

## Sample Agent Agreement

### LICENSING AGENT AGREEMENT

This Licensing Agent Agreement ("Agreement") is made and entered into as of this \_\_\_ day of \_\_\_\_\_, 20\_\_ by and between \_\_\_\_\_, ("ARTIST") with offices at \_\_\_\_\_, and \_\_\_\_\_ ("AGENT") with offices at \_\_\_\_\_.

IN CONSIDERATION OF THE MUTUAL PROMISES CONTAINED HEREIN, the parties agree as follows:

#### 1. DEFINITIONS.

(a) A "Licensee Agreement" shall mean an agreement between ARTIST and a Licensee pursuant to which ARTIST licenses the right to make, have made, use and sell products incorporating ARTIST's art, name or brand.

(b) A "Licensee" shall mean a third party manufacturer in the Territory with whom ARTIST enters into a Licensee Agreement.

(c) "Revenues" shall mean, with respect to the term of a Licensee Agreement: (i) the royalties paid to ARTIST by Licensees on sales of products incorporating ARTIST's art, name, brand and likeness; (ii) fees received by ARTIST from Licensees which are attributable to any exclusivity with respect to a particular product or products or territory granted to a Licensee with respect to a particular Licensee Agreement.

(d) "Territory" shall consist of worldwide coverage.

2. SERVICES. Subject to the terms and conditions herein, ARTIST hereby appoints AGENT as an [exclusive] licensing AGENT for the Licensee Agreements for the Licensees in the Territory, for the Product categories as defined in Exhibit A and AGENT hereby accepts such appointment. AGENT's sole authority shall be to initiate and negotiate Licensee Agreements between ARTIST and Licensees in the Territory in accordance with the terms of this Agreement. AGENT shall not have the authority to enter into Licensee Agreements on behalf of ARTIST, nor to make any commitments whatsoever on behalf of ARTIST, nor to initiate or negotiate Licensee Agreements outside the Territory.

3. SUPERVISION. AGENT is authorized to act as a licensing AGENT under this Agreement only at the direction of any duly appointed representative of ARTIST.

#### 4. COMMISSION.

(a) There shall be no Advance against commissions due to AGENT.

(b) Compensation. ARTIST shall pay AGENT, within ten (10) days after the end of each calendar month, with respect to payments received by ARTIST from Licensees in such calendar

month, a commission calculated as a percentage of Revenues, which commission is set forth in Exhibit A attached hereto. Commissions with respect to a particular Licensee Agreement shall not be earned by AGENT or paid by ARTIST until payment of Revenues under that Licensee Agreement is received by ARTIST. Commissions shall be earned and paid pro rata on partial payments received from Licensees. It is expressly understood by AGENT that full responsibility for all collection from Licensee rests with ARTIST, although it is acknowledged by both parties that AGENT may play role in the assistance with the collection process.

(c) Basis of Commission. The commissions shall apply to all Licensee Agreements that have been entered into by ARTIST and a Licensee in the Territory.

(d) Monthly Statements. ARTIST shall submit to AGENT, at the same time as commissions are paid under Section 4(b), monthly statements of the commissions due and payable to AGENT under the terms of this Agreement, with reference to the specific Licensee Agreements on which the commissions are being paid.

(e) Inspection of Records. AGENT shall have the right, at its own expense and not more than once in any twelve (12) month period, to authorize independent auditors to inspect at reasonable times ARTIST's relevant accounting records to verify the accuracy of commissions paid by ARTIST under the terms of this Agreement.

(f) Travel Expenses. ARTIST agrees that it shall reimburse AGENT, within fifteen (15) days of the end of the calendar month in which AGENT submits an invoice and complete receipts to ARTIST, for reasonable travel, room and board and other reasonable out-of-pocket, for expenses that are incurred by AGENT in connection with the initiation and negotiation of Licensee Agreements hereunder. It is understood that ARTIST must approve all expenditures in advance of actual travel dates.

5. SOLICITATION OF LICENSEES. AGENT shall, in all correspondence with potential Licensees, whether oral or written, indicate that all Licensee Agreements are subject to negotiation and approval by ARTIST.

6. RESPONSIBILITIES OF AGENT.

(a) Promotion Efforts. AGENT shall at all times use reasonable efforts to initiate, negotiate and conclude Licensee Agreements in the Territory. Without limiting the foregoing, AGENT shall commit all necessary resources to the solicitation of Licensee Agreements in the Territory. In no event shall AGENT make any representation, guarantee or warranty concerning the Licensee Agreements except as expressly authorized by ARTIST in writing (including without limitation in a term sheet or form License Agreement).

(b) Expense of Doing Business. Except as otherwise stated herein, AGENT shall bear the entire cost and expense of conducting its business in accordance with the terms and conditions of this Agreement.

7. CONFIDENTIALITY. AGENT acknowledges that by reason of its relationship to ARTIST hereunder it may have access to certain information and materials concerning ARTIST's business, plans, technology, and products, that are confidential and of substantial

value to ARTIST, which value would be impaired if such information were disclosed to third parties ("Confidential Information"). Upon request by AGENT, ARTIST shall advise whether or not it considers any particular information or materials to be confidential. AGENT shall take every reasonable precaution to protect the confidentiality of such Confidential Information, including, at the request of ARTIST, the entry of AGENT's agents and employees into confidentiality agreements in a form approved by ARTIST, prohibiting any disclosure to third parties of Confidential Information provided by ARTIST

## 8. TERM AND TERMINATION

(a) Term. The term of the Agreement shall continue as defined in Exhibit A. At the end of the fixed term or any additional Term, this Agreement shall renew automatically for an additional Term equal to time period of the fixed term, unless either party provides notice of termination in writing, within the period of 90 days prior to expiration. This Agreement shall continue to renew for like additional Terms until such 90 day notice is provided.

(b) Termination. Either party may terminate this Agreement for cause upon giving thirty (30) days' prior written notice of a breach by the other hereunder, provided that such breach shall not have been remedied during such period.

(c) Effect of Expiration or Termination: Upon any expiration or termination all rights and duties of the parties toward each other shall cease except:

(1) Commissions. The provisions of Section 4 shall remain in full force and effect with respect to the initial term of existing Licensee Agreements or those concluded during the term of this Agreement. In the event that this Agreement shall not be renewed or if terminated for any reason, then for any License Agreement for which the discussions were conducted during the term of this Agreement by ARTIST or by AGENT on behalf of ARTIST which is consummated within a period of twelve (12) months after non-renewal or termination of this Agreement, AGENT shall be entitled to any commission that would have otherwise be due to AGENT under Section 5 hereof had such License Agreement been completed during the term of this Agreement. Upon termination of this Agreement, AGENT shall provide ARTIST with a written list of parties with whom it had discussions in connection with any potential License Agreement, which list shall govern the operation of this paragraph.

(2) Transition. Upon termination of this Agreement, AGENT shall diligently cooperate with ARTIST to effect a smooth and orderly transition in the initiation and negotiation of any and all Licensee Agreements and in servicing the Licensees. From the time that a notice of termination is received by either party until the effective termination date, AGENT shall refer all Licensee Agreement inquiries to ARTIST, shall support existing Licensees, and shall cooperate fully with any newly appointed licensing AGENT.

(3) Limitation on Liability upon Termination. In the event of termination or non-renewal by either party in accordance with any of the provisions of this Agreement, neither party shall be liable to the other, because of such termination or non-renewal, for compensation, reimbursement or damages on account of the loss of prospective profits or anticipated sales or on account of expenditures, investments, leases or commitments in connection with the business or

goodwill of ARTIST or AGENT. ARTIST's sole liability under the terms of this Agreement shall be for any monthly fees under Section 4 hereof and/or any commissions under Section 5 hereof.

9. ASSIGNMENT. AGENT acknowledges that the licensing AGENT services to be performed hereunder are of a special and unique nature. Neither this Agreement nor any right hereunder or interest herein may be assigned or transferred by AGENT without the express written consent of ARTIST. Any such attempted assignment shall be void and of no force or effect.

10. INDEPENDENT CONTRACTOR. Nothing in this Agreement shall in any way be construed to constitute AGENT as an employee or representative of ARTIST, and AGENT shall perform the licensing AGENT services hereunder as an independent contractor. Since AGENT is not an employee of ARTIST, it is understood that AGENT is not entitled to any employee benefits during the term of this Agreement. AGENT acknowledges and agrees that AGENT is obligated to report as income all compensation received by AGENT pursuant to this Agreement, and AGENT agrees to indemnify ARTIST and hold it harmless to the extent of any obligation imposed on ARTIST (i) to pay in withholding taxes or similar items or (ii) resulting from AGENT's being determined not to be an independent contractor. In the performance of all licensing AGENT services hereunder, AGENT shall comply with all applicable laws and regulations.

11. INDEMNITY BY LICENSEES. The parties agree to secure mutually agreeable language that provides appropriate indemnification from all Licensees indemnifying AGENT and ARTIST from and against any and all claims, actions and proceedings brought against them by third parties, including but not limited to those arising out of (i) defects in, and personal injury and property damage caused by, any Licensee product; (ii) misrepresentations or omissions contained in any sales collateral or other similar materials intended to be used in the sales process by AGENT or ARTIST that was provided by Licensee; or (iii) Licensee's negligence or willful misconduct.

12. MISCELLANEOUS. The waiver of a breach of any term hereof shall in no way be construed as a waiver of any other term or breach hereof. If any provision of this Agreement shall be held by a court of competent jurisdiction to be contrary to law, the remaining provisions of this Agreement shall remain in full force and effect. Neither party shall have any liability for its failure to perform its obligations hereunder when due to circumstances beyond AGENT's reasonable control. This Agreement shall inure to the benefit of and be binding upon each party's successors and assigns. This Agreement is governed by the laws of the State of \_\_\_\_\_ without reference to conflict of laws principles. All disputes arising out of this Agreement shall be subject to the exclusive jurisdiction of the state and Federal courts located in \_\_\_\_\_ County, State of \_\_\_\_\_, and the parties agree and submit to the personal and exclusive jurisdiction and venue of these courts. Any notices required or permitted by this Agreement shall be in writing and shall be addressed to the other party at the address shown at the beginning of this Agreement or such other address of which such party may notify the other and shall be deemed given upon delivery or, where delivery cannot be accomplished due to the fault of the addressee, upon attempted delivery.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the day and year first above written.

AGENT

ARTIST

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

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

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

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

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

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

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EXHIBIT A  
Compensation and Product Categories

A) AGENT shall receive a \_\_\_% commission on all royalties received by ARTIST for the following product categories:

1. \_\_\_\_\_
2. \_\_\_\_\_
3. \_\_\_\_\_
4. \_\_\_\_\_
5. \_\_\_\_\_

B) The Parties agree that additional categories may be added upon mutual written consent.

C) AGENT shall be paid commissions on all agreements entered into under this contract, for the term of each License agreement, plus renewal period, or 3 years, whichever is the greater.

D) Upon termination or non-renewal of Agreement, AGENT will continue to be paid commission for all agreements signed after December \_\_\_, 20\_\_, as outlined in this Exhibit A, paragraph "D".

E) The Term of this agreement is 2 years.

***This sample agreement is for illustration purposes only and must be modified to account for specific facts and circumstances relating to any specific transaction. It should not be construed as legal advice on any particular facts and circumstances, nor should this information be construed as an advertisement for legal services.***