

NOBLESVILLE SCHOOLS RETAIL PRODUCT LICENSE AGREEMENT

This is a Retail Product License Agreement (“Agreement”) between the vendor offering products and goods to School’s community, an individual/organization operating under the state laws where it has its principal office address, (“Licensee”), and Noblesville Schools having its principal office at 18025 River Road, Noblesville, IN 46062 (“School”).

WHEREAS, Licensee desires to manufacture, advertise, distribute and sell certain Licensed Articles containing the Licensed Marks, and School is willing, subject to certain conditions, to grant this limited, temporary license to Licensee.

1. DEFINITIONS

In addition to the terms defined elsewhere in the Agreement, as used in this Agreement, the following terms shall have the following respective meanings:

a) “School” includes the pre-school, elementary, middle, junior high, high school, and other educational institutions sponsored and administered by School, including any additions or deletions that may be made from time-to-time by School.

b) “Licensed Marks” means the names and identifying marks of School including, without limitation, the trademarks, service marks, trade dress, team names, nicknames, abbreviations, city/state names in the appropriate context, slogans, designs, colors, uniform and helmet designs, distinctive landmarks, logographics, mascots, seals and other symbols associated with or referring to the respective School. Licensed Marks includes those shown in Appendix A, modifications of the Licensed Marks approved for use by the School, and any other names or identifying marks adopted and approved for use by the School.

c) “Licensed Articles” means the products and goods listed in Appendix B which contain Licensed Marks.

d) “Authorized Brands” means any additional brand names or labels Licensee may use in association with the Licensed Articles. Authorized Brands are listed in Appendix C.

e) “Distribution Channels” means the channels of trade in which Licensee may advertise distribute and sell the Licensed Articles in the Territory. The Distribution Channels authorized herein are located within the United States. Licensee shall not advertise, distribute or sell Licensed Articles to any third party that Licensee knows or should reasonably know intends or is likely to advertise, redistribute or resell Licensed Articles outside the authorized Distribution Channels.

f) “Territory” means the United States of America, its territories and possessions, and United States military bases abroad. Licensee shall not advertise, distribute or sell Licensed Articles outside the Territory, or to any person or entity that Licensee knows or should reasonably know intends or is likely to advertise, redistribute or resell Licensed Articles outside the Territory.

g) “Net Sales” means the total gross sales of all Licensed Articles distributed or sold at Licensee’s invoiced selling price, including the royalty amount, less 1) quantity trade discounts actually allowed and shown on the invoice, 2) any credits for returns actually made as supported by credit memoranda issued to customers, 3) sales taxes, and 4) prepaid transportation charges on Licensed Articles shipped by Licensee from its facilities to the purchaser. There shall be no other deductions allowed including, without limitation, deductions for direct or indirect costs incurred in the manufacturing, distributing, selling, importing or advertising (including cooperative and other advertising and promotional allowances) of the Licensed Articles, nor shall any deductions be allowed for non-collected or uncollectable accounts, commissions, cash or early payment discounts, close-out sales, distress sales, sales to employees, or any other costs.

h) “Premiums” means any products, including Licensed Articles, bearing any Licensed Marks featured alone or in combination with the marks of any third party, that Licensee sells or gives away for the purposes of (i) promoting, publicizing or increasing the sale of its own products or services; or (ii) promoting, publicizing or increasing the sale of the products or services of any third party. Premiums include, without limitation, combination sales, incentives for sales force, and trade or consumer promotions such as sweepstakes.

2. GRANT OF LICENSE

a) Grant: Upon execution of this Agreement, and subject to its terms and conditions, School grants Licensee the limited, temporary, revocable, nontransferable rights to manufacture, advertise, distribute and sell the Licensed Articles listed in Appendix B, containing the Licensed Marks shown in Appendix A, under the applicable Authorized Brands and in the Distribution Channels indicated in Appendix C, in the Territory, during the Term. Licensee shall exercise such rights in accordance with all School, federal, state, and local guidelines, policies and requirements provided to Licensee, which shall be deemed part of the Agreement.

b) Rights Reserved: Nothing in this Agreement shall be construed to prevent School from granting any other licenses or rights for use of the Licensed Marks. The School retain all rights to use and license its respective Licensed Marks.

c) Term: This Agreement shall begin effective as of last date of signature below and shall expire within twelve (12) months, unless terminated sooner or renewed in the manner provided in this Agreement.

d) Renewal: Upon expiration, if Licensee has complied with all terms and conditions of this Agreement during the preceding Term or renewal period, Licensee shall be considered for renewal of this Agreement. Renewal is at the discretion of School. Licensee recognizes and agrees School has no express or implied obligation to renew the Agreement. School will have no liability to Licensee for any expenses incurred by Licensee in anticipation of any renewal of the Agreement.

e) Limitations on License: This license is subject to the following limitations and obligations, as well as other limitations and obligations set forth in the Agreement:

1. Licensee shall not use the Licensed Marks for any purpose other than as authorized in this Agreement. Any proposed additions to the Licensed Articles and/or new designs shall be submitted in writing to School and samples shall be submitted to School for prior approval, as provided in Section 10. Licensee shall, upon notice by School, immediately recall any unauthorized products or designs from the marketplace, and destroy them or submit them to School, at School's option and at Licensee's expense.

2. Licensee shall not use any brand names other than Authorized Brands in connection with the manufacture, advertising, distribution and sales of the Licensed Articles. School shall have the right to remove or change any of the Authorized Brands during the Term.

3. Licensee shall advertise, distribute and sell Licensed Articles only in the authorized Distribution Channels. School shall have the right to determine whether a particular retail account falls within a particular Distribution Channel. Unless specified in Appendix C, Licensee shall have the right to advertise, distribute or sell licensed articles directly to consumers.

4. Licensee must receive School's prior written authorization to use any Distributor of any Licensed Article. "Distributor" shall mean any party whose business includes purchasing manufactured products from any other third party and shipping such products to retailers without changing such products. Licensee will remain primarily obligated to School under this Agreement notwithstanding School's approval of a Distributor and Licensee shall ensure that any approved Distributor complies with all applicable terms and conditions of the Agreement including, without limitation, providing such Distributor with instructions relating to the distribution of the Licensed Articles and the Distribution Channels for the Licensed Articles. If an approved Distributor engages in conduct that would be a default under the Agreement if Licensee engaged in such conduct, Licensee shall be deemed in default and shall fully cooperate with School to ensure that such conduct ceases promptly.

5. Licensee shall not provide any method of application of Licensed Marks for any third party unless School authorizes Licensee to provide said application under the terms of an authorized manufacturer's or supplier's agreement.

6. Licensee shall not contract with any foreign third party for the production of Licensed Articles or application of Licensed Marks by that party ("Manufacturer") who does not comply with federal, state, and local laws and regulations applicable to that third party. In addition, Licensee shall take the steps necessary to ensure the following: Manufacturer shall produce the Licensed Articles only as and when directed by Licensee, which remains fully responsible for ensuring that the Licensed Articles are manufactured in accordance with the terms herein including approval, labor code requirements and royalty payment; Manufacturer shall not advertise, distribute or sell Licensed Articles to any person or entity other than Licensee; and Manufacturer shall not delegate in any manner whatsoever its obligations with respect to the Licensed Articles. Licensee's failure to comply with this Section may result in termination of this Agreement and/or confiscation and seizure of Licensed Articles. School hereby reserve the right to terminate the engagement of any Manufacturer at any time.

7. Licensee shall comply, and ensure that all Manufacturers comply, with labor code and monitoring requirements as established by the respective School and as set forth in Fair Labor

Association and Worker Rights Consortium codes of conduct, which is incorporated herein by reference. Licensee is responsible for complying with the codes of conduct and federal, state, and local laws and regulations applicable to Licensee.

8. Any Licensed Articles manufactured at a location outside of the United States shall be taken into the possession of Licensee prior to being distributed or sold in the Territory.

9. Licensee shall have no right to delegate any responsibility to any Sublicensee of any Licensed Article without the prior written approval of School. "Sublicensee" shall mean any third party that manufactures any Licensed Article, ships such product to retailers, and invoices retailers directly.

10. Licensee shall not use any of the Licensed Articles as Premiums unless Licensee receives prior written authorization through School. Licensee shall not provide Licensed Articles as premiums to any third party whom Licensee knows or should reasonably know intends to use the Licensed Articles as Premiums.

11. Licensee is not permitted, without School's prior written authorization and payment of amounts owed to School under this Agreement, to promote or market a Licensed Article by means of a direct mailing or any other direct solicitation to a list of alumni, students, parents, athletic contributors, faculty or staff, or other group associated or affiliated with the School, regardless of how Licensee acquires such list.

12. Rules prohibit the use of the name or likeness of any person who has current or remaining athletic eligibility on or in connection with the sale or promotion of any commercial product or service. In conducting activity under this Agreement, licensee shall not encourage or participate in any activity that would cause an athlete or a School to violate any rule of the IHSAA, NCAA, or other governing body of any athletic conference having jurisdiction over School or its athletes.

3. MARKETING EFFORTS / PERFORMANCE

a) Marketing Efforts: Licensee recognizes that marketing efforts for Licensed Articles are important to the success of this program and Licensee, if requested, will assist School with such efforts by its participation.

b) Performance: Licensee shall manufacture, distribute, sell and maintain inventory of sufficient quantities of Licensed Articles to meet the reasonable market demand in the Distribution Channels.

4. SELECTION OF INDIVIDUAL SCHOOLS

Prior to execution of this Agreement, Licensee requested a license from School for use of its current Licensed Marks. Licensee may from time-to-time request the addition of additions to the Licensed Marks, as provided in Section 5.

5. MODIFICATION OF APPENDICES

a) The School and its royalty charges listed in Appendix A, the Licensed Marks, the Licensed Articles, the Authorized Brands and Distribution Channels, and labor code requirements may be changed by School when and if such changes are desired by School.

b) Through periodic notices, including, without limitation, notification through email, School will give Licensee written reasonable notice of any changes to appendices or policies. Licensee, upon receipt of the notices, is responsible for distributing them promptly to the appropriate party(s) and complying with the modified appendices and policies.

c) Licensee recognizes and agrees that certain changes to appendices A, B, C, or D may affect Licensee's right regarding Licensed Marks, Licensed Articles, Authorized Brands or Distribution Channels. Licensee agrees that such rights shall cease on the effective date of the notice of such changes, in accordance with the terms of the notice. In such event, those provisions in this Agreement regarding disposal of inventory shall become effective for the affected School, Licensed Marks, Licensed Articles, authorized Brands or Distribution Channels unless Licensee obtains written permission from the affected School concerned to continue to use the Licensed Marks, or to manufacture, advertise, distribute or sell the Licensed Articles.

d) Licensee may request in writing the addition of individual schools or program sponsored or administered by School to the Agreement. Any such addition will require an addendum to Appendix A. Such addendum will be fully executed only upon Licensee's completion of product and design approval requirements, as provided in Section 10.

6. PAYMENTS

a) Rate: Licensee agrees that it before the 10th business day each January shall pay to School the royalty charges set forth and listed in Appendix A. Unless otherwise specified, the annual royalties paid ("Royalty Payments") shall be based upon Net Sales of all Licensed Articles sold during the previous 12 months, and during any period allowed pursuant to Section 17.

b) For purposes of determining the Royalty Payments, sales shall be deemed to have been made when Licensed Articles are billed, invoiced, shipped, or paid for to or by a third party, whichever occurs first.

c) Advance Payments: Upon execution of this Agreement by Licensee, and on an annual basis before the 10th business day of January, including renewal, Licensee shall pay School, as a nonrefundable payment, any Advance Payments set forth in Appendix A. On an annual basis, including renewal, any Advance Payments will be prorated, where applicable, as per School's written instructions. Licensee may apply the Advance Payments as particular account is exempt.

7. ROYALTY STATEMENT AND PENALTIES

a) On or before the 10th business day in January and July, Licensee shall submit to School, in a format provided or approved by School, a full and complete statement, certified by an officer of the Licensee to be true and accurate, showing the quantity, description, and Net Sales (including itemization of any permitted deductions and/or exemptions) of the Licensed Articles

distributed and /or sold during the preceding 6 months, listed (i) by individual school, (ii) by Licensed Article, (iii) by applicable Authorized Brand, and (iv) by Distribution Channel. Such report shall include any additional information kept in the normal course of business by the Licensee which appropriate to enable an independent determination of the amount due to School. All Royalty Payments then due School shall be made simultaneously with the submission of the statements. If no sales or use of the Licensed Articles were made during any reporting period, Licensee shall provide School a written statement to that effect as part of the report.

b) Licensee shall pay School an additional charge of one percent (1.0%) per month, compounded on a monthly basis on any payment due under the Agreement that remains unpaid after such payment becomes due.

c) School's receipt or acceptance of any statements or Royalty Payments, or the cashing of any royalty checks, shall not preclude School from questioning the correctness thereof at any time. Upon discovery of any verifiable inconsistency or mistake in such statements or payments, Licensee shall immediately rectify such inconsistency or mistake.

d) Licensee shall, unless otherwise directed in writing by School, send all payments and statements to School at the address set forth in the heading of this Agreement, or transmit the same via electronic format approved by School.

8. OWNERSHIP OF LICENSED MARKS AND PROTECTION OF RIGHTS

a) Licensee acknowledges and agrees School owns its Licensed Marks, modifications of the Licensed Marks, as well as any other Licensed Marks adopted for use by the School, each of the Licensed Marks is valid, and School has the exclusive right to use its Licensed Marks subject only to limited permission granted to Licensee to use the Licensed Marks pursuant to this Agreement. Licensee acknowledges the validity of the state and federal registrations School owns, obtains or acquires for its Licensed Marks. Licensee shall not, at any time, file any trademark application with the USPTO, or with any other governmental entity for the Licensed Marks, regardless of whether such Licensed Marks is shown in Appendix A. Licensee shall not use any of the Licensed Marks or any similar mark as, or as part of, a trademark, service mark, trade name, fictitious name, company or corporate name anywhere in the world. Any trademark or service mark registration obtained or applied for that contains the Licensed Marks or any similar mark shall be immediately transferred to School without compensation.

b) Licensee shall not oppose or seek to cancel or challenge, in any forum, including, but not limited to, the USPTO, any application or registration of the Licensed Marks of School. Licensee shall not object to, or file any action or lawsuit because of, any use by the School of their Licensed Marks for any goods or services, whether such use is by the School directly or through licensees or authorized users.

c) Licensee recognizes the great value of the good will associated with the Licensed Marks and acknowledges that such good will belongs to the School, and that such Licensed Marks have inherent and/or acquired distinctiveness. Licensee shall not, during the term of this Agreement or thereafter, dispute or contest the property rights of the School, dispute or contest the validity

of this Agreement, or use the Licensed Marks or any similar mark in any manner other than as licensed hereunder.

d) Licensee agrees to assist School in the protection of the rights of the School in and to the Licensed Marks and shall provide, at reasonable cost to be borne by School, any evidence, documents, and testimony concerning the use by Licensee of the Licensed Marks, which School may request for use in obtaining, defending, or enforcing rights in any Licensed Marks or related applications or registrations. Licensee shall notify School in writing of any infringements by others of the Licensed Marks of which it is aware. School shall have the right to determine whether any action shall be taken on account of any such alleged infringements. Licensee shall not institute any suit or take any action on account of any such alleged infringements without first obtaining the written authorization of School. Licensee agrees that it is not entitled to share in any proceeds received by School (by settlement or otherwise) in connection with any formal or informal action brought by School or other entity.

e) Nothing in this Agreement give Licensee any right, title, or interest in the Licensed Marks except the right to use the Licensed Marks in accordance with the terms of this Agreement. Licensee's use of the Licensed Marks and royalties shall inure to the benefit of School.

f) Acknowledgement: Licensee acknowledges that any original designs, artwork or other compilations ("Works") created by it pursuant to this Agreement that contain the Licensed Marks are "compilations" or "supplementary works" as those terms are used in the Copyright Act, and that the Works will be, and will be treated as having been, specially ordered or commissioned for use as a compilation or supplementary work rendered for, at the instigation and under the overall direction of the School; and therefore that all the work on and contributions to the Works by Licensee, as well as the Works themselves, are and at all time shall be regarded as "work made for hire" by the Licensee for the School. Without limiting the foregoing acknowledgment or subsequent assignment, Licensee further acknowledges that any rights that Licensee might have under this Agreement do not in any way dilute or affect the interests of the School in the Licensed Marks or any derivatives thereof; nor permit Licensee to copy or use the Works or the Licensed Marks, except as expressly permitted under this Agreement; nor to affix a copyright or trademark notice to any product bearing the Works or the Licensed Marks, except as expressly permitted under this Agreement.

Assignment: Without curtailing or limiting the foregoing acknowledgment, Licensee assigns, grants and delivers (and agrees further to assign, grant and deliver) exclusively to the respective School, all right, titles and interests of every kind and nature whatsoever in and to the Works, and all copies and versions, including all copyrights and all renewals. Licensee further agrees execute and deliver to School such other and further instruments and documents as School from time-to-time reasonably may request for the purpose of establishing, evidencing and enforcing or defending the complete, exclusive, perpetual and worldwide ownership by School of all right, titles and interests of every kind and nature whatsoever, including all copyrights, in and to the Works, and Licensee appoints School as agent and attorney-in-fact, with full power of substitution, to execute and deliver such documents or instruments as Licensee may fail or refuse

promptly to execute and deliver, this power and agency being coupled with an interest and being irrevocable.

g) Licensee acknowledges that its breach or threatened breach of this Agreement will result in immediate and irremediable damage to School and that money damages alone would be inadequate to compensate School. Therefore, in the event of a breach or threatened breach of the Agreement by Licensee, School may, in addition to other remedies, immediately obtain and enforce injunctive relief prohibiting the breach or threatened breach or compelling specific performance. In the event of any breach or threatened breach of this Agreement by Licensee or infringement of any rights of the School, if School employs attorneys or incur other expenses, Licensee shall reimburse School for its reasonable attorney's fees and other expenses.

9. DISPLAY AND APPROVAL OF LICENSED MARKS

a) Licensee shall use the Licensed Marks properly on all Licensed Articles, as well as labels, containers, packages, tags and display (collectively "Packaging"), and in all print and online advertisements and promotional literature, and television and radio commercials promoting Licensed Articles (collectively "Advertising Materials"). Any use of any Licensed Marks shall conform to the requirements as specified in the appendixes. The proper symbol to identify the Licensed Marks as a trademark (i.e., the ® symbol if the Licensed Marks is registered in the USPTO or the ™ symbol if not so registered) and/or copyright legend (i.e., © [Date][Noblesville Schools]) shall be placed adjacent to each Licensed Marks. Except when otherwise expressly authorized in writing by School, Licensee shall not use on any one Licensed Article or it's Packaging the Licensed Marks of more than one educational institution.

b) School will provide to Licensee guidance on the proper use of the Licensed Marks. A true representation or example of any proposed use by Licensee of any of the Licensed Marks listed, in any visible or audible medium, and all proposed Licensed Articles, Packaging and Advertising Materials containing or referring to any Licensed Marks, shall be submitted at Licensee's expense to School for written approval prior to such use, as provided in Section 10. Licensee shall not use any Licensed Marks in any form or in any material disapproved or not approved by School.

c) Licensee shall display on each Licensed Article or its Packaging and Advertising Materials the trademark and license notices required by School's written instructions in effect as of the date of manufacture.

10. PROCEDURE FOR APPROVAL

a) Licensee understands and agrees it is an essential condition of this Agreement to protect the standards and good reputations of the School, and agrees the Licensed Articles, Packaging, Advertising Materials and /or designs containing the Licensed Marks shall be of high and consistent quality, subject to the prior written approval and continuing supervision and control of School. Licensee shall submit all Licensed Articles, Packaging, Advertising Materials and/or designs containing the Licensed Marks to School in a timely fashion to ensure that School have adequate time to review such materials prior to the date of their proposed use by Licensee, and Licensee must receive prior written quality control approval by School as provided herein.

b) Prior to manufacture, use, distribution or sale of any Licensed Article, Packaging, Advertising Materials and /or designs containing the Licensed Marks, Licensee shall submit to School for approval, at Licensee's expense and in the format required by School, at least one sample of each proposed Licensed Article, Packaging, Advertising Materials and/or design for School as the same would be manufactured, used, distributed or sold. If School approves in writing the proposed Licensed Article, Packaging, Advertising Materials and/or design, the same shall be accepted to serve as an example of quality for that Licensed Article, Packaging, Advertising Materials and/or design, the same shall be accepted to serve as an example of quality for that Licensed Article, Packaging, Advertising Materials and/or design, and production quantities may be manufactured by Licensee in strict conformity with the approved sample. All approvals provided herein are effective only for the Term or renewal period in which Licensee has submitted and School has approved the Licensed Articles, packaging, Advertising Materials and/or designs, unless Licensee is otherwise notified in writing by School. Licensee shall not depart from the approved quality standards in any material respect without the prior written approval of School. Licensed Articles, Packaging, Advertising Materials and/or designs not meeting those standards, including seconds, irregulars, etc., shall not be distributed or sold under any circumstances without School's prior written authorization.

c) Licensee may only use the Licensed Marks as shown in Appendix A and approved in the manner set forth herein. Licensee may not modify the Licensed Marks without the prior written approval of School as provided in Section 10 above. The use of the Licensed Marks in conjunction with original artwork supplied by the Licensee requires the express approval of School as provided in Section 10 above. Licensee may submit sketches of proposed artwork for preliminary approval before submitting finished samples.

d) The descriptions of the Licensed Articles are set out in Appendix B. Licensee agrees to adhere strictly to the description of each Licensed Article.

e) At time of renewal, or upon request by School at any other time, in addition to any other requirement, Licensee shall submit to School such number of each Licensed Article, Packaging, Advertising Materials and/or design manufactured, used, distributed or sold under the Licensed Marks as may be necessary for School to examine and test to assure compliance with the quality and standards for Licensed Articles, packaging, Advertising Materials and/or designs approved herein. Licensee shall bear the expense of manufacturing and shipping the required number of Licensed Articles, Packaging, Advertising Materials and/or designs to the destination(s) designated by School.

f) If School notifies Licensee of any defect in any Licensed Article, Packaging, Advertising Materials and/or designs or of any deviation from the approved use of any of the Licensed Marks, Licensee shall have ten (10) business days from the date of notification from School to correct every noted defect or deviation. Defective Licensed Articles, Packaging, Advertising Materials and/or designs in Licensee's inventory shall not be used, distributed or sold and shall, upon request by School, be immediately recalled from the marketplace and destroyed or submitted to School, at School's option and at Licensee's expense. However, if it is possible to correct all defects in the Licensed Articles, Packaging, Advertising Materials and/or designs in Licensee's inventory, said items may be distributed or sold after all defects are corrected to the

satisfaction of School, which shall be indicated in writing. School and/or its authorized representatives shall have the right at reasonable times without notice to inspect Licensee's plants, warehouses, storage facilities and operations related to the production of Licensed Articles.

g) Licensee shall comply with all applicable laws, regulations, standards and procedures relating or pertaining to the manufacture, use, advertising, distribution or sale of the Licensed Articles. Licensee shall comply with the requirements, including reporting requirements, of any regulatory agencies (including, without limitation, CPSC, FTC, or FDA) which shall have jurisdiction over the Licensed Articles. Both before and after Licensed Articles are put on the market, Licensee shall follow reasonable and proper for testing Licensed Articles for compliance with laws, regulations, standards and procedures. Licensed Articles found by School at any time not to comply with applicable laws, regulations, standards and procedures shall be deemed disapproved, even if previously approved by School, and shall not be shipped and/or shall be subject to recall unless and until Licensee can demonstrate to School's satisfaction that such Licensed Articles have been brought into full compliance.

h) Licensee shall inform School in writing of any complaint regarding the Licensed Articles promptly upon Licensee's receipt of such complaint.

i) Any unauthorized or unapproved use by Licensee of any Licensed Marks of School shall constitute grounds for immediate termination of this Agreement and also may result in action against Licensee for trademark infringement and/or unfair competition, other applicable claims, and collection of monetary damages.

11. DISPLAY OF OFFICIAL LABEL

a) Licensee shall, prior to advertising, distribution or sale of any Licensed Article, affix to each Licensed Article, its Packaging and Advertising Materials an "Officially Licensed School Products" tag or label in the form prescribed by School ("Official Label"). In addition, Licensee shall affix Licensee's Authorized Brand(s) to each Licensed Article, its Packaging and Advertising Materials. It is acceptable for Licensee's Authorized Brands(s) to appear on the Official Label subject to prior written approval b School. Licensee shall obtain Official Labels from the supplier(s) authorized by School to provide those labels.

b) Licensee is responsible for affixing the Official label to each Licensed Article, its Packaging and Advertising Materials. Licensee shall not provide Official Labels to any third party for any purpose whatsoever, without prior written approval by School.

c) Licensee agrees to defend, indemnify and hold harmless School, and those Indemnified parties set forth in Section 14 from all liability claims, costs or damages, including, but not limited to any liability for the conversion or seizure of any of the Licensed Articles not containing the Official Label and/or Licensee's Authorized Brand(s) as required by this Section. This provision is in addition to and in no way limits Section 14.

d) Licensee's purchase and use of the Official Label is contingent upon the Licensee maintaining its rights under this Agreement. Upon termination or expiration of this Agreement,

subject to those provisions of Section 17 regarding disposal of inventory, Licensee must return all Official Labels to School for destruction. Licensee agrees that there will be no financial reimbursement to the Licensee by School, its agents, employees, or business partners for any unused Official Labels.

12. NO JOINT VENTURE OR ENDORSEMENT OF LICENSEE

Nothing in this Agreement shall be construed to place the parties in the relationship of employee/employer, partners, joint ventures, association, affiliation, or agents, and Licensee shall have no power to obligate or bind School in any manner whatsoever. School is in no way a guarantor of the quality of any product produced by Licensee. Licensee shall neither state nor imply, directly or indirectly, that the Licensee or its activities, other than under this license, are supported, endorsed or sponsored by School and, upon the direction of School, shall issue express disclaimers to that effect.

13. REPRESENTATIONS

Licensee represents, warrants and agrees that the Licensed Articles, Packaging, Advertising Materials and/or designs shall (i) be of good quality in design, material and workmanship and suitable for their intended purpose, (ii) not cause harm when used with ordinary care, and (iii) not infringe or violate the rights of any third party. Licensee further represents, warrants and agrees that all work on and contribution to the Works shall be by bona fide “employees” of Licensee working “within the scope of employment” as those terms are used in 17 U.S.C. § 101, et. seq. Each party represents and warrants it has the right and authority to enter into and perform under this Agreement.

14. INDEMNIFICATION AND INSURANCE

a) Licensee is solely responsible for, and will defend, indemnify and hold harmless School, and its board members, officers, agents, and employees (collectively “Indemnified Parties”) from any claims, demands, causes of actions or damages, including reasonable attorney’s fees, arising out of (i) any unauthorized use of or infringement of any patent, copyright, trademark or other proprietary right of a third party by Licensee in connection with the Licensed Articles, packaging, Advertising Materials and/or designs covered by this Agreement, (ii) defects or alleged defects or deficiencies in said Licensed Articles, Packaging, Advertising Materials and/or designs or the use thereof, (iii) false advertising, fraud, misrepresentation or other claims related to the Licensed Articles, Packaging, Advertising Materials and/or designs not involving a claim of right to the Licensed Marks, (iv) the unauthorized use of the Licensed Marks or any breach or alleged breach by Licensee of any of its representations, warranties, covenants or obligations contained in the Agreement, (v) libel or slander against or invasion of the right of privacy, publicity or property of, or violation or misappropriation of any other right of any third party, and/or (vi) agreements or alleged agreements made or entered into by Licensee to effectuate the terms of this Agreement. The indemnifications hereunder shall survive the expiration or termination of this Agreement.

b) Prior to the first sale or distribution of any Licensed Article, or use of the Licensed Marks, Licensee shall obtain from an insurance carrier satisfactory to Indiana Department of

Insurance, and thereafter maintain, Commercial General Liability insurance, including product, advertising and contractual liability insurance. Licensee's insurance coverage shall provide adequate protections for the Indemnified Parties as additional insured parties on Licensee's policy against any claims, demands, or causes of action and damages, including reasonable attorney's fees, arising out of any of the circumstances described in Section 14 above. Such insurance policy shall not be canceled or materially changed in form without at least thirty (30) days written notice to School. Licensee agrees that such insurance policy or policies shall provide coverage for personal and advertising injury, bodily injury and property damage arising out of corrective action that Licensee will be required to take for such failure to perform or breach commensurate with the scope and history of Licensee's past performance. If damages are assessed against the Licensee pursuant to this provision, then Licensee's ability to continue to operate under this Agreement shall be contingent upon payment of such damages in the time allowed School.

15. TERMINATION

In addition to the right to require corrective action for default as set forth in this Agreement, School shall have the right to terminate this Agreement without prejudice to any other rights under this Agreement, in law, in equity or otherwise, upon written notice to Licensee at any time should any of the following occur, which shall also be deemed defaults under the Agreement:

- a) Licensee has not begun the bona fide manufacture, distribution, and sale of Licensed Articles with one (1) quarter of the date of approval of the samples of Licensed Articles.
- b) Licensee fails to continue the bona fide manufacture, distribution, and sales of Licensed Articles during the Term. If, during any calendar quarter of the Term, Licensee fails to sell any of the Licensed Articles or fails to sell any Licensed Articles, School may terminate this Agreement with respect to said Licensed Article.
- c) Licensee fails to make any payment due or fails to deliver any required statement.
- d) The amounts stated in the periodic statements furnished pursuant to Section 7 are significantly or consistently understated.
- e) Licensee fails to generate royalties during the Term or any annual period, including renewal period, that meet or exceed the amount of the Advance Payments and Minimum Guarantee amounts as provided in Section 6 and Appendix A.
- f) Licensee fails to make available its premises, records or other business information for any audit or to resolve any issue raised in connection with any audit, as required in this Agreement.
- g) Licensee fails to pay its liabilities when due, or makes any assignment for the benefit of creditors, or files any petition under any federal or state bankruptcy statute, or is adjudicated bankrupt or insolvent, or if any receiver is appointed for its business or property, or if any trustee in bankruptcy shall be appointed under the laws of the United States government or the several states.
- h) Licensee attempts to grant or grants a sublicense or attempts to assign or assigns any right or duty under this Agreement to any person or entity without the prior written authorization of School.
- i) Licensee distributes or sells any Licensed Articles outside the authorized Distribution Channels for such Licensed Articles, or distributes or sells any Licensed Articles to any third

party that Licensee knows or should reasonably know intends to distribute or sell such Licensed Articles outside the authorized Distribution Channels for such Licensed Articles.

j) Licensee distributes or sells any Licensed Articles outside the Territory or distributes or sells any Licensed Articles to a third party that Licensee knows or should reasonably know intends to distribute or sell such Licensed Articles outside the Territory.

k) If an entity acquires in a single transaction or through a series of transactions more than fifty percent (50%) ownership or controlling interest in Licensee.

l) Licensee or any related entity manufactures, distributes or sells any product infringing or diluting the trademark, property or any other right of School or any other party.

m) Licensee fails to deliver to School and maintain in full force and effect the insurance referred to in Section 14.

n) School, any governmental agency, or court finds the Licensed Articles are defective in any way, manner or form.

o) Any monitoring agency authorized by School determines that Licensee is in violation of the labor code adopted by School, and Licensee fails to effectively remediate said violation for School within a period that is reasonable with respect to the nature and extent of the violation.

p) Licensee commits any act or omission that damages or reflects unfavorably, embarrasses or otherwise detracts from the good reputation of School.

q) Licensee manufactures, distributes or sells Licensed Articles of quality lower than the samples approved, or manufactures, distributes, sells or uses Licensed Articles or Licensed Marks in a manner not approved or disapproved by School.

r) Licensee fails to affix to each Licensed Article, its Packaging and Advertising Materials an Official Label and Authorized Brand in the manner provided in Section 11.

s) Licensee commits a default under any other provision of this Agreement, and fails to cure such default within ten (10) business days of written notice from School.

t) School shall have the right to terminate this Agreement upon written notice to Licensee without cause in the event School decides to terminate this Agreement on an annual basis or otherwise. This termination shall be without prejudice to any other rights School may have, whether under the provisions of this Agreement, in law, in equity or otherwise.

16. AMOUNTS OWED UPON TERMINATION

The entire unpaid balance of all Royalty Payments and other amounts owing and due under this Agreement shall immediately become due and payable upon termination.

17. EFFECT OF EXPIRATION OR TERMINATION; DISPOSAL OF INVENTORY

a) Effect of Expiration or Termination: After expiration or termination of this Agreement for any reason, Licensee shall immediately discontinue the manufacture, advertising, use, distribution and sale of all Licensed Articles, Packaging and Advertising Materials, the use of all Licensed Marks, and all similar marks, except as provided in Section 17(b), or unless expressly authorized in writing by School. Until payment to School of any monies due it, School shall have a lien on any units of Licensed Articles not then disposed of by Licensee and on any monies due Licensee from any jobber, wholesaler, distributor, or other third parties with respect to sales of Licensed Articles.

b) Disposal of Inventory: After expiration or termination of this Agreement for any reason, Licensee shall have no further right to manufacture, advertise, use, distribute or sell Licensed Articles, Packaging or Advertising Materials utilizing the Licensed Marks, but may continue to distribute its remaining inventory of Licensed Articles in existence at the time of expiration or termination for a period of six (6) months; provided, however, that Licensee has delivered all statements (including Final Statement) and payments then due, that during the disposal period Licensee shall deliver all statements and payments due in accordance with Section 7, that Licensed Articles are sold at Licensee's regular Net Sales price and within the Distribution Channels, and that Licensee shall comply with all other terms and conditions of this agreement. Notwithstanding the foregoing, Licensee shall not manufacture, advertise, use, distribute, or sell any Licensed Articles, Packaging or Advertising Materials after the expiration or termination of this Agreement because of: (i) departure of Licensee from the quality and style approved by School under this Agreement, (ii) failure of Licensee to obtain product or design approval, or (ii) a default under Section 15.

18. FINAL STATEMENT

Upon expiration or termination of this Agreement for any reason, or at any other time upon request by School or the School Licensee shall furnish to School an inventory showing the number and description of Licensed Articles on hand or in process. Following such expiration or termination, including inventory disposal period, if allowed, School may request Licensee to either (i) surrender unsold Licensed Articles, Packaging and Advertising Materials, or (ii) destroy all such remaining unsold materials certifying their destruction to School and specifying the number of each destroyed. School and/or its authorized representatives reserve the right to conduct inspections and/or inventories to ascertain or verify Licensee's compliance with the foregoing.

19. SURVIVAL OF RIGHTS

The terms and conditions of this Agreement necessary to protect the rights and interests of School, including, without limitation, Licensee's obligations under Sections 8, 13, 14, and 15, shall survive the termination or expiration of this Agreement. The terms and conditions of this Agreement providing for any other activity following the effective date of termination or expiration of this Agreement shall survive until such time as those terms and conditions have been fulfilled or satisfied.

20. NOTICES

All notices and statements to be given and all payments to be made, shall be given or made to the parties at their respective addresses set forth in IRS, county property, Indiana Secretary of State, and/or Indiana Department of Education records. Unless otherwise provided in the Agreement, all notices shall be sent by certified mail, return receipt requested; electronic transmission, the receipt of which is confirmed by confirmation document; email, confirmed by email receipt confirmation notice; or nationally recognized delivery service that provides evidence of delivery, and shall be deemed to have been given at the time they are sent.

21. CONFORMITY TO LAW AND POLICY

a) Licensee shall comply with such guidelines, policies, and requirements as School may give written notice from time-to-time including, without limitation, guidelines, policies and/or requirements contained in periodic School notices.

b) Licensee undertakes and agrees to obtain and maintain all applicable permits and licenses at Licensee's expense.

c) Licensee shall pay all federal, state and local taxes due on or by reason for the manufacture, distribution, or sale of the Licensed Articles.

22. SEVERABILITY

The determination that any provision of this Agreement is invalid or unenforceable shall not invalidate this Agreement, and the remainder of this Agreement shall be valid and enforceable to the fullest extent permitted by law.

23. NON-ASSIGNABILITY

This Agreement is personal to Licensee. Neither this Agreement nor any of Licensee's rights shall be sold, transferred or assigned by Licensee without School's prior written approval, and no rights shall devolve by operation of law or otherwise un any assignee, receiver, liquidator, trustee or other party. Subject to the foregoing, this Agreement shall be binding upon any approved assignee or successor of Licensee and shall inure to the benefit of School, its successors and assigns.

24. ENTIRE AGREEMENT / NO WAIVER

Unless otherwise specified herein, this Agreement or any renewal, including appendices, constitutes the entire agreement and understanding between the parties and cancels, terminates, and supersedes any prior agreement or understanding, written or oral, relating to the subject matter hereof between Licensee, School. There are no representations, promises, agreements, warranties, covenants or understandings other than those contained herein. None of the provisions of this Agreement may be waived or modified, except expressly in writing signed by both parties. However, failure of either party to require the performance of any term in this Agreement or the waiver by either party of any breach shall not prevent subsequent enforcement of such term nor be deemed a waiver of any subsequent breach.

25. SCHOOL RIGHT TO ENFORCE

School is entitled to enforce its rights in the Licensed Marks and the terms of this Agreement directly against the Licensee; and School is entitled to all the rights and remedies available under this Agreement.

26. MISCELLANEOUS

When necessary for appropriate meaning, a plural shall be deemed to be the singular and singular shall be deemed to be the plural. The attached appendices are an integral part of this Agreement. Section headings are for convenience only and shall not add to or detract from any

of the terms or provisions of this Agreement. This Agreement shall be governed by and construed in accordance with Indiana laws, and state courts located in Hamilton County, IN or federal courts in the Southern District of Indiana shall be the sole jurisdiction for any disputes.

Appendix A

Licensee agrees that it shall pay to School the following:

	Percentage/amount	For period beginning
Royalty Charge	12% of Net Sales	1/1/2021
Annual Advance Payment	\$0	1/1/2021

Current Licensed Marks as of 1/1/2021 include:

Licensed Marks registered with IN Secretary of State's office
(<https://bsd.sos.in.gov/publictrademarksearch>) or

United State Patent & Trademark Office (<https://www.uspto.gov/trademarks/search>)

and as depicted within

<https://www.noblesvilleschools.org/cms/lib/IN01906676/Centricity/Domain/1924/Brand%20Style%20Guide.pdf>

Appendix B

Allowable Licensed Articles will be determined based upon an application submitted by Licensee and approved in writing by School. School will not approve any use of Licensed Marks in conjunction with certain types of products. These products include, but are not limited to:

- Tobacco and nicotine related products
- Controlled substances and illegal drugs
- Weapons
- Sexually suggestive products
- Products which are or depict hateful, demeaning or degrading language or statements
- Products using profanity
- Gambling-related products
- Patches
- Products containing statements impugning other educational institutions
- Products presenting an unacceptable risk or liability to School
- Products harmful to the mission or integrity of School
- Products containing another entity's registered trademark, unless explicit written permission has been granted from that entity
- Commercial Solicitations relating to the promotion or consumption of alcoholic beverages, tobacco, or products or services contrary to the policies or mission of the School, are prohibited.
- Products using names, numbers, and/or images of School student-athletes not complying with School policies or applicable IHSAA, NCAA, or athletic governing body regulations
- Products suggesting or implying School's endorsement of another organization, company, product, service, political party or view, or religious belief or view
- Products discriminating or implying discrimination against any person or group based on age, ancestry, belief, color, creed, disability, national origin, race, religion, sex, sexual orientation, veteran status, or in any other way that would be in violation of School's anti-discrimination policies or practices.

Appendix C

Current Licensed Marks as of 1/1/2021 include:

Licensed Marks registered with IN Secretary of State's office

(<https://bsd.sos.in.gov/publictrademarksearch>) or

United State Patent & Trademark Office (<https://www.uspto.gov/trademarks/search>)

and as depicted within

<https://www.noblesvilleschools.org/cms/lib/IN01906676/Centricity/Domain/1924/Brand%20Style%20Guide.pdf>