

EXCLUSIVE LICENSE AGREEMENT

This EXCLUSIVE LICENSE AGREEMENT ("Agreement") is entered into as of DATE ___, 200__ ("Effective Date") by and between (1) INVENTOR NAME, and (2) MOM INVENTORS, INC.

ARTICLE 1

RECITALS & DEFINITIONS

- 1.1. **LICENSOR:** INVENTOR NAME, an individual residing at INVENTOR ADDRESS, hereafter "LICENSOR."
- 1.2. **MOM INVENTORS:** Mom Inventors, Inc., a California Corporation, having a place of business at ADDRESS, hereinafter "MOM INVENTORS."
- 1.3. **"Party"** shall mean one of MOM INVENTORS and LICENSOR and **"Parties"** shall mean MOM INVENTORS and LICENSOR collectively.
- 1.4 **"Licensed Property"** shall mean (i) the concept of a PATENT [Description of Idea] (hereinafter the "Licensed Concept) (ii) any/all United States Trademark Applications and any Trademark registering therefrom associated with the names "PRODUCT NAME" and any common law and/or state trademark rights associated therewith, (iii) any registered or unregistered designs, mask works, copyrights or derivative works associated with the Licensed Concept in which LICENSOR holds any copyright interest, and (iv) all United States and foreign patents and applications and/or rights to apply for a patent, granted United States patents, granted foreign patents, provisional patent applications, utility patent applications, re-examinations, reissues, divisionals, continuations, continuations-in-part, and extensions, thereof v) utility models and trade secrets, know how, and any other form of protection afforded by law to inventions, models, designs, formulations or other Information in the United States and in any and all foreign countries, relating to the technology and/or know-how of the Licensed Concept, including [reference to any Intellectual property].
- 1.5 **"Unit"** shall mean each item that embodies the Licensed Concept and/or part of the Licensed Property presented by LICENSOR to MOM INVENTORS.
- 1.6 **"Information"** means formulas, materials, protocols, drawings, specifications, samples, models, processes, procedures, instructions, technology, data, reports, and all other technical or business information, data and documents.
- 1.7 **"Confidential Information"** means all Information disclosed to one Party by the other Party which is confidential. Additionally this Agreement is Confidential Information.
- 1.8 **Territory:** The United States of America and Worldwide

ARTICLE 2

LICENSE AGREEMENT

- 2.1 LICENSOR hereby grants to MOM INVENTORS an exclusive license to manufacture, have manufactured, use, offer to sell, sell, import and/or distribute Units using the Licensed Property in the Territory, subject to payment of Royalties and all other terms and conditions of this Agreement.
- 2.2 **Field of Use:** The Field of Use shall be unrestricted.

ARTICLE 3

TITLE

- 3.1 Subject to the license granted to MOM INVENTORS, LICENSOR shall own and shall retain all right, title and interest in the Licensed Property.
- 3.2 MOM INVENTORS shall have the right, but not the obligation, to apply for and obtain, in the name of LICENSOR, and and/or all intellectual property protections available which may be associated with the Licensed Property. LICENSOR agrees to execute any and all documents necessary to obtain said intellectual property protections and agrees that any and all intellectual property protections associated with the Licensed Property, whether acquired by MOM INVENTORS, LICENSOR and/or any third party, shall become part of the Licensed Property under this Agreement and no additional Royalty and/or payments for use of such intellectual property shall be due or payable.

ARTICLE 4

COMPENSATION

- 4.1 In consideration of the license granted by LICENSOR to MOM INVENTORS hereunder, MOM INVENTORS shall pay to LICENSOR the following Royalties in the amounts, at the times, and in the manner specified below.
- 4.1.1 **Royalty.** MOM INVENTORS shall pay LICENSOR royalties for each Unit sold according to the Royalty Schedule provided in Appendix A.
- 4.1.2 **Remittance of Royalty Payments.** The Parties agree that any and all Royalty payments shall be made payable to INVENTOR NAME. and shall be delivered to:

PAYMENT ADDRESS

- 2 -

LICENSE TEMPLATE

- 4.1.3 **Payment.** MOM INVENTORS shall make Royalty payments to LICENSOR, within thirty (30) days after the end of each calendar quarter. As set forth below, along with payment, MOM INVENTORS shall submit a report having sufficient detail to allow LICENSOR to calculate the Royalty due.
- 4.1.4 MOM INVENTORS shall pay interest to LICENSOR from the Payment Due Date to the actual date of payment upon any and all amounts that are overdue and payable hereunder at the rate of 2% above the prime interest rate published in THE WALL STREET JOURNAL on the Payment Due Date. Said interest rate shall, in no event, exceed any applicable usury law limitation.
- 4.1.5 LICENSOR shall provide MOM INVENTORS with any technical assistance as needed or requested by MOM INVENTORS.

ARTICLE 5

USE OF LICENSOR'S IMAGE

- 5.1 LICENSOR authorizes MOM INVENTORS and/or its agent to Photograph and make other recordings and fixations of LICENSOR'S Image (hereinafter, the "Photograph(s)"). LICENSOR further authorizes MOM INVENTORS and/or its agent to adapt, edit and modify the Photograph(s) and to add and remove elements to the Photograph(s), including without limitation, special effects and music as LICENSOR shall approve. Such adapted, edited and modified Photograph(s) shall also be a Photograph(s).
- 5.2 LICENSOR hereby grants to MOM INVENTORS, during the term of this Agreement, the non-exclusive, world-wide rights and interests of every kind and nature, whether now known or unknown, whether now existing or arising in the future, in and to the Photograph(s) and all results and proceeds therefrom, including without limitation, the incorporation of the Photograph(s) into advertising, promotional and sales materials, the incorporation of the Photograph(s) into any other production or program, commercial tie-ins or merchandising and to display, broadcast and transmit the Photograph(s) on any medium and by any means or method including print, video, DVD, television, theatrical, Internet and electronic, whether or not the same is known or in existence at this time.
- 5.3 LICENSOR further grants to MOM INVENTORS the non-exclusive worldwide right to use LICENSOR'S likeness, voice, biographic and other information in connection with such uses.
- 5.4 All the forgoing rights are granted in favor of MOM INVENTORS and all of its licensees, successors and assigns and any other person or entity that is granted rights in the Photograph(s) by MOM INVENTORS subject however, to the reasonable objections of LICENSOR to any use, modification or association of such materials which

LICENSOR deems objectionable. MOM INVENTORS agrees that it shall terminate any use reasonably objected to by LICENSOR.

- 5.5 LICENSOR has granted these rights in exchange for the opportunity of being involved in the Photograph(s), the potential for publicity relating to same and other good and valuable consideration, which LICENSOR hereby acknowledges is sufficient and which she has received. LICENSOR further acknowledges that she will not receive any further compensation for the rights granted in this Article 5, except as set forth in Article 4.

ARTICLE 6

ACCOUNTING & AUDIT RIGHTS

- 6.1 **Records.** MOM INVENTORS shall keep books and records sufficient to enable LICENSOR to determine MOM INVENTORS's calculation of any Royalty due pursuant to the terms of the Agreement.
- 6.2 **Audit.** One time during any twelve month period for the Term of the Agreement, LICENSOR may designate a certified public accountant to audit MOM INVENTORS' books and records relating directly to Royalties due, with no less than thirty (30) days prior notice. In the case of a credit due MOM INVENTORS, MOM INVENTORS may take such credit against the next payment or payments due LICENSOR until the credit is exhausted. In the case of a sum due LICENSOR, MOM INVENTORS shall pay such amount to LICENSOR, within thirty (30) days. LICENSOR shall incur the audit at its own expense, provided however, if as a result of such an audit a deficiency in the amount of payments is determined and the deficiency exceeds ten percent (10%) of the payment actually made for the period of time audited, then in addition to paying to LICENSOR the deficiency so determined, MOM INVENTORS shall pay the fees and expenses of the auditor conducting such review. The results of any such audit shall be kept confidential except as may be required to enforce the provisions of this Agreement.
- 6.3 **Accounting.** MOM INVENTORS agrees to make written reports to LICENSOR quarterly within thirty (30) days after the last day of each of March, June, September, and December during the Term of this Agreement and on such dates, stating in each such report the quantity, description, and Royalties for the Units sold or otherwise disposed of during the preceding three (3) calendar months and upon which the Royalty has been paid or is payable as provided in Article 4 of this Agreement

ARTICLE 7

CONFIDENTIAL INFORMATION

- 7.1 **Non-Disclosure.** Each Party agrees not to use Confidential Information disclosed to it by the other Party and/or owned by the other Party for any purpose except for the purpose of this Agreement, or disclose such confidential Information to third parties. Each Party agrees that it will take all reasonable steps to protect the secrecy of and avoid disclosure or use of Confidential Information in order to prevent the Confidential Information from falling into the public domain or the possession of unauthorized persons. Each Party agrees to notify the other Party in writing of any misuse or misappropriation of Confidential Information which may come to the Party's attention. All written and/or oral communications that are confidential or contain confidential information shall be identified as such either on the writing or in writing within thirty (30) days of the written, or oral communication.
- 7.2 **Exceptions.** The confidentially obligations imposed under Article 7.1 shall not apply to Information which:
- 7.2.1 Either Party can prove by written documentation is generally available to the public; or
 - 7.2.2 Either Party can prove is or was generally known to the receiving Party prior to the disclosure under this Agreement as evidenced by written and dated material; or
 - 7.2.3 Either Party can prove by written documentation is or was disclosed to the receiving Party by a third party having a bona fide right to do so; or
 - 7.2.4 Either Party can prove is or was approved for release by the written authorization of the disclosing Party; or
 - 7.2.5 Either Party can prove by written documentation is or was disclosed pursuant to the requirements of a governmental agency or by operation of law after the disclosing Party has been given at least thirty (30) days notice and an opportunity to object to such disclosure; or
 - 7.2.6 Either Party can prove is or was developed by the receiving Party completely independent of any information disclosed under this Agreement.
- 7.3 **Notification.** Except as otherwise provided in this Agreement, either Party shall immediately notify the other Party in writing of any private or governmental request for Confidential Information or of any other information or documents relating to this Agreement. Each Party shall have the right to participate in the other Party's response to such request. In the event that a Party receives a subpoena or other legal process

requiring production of information, documents, data, work papers, reports, or other materials relating to Confidential Information or to this Agreement, the Parties shall:

- 7.3.1 give the other Party the opportunity to participate in quashing, modifying, or otherwise responding to any such process in an appropriate and timely manner; and
- 7.3.2 cooperate fully with the other Party's efforts to narrow the scope of any such process, to obtain a protective order limiting the use or disclosure of the information sought, or in any other lawful way to obtain continued protection of the Confidential Information.

ARTICLE 8

TERM AND TERMINATION

- 8.1 **Term.** Unless terminated earlier by either Party as provided herein due to a material breach by the other Party, this Agreement shall continue until December 31, 2017, and shall expire on that date unless extended as provided in Article 8.2 or by mutual agreement.
- 8.2 **Extension.** Provided it has paid all Royalties and is otherwise in substantial compliance with this Agreement, MOM INVENTORS shall have the option, at its sole discretion, to extend this Agreement for ten (10) successive additional one (1) year periods beyond the expiration of the original term of this Agreement by giving written notice thereof to LICENSOR before the end of the Term or any extension thereof.
- 8.3 **Termination by MOM INVENTORS.** Without prejudice to any right or remedy MOM INVENTORS may have due to any failure of LICENSOR to perform LICENSOR'S material obligations or due to a material breach by LICENSOR under this Agreement, MOM INVENTORS may, at any time, terminate the license granted under this Agreement, by providing sixty (60) days written notice to LICENSOR. Additionally, without prejudice to any right or remedy MOM INVENTORS may have due to any failure of LICENSOR to perform LICENSOR'S material obligations or due to a material breach by LICENSOR under this Agreement, MOM INVENTORS may, at any time while it is not in default, with cause, terminate the license granted under this Agreement, by providing sixty (60) days written notice to LICENSOR identifying the breach or default; provided, however, that this Agreement shall not be terminated if the specified breach or default is remedied or cured, or there is a substantial and good faith effort to cure, within sixty (60) days after notice of breach or default is provided. Any good faith effort to cure within the sixty (60) day period shall be completed within thirty (30) days of the initial sixty (60) day period. Termination shall take effect upon expiration of the sixty (60) day period. Upon termination of this agreement, MOM INVENTORS shall within sixty (60) days of the date of termination, pay LICENSOR any and all royalties

due LICENSOR under Article 4 of this Agreement. Should the Agreement be terminated, (1) MOM INVENTORS shall have the right to fulfill all of MOM INVENTORS' outstanding contractual obligations with respect to Units, and (2) MOM INVENTORS shall have the right to sell through all existing inventory for a period of ninety (90) days, as long as Royalties are paid to LICENSOR, as specified hereunder and accounting procedures are followed.

- 8.4 **Termination by LICENSOR.** Without prejudice to any right or remedy LICENSOR may have due to any failure of MOM INVENTORS to perform MOM INVENTORS' material obligations or due to a material breach by MOM INVENTORS under this Agreement, LICENSOR may, at any time while she is not in default, with cause, terminate the license granted under this Agreement, by providing sixty (60) days written notice to MOM INVENTORS identifying the breach or default; provided, however, that this Agreement shall not be terminated if the specified breach or default is remedied or cured, or there is a substantial and good faith effort to cure, within sixty (60) days after notice of breach or default is provided. Any good faith effort to cure within the sixty (60) day period shall be completed within thirty (30) days of the initial sixty (60) day period. Termination shall take effect upon expiration of the sixty (60) day period. Upon termination of this agreement, MOM INVENTORS shall within sixty (60) days of the date of termination, pay LICENSOR, any and all royalties due LICENSOR under Article 4 of this Agreement. Should the Agreement be terminated, (1) MOM INVENTORS shall have the right to fulfill all of MOM INVENTORS' outstanding contractual obligation with respect to Units, and (2) MOM INVENTORS shall have the right to sell through all existing inventory for a period of ninety (90) days, as long as Royalties are paid to LICENSOR, as specified hereunder and accounting procedures are followed.
- 8.5 **Confidential Information.** In the event of termination of this Agreement, each Party shall immediately discontinue use of the Confidential Information received from the other Party, and within thirty (30) days after termination, each Party shall provide to the other Party a certification that the originals and all copies of such Confidential Information, regardless of form, have been returned to the disclosing Party or else destroyed, except that, the receiving Party may retain one (1) copy for archival purposes.
- 8.6 **Duties Surviving Termination.** Article 7 of this Agreement entitled "Confidential Information" shall survive termination of this Agreement for any reasons whatsoever.

ARTICLE 9

REPRESENTATIONS AND WARRANTIES AND COVENANTS

- 9.1 MOM INVENTORS represents and warrants that MOM INVENTORS has the right to enter into this Agreement and to carry out its obligations under this Agreement.

- 9.2 LICENSOR represents and warrants that it has the right to enter into this Agreement, to grant the license granted herein, and to carry out its obligations under this Agreement.
- 9.3 LICENSOR represents and warrants that LICENSOR owns and has all of the right, title, and interest and authority to license the Licensed Property.
- 9.4 MOM INVENTORS represents and warrants that an Officer for MOM INVENTORS has read this Agreement and understands the contents of this Agreement.
- 9.5 LICENSOR represents and warrants that LICENSOR has read this Agreement and understands the contents of this Agreement.
- 9.6 MOM INVENTORS shall not knowingly enter into any other agreement, arrangement and/or contractual relationship that would prevent MOM INVENTORS from fulfilling MOM INVENTORS' duties and/or obligations under this Agreement and/or prevent LICENSOR its successors and assigns from enjoying the benefits and/or rights conferred under this Agreement.
- 9.7 MOM INVENTORS shall have the right, but not the obligation, to enforce with respect to the Licensed Property any now present or future acquired Intellectual Property Rights in the Licensed Property against any and all third parties in the Field of Use and in the Territory. LICENSOR agrees to provide MOM INVENTORS ,at MOM INVENTORS' expense, with any and all necessary and/or reasonable assistance and/or support, including but not limited to joining in any lawsuit, to enforce the Licensed Property and/or Intellectual Property Rights that are the subject of this Agreement against any and all third parties, provided that LICENSOR'S reasonable expenses are paid for by MOM INVENTORS, including without limitations, LICENSOR'S reasonable attorney fees.

ARTICLE 10

GENERAL PROVISIONS

- 10.1 **Dispute Resolution.** If a dispute arises out of or relates to this Agreement, or the breach thereof, and if the dispute cannot be settled through negotiation, the Parties agree first to try in good faith to settle the dispute by mediation administered by the American Arbitration Association under its Commercial Mediation Rules before resorting to Arbitration. In the event mediation does not result in settlement of the dispute, the Parties hereby agree to arbitrate the disputed matter in accordance with the commercial arbitration rules of the American Arbitration Association then in effect. The findings of the Arbitrator shall be binding upon the Parties and may be entered and enforced in any court of competent jurisdiction in the State of California. The prevailing Party in any arbitration shall be entitled to recover its reasonable attorney fees in the amount determined by the Arbitrator. Any dispute can be resolved using the procedure of this Article without the requirement that the Agreement be terminated.

10.2 **Notices.** All communications relating to and notices required under this Agreement shall be in writing and shall be directed as follows:

10.2.1 Communications, Notices and Payments to MOM INVENTORS shall be sent to:

Brad Kofoed
Mom Inventors, Inc.
P.O. Box 830
Alamo, CA 94507

with a copy of any Notice to:

Stuart J. West, Esq
West & Associates, A PC
2815 Mitchell Drive, Suite 209
Walnut Creek, CA 94598

10.2.2 Communications and Notices to LICENSOR shall be sent to:

INVENTOR NAME & ADDRESS

10.3 **Integration.** This Agreement constitutes the entire agreement between LICENSOR and MOM INVENTORS with respect to the subject matter hereof. No promise, inducement, representation, or agreement, other than as expressly set forth herein, has been made to or by the Parties. All prior agreements and understandings related to the subject matter hereof, whether written or oral, are hereby expressly superseded and are of no further force or effect.

10.4 **Binding Agreement.** This Agreement shall be binding upon and inure to the benefit of LICENSOR and MOM INVENTORS and their subsidiaries, successors, and assigns. This Agreement is assignable by MOM INVENTORS.

10.5 **Amendment.** This Agreement cannot be altered, amended or modified in any respect, except by a writing duly signed by both LICENSOR and MOM INVENTORS.

10.6 **Choice of Law.** This Agreement shall be construed under, and interpreted in accordance with, the laws of the State of California without regard to any conflict of laws principles.

10.7 **No Strict Construction.** The normal rule of construction to the effect that any ambiguities are to be resolved against the drafting party are not be employed in the interpretation of this Agreement.

10.8 **Severability.** In the event that any portion of the provisions or terms of this Agreement are held to be unenforceable or invalid by any mediator, arbitrator, or court of competent

jurisdiction, the validity and enforceability of the remaining provisions or terms shall not be affected thereby, and the parties shall negotiate an equitable adjustment in the provisions of this Agreement.

- 10.9 **Counterparts.** This Agreement may be executed in counterparts by the Parties, each of which shall be deemed an original, and which together shall constitute one and the same instrument, having the same force and effect as if a single original had been executed by all the Parties.
- 10.10 **Authority of Signatories.** Each of the persons whose signature appears below represents and warrants that he/she has been or is authorized to execute this Agreement, and that he/she has the authority to bind the entity on whose behalf he has affixed his signature. IN WITNESS WHEREOF, the Parties have caused this Agreement to be signed by their duly authorized representatives as of the Effective Date.
- 10.11 **Agencies.** Nothing in this LICENSE AGREEMENT shall be construed as making either party the agent of the other.
- 10.12 **Waiver.** The failure of either party to give notice to the other party of the breach or non-fulfillment of any term, clause, provision or condition of this LICENSE AGREEMENT shall not constitute a waiver thereof, nor shall the waiver of any breach or non-fulfillment of any term, clause, provision or condition of this LICENSE AGREEMENT constitute a waiver of any other breach or non-fulfillment of that or any other term, clause, provision or condition of this LICENSE AGREEMENT.

MOM INVENTORS, INC.

INVENTOR NAME

Signature

Signature

Printed Name

Printed Name

Title

Title

Date

Date

Appendix A

Royalty Schedule

Royalties dues of sale of any Unit shall be 5% of Net Sales.

NET SALES: For purposed of calculating any and all Royalties Due under Appendix A, Net Sales shall be defined as actual invoiced selling price whether collected or not for any and all Units disposed of less:

- 1) discounts allowed and taken, except prompt payment discounts and/or uncollectible accounts;
- 2) inbound and outbound transportation costs, including overseas and domestic freight;
- 3) cartons, packing, and crating costs;
- 4) sales and use taxes;
- 5) amounts refunded or credited upon purchase price of returned units; and
- 6) volume discounts and rebates.