U.S.	76/260755
SMART PAD	U.S.	76/392285
PICTURE PERFECT	U.S.	76/290047
LAZERPRO	U.S.	76/260757
PTG	U.S.	75/512539

#### Trademark Licenses

See attached.

**CONFIDENTIAL DEVELOPMENT, LICENSE, SUPPLY AND SERVICES**  
**AGREEMENT**

This Confidential Development, License, Supply and Services Agreement (this "Agreement") is entered into as of May 23rd, 2002 (the "Effective Date"), by and between THE HARTZ MOUNTAIN CORPORATION, a New Jersey corporation, with an office located at 400 Plaza Drive, Secaucus, New Jersey 07094 ("Hartz") and TEAM PRODUCTS INTERNATIONAL INC., a New Jersey corporation, with an office located at 3 Entin Road, Parsippany, New Jersey 07054 ("Team").

**WITNESSETH:**

WHEREAS, Hartz desires to purchase from Team and Team agrees to sell to Hartz Hartz products which Hartz will sell to the Hartz Channels of Trade pursuant to and in accordance with the terms and conditions of this Agreement, and Team desires to accept such engagement to render such services.

WHEREAS, Hartz further desires to license the Hartz Trademarks and the Hartz Intellectual Property to Team and Team also desires to license the Team Intellectual Property to Hartz (and each desires to use and license to each other the Jointly Owned Intellectual Property) for certain products which products Team will have manufactured and then sell to the Team Channels of Trade.

NOW, THEREFORE, in consideration of the promises and respective agreements, covenants, representations and warranties herein contained, and for other valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

**ARTICLE 1**  
**DEFINITIONS**

1.1 "Affiliate" shall mean, with respect to any person or entity, any other person or entity directly or indirectly controlling or controlled by or under direct or indirect common control with such person or entity. For purposes of this definition, "control" when used with respect to any specified person or entity, shall mean the power to direct the management and policies of such person or entity, directly or indirectly, through the ownership of at least a majority of such person or entity's voting securities, and the terms "controlling" and "controlled" have meanings correlative to the foregoing. Notwithstanding the foregoing, (a) a consultant shall not be an "Affiliate" unless the consultant otherwise meets the criteria set forth in this definition of "Affiliate", and (b) the following companies of Hartz shall not be deemed an "Affiliate" for purposes of this Agreement: any company owned by JW Childs Group of companies other than Hartz' immediate vertical parent companies and Hartz' subsidiaries.

1.2 "Agreement Year" shall mean January 1 to December 31 provided however that the first Agreement Year shall be a period from the Effective Date until December 31, 2002 and further provided the last Agreement Year shall be from January 1 until the date of termination or expiration, as the case may be.

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1.3 "Buying Party" shall have the meaning set forth in Section 6.1 hereof.

1.4 "Channels of Trade" shall mean both the Hartz Channels of Trade and the Team Channels of Trade.

1.5 "Confidential Information" has the meaning set forth in Section 12.1 hereof.

1.6 "Customer Service" shall mean (a) setting up and maintaining a 1 800 or other toll free consumer response line, (b) servicing any and all consumer or customer complaints regarding the Products and (c) reporting all such complaints and data to Hartz in a form and format to be designated by Hartz.

1.7 "Distribution Area" shall mean the continental United States of America.

1.8 "Effective Date" shall have the meaning set forth in the introduction to this Agreement.

1.9 "Extension Term" shall mean a consecutive one (1) year periods commencing from the end of the Initial Term unless either party gives at least 90 days' prior written notice to the other party of its desire to terminate this Agreement, provided the maximum number of one (1) year periods shall be three (3), unless the parties mutually agree in writing pursuant to an amendment to this Agreement.

1.10 "Force Majeure Event" shall have the meaning given in Section 15.2.1 hereof.

1.11 "Good Cause" shall mean either of (a) a determination by the applicable regulatory agency or governmental body that the Products or any component or ingredient thereof poses a risk to companion animals or humans or is otherwise unsafe, (b) a withdrawal, revocation or cessation of any product registration concerning the Products from any state or Federal regulatory agency or governmental body, or (c) a decision by any Major Customer of Hartz, confirmed in writing by such Major Customer, that it will not purchase or sell the Products for any reason.

1.12 "Hartz Channels of Trade" shall mean mass, grocery, drug stores, veterinarians, e-commerce and super pet specialty stores (e.g. Petco, PETsMART and other pet product or pet supply chains).

1.13 "Hartz Intellectual Property" shall mean patents, design patents, utility patents, trade secrets, copyrights, domain names, and other intellectual property rights which are solely owned by Hartz pursuant to the Intellectual Property Ownership Rules, provided that the Trademarks shall be owned exclusively by Hartz.

1.14 "Initial Term" shall mean a period commencing from the Effective Date and ending on December 31, 2005.

1.15 "Intellectual Property Ownership Rules" shall mean the rules by which the parties agree to determine (with each party paying its own legal fees in connection therewith) the ownership of patents, design patents, utility patents, trade secrets, copyrights, domain names and

other intellectual property rights (excluding the Trademarks, all of which shall be owned by Hartz) under this Agreement, including only the following: (a) any party which owned the intellectual property prior to the date of this Agreement shall be the sole owner of the intellectual property, (b) any party which solely and exclusively devises, invents or creates new intellectual property after the date of this Agreement shall be the sole owner of the intellectual property and (c) if both parties have any role whatsoever (even conceptual in nature and even if the other party finalizes the prototype or precise details) in devising, inventing or creating the intellectual property, the intellectual property shall be jointly owned by both parties on a 50/50 basis.

1.16 "Jointly Owned Intellectual Property" shall mean patents, design patents, utility patents, trade secrets, copyrights, domain names and other intellectual property rights (excluding trademarks, all of which shall be owned by Hartz), which are jointly owned by Hartz and Team on a 50/50 and undivided basis, pursuant to the Intellectual Property Ownership Rules.

1.17 "Major Customer" shall mean any of the 5 largest customers of Hartz based on the volume of revenues from sales to such customers recognized by Hartz in the 12 full months preceding any determination of Major Customer status.

1.18 "Minimum Performance Standards" shall have the meaning set forth in Section 2.6 hereof.

1.19 "Net Profits" shall mean the gross sales proceeds from the sale of Products less cost of goods, packaging, returns, chargebacks, commissions, discounts, freight, insurance and all other amounts reasonably related to sale and manufacture of the Products.

1.20 "New Products" shall mean new technology and products which the parties mutually agree to discuss and, if they reach mutual agreement, to add to this Agreement and upon being added such New Products shall become "Products".

1.21 "Non-Buying Party" shall have the meaning set forth in Section 6.1 hereof.

1.22 "Pet Products" shall mean any and all pet supplies, pet products, pet accessories and other pet related items whether in or outside Hartz current, past or present product line.

1.23 "Products" means the Products set forth on Exhibit A attached hereto and made an integral part hereof.

1.24 "Proprietary Technology" shall mean all proprietary patents, patent applications, trade secrets, utility patents or other similar rights, whether registered or unregistered, and any and all confidential know-how, show-how, technical information, technology, methods and processes of either party related to the Products or any of the active ingredients contained therein, including without limitation any Confidential Information related to the Products.

1.25 "Royalties" shall mean 20% of the Net Profits.

1.26 "Service Fees" shall mean 20% of the Net Profits.

1.27 "Services" shall mean (a) finding, managing and orchestrating all manufacturing and sourcing of the Products, (b) executing and implementing the Products, (c) negotiating all prices and costs with all Sources, (d) Customer Service, (e) determining the Specifications and ensuring that the Products comply fully with the Specifications, (f) return, reclamation and repair service for the customers of the Team Channels of Trade (with mutually agreed arrangements with the manufacturers on reimbursement), (g) safety, durability and other product integrity tests for the Products, (h) approvals or certifications for the Products, (i) arranging tools and dies for all of the Products and (j) such other services as shall be related to or connected with the above services or as Hartz shall request from time to time in connection with this Agreement.

1.28 "Source" shall mean the factory, manufacturer, raw material supplier, contractor, subcontractor, service provider or other company related to the manufacture or creation of the Products.

1.29 "Specifications" for the Products shall mean: (i) the specifications for the Products as are attached hereto or set forth in any particular individual purchase order for the Products, (ii) applicable Underwriter Laboratories standards, (iii) any specifications dictated or required by any customer and (iv) any specifications developed pursuant to this Agreement after the Effective Date. The initial Specifications are attached hereto as Exhibit B for the Products. Each Product shall have its own Specifications.

1.30 "Team Channels of Trade" shall mean hardware and home centers (including Home Depot, Lowe's, ACE, Bed Bath and Beyond and similar accounts), warehouse clubs (including Costco Wholesale, Sam's Club and BJ's), TV shopping (including QVC, HSN and similar accounts), mail order and direct response (including Heartland, Central Purchasing, Publisher's Clearing House and similar accounts) and direct response mail (including United Marketing Group, AllStar Marketing and similar accounts).

1.31 "Team Intellectual Property" shall mean patents, design patents, utility patents, trade secrets, copyrights, domain names and other intellectual property rights (excluding the Trademarks) which are solely owned by Team pursuant to the Intellectual Property Ownership Rules.

1.32 "Term" shall mean the Initial Term and any Extension Term.

1.33 "Trademarks" shall mean Hartz® and shall other registered and unregistered trademarks, service marks, logos, designs and other similar marks as Hartz shall determine from time to time in its sole discretion, all of which shall be the sole and exclusive property of Hartz..

## ARTICLE 2 DEVELOPMENT; PURCHASE, LICENSE AND SUPPLY

2.1 Development and Selection of New Products. During the Term, the parties shall confer with one another from time to time to develop and select New Products for both the Channels of Trade or one of the Channels of Trade. In the process of determining any New Products, the parties shall report to each other with respect to each New Product (i) the idea, (ii) the concept, (iii) feasibility and development and (iv) implementation stages, including without limitation (a) Sources for the New Product, (b) safety, stability and other product integrity tests

for the New Product, (c) compliance with laws and regulations of any markets relating to the New Product, (d) costs, budgets and anticipated Net Profits of the New Product and (e) ease to product and to market factors affecting the New Product. Once the parties have agreed and fully carried out all stages of any New Product, the parties shall amend this Agreement, providing for terms and conditions and otherwise converting the New Product to a Product for purposes of this Agreement. The Proprietary Technology of Hartz and Trademarks and the Hartz Intellectual Property regarding any New Products and Products shall be the sole and exclusive property of Hartz. The Proprietary Technology of Team and the Team Intellectual Property regarding any New Products shall be the sole and exclusive property of Team. The jointly developed intellectual property for the Products pursuant to the Intellectual Property Ownership Rules shall be Jointly Owned Intellectual Property.

**2.2 Manufacture and Sale of Products for Hartz Channels of Trade.** During the Term and in consideration of the payment of the Service Fees, Team agrees to render Services to Hartz, and Hartz agrees to purchase certain Products from Team Products, for sale in the Distribution Area in the Hartz Channels of Trade pursuant to and in accordance with the terms and conditions of this Agreement. Hartz shall have the right to reject or accept any such Source selected by Team Products and to ensure that such Source complies with all relevant Specifications. For all sales of Products to Hartz from Team for the Hartz Channels of Trade, Team shall act as the importer of record in the United States and shall be fully responsible for the customs clearance of the Products including without limitation the payment of any customs duties and other customs responsibilities.

**2.3 Team Licensing, Manufacturing and Packaging Rights.** During the Term, Hartz agrees to license to Team the Trademarks and the Hartz Intellectual Property, as well as certain of its Proprietary Technology, in connection with the manufacture and sale of certain Products by Team to its customers in the Distribution Area in the Team Channels of Trade. During the Term, Team agrees to license to Hartz the Team Intellectual Property. During the Term, each of the parties agrees to use and license to each other the Jointly Owned Intellectual Property. The parties agree that Team shall have the right to have Products produced or packaged by a third party of its choice. Team shall have no right whatsoever to grant sublicenses or to subcontract any rights other than with Hartz approved Sources for such Products. For all imports of Products by Team Products for the Team Channels of Trade, Team shall act as the importer of record in the United States and shall be fully responsible for the customs clearance of the Products including without limitation the payment of any customs duties and other customs responsibilities.

**2.4 Reasonable Efforts to Sell by Hartz.** Hartz shall use its reasonable efforts to market and sell Products in the Hartz Channels of Trade in the Distribution Area.

**2.5 Reasonable Efforts to Sell by Team.** Team shall use its reasonable efforts to market and sell Products in the Team Channels of Trade in the Distribution Area, subject to Section 2.6 hereof.

**2.6 Performance Standards for License.** Notwithstanding any provision of this Agreement and in connection with the license of the Trademarks and the Hartz Intellectual Property for the sales of Products by Team in the Distribution Area in the Team Channels of

Trade, Team shall achieve at least the following minimum performance standards during the Term hereof (the "Minimum Performance Standards"):

Agreement Year	Minimum Performance Standard of Net Profits Per Agreement Year
First Agreement Year	\$100,000
Second Agreement Year	\$150,000
Third Agreement Year	\$200,000
Each Agreement Year Thereafter (if this Agreement continues or extended to an Extension Term)	50% greater than the highest Agreement Year during the Term or such other Minimum Performance Standard on which the parties mutually agree pursuant to a written amendment of this Agreement, provided the Minimum Performance Standard of Net Profits shall not be higher than \$500,000 per Agreement Year

### ARTICLE 3

#### KEY RESPONSIBILITIES

3.1 Team's Key Responsibilities. During the Term, Team shall have the following key responsibilities under this Agreement: (a) sell the Products to Hartz, (b) act as importer of record for such Products to be sold to Hartz from Team Products, (c) the Services, (d) maintaining the Team Intellectual Property, (e) acting as the main contact with the Sources and (f) achieve at least the Minimum Performance Standards.

3.2 Hartz' Key Responsibilities. During the Term, Hartz shall have the following key responsibilities under this Agreement: (a) buy the Products from Team that Hartz wishes to sell in the Hartz Channels of Trade, (b) maintaining the Trademarks and the Hartz Intellectual Property, (c) devising and creating any and all artwork for all the Products, (d) managing the return, reclamation or service of the Products from customers in the Hartz Channels of Trade, (e) responding to all consumers from both the Team Channels of Trade and the Hartz Channels of Trade regarding any returns, reclamation or service matters and (f) final approval on any and all New Products.

### ARTICLE 4

#### EXCLUSIVITY ARRANGEMENTS

4.1 Team Grant of Exclusivity. During the Term and in consideration of the license of the Proprietary Technology and Trademarks and the Hartz Intellectual Property, the Team Intellectual Property and the Jointly Owned Intellectual Property hereunder, Team agrees (and shall cause its Affiliates to agree) to work exclusively with Hartz and shall work or contract with

no other party) in connection with the supply, development, manufacture, formulation, licensing or sale of the Products in the Channels of Trade throughout the Distribution Area. During the Term and in consideration of the license of the Proprietary Technology hereunder and the Trademarks and the Hartz Intellectual Property, the Team Intellectual Property and the Jointly Owned Intellectual Property, Team agrees (and shall cause its Affiliates to agree) not to sell the Products in the Hartz Channels of Trade anywhere in the Distribution Area. During the Term and in consideration of the license of the Proprietary Technology and Trademarks and the Hartz Intellectual Property, the Team Intellectual Property and the Jointly Owned Intellectual Property hereunder, Team agrees not to engage in any business (whether services, products or otherwise) relating to Pet Products in the Distribution Area or in any country in the world where sales of such products are exported to the Distribution Area. Team also agrees not to sell the Products outside the terms of this Agreement, during the Term.

4.2 Hartz Grant of Exclusivity. During the Term and in consideration of the license of the Proprietary Technology hereunder, Hartz agrees (and shall cause its Affiliates to agree) not to sell the Products in the Team Channels of Trade anywhere in the Distribution Area. Hartz also agrees not to sell the Products outside the terms of this Agreement, during the Term, unless there is a Force Majeure Event or unless the manufacturers selected by Team are unable to meet orders or the supply required by the customers of the Hartz Channels of Trade.

4.3 New Channels of Trade. During the Term and in consideration of the license of the Proprietary Technology hereunder, the parties may mutually discuss new or additional Channels of Trade from time to time or at the request of any party not set forth or described in this Agreement.

4.4 No Sales of Products Outside Channels of Trade. Team agrees that the Products shall be sold neither outside of the Channels of Trade nor outside of the Distribution Area.

## ARTICLE 5 SPECIFICATIONS, LABELING, ETC.

5.1 Specifications. Team and Hartz agree that the Products will be manufactured in accordance with the Specifications and regulations applicable to the Products in the Distribution Area. The Specifications may be changed at any time by mutual written agreement of the parties, subject to applicable regulatory notices and approvals. Team and Hartz will negotiate in good faith to agree on any changes to the Specifications (including any changes to the initial Specifications that are attached hereto as Exhibit B) that may be required as a result of the work contemplated by this Agreement, the requirements of the relevant customers or any governmental agency in the Distribution Area or other reasons.

5.2 Labeling; Trademarks. The parties agree that all Products sold in the Channels of Trade shall be shipped in such containers and labeling as shall be specified by Hartz from time to time or such other labeling as shall be required by applicable laws and regulations. Nothing contained herein shall give Team any right to use any Proprietary Technology of Hartz or Trademarks and the Hartz Intellectual Property other than as provided in this Agreement. Nothing contained herein shall give Hartz any right to use any Proprietary Technology of Team

or the Team Intellectual Property other than as provided in this Agreement. Team shall fully cooperate with any new and changed packaging and repackaging for Products, including reasonable costs, required by customers or applicable regulatory authorities.

5.3 Distribution and Sales Representatives. Hartz shall have full right to grant or create distributorships or sales representative arrangements in the Distribution Area for the distribution or sale or resale of the Products in the Hartz Channels of Trade.

5.4 Documentation. Each of Hartz and Team shall maintain the originals of all required regulatory documentation to be kept by the manufacturer or the seller, as the case may be.

## ARTICLE 6 SERVICE FEES AND ROYALTIES

6.1 Service Fees. In consideration for the Services rendered hereunder, Hartz agrees to pay to Team the Services Fees based on the sales of Products (which are originally sold by Team to Hartz) by Hartz in the Hartz Channels of Trade in the Distribution Area each calendar quarter during the Term. Hartz shall pay such Service Fees within 30 days after the end of each calendar quarter. If there are no Service Fees during such calendar quarter, Hartz shall notify Team accordingly within 30 days of the end of the calendar quarter. All such Service Fees shall be net of any taxes, withholdings or any other amounts, and Hartz shall have no liability for any such taxes related to such Services Fees.

6.2 Royalties. In consideration for the license of the Trademarks and the Hartz Intellectual Property as well as the Proprietary Technology of Hartz from Hartz to Team, Team agrees to pay to Hartz the Royalties based on the sales of Products by Team in the Team Channels of Trade in the Distribution Area each calendar quarter during the Term. Team shall pay such Royalties within 30 days after the end of each calendar quarter. If there are no Royalties during such calendar quarter, Team shall notify Hartz accordingly within 30 days of the end of the calendar quarter. All such Royalties shall be net of any taxes, withholdings or any other amounts, and Team shall have no liability for any such taxes related to such Royalties.

## ARTICLE 7 FORECASTS, ORDER PROCEDURES AND SHIPMENT

7.1 Firm Orders. Except to the extent that the parties otherwise agree in writing with regard to a particular shipment, the parties agree that Team (the "Buying Party") shall submit to the Source with a copy to Hartz (the "Non-Buying Party") a firm written purchase order or orders specifying the types, quantities and delivery dates of the Products that the Buying Party desires to purchase at least thirty (30) days prior to the requested delivery date(s). The Buying Party agrees to cause the Source to review each purchase order within five (5) business days of receipt and either issue its confirmation or its proposed modified delivery date(s) to accommodate the Buying Party's scheduling requirements. The Buying Party agrees to cause the Source to use its best efforts to accommodate, and to minimize modifications to, the delivery dates requested by the Buying Party. The Buying Party agrees that each purchase order shall be

binding on the Source upon written confirmation by Source or, if the Source has made a proposal for modifications to any provisions including without limitation any delivery dates, upon the Buying Party's written acceptance of such modifications. The Buying Party agrees that with respect to the Products covered by a purchase order confirmed by the Source in writing, the Products shall be available for shipment on the specified delivery dates, except to the extent the Source is prevented from doing so due to conditions beyond the Source's control pursuant to a Force Majeure Event.

7.2 Standard Batch Size. The Buying Party will order the Products only in the standard batch sizes or in a non-standard batch size of Products as the parties shall mutually agree in the individual purchase order.

7.3 Non-binding Forecasts. Within fifteen (15) days after each Agreement Year during the Term, the Buying Party will furnish to the Source and the Non-Buying Party non-binding forecasts of the quantities of Products it anticipates it will order during the ensuing Agreement Year. Such forecasts are not binding commitments, but are for the purpose of enabling the Source and the Non-Buying Party to more effectively schedule the use of its facilities at its own risk and for other business reasons.

7.4 Delivery; Title. The parties agree that the Source shall ship the Products at the Buying Party's expense and in accordance with the Buying Party's written instructions. The parties agree that written shipping instructions shall be provided by the Buying Party in each purchase order or not later than ten (10) days prior to the specified delivery date. Title and risk of loss of the Products shall pass from the Source to the Buying Party upon the earlier of: (i) delivery of the Products to the common carrier selected by the Buying Party, or (ii) fifteen (15) days following the Source's notification to the Buying Party that the Products are ready for shipment. Title and risk of loss from the Buying Party to Hartz regarding Products purchased by Hartz from Team shall pass at Hartz' or Hartz' customer's distribution center as determined by Hartz from time to time.

7.5 Order of Precedence. The parties agree that in the event of conflict between the typewritten terms of the Buying Party's accepted purchase orders and the terms and conditions of this Agreement, the order of precedence shall be first, this Agreement and then the typewritten terms of the Buying Party's accepted purchase orders. The parties agree that all other conflicting terms and conditions contained in the Source's and the Buying Party's standard form printed purchasing and selling documents shall be disregarded.

## ARTICLE 8

### LABEL CODES: QUALITY ASSURANCE; TESTING

8.1 Label Codes. The Buying Party shall cause the Source to code all labels affixed to each bulk shipping container of the Products to identify the lot of the Products. The Buying Party shall cause a copy of the coded label for each batch, lot number and type of units bulk packaged and appropriately labeled, to be forwarded to Buying Party and to the Non-Buying Party promptly after shipment. The Buying Party shall not remove or obliterate label codes on any bulk shipping container of the Products.

8.2 Product Analysis and Conformity with Specifications. Prior to shipping the Products to the Buying Party, the Buying Party shall cause the Source to fully and completely analyze the Products for the purpose of determining whether they conform with the Specifications. Upon completion of the analysis or in the event that the analysis is not concluded in conformance with the Specifications, the Buying Party shall cause the Source (or, failing the Source, the Buying Party shall be responsible) to notify the parties hereto. If any such tests evidence a failure or nonconformity of the Products or the raw materials with this Agreement, the parties agree that the Source and Team shall, at its sole cost and expense, take immediate and effective curative and corrective actions to meet the Specifications and the quality standards set forth in this Agreement and shall otherwise be fully liable and responsible for such failure.

8.3 Continuous Improvement. The Buying Party shall cause the Source to implement and maintain during the Term a continuous cost and quality improvement program related to the Products which shall be approved by the parties hereto. In any Source fails to meet or complete its continuous improvement standards, it may be invalidated by either party hereto. If any such tests evidence a failure or nonconformity of the Products or the raw materials with this Agreement, Team shall, at its sole cost and expense, take immediate and effective curative and corrective actions to meet the Specifications and the quality standards set forth in this Agreement and shall otherwise be fully liable and responsible for such failure.

8.4 Audits and Validations of the Sources. Hartz shall have the right at any time to audit, inspect, validate or investigate any of the Sources for compliance with the terms of this Agreement and the Specifications. If any Source does not comply with the Specifications, Hartz shall have the right to eliminate or replace such Source.

## ARTICLE 9

### INDIVIDUAL PURCHASE ORDER; PAYMENT; ETC.

The parties shall mutually agree on the prices for the Products prior to entering into any individual purchase order between Team and Hartz for Products to be sold by Team to Hartz (an "Individual Purchase Order"). The payment terms for each Individual Purchase Order issued under this Agreement shall be by mutually agreed irrevocable documentary letters of credit with Team as the beneficiary of such letters of credit (the "Letter of Credit"). Each Letter of Credit shall be governed by ICC Uniform Customs and Practice for Documentary Credits, ICC Publication 500. Team shall be solely responsible for paying the Source via its own irrevocable documentary letter of credit and shall provide Hartz copies thereof from time to time as requested by Hartz.

## ARTICLE 10

### TERM; TERMINATION

10.1 Term. This Agreement shall have a period equal to the Initial Term. However, the Initial Term may be extended by the Extension Term, subject to the election to terminate as set forth in the definition of "Extension Term". During the Extension Term, the terms and

conditions of this Agreement shall apply, unless the parties agree otherwise. Notwithstanding the right of either party to terminate this Agreement by giving at least ninety (90) days' prior written notice (subject to however to the limit of no more than three (3) Extension Terms), Hartz shall have no right of termination of this Agreement if (a) Team shall have achieved the Minimum Performance Standards for all Agreement Year (including any Agreement Year during any Extension Term), and (b) Team shall not otherwise be in default or shall have defaulted any term or condition of this Agreement (whether waived or not), provided, this provision shall not prevent a termination or suspension of performance of this Agreement pursuant to any Force Majeure Event..

**10.2 Termination Generally.** In addition to the election to terminate as provided in the definition of "Extension Term", either party may terminate this Agreement forthwith in the event that the other party (i) becomes insolvent; (ii) makes an assignment for the benefit of creditors generally; (iii) has commenced against it proceedings in bankruptcy or reorganization (voluntary or involuntary) or for the appointment of a receiver or trustee for or over either party's property, instituted by or against such party in any court having jurisdiction thereof, and such proceedings are not vacated, set aside, or stayed within thirty (30) days from the commencement thereof; or (iv) attempts to enter into a general compromise of its liabilities.

**10.3 Termination for Breach.** Subject to the occurrence of a Force Majeure Event, and except as otherwise expressly provided herein, if either party shall breach any material obligation required under this Agreement, the other party may give written notice of its intention to terminate this Agreement, describing in reasonable detail the breach. If the breaching party fails to remedy such material breach within five (5) business days (2 business days for a payment default) following such written notice, or if such breach (other than a payment default) is not capable of cure within such five (5)-business day period, and the breaching party fails to commence cure procedures within such five (5)-business day period and diligently prosecute such procedures until the breach is cured, then the non-breaching party may, in addition to all other remedies available at law or in equity, terminate this Agreement immediately upon written notice.

**10.4 Performance on Termination.** Upon termination of this Agreement for any reason: (a) Products manufactured pursuant to confirmed purchase orders shall be delivered on the invoice delivery dates, and Team shall pay the Source therefor not later than ten (10) days thereafter, unless such amounts are in good faith dispute. Furthermore, Service Fees and Royalties accruing prior to the date of termination of this Agreement shall be paid upon the termination of this Agreement. Upon termination of this Agreement, all Sources, Proprietary Technology, and Trademarks and the Hartz Intellectual Property, as well as work in process and inventory, shall be turned over to Hartz, in the event Hartz elects to continue to supply such Products to the Channels of Trade. Furthermore, upon termination of this Agreement, all Team Intellectual Property shall remain the sole property of Team. Moreover, upon termination of this Agreement, all Jointly Owned Intellectual Property shall remain jointly owned by the parties on an undivided 50/50 basis, and each party shall have the right to use the Jointly Owned Intellectual Property freely throughout the world after the termination of this Agreement without restriction regarding the Channels of Trade. In connection with the then existing Products embodying the Team Intellectual Property (the "Team IP Products") and provided Hartz desires to license such Team Intellectual Property for the purpose of manufacturing and selling such

Team IP Products and in connection with the then existing Products embodying the Trademarks and the Hartz Intellectual Property (the "Hartz IP Products") and further provided that the cause of termination of this Agreement did not arise from Sections 10.2 or 10.3, the parties shall mutually negotiate in good faith in order to enter into a mutually agreeable cross-license agreement substantially on the terms and conditions as set forth in Exhibit C attached hereto and made an integral party hereof (the "Post-Termination License Agreement"). If the cause of the termination of this Agreement arises from Section 10.2 or 10.3 hereof, no party shall be under any obligation to enter into any Post-Termination License Agreement. Except as provided in this Section 10.4 and as otherwise provided in this Agreement for any obligations that survive termination, the parties shall have no other obligations or liabilities in connection with a termination for breach under this Agreement.

10.5 Right to Terminate Without Prejudice. The rights to terminate this Agreement given by this Article 10 shall be without prejudice to any other right or remedy of either party in respect of the breach concerned (if any) or any other breach.

10.6 Incidental Rights and Obligations. Upon the termination or expiration of this Agreement for any reason:

10.6.1 Neither party shall be released from any obligation that matured prior to the effective date of such termination.

10.6.2 Each of the parties shall at its own expense within thirty (30) days send to the other parties or otherwise dispose of in accordance with the directions of the other parties all materials containing Confidential Information of such other parties.

10.7 Survival. The provisions of this Agreement that are stated to survive shall survive the termination hereof and shall continue in force in accordance with their respective terms.

## ARTICLE 11 REPRESENTATIONS AND WARRANTIES; REMEDIES

11.1 Mutual Warranties. Each party represents and warrants to the other parties (i) that it has full right and authority to enter into this Agreement and to perform its obligations under this Agreement, and (ii) that it has no relationship with any other entity that would preclude it from carrying out its obligations under this Agreement and (iii) that the execution and delivery of this Agreement by such party, and the performance of its obligations hereunder, do not require the consent of any third party and will not violate, with or without notice, the lapse of time or both, such party's organizational documents or, any agreement, contract, license or permit to which such party is a party or is bound.

11.2 Of Team. Team represents and warrants to Hartz that:

11.2.1 the Products delivered to Hartz hereunder shall conform in all material respects to the Specifications and this Agreement and shall be free from material defects in workmanship and materials through their respective labeled expiration dates, and Team shall be responsible and shall indemnify Hartz, in the manner and only to the extent set forth in this Agreement to the

extent caused by failure of Products to conform to the Specifications; (ii) to the extent of any failure to meet Specifications caused by improper or inadequate handling or storage of the Products by Team; and (iii) to the extent failure to meet Specifications is caused by any failure or inadequacy of research, design, formulation or testing by Team;

11.2.2 it will use its reasonable best efforts to obtain and maintain, all required manufacturing establishment designations, permits and licenses required to perform its obligations under this Agreement; and

11.2.3 it will use its reasonable best efforts to maintain the requisite experience, knowledge and expertise, suitable facilities and qualified personnel to manufacture the Products and to perform its other obligations hereunder in a sound, safe, lawful and workmanlike manner.

11.2.4 it will use its reasonable efforts to maintain the Team Intellectual Property and the Jointly Owned Intellectual Property.

11.2.5 Team shall be responsible and shall indemnify Hartz and its Affiliates, in the manner and only to the extent set forth in this Agreement, (i) to the extent of any defects caused by improper or inadequate Team Intellectual Property

11.3 Of Hartz. Hartz represents and warrants to Team that:

11.3.1 it will use its reasonable efforts to maintain the Trademarks and the Hartz Intellectual Property and the Jointly Owned Intellectual Property during the Term;

11.3.2 Hartz shall be responsible and shall indemnify Team and its Affiliates, in the manner and only to the extent set forth in this Agreement, (i) to the extent of any defects caused by improper or inadequate artwork or Trademarks and the Hartz Intellectual Property of the Products.

11.4 Quality of the Products and After Care. Team shall guaranty and ensure that the Products are of the highest quality and shall conform with the Specifications. Team shall be responsible for Customer Service and its own reclamation, return and repair services for the customers of Team Channels of Trade. Team shall fully indemnify and hold Hartz and its Affiliates harmless from and against any losses, damages, attorneys fees, fines, penalties, taxes and other amounts arising from any claim, suit, investigation, arbitration, seizure of goods, import alert or other action relating to the Products. This indemnity shall survive indefinitely.

11.5 Product Recall. Team shall (and shall cause the Source to ) cooperate with any and all appropriate requests by Hartz, including without limitation a substitution of Products at no cost to Hartz, to complete any recall or market withdrawal of the Products required under applicable regulations in the event of a determination that the Products were not produced in accordance with Specifications or this Agreement or were not produced in compliance with applicable regulations. Notwithstanding the foregoing, Team shall not be liable for the costs of any recall which arise from any Product which contains a component which Team did not approve of prior to production or manufacturing of such Product.

11.6 Exclusive Remedy. EXCEPT AS EXPRESSLY SET FORTH IN THIS ARTICLE, NO PARTY MAKES ANY WARRANTIES, EXPRESS OR IMPLIED, CONCERNING TECHNOLOGY, GOODS, MATERIALS, SERVICES, DELIVERABLES, RIGHTS OR THE DEVELOPMENT, MANUFACTURE AND SALE OF PRODUCTS, AND HEREBY DISCLAIMS ALL WARRANTIES, INCLUDING WITHOUT LIMITATION ANY WARRANTY OF MERCHANTABILITY, FITNESS FOR A PARTICULAR USE OR PURPOSE, TITLE OR CONDITION.

11.7 Consequential Damages. IN NO EVENT SHALL ANY PARTY BE LIABLE TO ANY OTHER PARTY OR ANY THIRD PARTY FOR LOST PROFITS, LOSS OF GOODWILL, OR ANY SPECIAL, INDIRECT, CONSEQUENTIAL OR INCIDENTAL DAMAGES, HOWEVER CAUSED, ARISING UNDER ANY THEORY OF LIABILITY. THIS LIMITATION SHALL APPLY EVEN IF A PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES, AND NOTWITHSTANDING ANY FAILURE OF ESSENTIAL PURPOSE OF ANY LIMITED REMEDY.

11.8 Survival. This Article 11 shall survive indefinitely following termination of this Agreement. Nothing set forth herein shall prevent an indemnifying party from defending itself against a third party by asserting a statute of limitations defense or other defense applicable to such third party.

## ARTICLE 12 CONFIDENTIAL INFORMATION

12.1 Confidentiality and Non-Disclosure. "Confidential Information" means (i) trade secret or highly confidential information of a technical nature, whether or not marked or identified as confidential, including without limitation that embodied in samples provided by one party (the "Disclosing Party") to the other party (the "Recipient"), concerning the attributes, formulation, and performance of Products (ii) any strategic information, technical data, or know-how, related to the business of the Disclosing Party, whether or not marked or identified as confidential, including without limitation, the Disclosing Party's research or toxicological data, services, development, inventions, processes, designs, drawings, manufacturing, engineering, marketing, or finances; (iii) all federal and state Product Registrations and applications for such registrations and all supporting documentation therefor; and (iv) all other information marked by the Disclosing Party as confidential. "Confidential Information" shall not include any of the above information which:

12.1.1 is now or later becomes, through no act or failure to act on the part of the Recipient or its Affiliates, generally available on a non-confidential basis;

12.1.2 corresponds in substance to information heretofore or hereafter furnished to the Recipient or its Affiliates by third parties as a matter of right without restriction on disclosure;

12.1.3 the Recipient or its Affiliates had in its possession prior to the first receipt hereof, directly or indirectly, from the Disclosing Party or its Affiliates;

12.1.4 the Recipient can demonstrate has hereafter been independently developed by employees of the Recipient or its Affiliates who have not had access to such information; or

12.1.5 the Recipient or its Affiliates is compelled or required to disclose by law, order or regulation of a governmental agency or court of competent jurisdiction; provided, however, that the Recipient shall use reasonable efforts to provide the Disclosing Party notice in writing of any proposed disclosure under this Section 12.1.5 and an opportunity to object to the disclosure or seek confidential treatment thereof.

12.2 Duty of Non-Use and Non-Disclosure. The parties shall not, and shall cause their Affiliates and their employees, agents, and representatives not to, use or disclose to third parties, (other than to Supporting Parties), any Confidential Information provided by the other party or its Affiliates at any time prior to the effective date of this Agreement or pursuant to this Agreement without the prior written consent of the other party, except for the purpose of enabling the parties to work together toward evaluation and consummation of the business arrangements detailed in this Agreement and performance of their respective obligations hereunder.

12.3 Confidentiality Agreement with Supporting Parties. Prior to the disclosure of any Confidential Information to a consultant, formulator, Source, lender or adviser (the "Supporting Party"), such Supporting Party shall execute and deliver to Team (if it is Team's Supporting Party), and Hartz (if it is Hartz' Supporting Party), as the case may be, a confidentiality agreement substantially in the form of the Confidential Disclosure Agreement attached hereto as Exhibit D.

12.4 Termination; Survival. Upon termination of this Agreement, each party agrees to return to the other all written or other physical embodiments of the Confidential Information. The obligations under this paragraph shall be binding on any Affiliate, parent, subsidiary, successor or assign of the parties as if a party to the Agreement. The obligations of confidentiality and non-use of the Confidential Information under this Agreement shall continue throughout the term of this Agreement and for a period of five (5) years following the termination or expiration of this Agreement.

12.5 Confidentiality of Agreement. The terms of this Agreement, as well as the Agreement itself and the parties' relationship hereunder, and the negotiations giving rise to this Agreement shall be Confidential Information, are to be kept confidential and are not to be disclosed under any circumstances to any third party, but excluding Supporting Parties, except as set forth herein.

12.6 Press Releases. Without limiting the generality of the foregoing, no party hereto shall make any press release, public statement, web site posting or other public pronouncement regarding this Agreement or any of the terms and conditions of this Agreement without the consent of the other parties.

## ARTICLE 13 OWNERSHIP OF INTELLECTUAL PROPERTY

During the Term, each party hereby grants to the other party a royalty free, world wide, non-exclusive license to use such party's Proprietary Technology (other than the Royalties in connection with the Trademarks and the Hartz Intellectual Property and Hartz Proprietary

Technology) in connection with the Products solely for the purpose of exercising its rights and performing its obligations under this Agreement, and each such license shall be limited to such extent. Furthermore, each party acknowledges that no transfer of ownership of or a license to any intellectual property is contemplated by this Agreement, except as expressly provided herein. All rights and title to any technology owned by a party prior to the date of the execution of this Agreement shall remain in such party. All rights and title to inventions and/or discoveries, patentable or otherwise, developed under this Agreement exclusively by Team shall belong to Team. All rights and title to inventions and/or discoveries, patentable or otherwise, developed under this Agreement exclusively by Hartz shall belong to Hartz. All rights and title to inventions and/or discoveries, patentable or otherwise, developed under this Agreement jointly by Team and Hartz shall belong jointly to Team and Hartz. Each party shall notify the other party promptly in writing of each such invention and/or discovery made during the term of this Agreement with each disclosure being governed by the confidentiality provisions of this Agreement.

#### ARTICLE 14 INDEMNIFICATION

14.1 By Team. Team hereby agrees to defend, indemnify and hold Hartz and its Affiliates and each of their respective directors, officers, employees, agents and lenders (the "Hartz Indemnified Parties") harmless from and against any loss, claim, action, damage, expense or liability (including without limitation reasonable defense costs and attorneys' fees) resulting from any third party claim or suit arising out of or relating to (i) Team' failure to sell the Products to Hartz and to render the Services and the failure of the Sources to manufacture the Products in material compliance with its Specifications or this Agreement, (ii) Team' use, manufacture, distribution and sales of Products for the Team Channels of Trade, (iii) any claim that the Products infringes the intellectual property rights of any third party relating to the Team Intellectual Property or Team Proprietary Technology, or (iv) any claim that the Products or any manufacturing process selected by Team and/or Team infringes the patent, trademark, copyright or trade secret rights of any third party; provided, however, that the foregoing indemnity obligations shall not apply where such claim is the result of the willful misconduct or negligent act of Hartz or the Hartz Indemnified Parties and that the foregoing indemnity subclause (ii) with respect to any intellectual property that includes the Trademarks and the Hartz Intellectual Property provided that Team complies with Hartz' designated artwork and use of such Trademarks and the Hartz Intellectual Property, and there shall be apportionment in accordance with responsibility when such obligation derives in part from the acts of Team and in part from such acts of Hartz and the Hartz Indemnified Parties.

14.2 By Hartz. Hartz hereby agrees to defend, indemnify and hold Team and its Affiliates and each of, their respective directors, officers, employees, agents and lenders (the "Team Indemnified Parties") harmless from and against any loss, claim, action, damage, expense or liability (including without limitation reasonable defense costs and attorneys' fees) resulting from any third party claim or suit arising out of or relating to (i) the use, sale or distribution of any Products manufactured in conformity with the Specifications and this Agreement by Team, including, but not limited to any breach of any warranty for Products extended by Hartz, other

than the warranties given by Team hereunder, other than Team's obligations to sell the Products to Hartz as provided hereunder, and any of the claims identified herein relating to Team, (ii) the use, sale or distribution of any of Products by Hartz or (iii) any claim that the any of the packaging or labels or any manufacturing process specified by Hartz infringes any patent, copyright, trademark, trade secret or other right of any third party; provided, however, that the foregoing indemnity obligation shall not apply where such claim is solely the result of the willful misconduct or negligent act of Team, Team or any of the Team Indemnified Parties, and there shall be apportionment in accordance with responsibility when such obligation derives in part from acts of Hartz and in part from such acts of Team and any of the Team Indemnified Parties.

14.3 Procedures. In the event that a third-party claim is made or third-party suit is filed for which either party intends to seek indemnification from any other party pursuant to this Article 14, the party seeking indemnification (the "Indemnatee") shall promptly notify such other party (the "Indemnitor") of said claim or suit. The Indemnitor shall have the right to control, through counsel of its choosing, the defense of such third-party claim or suit, but may compromise or settle the same only with the consent of the Indemnatee, which consent shall not be unreasonably withheld. The Indemnatee shall cooperate fully with the Indemnitor and its counsel in the defense of any such claim or suit and shall make available to the Indemnitor any books, records or other documents necessary or appropriate for such defense. The Indemnatee shall have the right to participate at the Indemnatee's expense in the defense of any such claim or suit through counsel chosen by the Indemnatee.

14.4 Insurance. Each of the parties hereto will maintain product liability insurance covering its performance of its obligations hereunder with a minimum limit of liability of \$5,000,000 in the aggregate, which insurance shall name the other parties as additional insureds as their interests may appear. Each of the parties will also maintain insurance to protect the other parties from claims under any worker's compensation laws and from any other damages from personal injury including death, which may be sustained by such parties' agents, servants or employees and the general public and/or claims of property damage which might be sustained by any one of them due to the negligence of the insuring party, in amounts reasonable for the risks involved and in accordance with industry standards. Each of the parties shall, upon request, furnish the other parties a certificate of insurance. The obligation to maintain insurance as provided herein shall continue for as long as any Products are sold by any party hereto and for a period of three (3) years thereafter.

14.5 Survival. This Article 14 shall survive the expiration or termination of this Agreement. Nothing set forth herein shall prevent an indemnifying party from defending itself against a third party by asserting a statute of limitations defense or other defense applicable to such third party.

## ARTICLE 15 MISCELLANEOUS

### 15.1 Communications.

15.1.1 Legal Notices. All notices or other communications provided for in this Agreement shall be in writing and shall be considered delivered upon the earliest of actual

receipt, or personal or courier delivery, or sending by facsimile with confirmation of receipt in good order requested and received, or on the fourth business day after they are deposited in the United States mail, certified first class or air mail postage prepaid, return receipt requested, addressed to the respective parties as follows:

If to Team:

Team Products International, Inc.  
3 Entin Road  
Parsippany, New Jersey 07054  
Attention: Stephen Levine, President  
Fax: 973 887-8166

With a copy to:

Belsole and Kurnos, LLC  
3 Prospect Street  
Morristown, New Jersey 07960  
Fax: 973 539-8464

If to Hartz:

The Hartz Mountain Corporation  
400 Plaza Drive  
Secaucus, New Jersey 07094  
ATTN: Julie Krauss  
Corporate Vice President-Marketing  
Fax: (201) 271-0068

With a copy to:

Max C. Marx, Esq.  
Corporate Vice President- General Counsel  
The Hartz Mountain Corporation  
400 Plaza Drive  
Secaucus, New Jersey 07094  
Fax: (201) 866-0720

The parties may, at any time, change their addresses or other information in this section by written notice under this section.

15.1.2 Routine Communications. For routine contractual communications, the parties agree to contact each other including without limitation any changes to formulae, any new formulae, processes, truckers, super sack vendors and other items. The parties agree to meet periodically and not less than annually to go over all matters under this Agreement. The primary contactpersons for such routine communications shall be:

if to Team:

Jonathan Levine  
Team Products International, Inc.  
Entin Road  
Parsippany, New Jersey 07054  
Fax: 973 887-8166

If to Hartz:

Julie Krauss  
The Hartz Mountain Corporation  
400 Plaza Drive  
Secaucus, New Jersey 07094  
Fax:(201) 271-0068

The parties may, at any time, change their addresses or other information in this section by written notice under this section.

## 15.2 Force Majeure.

15.2.1 Definition. Any of the following shall constitute a "Force Majeure Event": Acts of God, strikes or other labor disputes, governmental regulations or actions, inability to obtain material, labor, equipment or transportation, Good Cause or any other condition beyond the reasonable control of the affected party.

15.2.2 Notification. If any party is affected by a Force Majeure Event, it shall forthwith notify the other party of the nature and extent thereof and take all reasonable steps to minimize the loss occasioned to the other party.

15.2.3 No Breach. No party shall be deemed to be in breach of this Agreement, or otherwise be liable to the other, by reason of any delay in performance, or non-performance, of any of its obligations hereunder, other than the payment of money, to the extent that such delay or non-performance is due to any Force Majeure Event of which it has notified the other party; and the time for performance of that obligation shall be extended accordingly.

15.2.4 Further Action. If the Force Majeure Event in question prevails for a continuous period in excess of thirty (30) days, the parties shall enter into bona fide discussions with a view to alleviating its effects or to agreeing upon such alternative arrangements as may be fair and reasonable. If such Force Majeure Event persists for longer than forty-five (45) days, the party whose performance is prevented by such Force Majeure Event may terminate this Agreement.

15.3 Independent Contractors. The parties are and shall perform this Agreement as independent contractors and as such shall have and maintain complete control over all of their employees, agents, and operations. This Agreement shall not be deemed held or construed as creating a partnership, joint venture or agency relationship between any of the parties or any of their respective Affiliates. Nothing contained in this Agreement shall permit any party to incur any debts or liabilities on behalf of any other party.

15.4 Expenses. Each of the parties hereto agrees to be responsible for their own costs and expenses in connection with this Agreement.

15.5 Severability. The illegality or unenforceability of any one or more covenants, phrases, clauses, sentences, or sections of this Agreement, as determined by a court of competent jurisdiction, shall not affect the remaining portions of this Agreement, or any part thereof, and if

any provision, section, or subsection of this Agreement is adjudged by any such court to be invalid or unenforceable in whole or in part, such provision, section, or subsection, or portion thereof, shall be deemed amended to conform to applicable laws so as to be valid and enforceable to the fullest extent possible, or if it cannot be so amended without materially altering the meaning intended by the parties, it shall be stricken and the remainder of this Agreement shall continue in full force and effect. Each provision, section, and subsection of this Agreement is separable from every other provision, section, and subsection and constitutes a separate, distinct covenant.

15.6 Modification. No modification or waiver of any provision of this Agreement shall be effective unless the modification is made in writing and signed by the party sought to be charged, and the same shall then be effective only for a period and on the conditions and for the specific instances and purposes specified in such writing. No course of dealing between the parties or delay or failure to exercise any rights hereunder shall operate as a waiver of such rights or preclude the exercise of any other rights hereunder.

15.7 Survival. Termination or expiration of this Agreement shall not relieve either party from any obligation under this Agreement which may have accrued prior thereto or which survives by its terms.

15.8 Assignment; Subcontracting.

15.8.1 Except as expressly provided herein, no party to this Agreement may assign any of its rights, interest, duties or obligations in this Agreement to any other person without the prior written consent of the other party hereto. Notwithstanding the foregoing, any party may transfer its interest, duties and obligations under this Agreement without obtaining the prior written consent of any other party, to any company that:

(i) purchases or otherwise acquires all or substantially all of the shares or other equity ownership interest of such party; or

(ii) purchases or otherwise acquires all or substantially all of the assets of such party.

15.8.2 Any party hereto may subcontract any of its obligations under this Agreement to an Affiliate of such party; provided, that no such subcontracting shall relieve such party of its obligations hereunder.

15.9 Entire Agreement. This Agreement (including the Schedules and Exhibits hereto) constitutes the entire understanding of the parties with respect to the subject matter hereof and supersedes all prior negotiations or communications, however given, regarding the subject matter hereof. There are no other inducements, understandings, representations or warranties of any kind, express or implied.

15.10 Conflicts of Interest. No party nor any director, employee, or agent of any party shall give to or receive from any director, employee, or agent of any other party or its Affiliate any gift, entertainment, or other favor of significant cost or value or any commission, fee, or

rebate, or enter into any business relationship with any director, employee, or agent of the other party or its Affiliate, without prior written notice to such other party.

15.11 Titles of Articles. The titles at the beginning of each Article and Section are for the convenience of the parties and shall in no event be construed to alter or in any way affect the meaning of the substantive text of this Agreement.

15.12 Counterparts. This Agreement may be executed in counterparts, which together shall constitute but one and the same contract.

15.13 Incorporation by Reference. The recitals set forth herein and the attached Schedules and Exhibits are incorporated herein by reference and shall be deemed to be part of this Agreement as though such provisions had been set forth in full in this Agreement.

15.14 Governing Law. The validity, interpretation and performance of this Agreement shall be governed and construed in accordance with the internal laws of the State of New Jersey, excluding the body of law related to choice of law.

15.15 Customs Compliance. Each of the parties agree to comply with all applicable U.S. and other customs laws and regulations..

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed by their duly-authorized representatives:

**THE HARTZ MOUNTAIN CORPORATION**

By: Johann Kauso  
Title: V.P. Marketing

**TEAM PRODUCTS INTERNATIONAL,  
INC.**

By: [Signature]  
Title: Chairman

Exhibit A—Products  
Exhibit B—Specifications  
Exhibit C—Post-Termination Cross-License Agreement

## **Exhibit A—Products**

# Team Products

Item Code		Name	Description
32700	99044	Motorized Mouse Cat Toy	Remote sensor mouse that moves away from sensor attached to cat's collar
32700	99045	Luminated Ball Cat Toy	Small clear ball that contains sensors that activate LED lights when cat plays with
32700	99046	Fiber Optic Ball Cat Toy	Oval shaped cat toy with fiber optics that extend from the top to attract cat's attention and provide visual stimulation
32700	99047	Motion Activated Cat Toy	Round based cat toy with motion sensors that shakes when the cat is in close proximity. Also has colorful antenna that move and attract cat attention.
32700	99048	Bark Collar	Dog Collar that emits slight shock when dog barks to associate bad behavior with shock.
32700	99049	Invisible Fence	Underground electronic fence that works with collar placed on dog to shock when dog attempts to leave the perimeter of fenced area.
32700	99051	Extra Collar & Receiver	Additional collar for use with invisible fence.
32700	99053	Flag & Accessory Kit	Extra accessories for invisible fence, flags to mark yard et cetera.

**Exhibit B—Specifications**

## EXHIBIT C

### CONFIDENTIAL POST-TERMINATION CROSS-LICENSE AGREEMENT

This Confidential Post-Termination Cross-License Agreement (this "Agreement") is entered into as of the \_\_\_\_ day of \_\_\_, 2\_\_\_ (the "Effective Date"), by and between THE HARTZ MOUNTAIN CORPORATION, a New Jersey corporation, with an office located at 400 Plaza Drive, Secaucus, New Jersey 07094 ("Hartz") and TEAM PRODUCTS INTERNATIONAL INC., a New Jersey corporation, with an office located at 3 Entin Road, Parsippany, New Jersey 07054 ("Team").

#### WITNESSETH:

WHEREAS, Hartz and Team entered into that certain Confidential Development, License and Supply Agreement dated as of \_\_\_, 2002, as amended (the "Terminated Agreement"), which Terminated Agreement terminated on \_\_\_, 2\_\_\_.

WHEREAS, Hartz desires to license to Team the Hartz Trademarks and the Hartz Intellectual Property to Team for certain Team Products (as herein defined) which products Team will have manufactured and then sell to the Team Channels of Trade

WHEREAS, Team desires to license the Team Intellectual Property to Hartz for certain Team IP Products (as herein defined) which products Hartz will have manufactured and then sell to the Hartz Channels of Trade.

WHEREAS, each of the parties desires to use its 50% undivided interest in the Jointly Owned Intellectual Property and license same to each other to have manufactured and sell any products throughout the world in all channels of trade.

NOW, THEREFORE, in consideration of the promises and respective agreements, covenants, representations and warranties herein contained, and for other valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

#### ARTICLE 1 DEFINITIONS

1.1 "Affiliate" shall mean, with respect to any person or entity, any other person or entity directly or indirectly controlling or controlled by or under direct or indirect common control with such person or entity. For purposes of this definition, "control" when used with respect to any specified person or entity, shall mean the power to direct the management and policies of such person or entity, directly or indirectly, through the ownership of at least a majority of such person or entity's voting securities, and the terms "controlling" and "controlled" have meanings correlative to the foregoing. Notwithstanding the foregoing, (a) a consultant shall not be an "Affiliate" unless the consultant otherwise meets the criteria set forth in this definition of

"Affiliate", and (b) the following companies of Hartz shall not be deemed an "Affiliate" for purposes of this Agreement: any company owned by JW Childs Group of companies other than Hartz' immediate vertical parent companies and Hartz' subsidiaries.

1.2 "Agreement Year" shall mean January 1 to December 31 provided however that the first Agreement Year shall be a period from the Effective Date until December 31 following the Effective Date and further provided the last Agreement Year shall be from January 1 until the date of termination or expiration, as the case may be.

1.3 "Channels of Trade" shall mean both the Hartz Channels of Trade and the Team Channels of Trade.

1.4 "Confidential Information" has the meaning set forth in Section 10.1 hereof.

1.5 "Distribution Area" shall mean the continental United States of America.

1.6 "Effective Date" shall have the meaning set forth in the introduction to this Agreement.

1.7 "Force Majeure Event" shall have the meaning given in Section 13.2.1 hereof.

1.8 "Hartz Channels of Trade" shall mean mass, grocery, drug stores, veterinarians, e-commerce and super pet specialty stores (e.g. Petco, PETsMART and other pet product or pet supply chains).

1.9 "Hartz Intellectual Property" shall mean patents, design patents, utility patents, trade secrets, copyrights, domain names, and other intellectual property rights which are solely owned by Hartz pursuant to the Intellectual Property Ownership Rules, provided that the Trademarks shall be owned exclusively by Hartz.

1.10 "Hartz Royalties" shall mean 20% of the Net Profits from the sale of Team IP Products.

1.11 "Jointly Owned IP Products" shall mean Products which embody Jointly Owned Intellectual Property as of the date of the termination of the Terminated Agreement.

1.12 "Jointly Owned Intellectual Property" shall mean patents, design patents, utility patents, trade secrets, copyrights, domain names and other intellectual property rights (excluding trademarks, all of which shall be owned by Hartz), which are jointly owned by Hartz and Team on a 50/50 and undivided basis pursuant to the Terminated Agreement.

1.13 "Minimum Performance Standards" shall have the meaning set forth in Section 2.4 hereof.

1.14 "Net Profits" shall mean the gross sales proceeds from the sale of Products by Hartz or Team, as the case may be, less cost of goods, packaging, returns, chargebacks, commissions, discounts, freight, insurance and all other amounts reasonably related to sale and manufacture of the Products.

1.15"Pet Products" shall mean any and all pet supplies, pet products, pet accessories and other pet related items whether in or outside Hartz current, past or present product line.

1.16"Products" means the Products set forth on Exhibit A attached hereto and made an integral part hereof, provided that "Hartz IP Products" shall also mean those Products in Exhibit A which embody (a) the Trademarks and Hartz Intellectual Property Rights and/or (b) the Jointly Owned Intellectual Property, together with its related Proprietary Technology and further provided that "Team IP Products" shall mean those Products in Exhibit A which embody (a) Team Intellectual Property Rights and/or (b) the Jointly Owned Intellectual Property, together with its related Proprietary Technology, it being further understood that Hartz may use its Trademarks on such Team IP Products..

1.17"Proprietary Technology" shall mean all proprietary patents, patent applications, trade secrets, utility patents or other similar rights, whether registered or unregistered, and any and all confidential know-how, show-how, technical information, technology, methods and processes of either party related to the Products or any of the active ingredients contained therein, including without limitation any Confidential Information related to the Products.

1.18"Source" shall mean the factory, manufacturer, raw material supplier, contractor, subcontractor, service provider or other company related to the manufacture or creation of the Products.

1.20"Team Channels of Trade" shall mean hardware and home centers (including Home Depot, Lowe's, ACE, Bed Bath and Beyond and similar accounts), warehouse clubs (including Costco Wholesale, Sam's Club and BJ's), TV shopping (including QVC, HSN and similar accounts), mail order and direct response (including Heartland, Central Purchasing, Publisher's Clearing House and similar accounts) and direct response mail (including United Marketing Group, AllStar Marketing and similar accounts).

1.21"Team Intellectual Property" shall mean patents, design patents, utility patents, trade secrets, copyrights, domain names and other intellectual property rights (excluding the Trademarks) which are solely owned by Team pursuant to the Intellectual Property Ownership Rules.

1.22"Team Royalties" shall mean 20% of the Net Profits of the sale of Hartz IP Products.

1.23"Term" shall mean the period commencing with the Effective Date and ending on the date any party hereto no longer sells a Product in any channel of trade licensed hereunder.

1.24"Trademarks" shall mean Hartz® and shall other registered and unregistered trademarks, service marks, logos, designs and other similar marks as Hartz shall determine from time to time in its sole discretion, all of which shall be the sole and exclusive property of Hartz and which were used on the Products as of the termination date of the Termination Agreement.

## ARTICLE 2

### GRANT OF CROSS LICENSE

2.1 Team and Hartz Cross-Licensing, Manufacturing and Packaging Rights. During the Term, Hartz agrees on a non-exclusive basis to license to Team solely with respect to the Hartz IP Products (and without regard to any other products) the Trademarks and the Hartz Intellectual Property, as well as certain of its Proprietary Technology, in connection with the manufacture and sale of certain Hartz IP Products by Team to its customers in the Distribution Area in the Team Channels of Trade. During the Term, Team agrees on an exclusive basis to license to Hartz solely with respect to the Team IP Products (and without regard to any other products) the Team Intellectual Property, as well as certain of its Proprietary Technology, in connection with the manufacture and sale of certain Products by Hartz to its customers in the Distribution Area in the Hartz Channels of Trade. During the Term, each of the parties agrees to use and license to each other the Jointly Owned Intellectual Property in connection with the manufacture and sale of any products by such party to its respective customers in the throughout the world in the Channels of Trade. The parties agree that each of Team and Hartz shall have the right to have Products or other products produced or packaged by a third party of its choice, including the Sources used in the Terminated Agreement. Each party shall have no right whatsoever to grant sublicenses of any Proprietary Technology or other rights not owned by such party other than with the other party's approval, which approval may be withheld for any reason whatsoever.

2.2 Reasonable Efforts to Sell by Hartz. Hartz shall use its reasonable efforts to market and sell Team IP Products in the Hartz Channels of Trade in the Distribution Area.

2.3 Reasonable Efforts to Sell by Team. Team shall use its reasonable efforts to market and sell Hartz IP Products in the Team Channels of Trade in the Distribution Area, subject to Section 2.6 hereof.

### ARTICLE 3 KEY RESPONSIBILITIES

3.1 Team's Key Responsibilities. During the Term, Team shall have the following key responsibilities under this Agreement: (a) maintaining the Team Intellectual Property and its undivided interest in the Jointly Owned Intellectual Property and (b) achieve at least the Minimum Performance Standards.

3.2 Hartz' Key Responsibility. During the Term, Hartz shall maintain the Trademarks and the Hartz Intellectual Property and its undivided interest in the Jointly Owned Intellectual Property.

### ARTICLE 4 SPECIFICATIONS, LABELING, ETC.

4.1 Specifications. Team and Hartz agree that the Products will be manufactured in accordance with the Specifications and regulations applicable to the Products in the Distribution Area. The Specifications may be changed at any time by mutual written agreement of the parties, subject to applicable regulatory notices and approvals. Team and Hartz will negotiate in good faith to agree on any changes to the Specifications (including any changes to the initial Specifications that are attached hereto as Exhibit C) that may be required as a result of the work

contemplated by this Agreement, the requirements of the relevant customers or any governmental agency in the Distribution Area or other reasons.

4.2 Labeling; Trademarks. The parties agree that all Products sold in the Channels of Trade shall be shipped in such containers and labeling as shall be specified by Hartz from time to time or such other labeling as shall be required by applicable laws and regulations. Nothing contained herein shall give Team any right to use any Proprietary Technology of Hartz or Trademarks and the Hartz Intellectual Property other than as provided in this Agreement. Nothing contained herein shall give Hartz any right to use any Proprietary Technology of Team or the Team Intellectual Property other than as provided in this Agreement. Team shall fully cooperate with any new and changed packaging and repackaging for Products, including reasonable costs, required by customers or applicable regulatory authorities.

4.3 Distribution and Sales Representatives. Hartz shall have full right to grant or create distributorships or sales representative arrangements in the Distribution Area for the distribution or sale or resale of the Products in the Hartz Channels of Trade. Team shall have full right to grant or create distributorships or sales representative arrangements in the Distribution Area for the distribution or sale or resale of the Products in the Team Channels of Trade.

4.4 Documentation. Each of Hartz and Team shall maintain the originals of all required regulatory documentation to be kept by the manufacturer or the seller, as the case may be.

## ARTICLE 5 TEAM ROYALTIES AND HARTZ ROYALTIES

5.1 Team Royalties. In consideration for the licenses granted hereunder, Hartz agrees to pay to Team the Team Royalties based on the sales of Products and Jointly Owned IP Products by Hartz in the Hartz Channels of Trade in the Distribution Area each calendar quarter during the Term. Hartz shall pay such Team Royalties within 30 days after the end of each calendar quarter. If there are no Team Royalties during such calendar quarter, Hartz shall notify Team accordingly within 30 days of the end of the calendar quarter. All such Team Royalties shall be net of any taxes, withholdings or any other amounts, and Hartz shall have no liability for any such taxes related to such Services Fees.

5.2 Hartz Royalties. In consideration for the license of the Trademarks and the Hartz Intellectual Property as well as the Proprietary Technology of Hartz from Hartz to Team, Team agrees to pay to Hartz the Hartz Royalties based on the sales of Products and Jointly Owned IP Products by Team in the Team Channels of Trade in the Distribution Area each calendar quarter during the Term. Team shall pay such Hartz Royalties within 30 days after the end of each calendar quarter. If there are no Hartz Royalties during such calendar quarter, Team shall notify Hartz accordingly within 30 days of the end of the calendar quarter. All such Hartz Royalties shall be net of any taxes, withholdings or any other amounts, and Team shall have no liability for any such taxes related to such Hartz Royalties.

## ARTICLE 6

### FORECASTS

Within fifteen (15) days after each Agreement Year during the Term, Hartz or Team, as the case shall be, will furnish to the other party non-binding forecasts of the quantities of Products it anticipates it will sell during the ensuing Agreement Year. Such forecasts are not binding estimations, but are for the purpose of anticipating royalty revenue.

## ARTICLE 7

### LABEL CODES: QUALITY ASSURANCE; TESTING

7.1 Product Analysis and Conformity with Specifications. Prior to shipping the Products, Hartz or Team, as the case may be (the "Licensee") shall ensure that the Products are the highest quality products and shall cause the Source to fully and completely analyze the Products for the purpose of determining whether they conform with the Specifications. Upon completion of the analysis or in the event that the analysis is not concluded in conformance with the Specifications, the Licensee shall cause the Source (or, failing the Source, the Licensee shall be responsible) to notify the other party hereto (the "Licensor"). If any such tests evidence a failure or nonconformity of the Products or the raw materials with this Agreement, the parties agree that the Source and Licensee shall, at its sole cost and expense, take immediate and effective curative and corrective actions to meet the Specifications and the quality standards set forth in this Agreement and shall otherwise be fully liable and responsible for such failure.

7.2 Continuous Improvement. The Licensee shall cause the Source to implement and maintain during the Term a continuous cost and quality improvement program related to the Products. If any Source fails to meet or complete its continuous improvement standards, it may be invalidated by the Licensor hereto. If any such tests evidence a failure or nonconformity of the Products or the raw materials with this Agreement, the Licensee shall, at its sole cost and expense, take immediate and effective curative and corrective actions to meet the Specifications and the quality standards set forth in this Agreement and shall otherwise be fully liable and responsible for such failure.

7.4 Audits and Validations of the Sources. The Licensor shall have the right at any time to audit, inspect, validate or investigate any of the Sources of the Licensee for compliance with the terms of this Agreement and the Specifications. If any Source does not comply with the Specifications, the Licensee shall have the right to eliminate such Source.

## ARTICLE 8

### TERM; TERMINATION

8.1 Term. This Agreement shall have a period equal to the Term, provided, this provision shall not prevent a termination or suspension of performance of this Agreement pursuant to any Force Majeure Event and further provided this provisions shall not prevent a termination of this Agreement in connection with Section 8.2 or 8.3 hereof..

8.2 Termination Generally. In addition to the election to terminate as provided in the definition of "Extension Term", either party may terminate this Agreement forthwith in the event

that the other party (i) becomes insolvent; (ii) makes an assignment for the benefit of creditors generally; (iii) has commenced against it proceedings in bankruptcy or reorganization (voluntary or involuntary) or for the appointment of a receiver or trustee for or over either party's property, instituted by or against such party in any court having jurisdiction thereof, and such proceedings are not vacated, set aside, or stayed within thirty (30) days from the commencement thereof; or (iv) attempts to enter into a general compromise of its liabilities.

8.3 Termination for Breach. Subject to the occurrence of a Force Majeure Event, and except as otherwise expressly provided herein, if either party shall breach any material obligation required under this Agreement, the other party may give written notice of its intention to terminate this Agreement, describing in reasonable detail the breach. If the breaching party fails to remedy such material breach within five (5) business days (2 business days for a payment default) following such written notice, or if such breach (other than a payment default) is not capable of cure within such five (5)-business day period, and the breaching party fails to commence cure procedures within such five (5)-business day period and diligently prosecute such procedures until the breach is cured, then the non-breaching party may, in addition to all other remedies available at law or in equity, terminate this Agreement immediately upon written notice.

8.4 Performance on Termination. Upon termination of this Agreement for any reason: (a) Products manufactured pursuant to confirmed purchase orders shall be delivered on the invoice delivery dates, and Hartz or Team, as the case may be, shall pay the Source therefor not later than ten (10) days thereafter, unless such amounts are in good faith dispute. Furthermore, Hartz Royalties and Team Royalties accruing prior to the date of termination of this Agreement shall be paid upon the termination of this Agreement. Upon termination of this Agreement, all Sources, Proprietary Technology, and Trademarks and the Hartz Intellectual Property shall remain the sole property of Hartz and shall be turned over by the Licensee to the Licensor. Furthermore, upon termination of this Agreement, all Team Intellectual Property shall remain the sole property of Team. Moreover, upon termination of this Agreement, all Jointly Owned Intellectual Property shall remain jointly owned by the parties on a 50/50 basis, and each party shall have the right to use the Jointly Owned Intellectual Property freely throughout the world after the termination of this Agreement without restriction regarding the Channels of Trade. Except as provided in this Section 10.4 and as otherwise provided in this Agreement for any obligations that survive termination, the parties shall have no other obligations or liabilities in connection with a termination for breach under this Agreement.

8.5 Right to Terminate Without Prejudice. The rights to terminate this Agreement given by this Article 10 shall be without prejudice to any other right or remedy of either party in respect of the breach concerned (if any) or any other breach.

8.6 Incidental Rights and Obligations. Upon the termination or expiration of this Agreement for any reason:

8.6.1 Neither party shall be released from any obligation that matured prior to the effective date of such termination.

8.6.2 Each of the parties shall at its own expense within thirty (30) days send to the

other parties or otherwise dispose of in accordance with the directions of the other parties all materials containing Confidential Information of such other parties.

8.7 Survival. The provisions of this Agreement that are stated to survive shall survive the termination hereof and shall continue in force in accordance with their respective terms.

## ARTICLE 9 REPRESENTATIONS AND WARRANTIES; REMEDIES

9.1 Mutual Warranties. Each party represents and warrants to the other parties (i) that it has full right and authority to enter into this Agreement and to perform its obligations under this Agreement, and (ii) that it has no relationship with any other entity that would preclude it from carrying out its obligations under this Agreement and (iii) that the execution and delivery of this Agreement by such party, and the performance of its obligations hereunder, do not require the consent of any third party and will not violate, with or without notice, the lapse of time or both, such party's organizational documents or, any agreement, contract, license or permit to which such party is a party or is bound.

9.2 Of Team. Team represents and warrants to Hartz that:

9.2.1 it will use its reasonable efforts to maintain the Team Intellectual Property and the Jointly Owned Intellectual Property during the Term;

9.2.2 the Hartz IP Products to be sold under license hereunder shall conform in all material respects to the Specifications and this Agreement and shall be free from material defects in workmanship and materials through their respective labeled expiration dates, and Team shall be responsible and shall indemnify Hartz, in the manner and only to the extent set forth in this Agreement to the extent caused by failure of Products to conform to the Specifications; (ii) to the extent of any failure to meet Specifications caused by improper or inadequate handling or storage of the Products by Team; and (iii) to the extent failure to meet Specifications is caused by any failure or inadequacy of research, design, formulation or testing by Team;

9.2.3 it will use its reasonable best efforts to obtain and maintain, all required manufacturing establishment designations, permits and licenses required to perform its obligations under this Agreement; and

9.2.4 it will use its reasonable best efforts to maintain the requisite experience, knowledge and expertise, suitable facilities and qualified personnel to manufacture the Products and to perform its other obligations hereunder in a sound, safe, lawful and workmanlike manner.

9.2.5 it will use its reasonable efforts to maintain the Team Intellectual Property and the Jointly Owned Intellectual Property.

9.2.6 Team shall be responsible and shall indemnify Hartz and its Affiliates, in the manner and only to the extent set forth in this Agreement, (i) to the extent of any defects caused by improper or inadequate Team Intellectual Property

9.3 Of Hartz. Hartz represents and warrants to Team that:

9.3.1 it will use its reasonable efforts to maintain the Trademarks and the Hartz Intellectual Property and the Jointly Owned Intellectual Property during the Term;

9.3.2 Hartz shall be responsible and shall indemnify Team and its Affiliates, in the manner and only to the extent set forth in this Agreement, (i) to the extent of any defects caused by improper or inadequate artwork or Trademarks and the Hartz Intellectual Property of the Products.

9.4 Quality of the Products and After Care. The Licensee shall guaranty and ensure that the Products are of the highest quality and shall conform with the Specifications. The Licensee Team shall be responsible for its own customer service and its own reclamation, return and repair services for the customers of Team Channels of Trade. The Licensee shall fully indemnify and hold the Licensor and its Affiliates harmless from and against any losses, damages, attorneys fees, fines, penalties, taxes and other amounts arising from any claim, suit, investigation, arbitration, seizure of goods, import alert or other action relating to the Products of the Licensee. This indemnity shall survive indefinitely.

9.5 Product Recall. The Licensee shall comply with its obligations with respect to any product recall involving its licensed Products.

9.6 Exclusive Remedy. EXCEPT AS EXPRESSLY SET FORTH IN THIS ARTICLE, NO PARTY MAKES ANY WARRANTIES, EXPRESS OR IMPLIED, CONCERNING TECHNOLOGY, GOODS, MATERIALS, SERVICES, DELIVERABLES, RIGHTS OR THE DEVELOPMENT, MANUFACTURE AND SALE OF PRODUCTS, AND HEREBY DISCLAIMS ALL WARRANTIES, INCLUDING WITHOUT LIMITATION ANY WARRANTY OF MERCHANTABILITY, FITNESS FOR A PARTICULAR USE OR PURPOSE, TITLE OR CONDITION.

9.7 Consequential Damages. IN NO EVENT SHALL ANY PARTY BE LIABLE TO ANY OTHER PARTY OR ANY THIRD PARTY FOR LOST PROFITS, LOSS OF GOODWILL, OR ANY SPECIAL, INDIRECT, CONSEQUENTIAL OR INCIDENTAL DAMAGES, HOWEVER CAUSED, ARISING UNDER ANY THEORY OF LIABILITY. THIS LIMITATION SHALL APPLY EVEN IF A PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES, AND NOTWITHSTANDING ANY FAILURE OF ESSENTIAL PURPOSE OF ANY LIMITED REMEDY.

9.8 Survival. This Article shall survive indefinitely following termination of this Agreement.

#### ARTICLE 10 CONFIDENTIAL INFORMATION

10.1 Confidentiality and Non-Disclosure. "Confidential Information" means (i) trade secret or highly confidential information of a technical nature, whether or not marked or identified as confidential, including without limitation that embodied in samples provided by one party (the "Disclosing Party") to the other party (the "Recipient"), concerning the attributes,

formulation, and performance of Products (ii) any strategic information, technical data, or know-how, related to the business of the Disclosing Party, whether or not marked or identified as confidential, including without limitation, the Disclosing Party's research or toxicological data, services, development, inventions, processes, designs, drawings, manufacturing, engineering, marketing, or finances; (iii) all federal and state Product Registrations and applications for such registrations and all supporting documentation therefor; and (iv) all other information marked by the Disclosing Party as confidential. "Confidential Information" shall not include any of the above information which:

10.1.1 is now or later becomes, through no act or failure to act on the part of the Recipient or its Affiliates, generally available on a non-confidential basis;

10.1.2 corresponds in substance to information heretofore or hereafter furnished to the Recipient or its Affiliates by third parties as a matter of right without restriction on disclosure;

10.1.3 the Recipient or its Affiliates had in its possession prior to the first receipt hereof, directly or indirectly, from the Disclosing Party or its Affiliates;

10.1.4 the Recipient can demonstrate has hereafter been independently developed by employees of the Recipient or its Affiliates who have not had access to such information; or

10.1.5 the Recipient or its Affiliates is compelled or required to disclose by law, order or regulation of a governmental agency or court of competent jurisdiction; provided, however, that the Recipient shall use reasonable efforts to provide the Disclosing Party notice in writing of any proposed disclosure under this Section 10.1.5 and an opportunity to object to the disclosure or seek confidential treatment thereof.

10.2 Duty of Non-Use and Non-Disclosure. The parties shall not, and shall cause their Affiliates and their employees, agents, and representatives not to, use or disclose to third parties, (other than to Supporting Parties), any Confidential Information provided by the other party or its Affiliates at any time prior to the effective date of this Agreement or pursuant to this Agreement without the prior written consent of the other party, except for the purpose of enabling the parties to work together toward evaluation and consummation of the business arrangements detailed in this Agreement and performance of their respective obligations hereunder.

10.3 Confidentiality Agreement with Supporting Parties. Prior to the disclosure of any Confidential Information to a consultant, formulator, Source, lender or adviser (the "Supporting Party"), such Supporting Party shall execute and deliver to Team (if it is Team's Supporting Party), and Hartz (if it is Hartz' Supporting Party), as the case may be, a confidentiality agreement substantially in the form of the Confidential Disclosure Agreement attached hereto as Exhibit D.

10.4 Termination; Survival. Upon termination of this Agreement, each party agrees to return to the other all written or other physical embodiments of the Confidential Information. The obligations under this paragraph shall be binding on any Affiliate, parent, subsidiary, successor or assign of the parties as if a party to the Agreement. The obligations of confidentiality and non-use of the Confidential Information under this Agreement shall continue

throughout the term of this Agreement and for a period of five (5) years following the termination or expiration of this Agreement.

10.5 Confidentiality of Agreement. The terms of this Agreement, as well as the Agreement itself and the parties' relationship hereunder, and the negotiations giving rise to this Agreement shall be Confidential Information, are to be kept confidential and are not to be disclosed under any circumstances to any third party, but excluding Supporting Parties, except as set forth herein.

10.6 Press Releases. Without limiting the generality of the foregoing, no party hereto shall make any press release, public statement, web site posting or other public pronouncement regarding this Agreement or any of the terms and conditions of this Agreement without the consent of the other parties.

## ARTICLE 11 OWNERSHIP OF INTELLECTUAL PROPERTY

During the Term, each party hereby grants to the other party a royalty free, world wide, non-exclusive license to use such party's Proprietary Technology (other than the Hartz Royalties or Team Royalties, as the case may be, in connection with the Trademarks and the Hartz Intellectual Property and Hartz Proprietary Technology and in connection with the Team Intellectual Property and Team Proprietary Technology) in connection with the Products solely for the purpose of exercising its rights and performing its obligations under this Agreement, and each such license shall be limited to such extent. Furthermore, each party acknowledges that no transfer of ownership of or a license to any intellectual property is contemplated by this Agreement, except as expressly provided herein. All rights and title to any technology owned by a party prior to the date of the execution of this Agreement shall remain in such party. All rights and title to inventions and/or discoveries, patentable or otherwise, developed under this Agreement exclusively by Team shall belong to Team. All rights and title to inventions and/or discoveries, patentable or otherwise, developed under this Agreement exclusively by Team relating to the Hartz IP Products shall belong to Team and exclusively by Hartz relating to Team IP Products shall belong to Hartz. All rights and title to inventions and/or discoveries, patentable or otherwise, developed under this Agreement jointly by Team and Hartz shall belong jointly to Team and Hartz. Each party shall notify the other party promptly in writing of each such invention and/or discovery made during the term of this Agreement with each disclosure being governed by the confidentiality provisions of this Agreement.

## ARTICLE 12 INDEMNIFICATION

12.1 By Team. Team hereby agrees to defend, indemnify and hold Hartz and its Affiliates and each of their respective directors, officers, employees, agents and lenders (the "Hartz Indemnified Parties") harmless from and against any loss, claim, action, damage, expense or liability (including without limitation reasonable defense costs and attorneys' fees) resulting from any third party claim or suit arising out of or relating to (i) Team's breach of this Agreement, (ii) Team's use, manufacture, distribution and sales of Hartz IP Products for the Team Channels of Trade, (iii) any claim that the Hartz IP Products infringes the intellectual property

rights of any third party relating to the Trademarks, Hartz Intellectual Property or Hartz Proprietary Technology, or (iv) any claim that the Hartz IP Products or any manufacturing process selected by Team and/or Team infringes the patent, trademark, copyright or trade secret rights of any third party; provided, however, that the foregoing indemnity obligations shall not apply where such claim is the result of the willful misconduct or negligent act of Hartz or the Hartz Indemnified Parties, and there shall be apportionment in accordance with responsibility when such obligation derives in part from the acts of Team and in part from such acts of Hartz and the Hartz Indemnified Parties.

12.2 By Hartz. Hartz hereby agrees to defend, indemnify and hold Team and its Affiliates and each of, their respective directors, officers, employees, agents and lenders (the "Team/Team Indemnified Parties") harmless from and against any loss, claim, action, damage, expense or liability (including without limitation reasonable defense costs and attorneys' fees) resulting from any third party claim or suit arising out of or relating to (i) the use, sale or distribution of any Team IP Products manufactured in conformity with the Specifications and this Agreement by Team, including, but not limited to any breach of any warranty for Team IP Products extended by Hartz, other than the warranties given by Team hereunder, and any of the claims identified herein relating to Team, (ii) the use, sale or distribution of any of Team IP Products by Hartz or (iii) any claim that the any of the packaging or labels or any manufacturing process specified by Hartz infringes any patent, copyright, trademark, trade secret or other right of any third party with respect to the Team Intellectual Property; provided, however, that the foregoing indemnity obligation shall not apply where such claim is solely the result of the willful misconduct or negligent act of Team, Team or any of the Team Indemnified Parties, and there shall be apportionment in accordance with responsibility when such obligation derives in part from acts of Hartz and in part from such acts of Team and any of the Team Indemnified Parties.

12.3 Procedures. In the event that a third-party claim is made or third-party suit is filed for which either party intends to seek indemnification from any other party pursuant to this Article 14, the party seeking indemnification (the "Indemnitee") shall promptly notify such other party (the "Indemnitor") of said claim or suit. The Indemnitor shall have the right to control, through counsel of its choosing, the defense of such third-party claim or suit, but may compromise or settle the same only with the consent of the Indemnitee, which consent shall not be unreasonably withheld. The Indemnitee shall cooperate fully with the Indemnitor and its counsel in the defense of any such claim or suit and shall make available to the Indemnitor any books, records or other documents necessary or appropriate for such defense. The Indemnitee shall have the right to participate at the Indemnitee's expense in the defense of any such claim or suit through counsel chosen by the Indemnitee.

12.4 Insurance. Each of the parties hereto will maintain product liability insurance covering its performance of its obligations hereunder with a minimum limit of liability of \$5,000,000 in the aggregate, which insurance shall name the other parties as additional insureds as their interests may appear. Each of the parties will also maintain insurance to protect the other parties from claims under any worker's compensation laws and from any other damages from personal injury including death, which may be sustained by such parties' agents, servants or employees and the general public and/or claims of property damage which might be sustained by any one of them due to the negligence of the insuring party, in amounts reasonable for the risks involved and in accordance with industry standards. Each of the parties shall, upon request,

furnish the other parties a certificate of insurance. The obligation to maintain insurance as provided herein shall continue for as long as any Products are sold by any party hereto and for a period of three (3) years thereafter.

12.5 Survival. This Article 14 shall survive the expiration or termination of this Agreement.

### ARTICLE 13 MISCELLANEOUS

#### 13.1 Communications.

13.1.1 Legal Notices. All notices or other communications provided for in this Agreement shall be in writing and shall be considered delivered upon the earliest of actual receipt, or personal or courier delivery, or sending by facsimile with confirmation of receipt in good order requested and received, or on the fourth business day after they are deposited in the United States mail, certified first class or air mail postage prepaid, return receipt requested, addressed to the respective parties as follows:

If to Team:

Team Products International, Inc.  
3 Entin Road  
Parsippany, New Jersey 07054  
Attention: Stephen Levine, President  
Fax: 973 887-8166

With a copy to:

Belsole and Kurnos, LLC  
3 Prospect Street  
Morristown, New Jersey 07960  
Fax: 973 539-8464

If to Hartz:

The Hartz Mountain Corporation  
400 Plaza Drive  
Secaucus, New Jersey 07094  
ATTN: Julie Krauss  
Corporate Vice President-Marketing  
Fax: (201) \_\_\_\_\_

With a copy to:

Max C. Marx, Esq.  
Corporate Vice President- General Counsel  
The Hartz Mountain Corporation  
400 Plaza Drive  
Secaucus, New Jersey 07094  
Fax: (201) 866-0720

The parties may, at any time, change their addresses or other information in this section by written notice under this section.

13.1.2 Routine Communications. For routine contractual communications, the parties agree to contact each other including without limitation any changes to formulae, any new formulae, processes, truckers, super sack vendors and other items. The parties agree to meet periodically and not less than annually to go over all matters under this Agreement. The primary contactpersons for such routine communications shall be:

if to Team:

If to Hartz:

Jonathan Levine

Julie Krauss

Team Products International, Inc.

The Hartz Mountain Corporation

3 Entin Road

400 Plaza Drive

Parsippany, New Jersey 07054

Secaucus, New Jersey 07094

Fax: \_\_\_\_\_

Fax: \_\_\_\_\_

The parties may, at any time, change their addresses or other information in this section by written notice under this section.

### 13.2 Force Majeure.

13.2.1 Definition. Any of the following shall constitute a "Force Majeure Event": Acts of God, strikes or other labor disputes, governmental regulations or actions, inability to obtain material, labor, equipment or transportation or any other condition beyond the reasonable control of the affected party.

13.2.2 Notification. If any party is affected by a Force Majeure Event, it shall forthwith notify the other party of the nature and extent thereof and take all reasonable steps to minimize the loss occasioned to the other party.

13.2.3 No Breach. No party shall be deemed to be in breach of this Agreement, or otherwise be liable to the other, by reason of any delay in performance, or non-performance, of any of its obligations hereunder, other than the payment of money, to the extent that such delay or non-performance is due to any Force Majeure Event of which it has notified the other party; and the time for performance of that obligation shall be extended accordingly.

13.2.4 Further Action. If the Force Majeure Event in question prevails for a continuous period in excess of thirty (30) days, the parties shall enter into bona fide discussions with a view to alleviating its effects or to agreeing upon such alternative arrangements as may be fair and

reasonable. If such Force Majeure Event persists for longer than forty-five (45) days, the party whose performance is prevented by such Force Majeure Event may terminate this Agreement.

13.3 Independent Contractors. The parties are and shall perform this Agreement as independent contractors and as such shall have and maintain complete control over all of their employees, agents, and operations. This Agreement shall not be deemed held or construed as creating a partnership, joint venture or agency relationship between any of the parties or any of their respective Affiliates. Nothing contained in this Agreement shall permit any party to incur any debts or liabilities on behalf of any other party.

13.4 Expenses. Each of the parties hereto agrees to be responsible for their own costs and expenses in connection with this Agreement.

13.5 Severability. The illegality or unenforceability of any one or more covenants, phrases, clauses, sentences, or sections of this Agreement, as determined by a court of competent jurisdiction, shall not affect the remaining portions of this Agreement, or any part thereof, and if any provision, section, or subsection of this Agreement is adjudged by any such court to be invalid or unenforceable in whole or in part, such provision, section, or subsection, or portion thereof, shall be deemed amended to conform to applicable laws so as to be valid and enforceable to the fullest extent possible, or if it cannot be so amended without materially altering the meaning intended by the parties, it shall be stricken and the remainder of this Agreement shall continue in full force and effect. Each provision, section, and subsection of this Agreement is separable from every other provision, section, and subsection and constitutes a separate, distinct covenant.

13.6 Modification. No modification or waiver of any provision of this Agreement shall be effective unless the modification is made in writing and signed by the party sought to be charged, and the same shall then be effective only for a period and on the conditions and for the specific instances and purposes specified in such writing. No course of dealing between the parties or delay or failure to exercise any rights hereunder shall operate as a waiver of such rights or preclude the exercise of any other rights hereunder.

13.7 Survival. Termination or expiration of this Agreement shall not relieve either party from any obligation under this Agreement which may have accrued prior thereto or which survives by its terms.

13.8 Assignment; Subcontracting.

13.8.1 Except as expressly provided herein, no party to this Agreement may assign any of its rights, interest, duties or obligations in this Agreement to any other person without the prior written consent of the other party hereto. Notwithstanding the foregoing, any party may transfer its interest, duties and obligations under this Agreement without obtaining the prior written consent of any other party, to any company that:

- (i) purchases or otherwise acquires all or substantially all of the shares or other equity ownership interest of such party; or
- (ii) purchases or otherwise acquires all or substantially all of the assets

of such party.

13.8.2 Any party hereto may subcontract any of its obligations under this Agreement to an Affiliate of such party; provided, that no such subcontracting shall relieve such party of its obligations hereunder.

13.9 Entire Agreement. This Agreement (including the Schedules and Exhibits hereto) constitutes the entire understanding of the parties with respect to the subject matter hereof and supersedes all prior negotiations or communications, however given, regarding the subject matter hereof. There are no other inducements, understandings, representations or warranties of any kind, express or implied.

13.10 Conflicts of Interest. No party nor any director, employee, or agent of any party shall give to or receive from any director, employee, or agent of any other party or its Affiliate any gift, entertainment, or other favor of significant cost or value or any commission, fee, or rebate, or enter into any business relationship with any director, employee, or agent of the other party or its Affiliate, without prior written notice to such other party.

13.11 Titles of Articles. The titles at the beginning of each Article and Section are for the convenience of the parties and shall in no event be construed to alter or in any way affect the meaning of the substantive text of this Agreement.

13.12 Counterparts. This Agreement may be executed in counterparts, which together shall constitute but one and the same contract.

13.13 Incorporation by Reference. The recitals set forth herein and the attached Schedules and Exhibits are incorporated herein by reference and shall be deemed to be part of this Agreement as though such provisions had been set forth in full in this Agreement.

13.14 Governing Law. The validity, interpretation and performance of this Agreement shall be governed and construed in accordance with the internal laws of the State of New Jersey, excluding the body of law related to choice of law.

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed by their duly-authorized representatives:

THE HARTZ MOUNTAIN CORPORATION

By \_\_\_\_\_

Title \_\_\_\_\_

**TEAM PRODUCTS INTERNATIONAL,  
INC.**

By: \_\_\_\_\_

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

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## LICENSE AGREEMENT

This License Agreement ("Agreement") is made and entered into as of January 1st, 2002 ("Effective Date") by and between COLEMAN POWERMATE, INC, a Nebraska corporation, with an office at 3901 Liberty Street Road, Aurora, IL 60504, THE COLEMAN COMPANY, INC, A Delaware corporation with an office at 3600 North Hydraulic, Wichita Kansas, 67202 (hereinafter jointly "Coleman") and TEAM PRODUCTS INTERNATIONAL, INC. ("Licensee"), a New Jersey corporation, with an office at 3 Entin Road, Parsippany, N.J. 07054

### BASIC INFORMATION

The information in this Section appears here for ease of reference and is not to be used to construe any terms of this Agreement. The detailed and binding terms follow this Section.

#### INFORMATION

		<u>Paragraph</u>
LICENSED TRADEMARKS	COLEMAN POWERMATE	1.1
LICENSED PRODUCTS	Corded and cordless power tools, including drills, sanders, circular saws, and multi-purpose rotary hand tools; standalone portable AC/DC power inverters; portable battery operated jump start systems for automotive and marine use; portable 12 volt and 12 volt rechargeable compressor/Inflaters; portable rechargeable spotlights (excluding flashlights, and flashlight combinations); battery operated cordless canister style wet/dry vacuums; and hand operated multi-tools (for example, LEATHERMAN or SCHADE type multi tools).	1.2
TERRITORY	USA and Canada	1.3
INITIAL TERM	Three Years	1.10
INITIAL EXPIRATION	2/28/2005	1.8
RENEWAL TERM	Three Years	1.11
RENEWAL EXPIRATION	2/28/2008	1.9

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ADVANCE: \$25,000 on signing 3.1

ROYALTY RATE: 3.2

Power Tools: 4% of Net Sales

Power Inverters: 4% of Net Sales

Jump Start Systems: 4% of Net  
Sales

Compressors/Inflaters: 5% of Net  
Sales

Spotlights: 4% of Net Sales

Wet/Dry Vacs: 5% of Net Sales

Multi-tools: 5% of Net Sales

MINIMUM ROYALTY: Contract Year 2001/2002: 3.3

Total: \$200,000

Contract Year 2003:

Total: \$440,000

Contract Year 2004:

Total: \$800,000

MINIMUM SALES: Contract Year 2001/2002: 3.4

Total: \$4,770,000

Contract Year 2003:

Total: \$10,620,000

Contract Year 2004:

Total: \$19,500,000

ROYALTY PAYMENT DATE: 15th Day After end of each Contract 4.2  
Quarter

### RECITALS

WHEREAS, COLEMAN owns sufficient right, title and interest in and to the Licensed  
Trademarks to grant Licensee the rights set forth below; and

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WHEREAS, Licensee desires to use the Licensed Trademarks with the Licensed Products in the Territory and COLEMAN desires to grant Licensee a license to do so.

NOW, THEREFORE, in consideration of the terms and conditions set forth, the parties agree as follows:

# 11. DEFINITIONS

As used in this Agreement, the following terms shall have the following meanings:

11.11 "Licensed Trademarks" means the following trademarks in the exact form shown below:



11.22 "Licensed Products" means only the following products bearing the Licensed Trademarks:

Corded and cordless power tools, including drills, sanders, circular saws, and multi-purpose rotary hand tools; stand alone portable AC/DC power inverters; portable battery operated jump start systems for automotive and marine use; portable 12 volt and 12 volt rechargeable compressor/Inflators; portable rechargeable spotlights (excluding flashlights and flashlight combinations); battery operated cordless canister style wet/dry vacuums; and hand operated multi-tools (for example, LEATHERMAN or SCHADE type multi tools).

11.33 "Territory" means only the following countries:

United States of America, its possessions, territories, and commonwealths and Canada

11.44 "Contract Year" means each year this Agreement is in effect, starting on March 1 and ending on February 28 of each year, except for the Initial Year which shall commence on November 31, 2001 and end on February 28, 2003.

11.55 "Contract Month" means each calendar month of each Contract Year.

1.6 "Contract Quarter" means each quarter of each Contract Year.

11.7 "Effective Date" means January 1st, 2002.

11.8 "Initial Expiration Date" means February 28, 2005.

1.9 "Renewal Expiration Date" means February 28, 2008.

11.10 "Initial Term" means the period from the Effective Date to the Initial Expiration Date.

11.11 "Renewal Term" means the period from the Initial Expiration Date to the Renewal Expiration Date.

11.12 "Net Sales" means Licensee's total invoiced sales price of Licensed Products to its customers, excluding only state and federal taxes, actual freight costs paid by Licensee, and returns

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evidenced by credit memoranda, with no deductions for early payment, bad debts, advertising allowances, special promotions of any kind, costs incurred in manufacture, advertising or promotion.

## 22. GRANT OF LICENSE, TERRITORY AND TERM

22.14 License. COLEMAN hereby grants Licensee and Licensee hereby accepts a personal, non-transferable, non-assignable and non-divisible, non-exclusive License to use the Licensed Trademarks upon and in connection with the sale and distribution of the following Licensed Products in the Territory; corded and cordless power tools (including drills, sanders, circular saws, and multi-purpose rotary hand tools), spotlights, battery operated cordless canister style wet/dry vacs, and hand operated multi-tools (for example, LEATHERMAN or SCHADE type multi tools); . COLEMAN hereby grants Licensee and Licensee hereby accepts a personal, non-transferable, non-assignable and non-divisible, exclusive License to use the Licensed Trademarks upon and in connection with the sale and distribution of the following Licensed Products; standalone portable AC/DC power inverters, battery operated jump start systems for automotive and marine use, and portable 12 volt and rechargeable compressor/inflaters. Licensee shall have no right to sublicense the Licensed Trademarks or to combine the Licensed Trademarks with any other mark. Licensee agrees not to use the Licensed Trademarks in combination with any other trademarks, designs or logos in any manner unless pre-approved in writing by COLEMAN. COLEMAN agrees that for the first full calendar year this Agreement is in effect, it will not license corded or cordless power tools to a third party under the Licensed Trademarks. Furthermore, if Licensee meets all obligations under this Agreement, including its minimum royalty and sales obligations under this Agreement for the first full year, Coleman agrees to negotiate with Licensee to grant it an exclusive license for power tools upon terms to be mutually agreed upon by the parties. Notwithstanding anything to the contrary, nothing in this Agreement such prevent POWERMATE or The Coleman Company, Inc. from itself selling products similar to or the same as any of the Licensed Products under the Licensed Trademarks or the Coleman Company Inc. from licensing the COLEMAN trademark to third parties for use on any products whether similar to the Licensed Products or not for camping, outdoor recreational or backyard related activities.

22.22 Territory Limitation. Licensee agrees to use the Licensed Trademarks, only in the Territory, directly or indirectly and agrees not to knowingly sell the Licensed Products to third parties who intend to or are likely to resell them outside the Territory.

22.3 Initial Term. The Initial Term commences on the Effective Date and terminates automatically on the Initial Expiration Date unless otherwise terminated in accordance with the terms and conditions of this Agreement.

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2.4 Competing Licenses. Licensee shall not serve as a Licensee of any third parties trademarks for use in conjunction with any products that directly compete with the Licensed Products.

2.5 Renewal Term. This Agreement may be renewed for a three (3) year Renewal Term provided Licensee has met all the terms and conditions of this Agreement including but not limited to Paragraph 12.1. If Licensee has not met all the terms and conditions of this Agreement then this Agreement shall automatically terminate without notice on the Initial Expiration Date unless renewed upon the written notice of COLEMAN, at its option, within thirty (30) days after COLEMAN'S receipt of the Contract Year end Royalty Report.

### 33. ADVANCE AND ROYALTIES

~~33.14~~ Advance. Licensee shall pay COLEMAN a non-refundable Up-front fee of twenty-five thousand dollars (\$25,000) upon execution of this Agreement. The Up-front Fee shall be applied against future Royalties.

~~33.22~~ Royalty. During the Initial Term Licensee shall pay COLEMAN a Royalty as follows:

Power Tools: 4% of Net Sales;

Power Inverters: 4% of Net Sales;

Jump Start Systems: 4% of Net Sales;

Compressors/Inflaters: 5% of Net Sales;

Spotlights: 4% of Net Sales;

Wet/Dry Vacs: 5% of Net Sales;

Multi-tools: 5% of Net Sales.

Licensee agrees not to dispose of the Licensed Products through free or discounted promotions unless pre-approved in writing by COLEMAN. For the purposes of this Agreement, Licensed Products shall be deemed sold as of the date invoiced or shipped which ever occurs first.

~~33.33~~ Minimum Royalty. Licensee shall pay COLEMAN annual Minimum Royalties as follows:

	Contract Year 2001/2002	Contract Year 2003	Contract Year 2004
Power Tools	\$40,000	\$120,000	\$204,000
Power Inverters	\$34,000	\$72,000	\$160,000
Jump Start Systems	\$34,000	\$72,000	\$160,000
Compressor/Inflaters	\$21,250	\$35,000	\$40,000
Spotlights	\$46,000	\$100,000	\$176,000
Wet/Dry Vacs	\$7,500	\$20,000	\$32,500
Multi-Tools	\$17,250	\$21,000	\$27,500
<b>Total</b>	<b>\$200,000</b>	<b>\$440,000</b>	<b>\$800,000</b>

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Licensee shall pay COLEMAN either the actual Royalty due for any Contract Quarter or one fourth of the Minimum Royalty for the respective Contract Year, which ever is higher, within fifteen (15) days after the end of each Contract Quarter. The Royalty payments for each Contract Quarter shall be the greater of : (a) the Royalty payable for the Contract Year to the end of such Contract Quarter or (b) the aggregate Minimum Royalty payable for the Contract Year to the end of such Contract Quarter, in each case minus all Royalty payments previously paid for such Contract Year. If Licensee fails to meet the Minimum Royalties in any Contract Year, COLEMAN shall have the option to immediately terminate this Agreement (without any right of Licensee to cure) by giving Licensee written notice within sixty (60) days after receiving Licensee's final Royalty Report for the previous Contract Year.

3.4 Minimum Net Sales. Licensee agrees to meet the following Minimum Net Sales of Licensed Products in each Contract Year:

	Contract Year 2001/2002	Contract Year 2003	Contract Year 2004
Power Tools	\$1,000,000	\$3,000,000	\$5,100,000
Power Inverters	\$850,000	\$1,800,000	\$4,000,000
Jump Start Systems	\$850,000	\$1,800,000	\$4,000,000
Compressor/Inflaters	\$425,000	\$700,000	\$800,000
Spotlights	\$1,150,000	\$2,500,000	\$4,400,000
Wet/Dry Vacs	\$150,000	\$400,000	\$650,000
Multi-Tools	\$345,000	\$420,000	\$550,000
<b>Total</b>	<b>\$4,770,000</b>	<b>\$10,620,000</b>	<b>\$19,500,000</b>

If Licensee fails to meet the Minimum Net Sales in Contract years one and two, but pays the Minimum Royalties in full, Coleman agrees not to Terminate this Agreement, however, if in contract year three or any subsequent contract years Licensee fails to meet the Minimum Net Sales, then, COLEMAN shall have the option to immediately terminate this Agreement (without any right of Licensee to cure) by giving Licensee written notice within sixty (60) days after receiving Licensee's final Royalty Report for the previous Contract Year. In addition, if Licensee fails to meet the Minimum Net Sales solely on Power Tools, Coleman agrees that it will remove the Power Tool category from this License in accordance with paragraph 5.1 and not terminate the entire license based solely on Licensee's fail to meet Minimum Net Sales on Power Tools. This exception to Coleman's ability to terminate shall not apply to Licensees failure to meet Minimum Net Sales in any other product categories.

33.5 Renewal Minimum Royalty. Licensee shall be required to have achieved or exceeded ☐ in Contract Year 2004 in order for the Renewal Term to be effected and have met all other conditions of this

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Agreement. If this Agreement is renewed in Accordance with the terms herein, Licensee shall pay COLEMAN annual Minimum Royalties as follows:

	Contract Year 2005	Contract Year 2006	Contract Year 2007
Power Tools	\$212,000	\$230,000	\$242,000
Power Inverters	\$180,000	\$200,000	\$220,000
Jump Start Systems	\$180,000	\$200,000	\$220,000
Compressor/Inflaters	\$41,250	\$43,000	\$60,000
Spotlights	\$198,000	\$220,000	\$244,000
Wet/Dry Vacs	\$36,250	\$38,750	\$40,000
Multi-Tools	\$32,500	\$36,250	\$38,800
<b>Total</b>	<b>\$880,000</b>	<b>\$968,000</b>	<b>\$1,064,800</b>

Licensee shall pay COLEMAN either the actual Royalty due for any Contract Quarter or one fourth of the Minimum Royalty for the respective Contract Year, which ever is higher, within fifteen (15) days after the end of each Contract Quarter. The Royalty payments for each Contract Quarter shall be the greater of: (a) the Royalty payable for the Contract Year to the end of such Contract Quarter or (b) the aggregate Minimum Royalty payable for the Contract Year to the end of such Contract Quarter, in each case minus all Royalty payments previously paid for such Contract Year. If Licensee fails to meet the Minimum Royalties in any Contract Year, COLEMAN shall have the option to immediately terminate this Agreement (without any right of Licensee to cure) by giving Licensee written notice within sixty (60) days after receiving Licensee's final Royalty Report for the previous Contract Year.

3.6 Renewal Minimum Net Sales. If this Agreement is renewed in Accordance with the terms herein, Licensee agrees to meet the following Renewal Minimum Net Sales of Licensed Products in each Contract Year:

	Contract Year 2005	Contract Year 2006	Contract Year 2007
Power Tools	\$5,300,000	\$5,750,000	\$6,051,250
Power Inverters	\$4,500,000	\$5,000,000	\$5,500,000
Jump Start Systems	\$4,500,000	\$5,000,000	\$5,500,000
Compressor/Inflaters	\$825,000	\$860,000	\$1,200,000
Spotlights	\$4,950,000	\$5,500,000	\$6,100,000
Wet/Dry Vacs	\$725,000	\$775,000	\$800,000
Multi-Tools	\$650,000	\$725,000	\$775,000
<b>Total</b>	<b>\$21,450,000</b>	<b>\$23,610,000</b>	<b>\$25,926,250</b>

If Licensee fails to meet the Minimum Net Sales in any Contract Year, COLEMAN shall have the option to either immediately terminate this Agreement (without any right of Licensee to cure) by giving Licensee

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written notice within sixty (60) days after receiving Licensee's final Royalty Report for the previous Contract Year. In addition, if Licensee fails to meet the Minimum Net Sales solely on Power Tools, Coleman agrees that it will remove the Power Tool category from this License in accordance with paragraph 5.1 and not terminate the entire license based solely on Licensee's fail to meet Minimum Net Sales on Power Tools. This exception to Coleman's ability to terminate shall not apply to Licensees failure to meet Minimum Net Sales in any other product categories.

3.7 US Representative Fees. COLEMAN agrees to assist Licensee in sales of Licensed Products to Menards, Home Depot and Sam's Club in the United States including providing introductions, bringing Licensee along on sales calls and allowing Licensee to use COLEMAN's Merchandising Representatives to provide Merchandising Services for Home Depot and Menards. In consideration of COLEMAN's assistance, Licensee agrees to pay COLEMAN a Rep. Fee of four (4%) percent of Net Sales of Licensed Products sold to Menards and Home Depot in the United States and two (2%) percent of Net Sales of Licensed Products to Sam's Club in the United States.

3.8 Canadian Representative Fees. COLEMAN agrees to assist Licensee in sales of Licensed Products to retailers that COLEMAN has existing relationships with in Canada including providing introductions, bringing Licensee along on sales calls and in some cases allowing Licensee to use COLEMAN's Merchandising Representatives to provide Merchandising Services if available. In consideration of COLEMAN's assistance, Licensee agrees to pay COLEMAN a Rep. Fee of four (4%) percent of Net Sales of Licensed Products sold to Canadian retailers that COLEMAN assists Licensee with except for Wal-Mart Canada where Licensee agrees to pay COLEMAN a fee of four percent (4%) of Net Sales if Coleman provides Merchandising Services and two (2%) percent of Net Sales if Coleman does not provide Merchandising Services.

3.9 Term of Representation. Licensee agrees to pay COLEMAN the Rep Fees set forth in paragraphs 3.7 and 3.8 for a period of at least one and one half years after execution of this Agreement. Thereafter, Licensee may elect not to use COLEMAN's services upon ninety (90) days written notice to Coleman. Upon completion of the notice period, COLEMAN shall no longer have any obligation to assist Licensee in selling or merchandising the Licensed Products and Licensee shall have no obligation to pay Coleman Rep. Fees for any products sold after the end of the notice period.

#### 44. ROYALTY REPORTS

44.14 Books and Records. Licensee shall maintain invoices and books of account for the sale, advertising and promotion of the Licensed Products for a period of at least three (3) years after termination of this Agreement. Such books of account shall be complete and accurate in accordance with generally

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accepted accounting practices. COLEMAN or its designee shall have the right to enter Licensee's premises and inspect all books and records of Licensee relating to the sales, advertising and promotion of the Licensed Products within five (5) business days after notice to Licensee during the Initial Term and any Renewal Term and for three (3) years after termination. COLEMAN's acceptance of any statement furnished or Royalty paid shall not preclude COLEMAN from questioning its correctness and, in the event that underpayments are discovered, Licensee shall immediately render payment plus pay interest at a rate of the Prime Rate plus three percent (3%) from the date the payment was due. If the underpayments are more than three percent (3%), then Licensee shall also reimburse COLEMAN for the costs of the audit and COLEMAN shall have the option to terminate this Agreement upon thirty (30) days written notice.

44.22 Reports And Payments. Within fifteen (15) days after the last day of each Contact Quarter, Licensee shall give COLEMAN a true and accurate Royalty Report in a format provided by COLEMAN and verified by an officer of Licensee, stating for the preceding Contract Quarter at least the following:

- (i) The total dollar gross and Net Sales of Licensed Products by Product Category, Territory and Customer;
- (ii) The total unit sales of Licensed Products by Product Category, Territory and customer;
- (iii) The calculated Royalty payment due; and
- (iv) Such other explanatory information as COLEMAN may reasonably require by giving written notice to Licensee.

Licensee shall pay COLEMAN any Royalties due simultaneously with the delivery of each such Royalty Reports. All payments shall be made in US dollars by check or draft, payable to COLEMAN or wire transferred to COLEMAN's account at a bank designated by COLEMAN, at COLEMAN's option. Licensee's failure to deliver the required Royalty Reports and royalty payments shall constitute a material breach of this Agreement.

## 55. REVERSION

55.1+ Category Reversion. If Licensee fails to commence sales and distribution to retailers in each of the product categories of Licensed Products ("Product Category") in the Territory by August 31, 2002; then COLEMAN shall have the option at its sole discretion to remove the Product Category from the definition of Licensed Products by giving Licensee written notice at any time after the dates set forth above. Licensee shall notify COLEMAN of the effective date of sales for each Product Category of Licensed Products in each country in the Territory. In addition, after Licensee commences sales of Licensed Products in each Product Category, COLEMAN shall have the option, at its sole discretion to remove a Product Category from the definition of Licensed Product if Licensee fails to meet the required Minimum Royalties or Minimum Net

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Sales obligations as set forth in Section 3, by giving written notice to Licensee within sixty (60) days after receiving Licensee's final Royalty Report for the previous Contract Year.

**5.2 Territory Reversion.** If Licensee's sales of Licensed Products fails to meet the following Minimum Sales Amounts in the following countries:

- (i) Canada: Contract Year 2001/2002 ----- \$2,000,000
- (ii) Canada: Contract Year 2003----- \$3,000,000
- (iii) Canada: Contract Year 2004----- \$4,000,000

then COLEMAN shall have the option at its sole discretion to remove the country from the definition of Territory by giving Licensee written notice within sixty (60) days after receiving Licensee's final Royalty Report for the previous Contract Year.

**5.3 Other Licensees.** COLEMAN specifically retains the right to use the Licensed Trademarks on Licensed Products for its own distribution and sale, provided however, COLEMAN agrees that it shall not grant rights to a third party to use the Licensed Trademarks in the Territory for the following Licensed Products; Stand-alone, portable AC/DC power inverters, portable battery operated jump start systems for automotive and machine use, and 12 volt and rechargeable compressor/inflators.

## **66. MANUFACTURE AND APPROVAL OF LICENSED PRODUCTS**

**66.1+ Best Efforts.** Licensee shall use its best efforts to manufacture, (or have manufactured for it by subcontractors approved by COLEMAN) and sell Licensed Products that are of a high quality consistent with the high standards and goodwill of the Licensed Trademarks. Licensee acknowledges that its exploitation, advertising, promotion and sale of the Licensed Products is the essence of this Agreement and is essential to enhance and preserve the reputation of the Licensed Trademarks. All Licensed Products shall be of first-class commercial quality and shall conform to specific quality standards adopted by COLEMAN. COLEMAN reserves the right to modify its quality standards from time to time by reasonable written notice to Licensee. Each Licensed Product and the activities of Licensee under this Agreement shall only enhance and promote, but in no manner reflect adversely upon, the image, goodwill and reputation of COLEMAN or a Licensed Trademark. If Licensee does not properly use the Licensed Trademarks on the Licensed Products or the quality of these items does not conform to the standards required by this Agreement, then, upon receipt of written notice from COLEMAN identifying its objection, Licensee shall immediately cease the production, sale, advertising and distribution of the non-conforming Licensed Products. Licensee shall distinguish the Licensed Products from all other products manufactured and sold by Licensee and shall avoid confusing similarity between the Licensed Products and other products sold by Licensee.

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6.2 Facilities. Licensee shall maintain adequate facilities and qualified personnel to assure and perpetuate the quality of the Licensed Products consistent with the high standards of COLEMAN and the goodwill associated with the Licensed Trademarks. COLEMAN or its duly authorized representative shall have the right, during reasonable business hours, to inspect Licensee's or its subcontractors manufacturing and distribution facilities, observe the manufacturing, warehousing and other processes involving any Licensed Product, and take samples of finished products or products in process.

6.3 Suitability and Testing. Each Licensed Product shall be of a high quality and of such style, appearance and quality as to be well suited for exploitation in accordance with the purposes of this Agreement. Licensee shall be responsible for all safety testing and approvals in conformity with the standards and legal requirements applicable to the manufacture, distribution or sale of any Licensed Product. Licensee shall submit each new Licensed Product to an outside testing lab approved by COLEMAN to substantiate the quality of each product in accordance with the following standards. Once during each Contract Year, Licensee shall submit a random sample of each Licensed Product to COLEMAN to allow COLEMAN to check product quality.

6.4 Approvals. Prior to the manufacture, sale and distribution of any Licensed Product and/or use of any label, advertising, promotional (including web sites) or packaging material, Licensee shall submit samples to COLEMAN and obtain COLEMAN's written approval. Such samples shall include but not be limited to two (2) complete samples of each new style or model of Licensed Product; two (2) complete samples of all labels; and two (2) complete samples of all promotional, advertising and packaging materials intended to be used. COLEMAN shall endeavor to approve such samples within ten (10) business days after receipt. If Coleman rejects any submission, it will provide licensee with its basis for such rejection. Licensee's failure to receive COLEMAN's approval shall be deemed a disapproval of such submitted samples. If Licensee does not receive a response within such ten (10) business days, it may send a second request for approval via a commercial courier service and if it does not receive a response with ten (10) days of COLEMAN's receipt of such second request, the submission shall be deemed approved. Licensee may not sell or otherwise distribute any such materials or Licensed Products until written approval is received from COLEMAN. Licensee shall not make any alterations, additions, replacements or improvements to any previously approved Licensed Products or other materials incorporating the Licensed Trademarks without written approval from COLEMAN. Licensee shall provide COLEMAN with its testing results evidencing the efficacy of the Licensed Products prior to commencement of manufacturing and marketing of the Licensed Products. If Licensee fails to provide COLEMAN with evidence satisfactory to COLEMAN of the Licensed Products' efficacy, the product shall be deemed disapproved..

6.5 Distribution Channels. Licensee acknowledges that the Licensed Products are to be sold only in retail stores of high quality, reflecting the prestige of the Licensed Trademarks. Licensee agrees to

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sell the Licensed Products only to retail outlets in its ordinary course of business and not to; (i) jobbers, or other parties that do not sell to consumers at retail exclusively; (ii) consumers through radio, or other telecommunication with the exception of television; or (iii) to close-out stores unless, and then only to the extent that, such sale has been approved in writing by COLEMAN.

6.6 Government Regulations. Licensee will comply with all laws, rules, regulations and requirements of any governmental or administrative body (including, without limitation, the Federal Trade Commission, Federal Communications Commission and the Consumer Products Safety Commission), which may be applicable to the manufacture, advertising, merchandising, packaging, publicity, promotion, sales, distribution, shipment, import and export of the Licensed Products and/or its packaging, advertising or promotional materials.

6.7 Compliance with Labor Laws. If Licensee is a company subject to the United States Fair Labor Standards Act ("FLSA") then Licensee represents and warrants that it is aware of the provisions of the FLSA concerning minimum wage, overtime, and child labor provisions, and further warrants that it will comply with such standards and will not employ oppressive child labor or engage in oppressive industrial home work or any other violation of FLSA in connection with the manufacture of the Licensed Products. If the Licensee is not a company subject to FLSA, then Licensee warrants that it will not employ oppressive child labor or engage in oppressive industrial work in connection with the manufacture of the Licensed Products. In the event that Licensee employs any subcontractors as provided in Paragraph 7.10 hereof, Licensee warrants that it will not hire any subcontractor that does not comply with the foregoing provisions.

COLEMAN reserves the right to investigate any potential violation of law or this provision and, at its discretion, to suspend, discontinue or terminate this Agreement for its failure to comply with any laws applicable to merchandise produced in the United States or any other country, or this provision. This right to investigate includes, but is not limited to the right of COLEMAN, or its representatives, to inspect, without prior notice, Licensee's or its subcontractors manufacturing facilities to ensure compliance with this Paragraph 6.7.

6.8 Full Cooperation. Licensee will provide immediate assistance to COLEMAN in responding to any inquiry or observation from any governmental agency or standard setting body, will promptly investigate and respond to any allegation the Licensed Products are improperly designed or has failed to perform properly, and will notify COLEMAN of any planned changes to the Licensed Products at least 30 days prior to implementing such change. Licensee will not implement any changes if COLEMAN objects.

## 7. TRADEMARK COPYRIGHT AND URL OWNERSHIP

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7.1 Trademark Use. Whenever Licensee uses a Licensed Trademark that is registered in the country in which the Licensed Products are to be sold, Licensee shall affix on all promotional and packaging material, labels and all Licensed Products the trademark notice "®" or the words "Registered Trademark", or the abbreviation "Reg. TM", legibly and irremovably, and Licensee must affix either to the product itself or affixed tag the following: "COLEMAN is a registered trademark Coleman, Inc. used under license" If the Licensed Trademark is not registered, Licensee shall affix the notice "TM" in the same manner. At all times, Licensee shall use Licensed Trademarks properly as a trademark, i.e., as a proper adjective and not as a noun or a verb.

7.2 Modifications of Licensed Trademarks. Licensee shall not depart from the form of the Licensed Trademarks set forth in Paragraph 1.1. Licensee acknowledges that COLEMAN may from time to time and without notice modify add or delete certain elements of a Licensed Trademark. COLEMAN does not represent or warrant that any Licensed Trademark will be maintained or used by COLEMAN in any particular fashion. If COLEMAN modifies a Licensed Trademark and gives notice of such modification to Licensee, the rights of Licensee under this Agreement shall extend to the Licensed Trademarks as modified.

7.3 Registrations and Cooperation. COLEMAN has the sole right to apply for and obtain at its own cost appropriate trademark or service mark protection for any Licensed Trademark in any country in the Territory. Licensee agrees to cooperate with COLEMAN in the execution, filing and prosecution of any trademark applications that COLEMAN may choose to file. Licensee agrees to supply COLEMAN, without charge, samples, containers, labels and similar materials which COLEMAN reasonably requests and to execute and deliver to COLEMAN, whether during or after the Initial Term or Renewal term, any documents which COLEMAN requests to confirm COLEMAN's ownership rights, to record this Agreement, or terminate Licensee as a registered user. Licensee appoints COLEMAN as its attorney-in-fact to sign such documents in Licensee's name and to make appropriate disposition of them if Licensee fails or refuses to do so. COLEMAN shall have no obligation to obtain trademark or service mark protection for any Licensed Trademarks in any country in the Territory.

7.4 Acknowledgment. Licensee acknowledges that nothing herein gives Licensee any right, title or interest in the Licensed Trademarks apart from the License granted hereunder and that the Licensed Trademarks are the sole property of COLEMAN and any and all uses by Licensee of the Licensed Trademarks in the Territory or other jurisdictions shall inure to the benefit of COLEMAN. In no event shall Licensee's use of the Licensed Trademarks be deemed or construed to create or vest any right, title or interest in and to Licensee.

7.5 Validity of Trademarks. Licensee acknowledges that the Licensed Trademarks are valid and enforceable and any registration thereon is duly and validly issued. Licensee represents and warrants that it shall not raise or cause to be raised any questions concerning or objections; (i) to the validity of the Licensed

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Trademarks; (ii) to any registration thereof or; (iii) to the proprietary rights of COLEMAN on any grounds whatsoever.

7.6 Use or Registration of Trademarks. Licensee represents and warrants that it shall not; (i) seek to register the Licensed Trademarks, or any term, script or device colorably similar thereto, in the Territory or any other jurisdiction; (ii) use the Licensed Trademarks or any term, script or device colorably similar thereto, on any products other than the Licensed Products as permitted under this Agreement; (iii) use the Licensed Trademarks in a manner that impairs COLEMAN's right, title and interest therein or confuses or deceives the purchasing public with respect to the source or origin or standards of quality of the Licensed Products or; (iv) use the Licensed Trademarks in a manner, form or fashion which is not in compliance with the laws and regulations of the respective jurisdictions in the Territory.

7.7 Termination. Upon termination of this Agreement for any reason, Licensee shall cease all use of the Licensed Trademarks in the Territory or any other jurisdiction, or any term, script or device colorably similar thereto on any products in accordance with paragraph 12.3.

7.8 Injunctive Relief. Licensee acknowledges that should Licensee fail to cease advertising, manufacturing and shipping of Licensed Products bearing the Licensed Trademarks upon termination in accordance with the terms and conditions of this Agreement, such failure will result in immediate and irreparable injury to COLEMAN. In such a case, in addition to any provable damages, costs and expenses of any proceeding, COLEMAN shall be entitled to equitable relief by way of temporary and permanent injunction and such further relief as any court with jurisdiction may deem just and proper.

7.9 Copyrights. COLEMAN shall own all right title and interest (including but not limited to copyright rights) in and to all advertising, packaging and other promotional documents prepared for the Licensed Products. Licensee agrees to cooperate with COLEMAN in the execution, filing and prosecution of any documents required to confirm COLEMAN's ownership rights in such copyright rights and documents.

7.10 Sub Contractors. To the extent Licensee employs any subcontractors in connection with this Agreement, Licensee shall obtain from each contractor a binding written agreement in substantially the form attached hereto as Exhibit A, which shall contain; (i) an acknowledgement of COLEMAN's absolute ownership of the Licensed Trademarks; and (ii) a disclaimer of any right or claim of said contractor in or to the Licensed Trademarks. Any subcontractor employed by Licensee must comply with the provisions of Paragraph 6.7 hereof. A copy of the written commitment signed by each subcontractor shall be delivered to Licensor within thirty (30) days of the signing. In no event, shall the use of any subcontractor absolve or excuse Licensee from any of its responsibilities to COLEMAN under this Agreement. If at any time COLEMAN provides reasonable evidence to Licensee that any subcontractor which Licensee uses or intends to use has taken action inconsistent with COLEMAN's absolute ownership of the Licensed Trademarks,

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Licensee shall immediately cease using and shall not thereafter use said subcontractor in connection with this Agreement.

7.11 URLs. COLEMAN shall own all right title and interest (including but not limited to all intellectual property rights) in any URLs/domain names using the Licensed Trademarks or any variation thereof.

(i) Licensee agrees to advertise, and promote the Licensed Products through a global computer network (hereinafter referred to as the "Internet") in the Territory. Prior to any use of the Licensed Trademarks on the Internet, Licensee shall submit copies of all proposed uses to COLEMAN for written approval.

(ii) Licensee shall have no right to and agrees not to register any URL/domain name incorporating the Licensed Trademarks or variations thereof without written consent of COLEMAN.

(iii) COLEMAN has the sole right to apply for and obtain at its own cost any URL/domain name including Licensed Trademarks or any variations thereof in any level domain. If Licensee wants to use a URL/domain name incorporating the Licensed Trademarks or any variation thereof, it shall submit a proposed name to COLEMAN. COLEMAN shall at its sole option approve or disapprove of such URL and register such URL/domain name and license it to Licensee pursuant to the terms set forth in Article 8 of this Agreement. Licensee agrees to cooperate with COLEMAN in the execution, filing, application and/or registration of a URL/domain name that COLEMAN may choose to register.

(iv) If Licensee has prior to the execution of this Agreement registered a URL/domain name incorporating the Licensed Trademarks or variation thereof, Licensee agrees that no rights to such URL/domain name will accrue to Licensee and Licensee will transfer such URL/domain name to COLEMAN immediately upon COLEMAN's request.

## 8. DOMAIN NAME AND LINKING LICENSE

8.1 License. COLEMAN hereby grants Licensee and Licensee hereby accepts a personal non-transferable, non-assignable and non-divisible, royalty-free, exclusive License to use the Licensed Trademarks on the web site at URL: [http://\\_\\_\\_\\_\\_](http://_____) in connection with the sale of the Licensed Products (the "Licensee Web Site") in accordance with the terms and provisions of this Agreement.

8.2 Use of Trademarks. Licensee shall not use the Licensed Trademarks on the Licensee Web Site without COLEMAN's prior written approval. Licensee shall submit copies of the proposed web site graphics and text to COLEMAN for its written approval prior to Licensee placing the Licensed Trademarks on the Licensee Web Site. COLEMAN shall endeavor to approve such samples within ten (10) business

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days after receipt. Licensee's failure to receive COLEMAN's approval shall be deemed a disapproval of such submitted materials. If License does not receive a response within such ten (10) business days, it may send in a second request for approval via a commercial courier service and if it does not receive a response with ten (10 ) days of COLEMAN's receipt of such second request, the submission shall be deemed approved. Licensee shall not make any alterations, additions, replacements or improvements to any previously approval web site graphics or text incorporating the Licensed Trademarks without the prior written approval of COLEMAN.

8.3 Licensee Trademark License. Licensee hereby grants to COLEMAN a limited license to use Licensee's trademarks as set forth on Schedule A (the "Licensee Marks") on the COLEMAN web site solely for purposes of creating a link, which may include hypertext, text, banner, logo and contextual links, (hereinafter referred to as "Link") between Licensee Web Site and any URL registered to COLEMAN (hereinafter referred to as "POWERMATE Web Site"). If COLEMAN desires to use any Licensee Marks in connection with this provision, other than on the POWERMATE Web Site, COLEMAN shall, in each instance, obtain Licensee's written approval for use of the Licensee Mark, which consent shall not be unreasonably withheld or delayed.

8.4 Reservation of Rights. The parties acknowledge and agree that (i) each parties' trademarks are and shall remain the sole property of that party; (ii) nothing in this provision shall convey to either party any right of ownership in the other party's trademarks (iii) neither party shall now or in the future contest the validity of the other party's trademarks; and (iv) neither party shall in any manner take any action that could impair the value of, or goodwill associated with, such trademarks. The parties acknowledge and agree that all use of the other party's trademarks by a party shall inure to the benefit of the party whose trademarks are being used.

8.5. Linking.

(a) POWERMATE shall establish and maintain, at its cost, at least one Link from the POWERMATE Web Site to the Licensee web page that promotes and markets the Licensed Products.

(b) Licensee shall establish and maintain, at its cost, at least one Link from Licensee's home page to the POWERMATE Web Site, to a particular web page designated by COLEMAN. Further, with COLEMAN's consent, Licensee may establish, at its cost, additional Links from the Licensee Web Site to the POWERMATE Web Site.

8.6 Joint Marketing Efforts.

(a) Where appropriate and at COLEMAN's discretion, COLEMAN may periodically feature Licensee's Web Site and the Licensed Products on the POWERMATE Web Site and in other COLEMAN marketing programs and marketing materials.

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(b) Where appropriate and with COLEMAN's approval, Licensee will periodically feature the Licensed Products and the COLEMAN Web Site on the Licensee Web Site and in its marketing programs and marketing materials.

(c) COLEMAN and Licensee shall participate in joint sales and marketing discussions at mutually agreed times and locations to discuss how the parties can participate in additional joint marketing and business development opportunities.

## 9. EXPLOITATION, MARKETING AND ADVERTISING

9.1 Promotion. Licensee shall use its best efforts to develop, manufacture, promote and sell the Licensed Products in the Territory and to fill orders promptly in compliance with all legal requirements. Licensee shall diligently and continuously manufacture, distribute, promote and sell the Licensed Products during the Initial Term and any Renewal term.

9.2 Marketing Plan. Licensee will develop a Sales and Marketing Plan for the introduction and growth of the Licensed Products on an annual basis. At least four (4) months prior to the beginning of each Contract Year, Licensee shall submit to COLEMAN a plan for the marketing, advertising and sales activities anticipated for the subsequent Contract Year, including trade and consumer advertising, sales promotion, publicity, public relations and special events (trade shows, in-store activities, etc.) along with projected gross and net sales for each Product Category of Licensed Products in each separate territory. COLEMAN shall provide written comments on, or its approval of, the marketing plan within fifteen (15) business days of receipt. Licensee shall use its best efforts to address COLEMAN's comments and/or concerns and resubmit the Marketing Plan in response to COLEMAN'S comments within fifteen (15) business days of receipt of COLEMAN's comments.

9.3 Sales Forecasts. In addition to an annual Sales Plan, Licensee shall provide COLEMAN sales forecasts for requested designated periods by Product Category, Territories and/or accounts within five (5) business days after the request of COLEMAN.

9.4 Trade and Consumer Advertising. During each Contract Year, Licensee will spend five (5%) percent of its forecasted Sales for the Contract Year or of its Net Sales of Licensed Products during the preceding Contract Year, whichever is higher, for trade and consumer advertising and promotion. Licensee shall include an itemized statement of all moneys spent by it for advertising and promotion during the preceding Contract Year with its last month's Royalty Report in each Contract Year. Licensee shall also promptly furnish COLEMAN with a copy of all advertising and such other proof of advertising expenditures as COLEMAN may reasonably request from time to time. For the purposes of this paragraph, "advertising" means the portion of direct costs incurred by Licensee in connection with newspaper, magazine and other

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print advertising; direct mail advertising; radio and television advertising; Internet web sites; and promotional materials, displays and other point-of-sale materials displaying the Licensed Products. The cost of advertising includes design, production, agency and placement costs. To the extent that these expenditures do not equal or exceed the amount specified by this paragraph for the Contract Year, Licensee shall pay COLEMAN the amount of the deficiency as an additional royalty in conjunction with the final payment due for that Contract Year. Licensee shall also reasonably cooperate with COLEMAN in any multiple product advertising, which COLEMAN wishes to conduct if it is at no cost to Licensee.

9.5 Mailing Lists. During the Initial Term and any Renewal Term of this Agreement, Licensee shall use reasonable commercial efforts to build and maintain mailing lists of consumers who have purchased or inquired about the Licensed Products through the use of warranty registration cards, survey cards, telephone inquiry, etc. The mailing lists shall include the consumer's name, mailing address and E-mail. Six (6) months following the Effective Date of this Agreement, and every six (6) months thereafter, Licensee shall supply COLEMAN with complete and current mailing lists of consumers of the Licensed Products. COLEMAN shall have the unrestricted right and license to use such mailing lists and information to promote, market and sell any and all products and services of COLEMAN and its affiliated companies.

## 10. WARRANTIES AND REPRESENTATIONS

10.14 COLEMAN's Authority. COLEMAN represents and warrants that; (i) it is a corporation duly organized, validly existing and in good standing under the laws of the State of Delaware and has all requisite corporate power and authority to enter into and perform this Agreement and the transactions contemplated hereby; (ii) all requisite corporate action on the part of COLEMAN has been completed for the authorization of the execution and delivery of this Agreement and the performance of the other transactions hereunder; (iii) this Agreement is, and such other transactions will be, valid and binding obligations of COLEMAN, enforceable in accordance with their respective terms; and (iv) the execution and delivery of this Agreement by COLEMAN and the consummation of the transactions contemplated hereby do not and will not violate the provisions of COLEMAN's Articles of Incorporation or By-Laws or the provisions of any note of which COLEMAN is the maker or of any indenture, agreement, or other instrument to which COLEMAN is a party.

10.22 Title to Licensed Trademarks. COLEMAN knows of no right held by any third party adverse to the grant of the license hereunder for use of the Licensed Trademarks in conjunction with the Licensed Products in the Territory.

10.33 Licensee's Authority. Licensee represents and warrants that; (i) it is a corporation duly organized, validly existing and in good standing under the laws of the State of New Jersey and has all

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requisite corporate power and authority to enter into and perform this Agreement and the transactions contemplated hereby; (ii) all requisite corporate action on the part of Licensee has been completed for the authorization of the execution and delivery of this Agreement and the performance of the other transactions hereunder; (iii) this Agreement is, and such other transactions will be, valid and binding obligations of Licensee, enforceable in accordance with their respective terms; and (iv) the execution and delivery of this Agreement by Licensee and the consummation of the transactions contemplated hereby do not and will not violate the provisions of Licensee's Articles of Incorporation or By-Laws or the provisions of any note of which Licensee is the maker or of any indenture, agreement, or other instrument to which Licensee is a party.

10.44 Warranties and Representations. Licensee acknowledges that COLEMAN has made no warranties or representations, other than as set forth in this Section, to induce Licensee to enter into this Agreement, including without limitation, any statement with respect to the validity, enforceability or coverage of the Licensed Trademarks, with respect to the Licensed Products.

10.5 Merchantability. Licensee warrants that the Licensed Products shall be of good and merchantable quality, free from defects in material and workmanship, and strictly conform to the specifications and standards of Paragraph 6 hereof.

10.6. Warranty and Service. Licensee shall provide warranty protection for the Licensed Products at a level, scope and duration equal to or greater than that offered by competitors for products similar to the Licensed Products but in no case less than one (1) year. As part of supporting and servicing such warranty obligations, Licensee shall establish and maintain a dedicated brand customer service "800" number for responding to customer inquiries, complaints and other matters to adequately service the purchasers of the Licensed Products during the Initial Term or Renewal Term of this Agreement and for the life of the longest warranty offered or one (1) year after termination of this Agreement, whichever is longer.

10.7 Survival. Licensee acknowledges that its warranties, representations or acknowledgments set forth in this Agreement shall be effective during the Term of this Agreement and that Sections 7.3, 7.4, 7.5, 7.6, 7.7, 7.8, 10.4, 12.3, 13.2, 14.1, 15.1, 15.2, and 15.7 shall survive termination of this Agreement for any reason, including without limitation, the breach thereof by either or both Licensee and COLEMAN.

## 11. INFRINGEMENT

11.14 Notification of Infringement. Licensee will immediately notify COLEMAN in writing of any actual or alleged infringement, misappropriation or imitation by third parties of the Licensed Trademarks. Promptly after COLEMAN receives such notice, it shall evaluate the matter; however, COLEMAN shall

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have no obligation to take any action and shall have the sole right to determine whether or not any action shall be taken on account of any such infringement, misappropriation or imitation. Licensee shall not take any action on such account without obtaining the prior express written permission of COLEMAN. If deemed necessary or desirable by COLEMAN, Licensee shall be entitled to join COLEMAN as a party to any such litigation it brings; however, any award of damages from such litigation shall belong solely to COLEMAN.

**11.22 Licensee Cooperation.** Licensee shall cooperate and provide any documents and personnel reasonably necessary for COLEMAN to confirm its right, title and interest in and to the Licensed Trademarks and to defend the Licensed Trademarks in any litigation or proceeding. COLEMAN shall be obligated to pay only the reasonable out-of-pocket costs of such cooperation, which shall not include attorneys fees, executive time, first class fares or the like.

## **12. TERMINATION & RENEWAL**

**12.1 Termination & Renewal.** This Agreement shall terminate on the Initial Expiration Date except as follows. In the event that; (i) Licensee's sales and royalties in each Contract Year have exceeded the amounts set forth in Section 3; (ii) Licensee's sales during the Initial Term have shown increases each Contract Year; (iii) Licensee has met all other conditions and obligations of this agreement; and (iv) Licensee has given COLEMAN written notice of its commitment to renew this Agreement at least six (6) months prior to the Initial Expiration Date, this Agreement shall be automatically renewed for a period of three (3) years and shall be deemed to have a Renewal Expiration date of February 28, 2007.

**12.2 Other Events of Termination.** This Agreement may be terminated at COLEMAN's option upon the occurrence of any of the following events; (i) Licensee fails to perform or fulfill any term or obligation of this Agreement in the time and manner provided, and if such default shall continue for thirty (30) days after written notice thereof. Such right to terminate this Agreement shall be in addition to and shall not be prejudicial to any right or remedies, at law or in equity, which COLEMAN may have on account of such default; (ii) If Licensee becomes insolvent, makes an assignment for the benefit of creditors, adjudged bankrupt, or if a receiver or trustee of the property of Licensee shall be appointed; or (iii) If Licensee fails to pay any of the royalties due hereunder within ten (10) days after COLEMAN's notice of such failure.

**12.3 Effect of Termination.** Upon expiration or termination of this Agreement for any reason, Licensee shall:

- (i) immediately cease manufacture, sale, distribution or use of the Licensed Products and any advertising, promotional and packaging materials, labels, literature, stationary or other items bearing the Licensed Trademarks. In the event the expiration or termination of this Agreement is

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without the fault of Licensee, Licensee shall have six (6) months after expiration or termination to dispose of its remaining inventory of Licensed Products on hand or in process of manufacturing, at the date of termination or expiration in accordance with the provisions of this Agreement;

(ii) have no right to preclude COLEMAN from immediately using or licensing others to use the Licensed Trademarks for the Licensed Products;

(iii) provide COLEMAN within thirty (30) days thereafter with a statement indicating the number and description of Licensed Products that it has on hand, or is in the process of manufacturing, as of the date of expiration or termination. COLEMAN shall have the option of conducting a physical inventory in order to ascertain or verify such inventory and/or statement and COLEMAN shall have the right at its sole discretion to purchase such inventory at cost or its market value, whichever is lower. In such event Licensee shall forfeit its rights hereunder to dispose of such inventory in accordance with this Section;

(iv) deliver to COLEMAN within thirty (30) days after the sale of any inventory permitted hereunder, free of any charge to COLEMAN, all advertising, labels and promotional materials or the like bearing the Licensed Trademarks;

(v) permit COLEMAN's authorized representatives to inspect Licensee's books and records in accordance with and for the purposes set forth in this Agreement for a period of three (3) years thereafter; and

(vi) account to COLEMAN and make the payments called for in this Agreement within thirty (30) days, including any unpaid Annual Minimum Royalties for the remainder of any Contract Year, from the last reported period up to and including the date of termination and monthly thereafter for any permitted inventory sales.

12.4. Termination Upon Change of Business. If (i) Licensee sells, or otherwise disposes of, all or substantially all of Licensee's business or assets to a third party or parties; or (ii) effective control of Licensee is transferred, whether in a single transaction or in a series of transactions, and whether directly or indirectly without COLEMAN's prior written consent, then COLEMAN shall have the right, without prejudice to any other rights it may have, at anytime thereafter to terminate this Agreement, effective immediately upon giving written notice to Licensee. COLEMAN's decision to terminate the Agreement in the event of such transaction(s) shall be made in its sole discretion, and Licensee shall have no right to challenge any such determination. 12.5 Early Termination. Licensee shall have the right to terminate this Agreement early during the Initial Term by giving COLEMAN one years advance written notice of its intention to terminate. If terminated in accordance with this paragraph, Licensee shall be obligated to pay Coleman all amounts already due at the time of providing notice (including a pro rate share of any Minimum Royalties up until the date of providing notice to COLEMAN) and in addition, any actual royalties due on its sales of Licensed

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Products during the one year notice period or the Minimum Royalties due for such one year notice period, which ever is greater.

### 13. INDEMNIFICATION

13.14 By COLEMAN. COLEMAN agrees to indemnify Licensee and its officers, directors, employees, and/or agents and hold them harmless against claims, demands, causes of action and judgments (including reasonable attorney's fees, expert fees, court costs, and accountants) brought by a third party solely alleging that Licensee's use of the Licensed Trademarks as authorized under and in accordance with this Agreement infringes such third party's trademark rights, provided that; (i) Licensee gives COLEMAN notice of the claim within fifteen (15) business days after notification of such a claim; and (ii) permits COLEMAN to undertake and conduct the defense of such claim with attorneys of its own selection. COLEMAN shall have no duty to indemnify or otherwise hold harmless Licensee or its officers, directors, employees and/or agents in the event such a claim is caused by Licensee's breach of this Agreement or any negligence on the part of the Licensee.

13.22 By Licensee. Except for claims based on use of the Licensed Trademarks as set forth in Paragraph 13.1, Licensee agrees to indemnify COLEMAN and its affiliated companies and their officers, directors, employees and/or agents and shall hold them harmless against any and all claims, demands, causes of action and judgments (including reasonable attorneys fees, expert fees, court costs, accounts and executives time) arising out of; (i) Licensee's manufacture, distribution, shipment, labeling, advertising, promotion, offering for sale and/or sale of Licensed Products and/or the promotional and packaging material therefore; (ii) any allegedly unauthorized use of any trademark, patent, know-how, trade secret, process, idea, method, article of manufacture or proprietary right of a third party by Licensee in connection with the Licensed Products; (iii) Licensee's performing or not performing any activities under any of the terms and provisions of this Agreement or Licensee's activities in any way connected with such performance or non-performance; (iv) any defect or health hazard in any Licensed Product; or (v) any breach by Licensee of this Agreement. COLEMAN agrees to give notice to Licensee within fifteen (15) business days after notification of each such claim. COLEMAN shall have the right to undertake and conduct the defense of any cause of action and handle any such claim or demand with attorneys of its own selection.

13.33 Implied Warranties. The representations and warranties contained in this Agreement are in lieu of all other representations, warranties or guarantees, express or implied, which could be deemed applicable to this license or the Licensed Products. Licensee acknowledges that COLEMAN has made no warranties with respect to the Licensed Products, which are solely the responsibility of Licensee. NO

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EXPRESS WARRANTIES AND NO IMPLIED WARRANTIES AS TO MERCHANTABILITY, FITNESS FOR ANY PARTICULAR PURPOSE OR USE OR OTHERWISE WITH RESPECT TO THE LICENSED PRODUCTS SHALL APPLY NOR HAVE ANY BEEN MADE BY COLEMAN. LICENSEE HEREBY WAIVES ALL SUCH WARRANTIES OR GUARANTIES, EXPRESS OR IMPLIED, ARISING BY LAW OR OTHERWISE.

#### 14. INSURANCE

14.1 Insurance. Licensee shall obtain and maintain at its own expense, commencing at least thirty (30) days prior to the date of any distribution or sale of Licensed Products and for at least three (3) years after termination of this Agreement, comprehensive product and general liability insurance naming COLEMAN and its subsidiaries, affiliated companies and their respective officers, directors, employees and agents as an insured party. Licensee shall obtain insurance from a qualified insurance carrier having a rating of "A" class "X" or better according to Best's Insurance Reports and Standard and Poors, in the amount of at least five million dollars (\$5,000,000.00) per occurrence and five million dollars (\$5,000,000) in the annual aggregate. Such insurer shall have a minimum A.M. Best Rating of A-X or a minimum Standard & Poors rating of A. Licensee's product liability insurance shall be written on an occurrence form with minimum policy limits of at least five million dollars (\$5,000,000) per occurrence and five million dollars (\$5,000,000) in the aggregate, and shall include the following extensions; (i) blanket contractual coverage, (ii) a severability of interest clause, and (iii) worldwide coverage territory. If the Licensee is a non-US entity, coverage shall extend to suits and/or claims made in The United States of America. All of Licensee's insurance deductibles, self-insured exposures, uninsured, or underinsured exposures shall be at Licensee's risk and are for Licensee's account.

14.2. Certificates of Insurance. Licensee shall furnish COLEMAN with certificates of insurance evidencing the coverage and minimum limits set forth in Paragraph 14.1 prior to or concurrent with the Effective Date of this Agreement, during the term of this Agreement, and for a period of ten (10) years after the date of Licensee's last sale of Licensed Products under this Agreement. Failure of Licensee to secure the required coverage and minimum limits, or the failure to supply certificates of insurance properly evidencing such coverage and minimum limits shall in no way relieve Licensee from its obligations herein. Licensee shall, upon request from COLEMAN supply COLEMAN with certified copies of the insurance policies required in Paragraph 14.1.

14.3 Additional Insured. All of Licensee's insurance required in Paragraph 14.1 shall name COLEMAN, its subsidiaries and affiliated entities and their respective officers, directors, employees, stockholders, and agents as additional insured and shall contain provisions that Licensee's

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insurers shall have no right of recovery or subrogation against COLEMAN, its subsidiaries and affiliated entities, and their respective officers, directors, employees, stockholders and insurers. All of Licensee's insurance policies required in Paragraph 14.1 shall provide that thirty (30) days written notice will be given to COLEMAN prior to any material change in, or cancellation of, such insurance policies. All of Licensee's insurance required in Paragraph 14.1 shall be primary to, and shall receive no contribution from any other insurance maintained by, on behalf of, or benefiting COLEMAN its subsidiaries and affiliated entities, and their respective officers, directors, employees, and stockholders.

14.4 Additional Coverage. COLEMAN, in its sole discretion, reserves the right to require additional coverage from time to time which may be reasonable considering the use of the Licensed Products and the area in which they are distributed.

## 15. MISCELLANEOUS

15.1 Right to Confidential Information. Licensee shall have no right of access to any of COLEMAN's confidential or proprietary information, including any formula, pattern, compilation, program, device, method, technique, process or file and waives all right to access any such information in the course of litigation, arbitration or otherwise, except for information related to a litigation or arbitration relating to use of the Licensed Trademarks.

15.2 Confidential Information. During the terms of this Agreement, Licensee may have access to certain confidential and proprietary information of COLEMAN, including but not limited to business plans, proposed advertising, designs, sales records, financial data and manufacturers know-how. Recognizing that such information represents valuable assets and property of COLEMAN and the harm that may befall COLEMAN if such information is disclosed, Licensee agrees to hold such information in strict confidence and not to use or otherwise disclose such information to third parties without having received the prior written consent of COLEMAN. The obligation of confidentiality created herein shall not apply to: (i) information in the public domain, provided it did not come into the public domain through the unauthorized acts of Licensee; or (ii) to information which was in Licensee's possession prior to its disclosure to Licensee by COLEMAN.

15.3 Relationship. Nothing in this Agreement shall be construed to create an agency, partnership, franchise/franchiser or joint venture relationship between the parties. Licensee is not authorized to incur any financial obligations on COLEMAN's behalf.

15.4 Force Majeure. Neither Party shall be liable to the other for any loss, injury, delay or damage whatsoever suffered or incurred by the other party due to causes beyond such party's control

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including acts of God, war, sabotage, and any other causes which cannot be controlled by such party but excluding strikes by employees under Licensee's or its subcontractors control.

15.5 Interest. If Licensee fails to timely make any payments due under this Agreement, Licensee shall pay interest on the unpaid balance from the date such payment becomes due until the date the entire amount is paid in full at a rate equal to three percentage (3%) points over the prime rate being charged in New York, New York by Citibank, N.A. as of the close of business on the date the payment first becomes due. The interest payments shall be in addition to any other remedies due COLEMAN by law or equity.

15.6 Notices in Writing. Any notice, consent, demand or other communication required under this Agreement must be in writing and mailed by registered or certified mail (return receipt requested) or sent by commercial courier service with delivery confirmed to the parties at the following addresses, or at such other address as may be designated in writing by any party in a notice to the other given in the manner prescribed, and will be deemed given on the date such notice is received.

If to COLEMAN:

Coleman Powermate, Inc.  
3901 Liberty Street Road  
Aurora, IL 60504  
Attn.: President Licensing Division  
Fax No.: 561-912-4182

With a copy to:

The Coleman Company, Inc.  
3600 North Hydraulic  
Wichita, Kansas 67202  
Attn: General Counsel

If to Licensee:

TEAM PRODUCTS INTERNATIONAL, INC.  
85 Fulton Street  
Boonton, NJ 07005  
Fax No: (973) 316-2518

with a copy to:

Roy E. Kurnos, Esq.

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Belsole and Kurnos, LLC

3 Prospect Street

Morristown, NJ 07960

Fax No: (973) 539-8464

15.7 Applicable Law and Jurisdiction. This Agreement shall be deemed to have been made, entered into and finally executed and delivered in the State of Kansas and all rights and duties of the parties hereto shall be governed, controlled, interpreted and defined by and under the laws of the State of Kansas, without giving effect to any choice of law or conflict of law provisions. All disputes related to this Agreement shall be governed by the laws of the State of Kansas and each party irrevocably submits to the exclusive jurisdiction of the courts of proper subject matter jurisdiction sitting in the State of Kansas, solely for the purpose of interpreting this Agreement and adjudicating any dispute arising hereunder.

15.8 Equitable Relief. Licensee acknowledges and agrees that; (a) its failure to perform its obligations under this Agreement and its breach of any provision hereof, in any instance, shall result in immediate and irreparable damage to COLEMAN; (b) no adequate remedy at law exists for such damage; and (c) in the event of such failure or breach, COLEMAN shall be entitled to equitable relief by way of temporary, preliminary and permanent injunctions, and such other and further relief as any court of competent jurisdiction may deem just and proper, in addition to, and without prejudice to, any other relief to which such party may be entitled.

15.9 Waiver. Waiver by a party in a particular instance of any of its rights under this Agreement shall not be considered as a continuing waiver of such rights or of any other right.

15.10 Validity. In the event that any one or more provisions or terms of this Agreement are found invalid or unenforceable, the validity or enforceability of any remaining provisions or terms of this Agreement shall not in any way be affected or impaired unless such provisions or terms are found to be of importance to the consideration in entering into this Agreement.

15.11 Entire Agreement. This Agreement sets forth the entire agreement and understanding between the parties as to its subject matter, and supersedes all prior agreements and understandings between them. Neither party shall be bound by any conditions, definitions, warranties or representations with respect to the subject matter of this Agreement, except as duly set forth in a written document which is dated on, as of, or subsequent to the date of this Agreement, and signed by parties. This Agreement may be executed in two or more counterparts, each of which shall be deemed an original and shall bind the signatories.

15.12 Benefit. This Agreement and the license granted herein shall be binding upon and inure to the benefit of the parties and their respective successors.

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15.13 Titles, Numbering & Counterparts. Any titles or numbering included in this Agreement are provided for the convenience of the parties and are not to be used in construing this Agreement.

IN WITNESS WHEREOF, the Parties have caused this Agreement to be executed by their respective officers duly authorized as of the Effective Date of execution.

COLEMAN POWERMATE, INC.

By: [Signature]

Typed Name: Steven P Berreth

Title: President Licensing

Date: 4/03/02

TEAM PRODUCTS INTERNATIONAL, INC.

By: [Signature]

Typed Name: STEPHEN K LEVINE

Title: CHAIRMAN

Date: 4/1/02

THE COLEMAN COMPANY, INC

By: [Signature]

Typed Name: Steven P. Berreth

Title: President Licensing

Date: 4/03/02



## LICENSE AGREEMENT

This License Agreement ("Agreement") is made and entered into as of August 1, 2002 ("Effective Date") by and between BRK BRANDS, INC. ("BRK"), a Delaware corporation, with an office at 3901 Liberty Street Road, Aurora, IL 60504, and Team Products International, Inc. ("Licensee"), a New Jersey corporation, with an office at 3 Entin Road, Parsippany, N.J. 07054.

### BASIC INFORMATION

The information in this Section appears here for ease of reference and is not to be used to construe any terms of this Agreement. The detailed and binding terms follow this Section.

#### INFORMATION

		<u>Paragraph</u>
LICENSED TRADEMARKS	FIRST ALERT	1.1
LICENSED PRODUCTS	In home and outdoor sonic, ultrasonic and electromagnetic pest repellers which run on a/c or d/c current and can be recharged, or any combination thereof, and battery operated a/c power or chargeable stand alone or portable pest control devices, commonly known as "bug zappers", specifically excluding ultra sonic mosquito repellers.	1.2
TERRITORY	USA and Canada	1.3
INITIAL TERM	2 Contract Years	1.10
INITIAL EXPIRATION	12/31/2004	1.8
RENEWAL TERM	3 Contract Years	1.11
RENEWAL EXPIRATION	12/31/2007	1.9
ADVANCE:	\$50,000	3.1
ROYALTY RATE:	Contract Year 2002/2003:	3.2
	6% of Net Sales	
	Contract Year 2004: 7% of	
	Net Sales	

MINIMUM ROYALTY:

Contract Year 2002/2003: 3.3

~~\$125,000~~ \$85,000 *for OK MC*

Contract Year 2004: ~~\$225,000~~

*\$150,000 for OK MC*

MINIMUM NET SALES:

Contract Year 2002/2003: 3.4

\$2,100,000

Contract Year 2004:

\$3,750,000

ROYALTY PAYMENT DATE:

30th Day After end of each 4.2

Contract Quarter

### RECITALS

WHEREAS, BRK owns sufficient right, title and interest in and to the Licensed Trademarks to grant Licensee the rights set forth below; and

WHEREAS, Licensee desires to use the Licensed Trademarks with the Licensed Products in the Territory and BRK desires to grant Licensee a license to do so.

NOW, THEREFORE, in consideration of the terms and conditions set forth, the parties agree as follows:

### 1. DEFINITIONS

As used in this Agreement, the following terms shall have the following meanings:

1.1 "Licensed Trademarks" means the following trademarks in the exact form shown below:

***First  
Alert***

1.2 "Licensed Products" means only the following products bearing the Licensed Trademarks:

In home and outdoor sonic, ultrasonic and electromagnetic pest repellers which run on a/c or d/c current and can be recharged, or any combination thereof, and battery operated a/c power or chargeable stand alone or portable pest control devices, commonly known as "bug zappers", specifically excluding ultra sonic mosquito repellers.

1.3 "Territory" means only the following countries:

United States of America, its territories, possessions and commonwealths and Canada.

1.4 "Contract Year" means each calendar year this Agreement is in effect, except for the Initial Year which shall commence on August 1, 2002 and ends on December 31, 2003.

1.5 "Contract Month" means each calendar month of each Contract Year.

1.6 "Contract Quarter" means each calendar quarter of each Contract Year.

1.7 "Effective Date" means August 1, 2002.

1.8 "Initial Expiration Date" means December 31, 2004.

1.9 "Renewal Expiration Date" means December 31, 2007.

1.10 "Initial Term" means the period from the Effective Date to the Initial Expiration Date.

1.11 "Renewal Term" means the period from the Initial Expiration Date to the Renewal Expiration Date.

1.12 "Net Sales" means Licensee's total invoiced sales price of Licensed Products to its customers, excluding only state and federal taxes, actual freight costs paid by Licensee, and returns evidenced by credit memoranda, with no deductions for early payment, bad debts, advertising allowances, special promotions of any kind, costs incurred in manufacture, advertising or promotion.

## 2. GRANT OF LICENSE, TERRITORY AND TERM

2.1 License. BRK hereby grants Licensee and Licensee hereby accepts a personal, non-transferable, non-assignable and non-divisible, non-exclusive License to use the Licensed Trademarks upon and in connection with the sale and distribution of the Licensed Products in the Territory. Licensee shall have no right to sublicense the Licensed Trademarks or to combine the Licensed Trademarks with any other mark. Licensee agrees not to use the Licensed Trademarks in combination with any other trademarks, designs or logos in any manner unless pre-approved in writing by BRK.

2.2 Territory Limitation. Licensee agrees to use the Licensed Trademarks, only in the Territory, directly or indirectly and agrees not to knowingly sell the Licensed Products to third parties who intend to or are likely to resell them outside the Territory.

2.3 Initial Term. The Initial Term commences on the Effective Date and terminates automatically on the Initial Expiration Date unless otherwise terminated in accordance with the terms and conditions of this Agreement.

2.4 Competing Licenses. With the exception of Licensee's agreement to sell the Licensed Products under the brand name SUNBEAM, Licensee shall not serve as a Licensee of

any third parties trademarks for use in conjunction with any products that directly compete with the Licensed Products.

2.5 Renewal Term. This Agreement may be renewed for three (3) year Renewal Term provided Licensee has met all the terms and conditions of this Agreement including but not limited to Paragraph 12.1. If Licensee has not met all the terms and conditions of this Agreement then this Agreement shall automatically terminate without notice on the Initial Expiration Date unless renewed upon the written notice of BRK, at its option, within thirty (30) days after BRK'S receipt of the Contract Year end Royalty Report.

### 3. ADVANCE AND ROYALTIES

3.1 Advance. Licensee shall pay BRK a non-refundable Up-front fee of fifty thousand dollars (\$50,000) upon execution of this Agreement. The Up-front Fee shall be applied against future Royalties.

3.2 Royalty. Licensee shall pay BRK a Royalty of six percent (6%) of Net Sales of Licensed Products during Contract Year 2002/2003, and Licensee shall pay a Royalty of seven percent (7%) of Net Sales of Licensed Products during the remaining Term. Licensee agrees not to dispose of the Licensed Products through free or discounted promotions unless pre-approved in writing by BRK. For the purposes of this Agreement, Licensed Products shall be deemed sold as of the date invoiced or shipped which ever occurs first.

3.3 Minimum Royalty. Licensee shall pay BRK annual Minimum Royalties as follows:

Contract Year- 2002/2003 ----- \$125,000

\$85,000

Contract Year 2004 ----- \$225,000

\$150,000

Licensee shall pay BRK either the actual Royalty due for any Contract Quarter or one fourth of the Minimum Royalty for the respective Contract Year, which ever is higher, within thirty (30) days after the end of each Contract Quarter. The Royalty payments for each Contract Quarter shall be the greater of: (a) the Royalty payable for the Contract Year to the end of such Contract Quarter or (b) the aggregate Minimum Royalty payable for the Contract Year to the end of such Contract Quarter, in each case minus all Royalty payments previously paid for such Contract Year. If Licensee fails to meet the Minimum Royalties in any Contract Year, BRK shall have the option to immediately terminate this Agreement (without any right of Licensee to cure) by giving Licensee written notice within sixty (60) days after receiving Licensee's final Royalty Report for the previous Contract Year.

3.4 Minimum Net Sales. Licensee agrees to meet the following Minimum Net Sales of Licensed Products in each Contract Year:

Contract Year 2002/2003 ----\$2,100,000

Contract Year 2004 ----- \$3,750,000

If Licensee fails to meet the Minimum Net Sales in any Contract Year, BRK shall have the option to immediately terminate this Agreement by giving Licensee written notice within sixty (60) days after receiving Licensee's final Royalty Report for the previous Contract Year.

### 3.5 Renewal Minimum Royalty.

If this Agreement is renewed in Accordance with the terms herein, Licensee shall pay BRK annual Minimum Royalties as follows:

Contract Year 2005 ----- \$300,000

Contract Year 2006 ----- \$400,000

Contract Year 2007 ----- \$500,000

Licensee shall pay BRK either the actual Royalty due for any Contract Quarter or one fourth of the Minimum Royalty for the respective Contract Year, which ever is higher, within thirty (30) days after the end of each Contract Quarter. The Royalty payments for each Contract Quarter shall be the greater of: (a) the Royalty payable for the Contract Year to the end of such Contract Quarter or (b) the aggregate Minimum Royalty payable for the Contract Year to the end of such Contract Quarter, in each case minus all Royalty payments previously paid for such Contract Year. If Licensee fails to meet the Minimum Royalties in any Contract Year, BRK shall have the option to immediately terminate this Agreement (without any right of Licensee to cure) by giving Licensee written notice within sixty (60) days after receiving Licensee's final Royalty Report for the previous Contract Year.

3.6 Renewal Minimum Net Sales. If this Agreement is renewed in Accordance with the terms herein, Licensee agrees to meet the following Renewal Minimum Net Sales of Licensed Products in each Contract Year:

Contract Year 2005 ----- \$5,000,000

Contract Year 2006 ----- \$6,600,000

Contract Year 2007 ----- \$8,300,000

If Licensee fails to meet the Minimum Net Sales in any Contract Year, BRK shall have the option to immediately terminate this Agreement by giving Licensee written notice within sixty (60) days after receiving Licensee's final Royalty Report for the previous Contract Year.

## 4. ROYALTY REPORTS

4.1 Books and Records. Licensee shall maintain invoices and books of account for the sale, advertising and promotion of the Licensed Products for a period of at least three (3) years after

termination of this Agreement. Such books of account shall be complete and accurate in accordance with generally accepted accounting practices. BRK or its designee shall have the right to enter Licensee's premises and inspect all books and records of Licensee relating to the sales, advertising and promotion of the Licensed Products within five (5) business days after notice to Licensee during the Initial Term and any Renewal Term and for three (3) years after termination. BRK's acceptance of any statement furnished or Royalty paid shall not preclude BRK from questioning its correctness and, in the event that underpayments are discovered, Licensee shall immediately render payment plus pay interest at a rate of the Prime Rate plus three percent (3%) from the date the payment was due. If the underpayments are more than five percent (5%), then Licensee shall also reimburse BRK for the costs of the audit and BRK shall have the option to terminate this Agreement upon thirty (30) days written notice.

4.2 Reports And Payments. Within thirty(30) days after the last day of each Contract Quarter, Licensee shall give BRK a true and accurate Royalty Report in a format provided by BRK and verified by an officer of Licensee, stating for the preceding Contract Quarter at least the following:

- (i) The total dollar gross and Net Sales of Licensed Products by Product Category, Territory and Customer;
- (ii) The total unit sales of Licensed Products by Product Category, Territory and customer;
- (iii) The calculated Royalty payment due; and
- (iv) Such other explanatory information as BRK may reasonably require by giving written notice to Licensee.

Licensee shall pay BRK any Royalties due simultaneously with the delivery of each such Royalty Reports. All payments shall be made in US dollars by check or draft, payable to BRK or wire transferred to BRK's account at a bank designated by BRK, at BRK's option. Licensee's failure to deliver the required Royalty Reports and royalty payments shall constitute a material breach of this Agreement.

## 5. REVERSION

5.1 Territory Reversion. If Licensee's sales of Licensed Products in Canada fails to meet at least ten percent (10%) of the total Net Sales in each Contract Year, then BRK shall have the option at its sole discretion to remove the country from the definition of Territory in any country that Licensee fails to meet the Minimum Net Sales Amounts by giving Licensee written notice within

sixty (60) days after receiving Licensee's final Royalty Report for the previous Contract Year.

5.2 Other Licensees. Nothing in this Agreement shall be construed to prevent BRK from granting rights to a third party to use any trademarks including the Licensed Trademarks in the Territory for the same or similar products to the Licensed Products.

## 6. MANUFACTURE AND APPROVAL OF LICENSED PRODUCTS

6.1 Best Efforts. Licensee shall use its best efforts to market, promote, manufacture, (or have manufactured for it by subcontractors approved by BRK) and sell Licensed Products that are of a high quality consistent with the high standards and goodwill of the Licensed Trademarks. Licensee acknowledges that its best efforts to exploit, advertise, promote, market and sell Licensed Products throughout the entire term of this Agreement is the essence of this Agreement and is essential to enhance and preserve the reputation of the Licensed Trademarks.

6.2 Quality. All Licensed Products shall be of first-class commercial quality and shall conform to specific quality standards adopted by BRK. BRK reserves the right to modify its quality standards from time to time by reasonable written notice to Licensee. Each Licensed Product and the activities of Licensee under this Agreement shall only enhance and promote, but in no manner reflect adversely upon, the image, goodwill and reputation of BRK or a Licensed Trademark. If Licensee does not properly use the Licensed Trademarks on the Licensed Products or the quality of these items do not conform to the standards required by this Agreement, then, upon receipt of written notice from BRK identifying its objection, Licensee shall immediately cease the production, sale, advertising and distribution of the non-conforming Licensed Products.

6.3 Product Distinction. Licensee shall distinguish the Licensed Products from all other products manufactured and sold by Licensee and shall avoid confusing similarity between the Licensed Products and other products sold by Licensee.

6.4 Facilities. Licensee shall maintain adequate facilities and qualified personnel to assure and perpetuate the quality of the Licensed Products consistent with the high standards of BRK and the goodwill associated with the Licensed Trademarks. BRK or its duly authorized representative shall have the right, during reasonable business hours, to inspect Licensee's or its subcontractors manufacturing and distribution facilities, observe the manufacturing, warehousing and other processes involving any Licensed Product, and take samples of finished products or products in process.

6.5 Suitability and Testing. Each Licensed Product shall be of a high quality and of such style, appearance and quality as to be well suited for exploitation in accordance with the

purposes of this Agreement. Licensee shall be responsible for all safety testing and approvals in conformity with the standards and legal requirements applicable to the manufacture, distribution or sale of any Licensed Product. Licensee shall submit each new Licensed Product to an outside testing lab approved by BRK to substantiate the quality of each product in accordance with the following standards. Once during each Contract Year, Licensee shall submit a random sample of each Licensed Product to BRK to allow BRK to check product quality.

6.6 Approvals. Prior to the manufacture, sale and distribution of any Licensed Product and/or use of any label, advertising, promotional (including web sites) or packaging material, Licensee shall submit samples to BRK and obtain BRK's written approval. Such samples shall include but not be limited to two (2) complete samples of each new style or model of Licensed Product; two (2) complete samples of all labels; and two (2) complete samples of all promotional, advertising and packaging materials intended to be used. BRK shall endeavor to approve such samples within ten (10) business days after receipt. Licensee's failure to receive BRK's approval shall be deemed a disapproval of such submitted samples. Licensee may not sell or otherwise distribute any such materials or Licensed Products until written approval is received from BRK. Licensee shall not make any alterations, additions, replacements or improvements to any previously approved Licensed Products or other materials incorporating the Licensed Trademarks without written approval from BRK.

6.7 Distribution Channels. Licensee acknowledges that the Licensed Products are to be sold only in retail stores of high quality, reflecting the prestige of the Licensed Trademarks. Licensee agrees to sell the Licensed Products only to retail outlets in its ordinary course of business and not to jobbers or close-out stores, unless, and then only to the extent that, such sale has been approved in writing by BRK.

6.8 Government Regulations. Licensee will comply with all laws, rules, regulations and requirements of any governmental or administrative body (including, without limitation, the Federal Trade Commission ("FTC"), Federal Communications Commission ("FCC"), U.S. Food and Drug Administration ("FDA"), Environmental Protection Agency ("EPA") and the Consumer Products Safety Commission ("CPSC")), which may be applicable to the manufacture, advertising, merchandising, packaging, registration, publicity, promotion, sales, distribution, shipment, import and export of the Licensed Products and/or its packaging, advertising or promotional materials.

6.9 California Safe Drinking Water and Toxic Enforcement Act of 1986.

Licensee agrees to provide BRK with a complete and accurate Material Safety Data Sheet ("MSDS") for each substance contained in the Licensed Products prior to BRK's approval of such Licensed Product. Licensee agrees to provide BRK with a list of any and all substances

contained in the Licensed Products that are on the California Safe Drinking Water and Toxic Enforcement Act of 1986 (commonly referred to as "Proposition 65") list of chemicals that are known to the State of California to cause cancer, birth defects or other reproductive harm. Licensee is under an ongoing obligation to notify BRK if any substance in the Licensed Products are placed on the list of Proposition 65 chemicals after the Effective Date of this Agreement. Licensee agrees to provide BRK with the results or analysis of any study, test or trial involving exposure to any substances in the Licensed Products by those that use or handle the product. Licensee shall provide on its packaging and promotional materials any "warnings" as required by Proposition 65.

6.10 Banned Substances. Licensee certifies that the Licensed Products do not contain any substance that is banned by the laws, directives or regulations of any governmental entity including, but not limited to, mercury. Licensee certifies that the Licensed Products includes any and all warnings, disclosures, or instructions as necessitated by any foreign, U.S. or state law or regulation including, but not limited to, those warnings, disclosures, and instructions related to batteries, mercury, latex and the California Proposition 65 list of chemicals.

6.11 Ozone depleting chemicals. Licensee certifies that the Licensed Products and the associated packing materials do not contain or are manufactured with ozone depleting chemicals that have been banned by the U.S. Environmental Protection Agency ("EPA") including, but not limited to, hcf-21, hcf-22, and hcf-31.

6.12 Compliance with Labor Laws. If Licensee is a company subject to the United States Fair Labor Standards Act ("FLSA") then Licensee represents and warrants that it is aware of the provisions of the FLSA concerning minimum wage, overtime, and child labor provisions, and further warrants that it will comply with such standards and will not employ oppressive child labor or engage in oppressive industrial home work or any other violation of FLSA in connection with the manufacture of the Licensed Products. If the Licensee is not a company subject to FLSA, then Licensee warrants that it will not employ oppressive child labor or engage in oppressive industrial work in connection with the manufacture of the Licensed Products. In the event that Licensee employs any subcontractors as provided in Paragraph 7.10 hereof, Licensee warrants that it will not hire any subcontractor that does not comply with the foregoing provisions.

BRK reserves the right to investigate any potential violation of law or this provision and, at its discretion, to suspend, discontinue or terminate this Agreement for its failure to comply with any laws applicable to merchandise produced in the United States or any other country, or this provision. This right to investigate includes, but is not limited to the right of BRK, or its representatives, to inspect, without prior notice, Licensee's or its subcontractors manufacturing facilities to ensure

compliance with this Paragraph 6.12.

6.13 Full Cooperation. Licensee will provide immediate assistance to BRK in responding to any inquiry or observation from any governmental agency or standard setting body, will promptly investigate and respond to any allegation the Licensed Products are improperly designed or has failed to perform properly, and will notify BRK of any planned changes to the Licensed Products at least 30 days prior to implementing such change. Licensee will not implement any changes if BRK objects.

## 7. TRADEMARK AND COPYRIGHT OWNERSHIP

7.1 Trademark Use. Whenever Licensee uses a Licensed Trademark that is registered in the country in which the Licensed Products are to be sold, Licensee shall affix on all promotional and packaging material, labels and all Licensed Products the trademark notice "®" or the words "Registered Trademark", or the abbreviation "Reg. TM", legibly and irremovably. Licensee must affix either to the product or label the following notice FIRST ALERT is a registered trademark of The First Alert Trust used under license" If the Licensed Trademark is not registered, Licensee shall affix the notice "TM" in the same manner. At all times, Licensee shall use Licensed Trademarks properly as a trademark, i.e., as a proper adjective and not as a noun or a verb.

7.2 Modifications of Licensed Trademarks. Licensee shall not depart from the form of the Licensed Trademarks set forth in Paragraph 1.1. Licensee acknowledges that BRK may from time to time and without notice modify add or delete certain elements of a Licensed Trademark. BRK does not represent or warrant that any Licensed Trademark will be maintained or used by BRK in any particular fashion. If BRK modifies a Licensed Trademark and gives notice of such modification to Licensee, the rights of Licensee under this Agreement shall extend to the Licensed Trademarks as modified.

7.3 Registrations and Cooperation. BRK has the sole right to apply for and obtain at its own cost appropriate trademark or service mark protection for any Licensed Trademark in any country in the Territory. Licensee agrees to cooperate with BRK in the execution, filing and prosecution of any trademark applications that BRK may choose to file. Licensee agrees to supply BRK, without charge, samples, containers, labels and similar materials which BRK reasonably requests and to execute and deliver to BRK, whether during or after the Initial Term or Renewal term, any documents which BRK requests to confirm BRK's ownership rights, to record this Agreement, or terminate Licensee as a registered user. Licensee appoints BRK as its attorney-in-fact to sign such documents in Licensee's name and to make appropriate disposition of them if Licensee

fails or refuses to do so. BRK shall have no obligation to obtain trademark or service mark protection for any Licensed Trademarks in any country in the Territory.

7.4 Acknowledgment. Licensee acknowledges that nothing herein gives Licensee any right, title or interest in the Licensed Trademarks apart from the License granted hereunder and that the Licensed Trademarks are the sole property of BRK and any and all uses by Licensee of the Licensed Trademarks in the Territory or other jurisdictions shall inure to the benefit of BRK. In no event shall Licensee's use of the Licensed Trademarks be deemed or construed to create or vest any right, title or interest in and to Licensee.

7.5 Validity of Trademarks. Licensee acknowledges that the Licensed Trademarks are valid and enforceable and any registration thereon is duly and validly issued. Licensee represents and warrants that it shall not raise or cause to be raised any questions concerning or objections; (i) to the validity of the Licensed Trademarks; (ii) to any registration thereof or, (iii) to the proprietary rights of BRK on any grounds whatsoever.

7.6 Use or Registration of Trademarks. Licensee represents and warrants that it shall not; (i) seek to register the Licensed Trademarks, or any term, script or device colorably similar thereto, in the Territory or any other jurisdiction; (ii) use the Licensed Trademarks or any term, script or device colorably similar thereto, on any products other than the Licensed Products as permitted under this Agreement; (iii) use the Licensed Trademarks in a manner that impairs BRK's right, title and interest therein or confuses or deceives the purchasing public with respect to the source or origin or standards of quality of the Licensed Products or, (iv) use the Licensed Trademarks in a manner, form or fashion which is not in compliance with the laws and regulations of the respective jurisdictions in the Territory.

7.7 Termination. Upon termination of this Agreement for any reason, Licensee shall cease all use of the Licensed Trademarks in the Territory or any other jurisdiction, or any term, script or device colorably similar thereto on any products in accordance with the provisions of paragraph 12.3

7.8 Injunctive Relief. Licensee acknowledges that should Licensee fail to cease advertising, marketing, manufacturing and shipping of Licensed Products bearing the Licensed Trademarks upon termination in accordance with the terms and conditions of this Agreement, such failure will result in immediate and irreparable injury to BRK. In such a case, in addition to any provable damages, costs and expenses of any proceeding, BRK shall be entitled to equitable relief by way of temporary and permanent injunction and such further relief as any court with jurisdiction may deem just and proper.

7.9 Copyrights. BRK shall own all right title and interest (including but not limited to copyright rights) in and to all advertising, packaging and other promotional documents prepared for the Licensed Products. Licensee agrees to cooperate with BRK in the execution, filing and prosecution of any documents required to confirm BRK's ownership rights in such copyright rights and documents.

7.10 Sub Contractors. To the extent Licensee employs any subcontractors in connection with this Agreement, Licensee shall obtain from each contractor a binding written agreement in substantially the form attached hereto as Exhibit A, which shall contain; (i) an acknowledgement of BRK's absolute ownership of the Licensed Trademarks; and (ii) a disclaimer of any right or claim of said contractor in or to the Licensed Trademarks. Any subcontractor employed by Licensee must comply with the provisions of Paragraph 6.12 hereof. A copy of the written commitment signed by each subcontractor shall be delivered to Licensor within thirty (30) days of the signing. In no event, shall the use of any subcontractor absolve or excuse Licensee from any of its responsibilities to BRK under this Agreement. If at any time BRK provides reasonable evidence to Licensee that any subcontractor which Licensee uses or intends to use has taken action inconsistent with BRK's absolute ownership of the Licensed Trademarks, Licensee shall immediately cease using and shall not thereafter use said subcontractor in connection with this Agreement.

## 8. URL OWNERSHIP AND DOMAIN NAME AND LINKING LICENSE

8.1 URLs. BRK shall own all right title and interest (including but not limited to all intellectual property rights) in any URLs/domain names using the Licensed Trademarks or any variation thereof.

(a) Licensee agrees to advertise, and promote the Licensed Products through a global computer network (hereinafter referred to as the "Internet") in the Territory. Prior to any use of the Licensed Trademarks on the Internet, Licensee shall submit copies of all proposed uses to BRK for written approval.

(b) Licensee shall have no right to and agrees not to register any URL/domain name incorporating the Licensed Trademarks or variations thereof without written consent of BRK.

(c) BRK has the sole right to apply for and obtain at its own cost any URL/domain name including Licensed Trademarks or any variations thereof in any level domain. If Licensee wants to use a URL/domain name incorporating the Licensed Trademarks or any variation thereof, it shall submit a proposed name to BRK. BRK shall at

its sole option approve or disapprove of such URL and register such URL/domain name and license it to Licensee pursuant to the terms set forth in this Article 8 of the Agreement. Licensee agrees to cooperate with BRK in the execution, filing, application and/or registration of a URL/domain name that BRK may choose to register.

(d) If Licensee has prior to the execution of this Agreement registered a URL/domain name incorporating the Licensed Trademarks or variation thereof, Licensee agrees that no rights to such URL/domain name will accrue to Licensee and Licensee will transfer such URL/domain name to BRK immediately upon BRK's request.

8.2 License. BRK hereby grants Licensee and Licensee hereby accepts a personal non-transferable, non-assignable and non-divisible, royalty-free, exclusive License to use the Licensed Trademarks on the web site at URL: http://\_\_\_\_\_ in connection with the sale of the Licensed Products (the "Licensee Web Site") in accordance with the terms and provisions of this Agreement.

8.3 Use of Trademarks. Licensee shall not use the Licensed Trademarks on the Licensee Web Site without BRK's prior written approval. Licensee shall submit copies of the proposed web site graphics and text to BRK for its written approval prior to Licensee placing the Licensed Trademarks on the Licensee Web Site. BRK shall endeavor to approve such samples within ten (10) business days after receipt. Licensee's failure to receive BRK's approval shall be deemed a disapproval of such submitted materials. Licensee shall not make any alterations, additions, replacements or improvements to any previously approval web site graphics or text incorporating the Licensed Trademarks without the prior written approval of BRK.

8.4 Licensee Trademark License. Licensee hereby grants to BRK a limited license to use Licensee's trademarks as set forth on Exhibit B (the "Licensee Marks") on the BRK web site solely for purposes of creating a link, which may include hypertext, text, banner, logo and contextual links, (hereinafter referred to as "Link") between Licensee Web Site and any URL registered to BRK (hereinafter referred to as "BRK Web Site"). If BRK desires to use any Licensee Marks in connection with this provision, other than on the BRK Web Site, BRK shall, in each instance, obtain Licensee's written approval for use of the Licensee Mark, which consent shall not be unreasonably withheld or delayed.

8.5 Reservation of Rights. The parties acknowledge and agree that (i) each parties' trademarks are and shall remain the sole property of that party; (ii) nothing in this provision shall convey to either party any right of ownership in the other party's trademarks (iii) neither party shall now or in the future contest the validity of the other party's trademarks; and (iv) neither party shall in any manner take any action that could impair the value of, or goodwill associated with, such

trademarks. The parties acknowledge and agree that all use of the other party's trademarks by a party shall inure to the benefit of the party whose trademarks are being used.

8.6. Linking.

(a) BRK may at its option establish and maintain, at its cost, at least one Link from the BRK Web Site to the Licensee web page that promotes and markets the Licensed Products.

(b) Licensee shall establish and maintain, at its cost, at least one Link from Licensee's

home page to the BRK Web Site, to a particular web page designated by BRK. Further, with BRK's consent, Licensee may establish, at its cost, additional Links from the Licensee Web Site to the BRK Web Site.

8.7 Joint Marketing Efforts.

(a) Where appropriate and at BRK's discretion, BRK may periodically feature Licensee's Web Site and the Licensed Products on the BRK Web Site and in other BRK marketing programs and marketing materials.

(b) Where appropriate and with BRK's approval, Licensee will periodically feature the Licensed Products and the BRK Web Site on the Licensee Web Site and in its marketing programs and marketing materials.

(c) BRK and Licensee shall participate in joint sales and marketing discussions at mutually agreed times and locations to discuss how the parties can participate in additional joint marketing and business development opportunities.

9. EXPLOITATION, MARKETING AND ADVERTISING

9.1 Promotion. Licensee shall use its best efforts to develop, manufacture, market, promote and sell the Licensed Products in the Territory and to fill orders promptly in compliance with all legal requirements. Licensee shall diligently and continuously manufacture, distribute, market, promote and sell the Licensed Products during the Initial Term and any Renewal term.

9.2 Marketing Plan. Licensee will develop a Sales and Marketing Plan for the introduction and growth of the Licensed Products on an annual basis. At least four (4) months prior to the beginning of each Contract Year, Licensee shall submit to BRK a plan for the marketing, advertising and sales activities anticipated for the subsequent Contract Year, including trade and consumer advertising, sales promotion, publicity, public relations and special events (trade shows, in-store activities, etc.) along with projected gross and net sales for each Product Category of

Licensed Products in each separate territory. BRK shall provide written comments on, or its approval of, the marketing plan within fifteen (15) business days of receipt. Licensee shall use its best efforts to address BRK's comments and/or concerns and resubmit the Marketing Plan in response to BRK'S comments within fifteen (15) business days of receipt of BRK's comments.

9.3 Sales Forecasts. In addition to an annual Sales Plan, Licensee shall provide BRK sales forecasts for requested designated periods by Product Category, Territories and/or accounts within five (5) business days after the request of BRK.

9.4 Trade and Consumer Advertising. During each Contract Year, Licensee will spend five percent (5%) of its forecasted Sales for the Contract Year or of its Net Sales of Licensed Products during the preceding Contract Year, whichever is higher, for trade and consumer advertising and promotion. Licensee shall include an itemized statement of all moneys spent by it for advertising and promotion during the preceding Contract Year with its last month's Royalty Report in each Contract Year. Licensee shall also promptly furnish BRK with a copy of all advertising and such other proof of advertising expenditures as BRK may reasonably request from time to time. For the purposes of this paragraph, "advertising" means the portion of direct costs incurred by Licensee in connection with newspaper, magazine and other print advertising; direct mail advertising; radio and television advertising; Internet web sites; and promotional materials, displays and other point-of-sale materials displaying the Licensed Products. The cost of advertising includes design, production, agency and placement costs. To the extent that these expenditures do not equal or exceed the amount specified by this paragraph for the Contract Year, Licensee shall pay BRK the amount of the deficiency as an additional royalty in conjunction with the final payment due for that Contract Year. Licensee shall also reasonably cooperate with BRK in any multiple product advertising, which BRK wishes to conduct.

9.5 Mailing Lists. During the Initial Term and any Renewal Term of this Agreement, Licensee shall make reasonable efforts through its normal course of business to build and maintain mailing lists of consumers who have purchased or inquired about the Licensed Products through the use of warranty registration cards, survey cards, telephone inquiry, etc. The mailing lists should include the consumer's name, mailing address and E-mail address. Six (6) months following the Effective Date of this Agreement, and every six (6) months thereafter, Licensee should supply BRK with any such current mailing lists of consumers of the Licensed Products it has in its possession. BRK shall have the unrestricted right and license to use such mailing lists and information to promote, market and sell any and all products and services of BRK and its affiliated companies.

## 10. WARRANTIES AND REPRESENTATIONS

10.1 BRK's Authority. BRK represents and warrants that; (i) it is a corporation duly organized, validly existing and in good standing under the laws of the State of Delaware and has all requisite corporate power and authority to enter into and perform this Agreement and the transactions contemplated hereby; (ii) all requisite corporate action on the part of BRK has been completed for the authorization of the execution and delivery of this Agreement and the performance of the other transactions hereunder; (iii) this Agreement is, and such other transactions will be, valid and binding obligations of BRK, enforceable in accordance with their respective terms; and (iv) the execution and delivery of this Agreement by BRK and the consummation of the transactions contemplated hereby do not and will not violate the provisions of BRK's Articles of Incorporation or By-Laws or the provisions of any note of which BRK is the maker or of any indenture, agreement, or other instrument to which BRK is a party.

10.2 Title to Licensed Trademarks. BRK knows of no right held by any third party adverse to the grant of the license hereunder for use of the Licensed Trademarks in conjunction with the Licensed Products in the Territory.

10.3 Licensee's Authority. Licensee represents and warrants that; (i) it is a corporation duly organized, validly existing and in good standing under the laws of the State of New Jersey and has all requisite corporate power and authority to enter into and perform this Agreement and the transactions contemplated hereby; (ii) all requisite corporate action on the part of Licensee has been completed for the authorization of the execution and delivery of this Agreement and the performance of the other transactions hereunder; (iii) this Agreement is, and such other transactions will be, valid and binding obligations of Licensee, enforceable in accordance with their respective terms; and (iv) the execution and delivery of this Agreement by Licensee and the consummation of the transactions contemplated hereby do not and will not violate the provisions of Licensee's Articles of Incorporation or By-Laws or the provisions of any note of which Licensee is the maker or of any indenture, agreement, or other instrument to which Licensee is a party.

10.4 Warranties and Representations. Licensee acknowledges that BRK has made no warranties or representations, other than as set forth in this Section, to induce Licensee to enter into this Agreement, including without limitation, any statement with respect to the validity, enforceability or coverage of the Licensed Trademarks, with respect to the Licensed Products.

10.5 Merchantability. Licensee warrants that the Licensed Products shall be of good and merchantable quality, free from defects in material and workmanship, and strictly conform to the specifications and standards of Section 6 hereof.

10.6. Warranty and Service. Licensee shall provide warranty protection for the Licensed Products at a level, scope and duration equal to or greater than that offered by competitors for products similar to the Licensed Products but in no case less than one (1) year. As part of supporting and servicing such warranty obligations, Licensee shall establish and maintain a dedicated brand customer service "800" number for responding to customer inquiries, complaints and other matters to adequately service the purchasers of the Licensed Products during the Initial Term or Renewal Term of this Agreement and for the life of the longest warranty offered or one (1) year after termination of this Agreement, which ever is longer.

10.7 Survival. Licensee acknowledges that its warranties, representations or acknowledgments set forth in this Agreement shall be effective during the Term of this Agreement and that Sections 7.3, 7.4, 7.5, 7.6, 7.7, 7.8, 10.4, 12.3, 13.2, 14.1, 15.1, 15.2, and 15.7 shall survive termination of this Agreement for any reason, including without limitation, the breach thereof by either or both Licensee and BRK.

## 11. INFRINGEMENT

11.1 Notification of Infringement. Licensee will immediately notify BRK in writing of any actual or alleged infringement, misappropriation or imitation by third parties of the Licensed Trademarks. Promptly after BRK receives such notice, it shall evaluate the matter; however, BRK shall have no obligation to take any action and shall have the sole right to determine whether or not any action shall be taken on account of any such infringement, misappropriation or imitation. Licensee shall not take any action on such account without obtaining the prior express written permission of BRK. If deemed necessary or desirable by BRK, Licensee shall be entitled to join BRK as a party to any such litigation it brings; however, any award of damages from such litigation shall belong solely to BRK.

11.2 Licensee Cooperation. Licensee shall cooperate and provide any documents and personnel reasonably necessary for BRK to confirm its right, title and interest in and to the Licensed Trademarks and for BRK to defend the Licensed Trademarks in any litigation or proceeding.

## 12. TERMINATION & RENEWAL

12.1 Termination & Renewal. This Agreement shall terminate on the Initial Expiration Date except as follows. In the event that; (i) Licensee has met all conditions and obligations of this agreement; and (ii) Licensee has given BRK written notice of its commitment to renew this

Agreement at least six (6) months prior to the Initial Expiration Date, this Agreement shall be automatically renewed for a period of three (3) years and shall be deemed to have a Renewal Expiration date of December 31, 2008.

#### 12.2 Other Events of Termination.

- (a) This Agreement may be terminated at BRK's option upon the occurrence of any of the following events; (i) Licensee fails to perform or fulfill any term or obligation of this Agreement in the time and manner provided, and if such default shall continue for thirty (30) days after written notice thereof. Such right to terminate this Agreement shall be in addition to and shall not be prejudicial to any right or remedies, at law or in equity, which BRK may have on account of such default; (ii) If Licensee becomes insolvent, makes an assignment for the benefit of creditors, adjudged bankrupt, or if a receiver or trustee of the property of Licensee shall be appointed; (iii) If Licensee fails to pay any of the royalties due hereunder within ten (10) days after BRK's notice of such failure, (iv) Licensee's warranty return rate exceeds five (5%) of the amount of its Net Sales in such Contract Year, or (v) as of the date of the execution of this Agreement, Licensee has a five (5%) rate of consumer complaints in connection with the Licensed Products based upon the unit sales volume per Contract Year. If this rate increases on a pro-rata basis based upon the volume of sales in each Contract Year, BRK shall have a right to terminate this Agreement. Increased consumer service complaints shall be documented by logs kept by Licensee and/or BRK. Such right to terminate this Agreement shall be in addition to and shall not be prejudicial to any other right or remedies, at law or in equity, which BRK may have on account of such default.
- (b) This Agreement may be terminated at the option of either party if subsequent to the execution of this Agreement the United States Federal Government, either by act of Congress or through one of its administrative agencies enacts any regulations that will prohibit Licensee from selling Licensed Products. If this Agreement is terminated as provided herein, Licensee shall only be required to pay BRK any unpaid Royalties due on sales up to the date of the ban, including any unpaid prorated Minimum Royalty.

12.3 Effect of Termination. Upon expiration or termination of this Agreement for any reason, Licensee shall:

- (i) immediately cease manufacture, sale, distribution or use of the Licensed Products and any advertising, promotional and packaging materials, labels, literature, stationary or other items bearing the Licensed Trademarks. In the event the expiration or termination of this Agreement is without the fault of Licensee, Licensee shall have three (3) months after expiration or termination to dispose of its remaining inventory of

Licensed Products on hand or in process of manufacturing, at the date of termination or expiration in accordance with the provisions of this Agreement.

(ii) have no right to preclude BRK from immediately using or licensing others to use the Licensed Trademarks for the Licensed Products;

(iii) provide BRK within thirty (30) days thereafter with a statement indicating the number and description of Licensed Products that it has on hand, or is in the process of manufacturing, as of the date of expiration or termination. BRK shall have the option of conducting a physical inventory in order to ascertain or verify such inventory and/or statement and BRK shall have the right at its sole discretion to purchase such inventory at cost or its market value, whichever is lower. In such event Licensee shall forfeit its rights hereunder to dispose of such inventory in accordance with this Section;

(iv) deliver to BRK within thirty (30) days after the sale of any inventory permitted hereunder, free of any charge to BRK, all advertising, labels and promotional materials or the like bearing the Licensed Trademarks;

(v) permit BRK's authorized representatives to inspect Licensee's books and records in accordance with and for the purposes set forth in this Agreement for a period of three (3) years thereafter; and

(vi) account to BRK and make the payments called for in this Agreement within thirty (30) days, including any unpaid annual Minimum Royalties, from the last reported period up to and including the date of termination and monthly thereafter for any permitted inventory sales.

(vii) pay all unpaid Minimum Royalties to BRK within thirty (30) days, as reasonable liquidated damages for Licensee's inability or unwillingness to perform its obligations under this Agreement. The parties understand and agree that damages caused by Licensee's default would be extremely difficult, if not impossible, to quantify. Therefore, Licensee agrees to pay the Minimum Royalties to BRK to (a) avoid the controversy, delay and expense of determining the amount of damages, and to specify an equitable remedy, and (b) to specify a reasonable amount agreeable to both parties for compensation to BRK for losses which it will incur that are not readily ascertainable or quantifiable such as any of the following which might be deemed necessary to place BRK in the position it would have been in had Licensee performed under this Agreement: loss of interest income on royalties, loss of optimum market time, lost opportunity to license to another party, loss of revenue that could have been generated by a performing licensee, loss of revenue and expense to find a substitute licensee.

12.4. Termination Upon Change of Business. If (i) Licensee sells, or otherwise disposes of, all or substantially all of Licensee's business or assets to a third party or parties; or (ii) effective control of Licensee is transferred, whether in a single transaction or in a series of transactions, and whether directly or indirectly without BRK's prior written consent (which consent may be unreasonably withheld), then BRK shall have the right, without prejudice to any other rights it may have, at anytime thereafter to terminate this Agreement, effective immediately upon giving written notice to Licensee. BRK's decision to terminate the Agreement in the event of such transaction(s) shall be made in its sole discretion, and Licensee shall have no right to challenge any such determination.

### 13. INDEMNIFICATION

13.1 By BRK. BRK agrees to indemnify Licensee and its officers, directors, employees, and/or agents and hold them harmless against claims, demands, causes of action and judgments (including reasonable attorney's fees, expert fees, court costs, and accountants) brought by a third party solely alleging that Licensee's use of the Licensed Trademarks as authorized under and in accordance with this Agreement infringes such third party's trademark rights, provided that; (i) Licensee gives BRK notice of the claim within fifteen (15) business days after notification of such a claim; and (ii) permits BRK to undertake and conduct the defense of such claim with attorneys of its own selection. BRK shall have no duty to indemnify or otherwise hold harmless Licensee or its officers, directors, employees and/or agents in the event such a claim is caused by Licensee's breach of this Agreement or any negligence on the part of the Licensee.

13.2 By Licensee. Except for claims based on use of the Licensed Trademarks as set forth in Paragraph 13.1, Licensee agrees to indemnify BRK and its affiliated companies and their officers, directors, employees and/or agents and shall hold them harmless against any and all claims, demands, causes of action and judgments (including reasonable attorneys fees, expert fees, court costs, accounts and executives time) arising out of; (i) Licensee's manufacture, distribution, shipment, labeling, advertising, promotion, offering for sale and/or sale of Licensed Products and/or the promotional and packaging material therefore; (ii) any allegedly unauthorized use of any trademark, patent, know-how, trade secret, process, idea, method, article of manufacture or proprietary right of a third party by Licensee in connection with the Licensed Products; (iii) Licensee's performing or not performing any activities under any of the terms and provisions of this Agreement or Licensee's activities in any way connected with such performance or non-performance; (iv) any defect or health hazard in any Licensed Product; (v)

any failure to provide warnings as required by Proposition 65, or (vi) any breach by Licensee of this Agreement. BRK agrees to give notice to Licensee within fifteen (15) business days after notification of each such claim. BRK shall have the right to undertake and conduct the defense of any cause of action and handle any such claim or demand with attorneys of its own selection.

13.3 Implied Warranties. The representations and warranties contained in this Agreement are in lieu of all other representations, warranties or guarantees, express or implied, which could be deemed applicable to this license or the Licensed Products. Licensee acknowledges that BRK has made no warranties with respect to the Licensed Products, which are solely the responsibility of Licensee. NO EXPRESS WARRANTIES AND NO IMPLIED WARRANTIES AS TO MERCHANTABILITY, FITNESS FOR ANY PARTICULAR PURPOSE OR USE OR OTHERWISE WITH RESPECT TO THE LICENSED PRODUCTS SHALL APPLY NOR HAVE ANY BEEN MADE BY BRK. LICENSEE HEREBY WAIVES ALL SUCH WARRANTIES OR GUARANTIES, EXPRESS OR IMPLIED, ARISING BY LAW OR OTHERWISE.

#### 14. INSURANCE

14.1 Insurance: Licensee shall obtain and maintain at its own expense, commencing on the earlier of (i) the date this Agreement is signed or (ii), the first date of distribution or sale of Licensed Products hereunder, and for a period of seven (7) years after the termination of this Agreement, Commercial General Liability insurance, written on an occurrence form. Such insurance shall be obtained from insurance carriers satisfactory to BRK, shall contain minimum limits of five million dollars (\$5,000,000) per occurrence and five million dollars (\$5,000,000) in the aggregate, and shall include blanket contractual coverage, products liability coverage, and a worldwide territory extension. If the Licensee is a non-US entity, coverage shall extend to suits and/or claims made in the United States of America. All of Licensee's insurance deductibles, self-insured exposures, uninsured, or underinsured exposures shall be a Licensee's risk and for Licensee's account. All insurance limits specified herein are in United States dollars.

14.2 Certificates of Insurance: Licensee shall furnish BRK with certificates of insurance evidencing the coverage and minimum limits set forth in Paragraph 14.1 prior to or concurrent with the effective date of this Agreement, during the term of this Agreement, and for a period of seven (7) years after the date of Licensee's last sale of Licensed Products under this Agreement. All of Licensee's insurance shall provide that at least thirty (30) days written notice will be given to BRK prior to any material change in, or cancellation of, such insurance policies. "Endeavor to give

notice" language is not permissible. Failure of Licensee to obtain, or provide evidence of, the types and minimum limits of insurance set forth in Paragraph 14.1 shall not relieve Licensee from its obligations herein.

14.3 Additional Provisions: All of Licensee's insurance required in Paragraph 14.1 shall name BRK, its subsidiaries and affiliated entities and their respective officers, directors, employees, stockholders and agents as additional insured and shall contain provisions that Licensee's insurers shall have no right of recovery or subrogation against BRK, its subsidiaries and affiliated entities, and their respective officers, directors, employees, stockholders and insurers.

All of the Licensee's insurance required in Paragraph 14.1 shall be primary to, and shall receive no contribution from any other insurance maintained by, on behalf of, or benefiting BRK, its subsidiaries and affiliated entities and their respective officers, directors, employees and stockholders.

Upon request by BRK, Licensee shall furnish BRK with certified copies of the insurance policies required in Paragraph 14.1. BRK, in its sole discretion reserves the right to require additional coverage from time to time which may be reasonable considering the use of the Licensed Products and the area in which they are distributed.

## 15. MISCELLANEOUS

15.1 Right to Confidential Information. Licensee shall have no right of access to any of BRK's confidential or proprietary information, including any formula, pattern, compilation, program, device, method, technique, process or file and waives all right to access any such information in the course of litigation, arbitration or otherwise, except for information related to a litigation or arbitration relating to use of the Licensed Trademarks.

15.2 Confidential Information. During the term of this Agreement, either party may have access to certain confidential and proprietary information of the other party, including but not limited to business plans, proposed advertising, designs, sales records, financial data and manufacturers know-how. Recognizing that such information represents valuable assets and property of the disclosing party and the harm that may befall the disclosing party if such information is disclosed, each party agrees to hold such information in strict confidence and not to use or otherwise disclose such information to third parties without having received the prior written consent of the disclosing party. The obligation of confidentiality created herein shall not apply to; (i) information in the public domain, provided it did not come into the public domain through the unauthorized acts of

the non-disclosing party; or (ii) to information which was in the non-disclosing party's possession prior to its disclosure to the non-disclosing party by the disclosing party. Licensee agrees to treat this Agreement as Confidential Information and not to disclose the terms of this Agreement unless required to do so for compliance with any Securities and Exchange requirements or litigation proceedings. This provision shall survive the termination or expiration of this Agreement.

15.3 Relationship. Nothing in this Agreement shall be construed to create an agency, partnership, franchise/franchiser or joint venture relationship between the parties. Licensee is not authorized to incur any financial obligations on BRK's behalf.

15.4 Force Majeure. Neither Party shall be liable to the other for any loss, injury, delay or damage whatsoever suffered or incurred by the other party due to causes beyond such party's control including acts of God, war, sabotage, and any other causes which cannot be controlled by such party but excluding strikes by employees under Licensee's or its subcontractors control.

15.5 Interest. If Licensee fails to timely make any payments due under this Agreement, Licensee shall pay interest on the unpaid balance from the date such payment becomes due until the date the entire amount is paid in full at a rate equal to three percentage (3%) points over the prime rate being charged in New York, New York by Citibank, N.A. as of the close of business on the date the payment first becomes due. The interest payments shall be in addition to any other remedies due BRK by law or equity.

15.6 Notices in Writing. Any notice, consent, demand or other communication required under this Agreement must be in writing and mailed by registered or certified mail (return receipt requested) or sent by commercial courier service with delivery confirmed to the parties at the following addresses, or at such other address as may be designated in writing by any party in a notice to the other given in the manner prescribed, and will be deemed given on the date such notice is received.

If to BRK:

BRK Brands, Inc.

c/o Sunbeam Corporation

2381 Executive Center Drive

Boca Raton, FL 33431

Attn.: Vice President Licensing Division

Fax No.:

with a copy to:  
General Counsel  
Sunbeam Corporation  
2381 Executive Center Drive  
Boca Raton, FL 33431  
Fax No.: 561-912-4612

If to Licensee:  
Team Products International, Inc.  
3 Entin Road  
Parsippany, NJ 07054

15.7 Applicable Law and Jurisdiction. This Agreement shall be deemed to have been made, entered into and finally executed and delivered in the State of Florida and all rights and duties of the parties hereto shall be governed, controlled, interpreted and defined by and under the laws of the State of Florida, without giving effect to any choice of law or conflict of law provisions. All disputes related to this Agreement shall be governed by the laws of the State of Florida and each party irrevocably submits to the exclusive jurisdiction of the courts of proper subject matter jurisdiction sitting in the State of Florida, solely for the purpose of interpreting this Agreement and adjudicating any dispute arising hereunder.

15.8 Equitable Relief. Licensee acknowledges and agrees that; (a) its failure to perform its obligations under this Agreement and its breach of any provision hereof, in any instance, shall result in immediate and irreparable damage to BRK; (b) no adequate remedy at law exists for such damage; and (c) in the event of such failure or breach, BRK shall be entitled to equitable relief by way of temporary, preliminary and permanent injunctions, and such other and further relief as any court of competent jurisdiction may deem just and proper, in addition to, and without prejudice to, any other relief to which such party may be entitled.

15.9 Waiver. Waiver by a party in a particular instance of any of its rights under this Agreement shall not be considered as a continuing waiver of such rights or of any other right.

15.10 Validity. In the event that any one or more provisions or terms of this Agreement are found invalid or unenforceable, the validity or enforceability of any remaining provisions or terms of this Agreement shall not in any way be affected or impaired unless such provisions or terms are found to be of importance to the consideration in entering into this Agreement.

15.11 Entire Agreement. This Agreement sets forth the entire agreement and understanding between the parties as to its subject matter, and supersedes all prior agreements and understandings between them. Neither party shall be bound by any conditions, definitions, warranties or representations with respect to the subject matter of this Agreement, except as duly set forth in a written document which is dated on, as of, or subsequent to the date of this Agreement, and signed by parties. This Agreement may be executed in two or more counterparts, each of which shall be deemed an original and shall bind the signatories.

15.12 Benefit. This Agreement and the license granted herein shall be binding upon and inure to the benefit of the parties and their respective successors.

15.13 Titles, Numbering & Counterparts. Any titles or numbering included in this Agreement are provided for the convenience of the parties and are not to be used in construing this Agreement.

IN WITNESS WHEREOF, the Parties have caused this Agreement to be executed by their respective officers duly authorized as of the Effective Date of execution.

BRK BRANDS, INC.

By: 

Typed Name: Mark Colello

Title: Sr VP Sales + Mktg

Date: 11/14/02

TEAM PRODUCTS INTERNATIONAL, INC.

By: 

Typed Name: STEPHEN K. KANE

Title: Chairman

Date: 11/12/02

## LICENSE AGREEMENT

This License Agreement ("Agreement") is made and entered into as of January <sup>for 2/2/00</sup> 31, 2000 ("Effective Date") by and between SUNBEAM PRODUCTS, INC. ("SUNBEAM"), a Delaware corporation, with an office at 2381 Executive Center Drive, Boca Raton, FL 33431, and TEAM PRODUCTS INTERNATIONAL, INC. ("Licensee"), a New Jersey corporation, with an office at 85 Fulton Street, Boonton, NJ 07005.

BASIC INFORMATION

The information in this Section appears here for ease of reference and is not to be used to construe any terms of this Agreement. The detailed and binding terms follow this Section.

<u>INFORMATION</u>		<u>Paragraph</u>
LICENSED TRADEMARKS	HEALTH AT HOME SUNBEAM	1.1
LICENSED PRODUCTS	In home ultrasonic and electromagnetic pest repellers	1.2
TERRITORY	USA and Canada	1.3
INITIAL TERM	Three Years	1.10
INITIAL EXPIRATION	12/31/2002	1.8
RENEWAL TERM	Three Years	1.11
RENEWAL EXPIRATION	12/31/2005	1.9
ADVANCE:	\$25,000 on signing	3.1
ROYALTY RATE:	Contract Year 2000: 6% Net Sales and 2002 Contract Year 2001: 7% Net Sales <sup>for 2/1/00 2/2/00</sup>	3.2
MINIMUM ROYALTY:	Contract Year 2000: \$28,000 Contract Year 2001: \$54,000 Contract Year 2002: \$70,000	3.3
MINIMUM SALES:	Contract Year 2000: \$468,750 Contract Year 2001: \$765,000 Contract Year 2002: \$1,000,000	3.4
ROYALTY PAYMENT DATE:	15th Day After end of each Contract Quarter	4.2

01/26/00

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ROYALTY PAYMENT DATE:	15th Day After end of each Contract Quarter	4.2

## RECITALS

WHEREAS, SUNBEAM owns sufficient right, title and interest in and to the Licensed Trademarks to grant Licensee the rights set forth below; and

WHEREAS, Licensee desires to use the Licensed Trademarks with the Licensed Products in the Territory and SUNBEAM desires to grant Licensee a license to do so.

NOW, THEREFORE, in consideration of the terms and conditions set forth, the parties agree as follows:

### 1. DEFINITIONS

As used in this Agreement, the following terms shall have the following meanings:

1.1 "Licensed Trademarks" means the following trademarks in the exact form shown below:

HEALTH *at* HOME  
*Sunbeam*

1.2 "Licensed Products" means only the following products bearing the Licensed Trademarks:

In home ultrasonic and electromagnetic pest repellers

1.3 "Territory" means only the following countries:

United States of America, its possessions, territories and commonwealth and Canada.

1.4 "Contract Year" means each calendar year this Agreement is in effect, except for the Initial Year which shall commence on January 31, 2000 and ends on December 31, 2000.

1.5 "Contract Month" means each calendar month of each Contract Year.

1.6 "Contract Quarter" means each calendar quarter of each Contract Year.

1.7 "Effective Date" means January 31, 2000.

1.8 "Initial Expiration Date" means December 31, 2002.

1.9 "Renewal Expiration Date" means December 31, 2005.

1.10 "Initial Term" means the period from the Effective Date to the Initial Expiration Date.

1.11 "Renewal Term" means the period from the Initial Expiration Date to the Renewal Expiration Date.

1.12 "Net Sales" means Licensee's total invoiced sales price of Licensed Products to its customers, excluding only state and federal taxes, actual freight costs paid by Licensee, and returns evidenced by credit memoranda, with no deductions for early payment, bad debts, advertising

01/26/00

**RECITALS**

WHEREAS, SUNBEAM owns sufficient right, title and interest in and to the Licensed Trademarks to grant Licensee the rights set forth below; and


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allowances, special promotions of any kind, costs incurred in manufacture, advertising or promotion.

## 2. GRANT OF LICENSE, TERRITORY AND TERM

2.1 License. SUNBEAM hereby grants Licensee and Licensee hereby accepts a personal, non-transferable, non-assignable and non-divisible, non-exclusive License to use the Licensed Trademarks upon and in connection with the sale and distribution of the Licensed Products in the Territory. Licensee shall have no right to sublicense the Licensed Trademarks or to combine the Licensed Trademarks with any other mark. Licensee agrees not to use the Licensed Trademarks in combination with any other trademarks, designs or logos in any manner unless pre-approved in writing by SUNBEAM.

2.2 Territory Limitation. Licensee agrees to use the Licensed Trademarks, only in the Territory, directly or indirectly and agrees not to knowingly sell the Licensed Products to third parties who intend to or are likely to resell them outside the Territory.

2.3 Initial Term. The Initial Term commences on the Effective Date and terminates automatically on the Initial Expiration Date unless otherwise terminated in accordance with the terms and conditions of this Agreement.

2.4 Competing Licenses. Licensee shall not serve as a Licensee of any third parties trademarks for use in conjunction with any products that directly compete with the Licensed Products.

2.5 Renewal Term. This Agreement may be renewed for a three (3) year Renewal Term provided Licensee has met all the terms and conditions of this Agreement including but not limited to Paragraph 12.1. If Licensee has not met all the terms and conditions of this Agreement then this Agreement shall automatically terminate without notice on the Initial Expiration Date unless renewed upon the written notice of SUNBEAM, at its option, within thirty (30) days after SUNBEAM'S receipt of the Contract Year end Royalty Report.

## 3. ADVANCE AND ROYALTIES

3.1 Advance. Licensee shall pay SUNBEAM a non-refundable Up-front fee of twenty-five thousand (\$25,000) dollars upon execution of this Agreement. The Up-front Fee shall be applied against future Royalties.

3.2 Royalty. During the Initial Term Licensee shall pay SUNBEAM a Royalty of six (6%) percent of Net Sales of Licensed Products during Contract Year 2000 and seven (7%) percent of Net Sales during Contract Years 2001 and 2002. During the Renewal Term Licensee shall pay SUNBEAM a Royalty

01/26/00

of seven (7%) percent of Net Sales during each Contract Year of the term. Licensee agrees not to dispose of the Licensed Products through free or discounted promotions unless pre-approved in writing by SUNBEAM. For the purposes of this Agreement, Licensed Products shall be deemed sold as of the date invoiced or shipped which ever occurs first.

3.3 Minimum Royalty. Licensee shall pay SUNBEAM annual Minimum Royalties as follows:

Contract Year 2000 ----- \$28,000

Contract Year 2001 ----- \$54,000

Contract Year 2002 ----- \$70,000

Licensee shall pay SUNBEAM either the actual Royalty due for any Contract Quarter or one fourth of the Minimum Royalty for the respective Contract Year, which ever is higher, within fifteen (15) days after the end of each Contract Quarter. The Royalty payments for each Contract Quarter shall be the greater of : (a) the Royalty payable for the Contract Year to the end of such Contract Quarter or (b) the aggregate Minimum Royalty payable for the Contract Year to the end of such Contract Quarter, in each case minus all Royalty payments previously paid for such Contract Year. If Licensee fails to meet the Minimum Royalties in any Contract Year, SUNBEAM shall have the option to either immediately terminate this Agreement (without any right of Licensee to cure) by giving Licensee written notice within sixty (60) days after receiving Licensee's final Royalty Report for the previous contract year.

3.4 Minimum Net Sales. Licensee agrees to meet the following Minimum Net Sales of Licensed Products in each Contract Year:

Contract Year 2000 ----- \$468,750

Contract Year 2001 ----- \$765,000

Contract Year 2002 ----- \$1,000,000

If Licensee fails to meet the Minimum Net Sales in any Contract Year, SUNBEAM shall have the option to either immediately terminate this Agreement (without any right of Licensee to cure) by giving Licensee written notice within sixty (60) days after receiving Licensee's final Royalty Report for the previous Contract Year.

3.5 Renewal Minimum Royalty.

Licensee shall be required to have achieved or exceeded \$1,115,000 in Contract Year 2002 in order for the Renewal Term to be effected and have met all other conditions of this Agreement. If this Agreement is renewed in Accordance with the terms herein, Licensee shall pay SUNBEAM annual Minimum Royalties as follows:

Contract Year 2003 ----- \$85,000

Contract Year 2004 ----- \$100,000

Contract Year 2005 - ----- \$125,000

Licensee shall pay SUNBEAM either the actual Royalty due for any Contract Quarter or one fourth of the Minimum Royalty for the respective Contract Year, which ever is higher, within fifteen (15) days after the end of each Contract Quarter. The Royalty payments for each Contract Quarter shall be the greater of : (a) the Royalty payable for the Contract Year to the end of such Contract Quarter or (b) the aggregate Minimum Royalty payable for the Contract Year to the end of such Contract Quarter, in each case minus all Royalty payments previously paid for such Contract Year. If Licensee fails to meet the Minimum Royalties in any Contract Year, SUNBEAM shall have the option to either immediately terminate this Agreement (without any right of Licensee to cure) by giving Licensee written notice within sixty (60) days after receiving Licensee's final Royalty Report for the previous Contract Year.

3.6 Renewal Minimum Net Sales. If this Agreement is renewed in Accordance with the terms herein, Licensee agrees to meet the following Renewal Minimum Net Sales of Licensed Products in each Contract Year:

Contract Year 2003 ----- \$1,250,000

Contract Year 2004 ----- \$1,500,000

Contract Year 2005 ----- \$1,800,000

If Licensee fails to meet the Minimum Net Sales in any Contract Year, SUNBEAM shall have the option to either immediately terminate this Agreement (without any right of Licensee to cure) by giving Licensee written notice within sixty (60) days after receiving Licensee's final Royalty Report for the previous Contract Year.

#### 4. ROYALTY REPORTS

4.1 Books and Records. Licensee shall maintain invoices and books of account for the sale, advertising and promotion of the Licensed Products for a period of at least three (3) years after termination of this Agreement. Such books of account shall be complete and accurate in accordance with generally accepted accounting practices. SUNBEAM or its designee shall have the right to enter Licensee's premises and inspect all books and records of Licensee relating to the sales, advertising and promotion of the Licensed Products within five (5) business days after notice to Licensee during the Initial Term and any Renewal Term and for three (3) years after termination. SUNBEAM's acceptance of any statement furnished or Royalty paid shall not preclude SUNBEAM from questioning its correctness and, in the event that underpayments are discovered, Licensee shall immediately render payment plus pay interest at a rate of the Prime Rate plus three percent (3%) from the date the payment was due. If the underpayments are more

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than three percent (3%), then Licensee shall also reimburse SUNBEAM for the costs of the audit and SUNBEAM shall have the option to terminate this Agreement upon thirty (30) days written notice.

4.2 Reports And Payments. Within fifteen (15) days after the last day of each Contact Quarter, Licensee shall give SUNBEAM a true and accurate Royalty Report in a format provided by SUNBEAM and verified by an officer of Licensee, stating for the preceding Contract Quarter at least the following:

- (i) The total dollar gross and Net Sales of Licensed Products by Product Category, Territory and Customer;
- (ii) The total unit sales of Licensed Products by Product Category, Territory and customer;
- (iii) The calculated Royalty payment due; and
- (iv) Such other explanatory information as SUNBEAM may reasonably require by giving written notice to Licensee.

Licensee shall pay SUNBEAM any Royalties due simultaneously with the delivery of each such Royalty Reports. All payments shall be made in US dollars by check or draft, payable to SUNBEAM or wire transferred to SUNBEAM's account at a bank designated by SUNBEAM, at SUNBEAM's option. Licensee's failure to deliver the required Royalty Reports and royalty payments shall constitute a material breach of this Agreement.

## 5. REVERSION

5.1 Territory Reversion. If Licensee's sales of Licensed Products fails to meet the following Minimum Net Sales Amounts in the following countries:

- (i) Canada: Contract Year 2000 ----- ~~\$37,500~~ \$28,125 Jm 2/2/00
- (ii) Canada: Contract Year 2001 ----- ~~\$48,840~~ \$45,900 Jf 2/1/00
- (iii) Canada: Contract Year 2002 ----- ~~\$53,520~~ \$60,000

then SUNBEAM shall have the option at its sole discretion to remove the country from the definition of Territory by giving Licensee written notice within sixty (60) days after receiving Licensee's final Royalty Report for the previous Contract Year.

5.2 Other Licensees. Nothing in this Agreement shall be construed to prevent SUNBEAM from granting rights to a third party to use any trademarks including the Licensed Trademarks in the Territory for the same or similar products to the Licensed Products.

## 6. MANUFACTURE AND APPROVAL OF LICENSED PRODUCTS

6.1 Best Efforts. Licensee shall use its best efforts to manufacture, (or have manufactured for it by subcontractors approved by SUNBEAM) and sell Licensed Products that are of a high quality consistent with the high standards and goodwill of the Licensed Trademarks. Licensee acknowledges that its exploitation, advertising, promotion and sale of the Licensed Products is the essence of this Agreement and is essential to enhance and preserve the reputation of the Licensed Trademarks. All Licensed Products shall be of first-class commercial quality and shall conform to specific quality standards adopted by SUNBEAM. SUNBEAM reserves the right to modify its quality standards from time to time by reasonable written notice to Licensee. Each Licensed Product and the activities of Licensee under this Agreement shall only enhance and promote, but in no manner reflect adversely upon, the image, goodwill and reputation of SUNBEAM or a Licensed Trademark. If Licensee does not properly use the Licensed Trademarks on the Licensed Products or the quality of these items does not conform to the standards required by this Agreement, then, upon receipt of written notice from SUNBEAM identifying its objection, Licensee shall immediately cease the production, sale, advertising and distribution of the non-conforming Licensed Products. Licensee shall distinguish the Licensed Products from all other products manufactured and sold by Licensee and shall avoid confusing similarity between the Licensed Products and other products sold by Licensee.

6.2 Facilities. Licensee shall maintain adequate facilities and qualified personnel to assure and perpetuate the quality of the Licensed Products consistent with the high standards of SUNBEAM and the goodwill associated with the Licensed Trademarks. SUNBEAM or its duly authorized representative shall have the right, during reasonable business hours, to inspect Licensee's or its subcontractors manufacturing and distribution facilities, observe the manufacturing, warehousing and other processes involving any Licensed Product, and take samples of finished products or products in process.

6.3 Suitability and Testing. Each Licensed Product shall be of a high quality and of such style, appearance and quality as to be well suited for exploitation in accordance with the purposes of this Agreement. Licensee shall be responsible for all safety testing and approvals in conformity with the standards and legal requirements applicable to the manufacture, distribution or sale of any Licensed Product. Licensee shall submit each new Licensed Product to an outside testing lab approved by SUNBEAM to substantiate the quality of each product in accordance with the following standards. Once during each Contract Year, Licensee shall submit a random sample of each Licensed Product to SUNBEAM to allow SUNBEAM to check product quality.

6.4 Approvals. Prior to the manufacture, sale and distribution of any Licensed Product and/or use of any label, advertising, promotional (including web sites) or packaging material, Licensee shall submit samples to SUNBEAM and obtain SUNBEAM's written approval. Such samples shall include but

not be limited to two (2) complete samples of each new style or model of Licensed Product; two (2) complete samples of all labels; and two (2) complete samples of all promotional, advertising and packaging materials intended to be used. SUNBEAM shall endeavor to approve such samples within ten (10) business days after receipt. Licensee's failure to receive SUNBEAM's approval shall be deemed a disapproval of such submitted samples. Licensee may not sell or otherwise distribute any such materials or Licensed Products until written approval is received from SUNBEAM. Licensee shall not make any alterations, additions, replacements or improvements to any previously approved Licensed Products or other materials incorporating the Licensed Trademarks without written approval from SUNBEAM. Licensee shall provide SUNBEAM with its testing results evidencing the efficacy of the Licensed Products prior to commencement of manufacturing and marketing of the Licensed Products. If Licensee fails to provide SUNBEAM with evidence satisfactory to SUNBEAM of the Licensed Products' efficacy, SUNBEAM may in its sole discretion terminate this Agreement upon thirty (30) days written notice to Licensee.

6.5 Distribution Channels. Licensee acknowledges that the Licensed Products are to be sold only in retail stores of high quality, reflecting the prestige of the Licensed Trademarks. Licensee agrees to sell the Licensed Products only to retail outlets in its ordinary course of business and not to; (i) jobbers, or other parties that do not sell to consumers at retail exclusively; (ii) consumers through radio, or other telecommunication with the exception of television; or (iii) to close-out stores unless, and then only to the extent that, such sale has been approved in writing by SUNBEAM.

6.6 Government Regulations. Licensee will comply with all laws, rules, regulations and requirements of any governmental or administrative body (including, without limitation, the Federal Trade Commission, Federal Communications Commission and the Consumer Products Safety Commission), which may be applicable to the manufacture, advertising, merchandising, packaging, publicity, promotion, sales, distribution, shipment, import and export of the Licensed Products and/or its packaging, advertising or promotional materials.

6.7 Compliance with Labor Laws. If Licensee is a company subject to the United States Fair Labor Standards Act ("FLSA") then Licensee represents and warrants that it is aware of the provisions of the FLSA concerning minimum wage, overtime, and child labor provisions, and further warrants that it will comply with such standards and will not employ oppressive child labor or engage in oppressive industrial home work or any other violation of FLSA in connection with the manufacture of the Licensed Products. If the Licensee is not a company subject to FLSA, then Licensee warrants that it will not employ oppressive child labor or engage in oppressive industrial work in connection with the manufacture of the Licensed Products. In the event that Licensee employs any subcontractors as provided in Paragraph 7.10 hereof, Licensee warrants that it will not hire any subcontractor that does not comply with the foregoing provisions.

Sunbeam reserves the right to investigate any potential violation of law or this provision and, at its discretion, to suspend, discontinue or terminate this Agreement for its failure to comply with any laws applicable to merchandise produced in the United States or any other country, or this provision. This right to investigate includes, but is not limited to the right of SUNBEAM, or its representatives, to inspect, without prior notice, Licensee's or its subcontractors manufacturing facilities to ensure compliance with this Paragraph 6.7.

6.8 Full Cooperation. Licensee will provide immediate assistance to SUNBEAM in responding to any inquiry or observation from any governmental agency or standard setting body, will promptly investigate and respond to any allegation the Licensed Products are improperly designed or has failed to perform properly, and will notify SUNBEAM of any planned changes to the Licensed Products at least 30 days prior to implementing such change. Licensee will not implement any changes if SUNBEAM objects.

## 7. TRADEMARK COPYRIGHT AND URL OWNERSHIP

7.1 Trademark Use. Whenever Licensee uses a Licensed Trademark that is registered in the country in which the Licensed Products are to be sold, Licensee shall affix on all promotional and packaging material, labels and all Licensed Products the trademark notice "®" or the words "Registered Trademark", or the abbreviation "Reg. TM", legibly and irremovably, and Licensee must affix either to the product itself or affixed tag the following: "SUNBEAM® is a registered trademark of Sunbeam Products, Inc." If the Licensed Trademark is not registered, Licensee shall affix the notice "TM" in the same manner. Licensee shall affix on each Licensed Product in at least one location the following: "Manufactured under license from Sunbeam Products, Inc." At all times, Licensee shall use Licensed Trademarks properly as a trademark, i.e., as a proper adjective and not as a noun or a verb.

7.2 Modifications of Licensed Trademarks. Licensee shall not depart from the form of the Licensed Trademarks set forth in Paragraph 1.1. Licensee acknowledges that SUNBEAM may from time to time and without notice modify add or delete certain elements of a Licensed Trademark. SUNBEAM does not represent or warrant that any Licensed Trademark will be maintained or used by SUNBEAM in any particular fashion. If SUNBEAM modifies a Licensed Trademark and gives notice of such modification to Licensee, the rights of Licensee under this Agreement shall extend to the Licensed Trademarks as modified.

7.3 Registrations and Cooperation. SUNBEAM has the sole right to apply for and obtain at its own cost appropriate trademark or service mark protection for any Licensed Trademark in any country in the Territory. Licensee agrees to cooperate with SUNBEAM in the execution, filing and prosecution of any trademark applications that SUNBEAM may choose to file. Licensee agrees to supply SUNBEAM,

without charge, samples, containers, labels and similar materials which SUNBEAM reasonably requests and to execute and deliver to SUNBEAM, whether during or after the Initial Term or Renewal term, any documents which SUNBEAM requests to confirm SUNBEAM's ownership rights, to record this Agreement, or terminate Licensee as a registered user. Licensee appoints SUNBEAM as its attorney-in-fact to sign such documents in Licensee's name and to make appropriate disposition of them if Licensee fails or refuses to do so. SUNBEAM shall have no obligation to obtain trademark or service mark protection for any Licensed Trademarks in any country in the Territory.

7.4 Acknowledgment. Licensee acknowledges that nothing herein gives Licensee any right, title or interest in the Licensed Trademarks apart from the License granted hereunder and that the Licensed Trademarks are the sole property of SUNBEAM and any and all uses by Licensee of the Licensed Trademarks in the Territory or other jurisdictions shall inure to the benefit of SUNBEAM. In no event shall Licensee's use of the Licensed Trademarks be deemed or construed to create or vest any right, title or interest in and to Licensee.

7.5 Validity of Trademarks. Licensee acknowledges that the Licensed Trademarks are valid and enforceable and any registration thereon is duly and validly issued. Licensee represents and warrants that it shall not raise or cause to be raised any questions concerning or objections; (i) to the validity of the Licensed Trademarks; (ii) to any registration thereof or; (iii) to the proprietary rights of SUNBEAM on any grounds whatsoever.

7.6 Use or Registration of Trademarks. Licensee represents and warrants that it shall not; (i) seek to register the Licensed Trademarks, or any term, script or device colorably similar thereto, in the Territory or any other jurisdiction; (ii) use the Licensed Trademarks or any term, script or device colorably similar thereto, on any products other than the Licensed Products as permitted under this Agreement; (iii) use the Licensed Trademarks in a manner that impairs SUNBEAM's right, title and interest therein or confuses or deceives the purchasing public with respect to the source or origin or standards of quality of the Licensed Products or; (iv) use the Licensed Trademarks in a manner, form or fashion which is not in compliance with the laws and regulations of the respective jurisdictions in the Territory.

7.7 Termination. Upon termination of this Agreement for any reason, Licensee shall cease all use of the Licensed Trademarks in the Territory or any other jurisdiction, or any term, script or device colorably similar thereto on any products in accordance with paragraph 12.3.

7.8 Injunctive Relief. Licensee acknowledges that should Licensee fail to cease advertising, manufacturing and shipping of Licensed Products bearing the Licensed Trademarks upon termination in accordance with the terms and conditions of this Agreement, such failure will result in immediate and irreparable injury to SUNBEAM. In such a case, in addition to any provable damages, costs and

expenses of any proceeding, SUNBEAM shall be entitled to equitable relief by way of temporary and permanent injunction and such further relief as any court with jurisdiction may deem just and proper.

7.9 Copyrights. SUNBEAM shall own all right title and interest (including but not limited to copyright rights) in and to all advertising, packaging and other promotional documents prepared for the Licensed Products. Licensee agrees to cooperate with SUNBEAM in the execution, filing and prosecution of any documents required to confirm SUNBEAM's ownership rights in such copyright rights and documents.

7.10 Sub Contractors. To the extent Licensee employs any subcontractors in connection with this Agreement, Licensee shall obtain from each contractor a binding written agreement in substantially the form attached hereto as Exhibit A, which shall contain; (i) an acknowledgement of SUNBEAM's absolute ownership of the Licensed Trademarks; and (ii) a disclaimer of any right or claim of said contractor in or to the Licensed Trademarks. Any subcontractor employed by Licensee must comply with the provisions of Paragraph 6.7 hereof. A copy of the written commitment signed by each subcontractor shall be delivered to Licensor within thirty (30) days of the signing. In no event, shall the use of any subcontractor absolve or excuse Licensee from any of its responsibilities to SUNBEAM under this Agreement. If at any time SUNBEAM provides reasonable evidence to Licensee that any subcontractor which Licensee uses or intends to use has taken action inconsistent with SUNBEAM's absolute ownership of the Licensed Trademarks, Licensee shall immediately cease using and shall not thereafter use said subcontractor in connection with this Agreement.

7.11 URLs. SUNBEAM shall own all right title and interest (including but not limited to all intellectual property rights) in any URLs/domain names using the Licensed Trademarks or any variation thereof.

(i) Licensee agrees to advertise, and promote the Licensed Products through a global computer network (hereinafter referred to as the "Internet") in the Territory. Prior to any use of the Licensed Trademarks on the Internet, Licensee shall submit copies of all proposed uses to SUNBEAM for written approval.

(ii) Licensee shall have no right to and agrees not to register any URL/domain name incorporating the Licensed Trademarks or variations thereof without written consent of SUNBEAM.

(iii) SUNBEAM has the sole right to apply for and obtain at its own cost any URL/domain name including Licensed Trademarks or any variations thereof in any level domain. If Licensee wants to use a URL/domain name incorporating the Licensed Trademarks or any variation thereof, it shall submit a proposed name to SUNBEAM. SUNBEAM shall at its sole option approve or disapprove of such URL and register such URL/domain name and license it to Licensee

pursuant to the terms set forth in Article 8 of this Agreement. Licensee agrees to cooperate with SUNBEAM in the execution, filing, application and/or registration of a URL/domain name that SUNBEAM may choose to register.

(iv) If Licensee has prior to the execution of this Agreement registered a URL/domain name incorporating the Licensed Trademarks or variation thereof, Licensee agrees that no rights to such URL/domain name will accrue to Licensee and Licensee will transfer such URL/domain name to SUNBEAM immediately upon SUNBEAM's request.

## 8. DOMAIN NAME AND LINKING LICENSE

8.1 License. SUNBEAM hereby grants Licensee and Licensee hereby accepts a personal non-transferable, non-assignable and non-divisible, royalty-free, exclusive License to use the Licensed Trademarks on the web site at URL: http://www.teamprod.com in connection with the sale of the Licensed Products (the "Licensee Web Site") in accordance with the terms and provisions of this Agreement.

8.2 Use of Trademarks. Licensee shall not use the Licensed Trademarks on the Licensee Web Site without SUNBEAM's prior written approval. Licensee shall submit copies of the proposed web site graphics and text to SUNBEAM for its written approval prior to Licensee placing the Licensed Trademarks on the Licensee Web Site. SUNBEAM shall endeavor to approve such samples within ten (10) business days after receipt. Licensee's failure to receive SUNBEAM's approval shall be deemed a disapproval of such submitted materials. Licensee shall not make any alterations, additions, replacements or improvements to any previously approved web site graphics or text incorporating the Licensed Trademarks without the prior written approval of SUNBEAM.

8.3 Licensee Trademark License. Licensee hereby grants to SUNBEAM a limited license to use Licensee's trademarks as set forth on Schedule A (the "Licensee Marks") on the SUNBEAM web site solely for purposes of creating a link, which may include hypertext, text, banner, logo and contextual links, (hereinafter referred to as "Link") between Licensee Web Site and any URL registered to SUNBEAM (hereinafter referred to as "SUNBEAM Web Site"). If SUNBEAM desires to use any Licensee Marks in connection with this provision, other than on the SUNBEAM Web Site, SUNBEAM shall, in each instance, obtain Licensee's written approval for use of the Licensee Mark, which consent shall not be unreasonably withheld or delayed.

8.4 Reservation of Rights. The parties acknowledge and agree that (i) each parties' trademarks are and shall remain the sole property of that party; (ii) nothing in this provision shall convey to either party any right of ownership in the other party's trademarks (iii) neither party shall now or in the future contest

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the validity of the other party's trademarks; and (iv) neither party shall in any manner take any action that could impair the value of, or goodwill associated with, such trademarks. The parties acknowledge and agree that all use of the other party's trademarks by a party shall inure to the benefit of the party whose trademarks are being used.

8.5. Linking.

(a) SUNBEAM shall establish and maintain, at its cost, at least one Link from the SUNBEAM Web Site to the Licensee web page that promotes and markets the Licensed Products.

(b) Licensee shall establish and maintain, at its cost, at least one Link from Licensee's home page to the SUNBEAM Web Site, to a particular web page designated by SUNBEAM. Further, with SUNBEAM's consent, Licensee may establish, at its cost, additional Links from the Licensee Web Site to the SUNBEAM Web Site.

8.6 Joint Marketing Efforts.

(a) Where appropriate and at SUNBEAM's discretion, SUNBEAM may periodically feature Licensee's Web Site and the Licensed Products on the SUNBEAM Web Site and in other SUNBEAM marketing programs and marketing materials.

(b) Where appropriate and with SUNBEAM's approval, Licensee will periodically feature the Licensed Products and the SUNBEAM Web Site on the Licensee Web Site and in its marketing programs and marketing materials.

(c) SUNBEAM and Licensee shall participate in joint sales and marketing discussions at mutually agreed times and locations to discuss how the parties can participate in additional joint marketing and business development opportunities.

9. EXPLOITATION, MARKETING AND ADVERTISING

9.1 Promotion. Licensee shall use its best efforts to develop, manufacture, promote and sell the Licensed Products in the Territory and to fill orders promptly in compliance with all legal requirements. Licensee shall diligently and continuously manufacture, distribute, promote and sell the Licensed Products during the Initial Term and any Renewal term.

9.2 Marketing Plan. Licensee will develop a Sales and Marketing Plan for the introduction and growth of the Licensed Products on an annual basis. At least four (4) months prior to the beginning of each Contract Year, Licensee shall submit to SUNBEAM a plan for the marketing, advertising and sales activities anticipated for the subsequent Contract Year, including trade and consumer advertising, sales promotion, publicity, public relations and special events (trade shows, in-store activities, etc.) along with

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projected gross and net sales for each Product Category of Licensed Products in each separate territory. SUNBEAM shall provide written comments on, or its approval of, the marketing plan within fifteen (15) business days of receipt. Licensee shall use its best efforts to address SUNBEAM's comments and/or concerns and resubmit the Marketing Plan in response to SUNBEAM'S comments within fifteen (15) business days of receipt of SUNBEAM's comments.

9.3 Sales Forecasts. In addition to an annual Sales Plan, Licensee shall provide SUNBEAM sales forecasts for requested designated periods by Product Category, Territories and/or accounts within five (5) business days after the request of SUNBEAM.

9.4 Trade and Consumer Advertising. During each Contract Year, Licensee will spend five (5%) percent of its forecasted Sales for the Contract Year or of its Net Sales of Licensed Products during the preceding Contract Year, whichever is higher, for trade and consumer advertising and promotion. Not more than two and one-half (2.5%) percent of the amount spent on trade and consumer advertising shall be used for co-op advertising and trade show expenses directly attributable to the Licensed Products. Licensee shall include an itemized statement of all moneys spent by it for advertising and promotion during the preceding Contract Year with its last month's Royalty Report in each Contract Year. Licensee shall also promptly furnish SUNBEAM with a copy of all advertising and such other proof of advertising expenditures as SUNBEAM may reasonably request from time to time. For the purposes of this paragraph, "advertising" means the portion of direct costs incurred by Licensee in connection with newspaper, magazine and other print advertising; direct mail advertising; radio and television advertising; Internet web sites; and promotional materials, displays and other point-of-sale materials displaying the Licensed Products. The cost of advertising includes design, production, agency and placement costs. To the extent that these expenditures do not equal or exceed the amount specified by this paragraph for the Contract Year, Licensee shall pay SUNBEAM the amount of the deficiency as an additional royalty in conjunction with the final payment due for that Contract Year. Licensee shall also reasonably cooperate with SUNBEAM in any multiple product advertising which SUNBEAM wishes to conduct.

9.5 Mailing Lists. During the Initial Term and any Renewal Term of this Agreement, Licensee shall use reasonable commercial efforts to build and maintain mailing lists of consumers who have purchased or inquired about the Licensed Products through the use of warranty registration cards, survey cards, telephone inquiry, etc. The mailing lists shall include the consumer's name, mailing address and E-mail. Six (6) months following the Effective Date of this Agreement, and every six (6) months thereafter, Licensee shall supply SUNBEAM with complete and current mailing lists of consumers of the Licensed Products. SUNBEAM shall have the unrestricted right and license to use such mailing lists and information to promote, market and sell any and all products and services of SUNBEAM and its affiliated companies.

## 10. WARRANTIES AND REPRESENTATIONS

10.1 Sunbeam's Authority. SUNBEAM represents and warrants that; (i) it is a corporation duly organized, validly existing and in good standing under the laws of the State of Delaware and has all requisite corporate power and authority to enter into and perform this Agreement and the transactions contemplated hereby; (ii) all requisite corporate action on the part of SUNBEAM has been completed for the authorization of the execution and delivery of this Agreement and the performance of the other transactions hereunder; (iii) this Agreement is, and such other transactions will be, valid and binding obligations of SUNBEAM, enforceable in accordance with their respective terms; and (iv) the execution and delivery of this Agreement by SUNBEAM and the consummation of the transactions contemplated hereby do not and will not violate the provisions of Sunbeam's Articles of Incorporation or By-Laws or the provisions of any note of which SUNBEAM is the maker or of any indenture, agreement, or other instrument to which SUNBEAM is a party.

10.2 Title to Licensed Trademarks. SUNBEAM knows of no right held by any third party adverse to the grant of the license hereunder for use of the Licensed Trademarks in conjunction with the Licensed Products in the Territory.

10.3 Licensee's Authority. Licensee represents and warrants that; (i) it is a corporation duly organized, validly existing and in good standing under the laws of the State of New Jersey and has all requisite corporate power and authority to enter into and perform this Agreement and the transactions contemplated hereby; (ii) all requisite corporate action on the part of Licensee has been completed for the authorization of the execution and delivery of this Agreement and the performance of the other transactions hereunder; (iii) this Agreement is, and such other transactions will be, valid and binding obligations of Licensee, enforceable in accordance with their respective terms; and (iv) the execution and delivery of this Agreement by Licensee and the consummation of the transactions contemplated hereby do not and will not violate the provisions of Licensee's Articles of Incorporation or By-Laws or the provisions of any note of which Licensee is the maker or of any indenture, agreement, or other instrument to which Licensee is a party.

10.4 Warranties and Representations. Licensee acknowledges that SUNBEAM has made no warranties or representations, other than as set forth in this Section, to induce Licensee to enter into this Agreement, including without limitation, any statement with respect to the validity, enforceability or coverage of the Licensed Trademarks, with respect to the Licensed Products.

10.5 Merchantability. Licensee warrants that the Licensed Products shall be of good and

merchantable quality, free from defects in material and workmanship, and strictly conform to the specifications and standards of Paragraph 6 hereof.

10.6. Warranty and Service. Licensee shall provide warranty protection for the Licensed Products at a level, scope and duration equal to or greater than that offered by competitors for products similar to the Licensed Products but in no case less than one (1) year. As part of supporting and servicing such warranty obligations, Licensee shall establish and maintain a dedicated brand customer service "800" number for responding to customer inquiries, complaints and other matters to adequately service the purchasers of the Licensed Products during the Initial Term or Renewal Term of this Agreement and for the life of the longest warranty offered or one (1) year after termination of this Agreement, whichever is longer.

10.7 Survival. Licensee acknowledges that its warranties, representations or acknowledgments set forth in this Agreement shall be effective during the Term of this Agreement and that Sections 7.3, 7.4, 7.5, 7.6, 7.7, 7.8, 10.4, 12.3, 13.2, 14.1, 15.1, 15.2, and 15.7 shall survive termination of this Agreement for any reason, including without limitation, the breach thereof by either or both Licensee and SUNBEAM.

## 11. INFRINGEMENT

11.1 Notification of Infringement. Licensee will immediately notify SUNBEAM in writing of any actual or alleged infringement, misappropriation or imitation by third parties of the Licensed Trademarks. Promptly after SUNBEAM receives such notice, it shall evaluate the matter; however, SUNBEAM shall have no obligation to take any action and shall have the sole right to determine whether or not any action shall be taken on account of any such infringement, misappropriation or imitation. Licensee shall not take any action on such account without obtaining the prior express written permission of SUNBEAM. If deemed necessary or desirable by SUNBEAM, Licensee shall be entitled to join SUNBEAM as a party to any such litigation it brings; however, any award of damages from such litigation shall belong solely to SUNBEAM.

11.2 Licensee Cooperation. Licensee shall cooperate and provide any documents and personnel reasonably necessary for SUNBEAM to confirm its right, title and interest in and to the Licensed Trademarks and to defend the Licensed Trademarks in any litigation or proceeding. SUNBEAM shall be obligated to pay only the reasonable out-of-pocket costs of such cooperation, which shall not include attorneys fees, executive time, first class fares or the like.

**12. TERMINATION & RENEWAL**

**12.1 Termination & Renewal.** This Agreement shall terminate on the Initial Expiration Date except as follows. In the event that; (i) Licensee's sales and royalties in each Contract Year have exceeded the amounts set forth in Section 3; (ii) Licensee's sales during the Initial Term have shown increases each Contract Year; (iii) Licensee has met all other conditions and obligations of this agreement; and (iv) Licensee has given SUNBEAM written notice of its commitment to renew this Agreement at least six (6) months prior to the Initial Expiration Date, this Agreement shall be automatically renewed for a period of three (3) years and shall be deemed to have a Renewal Expiration date of December 31, 2005.

**12.2 Other Events of Termination.** This Agreement may be terminated at SUNBEAM's option upon the occurrence of any of the following events; (i) Licensee fails to perform or fulfill any term or obligation of this Agreement in the time and manner provided, and if such default shall continue for thirty (30) days after written notice thereof, Such right to terminate this Agreement shall be in addition to and shall not be prejudicial to any right or remedies, at law or in equity, which SUNBEAM may have on account of such default; (ii) If Licensee becomes insolvent, makes an assignment for the benefit of creditors, adjudged bankrupt, or if a receiver or trustee of the property of Licensee shall be appointed; or (iii) If Licensee fails to pay any of the royalties due hereunder within ten (10) days after SUNBEAM's notice of such failure.

**12.3 Effect of Termination.** Upon expiration or termination of this Agreement for any reason, Licensee shall:

(i) immediately cease manufacture, sale, distribution or use of the Licensed Products and any advertising, promotional and packaging materials, labels, literature, stationary or other items bearing the Licensed Trademarks. In the event the expiration or termination of this Agreement is without the fault of Licensee, Licensee shall have six (6) months after expiration or termination to dispose of its remaining inventory of Licensed Products on hand or in process of manufacturing, at the date of termination or expiration in accordance with the provisions of this Agreement;

(ii) have no right to preclude SUNBEAM from immediately using or licensing others to use the Licensed Trademarks for the Licensed Products;

(iii) provide SUNBEAM within thirty (30) days thereafter with a statement indicating the number and description of Licensed Products that it has on hand, or is in the process of manufacturing, as of the date of expiration or termination. SUNBEAM shall have the option of conducting a physical inventory in order to ascertain or verify such inventory and/or statement and

SUNBEAM shall have the right at its sole discretion to purchase such inventory at cost or its market value, whichever is lower. In such event Licensee shall forfeit its rights hereunder to dispose of such inventory in accordance with this Section;

(iv) deliver to SUNBEAM within thirty (30) days after the sale of any inventory permitted hereunder, free of any charge to SUNBEAM, all advertising, labels and promotional materials or the like bearing the Licensed Trademarks;

(v) permit SUNBEAM's authorized representatives to inspect Licensee's books and records in accordance with and for the purposes set forth in this Agreement for a period of three (3) years thereafter; and

(vi) account to SUNBEAM and make the payments called for in this Agreement within thirty (30) days, including any unpaid Annual Minimum Royalties for the remainder of any Contract Year, from the last reported period up to and including the date of termination and monthly thereafter for any permitted inventory sales.

12.4. Termination Upon Change of Business. If (i) Licensee sells, or otherwise disposes of, all or substantially all of Licensee's business or assets to a third party or parties; or (ii) effective control of Licensee is transferred, whether in a single transaction or in a series of transactions, and whether directly or indirectly without SUNBEAM's prior written consent (which consent may be withheld in SUNBEAM's sole discretion), then SUNBEAM shall have the right, without prejudice to any other rights it may have, at anytime thereafter to terminate this Agreement, effective immediately upon giving written notice to Licensee. SUNBEAM's decision to terminate the Agreement in the event of such transaction(s) shall be made in its sole discretion, and Licensee shall have no right to challenge any such determination.

### 13. INDEMNIFICATION

13.1 By SUNBEAM. SUNBEAM agrees to indemnify Licensee and its officers, directors, employees, and/or agents and hold them harmless against claims, demands, causes of action and judgments (including reasonable attorney's fees, expert fees, court costs, and accountants) brought by a third party solely alleging that Licensee's use of the Licensed Trademarks as authorized under and in accordance with this Agreement infringes such third party's trademark rights, provided that; (i) Licensee gives SUNBEAM notice of the claim within fifteen (15) business days after notification of such a claim; and (ii) permits SUNBEAM to undertake and conduct the defense of such claim with attorneys of its own selection. SUNBEAM shall have no duty to indemnify or otherwise hold harmless Licensee or its officers, directors, employees and/or agents in the event such a claim is caused by Licensee's breach of this Agreement or any

negligence on the part of the Licensee.

13.2 By Licensee. Except for claims based on use of the Licensed Trademarks as set forth in Paragraph 13.1, Licensee agrees to indemnify SUNBEAM and its affiliated companies and their officers, directors, employees and/or agents and shall hold them harmless against any and all claims, demands, causes of action and judgments (including reasonable attorneys fees, expert fees, court costs, accounts and executives time) arising out of; (i) Licensee's manufacture, distribution, shipment, labeling, advertising, promotion, offering for sale and/or sale of Licensed Products and/or the promotional and packaging material therefore; (ii) any allegedly unauthorized use of any trademark, patent, know-how, trade secret, process, idea, method, article of manufacture or proprietary right of a third party by Licensee in connection with the Licensed Products; (iii) Licensee's performing or not performing any activities under any of the terms and provisions of this Agreement or Licensee's activities in any way connected with such performance or non-performance; (iv) any defect or health hazard in any Licensed Product; or (v) any breach by Licensee of this Agreement. SUNBEAM agrees to give notice to Licensee within fifteen (15) business days after notification of each such claim. SUNBEAM shall have the right to undertake and conduct the defense of any cause of action and handle any such claim or demand with attorneys of its own selection.

13.3 Implied Warranties. The representations and warranties contained in this Agreement are in lieu of all other representations, warranties or guarantees, express or implied, which could be deemed applicable to this license or the Licensed Products. Licensee acknowledges that SUNBEAM has made no warranties with respect to the Licensed Products, which are solely the responsibility of Licensee. NO EXPRESS WARRANTIES AND NO IMPLIED WARRANTIES AS TO MERCHANTABILITY, FITNESS FOR ANY PARTICULAR PURPOSE OR USE OR OTHERWISE WITH RESPECT TO THE LICENSED PRODUCTS SHALL APPLY NOR HAVE ANY BEEN MADE BY SUNBEAM. LICENSEE HEREBY WAIVES ALL SUCH WARRANTIES OR GUARANTIES, EXPRESS OR IMPLIED, ARISING BY LAW OR OTHERWISE.

#### 14. INSURANCE

14.1 Insurance. Licensee shall obtain and maintain at its own expense, commencing at least thirty (30) days prior to the date of any distribution or sale of Licensed Products and for at least three (3) years after termination of this Agreement, comprehensive product and general liability insurance naming SUNBEAM and its subsidiaries, affiliated companies and their respective officers, directors, employees and agents as an insured party. Licensee shall obtain insurance from a qualified insurance carrier having a rating

01/26/00

of "A" class "X" or better according to Best's Insurance Reports and Standard and Poors, in the amount of at least five million dollars (\$5,000,000.00) per occurrence and five million dollars (\$5,000,000) in the annual aggregate. Such insurer shall have a minimum A.M. Best Rating of A-X or a minimum Standard & Poors rating of A. Licensee's product liability insurance shall be written on an occurrence form with minimum policy limits of at least five million dollars (\$5,000,000) per occurrence and five million dollars (\$5,000,000) in the aggregate, and shall include the following extensions; (i) blanket contractual coverage, (ii) a severability of interest clause, and (iii) worldwide coverage territory. If the Licensee is a non-US entity, coverage shall extend to suits and/or claims made in The United States of America. All of Licensee's insurance deductibles, self-insured exposures, uninsured, or underinsured exposures shall be at Licensee's risk and are for Licensee's account.

14.2. Certificates of Insurance. Licensee shall furnish SUNBEAM with certificates of insurance evidencing the coverage and minimum limits set forth in Paragraph 14.1 prior to or concurrent with the Effective Date of this Agreement, during the term of this Agreement, and for a period of ten (10) years after the date of Licensee's last sale of Licensed Products under this Agreement. Failure of Licensee to secure the required coverage and minimum limits, or the failure to supply certificates of insurance properly evidencing such coverage and minimum limits shall in no way relieve Licensee from its obligations herein. Licensee shall, upon request from SUNBEAM supply SUNBEAM with certified copies of the insurance policies required in Paragraph 14.1.

14.3 Additional Insured. All of Licensee's insurance required in Paragraph 14.1 shall name SUNBEAM, its subsidiaries and affiliated entities and their respective officers, directors, employees, stockholders, and agents as additional insured and shall contain provisions that Licensee's insurers shall have no right of recovery or subrogation against SUNBEAM, its subsidiaries and affiliated entities, and their respective officers, directors, employees, stockholders and insurers. All of Licensee's insurance policies required in Paragraph 14.1 shall provide that thirty (30) days written notice will be given to SUNBEAM prior to any material change in, or cancellation of, such insurance policies. All of Licensee's insurance required in Paragraph 14.1 shall be primary to, and shall receive no contribution from any other insurance maintained by, on behalf of, or benefiting SUNBEAM its subsidiaries and affiliated entities, and their respective officers, directors, employees, and stockholders.

14.4 Additional Coverage. SUNBEAM, in its sole discretion, reserves the right to require additional coverage from time to time which may be reasonable considering the use of the Licensed Products and the area in which they are distributed.

## 15. MISCELLANEOUS

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15.1 Right to Confidential Information. Licensee shall have no right of access to any of SUNBEAM's confidential or proprietary information, including any formula, pattern, compilation, program, device, method, technique, process or file and waives all right to access any such information in the course of litigation, arbitration or otherwise, except for information related to a litigation or arbitration relating to use of the Licensed Trademarks.

15.2 Confidential Information. During the terms of this Agreement, Licensee may have access to certain confidential and proprietary information of SUNBEAM, including but not limited to business plans, proposed advertising, designs, sales records, financial data and manufacturers know-how. Recognizing that such information represents valuable assets and property of SUNBEAM and the harm that may befall SUNBEAM if such information is disclosed, Licensee agrees to hold such information in strict confidence and not to use or otherwise disclose such information to third parties without having received the prior written consent of SUNBEAM. The obligation of confidentiality created herein shall not apply to; (i) information in the public domain, provided it did not come into the public domain through the unauthorized acts of Licensee; or (ii) to information which was in Licensee's possession prior to its disclosure to Licensee by SUNBEAM.

15.3 Relationship. Nothing in this Agreement shall be construed to create an agency, partnership, franchise/franchisor or joint venture relationship between the parties. Licensee is not authorized to incur any financial obligations on SUNBEAM's behalf.

15.4 Force Majeure. Neither Party shall be liable to the other for any loss, injury, delay or damage whatsoever suffered or incurred by the other party due to causes beyond such party's control including acts of God, war, sabotage, and any other causes which cannot be controlled by such party but excluding strikes by employees under Licensee's or its subcontractors control.

15.5 Interest. If Licensee fails to timely make any payments due under this Agreement, Licensee shall pay interest on the unpaid balance from the date such payment becomes due until the date the entire amount is paid in full at a rate equal to three percentage (3%) points over the prime rate being charged in New York, New York by Citibank, N.A. as of the close of business on the date the payment first becomes due. The interest payments shall be in addition to any other remedies due SUNBEAM by law or equity.

15.6 Notices in Writing. Any notice, consent, demand or other communication required under this Agreement must be in writing and mailed by registered or certified mail (return receipt requested) or sent by commercial courier service with delivery confirmed to the parties at the following addresses, or at such other address as may be designated in writing by any party in a notice to the other given in the manner

01/26/00

prescribed, and will be deemed given on the date such notice is received.

If to SUNBEAM:

Sunbeam Corporation  
2381 Executive Center Drive  
Boca Raton, FL 33431  
Attn.: President Licensing Division  
Fax No.:

with a copy to:

General Counsel  
Sunbeam Corporation  
2381 Executive Center Drive,  
Boca Raton, FL 33431  
Fax No.:(561)912-4612

If to Licensee:

Team Products International, Inc.  
85 Fulton Street  
Boonton, NJ 07005  
Fax No: (973) 316-2518

with a copy to:

Roy E. Krunos, Esq.  
Belsole and Kurnos, LLC.  
3 Prospect Street  
Morristown, NJ 07960  
Fax No: (973) 539-8464

15.7 Applicable Law and Jurisdiction. This Agreement shall be deemed to have been made, entered into and finally executed and delivered in the State of Florida and all rights and duties of the parties hereto shall be governed, controlled, interpreted and defined by and under the laws of the State of Florida, without giving effect to any choice of law or conflict of law provisions. All disputes related to this Agreement shall be governed by the laws of the State of Florida and each party irrevocably submits to the

01/26/00

exclusive jurisdiction of the courts of proper subject matter jurisdiction sitting in the State of Florida, solely for the purpose of interpreting this Agreement and adjudicating any dispute arising hereunder.

15.8 Equitable Relief. Licensee acknowledges and agrees that; (a) its failure to perform its obligations under this Agreement and its breach of any provision hereof, in any instance, shall result in immediate and irreparable damage to SUNBEAM; (b) no adequate remedy at law exists for such damage; and (c) in the event of such failure or breach, SUNBEAM shall be entitled to equitable relief by way of temporary, preliminary and permanent injunctions, and such other and further relief as any court of competent jurisdiction may deem just and proper, in addition to, and without prejudice to, any other relief to which such party may be entitled.

15.9 Waiver. Waiver by a party in a particular instance of any of its rights under this Agreement shall not be considered as a continuing waiver of such rights or of any other right.

15.10 Validity. In the event that any one or more provisions or terms of this Agreement are found invalid or unenforceable, the validity or enforceability of any remaining provisions or terms of this Agreement shall not in any way be affected or impaired unless such provisions or terms are found to be of importance to the consideration in entering into this Agreement.

15.11 Entire Agreement. This Agreement sets forth the entire agreement and understanding between the parties as to its subject matter, and supersedes all prior agreements and understandings between them. Neither party shall be bound by any conditions, definitions, warranties or representations with respect to the subject matter of this Agreement, except as duly set forth in a written document which is dated on, as of, or subsequent to the date of this Agreement, and signed by parties. This Agreement may be executed in two or more counterparts, each of which shall be deemed an original and shall bind the signatories.

15.12 Benefit. This Agreement and the license granted herein shall be binding upon and inure to the benefit of the parties and their respective successors.

15.13 Titles, Numbering & Counterparts. Any titles or numbering included in this Agreement are provided for the convenience of the parties and are not to be used in construing this Agreement.

IN WITNESS WHEREOF, the Parties have caused this Agreement to be executed by their respective officers duly authorized as of the Effective Date of execution.

SUNBEAM PRODUCTS, INC.

By: Linda Morgenstern

Typed Name: Linda Morgenstern

Title: Vice President

Date: 2/2/00

TEAM PRODUCTS INTERNATIONAL, INC.

By: Jonathan Levine

Typed Name: Jonathan Levine

Title: President

Date: 2/1/00



EMERSON RADIO CORP. 9 Entin Road, P.O. Box 430, Parsippany, New Jersey 07054-0430 (973) 884-5800

Effective as of May 1, 2002

Mr. Steve Levine  
Chief Executive Officer  
Team Products International, Inc.  
3 Entin Road  
Parsippany, NJ 07054

Limited License Agreement

Dear Mr. Levine:

This letter shall memorialize the agreement between Emerson Radio Corp. ("Emerson") and Team Products International, Inc. ("Team")(collectively "the parties") in connection with the use, by Team, for the period commencing on the effective date and ending on August 30, 2002 ("the Term") for the limited purpose set forth below, of the Emerson-owned trademark as set forth on Exhibit A ("the Trademark"), in connection with the sale of the pre-approved goods set forth on Exhibit A ("the Goods"), pursuant to the terms and conditions herein. It is expressly agreed by the parties that nothing herein contained shall constitute a license by Emerson for Team to use the Trademark for anything but the specific purposes set forth during the Term.

In consideration of a possible future license agreement and other valuable consideration which is hereby acknowledged, Emerson grants Team a non-exclusive, non-transferable right to use the Trademark solely in connection with the manufacture of the Goods for sale to customers in the United States ("the Territory") for the Term to determine the interest of purchasers in the Goods under the Trademark. Within 10 days of the end of the Term Team shall submit to Emerson a certified royalty report setting forth the number of sales (defined as when the Goods are shipped or invoiced, whichever is earlier), by model number and account, of each unit of the Goods, whether such sales are made by Team or a sublicensee/subcontractor, as set forth below. The royalty report shall be accompanied by the payment of royalties for all sales at the rate set forth on Exhibit A, multiplied by the gross invoice price of the Goods, without deduction.

Team shall be permitted to sublicense its obligations under this Agreement to Allstar Marketing Group, LLC ("sublicensee"), on the same terms as set forth herein. Prior to such sublicense and to effectuate same, Team shall obtain the signature of an authorized officer of such sublicensee to the letter agreement attached hereto as Exhibit B, and provide an executed copy of same to Emerson. Notwithstanding such sublicense, Team shall be and remain responsible for the reporting and payment of all royalties as required by this Agreement whether due from the sublicensee or from Team so that Emerson receives only one royalty report reporting the sales of Team and the sublicensee, accompanied by the payment of all accrued royalties, whether due from Team or sublicensee. It is understood that Team shall remain responsible for all actions or failures to act of such sublicensee or any failure by the sublicensee to perform its obligations and Team shall indemnify Emerson for all losses, costs or damages, including attorneys fees, which may arise as a result of the sublicense or out of any action or inaction of sublicensee. No other sublicense by Team of any of its obligations under this Agreement shall be permitted without Emerson's prior written approval in its sole discretion.

To ensure the quality of the Goods Team agrees that two (2) representative samples of the Goods manufactured by or for Team for the limited purpose set forth herein and pursuant to this agreement, as well as all packaging, pricing information and any brochures, marketing, promotional or advertising literature



prepared for use with the sale of the Goods, shall be delivered to Emerson, at no cost to Emerson, at its facility in Parsippany, New Jersey, at least ten (10) days before the proposed sale of the Goods for Emerson's prior review and approval, in its sole discretion. However, Emerson shall not withhold its approval if the Goods and associated materials meet prevailing industry standards and properly depict the Trademark. The Trademark shall be displayed by Team as set forth on Exhibit A, without alteration, on all Goods sold by Team, and on any packaging, advertising and promotional literature. Team represents and warrants that the manner of display and/or sale of the Goods and use of the Trademark on the Goods or in any promotional literature, packaging, and/or advertisements shall in no way reflect adversely upon Emerson's name or goodwill and at all times, Team shall identify Emerson as the owner of the Trademark with language approved by Emerson in writing prior to Team's use of same.

Team shall not, directly or indirectly, distribute, sell or otherwise dispose of or transfer the Goods outside of the Territory or in violation of any laws. Team agrees that it will not use the Trademark, or give consent to use of the Trademark, except as specifically set forth herein, and nothing in this agreement shall be construed to prevent Emerson from using or granting any other rights with respect to the use of the Trademark. This agreement does not grant Team any right to ownership, title or interest in the Trademark, nor does it authorize Team to use the Trademark except as specifically set forth herein and Team expressly agrees that it shall not directly or indirectly manufacture, sell or distribute any other goods, except for the Goods, whatsoever under the Trademark unless otherwise agreed to in writing between the parties. Following the Term, Team shall have no right whatsoever to use of the Trademarks in any manner, unless and until the parties negotiate and set forth the terms of any further agreement with respect to the Goods in a written agreement signed by both parties, it being understood and agreed that neither party shall be under any obligation to negotiate any other agreements. In the event, however, the parties mutually determine that the test program herein was successful, the terms of any further license agreement for the Goods shall be agreed upon by the parties in good faith and shall include a provision requiring Team to pay an advance royalty of \$50,000, payable in four equal payments and which payments shall be creditable against future royalties due, if any.

The Trademark, all rights therein and use thereof, and the goodwill pertaining thereto, whether developed by Emerson or Team, shall inure to the benefit of and be the exclusive property of Emerson and Team shall cooperate with Emerson and provide all necessary documents or information for the purpose of perfecting Emerson's title to or rights in any Trademark registrations, including the date of the first use of the Trademark on the Goods in commerce. Any copyright which may be created bearing any Trademark shall be subject to the prior approval before use, and be the property, of Emerson. Neither Team nor any of its affiliates, or their respective employees, officers, agents, directors, or shareholders will, directly or indirectly, make any unauthorized use of the Trademark or a confusingly similar mark. Team agrees to notify Emerson immediately of any unauthorized use of the Trademark or claims by third parties of any trademark, patent infringement or any other violations of any applicable laws and shall cooperate with and provide assistance to Emerson in the enforcement of any laws or Emerson's Trademark against such third parties.

Team shall not use the name or credit of Emerson in any manner whatsoever, nor incur any obligation in Emerson's name. Nothing herein contained shall be construed to constitute the parties joint venturers, nor shall any similar relationship be deemed to exist between them. Nothing herein contained shall be construed as constituting Team as Emerson's agent or as authorizing Team to incur financial or other obligations in Emerson's name without Emerson's specific authorization in writing and Team agrees that it will make no statements or representations whatsoever to any third party which, expressly or impliedly, states or suggests that Emerson is making any warranty or representation with respect to the sale, manufacture, distribution or fitness of the Goods for any particular purpose, or any other statements or representations which create any liability for Emerson and Emerson shall have no liability or responsibility to Team or to any third party relating to the rights being granted under this letter agreement. Neither party shall have any liability to the



other by reason of failure in the performance of this agreement, if and to the extent that such failure and delay is due to any occurrence beyond the reasonable control of the party failing to perform.

Team shall establish adequate service facilities in the Territory as may be necessary to satisfactorily service the Goods during and following the Term. Team shall maintain a sufficient inventory of spare parts for the Goods during the Term and following expiration or termination of this agreement for such period of time required by all applicable federal, state and local laws, for the service of the Goods, or for such time as is required by Team's warranty, if any, whichever is longer. In no event shall Emerson be required to service the Goods or fulfill any warranty obligations, which shall be Team's sole responsibility at its expense.

Team agrees that it shall use any confidential information provided by Emerson, which may include sales, marketing, product, customer or proprietary information or trade secrets, solely for the purpose of carrying out its obligations pursuant to this agreement and will not disclose any confidential information to third parties without Emerson's prior written consent. Team shall ensure that its sublicensee, manufacturers, agents, employees, officers, directors and shareholders comply with this provision. Team shall comply with all applicable laws, rules, ordinances and regulations in the conduct of its business and with respect to the performance of this agreement and shall obtain any governmental or other approvals required pertaining to the manufacture, sale, use or distribution of the Goods throughout the Territory.

Prior to the sale of Goods Team shall obtain such insurance as is satisfactory to Emerson to cover its business activities under this agreement. Emerson shall have no liability or responsibility to Team or any other person and/or entity arising out of or relating to the rights granted herein. Team represents that the Goods shall be and remain free from all claims of intellectual property infringement (including, but not limited to, any patents, trademarks, copyrights, trade dress, etc.) and that it shall not obtain or use any parts or components with the Goods which are unlicensed copies of components for which a third party owns the intellectual property rights. Team, or its agents, shall obtain all necessary third party intellectual property licenses, and pay all royalties, applicable to the Goods or any parts or components thereof, and comply with all applicable laws in the sale, marketing or promotion of same. In the event Team utilizes any parts or components which are subject to a third party license agreement, either directly or indirectly through a parts supplier, or are required to be licensed, Team represents that such licenses shall be valid and that it, or its agents, shall be and remain in full compliance with the terms thereof, including the payment of any royalty fees. Team shall defend, indemnify and hold harmless Emerson, its subsidiaries and affiliates, and their respective agents, employees, officers, directors, stockholders, licensees, representatives, successors and assigns from and against any and all claims, demands, judgments, liabilities, damages, losses, costs and expenses of any nature (including attorneys' fees and expenses) including, without limitation, death, personal injury, bodily injury, sickness, disease, property damage, loss of use of property or product liability arising from or related to any (i) claim, action or omission of Team, its sublicensee, agents, employees or their families, affiliates, distributors or subcontractors arising under this Agreement, (ii) Team's failure to comply with its obligations set forth herein or any applicable laws, (iii) Team's misrepresentation of any warranties or representations, (iv) any claims of patent, trademark, trade dress or other intellectual property infringement relating to the Goods, or (v) any action or omission arising out of the operation of Team's business.

Team shall keep accurate records of the transactions which are the subject of this limited license for a reasonable period of time following the Term, relating to its activities and the activities of any sublicensee as they relate to the reporting of sales and the payment of royalties, and shall permit Emerson or its authorized agent to inspect such books and records at least once following the Term upon reasonable advance notice for the purpose of verifying the royalties paid under this agreement.

No provision of this agreement may be changed, amended or waived, except in writing signed by both parties and the rights herein granted may not be assigned, transferred, pledged, mortgaged or otherwise encumbered in whole or in part without Emerson's prior written consent. Any waiver on the part of either



party of any right or interest hereunder shall not imply the waiver of any subsequent breach or the waiver of any other rights. No waiver by either party of a breach hereof or a default hereunder shall be deemed a waiver by such party of a subsequent breach or default of like or similar nature. Should any provision of this agreement prove to be invalid or unenforceable under existing or future law or unenforceable in any jurisdiction, the remaining provisions of the agreement will remain in force in all other respects and in all other jurisdictions.

In the event Team breaches any of the provisions of this agreement, Emerson may notify Team in writing in which case the agreement shall be immediately terminated and Team's right to use of the Trademarks herein shall immediately cease and Emerson shall have the right to avail itself of all remedies, whether legal or equitable. The respective indemnities, agreements, representations, warranties and undertakings set forth in this agreement will remain in full force and effect and survive any termination or expiration of this agreement. Upon termination or expiration of this agreement, Team shall provide Emerson with a written accounting of any remaining Goods on hand or in production and dispose of any Goods, promotional literature, advertising and packaging containing any reference to the Trademark in accordance with Emerson's instructions. The parties agree that Team shall be permitted, following such accounting and the removal of all references to the Trademark, to sell any remaining Goods in accordance with any applicable laws.

This agreement is the entire and sole agreement and understanding of the parties and supersedes all other oral or written agreements regarding the subject matter hereof. This agreement may be executed in any number of counterparts and by facsimile, which counterparts and facsimiles together shall constitute one agreement. The parties further agree that this agreement and the performance hereunder shall be governed by the laws of the state of New Jersey regardless of the choice of law rules and conflict of law principles. Both parties consent to the exclusive jurisdiction of the Courts of the State of New Jersey with venue in Morris County. Both parties agree that this agreement shall be executed by a duly authorized representative of each party and that each party is duly organized and validly existing and has the full power and authority to enter into this agreement, and that by entering same they are not in violation of any other agreement.

Very truly yours,

  
John J. Raab

Executive Vice-President International

AGREED AND ACCEPTED

Team Products International, Inc.

By: \_\_\_\_\_  
Steve Levine  
Chief Executive Officer

Date:

(4414)

## EXHIBIT A

I. TRADEMARK - Emerson & G-Clef

The G-clef logo must be used at the most visually prominent use of "EMERSON" on each of the following: product, package, label, advertisement, item of instructional literature, item of promotional literature, and at the largest use of "EMERSON" on each advertisement, item of instructional literature, and item of promotional literature. The G-clef logo may appear on either side, above or below "EMERSON". However, the G-clef logo must be as large as or larger than the first "E" in "EMERSON".

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II. GOODS - "Goods" shall mean the below listed first quality new "A" stock products:

35MM Cameras

(samples of which shall be provided in advance to Emerson for  
its prior approval in its sole discretion and  
only models pre-approved by Emerson shall be sold)

---

III. ROYALTY RATE

The Royalty Rate for all of the Goods shall be five (5%) percent of gross invoice price

EXHIBIT B

Dated: \_\_\_\_\_, 2002.

Emerson Radio Corp.  
Nine Entin Road  
Parsippany, New Jersey 07054

Gentlemen:

This letter will serve as notice to you that, as permitted by the Limited License Agreement, dated effective as of May 1, 2002, ("the Limited License") between Emerson Radio Corp. ("Emerson") and Team Products International, Inc. ("Team"), we have engaged Allstar Marketing Group, LLC for the period from May 1, 2002 to August 30, 2002, as sublicensee for Team in connection with the obligations under the Limited License covering 35MM Cameras, pre-approved in advance by Emerson in its sole discretion. Through its signature below, the sublicensee acknowledges that it has been provided with a copy of the Limited License, the terms of which are incorporated herein as if fully set forth. Sublicensee agrees to be bound by the provisions set forth in the Limited License as if it were a signatory to same, including the requirement to provide evidence to Emerson of satisfactory insurance coverage to cover its business activities under this agreement and the Limited License, except that sublicensee shall report all sales of the Goods, as that term is defined in the Limited License, and pay all royalties due for such sales, directly to Team so that Team may comply with the Limited License. Sublicensee, by its signature, warrants that it shall indemnify and hold Emerson harmless from and against any and all claims resulting from a breach of this letter agreement or the terms of the Limited License and shall remit payment to Emerson for all related damages, costs and expenses, including costs and attorneys fees. Sublicensee further agrees that no further sublicense is permitted without the prior written approval of Emerson in its sole discretion.

Very truly yours,  
Team Products International, Inc.

By: \_\_\_\_\_  
Name:  
Title:

ACKNOWLEDGED AND ACCEPTED:  
Allstar Marketing Group, LLC

By: \_\_\_\_\_  
An Authorized Officer  
Name:  
Title:

Agreed and Accepted by Emerson Radio Corp.

By: \_\_\_\_\_  
John J. Raab  
Executive Vice President - International

(4414)

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TEAMPRODUCTS

NO. 027 PAGE 07

MAY.29.2002 2:05PM EMERSON

## EXHIBIT B

Dated: \_\_\_\_\_ 2002.

Emerson Radio Corp.  
Nine Entin Road  
Parsippany, New Jersey 07054

Gentlemen:

This letter will serve as notice to you that, as permitted by the Limited License Agreement, dated effective as of May 1, 2002, ("the Limited License") between Emerson Radio Corp. ("Emerson") and Team Products International, Inc. ("Team"), we have engaged Allstar Marketing Group, LLC for the period from May 1, 2002 to August 30, 2002, as sublicensee for Team in connection with the obligations under the Limited License covering 35MM Cameras, pre-approved in advance by Emerson in its sole discretion. Through its signature below, the sublicensee acknowledges that it has been provided with a copy of the Limited License, the terms of which are incorporated herein as if fully set forth. Sublicensee agrees to be bound by the provisions set forth in the Limited License as if it were a signatory to same, including the requirement to provide evidence to Emerson of satisfactory insurance coverage to cover its business activities under this agreement and the Limited License, except that sublicensee shall report all sales of the Goods, as that term is defined in the Limited License, and pay all royalties due for such sales, directly to Team so that Team may comply with the Limited License. Sublicensee, by its signature, warrants that it shall indemnify and hold Emerson harmless from and against any and all claims resulting from a breach of this letter agreement or the terms of the Limited License and shall remit payment to Emerson for all related damages, costs and expenses, including costs and attorneys fees. Sublicensee further agrees that no further sublicense is permitted without the prior written approval of Emerson in its sole discretion.

Very truly yours,  
Team Products International, Inc.

By: \_\_\_\_\_

Name: STEPHEN K LEVINE  
Title: Chairman

ACKNOWLEDGES AND ACCEPTED:  
Allstar Marketing Group, LLC

By: \_\_\_\_\_

An Authorized Officer

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

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

Agreed and Accepted by Emerson Radio Corp.

By: \_\_\_\_\_

John J. Rath  
Executive Vice President - International

(24/1)



EMERSON RADIO CORP. 9 Entin Road, P.O. Box 430, Parsippany, New Jersey 07054-0430 (973) 884-5800

Effective as of June 1, 2001

Mr. Steve Levine  
Chief Executive Officer  
Team Products International, Inc.  
3 Entin Road  
Parsippany, NJ 07054

Limited License Agreement

Dear Mr. Levine:

This letter when signed by the parties shall memorialize the agreement between Emerson Radio Corp. ("Emerson") and Team Products International, Inc. ("Team")(collectively "the parties") in connection with the use, by Team, for a limited period of time and for the limited purpose set forth below, of the Emerson-owned trademark as described and in the form set forth on Exhibit A ("the Trademark"), in connection with the sale of goods set forth on Exhibit A ("the Goods"), pursuant to the terms and conditions set forth herein. It is expressly agreed by the parties that nothing herein contained shall constitute a license by Emerson for Team to use the Trademark for anything but the specific purposes and for the term set forth below.

In consideration of a possible future license agreement and other valuable consideration which is hereby acknowledged, Emerson grants Team a non-exclusive, non-transferable right to use the Trademark solely in connection with the manufacture of the Goods for sale to customers in the United States ("the Territory") for a period commencing on the effective date and ending on February 28, 2002 ("the Term").

The parties acknowledge that Team has paid, and Emerson has received, an advance royalty in the amount of \$10,000 which is nonrefundable and is creditable towards all royalties generated under this agreement. Team shall submit quarterly royalty reports, in the form set forth on Exhibit B, to Emerson within fifteen (15) days following the end of each calendar quarter of the Term setting forth the number of sales, by model number, of each unit of the Goods for the previous calendar quarter, whether such sales are made by Team or the sublicensee named herein. A sale shall be deemed to take place when the Goods are shipped or invoiced, whichever is earlier. The quarterly royalty report shall be accompanied by the payment of royalties for all sales, whether such sales are by Team or the sublicensee named herein, in the prior quarter covered by the royalty report, at the rate set forth on Exhibit A, multiplied by the gross invoice price of the Goods, without deduction. No royalties shall be due, however, until Team has been credited with the full amount of the advance royalty, but royalty reports shall be due whether any Goods have been sold, and whether any royalties are due. Team shall be required to pay certain non-refundable minimum royalties during the Term as set forth on Exhibit A, which payments shall be creditable towards any royalties which become due in accordance with this agreement.

Team shall keep accurate books and records of account during the Term, and for a period of at least three (3) years following the expiration or termination of this agreement, relating to its

activities under this agreement, as well as the activities of the sublicensee named herein as they relate to the reporting of sales and the payment of royalties to Team as required herein, and shall permit Emerson or its authorized agent to inspect such books and records at least once following the Term upon reasonable advance notice for the purpose of verifying the royalties paid under this agreement.

During the Term Team shall have the right of first refusal to match the terms of any offer received by Emerson from a third party for an exclusive license for the Goods in the Territory which terms are equal to or exceed the terms of the prospective license agreement as set forth in the term sheet between Team and Emerson. Team shall have thirty (30) days from the date Emerson provides Team with written notice of such offer and the pertinent details thereof, to notify Emerson in writing that it desires to match the terms of any such proposed license. If Team fails to respond or fails to match the terms of such offer, Emerson shall be free to grant a license to such third party, following the Term of this limited license. If no such offers are received during the Term of this limited license, the parties may enter into a license agreement following the limited license, upon the terms set forth in the term sheet between the parties. Notwithstanding anything to the contrary herein or in the term sheet between the parties, and except for this letter agreement, no further licenses shall be granted to Team with respect to the Goods unless and until a formal written agreement with respect thereto is executed by the parties and Team shall have the option of advising Emerson that it desires to accelerate the deadline, set forth in the term sheet, by which the parties shall execute a further definitive license agreement, if any, to December 31, 2001.

For the purpose of ensuring the quality of the Goods, Team agrees that two (2) representative samples of the Goods manufactured by or for Team for the limited purpose set forth herein and pursuant to this agreement, as well as all packaging, pricing information and any brochures, marketing, promotional or advertising literature prepared for use with the sale of the Goods, shall be delivered to Emerson, at no cost to Emerson, at its facility in Parsippany, New Jersey, at least ten (10) days before the proposed sale of the Goods for Emerson's prior review and approval, in its sole discretion. However, Emerson shall not withhold its approval if the Goods and associated materials meet prevailing industry standards and properly depict the Trademark.

The Trademark shall be displayed by Team as set forth on Exhibit A, without alteration, on all Goods sold by Team, and on any packaging, advertising and promotional literature. Team represents and warrants that the manner of display and/or sale of the Goods and use of the Trademark on the Goods or in any promotional literature, packaging, and/or advertisements shall in no way reflect adversely upon Emerson's name or goodwill and at all times, Team shall identify Emerson as the owner of the Trademark with language approved by Emerson in writing prior to Team's use of same.

Team shall not, directly or indirectly, distribute, sell or otherwise dispose of or transfer the Goods outside of the Territory. Team agrees that it will not use the Trademark, or give consent to use of the Trademark, except as specifically set forth herein, and nothing in this agreement shall be construed to prevent Emerson from using or granting any other rights with respect to the use of the Trademark. This agreement does not grant Team any right to ownership, title or interest in the Trademark, nor does it authorize Team to use the Trademark except as specifically set forth herein and Team expressly agrees that it shall not directly or indirectly manufacture, sell or distribute any

other goods, except for the Goods, whatsoever under the Trademark unless otherwise agreed to in writing between the parties. Following the Term, Team shall have no right whatsoever to use of the Trademarks in any manner, unless and until the parties negotiate and set forth the terms of any further agreement with respect to the Goods in a written agreement signed by both parties, it being understood and agreed that neither party shall be under any obligation to negotiate any other agreements.

The parties agree that Team shall be sublicensing obligations under this agreement to TT SYSTEMS, LLC. 70 DELL PLAZA YORKERS, NY 10701 [name and address of sublicensee to be filled in by Team] ("sublicensee") on the same terms as the license given to Team herein. Prior to such sublicense and to effectuate same, Team shall obtain the signature of an authorized officer of such sublicensee to the letter agreement attached hereto as Exhibit C and provide an executed copy of same to Emerson. Notwithstanding such sublicense, Team shall be and remain responsible for the reporting and payment of all royalties as required herein, whether due from the sublicensee or from Team so that Emerson receives only one quarterly royalty report reporting the sales of Team and the sublicensee, accompanied by the payment of all accrued royalties, whether due from Team or sublicensee. It is understood that Team shall remain responsible for all actions or failures to act of such sublicensee or any failure by the sublicensee to perform its obligations and Team shall indemnify Emerson for all losses, costs or damages, including attorneys fees, which may arise as a result of the sublicense or out of any action or inaction of sublicensee. No other sublicense by Team shall be permitted during the Term without Emerson's prior written approval.

The Trademark, all rights therein and use thereof, and the goodwill pertaining thereto, whether developed by Emerson or Team, shall inure to the benefit of and be the exclusive property of Emerson. If applicable, Team shall assign to Emerson the Trademark and incidental rights created by its use, together with the goodwill relating to that part of the business in connection with which the Trademark is used and shall execute and deliver to Emerson such documents as Emerson requires to register Team as a registered or permitted user thereof, in accordance with any applicable laws, rules, requirements or regulations of the Territory. Any copyright which may be created in any article, design, label or the like, bearing any Trademark shall be subject to the prior approval before use, and be the property, of Emerson. Upon request, Team shall cooperate with Emerson and provide all necessary documents or information for the purpose of perfecting Emerson's title to any Trademark registrations, including the date of the first use of the Trademark on the Goods in commerce. Neither Team nor any of its affiliates, or their respective employees, officers, agents, directors, or shareholders will, directly or indirectly:

- sell, manufacture or distribute any goods whatsoever under a mark similar to the Trademark.
- register or attempt to register in its name or that of any other person or entity any name or mark, corporate name or any designation of any kind, in any language, which is the same as, similar to or a derivative of, or otherwise utilizing any portion of the Trademark or trade names of Emerson or any of its affiliates or subsidiaries.
- incorporate or form any corporation or use any name which is the same as, or which is likely to cause confusion or mistake with, any corporate name of Emerson or of any of its affiliates or subsidiaries.
- re-label any of the Goods.



- use any trademark, brand or trade dress which is the same as, or which is likely to cause confusion or mistake with any Trademark, brand or trade dress of Emerson or its affiliates.

Team agrees to notify Emerson immediately of any unauthorized use of the Trademark or claims by third parties of any trademark or patent infringement and shall cooperate with and provide assistance to Emerson in the enforcement of its Trademark against such third parties.

Team shall not use the name or credit of Emerson in any manner whatsoever, nor incur any obligation in Emerson's name. Nothing herein contained shall be construed to constitute the parties joint venturers, nor shall any similar relationship be deemed to exist between them. Nothing herein contained shall be construed as constituting Team as Emerson's agent or as authorizing Team to incur financial or other obligations in Emerson's name without Emerson's specific authorization in writing.

Team agrees that it will make no statements or representations whatsoever to any third party which, expressly or impliedly, states or suggests that Emerson is making any warranty or representation with respect to the sale, manufacture, distribution or fitness of the Goods for any particular purpose, or any other statements or representations which create any liability for Emerson and Emerson shall have no liability or responsibility to Team or to any third party relating to the rights being granted under this letter agreement. Neither party shall have any liability to the other by reason of failure in the performance of this agreement, if and to the extent that such failure and delay is due to any occurrence beyond the reasonable control of the party failing to perform.

Team shall establish adequate service facilities in the Territory as may be necessary to satisfactorily service the Goods during and following the Term. Team shall maintain a sufficient inventory of spare parts for the Goods during the Term and following expiration or termination of this agreement for such period of time required by all applicable federal, state and local laws, for the service of the Goods, or for such time as is required by Team's warranty, if any, whichever is longer. In no event shall Emerson be required to service the Goods or fulfill any warranty obligations, which shall be Team's sole responsibility at its expense.

Team agrees that it shall use any confidential information provided by Emerson, which may include sales, marketing, product, customer or proprietary information or trade secrets, solely for the purpose of carrying out its obligations pursuant to this agreement and will not disclose any confidential information to third parties without Emerson's prior written consent. Team shall ensure that its sublicensee, manufacturers, agents, employees, officers, directors and shareholders comply with this provision.

Team shall comply with all applicable laws, rules, ordinances and regulations in the conduct of its business and with respect to the performance of this agreement and shall obtain any governmental or other approvals required pertaining to the manufacture, sale, use or distribution of the Goods throughout the Territory.

Prior to the sale of Goods Team shall provide to Emerson copies of any insurance policies which shall be in place during the Term to cover its business activities under this agreement, and if same is unsatisfactory to Emerson, or if no insurance is in place, then Team shall obtain such insurance as is satisfactory to Emerson to cover its business activities under this agreement.

Emerson shall have no liability or responsibility to Team or any other person and/or entity arising out of or relating to the rights granted herein. Team represents that the Goods shall be and remain free from all claims of intellectual property infringement (including, but not limited to, any patents, trademarks, copyrights, trade dress, etc.) and that it shall not obtain or use any parts or components with the Goods which are unlicensed copies of components for which a third party owns the intellectual property rights. Team, or its agents, shall obtain all necessary third party intellectual property licenses, and pay all royalties, applicable to the Goods or any parts or components thereof. In the event Team utilizes any parts or components which are subject to a third party license agreement, either directly or indirectly through a parts supplier, or are required to be licensed, Team represents that such licenses shall be valid and that it, or its agents, shall be and remain in full compliance with the terms thereof, including the payment of any royalty fees. Team shall defend, indemnify and hold harmless Emerson, its subsidiaries and affiliates, and their respective agents, employees, officers, directors, stockholders, licensees, representatives, successors and assigns from and against any and all claims, demands, judgments, liabilities, damages, losses, costs and expenses of any nature (including attorneys' fees and expenses), including without limitation, death, personal injury, bodily injury, sickness, disease, property damage, loss of use of property or product liability arising from or related to any (i) claim, action or omission of Team, its sublicensee, agents, employees or their families, affiliates, distributors or subcontractors arising under this Agreement, (ii) Team's failure to comply with its obligations set forth herein, (iii) Team's misrepresentation of any warranties or representations, (iv) any claims of patent, trademark, trade dress or other intellectual property infringement relating to the Goods, or (v) any action or omission arising out of the operation of Team's business.

No provision of this agreement may be changed, amended or waived, except in writing signed by both parties and the rights herein granted may not be assigned, transferred, pledged, mortgaged or otherwise encumbered in whole or in part without Emerson's prior written consent. Any waiver on the part of either party of any right or interest hereunder shall not imply the waiver of any subsequent breach or the waiver of any other rights. No waiver by either party of a breach hereof or a default hereunder shall be deemed a waiver by such party of a subsequent breach or default of like or similar nature. Should any provision of this agreement prove to be invalid or unenforceable under existing or future law or unenforceable in any jurisdiction, the remaining provisions of the agreement will remain in force in all other respects and in all other jurisdictions.

In the event Team breaches any of the provisions of this agreement, Emerson may notify Team in writing that Team is in default under the terms of the agreement. If such default is capable of cure and the default is not remedied within fifteen (15) days following receipt by Team of such notice, Emerson may terminate this agreement effective upon delivery to Team of notice that the agreement is terminated. If the default is not capable of cure, the agreement shall immediately terminate. Team's right to use of the Trademarks herein shall immediately cease upon any such termination and Emerson shall have the right to avail itself of all remedies, whether legal or equitable, including the right to equitable relief to enjoin the use of the Trademarks and any unauthorized manufacture, sale, distribution or display of Goods utilizing the Trademarks. The respective indemnities, agreements, representations, warranties and undertakings set forth in this agreement will remain in full force and effect and survive any termination or expiration of this agreement.



Upon termination or expiration of this agreement, Team shall provide Emerson with a written accounting of any remaining Goods on hand or in production and dispose of any Goods, promotional literature, advertising and packaging containing any reference to the Trademark in accordance with Emerson's instructions. The parties agree that Team shall be permitted, following such accounting and the removal of all references to the Trademark, to sell any remaining Goods in accordance with any applicable laws.

This agreement is the entire and sole agreement and understanding of the parties and supersedes all other oral or written agreements regarding the subject matter hereof. This agreement may be executed in any number of counterparts and by facsimile, which counterparts and facsimiles together shall constitute one agreement. The parties further agree that this agreement and the performance hereunder shall in all respects be governed by the laws of the state of New Jersey regardless of the choice of law rules and conflict of law principles. Both parties consent to the exclusive jurisdiction of the Courts of the State of New Jersey with venue in Morris County. Both parties agree that this agreement shall be executed by a duly authorized representative of each party and that each party is duly organized and validly existing and has the full power and authority to enter into this agreement.

Very truly yours,

A handwritten signature in dark ink, appearing to read 'John J. Raab'.

John J. Raab  
Executive Vice-President International

AGREED AND ACCEPTED

Team Products International, Inc.

By:

A handwritten signature in dark ink, appearing to read 'Steve Levine'.

Steve Levine  
Chief Executive Officer

Date:

8/6/01

## EXHIBIT A

### I.        TRADEMARK - Emerson & G-Clef



The G-clef logo must be used at the most visually prominent use of "EMERSON" on each of the following: product, package, label, advertisement, item of instructional literature, item of promotional literature, and at the largest use of "EMERSON" on each advertisement, item of instructional literature, and item of promotional literature. The G-clef logo may appear on either side, above or below "EMERSON". However, the G-clef logo must be as large as or larger than the first "E" in "EMERSON".

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### II.        GOODS - "Goods" shall mean the below listed first quality new "A" stock products:\*

Corded Telephones  
Cordless Telephones  
Caller Identification Telephones  
Caller Identification Units  
Telephone Answering Machines

\*It is understood that the Goods shall specifically exclude corded and/or cordless Clock Radio/Telephone combinations which are marketed and sold by Emerson.

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### III.        ROYALTY RATE

The Royalty Rate for all of the Goods shall be two (2%) percent of gross invoice price

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### IV.        MINIMUM ROYALTY PAYMENT SCHEDULE

<u>Date</u>	<u>Amount Due</u>
Advance (Paid and Received):	\$10,000
August 31, 2001	\$10,000
November 30, 2001	\$10,000
<u>February 28, 2002</u>	<u>\$10,000</u>
Total	\$40,000

# EXHIBIT B

ROYALTY REPORT FOR TEAM PRODUCTS INTERNATIONAL, INC.  
QUARTERLY REPORTING PERIOD: day/month/year TO day/month/year

MODEL NO./DESCRIP./UNITS	<u>GROSS</u> <u>SALES</u>	X	<u>ROYALTY</u> <u>RATE</u>	=	<u>ROYALTY</u> <u>PAYABLE</u>
	<hr/>				<hr/>
	<hr/>				<hr/>
	<hr/>				<hr/>
					<hr/>
TOTAL ROYALTY*					<hr/>
PAYABLE					
LESS: ANY ADVANCE					
PAYMENTS MADE					<hr/>
TOTAL ROYALTY DUE					<hr/>
					<hr/>

REPORT CERTIFIED TO BE TRUE BY: \_\_\_\_\_(SIGNATURE)  
\_\_\_\_\_(TITLE)  
\_\_\_\_\_(PRINT)  
\_\_\_\_\_(DATE)  
\_\_\_\_\_(TELEPHONE NUMBER)

## EXHIBIT C

Dated: AUGUST 7, 2001.

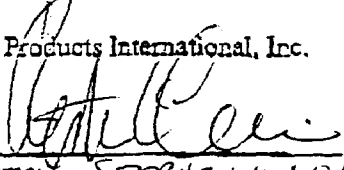
Emerson Radio Corp.  
 Nine Entin Road  
 Parsippany, New Jersey 07054

Gentlemen:

This letter will serve as notice to you that, as permitted by the limited license agreement, dated effective as of June 1, 2001 ("Limited License") between Emerson Radio Corp. ("Emerson") and Team Products International, Inc. ("Team") we have engaged the party signing below as sublicensee for Team in connection with the obligations under the Limited License. Through its signature below, the sublicensee acknowledges that it has been provided with a copy of the Limited License, the terms of which are incorporated herein as if fully set forth. Sublicensee agrees to be bound by the provisions set forth in the Limited License as if it were a signatory to same, including the requirement to provide evidence to Emerson of satisfactory insurance coverage to cover its business activities under this agreement and the Limited License, except that sublicensee shall report all sales of the Goods, as that term is defined in the Limited License, and pay all royalties due for such sales, directly to Team so that Team may comply with the Limited License. Sublicensee, by its signature, warrants that it shall indemnify and hold Emerson harmless from and against any and all claims resulting from a breach of this letter agreement or the terms of the Limited License and shall remit payment to Emerson for all related damages, costs and expenses, including attorneys and legal fees. Sublicensee further agrees that no further sublicense is permitted without the prior written approval of Emerson in its sole discretion.

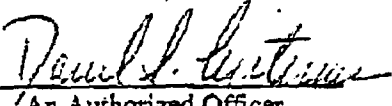
Very truly yours,

Team Products International, Inc.

By:   
 Name: STEPHEN K. LEVINE  
 Title: CHAIRMAN

ACKNOWLEDGED AND ACCEPTED:

Sublicensee TT SYSTEMS, LLC.

By:   
 An Authorized Officer  
 Name: DANIEL S. LEITMAN  
 Title: PRESIDENT

(4107)

## LICENSE AGREEMENT

This Agreement, dated effective as of October 5, 1998 (the "Effective Date") is by and between EMERSON RADIO CORP., a Delaware corporation, having a place of business at Nine Entin Road, Parsippany, New Jersey 07054, and TEAM PRODUCTS INTERNATIONAL, INC., a New Jersey corporation, having a place of business at 85 Fulton Street, Boonton, New Jersey 07005. It is expressly understood, however, that notwithstanding the Effective Date, certain of the Goods, as defined below and which are specifically set forth on Exhibit A, shall not be available for presentation, marketing and sale by Licensee, as hereinafter defined, until January 1, 1999.

Licensor (as hereinafter defined), directly and through affiliates, distributes a variety of consumer electronics products and microwave ovens in numerous countries throughout the world. Licensor is the owner of certain valuable and well-known trademarks, and the goodwill associated therewith;

Licensee (as hereinafter defined) desires to obtain a license of certain of Licensor's trademarks in connection with the manufacturing, marketing, sale and distribution of certain consumer electronics accessory and other products as specifically set forth on Exhibit A, together with replacement parts which may bear the trademarks (collectively referred to herein as the "Goods");

Licensee desires to sell the Goods bearing the trademarks in the geographic regions set forth on Exhibit B ("Territory") and use certain of Licensor's trademarks in conjunction therewith;

Licensor is agreeable to license the use of certain of its trademarks with respect to the manufacturing, marketing, distribution and sale of the Goods by Licensee in the Territory, subject to the terms and conditions of this Agreement.

In consideration of the foregoing premises and the mutual agreements contained herein, the following is agreed to:

### 1. DEFINITIONS

1.1 "Affiliate" means a person or entity who directly, or indirectly through one or more intermediaries, controls or is controlled by or is under common control with a specified person or entity.

1.2 "Confidential Information" means any and all information, data, specifications, customer lists, products and services information, sales and marketing information, vendor data, and information regarding either Licensor, Licensee or their respective Affiliates (collectively, the "Information") except:

- (a) Information which at the time of disclosure is in the public domain;
- (b) Information which, after disclosure, through no fault of the party receiving same, is published or otherwise becomes part of the public domain;

- (c) Information which the receiving party can document as having been in its possession prior to the time of disclosure to it by the other party;
- (d) Information which the receiving party can document as having been received by it on a non-confidential basis from a third party; or
- (e) Data, specifications, customer lists, products and services information and vendor data which the receiving party created on its own or through independent third parties without use of the Information.

1.3 "Contract Year" means, (i) as to the first Contract Year, the period commencing on the Effective Date of this Agreement and ending on December 31, 1999; and (ii) each immediately subsequent full year during the term of this Agreement commencing January 1.

1.4 "Contract Quarter" means each calendar quarter or part thereof within each of the Contract Years.

1.5 "Goods" means those first quality new "A" stock consumer electronics accessories and other goods as specifically set forth on Exhibit A, which Exhibit may be amended from time to time by mutual agreement to reflect additions to or the obsolescence of one or more of the Goods. Licensee acknowledges that Licensor is a party to an existing license agreement which terminates December 31, 1998, which grants an exclusive license for the use of the Trademarks, as defined herein, on certain accessories for consumer electronics products. Licensee therefore acknowledges that certain of the Goods set forth on Exhibit A shall not be available to Licensee for marketing, presentation or sale until after December 31, 1998, as set forth on Exhibit A.

1.6 "Sale" means sale, lease, rental, transfer, exchange or other disposition of the Goods by Licensee. A Sale will be deemed to have occurred when the Goods are shipped or are invoiced, whichever occurs first.

1.7 "Trademarks" means the Emerson and G-Clef design in the form set forth on Exhibit C and all future form(s) of same adopted by Licensor.

1.8 "Licensor" means Emerson Radio Corp.

1.9 "Licensee" means Team Products International, Inc.

## 2. GRANT

2.1 Subject to the terms and conditions of this Agreement, Licensor hereby grants to Licensee an exclusive (to the extent contemplated by Section 8) non-transferable license to utilize the Trademarks solely upon and in connection with the manufacturing, sale, marketing and distribution of the Goods in the Territory.

2.2 Licensee shall not use the Trademarks, or purport to give consent to the use of the Trademarks, in any manner or on any product, items or services, except as specifically set forth in this Agreement.

2.3 The Goods bearing the Trademarks shall not, directly or indirectly, be distributed, sold, or otherwise transferred or disposed of outside of the Territory by the Licensee. Licensee shall inform its customers and distributors that the Goods cannot be distributed, sold or otherwise disposed of outside of the Territory. Licensee agrees that it shall not sell the Goods to any customer or distributor that may distribute, sell or otherwise dispose of the Goods outside of the Territory. Notwithstanding the above and Licensor's right to terminate this Agreement as set forth in Section 10.2, if Goods are sold or otherwise disposed outside of the Territory, Royalties (as hereafter defined) shall be due on any and all such sales of Goods.

### 3. TERM

Subject to the earlier expiration or termination of this Agreement as provided in Section 10 or otherwise herein, this Agreement shall be effective as of the Effective Date and expire as of the close of business on December 31, 2001 (the "Initial Term"), but shall be automatically renewed for successive three (3)-year periods provided (i) Licensee has paid to Licensor all Royalties (as hereinafter defined) payable for each Contract Year as set forth herein in a timely manner and in accordance with the payment schedule, (ii) Licensee has satisfied and/or complied with all of its obligations hereunder, and (iii) Licensee has satisfactorily performed under the projected business plan of Licensee, which shall be required for the Initial Term and any Renewal Term (as hereinafter defined), and which business plan and any subsequent revisions or updates, shall be submitted within the time frame set forth by Licensor and be subject to Licensor's prior review and approval. Each successive three-year period shall hereinafter be referred to as a "Renewal Term." "Initial Term" and "Renewal Term" shall collectively be referred to as the "Term." A condition precedent to such renewal shall be the mutual agreement, to be negotiated in good faith, in writing by both parties as to the minimum royalties, as defined herein, and the gross sales projections, both of which shall be required for any Renewal Term. The parties agree that the maximum increase of the minimum royalties for each year of the first Renewal Term shall not be greater than fifty (50%) percent of the previous year's minimum royalty amount. In the event the parties do not mutually agree upon such minimum royalties and gross sales projections for any Renewal Term prior to the expiration of the Initial Term or any Renewal Term then in effect, this Agreement shall expire at the end of the Initial Term or any Renewal Term then in effect.

### 4. GOODS

4.1 Licensee shall maintain and comply with the quality standards for the Goods as set forth in Exhibit D.

4.2 To assure Licensor that the provisions of this Agreement are being observed, Licensee shall allow Licensor either itself or, if Licensor elects in its sole discretion, by a third party, to take any and all action necessary for the purpose of inspecting or otherwise ensuring the quality of the Goods. If said quality standards are not being maintained at any time during the Term or the Termination Period (as

hereinafter defined), then upon written notice from Licensor, Licensee shall immediately discontinue the sale and distribution of the Goods that do not meet said quality standards. Any Goods which are defective or dangerous and fall below the quality standards shall immediately be removed from sale and if already sold, recalled. Goods, in inventory or elsewhere, not meeting quality standards shall not be distributed or sold. Licensee shall take the above actions at its own expense. Since monetary damages would not be sufficient to remedy a breach of this covenant, Licensor shall be entitled to an immediate temporary restraining order and/or preliminary injunction, without bond or security, to prevent Licensee from violating the terms hereof. Licensee shall promptly reimburse Licensor for the costs of such legal action, including costs and attorneys' fees.

4.3 Licensee shall ensure that the manner of sale, distribution and/or exploitation by Licensee shall in no manner reflect adversely upon the good name or value of Licensor or any of the Trademarks.

4.4 Licensee shall comply with all applicable laws and regulations relating to the manufacture, use, sale, import, export and distribution of the Goods throughout the Territory (and, if applicable, where the Goods are manufactured), whether foreign, federal, state or local, including but not limited to those of the FCC, Underwriters Laboratory and CSA, as required. Such requirements shall include, but not be limited to, obtaining all necessary regulatory and/or governmental approvals, as well as any registrations, permits or licenses that may be required. Upon request, Licensee shall provide Licensor with copies of all such approvals, registrations, permits or licenses. In any license, registration or request for government or regulatory approval, Licensor shall be identified as the owner of the Trademarks.

4.5 Licensee shall, promptly after its initial commercial production of the Goods (or earlier, if available, but in no event later than sixty (60) days prior to Licensee's first sale of any of the Goods) deliver to Licensor (without cost to Licensor) at its facilities in Parsippany, New Jersey, U.S.A., or such other location designated by Licensor, three (3) representative samples of each of the Goods or particular Goods bearing the Trademarks as well as the related packaging, advertising, labels, promotional or any other printed material used in conjunction with the sale of the Goods. Licensor, in its sole discretion, may disapprove of the use of any of the Goods, the quality of which is not consistent with the quality standards set forth in this Section 4 or Goods which fail to comply with proper usage of the Trademarks as defined herein. Licensor's approval shall be deemed given if Licensor does not notify Licensee of Licensor's disapproval of any Goods within 15 days after receipt of same.

4.6 All of the Goods, and all advertising, promotion, packaging or any written material distributed by or through Licensee will, unless otherwise specifically agreed to in writing by Licensor, bear the following legend:

**"EMERSON AND THE G-CLEF LOGO ARE REGISTERED TRADEMARKS  
OF EMERSON RADIO CORP., PARSIPPANY, NEW JERSEY, U.S.A."**

4.7 In all cases where Licensee desires artwork involving Goods to be prepared, the cost of such artwork and the time for the production thereof shall be borne by Licensee. All artwork and designs involving the Trademarks, or any reproduction thereof, shall be and remain the property of Licensor.

## 5. ROYALTIES TO LICENSOR

5.1 Licensee shall pay to Licensor upon the signing of this Agreement, as an advance royalty payment, the amount of \$50,000 payable by wire transfer. The initial royalty payment shall be non-refundable and shall be credited solely against the first year minimum royalty payment as set forth herein.

5.2 (a) Licensee shall also pay to Licensor as royalties ("Royalties") a sum equal to the royalty rate set forth on Exhibit E hereto multiplied by the "Gross Sales Value" of the Goods set forth on Exhibit A, directly or indirectly sold by Licensee. The term "Gross Sales Value" shall mean the gross invoice price of the applicable Goods as translated into U.S. Dollars using an average monthly exchange rate based upon the exchange rate as listed in the Wall Street Journal. Licensee shall be permitted to deduct from Royalties due in any Contract Quarter, as set forth in Section 5.4, the Gross Sales Value of returns which are actually received and certified to be defective by Licensee in such Contract Quarter, not to exceed five (5%) percent of the total Gross Sales Value of each of the Goods for such Contract Quarter. Licensor shall have the right, but not the obligation, to perform an inspection of Licensee's returns inventory within a reasonable time after receipt of any Monthly Royalty Statement, as set forth in Section 5.5, for the purpose of verifying any deductions against royalties taken by Licensee for returned product. Licensee shall keep such inventory available for the purpose of such inspection for no less than thirty (30) days following Licensor's receipt of any Monthly Royalty Statement setting forth any deductions taken by Licensee. Licensee shall be required to pay certain minimum royalties for each Contract Year as set forth on Exhibit F. Such Royalties shall be non-refundable and paid in accordance with the minimum royalty payment schedule set forth on Exhibit F. If the Royalties payable to Licensor for any Contract Quarter pursuant to Section 5.4 exceed the Minimum Royalty for the period as set forth on Exhibit F, Licensee shall pay to Licensor the difference between the Royalties actually payable for the Contract Quarter and the Minimum Royalty for the period, upon delivery of the quarterly report delivered pursuant to Section 5.5 for the Contract Quarter of the Contract Year. If Licensee does not pay any particular minimum or other Royalty when due, Licensor shall have the right to terminate this Agreement pursuant to Section 10.2.

(b) All costs and expenses incurred in the manufacture, sale, distribution or exploitation of the Goods, or otherwise incurred by Licensee, and all taxes, duties, levies and assessments, including sales, value added and use taxes, pertaining to the sale of the Goods, except for taxes on the net income realized by Licensor under this Agreement, shall be paid by Licensee. No such costs, expenses or taxes shall be deducted from, or diminish in any way, or result in the reduction of, any Royalties payable to Licensor. Licensee shall be responsible for completing in a timely manner all documentation necessary to (i) permit Licensor to refrain from collecting taxes or assessments it would otherwise be obligated to collect in the Territory or (ii) to assist Licensor in deriving duty drawbacks. Licensee shall pay any such taxes and file any reports, forms or tax returns required under the income or value added tax laws of the jurisdictions or countries within the Territory in a timely manner. Licensee shall provide Licensor with copies of all duly executed reports, forms or tax returns, and proof of payment of any such taxes, within 45 days after such reports, forms or tax returns are due.

5.3 If any sale of products is made at a special price to any of Licensee's subsidiaries or to any other person, firm or corporation affiliated in any manner with Licensee or its officers, directors or major stockholders, there shall be a royalty paid on such sales based upon the price generally charged the trade by Licensee.

5.4 Except for the Minimum Royalties which shall be paid in accordance with the payment schedule set forth on Exhibit F, Royalties are payable for each Contract Quarter, and shall be due on the 30th day of the month following the end of each Contract Quarter during the Term of this Agreement with the final payment due within thirty (30) days of the termination date of this Agreement. Payment of Royalties shall accompany the quarterly statements required by Section 5.5 below. The acceptance by Licensor of any of the statements furnished pursuant to this Agreement or of any Royalties paid hereunder shall not preclude Licensor from questioning the accuracy thereof at any time during the Term or within two (2) years after the termination of this Agreement, provided that Licensor must question the accuracy of a statement within five (5) years after the date of receipt or its right to challenge same shall thereafter be waived.

5.5 Within ten (10) days after the end of each month, Licensee shall furnish to Licensor a Monthly Royalty Statement in the form attached as Schedule 5.5, certified to be accurate by Licensee, providing all of the information required by such Schedule. Within thirty (30) days after each Contract Quarter, Licensee shall furnish to Licensor complete and accurate statements in the form attached as Schedule 5.5, certified to be accurate by Licensee, describing the Goods distributed and/or sold by Licensee during the preceding Contract Quarter. All of the foregoing statements shall be furnished to Licensor whether or not any of the Goods have been sold during the month or Contract Quarter in question. On an annual basis, within 60 days after the close of Licensee's fiscal year, Licensee will provide Licensor with Licensee's financial statements, audited by the regularly retained independent certified public accountants of Licensee, and prepared in accordance with generally accepted accounting principles, consistently applied. Within 60 days after the end of each Contract Year, Licensee shall furnish to Licensor an Annual Royalty Statement in the form annexed as Schedule 5.5, certified to be accurate by a national independent Certified Public Accounting firm.

5.6 Licensee shall keep, maintain and preserve accurate books of account and records relating to the license hereby granted, and Licensor and its duly authorized representatives shall have the unqualified right during each Contract Year to conduct two (2) examinations of all books and records of Licensee; an examination shall be permitted to take place at all reasonable hours of the day, to examine, copy and extract said books of account and records and of all other documents and materials in the possession or under the control of Licensee with respect to the subject matter and terms of this Agreement. The books of account and records shall be kept available for inspection by Licensor for six years after the annual audit of such books and records. If Licensor's duly authorized representatives shall discover a discrepancy of 5% or more pursuant to any such examination, in addition to payment of the discrepancy as set forth in Section 5.7, Licensee shall pay to Licensor the cost of such examination or audit upon presentation of documentation appropriate to evidence such discrepancy.

5.7 Royalties found to be due as a result of Licensor's examination of (a) any statement provided pursuant to Paragraph 5.6 above or (b) Licensee's books of accounts and records, shall be paid

immediately in good funds. Any and all late payments of Royalties shall bear interest, commencing on the date originally due and payable pursuant to the terms hereof, at an annual interest rate equal to the prime rate as listed in the Wall Street Journal, plus three percent (3%).

## **6. LIMITATION OF USE AND AUTHORITY**

6.1 This Agreement does not grant Licensee any right of ownership, title or interest in the Trademarks, nor authorize Licensee to use the Trademarks except for the purposes set forth in this Agreement. Licensee acknowledges that it does not have and has not acquired any rights in or to the Trademarks, product names, likenesses or any derivations of the foregoing. The Trademarks, all rights therein and use thereof, and the goodwill pertaining thereto, whether developed by the Licensor or the Licensee, shall inure to the benefit of and be the exclusive property of Licensor. If applicable, Licensee shall assign to Licensor all the Trademarks and incidental rights created by its use, together with the goodwill relating to that part of the business in connection with which the Trademarks are used and shall execute and deliver to Licensor such documents as Licensor requires to register Licensee as a registered or permitted user thereof, in accordance with any applicable laws, rules, requirements or regulations of the Territory. The Trademark shall be displayed by Licensee, without alteration, on all Goods sold by Licensee. Any copyright which may be created in any article, design, label or the like, bearing any Trademark shall be subject to the prior approval before use, and be the property of Licensor. Upon request, Licensee shall provide Licensor with all necessary documents or information for the purpose of perfecting Licensor's title to any Trademark registrations, including the date of the first use of the Trademarks on the Goods in commerce in the Territory.

6.2 Neither Licensee nor any of its Affiliates will, directly or indirectly:

- sell, manufacture or distribute any goods whatsoever under a mark similar to the Trademark.
- register or attempt to register the Trademarks in its own name or the name of any third party.
- register or attempt to register in its name or that of any other person or entity affiliated with it any name or mark, corporate name or any designation of any kind, in any language, which is the same as, similar to or a derivative of, or otherwise utilizing any portion of the trademarks or trade names of Licensor or any of its Affiliates.
- incorporate or form any corporation or use any name which is the same as, or which is likely to cause confusion or mistake with, any corporate name of Licensor or of any of its Affiliates or subsidiaries.
- re-label any of the Goods.
- use any trademark, brand or trade dress which is the same as, or which is likely to cause confusion or mistake with any trademark, brand or trade dress of Licensor.

## **7. TRADEMARK INFRINGEMENT; INDEPENDENT CONTRACTOR**

7.1 Licensee will notify Licensor promptly of any of the following that may come to Licensee's knowledge:

- (a) Any alleged infringement by Licensor or Licensee of the rights of any third parties arising out of the activities undertaken in connection with this Agreement;

- (b) Any alleged infringement of any of the Trademarks of Licensors, or
- (c) Any other factors or events which reasonably may be expected to have a material adverse effect on the promotion of the Goods under any of the Trademarks or on Licensors' rights and interests in any of the Trademarks.

7.2 If any third party files a lawsuit, claim or any other type of proceeding against Licensee claiming that the use by Licensee of the Trademarks infringes upon a valid intellectual property right belonging to such third party, Licensors shall defend such actions at its own expense and hold Licensee harmless against the valid claims of any such third party. Licensors may choose to settle such lawsuit, claim or other proceeding and Licensee shall cooperate to effect any such settlement provided that such settlement does not materially affect Licensee's rights hereunder. Should any of the Goods covered by this Agreement become or in Licensors' opinion be likely to become the subject of such a claim, Licensors may, at its option, either procure for Licensee the right to continue selling or using such product, or replace or modify the product so that it becomes non-infringing. Notwithstanding the foregoing, Licensors shall have no right to admit any liability on behalf of Licensee or to create any kind of duty, obligation or promise concerning the future sale of the product on behalf of Licensee without Licensee's prior written consent, which shall not be unreasonably withheld or delayed. However, to the extent that any settlement, judgment or decree prohibits or restricts Licensors' right to sell the goods covered hereby, it shall be released and discharged from any duty to Licensee to supply the same.

7.3 If, in the opinion of Licensee, it becomes desirable to enforce any of the Trademarks against a third party, Licensors may use reasonable efforts to do so. If Licensors fails to enforce such Trademarks, Licensee may bring an action against such third party in its own name or in the name of Licensors. Any such action or other proceedings shall be at Licensee's sole expense and any monetary relief or award obtained, net of reasonable expenses including attorneys' fees, shall be apportioned between the parties to the extent of their respective losses. Licensors, however, shall at any time have the right to take over the prosecution of any such action and, in such event, any monetary relief or award shall inure to the benefit of Licensors and Licensors shall reimburse Licensee for reasonable expenses (excluding attorneys' fees) incurred by Licensee in prosecution of such action.

7.4 Licensee shall furnish all reasonable assistance, at Licensors' request or direction, to enable Licensors to assert and prosecute any claims or defend against any action arising in connection with or related to the Trademarks and the matters described in Sections 7.1 through 7.3 above. Such assistance shall include, but not be limited to: monitoring and reporting to Licensors any improper or unauthorized use of the Trademarks, signing documents, giving testimony, joining such action and asserting claims with respect to the licensed Trademarks against third parties.

7.5 Licensee shall not use the name or credit of Licensors in any manner whatsoever, nor incur any obligation in Licensors' name. Nothing herein contained shall be construed to constitute the parties joint venturers, nor shall any similar relationship be deemed to exist between them. Nothing herein contained shall be construed as constituting Licensee as Licensors' agent or as authorizing Licensee to incur financial or other obligations in Licensors' name without Licensors' specific authorization in writing. Under no circumstances shall any power be granted, or be deemed to be granted to Licensee, be deemed to be a power coupled with an interest. The rights and powers retained by Licensors to

supervise or otherwise intervene in Licensee's activities, all as hereinabove provided, are retained because of the necessity of protecting Licensor's copyrights, trademarks, properties and property rights generally, and specifically to conserve the goodwill and good name of Licensor and of the Trademarks.

8. **EXCLUSIVITY**

Nothing in this Agreement shall be construed to prevent Licensor from using or granting any other licenses for the use of the Trademarks or from utilizing the Trademarks in any manner whatsoever, except that Licensor shall not use nor grant any other license of the Trademarks effective during the Term of this Agreement within the Territory in connection with the sale of the Goods listed in Exhibit A prior to any breach of this Agreement by Licensee or termination or expiration of this Agreement, excluding the Termination Period, as hereinafter defined. Licensee acknowledges, however, the rights of a prior licensee to sell certain consumer electronics accessory products through the termination of an existing license agreement with Licensor, which shall be December 31, 1998, and the right of such prior licensee to sell off any of its remaining inventory bearing the Trademarks through December 31, 1999.

9. **GOODWILL**

Licensee recognizes the great value of the goodwill associated with the Trademarks and that the Trademarks have a secondary meaning in the mind of the public. Licensee acknowledges and agrees that a breach by Licensee of any of its covenants, agreements or undertakings hereunder will cause Licensor irreparable damage, which cannot be readily remedied in damages in an action at law, and may, in addition, constitute an infringement of Licensor's copyrights or trademarks, and agrees that, as a result, Licensor shall be entitled to equitable remedies, costs and attorneys' fees.

10. **TERMINATION**

10.1 This Agreement shall immediately terminate by its own force without notice from Licensor upon the occurrence of any one or more of the following events: (i) an assignment by Licensee for the benefit of creditors; (ii) a public admission by Licensee of its insolvency; (iii) dissolution of Licensee or loss of its charter by forfeiture or otherwise; (iv) adjudication of Licensee as bankrupt or insolvent; (v) appointment of a trustee, liquidator or receiver for the Licensee or a material or substantial portion of its assets, subsidiaries or property; (vi) exercise by any court or governmental agency of jurisdiction over the property or business of the Licensee or any substantial part thereof; (vii) the commencement of any proceedings for the reorganization, dissolution, liquidation or winding up of the Licensee; (viii) the filing by Licensee of a voluntary petition in bankruptcy under any bankruptcy or insolvency law or any law providing for Licensee's reorganization, dissolution, liquidation or winding up, or (ix) consent by Licensee to the appointment of a receiver or trustee of itself or of its property or any substantial part thereof.

10.2 If Licensee: (i) without prior written consent of Licensor sells, or permits or has reason to believe a party to whom it sells Goods shall sell, any Goods outside the Territory bearing the Trademarks; (ii) has intentionally or negligently rendered or renders an incorrect, material representation or report in

connection with the rights granted to Licensee hereunder; (iii) commits intentional or negligent material damage or omits or fails to take steps within its power to prevent such damage to Licensor's business, reputation, vendor relationships, customers or client base, distribution channels or assets or the value of any of Licensor's tradenames, trademarks, service marks, symbols, signs, or other distinctive marks, or the goodwill associated therewith; (iv) fails to provide insurance substantially in accordance with the terms of Section 16; (v) fails to pay any Royalties set forth in Section 5 when due; (vi) registers or attempts to register in its own name or the name of a third party a Trademark or any other trademark owned by the Licensor or similar to such a trademark, or any name or mark, corporate name or any designation of any kind which is the same as, similar to or a derivative of, or otherwise utilizing any portion of the Trademark or trade names of Licensor or any of its Affiliates; (vii) assigns or transfers this Agreement, including by operation of law, without the prior written consent of Licensor; or (viii) breaches any of its obligations hereunder, then, in addition to the rights available under law or in equity, Licensor may notify Licensee in writing that Licensee is in default under the terms of the Agreement. If such default is not remedied within 15 days after the delivery of such notice, Licensor shall have the right to terminate this Agreement effective upon delivery to Licensee of notice that the Agreement is terminated.

10.3 Upon termination or expiration of this Agreement, Licensor shall have the right to retain all moneys paid hereunder to date, to receive all moneys to which it is entitled and to avail itself of any legal or other remedy or relief available to it including, but not limited to, equitable relief to enjoin the use of the Trademarks and the manufacture, sale and distribution of Goods utilizing the Trademarks. Licensee shall be responsible for all costs of such enforcement. All remedies available to Licensor hereunder are cumulative, and Licensor may exercise any one or more remedies or rights available to it cumulatively. The termination or expiration of this Agreement shall be without prejudice to Licensor's rights and remedies with respect to any obligation incurred or breach committed prior to such termination or expiration, including the right to recover for damages caused by Licensee's breach.

10.4 Upon termination or expiration of this Agreement, Licensee shall promptly deliver to Licensor any and all property of the Licensor in the possession, custody or control of Licensee, including all promotional material, original artwork, product manuals and any other material bearing the Trademarks in the possession of Licensee, subject to the provisions of Section 10.6.

10.5 Within ten (10) days of the termination or expiration of this Agreement, Licensee shall deliver to Licensor a statement showing the number and description of Goods on hand or in process. Licensor shall have the right to take a physical inventory to ascertain or verify such statement, and refusal by Licensee to submit to such physical inventory shall forfeit Licensee's right to dispose of such inventory as provided in Section 10.6 hereof.

10.6 In the event of termination by Licensor by reason of any cause contained in Section 10.1 or 10.2, or as set forth on Exhibit F, Licensee, its receivers, representatives, trustees, agents, administrators and successors shall have no further right to sell, exploit or in any way deal in or with any advertising matter, packing material, boxes, cartons or other documentation relating thereto bearing the Trademarks, without the express written consent of Licensor; provided, however, Licensee shall be entitled (subject to the obligation to timely pay all Royalties, including the Guaranteed Minimum

Royalties as set forth on Exhibit F) to dispose of Goods on hand or on order at the date of termination bearing the Trademark for a period of one year from the date of termination. This one-year period shall be referred to herein as the "Termination Period". Nothing contained herein shall be deemed to permit the manufacture of any Goods for Licensee during the Termination Period, or the sale of any such improperly manufactured Goods during the Termination Period.

#### 11. DISTRIBUTION OF GOODS

11.1 Licensee shall use its best efforts to achieve the total gross sales projections set forth on Exhibit G. Licensee shall, during the Term, diligently and continuously market, manufacture (or cause to be manufactured), distribute and sell the Goods and shall make and maintain adequate arrangements for their distribution throughout the Territory.

11.2 Licensee acknowledges that its failure to cease (or cause to cease) the marketing, manufacture, assembly and packaging, sale or distribution of Goods or any class or category thereof using the Trademark at the termination or expiration of this Agreement, other than as set forth in Section 10.6, will result in immediate and irreparable damage to Licensor and to the rights of any subsequent licensee. Licensee acknowledges and admits that there is no adequate remedy at law for such failure and that, in the event of such failure, Licensor shall be entitled to equitable relief by way of temporary and permanent injunctions and such other further relief as any court with jurisdiction may deem just and proper and Licensee shall be responsible for all costs thereof.

#### 12. SUBCONTRACTORS

The Licensee shall obtain satisfactory written evidence from any subcontractor that is retained by Licensee that such subcontractor will not use the Trademarks in any manner not permitted under this Agreement, in the form set forth on Schedule 12, in those instances where the subcontractor furnishes Goods or packaging for the Goods bearing the Trademarks. Licensee shall use its best efforts to assist and cooperate with Licensor with respect to any action by Licensor to enforce its rights to the Trademarks against any one or more of Licensee's subcontractors.

#### 13. SERVICE AND SPARE PARTS

Licensee shall establish and monitor such independent service agents and centers in the Territory as may be necessary to the service of Goods. Licensee shall maintain a sufficient inventory of spare parts for the Goods taking into account any order lead, requiring same, during the Term and the Termination Period. During the Term and subsequent to the expiration or termination of this Agreement, Licensee shall provide for after sales warranty service, if required, and maintain a sufficient inventory of spare parts for the Goods for the respective periods required by applicable federal or local law or Licensee's warranty in the particular countries or regions throughout the Territory.

#### 14. REPRESENTATIONS AND WARRANTIES

Each party hereby represents and warrants to the other that:

- (a) It is duly organized, validly existing and in good standing under the laws of the jurisdiction of its incorporation.
- (b) It has the full power and authority to execute and deliver this Agreement and to perform all of its obligations hereunder and entry into this Agreement and the performance of its obligations hereunder do not and shall not contravene, conflict with or result in a breach of its certificate of incorporation, by-laws, or any other empowering document or agreement to which it is a party.
- (c) The execution and delivery of this Agreement has been duly authorized by all necessary corporate action of the party and constitutes the valid and legally binding obligation of each party enforceable against the party in accordance with its terms.
- (d) This Agreement shall be binding on the successors, assigns and legal representatives of both parties.

15. **DISCLAIMER AND INDEMNIFICATION**

15.1 Licensee shall not and does not grant any warranty or guaranty binding Licensor or creating any liability for Licensor. Licensee will make no statements or representations whatsoever to any third parties which, expressly or impliedly, states or suggests that Licensor is making any warranties with respect to the Goods. Licensor expressly disclaims any implied warranties, including the implied warranties of merchantability and fitness for a particular purpose.

15.2 Licensor shall have no liability or responsibility to Licensee or any other person and/or entity arising out of or relating to the rights granted to Licensee pursuant to this Agreement. Licensee shall defend, indemnify and hold harmless Licensor, its employees, officers, directors, stockholders, licensees, representatives, successors and assigns from and against any and all claims, demands, judgments, liabilities, damages, losses, costs and expenses of any nature (including attorneys' fees and expenses), including without limitation, death, personal injury, bodily injury, sickness, disease, property damage, loss of use of property or product liability arising from or related to any (i) claim, action or omission of Licensee, its agents, employees or their families, affiliates, distributors or subcontractors arising under this Agreement, (ii) Licensee's failure to comply with its obligations set forth herein, (iii) Licensee's misrepresentation of any warranties or representations, (iv) any action or omission arising out of the operation of Licensee's business, or (v) any claim or action arising from Licensee's sale of the Goods, including any claim of infringement of a third party's proprietary intellectual property except as may otherwise be set forth in paragraph 7 herein.

16. **INSURANCE**

Prior to the distribution or sale of any Goods, Licensee shall purchase and maintain or cause to be maintained, at its own cost, insurance reasonably satisfactory to Licensor of the kinds and in the amounts specified in Schedule 16 or in amounts required by law, whichever is greater, and furnish Licensor with certificates of insurance as evidence thereof, in the prescribed form prior to the commencement of distribution of the Goods and annually thereafter not less than thirty (30) days prior

to the expiration dates of said policies. No change shall be made in the certificate of insurance without Licensor's prior written approval. Licensor shall receive copies of all insurance policies.

17. **CONFIDENTIALITY**

17.1 Each party will use the Confidential Information received by the other party solely for the purpose of carrying out this Agreement. Neither party will disclose the Confidential Information to third parties without the express written consent of an officer of the other party, unless compelled by law, required by applicable securities rules or regulations or, in the written opinion of counsel such disclosure is required by law. In such event, each party shall inform the other party as far in advance as possible prior to making any such disclosure. Notwithstanding the foregoing, Licensor shall not be required to inform or obtain the consent of Licensee for the issuance of any press release which utilizes, refers to or discloses sales or royalty information relating to this Agreement, or for the reporting or filing of this Agreement in accordance with applicable securities regulations. Each party shall cause each of their respective officers, directors, agents or employees to whom a disclosure of Confidential Information is made or any subcontractor, including the manufacturer(s) of the Goods, to adhere to the terms and conditions of this Section as if, and to the same extent as if, he or she were a party to this Agreement.

17.2 Upon expiration or termination of this Agreement, each party shall return to the other party all copies of the Confidential Information of the other party in its possession or control, except that Licensor shall not be required to return Confidential Information provided by Licensee which has become a part of Licensor's books and records and which pertains to historical sales and royalty information.

18. **FORCE MAJEURE**

Neither party will have any liability to the other by reason of any failure or delay in performance of any provision of this Agreement, if and to the extent that such failure or delay is due to any occurrence (other than financial) beyond the reasonable control of the party failing or delaying to perform. "Beyond reasonable control" shall mean acts of God, civil disturbances, fires, floods, explosions, or riots, war, rebellion or sabotage. The provisions of this paragraph shall not apply to payment obligations under this Agreement. A party seeking relief pursuant to this paragraph shall, as soon as practicable after the impediment and its effect on such party's ability to perform become known, give written notice to the other party. Written notice shall also be given when the impediment ceases.

19. **LICENSOR'S LINE OF BUSINESS**

Licensee acknowledges that Licensor is presently in the business of selling consumer electronic products, microwave ovens and other consumer products and is seeking alliances, joint venture partners and/or licensees with the goal of distributing other consumer products throughout the world. Licensee acknowledges that marketing and distribution of the foregoing (as well as any other products which Licensor may distribute) with the Trademarks shall not constitute a breach of this Agreement.

Licensee also acknowledges that Licensor's marketing and distribution of spare and replacement parts using the Trademark to support Licensor's product line shall not constitute a breach of this Agreement.

## 20. ASSIGNMENT AND SUBLICENSING

The license herein granted is personal to Licensee and may not be assigned, transferred, sub-licensed, pledged, mortgaged or otherwise encumbered by Licensee in whole or in part without Licensor's prior written consent. For the purposes of this Section, the term "assigned" shall include without limitation, transfers of (i) control, whether by merger, consolidation, reorganization or change of management and (ii) ownership of fifty percent (50%) or more of the outstanding securities of Licensee. Notwithstanding these restrictions, Licensee shall notify Licensor in writing prior to any proposed change in control or transfer of ownership of fifty percent (50%) or more of the outstanding securities of Licensee. If Licensee is interested in continuing the terms of this Agreement, Licensor shall determine, following receipt of all financial or other documents or due diligence materials requested by Licensor concerning the proposed transfer of control or ownership, whether Licensor will approve, in its sole discretion, such change of ownership or control. Any proposed transferee must be financially sound, knowledgeable of the type of business of Licensee, not a competitor of Licensor, committed to quality and positioned to grow the business. Upon Licensor's approval in its sole discretion, control may be transferred. Absent Licensor's approval, which shall not be unreasonably withheld, any change in control or transfer of ownership which occurs shall entitle Licensor to terminate this Agreement upon a date established at Licensor's sole discretion.

## 21. MISCELLANEOUS

21.1 No provision of this Agreement may be changed, amended or waived, except in a writing signed by both parties.

21.2 Any waiver on the part of any party of any right or interest hereunder shall not imply the waiver of any subsequent breach or the waiver of any other rights. No waiver by either party of a breach hereof or a default hereunder shall be deemed a waiver by such party of a subsequent breach or default of like or similar nature.

21.3 Should any provision of this Agreement prove to be invalid or unenforceable under existing or future law, the remaining provisions of the Agreement will remain in force in all other respects.

21.4 All notices will be in writing and in English and will be served personally or by registered or certified mail, return receipt requested, or by overnight courier or by facsimile transmission to each other party at its address herein set forth, or at such other address as each party may provide to the other in writing from time to time:

(a) If to Licensor:

Emerson Radio Corp.  
Nine Entin Road  
Parsippany, NJ 07054  
Attention: Legal Department  
[Facsimile No. (973) 428-2022]

(b) If to Licensee:

Team Products International, Inc.  
85 Fulton Street  
Boonton, New Jersey 07005  
Attention: Steve Levine  
Title: Chief Executive Officer  
[Facsimile No. (973) 316-2518]

With a copy to:

Belsole & Kurnos, L.L.C.  
3 Prospect Street  
Morristown, New Jersey 07960  
Tel. No. (973) 539-1100  
Fax No. (973) 539-8464  
Attention: Roy E. Kurnos, Esq.

Any such notice will be effective upon actual receipt or three (3) days after it is deposited in the mail, postage prepaid, properly addressed and certified, whichever occurs first.

21.5 This Agreement, along with the attached exhibits, is the entire and sole agreement and understanding of both parties and supersedes all other agreements, understandings and communications, whether oral or written, regarding the subject matter hereof.

21.6 This Agreement may be executed in any number of counterparts or by facsimile, but all counterparts and facsimiles hereof will together constitute but one agreement. In proving this Agreement, it will not be necessary to produce or account for more than one counterpart executed by both parties.

21.7 All disputes between the parties concerning this Agreement will be resolved under the laws of the State of New Jersey, U.S.A., excluding the conflicts of laws provisions thereof, and the courts of New Jersey will have sole and exclusive jurisdiction over the parties in any such dispute and venue shall lie exclusively in Morris County, New Jersey. However, it is expressly understood that this Section shall not preclude Licensor's right to make application for, and seek enforcement of, injunctive relief in any court having jurisdiction.

21.8 Licensee shall strictly and fully comply with all import/export controls imposed by the United States or any country or organization of nations within whose jurisdiction Licensee operates or does business.

21.9 The respective indemnities, agreements, representations, warranties and other statements of each of the parties hereto and the undertakings set forth in or made pursuant to this Agreement will remain in full force and effect, and will survive the termination of this Agreement.

21.10 Licensee shall not disseminate any press release or other announcement relating to the transaction contemplated by this Agreement without Licensor's prior written consent as to the contents thereof.

21.11 All payments shall be made directly by Licensee to Licensor and shall be in U.S. Dollars.

21.12 The parties have requested that this Agreement be drawn up and interpreted in the English language.

21.13 Licensee represents and warrants to Licensor that (a) all of its internal systems (including all computer hardware and software used by Licensee) will be Year 2000 compliant prior to December 31, 1999; and (b) each item of hardware, software, or date-sensitive merchandise it sells under this Agreement will be Year 2000 compliant.

IN WITNESS WHEREOF, this Agreement has been executed by the duly authorized representative of each party effective as of the date set forth above.

EMERSON RADIO CORP.  
A Delaware Corporation

By: \_\_\_\_\_

TEAM PRODUCTS INTERNATIONAL, INC.  
A New Jersey Corporation

By: \_\_\_\_\_

Jonathan Levine  
President

(2927)

## EXHIBIT A

For the purpose of Section 1.5 of the Agreement, the term "Goods" shall mean the below listed first quality new "A" stock products:

### Video System Converters:

NTSC to PAL ✓  
PAL to NTSC ✓  
Analog to MultiSystem  
Digital to MultiSystem ✓

### Video Products:

Color Corrector  
Line Doubler  
MultiSystem VCR ✓  
Picture within picture television accessory

### Other:

Data Organizers  
Calculators  
Translators  
Alkaline Battery Charger ✓  
Video Baby Monitors ✓  
Wireless Door Chimes

### **Goods Available For Presentation, Marketing and Sale After January 1, 1999**

Wireless Infrared Mono Headphones  
Wireless R.F. Mono Headphones  
Wireless R.F. Stereo Headphones  
Wireless R.F. Stereo A/V Broadcast System  
Headphones  
Indoor and Outdoor Antennas (incl. plug-in antennas)  
Surge Protectors  
Foreign Voltage Adapters  
Video Cleaning (VHS)  
Audio Cleaning (CD and Cassette)  
Wireless Video  
Auxiliary Outdoor Speakers  
Video Cassette Rewinders

**EXHIBIT B**

**TERRITORY**

United States  
Canada

## EXHIBIT C

Emerson & G-Clef



The G-clef logo must be used at the most visually prominent use of "EMERSON" on each of the following: product, package, label, advertisement, item of instructional literature, item of promotional literature, and at the largest use of "EMERSON" on each advertisement, item of instructional literature, and item of promotional literature. The G-clef logo may appear on either side, above or below "EMERSON". However, the G-clef logo must be as large as or larger than the first "E" in "EMERSON".

## EXHIBIT D

### PRODUCT QUALITY

The following quality standards shall be maintained at all times for all of the Goods:

Less than a five percent (5%) failure rate for the category segment as documented by Licensee or a third party as mutually agreed.

Product quality meets or exceeds the top two (2) industry competitors, namely, Recoton Corporation and Gemini Industries, Inc. Should the top two industry competitors change, Licensor shall have the right to designate that the product quality be changed in accordance with the then current top two industry competitors, such competitors as designated by Licensor.

Packaging meets or exceeds Licensor's licensing requirements and meets or exceeds the level of the Industry Competitors.

Obtain such laboratory approval for the Territory as required, where available, and any other approvals required by Licensor, or any substitute laboratories, as requested by Licensor.

**EXHIBIT E**

**ROYALTIES**

**5%**

## EXHIBIT F

### ANNUAL MINIMUM ROYALTIES

1st Contract Year (10/5/98-12/31/99): \$200,000  
2nd Contract Year (1/1/00-12/31/00): \$300,000  
3rd Contract Year (1/1/01-12/31/01): \$450,000

### MINIMUM ROYALTY PAYMENT SCHEDULE

<u>Date</u>	<u>Amount Due</u>
-------------	-------------------

First Year - (10/5/98-12/31/99) -

Advance royalty due upon signing	\$ 50,000
January 31, 1999	\$ 25,000
June 30, 1999	\$ 25,000
September 30, 1999	\$ 50,000
<u>December 31, 1999</u>	<u>\$ 50,000</u>

Total \$200,000

Second Year - (1/1/00-12/31/00) -

March 31, 2000	\$ 75,000
June 30, 2000	\$ 75,000
September 30, 2000	\$ 75,000
<u>December 31, 2000</u>	<u>\$ 75,000</u>

Total \$300,000

Third Year - (1/1/01-12/31/01) -

March 31, 2001	\$112,500
June 30, 2001	\$112,500
September 30, 2001	\$112,500
<u>December 31, 2001</u>	<u>\$112,500</u>

Total \$450,000

All minimum payments to be credited against earned royalties.

## EXHIBIT F

(cont'd)

### Guarantee of Minimum Royalties:

A. 1st Contract Year. Licensee agrees that under any circumstances, including any termination pursuant to Sections 5.2 (a) and 10.2, Licensee guarantees to Licensor the payment of the full amount of all annual minimum Royalties due for the 1st Contract Year, as set forth in this Exhibit F.

B. Additional Minimum Royalty Guarantee. (a) From the period June 30, 1999 through and including December 31, 1999, this Agreement shall be terminable by Licensee at any time upon six (6) month's written notice to Licensor. In the event of such termination under this section, Licensee hereby guarantees the payment of all minimum Royalties payable for the period of time elapsing between the earliest date Licensee gives written notice of termination under this section, and six months thereafter. Such minimum Royalties shall be payable in accordance with the payment schedule set forth herein so that each installment shall be paid at such time as a minimum royalty payment would be due, and shall be in addition to any other royalties payable through the date of termination.

(b) After January 1, 2000, this Agreement shall be terminable by Licensee at any time upon one (1) year's written notice to Licensor. In the event of such termination under this section, Licensee hereby guarantees the payment of all minimum Royalties payable for the period of time elapsing between the earliest date Licensee gives written notice of termination under this section, and one (1) year thereafter. Such minimum Royalties shall be payable in accordance with the payment schedule set forth herein so that each installment shall be paid at such time as a minimum royalty payment would be due, and shall be in addition to any other royalties payable through the date of termination.

## EXHIBIT G

### TOTAL GROSS SALES PROJECTIONS BY CONTRACT YEAR

Year 1 - \$ 4,000,000US  
Year 2 - \$ 6,000,000US  
Year 3 - \$ 9,000,000US

## Schedule 5.5

ROYALTY REPORT FOR TEAM PRODUCTS INTERNATIONAL, INC.

[MONTHLY][QUARTERLY][ANNUAL]REPORTING PERIOD: day/month/year TO day/month/year  
BY COUNTRY AND MODEL NUMBER

Item	GROSS SALES -	DEDUCTION FOR DEFECTIVE RETURNS		ROYALTY RATE	=	ROYALTY PAYABLE
		(not to exceed 5%)	X			
_____	_____	_____		5%		_____
_____	_____	_____		5%		_____
_____	_____	_____		5%		_____
TOTAL ROYALTY* PAYABLE						_____
LESS: ANY ADVANCE PAYMENTS MADE						_____
TOTAL ROYALTY DUE						_____ _____

\* SUBJECT TO MINIMUM ROYALTIES IN EACH CONTRACT YEAR

REPORT CERTIFIED TO BE TRUE BY: \_\_\_\_\_(SIGNATURE)

\_\_\_\_\_(TITLE)

\_\_\_\_\_(PRINT)

\_\_\_\_\_(DATE)

\_\_\_\_\_(TELEPHONE NUMBER)

SCHEDULE 12

Dated: \_\_\_\_\_, 199\_\_.

Emerson Radio Corp.  
Nine Entin Road  
Parsippany, NJ

Gentlemen:

This letter will serve as notice to you that we have engaged the party signing below as the subcontract manufacturer for Team Products International Inc. ("Team") in connection with the manufacture of goods utilizing the "Emerson and G-Clef" trademark. Through its signature below, the manufacturer acknowledges that it will not use, other than sales to Team, any trademark similar to any of the trademarks appearing on either the packaging or the products they make or have made for us.

Very truly yours,

Team Products International, Inc.

By:  
Name  
Title

ACKNOWLEDGED AND ACCEPTED:

By: \_\_\_\_\_  
[Manufacturer]

## SCHEDULE 16

### GENERAL INSURANCE REQUIREMENTS

Licensee will, at all times during the Term of this Agreement, and where specified for the period following expiration or termination of this Agreement, maintain the following insurance:

1. Commercial General Liability insurance, using an "Occurrence" coverage form, with Combined Single Limits of Liability of at least -

\$1,000,000 per Occurrence for Bodily Injury or Property Damage;  
\$1,000,000 per Offense for Personal/Advertising Injury;  
\$2,000,000 General Aggregate which shall apply on a per location basis;  
\$2,000,000 Annual Aggregate for Products/Completed Operations Liability.

Coverage is to be afforded for:

- Contractual Liability covering the provisions of the hold harmless agreement entered into between Licensor and Licensee; and shall be maintained for not less than three (3) years following the termination of the agreement between Licensor and Licensee.
- Completed Operations and Products Liability; and shall be maintained for not less than three (3) years following the termination of the agreement between Licensor and Licensee.
- Independent Contractor's (Owner's Protective) Liability.
- Personal & Advertising Injury Liability assumed in this License Agreement.
- Licensor and the subsidiaries and affiliates thereof, the stockholders or partners, directors, officers, employees, and agents of them, and such other parties as Licensor may from time to time designate, as Additional Insureds for all policy coverages.

The policy will provide -

- Cross Liability clause (coverage for suits by one insured against another);
- Severability clause (coverage will not be voided for any other insured as a result of acts by any one insured which void coverage for that insured);
- Primary Insurance to the Additional Insured, and any other insurance maintained by Additional Insured will be excess of this insurance.

Coverage will be maintained by Licensee as respects all its operations, premises and products in the "policy territory" commonly found in Commercial General Liability policies as now generally written, including the United States of America and Canada. Coverage will be afforded for all claims made or suits brought in the policy territory as a result of alleged occurrences, accidents, injury or damage anywhere in the world.

Licensee will also maintain insurance coverage for operations, premises and products anywhere in the world other than the United States of America and Canada. Coverage will be afforded for claims made or suits brought in the policy territory as a result of alleged occurrences, accidents, injury or damage anywhere in the world.

2. Workers' Compensation insurance providing statutory benefits as required by state, territorial, commonwealth or other laws of the jurisdiction(s) in which operations will be performed.

Employers Liability insurance with Limits of Liability of at least -

\$1,000,000 for Bodily Injury by Accident;  
\$1,000,000 for Bodily Injury by Disease;  
\$1,000,000 Policy Limit for Bodily Injury by Disease.

3. Umbrella Liability insurance covering on a worldwide basis with no territory exclusions, providing terms and conditions at least as broad as the Primary Insurance, including coverage for the Additional Insured as provided in the Commercial General Liability insurance, in an amount of not less than \$4,000,000 per Occurrence or Offense, \$4,000,000 Annual Aggregate separately for each coverage subject to an annual aggregate limitation in underlying insurance, and \$4,000,000 Annual Aggregate specifically for Products/Completed Operations Liability. Umbrella Liability providing no less coverage than required herein is to be maintained in force for a minimum of at least three (3) years after expiration or termination of the agreement between Licensor and Licensee, for limits specified herein.
4. "All Risks" of Physical Loss or Damage Insurance, including coverage for the perils of Flood or Earthquakes, covering Stock, Merchandise, Inventory, Parts and Accessories while in transit from suppliers, manufacturers or vendors, while at warehouse, store, storage or other premises, and while in transit to Licensee's customers, including all property and equipment owned, or provided to, or used by Licensee in performing its operations, in an amount that is equal to the full cost to repair or replace the property with new property of like kind and quality, except that Stock, Merchandise, Inventory, Parts and Accessories that are sold but not delivered to and accepted by Licensee's customers shall be valued at the net Selling Price.
5. "Employee Dishonesty" (also known as "Fidelity") insurance in an amount of at least \$50,000, covering all officers, partners, directors and employees of Licensee.
6. All the insurance required herein shall provide that Licensee has waived all rights of recovery and Subrogation against Licensor and the subsidiaries and affiliates thereof, the stockholders or partners, directors, officers, employees, and agents of all of them. Where a specific endorsement or agreement by the insurer or surety is required to invoke a waiver of subrogation against all parties stated herein, Licensee will secure such agreement to waive subrogation in writing. Licensee hereby agrees to hold all parties stated herein harmless and indemnify them for all costs and expenses incurred by any of them if any insurer attempts subrogation despite this agreement by Licensee.

7. All policies will be endorsed and a countersigned copy of each endorsement will be attached to the Certificate(s) of Insurance, the endorsement stating that "For good and valuable consideration, receipt of which is acknowledged, Licensor will be notified sixty (60) days in advance, by certified mail, return receipt requested, of any cancellation, material change or non-renewal of coverage evidenced by the certificate." (Any "ACORD" form cancellation clause, or similarly formatted cancellation clause is not acceptable and will be rejected).
8. A certificate or certificates of insurance from the insurance company(ies) having a current Best's rating of at least A-/X, signed by an authorized agent or employee of the insurance company, showing the following insurance is in force will be provided to Owner prior to the commencement of service. Insurance for Automobile Liability, Workers' Compensation and Employers Liability must be maintained in a company(ies) licensed by the state. All other insurance must be provided by an insurer(s) who is (are) licensed or authorized to do business in the state in which the contracted operations are performed, or materials, equipment or products delivered.

All Certificates of insurance should be addressed to the following party:

Legal Department  
Emerson Radio Corp.  
9 Entin Road  
Parsippany, NJ 07054

9. Where required by local regulation or law in all Jurisdictions in Licensee's approved Territory as defined in EXHIBIT B or elsewhere in this agreement, Licensee will maintain, during the terms of this agreement, all insurance, including Employers Liability for injury to employees, that is necessary in order to lawfully operate in the Jurisdiction. The terms and conditions of coverage specified elsewhere in this SCHEDULE 16 will be maintained by Licensee notwithstanding any "local insurance" in force. The total limits required herein will be maintained in United States Dollars at all times. (Licensee may coordinate "local" and SCHEDULE 16 insurance so long as Licensee assures "difference in conditions" and "difference in limits" extensions are maintained to eliminate gaps in coverage that might otherwise exist.)

(2927)



EMERSON RADIO CORP. 9 Entin Road, P.O. Box 430, Parsippany, New Jersey 07054-0430 (973) 884-5800

As of October 5, 1998

Jonathan Levine  
Team Products International, Inc.  
85 Fulton Street  
Boonton, New Jersey 07005

Dear Mr. Levine:

In conjunction with the License Agreement, dated effective as of October 5, 1998 ("the Agreement"), between Emerson Radio Corp. ("Emerson") and Team Products International, Inc. ("Team Products"), being entered into simultaneously with this letter agreement, this will confirm the agreement of the parties to have Team Products supply to Emerson, its affiliates or licensees ("Purchaser"), certain Goods which are the subject of the Agreement.

In the event Purchaser desires to purchase for re-sale outside of the Territory covered by the Agreement, Goods which are the subject of the Agreement, Team Products shall sell such Goods as are available to Purchaser upon request. It is further agreed that such Goods shall be available to Purchaser at a maximum price of 10% above Team Products' F.O.B. factory price. Goods available from Team Products' inventory shall be available to Purchaser at a maximum price of 15% above Team Products' landed cost. It is understood that these sales shall not be included as sales under the Agreement, and no royalties shall be due from Team Products thereon.

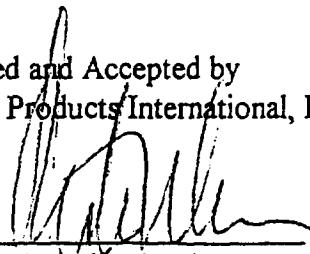
This agreement shall remain in effect as long as the Agreement between the parties remains in effect.

If the above accurately reflects the agreement of the parties, please sign this letter agreement below.

Sincerely yours,

  
John Raab  
Senior Vice President - International

Agreed and Accepted by  
Team Products International, Inc.

By:   
Jonathan Levine  
President

(2948)



EMERSON RADIO CORP. 9 Entin Road, P.O. Box 430, Parsippany, New Jersey 07054-0430 (973) 884-5800

As of October 5, 1998

Jonathan Levine  
Team Products International, Inc.  
85 Fulton Street  
Boonton, New Jersey 07005

Dear Mr. Levine:

In conjunction with the License Agreement, dated effective as of October 5, 1998 ("the Agreement"), between Emerson Radio Corp. ("Emerson") and Team Products International, Inc. ("Team Products"), being entered into simultaneously with this letter agreement, this will confirm the agreement of the parties to have Emerson act as a sales representative for Team Products in conjunction with those accounts with which Emerson has an existing relationship.

In furtherance of this agreement, Emerson shall use reasonable efforts to procure orders for sales of the goods covered by the Agreement, for those accounts with which Emerson has an existing relationship and for which Team Products specifically requests in writing to Emerson that Emerson's sales personnel call upon such account. All purchase orders shall be written directly to Team Products. Emerson's sole responsibility for such accounts shall be to call upon such accounts at its expense, process Team Products' purchase orders with the account, and forward any applicable purchase orders to Team Products. Team products shall be responsible for all other aspects of the transaction including, but not limited to, establishing pricing and credit terms, order processing, inventory, shipping, invoice and collections, after sales and warranty services, returns and returns processing, and adjustments.

Team Products shall pay to Emerson a commission in the amount of 3% of gross sales, in addition to any royalties due under the License Agreement, for all orders placed through an Emerson sales representative, for the duration of the Agreement, without regard to whether Emerson or Team Products services the account on a going forward basis, unless Emerson determines, in its sole discretion, that it shall no longer act as sales representative for a particular account. Commissions shall be based on the gross invoice price of the goods and shall be paid monthly to Emerson within 15 days after the end of each month.

All aspects of the above transactions shall be held in confidence by the parties in accordance with the confidentiality provisions of the Agreement.



If the above accurately reflects the agreement of the parties, please sign this letter agreement below.

Sincerely yours,

A handwritten signature in cursive script, appearing to read 'John Raab'.

John Raab

Senior Vice President - International

Agreed and Accepted by  
Team Products International, Inc.

By:

A handwritten signature in cursive script, appearing to read 'Jonathan Levine'.

Jonathan Levine  
President

(2948)



EMERSON RADIO CORP. 9 Entin Road, P.O. Box 430, Parsippany, New Jersey 07054-0430 (973) 884-5800

As of November 24, 1998

Jonathan Levine  
President  
Team Products International, Inc.  
85 Fulton Street  
Boonton, New Jersey 07005

Re: First Amendment to License Agreement

Dear Mr. Levine:

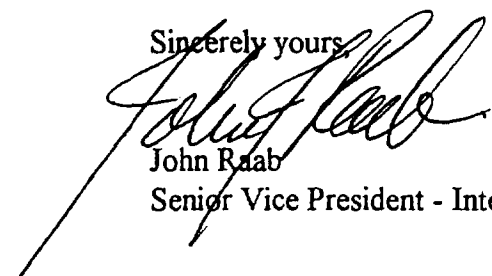
In conjunction with the License Agreement, dated effective as of October 5, 1998 ("the Agreement"), between Emerson Radio Corp. ("Emerson") and Team Products International, Inc. ("Team Products"), this will confirm the agreement of the parties to amend the Agreement to add "cable converters" to the list of Goods on Exhibit A.

Accordingly, in accordance with paragraph 1.5 of the Agreement, the parties agree that Exhibit A is amended to include "cable converters" as one of the "Goods Available For Presentation, Marketing and Sale After January 1, 1999." It is understood by Team Products that such "cable converters" are the subject of a prior license agreement, which is referred to in paragraphs 1.5 and 8 of the Agreement, and shall not be available to Team Products for presentation, marketing or sale until after January 1, 1999.

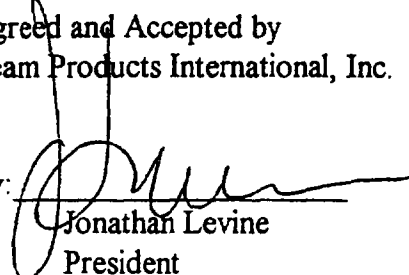
All other terms and conditions of the Agreement, as amended, shall remain in full force and effect.

If the above accurately reflects the agreement of the parties, please sign this letter agreement below.

Sincerely yours,

  
John Raab  
Senior Vice President - International

Agreed and Accepted by  
Team Products International, Inc.

By:   
Jonathan Levine  
President

(2948)



EMERSON RADIO CORP. 9 Entin Road, P.O. Box 430, Parsippany, New Jersey 07054-0430 (973) 884-5800

As of August 16, 1999

Jonathan Levine  
President  
Team Products International, Inc.  
85 Fulton Street  
Boonton, New Jersey 07005

Re: <sup>Second</sup> ~~First~~ Amendment to License Agreement

Dear Mr. Levine:

In conjunction with the License Agreement, dated effective as of October 5, 1998 ("the Agreement"), between Emerson Radio Corp. ("Emerson") and Team Products International, Inc. ("Team Products"), amended by First Amendment to License Agreement as of November 24, 1998, and by Second Amendment to License Agreement as of February 1, 1999, this will confirm the agreement of the parties to further amend the Agreement to add "home and yard pest repellers" to the list of Goods on Exhibit A.

Accordingly, in accordance with paragraph 1.5 of the Agreement, the parties agree that Exhibit A is amended to include "home and yard pest repellers" as one of the Goods on Exhibit A.

All other terms and conditions of the Agreement, as amended, shall remain in full force and effect.

If the above accurately reflects the agreement of the parties, please sign this letter agreement below.

Sincerely yours,

  
John Raab  
Senior Vice President - International

Agreed and Accepted by  
Team Products International, Inc.

By: \_\_\_\_\_  
Jonathan Levine  
President

(2948)



EMERSON RADIO CORP. 9 Entin Road, P.O. Box 430, Parsippany, New Jersey 07054-0430 (973) 884-5800

As of December 14, 1999

Jonathan Levine  
President  
Team Products International, Inc.  
85 Fulton Street  
Boonton, New Jersey 07005

Re: Third Amendment to License Agreement

Dear Mr. Levine:

In conjunction with the License Agreement, dated effective as of October 5, 1998 ("the Agreement"), between Emerson Radio Corp. ("Emerson") and Team Products International, Inc. ("Team Products"), amended by First Amendment to License Agreement as of November 24, 1998, and by Second Amendment to License Agreement as of February 1, 1999, this will confirm the agreement of the parties to further amend the Agreement to add "FRS Portable Radios" to the list of Goods on Exhibit A.

Accordingly, in accordance with paragraph 1.5 of the Agreement, the parties agree that Exhibit A is amended to include "FRS Portable Radios" as one of the Goods on Exhibit A. The parties further agree that the royalty rate for "FRS Portable Radios" only shall be three (3%) percent.

All other terms and conditions of the Agreement, as amended, shall remain in full force and effect.

If the above accurately reflects the agreement of the parties, please sign this letter agreement below.

Sincerely yours,

  
John Raab

Senior Vice President - International

Agreed and Accepted by  
Team Products International, Inc.

By: 

Jonathan Levine  
President

(2948)



EMERSON RADIO CORP. 9 Entin Road, P.O. Box 430, Parsippany, New Jersey 07054-0430 (973) 884-5800

As of March 28, 2000

Jonathan Levine, President  
Team Products International, Inc.  
85 Fulton Street  
Boonton, New Jersey 07005

Re: Fourth Amendment to License Agreement

Dear Mr. Levine:

In conjunction with the License Agreement, dated effective as of October 5, 1998 ("the Agreement"), between Emerson Radio Corp. ("Emerson") and Team Products International, Inc. ("Team Products"), amended by First Amendment to License Agreement as of November 24, 1998, by Second Amendment to License Agreement as of February 1, 1999, and by Third Amendment to License Agreement as of December 14, 1999, this will confirm the agreement of the parties to further amend the Agreement to revise the minimum royalties for the Second and Third Contract Years as set forth on Exhibit F of the Agreement, and to reduce the Gross Sales Projections on Exhibit G.

Accordingly, in accordance with the provisions of the Agreement, as amended, the parties agree that Exhibit F is amended to reduce the minimum royalties due for the Second Contract Year to \$150,000, with corresponding revisions of the minimum royalty payments as set forth on the amended Exhibit F attached hereto, and to reduce the minimum royalties due for the Third Contract Year to \$200,000, with corresponding revisions of the minimum royalty payments also as set forth on the amended Exhibit F attached hereto.

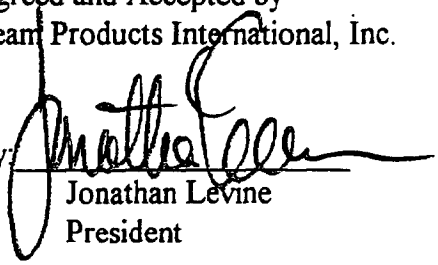
The parties further agree that Exhibit G is amended to reflect a reduction in the Gross Sales Projections for the Second and Third Contract Years as set forth on the amended Exhibit G attached hereto.

All other terms and conditions of the Agreement, as amended, shall remain in full force and effect. If the above accurately reflects the agreement of the parties, please sign this letter agreement below.

Sincerely yours,

  
John Raab  
Senior Vice President - International

Agreed and Accepted by  
Team Products International, Inc.

By:   
Jonathan Levine  
President

(2948)

## AMENDED EXHIBIT F

### ANNUAL MINIMUM ROYALTIES

1st Contract Year (10/5/98-12/31/99): \$200,000

2nd Contract Year (1/1/00-12/31/00): \$150,000

3rd Contract Year (1/1/01-12/31/01): \$200,000

### MINIMUM ROYALTY PAYMENT SCHEDULE

<u>Date</u>	<u>Amount Due</u>
First Year - (10/5/98-12/31/99) -	
Advance royalty due upon signing	\$ 50,000
January 31, 1999	\$ 25,000
June 30, 1999	\$ 25,000
September 30, 1999	\$ 50,000
December 31, 1999	\$ 50,000
Total	\$200,000
Second Year - (1/1/00-12/31/00) -	
March 31, 2000	\$ 37,500
June 30, 2000	\$ 37,500
September 30, 2000	\$ 37,500
December 31, 2000	\$ 37,500
Total	\$150,000
Third Year - (1/1/01-12/31/01) -	
March 31, 2001	\$50,000
June 30, 2001	\$50,000
September 30, 2001	\$50,000
December 31, 2001	\$50,000
Total	\$200,000

All minimum payments to be credited against earned royalties.

## AMENDED EXHIBIT F

(cont'd)

### Guarantee of Minimum Royalties:

A. 1st Contract Year. Licensee agrees that under any circumstances, including any termination pursuant to Sections 5.2 (a) and 10.2, Licensee guarantees to Licensor the payment of the full amount of all annual minimum Royalties due for the 1st Contract Year, as set forth in this Exhibit F.

B. Additional Minimum Royalty Guarantee. (a) From the period June 30, 1999 through and including December 31, 1999, this Agreement shall be terminable by Licensee at any time upon six (6) month's written notice to Licensor. In the event of such termination under this section, Licensee hereby guarantees the payment of all minimum Royalties payable for the period of time elapsing between the earliest date Licensee gives written notice of termination under this section, and six months thereafter. Such minimum Royalties shall be payable in accordance with the payment schedule set forth herein so that each installment shall be paid at such time as a minimum royalty payment would be due, and shall be in addition to any other royalties payable through the date of termination.

(b) After January 1, 2000, this Agreement shall be terminable by Licensee at any time upon one (1) year's written notice to Licensor. In the event of such termination under this section, Licensee hereby guarantees the payment of all minimum Royalties payable for the period of time elapsing between the earliest date Licensee gives written notice of termination under this section, and one (1) year thereafter. Such minimum Royalties shall be payable in accordance with the payment schedule set forth herein so that each installment shall be paid at such time as a minimum royalty payment would be due, and shall be in addition to any other royalties payable through the date of termination.

**AMENDED EXHIBIT G**

**TOTAL GROSS SALES PROJECTIONS BY CONTRACT YEAR**

Year 1 - \$ 4,000,000US

Year 2 - \$ 3,000,000US

Year 3 - \$ 4,000,000US



EMERSON RADIO CORP. 9 Entin Road, P.O. Box 430, Parsippany, New Jersey 07054-0430 (973) 884-5800

As of May 1, 2001

Jonathan Levine  
President  
Team Products International, Inc.  
85 Fulton Street  
Boonton, New Jersey 07005

Fifth Amendment to License Agreement dated  
Effective as of October 5, 1998 between Emerson Radio Corp.  
And Team Products International, Inc., as amended ("the Agreement")

Dear Mr. Levine:

In conjunction with the above-referenced Agreement, this will confirm the agreement of the parties to further amend the Agreement to remove "FRS Portable Radios" from the list of Goods on Exhibit A. All other terms and conditions of the Agreement, as amended, shall remain in full force and effect.

Please sign this letter agreement below acknowledging this amendment.

Sincerely yours,

  
John Raab  
Executive Vice President - International

Acknowledged/Agreed by  
Team Products International, Inc.

By: 

Jonathan Levine  
President

(2948)

Copy to:

J. Raab  
M. Andriani  
K. Corby  
G. Paglinco  
C. Jost  
B. Calianese

THE TRUSTED NAME IN ELECTRONICS SINCE 1912

May 14 2001 03:24PM P2

PHONE NO. : 9733162518

FROM : TEAM PRODUCTS

TRADEMARK  
REEL: 002668 FRAME: 0265



EMERSON RADIO CORP. 9 Entin Road, P.O. Box 430, Parsippany, New Jersey 07054-0430 (973) 884-5800

As of July 7, 2001

Jonathan Levine, President  
Team Products International, Inc.  
3 Entin Road  
Parsippany, NJ 07054

Sixth Amendment to License Agreement dated  
Effective as of October 5, 1998 between Emerson Radio Corp.  
And Team Products International, Inc., as amended ("the Agreement")

Dear Mr. Levine:

In conjunction with the Agreement between Emerson Radio Corp. ("Emerson") and Team Products International, Inc. ("Team"), this will confirm the agreement of the parties to further amend the Agreement to add "Lantern Product" to the list of Goods on Exhibit A. Such Lantern Product includes a black and white television and features such as a flashlight, lantern, AM/FM radio and siren. Attached hereto is a copy of the Lantern Product contemplated by this agreement as presently sold by Team under the Coleman® brand.

Accordingly, in accordance with paragraph 1.5 of the Agreement, the parties agree that Exhibit A is amended to include "Lantern Product" as one of the Goods. The parties further agree that the royalty rate for "Lantern Product" shall be five (5%) percent.

All other terms and conditions of the Agreement, as amended, shall remain in full force and effect. If the above accurately reflects the agreement of the parties, please sign this letter agreement below.

Sincerely yours,

  
John Raab  
Executive Vice President - International

Acknowledged/Agreed by  
Team Products International, Inc.

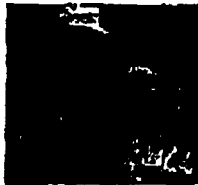
By: 

Jonathan Levine  
President

(2948)

## **Coleman®** *Wherever you travel...*

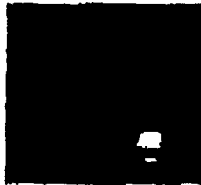
**watch the big game...listen to music...  
read by lantern...search by spotlight  
...signal for help!**



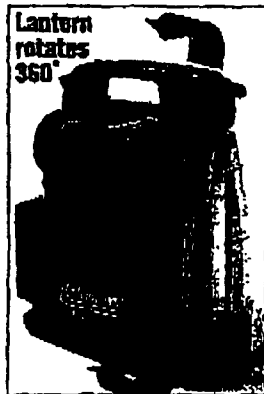
**A rugged companion for  
your outdoor adventures  
—like camping & fishing!**



**Ideal for watching TV while  
relaxing on the deck,  
poolside or picnicking**



**Peace of mind in an  
emergency situation!**



**Lantern  
rotates  
360°**



### **Portable TV, AM/FM Radio, Lantern, Flashlight & Emergency Siren... ALL-IN-ONE Compact Unit!**

Camping, fishing, boating or traveling, take along the Coleman® TV Lantern with built-in 5" B/W TV, AM/FM radio, lantern, flashlight and emergency siren to stay informed, entertained and to feel safer. It is the ultimate in portable convenience. Think of all the trunk space you'll save! A compact, space-saving design, convenient 3-way power source capability and a variety of uses make this unique TV Lantern a "must pack" on your next adventure. Kids will love watching TV in the car. You can catch the weather no matter where you travel. You get the conveniences of both a flashlight and a lantern. Plus a piercing siren in case of an emergency. What else could you pack that takes so little room and does so many things! You're sure to enjoy this mini TV's superior B/W picture quality, sound performance and portability on the patio at home, too!

**DELUXE PACKAGE INCLUDES:** AC and DC adaptor for use at home or in the car, plus carrying strap for portability.

UL listed. Made in China.  
Measures approximately: 11 1/2" H x 5 1/2" W x 14" D.

#### **Coleman® TV Lantern**

**\$79<sup>95</sup>\***  
Only **Each**  
or pay 3 easy payments  
of \$26.65\*

#### **Deluxe Coleman® TV Lantern Package**

**\$99<sup>96</sup>\***  
Only **Each**  
or pay 3 easy payments  
of \$33.22\*



is a registered trademark of  
The Coleman Company, Inc.  
Used under license. Manufactured  
by Allstar Manufacturing Group.

#### **PICK UP & GO FEATURES:**

- 3 Way Power Source Capability—operates on ~12V DC power for car, ~9 "C" batteries (not included), ~110V household current
- AM/FM radio for music, news, weather and sports
- Dial in channels VHF 2-13 and UHF 14-83 for your favorite shows on the go
- Full range speaker
- Constructed of high-impact plastic for durability
- Telescopic swivel antenna
- Vertical hold, brightness and contrast controls
- Headphone jack
- OPTIONAL carrying strap
- OPTIONAL DC adaptor for use in the car

**TRADEMARK**

REEL: 002668 FRAME: 0267



EMERSON RADIO CORP. 9 Entin Road, P.O. Box 430, Parsippany, New Jersey 07054-0430 (973) 884-5800

As of October 1, 2001

Jonathan Levine, President  
Team Products International, Inc.  
3 Entin Road  
Parsippany, NJ 07054

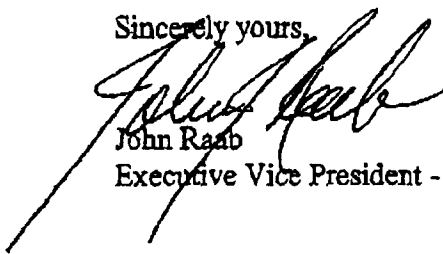
Seventh Amendment to License Agreement dated  
Effective as of October 5, 1998 between Emerson Radio Corp. ("Emerson")  
And Team Products International, Inc. ("Team"), as amended ("the Agreement")

Dear Mr. Levine:

In conjunction with the Agreement between Emerson and Team, this will confirm that the parties, in accordance with paragraph 1.5 of the Agreement, agree to amend Exhibit A to include modems of the type set forth on the attachment hereto, as one of the "Goods".

All other terms and conditions of the Agreement, as amended, shall remain in full force and effect. If the above accurately reflects the agreement of the parties, please sign this letter agreement below.

Sincerely yours,

  
John Raab  
Executive Vice President - International

Acknowledged/Agreed by  
Team Products International, Inc.

By:   
Jonathan Levine  
President

(2948)



EMERSON RADIO CORP. 9 Entin Road, P.O. Box 430, Parsippany, New Jersey 07054-0430 (973) 864-5800

NO. 376 P. 2/4  
Copy to: J. Raab  
K. Corby  
G. Paglinco  
C. Jost  
B. Calianese

As of December 19, 2001

From: C. Iatrou  
1/7/02

Steve Levine, Chief Executive Officer  
Team Products International, Inc.  
3 Entin Road  
Parsippany, NJ 07054

Eighth Amendment to and Conditional Renewal of License Agreement  
dated Effective as of October 5, 1998 between Emerson Radio Corp. ("Emerson") And  
Team Products International, Inc. ("Team"), as amended ("the Agreement")

Dear Mr. Levine:

This will confirm that, according to Section 3 of the Agreement, the Agreement expires as of December 31, 2001, but is automatically renewed subject to the requirements of that section. This will confirm that the Agreement shall be renewed subject to the provision by Team to Emerson of a satisfactory business plan and the mutual agreement of the parties in writing as to the minimum royalties and gross sales projections for the renewal term.

The parties further agree to amend the Agreement to add the following products to the list of Goods on Exhibit A thereof:

Modem (switch board type)  
Mini Radio Scanner  
Weather Forecaster  
S-in-1 Mini Flashlight

The royalty rate for such Goods shall be five (5%) percent.

Additionally, Team shall be permitted to sublicense its obligations under the Agreement with respect to the additional Goods set forth in this letter agreement only, for a period of one (1) year, to AllStar Marketing ("sublicensee") on the same terms as the Agreement. Prior to such sublicense and to effectuate same, Team shall obtain the signature of an authorized officer of such sublicensee to the letter agreement attached hereto as Exhibit A, and provide an executed copy of same to Emerson. Notwithstanding such sublicense, Team shall be and remain responsible for the reporting and payment of all royalties as required by the Agreement and the terms of any renewal, whether due from the sublicensee or from Team so that Emerson receives only one quarterly royalty report reporting the sales of Team and the sublicensee, accompanied by the payment of all accrued royalties, whether due from Team or sublicensee. It is understood that Team shall remain responsible for all actions or failures to act of such sublicensee or any failure by the sublicensee to perform its obligations and Team shall indemnify Emerson for all losses, costs or damages, including attorneys fees, which may arise as a result of the sublicense or out of any action or inaction of sublicensee. No other sublicense by Team of any of its obligations under the Agreement, as amended or renewed, shall be permitted during the term of the Agreement without Emerson's prior written approval.



The parties agree that the right to sublicense granted hereunder is subject to the renewal of the Agreement for an additional three (3) year term as set forth herein, and shall only be effective during such renewal term. The sublicense shall be renewable in Emerson's sole discretion, following Emerson's receipt and approval in its sole discretion of a business plan pertaining to same.

All other terms and conditions of the Agreement, as amended and renewed, shall remain in full force and effect. If the above accurately reflects the agreement of the parties, please sign this letter agreement below.

Sincerely yours,

*John Rao*  
John Rao  
Executive Vice President - International

Acknowledged/Agreed by  
Team Products International, Inc.

By: *Jonathan Levine*  
Jonathan Levine  
President

~~DRAFT~~ *7/2*

Dated: 12/20, 2001

Emerson Radio Corp.  
Nine Basin Road  
Parsippany, New Jersey 07054

Gentlemen:

This letter will serve as notice to you that, as permitted by the License Agreement, dated effective as of October 5, 1998, as amended, ("the License") between Emerson Radio Corp. ("Emerson") and Team Products International, Inc. ("Team"), and conditioned upon the renewal of same for an additional three (3) year period, we have engaged the party signing below for the period from 1/1/02 to 12/31/02, as sublicensee for Team in connection with the obligations under the License with respect to Medicoms (switch board type), Mini Radio Scanners, Weather Forecasters, and 5-in-1 Mini Flashlights only. Through its signature below, the sublicensee acknowledges that it has been provided with a copy of the License, the terms of which are incorporated herein as if fully set forth. Sublicensee agrees to be bound by the provisions set forth in the License as if it were a signatory to same, including the requirement to provide evidence to Emerson of satisfactory insurance coverage to cover its business activities under this agreement and the License, except that sublicensee shall report all sales of the Goods, as that term is defined in the License, and pay all royalties due for such sales, directly to Team so that Team may comply with the License. Sublicensee, by its signature, warrants that it shall indemnify and hold Emerson harmless from and against any and all claims resulting from a breach of this letter agreement or the terms of the License and shall remit payment to Emerson for all related damages, costs and expenses, including attorneys and legal fees. Sublicensee further agrees that no further sublicense is permitted without the prior written approval of Emerson in its sole discretion.

Very truly yours,

Team Products International, Inc.

By: *Stephen K. Levine*  
Name: STEPHEN K. LEVINE  
Title: CHAIRMAN

ACKNOWLEDGED AND ACCEPTED:

AllStar Marketing

By: *Scott Boile*  
An Authorized Officer  
Name: Scott Boile  
Title: President

Agreed and Accepted by Emerson Radio Corp.

By: *John J. Xas*  
John J. Xas  
Executive Vice President - International

(1245)



EMERSON RADIO CORP. 9 Entin Road, P.O. Box 430, Parsippany, New Jersey 07054-0430 (973) 884-5800

As of January 1, 2002

Steve Levine, Chief Executive Officer  
Team Products International, Inc.  
3 Entin Road  
Parsippany, NJ 07054

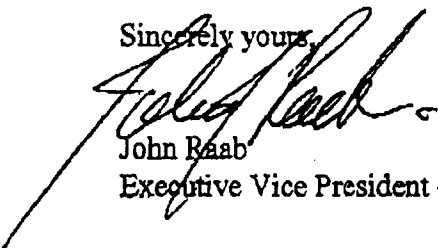
Agreement regarding Minimum Royalties for Renewal Term of License Agreement dated  
Effective as of October 5, 1998 between Emerson Radio Corp. ("Emerson") And  
Team Products International, Inc. ("Team"), as amended and renewed ("the Agreement")

Dear Mr. Levine:

This will confirm our agreement that the minimum royalties and gross sales projections for the three-year renewal term covering the period January 1, 2002 through December 31, 2005 are as set forth on the attached Exhibit A.

All other terms and conditions of the Agreement, as amended and renewed, shall remain in full force and effect. If the above accurately reflects the agreement of the parties, please sign this letter agreement below.

Sincerely yours,

  
John Raab

Executive Vice President - International

Acknowledged/Agreed by  
Team Products International, Inc.

By: 

Jonathan Levine  
President

(2948)

**EXHIBIT A****ANNUAL MINIMUM ROYALTIES FOR FIRST RENEWAL TERM**

1st Contract Year of Renewal Term (1/1/02-12/31/02): \$200,000  
2nd Contract Year of Renewal Term (1/1/03-12/31/03): \$200,000  
3rd Contract Year of Renewal Term (1/1/04-12/31/04): \$200,000

**MINIMUM ROYALTY PAYMENT SCHEDULE**

<u>Date</u>	<u>Amount Due</u>
<b>First Year - (1/1/02-12/31/02) -</b>	<b>\$200,000</b>
March 31, 2002	\$50,000
June 30, 2002	\$50,000
September 30, 2002	\$50,000
<u>December 31, 2002</u>	<u>\$50,000</u>
Total	\$200,000
<b>Second Year - (1/1/03-12/31/03) -</b>	<b>\$200,000</b>
March 31, 2003	\$50,000
June 30, 2003	\$50,000
September 30, 2003	\$50,000
<u>December 31, 2003</u>	<u>\$50,000</u>
Total	\$200,000
<b>Third Year - (1/1/04-12/31/04) -</b>	<b>\$200,000</b>
March 31, 2004	\$50,000
June 30, 2004	\$50,000
September 30, 2004	\$50,000
<u>December 31, 2004</u>	<u>\$50,000</u>
Total	\$200,000

All minimum payments to be credited against earned royalties.

**TOTAL GROSS SALES PROJECTIONS FOR FIRST  
RENEWAL TERM BY CONTRACT YEAR**

Year 1 - \$ 4,000,000US  
Year 2 - \$ 4,000,000US  
Year 3 - \$ 4,000,000US



EMERSON RADIO CORP. 9 Entin Road, P.O. Box 430, Parsippany, New Jersey 07054-0430 (973) 884-5800

As of January 1, 2002

Jonathan Levine, President  
Team Products International, Inc.  
3 Entin Road  
Parsippany, NJ 07054

Ninth Amendment to License Agreement dated Effective as of October 5, 1998 between  
Emerson Radio Corp. ("Emerson") And Team Products International, Inc. ("Team"),  
as amended and renewed ("the Agreement")

Dear Mr. Levine:

This will confirm that, in accordance with paragraph 1.5, Exhibit A of the Agreement is amended to include mini portable computer speaker systems as one of the "Goods". Further, in accordance with the Eighth Amendment to the Agreement, Team shall be permitted to sublicense its obligations under the Agreement with respect to such additional Good to AllStar Marketing under the same terms and conditions set forth in the Eighth Amendment.

All other terms and conditions of the Agreement, as amended and renewed, shall remain in full force and effect. If the above accurately reflects the agreement of the parties, please sign this letter agreement below.

Sincerely yours,

A handwritten signature in black ink, appearing to read 'John Raab'.

John Raab

Executive Vice President - International

Acknowledged/Agreed by  
Team Products International, Inc.

By: A handwritten signature in black ink, appearing to read 'Jonathan Levine'.  
Jonathan Levine  
President

(2948)

WAT-07-02 16:18 From:KAME KESSLER P.C.

2127658949

T-121 P.02/07 Job-115

**Media Solution Services**  
440 Park Avenue South  
6<sup>th</sup> floor  
New York, New York 10016

January 22, 2002

Allstar Marketing Group, LLC  
3 Westchester Plaza  
Elmsford, NY 10523  
Attn.: Mr. Scott Feldman

Ladies and Gentlemen:

This letter is to confirm our agreement regarding the manufacturing of a phone/computer/fax line sharing device (the "Product") by Allstar Marketing Group, LLC ("Allstar") for Media Solution Services ("MSS") which Product shall be branded with the "Emerson" trademark.

MSS represents and warrants that to the best of its knowledge the Product, as manufactured in a form to be approved by MSS, does and will not violate any United States patent. MSS shall have the right to inspect the Product prior to acceptance by MSS and to require Allstar to make any modifications necessary to cause the Product to comply with the specifications and instructions provided by MSS to Allstar. Allstar shall provide MSS with all information reasonably requested by MSS for the purpose of ensuring that the Product was manufactured in accordance with MSS's specifications and instructions.

For valuable consideration, the receipt and sufficiency of which are hereby acknowledged, MSS agrees that it shall indemnify, defend and hold harmless Allstar, its affiliates, officers, directors, shareholders and employees individually and its two (2) business partners, namely Emerson and Team Products, from and against all claims, demands, losses, liability, suits, judgments, damages, costs and expenses (including reasonable attorneys' fees and expenses) resulting from or relating to (i) a legal action or claim against them that arises out of a claim that the Product infringes upon the patent, trademark, copyright, trade secret or other intellectual property or other rights of a third party (excluding a claim that the mark EMERSON infringes the rights of any third party); (ii) the advertising or marketing of the Product (other than claims based on the use of the EMERSON name and trademark in a manner that has been approved by Allstar), and/or (iii) a breach of MSS's representations and warranties.

Allstar represents and warrants that it has the right to authorize MSS to use the EMERSON name and trademark on the Product and in advertising and marketing for the

HDKNY 133319v1  
HDKNY 133319v1

May 07 02 03:45p

Allstar Marketing

19143477849

P. 4

MAY-07-02 16:10 From:KANE KESSLER P C

2127650940

T-121 P. 01/07 Job-115

Product. Allstar shall have the right to inspect the Product and any advertising or marketing materials for the Product prior to distribution. For valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Allstar agrees that it shall indemnify, defend and hold harmless MSS, its affiliates, officers, directors, shareholders and employees individually, from and against all claims, demands, losses, liability, suits, judgments, damages, costs and expenses (including reasonable attorneys' fees and expenses) resulting from or relating to (i) a legal action or claim against them that arises out of a claim that the use of the trademark EMERSON on the Product or in advertising or marketing for the Product that Allstar has reviewed and approved infringes upon the rights of any entity and/or (ii) a breach of Allstar's representations and warranties contained in this paragraph. Allstar hereby approves the advertisements attached as Exhibit A to this agreement, with the understanding that its approval relates to the use of the EMERSON name and trademark only.

Very truly yours,

Media Solutions Services

By: Jeffrey S. Sargent

Title: Director of Merchandising

ACCEPTED AND AGREED:

Allstar Marketing Group, LLC

By: [Signature]

Title: CFO

HDKNY 133318v1

HDKNY 133318v1



## **SCHEDULE D**

### **DOMAIN NAMES**

teamproducts.com

teamprod.com

See Confidential Development, License, Supply and Services Agreement, dated as of May 23, 2002, by and between The Hartz Mountain Corporation and Grantor (attached to Schedule C to this Agreement).